



ICTR-99-52-A
 25 April 2005
 C2246/H-2244/H

2246/H
 RMM

Tribunal Pénal International pour le Rwanda
 International Criminal Tribunal for Rwanda

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Presiding
 Judge Mohamed Shahabuddeen
 Judge Florence Ndepele Mwachande Mumba
 Judge Fausto Pocar
 Judge Inés Mónica Weinberg de Roca

Registrar: Mr. Adama Dieng

Decision of: 25 April 2005

ICTR Appeals Chamber
 Date: 25 April 2005
 Action:
 Copied To: Concerned Judges,

Ferdinand NAHIMANA
 Jean-Bosco BARAYAGWIZA
 Hassan NGEZE
 (Appellants)

LDs, Parties, Judicial
 Archives

v.

THE PROSECUTOR
 (Respondent)

Case No. ICTR-99-52-A

JUDICIAL RECORDS/ARCHIVES
 ICTR
 2005 APR 26 A 10:30

DECISION ON "APPELLANT HASSAN NGEZE'S MOTION FOR LEAVE TO PERMIT HIS DEFENCE COUNSEL TO COMMUNICATE WITH HIM DURING AFTERNOON FRIDAY, SATURDAY, SUNDAY AND PUBLIC HOLIDAYS"

Counsel for the Appellant, Hassan Ngeze

Mr. Bahrat B. Chadha
 Mr. Behram N. Shroff

Counsel for the Prosecutor

James Stewart
 Neville Weston
 Abdoulaye Seye

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: ROSETTE MUZIGO-MORRISON
 SIGNATURE: [Signature] DATE: 25/04/05

BEFORE 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 1994 and 31 December 1994 ("Appeals Chamber" and "Tribunal", respectively).

1. The Appeals Chamber is seized of "Appellant Hassan Ngeze's Motion for Leave to Permit his Defence Counsel to Communicate with Him During Afternoon Friday, Saturday, Sunday and Public Holidays", filed 4 April 2005 ("Appellant" and "Motion", respectively), in which the Appellant requests the Appeals Chamber to issue an order "to permit his counsel to communicate with [him] any time whenever the counsel requires to do so in connection with the preparation of his pending Appeal as was the practice during the trial proceedings."¹ The Registrar submitted observations on this matter on 21 April 2005.² The Prosecution did not file a response.

2. The Appeals Chamber recalls that, pursuant to Rule 3 of "The Rules Covering the Detention of Persons Awaiting Trial or Appeal before the Tribunal or Otherwise Detained on the Authority of the Tribunal"³ ("Rules on Detention"), the Commanding Officer of the United Nations Detention Unit has primary responsibility for all aspects of the daily management of the Detention Unit.⁴ Rules 82 and 83 of the Rules of Detention set out the procedure by which a detainee may make a complaint to the Commanding Officer regarding his conditions of detention. If the detainee is not satisfied with the response of the Commanding Officer, he or she may make a written complaint to the Registrar who shall forward it to the President.⁵ The Appeals Chamber finds that in the present case, this procedure was not followed.

¹ Motion, p. 2.

² Registrar's Submission under Rule 33(B) of the Rules on Appellant Hassan Ngeze's Motion for Leave to Permit His Defence Counsel to Communicate with him during Afternoon Friday, Saturday, Sunday and Public Holidays, filed 21 April 2005.

³ Adopted 5 June 1998, as amended.

⁴ Rule 3 of the Rules on Detention.

⁵ Rules 82 and 83 of the Rules on Detention.

45
13

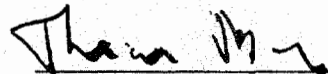
2244/H

3. The Appeals Chamber notes however that, if, after having gone through the prescribed procedure, the Appellant still considers that his right to fair proceedings is being infringed by the alleged restriction on his communications with his Counsel, he can raise the matter with the Appeals Chamber, which has the statutory duty to ensure the fairness of the proceedings on appeal.⁶

4. For the foregoing reasons, the Motion is dismissed.

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

Dated this 25th day of April 2005,
At The Hague, The Netherlands


Theodor Meron
Presiding Judge

[Seal of the Tribunal]



⁶ Cf. *Prosecutor v. Milutinović, Ojdanić & Sainović*, Case No IT-99-37-AR73.2, Decision on Interlocutory Appeal on Motion for Additional Funds, 13 November 2003, paras 19-20.