



Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

4/H

*OK*

ICTR-01-69-A  
ICTR-10-92  
07<sup>th</sup> May 2010  
{4/H - 1/H}

IN THE APPEALS CHAMBER

Before: Judge Liu Daqun, Pre-Appeal Judge

Registrar: Mr. Adama Dieng

Decision of: 7 May 2010

ICTR Appeals Chamber  
Date: 7<sup>th</sup> May 2010  
Action: A. Tsubet  
Copied To: Concerned Judges

THE PROSECUTOR *Parties, Judicial Archives,*

v.

Hormisdas NSENGIMANA

*LOs, LSS*  
*[Signature]*

Case Nos. ICTR-01-69-A  
ICTR-2010-92

CONFIDENTIAL

Re: *Léonard Safari and Rémi Mazas*

**DECISION ON INVESTIGATORS' REQUEST FOR EXTENSION OF TIME  
PENDING TRANSLATION OF APPEALS SUBMISSIONS**

Office of the Prosecutor:

Hassan Bubacar Jallow  
Alex Obote-Odora  
Abdouleye Seye

Counsel for Hormisdas Nsengimana:

Emmanuel Altit  
David Hooper

Interested Parties:

Léonard Safari  
Rémi Mazas

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda  
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME  
COPIE CERTIFIÉE CONFORME À L'ORIGINAL PAR MOI  
NAME / NOM: *MARIEL... KUMELI... A... AFANDE*  
SIGNATURE: *[Signature]* DATE: *21 May 2010*

1. I, LIU DAQUN, 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,<sup>1</sup> am seized of the "*Demande de nomination d'un conseil et demande de traductions en Français*" filed confidentially by former Defence Team investigators for Hormisdas Nsengimana, Rémi Mazas and Léonard Safari ("Investigators"), on 26 April 2010 ("Motion").<sup>2</sup>

#### A. Background

2. On 18 January 2010, Trial Chamber I issued a confidential decision<sup>3</sup> in which it declined to exercise its discretion pursuant to Rule 77(A) of the Rules of Procedure and Evidence of the Tribunal ("Rules") to initiate contempt investigations or proceedings against the Investigators for their alleged improper contact with Prosecution witnesses.<sup>4</sup>

3. On 2 February 2010, the Prosecution filed a notice of appeal, pursuant to Article 24 of the Statute of the Tribunal and Rule 77(J) of the Rules, against the 18 January 2010 Decision. The Prosecution filed its appellant's brief pursuant to Rule 77(J) of the Rules on 17 February 2010.<sup>5</sup> The Nsengimana Defence Team filed responses to the Notice of Appeal and to the Appellant's Brief, on 9 February 2010 and 1 March 2010, respectively ("Defence Team Submissions").<sup>6</sup> The Prosecution filed its reply on 5 March 2010.<sup>7</sup> On 15 February 2010, the Prosecution filed a motion, requesting that the Appeals Chamber reject the Response to the Notice of Appeal ("15 February 2010 Motion").<sup>8</sup>

<sup>1</sup> Order Designating the Pre-Appeal Judge, 11 December 2009.

<sup>2</sup> Letter addressed to the Appeals Chamber by the Investigators, signed on 22 April 2010 and received by the Registry on 26 April 2010.

<sup>3</sup> *The Prosecutor v. Hormisdas Nsengimana*, Case No. ICTR-01-69-T, Confidential Decision on Prosecution and Defence Requests Concerning Improper Contact with Prosecution Witnesses, 18 January 2010 (confidential) ("18 January 2010 Decision").

<sup>4</sup> 18 January 2010 Decision, paras. 55, 59, disposition.

<sup>5</sup> Prosecutor's Appellant's Brief, 17 February 2010 (confidential) ("Appellant's Brief").

<sup>6</sup> *Réponse de l'Équipe de Défense du Père Hormisdas Nsengimana à L'Acte d'appel (77J) déposé par le Procureur le 2 février 2010*, 9 February 2010 ("Response to the Notice of Appeal"); *Réponse de l'Équipe de Défense du Père Nsengimana au Mémoire d'appel (77J) déposé par le Procureur le 17 février 2010*, 1 March 2010 (confidential) ("Response to the Appellant's Brief").

<sup>7</sup> Prosecutor's Reply To [sic] the « *Réponse de l'Équipe de défense du Père Hormidas [sic] au Mémoire d'appel (77J) déposé par le Procureur le 17 février 2010* », 5 March 2010 (confidential) ("Reply").

<sup>8</sup> Prosecutor's Motion for Rejection of the '*Réponse de l'Équipe de Défense du Père Hormidas [sic] Nsengimana à l'Acte d'appel (77J) déposé par le Procureur le 2 février 2010*', 15 February 2010.

4. On 19 April 2010, the Appeals Chamber rejected the Defence Team Submissions.<sup>9</sup> In addition, it invited the Investigators to file a response to the Prosecution Appellant's Brief within 10 days of the date of the 19 April 2010 Decision.<sup>10</sup>

#### B. Submissions

5. The Investigators now request an extension of time to file their response to the Prosecution Appellant's Brief pending the translation into French of several appeals submissions.<sup>11</sup> Specifically, they request the translation of the 18 January 2010 Decision, the 15 February 2010 Motion, the Appellant's Brief, and the 19 April 2010 Decision.<sup>12</sup>

6. In addition, the Investigators appear to request information about the procedure for the assignment of counsel, as they claim to be indigent.<sup>13</sup>

#### C. Discussion

7. Rule 116(A) of the Rules allows for the extension of any deadline on a showing of good cause. It is noted that the Investigators are not in a position to respond to the Prosecution's appeal without the French translation of the 18 January 2010 Decision, the Appellant's Brief, and the 19 April 2010 Decision. Consequently, the existence of good cause has been demonstrated warranting an extension of the time for filing the Investigators' response to the Appellant's Brief. However, as the 19 April 2010 Decision disposed of the 15 February 2010 Motion, finding that it was moot,<sup>14</sup> it is not necessary to provide a translation of the 15 February 2010 Motion to the Investigators.

8. Finally, it should be recalled that, pursuant to Rule 45 of the Rules, the assignment of counsel is a matter for the Registrar.

For the foregoing reasons, I

**GRANT the Motion IN PART;**

<sup>9</sup> Decision on Submissions by the Defence Team of Hormisdas Nsengimana (confidential) ("19 April 2010 Decision").

<sup>10</sup> 19 April 2010 Decision, disposition. *See also* 19 April 2010 Decision, para. 6, where the Appeals Chamber states that "the Investigators continue to have an active interest in the outcome of this case on appeal" and that they "should be permitted to make representations in response to the Prosecution's appeal on an exceptional basis."

<sup>11</sup> Motion, para. 2. The Investigators argue that they are francophone and require the French translation of the requested documents. Accordingly, it is assumed that they are not able to understand English sufficiently to respond to the Prosecution Appellant's Brief.

<sup>12</sup> Motion, para. 2.

<sup>13</sup> Motion, para. 3. "*De plus, eu égard au fait que nous ne sommes pas avocats ni n'avons les moyens financiers de nous faire assister, nous vous prions de bien vouloir nous indiquer comment constituer [sic] avocat.*"

<sup>14</sup> 19 April 2010 Decision, disposition.

**ALLOW** the Investigators to file their response(s) to the Appellant's Brief within 10 days of being served the French translation of the 18 January 2010 Decision, the Appellant's Brief, and the 19 April 2010 Decision.

**DIRECT** the Registrar to serve the Investigators with a French translation of the present decision by 15 May 2010 and of the 18 January 2010 Decision, the Appellant's Brief, and the 19 April 2010 Decision no later than 15 June 2010, or to provide a reasoned explanation in case he cannot comply with this instruction.

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

Done this seventh day of May 2010,  
At The Hague, The Netherlands.



[Seal of the Tribunal]

A handwritten signature in black ink, appearing to read "Liu Daqun", written over a horizontal line.

Judge Liu Daqun  
Pre-Appeal Judge