

- 0196

ICTR-01-71-A
06 January 2005
(58/H - 56/H)

58/1
RMI



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

IN THE APPEALS CHAMBER

Before: Judge Wolfgang Schomburg, Pre-Appeal Judge
Registrar: Mr. Adama Dieng
Decision of: 6 January 2005

ICTR Appeals Chamt
Date: 06 January 2005
Action:
Copied To: Concerned

EMMANUEL NDINDABAHIZI

v.

THE PROSECUTOR

Case No. ICTR-01-71-A

Parties, Judicial
Archives, LOs,
[Signature]

2005 JAN -7 P 1:51
C.A. Dieng
ICTR
JUDICIAL RECORDS/ARCHIVES

**DECISION ON EMMANUEL NDINDABAHIZI'S
MOTION FOR AN EXTENSION OF TIME**

Counsel for the Prosecution

Mr. James Stewart

Counsel for the Defence

(Mr. Pascal Besnier)
Mr. Michel Konitz

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME
COPIE CERTIFIÉE CONFORME A L'ORIGINAL PAR NOUS
NAME / NOM: ROSETTE MUZIGO-MORRISON
SIGNATURE: *[Signature]* DATE: 06/01/05

I, **WOLFGANG SCHOMBURG**, a 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 1994 and 31 December 1994 (“Appeals Chamber” and “International Tribunal”, respectively),

BEING SEISED OF

- (1) the “Requête Urgente aux Fins de Prorogation de Délai pour le Dépôt du Mémoire en Appel”, filed by Emmanuel Ndindabahizi (“Appellant”) on 14 December 2004 (“First Motion”), in which the Appellant seeks an extension of time for the filing of his Appellant’s Brief until 15 May 2005, in order to allow his co-counsel time to familiarize himself with the case; and
- (2) the “Requête Urgente aux Fins de Suspension des Délais”, filed by the Appellant on 29 December 2004, in which he requests the Appeals Chamber to suspend the time limit pursuant to Rule 111 of the Rules of Procedure and Evidence (“Rules”) “dans l’attente de la désignation du nouveau Conseil Principal” of the Appellant (“Second Motion”);

NOTING the “Decision on Emmanuel Ndindabahizi’s Motion for an Extension of Time” of 26 August 2004, in which the Pre-Appeal Judge ordered that the Appellant “may file his Appellant’s Brief within seventy-five days of receipt of the French translation of the Judgement”;

NOTING that the Appellant states in the First Motion that he received the French translation of the Judgement on 17 November 2004 and that, accordingly, he would have to file his Appellant’s Brief by 1 February 2005;

NOTING that lead counsel of the Appellant, Mr. Pascal Besnier, has informed the Registrar on 22 December 2004 that, having resigned from his membership in the Bar effective as of 1 January 2005, he would no longer be qualified to represent the Appellant as of this day, as he no longer fulfils the prerequisites for assignment as counsel pursuant to Article 13(i) of the Directive on the Assignment of Defence Counsel (“Directive”);

NOTING that Mr. Pascal Besnier, in a letter written to the Registrar of 22 December 2004, has asked the Registrar to withdraw his assignment as counsel in this case pursuant to Article 19(B)(ii) of the Directive;

CONSIDERING that Mr. Michel Konitz was assigned co-counsel on 30 November 2004;

CONSIDERING that in the "Prosecutor's Response to Appellant Emmanuel Ndindabahizi 'Requête Urgente aux fins de Prorogation de Délai pour le Dépôt du Mémoire en Appel'", filed by the Office of the Prosecutor ("Prosecution") on 16 December 2004, the Prosecution accepts that "a short extension of time may be justified", but that such further extension of time should not extend beyond the "end of March 2005";

CONSIDERING that under Rule 116(A) of the Rules, the Appeals Chamber may grant a motion for an extension of time if good cause is shown;

CONSIDERING that a reason for the appointment of a co-counsel is that he can take over the responsibilities of a lead counsel if necessary;

CONSIDERING that it is for the Registrar to appoint a new lead counsel (who, *inter alia*, could be the now co-counsel) and another person as co-counsel;

CONSIDERING that good cause has been shown for granting an extension of time pursuant to Rule 116(A) of the Rules, however not to the extent requested by the Appellant in the First Motion;

FOR THE FOREGOING REASONS,

HEREBY GRANT in part the First and the Second Motion;

DIRECT the Registrar to assign as soon as practicable a new lead counsel to the Appellant;

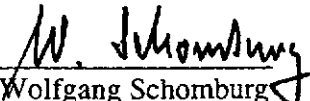
ORDER that Emmanuel Ndindabahizi shall file his Appellant's Brief pursuant to Rule 111 of the Rules within seventy-five days after the assignment of new lead counsel by the Registrar;

DIRECT the Registrar to inform the Appeals Chamber about the day on which new lead counsel has been assigned to the Appellant; and

DISMISS the remaining parts of the First and the Second Motion.

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

Dated this sixth day of January 2005,
At The Hague,
The Netherlands.


Wolfgang Schomburg
Pre-Appeal Judge

[Seal of the International Tribunal]

