



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

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OR: ENG

**TRIAL CHAMBER II**

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

Registrar: Mr. Adama Dieng

Date: 30 December 2008

**The PROSECUTOR v. Augustin NGIRABATWARE**

Case No. ICTR-99-54-T

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**DECISION ON DEFENCE MOTION FOR EXTENSION OF TIME TO RESPOND  
TO PROSECUTOR'S MOTION FOR LEAVE TO AMEND THE INDICTMENT  
FILED ON 23 OCTOBER 2008**

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**Office of the Prosecutor**

Mr. Wallace Kapaya  
Ms. Charity Kagwi-Ndungu  
Mr. Brian Wallace  
Mr. Iskandar Ismail  
Ms. Jane Mukangira

**Counsel for Ngirabatware**

Mr. David Thomas

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

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

**BEING SEIZED** of the “Second Defence Motion for Extension of Time to Respond to Prosecutor’s Motion to Amend the Indictment,” filed on 12 December 2008 (the “Motion”);

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

**NOW DECIDES** the Motions pursuant to Rule 73 (A) of the Rules, on the basis of the written briefs filed by the Defence.

### **INTRODUCTION**

1. On 23 October 2008, the Prosecution filed its Motion to amend the indictment. On 29 October 2008, the Chamber declared the Duty Counsel’s request for extension of time to respond to the Prosecution motion moot as it had not yet set any deadline for responses. On 25 November 2008, Mr. David Thomas was appointed Defence Counsel for Ngirabatware. Mr. Thomas filed his statement of availability on 1 December 2008. On 3 December 2008, the Chamber instructed the Parties that the Defence had five days to respond to the Prosecution motion after receipt of the supporting material to the Motion. On 12 December 2008, the Defence filed the instant Motion for extension of time to respond to the Prosecution motion.

2. On 15 December 2008 the Chamber instructed the Prosecution that they have three days to respond to this Motion. The Prosecution chose not to respond to the Motion within the given time frame.

### **DEFENCE SUBMISSIONS**

3. The Defence submits that on 8 December 2008, it received the Prosecution Motion for amendment of the indictment together with a case file totalling approximately 2500 to 3000 pages. Mr Thomas also indicates that he intends to travel to Arusha to meet his client Ngirabatware for the first time between 19 and 23 December 2008.

4. Referring to Articles 7 and 8 of the Code of Professional Conduct for Defence, Mr. Thomas submits that he cannot respond to a motion to amend the indictment without having had the opportunity to discuss the matter with his client.

5. In view of the upcoming Christmas and New Years holidays, the Defence requests to be granted an extension of time to file its Response to the Prosecution motion until 5 January 2009.

### **DELIBERATION**

6. The Chamber considers that the Defence for Ngirabatware has demonstrated good cause for an extension of time to respond to the Prosecution motion to amend the indictment. The Chamber thereby grants an extension until 5 January 2009 and recalls that any reply by

the Prosecution must be filed five days after the receipt of the response, as indicated in the 3 December 2008 instruction.

**FOR THE ABOVE REASONS, THE TRIBUNAL**

**GRANTS** the Motion;

**DIRECTS** the Registry to instruct the Parties that any response by the Defence to the Prosecution Motion to Amend the Indictment should be filed by 5 January 2009 and that any reply by the Prosecution should be filed five days from receipt of the response.

Arusha, 30 December 2008

William H. Sekule  
Presiding Judge

(read and approved)  
Arlette Ramaroson  
Judge  
(absent at the time of  
signature)

(read and approved)  
Solomy Balungi Bossa  
Judge  
(absent at the time of  
signature)

[Seal of the Tribunal]