



UNITED NATIONS  
NATIONS UNIES

ICTR-02-78-1  
09-11-2007  
(1231-1229)  
International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

1231  
1231

OR: ENG

**TRIAL CHAMBER DESIGNATED UNDER RULE 11 B/S**

**Before Judges:** Erik Mose, presiding  
Sergei Alekseevich Egorov  
Florence Rita Arrey

**Registrar:** Adama Dieng

**Date:** 9 November 2007

**THE PROSECUTOR**

v.

**Gaspard KANYARUKIGA**

*Case No. ICTR-2002-78-1*

JUDICIAL RECORDS/ARCHIVES  
2007 NOV 9 P 1:16

**DECISION ON THE REQUEST OF THE REPUBLIC OF RWANDA FOR LEAVE  
TO APPEAR AS *AMICUS CURIAE***

**Rule 74 of the Rules of Procedure and Evidence**

**Prosecution**

Hassan Bubacar Jallow  
Bongani Majola  
Silvana Arbia  
Alex Obote-Odora  
Richard Karegyesa  
Georges Mugwanya  
Inncke Onsea  
François Nsanzuwera  
Florida Kabasinga

**Defence**

Ernest Midagu Bahati  
Camille Yuma  
Athanase Dushimilimana  
Jean Martin Ndahiriwe

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## THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

**SITTING** as a Trial Chamber designated under Rule 11 *bis* of the Rules of Procedure and Evidence, composed of Judge Erik Møse, presiding, Judge Sergei Alekseevich Egorov, and Judge Florence Rita Arrey ;

**BEING SEIZED OF** the "Request by the Republic of Rwanda for leave to appear and make submissions as *amicus* etc. ", filed on 22 October 2007;

**HEREBY DECIDES** the motion.

### INTRODUCTION

1. On 22 October 2007, the Republic of Rwanda filed a request for leave to appear and make submissions as *amicus curiae* in support of the Prosecutor's Rule 11 *bis* request for the referral of the case of Gaspard Kanyarukiga to Rwanda.<sup>1</sup> The request was made pursuant to Rule 74 of the Rules of Procedure and Evidence. The Defence has not filed a formal response.<sup>2</sup>

### DELIBERATIONS

2. Rule 74 provides that the Chamber may, if it considers it desirable for the proper determination of the case, invite or grant leave to any State, organization or person to appear before it and make submissions on any issue specified by the Chamber. In considering whether a submission would assist the proper determination of the case, the submission must be relevant.<sup>3</sup>

3. Rule 11 *bis* (C) reads as follows:

In determining whether to refer the case in accordance with paragraph (A), the Trial Chamber shall satisfy itself that the accused will receive a fair trial in the courts of the State concerned and that the death penalty will not be imposed or carried out.

4. The Chamber notes the willingness of the Republic of Rwanda to make submissions on the following issues: Rwanda's preparedness, competence and readiness to offer a transparent and a fair trial to the accused; the institutional, budgetary, legal aid, witness and victim protection arrangements and other relevant mechanisms and projects in place for Rwanda to receive and effectively handle the Tribunal's Rule 11 *bis* cases, including the case of the Accused; post-acquittal and post-conviction guarantees available to Accused persons tried by courts in Rwanda; and the security guarantee against any infringement on the life of the detainee during trial and, in the event of a conviction, after any conviction is recorded.<sup>4</sup>

5. The Chamber is of the view that any submission of the Republic of Rwanda as to its readiness to proceed against the Accused in the event of referral would be relevant and would therefore assist the Chamber with the proper determination of the case.<sup>5</sup>

<sup>1</sup> The front page of the request refers to "Yussuf Munyakazi" but it is clear from the context that this is simply a typographical error.

<sup>2</sup> In a motion of 2 November 2007 to grant *amicus curiae* status to certain organizations, the Defence merely referred to the present request.

<sup>3</sup> *Prosecutor v. Musema*, Case No. ICTR-96-13-T, Decision on an Application by African Concern for Leave to Appear as *Amicus Curiae* (TC), 17 March 1999, para. 13.

<sup>4</sup> Rwanda's Request to appear and make submissions, para. 9.

<sup>5</sup> *Prosecutor v. Kayishema*, Case No. ICTR-2005-87-1, Decision on the Request of the Republic of Rwanda for Leave to Appear as *Amicus Curiae* (TC), 14 September 2007, paras. 2-4.

**FOR THE ABOVE REASONS, THE CHAMBER**

1. **GRANTS** *amicus curiae* status to the Republic of Rwanda;
2. **INVITES** written submissions by the Republic of Rwanda on the issue of its ability to satisfy the requirements of Rule 11 *bis* (C) of the Rules, to be filed before the Chamber no later than 23 November 2007.

Arusha 9 November 2007

  
Erik Mose  
Presiding Judge

  
Sergey Alekseevich Egorov  
Judge

  
Florence Rita Arrey  
Judge

[Seal of the Tribunal]

