



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

1005/H

ICTR-01-76-A

29 September 2006

BEFORE THE PRE-APPEAL JUDGE (1005/H - 1002/H)

Before: Judge Liu Daqun, Pre-Appeal Judge

Registrar: Mr. Adama Dieng

Order of: 29 September 2006

2006 OCT-2 A 9 07

JUDICIAL RECORDS/ARCHIVES RECEIVED

THE PROSECUTOR

v.

Aloys SIMBA

ICTR Appeals Chamber

Date: 29 September 2006
 Action: R.T.
 Copied To: concerned Judges -
 Parties, SPS, LOS, ALOS,
 LSS, Archives

Case No. ICTR-01-76-A

ORDER CONCERNING ALOYS SIMBA'S APPELLANT'S BRIEF

Office of the Prosecutor

Counsel for Aloys Simba

Mr. James Stewart
 Ms. Dior Fall
 Mr. George William Mugwanya
 Ms. Imeke Onsea
 Ms. Evelyn Kamau

Mr. Sadikou Ayo Alao
 Mr. Wenceslas de Souza

International Criminal Tribunal for Rwanda
 Tribunal pénal international pour le Rwanda

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NAME / NOM: Tchidimba Patrice
 SIGNATURE: DATE: 29/09/06

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I, LIU DAQUN, 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 (“Tribunal”) and the Pre-Appeal Judge in this case;

NOTING the “*Mémoire d’appel de la Défense*”, transmitted electronically to the Registry on 5 September 2006 (“Electronic Version of the Appellant’s Brief”) and filed confidentially on 6 September 2006 by Counsel for Aloys Simba (“Defence”);

NOTING the original hard copy of the “*Mémoire d’appel de la Défense*”, received by the Registry on 18 September 2006 and filed on 21 September 2006 (“Hard Copy of Appellant’s Brief”);

NOTING the “Prosecutor’s Urgent Motion Objecting to ‘*Mémoire d’appel de la Défense*’” filed on 8 September 2006 (“Prosecutor’s First Motion”);

NOTING the “Prosecutor’s Urgent Motion Objecting to ‘*Mémoire d’appel de la Défense*’ and Annexes, as filed on 21 September 2006 and 18 September 2006, Respectively” filed on 27 September 2006 (“Prosecutor’s Second Motion”);

RECALLING that by virtue of Rule 108(*bis*)(B) of the Rules of Procedure and Evidence of the 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”;

RECALLING that, pursuant to the Practice Direction on the Length of Briefs and Motions on Appeal (“Practice Direction”), “[t]he brief of an appellant on appeal from a final judgement of a Trial Chamber will not exceed 100 pages or 30,000 words, whichever is greater” and that “an average page should contain fewer than 300 words”;¹

RECALLING ALSO that, pursuant to paragraph 5 of the Practice Direction, “A party must seek authorization in advance from the Appeals Chamber [...] or the Pre-Appeal Judge to exceed the page limits in this Practice Direction and must provide an explanation of the exceptional circumstances that necessitate the oversized filing”;

¹ Practice Direction on the Length of Briefs and Motions on Appeal, 16 September 2002, as amended.

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CONSIDERING that the Electronic Version of the Appellant's Brief consists of 125 pages, not including the table of contents, list of sources, glossary and annexes, while the Hard Copy of Appellant's Brief is 100 pages long;

CONSIDERING that each of the documents contains a total of more than 40,000 words, and that the average number of words contained in each page of the Hard Copy of Appellant's Brief is greater than 400;

CONSIDERING that the Defence has not filed a motion requesting the Appeals Chamber or the Pre-Appeal Judge to extend the page limit for its Appellant's Brief nor has it demonstrated good cause for such an extension;

CONSIDERING further that the Defence has not given any justification for filing confidentially the Electronic Version of the Appellant's Brief and the Hard Copy of Appellant's Brief and their respective annexes;

FINDING that the Electronic Version of the Appellant's Brief and the Hard Copy of Appellant's Brief have not been filed in compliance with the Practice Direction and that they are therefore invalid;

CONSIDERING that the Defence will not be prejudiced by the present order;

FINDING that the filing by the Defence of two different versions of the Appellant's Brief which exceed the prescribed length constitutes an abuse of process to be sanctioned, pursuant to Rule 73(F) of the Rules, by the denial of fees associated with these improper filings;

FOR THE FOREGOING REASONS,

REJECT the filings of the Electronic Version of the Appellant's Brief and the Hard Copy of Appellant's Brief;

ORDER the Defence to re-file the Appellant's Brief with the Registry no later than 6 October 2006;

ORDER the Defence to strictly comply with the page and word limits set out in the Practice Direction;

ALLOW the Defence, upon showing that it would serve the interests of justice, to file simultaneously a confidential version and a public redacted version of its Appellant's Brief;

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DIRECT the Prosecution to file its Respondent's brief, if any, 40 days after the Defence re-files the Appellant's Brief;

DECLARE the Prosecutor's First Motion and Prosecutor's Second Motion moot; and

DIRECT the Registrar to withhold the payment of fees, if claimed, associated with the rejected filings.

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

Done this 29th day of September 2006,
At The Hague,
The Netherlands.



[Seal of the Tribunal]

A handwritten signature in black ink, appearing to read "Liu Daqun".

Liu Daqun
Pre-Appeal Judge

