

ICTR-2001-66-I
26-7-2001
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**International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

UNITED NATIONS
NATIONS UNIES

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Before: Judge Erik Møse

Original: English

Registrar: Adama Dieng

Decision of: 26 July 2001

JUDICIAL RECORDS ARCHIVES
ICTR
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THE PROSECUTOR

Versus

ATHANASE SEROMBA

ICTR-2001-66-I

RESCISSION OF THE NON-DISCLOSURE ORDER ISSUED ON 3 JULY 2001

Prosecutor:

Silvana Arbia

Jonathan Moses

The International Criminal Tribunal for Rwanda (the “Tribunal)

SITTING as Judge Erik Møse, designated pursuant to Rule 28 of the Rules of Procedure and Evidence;

HEREBY DECIDES:

On 24 July 2001, the Prosecutor filed an *ex parte* Motion (the “Motion”), requesting a rescission of the Non-Disclosure Order (the “Order”) in respect of Athanase Seromba (the ‘Accused’). The Order was issued by the Confirming Judge, Judge Lloyd G. Williams, and incorporated in the decision of 3 July 2001, which confirmed the Indictment against the Accused.

The Order stipulated *inter alia* that:

“...the Indictment, the Supporting Materials, and other documents which form part of the Indictment, including this Decision, be placed under seal and kept confidential and not disclosed to the public or the media, until further order by the Tribunal;”

In support of her motion, the Prosecutor submitted, *inter alia*, that although the Accused has not been arrested, his identity has been circulated in the public domain in relation to the Indictment against him. Therefore, the Order, in so far as it related to the Indictment and Warrant of Arrest, no longer serves to protect the confidential information that was essential for the arrest and transfer of the Accused. Moreover, the enforcement of the Order may impede steps taken by the Prosecutor to secure the arrest and transfer of the Accused.

Article 18 (2) of the Tribunal’s Statute states that:

“Upon confirmation of an indictment, the judge may, at the request of the Prosecutor, issue such orders and warrants for the arrest, detention, surrender or transfer of persons, and any other orders as may be required for the conduct of the trial.”

Rule 52 of the Rules provides:

“Subject to Rule 53, upon confirmation by a Judge of a Trial Chamber, the indictment shall be made public.”

Rule 53 of the Rules reads as follows:

“(A) In exceptional circumstances, a Judge or a Trial Chamber may, in the interests of justice order the non-disclosure to the public of any documents or information until further order.

(B) When confirming an indictment the Judge may, in consultation with the Prosecutor, order that there be no public disclosure of the indictment until it is served on the accused, or in case of joint accused, on all accused.

(C) A Judge or Trial Chamber may, in consultation with the Prosecutor, also order that there be no disclosure of an indictment, or part thereof, or of all or any part of any particular document or information, if satisfied that the making of such an order is required to give effect to a provision of the Rules, to protect confidential information obtained by the Prosecutor, or is otherwise in the interests of justice.”

In my view, it is no longer in the interest of justice to maintain the Non Disclosure Order, in so far as it pertains to the Indictment and the Warrant of Arrest, for the reasons given by the Prosecutor.

In light of the above, I therefore **ORDER:**

- (i) a rescission of the Non Disclosure Order of 3 July 2001 in respect of the Indictment and the Warrant of Arrest;
- (ii) the Non Disclosure Order of 3 July 2001 stands in every other respect.

Arusha, 26 July 2001,



Erik Møse

Judge

(Seal of the Tribunal)