

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No. ICC-01/04-01/10 OA 3

Date: 20 December 2011

THE APPEALS CHAMBER

Before:
Judge Anita Ušacka, Presiding Judge
Judge Sang-Hyun Song
Judge Akua Kuenyehia
Judge Erkki Kourula
Judge Daniel David Ntanda Nsereko

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

IN THE CASE OF THE PROSECUTOR v. CALLIXTE MBARUSHIMANA

Public document

Decision

on the appeal of the Prosecutor of 19 December 2011 against the “Decision on the confirmation of the charges” and, in the alternative, against the “Decision on the Prosecution’s Request for stay of order to release Callixte Mbarushimana” and on the victims’ request for participation

Decision to be notified in accordance with regulation 31 of the Regulations of the Court to:

The Office of the Prosecutor

Ms Fatou Bensouda, Deputy Prosecutor
Mr Fabricio Guariglia

Counsel for the Defence

Mr Arthur Vercken
Ms Yaël Vias-Gvirsman

Legal representatives of victims

Mr Ghislain M. Mabanga

REGISTRY

Registrar

Ms Silvana Arbia

The Appeals Chamber of the International Criminal Court,

In the appeal of the Prosecutor of 19 December 2011 against the decision of Pre-Trial Chamber I entitled “Decision on the confirmation of charges” of 16 December 2011 (ICC-01/04-01/10-465-Conf), and, in the alternative, against the decision of Pre-Trial Chamber I entitled “Decision on the Prosecution’s Request for stay of order to release Callixte Mbarushimana” of 19 December 2011 (ICC-01/04-01/10-469),

Having before it the “Prosecution’s Appeal against ‘Decision on the confirmation of the charges’ and Request for Suspensive Effect In the alternative, Prosecution’s Appeal against ‘Decision on the Prosecution’s Request for stay of order to release Callixte Mbarushimana’” of 19 December 2011 (ICC-01/04-01/10-470), in which a request for suspensive effect pursuant to article 82 (3) of the Statute is made,

Having before it the “Requête tendant à obtenir autorisation de participer à la procédure d’appel contre la ‘Decision on the confirmation of charges’ (ICC-01/04-01/10/465-Conf) et la ‘Decision on the Prosecution’s Request for stay of order to release Callixte Mbarushimana’ (ICC-01/04-01/10/469)” of 20 December 2011 (ICC-01/04-01/10-474),

After deliberation,

Renders the following

DECISION

1. The request for suspensive effect of the Prosecutor’s appeal against the “Decision on the confirmation of charges” is rejected.
2. The appeal of the Prosecutor, under article 82 (1) (b) of the Statute, against the “Decision on the confirmation of charges” is inadmissible and dismissed.
3. The appeal of the Prosecutor made in the alternative, under article 82 (1) (b) of the Statute, against the “Decision on the Prosecution’s Request for stay of order to release Callixte Mbarushimana” is inadmissible and dismissed.

4. The “Requête tendant à obtenir autorisation de participer à la procédure d’appel contre la ‘Decision on the confirmation of charges’ (ICC-01/04-01/10/465-Conf) et la ‘Decision on the Prosecution’s Request for stay of order to release Callixte Mbarushimana’ (ICC-01/04-01/10/469)” is rejected.

The reasons for this decision will be given in due course.

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



Judge Anita Ušacka
Presiding Judge

Dated this 20th day of December 2011

At The Hague, The Netherlands