ICTR-02-78-T
19-08-2009
(3949 - 3937)

3949
Mustap

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

United Nations
Nations Unies

BEFORE TRIAL CHAMBER II

Before: **Judge Taghrid Hikmet, presiding**
Judge Seon Ki Park
Judge Joseph Masanche

Registrar: **Adama Dieng, Registrar**

Date Filed: **18 August 2009**

The PROSECUTOR

v

GASPARD KANYARUKIGA

Case No: ICTR-2002-78-1

EXTREMELY URGENT DEFENCE MOTION FOR DISCLOSURE OF ALL EXHIBITS FROM THE CASE OF THE *PROSECUTOR* v. *SEROMBA*
(Rules 68(A), 75(F) & 75(G) of the Rules of Procedure and Evidence)

For the Prosecutor:

Holo Makwaia, Acting Senior Trial Attorney
Althea Alexis-Windsor, Appeals Counsel
Mara Tidiane, Legal Advisor
Lansana Dumbuya, Case Manager

For the Defence:

David Jacobs, Lead Counsel
Claver Sindayigaya, Co-Counsel
Marc Nerenberg, Legal Advisor

3948

I. PRELIMINARY JURISDICTIONAL ISSUE:

1. This is a motion for an Order for disclosure of all exhibits from the case of the *Prosecutor* v. *Seromba,* ICTR- 2001-66-T. Depending on which specific rule or rules of the Rules of Procedure and Evidence find application in the present slightly ambiguous situation, there is a possible uncertainty as to which Chamber is the appropriate forum that should be dealing with this Motion. The Defence position is that it is the present Trial Chamber that is seized with the Kanyarukiga case that is the appropriate venue, for the following reasons.

2. As will be argued in the substance of this Motion, *infra*, the Defence submits that the disclosure sought herein is *obligatory*, and governed by the operation of Rule 68(A). If the Defence is correct in that submission, then this present Trial Chamber, being the Trial Chamber of the instant case, is the appropriate forum for this motion, since it is a motion dealing with a disclosure issue in the present case, and not with a witness protection issue in another case.

3. That is because, if the matter is indeed found to be a Rule 68(A) *obligatory* disclosure – then it would be a "disclosure obligation under the rules" as mentioned in Rule 75(F)(ii). In such a case, under the authority of Rule 75(F)(ii), no modification of the protective measures is required, and the existing measures *automatically* remain in place by the operation of Rule 75(F)(i).

4. Rule 75(F) reads as follows:

> Once protective measures have been ordered in respect of a victim or witness in any proceedings before the Tribunal (the "first proceedings"), such protective measures:
>
> (i) shall continue to have effect *mutatis mutandis* in any other proceedings before the Tribunal (the "second proceedings") unless and until they are rescinded, varied or augmented in accordance with the procedure set out in this Rule;
>
> but
>
> (ii) shall not prevent the Prosecutor from discharging any disclosure obligation under the Rules in the second proceedings, provided that the Prosecutor notifies the Defence to whom the disclosure is being made of the nature of the protective

measures ordered in the first proceedings.

5. It is submitted that on the plain language of Rule 75(F), since the protective measures "shall continue to have effect" "but" they "shall not prevent" disclosure, and *only* notice to the Defence of the nature of the witness protection measures, that remain in effect, is called for, then permission of a Trial Chamber is *not* required for the Prosecutor to discharge an obligation that is *already mandatory* under the Rules.

6. On the other hand, should the Chamber consider this not to be an *obligatory* Rule 68(A) disclosure on the part of the Prosecution – hence not a "disclosure obligation under the rules" – but rather a discretionary disclosure order under the jurisprudence regarding *inter trial* "assistance in preparation", then it would be Rule 75(G) that applies, raising the question of whether it is the Chamber of the *first* proceedings (*Prosecutor v. Seromba*) or the Chamber of the *second* proceedings (*Kanyarikiga*) that should deal with the motion.

7. Rule 75(G) reads as follows:

> A party to the second proceedings seeking to rescind, vary or augment protective measures ordered in the first proceedings must apply:
>
> (i) to any Chamber, however constituted, remaining seised of the first proceedings;
>
> or
>
> (ii) if no Chamber remains seised of the first proceedings, to the Chamber seised of the second proceedings.

8. The Defence submits that the *Seromba* Case, having completed both Trial and Appeal stages, is over, and that *no* Chamber remains seized of those proceedings. Therefore, it is Rule 75(G)(ii) that applies, and thus *this* present Chamber, being the Chamber seized of the *second* proceedings, *has* jurisdiction to deal with this motion.

9. This was the precise reasoning of the Trial Chamber in the *Bagosora et al.* Case, finding that it had jurisdiction when granting a September 2006 Defence motion seeking closed session transcripts and sealed exhibits from the *Kajelijeli* Trial for which final judgment on Appeal had been rendered in May 2005:

3946

> As no Chamber is currently seized of the Kajelijeli trial, this request is properly made before this Chamber under Rule 75 (G)(ii) of the Rules of Procedure and Evidence.[1]

10. The Defence is mindful, however, that in the recent similar motion in *Ngirabatware*,[2] notwithstanding that the *Bikindi* trial had finished and the case was before the Appeals Chamber, the *Bikindi* Trial Chamber was reconstituted, with a new bench under the original presiding Judge, and the motion was heard under Rule 75(G)(i) by that newly constituted Chamber, it being considered to be a "Chamber, however constituted, remaining seised of the first proceedings".[3]

11. The *Bikindi* Case can be distinguished from *Seromba*, however, in that the *Bikindi* Appeal is ongoing, while the *Seromba* final Appeal Judgement has been rendered. Given the theoretical possibility of the Appeal Chamber remanding the case back to the Trial Chamber to re-decide a specific matter under instruction from the Appeal Chamber, although no Trial Chamber appears to be seized of *Bikindi*, theoretically, the original Trial Chamber may still be so seized.

12. Nevertheless, Rule 75(H) appears to define the role of any remaining judges of the original bench - for a trial that is completed and for which the bench is no longer seized, -as *strictly consultative* and not decisional. Rule 75(H) reads as follows:

> Before determining an application under paragraph (G) (ii) above, the Chamber seised of the second proceedings shall obtain all relevant information from the first proceedings, and shall consult with any Judge who ordered the protective measures in the first proceedings, if that Judge remains a Judge of the Tribunal.

13. It would appear that the actual intent of the term "however constituted" in Rule 75(G)(i) is to permit a Trial Chamber that is *still* seized of the first proceedings, but whose composition of the bench has *changed* since the decision authorizing the

---

[1] *The Prosecutor v. Juvenal Kajelijeli*, Case No. 98-44-A; Decision on Disclosure of Closed Session Testimony of Witness FMB; (decided by the Trial Chamber in *Bagosora et al*, Case No 98-41-T), 26 Sept. 2006, at para. 2.

[2] Ngirabatware Defence Request for Disclosure of Exhibits Admitted During the Testimony of Prosecution Witness BKW in the Bikindi Case

[3] *The Prosecutor v. Simon Bikindi*; Case No. ICTR-01-72-T; Decision on Ngirabatware Defence Request for Disclosure of Exhibits Admitted During the Testimony of Prosecution Witness BKW in the Bikindi Case (TC); 07 July 2009; at para. 7.

protective measures was originally made, to take a decision on varying those protective measures in the context of the second proceedings.

14. Thus the procedure called for in the rules does not appear to be that a Trial Chamber that is *no longer seized* with the first proceeding is to be reconstituted with a different bench to hear such a Motion. Otherwise Rule 75(H) would seem to have no apparent purpose or application.

15. It is therefore submitted, notwithstanding any possibly differing interpretations of the appropriate application of these Rules in any other cases, that under *any* of these various scenarios, the Rules give jurisdiction for this motion to *this* present Trial Chamber.

II. THE MERITS OF THE MOTION:

A. The Material Facts and Evidence in This Case are Highly Congruent With the Material facts and Evidence in the Seromba Case:

16. As this Chamber is aware, the events outlined in the indictment of the Accused, Gaspard Kanyarukiga for which he has been charged, are the same events for which Father Athanase Seromba was tried and convicted before Trial Chamber III.

17. Other than the specific evidence regarding the extent of the alleged involvement in those events of the Accused in the present case, the Prosecution evidence in the *Seromba Trial* and the Prosecution evidence in the present trial will cover substantially the same ground.

18. In such a case of close congruency between the material facts and evidence in one trial and the material facts and evidence in a second trial, disclosure of all of the

evidence in the first trial is, it is submitted, absolutely fundamental to the trial preparation of the Defence in the second trial, and a clear legal obligation of the Prosecution.

B. The Prosecution has Only Partially Fulfilled its Disclosure Obligation Regarding the Disclosure of Materials from the Seromba Case:

19. Because of this substantial overlap between the two cases, the Prosecution has disclosed to the Defence all of the transcripts of the *Seromba Trial*, including those of the Closed Sessions. Although the Prosecution now maintains that such disclosure was a "courtesy", the Defence submits that to maintain equality of arms between the Prosecution and the Defence, these disclosures were, in fact essential.

20. Subsequent to the disclosure of the transcripts of the *Seromba Trial*, the Defence has sought disclosure from the Prosecution of all of the exhibits deposited in that trial, in the following terms:

> Vous vous souviendrez que vous avez déjà communiqué à la défense de Gapsard Kanyarukiga l'entièreté des transcriptions d'audiences de l'affaire Athanase Seromba devant la Chambre de 1ère Instance.
>
> Toutefois, il s'est avéré pratiquement impossible de las exploiter utilement et de comprendre leur contenu étant donné qu'à plusieurs endroits, on réfère aux pièce à convictions admises dans ce dossier alors que justement ces dernières ne faisaient pas partie des documents divulgués par votre bureau à l'équipe de la défense.
>
> Par la présente, nous vous demandons par conséquent de nous communiquer dans les plus brefs délais l'ensemble des exhibits admis devant la Chambre de 1ère Instance dans le dossier d'Athanase Seromba.[4]

The transcripts, of course, as noted in our letter to the Prosecution, make reference to the said exhibits, and without these exhibits, the transcripts are, at best, only partially comprehensible.

[4] Correspondence from Defence to Prosecution, 30 July 2009.

3943

21. The Prosecution has refused to make such disclosure, indicating that it has no obligation to do so, in the following terms:

> ... The Prosecution served you with the transcripts in the Seromba case as a matter of courtesy as you are aware these are public to all parties except the closed session exhibits for which you need to file a motion before the court that is seized of the matter. In this regard we are under no obligation to provide you with the exhibits in the Seromba case that are public.[5]

22. The Defence takes exception to a multitude of points in this brief response from the Prosecution. In particular the Defence submits that:

a) The disclosure of the Seromba transcripts was obligatory under the Rules, and was not a mere courtesy;

b) The closed session *transcripts* are as equally not available to the public as are the exhibits, although the Prosecution's letter states that *only* the closed session *exhibits* are not public;

c) It is *not* necessary for the Defence to file a motion for disclosure of the exhibits, since the Rules already provide adequate procedures for the Prosecution to have made said disclosure without any motion, since those exhibits fall under the domain of *obligatory* disclosure under Rule 68(A);

d) In the event of non disclosure by the Prosecution, there being *no* "court seized of the matter" (the forum the Prosecution suggests for this motion), this present Trial Chamber is the appropriate forum for a motion seeking compliance by the Prosecution of its disclosure obligations, and for any concomitant modifications of witness protection measure in the first proceeding (as already argued *supra*);

e) The Prosecution *is* obliged to disclose to the Defence *all* material that must be obligatorily disclosed under Rule 68(A), unless that material has been clearly identified by the Prosecution and the material is readily and easily obtainable by the Defence itself.

23. The Prosecutor's failure/refusal to provide the Defence with the Seromba exhibits, for reasons inconsistent with the Prosecutor's disclosure of the Seromba

[5] Correspondence from Prosecution to Defence, 31 July 2009.

transcripts, hinders the Defense in its preparation for trial. As the Appeal Chamber has said:

> The Prosecution's obligation to disclose exculpatory material is essential to a fair trial. The Appeals Chamber has always interpreted this obligation broadly. 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. 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." ... 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"... [References omitted.][6]

The Defense agrees with the reasoning of the Trial Chamber in the *Bizimungu et al* case, that it is no longer necessary for the Prosecution to obtain an order before disclosing closed session testimony and sealed exhibits to the accused in another case.[7]

C. The Prosecutor has an Obligation to Disclose All the Materials from the Seromba Trial Under the Terms of Rule 68(A):

24. Rule 68(A) of the Rules of Procedure and Evidence reads:

> 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.

25. The Defence submits that the evidence in the Seromba Trial, since it concerns exactly the same events as the present trial, may turn out to be contradictory in some respects to the evidence that will be presented in the present trial, and as such, it is clearly "material ... which in the actual knowledge of the Prosecutor may ... affect the credibility of Prosecution evidence" and therefore *must* be disclosed to the Defence. The

---

[6] *Prosecutor v Karemera et al*, No. ICTR-98-44-AR73.7, Decision on Interlocutory Appeal Regarding the Role of the Prosecutor's Electronic Disclosure Suite in Discharging Disclosure Obligations (30 June 2006) (AC) at para. 9.

[7] *Prosecutor v Bizimungu et al*, No. ICTR-99-50-T, *Decision on the Prosecutor's Request for an Order of Disclosure of Closed Session Transcripts and Sealed Prosecution Exhibits Pursuant to Rules 69 and 75 of the Rules of Procedure and Evidence* (2 February 2005)

Defence need not show that it *will* affect the credibility of Prosecution evidence - only that it *may* do so.

26. It is self-evident that the Seromba evidence has the potential to affect the credibility of the evidence in the present trial. The Prosecutor thus has an obligation to disclose all of the Seromba evidence to the Defence. The evidence in the Seromba trial consists of *both* the testimony *and* the exhibits, *all* of which must obligatorily be disclosed to the Defence.

27. Such disclosure is also a clear matter of *equality of arms*, an essential component of trial fairness as guaranteed under the Statute of the Tribunal. The Prosecution, being an indivisible unit, *has* ready access to all of the trial materials of all previous trials. The Defence, operating, as it must, in discrete teams, does not have such access. Thus, without such disclosure the Prosecution is unfairly privileged by having unrestricted access to essential information to use in its trial preparation, which is denied to the Defence.

D. The Nexus Between the Seromba Trial and the Present Trial is so great that the Material from the Seromba Case Serves a Legitimate Forensic Purpose to the Defence in Preparation for the Present Case, and the Prosecutor Must Disclose It:

28. Should the Chamber finds that the Prosecutor's duty to disclose the Seromba materials in this present case does not fall within the ambit of Rule 68(A), it is submitted that Prosecutor is still obliged to make such disclosure under the established jurisprudence of disclosure of *inter partes* materials that will assist the Defence in the preparation of its case. The current state of the law on such disclosures between cases has been well summarized in a very recent ICTY Decision (which granted the requested disclosure):

> It is well-established in the jurisprudence of the Tribunal that a party is always entitled to seek material from any source, including another case before the Tribunal, to assist in the preparation of its case if the material sought has been identified or described by its general nature and is a legitimate forensic purpose for

3540

> such access has been shown. With regard to *inter partes* confidential material, a requesting party must establish a legitimate forensic purpose for access to confidential material from another case by demonstrating the existence of a nexus between the applicant's case and the case from which the material is sought and such nexus consists of a geographical, temporal, or otherwise material overlap between the two cases. Such access may be granted if the Trial Chamber is satisfied that the requesting party has established that the material in question is likely to assist the applicant's case materially, or that there is at least a good chance that it would.[8] [*References omitted.*]

29. Similarly, the very recent ICTR *Bikindi* Decision, which granted the identical disclosure of exhibits to accompany transcripts as is being sought in the instant case, also noted that: (a) the standard for granting such disclosure is the demonstration by the applicant that it is likely to assist that applicant's case materially, or that "there is a good chance that it would"[9] and (b) "This standard can be met by showing that there is a factual *nexus* between the two cases."[10] The Trial Chamber found that:

> ... It would be of interest not only to the Defence for cross-examination and the preparation of its case, but also to the Trial Chamber in the Ngirabatware case to evaluate the testimony of the said witness in the context of other testimonies that he gave on related matters. The Chamber is thus satisfies that the issues raised by Augustin Ngirabatware are sufficient to establish the *nexus* between the two cases.[11]

30. As summarized in *Tolimir*, *supra*, a legitimate forensic purpose can be established by demonstrating a *nexus* between the two cases, and such nexus consists of a geographical, temporal, or otherwise material overlap between the two cases. As summarized in *Bikindi*, *supra*, demonstrating this nexus establishes that there is a good chance that such disclosure would be likely to materially assist the applicant's case. Thus the applicant establishing the nexus meets the standard for granting such disclosure.

31. In the two cases under consideration, there is a complete geographical overlap: the alleged events in both cases are alleged to have taken place in precisely the same location. In the two cases under consideration, there is a temporal overlap: the alleged

---

[8] *Prosecutor v. Zdravko Tolimir*; Case No. IT-05-88/2-PT; Decision on Tolimir's Motions for Access to Confidential Material in the *Krstic* Case and the *Blagojevic* and *Jokic* Case (TC); 8 July 2009, at para. 6.
[9] *The Prosecutor v. Simon Bikindi*; Case No. ICTR-01-72-T; Decision on Ngirabatware Defence Request for Disclosure of Exhibits Admitted During the Testimony of Prosecution Witness BKW in the Bikindi Case (TC); 07 July 2009; at para. 8.
[10] *Ibid.*
[11] *Ibid.*, at para. 9.

events in each of the two cases are alleged to have taken place at precisely the same time. In the two cases under consideration, there are other material overlaps: The Prosecution witnesses in the instant matter testified in Seromba, and the central alleged events in the two cases are the identical central events.

32. Except perhaps if these two cases had also each concerned the same Accused, it is hard to imagine two cases with a greater degree of overlap, and hence, a greater degree of nexus, than exists between these two. Thus a sufficient nexus between the two cases has been demonstrated to establish that a legitimate forensic purpose would be served by disclosing to the Defence in the present case *all* of the evidence in the *Seromba* case, and such request for disclosure should be granted.

33. As noted, *supra*, the Defence need not show that the evidence from the *Seromba* Case *will* affect the credibility of Prosecution witnesses, just that there is a reasonable possibility that it *may* affect their credibility. The burden is on the Prosecution to *refute* the *possibility* that disclosure of prior evidence in another case may affect the credibility of prosecution witnesses.[12]

34. Thus, it is submitted that whether as a Rule 68(A) obligatory disclosure, or as a disclosure of *inter partes* materials that will assist the Defence in the preparation of its case, the Defence has fulfilled its burden and clearly demonstrated that *all* of the evidence in the *Seromba* Case must be disclosed to the Defence in order to assure a fair trial for the Accused, Kanyarukiga.

E. Modalities of Disclosure; Practical Issues:

35. Inasmuch as the Prosecution can only be excused from its disclosure obligations of exculpatory material if the Defence knows of the existence of the relevant exculpatory

[12] *Prosecutor v Karemera et al*, No. ICTR-98-44-PT, Decision on Juvenal Kajelijeli's Motion for Disclosure of Open and Closed Session Testimony, Exhibits, and Pre-Trial Statements of Prosecution Witnesses GBU and GFA (24 November 2004).

3538

material and if that exculpatory material is reasonably accessible to the Defence, the Appeals Chamber has said:

> 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. [13]

36. The potentially exculpatory material that the Defence is seeking in this motion is neither explicitly known to the Defence nor reasonably accessible to the Defence. While the unsealed exhibits *should* theoretically be available to the public via the Public Judicial Database (TRIM) on the Tribunal's website, the reality regarding the exhibits that were deposited in the *Seromba* Trial is different. All of the exhibits that were admitted in that trial are kept by the Registry in a folder labeled "confidential". On August 4th, 2009, the defense for Kanyarukiga made a formal request to John Kiyeyeu, acting Trial Chamber Coordinator, to have copied on a CD all of the *unsealed* exhibits in the *Seromba* Case, but the answer to this request was that it was not possible to provide the exhibits without an order from the Chamber, because *all* of the exhibits in that case were kept in a "confidential" folder.

37. The Defence submits that this raises a fundamental issue of "equality of arms". The Prosecution has ready access to documents that are difficult for the Defence to access at the best of times, and are often impossible for the Defence to access at all. Under these circumstances, it is submitted that it cannot be said that the material the Defence is seeking is "reasonably accessible to the Defence".

38. Therefore, the Defence is requesting electronic copies, in a searchable form, of *all* of the exhibits deposited in evidence in the *Seromba* Trial.

39. The Defence notes as well, that in prior Decisions for the *inter partes* disclosure of transcripts and exhibits the order has generally been made for the Registry to provide

[13] *Prosecutor v Karemera et al*, No. ICTR-98-44-AR73.7, Decision on Interlocutory Appeal Regarding the Role of the Prosecutor's Electronic Disclosure Suite in Discharging Disclosure Obligations (30 June 2006) (AC) at para. 15.

3937

the requested material to the Defence.[14] Given that it would be relatively easy and efficient for Archives to provide a CD with all of the exhibits from the *Seromba* Trial to the *Kanyarukiga* Defence team, just as it routinely does upon request to Defence teams regarding the exhibits deposited in their own trials, the Defence requests that this Chamber grant this present motion, and order the Registry to provide the requested documents (in electronic form) to the Defence forthwith.

III. CONCLUSION:

FOR ALL OF THESE REASONS, THIS CHAMBER IS RESPECTFULLY REQUESTED TO:

ORDER the Registry to provide the Kanyarukiga Defence, forthwith, with electronic copies, in a searchable form, of *all* of the exhibits that were deposited in evidence in the Trial of *The Prosecutor v. Athanase Seromba,* Case No. ICTR- 2001-66-T.

The whole respectfully submitted this 18th day of August 2009.

David Jacobs, Lead Counsel

Claver Sindayigaya, Co-Counsel

Marc Nerenberg, Legal Advisor

[14] *The Prosecutor v. Juvenal Kajelijeli,* Case No. 98-44-A; Decision on Disclosure of Closed Session Testimony of Witness FMB; (decided by the Trial Chamber in *Bagosora et al,* Case No 98-41-T), 26 Sept. 2006. *The Prosecutor v. Simon Bikindi*; Case No. ICTR-01-72-T; Decision on Ngirabatware Defence Request for Disclosure of Exhibits Admitted During the Testimony of Prosecution Witness BKW in the Bikindi Case (TC); 07 July 2009.

-057

SENT AGAIN — PAPER JAM —

TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

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

FAX RECEIVED

By Fax at: 1-212-963-2848

2009 AUG 19 A 8:42

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

To:	☐ Trial Chamber I N. M. Diallo	☒ Trial Chamber II R. N. Kouambo	☐ Trial Chamber III C. K. Hometowu	☐ Appeals Chamber / Arusha F. A. Talon
	☐ Chief, CMS J.-P. Fomété	☐ Deputy Chief, CMS M. Diop	☐ Chief, JPU, CMS M. Diop	☐ Appeals Chamber / The Hague R. Muzigo-Morrison K. K. A. Afande
From:	☐ Chamber (names)	☒ Defence **David Jacobs Claver Sindayigaya**	☐ Prosecutor's Office (names)	☐ Other: (names)

Case Name:	The Prosecutor vs. **GASPARD KANYARUKIGA**	**Case Number:**	ICTR-2002-78-I
Dates:	Transmitted: **18 AUGUST 2009**	Document's date: **18 AUGUST 2009**	
No. of Pages:	**13 + this page = 14**	**Original Language:** ☒ English ☐ French ☐ Kinyarwanda	
Title of Document:	**EXTREMELY URGENT DEFENCE MOTION FOR DISCLOSURE OF ALL EXHIBITS FROM THE CASE OF THE *PROSECUTOR* v. *SEROMBA* (Rules 68(A), 75(F) & 75(G) of the Rules of Procedure and Evidence)**		

Classification Level:	**TRIM Document Type:**			
☐ Ex-Parte	☐ Indictment	☐ Warrant	☐ Correspondence	☐ Submission from non-parties
☐ Strictly Confidential / Under Seal	☐ Decision	☐ Affidavit	☐ Notice of Appeal	☐ Submission from parties
☐ Confidential	☐ Disclosure	☐ Order	☐ Appeal Book	☐ Accused particulars
☒ Public	☐ Judgement	☒ Motion	☐ Book of Authorities	

II - TRANSLATION STATUS ON THE FILING DATE

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	☐ English	☐ French	☐ Kinyarwanda
Translation	in	☐ English	☐ French	☐ 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

☐ **The OTP** is overseeing translation.
The document is submitted for translation to:

☐ The Language Services Section of the ICTR / Arusha.
☐ The Language Services Section of the ICTR / The Hague.
☐ An accredited service for translation; see details below:

Name of contact person:
Name of service:
Address:
E-mail / Tel. / Fax

☐ **DEFENCE** is overseeing translation.
The document is submitted to an accredited service for translation (fees will be submitted to DCDMS):

Name of contact person:
Name of service:
Address:
E-mail / Tel. / Fax

ICTR
CENTRAL REGISTRY
18 AUG 2009
ACTION: TC2
COPY: CMS

III - TRANSLATION PRIORITISATION (For Official use ONLY)

☐ Top priority	**COMMENTS**	☐ Required date:
☐ Urgent		☐ Hearing date:
☐ Normal		☐ Other deadlines: