

ICTR-01-69-T
26-04-2007
(2159-2157)

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International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER II

Before: Judge William H. Sekule, Presiding
Judge Arlette Ramaroso
Judge Solomy Balungi Bossa

Registrar: Mr Adama Dieng

Date: 26 April 2007

The PROSECUTOR v. Hormisdas NSENGIMANA
Case No. ICTR-2001-69-1

2007 APR 26 | A 9:00
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**DECISION ON HORMISDAS NSENGIMANA'S MOTION FOR CERTIFICATION
TO APPEAL THE DECISION OF 29 MARCH 2007**

Office of the Prosecutor

Mr Hassan Bubacar Jallow
Mr James Stewart
Mr Wallace Kapaya

Defence Counsel

Mr Emmanuel Altit
Mr Rémi Mazas

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (the "Tribunal"),

SITTING as Trial Chamber II composed of Judges William H. Sekule, Presiding, Arlette Ramaroson and Solomy Balungi Bossa (the "Chamber");

BEING SEIZED of the "*Requête aux fins de certification d'appel contre la décision de la Chambre de première instance II relative à la 'requête du Procureur demandant à pouvoir déposer un acte d'accusation modifié' du 29 mars 2007,*" signed on 5 April 2007 and filed on 10 April 2007 (the "Motion");

CONSIDERING the "Prosecutor's Response to the Defence Motion '*Requête aux fins de certification d'appel contre la décision de la Chambre de première instance II relative à la 'requête du Procureur demandant à pouvoir déposer un acte d'accusation modifié'*", filed on 16 April 2007 (the "Prosecution's Response");

CONSIDERING the "*Réponse à la Prosecutor's Response to the Defence Motion 'Requête aux fins de certification d'appel contre la décision de la Chambre de première instance II relative à la 'requête du Procureur demandant à pouvoir déposer un acte d'accusation modifié'*", filed on 23 April 2007 (the " Defence Reply");

NOTING the Chamber's "Decision on Prosecution Motion for Leave to File an Amended Indictment" of 29 March 2007 (the "Impugned Decision");

CONSIDERING the Statute of the Tribunal (the "Statute") and the Rules of Procedure and Evidence (the "Rules") in particular Rule 73 (B) of the Rules;

NOW DECIDES the Motion pursuant to Rule 73 (A) of the Rules, on the basis of the written briefs only, as filed by the Parties.

INTRODUCTION

1. On 5 April 2007, the Defence sent an e-mail to the Registry (CMS Coordinator) informing him of its intention to file a motion for certification to appeal the Decision of 29 March 2007. On the same day, the Defence sent two other e-mails with two attachments that the Defence said to be the aforementioned motion.
2. On 10 April 2007, the Registry sent an e-mail to the Defence requesting it to send the appropriate motion as the documents received on 5 April 2007 were not the motion. On the same day, the Defence replied and sent its motion electronically.
3. On 12 April 2007, the Defence sent an e-mail to the Registry stating that what it filed was a provisional motion as it was still waiting for the French translation of the Impugned Decision.




HAVING DELIBERATED

4. The Chamber reminds the Parties that the relevant Rule which is applicable to the instant case is Rule 73 (B), taking into account that the Impugned Decision was rendered under Rules 50 and 73 (A) of the Rules.
5. The Chamber notes that the provision of Rule 73 (B) is not ambiguous: it prescribes the time limit of seven days from the filing of the Impugned Decision for the moving party to file its request for certification to appeal. The Chamber recalls that the Impugned Decision was filed on 29 March 2007 whereas the certification motion was filed on 10 April 2007 without good cause being demonstrated for the late filing.
6. Even if the motion had been filed on 5 April 2007 as claimed by the Defence, the Chamber finds such filing to be outside the time limit, which expired on 4 April 2007, as the deadline starts from the day of the filing of the Decision.
7. In light of the above, the Chamber considers that the Motion is inadmissible.

FOR THE ABOVE REASONS, THE TRIBUNAL,

DECLARES the Motion inadmissible.

Arusha, 26 April 2007


William H. Sekule
Presiding Judge




Solomy Balungi Bossa
Judge

[Seal of the Tribunal]



TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

COURT MANAGEMENT SECTION
(Art. 27 of the Directive for the Registry)

I - GENERAL INFORMATION (To be completed by the Chambers / Filing Party)

To:	<input type="checkbox"/> Trial Chamber I N. M. Diallo	<input checked="" type="checkbox"/> Trial Chamber II R. N. Kouambo	<input type="checkbox"/> Trial Chamber III C. K. Hometown	<input type="checkbox"/> Appeals Chamber / Arusha F. A. Talon
	<input type="checkbox"/> Chief, CMS J.-P. Fornété	<input type="checkbox"/> Deputy Chief, CMS M. Diop	<input type="checkbox"/> Chief, JPU, CMS M. Diop	<input type="checkbox"/> Appeals Chamber / The Hague R. Muzigo-Morrison K. K. A. Afande
From:	<input checked="" type="checkbox"/> Chamber Mihary Andrianaivo (names)	<input type="checkbox"/> Defence (names)	<input type="checkbox"/> Prosecutor's Office (names)	<input type="checkbox"/> Other. (names)
Case Name:	The Prosecutor vs. Hormisdas Nsengimana			Case Number: ICTR-01-69-I
Dates:	Transmitted: 26/04/07		Document's date: 26/04/07	
No. of Pages:	3	Original Language:	<input checked="" type="checkbox"/> English	<input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
Title of Document:	DECISION ON HORMISDAS NSENGIMANA' S MOTION FOR CERTIFICATION TO APPEAL THE DECISION OF 29 MARCH 2007			
Classification Level:	TRIM Document Type:			
<input type="checkbox"/> Strictly Confidential / Under Seal	<input type="checkbox"/> Indictment	<input type="checkbox"/> Warrant	<input type="checkbox"/> Correspondence	<input type="checkbox"/> Submission from non-parties
<input type="checkbox"/> Confidential	<input checked="" type="checkbox"/> Decision	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Notice of Appeal	<input type="checkbox"/> Submission from parties
<input checked="" type="checkbox"/> Public	<input type="checkbox"/> Disclosure	<input type="checkbox"/> Order	<input type="checkbox"/> Appeal Book	<input type="checkbox"/> Accused particulars
	<input type="checkbox"/> Judgement	<input type="checkbox"/> Motion	<input type="checkbox"/> Book of Authorities	

II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party)

CMS SHALL take necessary action regarding translation.			
<input checked="" type="checkbox"/> Filing Party hereby submits only the original, and will not submit any translated version.			
<input type="checkbox"/> Reference material is provided in annex to facilitate translation.			
Target Language(s):			
<input type="checkbox"/> English	<input checked="" type="checkbox"/> French	<input checked="" type="checkbox"/> Kinyarwanda	
CMS SHALL NOT take any action regarding translation.			
<input type="checkbox"/> Filing Party hereby submits BOTH the original and the translated version for filing, as follows:			
Original	in	<input type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda	
Translation	in	<input type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda	
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<input type="checkbox"/> Filing Party will be submitting the translated version(s) in due course in the following language(s):			
<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda	
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<input type="checkbox"/> The OTP is overseeing translation. The document is submitted for translation to: <input checked="" type="checkbox"/> The Language Services Section of the ICTR / Arusha. <input type="checkbox"/> The Language Services Section of the ICTR / The Hague. <input type="checkbox"/> An accredited service for translation; see details below: Name of contact person: Name of service: Address: E-mail / Tel. / Fax:		<input type="checkbox"/> DEFENCE is overseeing translation. The document is submitted to an accredited service for translation (fees will be submitted to DCDMS): Name of contact person: Name of service: Address: E-mail / Tel. / Fax:	

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<input type="checkbox"/> Urgent		<input type="checkbox"/> Hearing date:
<input type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines: