



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

IN THE APPEALS CHAMBER

Before:

Judge Theodor Meron, Presiding
Judge Mohamed Shahabuddeen
Judge Fausto Pocar
Judge Inés Mónica Weinberg de Roca
Judge Wolfgang Schomburg

Registrar: Mr. Adama Dieng

Decision of: 3 November 2003

THE PROSECUTOR

v.

**THÉONESTE BAGOSORA
GRATIEN KABILIGI
ALOYS NTABAKUZE
ANATOLE NSENGIYUMVA**

Case No ICTR-98-41-AR93

**DECISION ON PROSECUTOR'S REQUESTS FOR AUTHORIZATION TO
EXCEED THE PAGE LIMIT AND FOR SETTING OF A TIME LIMIT FOR
FILING OF A RESPONSE BY THE DEFENCE**

Counsel for the Prosecution

Ms. Barbara Mulvaney
Mr. Drew White
Mr. Segun Jegede
Ms. Christine Graham
Mr. Rashid Rashid

Counsel for the Defence

Mr. Raphael Constant
Mr. Paul Skolnik
Mr. Jean Yaovi Degli

Mr. David Martin Speery
Mr. Peter Erlinder
Mr. André Tremblay
Mr. Kennedy Ogetto
Mr. Gershom Otachi Bw'omanwa

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 “International Tribunal”, respectively),

BEING SEISED OF the “Prosecutor’s Requests for 1) authorization to exceed the page-limit; and 2) the setting of a time-limit for the filing of a response by the Defence” (“Requests”), filed by the Prosecutor on 27 October 2003;

NOTING that the second Request has been rendered moot by the Appeals Chamber’s “Decision on Application for Extension of Time to File Response to Interlocutory Appeal” dated today (“Decision Granting an Extension of Time”), which sets 7 November 2003 as the deadline for filing a response to the “Prosecutor’s Appeal against the Trial Chamber’s ‘Decision on Admissibility of Proposed Testimony of Witness DBY’ rendered on 18 September 2003, and Oral Ruling of 22 September 2003,” filed by the Prosecutor on 9 October 2003 (“Appeal”);

NOTING that the first Request seeks authorization to file the Appeal, which is 26 pages long not counting the attachments;

CONSIDERING that the page limits of appeal briefs submitted to the International Tribunal are governed by the Practice Direction on the Length of Briefs and Motions on Appeal, dated 16 September 2002 (“Practice Direction”), but that the Practice Direction does specifically indicate the length of an appeal brief where the appeal depends on certification of a Trial Chamber under Rule 73(B) of the Rules of Procedure and Evidence of the International Tribunal;

CONSIDERING that, under paragraph 5 of the Practice Direction, the Appeals Chamber may authorize a variation from the page limits in the Practice Direction upon a party’s explanation of the exceptional circumstances necessitating the oversized filing;

CONSIDERING that the Request was filed 18 days after the Appeal to which it relates, even though paragraph 5 of the Practice Direction requires that a request for a variation of page limits be filed in advance;

CONSIDERING, however, that the lateness of the instant Request may be interpreted as due to a belief by the Prosecutor that the Appeal was governed by paragraph 2(d)(1) of the Practice Direction, which authorizes the filing of a brief of 30 pages;

CONSIDERING that the parties and the Trial Chamber agree that the question raised by the Appeal is an issue of general importance to proceedings before the International Tribunal;

CONSIDERING that, under paragraph 6 of the Practice Direction, a request to exceed page limits may be decided without giving the other party the opportunity to respond if the Appeals Chamber is of the opinion that no prejudice would be caused to the other party;

CONSIDERING that the Decision Granting an Extension of Time allowed the Defendants 18 additional days to respond to the Appeal;

CONSIDERING that the Appeal sets forth a concise statement of the issues and does not unnecessarily burden the Defendants or the Appeals Chamber;

CONSIDERING, therefore, that the Defendants would suffer no prejudice if the Appeals Chamber recognizing the filing of the Appeal as validly done;

CONSIDERING further the submission of counsel for Defendant Aloys Ntabakuze that the Defendants intend to submit a joint brief in response to the Appeal,[\[1\]](#) and that the Practice Direction applies the same page limits to the response to an appeal as to the appeal brief itself;

FOR THE FOREGOING REASONS,

HEREBY GRANTS the first Request and **DISMISSES** the second Request as moot;

FURTHER ORDERS that the Defendants' joint response to the Appeal may not exceed 26 pages;

FURTHER ORDERS that the reply brief of the Prosecutor may not exceed 7 pages.

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

Judge Theodor Meron
Presiding

Done this 3rd day of November 2003,
At The Hague,
The Netherlands.

[Seal of the Tribunal]

[\[1\]](#) See Application for an Extension of the Delay to Produce a Response to the “Prosecutor’s Appeal against the Trial Chamber’s ‘Decision on Admissibility of Proposed Testimony of Witness DBY’ rendered on 18 September 2003, and Oral Ruling of 22 September 2003,” filed 16 October 2003.