

Tribunal Pénal International pour le Rwanda International Criminal Tribunal for Rwanda

653/A Am

IN THE APPEALS CHAMBER

Before:

Judge Theodor Meron, Presiding

Judge Patrick Robinson

Judge Liu Daqun Judge Andrésia Vaz

Judge Carmel Agius

Registrar:

Mr. Adama Dieng

Filing of:

20 April 2012

JUSTIN MUGENZI PROSPER MUGIRANEZA

 \mathbf{v} .

THE PROSECUTOR

Case No. ICTR-99-50-A

1070-99-50-A 20-04-2012 653/A-651/A



JUSTIN MUGENZI'S RESPONSE TO THE PROSECUTION MOTION FOR EXTENSION OF THE WORD LIMIT

Counsel for the Defence

Kate Gibson and Christopher Gosnell for Justin Mugenzi Tom Moran and Cynthia J. Cline for Prosper Mugiraneza

Office of the Prosecutor

Hassan Bubacar Jallow James J. Arguin George W. Mugwanya Evelyn Kamau Memory Maposa Ndeye Marie Ka Lansana Dumbuya

- 1. The Prosecution's 27-page request¹ does not show any "exceptional circumstances"² justifying an increase in the word-limit prescribed by the Practice Direction.³
- 2. Mr. Mugenzi and his co-appellant were convicted for exactly the same crimes, arising from the same two specific events, on the basis of the same modes of liability. The appeals focus on approximately forty pages of a 590-page judgement⁴ pertaining to two specific events. The grounds and arguments on appeal, though not identical, overlap to a significant degree,⁵ and are based on precisely the same narrow factual findings. The normal word-limit in multi-accused appeals prescribed by the Practice Direction is, in these circumstances, appropriate and proper, particularly in a case in which the Appeals Chamber has already identified "the narrow scope of the case on appeal".⁶ No "exceptional circumstances" have been adduced.
- 3. The Prosecution claim that it could not consolidate its argumentation is belied by its own invalidly filed Response Briefs, which contain frequent repetition of argument, with or without any variation of wording. The Response Briefs also contain lengthy recitations of both the Chamber's findings and the appellants' arguments. The Prosecution should address common issues in a unified manner, thus streamlining the appeals process and reducing the chance that the Prosecution may seek to adopt inconsistent legal positions in respect of common legal issues. As the Appeals Chamber has previously held, "the quality and effectiveness of an appellant's brief does not depend on the length but on the clarity and cogency of the presented arguments and [...], therefore, excessively long briefs do not necessarily serve the cause of efficient administration of justice". The additional 10,000 words

Prosecutor's Motion for Extension of Word Limit, 18 April 2012 ("Prosecution Request").

⁴ The Prosecutor v. Casimir Bizimungu et al., Case No. ICTR-99-50-T, Judgement and Sentence, delivered in

summary oral form on 30 September 2011, rendered in writing 19 October 2011.

⁸ Protais Zigiranyirazo v. The Prosecutor, Case No. ICTR-01-73-A, Decision on Protais Zigiranyirazo's Motion

² Practice Direction on the Length of Briefs and Motions on Appeal, 8 December 2006 ("Practice Direction"), para. C(5).

³ Justin Mugenzi and Prosper Mugiraneza v. The Prosecutor, Case No. ICTR-99-50-A, Decision on Motions for an Order Requiring the Prosecution to Re-file its Response Briefs, 16 April 2012, p. 4.

⁵ For example, Mr. Mugenzi's Grounds of Appeal 1 and 2 overlap substantially with Mr. Mugiraneza's Issues 7 through 11; Grounds 3 through 6 overlap substantially with Issues 21, 22 and 36; Grounds 7 through 10 with Issues 15-17, 19, 20 and 23; Grounds 11 through 14 with Issues 27, 29, 30, 31 and 32; Ground 15 with Issues 1 and 2; Grounds 16 to 18 with Issues 52 to 54: Justin Mugenzi's Appeal Brief, 20 February 2012; Prosper Mugiraneza's Appellate Brief, 20 February 2012.

⁶ Justin Mugenzi and Prosper Mugiraneza v. The Prosecutor, Case No. ICTR-99-50-A, Decision on Prosper Mugiraneza's Motion for Extension of Time to File his Appellant's Brief, 26 January 2002, para. 9.

⁷ Prosecution Brief in Response to Justin Mugenzi's Appeal, 2 April 2012; Prosecution Brief in Response to Prosper Mugiraneza's Appeal, 2 April 2012 (collectively, "Response Briefs").

651/A

provided in the Pracgrounds of appeal as rection is more than adequate to address any divergences in the n the two appellants.

4. The Prosecut
"confusing" argume:
Appeals Chamber he
criticisms of the Ag
constructed as the Pro
rather than less concifree to so note and to

or only false, but would not justify an expanded word limit. As the busly held, "[i]t is not necessary to comment on the Prosecution's s' briefs except to say that if they are as poorly reasoned and ion claims, the Prosecution should be able to respond to them more or instance, if an assertion is wholly unsupported, the Prosecution is an extensive response."

5. Mr. Mugenzi Request in its entirety with paragraph C(1) decision.

ingly requests that the Appeals Chamber dismiss the Prosecution order that the Prosecution re-file its Response Briefs in compliance Practice Direction within a 5-day period from receipt of the

Word Count: 886

Katefibson

Kate Gibson
Lead Counsel of Just

enzi

Christopher Gosnel

The The

izi

Dated: 20 April 2017

Co-Counsel of Justin

for Variation of the West ICTR-2001-63-A, Decision of the Prosecutor v. Blay: Limit of Consolidated k.

¹⁴ May 2009, para. 5, citing Siméon Nchamihigo v. The Prosecutor, Case No. Sence Motion for Leave to Exceed the Word Limit, 12 May 2009, p. 2. Jokić, Case No. IT-02-60-A, Decision on Prosecution's Motion to Extend Word Crief, 6 December 2005, para. 4.



TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

COURT MANAGEMENT SECTION

(Art. 27 of the Directive for the Registry)

- OLKLIKA		(10 be complet		tiic oila			9,	
	☐ Team I☐ Team II ☐ C. K. Hometo				- ∟	Team III C. K. Hometowu		
То:	N. W. Diano	N. M. Diallo	owu		ĺ	C. K. Homei	towu	
	OIC, JLSD	OIC, JPU				Appeals Ch	amber / The Hague	
	P. Besnier	C. K. Hom	etowu			R. Muzigo-M	Morrison	
From:	☐ Chamber	☑ Defence Justin ☐ Prosecutor's Of Mugenzi				Other:		
	(names)	wugenzi		(names)			(names)	
		(names)						
Case Name:	The Prosecutor vs. I	Mugenzi and Mugiraneza			Case Number: ICTR-99-50-A			
Dates:	Transmitted: 20 April 2012 Document's date: 20 April 2012						012	
No. of Pages:	3	Original Language	e: 🛛	English	Г	French	☐ Kinyarwanda	
Title of	Justin Mugenzi's							
Title of Justin Mugenzi's Response to the Prosecution Motion for Extension of the Word Limit Document:								
01 15 11		TDITED						
Classification I ☐ Ex Parte	Level:	TRIM Document Type: ☐ Indictment ☐ Wa		☐ Correspon	denc	e 🖂 Subn	nission from non-parties	
i =	dential / Under Seal	☐ Decision ☐ Affidavit ☐ Notice of						
Confidential	domai, ondo, oda	☐ Disclosure ☐ Order ☐ Appea						
⊠ Public		☐ Judgement ☐ Mo	otion	☐ Book of Au	uthori	ties		
II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers /								
Filing Party) CMS SHALL take necessary action regarding translation.								
Filing Party hereby submits only the original, and will not submit any translated version.								
Reference material is provided in annex to facilitate translation.								
Target Language(s):								
☐ English		☐ French] Kir	nyarwanda	/违	
CMS SHALL NOT take any action regarding translation.								
☐ Filing Party hereby submits BOTH the original and the translated version for filing, as follows ☐ French ☐ Kin yao anda								
Original						Kinyadyanda		
Translation in 🔲 English			☐ French				Kirly ard /anda	
CMS SHALL NOT take any action regarding translation.								
Filing Party will be submitting the translated version(s) in due course in the following language(s):								
☐ English ☐ Kinyarwanda								
KINDLY FILL IN THE BOXES BELOW								
☐ The OTP is overseeing translation. ☐ DEFENCE is overseeing translation.								
				The document is submitted to an accredited service for				
☐ The Language Services Section of the ICTR / Arusha.				translation (fees will be submitted to DCDMS):				
				Name of contact person:				
An accredited service for translation; see details below:			Name of service:					
Name of cont		Address: E-mail / Tel. / Fax:						
Name of serv	rice:		L-mail / 161. / 1 ax.					
Address: E-mail / Tel. /	Fax:							
III - TRANSLATION PRIORITISATION (For Official use ONLY)								
☐Top priority		COMMENTS			<u> </u>	Required da		
Urgent						Hearing date	ə:	