

ICTR-99-52-A
20 September 2005
(4984/H-4982/H)

4984/H
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Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

BEFORE THE PRE-APPEAL JUDGE

Before: Judge Andréia Vaz, Pre-Appeal Judge
Registrar: Mr. Adama Dieng
Order of: 20 September 2005

Ferdinand NAHIMANA
Jean-Bosco BARAYAGWIZA
Hassan NGEZE
(Appellants)

v.

THE PROSECUTOR
(Respondent)

Case No. ICTR-99-52-A

2005 SEP 21 A 03:51
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DECISION ON HASSAN NGEZE'S "REQUEST OF AN EXTREMELY URGENT STATUS CONFERENCE PURSUANT TO RULE 65 BIS OF RULES OF PROCEDURE AND EVIDENCE"

Counsel for the Appellants

Mr. Jean-Marie Biju-Duval
Mr. Donald Herbert
Mr. Bharat Chadha

Counsel for the Prosecutor

Mr. James Stewart

ICTR Appeals Chamber

Date: 20 September 2005
Action: R.J.
Copied To: Concerned Judges, Parties,

Judicial Archives, LQs, LSS
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International Criminal Tribunal for Rwanda
Tribunal pénal International pour le Rwanda
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY MR.
COPIE CERTIFIÉE CONFORME A L'ORIGINAL PAR NOUS
NAME / NOM: ROSETTE MUZIEN-MORRISON
SIGNATURE: *[Handwritten signature]* DATE: 20/09/05

4983/H

I, Andréia Vaz, Pre-Appeal Judge in this case,¹

BEING SEISED OF the "Request for an Extremely Urgent Status Conference Pursuant to Rule 65*bis* of Rules of Procedure and Evidence", filed by Hassan Ngeze ("Appellant") on 22 August 2005 ("Motion"), in which the Appellant requests a status conference to challenge the restrictive measures to which he has been subjected by the Commanding Officer of United Nations Detention Facilities ("Commanding Officer" and "UNDF", respectively);

NOTING the "Prosecutor's response to 'Request for an Extremely Urgent Status Conference Pursuant to Rule 65*bis* of Rules of Procedure and Evidence'", filed on 29 August 2005 ("Prosecution" and "Response", respectively), in which the Prosecution opposes the Motion because (i) the restrictive measures "cannot impede, in any way, the expeditiousness of the appeal proceedings";² (ii) the challenge to the restrictive measures has already been referred to and rejected by the President pursuant to the relevant procedure;³ (iii) the restrictive measures only involve private visits and communication and hence do not prevent the Appellant from preparing his pending appeal effectively;⁴

NOTING the "Registrar's submissions under Rule 33(B) of the Rules of Procedure and Evidence on Hassan Ngeze's Request of an Extremely Urgent Status Conference pursuant to Rule 65*bis* of Rules of Procedure and Evidence", filed on 2 September 2005 ("Registrar" and "Registrar's Submissions", respectively), in which the Registrar also opposes the Motion as (i) "the matters on which [the Motion] is premised do not fall in the purview of matters that should be covered by a Status Conference";⁵ (ii) the Appellant has not exhausted the administrative procedure;⁶ (iii) the Appellant should move the Appeals Chamber by way of motion rather than by a request for a status conference;⁷

NOTING the "Appellant Hassan Ngeze's Reply to the Prosecutor's response to Appellant Hassan Ngeze's Request for an Extremely Urgent Status Conference Pursuant to Rule 65*bis* of Rules of Procedure and Evidence", filed on 5 September 2005 ("Reply"), in which the Appellant puts forward the "mental torture" inflicted on him by the UNDF administration as a result of his Motion,

¹ Order of the Presiding Judge Designating the Pre-Appeal Judge, 19 August 2005; Corrigendum to the Order of the Presiding Judge Designating the Pre-Appeal Judge, 25 August 2005.

² Response, para. 8.

³ Response, para. 9, referring to Rules 64, 82 and 83 of the Rules Covering the Detention of Persons Awaiting Trial or Appeal Before the Tribunal or Otherwise Detained on the Authority of the Tribunal and to the Request for Reversal of the Prohibition of Contact, 1 August 2005.

⁴ Response, paras. 10, 11.

⁵ Registrar's Submissions, para. 5. More specifically, the Registrar contends that the Motion does not "question juridical or semi juridical orders", that it does not involve exchanges between the parties and that the Registrar is not a party to the proceedings.

⁶ Registrar's Submissions, paras. 6, 7.

⁷ Registrar's Submissions, para. 8.

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the lack of any written clarification from the Commanding Officer regarding the extension of the restrictive measures and of the lack of accountability of the Commanding Officer⁸

NOTING ALSO the "Reply to the Registrar's submissions under Rule 33(B) of the Rules of Procedure and Evidence on Hassan Ngeze's Request of an Extremely Urgent Status Conference pursuant to Rule 65bis of Rules of Procedure and Evidence", filed by the Appellant on 12 September 2005 ("Reply to the Registrar's Submissions");

NOTING that pursuant to Rule 65bis (B) of the Rules of Procedure and Evidence, "the Appeals Chamber or an Appeals Chamber Judge may convene a status conference" to organize exchanges between the parties so as to ensure expeditious proceedings;

NOTING that the Appellant has seised the Appeals Chamber to review the restrictive measures he complains of;⁹

CONSIDERING that the Appellant has not shown that a status conference to discuss the restrictive measures he complains of would be useful to ensure that this case proceeds without any further unnecessary delay;


FINDING therefore, that it would not be helpful to convene a status conference with regard to the Motion,

HEREBY denies the Motion.

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

Dated this 20th day of September 2005,
At The Hague, The Netherlands.




Andréia Vaz
Pre-Appeal Judge

[Seal of the Tribunal]

⁸ Reply, paras. 2-8.

⁹ Appellant Hassan Ngeze's Request to Grant Him Leave to Bring his Complaints to the Appeals Chamber when the Normal Procedure [sic] under the Rules of Detention Fails to Offer Any Solution, filed on 29 August 2005.