



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

IN THE APPEALS CHAMBER

ICTR-01-63-A
11 November 2008
(15/H - 12/H)

Before:

Judge Fausto Pocar, Presiding Judge
Judge Mohamed Shahabuddeen
Judge Liu Daqun
Judge Theodor Meron
Judge Wolfgang Schomburg

P.T.

Registrar:

Mr. Adama Dieng

Decision of:

11 November 2008

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Adama Dieng
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THE PROSECUTOR

v.

SIMÉON NCHAMIHIGO

Case No. ICTR-2001-63-A

ICTR Appeals Chamber
Date: 11 November 2008
Action: P.T.
Copied To: concerned Judge,
Parties, LOS, LOS, ALG, LOS,
Archives

[Signature]

**DECISION ON MOTIONS FOR EXTENSION OF TIME FOR FILING OF
NOTICES OF APPEAL**

Office of the Prosecutor:

Mr. Hassan Bubacar Jallow
Mr. Alex Obote-Odora
Mr. Neville Weston

Counsel for Mr. Siméon Nchamihigo

Mr. Denis Turcotte
Mr. Yann Evima Vouma

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
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NAME / NOM: *Patrice Tchidimbo*
SIGNATURE: *[Signature]* DATE: *11/11/08*

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 that Trial Chamber III of the Tribunal (“Trial Chamber”) rendered its judgement against Siméon Nchamihigo (“Applicant”) orally on 24 September 2008 (“Trial Judgement”) and announced that the written Trial Judgement would be filed in due course;¹

NOTING that the written Trial Judgement has not yet been filed;

RECALLING that pursuant to Article 22 of the Statute of the Tribunal, a Judgement “shall be accompanied by a reasoned opinion in writing;”

RECALLING that pursuant to Rule 88(C) of the Rules of Procedure and Evidence of the Tribunal (“Rules”), a Judgement “shall be accompanied or followed as soon as possible by a reasoned opinion in writing”;

BEING SEIZED of the following motions, filed by the Applicant and the Prosecution, respectively (“Motions”):

- “Prosecutor’s Motion for an Extension of Time to File a Notice of Appeal”, filed by the Prosecution on 20 October 2008 (“Prosecution’s Motion”), in which the Prosecution requests that the time limit for filing its Notice of Appeal be extended by thirty days from the date of the filing of the written Trial Judgement;²

- “*Requête en prorogation du délai du dépôt de l’acte d’appel*”, filed by the Applicant on 21 October 2008 (“Applicant’s Motion”), in which he requests that the time limit for filing his Notice of Appeal be extended by thirty days from the date on which the French translation of the written Trial Judgement is served on him and his counsel;³

NOTING the “*Réponse du Procureur à la ‘Requête en prorogation du délai du dépôt de l’acte d’appel’ de Siméon Nchamihigo*”, filed by the Prosecution on 27 October 2008 (“Response”);

NOTING that the Applicant has not filed a response to the Prosecution’s Motion;

¹ T. 24 September 2008.

² Prosecution’s Motion, para. 6.

³ Applicant’s Motion, p. 5.

NOTING that both parties submit that the orally rendered Trial Judgement does not allow them to carefully analyze the Trial Judgement and to file a proper notice of appeal in accordance with the provisions of the Practice Direction on Formal Requirements for Appeals from Judgements;⁴

CONSIDERING that Rule 116 of the Rules provides that:

- (A) The Appeals Chamber may grant a motion to extend a time limit upon a showing of good cause.
- (B) Where 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 under Rule 108 of the Rules, “[a] party seeking to appeal a judgement or sentence shall, not more than thirty days from the date on which the judgement or the sentence was pronounced, file a notice of appeal, setting forth the grounds”;

CONSIDERING therefore that the Notices of Appeal of both parties should be filed no later than 27 October 2008;

CONSIDERING that paragraph 1(c)(iii) of the Practice Direction on Formal Requirements for Appeals from Judgement requires a notice of appeal to identify “the finding or ruling challenged in the judgement, with specific reference to the page number and paragraph number”;

FINDING that the parties have established “good cause” within the meaning of Rule 116 of the Rules for extending the deadline for the filing of their Notices of Appeal so as to allow them to fully acquaint themselves with the Trial Judgement prior to doing so;

NOTING the Applicant’s further submission that the working language of the Defence team at trial was French and that the Applicant has the right to obtain the decisions rendered by the Trial Chamber in a language he understands in order to defend himself;⁵

NOTING that the Prosecution does not oppose the Applicant’s request for a further extension of time, provided that at the time of the delivery of the written Trial Judgement, the Applicant has not been assigned counsel who works in English;

CONSIDERING that the Applicant’s lead counsel does not work in English;

⁴ Applicant’s Motion, paras. 6, 9, 10; Prosecution’s Motion, paras. 3, 4.

⁵ Applicant’s Motion, paras. 13, 14.

FINDING that the Applicant has established "good cause" within the meaning of Rule 116 of the Rules for extending the deadline for the filing of his Notice of Appeal to thirty days from the date of the filing of the French version of the Trial Judgement in this case so as to allow the Applicant's counsel time to fully acquaint himself and the Applicant with the Trial Judgement in preparing the Notice of Appeal;

FOR THE FOREGOING REASONS,

GRANTS the Motions;

ORDERS the Prosecution to file its Notice of Appeal no more than thirty days from the date of the filing of the written Trial Judgement;


ORDERS the Applicant to file his Notice of Appeal no more than thirty days from the date of the filing of the French translation of the written Trial Judgement;

DIRECTS the Registrar to serve a French translation of the Trial Judgement within thirty days of the issuance of the written Trial Judgement; and to provide a reasoned explanation in case he cannot comply with this instruction; and

DIRECTS the Registrar to inform the Appeals Chamber when the French translation of the Trial Judgement has been served on the Applicant and his counsel.

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

Done this 11th day of November 2008,
At The Hague,
The Netherlands.



Judge Fausto Pocar
Presiding Judge

