



International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

ICTR-98-41-T  
20-01-2005  
(23554-23552)

23554

S. MUSA

TRIAL CHAMBER I

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

**Registrar:** Adama Dieng

**Date:** 20 January 2005

**THE PROSECUTOR**

v.

**Théoneste BAGOSORA**  
**Gratien KABILIGI**  
**Aloys NTABAKUZE**  
**Anatole NSENGIYUMVA**

*Case No. : ICTR-98-41-T*

JUDICIAL RECORDS/ARCHIVES  
2005 JAN 20 A 10: 24  
ICTR  
S. MUSA

**DECISION ON KABILIGI DEFENCE REQUEST FOR EXTENSION OF TIME**

**The Office of the Prosecutor**

Barbara Mulvaney  
Drew White  
Christine Graham  
Rashid Rashid

**Counsel for the Defence**

Raphaël Constant  
Paul Skolnik  
René Saint-Léger  
Peter Erlinder  
André Tremblay  
Kennedy Ogetto  
Gershom Otachi Bw'Omanwa

Ch

23553

**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 “Defence for Kabiligi’s Request for Extension of Time Limit for Filing a Response/Reply to Prosecution Motions/Response and to Allow Time to Co-Counsel to Take Cognizance of the File”, filed on 5 November 2004;<sup>1</sup>

**CONSIDERING** the Prosecution’s response, filed on 4 November 2004;

**HEREBY DECIDES** the motion.

1. During the status conference on 14 October 2004, the Chamber requested the Defence teams to file on 12 November 2004 a provisional list of all Defence witnesses and witness summaries for those to be called during the first trial segment, originally scheduled to begin on 12 January 2005. The deadline for filing the Pre-trial Brief was set for 12 December 2004.<sup>2</sup>

2. On 15 October 2004, the Prosecution filed a motion to admit into evidence the statements of several deceased witnesses. The Prosecution filed a subsequent motion to compel the Accused to testify prior to other Defence witnesses on 21 October 2004. In addition, on 29 October 2004, the Prosecution filed its Response to Kabiligi’s Defence Motion for Extremely Urgent Relief to Exclude Testimony on Facts Not Contained in the Indictment.

3. In a decision dated 26 October 2004, the Registrar withdrew the assignment under the Tribunal’s legal aid program of Mr. Jean Yaovi Degli as Lead Counsel for the Kabiligi Defence.<sup>3</sup> Co-Counsel, who has been assigned since June 2004, asserts that he cannot effectively answer pending motions or respect the various deadlines set by the Chamber in anticipation of the upcoming trial segment. In light of the Registry’s decision, the Kabiligi Defence requests a waiver of the time limit required to respond to all Prosecution submissions filed since 15 October 2004 and an extension of at least six months for filing the provisional witness list and Pre-trial Brief so that the Co-Counsel can complete his study of the file.

4. The Prosecution is not opposed to an extension of time for the Kabiligi Defence to respond to its pending motions. The Prosecution maintains that it should receive the provisional list of witnesses sixty days and the Pre-trial Brief thirty days before the commencement of the Defence case, noting that to date none of the other substantial changes in legal personnel among the parties has led to requests for postponement.

5. The Chamber recalls that it has rendered decisions on the two pending motions for which the Defence seeks an extension of time to respond, addressing the issues presented in this request.<sup>4</sup> In addition, the Rules of Procedure and Evidence do not provide for a right of reply

<sup>1</sup> The Kabiligi Defence sent an earlier version of its request dated 3 November 2004 via e-mail to the Registry, which was informally circulated on 4 November 2004, pending receipt of the original for filing. The Prosecution responded to this version. The Kabiligi Defence faxed a new and somewhat modified version of the request to the Registry on 5 November 2004 for filing.

<sup>2</sup> T. 14 October 2004 pp. 12, 13, 15.

<sup>3</sup> *Decision to Withdraw the Assignment of Mr. Jean Y. Degli as Counsel for Gratien Kabiligi* (Registrar), 26 October 2004. Though the decision is dated 26 October 2004, it was not filed until 27 October 2004.

<sup>4</sup> *Bagosora et al.*, Decision on Motion to Compel Accused to Testify Prior to Other Defence Witnesses (TC), 11 January 2005, para. 8; *Bagosora et al.*, Decision on Admission of Statements of Deceased Witnesses (TC), 19 January 2005, para. 2.

Bh

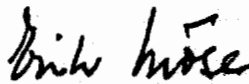
**23552**

to a response to a motion.<sup>5</sup> Moreover, on 21 December 2004, the Chamber postponed the commencement of the Defence case and extended all related filing deadlines based on the circumstances which followed the Registrar's decision.<sup>6</sup> Therefore, the Defence motion has become moot.

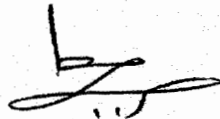
**FOR THE ABOVE REASONS, THE CHAMBER**

**DENIES** the Defence motion.


Arusha, 20 January 2005



Erik Møse  
Presiding Judge



Jai Ram Reddy  
Judge



Sergei Alekseevich Egorov  
Judge

[Seal of the Tribunal]



<sup>5</sup> See *Simba*, Decision on Defence Request for Protection of Witnesses (TC), 25 August 2004, para. 3. However, the Defence remains at liberty to file one to the Prosecutor's Response to Kabiligi's Defence Motion for Extremely Urgent Relief to Exclude Testimony on Facts Not Contained in the Indictment until a decision has been rendered.

<sup>6</sup> T. 21 December 2004 p. 27; *Bagosora et al.*, Decision on the Defence Motions for the Reinstatement of Jean Yaovi Degli as Lead Counsel for Gratien Kabiligi (TC), 19 January 2005, para. 6.