



ICTR-98-42-T
13-10-2005
(11556-11552)
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

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OR: ENG

TRIAL CHAMBER II

Before: Judge William H. Sekule, Presiding
Judge Arlette Ramaroson
Judge Solomy Balungi Bossa

Registrar: Mr Adama Dieng

Date: 13 October 2005

The PROSECUTOR

v.

Pauline NYIRAMASUHUKO et al.
Case No. ICTR-97-21-T
Joint Case No. ICTR-98-42-T

2005 OCT 13 A 11:10
JUDICIAL SECRETARIAT
ICTR

DECISION ON PAULINE NYIRAMASUHUKO'S URGENT MOTION TO EXTEND THE
TIME WITHIN WHICH TO FILE THE EXPERT REPORT OF
BALIBUTSA MANIARAGABA

Office of the Prosecutor

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

SITTING as Trial Chamber II composed of Judge William H. Sekule, Presiding, Judge Arlette Ramarason and Judge Solomy Balungi Bossa (the “Chamber”);

BEING SEISED of the “*Requête urgente de l’accusée Pauline Nyiramasuhuko en extension de délai aux fins de production du rapport d’expert Monsieur Balibutsa Maniaragaba*,” filed on 6 October 2005 (the “Motion”);

CONSIDERING :

The “Prosecutor’s Response to the “*Requête Urgente de l’Accusée Pauline Nyiramasuhuko en Extension de Délais aux Fins de Production du Rapport d’expert Balibutsa Maniaragaba*”, filed on 11 October 2005 (the “Prosecutor’s Response”);

That the Defence has indicated that it does not intend to file a reply;

NOTING the “ Decision on Pauline Nyiramasuhuko’s Motion to Extend the Time within which to File The Expert Report of Proposed Expert Witness Balibutsa Maniaragaba” issued on 22 September 2005 (the “Decision of 22 September 2005”);

CONSIDERING the Statute of the Tribunal (the “Statute”) and the Rules of Procedure and Evidence (the “Rules”);

NOW DECIDES the Motion, pursuant to Rule 73 (A), on the basis of the written briefs filed by the Parties.

SUBMISSIONS OF THE PARTIES

The Defence

1. The Defence requests the Trial Chamber to accept the filing of the Expert Report of its proposed expert Balibutsa Maniaragaba on 6 October 2005. It recalls the Trial Chamber’s Decision issued on 22 September 2005, according to which the Defence had the obligation to file the Expert Report of expert Maniaragaba within two weeks from the date of that decision. Accordingly, the Defence for Pauline Nyiramasuhuko considers that it has filed the expert report within the fixed timeframe.

2. However, if the Trial Chamber considers that the deadline expired on Wednesday 5 October 2005, the Defence moves the Trial Chamber to allow it an additional timeframe of less than 24 hours to file the proposed Expert Report of Mr. Maniaragaba. In support of its request, the Defence submits that it has only received the final version of the expert report on 5 October 2005 in the evening and has been able to read it only in the morning of 6 October 2005.

The Prosecution

3. The Prosecution notes that the initial motion of the Defence for an extension of time in which to file the Expert Report was already found late and that the Chamber said so in very strong terms in its Decision of 22 September 2005. The Prosecution further notes that the Trial Chamber had however, in its said Decision, granted the Defence of Pauline Nyiramasuhuko an extra two weeks from the date of that decision for the filing of the Expert Report, acting on the basis of its inherent jurisdiction and in the interests of justice.



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4. In essence, the Prosecution submits that the party requesting the extension must show sufficient justification and that the Defence cannot be allowed to seek a further suspension of the time frames when such a request is already out of time.

5. Notwithstanding the foregoing, the Prosecution requests the Trial Chamber to exercise its discretion as to whether it would accept the Report of proposed Expert Witness Balibutsa Maniaragaba.

HAVING DELIBERATED

4. The Chamber has considered all the submissions of the Parties.

5. The Chamber recalls its decision of 22 September 2005¹ in which it allowed the Defence for Pauline Nyiramasuhuko to file the Expert Report of its proposed Expert Witness Balibutsa Maniaragaba within two weeks from the date of that decision.

6. The Chamber points out that the timeframe of two weeks that it prescribed in the aforesaid decision amounts to 14 days which expired on Wednesday 5 October 2005. Given that the Defence filed the Report of the proposed Expert Witness Balibutsa Maniaragaba only on 6 October 2005, the Chamber finds such filing out of time and denies the extension of time requested by the Defence.

7. However, taking into account that the Report was filed together with this Motion, the Chamber, in the interests of justice *proprio motu* again, extends the time within which to file this Report to the time when it was filed together with this Motion on 6 October 2005. The Parties are advised to take note of the effective date of filing of the Report, which is 6 October 2005, and for those who wish to respond and have not done so, to do so in a timely fashion, in conformity with Rule 94 *bis*.

8. Finally, the Chamber issues a formal warning to the Defence for exceeding the timeframes again and this conduct should not be repeated.

FOR THE ABOVE REASONS, THE TRIAL CHAMBER


DENIES the Motion in its entirety;

EXTENDS *proprio motu* the time of the filing of the Report of the proposed Expert Witness Balibutsa Maniaragaba to 6 October 2005;


ADVISES the Parties to take note of the effective date of filing and act diligently in conformity with Rule 94 *bis*;

ISSUES a formal warning to the Defence for the Accused Pauline Nyiramasuhuko.

Arusha, 13 October 2005


William H. Sekule
Presiding Judge


Arlette Ramaroson
Judge



Soomy Balungi Bossa
Judge

¹ *Prosecutor v Nyiramasuhuko et al*, ICTR-98-42-T, Decision on Pauline Nyiramasuhuko's Motion to Extend the Time Within which to File the Expert Report of Proposed Expert Witness Balibutsa Maniaragaba, 22 September 2005, para. 33.