



Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

92/H

*Q*

ICTR-00-55B-R11bis  
16<sup>th</sup> September 2008  
{92/H - 88/H}

**IN THE APPEALS CHAMBER**

Before:

Judge Fausto Pocar, Presiding  
Judge Mohamed Shahabuddeen  
Judge Mehmet Güney  
Judge Liu Daqun  
Judge Andréia Vaz

Registrar:

Mr. Adama Dieng

Decision of:

16 September 2008

ICTR Appeals Chamber  
Date: 16<sup>th</sup> September 08  
Action: R. JURE  
Copied To: Concerned Judges  
Parties, BLS, LS, ALP,  
LS, Archives  
*[Signature]*

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**THE PROSECUTOR**

v.

**Iddephonse HATEGEKIMANA**

Case No. ICTR-00-55B-R11bis

**DECISION ON A REQUEST FOR AN EXTENSION OF TIME TO FILE A  
CROSS-APPEAL**

**Counsel for Iddephonse Hategekimana**

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

**Office of the Prosecutor**

Mr. Hassan Bubacar Jallow  
Mr. Bongani Majola  
Mr. Alex Obote-Odora  
Mr. Richard Karegyesa  
Ms. Dior Sow Fall

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 MOI  
NAME / NOM: JOSEPH KUMEGIRO A. A. A. A.  
SIGNATURE: *[Signature]* DATE: 16 Sept. 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 Ildephonse Hategekimana to Rwanda" ("Rule 11bis Decision") 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" and "Rules", respectively);

**NOTING** the "Defence Request for Cross-Appeal" filed on 15 August 2008 ("Notice of Cross-Appeal") in which the Defence submits that, in its Rule 11bis Decision, the Trial Chamber committed discernible errors in law and fact in its assessment of the Defence submissions and those of the *amici curiae* and requests the Appeals Chamber to: (i) rectify, and in so doing "improve the decision", of the Trial Chamber to deny the Prosecution's request for referral, and (ii) reverse the decision of the Trial Chamber in relation to certain findings specified therein;<sup>1</sup>

**BEING SEIZED OF** the "Defence Motion for Extension of Time to File the Brief in Support of its Notice of Cross-Appeal" ("Motion"), filed by Ildephonse Hategekimana ("Hategekimana") on 1 September 2008;

**NOTING** the *Mémoire d'appel incident de la Défense* ("Cross-Appeal") filed by Hategekimana on 15 September 2008;

**NOTING** the "Decision on Motion for Translation and Extension of Time" issued by the Appeals Chamber on 23 July 2008, in which the Appeals Chamber, *inter alia*, ordered Hategekimana to file his Response to the Prosecution Appellant's Brief ("Response") no later than ten days after the Prosecution Appellant's Brief is made available to him and his Counsel in French, and further ordered that future timelines applicable to Hategekimana in these proceedings will commence on the date of receipt of French translations of the relevant documents;

**NOTING** that in the Motion Hategekimana submits that since he is obliged to file a brief in support of the said Notice of Cross-Appeal within fifteen days of filing his Notice of Cross-Appeal,<sup>2</sup> the

<sup>1</sup> Notice of Cross-Appeal, pp. 2, 4.

<sup>2</sup> Motion, para. 5.

time limit for filing both the Response and the brief in support of his Notice of Cross-Appeal were practically the same, and he was consequently "faced with a huge volume of work to be carried out within a short time frame";<sup>3</sup>

**NOTING** Hategekimana's claim in the Motion that "to respond in a dispassionate, serious and effective manner to the requirements of both documents and, considering the time-limit allowed, the Defence was only able to produce a reply to the Prosecutor's Brief of 29 August 2008 and is still working on the brief in support of its Notice of Cross-Appeal";<sup>4</sup>

**NOTING** that in the Motion Hategekimana further submits that his brief in support of his Notice of Cross-Appeal contains a number of crucial submissions which would be of guidance to the Appeals Chamber, and that, "[i]f the Accused was therefore denied the opportunity to submit his Notice of Cross-Appeal, (sic) there might be cause to be concerned that such contribution not having been made would constitute an impediment likely to vitiate the impending decision of the Appeals Chamber";<sup>5</sup>

**NOTING** that Hategekimana thus requests that the Appeals Chamber grant an extension of time until 15 September 2008 to produce its brief in support of its Notice of Cross-Appeal, "to enable the Defence to prepare its supplementary brief under propitious circumstances";<sup>6</sup>

**NOTING** that the Prosecution did not respond to Hategekimana's Motion;

**RECALLING** 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** 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 "[a]n Appellant must file the appeal brief within 15 days after filing the notice of appeal";<sup>7</sup>

<sup>3</sup> Motion, para. 6.

<sup>4</sup> Motion, para. 7.

<sup>5</sup> Motion, para. 8.

<sup>6</sup> Motion, para. 9.

<sup>7</sup> Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings before the Tribunal, 15 June 2007, Section III, para. 5.

**NOTING** that the Appeals Chamber may vary any time-limit prescribed under this Practice Direction<sup>8</sup> and that pursuant to Rule 116(A) of the Rules, an Appeals Chamber may grant a motion to extend a time limit upon the showing of "good cause":

**CONSIDERING** that the Motion was filed with the Appeals Chamber on 1 September 2008, which was the first business day after the expiration of the fifteen day period from the date that Hategekimana's Notice of Cross-Appeal was filed, and that Hategekimana therefore filed the Motion on the last day of the deadline for the filing of his brief in support of his Notice of Appeal;

**CONSIDERING** that the Cross-Appeal does not provide further reasons justifying his request for an extension of time, nor his late filing of the Cross-Appeal;<sup>9</sup>

**CONSIDERING** that as the Appeals Chamber previously held, procedural time-limits must be respected and are indispensable to the proper functioning of the Tribunal;<sup>10</sup>

**CONSIDERING** that the Appeals Chamber thus expects each party to manage their time and resources as necessary to meet their obligations in their proceedings before the Tribunal, including compliance with any required time limits for filings, and that, in the present circumstances, arguments regarding overlapping deadlines and workload do not by themselves constitute "good cause" to grant an extension of time within the meaning of Rule 116 of the Rules;<sup>11</sup>

**CONSIDERING** further that Hategekimana's submission concerning the prospective importance to the proceedings of his appeal in support of his Notice of Cross-Appeal is not sufficient, in and of itself, to constitute "good cause" within the meaning of Rule 116 of the Rules;

<sup>8</sup> Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings before the Tribunal, 15 June 2007, Section III, para. 19.

<sup>9</sup> Cross-Appeal, para. 8.

<sup>10</sup> *The Prosecutor v. Kayishema and Nuzindana*, Case No. ICTR-95-1-A, Judgement, 1 June 2001, para. 46; *The Prosecutor v. Baton Haxhiu*, Case No. IT-04-84-R77.5-A, Decision on Admissibility of Notice of Appeal against Trial Judgement, 4 September 2008, para. 16.

<sup>11</sup> *The Prosecutor v. Aloys Simba*, Case No. ICTR-01-76-A, Decision on Defence Motion for Extension of Time to Respond to the Prosecutor's Appellant's Brief, 20 June 2006, p. 3.

**FOR THE FOREGOING REASONS,**

**DISMISSES** the Motion; and

**REJECTS** the Cross-Appeal.

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

Dated this 16th day of September 2008,  
at The Hague, The Netherlands.



[ Seal of the Tribunal ]

A handwritten signature in black ink, which appears to read "Fausto Pocar".

Judge Fausto Pocar  
Presiding