

ICTR-01-73-T
22-1-2007
(5966-5963)

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UNITED NATIONS
INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

Before Trial Chamber III

Before: Hon. Judge Inés Mónica de Roca, Presiding
Hon. Judge Khalida Rachid Khan
Hon. Judge Lee Gacuiga Muthoga

Registrar: Mr. Adama Dieng

Date filed: 22 January 2007

The PROSECUTOR
v
Protais ZIGIRANYIRAZO
Case no: ICTR-2001-73-T

JUDICIAL RECORDS/ARCHIVES
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2007 JAN 22 1 P 4: 35

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**PROSECUTOR'S REPLY TO THE DEFENCE MOTION TO SUSPEND THE
MOTION REQUESTING SUBPOENA FOR
WITNESSES EDOUARD KARAMERA**

For the Prosecutor:

Mr. Wallace Kapaya – Senior Trial Attorney
Ms. Charity Kagwi-Ndungu- Trial Attorney
Mr. Sylver Ntukamazina- Trial Attorney
Ms. Gina Butler - Assistant Trial Attorney
Mr. Iskandar Ismail – Assistant Trial Attorney
Ms. Jane Mukangira – Case Manager

For the Defence:

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

For Édouard Karemera

Mr. Dior D. Mbaye
Mr. Félix Sow

**PROSECUTOR'S REPLY TO THE DEFENCE MOTION TO SUSPEND THE
MOTION REQUESTING SUBPOENA FOR WITNESSES EDOUARD
KARAMERA**

I. BACKGROUND

1. On 9 January 2007, the Defence filed two motions requesting the Trial Chamber to issue subpoenas for prospective Defence witnesses, Edouard Karamera and Mathieu Ngirumpatse.

2. The Prosecution replied to both motions in one single response on 15 January 2007.

3. On 17 January 2007, the Counsel for Edouard Karamera sent an official email requesting the Defence to withdraw his motion failing which Edouard Karamera will file his objection officially. The letter dated 17 January 2007 is annexed hereto as Annex A.

4. In the light of the letter, Annex A, the Defence subsequently filed a motion to *suspend his motion requesting a subpoena for Edouard Karamera on 17 January 2007.*

II. SUBMISSIONS

5. In the light of the letter of protest from Defence Counsel for Edouard Karamera, (Annex A) it is evident that the motion for subpoena are based on undisclosed material facts, namely that the anticipated witness is not prepared to testify to all the facts as summarized in the Defence motion.

6. The Prosecutor submits that in the light of the letter, Annex A, the motion for subpoena is clearly misleading in that it omits crucial and pertinent facts, relating to the anticipated scope of the testimony of the anticipated witness.

7. The Prosecutor submits that on the basis of the letter, Counsel for Zigiranyirazo has not held a full and candid discussion with the anticipated witness concerning the actual or expanded scope of his anticipated testimony.

III. Relief Sought

WHEREFORE, the Prosecutor moves the Trial Chamber:

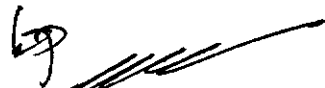
- (a) deny the Defence motion to suspend the Karemera subpoena motion; instead,
- (b) dismiss the aforesaid subpoena motion in respect of Mr. Eduard Karemera, on the ground that they are immature, speculative and irrelevant; and,
- (c) sanction the Defence by non-payment of any fees associated with the motions in accordance with Rule 73(f) of Rules of Procedure and Evidence.

Presented for filing at Arusha this 22nd day of January 2007.



Wallace Kapaya

Senior Trial Attorney



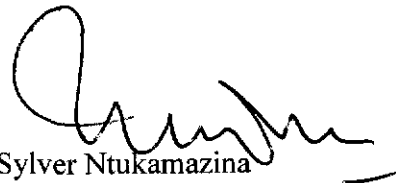
Charity Kagwi-Ndungu

Trial Attorney



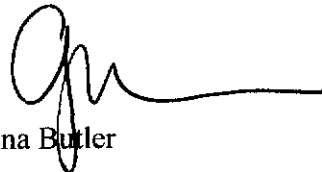
Iskandar Ismail

Assistant Trial Attorney



Sylver Ntukamazina

Trial Attorney



Gina Butler

Assistant trial Attorney



DIOR DIAGNE
<mediordiane@yahoo.fr>

16/01/2007 20:10

To: jphilpot@bpjbp.qc.ca
cc: Fatou Ndour <ndfatou_kine@yahoo.fr>, Anta GUISSSE <antaguisse@yahoo.fr>, Sunkarie Ballah-conteh <ballah-conteh@un.org>, Catherine Denis <denisc@un.org>, Constant Hometowu <hometowu@un.org>, Chantal Hounkpatin <hounkpatinchantal@hotmail.com>, Ian Morley <morleyi@un.org>, "Patrick N.M. Ngimbi" <mayidika@yahoo.fr>, Peter Robinson <peter@peterrobinson.com>, Takeh Sendze <sendze@un.org>, Felix Sow <sowmoussafelix@yahoo.fr>, Don webster <webster@un.org>, Frederic weyl <careweyl@club-internet.fr>

Subject: subpoena de Me Philpot

Cher Confrère,

Je vous confirme que nous avons bien reçu votre demande de Subpoena et notre surprise a été très grande car elle ne reflétait pas la teneur de vos discussions avec Me Sow.

J'ai immédiatement saisi le client et il me charge de vous dire:

Que les faits pour lesquels vous sollicitez son témoignage sont très négligeables comme apport relativement à tout ce qu'il a partagé avec vous concernant le dossier de votre client.

Il rappelle fort opportunément que rendez-vous avait été pris avec le co-conseil pour s'entendre sur la conduite à tenir et c'est vous qui avez fait défaut.

Il vous demande de retirer votre requête, à défaut, son équipe de défense se verrait dans l'obligation de s'adresser directement à la Chambre afin de lui faire connaître son opposition à travers une requête formelle.

Votre client est naturellement informé et je communique comme il se doit, la présente à toutes les parties concernées.

C'est pourquoi, par le même, je prie constant d'en informer la chambre, et,

Je reste ouverte à toute discussion pour lever, ce qui en définitive pourrait relever d'un malentendu.

Votre bien dévoué confrère
Me Dior D. Mbaye
Conseil principal de Edouard Karemera

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2001 JAN 17 P 2:38
UNICTR
[Signature]

Découvrez une nouvelle façon d'obtenir des réponses à toutes vos questions. Profitez des connaissances, des opinions et des expériences des internautes sur Yahoo!
Questions/Réponses.



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:	☐ Trial Chamber I N. M. Diallo	☐ Trial Chamber II R. N. Kouambo	☒ Trial Chamber III C. K. Hometowu	☐ Appeals Chamber / Arusha F. A. Talon
	☐ Chief, CMS J.-P. Fomété	☐ Deputy Chief, CMS M. Diop	☐ Chief, JPU, CMS K. K. A. Afande	☐ Appeals Chamber / The Hague R. Burris
From:	☐ Chamber (names)	☐ Defence (names)	☒ Prosecutor's Office Wallace Kapaya, STA (names)	☐ Other: Iskandar Ismail ATA (names)
Case Name:	The Prosecutor vs. Zigiranyirazo			Case Number: ICTR-2001-73-T
Dates:	Transmitted: 22 January 2007		Document's date: 22 January 2007	
No. of Pages:	5 (including this page)	Original Language:	☒ English ☐ French ☐ Kinyarwanda	
Title of Document:	PROSECUTOR'S REPLY TO THE DEFENCE MOTION TO SUSPEND THE MOTION REQUESTING SUBPOENA FOR WITNESSES EDOUARD KARAMERA			
Classification Level:		TRIM Document Type:		
☐ Strictly Confidential / Under Seal		☐ Indictment ☐ Warrant ☐ Correspondence ☐ Submission from non-parties		
☐ Confidential		☐ Decision ☐ Affidavit ☐ Notice of Appeal ☒ Submission from parties		
☒ Public		☐ Disclosure ☐ Order ☐ Appeal Book ☐ Accused particulars		
		☐ Judgement ☒ Motion ☐ 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	☐ English	☐ French	☐ Kinyarwanda
Translation	in	☐ English	☐ French	☐ Kinyarwanda

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☐ Filing Party **will be submitting the translated version(s)** in due course in the following language(s):

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☐ The OTP is over-seeing translation. The document is submitted for translation to: ☐ The Language Services Section of the ICTR / Arusha. ☐ The Language Services Section of the ICTR / The Hague. ☐ An accredited service for translation; see details below: Name of contact person: Name of service: Address: E-mail / Tel. / Fax:	☐ DEFENCE is over-seeing translation. The document is submitted to an accredited service for translation (fees will be submitted to DCDMS): Name of contact person: Name of service: Address: E-mail / Tel. / Fax:
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III - TRANSLATION PRIORITISATION (For Official use ONLY)

☐ Top priority	COMMENTS	☐ Required date:
☐ Urgent		☐ Hearing date:
☐ Normal		☐ Other deadlines:



International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda

Arusha International Conference Centre
P.O.Box 6016, Arusha, Tanzania - B.P. 6016, Arusha, Tanzanie
Tel: 255 57 504207-11 504367-72 or 1 212 963 2850 Fax: 255 57 504000/504373 or 1 212 963 2848/49

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PREUVE DE NOTIFICATION – ARUSHA

Date: 22 January 2007		Case Name / Affaire: The Prosecutor vs. Protais ZIGIRANYIRAZO	
		Case No /Affaire No.: ICTR-01-73-T	
To: A:	☐ TC1	received by / reçu par:	ALO: received by / reçu par
	☐ Judge E. Møse, President ☐ Judge J. R. Reddy ☐ Judge S. A. Egorov ☐ Judge F. Lattanzi (Mpambara) ☐ Judge F. R. Arrey (Karera) ☐ SLO ☐ C. Gosnell, Co-ordinator		
	☐ TC2		
	☐ Judge W. H. Sekule ☐ Judge A. Ramaroson ☐ Judge K. R. Khan (Bizimungu et al.) ☐ Judge A. J. N. de Silva ☐ Judge S. B. Bossa (Nyiramasuhuku et al.) ☐ Judge F. Lattanzi (Muvunyi) ☐ Judge L. G. Muthoga (Bizimungu et al.) ☐ Judge F. R. Arrey (Muvunyi) ☐ Judge E. F. Short (Bizimungu et al.) ☐ Judge T. Hikmet (Ndindiliyimana et al.) ☐ Judge S. K. Park (Ndindiliyimana et al.) ☐ SLO ☐ A. Leroy, Co-ordinator ☐ A. Marong (Ndindiliyimana et al.)		
	☒ TC3		
	☐ Judge A. Vaz (Seromba) ☐ Judge I. M. Weinberg de Roca (Zigiranyirazo) ☒ Judge K. R. Khan ☐ Judge D. C. M. Byron ☐ Judge F. Lattanzi (Bikindi & Rukundo) ☐ Judge L. G. Muthoga (Zigiranyirazo) ☒ Judge F. R. Arrey (Rukundo) ☒ Judge E. F. Short (Karempera et al.) ☐ Judge K. Hökborg (Seromba & Rwamakuba) ☐ Judge G. G. Kam (Seromba, Karempera et al. & Rwamakuba) ☒ E. O'Donnell, SLO ☐ R. Adjovi, Co-ordinator ☐ C. Denis, Co-ordinator (Karempera et al. & Rwamakuba) ☐ H. Gogo, Co-ordinator (Seromba)		☐ P. Mathiam..... ☐ C. Rassi..... ☐ M. Knowlan..... ☐ J. Greenspoon..... ☐ P. Mathiam..... ☐ S. Unnikrishnan..... ☐ K. Ardault..... ☐ C. Duffy..... ☐ N. Ferraro..... ☐ M. I. Mbadinga.....
	☒ OTP / BUREAU DU PROCUREUR		
	☐ Senior Trial Attorney in charge of case: W. Kapaya	received by	
	☒ DEFENSE		
	☐ Accused / Accusé: P. Zigiranyirazo		complete / remplir " CMS4 FORM"
	☐ Lead Counsel / Conseil Principal: J. Philpot		
	☐ In / à Arusha Arusha (signature)	☐ by fax complete / remplir " CMS3bis FORM"	
	☐ Co-Counsel / Conseil Adjoint: P. Zaduk		
	☐ In / à Arusha Arusha (signature)	☐ by fax complete / remplir " CMS3bis FORM"	
	All Decisions: ☐ Appeals Chamber Unit, The Hague		☐ S. Chenault, Jurist Linguist
	All Decisions & Important Public Documents: ☐ Press & Public Affairs ☐ Legal Library		
From: De:	☐ J.-P. Fomété (Chief, CMS) ☐ N. Diallo (TC1) ☐ R. Kouambo (TC2) ☒ C. Hometowu (TC3) ☐ F. A. Talon (Appeals/Team IV)		
Cc:	☐ A. Dieng ☐ A. Miller, OLA, NY ☐ D. Registrar ☐ S. Menon ☐ M. Niang ☐ S. van Driessche		
	☐ WVSS ☐ Spokesperson ☐ E. O'Donnell ☐ DCDMS ☐ P. Enow		
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REQUESTING SUBPOENA FOR WITNESSES EDOUARD KAREMERA

Date Filed / Date enregistrée

22/1/2007

Pages

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