

ICTR-00-55B-A  
30-09-2011  
(1181/A - 1167/A)

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International Criminal Tribunal for Rwanda  
Tribunal Pénal International pour le Rwanda



**IN THE APPEALS CHAMBER**

**Before:** Judge Fausto Pocar, Presiding Judge  
Judge Mehmet Guney  
Judge Andresia Vaz  
Judge Theodor Meron  
Judge Carmel Agius

**Registrar:** Mr. Adama Dieng

**Date Filed:** 30 September 2011

**ILDEPHONSE HATEGEKIMANA**

v.

**THE PROSECUTOR**

Case No. ICTR-00-55B-A

JUDICIAL RECORDS/ARCHIVES  
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**PROSECUTOR'S RESPONSE TO ILDEPHONSE HATEGEKIMANA'S  
MOTION FOR ADMISSION OF ADDITIONAL EVIDENCE UNDER RULE 115  
OF THE RULES OF PROCEDURE AND EVIDENCE**

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**Office of the Prosecutor**

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## **I. Introduction**

### **A. Procedural history**

1. On 6 December 2010, Trial Chamber II of the Tribunal convicted Ildephonse Hategekimana ("The Appellant") of genocide and murder as crimes against humanity and sentenced him to imprisonment for the remainder of his life.
2. On 16 March 2011, the Appellant filed his Notice of Appeal, and filed his Appellant's Brief on 30 May 2011.
3. On 11 July 2011, the Prosecutor filed his Respondent's Brief, to which the Appellant replied on 27 July 2011.
4. On 28 July 2011, the Appellant filed a motion in which he requested the Appeals Chamber to order the Prosecution to disclose to him under Rule 68 of the Rules of Procedure and Evidence ("The Rules") various documents from domestic judicial proceedings. The Appeals Chamber dismissed the motion on 26 August 2011.
5. On 29 August 2011, the Appellant filed the present motion for admission of additional evidence ("The Motion") requesting admission of the same documents which were the subject of his 28 July motion. The present Motion is in contravention of the provisions of Rule 115(A) because The Motion was filed after 30 days from the date of filing of his brief in reply.

### **B. The Prosecutor's position**

6. The Motion should be dismissed in its entirety because it does not meet the requirements for admission of additional evidence under Rule 115 of the Rules.

## II. The Motion

7. The Motion seeks admission of additional evidence in the form of judgements and transcripts from proceedings in Rwanda, Canada and Brussels, and the Muvunyi trial before this Tribunal. More particularly, he requests that the following materials be admitted as additional evidence before the Appeals Chamber:

- A judgment rendered by the Court of First Instance of Butare in the case of *The Prosecutor v Theogene Mukwiye et al.* (Butare judgment);
- The *Pro-Justitia* statements of one Michel Murigande before the Prosecution Office of Butare (Murigande's statement);
- The *Pro-Justitia* statements of the wife of Sadiki Sezirahiga made before the Public Prosecution Officer of Butare;
- An excerpt from the judgment of the Supreme Court of Canada containing the statements of witness QCL;
- A judgment from a Brussels District Court;
- Transcripts of witness 134 in a trial before the Brussels District Court;
- The statement of witness QDC made before the Prosecution Office in Rwanda; and
- Witness QCQ's testimony before the Muvunyi Trial Chamber.

8. In support, the Appellant suggests that these additional materials contradict the testimony of witnesses who testified at his trial and, accordingly, cast doubt on his responsibility for the crimes for which he stands convicted. Additionally, he seeks the Chamber's assistance in ordering the Prosecution to disclose alleged exculpatory material in his possession.<sup>1</sup>

9. As detailed below, the Appellant's submissions do not meet the requirements of Rule 115. Contrary to the Rule's requirement, several of the materials are not in his possession. With respect to the material in his possession, the Appellant's motion should be denied because: (a) he fails to clearly identify the specific finding of fact to which the evidence is directed; (b) the additional materials were available to him at trial in the

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<sup>1</sup> The Motion, para 14.

exercise of reasonable diligence; (c) the mere omission of his name in some of the documents does not establish their relevance to his case; and, (d) in all events the materials would not have had an impact on the verdict.

***Material not in the Appellant's possession***

10. The Appellant is not in possession of: *Pro-Justitia* statements of Michel Murigande; *Pro-Justitia* statements of the wife of Sadiki Sezirahiga; excerpts of the testimony of witness QCL from the judgment of the Supreme Court of Canada; a judgment from the Brussels District Court; and excerpts from the transcript of a witness who testified before the Brussels District Court. However, he requests the admission of this material as additional evidence.<sup>2</sup>

**Judgment of the Brussels District Court; excerpts of the statement of witness 134; and excerpts of the testimony of Prosecution witness QCL in the Munyaneza case in Canada**

11. The Appellant seeks a reconsideration of a previous order of the Appeals Chamber denying his request to order Belgium and Canada to facilitate his access to the prior statements and testimony of certain Prosecution witnesses who appeared before the domestic courts in Belgium (2001) and Canada (2007).<sup>3</sup> He also claims that the judgment from the Brussels District court should be admitted as additional evidence.<sup>4</sup> However, he has not provided the Appeals Chamber with the judgment, or the excerpts of statements to enable it to make a determination on whether his request meets the Rule 115 requirements.

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<sup>2</sup> The Motion, paras 78, 80, 81, 84, 85, 93.

<sup>3</sup> See para. 92 referring to the Decision in *Ildephonse Hategekimana v. The Prosecutor*, Case No. ICTR-00-55B-A, AC Decision on *Ildephonse Hategekimana's Motion for Cooperation and Judicial Assistance*, 5 May 2011.

<sup>4</sup> The Motion, para 93.

***Pro-Justitia* statements of Michel Murigande and Sadiki Sezirahiga's wife**

12. The Appellant requests the Appeals Chamber to compel the Prosecutor to produce a guilty plea supposedly made by Murigande.<sup>5</sup> He seems to be assuming that Murigande was interviewed by the Public Prosecutor, and that he made a *Pro-Justitia* statement in which he has mentioned names of persons who attacked Sezirahiga's home.<sup>6</sup>

13. The Appellant also claims that "the evidence" of the wife of Sezirahiga should be admitted pursuant to Rule 115.<sup>7</sup> However, he does not identify this evidence.

14. Having failed to attach the alleged additional evidence to his Motion, the Appeals Chamber cannot be expected to make a determination on the relevance of the alleged additional evidence to any specific findings of fact made by the Trial Chamber which he attempts to challenge.

15. Rule 115 only applies when the party is in "possession" of the material he seeks to have admitted.<sup>8</sup> The Appellant's request for admission of this material should therefore be summarily dismissed. Moreover, the Appeals Chamber should find that even if the Appellant was in possession of this material, his request for its admission fails to meet all other requirements of admission under Rule 115 demonstrated below.

**III. The law**

16. Rule 115(A) requires a party seeking admission of additional evidence to clearly identify with precision the specific finding of fact made by the Trial Chamber to which the additional evidence is directed. Material sought to be admitted on appeal must be

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<sup>5</sup> The Motion, para 75.

<sup>6</sup> The Motion, paras 73 and 74.

<sup>7</sup> The Motion, para 76.

<sup>8</sup> *Bagosora et al. v. Prosecutor*, Case No. ICTR-98-41-A, *Decision on Anatole Nsengiyuma's Motions for the Admission of Additional Evidence*, 21 March 2011, para. 5; *Setako v. Prosecutor*, Case No. ICTR-04-81-A, *Decision on Ephrem Setako's Second Motion to Admit Evidence (Confidential)*, 23 March 2011, para. 15.

additional evidence of a fact or issue litigated at trial.<sup>9</sup> The Appellant bears the burden of proving all of the requirements established by the Rule for admission of additional evidence on appeal, and must establish the elements of his entitlement.<sup>10</sup>

17. Rule 115 (B) requires the Appeals Chamber to determine whether the evidence sought to be tendered was not available at trial, whether it is relevant and credible, and whether it could have been a decisive factor in reaching the decision at trial.

18. This means that the appellant must demonstrate that the additional material sought to be admitted on appeal was not available at trial in any form, is relevant and credible, and could have been a decisive factor in reaching the decision at trial. Because these requirements are cumulative, the appellant must establish all of them.<sup>11</sup>

19. To satisfy the availability requirement, the Appellant must show that he sought to make appropriate use of all mechanisms available under the Statute and the Rules to bring the evidence.<sup>12</sup> In this regard, the Appellant is expected to apprise the Trial Chamber of all difficulties encountered in obtaining the evidence.<sup>13</sup> In addition, as noted in *Ndindabahizi*, the Appellant must demonstrate that the evidence could not have been discovered through the exercise of due diligence, and that the unavailability of the evidence at trial did not result from a lack of due diligence on the part of the counsel who undertook the defence of the accused during trial.<sup>14</sup>

20. To establish that the proffered materials are relevant and credible, the Appellant must demonstrate how they would impact or relate to specific findings made by the

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<sup>9</sup> *Emmanuel Rukundo v. The Prosecutor*, Case No. ICTR-2001-70-A, AC, Decision on Rukundo's Motion for the Admission of Additional Evidence on Appeal, 4 June 2010, para. 5; *Simeon Nchamihigo v. The Prosecutor*, Case No. ICTR-2001-63-A, AC, Decision on Simeon Nchamihigo's First Motion for Leave to Present Additional Evidence on Appeal, 28 September 2009, para. 8.

<sup>10</sup> *Emmanuel Ndindabahizi v. The Prosecutor*, Case No. ICTR-01-71-A, AC, Decision on the Admission of Additional Evidence, 14 April 2005, p.5.

<sup>11</sup> Setako AC Rule 115 Decision, para 33.

<sup>12</sup> *Ephrem Setako v The Prosecutor*, AC, Decision on Ephrem Setako's Motion to Amend His Notice of Appeal and Motion to Admit Evidence, para 18.

<sup>13</sup> Ibid.

<sup>14</sup> *Ndindabahizi*, AC, Rule 115 Decision p.6 (emphasis added).

Chamber.<sup>15</sup> Where evidence is relevant and credible, the Appeals Chamber may allow additional evidence on appeal, even where it was available at trial or could have been discovered through the exercise of due diligence, if the moving party establishes that its exclusion would amount to a miscarriage of justice.<sup>16</sup> To fall within this exception, however, the appellant must show that the tendered material *would* have had an impact on the verdict.

#### IV. Submissions

##### **Judgment of the Court of First Instance of Butare and QDC's statement**

21. The Appellant argues that because his name was not mentioned in the Butare judgment, the Trial Chamber would not have convicted him for: the murder and rape of Nura Sezirahiga; the massacre at Ngoma parish; the killing of Salome Mujawayezu and three others; and the killing of Jean-Bosco Rugomboka.<sup>17</sup>

22. He further argues that because witness QDC did not mention his name in the proceedings in Rwanda, the Trial Chamber would have acquitted him of the murder of Jean-Bosco Rugomboka if it had been aware of that testimony.<sup>18</sup>

23. The Appellant fails to discharge his burden under Rule 115. The Butare judgement is not relevant to the findings that were material to the Appellant's conviction and sentence. The exclusion of all the alleged additional evidence will not amount to a miscarriage of justice.

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<sup>15</sup> *Kupreskic, AC*, para. 62.

<sup>16</sup> *Setako, AC*, Rule 115 Decision, para 19, *Renzaho, AC*, Rule 115 Decision, para 5; *Rukundo, AC*, Rule 115 Decision, para 7.

<sup>17</sup> The Motion, paras 19, 33, 56, 71.

<sup>18</sup> The Motion, paras 94 – 96.

*Overview of the Butare judgement*

24. The Butare judgment<sup>19</sup> involved the trial and guilty pleas of several accused who confessed and were found guilty of crimes committed in Butare in 1994. The Appellant was not one of the accused in those proceedings. The Judgment includes excerpts of the accusations, counter accusations and denials of responsibility by the accused.

25. The Respondent asserts that this judgment focuses on the roles of the defendants in that case and is therefore of limited relevance to the Trial Chamber's findings on the Appellant's role in the crimes for which he was convicted. Moreover, witness QDC's evidence before the Butare court was not on the killing of Jean-Bosco Rugomboka.

26. The Motion ought to be dismissed on the following basis:

- (a) The alleged additional evidence was available at trial;
- (b) The Motion does not identify specific findings made by the Trial Chamber to which the judgment relates;
- (c) The judgment would not have been a decisive factor in the Trial Chamber's findings on the Appellant's guilt;
- (d) The Trial Chamber's findings were based on credible evidence of eyewitnesses. The exclusion of the judgment on appeal will therefore not occasion a miscarriage of justice.

**Trial Chamber's findings alleged to be relevant to the Butare judgement: (a) Ngoma parish massacres; (b) Murder and rape of Nura Sezirahiga; (c) Abduction and murder of Jean-Bosco Rugomboka (d) Murder of Salome Mujawayezu and two others;**

27. The Appellant fails to demonstrate that the Butare judgement is admissible for three reasons. First, he fails to show that the judgement is relevant to any of the Chamber's findings. Second, he fails to show that he exercised due diligence in

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<sup>19</sup> This Judgment was disclosed to the Appellant on 8 July 2011.

obtaining the judgement. Third, even ignoring these, the Appellant cannot show that the evidence would have had an impact on the verdict.

28. The Appellant suggests that the Butare judgement is relevant because it allegedly relates to the Chamber's finding that he is criminally liable for the rape and murder of Nura Sezirahiga;<sup>20</sup> that he was present at the crime scene during the attack against Sezirahiga's family;<sup>21</sup> that he was present during the Ngoma parish attack;<sup>22</sup> that he was responsible for the murder of Salome Mujawayezu and two others;<sup>23</sup> and that he was guilty of the murder of Jean-Bosco Rugomboka.<sup>24</sup> However, the Butare judgment is irrelevant to these findings because the Appellant's role in the attacks was not before the Butare Court. Therefore, the judgement is not relevant to the Chamber's finding that the Appellant was present during these attacks.

29. Merely that the Butare judgement does not mention him by name does not render the judgment relevant. It is the established jurisprudence of this Tribunal that absence of mention of an event is devoid of probative value with regard to a contention that the event did not occur.<sup>25</sup> It has further been held that the reasonableness of Trial Chambers' findings will not be called into question by the alleged failure of witnesses to discuss an appellant's activities in separate trials involving different accused.<sup>26</sup>

30. The Appellant claims that the judgment was not available at trial.<sup>27</sup> However, he misconstrues the requirement that he has to fulfil to demonstrate that the judgment was not available.<sup>28</sup> Although he acknowledges that the judgment has been in existence since 1 December 2000 and that "it existed at the time of commencement of trial,"<sup>29</sup> he does

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<sup>20</sup> The Motion, para 18.

<sup>21</sup> The Motion, para. 19.

<sup>22</sup> The Motion, para 33

<sup>23</sup> The Motion, para 56.

<sup>24</sup> The Motion, para 71.

<sup>25</sup> See *Setako* AC Rule 115 Decision, para. 32.

<sup>26</sup> *Simon Bikindi v. the Prosecutor*, Case No. ICTR-01-72-A, AC Decision on Simon Bikindi's Motion for Admission of Additional Evidence Pursuant to Rule 115 of the Rules, 16 September 2009, para. 27.

<sup>27</sup> The Motion, para 5.

<sup>28</sup> The Motion, paras 7 and 8.

<sup>29</sup> The Motion, para. 6

not state what mechanisms he used to obtain the evidence. Due diligence requires, at a minimum, that he and his counsel made appropriate use of all the means available under the Rules and the Statute to bring the evidence before the Trial Chamber. Here, there is no showing that either the Appellant or his counsel requested the assistance of the Trial Chamber in obtaining this judgement or that there was any interference with their ability to determine its existence.<sup>30</sup>

**(a) Ngoma Parish Massacres**

31. Based on credible eyewitness testimony of witnesses Father Rudahunga, Father Masinzo corroborated by that of witness BYQ,<sup>31</sup> the Trial Chamber found it proven beyond reasonable doubt that the Appellant led a group of armed civilians, *Interahamwe* and Ngoma Camp soldiers who attacked and killed Tutsi refugees at Ngoma Parish on 30 April 1994.<sup>32</sup> It concluded that the Appellant participated in a joint criminal enterprise aimed at killing Tutsi civilians at Ngoma Parish.<sup>33</sup> It follows that the self serving personal narratives of the events by the accused in the Butare judgment by another court, cannot be substituted for the credible eyewitness testimony of witnesses who were heard by the Trial Chamber in this case.

32. Furthermore, the fact that the Appellant's name does not appear in the judgement of a separate trial involving different accused is of very limited probative value. Moreover the evidence that the Appellant was present during the attack and Ngoma Parish was before the Trial Chamber through the testimony of Defence witnesses ZML and MZA and in the Defence Closing Brief.<sup>34</sup> Consequently, the admission of the *Butare* judgment would not have an impact on the findings, convictions with respect to Hategekimana's role in the Ngoma Parish massacre and the sentence imposed on him by the Trial Chamber.

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<sup>30</sup> The Motion, paras 7 and 8.

<sup>31</sup> J. para. 571, T. 21 April 2009.

<sup>32</sup> J. para. 574

<sup>33</sup> J. para. 688

<sup>34</sup> See Defence Closing Brief, para. 583.

33. The Chamber found that Hategekimana led a group of armed civilians, *Interahamwe* and Ngoma Camp soldiers who attacked and killed Tutsi refugees at Ngoma Parish on 30 April 1994.<sup>35</sup>

***(b) Rape and murder of Nura Sezirahiga***

34. The Appellant suggests that the Butare judgement is relevant because it allegedly relates to the Chamber's finding that he is criminally liable for the rape and murder of Nura Sezirahiga<sup>36</sup> and because it refers to the Trial Chamber's finding that he was present at the crime scene during the attack against Sezirahiga's family.<sup>37</sup>

35. The fact that the Butare judgment mentions the murder and rape of Nura Sezirahiga does not make it relevant to the Trial Chamber's findings in the present case for the simple reason that the Butare Court of First Instance did not try the rape and murder of Nura Sezirahiga and nor was Hategekimana an accused in that case. The Butare court for the same reason did not hear evidence with respect to Hategekimana and could not have made findings regarding the perpetrators of those crimes. Additionally, the Butare Court did not try events that took place at Sadiki Sezirahiga's home. Therefore, the Butare judgement is not relevant to the Chamber's finding that the Appellant was present during the attack

36. In all events, the judgment would not have been a decisive factor in reaching the decision that the Appellant led attackers to the home of Sadiki, and that those attackers raped and murdered Nura.<sup>38</sup> The Appellant's claim that the Trial Chamber would not have concluded that he was present at the crime scene had the judgment been available at trial<sup>39</sup> has no basis because as shown above the judgement's omission of his name has no probative value with regard to the compelling evidence before the Trial Chamber.

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<sup>35</sup> J. para. 682.

<sup>36</sup> The Motion, para 18.

<sup>37</sup> The Motion, para. 19.

<sup>38</sup> J. paras 463 and 464.

<sup>39</sup> Motion, para 19.

***(c) Abduction and murder of Jean Bosco Rugomboka***

37. The issue of the Appellant's presence and his role during the attack on the Rugomboka residence was before the Trial Chamber. The Appellant was convicted for the abduction and subsequent murder of Jean Bosco Rugomboka based on the credible testimonies of Prosecution witnesses including QDC. QDC's statement to the Tribunal investigators dated 18 May 1998 and disclosed to the Appellant on 12 January 2009 is consistent with her testimony at trial and corroborated by the testimonies of other Prosecution witnesses. Accordingly, the admission of the Butare judgment would not have an impact on the Trial Chamber's Judgment. For similar reasons advanced above, this request must fail.

38. For these reasons, the Prosecutor submits that the Appellant's request for admission of the Butare judgment must be dismissed because it fails to meet the requirements of Rule 115 of the Rules and the settled jurisprudence.

39. The Appellant claims that had the Trial Chamber been in possession of the Butare judgment, it would have acquitted him<sup>40</sup> because QDC never mentioned him in her testimony before the Rwandan court.<sup>41</sup> The Respondent asserts that the Butare judgment focuses on the roles of the defendants in that case and is therefore of limited relevance in relation to the Appellant's role in the events for which he was convicted.

40. The issue of the Appellant's presence and his role during the attack on the Rugomboka home was before the Trial Chamber. The Appellant was convicted for the abduction and subsequent murder of Jean Bosco Rugomboka based on the credible testimonies of Prosecution witnesses including QDC. QDC's statement to the Tribunal investigators dated 18 May 1998 and disclosed to the Appellant on 12 January 2009 is consistent with her testimony at trial and corroborated by the testimonies of other Prosecution witnesses.

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<sup>40</sup> The Motion, para. 96.

<sup>41</sup> The Motion, para 94.

*(d) The murder of Salome Mujawyezu and two others*

41. Likewise, the Trial Chamber's findings on the Appellant's role in the murders of Salome Mujawyezu and two others were based on credible evidence.<sup>42</sup> The Butare proceedings did not involve the Appellant's role in these killings. Accordingly, the admission of the Butare judgment would not have an impact on the Trial Chamber's Judgment.

**Testimony of QCQ in *Muvunyi***

42. The Appellant seeks the admission of the excerpts of witness QCQ's testimony in the Muvunyi trial. The Appellant acknowledges that this evidence was available at trial, and that he failed to tender it although the Prosecution had disclosed it to him.<sup>43</sup> The Appeals Chamber should find that failure to tender it was lack of due diligence on his part. It should therefore summarily dismiss the Appellant's request for its admission on appeal.

43. Although the Appellant claims that he failed to tender this evidence before the Trial Chamber, he used it in the cross-examination of witness QCQ on 8 April 2009.<sup>44</sup> Since the alleged additional evidence was available and used at trial, the Appellant is attempting to relitigate an issue that was raised and determined at trial.<sup>45</sup> This request should be dismissed for failure to meet the requirements of Rule 115.

44. Based on direct eyewitness testimony of Witnesses QCQ, BYS and BYO, the Trial Chamber found proven beyond a reasonable doubt that the Appellant ordered the soldiers under his command to abduct and kill Tutsis refugees at *Maison Generalice* and that Ngoma Camp soldiers acting in concert with the *Interahamwe* and armed civilians

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<sup>42</sup> Prosecution witnesses XR, Jerome Masinzo and Eluade Rudahunga.

<sup>43</sup> The Motion, para 100.

<sup>44</sup> See T. 8 April 2009, pp. 82-85 of this case.

<sup>45</sup> The Motion, para 97.

committed these crimes.<sup>46</sup> It further found proven beyond a reasonable doubt that the Appellant was responsible for the murder of Solange Karenzi.<sup>47</sup>

45. Respecting the identity of the soldiers, the Chamber found that neither QCQ nor BYS testified that the soldiers were from the Ngoma Camp.<sup>48</sup> However, it found that the testimonies of BYS and QCQ corroborated that of BYO's identification of Ngoma Camp soldiers and the Appellant as their leader during the attack.<sup>49</sup> The Trial Chamber found that the two witnesses provided complimentary circumstantial evidence supporting BYO's identification.<sup>50</sup> Witness BYO provided credible testimony that the soldiers who attacked the *Maison Generalice* and abducted the Tutsi refugees were from Ngoma Camp and that the commander who was later identified to her as Ildephonse Hategekimana gave orders to the soldiers.<sup>51</sup> Accordingly the issue as to whether the assailants wore black or red berets cannot impact on the Trial Chamber's decision which is based on the testimony of other credible witnesses.

46. Furthermore, the trial record shows that the issue of the color of the berets worn by the soldiers was litigated at length including a five page cross-examination and submissions by the Appellant's counsel on this issue.<sup>52</sup> In addition, the Appellant's Closing Brief dealt with the issue of the berets worn by different military groups in Rwanda at the time. For example, in witness BRU's testimony which is referred to by the Appellant in his Closing Brief the witness stated that Ngoma Camp soldiers wore black berets and the Gendarmes wore red berets.<sup>53</sup> The Appellant pointed out the fact that all witnesses, both Prosecution and Defence testified that Gendarmes wore red berets.<sup>54</sup> With that information before it, the Trial Chamber was clearly aware of the

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<sup>46</sup> J. para. 634.

<sup>47</sup> J. para. 637.

<sup>48</sup> J. para. 618.

<sup>49</sup> J. para. 619.

<sup>50</sup> J. para. 618.

<sup>51</sup> J. para. 616.

<sup>52</sup> T. 8 April 2009, pp. 81-85.

<sup>53</sup> Defence Closing Brief, para. 312, referring to witness BRU's testimony T. 30 March 2009 and 31 March 2009.

<sup>54</sup> Defence Closing Brief, para. 453.

alleged inconsistency between Witness QCQ's testimony in *Muvunyi* and her testimony in this case.

47. The admission of this evidence on appeal will not have any impact on the Trial Chamber's findings. The Appeals Chamber should therefore dismiss this request.

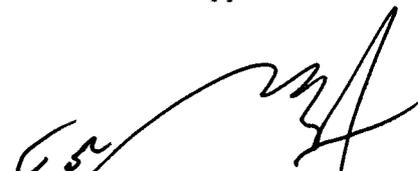
#### V. Relief sought

48. For all the reasons discussed above, the Appeals Chamber should find that the Appellant's motion does not meet the requirements of Rule 115 of the Rules of Procedure and Evidence, and dismiss it in its entirety.

Done in Arusha, this 30<sup>th</sup> Day of September 2011



Alphonse Van  
Senior Appeals Counsel



Alfred Orono Orono  
Appeals Counsel



Thembile M. Segoe  
Appeals Counsel





**COURT MANAGEMENT  
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**APPEALS ON MERITS - PROOF OF SERVICE - ARUSHA  
PREUVE DE NOTIFICATION - CHAMBRE D'APPEL - ARUSHA**

Date: <b>30 September 2011</b>	Case Name / affaire: <b>ILDEPHONSE HATEGEKIMANA</b>	
	Case N° / n° de l'affaire: <b>ICTR - 00 - 55B - A</b>	
TO:	<b>Appeals Chamber Support Unit, The Hague:</b> - <b>Mr. Koffi Afande</b> - <b>Ms. Rosette Muzigo-Morrison</b> - <b>Mr. Ramadhani T. Juma</b>	<input type="checkbox"/> Judge / Mehmet Guney <input type="checkbox"/> Judge / Fausto Pocar <input type="checkbox"/> Judge / Andresia Vaz <input type="checkbox"/> Judge / Theodor Meron <input type="checkbox"/> Judge / Carmel Agius
	<b>ACCUSED / DEFENSE</b> <input checked="" type="checkbox"/> Accused / <i>Accusé</i> <input checked="" type="checkbox"/> Lead Counsel / <i>Conseil Principal</i> : <input type="checkbox"/> In Arusha / à Arusha: (see / voir CMS3) <input type="checkbox"/> Fax: <input checked="" type="checkbox"/> Co-Counsel / <i>Conseil Adjoint</i> : <input type="checkbox"/> Arusha (see / voir CMS3) <input type="checkbox"/> Fax:	<b>I. HATEGEKIMANA</b> <small>see / voir " CMS4</small> <b>JEAN DE DIEU MOMO</b> <b>RAUL DJAMFA</b>
	<b>OTP / BUREAU DU PROCUREUR</b> <input checked="" type="checkbox"/> Hassan Bubacar Jallow, Prosecutor <input checked="" type="checkbox"/> B. Majola, Deputy Prosecutor <input checked="" type="checkbox"/> James Arquin, Chief, ALAD <input type="checkbox"/> The Hague / <i>La Haye</i> <input type="checkbox"/> Arusha (see / voir CMS3) <input type="checkbox"/> Kigali	
From:	<input type="checkbox"/> Chief, CMS <input type="checkbox"/> N. Diallo (TC I) <input type="checkbox"/> R. Kouambo (TC II) <input checked="" type="checkbox"/> C. Hometownu (TC III) <input type="checkbox"/> F. A. Talon (Appeals/Team IV) <input type="checkbox"/> Other	
CC:	<input type="checkbox"/> Registrar <input type="checkbox"/> OLA, NY <input type="checkbox"/> Deputy Registrar <input type="checkbox"/> ICTR Spokesperson <input type="checkbox"/> M. Niang <input type="checkbox"/> WVSS <input type="checkbox"/> DCDMS <input type="checkbox"/> CSS <input type="checkbox"/> Other	
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**30/09/2011**

**1181/A - 1167/A**

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