International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

UNITED NATIONS
NATIONS UNIES

OR: ENG

TRIAL CHAMBER II

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

Registrar: Mr Adama Dieng

Date: 21 October 2004

The PROSECUTOR

v.

Élie NDAYAMBAJE

Case No. ICTR-96-8-T
Joint Case No. ICTR-98-42-T

DECISION ON DEFENCE EXTREMELY URGENT MOTION FOR EXTENSION OF TIME FOR FILING A MOTION UNDER RULE 98*BIS*

Office of the Prosecutor
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Defence Counsel
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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 the "Defence Extremely Urgent Motion For Extension of Time for Filing a Motion under Rule 98*bis*, Regarding the 'Confidential and Extremely Urgent Motion to Declare Inadmissible Testimonies of Witnesses Who Have Been Detained in Rwanda Before their Appearance'" (the "Motion"), filed on 19 October 2004;[1]

CONSIDERING the "Prosecutor's Response to Ndayambaje's Motion For Extension of Time to Reply to Rule 98*bis* Motion" (the "Response"), filed on 20 October 2004;

NOTING Ndayambaje's "Confidential and Extremely Urgent Motion to Declare Inadmissible Testimonies of Witnesses Who Have Been Detained in Rwanda Before their Appearance"[2] (the "13 October 2004 Motion"), filed on 13 October 2004;

CONSIDERING the Statute of the Tribunal (the "Statute") and the Rules of Procedure and Evidence (the "Rules");

NOW DECIDES the matter, pursuant to Rule 73 (B), on the basis of the written submissions of the Parties.

WHEREAS the Defence submits that the decision on the 13 October 2004 Motion will have substantial consequences on the issues that may be raised in a subsequent Motion under Rule 98*bis*;

WHEREAS the Defence requests that the timeframes provided for the filing of Motion under Rule 98 *bis* start from the date of the decision on 13 October 2004 Motion;

WHEREAS the Prosecution submits that the rendering of such decision by the Trial Chamber should have no bearing on the timeframes for the filing of a Rule 98*bis* Motion;

WHEREAS the Prosecution further submits that any delay occasioned by the freezing of the timeframes for the filing of Rule 98*bis* Motion will be unjustifiable in view of the consequent waste of judicial time and resources that will be engendered;

WHEREAS the Prosecution submits that the Defence failed to adduce any justifiable reason why such a postponement should be granted;

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[1] The Motion was filed in French and originally entitled: « *Requête en extrême urgence afin de suspendre les délais de dépôt d'une requête fondée sur l'article 98* bis, *concernant la: 'Requête confidentielle et en extrême urgence d'Elie Ndayambaje aux fins de déclarer irrecevables les témoignages des témoins entendus au procès et ayant été détenus dans les cachots et autres centres de détention au Rwanda, préalablement à leur témoignage'* ».

[2] The Motion was filed in French and originally entitled: « *Requête confidentielle et en extrême urgence d'Elie Ndayambaje aux fins de déclarer irrecevables les témoignages des témoins entendus au procès et ayant été détenus dans les cachots et autres centres de détention au Rwanda, préalablement à leur témoignage* ».

CONSIDERING that the Chamber is not convinced by the Defence's argument that the issues raised in its 13 October 2004 Motion should have any suspensive effect on the filing of a Rule 98*bis* motion;

CONSIDERING that the Defence could still file a Rule 98*bis* motion, without prejudice to the Defence Motion of 13 October 2004;

CONSIDERING that, in view of the above, there are no sufficient reasons for extension of time under Rule 98*bis*;

THEREFORE, THE TRIAL CHAMBER

DENIES the Motion.

Arusha, 21 October 2004

William H. Sekule
Presiding Judge

Arlette Ramaroson
Judge

Solomy Balungi Bossa
Judge

[Seal of the Tribunal]