



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

405/H

ICTR-98-44D-A

17 June 2013

{405/H - 402/H}

Before: Judge Mehmet Güney, Pre-Appeal Judge

Registrar: Mr. Bongani Majola

Decision of: 17 June 2013

ICTR Appeals Chamber

17 JUN 2013

Date: *June 17*
Action: *Chambers, Defence*
Copied To: *DIPAKAD & JPL*

CALLIXTE NZABONIMANA

v.

THE PROSECUTOR

Case No. ICTR-98-44D-A

**DECISION ON PROSECUTION'S MOTIONS TO STRIKE AND FOR
EXTENSION OF TIME, AND ON NZABONIMANA'S MOTIONS FOR
EXTENSION OF WORDS AND FOR REMEDIES**

Counsel for Callixte Nzabonimana

Mr. Vincent Courcelle-Labrousse
Mr. Philippe Larochelle

Office of the Prosecutor

Mr. Hassan B. Jallow
Mr. James J. Arguin
Mr. Steffen Wirth

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: *17/6/13*

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

NOTING the “Judgement and Sentence” pronounced against Callixte Nzabonimana (“Nzabonimana”) by Trial Chamber III of the Tribunal on 31 May 2012 and issued in writing on 25 June 2012;²

NOTING the notices of appeal filed by the Prosecution and Nzabonimana on 29 June 2012 and 24 July 2012, respectively;³

NOTING the “Prosecution Appeal Brief” filed on 12 September 2012;

NOTING the motion filed on 11 June 2013 by Nzabonimana seeking remedies for the alleged violations of Rules 66 and 68 of the Rules of Procedure and Evidence of the Tribunal;⁴

BEING SEISED of a motion filed on 12 June 2013 by the Prosecution seeking to: (i) strike the Motion for Remedies for its oversized filing; and (ii) suspend the Prosecution’s time limit for responding to the Motion for Remedies until the Appeals Chamber decides on the request to strike;⁵

NOTING the Prosecution’s submission that the Motion for Remedies, at almost 6,800 words, is more than twice the permissible length and, therefore, filed in violation of the Practice Direction on the Length of Briefs and Motions on Appeal of 8 December 2006 (“Practice Direction”);⁶

BEING SEISED of a motion for extension of the word limit filed on 13 June 2013 by Nzabonimana seeking to: (i) disregard his failure to seek prior authorization for an extension of words; (ii) authorize him to file a motion exceeding the prescribed word limit; (iii) accept the Motion for Remedies with its annexes; and (iv) reject the Motion to Strike; or, in the alternative, (i)

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

² See T. 31 May 2012 pp. 1-11; *The Prosecutor v. Callixte Nzabonimana*, Case No. ICTR-98-44D-T, Judgement and Sentence, 25 June 2012.

³ Prosecutor’s Notice of Appeal, 29 June 2012; *Corrigendum to Prosecutor’s Notice of Appeal*, 23 August 2012; *Acte d’Appel*, 24 July 2012.

⁴ *Requête de Callixte Nzabonimana afin d’obtenir les réparations appropriées compte tenu de nouvelles violations des articles 66(A)ii et 68 du Règlement de procédure et de preuve*, 11 June 2013 (“Motion for Remedies”).

⁵ Prosecution’s Motion to Strike and Request for Expedited Decision to Suspend Time Limit for Responding to Nzabonimana’s Motion, 12 June 2013 (“Motion to Strike”), paras. 1-3.

⁶ Motion to Strike, para. 2, referring to Practice Direction, para. C(3).

authorize him to file a motion exceeding the prescribed word limit; and (ii) accept an abridged version of the Motion for Remedies with the annexes filed on 11 and 13 June 2013;⁷

NOTING the abridged motion filed on 13 June 2013 by Nzabonimana;⁸

BEING SEISED of the “Prosecution’s Urgent Motion for Extension of Time and Expedited Decision on this Motion” (“Motion for Extension of Time”) filed on 14 June 2013 by the Prosecution seeking to file any response within ten days of the issuance of a decision disposing of the Motion for Extension of Words;

CONSIDERING that the interests of justice justify rendering this Decision without any delay and prior to the expiry of the deadline for any responses;

RECALLING that motions before the Appeals Chamber shall not exceed 3,000 words, and that a party must seek authorisation in advance from the Appeals Chamber, or the Pre-Appeal Judge, to exceed the word limit and must demonstrate exceptional circumstances warranting an oversized filing;⁹

FINDING that Nzabonimana failed to request an extension of the word limit for the Motion for Remedies and for the Abridged Motion for Remedies in advance of filing the motions and that, therefore, his Motion for Extension of Words does not comply with the Practice Direction;

CONSIDERING that the Motion for Remedies, at 6,796 words,¹⁰ as well as the Abridged Motion for Remedies, at 3,651 words,¹¹ exceed the prescribed word limit by 3,796 and 651 words, respectively;

FINDING that the Motion for Remedies and the Abridged Motion for Remedies were not filed in compliance with the Practice Direction as they exceed, without prior authorization, the limit of 3,000 words;

RECALLING that, pursuant to paragraph C(4) of the Practice Direction, appendices do not count towards the word limit provided they do not contain legal or factual arguments, but rather

⁷ *Requête de Callixte Nzabonimana aux fins de dépassement du nombre limite de mots*, 13 June 2013 (“Motion for Extension of Words”), p. 4.

⁸ *Requête abrégée de Callixte Nzabonimana afin d’obtenir les réparations appropriées compte tenu de nouvelles violations des articles 68(A)ii et 68 du Règlement de procédure et de preuve*, 13 June 2013 (“Abridged Motion for Remedies”).

⁹ See Practice Direction, paras. C(3), C(5).

¹⁰ Motion for Remedies, p. 19.

¹¹ Abridged Motion for Remedies, p. 11.

references, source materials, items from the record, exhibits, and other relevant, non-argumentative material;

CONSIDERING that Annexes A, B, C, and D of the Abridged Motion for Remedies not only contain legal and factual arguments, but also contain passages taken verbatim or summarized from the Motion for Remedies;¹²

FINDING that these annexes contain legal and factual arguments supplementary to Nzabonimana's arguments,¹³ in violation of paragraph C(4) of the Practice Direction;

CONSIDERING that the use of the annexes of the Abridged Motion for Remedies appears to be an attempt by Nzabonimana to circumvent the word limit imposed by the Practice Direction and, thus, is inappropriate;

FINDING that the relief requested in the Motion for Extension of Time is moot;¹⁴

FOR THE FOREGOING REASONS,

GRANT the Motion to Strike;

DISMISS the Motion for Extension of Words and the Motion for Extension of Time;

DISMISS without prejudice the Motion for Remedies and the Abridged Motion for Remedies; and

REMIND Nzabonimana to strictly abide by the practice directions applicable on appeal.

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

Done this seventeenth day of June 2013,
At The Hague,
The Netherlands.



[Seal of the Tribunal]



Judge Mehmet Güney
Pre-Appeal Judge

¹² I note that Annex A of the Abridged Motion for Remedies corresponds to paragraphs 15-23 of the Motion for Remedies; Annex B to paragraphs 26-35 of the Motion for Remedies; Annex C to paragraphs 72-78, 80, 83-97 of the Motion for Remedies; and Annex D to paragraphs 113-116 of the Motion for Remedies.

¹³ Abridged Motion for Remedies, paras. 12, 15, 27, 46, 61.

¹⁴ Motion for Extension of Time, para. 5.