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International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

INTERNATIONAL  
TRIBUNAL

OR: ENG

**TRIAL CHAMBER DESIGNATED UNDER RULE 11 BIS**

**Before:** Inés M. Weinberg de Roca, Presiding  
Lee Gacuga Muthoga  
Robert Fremr

**Registrar:** Adama Dieng

**Date:** 14 January 2008

*[Handwritten signature]*  
14 JAN 2008

**THE PROSECUTOR**  
v.

**Fulgence KAYISHEMA**

*Case No. ICTR-2001-67-1*

**DECISION ON THE PROSECUTOR'S URGENT REQUEST FOR EXTENSION OF  
TIME TO RESPOND TO THE BRIEF FILED BY HUMAN RIGHTS WATCH**

*Rules 11 bis and 74 of the Rules of Procedure and Evidence*

**Office of the Prosecutor:**  
Hassan Bubacar Jallow  
Bongani Majola  
Silvana Arbia  
Alex Obote-Odora  
George William Mungwanya  
Ineke Onsea  
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**Defence Counsel:**

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### INTRODUCTION

1. On 25 October 2007, Human Rights Watch ("HRW") filed a request for leave to appear as *amicus curiae* in this case pursuant to Rule 74 of the Rules of Procedure and Evidence ("the Rules").<sup>1</sup> On 8 November 2007, this Chamber granted HRW leave to appear as *amicus curiae*.<sup>2</sup>
2. On 26 November 2007, HRW requested an extension of time to submit its *amicus curiae* brief due to an error by the Registry of the ICTR in sending the correct documentation to HRW.<sup>3</sup> On 29 November 2007, this Chamber granted HRW an extension of time to submit its *amicus curiae* brief.<sup>4</sup>
3. On 4 January 2008, HRW filed its *amicus curiae* brief in opposition to the proposed Rule 11 *bis* transfer.<sup>5</sup>
4. On 8 January 2008, the Prosecutor filed an urgent request for an extension of time to respond to the *amicus curiae* brief filed by HRW.<sup>6</sup> The Prosecutor requested a period of 21 days from the date HRW filed its *amicus curiae* brief to file its Response.<sup>7</sup>
5. In this request, the Prosecutor submitted that neither the Trial Chamber's Decision of 8 November 2007 granting HRW leave to file the *amicus curiae* brief nor the Decision of 29 November 2007 extending the time for filing, specified the time frame within which the Prosecutor should file its Response.<sup>8</sup> The Prosecutor further submitted that as Rule 11 *bis* does not specifically lay down time frames for filing Responses, the Prosecutor's Response would normally be due for filing within five days of receipt of the *amicus curiae* brief.<sup>9</sup> However, the Prosecutor submitted that given that HRW's *amicus curiae* brief was extensive and contained several references that needed to be perused by the Prosecutor, they would need an extension of time to file their Response.<sup>10</sup>

### DISCUSSION

6. The Chamber observes that Rule 11 *bis* of the Rules does not specify a time frame within which the Prosecutor must file a Response to an *amicus curiae* brief. The Chamber may, therefore, exercise its discretionary power to manage proceedings to set a

<sup>1</sup> HRW's Request for Leave to Appear as *Amicus Curiae* Pursuant to Rule 74 of the ICTR Rules of Procedure and Evidence, 25 October 2007.

<sup>2</sup> Decision on the Request by HRW for Leave to Appear as *Amicus Curiae* in the Proceedings for Referral of the Indictment Against Fulgence Kayishema to Rwanda, 8 November 2007.

<sup>3</sup> HRW's Request for Extension of Time to File *Amicus Curiae* Supporting Brief, 26 November 2007.

<sup>4</sup> Decision on the Request by HRW for Extension of Time to File *Amicus Curiae* Supporting Brief in the Proceedings for Referral of the Indictment Against Fulgence Kayishema to Rwanda, 29 November 2007.

<sup>5</sup> Brief of HRW as *Amicus Curiae* in Opposition to Rule 11 *bis* Transfer, 4 January 2008.

<sup>6</sup> Prosecutor's Urgent Request for Extension of Time to Respond to the Brief Filed by HRW, 8 January 2008.

<sup>7</sup> *Ibid.*, p.2.

<sup>8</sup> *Ibid.*, p.2.

<sup>9</sup> *Ibid.*, p.2.

<sup>10</sup> *Ibid.*, p.2.

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time frame for the submission of the Prosecutor's Response to HRW's *amicus curiae* brief.

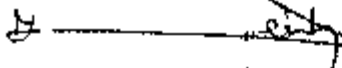
7. The Chamber recalls that it granted the Prosecutor 15 days from the date it received the *amicus curiae* briefs of the International Criminal Defence Attorney's Association (ICDAA)<sup>11</sup> and the Kigali Bar Association (KBA)<sup>12</sup> to file its Response.

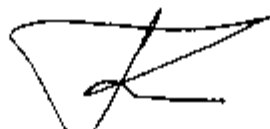
8. In light of the issues raised by HRW that the Prosecutor may wish to respond to, and the deadlines for submission of a Response that it granted the Prosecutor in respect of the *amicus curiae* briefs of the ICDAA and the KBA, the Chamber is satisfied that a period of 15 days from the date the Prosecutor received HRW's *amicus curiae* brief is a reasonable deadline for submission of its Response.

**FOR THE FOREGOING REASONS, THE CHAMBER:**


- I. **GRANTS** the Prosecutor an extension of time to respond to the *amicus curiae* brief filed by HRW;
- I. **DECIDES** that the Prosecutor should file its Response to the *amicus curiae* brief of HRW with the Registry of the Tribunal within 15 days from the date of receipt of HRW's *amicus curiae* brief;
- II. **REQUESTS** the Registrar to notify, without delay, the present Decision to the Prosecutor.

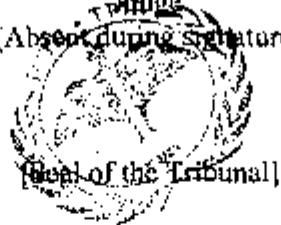
Arusha, 14 January 2008.

  
 Inés M. Weinberg de Roca  
 Presiding Judge  
 Signed in Buenos Aires



With the consent and on behalf of  
 Lee Gacuga Muthoga  
 Judge  
 (Absent during signature)

  
 Robert Fremr  
 Judge



<sup>11</sup> Decision on the Request for Permission to File an *Amicus Curiae* Brief, International Criminal Defence Attorney's Association (ICDAA) Concerning the Prosecutor's Request for Re-erral of the Case of Fulgence Kayishema to Rwanda (Pursuant to Rule 11 *Bis* of the Rules, 6 December 2007), p.5.

<sup>12</sup> Decision on the Application by the Kigali Bar Association for Leave to Appear as *Amicus Curiae*, 6 December 2007, p.4.