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1072-01-63 14-3-2012 (2979-2977)



International Criminal Tribunal for Rwanda Tribunal pénal international pour le Rwanda



OFFICE OF THE PRESIDENT

Before:

Judge Vagn Joensen, President

Registrar:

Adama Dieng

Date:

14 March 2012

THE PROSECUTOR v.

Elizaphan and Gérard NTAKIRUTIMANA, Cases No. ICTR-96-10 and ICTR-96-17

Alfred MUSEMA, Case No. ICTR-96-13
Clément KAYISHEMA et al., Case No. ICTR-95-1
Yussuf MUNYAKAZI, Case No. ICTR-97-36A
Ignace BAGILISHEMA, Case No. ICTR-95-1A
Édouard KAREMERA et al., Case No. ICTR-98-44
Mika MUHIMANA, Case No. ICTR-95-1B
Siméon NCHAMIHIGO, Case No. ICTR-01-63
Aloys NDIMBATI, Case No. ICTR-95-1
Emmanuel NDINDABAHIZI, Case. No. ICTR-01-71
Charles SIKUBWABO, Case No. ICTR-95-1D
Pauline NYIRAMASUHUKO et al., Case No. ICTR-98-42

Eliézer NIYITIGEKA, Case No. ICTR-96-14 Casimir BIZIMUNGU et al., Case No. ICTR-99-50 Augustin NDINDILIYIMANA et al., Case No. ICTR-00-56

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Tribunal pénal international pour le Rwanda
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DESIGNATION OF A JUDGE TO CONSIDER JACQUES MUNGWARERE'S MOTIONS FOR ACCESS TO MATERIAL and NOTICE UNDER RULE 67 (D)

Office of the Prosecutor:

Hassan Bubacar Jallow James J. Arguin George W. Mugwanya William M. Mublru Lausann Dumbuya Counsel for Jacques Mungwarere, accused before the jurisdictions of Canada:

Philippe Larochelle Christian Deslauriers Marc Norenberg



Designation of a Judge to Consider Jacques Mungwarere's Motions for Access to Material and Notice under Rule 67 (D)

- 1. On 17 August 2011, Jacques Mungwarere, who is prosecuted before the Canadian jurisdictions for crimes against humanity and genocide for events allegedly committed in Rwanda during the 1994 Genocide, filed a motion for access to materials in the *Ntakirutimana* case.¹
- 2. On 1 and 5 March 2012, Mungwarere filed two new motions requesting material in fifteen cases and for notice pursuant to Rule 67 (D) of the Rules of Procedure and Evidence.²
- 3. I recall that according to Part X of the Directive for the Registry of the International Criminal Tribunal for Rwanda, Mungwarere has access to the public archives of the Tribunal through the Public Judicial Records Database on the Tribunal's homepage, www.ictr.org. If particular public documents are not directly available from the public website, he may request the Tribunal's Court Management Section to transmit them to him.
- 4. Access to confidential materials requires a variation or rescission of the protective measures in force for the particular witnesses.
- 5. Where a Chamber is still seized of the proceedings in which the protective measures were ordered the request for access must be decided by that Chamber. The Nyiramasuhuko et al. case, the Bizimungu et al. case, the Ndindiliyimana et al. case and the Karemera et al. case, are currently pending before the Appeals Chamber. Therefore, Mungwarere must refile his request concerning these four cases before the relevant Appeals Chambers.
- 6. With respect to the Niyitigeka, Ntakirutimana et al., Ndindabahizi, Kayishema et al., Bagilishema, Muhimana, Ndimbati, Sikubwabo, Musema, Munyakazi, and Nchamihigo cases, no Chamber is seized of the proceedings during which the protective measures were ordered.

The Prosecutor v. Elizaphan and Gérard Ntakirutimana, Cases No. ICTR-96-10 and ICTR-96-17, Alfred Musema, Case No. ICTR-96-13, Clément Kayishema et al., Case No. ICTR-95-1, Yussuf Munyakazi, Case No. ICTR-97-36A, Ignace Bagilishema, Case No. ICTR-95-1A, Édouard Karemera et al., Case No. ICTR-98-44, Mika Muhimana, Case No. ICTR-95-1B, Siméon Nchamiligo, Case No. ICTR-91-65, Aloys Nolimbati, Case No. ICTR-95-1, Emmanuel Nolimbati, Case. No. ICTR-91-71, Charles Sikubwaha, Case No. ICTR-95-10, Pealine Nyiramasahaka et al., Case No. ICTR-99-50, Augustin Ndindiliyimana et al., Case No. ICTR-90-56



¹ Mungwarere's Motion for Access to Material, filed on 17 August 2011.

² Jacque Mungwerere's Urgent Motion for Access to Material, dated 29 February 2012 and filed on 1 march 2012; Jacques Mungwarere's Second Urgent Motion for Access to Material and Notice under Rule 67(D), filed on 5 March 2012.

³ See Rule 75(G) (ii).

14 March 2012

7. On 15 September 2011, the President appointed a Bench to rule on the motion of 17 August 2011. However, one of Judges of that Bench has since left the Tribunal wherefore the designation is no longer operative. I, therefore, decide to designate myself as a Judge of Trial Chamber III to adjudicate the requests in all of the aforementioned eleven cases.

FOR THESE REASONS, I

DESIGNATE myself, Judge Vagn Joensen, to adjudicate the motions of 17 August 2011 and of 1 and 5 March 2012 with regards to the requests in the *Niyitigeka*, *Ntakirutimana et al.*, *Ndindabahizi*, *Kayishema et al.*, *Bagilishema*, *Muhimana*, *Ndimbati*, *Sikubwabo*, *Musema*, *Munyakazi* and *Nchamihigo* cases; and,

ORDER Counsel for Jacques Mungwarere to file his requests in relation to the Nyiramasuhuko et al., the Bizimungu et al., the Ndindiliyimana et al. and the Karemera et al. cases before the relevant Appeals Chambers.

Arusha, 14 March, done in English.

Judge Vagn Joensen

[Seal of the Tribunal]



⁴ The Prosecutor v. Elizapham and Gérard Ntakirutimana, Cases No. ICTR-96-10 & ICTR-96-17, Designation of a Trial Chamber to Consider Mungwarere's Motion for Access to Material, 15 September 2011.

The Prosecutor v. Elizaphan and Gérard Ntakirutimana, Cases No. ICTR-96-10 and ICTR-96-17, Alfred Musema, Case No. ICTR-96-13, Clément Kayishema et al., Case No. ICTR-95-1, Yussuf Munyakazi, Case No. ICTR-97-36A, Ignane Bagilishema, Case No. ICTR-95-1A, Édouard Karamero et al., Case No. ICTR-98-44, Alfred Muhiar pag. Case No. ICTR-98-1A, Minden Nebendhero, Case et al., Case the activities of the North Case of the Case of t