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UNITED NATIONS
NATIONS UNIES

**Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda**

IN THE APPEALS CHAMBER

3176/H
U.S. DISTRICT COURT
FAX CENTRE
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ICTR-98-41-A

07th March 2011

3176/H - 3174/H

Before: Judge Patrick Robinson, Presiding
Judge Mehmet Güney
Judge Fausto Pocar
Judge Liu Daqun
Judge Theodor Meron

Registrar: Mr. Adama Dieng

Order of: 7 March 2011

**International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda**

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NAME/NOM: KOFFI KUMELIO A. AFANDE

SIGNATURE: [Signature] DATE: 07 April 2011

ICTR Appeals Chamber

Date: 07th March 2011

Action: R. Turner

Copied To: Concerned Judges,
SLOs, LOS, ALOS Parties,

CMS, LSS.

[Signature]

**Théoneste BAGOSORA
Aloys NTABAKUZE
Anatole NSENGIYUMVA**

v.

THE PROSECUTOR

Case No. ICTR-98-41-A

ORDER FOR THE PREPARATION OF THE APPEAL HEARING

Counsel for Théoneste Bagosora

Raphaël Constant
Richard Perras

Counsel for Aloys Ntabakuze

Peter Erlinder
André Tremblay

Counsel for Anatole Nsengiyumva

Kennedy Ogetto
Gershom Otachi Bw'Omanwa

Office of the Prosecutor

Hassan Bubacar Jallow
James J. Arguin
George W. Mugwanya
Inneke Onsea
Renifa Madenga
Abubacar Tambadou
Evelyn Kamau
Christiana Fomenky
William Mubiru
Aisha Kagabo
Ndeye Marie Ka

**ICTR
CENTRAL REGISTRY**

08 MAR 2011

APPEALS

ACTION:
COPY 1:

CMS

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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),

RECALLING the Scheduling Order issued on 27 January 2011, which set the dates of the appeal hearing in this case for 30 March, 31 March, and 1 April 2011, in Arusha, Tanzania;

EMPHASISING that the present order in no way expresses the Appeals Chamber's views on the merits of the appeals;

HEREBY INFORMS Théoneste Bagosora ("Bagosora") and the Prosecution that, during the course of the appeal hearing, in addition to other matters advanced in their submissions or that the Appeals Chamber may wish to raise, they are invited to:

- i) discuss, with references to the record, Bagosora's ability to issue orders to the Rwandan Armed Forces between 7 and 9 April 1994;
- ii) discuss, with references to the record, whether the only reasonable inference available from the evidence was that Bagosora knew or had reason to know that the specific crimes of which he was convicted *were about to be committed*;
- iii) discuss, with references to the record, the Trial Chamber's finding in paragraph 2040 of the Trial Judgement that "[t]here is [...] absolutely no evidence that the perpetrators were punished afterwards"; and
- iv) clarify Bagosora's reference to roadblocks in Nyundo in Gisenyi prefecture under Ground 4 of his appeal;

INFORMS Aloys Ntabakuze ("Ntabakuze") and the Prosecution that, during the course of the appeal hearing, in addition to other matters advanced in their submissions or that the Appeals Chamber may wish to raise, they are invited to:

- i) discuss, with references to the record, the sufficiency of notice provided to Ntabakuze by his indictment that he was being charged pursuant to Article 6(3) of the Statute of the Tribunal for crimes committed by militiamen, whether a defect in this respect, if any, was cured, and whether Ntabakuze's ability to prepare his defence was materially

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impaired;


INFORMS Anatole Nsengiyumva ("Nsengiyumva") and the Prosecution that, during the course of the appeal hearing in addition to other matters advanced in their submissions or that the Appeals charged for aiding and abetting the killings of Tutsis committed by militiamen in the Bisesero area of Kibuye prefecture in the second half of June 1994, whether a defect in this respect, if any, was cured, and whether Nsengiyumva's ability to prepare his defence was materially impaired;

- ii) discuss whether the Supporting Material filed confidentially on 3 August 1998 on which the Trial Chamber relied in its Decision on exclusion of evidence of 15 September 2006, may serve as supporting material of Nsengiyumva's operative indictment filed on 12 August 1999, and whether this Supporting Material provided further notice to Nsengiyumva of the allegation concerning the Bisesero killings; and
- iii) discuss, with references to the record, whether a reasonable trier of fact could come to the conclusion on the basis of the evidence in this case that the killings committed in Bisesero of which Nsengiyumva was convicted were perpetrated on a large scale.

Done this 7th day of March 2011,
At The Hague,
The Netherlands.



[Seal of the Tribunal]


Judge Patrick Robinson
Presiding Judge