



UNITED NATIONS
NATIONS UNIES

ICTR-98-44-T
18-03-2011
(52766-52763)

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International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER III

Before Judges: Dennis C. M. Byron, Presiding
Gberdao Gustave Kam
Vagn Joensen

Registrar: Adama Dieng

Date: 18 March 2011

THE PROSECUTOR

v.

**Édouard KAREMERA and
Matthieu NGIRUMPATSE**

Case No. ICTR-98-44-T

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**DECISION ON THE PROSECUTION'S MOTIONS FOR THE TRANSLATION OF
ADMITTED EXHIBITS**

Rule 54 of the Rules of Procedure and Evidence

Office of the Prosecution:
Don Webster
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Defence Counsel for Édouard Karemera
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Chantal Hounkpatin and Frédéric Weyl

INTRODUCTION

1. On 17 February 2011, the Prosecution filed a motion¹ seeking a further order for the translation from French to English of exhibits that had been admitted since the Chamber's Decision Regarding Translation of Exhibits of 20 January 2010 ("Translation Decision"),² or which were not included in the Prosecution's request for translation³ pursuant to that order due to inadvertence. An additional list of exhibits to be considered for translation was filed on 3 March 2011.⁴ The Defence filed a response on 7 March 2011,⁵ to which the Prosecution replied on the 11 March 2011.⁶

DELIBERATION

2. As a preliminary matter, the Chamber observes that paragraphs 3-7 of the Defence Response in fact concern and reproduce another Defence filing of the same day.⁷ The Chamber reminds the Parties to take better care in drafting submissions.

3. Pursuant to Rule 54 of the Rules, the Chamber may, *proprio motu*, issue such orders as it deems necessary for the purposes of an investigation or for the preparation or conduct of the trial.

4. The Chamber recalls that it has previously noted that members of the Trial Chamber and the Parties, if not all fluent in both English and French, are at least fluent in one language and have a working knowledge of the other.⁸ As such, the Chamber has previously refused the translation of exhibits on the basis that the Language Services Section should not be unnecessarily burdened.⁹ The Chamber has reviewed the following exhibits and following the

¹ Prosecutor's Motion for the Translation of Admitted Exhibits, filed on 17 February 2011.

² *Prosecutor v. Édouard Karemera and Matthieu Ndirumpatse*, Case No. ICTR-98-44-T ("*Karemera et al.*"), Decision Regarding Translation of Exhibits (TC), 20 January 2010.

³ Prosecutor's Submissions on the Translation of Admitted Exhibits, filed on 31 August 2009.

⁴ Prosecutor's Motion for the Translation of Admitted Exhibits; Supplemental Filing, 3 March 2011.

⁵ *Mémoire de Matthieu Ndirumpatse sur les Demandes de Traduction Formulées par le Procureur*, dated 28 February 2011, but filed 7 March 2011, ("Defence Response").

⁶ Prosecutor's Response to "*Mémoire de Matthieu Ndirumpatse sur les Demandes de Traduction Formulées par le Procureur*"; filed 11 March 2011, paras. 2,3.

⁷ Réponse de Matthieu Ndirumpatse à la "Prosecutor's Motion for the Admission of the Original Kinyarwanda Audio Recording and Transcript of P 242, dated 28 February 2011 but filed on 7 March 2011.

⁸ *Karemera et al.*, Translation Decision, para. 15.

⁹ *Id.*



same approach as in its Decision of 20 January 2010,¹⁰ considers that they do not require translation: P. 392, P. 397, P. 434, P. 438, P. 445, P. 447, P. 500, P. 501, P. 502, P. 503, P. 511, P. 512, P. 519, P. 525, P. 532, P. 559, P. 564, P. 565, P. 567, P. 575, P. 576, P. 582, D Ng. 174, D Nz. 752, D Nz. 754, D Nz. 781.

5. The Chamber notes that both Parties have agreed that the Prosecution made a typographical error in requesting the translation of exhibit D Nz. 197¹¹ when it in fact intended to request the translation into French of exhibit D Ng. 197.¹² With regards to D Ng. 197 the reasoning in paragraph 4 applies.

6. In its order of 22 June 2009, the Chamber directed the Parties to file submissions regarding the need for translation of exhibits already admitted by that date.¹³ Exhibits P. 48, D Nz. 39, and D Nz. 69 were admitted before 22 June 2009, but the Prosecution did not request their translation in its response to the June Order.¹⁴ The Chamber thus considers that the deadline for requesting a translation of these exhibits has already passed. Further, for these three documents, the reasoning in paragraph 4 also applies.

7. The Chamber recalls its finding in the Translation Decision that exhibits P. 50 and P. 74 do not require translation.¹⁵ Accordingly, the Prosecution's request for translation of these exhibits amounts to a request for reconsideration of the Translation Decision. The standard for reconsideration of a prior decision has been well-established by this Tribunal: a Chamber has the inherent power to reconsider its decisions when: (i) a new fact has been discovered that was not known to the Chamber at the time it made its original decision; (ii) there has been a material change in circumstances since it made its original decision; or (iii) there is reason to believe that its original decision was erroneous or constituted an abuse of power on the part of the Chamber, resulting in injustice and thereby warranting the exceptional remedy of reconsideration.¹⁶ The Prosecution has tendered no reasoning as to why the Chamber should reconsider its previous findings. Consequently, the Chamber affirms its previous decision.

¹⁰ *Id.* paras. 5-9, 15.

¹¹ Prosecutor's Motion for the Translation of Admitted Exhibits; Supplemental Filing, 3 March 2011.

¹² Defence Response, para. 2 (b); Prosecutor's Response to "Mémoire de Matthieu Ngirumpatse sur les Demandes de Traduction Formulées par le Procureur", filed 11 March 2011.

¹³ *Karemera et al.*, Order Directing the Parties to File Submissions Regarding the Translation of Trial Exhibits (TC), 22 June 2009 ("June Order").

¹⁴ Prosecutor's Submissions on the Translation of Admitted Exhibits, filed on 31 August 2009.

¹⁵ Translation Decision, para. 15.

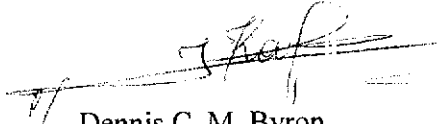
¹⁶ *Karemera et al.*, Decision on Reconsideration of Protective Measures for Prosecution Witnesses, 30 October 2006, para. 2.

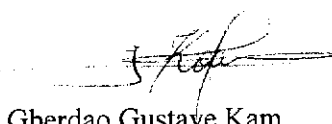
8. Finally, the Chamber considers that there is no need to require the translation of exhibit P. 404 as a translation into English already exists.

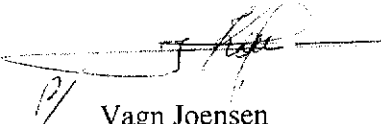
FOR THESE REASONS, THE CHAMBER

REJECTS the Prosecutor's Motion in its entirety.

Arusha, 18 March 2011 done in English.


Dennis C. M. Byron
Presiding Judge


Gberdao Gustave Kam
Judge


Vagn Joensen
Judge

[Seal of the Tribunal]

