

ICTR-97-32-A26  
13-02-2008  
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UNITED NATIONS  
NATIONS UNIES

International Criminal Tribunal for Rwanda  
Tribunal pénal International pour le Rwanda

OR: ENG

**OFFICE OF THE PRESIDENT**

**Before Judge:** Dennis C. M. Byron  
*President of the Tribunal*

**Registrar:** Adama Dieng

**Date:** 13 February 2008

**THE PROSECUTOR**

v.

**Georges RUGGIU**

*Case No. ICTR-97-32-A26*

JUDICIAL RECORDS  
13 FEB 2008  
DINSTR  
RECORDS/ARCHIVES  
PZ:SM

**DECISION ON THE ENFORCEMENT OF SENTENCE**

*Article 26 of the Statute & Rule 103(A) of the Rules of Procedure and Evidence*

*[Handwritten signature]*

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## INTRODUCTION

1. On 1<sup>st</sup> June 2000, Georges Ruggiu was convicted on a guilty plea by Trial Chamber I for the crimes of (i) direct and public incitement to commit genocide, and, (ii) persecution as a crime against humanity.<sup>1</sup> Georges Ruggiu was sentenced to twelve years for each respective crime, with the sentences to be served concurrently.<sup>2</sup> As the judgement was not appealed by any of the parties, it became final on 2<sup>nd</sup> July 2000. Since that time, Georges Ruggiu has remained in the United Nations Detention Facility in Arusha (Tanzania), pending a determination on where his sentences will be enforced.

2. On 21 May 2007, Judge Dennis C. M. Byron was elected President of the Tribunal.

3. On 24 January 2008, the Registrar submitted a confidential memorandum to the President in relation with the enforcement of the sentence in this case ("Memorandum").<sup>3</sup>

## DELIBERATIONS

4. Article 26 of the Statute of the Tribunal on Enforcement of Sentences provides:

Imprisonment shall be served in Rwanda or any of the States on a list of States which have indicated to the Security Council their willingness to accept convicted persons, as designated by the International Tribunal for Rwanda. Such imprisonment shall be in accordance with the applicable law of the State concerned, subject to the supervision of the International Tribunal for Rwanda.

5. Rule 103 of the Rules on Place of Imprisonment reads as follows:

(A) Imprisonment shall be served in Rwanda or any State designated by the Tribunal from a list of States which have indicated their willingness to accept convicted persons for the serving of sentences. Prior to a decision on the place of imprisonment, the Chamber shall notify the Government of Rwanda.

<sup>1</sup> *The Prosecutor v. Georges Ruggiu*, Case No. ICTR-97-32-1, Judgement and Sentence (TC1), 1 June 2000, para. 24.

<sup>2</sup> See *The Prosecutor v. Georges Ruggiu*, Case No. ICTR-97-32-1, Judgement and Sentence (TC1), 1 June 2000, p. 19.

<sup>3</sup> Confidential Interoffice Memorandum from the Registrar to the President, Ref. ICTR/RO/01/08/18-wc, *Georges Omar Ruggiu – Submission Concerning the States in which the Sentence of the Persons Convicted by ICTR can be carried out in accordance with the Practice Direction of May 2000*, 24 January 2008. Attached to the Memorandum, among other materials are: a Note Verbale to the Government of Rwanda, a Sentence of the Court of Appeals of Rome, the Agreement between the United Nations and the Italian Republic on the Enforcement of Sentences and Diplomatic exchange between the Republic of Italy and the ICTR Registrar.

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(B) Transfer of the convicted person to that State shall be effected as soon as possible after the time limit for appeal has elapsed.

6. From these provisions, it appears that:

- (i) the sentence shall be served either (a) in Rwanda or (b) in a State which has expressed to the Security Council its willingness to that effect;
- (ii) the imprisonment shall be in accordance with the applicable law of the State;
- (iii) the Tribunal shall maintain supervision over the enforcement; and
- (iv) the Government of Rwanda shall be notified before the President makes his/her determination.

7. In addition to the Statute and the Rules, there is a Practice Direction issued by the President on 10 May 2000.<sup>4</sup> This Practice Direction, *prima facie*, appears contrary to Rule 103(A) in its wording. However the jurisdiction granted to the President of the Tribunal in that Practice Direction was already an established practice in 2000.<sup>5</sup> The President notes that since the Practice Direction was issued, Trial Chambers have consistently referred to such jurisdiction of the President. The Practice Direction is therefore the result of an agreed practice which now constitutes the legal framework for the designation of the Enforcement

<sup>4</sup> Practice Direction on the Procedure for Designation of the State in Which a Convicted Person is to Serve His/Her Sentence of Imprisonment, 10 May 2000.

<sup>5</sup> See: *The Prosecutor v. Alfred Musema*, Case No. ICTR-96-13-T, Judgement and Sentence (TC1), 27 January 2000 ("RULES that the imprisonment shall be served in a State designated by the President of the Tribunal in consultation with the Trial Chamber; the Government of Rwanda and the designated State shall be notified of such designation by the Registrar"); *Le Procureur c. Georges Anderson Nderubumwe Rutaganda*, Affaire No. ICTR-96-3-T, Jugement et sentence (TC1), 6 décembre 1999 ("DÉCIDE que la peine d'emprisonnement sera exécutée dans un État désigné par le Président du Tribunal, en consultation avec la Chambre de première instance, et que le Greffier informera le Gouvernement rwandais et l'État désigné du lieu d'emprisonnement"); *The Prosecutor v. Clément Kayishema and Obed Ruzindana*, Case No. ICTR-95-1-T, Sentence (TC2), 21 May 1999 ("DECIDES that Kayishema and Ruzindana shall serve their sentences in a State designated by the President of the Tribunal, in consultation with this Chamber; ORDERS the Registrar to convey via letter or note verbal information regarding the designation to the designated State and the Government of Rwanda; ORDERS the Registrar to convey information to the designated State regarding the date of arrest and custody credits of Ruzindana in accordance with Rule 101(D)"); *The Prosecutor v. Omar Serushago*, Case No. ICTR-98-39-S, Sentence (TC1), 5 February 1999 ("RULES that imprisonment shall be served in a State designated by the President of the Tribunal, in consultation with the Trial Chamber and the said designation shall be conveyed to the Government of Rwanda and the designated State by the Registry"); *Le Procureur c. Jean-Paul Akayesu*, Affaire No. ICTR-96-4-T, Décision relative à la condamnation (TC1), 2 octobre 1998 ("DECIDE QUE la peine d'emprisonnement sera exécutée dans un Etat désigné par le Président du Tribunal, en consultation avec la Chambre de première instance, et que le Greffier informera le Gouvernement rwandais et l'Etat désigné du lieu d'emprisonnement"); and *Le Procureur c. Jean Kambanda*, Affaire No. ICTR-97-23-S, Jugement portant condamnation (TC1), 4 septembre 1998 ("DECIDE QUE la peine d'emprisonnement sera exécutée dans un État désigné par le Président du Tribunal, en consultation avec la Chambre de première instance, et que le Greffier informera le Gouvernement rwandais et l'État désigné du lieu d'emprisonnement").

State. It is worth noting that while Rule 103 differs slightly in its wording from the equivalent ICTY provision, a similar ICTY Practice Direction was issued on 9 July 1998<sup>6</sup> which granted identical jurisdiction to the President.

8. Apart from the abovementioned legal framework established by specific instruments of the Tribunal, other instruments also apply to the enforcement of sentences decided by the Tribunal established by the United Nations, namely: the Standard Minimum Rules for the Treatment of Prisoners,<sup>7</sup> the Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment<sup>8</sup> and the Basic Principles for the Treatment of Prisoners.<sup>9</sup> Although these instruments are not binding acts, and the rules and principles therein stated are not in effect in all States, they nonetheless constitute what the States have agreed on as being the minimum best practices in imprisonment.

9. The United Nations is an universal organization where the States have agreed:

3. To achieve international cooperation [...] in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and

4. To be a center for harmonizing the actions of nations in the attainment of these common ends.<sup>10</sup>

10. Consequently, the United Nations as an international actor, and its agencies, especially International Criminal Tribunals, ought to adhere to these agreed standard minimum rules.

11. Moreover, the Agreement between the United Nations and the Republic of Italy specifically refers to those three instruments as guiding the Agreement.

12. Finally, and in accordance with those guiding principles, the President shall take into account the individual circumstances of the convicted person in his/her decision-making process. It is logical for the President to consider such circumstances, because these

<sup>6</sup> Practice Direction on the Procedure for the International Tribunal's Designation of the State in Which a Convicted Person is to Serve his/her Sentence of Imprisonment, 9 July 1998, Document No. IT/137.

<sup>7</sup> United Nations Economic and Social Council Resolutions 663 C (XXIV), 31 July 1957, and 2067 (LXII), 13 May 1977.

<sup>8</sup> United Nations General Assembly Resolution 43/173, 9 December 1988.

<sup>9</sup> United Nations General Assembly Resolution 45/111, 14 December 1990.

<sup>10</sup> Article 1 of the Charter of the United Nations, 26 June 1945, 59 Stat. 1031, entered into force 24 October 1945.

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circumstances will also influence the determination of the President as to which State will enforce the sentence.

13. Georges Ruggiu was born on 12 October 1957 in Belgium, but has two nationalities (Belgian and Italian). He has been in detention since 23 July 1997. Due to his particular medical circumstances, he requires ongoing medical care. He is in good nutritional state. He is a Muslim.

14. In the practice of the Tribunal, any State willing to have sentences of the Tribunal enforced in its territory enters into an agreement with the United Nations to that effect. The President considers that the existence of such an agreement complies with the requirement in Article 26 that the State indicates to the Security Council its willingness for such enforcement.

15. The Republic of Italy has entered into such an agreement with the United Nations on 17 March 2004.<sup>11</sup>

16. The President notes that the Government of Italy was duly consulted by the Registrar and has engaged in domestic proceedings for the enforcement of the sentences of Georges Ruggiu. On 4 October 2007, the Fourth Criminal Section of the Appeals Court of Rome declared "the recognition of the sentence in view of the execution of the reclusion in Italy, of the International Criminal Tribunal for Rwanda dated 1.6.2000 in which Ruggiu Omar Georges has been convicted to twelve years of imprisonment for genocide and persecution for racial reasons".<sup>12</sup>

17. The President therefore considers that it will be appropriate for Georges Ruggiu to serve his sentence in Italy.

18. While Article 26 does not make it binding for sentences to be served in Rwanda, Rule 103(A) adds a requirement that prior to his/her decision, the President, through the Registrar, shall notify the Government of Rwanda prior to making a decision on the place of imprisonment. The Government of Rwanda was duly notified on 23 January 2008.

<sup>11</sup> Apart from Italy, five other States have signed such an agreement: Benin, France, Mali, Swaziland and Sweden.

<sup>12</sup> Corte Di Appello Di Roma, Sentenza No. 63/07. The quotation is an unofficial translation provided by the Tribunal.

**FOR THOSE REASONS,**

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**THE PRESIDENT**

- I. **DECIDES** that the sentences imposed on Omar Georges Ruggiu shall be enforced in the Republic of Italy;
- II. **RECALLS** that such enforcement will be carried out in accordance with Italian law; and under the supervision of the Tribunal.

Arusha, 13 February 2008, done in English.



Dennis C. M. Byron  
President

[Seal of the Tribunal]

