



International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

## APPEALS CHAMBER

**Before Judges:**

Claude Jorda, presiding  
Mohamed Shahabuddeen  
Mehmet Güney  
Fausto Pocar  
Theodor Meron

**Registry:** Adama Dieng

**Decision of:** 4 June 2002

**LAURENT SEMANZA**  
(Appellant)

v.

**THE PROSECUTOR**  
(Respondent)

*Case No. ICTR-97-20-A*

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**DECISION (NOTICE AND GROUNDS OF INTERLOCUTORY APPEAL  
AGAINST THE DECISION OF TRIAL CHAMBER III IN "DECISION ON  
DEFENCE MOTION FOR LEAVE TO CALL REJOINDER WITNESSES" AND  
STAY OF PROCEEDINGS)**

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**Counsel for the Appellant:**

Charles A. Taku  
Sadikou Ayo Alao

**Office of the Prosecutor:**

Chile Eboe-Osuji

**The Appeals Chamber** of the International Criminal 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 (the "Appeals Chamber" and the "Tribunal" respectively),

**Being seized of** the *Notice and grounds of interlocutory appeal against the decision of Trial Chamber III in "Decision on defence motion for leave to call rejoinder witnesses" and stay of proceedings*, filed by Laurent Semanza on 8 May 2002 against the *Decision on defence motion for leave to call rejoinder witnesses*, rendered by Trial Chamber III on 30 April 2002, (the "Appeal," the "Appellant," the "Impugned Decision" and the "Trial Chamber" respectively), which Trial Chamber dismissed a Motion for leave to call rejoinder witnesses,<sup>[1]</sup> filed by the Appellant on 24 April 2002 (the "Motion to call Rejoinder Witnesses"),

**Considering** the *Prosecutor's Response in the Defence "Notice and grounds of interlocutory appeal against the Decision of Trial Chamber III in 'Decision on Defence motion for leave to call rejoinder witnesses and stay of proceedings'"* (the "Prosecutor's Response"), filed on 20 May 2002,

**Considering** that the Appellant's appeal is brought pursuant to Articles 19 and 20(4)(e) of the Statute of the Tribunal (the "Statute"), and Rules 5, 54 and 85(A)(iv) of the Rules of Procedure and Evidence (the "Rules"),

**Whereas** the Appellant states that he is "dissatisfied" with the Impugned Decision, and whereas he requests the Appeals Chamber to set aside the impugned decision, allow him to call rejoinder witnesses to testify, and order a stay of the Trial proceedings as a matter of urgency;

**Whereas** in its Response, the Prosecution contests the relief sought by the Appellant on the grounds that the Appeal is inadmissible and that the proceedings have already been adjourned until 17 June 2002;<sup>[2]</sup>

**Whereas**, moreover, the Prosecution requests the Appeals Chamber to rule that the appeal is frivolous, and that it constitutes an abuse of process pursuant to Rules 73 (E) and 107 of the Rules, insofar as: (a) the Appeal makes no reference to the relevant provisions pursuant to which an interlocutory appeal may reasonably lie; and (b) the Appellant has not attempted to put forward any arguments to show why his Appeal should be admissible;

**Considering** that Articles 19 and 20 of the Statute,<sup>[3]</sup> as well as Rules 5, 54 and 85(A)(iv) of the Rules make no provision for the right to an interlocutory appeal in matters relating to the calling of rejoinder evidence,

**Considering** that in the Impugned Decision, it was rightly noted that the Motion for Rejoinder witnesses was brought under Rule 73(A) of the Rules, and that Rule 73(B) of the Rules stipulates that decisions rendered on motions filed under Rule 73(A) are without interlocutory appeal,

**Considering** that the Motion for Rejoinder Witnesses is not a preliminary motion within the meaning of Rule 72 of the Rules and that, in any event, the arguments advanced by the Appellant in this Motion or in his Notice of Appeal do not disclose an objection based on lack of jurisdiction in the sense of Rules 72(D) and 72(H) of the Rules,

**Considering** that an allegation of miscarriage of justice<sup>[4]</sup> or the fact of being dissatisfied with a decision of the Trial Chamber does not, on its own, confer the right to appeal,

**Considering** that the Appellant does not have the right to appeal in the present matter,

**Considering**, incidentally, that the Appeal constitutes an abuse of process under Rules 73(E) and 107 of the Rules;

**For the foregoing reasons,**

**Dismiss** the Appeal;

**Orders** the Registrar to withhold payment of all the fees associated with the Appeal and costs thereof.

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

Claude Jorda  
President of the Appeals Chamber

Done at The Hague, The Netherlands, 4 June 2002

**[Seal of the Tribunal]**

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<sup>[1]</sup> Defence Motion to call Defence Witnesses in Rejoinder Pursuant to Rule 85(A)(iv) of the Rules of Procedure and Evidence.

<sup>[2]</sup> The Trial Chamber in fact rendered a Scheduling Order indicating to the parties that closing arguments in this matter will start as from 17 June 2002.

<sup>[3]</sup> See "Decision (Interlocutory Appeal against the 3 October 2001 Trial Chamber II Decision on the Motion for Withdrawal of Assignment of Counsel)", *Joseph Nzirorera v. The Prosecutor*, Case No. ICTR-98-44-A, Appeals Chamber, 1 February 2002, p. 4.

[4] See: Decision on the Appeal against the Oral Decision of 7 February 2002 dismissing the Motion for review of the Decision of 29 January 2002 relating to the appearance of the French expert Witness Dominique Lecomte and the acceptance of his Report, *Laurent Semanza v. The Prosecutor*, Case No. ICTR-97-20-A, 16 April 2002, p. 4.