

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04-01/10
Date: 7 February 2011

PRE-TRIAL CHAMBER I

Before: Judge Sanji Mmasenono Monageng, Single Judge

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

***IN THE CASE OF
THE PROSECUTOR V. CALLIXTE MBARUSHIMANA***

Public

**Decision Scheduling a Hearing on Issues relating to Disclosure between the
Parties**

Document to be notified, in accordance with regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor
 Ms Fatou Bensouda, Deputy Prosecutor
 Mr Anton Steynberg, Senior Trial Lawyer

Counsel for the Defence

Mr Nicholas Kaufman

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
 Participation/Reparation**

**The Office of Public Counsel for
 Victims**

**The Office of Public Counsel for the
 Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
 Section**

Other

I, Judge Sanji Mmasenono Monageng, the Single Judge of Pre-Trial Chamber I of the International Criminal Court (“Chamber” and “Court” respectively) responsible for carrying out the functions of the Chamber in relation to the case of *The Prosecutor v. Callixte Mbarushimana*;¹

NOTING the hearing of the first appearance of Mr Callixte Mbarushimana, held on 28 January 2011;

NOTING that, at the aforementioned hearing, the Chamber scheduled the commencement of the confirmation of charges hearing for 4 July 2011;

NOTING articles 54(1)(a) and (3)(e), 61(3), 67(2), 68(1) of the Rome Statute (“Statute”) and rules 76 to 83 and 121 of the Rules of Procedure and Evidence (“Rules”) and in particular, rule 121(2)(b) of the Rules, whereby status conferences shall be held in order to ensure that disclosure takes place under satisfactory conditions;

CONSIDERING that, with a view to ensuring that disclosure takes place in a manner which is transparent, efficient and expeditious, it is necessary to schedule a hearing in order to discuss all matters which might be relevant in connection with the disclosure, which has to take place between the parties in

¹ Oral Decision of the Chamber, 28 January 2011, ICC-01/04-01/10-T-1-ENG, p. 11.

view of the confirmation hearing and, in particular, its scope, timing and modalities;

CONSIDERING in particular that it is necessary that information be provided by the Prosecutor on the following:

- i. an estimate of the overall number and volume of documents he intends to use as evidence at the confirmation hearing;
- ii. the number of witnesses, if any, that he intends to call to testify at the confirmation hearing and the number of witness statements he intends to use at the confirmation hearing pursuant to rule 76 of the Rules;
- iii. an indication as to whether he intends to request that certain documents be disclosed to the defence in redacted form and, if so, an estimate of the number and volume of such documents;
- iv. an indication as to whether he intends to request that protective measures be put in place in order to protect witnesses, victims or other persons at risk, prior to disclosure of the names of witnesses or of certain documents or otherwise, including any relevant information on the steps he is taking and/or he intends to take in this respect which might be available at this stage;
- v. an indication as to whether he intends to rely on documents or information obtained on the condition of confidentiality under article 54(3)(e) of the Statute;

CONSIDERING that as regards the inspection to be conducted by the parties pursuant to rules 77 and 78 of the Rules, it is appropriate that both the Prosecutor and the Defence present their views in respect of its envisaged scope and timing;

CONSIDERING that, with a view to enhancing the overall effectiveness of the disclosure process, it is appropriate that the Prosecutor, the Defence and the Registrar present their views on the system of disclosure as established and implemented in the recent practice of the Chamber, including its technical modalities;

CONSIDERING that, in addition to the above, all parties and participants are invited to submit any information, observation or concern which they deem relevant for the purposes of the overall effectiveness of the disclosure process;

CONSIDERING that, in light of the paramount principle of the publicity of the proceedings,² the hearing shall be held in a public session, without prejudice to the right of the parties and participants to request, or to the power of the Chamber to decide, that the hearing be converted into private session whenever the submission and/or discussion of confidential matters arises;

² See article 67(1) of the Statute and regulation 20 of the Regulations of the Court.

FOR THESE REASONS

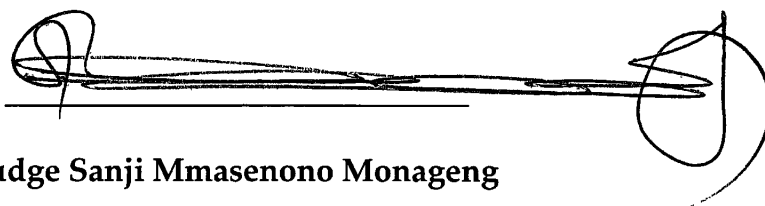
DECIDE to convene a hearing to be held in a public session and to be attended by the Prosecutor, the Defence and the Registrar on Monday, 14 February 2011, at 10h00;

DECIDE that, at the said hearing, all matters which might be relevant in connection with the disclosure between the Prosecutor and the Defence for the purposes of the confirmation hearing shall be discussed;

ORDER the Prosecutor to provide, at the said hearing, information as to the issues listed at page 4 of this decision;

INVITE the Prosecutor, the Defence and the Registrar to submit, at the said hearing, their views as to the system of disclosure as established and implemented in the recent practice of the Chamber, including its technical modalities.

Done in English and French, the English version being authoritative.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, positioned above a solid horizontal line.

Judge Sanji Mmasenono Monageng

Single Judge

Dated this Monday, 7 February 2011

At The Hague, The Netherlands