



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

IN THE APPEALS CHAMBER

Before: Judge Claude Jorda, Presiding
Judge Lal Chand Vohrah
Judge Mohamed Shahabuddeen
Judge Wang Tieya
Judge Rafael Nieto-Navia

Registrar: Mr Agwu U Okali

Decision of: 14 December 1999

Clément KAYISHEMA

v

THE PROSECUTOR

Obed RUZINDANA

v

THE PROSECUTOR

Case No.: ICTR-95-1-A

DECISION

**(APPELLANTS' MOTIONS FOR EXTENSION OF TIME-LIMITS AND
FOR A VISIT WITH ANOTHER PRISONER)**

Counsel for the Appellant Kayishema

Mr André FÉRAN
Mr Phillipe MORICEAU

Counsel for the Appellant Ruzindana

Mr Pascal BESNIER
Mr William van der GRIEND

Counsel for the Prosecutor

Mr Upawansa YAPA
Mr Norman FARRELL
Mr Karim KHAN

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THE APPEALS CHAMBER of the International Tribunal for the Prosecution of Persons Responsible for 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 1994 and 31 December 1994 (the 'Appeals Chamber' and the 'Tribunal' respectively);

NOTING the pending appeals by Clément KAYISHEMA and Obed RUZINDANA (the 'Appellants') and the Prosecutor (the 'Cross-Appellant'), all of which were filed on 18 June 1999, against the oral Judgment of 21 May 1999 of Trial Chamber II the reasons for which (the 'Reasons') were to be delivered at a later date;

NOTING that on 29 July 1999, the Registrar certified the trial record, pursuant to Rule 109(a) of the Rules of Procedure and Evidence (the 'Rules');

NOTING that on 4 July 1999, 7 July 1999, and 23 August 1999 the Appellant Ruzindana, the Appellant Kayishema, and the Cross-Appellant respectively designated the entire trial record for purposes of the appeal;

NOTING that in August 1999, the Reasons were delivered to the parties; that the Appellant Ruzindana (who alone makes a claim for relief because of the late delivery of these reasons) received his copy on 4 August 1999; that the Reasons contained a number of errors; that on 22 September 1999, the Appellant Ruzindana received a corrigendum of these errors; and, that on 4 October 1999 he received a final version of the reasons for judgment and sentencing incorporating the corrigendum;¹

NOTING that on 3 September 1999, the Appeals Chamber made a Scheduling Order directing the Appellants and Cross-Appellant to file the briefs relating to their respective

¹ See paragraph 10 of the Appellant Ruzindana's Extremely Urgent Motion for an Extension of the Time-limit for Filing Appellant's Brief - Rules 111 and 116. Recitation of the chronology of the delivery and receipt of the reasons for judgment and sentencing has here been limited to the Appellant Ruzindana, because he is the only party who has founded a claim for relief on the subject, as well as the only Appellant who has conveniently supplied any evidence in that regard.

appeals by 28 October 1999, and that in the meantime the Appellants brought the following four motions:

- *Kayishema v P:*

- (1) a motion to compel the Registrar to authorise the Appellant to meet with Mr Jean KAMBANDA, and,

- (2) a motion for extension of time within which to file the Appellant's brief on appeal, dated 6 October 1999.

- *Ruzindana v P:*

- (1) a motion to compel the Registrar to authorise the Appellant to meet with Mr Jean KAMBANDA, filed on 6 October 1999, and

- (2) a motion for extension of time within which to file the Appellant's brief on appeal, filed on 6 October 1999.

CONSIDERING that it is desirable to consolidate the four motions and dispose of them together;

NOTING that on 1 November 1999, the Cross-Appellant filed her responses to the Appellants' Motions to Visit Kambanda;

CONSIDERING that the Appeals Chamber may facilitate access to additional evidence sought to be admitted on appeal only if it has been provided with some basis on which it can determine that such additional evidence would be relevant to the appeal;

NOTING that the Appeals Chamber has not been provided with any basis for determining that Mr Kambanda will provide any evidence or that any evidence which he may provide will be relevant to the appeal;

FINDING therefore that there is no legal basis on which the Appeals Chamber may direct the Registrar to provide access to Mr Kambanda as requested;

NOTING that on 19 October 1999, the Appellant Ruzindana filed his appellate brief;

NOTING that on 20 October 1999, the Cross-Appellant filed her response to the Appellants' motions for extension of time; that in her response, the Prosecutor supported the Appellants' contention that the copy of the record on appeal, as delivered to them by the Registrar, was incomplete;²

NOTING that in view of the approaching deadline of 28 October 1999, and in view of the pending motions, the Appeals Chamber rendered a decision on 21 October 1999, suspending the operation of the time-limit established in its Scheduling Order of 3 September 1999;

NOTING that the suspension decision did not dispose of the pending motions on the merits;

NOTING that on 27 October 1999, the Cross-Appellant filed a Notice of Receipt of Exhibits; that this notice was filed in order to update the Appeals Chamber on the fact that the Cross-Appellant may have, on 25 October 1999, received from the Registrar some, if not all, of the parts of the record on appeal, accompanied by a document dated 14 October 1999 and entitled the 'Addendum to the Registry Certificate on the Record' (the 'Addendum');

NOTING that the Registry had indeed issued an Addendum on that date;

NOTING that Rule 111 of the Rules provides that an appellant's brief shall be filed within ninety days of the certification of the record on appeal, but that, in the circumstances of this case, it is appropriate to extend that time limit pursuant to Rule 116 of the Rules, the appellants' pleadings being considered as motions for the purpose of that rule;

² Prosecutor's Response to Appellant Obed Ruzindana's Extremely Urgent Motion for an Extension of the Time-limit for Filing Appellant's Brief ..., paragraph 3; and Prosecutor's Response to Appellant Clement Kayishema's Motion to the Appeals Chamber of the (ICTR) for the Extension of the Time-limit for Filing the Appellant's Brief, paragraph 3.

HEREBY:

CONSOLIDATES the four motions brought by the Appellants;

REJECTS the Appellants' Motions to Visit Kambanda;

GRANTS the Appellants' Motions for Extension of Time; and,

ORDERS as follows:

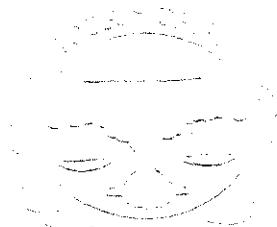
- (i.) each of the Appellants shall file his brief by the end of 90 days following the day on which the Addendum to the Registry Certificate on the Record was communicated to him;
- (ii.) the Cross-Appellant shall file her brief (in the cross-appeal) by the end of 90 days following the day on which the Addendum to the Registry Certificate on the Record was communicated to her;
- (iii.) the Appellants and the Cross-Appellant shall file their briefs in response by the end of 30 days following the day on which the briefs in (i) and (ii) above were respectively communicated to them;
- (iv.) the Appellants and the Cross-Appellant may file briefs in reply by the end of 15 days following the day on which the responses in (iii) above were respectively communicated to them.

Done in French and English the French text being authoritative.

(signed)

Claude JORDA
Presiding Judge

Dated this Fourteenth day of December 1999
At The Hague
The Netherlands.



[Seal of the Tribunal]