

ICTR-99-52-T
(25185-25183)
21/11/2001

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Case No. ICTR-99-52-I



UNITED NATIONS
NATIONS UNIES

International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda

TRIAL CHAMBER I

Original : English

Before: Judge Navanethem Pillay, Presiding
Judge Erik Møse
Judge Asoka de Zoysa Gunawardana

Registry: Mr. Adama Dieng

Decision date: 21 November 2001

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21/11/2001

THE PROSECUTOR

v.

FERDINAND NAHIMANA
HASSAN NGEZE
JEAN BOSCO BARAYAGWIZA
Case No. ICTR-99-52-I

DECISION ON THE PROSECUTOR'S REQUEST FOR EXTENSION OF TIME IN
WHICH TO FILE AND DISCLOSE REPORTS OF EXPERT WITNESSES

Office of the Prosecutor:

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

Counsel for the Accused:

M. Jean Marie Biju-Duval
M. John Floyd III
M. Giacomo Caldarera

International Criminal Tribunal for Rwanda Tribunal pénal international pour le Rwanda	
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NAME / NOM:	AMINATTA L.R. NGUM
SIGNATURE:	APW/gum
DATE:	21/11/01

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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 Zoysa Gunawardana;

BEING SEIZED OF a motion by the Prosecutor, dated 31 October 2001, for an extension of the time limit in which to file and disclose report of expert witnesses imposed in the Order of 26 June 2001 by the Trial Chamber;

NOTING the objection from the Defence for Nahimana dated 12 November 2001;

TAKING INTO ACCOUNT the written briefs of the Parties;

HEREBY DECIDES the motion.

SUBMISSION OF THE PARTIES**PROSECUTION**

The Prosecutor contended that she was unable to comply fully with the time limits in the Order of 26 June 2001 in respect of the Reports of Expert Witnesses Chretien and Des Forges in French and English, for the following reasons:

- The Expert witness, Jean Chretien, will not have his report completed before 15 December 2001 because of the indisposition of certain members of his team and because of the “unforeseen press of other responsibilities” and health problems encountered by the volunteer translator. The translation into English of their voluminous report will therefore not be ready before 15 February 2002.
- The other Expert witness, Alison des Forges had eye problems and will not be ready with her report before 15 February 2002 in both English and French.

DEFENCE

The Defence for Nahimana opposed the motion and asked the Chamber to bar the Prosecutor from calling the Expert witnesses as stipulated in its 26 June 2001 Order. The Defence reminded the Chamber that Nahimana has been incarcerated for five years and that the Prosecutor has had sufficient time to deal with the said Expert witnesses. The Defence further contended that there are neither supporting material nor affidavit to support the request and the Prosecutor has not invoked unpredictable circumstances. The Expert Chretien started working well before 26 June 2001 and Desforges, having been mentioned on the list of 97 witnesses, has had ample time to write her report.

DELIBERATIONS OF THE CHAMBER

The Trial Chamber recalls that in its Order of 26 June 2001, it directed the Prosecutor to produce the full reports of the four Expert witnesses, Alison Des Forges, Mathias Ruzindana, Jean Paul Chretien and Marcel Kabanda by 31 October 2001. The Chamber further ruled that if the Prosecutor were to fail to comply with this deadline she would be barred from calling the said witnesses.

The Trial Chamber however considers, after examining the reasons given by the Prosecutor, that the non compliance appears to be attributable to reasons beyond her control and constitute exceptional circumstances. The Judges further note that since the said witnesses are not expected to testify before mid-March 2002, disclosure by the dates requested, will still give the Defence sufficient time to peruse the reports. An extension of the time limit will not delay the trial or prolong the time during which Nahimana has been incarcerated.

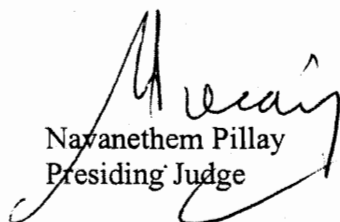
FOR THE ABOVE REASONS

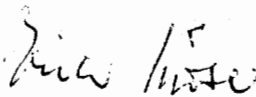
The **CHAMBER HEREBY GRANTS** the Prosecutor's motion for extension of time in which to file and disclose the reports of the said Expert witnesses;

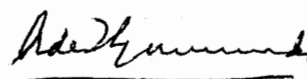
The Chamber **ORDERS** :

- (i) The Prosecutor to disclose the report of Expert Witness Jean Chretien in French by 15 December 2001 and in English by 15 February 2002;
- (ii) The Prosecutor to disclose the report of Expert Witness Alison Des Forges in French and English by 15 February 2002;

Done in Arusha, this 21st day of November 2001,


Navanethem Pillay
Presiding Judge


Erik Møse
Judge


Asoka de Z. Gunawardana
Judge

Seal of the Tribunal

