



UNITED NATIONS
NATIONS UNIES

ICTR-95-1E-R11bis
24-5-2012
(330-331)
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International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER DESIGNATED PURSUANT TO RULE 11 *BIS*

Before Judges: Vagn Joensen, *presiding*
Florence Rita Arrey
Gberdao Gustave Kam

Registrar: Adama Dieng

Date: 24 May 2012

THE PROSECUTOR

v.

Charles RYANDIKAYO

Case No. ICTR-95-1E-R11bis

JUDICIAL RECORDS/ARCHIVES
UNICTR
2012 MAY 24 A.H.S.H.

DECISION ON DUTY COUNSEL'S MOTION FOR EXTENSION OF TIME

Rules 11 bis 54 and 73 of the Rules of Procedure and Evidence

Office of the Prosecution:

Hassan Bubacar Jallow
James J. Arguin
George Mugwanya
Inneke Onsea
Abdoulaye Seye
François Nsanzuwera
Erica Bussey

Duty Counsel:
Nelson S. Merinyo

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INTRODUCTION

1. On 10 May 2012, the President ordered that the Registry appoint a Duty Counsel to represent the interests of Charles Ryandikayo in relation to the Prosecution's Motion to refer the case of Charles Ryandikayo to Rwanda pursuant to Rule 11 *bis* of the Rules of Procedure and Evidence.¹ This Chamber ordered Duty Counsel to file his response within 14 days of his appointment.²
2. Nelson Merinyo signed his statement of availability on 11 May 2011.
3. He is now requesting an extension of time of five months to file his response.³

DELIBERATIONS

4. Pursuant to Rule 73, a party has five days to respond to a motion from the date it received it. It is in the discretion of a Chamber to allocate parties a longer time to file submissions if the circumstances so require.
5. Duty Counsel submits that he received the Motion on 18 May and that he will strongly dispute the Prosecution's arguments. He further alleges that the Motion raises numerous complex questions that he intends to answer in a comprehensive and detailed manner; that the Motion is 56 pages long with a 430-page annex; that the Prosecution has had two years to prepare his filing with the assistance of his office's staff; and that in prior cases, an average of four months and a half were allocated to file responses.⁴

¹ *The Prosecutor v. Charles Ryandikayo*, Case No. ICTR-95-1E-R11bis ("*Ryandikayo*"), Order Designating a Trial Chamber to Consider the Prosecutor's Request for the Referral of Charles Ryandikayo's Case to Rwanda, 10 May 2012.

² *Ryandikayo*, Scheduling Order, 10 May 2012.

³ Defence Motion for Enlargement of Time for Filing of Defence Response to Prosecutor's Request for Referral of the Case of Charles Ryandikayo to Rwanda, 23 May 2012 ("*Motion*").

⁴ *Motion*.

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6. The Chamber notes that, to this date, six cases have been transferred to national jurisdictions for trial pursuant to Rule 11 *bis*: two to France and four to Rwanda.⁵ Three of the four cases transferred to Rwanda concern fugitives. It is to be noted that the 11 *bis* proceedings in the *Sikubwabo* and *Kayishema* cases were suspended until a final decision on the Prosecution's Motion for referral of the case of Jean Uwinkindi was issued by the Appeals Chamber. Once the Uwinkindi Appeals Decision was rendered,⁶ Duty Counsel in both cases filed their response eight weeks and six weeks after the resumption of the proceedings. In the last instance where the Prosecution filed a request to refer the case of a fugitive to Rwanda, the Duty Counsel filed his response within three weeks of his appointment.⁷ The evolution summarised here clearly demonstrates the decrease in the time needed to address issues in relation to requests for referral of cases to Rwanda as the law on these issue has been developed by the Tribunal both at the Trial and Appeal levels.

7. Consequently, the Chamber is not of the opinion that in order to satisfy his assignment Duty Counsel will necessitate all the logistics and resources listed in his Motion requiring five months to file his response.

8. Having considered all relevant circumstances, as well as the interests of justice in this particular case, and the fact that Duty Counsel only received the relevant documents on 18 May 2012, the Chamber considers that the time allocated to Duty Counsel to file his response should be extended to four weeks to run from the date he effectively received these documents.

FOR THESE REASONS, THE CHAMBER

- I. GRANTS** Duty Counsel an extension of time to file his response to the Prosecution's Motion
- II. ORDERS** the Duty Counsel to file his submissions in response to the Prosecution's request by Friday 15 June 2012

⁵ See *Munyeshyaka* and *Bucyibaruta* cases to France and *Uwinkindi*, *Kayishema*, *Sikubwabo* and *Ntaganzwa* cases to Rwanda.

⁶ *Jean Uwinkindi v. the Prosecutor*, Case No. ICTR-01-75-AR11bis ("*Uwinkindi*"), Decision on Uwinkindi's Appeal against the Referral of His Case to Rwanda and Related Motions, 16 December 2011.

⁷ See *Ntaganzwa* case.

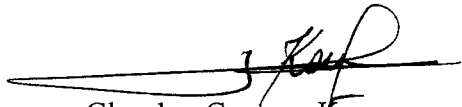
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III. ORDERS the Prosecution to file any reply to these submissions within five days thereafter.

Arusha, 24 May 2012, done in English.


Vagn Joensen
Presiding


Florence Rita Arrey
Judge


Gberdao Gustave Kam
Judge

[Seal of the Tribunal]

