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Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

IN THE APPEALS CHAMBER

ICTR-96-03-R
31 January 2008
(509)E - 509/11

Before: Judge Fausto Pocar, Presiding
Judge Mohamed Shahabuddeen
Judge Mehmet Güney
Judge Andrés Vaz
Judge Theodor Meron

Registrar: Mr. Adams Oiang

Decision of: 31 January 2008

Georges Anderson Nderuburwe RUTAGANDA

v.

THE PROSECUTOR

Case No. ICTR-96-03-R

JUDICIAL RECORDS ARCHIVES
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Decision on Motion for Reconsideration or Disclosure

Office of the Prosecutor:

Mr. Hassan Bubacar Jallow
Mr. George Mugwanya
Ms. Ineke Ouse

The Applicant:

Mr. Georges Rutaganda, pro se

ICTR Appeals Chamber
Date: 31 January 2008
Action: P.T.
Copied To: concerned Judges,
Prosecution, Registrar, etc.

Archived

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
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NAME / NOM: Patricia Tchidimbo
SIGNATURE: [Signature] DATE: 31/01/08

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THE APPEALS CHAMBER of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January and 31 December 1994 ("Appeals Chamber" and "Tribunal", respectively),

BEING SEIZED of the "*Requête en réexamen de la Décision du 08 décembre 2006 par la Chambre d'Appel, sur la Requête en divulgation du 15 août 2006 déposée par le Requérant; ou alternativement Requête interlocutoire aux fins d'ordonner au Procureur de se conformer à l'article 68 du Règlement notamment en divulguant l'identité complète, les déclarations non caviardées et autres documents pertinents des témoins à charge dans l'affaire Rutaganda (Article 20(1) et (4) du Statut et Articles 54, 68 et 107 du Règlement de procédure et de preuve)*" filed by Georges Rutaganda ("Mr. Rutaganda") on 7 August 2007 ("Motion");

NOTING that the Prosecution responded on 17 August 2007;¹

NOTING that Mr. Rutaganda confidentially filed his Reply on 27 August 2007;²

NOTING that in its Judgement of 26 May 2003, the Appeals Chamber confirmed Mr. Rutaganda's convictions for genocide and extermination as a crime against humanity, entered an additional conviction for serious violations of Article 3 common to the Geneva Conventions, and upheld his sentence of life imprisonment;³

RECALLING Mr. Rutaganda's request for disclosure filed on 17 August 2006 ("Request for Disclosure"), seeking the disclosure of the full identity and unredacted statements of all Prosecution

¹ Prosecutor's Response to "*Requête en réexamen de la Décision du 08 décembre 2006 par la Chambre d'Appel, sur la Requête en divulgation du 15 août 2006 déposée par le Requérant; ou alternativement Requête interlocutoire aux fins d'ordonner au Procureur de se conformer à l'article 68 du Règlement notamment en divulguant l'identité complète, les déclarations non caviardées et autres documents pertinents des témoins à charge dans l'affaire Rutaganda (Article 20(1) et (4) du Statut et Articles 54, 68 et 107 du Règlement de procédure et de preuve)*", 17 August 2007 ("Response").

² Confidential Réplique par l'Appelant au Prosecutor's Response to "*Requête en réexamen de la Décision du 08 décembre 2006 par la Chambre d'Appel, sur la Requête en divulgation du 15 août 2006 déposée par le Requérant; ou alternativement Requête interlocutoire aux fins d'ordonner au Procureur de se conformer à l'article 68 du Règlement notamment en divulguant l'identité complète, les déclarations non caviardées et autres documents pertinents des témoins à charge dans l'affaire Rutaganda (Article 20(1) et (4) du Statut et Articles 54, 68 et 107 du Règlement de procédure et de preuve)*", 27 August 2007 ("Reply").

³ *Georges Rutaganda v. The Prosecutor*, Case No. ICTR-96-3-A, Judgement, 26 May 2003 ("Rutaganda Appeal Judgement"); *The Prosecutor v. Georges Rutaganda*, Case No. ICTR-96-3-T, Judgement, 6 December 1999. The Appeals Chamber also overturned a conviction for murder as a crime against humanity, see *Rutaganda Appeal Judgement*, paras 490-507.

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witnesses called in his case as well as statements made by these witnesses before Rwandan judicial authorities;⁴

RECALLING the "Decision on Requests for Reconsideration, Review, Assignment of Counsel, Disclosure, and Clarification" rendered by the Appeals Chamber on 8 December 2006 denying, *inter alia*, Mr. Rutaganda's Request for Disclosure ("Impugned Decision");⁵

RECALLING that in the Impugned Decision, the Appeals Chamber noted the Trial Chamber's conclusion that the Prosecution had fulfilled its obligations to disclose witness statements and identifying material;⁶

NOTING that in the present Motion, Mr. Rutaganda requests, *inter alia*, the Appeals Chamber to reconsider the Impugned Decision as to its ruling on disclosure or to consider again his Request for Disclosure,⁷ save for the request to disclose the Prosecution witnesses' statements before the Rwandan authorities;⁸

CONSIDERING that, in the present Motion, Mr. Rutaganda seeks again to obtain the disclosure of the full identity, unredacted statements and other relevant documents of all Prosecution witnesses called in the case;⁹

CONSIDERING, that allowing applicants to re-litigate the same issues is not in the interests of justice;

NOTING that the Prosecution responds that it provided Mr. Rutaganda with unredacted copies of statements and with the full identities of the witnesses at the time of their testimony in accordance with the Trial Chamber's witness protection order;¹⁰

CONSIDERING Mr. Rutaganda's submission that the unredacted statements of the Prosecution witnesses were disclosed to the Defence Counsel who was assigned to his case;¹¹

FINDING, therefore, that the present Motion is not justified;

⁴ *Requête aux fins de voir le Procureur divulguer l'identité complète, les déclarations non caviardées et autres documents pertinents des témoins à charge dans l'affaire Rutaganda*, 17 August 2006, paras 5, 14-40.

⁵ See Impugned Decision, para. 47.

⁶ Impugned Decision, para. 45, referring to *The Prosecutor v. Georges Rutaganda*, Case No. 99-03-T, Decision on the Defence Motion for Disclosure of Evidence, 4 September 1998.

⁷ Motion, para. 4.

⁸ Motion, paras 2, 4.

⁹ Motion, para. 4 and p. 9.

¹⁰ Response, paras 18-20, 23.

¹¹ Reply, para. 23.

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NOTING that Mr. Rutaganda requests assignment of Counsel in connection with the present matter,¹² 504/H

FINDING that there are no proceedings in this case for which Counsel can be assigned pursuant to the Tribunal's legal aid system;

FOR THE FOREGOING REASONS, the Appeals Chamber

DENIES Mr. Rutaganda's Motion.

Done in English and French, the English version being authoritative.

Done this 31st day of January 2008,
at The Hague,
The Netherlands.



Judge Fausto Pocar
Presiding



¹² Motion, para. 5.