



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

404/H

ICTR-98-44-A

14th June 2012

{404/H - 401/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

**DECISION ON MATTHIEU NGIRUMPATSE'S MOTION FOR AN EXTENSION OF
TIME FOR THE FILING OF HIS RESPONDENT'S BRIEF**

Counsel for Édouard Karemera

Dior Diagne Mbaye
Moussa Félix Sow

Counsel for Matthieu Ngirumpatse

Frédéric Weyl
Chantal Hounkpatin

Office of the Prosecutor

Hassan B. Jallow
James J. Arguin
George W. Mugwanya
Evelyn Kamau
Takeh Sendze
Mihary Andrianaivo

ICTR Appeals Chamber

Date: 14th June 2012

Action: R. Juma

Copied To: all concerned

**International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda**

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NAME / NOM: NOUHEU DIALLA

SIGNATURE: DATE: 15/06/2012

1. 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 am seised of a motion filed by Mr. Matthieu Ngirumpatse seeking an extension of time for the filing of his Respondent’s brief.² The Prosecution responded on 29 May 2012,³ and Mr. Ngirumpatse filed his reply on 30 May 2012.⁴

A. Background

2. On 21 December 2011, Trial Chamber III of the Tribunal (“Trial Chamber”) convicted Mr. Ngirumpatse of direct and public incitement to commit genocide and genocide.⁵ The Trial Chamber also convicted Mr. Ngirumpatse of extermination and rape as crimes against humanity, as well as for killing and causing violence to health and well-being as serious violations of Article 3 common to the Geneva Conventions and Additional Protocol II.⁶ The Trial Chamber sentenced him to life imprisonment.⁷

3. The Prosecution filed its notice of appeal and its Appellant’s brief on 5 March 2012 and 21 May 2012, respectively.⁸ On 17 February 2012, I granted Mr. Ngirumpatse’s request for an extension of time to file his notice of appeal and his Appellant’s brief.⁹ In accordance with the Decision of 17 February 2012, Mr. Ngirumpatse filed his notice of appeal on 19 March 2012.¹⁰ His Appellant’s brief is currently due by 2 July 2012.¹¹ Pursuant to Rule 112(A) of the Rules of Procedure and Evidence of the Tribunal (“Rules”), his Respondent’s brief, if any, is also due no later than 2 July 2012.

¹ Order Assigning a Pre-Appeal Judge, 27 January 2012.

² *Requête urgente de M. Ngirumpatse aux fins d’extension de délai pour le dépôt de son mémoire d’intimé*, 22 May 2012 (“Motion”), paras. 8-10.

³ Prosecutor’s Response to “*Requête urgente de M. Ngirumpatse aux fins d’extension de délai pour le dépôt de son mémoire d’intimé*”, 29 May 2012 (“Response”).

⁴ *Réplique de M. Ngirumpatse à la réponse du Procureur sur sa requête aux fins d’extension de délai pour le dépôt de son mémoire d’intimé*, 30 May 2012 (“Reply”); *Corrigendum à la réplique de M. Ngirumpatse à la réponse du Procureur sur sa requête aux fins d’extension de délai pour le dépôt de son mémoire d’intimé*, 30 May 2012 (“Corrigendum to Reply”).

⁵ T. 21 December 2011 p. 15; *The Prosecutor v. Édouard Karemera and Matthieu Ngirumpatse*, Case No. ICTR-98-44-T, Judgement and Sentence, 2 February 2012 (“Trial Judgement”), paras. 1714, 1715.

⁶ T. 21 December 2011 p. 15; Trial Judgement, paras. 1714-1716.

⁷ T. 21 December 2011 p. 15; Trial Judgement, para. 1763.

⁸ Prosecutor’s Notice of Appeal, 5 March 2012; Prosecutor’s Appellant’s Brief, 21 May 2012.

⁹ Decision on Motions for Extension of Time for the Filing of Appeal Submissions, 17 February 2012 (“Decision of 17 February 2012”), para. 13.

¹⁰ *Acte d’appel de M. Ngirumpatse contre le jugement et la sentence du 2 février 2012*, 19 March 2012.

¹¹ Decision of 17 February 2012, paras. 9, 13.

B. Submissions

4. Mr. Ngirumpatse submits that his Appellant's brief and his Respondent's brief are each due on 2 July 2012 and that he will not be able to concentrate on both briefs if they are due on the same day.¹² In his view, the interests of justice demand that the extension of time previously granted for the filing of his Appellant's brief be devoted to the preparation of his Appellant's brief.¹³ He adds that the Prosecution's Appellant's brief is complex, relatively lengthy, and in English, which further handicaps Mr. Ngirumpatse's Defence.¹⁴ Accordingly, he requests that, in the event a French translation of the Prosecution's Appellant's brief is filed by 2 July 2012, he be granted an extension of time to file his Respondent's brief by no later than 13 August 2012.¹⁵ In the alternative, he requests that, if the translation of the Prosecution's Appellant's brief is not filed by 2 July 2012, he be granted an extension of time to file his Respondent's brief by no later than 3 September 2012.¹⁶

5. The Prosecution does not oppose the Motion but submits that the requested extension of time is excessive and that a 15-day extension of time starting from 2 July 2012 should suffice.¹⁷ In addition, the Prosecution requests that, if any extension is granted to Mr. Ngirumpatse, the Prosecution be granted a comparable extension of time so that it is not similarly confronted with the dilemma of having the deadline for the filing of its Respondent's brief fall on the same day as the deadline for the filing of its brief in reply.¹⁸

6. Mr. Ngirumpatse replies, *inter alia*, that while he does not object in principle to the Prosecution's request, he does not believe it to be adequately supported.¹⁹

C. Discussion

7. Rule 116(A) of the Rules allows for the extension of time of any deadline upon a showing of good cause. I am not convinced, however, that the fact that Mr. Ngirumpatse's Appellant's brief and Respondent's brief are due on the same day amounts to good cause. Mr. Ngirumpatse likewise has not demonstrated that either the complexity or relative length of the Prosecution's Appellant's brief warrants an extension of time for the filing of his Respondent's brief. In addition, I note that Mr. Ngirumpatse's Lead Counsel is able to work in both French and English,²⁰ and thus consider

¹² Motion, paras. 3-5; Reply, para. 6.

¹³ Motion, paras. 6, 7, *referring to* Decision of 17 February 2012. *See also* Reply, paras. 5, 8.

¹⁴ Motion, paras. 5, 9; Reply, para. 6.

¹⁵ Motion, paras. 8, 10; Reply, para. 9.

¹⁶ Motion, paras. 9, 10; Reply, para. 9. *See also* Corrigendum to Reply, paras. 2, 3.

¹⁷ Response, paras. 3-6.

¹⁸ Response, para. 7.

¹⁹ Reply, paras. 3, 4.

²⁰ Form IL 2 for Frédéric Weyl, dated 16 January 2012.

that Mr. Ngirumpatse has not established good cause for an extension of time solely based on the availability of the French translation of the Prosecution's Appellant's brief.²¹

8. Nonetheless, a limited extension of time may be allowed in the interests of justice where it will not impact the overall time dedicated to considering the appeal.²² Given the complexity of the trial record and the Trial Judgement in this case,²³ the fact that the main working language of Mr. Ngirumpatse's Lead Counsel is French,²⁴ and the fact that the overall briefing in this case is not anticipated to be concluded until early 2013,²⁵ I am satisfied that, in the particular circumstances of this case, it is in the interests of justice to allow Mr. Ngirumpatse an extension of time until 3 September 2012 to file his Respondent's brief.

9. Pursuant to Rule 113 of the Rules, the Prosecution's brief in reply, if any, is to be filed within fifteen days of the filing of Mr. Ngirumpatse's Respondent's brief. In light of the foregoing, the deadline for the filing of the Prosecution's Respondent's brief to Mr. Ngirumpatse's appeal is not anticipated to fall on the same day as the deadline for the filing of the Prosecution's brief in reply. Accordingly, there is no need to consider granting the Prosecution an extension of time for the filing of its brief in reply.

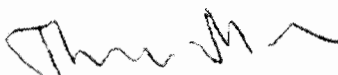
10. For the foregoing reasons, the Motion is **GRANTED** and Mr. Ngirumpatse is **ORDERED** to file his Respondent's brief no later than 3 September 2012.

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

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



[Seal of the Tribunal]


Judge Theodor Meron
Pre-Appeal Judge

²¹ *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 Respondent's Brief, 26 October 2009 ("Kalimanzira Appeal Decision"), para. 5; *Siméon Nchamihigo v. The Prosecutor*, Case No. ICTR-01-63-A, Decision on Defence Motion for a French Translation of the Prosecutor's Respondent's Brief and for Extension of Time for the Filing of the Reply Brief, 8 July 2009, paras. 5, 6, 9; *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 ("Zigiranyirazo Appeal Decision"), paras. 4, 5, 9.

²² *Prosecutor v. Momčilo Perišić*, Case No. IT-04-81-A, Decision on Momčilo Perišić's Motion for an Extension of Time to File his Appeal Brief, 24 November 2011, p. 1; *Kalimanzira Appeal Decision*, paras. 5, 6; *Zigiranyirazo Appeal Decision*, para. 6.

²³ See Decision of 17 February 2012, para. 9.

²⁴ See Form IL 2 for Frédéric Weyl, dated 16 January 2012; Motion, paras. 4, 5.

²⁵ The filing of the French version of the Prosecution's Appellant's brief is currently anticipated in February 2013.