



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

Before: Judge Erik Møse, President

Registrar: Adama Dieng

Date: 12 May 2005

THE PROSECUTOR

v.

Omar Serushago

Case No. : ICTR-98-39-S

**DECISION OF THE PRESIDENT ON THE APPLICATION FOR EARLY
RELEASE OF OMAR SERUSHAGO**

**THE PRESIDENT OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR
RWANDA,**

BEING SEIZED OF Omar Serushago's request for early release filed on 4 December 2004 ("the Application");

RECALLING that, on 5 February 1999, Trial Chamber I rendered its Judgement and Sentence in *The Prosecutor v. Omar Serushago*, Case No. ICTR-98-39-I, in which it sentenced Serushago to a fifteen year term of imprisonment which runs from 9 June 1998;

NOTING that this sentence was confirmed by the Appeals Chamber on 14 February 2000 and that Serushago was subsequently transferred to Mali for the enforcement of his sentence;

CONSIDERING that, pursuant to Article 7 of the Practice Direction of 10 May 2000 on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence and Early Release of Persons Convicted by the International Criminal Tribunal for Rwanda, the President determines, in consultation with the Sentencing Chamber and the Bureau, whether applications for early release should be granted;

HAVING carried out such consultation;

RECALLING that, under Article 27 of the Statute of the Tribunal, there shall only be pardon or commutation of sentence if the President so decides in the interests of justice and following notification by the State in which the convicted person is imprisoned that he or she is eligible for pardon or commutation of sentence pursuant to the applicable law of that State;

CONSIDERING that under Rules 125 and 126 of the Tribunal's Rules of Procedure and Evidence, the President shall, in determining whether pardon or commutation is appropriate, take into account the gravity of the crime or crimes for which the prisoner was convicted, the treatment of similarly-situated prisoners, the prisoner's demonstration of rehabilitation and any substantial cooperation of the prisoner with the Prosecutor;

NOTING that the crimes for which Serushago was sentenced include those of the utmost gravity, including genocide;

TAKING INTO ACCOUNT that, according to the Judgement, Serushago, an *Interahamwe* militia leader, personally murdered four Tutsi, while thirty-three other people were killed by militiamen placed under his authority;

CONSIDERING that to date, no person convicted by this Tribunal has yet applied for commutation or early release, and that those persons granted early release by the International Criminal Tribunal for the former Yugoslavia have not been convicted of genocide;

OBSERVING that the Application refers to Serushago's substantial and continuing cooperation with the Office of the Prosecutor, family circumstances, voluntary surrender and plea of guilty;

NOTING that the Judgement already considered these factors as mitigating when determining Serushago's sentence;

CONSIDERING that these factors do not, at the present stage, warrant early release given the gravity of the crimes in question and the length of the term of imprisonment served to date;

FOR THE ABOVE REASONS,

DENIES the Application.

Arusha, 12 May 2005

Erik Møse
President

[Seal of the Tribunal]