

14 June 2004
(82/H-77/H)

82/H
RNM



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

IN THE APPEALS CHAMBER

Before:

Judge Theodor Meron, Presiding Judge
Judge Florence Ndepele Mwachande Mumba
Judge Mehmet Güney
Judge Wolfgang Schomburg
Judge Inés Mónica Weinberg de Roca

Registrar:

Mr. Adama Dieng

Decision of:

14 June 2004

2004 JUN 15 15:09:45
ICTR
JUDICIAL SECRETARIAT

Aloys SIMBA

v.

THE PROSECUTOR

Case No. ICTR-01-76-AR72.2

ICTR Appeals Chamber
Date: 14 June 2004
Action: PG
Copied To: Concerned Judge

Parties, Judicial Archives
LO, LSS
[Signature]

**DECISION ON ALOYS SIMBA'S
EXTREMELY URGENT MOTION FOR AN EXTENSION OF TIME**

Counsel for the Prosecution

Mr William Egbe
Mr Sulaiman Khan
Ms Amna Ibrahim

Counsel for the Defence

Mr Sadikou Ayo Alao
Ms Beth Lyons

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME
COPIE CERTIFIÉE CONFORME À L'ORIGINAL PAR MOI
NAME / NOM: ROSETE MUZIGU-MORRISON
[Signature] 14/06/04

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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 SEISED OF the "Requête en extrême urgence de la défense en vue d'obtenir une prorogation des délais pour le dépôt de son mémoire complémentaire éventuel suite a la décision en date du 4 juin 2004", filed by counsel for Aloys Simba on 10 June 2004 ("Motion");

RECALLING the "Decision on Validity of Appeal Pursuant to Rule 72(E) of the Rules of Procedure and Evidence," rendered on 4 June 2004 by a Bench of three Judges of the Appeals Chamber ("Validity Decision");

CONSIDERING that the Validity Decision permitted Appellant Aloys Simba ("Appellant") to file a supplementary brief within ten days of the Validity Decision, such that the brief is due on 14 June 2004;

CONSIDERING that the Validity Decision declared that the Appellant could proceed with his third ground of appeal, which asserts that the Trial Chamber violated his right to be charged only for conduct within the International Tribunal's temporal jurisdiction by permitting the use of events outside its temporal jurisdiction to prove criminal allegations within its temporal jurisdiction, and dismissed the remaining grounds of appeal;¹

CONSIDERING that the Motion seeks an extension of time within which to file an appeal following receipt of the French translation of the Validity Decision, on the basis that the accused and his counsel are proficient in French;

CONSIDERING, however, that at least one member of the Appellant's defence team is proficient in English, as is shown by the fact that the underlying appeal document in this matter was filed in English;²

CONSIDERING, furthermore, that the Validity Decision does not contain any substantive discussion of the merits of the Appellant's grounds of appeal, but rather merely permits the Appellant to proceed with one of his grounds of appeal;

¹ *Simba v. Prosecutor*, No. ICTR-01-76-AR72.2, Decision on Validity of Appeal Pursuant to Rule 72(E) of the Rules of Procedure and Evidence, 4 June 2004, pp. 2, 4.

² Notice of Appeal of "Decision on Preliminary Defence Motion Regarding Defects in the Form of the Indictment" Issued in English by Trial Chamber I, 6 May 2004, Pursuant to Article 108 (RPE), dated 14 May 2004.

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CONSIDERING that, to the extent that the Appellant or any members of his defence team are not proficient in English, the essential elements of the Validity Decision may be effectively conveyed to them without waiting for an official translation;

CONSIDERING that it does not appear that an official translation is necessary to the preparation of the Appellant's supplementary document or to "the ability of the accused to make full answer and defence" under Rule 116(B) of the Rules of Procedure and Evidence of the International Tribunal ("Rules");

CONSIDERING, however, that the Appellant's English-speaking counsel should be afforded a brief extension of time to consult with French-speaking counsel or the Appellant with regard to the contents of the Validity Decision;

CONSIDERING that Rule 116(A) of the Rules permits the Appeals Chamber to grant a motion to extend a time limit "upon a showing of good cause";

CONSIDERING that good cause has been shown for granting a brief extension of time pursuant to Rule 116(A) of the Rules;

FOR THE FOREGOING REASONS,

HEREBY GRANTS the Motion in part;

ORDERS that Defendant Aloys Simba's supplementary brief, pursuant to the Validity Decision, may be filed within five days of the filing of this decision;

ORDERS that the Prosecution may file a response within seven days of the filing of the supplementary brief or, if no such brief is filed, may file a brief addressing the merits of the Third Ground within 12 days of this decision;

ORDERS that the Appellant may reply to any response or brief filed by the Prosecution within four days of the filing of such response or brief.

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



Judge Florence Ndepele Mwachande Mumba³

Done this 14th day of June 2004,
At The Hague,
The Netherlands.

[Seal of the International Tribunal]



³ Judge Florence Ndepele Mwachande Mumba signs this decision with the authorization of Presiding Judge Theodor Meron, who is absent from The Hague on official business. All five members of the Bench of the Appeals Chamber have reviewed and agree with this decision.