

**International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

Arusha International Conference Centre
P.O.Box 6016, Arusha, Tanzania - B.P. 6016, Arusha, Tanzanie
Tel: 255 57 4207-11 4367-72 or 1 212 963 2850 Fax: 255 57 4000/4373 or 1 212 963 2848/49

ICTR-04-8-A
20-04-2010
(66/A - 48/A)

66/A
AM

APPEALS CHAMBER

Before: Judge Patrick Robinson, Presiding Judge
Judge Mehmet Güney
Judge Fausto Pocar
Judge Liu Daqun
Judge Carmel Agius

Registrar: Mr. Adama Dieng

Date of filing: 20 April 2010

THE PROSECUTOR

v.

EPHREM SETAKO

Case No. ICTR-04-8-A

JUDICIAL
2010 APR 20 2:44:07
AM

**CORRIGENDUM TO MOTION TO DISMISS DEFENDANT'S
NOTICE OF APPEAL**

Office of the Prosecutor

Hassan Bubacar Jallow
Deborah Wilkinson

Counsel for Ephrem Setako

Lennox Hinds
Cainnech Lussiaà-Berdou

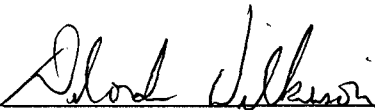
1. On 19 April 2010 the Prosecutor filed his Motion to Dismiss Defendant's Notice of Appeal in *The Prosecutor v. Ephrem Setako*, Case No. ICTR-04-81-A.
2. Having observed inadvertent omissions in the Motion to Dismiss Defendant's Notice of Appeal, the Prosecutor respectfully submits this Corrigendum to request its correction as follows:

At the conclusion of the Motion to Dismiss, insert "Word Count: 1311":

Attach Annexes 1 - 7, provided with this Corrigendum, to the Motion to Dismiss.

3. Respectfully submitted,

DATED: 20 April 2010
Arusha, Tanzania



Deborah Wilkinson
Senior Appeals Counsel

64/A

ANNEX 1

022

63/A

UNICTR
FAX CENTRE
RECEIVED**STEVENS, HINDS & WHITE, P. C.****116 West 111th Street
New York, New York 10026**

2010 MAR -5 A 8:33

Tele: (212) 864-4445**Fax: (212) 222-2680****E-Mail: shwpc@verizon.net****FACSIMILIE COVER SHEET****FAX NUMBER TRANSMITTED TO:** 212-963-2848/49**TO:** Ms. Felicite Talon, Coordinator, The Appeal Chamber**FROM:** Lennox S. Hinds**CLIENT/MATTER:** PROSECUTOR V. SETAKO, ICTR-2004-81-T**DATE:** 3/4/2010**Documents** _____ **Number of Pages** 2**Message:** _____**Comments:** _____

ICTR CENTRAL REGISTRY 5 MAR 2010 ACTION: APP6acJ COPY 1: CMJ
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Not counting cover sheet. If you do not receive all pages, please telephone us immediately at (212) 864-4445
facsimile

62/A

Stevens, Hinds & White, P.C.

HOPE R. STEVENS (1904-1982)
JAVIER A. WHITE (1945-1987)
LENNOX S. HINDS *

ATTORNEYS AT LAW
116 WEST 111TH STREET
NEW YORK, NY 10026

NEW JERSEY OFFICE
42 VAN DOREN AVENUE
SOMERSET, NJ 08873
(732) 873-3096

Of-Counsel:
JULIETTE CHINAUD
GONELBA R. SERI *

TEL: (212) 864-4445
FAX: (212) 222-2680
lawfirmshw@yahoo.com

* New Jersey

March 3, 2010

Ms. Felicite Talon,
The Registry
Coordinator, The Appeal Chamber
Int'l Criminal Tribunal for Rwanda
Arusha, Tanzania
VIA FACSIMILE

Re: Prosecutor v. Setako; ICTR-2004-81-T

Dear Ms. Talon:

Pursuant to the ICTR's Rule of Procedure and Evidence 108, the Notice of Appeal must be filed, "not more than 30 days from the date on which the judgment or the sentence was pronounced."

In the subject matter case, we note that the summary of the judgment was pronounced on February 25, 2010 and a full written judgment was received on March 2, 2010. However, to date, our client, Lt. Col. Setako has not received the full written judgment in French – the language in which he is most competent to perfect his appeal.

Therefore, with respect to the time limits pursuant to RPE 108 in which a timely Notice of Appeal against the judgment and conviction must be filed, it is our presumption that the 30 days period will begin to toll once our client, Lt. Col. Setako has received the full written judgment in French.

61/A

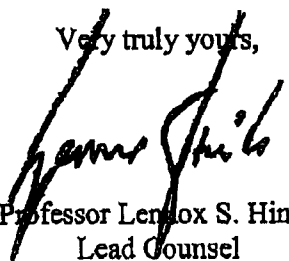
March 3, 2010, page 2 of 2

Ms. Felicite Talon,
The Registry
Coordinator, The Appeal Chamber
Int'l Criminal Tribunal for Rwanda
Arusha, Tanzania

Re: Prosecutor v. Setako; ICTR-2004-81-T

Kindly confirm our understanding in this matter. We thank you in advance for your consideration.

Very truly yours,



Professor Lennox S. Hinds
Lead Counsel

c.c.: Lt. Col Setako, c/o UNDF

ANNEX 2

59/A

Nouhou Diallo
04/13/2010 09:06 AM

To: Deborah Wilkinson/ICTR/UNO@UNICTR
cc:
Subject: Fw: Your letter dates 3 March 2010

Dear Ms. Wilkinson,

Please find below the email sent to Professor Hinds on 16 March 2010. You will receive also the letter very soon.

Best regards

----- Forwarded by Nouhou Diallo/ICTR/UNO on 13/04/2010 09:05 AM -----

Nouhou Diallo
16/03/2010 10:27 AM

To: lhindsshwa@aol.com
cc: Marianne Ben Salimo/ICTR/UNO@UNICTR, Edna
Adonoo/ICTR/UNO@UNICTR
Subject: Your letter dates 3 March 2010

Dear Professor Hinds,

Please be informed that we have received your letter dated 03 March 2010, regarding the deadline of the filing of your Notice of Appeal. We understand that it is important for your client to have the French version of the Judgement before you introduce your notice and this is conform to the practice in that Tribunal. **However, you have to introduce a formal Request to the Appeals Chamber which might grant you the necessary time.** The translation of the Judgement is still going on and as soon as it is ready you would be notified.

Best regards

Nouhou Madani Diallo
Legal Officer, Co-ordinator TCI
CMS, Room K 142A
Tel: 1 212 963 28 50 Ext: 5423 or + 255 27 256 5423
Inter-Mission 1795423
Fax: 1212 963 2848 or 255 27250 4000/4373
Email: diallon@un.org or diallonouhoum@yahoo.com
UNICTR, POBox 6016, Arusha, TANZANIA

ANNEX 3

TRANSACTION REPORT

MAR/16/2010/TUE 02:19 PM

FAX(TX)

#	DATE	START T.	RECEIVER	COM.TIME	PAGE	TYPE/NOTE	FILE
001	MAR/16	02:18PM	912129632849	0:01:13	2	MEMORY OK	G3 1148

STEVENS, HINDS & WHITE, P. C.
116 West 111th Street
New York, New York 10026
Tele:(212)864-4445
Fax:(212)222-2680
E-Mail: shwpc@verizon.net
FACSIMILIE COVER SHEET

FAX NUMBER TRANSMITTED TO: 212-963-2848/49

TO: Adama Dieng

FROM: Lennox S. Hinds, Lead Counsel

CLIENT/MATTER: PROSECUTOR V. SETAKO ICTR-2004-81-A

DATE: 3/16/2010

Documents _____ **Number of Pages** 1

Message: _____

Comments: _____

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JAVIER A. WHITE (1945-1987)
LENNOX S. HINDS *

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Of-Counsel:
JULIETTE CHINAUD
GONELBA R. SERI *

TEL: (212) 864-4445
FAX: (212) 222-2680
lawfirmshw@yahoo.com

• New Jersey

March 16, 2010

Adama Dieng
The Registrar
Int'l Criminal Tribunal for Rwanda
Arusha, Tanzania
VIA FACSIMILE

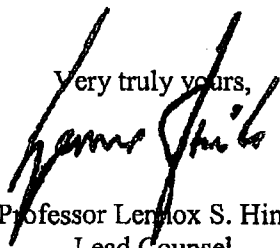
Re: Prosecutor v. Setako; ICTR-2004-81-A

Dear Mr. Dieng:

Pursuant to the ICTR's Rule of Procedure and Evidence 108, the Notice of Appeal must be filed, "not more than 30 days from the date on which the judgment or the sentence was pronounced."

In the subject matter case, we note that the summary of the judgment was pronounced on February 25, 2010 and a full written judgment was received on March 2, 2010. However, to date, our client, Lt. Col. Setako has not received the full written judgment in French – the language in which he is most competent to perfect his appeal. We are, therefore, requesting as a matter of urgency that said judgment be translated into French so that Lt. Col. Setako can participate meaningful in his appeal. Thank you.

Very truly yours,


Professor Lennox S. Hinds
Lead Counsel

c.c.: Lt. Col Setako, c/o UNDF

ANNEX 4

SA/A


Annex A



**International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

Arusha International Conference Centre
P.O. Box 6018, Arusha, Tanzania - B.P. 6018, Arusha, Tanzania
Tel: 255 27 2504207-11 2504367-72 or 1 212 963 2850 Fax: 255 27 2504000/2504373 or 1 212 963 2848/49

FACSIMILE TRANSMISSION — TRANSMISSION PAR TELECOPIE

Date:	17 March 2010	Ref:	ICTR/JUD/11-6-1-10/016
To:	Professor Lennox S. Hinds Stevens, Hinds & White, P.C., New Jersey Office 42 Van Doren Avenue Somerset, NJ 08873	From:	Nouhou M. Diallo, LO Co-ordinator, Trial Chamber I Court Management Section 
Fax No.:	+ 1 212 222 2680	Reply Fax:	255-27-2504373/4000 or 1-212-963-2848
Cc:	- Mr Ephrem Setako, C/O The Commanding Officer, UNDF - Mr Koffi Afande, OIC, Appeals Chamber Support Unit		
Subject:	The Prosecutor v. Ephrem Setako Case N°: ICTR-2004-81-T		

Your letter of March 3, 2010, received in our offices on March 05, 2010 refers.

Further to my email of 16 March 2010, in which we presented our position vis-à-vis the request regarding the deadline for filing your Notice of Appeal to you, kindly note to submit a formal Request to the Appeals Chamber which might grant the necessary extension of time to you.

In addition, we confirm that the translation of the Judgment is in progress and will be distributed soonest.

In the meantime, kindly note that the same team*** that handled the trial proceedings in this case continues to service issues pertaining to its Appeals proceedings as well.

Nota Bene: *** Team Members of Trial Chamber I, Court Management Section

Nouhou Diallo.....diallon@un.org
Marianne Ben Salimo.....salimo@un.org
Edna Adonoo.....adonoo@un.org
Edward Matemanga.....matemanga@un.org
Ivan Nyongo.....nyongo@un.org
Annerose Mtui.....mtula@un.org

Regards.

ANNEX 5

52/A

Annex C

Margaret Kombe
04/12/2010 02:46 PM

To:
cc:
Subject: Fw: Setako_Notice of Appeal

----- Forwarded by Nouhou Diallo/ICTR/UNO on 12/04/2010 12:38 PM -----

Talon Felicite
12/04/2010 11:40 AM

To: Nouhou Diallo/ICTR/UNO@UNICTR
cc:
Subject: Setako_Notice of Appeal

----- Forwarded by Talon Felicite/ICTR/UNO on 12/04/2010 11:40 -----



Lennox Hinds
<lawfirmshw@yahoo.com>
31/03/2010 03:58

To: Talon Felicite <felicite@un.org>
cc: lawfirmshw <lawfirmshw@yahoo.com>, Lennox Hinds
<lhindsshw@aol.com>, Claire Gilchrist <claire.gilchrist@gmail.com>,
Juliette Chinaud <timorjuliette@yahoo.com>
Subject: Setako_Notice of Appeal

Dear Ms. Talon:

Attached please find Appellant Setako's Notice of Appeal. Thank you for your attention.

Juliette Chinaud
Legal Assistant
Setako Defense Team



CMS.pdf Notice of Appeal.pdf

S1/A

ANNEX 6

50/A

Nouhou Diallo
04/14/2010 03:26 PM

To: Deborah Wilkinson/ICTR/UNO@UNICTR
cc:
Subject: Fw: Setako_Motion for an Extension of Time

----- Forwarded by Nouhou Diallo/ICTR/UNO on 14/04/2010 03:26 PM -----

Talon Felicite
12/04/2010 09:35 AM

To: Nouhou Diallo/ICTR/UNO@UNICTR
cc:
Subject: Setako_Motion for an Extension of Time

----- Forwarded by Talon Felicite/ICTR/UNO on 12/04/2010 09:35 -----



Lennox Hinds
<lawfirmshw@yahoo.com>
10/04/2010 02:35

To: Talon Felicite <felicite@un.org>
cc: Lennox Hinds <lawfirmshw@yahoo.com>, Lennox Hinds
<lhindssh@aol.com>, Juliette Chinaud
<timorjuliette@yahoo.com>, Claire Gilchrist
<claire.gilchrist@gmail.com>
Subject: Setako_Motion for an Extension of Time

Dear Ms. Talon:

Attached please find Appellant Setako's Motion for an Extension of Time to File Appellant's Brief. Thank you for your attention.

Claire Gilchrist
Legal Assistant
Setako Defense Team



Setako_Motion for an Extension of Time cms5.pdf

ANNEX 7

48/A



UNITED NATIONS
NATIONS UNIES

**International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

Arusha International Conference Centre
P.O. Box 6016, Arusha, Tanzania
Tel: 255 27 2504367-72 or 1 212 963 2850 — Fax: 255 27 2504000/2504373 or 1 212 963 2848

INTEROFFICE MEMORANDUM — MEMORANDUM INTERNE

To: Mr. Koffi Afande, OIC, Appeals Chamber Support Date: 12 April 2010
A: Unit, The Hague

Ref: ICTR/JUD-11-6-1-10/021

From: Nouhou M. Diallo, Legal Officer
De: CMS Co-ordinator for Trial Chamber I
Court Management Section

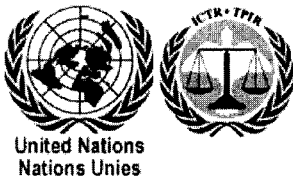
Cc: - Prof. Lennox Hinds, Defence Counsel
- Mr. E. Setako, Detainee, UNDF
- See also mailing list below.

Subject: **Notice of Appeal & Motion for Extension of Time**
Objet: **The Prosecutor v. Ephrem SETAKO Case N°: ICTR-04-81-A**

1. We have received from the Setako Defence today (12/4/2010), a Motion for Extension of Time to file Appellant's Brief dated 9 April 2010.
2. Under paragraph 5 of the said motion, it is indicated that the Setako Notice of Appeal was sent on 31 March 2010. However, the Court Management Section team dealing with the Setako case (the team members are listed in the letter of 17/3/2010 addressed to Prof. Hinds copy attached as Annex "A") did not receive the Notice of Appeal. By e-mail of 9/4/2010, (copy attached as Annex "B"), Ms. Ben Salimo advised the Appeals Chamber that CMS had not yet received the Notice of Appeal from the Setako team. After checking with other colleagues, we have now established that the Notice of Appeal was sent via e-mail to Mme Félicité Talon only (copy attached as Annex "C"). Unfortunately, she was on leave and only came back to the office today. It was to avoid such a situation that we provided the Defence Counsel with the names and e-mail addresses of the CMS team members handling the Setako case.
3. We enclose herein both the Motion and Notice of Appeal for the Appeals Chamber's information and further action.
4. Kind regards

Encls. - Letter of 17/3/2010 to Prof. Hinds
- E-mail Exchanges from 9 – 12 April 2010
- Notice of Appeal and Motion for Extension of Time

Cc: A. Dieng, H.B. Jallow, M. Bongani, P. Besnier, R. Karegyesa, M. Nlang, C. Hometowu, N. Diallo, F. Talon, R. Kouambo, M. Ben Salimo, C. Biagioni, Y. Lejmi, R. Muzigo-Morrison, R. Juma, E. Matemanga, I. Nyongo, A. Mtui, E. Adonoo.



TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

COURT MANAGEMENT SECTION
(Art. 27 of the Directive for the Registry)

I - GENERAL INFORMATION (To be completed by the Chambers / Filing Party)

To:	<input type="checkbox"/> Trial Chamber I N. M. Diallo	<input type="checkbox"/> Trial Chamber II R. N. Kouambo	<input type="checkbox"/> Trial Chamber III C. K. Hometowu
	<input type="checkbox"/> OIC, JLSD P. Besnier	<input type="checkbox"/> OIC, JPU C. K. Hometowu	<input checked="" type="checkbox"/> F. A. Talon (Appeals/Team IV)
From:	<input type="checkbox"/> Chamber (names)	<input type="checkbox"/> Defence (names)	<input checked="" type="checkbox"/> Prosecutor's Office DEBORAH WILKINSON (names)
			<input type="checkbox"/> Other: (names)
Case Name:	The Prosecutor vs. EPHREM SETAKO		Case Number: ICTR-04-8-A
Dates:	Transmitted: 20 APRIL 2010		Document's date: 20 APRIL 2010
No. of Pages:	19	Original Language:	<input checked="" type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
Title of Document:	CORRIGENDUM TO MOTION TO DISMISS DEFENDANT'S NOTICE OF APPEAL		
Classification Level:		TRIM Document Type:	
<input type="checkbox"/> Ex Parte		<input type="checkbox"/> Indictment <input type="checkbox"/> Warrant <input type="checkbox"/> Correspondence <input type="checkbox"/> Submission from non-parties	
<input type="checkbox"/> Strictly Confidential / Under Seal		<input type="checkbox"/> Decision <input type="checkbox"/> Affidavit <input type="checkbox"/> Notice of Appeal <input checked="" type="checkbox"/> Submission from parties	
<input type="checkbox"/> Confidential		<input type="checkbox"/> Disclosure <input type="checkbox"/> Order <input type="checkbox"/> Appeal Book <input type="checkbox"/> Accused particulars	
<input checked="" type="checkbox"/> Public		<input type="checkbox"/> Judgement <input type="checkbox"/> Motion <input type="checkbox"/> Book of Authorities	

II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party)

CMS SHALL take necessary action regarding translation.			
<input type="checkbox"/> Filing Party hereby submits only the original, and will not submit any translated version.			
<input type="checkbox"/> Reference material is provided in annex to facilitate translation.			
Target Language(s):			
<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda	
CMS SHALL NOT take any action regarding translation.			
<input type="checkbox"/> Filing Party hereby submits BOTH the original and the translated version for filing, as follows:			
Original	in	<input checked="" type="checkbox"/> English	<input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
Translation	in	<input type="checkbox"/> English	<input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
CMS SHALL NOT take any action regarding translation.			
<input type="checkbox"/> Filing Party will be submitting the translated version(s) in due course in the following language(s):			
<input type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda			
KINDLY FILL IN THE BOXES BELOW			
<input type="checkbox"/> The OTP is overseeing translation. The document is submitted for translation to: <input type="checkbox"/> The Language Services Section of the ICTR / Arusha. <input type="checkbox"/> The Language Services Section of the ICTR / The Hague. <input type="checkbox"/> An accredited service for translation; see details below: Name of contact person: Name of service: Address: E-mail / Tel. / Fax:		<input type="checkbox"/> DEFENCE is overseeing translation. The document is submitted to an accredited service for translation (fees will be submitted to DCDMS): Name of contact person: Name of service: Address: E-mail / Tel. / Fax:	

III - TRANSLATION PRIORITISATION (For Official use ONLY)

<input type="checkbox"/> Top priority	COMMENTS	<input type="checkbox"/> Required date:
<input type="checkbox"/> Urgent		<input type="checkbox"/> Hearing date:
<input type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines: