



UNITED NATIONS
NATIONS UNIES



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

828/H

EX

ICTR-98-42-A
28th October 2011
{828/H – 825/H}

IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Pre-Appeal Judge
Registrar: Mr. Adama Dieng
Decision of: 28 October 2011

The PROSECUTOR

v.

**Pauline NYIRAMASUHUKO
Arsène Shalom NTAHOBALI
Sylvain NSABIMANA
Alphonse NTEZIRYAYO
Joseph KANYABASHI
Élie NDAYAMBAJE**

JUDICIAL RECORDS/ARCHIVES
UNICTR

2011 OCT 28 P 3: 17
[Signature]

Case No. ICTR-98-42-A

**DECISION ON JOSEPH KANYABASHI'S MOTION FOR EXTENSION OF
TIME TO FILE HIS RESPONSE BRIEF**

Counsel for Pauline Nyiramasuhuko
Nicole Bergevin

Counsel for Arsène Shalom Ntahobali
Normand Marquis

Counsel for Sylvain Nsabimana
Josette Kadji

Counsel for Alphonse Nteziryayo
Titinga Frédéric Pacere

Counsel for Joseph Kanyabashi
Michel Marchand

Counsel for Élie Ndayambaje
Pierre Boulé

Office of the Prosecutor:
Hassan Bubacar Jallow
James Arguin
Deborah Wilkinson
Ndéye Marie Ka

**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 / NOM: *CONSTANT K. HOMESTON*
SIGNATURE: *[Signature]* DATE: *28-10-2011*

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 (“Appeals Chamber” and “Tribunal”, respectively), and Pre-Appeal Judge in this case;¹

NOTING the Trial Judgement pronounced by Trial Chamber II of the Tribunal on 24 June 2011, and issued in writing in English on 14 July 2011;²

NOTING the notice of appeal against the Trial Judgement filed by the Prosecution on 1 September 2011;³

NOTING that, in accordance with Rule 111(A) of the Rules of Procedure and Evidence of the Tribunal (“Rules”), the Prosecution’s appeal brief is currently due on 15 November 2011;

BEING SEISED of “*Requête amendée de Joseph Kanyabashi en extension de délai pour le dépôt de son mémoire d’Intimé*” filed by Joseph Kanyabashi on 26 September 2011 (“Motion”), in which Mr. Kanyabashi requests a 60-day extension of time for the filing of his response brief from the date of service of the French translation of the Trial Judgement or the French translation of the Prosecution’s appeal brief, whichever comes later, primarily based on his inability to understand English;⁴

NOTING that the Prosecution responds that Mr. Kanyabashi should not be granted an extension exceeding 15 days from the French translation of the Trial Judgement;⁵

NOTING Mr. Kanyabashi’s reply filed on 10 October 2011;⁶

CONSIDERING that, pursuant to Rule 112(A) of the Rules, a response brief shall be filed within 40 days of filing of the appeal brief;

¹ Order Assigning a Pre-Appeal Judge, 21 July 2011.

² *The Prosecutor v. Pauline Nyiramasuhuko et al.*, Case No. ICTR-98-42-T, Judgement and Sentence, delivered in public and signed on 24 June 2011, filed on 14 July 2011 (“Trial Judgement”). See also T. 24 June 2011.

³ Prosecutor’s Notice of Appeal, 1 September 2011.

⁴ Motion, paras. 5, 9-11, 13.

⁵ Prosecution Response to Kanyabashi’s Motion for Extension of Time for Filing Respondent’s Brief, 6 October 2011, paras. 1, 11, 12. I understand from the Prosecution’s response that its appeal brief will be written in English.

⁶ *Réplique de Joseph Kanyabashi à la Réponse du Procureur concernant la Requête en extension de délai pour le dépôt de son mémoire d’Intimé*, 10 October 2010.

CONSIDERING that Rule 116(A) of the Rules allows for the extension of a time limit upon a showing of good cause;

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 [d]efence depends on the availability of a decision in an official language other than that in which it was originally issued”;

CONSIDERING that Mr. Kanyabashi does not understand English, but that his Counsel has a working knowledge of that language;⁷

CONSIDERING that it is in the interests of justice to allow Mr. Kanyabashi adequate time to read the Trial Judgement and the Prosecution’s appeal brief in a language he understands and to consult with his Counsel prior to filing his response brief;⁸

CONSIDERING further that, based on the preliminary indications provided by the Tribunal’s Language Services Section (“LSS”), an extension of time from the date the French translation of the Prosecution’s appeal brief is served on Mr. Kanyabashi and his Counsel will not impact the overall time dedicated to considering the appeals in this case;

CONSIDERING therefore that good cause exists to grant an extension of time for the filing of Mr. Kanyabashi’s response brief;

CONSIDERING however that, given that Mr. Kanyabashi’s Counsel is able to work in English, he may commence the preparation of the response brief before receiving the French translations of the Trial Judgement and the Prosecution’s appeal brief, and that it is therefore appropriate in this instance to allow a more limited extension of time than the extension requested;

FOR THE FOREGOING REASONS,

GRANT the Motion in part;

ORDER Mr. Kanyabashi to file his response brief no later than 30 days from the date he is served with the French translations of the Trial Judgement and the Prosecution’s appeal, whichever is later; and

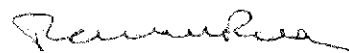
⁷ See Decision on Motions for Extension of Time for the Filing of Appeal Submissions, 25 July 2011, paras. 7, 11.

⁸ See *Augustin Nindiliyimana et al. v. The Prosecutor*, Case No. ICTR-00-56-A, Decision on Bizimungu’s and Nzuwonemeye’s Motions for Extension of Time to File Their Respondent’s Brief, 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 (“*Setako Decision*”), para. 7; *Protais*

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INSTRUCT the Registrar to formally inform the Appeals Chamber and the parties in this case of the approximate date LSS expects to complete the French translation of the Trial Judgement, and so no later than 30 November 2011.

Done this 28th day of October 2011,
at The Hague,
The Netherlands.



Fausto Pocar
Pre-Appeal Judge

[Seal of the Tribunal]

