



UN ORGANISATION
NY KONSTANES

ICTR-02-78-I
29-02-2008
(1395-1393)
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

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OR: ENG

TRIAL CHAMBER DESIGNATED UNDER RULE 11 *BIS*

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

Registrar: Adama Dieng

Date: 29 February 2008

THE PROSECUTOR

v.

Gaspard KANYARUKIGA

Case No. ICTR-2002-78-I

JUDICIAL RECORDS ARCHIVES
2008 FEB 29 1 P 2: 28

DECISION ON *AMICUS CURIAE* REQUEST BY HUMAN RIGHTS WATCH
Rule 74 of the Rules of Procedure and Evidence

The Prosecution

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

The Defence

Ernest Midagu Bahati
Camille Yuma

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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

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

BEING SEIZED OF an *Amicus Curiae* Request by Human Rights Watch, filed on 27 February 2008;

NOTING the Prosecution Response, filed on 28 February 2008;

HEREBY DECIDES the motion.

INTRODUCTION

1. On 7 September 2007, the Prosecution requested the transfer of the Accused for trial in Rwanda under Rule 11 *bis* of the Rules of Procedure and Evidence. The Chamber has subsequently made decisions concerning several applications for *amicus curiae* status.¹
2. Human Rights Watch seeks *amicus curiae* status on the basis that its extensive knowledge of the Rwandan judicial system may assist the Chamber in its determination of the transfer request.² The Prosecution does not object, but seeks an opportunity to respond to the merits of Human Rights Watch's submissions if the application is granted.³

DELIBERATIONS

3. On 22 February 2008, the Chamber denied a Defence motion seeking *amicus curiae* status for three non-governmental organisations but granted such status to Human Rights Watch.⁴ Although Human Rights Watch had not made any request itself, it had demonstrated an intention to accept an invitation to provide submissions based on the fact that it had submitted an *amicus curiae* brief in Rule 11 *bis* proceedings before another Chamber. The decision was based on the assessment that Human Rights Watch possessed expertise relating to the capacity of the Rwandan legal system to ensure a fair trial.⁵ As the organisation has already been granted *amicus curiae* status, its present request is moot.
4. In the Chamber's decision of 22 February 2008, Human Rights Watch was invited to provide written submissions no later than Friday 7 March 2008. The organisation has attached the brief it provided in the other Rule 11 *bis* proceedings to its current Request.⁶ The Chamber will consider this brief in connection with its deliberations in the present case.

¹ *Prosecutor v. Kanyarukiga*, Case No. ICTR-2002-78-I, Decision on the Request of the Republic of Rwanda for Leave to Appear as *Amicus Curiae* (TC), 9 November 2007; Decision on Defence Request to Grant *Amicus Curiae* Status to Four Non-Governmental Organisations (TC), 22 February 2008; Decision on *Amicus Curiae* Request by the Organisation of Defence Counsel (ADAD) (TC), 22 February 2008; Decision on *Amicus Curiae* Request by the International Criminal Defence Attorneys Association (ICDAAA) (TC), 22 February 2008; Decision on *Amicus Curiae* Request by the Kigali Bar Association (TC), 22 February 2008; Decision on *Amicus Curiae* Request by Ibuka and Avega (TC), 22 February 2008.

² Request, paras. 1, 5-12.

³ Response, para. 2.

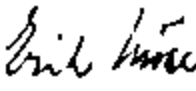
⁴ *Prosecutor v. Kanyarukiga*, Case No. ICTR-2002-78-I, Decision on Defence Request to Grant *Amicus Curiae* Status to Four Non-Governmental Organisations (TC), 22 February 2008.

⁵ *Id.*, paras. 3-7.

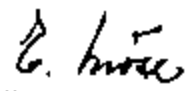
⁶ *The Prosecutor v. Fulgence Kayishema*, Case No. ICTR-2001-67-I, Brief of Human Rights Watch as *Amicus Curiae* in Opposition to Rule 11 *bis* Transfer, 3 January 2008.

**FOR THE ABOVE REASONS, THE CHAMBER
DENIES** the motion as moot.

At Kigali, 29 February 2008


Erik Mose
Presiding Judge


Serget Alekseevich Egorov
Judge


Florence Rita Arrey
p.p. Judge

[Seal of the Tribunal]

