

ICTR-99-52-I
29-10-2001
(25050-25049)

25050



International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda

UNITED NATIONS
NATIONS UNIES

TRIAL CHAMBER I

OR: ENG

Before: Judge Navanethem Pillay, presiding
Judge Erik Møse
Judge Asoka de Z. Gunawardana

Registry: Mr. Adama Dieng

Decision of: 29 October, 2001

THE PROSECUTOR
V.
FERDINAND NAHIMANA
HASSAN NGEZE
JEAN BOSCO BARAYAGWIZA
(Case No. ICTR-99-52-I)

DECISION ON THE DEFENCE'S APPLICATION FOR THE PROSECUTION TO
DISCLOSE EXCULPATORY MATERIAL CONTAINED IN THE 17 TRANSCRIPTS
OF INTERVIEWS WITH WITNESS X

The Office of the Prosecutor:

Mr. Stephen Rapp
Mr. William Egbe
Mr. Alphonse Van
Ms. Charity Kagwi
Ms. Simone Monasebian
Mr. Elvis Bazavule

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME
COPIE CERTIFIEE CONFORME A L'ORIGINAL PAR NOUS
NAME / NOM: ...*Marianne Ben Salimo*...
SIGNATURE: ...*Salimo*...
DATE: ...*2001 OCT 29 P 7:03*...

Counsel for the Accused:

Mr. Jean-Marie Biju-Duval
Ms. Diana Ellis
Mr. John Floyd III
Mr. René Martel
Mr. Giacomo Barletta Caldarera
Mr. Alfred Pognon

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 Z. Gunawardana;

NOTING the Trial Chamber’s majority decision of 14 September 2001, granting leave to the Prosecution to call Witness X, and in particular paragraph 7 of the **Order** relating to the disclosure by the Prosecution to the Defence of the 17 transcripts which are not yet disclosed to the Defence by the Prosecutor, directing the Prosecution to submit forthwith to the Chamber the latter for perusal by the judges pursuant to Rule 66 (A) ii of the Rules of Procedure and Evidence (“the Rules”) to ascertain presence of any exculpatory evidence;¹

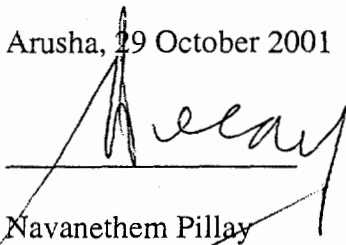
THE TRIAL CHAMBER has reviewed the 17 transcripts with a view to determining whether they contain any exculpatory evidence, as contemplated under rule 68;

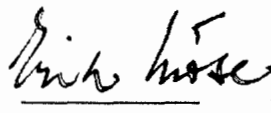
CONSIDERING FURTHER THAT the Trial Chamber did not find the existence of any material evidence in the 17 transcripts, “which in any way tends to suggest the innocence or mitigate the guilt of the accused or may affect the credibility of prosecution evidence”, as set out in Rule 68;

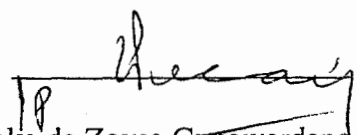
THE TRIAL CHAMBER NEVERTHELESS NOTES the reference to “RTLM” in the first paragraph of page 11, of the transcript of cassette 13;²

HEREBY DISMISSES the application by the Defence for disclosure of the 17 transcripts in part, and **ORDERS** that, for the purposes of the conduct of trial pursuant to Rule 54, only page 11 of transcript 13 be disclosed in a redacted form to the Defence, within three days of the date of this Order and the non-redacted copy of the said excerpt be disclosed 30 days before Witness X is to testify at trial.

Arusha, 19 October 2001


Navanethem Pillay
Presiding Judge


Erik Møse
Judge


Asoka de Zoysa-Gunawardana
Judge



¹ 14 September Transcript, at page 2, lines 22 - 25 and 1 - 2.

² Cassette 13, Side B