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Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

IN THE APPEALS CHAMBER

Before: Judge Mohamed SHAHABUDEEN, Pre-Appeal Judge
Registrar: Mr. Adama DIENG
Decision of: 22 August 2003

THE PROSECUTOR

v.

**Arsène Shalom NTAHOBALI
Et Pauline NYIRAMASUHUKO**

Case No. ICTR-97-21-A

2003 AUG 25 10:18
ICTR

DECISION ON REQUEST FOR EXTENSION OF TIME

ICTR-97-21-AR15 bis(D)
25th August 2003
(186/A - 183/A)

Counsel for the Prosecutor

Ms. Silvana Arbia
Mr. Jonathan Moses
Mr. Gregory Townsend
Mr. Manuel Bouwknecht

Counsel for A.S. Ntahobali

Mr. Duncan Mwanyumba
Mr. Normand Marquis

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I, **MOHAMED SHAHABUDEEN**, Judge of 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 and 31 December 1994 ("International Tribunal"),

NOTING the "Acte d'Appel de la 'Decision in the matter of proceedings under Rule 15bis(D)' du 15 Juillet 2003" filed on 21 July 2003 ("Notice of Appeal" and "Appellant" respectively) against the "Decision in the matter of proceedings under Rule 15BIS(D)" rendered on 15 July 2003 by Trial Chamber II;

NOTING the "Order of the Presiding Judge assigning Judges to related cases before the Appeals Chamber and designating a Pre-Appeal Judge" filed on 29 July 2003, which *inter alia* designated me to serve as Pre-Appeal Judge in this case;

NOTING the "Prosecutor's Response to the Appeals by Nyiramasuhuko, Ntahobali, Nteziryayo, Kanyabashi and Ndayambaje of the Decision by the Trial Chamber in the Matter of Proceedings under Rule 15bis(D)" filed on 31 July 2003 ("Prosecutor's Response to the Appeal");

NOTING the "Réplique à la réponse du Procureur à l'acte d'appel de la 'Decision in the matter of proceedings under Rule 15Bis(D) datée du 15 Juillet' filed on 8 August 2003" ("Reply");

NOTING the "Prosecutor's Response to Ntahobali's 'Réplique à la réponse du Procureur à l'acte d'appel de la 'Decision in the matter of proceedings under Rule 15Bis(D) datée du 15 Juillet'" filed on 11 August 2003 ("Response to the Reply"), in which the Prosecutor submits that as the Reply filed on 8 August 2003 was not filed within 4 days of the filing of the Response as required by the "Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings Before the Tribunal", issued on 16 September 2002, the Reply should not be considered by the Appeals Chamber;

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BEING SEISED OF a "Requête au Juge de la mise en état pour refuser la réponse du Procureur et autoriser la production hors délai de la réplique de l'appelant" filed on 13 August 2003, in which the Appellant submits that the Prosecutor has no right to file his Response to the Reply and that in furtherance of Rule 116 of the Rules of Procedure and Evidence ("Rules") the Appellant is entitled to have an extension of time for filing his Reply as the Prosecutor's Response to the Appeal was filed in English and he is entitled to wait for the French translation of the latter before filing his Reply;

NOTING that the Prosecutor has not filed a response and has indicated by letter dated 15 August 2003 to a legal officer of the Appeals Chamber that she was "content for the Appeals Chamber to proceed to determine the matters";

CONSIDERING that the purpose of Rule 116(B) of the Rules is to enable the accused to make full answer and defence, and that, by filing his Notice of Appeal and his Reply, the Appellant has shown that the unavailability of the Prosecutor's Response to the Appeal in French did not affect his capacity to file a reply and make a full defence;

CONSIDERING that, in the view of the Appeals Chamber, notwithstanding that a document is filed in a working language other than that of the Defence, 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 Prosecutor's Response to the Appeal, in its original language;¹

CONSIDERING that the Reply was filed four days out of time but that in furtherance of paragraph 16 of the "Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings Before the Tribunal" issued on 16 September 2002, the Pre-Appeal Judge may "vary any time-limit prescribed under the Practice Direction or recognize as validly done any act done after the expiration of a time-limit so prescribed";

¹ See "Decision on Motion for extension of time to file a reply", Emmanuel Rukundo v. the Prosecutor, 10 June 2003, , p. 3.

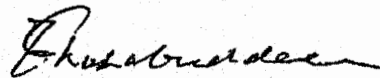
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CONSIDERING that the late filing of the Reply has not prejudiced the Prosecutor or the good administration of justice in this case;

FOR THESE REASONS

ACCEPT the Reply and **RECOGNISE** it as validly filed.

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



Mohamed Shahabuddeen

Done this twenty-second day of August 2003,
At The Hague,
The Netherlands.

Seal of the International Tribunal

