



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

1925
VB

ICTR-01-63-T
05-02-2007
(1925-1919)

OR: ENG

TRIAL CHAMBER III

Before Judges: Dennis C. M. Byron, Presiding
Gberdao Gustave Kam
Robert Fremr

Registrar: Adama Dieng

Date: 5 February 2007

THE PROSECUTOR

v.

Siméon NCHAMIHIGO

Case No. ICTR-2001-63-T

2007 FEB - 5 1 A 11: 58
JUDICIAL RECORDS/ARCHIVES
RECEIVED
05/02/07

DECISION ON THE PROSECUTOR'S APPLICATION TO ADMIT INTO EVIDENCE THE TRANSCRIPT OF THE ACCUSED'S INTERVIEW AS A SUSPECT AND THE DEFENSE'S REQUEST TO HOLD A VOIR DIRE

Article 17 of the Statute; Rules 42, 43 and 95 of the Rules of Procedure and Evidence

Office of the Prosecutor:

Alphonse Van
Lloyd Strickland
Madeleine Schwarz
Adama Niane

Defence Counsel:

Denis Turcotte
Benoît Henry

By

INTRODUCTION

1. The trial in this case began on 25 September 2006. The first trial session was from 25 September 2006 to 20 October 2006. The second trial session started on 9 January 2007 and concluded on 29 January 2007. During the first trial session, the Prosecutor applied to tender in evidence the transcript of an extra-judicial statement (“Statement”) taken by ICTR investigators Mamadou Koné and Moussa Sanogo on 25 and 26 May 2001, from the Accused Nchamihigo.
2. On 20 May 2001, the Prosecutor filed a request under Rule 40 *bis* of the Rules for an Order for the immediate transfer to the premises of the Detention Facilities of the Tribunal (UNDF) in Arusha and for an Order for provisional detention of Simeon Nchamihigo. On 21 May 2001, Judge Mehmet Güney made the Order for Siméon Nchamihigo’s transfer as requested.¹ At the time the interview was taken, Nchamihigo had the status of a suspect. The application to admit the Statement was made during the testimony of Prosecution Investigator Jeannette Ebouea, on 26 September 2006, who had not been present during the interview process. The Chamber denied the application on the ground that no evidence had been adduced to indicate whether the procedure governing the rights of suspects during questioning had been observed.
3. On the Prosecutor’s application, leave was subsequently granted for investigator Mamadou Koné to be added to the witness list to adduce evidence on the manner on which Nchamihigo’s Statement was taken.
4. Investigator Mamadou Koné gave evidence in chief on 9 January 2007 and was cross-examined on 12 and 15 January 2007. During his testimony, the Defence submitted that a *voir dire* should be held. The Chamber directed that submissions be made in writing.² Both the Defence and the Prosecutor filed submissions accordingly.
5. The Defence argued that the Chamber should formally determine whether it would conduct a *voir dire* procedure to verify the respect of the rights of the Accused during his questioning, specifically on the matter relating to the waiver of his right to legal assistance of a counsel pursuant to Rule 42 and the procedure for the recording of the Statement pursuant to Rule 43 of the Rules and submitted that the Statement taken by ICTR investigators from the Accused be ruled inadmissible.³
6. In its Response⁴, the Prosecutor submitted that although the *voir dire* procedure may be conducted by a Trial Chamber of the Tribunal, it is unnecessary in this case. He contended that all the relevant rules were observed, that Nchamihigo was informed of all his rights and waived his right to legal assistance and made the statement voluntarily.

¹ *The Prosecutor v. Siméon Nshamihigo*, Order for Transfer and Provisional Detention under Rule 40 *bis* of the Rules of Procedure and Evidence (TC), 21 May 2001.

² T. 9 January 2007, p. 4.

³ Plaidoirie sur la tenue d’un *voir dire*, filed on 11 January 2007.

⁴ Réponse du Procureur à la note de plaidoirie de la défense de Siméon Nchamihigo sur la tenue d’un *voir dire* pour violation des articles 42 et 43 du Règlement de procédure et de preuve, filed on 18 January 2007. A Corrigendum was filed on 19 January 2007.

DISCUSSION

The Voir Dire Hearing

7. Decisions relating to the admissibility of evidence and the general conduct of proceedings largely fall within the discretion of the Trial Chamber.⁵ The *voir dire* procedure originates from common law and does not have any defined process in this Tribunal.⁶ There are no provisions in the Rules which direct Trial Chambers to adopt a formal procedure for determining whether they should conduct a *voir dire*. Instead, Rule 89(B) of the Rules provides that reference may be made to evidentiary rules "which will best favour a fair determination of the matter". This discretion can extend to the conduct of a *voir dire* procedure when it is determined appropriate to do so by the Trial Chamber.⁷ The Chamber notes that Black's Law Dictionary describes *voir dire* as "a preliminary examination to test the competence of a witness or evidence".

8. In this case, Defence Counsel did not describe what process he envisaged by his reference to the *voir dire* procedure. In particular, the Defence did not evince an intention or desire to adduce any evidence on the admissibility of the statement. Although the concept or the terminology of *voir dire* was not clarified, the Chamber had indicated that its determination of the admissibility of the proffered Statement would be based on evidence to be adduced on the process by which the Statement was obtained.⁸ The Prosecutor applied to add Mr. Koné to the witness list to address this issue and stated that he did not intend to call any other witnesses on the admissibility of the statement.⁹ The Defence had clear notice of this. When testimony was given by Mr. Koné, he was subject to cross-examination that was aimed at testing the extent to which there was compliance with the rules governing admissibility of the Statement.

9. The Chamber has heard all of the available evidence and received oral and written legal submissions and arguments from both the Prosecution and the Defence. The procedure adopted, although not described as such, is either a form of *voir dire* or is similar to it. The Chamber allowed thorough preliminary testing of the competence of the evidence sought to be introduced. The Chamber has sufficient information to rule on the admissibility of the statements and denies the application to make any formal ruling on holding a *voir dire*.

10. The Chamber will now analyse the testimony of Mr. Koné and then apply the legal principles to determine the admissibility of the statement.

The Admissibility of the Statement

11. Mamadou Koné was the only witness called to testify on how the questioning of Nchamihigo was conducted. As a preliminary issue, the Chamber indicates that it relies on his credibility and reliability. There were some instances of inaccuracies in certain aspects of

⁵ *Tharcisse Muvunyi v. The Prosecutor*, Case No. ICTR-200-55A-T, Decision on Interlocutory Appeal (AC), 29 May 2006, para. 5.

⁶ As an example of the flexibility with which the *voir dire* procedure is utilised at trial, *voir dire* examinations have previously been deferred to the cross-examination stage in determining a Witness's qualification as an Expert Witness: *Prosecutor v. Muvunyi*, Case No. ICTR-200-55A-T, Decision on the Prosecutor's Motion for Admission of Testimony of Expert Witness Rule 92bis of the Rules (TC), 24 March 2005, para. 27. See also *The Prosecutor v. Sefer Halilovic*, Case IT-01-48-T, Decision on Interlocutory Appeal Concerning Admission of Record of Interview of the Accused from the Bar Table (TC), 19 August 2005, para. 46 finding that a *voir dire* procedure is not necessarily required for identifying the voluntariness of an interview of an accused, although "there may be certain advantages in doing so."

⁷ *The Prosecutor v. Sefer Halilovic*, Case IT-01-48-T, Decision on Interlocutory Appeal Concerning Admission of Record of Interview of the Accused from the Bar Table (TC), 19 August 2005, para. 46.

⁸ T. 1st February 2007, pp. 7-8 (French).

⁹ *The Prosecutor v. Siméon Nchamihigo*, Case No. ICTR-2001-63-T, Prosecutor's Extremely Urgent Motion for Leave to Amend its Witness List, 6 October 2006, paras. 6-8.

his testimony, but these were brought to the Chamber's attention by Mr. Koné himself after he had conducted some research. There were some instances where his power of recall was not perfect. However, having considered the entirety of his testimony and his demeanour, the Chamber considers that he is a credible and reliable witness. The Chamber now expresses its findings from his testimony.

12. On Saturday, 19 May 2001, Nchamihigo was arrested by Mr. Paul Schwartzman, duty officer of the ICTR, in the premises of the ICTR.¹⁰ On 25 May 2001, in the morning, Nchamihigo was handed over to ICTR authorities by the Tanzanian authorities¹¹ in the presence of Mr. Koné.¹²

13. In the afternoon of 25 May 2001, Mr. Koné conducted Nchamihigo's interview in a place which he said was the UNDF Annex.¹³ Mr. Koné confessed inability to describe the place where the interview was conducted. He could not say whether it was a prison, but he did see security guards.¹⁴ He could not give its location although he knew it was not in or near the UNDF compound.¹⁵ He could not say how far away it was.¹⁶ He explained the inability to describe the location of the interview to his poor knowledge of Arusha as he has never been a resident in the town.¹⁷

14. Mr. Koné could not recall the exact time that Nchamihigo arrived at the place of the interview.¹⁸ He insisted that the only communication before the commencement of the interview were exchanges of pleasantries. The only persons present at the interview were Mr. Koné, Mr. Sanogo and Nchamihigo. He confirmed that no legal counsel was present.¹⁹ The interview was conducted by Mr. Koné in the French language with which Nchamihigo was familiar.

15. Mr. Koné described the process by which the questioning was recorded. He explained that there were two decks on the same recording machine, one deck recording the original and another making the copy.²⁰

16. During his cross-examination, Mr. Koné admitted that it was only on some occasions that he recorded the fact and time of breaks in the recording of the interview. After the interview, Mr. Koné delivered the copies of the recording to his superiors and following that, was not involved in their control. Subsequently, he received copies of the transcripts. It was admitted that only 5 of the 6 copies of the recording were sent to the Accused.²¹

17. After he was shown extracts from the transcript of the interview, Mr. Koné admitted that it started at 15:17 pm.²² He said that he immediately handed Nchamihigo a form, written in French, entitled "Notice of Suspect's Rights" and Nchamihigo read it.²³ This form set out the rights of the suspect that are regulated by Rule 42 of the Rules. Mr. Koné read a part of it to Nchamihigo but omitted to read the section of the form dealing with the right of a suspect

¹⁰ T. 15 January 2007, p. 13; T. 12 January 2007, p. 23.

¹¹ T. 15 January 2007, p. 25.

¹² T. 15 January 2007, p. 14.

¹³ T. 12 January 2007, p. 26.

¹⁴ T. 15 January 2007, p. 36.

¹⁵ T. 15 January 2007, p. 35.

¹⁶ T. 15 January 2007, p. 37.

¹⁷ T. 12 January 2007, p. 26.

¹⁸ T. 15 January 2007, p. 25.

¹⁹ T. 15 January 2007, p. 27.

²⁰ T. 12 January 2007, p. 22.

²¹ Réponse du Procureur à la note de plaidoirie de la défense de Siméon Nchamihigo sur la tenue d'un voir dire pour violation des articles 42 et 43 du Règlement de procédure et de preuve », filed on 18 January 2007. A Corrigendum was filed on 19 January 2007, para. 36.

²² T. 15 January 2007, p. 25.

²³ T. 15 January 2007, p. 40.

not to be questioned without the presence of counsel unless he voluntarily waived that right.²⁴ Nchamihigo told Mr. Koné that two attorneys had assisted him that morning when he had appeared before a Tanzanian Court and he wondered whether they could come to assist him at the interview.²⁵ Mr. Koné indicated that they could not come to assist him unless he had the means to pay them.²⁶ Nchamihigo said that he did not have the means to pay. Mr. Koné said that if Nchamihigo did not have the means to pay, the Tribunal could assign counsel for him.²⁷ Whereupon Nchamihigo responded "Agreed. I do not have such means."²⁸ Mr. Koné said that it was now 3.22 and he was going to turn off the recorder so that Nchamihigo could sign the Notice of Rights. Siméon Nchamihigo signed the declaration.²⁹ The questioning continued in the absence of counsel.

18. Mr. Koné, said that at the time the interview was conducted, he did not know that the Tribunal had a practice of appointing duty counsel to assist suspects before their official counsel was appointed.³⁰ It did not occur to him to defer the questioning to enable Nchamihigo to avail himself of the services of duty counsel, and consequently he did not give Nchamihigo any information or advice about his rights to such assistance. Mr. Koné admitted that since then, he became aware that on the 25 May 2001 the Registrar had appointed Mr. Kirita as duty counsel for Nchamihigo.³¹ Nchamihigo was never informed of this during the entire two-day period that he underwent questioning.³²

19. Mr. Koné also admitted that the appointment of the duty counsel was not mentioned in the "Notice of Suspect's Rights";³³ that after reading part of the "Notice of Suspect's Rights", he did not give any further information or explanation about it;³⁴ that he did not explicitly tell Nchamihigo that he could make use of the services of a lawyer at the time he spoke to him;³⁵ and that he did not explain that if he did not have the means, the interview could be suspended to allow Nchamihigo to access a lawyer assigned by the Tribunal.³⁶ He admitted that in the remainder of the interview, at no time did the investigators advise the Accused that he had an immediate right to the assistance of counsel during questioning.³⁷

20. Mr. Koné explained that at the commencement of the questioning on the second day, 26 May 2001, at 10:23 am, the investigators re-read the five paragraphs in the "Notice of Suspect's Rights" in the same way it was read to Nchamihigo the first time on 25 May 2001, and no additional explanation was given.³⁸ The cross-examination contain the following extract:

"Q. You will, therefore, agree with me, Mr. Koné, that there is no evidence that Mr. Nchamihigo became aware of the waiver of rights; is that correct?

A. Yes.

Q And this is clear because nowhere is it indicated that the recording was

²⁴ T. 15 January 2007, pp. 28-29.

²⁵ T. 15 January 2007, p. 38.

²⁶ T. 15 January 2007, p. 38.

²⁷ T. 15 January 2007, p. 39.

²⁸ T. 15 January 2007, p. 39.

²⁹ T. 15 January 2007, p. 40.

³⁰ T. 15 January 2007, p. 33.

³¹ T. 15 January 2007, p. 33.

³² T. 15 January 2007, pp. 33-34.

³³ T. 15 January 2007, p. 35.

³⁴ T. 15 January 2007, p. 30.

³⁵ T. 15 January 2007, p. 39.

³⁶ T. 15 January 2007, p. 39.

³⁷ *The Prosecutor v. Théoneste Bagosora et al.*, Case No. ICTR-98-41-T, Decision on the Prosecutor's Motion for the Admission of Certain Materials under Rule 89 (C) (TC), 14 October 2004, para. 19.

³⁸ T. 15 January 2007, p. 40.

stopped for him to familiarise him with that waiver between 15:17 and 15:22; is that correct?

A. Yes, that is correct.”³⁹

21. It is well settled that a statement taken from a suspect would not be admitted into evidence at his trial if his rights during the investigation were not respected. According to Article 17 of the Statute, if questioned, a suspect shall be entitled to be assisted by counsel of his or her own choice, including the right to have legal assistance assigned to the suspect without payment by him or her in any such case if he or she does not have sufficient means to pay for it. Rule 42 of the Rules, prescribes that a suspect who is to be questioned by the Prosecutor must be informed by the Prosecutor prior to questioning, in a language he speaks and understands of the right: (i) to be assisted by counsel of his choice or to have legal assistance assigned to him without payment if he does not have sufficient means to pay for it; (ii) to have the free assistance of an interpreter if he cannot understand or speak the language to be used for questioning; and (iii) to remain silent, and to be cautioned that any statement he makes shall be recorded and may be used in evidence. Rule 42 (B) of the Rules specifically mandates that questioning of a suspect shall not proceed without the presence of counsel unless the suspect has voluntarily waived his right to counsel. In case of waiver, if the suspect subsequently expresses a desire to have counsel, questioning shall thereupon cease, and shall only resume when the suspect has obtained or has been assigned counsel. These rules are supported by the provisions of Rule 44 *bis* requiring the Registrar to summon duty counsel to represent a suspect who is unrepresented at any time after being transferred to the Tribunal as soon as practicable.

22. The Chamber finds that Nchamihigo's questioning was conducted without the assistance of counsel contrary to Article 17 of the Statute. The Prosecution contended however, that by signing the "Notice of Suspect's Rights" he waived the right to the presence of counsel. The Chamber finds that the testimony of Mr. Koné is inconsistent with that contention. The Prosecutor had argued that Nchamihigo, because of the work he had done in Rwanda as a Deputy Prosecutor, and at the ICTR as an investigator, should have known his rights. In this case that argument does not address Mr. Kone's admission that the Registrar, acting in accordance with Rule 44 *bis*, had appointed Mr. Kirrita to be duty counsel for the suspect on the very day that the questioning commenced, and the investigators never informed him of this fact. The inference from the evidence of Nchamihigo's reference to the lawyers, who had assisted him that morning, was that he expressed a desire to have legal assistance for which he could not pay. The Chamber is of the view that it was the duty of the investigator to stop the questioning at that time to give effect to the rights conferred by Article 17 of the Statute.

23. The Chamber also finds, that at that time of the interview, the Registrar had given effect to Article 17 of the Statute by assigning legal assistance to Nchamihigo, for which he would not have had to pay. Mr. Koné confessed lack of knowledge; not only of the appointment of Mr. Kirita, but also that the system of appointing duty counsel existed. It is difficult for the Chamber to understand this ignorance at the commencement and during the two days of the interview process. Even if it is true that the official team representing the Prosecutor at the interview process was ignorant of this, the Chamber must reject the argument that such knowledge should be imputed to the Accused because of the nature of his previous employment.

24. The Chamber considers that no waiver of the right to counsel could be voluntary

³⁹ T. 15 January 2007, p. 32.

unless the suspect knew of the right to which he is entitled.⁴⁰ The Chamber is satisfied that Nchamihigo was not informed by Mr. Koné that a duty counsel was appointed to represent him and was available to him during the questioning. In those circumstances, the Chamber finds that the Prosecutor has not shown that Nchamihigo voluntarily waived his right to counsel and that Mr. Koné should not have proceeded with his questioning. This constitutes a violation of Rule 42 of the Rules.


25. The Chamber also notes that certain provisions of Rule 43 were not carefully implemented. However, the Chamber considers that the violation of Nchamihigo's right to be assisted by counsel during his questioning as a suspect is a sufficient basis for the exercise of its discretion not to allow the Statement of the Accused following that questioning into evidence and does not propose to examine the Rule 43 issues in any further detail.⁴¹

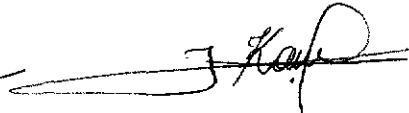
FOR THOSE REASONS, THE CHAMBER

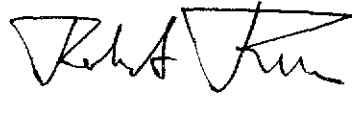
I. **REJECTS** the Defence Motion to decide whether to conduct a *voir dire* hearing;

II. **REJECTS** the Prosecutor's Motion to admit into evidence the transcript of the Accused's interview recorded on 25 and 26 May 2001.

Arusha, 5 February 2007, done in English.


Dennis C. M. Byron
Presiding Judge


Gberdao Gustave Kam
Judge

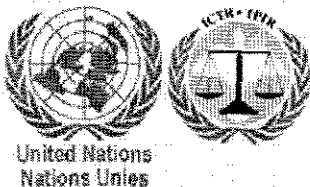

Robert Fremr
Judge

[Seal of the Tribunal]



⁴⁰ *Miranda* p. 475 (right to counsel must be "knowingly and intelligently waived"); *R. v. Cullen* 1992 NZLR LEXIS 689 (CA) ("*Cullen*") p. 10 ("[t]he purpose of making the suspect aware of his rights is so that he may make a decision whether to exercise them and plainly he cannot do that if he does not understand what those rights are"); *R v. Evans* [1991] 1 SCR 869 ("*Evans*"), p. 891 ("[A] person who does not understand his or her right cannot be expected to assert it").

⁴¹ *Cullen* p. 10 ("[t]he fundamental rights conferred or confirmed by the New Zealand Bill of Rights Act 1990 are not to be regarded as satisfied simply by some incantation which a detainee may not understand. The purpose of making the suspect aware of his rights is so that he make a decision whether to exercise them and plainly he cannot do that if he does not understand what those rights are"); *S v. Melani and others* 1995 SACLR LEXIS 290 pp. 47-48 (Sup. Ct., Eastern Cape) ("[i]n order to give effect to an accused's right in terms of section 25 (1)(c) he or she must be informed of his or her right to consult in manner that it can reasonably be supposed that he or she has understood the content of that right").



TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

COURT MANAGEMENT SECTION
(Art. 27 of the Directive for the Registry)

I - GENERAL INFORMATION (To be completed by the Chambers / Filing Party)

To:	<input type="checkbox"/> Trial Chamber I N. M. Diallo	<input type="checkbox"/> Trial Chamber II R. N. Kouambo	<input type="checkbox"/> Trial Chamber III C. K. Hometownu	<input type="checkbox"/> Appeals Chamber / Arusha F. A. Talon
	<input type="checkbox"/> Chief, CMS J.-P. Fomété	<input type="checkbox"/> Deputy Chief, CMS M. Diop	<input type="checkbox"/> Chief, JPU, CMS M. Diop	<input type="checkbox"/> Appeals Chamber / The Hague R. Muzigo-Morrison K. K. A. Afande
From:	<input checked="" type="checkbox"/> Chamber Moussounga Itsouhou Mbadinga (names)	<input type="checkbox"/> Defence (names)	<input type="checkbox"/> Prosecutor's Office (names)	<input type="checkbox"/> Other: (names)
Case Name:	The Prosecutor vs. Siméon Nchamihigo			Case Number: ICTR-2001-63-T
Dates:	Transmitted: 05/02/2007		Document's date: 05/02/2007	
No. of Pages:	7	Original Language:	<input checked="" type="checkbox"/> English	<input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
Title of Document:	DECISION ON THE PROSECUTOR'S APPLICATION TO ADMIT INTO EVIDENCE THE TRANSCRIPT OF THE ACCUSED'S INTERVIEW AS A SUSPECT AND THE DEFENSE'S REQUEST TO HOLD A VOIR DIRE Article 17 of the Statute; Rules 42, 43 and 95 of the Rules of Procedure and Evidence			
Classification Level:		TRIM Document Type:		
<input type="checkbox"/> Strictly Confidential / Under Seal		<input type="checkbox"/> Indictment	<input type="checkbox"/> Warrant	<input type="checkbox"/> Correspondence
<input type="checkbox"/> Confidential		<input type="checkbox"/> Decision	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Notice of Appeal
<input checked="" type="checkbox"/> Public		<input type="checkbox"/> Disclosure	<input type="checkbox"/> Order	<input type="checkbox"/> Appeal Book
		<input type="checkbox"/> Judgement	<input type="checkbox"/> Motion	<input type="checkbox"/> Book of Authorities
		<input type="checkbox"/> Submission from non-parties		
		<input type="checkbox"/> Submission from parties		
		<input type="checkbox"/> Accused particulars		

II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party)

CMS SHALL take necessary action regarding translation.

Filing Party hereby submits only the original, and **will not submit** any translated version.

Reference material is provided in annex to facilitate translation.

Target Language(s):

English French Kinyarwanda

CMS SHALL NOT take any action regarding translation.

Filing Party hereby submits **BOTH the original and the translated version** for filing, as follows:

Original	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda
Translation	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda

CMS SHALL NOT take any action regarding translation.

Filing Party **will be submitting the translated version(s)** in due course in the following language(s):

English French Kinyarwanda

KINDLY FILL IN THE BOXES BELOW

<p><input type="checkbox"/> The OTP is overseeing translation. The document is submitted for translation to:</p> <p><input type="checkbox"/> The Language Services Section of the ICTR / Arusha.</p> <p><input type="checkbox"/> The Language Services Section of the ICTR / The Hague.</p> <p><input type="checkbox"/> An accredited service for translation; see details below:</p> <p>Name of contact person: Name of service: Address: E-mail / Tel. / Fax:</p>	<p><input type="checkbox"/> DEFENCE is overseeing translation. The document is submitted to an accredited service for translation (fees will be submitted to DCDMS):</p> <p>Name of contact person: Name of service: Address: E-mail / Tel. / Fax:</p>
--	---

III - TRANSLATION PRIORITISATION (For Official use ONLY)

<input type="checkbox"/> Top priority	COMMENTS	<input type="checkbox"/> Required date:
<input type="checkbox"/> Urgent		<input type="checkbox"/> Hearing date:



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

Arusha International Conference Centre
P.O.Box 6016, Arusha, Tanzania - B.P. 6016, Arusha, Tanzanie
Tel: 255 57 504207-11 504367-72 or 1 212 963 2850 Fax: 255 57 504000/504373 or 1 212 963 2848/49

**PROOF OF SERVICE – ARUSHA
PREUVE DE NOTIFICATION – ARUSHA**

Date: 05 February 2007	Case Name / Affaire: The Prosecutor vs. Simeon NCHAMIHIGO	
	Case No /Affaire No.: ICTR-0163-I	
To:	<input type="checkbox"/> TC1	received by / reçu par:
A:	<input type="checkbox"/> Judge E. Mose, President	<input type="checkbox"/> ALO: received by / reçu par
	<input type="checkbox"/> Judge J. R. Reddy	<input type="checkbox"/>
	<input type="checkbox"/> Judge S. A. Egorov	<input type="checkbox"/>
	<input type="checkbox"/> Judge F. Lattanzi (Mpambara)	<input type="checkbox"/>
	<input type="checkbox"/> Judge F. R. Arrey (Karera)	<input type="checkbox"/>
	<input type="checkbox"/> SLO	<input type="checkbox"/>
	<input type="checkbox"/> C. Gosnell, Co-ordinator	<input type="checkbox"/>
	<input type="checkbox"/> TC2	
	<input type="checkbox"/> Judge W. H. Sekule	<input type="checkbox"/> (Vacant).....
	<input type="checkbox"/> Judge A. Ramaroson	<input type="checkbox"/> M. Andrianaivo.....
	<input type="checkbox"/> Judge K. R. Khan	<input type="checkbox"/> (Vacant).....
	<input type="checkbox"/> Judge A. J. N. de Silva	<input type="checkbox"/> I. Endeley.....
	<input type="checkbox"/> Judge S. B. Bossa (Nyiramasuhuku et al.)	<input type="checkbox"/> K. Greve.....
	<input type="checkbox"/> Judge F. Lattanzi (Muvunyi)	<input type="checkbox"/> P. Mathiam.....
	<input type="checkbox"/> Judge L. G. Muthoga (Bizimungu et al.)	<input type="checkbox"/> S. Unnikrishnan.....
	<input type="checkbox"/> Judge F. R. Arrey (Muvunyi)	<input type="checkbox"/> K. Ardault.....
	<input type="checkbox"/> Judge E. F. Short (Bizimungu et al.)	<input type="checkbox"/> C. Duffy.....
	<input type="checkbox"/> Judge T. Hikmet (Ndindiliyimana et al.)	<input type="checkbox"/> B. Zehnder.....
	<input type="checkbox"/> Judge S. K. Park (Ndindiliyimana et al.)	<input type="checkbox"/> B. Zehnder.....
	<input type="checkbox"/> M. Niang, SLO	
	<input type="checkbox"/> A. Leroy, Co-ordinator	
	<input type="checkbox"/> A. Marong, Judgement Co-ordinator	
	<input type="checkbox"/> S. Mawalla, Judgement Co-ordinator	
	<input type="checkbox"/> W. Romans, Judgement Co-ordinator	
	<input checked="" type="checkbox"/> TC3	
	<input type="checkbox"/> Judge A. Vaz (Seromba)	<input type="checkbox"/> P. Mathiam.....
	<input type="checkbox"/> Judge I. M. Weinberg de Roca	<input type="checkbox"/> C. Rassi.....
	<input type="checkbox"/> Judge K. R. Khan	<input type="checkbox"/> (Vacant).....
	<input checked="" type="checkbox"/> Judge D. C. M. Byron	<input type="checkbox"/> J. Greenspoon.....
	<input type="checkbox"/> Judge F. Lattanzi (Bikindi & Rukundo)	<input type="checkbox"/> P. Mathiam.....
	<input type="checkbox"/> Judge L. G. Muthoga (Zigiranyirazo)	<input type="checkbox"/> S. Unnikrishnan.....
	<input type="checkbox"/> Judge F. R. Arrey (Rukundo)	<input type="checkbox"/> K. Ardault.....
	<input type="checkbox"/> Judge E. F. Short (Karemera et al.)	<input type="checkbox"/> C. Duffy.....
	<input type="checkbox"/> Judge K. Hökborg (Seromba & Rwamakuba)	<input type="checkbox"/> (Vacant).....
	<input type="checkbox"/> Judge G. G. Kam (Seromba, Karemera et al. & Rwamakuba)	<input type="checkbox"/> M. I. Mbadinga.....
	<input type="checkbox"/> E. O'Donnell, SLO	
	<input type="checkbox"/> C. Denis, Co-ordinator (Karemera et al. & Rwamakuba)	
	<input type="checkbox"/> H. Gogo, Co-ordinator (Seromba)	
	<input checked="" type="checkbox"/> OTP / BUREAU DU PROCUREUR	
	<input type="checkbox"/> Senior Trial Attorney in charge of case: A. Van	received by
	<input checked="" type="checkbox"/> DEFENSE	
	<input type="checkbox"/> Accused / Accusé: S. Nchamihigo <i>S. Nchamihigo</i> 06/02/2007	complete / remplir "CMS4 FORM"
	<input type="checkbox"/> Lead Counsel / Conseil Principal.... D. Turcotte	
	<input type="checkbox"/> In / à Arusha Arusha(signature)	<input type="checkbox"/> by fax complete / remplir "CMS3bis FORM"
	<input type="checkbox"/> Co-Counsel / Conseil Adjoint... A. O'Shea	
	<input type="checkbox"/> In / à Arusha Arusha(signature)	<input type="checkbox"/> by fax complete / remplir "CMS3bis FORM"
	All Decisions: <input type="checkbox"/> Appeals Chamber Unit, The Hague <input type="checkbox"/> S. Chenault, Jurist Linguist	
	All Decisions & Important Public Documents: <input type="checkbox"/> Press & Public Affairs <input type="checkbox"/> Legal Library	
From:	<input type="checkbox"/> J.-P. Fomété (Chief, CMS) <input type="checkbox"/> N. Diallo (TC1) <input type="checkbox"/> R. Kouambo (TC2) <input checked="" type="checkbox"/> A. N'GUM (TC3) <input type="checkbox"/> F. A. Talon	
De:	<i>A. N'GUM</i> (Appeals/Team IV)	
Cc:	<input type="checkbox"/> A. Dieng <input type="checkbox"/> A. Miller, OLA, NY <input type="checkbox"/> Deputy Registrar <input type="checkbox"/> S. Menon <input type="checkbox"/> M. Niang <input type="checkbox"/> S. van Driessche	
	<input type="checkbox"/> WVSS <input type="checkbox"/> Spokesperson <input type="checkbox"/> E. O'Donnell <input type="checkbox"/> DCDMS <input type="checkbox"/> P. Enow	
Subject	Kindly find attached the following document(s) / Veuillez trouver en annexe le(s) document(s) suivant(s):	
Objet:		

Documents name / titre du document

DECISION ON THE PROSECUTOR'S APPLICATION TO ADMIT INTO EVIDENCE THE TRANSCRIPT OF THE ACCUSED'S INTERVIEW AS A SUSPECT AND THE DEFENCES REQUEST TO HOLD A VOIR DIRE

Date Filed / Date enregistrée Pages
05 February 2007 7