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UNITED NATIONS
NATIONS UNIES

ICTR-97-21-T
20-02-2004
(1549-1547)
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

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Mwamp

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.

Arsène Shalom NTAHOBALI

Case No. ICTR-97-21-T

2004 FEB 20 P 1:30

**DECISION ON NTAHOBALI'S MOTION FOR A STAY OF
PROCEEDINGS AND ORDER FOR THE NON-APPLICABILITY OF THE
NEWLY AMENDED RULE 15 BIS**

Office of the Prosecutor

Silvana Arbia
Adelaide Whest
Jonathan Moses
Adesola Adebeyejo
Manuel Bouwknecht, Case Manager

Defence Counsel

Duncan Mwanyumba
Normand Marquis

Handwritten signature

1548

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (“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 Ntahobali’s Motion for a Stay of Proceedings and Order for the Non-Applicability of the Newly Amended Rule 15*bis* (the “Motion”), filed on 1 July 2003;¹

CONSIDERING the Prosecutor’s Response to Ntahobali’s Motion for a Stay of Proceedings and Order for the Non-Applicability of the Newly Amended Rule 15*bis* (the “Response”), filed on 3 July 2003;

NOTING the “Scheduling Order in the Matter of Proceedings Under Rule 15*bis*(D)”, issued by Trial Chamber II composed of Judge William H. Sekule, Presiding, and Judge Arlette Ramaroson on 26 June 2003 (the “Scheduling Order”);

NOTING the “Decision in the Matter of Proceedings Under Rule 15*bis*(D)” issued by Trial Chamber II on 15 July 2003 and the “Decision in the Matter of Proceedings Under Rule 15*bis*(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 15 *bis* have already been ruled upon by the Appeals Chamber;

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

NOTING, HOWEVER, that the Defence maintained its submissions relating to the issue of alleged delays that have occurred since his arrest;

NOTING FURTHER the written communication by Counsel for the Defence filed on 5 February 2004, by which he maintained the submissions contained in paragraphs 9 to 38 and 71 to 79 of the Motion;

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

WHEREAS the Chamber refers to the same criteria applied on a similar issue in the *Kanyabashi* Case in its Decision of 23 May 2000² to determine the issue of delays of proceedings in the instant case,

WHEREAS it results from the reasoning in the above mentioned Decision that the Chamber “has to have regard, *inter alia*, to the complexity of the factual or legal issues raised by the

¹ The Motion was filed in French and originally entitled: *Requête d’extrême urgence de Arsène Shalom Ntahobali visant l’arrêt des procédures et en déclaration de non-applicabilité du nouvel amendement à l’article 15 bis du Règlement.*

² *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.



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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. [...]”³,

CONSIDERING that it is 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, 21 February 2004



William H. Sekule
Presiding Judge



Arlette Ramarison
Judge



Solomy Balungi Bossa
Judge

[Seal of the Tribunal]

³ *Id.* para. 68.

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ICTR-98-42-T



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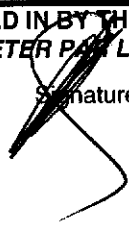

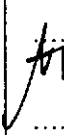
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		Case No / Affaire Nr: ICTR-98-42-T		
To: A:	Name of detainee / nom du détenu NTEZIRYAYO	<p style="text-align: center;">TO BE FILLED IN BY THE DETAINEE A COMPLETER PAR LE DETENU</p> <p>I confirm reception of the document(s) listed below. <i>Je confirme réception du/des documents mentionné(s) ci-dessous.</i></p> <p style="text-align: right;">Signature:  Date, Time / Heure: 20/2/04</p>		
Via:	Security Officer Commanding Officer, UNDF	Print name / nom  SAIDOU GUINDO	Signature 	Date, Time / Heure 25.2.04
From: De:	<input type="checkbox"/> JP. Fomété (Chief, CMS) <input type="checkbox"/> N. Diallo (TC1) <input checked="" type="checkbox"/> R. Kouambo (TC2) <input type="checkbox"/> F. Talon (TC3) <input type="checkbox"/> F. Talon (Appeals) <input type="checkbox"/> Other / Autre			
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


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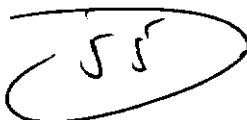
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To: A:	Name of detainee / nom du détenu NDAYAMBAJE	TO BE FILLED IN BY THE DETAINEE A COMPLETER PAR LE DETENU		
		I confirm reception of the document(s) listed below. <i>Je confirme réception du/des documents mentionné(s) ci-dessous.</i>	Signature 	Date, Time / Heure 25/2/04 
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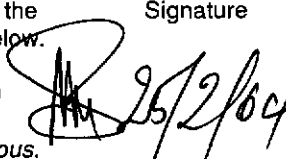

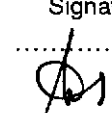


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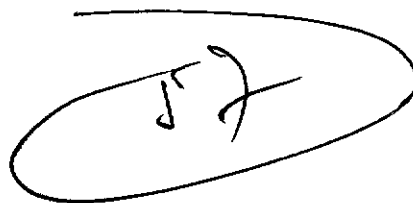
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To: A:	<input checked="" type="checkbox"/> TC1 received by / reçu par: ALO: received by / reçu par <input type="checkbox"/> Judge E. Møse President <input type="checkbox"/> <input type="checkbox"/> Judge J. Reddy <input type="checkbox"/> <input type="checkbox"/> Judge S.A. Egorov <input type="checkbox"/> <input type="checkbox"/> E. Nahamya, Co-ordinator <input type="checkbox"/> <input checked="" type="checkbox"/> TC2 <input checked="" type="checkbox"/> Judge W. H. Sekule <input type="checkbox"/> <input checked="" type="checkbox"/> Judge A. Ramaroso <input type="checkbox"/> <input checked="" type="checkbox"/> Judge S. B. Bossa <input type="checkbox"/> <input checked="" type="checkbox"/> C. Eboe-Osuji, SLO <input type="checkbox"/> <input checked="" type="checkbox"/> A. Leroy, Co-ordinator <input type="checkbox"/> <input type="checkbox"/> TC3 <input type="checkbox"/> Judge L. G. Williams <input type="checkbox"/> <input type="checkbox"/> Judge A. Vaz <input type="checkbox"/> <input type="checkbox"/> Judge S.A. Egorov (Temporarily) <input type="checkbox"/> <input type="checkbox"/> Co-ordinator <input type="checkbox"/> <input checked="" type="checkbox"/> OTP / BUREAU DU PROCUREUR <input checked="" type="checkbox"/> Trial Attorney in charge of case: SILVANA ARBIA received by <input checked="" type="checkbox"/> DEFENCE / DÉFENSE: <i>SAB 24/02/04</i> <input checked="" type="checkbox"/> Accused / Accusé: E. NDAYAMBAJE, J. KANYABASHI, P. NYIRAMASUHUKO, A.S. NTAHOBALI, S. NSABIMANA AND A. NTEZIRYAYO complete / remplir "CMS4 FORM" <input checked="" type="checkbox"/> Lead Counsel / Conseil Principal: BOULE, MARCHAND, BERGEVIN, MWANYUMBA, KADJI AND BACERE <i>23-2-2004 25/2/04</i> <input type="checkbox"/> In / à Arusha (signature) <input type="checkbox"/> by fax complete / remplir "CMS3bis FORM" <input checked="" type="checkbox"/> Co-Counsel / Conseil Adjoint: BOYER, POUPART, MAQUIS, TCHACOUNTE, PERRAS AND DESROCHERS <input type="checkbox"/> In / à Arusha (signature) <input type="checkbox"/> by fax complete / remplir "CMS3bis FORM" All Decisions: <input type="checkbox"/> Appeals Chamber Unit, The Hague <input checked="" type="checkbox"/> Suzanne Chenault, Jurist Linguist All Decisions & Important Public Documents: <input type="checkbox"/> Press & Public Affairs <input type="checkbox"/> Legal Library	
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Cc:	<input type="checkbox"/> A. Dieng <input type="checkbox"/> A. Miller, OLA, NY <input type="checkbox"/> L. G. Munlo <input type="checkbox"/> M. Niang <input type="checkbox"/> S. Van Driessche <input type="checkbox"/> WVSS- D <input type="checkbox"/> WVSS-P <input type="checkbox"/> E. O'Donnell <input type="checkbox"/> DCMS <input type="checkbox"/> R.K.G.Amoussouga <input type="checkbox"/> P. Enow	
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Via:	Security Officer Commanding Officer, UNDF	Print name / nom <i>SAIDOU</i> SAIDOU GUINDO	Signature <i>gn</i>	Date, Time / Heure <i>15.2.04</i>	
From: De:	<input type="checkbox"/> JP. Fornété (Chief, CMS) <input type="checkbox"/> N. Diallo (TC 1) <input checked="" type="checkbox"/> R. Kouambo (TC2) <input type="checkbox"/> F. Talon (TC3) <input type="checkbox"/> F. Talon (Appeals) <input type="checkbox"/> Other / Autre				
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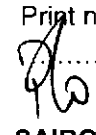



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