



ICTR-2001-61-1
30-01-2004
(1442 - 1440)
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

1442
S. MUSA

TRIAL CHAMBER I

Before: Judge Erik Møse, presiding
Judge Jai Ram Reddy
Judge Sergei Alekseevich Egorov

Registrar: Adama Dieng

Date: 30 January 2004

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S. MUSA

THE PROSECUTOR

v

Jean-Baptiste GATETE

Case No. ICTR-2000-61-1

**DECISION ON PROSECUTOR'S EXTREMELY URGENT MOTION FOR
SUSPENSION OF TIME LIMITS IN WHICH TO FILE A RESPONSE PURSUANT TO
RULES 54, 72, AND 73**

Office of the Prosecutor:

Richard Karegyesa
Holo Makwaia
Andra Mobberley

The Defence:

Richard Dubé

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

SITTING as Trial Chamber I, composed of Judge Erik Møse, presiding, Judge Jai Ram Reddy, and Judge Sergei Alekseevich Egorov;

BEING SEIZED of the Prosecution “Extremely Urgent Motion for the Suspension of Time Limits Within Which to File a Response Pursuant to Rules 54, 72 & 73”, filed on 15 April 2003;

CONSIDERING the Defence “Réponse de la défense à la Prosecutor’s Extremely Urgent Motion”, etc., filed on 22 April 2003;

ALSO CONSIDERING the Defence “Requête en extrême urgence de la défense afin d’obtenir la permission de soulever, hors délais, des exceptions préjudicielles en vertu de l’article 72 du RPP”, filed on 11 April 2003; the Prosecution “Response to the Extremely Urgent Defence Motion Seeking Leave to File a Rule 72 Preliminary Motion Out of Time”, filed on 14 April 2003; and the Defence “Réplique de la défense à la Prosecutor Response”, etc., filed on 1 May 2003;

HEREBY DECIDES the motion on the parties’ briefs.

INTRODUCTION

1. The Defence filed a motion, on 11 April 2003, seeking leave to file, out of time, preliminary motions under Rule 72. On 14 April, and before this Chamber had ruled on that motion, the Defence filed a preliminary motion alleging defects in form of the Indictment.¹ The Chamber today granted a retroactive extension of time so as to include the Defence’s preliminary motion filed on 14 April, and declared the motion properly before the Chamber.²

SUBMISSIONS BY THE PARTIES

2. The Prosecution contends that the five-day time-limit for filing a response to a preliminary motion as prescribed by Rule 73(D) cannot start running until the Defence’s preliminary motion is recognized by the Chamber as properly before it. Accordingly, the time-limit could not have started running on 14 April 2003. The Prosecution requests a suspension of the five-day time-limit unless and until the Trial Chamber recognizes that the preliminary motion is properly submitted.

3. The Defence does not object to the Prosecution motion to the extent it requests a suspension of the five-day time-limit until such time as the Chamber rules on the validity of the preliminary motion.

¹ *Prosecutor v. Jean Baptiste Gatete*, Requête de la défense en exceptions préjudicielles en vertu de l’article 72 du RPP, 14 April 2003.

² *Prosecutor v. Jean Baptiste Gatete*, Decision on Defence’s Extremely Urgent Motion Seeking Leave to File Preliminary Motions, Out of Time, Under Rule 72, 30 January 2004.

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DELIBERATIONS

4. In its submissions of 11 April 2003, the Defence acknowledged that its preliminary motion would be filed after the deadlines prescribed by Rule 72 had expired and, absent relief, that the motion would not properly be before the Chamber. For the purposes of assessing time-limits, no valid motion could exist until relief was granted by the Chamber under Rule 72(F). The Defence preliminary motion on defects in the form of the Indictment was first recognized as properly before the Chamber on the date it granted relief under Rule 72(F); the five-day time-limit for the submission of responses under Rule 73(D) runs from that date.

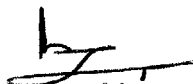
FOR THE ABOVE REASONS, THE CHAMBER

DECLARES that the five-day time-limit for filing a response to the Defence motion alleging defects in the form of the Indictment, filed on 14 April 2003, commences today.

Arusha, 30 January 2004



Erik Møse
Presiding Judge



Jai Ram Reddy
Judge



Sergei Alekseevich Egorov
Judge

[Seal of the Tribunal]

