



International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda

TRIAL CHAMBER III

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Before: Judge Yakov Ostrovsky, designated by Trial Chamber III from among its members pursuant to Rule 73(A) of the Rules of Procedure and Evidence

Registrar: Dr. Agwu Ukiwe Okali

Decision of: 17 May 2000

THE PROSECUTOR
versus
ALOYS NTABAKUZE

Case No. ICTR-97-34-I

DECISION ON THE MOTION SEEKING DISCLOSURE OF LEGIBLE AND COMPLETE FRENCH VERSIONS OF CERTAIN DOCUMENTS DISCLOSED TO THE DEFENCE ON 12 AND 29 OCTOBER 1998 AS WELL AS THE ORIGINALS OF STATEMENTS ALREADY DISCLOSED

Counsel for the Accused:

Ms. Simonette Rakotondramanitra
Mr. Clemente Monterosso

Counsel for the Prosecutor:

Mr. Chile-Eboe Osuji
Mr. Frederic Ossogo
Ms. Holo Makwaia
Mr. Honore Tougouri

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (the "Tribunal")

SITTING in the person of Judge Yakov Ostrovsky, designated by Trial Chamber III from among its members pursuant to Rule 73(A) of the Rules of Procedure and Evidence (the "Rules");

BEING SEIZED of a Motion Seeking Disclosure of Legible and Complete French Versions of Certain Documents Disclosed to the Defence on 12 and 29 October 1998, as well as the Originals of Statements Already Disclosed, dated and filed on 5 February 1999 (the "Motion");

NOTING the Prosecutor's response to the Motion, dated and filed on 24 March 2000;

CONSIDERING the matter solely on the briefs of the parties pursuant to Rule 73(A) of the Rules.

PLEADINGS BY THE PARTIES

Defence Submissions

1. The Defence submits that among the documents the Prosecutor disclosed to it were eleven (11) illegible documents, four (4) incomplete documents, and four (4) documents that were not translated into French. The Defence argues that it is impossible to use the documents in the form in which they were received.
2. The Defence further submits that it has not received copies of all the statements in their original language and argues that consequently it is impossible to prepare a full and complete defence.
3. The Defence requests the Trial Chamber to order the disclosure of the requested documents in a usable form and to order the disclosure in the original language of the statements disclosed earlier.

Prosecutor's Response

1. The Prosecutor responds that she already made a new disclosure of fifteen (15) of the requested documents on 12 July 1999.
2. The Prosecutor also argues that Rule 66(A) of the Rules does not require disclosure of originals of the statements.
3. The Prosecutor consequently requests the Chamber to dismiss the Motion for lack of merit.

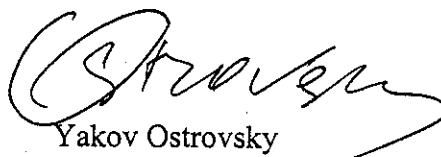
FINDINGS

1. Upon receiving from the Prosecutor documents that are not usable, the Defence, in the first place, should request the Prosecutor to correct the imperfections in the disclosure. In the present case, the issue raised by the Defence in its Motion should have been settled through cooperation between the parties. It is proper to recall that Rule 73(E) of the Rules provides the Chamber with the power to instruct the Registry not to pay fees, in whole or in part, that are associated with the filing of frivolous motions or motions that constitute an abuse of the process.
2. As to the substance of the Motion, it is noted that the Prosecutor submitted that she again disclosed some of the documents sought by the Defence on 12 July 1999. It is clear that documents must, to the extent possible, be disclosed in a usable form.
3. It is further noted that Rule 66(A) of the Rules does not specify whether the Defence should be provided with witness statements in their original language. However, the requirement of disclosure is to be understood in the widest possible sense. Hence, the Defence, upon request, should be served with statements in their original language, as this is the version that best reflects their meaning.

FOR THESE REASONS, THE TRIBUNAL

1. **GRANTS** the Motion and orders the Prosecutor as follows:
 - A. To the extent that any of the documents listed in the Motion has not yet been disclosed to the Defence in a usable form, the Prosecutor shall disclose such document(s) to the Defence in the best form available to her within three (3) weeks from the notification of this Decision; and
 - B. The Prosecutor shall disclose to the Defence a copy of all statements in their original language within three (3) weeks from the notification of this Decision.

Arusha, 17 May 2000.


Yakov Ostrovsky
Judge

