



Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

143/H

ICTR-99-52-R  
11 April 2008  
{143/H - 140/H}

IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Presiding  
Judge Mohamed Shahabuddeen  
Judge Mehmet Güney  
Judge Andréia Vaz  
Judge Theodor Meron

Registrar: Mr. Adama Dieng

Decision of: 11 April 2008

ICTR Appeals Chamber  
Date: 11 April 2008  
Action: P.T.  
Copied to: concerned Judges,  
Parties, SCS, Log, A/C, I/S,  
Archives

Hassan NGEZE

v.

THE PROSECUTOR

Case No. ICTR-99-52-R

2008 APR 18 P 3 33  
JUDICIAL RECORDS ARCHIVES  
RECEIVED

**DECISION ON HASSAN NGEZE'S MOTIONS OF 25 FEBRUARY 2008 AND  
6 AND 19 MARCH 2008**

The Applicant

Mr. Hassan Ngeze, pro se

The Office of the Prosecutor

Mr. Hassan Bubacar Jallow

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda  
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME  
COPIE CERTIFIÉE CONFORME À L'ORIGINAL PAR MOI  
NAME / NOM: KEPEL... KUMEWI... A... AFANDE...  
SIGNATURE: [Signature] DATE: 14 March 2008

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**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),

**BEING SEIZED OF** five motions filed by Hassan Ngeze ("Motions" and "Applicant", respectively):

- "Prisoner Hassan Ngeze's Motion Before the Appeals Chamber Requesting Clarification on the Composition of the Bench of Appeals Judges to Hear His Case of Reviewing the Case with Other Upcoming Prisoner Hassan Ngeze's Matters to Be Placed Before the Appeal Chamber [sic]", filed on 25 February 2008 ("First Motion");
- "35 years Sentence Prisoner Hassan Ngeze's Motion Before the Appeals Chamber Requesting the Appeals Chamber Not to Decide his Motion Filed by Him as Layman Until the Motion Are Filed by His Professional Lawyers, Chadha Bharat and Dev Nath Kapoor Who Are Available for That Duties in the Interest of Justice and Fair Trial [sic]", filed on 6 March 2008 ("Second Motion");
- "Prisoner Hassan Ngeze's Motion Before the Appeals Chamber Requesting to Be Served with English Judgement of Media Case Rendered on 28<sup>th</sup> November 2007 Which Will Enable the Process of Motion to Review the Media Case Part Dealing with Hassan Ngeze [sic]", filed on 6 March 2008 ("Third Motion");
- "35 years Sentence Prisoner Hassan Ngeze's Extremely Motion Before the Appeals Chamber Seeking Additional Time to Respond To The Prosecution Response Filed on 3<sup>rd</sup> March 2008, and Further Request the Appeals Chamber to Allow That Response to Be Drafted Supported by Adequate Research and Filed by His Professional Lawyers, Chadha Bharat and Dev Nath Kapoor Who Are Available For That Duties in the Interest of Justice and Fair Trial [sic]", filed on 19 March 2008 ("Fourth Motion");
- "Prisoner Hassan Ngeze's Motion Before the Appeals Chamber Seeking Permission of Meeting His Counsels for the Purpose of Discussing the Legal Meaning of the Judgement of 28<sup>th</sup> November 2007, and Step to Be Taken Further Once the English Version Is Made Available by the Registrar [sic]", filed on 19 March 2008 ("Fifth Motion");

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**NOTING** that the Prosecution has not filed a response to the Motions;<sup>1</sup>

**CONSIDERING** that in the First Motion the Applicant seeks clarification regarding the assignment to a Bench of a request for review which has not been filed;

**CONSIDERING** that the Presiding Judge of the Appeals Chamber only assigns submissions to a Bench when they are filed;

**NOTING** that in his Second Motion the Applicant requests the Appeals Chamber not to decide one of his motions until the motion has been re-filed by Bharat B. Chadha and Dev Nath Kapoor, his counsel at the end of the appeal proceedings;

**CONSIDERING** that the Applicant does not clearly identify the motion which the Appeals Chamber should refrain from deciding and that, in any case, all motions previously filed by the Applicant have been decided;<sup>2</sup>

**FINDING** therefore that the First and Second Motions do not necessitate any action on the part of the Appeals Chamber;

**NOTING** that in his Third Motion, the Applicant requests an English translation of the Judgement rendered by the Appeals Chamber on 28 November 2007 in *Ferdinand Nahimana et al. v. The Prosecutor*, Case No. ICTR-99-52-A ("Appeal Judgement") because Bharat B. Chadha and Dev Nath Kapoor work in English and not in French;

**CONSIDERING** that, at present, the Applicant has no appointed counsel, either at the expense of the Tribunal<sup>3</sup> or on a *pro bono* or privately-funded basis, and accordingly there is no counsel upon whom a translation could be served;

**NOTING** that a translation of the Appeal Judgement is currently being prepared and will be served on the Applicant as soon as it becomes available;

**FINDING** therefore that the Third Motion does not necessitate any action on the part of the Appeals Chamber;

<sup>1</sup> On 3 March 2008, the Prosecution explicitly stated that it did not respond to the First Motion (*see Hassan Ngeze v. The Prosecutor*, Case No. ICTR-99-52-R, Prosecutor's Response to "Prisoner Hassan Ngeze's motion before the Appeals Chamber regarding clarification of one specific point which was not part of charges by the Tribunal, 'abetting and assisting of commission of offence of genocide'", 3 March 2008, para. 8).

<sup>2</sup> *See Hassan Ngeze v. The Prosecutor*, Case No. ICTR-99-52-R, Decision on Hassan Ngeze's Motions and Requests related to Reconsideration, 31 January 2008; *Hassan Ngeze v. The Prosecutor*, Case No. ICTR-99-52-R, Decision on Hassan Ngeze's Motion to Obtain Assistance from Counsel, 28 February 2008 ("Decision of 28 February 2008"); Decision on Hassan Ngeze's Motion of 25 February 2008, 3 March 2008 ("Decision of 3 March 2008").

<sup>3</sup> *See* Decision of 28 February 2008.

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**CONSIDERING** that in his Fourth Motion the Applicant requests an extension of time and assistance of counsel for the purpose of drafting a reply regarding a motion which has already been decided by the Appeals Chamber;<sup>4</sup>

**FINDING** therefore that the substance of the Fourth Motion has been overtaken by the Decision of 3 March 2008;

**NOTING** that in his Fifth Motion the Applicant requests the Appeals Chamber to grant his request to meet with Bharat B. Chadha and Dev Nath Kapoor "for the purpose of discussing the legal meaning" of the Appeal Judgement as well as "step[s] to be taken further once the English version is made available by the Registrar";

**CONSIDERING** that Rule 65 of the Tribunal's Rules Covering the Detention of Persons Awaiting Trial or Appeal Before the Tribunal or Otherwise Detained on the Authority of the Tribunal ("Rules Covering Detention") provides that "[e]ach detainee shall be entitled to communicate fully and without restraint with his Defence Counsel";

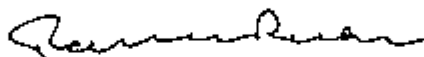
**CONSIDERING** that, at present, Bharat B. Chadha and Dev Nath Kapoor are not the Applicant's counsel and that the Applicant has consequently no right to privileged communication with them pursuant to Rule 65 of the Rules Covering Detention;<sup>5</sup>

**FOR THE FOREGOING REASONS,**

**DISMISSES** the Motions.

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

Done this 11<sup>th</sup> day of April 2008,  
At The Hague, The Netherlands.



Fausto Pocar  
Presiding Judge



<sup>4</sup> See Decision of 3 March 2008.

<sup>5</sup> The Appeals Chamber notes that in order to be considered by the Registry as *pro bono* counsel for the Applicant, Bharat B. Chadha and Dev Nath Kapoor must indicate to the Registrar that they are willing to act as counsel for the Applicant on a *pro bono* basis and file their powers of attorney pursuant to Rule 44(A) and 455r of the Rules.