

ICTR. 99.54A-A  
8 MARCH 2004  
(141H-111H)

141H



Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

**IN THE APPEALS CHAMBER**

**Before:** Judge Florence Ndepele Mwachande Mumba

**Registrar:** Mr. Adama Dieng

**Decision of:** 8 March 2004

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**Jean de Dieu KAMUHANDA**  
*(Appellant)*

v.

**THE PROSECUTOR**  
*(Respondent)*

Case No. ICTR-99-54A-A

ICTR Appeals Chamber  
Date: 8-iii-2004  
Action: PG  
Copied To: JUDGES  
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Parties Archive  
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**DECISION ON MOTION FOR EXTENSION OF TIME FOR FILING OF  
NOTICE OF APPEAL AND APPELLANT'S BRIEF PURSUANT TO RULES  
108, 111, 115 AND 116 OF THE RULES OF PROCEDURE AND EVIDENCE**

Counsel for the Prosecutor  
Ms. Melanie Werrett

Counsel for the Appellant  
Ms. Aicha Condé

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**I, FLORENCE NDEPELE MWACHANDE MUMBA**, 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 (“Tribunal”);

**NOTING** the “Judgement and Sentence” rendered in this case by Trial Chamber II on 22 January 2004 (“Judgement”), in the English language;

**NOTING** the “Order of the Presiding Judge Assigning Judges and Designating the Pre-Appeal Judge”, filed on 9 February 2004, which designated me to serve as Pre-Appeal Judge in this case;

**NOTING** that, by virtue of Rule 108*bis* (B) of the Rules of Procedure and Evidence of the 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 “Motion for Extension of Time for Filing of Notice of Appeal and Appellant’s Brief Pursuant to Rules 108, 111, 115 and 116 of the Rules of Procedure and Evidence” (“Defence Motion”), filed on 4 March 2004, and received by the Appeals Chamber on 5 March 2004, which presents that the Appellant and his Counsel are both French-speaking and that the Appellant cannot set forth his grounds of appeal until he receives a French translation of the Judgement, being a language that he understands, and, therefore, requests the Appeals Chamber :

- (i) To grant a thirty (30) day extension of time to file the Notice of Appeal from the date that the French translation of the Judgement and Sentence is served on the Appellant;
- (ii) To grant a seventy-five (75) day extension of time to file the Appellant’s Brief from the date the Notice of Appeal is filed with the Registry;
- (iii) To grant a seventy-five (75) day extension of time to file a motion to present additional evidence before the Appeals Chamber, from the date that the French translation of the Judgement and Sentence is served on the Appellant;
- (iv) To direct the Registrar to deliver, as soon as possible, the French translation of the Judgement to the Appellant;
- (v) To direct the Registrar to notify Counsel for the Appellant of the date on which the French translation of the Judgement will be available;

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**NOTING** that the Prosecution has not filed any response to the Defence Motion;

**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”;

**NOTING** that Rule 111 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 115(A) provides that :

A party may apply by motion to present additional evidence before the Appeals Chamber. Such motion shall clearly identify with precision the specific finding of fact made by the Trial Chamber to which the additional evidence is directed, and must be served on the other party and filed with the Registrar not later than seventy-five days from the date of the judgement, unless good cause is shown for further delay. Rebuttal material may be presented by any party affected by the motion;

**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;

**CONSIDERING** that Article 31 of the Statute of the Tribunal provides that “the working languages of the International Tribunal for Rwanda shall be English and French”;

**CONSIDERING** that Article 30(4)(a) of the Statute of the Tribunal provides that in 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 the Defence Motion erroneously referred to Rule 115 as authority for the timeframe for filing of the Appellant’s Brief, stating that :

The Motion is warranted by the fact that the Appellant and his Counsel are both French-speaking and that the Judgement to be appealed was rendered in English; thus Kamuhanda cannot set forth his grounds of appeal, as required by Rule 115 of the Rules, until he receives the Judgement in a language he understands, to wit French;

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**CONSIDERING** that despite this error in reference to Rule 115, the Defence Motion later correctly sets out Rule 111 as the correct reference for the time limit prescribed for filing of the Appellant's Brief, and that this error does not disqualify the Defence Motion;

**CONSIDERING** that it is in the interests of justice to allow the Appellant a reasonable time to read the Judgement in a language he understands and to consult with his Counsel before filing his Notice of Appeal, Appellant's Brief, and Motion on Additional Evidence before the Appeals Chamber;

**FINDING** that, pursuant to Rule 116 (B) of the Rules, "good cause" is shown to grant an extension of time of 30 days, from the date of filing of the French translation of the Judgement, for filing the Notice of Appeal; and 75 days, from the date of filing the Notice of Appeal, for the filing of the Appellant's Brief; and furthermore, that "good cause" is shown to grant an extension of time of 75 days, from the date of filing of the French translation of the Judgement, for filing of the Motion on Additional Evidence before the Appeals Chamber;

**FOR THE FOREGOING REASONS,**

**DIRECT** the Registrar to have the translation of the Judgement available in French and served on the Appellant and his Counsel as soon as practicable; and

**ORDER** the Appellant to file his Notice of Appeal no more than 30 days from the date of filing of the French translation of the Judgement; and the Appellant's Brief, within 75 days from the date of filing of the Notice of Appeal; and to file the Motion for Additional Evidence before the Appeals Chamber, no later than 75 days from the date of filing of the French translation of the Judgement.

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



Florence Ndepele Mwachande Mumba  
Pre-Appeal Judge

Done this 8th day of March 2004,  
At the Hague,  
The Netherlands.



[Seal of the International Tribunal]