



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

61/H

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ICTR-00-61-A
26th May 2011
{61/H - 58/H}

IN THE APPEALS CHAMBER

Before: Judge Liu Daqun, Pre-Appeal Judge
Registrar: Mr. Adama Dieng
Decision of: 26 May 2011

JEAN-BAPTISTE GATETE

v.

THE PROSECUTOR

Case No. ICTR-00-61-A

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 P. Dieng
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DECISION ON EXTENSION OF TIME LIMITS

Counsel for Jean-Baptiste Gatete

Ms. Marie-Pierre Poulain

Office of the Prosecutor

Mr. Hassan Bubacar Jallow
Mr. James Arguin
Ms. Inneke Onsea
Ms. Priyadarshini Narayanan

International Criminal Tribunal for Rwanda Tribunal pénal international pour le Rwanda	
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME COPIE CERTIFIÉE CONFORME À L'ORIGINAL PAR NOUS	
NAME / NOM:	<i>CONSTANT HOMETOWN</i>
SIGNATURE:	<i>[Handwritten signature]</i>
DATE:	<i>26-05-2011</i>

1. I, LIU DAQUN, 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 ("Tribunal"), and Pre-Appeal Judge in this case,¹ am seised of the "Appellant's Motion to Extend Time Limits" filed on 5 May 2011 ("Motion"), in which Jean-Baptiste Gatete ("Gatete") requests an extension of time to file his appellant's brief ("Appeal Brief"), his response to the Prosecution's appeal brief ("Response Brief" and "Prosecution Appeal Brief", respectively), and his reply to the Prosecution's response brief ("Reply Brief" and "Prosecution Response Brief", respectively).² On 16 May 2011, the Prosecution responded to the Motion.³ Gatete did not reply.

2. Trial Chamber III of the Tribunal pronounced its judgement in this case on 29 March 2011 and filed the written version in English on 31 March 2011.⁴ On 3 May 2011, Gatete and the Prosecution filed their Notices of Appeal.⁵ The Language and Conference Services Section of the Tribunal has indicated that the French translation of the Trial Judgement will not be available before the end of September 2011.⁶

3. In the Motion, Gatete requests extensions of time to file: (i) his Appeal Brief within 75 days of the filing of the French translation of the Trial Judgement; (ii) his Response Brief within 40 days of the filing of the French translation of the Trial Judgement or of the filing of the French translation of the Prosecution Appeal Brief, whichever is later; and (iii) his Reply Brief within 15 days of the filing of the French translation of the Prosecution Response Brief.⁷ Gatete submits in support of his Motion that, because he is francophone and does not understand English, he is unable to prepare his appeal within the time limits set under the Rules of Procedure and Evidence of the Tribunal ("Rules").⁸ He argues that until he has the opportunity to read the Trial Judgement, good cause exists under Rule 116(B) of the Rules to extend the time limits to file his Appeal Brief, Response Brief, and Reply Brief so as to allow him to answer the Trial Judgement and the Prosecution Appeal Brief in full.⁹

¹ Order Assigning a Pre-Appeal Judge, 11 May 2011.

² Motion, paras. 5, 15.

³ Prosecution's Response to Motion to Extend Time Limits, 16 May 2011 ("Response").

⁴ *The Prosecutor v. Jean-Baptiste Gatete*, Case No. ICTR-2000-61-T, Judgement and Sentence, 31 March 2011 ("Trial Judgement"), Annex A, para. 26.

⁵ Prosecution's Notice of Appeal, 3 May 2011; Notice of Appeal, 3 May 2011.

⁶ See E-mail from Language Services Unit, Appeals Chamber Support Section, dated 13 May 2011.

⁷ Motion, paras. 14, 15.

⁸ Motion, para. 10.

⁹ Motion, para. 5.

4. In particular, Gatete argues that, with respect to his Appeal Brief, his active participation is required to fully answer the Trial Judgement and instruct his Counsel on the merits of his appeal, after having had the opportunity to “read, understand and study” the Trial Judgement in his own language, and to consult with his Counsel.¹⁰ With respect to his Response and Reply Briefs, Gatete submits that he needs additional time to read the French translation of Prosecution Appeal and Response Briefs so as to allow him to consult with his Counsel.¹¹

5. The Prosecution opposes the Motion as currently formulated.¹² It submits that Gatete makes general arguments and that the additional periods of time requested are unjustified.¹³ Should the Appeals Chamber find good cause to grant Gatete a limited extension of time for filing his Appeal and Response Briefs, the Prosecution submits that the extension should not exceed 45 days and 15 days, respectively, based on the bilingual abilities of Counsel, as indicated by her.¹⁴ Finally, with respect to Gatete’s request for extension of time for his Reply Brief, in addition to being premature and unsubstantiated, the Prosecution submits that no good cause has been established.¹⁵

6. Rule 116(A) of the Rules allows for the extension of time of any deadline upon a showing of good cause. Pursuant to Rule 116(B) of the Rules, where the ability of the convicted person to make full answer and defence depends on the availability of a decision in an official language other than that in which it was issued, that circumstance shall be taken into account as a good cause. This provision may provide a basis for an extension of time, upon request, for the filing of the convicted person’s appellant’s brief pending the translation of the trial judgement into a working language of the Tribunal which he or she understands.¹⁶ Therefore, Gatete’s circumstances constitute good cause for extending the time for the filing of his Appeal Brief to run from the filing of the French translation of the Trial Judgement.

7. Concerning the length of the extension of time, I note that Gatete’s Counsel works in English and is able to understand the Trial Judgement in its original language. Given her ability to work in both English and French, she may therefore discuss the draft of the Appeal Brief with Gatete, subject to his final approval once the French translation of the Trial Judgement is filed.¹⁷ It

¹⁰ Motion, para. 11.

¹¹ Motion, para. 12.

¹² Response, paras. 2, 10.

¹³ Response, para. 2.

¹⁴ Response, paras. 5, 7.

¹⁵ Response, para. 9.

¹⁶ See, e.g., *Dominique Ntawukulilyayo v. The Prosecutor*, Case No. ICTR-05-82-A, Decision on Dominique Ntawukulilyayo’s Motion for Extensions of Time for Filing Appeal Submissions, 24 August 2010 (“*Ntawukulilyayo Decision*”), para. 6; *The Prosecutor v. Ephrem Setako*, Case No. ICTR-04-81-A, Decision on Ephrem Setako’s Motion for Extension of Time for the Filing of Appellant’s Brief, 2 July 2010 (“*Setako Decision*”), para. 5.

¹⁷ See, e.g., *Ntawukulilyayo Decision*, para. 8; *Setako Decision*, para. 7.

is therefore appropriate in this instance to allow a limited extension of time of 40 days from the filing of the French version of the Trial Judgement.

8. I also find that it is in the interests of justice to allow Gatete the opportunity to review the Prosecution Appeal Brief in French.¹⁸ However, a full 40-day extension of time is not warranted in this case as Counsel is able to discuss the content of the Trial Judgement and the Prosecution Appeal Brief with him before receiving the French translation. Accordingly, I find that there is good cause to grant Gatete an extension of time to file his Response Brief within 15 days of the filing of the French version of the Trial Judgement or the French version of the Prosecution Appeal Brief, whichever is later.

9. Finally, I find that Gatete's request to extend the time limit to file his Reply Brief is premature and I therefore decline to address it. Gatete may reiterate his request in due course, should the need arise.

10. For the foregoing reasons, the Motion is **GRANTED** in part. Gatete is **ORDERED** to file his Appeal Brief no later than forty (40) days from the date of the filing of the French translation of the Trial Judgement and his Response Brief no later than fifteen (15) days from the date of the filing of the French version of the Trial Judgement or the French version of the Prosecution Appeal Brief, whichever is later. I further **DIRECT** the Registrar to provide the French version of the Trial Judgement to Gatete and his Counsel as soon as practicable, but in any event no later than 30 September 2011 and to inform the Appeals Chamber when the French translation of the Trial Judgement and of the Prosecution Appeal Brief has been filed. The Motion is **DENIED** in all other respects.

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

Done this 26th day of May 2011,
At The Hague,
The Netherlands.



A handwritten signature in black ink, appearing to read "Liu Daqun".

Judge Liu Daqun, Pre-Appeal Judge

¹⁸ See, e.g., *Ephrem Setako v. The Prosecutor*, Case No. ICTR-04-81-A, Decision on Ephrem Setako's Motion for an Extension of Time for the Filing of the Respondent's Brief, 16 July 2010, para. 7; *Protais Zigiranyirazo v. The Prosecutor*, Case No. ICTR-01-73-A, Decision on Protais Zigiranyirazo's Motion for an Extension of Time for the Filing of the Respondent's Brief, 10 March 2009, para. 4.