

ICTR-2000-56-I

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UNITED NATIONS
NATIONS UNIES

**International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

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TRIAL CHAMBER II

Before Judges: Laity Kama, Presiding
Judge William Sekule
Judge Mehmet Guney

Registry: Mr. Agwu Okali

Decision of: 2 March 2000

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THE PROSECUTOR

VS.

AUGUSTIN NDINDILYIMANA

Case No. ICTR-2000-56-I

DECISION ON THE PROSECUTOR'S MOTION FOR DEFERRAL

Office of the Prosecutor:

Mr. Kenneth Fleming
Mr. Frederic Ossogo

L2624 (E)

Translation certified by LCSS, ICTR

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THE TRIBUNAL,

SITTING as Trial Chamber II of the International Criminal Tribunal for Rwanda (the Tribunal), composed of Judges Laïty Kama (Presiding), William Sekule and Mehmet Güney, and charged with prosecuting persons responsible for genocide and other serious violations of international humanitarian law committed in Rwanda and in neighbouring States by Rwandans in 1994,

BEING SEIZED of a Motion by the Prosecutor of the Tribunal dated 1 March 2000 and signed by Bernard Muna, Deputy Prosecutor, in which application is made for the Trial Chamber, pursuant to Article 8(2) of the Statute and Rule 9(iii) of the Rules of Procedure and Evidence of the Tribunal, to address a formal request to the Kingdom of Belgium to defer to the Tribunal in the criminal investigations and prosecution being conducted by the courts of the Kingdom of Belgium into serious violations of international humanitarian law committed in the territory of Rwanda between January and December 1994, including the murder of ten Belgian soldiers belonging to the United Nations Mission for Assistance to Rwanda; in which investigations and prosecution Augustin Ndindiliyimana is regarded as a suspect,

After having heard the Prosecutor at the open hearing held to consider the said motion, today, 2 March 2000,

In support of the application, the Prosecutor submits that:

1. Proceedings (ref: Dossier 35/95 of Judge Van Der Meersch of Belgium) have been instituted against Augustin Ndindiliyimana in the courts of the Kingdom of Belgium for murder and violations of the Geneva Conventions of 12 August 1949 and Additional Protocols I and II thereto of 8 June 1977, allegedly committed in the territory of Rwanda in 1994;
2. On 28 January 2000, ICTR Judge Laïty Kama confirmed an indictment against Augustin Ndindiliyimana in which the latter was charged before the Tribunal with: conspiracy to commit genocide, genocide, complicity in genocide, crimes against humanity and violations of Article 3 Common to the Geneva Conventions and Additional Protocol II thereto, punishable in reference to Articles 2, 3 and 4 of the Statute;

AFTER HAVING DELIBERATED,

The Tribunal finds that the grounds cited by the Prosecutor are sufficient for the motion to be granted.

FOR THE AFOREMENTIONED REASONS,**THE TRIBUNAL,**

1. **Formally requests** the Kingdom of Belgium to defer to the Tribunal in all criminal investigation and prosecution of Augustin Ndindiliyimana;

2. **Requests** the Kingdom of Belgium to forward to the Tribunal the contents of the dossier on the criminal investigation and prosecution of Augustin Ndindiliyimana, as well as copies of the court's records and of any interlocutory decisions;
3. **Urges** the Kingdom of Belgium, in accordance with the provisions of Article 28 of the Statute and Rules 10 and 11 of the Rules, to take all necessary measures to comply with the present official request;
4. **Directs** the Registrar to convey forthwith the instant decision to the Kingdom of Belgium.

Done at Arusha, 2 March 2000.

Judge Laïty Kama
Presiding

William Sekule
Judge

Mehmet Güney
Judge

(Seal of the Tribunal)