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UNITED NATIONS
NATIONS UNIES

Tribunal pénal international pour le Rwanda
International Criminal Tribunal for Rwanda

ICTR-01-70-A
22nd April 2010
{348/H – 346/H}

IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Pre-Appeal Judge

Registrar: Mr. Adama Dieng

Decision of: 22 April 2010

THE PROSECUTOR

v.

EMMANUEL RUKUNDO

Case No. ICTR-2001-70-A

DECISION ON THE FILING OF EMMANUEL RUKUNDO'S REPLY BRIEF

Counsel for Emmanuel Rukundo:

Ms. Aïsha Condé
Mr. Benoît Henry

The Office of the Prosecutor:

Mr. Hassan Bubacar Jallow
Mr. Alex Obote-Odora
Ms. Linda Bianchi
Mr. Ousman Jammeh
Ms. Madeleine Schwarz

ICTR Appeals Chamber
Date: 22nd April 2010
Action: *A. Guana*
Copied To: *Concerned Judges,*

*Parties, Judicial Archives,
LOs, LSS*

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
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NAME / NOM: *KARFI... KUMELID... A... AFANDE*
SIGNATURE: *[Signature]* DATE: *22 April 2010*

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1. I, Fausto Pocar, 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 have decided *proprio motu* to reconsider the Decision on Motions for Extension of Time, filed on 25 March 2009,¹ "with a view to preparing the case for a fair and expeditious hearing."²

2. On 27 February 2009, Trial Chamber II of the Tribunal convicted Emmanuel Rukundo of three counts of genocide, murder as a crime against humanity, and extermination as a crime against humanity and sentenced him to 25 years of imprisonment.³ The written judgement was filed in English on 13 March 2009.

3. On 25 March 2009, Judge Mehmet Güney, who was then Pre-Appeal Judge in this case, decided that time limits under the Rules for the filing of Mr. Rukundo's Notice of Appeal and Appellant's brief should run from the filing of the French version of the Trial Judgement.⁴ In addition, Judge Güney determined that the 15-day time period for the filing of Mr. Rukundo's Reply brief should run from the filing of the French version of the Prosecution's Respondent's brief.⁵

4. The French version of the Trial Judgement was filed on 6 October 2009. In accordance with the Decision of 25 March 2009, Mr. Rukundo then filed his Notice of Appeal on 6 November 2009⁶ and his Appellant's brief on 19 January 2010.⁷ The Prosecution filed its Respondent's brief on 1 March 2010.⁸ The Respondent's brief is currently undergoing translation into French.

5. At the time the Decision of 25 March 2009 was taken, the extension of time for the filing of Mr. Rukundo's Reply brief was properly granted based on the facts that Mr. Rukundo does not understand English and that his sole counsel at the time, Ms. Aïsha Condé, works exclusively in French.⁹ Since the Decision of 25 March 2009 was issued, the composition of the Defence team has changed, however. Mr. Rukundo is now also represented by a Co-Counsel, Mr. Benoît Henry, who

¹ Decision on Motions for Extension of Time, 25 March 2009 ("Decision of 25 March 2009").

² Rule 108bis (B) of the Rules of Procedure and Evidence of the Tribunal ("Rules").

³ *The Prosecutor v. Emmanuel Rukundo*, Case No. ICTR-2001-70-T, Judgement, 27 February 2009 ("Trial Judgement"), paras. 591, 608.

⁴ Decision of 25 March 2009, pp. 3, 4.

⁵ Decision of 25 March 2009, pp. 3, 4.

⁶ *Acte d'appel d'Emmanuel Rukundo du Jugement rendu le 27 février 2009*, 6 October 2009.

⁷ *Mémoire d'appel de la Défense*, 19 January 2010.

⁸ Prosecutor's Respondent's Brief, 1 March 2010 ("Respondent's brief").

⁹ Decision of 25 March 2009, p. 3.

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works both in French and English.¹⁰ Mr. Henry is therefore capable of discussing the contents of the Respondent's brief with Mr. Rukundo. In such circumstances, the original extension of time for the filing of the Reply brief must be reconsidered as it is no longer warranted.¹¹

6. On appeal, counsel bears the main burden in preparing submissions.¹² It is also assumed that Counsel has fully discussed with Mr. Rukundo the issues relevant to his appeal in the preparation of the Appellant's brief. The Reply brief is the only remaining submission to be filed in this appeal. Any extension of time may therefore adversely impact the ability of the Appeals Chamber to hear this case in a timely manner.

7. In any event, it is expected that a French translation of the Respondent's brief will be available prior to the appeals hearing. Mr. Rukundo will therefore have the opportunity to review it and to provide any additional instruction to his counsel, if necessary. Any additional matters arising from such a review can be raised during the hearing.

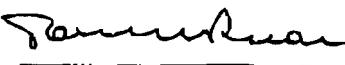
8. For the foregoing reasons, Mr. Rukundo is ordered to file his Reply brief, if any, by 10 May 2010.

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

Done this 22nd day of April 2010,
At The Hague,
The Netherlands.



[Seal of the Tribunal]


Judge Fausto Pocar
Pre-Appeal Judge

¹⁰ The Registry's Defence Counsel and Detention Management Section has confirmed that Mr. Benoît Henry is fully bilingual and able to work in French and English.

¹¹ See, e.g., *Tharcisse Renzaho v. The Prosecutor*, Case No. ICTR-97-31-A, Decision on Tharcisse Renzaho's Motion for Extension of Time for the Filing of Brief in Reply, 20 April 2010, paras. 5-9; *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 His Reply Brief, 6 April 2010 ("Kalimanzira Appeal Decision"), paras. 5-7; *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. 5-9; *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 ("Zigiranyirazo Appeal Decision"), paras. 4-9.

¹² See *Kalimanzira Appeal Decision*, para. 5; *Zigiranyirazo Appeal Decision*, para. 7.