



UNITED NATIONS  
NATIONS UNIES

ICTR-98-44D-T  
19-03-2010  
(3188-3186)

3188  
1094

OR: ENG

**TRIAL CHAMBER III**

**Before Judges:** Solomy Balungi Bossa, Presiding  
Bakhtiyar Tuzmukhamedov  
Mparany Rajohnson

**Registrar:** Adama Dieng

**Date:** 19 March 2010

JUDICIAL RECORDS ARCHIVES  
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**THE PROSECUTOR**

v.

**Callixte NZABONIMANA**  
*Case No. ICTR-98-44D-T*

**DECISION ON NZABONIMANA'S SECOND URGENT MOTION REQUESTING  
COOPERATION AND ASSISTANCE FROM FRANCE**  
*(Article 28 of the Statute of the Tribunal)*

**Office of the Prosecutor**  
Paul Ng'arua  
Elvis Bazawule  
Memory Maposa  
Ndeye Marie Ka

**Defence Counsel**  
Vincent Courcelle-Labrousse, Lead Counsel  
Philippe Laroche, Co-Counsel

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### DELIBERATIONS

1. On 15 February 2010, the Defence filed a Motion,<sup>1</sup> pursuant to Article 28 of the Statute of the International Criminal Tribunal for Rwanda ("Article 28"), asking this Chamber to issue an Order requesting the French Government's cooperation in disclosing information about the presence or absence of French soldiers at Mount Ndiza, Nyakabanda commune, Gitarama prefecture ("Ndiza") between 6 April and July 1994.
2. Annex 1 of the Defence Motion is a *Note Verbale* from the Registry to the French Embassy to Tanzania dated 18 December 2009, containing a letter of request from the Defence to the Ambassador of France, dated 11 December 2009, in which the Defence seeks confirmation from the French Government as to whether French soldiers were present at Ndiza during the period in question.<sup>2</sup>
3. The Defence claims that as of the date of filing, French authorities have not responded to their formal request for assistance.<sup>3</sup>
4. On 17 February 2010, the Prosecution filed a Response<sup>4</sup> to the Motion requesting this Chamber to dismiss the Motion in its entirety.
5. On 22 February 2010, the Defence filed a Reply<sup>5</sup> to the Prosecution's Response.
6. On 11 March 2010, the Registry received a *Note Verbale* from the French Embassy stating, in particular, that: "in response to a request... transmitted by the Registry on 18 December 2009, ... despite thorough searches, the General Staff of the Armed Forces and the Directorate of Legal Affairs at the Ministry of Defence have found no documents attesting to the presence of the French military at Mount Ndiza during the relevant period."<sup>6</sup>

<sup>1</sup> *Prosecutor v. Nzabonimana*, ICTR-98-44D-T, Second Urgent Motion of Nzabonimana Requesting Cooperation and Assistance from France, 15 February 2010 ("Motion").

<sup>2</sup> Motion, para. 11.

<sup>3</sup> Motion, paras. 12-13.

<sup>4</sup> *Prosecutor v. Nzabonimana*, ICTR-98-44D-T, Prosecutor's Reply to Nzabonimana's Second Urgent Motion Requesting Cooperation and Assistance from France, 17 February 2010 ("Response").

<sup>5</sup> *Prosecutor v. Nzabonimana*, ICTR-98-44D-T, Nzabonimana's Response to Prosecutor's Reply to Nzabonimana's Second Urgent Motion Requesting Cooperation and Assistance from France, 22 February 2010 ("Reply").

<sup>6</sup> *Note Verbale* from the French Embassy to the Registry received on 11 March 2010.

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7. In light of this new information, the Trial Chamber considers this Motion moot.

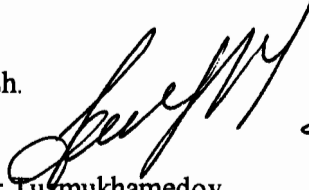
**FOR THESE REASONS, THE CHAMBER**

**DENIES** the Defence Motion in its entirety.

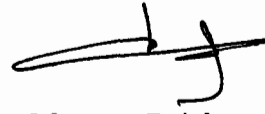
Arusha, 19 March 2010, done in English.



Solomy Balungi Bossa  
Presiding Judge



Bakhtiyar Tuzmukhamedov  
Judge



Mparany Rajohnson  
Judge

[Seal of the Tribunal]

