



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

402/H

IN THE APPEALS CHAMBER

ICTR-2001-63-A
10th June 2009
{402/H - 400/H}

Before: Judge Fausto Pocar, Pre-Appeal Judge

Registrar: Mr. Adama Dieng

Order of: 9 June 2009

ICTR Appeals Chamber
Date: 10th June 2009
Action: R. Tuma
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SIMÉON NCHAMIHIGO

v.

THE PROSECUTOR

Case No. ICTR-2001-63-A

ORDER ON APPELLANT'S SUBMISSIONS

Counsel for Mr. Siméon Nchamihigo

Mr. Denis Turcotte
Ms. Nathalie Leblanc

Office of the Prosecutor:

Mr. Hassan Bubacar Jallow
Mr. Alex Obote-Odora
Mr. George Mugwanya
Ms. Inneke Onsea
Ms. Renifa Madenga
Ms. Evelyn Kamau
Mr. William Mubiru
Ms. Priyadarshini Narayanan
Ms. Aisha Kagabo

International Criminal Tribunal for Rwanda
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I, FAUSTO POCAR, Pre-Appeal Judge in this case,¹

NOTING the Trial Judgement rendered orally by Trial Chamber III of the Tribunal in this case on 24 September 2008 and the written Trial Judgement filed on 12 November 2008;²

NOTING the Second Revised Notice of Appeal filed by Siméon Nchamihigo ("Appellant") on 11 May 2009;³

NOTING the Appellant's Brief, Complementary Annex and Corrigendum, filed confidentially on 20 May, 21 May and 2 June 2009, respectively;⁴

CONSIDERING that, pursuant to Rule 108bis(B) of the Rules of Procedure and Evidence of the Tribunal ("Rules"), the Pre-Appeal Judge shall ensure that the proceedings are not unduly delayed and shall take any measures related to procedural matters with a view to preparing the case for a fair and expeditious hearing;

NOTING the Decision of 12 May 2009, which rejected the Appellant's request to exceed the word limit in the Appellant's Brief;⁵

NOTING that, pursuant to Paragraph 4 of the Practice Direction on the Length of Briefs and Motions on Appeal, appendices "will not contain legal or factual arguments";⁶

CONSIDERING that the Complementary Annex contains a brief exposition of the grounds of appeal presented in the Appellant's Brief;⁷

FINDING, therefore, that the Complementary Annex cannot be considered as an appendix under Paragraph 4 of the Practice Direction;

¹ Order Designating a Pre-Appeal Judge, 29 April 2009.

² *The Prosecutor v. Siméon Nchamihigo*, Case No. ICTR-01-63-T, Judgement and Sentence, 12 November 2008 ("Trial Judgement"). A French translation of the Trial Judgement was filed on 6 February 2009.

³ *Siméon Nchamihigo v. The Prosecutor*, Case No. ICTR-01-63-A, *Acte d'Appel Révisé de la Défense, Art. 24 du Statut du Tribunal et Art. 108 du Règlement de procédure et de preuve*, 11 May 2009 ("Second Revised Notice of Appeal"). See also *Acte d'Appel de la Défense, Art. 24 du Statut du Tribunal et Art. 108 du Règlement de procédure et de preuve*, 6 March 2009; *Acte d'Appel Révisé de la Défense, Art. 24 du Statut du Tribunal et Art. 108 du Règlement de procédure et de preuve*, 14 April 2009.

⁴ *Mémoire d'appel de la Défense, Art. 24 du Statut et Art. 111 du Règlement de procédure et de preuve*, 20 May 2009 ("Appellant's Brief"); *Annexe Complémentaire au Mémoire d'appel de la Défense (Art. 4 de la Directive pratique relative à la longueur des mémoires et des requêtes en appel)*, 21 May 2009 ("Complementary Annex"); *Corrigendum au Mémoire d'appel de la Défense*, 2 June 2009 ("Corrigendum"). The Complementary Annex contains Annex 6 to the Appellant's Brief.

⁵ Decision on Defence Motion for Leave to Exceed the Word Limit, 12 May 2009 ("Decision of 12 May 2009").

⁶ Practice Direction on the Length of Briefs and Motions on Appeal, 8 December 2006 ("Practice Direction"). Paragraph 4 of the Practice Direction states: "[i]n appendix or book of authorities will not contain legal or factual arguments, but rather references, source materials, items from the record, exhibits and other relevant, non-argumentative material".

⁷ Complementary Annex, Annex 6: *Rappel des motifs d'appel*.

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REMINDING the Appellant of the necessity to act in full compliance with the Rules and the practice directions when filings his submissions;

CONSIDERING further that all submissions filed before the Tribunal shall be public unless there are exceptional reasons for keeping them confidential,⁸ and that parties shall file public redacted versions of all confidential briefs filed on appeal;⁹

HEREBY REJECT the Complementary Annex as invalid;

ORDER the Appellant to file, after suitable redactions, public versions of the Appellant's Brief and Corrigendum within 15 days from the date of this Order;

FURTHER ORDER that any changes to the confidential version be limited to necessary redactions of confidential information, including the identities of protected witnesses, and not consist of any additions, deletions or other amendments;

INSTRUCT the Appellant to clearly mark the redactions in the text of the public versions of the Appellant's Brief and Corrigendum by substituting all confidential information with the word "redacted"; or to file a confidential annex thereto identifying all redactions by paragraph number.

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

Done this 9th day of June 2009,
At The Hague,
The Netherlands.



[Seal of the Tribunal]

A handwritten signature in black ink, which appears to read "Fausto Pocar". The signature is written in a cursive, flowing style.

Judge Fausto Pocar
Pre-Appeal Judge

⁸ Cf. Rule 78 of the Rules.

⁹ *Ferdinand Nahimana et al. v. The Prosecutor*, Case No ICTR-99-52-A, Order to Appellant Hassan Ngeze to File Public Versions of his Notice of Appeal and Appellant's Brief, 30 August 2007, p. 2; *Emmanuel Ndinabahizi v. The Prosecutor*, Case No. ICTR-01-71-A, Scheduling Order, 11 May 2006, p. 2, referring to *Prosecutor v. Mladen Naletilić and Vinko Martinović*, Case No. IT-98-34-A, Decision on Vinko Martinović's Withdrawal of Confidential Status of Appal Brief, 4 May 2005, p. 3; *Prosecutor v. Blagoje Simić*, Case No. IT-95-9-A, Order, 17 September 2004, p. 2.