



UNITED NATIONS
NATIONS UNIES

Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

725/H

ICTR-96-03-R68
23rd February 2010
{725/H – 721/H}

IN THE APPEALS CHAMBER

Before: Judge Patrick Robinson, Presiding
Judge Mehmet Güney
Judge Fausto Pocar
Judge Andréia Vaz
Judge Carmel Agius

Registrar: Mr. Adama Dieng

Decision of: 23 February 2010

ICTR Appeals Chamber
Date: 23rd February 2010
Action: R. Juma
Copied To: Concerned Judges, SLD,
LDC, ALDA, CMS, Parties,
LSS.

GEORGES A. N. RUTAGANDA

v.

THE PROSECUTOR

Case No. ICTR-96-03-R68

DECISION ON MOTION FOR LEAVE TO EXCEED THE WORD LIMIT

The Applicant

Mr. Georges A. N. Rutaganda, *pro se*

Office of the Prosecutor

Mr. Hassan Bubacar Jallow
Mr. Alex Obote-Odora
Ms. Inneke Onsea

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
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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),

NOTING the *Rutaganda* Trial Judgement rendered on 6 December 1999¹ and the *Rutaganda* Appeal Judgement rendered on 26 May 2003;²

BEING SEISED of "Rutaganda's Extremely Urgent Request for the Authorization to Exceed the Page Limits and Direction on Filing Schedule (Practice Direction of 16 September 2002 (14 March 2008), § 3 & § 5)" filed by Georges A. N. Rutaganda ("Rutaganda") on 28 January 2010 ("Motion");

NOTING the "Prosecutor's Response to Rutaganda's Motion for Leave to Exceed Word Limit", filed by the Prosecution on 1 February 2010 ("Response");

NOTING the "Rejoinder to the Prosecutor's Response to Rutaganda's Motion for Leave to Exceed Word Limit", filed by Rutaganda on 5 February 2010 ("Reply");

CONSIDERING that Rutaganda requests authorisation to exceed the page limit set out in the Practice Direction on the Length of Briefs and Motions on Appeal of 8 December 2006 ("Practice Direction") in respect of a motion which he intends to file concerning alleged disclosure violations by the Prosecution ("Proposed Motion");³

CONSIDERING that the Prosecution opposes the Motion⁴ and submits that the Rules of Procedure and Evidence of the Tribunal and the Practice Direction are silent on the word limit for motions filed in post-appeal hearings⁵ and that, even assuming that the word limit for motions, responses, and replies during appeal proceedings is applicable, Rutaganda has not demonstrated the existence of exceptional circumstances justifying an extension of the word limit;⁶

¹ *The Prosecutor v. Georges Anderson Nderubumwe Rutaganda*, Case No. ICTR-96-3-T, Judgement and Sentence, 6 December 1999 ("Rutaganda Trial Judgement").

² *Georges Anderson Nderubumwe Rutaganda v. The Prosecutor*, Case No. ICTR-96-3-A, Judgement, 26 May 2003 ("Rutaganda Appeal Judgement").

³ Motion, paras. 4, 8, 19. Rutaganda refers to the Practice Direction on the Length of Briefs and Motions on Appeal of 16 September 2002 in his Motion; however, he cites the Practice Direction on the Length of Briefs and Motions on Appeal of 8 December 2006 (Reply, fn. 7).

⁴ Response, paras. 2, 6.

⁵ Response, para. 3.

⁶ Response, paras. 2, 4.

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NOTING that Rutaganda submits that the Proposed Motion will address 59 alleged disclosure violations by the Prosecution in relation to the evidence of six Prosecution witnesses who testified in other cases before the Tribunal,⁷ three documents from the *Karemera et al.* case,⁸ and two Prosecution witnesses who did not testify before the Tribunal;⁹

NOTING that Rutaganda requests leave to file up to 65 pages in his Proposed Motion;¹⁰

RECALLING that, pursuant to paragraph (C) 3 of the Practice Direction, under the heading "Other Motions, Responses and Replies", "[m]otions, responses and replies thereto before the Appeals Chamber will not exceed 3,000 words";¹¹

CONSIDERING that this provision applies to the Proposed Motion;

RECALLING that the Appeals Chamber may, in exceptional circumstances, grant an extension of the word limit set by the Practice Direction;¹²

RECALLING that the quality and effectiveness of an appellant's brief does not depend on length but on the clarity and cogency of the arguments presented and that, therefore, excessively long submissions do not necessarily facilitate the efficient administration of justice;¹³

CONSIDERING that the large number of alleged disclosure violations that Rutaganda intends to address in the Proposed Motion constitutes, in the present instance, exceptional circumstances justifying an extension to the word limit;

CONSIDERING, however, that the extension of the word limit requested by Rutaganda is excessive, particularly in light of his intended 10-page section for the introduction and applicable

⁷ Motion, para. 12, referring to Witnesses AR (in the *Bagosora et al.* case), Jean Bosco Kayiranga (in the *Bagosora et al.* case), AWE (in the *Renzaho* and *Karemera et al.* cases), SHA (in the *Setako* case); KEP (in the *Setako* case), and CSH (in the *Rukundo* case).

⁸ Motion, para. 13, referring to Witness SJB's Report (Exhibit DNG 68), Witness AWE's Confession, and Witness NG's Report (Exhibit DK29) (all in the *Karemera et al.* case).

⁹ Motion, para. 14, referring to Jean Paul Biramvu and Witness DBV.

¹⁰ Motion, para. 17. See also Motion, para. 15.

¹¹ Practice Direction, para. (C) 3. This word limit includes headings, footnotes, and quotations. Practice Direction, para. (C) 4.

¹² Practice Direction, para. (C) 5.

¹³ See *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, citing *Siméon Nchamihigo v. The Prosecutor*, Decision on Defence Motion for Leave to Exceed the Word Limit, 12 May 2009, p. 2; *Prosecutor v. Nikola Šainović et al.*, Case No. IT-05-87-A, Decision on Defence Requests for Extension of Time and Word Limits to File Reply Briefs, 20 January 2010, p. 4; *In the Case Against Florence Hartmann*, Case No. IT-02-54-R77.5-A, Decision on Motions to Strike and Requests to Exceed Word Limit, 6 November 2009, para. 24.

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law,¹⁴ and 5-page section for the conclusion,¹⁵ and given that, in relation to Witness AWE, he appears to be attempting to re-litigate a disclosure request which was previously denied;¹⁶

CONSIDERING that the Prosecution requests that, if the extension is granted, it should be granted the same extension for the filing of its response to the Proposed Motion¹⁷ and that Rutaganda does not oppose this request;¹⁸

CONSIDERING that the Practice Direction allows the response to be the same length as the motion;¹⁹

FINDING therefore that, in the circumstances of the case, an extension of up to 9,000 words for the Proposed Motion and any response to it is reasonable and justified;

FURTHER NOTING that Rutaganda requests clarification on the filing schedule for motions filed directly before the Appeals Chamber which are not part of appeal proceedings;²⁰

CONSIDERING that it is in the interests of the efficient administration of justice to establish a schedule for filings related to the Proposed Motion;

HEREBY GRANTS Rutaganda's Motion, in part;

ORDERS that the Proposed Motion shall not exceed 9,000 words in length; any response shall not exceed 9,000 words in length; and any reply shall not exceed 3,000 words in length;

ORDERS that any response to the Proposed Motion shall be filed within 10 days of the filing of the Proposed Motion and any reply to the response shall be filed within four days of the filing of the response.

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

¹⁴ Motion, para. 11.

¹⁵ Motion, para. 15.

¹⁶ See Reply, paras. 12, 13. While Rutaganda states that he is not attempting to re-litigate the Appeals Chamber's decision not to disclose Witness AWE's confidential materials in the *Renzaho* case, he appears to be attempting to do so when he states: "The Applicant plans to show to the Appeals Chamber that it could not have taken the position it took – as claimed by the Prosecutor, – had it been aware of the AWE information raised in the pending motion on disclosure violations". Reply, para. 12.

¹⁷ Response, para. 6.

¹⁸ Reply, para. 14.

¹⁹ Practice Direction, para. (C) 3.


²⁰ Motion, para. 18.

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Done this 23rd day of February 2010
At The Hague,
The Netherlands.



[Seal of the Tribunal]



Judge Patrick Robinson
Presiding Judge

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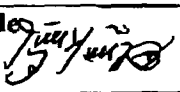
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Decision on Motion for Leave to Exceed the Word Limit	23 February 2010	725/H - 721/H

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