



**International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda**

OR: ENG

TRIAL CHAMBER II

Before: Judge William H. Sekule
Designated by the Trial Chamber pursuant to Rule 73

Registrar: Agwu U. Okali

Date: 15 December 2000

THE PROSECUTOR
v.
Casmir BIZIMUNGU and others

Case No. ICTR-99-50-T

**DECISION ON CASMIR BIZIMUNGU'S MOTION DATED 5 DECEMBER 2000,
REQUESTING *INTER ALIA* TO VARY THE ORDER RENDERED
ON 21 SEPTEMBER 2000 BY TRIAL CHAMBER II**

The Office of the Prosecutor:

Ken Fleming
Ifeoma Ojemeni
Jayantha Jayasuriya

Counsel for the Accused:

Brian Shell

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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (The "Tribunal"),

JUDGE WILLIAM H. SEKULE, sitting as a judge designated by the Trial Chamber to review this motion as a single judge, pursuant to Rule 73 of the Rules of Procedure and Evidence ("The Rules"), on the basis of the written briefs filed by the Parties;

BEING SEIZED of "Extremely Urgent Motion and its brief of 5 December 2000 on behalf of Accused Dr. Casmir Bizimungu," (the "Motion") filed on 5 December 2000;

CONSIDERING the "Prosecutor's Response to the Extremely Urgent Motion dated 5 December 2000, praying *inter alia* to vary the Order of the Trial Chamber II made on the 21 September 2000," (the "Prosecutor's response") filed on 14 December 2000;

NOTING that, at the hearing of 21 December 2000, the Chamber rendered a unanimous Oral Decision which was followed by a written one entitled, "Décision Relative à la Requête de l'Accusé Bizimungu visant au retrait et au remplacement de son Conseil Principal;"

CONSIDERING the Statute of the Tribunal (the "Statute") and the Rules, particularly Rules 4, 72 and 73;

SUBMISSIONS OF THE PARTIES

1. The Defense requests pursuant to Rule 73 of the Rules:
 - (a) That the Chamber vary its order of 21 September 2000 and extend the time requirement up to 30 April 2001, for Replacement Counsel to determine whether he intends to maintain, revise or withdraw any of the pending motions filed on behalf of the predecessor Lead Counsel or whether he intends to file any fresh future motions.
 - (b) That the Chamber direct the Registrar to appoint a co-counsel pursuant to the Chamber's order of 21 September 2000.
 - (c) That the Chamber clarify its order of 21 September 2000 as to whether the venue of the trial will be in Arusha and to indicate that travel to Rwanda by Defense Counsel will not be required.
2. The Prosecutor responds to the Defense request for extension of time by stating that she had agreed to the Defense request to extend the time limit, only up to 30 March 2001, in order to ensure a fair trial to the Accused considering the circumstances under which the present counsel was assigned.
3. The Prosecutor further submits that extending this time limit beyond 30 March 2001 would hamper the possibility of fixing an early hearing date that would ensure a trial without undue delay causing prejudice, not only to the Accused, but also to the Prosecutor. The Prosecutor prays, therefore, that the Defense request for extension of time beyond 30 March 2001 should be denied.



HAVING DELIBERATED

4. As to the Defense request for extension of deadline, the Chamber recalls its directions in the Decision of 21 September 2000, which stated *inter alia* that, "...the lead counsel should indicate in writing within 30 days following his assignment by the Registrar, if he or she intends to maintain motions pending in the instant matter and that any new motions or amendments to existing motions at the time of the assignment shall be filed within 30 days following the assignment of the counsel by the Registrar."

5. The Chamber notes that the Defense requests that the said direction be varied and extended to 30 April 2001. The Defense submits that this is warranted and justified in the interests of justice in order for him to fully and competently review all the necessary materials, which he finally received on 5 December 2000, and to provide advice to the Accused. The Chamber notes that the Prosecutor, in response, only agreed to the extension of time up to 30 March 2001, stating that any further extension beyond 30 March 2001 would hamper the possibility of fixing an early hearing date to ensure a trial without undue delay.

6. In the consideration of this issue, the Chamber recalls Rule 72(A), which prescribes that either party shall bring preliminary motions within thirty days following disclosure by the Prosecutor to the Defense of all material envisaged by Rule 66(A)(i). The Chamber notes that the newly assigned Defense Counsel submits that he received all the necessary materials on this case by 5 December 2000, and the Chamber, therefore points out that from the 5 December 2000 the newly assigned Defense Counsel could, therefore be compelled to file any preliminary motions within thirty days as prescribed under Rule 72(A).

7. Nevertheless, mindful of the particular circumstances of the case and that the Prosecutor has agreed to an extension of time, the Chamber considers that it would be in the interests of justice, and in order to avoid undue delay in the commencement of trial, to grant a reasonable extension as requested by the Defense. The Chamber, therefore, grants an extension of sixty days from the date of this Decision for the Defense to confirm motions pending in the instant matter or to file any new motions or amendments to existing motions.

8. As to the Defense second request that the Chamber assign co-counsel as directed in the order of 21 September 2000, the Chamber reiterates its order and directs the Registrar to assign, as soon as possible, a co-counsel to the case.

9. Finally, as to the Defense request seeking clarifications as to whether the venue of the trial and all proceedings will be in Arusha so that the Defense will not have to travel to Rwanda, the Chamber recalls Rule 4 of the Rules, which prescribes that a Chamber or a Judge may exercise their functions away from the seat of the Tribunal, if so authorized by the President in the interests of Justice. In any case, the Chamber considers that it can not address itself on the possible venue of the trial at this point and will do so at the time if and when such an issue actually arises.

FOR THE FOREGOING REASONS, THE TRIBUNAL:

GRANTS the Defense an extension of sixty days from the date of this Decision for the Defense to confirm motions pending in the instant matter or to file any new motions or amendments to existing motions.

DIRECTS the Registrar to assign, as soon as possible, a co-counsel to the case.

Arusha, 15 December 2000



William H. Sekule
Judge



Seal of the Tribunal