1430/H

Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

ICTR-98-44-AR73.7
30 June 2006
(1430/H – 1423/H)

IN THE APPEALS CHAMBER

Before: **Judge Liu Daqun, Presiding**
Judge Mohamed Shahabuddeen
Judge Mehmet Güney
Judge Theodor Meron
Judge Wolfgang Schomburg

Registrar: **Mr. Adama Dieng**

Decision of: **30 June 2006**

ICTR Appeals Chamber
Date: 30 June 2006
Action: R.J.
Copied To: Concerned Judges, SOs, LOs, ALOs, Parties, LSI

PROSECUTOR

v.

Édouard KAREMERA
Mathieu NGIRUMPATSE
Joseph NZIRORERA

Case No. ICTR-98-44-AR73.7

Decision on Interlocutory Appeal Regarding the Role of the Prosecutor's Electronic Disclosure Suite in Discharging Disclosure Obligations

Office of the Prosecutor:

Mr. Hassan Bubacar Jallow
Mr. James Stewart
Mr. Don Webster
Ms. Linda Bianchi

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
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NAME / NOM: CHARLES ZAMA
SIGNATURE: DATE: 30/06/2006

Counsel for the Defence:

Ms. Dior Diagne Mbaye and Mr. Félix Sow for Édouard Karemera
Ms. Chantal Hounkpatin and Mr. Frédéric Weyl for Mathieu Ngirumpatse
Mr. Peter Robinson and Mr. Patrick Nimy Mayidika Ngimbi for Joseph Nzirorera

1. 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 Serious Violations Committed in the Territory of Neighbouring States, between 1 January and 31 December 1994 ("Appeals Chamber" and "Tribunal", respectively) is seized with an interlocutory appeal filed by the Prosecution[1] against an oral decision of Trial Chamber III, rendered on 16 February 2006,[2] resolving a disclosure dispute between the parties.

2. In this decision, the Appeals Chamber considers whether the Trial Chamber erred as a matter of law in finding that the Prosecution may not rely on its Electronic Disclosure Suite ("EDS") to fulfill its disclosure obligations under Rule 68 of the Rules of Procedure and Evidence of the Tribunal ("Rules"). The EDS contains public or redacted versions of more than thirty-four thousand documents potentially relevant to all accused before the Tribunal.[3] The Prosecution has made this searchable database available to the defence in every case, in which counsel agree to its terms of use, so that it may be searched for exculpatory material.[4] In the view of the Prosecution, this system discharges its obligation under Rule 68, except for material "not, or not yet," included in the system, which material, the Prosecution claims, it will continue to search and disclose itself.[5] The Prosecution made these submissions before the Trial Chamber, when confronted by the Defence with material available in redacted form in the EDS, which it had not formally disclosed.[6] The Trial Chamber, however, found the Prosecution in breach of its Rule 68 disclosure obligations.[7] This interlocutory appeal ensued.

[1] Prosecutor's Interlocutory Appeal of the Trial Chamber's Decision Given Orally on 16 February 2006 Regarding the Role of the Electronic Disclosure Suite in Discharging the Prosecution's Disclosure Obligations, 6 March 2006 ("Prosecution Appeal"). Mr. Nzirorera responded in Respondent's Brief of Joseph Nzirorera and Motion to Strike, 13 March 2006 ("Nzirorera Response and Motion"). The Prosecution replied in Prosecutor's Reply to "Respondent's Brief of Joseph Nzirorera and Motion to Strike", Responding to, "Prosecutor's Interlocutory Appeal of the Trial Chamber's Decision Given Orally on 16 February 2006 Regarding the Role of the Electronic Disclosure Suite in Discharging the Prosecution's Disclosure Obligations" ("Prosecution Reply and Response"). Mr. Karemera and Mr. Ngirumpatse did not respond to the Prosecution Appeal after requesting and being granted an extension of time pending its translation into French, which was filed on 30 May 2006. *See* Decision on Édouard Karemera's Request for Extension of Time to Respond to the Prosecution's Interlocutory Appeal, 4 April 2006; Decision on Request for Extension of Time, 24 March 2006.

[2] *The Prosecutor v. Édouard Karemera et al.*, Case No. ICTR-98-44-T, Oral Decision, T. 16 February 2006 pp. 2-10 ("Impugned Decision").

[3] Prosecution Appeal, para. 24.

[4] Prosecution Appeal, paras. 23-26.

[5] Prosecution Appeal, paras. 2, 20, 26 ("The Appellant, however, should be able to rely on the EDS for disclosure of any other material, under Rule 68 ... The EDS has been set up to perform the function of disclosing the evidence in the possession of the Prosecutor to the Defence ... It is thus unnecessarily repetitive, and wasteful of resources, for the Office of the Prosecutor to have to carry out the same search, and provide the same material again, when the material has already been made available to the Defence through EDS. In effect this would require the Prosecution to discharge its disclosure obligations twice.").

[6] Prosecution Appeal, para. 2.

[7] Impugned Decision, pp. 5, 8.

BACKGROUND

3. On 6 February 2006, Mr. Nzirorera requested the disclosure of a number of statements relevant to several witnesses scheduled to be heard.[8] In support of his motion, he presented several redacted statements, which he had obtained, bearing markings associated with the Prosecution, to demonstrate that the Prosecution was in possession of documents that it had failed to disclose.[9]

4. During oral argument on the motion before the Trial Chamber, the Prosecution explained that many of the statements sought by Mr. Nzirorera were available in the EDS and asserted that Mr. Nzirorera had in fact already obtained them by searching the EDS.[10] The Prosecution further contended that the availability of this material in the EDS fulfilled its disclosure obligations under Rule 68.[11]

5. The Trial Chamber disagreed that availability of material on the EDS discharges the Prosecution's disclosure obligations and found that the Prosecution had failed to comply with its disclosure obligations.[12] It emphasized that:

> [...] the existence of an electronic database created by the Office of the Prosecutor for storage and retrieval of documents, which allows the Defence to do its own searches for exculpatory material, does not relieve the Prosecution from its positive obligation to disclose all Rule 68 material in the possession of the Prosecution.[13]

The Trial Chamber, however, found that Mr. Nzirorera's possession of redacted forms of the documents mitigated much of the prejudice caused by the failure to disclose.[14]

6. On appeal, the Prosecution does not seek reversal of any of the Trial Chamber's individual findings regarding disclosure.[15] Rather, the Prosecution challenges exclusively the general finding that it may not discharge its Rule 68 disclosure obligations through the EDS, emphasizing the significant implications this conclusion has on its disclosure practices in this and other cases.[16]

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[8] Impugned Decision, p. 2; Prosecution Appeal, para. 6; Nzirorera Response and Motion, para. 6. The Appeals Chamber has considered other aspects of this particular dispute in *The Prosecutor v. Édouard Karemera et al.*, Case No. 98-44-AR73.6, Decision on Joseph Nzirorera's Interlocutory Appeal, 28 April 2006 ("*Nzirorera* Appeal Decision").
[9] Prosecution Appeal, paras. 7, 26.
[10] T. 13 February 2006 p. 11.
[11] T. 13 February 2006 p. 11 (Mr. Webster: "Now, if he's finding this information on EDS, then he's finding it, or he's discovering it, in a manner that is intended by the rules because that database was established to afford the Defence an opportunity to look for information that would assist it in preparing its defence. So I don't know if the Court could enquire where Mr. Robinson is pulling this information from, but if it's coming from the EDS, the EDS is functioning in exactly the fashion that it was designed to.").
[12] Impugned Decision, p. 8.
[13] Impugned Decision, p. 5.
[14] Impugned Decision, p. 8.
[15] Prosecution Appeal, para. 3.
[16] Prosecution Appeal, para. 2.

7. The Prosecution explains that, upon completion,[17] its EDS will contain its entire evidence collection, except for confidential material.[18] Presently, it has thirty-four thousand documents, with several thousand more to be added, divided into three general categories: redacted witness statements, audio/video, and Prosecution evidence.[19] The database allows a user to perform text searches and then to view and print selected documents.[20] The Prosecution explains that the EDS is also accessible to defence counsel via the internet,[21] which Mr. Nzirorera disputes.[22] In addition, Mr. Nzirorera portrays a vastly different picture of the utility of the EDS, pointing to significant problems in locating relevant material in light of the fact that much of the material in the EDS is redacted.[23]

DISCUSSION

8. The Prosecution argues that the Trial Chamber erred as a matter of law in finding that it cannot discharge its disclosure obligations under Rule 68 by making the Prosecution evidence collection and other relevant materials accessible to the Defence through the EDS.[24] In identifying the Trial Chamber's alleged legal error, the Prosecution contends that the Trial Chamber failed to appreciate the searchable format of the EDS.[25] However, in the very same passage upon which the Prosecution relies in support of this proposition, the Trial Chamber clearly expressed that the EDS, "allows the Defence to do its searches for exculpatory material."[26] Consequently, the Appeals Chamber cannot agree that the Trial Chamber failed to appreciate this aspect of the EDS. Rather, in the view of the Appeals Chamber, the Prosecution appears to take issue with the Trial Chamber's finding that the Prosecution has a "positive obligation" to disclose Rule 68 material "in its possession" to individual accused.[27] The Appeals Chamber, however, can identify no legal error on

[17] The Prosecution does not indicate when the EDS will be complete.
[18] Prosecution Appeal, para. 24. The Prosecution illustrates the functioning of its EDS in paragraphs 20 to 26 of the Prosecution Appeal. Attached to the Prosecution Appeal are several annexes containing materials that illustrate how the EDS works and how it can be used by Defence Counsel. Mr. Nzirorera seeks to strike the annexes and paragraphs 20 to 25 of the Prosecution Appeal, complaining that these paragraphs and annexes present material that was not before the Trial Chamber. *See* Nzirorera Response and Motion, paras. 2-4. With respect to paragraphs 20 to 25 of the Prosecution Appeal, the Appeals Chamber denies Mr. Nzirorera's request. In the circumstances of this case, the Appeals Chamber does not find the submissions in these paragraphs problematic, as the description provided in the Prosecution Appeal is materially the same, for the purposes of this decision, as the much more general one given to the Trial Chamber. *See* T. 13 February 2006 pp. 10-12, 19. The Appeals Chamber, however, grants Mr. Nzirorera's request with respect to the annexes. These annexes contain additional evidence, which may only be admitted in accordance with the procedure laid out in Rule 115.
[19] Prosecution Appeal, paras. 21, 24.
[20] Prosecution Appeal, para. 21
[21] Prosecution Appeal, para. 21.
[22] Nzirorera Response and Motion, para. 25.
[23] Nzirorera Response and Motion, paras. 14-26.
[24] Prosecution Appeal, paras. 2, 16, 18.
[25] Prosecution Appeal, para. 25.
[26] Impugned Decision, p. 5; Prosecution Appeal, para. 25.
[27] Prosecution Appeal, para. 34 ("The Trial Chamber incorrectly formulated the Prosecutor's obligation, stating that the Prosecution has a 'positive obligation to disclose all Rule 68 material *in the possession* of the Prosecution'") (emphasis in original); Prosecution Reply and Response, para. 7 ("The objectionable language used by the Trial Chamber in the

the part of the Trial Chamber in holding that the Prosecution has a positive obligation to disclose exculpatory material in its possession.

9. The Prosecution's obligation to disclose exculpatory material is essential to a fair trial.[28] The Appeals Chamber has always interpreted this obligation broadly.[29] The positive nature of this obligation and its significance stem from the Prosecution's duty to investigate, which the Appeals Chamber has explained runs conterminously with its duty to prosecute.[30] In particular, the Appeals Chamber recalls that one of the purposes of the Prosecution's investigative function is "to assist the Tribunal to arrive at the truth and to do justice for the international community, victims, and the accused."[31] The responsibility for disclosing exculpatory material rests on the Prosecution alone, and the determination of what material meets Rule 68 disclosure requirements is primarily a fact-based judgement, falling within the Prosecution's responsibility.[32] In other words, the Prosecution has a distinct obligation to participate in the process of administering justice by disclosing to the Defence, as required by Rule 68(A), material which it actually knows "may suggest the innocence or mitigate the guilt of the accused or affect the credibility of the Prosecution evidence". This responsibility is crucial to the analysis.

10. Bearing these principles in mind, the Prosecution must actively review the material in its possession for exculpatory material[33] and, at the very least, inform the accused of its existence.[34] In

impugned Decision was that the EDS 'does not relieve the Prosecution from its *positive obligation to disclose all Rule 68 material* in the possession of the Prosecution'") (emphasis in original).

[28] *Nzirorera* Appeal Decision, para. 7. *See also The Prosecutor v. Théoneste Bagosora et al.*, Case Nos. ICTR-98-41-AR73, ICTR-98-41-AR73(B), Decision on Interlocutory Appeals on Witness Protection Orders, 6 October 2005, para. 44 ("*Bagosora* Appeal Decision"); *The Prosecutor v. Dario Kordić and Mario Čerkez*, Case No. IT-95-14/2-A, Appeal Judgement, 17 December 2004, paras. 183, 242 ("*Kordić and Čerkez* Appeal Judgement"); *The Prosecutor v. Tihomir Blaškić*, Case No. IT-95-14-A, Judgement, 20 July 2004, para. 264 ("*Blaškić* Appeal Judgement"); *The Prosecutor v. Radislav Krstić*, Case No. IT-98-33-A, Judgement, 19 April 2004, para. 180 ("*Krstić* Appeal Judgement"); *The Prosecutor v. Radoslav Brđanin*, Case No. IT-99-36-A, Decision on Appellant's Motion for Disclosure Pursuant to Rule 68 and Motion for an Order to the Registrar to Disclose Certain Materials, 7 December 2004, p. 3 ("*Brđanin* Appeal Decision").

[29] *Blaškić* Appeal Judgement, paras. 265, 266; *Krstić* Appeal Judgement, para. 180.

[30] *Bagosora* Appeal Decision, para. 44. *See also Brđanin* Appeal Decision, p. 3; *Kordić and Čerkez* Appeal Judgement, para. 183; *Blaškić* Appeal Judgement, para. 264.

[31] Prosecution Regulation No. 2, para. 2(h). As a result, the Appeals Chamber finds disconcerting the Prosecution's suggestion before the Trial Chamber that it is somehow not obliged to search for material impacting on the credibility of its own witnesses. *See* T. 13 February 2006 p. 11 ("we cannot exhaustively search the entire OTP database simply to prosecute witnesses that we're bringing to this Court as part of our Prosecution case ... our job here is to prosecute the three men ... sitting on the other side of the courtroom. We do not prosecute our other witnesses. When we find material that is relevant to this case and relevant to -- and within the parameters of Rule 68, we disclose it, but we can only do the best that we can do, and that's what we've done.").

[32] *Nzirorera* Appeal Decision, paras. 16, 22; *Bagosora* Appeal Decision, para. 43 ("... the [disclosure] obligations rest on the Prosecutor alone ..."). *See also Kordić and Čerkez* Appeal Judgement, para. 183; *Brđanin* Appeal Decision, p. 3.

[33] *See, e.g., Blaškić* Appeal Judgement, para. 302; *The Prosecutor v. Juvénal Kajelijeli*, Case No. ICTR-98-44A-A, Judgement, 23 May 2005, para. 262. The Appeals Chamber has recognized that the voluminous nature of materials "in the possession" of Prosecutor may give rise to delays in disclosure. It does not however excuse the Prosecution from reviewing it and assessing it in light of Rule 68. *See, e.g., Blaskić* Appeal Judgement, para. 300 ("... the voluminous nature of the materials in the possession of the Prosecution may result in delayed disclosure, since the material in question may be identified only after the trial proceedings have concluded."); *Krstić* Appeal Judgement, para. 197 ("The Appeals Chamber is sympathetic to the argument of the Prosecution that in most instances material requires processing, translation, analysis and identification as exculpatory material. The Prosecution cannot be expected to disclose material

the view of the Appeals Chamber, the Prosecution's Rule 68 obligation to disclose extends beyond simply making available its entire evidence collection in a searchable format. A search engine cannot serve as a surrogate for the Prosecution's individualized consideration of the material in its possession. As such, the Appeals Chamber can identify no legal error on the part of the Trial Chamber in finding that the EDS, as described by the Prosecution, fails to fulfill these important and expansive obligations.

11. The Prosecution's reasoning includes the following two steps. First, it argues that paragraphs (A) and (B) of Rule 68 establish two distinct disclosure obligations covering different categories of materials: paragraph (A) applies to materials that the Prosecution *actually knows may be exculpatory*, while paragraph (B) applies more broadly to all "collections of relevant material", whether or not the Prosecution knows that they may be exculpatory. Second, it argues that when the Prosecution provides the defence with an electronic collection of relevant materials in satisfaction of its obligation under paragraph (B), that also satisfies its obligations under paragraph (A) with respect to any materials governed by paragraph (A) that may be found somewhere within the collection. The Appeals Chamber notes that while the first step of the Prosecution's argument appears to embrace a rather *broad* interpretation of the Prosecution's disclosure obligations, the second step would have the effect of curtailing them by making it unnecessary for the Prosecution to draw the attention of the Defence to the particular material that it actually knows may be exculpatory.

12. The Appeals Chamber observes several flaws in the Prosecution's reasoning. The Prosecution's obligation to disclose to the defence material that may suggest the innocence or mitigate the guilt of the accused or affect the credibility of Prosecution evidence is set forth in Rule 68(A).[35] It is only Rule 68(A) that articulates which material is subject to disclosure under this rule and which obliges the Prosecution to disclose it. Rule 68(B) does not establish a distinct disclosure obligation.[36] Rather, it simply provides for a possible modality of conveying exculpatory material to the defence, in an electronic format, after the Prosecution identifies it as "relevant material" which is subject to disclosure under Rule 68. This is supported by the plain language of sub-paragraph B

which – despite its best efforts - it has not been able to review and assess. Nevertheless, the Prosecution did take an inordinate amount of time before disclosing material in this case, and has failed to provide a satisfactory explanation for the delay.") (internal citation omitted). Moreover, the Appeals Chamber has explained the unity of the Office of the Prosecutor in discharging disclosure. *See Bagosora* Appeal Decision, paras. 42-46.

[34] *See Krstić* Appeal Judgement paras. 190, 195.

[35] Rule 68 (A) provides: "The Prosecutor shall, as soon as practicable, disclose to the Defence any material, which in the actual knowledge of the Prosecutor may suggest the innocence or mitigate the guilt of the accused or affect the credibility of Prosecution evidence."

[36] Rule 68 (B) provides: "Where possible, and with the agreement of the Defence, and without prejudice to Paragraph (A), the Prosecutor shall make available to the Defence, in electronic form, collections of relevant material held by the Prosecutor, together with appropriate computer software with which the Defence can search such collections electronically."

of Rule 68 and by its drafting history, which focused on the technical feasibility of providing to the defence electronic versions of documents subject to Rule 68 disclosure.[37]

13. Thus, disclosure under Rule 68(B) is merely the digital equivalent of disclosure under Rule 68(A), consisting of the same material in searchable electronic form. For these reasons, for the Prosecution to seek to satisfy its Rule 68 obligations merely by granting the Defence access to an electronic database containing tens of thousands of documents, only a few of which it knows to be potentially exculpatory, is the equivalent of the Prosecution seeking to satisfy those obligations by giving the Defence a key to a storage closet containing the same tens of thousands of documents in paper form. In both cases, the Prosecution has for all intents and purposes buried the exculpatory materials, at least unless it notifies the Defence of the existence of such materials and provides a means by which the Defence can be reasonably expected to find them. Rule 68(B) was not intended to facilitate this kind of evasion of the Prosecution's disclosure obligations. Indeed, its text makes clear that it is in no way intended to dilute or circumvent Rule 68(A)'s requirements: it states that it is "without prejudice to paragraph (A)".[38]

14. The Prosecution's second principal argument on appeal is that, by creating the EDS and by making it searchable, its collection is now "reasonably accessible" to the defence, which is a recognized exception to its obligation to disclose.[39] By way of illustration, the Prosecution refers to Appeals Chamber jurisprudence indicating that transcripts of open session testimony are not subject to disclosure as they are "reasonably accessible".[40] Mr. Nzirorera disputes this claim, emphasizing the difficulty of identifying exculpatory material given the redacted nature of the documents on the EDS.[41] The Prosecution counters that Mr. Nzirorera's complaints are belied by his possession of material, which it surmises came from the EDS, thereby demonstrating its proper functioning.[42] The Appeals Chamber observes that it is not clear from the record how Mr. Nzirorera obtained the material he used to demonstrate that the Prosecution was in breach of its disclosure obligations.

15. The Appeals Chamber agrees that the Prosecution may be relieved of its Rule 68 obligation if the existence of the relevant exculpatory material is known to the Defence and if it is reasonably

[37] Minutes of the Fourteenth Plenary Session (confidential), paras. 87-100.
[38] Indeed, this proviso makes it clear that even if the Prosecution were correct that Rule 68(B) refers to a different category of materials than does Rule 68(A), it would not follow that granting access to the EDS satisfies all of its disclosure obligations. Instead, it would simply mean that the Prosecution could use electronic disclosure to satisfy its obligation under Rule 68(B) with respect to one category of materials, but would still be obligated to follow the traditional method of disclosure for the narrower category of materials subject to Rule 68(A). Thus, the second step of the Prosecution's argument does not follow logically from the first.
[39] Prosecution Appeal, paras. 2, 43-47. The Prosecution also raises a related argument, submitting that the EDS addresses the underlying rationale for the Prosecution's disclosure obligation by eliminating its superior access to the material. Prosecution Appeal, paras. 38-42.
[40] Prosecution Appeal, para. 46, citing *Blaškić* Appeal Judgement and *Brđanin* Appeal Decision.
[41] Nzirorera Response and Motion, paras. 14-26.
[42] Prosecution Appeal, para. 26.

accessible through the exercise of due diligence.[43] On the basis of the record before it, however, the Appeals Chamber cannot find that the EDS makes documents reasonably accessible as a general matter, nor that the Defence can be assumed to know about all materials included in it. The determination whether given exculpatory information is reasonably accessible, and whether its existence is known to the Defence requires a careful examination of the relevant circumstances.[44] This is true for material on the EDS – especially given that, as Mr. Nzirorera notes, it may be difficult to recognize material as exculpatory if it is only available in redacted form – just as it is true for material not found on this system. The Appeals Chamber has not been asked to decide here whether the Prosecution satisfied its disclosure obligation with respect to any particular piece of information. The Appeals Chamber cautions the Prosecution, however, that just because it has placed a particular piece of material on the EDS, it has not necessarily made that piece of material "reasonably accessible" to any given accused. It might be helpful if the Prosecution either separates a special file for Rule 68 material or draws the attention of the Defence to such material in writing and permanently updates the special file or the written notice.

16. Finally, the Appeals Chamber observes that the Prosecution points to the practice of various Trial Chambers of the International Criminal Tribunal for the Former Yugoslavia concerning electronic disclosure.[45] The Appeals Chamber notes that the practice described in those cases differs from the Prosecution's proposed approach in this Tribunal.[46]

DISPOSITION

17. For the foregoing reasons, the Appeals Chamber **DISMISSES** the Prosecution Appeal in all respects.

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

Done this 30th day of June 2006,
At The Hague,
The Netherlands.

ICTR • TPIR

Judge Liu Daqun
Presiding

[Seal of the Tribunal]

[43] *Brdanin* Appeal Decision, p. 4; *Blaškić* Appeal Judgement, para. 296.
[44] *See, e.g., Blaškić* Appeal Judgement, paras. 286-303.
[45] Prosecution Appeal, paras. 48-54, citing *The Prosecutor v. Sefer Halilović*, Case No. IT-01-48-T, Decision on Motion for Enforcement of Court Order Re Electronic Disclosure Suite, 27 July 2005 ("*Halilović* Decision"); *Prosecutor v. Fatmir Limaj et al.*, Case No. IT-03-66-T, Decision on the Joint Motion on Prosecution's Late and Incomplete Disclosure, 7 June 2005.
[46] For example, in the *Halilović* Decision, the Prosecution's Electronic Disclosure Suite contained a separate folder for material directed at Halilović, the Prosecution informed the accused when new material was placed into the folder, and it also indexed, to some extent, the electronic collection. *Halilović* Decision, pp. 3-5.

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REGISTRY AT THE HAGUE
Churchillplein 1, 2517 JW The Hague, The Netherlands
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	Case No / *no. de l'affaire:* ***ICTR-98-44-AR73.7***	

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DEFENSE
✖ Accused / *accusé* : Mr Edouard KAREMERA, Mathieu NGIRUMPATSE, Joseph NZIRORERA (complete CMS4 Form)

✖ Lead Counsels / *Conseil Principal*: Ms. Dior Diagne, Ms. Chantal Hounkpatin, Mr. Peter Robinson (name / nom)
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☐ Co-Counsel / *Conseil Adjoint*: Mr. Felix Sow, Frederick Weyl (name / nom)
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INTERLOCUTORY APPEALS - PROOF OF SERVICE – ARUSHA
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Date:	Case Name / *affaire:*	**The Prosecutor vs.**	**- Edouard KAREMERA** **- Joseph NZIRORERA** **- Mathieu NGIRUMPATSE**
	Case No / *no. de l'affaire:*	**ICTR-98-44-A**	

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☐	**Judge D. C. M. Byron**	.....	☐	**J. Greenspoon.....**
☐	**Judge F. Lattanzi *(Bikindi & Rukundo)***	.....	☐	**P. Mathiam .....**
☐	**Judge L. G. Muthoga *(Zigiranyirazo)***	.....	☐	**S. Unnikrishnan.....**
☐	**Judge F. R. Arrey *(Rukundo)***	.....	☐	**K. Ardault.....**
☐	**Judge E. F. Short *(Karemera et al.)***	.....	☐	**C. Duffy.....**
☐	**Judge K. Hökborg *(Seromba & Rwamakuba)***	.....	☐	**N. Ferraro.....**
☐	**Judge G. G. Kam *(Seromba, Karemera et al. Rwamakuba)***	.....	☐	**M. I. Mbadinga.....**
☐	**E. O'Donnell, SLO**	.....		
☐	**C. Denis, Co-ordinator *(Karemera et al. & Rwamakuba)***	.....		
☐	**H. Gogo, Co-ordinator *(Seromba)***	.....		

☐ **OTP / *BUREAU DU PROCUREUR***

☐ **Stephen Rapp**, Chief of Prosecutions — Received by.....

☐ **DEFENSE:**

☐ Accused / *Accusé:* **KAREMERA, NGIRUMPATSE, NZIRORERA** — Complete / *Remplir* " CMS4 FORM"

☐ Lead Counsel *Conseil Principal:*..... **D. Diagne, C. Hounkpatin, P. Robinson**

☐ In / à Arusha .....(signature) — ☐ by fax complete / *remplir* " CMS3bis FORM"

☐ Co-Counsel / *Conseil Adjoint:*..... **F. Sow, F. Weyl, P. Ngimbi**

☐ In / à Arusha .....(signature) — ☐ by fax complete / *remplir* " CMS3bis FORM

All Decisions: ☐ Appeal Chamber Unit, The Hague ☐ S. Chenault, Jurist Linguist

All Decisions & Important Public Documents: ☐ Press & Public Affairs ☐ Legal Library

From: / *De:* ☐ J. P Fomété (Chief, CMS) ☐ N. Diallo (TC 1) ☐ R. Kouambo (TC 2) ☒ **C. Hometowu (TC 3)** ☐ **F.Talon (Appeals/ Team IV)** ☐ M Diop (D.Chief, CMS)

Cc: ☐ Registrar ☐ A. Miller, OLA, NY ☐ Deputy Registrar ☐ M. Niang, SAR ☐ ICTR Spokesperson

☐ WVSS ☐ E. O'Donnell, CSS ☐ S. Menon, SADR ☐ DCDMS ☐ Other

Subject / *Objet:* **Kindly find attached the following document(s) / *Veuillez trouver en annexe le(s) document(s) suivant(s):***

Documents name / *titre du document*	Date Filed / *Date enregistré*	Pages
DECISION ON INTERLOCUTORY APPEAL REGARDING THE ROLE OF THE PROSECUTOR'S ELECTRONOC DISCLOSURE SUITE IN DISCHARGING DISCLOSURE OBLIGATIONS	**3/7/2006**	**7**