



Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

275/H

*CA*  
ICTR-98-44-A  
25<sup>th</sup> April 2012  
{275/H – 271/H}

**IN THE APPEALS CHAMBER**

**Before:** Judge Theodor Meron, Pre-Appeal Judge  
**Registrar:** Mr. Adama Dieng  
**Decision of:** 25 April 2012

**ÉDOUARD KAREMERA  
MATTHIEU NGIRUMPATSE**

v.

**THE PROSECUTOR**

Case No. ICTR-98-44-A

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**DECISION ON ÉDOUARD KAREMERA'S MOTION FOR EXTENSION OF TIME FOR  
THE FILING OF APPEAL SUBMISSIONS AND OTHER RELIEF**

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**Counsel for Édouard Karemera**

Dior Diagne Mbaye  
Moussa Félix Sow

**Counsel for Matthieu Ngirumpatse**

Frédéric Weyl  
Chantal Hounkpatin

**Office of the Prosecutor**

Hassan Bubacar Jallow  
James J. Arguin  
George W. Mugwanya  
Abubacar Tambadou  
Renifa Madenga  
Evelyn Kamau  
Memory Maposa  
William Mubiru  
Lydia Mugambe  
Marie Ka  
Mihary Andrianaivo  
Lansana Dumbuya

**ICTR Appeals Chamber**

Date: 25<sup>th</sup> April 2012  
Action: R. J. J. J. J.  
Copied To: All Concerned

*Chantal Hounkpatin*

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

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NAME / NOM: CONSTANT K. HOMETOWU

SIGNATURE: *Constant K. Hometowu* DATE: 25-04-2012

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 seized of a motion filed by Mr. Édouard Karemera seeking an extension of time to file his appeal submissions as well as other relief.<sup>2</sup> The Prosecution did not respond to the Motion.

#### A. Background

2. On 21 December 2011, Trial Chamber III of the Tribunal (“Trial Chamber”) convicted Mr. Karemera of direct and public incitement to commit genocide and genocide.<sup>3</sup> The Trial Chamber also convicted Mr. Karemera 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>4</sup> The Trial Chamber sentenced him to life imprisonment.<sup>5</sup>

3. The written judgement was filed in English on 2 February 2012, and the filing of the French version of the Trial Judgement is currently anticipated in December 2012.

4. On 10 February 2012, Mr. Karemera filed a motion requesting an extension of time to file his notice of appeal.<sup>6</sup> On 17 February 2012, I granted Mr. Karemera’s motion in part, allowed him a limited extension of 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 19 March 2012.<sup>7</sup>

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

<sup>2</sup> *Requête d’Édouard Karemera en extension de délai de dépôt du mémoire de l’appelant et de dépôt du mémoire de l’intimé en attendant la version française du jugement et du mémoire du procureur*, 28 March 2012 (“Motion”), paras. 15-18.

<sup>3</sup> T. 21 December 2011 p. 15; *The Prosecutor v. Édouard Karemera and Matthieu Ngirumpatse*, Case No. ICTR-98-44-T, Judgement and Sentence, 2 February 2012 (“Trial Judgement”), paras. 1714, 1715.

<sup>4</sup> T. 21 December 2011 p. 15; Trial Judgement, para. 1714.

<sup>5</sup> T. 21 December 2011 p. 15; Trial Judgement, para. 1762.

<sup>6</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.

<sup>7</sup> Decision on Motions for Extension of Time for the Filing of Appeal Submissions, 17 February 2012 (“Decision of 17 February 2012”), paras. 12, 13. In the same decision, I granted Mr. Ngirumpatse’s request to file his Appellant’s brief by 2 July 2012. See Decision of 17 February 2012, paras. 9, 13. Mr. Karemera made no submissions about the timing of the filing of his Appellant’s brief at that time.

5. On 29 February 2012, Mr. Karemera filed a motion seeking reconsideration of the Decision of 17 February 2012.<sup>8</sup> On 8 March 2012, I dismissed the Request for Reconsideration.<sup>9</sup>

6. The Prosecution filed its notice of appeal on 5 March 2012,<sup>10</sup> and Mr. Karemera filed his notice of appeal on 19 March 2012.<sup>11</sup> In accordance with Rule 111(A) of the Rules of Procedure and Evidence of the Tribunal (“Rules”), Mr. Karemera’s Appellant’s brief is currently due no later than 4 June 2012.

### **B. Submissions**

7. Mr. Karemera requests extensions of time to file: (i) his Appellant’s brief within 75 days of the filing of the French translation of the Trial Judgement; (ii) his Respondent’s brief within 40 days of the filing of the French translation of the Prosecution’s Appellant’s brief; and (iii) his brief in reply within 15 days of the filing of the French translation of the Prosecution’s Respondent’s brief.<sup>12</sup> Mr. Karemera submits that he and his Counsel work in French, and that he should be allowed to read the Trial Judgement and the Prosecution’s submissions in a language that he understands so that he may liaise with his Counsel on the preparation of his appeal submissions.<sup>13</sup>

8. Mr. Karemera also seeks permission to apply by motion to present additional evidence before the Appeals Chamber, if need be, within 30 days after the filing of his brief in reply.<sup>14</sup> Finally, Mr. Karemera requests that the Registrar be ordered to inform him and his Counsel of the estimated date for the delivery of the French translation of the Trial Judgment.<sup>15</sup>

### **C. Discussion**

9. Rule 116(A) of the Rules allows for the extension of time of any deadline upon a showing of good cause. Rule 116(B) of the Rules provides that the requirement for good cause is satisfied “[w]here the ability of the accused to make full answer and Defence depends on the availability of a decision in an official language other than that in which it was originally issued”. This provision may be a basis for an extension of time, upon request, for the filing of the convicted person’s

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<sup>8</sup> *Requête aux fins de reconsidération de la Decision on Motions for Extension of the Filing of Appeal Submissions*, 29 February 2012 (“Request for Reconsideration”), para. 23.

<sup>9</sup> Decision on Request for Reconsideration, 8 March 2012, para. 11.

<sup>10</sup> Prosecutor’s Notice of Appeal, 5 March 2012.

<sup>11</sup> *L’acte d’appel de Monsieur Édouard Karemera*, 19 March 2012.

<sup>12</sup> Motion, paras. 8, 18.

<sup>13</sup> Motion, paras. 15-17. *See also* Motion, paras. 12-14.

<sup>14</sup> Motion, para. 18.

<sup>15</sup> Motion, para. 18.

Appellant's brief pending the translation of the trial judgement into a working language of the Tribunal which he or she understands.<sup>16</sup>

10. I consider that it is in the interests of justice to allow Mr. Karemera adequate time to read the Trial Judgement in a language he understands and to consult with his Counsel before filing his Appellant's brief.<sup>17</sup> Accordingly, good cause exists to extend the time for the filing of Mr. Karemera's Appellant's brief to run from the filing of the French translation of the Trial Judgement. Given that Mr. Karemera's Counsel have previously worked in English,<sup>18</sup> they may discuss the Appellant's brief with Mr. Karemera, subject to his final approval once the French translation of the Trial Judgement is filed.<sup>19</sup> I therefore consider it appropriate in this instance to allow Mr. Karemera a limited extension of time to file his Appellant's brief within 40 days of the filing of the French translation of the Trial Judgement.

11. I further consider that it is in the interests of justice to allow Mr. Karemera the opportunity to review the French versions of the Prosecution's Appellant's brief and the Trial Judgement before filing his Respondent's brief.<sup>20</sup> However, a 40-day extension of time is not warranted in this case, as Counsel are able to discuss the content of the Trial Judgement and the Prosecution's Appellant's brief with Mr. Karemera before receiving the French translation of these documents. Accordingly, I find that there is good cause to grant Mr. Karemera an extension of time to file his Respondent's brief within 20 days of the filing of the French version of the Trial Judgement or the French version of the Prosecution's Appellant's brief, whichever is later.

12. With regard to Mr. Karemera's request to extend the time limit to file his brief in reply, I recall that, on appeal, Counsel bears the main burden in preparing submissions.<sup>21</sup> It is assumed that Mr. Karemera will have fully discussed with Counsel the issues relevant to his appeal in the preparation of his Appellant's brief. In any event, it is expected that a French translation of the Prosecution's Respondent's brief will be available prior to the appeal hearing, which will allow Mr. Karemera the opportunity to review it and to provide any additional instruction to his Counsel,

<sup>16</sup> See, e.g., *Dominique Ntawukulilyayo v. The Prosecutor*, Case No. ICTR-05-82-A, Decision on Dominique Ntawukulilyayo's Motion for Extensions of Time for Filing Appeal Submissions, 24 August 2010 ("*Ntawukulilyayo* Decision"), para. 6; *The Prosecutor v. Ephrem Setako*, Case No. ICTR-04-81-A, Decision on Ephrem Setako's Motion for Extension of Time for the Filing of Appellant's Brief, 2 July 2010 ("*Setako* Decision"), para. 5. See also Decision of 17 February 2012, para. 7.

<sup>17</sup> See, e.g., *Augustin Ndindiliyimana 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. 16.

<sup>18</sup> Decision of 17 February 2012, para. 11; Decision on Reconsideration, para. 8.

<sup>19</sup> See, e.g., *Ntawukulilyayo* Decision, para. 8; *Setako* Decision, para. 7.

<sup>20</sup> See, e.g., *The Prosecutor v. Pauline Nyiramasuhuko et al.*, Case No. ICTR-98-42-A, Decision on Joseph Kanyabashi's Motion for Extension of Time to File his Response Brief, 28 October 2011, p. 826/H (Registry pagination); *Ephrem Setako v. The Prosecutor*, Case No. ICTR-04-81-A, Decision on Ephrem Setako's Motion for an Extension of Time for the Filing of the Respondent's Brief, 16 July 2010, para. 7.

if necessary. Any additional matters arising from such a review could be raised during the appeal hearing. I accordingly find that Mr. Karemera has failed to demonstrate good cause for an extension of time for the filing of his brief in reply.

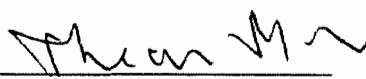
13. As for Mr. Karemera's request to be allowed to apply to present additional evidence, if need be, within 30 days after the filing of his brief in reply,<sup>22</sup> I recall that Rule 115(A) of the Rules expressly provides for that possibility. Mr. Karemera's request that the Registrar be ordered to inform him and his Counsel of the estimated date for the translation of the Trial Judgement is similarly moot in light of the information provided above.<sup>23</sup>

**D. Disposition**

14. For the foregoing reasons, the Motion is **GRANTED** in part. Mr. Karemera is **ORDERED** to file his Appellant's brief no later than forty (40) days from the filing of the French translation of the Trial Judgement, and to file his Respondent's brief no later than twenty (20) days from the filing of the French version of the Trial Judgement or the French version of the Prosecution's Appellant's brief, whichever is later. The Motion is **DENIED** in all other respects.

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

Done this 25th day of April 2012,  
At The Hague,  
The Netherlands.

  
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Judge Theodor Meron  
Pre-Appeal Judge

[Seal of the Tribunal]



<sup>21</sup> See, e.g., *Augustin Ndindiliyimana et al. v. The Prosecutor*, Case No. ICTR-00-56-A, Decision on Bizimungu's Motion for Extension of Time to File his Reply Brief, 8 March 2012, p. 2183/H (Registry pagination).

<sup>22</sup> Motion, para. 18.

<sup>23</sup> See *supra* para. 3.