



**Tribunal pénal international pour le Rwanda
International Criminal Tribunal for Rwanda**

IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Presiding
Judge Mohamed Shahabuddeen
Judge Mehmet Güney
Judge Andrézia Vaz
Judge Theodor Meron

Registrar: Mr. Adama Dieng

Decision of: 19 March 2007

**Ferdinand NAHIMANA
Jean-Bosco BARAYAGWIZA
Hassan NGEZE
(Appellants)**

v.

**THE PROSECUTOR
(Respondent)**

Case No. ICTR-99-52-A

**DECISION ON APPELLANT JEAN-BOSCO BARAYAGWIZA'S MOTION FOR
EXTENSION OF TIME**

Counsel for Jean-Bosco Barayagwiza

Mr. D. Peter Herbert
Ms. Tanoo Mylvaganam

Counsel for Ferdinand Nahimana

Mr. Jean-Marie Biju-Duval
Ms. Diana Ellis

Counsel for Hassan Ngeze

Mr. Bharat B. Chadha
Mr. Dev Nath Kapoor

Office of the Prosecutor

Mr. James Stewart
Mr. Neville Weston
George Mugwanya
Ms. Linda Bianchi
Mr. Abdoulaye Seye
Mr. Alfred Orono Orono

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 and 31 December 1994 (“Appeals Chamber” and “Tribunal”, respectively),

BEING SEIZED OF “The Appellant Jean-Bosco Barayagwiza’s Extremely Urgent Motion for Leave to Permit Extra Time for Filing a Response to the Prosecution Motion as Set Out in the Order of the Appeal Court on March 5th 2007” filed by Counsel for Jean-Bosco Barayagwiza (“Appellant”) on 16 March 2007 (“Motion”);

NOTING that the Prosecution has informed the Appeals Chamber that it does not oppose the Motion and will not file a written response thereto;¹

RECALLING the “Decision on the Prosecutor’s Motion to Pursue the Oral Request for the Appeals Chamber to Disregard Certain Arguments Made by Counsel for Appellant Barayagwiza at the Appeals Hearing on 17 January 2007” issued on 5 March 2007 (“Decision of 5 March 2007”), in which the Appeals Chamber found that the six arguments raised by the Appellant during the hearing of 17 January 2007 were admissible as new grounds of appeal and allowed the Prosecution to file a written response thereto within ten days of the said Decision and the Appellant to file a reply within four days of the filing of the response;²

NOTING that “The Prosecutor’s Response to the Six New Grounds of Appeal Raised by Counsel for Appellant Barayagwiza at the Appeals Hearing on 17 January 2007” was filed on 14 March 2007 (“Prosecution Response to the Six Grounds”);

CONSIDERING that, in compliance with the Decision of 5 March 2007, the Appellant’s reply to the Prosecution Response to the Six Grounds is due to be filed on or before 19 March 2007;

NOTING that in the Motion the Appellant requests an extension of time of two days for the filing of his reply and submits that his Lead Counsel has not yet received a copy of the Prosecution Response to the Six Grounds due to failures in facsimile and e-mail communications³ and has so far

¹ E-mail correspondence from Mr. Abdoulaye Seye to Ms. Catherine Marchi-Uhel, Senior Legal Officer, 16 March 2007.

² Decision of 5 March 2007, para. 17.

³ Motion, para. 2. The Appellant claims that the fax from the Tribunal failed to reach his Lead Counsel and that the latter was unable to open a zip document containing the electronic copy of the Prosecution Response to the Six Grounds.

been unable to discuss the merits of the arguments contained therein with the Appellant and to take his instructions on the matter;⁴

CONSIDERING that pursuant to Rule 116(A) of the Rules of Procedure and Evidence of the Tribunal (“Rules”), the Appeals Chamber may, upon a showing of good cause, grant a motion for extension of a prescribed time limit;

CONSIDERING that the delay caused to Lead Counsel’s ability to review the Prosecution Response to the Six Grounds was due to technical problems beyond his control and that Lead Counsel should have sufficient time to prepare a meaningful review on behalf of the Appellant;

FINDING therefore that there is good cause for granting the Appellant an extension of time to file his reply to the Prosecution Response to the Six Grounds beyond the time-limit prescribed by the Decision of 5 March 2007;

CONSIDERING that the requested extension of time of two days is reasonable and justified in the given circumstances;

FOR THE FOREGOING REASONS,

GRANTS the Motion and **ORDERS** the Appellant to file his reply to the Prosecution Response to the Six Grounds on or before 21 March 2007.

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

Done this 19th day of March 2007,
At The Hague, The Netherlands.

Fausto Pocar
Presiding Judge

[Seal of the Tribunal]

⁴ Motion, paras 3-4: “Lead Counsel was able to telephone the Appellant on the 14th and 15th March but was unable to have any meaningful discussion as to the nature of the response. It is impossible to telephone the UNDF after 2.30 pm GMT on Friday until Monday 19th March in order to take instructions. The fax machine at the UNDF is apparently not functioning at present [...]”.