

ICTR. 99-52-A  
19 DECEMBER 2003  
(25/H-22/H)

251.



UNITED NATIONS  
NATIONS UNIES



Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

**BEFORE THE PRE-APPEAL JUDGE**

**Before:** Judge Inés Weinberg de Roca, Pre-Appeal Judge  
**Registrar:** Mr. Adama Dieng  
**Order of:** 19 December 2003

2003 DEC 22 A 9:41  
ICTR

Ferdinand NAHIMANA  
Jean-Bosco BARAYAGWIZA  
Hassan NGEZE  
(Appellants)

v.

THE PROSECUTOR  
(Respondent)

Case No. ICTR-99-52-A

ICTR Appeals Chamber

Date: 19 Dec 03  
Action: PG  
Copied To: Concord

Judges;  
ALO, /LO, ;  
LSS ;  
Parties;  
Judicial Admin

**DECISION ON MOTIONS FOR AN EXTENSION OF TIME TO FILE APPELLANTS'  
NOTICES OF APPEAL AND BRIEFS**

**Counsel for the Appellants**

Mr. Jean-Marie Biju-Duval  
Mr. Giacomo Barletta-Caldarera  
Mr. John C. Floyd III

**Counsel for the Prosecutor**

Ms. Melanie Werrett

I, Inés Mónica Weinberg de Roca, 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 “Order of the Presiding Judge Assigning Judges and Designating the Pre-Appeal Judge” filed on 19 December 2003, which designated me to serve as Pre-Appeal Judge in this case;

**NOTING** the “Judgement and Sentence” rendered in the English language by Trial Chamber I in this case on 3 December 2003 (“Judgement”);

**NOTING** that, by virtue of Rule 108bis (B) of the Rules of Procedure and Evidence of the International Tribunal (“Rules”), “the Pre-Appeal Judge shall ensure that the proceedings are not unduly delayed and shall take any measures related to procedural matters, including the issuing of decisions, orders and directions with a view to preparing the case for a fair and expeditious hearing”;

**BEING SEISED OF** the “Requête de la défense aux fins de report du délai de dépôt de l’acte d’appel contre le jugement rendu le trois décembre 2003 contre Ferdinand Nahimana” filed on 12 December 2003, in which the Appellant requests an extension of time for filing the Notice of Appeal because: (i) neither the Appellant Nahimana nor his counsel are fluent in the English language; (ii) neither the Appellant Nahimana nor his counsel can identify the grounds of appeal until the Judgement, which was rendered only in English, is communicated to them in French, and (iii) of the delay in communicating the Judgement in English;

**BEING SEISED OF** the “Requête de la défense aux fins de report du délai de dépôt de l’acte d’appel contre le jugement rendu le trois décembre 2003 contre J[e]an Bosco Barayagwiza” filed on 17 December 2003, in which the Appellant Barayagwiza requests an extension of time for filing his Notice of Appeal because neither the Appellant Barayagwiza nor his counsel is fluent in the English language and therefore the Defence is unable to formulate a Notice of Appeal until the Judgement, which was rendered only in English, is communicated to them in French;

**BEING SEISED OF** the “Motion of the Ngeze Defence seeking an extension of time for filing the Notice of Appeal”, filed on 19 December 2003, in which the Appellant Ngeze requests an extension of time until 9 February 2004 for filing his Notice of Appeal, *inter alia*, because: (i) Counsel for the Accused had not, as of the date of filing of the Motion, received official notification of the hard

copy of the Judgement; (ii) the length of the proceedings and the size and complexity of the Judgement require extra time; (iii) Counsel for Ngeze has other trial and family commitments in December 2003 and January 2004; (iv) Appellant Ngeze has a better comprehension of French than English and is entitled to obtain the same extension of time as the other co-accused joined to his case;

**CONSIDERING** that paragraph 18 of the Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings of 16 September 2002 provides that “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 caused to the other party”;

**CONSIDERING** that Article 20(4)(a) of the Statute of the Tribunal provides that in the determination of any charge against the accused, the accused shall be entitled to be “informed promptly and in detail in a language which he or she understands of the nature and cause of the charge against him or her”;

**NOTING** that Rule 108 of the Rules provides that “A party seeking to appeal a judgement or sentence shall, not more than thirty days from the date on which the judgement or the sentence was pronounced, file a notice of appeal, setting forth the grounds” and that Rule 109 of the Rules provides that “An Appellant’s brief setting out all the arguments and authorities shall be filed within seventy-five days of filing of the notice of appeal pursuant to Rule 108”;

**NOTING** that Rule 116 of the Rules provides that “(A) The Appeals Chamber may grant a motion to extend a time limit upon a showing of good cause. (B) Where 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”;

**NOTING** that the Registry has advised that the French translation of the Judgement will be available by 9 April 2004;

**CONSIDERING**, however, that in the circumstances of a joint appeal involving defence teams of different linguistic compositions, it is necessary to expedite the translation in order to ensure fair and expeditious proceedings;

**NOTING** that co-counsel have not yet been appointed in this case;

**CONSIDERING** that “good cause” within the meaning of Rule 116 of the Rules has been shown given that the Appellants Nahimana and Barayagwiza and their Counsel work in the French language and that they are not able to fully understand and analyse the Judgement rendered in English on 3 December 2003;

**CONSIDERING**, however, that it is in the interests of justice to expedite these appeals and that the Defence teams are already on notice, through the course of the trial proceedings, the summary of the judgement of 3 December 2003, and the English language version of the Judgement, of certain matters which may form the basis of their appeals and that therefore the Defence teams can begin to prepare certain aspects of their Notices of Appeal and Appellants’ Briefs even in the absence of the French language version of the Judgement;

**CONSIDERING** that, in the circumstances of this joined case, it is reasonable to also extend the deadline for the filing of the Notice of Appeal of the Appellant Ngeze to 9 February 2004;

**FOR THE FOREGOING REASONS,**

**DIRECT** the Registrar to expedite the translation of the Judgement and to serve it on the three Appellants and their Counsel in the French language no later than 1 March 2004;

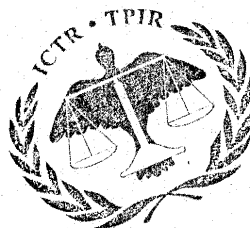
**DIRECT** the Registrar to notify the Pre-Appeal Judge of any changes in the composition of the Defence teams, such as the appointment of Co-counsel with English language skills, which may warrant a change in the timelines prescribed by this Decision;


**ORDER** the Appellants Barayagwiza and Nahimana to file their Notices of Appeal no later than 30 days from the communication of the Judgement in the French language and to file their Appellants’ Briefs no later than seventy-five days from the communication of the Judgement in the French language; and

**ORDER** the Appellant Ngeze to file his Notice of Appeal no later than 9 February 2004 and to file his Appellant’s Brief no later than seventy-five days thereafter in accordance with Rule 109.

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

Dated this 19<sup>th</sup> day of December,  
At The Hague, The Netherlands.



  
Judge Inés Mónica Weinberg de Roca  
Pre-Appeal Judge

[Seal of the International Tribunal]