

ICTR-97-34-I  
28-6-2000  
[5589-5587]

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UNITED NATIONS  
NATIONS UNIES

International Criminal Tribunal for Rwanda  
Tribunal Pénal International pour le Rwanda

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ORIGIN: Eng.

TRIAL CHAMBER III

Before: Judge Lloyd George Williams, Presiding  
Judge Yakov Ostrovsky  
Judge Pavel Dolenc

Registry: Dr. Agwu Ukiwe Okali

Decision of: 28 June 2000

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The Prosecutor  
Versus  
Aloys Ntabakuze

Case No. ICTR-97-34-I

**DECISION ON THE PROSECUTOR'S URGENT MOTION FOR EXTENSION OF  
TIME WITHIN WHICH TO COMPLY FULLY WITH THE ORDERS CONTAINED  
IN THE DECISION OF 19 MAY 2000**

Office of the Prosecutor:

Mr. Chile Eboe-Osuji  
Mr. Frederic Ossogo

Defence Counsel:

Mr. Clemente Monterosso

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

**SITTING** as Trial Chamber III (the "Trial Chamber") composed of Judges Lloyd George Williams, presiding, Yakov Ostrovsky and Pavel Dolenc;

**NOTING** that on 19 May 2000 the Trial Chamber rendered a decision on a motion filed by Aloys Ntabakuze's Defence Counsel asking for the restitution of seized items as ordered by an earlier decision;

**CONSIDERING** that the decision of 19 May 2000 (the "Decision") ordered the Prosecutor within 21 days following the notification of the decision, to do the following:

- A. Return the originals of all documents or other items which are not necessary for the continued investigation of the case or the trial.
- B. In circumstances where the original documents are needed in accordance with the above paragraph, then copies of the said documents should be returned to the Defence.
- C. Provide the Defence with a list of the seized items.

**BEING NOW SEIZED** of the Prosecutor's Urgent Motion for Extension of Time Within Which to Comply Fully With the Orders Contained in the Decision, dated and filed on 13 June 2000 (the "Motion")

**NOTING** that the Defence did not file a brief in response within the time limit;

**NOW CONSIDERS** the matter solely on the basis of the briefs of the parties, pursuant to Rule 73(A) of the Rules of Procedure and Evidence of the Tribunal (the "Rules").

**SUBMISSIONS OF THE PARTIES**

1. The Prosecutor asserts that upon notification of the Decision on 25 May 2000, she endeavored to fully comply with it. She has identified and compiled the list of the seized items and she already served it on the Defence, through the Registry.
2. The Prosecutor contends however that due to institutional constraints, she is still in the process of determining which documents or items are not necessary for the ongoing investigations of the case or the trial. She expects to fully comply with the Decision within 21 days of the date of the notice of the Motion.
3. The Prosecutor adds that she unsuccessfully attempted to discuss the matter with the Defence in order to explore the possibility of an agreement which could avoid bringing this Motion.
4. The Defence did not file a brief in response, although the Chamber, through the Registry, called upon it to do so before 23 June 2000, if it wished.


**DELIBERATION**

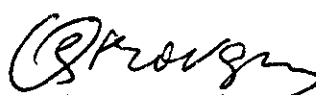
5. The Trial Chamber first notes that the accumulated delays of the Prosecutor in complying with its decisions are intolerable, as the Chamber already reminded the Prosecutor. The restitution of the documents and items sought was first ordered on 25 September 1998, that is to say almost two years ago. At the hearing held on 17 May 2000 in this matter, the Prosecutor argued that she could not have complied with that decision within the required time, due to difficulties she was facing at that moment. She however asserted that she examined the seized items and even communicated copies of these items to the Defence, through the Registry, on 4 May 1999. Therefore, it should have been easy for her to comply with the Chamber's 19 May order.
6. However, the Trial Chamber takes note that the Prosecutor already gave partial effect to its Decision within the required time in serving the Defence with the list of the seized items. Moreover, the Prosecutor's request was timely filed in accordance with the Chamber's Decision in which we reminded the Prosecutor that in case of difficulty with complying with the Tribunal's order, the Prosecutor should request the Chamber to extend the time limit prior to its expiration.
7. In addition, the 21 day extension the Prosecutor requests will lengthen the delay only by 18 days, given the fact that the computation would begin from the date of the filing of the Motion and not from the end of the 21 days determined in the Decision.
8. The Trial Chamber finds therefore that the Motion was filed in good faith and that its granting will not materially affect the rights of the Accused.


**FOR THESE REASONS, THE TRIBUNAL**

**GRANTS** the Prosecutor's Motion.

Arusha, 28 June 2000.

  
Lloyd George Williams  
Presiding Judge

  
Yakov Ostrovsky  
Judge

  
Pavel Dolenc  
Judge

Seal of the Tribunal

