



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

ICTR-02-78-1
11-06-2007
(902-900)

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S. Ntusa

TRIAL CHAMBER I

Before: Judge Erik Møse
Registrar: Adama Dieng
Date: 11 June 2007

JUDICIAL SECTION/ARRONDE
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THE PROSECUTOR
v.
Gaspard KANYARUKIGA
Case No. ICTR-2002-78-1

DECISION ON DEFENCE MOTION TO SET A DATE FOR TRIAL

The Prosecution
Jonathan Moses
Ignacio Tredici

The Defence
Ernest Midagu Bahati

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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

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SITTING as Judge Erik Møse, designated by Trial Chamber I in accordance with Rule 73 (A) of the Rules of Procedure and Evidence;

BEING SEIZED OF "La requête de Kanyarukiga Gaspard aux fins de la fixation du procès", filed on 16 May 2007;

CONSIDERING the Prosecution Response and the Defence Reply, filed on 21 May and 25 May 2007, respectively;

HEREBY DÉCIDES the motion.

INTRODUCTION

1. On 22 July 2004, the Accused made his initial appearance and pleaded not guilty to all four counts in the Indictment.¹ The Defence requests the setting of a date for the commencement of the trial. It expresses a concern that if such date is not set, the Accused may be prejudiced by a transfer of the case to Rwanda. The Prosecution submits that there is no urgent need to set a trial date. The length of the Accused's detention thus far does not constitute undue delay. A decision whether to transfer a case to Rwanda under Rule 11 *bis* of the Rules of Procedure and Evidence is the Chamber's prerogative.

DELIBERATIONS

2. Under Rule 62 (A) of the Rules an accused shall, upon his transfer to the Tribunal, be brought before a Trial Chamber or a Judge thereof without delay. In case of a plea of not guilty, the Registry shall be instructed to set a date for trial. At the initial appearance of the Accused, the Presiding Judge affirmed that "I am about to direct the Registrar to take initial steps to move towards fixing a date for trial".² Such indication satisfies the provisions of Rule 62 (A) and conforms to the Tribunal's jurisprudence.³

3. The present case has been assigned to Trial Chamber I for pre-trial purposes. The Chamber is mindful of the right of the Accused to be tried without undue delay. The date for commencement of any particular trial depends on a variety of factors, some of which cannot be determined in the absence of consultation with both parties. The Chamber is in

¹ T. 22 July 2004, p. 6.

² *Id.*, p. 8.

³ *Rukundo*, Decision on the Motion of the Defence for Setting of a Date for the Commencement of Trial or Alternatively, the Transfer of the Case to a National Jurisdiction (TC), 1 June 2005, para. 14 ("As regards the question of determination of a date for the commencement of the trial, the Chamber reiterates that it is a matter for the general administration of the Tribunal and its judicial calendar. The Tribunal evaluates priorities taking into account notably the gravity of the crimes charged, the rights of all accused to have a fair trial within a reasonable time and the availability of Tribunal facilities in setting the judicial calendar"; unofficial translation); *Nsengimana*, Decision on Nsengimana's Motion for the Setting of a Date for a Pre-Trial Conference, a Date for the Commencement of Trial, and for Provisional Release, 11 July 2005 (TC), paras. 14-15; *Nchamihigo*, Decision on Defence Motion to set a date for Trial, 21 April 2006, para 2.

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the process of ascertaining the parties' availability for a status conference. Setting a date for the commencement of trial prior to this consultation would be premature.

FOR THE ABOVE REASONS, THE CHAMBER

DECLARES the request premature.

Arusha, 11 June 2007



Erik Møse
Presiding Judge

[Seal of the Tribunal]

