



UNITED NATIONS  
INTERNATIONAL

ICTR-2005-86-11bis  
31-1-2007  
(769-767)  
International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

769  
Duffy

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

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**THE PROSECUTOR**

v.

**Michel BAGARAGAZA**

*Case No. ICTR-2005-86-11bis*

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

**Office of the Prosecutor:**  
Hassan Dubacac Jallow  
Stephen J. Rapp

**Defence Counsel:**  
Geert-Jan Alexander Knoops

1. On 12 December 2006, the Prosecutor submitted a request for referral of the Indictment in this case to the Kingdom of the Netherlands.<sup>1</sup> 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.<sup>2</sup>

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.

<sup>1</sup> Prosecutor's Request for Referral of the Indictment to Another Court (the "Motion"), 12 December 2006.

<sup>2</sup> Designation of Trial Chamber under Rule 11 *bis* (President), 13 December 2006.

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



II. INVITES the Parties and the Netherlands to respond to each others' submissions on the above questions within 21 days from the date of the present Order.

Archieve: 31 January 2007, done in English.

*Khalida Rachid Khan*

Khalida Rachid Khan  
Presiding Judge

*Sergei Alekseevich Egorov*

Sergei Alekseevich Egorov  
Judge

*Inés M. Weinberg de Rooja*

Inés M. Weinberg de Rooja  
Judge





## TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

COURT MANAGEMENT SECTION  
(Art. 27 of the Directive for the Registry)

### I - GENERAL INFORMATION (To be completed by the Chambers / Filing Party)

<b>To:</b>	<input type="checkbox"/> Trial Chamber I N. M. Diallo	<input type="checkbox"/> Trial Chamber II R. N. Kouambo	<input checked="" type="checkbox"/> Trial Chamber III C. K. Hometowu	<input type="checkbox"/> Appeals Chamber / Arusha F. A. Talon
	<input type="checkbox"/> Chief, CMS J.-P. Fomété	<input type="checkbox"/> Deputy Chief, CMS M. Diop	<input type="checkbox"/> Chief, JPU, CMS K. K. A. Afande	<input type="checkbox"/> Appeals Chamber / The Hague R. Buriss
<b>From:</b>	<input checked="" type="checkbox"/> Chamber III David Kinnecome (names)	<input type="checkbox"/> Defence (names)	<input type="checkbox"/> Prosecutor's Office (names)	<input type="checkbox"/> Other: (names)
<b>Case Name:</b>	The Prosecutor vs. Michel Bagaragaza		<b>Case Number:</b> ICTR-2005-86-11bis	
<b>Dates:</b>	Transmitted: 31 January 2007		Document's date: 31 January 2007	
<b>No. of Pages:</b>	3		<b>Original Language:</b> <input checked="" type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda	
<b>Title of Document:</b>	ORDER FOR FURTHER SUBMISSIONS CONCERNING THE REQUEST FOR REFERRAL OF THE INDICTMENT TO THE KINGDOM OF THE NETHERLANDS			
<b>Classification Level:</b>		<b>TRIM Document Type:</b>		
<input type="checkbox"/> Strictly Confidential / Under Seal		<input type="checkbox"/> Indictment	<input type="checkbox"/> Warrant	<input type="checkbox"/> Correspondence
<input type="checkbox"/> Confidential		<input type="checkbox"/> Decision	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Notice of Appeal
<input checked="" type="checkbox"/> Public		<input type="checkbox"/> Disclosure	<input checked="" type="checkbox"/> Order	<input type="checkbox"/> Appeal Book
		<input type="checkbox"/> Judgement	<input type="checkbox"/> Motion	<input type="checkbox"/> Book of Authorities
		<input type="checkbox"/> Submission from non-parties		
		<input type="checkbox"/> Submission from parties		
		<input type="checkbox"/> Accused particulars		

### II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party)

**CMS SHALL** take necessary action regarding translation.

Filing Party hereby submits only the original, and **will not submit** any translated version.

Reference material is provided in annex to facilitate translation.

**Target Language(s):**

English  French  Kinyarwanda

**CMS SHALL NOT** take any action regarding translation.

Filing Party hereby submits **BOTH** the original and the translated version for filing, as follows:

Original	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda
Translation	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda

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Filing Party will be submitting the translated version(s) in due course in the following language(s):

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<p><input checked="" type="checkbox"/> <b>The OTP</b> is over-seeing translation. The document is submitted for translation to:</p> <p><input type="checkbox"/> The Language Services Section of the ICTR / Arusha.</p> <p><input type="checkbox"/> The Language Services Section of the ICTR / The Hague</p> <p><input type="checkbox"/> An accredited service for translation; see details below.</p> <p>Name of contact person: Name of service: Address: E-mail / Tel / Fax:</p>	<p><input type="checkbox"/> <b>DEFENCE</b> is over-seeing translation The document is submitted to an accredited service for translation (fees will be submitted to DCCMS).</p> <p>Name of contact person: Name of service: Address: E-mail / Tel / Fax:</p>
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### III - TRANSLATION PRIORITISATION (For Official use ONLY)

<input type="checkbox"/> Top priority	<b>COMMENTS</b>	<input type="checkbox"/> Required date:
<input type="checkbox"/> Urgent		<input type="checkbox"/> Hearing date:
<input type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines:



**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 57 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.*

<b>Date:</b> 31 January 2007		<b>Case Name / Affaire:</b> The Prosecutor vs. <b>Michel BAGARAGAZA</b>		
		<b>Case No / Affaire No.:</b> ICTR-05-86-I		
<b>To:</b> <i>A:</i>	<b>Name of detainee / nom du détenu</b>  <b>BAGARAGAZA</b>	<b>TO BE FILLED IN BY THE DETAINEE A COMPLETER PAR LE DETENU</b>		
		I acknowledge receipt of the document(s) listed below. <i>J'accuse réception du/des documents mentionné(s) ci-dessous.</i>	<b>Signature</b>	<b>Date, Time / Heure</b>
<b>Through / Par:</b>	<b>ICTY, The Hague</b>	<b>Print name / nom</b> .....	<b>Signature</b> .....	<b>Date, Time / Heure</b> .....
<b>From: / De:</b>	<input type="checkbox"/> J.-P. Fomété (Chief, CMS) <input type="checkbox"/> N. Diallo (TC1) <input type="checkbox"/> R. Kouamba (TC2) <input checked="" type="checkbox"/> C. Horowitz (TC3)			
	<input type="checkbox"/> F. A. Talon (Appeals/Team IV) <input type="checkbox"/> Other / Autre .....			
<b>Subject / Objet:</b>	Kindly find attached the following documents / <i>Veuillez trouver en annexe les documents suivants.</i>			

<b>Documents name / titre du document</b>	<b>Date Filed / Date enregistrée</b>	<b>Pages</b>
<b>ORDER FOR FURTHER SUBMISSIONS CONCERNING THE REQUEST FOR REFERRAL OF THE INDICTMENT TO THE KINGDOM OF NETHERLANDS</b>	<b>31/1/2007</b>	<b>3</b>