



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

370/H

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IN THE APPEALS CHAMBER

ICTR-01-74-A
22 September 2008
(370/H - 369/H)

Before: Judge Fausto Pocar, Presiding
Judge Mohamed Shahabuddeen
Judge Mehmet Güney
Judge Liu Daqun
Judge Theodor Meron

Registrar: Mr. Adama Dieng

Decision of: 22 September 2008

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA
TRIBUNAL PÉNAL INTERNATIONAL POUR LE RWANDA
NAME / NOM: *FRANÇOIS KARERA* A. AKAZU
SIGNATURE: *[Handwritten signature]* DATE: *22 Sept. 2008*

ICTR Appeals Chamber
Date: *22 September 2008*
Action: *P.T.*
Copied To: *Concerned Judges*
Partly, Registrar, etc.
LSB, Archives
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FRANÇOIS KARERA

v.

THE PROSECUTOR

Case No. ICTR-01-74-A

**DECISION ON THE APPELLANT'S ORAL MOTION TO DECLARE HIS
APPEAL BOOK AND BOOK OF AUTHORITIES VALIDLY FILED**

Counsel for the Appellant

Ms. Carmelle Marchessault
Mr. Alexandre Bergevin
Mr. Christian Deslauriers

Office of the Prosecutor

Mr. Hassan Bubacar Jallow
Mr. Alex Obote-Odora
Ms. Dior Sow Fall
Mr. Abdoulaye Seye
Mr. François-Xavier Nsanzuwera
Mr. Alfred Orono Orono
Ms. Florida Kabasinga
Ms. Béatrice Chapaux

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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 an oral motion submitted by François Karera ("Appellant") at the hearing of his appeal on 28 August 2008 ("Motion"), in which the Appellant requests the Appeals Chamber to recognize as validly filed his Appeal Book and Book of Authorities ("Appellant's Books"), submitted on 4 August 2008;¹

NOTING that the Prosecution does not oppose the Motion;²

RECALLING that Rule 117*bis* of the Rules, setting out the obligation upon an appellant to file its Appellant's Books four weeks before the date set for the hearing of an appeal, was repealed at the Tribunal's plenary session of 7 July 2006 and that this amendment to the Rules entered into force on 10 November 2006;

NOTING that, on 4 August 2008, Counsel for the Appellant addressed a letter to the Presiding Judge in this case in which she requested permission to file the Appellant's Books on 4 August 2008 and therefore less than four weeks before the hearing of the appeal;

NOTING that, on 5 August 2008, the Presiding Judge informed Counsel for the Appellant that Rule 117*bis* of the Rules had been repealed at the Tribunal's plenary session of 7 July 2006 and that, accordingly, the filing of the aforementioned documents was no longer required;

NOTING the Registry's submission that it had refrained from distributing the Appellant's Books since the filing of the aforementioned documents was no longer required;³

CONSIDERING that the Tribunal's Basic Documents, published by the Registry on 10 November 2006, erroneously included a reference to Rule 117*bis* in its table of contents, and that the subsequent version of the Basic Documents, dated 15 June 2007, erroneously contained the text of Rule 117*bis*;⁴

¹ AT. 28 August 2008 p. 29. The Appellant erroneously refers to 2 August 2008 as the date of filing.

² AT. 28 August 2008 p. 30. The Prosecution merely contends that the distribution of parties' books is no longer required by the Rules of Procedure and Evidence of the Tribunal ("Rules").

³ AT. 28 August 2008 p. 30.

⁴ This obvious mistake was only corrected in the latest edition of the Tribunal's Basic Documents released on 14 March 2008. The Appeals Chamber has no information as to whether the Appellant has been properly informed of this correction.

CONSIDERING that parties have no right to make filings outside the time and word limits provided for in Rules 111, 112 and 113 of the Rules in order to supplement their briefs on appeal;

FINDING that in the circumstances of this case, in particular given the ambiguity created by the Basic Documents which erroneously referred to Rule 117bis of the Rules following its repeal, it is in the interests of justice to consider the filing of the Appellant's Books as validly done, subject to their strict compliance with the provisions of the former Rule 117bis (A) and (B) of the Rules;

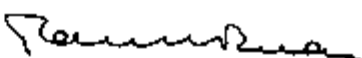
FOR THE FOREGOING REASONS,

GRANTS the Motion;

ORDERS the Registry to distribute two copies of the Appellant's Books to the Appeals Chamber and one copy to the Prosecution;

EMPHASIZES that the present decision does not foreclose a ruling on the admissibility of the Appellant's Books.

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


Judge Fausto Pocar
Presiding

Dated this 22nd day of September 2008,
at The Hague, The Netherlands.

