



UNITED NATIONS
NATIONS UNIES

ICTR-96-15-T
20-02-2004
(1418-1416)

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

1418
MUSA

OR: ENG

TRIAL CHAMBER II

Before: Judge William H. Sekule, Presiding
Judge Arlette Ramaroson
Judge Solomy Balungi Bossa

Registrar: Mr Adama Dieng

Date: 20 February 2004

The PROSECUTOR

v.

Joseph KANYABASHI

Case No. ICTR-96-15-T

JUDICIAL RECORDS
1077
2004 FEB 20 P 1:30

**DECISION ON DEFENCE MOTION FOR TRIAL TO PROCEED
BEFORE TRIAL CHAMBER II,
COMPOSED OF JUDGES SEKULE, MAQUTU AND RAMAROSON
AND FOR TERMINATION OF PROCEEDINGS**

*Articles 12 bis (3), 19 and 20 of the Statute and
Rules 5, 6, 14, 14 bis, 15bis and 73 of the Rules of Procedure and Evidence*

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1417

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

SITTING as Trial Chamber II composed of Judge William H. Sekule, Presiding, Judge Arlette Ramaroson and Judge Solomy Balungi Bossa (the “Chamber”);

BEING SEISED of the “Defence Motion for Trial to Proceed Before Trial Chamber II, Composed of the Honourable Judges Sekule, Maqutu and Ramaroson and for Termination of Proceedings (the “Motion”), filed on 16 June 2003;¹

CONSIDERING the “Prosecutor’s Response to Kanyabashi’s Motion Requesting Continuation of the Trial before Trial Chamber II Composed of the Honourable Judges Sekule, Maqutu and Ramaroson and a Stay” (the “Response”), filed on 20 June 2003 ; the “Defence Reply” (the “Reply”) filed on 30 June 2003² ; and the “Prosecution’s Response to Kanyabashi’s Reply” (the “Response to Reply”) filed on 2 July 2003;

NOTING the “Decision in the Matter of Proceedings Under Rule 15bis(D)” issued by Trial Chamber II on 15 July 2003 and the “Decision in the Matter of Proceedings Under Rule 15bis(D)” issued by a full bench of the Appeals Chamber on 24 September 2003;

NOTING the declaration by Counsel for the Defence in open session on 26 January 2004, that the issues contained in the Motion related to applicability of Rule 15bis have already been ruled upon by the Appeals Chamber;

NOTING the withdrawal of the above issues by Counsel for the Defence;

FURTHER, HOWEVER, that the Defence maintained its submissions contained in paragraphs 24 to 27 and 90 *et seq.* of the Motion, relating to the issue of delays that have occurred since his Arrest on 28 June 1995;

WHEREAS the Chamber is aware of the length of the proceedings since the arrest of the Accused in July 1997,

NOTING that the issue of delays of proceedings was previously raised by the Defence and was determined by Trial Chamber II in its “Decision on the Defence Extremely Urgent Motion on Habeas Corpus and for Stoppage of Proceedings”, of 23 May 2000,³

FURTHER NOTING that in the above mentioned Decision, the Chamber ruled that the issue of delays of proceedings shall be determined in regard, “*inter alia*, to the complexity of the factual or legal issues raised by the case, to the conduct of the applicants and the competent authorities and to what was at stake for the former, in addition to complying with the ‘reasonable time’ requirement. [...]”,⁴

¹ The Motion was filed in French and originally entitled: *Requête demandant que le procès se poursuive devant la chambre II, composée des honorables juges Sekule, Maqutu et Ramaroson et en arrêt des procédures.*

² The Reply was filed in French and originally entitled : *Réplique à la réponse du Procureur relativement à la Requête demandant que le procès se poursuive devant la chambre II, composée des honorables juges Sekule, Maqutu et Ramaroson et en arrêt des procédures.*

³ *Prosecutor v. Kanyabashi*, Case No. ICTR-96-15-I, Decision on the Defence Extremely Urgent Motion on Habeas Corpus and For Stoppage of Proceedings (TC), 23 May 2000, para. 68.

⁴ *Id.* para. 68.

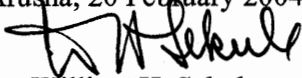
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CONSIDERING that since the issue of delays in the proceedings was raised and ruled upon by the Chamber, it is still the view of the Chamber that the gravity of the charges and the complexity of the case and of the investigation do not render unreasonable the length of the proceedings in this case,

FOR THE ABOVE REASONS, THE TRIAL CHAMBER

THEREFORE, DISMISSES the Motion in its entirety.

Arusha, 20 February 2004



William H. Sekule
Presiding Judge



Arlette Ramarason
Judge



Solomy Balungi Bossa
Judge