

ICTR-00-61-A
(2-11-2011
(430/A 408/A))

430/A



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

UNITED NATIONS
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APPEALS CHAMBER

Before: Judge Mehmet Güney
Judge Fausto Pocar
Judge Liu Daqun, presiding
Judge Andrézia Vaz
Judge Carmel Agius

Registrar: Adama Dieng

Filed on: 2 November 2011

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JUDICIAL RECORDS ARCHIVES
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THE PROSECUTOR

V.

JEAN-BAPTISTE GATETE

Case No. ICTR-00-61-A

**PROSECUTION'S MOTION ON THE CONFIDENTIAL FILING OF
GATETE'S APPELLANT'S BRIEF**

Office of the Prosecutor

Hassan Bubacar Jallow
James J. Arguin
Inneke Onsea
Priyadarshini Narayanan

Defence Counsel

Marie-Pierre Poulain
V. C. Lindsay
E. Levavasseur
C. Rivat

SUBMISSIONS

1. The Trial Judgement in *Prosecutor v. Jean-Baptiste Gatete* was filed on 31 March 2011.¹ Gatete filed his Notice of Appeal on 3 May 2011.² On 31 October 2011, Gatete filed his Appellant's Brief confidentially.³
2. Pursuant to Rule 78 of the Rules of Procedure and Evidence, all submissions before the Tribunal must be public unless there are exceptional reasons for maintaining their confidentiality. The Appeals Chamber has consistently recognised that on appeal, parties must file public redacted versions of their briefs.⁴
3. Contrary to the practice at the Tribunal, Gatete does not demonstrate any exceptional basis for the confidential filing of the Brief. He has neither justified the confidential filing, nor has he filed a public redacted version of the same.
4. For these reasons, the Prosecution requests the Appeals Chamber to order Gatete to file a public redacted version of his Appellant's Brief or to indicate that the confidentiality of the Brief can be lifted, if there is no basis for maintaining confidentiality.⁵ If Gatete should file a public redacted version, he should clearly mark the redactions in the text of the public version, and to limit redactions to confidential information, including the identities of protected witnesses, and not make any additions, deletions, or other amendments.⁶

¹ Judgement and Sentence, 31 March 2011.

² Notice of Appeal, 3 May 2011.

³ Appellant's Brief, filed on 31 October 2011. While the French translation of the Judgement was filed on 16 September 2011, it was only received by the parties on 19 September 2011. Accordingly, Gatete filed his Appellant's Brief on 31 October 2011 (40 days from receipt of the French translation).

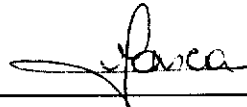
⁴ *Dominique Ntawukulilyayo v. The Prosecutor*, Case No. ICTR-05-82-A, Decision on Prosecution's Request for Public Filings, 15 April 2011 ("*Ntawukulilyayo* Decision"), p.1; *Tharcisse Renzaho v. The Prosecutor*, Case No. ICTR-97-31-A, Order regarding Filings, 10 May 2010, p. 1; *Ferdinand Nahimana et al. v. The Prosecutor*, Case No. ICTR-99-52-A, Order to Appellant Hassan Ngeze to file Public Versions of his Notice of Appeal and Appellant's Brief, 30 August 2007, p. 2.

⁵ *Ntawukulilyayo* Decision, p. 2.

⁶ *Augustin Ndindiliyimana et al. v. The Prosecutor*, Case No. ICTR-00-56-A, Order on the Status of Francois-Xavier Nzuwonemeye's Notice of Appeal, 22 July 2011, p.1.

Word Count: 367

Dated and signed this 2nd day of November 2011, Arusha,
Tanzania.



James J. Arguin

Chief, Appeals & Legal Advisory Division



TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

COURT MANAGEMENT SECTION
(Art. 27 of the Directive for the Registry)

I - GENERAL INFORMATION (To be completed by the Chambers / Filing Party)

To:	<input checked="" type="checkbox"/> Trial Chamber I N. M. Diallo	<input type="checkbox"/> Trial Chamber II R. N. Kouambo	<input type="checkbox"/> Trial Chamber III C. K. Hometowu
	<input type="checkbox"/> OIC, JLSJ P. Besnier	<input type="checkbox"/> OIC, JPU C. K. Hometowu	<input checked="" type="checkbox"/> F. A. Talon (Appeals/Team IV)
From:	<input type="checkbox"/> Chamber (names)	<input type="checkbox"/> Defence (names)	<input checked="" type="checkbox"/> Prosecutor's Office Inneke Onsea (names)
			<input type="checkbox"/> Other: (names)
Case Name:	The Prosecutor vs. Jean-Baptiste Gatete		Case Number: ICTR-00-61-A
Dates:	Transmitted: 2 November 2011		Document's date: 2 November 2011
No. of Pages:	3	Original Language:	<input checked="" type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
Title of Document:	PROSECUTION'S MOTION ON THE CONFIDENTIAL FILING OF GATETE'S APPELLANT'S BRIEF		
Classification Level:		TRIM Document Type:	
<input type="checkbox"/> Ex Parte <input type="checkbox"/> Strictly Confidential / Under Seal <input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Public		<input type="checkbox"/> Indictment <input type="checkbox"/> Warrant <input type="checkbox"/> Correspondence <input type="checkbox"/> Submission from non-parties <input type="checkbox"/> Decision <input type="checkbox"/> Affidavit <input type="checkbox"/> Notice of Appeal <input checked="" type="checkbox"/> Submission from parties <input type="checkbox"/> Disclosure <input type="checkbox"/> Order <input type="checkbox"/> Appeal Book <input type="checkbox"/> Accused particulars <input type="checkbox"/> Judgement <input type="checkbox"/> Motion <input type="checkbox"/> Book of Authorities	

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Original	in	<input checked="" type="checkbox"/> English <input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda
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<input type="checkbox"/> The OTP is overseeing translation. The document is submitted for translation to: <input type="checkbox"/> The Language Services Section of the ICTR / Arusha. <input type="checkbox"/> The Language Services Section of the ICTR / The Hague. <input type="checkbox"/> An accredited service for translation; see details below: Name of contact person: Name of service: Address: E-mail / Tel. / Fax:	<input type="checkbox"/> DEFENCE is overseeing translation. The document is submitted to an accredited service for translation (fees will be submitted to DCDMS): Name of contact person: Name of service: Address: E-mail / Tel. / Fax:

III - TRANSLATION PRIORITISATION (For Official use ONLY)

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<input type="checkbox"/> Urgent		<input type="checkbox"/> Hearing date:
<input type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines: