



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

730/H

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ICTR-98-44-A
22nd August 2012
{730/H - 727/H}

Before: Judge Theodor Meron, Pre-Appeal Judge
Registrar: Mr. Adama Dieng
Decision of: 22 August 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 BRIEF IN REPLY

Counsel for Édouard Karemera

Dior Digne Mbaye
Moussa Félix Sow

Counsel for Matthieu Ngirumpatse

Frédéric Weyl

ICTR Appeals Chamber

Date: 22nd August 12
Action: R. Juma
Copied To: All concerned

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Office of the Prosecutor

Hassan B. Jallow
James J. Arguin
George W. Mugwanya
Ndéye Marie Ka

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

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NAME / NOM:

CONSTANT K. HOMEYU

SIGNATURE:

Constant K. Homeyu
DATE: 22-08-2012

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 brief in reply.² The Prosecution responded on 17 August 2012.³

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.⁴ 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.⁵ The Trial Chamber sentenced him to life imprisonment.⁶

3. 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.⁷ In accordance with the Decision of 17 February 2012, Mr. Ngirumpatse filed his notice of appeal on 19 March 2012.⁸ His Appellant’s brief was filed on 2 July 2012.⁹ The Prosecution filed its Respondent’s brief to Mr. Ngirumpatse’s appeal on 13 August 2012.¹⁰ Pursuant to Rule 113 of the Rules of Procedure and Evidence of the Tribunal (“Rules”), Mr. Ngirumpatse’s brief in reply, if any, is due no later than 28 August 2012.

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

² *Demande d’extension de délai de Matthieu Ngirumpatse pour répliquer à la Réponse du Procureur*, 15 August 2012 (“Motion”), paras. 9, 13.

³ Prosecutor’s Response to Matthieu Ngirumpatse’s Motion for Extension of Time for the Filing of his Brief in Reply, 17 August 2012 (“Response”).

⁴ 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”), para. 1715.

⁵ T. 21 December 2011 p. 15; Trial Judgement, paras. 1715.

⁶ T. 21 December 2011 p. 15; Trial Judgement, para. 1763.

⁷ Decision on Motions for Extension of Time for the Filing of Appeal Submissions, 17 February 2012 (“Decision of 17 February 2012”), para. 13.

⁸ *Acte d’appel de M. Ngirumpatse contre le jugement et la sentence du 2 février 2012*, 19 March 2012.

⁹ *Mémoire d’Appelant de M. Ngirumpatse*, 2 July 2012. On 24 July 2012, Mr. Ngirumpatse filed a corrected version of his Appellant’s brief.

¹⁰ Prosecutor’s Brief in Response to Matthieu Ngirumpatse’s Appeal, 13 August 2012.

4. In addition, the Prosecution filed its notice of appeal and its Appellant's brief on 5 March 2012 and 21 May 2012, respectively.¹¹ On 14 June 2012, I granted Mr. Ngirumpatse's request for an extension of time to file his Respondent's brief, which is currently due by 3 September 2012.¹²

B. Submissions

5. Mr. Ngirumpatse submits that the deadline for the filing of his Respondent's brief has been extended until 3 September 2012 and that he will not be able to concentrate fully on the preparation of this brief if he has to use part of that time to draft his brief in reply.¹³ He recalls the size and complexity of the trial record and the Trial Judgement and adds that the Prosecution's Respondent's brief is in English, which further complicates his preparation given that the main working language of his team is French.¹⁴ He argues that an extension of time for the filing of his brief in reply would serve the interests of justice, his right to an effective defence and would not affect significantly the overall time dedicated to the appeal.¹⁵ Accordingly, Mr. Ngirumpatse requests that he be granted an extension of time to file his brief in reply by no later than 28 September 2012.¹⁶ The Prosecution does not oppose the Motion.¹⁷

C. Discussion

6. 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 the time for the preparation of Mr. Ngirumpatse's Respondent's brief and brief in reply overlaps amounts to good cause.¹⁸ Mr. Ngirumpatse has not argued nor demonstrated that the complexity or length of the Prosecution's Respondent's brief warrants an extension of time for his brief in reply. In addition, I note that Mr. Ngirumpatse's Lead Counsel is able to work in both French and English,¹⁹ and thus consider that Mr. Ngirumpatse has not established good cause for an extension of time solely based on the fact that the Prosecution's Respondent's brief is in English.²⁰

¹¹ Prosecutor's Notice of Appeal, 5 March 2012; Prosecutor's Appellant's Brief, 21 May 2012.

¹² Decision on Matthieu Ngirumpatse's Motion for an Extension of Time for the Filing of his Respondent's Brief, 14 June 2012 ("Decision of 14 June 2012"), para. 10.

¹³ Motion, para. 11. *See also* Motion, para. 7.

¹⁴ Motion, paras. 6, 8, 10.

¹⁵ Motion, para. 12.

¹⁶ Motion, paras. 9, 13.

¹⁷ Response, para. 3.

¹⁸ *Cf.* Decision of 14 June 2012, para. 7.

¹⁹ Form IL 2 for Frédéric Weyl, dated 16 January 2012.

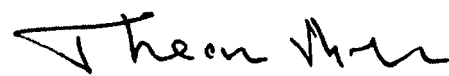
²⁰ Decision of 14 June 2012, para. 7; *Callixte Kalimanzira v. The Prosecutor*, Case No. ICTR-05-88-A, Decision on Callixte Kalimanzira's Motion for an Extension of Time for the Filing of his Respondent's Brief, 26 October 2009 ("*Kalimanzira Appeal Decision*"), para. 5; *Siméon Nchamihigo v. The Prosecutor*, 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,

7. Nonetheless, a limited extension of time may be granted in the interests of justice where it will not impact the overall time dedicated to considering the appeal.²¹ Given the complexity of the trial record and the Trial Judgement in this case, the fact that the main working language of Mr. Ngirumpatse's Lead Counsel is French, and the fact that the overall briefing in this case is not anticipated to be concluded until early 2013,²² 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 to file his brief in reply. However, given the more limited scope and size of a brief in reply, I am not convinced that the full period of the requested extension is warranted.

8. For the foregoing reasons, the Motion is **GRANTED**, in part, and Mr. Ngirumpatse is **ORDERED** to file his brief in reply no later than 17 September 2012.

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

Done this 22nd day of August 2012,
At The Hague,
The Netherlands.



Judge Theodor Meron
Pre-Appeal Judge



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. 4-6, 9.

²¹ Decision of 14 June 2012, para. 8; *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, para. 5; *Zigiranyirazo* Appeal Decision, para. 6.

²² Decision of 14 June 2012, para. 8.