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No.: **ICC-01/04-01/10**

Date: **26/08/2011**

PRE-TRIAL CHAMBER I

Before: Judge Sanji Mmasenono Monageng, Presiding Judge
Judge Sylvia Steiner
Judge Cuno Tarfusser

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

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

Public Document

**Defence observations on interim release
pursuant to Decision ICC-01/04-01/10-360**

Source: Defence for Mr. Callixte Mbarushimana

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

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Mr Mayombo Kassongo
 Mr Ghislain Mabanga

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
 (Participation/Reparation)**

**The Office of Public Counsel for
 Victims**

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

States' Representatives

Competent authorities of
 the French Republic and
 the Kingdom of the Netherlands

Amicus Curiae

REGISTRY

Registrar

Ms. Silvana Arbia

Defence Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
 Section Other**

On 1 August 2011, the Defence filed an appeal ("the Defence Appeal")¹ against the Pre-Trial Chamber's decision² on Mr. Mbarushimana's second request for interim release³ ("the Decision on the Second Request").

The Appeals Chamber, as of the filing of this document, has yet to deliver judgment on the Defence Appeal.

On 19 August 2011, the Defence filed Mr. Mbarushimana's third request for interim release basing its argument on Article 60(4) of the Rome Statute.⁴

The Defence recalls the Pre-Trial Chamber's observation that the Decision on the Second Request "did not review Mr. Mbarushimana's detention" and that "the Defence should be given a fresh opportunity to submit views on the issue of interim release".⁵

The Defence further notes that Rule 118(2) empowers the Chamber to review its ruling on detention "at any time" at the request of Mr. Mbarushimana.

Accordingly, until it has received the judgment of the Appeals Chamber and without prejudice to its third request for interim release, the Defence, at this stage, has no further observations.



Nicholas Kaufman

Counsel for Callixte Mbarushimana

Jerusalem, Israel
Friday, August 26, 2011

¹ ICC-01/04-01/10-321.

² ICC-01/04-01/10-319.

³ ICC-01/04-01/10-294.

⁴ ICC-01/04-01/10-383.

⁵ ICC-01/04-01/10-360 at page 4.