



International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

**IN THE APPEALS CHAMBER**

**Before:** Judge Mohamed SHAHABUDDEEN, Pre-Appeal Judge

**Registrar:** Mr. Adama DIENG

**Decision of:** 6 October 2003

**Eliézer NIYITEGEKA**

*(Appellant)*

**V.**

**THE PROSECUTOR**

*(Respondent)*

*Case No. ICTR-96-14-A*

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**DECISION ON ELIEZER NIYITEGEKA'S EXTREMELY URGENT MOTION  
FOR AN EXTENSION OF TIME**

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**Counsel for the Appellant**

Ms. Sylvia Geraghty

**Counsel for the Prosecutor**

Ms. Mélanie Werrett

**I, MOHAMED SHAHABUDDEEN**, 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 "Judgement and Sentence" rendered in this case by Trial Chamber I on 16 May 2003 ("Judgement");

**NOTING** the "Order of the Presiding Judge designating the Pre-Appeal Judge" filed on 4 June 2003, which designated me to serve as Pre-Appeal Judge in this case;

**NOTING** the “Decision on the Registrar’s Request” rendered on 25 July 2003, which directs “the Registrar to do his utmost to have the translation of the Judgement available in French and communicated to the parties as soon as practically possible, but no later than 30 September 2003” and orders “the Appellant to file his Appellant’s brief no later than 45 days after the filing of the French version of the Judgement” (“Decision of 25 July 2003”);

**NOTING** the “Decision on Prosecution Motion concerning Defects in the Appellant’s Notice of Appeal” rendered on 26 September 2003, which orders “the Appellant to re-file his notice of appeal of no more than 15 pages, within 15 days of the filing of this decision, in accordance with the requirements of Rule 108 of the Rules of Procedure and Evidence (“Rules”) and Article 1 of the Practice Direction on formal requirements” (“Decision of 26 September 2003”);

**BEING SEISED OF** the “Extremely Urgent Defence Motion pursuant to Rule 116 of the Rules of Procedure and Evidence of the International Criminal Tribunal for Rwanda seeking an extension of time” filed on 1 October 2003 (“Urgent Motion”), in which Eliézer Niyitegeka (“Appellant”) submits *inter alia* that the Judgement in French has not been served on the Appellant, that the Decision of 26 September 2003 was communicated to the Appellant only on 29 September 2003, that the papers of the Lead Counsel necessary for the preparation of the notice of appeal are secured in Ireland and England, whereas the Lead Counsel is at the moment in Arusha, and therefore requests the Appeals Chamber to:

- i) direct the Registrar to immediately serve the Judgment in French on the parties;
- ii) grant to the Appellant adequate time for the preparation of his Appeal after the Judgement in French has been served on him, in particular to instruct the Lead Counsel;
- iii) grant an extension of time for the re-filing of the Notice of Appeal, so that the 15 days allowed does not begin to run until 10 days after the service of the Judgement in French;

**NOTING** that paragraph 18 of the Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings before the Tribunal<sup>[1]</sup> provides that “notwithstanding the pleading sequence provided above, a motion for an extension of time may, in accordance with existing practice, be disposed of without giving the other party the opportunity to respond to the motion, if on the face of the motion, the Appeals Chamber or a bench of three Judges of the Appeals Chamber or the Pre-Appeal Judge is of the opinion that no prejudice would be cause to the other party”;

**NOTING** 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”;

**CONSIDERING** that the proof of service received by the Appeals Chamber shows that the translation in French of the Judgement was filed on 1 October 2003, the same day as

the Urgent Motion, and that both the Appellant and his Lead Counsel received a copy of the Judgement in French on 2 October 2003;

**CONSIDERING** that the Decision of 25 July 2003 ordered the Appellant to file his Appellant's brief no later than 45 days from the filing of the French version of the Judgement and not 45 days from 30 September 2003, and, that, in the circumstances of this case, 45 days from the date when the French Judgement is made available to the Appellant is adequate time for him to read the Judgement in a language he understands and to consult with his Lead Counsel before filing his Appellant's brief;

**CONSIDERING** that the Appellant has not shown good cause to be granted an extension of time for the re-filing of the Notice of Appeal, so that the 15 days allowed does not begin to run until 10 days after the service of the Judgement in French;

**CONSIDERING** however that, in the special circumstances of this case, good cause has been shown to grant an extension of time of 4 days for the re-filing of the Notice of Appeal;

**FOR THE FOREGOING REASONS,**

**ORDER** the Appellant to re-file his Notice of Appeal, in accordance with the Decision of 26 September 2003, no later than 17 October 2003 and to file his Appellant's brief no later than 17 November 2003, i.e., 45 days from the date the Judgement in French was made available to the Appellant;

**OTHERWISE DISMISS** the Urgent Motion and to this extent **FIND** that the Urgent Motion is frivolous within the meaning of Rule 73(F) of the Rules;

**DIRECT** the Registrar, pursuant to Rule 73(F) of the Rules, to pay the Defence Counsel only a third of any fees or costs associated with the Urgent Motion.

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

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Mohamed Shahabuddeen  
Pre-Appeal Judge

Done this sixth day of October 2003,  
At The Hague,  
The Netherlands.

**[Seal of the International Tribunal]**

[\[1\]](#) Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings Before the Tribunal, 16 September 2002.