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UNITED NATIONS
NATIONS UNIES

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

TRIAL CHAMBER III

Case No. ICTR-98-44-R73B

ENGLISH

Original: FRENCH

Before: Judge Dennis C. M. Byron, presiding
Judge Emile Francis Short
Judge Gberdao Gustave Kam

Registrar: Adama Dieng

Date filed: 10 October 2005

THE PROSECUTOR

v.

ÉDOUARD KAREMERA
MATHIEU NGIRUMPATSE
JOSEPH NZIRORERA

JUDICIAL RECORDS ARCHIVES
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DECISION ON ÉDOUARD KAREMERA'S REQUESTS FOR CERTIFICATION
OF APPEAL

Rule 73(B) of the Rules of Procedure and Evidence

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CIII05-0119 (E)

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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (the "Tribunal"),

SITTING as Trial Chamber III, (the "Chamber"), composed of Judge Dennis C. M. Byron, presiding, Judge Emile Francis Short and Judge Gberdao Gustave Kam;

BEING SEIZED of two identically titled requests for certification of appeal¹ filed on 13 September 2005 by the Accused Édouard Karemera;

CONSIDERING the two identical responses² filed by the Prosecutor on 16 September 2005.

DECIDES as follows, based on the written Briefs of the parties, in accordance with Rule 73 of the Rules of Procedure and Evidence (the "Rules").

INTRODUCTION

1. The Defence for Édouard Karemera challenges the Chamber's Oral Decision of 9 September 2005 on the motion for extension of time which it filed on 29 July 2005. The Defence submits that it only requested, pursuant to the Rules, translation of the documents material to Édouard Karemera's defence. It observes that non-disclosure is harmful to the Accused who, in addition, is in a joint trial in which most of the disclosures are done in English. This situation calls into question the fair conduct of the proceedings and the outcome of the trial. Consequently, the Defence for Édouard Karemera requests the Chamber to grant certification of appeal against the Decision of 9 September 2005.

2. The Defence for Édouard Karemera also challenges the Chamber's Oral Decision of 9 September 2005 on the motion for extension of time filed on 7 September 2005. The Defence recalls that since the French version of the Chamber's Decision of 5 August 2005 on defects in the form of the Indictment was not available, it could not fully assess the Indictment of 24 August 2005. This imbalance between the parties calls into question the fairness of the proceedings.

3. The Prosecutor holds the view that the Defence has failed to demonstrate that the decisions in question involve issues that would affect the fair and expeditious conduct of the proceedings or the outcome of the trial. It has also failed to show how the immediate resolution of these issues by the Appeals Chamber may advance the proceedings. The two requests must therefore be rejected.

¹ Motion for certification of appeal against the decision of 9 September on the motion for extension of time filed by Counsel for Édouard Karemera on 29 July 2005. Rule 73 of the Rules of Procedure and Evidence.

² Réponse du Procureur à la requête d'Édouard Karemera aux fins de certification d'appel contre la décision en date du 9 septembre 2005 relative à la requête en extension de délai déposée par la Défense d'Édouard Karemera le 29 juillet 2005. Article 73 du Règlement de procédure et de preuve. [Prosecutor's response to Édouard Karemera's motion for certification of appeal against the decision of 9 September 2005 on the motion for extension of time filed by Counsel for Édouard Karemera on 29 July 2005. Rule 73 of the Rules of Procedure and Evidence.]

DISCUSSION

4. By way of introduction, the Chamber notes that the two requests filed by Édouard Karemera are for certification of appeal, and that the Prosecutor has replied thereto identically in two responses. On this point, the Chamber urges the parties to be more reasonable and to avoid the multiplicity of procedural acts. The Chamber further holds the view that it is appropriate to respond to these two requests in a single Decision.

5. The Chamber notes that under Rule 73(B) of the Rules, two requirements must be met for certification of appeal to be granted: the Applicant must demonstrate: (i) that the impugned decision involves an issue that would affect the fair and expeditious conduct of the proceedings or the outcome of the trial, and (ii) that its immediate resolution by the Appeals Chamber may advance the proceedings.

6. In this instance, the Defence has failed to demonstrate how the impugned decisions involve an issue that would affect the fair and expeditious conduct of the proceedings or the outcome of the trial. In the said decisions, the Chamber specifically took into consideration the right to a fair trial and recalled the applicable rules in order to guarantee the rights of the Accused.

7. Furthermore, the Chamber is of the opinion that immediate reference to the Appeals Chamber will not help advance the proceedings.

FOR THESE REASONS, THE CHAMBER

REJECTS the two Defence requests for certification of appeal.

Done in French, Arusha, 10 October 2005

[Signed]
Dennis C. M. Byron
Presiding

[Signed]
Emile Francis Short
Judge

[Signed]
Gberdao Gustave Kam
Judge

[Seal of the Tribunal]

