

ICTR-98-44-T
26-5-2011
(53365-53362)

53365



**International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda**

UNITED NATIONS
NATIONS UNIES

OR: ENG

TRIAL CHAMBER III

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

Registrar: Adama Dieng

Date: 26 May 2011

THE PROSECUTOR

v.

**Édouard KAREMERA and
Matthieu NGIRUMPATSE**

Case No. ICTR-98-44-T

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26 MAY 2011
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**DECISION ON THE PROSECUTION'S MOTION TO VARY THE CALCULATION
OF WORD COUNT FOR THE CLOSING BRIEF**

Rule 86 of the Rules of Procedure and evidence

Office of the Prosecution:
Don Webster
Maria Wilson
Takeh Sendze
Sunkarie Ballah-Conteh

Defence Counsel for Édouard Karemera
Dior Diagne Mbaye and Félix Sow

Defence Counsel for Matthieu Ngirumpatse
Chantal Hounkpatin and Frédéric Weyl

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INTRODUCTION

1. On 30 November 2010, the Chamber ordered the Prosecution to file a closing brief of 73,000 words maximum and each Accused to file a closing brief of 53,000 words maximum, as laid out in Section 1 of the Practice Direction on Length and Timing of Closing Briefs and Closing Arguments ("Practice Direction").¹ The Parties closing briefs are due by 2 June 2011.² The Prosecution now moves the Chamber to vary the calculation of word count for the Closing Brief.³ Matthieu Ngirumpatse opposes the Motion.⁴

DELIBERATIONS

2. Pursuant to Section 5 of the Practice Direction, the Prosecution submits that it would be in the interest of justice to exclude the footnotes from the prescribed word count of its Closing Brief. It adds that the breadth and complexity of this multi-accused case should motivate the Chamber to consider excluding the footnotes from the word count of the Closing Brief or increasing the word limit.⁵ To supports its Motion, the Prosecution submits that the trial spanned approximately 370 trial days where 153 *viva voce* witnesses, 142 written statements were admitted pursuant to Rule 92 *bis* of the Rules of Procedure and Evidence and 2,288 exhibits were admitted; and, that given the nature of this case, it will need to make submissions on complex legal issues.⁶ The Prosecution continues by giving an example of what would be a full citation and the same in an abbreviated form submitting that the full citation would better assist the Chamber.⁷ Finally the Prosecution uses jurisprudence from the *Bizimungu et al.* case to support its request.⁸

3. The Chamber recalls that the standards for reconsideration are 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

¹ *The Prosecutor v. Édouard Karemera and Matthieu Ngirumpatse*, Case No. ICTR-98-44-T ("*Karemera et al.*"), Ordonnance concernant les dernières conclusions écrites ainsi que les plaidoiries et réquisitions, 30 November 2010.

² *Karemera et al.*, Decision on the Prosecution's Motion for Reconsideration of the Chamber's Decision on the Date of the Filing of the Closing Briefs, 3 March 2011.

³ Prosecutor's Request to Vary the Calculation of Word Count for the Closing Brief, filed on 10 May 2011 ("Motion"); Prosecutor's Reply: Prosecutor's Request to Vary the Calculation of Word Count for the Closing Brief, filed on 16 May 2011 ("Reply").

⁴ Observations de Matthieu Ngirumpatse sur la Prosecutor's Request to Vary the Calculation of Word Count for the Closing Brief, filed on 13 May 2011 ("Response"); Duplique de Matthieu Ngirumpatse sur la Prosecutor's Reply (Prosecutor's Request to Vary the Calculation of Word Count for the Closing Brief),

⁵ Motion, para. 4.

⁶ Motion, paras. 5, 8.

⁷ Motion, paras. 9-10.

⁸ Motion, para. 11.

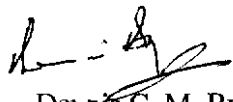
believe that its original Decision was erroneous or constituted an abuse of power on the part of the Chamber, resulting in injustice thereby warranting the exceptional remedy of reconsideration.⁹

4. In its order of 30 November 2010, the Chamber considered all the circumstances of the case in deciding the length of the Parties closing briefs.¹⁰ The Chamber notes that in the *Bizimungu et al.* case, concerning four accused persons, the Parties were not filing their closing briefs simultaneously and that the Prosecution was entitled to file a closing brief of 300 pages total.¹¹ Consequently, the Chamber considers that the *Bizimungu et al.* case does not support the Prosecution's Motion as in the *Karemera et al.* case, with a closing brief of about 244 pages, the Prosecution is comparatively entitled to more pages per accused than it was in the *Bizimungu et al.* case. The Chamber further considers that the abbreviated version of citations is sufficient for the Chamber to locate the material cited and that the proposed full citations would not assist it further. Finally, the Chamber notes that the Prosecution submits that the current word limit will not prevent it from making a complete presentation.¹² Consequently the Chamber considers that the Prosecution has not demonstrated any reason warranting the reconsideration of the 30 November 2010 Order.

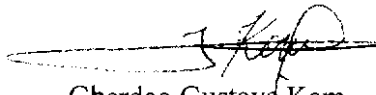
FOR THESE REASONS, THE CHAMBER:

DENIES the Prosecution's Motion in its entirety.

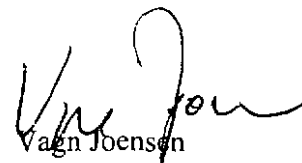
Arusha, 26 May 2011, done in English.



Dennis C. M. Byron
Presiding Judge



Gberdao Gustave Kam
Judge



Vagn Joensen
Judge



⁹ *Karemera et al.*, Decision on Reconsideration of Protective Measures for Prosecution Witnesses, 30 October 2006, para. 2.

¹⁰ *Karemera et al.*, Ordonnance concernant les dernières conclusions écrites ainsi que les plaidoiries et réquisitions, 30 November 2010.

¹¹ See *The Prosecutor v. Casimir Bizimungu, Justin Mugenzi, Jérôme-Clément Bicamumpaka, Prosper Mugiraneza*, Case No. ICTR-99-5C-T, Further Orders Regarding the Filing of Closing Briefs, 24 June 2008; Decision on Justin Mugenzi's Motion for Reconsideration of the Chamber's Further Orders Regarding the Filing of Closing Briefs, 23 July 2008; Decision on Justin Mugenzi's Composite Motion Concerning Page Limits on Closing Briefs, 2 September 2008.

¹² Reply para. 4.