



INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

CASE NO: ICTR-97-27-DP

THE PROSECUTOR OF THE TRIBUNAL

AGAINST

HASSAN NGEZE

ICTR
RECEIVED

15 SEP 1997

ACTION:

COPY :

**REQUEST FOR AN ORDER FOR A FURTHER EXTENSION
OF A PROVISIONAL DETENTION ORDER UNDER ARTICLE 40 bis (G) OF THE
RULES OF PROCEDURE AND EVIDENCE OF THE INTERNATIONAL
CRIMINAL TRIBUNAL FOR RWANDA**

TO ONE OF THE HONORABLE JUDGES SITTING PURSUANT TO RULE 28 OF THE
RULES OF PROCEDURE AND EVIDENCE OF THE INTERNATIONAL CRIMINAL
TRIBUNAL FOR RWANDA:

The undersigned, Louise Arbour, Prosecutor, pursuant to her authority under Rules 28 and 40 bis of the Rules of Procedure and Evidence, adopted according to Article 14 of the Statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan citizens responsible for Genocide and other such violations committed in the territory of neighboring States in 1994 (hereinafter, "the Statute" and "the Tribunal"), requests the issuance of an order for the further extension of an order for the provisional detention of **Hassan Ngeze**, on the following grounds, which constitute special circumstances, within the meaning of Rule 40 bis;

1. **Hassan Ngeze** is currently detained in Arusha, Tanzania, following an order for the provisional detention issued on July 16, 1997 and extended on August 18, 1997 by the President of the International Criminal Tribunal for Rwanda, the Honorable Mr. Justice Laïty Kama.

2. The Office of the Prosecutor is still pursuing investigations respecting **Hassan NGEZE** for crimes committed on Rwandan territory and within the Tribunal's jurisdiction, namely:

A. GENOCIDE, a violation of Article 2 of the Tribunal Statute.

3. The Prosecutor is not ready to file an indictment against **Hassan Ngeze** for the following reasons, which constitute special circumstances, within the meaning of Rule 40 bis;

- a) the complexity of the investigations against the suspect, who was the Editor-in-chief of a publication known as "KANGURA", a written media chiefly responsible for the dissemination of hateful propaganda and public and direct incitement to commit GENOCIDE.
- b) the necessity to analyze and assess all the documentation seized at the time of the suspects arrest, in order to evaluate precisely the evidence supporting the charges that will be laid against him,
- c) the necessity to track down and analyze all available issues of "KANGURA", the majority of which were published in Kinyarwanda
- d) in order to present as concise and precise indictment as possible, it is necessary to analyze the role of the suspect in the events of 1994 in Rwanda and his implication in the organization, preparation and the execution of the crimes committed, as well as his complicity with other suspects and accused,
- e) the difficulties and hazards inherent in investigating in Rwanda due to the fluctuating security situation, especially in Gisenyi Prefecture which is in Phase IV of the United Nations Security Procedures,
- f) the need to assess the necessity of amending existing indictments in order to join the suspect with others accused,
- g) the number of suspects detained in Arusha, who are subject to investigation, and in respect of certain of whom draft indictments have been submitted to the Prosecutor for final approval, among them this suspect.

4. The Prosecutor is I fact at this time reviewing an indictment concerning this suspect, submitted by the Office of the Prosecutor in Kigali. Following approval it will then be submitted forthwith for confirmation.

52
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5. The Prosecutor still considers the provisional detention of **Hassan Ngeze** to be a necessary measure in order to prevent the escape of the suspect, injury to or intimidation of victims or witness, or the destruction of evidence, and to be otherwise a necessary measure to conduct of the investigation.

ACCORDINGLY, MAY IT PLEASE THE HONORABLE JUDGE:

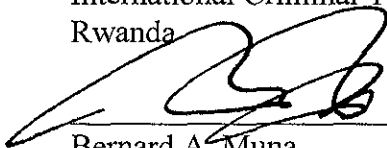
GRANT ALL ASPECTS OF THE PRESENT REQUEST AND THEREBY:

- a) Decide that the special circumstances of the present investigation warrant the further extension of the detention of **Hassan Ngeze** at the detention unit of the Tribunal;
- b) Order the extension of the provisional detention of **Hassan Ngeze** for a further period not exceeding 30 days, the total period of detention not to exceed 90 days.

Date: September 10, 1997

For Louise Arbour
Prosecutor
International Criminal Tribunal of
Rwanda

At: Kigali, Rwanda



Bernard A. Muna
Deputy Prosecutor
International Criminal Tribunal of
Rwanda

UNITED NATIONS



NATIONS UNIES

57
22

INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA
TRIBUNAL PÉNAL INTERNATIONAL POUR LE RWANDA

Office of the Prosecutor
Bureau du Procureur

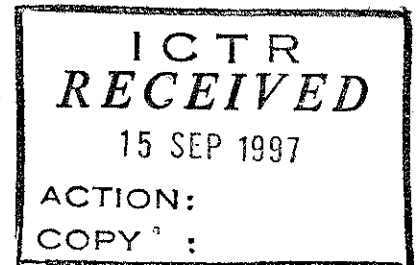
AMAHORO Building, P.O. Box 749, Kigali, Rwanda Tel. +(250) 84266 Tel. +(1-212) 963-9906, Fax +(1-212) 963 4001

CASE NO.: ICTR-97-27-DP

THE PROSECUTOR OF THE TRIBUNAL

AGAINST

Hassan Ngeze



AFFIDAVIT OF OYVIND OLSEN IN SUPPORT OR AN APPLICATION BY THE PROSECUTOR UNDER RULE 40 BIS (G) OF THE RULES OF PROCEDURE AND EVIDENCE OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA TO EXTEND DETENTION FOR A FURTHER PERIOD OF 30 DAYS

I, Oyvind H. Olsen, of the city of Kigali, in the Prefecture of Kigali, in the Country of Rwanda, being aware of the penalties for false testimony under solemn declaration under Rule 91 of the Rules of Procedure and Evidence, do declare that the foregoing facts are true and accurate to the best of my knowledge:

1. I am the Commander of Investigations at the Office of the Prosecutor for the International Criminal Tribunal for Rwanda (ICTR) with my duty station in Kigali, Rwanda, and I have held this position since September 1996. I have been involved as one of the officers directing an operation known as "NAKI" (for Nairobi-Kigali) that has led to the arrest by Kenyan authorities and the transfer to and the provisional detention in Arusha, pursuant to orders from this Tribunal, of a number of suspects. For these reasons I have knowledge of the facts described below, all of which I believe are true.
2. On 18 July 1997, Hassan Ngeze (hereinafter referred to as "this suspect") was arrested in Nairobi, Kenya by members of the Kenyan Criminal Investigation Department of the Kenyan Police. The arrest was made pursuant to a Request made under Rule 40 of the Rules of Procedure and Evidence of the Tribunal by the Deputy Prosecutor, Bernard A. Muna, to the Honorable Attorney General of the Republic of Kenya for the Provisional arrest of suspects, including this suspect.
3. On the same date as mentioned in paragraph 2 above, this suspect, following his provisional arrest, was transferred to and detained in Arusha, Tanzania, in compliance with an Order dated 16 July 1997 made by the President of this Tribunal, the Honorable Mr. Justice Laity Kama, under Rule 40bis for Transfer and Provisional detention. This suspect has since been held in detention pursuant to the Order. Attached to this Affidavit as Exhibit "A" is a true copy of the Order relating to this suspect.
4. On 19 August 1997, the President of the Tribunal, the Honorable Mr. Justice Laity Kama, following a hearing held on 18 August 1997, in accordance with Rule 40 bis (F), made an order to extend the detention of this suspect for a period of 30 days, counting from 18 August 1997, at the end of the initial period of detention. The extension of detention was held to be warranted by the needs of the investigation.
5. The detention of this suspect for a further period of 30 days is warranted pursuant to Rule 40bis (G). I believe, by special circumstances, for all the reasons that follow: I am informed by Bernard A. Muna, the Deputy Prosecutor that the Prosecutor cannot present an indictment against this suspect for confirmation within 60 days of initial detention and transfer and must seek an extension of the detention pursuant to Rule 40(bis) (G) due to the facts described below.
6. Since July 16th 1997, 9 suspects and accused have been arrested and transferred to detention in Arusha, pursuant to the Request for Provisional arrest described above and Orders similar to the one for this suspect providing for transfer and provisional detention, or pursuant to warrants of arrest issued by this Tribunal. The offenses under investigation for this suspect and the others, namely Genocide, Complicity in committing Genocide, Crimes against Humanity, Violation of Article 3 Common to the Geneva Conventions and Additional Protocol II, are by their nature complex and broad in scope having been perpetrated over a period of months, particularly from April until July 1994, over practically the whole territory of Rwanda. Prosecutions for genocide and related offenses undertaken pursuant to the International Criminal Tribunal for Rwanda Statute are among the first prosecutions for such offenses ever undertaken. The investigative work that still remains to be done in relation to this suspect and the others must be thorough and wide reaching in order for the indictment or indictments to be properly drafted and appropriately supported.

7. At the time this suspect and others were arrested thousands of documents were seized weighing in total approximately 200 kilograms. Special investigative teams which includes legal officers, have been formed at the Office of the Prosecutor in Kigali in order to sift through and examine these documents for relevant evidence. This continues to be painstaking and time-consuming work. This examination of documents relates to all the suspects or accused, including this suspect. Many of the document seized are in Kinyarwanda which makes it necessary to have them translated or interpreted for the investigators and further slows the investigative work.

8. Other investigative work is being done in relation to this suspect and the others. The office of the Prosecutor continues to seek, not only to obtain testimony of survivors or witnesses to the crimes alleged against this suspect but as well to develop other, more sensitive, sources of information against this suspect.

9. The elaboration of an indictment in this matter has been hampered by legal and logistical problems. The complexity of the legal issues relating to the prosecution of direct and public incitement to commit GENOCIDE thru media such as "KANGURA" has required thorough examination and given rise to extensive discussion and analysis.

10. As well the amount of and nature of the relevant material such as what was seized with the arrest of this suspect as well as others, and the necessary analysis of it has seriously taxed the already tenuous resources of the Office of the Prosecutor. It is to be noted that in an investigation relating to direct and public incitement to commit GENOCIDE, accurate translations of all material has to be made to correctly evaluate the evidence against a suspect. In this case the great majority of the available issues of "KANGURA" are in the original Kinyarwanda

11. An important factor that makes the necessary investigative work slower and more difficult is the continuing dangerous security situation in some regions of Rwanda particularly in Gisenyi Prefecture which is in Phase IV of the United Nations Security Procedures. As the Commander of Investigations, I am familiar with the security situation in Rwanda as it affects the safety of our investigators and our ability to operate securely in the field. It should be noted that investigators of the Office of the Prosecutor must strictly adhere to the United Nations security procedures for the movement of United Nations personnel in Rwanda, and this restricts our freedom of movement in certain part of the country. This situation restrict the possibilities to reach and interview our witnesses.

12. The legal staff of the Office of the Prosecutor has still to examine the allegations, the supporting evidence, and the further evidence uncovered through the continuing investigations relating to this suspect and the others, in order to determine how the indictment to be presented for confirmation should be drafted. In particular the legal staff must determine whether to advise the Prosecutor to present indictments for confirmation that join this suspect with others with a view to holding a joint trial. This examination necessarily include existing indictments and accused already before the Tribunal with a view to determining whether this suspect or others should be joined with such accused. This work is time consuming.

13. In my opinion, there continues to be a reliable and consistent body of material, which tends to show that this suspect may have committed crimes over which this Tribunal has jurisdiction and that supports the conclusion that this suspect's continued detention is a necessary measure to prevent his escape, or injury to or intimidation of a victim or witness, or the destruction of evidence, or is otherwise necessary for the conduct of investigation. Attached to this my Affidavit as Exhibit "B" is a true copy of the document containing the grounds upon which the original Request was made by the Prosecutor to the President of this Tribunal for an Order for the transfer and provisional detention of this suspect. These grounds still exist and are part of the grounds of my affidavit.

14. In particular I believe it is relevant to indicate to the Tribunal that this suspect had in his possession at the time of his arrest dozens of forged passports of different countries, false travel documents, blank passports as well as correspondence indicating that he was involved in a passport forgery enterprise. I believe that those facts alone give reasonable grounds to believe that this suspect is a flight risk.

15. On the basis of my experience as a Commander of Investigations at the Office of the Prosecutor, as well as my previous experience as a police officer, I have served as a Police Officer with the Norwegian Police, Oslo, Police Department since 1966, as a Detective since 1982 and as a Detective Super Intendant since December 1993. I have carried out investigations almost all over the world. During my career with the Oslo Police Department I was assigned to Pakistan and England from 1985 to 1989 as a Police Liaison officer for all the Nordic Countries. From November 1993 to March 1995 I was Field Security Adviser for UNHCR in former Yugoslavia. I also had extensive experience in analysing information with respect to security, including witness security. I believe that the investigations relating to this suspect and the others given their scope and complexity will take months to complete. The investigators are working with all due speed with the resources at their disposal.

16. However in spite of these difficulties the investigation of this matter has progressed considerably since the arrest and initial prolongation to the extent that a final version of an indictment against this suspect is presently under review by the Prosecutor. Given the complexity of this matter the review being conducted with the utmost thoroughness but the Prosecutor is confident that an indictment could be submitted for confirmation within the next prolongation should it be granted.

17. For all the reasons explained above detention of this suspect for a period of 30 days from the end of the current period of detention in accordance with Rule 40bis is necessary.

18. I make this affidavit in support of the application by the Prosecutor to extend the period of detention of this suspect for a further 30 days pursuant to Rule 40bis (G) and to assist the Honorable Judge of this Tribunal hearing this Application.



I, Oyvind H. Olsen, so declare
On 10 September 1997
At Kigali, Rwanda