



UNITED NATIONS
NATIONS UNIES

**International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda**

OR: ENG

TRIAL CHAMBER III

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

Registrar: Adama Dieng

Date: 8 December 2010

THE PROSECUTOR

v.

Callixte NZABONIMANA

Case No. ICTR-98-44D-T

**DECISION ON NZABONIMANA'S RENEWED AND CONFIDENTIAL MOTION
FOR APPOINTMENT OF *AMICUS CURIAE* TO INVESTIGATE ALLEGATIONS
OF CONTEMPT OF THE TRIBUNAL AGAINST PROSECUTION WITNESS CNAI**

Rules 54, 73, 75 & 77(C) (ii) of the Rules of Procedure and Evidence

Office of the Prosecution

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INTRODUCTION

1. On 7 October 2010, the Defence filed a confidential Motion pursuant to Rules 54, 73, 75, 77 of the Rules of Procedure and Evidence (“Rules”) requesting, for the second time, the appointment of *amicus curiae* to investigate contempt allegations against Prosecution Witness CNAI. It also requested that *amicus curiae* investigate threats made against Witness T37, and the admission into evidence of a number of Gacaca records.¹

2. On 12 October 2010, the Prosecution filed a response opposing the Motion.²

3. On 15 October 2010, the Defence filed its reply.³

PROCEDURAL HISTORY

4. On 26 and 27 November 2009, Witness CNAI testified for the Prosecution in the instant case.

5. On 18 February 2010, the Trial Chamber ordered a series of Protective Measures for Defence witnesses.⁴

6. On 13 May 2010, Defence Witness T36 informed a defence investigator that Witness CNAI had approached him on at least two occasions to dissuade him from testifying for the Nzabonimana defence.⁵

¹ *Prosecutor v. Callixte Nzabonimana*, Case No. ICTR-98-44D-T, Nzabonimana’s Confidential Renewed Motion for Appointment of An *Amicus Curiae* to Investigate Contempt by Witness CNAI and for Admission of a Gacaca Record into Evidence (“Motion”), 7 October 2010.

² *Prosecutor v. Callixte Nzabonimana*, Case No. ICTR-98-44D-T, Prosecutor’s Response to Nzabonimana’s Confidential Renewed Motion for Appointment of an *Amicus Curiae* to Investigate Contempt by Witness CNAI and for Admission of a Gacaca Record into Evidence (“Response”), 12 October 2010.

³ *Prosecutor v. Callixte Nzabonimana*, Case No. ICTR-98-44D-T, Reply to Prosecutor’s Response to Nzabonimana’s Confidential Renewed Motion for Appointment of an *Amicus Curiae* to Investigate Contempt by Witness CNAI and for Admission of a Gacaca Record into Evidence (“Reply”), 15 October 2010.

⁴ *Prosecutor v. Callixte Nzabonimana*, Case No. ICTR-98-44D-T, Decision on Urgent Defence Motion for Protective Measures (Protective Measures Order”), 18 February 2010.

⁵ *Prosecutor v. Callixte Nzabonimana*, Case No. ICTR-98-44D-T, Nzabonimana’s Urgent Motion for Appointment of An *Amicus Curiae* to Investigate Contempt by Witness CNAI and for Supplementary Protective Measures for Witness T36 (“19 May Motion”), 19 May 2010, para.2.

7. On 17 May 2010, the Defence obtained a statement from Witness T36 in which the witness alleged that Witness CNAI offered him 5000 US dollars⁶ to testify for the Prosecution, and threatened that he would suffer negative consequences if he testified for the Defence.⁷ Witness T36 also alleged that Witness CNAI was improperly recruiting other individuals to testify for the Prosecution.⁸

8. On 19 May 2010, the Defence filed a motion requesting the appointment of *amicus curiae* to investigate allegations of contempt against Prosecution Witness CNAI, and supplementary protective measures for Defence Witness T36.⁹ On 9 July 2010, the Chamber found that the Defence had provided insufficient information to warrant the appointment of *amicus curiae*, and indicated the further information it believed would assist the Chamber in assessing any renewed Defence request.¹⁰

9. On 10 August 2010, the Defence filed an interlocutory appeal contesting the Chamber's 9 July 2010 Decision denying the appointment of *amicus curiae*.¹¹

10. On 19 August 2010, the Witness and Victims Support Section ("WVSS") informed the Defence that an additional Defence Witness, T37, had made a late decision not to travel to Arusha to testify.¹² On 23 September 2010, the Defence obtained a statement from Witness T37 explaining his change of heart. In that statement, the witness asserted that two members of a local chapter of IBUKA had learned of his intention to testify for the Defence and had indicated that he would suffer adverse consequences should he proceed to do so.¹³

⁶ 19 May Motion, Annex A, paras. 7, 14-16, 18.

⁷ 19 May Motion, Annex A, paras. 4-6, 10, 19, 22, 27.

⁸ 19 May Motion, Annex A, para. 21.

⁹ *Prosecutor v. Callixte Nzabonimana*, Case No. ICTR-98-44D-T, Nzabonimana's Urgent Motion for Appointment of An *Amicus Curiae* to Investigate Contempt by Witness CNAI and for Supplementary Protective Measures for Witness T36 ("19 May Motion"), 19 May 2010.

¹⁰ *Prosecutor v. Callixte Nzabonimana*, Case No. ICTR-98-44D-T, Decision on Nzabonimana's Urgent Motion for Appointment of *Amicus Curiae* to Investigate Contempt by Witness CNAI and for Supplementary Protective Measures for Witness T36, 9 July 2010 ("9 July 2010 Decision").

¹¹ *Prosecutor v. Callixte Nzabonimana*, Case No. ICTR-98-44D-T, Interlocutory Appeal on the Decision on Nzabonimana's Urgent Motion for Appointment of *Amicus Curiae* to Investigate Contempt by Witness CNAI and for Supplementary Protective Measures for Witness T36 ("Interlocutory Appeal Motion"), 10 August 2010.

¹² Motion, Annex C.

¹³ Motion, Annex G.

11. On 18 September 2010, the Defence obtained a second and more detailed sworn statement from Witness T36 regarding the threats made against him (“second statement”).¹⁴ On 21 September 2010, the Defence obtained statements from two other persons apparently corroborating parts of Witness T36’s statement.¹⁵

12. On 28 October 2010, the Appeals Chamber filed a Decision on the Defence Interlocutory Appeal in which it found that the Trial Chamber acted within its discretion in deciding not to appoint *amicus curiae* in the circumstances.¹⁶

Submissions of the Parties

13. The Defence submits that it has received information from different sources alleging that Prosecution Witness CNAI has attempted to generate false accusations against Nzabonimana, and that he has attempted to intimidate Defence witnesses.¹⁷ In a statement dated 17 May 2010, Defence Witness T36 alleged that Witness CNAI attempted to bribe him to testify for the Prosecution, and threatened negative consequences if he chose to testify on Nzabonimana’s behalf.¹⁸ Specifically, Witness T36 alleged that on 11 May 2010, he was threatened by Witness CNAI, in the company of an unidentified Rwandan national who may have been linked to the ICTR.¹⁹ The Defence contends that this incident indicates that Witness CNAI is privy to the information regarding Witness T36’s status as a Defence witness, and that he shared this information with other unknown persons.²⁰ The Defence therefore seeks the appointment of *amicus curiae* to investigate the possibility that the Trial Chamber’s protective orders of 18 February 2010 were violated.²¹

14. The Defence submits that it has obtained additional information regarding the allegations made by Witness T36 in accordance with the Chamber’s 9 July 2010 Decision.²² The Defence obtained a second statement from Witness T36 on 18 September 2010.²³ In that

¹⁴ Motion, Annex D.

¹⁵ Motion, Annexes E & F.

¹⁶ *Callixte Nzabonimana v. Prosecutor*, Case No. ICTR-98-44D-AR77, Decision on Callixte Nzabonimana’s Interlocutory Appeal of the Trial Chamber’s Decision Dated 9 July 2010 (“Interlocutory Appeal Decision”), 28 October 2010.

¹⁷ Motion, para. 19. Annex B: Statement of T36 of 17 May 2010.

¹⁸ Motion, para. 27.

¹⁹ Motion, para. 41.

²⁰ Motion, para. 41.

²¹ Motion, paras 39-40.

²² 9 July 2010 Decision.

²³ Motion, para. 28, 29. Annex D: Statement of T36 of 18 September 2010.

statement, Witness T36 alleges that Witness CNAI asked him to falsely accuse Nzabonimana of participating in events leading to the attack on the Nyabikenke *communal* office in April 1994, and to testify that on that occasion Witness CNAI and another person sought assistance from Nzabonimana but were instead beaten and threatened.²⁴ The Defence also provides statements of two persons who were present in a bar when Witness CNAI allegedly approached Witness T36.²⁵ Witness T36 additionally provides additional details in this affidavit about his prior relationship with Witness CNAI,²⁶ and asserts that he informed no one of his intention to testify as a Defence witness in the instant case.²⁷

15. On 23 September 2010 the Defence obtained a statement from Defence Witness T37 alleging that two members of the local chapter of IBUKA, who testified before the ICTR for the Prosecution in the instant case, learned that Witness T37 intended to testify for Nzabonimana, and threatened him with adverse consequences should he proceed to appear before the Tribunal for the Defence.²⁸

16. The Defence concludes that unknown individuals in Rwanda are privy to information regarding the identities of Defence witnesses, including T36 and T37, and that they use this information to coerce and intimidate Defence witnesses.²⁹ The Defence submits that the fact that both Prosecution Witness CNAI³⁰ and the Nyabikenke chapter of IBUKA are aware of the identity of Defence witnesses requires the appointment of *amicus curiae* to investigate the allegations of interference with the proper administration of justice pursuant to Rule 77(A) (ii).³¹

17. The Defence requests that the Chamber appoint an *amicus curiae* who would: a) determine how Prosecution Witness CNAI learned that Defence Witness T36 would appear for the Defence, and assess whether contempt proceeding should be initiated, and against whom; b) confirm the attempted intimidation of Witness T36 by Witness CNAI and establish

²⁴ Motion, para. 30, para. 13 to 17 of Annex D.

²⁵ Motion, para. 34. Paragraphs 21 to 23 of Annex D; see also Annexes E and F, Sworn Affidavits from the two persons..

²⁶ Paragraphs 24-26 of Annex D.

²⁷ Motion, para. 33. Paragraphs 18 to 20 of Annex D.

²⁸ Motion, para. 38. Annex G: Statement of T37 of 23 September 2010.

²⁹ Motion, para. 42.

³⁰ Motion para. 39. The first sentence of the paragraph states: "First, the Defence submits that the fact that *witness T36* and the Nyabikenke chapter of Ibuka are aware of the identity of Defence witnesses..." The Trial Chamber assumes that this is a typographical error and that the Defence intended to refer to Witness CNAI in this sentence and not Witness T36.

³¹ Motion, para. 39.

the identity and employer of the unidentified Rwandan national who accompanied Witness CNAI; c) establish whether the person accompanying CNAI on 11 May 20

18. 10 was a member of the ICTR, or “any other private or public entity”; d) determine the identities of members of the Nyabikenke chapter of IBUKA who are aware of the identities of Defence witnesses, and identify those who were involved in the threats made against Defence Witness T37; e) identify persons in possession of protected information about defence witnesses; f) determine “who are those with ill intentions towards T 37”; g) identify the persons responsible for disseminating identifying information with respect to witnesses T36 and T37; h) determine who interviewed the two corroborating witnesses whose statements are provided in Annexes E and F of the Defence Motion.³²

19. In its Response, the Prosecution describes the motion as misleading and duplicitous and contends that it constitutes “an abuse of the Court Process” and should therefore be dismissed.³³ In particular, the Prosecution is of the view that because the Defence opted to file an interlocutory appeal instead of complying with the conditions set out in the 9 July 2010 Decision,³⁴ it was improper to later file an additional motion with the Trial Chamber raising matters concurrently under consideration by the Appeals Chamber.³⁵

20. The Prosecution further argues that the Defence has failed to satisfy the criteria set out by the Chamber in its 9 July Decision to support the appointment of *amicus curiae*.³⁶

21. The Prosecution strenuously objects to the introduction of the new allegations made by T37. The Prosecution observes that in its 19 May 2010 Motion, the Defence limited its allegations to those made by Witness T36. It argues that the “prayers for relief with respect to witness T37 are ...misconstrued and improper, for lack of relevance to the substance of the Defence Motion”.³⁷ The Prosecution concludes that it is “hard pressed to establish the *locus standi* of the defence witness T37 in the instant motion.”³⁸

³² Motion, para. 43.

³³ Response, para. 31.

³⁴ 9 July 2010 Decision.

³⁵ Response, para. 20.

³⁶ Response, paras. 43, 46, 47.

³⁷ Response, paras. 36, 41.

³⁸ Response, para. 40.

22. Regarding the Defence request to admit Gacaca documents into evidence, the Prosecution argues that the documents are not relevant to the renewed application to appoint *amicus curiae* to investigate the alleged misconduct of Witness CNAI,³⁹ and would not assist the Chamber in arriving at any conclusions regarding the contempt allegations levelled against the witness.⁴⁰

23. In its Reply, the Defence asks that the Chamber to disregard its submissions with respect to the admission of Gacaca documents into evidence and apologises for the lack of clarity.⁴¹

24. The Defence rejects the Prosecution contention that it may not expand its original request for the appointment of *amicus curiae* to investigate the more recent allegations made by Witness T37 regarding intimidation by members of IBUKA,⁴² adding that because the two members of IBUKA are Prosecution Witnesses, Witness T37 has *locus standi*.⁴³

25. Finally, the Defence explains that it considers the appointment of *amicus curiae* to be an urgent matter, and that it therefore filed the present motion concurrently with the pending interlocutory appeal to expedite the appointment of *amicus curiae*.⁴⁴

DELIBERATIONS

Applicable Law

26. Rule 75 of the Rules provides that:
(A) A Judge or a Chamber may, *proprio motu* or at the request of either party, or of the victim or witness concerned, or of the Victims and Witnesses Support Unit, order appropriate measures to safeguard the privacy and security of victims and witnesses, provided that the measures are consistent with the rights of the accused....
27. Rule 77 (A) of the Rules stipulates that:
(A) The Tribunal in the exercise of its inherent power may hold in contempt those who knowingly and willfully interfere with its administration of justice, including any person who

³⁹ Response, para. 55.

⁴⁰ Response, para. 61.

⁴¹ Reply, para. 7.

⁴² Reply, para. 8; The Defence contends that these two persons are also Prosecution witnesses.

⁴³ Reply, para. 8.

⁴⁴ Reply, para. 11.

- (ii) discloses information relating to those proceedings in knowing violation of an order of a Chamber;
- (iv) threatens, intimidates, causes any injury or offers a bribe to, or otherwise interferes with, a witness who is giving, has given, or is about to give evidence in proceedings before a Chamber, or a potential witness;

28. Rules 77 (C) and 77 (D) of the Rules stipulate that:
- (C) When a Chamber has reason to believe that a person may be in contempt of the Tribunal, it may:
 - (ii) where the Prosecutor, in the view of the Chamber, has a conflict of interest with respect to the relevant conduct, direct the Registrar to appoint an *amicus curiae* to investigate the matter and report back to the Chamber as to whether there are sufficient grounds for instigating contempt proceedings; or
 - (iii) initiate proceedings itself.
 - (D) If the Chamber considers that there are sufficient grounds to proceed against a person for contempt, the Chamber may:
 - (ii) in circumstances described in paragraph (C) (ii) or (iii), issue an order in lieu of an Indictment and either direct *amicus curiae* to prosecute the matter or prosecute the matter itself.

Preliminary Issue

29. Given the affirmation by the Defence in its Reply that it mistakenly requested admission of Gacaca records into evidence, the Chamber will not consider this issue herein.

Appeals Chamber Decision of 28 October 2010

30. On 10 August 2010, the Defence filed an Interlocutory Appeal requesting that the Appeals Chamber set aside the Trial Chamber's 9 July 2010 Decision. It submitted that the Trial Chamber erred in law by misinterpreting Rule 77(C) with respect to the threshold for the appointment of *amicus curiae*, and that the Chamber abused its discretion in failing to order an investigation.⁴⁵

31. In its Decision of 28 October 2010, the Appeals Chamber found that the Trial Chamber implicitly concluded that "the reason to believe standard" set out in Rule 77(C) (ii) had not been met, and held that the Trial Chamber acted within its discretion in deciding not to appoint *amicus curiae* on the basis of the information available to it at the time. As the Trial Chamber did not preclude the Defence from re-filing its Motion with supplementary information, the Appeals Chamber held that it had not abused its discretion.⁴⁶

⁴⁵ Interlocutory Appeal Motion.

⁴⁶ Interlocutory Appeal Decision, paras. 11-12

32. In the Decision, the Appeals Chamber also noted:

... that it would have been preferable for the Trial Chamber to explain its reasons for requiring Nzabonimana to submit a “properly sworn affidavit” to support any further motion. Such reasoning was particularly important given that the Trial Chamber had not required similar substantiation from the Prosecution in support of its 2 December 2009 Prosecution Motion for the initiation of contempt proceedings. However, the imposition of such a requirement in the present case was within its discretion. Moreover, because the Trial Chamber did not preclude the possibility of Nzabonimana making a further request for the initiation of an investigation, the Appeals Chamber finds that the Trial Chamber’s failure to provide reasons in this respect did not amount to an abuse of its discretion.⁴⁷

In order to avoid any misunderstanding on this issue, the Trial Chamber takes this opportunity to clarify that it was able to order the appointment of *amicus curiae* based on a written statement provided by Witness CNAL appended to the Prosecution’s 2 December 2009 motion because the witness had provided sworn testimony alleging contempt of court in his testimony before the Chamber on 2 December 2009. Thus the Prosecution request for the appointment of *Amicus Curiae* is distinguishable from the 19 May Motion of the Defence which was not predicated on a sworn statement or testimony.

Request for the appointment of Amicus Curiae—Witness T36

33. The Chamber recalls that in its 9 July 2010 Decision, it held that “should the Defence choose to pursue [its request for the appointment of *amicus curiae*], it must obtain from Witness T36 an affidavit providing further details on the following matters: (a) specific information about the approximate dates and number of times the witness was approached by Witness CNAI to testify for the Prosecution; (b) whether the witness advised any person(s) of his plans to testify for the Defence, and if so, who; (c) additional affidavits from its investigator(s) and /or any person(s) to corroborate Witness T36’s statement, or explain why it is unable to; (d) information on any prior relationship Witness T36 may have had with Witness CNAI.⁴⁸

⁴⁷ Interlocutory Appeal Decision, para. 12.

⁴⁸ 9 July 2010 Decision, para. 15.

34. The Chamber has carefully reviewed the affidavit provided by Witness T36 on 18 September 2010. It finds that although the witness was unable to provide approximate dates on which he was allegedly approached by Witness CNAI, he provided additional detail about the general time frame of the approaches, regularity of the contact and content of the alleged conversations.⁴⁹ The Chamber is therefore satisfied that the Defence has provided the additional detail it sought in point (a) above.

35. In this same affidavit, Witness T36 also asserted that he had informed no one of his intent to testify for the Defence in the instant case.⁵⁰ The Chamber is therefore satisfied that the Defence has provided the additional information sought by the Chamber in point (b) above.

36. Annexes E and F of the Defence Motion are affidavits from two individuals partially corroborating parts of Witness T36's statement. The Chamber is therefore satisfied that the Defence has provided the additional information sought by the Chamber in point (c) above.

37. Finally, in his affidavit of 18 September 2010, Witness T36 describes his prior relationship with Prosecution Witness CNAI.⁵¹ The Chamber is therefore satisfied that the Defence has provided the additional information sought by the Chamber in point (d).

38. The Prosecution argues that the Defence has not fulfilled the criteria set out by the Trial Chamber in its 9 July Decision, but appears to apply the criteria to the information provided by Witness T37 and not Witness T36. Thus, the Trial Chamber finds the Prosecution contention to be without merit.

39. The Chamber therefore grants the Defence Motion with respect to its request for appointment of *amicus curiae* to investigate allegations that Prosecution Witness CNAI, or a member of the Prosecution team, disclosed protected witness information in violation of Rule 77 (A) (ii) and/or (iv).

⁴⁹ Motion, Annex D, paras. 6-17.

⁵⁰ Motion, Annex D, para. 19.

⁵¹ Motion, Annex D, paras. 25-26.

Expanding the proposed Terms of Reference to Include Allegations made by Witness T37

40. In the instant Motion, the Defence requests that in addition to investigating the allegations made by Witness T36 *amicus curiae* also investigate new allegations of intimidation made by Defence Witness T37. According to the Defence, it “obtained a statement from Witness T37 on 23 September 2010, where T37 explains that two members of the local chapter of IBUKA who had themselves testified in Arusha had learned that he intended to testify for the Defence of Nzabonimana, and that there would be adverse consequences if he decided to do so.”⁵² Specifically, the Defence requests that the terms of reference of *amicus curiae* include the following: “[...] d) which is the Nyabikenke IBUKA chapter which is in possession of the identity of Defence witnesses, and who are its members; e) who amongst these members are in possession of that information; f) who are those with ill intentions toward T37 ...”⁵³

41. The Prosecution stresses that the title of the Defence Motion is “Nzabonimana’s Confidential Renewed Motion for Appointment of *Amicus Curiae* to Investigate Contempt by Witness CNAI...”, and therefore that the request for additional investigations on the basis of allegations made by another witness, Witness T37, are “misconstrued and improper, for lack of relevant to the substance of the Defence Motion.”⁵⁴

42. While the Chamber concurs that the Defence Motion is misleadingly titled, it is the Chamber’s duty to ensure that proceedings are expeditious, and considers that it would be contrary to the interests of justice to dismiss the defence submissions with respect to Witness T37 on the basis of the Motion’s title alone. More generally, there is no rule or principle precluding a party from adding new information, or expounding on a preliminary request, in a new motion, as long as the other party is not prejudiced. The Prosecution has had the opportunity to address the merits of the allegations made by T37 in its response to the new motion, and has therefore suffered no prejudice with respect to the new allegations.

43. The Trial Chamber finds that the issues linking Witnesses T36 and T37, are that they both indicated that they were willing to testify for Nzabonimana, that both allege that their identities were improperly disclosed, that both live in Nyabikenke *commune*, and that

⁵² Motion, para. 38.

⁵³ Motion, para. 43.

⁵⁴ Response, paras. 34-41.

both allege that threats were made against them because they intended to testify for the Defence in this case. Despite these connections, the Defence has not made a *prima facie* case that the two witnesses were threatened by the same associated persons or organisations.

44. In the interests of justice, however, the Trial Chamber has carefully reviewed the contents of Witness T37's statement of 23 September 2010.⁵⁵ Notably, Witness T37 states: "...I refuse to provide you with the names of the persons who are threatening me because to do so would cause me further difficulties."⁵⁶ Later in the same statement, he notes that he was informed by a family member, who is a member of IBUKA that two other members of IBUKA were planning to act against the witness once he testified in Arusha. Witness T37 adds that he learned that these two individuals came to testify for the Prosecution in the instant case, but concludes: "I don't want to give their names, but I obviously know who they are."⁵⁷

45. Pursuant to Rule 77, a Trial Chamber may direct the Registrar to appoint *amicus curiae* to investigate allegations of contempt when it has reason to believe that a person may be in contempt of the Tribunal. This rule does not permit the Chamber to direct the registrar to appoint *amicus curiae* to conduct an open-ended investigation on the basis of ill-defined threats made by unnamed individuals or poorly defined organisations. The Trial Chamber concludes that as the allegations made by Witness T37 are unduly vague, it cannot grant the Defence request for the appointment of *amicus curiae* to investigate T37's assertions on the basis of this information.

FOR THESE REASONS, THE TRIAL CHAMBER

- I. **GRANTS** the Motion in part;
- II. **DIRECTS** the Registry to appoint an *amicus curiae* to investigate the allegations that a) Witness CNAI or a member of the Prosecutor's office disclosed protected information pertaining to Defence Witness T36; and b) that Prosecution Witness CNAI threatened and/or bribed and/or intimidated Witness T36.

⁵⁵ Motion, Annex G.

⁵⁶ Motion, Annex G, para. 3.

⁵⁷ Motion, Annex G, para. 24.

- III. **DIRECTS** the *amicus curiae* to report back to the Chamber as to whether there are sufficient grounds for instigating contempt proceedings, as soon as practicable, and in no case later than 1 April 2011;
- IV. **INSTRUCTS** WVSS to provide any information it may have gathered regarding the allegations to the *amicus curiae*;
- V. **DIRECTS** the Registrar to instruct the *amicus curiae* that should he or she require any further instruction from the Chamber during the course of the investigation, the *amicus curiae* may request such instruction through the Registry.
- VI. **DENIES** the Motion in all other respects.

Arusha, 8 December 2010, done in English.

Solomy Balungi Bossa
Presiding Judge

Bakhtiyar Tuzmukhamedov
Judge

Mparany Rajohnson
Judge

[Seal of the Tribunal]