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Case No. ICTR-96-3-T

**ICTR**  
**CRIMINAL REGISTRY**  
**RECEIVED UNITED NATIONS**



**NATIONS UNIES**

1998 APR -1 P 12:08

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

Le Président

**OR: FR**

Before: Judge Laïty Kama, President of the Tribunal

Decision of: 24 March 1998

**THE PROSECUTOR**  
**VERSUS**  
**GEORGES ANDERSON NDERUBUMWE RUTAGANDA**

**Case No. ICTR-96-3-T**

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**DECISION OF THE PRESIDENT ON THE EXPEDITED**  
**APPEALS PROCEDURE FOLLOWING**  
**THE MOTION BY THE DEFENCE**

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Counsel for the Defence:

Ms Tiphaine Dickson

**THE PRESIDENT OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (The "President"),**

HAVING BEEN SEIZED by Ms Tiphaine Dickson, Defence Counsel assigned to the defence of the accused Georges Anderson Nderubumwe Rutaganda, of a motion dated 23 March 1998 (the "motion") urging him, pursuant to Rule 117(B) of the *Rules of Procedure and Evidence* (the "Rules"):

1. To order the Registrar of the International Criminal Tribunal for Rwanda to:
  - (a) provide the Defence immediately with all the available court transcripts and recordings and to provide her promptly with the other transcripts and recordings as they become available;
  - (b) provide her, at the end of each day, with a hard copy or computer diskette of that day's transcripts;
  - (c) leave her sufficient time to verify transcripts, and
  - (d) allow the Defence sufficient time to verify that any corrections she may have proposed to the transcripts have been duly made before an official version is adopted;
2. To order the suspension of hearings so long as the recordings and transcripts requested have not been made available to her;

CONSIDERING that a motion relating to procedural matters does not, as such, need to be examined at a hearing, all the more so as it is addressed to the President rather than to a Judge or a Chamber;

**HAVING DELIBERATED,**

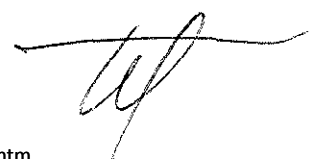
**1. On the admissibility of the motion**

CONSIDERING that in the arguments she advanced in support of her motion, Ms Dickson indicated that she intended to file an appeal against two decisions relating to this matter, delivered on 10 March 1998 by the International Criminal Tribunal for Rwanda (the "Tribunal") sitting as Trial Chamber I, which, in the said decisions, dismissed, pursuant to the provisions of Rule 91(B) of the Rules, two Defence motions for orders to direct the Prosecutor to investigate a case of false testimony involving Prosecution Witnesses "CC" and "E";

CONSIDERING that it was to this effect that she successively filed with the Registrar on 19 March 1998 and 23 March 1998, two notices of appeal relating to the above-mentioned decisions of the Tribunal;

CONSIDERING that as a waiver to the common right of appeal (Rule 108(A) of the *Rules*), Rule 108(B) of the *Rules* provides that the time-limit for appeal shall be fixed at fifteen days in case of an appeal from a judgment dismissing an objection based on lack of jurisdiction or a decision rendered under Rule 77 or Rule 91; and considering also that, on this matter, Rule 117 of the *Rules* stipulates that:

*"(A) Any appeal under Rule 108(B) shall be heard expeditiously on the basis of the original record of the Trial Chamber and without the necessity of any written brief.*



*(B) All delays (sic) and other procedural requirements shall be fixed by an order of the President issued on an application by one of the parties, or proprio motu should no such application have been made within fifteen days after the filing of the notice of appeal”.*

CONSIDERING that the provisions of Rule 117(B) referred to hereinabove empower the President to examine applications by the Defence for the fixing of time-limits and other formalities necessary for the expedited appeals procedure;

**2. On the merits of the Defence requests**

CONSIDERING that the President is drawing the attention of the Defence to the fact that the five requests as hereinabove stated are not all directly linked to the expedited appeals procedure, but come, more generally, under the ambit of judicial administration handled by the Registry of the Tribunal under the authority of the Chamber seized of the case in question;

CONSIDERING further that the five requests already form the subject of a “Defence motion to order the Registry to provide daily recordings and transcripts of hearings and to submit recordings of previous hearings”, filed on 16 October 1997, and, considering that, under such circumstances, it behooves Trial Chamber I which had examined the motion at its hearing of 27 February 1998, to render a decision on the said requests;

CONSIDERING, however, that in a bid to ensure full respect for the rights of the Defence and, within the framework of his prerogatives under Rule 117(B) of the Rules, the President ordered that, where it has not yet been done, the transcripts of the hearings relating, first of all, to the alleged perjury (Witnesses “CC” and “E”), secondly, to the examination of motions in perjury presented by the Defence, and, thirdly, to the delivery of the decisions relating thereto, should be made available to the Defence, and, this, within a time-limit not exceeding five days from the date this decision was filed with the Registrar, to allow the Defence to compile a proper appeal file;

**3. On the modalities of the expedited appeals procedure**

CONSIDERING that with regard to the expedited appeals procedure, the provisions of Rule 117(A) stipulate that it is based on the court record of the Trial Chamber, and that it is not necessary for the appellant to file a statement of grounds of appeal;

CONSIDERING, however, that Counsel for the Defence, in her motion, indicated her desire to file a statement of grounds of appeal, possibly repeating the arguments advanced by the Chamber in its written decisions, the President opines that, in the present circumstances, and, within the prerogatives conferred upon him by Rule 117(B) of the Rules, the Defence should be allowed, for the production of a written brief in support of the notices of appeal filed with the Registry, a time-limit of fifteen days, with effect from the date of filing with the Registry of the written and reasoned decisions of Trial Chamber I, subsequent to the two Defence motions relating to the testimonies of Witnesses “CC” and “E”;



CONSIDERING, lastly, that the President feels that it is not necessary to order a suspension of hearings in the Trial Chamber, as requested by the Defence, because, on the one hand, the expedited appeals procedure does not require the forwarding of the complete case file to the Appeals Chamber, and, on the other hand, because the decision appealed against cannot affect the continuation of the trial;

**FOR THESE REASONS,**

**THE PRESIDENT**

**ORDERS** the Registrar to make available to the Defence, where he has not yet done so, transcripts of hearings relating, first of all, to the alleged false testimonies of Witnesses "CC" and "E", secondly, to the examination of the motion in perjury presented by the Defence, and, thirdly, to the delivery of the decisions relating thereto, and to do so within a time frame not exceeding five days from the date the present order was filed with the Registrar.

**DECIDES** that the Defence shall produce a written brief in support of the notices of appeal filed with the Registrar, within fifteen days, with effect from the date of filing with the Registry of the written and reasoned decisions of Trial Chamber I on the two Defence motions relating to the testimonies of Witnesses "CC" and "E";

**DECIDES** that it is not necessary to order the suspension of hearings in the Trial Chamber as urged by the Defence;

**DECIDES**, by virtue of the provisions of Rule 117(B) of the Rules, to remain seized of the request so as, if need be, to fix such other time-limits and formalities as may be necessary for the smooth holding of the expedited appeals.

Arusha, 25 March 1998

  
Laity Kama  
President

(Seal of the Tribunal)

