

ICTR-97-32-I  
25-6-98  
(130-128 bis)

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Case No. ICTR-97-32-I

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UNITED NATIONS



NATIONS UNIES

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

TRIAL CHAMBER I

OR:FRE.

Before Judge Laity Kama, Presiding Judge  
Judge Taffazal H. Khan  
Judge Navanethem Pillay

Registry: Mr. John Kiyeyeu

Decision of: 16 April 1998

THE PROSECUTOR  
VERSUS  
GEORGES HENRI YVON JOSEPH RUGGIU

Case No. ICTR-97-32-I

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DECISION ON THE DEFENCE MOTION FOR DISCLOSURE OF  
EVIDENTIAL MATERIAL

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The Office of the Prosecutor:

Mr. James Stewart

Counsel for the Accused:  
Mr. Mohamed Aouini  
Mr. Jean- Louis Gilissen

International Criminal Tribunal for Rwanda Tribunal pénal international pour le Rwanda	
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME COPIE CERTIFIÉE CONFORME A L'ORIGINAL PAR NOUS	
NAME / NOM: PRISCA NYAMBE	
SIGNATURE: <i>Prisca Nyambe</i>	DATE: 25-6-98

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Case No. ICTR-97-32-I

**THE TRIBUNAL,**

SITTING AS Trial Chamber I , composed of Judge Laity Kama, Presiding , Judge Tafazzal H. Khan and Judge Navanethem Pillay ;

CONSIDERING the decision confirming the indictment against the accused Georges Henri Yvon Joseph Ruggiu rendered by judge Lennart Aspegren on 9th October 1997 to the effect that there is sufficient evidence to provide reasonable grounds for believing that the accused has committed crimes within the jurisdiction of the tribunal;

CONSIDERING the motion seeking for disclosure filed by the defence on 5 December 1997.

HAVING REGARD to the Prosecutors oral presentation in response to the Defence motion made on 16 April 1998 before the Chamber;

CONSIDERING the provisions of rule 66 of the Rules regarding disclosure of evidence by the Prosecutor;

HAVING HEARD the parties on 16 April 1998;

**THE DEFENCE ARGUES THAT;**

(1) the Prosecutor having received on 24 October 1997 a request for disclosure in accordance with rule 66 of the Rules for the disclosure of all supporting materials stipulated under rule 66(A) failed to do so without any just cause. The materials requested include cassettes or notes or whatever information that was recorded during the interview of the accused as well as a list of expert witnesses that the Prosecutor intends to call.

(2) the Prosecutors' failure to disclose on time is hindering the defence efforts to trace defence witnesses on time whose relevance could be assessed by information not yet disclosed and that the non disclosure is a total violation of Article 20 of the Statute and Article 14 of the International Covenant on Civil and Political Rights.

(3) In view of the Prosecutors failure to disclosure on time, the defence pursuant to rule 54 of the rules, request the Chamber to issue an order requiring the Prosecutor to provide the information and documents that have so far not been disclosed.

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**THE PROSECUTOR IN RESPONSE ARGUED THAT;**

- (i) As far as she understood, based on the information given to her by her Kigali office, the disclosure had been made three weeks ago.
- (ii) Should it be found that disclosure was not made, the Prosecutor will do the needful within a short time.

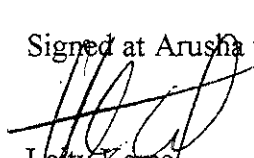
**AFTER HAVING DELIBERATED:**

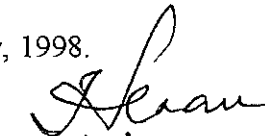
- (i) The Prosecutor having no evidence to the contrary and after trying to argue that to the best of her information disclosure was made three weeks ago, finally conceded that she has no evidence to prove that they have made the disclosure as required by law and promised to remedy the situation.
- (ii) In view of what is stated in paragraph (i) above, the Chamber finds that the Prosecutor whose office is indivisible, has not fulfilled her obligation in this case and takes note of the fact that this is not the first time that she is reminded of her obligation under rule 66 of the Rules.
- (iii) The Chamber underscores the importance of the right of the Defence to receive disclosure of information pursuant to rule 66(A) of the Rules
- (iv) That the Prosecutors' failure to disclose to the Defence on time will not affect the right of the defence to file prescribed motions.

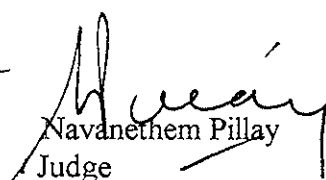
**FOR REASONS STATED HEREIN ABOVE  
THE CHAMBER DECIDES AS HEREUNDER;**

Orders the Prosecutor to make disclosure to the defence in accordance with rule 66 A and B within three weeks from the date of the order.

Signed at Arusha this 04 May, 1998.

  
Latty Kama  
Presiding Judge

  
Tafazzal H. Khan  
Judge

  
Navanethem Pillay  
Judge

(Seal of the Tribunal)

