



Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

103/H

*AV*

ICTR-98-44-A  
08<sup>th</sup> March 2012  
{103/H - 99/H}

**IN THE APPEALS CHAMBER**

**Before:** Judge Theodor Meron, Pre-Appeal Judge  
**Registrar:** Mr. Adama Dieng  
**Decision of:** 8 March 2012

**ÉDOUARD KAREMERA  
MATTHIEU NGIRUMPATSE**

v.

**THE PROSECUTOR**

*Case No. ICTR-98-44-A*

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**DECISION ON REQUEST FOR RECONSIDERATION**

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**Counsel for Édouard Karemera**

Ms. Dior Diagne Mbaye  
Mr. Moussa Félix Sow

**Counsel for Matthieu Ngirumpatse**

Mr. Frédéric Weyl  
Ms. Chantal Hounkpatin

**Office of the Prosecutor**

Mr. Hassan Bubacar Jallow  
Mr. James J. Arguin  
Mr. George W. Mugwanya  
Mr. Ousman Jammeh

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

CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME  
COPIE CERTIFIÉE CONFORME À L'ORIGINAL PAR NOUS

NAME / NOM:

*CONSTANT K. NOME TOWE*

SIGNATURE:

*[Signature]*

DATE: 08-03-2012

1. **I, THEODOR MERON**, Presiding Judge of 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) and Pre-Appeal Judge in this case,<sup>1</sup> am seised of a motion filed by Mr. Édouard Karemera seeking reconsideration of the Decision on Motions for Extension of Time for the Filing of Appeal Submissions filed on 17 February 2012 (“Decision of 17 February 2012”).<sup>2</sup> The Prosecution has not yet responded to the Motion.<sup>3</sup>

#### A. Background

2. On 21 December 2011, Trial Chamber III of the Tribunal (“Trial Chamber”) convicted Mr. Karemera and Mr. Matthieu Ndirumputse of direct and public incitement to commit genocide and genocide.<sup>4</sup> The Trial Chamber also convicted Mr. Karemera and Mr. Ndirumputse of extermination and rape as crimes against humanity, and of killing and causing violence to health and well-being as serious violations of Article 3 common to the Geneva Conventions and Additional Protocol II.<sup>5</sup> The Trial Chamber sentenced each of them to life imprisonment.<sup>6</sup>

3. On 27 January 2012, I dismissed motions filed by Mr. Karemera and Mr. Ndirumputse seeking an extension of time to file their respective notices of appeal on the ground that the requests, which had been submitted before the issuance of a written trial judgement, were premature.<sup>7</sup>

4. The written judgement was filed in English on 2 February 2012.<sup>8</sup>

5. On 10 February 2012, Mr. Karemera filed a motion requesting a 30-day extension of time to file his notice of appeal from the filing of the French translation of the Trial Judgement.<sup>9</sup> On 17 February 2012, I granted Mr. Karemera’s motion in part by allowing him a limited extension of

<sup>1</sup> Order Assigning a Pre-Appeal Judge, 27 January 2012.

<sup>2</sup> *Requête aux fins de reconsidération de la Decision on Motions for Extension of the Filing of Appeal Submissions*, 29 February 2012 (“Motion”).

<sup>3</sup> I consider that it is in the interest of justice to rule on the Motion without awaiting the response of the Prosecution. In so doing, I am satisfied that the Prosecution does not suffer any prejudice.

<sup>4</sup> T. 21 December 2011 p. 15; *Édouard Karemera and Matthieu Ndirumputse v. The Prosecutor*, Case No. ICTR-98-44-T, Judgement and Sentence, 2 February 2012 (“Trial Judgement”), paras. 1714-1716.

<sup>5</sup> T. 21 December 2011 p. 15; Trial Judgement, paras. 1714-1716.

<sup>6</sup> T. 21 December 2011 p. 15; Trial Judgement, paras. 1762, 1763.

<sup>7</sup> Decision on Motions for Extension of Time for the Filing of the Notice of Appeal, 27 January 2012, Registry pagination 25/H.

<sup>8</sup> The French translation of the Trial Judgement has not yet been filed.

<sup>9</sup> *Requête aux fins de prorogation de délai en vue de former appel du Jugement rendu le 21 décembre 2011 par la Chambre III*, 10 February 2012, para. 17.

time based on the size and complexity of the trial record in this case and the complexity of the Trial Judgement and ordered him to file his notice of appeal, if any, by Monday, 19 March 2012.<sup>10</sup>

### B. Submissions

6. Mr. Karemera requests that I reconsider the Decision of 17 February 2012 and allow him to file his notice of appeal within 30 days of the issuance of the French translation of the Trial Judgement.<sup>11</sup> He argues that both he and his Counsel, whose official language is French, have need for a French version of the Trial Judgement in order to prepare a notice of appeal.<sup>12</sup> In particular, he submits that his Lead Counsel clearly indicated on the Form IL 2 that she needs an interpreter to work in English and underscores that decisions of the Trial Chamber and the Appeals Chamber as well as submissions of the Prosecutor have been translated into French throughout his trial.<sup>13</sup> Mr. Karemera adds that he will suffer an irreparable and real prejudice if his Counsel are required to make filings challenging a judgement issued in a language which the Defence does not master.<sup>14</sup>

### C. Discussion

7. The Appeals Chamber may reconsider a previous decision under its inherent discretionary power to do so “if a clear error of reasoning has been demonstrated or if it is necessary to do so to prevent an injustice”.<sup>15</sup>

8. In the Decision of 17 February 2012, I concluded that, because Counsel for Mr. Karemera have indicated to the Tribunal that they have previously worked in English, they are therefore able to discuss the contents of the Trial Judgement as well as any possible grounds of appeal with Mr. Karemera.<sup>16</sup> Mr. Karemera suggests that I was mistaken in understanding from Lead Counsel’s

<sup>10</sup> Decision of 17 February 2012, paras. 12, 13.

<sup>11</sup> Motion, paras. 7, 23.

<sup>12</sup> Motion, paras. 14, 17, 18, 20, 22, 23.

<sup>13</sup> Motion, paras. 14, 15, 19, 21.

<sup>14</sup> Motion, para. 12. *See also* Motion, para. 23.

<sup>15</sup> *Juvénal Kajelijeli v. The Prosecutor*, Case No. ICTR-98-44A-A, Judgement, 23 May 2005, para. 203 (internal quotation marks omitted). *See also* *Aloys Ntabakuze v. The Prosecutor*, Case No. ICTR-98-41A-A, Decision on Peter Erlinder’s Motion to Reconsider Order Imposing Sanctions, 1 September 2011, p. 3; *Emmanuel Rukundo v. The Prosecutor*, Case No. ICTR-2001-70-A, Decision on Reconsideration of the Decision on the Filing of Emmanuel Rukundo’s Reply Brief, 4 May 2010, para. 5.

<sup>16</sup> Decision of 17 February 2012, para. 11. In accordance with the practice of the Tribunal, Rule 116(B) of the Rules of Procedure and Evidence of the Tribunal (“Rules”) does not provide a basis for an extension of time for the filing of a notice of appeal where the convicted person’s counsel can work in the language in which the trial judgement was pronounced. *See* Decision of 17 February 2012, para. 7, referring to *The Prosecutor v. Tharcisse Renzaho*, Case No. ICTR-97-31-A, Decision on Tharcisse Renzaho’s Motion for Extension of Time for the Filing of Notice of Appeal and Brief in Reply, 22 September 2009, paras. 4, 5; *Callixte Kalimanzira v. The Prosecutor*, Case No. ICTR-05-88-A, Decision on Callixte Kalimanzira’s Motion for an Extension of Time for the Filing of Notice of Appeal, 20 July 2009, paras. 5, 6; *Callixte Kalimanzira v. The Prosecutor*, Case No. ICTR-05-88-A, Decision on Callixte Kalimanzira’s Motion for Leave to File an Amended Notice of Appeal and for an Extension of Time for the Filing of his Appellant’s Brief, 31 August 2009, para. 5. *See also* *Augustin Ndingiyimana et al. v. The Prosecutor*, Case No. ICTR-00-56-A, Decision on Motions for Extension of Time for the Filing of Appeal Submissions, 11 July 2011, para. 5.

Form IL 2 that she works in English, since the form reflects that she requires an interpreter.<sup>17</sup> I acknowledge that Lead Counsel indicated on her Form IL 2 that she needs an interpreter to work in English.<sup>18</sup> However, she also indicated that she has “used English as a working language before”.<sup>19</sup> In addition, I note that Lead Counsel indicated that she has a good knowledge of English in the *Curriculum Vitae* that she submitted to the Tribunal.<sup>20</sup> Although Lead Counsel may require interpretation during court proceedings, her Form IL 2 and *Curriculum Vitae* reflect that she is able to discuss the contents of the Trial Judgement as well as any possible grounds of appeal with Mr. Karemera. I do not consider that the translation of earlier decisions of the Trial Chamber and Appeals Chamber demonstrates otherwise, in particular since the Appeals Chamber did not previously verify the language ability of Counsel in granting extensions of time on that basis.<sup>21</sup>

9. I likewise do not consider that Mr. Karemera has demonstrated that he will be prejudiced if his Counsel is required to file a notice of appeal based on a Trial Judgement issued in English. In this regard, I recall that the determination of potential grounds of appeal falls primarily within the purview of counsel and, if application is made after the Trial Judgement becomes available in French and good cause is shown, leave may be granted to vary the grounds of appeal pursuant to Rule 108 of the Rules.<sup>22</sup> I further recall that, although the Decision of 17 February 2012 concluded that the fact that the Trial Judgement has not yet been translated into French does not amount to good cause to extend the time period for filing the notice of appeal, it indicated that the availability of the Trial Judgement in a language that Mr. Karemera can understand may constitute good cause for an extension of time for the filing of his Appellant’s brief.<sup>23</sup>

10. Accordingly, I am not persuaded that reconsideration of the Decision of 17 February 2012 is warranted.

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<sup>17</sup> Motion, paras. 14, 21.

<sup>18</sup> Form IL 2 for Dior Diagne, dated 10 January 2012.

<sup>19</sup> Form IL 2 for Dior Diagne, dated 10 January 2012. Co-Counsel for Mr. Karemera has likewise indicated that he has used English as a working language before. See *Formulaire* IL 2 for Papa Moussa Félix Sow, dated 11 March 2003.

<sup>20</sup> *Curriculum Vitae* of Dior Diagne (describing Lead Counsel’s English language abilities as “bon niveau”).

<sup>21</sup> See, e.g., Decision on Request for Extension of Time, 27 January 2006, para. 7.

<sup>22</sup> Decision of 17 February 2012, para. 11, and references therein.

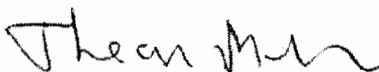
<sup>23</sup> Decision of 17 February 2012, para. 11, fn. 28.

**D. Disposition**

11. For the foregoing reasons, Mr. Karemera's Motion is **DISMISSED**.

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

Done this 8th day of March 2012,  
At The Hague,  
The Netherlands.

  
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Judge Theodor Meron  
Pre-Appeal Judge

[Seal of the Tribunal]

