



UNITED NATIONS
NATIONS UNIES

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

Arusha International Conference Centre
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ICTR-98-44C-A
28-2-2007
(25/A - 15/A)

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Hm

*The Registrar
Le Greffier*

BEFORE THE APPEALS CHAMBER

Registrar: Adama Dieng

Date: 28 February 2007

THE PROSECUTOR

v.

André RWAMAKUBA

Case No. ICTR-98-44C-T

JUDICIAL RECORDS/ARCHIVES
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2007 FEB 28 P 5: 28

THE REGISTRAR'S NOTICE OF INTENTION TO MAKE SUBMISSIONS TO THE APPEALS CHAMBER PURSUANT TO RULE 33(B) OF THE RULES OF PROCEDURE AND EVIDENCE OR, IN THE ALTERNATIVE, THE REGISTRAR'S NOTICE OF APPEAL REGARDING THE TRIAL CHAMBER III DECISION ON APPROPRIATE REMEDY OF 31 JANUARY 2007

The Prosecution:

Hassan Bubacar Jallow
James Stewart
Georges Mugwanya
Neville Weston

Counsel for the Appellant:

David Hooper
Andreas O'Shea

1. On 20 September 2006, Trial Chamber III of the International Criminal Tribunal for Rwanda ('ICTR' or 'Tribunal' and the 'Trial Chamber') rendered its Judgement in *The Prosecutor v. André Rwamakuba*, Case No. ICTR-98-44C-T ('Judgement'). The Trial Chamber acquitted Mr Rwamakuba on all counts and ordered his immediate release.
2. In delivering the Judgment, as part of the verdict, the Trial Chamber held that "[t]he Defence is at liberty to file any application seeking appropriate remedy to [sic] a violation of his right to legal assistance in the period of 22 October 1998 to 10 March 1999..." The Trial Chamber set out a schedule for the Parties' and the Registry's submissions in respect of this remedy.
3. On 25 October 2006, the Defence filed an "Application for Appropriate Remedy" ('Defence Application'). The Defence sought a remedy for the violation of the Accused's right to counsel and for the existence of a grave and manifest injustice giving rise to his arrest and trial.
4. The Registrar filed Submissions in reply to the Defence Application pursuant to Rule 33(B) of the Rules of Procedure and Evidence of the Tribunal ('Rules') on 2 November 2006. The Defence filed a reply to these Submissions on 9 November 2006. The Registrar filed additional submissions on 24 November 2006 and 8 December 2006.¹
5. On 31 January 2007, the Trial Chamber rendered its "Decision on Appropriate Remedy" ('Impugned Decision'). On 12 February 2007, the Defence filed a "Defence Notice of Appeal of Decision Dated 31st January 2007".²
6. By this Notice, the Registrar seeks to advise the Appeals Chamber of his intention:
 - (i) To make submissions to the Appeals Chamber pursuant to Rule 33(B) of the Rules; or, in the alternative,
 - (ii) To request the Appeals Chamber to hear an appeal from the Registrar regarding the Impugned Decision; and further or in the alternative,
 - (iii) To request the Appeals Chamber to hear the Registrar's response to the Defence Appeal.

Jurisdiction of the Appeals Chamber to Receive Submissions by the Registrar

7. Rule 33(B) of the Rules reads as follows:

The Registrar, in the execution of his functions, may make oral or written representations to Chambers on any issue arising in the context of a specific case which affects or may affect the discharge of such functions, including that of implementing judicial decisions, with notice to the parties where necessary.

8. The Registrar notes that Rule 33(A) defines part of the functions of the Registrar as assisting the "Chambers", which clearly includes the Appeals Chamber. It is therefore submitted that the right of making representations under Rule 33(B) includes the right of making submissions to the Appeals Chamber.

¹ The Registrar's additional submissions of 8 December 2006 are dated 7 December 2006.

² The Defence Notice of Appeal is dated 8 February 2007.

Jurisdiction: Registrar's Representations in the Absence of Appeal by a Party

9. The subject matter of such representations is wide enough to encompass the making of submissions to the Appeals Chamber, even in the absence of an appeal by a party, about the issues arising in the context of a specific case before a Trial Chamber if they affect or may affect the discharge of his functions, including that of implementing a judicial decision emanating from a Trial Chamber. In this case, the Appeals Chamber has been seised of appeals by the Defence and the Prosecution. In the event that the Appeals Chamber refuses jurisdiction, the Registrar submits that the Registrar's right to make submissions continues. The Registrar would further submit that, in appropriate cases, if the Appeals Chamber refuses jurisdiction over the parties' appeals, the Appeals Chamber could make decisions or orders that took into account the submissions of the Registrar. The Registrar notes that Rule 107, in spite of its context in the Rules, is not confined to appellate proceedings by its clear and ordinary language. Rule 107 allows the Rules to be applied *mutatis mutandis* to proceedings in the Appeals Chamber.

Jurisdiction: Registrar's Representations on Appeal by One or Both Parties on a Restricted Basis

10. The Registrar would further argue that when a party has appealed part of a decision of a Trial Chamber, purporting to restrict the basis of the appeal to that part, the Registrar may address his submissions to the Appeals Chamber to the wider issues raised by the Trial Chamber's Decision. The Registrar would respectfully urge the Appeals Chamber to exercise its discretion to treat the appeal as at large. The Appeals Chamber is seised of a ground of appeal by a Party purporting to restrict the appeal to one part of a Trial Chamber order in relation to the Chamber's power to grant compensatory relief against the Registrar. The issue of the power of the Trial Chamber to grant compensatory relief at all against the Registrar is what is at issue.

Registrar's Request to Make Detailed Written and Oral Submissions and to be Heard by Counsel

11. The Registrar gives notice to the Appeals Chamber and to the parties of his intention to make detailed written submissions to the Appeals Chamber and requests the Appeals Chamber to hear the Registrar in an oral hearing by counsel. The Registrar notes that the proposed submissions by the Registrar involve complex issues of considerable importance not just to the Registry or the Tribunal but to the United Nations as a whole and to Member States in general. While the Registrar will set out his submissions in detailed written form, he would respectfully urge the Appeals Chamber to consider the utility of an oral hearing for the proper elucidation of all the complex issues raised by the Trial Chamber Decision.

Granting of Relief on the Basis of the Registrar's Submissions

12. If, in any of the circumstances outlined above, the Appeals Chamber receives the written and/or oral submissions of the Registrar, the Registrar would urge the Appeals Chamber, having heard the parties, to reverse the finding at paragraph II of the disposition of the Trial Chamber, and further, or in the alternative, to grant relief, as set out in paragraph 24 below, to the Registrar from the Orders III, IV and V of the Trial Chamber's disposition. The Registrar notes that he has already complied with Order III as an order of the court within his power to obey immediately, but still challenges the basis and the appropriateness of the Order.

Jurisdiction of the Appeals Chamber to Receive an *Appeal* by the Registrar

13. Further, or in the alternative to the above submissions, and notwithstanding the express terms of Article 24 of the Statute of the ICTR ('Statute'), the Registrar would urge the Appeals Chamber to recognise the inherent right of the Registrar to appeal a decision of a Trial Chamber that orders the Registrar to pay compensation and contains the threat of ultimate enforcement action upon the person or office of the Registrar by the Trial Chamber in the event that the Registrar is unable to comply.

14. Further, or in the alternative, the Registrar would seek the recognition of his right to respond as a party to an appeal lodged by a Party seeking to appeal a dismissal by a Trial Chamber of an application for compensation against the Registrar. The Registrar notes that the ultimate purpose of such an appeal is to enforce a claim for compensation against the Registrar. If the Appeals Chamber allows the appeal, an order may reasonably be anticipated that compels the Registrar to pay compensation, and such an order will contain the threat of ultimate enforcement action upon the person or office of the Registrar in the event that the Registrar is unable to comply. The Registrar submits that he has an interest as a party to the compensation proceedings in that the precedent created by the Trial Chamber Decision may cause him, his office, other organs of the Tribunal, and other organs of the United Nations as a whole, material prejudice.

15. The Registrar observes that the Appeals Chamber has had, on a number of occasions, to examine its procedures in the light of novel circumstances unforeseen by the Security Council or by the judges exercising their rule-making powers under the Statute. Within the limits of its established grant of jurisdiction, and in the light of its inherent powers, the Appeals Chamber has been prepared to find creative solutions to issues in which miscarriages of justice or major errors of law would have otherwise resulted. The Registrar would respectfully submit that this is such a case.

Jurisdiction of the Appeals Chamber to Receive Appeals by the Parties

16. The Registrar's submissions above are, for the most part, predicated on the assumption that the Appeals Chamber will allow itself to be seised of jurisdiction over appeals by the Parties. The Registrar observes that the Trial Chamber's Judgement pronounced a Verdict that contained three paragraphs, the third of which set out a schedule for the filing of applications and responses in relation to an appropriate remedy for the violation of right to legal assistance. The Trial Chamber stated at Paragraph III of the Verdict: "This order is subject to any appeal to be filed within a 30 days time-limit as set out in Rule 108 of the Rules."

17. The Registrar observes that the only clear order made by the Trial Chamber in the Verdict was the order for the immediate release of Mr Rwamakuba made in paragraph II of the Verdict. This order was stated in Paragraph II to be “[w]ithout prejudice to any further order that may be made by the Chamber pursuant to Rule 99(B) of the Rules.”

18. The Registrar observes that the reference in paragraph III to an “order” would at first seem to apply to the contents of the same paragraph and, in particular, the statement by the Trial Chamber that the Parties and the Registrar were at liberty to file applications and responses in relation to an appropriate remedy. Yet it appears that the recital of the right of appeal as set out in Rule 108 would more properly apply to the Order for release in paragraph II. This construction is reinforced by the scheduling set out by the Trial Chamber in paragraph III which envisaged the close of pleadings more than 30 days from the date of judgement.

19. The Registrar would submit that the Impugned Decision is subject to an appeal under Rule 108 in that the Decision made on 31 January 2007 constitutes an Order ancillary to the judgement and as such is an Order made in the course of the Judgement. The Registrar notes that the Trial Chamber might have invited submissions on a contingent basis before the passing of the verdict. The fact that the Trial Chamber chose not to do so, should not prejudice the parties [or independently or derivatively, the Registrar] in seeking relief from the results of an Order ancillary to the judgement. As such, the 30 day period would appear to have started to run, at least in relation to this order, on 31 January 2007.

20. Further, or in the alternative, the Registrar notes that the Trial Chamber observed in the Impugned Decision that, “...the present decision does not fall within the ambit of Rule 73 for the purposes of appeal.”³ The Registrar presumes that this observation was meant to clarify the view of the Trial Chamber that it could not receive applications for certification under Rule 73(B). In view of the fact that the Rules only allow appeals under four Rules and that the other three rules cannot be applied, the only Rule allowing the parties relief would be Rule 108.

By Analogy with the Notice of Appeal, the Registrar Sets Forth Grounds

21. The Registrar observes that Rule 33(B) does not require him to give notice of an intention to make submissions under that Rule, nor does it set a time limit for such submissions. Nevertheless, the Registrar submits that, to ensure fairness, it is incumbent upon him to give notice of his intended submissions so that the parties may have an opportunity to respond to the notice. In what is a novel situation, the Registrar uses the analogy with the appeal process set out in Rule 108, and the practice arising therefrom, to guide him on the practice to be followed until such time as the Appeals Chamber shall have given guidance or ruled upon the applications.

22. The Registrar intends to make submissions grounded as follows:

(i) The Trial Chamber incorrectly exceeded the limits of the leave it granted at Order III in the Judgement of 20 September 2006 by considering the Defence Application for

³ Impugned Decision, paragraph 79.

Remedy in respect to a grave and manifest injustice giving rise to Mr Rwamakuba's arrest and trial;⁴

(ii) The Trial Chamber incorrectly evaluated the seriousness of the violation of the rights of the Accused in the absence of any finding as to material prejudice caused thereby. The Trial Chamber failed to give sufficient weight to the finding of Trial Chamber II on 12 December 2000⁵ that Mr Rwamakuba did not suffer serious or irreparable prejudice, or to the submissions of the Registrar before the Trial Chamber;⁶

(iii) The Trial Chamber's inference that Rule 5 would, *prima facie*, allow a remedy against the Tribunal and the Registrar, as opposed to the other party, is unsupported by other than brief analysis and is incorrect. The Trial Chamber's analysis of the plain meaning of Rule 5 in both official languages is incorrect and the Trial Chamber's assertion that the purpose of Rule 5 is to provide a general relief against all entities for non-compliance is incorrect. The Trial Chamber's analysis of the meaning and purpose of Rule 5 is incoherent, logically circular, and fails to apply the correct canons of interpretation;⁷

(iv) Further, or in the alternative, the Trial Chamber failed to analyse correctly the combined effect of Rules 5 and 44 *bis* in that the judges in plenary had specifically provided for a remedy for any prejudice resulting from a breach of the latter Rule upon a showing of *material* prejudice. The Trial Chamber failed to treat the combined effect of these Rules as the *lex specialis* specifically enacted by the judges to enshrine the general principle of international human rights law;⁸

(v) Further, or in the alternative, the express finding by the Trial Chamber that "...[Mr Rwamakuba] did not suffer a material prejudice within the meaning of Rule 5" should have ended the Trial Chamber's enquiry in relation to the violation of the right to counsel;⁹

(vi) Further, or in the alternative, the Trial Chamber's observation that the Statute and Rules did not provide an effective remedy for human rights violations follows on from its finding that Rules 5 and 44 *bis*, read together, closed off a remedy absent a finding of material prejudice. The Trial Chamber appears to assume incorrectly that when the judges in plenary specifically passed Rules providing for remedies for violations of the Rule, it was an ineffective remedy for a violation when the judges in plenary required the showing of material prejudice;¹⁰

(vii) The Trial Chamber's argument by citation to the authority of previous ICTR Appeals Chamber Decisions fails to consider that the remedies envisaged by the Appeals Chamber were remedies within the jurisdiction conferred by the Statute and Rules, and related to remedies for breaches of fundamental liberty interests that were remediable without proof of material damage;¹¹

⁴ Judgement, paragraph 220, Verdict paragraph III, Impugned Decision, paragraphs 12-14, 19-31.

⁵ Trial Chamber II, *The Prosecutor v. André Rwamakuba et al.*, Case No. ICTR-98-44-T, Decision on the Defence Motion Concerning the Illegal Arrest and Illegal Detention of the Accused, 12 December 2000.

⁶ Impugned Decision, paragraphs 15-18.

⁷ Impugned Decision, paragraphs 35-38.

⁸ Impugned Decision, paragraphs 35-38.

⁹ Impugned Decision, paragraph 38, 39.

¹⁰ Impugned Decision, paragraphs 35-40.

¹¹ Impugned Decision, paragraphs 41-45.

(viii) The Trial Chamber's analysis of its inherent powers is superficial and incorrect. The Trial Chamber failed to explore what powers are to be considered as inherent in a court and what the limitations upon that power are;¹²

(ix) Further, or in the alternative, in its analysis of its inherent powers, the Trial Chamber regards itself as at liberty to use the doctrine of inherent powers to create a substantive novel remedy for a violated right in complete disregard of the limitations upon inherent powers previously exercised by Trial and Appeals Chambers, which inherent powers are limited to those necessary and unavoidable to the exercise of the established jurisdiction of the court;¹³

(x) Further, or in the alternative, in its analysis of inherent powers, the Trial Chamber did not consider sufficiently, or at all, the limitations placed upon the Tribunal by the specific jurisdiction granted in the Statute to make Rules, and the Trial Chamber failed to consider the implications of the fact that the Judges in successive plenaries had never seen fit to explicitly introduce the remedy of monetary compensation for violations of the rights of accused persons, and had never introduced such a remedy against the Tribunal itself. In failing thus to consider the proper construction of the Statute and Rules and the proper inferences from the lack of provision of such a remedy, the Trial Chamber failed to give sufficient weight to the correspondence between the Presidents of the Ad Hoc International Tribunals and the Security Council on the one hand, and claimants on the other;¹⁴

(xi) Further, or in the alternative, in its analysis of its inherent powers, the Trial Chamber failed to consider that the Security Council cannot reasonably have contemplated creating a judicial body that would regard itself as at liberty to invent remedies that would incur potentially unlimited or major costs for member states;¹⁵

(xii) The Trial Chamber's analysis of the right to effective remedies under international law is completely divorced from the implications of its own clear finding that in this case there was no material prejudice;¹⁶

(xiii) Further, or in the alternative, the Trial Chamber's analysis of effective remedy fails to explore adequately or at all other remedies commensurate with the lack of seriousness of the violation and the lack of material prejudice found;¹⁷

(xiv) The Trial Chamber's analysis of the violation of the rights of the Accused fails to weigh adequately, or at all, the admitted efforts that the Registrar was making to provide this Accused with counsel of his choice, and other accused jointly indicted with counsel of their choice, which efforts represented the principal expression by the Tribunal of its duty to ensure the right of the accused to counsel;¹⁸

(xv) The Trial Chamber's analysis of the violation of the rights of the Accused fails to weigh adequately, or at all, the efforts of the Registrar to inform the Accused of his rights and the

¹² Impugned Decision, paragraphs 45-66.

¹³ Impugned Decision, paragraphs 45-66.

¹⁴ Impugned Decision, paragraphs 45-66.

¹⁵ Impugned Decision, paragraphs 45-66.

¹⁶ Impugned Decision, paragraphs 38-66.

¹⁷ Impugned Decision, paragraphs 32-73.

¹⁸ Impugned Decision, paragraphs 14-18, 67-73.

sophistication of the Accused as a former government Minister and a professional person of good education;¹⁹

(xvi) Further, or in the alternative, the Trial Chamber's analysis of the absence of express provisions allowing the grant of compensation reverses the proper logical inference when it finds that: "The lack of an appropriate mechanism to provide redress to an accused or former accused of this Tribunal, including the award of financial compensation when appropriate, when he or she is the victim of a human rights violation in fact justifies the Chamber's decision to entertain Rwamakuba's claim"²⁰ The Trial Chamber could and should have interpreted all the evidence, including the views of the Presidents of the Tribunals, and their seising of the Security Council of the issue, combined with the lack of a development of remedies in response, in quite another way. As a matter of inference, the lack of an express provision giving jurisdiction to the Tribunal to financially compensate accused persons for violations of rights generally would suggest the lack of an intention on the part of the Security Council to equip the Tribunal with a wider range of remedies than had expressly been provided for. It is unclear why the lack of willingness by the Security Council to provide for remedies such as financial compensation for violations of rights "justifies" the Trial Chamber's entertainment of the claim by Rwamakuba;²¹

(xvii) The Trial Chamber's finding that the Statute and the Rules provided no right to an effective remedy should have led the Trial Chamber to draw the attention of the international community to the undesirability of such a situation. The Trial Chamber appears not to have seriously considered other options than giving financial compensation, an apology and the requested good offices. The Trial Chamber might have concluded that recourse would have to have been directed to another quarter to be designated by the Security Council;²²

(xviii) The Trial Chamber's finding that international law now recognises a general right to seek financial compensation for breaches of fundamental rights is too extensive, based on superficial analysis and is, in any event, not applicable to the violation of due process rights, and, in particular, violations that have not produced material prejudice. In particular:

(a) The Registrar had submitted that under international law, compensation orders and, in particular, financial compensation orders for past violations of due process rights were only under development;

(b) The Trial Chamber's response was to briefly review the occurrence of compensation provisions for breaches of violations of fundamental liberty interests and/or right to life violations in the International Covenant on Civil and Political Rights ('ICCPR') and the Inter-American and European systems.

(c) After a passing reference to three "recommendations" by international bodies and express provisions in the constitutive documents of two international Tribunals, the Trial Chamber concludes that the right to financial compensation (generally) is not under development in international law.

¹⁹ Impugned Decision, paragraphs 14-18, 67-73.

²⁰ Impugned Decision, paragraph 59.

²¹ Impugned Decision, paragraph 59, and generally paragraphs 50-73.

²² Impugned Decision, paragraphs 50-73.

(d) The Registrar would submit that this analysis does not bear the weight of the conclusion. The Registrar accepts that it is a principle under international law that a State which has violated an obligation binding under international law must end the violation and make reparation. This may include restitution and/or compensation for damage, loss and injury. The Registrar notes that it is the passage from that principle to its application in the circumstances of this case that gives rise to objection.

(e) In the Impugned Decision, there was no proper weighing of the implications of the limited international expression of the right to financial compensation for due process violations, no proper evaluation of the nature of the rights, the violation of which would give rise to financial compensation under the international instruments referred to, no proper reference to direct state practice or *opinio juris*, no reference to the more traditional approach of reviewing evidence that states regard violations of due process as requiring financial compensation as a requirement of international law, no reference to learned commentators, and no reference to the general principles of law as expressed in the major legal systems of the world, and/or to any other source of international law.

(f) The Trial Chamber's Decision throughout incorrectly operates upon the assumption that violations of all rights enshrined within the ICCPR, the ICC Statute and like Treaties and Conventions are the same as far as remedial action is concerned. The Trial Chamber made no distinction between rights to compensation granted in respect of breaches of fundamental liberty or right-to-life interests, where harm is demonstrated or assumed without more, and other violations of rights such as due process rights. This should contrast with the present case where the interest violated has not been shown to actually impact a fundamental liberty interest and/or there is no material prejudice that can be demonstrated;²³

(xix) The Trial Chamber incorrectly failed to consider the effectiveness of its chosen remedy of financial compensation in that it did not consider as a legal or justiciable issue the question as to whether the Registrar was able in fact to comply, or to comply in law, or to command his staff to comply with such an order, nor did it address any express question to the Registrar in this regard or require an oral hearing. The Trial Chamber incorrectly dismissed the Registrar's submission of its incapacity to implement such an order under the financial rules of the United Nations as "extra-legal considerations" without more;²⁴

(xx) The Trial Chamber's finding that Mr Rwamakuba must have suffered some "moral damage" from the violations is unsupported and the meaning of "moral damage" imported by the Trial Chamber is in a factually and legally unsupported inference that "...in all probability, Rwamakuba suffered feelings of confusion, isolation, and distress as a result of the failure to provide him with duty counsel over a four and a half month period";²⁵

(xxi) The Trial Chamber's Orders to the Registrar to use its good offices to effect a number of ends are inappropriate in that the Registrar's discretion to assist persons such as Mr Rwamakuba must be informed by a large number of considerations wholly outside the knowledge of the Trial Chamber which made no enquiry into the steps already taken and the efforts

²³ Impugned Decision, paragraphs 13, 19-31, 40-45, 48-66.

²⁴ Impugned Decision, paragraphs 60-61.

²⁵ Impugned Decision, paragraph 73

of the Registrar based on considerations of international refugee law. To constrain the Registrar in this way without making any further enquiry was to insert the Trial Chamber's enforcement power into an area where diplomacy and other international legal considerations should operate.²⁶

23. The Registrar would seek appropriate directions from the Appeals Chamber in respect of the procedure for filing of submissions or pleadings and the time limits, if any, to be applied.

24. **The Relief** sought is as follows:

I. A finding that the Trial Chamber fell into error in respect of its decision that it was in the interests of justice to "discuss" the Defence claim for a remedy for the violation of an alleged grave and manifest miscarriage of justice "since it could pertain to the fundamental rights of an accused of the Tribunal";

II. A finding of error in respect of the Trial Chamber's finding that "... the possibility to grant some sort of remedy or compensation would be fair in circumstances where, although the arrest or detention of an acquitted person was not unlawful, he or she was subject to a lengthy detention during the pre-trial and trial stages. Such an award of compensation would be exercised in light of the circumstances of the case, and could not be applied, for instance, where an accused had intentionally caused his or her arrest or where it would be unreasonable to award compensation. In the Trial Chamber's view, such a provision would offer an acceptable balance between the fundamental right to freedom of any individual and the realities of the investigation and prosecution of international crimes."²⁷

III. A finding of error in respect of the Holding by the Trial Chamber that there had been a breach of Mr Rwamakuba's right to legal assistance as provided for in Article 20(4)(d) of the Statute;

IV. A finding of error in respect of the Order of the Trial Chamber that the Registrar provide Mr Rwamakuba with an apology for the violation of his rights to legal assistance;

V. A finding of error in respect of the Order of the Trial Chamber to provide Mr Rwamakuba with financial compensation in the amount of 2,000 (two thousand) U.S. Dollars for the moral injury sustained as a result of the violation;

VI. A finding of error in respect of the Trial Chamber Order to use all available means to seek the good offices of the State where Mr Rwamakuba's family is present to facilitate some temporary status for him in that State and to seek the good offices of that State to ensure the uninterrupted schooling of his children;

VII. Reversals of the Holding and/or Orders found to be in error;

VIII. Final adjudication by the Appeals Chamber in respect of these matters, rather than the alternative course requested by the Defence in the Notice of Appeal of referral back to the Trial Chamber for reconsideration.

²⁶ Impugned Decision, paragraphs 74-78.

²⁷ Impugned Decision, Paragraph 30.

25. The Registrar informs the Appeals Chamber that should the Appeals Chamber agree to allow the Registrar to be heard by counsel, he has the agreement in principle of the Under-Secretary-General for Legal Affairs, The Legal Counsel of the United Nations, to appoint counsel to make submissions on behalf of the Registrar and to represent the interests of the Registrar as well as those of the United Nations.

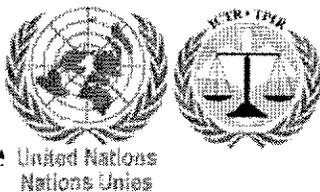
26. In view of the fact that he has yet to finalise the instruction of counsel, the Registrar wishes to notify the Appeals Chamber and the parties of the possibility that he will file modified or additional Notice of Submissions after consultations at the earliest possible time.

Arusha, 28 February 2007



Everard O'Donnell
Acting Deputy Registrar

For: Adama Dieng
Registrar



FICHE DE TRANSMISSION POUR DÉPÔT DE DOCUMENTS A LA S.A.C.

SECTION DE L'ADMINISTRATION DES CHAMBRES
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Dates:	Transmis le: 28 février 2007	Document daté du: 28 février 2007	
No. de Pages:	11	Langue de l'original: <input type="checkbox"/> Français <input checked="" type="checkbox"/> Anglais <input type="checkbox"/> Kinyarwanda	
Titre du Document:	THE REGISTRAR'S NOTICE OF INTENTION TO MAKE SUBMISSIONS TO THE APPEALS CHAMBER PURSUANT TO RULE 33(B) OF THE RULES OF PROCEDURE AND EVIDENCE OR, IN THE ALTERNATIVE, THE REGISTRAR'S NOTICE OF APPEAL REGARDING THE TRIAL CHAMBER III DECISION ON APPROPRIATE REMEDY OF 31 JANUARY 2007		
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III - PRIORITÉ POUR LA TRADUCTION (Pour usage officiel UNIQUEMENT)

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**APPEALS - PROOF OF SERVICE - BY FAX
PREUVE DE NOTIFICATION - CHAMBRE D'APPEL - PAR FAX**

Date:	28/02/07	Case Name / affaire:	- André RWAMAKUBA		
		Case No / no. de l'affaire:	ICTR-98-44C-A		
To: A:	Appeals Chamber Support Unit, The Hague: - Mr. Koffi Afande - Mr. Patrice Tchidimbo - Mr. Ramadhani T. Juma		<input type="checkbox"/> Judge / Juge Fausto Pocar <input type="checkbox"/> Judge / Juge Mohamed Shahabuddeen <input type="checkbox"/> Judge / Juge Mehmet Güney <input type="checkbox"/> Judge / Juge Liu Daqun <input type="checkbox"/> Judge / Juge Wolfgang Schomburg		
	ACCUSED / DEFENSE <input checked="" type="checkbox"/> Accused / <i>Accusé</i> RWAMAKUBA..... see / voir * CMS4 <input checked="" type="checkbox"/> Lead Counsel / <i>Conseil Principal</i> : D. Hooper <input type="checkbox"/> In Arusha / à Arusha: (see / voir CMS3) <input type="checkbox"/> Fax: <input type="checkbox"/> Co-Counsel / <i>Conseil Adjoint</i> : A. O'Shea <input type="checkbox"/> Arusha (see / voir CMS3) <input type="checkbox"/> Fax:				
	OTP / BUREAU DU PROCUREUR <input type="checkbox"/> Hassan Bubacar Jallow, Prosecutor <input type="checkbox"/> B. Majola, Deputy Prosecutor <input type="checkbox"/> J. Stewart, SAC <input checked="" type="checkbox"/> D. Fall , Senior Trial Attorney in charge of case: (<input type="checkbox"/> name) <input type="checkbox"/> The Hague / <i>La Haye</i> <input type="checkbox"/> Arusha (see / voir CMS3) <input type="checkbox"/> Kigali				
From: De:	<input type="checkbox"/> JP. Fomété (Chief, CMS) <input type="checkbox"/> Matar Diop (Chief, JPU) <input checked="" type="checkbox"/> C. Hometowu (TC III) <input type="checkbox"/> F. A. Talon (Appeals/Team IV) <input type="checkbox"/> Other				
CC:	<input checked="" type="checkbox"/> Registrar <input type="checkbox"/> OLA, NY <input checked="" type="checkbox"/> Deputy Registrar <input type="checkbox"/> Press <input checked="" type="checkbox"/> ICTR Spokesperson <input checked="" type="checkbox"/> SAR <input type="checkbox"/> WVSS <input type="checkbox"/> DCDMS <input checked="" type="checkbox"/> CSS <input checked="" type="checkbox"/> SADR <input type="checkbox"/> Other				
Subject Objet:	Kindly find attached the following documents / <i>Veillez trouver en annexe les documents suivants:</i>				
Documents name / titre du document		Date Filed / Date enregistré		Pages	
THE REGISTRAR'S NOTICE OF INTENTION TO MAKE SUBMISSIONS TO THE APPEALS CHAMBER PURSUANT TO RULE 33 (B) OF THE RULES OF PROCEDURE AND EVIDENCE OR, IN THE ALTERNATIVE, THE REGISTRAR'S NOTICE OF APPEAL REGARDING THE TRIAL CHAMBER III DECISION ON APPROPRIATE REMEDY OF 31 JANUARY 2007		28/02/2007		25/A - 15/A	

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