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THE INTERNATIONAL CRIMINAL TRIBUNAL  
FOR RWANDA

1 CR-07-91-I  
07-01-2008  
(647-639)

THE PROSECUTOR

against

Léonidas NSHOGOZA

Case No.

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INDICTMENT

1. The Prosecutor of the International Criminal Tribunal for Rwanda (hereinafter, "the Tribunal"), pursuant to his authority under Article 17 of the Statute of the Tribunal and Rule 77 of the Rules of Procedure and Evidence of the Tribunal (hereinafter, "the Rules"), charges

Léonidas NSHOGOZA

with **CONTEMPT OF THE TRIBUNAL AND ATTEMPT TO COMMIT ACTS PUNISHABLE AS CONTEMPT OF THE TRIBUNAL**, contrary to Rule 77 (A), (B) and (G) of the Rules,

on the basis of the concise statement of facts herein, all of the facts being relevant to each of the Counts herein.

### **FACTS IDENTIFYING THE ACCUSED**

2. The Accused, Léonidas NSHOGOZA (hereinafter, "the Accused"), is a Rwandan national, who was born in 1961, in Rukeri, Kiyumba, Muhanga, Southern province, Rwanda.

3. The Accused was an investigator for the defence during the trial of *The Prosecutor v. Jean de Dieu Kamuhanda*, Case No. ICTR-99-54A-T. Judgement was rendered in that case, on 22 January 2004, by Trial Chamber II of the Tribunal, in Arusha, Tanzania.

4. At the time relevant to this indictment, in particular between 1 March 2004 and 31 August 2005, the Accused was not a defence investigator under contract in relation to the appeal against conviction and sentence of Jean de Dieu Kamuhanda. The Accused was therefore not officially entrusted by the Tribunal with any task or mission in relation to the appeal of Jean de Dieu Kamuhanda when the offenses alleged in this indictment were committed.

### **COUNTS AND CONCISE STATEMENT OF FACTS**

#### **COUNT ONE — CONTEMPT OF THE TRIBUNAL**

5. The Accused is charged with personally committing the offence of **contempt of the Tribunal**, contrary to Rule 77(A), (A)(ii), and 77(G), for knowingly and willfully interfering with the Tribunal's administration of justice and knowingly and willfully attempting to subvert justice in the Kamuhanda case, in the period from on or about 1 March 2004, up to and including on or about 31 May 2005, in Kigali and in Gasabo district, Rwanda, by repeatedly meeting, without authorization, discussing in the presence of third parties, and procuring signatures to false statements from protected prosecution witness GAA, who had given evidence in proceedings before a trial chamber, and protected prosecution witness GEX, who was a potential prosecution witness in the Kamuhanda trial, in knowing violation of protective measures ordered by Trial Chamber II's in its Decision on the Prosecutor's Motion for Protective Measures for Witnesses, dated 7 July 2000.<sup>1</sup>

6. The Accused committed this offence with intent to fabricate evidence for use as additional evidence pursuant to Rule 115, in support of the appeal against conviction and sentence of Jean de Dieu Kamuhanda, Case No. ICTR-99-54A-A.

7. The Accused, a member of the defence team during the trial *The Prosecutor v. Jean de Dieu Kamuhanda*, knew that by virtue of the witness protection order of 7 July 2000, Defence Counsel was required to make a written request to the Chamber or a Judge thereof, for the defence to be authorized to enter in contact with any protected

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<sup>1</sup> All the witnesses mentioned in this indictment are referred to by their assigned pseudonyms, as a measure to protect their identities from disclosure

victim or potential prosecution witnesses or any relative of such person. The Accused knew GAA and GEX to be vulnerable persons, who survived the genocide committed in Rwanda in 1994, and who are in the ICTR's witness protection program. The Accused also knew that he was prohibited from sharing, revealing or discussing, directly or indirectly, any documents or any information contained in any documents, or any other information which could reveal or lead to the identification of any individuals so designated to any person or entity other than the accused or members of the defence team of Jean de Dieu Kamuhanda.

8. The Accused showed reckless disregard for the witness protection order and the safety of the witnesses, and organized several meetings, between 1 March 2004 and 31 May 2005, at different locations, including in public places such as Stella bar in Remera and in Kimihurura, Kigali, Rwanda, as well as at xxxxxxxx, xxxxxxxx Cellule, xxxxxxxx Sector, xxxxxx District, Kigali, Rwanda, during which he disclosed and discussed with others, or in the presence of others, confidential information pertinent to protected prosecution witnesses GAA and GEX's particulars and their evidence contained in their prior written statement and, for GAA, his evidence given at trial, in knowing and deliberate violation of the witness protection order applicable to these witnesses.

9. These meetings were, on occasions, attended by other people invited by the Accused, such as BUC and NYA, or relatives of Jean de Dieu Kamuhanda, such as the husband of Xaviera MUKAMINANI.

10. During the said meetings, the Accused manipulated, incited, induced, promised a bribe or reward to and persuaded both GAA and GEX to sign false statements prepared by the Accused and accept to give false testimony, contrary to their statements given to the Rwandan authorities and to the Office of the Prosecutor, and, for GAA, contrary to his trial testimony, at a Rule 115 evidentiary hearing before the Appeals Chamber, in the appeal against conviction and sentence of Jean de Dieu Kamuhanda, Case No. ICTR-99-54A-A.

11. The Accused fabricated recantation statements, dated 17 March 2004, in Kinyarwanda and in French, and procured signatures to these statements from GAA and GEX, in Kigali, Rwanda.

12. On 20 September 2004, Lead Counsel for Jean de Dieu Kamuhanda filed in the Appeals Chamber of the Tribunal the statements fabricated by the Accused and signed, *inter alia*, by GAA and GEX, in support of a confidential Rule 115 motion, requesting their admission as additional evidence in the appeal against conviction and sentence of Jean de Dieu Kamuhanda. Lead Counsel requested in the same motion the admission of the statement of NYA, also dated 17 March 2004, and an undated statement purported to be from BUC.

13. Lead Counsel acknowledged in the Rule 115 motion that both GAA and GEX were protected prosecution witnesses. Lead Counsel however represented that after Kamuhanda was sentenced to life imprisonment, GAA retracted his trial testimony and the defence had the recantation statement certified before a notary. Lead Counsel also indicated in the same Rule 115 motion that GEX provided the Defence Investigator with

a statement recanting her previous statement to the office of the Prosecutor, on her own volition, only after trial judgement was rendered in *The Prosecutor v. Kamuhanda*.

14. In a confidential decision dated 12 April 2005, the Appeals Chamber admitted the statements of GAA and GEX as additional evidence on the appeal, and ordered an evidentiary hearing of the two witnesses' testimony under Rule 115 of the Rules.

15. As a result of the meetings with the Accused and his incitement, inducements, and the promise of a bribe or reward of a substantial amount of money, GAA and GEX also gave false testimony, on 18 May 2005, at the evidentiary hearing before the Appeals Chamber of the Tribunal in Arusha, Tanzania.

16. The Accused committed the offence of contempt of the Tribunal as he willfully contacted and repeatedly met with protected prosecution witnesses, in knowing violation of Trial Chamber II's witness protection order, issued on 7 July 2000, with intent to procure false statements which he induced them to sign; and as he knowingly and willfully induced the witnesses and promised them a substantial bribe or reward in exchange of giving false testimony before the Appeals Chamber, in support of the appeal against sentence and conviction of Jean de Dieu Kamuhanda.

#### **COUNT TWO — CONTEMPT OF THE TRIBUNAL**

17. The Accused is further charged with personally committing the offence of **contempt of the Tribunal**, contrary to Rule 77(A), (A)(ii), (A)(iv), and (B) and (G) of the Rules, for knowingly and willfully interfering with its administration of justice and knowingly and willfully attempting to subvert justice with respect to the appeal of Jean de Dieu Kamuhanda, in the period from on or about 1 March 2004 up to and including on or about 31 May 2005, in Kigali and in Gasabo district, Rwanda, and in Arusha, Tanzania, by procuring false statements, by inciting to give false testimony and offering inducements and a promise of a substantial bribe or reward to, or otherwise interfering with, protected prosecution witness GAA who had given evidence in proceedings before a trial chamber, and protected prosecution witness GEX, who was a potential prosecution witness in the Kamuhanda trial.

18. The Accused committed this offence as part of a wide campaign to procure false statements for use as additional evidence pursuant to Rule 115, in the appeal against conviction and sentence of Jean de Dieu Kamuhanda, Case No. ICTR-99-54A-A. Other people involved in this campaign include relatives of, or persons close to Jean de Dieu Kamuhanda, including, but not limited to, Nsabimana, alias Rukara, Xaviera Mukaminani and her husband, and NTD.

19. The Accused organized about 5 or 6 meetings with GAA and GEX, between 1 March 2004 and 31 May 2005, at different locations including Stella bar in Remera and in Kimihurura, Kigali, Rwanda, as well as xxxxxxxx, xxxxxxxx Cellule, xxxxxxxx Sector, xxxxxx District, Kigali, Rwanda. These meetings were, on occasions, attended by other people, such as BUC, NYA, or relatives of Jean de Dieu Kamuhanda involved in the campaign to subvert justice in the Kamuhanda case.

20. During these meetings, the Accused manipulated, instigated, induced, and offered a substantial bribe of money for GAA to commit the offences of giving false testimony under solemn declaration and contempt of the Tribunal. In the course of the said meetings, the Accused bought meals and drinks for GAA and GEX, in addition to paying them, usually, 10,000 Rwandan Francs each, in order to persuade them and procure false statements.

21. At one of the said meetings, in Kigali, Rwanda, the Accused paid 20,000 Rwandan Francs to GAA and promised him a bribe or reward of not less than 1,000,000 Rwandan Francs to procure his false testimony before the Appeals Chamber

22. On 17 March 2004, in Kigali, Rwanda, the Accused knowingly and willfully fabricated evidence, and procured the signatures of protected prosecution witnesses GAA and GEX to the false statements in Kinyarwanda and in French, in which the witnesses recanted their prior evidence implicating Jean de Dieu Kamuhanda in the massacre at Gikomero Protestant Parish, on 12 April 1994.

23. The Accused further knowingly and willfully suborned and persuaded protected prosecution witnesses GAA and GEX to give false testimony on 18 May 2005, supporting the recantation statements fabricated by the Accused, at the evidentiary hearing before the Appeals Chamber of the Tribunal in Arusha, Tanzania, in the appeal against conviction and sentence of Jean de Dieu Kamuhanda, Case No. ICTR-99-54A-A.

24. At the time of the commission of the crime alleged, the Accused knew the false testimony to be contrary to GAA's written statements given to the Rwandan authorities, on 20 July 1995, and to the Office of the Prosecutor, on 6 July 1999. The Accused also knew the false testimony to be contrary to GAA's trial testimony, given under solemn declaration, before Trial Chamber II, on 19 and 20 September 2001, regarding GAA's presence at Gikomero at the time of the massacres of 12 April 1994 and the involvement of Jean de Dieu Kamuhanda.

25. Similarly, the Accused knew the false testimony to be contrary to GEX's written statements given to the Rwandan authorities, on 20 July 1995, and to the Office of the Prosecutor, on 22 July 1999.

26. Following his arrest and transfer to the ICTR, GAA pleaded guilty to the offences of giving false testimony under solemn declaration, contrary to Rule 91 of the Rules, and to the offence of contempt of the Tribunal, contrary to Rule 77(A) and (G) of the Rules. GAA unequivocally admitted to have been manipulated and induced to commit these crimes by the Accused, who gave him money and paid for his meals and drinks on several occasions and promised him a substantial reward of not less than 1,000,000 Rwandan Francs for giving false testimony before the Appeals Chamber.

27. The Accused committed the offence of contempt of the Tribunal as he knowingly and willfully interfered with the Tribunal's administration of justice and knowingly and willfully attempted to subvert justice with respect to the appeal of Jean de Dieu Kamuhanda, by fabricating false statements, and by inciting, interfering with,

and inducing protected prosecution witnesses to commit the offences of giving false testimony under solemn declaration and contempt of the Tribunal.

**COUNT THREE—ATTEMPT TO COMMIT ACTS PUNISHABLE AS CONTEMPT OF THE TRIBUNAL**

28. The Accused is further charged with personally committing the offence of **attempting to commit acts punishable as contempt of the Tribunal**, contrary to Rule 77(A), A(iv), (B) and (G) of the Rules, for knowingly and willfully interfering with its administration of justice, in the period from on or about 1 March 2004, up to and including on or about 20 September 2004, in Kigali and in Gasabo district, Rwanda, by attempting to suborn false testimony under solemn declaration from, offering a bribe to, or otherwise interfering with potential witness BUC by the defence, in connection with proceedings in the appeal against conviction and sentence of Jean de Dieu Kamuhanda, Case No. ICTR-99-54A-A, before the Appeals Chamber of the Tribunal, in Arusha, Tanzania.

29. Between on or about 1 March 2004 and 20 September 2004, the Accused requested GAA to invite, on his behalf, potential witness BUC to a meeting with the Accused, in Kigali, Rwanda. The meeting, held in a bar, in Kigali, was attended by, *inter alia*, protected prosecution witnesses GAA and GEX, and potential witness BUC.

30. During the meeting, the Accused attempted to procure false evidence from BUC, by inciting her and offering her a bribe or reward, in the form of a substantial amount of money, if she agreed to sign a false statement to exculpate Jean de Dieu Kamuhanda. BUC, however, refused the Accused's offer.

31. On 20 September 2004, Lead Counsel for Jean de Dieu Kamuhanda filed in the Appeals Chamber of the Tribunal, an undated statement purported to be from BUC, a potential witness nicknamed BUC in the motion, and a photocopy of the witness' identity card, together with other statements such as the false recantation statements of GAA and GEX, in support of a confidential Rule 115 motion, requesting their admission as additional evidence in the appeal against conviction and sentence of Jean de Dieu Kamuhanda.

32. In the Rule 115 motion, Lead Counsel for Jean de Dieu Kamuhanda claimed that the defence discovered BUC only after judgement was pronounced. Lead Counsel also represented that the potential witness BUC had agreed to testify before the Appeals Chamber.

**COUNT FOUR—ATTEMPT TO COMMIT ACTS PUNISHABLE AS CONTEMPT OF THE TRIBUNAL**

33. The Accused is further charged with personally committing the offence of **attempting to commit acts punishable as contempt of the Tribunal**, contrary to Rule 77(A), (A)(iv), (B), and (G) of the Rules, for knowingly and willfully interfering with

its administration of justice, on or about a date between 1 March 2004 and 31 May 2005, in xxxxxxxx, xxxxxxxx Cellule, xxxxxxxxSector, xxxxxx District, and in Kigali, Rwanda, by attempting to procure false testimonies under solemn declaration from, offering a bribe to, or otherwise interfering, directly or indirectly, with potential witnesses SP-003 and SP-004, and protected prosecution witness GAF, in connection with proceedings in the appeal of Jean de Dieu Kamuhanda, Case No. ICTR-99-54A-A, before the Appeals Chamber of the Tribunal, in Arusha, Tanzania.

34. The Accused, acting in concert with relatives of, or persons closed to Jean de Dieu Kamuhanda, including, but not limited to, Nsabimana, alias Rukara, Xaviera Mukaminani and her husband, and NTD, through the agency of others, in particular, GAA, attempted to contact GAF, SP-003 and SP-004, among others, in order to procure false testimony in favor of Jean de Dieu Kamuhanda, in support of the latter's appeal against conviction and sentence, in exchange of a substantial amount of money as a bribe or reward.

#### **SP-003**

35. The Accused asked GAA to contact SP-003 on his behalf and request him to accept to meet with the Accused in order to join the group of potential witnesses who will give false testimony in favor of Jean de Dieu Kamuhanda, in exchange of a substantial amount of money.

36. On one occasion, between 1 March 2004 and 18 May 2005, in xxxxxxxx, xxxxxxxx Cellule, xxxxxxxx Sector, Gasabo District, Rwanda, at the request and instigation of the Accused, GAA met with SP-003, and told him that if he accepted to give false testimony exculpating Kamuhanda, he could introduce SP-003 to a person who would explain to him how to do so, in exchange of a substantial amount of money as bribe or reward.

37. On this occasion, GAA told SP-003 that he had also spoken to GAF about the same matter that he was proposing to SP-003.

38. SP-003 heard that other people have been approached to give false testimony. SP-003 discussed the matter with GAF, who has also approached to give false testimony exculpating Kamuhanda.

39. After GAA gave false testimony in favor of Jean de Dieu Kamuhanda, people in SP-003's neighborhood were saying that GAA had received money from Nshogoza, in order to change his testimony. The information that a witness changed its testimony in exchange of money was also broadcasted over Radio Rwanda. SP-003 understood that the person GAA was going to introduce him to, was the same Nshogoza.

#### **GAF**

40. As defence investigator during the trial of Jean de Dieu kamuhanda, Case No. ICTR-99-54A-T, the Accused knew that GAF testified in that trial as a witness for the Prosecution, on 13 and 17 September 2001, before Trial Chamber II of the Tribunal, in

Arusha, Tanzania, implicating Kamuhanda in the massacre that occurred at Gikomero Protestant Parish on 12 April 1994.

41. The Accused, showing reckless disregard for the witness protection order in the Kamuhanda case, sent GAA to contact protected prosecution witness GAF on his behalf, and request him to accept to meet with the Accused in order to change his trial testimony and exculpate Jean de Dieu kamuhanda, in exchange of a substantial amount of money.

42. On several occasions in the period between the end of 2004 and beginning of 2005, GAA met with GAF, on behalf of the Accused, at GAF's house, in xxxxxxxx, xxxxxxxx Cellule, xxxxxxxx Sector, xxxxxx District, Rwanda. GAF had known GAA for a long time.

43. During one of his visits to GAF's house, GAA told GAF about having been approached by persons close to Kamuhanda to change his trial testimony. During the discussions, GAA offered to have GAF meet a man, who was staying in Kigali, who could explain how to change his testimony in favour of Kamuhanda. GAA conveyed the message that if GAF accepted to change his testimony in order to exculpate Kamuhanda, there would be something for GAF. GAF understood from this that the person, whom GAA wanted him to meet, would give him something in exchange for false testimony.

44. GAA subsequently admitted to GAF, on a day toward the end of 2004 or the beginning of 2005, during one of his visits to GAF's house, at xxxxxxxx that GAA would receive something in exchange to his testimony in 2005, without however specifying what he would receive.

45. GAF heard that other people in his neighborhood were approached to give false testimony in exchange of monetary compensation. GAF discussed the matter with people like SP-003, who was also approached to give false testimony exculpating Kamuhanda.

46. On or about 26 August 2005, GAA again came to visit GAF at his house in xxxxxxxx, in the evening, and they sat together inside xxx bar. During their conversation, GAF asked GAA if he had been seen by Duclos and Hélène (an investigator and interpreter, respectively, of the Office of the Prosecutor), who had questioned GAF about certain individuals, including one Nshogoza, whom he did not know. On that occasion, GAA reminded GAF that Nshogoza had come by xxx bar on a motorcycle with another man, called NTD, at the beginning of the year, and explained that they had been on mission to convince people to change their testimony. GAF then recalled having seen Nshogoza with NTD, the latter he knew very well.

47. GAF also understood from his conversation with GAA that Nshogoza was the person who was looking for witnesses who were willing to exculpate Kamuhanda, in exchange for monetary compensation. GAF heard the same information from other persons in his neighborhood.



**SP-004**

48. SP -004 is the wife of GAF.

49. On or about a date sometime in the period between 18 May 2005 and 21 August 2005, in xxxxxxxx, xxxxxxxx Cellule, xxxxxxxx Sector, xxxxxx District, Rwanda, GAA acting at the instigation and request of the Accused met SP-004 and offered to introduce SP-004 to a person who would explain to her how to give a false statement to exculpate Kamuhanda in return for compensation.

50. Both SP-003 and GAF warned SP-004 against the offer transmitted by GAA, Accused to make her lie to exculpate Kamuhanda.

**The above offences are punishable under Article 14 of the Statute of the Tribunal and Rule 77 (A), (B), and (G) of the Rules.**

Respectfully submitted this 24<sup>th</sup> day of December 2007, at Arusha, Tanzania by:

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Hassan Bubacar Jallow,  
Prosecutor





## 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 checked="" type="checkbox"/> Trial Chamber III C. K. Hometowu	<input type="checkbox"/> Appeals Chamber / Arusha F. A. Talon
	<input type="checkbox"/> Chief, CMS J.-P. Fornété	<input type="checkbox"/> Deputy Chief, CMS M. Diop	<input type="checkbox"/> Chief, JPU, CMS M. Diop	<input type="checkbox"/> Appeals Chamber / The Hague R. Muzigo-Morrison K. K. A. Afande
<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: <i>Registrar</i> (names)
<b>Case Name:</b>	The Prosecutor vs. LEONIDAS NSHOGOZA		<b>Case Number:</b> ICTR-2007-91-I	
<b>Dates:</b>	Transmitted: 07 JANUARY 2008		Document's date: 07 JANUARY 2008	
<b>No. of Pages:</b>	09	<b>Original Language:</b> <input checked="" type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda		
<b>Title of Document:</b>	REDACTED VERSION OF THE INDICTMENT OF LEONIDAS NSHOGOZA IN COMPLIANCE WITH TC III ORDER of 04 JANUARY 2008			
<b>Classification Level:</b>		<b>TRIM Document Type:</b>		
<input checked="" type="checkbox"/> Strictly Confidential / Under Seal		<input type="checkbox"/> Indictment	<input type="checkbox"/> Warrant	<input type="checkbox"/> Correspondence
<input type="checkbox"/> Confidential		<input type="checkbox"/> Decision	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Notice of Appeal
<input type="checkbox"/> Public		<input type="checkbox"/> Disclosure	<input type="checkbox"/> Order	<input type="checkbox"/> Appeal Book
		<input type="checkbox"/> Judgement	<input type="checkbox"/> Motion	<input type="checkbox"/> Book of Authorities
		<input type="checkbox"/> Submission from non-parties	<input type="checkbox"/> Submission from parties	
		<input type="checkbox"/> Accused particulars		

### 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

**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	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda
Translation	in	<input checked="" type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> 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**

<input type="checkbox"/> The OTP is overseeing translation. The document is submitted for translation to: <input type="checkbox"/> The Language Services Section of the ICTR / Arusha. <input type="checkbox"/> The Language Services Section of the ICTR / The Hague. <input type="checkbox"/> An accredited service for translation; see details below: Name of contact person: Name of service: Address: E-mail / Tel. / Fax:	<input type="checkbox"/> 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:
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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:
<input type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines: