

ICTR-99-50-T
13/02/2001
(2415 — 2413)

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International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

Original: English

TRIAL CHAMBER II

Before: Judge Laïty Kama, Presiding
Judge William H. Sekule
Judge Mehmet Güney

Registry: Agwu U. Okali

Date: 13 February 2001

JUDICIAL RECORDS/ARCHIVES
ICTR

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THE PROSECUTOR

v.

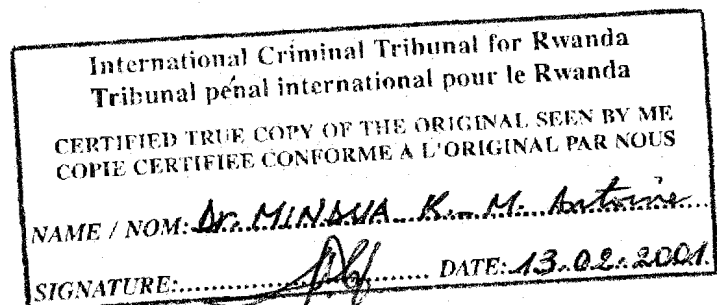
Casimir BIZIMUNGU

Case N° ICTR-99-50-T

DECISION ON THE DEFENCE EXTREMELY URGENT MOTION FOR
EXTENSION OF TIME FOR FILING PRELIMINARY MOTIONS

The Office of the Prosecutor:
Ken Flemming
Ifeoma Ojemeni
Melinda Pollard

Counsel for the Accused:
Brian Shell
Michelyne St Laurent



13.02.2001

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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (hereinafter referred to as "The Tribunal");

SITTING as Trial Chamber II, composed of Judge Laïty Kama, Presiding, Judge William H. Sekule, and Judge Mehmet Güney;

BEING SEIZED of an "Extremely Urgent Motion for Extension of Time for Filing Preliminary Motions" filed on 7 February 2001 by the Defence (the "Motion") and of a "Prosecutor's Response to the Motion Filed on Behalf of the Accused Praying *inter alia* to an Extension of Time to File Preliminary Motions by the Defence" filed on 9 February 2001;

CONSIDERING that:

On 21 September 2000, the Chamber, while granting Ms. Bourne, former Counsel for the Accused, leave to withdraw, ordered that all pending preliminary motions be either withdrawn, sustained, or otherwise amended within 30 days from the date of assignment of the new Counsel by Registry, deadline extended to all new motions ("Order IV");

On 7 November 2000, the Registry appointed M. Brian Shell as Counsel for the Accused;

The deadline to Order IV of the Decision of 21 September 2000 would therefore have been on or about 7 December 2000;

On 5 December 2000, the Defence filed a first Motion for extension of time, asking for up to 30 April 2001 to comply with the said Order;

On 15 December 2001, after consultations with both Parties, the Trial Chamber granted the Defence another period of 60 days to comply with Order IV of the Decision of 21 September 2000;

CONSIDERING the Parties submissions, as follows:

The Defence is asking for a further extension of time until 31 March 2001 so as to finalize submissions with respect to the Preliminary Motions, as their efforts to meet the deadline of 15 February 2001 have been impeded by, *inter alia*:

The necessity to absorb the substantial material disclosed as lately as January 2001 with respect to the three co-Accused;

The Counsel's ongoing obligations, contracted prior to his assignment to the Accused, as senior litigation counsel appearing before several municipal Courts and Tribunals across Canada;

The absence of an assistant, whose selection is still pending.

The Prosecutor, "[c]onsidering the circumstances under which the present lead counsel was assigned, and taking into account the need to ensure a fair trial to the accused, (...) agrees and has no objection for an extension of time limit up to 31st March 2001".

HAVING DELIBERATED,

First and foremost, the Trial Chamber notes that the Defence, in the instant Motion, contends that their Motion for an extension of time until 30 April 2001 to file preliminary motions, filed on 5 December 2000, was only granted until 15 February 2001, "[f]or reasons that were not set out in the [...] Decision [of 15 December 2000]" (Defence Motion, par. 2).

Contrary to this assertion, the Trial Chamber reminds the Defence that an accurate reading of the said Decision indicates that the extension until 15 February 2001 was granted after taking into account the fact that the Defence had obtained disclosure with respect to the Accused on 5 December 2000, whereas Rule 72(A) of the Rules as in force since 21 February 2000, states that "preliminary motions by either party shall be brought within thirty days following disclosure [under] Rule 66(A)(i)".

Thus, the Defence, being granted with an extension of time to file any preliminary motions of more than 60 days from the date of disclosure, and 60 days from the date of the Decision of 15 December 2000, was actually afforded twice the general timeframes pursuant to the Rules, in the light of the specific context of the case, as outlined in the Defence Motion of 5 December 2000.

Turning now to the instant Motion, and as a preliminary matter, the Trial Chamber firstly notes that, strictly speaking, the reasons advanced by the Defence would not *per se* warrant the extension of time requested to file any preliminary motions.

However, in view of the specific circumstances of the case, of the reasons submitted by the Defence, and of the Prosecutor's agreement to the extension, the Trial Chamber finds that it is in the interest of justice to grant the extension of time to file any preliminary motions, pursuant to Order IV of the Decision of 21 September 2000, until Friday 30 March 2001.

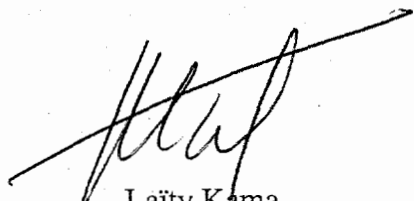
Further, in order to avoid any further delay in the proceedings, the Trial Chamber emphasizes that no further request for extension could be entertained.

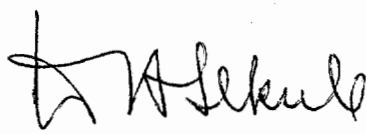
ACCORDINGLY, THE TRIAL CHAMBER

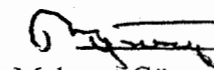
GRANTS the Defence Request for extension of time for filing any preliminary motions until:

Friday, 30 March 2001 before close of business.

Arusha, 13 February 2001


Laity Kama
Presiding Judge


William H. Sekule
Judge


Mehmet Güney
Judge

(Seal of the Tribunal)

