



ICTR-00-61-1
27-06-2008
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

1919
IVAH

(1919-1918)

TRIAL CHAMBER DESIGNATED UNDER RULE 11 BIS

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

Registrar: Adama Dieng

Date: 27 June 2008

THE PROSECUTOR

v.

Jean-Baptiste GATETE

Case No. ICTR-2000-61-R11bis

2008 JUN 27 11A 44-59
DIGITAL RECORDS/ARCHIVES
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DECISION ON DEFENCE MOTION FOR ORAL HEARING

The Prosecution
Hassan Bubacar Jallow
Bongani Majola
Alex Obote-Odora
George William Mugwanya
Inneke Onsea
Francois Nsanzuwera
Florida Kabasinga
William Mubiru

The Defence
Richard Dubé
Isabella Teolis

6/2

1918

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

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

BEING SEIZED OF the Defence motion for an oral hearing, filed on 8 April 2008;

NOTING the Prosecution response, filed on 11 April 2008;

HEREBY DECIDES the motion.


1. The Prosecution has requested that Jean-Baptiste Gatete's case be transferred to Rwanda. The Defence has responded and the Prosecution filed a reply.¹ The Defence asks for an oral hearing in order to assist the Chamber in its determination of the matter. The Prosecution opposes the motion.²

2. Under Rule 11 *bis* of the Rules of Procedure and Evidence, a Trial Chamber may order that a case be transferred to a national jurisdiction. The provision is silent as to whether submissions should be oral or written. Rule 11 *bis* (B) simply states that the accused must be provided with "the opportunity to be heard". According to Rule 73 (A), the Chamber may rule on motions based solely on the briefs of the parties, unless it decides to hear the motion in open court. In view of the comprehensive written submissions from the Prosecution and the Defence, the Chamber sees no need for an oral hearing.³

FOR THE ABOVE REASONS, THE CHAMBER

DENIES the motion.

Arusha, 27 June 2008



Erik Møse

Presiding Judge



Sergei Alekseevich Egorov

Judge



Florence Rita Arrey

Judge

[Seal of the Tribunal]



¹ Prosecutor's Request for the Referral of the Case of Jean-Baptiste Gatete to Rwanda Pursuant to Rule 11 *bis* of the Tribunal's Rules of Procedure and Evidence (TC), filed on 28 November 2007; Defence Response, filed on 26 February 2008; Prosecution Reply, filed on 20 March 2008.

² *Requête de la Défense afin de pouvoir plaider oralement la requête en transfert présentée par le Procureur selon l'article 11 bis du règlement et de preuve du Tribunal*, filed on 8 April 2008, paras. 4-14; Prosecution Response, filed on 11 April 2008, paras. 2-3.

³ There was no oral hearing in *Hategekimana*, Decision on Prosecutor's Request for the Referral of the Case of Idelphonse Hategekimana to Rwanda (TC), 19 June 2008, and in *Kanyarukiga*, Decision on Prosecutor's Request for Referral to the Republic of Rwanda (TC), 6 June 2008, see para. 5. In *Munyakazi*, the Chamber heard the parties orally on 24 April 2008, see Decision on the Prosecutor's Request for Referral of Case to the Republic of Rwanda (TC), 28 May 2008, para. 6.