

Case No.: ICTR-97-30-DP



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR:FR

Before : Judge Laïty Kama

Registry: Mr. Antoine Kesia-Mbe Mindua

Decision of : 14 August 1997

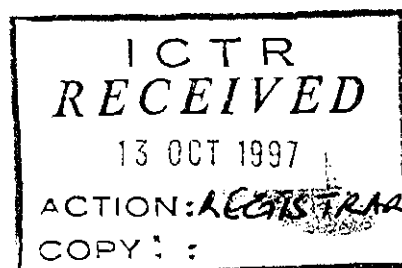
THE PROSECUTOR
VERSUS
ALOYS NTABAKUZE

Case No.: ICTR-97-30-DP

**DECISION ON THE 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. Øyvind Olsen
Mr. Pierre Duclos

Counsel for the Defence: Mr. Mohamed Aouini



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THE TRIBUNAL,

SITTING in the person of Judge Laïty Kama;

CONSIDERING that the suspect Aloys Ntabakuze was transferred to the Detention Facility of the Tribunal on 18 July 1997, and that he will be incarcerated there up to and including 17 August 1997, on the basis of an order issued by Judge Laïty 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 Aloys Ntabakuze (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;

HAVING HEARD the parties during an *inter partes* hearing held on 14 August 1997 to that end;

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, in consideration of the Fundamental Freedoms of the Individual, this provision can only be applied where exceptional circumstances prevail, such as, in particular, serious problems which may arise during the investigations;

WHEREAS, in support of her request for the extension of the detention of the suspect for a further period of thirty days, the Prosecutor explains that she is not yet ready to file an indictment against Aloys Ntabakuze due to :

- a. The complexity of the investigations concerning the suspect;
- b. The persistent difficulty in conducting investigations throughout the territory of Rwanda;
- c. The necessity to analyse and assess all the evidentiary materials seized at the time of the suspect's arrest and to determine the precise charges to be laid against him;

- d. The necessity, in order to present a concise and a precise indictment, to analyse the involvement and role of the suspect not only in the events that occurred in Rwanda in 1994 but also his alleged participation in the preparation, organization and execution of the crimes committed during that time in complicity with other suspects;
- e. The necessity to amend existing indictments in order to join the suspect with other accused,

WHEREAS, during the hearing, the Prosecutor stated, furthermore, that the extension of the provisional detention of the suspect is a necessary measure for the investigations in order to ensure that the suspect does not attempt to evade Justice, as the fact that he was in possession of false papers at the time of his arrest would seem to suggest;

WHEREAS the Defence, in essence, requested the provisional release of Aloys Ntabakuze, by submitting that, for safety reasons, it is crucial for him to be able to go to his family;

WHEREAS, the Tribunal is of the opinion that on the basis of the submissions made by the Prosecutor, the conditions provided for in sub-Rule 40 *bis* (F) for the extension of the provisional detention of the suspect for a further period not exceeding thirty days have been met;

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 delivered to the national authorities to whom the initial request was made,

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;

ORDERS, consequently, the extension of the provisional detention of Aloys Ntabakuze at the Detention Facility of the Tribunal for a further period not exceeding 30 days, beginning from 18 August 1997.

Arusha, 14 August 1997.

Laïty Kama
Judge



(Seal of the Tribunal)

