



International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda

ICTR-2001-70-AR72

10 JUNE 2003

(66H-63H)

THE APPEALS CHAMBER

66/H

Before:

Judge Mehmet GÜNEY, Presiding
Judge Fausto POCAR
Judge Claude JORDA
Judge Mohamed SHAHABUDEEN
Judge David HUNT

Registrar:

Mr. Adama DIENG

Decision of:

10 June 2003

ICTR Appeals Chamber

Date: 10/06/2003

Action: P. Gyalinier

Copied To: Concerned

Judges, SLOs, FLOs, LAs

LESS The Hague Appeals
Unit Amshy, The Parties,
Judicial Archives.

Emmanuel RUKUNDO
(Appellant)

v/

THE PROSECUTOR
(Respondent)

APVgum
10/06/2003.

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Case No. ICTR-2001-70-AR72

DECISION ON MOTION FOR EXTENSION OF TIME TO FILE REPLY

Counsel for the Appellant

Mr Philippe Moriceau
Mr Wenceslas Habiyaemye

Counsel for the Prosecution

Ms Silvana Arbia
Mr Gregory Townsend
Ms Faria Rekkas

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
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SIGNATURE: APVgum DATE: 10 JUNE 2003

65/H

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 ("Appeals Chamber" and "International Tribunal", respectively),

BEING SEIZED OF the "*Requête devant la Chambre d'appel relative à une prolongation de délai pour répliquer*", filed on 22 May 2003 ("Motion") by Emmanuel Rukundo ("Appellant");

NOTING the "Prosecutor's Response to Rukundo's Motion for Extension of Time to Reply", filed on 26 May 2003 by the Prosecution ("Prosecution Response to the Motion");

NOTING the "*Mémoire d'appel relative (sic) à la décision du 4 mars 2003 concernant les exceptions préjudicielles*" filed by the Appellant on 7 May 2003 ("Appeal") following the 28th April 2003 decision of a bench of three judges of the Appeals Chamber granting leave to appeal;¹

NOTING that the Prosecution filed its response to the Appeal on 15 May 2003 ("Prosecution Response to the Appeal");²

NOTING that, in his Motion, the Appellant requests that the time limit for filing his reply to the Prosecution Response to the Appeal should be calculated from the date he receives the French translation of the Prosecution Response to the Appeal, and he submits that he did not receive the Prosecution Response to the Appeal until 20 May 2003;

NOTING that the Appellant further submits that his reply cannot be prepared unless he understands the Prosecution Response to the Appeal, in conformity with the fundamental principles of the rights of the defense;

NOTING that, in its Response to the Motion, the Prosecution submits that the Appellant seeks an order that is wholly unnecessary, because the Rules of Procedure and Evidence of the International Tribunal ("Rules") and the "Directive for the Registry" already stipulate the way and manner documents will be translated into French; that, in accordance with the *Sagahutu* decision of 26

¹ *Emmanuel Rukundo v. Prosecutor*, Case No. ICTR-2001-70-AR72, Décision (Appel contre la décision du 26 février 2003 relative aux exceptions préjudicielles), 28 Apr. 2003.

² Prosecutor's Response to Rukundo's Appeal of the Decision Denying his Preliminary Motion.

March 2003³, any request for an extension of time should be made before the applicable deadline expires; and that the Motion is frivolous and should be dismissed;

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NOTING that the Appellant has not filed a reply to the Prosecution Response to the Motion;

CONSIDERING that the proof of service of the Prosecution Response to the Appeal indicates that it was sent by facsimile to counsel for the Defense on 15 May 2003, at approximately 19.28 hours;

CONSIDERING that Rule 116(A) of the Rules provides that "the Appeals Chamber may grant a motion to extend a time limit upon a showing of good cause[.]" and that Rule 116(B) further provides that "[w]here the ability of the accused to make full answer and defence depends on the availability of a decision in an official language other than that in which it was originally issued, that circumstance shall be taken into account as a good cause under the present rule[.]"

CONSIDERING, however, that in the view of the Appeals Chamber, a request for an extension of time should be filed prior to the expiration of the relevant time limit;

CONSIDERING that, in the view of the Appeals Chamber, notwithstanding that a document is filed in a working language other than that of the Defense, any request for an extension of time should be made in conformity with the Rules and the "Practice Direction on the Procedure for the Filing of Written Submissions in Appeal Proceedings Before the Tribunal"—in this case, within four days of the filing of the Prosecution Response to the Appeal, in its original language;⁴

CONSIDERING FURTHER that, although the Defense may not have been in a position to understand fully the substance of the Prosecution Response to the Appeal without its translation, because the Defense was served with notice of the filing of the Prosecution Response to the Appeal and, as a result, the calculation of the time limit to file its request for an extension before the Appeals Chamber commenced as of the date on which the Prosecution Response to the Appeal was filed;⁵

CONSIDERING that the Defense's failure to seek an extension of time to file its reply within four days of the filing of the Prosecution Response to the Appeal renders the Motion untimely;

CONSIDERING, however, that the working language of counsel in this case is French;

CONSIDERING therefore that, in the interest of justice, the Motion should be received although it

³ *Innocent Sagahutu v. Prosecutor*, Case No. ICTR-00-56-I, Decision on Leave to Appeal Against the Refusal to Grant Provisional Release, 26 Mar. 2003 ("Sagahutu Decision").

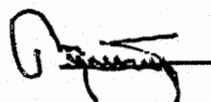
⁴ See *Sagahutu Decision*, p. 3.

⁵ See *id.*

is filed out of time, and that good cause exists within the meaning of Rule 116(A) of the Rules for granting it;

HEREBY GRANTS the Motion, and **ORDERS** the Appellant to file his reply to the Prosecution Response to the Appeal, within four days of the communication of the French translation of the Prosecution Response to the Appeal to him.

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



Judge Mehmet Güney,
Presiding

Done this 10th of June 2003,
At The Hague,
The Netherlands.




[Seal of the Tribunal]

ICTR-2001-70-AR72

11 June 2003

(68/h-67/h)

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Tribunal Pénal International pour le Rwanda**THE APPEALS CHAMBER****Before:**Judge Mehmet GÜNEY, Presiding
Judge Fausto POCAR
Judge Claude JORDA
Judge Mohamed SHAHABUDEEN
Judge David HUNT**Registrar:**

Mr. Adama DIENG

Decision of:

11 June 2003

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(Appellant)

v/

THE PROSECUTOR
(Respondent)

Case No. ICTR-2001-70-AR72

ICTR Appeals Chamber

Date: 11 June 2003

Action: PG

Copied To: All Judges, Parties

Judicial Archives, LSS
LOs, Common Drives**CORRIGENDUM****Counsel for the Appellant**Mr Philippe Moriceau
Mr Wenceslas Habiyaemye**Counsel for the Prosecution**Ms Silvana Arbia
Mr Gregory Townsend
Ms Faria Rekkas

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67/h

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,

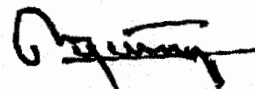
NOTING the "Decision on Motion for Extension of Time to File Reply" rendered in the present case on 10 June 2003 ("Decision");

CONSIDERING that the sixth full paragraph on page 3 of the Decision should read:

"**CONSIDERING FURTHER** that, although the Defense may not have been in a position to understand fully the substance of the Prosecution Response to the Appeal without its translation, the Defense was served with notice of the filing of the Prosecution Response to the Appeal and, as a result, the calculation of the time limit to file its request for an extension before the Appeals Chamber commenced as of the date on which the Prosecution Response to the Appeal was filed;⁵,"

HEREBY amends the Decision accordingly.

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



Judge Mehmet Güney,
Presiding

Done this 11th of June 2003,
At The Hague,
The Netherlands.

[Seal of the Tribunal]

⁵ See *id.*

