



UNITED NATIONS
NATIONS UNIES

**International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda**

OR: ENG

TRIAL CHAMBER II

Before Judges: Khalida Rachid Khan, presiding
Emile Francis Short
Lee Gacuiga Muthoga

Registrar: Mr. Adama Dieng

Date: 20 November 2008

THE PROSECUTOR
v.
CASIMIR BIZIMUNGU
JUSTIN MUGENZI
JÉRÔME-CLÉMENT BICAMUMPAKA
PROSPER MUGIRANEZA

Case No. ICTR-99-50-T

**DECISION ON CASIMIR BIZIMUNGU'S MOTION FOR RELIEF FROM
THE PAGE LIMITATION ON FINAL TRIAL BRIEFS**

Office of the Prosecutor:

Mr. Paul Ng'arua
Mr. Ibukunolu Babajide
Mr. Justus Bwonwonga
Mr. Elvis Bazawule
Mr. Shyamlal Rajapaksa
Mr. Olivier De Schutter
Mr. Kartik Murukutla
Ms. Ndeye Marie Ka

Counsel for the Defence:

Ms. Michelyne C. St. Laurent and Ms. Andrea Valdivia for Casimir Bizimungu
Mr. Ben Gumpert and Mr. Jonathan Kirk for Justin Mugenzi
Mr. Michel Croteau and Mr. Philippe Larochelle for Jérôme-Clément Bicamumpaka
Mr. Tom Moran and Ms. Cynthia Cline for Prosper Mugiraneza

INTRODUCTION

1. On 24 June 2008, the Chamber issued an Order limiting the number of pages for each party's Final Trial Brief to 300 pages, including annexes.¹ The Page Limit Order, however, explicitly permitted any party unable to comply with the limitation to seek authorisation from the Chamber to increase the length of its brief.²
2. Following certain challenges brought by the Defence for Justin Mugenzi to the Chamber's power to make the Page Limit Order, the Chamber issued a decision which gave further guidelines in relation to the content of the Parties' Final Trial Briefs.³ The Chamber subsequently granted permission to the Mugenzi Defence to file a Final Trial Brief of up to 450 pages in length.⁴
3. The Defence for Casimir Bizimungu now moves the Chamber for relief under the Page Limit Order, requesting that it be permitted to file a Final Trial Brief up to 475 pages in length.⁵
4. The Prosecution filed a Response to the Defence Motion some eight days out of time.⁶ The Prosecution asks that the Chamber consider the merits of the Prosecution Response even though it was filed out of time, yet offers no explanation as to why it filed its Response in such an untimely manner. In these circumstances, the Chamber will not consider the Prosecution Response and, instead, will consider the matter solely on the merits of the Defence Motion.

DISCUSSION

5. The Page Limit Order explicitly permits parties to seek leave from the Chamber to vary the page limit for its Final Trial Brief, and provides that any such variation "will only be granted if the Chamber is satisfied that the circumstances necessitate an increase in the aforementioned limitations."⁷

¹ *Prosecutor v. Casimir Bizimungu et al.*, Case No. ICTR-99-50-T, Further Orders Regarding the Filing of Closing Briefs, 24 June 2008, *see* para. I (the "Page Limit Order").

² Page Limit Order, p. 2, Order. III. Order III states that such variation will only be granted if the Chamber is satisfied that the circumstances necessitate an increase in the limitation. It also requires the party seeking relief under this paragraph to do so at least two weeks prior to the deadline for the filing of the brief.

³ *Bizimungu et al.*, Decision on Justin Mugenzi's Composite Motion Concerning Page Limits on Closing Briefs, 2 September 2008. At paragraph 17 of that decision, the Chamber said:

"With regard to the treatment of evidence, the Chamber does not consider lengthy summaries of witness testimony or exhibits to be necessary or useful. Nor is it necessary to recite the applicable law in detail. In both cases, recitation should give way to citation, whether to relevant transcript pages and exhibits or legal authorities, whenever possible."

⁴ *Bizimungu et al.*, Decision on Justin Mugenzi's Motion for Relief from the Page Limitation on Final Trial Briefs (TC), 24 October 2008.

⁵ "Requête de Dr. Casimir Bizimungu en Extension du Nombre de Pages de son Mémoire Final", filed by the Defence for Casimir Bizimungu on 4 October 2008 (the "Defence Motion").

⁶ "Prosecutor's Response to Requette (*sic*) de Dr. Casimir Bizimungu en Extension du Nombre de Pages de son Memoire Final", filed by the Prosecution on 17 November 2008. The time limit prescribed by the Rules of Procedure and Evidence for the filing of any reply is five days from the receipt of the motion, *see* Rule 73 (E).

⁷ Page Limit Order, para. III.

6. The Defence asserts in its Motion that it has now largely completed its Final Trial Brief, and that it is almost 500 pages in length.⁸ The Defence notes that the Accused, Casimir Bizimungu, is directly and individually incriminated by numerous factual allegations in relation to which he must respond.⁹ Further, the Defence notes that the Indictment in this case is some eighty pages in length.¹⁰ The Defence also alleges that a number of representations made by the Prosecution in its Final Brief are erroneous, such that the Defence has an obligation to draw these errors to the attention of the Chamber, and to correct them, where possible.¹¹ The Defence notes that its first draft of its Final Trial Brief was some 700 pages in length, but that following this Chamber's decision of 2 September 2008, it drastically reduced the content of its Final Trial Brief. The Defence reassures the Chamber that it has particularly reduced any lengthy summaries of trial evidence, and instead has made accurate references to the trial record. Finally, the Defence submits, relying on the Accused's fair trial rights guaranteed by Articles 19 and 20 of the Statute, that a minimum of 475 pages is required in order to ensure the Accused's fair trial rights.

7. The Chamber finds that the Defence has made a sufficient showing of necessity to warrant a variation in the page limit for Casimir Bizimungu's Final Trial Brief, such that the Defence will be permitted to file a Final Trial Brief that is up to 475 pages in length. The Defence is reminded that the brief must otherwise conform to the guidelines set forth in the Page Limit Order.

FOR THESE REASONS, the Chamber

GRANTS the Defence Motion; and

PERMITS the Defence for Casimir Bizimungu to file a Final Trial Brief up to 475 pages in length.

Arusha, 20 November 2008

Khalida Rachid Khan
Presiding Judge

Lee Gacuiga Muthoga
Judge

For and on behalf of
Emile Francis Short
Judge

[Seal of the Tribunal]

⁸ Defence Motion, para. 12.

⁹ Defence Motion, para. 14.

¹⁰ Defence Motion, para. 15.

¹¹ Defence Motion, paras. 17-18.