



Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

187/H

ICTR-02-78-A  
20<sup>th</sup> January 2011  
{187/H - 183/H}

IN THE APPEALS CHAMBER

Before: Judge Patrick Robinson, Pre-Appeal Judge

Registrar: Mr. Adama Dieng

Decision of: 20 January 2011

ICTR Appeals Chamber  
Date: 20<sup>th</sup> January 2011  
Action: R. J. J. J.  
Copied To: Concerned Judges,

Parties, Judicial Archives,  
LDs, LSS

Gaspard KANYARUKIGA

v.

THE PROSECUTOR

Case No. ICTR-02-78-A

**DECISION ON GASPARD KANYARUKIGA'S MOTION FOR EXTENSION  
OF TIME FOR FILING APPELLANT'S BRIEF AND TO EXPEDITE  
TRANSLATION OF JUDGEMENT INTO KINYARWANDA**

Counsel for Gaspard Kanyarukiga

Mr. David Jacobs  
Mr. David Paciocco

Office of the Prosecutor

Mr. Hassan Bubacar Jallow  
Mr. James Arguin  
Ms. Deborah Wilkinson

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda  
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SIGNATURE: DATE: 20 Jan 2011

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**I, PATRICK ROBINSON**, 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>

**NOTING** that Trial Chamber II of the Tribunal pronounced its judgement in this case on 1 November 2010 and filed the written version in English on 9 November 2010;<sup>2</sup>

**NOTING** that Gaspard Kanyarukiga ("Kanyarukiga") filed his "Notice of Appeal" on 9 December 2010;

**NOTING** that the Prosecution filed the "Prosecutor's Notice of Appeal" on 10 December 2010;

**BEING SEISED OF** the "Motion to Extend Time Limits for Filing Mr. Kanyarukiga's Appellants [sic] Brief and to Expedite Translation of the Judgement into Kinyarwanda" filed on 7 January 2011 ("Motion"), in which Kanyarukiga requests an order to expedite the translation of the Trial Judgement into Kinyarwanda and an extension of time to file his appellant's brief ("Appeal Brief");<sup>3</sup>

**NOTING** that I was informed that the Prosecution does not oppose the Motion and will not file a response;<sup>4</sup>

**NOTING** Kanyarukiga's request to delay deliberations on the Motion until a decision is issued on his request to disqualify a Judge of the Bench assigned to this case;<sup>5</sup>

**NOTING** that Kanyarukiga submits that he was informed that the translation of the Trial Judgement into Kinyarwanda should be available by the end of March 2011;<sup>6</sup>

**NOTING** that Kanyarukiga points to a decision of the Trial Chamber ordering, in light of the fact that he does not know English or French, the translation into Kinyarwanda of "all decisions and

<sup>1</sup> Order Assigning a Pre-Appeal Judge, 14 January 2011.

<sup>2</sup> *The Prosecutor v. Gaspard Kanyarukiga*, Case No. 02-78-T, Judgement and Sentence, dated 1 November 2010, filed on 9 November 2010 ("Trial Judgement").

<sup>3</sup> Motion, paras. 1, 13.

<sup>4</sup> See e-mail from Other Registry Services Unit, Appeals Chamber Support Section, dated 14 January 2011.

<sup>5</sup> Motion, paras. 2, 3, referring to "Confidential Urgent Motion to Disqualify Judge Vaz", 17 December 2010 ("Motion for Disqualification").

<sup>6</sup> Motion, para. 5, referring to the Annex to the Motion.

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orders [...]" and argues that, despite this order, the Kinyarwanda translation of the Trial Judgement would be available only after the deadline to file his Appeal Brief;<sup>7</sup>

**NOTING** that Kanyarukiga therefore asserts that the translation process of the Trial Judgement should be expedited by setting a fixed date for its completion in order to "participate meaningfully in the appeals process";<sup>8</sup>

**NOTING** further Kanyarukiga's submission that the right to use his own language under Rule 3(B) of the Rules of Procedure and Evidence of the Tribunal ("Rules") "carries with it the right to understand material matters [such as] the reasons for one's own conviction";<sup>9</sup>

**NOTING** that Kanyarukiga also submits that "the delay in the translation" requires an extension for his Appeal Brief so that he may file it 45 days from his receipt of the Kinyarwanda translation of the Trial Judgement;<sup>10</sup>

**NOTING** that the Language and Conference Services Section of the Tribunal has informed me that the Kinyarwanda translation of the Trial Judgement will not be available before 31 March 2011;<sup>11</sup>

**FINDING** that no cogent reason has been advanced that would require me to delay considering the Motion until the Motion for Disqualification is adjudicated;

**CONSIDERING** that the Prosecution does not oppose the Motion;

**CONSIDERING** that Rule 116(A) of the Rules provides that "[t]he Appeals Chamber or the Pre-appeal Judge may grant a motion to extend a time limit upon a showing of good cause";

**CONSIDERING** that the current deadline for Kanyarukiga to file his Appeal Brief falls on 22 February 2011;

**CONSIDERING** further that the Kinyarwanda translation of the Trial Judgement is estimated to be available more than one month after the current deadline for the filing of the Appeal Brief;

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<sup>7</sup> Motion, paras. 4, 5, referring to *The Prosecutor v. Gaspard Kanyarukiga*, Case No. 02-78-I, Decision on the Defence Request for Kinyarwanda Translations of all Documents, 8 November 2004.

<sup>8</sup> Motion, para. 8. I note that Kanyarukiga gave notice in his Notice of Appeal of the possible filing of the present Motion. See Motion, para. 6, referring to Kanyarukiga Notice of Appeal, para. 82 where Kanyarukiga mentioned that, since he has not yet received "an official translation" of the Trial Judgement in Kinyarwanda to properly instruct counsel and since he does not speak English or French, he reserved the right to seek leave to amend his Notice of Appeal and seek additional time to file his Appeal Brief.

<sup>9</sup> Motion, para. 7.

<sup>10</sup> Motion, paras. 12, 13.

<sup>11</sup> See e-mail from Language Services Unit, Appeals Chamber Support Section, dated 18 January 2011.

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**CONSIDERING** that it is in the interests of justice to allow Kanyarukiga adequate time to read the Trial Judgement in a language he understands and to consult with his Counsel before filing his Appeal Brief;<sup>12</sup>

**FINDING** that, in the present circumstances, good cause therefore exists to grant an extension of time for the filing of the Appeal Brief;

**CONSIDERING** that Kanyarukiga's Counsel work in English and are able to understand the Trial Judgement in its original language;

**CONSIDERING** therefore that Kanyarukiga's Counsel are in a position to prepare a draft Appeal Brief and then consult Kanyarukiga in relation to it by the time the Kinyarwanda translation of the Trial Judgement is available;

**CONSIDERING** that granting an extension of 45 days from the filing of the Kinyarwanda translation of the Trial Judgement would unduly delay the appeal proceedings in this case;

**FINDING** therefore that, in view of a fair and expeditious preparation of the case on appeal, a limited extension of time of 30 days from the date of Kanyarukiga's receipt of the Kinyarwanda translation of the Trial Judgement for the filing of Kanyarukiga's Appeal Brief is appropriate;

**FOR THE FOREGOING REASONS,**

**GRANT** the Motion in part;

**ORDER** Kanyarukiga to file his Appeal Brief no later than thirty (30) days from the date of his receipt of the Kinyarwanda translation of the Trial Judgement;

**DIRECT** the Registrar

- to provide the Kinyarwanda translation of the Trial Judgement to Kanyarukiga as soon as practicable, but in any event no later than 31 March 2011; and
- to inform the Appeals Chamber when the Kinyarwanda translation of the Trial Judgement has been served on Kanyarukiga;

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<sup>12</sup> See, e.g., *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.

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**DENY** the Motion in all other respects.

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

Done this 20th day of January 2011  
At The Hague  
The Netherlands



Judge Patrick Robinson  
Pre-Appeal Judge



[Seal of the Tribunal]