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Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

ICTR-01-66-A

12 July 2007

(448/H - 446/H)

P.T.

BEFORE THE PRE-APPEAL JUDGE

Before: Judge Mohamed Shahabuddeen, Pre-Appeal Judge

Registrar: Mr. Adama Dieng

Decision of: 12 July 2007

ICTR Appeals Chamber
Date: 12 July 2007
Action: P.T.
Copied To: *Concurred Judges*
Tarbo, Sios, Les, H. D. S.
Archives

THE PROSECUTOR

v.

Athanase SEROMBA

Case No. ICTR-2001-66-A

**DECISION ON MOTION FOR EXTENSION OF TIME FOR FILING OF
DEFENCE BRIEF IN REPLY**

Counsel for the Prosecution

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

Counsel for the Appellant

Mr. Patrice Monthé
Ms. Sarah N. Bihegué

Case No. ICTR-2001-66-A

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME
COPIE CERTIFIÉE CONFORMÉ À L'ORIGINAL PAR NOUS
NAME / NOM: *Patrice Tchinda*
SIGNATURE: *[Signature]* DATE: *12/07/07*

12 July 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 Judge¹ in this case;

NOTING that Trial Chamber III pronounced its Judgement ("Trial Judgement") in the present case on 13 December 2006, and issued a reasoned opinion in writing on 19 December 2006;

NOTING that the Appeals Chamber is seized of appeals filed by both parties in this case;²

BEING SEIZED of the "Extremely Urgent Motion for Extension of Time for Filing of Defence Brief in Reply to the Prosecution Respondent's Brief Disclosed to the Defence on 13 June 2007 in English in Respect of the Most Relevant Part ("Motion"), filed by Athanase Seromba ("Seromba") on 28 June 2007;

NOTING that the Prosecution has not filed a response to the Motion;³

NOTING that the Prosecution filed its Respondent's Brief to Seromba's Appellant's Brief in this case on 12 June 2007 ("Prosecution Respondent's Brief");⁴

NOTING that Seromba was required to file a Reply Brief, if any, to the Prosecution Respondent's Brief prior to or on 27 June 2007;⁵

NOTING that Seromba submits in his Motion that he is not in a position to reply to the Prosecution Respondent's Brief because pages 25 to 66 of this Brief, comprising 213 paragraphs, are in English, which is neither the working language of Seromba nor that of his Counsel;⁶

NOTING that Seromba requests an extension of time to reply to the Prosecution Respondent's Brief until after the Defence has been served with a complete French translation of it;⁷

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

CONSIDERING that Seromba's Counsel work solely in French;

¹ See Order Designating a Pre-Appeal Judge, 12 March 2007.

² See *Acte d'appel d'Athanase Seromba*, 19 January 2007; Prosecutor's Notice of Appeal, 11 January 2007.

³ The time limit for filing a response to Seromba's Motion expired on 9 July 2007. See Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings Before the Tribunal, 8 December 2006, para. 13.

⁴ Prosecution Respondent's Brief, 12 June 2007.

⁵ See Rule 113 of the Rules of Procedure and Evidence of the Tribunal ("Rules").

⁶ Motion, paras. 2, 3, 5 and p. 3.

⁷ Motion, p. 3.

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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 Motion was made in respect of a respondent's brief rather than a decision,⁸ Seromba and his Counsel clearly require access to the French translation of the Prosecution Respondent's Brief in order to make a full answer to it;⁹

FINDING, therefore, that the service of the Prosecution's Respondent's Brief partly in English when Seromba and his Counsel work solely in French constitutes good cause for an extension of time pursuant to Rule 116(A) of the Rules until fifteen days after the receipt by the Defence of a completed French translation of the Prosecution Respondent's Brief;¹⁰

FOR THE FOREGOING REASONS,

HEREBY GRANT the Motion; and

ORDER Seromba to file his Reply, if any, to the Prosecution Respondent's Brief within fifteen days of the receipt by the Defence of a completed French translation of the Prosecution Respondent's Brief.

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

Dated this 12th day of July 2007,
The Hague,
The Netherlands.



Mohamed Shahabuddeen
Mohamed Shahabuddeen
Pre-Appeal Judge

[Seal of the Tribunal]

⁸ See Decision on "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 Ashunase 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", 8 May 2007 (Seromba Decision of 8 May 2007"), p. 3; *Emanuel Ndinabahizi v. The Prosecutor*, Case No. ICTR-01-71-A, Decision on "Requête urgent aux fins de prorogation de délai pour le dépôt de la Réplique de l'Appelant", 28 June 2005 ("Ndinabahizi Decision"), p. 2.

⁹ Cf. Seromba Decision of 8 May 2007, p. 3; *Prosecutor v. Édouard Karemera et al.*, Case No. ICTR-98-44-AR75.7, 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.

¹⁰ Cf. Seromba Decision of 8 May 2007, p. 3; *Karemera Decision of 24 March 2006*, para. 2; *Karemera Decision of 27 January 2006*, para. 4; *Ndinabahizi Decision*, p. 2.