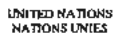


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OR: ENG

10/10/19  
19-01-2006

**Defence Counsel:**  
John Philpot  
Peter Zaduk

**THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA ("Tribunal"),**

**SITTING** as Trial Chamber III, composed of Judges Inés Mónica Weinberg de Roca, Presiding, Khalida Rachid Khan, and Lee Gacuiga Muthoga ("Chamber");

**BEING SEIZED** of the "Prosecutor's Motion for Varying the Witness List" filed on 22 December 2005 ("Motion");

**CONSIDERING** the Defence Response to Prosecutor's Motion for Varying the Witness List, filed on 28 December 2005, in which the Defence opposes the Motion for lack of diligence with regard to Witness BIY and for late disclosure with regard to Witness BPP, and the Prosecutor's Reply thereto filed on 4 January 2006;

**CONSIDERING** the extract of Witness BIY's testimony before Belgian Authorities dated 25 November 2005 indicating that the witness does not have special knowledge about the Accused which was not already disclosed to the Belgian Authorities, that others know more about the Accused, and that the witness is not willing to suffer mentally by responding to further questions;<sup>1</sup>

**CONSIDERING** the Rules of Procedure and Evidence ("Rules") particularly Rule 73bis(E) of the Rules;

**CONSIDERING** that Witness BIY is the witness to testify as to the events at the Kanombe State House and is not willing to further testify;

**CONSIDERING** that the Prosecutor has another witness, Witness BPP, who can testify to the same events and that his statements were already disclosed to the Defence;

**CONSIDERING** that the withdrawal of Witness BIY and the sole inclusion of Witness BPP will not prejudice the rights of the Accused;

**CONSIDERING FURTHER** that it is in the interests of justice to allow the parties to present their cases and to bring the best evidence available;

**THE CHAMBER**

**GRANTS** the Motion, and **ALLOWS** the variation of the Prosecution Witness List as proposed in the Motion.

Arusha, 19 January 2006, done in English.

Inés Mónica Weinberg de Roca  
Presiding Judge

Khalida Rachid Khan  
Judge

Lee Gacuiga Muthoga  
Judge

[Seal of the Tribunal]



<sup>1</sup> The witness said: « Je ne sais rien de spécial au sujet de Mr. Z ; il y en a d'autres qui en savent beaucoup plus. Je ne sais pas dire plus que ce que j'ai dit ici. Je ne veux plus souffrir mentalement avec des questions et je veux vivre tranquillement. »