



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

825/H

ICTR-98-44D-A

22nd July 2013

IN THE APPEALS CHAMBER

{825/H - 822/H}

Before: Judge Mehmet Güney, Pre-Appeal Judge
Registrar: Mr. Bongani Majola
Decision of: 22 July 2013

CALLIXTE NZABONIMANA

v.

THE PROSECUTOR

Case No. ICTR-98-44D-A

**DECISION ON CALLIXTE NZABONIMANA'S MOTION FOR AN
EXTENSION OF THE WORD LIMIT FOR HIS APPELLANT'S BRIEF**

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

ICTR Appeals Chamber

22 JUL 2013

Date: *Chamber, Defens*
Action: *OTP - AAABSPC*
Copied To: *Jumali R.*

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

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NAME / NOM: *ROSETTE MUZIGO-MORRISON*

SIGNATURE: DATE: *22/7/13*

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 1994 and 31 December 1994 (“Appeals Chamber” and “Tribunal”, respectively) and Pre-Appeal Judge in this case,¹ am seised of a motion filed by Callixte Nzabonimana (“Nzabonimana”) on 9 July 2013 seeking an extension of the word limit for the filing of his Appellant’s brief.² The Prosecution responded on 19 July 2013³ and Nzabonimana replied on 22 July 2013.⁴

2. Trial Chamber III of the Tribunal (“Trial Chamber”) pronounced its judgement in this case on 31 May 2012 and the written version in English was filed on 25 June 2012.⁵ Nzabonimana was convicted of genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, and extermination as a crime against humanity, and was sentenced to life imprisonment.⁶

3. On 29 June 2012 and 24 July 2012, the Prosecution and Nzabonimana filed their respective notices of appeal.⁷ On 7 September 2012, I granted Nzabonimana an extension of 40 days from the date on which he is served with the French translation of the Trial Judgement to file his Appellant’s brief.⁸ As Nzabonimana was served with the translation on 18 June 2013, his Appellant’s brief is due on 29 July 2013.⁹

4. According to the Practice Direction on the Length of Briefs and Motions on Appeal, an appellant’s brief shall not exceed 30,000 words.¹⁰ A party may be authorized to exceed this limit if the applicant demonstrates “exceptional circumstances” in advance of the filing date.¹¹

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

² *Requête de Nzabonimana demandant extension de mots pour son mémoire en appel*, 9 July 2013 (confidential) (“Motion”), paras. 6, 8, 28.

³ Prosecution’s Response to Nzabonimana’s Motion for the Extension of the Word Limit for his Appeal Brief, 19 July 2013 (“Response”).

⁴ *Réplique de Nzabonimana à la réponse du Procureur à sa requête demandant extension de mots pour son mémoire en appel*, 22 July 2013 (confidential) (“Reply”).

⁵ 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 (“Trial Judgement”).

⁶ Trial Judgement, paras. 1800, 1822.

⁷ Prosecutor’s Notice of Appeal, 29 June 2012; *Corrigendum* to Prosecutor’s Notice of Appeal, 23 August 2012; *Acte d’Appel*, 24 July 2012 (“Notice of Appeal”) (the English translation was filed on 19 November 2012). The Prosecution filed its appeal brief on 12 September 2012 and Nzabonimana filed his response to it on 9 July 2013. See Prosecution Appeal Brief, 12 September 2012 (the French translation was filed on 3 April 2013 and served on Nzabonimana on 26 June 2013); *Mémoire d’intimé de Nzabonimana*, 9 July 2013 (confidential).

⁸ Decision on Extension of Time Limits, 7 September 2012 (“Decision of 7 September 2012”), para. 9.

⁹ The French translation of the Trial Judgement was filed on 17 June 2013.

¹⁰ Practice Direction on the Length of Briefs and Motions on Appeal, 8 December 2006 (“Practice Direction”), para. (C)1(a).

¹¹ Practice Direction, para. (C)5.

5. Nzabonimana seeks leave to file an appellant's brief of 50,000 words, thereby requesting an extension of the word limit by 20,000 words.¹² His request is based on the alleged complexity of his appeal, which results from several crimes for which he was convicted in relation to numerous events that spanned various locations and periods of time.¹³ Nzabonimana argues that his grounds of appeal are complex because of, *inter alia*, issues related to alibi, his sentence of life imprisonment, his responsibility under Article 6(1) of the Statute, and findings in the Trial Judgement that are based on circumstantial evidence.¹⁴ Nzabonimana further submits that the length of the proceedings and the Trial Judgement justify an oversized filing.¹⁵ He supports his claim by pointing to the duration of the trial, the voluminous trial record, the Prosecution's disclosure of documents after the close of trial proceedings, and the length of the Trial Judgement being "substantial for a single accused case".¹⁶ Nzabonimana maintains that even if these factors alone do not constitute "exceptional circumstances" they distinguish his case from other single accused cases and thus justify an extension of the word limit.¹⁷

6. The Prosecution responds that the Motion should be dismissed because no exceptional circumstances exist to justify an extension of the word limit.¹⁸

7. As a preliminary issue, I note that the Motion and the Reply were filed confidentially. I recall that all submissions filed before the Tribunal shall be public unless there are exceptional reasons for keeping them confidential.¹⁹ Having reviewed the Motion and the Reply, I consider there to be no reason to justify their confidentiality. Consequently, I lift the confidential status of the Motion and the Reply.

8. I recall that concision and cogency are the mark of an effective brief and that excessive length often frustrates the efficient administration of justice.²⁰ A review of the Trial Judgement and the Notice of Appeal does not suggest that the appeal is any more complex than those typically heard by the Appeals Chamber. While Nzabonimana was convicted of several crimes,²¹ I note that: (i) numerous charges against him were not proven at trial; (ii) his criminal liability is limited to

¹² Motion, paras. 5, 6, 8, 28.

¹³ Motion, paras. 8, 11, 14, 22.

¹⁴ Motion, paras. 14, 15, 17, 20.

¹⁵ Motion, paras. 8, 23-27.

¹⁶ Motion, paras. 23-26.

¹⁷ Motion, para. 27.

¹⁸ Response, paras. 1-6, 12. If an extension were granted, the Prosecution argues that it should be limited to no more than 10,000 words and that a corresponding extension should be granted for its response brief. *See* Response, para. 12.

¹⁹ *See The Prosecutor v. Pauline Nyiramasuhuko et al.*, Case No. ICTR-98-42-A, Decision on Prosecution's Motion for Summary Dismissal or Alternative Remedies, 5 July 2013, para. 9 and references cited therein.

²⁰ *See, e.g., Ildéphonse Nizeyimana v. The Prosecutor*, Case No. ICTR-00-55C-A, Decision on Ildéphonse Nizeyimana's Motion Requesting an Extension of the Word Limit for his Brief on Appeal, 16 April 2013, para. 8 and references cited therein. *See also 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, para. 5.

commission and instigation; and (iii) his convictions rest on events that occurred in one prefecture and are restricted to mid-April and May 1994.²² Therefore, I am not persuaded that the prescribed word limit is insufficient to allow Nzabonimana to present his appeal.

9. Turning to the length of the procedure and the Trial Judgement, I recall that an appeal is not a trial *de novo* and the length of the Trial Judgment and the size of the trial record are not in and of themselves factors that constitute exceptional circumstances on appeal.²³ While I previously noted that the Trial Judgement, at 365 pages excluding annexes, is substantial for a single accused, this statement was made in relation to the ability of Nzabonimana's Counsel to understand the Trial Judgement in English and not about the complexity of this case.²⁴ Moreover, Nzabonimana has failed to demonstrate why the disclosure of documents after the close of the trial proceedings would justify the requested extension of the word limit.

10. In light of the above, I find that Nzabonimana has not demonstrated exceptional circumstances to warrant an extension of the word limit for his Appellant's brief.

11. For the foregoing reasons, the Motion is **DENIED** and I **INSTRUCT** the Registrar to lift the confidential status of the Motion and the Reply.

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

Done this 22nd day of July 2013,
At The Hague,
The Netherlands.



[Seal of the Tribunal]


Judge Mehmet Güney
Pre-Appeal Judge

²¹ See Trial Judgement, para. 1800.

²² See, e.g., Trial Judgement, paras. 663, 739, 1077, 1541, 1705-1737, 1744, 1748, 1749, 1775, 1790. I note that the majority of the events in connection with which he was convicted occurred between 12 April 1994 (Butare Trading Centre meeting) and 18 April 1994 (Murambi meeting). See, e.g., Trial Judgement, paras. 1718, 1747, 1761, 1775. I further observe that, according to the Trial Chamber, the agreement to commit genocide materialised on 18 April 1994 (at the Murambi meeting) and in May 1994 (at the Tambwe Commune and the creation of the Crisis Committee). See, e.g., Trial Judgement, paras. 1747, 1748.

²³ See, e.g., *The Prosecutor v. Pauline Nyiramasuhuko et al.*, Case No. ICTR-98-42-A, Decision on Nyiramasuhuko's, Ntahobali's, Kanyabashi's, and Ndayambaje's Motions for Extensions of the Word Limit for their Appeal Briefs, 13 December 2012, para. 15 and references cited therein.

²⁴ Decision of 7 September 2012, para. 7.