



UNITED NATIONS
NATIONS UNIES

ICTR-01-76-1
26-01-2004
(873 - 871)
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

873
Ivan

OR: ENG

TRIAL CHAMBER I

Before: Judge Erik Møse
Judge Jai Ram Reddy
Judge Sergey Alekseevich Egorov

Registrar: Adama Dieng

Date: 26 January 2004

THE PROSECUTOR

v.

Aloys SIMBA

Case No. ICTR-2001-76-I

2004 JAN 26 P 3:30
ICTR

DECISION ON MOTION FOR COMMENCEMENT OF TRIAL OR
RELEASE

The Prosecutor

William T. Egbe
Sulaiman Khan
Amina Ibrahim

The Defence

Sadikou Ayo Alou
Francis Dako

E. h.

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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (“the Tribunal”)

SITTING as Trial Chamber I, composed of Judge Møse, presiding, Judge Jai Ram Reddy, and Judge Sergey Alekseevich Egorov (“the Chamber”);

BEING SEISED of the Defence “Requête en extrême urgence...en vue d’obtenir l’ouverture du procès de l’accusé ou sa mise en liberté d’office”, filed on 8 December 2003;

CONSIDERING the Prosecution “Response” thereto, filed on 15 December 2003;

HEREBY DECIDES the Motion.

INTRODUCTION

1. The Accused was arrested in Senegal on 27 November 2001 in response to an Order of this Tribunal for his provisional detention and transfer, issued under Rule 40*bis*. On 9 March 2002, having exhausted legal proceedings before the courts of Senegal, the Accused was remanded into the custody of officials of the Tribunal and arrived at the detention unit in Arusha on 11 March 2002, where he has remained in custody to this day. He made his initial appearance on 18 March 2002, pleading not guilty to all four counts in an Indictment confirmed on 8 January 2002.

2. On 31 October 2002, the Defence filed two separate motions, one for the provisional release of the Accused based on an alleged violation of Rule 40*bis*, and another alleging defects in the form of the Indictment. The Prosecution filed responses to these motions on 5 December 2002 and, after being granted an extension of time, on 18 February 2003, respectively. The Defence filed replies in respect of the two motions on 2 January 2003 and 6 June 2003.

3. On 18 November 2003, the Prosecution filed a motion requesting leave to amend its indictment. In its submissions, the Prosecution stated that the proposed amendment is an effort by the Prosecution, partly in response to the Defence request for specificity in pre-trial motions.¹ On 15 January 2004, the Defence filed a response opposing the amendments.

4. On 15 January 2004, a status conference was held before the Chamber to discuss the readiness of the parties for trial and the possible timing of its commencement.

SUBMISSIONS

5. The Defence requests that the trial of the Accused commence without delay or, in the alternative, that he be released. The Defence’s preliminary motions have been pending for a long period, during which the Accused has been detained. The right to be tried without undue delay enshrined in Articles 19(1) and 20(4)(c) require that the case be heard without further delay or, if the Tribunal is unable to do so, that the Accused be released. The Defence further requested that the Chamber decide all pending motions.

6. The Prosecution agrees that the Chamber should decide all pending motions. Though the Prosecution also wishes the start of the trial, it submits that the timing of the

¹ Prosecutor’s Request for Leave to File an Amended Indictment, 28 November 2003, para. 6(i).

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commencement of the trial must depend on the capacity of the Tribunal and the status of other cases. The release of the Accused would not be an appropriate remedy for him or for all other Accused awaiting trial.

DELIBERATIONS

7. The purpose of the status conference held on 15 January 2004 was to determine the readiness of the parties for trial and discuss the date on which it could commence. The Presiding Judge indicated that the trial would start during the time period from 15 March 2004 to July 2004, based on the availability of judges and courtroom time. The Prosecution indicated its willingness to proceed within that time-frame. The precise start-date for the trial will be determined based on the parties' readiness for trial, and the timing of two other cases which are nearing trial. The Chamber considers, therefore, that the start of the trial is imminent and satisfies the Defence request for the start of trial without delay. Having granted the first Defence request, and as the release of the Accused is sought as an alternative remedy, the Chamber does not consider it necessary to consider the latter request.

8. The pending motion for amendment of the Indictment, which may have some bearing on the preparedness of the parties for trial, is also decided by the Chamber today.

FOR THE ABOVE REASONS, THE CHAMBER

DECLARES the motion moot as trial has already been scheduled to proceed without delay.

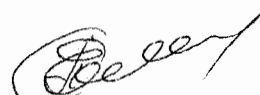
Arusha, 26 January 2003



Erik Møse
Presiding Judge



Jai Ram Reddy
Judge



Sergey Alekseevich Egorov
Judge

[Seal of the Tribunal]

