



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

56/H

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ICTR-00-55B-R11bis
25th August 2008
{56/H - 53/H}

IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Presiding
Judge Mohamed Shahabuddeen
Judge Mehmet Güney
Judge Liu Daqun
Judge Andréa Vaz

Registrar: Mr. Antonia Dženg

Decision of: 25 August 2008

ICTR Appeals Chamber
Date: 25 August 2008
Action: P.T.
Copies to: Concoated Judges,
Prosecution, Defence, Legal, Admin, L.S.,
Archives

THE PROSECUTOR

v.

Déphonse HATEGEKIMANA

Case No. ICTR-00-55B-R11bis

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DECISION ON REQUEST FOR CLARIFICATION OF TIME LIMITS

Counsel for Déphonse Hategekimana

Mr. Robert Ahlonko Dovi
Mr. Ata Quam Dovi-Avuyi

Office of the Prosecutor

Mr. Hassan Bubacar Jallow
Mr. Bongani Majola
Mr. Alex Obote-Odera
Mr. Richard Karagyesa
Ms. Dora Sow Fall

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: ROBERT AHOLONKO DOVI
SIGNATURE: *[Handwritten signature]* DATE: 25 August 2008

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);

NOTING the "Decision on Prosecutor's Request for the Referral of the Case of Iidephonse Hategekimana to Rwanda" issued by the Trial Chamber designated under Rule 11bis of the Rules of Procedure and Evidence of the Tribunal on 19 June 2008 ("Trial Chamber", "Rules", and "Rule 11bis Decision", respectively);

NOTING the "Prosecutor's Notice of Appeal (Rule 11 bis (H))" filed on 30 June 2008 ("Prosecution Notice of Appeal") and the "Prosecutor's Appellant's Brief (Rule 11 bis (H))" filed on 14 July 2008 ("Prosecution Appellant's Brief");

BEING SEIZED OF the "*Requête en précision de la computation du délai pour répondre à l'Acte d'appel du Procureur en date du 30 Juin 2008*" ("Motion") filed by Iidephonse Hategekimana ("Hategekimana") on 6 August 2008;

NOTING that the Prosecution did not respond to the Motion;

RECALLING the "Decision on Motion for Translation and Extension of Time" issued by the Appeals Chamber on 23 July 2008 ("Decision on Translation"), in which the Appeals Chamber instructed the Registrar to provide Hategekimana and his Counsel, on an urgent basis, and in the following order, with French translations of: (i) the Rule 11bis Decision, (ii) the Prosecution Notice of Appeal, (iii) the Prosecution Appellant's Brief, and (iv) the forthcoming Prosecution reply; ordered Hategekimana to file his response to the Prosecution Appellant's Brief no later than ten days after the Prosecution Appellant's Brief is made available to him and his Counsel in French; and ordered that future timelines applicable to Hategekimana in these proceedings be deemed to commence on the date of receipt of French translations of the relevant documents;

NOTING that, in the Motion, Hategekimana submits that contrary to the instructions of the Appeals Chamber in the Decision on Translation regarding the order in which these documents

were to be provided to him, the Notice of Appeal was translated prior to the 11bis Decision and that he has not yet received the French translation of the 11bis Decision;¹

NOTING that Hategekimana therefore submits that the time period for responding to the Prosecution Notice of Appeal should not begin to run until the French translation of the 11bis Decision is made available to him and his Counsel;²

NOTING that, pursuant to Rule 11bis(H) of the Rules, "[a]n appeal by the accused or the Prosecutor shall lie as of right from a decision of the Trial Chamber whether or not to refer a case" and that "[n]otice of appeal shall be filed within fifteen days of the decision";

NOTING further that the filing of written submissions in Rule 11bis appeal proceedings is governed by the Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings Before the Tribunal ("Practice Direction"), which provides in relevant part that "[t]he opposite party shall file a response within ten days of the filing of the appeal brief";³

CONSIDERING that neither the Rules nor the Practice Direction provide for the filing of a response to a notice of appeal filed pursuant to Rule 11bis of the Rules;

FINDING therefore that, as no such response is required, Hategekimana's request that the time period for responding to the Prosecution Notice of the Appeal begin to run only when he receives the French translation of the 11bis Decision is moot;

FOR THE FOREGOING REASONS,

DISMISSES the Request;

REMINDS Hategekimana that his response, if any, to the Prosecution Appellant's Brief shall be filed no later than ten days after the French translation of the Prosecution Appellant's Brief is made available to him.

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

¹ Motion, para. 10. The Appeals Chamber notes, however, that the French translation of the 11bis Decision was provided to Hategekimana and his Counsel on 4 August 2008.

² Motion, paras. 11-15.

³ Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings Before the Tribunal, 15 June 2007, Section III, paras. 5, 6.



Judge Fausto Pocar
Presiding

Dated this 25th day of August 2008,
at The Hague, The Netherlands.



[Seal of the Tribunal]