

ICTR-97-23-DP
20.8.1997
(25-22)

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Case No.: ICTR-97-23-DP

UNITED NATIONS  NATIONS UNIES

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR:FR

Before : Judge Laïty Kama

Decision of : 14 August 1997

ICTR
RECEIVED
20 AUG 1997
ACTION: REGISTRAR
COPY : :

THE PROSECUTOR
VERSUS
JEAN KAMBANDA

Case No.: ICTR-97-23-DP

**EXTENSION OF THE PROVISIONAL DETENTION
FOR A MAXIMUM PERIOD OF THIRTY DAYS
(IN ACCORDANCE WITH RULE 40 BIS (F)
OF THE RULES OF PROCEDURE AND EVIDENCE)**

Office of the Prosecutor: Mr. Mohamed C. Othman
Mr. James Stewart
Mr. Oyvind Olsen
Mr. Pierre Duclos

Counsel for the Defence: Ms. Josette Kadji

Registry: Mr. Frederick Harhoff
Mr. Antoine Kesia-Mbe Mindua



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THE TRIBUNAL,

SITTING in the person of Judge Laity Kama,

CONSIDERING that the suspect Jean Kambanda was transferred to the Detention Facility of the Tribunal on 18 July 1997, and that he was incarcerated there until 17 August 1997, on the basis of an order issued by Judge Laity Kama on 16 July 1997 pursuant to Rule 40 *bis* of the Rules of Procedure and Evidence of the Tribunal (the 'Rules'), following a request he received from the Prosecutor on 14 July 1997,

CONSIDERING the request submitted by the Prosecutor on 12 August 1997, pursuant to the provisions of Rule 40 bis (F) of the Rules, seeking the extension of the provisional detention of the suspect Jean Kambanda (the 'request') for a further period of thirty days and considering the affidavit drawn up by Mr. Oyvind Olsen, Commander of Investigations at the Office of the Prosecutor, attached to the said request,

CONSIDERING the suspect Jean Kambanda's letter of 11 August 1997 to the Registry, in which he, first of all, expressly renounced his right to legal assistance and secondly, indicated that he agreed to the extension of his detention,

AFTER HAVING DELIBERATED

WHEREAS sub-Rule 40 bis (F) provides that :

" (...)
(F) At the end of the period of detention, at the Prosecutor's request indicating the grounds upon which it is made and if warranted by the needs of the investigation, the Judge who made the order, or another Judge of the same Trial Chamber, may decide, subsequent to an *inter partes* hearing, to extend the detention for a period not exceeding 30 days.
(...)",

WHEREAS, according to the Tribunal, considering the Fundamental Freedoms of the Individual, this provision can only be applied where exceptional circumstances prevail, including, in particular, serious problems which may arise during the investigations,

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WHEREAS, in support of his request for the extension of the detention of the suspect Jean Kambanda for a further period of thirty days, the Prosecutor explains that he is not ready to file an indictment against Jean Kambanda due to:

- a. The complexity of the investigations concerning the suspect;
- b. The persistent difficulty in conducting investigations throughout the Rwandan territory;
- c. The necessity to analyse and assess all the materials seized at the time of the suspect's arrest and determine the precise charges to be laid against him;
- d. The necessity, in order to present as concise and as precise an indictment as possible, to analyse the involvement and role of the suspect in the events that occurred in Rwanda in 1994 and in his alleged participation in the preparation, organization and execution of the crimes committed during that time;
- e. The necessity to amend existing indictment in order to join the suspects with other accused,

Whereas the Tribunal is of the view that these reasons advanced by the Prosecutor are sufficient to effectively justify the extension of the detention of the suspect, except for the reason under point (e) which it finds superfluous,

WHEREAS the Tribunal therefore considers that the conditions laid down in Rule 40 bis (F) for authorizing an extension of the provisional detention of the suspect Jean Kambanda for a further period not exceeding 30 days, have been met, especially as the suspect confirmed during the hearing today that he agreed to the extension of his detention, as he indicated in his letter of 11 August 1997,

WHEREAS the Tribunal, nevertheless, invites the Prosecutor to take due account of the provisions of Article 9 of the International Covenant on Civil and Political Rights, the spirit of which is echoed by Article 20 of the Statute of the Tribunal, which provides that any person deprived of his freedom must be informed promptly, after his arrest, of all the charges against him,

Whereas, to this end, similar to the above-mentioned provisions, Rule 40 bis provides that the total period of provisional detention of a suspect shall in no case exceed 90 days, at the end of which, if the Prosecutor has not issued an indictment and had it confirmed by the Tribunal, the suspect shall be released immediately or, if need be, be handed over to the initially requested national authorities;

FOR ALL THESE REASONS, the Tribunal is convinced that it is appropriate to grant the Prosecutor's request;

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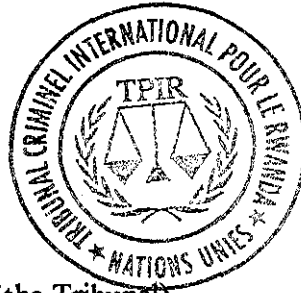
ON THESE GROUNDS,

THE TRIBUNAL

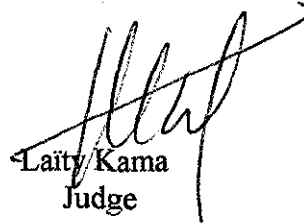
GRANTS the Prosecutor's request;

Consequently **ORDERS** the extension of the provisional detention of Jean Kambanda at the Detention Facility of the Tribunal for a further period not exceeding 30 days, beginning from 18 August 1997.

Arusha, 14 August 1997.



(Seal of the Tribunal)


Laity Kama
Judge