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Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda
ICTR-01-76-A
20 June 2006
(128/H - 125/H)

BEFORE THE PRE-APPEAL JUDGE

Before: Judge Liu Daqun, Pre-Appeal Judge

Registrar: Mr. Adama Dieng

Decision of: 20 June 2006

THE PROSECUTOR

v.

Aloys SIMBA

Case No. ICTR-01-76-A

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME
COPIE CERTIFIÉE CONFORMÉ À L'ORIGINAL PAR MOI
NAME / NOM: KAROL KIMBLE, A. AKA...
SIGNATURE: [Signature] DATE: 20 June 2006

**DECISION ON DEFENCE MOTION FOR EXTENSION OF TIME TO
RESPOND TO THE PROSECUTOR'S APPELLANT'S BRIEF**

Office of the Prosecutor

Mr. Hassan Bubacar Jallow
Mr. James Stewart

Counsel for Aloys Simba

Mr. Sadikou Ayo Alao
Mr. Wenceslas de Souza

ICTR Appeals Chamber
Date: 20 June 2006
Action: P.T.
Copied To: concerned Judges
[Signatures]

128/H
20 June 2006
[Signature]

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I, LIU DAQUN, 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 ("Tribunal") and Pre-Appeal Judge in this case,¹

BEING SEIZED OF "*Requête en extrême urgence de la défense en vue d'obtenir un report de délai pour répondre au mémoire en appel du procureur*" filed on 12 June 2006, in which Aloys Simba ("Respondent") requests that the time-limit to respond to the Prosecutor's Appellant's Brief filed on 27 March 2006 ("Prosecution Appeal Brief"), be extended until 40 days after the Respondent files his Appeal Brief;

NOTING that the Prosecution has no objection to the Request;²

NOTING that so far the Respondent has been granted several extensions of time to file his submissions on appeal on the ground that he is entitled to receive French translations of various documents;³

NOTING that according to these previous decisions,⁴ the Respondent is allowed to file:

- i. his Notice of Appeal no later than 30 days after the filing of the French translation of the Trial Judgement;⁵
- ii. his response to the Prosecution Appeal Brief within 40 days of the date of receipt of the French translation of the Prosecution Appeal Brief and its Corrigendum;⁶

NOTING that the Respondent was also granted an extension of time to file his response to the "Prosecutor's Motion for Variation of Notice of Appeal, pursuant to Rule 108", filed by the Prosecution in English on 27 March 2006 ("Motion for Variation");⁷

¹ See Order Appointing a Pre-Appeal Judge, 24 January 2006.

² Prosecutor's Response to "*Requête en extrême urgence de la défense en vue d'obtenir un report de délai pour répondre au mémoire en appel du procureur*", 13 June 2006, para. 8.

³ Decision on Respondent's Motion for Extension of Time, 13 April 2006 ("Second Decision on Extension of Time"); Decision on Registrar's Request for Extension of Time for Filing an Official Translation of the Trial Judgement, 25 January 2006 ("Decision on the Registrar's Request"); see also Decision on Motion for Extension of Time for Filing of Notice of Appeal, 16 December 2005 ("First Decision on Extension of Time").

⁴ *Ibid.*

⁵ Decision on the Registrar's Request, p. 3.

⁶ Second Decision on Extension of Time, p. 3. The French translation of the Trial Judgement was filed on 15 May 2006 and served to the Respondent on 23 May 2006. Also, the French translation of the Prosecution Appeal Brief was filed on 31 May 2006 and served to the Respondent on 8 June 2006.

⁷ Second Decision on Extension of Time, p. 3.

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NOTING that the French translation of the Motion for Variation was filed on the 19 April 2006, but was only served to the Respondent on the 11 June 2006,⁸ and that the Respondent filed his Response to this Motion for Variation on 14 June 2006;⁹

NOTING that the late service of the French translation of the Motion for Variation has delayed the decision relating to the Motion for Variation;

RECALLING that pursuant to Rule 111 of the Rules an appellant shall file his Appeal Brief within 75 days of the filing of his Notice of Appeal;

RECALLING that pursuant to Rule 112 of the Rules the Respondent has 40 days to respond to the Prosecution Appeal Brief;

CONSIDERING that according to Rule 116 an extension of time limit may be granted upon a showing of good cause;

CONSIDERING that the Respondent submits that strict compliance with these time limits would cause overlaps which would make it impossible for the defence to avail itself of the respective time limits of 75 days and 40 days within which to accomplish each of the two tasks referred to above and that this overlap will undermine the rights of the Respondent as guaranteed by Article 20 of the Statute of the Tribunal;

CONSIDERING that the said deadlines were extended pursuant to the Respondent's request;¹⁰

CONSIDERING FURTHER that arguments regarding workload do not by themselves constitute good cause,¹¹ since this workload is common to any counsel's office;

CONSIDERING however that the outcome of the pending Motion for Variation may have a bearing on the substance of the response to the Prosecution Appeal Brief;

FINDING therefore that good cause exists justifying a further extension of time limit;

⁸ The Pre-Appeal Judge has been informed by the Registry that the French translation of the Motion for Variation was served to the Respondent on 10 June 2006, who acknowledged receipt on 11 June 2006.

⁹ "Réponse de la Défense à la Requête du Procureur en modification de l'Acte d'appel conformément à l'article 108 du Règlement de Procédure et de Preuve".

¹⁰ First Decision on Extension of Time, p. 3; Decision on Registrar's Request for Extension of Time for Filing an Official Translation of the Trial Judgement, 25 January 2006, p. 3.

¹¹ *Prosecutor v. Stanislav Galić*, Case No. IT-98-29-A, Decision on Prosecution's Requests for Extensions of Time and of Page Limit for the Response, 21 February 2005; see also *Elizézer Niyitegeka v. Prosecutor*, Case No. ICTR-96-14-A, Decision on Appellant's Motion for Adjournment, 1 April 2004, para. 18, where the Appeals Chamber held that the fact that counsel carried a heavy workload was an insufficient reason for the adjournment of an appeal hearing.

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FOR THE FOREGOING REASONS,

GRANT the Request in part, and allow the Respondent to file the Response to the Prosecution Appeal Brief no later than 40 days from the date of service to the Respondent of the French translation of the decision on the Motion for Variation;

AND REMIND the Respondent of the time-limits for the filing of the Respondent's submissions:

- a) The Respondent's Notice of Appeal to be filed no later than 30 days from the date of service to the Respondent of the French translation of the Trial Judgement;
- b) The Respondent's Appeal Brief to be filed no later than 75 days from the date of filing of his Notice of Appeal.

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

Done this 20th day of June 2006,
At The Hague,
The Netherlands.



[Seal of the Tribunal]


Liu Daqun
Pre-Appeal Judge