



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

IN THE APPEALS CHAMBER

Before:

Judge Fausto Pocar, Presiding
Judge Liu Daqun
Judge Andrézia Vaz
Judge Theodor Meron
Judge Wolfgang Schomburg

Registrar: Mr. Adama Dieng

Decision of: 8 June 2006

THE PROSECUTOR

v.

Michel BAGARAGAZA

Case No. ICTR-05-86-AR11bis

**DECISION ON THE PROSECUTION'S REQUEST FOR A SCHEDULING
ORDER**

Office of the Prosecutor:

Mr. Hassan Bubacar Jallow
Mr. George Mugwanaya

Counsel for the Defence:

Mr. Geert Jan Alexander Knoops

1. 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 Serious Violations Committed in the Territory of Neighbouring States, between 1 January and 31 December 1994 (“Appeals Chamber” and “Tribunal”, respectively) is seized of an interlocutory appeal filed by the Prosecution,^[1] pursuant to Rule 11*bis*(H) of the Tribunal’s Rules of Procedure and Evidence (“Rules”), against a Trial Chamber decision,^[2] denying its request to refer the case of Michel Bagaragaza to the Kingdom of Norway.

2. The Appeals Chamber is also presently seized of a request by the Prosecution for clarification on how to proceed in an appeal under Rule 11*bis* and for a scheduling order for the filing of written briefs by the parties.^[3] The Prosecution makes no submissions concerning a possible proper framework for appealing under the rule, and simply makes reference to the practice adopted by the Appeals Chamber for the International Criminal Tribunal for the Former Yugoslavia (“ICTY”).^[4]

3. Rule 11*bis*(H) sets a time frame of fifteen days for the filing of a notice of appeal, but is silent on the period for filing an appeal brief. Under the equivalent provision of the Rules of Procedure and Evidence for the ICTY, the Appeals Chamber has followed a practice of allowing fifteen days from the filing of the notice of appeal for the filing of the appeal brief on the merits.^[5] The Appeals Chamber sees no reason to depart from this practice in considering appeals under Rule 11*bis* in this Tribunal.

4. As this is the first appeal of a decision taken under Rule 11*bis* in this Tribunal, the Appeals Chamber will allow the Prosecution to file its appeal brief within fifteen days from filing of this decision.^[6] The Appeals Chamber finds no reason to issue a detailed scheduling order as its practice directives fully cover the procedures to follow in cases under the Rules where an appeal lies as of right.^[7]

5. For the foregoing reasons, the Appeals Chamber **ORDERS** the Prosecution to file its appeal brief within fifteen days at the latest from the date of this decision (*i.e.* by 23 June 2006).

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

Done	this	8th	day	of	June	2006,
At			The			Hague,
The Netherlands.						

Judge Fausto Pocar
Presiding

[Seal of the Tribunal]

[1] Prosecutor's Notice of Appeal (Rule 11bis (H)), 1 June 2006.

[2] *The Prosecutor v. Michel Bagaragaza*, Case No. ICTR-2005-86-R11bis, Decision on the Prosecution Motion for Referral to the Kingdom of Norway, 19 May 2006.

[3] Prosecutor's Motion for a Scheduling Order (Rule 11bis (H)), 1 June 2006 ("Prosecution Motion"). Mr. Bagaragaza has not yet responded to this motion. However, the Appeals Chamber does not find that Mr. Bagaragaza would be prejudiced by taking this decision prior to the expiration of the period normally allowed for a response.

[4] Prosecution Motion, para. 3 (citing *The Prosecutor v. Radovan Stankovi*}, Case No. IT-96-23/2-AR11bis.1, Decision on Defence Application for Extension of Time to File Notice of Appeal, 9 June 2005 ("*Stankovi* Decision")).

[5] *Stankovi*} Decision, paras. 17, 18. *See also The Prosecutor v. Paško Ljubičić*, Case No. IT-00-41-AR11bis.1, Decision on Motion for Extension of Time, 10 May 2006, p. 1.

[6] *See Stankovi*} Decision, para. 18.

[7] *See generally* Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings before the Tribunal, 16 December 2002, paras. 1-3; Practice Direction on the Length of Briefs and Motions on Appeal, 16 September 2002, para. C(2). *See also Stankovi*} Decision, para. 14-16, 18, which analogizes an appeal under Rule 11bis to an interlocutory appeal and refers the parties to the ICTY practice directive for guidance on filing written submissions.