



UNITED NATIONS
NATIONS UNIES

Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

IN THE APPEALS CHAMBER

Before: Judge Patrick Robinson, Presiding
Judge Mehmet Güney
Judge Fausto Pocar
Judge Andréia Vaz
Judge Carmel Agius

Registrar: Mr. Adama Dieng

Order of: 16 September 2010

Georges A.N. RUTAGANDA

v.

THE PROSECUTOR

Case No. ICTR-96-03-R68

ORDER TO THE REGISTRAR

The Applicant:

Mr. Georges A.N. Rutaganda, *pro se*

The Office of the Prosecutor:

Mr. Hassan Bubacar Jallow
Mr. George Mugwanya
Ms. Inneke Onsea
Ms. Evelyn Kamau
Ms. Florida Kabasinga

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);

NOTING the Trial Judgement rendered on 6 December 1999,¹ and the Appeal Judgement rendered on 26 May 2003 in the case *The Prosecutor v. Georges A. N. Rutaganda*,²

NOTING the “Decision on Motion for Leave to Exceed the Word Limit”, rendered by the Appeals Chamber on 23 February 2010;

BEING SEIZED OF (i) “Georges A. N. Rutaganda’s Motion for Remedial and Punitive Measures for Disclosure Violations *Article 20(1) (2) of the Statute, Rule 68 of the Rules*” (“Rule 68 Motion”);³ (ii) “Georges A. N. Rutaganda’s Extremely Urgent Motion for Assignment of Legal Assistance, ‘E.D.S’ Consultation and Logistic Facilities *Article 20(1) (2), (4) (d) of the Statute, Rule 68 of the Rules*” (“Motion for Legal Assistance, EDS Access and Facilities”);⁴ and (iii) “Rutaganda’s Extremely Urgent Request for Extension of Time Limit *Article 20(1) (2) of the Statute, Rule 68 of the Rules*” (“Motion for Extension of Time”),⁵ filed by Mr. Georges A.N. Rutaganda (“Rutaganda”), *pro se*, on 4 August 2010, 9 August 2010, and 23 August 2010 respectively;

NOTING that Mr. Rutaganda is currently serving his sentence in the Akpro-Misséréké Prison (“Prison”), in the Republic of Benin;⁶

NOTING that in his Rule 68 Motion, Rutaganda requests the Appeals Chamber to find the Prosecution in violation of its disclosure obligations under Rule 68 of the Rules of the Procedure and Evidence of the Tribunal (“Rules”) with respect to purportedly exculpatory materials,⁷ and as a remedy, the imposition of sanctions against the Prosecution and either: i) the dismissal of the

¹ *The Prosecutor v. Georges Anderson Nderubumwe Rutaganda*, Case No. ICTR-96-3-T, Judgement and Sentence, 6 December 1999.

² *Georges Anderson Nderubumwe Rutaganda v. The Prosecutor*, Case No. ICTR-96-3-A, Judgement, 26 May 2003.

³ See also Prosecutor’s Response to Rutaganda’s Rule 68 Motion, 16 August 2010 (confidential) (“Prosecution Response to Rule 68 Motion”).

⁴ See also Prosecutor’s Response to Rutaganda’s Motion for Legal Assistance, EDS Consultation and Logistic Facilities, 19 August 2010. Mr. Rutaganda did not reply.

⁵ See also Prosecutor’s Response to Rutaganda’s Motion for Extension of Time to File Reply, 25 August 2010 (“Response to the Motion for Extension of Time”). Mr. Rutaganda did not reply.

⁶ *The Prosecutor v. Georges Rutaganda*, Case No. ICTR-96-3, Decision on the Enforcement of Sentence, 18 May 2009.

charges affected by the exculpatory material; ii) the ordering of a new trial; or iii) the invalidation of the *Rutaganda* proceedings and Rutaganda's immediate release;⁸

NOTING that in his Motion for Legal Assistance, EDS Access and Facilities, Rutaganda requests the Appeals Chamber to: (i) assign him legal assistance under the Tribunal legal aid system for the purpose of assisting him with the Rule 68 Motion;⁹ (ii) order the Registrar to make the necessary arrangements for him or his Counsel to consult the Prosecutor's Electronic Disclosure Suite ("EDS");¹⁰ and (iii) order the Registrar to reimburse him for expenses related to the filing of the Rule 68 Motion,¹¹ as well as to provide him with stationery regularly and without delay;¹²

NOTING that in his Motion for Extension of Time, Rutaganda requests the Appeals Chamber to grant him an extension of time for the filing of his Reply to the Prosecution Response to the Rule 68 Motion;¹³

NOTING that in support of the Motion for Legal Assistance, EDS Access and Facilities and the Motion for Extension of Time, Rutaganda submits, *inter alia*, that he is in poor health,¹⁴ has difficulties accessing medical assistance,¹⁵ and has faced logistical difficulties in relation to the filing of his Rule 68 Motion;¹⁶

CONSIDERING that Article 26 of the Statute of the Tribunal ("Statute") provides that "imprisonment shall be in accordance with the applicable law of the State concerned, subject to the supervision of the [...] Tribunal", and that Rule 104 of the Rules provides that "Fağll sentences of imprisonment shall be served under the supervision of the Tribunal or a body designated by it";¹⁷

⁷ Rule 68 Motion, paras. 1, 21-91, 103.

⁸ Rule 68 Motion, paras. 1, 103.

⁹ Motion for Legal Assistance, EDS Access and Facilities, paras. 10-13, p. 6.

¹⁰ Motion for Legal Assistance, EDS Access and Facilities, paras. 15-16, p. 6.

¹¹ Motion for Legal Assistance, EDS Access and Facilities, p. 6.

¹² Motion for Legal Assistance, EDS Access and Facilities, p. 6.

¹³ Motion for Extension of Time, paras. 5, 6. The Appeals Chamber notes that the Prosecution does not oppose the Motion for Extension of Time, but observes that Rutaganda has not provided any documentation to prove his alleged poor health condition. *See* Response to the Motion for Extension of Time, para. 2.

¹⁴ Motion for Extension of Time, para. 3; Motion for Legal Assistance, EDS Access and Facilities, para. 12.

¹⁵ Motion for Extension of Time, para. 3.

¹⁶ Motion for Legal Assistance, EDS Access and Facilities, paras. 17-20. Rutaganda complains about the unavailability, as allegedly acknowledged by the Director of the Prison, of supplies and facilities needed for the presentation of submissions to the Tribunal. He submits that, as a result, he was obliged to pay for a small printer, paper, and ink in order to print his Rule 68 Motion. Motion for Legal Assistance, EDS Access and Facilities, para. 20.

¹⁷ *See also* Article 3(2) of the Agreement Between the Government of the Republic of Benin and the United Nations on the Enforcement of Sentences of the International Criminal Tribunal for Rwanda, 26 August 1999, which provides that "Ftğhe conditions of imprisonment shall be governed by the law of FBening, subject to the supervision of the Tribunal".

CONSIDERING that pursuant to Rule 33(A) of the Rules, the Registrar has an obligation to ensure a channel of communication between the Tribunal and a convicted person, even after he or she has been transferred to a State in which his or her sentence is to be served;¹⁸

RECALLING that it is for the Registrar to undertake any practical arrangements necessary to ensure expeditious communication between the Registry's services and a convicted person after he or she has been transferred to a State to serve his or her sentence;¹⁹

RECALLING that the Appeals Chamber has the statutory duty to ensure the fairness of the proceedings before the Appeals Chamber;²⁰

CONSIDERING that the Appeals Chamber would benefit from the Registrar's submissions in its consideration of the Motion for Legal Assistance, EDS Access and Facilities and the Motion for Extension of Time;

FOR THE FOREGOING REASONS,

HEREBY REQUESTS the Registrar, pursuant to Rule 33(B) of the Rules, to provide written submissions, with confidential annexes if necessary, no later than 10 days from the date of this Order, concerning:

- a. the logistical and communication issues raised by Rutaganda; and

¹⁸ *Jean-Bosco Barayagwiza v. The Prosecutor*, Case No. ICTR-99-52A-R, Decision on Jean-Bosco Barayagwiza's Motions of 11 December 2008 and 6 January 2009, 28 January 2009 ("*Barayagwiza Decision*"), p. 3, referring to *Emmanuel Ndinabahizi v. The Prosecutor*, Case No. ICTR-01-71-R, Decision on Emmanuel Ndinabahizi's Motion of 1 December 2008, 17 December 2008, p. 3.

¹⁹ *Barayagwiza Decision*, p. 4.

²⁰ *Hassan Ngeze v. The Prosecutor*, Case No. ICTR-99-52-R, Decision on Hassan Ngeze's Motions of 17 June 2008 and 10 July 2008, 23 July 2008, p. 3.

- b. Rutaganda's health condition and alleged difficulties in receiving medical assistance.

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

Judge Patrick Robinson
Presiding Judge

Done this 16th day of September 2010,
At The Hague, The Netherlands.

[Seal of the Tribunal]