

ICTR-98-41-T
30-03-2005
(24253 - 24252)

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International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

IN TRIAL CHAMBER I

Before: Judge Erik MØSE
Judge Jai Ram REDDY
Judge Sergei Aleckseievich EGOROV

Registrar: Mr Adama DIENG

Date of Filing: 30 March 2005

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THE PROSECUTOR

v.

**Theoneste BAGOSORA
Gratien KABILIGI
Aloys NTABAKUZE
Anatole NSENGIYUMVA**

Case No.: ICTR-98-41-T

PROSECUTOR'S REPLY

to Ntabakuze Defence Response filed 24 March 2005, regarding the 14 March 2005 Prosecution Motion concerning witness protection measures.

Prosecution Counsel

Ms Barbara MULVANEY
Mr Drew WHITE
Ms Christine GRAHAM
Mr Rashid RASHID

Defence Counsel

Mr Raphael CONSTANT
Mr Paul SKOLNIK
Mr René SAINT-LEGER
Mr Peter ERLINDER
Mr Andre TREMBLAY
Mr Kennedy OGETTO
Mr Gershom Otachi BW'OMANWA

PROSECUTION REPLY

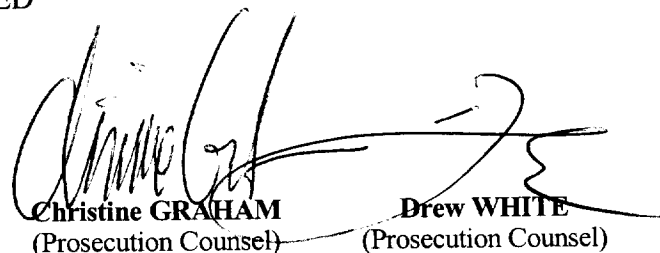
1. The Ntabakuze defence filed a Response on 24 March 2005, dated and signed the 22nd of March, in which it is submitted that the Prosecution Motion of 14 March 2005 regarding witness protection measures ought to be dismissed “in its entirety”.
2. In the course of requesting the Motion to be dismissed in its entirety, the Ntabakuze defence submits that the principle interest of the Office of the Prosecutor is in “securing convictions in any manner possible in this one-sided politically-motivated enterprise that should shame us all...in a Tribunal that is coming increasingly to be seen as an embarrassing example of “victor’s justice.”¹
3. Elsewhere in the Response, the Ntabakuze defence employs other phrases that impart prosecutorial misconduct:
 - a) “The Prosecution would intentionally undermine the integrity of these witnesses [sic] safety, and that of their families.” [page 24176, para 9, lines 4-5]
 - b) “...Prosecutorial quasi-intimidation of defence witnesses.” [ibid, para 11, lines 3-4]
 - c) “...harassment from the opposing counsel at the Tribunal,” [ibid, lines 5-6]
 - d) “...intrusive contact and questioning by the Prosecution” [page 24175, para 11, line 5]
4. The use of such unmeasured language is a clear indication that the Ntabakuze defence is not capable of communicating the Prosecution request for an interview to defence witnesses, on a good faith basis. In consequence, the most reasonable means of ensuring that each of the defence witnesses has an honest opportunity to consider the prosecution request, is to require that each of the witnesses receives a copy of the prosecution request letter, through WVSS.
5. As to the claim regarding “victor’s justice”, the prosecution observes the irrational nature of such a suggestion, as the Tribunal was neither a party to the Rwandan conflict, nor in any sense a “victor”. Indeed, in contrast to the defence claim, there are many at the Tribunal who see their contribution to the administration of justice as their life’s work, for which they feel neither embarrassment, nor shame, but justifiable pride.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Arusha, 30 March 2005.

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¹ Ntabakuze Response; page 24176, para 10, lines 4-6 & 10-11.

