

IC TR-99-52-T  
03-10-2002  
(30280-30278)



International Criminal Tribunal for Rwanda  
Tribunal Pénal International pour le Rwanda

30280  
S. MUSA

UNITED NATIONS  
NATIONS UNIES

TRIAL CHAMBER I

Original: English

Before: Judge Navanethem Pillay

Registry: Mr. A. Dieng

Order of: 3 October 2002

THE PROSECUTOR

v.

Ferdinand Nahimana,  
Hassan Ngeze

and

Jean Bosco Barayagwiza  
(Case No. ICTR-99-52-T)

JUDICIAL RECORDS SECTION  
ICTR  
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DECISION ON THE PROSECUTOR'S MOTION TO COMPEL THE DEFENCE'S  
COMPLIANCE WITH RULES 73ter, 67 (C) AND 69(C)

**The Office of the Prosecutor**

Mr. Steven. Rapp  
Ms. Simone Monasebian  
Ms. Charity Kagwi

**Defence Counsels for Nahimana:**

Mr. Jean-Marie Biju-Duval  
Ms. Diana Ellis

**Defence Counsel for Ngeze:**

Mr. John Clifford Floyd III  
Mr. René Martel

Defence Counsel for Barayagwiza:

Mr. Giacomo Barletta Caldarera  
Mr. Alfred Pognon

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

**SITTING** as Judge Navanethem Pillay designated by the Trial Chamber, pursuant to Rule 73 of the Rules of Procedure and Evidence of the Tribunal ("the Rules");

**BEING SEIZED** of the Prosecutor's motion to compel Defence compliance with Rules 73*ter*, 67 (C) and 69(C) of the Rules, filed on 11 September 2002; and a letter amending the relief sought in the motion filed on 12 September 2002, in which the Prosecutor requests the Trial Chamber to order the Defence to provide witness statements to the Trial Chamber immediately and no later than 21 days before the commencement of each witness's testimony;

**FOLLOWING** the status conferences held on 17 and 27 September 2002, where requests similar to those raised in the said motion were discussed and in respect of which the Trial Chamber had indicated that a Scheduling Order would be issued;

**TAKING INTO ACCOUNT** Articles 19 and 20 of the Statute of the Tribunal and Rule 73*ter* concerning Pre-Defence Conferences, Rule 67 on Reciprocal Disclosure and Rule 94*bis* on the testimony of Expert witnesses;

**THE DESIGNATED JUDGE HEREBY ORDERS THAT:**

1. Under confidential cover, the Defence shall, within twenty-one (21) days of the testimony of the witness concerned, disclose to the Trial Chamber, the Prosecutor and other Defence Counsel, the name, identity, address and whereabouts of each witness intended to be called by the Defence. A list of the said witnesses shall be served by the Defence providing a factual summary and not merely the subject matter on which each witness will testify, the points in the indictment to which each witness will testify and the estimated time required for each witness;
2. The Defence Team presenting evidence shall notify the Chamber, the Prosecutor and other Defence Counsel, in writing, about the order of its intended witnesses for each week;
3. Disclosure of copies of unredacted written witness statements of each witness, if available, shall be made to the Chamber, Prosecutor and the other Defence Counsel, fourteen (14) days before the Defence witnesses testify at trial;
4. The Defence shall file the following documents:
  - a) A list of exhibits it intends to offer in its case, including where possible, a statement as to whether or not the Prosecutor has any objection as to authenticity;
  - b) A statement of contested matters of fact and law;
5. Pursuant to Rule 67(C) and considering that the Prosecutor has already made requests to the Defence, the Prosecutor shall be accorded an opportunity to inspect documents upon which the Defence will rely. The Defence shall either transfer the documents

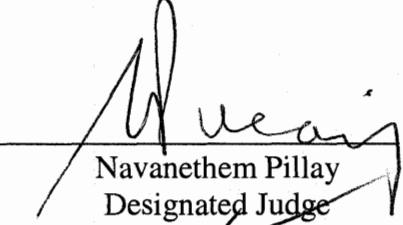
alleged to be in Paris and Washington D.C. to Arusha or provide the Prosecutor with a list of those documents to enable her to obtain copies thereof;

6. The Defence Counsel shall:

- a) Provide the Trial Chamber, the Prosecutor and other Defence Counsel, the full statement of each intended Expert Witness to be called and a Curriculum Vitae in respect of each Expert witness, not less than twenty-one days prior to the date on which the Expert is expected to testify, as provided under Rule 94bis;
- b) Indicate whether any Expert witness has testified in other cases before the Tribunal and if so, copies of transcripts of that Expert witness's testimony in those cases, shall be filed;
- c) Make appropriate arrangements to enable the Prosecutor to interview the alibi witnesses for the Defence. In respect of other witnesses, the Prosecutor and any representative acting on her behalf, shall notify the Defence prior to any contact with any of the protected Defence witnesses, and the Defence shall make arrangements for such contact.

7. Within fourteen (14) days of filing of the Statement of the Expert Witness, the Prosecutor shall file a notice indicating whether she accepts the Expert witnesses or wishes to cross-examine them;

Done in Arusha this 3<sup>rd</sup> day of October 2002.

  
Navanethem Pillay  
Designated Judge  
Trial Chamber I

[Seal of the Tribunal]

