



Original: **French**

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

Date: **13/04/2011**

PRE-TRIAL CHAMBER I

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

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

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

**Public Document, with confidential annexes
Confidential Annexes A and F, *ex parte*, only available to the Prosecutor and the
Defence and
Confidential Annexes B to E, *ex parte*, only available to the Defence
Submission of Further Evidence in Support of the Defence Request for Interim
Release (ICC-01/04-01/10-86)**

Source: Defence team 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

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 Ms Fatou Bensouda, Deputy Prosecutor
 Mr Anton Steynberg, Senior Trial Lawyer

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Legal Representatives of the Victims

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

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
 Section**

Other

The Defence hereby submits further evidence in support of its 30 March 2010 request for the interim release of Mr Callixte Mbarushimana (“the Request”).¹

As submitted by the Defence at paragraph 28 of the Request,² several lists of prosecution witnesses were communicated to Mr Mbarushimana by the French judicial authorities³ and UNMIK,⁴ having been provided by the ICTR⁵ and the Rwandan judicial authorities.⁶ The Rwandan judicial authorities transmitted the lists and witness statements to the French authorities in the knowledge that these documents would be communicated to Mr Mbarushimana. The lists contain the witnesses’ identities and whereabouts. The Defence further draws attention to the decision to discontinue proceedings in Kosovo for the extradition of Mr Mbarushimana,⁷ which summarises the witnesses’ statements and clearly states their identities. The Defence recalls that, despite the transmission of these lists, there has been no suggestion that Mr Mbarushimana directly or indirectly attempted to contact or threaten those witnesses.

Moreover, and further to paragraphs 24 and 25 of the Request, the Defence submits a letter from Mr Mbarushimana’s wife, Ms Agnès Uwamohoro, attesting to her family status and the status of her three children.⁸

[signed]

Nicholas Kaufman
Counsel for Mr Callixte Mbarushimana

Dated this Wednesday, 13 April 2011

At The Hague, The Netherlands

¹ See ICC-01/04-01/10-86.

² See paragraphs 26 to 36 on article 58(1)(b)(ii) (obstructions to or endangerment of the investigation or proceedings).

³ See Annex A for the request for judicial assistance in relation to a criminal complaint which resulted in the transmission of the lists of witnesses to the French authorities.

⁴ See Judge Sejir’s decision, PHH number 2/2001, DRC-REG-0001-3561 *et seq.*

⁵ See confidential Annexes B and E.

⁶ See confidential Annexes C and D.

⁷ See paragraphs 15 and 28 of the Request, in particular DRC-REG-0001-3564.

⁸ See confidential Annex F.