



UNITED NATIONS
NATIONS UNIES

**International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda**

OR: ENG

TRIAL CHAMBER II

Before: Judge William H. Sekule, Presiding
Judge Arlette Ramaroson
Judge Solomy Balungi Bossa

Registrar: Mr Adama Dieng

Date: 14 March 2007

The PROSECUTOR

Versus

Hormisdas NSENGIMANA

Case No. ICTR-2001-69-I

**DECISION ON HORMISDAS NSENGIMANA'S MOTION FOR EXTENSION OF
TIME TO FILE A FURTHER RESPONSE TO THE PROSECUTION
MOTION FOR LEAVE TO FILE AN AMENDED INDICTMENT**

Office of the Prosecutor

Mr William Egbe
Mr Sulaiman Khan
Ms Veronic Wright
Mr Patrick Gabake
Ms Amina Ibrahim

Defence Counsel

Mr Altit
Mr Remi

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (the “Tribunal”),

SITTING as Trial Chamber II composed of Judge William H. Sekule, Presiding, Judge Arlette Ramaroson and Judge Solomy Balungi Bossa (the “Chamber”);

SEISED of the Defence’s “*Requête en extension de délai permettant le dépôt du mémoire additionnel en Réplique à la “Requête du Procureur demandant à pouvoir déposer un acte d’accusation modifié,”*” filed on 5 March 2006 (the “Motion for Extension of Time”);

CONSIDERING the Prosecutor’s Response to the Defence Motion “*Requête en extension de délai permettant le dépôt du mémoire additionnel en Réplique à la “Requête du Procureur demandant à pouvoir déposer un acte d’accusation modifié,”*” filed on 6 March 2007 (the «Prosecution Response»);¹

RECALLING the Chamber’s Scheduling Order of 21 November 2006;

CONSIDERING the Statute of the Tribunal (the “Statute”) and the Rules of Procedure and Evidence (the “Rules”);

NOW DECIDES the Motion on the basis of the written submissions of the Parties pursuant to Rule 73(A).

INTRODUCTION

1. Following the Prosecution Motion for Amendment of Indictment filed on 2 October 2006, the Defence filed a Response on 25 October 2006 in which it requested, *inter alia*, that the Prosecution file material in support of its Motion for Amendment of Indictment (the “supporting material.”) The Chamber issued a Scheduling Order on 21 November 2006 directing; the Prosecution to file supporting material within a week of the Order, the Defence to file a Further Response to the Motion for Amendment of Indictment within five days of receipt of the French version of the said supporting material and the Prosecution to file a Reply, if any, to the Defence Further Response within five days of the Defence Further Response.

2. The Prosecution filed the supporting material on 28 November 2006, which material was translated into French and served upon the Defence on 22 February 2007. The Defence filed the current Motion requesting an extension of time within which to file a Further Response.

SUBMISSIONS OF THE PARTIES

The Defence

1. The Defence contends that it received the French version of the supporting material on 22 February 2007, and had hoped to make submissions regarding the progress of its case during the Status Conference scheduled for 8 March 2007. It was unfortunately later informed that the Status Conference scheduled for 8 March 2007 was postponed.

¹ To which is attached the «*Mémoire comparatif du projet d’acte d’accusation modifié et de l’acte d’accusation actuel.*»

2. The Defence argues that the postponement of the Status Conference has caused the Accused loss of the opportunity to file submissions regarding the Prosecution's Motion for Amendment of Indictment.

3. Accordingly, the Defence requests the Chamber to grant it a short extension within which to file a brief Further Response to the Prosecution's Motion for Amendment of Indictment.

The Prosecution

4. The Prosecution submits that although in principle it does not object to the Defence request for an extension, it opposes an "indefinite extension of time without specifying, exactly how long an extension is requested for or indeed required for." Accordingly, it prays the Chamber to set a practical time limit for the Defence to respond, having in mind the Accused's right to be tried without undue delay.

HAVING DELIBERATED

5. The Chamber notes that the Defence received the French version of the supporting material on 22 February 2006.

6. According to the Scheduling Order of 21 November 2006, if the Defence wished to respond, it should have done so within five days of receipt of the French version of the supporting material, i.e., at the latest by Tuesday 27 February 2007.

7. The Chamber notes that the Defence's Motion for Extension of Time was filed on 5 March 2007 when the time within which to file a Further Response had elapsed. There was therefore no time to extend. Accordingly, the Chamber denies the Motion for Extension of Time for the reasons advanced by the Defence.

8. However, in the circumstances of this case, it is in the interests of justice for the Defence to file a Further Response to the Prosecution's Motion. The Chamber therefore *proprio motu* grants the Defence three days, from the date of this Decision, to file a Further Response to the Prosecution's Motion for Amendment of Indictment.

9. The Chamber reminds the Prosecution of the time limits set in its Scheduling Order of 21 November 2006.

FOR THE ABOVE REASONS, THE TRIBUNAL

DENIES the Motion for Extension of Time for the reasons advanced by the Defence;

GRANTS *proprio motu* three days, from the date of this Decision, for the Defence to file a Further Response to the Prosecution's Motion for Amendment of Indictment;

REMINDS the Prosecution of the time limits set in the Scheduling Order of 21 November 2006.

Arusha, 14 March 2007

William H. Sekule
Presiding Judge

Arlette Ramaroson
Judge

Solomy Balungi Bossa
Judge

[Seal of the Tribunal]