



**International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda**

ICTR-98-41-T
15-05-2006
(27332-27330)

27332
S. Musa

TRIAL CHAMBER I

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

Registrar: Adama Dieng

Date: 15 May 2006

JUDICIAL PROCEEDINGS ARCHIVES
ICTR
2006 MAY 15 P 12: 35 I
S. Musa

THE PROSECUTOR

v.

Théoneste BAGOSORA

Gratien KABILIGI

Aloys NTABAKUZE

Anatole NSENGIYUMVA

Case No. : ICTR-98-41-T

DECISION ON MOTION TO PRECLUDE A JOINT RESPONSE

The Prosecution

Barbara Mulvaney
Drew White
Christine Graham
Rashid Rashid

The Defence

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

John

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

27331

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

BEING SEIZED OF the Kabiligi Defence "Motion to Preclude the Prosecution from Filing a Joint Response to the Accused's Separate Motions for Exclusion of Evidence of Facts not Included in the Indictment", filed on 3 May 2006;

HEREBY DECIDES the motion.

1. The Kabiligi Defence requests that the Prosecution be precluded from filing a joint response to pending and expected Defence motions for exclusion of evidence falling outside the scope of the Indictments.¹ The motion presumes that the Prosecution has sought, or may in the future seek, to extend the deadline for filing responses to all of the Defence motions on the basis that an omnibus response will avoid duplication of effort.

2. The Rules of Procedure and Evidence ("the Rules") do not prescribe the form in which responses to motions may be filed. Any response to a motion is, however, required to be filed within five days of the filing of the original motion, pursuant to Rule 73 (E). The Prosecution is entitled to compose responses to motions in any form which it considers appropriate, but must do so within the time period prescribed by the Rules unless otherwise authorized.² If a party objects, for whatever reason, to an extension of time requested by another party then the appropriate means of doing so is to file a response to a motion for extension of time.

3. No such extension of time has yet been requested in respect of the Kabiligi motion. The Prosecution did file a request for the extension of time to respond to the motion filed by the Ntabakuze Defence, and did argue in that motion that an omnibus motion would serve judicial economy.³ But no specific request to extend the time to respond to the Kabiligi motion was ever made. Nevertheless, in the interests of clarity, the Chamber hereby sets 16 May 2006 as the deadline for the Prosecution to respond to the Kabiligi motion. The Chamber considers this sufficient to prepare a response, being more than forty days after the motion was filed.

¹ Such motions have already been filed by the defence teams for Kabiligi, Ntabakuze and Nsengiyumva: Kabiligi Defence Motion on the Prejudice Caused by the Testimony of Prosecution Witnesses on Facts not Included in the Amended Indictment, 5 April 2006; Ntabakuze Defence Motion for the Exclusion of Evidence of Allegations Falling Outside the Scope of the Indictment, 28 March 2006; Nsengiyumva Defence Motion for the Exclusion of Evidence of Allegations Falling Outside the Indictment Pursuant to Articles 17 and 18 of the Statute of the International Tribunal and Rules 47, 50, 53bis and 62 of the Rules of Procedure and Evidence, 9 May 2006. The Bagosora Defence has indicated its intention to file a similar motion. T. 7 April 2006 p. 20.

² The Chamber may, however, in its discretion, consider responses filed after the deadline.

³ Prosecution Urgent Request for Extension of Time to Respond (TC), 4 April 2006. The deadline to respond to that motion was extended until 8 May 2006, although the Chamber rejected the request to delay filing a response until after all the Defence teams had filed their motions: *Bagosora et al.*, Decision on Request for Extension of Time to Respond (TC), 2 May 2006.

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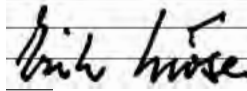
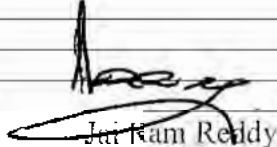
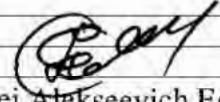
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FOR THE ABOVE REASONS, THE CHAMBER

DENIES the motion.

DECLARES that the Prosecution shall have until 16 May 2006 to file a response to the Kabiligi Defence Motion on the Prejudice Caused by the Testimony of Prosecution Witnesses on Facts not Included in the Amended Indictment, filed on 5 April 2006.

Arusha, 15 May 2006

		
Erik Møse Presiding Judge	Jai Ram Reddy Judge	Sergei Alekseevich Egorov Judge

[Seal of the Tribunal]

