

ICTR-99-54-T
10-01-2011
(9977-9975)

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International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

UNITED NATIONS
NATIONS UNIES

9950-55-56-2121

OR: ENG

The BUREAU

Before: The Bureau of the Tribunal
Judge Dennis C.M. Byron, President
Judge Khalida Rachid Khan
Registrar: Adama Dieng
Date: 10 January 2011.

JUDICIAL RECORDS/A
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THE PROSECUTOR

v.

Augustin NGIRABATWARE

Case No: ICTR-99-54-T

**DECISION ON PROSECUTOR'S EXTREMELY URGENT MOTION FOR
EXTENSION OF TIME TO FILE RESPONSE TO DEFENCE MOTION FOR
DISQUALIFICATION OF TRIAL CHAMBER II'S JUDGES**

*(Made pursuant to Rules 73 (A), 54, of the Rules of Procedure and Evidence, and the
inherent criminal jurisdiction of the Bureau)*

For the Prosecutor:

Mr. Wallace Kapaya, Senior Appeals
Counsel
Mr. Patrick Gabaake, Trial Attorney
Ms. Veronica Wright, Appeals Counsel
Mr. Iskander Ismail, Assistant Trial
Attorney
Mr. Michael Kalisa, Associate Legal
Officer
Ms. Faria Rekkas, Case Manager

For the Defence:

Mr. Peter Herbert, Lead Counsel
Ms. Mylène Dimitri, Co-Counsel
Mr Déogratias Sebureze, Legal Assistant
Ms. Anne-Gaëlle Denier, Legal Assistant
Ms Chloé Garden-Gistucci, Legal Assistant

Handwritten initials

INTRODUCTION

1. On 5 January 2011, the Defence filed a motion entitled "Defence Motion for Disqualification of Trial Chamber II's Judges" under Rule 15 (B) of the Rules of Procedure and Evidence ("Defence Motion").¹
2. On 10 January 2011, the Prosecution filed an extremely urgent motion seeking an extension of time for filing a response ("Prosecution Motion").²

SUBMISSIONS

Prosecution

3. In its Motion, the Prosecution seeks an extension of time to 13 January 2011 in order to file its response to the Defence Motion. The response should otherwise have been filed on or by 10 January 2010, as per Rule 73(E) of the Rules of Procedure and Evidence ("Rules").
4. The Prosecution argues that the Defence Motion is not only extremely lengthy³ but also 'raises sensitive issues concerning the integrity of the proceedings, questions the impartiality of three Judges in the discharge of their judicial and administrative functions and raises matters that have an impact on the future of the trial and the impact this may have on the right of the Accused to be further tried without undue delay.'⁴
5. The Prosecution further contends that the timing of the Defence Motion coincides with the timing of the Prosecution preparation of continued cross-examination of the Accused scheduled to resume on 17 January 2011.⁵

Defence

6. The Defence, through its Co-Counsel, has communicated that, while it disputes the factual submissions in the Prosecution Motion, it does not oppose the extension of time.⁶

¹ *The Prosecutor v. Augustin Ngirabatware*, Case No. ICTR-99-54-T, Defence Motion for Disqualification of Trial Chamber II's Judges, 5 January 2011.

² *The Prosecutor v. Augustin Ngirabatware*, Case No. ICTR-99-54-T, Prosecutor's Extremely Urgent Motion for Extension of Time to File Response to Defence Motion for Disqualification of Trial Chamber II's Judges, 10 January 2011.

³ Prosecution Motion, Para. 2.

⁴ Prosecution Motion, Para. 8.

⁵ Prosecution Motion, Para. 3.

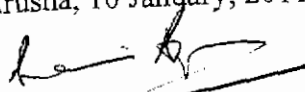
DELIBERATIONS

7. Rule 73(E) grants five (5) days within which a responding party may file a response to a motion filed by the opposing party under Rule 73. However, the Bureau notes that, as stated in the Prosecution Motion, the Court has discretion to enlarge the time for filing of a response where good cause is shown.⁷
8. The Bureau is satisfied that the Prosecution has shown good cause for extension sought. Therefore, in the interests of justice, and taking into account the length and complexity of the Defence Motion, the Bureau will grant the extension of time sought by the Prosecution.
9. The Prosecution is accordingly directed to file a response to the Defence Motion by Thursday, 13 January 2011.

FOR THESE REASONS, THE BUREAU:

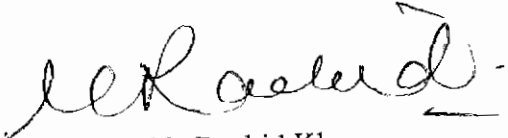
GRANTS the Prosecution Motion.

Arusha, 10 January, 2011, done in English.


Judge Dennis C.M. Byron
President



[Seal of the Tribunal]


Judge Khalida Rachid Khan.

⁶ Telephone communication between the Senior Legal Officer of the Chambers and the Defence Co-Counsel at 16:30h, 10 January 2011.

⁷ Prosecution Motion, Para. 7.