



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

664/H
657/H
TH

ICTR-99-50-A
25th April 2012
{657/H - 654/H}
664/H - 661/H

5106-1

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Pre-Appeal Judge
Registrar: Mr. Adama Dieng
Decision of: 25 April 2012

**JUSTIN MUGENZI
PROSPER MUGIRANEZA**

v.

THE PROSECUTOR

Case No. ICTR-99-50-A

**DECISION ON THE PROSECUTION'S MOTION FOR AN EXTENSION OF THE WORD
LIMIT FOR ITS RESPONDENT'S BRIEFS**

Defence Counsel:

Kate Gibson and Christopher Gosnell for Justin Mugenzi
Tom Moran and Cynthia J. Cline for Prosper Mugiraneza

The Office of the Prosecutor:

Hassan Bubacar Jallow
James J. Arguin
George William Mugwanya
Evelyn Kamau
Memory Maposa
Aisha Kagabo
Ndeye Marie Ka
Lansana Dumbuya

ICTR Appeals Chamber
Date: 25th April 2012
Action: R. Juma
Copied To: All concerned
[Signature]

**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 MOI
NAME/NOM: CONSTANT K. HOMMETOWU
SIGNATURE: [Signature] DATE: 25-04-2012

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 (“Appeals Chamber” and “Tribunal”, respectively) and Pre-Appeal Judge in this case;¹

RECALLING that Trial Chamber II of the Tribunal entered convictions against Mr. Justin Mugenzi and Mr. Prosper Mugiraneza in the case of *The Prosecutor v. Casimir Bizimungu et al.* on 30 September 2011, and that the written Trial Judgement was filed in English on 19 October 2011;²

NOTING that Mr. Mugenzi and Mr. Mugiraneza filed their notices of appeal and their Appellant’s briefs on 21 November 2011 and 20 February 2012, respectively;³

NOTING that, on 2 April 2012, the Prosecution filed separate Respondent’s briefs, which contain a total of 59,078 words according to the Prosecution’s count;⁴

RECALLING that, in a decision filed on 16 April 2012, I found that, in filing these Respondent’s briefs, the Prosecution exceeded the word limit provided for in the Practice Direction on the Length of Briefs and Motions on Appeal dated 8 December 2006 (“Practice Direction”), and that the oversized briefs could not be considered as validly filed;⁵

RECALLING that I ordered the Prosecution to re-file its Respondent’s briefs in compliance with paragraph (C)1 of the Practice Direction or, in the alternative, to file a motion requesting authorization to exceed the word limit;⁶

BEING SEISED of a motion filed by the Prosecution on 18 April 2012, in which the Prosecution seeks leave to exceed the word limit for its Respondent’s briefs and requests the Appeals Chamber

¹ Order Assigning a Pre-Appeal Judge, 30 November 2011.

² *The Prosecutor v. Casimir Bizimungu et al.*, Case No. ICTR-99-50-T, Judgement and Sentence, dated 30 September 2011 and filed on 19 October 2011 (“Trial Judgement”), paras. 1222-1250, 1322-1383, 1959-1962, 1976-1987, 1988.

³ Justin Mugenzi’s Notice of Appeal, 21 November 2011; Prosper Mugiraneza’s Notice of Appeal, 21 November 2011; Justin Mugenzi’s Appeal Brief, 20 February 2012; Prosper Mugiraneza’s Appellate Brief, 20 February 2012. On 22 November 2011, Mr. Mugiraneza filed a corrected version of his notice of appeal.

⁴ See Prosecutor’s Brief in Response to Justin Mugenzi’s Appeal, 2 April 2012, p. 107; Prosecutor’s Brief in Response to Prosper Mugiraneza’s Appeal, 2 April 2012, p. 88.

⁵ Decision on Motions for an Order Requiring the Prosecution to Re-File its Response Briefs, 16 April 2012 (“Decision of 16 April 2012”), p. 4.

⁶ Decision of 16 April 2012, p. 4.

to find that the circumstances of this case justify the filing of Respondent's briefs totaling 59,078 words;⁷

NOTING that, in support of its Motion, the Prosecution argues that: (i) the case at trial was complex;⁸ (ii) the Appellant's briefs raise a broad range of complex, extensive, and diverse allegations, which at times are unsubstantiated, are presented in a confusing manner, or misrepresent the record or the Trial Judgement;⁹ and (iii) a consolidated Respondent's brief is impracticable;¹⁰

NOTING that, on 20 April 2012, Mr. Mugenzi and Mr. Mugiraneza filed their respective responses to the Motion,¹¹ in which they argue that: (i) the scope of each of their appeals is limited to two specific events;¹² (ii) their arguments on appeal overlap to a significant degree;¹³ and (iii) the Prosecution's allegations with respect to the relevance and clarity of their Appellant's briefs are erroneous and do not justify an extension of the word limit;¹⁴

NOTING that the Prosecution did not file a reply;

RECALLING that a plain reading of paragraph (C)1 of the Practice Direction provides that, regardless of whether the Prosecution decides to file separate Respondent's briefs or a consolidated Respondent's brief, the Prosecution is entitled to 30,000 words in respect of one appellant and a further 10,000 words in respect of each additional appellant, which, in the present case, amounts to a total of 40,000 words;¹⁵

CONSIDERING that the Appeals Chamber or a Pre-Appeal Judge may authorize a party to exceed the word limits set forth in the Practice Direction if the applicant demonstrates "exceptional circumstances" that necessitate the oversized filing in advance of the filing date;¹⁶

⁷ Prosecutor's Motion for Extension of Word Limit, 18 April 2012 ("Motion"), paras. 2, 36.

⁸ Motion, paras. 3-10.

⁹ Motion, paras. 3, 11-31, 33-35. *See also* Motion, Annex I: Mugiraneza's Appeal, Annex II: Mugenzi's Appeal.

¹⁰ Motion, paras. 3, 12, 32, 34.

¹¹ Justin Mugenzi's Response to the Prosecution Motion for Extension of the Word Limit, 20 April 2012 ("Mugenzi Response"); Prosper Mugiraneza's Response to the Prosecutor's Motion for Extension of Word Limit, 20 April 2012 ("Mugiraneza Response").

¹² Mugenzi Response, para. 2; Mugiraneza Response, paras. 4-8, 13.

¹³ Mugenzi Response, para. 2; Mugiraneza Response, paras. 2, 9-11, 13.

¹⁴ Mugenzi Response, paras. 4, 5; Mugiraneza Response, paras. 3, 12, 17. *See also* Mugiraneza Response, para. 16.

¹⁵ Practice Direction, para. (C)1. *See also* Decision of 16 April 2012, p. 3.

¹⁶ Practice Direction, para. (C)5; *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 ("Zigiranyirazo Appeal Decision"), para. 3. *See also* Decision of 16 April 2012, p. 4 (considering that, in the circumstances presented, it is in the interests of justice to, *inter alia*, allow the Prosecution to make an application for leave to exceed the word limits even after the filing of its oversized Respondent's briefs).

CONSIDERING that, although an extensive trial record may in some instances justify an extension of the word limit,¹⁷ the Prosecution does not demonstrate that the size of the trial record or the complexity of the case at trial necessitates an oversized filing;

CONSIDERING that Mr. Mugenzi's and Mr. Mugiraneza's respective convictions rest only on two events,¹⁸ that their appellate submissions demonstrate the overlapping nature of their appeals, and that a review of the Trial Judgement as well as Mr. Mugenzi's and Mr. Mugiraneza's appellate submissions does not suggest that their appeals are any more complex than those typically heard by the Appeals Chamber;

CONSIDERING that the Prosecution fails to show that the particular nature of the allegations contained in Mr. Mugenzi's and Mr. Mugiraneza's appellate submissions requires an oversized filing;

RECALLING that "concision and cogency are the mark of an effective brief and that excessive length often frustrates the efficient administration of justice";¹⁹

FINDING therefore that the Prosecution has not demonstrated exceptional circumstances that necessitate an oversized filing;

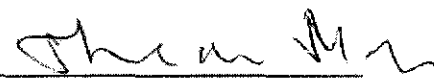
FOR THE FOREGOING REASONS,

DENY the Motion; and

ORDER the Prosecution to file its Respondent's brief(s) in compliance with paragraph (C)1 of the Practice Direction within five days of the filing of this Decision.

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

Done this 25th day of April 2012,
At The Hague,
The Netherlands.



Judge Theodor Meron
Pre-Appeal Judge



¹⁷ See *Augustin Ndindiliyimana et al. v. The Prosecutor*, Case No. ICTR-00-56-A, Decision on Bizimungu's and Nzuwonemeye's Motions for Extensions of the Word Limits for their Appellant's Briefs, 20 January 2012, paras. 6, 7 ("*Ndindiliyimana et al. Appeal Decision*"); *Théoneste Bagosora et al. v. The Prosecutor*, Case No. ICTR-98-41-A, Decision on Anatole Nsengiyumva's Motion for Extension of Word Limit for his Appeal Brief, 19 January 2010, p. 4.

¹⁸ See Trial Judgement, paras. 1222-1250, 1322-1383, 1959-1962, 1976-1987, 1988.

¹⁹ *Ndindiliyimana et al. Appeal Decision*, para. 6. See also *Zigiranyirazo Appeal Decision*, para. 5.