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ICTR-2005-86-I
1-12-2006
(721 - 720)

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International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

BEFORE THE TRIAL CHAMBER III

Judge Khalida Rachid Khan, Presiding
Judge Ines Monica Weinberg de Roca
Judge Dennis C. M. Byron

Registrar: Mr Adama Dieng

Date Filed: 8 November 2006

THE PROSECUTOR

v.

MICHEL BAGARAGAZA

Case No. ICTR-2005-86-I

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**THE PROSECUTOR'S REPLY TO THE DEFENCE RESPONSE TO THE
APPLICATION FOR LEAVE
TO AMEND THE INDICTMENT**

Rule 50 of the Rules of Procedure and Evidence

For the Prosecutor:

Hassan Bubacar Jallow
Stephen Rapp

For the Defence:

Geert-Jan Alexander Knoops

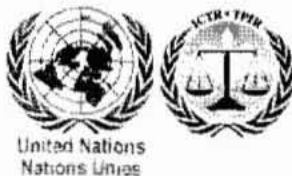
1. The ICTR Prosecutor has consulted with the prosecution authorities of the State that has expressed a willingness to accept this case if Referral is approved by the Trial Chamber regarding their position as to the matters raised in paragraphs 4, 5, and 6 of the Defence Response to the Prosecutor's Application for Leave to Amend the Indictment.
2. These prosecution authorities indicate that it is their intention, if and when this matter is referred to their jurisdiction and when it is required of them to re-cast the Indictment under their national law, to file the genocide counts as "primary" charges and the war crimes count as a "subsidiary" charge. Under these circumstances, a conviction on the war crimes count would not be contemplated unless there was a dismissal or acquittal by the national court on the genocide counts.
3. If this matter remains at the ICTR it would not be intention of the Prosecutor to seek conviction both on the genocide counts and the war crime count.
4. The Prosecutor therefore does not object to the insertion on page 2, between the words "Count IV" and "Killing and causing...", and on page 10, on a line above the words "Count IV. KILLING AND CAUSING...", the following words "Alternatively, to Counts I, II and III,".

WHEREFORE, the Prosecutor respectfully requests the Trial Chamber to grant leave amend the existing indictment in the manner shown in the proposed Amended Indictment, with the change described above.

Dated at Arusha this 8th day of November 2006.



STEPHEN J. RAPP
Chief of Prosecutions



TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

COURT MANAGEMENT SECTION
(Art. 27 of the Directive for the Registry)

I - GENERAL INFORMATION (To be completed by the Chambers / Filing Party)

To:	<input type="checkbox"/> Trial Chamber I N. M. Diallo	<input type="checkbox"/> Trial Chamber II R. N. Kouambo	<input checked="" type="checkbox"/> Trial Chamber III C. K. Hometowu	<input type="checkbox"/> Appeals Chamber / Arusha F. A. Talon
	<input type="checkbox"/> Chief, CMS J.-P. Fomété	<input type="checkbox"/> Deputy Chief, CMS M. Diop	<input type="checkbox"/> Chief, JPU, CMS K. K. A. Afande	<input type="checkbox"/> Appeals Chamber / The Hague R. Burriess
From:	<input type="checkbox"/> Chamber (name)	<input type="checkbox"/> Defence (name)	<input checked="" type="checkbox"/> Prosecutor's Office <i>(Stephen RAB)</i>	<input type="checkbox"/> Other:
Case Name:	The Prosecutor vs. MICHEL BAGARAGAZA		Case Number: ICTR-2005-86-I	
Dates:	Transmitted: 01/12/2006		Document's date: 08/11/2006	
No. of Pages:	2	Original Language:	<input checked="" type="checkbox"/> English	<input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
Title of Document:	THE PROSECUTOR'S REPLY TO THE DEFENCE RESPONSE TO THE APPLICATION FOR LEAVE TO AMEND THE INDICTMENT (Refiled as Public Document per Order of 30/11/06)			
Classification Level:	<input type="checkbox"/> Strictly Confidential / Under Seal <input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Public			
TRIM Document Type:	<input type="checkbox"/> Indictment <input type="checkbox"/> Warrant <input type="checkbox"/> Correspondence <input type="checkbox"/> Submission from non-parties <input type="checkbox"/> Decision <input type="checkbox"/> Affidavit <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Submission from parties <input type="checkbox"/> Disclosure <input type="checkbox"/> Order <input type="checkbox"/> Appeal Book <input type="checkbox"/> Accused particulars <input type="checkbox"/> Judgement <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Book of Authorities			

II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party)

CMS SHALL take necessary action regarding translation.

Filing Party hereby submits only the original, and **will not submit** any translated version.

Reference material is provided in annex to facilitate translation.

Target Language(s):
 English French Kinyarwanda

CMS SHALL NOT take any action regarding translation.

Filing Party hereby submits **BOTH the original and the translated version** for filing, as follows:

Original	in	<input type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
Translation	in	<input type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda

CMS SHALL NOT take any action regarding translation.

Filing Party **will be submitting the translated version(s)** in due course in the following language(s):
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III - TRANSLATION PRIORITISATION (For Official use ONLY)

<input type="checkbox"/> Top priority	COMMENTS	<input type="checkbox"/> Required date:
<input type="checkbox"/> Urgent		<input type="checkbox"/> Hearing date:
<input type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines: