

ICTR-99-54-T  
02-09-2011  
(104207-104205)

104207  
MUSTAMUS



International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

OR: ENG

**TRIAL CHAMBER II**

Before: Judge William H. Sekule, Presiding  
Judge Solomy Balungi Bossa  
Judge Mparany Rajohnson

Registrar: Mr. Adama Dieng

Date: 2 September 2011

**The PROSECUTOR**

v.

**Augustin NGIRABATWARE**

Case No. ICTR-99-54-T

2011 SEP - 2 P 12: 25  
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**ORDER DENYING THE DEFENCE REQUEST FOR A STAY OF THE ORDER  
TO FILE ITS FINAL LIST OF WITNESSES BY 5 SEPTEMBER 2011**

**Office of the Prosecutor**  
Mr. Wallace Kapaya  
Mr. Patrick Gabaake  
Mr. Rashid Rashid  
Mr. Iskandar Ismail  
Mr. Michael Kalisa  
Ms. Faria Rekkas

**Defence Counsel**  
Mr. Peter Herbert  
Ms. Mylène Dimitri  
Mr. Deogratias Sebureze  
Ms. Anne-Gaëlle Denier  
Ms. Chloé Gaden-Gistucci  
Ms. Julie Hotte

*Handwritten signature*

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

**SITTING** as Trial Chamber II composed of Judges William H. Sekule, Presiding, Solomy Balungi Bossa and Mparany Rajohnson (the "Chamber");

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

**RECALLING** that:

1. On 13 July 2011, the Chamber ordered the Defence to significantly reduce the number of Defence witnesses, and to file its final list by 1 August 2011;<sup>1</sup>
2. The Defence did not file a final list of its witnesses by 1 August 2011;<sup>2</sup> and
3. On 26 August 2011, the Chamber ordered the Defence to file its final list of witnesses by 5 September 2011, which was not to exceed 19 remaining witnesses, to make a total of 35 witnesses ("the Order of 26 August 2011");<sup>3</sup>

**CONSIDERING** the "Defence Compliance with the Trial Chamber's Order to Reduce Significantly the Witness List and Defence Extremely Urgent Motion for Reconsideration and/or Certification to Appeal the Trial Chamber's Decision of 26 August 2011", filed confidentially on 1 September 2011 (the "Defence Motion");

**NOTING** that the Defence Motion provides a list of 29 remaining Defence witnesses;<sup>4</sup>

**NOTING** also that the Defence Motion requests a stay of the Order of 26 August 2011;<sup>5</sup>

**CONSIDERING** that the Defence request for a stay of the Order is not warranted under the circumstances, and also the specific time frame in which to file the final list as indicated in the Order of 26 August 2011;

**CONSIDERING** also that the next session of the Defence case-in-chief is scheduled to resume on 19 September 2011; and

**EMPHASIZING** that the resolution of this request is without prejudice to the resolution of any other issue addressed in the Defence Motion;

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<sup>1</sup> T. 13 July 2011, pp. 89-90.  
<sup>2</sup> See Decision on the Defence Motion for Reconsideration or Certification to Appeal the Oral Decision of 13 July 2011, and on the Reduction of the Defence Witness List (TC), 26 August 2011, paras. 13, 53.  
<sup>3</sup> *Id.*, para. 60, p. 12.  
<sup>4</sup> Defence Motion, para. 66.  
<sup>5</sup> *Id.*, para. 116.

**THE CHAMBER HEREBY:**

**DENIES** the Defence request for a stay of the Order of 26 August 2011 to file its final list of witnesses by 5 September 2011, which was not to exceed 19 remaining witnesses;


**REITERATES** the Order of 26 August 2011; and

**ORDERS** the Defence to indicate the order of appearance of its final list of witnesses by 5 September 2011.

Arusha, 2 September 2011



William H. Sekule  
Presiding Judge

  
Solomy Bahigir Bossa  
Judge

Mparany Rajohnson  
Judge