



ICTR-99-52-T
(32153-32151)
25-4-2003

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

32153

S. MUSA

OR: ENG

TRIAL CHAMBER I

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

Registrar: Adama Dieng

Date: 25 April 2003

THE PROSECUTOR

v.

**FERDINAND NAHIMANA
HASSAN NGEZE
JEAN BOSCO BARAYAGWIZA**
(Case No. ICTR-99-52-T)

JUDICIAL RECORDS/ARCHIVES
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ICTR
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**DECISION ON THE DEFENCE MOTION FOR THE DEPOSITION OF THE
TESTIMONY OF DR FERDINAND GOFFIOUL**

Counsel for Jean Bosco Barayagwiza:

Mr. Giacomo Barletta Caldarera

Office of the Prosecutor:

Mr Stephen Rapp
Ms Simone Monasebian
Ms Charity Kagwi
Mr William Egbe

32152

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 ("the Chamber");

BEING SEIZED of a Defence motion, dated 17 April 2003, and filed on 22 April 2003, requesting that Dr Goffioul, an expert witness for Jean Bosco Barayagwiza, testify by way of a deposition in The Hague on 5-6 May 2003;

HAVING RECEIVED the Prosecution's response of 24 April 2003;

HEREBY DECIDES the motion pursuant to Rule 73(A) of the Rules, that is, solely on the basis of the briefs filed by the parties.

INTRODUCTION

In two Decisions of 10 April 2003, the Trial Chamber granted requests for deposition of the testimony of two witnesses.¹ On 11 April 2003, the Presiding Officer, Judge Møse, held an informal meeting with the parties to discuss the modalities in connection with the proceedings in The Hague on 28-29 April 2003 and 1-2 May 2003.

In subsequent letters, Counsel informed the Chamber that the expert of the Barayagwiza Defence, Dr Goffioul, will be available in The Hague on 5 and 6 May, alternatively on 1 and 2 May. After the Presiding Officer's memorandum of 16 April 2003, a request dated 17 April 2003 was filed by the Defence on 22 April 2003. It is submitted that there are exceptional circumstances for Dr Goffioul to testify by deposition at The Hague and that, in the interests of justice, the Chamber should permit him to do so.

DELIBERATIONS OF THE CHAMBER

The requirements for depositions follow from Rule 71 of the Rules. The Chamber notes that in its written request, the Barayagwiza Defence has indicated the dates on which Dr Goffioul will be available in The Hague. He has submitted his expert report. Consequently, there is sufficient information about the substance of his testimony. The Chamber observes that the deposition of his testimony will facilitate the termination of the trial and save costs. The parties and the Presiding Officer will be in The Hague in connection with depositions in respect of other witnesses. None of the parties have objected to Rule 71 being applied. The Prosecution has consented to the deposition provided that no reduction is made to the time allotted for the examination of Witness Y.

It is the view of the Chamber that it is in the interests of justice to hear Dr Goffioul's testimony by deposition in The Hague, and that the conditions in Rule 71 are met.

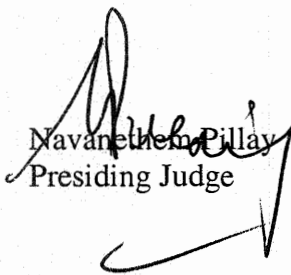
¹ Decision on the Defence request to hear the evidence of Witness Y by deposition; Decision on the Second Motion to reconsider the Scheduling Order dated 26 March 2003 on the testimony of Roger Shuy.


FOR THE ABOVE REASONS, THE TRIBUNAL

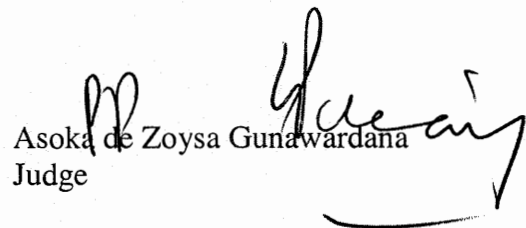
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1. **GRANTS** the Defence motion to hear Dr Goffioul by deposition and **ORDERS** that his testimony be taken by deposition at the seat of the Appeals Chamber of the Tribunal at The Hague in the period between 1-6 May 2003.
2. **APPOINTS** as Presiding Officer for that purpose Judge Erik Møse;
3. **DIRECTS** the Registry to make the necessary arrangements to enable the evidence of Dr Goffioul to be taken by deposition in The Hague.

Arusha, 25 April 2003


Navanethem Pillay
Presiding Judge


Erik Møse
Judge


Asoka de Zoysa Gunawardana
Judge

[Seal of the Tribunal]

