



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

IN THE APPEALS CHAMBER

Before: Judge Mohamed SHAHABUDDEEN, Pre-Appeal Judge

Registrar: Mr. Adama DIENG

Decision of: 26 September 2003

Eliézer NIYITEGEKA

(Appellant)

V.

THE PROSECUTOR

(Respondent)

Case No. ICTR-96-14-A

**DECISION ON PROSECUTION MOTION CONCERNING DEFECTS IN THE
APPELLANT'S NOTICE OF APPEAL**

Counsel for the Appellant

Ms. Sylvia Geraghty

Counsel for the Prosecutor

Mr. Norman Farrell

I, MOHAMED SHAHABUDDEEN, 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 ("International Tribunal"),

NOTING the "Judgement and Sentence" rendered in this case by Trial Chamber I on 16 May 2003 ("Judgement");

NOTING the "Order of the Presiding Judge designating the Pre-Appeal Judge" filed on 4 June 2003, which designated me to serve as Pre-Appeal Judge in this case;

NOTING that, by virtue of Rule 108*bis* (B) of the Rules of Procedure and Evidence of the International Tribunal (“Rules”), a Pre-Appeal Judge shall “ensure that the proceedings are not unduly delayed and shall take any measures related to procedural matters, including the issuing of decisions, orders and directions with a view to preparing the case for a fair and expeditious hearing”;

NOTING the “Notice of Appeal” filed by the Appellant Eliézer Niyitegeka (“Niyitegeka”) on 20 June 2003;

BEING SEISED OF the “Prosecution Motion concerning Defects in the Appellant Eliezer Niyitegeka’s Notice of Appeal” filed on 25 July 2003 (“Motion”), in which the Prosecutor requests that Niyitegeka be required to re-file the Notice of Appeal in accordance with the requirements of paragraph 1 of the Practice Direction on Formal Requirements for Appeals from Judgement^[1] (“Practice Direction on formal requirements”) and in particular:

- i) to reorganise and consolidate his grounds of appeal in one list of alleged errors;
- ii) to identify the specific grounds of appeal;
- iii) to reference each alleged error to the passage or the passages of the decision or Judgement containing the error;
- iv) to indicate for each alleged error of law, how it invalidates the decision;
- v) to indicate for each alleged error of fact, how it occasions a miscarriage of justice;
- vi) to indicate the precise relief sought for every ground of appeal;
- vii) to indicate with sufficient precision the alleged errors referred to in section B IV of the Motion;

NOTING that Niyitegeka did not file a response to the Motion;

CONSIDERING that the Practice Direction on formal requirements was issued to address detailed aspects of the conduct of proceedings before the International Tribunal and to regulate the form and content of written submissions before the Appeals Chamber;

CONSIDERING that the Notice of Appeal filed by Niyitegeka consists of 44 pages and 262 paragraphs and seems to be alleging around 160 grounds of appeal, and that, as it lacks clarity and precision, it fails to fulfil the purpose of a notice of appeal;

FINDING that, as the Notice of Appeal does not conform to the requirements of Rule 108 of the Rules and, in particular, to Article 1 of the Practice Direction on formal requirements, it is necessary in the circumstances of this case for Niyitegeka to re-file his Notice of Appeal;

FOR THE FOREGOING REASONS,

GRANT the Motion and **ORDER** Niyitegeka to re-file a Notice of Appeal of no more than 15 pages, within 15 days of the filing of this decision, in accordance with the requirements of Rule 108 of the Rules and Article 1 of the Practice Direction on formal requirements, and in particular to:

- i) indicate clearly and concisely the grounds of appeal upon which he intends to rely, and reorganise and consolidate them into one single list;
- ii) indicate with sufficient precision the alleged errors and the exact nature of each error;
- iii) reference each alleged error of fact or law to the passage or passages of the decision or Judgement containing the error;
- iv) indicate for each alleged error of law or fact why it results in invalidating the decision or occasioning a miscarriage of justice respectively;
- v) indicate the precise relief sought for each ground of appeal;

REMIND Niyitegeka that, pursuant to the Practice Direction on the Length of Briefs and Motions on Appeal,[\[2\]](#) the Appellant's Brief should not exceed 100 pages or 30, 000 words, whichever is greater.

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

Mohamed Shahabuddeen
Pre-Appeal Judge

Done this 26th September 2003,
At The Hague,
The Netherlands.

[Seal of the International Tribunal]

[\[1\]](#) Practice Direction on Formal Requirements for Appeals from Judgement, 16 September 2002.

[\[2\]](#) Practice Direction on the Length of Briefs and Motions on Appeal, 16 September 2002, article 1.a)