



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

UNITED NATIONS  
NATIONS UNIES

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ENGLISH  
Original: FRENCH

**APPEALS CHAMBER**

Before Judges: Claude Jorda, presiding  
Mohamed Shahabuddeen  
David Hunt  
Fausto Pocar  
Theodor Meron

ICTR-95-1A-A  
3 APRIL 2002  
(56411<sub>015</sub> - 56214<sub>015</sub>)

Registry: Adama Dieng  
Decision of: 6 February 2002

**THE PROSECUTOR**  
(Appellant)

v.

**IGNACE BAGILISHEMA**  
(Respondent)  
No. ICTR-95-1A-A

JUDICIAL RECORDS DIVISION  
RECEIVED  
ICTR

03-04-2002  
2002 APR - 3 P 5: 25  
*[Signature]*

**DECISION**

**MOTIONS FOR REVIEW OF THE PRE-HEARING JUDGE'S DECISIONS OF  
30 NOVEMBER AND 19 DECEMBER 2001**

Counsel for the Prosecutor:  
Upawansa Yapa  
Norman Farrell  
Wen-qi Zhu  
Mathias Marcussen  
Sonjia Boelaert-Suominen

Counsel for the Appellant:  
François Roux  
Maroufa Diabara  
Valérie Toussaint  
Wayn Jordash

ICTR Appeals Chamber  
Date: 03/04/2002  
Action: P. Galinier  
Copied To: Concerned Appeals Chamber

Judges, their ALOs, the Parties,  
Appeals Unit Arusha, Mr. J. Hocking.  
Thanks. *[Signature]*  
03/04/2002.

Translation certified by LCSS, ICTR  
Hag(a)02-013 (E)

**The Appeals Chamber** of the International Tribunal for the Prosecution of Persons Responsible for Genocide and other 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 (respectively "the Appeals Chamber" and "the Tribunal"),

**Considering** the Judgement Trial Chamber I pronounced on 7 June 2001 in the instant case,

**Considering** the appeal by the Prosecutor ("the Appellant") filed on 9 July 2001,

**Considering** the Pre-Hearing Judge's 30 November 2001 Decision ("*Requête de l'Intimé en demande de traduction et de délais supplémentaire*"; "*Prosecution's Urgent Motion for Authorization to exceed the page limit to the Prosecution's Appeal Brief and alternative Request for extension of time*"),

**Considering** the motion for a review of the Decision by the President of the Appeals Chamber filed by the Respondent on 12 December 2001 ("the First Motion for Review"),

**Considering** the "*Prosecution Response to the Respondent's Motion for a Review of the Pre-Hearing Judge's Decision of 30 November 2001*" filed by the Appellant on 20 December 2001 ("the Prosecutor's Response to the First Motion for Review"),

**Considering** that the Respondent has not filed a reply to the Prosecutor's response to the First Motion for Review and that he has not seized the Pre-Hearing Judge or the Appeals Chamber of a motion for extension of time to file such a reply,

**Considering** the Pre-Hearing Judge's 19 December 2001 Decision ("*Prosecution's Urgent Motion for Extension of Time to File its Appeal Brief in compliance with the Practice Direction on the length of Briefs and Motion on Appeal*"),

**Considering** the motion for a review of the Decision by the President of the Appeals Chamber filed on 21 December 2001 ("the Second Motion for Review"),

**Considering** the "*Prosecution's Response to Respondent's Motion for a Review of the Decision by the President of the Appeals Chamber*", filed by the Appellant on 4 January 2002 ("the Prosecutor's Response to the Second Motion for Review"),

**Considering** that the Respondent has not filed a response to the Prosecutor's reply to the Second Motion for review and that he has not seized the Pre-Hearing Judge or the Appeals Chamber of a motion for extension of time to file such a reply,

**Considering** Article 25 of the Statute and Rules 120 and 121 of the Rules;

**Whereas**, according to precedent, only one final judgement may be reviewed under Article 25 of the Statute and Rule 120 of the Rules, and whereas a final judgement, within the meaning of the said Article and Rule, consists in a decision which puts an end to proceedings; whereas only such decisions are subject to review;

**Whereas**, in the instance, neither of the two decisions impugned by the Respondent in his "motions for review" puts an end to proceedings;

**Considering**, however, that the issues raised in the Respondent's two motions imply that they should be viewed as motions for reconsideration,

**Whereas** motions for reconsideration of the said decisions should have been addressed to the Pre-Hearing Judge who had rendered them, given that no provision exists in the basic instruments governing the Tribunal allowing appeals to the Appeals Chamber against decisions rendered by the Pre-Hearing Judge;

**Whereas**, under Rule 108 bis (D) of the Rules, the Appeals Chamber may *proprio motu* (or at the instance of the Pre-Hearing Judge) perform the duties of the Pre-Hearing Judge, but in the circumstances of the motions for reconsideration at issue, the said motions should be forwarded to the Pre-Hearing Judge for reconsideration;

**For the foregoing reasons**

**Refers** the Respondent's Motions to the Pre-Hearing Judge for reconsideration.

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

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Claude Jorda  
President of the Court of Appeal

Done at The Hague, The Netherlands, 6 February 2002

[Seal of the Tribunal]

