

**ANNOTATED LEADING CASES OF
INTERNATIONAL CRIMINAL TRIBUNALS**

**VOLUME XXXVI:
THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR RWANDA 2009**

André KLIP and Göran SLUITER (eds.)



intersentia

Cambridge – Antwerp – Portland

Intersentia Publishing Ltd.
Trinity House | Cambridge Business Park | Cowley Road
Cambridge | CB4 0WZ | United Kingdom
Tel.: +44 1223 393 753 | Email: mail@intersentia.co.uk

Distribution for the UK:
Hart Publishing Ltd.
16C Worcester Place
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Distribution for the USA and Canada:
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920 NE 58th Ave. Suite 300
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Distribution for Austria:
Neuer Wissenschaftlicher Verlag
Argentinerstraße 42/6
1040 Wien
Austria
Tel.: +43 1 535 61 03 24
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Distribution for other countries:
Intersentia Publishing nv
Groenstraat 31
2640 Mortsel
Belgium
Tel.: +32 3 680 15 50
Email: mail@intersentia.be

Please cite as: Decision on “Joseph Nzirorera’s Appeal from refusal to investigate [a] prosecution witness for false testimony” and on Motion for Oral Arguments, *Prosecutor v. Karemera, Ndirumpatse and Nzirorera*, Case No. ICTR-98-44-AR.91, A. Ch., 22 January 2009, Klip/ Sluiter, ALC-XXXVI-9.

Annotated Leading Cases of International Criminal Tribunals
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Cover illustration: Annelies Der Kinderen

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Cambridge – Antwerp – Portland
www.intersentia.com | www.intersentia.co.uk

ISBN 978-1-78068-034-7
D/2013/7849/5
NUR 828

British Library Cataloguing in Publication Data. A catalogue record for this book is available from the British Library.

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PREFACE

This is the thirty-sixth volume in the series 'Annotated Leading Cases of International Criminal Tribunals' and contains the most important decisions of the International Criminal Tribunal for Rwanda (ICTR) of the whole year of 2009. It is the twelfth volume in the series containing decisions of the ICTR. A further volume on ICTR case law will be selected soon and will cover decisions up to the fall of 2010.

In its approach and structure, the present volume is similar to previous volumes. Thus, the book contains the full text of all the decisions and judgements, including separate, concurring and dissenting opinions, as well as annexes to the decisions. As with previous volumes, the editors have ensured that the decisions are fully identical to the *written* original text, as issued by the ICTR Press and Information Office, which bears the signatures of the judges. We are aware that almost all decisions are available on the internet. However, only the written decisions bearing the signatures of the judges can be considered as authoritative versions. In the course of our editorial work on this and previous volumes, we have occasionally discovered inconsistencies between the written original version of the decision and the internet version, if the latter is available at all. Much of our editorial efforts consist in making the texts in this series identical to the written original version.

We could only include the full text of the decisions in this volume by reducing their original format. Still, we wanted the reader to be able to identify the page number of the original text, which is throughout the text put in brackets. We are again very happy that a number of distinguished scholars in the field of international criminal law were prepared to write interesting and stimulating commentaries regarding the decisions.

A few words regarding the selection of decisions may give the user insight into our working method. In principle, we select all final judgements. In addition, we publish decisions taken at any stage of the procedure that are important for other reasons: because they deal with a specific legal question, because they are representative of a specific type of decision, or because they enter new legal waters. Of course, we cannot publish all decisions. As a result, we may not publish decisions in which issues have been decided in a way similar or identical to a decision that has already been selected.

The decisions are presented in different parts and under different headings.

Part 1, 'Procedural matters', deals with a decision on false testimony, some decisions on the length of the proceedings, some on the scope of evidence during the retrial, as well as a decision concerning provisional release.

Part 2, 'Judgement and Sentencing', contains seven judgements and covers by far the largest part of this volume. As mentioned above, judgements are by definition included in this series, because of their importance, both from a factual and legal perspective.

We owe acknowledgements to many persons without whom we could not have completed this thirty-second volume. These include Registrar Adama Dieng of the ICTR and his staff, who offered generous assistance in obtaining all the hard copies of decisions. Our publisher Intersentia, in particular Hans Kluwer, Tom Scheirs and Isabelle van Dongen, facilitated our work. We also acknowledge the work of our student assistants, Mariam Pathan and Anzinga Low (Maastricht), and Jeroen Gunning (Amsterdam), who assisted with the corrections of the text and without whom we would not be able to publish this series. The Netherlands School of Human Rights Research stimulated our work. Anzinga Low, the student-assistant at Maastricht University, offered tremendous help by correcting our English. Last but not least, we wish to thank the distinguished authors for their commentaries on the decisions.

We owe many thanks to Mariam Pathan, who was our student-assistant in Maastricht. Mariam has assisted us since volume XXI on the decisions of the Special Court for Sierra Leone. Over the years she has been a most reliable linchpin between contributors, editors and the publisher. We wish her all the best in her future endeavours.

On 26 March 2010, our dear colleague Peter Bal passed away in a hospital on the island of Bali, Indonesia. Peter contributed to volume XVI on the East Timorese case law on one of his favorite topics: the fitness to stand trial. It was an excellent contribution in which he was able to draw many comparisons with US law. We

remember Peter as a high-spirited and dedicated colleague. His competent and energetic teaching style was very well appreciated by his students. Among his colleagues, Peter was known to be a qualified, passionate and charming scholar. In memory of him, his friends wrote a book that was dedicated to him.¹ We will sadly miss him.

We hope that this volume will contribute to the further dissemination of the important work of the ICTR and that it will provide access to its decisions to practitioners, academics and students.

André Klip and Göran Sluiter

Maastricht/ Amsterdam, August 2012

¹ Frans Koenraadt and Ria Wolleswinkel (eds.), *Homo ludens en humaan strafrecht, funderen – vergelijken – onderwijzen*, Gedenkbundel Peter Bal, Pompe Reeks 67, Boom Lemma uitgevers Den Haag 2011 (362 p.).