



ICTR-98-41-T
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

07-10-2005
(25610 - 25609)

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1444

TRIAL CHAMBER I

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

Registrar: Adama Dieng

Date: 7 October 2005

THE PROSECUTOR

v.

Théoneste BAGOSORA
Gratien KABILIGI
Aloys NTABAKUZE
Anatole NSENGIYUMVA

Case No. : ICTR-98-41-T

2005 OCT -7 PM 10:10

**DECISION ON NSENGIYUMVA MOTION FOR AN EXTENSION OF TIME
TO FILE A REQUEST FOR CERTIFICATION**

The Prosecution

Barbara Mulvaney
Drew White
Christine Graham
Rashid Rashid

The Defence

Raphaël Constant
Paul Skolnik
Frédéric Hivon
Peter Erlinder
André Tremblay
Kennedy Ogetto
Gershom Otachi Bw'Omanwa

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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA,

25609

SITTING as Trial Chamber I, composed of Judge Erik Møse, presiding, Judge Jai Ram Reddy, and Judge Sergei Alekseevich Egorov;

BEING SEIZED OF the Nsengiyumva Defence's "Extremely Urgent Motion Seeking an Extension of Time Within which to Seek Certification of the Trial Chamber's Decision on Disclosure of Materials Relating to Immigration Statements of Defence Witnesses", filed on 5 October 2005;

HEREBY DECIDES the motion.

1. The Nsengiyumva Defence seeks an extension of time to file its request for certification of the Chamber's Decision on Disclosure of Materials Relating to Immigration Statements of Defence Witnesses, filed on 27 September 2005. The Defence indicates that it only learned of the decision on 5 October 2005, one day after the expiration of the seven day deadline for filing a request for certification provided in Rule 73 (C).

2. The Defence explains that its delay in filing its request was not deliberate. The proceedings were not in session, and the decision was served only by email to the parties. Lead Counsel was not able to access his email account until he returned to Arusha on 5 October, and Co-Counsel was away on mission. The Defence indicates that a request can be filed promptly if an extension is granted.

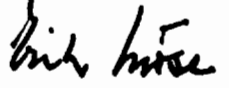
3. According to Rule 73 (C), the time for filing a request for certification commences from the day the impugned decision is filed. The Chamber has previously held in this case that "[t]he different wording in Rules 72 and 73 makes it doubtful whether the Chamber may grant a suspension of the time-limit in Rule 73 (C)."¹ In the Chamber's view, however, the fairness of the proceedings requires that the seven day period commence only after the challenging party has actual notice of the decision. The Chamber further observes that Rule 73 (C) envisions this in connection with oral decisions rendered when the challenging party is not present when the decision is rendered.

4. The Chamber accepts the Defence's submissions that it had no notice of the decision until it arrived in Arusha on 5 October 2005. The Defence indicated that the request for certification is ready and can be filed promptly. Accordingly, in the present situation, the Chamber finds it in the interests of justice to extend the filing period.

FOR THE ABOVE REASONS, THE CHAMBER

GRANTS the motion and extends the deadline until Tuesday 11 October 2005.

Arusha, 7 October 2005


Erik Møse
Presiding Judge


Jai Ram Reddy


Sergei Alekseevich Egorov
Judge



¹ *Bagosora*, Decision on Prosecutor's Request for a Suspension of the Time-Limit under Rule 73 (C) in Respect of the Trial Chamber's "Decision on Prosecutor's Motion for Leave to Vary the Witness List Pursuant to Rule 73 bis (E)" (TC), 16 June 2004, para. 5.