



ICTR NEWSLETTER

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United Nations International Criminal Tribunal for Rwanda

Bagaragaza will not be tried in the Kingdom of Norway



The Prosecutor's motion for referral to the Kingdom of Norway of the case of Michel Bagaragaza was denied on 19 May 2006 by the bench appointed by the President of the International Criminal Tribunal for Rwanda composed of Judges Dennis C. M. Byron, Jai Ram Reddy and Joseph Asoka Nihal de Silva. The motion was filed on 15 February 2006 under Rule 11*bis* of the Rules of Procedure and Evidence of the Tribunal.

In its ruling the Trial Chamber found that the Kingdom of Norway does not have jurisdiction over the alleged crimes in

the indictment against Michel Bagaragaza and in that case there was no need for the Chamber to consider the other requirements for referral as provided in Rule 11*bis* or in the Parties' submissions.

Pursuant to Rule 11*bis*, three requirements have to be considered in deciding a motion for referral: 1) the jurisdiction, willingness and preparedness of the Referral State; 2) the ability of the Referral State to conduct a fair trial and; 3) the non-imposition of the death penalty in the Referral State. In their submissions, the Parties raised other conditions for the referral. The Parties made additional requests in case the Referral would be granted.

Bagaragaza who was Director General of the office controlling the Rwandan Tea industry and also member of the Prefectoral committee of the MRND political party in Gisenyi Prefecture, surrendered to the Tribunal on 16 August 2005. He pleaded not guilty to the charges of conspiracy to commit genocide, genocide, or in alternative, complicity in genocide.

The ICTR Prosecutor requested the Tribunal to grant the transfer of the Accused to the United Nations Detention Unit (UNDU) of the International Criminal Tribunal for the former Yugoslavia (ICTY) as a special protective measure. On 13 August 2005, the motion was granted and Bagaragaza was consequently transferred to The Hague. On 17 February 2006, the President extended the transfer to The Hague for an additional period of 6 months.

Before his surrender on 16 August 2005, the accused entered into an agreement with the Prosecution and provided an extensive statement on the 1994 events in Rwanda which incriminated both himself and other Rwandans. He agreed with the Prosecution to be tried before a national court, which would be determined at a later stage.

The ruling is subject to appeal by both parties, the Prosecution and the Defence, within 15 days upon notification of the decision. Bagaragaza is represented by Defence Counsel Geert-Jan Alexander Knoops from The Netherlands.

Mpambara: Parties Present Final Submissions

On 2 and 3 May 2006, the Prosecution and the Defence in the case of Jean Mpambara, the former *bourgmestre* of Rukara commune in Kibungo prefecture, presented their final submissions before Trial Chamber I of the United Nations International Criminal Tribunal for Rwanda.



The Prosecution called for the conviction of the Accused and the imposition of a life imprisonment sentence. It argued that evidence presented in court proved that he truly committed genocide. It added that the evidence shows that the Accused organized and executed killings which occurred in Rukara commune, including at the Gahini Hospital and Rukara Parish, during which more than 2,500 persons were killed.

The Prosecution further argued that Mpambara took part in a number of

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massacres of Tutsi civilians in Rukara commune in eastern Rwanda, between 7 and 16 April 1994.

The Defence called for Mpambara's acquittal, arguing that his implication in the terrible crimes of which he is accused was not proven by the Prosecutor. It added that the evidence shows that the Accused never committed the crimes, and that the witnesses called by the Prosecutor were unreliable.

The trial commenced on 19 September 2005 before Trial Chamber I, composed of Judges Jai Ram Reddy of Fiji (presiding), Sergei Alekseevich Egorov of Russia, and Flavia Lattanzi of Italy. The Prosecution is led by Senior Trial Attorney Richard Karegyesa of Uganda. The Defence is headed by Arthur Vercken and Vincent Courcelle-Labrousse of France.

The Prosecution presented ten witnesses over eight trial days, and the Defence called sixteen witnesses over eighteen trial days, making it one of the shortest trials in the history of the Tribunal.

In addition to Mpambara, 26 accused are presently on trial or awaiting judgement. The Tribunal has handed down judgments involving 27 persons, of whom 24 were convicted and three acquitted.

News from The Hague

• Activity of the Appeals Chamber

The Appeals Chamber disposed of two interlocutory appeals in the *Seromba* and *Muvunyi* cases, and rendered ten pre-appeal orders or decisions during May.

The *Cyangugu* and *Gacumbitsi* appeal judgements are presently under deliberation. The Appeals Chamber will sit in Arusha on 6 and 7 July 2006 to deliver these judgements and to hear the merits of the appeal in the *Ndindabahizi* case.

The Appeals Chamber is also preparing the *Media* case appeal for a hearing and is considering pre-appeal matters in the *Simba* and *Muhimana* cases.

Further, the Appeals Chamber is deliberating on two interlocutory appeals in the *Karemera et al.* case as well as on a request for review in the *Niyitegeka* case.

Finally, the Appeals Chamber is seized of a request for reconsideration and review in the *Rutaganda* case in respect of which briefing is proceeding.

• Witness testimony by Video-Link

Following the Orders issued on 14 September 2005 and on 9 March 2006 by Trial Chamber III, composed of Judges Dennis C. M. Byron (Presiding), Emile Francis Short, and Gberdao Gustave Kam, the ICTR Appeals Chamber Support Unit organised and coordinated with the CMS in Arusha a witness testimony by video-link in the *Karemera et al.* case from 22 May to 09 June 2006.

34th UN Inter-agency Games in Pesaro, Italy

"In serving the people who serve the world, we are proud to further the UNIAG legacy and see it grow and prosper."



The 34th United Nations Inter-agency games were held in Pesaro, Italy from 18-22 May, 2006. The sponsors for the event were the United Nations Federal Credit Union (UNFCU). The UNFCU has since 2001 been sponsoring the UN Inter-agency Games and their message this year was *"In serving the people who serve the world, we are proud to further the UNIAG legacy and see it grow and prosper"*.

This is the second time that Pesaro has hosted the UN games. Pesaro is a small city by the Adriatic Sea between 2 mountains: mount Ardizio on the South and mount San Bartolo on the North, in the beautiful region of the Marche. It has less than 100,000 inhabitants.

Pesaro, an extremely old city, was conquered by the Romans in 184 B.C. Its Latin name was "Pisaurus", the name of the Foglia river in Pesaro. Pesaro has always been famous for its ceramics and today it is also a tourist city because of its beaches. Gioachino Rossini, one of the most famous Italian composers, was from Pesaro and he used to hold annual concerts of the *"bel canto"* there.

The UN inter-agency games were first initiated in 1968 when the "Commission des Sports de l'Association de Personnel de l'UNESCO" organized an omni-sports meeting in Paris against a team from UN Geneva. In 1971, UN Geneva organised the first multi-institutional sports competition in Champéry, Switzerland and 10 organizations within the UN system participated.

It was here that the principle of alternating the venue and the responsibility for the organization of the Games among the UN organizations in Geneva, Rome, Vienna and Paris was adopted. A set of General Rules were adopted and a Control Commission established to ensure the adherence to these rules. Since then the games have grown to include 13 disciplines and more than 1000 participants.

The main organizers of the games were FAO, IFAD, WFP and UNICEF, all based in Rome, Italy. The games were attended by 1700 United Nations staff representing 186 different Nations. The participants had the pleasure of getting together not only for the games, but also for sharing moments of great brotherhood, catching up with old friends and making new ones.



The ICTR was represented by 24 participants engaging in 5 disciplines (football, volleyball, Petanque- a French version of Boccie ball played by men and women, darts and golf) out of a total of 15. The Opening Ceremony took place on Thursday 18 May, 2006 at 21:00hrs in the main square of Pesaro, *Piazza del Popolo* under the proud display of the flags of DPKO, FAO, IFAD and WFP. The ICTR contingent had its own stand that was open



between 8:30 am to 7:30 pm from 18-20 April 2006. An information stand was also set up by Alessandro Caldarone, Senior Advocate & External Relations Officer. His mission was to advocate the activities and create positive awareness of the International Criminal Tribunal for Rwanda. Mr. Caldarone prepared interactive electronic presentations both in Italian and English that were aimed at educating the local population as well as other UN staff on the work of the Tribunal. Pamphlets providing corroborative information, prepared by the UNICTR Public Affairs & Information Unit, were also distributed. The presentation was well received at the village by all and they showed their appreciation of the work of the Tribunal.

The Closing Ceremony was held on 21 May 2006 with a unique and memorable way of saying *CIAO* to our old and newly made friends from the UN family at the "*Disco Pascia in Riccione*".



Voice over Internet Protocol (VOIP)

Training for ITSS Staff

The training was conducted in both Kigali (6-10 March 2006) and Arusha (8-12 May 2006) by Mr. M. K. Noorani, a consultant from the African Advanced Level Telecommunications Institute, AFRALTI, which has its head office in Nairobi, Kenya. It attracted a total of 20 participants - six in Kigali and 14 in Arusha, respectively.

Voice over the IP network refers to voice transmission using the Internet protocol. The technology makes it possible to place telephone calls and send faxes over IP-based data networks with a suitable quality of service. An obvious benefit of such an arrangement is the ability to gain efficiencies by only having to support a single network infrastructure for both telephone and data services.



Topics covered in the course included an overview of converged networks, various network architectures, issues involved with the implementation of VOIP, a comparison of the different protocols used, design guidelines and an in-depth look into some network security concerns.

Visitors to the ICTR during the month of May 2006

1. 4 May: 4 Senior Officials from ICRC
2. 4 May: 4 Professors from the Belgium University (ULB)
3. 8 May: H.E. Mr. Peter Maddens, Belgian Ambassador and his father H.E. Mr. Pieter Maddens - Ambassador
4. 9 May: 19 Journalists from the Institute of Black Journalists
5. 10 May: 64 students from Leki Secondary School
6. 11 May: Ms. Leslie M. Fair-Page, ICTR Staff Counselor
7. 12 May: 21 officials from Irish embassy and the



Dublin Advance Group including the Amb. John McCullagh

High Commission with a senior official from the Embassy

8. 12 May: Nigerian War College and the Tanzanian Peoples Defence

25 May: 55 students from the Institute of Accountants

9. 15 May: Students from the Institute of Judicial Administration

26 May: Ms. Elizabeth Press and Mr. Olyseme Oduyemi, senior Officials from NYHQ

10. 16 May: Indian National Defence College

31 May: Amb. Frans Baan, Head of EU Delegation to Tanzania

11. 16 May: 17 Participants from Students of International Training (SIT)

31 May: Rachel Steinfield, Laura Simonson and Michell Weinberger from the USA

12. 16 May: 5 Journalists from Rwanda

13. 16-19 May: Nairobi Chief Magistrate Mr. Aggrey Mchelule and his Assistant, Nelly Kamunge

14. 18 May: 23 Participants of a seminar organized by the ICRC

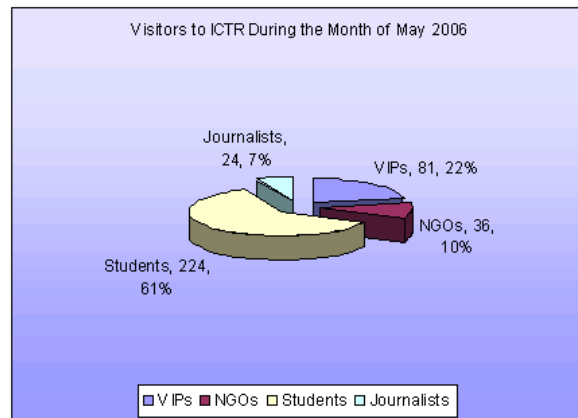
15. 19 May: 20 Danish students from MS-TCDC

16. 22 May: US Ambassador H.E. Mr. Sheffer

17. 22 May: 8 Rwandan Military Judges

18. 23 May: UoN Institute of Diplomacy and International Studies (25 participants)

23 May: Ade Fehintola Political Officer British



Judicial Decisions of the ICTR between 1 May and 31 May 2006

Date	Case	Record Number	Title	TC
02/05/2006	[Military I] Bagosora et al.	ICTR-98-41-1147	DECISION ON REQUEST FOR EXTENSION OF TIME TO RESPOND	TC 1
03/05/2006	Seromba	ICTR-01-66-0250/2	DECISION ON MOTION FOR DISQUALIFICATION OF JUDGES	TC 3
05/05/2006	Nahimana et al.	ICTR-99-52-1588	DECISION ON APPELLANT JEAN-BOSCO BARAYAGWIZA'S MOTION FOR LEAVE TO PRESENT ADDITIONAL EVIDENCE PURSUANT TO RULE 115	AC
08/05/2006	Rugambarara	ICTR-00-59-0014	DECISION ON THE MOTION FOR PROTECTIVE MEASURES FOR DEFENCE WITNESSES	TC 2
10/05/2006	Simba	ICTR-01-76-0283/2	DECISION ON DEFENCE REQUEST FOR INFORMATION RELATED TO WITNESSES YH AND KXX	TC 1
11/05/2006	[Military I] Bagosora et al.	ICTR-98-41-1156	DECISION ON REQUEST FOR EXTENSION OF TIME TO RESPOND	TC 1
11/05/2006	Bizimungu et al.	ICTR-99-50-1515	REGISTRAR'S SUBMISSION UNDER RULE 33B OF THE RULES OF PROCEDURE AND EVIDENCE WITH RESPECT TO PROSPER MUGIRANEZA'S APPLICATION FOR A WRIT OF MANDAMUS OR OTHER APPROPRIATE RELIEF	TC 2
12/05/2006	Zigiranyirazo	ICTR-01-73-0331	DECISION ON REQUEST FOR AUTHORIZATION TO HOLD TRIAL SESSION AWAY FROM THE SEAT OF THE TRIBUNAL	TC 3
12/05/2006	Muvunyi	ICTR-00-55A-0233	REASONS FOR THE ORAL DECISION ON MUVUNYI'S MOTION FOR CERTIFICATION TO APPEAL THE CHAMBER'S DECISION OF 26 APRIL 2006	TC 2
15/05/2006	Nyiramasuhuko et al.	ICTR-98-42-0540	DECISION ON KANYABASHI'S ORAL MOTION TO CROSS EXAMINE NTAHOBALI USING NTAHOBALI'S STATEMENTS TO PROSECUTION INVESTIGATORS IN JULY 1997	TC 2



Date	Case	Record Number	Title	TC
15/05/2006	Nyiramasuhuko et al.	ICTR-97-21-0868	DECISION ON KANYABASHI'S ORAL MOTION TO CROSS EXAMINE NTAHOBALI USING NTAHOBALI'S STATEMENTS TO PROSECUTION INVESTIGATORS IN JULY 1997	TC 2
15/05/2006	[Military I] Bagosora et al.	ICTR-98-41-1161	DECISION ON MOTION TO PRECLUDE A JOINT RESPONSE	TC 1
16/05/2006	[Military I] Bagosora et al.	ICTR-98-41-1165	DECISION ON ZIGIRANYIRAZO MOTION FOR DISCLOSURE OF CLOSED SESSION TESTIMONY OF DM-190	TC 1
16/05/2006	[Military I] Bagosora et al.	ICTR-98-41-1164	DECISION ON PROSECUTION REQUEST FOR EXTENSION OF TIME TO RESPOND TO BAGOSORA MOTION	TC 1
17/05/2006	Karera	ICTR-01-74-0027/2	DECISION ON DEFENCE MOTION TO SET ASIDE A DECISION BY THE REGISTRAR AND TO ENSURE RESPECT FOR THE BASIC RIGHTS OF THE ACCUSED, INCLUDING THE RIGHT TO MAKE FULL ANSWER AND DEFENCE. (Articles 19 and 20 of the Statute and Rules 19(A), 33(A))	TC 3
17/05/2006	Simba	ICTR-01-76-0453	NOTICE ON PROSECUTOR'S MOTION WITHDRAWING MOTION REGARDING CONFIDENTIAL FILINGS	AC
18/05/2006	Karemera et al.	ICTR-98-44-2353	DECISION ON DEFENCE MOTIONS CHALLENGING THE PLEADING OF A JOINT CRIMINAL ENTERPRIS IN A COUNT OF COMPLICITY IN GENOCIDE IN THE AMENDED INDICTMENT	TC 3
19/05/2006	[Military I] Bagosora et al.	ICTR-98-41-1173	DECISION ON NTABAKUZE DEFENCE MOTION REQUESTING EXTENSION OF TIME TO REPLY	TC 1
19/05/2006	[Military I] Bagosora et al.	ICTR-98-41-1171	DECISION ON NZIRORERA REQUEST FOR ACCESS TO PROTECTED MATERIAL	TC 1
19/05/2006	Bagaragaza	ICTR-05-86-0022	DECISION ON THE PROSECUTION MOTION FOR REFERRAL TO THE KINGDOM OF NORWAY	TC 3
22/05/2006	[Military I] Bagosora et al.	ICTR-98-41-1176	DECISION ON CERTIFICATION OF INTERLOCUTORY APPEAL CONCERNING PROSECUTION DISCLOSURE OF DEFENCE WITNESS STATEMENTS	TC 1
22/05/2006	[Military I] Bagosora et al.	ICTR-98-41-1175	DECISION ON CERTIFICATION OF REQUEST FOR SEVERANCE OF THREE ACCUSED	TC 1
23/05/2006	[Military I] Bagosora et al.	ICTR-98-41-1178	CORRIGENDUM TO DECISION ON PROSECUTION REQUEST FOR EXTENSION OF TIME TO RESPOND TO BAGOSORA MOTION	TC 1
23/05/2006	Karemera et al.	ICTR-98-44-2357	SEPARATE OPINION OF JUDGE SHOR ON COMPLICITY IN GENOCIDE AND JOINT CRIMINAL ENTERPRISE THEORY	TC 3
24/05/2006	[Military I] Bagosora et al.	ICTR-98-41-1179	DECISION ON DISCLOSURE OF IDENTITY OF PROSECUTION INFORMANT	TC 1
24/05/2006	[Military I] Bagosora et al.	ICTR-98-41-1180	DECISION ON MOTION TO UNSEAL TESTIMONY OF DEFENCE WITNESS RAS-1	TC 1
24/05/2006	Seromba	ICTR-01-66-0264	DECISION ON INTERLOCUTORY APPEAL OF A BUREAU DECISION	TC 3
25/05/2006	[Military I] Bagosora et al.	ICTR-98-41-1181	DECISION ON REQUEST TO ADMIT UNITED NATIONS DOCUMENTS INTO EVIDENCE UNDER RULE 89 (C)	TC 1
26/05/2006	Nahimana et al.	ICTR-99-52-1595	DECISION ON JEAN-BOSCO BARAYAGWIZA'S MOTION FOR EXTENSION OF THE PAGE LIMITS TO FILE A MOTION FOR ADDITIONAL EVIDENCE	AC
26/05/2006	[Media] Nahimana et al.	ICTR-99-52-1594	DECISION ON DISCLOSURE OF SEALED EXHIBITS OF WITNESS DM-12	TC 1
29/05/2006	Muvunyi	ICTR-00-55A-0251	DECISION ON INTERLOCUTORY APPEAL	TC 2
30/05/2006	Karemera et al.	ICTR-98-44-2363	DECISION ON DEFENCE MOTION FOR AN ORDER REQUIRING NOTICE OF EX-PARTE FILINGS AND TO UNSEAL A PROSECUTION CONFIDENTIAL MOTION	TC 3



Date	Case	Record Number	Title	TC
30/05/2006	Muvunyi	ICTR-00-55A-0252	DECISION ON MOTION TO STRIKE OR EXCLUDE PORTIONS OF PROSECUTOR'S EXHIBIT NO. 34, ALTERNATIVELY DEFENCE OBJECTIONS TO PROSECUTOR'S EXHIBIT NO. 34	TC 2
30/05/2006	Seromba	ICTR-01-66-0266	DECISION RELATIVE AUX FINS REQUETES DE LA DEFENSE AUX FINS DE CERTIFICATION D'APPEL CONTRE LES DECISIONS ORALES RENDUES LES 26 ET 27 AVRIL 2006	TC 3
31/05/2006	Muvunyi	ICTR-00-55A-0253	DECISION ON MUVUNYI'S ADDITIONAL OBJECTIONS TO THE DEPOSITION TESTIMONY OF WITNESS QX PURSUANT TO ARTICLE 20 OF THE STATUTE AND RULES 44, 44BIS AND 73(F) OF THE RULES OF PROCEDURE AND EVIDENCE	TC 2