

ICTR 01-73  
3-4-2012  
(8619 - 8616)

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International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

**Trial Chamber III**

**Before:** Judge Florence Rita Arrey, Presidings  
Judge Seon Ki Park  
Judge Gberdao Gustave Kam

**Registrar:** Mr. Adama Dieng

**Date Filed:** 2 April 2012

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**THE PROSECUTOR**

v.

**Protais ZIGIRANYIRAZO**

*Case No. ICTR-01-73*

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**MOTION REQUESTING A FURTHER SCHEDULING ORDER**

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**Counsel for the Prosecution**

Hassan Bubacar Jallow

**Counsel for Protais  
Zigiranyirazo**

John Philpot  
Charles Taku  
Kyle Gervais

## **Procedural History**

1. He was transferred to Arusha on or about 3 October 2001 and appeared for the first time on 10 October 2001.
2. His trial commenced on 3 October 2005.
3. On 18 December 2008, Trial Chamber III rendered its verdict acquitting the Applicant of Counts 1, 3, and 5 and finding him guilty of Counts 2 and 4 (respectively Genocide and Extermination). The sentence was 20 years for Genocide and 15 years for Extermination.
4. He appealed his conviction.
5. On 16 November 2009, the Appeals Chamber granted the Appeal ordered his immediate release.
6. Since 16 November 2009, he has been confined to Arusha, Tanzania, in a Tribunal safe house.
7. On 20 January 2012, he filed a preliminary demand letter with the President and the Registrar as appears from the Court File.
8. On 24 January 2012, then Acting President Joensen designated the present Trial Chamber to handle this application as appears from the Court File.
9. On 1 February 2012, the Trial Chamber issued a scheduling order requiring applicant to file a fully substantiated motion by 24 February 2012 as appears from the Court File.
10. On 24 February 2012, Protais Zigiranyirazo, hereafter the Applicant, files his application for compensation and damages as well as an order under Rule 28 of the Statute.
11. He requested compensation for his long detention, for the violations of the most basic and fundamental principles of justice by the Tribunal in convicting him on 18 December 2008, for the failure of the Tribunal to ensure that he could return to Belgium if acquitted and the failure of the Tribunal to reunite with his family since his acquittal on 16 November 2009. He also requested moral damages for his lengthy and ongoing suffering as well as exemplary damages because of the carelessness of the Tribunal associated with his arrest, his conviction and the failure to return him to Belgium.
12. He also asked the Trial Chamber to request the cooperation of the Kingdom of Belgium and respectfully order the Kingdom of Belgium to accept Mr Zigiranyirazo's return to Belgium where he was arrested by the Tribunal in 2001.

13. On 20 March 2012, the Trial Chamber issued a Scheduling Order requiring the Prosecution and the Registry to file their submissions by 18 April 2012.

14. Applicant, Protais Zigiranyirazo therefore applies for a further Scheduling Order as described hereafter.

15. Applicant requests an order allowing him to reply to the Registry and the Prosecutions submissions by 18 May 2012.

16. Indeed, it is a settled principle that a moving party can reply to submission made in response to his motion subject to limits established in the case law.

17. A moving party may not introduce new requests or issues of fact in its reply. If it does, the responding party is entitled to file a rejoinder.<sup>1</sup> The purpose of a reply brief is to answer matters raised by the opposing party in its response.<sup>2</sup> It is procedurally improper to raise new issues for the first time in a reply brief, as it deprives the opposing party of the right to respond.<sup>3</sup>

18. The Registry will have had effectively from 24 February to 18 April to prepare his submissions.

19. Counsel for applicant will require one month to reply, especially since Counsel has other professional obligations in addition to responsibility for the present application. It is in the interests of justice that the issues raised in this application be fully aired and that the Chamber can benefit from the wisdom of the parties.

20. The Applicant requests that the Trial Chamber renders the following order:

**ORDERS** that the Applicant file his reply to the submissions of the Registrar and the Prosecutor by 18 May 2012.

Respectfully submitted,

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<sup>1</sup> *Prosecutor v Karemera et al*, No. ICTR-98-44-T, *Decision on Joseph Nzirorera's Second Motion to Exclude Testimony of Witness AXA and Edouard Karemera's Motion to Recall the Witness* (4 March 2008) at para. 10

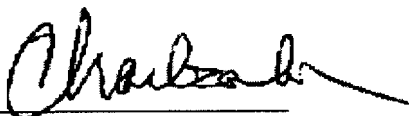
<sup>2</sup> *Prosecutor v Karemera et al*, No. ICTR-98-44-T, *Decision on Joseph Nzirorera's 23<sup>rd</sup> Rule 66 Violation and Motion for Remedial and Punitive Measures: Witness ALG* (30 March 2009) at para 4

<sup>3</sup> *Prosecutor v Karemera et al*, No. ICTR-98-44-T, *Decision on Joseph Nzirorera's 23<sup>rd</sup> Rule 66 Violation and Motion for Remedial and Punitive Measures: Witness ALG* (30 March 2009) at para 4



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John Philpot,  
Counsel



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Charles Taku



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Kyle Gervais,  
Legal Assistant



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(Art. 27 of the Directive for the Registry)

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<b>From:</b>	<input type="checkbox"/> Chamber (names)	<input checked="" type="checkbox"/> Defence <b>John Philpot</b> (names)	<input type="checkbox"/> Prosecutor's Office (names)
<b>Case Name:</b>	The Prosecutor vs. Protais Zigiranyirazo		<b>Case Number:</b> ICTR--01-73
<b>Dates:</b>	Transmitted: 2 April 2012		Document's date: 2 April 2012
<b>No. of Pages:</b>	5	<b>Original Language:</b>	<input checked="" type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
<b>Title of Document:</b>	MOTION REQUESTING A FURTHER SCHEDULING ORDER		
<b>Classification Level:</b>	<b>TRIM Document Type:</b>		
<input type="checkbox"/> Ex Parte <input type="checkbox"/> Strictly Confidential / Under Seal <input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Public	<input type="checkbox"/> Indictment <input type="checkbox"/> Decision <input type="checkbox"/> Disclosure <input type="checkbox"/> Judgement	<input type="checkbox"/> Warrant <input type="checkbox"/> Affidavit <input type="checkbox"/> Order <input type="checkbox"/> Motion	<input type="checkbox"/> Correspondence <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Appeal Book <input type="checkbox"/> Book of Authorities <input type="checkbox"/> Submission from non-parties <input type="checkbox"/> Submission from parties <input type="checkbox"/> Accused particulars

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