



ICTR-00-56-I
16-4-2002
(2502-2500)

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

2502
Mwamp

OR: ENG

TRIAL CHAMBER II

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

Registrar: Adama Dieng

Date: 16 April 2002

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The PROSECUTOR
v.
Augustin NDINDILYIMANA
François-Xavier NZUWONEMEYE
Innocent SAGAHUTU

Case No. ICTR-00-56-T

**CORRIGENDUM TO THE DECISION ON THE DEFENCE MOTION FOR
IMMEDIATE RELEASE AND STAY OF ALL CHARGES AGAINST THE
ACCUSED NDINDILYIMANA DUE TO THE PROSECUTOR'S NON-
COMPLIANCE WITH THE RULES**

Office of the Prosecutor

Richard Karegyesa
Christine Graham

Defence Counsel for Ndindilyimana

Christopher Black

Defence Counsel for Sagahutu

Fabien Segatwa

[Signature]

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (the “Tribunal”),

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

NOTING that errors in the citations of the “Decision on the Defence Motion for Immediate Release and Stay of All Charges Against the Accused Ndindiliyimana Due to the Prosecutor’s Non-Compliance with the Rules”, (Case No. ICTR-00-56-T, *The Prosecutor v. Ndindiliyimana et al.*, 10 April 2002), have been corrected;

DIRECTS accordingly that the following amendments be made at paragraphs 7 and 12 of the Decision:

Paragraph 7 of the Decision

Paragraph 7, lines 3 and 4 from top:

Prosecutor v. Bagambiki et al., Case No. ICTR 97-36-T, is replaced by:
Prosecutor v. Ndindiliyimana., Case No. ICTR 2000-56-I;

Paragraph 7, lines 6 and 7 from bottom:

24 September 2001, the “Decision of 24 September 2001” is replaced by:
21 October 2001, the “Decision of 21 October 1998”

THUS Paragraph 7 of the Decision reads as follows:

The Prosecutor recalls two Decisions rendered in this case by Trial Chamber III, specifically, the “Decision on Urgent Preliminary Motion to Stay the Indictment or in the Alternative to Cure Defects in the Indictment” (*Prosecutor v. Ndindiliyimana.*, Case No. ICTR 2000-56-I, 19 October 2000, the “Decision of 19 October 2000”), which denied a Defence Preliminary Motion requesting a stay of the Indictment or, alternatively, curing certain defects in the Indictment; and the “Decision on the Defence Motion for Disclosure in Respect of Samuel Imanishimwe” (*Prosecutor v. Bagambiki et al.*, Case No. ICTR 97-36-I, 21 October 1998, the “Decision of 21 October 1998”). The Prosecutor argues that, in fact, the Defence’s Motion is an attempt to appeal the Decision confirming the Indictment of 28 January 2000 against the Accused. On the basis of the supporting material provided, Judge L. Kama held in this Decision that there was a *prima facie* case. Accordingly, the Prosecution recalls that this Decision is non-appealable.

Paragraph 12 of the Decision

Paragraph 12, line 3 from top:

21 September 2001 is replaced by
24 September 2001;

Paragraph 12, lines 5 and 6 from bottom:

Prosecutor v. Bagambiki et al., Case No. ICTR 97-36-I, 21 September 2001, is replaced by:
Prosecutor v. Ndindiliyimana., Case No. ICTR 00-56-I, 24 September 2001

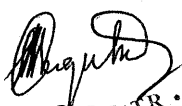
THUS Paragraph 12 of the Decision reads as follows:

With regard to the allegations of the Defence about the Prosecutor's non-compliance with the Rules on production of evidence, the Chamber recalls the ruling of Trial Chamber III of 24 September 2001: "Pursuant to Rule 66(A) (ii) the Prosecutor is obliged to disclose the statements of all witnesses whom the Prosecutor intends to call no later than 60 days before trial. The trial date has not yet been determined and therefore the Prosecutor is not in breach of Rule 66(A) (ii)" (*Prosecutor v. Ndindiliyimana.*, Case No. ICTR 00-56-I, 24 September 2001). The Chamber further reaffirms the ongoing nature of the obligation for disclosure as decided by Trial Chamber II in the "Decision on the Defence Motion for Disclosure in Respect of Samuel Imanishimwe"¹ (*Prosecutor v. Bagambiki et al.*, Case No. ICTR 97-36-I, 21 October 1998).

Arusha, 16 April 2002



William H. Sekule
Presiding Judge



Winston C. Mtanzime
Judge



(Seal of the Tribunal)



Arlette Ramaroson
Judge

¹ "Thus, in the instant case, although the prosecution is not in violation of Rule 66 (A) (ii) of the Rules, in view of the fact that the accused made his initial appearance more than one year ago, the prosecutor should have made a concerted effort to continue and complete its disclosure obligations at the earliest opportunity". (*Prosecutor v. Bagambiki et al.*, Case No. ICTR 97-36-I, 21 October 1998).