

UNITED
NATIONS



Mechanism for International Criminal Tribunals

Case No. MICT-12-25-R14.1

Date: 16 September 2015

Original: English

THE TRIAL CHAMBER

Before: Judge Vagn Joensen, Pre-Trial Judge

Registrar: Mr. John Hocking

Decision of: 16 September 2015

PROSECUTOR

v.

JEAN UWINKINDI

PUBLIC

**DECISION ON JEAN UWINKINDI'S MOTION FOR
TRANSLATION OF THE PROSECUTION'S RESPONSE**

The Office of the Prosecutor:

Hassan Bubacar Jallow

Counsel for Jean Uwinkindi:

Gatera Gashabana

Received by the Registry
Mechanism for International Criminal Tribunals
16/09/2015 15:31

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I, VAGN JOENSEN, Judge of the International Residual Mechanism for Criminal Tribunals (“Mechanism”) and Pre-Trial Judge in this case;¹

NOTING the “Decision on Request for Revocation of an Order Referring a Case to the Republic of Rwanda and Assigning a Trial Chamber” issued by the President of the Mechanism on 13 May 2015 (“Decision on Request for Revocation and Assignment Order”), in which the President decided to treat Mr. Jean Uwinkindi’s comments as reported in the March 2015 Monitoring Report as a request for revocation of the order referring his case to Rwanda and assigned the matter to a Trial Chamber;²

NOTING the “*Mémoire a l’appui de la requête d’Uwinkindi Jean en annulation de l’ordonnance de renvoi*”, filed in French by Counsel for Mr. Uwinkindi on 5 August 2015 (“Brief in Support of Request for Revocation”), and the “Prosecution Brief Responding to Uwinkindi’s Revocation Request”, filed in English on 4 September 2015 (“Prosecution’s Response Brief”);

BEING SEISED OF the “*Requête tendant à obtenir une traduction Kinyarwanda des conclusions transmises à Jean UWINKINDI par l’Office du Procureur le 08 Septembre 2015*”, filed by Mr. Uwinkindi on 13 September 2015 (“Motion”), in which he requests, *inter alia*, that the Trial Chamber: (i) note that he does not have sufficient knowledge of either of the two working languages of the Mechanism; (ii) order the translation in Kinyarwanda of the Prosecution’s Response Brief; and (iii) declare, pursuant to Rule 3(F) of the Rules of Procedure and Evidence of the Mechanism (“Rules”), that the time limit for filing a reply shall start running from the date Mr. Uwinkindi receives the translation in Kinyarwanda of the Prosecution’s Response Brief;³

NOTING that the Prosecution has not yet filed a response to the Motion;⁴

NOTING that the Appeals Chamber of the International Criminal Tribunal for Rwanda (“ICTR”) has recognized that Mr. Uwinkindi understands neither English nor French;⁵

¹ Order Assigning a Pre-Trial Judge, 21 May 2015.

² Decision on Request for Revocation and Assignment Order, pp. 2-3. In addition, on 5 June 2015, the President also referred a similar written *pro se* request for revocation filed by Mr. Uwinkindi to the Trial Chamber. See Decision on Additional Request for Revocation of an Order Referring a Case to the Republic of Rwanda, 5 June 2015, pp. 2-3.

³ Motion, paras. 9, 12, RP. 1551.

⁴ In light of the relative urgency of the matter, I consider that it is in the interest of justice to rule on the Motion without awaiting the response of the Prosecution. In so doing, I am satisfied that the Prosecution does not suffer any prejudice.

⁵ *Jean Uwinkindi v. The Prosecutor*, Case No. ICTR-01-75-AR11bis, Decision on Request for Translation and Extension of Time, 14 July 2011, para. 4. See also Article 31 of the ICTR Statute stating that the working languages of the ICTR shall be English and French. Cf. Article 31 of the Statute of the Mechanism.

CONSIDERING that it would be appropriate in the particular circumstances of these proceedings for Mr. Uwinkindi to be provided in due course with a Kinyarwanda translation of the Prosecution's Response Brief;

CONSIDERING that, in accordance with the Scheduling Order, a reply, if any, by Mr. Uwinkindi shall be filed no later than ten days after the filing of the Prosecution's Response Brief;⁶

CONSIDERING that Rule 154(A) of the Rules allows for the extension of time of any deadline on a showing of good cause, and that extensions of time for the purpose of translation are generally accorded where the applicant's Counsel can only work in a language other than the one in which the Prosecution filed its submissions;⁷

CONSIDERING that Mr. Uwinkindi's Counsel can work in English and is therefore able to discuss the content of the Prosecution's Response Brief with him;⁸

CONSIDERING further that Counsel bears the main burden in preparing submissions and it is assumed that Mr. Uwinkindi has fully discussed with his Counsel the issues relevant to his request for revocation when preparing his Brief in Support of Request for Revocation;⁹

FINDING therefore that Mr. Uwinkindi has failed to demonstrate good cause for an extension of time for the filing of his reply to the Prosecution's Response Brief;

FOR THE FOREGOING REASONS,

⁶ Scheduling Order, 22 May 2015 ("Scheduling Order"), p. 2.

⁷ See *Augustin Ndingiriyimana et al. v. The Prosecutor*, Case No. ICTR-00-56-A, Decision on Bizimungu's Motion for Extension of Time to File his Reply Brief, 8 March 2012 ("Bizimungu Decision of 8 March 2012"), p. 2, referring to *Protais Zigiranyirazo v. The Prosecutor*, Case No. ICTR-01-73-A, Decision on Protais Zigiranyirazo's Motion for an Extension of Time for the Filing of the Reply Brief, 3 July 2009, para. 5.

⁸ See Applicant's Urgent Request for Extension of Time to File Brief in Support of Revocation Request, and for Extension of Word Limit, 16 July 2015 (filed by Mr. Uwinkindi's Counsel in English). Contrary to Mr. Uwinkindi's submissions, Rule 3(F) of the Rules is not applicable in this case because the Prosecution's Response Brief was filed in English, and this provision relates only to circumstances where a document is filed in a language other than the working languages of the Mechanism.

⁹ See *Bernard Munyagishari v. The Prosecutor*, Case No. ICTR-05-89-AR11bis, Decision on Bernard Munyagishari's Motion for Translation and Extension of Time for the Filing of his Reply Brief, 14 November 2012, para. 8, referring to *Bizimungu Decision of 8 March 2012*, p. 2, n. 13. See also *The Prosecutor v. Emmanuel Rukundo*, Case No. ICTR-2001-70-A, Decision on the Filing of Emmanuel Rukundo's Reply Brief, 22 April 2010, para. 6; *Callixte Kalimanzira v. The Prosecutor*, Case No. ICTR-05-88-A, Decision on Callixte Kalimanzira's Motion for an Extension of Time for the Filing of his Reply Brief, 6 April 2010, para. 5; *Prosecutor v. Vujadin Popović et al.*, IT-05-88-A, Decision on Motions for Extension of Time and for Permission to Exceed Word Limitations, 20 October 2010, p. 4, citing *Prosecutor v. Nikola [ainovi] et al.*, Case No. IT-05-87-A, Decision on Joint Defence Motion Seeking Extension of Time to File Appeal Briefs, 29 June 2009, p. 3; *Prosecutor v. Radoslav Brdanin*, Case No. IT-99-36-A, Decision on Motions for Extension of Time, 9 December 2004, p. 3.

INSTRUCT the Registry to ensure that the Prosecution's Response Brief is translated in Kinyarwanda and served on Mr. Uwinkindi;

DENY the Motion in all other respects.

Done in English and French, the English version being authoritative.

Done this 16th day of September 2015,
At Arusha,
Tanzania



Judge Vagn Joensen
Pre-Trial Judge

[Seal of the Mechanism]

