



Tribunal pénal international pour le Rwanda  
International Criminal Tribunal for Rwanda

130/H  
*OK*  
ICTR-00-55B-A  
20<sup>th</sup> May 2011  
{130/H - 127/H}

IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Pre-Appeal Judge

Registrar: Mr. Adama Dieng

Decision of: 20 May 2011

**ILDEPHONSE HATEGEKIMANA**

v.

**THE PROSECUTOR**

Case No. ICTR-00-55B-A

**DECISION ON ILDEPHONSE HATEGEKIMANA'S SECOND 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: 20<sup>th</sup> May 2011  
Action: R. Jallow  
To: Concerned Judges, Parties

Judicial Archives, LSS, LOS  
*[Signature]*

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 NOUS  
NAME (NOU): ROSETTE MUZIGO-MORRISON  
SIGNATURE: *[Signature]* DATE: 20-May-2011

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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,<sup>1</sup> am seised of a Motion filed on 17 May 2011 by Mr. Ildephonse Hategekimana for an extension of time to file his Appellant's brief.<sup>2</sup> The Prosecution has not yet responded.<sup>3</sup>

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.<sup>4</sup> The written Trial Judgement was filed in English on 14 February 2011. On 16 March 2011, Mr. Hategekimana filed his Notice of Appeal.<sup>5</sup> The French translation of the Trial Judgement was completed less than a month later, on 12 April 2011, well ahead of the previously anticipated date of 9 May 2011.<sup>6</sup> On 13 April 2011, Mr. Hategekimana's first request for an extension of time to file his Appellant's brief was denied, in part based on this change in circumstances.<sup>7</sup> His Appellant's brief is currently due by 30 May 2011.

3. Mr. Hategekimana seeks a 30 day extension of time to file his Appellant's brief.<sup>8</sup> He submits that the extension is warranted by an unforeseen problem with his counsel's computer on 5 May 2011.<sup>9</sup> He notes that his counsel was unable to have the data from the computer recovered in Cameroon; thus, on 16 May 2011, his counsel sought the assistance of the Tribunal's Electronic Data Processing Unit, which is currently working on the problem.<sup>10</sup>

4. In addition, Mr. Hategekimana seeks reconsideration of the Decision of 13 April 2011.<sup>11</sup> In particular, he alleges unequal treatment with other Francophone convicted persons who were

<sup>1</sup> Order Assigning a Pre-Appeal Judge, 20 January 2011.

*Requête en extrême urgence d'Ildephonse Hategekimana en vue de l'extension ou de la prorogation du délai de dépôt de son mémoire d'appel*, 17 May 2011 ("Motion").

<sup>3</sup> The Prosecution will not be prejudiced by the outcome of this decision, and it is in the interests of justice to render this decision without awaiting the Prosecution's response to the Motion.

<sup>4</sup> 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.

<sup>5</sup> *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").

<sup>6</sup> Decision on Ildephonse Hategekimana's Motion for an Extension of Time to File his Appellant's Brief, 13 April 2011 ("Decision of 13 April 2011"), para. 8. See also 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. 2.

<sup>7</sup> Decision of 13 April 2011, paras. 8, 9.

<sup>8</sup> Motion, paras. 28, 30.

<sup>9</sup> Motion, paras. 8-11.

<sup>10</sup> Motion, para. 9.

<sup>11</sup> Motion, paras. 12-39.

granted extensions of time to prepare their Appellant's briefs.<sup>12</sup> He also argues that his counsel was only accorded a brief 10 day mission to Arusha to consult on the Notice of Appeal, which was insufficient in view of the length of the Trial Judgement.<sup>13</sup> Finally, he notes that a review of the French version of the Trial Judgement revealed additional factual errors, in particular in relation to the murder of Jean Bosco Rugomboka and the killings at Ngoma parish and the *Maison générale*.<sup>14</sup>

5. 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 substantiated his counsel's purported computer failure. Accordingly, he has not demonstrated good cause for an extension of time.

6. The Appeals Chamber may reconsider a previous decision pursuant to its inherent discretionary power if a clear error of reasoning has been demonstrated or if it is necessary to prevent an injustice.<sup>15</sup> According to Rule 116(B) of the Rules, the requirement of good cause is satisfied where the ability 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. As Mr. Hategekimana's Lead Counsel has the ability to work in both French and English, from the filing of the Trial Judgement in English, he was in a position to begin preparing the Appellant's brief and discuss its contents with Mr. Hategekimana.<sup>16</sup>

7. In circumstances where a convicted person's counsel can work in French and English, as is the case here,<sup>17</sup> the purpose of granting an extension of time is to allow the convicted person sufficient time to familiarize himself with the Trial Judgement so as to give his final approval in respect of the Appellant's brief. It is not to give counsel, who can work in the original language of the Trial Judgement, additional time to prepare. Significantly, in the present case, the French version of the Trial Judgement was made available 48 days before the deadline for the submission of the Appellant's brief. This period of time is sufficient to allow Mr. Hategekimana to familiarize himself with the contents of the Trial Judgement in order to advise his counsel and give final approval of the Appellant's brief. While other convicted persons may have received an extension of time to prepare their Appellant's briefs, this was based on the timing of the translation of their Trial Judgements. The fact that Mr. Hategekimana's translation took less time does not make the time

<sup>12</sup> Motion, paras. 12-26.

<sup>13</sup> Motion, para. 34.

<sup>14</sup> Motion, para. 36.

<sup>15</sup> See *Emmanuel Rukundo v. The Prosecutor*, Case No. ICTR-01-70-A, Decision on Reconsideration of the Decision on the Filing of Emmanuel Rukundo's Reply Brief, 4 May 2010, para. 5.

<sup>16</sup> Decision of 13 April 2011, paras. 7, 8; Decision of 28 February 2011, paras. 6, 7.

<sup>17</sup> Decision of 13 April 2011, para. 8.

accorded to him for the preparation of the Appellant's brief – which is in conformity with Rule 111 of the Rules – unfair.

8. Mr. Hategekimana has also not demonstrated why his Lead Counsel's 10 day mission to Arusha during the preparation of the Notice of Appeal has any impact on the time allotted for the preparation of the Appellant's brief. Finally, Mr. Hategekimana provides no details concerning the new errors that he purports to have identified following the issuance of the French translation of the Trial Judgement or any justification why these cannot be addressed prior to the deadline for the filing of his Appellant's brief.

9. Accordingly, Mr. Hategekimana has not demonstrated any clear error of reasoning in the Decision of 13 April 2011 or that he would suffer an injustice as a result of the deadline of 30 May 2011 for the filing of his Appellant's brief.

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

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

Done this 20th day of May 2011,  
at The Hague,  
The Netherlands.



A handwritten signature in black ink, which appears to read "Fausto Pocar".

Judge Fausto Pocar  
Pre-Appeal Judge

[Seal of the Tribunal]