


15

ICTR-98-40-DP
9-9-98
(34-32)

34

UNITED NATIONS  NATIONS UNIES
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
Chamber I - Chambre I

ICTR
CRIMINAL REGISTRY
RECEIVED

SEP -9 A 5 59

OR : ENG

Before: Judge Lennart Aspegren

Decision of: 8 September 1998

Registry: Mr. Lars Plum

**THE PROSECUTOR
VERSUS
BERNARD NTUYAHAGA**

Case No. ICTR-98-40-DP

EXTENSION OF PROVISIONAL DETENTION

The Office of the Prosecutor:

Mr. James Stewart
Mr. Martin Seutcheu

Counsel for the Defence:

Mr. Wilfred Lucas Mirambo

Ext40bisg\leg\eng.or

¹ LA

THE TRIBUNAL,

SITTING in the person of Judge Lennart Aspegren of Trial Chamber I;

CONSIDERING that the suspect Bernard Ntuyahaga was detained at the Tribunal’s Detention Facilities, following an order for transfer and provisional detention issued on 8 July 1998 by Judge Laïty Kama, pursuant to Rule 40bis (B) of the Rules of Procedure and Evidence (the “Rules”);

CONSIDERING that, following a request by the Prosecutor and by order of Judge Kama pursuant to Rule 40bis (F) of the Rules, the provisional detention of Bernard Ntuyahaga was extended for a period of thirty days from 10 August 1998, which is understood to mean up to and including 9 September 1998;

HAVING RECEIVED from the Prosecutor a request filed on 7 September 1998 for an order for an extension of the provisional detention under Rule 40bis (G) of the Rules;

HAVING HEARD the parties, during the audience held to that end, on 8 September 1998;

CONSIDERING Rule 40bis (G) of the Rules;

ON THE FOLLOWING GROUNDS,

WHEREAS Rule 40bis (G) of the Rules provides:

“At the end of that extension, at the Prosecutor’s request indicating the grounds upon which it is made and if warranted by special circumstances, 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 [of the suspect] for a further period not exceeding 30 days.”;

WHEREAS, in her request and during the hearing, the Prosecutor submitted that special circumstances warranted the extension of the provisional detention of the suspect Bernard Ntuyahaga; these circumstances being, *inter alia*:

- a) the complexity of the investigation into the suspect, who at the time of the events, was allegedly a major in the Rwandan armed forces involved in the murder of ten Belgian paratroopers of the United Nations Assistance Mission in Rwanda (UNAMIR);
- b) the necessity to verify and analyse the evidence obtained during the questioning of the suspect and to define the scope of the evidence in support of the specific charges to be laid against him;

c) the necessity to analyse the involvement and role of the suspect in the overall events in Rwanda in 1994 and his participation in the preparation, organization and execution of the crimes allegedly committed at that time, in complicity with other suspects, in order to submit a precise and concise indictment;

d) the difficulty and persistent danger in conducting investigations in Rwanda into crimes committed by the suspect, given the prevailing climate of insecurity;

WHEREAS, furthermore, the Prosecutor submitted that she still considers the provisional detention of the suspect to be a necessary measure in order to prevent his escape, injury or intimidation of victims or witnesses, or the destruction of evidence;

WHEREAS, in support of her request, the Prosecutor filed an affidavit dated 20 August 1998 of Maxwell Nkole, the Commander of Investigations of the Office of the Prosecutor, wherein are enunciated a number of special circumstances said to warrant the extension of the provisional detention of the suspect;

WHEREAS the Prosecutor affirmed during the hearing that the drafting of the indictment had reached an advanced stage;

WHEREAS the Defence Counsel objected to a further extension of the provisional detention of the suspect on the basis that no new grounds had been advanced by the Prosecutor warranting such an extension;

THE TRIBUNAL

FINDS that there exist special circumstances as required by Rule 40bis (G) of the Rules to extend the period of provisional detention of the suspect Bernard Ntuyahaga;

ORDERS that the suspect shall be kept in provisional detention in the Detention Facilities of the Tribunal for a further period not exceeding twenty days, that is up to and including Tuesday 29 September 1998;

RECALLS that, under Rule 40bis (H), at the end of this last extension, in the event the indictment has not been confirmed and a warrant of arrest signed, Bernard Ntuyahaga shall be released or, if appropriate, be delivered to the authorities of the State to which the original request for transfer was initially made.

Arusha, 8 September 1998.


Lennart Aspegren
Judge

(Seal of the Tribunal)