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UNITED NATIONS
NATIONS UNIES

Tribunal pénal international pour le Rwanda
International Criminal Tribunal for Rwanda

ICTR-05-88-A
20th July 2009
{10/H – 08/H}

IN THE APPEALS CHAMBER

Before:

Judge Andrézia Vaz, Pre-Appeal Judge

Registrar:

Mr. Adama Dieng

Decision of:

20 July 2009

ICTR Appeals Chamber
Date: 20th July 2009
Action: R. J. J. J.
Copied To: Concerned Judges

Parties, Judicial Archives,
LOs, LSS *[Signature]*

App. J. m. 21/07/2009

CALLIXTE KALIMANZIRA

v.

THE PROSECUTOR

Case No. ICTR-05-88-A

**DECISION ON CALLIXTE KALIMANZIRA'S MOTION FOR AN EXTENSION
OF TIME FOR THE FILING OF NOTICE OF APPEAL**

Counsel for Callixte Kalimanzira:

Mr. Arthur Vercken
Mr. Anta Guissé

The Office of the Prosecutor:

Mr. Hassan Bubacar Jallow

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
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COPIE CERTIFIÉE VÉRIFIÉE PAR MOI
NAME / NOM: ROSETTE MUIZED-MORRISON
SIGNATURE: *[Signature]* DATE: 20/7/09

1. I, Andrézia Vaz, 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, am seized of a request, filed on 9 July 2009, by Callixte Kalimanzira for an extension of time to file his notice of appeal.¹ The Prosecution has not yet filed a response.

2. On 22 June 2009, Trial Chamber III of the Tribunal convicted Mr. Kalimanzira of one count of genocide and one count of direct and public incitement to commit genocide and sentenced him to a total of 30 years of imprisonment.² The Trial Judgement was rendered in English. Consultations with the Tribunal's Language Section indicate that a French translation of the Trial Judgement will not be available until around 30 October 2009.

3. According to the Motion, Mr. Kalimanzira does not speak English, and his legal team works primarily in French.³ He acknowledges, however, that his Lead Counsel has knowledge of English.⁴ Mr. Kalimanzira therefore requests an extension of time to file his notice of appeal 30 days from the filing of the French translation of the Trial Judgement.⁵

4. Pursuant to Rule 108 of the Tribunal's Rules of Procedure and Evidence ("Rules"), the notice of appeal must be filed not more than 30 days from the date on which the judgement was pronounced, which in this case is 22 July 2009. Rule 116(A) of the Rules allows for the extension of time of any deadline on a showing of good cause. In support of the Motion, Mr. Kalimanzira relies primarily to Rule 116(B) of the Rules,⁶ which provides that the requirement for good cause is satisfied "[w]here 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".

5. The filing of a notice of appeal marks the commencement of the appeal proceedings in a case and, since the time limits for the filing of the subsequent briefs are calculated from the date on which the notice of appeal is filed, any delay at such an early stage will affect subsequent filings.⁷

¹ *Requête urgente en extension de délai d'appel*, 9 July 2009 ("Motion").

² *The Prosecutor v. Callixte Kalimanzira*, Case No. ICTR-05-88-T, Judgement, 22 June 2009, paras. 739, 756 ("Trial Judgement").

³ Motion, paras. 5-7.

⁴ Motion, para. 6 ("*De plus, si la langue anglaise est pratiquée par le conseil principal de Monsieur KALIMANZIRA, il ne s'agit pas de sa langue de travail habituelle.*").

⁵ Motion, para. 15.

⁶ Motion, para. 14.

⁷ See, e.g., *The Prosecutor v. Théoneste Bagosora et al.*, Case No. ICTR-98-41-A, Decision on Anatole Nsengiyumva's Motion for Extension of Time for Filing Appeal Submissions, 2 March 2009, p. 4 ("*Bagosora et al. Appeal Decision of*").

In practice, Rule 116(B) of the Rules does not provide a basis for an extension of time for the filing of a notice of appeal where the convicted person's counsel can work in the language in which the Trial Judgement was pronounced.⁸

6. It follows from information provided by the Registry that Mr. Kalimanzira's Lead Counsel has indicated that he has previously worked in English and that his knowledge of English is "very good".⁹ He is therefore able to discuss the contents of the Trial Judgement with Mr. Kalimanzira as well as any possible grounds of appeal. Furthermore, the determination of potential grounds of appeal falls primarily within the purview of Defence Counsel and, if application is made after the Trial Judgement becomes available in French and good cause is shown, leave may be granted to vary the grounds of appeal according to Rule 108 of the Rules.¹⁰

7. For the foregoing reasons, Mr. Kalimanzira has not demonstrated good cause for an extension of time for the filing of his notice of appeal, and, accordingly, the Motion is **DENIED**.

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

Done this 20th day of July 2009,
At The Hague,
The Netherlands.



[Seal of the Tribunal]

2 March 2009"); *François Karera v. The Prosecutor*, Case No. ICTR-01-74-A, Decision on François Karera's Motion for Extension of Time for Filing the Notice of Appeal, 21 December 2007, p. 2 ("Karera Appeal Decision").

⁸ See, e.g., *Bagosora et al.* Appeal Decision, pp. 4, 5; *Karera* Appeal Decision, pp. 2, 3.

⁹ Prior to assignment as counsel under the Tribunal's legal aid system, lawyers fill out Form IL2 in which they provide information, *inter alia*, on their language abilities. The Registry provided the Appeals Chamber with a copy of the form completed by Mr. Kalimanzira's Lead Counsel. See also Motion, para. 6 (quoted above).

¹⁰ See, e.g., *Bagosora et al.* Appeal Decision, p. 5; *Karera* Appeal Decision, p. 3.