

6778/H



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

ICTR-99-52-A
31st January 06
(6778/H - 6775/H)

BEFORE THE PRE-APPEAL JUDGE

Before: Judge Andrésia Vaz, Pre-Appeal Judge
Registrar: Mr. Adama Dieng
Decision of: 31 January 2006

Ferdinand NAHIMANA
Jean-Bosco BARAYAGWIZA
Hassan NGEZE
(Appellants)

v.

THE PROSECUTOR
(Respondent)

Case No. ICTR-99-52-A

ICTR Appeals Chamber
Date: 31 January 2006
Action: A.J.
Copied To: Concerned Judges,
Parties, Judicial Archived,
LD, LSS

**DECISION ON HASSAN NGEZE'S MOTIONS REQUESTING A STATUS
CONFERENCE TO BE HELD IN ARUSHA ON 8 FEBRUARY 2006**

Counsel for Hassan Ngeze
Mr. Bharat B. Chadha
Mr. Behram N. Shroff

Office of the Prosecutor
Mr. James K. Stewart
Mr. Neville Weston

Counsel for Ferdinand Nahimana
Mr. Jean-Marie Biju-Duval
Ms. Diana Ellis

Counsel for Jean-Bosco Barayagwiza
Mr. D. Peter Herbert
Mr. Tanoo Mylvaganam

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME
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NAME / NOM: ROSETTE MUZIGO-MORRISON
SIGNATURE: DATE: 31/01/06

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I, **ANDRÉSIA VAZ**, 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 1994 and 31 December 1994 ("Appeals Chamber" and "Tribunal", respectively) and Pre-Appeal Judge in this case;¹

BEING SEIZED OF two motions filed by Hassan Ngeze ("Appellant") on 19 January 2006,² in which he requests the Appeals Chamber to grant him "an hour of being heard on a possible status conference to be held in Arusha on 8th February 2006";³

NOTING that the Prosecution has not filed a response to the Appellant's 19 January 2006 Motions;

NOTING that the Appellant requests convening a status conference pursuant to Article 20(4)(e) of the Statute of the Tribunal and Rules 73, 107 and 115 of the Rules of Procedure and Evidence of the Tribunal ("Rules")⁴ without providing any further details on the matters that he wishes to raise, and submits that an opportunity granted to him to address "his problems" through a status conference would be in the interests of justice;⁵

NOTING that the Appellant refers⁶ to the Scheduling Order of 6 January 2006 in the case of *Emmanuel Ndinabahizi v. The Prosecutor* currently pending on appeal,⁷ which orders that a status conference be held before the Pre-Appeal Judge in that case in the presence of Emmanuel Ndinabahizi and his Lead Counsel on 8 February 2006;⁸

CONSIDERING that, pursuant to Rule 65bis(A) of the Rules, the purpose of a status conference is "to organise exchanges between the parties so as to ensure expeditious trial proceedings";

¹ Order of the Presiding Judge Designating the Pre-Appeal Judge, 19 August 2005; Corrigendum to the Order of the Presiding Judge Designating the Pre-Appeal Judge, 25 August 2005.

² "The appellant Hassan Ngeze in Person makes an extremely urgent motion to the Appeals Chamber requesting an equal treatment, similar to the one given to Co-detainees Emmanuel Ndinabahizi in the matter regarding the Grant of status conference only, and further, re-submits a request of having an hour of being heard on a possible status conference to be held in Arusha on 8th February 2006, as it is a routine in Emmanuel Ndinabahizi case (Case No. ICTR-01-71-A)", 19 January 2006 ("First Motion"), and "The Appellant Hassan Ngeze in Person further submits his additional request of being included in the Appeal scheduling order of 8th February 2006 if his request of being given similar treatment like those given to Emmanuel Ndinabahizi (Case NO. ICTR-01-71-A.) in the matter only regarding status conference is granted", 19 January 2006 ("Second Motion", or "19 January 2006 Motions", jointly).

³ First Motion, p. 2; Second Motion, p. 2.

⁴ First Motion, p. 2.

⁵ *Ibid.*, p. 3.

⁶ *Idem.*

⁷ Case No. ICTR-01-71-A.

⁸ *Emmanuel Ndinabahizi v. The Prosecutor*, Case No. ICTR-01-71-A, Scheduling Order, 6 January 2006, p. 2.

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CONSIDERING also that it is the prerogative of the Appeals Chamber and/or the Pre-Appeal Judge to convene a status conference given the circumstances of each particular case;

RECALLING the Pre-Appeal Judge's "Decision on Hassan Ngeze's 'Request of an Extremely Urgent Status Conference Pursuant to Rule 65bis of Rules of Procedure and Evidence'" of 20 September 2005 ("Decision of 20 September 2005") and "Decision on Hassan Ngeze's Request for a Status Conference" of 13 December 2005 ("Decision of 13 December 2005"), both denying the Appellant's request to convene a status conference to discuss the matters submitted by him, including *inter alia*, the restrictive measures imposed on the Appellant;⁹

CONSIDERING that, in his 19 January 2006 Motions, the Appellant does not provide any details concerning the matters that he wishes to address during a status conference;

CONSIDERING that the Appellant has not shown that a status conference would facilitate expeditious proceedings on appeal at the present stage;¹⁰

FINDING, therefore, that there is no need to convene a status conference in this case on 8 February 2006;

CONSIDERING that in light of the abovementioned Pre-Appeal Judge's Decisions of 20 September and 13 December 2005, the request of the Appellant to have a status conference convened on 8 February 2006, without substantiating the request, is frivolous;

RECALLING, that a counsel assigned to an accused "shall deal with all stages of procedure and all matters arising out of the representation of the [...] accused or of the conduct of his Defence";¹¹

CONSIDERING, therefore, that it was improper for the Appellant's Counsel to simply "forward"¹² the 19 January 2006 Motions to the Appeals Chamber while they were clearly prepared by the Appellant himself;

⁹ Decision of 20 September 2005, p. 3; Decision of 13 December 2005, p. 4.

¹⁰ See also, *idem*.

¹¹ Directive on the Assignment of Defence Counsel of 9 January 1996, as amended, Article 15(A).

¹² See Letters from the Appellant's Lead Counsel addressed to the Coordinator of the Court Management Section of the Appeals Chamber and accompanying the 19 January 2006 Motions.

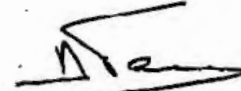
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FOR THE FOREGOING REASONS,

DISMISS both 19 January 2006 Motions;

DIRECT the Registrar to withhold the payment of fees, if claimed, in relation to both 19 January 2006 Motions and attachments thereto;

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



Andréia Vaz
Pre-Appeal Judge

Dated this 31st day of January 2006,
At The Hague, The Netherlands



[Seal of the Tribunal]