



ICTR-98-41-T  
International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda  
04-05-2005  
(24741-24740)

24741  
Ivan

TRIAL CHAMBER I

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

**Registrar:** Adama Dieng

**Date:** 4 May 2005

THE PROSECUTOR

v.

Théoneste BAGOSORA  
Gratien KABILIGI  
Aloys NTABAKUZE  
Anatole NSENGIYUMVA

Case No. : ICTR-98-41-T

JUDICIAL RECORDS/ARCHIVES  
ICTR  
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2005 MAY -4 A 10:42

DECISION ON KABILIGI REQUEST FOR CERTIFICATION

**The Prosecution**

Barbara Mulvaney  
Drew White  
Christine Graham  
Rashid Rashid

**The Defence**

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

Ch

**THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA,**

**24740**

**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 Application for Certification for Appeal, filed on 25 April 2005 and as amended on 26 April 2005;

**CONSIDERING** the Prosecution Response, filed on 2 May 2005;

**HEREBY DECIDES** the request.

**INTRODUCTION**

1. The Kabiligi Defence requests certification to appeal the Chamber's decision denying a request for a four-month interval between the presentation of witnesses by the other three Accused, and the beginning of the Kabiligi Defence.

**DELIBERATIONS**

2. Certification may be granted under Rule 73 (B) of the Rules of Procedure and Evidence where a decision "involves an issue that would significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial, and for which, in the opinion of the Trial Chamber, an immediate resolution by the Appeals Chamber may materially advance the proceedings".


3. Trial scheduling is susceptible to reversal only upon a showing of abuse of discretion.<sup>1</sup> Having carefully considered the state of the Kabiligi Defence, the current posture of the trial, and the nature of the relief requested, the Chamber decided that it could not now decide how long the interval should be. The Chamber declared the motion to be premature.

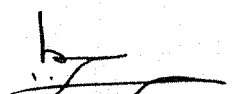
4. This finding does not affect or pre-judge the actual preparation time that will be granted. At worst, it places Defence counsel in a state of uncertainty until the schedule of the case becomes clearer. That uncertainty does not constitute an issue that significantly affects the fair and expeditious conduct of the proceedings, or the outcome of the trial.


**FOR THE ABOVE REASONS, THE CHAMBER**

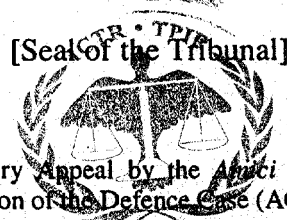
**DENIES** the request.

Arusha, 4 May 2005

  
Erik Møse  
Presiding Judge

  
Jai Ram Reddy  
Judge

  
Sergei Alekseevich Egorov  
Judge



<sup>1</sup> *Milosevic*, Decision on the Interlocutory Appeal by the *Apuci Curiae* Against the Trial Chamber Order Concerning the Presentation and Preparation of the Defence Case (AC), 20 January 2004, paras. 16, 18.