



International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

# ICTR BULLETIN DU TPIR

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## South Africa Nominates Judge Pillay to ICC

The Government of the Republic of South Africa has nominated Judge Navanethem Pillay, President of the International Criminal Tribunal for Rwanda (ICTR), for election as a judge of permanent International Criminal Court (ICC) at The Hague, Netherlands. The South African Government announced its decision to nominate Judge Pillay on Saturday November 30, 2002.

Judge Pillay, a South African national, was elected as President of the ICTR in May 1999 and re-elected to a second term of office in 2001. She has served as a judge of the ICTR since May 1995, following her election to that position by the General Assembly of the United Nations.

The ICTR judge brings to her candidacy for the ICC bench a wealth of relevant experience in the field of international criminal justice. She has participated in the adjudication of a number of historic cases before the ICTR that have established precedents for various international jurisdictions including the ICC. These cases include the *Kambanda* case, in which the former Prime Minister was convicted, on a plea of guilty, of genocide and crimes against humanity and sentenced to life imprisonment. This was the first

conviction of a head of government by an international court. Another landmark case in which Judge Pillay participated was the *Akayesu* case. This was the first ever judgment for the crime of genocide by an international court. This case set a precedent in its conviction of Akayesu, a Rwandan Mayor, for rape as a crime against humanity and an act of genocide, having found that rape was perpetrated against Tutsi women with intention of destroying their ethnic group. Judge Pillay is currently presiding over the so-called "Media Trial" of three senior Rwandan media executives for their alleged roles in the genocide.

Judge Pillay was born in 1941 in South Africa and was educated at the University of Natal, where she obtained her first degree in law, and at Harvard University Law School in the United States, where she was awarded master's and doctoral degrees in law. Prior to her election to the ICTR she served as acting Judge in the High Court of South Africa, and practiced law as an attorney before that court from 1967 to 1995. As an attorney she defended a number of opponents of apartheid. She brought upon herself the repressive attention of the state security forces of the apartheid regime and was denied a passport for many years.

Judge Pillay has sat on the board of directors and trustees of numerous non-governmental organizations. She has delivered lectures on international criminal law at the invitation of universities in Africa, Europe and the United States, and has won several awards and

citations for human rights achievements.

The election of judges of the International Criminal Court will take place at the next meeting of the Assembly of States Parties to the Rome Statute of the Court which will be held in New York between 3 and 7 February 2003. A total of 85 States have so far ratified the Rome Statute.

### ICTR Sponsors Rwandan Law Students

Six Rwandan law students have arrived at the ICTR, under its Outreach Programme, to carry out research paving way to their University graduation. This group, the third of its kind since the programme was instituted, arrived on 21 October 2002 and will spend eight weeks at the Tribunal. The purpose of this research fellowship programme is to assist Rwandan law students to acquire in-depth knowledge of ICTR jurisprudence and international criminal law, and to help them to prepare dissertations in international criminal law, human rights and other related fields.

During their research period, students attend various induction courses related to international criminal justice and the working of the Tribunal, and they are also provided with mentors who guide them in shaping their research.

Funding for the fellowship programme is provided by the Tribunal's Outreach Programme.

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## “Un témoin comme les autres”

Comme l’a si souvent rappelé Me. Degli, avocat du général Gratien Kabiligi, le témoin qui apparaît devant la Chambre de première instance III dans l’affaire le Procureur v les militaires I est bien un témoin comme les autres. Pourtant il n’en n’est pas pour autant ordinaire ne serait-ce que par la durée de son témoignage: trois mois. Parmi les témoins dit experts, c’est la plus assidue, la plus régulière, la plus fréquente à la barre. Petit bout de femme, visage angélique, *œil* vif, tête toujours penchée sur ses notes, elle lit, note, explique, s’explique, revient sur les explications, précise si cela n’avait pas été clairement exprimé, décortique. Bref Alison Des Forges fait de l’exégèse. Et sans jamais se départir de son sourire, elle répond inlassable aux questions des parties.

Réputée pour la qualité de ses travaux, historienne de renom, militante au sein de Human Right Watch, elle est considérée à l’heure actuelle comme l’un des témoins clefs de la tragédie qui s’est déroulée au Rwanda en 1994. Professeur, Docteur, Maître, Mme la spécialiste: Alison Des Forges aura eu droit à tous les titres, tous les qualificatifs lors de son audition. Tantôt déférente, tantôt agacée, tantôt lasse des réponses toujours précises du témoin, la Défense autant que le Procureur y est allée chacun de son signe de déférence, de respect pour Alison.

Durant ces semaines de témoignage qui viennent de s’écouler, Mme Des Forges aura évoqué ses amitiés, ses rencontres, dit ses certitudes, affirmé ses convictions. Elle aura même laissé couler quelques larmes à l’évocation de l’assassinat de son ami Seth Sendashonga à Nairobi en 1999; mais ne vous y trompez pas, elle a vite recouvré son calme, sa sérénité, fixé son interlocuteur à travers ses petites lunettes cerclées d’or et répondu encore une fois aux questions. Autant à l’aise dans la langue de Shakespeare que dans celle de Molière, elle aura «fait» et «défait» les nombreuses alliances politiques du Rwanda depuis l’indépendance. On se souvient encore d’elle lors du procès de Jean-Paul Akayesu, l’ancien bourgmestre de Taba, condamné à l’emprisonnement à vie elle fut l’un des témoins clefs cités par le Procureur. Elle a été aussi l’un des témoins experts toujours cités par le Procureur dans le procès dit des Médias. Décidément la petite dame est incontournable

Face à cette femme dynamique, à la voix monocorde, au perpétuel sourire en coin, une kyrielle d’hommes en noir: conseils, co-conseils, assistants d’un côté et de l’autre un avocat général entouré d’adjoints, de conseillers et de stagiaires noyés au milieu de classeurs bleus en tout genre. L’audition de Mme Des Forges, malgré quelques semaines d’interruption, aurait été certainement la plus longue consacrée à un témoin. Entouré de ses deux collègues de la Chambre de première instance III, Pavel Dolenc et Andrézia Vaz, le président Lloyd Williams élève le ton de temps à autre

pour circonscrire les débats et les maintenir dans une certaine tonalité. Pas souvent, il faut dire. Les débats demeurent généralement très courtois.

Ce n’est certainement pas la dernière apparition de la petite dame aux cheveux gris et au visage d’ange, auteur d’«Aucun témoin ne doit survivre»; Ouvrage consacré à la période du génocide qui fait référence auprès des juristes et des historiens. Entre un million et huit cent mille Rwandais n’ont pas survécu à la tragédie de 1994. Alison Des Forges s’en est allée de ses petits pas alertes, le dos légèrement courbé, et s’est retournée, une dernière fois pour saluer la Cour.

## Registrar Issues Statement on Change of Counsel

On 5th November 2002, the Registrar, Mr. Adama Dieng, issued the following statement concerning change of counsel under the Tribunal’s legal aid programme: “The Registrar notes with great concern that some indigent accused, represented by counsel assigned by the Tribunal, request the withdrawal of their lead counsel just before the commencement of their trials or at the early stages of their trials. Withdrawal of lead counsel at these stages of the proceedings results in a serious financial burden on the limited resources available for the Tribunal’s Legal Aid Programme. Fees and disbursements paid to lead counsel, in most cases over a substantial period, is wasted costs when the said counsel is withdrawn.

It is worth recalling that the Office of Internal Oversight Services (OIOS) in its Report (A/55/759) of 1st February 2001 noted that fee splitting is linked *inter alia*, with the accused’s ability to change his/her defence counsel.

To prevent any abuse of the Legal Aid Programme and to efficiently manage its limited resources, co-counsel will not be automatically assigned as lead counsel where lead counsel have been withdrawn, unless exceptional circumstances so require. New lead counsel will be assigned in accordance with the Directive on Assignment of Defence Counsel and the Registrar’s Circular No. 2 of November 1999.

## ICTR Sponsors Rwandan Law Students

(...continued from p. 1)

The latter has attracted a steady stream of visiting Rwandans from various walks of life, mainly from universities, government departments, human rights organisations, Rwandan Bar Association and media.

The Outreach Programme has provided a unique opportunity for Rwandans to learn about and benefit from the work of the ICTR, particularly its jurisprudence. The



programme aims to increase awareness and understanding among Rwandans of the importance and relevance of the work of ICTR in promoting national reconciliation, and the role of the international criminal justice in installing accountability in Africa.

## ICTR President Calls for Compensation for Victims

The President of the International Criminal Tribunal for Rwanda (ICTR), Judge Navanethem Pillay (South Africa) on 29 October 2002 urged Member States of the United Nations to help compensate victims if Rwanda was to recover from the genocide that was perpetrated in that country in 1994. Judge Pillay made the call when addressing the UN Security Council on the achievements of the International Criminal Tribunal for Rwanda (ICTR).

“Many Rwandans have questioned the ICTR’s value and its role in promoting reconciliation if the issue of claims for compensation is not addressed. For every hour of every day over the past seven and half years, we have lived with the voices of the survivors of genocide and so we strongly urge the United Nations to provide compensation for Rwandan victims,” Judge Pillay said.

Her address to the Security Council came after the presentation of the Seventh Annual Report of the Tribunal’s activities to the General Assembly on 29 October 2002. Judge Pillay detailed the Tribunal’s achievements and the reforms the Tribunal has undertaken to further speed up trials and appeals. She said that new rules have been adopted, *inter alia*, to facilitate transfer of accused to national jurisdictions to stand trials; ensure expeditious trial and prohibit fee-splitting arrangements between Counsels assigned by the Tribunal and their clients.

She also acknowledged that the Tribunal was still facing problems affecting the pace of the trial proceedings. These factors included the complexity of the judicial proceedings, interpretation of trial proceedings into three languages and delays in the appearance of witnesses. The appearance of prosecution and defence witnesses from Rwanda was disrupted in May and June 2002 due to new administrative measures imposed by the Government of Rwanda. As a result, two trials were adjourned and 15 trial days lost.

The President of the ICTR stressed that the creation of a pool of “*ad litem*” judges will help expedite the completion of the Tribunal’s mandate. The ICTR has indicted 81 individuals so far, with 61 persons in custody and 20 still at large. Of the 61 persons in detention eight have been sentenced (six of whom are serving their sentences in Mali), one has been acquitted

and 22 are involved in ongoing trials. Judgments in two trials of three accused will be delivered before the end of the year and early next year, Judge Pillay said.

Judge Pillay added that the Prosecutor had changed her strategy for conducting investigations and trials with the aim of fulfilling the mandate of the Tribunal:

“The Prosecutor has revised her future investigation programme from the originally estimated number of 136 new suspects and will now only conduct investigations against 14 new individuals, together with ten ongoing investigations. The resulting 24 new indictments, which the Prosecutor intends to submit for confirmation by the end of 2004, will conclude her investigation programme,” she said.

The full text of the Statements to the General Assembly and the Security Council as well as the Seventh Annual Report of the ICTR are available on the ICTR Website, [www.icttr.org](http://www.icttr.org)

## Col. Renzaho Pleads Not Guilty

Colonel Tharcisse Renzaho, former prefect of Kigali-ville, on 28 November 2002 pleaded not guilty to three counts charging him with genocide or alternatively complicity in genocide and crimes against humanity for murder. The accused entered the plea during his initial appearance before Judge Navanethem Pillay (South Africa), President of the International Criminal Tribunal for Rwanda.

Renzaho, who was born in 1944 in Kigarama Commune, Kibungo Prefecture, is alleged both individually and acting in concert with others, to have caused many Tutsis to be killed at St. Famille Parish Church, St Paul’s Pastoral Centre, and at the *Centre d’Education de Langues Africaines (CELA)* in Kigali. At CELA he allegedly ordered the murder of approximately 100 persons in April 1994 and at St. Paul’s he allegedly ordered the murder of sixty Tutsi boys.

It is further alleged that the accused broadcast orders over Radio Rwanda to soldiers, gendarmes, militia, local citizens and demobilised soldiers to construct and man roadblocks for purposes of intercepting, identifying and killing Tutsis.

The court was told that the accused also sent *Interahamwe* militias to Nyarugenge commune to kill Tutsis and that one Andre Kameya, a journalist, was also killed pursuant to his written orders.

Renzaho was arrested on 29 September 2002 in Kinshasa, Democratic Republic of Congo (DRC), and was transferred to the UN Detention Facility in Arusha the following day. He was represented by duty counsel appointed by the Registrar until he appoints his own counsel or is assigned counsel in accordance with the Rules of the Tribunal.



## **Trials in Progress**

### **Procès en cours**

(as at 30 November 2002)

### **Overview**

**On 30 November 2002 six trials concerning 18 accused were in progress before the Trial Chambers of the ICTR. In addition, the *Semanza* and *Ntakirutimana* cases are under deliberation by the Third and First Chambers respectively, while the hearing of evidence has been completed in the *Niyitegeka* case. In the *Cyangugu* trial, 33 defence witnesses have been heard, while in the *Kajelijeli*, *Media* and *Kamuhanda* trials, the Prosecution has closed its case and the respective defence cases are in progress. Thus, of cases in progress, two are at the prosecution stage, five are at the defence stage, two are under deliberation and one appeal on the merits is pending.**

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, Imanishimwe, Ntagerura)**

Trial Chamber III, Judges Williams (presiding), Ostrovsky and Dolenc. Trial opened 18 September 2000; Prosecution case closed on 21 November 2001 after 73 days of hearings during which 40 witnesses were heard. By 6 November 2002 there had been a total of 129 days of hearings and 54 Defence witnesses had been heard. Hearings will resume on Monday 20 January 2003.

#### ***"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. The Defence began with the hearing of Ferdinand Nahimana in his own defence. The case was adjourned on 7 November after 190 days of hearings. Six defence witnesses have so far been heard. Hearings resumed on Monday 2 December.

#### ***"Semanza Case"* (Laurent Semanza)**

Trial Chamber III, Judges Ostrovsky (presiding), Williams and Dolenc. Trial opened on 16 October 2000 and was completed on 25 April after 80 days of hearings during which 54 witnesses testified. Closing argument was heard from 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. On 10 April 2002, (Trial Day 31) the Prosecution closed its case having called 14 witnesses. The Defence case opened on Monday 16 September. By 29 November (Trial Day 53), 16 Defence witnesses had been heard. This session will continue until Thursday 12 December 2002.

#### ***"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 opened its case on Monday 19 August 2002 with a Rule 98 *bis* application which was partially successful. Hearings continued until Thursday 12 September (Trial Day 51), by which time seven Defence witnesses had been heard. The case was adjourned until 13 January 2003.

#### ***"Butare Case"*, (Nyiramasuhuko, Ntahobali, Nteziryayo, Nsabimana, Ndayambaje and Kanyabashi)**

Trial Chamber II, Judges Sekule (presiding), Maqutu and Ramaroson. Trial opened 12 June 2001. 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. Hearings resumed on Monday 14 October. By Wednesday 13 November 2002 (trial day 87). 18 Prosecution witnesses had been heard and the case was adjourned until Monday 24 February 2003.

#### ***"Ntakirutimana Case"*, (Elizaphan Ntakirutimana and Gérard Ntakirutimana)**

Trial Chamber I, Judges Møse (presiding), Pillay, and Vaz. Trial opened 18 September 2001. The 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 were heard by the Chamber on 21 and 22 August 2002 and the case is now under deliberation.

***“The Military Case”***, (*Bagosora, Kabiligi, Ntabakuze, Nsengiyumva*)

Trial Chamber III, Judges Williams (presiding), Dolenc and Vaz. This case opened on 2 April. By 28 November 2002 there had been 28 trial days occupied mainly with the testimony of Dr. Alison des Forges.

***Niyitegeka***

Trial Chamber I, Judge Navanathem Pillay (presiding), Judge Eric Møse and Judge Andrésia Vaz. The Trial of Eliezer 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. Having presented 12

witnesses, the Prosecutor closed her case on 29 August 2002, subject to the possible future availability of one more detained witness. That witness in fact gave evidence on 15 and 16 October. The Defence opened its case on 17 October and closed it on 15 November 2002 after calling 11 Defence witnesses. The hearing of evidence was thus completed in 31 days, the shortest case so far heard by the Tribunal. Closing arguments will be presented on 27 and 28 February 2003.

**Appeals Chamber**

***Rutaganda***

Appeals Chamber: Judge Jorda, presiding and Judges Shahabuddeen, 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.

**SUMMARY OF DETAINEES**  
(Situation as at 30 November 2002)

Detainees on Trial	22
Awaiting Trial	31
Awaiting Transfer ( <i>Ruggiu</i> )	1
Pending Appeal (Arusha) ( <i>Rutaganda</i> )	1
<b>Total Detainees in Arusha</b>	<b>55</b>
Awaiting Transfer	0
Serving Sentences (Mali)	6
<b>Total Detainees</b>	<b>61</b>

For the full list and details of all ICTR Detainees, please consult our Website: [www.ictor.org](http://www.ictor.org)



## Digest of ICTR Decisions, Judgements and Orders Chronique de décisions, jugements et ordonnances du TPIR

The full text of decisions summarized in this section are available on the Tribunal's Website: [www.ictor.org](http://www.ictor.org)

**Subject:** Décision (Requête de la Défense aux fins de la mise en liberté provisoire de l'Accusé)

<i>Case:</i>	<i>Mika Muhimana et consorts</i>
<i>Case No.:</i>	ICTR-95-I-B-I
<i>Chamber:</i>	Chambre de première instance I
<i>Date of Decision:</i>	1er octobre 2002

Base légale: Articles 73 et 65 du Règlement de procédure et de preuve

Mots-clef: Mise en liberté provisoire, longueur de la détention de l'Accusé comme circonstance exceptionnelle (rejet), commencement de preuve de l'acceptation éventuelle par les autorités du pays hôte considéré de l'accueil et du contrôle de l'Accusé s'il était mis en liberté provisoire,

### Résumé:

La Défense avait demandé la mise en liberté provisoire de l'Accusé, qui attend son procès, en vertu de l'Article 65 du Règlement. Elle considérait que la longueur de la détention de l'Accusé (2 ans et 10 mois environ au jour de la décision) était en violation des critères applicables en droit international.

En premier lieu, la Chambre justifie le maintien du critère des circonstances exceptionnelles à l'Article 65 du Règlement, malgré le retrait de ce dernier à l'Article 65 du Règlement du TPIY lors d'une session plénière des juges de ce Tribunal en 1999, en observant que « l'application favorable de [l'Article 65 du Règlement du TPIY] demeurerait l'exception, et non la règle » (citant *Le Procureur c. Ferdinand Nahimana*, Affaire No. ICTR-99-52-T, Decision on the Defence Motion for the Release or Alternatively Provisional Release of Ferdinand Nahimana, 13 juin 2001 et, par là, une Décision rendue par le TPIY dans l'Affaire *Le Procureur c. Krajisnik et Plavsic*, No. IT-00-39 & 40 le 8 octobre 2001)

S'appuyant sur une jurisprudence établie au TPIY (avant la réforme de 1999) et au TPIR, la Chambre relève de prime abord que la durée de la détention d'un accusé est un élément à prendre en considération dans l'appréciation des circonstances qui, du fait de leur caractère exceptionnel, pourraient justifier sa mise en liberté provisoire (§ 7).

La Chambre poursuit cependant ses délibérations en rejetant l'argument de la défense s'appuyant sur la jurisprudence de la Cour Européenne des Droits de l'Homme, en soulignant que les juges de Strasbourg ont considéré raisonnables des périodes de détention provisoire particulièrement longues en cas de crimes

graves (y-compris crimes contre l'humanité) et de procédures complexes (y-compris au stade de l'instruction). (voir §§ 1. b), 3. i), 3. ii) et 8)

Elle ajoute, au regard des autres conditions requises à l'Article 65 du Règlement, qu'« indépendamment des considérations précédentes, ... Mika Muhimana est accusé de crimes d'une gravité toute particulière... [ ;] que, s'il en était déclaré coupable, il pourrait être condamné à une peine maximale d'emprisonnement à vie[ ;] que, étant donné ce qui précède, les arguments développés par la Défense et la faiblesse relative des garanties qu'elle propose ... ne satisfont pas la Chambre de ce que l'Accusé, qui ne s'est pas rendu volontairement au Tribunal, ne pourrait en aucun cas présenter un risque de fuite ou constituer une menace envers les témoins ou d'autres personnes s'il était libéré. » (§ 9)

Finalement, elle énonce que: « Le simple fait que l'Accusé ait dû quitter le Rwanda après les événements de 1994 et qu'il se sente indésirable dans nombre de pays, y compris son pays d'origine, ne saurait justifier qu'il soit relevé de la charge de soumettre à la Chambre tout commencement de preuve de nature à rendre vraisemblable que les autorités du pays hôte considéré pourraient accepter de l'accueillir sur leur territoire et de le soumettre à un contrôle quel qu'il soit afin de s'assurer de sa présence continue sur leur territoire, s'il était libéré. » (§ 10)

**Subject:** Order for the Transfer of Detained Prosecution Witness Omar Serushago

<i>Case:</i>	<i>Théoneste Bagosora et al.</i>
<i>Case No.:</i>	ICTR-98-41-T
<i>Chamber:</i>	Trial Chamber III
<i>Date of Decision:</i>	2 October 2002

Legal basis: Rule 90 bis of the Rules of Procedure and Evidence

Keywords: Transfer of a detained witness sentenced by the Tribunal for crimes falling under its jurisdiction and currently serving his/her sentence in a host State.

### Summary:

In the absence of objections from the Defence of all four co-Accused, the Trial Chamber granted the Prosecutor's request for an order, addressed primarily to the Authorities of the Republic of Mali, for the transfer of Witness Omar Serushago, whose conviction to 15 years' imprisonment, handed down by Trial



Chamber I on 15 February 1999 ( sentence confirmed by the Appeals Chamber on 14 February 2000), is being served in a Malian prison, pursuant to an Agreement of cooperation between the United Nations and the Republic of Mali signed on 12 February 1999.

Of interest is the fact that the Chamber accepted to so proceed without the Prosecutor having provided written confirmation from the Malian Authorities that the criteria set out in Sub-Rules 90 bis (B) (i) and (ii) (namely, (i) that the presence of the detained witness is not required for any criminal proceedings in progress in the territory of the requested State during the period the witness is required by the Tribunal and (ii) that the transfer of the witness does not extend the period of his detention as foreseen by the requested State) were met.

It could indeed be assumed that the Rule, when adopted, was intended to govern transfer of witnesses detained by a State in which they are being prosecuted or in which they are serving a sentence handed down as a result of such municipal proceedings.

“[I]n the specific circumstances of this case” (§ 5), the Chamber therefore concluded, on its own, that “[t]here are ... no reasons to believe, either that the Witness may be required for any criminal proceedings in progress in the territory of Mali during the period he is required by the Tribunal; or that his transfer to the Tribunal for a period not exceeding 3 months could extend the period of his detention in Mali.” (§ 8).

**Subject:** Decision on the Prosecutor’s Motion to Compel the Defence’s Compliance with Rules 73ter, 67(C) And 69(C)

<i>Case:</i>	<i>Ferdinand Nahimana, Hassan Ngeze and Jean Bosco Barayagwiza</i>
<i>Case No.:</i>	ICTR-99-52-T
<i>Chamber:</i>	Trial Chamber I
<i>Date of Decision:</i>	3 October 2002

Pursuant to Rule 73ter, a Pre-Defence conference in respect of the media case was held on 12 July 2002. At that conference, the Defence Counsel for Accused Nahimana was ordered to provide the Prosecution with the documents and materials listed in Rule 73 ter (B). Due to non-compliance by the Defence, the Prosecutor filed a motion seeking an order from the Chamber to compel the Defence to comply.

In her motion, the Prosecutor included the issue of witness statements, which had been deferred at the pre-Defence conference. She submitted, inter alia, that, pursuant to Articles 19 and 20, and Rule 73ter, the Defence should be ordered to immediately provide witness statements to the Trial Chamber. Furthermore, the Prosecutor requested that the Defence should deliver the said witness statements to Prosecution, no later than 21 days before each witness comes to testify.

In addition, the Prosecutor also sought permission to interview the Defence witnesses. The Chamber granted the Prosecutor’s motion.

**Subject:** Décision (Requête du Procureur aux fins de contacter les témoins à décharge et les membres de leur famille)

<i>Case:</i>	<i>Eliezer Niyitegeka</i>
<i>Case No.:</i>	ICTR-96-14-T
<i>Chamber:</i>	Chambre de premiere instance I
<i>Date of Decision:</i>	10 Octobre 2002

Mots-clefs: Ordonnance portant protection de témoins de la Défense ; possibilité, pour le Procureur, de contacter les témoins de la Défense avant leur comparution ; principe ; modalités

Base Légale: Articles 73 du Règlement de procédure et de preuve (le « Règlement »)

Résumé:

Le Procureur entendait contacter les témoins de la Défense, dont des témoins d’alibi, excipant d’un droit expressément disposé à l’Ordonnance i) de la Décision sur la requête de la défense en mesures de protection de témoins rendue par la Chambre I le 14 août 2002. La Défense s’y opposait.

La Chambre a d’abord noté l’absence de disposition applicable au Statut et au Règlement prévoyant expressément que des contacts entre les témoins d’une partie et la partie adverse puissent avoir lieu et, encore moins, des contacts entre le Procureur et des témoins de la Défense, parmi lesquels des témoins d’alibi. Ayant relevé que, par ailleurs, aucune disposition du Statut ou du Règlement ne prohibait de tels entretiens, elle a ensuite passé en revue la jurisprudence applicable en ce Tribunal comme au TPIY en la matière. (Voir les §§ 8 à 11)

Elle a entre autre noté de la Décision que la Chambre de première instance II, le 30 septembre 1998, avait posé le principe suivant, qui correspondait exactement au scénario sur lequel elle se penchait:

La Chambre considère (...) que le ministère public doit pouvoir prendre contact avec certains témoins à décharge. Ainsi, en vertu de l’article 75 du Règlement et de sa propre initiative, la Chambre peut autoriser le Procureur à procéder de la sorte, une fois qu’il en aura informé la Défense (...) aux conditions stipulées dans la présente décision. (Voir § 8 de la Decision)

Elle a donc pu conclure que l’on pouvait légitimement y voir « une possibilité offerte, le cas échéant, à l’une ou l’autre des parties qui, si elle entend contacter des témoins de l’autre partie, doit suivre la procédure prévue à cet effet. »



Une fois posé le principe, elle s'est attachée à détailler la procédure applicable, comme suit (Décision, § 17):

- i) (...) chaque fois qu'il entendra contacter un des témoins à décharge visés en particulier ou un membre de sa famille, il lui faudra notifier à la défense (...) cette intention spécifique.
- ii) La Défense informera sans attendre le Procureur de son intention ou non d'appeler le témoin concerné à comparaître.
- iii) Si la Défense entend citer ce témoin à comparaître, elle contactera la personne intéressée dans les meilleurs délais.
- iv) Si l'intéressé consent à l'entrevue, ou, si l'intéressé est âgé de moins de 18 ans, si ses parents ou son tuteur y consentent, la Défense en avertira immédiatement le Procureur et prendra les dispositions nécessaires afin que l'entretien puisse avoir lieu dans les meilleurs délais.
- v) Dans toutes ces démarches, la Défense pourra, si nécessaire, solliciter l'aide de la Section de la protection des victimes et des témoins du Tribunal.
- vi) Enfin, si elle le souhaite, la Défense pourra assister à l'entretien.

**Subject:** Order for the Transfer of Prosecution Witness KJ

<i>Case:</i>	<i>Eliezer Niyitegeka</i>
<i>Case No.:</i>	ICTR-96-14-T
<i>Chamber:</i>	Trial Chamber I
<i>Date of Decision:</i>	10 October 2002

#### Keywords:

Immediate transfer of detained prosecution witness from Rwanda to the Tribunal, specific circumstances, re-opening of trial and commencement of defence case.

#### Legal Basis:

Rules 73 and 90bis of the Rules of Procedure and evidence ("the Rules")

#### Summary:

On 4 October 2002, TCI dismissed a Prosecutor's Motion for the collection, in Rwanda, of a detained Witness' deposition pursuant to Rule 71 of the Rules, on the grounds that the Witness' anticipated testimony constituted new and incriminating eye-witness evidence, and therefore should be given before the Chamber, in the presence of the Accused. (See, Decision on the Prosecutor's Amended Extremely Urgent Motion for the Deposition of a Detained Witness Pursuant to Rule 71, 4 October 2001)

The Prosecution had sought to proceed by way of a deposition since they "had been unable to secure the

witness's transfer from Rwanda to the Tribunal." "[T]he Rwandan Government's refusal to permit the transfer of [the] Witness to the Tribunal" amounted, according to them, "to 'exceptional circumstances' justifying the taking of a deposition". (Decision, Submissions of the Parties, § 1)

This protected Prosecution Witness, who was and still is detained in Rwanda, is the last to be called by the Prosecutor in the Niyitegeka trial which is due to start again on Monday 14 June 2002, at 14h00. He has been attributed the pseudonym "KJ".

The Chamber, having declared that it was "not inclined" (Decision, § 5) to proceed by way of a deposition for the reasons recalled above, "urge[d] the Prosecution to continue to seek the transfer of Witness KJ to the Tribunal" (Decision, Order, p. 4).

Such efforts must have been deployed for, on 9 October 2002, the Prosecution filed an extremely urgent Motion for the transfer of detained Witness KJ pursuant to Rule 90 bis of the Rules. An Order was rendered the following morning. Judge Møse, acting as a single Judge designated by Trial Chamber I pursuant to Rule 73 A) of the Rules, declared himself satisfied, on the basis of a letter from the Rwandan Minister of Defense adduced by the Prosecutor in support of the Motion, that, "(i) the Rwandan Authorities agree[d] to Witness KJ's transfer and (ii) his transfer [wa]s in compliance with the conditions of Rule 90 bis (B) (i) and (ii)".

The Order is of particular interest in so far as the Chamber "[requested] the Government of Rwanda to immediately comply with [it]" (Order, p. 3). Such unusual formulation for Orders rendered pursuant to Rule 90 bis was on account of the specific circumstances of the case, highlighted at para. 6 of the Order, as follows:

*"As noted by the Prosecutor, Witness KJ is the last Prosecution witness to be called in the present case. The Defence case will commence immediately thereafter. The trial resumes on Monday 14 October 2002 at 2.00 p.m. It is therefore essential that Witness KJ be transferred immediately to Arusha in co-operation with the Witnesses and Victims Support Section of the Tribunal."*

Detained Witness KJ's Transfer to the UNDF in Arusha was therefore ordered "immediately (...) in order to enable him to testify in the trial resuming on Monday 14 October 2002" and "for the duration of his testimony" (Order, p. 3).

*[Editor's note: KJ in fact testified on 15 & 16 October, see p.4 above]*





**Subject:** Decision on the Defence Motion for the Provisional Release of the Accused

<i>Case:</i>	<i>Elie Ndayambaje</i>
<i>Case No.:</i>	ICTR-98-42-T
<i>Chamber:</i>	Trial Chamber II
<i>Date of Decision:</i>	21 October 2002

Decision denying the accused's motion for provisional release for lack of demonstration of exceptional circumstances under Rule 65 and some extracts:

"In the present case, having regard to the general complexity of the proceedings and the gravity of the offences with which the Accused is charged, the Chamber concludes that the Accused's detention remains within acceptable limits."

While the Chamber remains alive to the need to protect the Accused's right to be tried without undue delay pursuant to Article 20 (4)(c) of the Statute, the Chamber notes that the trial of the Accused, who is jointly tried with five others, began in June 2001, and that the testimony of 14 witnesses has already been heard. Therefore, the provisional release of the Accused in the circumstances of this case would not be justified".

"The Chamber does not accept the Prosecution submission that the Accused contributed to delays in the proceedings by filing "duplicated interlocutory motions."

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**Subject:** Décision (Requête de la Défense aux fins de la mise en liberté de l'Accusé)

<i>Case:</i>	<i>Jean Mpambara</i>
<i>Case No.:</i>	ICTR-2001-65-I
<i>Chamber:</i>	Chambre de Première Instance I
<i>Date of Decision:</i>	22 octobre 2002

Base légale première: Articles 65 et 73 du Règlement de procédure et de preuve (le « Règlement »)

Base légale secondaire: Articles 10, 15, 16 et 20. 4) du Statut, Articles 19, 32, 33 et 68 du Règlement, Articles 65 et 82 à 86 du Règlement portant régime de détention des personnes en attente de jugement ou d'appel devant le Tribunal ou détenues sur l'ordre du Tribunal.

Mots-clef: Demande de mise en liberté provisoire, circonstances exceptionnelles, violation de droits fondamentaux de l'Accusé, rejet pour non épuisement des voies de recours administratif.

Résumé:

Une fois n'est pas coutume, la Défense, au soutien de sa requête en mise en liberté provisoire de l'Accusé,

n'a pas allégué que le critère des circonstances exceptionnelles prévu à l'Article 65 du Règlement n'était pas applicable car contraire au droit international.

Elle considérerait avoir établi la réunion de circonstances exceptionnelles en l'espèce à l'égard de la violation de plusieurs droits fondamentaux de l'Accusé, comme suit:

- i) Violation du droit de l'Accusé à disposer du temps et des facilités nécessaires à la préparation de sa défense, du fait principal du non paiement des honoraires et du non-remboursement des frais de l'équipe de la Défense depuis leur entrée en fonctions ;
- ii) Violation du droit de l'Accusé à communiquer avec le conseil de son choix, du fait du refus du Greffe de permettre aux membres de l'équipe de la Défense autres que le Conseil de rendre visite à l'Accusé au centre de détention du Tribunal ;
- iii) Violation du principe de l'égalité des armes et du droit de l'accusé à un procès équitable du fait principal des modalités de paiement différé des salaires et de remboursement différé des frais, applicable aux conseils commis d'office à la Défense mais non au membres du Bureau du Procureur.

La Chambre rejette les moyens i) et ii) ci-dessus au motif que, s'agissant de questions « de nature administrative » (§ 5), la Défense n'a pas épuisé les voies de recours administratif avant de s'adresser à la Chambre « si un litige subsiste qui, selon elle, porte atteinte aux droits de l'Accusé » (Id.).

Elle rejette ensuite le moyen iii) ci-dessus, au motif qu'« [i]l revient [au Greffe], en vertu de l'Article 33 A) du Règlement et sous l'autorité du Président du Tribunal, de déterminer les modalités pratiques de rémunération et de prise en charge des frais engagés par les Conseils des accusés indigents dans la préparation de la défense de ces derniers, conformément à l'Article 20) 4. d) du Statut » (§ 7 i) - note de bas de page omise).

Elle rejette de plus le moyen iii) en un motif incident (manque d'indépendance du Bureau du Procureur), comme suit: « le Statut en son Article 15 2) établit le Procureur en tant qu'organe distinct au sein du Tribunal, agissant en toute indépendance. Qu'il apparaisse que l'Accusation en ce Tribunal opère selon des modalités différentes des organes de poursuite de type inquisitoire des systèmes de droit romano-germanique n'est pas propre à remettre en cause son indépendance ou son impartialité ; sauf à considérer, comme la Défense semble le faire, que les organes de poursuite de type accusatoire des systèmes de common law, dont le Statut s'inspire en partie à cet égard, manquent en tant que tels à assurer l'indépendance et l'impartialité des poursuites, dans ces systèmes. Un tel argument n'est pas recevable. » (§ 7 ii).

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**Subject:** Decision on the Prosecutor's Ex Parte Application to Exclude Certain Documents from Defence Inspection of Microfiche Material

<b>Case:</b>	<i>Ferdinand Nahimana et al</i>
<b>Case No.:</b>	ICTR-99-52-T
<b>Chamber:</b>	Trial Chamber I
<b>Date of Decision:</b>	25 October 2002

#### Background to Decision

During the testimony of Ms. Alison Des Forges, the Defence learned that she had had access to some microfiche materials in the possession of the US State Department. Previously, the Defence had been unsuccessful in accessing them through the OTP. Thus, Co-Counsel for Ferdinand Nahimana, Ms. Ellis and the Lead Counsel for Hassan Ngeze, Mr. Floyd wanted to have similar access. At this point, Ms. Ellis had been cleared to travel to Washington, D.C. to inspect the materials.

The Prosecution reacted to Ms. Ellis's travel to Washington and requested the Chamber to grant it more time to consult the Deputy Prosecutor about the materials. During a status conference, the Chamber granted the OTP more time as requested.

#### Facts

The OTP reviewed the 14 reels of microfiche materials containing 27,755 pages of documents, digitised them, converted them into a separate computer file and then copied them on to a set of 4 CD-ROMs. The OTP also disclosed many of the materials to the Defence in form of a CD-ROM. However, in respect of certain materials, the OTP filed an Ex parte motion under Rule 66(c) and attached a copy of the CD-ROM for the Chamber to review.

After reviewing the materials, the Chamber found that, pursuant to Rule 70, many of them were internal documents while others were simply investigative materials. Nevertheless, the Chamber ordered that some of the materials should be disclosed to the Defence because they were not of internal character.

**Subject:** Decision on the Prosecutor's Request for the Extension of the Suspect's Detention (Rule 40 bis (F) of the Rules of Procedure and Evidence)

<b>Case:</b>	<i>Tharcisse Renzaho</i>
<b>Case No.:</b>	ICTR-97-31-DP
<b>Chamber:</b>	Before Eric Møse
<b>Date of Decision:</b>	4 November 2002

Legal Basis (primary): Rule 40 bis (F) RPE

Legal Basis (ancillary): Rules 40 (D) (ii), 40 bis (G) & 89 RPE

**Keywords:** Extension of a suspect's first period of provisional detention, needs of the investigation,

#### Summary:

This decision "supplements the oral decision and sets forth the reasons for the extension" of the Suspect's provisional detention of Tuesday 29 October 2002. (para. 4)

Two grounds for the extension of the Suspect's provisional detention pursuant to Rule 40 bis (F) were disregarded:

(i) The Prosecutor had not been in a position to file the Indictment and supporting material thereto in time for the reviewing Judge to review and confirm it, pursuant to Rule 47 of the Rules, prior to the expiration of the 30 day initial period of detention of the Suspect. It was held "difficult to reconcile these arguments with the wording of Rule 40bis (F), according to which the period of provisional detention may be extended if warranted by "the needs of the investigation"" (para. 6).

(ii) A "breakdown of structures" between the Prosecutor's Offices in The Hague, Arusha and Kigali which, "to some extent", affected the investigations, was invoked without further details. It was similarly held "difficult to accept that lack of administrative coordination or communication may justify an extension of a suspect's detention under the Statute and the Rules" (para. 7).

An extension of 21 days was eventually granted solely on the basis of the Prosecutor's investigators' inability to have two witnesses sign their respective statements. (These witnesses had stated that they "would only sign their statements after getting guarantees for their safety" - para. 8 -; the Prosecutor had declared that "efforts [we]re being made to assure [the] safety of the two witnesses and get them to sign their statements" - Id- ).

Finally, it is emphasised that, "when the Prosecution submits an indictment for confirmation it should take into consideration the need for translation and transmission of documents in order to provide the confirming Judge with sufficient time to review the indictment and supporting material before the expiration of the period of detention." (para. 11)

#### Other excerpts and rulings of interest:

(i) Relationship between Rules 40 bis (F) and 40 bis (G) RPE: "[Rules 40 bis (F)] is to be interpreted in light of Rule 40 [bis] (G), which provides for a second extension up to thirty days if warranted by "special circumstances". It follows from case law that it is not always possible to distinguish between these two criteria for successive extensions of provisional detention, even if both are incontestably subject to



certain qualifications." (para. 6 - Footnote referring to several decisions rendered by the Tribunal in 1997 not included).

(ii) Evidentiary matters: Does an unsworn statement presented as an 'affidavit' (in this case, signed by a Ptor's Commander of Investigations), a documents that has not been sworn before a commissioner for oaths, have any value? Judge Mose so concludes: "According to Rule 89, a Chamber may admit any relevant evidence which it deems to have probative value. This principle also applies at the pre-trial stage. The Tribunal is satisfied that the statement has probative value and notes, in particular, the functions of the Commander within the Office of the Prosecutor."

**Subject:** Decision on Justin Mugenzi's Motion for Stay of Proceedings or in the Alternative Provisional Release (Rule 65) and in Addition Severance (Rule 82(B))

Case:	<i>Justin Mugenzi et al.</i>
Case No.:	ICTR-99-50-I
Chamber:	Trial Chamber II
Date of Decision:	8 November 2002

The Defence for Justin Mugenzi requested the Chamber to order that the proceedings against the Accused be stayed and that he be released or, in the alternative, that he be provisionally released pending his trial, and, in addition, that the trial of the Accused be severed from the trial of his current co-accused.

#### Request for Stay of Proceedings

"The Defence have based their Motion on Article 20(4)(c) of the Statute.

In terms of the Statute the Chamber is enjoined to try the Accused without undue delay. However, the protection of that right must be reconciled with the fundamental purpose of the Tribunal, and should be interpreted and applied within the sphere of the Tribunal's sole purpose, which is "prosecuting persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994." [Article 1 of the Statute] . This entails balancing the rights of the accused with the ends of justice."

The Chamber also found that the Accused's right to be tried without undue delay should be balanced with the need to ascertain the truth about the serious crimes with which the Accused is charged.

Motion DENIED.

#### Alternative Request for Provisional Release

On the compatibility of the exceptional circumstances requirement of Rule 65(B) with the International Covenant on Civil and Political Rights:

"Regarding the Defence argument that "exceptional circumstances" in Rule 65(B) are in contravention of Article 9(3) of the ICCPR, the Chamber notes that conditions surrounding the detention of accused before the Tribunal are different from those surrounding detention of accused in domestic jurisdictions. The detention of an accused at the UNDF is to ensure his presence at trial, however, as the Rules state, provisional release may be granted where the Chamber is satisfied that there are exceptional circumstances where it would be proper to do so. The Chamber therefore finds that it must apply Rule 65(B) as it stands, and the Defence must make out a case for the Accused to be provisionally released by showing the existence of exceptional circumstances."

On undue delay as an exceptional circumstance justifying release:

"The Defence assert that exceptional circumstances justifying the provisional release of the Accused exist because of the undue delay, which they claim, has occurred in the trial of the Accused. However, in this regard, the Chamber recalls an Appeals Chamber Decision in Kanyabashi [Prosecutor v. Kanyabashi, Decision (On Application for Leave to Appeal Filed under Rule 65(D) of the Rules of Procedure and Evidence), Appeals Chamber, 13 June 2001], where it was held that lengthy pre-trial detention does not constitute per se good cause for release. The Chamber can only assess whether delay is undue by having regard to other factors in addition to the length of detention, such as the seriousness of the charges facing the Accused and the general complexity of the trial. In this instance, the Chamber is not persuaded that the Defence has made out a case of undue delay."

Motion DENIED.

#### Request for Severance of Trial

"The Defence alleges that because the Accused intends to present evidence that criticises the MRND, his co-accused, allegedly influential members of that party, might be affected by this criticism and respond to the Accused in like manner. The Defence argues that this will cause serious prejudice to the Accused. The Chamber is not persuaded by this argument, and finds that this does not necessitate a separate trial."

"Alternatively, the Defence requests the Chamber to consider severance of trial to protect the interests of justice, having regard to judicial economy. The Chamber is not persuaded by the Defence argument that the possible savings in court time they put forward at this stage are persuasive enough for the Chamber to find it "in the interests of justice" to sever the trial of the Accused from his co-accused. The Chamber will, however, remain alive to the matter."

Motion DENIED.



**Subject:** The President's Decision on the Application by Arsène Shalom Ntahobali for Review of the Registrar's Decisions Pertaining to the Assignment of an Investigator

<b>Case:</b>	<i>Pauline Nyiramasuhuko &amp; Arsène Shalom Ntahobali</i>
<b>Case No.:</b>	ICTR-97-21-T
<b>Chamber:</b>	The President
<b>Date of Decision:</b>	13 November 2002

Attached is a decision rendered by the President following her review of the Registrar's decisions refusing to assign as an investigator from the 3 candidates proposed by the Lead Counsel in the Ntahobali Defence Team. The President held inter alia that:

- an indigent accused is not entitled to an investigator and it is within the Registrar's discretion as to whether or not an investigator ought to be assigned.
- the Registrar also has the discretion of determining the suitability of the candidates to be assigned as investigators.

The decision sets out the test for review of the Registrar's decisions.

**Subject:** Decision on Kajelijeli's Motion to Hold Members of the Office of the Prosecutor in Contempt of the Tribunal (Rule 77(C))

<b>Case:</b>	<i>Juvénal Kajelijeli</i>
<b>Case No.:</b>	Trial Chamber II
<b>Chamber:</b>	ICTR-98-44A-T
<b>Date of Decision:</b>	15 November 2002

Decision of Trial Chamber II on a Motion by the Defence of Juvénal Kajelijeli to hold Members of the Office of the Prosecutor in Contempt of the Tribunal, following an admission by the Office of the Prosecutor that members of one of their investigation teams had contacted a protected Witness for the Defence of Kajelijeli and had taken a statement from that witness in violation of the procedure laid down in a Witness Protection Order of the Chamber. The Defence also requested that the statement taken by the Office of the Prosecutor be excluded from proceedings before the Tribunal.

In summary, the Chamber found that the Defence of Kajelijeli had failed to show that an evidentiary hearing on the issue of the Contempt allegation was necessary, but that the statement taken in violation of the correct procedure laid down in the Chamber's Witness Protection Order be excluded from any proceedings against Kajelijeli before the Tribunal.

#### JUDICIAL DECISIONS OF ICTR ADOPTED BETWEEN 1 OCTOBER 2002 AND 30 NOVEMBER 2002 DECISIONS JUDICIAIRES DU TPIR ADOPTÉES ENTRE LE 1 OCTOBRE 2002 ET 30 NOVEMBRE 2002

Date	Case Name	Record Number	Chamber	Record Title
1/10/02	<i>Muhimana</i>	ICTR-95-1B-0118	TC 1	Decision (Requête de la Défense aux fins de la mise en Liberté Provisoire de l'accusé)
1/10/02	<i>Muhimana</i>	ICTR-95-1B-0124	TC 1	Decision on Defence Motion for Provisional Release of the Accusé (Rule 73 and 65 of the RPE)
2/10/02	<i>Bagosora - Kabiligi - Ntabakuze - Nsengiyumva</i>	ICTR-98-41-0538	TC 3	Ordonnance de Transfert du Témoin a Charge Detenu Omar Serushago - Destinataires: la République du Mali et la République Unie de Tanzanie Articles 73 et 90 Bis du Règlement de Procédure et de Preuve
3/10/02	<i>Nahimana - Barayagwiza - Ngeze</i>	ICTR-99-52-1044	TC 1	Decision on the prosecutor's motion to compel the defence's compliance with rules 73 <i>ter</i> , 67 (c) and 69(c)
4/10/02	<i>Niyitegeka</i>	ICTR-96-14-0258	TC 1	Decision on the Prosecutor's Amended Extremely Urgent Motion for Deposition of a Detained Witness Pursuant to Rule 71
8/10/02	<i>Musabyimana</i>	ICTR-01-62-0074	TC 2	Decision Relative a la Requête de Musabyimana Demandant d'exclure des Déclarations de Témoins Pour Cause de Retard Excessif et Absence de Valeur Probante





Date	Case Name	Record Number	Chamber	Record Title
8/10/02	<i>Musabyimana</i>	ICTR-01-62-0072	TC 2	Decision on Musabyimana's Motion to Exclude Witness Statements Due to Undue Delay and lack of Probative Value
9/10/02	<i>Nahimana - Barayagwiza - Ngeze</i>	ICTR-99-52-1046	TC 1	Decision on the defence's application under rule 73 <i>ter</i> (e) for leave to call additional witnesses
9/10/02		ICTR-GEN-3-0006	Office of the President	The President's Decision on Ms. Tiphaine Dickson's Application for Review of the Registrar's Decision Removing her from the Tribunal's List of Counsel for Indigent Accused
10/10/02	<i>Niyitegeka</i>	ICTR-96-14-0263	TC 1	Order for the Transfer of Prosecution Witnesses KJ
10/10/02	<i>Niyitegeka</i>	ICTR-96-14-0262	TC 1	Decision (Requête du Procureur aux fins de Contacter les Témoins à Décharge et les Membres de leur famille)
15/10/02	<i>Nahimana</i>	ICTR-99-52-1059	Appeals Chamber	Decision (Demande aux fins d'obtenir l'autorisation d'interjeter Appel de la Decision de la Chambre de Première Instance 1 en Date du 05/09/2002 sur la Requête de la Défense aux fins de mise en Liberté)
16/10/02	<i>Niyitegeka</i>	ICTR-96-14-0266	TC 1	Decision on the Defence's Notice of Intention to Withdraw Ex Parte Motion for Subpoena
22/10/02	<i>Ndayambaje</i>	ICTR-98-42-0399	TC 2	Decision on the Defence Motion for the Provisional Release of the Accused
22/10/02	<i>Mpambara</i>	ICTR-01-65-0049	TC 1	Decision (Requête de la Défense aux fins de la mise en Liberté de l'accusé)
24/10/02	<i>Rukundo</i>	ICTR-01-70-0044	TC 3	Decision on the Prosecutor's Motion for Protective Measures for Victims and Witnesses
25/10/02	<i>Nahimana - Barayagwiza - Ngeze</i>	ICTR-99-52-1060	TC 1	Decision on the Prosecutor's Ex Parte Application to Exclude Certain Documents From Defence Inspection of Microfiche Material (Pursuant to Rule 66(C), RPE)
25/10/02	<i>Rukundo</i>	ICTR-01-70-0046	TC 3	Decision on the Prosecutor's Motion to Order the Registrar to Provide Photographs the Accused for Purposes of Identification
4/11/02	<i>Bizimungu, Mugenzi, Mugiraneza, Bicomumpaka</i>	ICTR-99-50-0489	TC 2	Decision on the Prosecutor's Ex Parte Motion for the Transfer of a Detained Witness Pursuant to Rule 90 <i>Bis</i>
4/11/02	<i>Bizimungu - Mugenzi - Bicomumpaka - Mugiraneza</i>	ICTR-99-50-0497	TC 2	Decision sur la Requête de Bizimungu Demandant sa mise en Liberté Provisoire en vertu de l'article 65 du Règlement
4/11/02	<i>[Military I] - Bagosora - Kabiligi - Ntabakuze - Nsengiyumva</i>	ICTR-98-41-0551	TC 3	Decision (Requête de la Défense d'Aloys Ntabakuze en vue de faire exécuter la Decision de la Chambre en Date du 23/05/2002, Relative au Memoire Prealable du Procureur du 21/01/2002
4/11/02	<i>Renzaho</i>	ICTR-97-31-0017	TC 1	Decision on the Prosecutor's Request for the Extension of the Suspect's Detention
4/11/02	<i>Bizimungu - Mugenzi - Bicomumpaka - Mugiraneza</i>	ICTR-99-50-0492	TC 2	Decision on Bizimungu's Motion for Provisional Release Pursuant to Rule 65 of the Rules



Date	Case Name	Record Number	Chamber	Record Title
4/11/02	<i>Bizimungu - Mugenzi - Bicomumpaka - Mugiraneza</i>	ICTR-99-50-0490	TC 2	Decision sur la Requête du Procureur Intitulee Prosecutor's Exparte Motion for the Transfer of a Detained Witness Pursuant to Rule 90 Bis
4/11/02	<i>[Military I] - Bagosora - Kabiligi - Ntabakuze - Nsengiyumva</i>	ICTR-98-41-0568	TC 3	Decision (Motion By Aloys Ntabakuze's Defence for Execution of the Trial Chamber's Decision of 23/05/2002 on the Prosecutor's Pre-Trial Brief, Dated 21/01/2002, and Another Motion)
5/11/02	<i>Niyitegeka</i>	ICTR-96-14-0289	TC 1	Decision on the Defence Ex-Parte Motion for the Issuing of a Subpoena to a Defence Witness and Request for an Order to be Issued to the Republic of Rwanda
6/11/02	<i>[Military I] - Bagosora - Kabiligi - Ntabakuze - Nsengiyumva</i>	ICTR-98-41-0557	Office of the Registrar	Decision of Withdrawal of Mr. Nadesan Ganesan as Lead Counsel of the Accused Aloys Ntabakuze
7/11/02	<i>Nahimana - Barayagwiza - Ngeze</i>	ICTR-99-52-1067	TC 1	Decision on the Defence's Ex Parte Motion to Produce Accused Persons as Witnesses
8/11/02	<i>Bizimungu - Mugenzi - Bicomumpaka - Mugiraneza</i>	ICTR-99-50-0493	TC 2	Decision on Justin Mugenzi's Motion for Stay of Proceedings Or in the Alternative Provisional Release (Rule 65) and in Addition Severance (Rule 82(B))
12/11/02	<i>Kajelijeli</i>	ICTR-98-44A-0190	TC 2	Decision on Kajelijeli's Motion to Limit the Scope of Cross Examination of Witness JN
12/11/02	<i>Bizimungu - Nindiliyimana - Sagahutu - Nzuwonemeye - Mpiranya</i>	ICTR-00-56-0187	TC 2	Decision on Augustin Nindiliyimana's Motion for an Order That the Registrar Hold a Hearing on the Suspension of the Contract of His Investigator Pierre -Claver Karangwa
13/11/02	<i>Nyiramasuhuko - Ntahobali</i>	ICTR-97-21-0471	TC 2	The President's Decision on the Application By Arsene Shalom Ntahobali for Review of the Registrar's Decision Pertaining to the Assignment of an Investigator
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