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UNITED NATIONS  
MILIBANS UNITE

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

OR: ENG

**TRIAL CHAMBER DESIGNATED PURSUANT TO RULE 11 B3**

**Before Judges:** Khairida Rachid Khan, presiding

**Registrar:** Mr. Adama Dieng

**Date:** 3 April 2008

**THE PROSECUTOR**  
v.

**ILDEPHONSE HATEGEKIMANA**

Case No. ICTR-00-55B-R11bis

JUDICIAL RECORDS/ARCHIVES  
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**DECISION ON REQUESTS FOR EXTENSION OF TIME AND ORDER  
CONCERNING THE DEFENCE'S RESPONSE TO THE REPUBLIC OF  
RWANDA**

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## INTRODUCTION

1. The Prosecution has requested that Mr. Hategekimana's case, currently in the pre-trial phase before the Tribunal,<sup>1</sup> be referred to the authorities of Rwanda for adjudication before the appropriate Rwandan court pursuant to Rule 11 *bis* of the Rules of Procedure and Evidence.<sup>2</sup> In accordance with Rule 11 *bis* (A),<sup>3</sup> the President designated a Trial Chamber to decide the Referral Request, comprising Judges Khalida Rachid Khan, presiding, Asoka de Silva, and Emile Francis Short.<sup>4</sup>

2. On 20 March 2008, the Chamber issued a Decision granting, *inter alia*, (i) the request of *Association des Avocats de la Defence* ("ADAD") to file submissions as *amicus curiae*; (ii) the request of Human Rights Watch ("HRW") to file submissions as *amicus curiae*; and (iii) Mr. Hategekimana's request to respond to the *amicus* submissions of the Republic of Rwanda.<sup>5</sup>

3. The Chamber accepted the brief annexed to HRW's motion, and requested that HRW file additional information on five specific issues,<sup>6</sup> and ordered that all *amicus* submissions be filed within 14 days of the 20 March 2008 Decision.<sup>7</sup> It authorized "the Prosecution and the Defence to respond to the *amicus* submissions, if they so wish, but order[ed] that both parties shall limit their responses to a single document, divided into separate sections addressing each of the *amicus* filings that they wish[ed] to respond to."<sup>8</sup> Each party's response is to be no more than 30 pages, and is to be filed within 7 days of the filing of the *amicus* submissions, or, in the case of the Defence, within 7 days of the translation of the *amicus* submissions into French, as necessary. The Chamber's order that the responses of the parties be limited to a single document included any response by Mr. Hategekimana to the submissions of the Republic of Rwanda, filed on 10 January 2008.<sup>9</sup>

4. On 1 April 2008, ADAD requested an extension of time to file its *amicus* submissions, alleging that it had not been served with the 20 March 2008 Decision.<sup>10</sup> HRW also requested an extension of time to file submissions in compliance with the 20

<sup>1</sup> On 9 November 2007, Mr. Hategekimana made a further appearance following the filing of an Amended Indictment on 1 October 2007.

<sup>2</sup> Prosecutor's Request for the Referral of the Case of Idelphonse Hategekimana to Rwanda Pursuant to Rule 11 *bis* of the Tribunal's Rules of Procedure and Evidence, filed 7 September 2007 ("Referral Request").

<sup>3</sup> Unless specified otherwise, all Rules referred to in this Decision are from the Rules of Procedure and Evidence.

<sup>4</sup> Designation of a Trial Chamber for the Referral of the Case of Idelphonse Hategekimana to Rwanda (President), 2 October 2007.

<sup>5</sup> Decision on Amicus Requests and Pending Defence Motions and Order for Further Submissions (TC), 20 March 2008 (the "20 March 2008 Decision").

<sup>6</sup> *Ibid.*, para. 30.

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*, para. 31.

<sup>9</sup> Amicus Curiae Brief of the Republic of Rwanda in the Matter of an Application for the Referral of the above case to Rwanda pursuant to Rule 11 *bis*, circulated 10 January 2008 ("Republic of Rwanda's Brief").

<sup>10</sup> Motion for Enlargement of Time in which to Respond to this Chamber's Decision of March 20, 2008, filed 1 April 2008 ("ADAD Motion").

March 2008 Decision, noting that the person responsible for responding to the Chamber's request was on vacation over the Easter holiday and did not receive the 20 March 2008 Decision until 1 April 2008.<sup>11</sup>

5. On 2 April 2008, Mr. Hategekimana filed a response to the *amicus* submissions of the Republic of Rwanda.<sup>12</sup>

6. In accordance with Rule 73 (A), Judge Khalida Rachid Khan, presiding, decides this motion on behalf of the designated referral bench in the absence of Judges Asoka de Silva and Emile Francis Short, who are both currently away from Arusha, the seat of the Tribunal.

DISCUSSION

*ADAD's Request for Extension of Time*

7. As a preliminary matter, the Chamber notes that ADAD seems to have omitted one page of its request. Nonetheless, the Chamber considers that the gist of ADAD's request is clear, and will proceed to adjudicate this matter based on the partial submissions before it.

8. ADAD submits that it was not served with the 20 March 2008 Decision, but learned of it informally on 28 March 2008, and therefore requests that the 14 day limit for filing its submissions not begin to toll until formally served with it.<sup>13</sup> ADAD further submits that it was able to obtain a copy of the 20 March 2008 Decision and has commenced efforts to provide the Chamber with the requested submissions as of 28 March 2008.

9. The Chamber's inquiries with the Court Management Section ("CMS") of the Registry reveal that the 20 March 2008 Decision was circulated electronically to the designated representative of ADAD on the date of its signing. Nonetheless, subsequent attempts by CMS to contact ADAD's representative via e-mail have, to date, been unsuccessful, and the Chamber considers that it is possible that ADAD did not receive official service of the 20 March 2008 Decision as a result of an unidentified technical problem. Moreover, the Chamber notes that the information it has requested ADAD to provide will assist it in determining the Referral Request. As such, the Chamber considers that it is in the interests of justice to grant ADAD's Motion in part, and orders ADAD to file its submissions no later than Thursday, 10 April 2008, which is 14 days from 28 March 2008, the date on which ADAD submits it commenced efforts on its *amicus* brief.

<sup>11</sup> Request for Extension of Time for leave to Appear as Amicus Curiae Pursuant to Rule 74 of the ICTR Rules of Procedure and Evidence, filed 2 April 2008 ("HRW Request").

<sup>12</sup> Reponse de la Defense au Mémoire Amicus Curiae du Rwanda Produit le 10/01/2008 en Soutien a la Requete de Monsieur le Procureur en Date du 07/09/2007 Relative au Renvoi de l'acte d'accusation de l'Accuse Ildephonse Hategekimana au Rwanda, filed 2 April 2008 ("Defence Response to Rwanda's Submissions").

<sup>13</sup> ADAD Motion, paras. 4-5.



*HRW's Request for Extension of Time*

10. HRW requests that it be granted an extension of time to provide the additional information requested by the Chamber in its 20 March 2008 Decision. The Chamber notes that it specifically requested additional information from HRW, which had already filed its *amicus* brief, and that this additional information will assist it in determining the Referral Request. Therefore, taking into consideration the public holiday that followed the filing of the 20 March 2008 Decision, the Chamber considers that it is in the interests of justice to grant HRW's request for an extension of seven days from the 3 April 2008 filing deadline, until Thursday, 10 April 2008.

*The Defence Response to the Republic of Rwanda*

11. The Defence Response to Rwanda, filed on 2 April 2008, consists of 25 pages. The Chamber recalls that, in its 20 March 2008 Decision, it ordered the Defence (and the Prosecution) to file a consolidated response to any of the *amicus* submissions to which that party wished to respond, and that any such response be limited to 30 pages.<sup>14</sup> The Chamber further recalls that it granted the Defence request to file a response to *amicus* submissions by the Kigali Bar Association.<sup>15</sup> The Chamber notes that, to the extent the Defence wishes to also respond to the Kigali Bar Association or to any of the other *amicus* submissions, it must withdraw the Defence Response to Rwanda, and file a consolidated response in compliance with the 20 March 2008 Decision. Of course, should the Defence not wish to respond to the submissions of any of the other *amici curiae*, it need not withdraw the Defence Response to Rwanda.

**CONSIDERING THE ABOVE, THE CHAMBER**

**GRANTS** the ADAD Motion;

**ORDERS** ADAD to file its submissions by 10 April 2008;

**GRANTS** the HRW Request;

**ORDERS** HRW to file its submissions by 10 April 2008;

**ORDERS** the Defence for Mr. Hategekimana to file its consolidated response to all *amicus* submissions in compliance with the Chamber's 20 March 2008 Decision;

<sup>14</sup> 20 March 2008 Decision, para. 31. The Chamber expressly stated that the Defence request to respond to the Republic of Rwanda was limited by paragraph 31 of the 20 March 2008 Decision.

<sup>15</sup> 20 March 2008 Decision, para. 10.



*Decision on Requests for Extension of Time and Order Concerning the Defence's Response to the Republic of Rwanda*

3 April 2008

**REQUESTS** the Registrar to notify the Republic of Rwanda, ADAO, and HRW of the present order.

Arusha, 3 April 2008

*Khalida Ruchira Khan*  
Khalida Ruchira Khan  
Presiding Judge

