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Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

ICTR-98-44C-A  
10 May 2007  
(110/H - 108/A)

IN THE APPEALS CHAMBER

Before:

Judge Fausto Pocar, Presiding  
Judge Mohamed Shahabuddeen  
Judge Liu Daqun  
Judge Theodor Meron  
Judge Wolfgang Schomburg

P.T.  
2007 MAY 11  
9:13  
SECRETARY GENERAL'S OFFICE

Registrar:

Mr. Adama Dieng

Decision of:

10 May 2007

André RWAMAKUBA

v.

THE PROSECUTOR

Case No. ICTR-98-44C-A

ICTR Appeals Chamber  
Date: 10 May 2007  
Action: P.T.  
Copied To: concerned Judges,  
LSS, Archived  
*[Signature]*

**Decision on Request for Extension of Time to File a Response**

Counsel for André Rwamakuba:

Mr. David Hooper  
Mr. Andreas O'Shea

Office of the Prosecutor:

Mr. Hassan Bubacar Jallow  
Mr. James Stewart  
Mr. George Mugwanya  
Mr. Neville Weston

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda  
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME  
COPIE CERTIFIÉE CONFORME A L'ORIGINAL PAR NOUS  
NAME / NOM: *Patricia Tchidimbo*  
SIGNATURE: *[Signature]* DATE: *10/05/07*

*SM*

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1. 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) is seized of a request filed by Mr. André Rwamakuba for an extension of time to file a response brief.<sup>1</sup> The Registry has indicated that it will not file a response, and no further submissions on this Request for Extension of Time have been received.

2. On 12 February 2007, Mr. Rwamakuba filed a notice of appeal<sup>2</sup> against a decision taken by Trial Chamber III.<sup>3</sup> In addition, on 28 February 2007, the Registrar filed a notice of his intention to make submissions pursuant to Rule 33(B) of the Rules of Procedure and Evidence of the Tribunal ("Rules") against the Impugned Decision.<sup>4</sup> On 18 April 2007, the Appeals Chamber allowed the Registrar to make submissions on all aspects of the Impugned Decision and set forth a briefing schedule.<sup>5</sup> Mr. Rwamakuba and the Registrar timely filed their initial briefs on 2 May 2007.<sup>6</sup>

3. According to the Scheduling Order, Mr. Rwamakuba's response brief should be filed no later than 14 May 2007.<sup>7</sup> In the Request for Extension of Time, Mr. Rwamakuba's Counsel request the Appeals Chamber to extend the time for filing the response brief by three days until 17 May 2007.<sup>8</sup> Counsel submit that they received the Registrar's initial brief by "internet" on 4 May 2007.<sup>9</sup> In addition, Counsel note that Mr. Hooper is currently involved in a training session of Iraqi judges in Dubai and that Mr. O'Shea is appearing before the Special Court for Sierra Leone.<sup>10</sup> Accordingly, Mr. Rwamakuba's Counsel state that they will be "hampered by poor communication and research facilities" until Mr. Hooper returns to the United Kingdom on 13 May 2007.<sup>11</sup>

4. Rule 116 of the Rules provides that the Appeals Chamber may allow for extensions of time upon a showing of good cause.<sup>12</sup> The Appeals Chamber is not persuaded that the competing

<sup>1</sup> Application by Defence for Further Time to File Response, 7 May 2007 ("Request for Extension of Time").

<sup>2</sup> Defence Notice of Appeal of Decision dated 31 January 2007, 12 February 2007.

<sup>3</sup> *The Prosecutor v. André Rwamakuba*, Case No. ICTR-98-44C-T, Decision on Appropriate Remedy, 31 January 2007 ("Impugned Decision").

<sup>4</sup> The Registrar's Notice of Intention to Make Submissions to the Appeals Chamber Pursuant to Rule 33(B) of the Rules of Procedure and Evidence or, in the Alternative, the Registrar's Notice of Appeal Regarding the Trial Chamber's Decision on Appropriate Remedy of 31 January 2007, 28 February 2007.

<sup>5</sup> Decision on Prosecution's Notice of Appeal and Scheduling Order, 18 April 2007, paras. 7, 9 ("Scheduling Order").

<sup>6</sup> Defence Brief on Appeal Concerning Appropriate Remedy, 2 May 2007; Registrar's Submission in Respect of the Trial Chamber III on Appropriate Remedy of 31 January 2007, 2 May 2007.

<sup>7</sup> Scheduling Order, para. 9(ii) ("Responses, if any, shall be filed no later than ten (10) days from the date of the filing of the initial briefs").

<sup>8</sup> Request for Extension of Time, para. 4.

<sup>9</sup> Request for Extension of Time, para. 2.

<sup>10</sup> Request for Extension of Time, para. 3.

<sup>11</sup> Request for Extension of Time, paras. 3, 4.

<sup>12</sup> See Rule 116(A) of the Rules.

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professional commitments of Counsel constitute good cause.<sup>13</sup> The brief delay in receiving the Registrar's initial brief, however, warrants the short extension of time requested. In addition, the Registrar has not opposed the Request for Extension of Time, and the limited delay that may result from the extension of time to file the response will not impact the overall timing for the consideration of this appeal. In the circumstances of this case, and given the nature of the appeal, the Appeals Chamber therefore finds good cause for an extension of time to file the response brief.<sup>14</sup>

5. For the foregoing reasons, the Request for Extension of Time is **GRANTED**. Counsel for Mr. Rwamakuba will be permitted until 17 May 2007 to file the response brief.

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

Done this 10th day of May 2007,  
At The Hague,  
The Netherlands.



A handwritten signature in black ink, appearing to read "Fausto Pocar".

Judge Fausto Pocar  
Presiding

<sup>13</sup> See, e.g., *Mikaeli Muhimana v. The Prosecutor*, Case No. ICTR-95-1B-A, Decision on the Admissibility of the Appellant's Brief in Reply, 11 January 2007, para. 8 ("Where counsel is unavailable due to other commitments, this cannot constitute good cause as envisaged in Rule 116(A) of the Rules.")

<sup>14</sup> See, e.g., *Protais Zigiranyirazo v. The Prosecutor*, Case No. ICTR-01-73-AR73, Decision on Request for Extension of Time to File Reply, 3 July 2006, paras. 2, 3 (finding good cause and allowing a three day extension of time, *inter alia*, given the importance of hearing the party on the issue and the lack of objection by the Prosecution).