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UNITED NATIONS
NATIONS UNIES

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

TRIAL CHAMBER III

Original: English

Before: Judge Lloyd George Williams, Q.C., Presiding
Judge Pavel Dolenc
Judge Andréia Vaz

Registrar: Mr. Adama Dieng

Date: 19 April 2002

THE PROSECUTOR
v.
THÉONESTE BAGOSORA
GRATIEN KABILIGI
ALOYS NTABAKUZE and
ANATOLE NSENGIYUMVA

Case No. ICTR-98-41-I

2002 APR 19 P 2:09
ICTR

**DECISION ON THE PROSECUTOR'S URGENT MOTION FOR
SUSPENSION OF TIME LIMIT FOR RESPONSE IN THE MATTER OF
DEFENCE MOTION "REQUÊTE EN DEMANDE DE MISE EN LIBERTÉ"
FILED BY COUNSEL FOR BAGOSORA ON 8 APRIL 2002**

The Office of the Prosecutor:
Mr. Chile Eboe-Osuji
Mr. Drew White
Mr. Segun Jegede
Ms. Christine Graham

Defence Counsel:
Mr. Raphael Constant
Mr. Jean Yaovi Degli
Mr. Clemente Monterosso
Mr. André Tremblay
Mr. Kennedy Ogetto
Mr. Gershom Otachi Bw'Omanwa

The International Criminal Tribunal for Rwanda (the "Tribunal"), sitting today as Trial Chamber III composed of Judges Lloyd George Williams, Q.C. Presiding, Pavel Dolenc, and Andrézia Vaz (the "Chamber");

BEING SEISED OF the "Prosecutor's Urgent Motion for Suspension of Time Limit for Response in the Matter of Defence Motion "Requête en Demande de Mise en Liberté" filed by Counsel for Bagosora on 8 April 2002," filed in the Registry on 9 April 2002 (hereinafter, the "Motion"), in which the Prosecutor requests a suspension of the time limit for the Prosecutor to respond to the Defence Motion pending the receipt of the English translation on the grounds that no member of the prosecution team has sufficient knowledge of French to address the Defence Motion.

CONSIDERING that pursuant to Article 31 of the Statute and Rule 3(A) and (E) of the Rules of Procedure and Evidence and Article 12 and 13(6) of the Directives for the Registry, the working languages of the Tribunal are English and French. Consequently, parties are entitled to receive materials in the working language they understand, be it English or French.

CONSIDERING that matters involving the management of the Tribunal's trial calendar are within the discretion of the Chambers;

THE CHAMBER HEREBY:

NOW DECIDES the matter on the basis of the written brief of the Prosecutor without the necessity of submissions from the Defence.


THE CHAMBER HEREBY

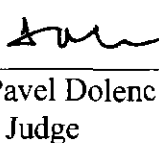
GRANTS the Motion; and further


ORDERS the Prosecutor to respond to the Defence Requête en Demande de Mise en Liberté" filed by Counsel for Bagosora on 8 April 2002," filed in the Registry on 9 April 2002, no later than five (5) days from the date the Prosecutor receives the English Translation from the Languages Unit of the Tribunal.

Judge Dolenc, who joins in the Tribunal's Decision, appends his separate concurring opinion.

Arusha, 19 April 2002.


Lloyd George Williams, Q.C.
Judge, Presiding


Pavel Dolenc
Judge


Andrézia Vaz
Judge

**SEPARATE CONCURRING OPINION OF JUDGE PAVEL DOLENC ON
PROSECUTOR'S URGENT MOTION FOR SUSPENSION OF TIME**

Trial Chamber III granted the Prosecutor's request to extend the time limitation under Rule 73(D) for response to Bagosora's Motion for Provisional Release (the "Motion") because no member of the Prosecutor's team has sufficient knowledge of French to address the Motion. The Chamber ruled that the Prosecutor shall have five days from the time it receives the English translation to file its response. I concur with the decision of the Chamber, but not entirely with the reasons for it.

In my view, the decision unnecessarily limits the right of parties to use the two official working languages of the Tribunal. The Majority of the Chamber states that "parties are entitled to receive materials in the working language they understand, be it English or French." This means that parties are only entitled to receive materials in one of the two official working languages.

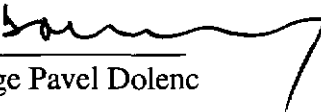
In my opinion, there is no legal basis for such a limited interpretation of this right. Article 31 of the Statute and Rule 3(A) of the Rules define that the working languages of the Tribunal are English and French. This means that the Tribunal's basic legal documents are equally authentic in both languages; judicial proceedings are conducted and recorded in both working languages; oral representations in hearings are simultaneously interpreted into both languages; and written submissions, decision, and other official documents are translated into both working languages. Pursuant to Rule 3(E) of the Rules and Article 13(6) of the Directive for the Registry, the Court Management Section shall make necessary arrangements for interpretation and translation into both the working languages of the Tribunal. Consequently, in my opinion, parties are entitled to be served with official documents of the Tribunal in both working languages.

However, the right to use both languages cannot be used arbitrarily, to delay the proceedings, to cause excessive and needless expenses, to cause unnecessary prejudice to other parties, or for any other improper purpose that would amount to an abuse of the right. For example, a party who cannot use the second language and is not in a position to benefit from translation cannot legitimately invoke the right as an excuse to delay the proceedings.

Moreover, I also am of the opinion that the Prosecution is in a different position than the Defence in relation to the use of both working languages. As one of the three organs of the Tribunal, the Prosecutor should organise its office in an efficient manner, in light of the two official working languages of the Tribunal. The Prosecution, which has a monocratic and subordinate structure, should not use the language rights in the Statute and Rules to cause unnecessary delays in the proceedings. This is particularly important in the instant case, as all the Accused have been in pre-trial detention for a considerable period of time.

Nevertheless, I concur that in the present circumstances, the Prosecutor shall have five working days from the receipt of the English translation in which to respond to the Defence Motion.

Arusha, 19 April 2002.


Judge Pavel Dolenc