



**Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda**

IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Presiding
Judge Mohamed Shahabuddeen
Judge Liu Daqun
Judge Theodor Meron
Judge Wolfgang Schomburg

Registrar: Mr. Adama Dieng

Decision of: 29 August 2007

THE PROSECUTOR

v.

**Édouard KAREMERA
Mathieu NGIRUMPATSE
Joseph NZIRORERA**

Case No. ICTR-98-44-AR73.10

DECISION ON REQUESTS FOR EXTENSION OF TIME

Office of the Prosecutor:

Mr. James Stewart
Mr. Don Webster
Mr. George W. Mugwanya
Ms. Inneke Onsea

Counsel for the Defence:

Ms. Dior Diagne Mbaye and Mr. Félix Sow for Mr. Édouard Karemera
Ms. Chantal Hounkpatin and Mr. Frédéric Weyl for Mr. Mathieu Ngirumpatse
Mr. Peter Robinson and Mr. Patrick Nimy Mayidika Ngimbi for Mr. Joseph Nzirorera

1. 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) is seized of an interlocutory appeal filed by Joseph Nzirorera on 16 July 2007¹ against a decision rendered by Trial Chamber III on 11 July 2007,² concerning the right to be present at trial.³

2. On 18 July 2007, Joseph Nzirorera’s co-accused, Édouard Karemera and Mathieu Ndirumpatse, filed motions requesting an extension of time for the filing of their appeals against the Impugned Decision until they received a French translation thereof.⁴ Mr. Ndirumpatse also requested a French translation of Nzirorera’s Appeal.⁵

3. On 23 July 2007, the Prosecution filed a response to Ndirumpatse’s Motion for Extension of Time,⁶ in which it requested the Appeals Chamber to (i) order the Defence Counsel and Detention Management Section to provide updated information concerning the linguistic capacities of the Defence teams; (ii) “provide guidelines on the obligations of the parties and the Chamber to provide unofficial translations of submissions and decisions”; and (iii) to grant an extension of time enabling it to file “a consolidated response to all defense briefs”.⁷

4. On 31 July 2007, Mr. Ndirumpatse requested the Appeals Chamber to calculate the extension of time from the filing of the French translation of the Prosecution’s Response.⁸

¹ Joseph Nzirorera’s Appeal from Decision to Proceed in the Absence of the Accused, 16 July 2007 (“Nzirorera’s Appeal”).

² On 27 June 2007, the Trial Chamber rendered an oral decision denying Mr. Nzirorera’s request to stay proceedings until he was fit to attend trial (*see* T. 27 June 2007, p. 11). On the following day, Mr. Nzirorera made an oral motion requesting reconsideration of its oral decision (*see* T. 28 June 2007, pp. 1-3). Both Mr. Karemera and Mr. Ndirumpatse supported the motion but did not seek certification to appeal (*see* T. 28 June 2007, pp. 3-4). The Trial Chamber decided, *inter alia*, to continue in the absence of Mr. Nzirorera (*see* T. 28 June 2007, p. 7). The Impugned Decision sets out the Trial Chamber’s authoritative written reasons, and grants Mr. Nzirorera certification to appeal. *See* Impugned Decision, paras. 5, 22-26.

³ *The Prosecutor v. Karemera et al.*, Case No. ICTR-98-44-T, Decision on Joseph Nzirorera’s Motion for Stay of Proceedings while he is Unfit to Attend Trial or Certification to Appeal – Article 20 of the Statute, Rule 73(B) of the Rules of Procedure and Evidence, 11 July 2007 (“Impugned Decision”).

⁴ *Requête d’Édouard Karemera pour extension de délai suite à la décision rendue* “on Joseph Nzirorera’s Motion for Stay of Proceedings While he is Unfit to Attend Trial or Certification to Appeal”, 18 July 2007 (“Karemera’s Motion for Extension of Time”); *Requête de M. Ndirumpatse aux fins d’Extension du délai de dépôt de son Mémoire d’appel contre la Décision* “on Joseph Nzirorera’s Motion for Stay of Proceedings While he is Unfit to Attend Trial or Certification to Appeal” (“Ndirumpatse’s Motion for Extension of Time”), 18 July 2007.

⁵ Ndirumpatse’s Motion for Extension of Time, para. 12.

⁶ Prosecutor’s Response to *Requête de M. Ndirumpatse aux fins d’extension du délai de dépôt de son Mémoire d’Appel contre la décision* [*sic*] “on Joseph Nzirorera’s Motion for Stay of Proceedings while he is Unfit to Attend Trial or Certification to Appeal” (“Prosecution’s Response”), 23 July 2007.

⁷ Prosecution’s Response, pp. 5-6.

⁸ *Mémoire complémentaire de M. Ndirumpatse sur sa requête aux fins d’Extension du délai de dépôt de son Mémoire d’Appel contre la Décision* “on Joseph Nzirorera’s Motion for Stay of Proceedings while he is Unfit to Attend Trial or

5. On 14 August 2007, Mr. Ngirumpatse filed « *Mémoire d'appel pour M. Ngirumpatse contre la décision 'on Joseph Nzirorera's Motion for Stay of Proceedings while he is Unfit to Attend Trial or Certification to Appeal'* » (“Ngirumpatse’s Appeal Brief”) and on 21 August 2007, Mr. Karemera filed « *Mémoire d'appel relatif à la décision rendue le 11 juillet 2007 par la Chambre III. Sur [sic] la suspension de la procédure lorsque l'accusé n'est pas en mesure d'assister au procès* » (“Karemera’s Appeal Brief”).

6. On 27 August 2007, the Prosecution filed a “Prosecutor’s Response to Nzirorera, Ngirumpatse and Karemera’s Appeal from Decision to Proceed in the Absence of the Accused”. Mr. Nzirorera filed a “Reply Brief: Joseph Nzirorera’s Appeal from Decision to Proceed in the Absence of the Accused” on 28 August 2007.

7. The Appeals Chamber notes that Mr. Karemera and Mr. Ngirumpatse did not seek certification from the Trial Chamber to appeal against the Impugned Decision, but merely supported Mr. Nzirorera’s request for certification to appeal.⁹ Accordingly, the Trial Chamber granted certification to appeal against the Impugned Decision to Mr. Nzirorera only.¹⁰ As neither Mr. Karemera nor Mr. Ngirumpatse was granted certification to appeal the Impugned Decision, they have no right to file appeals before the Appeals Chamber.¹¹ Their requests for extension of time and their appeal briefs are therefore inadmissible.

8. Finally, the Appeals Chamber considers that the provision of guidelines concerning translations or the issuance of related orders requested by the Prosecution are not necessary to dispose of these matters, which are to be considered by the Trial Chamber in its management of the trial.

Certification to Appeal”, 31 July 2007, para. 21. Although Mr. Ngirumpatse mentions the “*demande d’extension de délai de réponse*” (para. 21(a)), the Appeals Chamber understands that he is requesting an extension of time to file his appeal against the Impugned Decision.

⁹ Impugned Decision, paras. 7-8, 23. The Appeals Chamber also observes that the Prosecution supported the request for certification (*see* Impugned Decision, para. 23).

¹⁰ *See* Impugned Decision, paras. I-III of the dispositive part, which uses the singular and refers to the “Defence Request” and the “Defence Motion”.

¹¹ As stated in *The Prosecutor v. Élie Ndayambaje et al.*, Case No. ICTR-98-42-AR73, Decision on Joseph Kanyabashi’s Appeals against the Decision of Trial Chamber II of 21 March 2007 Concerning the Dismissal of Motions to vary his Witness List, 21 August 2007, para. 14: “[...] to grant an accused, who has not obtained the required certification, the standing to challenge a Trial Chamber decision on appeal in his response to an appeal filed by a co-accused would open the interlocutory appeal process to abuse. Where certification in accordance with Rules 73(B) and (C) of the Rules is required, parties must obtain such certification if they intend to appeal a decision”.

DISPOSITION

9. For the foregoing reasons, the Appeals Chamber **DISMISSES** both Karemera's Motion for Extension of Time and Ngirumpatse's Motion for Extension of Time and **REJECTS** Ngirumpatse's Appeal Brief and Karemera's Appeal Brief.

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

Dated this 29th day of August 2007,

At The Hague, The Netherlands.

Fausto Pocar
Presiding Judge

[Seal of the Tribunal]