ICTR President Seizes Security Council

By a letter addressed to the President of the Security Council of the United Nations on 26 July 2002 the President of the International Criminal Tribunal for Rwanda (ICTR), Judge Navanethem Pillay, brought to the attention of the Security Council the Tribunal’s concerns regarding problems that the Tribunal has experienced in recent months with Rwanda’s cooperation with the Tribunal.

In particular, the Judges and Prosecutor of the ICTR are concerned because the Rwandan Government’s failure to issue travel documents in a timely manner to facilitate the appearance of witnesses before the International Tribunal has resulted in the unavailability of witnesses and, consequently, the postponement of three trials.

On 19 June 2002, in the Niyitegeka and Butare Cases Trial Chambers I and II of the ICTR issued Decisions regarding the unavailability of witnesses, and reiterated the obligations of the Government of Rwanda under Article 28 of the Statute and Articles 56 and 58 of the Rules of Procedure and Evidence of the Tribunal (see page 7 of this Bulletin).

Under Article 28 of the ICTR Statute, the President has a general discretion formally to bring to the attention of the Security Council concerns that might exist regarding the cooperation of States, or their compliance without undue delay with any request for assistance or any order issued by a Trial Chamber. This is the first time that that discretion has been exercised by the President of ICTR.

On 23 July 2002 the ICTR Prosecutor, Ms Carla Del Ponte, reported her concerns about the non-availability of witnesses to the Security Council. For its part, the Government of Rwanda, in a letter dated 26 July 2002, stated that its reply to the Prosecutor’s report “explains to the members of the Security Council the shortcomings of the International Tribunal for Rwanda”. While acknowledging that the ICTR was facing a crisis, the Rwandan government stated that it was “a crisis of mismanagement, incompetence and corruption of [the Tribunal’s] own making”.

The matter is now under consideration by the Security Council.

Appeals Chamber Confirms Bagilishema Acquittal

The Appeals Chamber of the International Criminal Tribunal for Rwanda (ICTR) on 3 July 2002 unanimously confirmed the judgment of Trial Chamber I by which the latter had acquitted Ignace Bagilishema, former bourgmestre (mayor) of Mabanza, near Kibuye.

Announcing its decision at a hearing in Arusha the President of the Appeals Chamber, judge Claude Jorda, said that the Chamber unanimously rejected all of the arguments submitted by the Prosecutor and ordered Bagilishema’s immediate release. He said detailed reasons for the decision would be given in writing later.

Bagilishema’s counsel, Maître François Roux of the Montpellier bar, welcomed the decision. He said that as well as being an important day for Mr. Bagilishema and his family, it was an important day for international criminal law. Only two days after the entry into force of the Statute of the International Criminal Court, the Appeals Chamber had demonstrated that it was for judges in their full independence to decide who was guilty and who was innocent. He added that it was an important day for Rwanda also and a step in the process of reconciliation to which the work of the ICTR contributed.

On June 7 2001 the Trial Chamber (composed of Judges Erik Møse, presiding Asoka Gunawardana and Mehmet Güney), unanimously found Bagilishema not guilty of Genocide and serious violations of the Geneva Conventions. By a majority, with Judge Güney dissenting, it found the accused not guilty of one count of Complicity in Genocide and three counts of Crimes against Humanity.

After reviewing all of the testimony and documentary evidence presented during the trial, the Chamber ruled that the testimonies (… continued on pg. 2)
De nouveaux outils pour hater le cours de la justice

Le TPIR explore l’horizon 2007-2008 pour achever son mandat. Ce délai relativement court accordé au tribunal pour compléter tous les procès n’est pas sans faire des sceptiques. La charge de travail au regard du nombre d’accusés en attente de jugement ainsi que le rythme des procès, même dans l’hypothèse d’un octroi par le Conseil de Sécurité des Nations Unies de juges ad litem, rendent en effet improbable le traitement de tous les dossiers dans ce court laps de temps. Dès lors, l’accélération du rythme actuel des procès s’avère nécessaire pour compléter le travail dans les délais impartis. La douzième séance plénière des juges, tenue les 5 et 6 juillet 2002 a ouvert de nouvelles voies pour parvenir à ces fins, à travers l’introduction de deux nouveaux articles dans le règlement de procédure et de preuve (articles 11 bis et 92 bis). Ces nouvelles dispositions permettront au tribunal d’actionner deux leviers pour disposer rapidement des dossiers en instance. (1) En accélérant les procédures par leur simplification; (2) En déléguant aux États la responsabilité de juger certains dossiers.

I. Accélération des procédures par leur simplification

Jusqu’ici, le principe de l’oralité des débats si cher à la “common law” a présidé à la déposition des témoins. Le nouvel article 92 “common law” a présidé à la déposition des témoins. Jusqu’ici, le principe de l’oralité des débats si cher à la

II. Délégation aux États de la responsabilité de juger certains dossiers

L’affirmation de la primauté de la compétence du TPIR sur les juridictions nationales était la seule forme d’expression de la coopération entre les différentes institutions. Désormais, avec le nouvel article 11 bis, le TPIR peut abdiquer sa compétence au profit de juridictions nationales. On se souvient qu’il y a quelques années, après le retrait de l’acte d’accusation contre Bernard Ntuyaga, la demande du Procureur aux juges de transférer le dossier aux juridictions belges avait été refusée faute d’une base légale justifiant un tel transfert.

Il en avait résulté un imbroglio juridique entre les autorités Tanzaniennes, Belges et Rwandaises qui apparemment n’est toujours pas réglé. Avec le nouvel article 11 bis, la solution aurait été vite trouvée puisque le tribunal aurait eu le loisir de remettre l’accusé directement à l’État au profit de qui il a décliné sa compétence. L’article 11 bis étend le champ du transfert non seulement à l’État dans lequel la personne a été arrêtée, mais aussi à tout autre État manifestant un intérêt pour juger la personne (État de réception), même en l’absence de tout élément de rattachement. Cependant, la compétence de l’État de réception est subordonnée à l’absence d’objection de l’État de l’arrestation. En outre, le tribunal ne se désintèresse pas de l’affaire par le seul effet de son transfert à un État. Le Procureur peut communiquer à l’État concerné les éléments d’information à sa disposition. Il peut également envoyer des observateurs qui s’assureront de la bonne conduite de l’affaire. En cas de non satisfaction du déroulement de la procédure dans l’État concerné, le Procureur peut, avant la fin du procès, saisir à nouveau le tribunal pour obtenir la rétractation de l’ordonnance de transfert.

Ce nouvel article 11 bis, par-delà la possibilité d’allègement de la charge de travail qu’il offre, laisse entrevoir une prochaine stratégie de sortie quand viendra l’heure d’arrêter les activités du tribunal alors que des affaires seront encore en instance dans son rôle.

[Les textes des nouvelles dispositions figure sur le website du TPIR: www.ictr.org]

Appeals Chamber Confirms Bagilishema Acquittal

(... continued from pg. 1)
The 12th Plenary Session of the Judges of the International Criminal Tribunal for Rwanda (ICTR) was held on 5-6 July 2002 at the seat of the Tribunal in Arusha, Tanzania. The Judges of the Tribunal’s Trial Chambers and Appeals Chamber, the Prosecutor, and the Registrar participated in the Plenary. During the Session the Judges adopted nineteen important amendments and additions to the Rules. They include but are not limited to:

**New Rule 11 bis**

This new rule provides for the transfer of cases from the Tribunal to national courts for prosecution. The circumstances in which this can happen are: where, on application by the Prosecutor, or by its own decision, it appears to a Trial Chamber that: (i) the authorities of the country in which the accused was arrested (the arresting State) are prepared to prosecute the accused in their own courts; or (ii) the authorities of another country (the receiving State) are prepared to do so, and the authorities of the arresting State do not object; and (iii) it is appropriate in the circumstances for the courts of the arresting or receiving State to exercise jurisdiction over the accused. However, the Trial Chamber may rescind an order made under this Rule at any time after making the order, and before the accused is convicted or acquitted by a national court. The purpose of this new Rule is to enable the International Tribunal to concentrate on a limited number of important cases in order to accomplish its completion strategy that seeks to finish trials at first instance by 2008. Another important aspect of the new Rule 11bis is that it is the first time that one of United Nations international criminal tribunals has been empowered to transfer its cases to a national jurisdiction other than the State in which the accused was arrested, where it is deemed appropriate, under the notion of universal jurisdiction. Rule 11bis of the Rules of Procedure and Evidence of the International Criminal Tribunal for the Former Yugoslavia at the Hague currently provides for the possibility of that Tribunal transferring an accused person to the arresting State.

**New Rule 45 quater**

This new Rule provides that a Trial Chamber may, if it decides that it is in the interest of justice, instruct the Registrar to assign a counsel to represent the interests of the accused. The Rule formalizes a power that the Tribunal has previously exercised under its “inherent powers” in cases where an accused person has either declined to engage a lawyer to defend him or her, or is indigent and has declined counsel assigned by the Tribunal.

**New Rule 92 bis**

This New Rule provides for proof of facts other than by oral evidence. Thus a Trial Chamber may admit, wholly or partially, the evidence of a witness in the form of a written statement in place of oral testimony where such a statement seeks to prove a matter other than the acts and conduct of the accused as charged in the indictment. Allowed in the admission of such a written statement may be circumstances in which oral testimony of facts similar to the evidence in question has already been admitted, where the evidence relates to relevant historical, political or military background, or consists of a general or statistical analysis of the ethnic composition of the population in the places to which the charges relate. Factors against the admission of evidence in such a form include the existence of an overriding public interest in the evidence in question being presented orally and where a party objects that its nature or source make it unreliable.

If the prejudicial effect of such evidence outweighs its probative value, this would also be a factor against its admission. New Rule 92bis is an important judicial reform measure. It has the potential to further speed up proceedings before the ICTR by significantly reducing as much as possible the consideration of time-consuming evidence inside the courtroom. A similar rule already exists in the Rules of Procedure and Evidence of the ICTY.

**New Article 5 bis of the Code of Professional Conduct for Defence Counsel: Fee splitting.**

A new provision in the Code of Conduct of Defence Counsel at the ICTR expressly prohibits fee splitting in its various forms, between defence counsel remunerated by the Tribunal under its legal aid programme, and their clients (any detainee of the Tribunal). Where defence counsel are being requested, induced or encouraged by their clients to enter into fee splitting arrangements, they are required by this new provision to advise their clients on the unlawfulness of such practice and report the incident to the Registrar. The new provision recognizes that fee splitting is not limited to financial arrangements. Where a counsel is found to have engaged in fee splitting, the Registrar will take action in accordance with the Tribunal’s Directive on Assignment of Defence Counsel.

[The texts of the new and amended provisions are available on the ICTR website: www.ictr.org.]

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**Judges Attend Seminar**

ICTR Judges and legal staff of the Trial Chambers participated in a Continuing Legal Education (CLE) Seminar on genocide and crimes against humanity during the weekend of 13 – 14 July 2002. The seminar, led by Professor William Schabas, Director, Irish Centre for Human Rights at the National University of Ireland, Galway, and Professor Kelly Askin, Fellow, Carr Centre for Human Rights Policy at the Kennedy School of Government, Harvard University, consisted of six lecture-discussion sessions.

This is the second of a series of four CLE Seminars this year. The general objective of the CLE Programme is to offer to Chambers’ legal staff the opportunity for an intensive study of procedural, evidentiary, substantive and comparative issues arising in the performance of their duties. The seminars are designed to encourage legal research on current issues of international criminal law, to advance solutions to contemporaneous problems in this field and to foster a deeper understanding of the correlation between international criminal law, reconciliation and implementation of human rights.
The Appeals Chamber

The Appeals Chamber of the International Criminal Tribunal for Rwanda (ICTR) is based in The Hague and is common to both the ICTR and the International Criminal Tribunal for the Former Yugoslavia (ICTY). It is presently composed of seven Judges and sits usually as a Bench of five for Appeals on the merits. Given that the Appeals chamber is common to the two ad hoc Tribunals, it sits both in Arusha and The Hague. To facilitate its work and that of the Parties, the ICTR also operates an appeal unit in The Hague composed of legal, registry and language staff.

Both the Prosecutor and the accused have the right to appeal under the ICTR Statute and Rules of Procedure and Evidence. This right to appeal after final judgement is reflected in Article 24 of Statute of the Tribunal, which allows the parties to appeal on an error on a question of law invalidating the decision or on an error of fact which has occasioned a miscarriage of justice. The Appeals Chamber can affirm, reverse or revise the decisions taken by the Trial Chambers. The Statute and the Rules of Procedure and Evidence (cf. Rules 108-119) provide for appellate proceedings following judgments in cases before Trial Chambers or in cases of penalties imposed for contempt of the Tribunal (Rule 77) and false testimony (cf. Rule 91).

The ICTR Appeals Chamber affirmed this principle of the right to appeal after final judgement in its decisions on the notice of Appeals filed by the Defence in the “Rutaganda” Case (No. ICTR-96-3-T), against the decisions of Trial Chamber I dismissing defence motions for orders to the Prosecutor to investigate cases of false testimony of prosecution witnesses in the case. Both these notices of appeal were filed pursuant to Sub-Rule 108 (B) of the Rules, which fixes time limits for appeals against judgments dismissing an objection based on lack of jurisdiction or a decision rendered under Rule 77 (Contempt of the Tribunal) or Rule 91 (False Testimony under Solemn Declaration). On 8 June 1998, the Appeals Chamber composed of Judge Gabrielle Kirk McDonald, presiding, Judge Mohamed Shahabuddeen, Judge Lal Chand Vohrah, Judge Wang Tiaya and Judge Rafael Nieto-Navia, sitting in Arusha, recalled that recourse to an appeal lies as of a right ‘to persons convicted’ by the Trial Chambers.

A right of appeal is fundamental to the due process of justice, this being enshrined in Article 14(5) of the International Covenant on Civil and Political Rights (1966). Traditionally, appeals were complaints to a superior court of an error or injustice done by a lower court. In most national systems, appeals occur in maybe 5% - 10% of cases. However, in a few countries, with the development of jurisprudence, appellate review is seen by some as an extension to the trial, a near automatic epilogue to a case, the judgment then only being deemed final once all appellate avenues have been exhausted. Indeed, an appeal gives the opportunity to a defendant to see his/her conviction revised or quashed, and is inherent to the fairness of the criminal process. Given this, all final judgements and sentences at the ICTR, save in the case of Georges Ruggiu, have so far been subject to Appeal. The Appeals Chamber affirmed the convictions and sentences of Omar Serushago on 15 February 2000, of Jean Kambanda on 19 October 2000, of Jean Paul Akayesu, Clément Kayishema and Obed Ruzindana on 1 June 2001 and of Alfred Musena on 16 November 2001. During the first week of July this year, the Appeals Chamber of the ICTR heard the appeals in the case of Georges Rutaganda and Ignace Bagilishema. In the latter case, on 3 July, following the arguments of parties the previous day, the Appeals Chamber unanimously rejected all of the arguments submitted by the Prosecutor and ordered Bagilishema’s immediate release. The Appeals Judgement in Rutaganda is expected at a later date.

New Appeals Chamber Judges

Judges David Hunt from Australia and Theodor Meron from the United States of America were sworn in as members of the ICTR Appeals Chamber on 2 July 2002 at a ceremony in Arusha, Tanzania before Judge Navanethem Pillay, President of ICTR, and Adama Dieng, Registrar, representing the Secretary-General of the United Nations.

Judge David Hunt was born in Sydney, Australia on 15 February 1935. He graduated with a Bachelor of Arts in 1956 and a Bachelor of Laws in 1958. The same year he was called to the Bar. He worked as Queen’s Counsel for several years, before being appointed a Judge of the Supreme Court of New South Wales in 1979. In 1991 Judge Hunt was appointed Chief Justice at Common Law in the same court. Between 1992 and 1999 he was a part-time Commissioner with the Law Reform Commission of New South Wales.

He is a decorated Officer of the Order of Australia for service to the judiciary and to the Community. In October 1998, he was elected Judge of the International Criminal for the Former Yugoslavia (ICTY) and was designated a judge of the Appeals Chamber for the ICTY and ICTR on 23 November 2001.

Judge Theodor Meron was born in Poland on 28 April 1930 and became a citizen of the United States in 1984. Prior to that he was Israel’s Ambassador to Canada and later to the United Nations in Geneva. He studied law at the Universities of Jerusalem, Harvard and Cambridge.

From 1978 he was Professor of International Law at New York University School of Law. Between 1991 he was Professor of International Law at the Graduate
Institute of International Studies in Geneva and has lectured in several other universities in Europe and the US.
He is a member of French and American International Law Societies and serves in several international humanitarian law committees. He was a member of the US delegation to the 1998 Diplomatic Conference on the establishment of the International Criminal Court in Rome, Italy. He was also Counsellor on International Law to the US Department of State. He was elected as a judge of the ICTY on 14 March 2001 and designated as a member of the Appeals Chamber of the ICTY and ICTR on 23 November 2001.

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**Trials in Progress**  
**Procès en cours**  
(as at 31 July 2002)

**Overview**

On 31 July 2002 eight trials concerning 21 accused were in progress before the Trial Chambers of the ICTR. In addition, the Semanza case was closed on 19 June and is now under deliberation. In the Ntakirutimana trial, the hearing of evidence has been completed and dates are fixed for closing arguments of the parties. In the Cyangugu trial, 33 defence witnesses have been heard, while in the Kajelijeli, Media and the Kamuhanda trials, the Prosecution has closed its case and dates are fixed for the opening of the Defence case.

For up-to-date information on the progress of trials, please consult the Judicial Calendar and the Status of Detainees on the Tribunal’s website: [www.ictr.org](http://www.ictr.org)

**“Cyangugu-Case”** (Bagambiki, Ntagerura) Trial Chamber III, Judges Williams (presiding), Ostrovsky and Dolenc, Trial opened 18 September 2000; Prosecution case closed on 21 November after 73 days of hearings during which 40 witnesses were heard. By Thursday 25 July there had been a total of 107 days of hearings and 33 defence witnesses had been heard. Hearings will resume on Monday 30 September.

**“The Media Case”, (Barayagwiza, Nahimana and Ngeze)**  
Trial Chamber I, Judges Pillay (presiding), Møse and Gunawardana. Trial opened on 23 October 2000. On Friday 12 July 2002 the Prosecution closed its case after 163 days of hearings during which 47 Prosecution witnesses were heard. The case was adjourned until Monday 16 September for the opening of the defence case.

**“Semanza Case”** (Laurent Semanza)  
Trial Chamber III, Judges Ostrovsky (presiding), Williams and Dolenc. Trial opened 16 October 2000. The trial was completed on 25 April after 80 days of hearings during which 54 witnesses testified. Closing argument was heard form 17 to 19 June 2002 since when the case has been under deliberation. No date has yet been set for delivery of the judgement.

**“Kajelijeli Case”**  
Trial Chamber II, Judges Sekule (presiding), Maqutu and Ramaroson. Trial opened 13 March 2001, restarted 2 July 2001. The case was adjourned on 13 December after 29 days of hearings during which 14 prosecution witnesses were heard. On 10 April 2002, (Trial Day 31) the Prosecution closed its case. A Pre-Defence conference and status conference was held on 15 April. The Defence case will open on Monday 16 September.

**“Kamuhanda-Case”**  
Trial Chamber II, Judges Sekule (presiding), Maqutu and Ramaroson. Trial opened on 17 April 2001. On 14 May 2002 the Prosecution closed its case subject to calling one additional witness before the opening of the Defence case. There had been 35 days of hearings during which 28 prosecution witnesses were heard. The Defence will open its case on Monday 19 August.

**“Butare Case”, (Nyiramasuhuko, Ntahobali, Nteziyayo, Nsabimana, Ndayambaje and Kanyabashi)**  
Trial Chamber II, Judges Sekule (presiding), Maqutu and Ramaroson. Trial opened 12 June 2001. By 6 June 2002 there had been 63 days of hearings involving 14 Prosecution witnesses. Between 11 June and 27 June 2002 the case was adjourned five times as a result of difficulties encountered in bringing witnesses from Rwanda. On 19 June the Chamber gave an oral decision referring to the obligation of cooperation incumbent upon UN Member States and asking the Rwandan authorities to meet their legal obligation to facilitate the work of the Tribunal. No further witnesses being available the trial was adjourned on 27 June until Monday 14 October.
“Ntakirutimana Case”, (Elizaphan Ntakirutimana and Gérard Ntakirutimana)
Trial Chamber I, Judges Mose (presiding), Pillay, and Vaz. Trial opened 18 September 2001. Prosecution case closed on 2 November 2001 after 27 days of hearings during which 19 Prosecution witnesses were heard. Trial resumed with Defence case from 4 to 15 February 2002 and then from 10 April to 10 May 2002, a total of 30 hearing days during which 24 Defence witnesses were heard, including the two accused.

In summary, the hearing of all evidence from 43 witnesses was completed in 14 trial weeks. Closing arguments will be heard by the Chamber on 21 and 22 August 2002.

“The Military Case”, (Bagosora, Kabiligi, Ntabakuze, Nsengiyumva)
Trial Chamber III, Judges Williams (presiding), Dolenc and Vaz. This case against Colonel Théoneste Bagosora, formerly Director of the Ministry of Defence and three other senior military figures opened on 2 April. The three other accused are Gratien Kabiligi, a former brigadier in the Rwandan army, Aloys Ntabakuze, commander of a Para-commando battalion and Lieutenant. Colonel Anatole Nsengiyumva. All are charged with genocide, conspiracy to commit genocide, crimes against humanity and violations of the Geneva Conventions. A status conference was held on Friday 28 June and hearings will resume on Monday 2 September 2002.

Niyitegeka
Trial Chamber I, Judge Navanathem Pillay (presiding), Judge Eric Mose and Judge Andrésia Vaz. The Trial of elizer Niyitegeka, former Minister of Information in the interim Government of Rwanda in 1994, opened on 17 June 2002. It was adjourned on 26 June after six days of hearing due to difficulties encountered in bringing witnesses from Rwanda. Hearings will resume on Tuesday 13 August.

Appeals Chamber

Bagilishema
Appeals Chamber: Judge Claude Jorda, presiding and Judges Mohamed Shahabudeen, David Hunt, Fausto Pocar and Theodor Meron. The Prosecutor’s appeal against the acquittal of Ignace Bagilishema, former mayor of Mabanza (Kibuye) was heard by the Appeals Chamber sitting in Arusha on Tuesday 2 July 2002. The following day the Appeals Chamber announced that it unanimously confirmed the judgment of Trial Chamber I at first instance and ordered Bagilishema’s immediate release. The detailed reasons for the decision will be given in writing at a later date. (See also leading article on p.1)

Rutaganda
Appeals Chamber: Judge Jorda, presiding and Judges Shahabudeen, Pocar, Güney and Meron. Georges Rutaganda’s appeal against his conviction and sentence by Trial Chamber I on 6 December 1999 was heard on 4 and 5 July 2002. No date has yet been set for delivery of the final judgment in this case.

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**SUMMARY OF DETAINEES**
(Situation as at 31 July 2002)

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<tr>
<th>Detainees on Trial</th>
<th>22</th>
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<tr>
<td>Awaiting Trial</td>
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<tr>
<td><strong>Total Detainees</strong></td>
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For the full list and details of all ICTR Detainees, please consult our Website: [www.ictr.org](http://www.ictr.org)
Subject: Oral Decision to adjourn Trial

Case: “Butare” (Nyiramashuhuko, Ntabari, Nsabimana, Nteziyayo, Kanyabashi, Ndayambaje
Case No.: ICTR-98-42-T
Chamber: Trial Chamber 2
Date of Decision: 19 June 2002

The Chamber observed that the Statute of this Tribunal is binding upon all States. (Referred Article 28 of the Statute and Rule 58 of the RPE).

The Chamber observed that, the procedures established by the Rwandan authorities can not take precedence over the member States obligations under Article 28 of the Statute as spelt out in Rule 58 of the RPE.

The Chamber asked the Rwandan authorities to meet their legal obligations to facilitate the work of the Tribunal and to ensure that witnesses are able to travel to Arusha to allow the Tribunal to continue its work.

The Chamber directed the Registry to ensure that the Rwandan authorities are accordingly informed of this decision.

The Chamber ordered the WVSS to provide the Chamber and the Parties with a Report detailing the latest position with regard to the availability of witnesses. The Report to be served on the Registry by noon on Friday 21 June 2002.

Subject: Decision to Adjourn proceedings due to the unavailability of witnesses

Case: Niyitegeka
Case No.: ICTR-96-14-T
Chamber: Trial Chamber 1
Date of Decision: 19 June 2002

The Chamber drew the attention of the Rwandan Authorities to its legal obligations to cooperate with the Tribunal.

The Chamber requested the Rwandan Authorities to ensure that the travel of the witnesses scheduled for these cases is facilitated so that the trial could resume without further delay.

The chamber directed the Registrar to transmit a copy of this Decision as soon as possible to the Government of Rwanda or if necessary to any authority charged with the task of permitting or facilitating the appearance of witnesses before the International Criminal for Rwanda.

Subject: Decision on Ntahobali’s Motion to Rule Inadmissible the Evidence of Witness TN, 1 July 2002

Case: Arsène Shalom Ntahobali, et al.
Case No.: ICTR-98-42-T
Chamber: Trial Chamber 2
Date of Decision: 1 July 2002

Relevant extracts: “the Chamber finds that the request for suppression of the evidence given by Witness TN is not a timely objection.[..] The Chamber considers that the challenge to both the credibility of Witness TN and the probative value of Witness TN’s testimony should have been raised by the Defence in cross-examination pursuant to Rule 85 (B) of the Rules. The Chamber further notes that on 4 April 2002 the Defence declined the opportunity to cross-examine Witness TN. The Chamber agrees with the Prosecution that, pursuant to Rule 86 (A) of the Rules, the arguments raised in the Motion may be appropriate for closing arguments, at which time the issues of the credibility of Witness TN and the weight, quality and substance of Witness TN’s testimony can be raised before the Chamber following the presentation of all the evidence. The Chamber finds that the Defence’s argument that hearsay evidence is per se impermissible lacks merit. Pursuant to Rule 89 (C) of the Rules and the jurisprudence of the Tribunal, hearsay evidence is permissible at the Chamber’s discretion. [...] the Chamber warns Counsel that in the future, pursuant to Rule 73 (E) of the Rules, it will order, as a sanction, the non-payment to the Defence of all costs and fees associated with the preparation and filing of such frivolous motions."
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<th>Date</th>
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<td>Semanza</td>
<td>ICTR-97-20-0706</td>
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<td>Decision on defence for Ntagerura’s Motion to amend its witness list pursuant to rule 73 Tel (E)</td>
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<td>ICTR-98-41-0311</td>
<td>TC3</td>
<td>Decision on the Prosecution motion for special protective measures for witness “A” pursuant to rules 66(A).</td>
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<td>Butare-Decision on Nteziyayo’s motion to rule hearsay evidence inadmissible</td>
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<td>Ntagerura-Bagambiki-</td>
<td>ICTR-99-46-0449</td>
<td>TC3</td>
<td>Decision on defence of Ntagerura’s motion to vary its witness list pursuant to rule 73 Ter (E)</td>
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