



Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

400/H

*EF*  
ICTR-98-44-A  
14<sup>th</sup> June 2012  
{400/H – 396/H}

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Pre-Appeal Judge  
Registrar: Mr. Adama Dieng  
Decision of: 14 June 2012

ÉDOUARD KAREMERA  
MATTHIEU NGIRUMPATSE

v.

THE PROSECUTOR

Case No. ICTR-98-44-A

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DECISION ON MATTHIEU NGIRUMPATSE'S MOTION FOR RECONSIDERATION  
AND OTHER RELIEF

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Takeh Sendze  
Mihary Andrianaivo

ICTR Appeals Chamber

Date: 14<sup>th</sup> June 2012  
Action: R. G. G. G.  
Copied To: All concerned  
*EF*

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME  
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NAME / NOM: NOUHOU DIALLO  
SIGNATURE: [Signature] DATE: 15/06/2012

**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;<sup>1</sup>

**RECALLING** that Trial Chamber III of the Tribunal entered convictions against Mr. Édouard Karemera and Mr. Matthieu Ngirumpatse in the case of *The Prosecutor v. Édouard Karemera et al.* on 21 December 2011, and that the written Trial Judgement was filed in English on 2 February 2012;<sup>2</sup>

**RECALLING** that the parties have all filed notices of appeal;<sup>3</sup>

**RECALLING** that the Prosecution filed its Appellant’s brief on 21 May 2012,<sup>4</sup> that I granted Mr. Ngirumpatse’s request to file his Appellant’s brief no later than 2 July 2012,<sup>5</sup> and that Mr. Karemera has been ordered to file his Appellant’s brief no later than forty days from the filing of the French translation of the Trial Judgement;<sup>6</sup>

**RECALLING** that, in a decision filed on 21 May 2012, I granted in part Mr. Ngirumpatse’s request, allowed him to file an Appellant’s brief not exceeding 40,000 words and allowed the Prosecution a 10,000 word extension for its Respondent’s brief to Mr. Ngirumpatse’s appeal;<sup>7</sup>

**BEING SEISED** of a motion filed by Mr. Ngirumpatse on 22 May 2012, in which he seeks: (i) an order compelling the Prosecution to file a separate Respondent’s brief to his appeal; and (ii) reconsideration of the word limits allocated to him and the Prosecution in the Decision of 21 May 2012 and related relief;<sup>8</sup>

<sup>1</sup> Order Assigning a Pre-Appeal Judge, 27 January 2012.

<sup>2</sup> *The Prosecutor v. Édouard Karemera and Matthieu Ngirumpatse*, Case No. ICTR-98-44-T, Judgement and Sentence, 2 February 2012 (“Trial Judgement”), paras. 1714-1716. The filing of the French version of the Trial Judgement is currently anticipated in December 2012.

<sup>3</sup> Prosecutor’s Notice of Appeal, 5 March 2012; *L’acte d’appel de Monsieur Édouard Karemera*, 19 March 2012; *Acte d’appel de M. Ngirumpatse contre le jugement et la sentence du 2 février 2012*, 19 March 2012.

<sup>4</sup> Prosecutor’s Appellant’s Brief, 21 May 2012.

<sup>5</sup> Decision on Motions for Extension of Time for the Filing of Appeal Submissions, 17 February 2012 (“Decision of 17 February 2012”), para. 13.

<sup>6</sup> Decision on Édouard Karemera’s Motion for Extension of Time for the Filing of Appeal Submissions and Other Relief, 25 April 2012, para. 14.

<sup>7</sup> Decision on Matthieu Ngirumpatse’s Motion for an Extension of the Word Limit for His Appellant’s Brief, 21 May 2012 (“Decision of 21 May 2012”), para. 8.

<sup>8</sup> *Requête urgente de M. Ngirumpatse aux fins d’injonction au Procureur de déposer son mémoire le 2 juillet 2012 [et] de reconsidération de la décision du 21 mai 2012 accordant extension de 10.000 mots*, 22 May 2012 (“Motion”), paras. 10, 13, 22, 30.

**NOTING** Mr. Ngirumpatse's contention that, in view of the different deadlines for his and Mr. Karemera's respective Appellant's briefs, allowing the Prosecution to file a consolidated Respondent's brief following the filing of Mr. Karemera's Appellant's brief would confer an unfair advantage on the Prosecution;<sup>9</sup>

**NOTING** that Mr. Ngirumpatse requests reconsideration of the Decision of 21 May 2012 on the grounds that the Prosecution will likely also receive an extension of words to respond to Mr. Karemera's Appellant's brief and will therefore have more total words at its disposal than Mr. Ngirumpatse, thus giving the Prosecution an advantage and prejudicing Mr. Ngirumpatse;<sup>10</sup>

**NOTING** that Mr. Ngirumpatse also requests reconsideration on the grounds that the 10,000 word extension for his Appellant's brief accorded to him in the Decision of 21 May 2012 does not allow him to sufficiently develop his arguments, given, *inter alia*, the nature of the convictions, which are based in part on the existence of a joint criminal enterprise, the need to address evidence and findings related to the three accused persons in his trial and the Trial Chamber's failure to address submissions on the credibility of Prosecution witnesses set forth in his final trial brief;<sup>11</sup>

**NOTING** that Mr. Ngirumpatse therefore seeks an additional word limit extension of at least 15,000 words for his Appellant's brief or, in the alternative, to be allowed to challenge the Trial Judgment by incorporating by reference arguments advanced in his final trial brief;<sup>12</sup>

**NOTING** the Prosecution's response that: (i) it intends to file separate Respondent's briefs in relation to Mr. Ngirumpatse's and Mr. Karemera's respective appeals; (ii) it has not requested any extension of word limits from the 50,000 words currently allocated for the filing of its Respondent's briefs; (iii) Mr. Ngirumpatse has not met the standard for reconsideration with respect to the Decision of 21 May 2012; and (iv) Mr. Ngirumpatse's alternative request for authorization to supplement his Appellant's brief with references to his final trial brief is improper;<sup>13</sup>

**RECALLING** that Rule 112(A) of the Rules of Procedure and Evidence of the Tribunal ("Rules") requires the Prosecution to file a Respondent's brief within forty days of the filing of the Appellant's brief;

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<sup>9</sup> Motion, paras. 5-11.

<sup>10</sup> Motion, paras. 12, 13, 17-22.

<sup>11</sup> Motion, paras. 20, 23-29. *See also* Motion, Annex A.

<sup>12</sup> Motion, paras. 25, 27, 30.

<sup>13</sup> Prosecutor's Response to *Requête urgente de M. Ngirumpatse aux fins d'injonction au Procureur de déposer son mémoire le 2 juillet 2012 [et] de reconsidération de la décision du 21 mai 2012 accordant extension de 10.000 mots*, 31 May 2012, paras. 5-13.

**CONSIDERING** that, in view of the Prosecution's express intention to file separate Respondent's briefs and Rule 112(A) of the Rules, Mr. Ngirumpatse's request for an order compelling such a filing within forty days of the filing of his Appellant's brief is moot;

**CONSIDERING** that a previous decision may be reconsidered "if a clear error of reasoning has been demonstrated or if it is necessary to do so to prevent an injustice";<sup>14</sup>

**CONSIDERING** that the Appeals Chamber or a Pre-Appeal Judge may authorize a party to exceed the word limits for its submissions on appeal if the applicant seeks such authorization in advance and demonstrates "exceptional circumstances" that necessitate the oversized filing;<sup>15</sup>

**CONSIDERING** that the Decision of 21 May 2012 already noted the "considerable size and complexity of the trial record in this case as well as the number of discrete facts underlying the convictions in the Trial Judgement";<sup>16</sup>

**RECALLING** that "concision and cogency are the mark of an effective brief and that excessive length often frustrates the efficient administration of justice";<sup>17</sup>

**CONSIDERING** that Mr. Ngirumpatse's arguments with respect to the anticipated length of the Prosecution's Respondent's brief are speculative and, in any event, do not demonstrate that reconsideration of the additional words accorded to the Prosecution in the Decision of 21 May 2012 is warranted;

**CONSIDERING FURTHER** that Mr. Ngirumpatse has not identified any error of reasoning in the Decision of 21 May 2012 with regard to the extension of words granted to him for his Appellant's brief or demonstrated that granting additional words for his Appellant's brief is required to prevent an injustice;

<sup>14</sup> *Juvéna Kajelijeli v. The Prosecutor*, Case No. ICTR-98-44A-A, Judgement, 23 May 2005, para. 203 (internal quotation marks omitted). See also *Aloys Ntabakuze v. The Prosecutor*, Case No. ICTR-98-41A-A, Decision on Peter Erlinder's Motion to Reconsider Order Imposing Sanctions, 1 September 2011, p. 3; *Emmanuel Rukundo v. The Prosecutor*, Case No. ICTR-01-70-A, Decision on Reconsideration of the Decision on the Filing of Emmanuel Rukundo's Reply Brief, 4 May 2010, para. 5.

<sup>15</sup> Practice Direction on the Length of Briefs and Motions on Appeal, dated 8 December 2006, 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 *Augustin Ndingiyimana et al. v. The Prosecutor*, Case No. ICTR-00-56-A, Decision on Innocent Sagahutu's Motion for Dismissal of the Prosecution's Response Brief to Sagahutu's Appeal, 17 May 2012, para. 6; *Justin Mugenzi and Prosper Mugiraneza v. The Prosecutor*, Case No. ICTR-99-50-A, Decision on Motions for an Order Requiring the Prosecution to Re-file Its Response Briefs, 16 April 2012, p. 3.

<sup>16</sup> Decision of 21 May 2012, para. 7, referring to Decision of 17 February 2012, para. 9.

<sup>17</sup> *Augustin Ndingiyimana 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, para. 6. See also *Zigiranyirazo Appeal Decision*, para. 5.

**CONSIDERING** that “[m]erely referring the Appeals Chamber to one’s arguments set out at trial is insufficient as an argument on appeal”;<sup>18</sup>

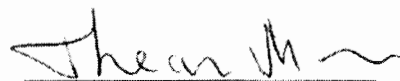
**NOTING** that Mr. Ngirumpatse will have the opportunity to expand on his written submissions during his oral arguments at the appeal hearing;

**FOR THE FOREGOING REASONS,**

**DENY** the Motion.

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

Done this 14th day of June 2012,  
At The Hague,  
The Netherlands.

  
Judge Theodor Meron  
Pre-Appeal Judge

[Seal of the Tribunal]



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<sup>18</sup> See *Prosecutor v. Astrit Haraqija and Bajrush Morina*, Case No. IT-04-84-R77.4-A, Judgement, 23 July 2009, para. 26, referring to *Prosecutor v. Radoslav Bradanin*, Case No. IT-99-36-A, Judgement, 3 April 2007, para. 35. See also *Mikaeli Muhimana v. The Prosecutor*, Case No. ICTR-95-1B-A, Judgement, 21 May 2007, para. 87.