



Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

ICTR-05-86-AR11bis

08 June 2006

(11/H - 09/H)

11/H

IN THE APPEALS CHAMBER

Before:

Judge Fausto Pocar, Presiding  
Judge Liu Daqun  
Judge Andréia Vaz  
Judge Theodor Meron  
Judge Wolfgang Schomburg

ICTR Appeals Chamber  
Date: 08 June 2006  
Action: *Rev.*  
Copied To: *See list of service*  
*[Signature]*

Registrar:

Mr. Adama Dieng

Decision of:

8 June 2006

THE PROSECUTOR

v.

Michel BAGARAGAZA

Case No. ICTR-05-86-AR11bis

JUDICIAL DEPARTMENT ARCHIVES  
ICTR  
2006 JUN -9 P 9:43

Decision on the Prosecution's Request for a Scheduling Order

Office of the Prosecutor:

Mr. Hassan Bubacar Jallow

~~Mr. George Mugwanaya~~

Counsel for the Defence:

Mr. Geert Jan Alexander Knoops

International Criminal Tribunal for Rwanda  
Tribunal penal international pour le Rwanda  
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME  
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NAME / NOM: *KREEL KUMELI* A. AFANDE  
SIGNATURE: *[Signature]* DATE: *08 June 2006*

## 10/H

1. 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 Serious Violations Committed in the Territory of Neighbouring States, between 1 January and 31 December 1994 ("Appeals Chamber" and "Tribunal", respectively) is seized of an interlocutory appeal filed by the Prosecution,<sup>1</sup> pursuant to Rule 11bis(H) of the Tribunal's Rules of Procedure and Evidence ("Rules"), against a Trial Chamber decision,<sup>2</sup> denying its request to refer the case of Michel Bagaragaza to the Kingdom of Norway.

2. The Appeals Chamber is also presently seized of a request by the Prosecution for clarification on how to proceed in an appeal under Rule 11bis and for a scheduling order for the filing of written briefs by the parties.<sup>3</sup> The Prosecution makes no submissions concerning a possible proper framework for appealing under the rule, and simply makes reference to the practice adopted by the Appeals Chamber for the International Criminal Tribunal for the Former Yugoslavia ("ICTY").<sup>4</sup>

3. Rule 11bis(H) sets a time frame of fifteen days for the filing of a notice of appeal, but is silent on the period for filing an appeal brief. Under the equivalent provision of the Rules of Procedure and Evidence for the ICTY, the Appeals Chamber has followed a practice of allowing fifteen days from the filing of the notice of appeal for the filing of the appeal brief on the merits.<sup>5</sup> The Appeals Chamber sees no reason to depart from this practice in considering appeals under Rule 11bis in this Tribunal.

4. As this is the first appeal of a decision taken under Rule 11bis in this Tribunal, the Appeals Chamber will allow the Prosecution to file its appeal brief within fifteen days from filing of this decision.<sup>6</sup> The Appeals Chamber finds no reason to issue a detailed scheduling order as its practice directives fully cover the procedures to follow in cases under the Rules where an appeal lies as of right.<sup>7</sup>

<sup>1</sup> Prosecutor's Notice of Appeal (Rule 11bis (H)), 1 June 2006.

<sup>2</sup> *The Prosecutor v. Michel Bagaragaza*, Case No. ICTR-2005-86-R11bis, Decision on the Prosecution Motion for Referral to the Kingdom of Norway, 19 May 2006.

<sup>3</sup> Prosecutor's Motion for a Scheduling Order (Rule 11bis (H)), 1 June 2006 ("Prosecution Motion"). Mr. Bagaragaza has not yet responded to this motion. However, the Appeals Chamber does not find that Mr. Bagaragaza would be prejudiced by taking this decision prior to the expiration of the period normally allowed for a response.

<sup>4</sup> *Prosecution Motion, para. 3* (citing *The Prosecutor v. Radovan Stanković*, Case No. IT-96-23/2-AR11bis.1, Decision on Defence Application for Extension of Time to File Notice of Appeal, 9 June 2005 ("Stanković Decision")).

<sup>5</sup> *Stanković Decision*, paras. 17, 18. See also *The Prosecutor v. Paško Ljubičić*, Case No. IT-00-41-AR11bis.1, Decision on Motion for Extension of Time, 10 May 2006, p. 1.

<sup>6</sup> See *Stanković Decision*, para. 18.

<sup>7</sup> See generally Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings before the Tribunal, 16 December 2002, paras. 1-3; Practice Direction on the Length of Briefs and Motions on Appeal, 16 September 2002, para. C(2). See also *Stanković Decision*, para. 14-16, 18, which analogizes an appeal under Rule 11bis Case No. ICTR-05-86-AR11bis

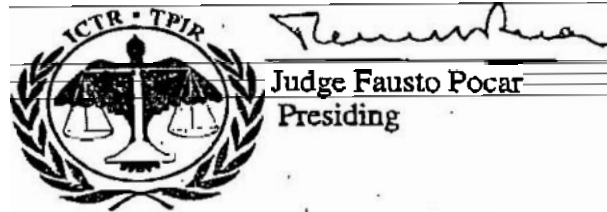
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9/H

5. For the foregoing reasons, the Appeals Chamber **ORDERS** the Prosecution to file its appeal brief within fifteen days at the latest from the date of this decision (*i.e.* by 23 June 2006).

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

Done this 8th day of June 2006,  
At The Hague,  
The Netherlands.



Judge Fausto Pocar  
Presiding

[Seal of the Tribunal]

to an interlocutory appeal and refers the parties to the ICTY practice directive for guidance on filing written submissions.

UNITED NATIONS  
NATIONS UNIES
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Tribunal Pénal International pour le Rwanda**

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**APPEALS CHAMBER – PROOF OF SERVICE  
CHAMBRE D'APPEL - PREUVE DE NOTIFICATION**

8 June 2006

Case Name / Affaire: *BAGARAGAZA*

THE PROSECUTOR

Case No / No. de l'affaire: *ICTR-2005-86-AR11bis*v.  
Michel BAGARAGAZATo:  
A:**CMS ARUSHA**

✘ Judicial Records and Archives

✘ Fax: 1795251

**APPEALS UNIT**

✘ Ms Félicité Talon,

**APPEALS CHAMBER**

- ✘ Judge / Juge Fausto Pocar, Presiding,
- ✘ Judge / Juge Liu Daqun
- ✘ Judge / Juge Andresia Vaz
- ✘ Judge / Juge Theodor Meron
- ✘ Judge / Juge Wolfgang Schomburg

- ✘ Ms Catherine Marchi-Uhel
- ✘ Mr Roman Boed
- ✘ Concerned Associate Legal Officers
- ✘ Mr Charles Zama

**DEFENSE**✘ Accused / *accusé* : Mr. Mr. Michel BAGARAGAZA, UNDU, The Hague.

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From:

✘ Knoff Afande

✘ Charles Zama

✘ Rosette Muzigo-Morrison

De:

Subject

Kindly find attached the following documents / *Veillez trouver en annexe les documents suivants*:

Objet:

Documents name / *Titre du document*Date Filed / *Date d'enregistrement*

Pages

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