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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 Marianne Ben Salimo

Decision date: 7 November 2000

THE PROSECUTOR v. FERDINAND NAHIMANA
Case No. ICTR-96-11-T

JUDICIAL RECORDS/ARCHIVES
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Ferdinand Nahimana 7/11/00

**DECISION ON THE DEFENCE'S REQUEST FOR MEASURES OF
INVESTIGATION WITH REGARD TO CERTAIN PROSECUTION
WITNESSES**

Office of the Prosecutor:

M. William T. Egbe
M. Alphonse Van
Ms Charity Kagwi
Ms Simone Monasebian

Counsel for the Accused:

M. Jean Marie Biju-Duval
Ms Diana Ellis

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

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

CONSIDERING the Defence's Request for measures of Investigation with regard to certain Prosecution Witnesses, filed on 6 November 2000;

CONSIDERING that the Prosecutor orally opposed the said motion on 6 November 2000;

HAVING HEARD the Parties in closed session, at the request of the Defence, on 6 November 2000;

The Submissions of the Parties

Defence Counsel for Nahimana requests an order from the Trial Chamber allowing them to disclose to the Ministry of Justice of Rwanda the identity and place of detention of prosecution witnesses AEH, AHA, AFZ, AGI and PV for the purposes of getting access to their judicial records, these witnesses being subject to criminal proceedings in Rwanda.

The Office of the Prosecutor opposed the present motion on the grounds that such a request is premature given that the Defence has to first make a request to the Government of Rwanda before seeking any relief from the Chamber. In the Prosecution's view, the Defence is, in fact, attempting to contact prosecution witnesses.

Deliberations of the Chamber

In the view of the Chamber, Defence is, in fact, asking for a relaxation from protective measures granted by the Trial Chamber to prosecution witnesses in a written decision dated 8 July 1998. These measures are the following (para.1):

"The names and addresses of persons for whom pseudonyms were used in the indictment and supporting documentation, as well as their location and all other identifying information shall not be disclosed to the public or to the media."

The Chamber notes that the order of 8 July 1998 prevents Defence from referring to names and places of the said witnesses when they approach - as part of their investigation - the authorities in Rwanda. The Chamber does not see any risk to the witnesses if an exception is made to the order. In particular, it notes that the name, identity and place of detention of the witnesses is known to the Defence and also to the Ministry of Justice because they were transferred to the ICTR as witnesses under its authority.

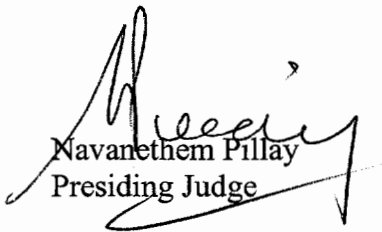
The Chamber accepts the Defence explanation that it is not its purpose to communicate with the five witnesses.

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Consequently, the Chamber grants the request by Defence Counsel but cautions them when conveying the details of the said witnesses to the Minister of Justice or to his duly appointed representative to do so personally.

It is hereby ordered that Defence Counsel are allowed to disclose to the Minister of Justice the identity and place of detention of Prosecution witnesses AEH, AHA, AFZ, AGI and PV.

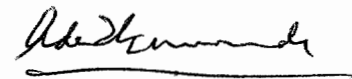
Arusha, 7 November 2000.



Navanethem Pillay
Presiding Judge



Erik Møse
Judge



Asoka de Zoysa Gunawardana
Judge

Seal of the Tribunal