



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

1299/H

ICTR-98-41-A
19th January 2010
{1299/H - 1297/H}

IN THE APPEALS CHAMBER

Before: Judge Mehmet Güney, Pre-Appeal Judge

Registrar: Mr. Adama Dieng

Order of: 19 January 2010

ICTR Appeals Chamber
Date: 19th January 2010
Action: R. Turner
Copied To: Concerned Judges

Théoneste BAGOSORA
Aloys NTABAKUZE
Anatole NSENGIYUMVA

Parties, Judicial
Archives, HDs, HSS

v.

THE PROSECUTOR

Case No. ICTR-98-41-A

**ORDER FOR FILING SUPPLEMENT TO NSENGIYUMVA'S MOTION FOR
LEAVE TO AMEND THE NOTICE OF APPEAL
AND FOR EXPEDITED FILING**

Counsel for Théoneste Bagosora

Raphaël Constant
Richard Perras

Counsel for Aloys Ntabakuze

Peter Erlinder
André Tremblay

Counsel for Anatole Nsengiyumva

Kennedy Ogetto
Gershom Otachi Bw'Omanwa

Office of the Prosecutor

Hassan Bubacar Jallow
Alex Obote-Odora
George W. Mugwanya
Linda Bianchi
Madeleine Schwarz

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME
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NAME / NOM: MOÏSE KUMELIRO A. AFANDE
SIGNATURE: DATE: 19 Jan. 2010

1298/H

I, **Mehmet GÜNEY**, 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 ("Appeals Chamber" and "Tribunal", respectively), and Pre-Appeal Judge in this case;

NOTING the appeal lodged by Anatole Nsengiyumva ("Nsengiyumva")¹ against the Trial Judgement pronounced in this case on 18 December 2008 and filed in English on 9 February 2009;²

NOTING that Nsengiyumva's appeal brief is due to be filed no later than 1 February 2010;³

NOTING "Nsengiyumva's Urgent Motion for Leave to Amend the Notice of Appeal", filed on 15 January 2010 ("Motion"), in which Nsengiyumva requests leave to amend his Notice of Appeal subsequent to receiving the French translation of the Trial Judgement and asks that the Appeals Chamber order expedited responses to his Motion "to facilitate a decision that will enable [him to] arrange his brief accordingly before 1st February 2010";⁴

NOTING that the Prosecution has not yet filed a response;

NOTING that, pursuant to Rule 108bis of the Rules of Procedure and Evidence of the Tribunal, 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;

CONSIDERING that it would be in the interests of justice that the Motion be decided prior to the filing of Nsengiyumva's appeal brief as the proposed amendments would have an effect on the structure and order of the appeal brief;

CONSIDERING it therefore to be appropriate to order an expedited response to the Motion by the Prosecution and an expedited reply by Nsengiyumva, if any;

NOTING further that, due to the proposed re-ordering of the grounds of appeal, it is at times difficult to fully comprehend the proposed amendments;

¹ See Nsengiyumva's Second Amended Notice of Appeal, 25 May 2009 ("Notice of Appeal").

² *The Prosecutor v. Théoneste Bagosora et al.*, Case No. ICTR-98-41-T, Judgement and Sentence, signed on 18 December 2008, filed on 9 February 2009 ("Trial Judgement").

³ See Decision on Anatole Nsengiyumva's Motion for Extension of Time for Filing his Appeal Brief, 11 January 2010, p. 3.

⁴ Motion, paras. 1, 33, p. 5.

1297/H

NOTING further that the proposed amendments are not consistently explained and outlined in the Motion;⁵

CONSIDERING that it would add clarity regarding the proposed amendments and facilitate an expeditious consideration of the Motion if the Motion were supplemented with a version of Nsengiyumva's Notice of Appeal in which all proposed amendments would be clearly indicated, such as by "track changes" or any other appropriate means;⁶

FOR THE FOREGOING REASONS,

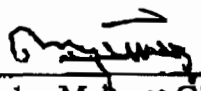
ORDER Nsengiyumva to supplement his Motion by the filing of a version of his Notice of Appeal in which all proposed amendments are clearly indicated, no later than Wednesday, 20 January 2010; and

ORDER the Prosecution to file its response, if any, to the Motion no later than Friday, 22 January 2010 and Nsengiyumva to file his reply, if any, by Monday, 25 January 2010.

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

Done this nineteenth day of January 2010
At The Hague,
The Netherlands.




Judge Mehmet Güney
Pre-Appeal Judge

[Seal of the Tribunal]

⁵ For instance, *compare* heading V.1. at p. 6 of "Nsengiyumva's Third Amended Notice of Appeal" attached to his Motion ("Proposed Amended Notice of Appeal") with heading VIII.2 at p. 13 of the Notice of Appeal. *Compare also* Proposed Amended Notice of Appeal, para. 13 with Notice of Appeal, para. 33.

⁶ For the sake of clarity, the Appeals Chamber requests Nsengiyumva to provide a document which identifies the suggested new numbering of the grounds of appeal through adequate highlighting and/or comments, while maintaining the order of his grounds of appeal as laid out in the Notice of Appeal.