



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: 3 November 2008

THE PROSECUTOR

v.

Ferdinand NAHIMANA

Case No. ICTR-99-52

DECISION ON THE ENFORCEMENT OF SENTENCE

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

PURSUANT to Article 26 of the Statute of the Tribunal (“the Statute”) and Rule 103 of the Rules on Procedure and Evidence (“the Rules”) as well as paragraphs 4 and 5 of the Practice Direction on the Procedure for Designation of the State in Which a Convicted Person is to Serve His/Her Sentence of Imprisonment, as revised and amended on 23 September 2008 (“the Practice Direction”);

NOTING that on 3 December 2003, Trial Chamber I of the Tribunal found Ferdinand Nahimana, a Rwandan national born in 1950, guilty of genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, and persecution and extermination as crimes against humanity, and sentenced him to life imprisonment;

NOTING that on appeal, the convictions for genocide, conspiracy to commit genocide, and extermination as a crime against humanity were reversed, while the convictions for direct and public incitement to commit genocide and persecution as a crime against humanity were upheld, and that the Appeals Chamber reduced his sentence on 28 November 2007 to thirty years’ imprisonment;

NOTING that since that time, Ferdinand Nahimana has remained in the United Nations Detention Facility in Arusha (Tanzania), pending a determination on where his sentences will be enforced;

CONSIDERING the confidential Memorandum, which the Registrar submitted to the President on 31 October 2008, pursuant to paragraph 3 of the Practice Direction;

CONSIDERING the Agreement between the Government of the Republic of Mali and the United Nations on the Enforcement of Sentences of the International Criminal Tribunal for Rwanda (“the Agreement”) signed on 12 February 1999;

NOTING that according to Article 3 (3) of the Agreement, conditions of imprisonment shall be compatible with the Standard Minimum Rules for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and the basic Principles for the Treatment of Prisoners;

NOTING that the Government of Mali was duly consulted by the Registrar on 10 March 2008 about its willingness to enforce the sentence of convicts of the Tribunal, and that, following the general agreement of Mali, information on the convict has been transmitted pursuant to paragraph 2 of the Practice Direction;

HAVING NOTIFIED the Government of Rwanda on 31 October 2008, pursuant to Rule 103 and paragraph 2 of the Practice Direction;

HAVING TAKEN INTO ACCOUNT the other factors mentioned in the Practice Direction;

HAVING CONSULTED with the Registrar and Judges of the Sentencing Chamber;

FOR THOSE REASONS,

THE PRESIDENT

- I. DECIDES** that the sentence imposed on Ferdinand Nahimana shall be enforced in the Republic of Mali;
- II. ORDERS** that Ferdinand Nahimana remain in custody of the Tribunal while awaiting his transfer to the Republic of Mali;
- III. RECALLS** that the enforcement will be carried out in accordance with Mali law, subject to the supervision of the Tribunal;
- IV. INVITES** the Registrar to request officially the Government of the Republic of Mali to enforce the sentence of Ferdinand Nahimana and, should the Government of the Republic of Mali grant the request, notify the President and take all the necessary measures to facilitate the transfer of Ferdinand Nahimana to Mali;
- V. ORDERS** that this Decision be treated confidential until the transfer procedure has been completed.

Arusha, 3 November 2008, done in English.

Dennis C. M. Byron
President

[Seal of the Tribunal]