



Tribunal pénal international pour le Rwanda
International Criminal Tribunal for Rwanda

ICTR-00-55B-A
13th April 2011
{112/H - 109/H}

IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Pre-Appeal Judge

Registrar: Mr. Adama Dieng

Decision of: 13 April 2011

ILDEPHONSE HATEGEKIMANA

v.

THE PROSECUTOR

Case No. ICTR-00-55B-A

**DECISION ON ILDEPHONSE HATEGEKIMANA'S MOTION FOR AN
EXTENSION OF TIME TO FILE HIS APPELLANT'S BRIEF**

Counsel for Ildephonse Hategekimana:

Mr. Jean de Dieu Momo

The Office of the Prosecutor:

Mr. Hassan Bubacar Jallow
Mr. James J. Arguin
Mr. Alphonse Van
Mr. Alfred Orono
Ms. Amina Justine Buruma
Mr. Leo Nwoye

ICTR Appeals Chamber
Date: 13th Apr / 2011
Action: R. *Journal*
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Parties, Judicial Archives,
LDS, LSS *[Signature]*

**International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda**
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NAME / NOM: **ROSETTE MUZIGO-MORRISON**
SIGNATURE: *[Signature]* DATE: 13/04/11

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,¹ am seised of a Motion filed on 23 March 2011 by Mr. Ildephonse Hategekimana for an extension of time to file his Appellant's brief.² The Prosecution responded on 4 April 2011,³ and Mr. Hategekimana filed his reply on 6 April 2011.⁴

2. On 6 December 2010, Trial Chamber II of the Tribunal convicted Mr. Hategekimana of genocide and murder and rape as crimes against humanity and sentenced him to imprisonment for the remainder of his life.⁵ The written Trial Judgement was filed in English on 14 February 2011 and was made available in French on 12 April 2011. On 16 March 2011, Mr. Hategekimana filed his Notice of Appeal.⁶ His Appellant's brief is currently due by 30 May 2011.

3. Mr. Hategekimana seeks a one month extension of time to file his Appellant's brief to enable his Lead Counsel to undertake a three day investigative mission to Rwanda to review the judicial records of proceedings involving witnesses heard in his case.⁷ Mr. Hategekimana submits that it is impossible for his Lead Counsel to simultaneously conduct this investigative mission and to prepare the Appellant's brief.⁸ He contends that granting the extension will ensure the overall expeditious nature of the appeal since it will obviate the need for any subsequent delays in the event that new elements of proof are discovered.⁹

4. In addition, he submits that the extension will allow him additional time to consider the French version of the Trial Judgement.¹⁰ In this respect, Mr. Hategekimana emphasizes that his Lead Counsel's primary working language is French and points to several cases where an extension

¹ Order Assigning a Pre-Appeal Judge, 20 January 2011.

² *Requête en extrême urgence d'Ildephonse Hategekimana en vue de la suspension [sic] ou de la prorogation du délai de dépôt de son mémoire d'appel*, 23 March 2011 ("Motion").

³ The Prosecutor's Response to the Extremely Urgent Motion of Ildephonse Hategekimana for the Suspension or Extension of Time for the Filing of a Notice of Appeal [sic], 4 April 2011 ("Response").

⁴ *Réplique d'Ildephonse Hategekimana au Procureur au sujet de la requête en vue de la suspension ou de la prorogation du délai de dépôt de son mémoire d'appel*, 6 April 2011 ("Reply").

⁵ T. 6 December 2010 p. 12. See also *The Prosecutor v. Ildephonse Hategekimana*, Case No. ICTR-00-55B-T, Judgement and Sentence, dated 6 December 2010 and filed on 14 February 2011 ("Trial Judgement"), paras. 697, 721, 729, 730, 748.

⁶ *Acte d'appel du Lieutenant Ildephonse Hategekimana contre le Jugement rendu le 6 décembre 2010 par la Chambre de première instance II du Tribunal pénal international pour le Rwanda(TPIR)*, 16 March 2011 ("Notice of Appeal").

⁷ Motion, paras. 6-8, 10, 11, 14, 17, 18; Reply, para. 17.

⁸ Motion, para. 18.

⁹ Motion, para. 20.

¹⁰ Motion, paras. 5, 11, 21.

of time to file an Appellant's brief was granted to an appellant even where the primary working language of his legal team was English.¹¹

5. The Prosecution responds that Mr. Hategekimana has failed to substantiate his claim that it would be impossible to conduct investigations in Rwanda while preparing his Appellant's brief.¹² Furthermore, the Prosecution argues that, given the Lead Counsel's ability to work in English, the absence of the French version of the Trial Judgement does not provide a basis for an extension of time for the filing of the brief.¹³

6. Rule 116(A) of the Rules of Procedure and Evidence of the Tribunal ("Rules") allows for the extension of any deadline on a showing of good cause. Mr. Hategekimana has not, however, sufficiently explained why an anticipated brief investigative mission prevents him from timely completing his Appellant's brief. In particular, according to Rule 115(A) of the Rules, the deadline for the submission of additional evidence on appeal does not commence until the filing of the brief in reply. Moreover, under Rule 108 of the Rules, Mr. Hategekimana may seek, on good cause being shown, to vary his grounds of appeal in view of any subsequently discovered material.¹⁴ Accordingly, the proposed mission does not amount to good cause for an extension of time for the filing of the Appellant's brief.

7. According to Rule 116(B) of the Rules, the requirement of 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". This provision provides a basis for extending the time limit for the filing of a convicted person's brief on appeal pending the translation of the Trial Judgement into a working language he or she understands.¹⁵

8. Mr. Hategekimana is unable to understand or work in English.¹⁶ This would normally provide him with a basis for a limited extension of time for the filing of his Appellant's brief.¹⁷ However, the French translation of the Trial Judgement was recently completed well ahead of schedule on 12 April 2011,¹⁸ with more than 45 days remaining for the preparation of the

¹¹ Reply, paras. 6-16.

¹² Response, para. 11.

¹³ Response, para. 10.

¹⁴ *Tharcisse Renzaho v. The Prosecutor*, Case No. ICTR-97-31-A, Decision on Motion for Disclosure and for Extension of Time for the Filing of Appellant's Brief, 26 February 2010, para. 13.

¹⁵ See, e.g., *The Prosecutor v. Tharcisse Renzaho*, Case No. ICTR-97-31-A, Decision on Tharcisse Renzaho's Motion for Extension of Time for the Filing of Appellant's Brief, 21 October 2009 ("*Renzaho* Decision of 21 October 2009"), para. 4.

¹⁶ Decision on Ildephonse Hategekimana's Second Motion for Extension of Time for the Filing of the Notice of Appeal, 28 February 2011 ("Decision of 28 February 2011"), para. 3.

¹⁷ *Renzaho* Decision of 21 October 2009, paras. 5-7.

¹⁸ The French translation of the Trial Judgement was originally anticipated around 9 May 2011. See Decision of 28 February 2011, para. 2.

Appellant's brief. This period of time exceeds the typical 40 day extension of time from the filing of the French translation that would have been warranted in the circumstances of this case.¹⁹ Furthermore, Mr. Hategekimana's Lead Counsel has the ability to work in both French and English and therefore was already in a position to begin preparations on the Appellant's brief and discuss its content with Mr. Hategekimana, subject to Mr. Hategekimana's final approval after the filing of the French translation of the Trial Judgement.²⁰ Accordingly, there is no longer a basis for an extension of time based on the unavailability of the French translation of the Trial Judgement.

9. For the foregoing reasons, the Motion is **DENIED**.

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

Done this 13th day of April 2011,
at The Hague,
The Netherlands.





Judge Fausto Pocar
Pre-Appeal Judge

[Seal of the Tribunal]

¹⁹ See, e.g., *Renzaho* Decision of 21 October 2009, paras. 5-7.

²⁰ Decision of 28 February 2011, paras. 6, 7.