



**Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda**

48/H

ICTR-2002-78-R11bis

09th July 2008

{48/H - 46/H}

IN THE APPEALS CHAMBER

Before:

Judge Fausto Pocar, Presiding
Judge Mohamed Shahabuddeen
Judge Mehmet Güney
Judge Liu Daqun
Judge Andréia Vaz

Registrar:

Mr. Adama Dieng

Order of:

9 July 2008

ICTR Appeals Chamber

Date: 09th July 2008

Action: R.T.

Copied To: President Judge, SLO,
Lor. ALOR, LSS-4, M. H. C. S.

THE PROSECUTOR

v.

Gaspard KANYARUKIGA

Case No. ICTR-2002-78-R11bis

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ORDER

Counsel for Gaspard Kanyarukiga

Mr. Ernest Midagu Bahati
Ms. Camille Yuma

Office of the Prosecutor

Mr. Hassan Bubacar Jallow
Mr. Bongani Majola
Mr. Alex Obote-Odora
Mr. Richard Karegyesa
Mr. Neville Weston

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

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NAME / NOM: KEEH... KUMELIO... A... AFANDE

SIGNATURE: [Signature] DATE: 09 July 2008

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THE APPEALS CHAMBER of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States Between 1 January and 31 December 1994 ("Appeals Chamber" and "Tribunal", respectively);

NOTING the "Decision on Prosecutor's Request for Referral to the Republic of Rwanda" issued by the Trial Chamber designated under Rule 11bis of the Rules of Procedure and Evidence of the Tribunal ("Rules") on 6 June 2008 ("Rule 11bis Decision");

NOTING the "Prosecutor's Notice of Appeal (Rule 11 bis (H))" filed on 23 June 2008 and the "Prosecutor's Appeal Brief (Rule 11 bis (H))" filed on 8 July 2008;

NOTING the "*Réponse de la Défense à la demande du Procureur tendant à solliciter la certification d'appel dans l'affaire Procureur c/ Kanyarukiga Gaspard*" and the "*Coorigendum [sic] de la Réponse de la Défense à l'acte d'appel déposé par le Procureur le 23 juin 2008*" filed by Gaspard Kanyarukiga on 27 June 2008 and 3 July 2008 respectively (together "Response to Notice of Appeal"), in which he submits that the Prosecutor has failed to substantiate his appeal and requests accordingly that the Appeals Chamber dismiss the Prosecutor's Notice of Appeal;¹

NOTING that, pursuant to Rule 11bis (H) of the Rules, "[a]n appeal by the accused or the Prosecutor shall lie as of right from a decision of the Trial Chamber whether or not to refer a case" and that "[n]otice of appeal shall be filed within fifteen days of the decision";

NOTING further that the filing of written submissions in Rule 11bis appeal proceedings is governed by the Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings Before the Tribunal ("Practice Direction"), which provides in relevant part that "[t]he opposite party shall file a response within ten days of the filing of the appeal brief";²

CONSIDERING that neither the Rules nor the Practice Direction provide for the filing of a response to a notice of appeal filed pursuant to Rule 11bis of the Rules;

¹ Response to Notice of Appeal, paras. 5.1 and 5.2.

² Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings before the Tribunal, 15 June 2007, Section III, paras. 5 and 6.

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FOR THE FOREGOING REASONS,

DECLARES the Response to Notice of Appeal inadmissible; and

REMINDS Gaspard Kanyarukiga that his response, if any, to the Prosecutor's Appeal Brief shall be filed no later than 18 July 2008.

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

Dated this ninth day of July 2008,
at The Hague, The Netherlands.



[Seal of the Tribunal]

A handwritten signature in dark ink, appearing to read "Fausto Pocar", is written over a horizontal line.

Judge Fausto Pocar
Presiding