

ICTR-96-3-1
27.3.1997
(515-513)

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UNITED NATIONS  NATIONS UNIES

Tribunal pénal international pour le Rwanda
International Criminal Tribunal for Rwanda

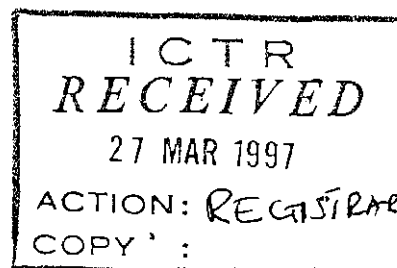
TRIAL CHAMBER 1

OR:FR

Before: Judge Laïty Kama, Presiding Judge
Judge Yakov A. Ostrovsky
Judge Lennart Aspegren

Registrar: Mr. Frederik Harhoff
Mr. Jean-Pelé Fomété

Decision of: 6 March 1997



THE PROSECUTOR
VERSUS
GEORGES ANDERSON NDERUMBUMWE RUTAGANDA

Case No. ICTR-96-3-T

**DECISION ON THE EXTREMELY URGENT REQUEST MADE BY THE DEFENCE
FOR THE TAKING OF A TELECONFERENCE DEPOSITION**

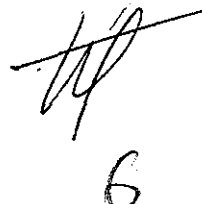
The Office of the Prosecutor:

Mr. James Stewart
Mr. Pierre-Richard Prosper
Ms. Sara Darehshori

The Counsel for the Accused:

Ms. Tiphaine Dickson

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THE TRIBUNAL,

SITTING as Trial Chamber 1 of the International Criminal Tribunal for Rwanda ("the Tribunal"), composed of Judge Laïty Kama, Presiding Judge, Judge Yakov A. Ostrovsky and Judge Lennart Aspegren;

HAVING BEEN SEIZED by the Defence by an extremely urgent motion dated 15 February 1997 and filed on 17 February 1997, requesting that the deposition of sixteen witnesses called by the Defence to testify for the accused be taken urgently in writing or by video-conference; the Defence submitting that the said sixteen witnesses were living in the Tingi-Tingi refugee camp in Lubutu, Zaïre, in precarious security conditions;

HAVING HEARD, during the hearing on 4 March 1997, the presentation by the Defence of the said motion and considering also the alternative request made by the Defence during this hearing;

HAVING ALSO HEARD, during the hearing of 4 March 1997, the view expressed by the Prosecutor on the said motion and on the subsequent request made by the Defence;

AFTER HAVING DELIBERATED,

WHEREAS the Defence, during its presentation, had explained that its motion, even though it had impressed upon the Registrar its extremely urgent character, had not been heard in a timely manner because the Tingi-Tingi refugee camp, where the sixteen defence witnesses were based, was attacked on 2 March 1997, and that as a result of that attack, it considers its motion to be exhausted because it is no longer in a position to locate the said witnesses;

WHEREAS the Defence submitted that the delay in examining its request constitutes, in its mind, a violation of the rights of the accused to a fair trial, particularly rights allowing him to call defence and alibi witnesses;

WHEREAS, during the hearing, the Defence proposed, as a way of remedying the situation, that measures should be taken pursuant to Rule 54 of the Rules of Procedure and Evidence (the "Rules"), on the one hand, to locate and isolate the said witnesses from the main body of refugees through the United Nations High Commission for Refugees, and on the other hand, to bring them under the protection of the Tribunal as soon as possible;

WHEREAS the Prosecutor, who shares the concerns of the Defence on the need for all the parties to reach a fair determination of the matter, nevertheless wished to draw the attention of the Tribunal to the present complex security situation in the neighbouring regions of Rwanda;

WHEREAS the Tribunal, which regrets that the extremely urgent motion filed by the Defence was not transmitted to it in sufficient time by the Registry, whilst mindful at all times to ensure the full respect of the rights of the accused, considers that the motion is justified and that relief should be granted.

Case No. ICTR-96-3-T

FOR THESE REASONS,

THE TRIBUNAL

DECIDES the following:


(1) that every effort should be made to assist the Defence in locating the sixteen witnesses at issue in the motion of 15 February 1997 and isolating them from the main body of refugees;


(2) that, to that end, the co-operation of States, the United Nations Organisation, including the United Nations High Commission for Refugees, and any other organisation that could be of help in the matter, be solicited;


(3) that the said witnesses be placed under the protection of the Tribunal as soon as possible after they are located and isolated from the main body of refugees;

DIRECTS the Registrar to execute this decision immediately and to report back to the Tribunal on its implementation.

Arusha, 6 March 1997,


Laity Kama
Presiding Judge


Yakov A. Ostrovsky
Judge


Lennart Aspegren
Judge

