

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 the “*Requête de Matthieu [sic] Ngirumpatse en extension de délai pour faire appel de la décision de la Chambre de première instance III en date du 17 septembre 2008*”, filed by Mathieu Ngirumpatse (“Applicant”) on 30 October 2008 (“Motion”);

NOTING the “Prosecutor’s Response to *Requête de Matthieu [sic] Ngirumpatse en extension de délai pour faire appel de la décision de la Chambre de première [sic] instance III en date du 17 septembre 2008*”, filed by the Prosecution on 4 November 2008 (“Response”);

NOTING that the Applicant did not file a reply;

NOTING that, on 17 September 2008, Trial Chamber III of the Tribunal (“Trial Chamber”) ordered the Applicant to reduce the number of his witnesses to 35; and to file, no later than 1 October 2008, his list of witnesses as well as his motion for admission of written statements pursuant to Rule 92*bis* of the Rules of Procedure and Evidence of the Tribunal (“Rules”) (“Impugned Decision”);¹

NOTING that, on 24 September 2008, the Applicant requested certification to appeal the Impugned Decision in its entirety and that, on 24 October 2008, the Trial Chamber granted the Applicant’s request;²

NOTING that during a status conference held on 28 October 2008, Dr. Marie-Françoise Epée-Hernandez, Chief of the Tribunal’s Medical Service, informed the Trial Chamber that, for medical reasons, the Applicant would be unable to attend and participate in the hearings of his case for a period of at least six months;³

NOTING that, in view of the Applicant’s medical condition, the Trial Chamber requested the parties to file, by 3 November 2008, written submissions expressing their views on a potential

¹ *Décision relative aux requêtes en reconsidération et en extension des délais concernant la présentation de la preuve de Mathieu Ngirumpatse*, 17 September 2008, pp. 7, 8. The Trial Chamber also rejected the Applicant’s request for reconsideration of a warning addressed to counsel, based on the failure to adhere to the time limits for the filing of documents relating to the Applicant’s defence case. Impugned Decision, para. 6, p. 7, para. I.

² *Décision relative à la requête en certification d’appel de la décision du 17 septembre relative à la présentation de la preuve de Mathieu Ngirumpatse*, 24 October 2008.

³ *Ordonnance relative au dépôt de conclusions sur une éventuelle disjonction d’instances*, 28 October 2008, para. I.

separation of the Applicant's trial from the trial of his co-accused Édouard Karemera and Joseph Nzirorera and to present their oral arguments on the matter during a hearing on 6 November 2008;⁴

NOTING that, on 6 November 2008, the Trial Chamber decided that, in light of the parties' submissions and, in particular, the Applicant's consent to continue the proceedings under certain conditions in spite of his physical absence, it would not consider severance at that stage of the proceedings;⁵

NOTING that the Applicant requests the suspension of the time limit for filing his appeal against the Impugned Decision until the Trial Chamber has rendered a decision on a potential separation of his trial from the trial of his co-accused; and, in the alternative, an extension of time of one month for the filing of his appeal against the Impugned Decision, so that counsel may discuss with him in hospital the questions to be raised in the appeal against the Impugned Decision;⁶

NOTING that the Prosecution does not oppose the Applicant's Motion "for a short extension of time to file his Appeal";⁷

CONSIDERING that pursuant to Rule 73(C) of the Rules, if certification is granted, a party shall appeal to the Appeals Chamber within seven days of the filing of the decision to certify;

CONSIDERING therefore that the Applicant's appeal against the Impugned Decision should have been filed by 31 October 2008;

CONSIDERING that Rule 116 of the Rules provides that the Appeals Chamber may grant a motion to extend a time limit upon a showing of good cause;

CONSIDERING that the separation of the Applicant's trial from the trial of his co-accused could have directly impacted on the proceedings of the Applicant's defence case, including the number and the identity of the Applicant's witnesses and the time limit set by the Trial Chamber for the filing of the witness list;

FINDING that good cause has been shown by the Applicant for granting an extension of time pursuant to Rule 116(A) of the Rules;

⁴ *Ordonnance relative au dépôt de conclusions sur une éventuelle disjonction d'instances*, 28 October 2008.

⁵ T. 6 November 2008.

⁶ In support of his alternative request, counsel for the Applicant submits that he was only apprised of the Impugned Decision on 27 October 2008 due to computer problems at the Tribunal. He contends that at that time he had to allocate his time to the preparation of the status conference held on 28 October 2008 in relation to the Applicant's medical condition, as well as to a follow-up on this conference. He further argues that the Applicant's medical condition makes it difficult to consult with the Applicant and therefore requires an extension of time. Motion, paras. 7, 8.

⁷ The Prosecution, however, submits that the Applicant has not shown good cause in relation to his medical condition and his problems in obtaining the Impugned Decision. Response, para. 3.

FINDING, therefore, that the Appeals Chamber need not consider the Applicant's alternative request for an extension of time;

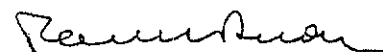
FOR THE FOREGOING REASONS,

HEREBY GRANTS the Motion; and

AUTHORIZES the Applicant to file his appeal against the Impugned Decision within seven days from the filing of this decision.

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

Done this 17th day of November 2008,
at The Hague, The Netherlands.



Fausto Pocar
Presiding Judge

