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ICTR-98-41-T 12869
14-3-2003 2m
(12869-12867)



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 Andrésia Vaz

Registrar: Mr. Adama Dieng

Date: 14 March 2003

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

CASE NO. ICTR-98-41-T

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ICTR

**DECISION ON THE DEFENCE MOTION CHALLENGING ACCUSED'S SEATING
ARRANGEMENT**

The Office of the Prosecutor:

Ms. Barbara Mulvaney
Mr. Drew White
Ms. Christine Graham
Mr. Rashid Rashid
Mr. Segun Jegede

Defence Counsel:

Mr. Jean Yaovi Degli
Ms. Sylvia Olympio
Mr. Raphaël Constant
Mr. André Tremblay
Mr. Gershom Otachi Bw'Omanwa
Mr. Kennedy Ogetto

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA ("Tribunal")

SITTING as Trial Chamber III composed of Judges Lloyd George Williams, Q.C., Presiding, Pavel Dolenc, and Andréia Vaz ("Chamber");

BEING SEISED OF the Defence for Kabiligi's "Requête aux fins de liberté d'installation des accusés" ("Motion") filed on 24 February 2003;

CONSIDERING the "Prosecutor's Response" filed 3 March 2003 in which the Prosecutor did not take any position on the Motion;

THE TRIBUNAL NOW DECIDES the matter solely on the basis of the written brief of the parties pursuant to Rule 73(A).

SUBMISSIONS OF THE DEFENCE

1. The Defence for Kabiligi challenges the Chamber's instruction requiring each of the Accused to sit in a prescribed seat in the courtroom.¹ The Defence contends that this ruling is not supported by the Statute or Rules of the Tribunal, or by the practice of other Chambers of the ICTR or the ICTY. Moreover, the Defence argues that this prescribed seating arrangement is contrary to Article 20(4)(g) of the Tribunal because it forces the Accused to participate in self-incrimination by making it easier for Prosecution witnesses to identify the Accused in court. The Defence asserts that the in-court identification of the Accused by Prosecution Witness ZF is an example of this because the witness could only identify the Accused by his seat and not by his appearance.² The Defence, therefore, requests the Chamber to permit the Accused to occupy any seat in the aisle designated for accused persons at the commencement or recommencement of each hearing.

DELIBERATIONS

2. Rule 54 authorizes the Chamber to issue such orders and other measures as are necessary for the conduct of the trial. In the view of the Chamber, this seating arrangement, in which the Accused are required to sit in the order that their names appear in the joint case name, promotes order and efficiency within the courtroom. The Chamber is not persuaded by Defence Counsel's allegations of general prejudice to the Accused resulting from this ordered seating arrangement. In the appropriate circumstances, the Chamber will entertain oral requests for alternate seating.
3. The Chamber emphasizes that after the commencement of trial, motions concerning procedural issues should ordinarily be made orally. Written motions strain the limited resources of the Tribunal and should be reserved for substantive matters or motions requiring extensive or complicated submissions.

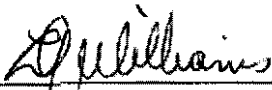
¹ 3 Dec. 2001 Tr. 75-76, 93.

² 28 Nov. 2002 Tr. 78-79.




4. For the foregoing reasons the Chamber **DENIES** the Motion.

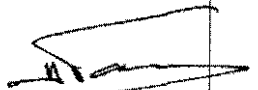
Arusha, 14 March 2003.



Lloyd G. Williams, Q.C.,
Presiding Judge



Pavel Dolenc
Judge



Andréia Vaz
Judge

[Seal of the Tribunal]