



ICTR-01-76-I  
15-06-2004  
(2212 - 2210)

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

2212  
S. Mussa

OR: ENG

**TRIAL CHAMBER I**

**Before:** Judge Sergei Alekseevich Egorov

**Registrar:** Adama Dieng

**Date:** 14 June 2004

**THE PROSECUTOR**

v.

**Aloys SIMBA**

*Case No. ICTR-01-76-I*

ORIGINAL RECORD  
ICTR  
2004 JUN 15 P 4: 51

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**DECISION ON DEFENCE MOTION FOR ORDER IN REFERENCE TO RULE 73BIS**

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**Office of the Prosecutor:**

William T. Egbe  
Sulaiman Khan  
Ignacio Tredici  
Amina Ibrahim

**Counsel for the Defence**

Sadikou Ayo Alao  
Beth Lyons

2211

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

**SITTING** as Trial Chamber I, composed of Judge Sergei Alekseevich Egorov, designated by the Trial Chamber, pursuant to Rule 73 of the Rules of Procedure and Evidence of the Tribunal (“the Rules”);

**BEING SEIZED OF** the “Motion for Order in Reference to Rule 73bis (RPE), pursuant to Article 73 (RPE)”, filed on 27 May 2004;

**CONSIDERING** the Prosecution’s Response, filed on 1 June 2004;

**HEREBY DECIDES** the motion.

## **INTRODUCTION**

1. The Indictment against the Accused was confirmed on 8 January 2002. The amended Indictment was filed on 27 January 2004, and the trial is scheduled to commence on 16 August 2004. During the Pre-Trial Conference on 13 May 2004, Counsel for the Prosecution and Defence were directed by the Chamber to meet to resolve disclosure issues.

## **SUBMISSIONS**

2. The Defence requests that the Chamber order the Prosecution to translate certain of its exhibits; provide the Defence with a precise list of Prosecution witnesses and the order in which they will appear; indicate in the “Summary of Witness Testimony” which evidence relates to which paragraphs of the Indictment and the elements of the offences charged; and include in the same Summary the estimated length of time for each witness’s testimony.

3. The Prosecution seeks a dismissal of the motion. As to the first request, the Prosecution submits that the exhibits have been provided to the Translation Section for translation, and it is not the Prosecution’s duty to translate documents. With regard to the list of witnesses, the Prosecution responds that such a list was provided on 6 April 2004, and it is not obliged to state the order in which the witnesses will appear. In relation to the third request, the Prosecution argues that it has complied with the Rules, which do not state that it has to specify which witness will testify to which paragraph of the indictment. With regard to the last request, the Prosecution contends that it provided the estimated lengths of the witnesses’ testimonies during the Status Conference on 15 January 2004.

## **DELIBERATIONS**

4. With respect to the first request for translations, the Chamber reminds the Defence that it is the Translation Section of the Tribunal that is responsible for the translation of documents; therefore, there is no duty on the Prosecution to translate all its documents. Documents received by the Registry are routinely sent to the Translation Section for translation, unless there are contrary instructions from the Chamber.

2210

5. As to the list of witnesses, the Chamber notes that a list has been provided. The Rules do not compel the Prosecution to state the order of the witnesses to be called, and the Chamber notes that the practice is for the order of the witnesses to be called in a particular week to be notified as soon as possible before that week. This arrangement is due to the fact that there may be difficulties transferring witnesses to Arusha to testify.

6. Turning to the Summary, the Chamber considers that the Summary need not cite the paragraphs of the Indictment, nor the elements of the offence, that each witness will testify to, as Rule 73bis merely refers to the "points" of the Indictment. The Chamber recalls that the Prosecution did provide estimated lengths of time of each witness's testimony during the Status Conference, and that therefore the information has been disclosed to the Defence.

7. The Chamber considers that this motion was unnecessary and a waste of judicial time and resources, especially after the Chamber directed parties to sort out these matters between themselves. A careful reading of the Rules would have counselled the Defence against making such a motion. The Chamber is compelled to warn the Defence that should it make further motions that may be regarded as frivolous, the Chamber may order the non-payment of fees and/or costs, as provided under Rule 73(F).

**FOR THE ABOVE REASONS, THE CHAMBER**

**DENIES** the motion.

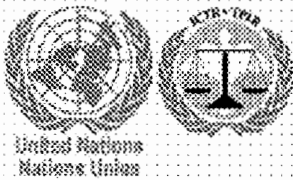
Arusha, 14 June 2004



Sergei Alekseevich Egorov  
Judge

(Seal of the Tribunal)





## TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

**COURT MANAGEMENT SECTION**  
(Art. 27 of the Directive for the Registry)

### I - GENERAL INFORMATION (To be completed by the Chambers / Filing Party)

<b>To:</b>	<input checked="" type="checkbox"/> Trial Chamber I N. M. Diallo	<input type="checkbox"/> Trial Chamber II R. N. Kouambo	<input type="checkbox"/> Trial Chamber III C. K. Hometowu	<input type="checkbox"/> Appeals Chamber / Arusha F. A. Talon
	<input type="checkbox"/> Chief, CMS J.-P. Fomété	<input type="checkbox"/> Deputy Chief, CMS M. Diop	<input type="checkbox"/> Chief, JPU, CMS K. K. A. Afande	<input type="checkbox"/> Appeals Chamber / The Hague R. Burriss
<b>From:</b>	<input checked="" type="checkbox"/> Chamber I <b>Judge Egorov</b> (names)	<input type="checkbox"/> Defence (names)	<input type="checkbox"/> Prosecutor's Office (names)	<input type="checkbox"/> Other: (names)
<b>Case Name:</b>	The Prosecutor vs. <b>Simba</b>		<b>Case Number:</b> ICTR-01-76-I	
<b>Dates:</b>	Transmitted: <b>15 June 2004</b>		Document's date: <b>14 June 2004</b>	
<b>No. of Pages:</b>	<b>3</b>	<b>Original Language:</b>	<input checked="" type="checkbox"/> English	<input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
<b>Title of Document:</b>	<b>Decision on Defence Motion for Order in Reference to Rule 73BIS</b>			
<b>Classification Level:</b>		<b>TRIM Document Type:</b>		
<input type="checkbox"/> Strictly Confidential / Under Seal		<input type="checkbox"/> Indictment	<input type="checkbox"/> Warrant	<input type="checkbox"/> Correspondence
<input type="checkbox"/> Confidential		<input checked="" type="checkbox"/> Decision	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Notice of Appeal
<input checked="" type="checkbox"/> Public		<input type="checkbox"/> Disclosure	<input type="checkbox"/> Order	<input type="checkbox"/> Appeal Book
		<input type="checkbox"/> Judgement	<input type="checkbox"/> Motion	<input type="checkbox"/> Book of Authorities
		<input type="checkbox"/> Submission from non-parties	<input type="checkbox"/> Submission from parties	
		<input type="checkbox"/> Accused particulars		

### II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party)

**CMS SHALL** take necessary action regarding translation.

Filing Party hereby submits only the original, and **will not submit** any translated version.

Reference material is provided in annex to facilitate translation.

Target Language(s):

English  French  Kinyarwanda

**CMS SHALL NOT** take any action regarding translation.

Filing Party hereby submits **BOTH the original and the translated version** for filing, as follows:

Original	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda
Translation	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda

**CMS SHALL NOT** take any action regarding translation.

Filing Party **will be submitting the translated version(s)** in due course in the following language(s):

English  French  Kinyarwanda

**KINDLY FILL IN THE BOXES BELOW**

<p><input type="checkbox"/> The OTP is over-seeing translation. The document is submitted for translation to:</p> <p><input type="checkbox"/> The Language Services Section of the ICTR / Arusha.</p> <p><input type="checkbox"/> The Language Services Section of the ICTR / The Hague.</p> <p><input type="checkbox"/> An accredited service for translation; see details below:</p> <p>Name of contact person: Name of service: Address: E-mail / Tel. / Fax:</p>	<p><input type="checkbox"/> DEFENCE is over-seeing translation. The document is submitted to an accredited service for translation (fees will be submitted to DC/DMS).</p> <p>Name of contact person: Name of service: Address: E-mail / Tel. / Fax:</p>
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### III - TRANSLATION PRIORITISATION (For Official use ONLY)

<input type="checkbox"/> Top priority	<b>COMMENTS</b>	<input type="checkbox"/> Required date:
<input type="checkbox"/> Urgent		<input type="checkbox"/> Hearing date:
<input type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines: