

848/H



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

ICTR-97-31-A
20th April 2010
{848/H – 844/H}

IN THE APPEALS CHAMBER

Before: Judge Carmel Agius, Pre-Appeal Judge

Registrar: Mr. Adama Dieng

Decision of: 20 April 2010

ICTR Appeals Chamber
Date: 20th April 2010
Action: h. Juma
Copied To: Concerned Judges,
Judicial Archives, Parties,
LDs, LSS

Tharcisse RENZAHO

v.

THE PROSECUTOR

Case No. ICTR-97-31-A

DECISION ON THARCISSE RENZAHO'S MOTION FOR EXTENSION OF TIME FOR THE FILING OF BRIEF IN REPLY

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
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NAME / NOM: KOFFI...KUMELIO...A...AFANDE
SIGNATURE: [Signature] DATE: 22 April 2010

Counsel for Mr. Tharcisse Renzaho:

Mr. François Cantier, Lead Counsel
Mr. Barnabé Nekuie, Co-Counsel

Office of the Prosecutor:

Mr. Hassan Bubacar Jallow
Mr. Alex Obote-Odora

847/H

1. I, CARMEL AGIUS, 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, am seized of a motion filed on 13 April 2010 by Tharcisse Renzaho for an extension of time to file his Brief in Reply.¹ Given the urgency of this Motion, I consider it appropriate to decide without waiting to hear from the Prosecution on the matter, in accordance with Rule 108*bis* (B) of the Rules of Procedure and Evidence of the Tribunal ("Rules").

2. Trial Chamber I pronounced its judgement against Mr. Renzaho on 14 July 2009 and issued its opinion in writing in English on 14 August 2009.² On 22 September 2009, I denied Mr. Renzaho's request for a 30-day extension of time to file his Notice of Appeal from the filing of the French translation of the Trial Judgement because Lead Counsel for his defence ("Counsel") is able to work in English.³ However, on 21 October 2009, I found Mr. Renzaho's inability to speak or read English to constitute good cause to allow for a limited extension of time to file his Appellant's Brief.⁴

3. On 2 October 2009, Mr. Renzaho filed his Notice of Appeal.⁵ The French translation of the Trial Judgement was served on the Parties on 21 January 2010. On 26 February 2010, I denied Mr. Renzaho's request for a further extension of time to file his Appellant's Brief based on alleged failed or delayed disclosure from the Prosecution, as well as his previously mentioned linguistic

¹ *Requête en extrême urgence de Monsieur Renzaho aux fins de se voir accorder un délai pour le dépôt de son mémoire en réplique en application des dispositions de l'article 116 du RPP*, 13 April 2010 ("Motion"). On 19 April 2010, Mr. Renzaho notified the Appeals Chamber that he did not receive the Respondent's Brief until 15 April 2010, and requested that, should his Motion be rejected, the 15-day time-limit provided in Rule 113 of the Rules should start running from this date, therefore expiring on 30 April 2010. See *Amendement à la "Requête en extrême urgence de Monsieur Renzaho aux fins de se voir accorder un délai pour le dépôt de son mémoire en réplique en application des dispositions de l'article 116 du RPP" relatif à la computation des délais*, 19 April 2010.

² *The Prosecutor v. Tharcisse Renzaho*, Case No. ICTR-97-31-T, Judgement and Sentence, dated 14 July 2009 and filed on 14 August 2009 ("Trial Judgement").

³ Decision on Tharcisse Renzaho's Motion for Extension of Time for the Filing of Notice of Appeal and Brief in Reply, 22 September 2009, paras. 2, 5, 8 ("Decision of 22 September 2009"). Mr. Renzaho also requested a 15-day extension of time for the filing of his Brief in Reply from the filing of the French translation of the Respondent's Brief, should the Response, if any, be filed in English. This request was considered premature and therefore declared moot. See Decision of 22 September 2009, paras. 7, 8.

⁴ Decision on Tharcisse Renzaho's Motion for Extension of Time for the Filing of Appellant's Brief, 21 October 2009, paras. 3, 5, 7 ("Decision of 21 October 2009"). Mr. Renzaho was granted a 40-day extension of time for the filing of his Appellant's Brief from the filing of the French Translation of the Trial Judgement in light of the fact that Counsel has the ability to work in both English and French, and could therefore discuss the draft of the Appellant's Brief with Mr. Renzaho, subject to his final approval once the French translation of the Trial Judgement was filed. See Decision of 21 October 2009, para. 6.

⁵ *Acte d'Appel*, 2 October 2009 ("Notice of Appeal"). See also *Réponse à la demande de la Chambre d'Appel du 14 octobre 2009*, 23 October 2009.

846/H

difficulties.⁶ Accordingly, Mr. Renzaho filed his Appellant's Brief on 2 March 2010.⁷ In accordance with Rule 112 of the Rules, the Prosecution then filed its Respondent's Brief on 12 April 2010.⁸ The Respondent's Brief was filed in English.

4. Mr. Renzaho now requests an extension of time to file his Brief in Reply within 15 days from the service to him and his Counsel of the French translation of the Respondent's Brief.⁹ In the alternative, he requests a limited extension of time,¹⁰ and as a further alternative, he requests that the time-limit for filing his Brief in Reply start running from the filing of the present decision.¹¹

5. Rule 113 of the Rules provides that an appellant may file a brief in reply within fifteen days of the filing of the respondent's brief, which in this case would be 27 April 2010.¹² Rule 116(A) of the Rules allows for the extension of any deadline on a showing of good cause. In support of his request, Mr. Renzaho submits that because he is francophone (though his mother tongue is Kinyarwanda) and cannot read English, it will be impossible for him to understand the Respondent's Brief until it is translated into French.¹³ He maintains that the Respondent's Brief concerns him primarily, and that to deny him adequate time to understand it so as to participate in the development of a defence strategy would violate his minimum rights to a fair trial.¹⁴

6. He further submits that all members of his defence team are francophone, and that the working language of Counsel is French.¹⁵ Mr. Renzaho asserts that unless an extension of time is granted, Counsel will not be in a position to understand the Respondent's Brief, to study its legal subtleties and discuss them with him in view of producing a meaningful reply.¹⁶

7. I recall that information provided by the Registry shows that Counsel has indicated that he has a "good" knowledge of English, with the ability to read, speak, and write it fluently.¹⁷ Although Mr. Renzaho may not be able to understand English, on appeal, counsel bears the main burden in preparing submissions.¹⁸ In this case, having indicated that he has the ability to work in both

⁶ Decision on Motion for Disclosure and for Extension of Time for the Filing of Appellant's Brief, 26 February 2010.

⁷ *Mémoire d'Appel*, strictly confidential, 2 March 2010 ("Appellant's Brief"). See also *Livre d'appel de l'appellant*, strictly confidential, 2 March 2010; *Mémoire d'Appel Public*, 2 April 2010; *Erratum – Requête en rectification d'erreur matérielle Mémoire d'appel*, 7 April 2010.

⁸ Prosecutor's Respondent's Brief, 12 April 2010 ("Respondent's Brief").

⁹ Motion, para. 11, p. 7.

¹⁰ Motion, p. 7. See also *ibid.*, paras. 34, 37.

¹¹ Motion, p. 7.

¹² See also Motion, para. 14.

¹³ Motion, paras. 16, 17.

¹⁴ Motion, paras. 28-30.

¹⁵ Motion, paras. 21-23.

¹⁶ Motion, paras. 27, 28.

¹⁷ See Decision of 22 September 2009, para. 5, referring to Form IL2 filed by Mr. Cantier, along with a copy of his attached curriculum vitae, on 15 September 2009. See also Decision of 21 October 2009, para. 6.

¹⁸ See *Callixte Kalimanzira v. The Prosecutor*, Case No. ICTR-05-88-A, Decision on Callixte Kalimanzira's Motion for an Extension of Time for the Filing of his Reply Brief, 6 April 2010, para. 5, referring to *Protais Zigiranyirazo v. The*

845/H

English and French,¹⁹ Counsel may therefore discuss the contents of the Respondent's Brief with Mr. Renzaho. It is also assumed that Mr. Renzaho has fully discussed with Counsel the issues relevant to his appeal in the preparation of his Appellant's Brief. The Brief in Reply is the only remaining submission to be filed in this appeal. An extension of time until 15 days after the French translation of the Respondent's Brief becomes available may therefore adversely impact the ability of the Appeals Chamber to hear this case in a timely manner.

8. Mr. Renzaho correctly points out that the schedule for the appeals hearing in this case has not yet been fixed.²⁰ It is nevertheless expected that a French translation of the Respondent's Brief will be available prior to the appeals hearing. Mr. Renzaho will therefore have the opportunity to review it and to provide any additional instruction to Counsel, if necessary. Any additional matters arising from such a review can be raised during the hearing. In accordance with Rule 108*bis* (B) of the Rules, I consider it necessary to impose a deadline until 31 May 2010 for the service of the French translation of the Respondent's Brief, in order to prepare the case for a fair and expeditious hearing.

9. As such, Mr. Renzaho has not demonstrated good cause for any extension of time to file his Brief in Reply. However, considering the importance and complexity of the issues raised on appeal, and the comparatively low impact it would have on the ability of the Appeals Chamber to hear this case in a timely manner, I find it to be in the interests of justice to grant Mr. Renzaho's further alternative request for an extension of time to file his Brief in Reply within 15 days from the rendering of this decision on an exceptional basis, that is, 5 May 2010.

10. For the foregoing reasons, I **GRANT** the Motion in part. Mr. Renzaho may file his Brief in Reply no later than 5 May 2010.

11. The Registrar is **DIRECTED** to serve Mr. Renzaho with a French translation of the Respondent's Brief no later than 31 May 2010, or to provide a reasoned explanation in case he cannot comply with this instruction.

Prosecutor, Case No. ICTR-01-73-A, Decision on Protais Zigiranyirazo's Motion for an Extension of Time for the Filing of the Reply Brief, 3 July 2009, para. 7.

¹⁹ *Supra*, fn. 17.

²⁰ Motion, para. 35.

844/H

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

Done this twentieth day of April 2010,
at The Hague,
The Netherlands.



[Seal of the Tribunal]

A handwritten signature in black ink, appearing to read "Carmel Agius".

Judge Carmel Agius
Pre-Appeal Judge