



IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Pre-Appeal Judge **ICTR-98-42-A**
 Registrar: Mr. Bongani Majola **28th Nov. 2013**
 Decision of: 28 November 2013 **{14794/H – 14791/H}**

The PROSECUTOR

v.

Pauline NYIRAMASUHUKO
Arsène Shalom NTAHOBALI
Sylvain NSABIMANA
Alphonse NTEZIRYAYO
Joseph KANYABASHI
Élie NDAYAMBAJE

Case No. ICTR-98-42-A

DECISION ON NYIRAMASUHUKO'S MOTION FOR EXTENSION OF WORD LIMIT

Counsel for Pauline Nyiramasuhuko
Nicole Bergevin and Guy Poupart

Counsel for Arsène Shalom Ntahobali
Normand Marquis and Mylène Dimitri

Counsel for Sylvain Nsabimana
Josette Kadji and Pierre Tientcheu Weledji

Counsel for Alphonse Nteziryayo
Frédéric Titinga Pacéré and
Gershom Otachi Bw'Omanwa

Counsel for Joseph Kanyabashi
Michel Marchand and Alexandra Marciel

Counsel for Élie Ndayambaje
Pierre Boulé and Claver Sindayigaya

Office of the Prosecutor
Hassan Bubacar Jallow
James Arguin
Deborah Wilkinson

ICTR Appeals Chamber

Date: **28 NOV 2013**

Action: *R. Juma*

Copied To: *Chambers, Jallow, Arguin, Wilkinson, Pocar, Majola, Ndayambaje, Nteziryayo, Ntahobali, Nyiramasuhuko, Kanyabashi, Kadji, Tientcheu, Bergevin, Poupart, Marquis, Dimitri, Titinga, Pacéré, Gershom, Marchand, Marciel, Boulé, Sindayigaya*

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 MUZILO-MORISON**

SIGNATURE: *[Signature]* DATE: **28/11/13**

I, **Fausto POCAR**, 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 Trial Judgement pronounced in this case by Trial Chamber II of the Tribunal on 24 June 2011 and issued in writing on 14 July 2011;²

NOTING Pauline Nyiramasuhuko’s motion filed on 21 November 2013 seeking a stay of proceedings;³

NOTING the Prosecution’s motion to strike the Nyiramasuhuko Stay Motion filed on 26 November 2013;⁴

BEING SEISED of a preliminary motion filed by Ms. Nyiramasuhuko on 21 November 2013 requesting an extension of the word limit applicable to the Nyiramasuhuko Stay Motion on the basis that, despite her best efforts, she could not reduce the length of the Nyiramasuhuko Stay Motion below the prescribed word limit;⁵

NOTING that the Prosecution has not yet responded to the Nyiramasuhuko Extension Motion;

NOTING that a motion to exceed word limits may be disposed of without giving the other party the opportunity to respond if, on the face of the motion, the Appeals Chamber or the Pre-Appeal Judge is of the opinion that no prejudice would be caused to the other party;⁶

NOTING that the Nyiramasuhuko Stay Motion is 4,780 words in length⁷ and exceeds by 1,780 words the limit imposed by the Practice Direction;⁸

¹ Order Assigning a Pre-Appeal Judge, 21 July 2011.

² *The Prosecutor v. Pauline Nyiramasuhuko et al.*, Case No. ICTR-98-42-T, Judgement and Sentence, pronounced on 24 June 2011, issued in writing on 14 July 2011 (“Trial Judgement”).

³ *Requête de Pauline Nyiramasuhuko en arrêt des procédures*, 21 November 2013 (“Nyiramasuhuko Stay Motion”).

⁴ Motion to Strike Nyiramasuhuko Request for Stay of Proceedings and for Expedited Schedule, 26 November 2013 (“Prosecution Motion”).

⁵ *Requête préliminaire de Pauline Nyiramasuhuko en extension de mots de la Requête en arrêt des procédures*, 21 November 2013 (“Nyiramasuhuko Extension Motion”), para. 1.

⁶ Practice Direction on the Length of Briefs and Motions on Appeal, 8 December 2006 (“Practice Direction”), para. 6.

⁷ See Nyiramasuhuko Stay Motion.

⁸ Practice Direction, para. 3.

NOTING that the Practice Direction instructs that a party must seek authorisation in advance from the Appeals Chamber, or the Pre-Appeal Judge, to exceed a word limit and must provide an explanation of the exceptional circumstances that necessitate the oversized filing;⁹

NOTING that the Nyiramasuhuko Extension Motion requesting leave to exceed the word limit applicable to the Nyiramasuhuko Stay Motion was filed simultaneously with the Nyiramasuhuko Stay Motion;

NOTING that Ms. Nyiramasuhuko submits that she could not determine in advance of drafting the Nyiramasuhuko Stay Motion how long it would be;¹⁰

CONSIDERING that Ms. Nyiramasuhuko does not justify why she could not have awaited a ruling on her request for extension of the word limit prior to filing the oversized motion;¹¹

CONSIDERING that Ms. Nyiramasuhuko has not complied with the Practice Direction as she did not seek advance authorization to exceed the word limit;

CONSIDERING further that Ms. Nyiramasuhuko's explanation for the oversized filing does not demonstrate the existence of exceptional circumstances necessitating an oversized filing for the Nyiramasuhuko Stay Motion;¹²

FINDING, nonetheless, that it is in the interests of justice to grant Ms. Nyiramasuhuko's requested limited extension of words as doing so will facilitate the expeditious administration of justice;

CONSIDERING that, in light of the scope of the Nyiramasuhuko Stay Motion, a limited extension of the word limit imposed by the Practice Direction on any response to be filed by the Prosecution would eliminate any potential prejudice;¹³

HEREBY GRANT the Nyiramasuhuko Extension Motion;

AUTHORISE the Prosecution to file a response to the Nyiramasuhuko Stay Motion that is no longer than 3,500 words; and

⁹ Practice Direction, para. 5.

¹⁰ Nyiramasuhuko Extension Motion, paras. 2, 4, 5.

¹¹ I find unpersuasive Ms. Nyiramasuhuko's reference to a prior decision concerning a request for an extension of time to file a motion under Rule 115 of the Rules of Procedure and Evidence of the Tribunal ("Rules"). *See* Nyiramasuhuko Extension Motion, para. 3. Ms. Nyiramasuhuko fails to appreciate that the time in which a motion under Rule 115 of the Rules shall be filed is limited. *See* Rule 115(A) of the Rules. By contrast, no limitation is imposed on the filing of a motion to stay the appeal proceedings, which could be filed at any time and, more importantly, after I had ruled on the Nyiramasuhuko Extension Motion.

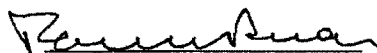
¹² Nyiramasuhuko Extension Motion, paras. 1-5.

¹³ *See* Practice Direction, para. 3.

REMIND the Prosecution that any response to the Nyiramasuhuko Stay Motion shall be filed within 10 days of the filing of the Nyiramasuhuko Stay Motion, that is no later than Monday, 2 December 2013.¹⁴

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

Done this twenty-eighth day of November 2013,
at The Hague,
The Netherlands.


Judge Fausto Pocar
Pre-Appeal Judge

[Seal of the Tribunal]



¹⁴ See Practice Direction on Procedure for the Filing of Written Submission in Appeal Proceedings before the Tribunal, 8 December 2006 ("Practice Direction for the Filing of Submissions"), para. 13. I note that 1 December 2013 is a Sunday. According to paragraph 16 of the Practice Direction for the Filing of Submissions, "[s]hould the last day of a time prescribed fall upon a non-working day of the Tribunal it shall be considered as falling on the first working day thereafter."