

ICTR-01-71-A
05 April 2005
C178/H-176/H

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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: 5 April 2005

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EMMANUEL NDINDABAHIZI

v.

THE PROSECUTOR

Case No. ICTR-01-71-A

DECISION ON "REQUETE URGENTE AUX FINS DE PROROGATION DE DELAI POUR LE DEPOT DU MEMOIRE EN APPEL"

Counsel for the Prosecution

Mr. James Stewart

Counsel for the Defence

Mr. Michel Konitz
Ms. Magali Pirard

Case No. ICTR-01-71-A

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME
COPIE CERTIFIEE CONFORME A L'ORIGINAL PAR NOUS
NAME / NOM: MOZIGU-MORRISON
SIGNATURE: [Signature] DATE: 05/04/05

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 SEIZED OF an additional “Requête Urgente aux Fins de Prorogation de Délai pour le Dépôt du Mémoire en Appel” (“Motion”), filed by Emmanuel Ndindabahizi (“Appellant”) on 1 April 2005, in which he requests a further extension of time to file his Appellant’s Brief;

NOTING that in the “Decision on Emmanuel Ndindabahizi’s Motion for an Extension of Time” of 6 January 2005, the Pre-Appeal Judge ordered that the Appellant shall file his Appellant’s Brief pursuant to Rule 111 of the Rules of Procedure and Evidence (“Rules”) within seventy-five days after the assignment of new lead counsel by the Registrar;

NOTING that Mr. Michel Konitz has been assigned by the Registrar as lead counsel of the Appellant on 23 February 2005 and that consequently any Appellant’s Brief shall be filed by 9 May 2005;

CONSIDERING that the Appellant argues in the Motion that his Appellant’s Brief shall be filed within seventy-five days after the assignment of new co-counsel, because, *inter alia*,

- Ms. Magali Pirard has only been assigned as co-counsel to the Appellant on 30 March 2005;
- Mr. Michel Konitz had not participated “aux débats” before the Trial Chamber and, consequently, has to familiarize himself with the trial record;
- the case is “relativement complexe”, as the Appellant is not only convicted in his capacity as Minister of Finance of the Interim Government, but also in his personal capacity; and
- the Appellant has been convicted for genocide and crimes against humanity (extermination and murder) and sentenced to imprisonment for the remainder of his life;

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

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RECALLING that the Pre-Appeal Judge stated in the Status Conference on 8 March 2005 that “[t]he time limits are there to be observed”, and “that we have in the interest of justice to act as expeditiously as possible, and therefore I will invite you to try whatever possible and to file this Appellant’s brief within the 75 days, as foreseen under Rule 111 of our Rules of Procedure and Evidence”;¹

CONSIDERING that the time limit as provided in Rule 111 of the Rules is neither dependent on the extent to which co-counsel contributes to the preparation of the Appellant’s Brief, nor on the fact whether or not lead counsel was already part of the defence team during trial proceedings;

CONSIDERING that the time limit of seventy-five days pursuant to Rule 111 of the Rules already takes into consideration the complexity of cases that are litigated before the Appeals Chamber of the International Tribunal;

CONSIDERING that a defence counsel, when accepting assignment as lead counsel in a case before the International Tribunal, is under an obligation to give absolute priority to observe the time limits as foreseen in the Rules;

CONSIDERING that good cause has not been shown for granting an extension of time pursuant to Rule 116(A) of the Rules;

CONSIDERING that it is not necessary to wait for a response of the Office of the Prosecutor (“Prosecution”) to the Motion, as the Prosecution is not prejudiced by the outcome of this decision;

FOR THE FOREGOING REASONS

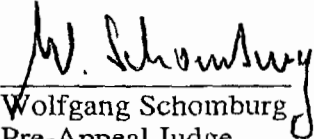
DISMISSES the Motion.

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

Dated this fifth day of April 2005,
At The Hague,
The Netherlands.



[Seal of the International Tribunal]


Wolfgang Schomburg
Pre-Appeal Judge

¹ Transcript of Status Conference, 8 March 2005, pp 3-4.