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

Date: **25/07/2011**

**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**  
**with Confidential Annex A, *ex parte*, Defence only**  
**Defence Compliance with Decision: ICC-01/04-01/10-291**

**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

**Counsel for the Defence**

Mr. Nicholas Kaufman

Ms. Yaël Vias-Gvirsman

**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**

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**Registrar**

Ms. Silvana Arbia

**Defence Support Section**

**Deputy Registrar**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section Other**

On 20 July 2011, the learned Single Judge HHJ Cuno Tarfusser reaffirmed<sup>1</sup> the decision of the learned Single Judge HHJ Sanji Mmasenono Monageng ordering<sup>2</sup> the Defence, with the dedicated assistance of OPCD and the generous support of the Registry, to complete its review of eight faulty and encrypted hard drives for the existence of potentially privileged materials.

The results of this review are provided in confidential annex A to this filing which is supplied *ex parte* since it details the substance of what the Defence believes to be privileged information which the Prosecution is not entitled to know.

The Defence clarifies that some of the potentially privileged documents identified in the course of the present review are copies of materials which have already been deemed privileged by this learned Pre-Trial Chamber.



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Nicholas Kaufman

Counsel for Callixte Mbarushimana

Jerusalem, Israel

Monday, July 25, 2011

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<sup>1</sup> ICC-01/04-01/10-296.

<sup>2</sup> ICC-01/04-01/10-291.