



International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

TRIAL CHAMBER III

Case No. ICTR-98-44-T

ENGLISH  
Original: FRENCH

Before: Dennis C. M. Byron, presiding  
Gberdao Gustave Kam  
Vagn Joensen  
Registrar: Adama Dieng  
Date: 13 February 2007

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THE PROSECUTOR

v.

ÉDOUARD KAREMERA  
MATHIEU NGIRUMPATSE  
JOSEPH NZIRORERA

DECISION ON MOTIONS BY ÉDOUARD KAREMERA AND MATHIEU  
NGIRUMPATSE FOR EXTENSION OF TIME

*Rules 54 and 73 of the Rules of Procedure and Evidence*

Office of the Prosecutor:  
Don Webster  
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Saidou N'Dow  
Sunkarie Ballah-Conteh  
Takeh Sendze

Defence Counsel for Édouard Karemera:  
Dior Diagne Mbaye and Félix Sow

Defence Counsel for Mathieu Ndirumpatse:  
Chantal Hounkpatin and Frédéric Weyl

Defence Counsel for Joseph Nzirorera:  
Peter Robinson and Patrick Nimy Mayidika Ngimbi

## INTRODUCTION

1. The trial in this case commenced on 19 September 2005. The Prosecution case closed on 5 December 2007. The next session of the trial is scheduled to begin on 10 March 2008 with the presentation of the Defence case for Accused Édouard Karemera.<sup>1</sup>

2. At the close of the Prosecution case, each of the Accused in the trial filed for a judgement of acquittal<sup>2</sup> pursuant to Rule 98 bis of the Rules of Procedure and Evidence (the "Rules"). The Prosecution filed a consolidated response to the three motions on 31 January 2008,<sup>3</sup> the Trial Chamber having granted an extension of time for that purpose.<sup>4</sup> The Accused had up to 8 February 2008 to file their replies to the Prosecution's response.<sup>5</sup>

3. On 5 and 6 February 2008, Mathieu Ndirumpatse and Édouard Karemera filed separate motions for extension of time to submit their replies to the Prosecutor's response.<sup>6</sup>

## DELIBERATIONS

4. Mathieu Ndirumpatse and Édouard Karemera submit that the Prosecutor's 71-page response is drafted in English, thereby making it impossible for them to comply with the deadline set by the Chamber.<sup>7</sup> Édouard Karemera requests the Trial Chamber that the time-limit to reply run from the date on which the French translation of the Prosecutor's response becomes available,<sup>8</sup> while Mathieu Ndirumpatse seeks an extension of time of at least five days, starting from the date of receipt of the said translation.<sup>9</sup>

5. The Prosecutor objects to both Defence motions and alleges that Mathieu Ndirumpatse intends to avail himself of the reply to the Prosecutor to make substantive arguments, which he should have made in the first motion, to bolster his initial submissions.<sup>10</sup> The Prosecutor further

<sup>1</sup> *The Prosecutor v. Édouard Karemera, Mathieu Ndirumpatse and Joseph Nzirorera*, Case No. ICTR-98-44-T ("Karemera et al."), *Décision relative à la requête d'Édouard Karemera en prorogation de délai pour soumettre les informations et documents requis par l'article 73 ter du Règlement*, Trial Chamber I, 18 January 2008.

<sup>2</sup> *Mémoire en vue de soutenir la demande d'Édouard Karemera en vertu de l'article 98 bis du Règlement de Procédure et de Preuve*, filed on 7 January 2008; *Requête pour M. Ndirumpatse sur le fondement de l'article 98 bis du RPP*, filed on 7 January 2008; Joseph Nzirorera's Motion for Judgement of Acquittal, filed on 17 January 2008.

<sup>3</sup> Prosecutor's Consolidated Response to Defence Motions for Acquittal pursuant to Rule 98 bis of the Rules of Procedure and Evidence, filed on 31 January 2008.

<sup>4</sup> *Karemera et al.*, Case No. ICTR-98-44-T, Decision on the Prosecutor's Application for Extension of Time to File Consolidated Response to Defence Motions for Judgement of Acquittal, Trial Chamber I, 30 January 2008.

<sup>5</sup> *Idem*.

<sup>6</sup> *Requête de M. Ndirumpatse aux fins d'extension du délai du dépôt de son mémoire en réplique à la réponse du Procureur conformément à l'article 98 bis du Règlement de procédure et de preuve* ("Requête de Mathieu Ndirumpatse"), filed on 5 February 2008; *Requête en extension de délai pour le dépôt de la seconde soumission de Édouard Karemera en vertu de l'article 98 bis* ("Requête d'Édouard Karemera"), filed on 6 February 2008.

<sup>7</sup> *Requête de Mathieu Ndirumpatse*, para. 3; *Requête d'Édouard Karemera*, p. 2.

<sup>8</sup> *Requête d'Édouard Karemera*, p. 2.

<sup>9</sup> *Requête de Mathieu Ndirumpatse*, para. 4.

<sup>10</sup> Prosecutor's Consolidated Response to Motions Filed by Ndirumpatse and Karemera for Extension of Time to Reply to the Prosecution Response to Defence Submissions pursuant to Rule 98 bis ("Prosecutor's Response"), filed on 7 February 2007, para. 4.

contends that Mathieu Ndirumpatse's motion will unduly delay and encumber the proceedings.<sup>11</sup> The Prosecutor submits that he does not have the resources to provide bilingual versions or unofficial translations of his submissions and further states that the Defence teams ought to have access to the services of bilingual legal assistants.<sup>12</sup> The Prosecutor contends that parties to the case should be able to understand the content of any submissions filed either in English or in French.<sup>13</sup>

6. Replying to the Prosecutor, Mathieu Ndirumpatse submits that even though the French-speaking Defence teams understand English, they do not necessarily have full mastery of that language and should be able to have access to the language that they know best. He further argues that it matters little whether the Prosecutor or the Registry is responsible for providing the translations to which the Defence is entitled.<sup>14</sup> He also states that his team has had to be reconstituted recently and that the Prosecutor has already been granted two extensions to the initial scheduling order issued by the Chamber.<sup>15</sup>

7. Although Édouard Karemera and Mathieu Ndirumpatse have a better knowledge of French, the Defence Counsel have a duty to represent the Accused in the proceedings before the Tribunal. Filings must first be understood by Counsel, without infringing the rights of the Accused, as enshrined in Article 20(4) of the Statute and developed in the jurisprudence of the Tribunal.<sup>16</sup>

8. In the present case, the Chamber has on several occasions held that the Defence teams for Édouard Karemera and Mathieu Ndirumpatse are capable of understanding motions filed in English,<sup>17</sup> and have legal assistants who are bilingual, thereby guaranteeing protection of the rights of the Accused.

9. However, considering the specificity of Rule 98 bis of the Rules and, consequently, of motions filed thereunder, the Chamber is of the view that it is in the interests of justice and a fair trial to grant a reasonable extension of time to the Accused and their Counsel to enable them to fully grasp the content of the Prosecutor's submissions so as to be able to reply thereto appropriately. The Registry has informed the Chamber that all necessary measures have been taken to ensure timely translation of these documents so that the French version of the Consolidated Response should be ready by Saturday, 23 February 2008, at the latest.

<sup>11</sup> *Ibid.*, para. 5.

<sup>12</sup> *Ibid.*, paras. 6 and 8.

<sup>13</sup> *Ibid.*, para. 7.

<sup>14</sup> *Réplique de M. Ndirumpatse aux fins d'extension du délai du dépôt de son mémoire en réplique à la réponse du Procureur conformément à l'article 98 bis du Règlement de procédure et de preuve ("Réplique de Mathieu Ndirumpatse")*, paras. 6 and 7.

<sup>15</sup> *Ibid.*, paras. 8 to 10.

<sup>16</sup> See among others *Karemera et al.*, Case No. ICTR-98-44-T, *Décision relative à la requête de la Défense en extension de délai*, 5 October 2005, para. 3.

<sup>17</sup> See *Karemera et al.*, Case No. ICTR-98-4-T (sic), *Decision on the Prosecutor's Motion for Admission of Certain Exhibits into Evidence*, 25 January 2008, para. 4; *Karemera et al.*, *Decision to Grant Further Extension of Time (TC)*, 17 May 2007, para. 4; *Karemera et al.*, *Decision Granting Further Extension of Time (TC)*, 24 May 2007, para. 4.

10. As regards the Prosecutor's argument that Mathieu Ndirumpatse intends to introduce submissions he was not able to make in his first motion, the Chamber rejects that argument as purely speculative. Moreover, the Chamber recalls that while the Prosecution may not be duty bound to provide translations of their submissions, it must however contribute to the proper administration of justice by assisting as much as possible in the translation of its motions.

11. In view of the circumstances of this case, the Chamber finds that granting an extension of time up to Wednesday, 27 February, should be sufficient to allow Counsel for Édouard Karemera and Mathieu Ndirumpatse to reply to the Prosecutor's response to the Defence filings under Rule 98 bis of the Rules. The proceedings will suffer neither undue delay nor encumbrance from such an extension.

12. In his motion, Édouard Karemera also requests a postponement of the commencement of his case to April 2008. He states that the repeated delays in pre-defence filings as well as the difficulties in conveying witnesses to Arusha justify such a request.<sup>18</sup> The Chamber will address this application in a separate decision.

**FOR THE FOREGOING REASONS, THE CHAMBER**

- I. GRANTS**, in part, the motions filed by Édouard Karemera and Mathieu Ndirumpatse for extension of time;
- II. AUTHORIZES** Édouard Karemera and Mathieu Ndirumpatse to file their replies to the Prosecutor's Consolidated Response to Defence Motions for Acquittal pursuant to Rule 98 bis of the Rules of Procedure and Evidence no later than Wednesday, 27 February 2008;
- III. RESERVES** its decision on Édouard Karemera's application for postponement of the commencement of his defence case.

Arusha, 13 February 2008, done in French.

[Signed]

Dennis C. M. Byron  
Presiding Judge

[Signed]

Dennis C. M. Byron, for  
Gberdao Gustave Kam  
Judge

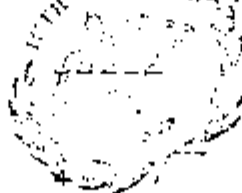
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[Signed]

Dennis C. M. Byron, for  
Wagn Joensen  
Judge

(Absent at the time of signature)

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<sup>18</sup> Requête of Édouard Karemera, p. 2.