

ICTR-97-20-T  
4-9-2001  
(5418-5416)

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UNITED NATIONS  
NATIONS UNIES

International Criminal Tribunal for Rwanda  
Tribunal Pénal International pour le Rwanda

TRIAL CHAMBER III

Original: English

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

Registrar: Mr. Adama Dieng

Decision of: 4 September 2001

JUDICIAL RECORDS/ARCHIVES  
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*[Signature]*

THE PROSECUTOR  
versus  
LAURENT SEMANZA

Case No. ICTR-97-20-T

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DECISION ON THE DEFENCE MOTION FOR EXTENSION OF TIME FOR  
FILING THE LIST OF DEFENCE WITNESSES  
(RULE 54 OF THE RULES OF PROCEDURE AND EVIDENCE)

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Counsel for the Prosecutor:  
Mr. Chile Eboe-Osuji  
Ms. Amanda Reichman

Counsel for the Accused:  
Mr. Charles A. Taku  
Mr. Sadikou Ayo Alao

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

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

**BEING SEIZED** of the Defence Motion for Extension of Time for Filing the List of Defence Witnesses (Rule 54 of the Rules of Procedure and Evidence), filed on 20 July 2001 (the "Motion");

**CONSIDERING** the Prosecutor's Response to the Motion, filed on 27 July 2001 (the "Prosecutor's Response");

**NOTING** the Defence Preliminary Summary of Witnesses Statements Pursuant to Rule 73*ter* of the Rules of Procedure and Evidence, filed on 27 July 2001 (the "Defence Preliminary Summary of Witnesses Statements");

**NOW CONSIDERS** the matter without a hearing solely on the briefs of the parties, pursuant to Rule 73(A) of the Rules of Procedure and Evidence of the Tribunal (the "Rules").

**PLEADINGS BY THE PARTIES****Defence Submissions**

1. The Defence recalls that the Chamber ordered it to file a list of witnesses pursuant to Rule 73*ter* by 1 August 2001 and submits that it faces some difficulty in complying with this order. This difficulty is due to (i) the recent social unrest in some African countries resulting in the displacement of some witnesses, and (ii) pending decisions on expert witnesses.
2. Consequently, the Defence requests the Chamber to extend to 1 September 2001 the deadline for complying with the provisions of Rule 73*ter* and filing a list of witnesses it intends to call. The Defence submits that such an extension would not interfere with the proper conduct of the proceedings since the Tribunal has shifted the date for the resumption of the trial in the present case by one month, from 1 September to 1 October 2001.

**Prosecutor's Response**

3. The Prosecutor objects to the Defence request on the ground that the justifications for the requested extension, namely recent social troubles causing the displacement of potential Defence witnesses and pending motions concerning expert witnesses, do not explain why the Defence cannot make a disclosure under Rule 73*ter*. The Prosecution argues that Rule 73*ter*(B)(iii) only goes to the Defence's intention as to which witnesses it wishes to call. Therefore, it is not necessary to know the exact whereabouts of each witness or his or her availability to appear in court in order to comply with the requirements of the

*Prosecutor v. Semanza*, ICTR-97-20-T

Rule.

4. Moreover, the Prosecutor notes that she needs adequate time to prepare properly and that the fact that the Chamber has postponed the resumption of the trial by one month is no reason in itself to allow the requested extension.
5. The Prosecutor, therefore, requests the Chamber to dismiss the Motion.

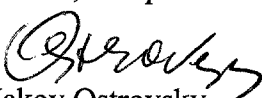
#### FINDINGS

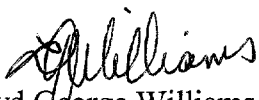
6. Rule 73ter(B)(iii) refers to a "list of witnesses the defence *intends* to call" (emphasis added). In order to comply with the order of the Chamber in respect of this Rule, the Defence only needed to consider and note which witnesses it intended to call during the trial, not their present whereabouts or availability to testify at trial.
7. The availability of expert witnesses or the displacement of some potential Defence witnesses therefore are inadequate justifications for the requested extension of time to comply with the order of the Chamber in respect of filing the list of witnesses provided for in Rule 73ter(B)(iii). Nor is a change in the date of the resumption of the trial by the Chamber a valid justification for the failure to comply with orders of the Trial Chamber.
8. The Chamber notes the filing of the Defence Preliminary Summary of Witnesses Statements on 27 July 2001. The said document contains a "List of Defence Witnesses". Rule 73ter(B)(iii) does not provide for any kind of a "preliminary" list. Indeed, it is crucial that deadlines set by the Chamber in connection with Rule 73ter be strictly observed. This is firstly so that the Prosecutor has sufficient time to prepare and secondly that the Chamber can consider whether to shorten the estimated length of the examination for some witnesses pursuant to Rule 73ter(C) or whether to reduce the number of witnesses under Rule 73ter(D). Given that the Chamber, during the Pre-Defence Conference on 26 April 2001, ordered the Defence to comply with the requirements of Rule 73ter(B)(iii) by 1 August 2001, the present List of Defence Witnesses contained in the Defence Preliminary Summary of Witnesses Statements will be deemed to constitute a list of witnesses the Defence intends to call, as provided for in Rule 73ter(B)(iii).


#### FOR THESE REASONS, THE TRIBUNAL

9. **DENIES** the Motion.

Arusha, 4 September 2001.

  
Yakov Ostrovsky  
Judge, presiding

  
Lloyd George Williams  
Judge

  
Pavel Dolenc  
Judge

[Seal of the Tribunal]