



MINUTES OF PROCEEDINGS PROCES-VERBAL D'AUDIENCE

Rule 35 of the Rules of Procedure and Evidence / Art. 44 of the Directive for the Registry on Court Management
Art. 35 Règlement de Procédure et de Preuve / Art. 44 Directive au Greffe sur l'Administration des Chambres

Case Name: 'MILITARY'
Case No: ICTR-98-41-I
Chamber: Three

Before / Devant: **Judge Lloyd G. Williams, (Presiding)**, Judge Yakov Ostrovsky, Judge Pavel Dolenc.
Specificity / Spécificités: Joinder.
Prosecution / Poursuite: Chile Eboe-Osuji, Amanda Reichman, Drew White.
Accused / Accusé(s): T. Bagosora, G. Kabiligi, A. Ntabakuze, A. Nsengiyumva.
Defence / La Défense: R. Constant, J.Y. Degli, C. Monterosso, A. Tremblay, G.O. Bwómanwa, A. Osure.
Registry / Greffe: Constant K. Hometowu, Tobias Ruge (Ass).

Date: Thursday 15th November 2001

HEARING OF MOTIONS

1 Remarks / Remarques

- a Defence Counsel (Mr. Degli) informed the Chamber that the Parties met during break and agreed that between now and tomorrow morning, all Counsel should make a comprehensive list of disclosures that are to be made and meet the OTP by 9:30 a.m. tomorrow to finalise discussions thereon. He added that the final agreement to be arrived at during the said meeting would be communicated to the Chamber thereafter. He further informed the Chamber that the Parties would like to know when the Chamber proposes to hold a Pre-Trial Conference as well as give its ruling in the Prosecutor's Motion for Harmonisation and Modification of Protective Measures for Witnesses as well as the Defence Motion for Cooperation between the Tribunal and the United States and Senegal.
- b The Chamber responded that it has not yet rendered a decision on the Motion for Harmonisation due to pressure of work. However, the decision will be rendered soon. With regards to the Pre-Trial conference, the Chamber said it would render a decision thereon after consultation with all Parties to ensure that the date chosen will be suitable to all. The Chamber hinted however that a date in the early part of December 2001 is likely to be chosen.
- c Defence Counsel (Mr. Constant) made oral submissions, on behalf of the Defence Team, concerning the Defence's Extremely Urgent Motion For All Inferences To Be Drawn From The Joinder Decision Rendered on 29th June 2000. He argued that since the accused persons are jointly charged, all Parties should be given the opportunity to be heard even if a matter arises concerning only one accused. He relied on Rule 82 of the Rules which provides that in joint trials, each accused person shall be accorded the same rights as if he were being tried separately.
- d Prosecution Counsel (Mr. Eboe-Osuji), relying solely on oral submissions, said that the Prosecutor has had the opportunity of reading the Defence Motion, which he described as presenting "powerful" arguments. He noted however that with the exception of the Kabiligi and Ntabakuze matters, all the other accused persons have different Indictments. He submitted that Rule 48 of the Rules, which is applicable in this situation, is pregnant with meaning and has to be applied with extreme caution. It is necessary to isolate the limitations so as to avoid problems in future if the Defence application should be granted, he added. He cited case law in support of his argument that there should be some degree of flexibility in the application of the law to avoid a situation where the Chamber will tie its hands unnecessarily with a declaratory statement.
- e The Chamber reserved its decision on the matter.
- f The Chamber proposed that if it is convenient for the Parties, the Motion for the Deposition of witness OW can be started tomorrow and completed on Monday afternoon in view of Defence Counsel Mr. Bwómanwa's hint that his submissions on the motion will be lengthy. In the alternative, the Chamber proposed that the submissions can be heard during the period of the Pre-Trial Conference or solely on briefs.
- g Defence Counsel (Mr. Degli) said some Defence Counsel are leaving on Sunday and will not be available on Monday. He also said that the month of December is quite inappropriate for the Pre-Trial Conference due to some other engagements and proposed the 15th of January 2002.
- h The Chamber said January 2002 will not be suitable for the Chamber. It will therefore be advisable to find some time in December 2001, noting that the Chamber has other on-going trials.
- i The Parties unanimously agreed to postpone the meeting with the Prosecutor to tomorrow afternoon so that the Prosecutor's Motion for Deposition of witness OW can be heard tomorrow morning.
- j Proceedings adjourned to tomorrow Friday the 16th of November 2001 at 9:00 a.m.

2 Decisions & Orders rendered orally / *Décisions & Ordonnances rendues oralement*

- None

3 Witnesses heard / *Témoins auditionnés*

- None

4 Exhibits tendered / *Pièces à conviction présentées*

- None

Opening <i>Ouverture</i>	Ajournement <i>Suspension</i>	
3:09 a. m..	4:30 a. m.	
.....a. m.p. m.	
.....p. m.p. m.	
Total time in Court		1hr. 21 mins

signature

SIGNED

for Judge Lloyd Williams
Presiding Judge

Mandiaye Niang,
Coordinator, Chambers.
Date: 15th November 2001

signature

SIGNED

Constant K. Hometowu
Courtroom Officer

Date: 15th November 2001