

ICTR-01-75-I
18-01-2011
(2226-2223)

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International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

UNITED
NATIONS
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UNIES

OR: ENG

TRIAL CHAMBER II

Before Judges: Florence Rita Arrey, Presiding
Emile Francis Short
Robert Fremr

Registrar: Adama Dieng

Date: 18 January 2011

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THE PROSECUTOR

v.

JEAN-BOSCO UWINKINDI

Case No. ICTR-2001-75-I

INVITATION TO THE GOVERNMENT OF RWANDA TO MAKE
SUBMISSIONS AS *AMICUS CURIAE*, PURSUANT TO RULE 74 OF THE ICTR
RULES OF PROCEDURE AND EVIDENCE, ON THE PROSECUTION'S 11 *bis*
MOTION

Office of the Prosecutor:
Hassan Bubacar Jallow
Bongani Majola
Richard Karegyesa
James Arguin
George Mugwanya
Inneke Onsea

Counsel for the Defence
Claver Sindayigaya
Iain Edwards
Bettina Spilker

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1. On 30 June 2010, the Accused Jean-Bosco Uwinkindi was arrested in Uganda. He was transferred to the United Nations Detention Facility ("UNDF") in Arusha, Tanzania on 2 July 2010.¹
2. On 04 November 2010, the Prosecution, pursuant to Rule 11 *bis* of the Rules of Procedure and Evidence ("Rules"), filed a Motion requesting that the case of the *Prosecutor v. Jean Uwinkindi* be referred to the authorities of the Republic of Rwanda for trial in the High Court of Rwanda ("11bis Motion").²
3. On 26 November 2010, the President designated Trial Chamber II, as composed of Judge Florence Rita Arrey (presiding), Judge Emile Francis Short and Judge Robert Fremr, to decide the Prosecution's 11bis Motion.³
4. As Rule 11bis (C) requires the Referral Bench to assess whether the Accused will receive a fair trial in the courts of Rwanda, acting *proprio motu*, pursuant to Rules 54 and 98, the Referral Bench invites the Government of Rwanda to appear as *amicus curiae* in this case.

THE REFERRAL BENCH

- I. **INVITES** the Government of Rwanda to appear as *amicus curiae* in the present case;
- II. **PROPOSES** that the Government of Rwanda address the following points in its report:

¹*Prosecutor v. Jean-Bosco Uwinkindi*, Case No. ICTR-2001-75-I, T. 1 December 2010 p.1. Uwinkindi made a further appearance following the filing of an Amended Indictment on 23 November 2010.

²*Prosecutor v. Jean-Bosco Uwinkindi*, Case No. ICTR-2001-75-I, Prosecutor's request for the referral of the case of Jean-Bosco Uwinkindi to Rwanda pursuant to Rule 11bis of the Tribunal's Rules of Procedure and Evidence, 4 November 2010.

³ Notice of Designation - *Prosecutor v. Jean Uwinkindi*, Case No. ICTR-2001-75-I, 26 November 2010.

- (i) Whether the Rwandan legal system is able in practice to provide the Accused with assistance in:
 - a) Securing adequate legal representation;
 - b) Providing appropriate financial support to an indigent accused;
 - c) Facilitating travel and investigations for Defence teams;
 - d) Ensuring security for Defence teams.
- (ii) Are there any impediments that the Defence may face in the discharge of its function?
- (iii) What facilities and procedures exist for ensuring that witnesses and victims can be securely and safely accommodated and transported to the place of trial?
- (iv) Is Rwanda's witness protection programme functional in practice?
- (v) Are there any threats Prosecution witnesses and/or Defence witnesses may face before, during and after giving testimony in Rwanda?
- (vi) What procedures exist for the procurement and the facilitation of safe and secure travel for witnesses, particularly for Rwandan witnesses who reside abroad? Will such witnesses be able to benefit from a safe passage to and from Rwanda?
- (vii) Whether Rwanda regulations governing the arrest and detention of an accused will afford to the Accused Jean-Bosco Uwinkindi the same protection as the protection applied by the Tribunal?
- (viii) Whether the detention facilities for accused persons in Rwanda comply with internationally recognized standards.
- (ix) Any other issues relevant to the implementation of Article 20 of the Statute.



III. DIRECTS that the Government of Rwanda file any *amicus* brief with the Registry of the Tribunal within 21 days of the date of the present Decision;

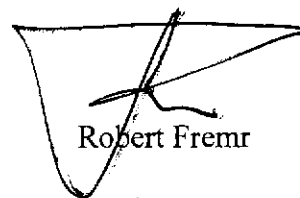
- IV. **REQUESTS** the Registrar of the ICTR to provide the Government of Rwanda with all the documents related to the present case for a proper discharge of its *amicus* mandate;
- V. **REQUESTS** the Registrar to notify, without delay, the present Decision to the Government of Rwanda.
- VI. **ORDERS** the parties to file any submissions regarding the report of *Amicus Curiae* within 14 days of the date on which the report is filed.

Arusha, 18 January 2011, done in English.


Florence Rita Arrey

Presiding Judge


Emile Francis Short

[Seal of the Tribunal]


Robert Fremr

Judge