



UNITED NATIONS  
NATIONS UNIES

Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

725/H

ICTR-96-03-R68  
23<sup>rd</sup> February 2010  
{725/H – 721/H}

**IN THE APPEALS CHAMBER**

**Before:** Judge Patrick Robinson, Presiding  
Judge Mehmet Güney  
Judge Fausto Pocar  
Judge Andréia Vaz  
Judge Carmel Agius

**Registrar:** Mr. Adama Dieng

**Decision of:** 23 February 2010

ICTR Appeals Chamber  
Date: 23<sup>rd</sup> February 2010  
Action: R. Juma  
Copied To: Concerned Judges, SLD,  
LDC, ALDA, CMS, Parties,  
LSS.

*Juma*  
*23 Feb 2010*

**GEORGES A. N. RUTAGANDA**

v.

**THE PROSECUTOR**

Case No. ICTR-96-03-R68

**DECISION ON MOTION FOR LEAVE TO EXCEED THE WORD LIMIT**

**The Applicant**

Mr. Georges A. N. Rutaganda, *pro se*

**Office of the Prosecutor**

Mr. Hassan Bubacar Jallow  
Mr. Alex Obote-Odora  
Ms. Inneke Onsea

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: KOFFI... KUMELI... A... AFANDRE...  
SIGNATURE: *[Signature]* DATE: 23 Feb 2010

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**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),

**NOTING** the *Rutaganda* Trial Judgement rendered on 6 December 1999<sup>1</sup> and the *Rutaganda* Appeal Judgement rendered on 26 May 2003;<sup>2</sup>

**BEING SEISED** of “Rutaganda’s Extremely Urgent Request for the Authorization to Exceed the Page Limits and Direction on Filing Schedule (Practice Direction of 16 September 2002 (14 March 2008), § 3 & § 5)” filed by Georges A. N. Rutaganda (“Rutaganda”) on 28 January 2010 (“Motion”);

**NOTING** the “Prosecutor’s Response to Rutaganda’s Motion for Leave to Exceed Word Limit”, filed by the Prosecution on 1 February 2010 (“Response”);

**NOTING** the “Rejoinder to the Prosecutor’s Response to Rutaganda’s Motion for Leave to Exceed Word Limit”, filed by Rutaganda on 5 February 2010 (“Reply”);

**CONSIDERING** that Rutaganda requests authorisation to exceed the page limit set out in the Practice Direction on the Length of Briefs and Motions on Appeal of 8 December 2006 (“Practice Direction”) in respect of a motion which he intends to file concerning alleged disclosure violations by the Prosecution (“Proposed Motion”);<sup>3</sup>

**CONSIDERING** that the Prosecution opposes the Motion<sup>4</sup> and submits that the Rules of Procedure and Evidence of the Tribunal and the Practice Direction are silent on the word limit for motions filed in post-appeal hearings<sup>5</sup> and that, even assuming that the word limit for motions, responses, and replies during appeal proceedings is applicable, Rutaganda has not demonstrated the existence of exceptional circumstances justifying an extension of the word limit;<sup>6</sup>

<sup>1</sup> *The Prosecutor v. Georges Anderson Nderubumwe Rutaganda*, Case No. ICTR-96-3-T, Judgement and Sentence, 6 December 1999 (“*Rutaganda* Trial Judgement”).

<sup>2</sup> *Georges Anderson Nderubumwe Rutaganda v. The Prosecutor*, Case No. ICTR-96-3-A, Judgement, 26 May 2003 (“*Rutaganda* Appeal Judgement”).

<sup>3</sup> Motion, paras. 4, 8, 19. Rutaganda refers to the Practice Direction on the Length of Briefs and Motions on Appeal of 16 September 2002 in his Motion; however, he cites the Practice Direction on the Length of Briefs and Motions on Appeal of 8 December 2006 (Reply, fn. 7).

<sup>4</sup> Response, paras. 2, 6.

<sup>5</sup> Response, para. 3.

<sup>6</sup> Response, paras. 2, 4.

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**NOTING** that Rutaganda submits that the Proposed Motion will address 59 alleged disclosure violations by the Prosecution in relation to the evidence of six Prosecution witnesses who testified in other cases before the Tribunal,<sup>7</sup> three documents from the *Karemera et al.* case,<sup>8</sup> and two Prosecution witnesses who did not testify before the Tribunal;<sup>9</sup>

**NOTING** that Rutaganda requests leave to file up to 65 pages in his Proposed Motion;<sup>10</sup>

**RECALLING** that, pursuant to paragraph (C) 3 of the Practice Direction, under the heading "Other Motions, Responses and Replies", "[m]otions, responses and replies thereto before the Appeals Chamber will not exceed 3,000 words";<sup>11</sup>

**CONSIDERING** that this provision applies to the Proposed Motion;

**RECALLING** that the Appeals Chamber may, in exceptional circumstances, grant an extension of the word limit set by the Practice Direction;<sup>12</sup>

**RECALLING** that the quality and effectiveness of an appellant's brief does not depend on length but on the clarity and cogency of the arguments presented and that, therefore, excessively long submissions do not necessarily facilitate the efficient administration of justice;<sup>13</sup>

**CONSIDERING** that the large number of alleged disclosure violations that Rutaganda intends to address in the Proposed Motion constitutes, in the present instance, exceptional circumstances justifying an extension to the word limit;

**CONSIDERING**, however, that the extension of the word limit requested by Rutaganda is excessive, particularly in light of his intended 10-page section for the introduction and applicable

<sup>7</sup> Motion, para. 12, referring to Witnesses AR (in the *Bagosora et al.* case), Jean Bosco Kayiranga (in the *Bagosora et al.* case), AWE (in the *Renzaho* and *Karemera et al.* cases), SHA (in the *Setako* case); KEP (in the *Setako* case), and CSH (in the *Rukundo* case).

<sup>8</sup> Motion, para. 13, referring to Witness SJB's Report (Exhibit DNG 68), Witness AWE's Confession, and Witness NG's Report (Exhibit DK29) (all in the *Karemera et al.* case).

<sup>9</sup> Motion, para. 14, referring to Jean Paul Biramvu and Witness DBV.

<sup>10</sup> Motion, para. 17. See also Motion, para. 15.

<sup>11</sup> Practice Direction, para. (C) 3. This word limit includes headings, footnotes, and quotations. Practice Direction, para. (C) 4.

<sup>12</sup> Practice Direction, para. (C) 5.

<sup>13</sup> See *Protais Zigiranyirazo v. The Prosecutor*, Case No. ICTR-01-73-A, Decision on Protais Zigiranyirazo's Motion for Variation of the Word Limits, 14 May 2009, para. 5, citing *Stméon Nchamihigo v. The Prosecutor*, Decision on Defence Motion for Leave to Exceed the Word Limit, 12 May 2009, p. 2; *Prosecutor v. Nikola Šainović et al.*, Case No. IT-05-87-A, Decision on Defence Requests for Extension of Time and Word Limits to File Reply Briefs, 20 January 2010, p. 4; *In the Case Against Florence Hartmann*, Case No. IT-02-54-R77.5-A, Decision on Motions to Strike and Requests to Exceed Word Limit, 6 November 2009, para. 24.

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law,<sup>14</sup> and 5-page section for the conclusion,<sup>15</sup> and given that, in relation to Witness AWE, he appears to be attempting to re-litigate a disclosure request which was previously denied;<sup>16</sup>

**CONSIDERING** that the Prosecution requests that, if the extension is granted, it should be granted the same extension for the filing of its response to the Proposed Motion<sup>17</sup> and that Rutaganda does not oppose this request;<sup>18</sup>

**CONSIDERING** that the Practice Direction allows the response to be the same length as the motion;<sup>19</sup>

**FINDING** therefore that, in the circumstances of the case, an extension of up to 9,000 words for the Proposed Motion and any response to it is reasonable and justified;

**FURTHER NOTING** that Rutaganda requests clarification on the filing schedule for motions filed directly before the Appeals Chamber which are not part of appeal proceedings;<sup>20</sup>

**CONSIDERING** that it is in the interests of the efficient administration of justice to establish a schedule for filings related to the Proposed Motion;

**HEREBY GRANTS** Rutaganda's Motion, in part;

**ORDERS** that the Proposed Motion shall not exceed 9,000 words in length; any response shall not exceed 9,000 words in length; and any reply shall not exceed 3,000 words in length;

**ORDERS** that any response to the Proposed Motion shall be filed within 10 days of the filing of the Proposed Motion and any reply to the response shall be filed within four days of the filing of the response.

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

<sup>14</sup> Motion, para. 11.

<sup>15</sup> Motion, para. 15.

<sup>16</sup> See Reply, paras. 12, 13. While Rutaganda states that he is not attempting to re-litigate the Appeals Chamber's decision not to disclose Witness AWE's confidential materials in the *Renzaho* case, he appears to be attempting to do so when he states: "The Applicant plans to show to the Appeals Chamber that it could not have taken the position it took – as claimed by the Prosecutor, – had it been aware of the AWE information raised in the pending motion on disclosure violations". Reply, para. 12.

<sup>17</sup> Response, para. 6.

<sup>18</sup> Reply, para. 14.

<sup>19</sup> Practice Direction, para. (C) 3.


<sup>20</sup> Motion, para. 18.

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Done this 23rd day of February 2010  
At The Hague,  
The Netherlands.



[Seal of the Tribunal]

  
\_\_\_\_\_  
Judge Patrick Robinson  
Presiding Judge