

UNITED NATIONS
NATIONS UNIES

Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

514/H
ICTR-00-56-A
26th October 2011
{514/H-511/H}

IN THE APPEALS CHAMBER

Before: Judge Patrick Robinson, Pre-Appeal Judge

Registrar: Mr. Adama Dieng

Decision of: 26 October 2011

Augustin NDINDILYIMANA
Augustin BIZIMUNGU
François-Xavier NZUWONEMEYE
Innocent SAGAHUTU

v.

THE PROSECUTOR

Case No. ICTR-00-56-A

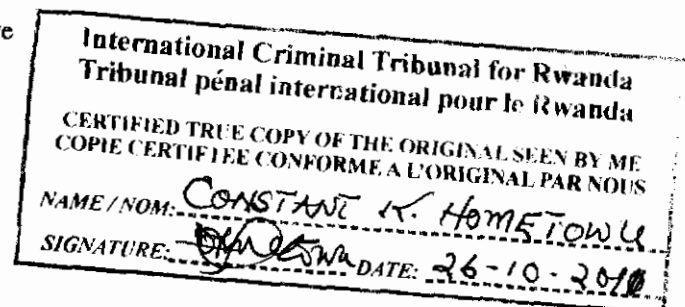
**DECISION ON SAGAHUTU'S MOTION FOR EXTENSION OF TIME TO FILE HIS
RESPONDENT'S BRIEF**

Defence Counsel:

Mr. Christopher Black for Augustin Ndindiliyimana
Mr. Gilles St-Laurent for Augustin Bizimungu
Mr. Charles A. Taku for François-Xavier Nzuwonemeye
Mr. Fabien Segatwa for Innocent Sagahutu

The Office of the Prosecutor:

Mr. Hassan Bubacar Jallow
Mr. James J. Arguin
Mr. William Egbe
Mr. Abubacarr Tambadou



I, **Patrick Robinson**, Presiding 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

RECALLING that, on 17 May 2011, Trial Chamber II of the Tribunal convicted all four accused in the *Ndindiliyimana et al.* case and that the written Trial Judgement was filed in English on 17 June 2011;²

NOTING that the Prosecution filed its notice of appeal against the Trial Judgement on 20 July 2011, and its Appellant's brief on 3 October 2011, both written in English;³

BEING SEISED of a confidential motion for extension of time filed by Innocent Sagahutu, in which he requests a 40-day extension of time for the filing of his Respondent's brief from the filing of the French translation of the Trial Judgement, or a 30-day extension of time from the filing of the French translation of the Prosecution Appellant's Brief in case this translation is filed after the filing of the French translation of the Trial Judgement;⁴

NOTING that the Prosecution has not yet filed a response;

NOTING that the Prosecution's appeal concerning Mr. Sagahutu is limited to sentencing;⁵

NOTING that, in accordance with Rule 112(A) of the Rules of Procedure and Evidence of the Tribunal ("Rules"), Mr. Sagahutu's Respondent's brief is due within 30 days of the filing of the Prosecution Appellant's Brief, that is no later than 2 November 2011;

NOTING that neither Mr. Sagahutu nor his Counsel work in English;⁶

CONSIDERING that Rule 116(A) of Rules allows for the extension of time of any deadline on a showing of good cause;

¹ Order Assigning a Pre-Appeal Judge, 8 July 2011.

² T. 17 May 2011 pp. 23-25. See also *The Prosecutor v. Augustin Ndindiliyimana et al.*, Case No. ICTR-00-56-T, Judgement and Sentence, dated 17 May 2011 and filed on 17 June 2011 ("Trial Judgement"), paras. 71, 73, 75, 77, 2085, 2106-2108, 2119, 2120, 2128, 2152-2157, 2162, 2163.

³ Prosecutor's Notice of Appeal, 20 July 2011 ("Notice of Appeal"); Prosecution's Consolidated Appellant's Brief, 3 October 2011 ("Prosecution Appellant's Brief").

⁴ *Demande de Prorogation du délai de réponse au mémoire d'appel du Procureur du 3 octobre 2011 en vertu de l'article 116 du Règlement de procédure et de preuve*, confidential, 17 October 2011 ("Motion"), paras. 1, 16, 17. In light of paragraphs 1 and 17 of the Motion which unambiguously refer to a 30-day extension from the filing of the French translation of the Prosecution Appellant's Brief, I will disregard the reference in paragraph 18 of the Motion to a 40-day extension of time after the French translation of the Prosecution Appellant's Brief is made available.

⁵ Notice of Appeal, paras. 49-58; Prosecution Appellant's Brief, paras. 10, 11, 214, 215, 218-222, 303-322.

⁶ Decision on Motions for Extension of Time for the Filing of Appeal Submissions, 11 July 2011, para. 12.

CONSIDERING that Rule 116(B) of the Rules provides that the requirement for 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”;

CONSIDERING that it is in the interests of justice to allow Mr. Sagahutu adequate time to read the Trial Judgement and the Prosecution Appellant’s Brief in a language he understands and to consult with his Counsel before filing his Respondent’s brief and that, accordingly, good cause exists to suspend the 30-day time-limit for the filing of his Respondent’s brief prescribed in the Rules until the filing of the French translations of the Trial Judgement and the Prosecution Appellant’s Brief, whichever is later;⁷

CONSIDERING that Mr. Sagahutu has failed to demonstrate good cause for a further 10-day extension of time from the filing of the French translation of the Trial Judgement;

CONSIDERING that all submissions filed before this Tribunal shall be public unless there are exceptional reasons for keeping them confidential,⁸ and that no exceptional reasons exist to justify the confidential status of the Motion;

FOR THE FOREGOING REASONS

GRANT the Motion, in part;

ORDER Mr. Sagahutu to file his Respondent’s brief no later than 30 days after the filing of the French translation of the Trial Judgement and the Prosecution Appellant’s Brief, whichever is later; and

⁷ See Decision on Bizimungu’s and Nzuwonemeye’s Motions for Extension of Time to File Their Respondent’s Briefs, 21 September 2011, p. 2; *Jean-Baptiste Gatete v. The Prosecutor*, Case No. ICTR-00-61-A, Decision on Extension of Time Limits, 26 May 2011, para. 8; *Ephrem Setako v. The Prosecutor*, Case No. ICTR-04-81-A, Decision on Ephrem Setako’s Motion for an Extension of Time for the Filing of the Respondent’s Brief, 16 July 2010, para. 7; *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 Respondent’s Brief, 10 March 2009, para. 4.

⁸ See Rules 78 and 107 of the Rules.

INSTRUCT the Registrar to lift the confidential status of the Motion.

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

Done this twenty-sixth day of October 2011,
at The Hague,
The Netherlands.



Judge Patrick Robinson
Pre-Appeal Judge

[Seal of the Tribunal]

