



ICTR-99-52-T
25-04-2003
(32156-32154)
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

32156
S. Mussa

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

JUDICIAL RECORDS/ARCHIVES
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THE PROSECUTOR

v.

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

**DECISION ON THE PROSECUTION'S VERY URGENT MOTION FOR THE
TAKING OF A DEPOSITION OF PROSECUTION WITNESS AZZA**

Office of the Prosecutor:

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

Counsel For The Accused

Mr. Jean-Marie Biju-Duval
Ms. Diana Ellis, Q.C.
Mr. John Floyd III
Mr. Rene Martel
Mr. Giacomo Barletta-Caldarera

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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 (“the Chamber”);

BEING SEIZED of the Prosecution’s very urgent motion for the taking of a deposition of its witness AZZA, filed on 16 April 2003, in which the Prosecution requests that the deposition be taken at The Hague between 28 April and 6 May 2003 or on a date convenient to the Trial Chamber;

HEREBY DECIDES the motion pursuant to Rule 73(A) of the Rules, that is, solely on the basis of written submissions.

INTRODUCTION

On 10 April 2003, the Trial Chamber delivered two decisions to hold depositions in The Hague on 28 and 29 April and 1 and 2 May 2003. The Barayagwiza Defence subsequently requested deposition in The Hague of the testimony of Dr Goffioul. On 25 April 2003, the Chamber granted the request.

In its motion of 16 April 2003, the Prosecution requests the deposition, in the same period, of the testimony of Witness AZZA. He will be sitting for an exam from 12 May 2003 through 12 June 2003 and not be able to appear in Arusha during that time. It would be in the interests of efficiency and economy to hold this very brief deposition in The Hague in the same period as when the other witnesses are heard there.

DELIBERATIONS OF THE CHAMBER

The motion for the deposition of the testimony of Witness AZZA presupposes that the Chamber allows the Prosecution to lead rebuttal evidence in pursuance of Rule 85. Following the Chamber’s order of 11 April 2003, the Prosecution filed, on 24 April 2003, its rebuttal motion. The Defence’s deadline for responding to that motion expires on 2 May 2003. The Defence has not yet filed any response to the motion for the deposition but has indicated that it intends to do so.

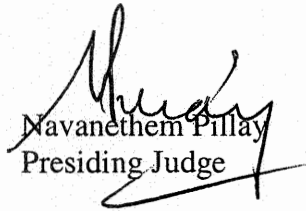
According to Rule 85, rebuttal evidence shall normally be presented after the Defence evidence, and the Chamber is not, in the present circumstances, inclined to make an exception from the main rule. The Prosecution’s rebuttal motion lists Witness AZZA among ten rebuttal witnesses. The Chamber will make its decision on the totality of the proposed rebuttal evidence after having considered the submissions presented by all Defence teams.

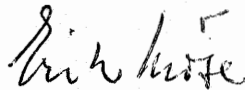
Consequently, the Chamber does not grant the Prosecution’s urgent motion for the deposition of Witness AZZA’s testimony in The Hague.

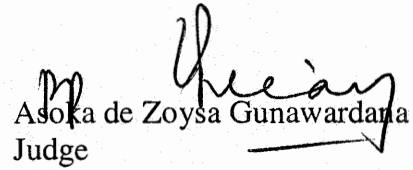
FOR THE ABOVE REASONS, THE TRIBUNAL

DENIES the Prosecution's motion.

Arusha, 25 April 2003


Navanethem Pillay
Presiding Judge


Erik Møse
Judge


Asoka de Zoysa Gunawardana
Judge

[Seal of the Tribunal]

