

UNITED NATIONS  
NATIONS UNIESTribunal pénal international pour le Rwanda  
International Criminal Tribunal for RwandaIN THE APPEALS CHAMBER

Before: Judge Rafael Nieto-Navia, Pre-Hearing Judge  
Registrar: Mr Agwu U Okali  
Decision of: 12 April 2000

Clément KAYISHEMA and  
Obéd RUZINDANA

(Appellants)

v

THE PROSECUTOR

(Cross-Appellant)

Case No.: ICTR-95-1-A

2000 APR 14 A 11: 10  
ICTR  
COURT REGISTRY  
RECEIVED

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**DECISION**

(APPELLANTS' MOTIONS REQUESTING AN ALTERATION OF THE TIME LIMITS  
FOR THE FILING OF DOCUMENTS)

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**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 Zhu Wen-qi

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I, JUDGE Rafael NIETO-NAVIA, designated by the Presiding Judge as Pre-Hearing Judge, pursuant to Rule 108*bis* of the Rules of Procedure and Evidence (the 'Rules'),

NOTING the Judgment of Trial Chamber II dated 21 May 1999 (the 'Judgment') by which (a) Clément KAYISHEMA and Obed RUZINDANA (together, the 'Appellants') were respectively convicted on four counts of genocide and one count of genocide, and (b) the Appellants were respectively sentenced to four terms of life imprisonment and to one term of imprisonment for twenty-five years;

NOTING the three Notices of Appeal filed against the Judgment on 18 June 1999 by the Appellants and the Prosecutor (the 'Cross-Appellant');

NOTING the briefing schedule set by the Decision issued by the Appeals Chamber on 14 December 1999 and modified by the Decision issued by the Appeals Chamber on 11 April 2000;

NOTING the briefs filed by the Appellant Ruzindana on 19 October 1999 and by the Appellant Kayishema on 19 January 2000;

NOTING the "Motion Filed with the Appeals Chamber on the Calculation of Procedural Time-Limits for the Defence to Run from the Receipt by Counsel for Kayishema of all the Necessary Documents in French" filed on 31 December 1999, and the "Motion by Clément Kayishema to the Appeals Chamber of the ICTR on the Review of the Provision Regarding the Time-Limit Set in the Order Issued on 14 December 1999" filed on 11 January 2000 in which the Appellant Kayishema requests that time limits for filing documents in this matter be replaced by time limits for sending documents, in view of the delays which can attend transmission by post (together, "Kayishema's Motions");

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**NOTING** the Motion filed by the Appellant Ruzindana on 21 January 2000 requesting the same relief as that requested in Kayishema's Motions;<sup>1</sup>

**CONSIDERING** that it is convenient to consider these three Motions together as the "Appellants' Motions Requesting an Alteration of the Time Limits for the Filing of Documents";

**NOTING** the "Prosecutor's Response to Defence Motion Requesting an Alteration of the Time Limits for the Filing of Defence Documents" filed on 21 February 2000 (the "Prosecutor's Response"), the reply of Appellant Kayishema filed on 20 March 2000<sup>2</sup>, and the "Prosecutor's Response to the Motion by Clement Kayishema Seeking an Amendment of the Decision of the Appeals Chamber of 14 December 1999" filed on 10 March 2000;

**NOTING** that pursuant to Article 31 of the Statue of the Tribunal and to Rule 3(A) of the Rules of Procedure and Evidence of the Tribunal (the "Rules") the working languages of the Tribunal shall be English and French;

**NOTING** that the provisions of the Rules which set the time limits for the filing of appeal briefs, namely Rules 111, 112 and 113 of the Rules, are silent on the issue of translation, and that they may be distinguished in this respect from Rule 108(A) which ensures that the time limit for filing a notice of appeal shall run from the date on which the full judgement and sentence are delivered in both English and French;

**CONSIDERING** therefore that the periods set by Rules 111, 112 and 113 of the Rules are intended to run from the filing of the relevant document in one, and not both, of the official languages of the Tribunal;

**NOTING** that this is the approach adopted by the International Tribunal for the Former Yugoslavia, as evidenced in the Decision of that Appeals Chamber of 16 February 1999 in *The Prosecutor v. Zlatko Aleksovski*, cited in the Prosecutor's Response;

<sup>1</sup> *Réponse de l'appelant Obed Ruzindana aux requêtes déposées par l'appelant Clément Kayishema concernant les délais de la procédure et requête tendant aux mêmes fins.*

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**NOTING** that pursuant to Article 27(4) of the Directive for the Registry of the Tribunal, the date of filing of a document is the date that the document is received by the Court Management Section and not the date that the document is sent to that Section;

**CONSIDERING** that the delays which may attend transmission by post are an inevitable feature of an International Tribunal, and that these have been attenuated by the provision for filing by facsimile transmission in Article 28 of the Directive for the Registry of the Tribunal;

**PERCEIVING** no reason to depart from the provisions of the Statute, the Rules and the Directives of the Tribunal in this particular case;

**NOTING** that in case of genuine difficulty experienced by a party in meeting a time limit application may be made under Rule 116 of the Rules;

**NOTING** that the Appellants' Motions Requesting an Alteration of the Time Limits for the Filing of Documents aim at a general revision of the time limits applicable in this case, and **CONSIDERING** therefore that they are not brought under Rule 116 of the Rules which provides for application to extend a particular time limit if good cause is shown in that instance;


**HEREBY DISMISS** the Appellants' Motions Requesting an Alteration of the Time Limits for the Filing of Documents.

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

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<sup>2</sup> *Réplique à la réponse du Procureur du 26 janvier 2000 concernant la requête de la défense de Kayishema déposée le 29 décembre 1999 aux fins du report des délais pour le dépôt des documents de la défense*

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Rafael NIETO-NAVIA  
Pre-Hearing Judge

Dated this twelfth day of April 2000  
At The Hague,  
The Netherlands.

[Seal of the Tribunal]