



ICTR-96-8-T
10-10-2001
(307-305)

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

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OR: ENG

TRIAL CHAMBER II

Before: Judge William H. Sekule, Presiding
Judge Winston C. Matanzima Maqutu
Judge Arlette Ramaroson

Registry: Adama Dieng

Date: 10 October 2001

JUDICIAL RECORDS ARCHIVES
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2001 OCT 10 P 4: 51
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The PROSECUTOR

v.

Élie NDAYAMBAJE

Case No. ICTR-96-8-T

**DIRECTION FOLLOWING THE DECISION DATED 25 SEPTEMBER 2001
ON THE DEFENCE MOTION FOR DISCLOSURE**

The Office of the Prosecutor:

Silvana Arbia
Japhet Mono
Jonathan Moses
Gregory Townsend
Adesola Adeboyejo
Manuel Bouwknecht

Counsel for Ndayambaje:

Pierre Boulé
Isabelle Lavoie

to me

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

SITTING as Trial Chamber II, composed of the Judges William H. Sekule, Presiding, Winston C. Matanzima Maqutu and Arlette Ramaroson (the "Chamber");

CONSIDERING its Decision of 25 September 2001 on the Motion for Disclosure filed by Counsel for Élie Ndayambaje on 19 April 2001, ordering, *inter alia*, "the Prosecutor to provide the Defence for Ndayambaje within ten [10] days from the date of the instant Decision with the requested copies of 1200 pages of the Belgian files, subject to the modalities referred to at para. 7 of this Decision";

NOTING the Prosecutor's Report on Compliance with the said Decision of 25 September 2001, filed on 8 October 2001;

CONSIDERING that, in this Report, the Prosecutor submits that:

- (i) Defence Counsel for Ndayambaje has not yet completed his on-going inspection and requires additional time, beyond 8 October 2001, to select the pages of which he wants photocopies;
- (ii) Consequently, the Prosecutor cannot yet comply with the Decision of 25 September 2001 in the absence of Defence Counsel specifying pages to be provided to him;
- (iii) The Decision of 25 September 2001 provides a condition that may postpone compliance until such a time as Defence Counsel has completed inspection and has specified pages to be provided to him;
- (iv) The Prosecutor therefore seeks the direction of the Chamber on how to proceed;

NOTING the letter addressed by the Prosecutor to Defence Counsel for Ndayambaje on 26 September 2001, and the reply from Defence Counsel dated 28 September 2001, stating notably that: "[...] *nous vous relevons de l'obligation de nous fournir les pages nécessaires pour et avant le 6 octobre mais vous réitérons notre volonté sur inspection de notre part à obtenir les photocopies que nous jugerons nécessaires*";

HAVING DELIBERATED,

1. The Chamber recalls that its Order II of the Decision of 25 September 2001 was issued further to a request by the Defence to obtain copies of 1200 pages of the so-called "Belgian files". This Order is subject to the modalities referred to at para. 7 of said Decision, namely, the principle of a limited right for the Defence to receive copies of material which they deem to be material to the preparation of the defence, upon inspection of the said material pursuant to Rule 66(B) of the Rules.
2. The Chamber notes that, in the present case, the Defence has not yet completed the inspection of the said material pursuant to Rule 66(B) of the Rules, which is the condition *sine qua non* for the Defence to select the material which they deem material to the preparation of the defence, and request copies thereof.

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FOR THE ABOVE REASONS, THE TRIBUNAL

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DIRECTS the Parties to continue to cooperate to ensure a timely completion of the inspection of material pursuant to Rule 66(B) of the Rules;

AUTHORISES the Prosecutor to postpone compliance with Order II of the Decision of 25 September 2001 until such a time as Defence Counsel has completed inspection and has specified the pages that they request to have photocopied;

DIRECTS the Prosecutor to consider that, in the specific circumstances of the case, the deadlines provided by Order II of the Decision of 25 September 2001 will fall ten days after the Defence has specified the pages that they request to have photocopied.

Arusha, 10 October 2001,



William H. Sekule
Presiding Judge



Winston C. Matanzima Maqutu
Judge



Arlette Ramaroson
Judge

(Seal of the Tribunal)