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ICTR-98-41-T

13-5-2002

(9705-9704)

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**International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda**

UNITED NATIONS
NATIONS UNIES

TRIAL CHAMBER III Original: English

Before: Judge Lloyd George Williams, Q.C., Presiding
 Judge Pavel Dolenc
 Judge Andréia Vaz

Registrar: Mr. Adama Dieng

Date: 13 May 2002

THE PROSECUTOR
v.
THÉONESTE BAGOSORA
GRATIEN KABILIGI
ALOYS NTABAKUZE and
ANATOLE NSENGIYUMVA

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Case No. ICTR-98-41-T

**DECISION ON DEFENCE JOINT MOTION FOR NULLIFICATION OF THE
HEARING OF WITNESSES**

The Office of the Prosecutor:

Mr. Chile Eboe-Osuji
Ms. Christine Graham
Mr. Segun Jegede
Mr. Drew White

Defence Counsel:

Mr. Raphaël Constant
Mr. Jean Yaovi Degli
Mr. Kennedy Ogetto
Mr. Gershom Otachi Bw'Omanwa
Mr. Clemente Monterosso
Mr. André Tremblay

The International Criminal Tribunal for Rwanda (the "Tribunal"), sitting today as Trial Chamber III composed of Judges Lloyd George Williams, Q.C., Presiding, Pavel Dolenc, and Andréia Vaz (the "Chamber");

BEING SEISED OF the Defence Joint Motion for the Nullification of Hearing of Witnesses, filed jointly by Counsel to the four Accused on 19 March 2002 (French), seeking exclusion of two of the Prosecutor's witnesses, namely, (i) the expert witness, Ms. Des Forges because the Defence did not receive the French version of her report pursuant to Rule 94 *bis*, and (ii) the investigator, Mr. Kwende, because the Prosecution violated Rules 66, 67 and 73 *bis* by failing to disclose his witness statement and documentary evidence which he will introduce at trial;

CONSIDERING the Prosecutor's Response to the Motion, filed on 24 April 2002, which contends that the Motion was rendered moot by reason of the adjournment of the trial proceedings until September 2002;

CONSIDERING that the Defence received the French translation of Ms. Des Forges' report, which was filed with the Registry on 28 March 2002;


CONSIDERING that the commencement of the presentation of evidence in this case has been postponed until September 2002, the Defence will therefore have sufficient time to address the expert's report pursuant to Rule 94 *bis*;

CONSIDERING that, given the above circumstances, the late receipt of the French version of the report of Ms. Des Forges and the non receipt of the statement of Mr. Kwende are not proper grounds for the exclusion of their testimony at trial;


THE TRIBUNAL NOW DECIDES the matter on the basis of the written briefs pursuant to Rule 73(A) and for the foregoing reasons:

DISMISSES the Motion.

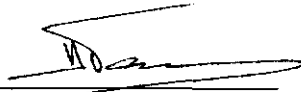
Arusha, 13 May 2002



Lloyd G. Williams, Q.C.,
Presiding Judge



Pavel Dolenc
Judge



Andréia Vaz
Judge

[Seal of the Tribunal]