



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

45/H
ICTR-01-68-A
28th February 2012
{45/H - 42/H}

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Pre-Appeal Judge
Registrar: Mr. Adama Dieng
Decision of: 28 February 2012

Grégoire NDAHIMANA

v.

THE PROSECUTOR

Case No. ICTR-01-68-A

**DECISION ON GRÉGOIRE NDAHIMANA'S MOTION FOR EXTENSION OF
TIME TO FILE HIS APPELLANT'S AND RESPONDENT'S BRIEFS**

Counsel for Grégoire Ndahimana

Bharat B. Chadha

Office of the Prosecutor

Hassan Bubacar Jallow
James J. Arguin
Alphonse Van
Renifa Madenga
Lydia Mugambe
Jane Mukangira
Lansana Dumbuya

ICTR Appeals Chamber

Date: 28th February 2012
Action: *Transit*
Copied To: *M/Correspond*

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

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NAME / NOM: *SHARIFAH ADONG*

SIGNATURE: *Sharifah* DATE: *28/02/2012*

I, **Theodor MERON**, Presiding 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 that, on 17 November 2011, Trial Chamber II of the Tribunal convicted Mr. Ndahimana of genocide and extermination as a crime against humanity, and that the written Trial Judgement was signed on 30 December 2011 and filed in English on 18 January 2012;²

NOTING that, on 17 February 2012, Mr. Ndahimana and the Prosecution filed notices of appeal against the Trial Judgement;³

NOTING that, in accordance with Rules 111(A) and 112(A) of the Rules of Procedure and Evidence of the Tribunal (“Rules”), the Appellant’s briefs in this case, if any, are currently due no later than 2 May 2012, and any Respondent’s brief is currently due no later than 40 days from the filing of the relevant Appellant’s brief;

BEING SEISED of a request by Mr. Ndahimana for extensions of time to file: (i) his Appellant’s brief within 75 days of the filing and service of French translation of the Trial Judgement; and (ii) his Respondent’s brief within 40 days of the filing of the French translation of the Trial Judgement or of the French translation of the Prosecution’s Appellant’s brief, whichever is later;⁴

NOTING that, in support of his Motion, Mr. Ndahimana submits that he does not know English and that his ability to fully participate in the preparation of his appeal and make full answer to the Prosecution’s appeal depends on the availability of the French translations of the Trial Judgement and the Prosecution’s Appellant’s brief;⁵

NOTING that the Prosecution responds that Mr. Ndahimana should not be granted an extension of time for the filing of his Appellant’s brief exceeding 45 days from the French translation of the Trial Judgement, and an extension of time for the filing of his Respondent’s brief exceeding 15 days

¹ Order Assigning a Pre-Appeal Judge, 23 February 2012.

² *The Prosecutor v. Grégoire Ndahimana*, Case No. ICTR-01-68-T, Judgement and Sentence, rendered on 17 November 2011, signed 30 December 2011, and filed on 18 January 2012 (“Trial Judgement”), paras. 832, 843, 848.

³ Notice of Appeal of Grégoire Ndahimana, 17 February 2012; Prosecutor’s Notice of Appeal, 17 February 2012. See also Corrigendum to Prosecutor’s Notice of Appeal, 21 February 2012.

⁴ Ndahimana’s Extremely Urgent Motion for Extension of Time to File Appeal Brief and His Response Brief, 20 February 2012 (“Motion”), paras. 15, 17.

⁵ Motion, paras. 5, 6, 11-13.

from the French translation of the Trial Judgement and the Prosecution's Appellant's brief, whichever is later;⁶

NOTING that Mr. Ndahimana has not filed a reply;

CONSIDERING that Rule 116(A) of the Rules allows for the extension of time of any deadline on a showing of good cause;

CONSIDERING that Rule 116(B) of the Rules provides that the requirement for good cause is satisfied "[w]here the ability of the accused to make full answer and [d]efence depends on the availability of a decision in an official language other than that in which it was originally issued";

CONSIDERING that it is in the interests of justice to allow Mr. Ndahimana adequate time to read the Trial Judgement and the Prosecution Appellant's brief in a language he understands and to consult with his Counsel before filing his Appellant's and Respondent's briefs,⁷ and that, accordingly, good cause exists to grant extensions of time for the filing of Mr. Ndahimana's Appellant's and Respondent's briefs;

CONSIDERING however that, given that Mr. Ndahimana's Counsel works in English,⁸ he may commence the preparation of the Appellant's and Respondent's briefs in consultation with Mr. Ndahimana before receiving the French translations of the Trial Judgement and the Prosecution's Appellant's brief, and that it is therefore appropriate in this instance to allow more limited extensions of time than the extensions requested;⁹

CONSIDERING further that the extensions of time granted for the filing of Mr. Ndahimana's appeal submissions will impact the overall time dedicated to considering the appeals in this case;

⁶ Prosecution's Response to "Ndahimana's Extremely Urgent Motion for Extension of Time to File Appeal Brief and His Response Brief[]", 22 February 2012, paras. 5-9.

⁷ See, e.g., *The Prosecutor v. Pauline Nyiramasuhuko et al.*, Case No. ICTR-98-42-A, Decision on Joseph Kanyabashi's Motion for Extension of Time to File His Response Brief, 28 October 2011 ("*Nyiramasuhuko et al.* Decision"), p. 826/H (Registry pagination); *Augustin Ndindiliyimana et al. v. The Prosecutor*, Case No. ICTR-00-56-A, Decision on Sagahutu's Motion for Extension of Time to File His Respondent's Brief, 26 October 2011, p. 2; *Augustin Ndindiliyimana et al. v. The Prosecutor*, Case No. ICTR-00-56-A, Decision on Ndindiliyimana's Request for Extension of Time to File His Appellant's Brief, 5 August 2011, p. 1; *Jean-Baptiste Gatete v. The Prosecutor*, Case No. ICTR-00-61-A, Decision on Extension of Time Limits, 26 May 2011 ("*Gatete* Decision"), para. 8.

⁸ See Motion, para. 5.

⁹ See, e.g., *Nyiramasuhuko et al.* Decision, p. 826/H (Registry pagination); *Augustin Ndindiliyimana et al.*, Case No. ICTR-00-56-A, Decision on Bizimungu's and Nzuwonemeye's Motions for Extension of Time to File Their Respondent's Briefs, 21 September 2011, p. 2; *Gatete* Decision, para. 7; *Gaspard Kanyarukiga v. The Prosecutor*, Case No. ICTR-02-78-A, Decision on Gaspard Kanyarukiga's Motion for Extension of Time for Filing Appellant's Brief and to Expedite Translation of Judgement into Kinyarwanda, 20 January 2011, p. 3.

FOR THE FOREGOING REASONS

GRANT the Motion in part;

ORDER Mr. Ndahimana to file:

- his Appellant's brief, if any, no later than 30 days from the date on which he is served with the French translation of the Trial Judgement;
- his Respondent's brief, if any, no later than 15 days from the date on which he is served with the French translation of the Trial Judgement and the Prosecution's Appellant's brief, whichever is later; and

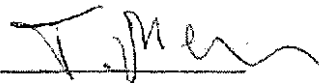
INSTRUCT the Registrar to provide the French translations of the Trial Judgement and the Prosecution's Appellant's brief to Mr. Ndahimana as soon as practicable and to inform the Appeals Chamber when these translations are served on Mr. Ndahimana.

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

Done this 28th day of February 2012,
At The Hague,
The Netherlands.



[Seal of the Tribunal]


Judge Theodor Meron
Pre-Appeal Judge