



UNITED NATIONS
NATIONS UNIES

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

ICTR-98-44D-T
(30-3-2012
9327 9323)

9327

OR: ENG

TRIAL CHAMBER III

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

Registrar: Adama Dieng

Date: 30 March 2012

UNICTR
JUDICIAL RECORDS ACQUISITION
RECEIVED

2012 MAR 30 P 2:45

THE PROSECUTOR

v.

Callixte NZABONIMANA

Case No. ICTR-98-44D-T

**ORDER ON DEFENCE REQUEST FOR LEAVE TO RESPOND TO THE
REGISTRAR'S SUBMISSIONS DATED 26 MARCH 2012**

Pursuant to Rule 73 of the Rules of Procedure and Evidence

Office of the Prosecutor

Paul Ng'arua
Memory Maposa
Simba Mawere
Mary Diana Karanja

Defence Counsel

Vincent Courcelle-Labrousse, Lead Counsel
Philippe Larochelle, Co-Counsel

INTRODUCTION

1. On 12 March 2012, the Defence filed "Nzabonimana's Motion for Appropriate Relief in Light of the Prosecution's Delayed Disclosure to the Accused of Exculpatory Evidence" ("Motion I"), following the Prosecution's 17 February 2012 disclosure of a CD-ROM containing trial transcripts.¹
2. The Prosecution filed a Response on 14 March 2012.²
3. On 15 March 2012, the Trial Chamber issued a *Proprio Motu* Order, ordering the Defence to file specific and comprehensive submissions regarding potentially exculpatory material on the CD-ROM by 19 March 2012 and the Prosecution to respond by 23 March 2012.³
4. On 19 March 2012 the Defence filed "Nzabonimana's Motion in Light of the Trial Chamber's *Proprio Motu* Order of 15 March 2012" ("Motion II"), asserting that it did not have the "time and resources" to address the material on the CD-ROM.⁴
5. The Prosecution filed its Response to Motion II on 21 March 2012.⁵
6. The Defence filed its Reply on 23 March 2012.⁶
7. On 22 March 2012, the Chamber invited the Registrar to make submissions on the human and material resources available to the Defence in 2012.⁷
8. On 26 March 2012, the Registrar filed its submission ("Registrar's Submission").⁸
9. On 30 March 2012, the Defence filed a Request for Leave to Respond to the Registrar's Submission dated 26 March 2012.⁹

¹ *Prosecutor v. Nzabonimana*, Case No. ICTR-98-44D-T, Nzabonimana's Motion for Appropriate Relief in Light of the Prosecution's Delayed Disclosure to the Accused of Exculpatory Evidence, 12 March 2012.

² *Prosecutor v. Nzabonimana*, Case No. ICTR-98-44D-T, Prosecutor's Response to Nzabonimana's Motion for Appropriate Relief in Light of the Prosecution's Delayed Disclosure to the Accused of Exculpatory Evidence ("Response"), 14 March 2012, para.11.

³ *Proprio Motu* Order to the Parties Concerning Nzabonimana's Motion for Appropriate Relief in Light of the Prosecution's Delayed Disclosure to the Accused of Exculpatory Evidence, dated 15 March 2012.

⁴ *Prosecutor v. Nzabonimana*, Case No. ICTR-98-44D-T, Nzabonimana's Motion in Light of the Trial Chamber's *Proprio Motu* Order of 15 March 2012, 19 March 2012.

⁵ *Prosecutor v. Nzabonimana*, Case No. ICTR-98-44D-T, Prosecutor's Response to Nzabonimana's Motion in Light of the Trial Chamber's *Proprio Motu* Order of 15 March 2012, 21 March 2012, para. 1.

⁶ *Prosecutor v. Nzabonimana*, Case No. ICTR-98-44D-T, Defence Reply to Prosecutor's Response to Nzabonimana's Motion in Light of the Trial Chamber's *Proprio Motu* Order of 15 March 2012, 23 March 2012.

⁷ *Prosecutor v. Nzabonimana*, Case No. ICTR-98-44D-T, Order to the Registry for Submissions Concerning Resources Available to the Defence in 2012, 22 March 2012.

⁸ *Prosecutor v. Nzabonimana*, Case No. ICTR-98-44D-T, Registrar's Submission in Respect of the Order to the Registry for Submissions Concerning Resources Available to the Defence in 2012, 26 March 2012.

⁹ *Prosecutor v. Nzabonimana*, Case No. ICTR-98-44D-T, Defence Request for Leave to Respond to the Registrar's Submission dated 26 March 2012 ("Request"), 30 March 2012.

SUBMISSIONS OF THE PARTIES

Defence Motion

10. The Defence requests leave to file a response to the Registrar's Submission dated 26 February 2012, asserting that the submissions of the Registrar do not accurately reflect the resources available to the Defence.¹⁰ The Defence submits that the "deficiency and inaccuracy" of the Registrar's submission violates Nzabonimana's fair trial rights and that a response will clarify the Defence's ability to make submissions on the material contained on the CD-ROM.¹¹ The Defence therefore requests leave to file a response to the Registrar's Submission.

DELIBERATIONS

11. Based upon the issues raised by the Defence, the Chamber finds that it is in the interests of justice to allow the Defence to respond to the Registrar's Submission. The Chamber grants the Defence until 2 April 2012 to make any submissions on this matter. The Chamber also grants the Prosecution until 2 April 2012 to make submissions on the Registrar's Submission, if it so chooses. The Chamber invites the Registry to reply to the Defence submissions by 3 April 2012.

FOR THESE REASONS, THE TRIAL CHAMBER

ORDERS the Defence and Prosecution to make submissions on the 26 March 2012 Registrar's Submission by 2 April 2012; and

INVITES the Registry to reply to the above submissions by 3 April 2012.

Arusha, 30 March 2012, done in English.



Solomy Balungi Bossa

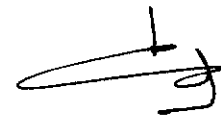
Presiding Judge



Bakhtiyar Tuzmukhamedov

Judge

(absent at time of signature)



Mparany Rajohnson

Judge

[Seal of the Tribunal]



¹⁰ Request, paras. 11-13.

¹¹ Request, para. 17.