

Tribunal pénal international pour le Rwanda





THE CHANGE

OR: ENG

#### TRIAL CHAMBER III

Before Judges:

Khalida Rachid Khan, Presiding

Sergei Alekseevich Egorov Inés M. Weinberg de Roca

Registrar:

Adama Dieng

Date:

31 January 2007

THE PROSECUTOR

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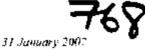
Michel BAGARAGAZA

Case No. ICTR-2005-86-J1bis

ORDER FOR FURTHER SUBMISSIONS CONCERNING THE REQUEST FOR REFERRAL OF THE INDICTMENT TO THE KINGDOM OF THE NETHERLANDS

Office of the Prosecutor: Hassan Bubacar Jallow Stephen J. Rapp **Defence Counsel:** Geert-Jan Alexander Knoops

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- 1. On 12 December 2006, the Prosecutor submitted a request for referral of the Indictment in this case to the Kingdom of the Netherlands. Pursuant to Rule 11 bis (A) of the Rules of Procedure and Evidence, the President of the Tribunal designated this Chamber to decide the Motion.
- 2. Rule 74 empowers the Chamber to invite any State, organization, or person to make submissions on any specified issue. In order to (i) fully assess the legal basis for authorities of the Netherlands to exercise criminal jurisdiction over a non-citizen for the crimes charged in the Amended Indictment;<sup>3</sup> (ii) satisfy itself, in accordance with Rule 11 bis (C), that the Accused will receive a fair trial and that the death penalty will not be imposed; and (iii) determine on the basis of this assessment whether there are sufficient legal grounds for referring the case to the authorities of the Netherlands, the Chamber requires additional submissions.

#### FOR THE FOREGOING REASONS, THE CHAMBER

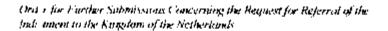
- I. INVITES the Parties and the Netherlands to file, within 14 days from the date of the present Order, further submissions on:
  - (i) The jurisdiction of the Netherlands on the crimes charged in the Amended Indictment, including details of and citation to the relevant statutory provisions and jurisprudence, if any, pursuant to Rule 11 bis (A)(iii);
  - (ii) Details on the punishment applicable in the Netherlands in the event the Accused is proven guilty of the crimes charged in the Amended Indictment;
  - (iii) The legal foundation and the scope of the rights enjoyed by the Accused in criminal courts of the Netherlands, including details on the implementation of the right to cross-examine witnesses against him and call witnesses in his defence;
  - (iv) Details regarding the legal regime governing witness testimony in criminal courts of the Netherlands, including the procedures and practices adopted to protect witnesses' identities and security;
  - (v) Whether sending observers to monitor the fairness of the proceedings before a court of the Netherlands in accordance with Rule 11 bis (D)(iv) will comply with Netherlands law; and
  - (vi) Any other relevant issue.

ref.

Prosecutor's Request for Referral of the Indictment to Another Court (the "Motion"). 12 December 2006.

<sup>&</sup>lt;sup>2</sup> Designation of Trial Chamber under Rule 11 his (President), 13 December 2006.

<sup>&</sup>lt;sup>3</sup> Prosecutor v. Ragaragaza, Case No. ICTR-2005-86-1, Decision on the Prosecutor's Application for Leave to Amend the Indictment, 30 November 2006 (granting leave to amend).



11. INVETES the Parties and the Netherlands to respond to each others' submissions on the equestions within 21 days from the date of the present Order.

Art sha, 31 January 2007, done in English.

Khalida Rachid Khan Presiding Judge

<del>Serg</del>ei Alekseevich Egorov

Judge R. TPI Inés M. Weinberg de-Roca

Judge



### TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

# COURT MANAGEMENT SECTION

(Art. 27 of the Directive for the Registry)

1 - GENERAL	INFORMATION (T	be completed by	the Chambers / F	iling Party}					
To:	Trial Chamber I N. M. Diallo	Trial Chamber II R. N. Kouambo	Trial Chamber III C. K. Hometowu	Who we will will will will will will will w	hber / Arusha				
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(names)		(names)	(names)	,	mes} 				
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Dates:	Transmitted: 31 January 2007 Document's date: 31 January 2007								
No. of Pages:		- Viginal Pring8-1							
Title of ORDER FOR FURTHER SUBMISSIONS CONCERNING THE REQUEST FOR REFERRAL OF Document: THE INDICTMENT TO THE KINGDOM OF THE NETHERLANDS									
Classification Level: Strictly Confidential / Under Seal Confidential Public		TRIM Document Type:    Indictment		Appeal Submission from parties ook Accused particulars					
II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party)									
CMS SHALL to	ike necessary action of	egarding translation.							
🔀 Filing Party	hereby submits only th	e original, and <b>will no</b> t	<b>t submit</b> any transla	sted version.					
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III - TRANSLATION PRIORITISATION (For Official use ONLY)									
Top priority	THE	COMMENTS	AST OFFE 1	Required date:					
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### International Criminal Tribunal for Rwanda Tribunal Pénal International pour le Rwanda

Arusha International Conference Centre P.O.Box 5016, Arusha, Tanzania - B.P. 6016, Arusha, Tanzanie Tel: 255 57 504207-11 504367-72 or 1 212 963 2850 Fax. 255 67 504000/504373 or 1 212 963 2848/49

# PROOF OF SERVICE TO DETAINEES PREUVE DE NOTIFICATION D'ACTES AUX DETENUS

Upon signature of the detainee, please return this sheet to the originator as proof of service.

Formulaire à être renvoyé à l'expéditeur dûment signé par le détenu.

Date:	31 January 2007	i   Case Name   	/ Affaire:	The Prosecutor	vs. Michel B	AGARAGAZA	
		Case No / Al	ffaire No.:	ICTR-05-86-I			
To: 1.	Name of detainee I nom du détenu BAGARAGAZA		TO BE FILLED IN BY THE DETAINEE , A COMPLETER PAR LE DETENU				
			document J'accuse r	edge receipt of the (s) listed below. éception du/des s mentionné(s) ci-	Signature	Signature Date, Time / Heure	
Through Par:	ICTY, The Hagu	e		t name / nom	Signature	Date, Time / Heure	
From: De:	□ JP. Fornété (Chief, CMS) □ N. Diallo (TC1) □ R. Kouambe (TC2) ☑ C. Horgetowu (TC3) □ F. A. Talon (Appeals/Team IV) □ Other / Autre						
Subject Objet:	Kindly find attached the following documents / Veuillez trouver en annexe les documents suivants.						

Documents name / titre du document

Date Filed / Date enregistrée

Pages

ORDER FOR FURTHER SUBMISSIONS CONCERNING THE REQUEST FOR REFERRAL OF THE INDICTMENT TO THE KINGDOM OF NETHERLANDS

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