

200/H



Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

ICTR-01-66-A  
8 May 2007  
(200/H - 197/H)

BEFORE THE PRE-APPEAL JUDGE

P.T.

Before: Judge Mohamed Shahabuddeen, Pre-Appeal Judge

Registrar: Mr. Adama Dieng

Decision of: 8 May 2007

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THE PROSECUTOR

v.

Athanase SEROMBA

Case No. ICTR-2001-66-A

ICTR Appeals Chamber

Date: 8 May 2007

Action: P.T.

Copied To: concerned Judges,  
Parties, STOS, LSP, ALOS, STS

Archives

**DECISION ON "REQUETE DE LA DEFENSE AUX FINS DE  
PROROGATION DU DELAI DE DEPOT DE LA REPONSE A LA REQUETE  
DU PROCUREUR INTITULEE « PROSECUTOR'S URGENT MOTION  
OBJECTING TO THE FILING OF ATHANASE SEROMBA'S APPELANT  
BRIEF » SUR LE FONDEMENT DES ARTICLES 116 DU REGLEMENT DE  
PROCEDURE ET DE PREUVE ET 20.4 DU STATUT DU TRIBUNAL"**

Counsel for the Prosecution International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda Counsel for the Appellant

Mr. Hassan Bubacar Jallow  
Mr. James Stewart  
Ms. Amanda Reichman

CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME  
COPIE CERTIFIÉE CONFORME À L'ORIGINAL PAR MOI  
Ms. Sarah N. Bihegué

NAME / NOM: Patrice Tchinkoko  
SIGNATURE: [Signature] DATE: 8/05/07

Case No. ICTR-2001-66-A

8 May 2007

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**I, MOHAMED SHAHABUDEEN**, 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 and 31 December 1994 ("Tribunal"), and Pre-Appeal Judge<sup>1</sup> in this case;

**BEING SEIZED** of the "Prosecutor's Urgent Motion Objecting to the Filing of Athanase Seromba's Appellant's Brief", filed by the Prosecution on 20 April 2007 ("Prosecution Motion");

**BEING SEIZED** of the "Requête de la Défense aux fins de prorogation du délai de dépôt de la réponse à la requête du procureur intitulée « *Prosecutor's Urgent Motion Objecting to the Filing of Athanase Seromba's Appellant's Brief* » sur le fondement des articles 116 du Règlement de procédure et de preuve et 20.4 du Statut du Tribunal", filed by Athanase Seromba ("Appellant") on 26 April 2007 ("Request");

**NOTING** that the Prosecution has not filed a response to the Request;

**NOTING** that the Appellant was required to file a response, if any, to the Prosecution Motion within ten days of the filing of that motion, or by 30 April 2007;<sup>2</sup>

**NOTING** that the Appellant submits in his Request that he is not in a position to respond to the Prosecution Motion because it was filed in English, which is neither the working language of the Appellant nor of his Counsel;<sup>3</sup>

**NOTING** that the Appellant requests the Appeals Chamber to rule that in filing the Prosecution Motion in English, the Prosecution committed "a serious breach of the rights of the Defence, as well as the relevant provisions of Rule 116 of the Rules of Procedure and Evidence (of the Tribunal ("Rules")) and Article 20(4) of the Statute of the [Tribunal ("Statute"))";<sup>4</sup>

**NOTING** that the Appellant further requests an extension of time to respond to the Prosecution Motion until after the Defence has been served with a French translation of that motion;<sup>5</sup>

**NOTING** that the French translation of the Prosecution Motion was served on the Appellant and his Counsel on 4 May 2007;

<sup>1</sup> See Order Designating a Pre-Appeal Judge, 12 March 2007.

<sup>2</sup> See Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings Before the Tribunal, 8 December 2006, paragraph 13.

<sup>3</sup> Request, para. 5.

<sup>4</sup> Request, p. 3; see also *ibid.*, para. 5.

<sup>5</sup> Request, p. 3.

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**CONSIDERING** that pursuant to Article 31 of the Statute, the working languages of the Tribunal are English and French;

**CONSIDERING** that the Appellant's Counsel work solely in French;

**CONSIDERING**, however, that neither Article 20(4) of the Statute nor Rule 116 of the Rules requires the Prosecution to file submissions in the working language of the Defence;

**FINDING**, therefore, that the filing of the Prosecution Motion in English did not violate the Appellant's rights under the Statute or Rules;

**CONSIDERING** that under Rule 116(A) of the Rules, the Appeals Chamber or the Pre-Appeal Judge may grant a motion for an extension of time if good cause is shown;

**CONSIDERING** that Rule 116(B) of the Rules provides that "[w]here the ability of the accused to make full answer and Defence depends on the availability of a decision in an official language other than that in which it was originally issued, that circumstance shall be taken into account as a good cause under the present Rule";

**CONSIDERING** that although Rule 116(B) of the Rules is not directly applicable in this case because the Request was made in relation to a motion rather than a decision,<sup>6</sup> it is clear that the Appellant and his Counsel require access to the French translation of the Prosecution Motion in order to make a full answer to the Prosecution Motion;<sup>7</sup>

**FINDING**, therefore, that the fact that the Appellant and his Counsel work in French and not in English constitutes good cause for an extension of time pursuant to Rule 116(A) of the Rules until ten days after the receipt by the Defence of the French translation of the Prosecution Motion;<sup>8</sup>

**FOR THE FOREGOING REASONS,**

**HEREBY GRANT** the Motion in part; and

**ORDER** the Appellant to file his response, if any, to the Prosecution Motion on or before 14 May 2007.

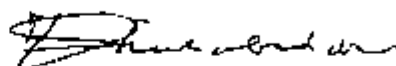
<sup>6</sup> See *Emanuel Ndinabahizi v. The Prosecutor*, Case No. ICTR-01-71-A, Decision on "Requête urgente aux fins de prorogation de délai pour le dépôt de la Réplique de l'Appelant", 28 June 2005 ("*Ndinabahizi* Decision"), p. 2.

<sup>7</sup> Cf. *Prosecutor v. Édouard Karemera et al.*, Case No. ICTR-98-44-AR73.7, Decision on Request for Extension of Time, 24 March 2006 ("*Karemera* Decision of 24 March 2006"), para. 2; *Prosecutor v. Édouard Karemera et al.*, Case No. ICTR-98-44-AR116, Decision on Request for Extension of Time, 27 January 2006 ("*Karemera* Decision of 27 January 2006"), para. 4.

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

Dated this 8th day of May 2007,  
The Hague,  
The Netherlands.



Mohamed Shahabuddeen  
Pre-Appeal Judge



[Seal of the Tribunal]

<sup>2</sup> Cf. *Karamera* Decision of 24 March 2006, para. 2; *Karamera* Decision of 27 January 2006, para. 4; *Ndindabahizi* Decision, p. 2.