



ICTR-2001-63-T  
15-8-2007  
(2122 - 2120)  
International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

2122  
2120

ESTD 1994 IN  
THE CITY OF NAIROBI

OR: ENG

**TRIAL CHAMBER III**

**Before Judges:** Dennis C. M. Byron, Presiding  
G. Gustave Kam  
Robert Fremr

**Registrar:** Adama Dieng

**Date:** 15 August 2007

SECRET  
EXCERPT  
15 AUGUST 2007  
BY THE TRIAL CHAMBER  
TO THE DEFENCE COUNSEL  
AND TO THE PROSECUTOR

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EXCERPT  
15 AUGUST 2007  
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**THE PROSECUTOR**

v.

**SIMÉON NCHAMIHIGO**

Case No. ICTR-2001-63-T

**DECISION ON DEFENCE MOTION FOR MODIFICATION OF DEFENCE  
WITNESS LIST**

*Rules 73ter and 89 c) of the Rules of Procedure and Evidence*

**Office of the Prosecutor:**  
Alphonse Van  
Lloyd Strickland  
Madeleine Schwarz  
Adama Niane  
Marlize Keefer

**Defence Counsel for Siméon Nchamihigo**  
Denis Turcotte  
Benoit Henry  
Yann Evima Vouma

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1. The Defence motion of 25 July 2007, seeks authorisation from the Chamber to modify its witness list for the next trial session scheduled to commence on 27 August 2007. The Defence seeks to withdraw 14 witnesses from its current list of 35 witnesses and adding 4 new witnesses. It contends that this modification will satisfy the Chamber as to the economy of justice and the rights of the accused.

2. The Prosecution submits that the Defence's demand will result in unnecessary delays in the proceedings given the exceedingly generous time-estimates the Defence proposes for the testimony of each of its prospective witness. The Prosecution also requests the Defence to disclose the identity of all its witnesses to the Prosecution before 27 July 2007.

3. The Chamber recalls Rule 33(e) (*F*) of the Rules of Procedure and Evidence allows the Defence to move the Trial Chamber to vary its witness list "if it considers it to be in the interests of justice". Trial Chambers have allowed either party to vary its witness list upon showing of good cause and where the requested variance is in the interests of justice. The Chamber is satisfied that the Defence has in this case demonstrated good cause and the variance it seeks is in the interests of justice.

4. The Defence is expected to complete the presentation of its case during the next trial session. Contrary to the Prosecution's contention, the Chamber is satisfied that the overall reduction of the witness list by 10 witnesses will not delay the proceedings. The Chamber of the Defence investigative mission to Rwanda,

? *Hypothèse du Procureur à la requête de la défense en modification de sa liste de témoins à dochier, heretofter "Défense Motion".*

? *Requête de la défense en modification de sa liste de témoins à dochier, filed on 24 July 2007, heretofter "Défense Motion".*

? *Hypothèse du Procureur à la requête de la défense en modification de sa liste de témoins à dochier, heretofter "Défense Motion Response".*

? *Decision on Defence Motion for Modification of Defence Witness List*  
15 August 2007

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5. The Chamber recalls that it has already directed the Defence to disclose the identities of the witnesses it intends to call for the next trial session in its decision on Contempt of Court rendered 10 August 2007.

**FOR THESE REASONS, the CHAMBER**

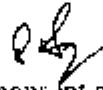
- I. **GRANTS** the Defence Motion to delete from its list Witnesses SFJA, SBC, SFS, SCQ, SCT, TTN, TSN, RBN2, RNM, TEN, RDN, TEN, CNAS and TNN;
- II. **GRANTS** the Defence Motion to add to its list Witnesses SCZB, SCZA, ZSD and RJN;

Arusha, 15 August 2007, done in English.

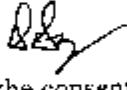


Dennis C. M. Byron

Presiding Judge



With the consent and on  
behalf of  
Gberdao Gustave Kam  
Judge  
(Absent during signature)



With the consent and on  
behalf of  
Robert Fremr  
Judge  
(Absent during signature)

