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ICTR-2001-74-I  
17-9-2004  
(405-403)

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INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA  
TRIAL CHAMBER III

Before:  
Registrar: Adama Dieng  
Date: 12 May 2004

THE PROSECUTOR

v.

FRANÇOIS KARERA

JUDICIAL RECORDS/ARCHIVES  
RECEIVED  
ICTR  
2004 SEP 21 A D 19  
[Signature]

Case No. ICTR-2001-74-I

**DEFENCE REPLY TO REGISTRAR'S RESPONSE TO MOTION TO SET ASIDE A  
DECISION BY THE REGISTRAR AND FOR THE RESPECT OF THE BASIC  
RIGHTS OF THE ACCUSED**  
(Pursuant to Articles 19 and 20 of the Statute and Rule 73 of the Rules  
of Procedure and Evidence)

Office of the Prosecutor:  
Charles Adeogun-Phillips  
Boi Tia Stevens

Counsel for the Defence:  
Carmelle Marchessault, Lead Counsel  
Steven Kelliher, Co-Counsel  
Alexandre Bergevin, Assistant

**DEFENCE REPLY TO REGISTRAR'S RESPONSE TO THE MOTION TO SET ASIDE A DECISION BY THE REGISTRAR AND FOR THE RESPECT OF THE BASIC RIGHTS OF THE ACCUSED****(Pursuant to Articles 19 and 20 of the Statute and Rule 73 of the Rules of Procedure and Evidence)**

**In conformity with Articles 19 and 20 of the Statute of the International Criminal Tribunal for Rwanda (the Statute), Rule 73 of the Rules of Procedure and Evidence of the Tribunal (the Rules) and any other enabling law, the Defence hereby requests Trial Chamber III, subject to its rights and without acknowledging its jurisdiction, to issue appropriate orders in the *Karera* Trial (ICTR-2001-74-I):**

1. On 7 May 2004, the Defence received the French Version of "The Registrar's Response to the Motion of the Defence to set aside a Decision by the Registrar and for the Respect of the Basic Rights of the Accused" (pursuant to Articles 19 and 20 of the Statute and Rule 73 of the Rules of Procedure and Evidence).
2. The Defence drew Trial Chamber III's attention to the willingness expressed by the Registrar in paragraph 22 of his response. The Registrar does indeed confirm the cogency of our motion. He states that: "*The impugned decision is a temporary one that does not allow further Defence investigations until further developments in the case so justify, and this was made clear to the Lead Counsel. It goes without saying that if the Defence submits sound reasons justifying the necessity for new investigations at this stage of the proceedings, the Registry will be keen to consider them favourably*".
3. The assertion above amounts to an admission that the strict and drastic measure he has taken has caused and continues to cause considerable prejudice to the Applicant.
4. Preparation of the Accused's defence cannot depend on further developments in the case, as the Registrar wrongly avers in view of the perception he might have of the case or how expeditiously it will be dealt with by the Prosecutor or the Tribunal.
5. The Registrar, with all due respect, has acted *ultra vires* and is interfering in the proceedings and smooth running of the trial together with the right to a full and unfettered defence.
6. The Defence can no longer countenance the Registrar's administrative decision which, in principle, amounts to a suspension of the work of the Defence, and to a violation of the rights of the Applicant.
7. That so-called temporary administrative decision is, in actual fact, permanent and shall continue to apply with time.

*The Prosecutor v. François Karera*, Case No. ICTR-2001-74-I

8. At the moment, contrary to the guarantees to which he is entitled, the Accused no longer has adequate time and facilities for the preparation of his defence.
9. The decision to suspend investigation work has a negative effect on the fairness of the trial because the Defence is no longer in a position to counter any allegations that are set out in the Indictment and to mount a full and unfettered defence.
10. The Defence wishes to inform the Chamber that the arrest of the Applicant dates back to 20 October 2001, that is, several years after the acts with which he stands charged occurred; a situation which makes the search for witnesses to testify on his behalf difficult since they are dispersed and multiple representations and serious efforts would need to be made to find and obtain statements from them, if necessary, for them to appear as witnesses.
11. This administrative decision would in practice mean that trips would become the exception rather than the rule in spite of the international context of the case.
12. The Defence submits that it is inappropriate and unfair to suspend the work plan of the investigators as it would disorganize the Defence and its witnesses.
13. The Defence reaffirms all the submissions in its motion as well as the cogency of its findings.

All respectfully submitted.  
Montreal 11 May 2004

[Signed]  
Lead Counsel  
Carmelle Marchessault

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\*\*\* SENDEBERICHT \*\*\*  
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EMPFÄNGERADRESSE 514 843 8104  
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ICTR-2001-74-I  
17-9-2004  
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**International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda**

Arusha International Conference Centre  
P.O. Box 6016, Arusha, Tanzania

UNEP/UNEP/UNEP Tel: 255 27 2504207-11/2504367-72 or 1 212 963 2850 — Fax: 255 27 2504000/2504373 or 1 212 963 2048

**TRIAL CHAMBER III**

Before: Judge Andresia Vaz, presiding  
Judge Khalida Rachid Khan  
Judge Sergei A. Egorov

Registrar: Adama Dieng

Date: 7 June 2004

JUDICIAL RECORDS/REGISTRES  
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2004 SEP 17 A 8:46  
[Signature]

**THE PROSECUTOR**

v.

**FRANÇOIS KARERA**

Case No. ICTR-2001-74-PT

**REGISTRAR'S REJOINDER TO THE DEFENCE REPLY TO THE  
REGISTRAR'S RESPONSE TO THE DEFENCE MOTION TO SET ASIDE A  
DECISION BY THE REGISTRAR AND FOR THE RESPECT OF THE BASIC  
RIGHTS OF THE ACCUSED (Pursuant to Articles 19 and 20 of the Statute and  
Rule 73 of the Rules of Procedure and Evidence)**

Office of the Prosecutor:  
Charles Adeogun-Phillips

Counsel for the Accused:  
Carmelle Marchessault, Lead Counsel



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

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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 TO DETAINEES  
PREUVE DE NOTIFICATION D'ACTES AUX DETENUS**

Upon signature of the detainee, please return this sheet to the originator as proof of service.  
*Formulaire à être renvoyé à l'expéditeur dûment signé par le détenu.*

<b>Date:</b>	21 September 2004	<b>Case Name / Affaire:</b>	The Prosecutor vs. François KARERA		
		<b>Case No / Affaire No.:</b>	ICTR-01-74-I		
<b>To:</b>	Name of detainee / nom du détenu  <b>KARERA</b>	<b>TO BE FILLED IN BY THE DETAINEE A COMPLETER PAR LE DETENU</b>			
<b>A:</b>		I confirm reception of the document(s) listed below. <i>Je confirme réception du/des documents mentionné(s) ci-dessous.</i>		<b>Signature</b> 	<b>Date, Time / Heure</b> 22/9/2004
<b>Via:</b>		<b>Print name / nom</b>	<b>Signature</b>	<b>Date, Time / Heure</b>	
	<b>Security Officer</b>			22/9/04	
	<b>Commanding Officer, UNDF</b>	<b>S. Guindo</b>			
<b>From:</b>	<input type="checkbox"/> J.-P. Fomété, (Chief, CMS) <input type="checkbox"/> N. Diallo (TC1) <input type="checkbox"/> R. Kouambo (TC2) <input checked="" type="checkbox"/> C. Hometowu (TC3)				
<b>De:</b>	<input type="checkbox"/> F. A. Talon (Appeals) <input type="checkbox"/> Other / Autre .....				
<b>Subject</b>	<b>Kindly find attached the following documents / Veuillez trouver en annexe les documents suivants.</b>				
<b>Objet:</b>					

Documents name / titre du document	Date Filed / Date enregistrée	Pages
<b>DEFENCE REPLY TO REGISTRAR'S RESPONSE TO THE DEFENCE MOTION TO SET ASIDE A DECISION BY THE REGISTRAR AND FOR THE RESPECT OF THE BASIC RIGHTS OF THE ACCUSED (PURSUANT TO ARTICLES 19 AND 20 OF THE STATUTE AND RULE 73 OF THE RULES OF PROCEDURE AND EVIDENCE)</b>	21/9/2004	3

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International Criminal Tribunal for Rwanda
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PROOF OF SERVICE - ARUSHA
PREUVE DE NOTIFICATION - ARUSHA

Date: 21 September 2004 Case Name / Affaire: The Prosecutor vs. François KARERA

Case No /Affaire No.: ICTR-01-74-I

To: A: TC1 received by / reçu par: ALO: Judge E. Mose, President; Judge J. R. Reddy; Judge S. A. Egorov; Judge N. Pillay (Nahimana et al.); Judge K. R. Khan (Ndindabahizi); Judge S. B. Bossa (Ndindabahizi); J. Neuwirth, SLO; E. Nahamya, Co-ordinator

TC2 Judge W. H. Sekule; Judge A. Ramaroson; Judge K. R. Khan (Bizimungu et al.); Judge L. G. Muthoga (Bizimungu et al.); Judge S. B. Bossa (Nyiramasuhuku et al.); C. Eboe-Osuji, SLO; A. Leroy, Co-ordinator

TC3 Judge A. Vaz; Judge K. R. Khan; Judge J. R. Reddy (Gacumbitsi); Judge S. A. Egorov (Gacumbitsi); Judge F. Lattanzi (Karemera et al.); Judge F. R. Arrey (Karemera et al.); Judge L. G. Muthoga (Muhimana); Judge E. F. Short (Muhimana); E. O'Donnell, SLO; R. Adjovi, Co-ordinator; R. Diarra, Co-ordinator (Karemera et al.); E. Nahamya, Co-ordinator (Muhimana)

OTP / BUREAU DU PROCUREUR Trial Attorney in charge of case: C. Adeogun-Phillips received by [Signature] 22/09/04

DEFENSE Accused / Accusé: F. Karera complete / remplir "CMS4 FORM"

Lead Counsel / Conseil Principal: C. Marchessault by fax complete / remplir "CMS3bis FORM"

In / à Arusha Arusha (signature) by fax complete / remplir "CMS3bis FORM"

In / à Arusha Arusha (signature) by fax complete / remplir "CMS3bis FORM"

All Decisions: Appeals 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 (TC1) R. Kouambo (TC2) C. Hometowu (TC3) F. A. Talon (Appeals)

Cc: A. Dieng A. Miller, OLA, NY L. G. Muthoga S. Menon M. Niang S. van Driessche

Subject: Kindly find attached the following document(s) / Veuillez trouver en annexe le(s) document(s) suivant(s): WVSS R. Amoussouga E. O'Donnell DCDMS P. Enow