



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

71/H

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ICTR-98-44D-A
07th September 2012
{71/H – 68/H}

IN THE APPEALS CHAMBER

Before: Judge Mehtmet Güney, Pre-Appeal Judge
Acting Registrar: Mr. Pascal Besnier
Decision of: 7 September 2012

CALLIXTE NZABONIMANA

v.

THE PROSECUTOR

Case No. ICTR-98-44D-A

DECISION ON EXTENSION OF TIME LIMITS

Counsel for Callixte Nzabonimana

Mr. Vincent Courcelle-Labrousse

Office of the Prosecutor

Mr. Hassan Bubacar Jallow
Mr. James Arguin
Mr. Steffen Wirth

ICTR Appeals Chamber
Date: 7th Sept. 2012
Action: *C. Juma*
Copied To: Concerned Judges,

Parties, LDC, LPU,
LSS *[Signature]*

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: **ROSETTE MUZIGO-MORRISON**
SIGNATURE: *[Signature]* DATE: 7/9/12

1. I, MEHMET GÜNEY, 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 am seised of the “*Requête en Extension de Délai pour le Dépôt du Mémoire d’Appelant et du Mémoire d’Intimé*” filed on 26 July 2012 (“Motion”), in which Callixte Nzabonimana (“Nzabonimana”) requests an extension of time to file his appellant’s brief (“Appeal Brief”) and his response to the Office of the Prosecutor’s appeal brief (“Response Brief” and “Prosecution Appeal Brief”, respectively).² On 30 July 2012, the Prosecution responded to the Motion.³ Nzabonimana filed a reply on 1 August 2012.⁴

2. Trial Chamber III of the Tribunal pronounced its judgement in this case on 31 May 2012 and the written version in English was filed on 25 June 2012.⁵ On 29 June 2012 and 24 July 2012, the Prosecution and Nzabonimana filed their respective notices of appeal.⁶ The Language and Conference Services Section of the Tribunal has indicated that the French translation of the Trial Judgement will not be available before the end of July 2013.⁷

3. In the Motion, Nzabonimana requests extensions of time to file: (i) his Appeal Brief, within 75 days of the receipt of the French translation of the Trial Judgement; and (ii) his Response Brief within 40 days of the receipt of the French translation of the Trial Judgement, or of the French translation of the Prosecution Appeal Brief, whichever is later.⁸ In support of his Motion, Nzabonimana submits that his knowledge of the English language is limited and that the working language of his Defence team is French.⁹ While his Counsel was in a position to generally discuss with him his notice of appeal, Nzabonimana argues that his capacity to fully participate in his appeal depends on the availability of the French translation of the Trial Judgement.¹⁰ He further argues that the Trial Judgement, consisting of 365 pages excluding annexes, will require a

¹ Order Assigning a Pre-Appeal Judge, 7 September 2012.

² Motion, paras. 11, 12, p. 3. *See also* Motion, para. 6.

³ Prosecutor’s Response to Callixte Nzabonimana’s “*Requête en Extension de Délai pour le Dépôt du Mémoire d’Appelant et du Mémoire d’Intimé*”, 30 July 2012 (“Response”).

⁴ *Réplique à la Prosecutor’s Response to Callixte Nzabonimana’s “Requête en Extension de Délai pour le Dépôt du Mémoire d’Appelant et du Mémoire d’Intimé”*, 1 August 2012 (“Reply”).

⁵ *The Prosecutor v. Callixte Nzabonimana*, Case No. ICTR-98-44D, Judgement and Sentence, 25 June 2012 (“Trial Judgement”).

⁶ Prosecutor’s Notice of Appeal, 29 June 2012; *Acte d’Appel de Callixte Nzabonimana*, 24 July 2012.

⁷ *See* E-mail from Language Services Unit, Appeals Chamber Support Section, dated 20 July 2012.

⁸ Motion, paras. 11, 12, p. 3. *See also* Motion, para. 6.

⁹ Motion, para. 9.

¹⁰ Motion, para. 9.

substantial amount of time to read and analyse.¹¹ He also contends that it is in the interest of justice to grant him sufficient time to read the Trial Judgement and the Prosecution Appeal Brief in a language that he understands, so that he can consult with his Counsel prior to the filing of his briefs.¹²

4. The Prosecution does not oppose the Motion in principle and takes cognizance of Rule 116 of the Rules of Evidence and Procedure of the Tribunal (“Rules”) and the corresponding jurisprudence.¹³ However, it submits that since Nzabonimana’s Co-Counsel is bilingual, he is able to understand the Trial Judgement and the Prosecution Appeal Brief in their original language and to prepare the necessary legal work subject to Nzabonimana’s final approval once the relevant translations are completed.¹⁴ Therefore, the Prosecution submits that the extensions of time should not exceed 30 days for the filing of his Appeal Brief and 15 days for the filing of his Response Brief.¹⁵

5. Nzabonimana replies that only Lead Counsel has primary responsibility for the Defence and that the legal aid scheme does not allow for Co-Counsel on appeal.¹⁶ Consequently, only the language abilities of the Defence team members remunerated under the legal aid scheme can be taken into account.¹⁷ Since these members and Nzabonimana only work in French, he submits that good cause has been shown pursuant to Rule 116 of the Rules.¹⁸

6. Rule 116(A) of the Rules allows for the extension of time of any deadline upon a showing of good cause. Pursuant to Rule 116(B) of the Rules, where the ability of the convicted person to make full answer and defence depends on the availability of a decision in an official language other than that in which it was issued, that circumstance shall be taken into account as a good cause. This provision may provide a basis for an extension of time, upon request, for the filing of the convicted person’s appellant’s brief pending the translation of the trial judgement into a working language of the Tribunal which he or she understands.¹⁹ Therefore, Nzabonimana’s circumstances constitute good cause for extending the time for the filing of his Appeal Brief to run from the filing of the French translation of the Trial Judgement.

¹¹ Motion, para. 10.

¹² Motion, para. 8.

¹³ Response, para. 6.

¹⁴ Response, para. 7.

¹⁵ Response, para. 8.

¹⁶ Reply, para. 7.

¹⁷ Reply, para. 7.

¹⁸ Reply, para. 8.

¹⁹ See, e.g., *Édouard Karemera and Matthieu Ngirumpatse v. The Prosecutor*, Case No. ICTR-98-44-A, Decision on Édouard Karemera’s Motion for Extension of Time for the Filing of Appeal Submissions and Other Relief, 25 April 2012 (“*Karemera Decision*”), para. 9 and references cited therein.

7. Concerning the length of the extension of time, I note that the length of the Trial Judgement, 365 pages excluding annexes, is substantial for a single accused case. However, I note that Nzabonimana's Counsel, Mr. Courcelle-Labrousse, has indicated in his form IL2 that his level of English is very good.²⁰ He is therefore able to understand the Trial Judgement in its original language. He may therefore discuss the draft of the Appeal Brief with Nzabonimana, subject to his final approval once the French translation of the Trial Judgement is filed.²¹ It is therefore appropriate in this instance to allow a more limited extension of time than the one requested.

8. I also find that it is in the interests of justice to allow Nzabonimana the opportunity to review the French version of the Prosecution Appeal Brief.²² However, the requested extension of time is not warranted in this case, as Lead Counsel is able to discuss the content of the Trial Judgement and the Prosecution Appeal Brief with Nzabonimana before receiving the French translations. Accordingly, I find that there is good cause to grant Nzabonimana a more limited extension of time than the one requested to file his Response Brief.

9. For the foregoing reasons, the Motion is **GRANTED** in part. Nzabonimana is **ORDERED** to file his Appeal Brief no later than forty (40) days from the date on which he is served with the French translation of the Trial Judgement and his Response Brief no later than fifteen (15) days from the date on which he is served with the French version of the Trial Judgement or the French version of the Prosecution Appeal Brief, whichever is later. I further **DIRECT** the Registrar to provide the French version of the Trial Judgement to Nzabonimana and his Lead Counsel as soon as practicable and to inform the Appeals Chamber when the French translation of the Trial Judgement and of the Prosecution Appeal Brief has been served on Nzabonimana. The Motion is **DENIED** in all other respects.

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

Done this 7th day of September 2012,
At The Hague,
The Netherlands.



A handwritten signature in black ink, appearing to read "M. Güney", is written over a horizontal line.

Judge Mehmet Güney, Pre-Appeal Judge

[Seal of the Tribunal]

²⁰ See Form IL2 for Courcelle-Labrousse, dated 18 February 2004. Since Lead Counsel indicated that he has a very good knowledge of English, I find it unnecessary to check the English language abilities of other members of the Defence team, irrespective of whether their remuneration falls under the legal aid scheme or not.

²¹ See, e.g., *Karemara* Decision, para. 10 and references cited therein.

²² See, e.g., *Karemara* Decision, para. 11 and references cited therein. I note that the Prosecution Appeal Brief, if any, is due on 12 September 2012 and that, as such, Nzabonimana's request is premature. However, in view of the forthcoming deadline for the filing of the Prosecution Appeal Brief, I consider that it is in the interest of judicial economy to determine Nzabonimana's request at this time.