



Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

17/H

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ICTR-01-70-A  
25<sup>th</sup> March 2009  
{17/H – 13/H}

**IN THE APPEALS CHAMBER**

**Before:** Judge Mehmet Güney, Pre-Appeal Judge

**Registrar:** Mr. Adama Dieng

**Decision of:** 25 March 2009

ICTR Appeals Chamber  
Date: 25<sup>th</sup> March 2009  
Action: R. Juma  
Copied To: Concerned Judges, SLO's, LO's,  
ALO's, Parties, CMS/Alshaba, LSS.  
*Juma*

**THE PROSECUTOR**

v.

**EMMANUEL RUKUNDO**

Case No. ICTR-2001-70-A

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**DECISION ON MOTIONS FOR EXTENSION OF TIME**

**Office of the Prosecutor:**

Mr. Hassan Bubacar Jallow  
Mr. Alex Obote-Odora  
Ms. Christine Graham  
Ms. Linda Bianchi

**Counsel for Mr. Emmanuel Rukundo**

Ms. Aïsha Condé

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda  
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NAME / NOM: *KOFFI... KUMELI... A... AFANDG*  
SIGNATURE: *[Signature]* DATE: *25 March 2009*

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I, **Mehmet GÜNEY**, Judge of 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 ("Tribunal"), and Pre-Appeal Judge in this case,

**NOTING** that Trial Chamber II of the Tribunal pronounced its judgement in the case of *The Prosecutor v. Emmanuel Rukundo* on 27 February 2009 and its written judgement was filed in English on 13 March 2009 ("Trial Judgement");

**BEING SEIZED OF** the following motions filed by the Prosecution and Emmanuel Rukundo, respectively:

- "Prosecutor's Motion for an Extension of Time to File a Notice of Appeal" filed on 11 March 2009 ("Prosecution's Motion"),
- "Avis d'appel et requête aux fins de prorogation de délai pour le dépôt de l'acte d'appel et du mémoire en appel en application des articles 108, 111, 112, 113, et 116 du Règlement de Procédure et de Preuve" filed by Emmanuel Rukundo on 19 March 2009 (Rukundo's Motion);

**CONSIDERING** the Prosecution's submissions that: (1) it is required to identify specific alleged errors by reference to passages or paragraphs in the Trial Judgement, which requires careful analysis of the Trial Judgement;<sup>1</sup> (2) the delayed filing of a written judgement may constitute good cause to grant an extension of time for the filing of a notice of appeal so as to allow a party to fully acquaint itself with the written judgement;<sup>2</sup> and (3) in the interests of justice, the time-limit for the filing of a notice of appeal should commence from the date of filing of the Trial Judgement;<sup>3</sup>

**CONSIDERING** Emmanuel Rukundo's submissions that: (1) he is unable to file a notice of appeal without a French translation of the Trial Judgement, as he only speaks and reads French and his counsel works only in French;<sup>4</sup> (2) his counsel has a duty to undertake a thorough analysis of the Trial Judgement in order to adequately assist him with his appeal, and his counsel can only fulfil this duty if the Trial Judgement is available in French;<sup>5</sup> (3) he will only be able to fully participate in his defence when the French translation of the Trial Judgement is served on him because it is

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<sup>1</sup> Prosecution's Motion, para. 4.

<sup>2</sup> Prosecution's Motion, para. 5.

<sup>3</sup> Prosecution's Motion, para. 6.

<sup>4</sup> Rukundo's Motion, para. 8.

only then that he will be fully aware of the accusations against him, and his sentence;<sup>6</sup> (4) these reasons constitute good cause pursuant to Rule 116(B) of the Rules of Procedure and Evidence of the Tribunal (“Rules”)<sup>7</sup> and therefore the time-limit for the filing of a notice of appeal should start to run when the French translation of the Trial Judgement is served on him,<sup>8</sup> and that the time-limit for the filing of his brief in reply should start to run once he is served with the respondent’s brief in French; (5) the Appeals Chamber should order the Registrar to serve on him the French translation of the Trial Judgement;<sup>9</sup> and (6) where the Prosecution has filed its appeal in English, he requests that the prescribed time-limit for his filing of a respondent’s brief should start to run only when the Prosecution’s Appellant’s brief is served on him in French;<sup>10</sup>

**CONSIDERING** that the Prosecution does not oppose the relief sought by Emmanuel Rukundo;<sup>11</sup>

**CONSIDERING** that pursuant to 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” and therefore both the Prosecution and Emmanuel Rukundo should file their respective notices of appeal no later than 30 March 2009;

**CONSIDERING** that pursuant to Rules 111 and 113 of the Rules, respectively, the “Appellant’s brief setting out all the arguments and authorities shall be filed within seventy-five days of filing of the notice of appeal” and a brief in reply may be filed “within fifteen days of filing of the Respondent’s brief”;

**CONSIDERING**, however, 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 Article 31 of the Statute of the Tribunal provides that “the working languages of the International Tribunal for Rwanda shall be English and French”;

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<sup>5</sup> Rukundo’s Motion, para. 11.

<sup>6</sup> Rukundo’s Motion, paras. 9, 10.

<sup>7</sup> Rukundo’s Motion, para. 12.

<sup>8</sup> Rukundo’s Motion, para. 14.

<sup>9</sup> Rukundo’s Motion, para. 19.

<sup>10</sup> Rukundo’s Motion, paras. 16-18.

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**CONSIDERING** that the delayed filing of the written Trial Judgement after its pronouncement constitutes good cause for extending the deadline for filing a notice of appeal;

**CONSIDERING** further that Emmanuel Rukundo does not understand English<sup>12</sup> and that the Registry has indicated that his counsel works exclusively in French;<sup>13</sup>

**CONSIDERING** therefore that Emmanuel Rukundo's ability to make full answer and defence depends on the availability of the French translations of the Trial Judgement, and French versions of the Prosecution's Respondent's brief and Prosecution's Appellant's brief;

**FINDING** accordingly that:

- (1) the Prosecution has established "good cause" within the meaning of Rule 116 of the Rules for an extension of time to file its notice of appeal, and accordingly, that the time-limit, as prescribed in Rule 108 of the Rules, should start to run from 13 March 2009, the date of the filing of the Trial Judgement; and
- (2) Emmanuel Rukundo has established "good cause" within the meaning of Rule 116 of the Rules for an extension of time, and therefore the time-limit for the filing of a notice of appeal, as prescribed in Rule 108 of the Rules, should start to run from 13 March 2009, the date of the filing of the French translation of the Trial Judgement; the time-limit for the filing of a brief in reply, as prescribed in Rule 113 of the Rules, should start to run from the date of the filing of a French version of the Prosecution's Respondent's brief; and the time-limit for the filing of a respondent's brief, as prescribed in Rule 112 of the Rules, should start to run once a French version of the Prosecution's Appellant's brief is filed;

**FOR THE FOREGOING REASONS,**

**GRANT** the Prosecution's Motion and Rukundo's Motion;

**ORDER** the Prosecution to file a notice of appeal no later than 13 April 2009;

**ORDER** Emmanuel Rukundo to file

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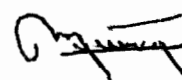
<sup>11</sup> See Prosecutor's Response to "Avis d'appel et requête aux fins de prorogation de délai pour le dépôt de l'acte d'appel et du mémoire en appel en application des articles 108, 111, 112, 113, et 116 du Règlement de Procédure et de Preuve", 24 March 2009, para. 2.

- his notice of appeal no later than thirty (30) days from the date of the filing of the French translation of the Trial Judgement;
- his Appellant's brief no later than thirty (30) or seventy-five (75) days from the date of the filing of his notice of appeal, depending on whether his appeal is limited solely to sentencing;
- his brief in reply, if any, no later than ten (10) days or fifteen (15) days from the date of the filing of the French translation of the Prosecution's Respondent's Brief, depending on whether his appeal relates solely to sentencing;
- his Respondent's brief no later than thirty (30) days or forty (40) days from the filing of a French version of the Prosecution's Appellant's Brief depending on whether the Prosecution's appeal is limited solely to sentencing.

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

Done this 25<sup>th</sup> day of March 2009,

At The Hague, The Netherlands



Judge Mehmet Güney

Pre-Appeal Judge



<sup>12</sup> See Rukundo's Motion, paras. 8, 9.

<sup>13</sup> E-Mail from Pascal Besnier, Chief, DCDMS, dated 24 March 2009.