

12/H



Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

ICTR-97-31-A  
22-09-2009  
12/H-09/H

IN THE APPEALS CHAMBER

Before: Judge Carmel Agius, Pre-Appeal Judge

Registrar: Mr. Adama Dieng

Decision of: 22 September 2009

ICTR Appeals Chamber  
Date: 22 September 09  
Action:  
Copied To: ~~Concerned~~ Judges,  
Parties, Judicial Archivers,  
LOs, LSS

THE PROSECUTOR

v.

Tharcisse RENZAHO

Case No. ICTR-97-31-A

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**DECISION ON THARCISSE RENZAHO'S MOTION FOR EXTENSION OF TIME FOR THE FILING OF NOTICE OF APPEAL AND BRIEF IN REPLY**

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda  
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NAME / NOM: ROSETTE MURIGO-MORRISON  
SIGNATURE: [Signature] DATE: 22/09/09

Counsel for Mr. Tharcisse Renzaho:

Mr. François Cantier, Lead Counsel

Office of the Prosecutor:

Mr. Hassan Bubacar Jallow  
Mr. Alex Obote-Odora

1. I, CARMEL AGIUS, 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 motion filed on 2 September 2009 by Tharcisse Renzaho for an extension of time to file his Notice of Appeal.<sup>1</sup> The Prosecution has not filed a response.

2. Trial Chamber I pronounced its judgement against Mr. Renzaho on 14 July 2009 and issued its reasoned opinion in writing in English on 14 August 2009.<sup>2</sup> Mr. Renzaho requests an extension of time to file his Notice of Appeal within 30 days from the filing of the French translation of the Trial Judgement.<sup>3</sup> He also requests, in the event that the Respondent's Brief is filed in English, an extension of time to file his Brief in Reply within 15 days from the filing of the French translation of the Respondent's Brief.<sup>4</sup> In support of these requests, Mr. Renzaho argues that he "is only francophone",<sup>5</sup> and that his Defence works in French.<sup>6</sup> He further asserts that the Tribunal's organs are aware of the limited ability of his Defence to work in English.<sup>7</sup> He submits that these circumstances constitute good cause for an extension of time pursuant to Rule 116 of the Rules of Procedure and Evidence of the Tribunal ("Rules"),<sup>8</sup> because he is not able to accurately apprehend the factual and legal details of the reasoning of the Trial Chamber and, as a consequence, could not file a Notice of Appeal fulfilling the requirements of Rule 108 of the Rules.<sup>9</sup>

3. Pursuant to Rule 108 of the Rules, the Notice of Appeal must be filed not more than 30 days from the date on which the judgement was pronounced. Accordingly, in the present case, any Notice of Appeal should have been filed no later than 13 August 2009. Rule 116(A) of the Rules allows for the extension of time of any deadline upon a showing of good cause. Such a motion should be filed prior to expiry of the applicable time limit.<sup>10</sup> The present motion, filed on 2 September 2009, is therefore out of time. However, considering the importance of the issues in this

<sup>1</sup> *Avis d'appel et Requête en demande de Délai*, 2 September 2009 ("Motion").

<sup>2</sup> *The Prosecutor v. Tharcisse Renzaho*, Case No. ICTR-97-31-T, Judgement and Sentence, dated 14 July 2009 and filed on 14 August 2009 ("Trial Judgement").

<sup>3</sup> Motion, para. 11.

<sup>4</sup> Motion, paras. 14-16, referring to *Théoneste Bagosora v. The Prosecutor*, Case No. ICTR-98-41B-A, Decision on Théoneste Bagosora's Motion for Extension of Time for Filing Appeal Submissions, 15 January 2009.

<sup>5</sup> Motion, para. 6 (free translation).

<sup>6</sup> Motion, paras. 4, 5.

<sup>7</sup> Motion, para. 5.

<sup>8</sup> Motion, paras. 12, 13.

<sup>9</sup> Motion, paras. 7-10.

<sup>10</sup> *The Prosecutor v. Athanase Seromba*, Case No. ICTR-01-66-A, Order Concerning the Filing of the Notice of Appeal, 22 March 2007, p. 3; *The Prosecutor v. Tharcisse Muvunyi*, Case No. ICTR-00-55A-A, Decision on the Prosecution Motion for Extension of Time for Filing the Notice of Appeal, 22 November 2006, p. 2; *The Prosecutor v. Jean de Dieu*

case and the delayed filing of the written Trial Judgement, I recognize *proprio motu* the filing of the present motion as validly done and proceed to consider its merits.<sup>11</sup>

4. Pursuant to Rule 116(B) of the Rules, where the ability of the convicted person to make full answer and defence depends on the availability of a decision in an official language other than that in which it was issued, that circumstance shall be taken into account as a good cause. 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.<sup>12</sup> This provision may, however, provide a basis for an extension of time, upon request, for the filing of the convicted person's brief on appeal ("Appellant's Brief") pending the translation of the Trial Judgement into a working language of the Tribunal which he or she understands.<sup>13</sup>

5. In the present case, the information provided by the Registry shows that Mr. Renzaho's Lead Counsel has indicated that French is his mother tongue and that he has a "good" knowledge of English, with the ability to read, speak, and write it fluently.<sup>14</sup> He is therefore able to discuss the contents of the Trial Judgement as well as any possible grounds of appeal with Mr. Renzaho. The determination of potential grounds of appeal falls primarily within the purview of Defence Counsel and, if an 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 under Rule 108 of the Rules.<sup>15</sup>

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*Kamuhanda*, Case No. ICTR-99-54A-A, Decision on Jean de Dieu Kamuhanda's Motion for an Extension of Time, 19 April 2005, pp. 2, 3 & n. 3.

<sup>11</sup> See Practice Direction on Formal Requirements for Appeals from Judgement, 4 July 2005 ("Practice Direction"), para. 12 (stating that a Pre-Appeal Judge or the Appeals Chamber may vary any time limit or recognise, as validly done any act done after the expiration of a time limit).

<sup>12</sup> See, e.g., *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, 20 July 2009, para. 5 ("*Kalimanzira* Appeal Decision"); *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, pp. 4, 5 ("*Bagosora et al.* Appeal Decision"); *François Karera v. The Prosecutor*, Case No. ICTR-01-74-A, Decision on François Karera's Motion for an Extension of Time for Filing the Notice of Appeal, 21 December 2007, pp. 2, 3 ("*Karera* Appeal Decision").

<sup>13</sup> See, e.g., *Callixte Kalimanzira v. The Prosecutor*, Case No. ICTR-05-88-A, Decision on Callixte Kalimanzira's Motion for Leave to File an Amended Notice of Appeal and for an Extension of Time for the Filing of his Appellant's Brief, 31 August 2009, para. 5; *Protais Zigiranyirazo v. The Prosecutor*, Case No. ICTR-01-73-A, Decision on Protais Zigiranyirazo's Motion for an Extension of Time for the Filing of the Respondent's Brief, 10 March 2009, paras. 4, 6 ("*Zigiranyirazo* Appeal Decision of 10 March 2009"); *Bagosora et al.* Appeal Decision of 2 March 2009, pp. 5, 6; *Protais Zigiranyirazo v. The Prosecutor*, Case No. ICTR-01-73-A, Decision on Protais Zigiranyirazo's Motion for an Extension of Time, 28 January 2009, p. 3. However, once a French version of the Trial Judgement is filed, Rule 116(B) does not contemplate good cause for an extension of time to file briefs on appeal where the convicted person's counsel can work in the language in which it was filed. See also *Siméon Nchamihigo v. The Prosecutor*, Case No. ICTR-2001-63-A, Decision on Defence Motion for a French Translation of the Prosecutor's Respondent's Brief and for Extension of Time for the Filing of the Reply Brief, 8 July 2009, paras. 5, 6, 9; *Protais Zigiranyirazo v. The Prosecutor*, Case No. ICTR-01-73-A, Decision on Protais Zigiranyirazo's Motion for an Extension of Time for the Filing of the Reply Brief, 3 July 2009, paras. 4-6, 9.

<sup>14</sup> See Form IL2 filed by Mr. Cantier, along with a copy of his attached curriculum vitae, on 15 September 2009.

<sup>15</sup> *Kalimanzira* Appeal Decision, para. 6; *Bagosora et al.* Appeal Decision, p. 5; *Karera* Appeal Decision, p. 3.

For these reasons, Mr. Renzaho has not demonstrated good cause for an extension of time for the filing of his Notice of Appeal.

6. However, considering the importance of the issues in this case, the delayed filing of the written Trial Judgement, and other unique circumstances, such as the late service of the written Trial Judgement to the Defence,<sup>16</sup> as well as the time required to dispose of the present motion, I, pursuant to Rules 108*bis* and 116 of the Rules and paragraph 12 of the Practice Direction, allow an extension of time until 2 October 2009 for the filing of Mr. Renzaho's Notice of Appeal.

7. According to Rule 113 of the Rules, the Brief in Reply is to be filed 15 days after the Respondent's Brief. Mr. Renzaho seeks an extension of time in the event that the Respondent's Brief, if any, is filed in English. However, I find this request premature and therefore moot. Mr. Renzaho may reiterate his request, if the need arises, in due course.


8. For the foregoing reasons, the Motion, as grounded, is **DENIED**. However, acting *proprio motu*, I **INSTRUCT** Mr. Renzaho to file his Notice of Appeal, if any, no later than 2 October 2009.

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

Done this 22<sup>nd</sup> day of September 2009,  
at The Hague,  
The Netherlands.



[Seal of the Tribunal]

  
Judge Carmel Agius  
Pre-Appeal Judge

<sup>16</sup> See Motion, para. 2 (indicating that the Defence did not receive the official and complete copy of the Trial Judgement until 25 August 2009).