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Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

ICTR-01-76-A
08 November 2006
[1393/H - 1391]

BEFORE THE PRE-APPEAL JUDGE

Before: Judge Lin Daqun, Pre-Appeal Judge

Registrar: Mr. Adama Dieng

Decision of: 8 November 2006

ICTR Appeals Chamber
Date: 08 November 2006
Action: R. J.
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THE PROSECUTOR

v.

Aloys SIMBA

Case No. ICTR-01-76-A

**DECISION ON THE APPELLANT'S REQUEST FOR RECONSIDERATION
OF THE ORDER CONCERNING ALOYS SIMBA'S APPELLANT'S BRIEF**

Office of the Prosecutor

Mr. James Stewart
Mr. George William Mugwanya
Ms. Inneke Onsea
Ms. Evelyn Kamau

Counsel for Aloys Simba

Mr. Sadikou Ayo Alao
Mr. Wenceslas de Souza

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
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COPIE CERTIFIÉE CONFORME À L'ORIGINAL PAR NOUS
NAME / NOM: KATZ, KUMELIO, A. AFANDE
SIGNATURE: [Signature] DATE: 08 November 2006

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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 the Pre-Appeal Judge in this case;

NOTING the "Order Concerning Aloys Simba's Appellant's Brief" filed on 29 September 2006 ("Order") which: (i) instructed the Appellant to re-file his Appellant's Brief in strict compliance with the page and word limits set out in the Practice Direction on the Length of Briefs and Motions on Appeal ("Practice Direction");¹ and (ii) directed the Registrar to withhold the payment of fees, if claimed, associated with the rejected filing;²

BEING SEIZED OF the "*Requête en extrême urgence de la Défense en vue de solliciter le réexamen de l'Ordonnance Relative au Mémoire d'Appel de Simba' (Article 73 du RPP)*", filed on 2 October 2006 by Counsel for Aloys Simba ("Motion" and "Defence" respectively), which requests the Pre-Appeal Judge for reconsideration of that part of the Order that directed the withholding of fees associated with the rejected filing if claimed;³

NOTING the "Prosecutor's Response to '*Requête en extrême urgence de la Défense en vue de solliciter le réexamen de l'Ordonnance Relative au Mémoire d'Appel de Simba' (Article 73 du RPP)*'" filed on 2 October 2006;

NOTING the "*Memoire d'Appel d'Aloys Simba*" which was re-filed on 16 October 2006 in accordance with the requirements of the Order that the Appellant's Brief be re-filed in compliance with the Practice Direction;

CONSIDERING that the Appeals Chamber has an inherent discretionary power to reconsider its own previous decisions other than a final judgement if the existence of a clear error of reasoning has been demonstrated or if it is necessary in order to prevent an injustice and that, as a Judge of the Appeals Chamber, I may exercise that power to reconsider decisions issued in my capacity as Pre-Appeal Judge;⁴

¹ Practice Direction on the Length of Briefs and Motions on Appeal, 16 September 2002.

² *The Prosecutor v. Aloys Simba*, Case No. ICTR-01-76A, Order Concerning Aloys Simba's Appellant's Brief, 29 September 2006.

³ *The Prosecutor v. Aloys Simba*, Case No. ICTR-01-76A, *Requête en extrême urgence de la Défense en vue de solliciter le réexamen de l'Ordonnance Relative au Mémoire d'Appel de Simba' (Article 73 du RPP)*, 2 October 2006.

⁴ *Eliézer Niyitegeka v. The Prosecutor*, Case No. ICTR-96-14-R, Decision on Request for Reconsideration of the Decision on Request for Review, 27 September 2006, p. 2; *Prosecutor v. Žigic*, Case No. IT-98-30/1-A, Decision on Zoran Žigic's "Motion for Reconsideration of Appeals Chamber Judgement IT-98-30/1-A Delivered on 28 February 2005", 26 June 2006, para. 5.

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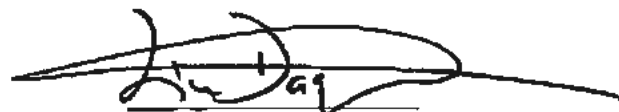
CONSIDERING that the explanation proffered in the Motion, that the Appellant's Brief took two months to prepare and that any violation was based upon a misunderstanding of the relevant sections of the Practice Direction,⁵ does not meet the standard for reconsideration;

CONSIDERING that the Order only denied the payment of fees associated with the preparation of the rejected filing and does not prevent the Defence from submitting claims for remuneration for work done in the preparation of the validly-filed Appellant's Brief;

FOR THE FOREGOING REASONS,

REJECTS the Motion.

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



Liu Daqun
Pre-Appeal Judge

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

[Seal of the Tribunal]



⁵ Motion, p. 2.