



ICTR-95-1B-A

02 June 2005

C11/H-08/H

Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

11/H
RMM

IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Pre-Appeal Judge
Registrar: Mr. Adama Dieng
Decision of: 2 June 2005

ICTR Appeals Chamber
Date: 02 June 2005
Action:
Copied To: Concerned Judges

Mikaeli MUHIMANA

Parties, Judicial Archive
LD, LSS
[Signature]

v.

THE PROSECUTOR

Case No. ICTR-95-1B-A

**DECISION ON MOTION FOR EXTENSION OF TIME FOR FILING OF
NOTICE OF APPEAL**

Counsel for the Prosecution

Mr. Charles Adeogun-Phillips
Mr. Wallace Kapaya
Mr. Peter Tafah
Ms. Renifa Madenga
Ms. Florida Kabasinga
Ms. Maymuchka Lauriston

Counsel for the Appellant

Professor Nyabirungu mwene Songa
Mr. Kazadi Kabimba
Mr. Mathias Sahinkuye

2005 JUN -2 P 2:52
ICTR
[Signature]

Case No. ICTR-95-1B-A

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: MUZIGO-MORRISON
SIGNATURE: *[Signature]* DATE: 02/06/05

2 June 2005

[Handwritten mark]

I, **FAUSTO POCAR**, 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 Neighboring States, between 1 January 1994 and 31 December 1994 (“International Tribunal”),

NOTING the “Order of the Presiding Judge Assigning Judges to an Appeal before the Appeals Chamber” issued on 31 May 2005 designating me to serve as Pre-Appeal Judge in this case;

NOTING that pursuant to Rule 108*bis* (B) of the Rules of Procedure and Evidence of the International Tribunal (“Rules”), “[t]he 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”;

NOTING that Trial Chamber III of the International Tribunal pronounced its judgement against Mikaeli Muhimana on 28 April 2005 and issued a reasoned opinion in writing in English on 26 May 2005 (“Trial Judgement”);

BEING SEISED OF the “*Requête de la Défense aux fins du Report du Délai de Dépôt de l’Acte d’Appel*”, filed by Counsel for Mikaeli Muhimana (“Appellant”) on 20 May 2005 (“Motion”), in which the Appellant requests that, pursuant to Rule 116 of the Rules, the time limit for filing his Notice of Appeal be extended by thirty days from the date on which the Trial Judgement is served on him in Kinyarwanda and on his Counsel in French;¹

NOTING that the Appellant submits the following in support of his Motion: (i) that he understands and speaks Kinyarwanda and his Counsel understands and speaks French;² (ii) that an accused who does not speak or understand either English or French as the working languages of the International Tribunal has the right to obtain a translation of the decisions issued by the International Tribunal into a language he or she understands;³ and (iii) that in the *Kamuhanda* case, the Appeals Chamber granted an extension of time of thirty days from the date of the filing of the French translation of the judgement for filing the Notice of Appeal;⁴

NOTING that the Prosecution did not file a response to the Appellant’s Motion;

¹ Motion, para. 18.

² Motion, para. 5.

³ Motion, paras. 11-13.

⁴ Motion, paras. 13-14, referring to *Kamuhanda v. The Prosecutor*, ICTR-99-54A-A, *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*, 8 March 2004 (“*Kamuhanda Decision*”).

09/H

CONSIDERING that under Rule 108 of the Rules, “[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”;

CONSIDERING 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;

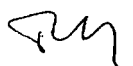
CONSIDERING that pursuant to Article 31 of the Statute of the International Tribunal, “[t]he working languages of the International Tribunal for Rwanda shall be English and French”;

FINDING that the Appellant has established “good cause” within the meaning of Rule 116 of the Rules for extending the deadline for the filing of his Notice of Appeal to thirty days from the date of the filing of the French version of the Trial Judgement in this case so as to allow the Appellant’s Counsel time to fully acquaint himself and the Appellant with the Trial Judgement in preparing the Notice of Appeal;

CONSIDERING that it is in the interests of justice to provide the Appellant with a translation of the decisions and orders issued in this case in one of the two working languages of the International Tribunal into a language he understands;⁵

CONSIDERING however that the filing of a Notice of Appeal marks the commencement of the appeal proceedings in a case and that, since the time limits for the filing of the subsequent briefs are calculated from the date on which the Notice of Appeal is filed, any delay at such an early stage will delay subsequent filings;

CONSIDERING that the requested extension of time of thirty days from the moment the Trial Judgement is served on the Appellant in Kinyarwanda would not be appropriate since Counsel for the Appellant may discuss with him the possible grounds of appeal and advise him as to potential errors of facts and law contained in the Trial Judgement as soon as it is filed in French;



08/H

FOR THE FOREGOING REASONS:

GRANTS the Motion in part;

ORDERS the Appellant to file his Notice of Appeal no more than thirty days from the date of the filing of the French translation of the Trial Judgement;

DIRECTS the Registrar to provide the French translation of the Trial Judgement to the Appellant and his Counsel without undue delay;

DIRECTS the Registrar to provide the Kinyarwanda translation of the Trial Judgement to the Appellant and his Counsel as soon as practicable; and

DIRECTS the Registrar to inform the Appeals Chamber when the French and Kinyarwanda translations of the Trial Judgement have been served on the Appellant and his Counsel.

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



Fausto Pocar
Pre-Appeal Judge

Done this 2nd day of June 2005,
At The Hague,
The Netherlands.

[Seal of the Tribunal]



⁵ See *Kamuhanda* Decision, para. 14.