



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

2185/H

ICTR-00-56-A

8th March 2012

{2185/H - 2182/H}

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Pre-Appeal Judge

Registrar: Mr. Adama Dieng

Decision of: 8 March 2012

Augustin NDINDILYIMANA
Augustin BIZIMUNGU
François-Xavier NZUWONEMEYE
Innocent SAGAHUTU

v.

THE PROSECUTOR

Case No. ICTR-00-56-A

**DECISION ON BIZIMUNGU'S MOTION FOR EXTENSION OF TIME TO FILE HIS
REPLY BRIEF**

Counsel for Augustin Ndinillyimana:

Christopher Black
Vincent Lurquin

Counsel for Augustin Bizimungu:

Gilles St-Laurent

Counsel for François-Xavier Nzuwonemeye:

Charles A. Taku
Beth S. Lyons

Counsel for Innocent Sagahutu:

Fabien Segatwa
Scott Martin

Office of the Prosecutor:

Hassan Bubacar Jallow
James J. Arguin
Abdoulaye Seye
Abubacar Tambadou
Thembile M. Segoete
Florida Kabasinga
Takeh Sendze
Christiana Fomenky
Sunkarie Ballah-Conteh
Betty Mbabazi
Deo Mbutu

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

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NAME / NOM: CONSTANT K. HOMETOWU
SIGNATURE: [Signature] DATE: 08-03-2012

I, THEODOR MERON, 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 Trial Chamber II of the Tribunal entered convictions against the four accused in *The Prosecutor v. Augustin Ndindiliyimana et al.* on 17 May 2011, and that the written Trial Judgement was filed in English on 17 June 2011;²

NOTING that Mr. Bizimungu filed his notice of appeal on 20 July 2011 and an amended version thereof on 21 November 2011;³

RECALLING that Mr. Bizimungu was granted a 40-day extension of time to file his Appellant's brief from the filing of the French translation of the Trial Judgement;⁴

NOTING that Mr. Bizimungu filed his Appellant's brief on 23 January 2012;⁵

NOTING that the Prosecution filed its Respondent's brief in English on 5 March 2012;⁶

BEING SEISED of a motion for extension of time filed by Augustin Bizimungu, in which he requests leave to file his Reply brief within 15 days of the filing of the French translation of the Prosecution's Respondent's brief;⁷

NOTING that the Prosecution has not yet filed a response to the Motion;⁸

¹ Order Assigning a Pre-Appeal Judge, 30 November 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, 2120, 2128, 2152-2157, 2162, 2163. The French translation of the Trial Judgement was filed on 14 December 2011.

³ *Acte d'appel en vertu de l'appel [sic] 24 du Statut et 108 du Règlement de procédure et de preuve*, 20 July 2011; *Acte d'appel amendé en vertu de l'article 24 du Statut et de l'article 108 du Règlement de procédure et de preuve*, 21 November 2011 (filed as Annex A to *Requête du Général Augustin Bizimungu en autorisation d'amender son acte d'appel conformément à l'article 108 du Règlement de procédure et de preuve*, 21 November 2011). See also Decision on Augustin Bizimungu's Motion for Leave to Amend his Notice of Appeal, 19 January 2012, para. 10.

⁴ Decision on Motions for Extension of Time for the Filing of Appeal Submissions, 11 July 2011 ("Decision of 11 July 2011"), paras. 16, 21.

⁵ *Mémoire d'appel du Général Augustin Bizimungu*, 23 January 2012.

⁶ Prosecution's Respondent's Brief in Response to Augustin Bizimungu's Appellant's Brief, 5 March 2012 ("Prosecution's Respondent's brief").

⁷ *Requête en extrême urgence du Général Augustin Bizimungu en extension du délai de production de son mémoire en réplique conformément à l'article 116 du Règlement de procédure et de preuve*, 7 March 2012 ("Motion"), paras. 1, 16, 23, p. 7.

⁸ In light of the relative urgency of the matter, I consider that it is in the interest of justice to rule on the Motion without awaiting the response of the Prosecution. In so doing, I am satisfied that the Prosecution does not suffer any prejudice.

CONSIDERING that, in accordance with Rule 113 of the Rules of Procedure and Evidence of the Tribunal ("Rules"), Mr. Bizimungu's Reply brief, if any, shall be filed within 15 days of the filing of the Prosecution's Respondent's brief, that is, no later than 20 March 2012;

CONSIDERING that Rule 116 (A) of the Rules allows for the extension of time of any deadline on a showing of good cause, and that extensions of time for the purpose of translation are generally accorded where an appellant's Counsel works in a language other than the one in which the Prosecution filed its submissions;⁹

CONSIDERING that Mr. Bizimungu repeats arguments made in previous requests for extensions of time to the effect that he does not understand English and his Counsel's working language is French;¹⁰

CONSIDERING that Mr. Bizimungu submits that, because the Appeals Chamber granted in part certain earlier requests for extensions of time based on his linguistic abilities, the same principle should apply here;¹¹

CONSIDERING that Mr. Bizimungu's Counsel can work in English and is therefore able to discuss the contents of the Prosecution's Respondent's brief with him;¹²

CONSIDERING that, on appeal, Counsel bears the main burden in preparing submissions¹³ and that it is assumed that Mr. Bizimungu has fully discussed with Counsel the issues relevant to his appeal in the preparation of the Appellant's brief;

CONSIDERING that, in any event, it is expected that a French translation of the Prosecution's Respondent's brief will be available prior to the appeal hearing, which will allow Mr. Bizimungu the opportunity to review it and to provide additional instruction to his Counsel, if necessary;

CONSIDERING that any additional matters arising from such a review can be raised during the hearing;

⁹ See e.g., *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 Reply Brief, 3 July 2009, para. 5.

¹⁰ Motion, para. 17.

¹¹ Motion, paras. 18, 19.

¹² See Decision on Bizimungu's and Nzuwonemeye's Motions for Extension of Time to File their Respondent's Briefs, 21 September 2011, p. 2; Decision of 11 July 2011, paras. 14, 15.

¹³ See *Prosecutor v. Radoslav Brđanin*, Case No. IT-99-36-A, Decision on Motions for Extension of Time, 9 December 2004, p. 3. See also, e.g., *Dominique Ntawukulilyayo v. The Prosecutor*, Case No. ICTR-05-82-A, Decision on Dominique Ntawukulilyayo's Motion for Extension of Time for Filing Brief in Reply, 7 March 2011, para. 6; *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, 20 April 2010, para. 7; *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.

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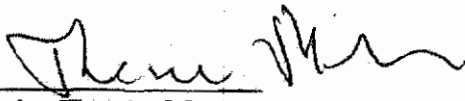
FINDING therefore that Mr. Bizimungu has failed to demonstrate good cause for an extension of time for the filing of his Reply brief;

FOR THE FOREGOING REASONS,

DENY the Motion.

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

Done this 8th day of March 2012,
At The Hague,
The Netherlands.



Judge Theodor Meron
Pre-Appeal Judge

[Seal of the Tribunal]

