

ICTR-98-44-AR73.8

19-3-2007

(1675/A - 1665/A)

1675/A
#m

THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR RWANDA

CASE No. ICTR-98-44-AR73.8

IN THE APPEALS CHAMBER

Before: The Appeals Chamber

Registrar: Mr. Adama Dieng

Date Filed: 19 March 2007

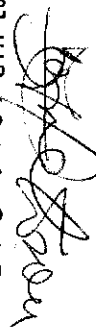
THE PROSECUTOR

v.

JOSEPH NZIRORERA

JUDICIAL RECORDS/ARCHIVES
RECEIVED

2007 MAR 19 11 A 9:47



JOSEPH NZIRORERA'S INTERLOCUTORY APPEAL
ON "WITNESS PROOFING"

The Office of the Prosecutor:

Mr. Don Webster
Ms. Allayne Frankson-Wallace
Mr. Iain Morley
Ms. Gerta Visser
Mr. Saidou N'Dow

Defence Counsel:

Mr. Peter Robinson
Mr. Patrick Nimy Mayidika Ngimbi

Counsel for Co-Accused:

Ms. Dior Diagne Mbaye and Mr. Felix Sow for Edouard Karemera
Ms. Chantal Hounkpatin and Mr. Frederick Weyl for Mathieu Ngirumpatse

1. Joseph Nzirorera respectfully appeals, pursuant to certification granted under Rule 73(B), from the *Decision on Defence Motions to Prohibit Witness Proofing* (15 December 2006). Relying on the *Decision on the Practices of Witness Familiarisation and Witness Proofing* (8 November 2006) issued by the International Criminal Court (“ICC”) in *Prosecutor v Dyilo*, No. ICC-0/04-01/06, Mr. Nzirorera contends that the Trial Chamber erred in refusing to prohibit the practice of “witness proofing” at the ICTR.

Procedural History

2. On 13 November 2006, Mr. Nzirorera filed *Joseph Nzirorera’s Motion to Prohibit Witness Proofing*. The prosecution filed a response to this motion on 16 November 2006.¹ Mr. Nzirorera replied on 20 November 2006.²

3. On 16 December 2006, the Trial Chamber issued its *Decision on Defence Motions to Prohibit Witness Proofing*. (the “Impugned Decision”).

4. Certification to appeal was applied for by Mr. Nzirorera on 18 December 2006.³ The prosecution filed a response on 20 December 2006.⁴

5. On 14 March 2007, the remaining Judges of the Trial Chamber granted certification to appeal.⁵

The ICC Decision

6. Mr. Nzirorera relies on the *Decision on the Practices of Witness Familiarisation and Witness Proofing* (8 November 2006) of the International Criminal Court in *Prosecutor v Dyilo*, No. ICC-0/04-01/06 as the basis of his contention that the practice of “witness proofing” is not proper.

7. In that decision, the Pre-trial Chamber of the ICC examined in detail the contacts between a party and a witness immediately prior to the giving of testimony by the witness. It divided those practices into what it called “witness familiarization” and “witness proofing”.⁶

¹ *Prosecutor’s Reply to Joseph Nzirorera’s Motion to Prohibit Witness Proofing* (16 November 2006)

² *Reply Brief: Joseph Nzirorera’s Motion to Prohibit Witness Proofing* (20 November 2006)

³ *Application for Certification to Appeal Decision on Defence Motions to Prohibit Witness Proofing* (18 December 2006)

⁴ *Prosecution Response to Nzirorera’s Motion for Certification to Appeal the Trial Chamber III Decision on Defence Motions to Prohibit Witness Proofing of 15 December 2006* (20 December 2006)

⁵ *Decision on Defence Motion for Certification to Appeal Decision on Witness Proofing* (14 March 2007)

⁶ *Prosecutor v Dyilo*, No. ICC-0/04-01/06, *Decision on the Practices of Witness Familiarisation and Witness Proofing* (8 November 2006) at paras. 18 and 28.

8. The decision found that the practice of “witness familiarization”, which consisted of (1) providing the witness an opportunity to meet the lawyer who will examine him in court; (2) familiarizing the witness with the courtroom and the proceedings; (3) reassuring the witness about his/her role in the proceedings; (4) discussing matters relating to the security and safety of the witness; (5) re-enforcing the witness’ obligation to tell the truth; and (6) explaining the process of examination-in-chief, cross examination, and re-examination, was proper, and should be carried out by the Court’s Victim Witness Unit.⁷

9. The decision went on to examine the practice of “witness proofing” which was described as allowing a witness to read his/her prior statements, discussing with the prosecutor differences in recollection, discussing with the prosecutor the questions and answers to be provided during the witness’ testimony, and inquiring about additional information the witness may have.⁸

10. The decision found that the prosecutor’s contention that the practice of witness proofing was a widely accepted practice in international law was “unsupported”.⁹ It also rejected the prosecution’s contention that witness proofing was necessary at an international court due to the particular character of the crimes addressed by such courts, noting that even in those States which exercise complementary or universal jurisdiction over those same crimes, witness proofing was unethical and unlawful.¹⁰

11. The decision noted that the practice of witness proofing was not an accepted practice in the jurisdiction where the crimes in that case were allegedly committed—the Democratic Republic of Congo.¹¹

12. The decision found that there was no accepted practice of witness proofing among national jurisdictions, noting that the practice was prohibited in such diverse legal

⁷ *Prosecutor v Dyilo*, No. ICC-0/04-01/06, *Decision on the Practices of Witness Familiarisation and Witness Proofing* (8 November 2006) at paras. 14, 23, and 24

⁸ *Prosecutor v Dyilo*, No. ICC-0/04-01/06, *Decision on the Practices of Witness Familiarisation and Witness Proofing* (8 November 2006) at paras. 16-17

⁹ *Prosecutor v Dyilo*, No. ICC-0/04-01/06, *Decision on the Practices of Witness Familiarisation and Witness Proofing* (8 November 2006) at para. 33.

¹⁰ *Prosecutor v Dyilo*, No. ICC-0/04-01/06, *Decision on the Practices of Witness Familiarisation and Witness Proofing* (8 November 2006) at para. 34 and fn. 38

¹¹ *Prosecutor v Dyilo*, No. ICC-0/04-01/06, *Decision on the Practices of Witness Familiarisation and Witness Proofing* (8 November 2006) at para. 35

systems as Brazil, France, Spain, Belgium, Germany, Scotland, Ghana, England and Wales, and Australia, while it was accepted in the United States.¹²

13. The decision indicated that the rationale in those jurisdictions which prohibited witness proofing was based on concerns that:

- Witnesses may alter their evidence when realizing that certain aspects of their evidence are not quite consistent, or not required to be mentioned;
- Information given during proofing sessions may be deliberately or inadvertently incorporated into the witness' testimony, thereby frustrating the ultimate goal of ascertaining the truth
- Witnesses may unconsciously fill in gaps in their memory with logical inferences gained from proofing sessions
- Witnesses may appear more confident and detailed in their recollections after proofing sessions, enhancing the perception of their credibility
- Testimony may become less spontaneous and more like "canned" presentations¹³

14. The decision indicated that the advantages of witness proofing were described as:

- Enabling the identification of differences and deficiencies in recollection prior to the courtroom testimony
- Enabling such differences and deficiencies to be addressed before the testimony is given
- Allowing the testimony to be presented in a more accurate, structured, and exhaustive manner¹⁴

15. The decision noted that the practice of witness proofing was unethical in the Code of Conduct of the Bar Council of England and Wales—a code of conduct that the prosecution had undertaken to abide by.¹⁵

¹² *Prosecutor v Dyilo*, No. ICC-0/04-01/06, *Decision on the Practices of Witness Familiarisation and Witness Proofing* (8 November 2006) at para. 37

¹³ *Prosecutor v Dyilo*, No. ICC-0/04-01/06, *Decision on the Practices of Witness Familiarisation and Witness Proofing* (8 November 2006) at para. 37, fn. 41

¹⁴ *Prosecutor v Dyilo*, No. ICC-0/04-01/06, *Decision on the Practices of Witness Familiarisation and Witness Proofing* (8 November 2006) at para. 37, fn. 42

¹⁵ *Prosecutor v Dyilo*, No. ICC-0/04-01/06, *Decision on the Practices of Witness Familiarisation and Witness Proofing* (8 November 2006) at paras. 38-41

16. The decision went on to conclude that the practice of witness proofing was not “embraced by any general principle of law that can be derived from the national laws of the legal systems of the world,” and that, on the contrary, “if any general principle of law were to be derived from the national laws of the legal systems of the world on this particular matter, it would be the duty of the Prosecution to refrain from undertaking the practice of witness proofing...”¹⁶

17. The decision therefore authorized the Victim Witness Unit to engage in the practice of witness familiarization and prohibited the prosecution from engaging in the practice of witness proofing.¹⁷

18. The prosecutor at the International Criminal Court did not appeal this decision.

The Impugned Decision

19. The Trial Chamber in Mr. Nzirorera’s case declined to follow the ICC decision. It found that the ICC decision was “not based on a comprehensive knowledge of the established practice of the *ad hoc* Tribunals, which is justified by the particularities of these proceedings that differentiate them from national criminal proceedings.”¹⁸

20. The Trial Chamber noted that at the *ad hoc* Tribunals, the crimes charged often occurred many years ago and in many cases, the interviews of the witnesses took place many years earlier; matters that were relevant during the course of the investigation may be different than the case the prosecution intends to present; there may be differences of perception between the investigator who took the statement and the counsel who is going to lead the witness’ evidence in court; and the need for notice to the defence of new matters recollected by the witness since the interview by the investigator.¹⁹

¹⁶ *Prosecutor v Dyilo*, No. ICC-0/04-01/06, *Decision on the Practices of Witness Familiarisation and Witness Proofing* (8 November 2006) at para. 42

¹⁷ *Prosecutor v Dyilo*, No. ICC-0/04-01/06, *Decision on the Practices of Witness Familiarisation and Witness Proofing* (8 November 2006) at page 21

¹⁸ *Decision on Defence Motions to Prohibit Witness Proofing* (15 December 2006) at para. 8

¹⁹ *Decision on Defence Motions to Prohibit Witness Proofing* (15 December 2006) at para. 17

21. The Trial Chamber found that the practice of witness proofing had developed and been sanctioned at both *ad hoc* Tribunals and that the practice “not only poses no undue prejudice, but is also a useful and permissible practice.”²⁰

22. The Trial Chamber went on to hold that it presumed that the prosecution had acted in good faith in this case and that its witness proofing practices had conformed to the established practice at the *ad hoc* Tribunals.²¹

Grounds for Appeal

23. Mr. Nzirorera contends that the Trial Chamber erred in concluding that the practice of witness proofing can be authorized at the ICTR simply because it has become standard operating practice in the Office of the Prosecutor, particularly when such practice is considered unethical and unlawful in most major legal systems in the world.

24. Mr. Nzirorera contends that the Trial Chamber erred in concluding that the nature of cases prosecuted at international Tribunals justified a departure from the well-established rules and norms of the major legal systems of the world.

25. Mr. Nzirorera contends that the Trial Chamber erred in concluding that the practice of witness proofing is a useful practice which does not cause undue prejudice to the accused.

Standard of Review

26. The issues presented by this appeal are purely questions of law. As such they are subject to *de novo* review on appeal.²²

Argument

27. This appeal presents the Appeals Chamber with an opportunity to decide an important issue which goes directly to the heart of the fair trial guarantee of the statutes of the international tribunals. The International Criminal Court, representing 104 countries of the world, has declared the practice of witness proofing to be unethical and unlawful and has banned it. The decision of the Trial Chamber in this case is directly to the contrary.

²⁰ *Decision on Defence Motions to Prohibit Witness Proofing* (15 December 2006) at para. 15

²¹ *Decision on Defence Motions to Prohibit Witness Proofing* (15 December 2006) at paras. 21-24

²² *Prosecutor v Karemera et al*, No. ICTR-98-44-AR73(C), *Decision on Prosecutor's Interlocutory Appeal of Decision on Judicial Notice* (16 June 2006) at para. 23

28. It is important that fundamental principles of international criminal law and procedure, particularly those implicating the right of an accused to a fair trial, be consistent. An examination of the Trial Chamber's decision in this case demonstrates that it erred in coming to a different conclusion than that of the ICC. The Appeals Chamber needs to rectify this error and bring the jurisprudence of the *ad hoc* Tribunals into line with that of the ICC and the major national legal systems of the world.

**The Trial Chamber Erred in Equating
Standard Practice with Accepted Practice**

29. In the Impugned Decision, the Trial Chamber never challenged the conclusion of the ICC decision that witness proofing was considered unethical and unlawful in most of the major legal systems of the world. Instead, it distinguished the ICC decision as "not based on a comprehensive knowledge of the established practice of the *ad hoc* Tribunals."²³

30. It must first be noted that the ICC decision was rendered by a three judge bench presided over by Judge Claude Jorda. Judge Jorda served as a member of a Trial Chamber of the ICTY from 1994, and later became a Judge of the Appeals Chamber of the ICTY and ICTR. In 1999, he was elected President of the ICTY.²⁴ It is hard to imagine a person who would have a more comprehensive knowledge of the established practice of the *ad hoc* Tribunals than Judge Jorda.

31. Mr. Nzirorera agrees that witness proofing has been the established practice of the *ad hoc* Tribunals. It is clear that Judge Jorda and the ICC bench knew this as well. The ICC decision never held that witness proofing was not standard practice at the *ad hoc* Tribunals. Rather, it held that the practice was not widely *accepted*.²⁵

32. In coming to this conclusion, the ICC judges were unquestionably correct. The Appeals Chamber has never been called upon to decide the legitimacy of the practice of witness proofing.²⁶ No decision of an ICTR Trial Chamber accepted the practice. As the ICC decision pointed out, the practice was accepted by one Trial Chamber of the

²³ *Decision on Defence Motions to Prohibit Witness Proofing* (15 December 2006) at para. 8

²⁴ See biography of Judge Jorda at http://www.icc-cpi.int/chambers/judges/Jorda_Claude.html

²⁵ *Prosecutor v Dyllo*, No. ICC-0/04-01/06, *Decision on the Practices of Witness Familiarisation and Witness Proofing* (8 November 2006) at para. 33

²⁶ A passing reference to the practice was made in *Gacumbitsi v Prosecutor*, No. ICTR-2001-64-A, *Judgement* (7 July 2006) at para. 74

ICTY in the *Limaj* case²⁷. The ICC decision held that the decision did not regulate in detail the content of the practice of witness proofing.²⁸

33. Therefore, it was not a valid distinction for the Trial Chamber to have made with the ICC decision that the ICC decision was not based on a comprehensive knowledge of the established practice at the *ad hoc* Tribunals. In fact, the ICC decision made the distinction that the Trial Chamber failed to appreciate between a standard practice and a judicially accepted practice. Therefore, the Trial Chamber erred in concluding that the ICC decision could be disregarded or distinguished based upon the conclusion that it was based upon ignorance of the established practice at the *ad hoc* Tribunals.

34. The fact that witness proofing is standard practice at the ICTR doesn't make it lawful or ethical. It was the duty of the Trial Chamber to determine the validity of that practice when it was directly challenged by Mr. Nzirorera. Just as it is not satisfactory to a child for a parent to say "because we always do it that way", it was no answer to Mr. Nzirorera's challenge that witness proofing is a standard practice.

**The Trial Chamber Erred in
Distinguishing National Jurisprudence**

35. The Trial Chamber justified the practice of witness proofing at the *ad hoc* Tribunals despite its ban in most major legal systems in the world as the product of differences in the cases being tried. The Trial Chamber found that that at the *ad hoc* Tribunals, the crimes charged often occurred many years ago and in many cases, the interviews of the witnesses took place many years earlier; matters that were relevant during the course of the investigation may be different than the case the prosecution intends to present; there may be differences of perception between the investigator who took the statement and the counsel who is going to lead the witness' evidence in court; and the need for notice to the defence of new matters recollected by the witness since the interview by the investigator.²⁹

36. This was not a valid distinction for several reasons.

²⁷ *Prosecutor v Limaj et al*, No. IT-03-66-T, *Decision on the Defence Motion on Prosecution Practice of Proofing Witnesses* (10 December 2004)

²⁸ *Prosecutor v Dyllo*, No. ICC-0/04-01/06, *Decision on the Practices of Witness Familiarisation and Witness Proofing* (8 November 2006) at para. 32

²⁹ *Decision on Defence Motions to Prohibit Witness Proofing* (15 December 2006) at para. 17

37. First, it does not justify a different rule than that at the ICC, where its Statute provides that it would hear the very same types of cases being tried at the *ad hoc* Tribunals. There is no reason to believe that the cases at the ICC will be any different than those at the *ad hoc* Tribunals with respect to the passage of time between the events and the trial, the differences between the case that is investigated and the case that is tried, the separation of functions and perception between an investigator and counsel, and the likelihood of new matters arising between the time the witness was interviewed and the time he/she gives evidence.

38. Second, as pointed out by the ICC decision, many national jurisdictions which prohibit witness proofing try the same kinds of cases being tried at the international Tribunals.³⁰ Indeed, the cases of Adolf Eichmann, Klaus Barbie, and Maurice Papon were tried in national jurisdictions after many years had elapsed since the events without the need for witness proofing. Similarly, national courts in Belgium and Rwanda have been adjudicating cases based on the same events as the ICTR, and national courts in Bosnia, Croatia, and Serbia have been adjudicating cases based in the same events as the ICTY, all without the need to resort to the questionable practice of witness proofing.

39. Third, even for domestic crimes, it is not uncommon for a prosecution to occur many years after the events and interview of witnesses. Such situations arise when an accused has been a fugitive for many years, when new technology such as DNA allows for charges to be brought many years after the event, when a case is overturned on appeal and has to be retried many years later, or simply when a case is reinvestigated, as made popular by the television show *Cold Case*.

40. Therefore, the Trial Chamber erred in concluding that the nature of the crimes being prosecuted at the *ad hoc* Tribunals justified a departure from the rules prohibiting witness proofing at the ICC and virtually all major legal systems of the world.

³⁰ *Prosecutor v Dyilo*, No. ICC-0/04-01/06, *Decision on the Practices of Witness Familiarisation and Witness Proofing* (8 November 2006) at para. 34 and fn. 38

The Trial Chamber Erred in Its Assessment of Witness Proofing

41. The Trial Chamber declared that the practice of witness proofing “not only poses no undue prejudice, but is also a useful and permissible practice.”³¹ It is respectfully submitted that the Trial Chamber erred in this assessment of witness proofing.

42. If witness proofing is such a good thing, why is it banned at the ICC and in virtually all major legal systems in the world?

43. The ICC decision answered that question. It surveyed the reasons why witness proofing had been found to be unethical and unlawful. Among the reasons were the potential that witnesses may alter their evidence when realizing that certain aspects of their evidence are inconsistent; that information given during proofing sessions may be deliberately or inadvertently incorporated into the witness’ testimony, thereby frustrating the ultimate goal of ascertaining the truth; that witnesses may unconsciously fill in gaps in their memory with logical inferences gained from proofing sessions; and that witnesses may appear more confident and detailed in their recollections after proofing sessions, enhancing the perception of their credibility.³²

44. These are all valid reasons. Lawyers proof witnesses in an adversary system to enhance their chances of winning the case. Otherwise they wouldn’t do it. If a witness would be just as credible without proofing as with it, why would anyone spend the time and resources to proof the witnesses?

45. The truth is that witness proofing is subject to abuse on all sides. Confronting a witness with inconsistencies in his/her prior statements, or with other evidence in the case, makes it easier for the witness to explain those inconsistencies when confronted with them on cross examination. This is a benefit to the party calling the witness as it enhances the witness’ credibility. But is it a benefit for the finder of fact, or for justice?

46. The Trial Chamber was completely wrong to believe that the accused is not prejudiced by such a practice. The benefit of receiving advance notice of the witness’ new version of events is far outweighed by the fact that this new version has been worked

³¹ *Decision on Defence Motions to Prohibit Witness Proofing* (15 December 2006) at para. 15

³² *Prosecutor v Dyilo*, No. ICC-0/04-01/06, *Decision on the Practices of Witness Familiarisation and Witness Proofing* (8 November 2006) at para. 37, fn. 41

out in advance with the prosecutor, who knows his case, its holes, and the defence strategy. It is far preferable for an accused to hear the witness come up with new material spontaneously on the witness stand than to learn of new material filtered through the proofing sessions with the prosecutor.

47. While the issue before the Appeals Chamber is a global one, and not determined by the facts of any particular case, Mr. Nzirorera cannot help but point out that in his case, the notices of new material filed by the prosecution pursuant to Rule 67(D) have frequently contained material which brings the witness' testimony in line with other prosecution evidence in the case.³³

48. Mr. Nzirorera recognizes that a ban on witness proofing would apply not only to the prosecutor but to the defence. He fully accepts that fact and is willing to forgo proofing his witnesses if those rules are applied to all parties at this Tribunal.

49. It is respectfully submitted that the Trial Chamber erred in concluding that witness proofing is a useful and permissible practice which does not prejudice the accused. This finding flies in the face of the years of accumulated wisdom in all of those jurisdictions which have banned witness proofing and ignores the practical impact of witness proofing in distorting the fact finding process.


Conclusion

50. This appeal presents an opportunity for the Appeals Chamber to restore integrity to the practice at the *ad hoc* International Tribunals and to bring its jurisprudence in line with that of the International Criminal Court. The decision of the Trial Chamber upholding the practice of witness proofing should be reversed.

Word count: 3146

³³ For example, see *Notice of Additional Evidence Pursuant to Rule 67(D) and Rule 68 for Witness GFJ* (9 August 2004); *Avis Conformament a l'Article 67(D) Concernant le Temoin ZF* (8 May 2006); *Avis Conformament a l'Article 67(D) Concernant le Temoin AWB* (28 February 2006); *Avis Conformament a l'Article 67(D) Concernant le Temoin ALG* (27 February 2006); *Notice Pursuant to Rule 67(D) Concerning Witness HH* (30 March 2006); *Prosecutor's Supplemental Notice Pursuant to Rule 67(D) and Rule 68(A) Concerning Witness GBY* (17 December 2006); *Notice of Additional Evidence Pursuant to Rule 67(D) for Witness AMM* (19 December 2006)

Respectfully submitted,



PETER ROBINSON

Lead Counsel for Joseph Nzirorera



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)

To:	<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 checked="" type="checkbox"/> Appeals Chamber / Arusha F. A. Talon
	<input type="checkbox"/> Chief, CMS J.-P. Fomété	<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
From:	<input type="checkbox"/> Chamber (names)	<input checked="" type="checkbox"/> Defence Peter Robinson (names)	<input type="checkbox"/> Prosecutor's Office (names)	<input type="checkbox"/> Other: (names)
Case Name:	The Prosecutor vs. Joseph Nzirorera			Case Number: ICTR-98-44-AR73.8
Dates:	Transmitted: 18 March 2007		Document's date: 19 March 2007	
No. of Pages:	12	Original Language:	<input checked="" type="checkbox"/> English	<input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
Title of Document:	JOSEPH NZIRORERA'S INTERLOCUTORY APPEAL ON "WITNESS PROOFING"			
Classification Level:	TRIM Document Type:			
<input type="checkbox"/> Strictly Confidential / Under Seal	<input type="checkbox"/> Indictment	<input type="checkbox"/> Warrant	<input type="checkbox"/> Correspondence	<input type="checkbox"/> Submission from non-parties
<input type="checkbox"/> Confidential	<input type="checkbox"/> Decision	<input type="checkbox"/> Affidavit	<input checked="" type="checkbox"/> Notice of Appeal	<input type="checkbox"/> Submission from parties
<input checked="" type="checkbox"/> Public	<input type="checkbox"/> Disclosure	<input type="checkbox"/> Order	<input type="checkbox"/> Appeal Book	<input type="checkbox"/> Accused particulars
	<input type="checkbox"/> Judgement	<input 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.				
<input checked="" type="checkbox"/> Filing Party hereby submits only the original, and will not submit any translated version.				
<input type="checkbox"/> Reference material is provided in annex to facilitate translation.				
Target Language(s):				
<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda	JUDICIAL RECORDS/ARRESTS 2007 MAR 19 11:09:47 RECEIVED	
CMS SHALL NOT take any action regarding translation.				
<input type="checkbox"/> 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 type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda
CMS SHALL NOT take any action regarding translation.				
<input type="checkbox"/> Filing Party will be submitting the translated version(s) in due course in the following language(s):				
<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> 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"/> DEFENCE is overseeing translation. The document is submitted to an accredited service for translation (fees will be submitted to DCDMS):		
<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:		
Name of contact person: Name of service: Address: E-mail / Tel. / Fax:				

III - TRANSLATION PRIORITISATION (For Official use ONLY)

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



**COURT MANAGEMENT
ADMINISTRATION DES CHAMBRES**

UNITED NATIONS
NATIONS UNIES

Arusha International Conference Centre
P.O.Box 6016, Arusha, Tanzania - B.P. 6016, Arusha, Tanzanie
Tel: 255 57 504207-11 504367-72 or 1 212 963 2850 Fax: 255 57 504000/504373 or 1 212 963 2848/49

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

Date: 12/03/07		Case Name / affaire: - Edouard KAREMERA - Joseph NZIRORERA - Mathieu NGIRUMPATSE	
		Case No / no. de l'affaire: ICTR-98-44-A	
To: A:	Appeals Chamber Support Unit, The Hague: - Mr. Koffi Afande - Mr. Patrict Tchidimbo - Mr. Ramadhani T. Juma	<input type="checkbox"/> Judge / Juge Fausto Pocar, Presiding Judge <input type="checkbox"/> Judge / Juge Mohamed Shahabuddeen <input type="checkbox"/> Judge / Juge Liu Daqun <input type="checkbox"/> Judge / Juge Theodor Meron <input type="checkbox"/> Judge / Juge Wolfgang Schomburg	
	ACCUSED / DEFENSE <input checked="" type="checkbox"/> Accused / <i>Accusé</i> KAREMERA, NGIRUMPATSE, NZIRORERA <small>see / voir "CMS4"</small> <input checked="" type="checkbox"/> Lead Counsel / <i>Conseil Principal</i> : D. Diagne, C. Hounkpatin, P. Robinson <input type="checkbox"/> In Arusha / à Arusha: (see / voir CMS3) <input type="checkbox"/> Fax: <input type="checkbox"/> Co-Counsel / <i>Conseil Adjoint</i> : F. Sow, F. Weyl, P. Ngimbi <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 checked="" type="checkbox"/> Don Webster Senior Trial Attorney in charge of case: (□name) <input type="checkbox"/> The Hague / La Haye <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
JOSEPH NZIRORERA'S INTERLOCUTORY APPEAL ON "WITNESS PROOFING"		19/03/2007	1675/A – 1665/A

Don Webster

CENTRAL REGISTRY: ALL FAX TRANSMISSION SHEETS MUST BE ANNEXED TO THIS FORM No. of

pages transmitted including this cover sheet / *Nombre de pages transmises, page de garde comprise*: 111
 In case of transmission difficulties, please contact: Central Registry / *En cas de difficulté de transmission, veuillez contacter*:
 Tel: 212-963 4828 ext. 5333, 5063 Fax: 212-963 2848 Email: giani@un.org or lipscombe@un.org