



UNITED NATIONS
NATIONS UNIES

ICTR-00-55-P;
29-06-2010
(1543-1541)
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

1543
1094

OR: ENG

TRIAL CHAMBER III

Before Judges: Dennis C. M. Byron, Presiding
Gberdao Gustave Kam
Vagn Joensen

Registrar: Adama Dieng

Date: 29 June 2010

JUDICIAL RECORDS/ARCHIVES
2010 JUN 29 P-5-23

THE PROSECUTION

v.

ILDEPHONSE NIZEYIMANA

Case No. ICTR-00-55C-PT

**DECISION ON ILDEPHONSE NIZEYIMANA'S SECOND MOTION
TO SUSPEND TRIAL PROCEEDINGS**

Rule 73 of the Rules of Procedure and Evidence

Office of the Prosecution:
Richard Karegyesa

Defence Counsel:
John Philpot
Cainnech Lussiaà-Berdou

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INTRODUCTION

1. On 28 May 2010, Professor Peter Erlinder who is assigned as Lead Defence counsel for an accused before this Tribunal was arrested and detained by the Rwandan authorities while on business in Rwanda which did not relate to the Tribunal. On 17 June 2010, Erlinder was released on medical bail.
2. On 9 June 2010, the Chamber responded to a request from Ildephonse Nizeyimana for the protection of the Trial Chamber and denied a request for a suspension of the trial proceedings against him until the release of Peter Erlinder and the withdrawal of all charges against Erlinder by the Rwandan authorities ("First Decision").¹ On 22 June 2010, Nizeyimana filed a second motion to suspend trial proceedings ("Motion").² The Prosecution opposes the Motion.³

DELIBERATIONS

3. Ildephonse Nizeyimana contends that new statements from Rwandan authorities regarding the case of Peter Erlinder prevent his Defence counsel from performing their role as they could be arrested if they travel to Rwanda and they could be forced to be silenced about an alternative explanation for the causes of the Rwandan genocide.⁴
4. The Chamber recalls that in the First Decision it stated that before Defence teams travel to Rwanda on official Tribunal missions, the Registry notifies the Rwandan Government in order for the Defence team to enjoy functional immunity and the facilities set out in the 1999 Memorandum of Understanding between the United Nations and the Republic of Rwanda to Regulate Matters of Mutual Concern Relating to the Office in Rwanda of the ICTR ("Memorandum").⁵ The Chamber further recalls that Peter Erlinder's visit to Rwanda was not related to his assignment as Defence counsel for an accused before the Tribunal – he was not on official Tribunal mission.⁶

¹ Second Motion to Suspend Proceedings, filed on 22 June 2010 ("Motion").

² *Prosecutor v. Ildephonse Nizeyimana*, Case No. ICTR-00-55C-PT ("Nizeyimana"), Decision on Ildephonse Nizeyimana's Motion to Suspend Trial Proceedings, 9 June 2010 ("Nizeyimana First Decision").

³ Prosecution Response to Defence Second Motion to Suspend Trial Proceedings, filed on 28 June 2010.

⁴ Motion, paras. 13-32.

⁵ *Nizeyimana* First Decision, para. 4.

⁶ *Ibid.*, para. 5.

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5. As discussed in the First Decision, once the letter is sent to the Rwandan authorities, Defence teams on official mission have not encountered problems from the Rwandan authorities and the Chamber believes the current mechanism is working well.

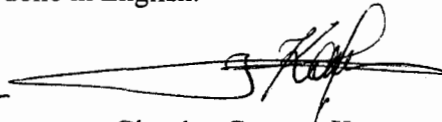
6. The Chamber recalls that the First Decision dealt with most of the arguments that are now repeated in this Motion. The Chamber considers that Ildephonse Nizeyimana did not adduce evidence to make the Chamber reconsider its First Decision. Therefore, the Chamber finds this second Motion for suspension without merit.

FOR THE ABOVE REASONS, THE CHAMBER

DENIES Ildephonse Nizeyimana's Motion in its entirety.

Arusha, 29 June 2010, done in English.


Dennis C. M. Byron
Presiding Judge


Gberdao Gustave Kam
Judge


Vagn Joensen
Judge

[Seal of the Tribunal]

