

ICTR-01-73-I
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(5958-5956)

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UNITED NATIONS
INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

Before Trial Chamber III

Judge Inès R Weinberg de Roca, Presiding
Judge Khalida R Khan
Judge Lee G. Muthoga

Registrar: Mr. Adama Dieng
Date filed: January 7, 2006

The PROSECUTOR
v

Protais ZIGIRANYIRAZO

Case no: ICTR-2001-73-I

REPLY TO PROSECUTOR'S RESPONSE TO URGENT DEFENCE MOTION
REQUESTING A SUBPOENA FOR WITNESS DR CHARLES
ZIRIMWABAGABO

For the Prosecutor:

Mr. Wallace Kapaya – Senior Trial Attorney
Mr Silver Ntukamazina - Trial Attorney
Ms Charity Kagwi-Ndungu - Trial Attorney
Ms. Gina Butler - Assistant Trial Attorney
Mr. Iskandar Ismail – Assistant Trial Attorney

For the Defense:

Mr. John Philpot – Lead Counsel
Mr. Peter Zaduk – Co-Counsel

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1. On December 22, the Defense filed its motion requesting a subpoena from the Trial Chamber to obtain the key testimony of Dr Charles Zirimwabagabo as described hereafter.
2. The Prosecution responded on December 27, 2006.
3. The Defense hereby files a succinct Reply.
4. The Prosecution argument is that the testimony of the witness will be of little probative value, and that there is no showing that the witness will not testify without an order from the Court.
5. The Prosecutor himself admits that he was intending to call this witness which indicates that he has relevant facts to report to the Court. The Defense has provided a clear outline of the testimony of the witness in paragraph 9 of its Motion.
6. The testimony of AVY is that the witness Zirimwabagabo was present when the *Accused* apparently made a speech inciting murder of Tutsi is the most important reason for calling the witness. Zirimwabagabo denies this. It is a question of full answer and defence. Without this witness, the Court will be deprived of a key witness helping to elucidate the truth about the allegations of AVY.
7. The Defense notes the Prosecution itself admits that the witness did not want to testify as stated in Paragraph 5 of the Response.
8. Had the witness been willing to testify without an order from the Court, the Defense would not have proceeded with this motion for a subpoena. A subpoena is necessary when a witness refuses to testify.
9. The Defense reiterates the legal and factual arguments in its Motion.

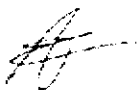
Time

10. With the Christmas festivities and some short vacation, the Defense is filing this reply in time for the resumption of the new session beginning and the return of Tribunal staff from their vacations.

CONCLUSION

11. Whereby the Accused requests that the Court grant the Motion as filed.

Respectfully submitted



John Philpot, Lead Counsel

Peter Zaduk per JP
Peter Zaduk, Co-Counsel



TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

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

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	Case Name: The Prosecutor vs. Protais Zigiranyirazo			Case Number: ICTR-2001-73
Dates:	Transmitted: 7 01 07		Document's date: 7 01 07	
No. of Pages:	3		Original Language: <input type="checkbox"/> English <input checked="" type="checkbox"/> French <input type="checkbox"/> Kinyarwanda	
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A SUBPOENA FOR WITNESS DR. CHARLES ZILIMWABAGABO

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