

International Criminal Tribunal for Rwanda

In the President Office

ICTR-99-52-R

01-12-2008

S88/A

R

Before:

- Justice Dennis BYRON- ICTR  
PRESIDENT

(S88/A-S88/A)

**URGENT MOTION**

The Registrar Adama Dieng

Date filed 28<sup>th</sup> November 2008

2008 DEC -1 P 3:02  
JUDICIAL RECORDS ARCHIVE  
RECEIVED

Extremely Urgent Motion filed before the President Justice Dennis BYRON based on his discretionary power and humanitarian grounds seeking the modification of the decision that Transfer Prisoner Hassan Ngeze to Koulikoro Bamako Mali- and transfer Him in Swaziland's Prison or in Benin republic Where some other ICTR –UNDF Prisoners are awaiting to serve their sentences ; the Present Request that come to add the one filed by Hassan Ngeze 's lawyers on 27<sup>th</sup> November 2008, in case it has not been approved, Once Prisoner Hassan Ngeze arrives in Benin's Prison, he will have Lawyer Alfred Pognon who is based in Cotonu – Benin and Barrister there, who is familiar with Media case as he was one among other lawyers who have defended the accused before the ICTR- he will be able to continue defending Hassan Ngeze as among other Private lawyers assigned by Hassan Ngeze to defend him in Review Process of the media of case before the Appeals Chamber

Lawyers for the Appellant:

- John C. Floyd III
- Dev. Nath Kapoor

Counsel for the Prosecution :

Boubacar Jallow Hassan

Honourable President,

584/A

Prisoner Hassan Ngeze wishes to call upon your understanding which is based to your discretionary power, and beseech you to give him a last chance to serve his sentence in Swaziland or alternatively, in Benin Republic where other ICTR Prisoner are awaited to serve their sentence.

Prisoner Hassan Ngeze being committed to review his case, he wishes to have counsel Alfred Pognon who is a Barrister in Cotonu Benin, to defend his case among other Private Lawyers who are defending prisoner Hassan Ngeze before the Appeal Chamber.

It will be convenient, to place Hassan Ngeze in Benin Prison so that he can have Lawyer Alfred Pognon, who is familiar with Media case, as he was one among other lawyers who have defended the accused before the ICTR

**Reasons:**

It appears that the president has, or is issuing the decision to transfer Prisoners to Bamako Mali in Koulikoro Prison, along with the Benin Prison.

The President is the Only Highest Authority who has the power to choose a country where the convicted prisoner may serve his sentence.

Prisoner Hassan Ngeze is among those Prisoners to who will be transferred to Bamako Mali in Koulikoro Prison or to Benin Republic.

The Kingdom of Swaziland has signed an agreement with the Tribunal to receive on its soil the ICTR Convicted Prisoners.

Lawyers representing Prisoner Hassan Ngeze on his behalf filed before the President a similar request on 27<sup>th</sup> November 2008.

Prisoner Hassan Ngeze on 3<sup>rd</sup> November 2008 filed a motion before the Appeals Chamber seeking the Review of the case with immediate acquittal, the decision is yet to be delivered.

The motion filed was titled "Urgent motion seeking the review of the Judgment with the immediate acquittal filed by Prisoner Hassan Ngeze Before the Appeals Chamber based on the recent Appeal's decision dated 28<sup>th</sup> October 2008, and Taking in consideration the previous motion that was seeking the hearing of witness Omega as Urgent additional Motion before the Appeals Chamber under rules 120, 121, 123 OF PROCEDURE AND EVIDENCES READ WITH RULE 25 OF THE ICTR STATUS with the new development of that decision that says << Noting in the Appeal Judgment, The appeals Chamber reversed the Trial Chamber findings on the applicant's alibi, for the period of 6<sup>th</sup>, to 9<sup>th</sup> April 1994, and quashed all the convictions for acts he allegedly committed during that period >> (And noting down, that there is nothing left to convict Prisoner Hassan Ngeze for 35 years of sentence, considering that the period of alibi, and its alleged crimes committed during that period starting 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup>, of April 1994, which are specifically the depositions of witnesses, -(SERUSHAGO-AGX-EB-AHI-) all have once again been clarified for having all been quashed by the decision of 28<sup>th</sup> October 2008; In addition to the finding connected to witness AFX and EB which have been all quashed by the Appeals Judgment. And considering that the Appeals Judgment. Paragraph 669 that states: <<The first of these, factual findings is based on the testimony of Witnesses AFX and Serushago. However, the Appeals Chamber has already concluded that, because of the new evidence admitted on appeal, the testimony of Witness AFX cannot be relied on in the absence of corroboration by other credible evidence. The same applies with respect to the testimony of Witness Serushago. These two testimonies are not capable of corroborating one another, and the Appeals Chamber accordingly reverses the finding that the


Appellant stored weapons at his home before 6 April 1994.>> in additional to what was decided in the previous decision rendered on 23<sup>RD</sup> FEBRUARY 2006 page 10 Para 27 read with page 9 Para 24 titled "decision on appellant Hassan Ngeze six motion for admission of additional evidences on appeal and for further investigation at the appeal stage".

Prayer:

1. To accept the Prisoner Hassan Ngeze's demand of serving his sentence in Benin Republic, or in alternatively, in Swaziland.
2. Prisoner Hassan Ngeze reserves the right to address the similar request to the UN-ICTR Authorities.

Respectfully submitted

Hassan Ngeze.





# 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)

<b>To:</b>	<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. Hometowu	<input type="checkbox"/> Trial Chamber III A. N'Gum
	<input type="checkbox"/> Chief, CMS J.-P. Fomété	<input checked="" type="checkbox"/> Appeals Chamber / Arusha Chamber II F. A. Talon		<input type="checkbox"/> Appeals Chamber / The Hague K. K. A. Afandé R. Muzigo-Morrison
<b>From:</b>	<input type="checkbox"/> Chamber  (names)	<input type="checkbox"/> Defence  (names)	<input type="checkbox"/> Prosecutor's Office  (names)	<input checked="" type="checkbox"/> Other: <b>Hassan Ngeze</b>  (names)
<b>Case Name:</b>	The Prosecutor vs. <b>Hassan Ngeze</b>			<b>Case Number:</b> ICTR-99-52
<b>Dates:</b>	Transmitted: <b>1.12.2008</b>		Document's date: <b>28.11.2008</b>	
<b>No. of Pages:</b>	<b>3</b>	<b>Original Language:</b>	<input checked="" type="checkbox"/> English	<input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
<b>Title of Document:</b>	<b>Extremely Urgent Motion filed before the President Justice BYRON based on his discretionary power and humanitarian grounds seeking the modification of the decision that Transfer Prisoner Ngeze to Koulikoro Bamako Mali and transfer him in Swaziland's Prison or in Benin Republic where some other ICTR-UNDF Prisoners are awaiting to serve their sentences</b>			
<b>Classification Level:</b>		<b>TRIM Document Type:</b>		
<input type="checkbox"/> Ex Parte		<input type="checkbox"/> Indictment <input type="checkbox"/> Warrant <input type="checkbox"/> Correspondence <input type="checkbox"/> Submission from non-parties		
<input type="checkbox"/> Strictly Confidential / Under Seal		<input type="checkbox"/> Decision <input type="checkbox"/> Affidavit <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Submission from parties		
<input type="checkbox"/> Confidential		<input type="checkbox"/> Disclosure <input type="checkbox"/> Order <input type="checkbox"/> Appeal Book <input type="checkbox"/> Accused particulars		
<input checked="" type="checkbox"/> Public		<input type="checkbox"/> Judgement <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Book of Authorities		

## 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

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

Original	in	<input checked="" 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

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

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## III - TRANSLATION PRIORITISATION (For Official use ONLY)

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