



MADRID, March 7<sup>th</sup> 2011

**Hon. Mr. Jacob Zuma**

**Union Buildings  
Private Bag X1000,  
Pretoria,  
0001 South Africa**

**President of the Republic of South Africa.**

**Mr. President:**

**Platform Stop Impunity in Rwanda is a group of organizations who have been involved in the field of human rights for a long time, more specifically, against impunity in central Africa, and very particularly in Rwanda and the Democratic Republic of Congo. These organizations have come together, backed up by the great social and media impact achieved after our action on July 16, 2010, when our Prime Minister Jose Luis Rodriguez Zapatero canceled the official reception to President Paul Kagame of Rwanda. Platform Stop Impunity in Rwanda wishes to provide the following information regarding a man accused of being a war criminal who, as you might be aware, is currently in South Africa, and the judicial process against him monitored by Spanish courts: Mr. Kayumba Nyamwasa.**

**The Spanish courts have legal authority to prosecute international crimes (genocide, crimes against humanity and war crimes, among others), even if they are alleged to have occurred in other countries as long as there is a clear connection to Spain.**

**Former Rwandan General Kayumba Nyamwasa is being charged by the Juzgado Central de Instrucción number 4 de la Audiencia Nacional (Judge Fernando Andreu) of crimes of genocide and the murder of a Spanish missionary and three Spanish aid workers, among other victims, like Rwandan and Congolese victims. The competent judicial authorities for international crimes proposed to the Spanish political authorities to request the extradition of Mr. Nyamwasa, in accordance with the national criminal procedure laws and international laws. In September 2010, as you may as well know, the Spanish government requested**

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PLATAFORMA BASTA DE IMPUNIDAD EN RUANDA

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officially the extradition of Mr. Kayumba Nyamwasa to the competent authorities of South Africa.

### **Extradition Treaties**

As there is currently an extradition treaty ratified by Spain and the Republic of South Africa, the procedure will be based on this treaty: the European Convention on Extradition (Paris, December 13, 1957). South Africa ratified and joined the Treaty on February 12<sup>th</sup> 2003, with all legal purposes as Adhered Party pursuant to Articles 30 and 6.2 of the Convention (Spain did the same in 1982). Article 1 forces the extradition of individuals prosecuted for a criminal offense, especially if it is an international crime, and there is no reservation or statement limiting the obligation of the Republic of South Africa today.

Additionally, both the Republic of South Africa (since 2003) and Spain (1985) are parties to the Additional Protocol of the European Convention on Extradition (Strasbourg, December 15, 1975). This international protocol stipulates that no crimes against humanity, (defined in the Convention for the Prevention of Genocide [December 1948, UN]) or offenses under Articles 147 and related provisions of the Geneva Convention of 1949 regarding the protection of civilians in times of war or any similar violation of the laws of war in force, will be treated as political offenses. International crimes of genocide, crimes against humanity and war crimes are attributed to Mr. Kayumba Nyamwasa, presumed author, by the Spanish judicial authorities.

According to the petition of extradition request issued by the Spanish authorities, Platform Stop Impunity in Rwanda asks you to follow through the international laws defined in the Convention mentioned above and to proceed with the extradition of Mr. Kayumba Nyamwasa to Spain.

### **Convention on the Status of Refugees**

Moreover, in the occurrence that the former General Mr. Kayumba Nyamwasa has requested political asylum in the Republic of South

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Africa, we wish to remind you that in 1996 South Africa ratified and joined the Convention on the Status of Refugees (Geneva, 28 July 1951).

This Convention states in Article 1F that:

*The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:*

*(a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;*

*(b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;*

*(c) he has been guilty of acts contrary to the purposes and principles of the United Nations.*

Furthermore, South Africa is also part of the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa since December 1995. Article 1.5 of this agreement prohibits the application of refugee status for the same reasons that the Geneva Convention as follows:

*The provisions of this Convention shall not apply to any person with respect to whom the country of asylum has serious reasons for considering that:*

*a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;*

*b) he committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;*

*c) he has been guilty of acts contrary to the purposes and principles of the Organization of African Unity;*

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*d) he has been guilty of acts contrary to the purposes and principles of the United Nations.*

**Under these international Conventions Mr. Kayumba Nyamwasa cannot be granted asylum status and should be extradited to Spanish courts.**

### **Petition**

**The Platform Stop Impunity in Rwanda requests the South African Government accept the extradition petition issued by the Spanish Government, on the basis of all the legal issues explained above, and to hand over the indicted Mr. Kayumba Nyamwasa to the Spanish authorities.**

**Thank you most sincerely for your attention and hope to earn your prompt response to these considerations.**

**Yours sincerely,**

**Platform STOP IMPUNITY IN RWANDA, formed by:**

**Comités de Solidaridad África Negra (UMOYA); Fundación SUR; África Tumaini; INSHUTI; Drets Humans de Mallorca; Veritas Ruanda Forum; Fundació S'Olivar; Red Africa-Europa, Fe y Justicia (AEFJN) Antena de Madrid; Justicia y Paz MC; Campaña "África, cuestión de vida, cuestión debida" de Red de Entidades de Desarrollo Solidario (REDES);**

**Family of Joaquín Vallmajó (+1994, Rwanda)**

**Family of Servando Mayor (+1996 Zaire, actual RD Congo)**

**Family of Julio Rodríguez (+1996 Zaire, actual RD Congo)**

**Family of Miguel Angel Isla (+1996 Zaire, actual RD Congo)**

**Family of Fernando de la Fuente (+1996 Zaire, actual RD Congo)**

**Family of Flors Sirera (+ 1997, Rwanda)**

**Family of Manuel Madrazo (+1997, Rwanda)**

**Family of Luis Valtueña (+ 1997, Rwanda)**

**Family of Isidro Uzcudún (+ 2000, Rwanda)**

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## **SUPPORTED BY:**

**Jordi Palou Loverdos**, Attorney at Law, legal representative of **Josep, Martí, Núria, Pilar and Maria Antonia Vallmajó Sala** (siblings of Joaquim Vallmajó); **Josep Maria Sirera Fortuny** (brother of Flors Sirera); **Fernando Valtueña Gallego** (brother of Luis Valtueña, photojournalist); **Rocío Madrazo Candel, Belen Madrazo Candel** (daughters of Manuel Madrazo); **Fernando Madrazo Osuna**, (brother of Manuel Madrazo); **Edesio Rodríguez de la Fuente, M<sup>a</sup> de los Ángeles Jorge de la Fuente** (parents of Julio Rodríguez Jorge); **Jesús Mayor García** (brother of Servando Mayor); **Cipriano and Gerardo Isla Lucio** (brothers of Miguel Ángel Isla Lucio); **Segismundo de la Fuente Gadea** (father of Fernando de la Fuente); **Águeda Uzcudun Pouso**, (sister of Isidro UZCUDUN); **Marie Béatrice Umutesi**, (sociologist, writer and Rwandan victim); **6 Rwandan victims** (protected witnesses); **City Councils of Figueres; City Councils of Manresa; City Councils of Navata; City Councils of Sevilla; City Councils of Tremp; Federación de Comités de Solidaridad con el África Negra de España (12 committees); Centro de Recursos de la Coordinadora d'ONG Solidàries (47 associations); Associació Drets Humans de Mallorca; Bernadette Mukamana, Eric Ntwali, Belise Songa and Bernard Ngezi** (widow and children of Emmanuel Gapyisi); **Cyriaque Nikuze Sendashonga** (widow of Rwandan Minister of Internal Affairs M. Seth Sendashonga); **Sindicat de Treballadores i Treballadors - Intersindical de les Illes Balears - (STEI-i); Grup Balear d'Ornitologia i Defensa de la Naturalesa; Cynthia Ann McKinney**\_Former African-American Congresswoman ( USA); **Adolfo-María Pérez Esquivel** , Nobel Peace Prize winner 1980 (Argentina)

## **EUROPE**

### **BELGIUM**

**Assistance aux Victimes des Conflits en Afrique Centrale**, AVICA, BRUXELLES

**SOS Rwanda-Burundi asbl**, BUZET

**Centre de Lutte contre l'Impunité** BRUXELLES

**European Action Group**

### **ITALY**

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**FRATERNITÀ MISSIONARIA, VICOMERO – TORRILE**

**ASSOCIAZIONE FAMIGLIA SPERANZA ONLUS, MANTOVA**

**GENTEINCAMMINO ONLUS, GENOVA**

**SICSAL ITALIA\_ SERVIZIO INTERNAZIONALE CRISTIANO DI SOLIDARIETÁ CON I POPOLI DELL'AMERICA LATINA - OSCAR ROMERO, ROMA**

**ASSOCIAZIONE UNIVERSITARIA COOPERAZIONE INTERNAZIONALE, AUCI, ROMA**

**AFRICA EUROPA FAITH AND JUSTICE NETWORK, AEJFN ANTENNA ITALIA, ROMA**

**MISSIONE OGGI, BRESCIA**

**RETE PACE PER IL CONGO, PARMA**

## **SPAIN**

**COORDINADORA ESPAÑOLA DE ONG PARA EL DESARROLLO**  
CONGDE (Coordinadora de mas de 100 organizaciones y de las 17 Coordinadoras Autonómicas)

**COORDINADORA ESTATAL DE COMITÉS ÓSCAR ROMERO DEL ESTADO ESPAÑOL, MADRID (12 comités)**

**COMITÉ DE SOLIDARIDAD OSCAR ROMERO, TORREJON DE ARDOZ**

**COMITÉ DE SOLIDARIDAD OSCAR ROMERO, VIGO**

**MEDICOS DEL MUNDO, MADRID**

**ONGD AFRICANDO DE INGENIO, MADRID**

**FUNDACIÓ PER LA PAU, BARCELONA**

**MALLORQUINS, ALÇAU ES CAP, MALLORCA**

**COMITÉ RENE CASSIN, SEVILLA**

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**MOVIMIENTO PRO CELIBATO OPCIONAL, MOCEOP, MADRID**

**POR UN MUNDO MÁS JUSTO, M+J, MADRID**

**UNIÓN UNIVERSAL DESARROLLO SOLIDARIO, MALAGA**

**ONGD NAKUPENDA AFRICA, NAVARRA**

**OCASHA, MADRID**

**DINAMO ALTERNATIVA SOCIAL, MADRID**

**CONFEDERACION ESPAÑOLA DE RELIGIOSOS, CONFER, MADRID**

**THE NETHERLANDS**

**FONDATION AMANI YA CONGO / WERKGROEP CONGONED AMSTERDAM**

**STICHTING LISANGA CONGOLEES STEUNPUNT AMSTERDAM**

**ASSOCIATION OF VICTIMS PRO IUSTITIA AMSTERDAM**

## **AMERICA**

### **ARGENTINA**

**Instituto de Investigacion Accion Participativa Dr. Juan Jose Castelli,  
BUENOS AIRES**

### **CANADA**

**CONGRES RWANDAIS DU CANADA, MONTREAL**

### **USA**

**ORGANIZATION FOR PEACE, JUSTICE AND DEVELOPMENT IN RWANDA  
OPJDR, INC. DELAWARE**

**FOUNDATION FOR FREEDOM AND DEMOCRACY IN RWANDA INC  
WASHINGTON DC**

**INITIATIVE FOR DEMOCRACY AND DEVELOPMENT. IDD , HILLSIDE WICHITA, KS,**

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**AFRICAN GREAT LAKES ACTION NETWORK, AGLAN,**

**FRIENDS OF THE CONGO, WASHINGTON DC**

**STUFF FOR THE POOR, SCHAUMBURG, ILLINOIS**

## **AFRICA**

### **RD CONGO**

**COMITÉ NATIONAL FEMME ET DÉVELOPPEMENT, CONAFED, KINSHASA**

**RENCONTRE POUR LA PAIX ET LES DROITS DE L'HOMME, RPDH, KOUILOU**

## **AUSTRALIA**

### **NEW ZEALAND**

**DR JOHN C. ROSS  
FOR - GROUP 23, PALMERSTON NORTH,  
AMNESTY INTERNATIONAL AOTEAROA**

***THIS LETTER CONTAINS 8 PAGES, PLUS 5 ATTACHED DOCUMENTS:***

- ***SPANISH GOVERNEMENT PETITION OF EXTRADITION KAYUMBA NYAMWASA TO SOUTHAFRICAN AUTHORITIES. 8<sup>TH</sup> JULY 2010 \_ ORIGINAL DOCUMENT***
- ***OFFICIAL ENGLISH TRANSLATION ABOVE REFERED DOCUMENT***
- ***CONSEJO DE MINISTROS GOBIERNO DE ESPAÑA 17<sup>TH</sup> SEPTEMBER DE 2010: APPROVING THE OFFICIAL REQUEST OF EXTRADITION TO SOUTH AFRICA. SP)***
- ***OFFICIAL REGISTRATION FROM THE SOUTH AFRICAN EMBASSY AT SPAIN- 12 APRIL 2011 (SP)***
- ***1ST PAGE OF THE LETTER WITH REGISTRATION STAMP***

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**JUZGADO CENTRAL DE INSTRUCCIÓN Nº 4**  
**AUDIENCIA NACIONAL**  
**MADRID**

**JOSE LUIS FERRER RECUELO**  
Procurador de los Tribunales  
Juan Bravo, 32 - 1º Dcha.  
Ref. **20.139 MADRID 28006**  
Tel. 91 577 26 80 - Fax: 91 577 26 83

**SUMARIO Núm. 3/2008-D**

**NOTIFICADA POR LEXNET EL 14/07/10**

**AUTO**

En Madrid, a Ocho de Julio de Dos Mil Diez.-

Dada cuenta; y a tenor de los siguientes

**HECHOS**

**PRIMERO.-** De lo actuado hasta el día de la fecha en las presentes actuaciones se desprenden indicios racionales y fundados de que, a partir del mes de Octubre del año 1990, un grupo de estructura político-militar, fuertemente armado y organizado, inició una serie de actividades de carácter criminal, comenzando a realizarlas desde Uganda en el territorio de Ruanda, actividades que sucintamente descritas y en base a las diligencias de prueba practicadas por este Juzgado, en particular de las declaraciones prestadas por testigos presenciales de los hechos y de los distintos documentos aportados, consistirían en que un grupo creado en Uganda y constituido, su aparato militar por el ARME PATRIOTIQUE RWANDIAISE (A.P.R.) y su brazo político el FRONT PATRIOTIQUE RWANDAIS (F.P.R.) habria comenzado sus actividades en el año 1990, dirigidas a la toma del poder en Ruanda.- Las mismas se iniciaron mediante ataques de carácter terrorista contra las poblaciones del Norte de Ruanda, y continuaron mediante operaciones militares contra el ejercito Rwandés y contra población civil, culminando en abril de 1994, cuando el Presidente de Rwanda, Juvenal Habyarimana, es asesinado.- A partir de ese momento, y hasta el mes de junio de 1994, se produce una respuesta de los extremistas hutus, siendo asesinadas 800.000 personas, la mayoría de la etnia tutsi, así como hutus moderados.- Tras ello, el FPR/APR toma el poder en Rwanda, comenzando entonces la persecución y exterminio de los hutus.- En el marco del conflicto creado, se cometieron horribles crímenes contra la humanidad, siendo objeto de este procedimiento los hechos criminales cometidos por las referidas organizaciones, habiéndose obtenido pruebas, en concreto contra el procesado **KAYUMBA NYAMWASA**, en aquel entonces con el rango de General Mayor, por la presunta comisión, de los hechos que seguidamente se relacionan:

1.- Sería directo responsable de las masacres cometidas, por orden directa suya o de sus subordinados directos, como el Teniente Coronel Jackson Rwahama Mutabazi, el Teniente Coronel Jack Nziza, el Coronel Dan Munyuza, el capitán Charles karamba, el Capitán Joseph Nzabamwita, el mayor Steven Balinda o el Teniente Alphonse Mbayire.-

2.- Bajo sus órdenes se procedió al secuestro y posterior asesinato del sacerdote español Joaquín Valmajó, así como de otros religiosos rwandeses hutus en la zona de Byumba a finales de abril de 1994.-

3.- Habría decidido, ordenado y supervisado el asesinato de los tres miembros de Médicos del Mundo españoles, M<sup>a</sup> Flors Sirera Fortuny, Manuel Madrazo Osuna y Luis Valtueña Gallego.-

4.- Máximo responsable de las operaciones llevadas a cabo por el A.P.R. entre finales de 1996 y principios de 1997 en el Noroeste de Rwanda, entre ellas las masacres en la región de Ruhengeri y de las producidas en Gisenyi y Cyangugu, en Nyakinama o Mukingo.-

5).- Planificaría las acciones encargadas de ejecutar a los Intelligence Officers, en especial de los ataques selectivos y terroristas a personas.-

6).- Planificaría y organizaría misiones militares, tales como la de ocultar armamento y municiones en depósitos bajo tierra de cara al asalto final al poder.-

7).- Sería responsable de ataques sistemáticos y planificados a población predeterminada o reunida al efecto, de desapariciones, de ejecuciones extrajudiciales sumarias y otras operativas similares, destacando las realizadas en Munyanza, Kiyanza, Rutongo, Kabuye y, sobre todo la que se denominó "auténtica carnicería" en el Campo de Nyacyonga.-

8).- El día 23 de abril de 1994, habría coordinado la operación militar en el estadio de Byumba, reagrupando a unos 2500 refugiados, rwandeses de etnia hutu, para proceder a su masacre mediante el lanzamiento, primero de granadas y, después, abrir fuego con fusiles automáticos indiscriminadamente.-

9).- Como Jefe de los Servicios secretos Militares de la D.M.I. (Directorate Military Intelligence) habría organizado y ejecutado atentados terroristas contra enemigos del régimen.-

**SEGUNDO.-** Por los hechos investigados que han sido sucintamente relatados en el apartado anterior, este Juzgado en fecha 06 de Febrero de 2008 dictó Auto de Procesamiento, entre otros, contra **KAYUMBA NYAMWASA** y en la misma resolución, dado su ignorado paradero y domicilio en España, se ordenó publicar requisitorias encaminadas a su busca, captura e ingreso en prisión, habiéndose expedido también a tales efectos Orden Europea de Detención y Entrega y Orden Internacional de Detención, que fueron grabadas y difundidas por la Oficina de S.I.R.E.N.E. España y por INTERPOL, y habiendo transcurrido el término de diez días fijado en las mismas, sin que el procesado hubiere comparecido, ni fuese hallado por las Fuerzas de Seguridad del Estado, por Auto dictado en fecha 19 de Mayo de 2008 fue declarado en rebeldía.-

**TERCERO.-** Como consecuencia de las investigaciones practicadas en las presentes actuaciones, este Juzgado ha tenido conocimiento de que el procesado y rebelde en la presente causa **KAYUMBA NYAMWASA** se encuentra refugiado de facto en la República de Sudáfrica, por lo que en base al Auto de procesamiento anteriormente citado resulta oportuno proponer al Gobierno de la Nación que inste de las Autoridades de la República de Sudáfrica, la extradición del antes citado.-

## **RAZONAMIENTOS JURÍDICOS**

**PRIMERO.-** Para que pueda pedirse o proponerse la extradición, será requisito necesario que se haya dictado auto motivado de prisión, o recaído sentencia firme contra los acusados a que se refiere, de conformidad con lo establecido en el artículo 825 de la Ley de Enjuiciamiento Criminal, por atribuirse al procesado la comisión de los delitos de genocidio (Artículo 607 del Código Penal), de lesa humanidad (Artículo 607 bis del Código Penal), delito contra las personas y bienes protegidos en caso de conflicto armado (Artículos 608, 609, 610, 611, 612, 613, 614 y 614 bis del Código Penal) y disposiciones comunes de los Artículos 615 y 615 bis del Código Penal, delito de integración en organización terrorista (Artículos 515 y 516 del Código Penal) y actos terroristas (Artículo 572 del Código Penal), todo ello en relación concursal con los delitos de homicidio y sus formas (Título I Código Penal), lesiones, contra la libertad, de torturas y otros delitos contra la integridad moral, y delitos contra el patrimonio y el orden socioeconómico, estando tales delitos castigados para los hechos anteriores al 24 de mayo de 1996 por los artículos 173, 174 y 174 bis del Código Penal anterior.-

**SEGUNDO.-** Es igualmente procedente la petición ya que el mencionado procesado, debiendo ser juzgado en España, se ha refugiado en un país que no es el suyo, según dispone el número 1 del artículo 826 de la Ley de Enjuiciamiento Criminal, y siendo aplicable el Convenio Europeo de Extradición hecho en París el 13 de Diciembre de 1.957, del que España es parte y que fue ratificado por la República de Sudáfrica adhiriéndose al mismo en fecha 12 de febrero de 2003, siendo parte ambos Estados asimismo del Protocolo Adicional a la Convención Europea de Extradición hecho en Estrasburgo en fecha 15 de diciembre de 1975 y en cuyo territorio sudafricano se encuentra el procesado reclamado, de conformidad con el artículo 827 de la citada Ley Procesal Penal, siendo de aplicación igualmente para la procedente solicitud de extradición a que esta resolución hace referencia, el Convenio para la Prevención y sanción del Delito de Genocidio aprobado por la Asamblea General de la Organización de las Naciones Unidas en fecha 09 de Diciembre de 1948 del que España forma parte desde el 13 de septiembre de 1968, así como el estatuto de Roma de la Corte Penal Internacional hecho en Roma el 17 de Julio de 1998, firmado y ratificado tanto por España como por la República de Sudáfrica.-

**TERCERO.-** Este Juzgado es competente para pedir la extradición ya que se encuentra conociendo de la causa en que está procesado el reo ausente en el extranjero, y que el estado de la citada causa y su resultado es el precedente, conforme a los preceptos invocados (número 1 del artículo 826 y número 1 del artículo 827 de la Ley de Enjuiciamiento Criminal) para acordar de oficio pedir la extradición, a tenor de lo dispuesto en los artículos 828 y 829 de la repetida Ley Rituaria.-

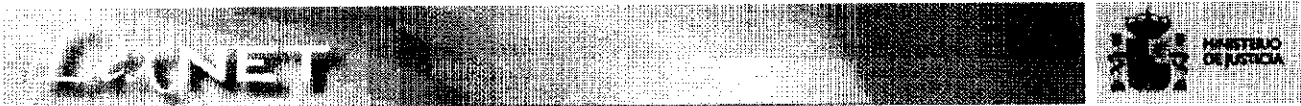
### **PARTE DISPOSITIVA**

**S.S<sup>a</sup>. ILTMA. ACUERDA: PROPONER AL GOBIERNO ESPAÑOL interesar la extradición del procesado *KAYUMBA NYAMWASA, nacido el 28 de Marzo de 1958 o 1960, en Mbarara o Rukengiri (Uganda)* del Gobierno de la REPUBLICA DE SUDAFRICA, país donde se encuentra dicho procesado.-**

Y de conformidad con lo dispuesto en los artículos 831 y siguientes de la Ley de Enjuiciamiento Criminal, elévese, por conducto del Excmo. Sr. Presidente de la Audiencia Nacional, atento suplicatorio al Excmo. Sr. Ministro de Justicia y al Excmo. Sr. Ministro de Asuntos Exteriores, acompañando testimonio de la presente resolución, del Auto de procesamiento y prisión dictado contra *KAYUMBA NYAMWASA* con fecha 06 de Febrero de 2008, los datos de filiación del procesado citado, así como su fotografía y reseña dactilar, y de los Textos Legales procedentes y oportunos.-

Así lo acuerda, manda y firma el Ilmo. Sr. D. FERNANDO ANDREU MERELLES Magistrado-Juez titular del Juzgado Central de Instrucción número Cuatro de la Audiencia Nacional, con sede en Madrid; doy fe.

**DILIGENCIA.-** Seguidamente se cumple lo ordenado.- Doy fe.-



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[Desconectar](#)
13-07-2010 12:54

**☑ Aceptados ☑ [130] FERRER RECUERO, JOSE LUIS - Procurador**

**Cabecera:**

Estado	Firma	Remitente	Asunto	Fecha	Tamaño
		[2807927004] JDO. CENTRAL INSTRUCCION N. 4 AUDIENCIA NACIONAL	Comunicacion del Acontecimiento 138: A.PEDIR EXTRADICION NYAMWASA 08-07-10	mar 13/07/2010 09:43:09	175 Kb

**Datos particulares :**

**Remitente:**

Órgano judicial: [2807927004] JDO. CENTRAL INSTRUCCION N. 4 **AUDIENCIA NACIONAL**  
 Oficina de registro: [2807927000]

**Destinatario:**

Procurador: [130] FERRER RECUERO, JOSE LUIS  
 Colegio de Procuradores: [28] Ilustre Colegio de Procuradores de Madrid **Madrid**

**Detalle del asunto:**

Identificador en LexNET: 201000015025411  
 Tipo procedimiento: [SU]  
 Nº procedimiento: 20080000003  
 Descripción: Comunicacion del Acontecimiento 138: A.PEDIR EXTRADICION NYAMWASA 08-07-10  
 Orden: PENAL/INSTRUCCION  
 Su referencia: -  
 NIG: 2807927220050000799  
 Detalle del Acontecimiento: TODOS  
 Numero de secuencia de la pieza:  
 Numero de procedimiento origen: 20050000055  
 Código del Tipo de Procedimiento Original: [DPA]

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[2807927004] JDO. CENTRAL INSTRUCCION N. 4

Seleccione una de las posibles acciones a realizar sobre el mensaje actual:

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**JUZGADO CENTRAL DE INSTRUCCIÓN N° 4**  
[CENTRAL COURT FOR COMMITTAL PROCEEDINGS NO. 4]  
**AUDIENCIA NACIONAL**  
[NATIONAL COURT]  
Telephone: 913973320//3253  
Fax: 913081733  
MADRID

**TO THE JUDICIAL AUTHORITIES OF THE REPUBLIC  
OF SOUTH AFRICA**

MR FERNANDO ANDREU MERELLES, JUDGE WHO PRESIDES OVER THE **JUZGADO CENTRAL DE INSTRUCCIÓN NÚMERO CUATRO** AT THE **AUDIENCIA NACIONAL** IN MADRID, presents his compliments and informs you that this communication is sent to you pursuant to a decision the judge issued within these committal proceedings **SUMARIO Núm. 3/2008-D** currently conducted for genocide and other crimes, and which are followed against **KAYUMBA NYAMWASA**, among others. **KAYUMBA NYAMWASA** was indicted and declared in contempt of court. An indictment was issued and his remand in custody was ordered, but since his whereabouts are unknown he was officially summoned and an arrest warrant was issued against him. After having been declared in contempt of court, this court has received information stating that this man is currently in the **REPUBLIC OF SOUTH AFRICA**.

By virtue of another decision which was taken today, too, a proposal has been sent to the Spanish Government in order that it shall ask the relevant authorities in your country for the indicted's extradition in order that he be tried by Spanish Courts, to be precise, by the *Audiencia Nacional*, for the crimes he was indicted and which are stated in the indictment.

I hope that **KAYUMBA NYAMWASA**'s extradition will be authorized and I offer you reciprocity in analogous cases.

See attached the appropriate documents.

Madrid, 8<sup>th</sup> of July 2010

**THE JUDGE**

**THE CLERK OF THE COURT**

Signed: FERNANDO ANDREU MERELLES

Signed: PALOMA IZQUIERDO ALVAREZ-BUYLLA

**JUZGADO CENTRAL DE INSTRUCCIÓN N° 4  
AUDIENCIA NACIONAL  
MADRID**

**SUMARIO Núm. 3/2008-D**

**DOCUMENTS ATTACHED TO THE EXTRADITION REQUEST**

- 1) Internacional Letter of Request addressed to the judicial authorities in the REPUBLIC OF SOUTH AFRICA, asking for the extradition of the indictee *KAYUMBA NYAMWASA*.-
- 2) Certified copy of the order in which the Spanish Government is asked to propose the extradition of the indictee to the Government of the Republic of South Africa.-
- 3) Certified copy of the indictment and order of remand in communicated and unconditional custody regarding the mentioned indictee.-
- 4) Certified copy of the order which declares the indictee to be in contempt of court.-
- 5) Certified copy of the applicable provisions of the legislation in force.-
- 6) Pictures of the indictee *KAYUMBA NYAMWASA*.-





*JUZGADO CENTRAL DE INSTRUCCIÓN N° 4  
AUDIENCIA NACIONAL  
MADRID*

*SUMARIO Núm. 3/2008*

**ORDER**

MADRID, on the 8th of July 2010.

I certify:

**FACTS**

**FIRST.** Investigations carried out to date within these committal proceedings show that there is satisfactory evidence of the following: As from October 1990, a politically and militarily structured group which was heavily armed and organized started several criminal activities in Uganda moving forward to Rwanda. Based upon investigations carried out by this Court, particularly the testimonies given by eyewitnesses to the events as well as documents which were provided to this Court, there was a group which was set up in Uganda. Its military apparatus was the ARME PATRIOTIQUE RWANDIAISE (A.P.R.) and its political wing was the FRONT PATRIOTIQUE RWANDAIS (F.P.R.). The group started its activities in the year 1990, its purpose being the takeover of Rwanda. At the beginning those activities consisted in terrorist attacks against North-Rwandan villages. Subsequently there were military operations against the Rwandan army and civilians, culminating in the murder in April 1994 of the Rwandan President Juvenal Habyarimana. From that moment on until June 1994, the Hutu extremists struck back and 800,000 people were killed, most of them Tutsi, but also moderate Hutus. Subsequently the FPR/APR took over Rwanda and the persecution and extermination of the Hutus began. Within this conflict horrible crimes against humanity were committed, and these proceedings are dealing with the criminal deeds committed by those organizations. Evidence has been provided against the indicted *KAYUMBA NYAMWASA*, who at the time was a Major General, regarding the following events:

1. He allegedly was directly responsible for the massacres which were committed following his direct orders or the orders of his direct subordinates, like Lieutenant Colonel Jackson Rwahama Mutabazi, Lieutenant Colonel Jack Nziza, Colonel Dan Munyuza, Captain Charles Karamba, Captain Joseph Nzabamwita, Major Steven Balinda or Lieutenant Alphonse Mbayire.
2. Following his orders the Spanish priest Joaquiem Valmajó was kidnapped and afterwards killed, as well as other Rwandan Hutu religious people in the Byumba region in late April 1994.
3. He allegedly decided, ordered and supervised the murder of three Spanish members of Doctors of the World, Mrs Flors Sircera Fortuny, Manuel Madrazo Osuna and Luis Valtueña Gallego.

4. He allegedly is the main responsible for the operations carried out by A.P.R. between late 1996 and early 1997 in the North-East of Rwanda, among which were the massacres in the Ruhengeri region as well as the massacres in Gisenyi, Cyangugu, Nyakinama or Mukingo.
5. He allegedly planned the actions which were to be carried out by Intelligence Officers, particularly selective terrorist attacks on people.
6. He allegedly planned and organized military missions like, for instance, hiding in underground deposits armaments and ammunition to be used for the final attack on those in power.
7. He allegedly was responsible for systematic and planned attacks on predetermined or gathered populations, of disappearances, summary executions and other similar operations, the most outstanding operations being the ones carried out in Munyanza, Kiyanza, Rutongo, Kabuye and, about all, the so-called "authentic slaughter" in the Nyacyonga Camp.
8. On the 23<sup>rd</sup> of April 1994, he allegedly coordinated the military operation in the Byumba stadium, regrouping approximately 2.500 Rwandan Hutu refugees in order to massacre them by launching grenades in the first place and afterwards opening fire on them indiscriminately with automatic rifles.
9. As the Chief of the D.M.I. (directorate military Intelligence) military secret services he allegedly organized and carried out terrorist attacks against enemies of the regime.

**SECOND.** On the 6<sup>th</sup> of February 2008, this Court indicted **KAYUMBA NYAMWASA**, among others, for the events which have been set forth above. Since his whereabouts were unknown, this Court ordered in the same resolution that he should be summoned and arrested by police and remanded in custody. A European Arrest Warrant and an International Arrest Warrant were issued against him, and the Spanish S.I.R.E.N.E. Office and INTERPOL spread those warrants. Since the indietee did not appear before Court in the ten-days time set forth in the mentioned resolution, and since Law Enforcement Authorities did not find him, the indietee was declared in contempt of court by virtue of a judicial order issued on the 19<sup>th</sup> of May 2008.

**THIRD.** As a result of investigations carried out by this Court, this Court was advised that the indietee, who is in contempt of court, de facto has taken refuge in the Republic of South Africa. Thus, based upon the indictment mentioned above, the Spanish Government shall be asked to urge the authorities in the Republic of South Africa to extradite Kayumba Nyamwasa.

#### POINTS OF LAW

**FIRST.** In order that a request or proposal of extradition be made, it is necessary that there exists a reasoned order of remand in custody or of a definite judgment against the defendants, pursuant to article 825 of the Spanish Code of Criminal Procedure. The request shall be made since the indietee is allegedly responsible for genocide (article 607 of the Spanish Penal Code), lese humanity (article 607 bis of the Spanish Penal Code) a crime against individuals and assets protected in the event of armed conflicts (articles 608, 609, 610, 611, 612, 613, 614 and 614 bis of the Spanish Penal Code, as well as articles 615 and 615 bis of the Spanish Penal Code), participation in a terrorist organization (articles 515 and 516 of the Spanish Penal Code) and terrorist acts (article 572 of the Spanish Penal Code). All the previous crimes overlap with different forms of

homicides (Title I of the Spanish Penal Code), injuries, crimes against freedom, torture and other crimes against moral integrity, as well as crimes against assets and the socio-economic order, these crimes being punished by articles 173, 174 and 174 of the former Spanish Penal Code for events which took place prior to the 24<sup>th</sup> of May 1996.

**SECOND.** This request can be made according to article 826.1 of the Spanish Code of Criminal Procedure since the mentioned indictee, who must be tried in Spain, took refuge in a third country. The European Convention on Extradition made in Paris on the 13<sup>th</sup> of December 1957 applies, since Spain is a party to that Convention and the Convention was ratified by the Republic of South Africa which adhered to this Convention on the 12<sup>th</sup> of February 2003. Besides, both States are parties to the Additional Protocol to the European Convention on Extradition made in Strasbourg on the 15<sup>th</sup> of December 1975. This request can be made according to article 827 of the Spanish Code of Criminal Procedure, since the requested indictee is in territory of South Africa. This extradition request is also made pursuant to the Convention on the Prevention and Punishment of the Crime of Genocide adopted by the United Nations General Assembly on the 9<sup>th</sup> of December 1948, to which Spain is a party since 13 September 1968 and pursuant to the Rome Statute of the International Criminal Court of 17 July 1998, signed and ratified by both Spain and the Republic of South Africa.

**THIRD.** This Court has jurisdiction to ask for the extradition since it is conducting proceedings in which the absent defendant is in a third country and, as set forth in the provisions mentioned above (article 826.1 and article 827 of the Spanish Code of Criminal Procedure) this Court has jurisdiction to ask for his extradition in conformity with articles 828 and 829 of the Spanish Code of Criminal Procedure.

### ORDER

**THIS JUDGE MAKES A PROPOSAL TO THE SPANISH GOVERNMENT IN ORDER THAT IT SHALL URGE THE REPUBLIC OF SOUTH AFRICA to extradite the indictee KAYUMBA NYAMWASA, who was born on the 28<sup>th</sup> of March 1958 or 1960 in Mbarara or Rukengiri (Uganda), since the indictee is in the Republic of South Africa.**

Pursuant to articles 831 ff. of the Spanish Code of Criminal Procedure, the petition shall be directed through the President of the *Audiencia Nacional* to the Minister of Justice and to the Minister of Foreign Affairs, along with a certified copy of this order, of the indictment and remand in custody against KAYUMBA NYAMWASA dated 6<sup>th</sup> February 2008, the personal details of this individual, pictures, fingerprints and the legal applicable provisions.

So decided, ordered and signed by MR FERNANDO ANDREU MERELLES, Judge at the *Juzgado Central de Instrucción número Cuatro* at the *Audiencia Nacional* in Madrid. I certify.

**NOTE:** This order is immediately carried out. I certify.

**JUZGADO CENTRAL DE INSTRUCCIÓN Nº 4**

**AUDIENCIA NACIONAL  
MADRID**

**SUAMRIO Núm. 3/2008-D**

**ORDER**

Madrid, 19 May 2008

**FACTS**

**UNIQUE.** By virtue of an order issued on the 6th of February 2008 remand in communicated and unconditional custody for **FAUSTIN KAYUMBA NYAMWASA**. Since his whereabouts were unknown an arrest warrant was issued against him. He was officially summoned and the summons was published in the Official Gazette of the Police and of the Guardia Civil, as well as on the notice board of this Court. On the same day a European Arrest Warrant and an International Arrest Warrant were issued against him which were recorded and spread through the S.I.R.E.N.E. Office in Spain and through INTERPOL. The ten-days time set forth in the mentioned resolutions has elapsed and the afore-mentioned person neither did attend Court nor did Law Enforcement Authorities find him.

**POINTS OF LAW**

**UNIQUE.** Since **FAUSTIN KAYUMA NYAMWASA** was not found nor did he attend Court within the term set forth in the summons which was published pursuant to articles 835, 836 and 837 of the Spanish Code of Criminal Procedure, this individual must be declared in contempt of court in conformity with articles 834 and 839 of the Spanish Code of Criminal Procedure, reserving the right to claim as set forth in article 842 of the mentioned Code.

**ORDER**

**THE JUDGE DECLARES FAUSTIN KAYUMBA NYAMWASA to be in contempt of court until he attends court or until he is found.** Observations shall be made in the appropriate books. A certified copy of this resolution shall be attached to the main record of proceedings this file arises from. The Public Prosecutor and the others parties to the process shall be informed about this resolution.

So decided, ordered and signed by MR. FERNANDO ANDREU MERELLES, Judge at the *Juzgado Central de Instrucción Número Cuatro* at the *Audiencia Nacional* in Madrid. I certify.

[signed]

[signed]

**NOTE:** This order is carried out immediately. I certify.



Consejo de Ministros

## El Gobierno aprueba solicitar a Sudáfrica la extradición del presunto genocida ruandés Kayumba Nyamwasa

- Entre sus víctimas hay cuatro españoles: un misionero y tres cooperantes de la ONG "Médicos del Mundo"

17 de septiembre de 2010.- El Consejo de Ministros, a propuesta del ministro de Justicia, Francisco Caamaño, ha aprobado hoy solicitar a Sudáfrica la extradición activa del ciudadano de origen ruandés, Kayumba Nyamwasa, por genocidio y otros presuntos delitos cometidos en Ruanda.

El reclamado, cuya presencia se establece en Sudáfrica, aun cuando no permanece detenido en la actualidad, está incurso en un procedimiento judicial abierto por el Juzgado Central de Instrucción número 4 de la Audiencia Nacional. Además de la acusación de genocidio, sobre Nyamwasa recaen delitos de lesa humanidad, contra las personas y bienes protegidos en caso de conflicto armado, terrorismo y torturas.

Kayumba Nyamwasa, entre los años 1996 y 1997, fue miembro del grupo militar "*Armée Patriotique Rwandaise*" (A.P.R.), que tenía por finalidad la toma del poder en Ruanda. Participó en la realización de ataques sistemáticos y planificados contra la población civil, en desapariciones forzadas y crímenes contra el derecho internacional, organizando y ejecutando, también, atentados terroristas.

Entre sus víctimas se encuentran cuatro ciudadanos españoles. Concretamente, el misionero Joaquim Vallmajó y los miembros de la ONG "Médicos del Mundo", M<sup>a</sup> Flors Sirera Fortuny, Manuel Madrazo Osuna y Luis Valtueña Gallego.



Al no existir en la actualidad un tratado de extradición entre España y el país africano, el procedimiento se basará en la Ley 4/1985 de 21 de marzo, de Extradición Pasiva, realizando una interpretación sistemática de la legislación nacional e internacional sobre la materia, especialmente en cuanto al principio de reciprocidad.



**SOUTH AFRICAN EMBASSY: SPAIN  
EMBAJADA DE SUDÁFRICA: ESPAÑA**

Claudio Coello, 91-6º 28006 Madrid Tel.: +34 91 436 37 80 Fax: +34 91 577 74 14 E-mail: embassy@sudafrica.com

FUNDACION SUR

Departamento de Africa

C/ Gaztambide, 31

28015 MADRID

Madrid, 12 de abril de 2011

Muy Sres. Nuestros:

Por la presente tengo el gusto acusar recibo de su atento escrito fechado el pasado 7 de marzo de 2011 dirigido al Excmo. Sr. Presidente de la República de Sudáfrica y que he recibido en mano hoy, día 12 de abril de 2011, e indicarles, que se lo hare llegar al Sr. Presidente, por los cauces diplomáticos habituales.

Sin otro particular, les saludo atentamente.

  
Michael Bruce Basson  
Consejero (Político)  
Embajada de Sudáfrica-MADRID





MADRID, March 7<sup>th</sup> 2011

Hon. Mr. Jacob Zuma

Union Buildings  
Private Bag X1000,  
Pretoria,  
0001 South Africa

President of the Republic of South Africa.

Mr. President:

Platform Stop Impunity in Rwanda is a group of organizations who have been involved in the field of human rights for a long time, more specifically, against impunity in central Africa, and very particularly in Rwanda and the Democratic Republic of Congo. These organizations have come together, backed up by the great social and media impact achieved after our action on July 16, 2010, when our Prime Minister Jose Luis Rodriguez Zapatero canceled the official reception to President Paul Kagame of Rwanda. Platform Stop Impunity in Rwanda wishes to provide the following information regarding a man accused of being a war criminal who, as you might be aware, is currently in South Africa, and the judicial process against him monitored by Spanish courts: Mr. Kayumba Nyamwasa.

The Spanish courts have legal authority to prosecute international crimes (genocide, crimes against humanity and war crimes, among others), even if they are alleged to have occurred in other countries as long as there is a clear connection to Spain.

Former Rwandan General Kayumba Nyamwasa is being charged by the Juzgado Central de Instrucción number 4 de la Audiencia Nacional (Judge Fernando Andreu) of crimes of genocide and the murder of a Spanish missionary and three Spanish aid workers, among other victims, like Rwandan and Congolese victims. The competent judicial authorities for international crimes proposed to the Spanish political authorities to request the extradition of Mr. Nyamwasa, in accordance with the national criminal procedure laws and international laws. In September 2010, as you may as well know, the Spanish government requested



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PLATAFORMA BASTA DE IMPUNIDAD EN RUANDA

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