



COOPERATION  
NATIONALE

ICTR-01-61-11bis  
09-09-2008  
(1979 - 1977)

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

1979  
S. M. M. M.

OR: ENG

**TRIAL CHAMBER DESIGNATED UNDER RULE 11 BIS**

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

**Registrar:** Adama Dieng

**Date:** 8 September 2008

**THE PROSECUTOR**

v.

**Jean-Baptiste GATETE**

*Case No. ICTR-2001-61-11bis*

JUDICIAL  
REGISTRY  
2008 SEP - 9 A 9:12

**DECISION ON AMICUS CURIAE REQUEST  
(REPUBLIC OF RWANDA)**

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

**Prosecution**  
Hassan Bubacar Jallow  
Bongani Majola  
Alex Obote-Odora  
George William Mugwanya  
Inncke Onsea  
François Nsanzuwera  
Florida Kabasinga  
William Mubiru

**Defence**  
Richard Dubé  
Isabella Teolis

6/11

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

1978

**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 for Leave to File an *Amicus Curiae* Brief of the Republic of Rwanda" etc., filed on 30 July 2008;

**HEREBY DECIDES** the motion.

**INTRODUCTION**

1. On 30 July 2008, 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 Jean-Baptiste Gatete to Rwanda. The request was made pursuant to Rule 74 of the Rules of Procedure and Evidence. The Prosecution and Defence have not responded.

**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>1</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 Republic of Rwanda has indicated its willingness to make submissions on the following issues: the capacity of the Rwandan legal system to ensure a fair trial, including guarantees of legal representation for persons charged with international crimes, the infrastructure in place to guarantee the rights of the Accused (including his defence), available financial support to ensure adequate representation of indigent accused, and measures available to ensure the security and safety of witnesses as well as parties to the proceedings.<sup>2</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>3</sup>

<sup>1</sup> *Prosecutor v. Musema*, Decision on an Application by African Concern for Leave to Appear as *Amicus Curiae* (TC), 17 March 1999, para. 13.

<sup>2</sup> Rwanda's Request for Leave to File an *Amicus Curiae* Brief, para. 5.

<sup>3</sup> *Prosecutor v. Kayishema*, Decision on the Request of the Republic of Rwanda for Leave to Appear as *Amicus Curiae* (TC), 14 September 2007, paras. 2-4; *Prosecutor v. Yussuf Munyakazi*, Order for Submissions of the Republic of Rwanda as the State Concerned by the Prosecutor's Request for Referral of the Indictment against Yussuf Munyakazi to Rwanda (TC), 9 November 2007, paras. 8-11; *Prosecutor v. Gaspard Kanyarukiga*, Decision on the Request of the Republic of Rwanda for Leave to Appear as *Amicus Curiae* (TC), 9 November 2007, para. 5; and *Prosecutor v. Idelphonse Hategekimana*, Decision on Requests by the Republic of Rwanda, the Kigali Bar Association, the RCDAA, and ADAD for Leave to Appear and Make Submissions as *Amici*

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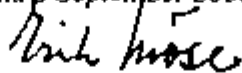
1977

**FOR THE ABOVE REASONS, THE CHAMBER**

**GRANTS** *amicus curiae* status to the Republic of Rwanda;

**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 22 September 2008.

Arusha 8 September 2008



Erik Mase  
Presiding Judge



Sergey Alekseevich Egorov  
Judge



Florence Rita Arrey  
Judge

(Seal of the Tribunal)



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Curiae (TC), 4 December 2007, para. 6 ("The Chamber agrees that submissions by the Republic of Rwanda on any issues relevant to its ability to satisfy the requirements of Rule 11 *bis* would assist the Chamber in determining the Referral Request.")