



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

367/H

ICTR-00-56-A

21st September 2011

{367/H - 364/H}

IN THE APPEALS CHAMBER

Before: Judge Patrick Robinson, Pre-Appeal Judge

Registrar: Mr. Adama Dieng

Decision of: 20 September 2011

ICTR Appeals Chamber
Date: 21st September 2011
Action: R. J. J. J.
Copied To: Concerned Parties,
Sik, etc, A/C, etc, etc,
CMS, WSS

Augustin NDINDILYIMANA
Augustin BIZIMUNGU
François-Xavier NZUWONEMEYE
Innocent SAGAHUTU

v.

THE PROSECUTOR

Case No. ICTR-00-56-A

**DECISION ON BIZIMUNGU'S AND NZUWONEMEYE'S MOTIONS FOR EXTENSION
OF TIME TO FILE THEIR RESPONDENT'S BRIEFS**

Defence Counsel:

Mr. Christopher Black for Augustin Ndindiliyimana
Mr. Gilles St-Laurent for Augustin Bizimungu
Mr. Charles A. Taku for François-Xavier Nzuwonemeye
Mr. Fabien Segatwa for Innocent Sagahutu

The Office of the Prosecutor:

Mr. Hassan Bubacar Jallow
Mr. James J. Arguin
Mr. William Egbe
Mr. Abubacarr Tambadou

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: BEEI, KUMELI, A. A. A. ANDE
SIGNATURE: [Signature] DATE: 21.09.2011

I, **Patrick Robinson**, Presiding 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

RECALLING that, on 17 May 2011, Trial Chamber II of the Tribunal convicted all four accused in the *Ndindiliyimana et al.* case and that the written Trial Judgement was filed in English on 17 June 2011;²

NOTING that the Prosecution filed its Notice of Appeal against the Trial Judgement on 20 July 2011;³

NOTING that, in accordance with Rule 111(A) of the Rules of Procedure and Evidence of the Tribunal ("Rules"), the Prosecution's Appellant's brief is currently due on 3 October 2011;

BEING SEISED of requests filed by Augustin Bizimungu and François-Xavier Nzuwonemeye for extensions of time to file their respective Respondent's briefs;⁴

NOTING that the Prosecution has not responded to the Bizimungu and Nzuwonemeye Motions;

NOTING that the Prosecution appealed Mr. Bizimungu's convictions and sentence and that its appeal concerning Mr. Nzuwonemeye is limited to sentencing;⁵

NOTING that, in accordance with Rule 112(A) of the Rules, Mr. Bizimungu's Respondent's brief is due within 40 days and Mr. Nzuwonemeye's Respondent's brief is due within 30 days of the filing of the Prosecution's Appellant's brief;

NOTING that Mr. Bizimungu requests a 40-day extension of time and Mr. Nzuwonemeye seeks a 30-day extension of time for the filing of their respective Respondent's briefs from the filing of the French translation of the Trial Judgement and the Prosecution's Appellant's brief;⁶

¹ Order Assigning a Pre-Appeal Judge, 8 July 2011.

² T. 17 May 2011 pp. 23-25. See also *The Prosecutor v. Augustin Ndindiliyimana et al.*, Case No. ICTR-00-56-T, Judgement and Sentence, dated 17 May 2011 and filed on 17 June 2011 ("Trial Judgement"), paras. 71, 73, 75, 77, 2085, 2106-2108, 2119, 2128, 2152-2157, 2162, 2163.

³ Prosecutor's Notice of Appeal, 20 July 2011 ("Notice of Appeal").

⁴ *Requête du Général Augustin Bizimungu en extension du délai de production de son mémoire de l'intimé*, 25 August 2011 ("Bizimungu Motion"); Nzuwonemeye's Urgent Motion for Leave to File His Response to the Prosecution Appeal Brief after the Filing of French Translation of Trial Judgment and Prosecutor's Appeal Brief, 12 August 2011 ("Nzuwonemeye Motion").

⁵ Notice of Appeal, paras. 1-31, 49-58.

⁶ Bizimungu Motion, paras. 1, 29; Nzuwonemeye Motion, paras. 6, 11.

NOTING that Mr. Bizimungu and Mr. Nzuwonemeye do not know English but that their respective Counsel can work in that language;⁷

CONSIDERING that Rule 116(A) of Rules allows for the extension of time of any deadline on a showing of good cause;

CONSIDERING that Rule 116(B) of the Rules provides that the requirement for good cause is satisfied “[w]here the ability of the accused to make full answer and Defence depends on the availability of a decision in an official language other than that in which it was originally issued”;

CONSIDERING that it is in the interests of justice to allow Mr. Bizimungu and Mr. Nzuwonemeye adequate time to read the Trial Judgement and the Prosecution’s Appellant’s brief in a language they understand and to consult with their Counsel before filing their respective Respondent’s briefs and that, accordingly, good cause exists to grant an extension of time for the filing of their Respondent’s briefs;⁸

CONSIDERING that Mr. Bizimungu’s and Mr. Nzuwonemeye’s respective Counsel work in English, that they may commence preparation of their Respondent’s briefs before receiving the French translations of the Trial Judgement and the Prosecution’s Appellant’s brief, and that it is therefore appropriate in this instance to allow a more limited extension of time;⁹

FOR THE FOREGOING REASONS

GRANT the Bizimungu and Nzuwonemeye Motions, in part; and

ORDER Mr. Bizimungu to file his Respondent’s brief, if any, no later than 20 days after the filing of the French translation of the Trial Judgement and the Prosecution’s Appellant’s brief;

ORDER Mr. Nzuwonemeye to file his Respondent’s brief, if any, no later than 15 days after the filing of the French translation of the Trial Judgement and the Prosecution’s Appellant’s brief;

⁷ Bizimungu Motion, para. 21; Nzuwonemeye Motion, para. 8. *See also* Decision on Motions for Extension of Time for the Filing of Appeal Submissions, 11 July 2011 (“Decision of 11 July 2011”), paras. 6, 9, 14-16; Decision on Nzuwonemeye’s Motion for Extension of Time to File his Appeal Brief, 18 July 2011 (“Decision of 18 July 2011”), p. 1.

⁸ *See 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 2011 (“*Zigiranyirazo* Decision”), para. 4.


⁹ Decision of 11 July 2011, para. 16; Decision of 18 July 2011, p. 1. *See also Zigiranyirazo* Decision, paras. 5, 6.

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

Done this 20th day of September 2011,
at The Hague,
The Netherlands.



[Seal of the Tribunal]



Judge Patrick Robinson
Pre-Appeal Judge