



International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda

UNITED NATIONS
NATIONS UNIES

TRIAL CHAMBER I

Original : English

Before: Judge Navanethem Pillay, Presiding
Judge Erik Møse
Judge Asoka de Zoysa Gunawardana

Registry: Ms Aminatta N'gum

Decision date: 7 July 2000

THE PROSECUTOR v. HASSAN NGEZE

Case No. ICTR-97-27-I

ICTR
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DECISION ON THE DEFENCE MOTION FOR CONTINUANCE OF THE TRIAL

Office of the Prosecutor:

M. William T. Egbe
Ms Charity Kagwi
Ms Cydney Crickard
M. Alphonse Van

Counsel for the Accused:

Ms Patricia Mongo
M. John Floyd III

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (“the Tribunal”)

SITTING AS Trial Chamber I composed of Judge Navanethem Pillay, Presiding, Judge Erik Møse and Judge Asoka de Zoysa Gunawardana;

CONSIDERING the motion from the Defence to continue trial, filed on 14 May 2000;

NOTING the reply from Prosecution, filed on 22 June 2000;

NOTING that the motion was considered on the basis of the written briefs of the Parties, pursuant to Rule 73 of the Rules of Procedure and Evidence (“the Rules”).

Submissions of the Parties

The Defence argued that the commencement of trial, as scheduled for 5 June 2000, will not enable a proper preparation of the case, since at the time the motion was written, on 3 May 2000, the Prosecution had not disclosed all the material to the Defence. The Counsel further submitted that there are motions pending before the Chamber whose resolution will directly affect the trial and should therefore be settled before the trial starts.

The Prosecution submitted that the Defence’s motion be dismissed, as the trial has already been postponed. In dealing with this motion the chamber will take into consideration only the procedural matters, such as the alleged late disclosure of documents and not the legal issue arising from the existence of pending motions. The question of pending motions cannot be raised as an argument in support of a motion seeking a postponement of a date set for trial.

The Chamber

The Trial Chamber notes that at the Status conference held on 16 May 2000, at the request of the Defence Counsels concerned, it was agreed to postpone the trial. It will start on 18 September 2000, rather than on 5 June 2000, as initially scheduled. The Prosecutor was not ready to commence trial at that date, moreover she would not have made full discovery of documents to the Defence. Documents filed for discovery were voluminous and the Registry did not have the capacity to provide translations of the English, French and Kinyarwandan texts within the time available. Moreover, Defence Counsels highlighted various problems relating to disclosure, translation, communication between them and the need for the services of Kinyarwandan translators. All of which rendered both Parties unprepared for a trial commencing on 5 June 2000.

The Chamber, therefore, holds that the decision taken at the Status Conference to postpone the date of the trial has overtaken the Motion for Continuance.

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Case No. ICTR-97-27-I

THEREFORE,

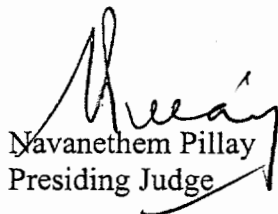
FOR ALL THE ABOVE REASONS,


THE TRIAL CHAMBER,

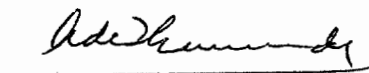
HEREBY

DISMISSES the Defence motion for continuance of the trial.

Arusha, 7 July 2000


Navanethem Pillay
Presiding Judge


Erik Møse
Judge


Asoka de Zoysa Gunawardana
Judge



Seal of the Tribunal