

ICTR-01-75-I  
04-03-2011  
(2710-2704)

2710  
Mugwanya



International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

UNITED  
NATIONS  
NATIONS  
UNIES

TRIAL CHAMBER II

**Before Judges:** Florence Rita Arrey, Presiding  
Emile Francis Short  
Robert Fremr

**Registrar:** Adama Dieng

**Date:** 04 March 2011

OR: ENG

JUDICIAL  
ADMINISTRATIVE  
SERVICES

2011 MAR - U A 10/01

THE PROSECUTOR

v.

JEAN-BOSCO UWINKINDI

*Case No. ICTR-2001-75-R11bis*

---

DECISION ON DEFENCE REQUEST FOR EXTENSION OF TIME TO  
RESPOND TO THE AMICI BRIEFS OF HUMAN RIGHTS WATCH  
AND THE GOVERNMENT OF RWANDA

---

**Office of the Prosecutor:**  
Hassan Bubacar Jallow  
Bongani Majola  
Richard Karegyesa  
James Arguin  
George Mugwanya  
Inneke Onsea

**Counsel for the Defence**  
Claver Sindayigaya  
Iain Edwards  
Bettina Spilker

## INTRODUCTION

1. On 30 June 2010, the Accused Jean-Bosco Uwinkindi was arrested in Uganda and was transferred to the United Nations Detention Facility ("UNDF") in Arusha, Tanzania on 2 July 2010.<sup>1</sup>
2. On 04 November 2010, the Prosecution, pursuant to Rule 11 *bis* of the Rules of Procedure and Evidence ("Rules"), filed a Motion requesting that the case of the *Prosecutor v. Jean Uwinkindi* be referred to the authorities of the Republic of Rwanda for trial in the High Court of Rwanda ("11 *bis* Motion").<sup>2</sup>
3. On 26 November 2010, the President designated Trial Chamber II (Referral Chamber), as composed of Judge Florence Rita Arrey (presiding), Judge Emile Francis Short and Judge Robert Fremr, to decide the Prosecution's 11 *bis* Motion.<sup>3</sup>
4. On 18 January 2011, the Referral Chamber granted a request by Human Rights Watch (HRW) to appear as *amicus curiae* in the instant case.<sup>4</sup> On 18 February 2011, HRW filed their *Amicus* Brief and it was communicated to the parties.<sup>5</sup>
5. On 18 February 2011, the Government of Rwanda, which had been invited *proprio motu* by the Referral Chamber to appear as *amicus curiae* in the case, filed its *amicus* brief. It was communicated to the parties on 21 February 2011.<sup>6</sup>

<sup>1</sup> *Prosecutor v. Jean-Bosco Uwinkindi*, Case No. ICTR-2001-75-R11*bis*, T. 1 December 2010 p.1. Uwinkindi made a further appearance following the filing of an Amended Indictment on 23 November 2010.

<sup>2</sup> *Prosecutor v. Jean-Bosco Uwinkindi*, Case No. ICTR-2001-75-R11*bis*, Prosecutor's request for the referral of the case of Jean-Bosco Uwinkindi to Rwanda pursuant to Rule 11 *bis* of the Tribunal's Rules of Procedure and Evidence, 4 November 2010.

<sup>3</sup> Notice of Designation - *Prosecutor v. Jean Uwinkindi*, Case No. ICTR-2001-75-R11*bis*, 26 November 2010.

<sup>4</sup> *Prosecutor v. Jean-Bosco Uwinkindi*, Case No. ICTR-2001-75-I, Decision on Human Rights Watch Request to appear as *Amicus Curiae* pursuant to Rule 74 of the ICTR Rules of Procedure and Evidence, 18 January 2011.

<sup>5</sup> *Prosecutor v. Jean-Bosco Uwinkindi*, Case No. ICTR-2001-75-R11*bis*, "Amicus Curiae Brief of Human Rights Watch in Opposition to Rule 11 *bis* Transfer", 17 February 2011.

6. On 8 December 2010, the Referral Chamber ordered that the Defence file a Response to the Prosecutor's 11 *bis* request within 90 days of receipt of the Kinyarwanda translation of the Motion.<sup>7</sup> The translation was served on all parties on 14 December 2010. Consequently, the Defence Response is due by 14 March 2011.

7. On 18 January 2011, the Referral Chamber in its two Decisions on the HRW Request and the Invitation to the Government of Rwanda, further ordered the parties to file any submissions relating to the *amici curiae* briefs within 14 days from the date upon which the briefs are filed.<sup>8</sup>

8. On 28 February 2011, the Defence filed a Motion requesting an extension of time within which to file submissions regarding the *amici* briefs filed by HRW and Government of Rwanda.<sup>9</sup>

9. On 1 March 2011, the Prosecution filed its Response to the Defence Request for Extension of Time. In that response it also requests an extension of time to file a consolidated response to the various *amici* briefs and to the Defence response ("Response").<sup>10</sup>

---

<sup>6</sup> *Prosecutor v. Jean-Bosco Uwinkindi*, Case No. ICTR-2001-75-R11 *bis*, "Amicus Curiae Brief for the Republic of Rwanda in Support of the Prosecutor's Application for Referral Pursuant to Rule 11 *bis*", 18 February 2011.

<sup>7</sup> *Prosecutor v. Jean-Bosco Uwinkindi*, Case No. ICTR-2001-75-R11 *bis*, Decision on Defence Motion for Setting a date for the filing of a response to the Prosecution's (Rule 11 *bis*) Request for the Referral of the case of Jean Uwinkindi to Rwanda and request for Translation, 8 December 2010.

<sup>8</sup> *Prosecutor v. Jean-Bosco Uwinkindi*, Case No. ICTR-2001-75-R11 *bis*, (i) Decision on Human Rights Watch Request for Leave to appear as Amicus Curiae Pursuant to Rule 74 of the ICTR Rules of Procedure and Evidence; (ii) Invitation to the Government of Rwanda to Make Submissions as Amicus Curiae Pursuant to Rule 74 of the ICTR Rules of Procedure and Evidence on the Prosecutor's 11 *bis* Motion, (*both on*) 18 January 2011.

<sup>9</sup> *Prosecutor v. Jean-Bosco Uwinkindi*, Case No. ICTR-2001-75-R11 *bis*, Defence Request for Extension of Time to Respond to the Amicus Curiae briefs of Human Rights Watch and the Government of Rwanda ("Motion"), 28 February 2011.

<sup>10</sup> *Prosecutor v. Jean-Bosco Uwinkindi*, Case No. ICTR-2001-75-R11 *bis*, Prosecutor's Response to Defence Request for the Extension Of Time and Request to File a Consolidated Response to Various Amici briefs and Defence Response ("Response"), 1 March 2011.

10. On 2 March 2011, the Defence replied to the Prosecutor's request to file a consolidated response to the various *amici* briefs and to the Defence response<sup>11</sup>

## SUBMISSIONS OF PARTIES

### *Defence Motion*

11. The Defence submits that it intends to file a full and comprehensive Response to the Prosecution's 11 *bis* Request by 14 March 2011. It will respond in detail to the points advanced by the Prosecution. It notes that many of the Prosecution's arguments are similar to those advanced by the Government of Rwanda in its *Amicus* brief.<sup>12</sup>

12. The Defence requests an extension of 10 days to file submissions relating to the HRW brief and an extension of 7 days to file a response to the Government of Rwanda brief. It notes that it will incorporate submissions on the *amici* briefs into its Response which is due by 14 March 2011.<sup>13</sup>

13. The Defence argues that granting their request will enable the Referral Chamber to have all the Defence arguments in one comprehensive document and avoid several separate but inevitably repetitive responses to the *amici* briefs.<sup>14</sup> It further explains that since the documents would cross reference each other, filing separate submissions could become unwieldy and unduly complicated for the reader to follow.<sup>15</sup>

14. The Defence concludes that the time extensions requested are short and cannot prejudice the Prosecution in any way.<sup>16</sup>

### *Prosecution Reply*

---

<sup>11</sup> *Prosecutor v. Jean-Bosco Uwinkindi*, Case No. ICTR-2001-75-R11*bis*, Defence Response to Prosecutor's Request to File a Consolidated Response to Various *Amici* Briefs and Defence Response (Reply"), 2 March 2011.

<sup>12</sup> Motion, para 7.

<sup>13</sup> Motion, para 8.

<sup>14</sup> Motion, para 9.

<sup>15</sup> Motion, para 9.

<sup>16</sup> Motion, para 11.

15. The Prosecution does not oppose the Defence request for extension of time to respond to the *amici* briefs.<sup>17</sup> On the contrary, it requests that the Referral Chamber grant it an extension of time too, to allow the Prosecution to file a consolidated submission addressing both the *amici* briefs and the Defence response to the 11 *bis* Motion. Specifically, it asks leave of the Chamber to file its Reply 30 days after the filing of the Defence's proposed consolidated Response.<sup>18</sup>

16. The Prosecution submits that in the present circumstances its request for an extension of time is in the interests of justice for the following reasons; (i) it will enable the Prosecution to adequately address the various intertwined issues raised by the designated *amici* and the Defence; (ii) because of the time accorded to *amici* to file their briefs;<sup>19</sup> and (iii) because of the length of time granted to the Defence to respond to the 11 *bis* Motion.<sup>20</sup>

17. The Prosecution anticipates, based on previous Rule 11 *bis* proceedings that there will be 'extensive filings in which unquestionably new issues will be raised and several references will need to be checked', and thus, the time frame requested will allow it sufficient time to respond coherently to the issues raised.<sup>21</sup> The Prosecution submits that filing a consolidated response would enable it respond intelligibly and comprehensively in one single document to the arguments of the *amici* regarding similar issues identified for each *amicus* by the Chamber, and would assist the Chamber in addressing important questions raised in the proceedings.<sup>22</sup>

18. The Prosecution further argues that granting it an extension of 30 days from the date of the Defence response will not prejudice the Defence.<sup>23</sup>

---

<sup>17</sup> Motion, para. 1.

<sup>18</sup> Response, paras. 1-2.

<sup>19</sup> Response, para. 4.

<sup>20</sup> Response, para. 2.

<sup>21</sup> Response, paras. 4-5.

<sup>22</sup> Response, para. 3.

<sup>23</sup> Response, para. 4.

*Defence Reply*

19. The Defence does not object to the Prosecution's request for an extension of time to file consolidated submissions, and notes that it should be filed by 13 April 2011.<sup>24</sup>

**DELIBERATIONS**

20. The Chamber observes that if it does not grant the Defence and Prosecution requests for extension of time, it will receive several submissions addressing overlapping issues addressed in various party submissions and *amici* briefs. It concurs with the parties that it would be more effective and sensible to allow the parties to file consolidated submissions.

21. The Chamber notes that that the parties do not oppose each other's requests, and indeed mirror each other's arguments in arguing that consolidating their submissions is the most expeditious way forward.

22. The Chamber is satisfied that both the Defence and Prosecution have shown good cause for the extensions of time sought, and is of the view that granting the extensions may in fact expedite proceedings in the long run.

**FOR THESE REASONS, THE REFERRAL BENCH**

**GRANTS** the Defence Motion;

**ORDERS** the Defence to file the consolidated response including the submissions regarding the *amici* briefs no later than 14 March 2011;

---

<sup>24</sup> *Prosecutor v. Jean-Bosco Uwinkindi*, Case No. ICTR-2001-75-R11bis, Defence Response to Prosecutor's Request to File a Consolidated Response to Various *Amici* Briefs and Defence Response ("Reply"), 2 March 2011.

Decision on Defence request for extension of time to respond to amici briefs and consolidation of response

Prosecutor v. Uwinkindi



**GRANT** the Prosecution request to file a consolidated response to the Defence Consolidated Brief and the *Amicus* briefs; and

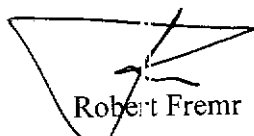
**ORDER** the Prosecution to file this response no later than 13 April 2011.

Arusha, 04 March 2011, done in English.

  
Florence Lita Arrey

Presiding Judge

  
Emile Francis Short  
  
[Seal of the Tribunal]

  
Robert Fremr

Judge