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Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

ICTR-2001-66-A

12th July 2007

[445/H - 442/H]

BEFORE THE PRE-APPEAL JUDGE

Before:

Judge Mohamed Shahabuddeen, Pre-Appeal Judge

Registrar:

Mr. Adama Dieng

Decision of:

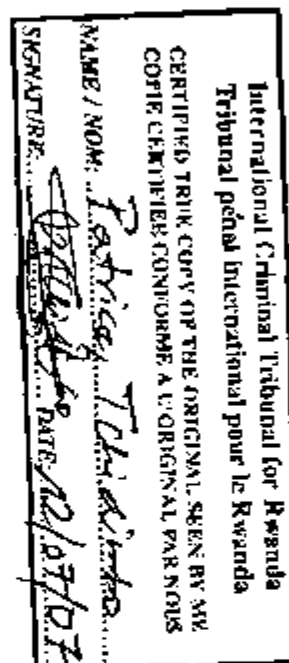
12 July 2007

THE PROSECUTOR

v.

Athanasie SEROMBA

Case No. ICTR-2001-66-A



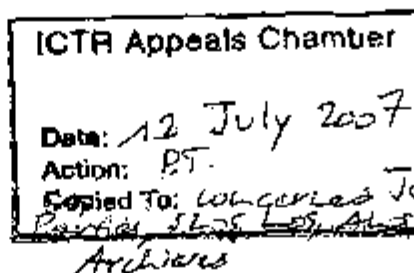
DECISION ON DEFENSE MOTION FOR EXTENSION OF THE TIME-LIMIT FOR FILING ATHANASE SEROMBA'S RESPONDENT'S BRIEF

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



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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 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 "Defence Motion for Extension of the Time-Limit for Filing Athanase Seromba's Respondent's Brief Under Article 20(4)(A) of the Statute, in Place of the Initial Motion for the Same Purpose, Dated 5 April 2007, Which Unfortunately Never Reached the Chamber and a Copy of Which is Attached Hereto" ("Motion"), filed by Athanase Seromba ("Seromba") on 26 June 2007;

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

NOTING that the Prosecution filed its Appellant's Brief on 26 March 2007;⁴

NOTING that Seromba was required to file a Respondent's Brief, if any, to the Prosecution's Appellant's Brief ("Prosecution Appellant's Brief") prior to or on 7 May 2007;⁵

NOTING that Seromba requests in his Motion an extension of time to respond to the Prosecution Appellant's Brief until after the Defence has been served with a French translation of it;⁶

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;⁷

NOTING that the French translation of the Prosecution Appellant's Brief was transmitted to Seromba's Counsel on 21 May 2007;

NOTING that Seromba filed his Respondent's Brief out of time on 2 July 2007;⁸

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 6 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 Appellant's Brief, 26 March 2007.

⁵ See Rule 112 of the Rules of Procedure and Evidence of the Tribunal ("Rules"); see also Rule 7ter(B) of the Rules.

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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 such a motion should be filed prior to expiry of the relevant time limit;⁹

CONSIDERING that Seromba failed to file a motion for an extension of time for the filing of his Respondent's Brief prior to or on 7 May 2007;

CONSIDERING that the alleged "malfunction of the computer system in the office of Seromba's counsel",¹⁰ does not excuse the late filing of this Motion;

CONSIDERING, however, that the Appeals Chamber or the Pre-Appeal Judge may "recognize, as validly done any act done after the expiration of a time limit";¹¹

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 an appellant's brief rather than a decision,¹² Seromba and his Counsel clearly required access to the French translation of the Prosecution Appellant's Brief in order to make a full answer to it;¹³

FINDING, therefore, that the service of the Prosecution Appellant's Brief in English when Seromba and his Counsel work solely in French constitutes good cause for an extension of time

⁹ Motion, p. 3.

¹⁰ Article 31 of the Statute of the Tribunal.

¹¹ Mémoire en réponse de l'intime Athanase Seromba, 2 July 2007.

¹² See Order Concerning Notice of Appeal, 22 March 2007 ("Seromba Order of 22 March 2007"), p. 3.

¹³ Motion, para. 1.

¹⁴ See Practice Direction on Formal Requirements for Appeals from Judgement, 4 July 2005, paras. 5, 12. See also Seromba Order of 22 March 2007, p. 3; *Mikaeli Muhimana v. The Prosecutor*, Case No. ICTR-95-1B-A, Order Concerning the Filing of the Notice of Appeal, 22 February 2006, p. 3.

¹⁵ 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 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", 8 May 2007 (Seromba Decision of 8 May 2007"), p. 3; *Emanuel Ndimubabizi 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 ("Ndimubabizi Decision"), p. 2.

¹⁶ Cf. Seromba Decision of 8 May 2007, p. 3; *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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pursuant to Rule 116(A) of the Rules until forty days after the receipt by the Defence of a French translation of the Prosecution Appellant's Brief;¹⁴

RECALLING that Seromba filed his Respondent's Brief on 2 July 2007, which was the first working day to fall forty days after Seromba's receipt of the French translation of the Prosecution Appellant's Brief;¹⁵

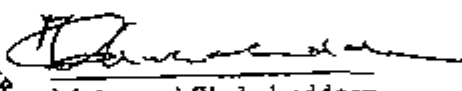
FIND that Seromba has established "good cause" within the meaning of Rule 116 of the Rules for the late filing;

HEREBY ORDER that the filing of the Respondent's Brief be recognized as validly done.

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

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




Mohamed Shahabuddeen
Pre-Appeal Judge

[Seal of the Tribunal]

¹⁴ Cf. *Seromba* Decision of 8 May 2007, p. 3; *Karimera* Decision of 24 March 2006, para. 2; *Karimera* Decision of 27 January 2006, para. 4; *Ndindubakizi* Decision, p. 2.

¹⁵ See Rule 7ter(B) and Rule 112 of the Rules.