

ICTR-00-60-I
02-02-2006
(1377 - 1372)

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INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

TRIAL CHAMBER II

Case No. ICTR-00-60-S

ENGLISH
Original: FRENCH

Before: Judge Arlette Ramaroson, presiding
Judge William H. Sekule
Judge Solomy B. Bossa

Registrar: Adama Dieng

Date: 20 January 2006

THE PROSECUTOR

v.

PAUL BISENGIMANA

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**DEFENCE MOTION FOR ADMISSION OF THE WRITTEN DECLARATION MADE
BY THE COMMANDER OF THE UNITED NATIONS DETENTION FACILITY IN
LIEU OF ORAL STATEMENT**

(Rule 92 *bis*(A) and (B))

Office of the Prosecutor:
Charles Adeogun-Phillips
Adesola Adeboyejo
Peter Tafah
Memory Maposa
Florida Kabasinga

Counsel for the Defence:
Catherine Mabille, Lead Counsel

DII06-0024 (E)

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DRAFT

The Prosecutor v. Paul Bisengimana, Case No. ICTR-00-60-S

1. Within the framework of the Sentencing hearing of 19 January 2006, the Chamber rendered a Decision directing the Defence to comply with the provisions of Rule 92 *bis* of the Rules of Procedure and Evidence with regard to the good conduct declaration made by the Commander of the United Nations Detention Facility.
2. Rule 92 *bis* of the RPE provides that the Trial Chamber may admit, in whole or in part, the evidence of a witness in the form of a written statement, in lieu of oral testimony which goes to proof of a matter other than the acts and conduct of the Accused as charged in the Indictment.
3. Moreover, Rule 92 *bis* (i) recalls the factors in favour of admitting evidence in the form of a written statement include circumstances in which the evidence (e) relates to issues of the character of the Accused and (f) relates to factors to be taken into account in determining sentence.
4. Furthermore, this declaration is in accordance with the provisions of Rule 92 *bis*(B).
5. Consequently, the Defence prays the Chamber to admit this declaration because it is proper; its probative value is real and it is submitted in support of the mitigating circumstances, particularly, as proof of the good conduct of the Accused while in custody.
6. Accordingly, the Defence submits that this is to apprise the Chamber in order to determine a just and fair sentence.

FOR THE FOREGOING REASONS,

Considering Rule 92 *bis*(A) and (B);

PRAYS the Trial Chamber to grant the Defence Motion and admit the written declaration of the Commander of the United Nations Detention Facility as an Exhibit in support of the mitigating circumstances.

Arusha, on 20 January 2006

[Signed]

Catherine Mabilile
Lead Counsel

**DECLARATION OF THE PRESIDING OFFICER PURSUANT TO
RULE 92 *BIS* (B)**

I, the undersigned, M. Diop, Presiding Officer appointed by the Registrar of the International Criminal Tribunal for Rwanda on 23 January 2006, pursuant to Rule 92 *bis* of the Rules of Procedure and Evidence, in the presence of a certified Interpreter, submits a written statement:

That on 26 January 2006 in Arusha;

The Deponent hereinafter: Saidou Guindo

Last name and First name (s) of the Witness: Saidou Guindo

Date and Place of Birth: 27 January 1954

Identity Card or Passport No: LP 108683

Permanent Address: Arusha

- That in the attached statement (s) dated 22 December 2005
And, if necessary, the Annex, - signed by the Undersigned --, the Deponent, -- is indeed, the person who wrote the said declaration;
- That the above-mentioned witness received a copy of the said Declaration in the language which he understands;
- That the Deponent was informed in a language which he understands, by the Presiding Officer that proceedings could be brought against him for false testimony if the contents of the declaration are not true and correct, inasmuch as he knows and remembers;
- That the Deponent has received a copy of Rule 91 of the Rules of Procedure and Evidence, in the language which he understands;
- That the Deponent states that the contents of his Declaration are true and correct, inasmuch as he knows and remembers;
- That no pressure was brought to bear on the Deponent and that he signed the attached Declaration voluntarily on 22 December 2005;
- The following Declaration was prepared in the presence of the following people:

The Prosecutor v. Paul Bisengimana, Case No. ICTR-00-60-S

Additional Remarks

Done at Arusha, on 26 January 2006

[Signed]

Matar Diop
Presiding Officer

WITNESS STATEMENT

(Rule 92 bis(B) of the RPE)

Last name and First Name of Witness: Saidou Guindo
Date and Place of Birth: 27 January 1954 at Diankabou/Mali
Duties: UNDF Commander
Identification document: LP 108686
Residence : Arusha – Tanzania
Presiding Officer: Matar Diop

I, the undersigned, Saidou Guindo, declare that the contents of the written statement which I provided on 22 December 2005 is true to the best of my knowledge.

Done at Arusha, on 26 January 2006-01-31

[Signed]

TO WHOM IT MAY CONCERN

We, the undersigned, Saidou Guindo, Commander of the Detention Facility of the International Criminal Tribunal for Rwanda (ICTR) in Arusha, United Republic of Tanzania, certify by the present that Mr. Paul Bisengimana, born on 1st January 1948, of Rwandan nationality, was arrested on 4 December 2001 in Bamako, Republic of Mali, on the orders of the ICTR and that after the said arrest, Mr. Bisengimana was transferred and detained at the ICTR Detention Facility on 11 March 2002.

Moreover, we certify on our honour that since his detention at the ICTR Detention Facility, pending his trial up to the time the present written statement was prepared, Mr. Bisengimana has not been subjected to any disciplinary punishment, and moreover, has constantly shown proof of good conduct.

In witness whereof, the present statement of good conduct is delivered to serve wherever necessary.

Done at Arusha, on 22 December 2005

[Signed]

[Seal of UNDF]

Saidou Guindo

Commander of the United Nations Detention Facility

International Criminal Tribunal for Rwanda
