



1170/H

**Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda**

**ICTR-98-44-A  
08-February-2013  
(1170/h-1167/H)**

**IN THE APPEALS CHAMBER**

**Before:** Judge Theodor Meron, Pre-Appeal Judge  
**Registrar:** Mr. Bongani Majola  
**Decision of:** 8 February 2013

**ÉDOUARD KAREMERA  
MATTHIEU NGIRUMPATSE**

**v.**

**THE PROSECUTOR**

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

ICTR Appeals Chamber	
Date:	08 FEB 2013
Action:	Judges, Parties,
Copied To:	JPU, LDs, LS, [Signature]

**DECISION ON PROSECUTION'S MOTION FOR AN EXTENSION OF THE WORD  
LIMIT FOR ITS RESPONSE BRIEF TO ÉDOUARD KAREMERA'S APPELLANT'S  
BRIEF**

**Counsel for Édouard Karemera**

Dior Diagne Mbaye  
Moussa Félix Sow

**Counsel for Matthieu Ndirumpatse**

Frédéric Weyl

**Office of the Prosecutor**

Hassan Bubacar Jallow  
James J. Arguin  
George W. Mugwanya  
Abubacar Tambadou

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:	ROSETTE MUZIGO-MORRISON
SIGNATURE:	[Signature] DATE: 8/02/13

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 1994 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 the Prosecution on 21 January 2013 seeking an extension of the word limit for the filing of its Respondent's brief in response to the Appellant's brief of Mr. Édouard Karemera.<sup>2</sup> Mr. Karemera did not file a response to the Motion.

2. On 21 December 2011, Trial Chamber III of the Tribunal ("Trial Chamber") convicted Mr. Karemera of genocide and direct and public incitement to commit genocide.<sup>3</sup> The Trial Chamber also convicted Mr. Karemera of extermination and rape as crimes against humanity, as well as for 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 issued in English on 2 February 2012, and the French translation of the Trial Judgement was filed on 1 December 2012.<sup>6</sup>

4. On 21 May 2012, I granted, in part, Mr. Matthieu Ngirumpatse's motion for an extension of the word limit for his Appellant's brief.<sup>7</sup> I authorized a 10,000-word extension for Mr. Ngirumpatse's Appellant's brief and, as a result, allowed the Prosecution to have an additional 10,000 words in response.<sup>8</sup> Mr. Ngirumpatse filed his Appellant's brief on 2 July 2012.<sup>9</sup> On 13 August 2012, the Prosecution filed a 34,805-word response to the Ngirumpatse Appeal Brief.<sup>10</sup>

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

<sup>2</sup> Prosecutor's Urgent Motion for Extension of Word Limit for the Filing of his Respondent's Brief to Karemera's Appeal, 21 January 2013 ("Motion"), paras. 2, 4, 8.

<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"), p. 310.

<sup>4</sup> T. 21 December 2011 p. 15; Trial Judgement, p. 310.

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

<sup>6</sup> The French translation of the Trial Judgement was subsequently corrected and re-filed on 11 January 2013.

<sup>7</sup> Decision on Matthieu Ngirumpatse's Motion for an Extension of the Word Limit for his Appellant's Brief, 21 May 2012 ("Decision of 21 May 2012"), para. 8.

<sup>8</sup> Decision of 21 May 2012, para. 8.

<sup>9</sup> *Mémoire d'Appelant de M. Ngirumpatse*, 2 July 2012 ("Ngirumpatse Appeal Brief"). See also *Corrigendum au Mémoire d'Appelant de M. Ngirumpatse*, 24 July 2012.

<sup>10</sup> Prosecutor's Brief in Response to Matthieu Ngirumpatse's Appeal, 13 August 2012 ("Prosecution Response Brief to Ngirumpatse"), p. 118.

5. On 24 December 2012, Mr. Karemera filed a motion seeking an extension of the word limit for his Appellant's brief.<sup>11</sup> On 3 January 2013, I granted this motion, in part, allowing Mr. Karemera an extension of 10,000 words for his Appellant's brief.<sup>12</sup> As with Mr. Ngirumpatse's request, I also authorized the Prosecution an additional 10,000 words for its response.<sup>13</sup> Mr. Karemera filed his Appellant's brief on 10 January 2013.<sup>14</sup>

6. According to the Practice Direction on the Length of Briefs and Motions on Appeal, in a multi-appellant appeal, the Prosecution is entitled to 30,000 words in respect of one appellant and a further 10,000 in respect of each additional appellant.<sup>15</sup> This is the case whether the Prosecution files a consolidated response or separate Respondent's briefs.<sup>16</sup> In light of this as well as the extensions already accorded to the Prosecution, the Prosecution is entitled to a total of 60,000 words to respond to the Ngirumpatse and Karemera Appeal Briefs. Given the nearly 35,000-word length of the Prosecution Response Brief to Ngirumpatse, approximately 25,000 words remain for the Prosecution's response to the Karemera Appeal Brief.

7. The Prosecution requests an extension of 10,000 words so that its response to the Karemera Appeal Brief may total 35,000 words.<sup>17</sup> In support of this request, the Prosecution points to: (i) the size and complexity of the proceedings;<sup>18</sup> (ii) the numerous and complex issues raised by Mr. Karemera, who is challenging his convictions based on multiple forms of responsibility;<sup>19</sup> (iii) the expanded nature of the arguments in the Karemera Appeal Brief in comparison to his notice of appeal;<sup>20</sup> and (iv) the principle of equality of arms, which requires an equal opportunity for each party to present its case.<sup>21</sup> The Prosecution contends that the approximately 25,000 remaining words

<sup>11</sup> *Requête urgente d'Édouard Karemera en vue d'obtenir une autorisation d'extension du nombre de mots du mémoire d'appel*, 24 December 2012, para. 13.

<sup>12</sup> Decision on Édouard Karemera's Motion for an Extension of the Word Limit for his Appellant's Brief, 3 January 2013 ("Decision of 3 January 2013"), para. 10.

<sup>13</sup> Decision of 3 January 2013, para. 10.

<sup>14</sup> *Le mémoire d'appel de Monsieur Édouard Karemera*, 10 January 2013 ("Karemera Appeal Brief"). The Prosecution's response to the Karemera Appeal Brief is due to be filed on 19 February 2013.

<sup>15</sup> Practice Direction on the Length of Briefs and Motions on Appeal, 8 December 2006 ("Practice Direction"), para. (C)1. See also *Augustin Ndindiliyimana et al. v. The Prosecutor*, Case No. ICTR-00-56-A, Decision on Innocent Sagahutu's Motion for Dismissal of the Prosecution's Response Brief to Sagahutu's Appeal, 17 May 2012 ("*Ndindiliyimana et al.* Decision of 17 May 2012"), para. 6; *Justin Mugenzi and Prosper Mugiraneza v. The Prosecutor*, Case No. ICTR-99-50-A, Decision on the Prosecution's Motion for an Extension of the Word Limit for its Respondent's Briefs, 25 April 2012 ("*Mugenzi and Mugiraneza* Decision of 25 April 2012") p. 2; *Justin Mugenzi and Prosper Mugiraneza v. The Prosecutor*, Case No. ICTR-99-50-A, Decision on Motions for an Order Requiring the Prosecution to Re-file its Response Briefs, 16 April 2012 ("*Mugenzi and Mugiraneza* Decision of 16 April 2012"), p. 3.

<sup>16</sup> *Ndindiliyimana et al.* Decision of 17 May 2012, para. 6; *Mugenzi and Mugiraneza* Decision of 25 April 2012, p. 2; *Mugenzi and Mugiraneza* Decision of 16 April 2012, p. 3. See also Practice Direction, paras. (C)1(a)(i), (C)1(b).

<sup>17</sup> Motion, paras. 2, 4, 8.

<sup>18</sup> Motion, para. 4.

<sup>19</sup> Motion, paras. 5, 6.

<sup>20</sup> Motion, para. 6.

<sup>21</sup> Motion, paras. 2, 6, 7.

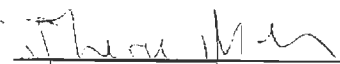
to which it is currently entitled are accordingly insufficient to fully address Mr. Karemera's arguments.<sup>22</sup>

8. A party may be authorized to exceed a word limit if the applicant demonstrates "exceptional circumstances" in advance of the filing date.<sup>23</sup> I recall that I have already granted extensions of the word limit to all parties in this case, including the Prosecution, based on the size and complexity of this case.<sup>24</sup> The Prosecution merely refers to these circumstances, which have already been taken into account, without providing additional arguments justifying a further extension. In respect of the Prosecution's submission relating to the expanded nature of arguments in the Karemera Appeal Brief, I recall that it is expected that a party will develop arguments advanced in a notice of appeal in its Appellant's brief.<sup>25</sup> The Prosecution has not suggested that Mr. Karemera impermissibly presented new arguments or grounds of appeal that could not have been anticipated based on his notice of appeal. I accordingly consider these arguments to be without merit. I further find the Prosecution's argument about equality of arms to be unpersuasive. The Prosecution fails to appreciate that the present situation stems from its own decision to allocate a greater share of the words to which it is entitled to its response to the Ngirumpatse Appeal Brief. Accordingly, I am not convinced that the Prosecution has demonstrated exceptional circumstances that necessitate a further extension of the word limit.

9. For the foregoing reasons, the Motion is **DENIED**.

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

Done this 8th day of February 2013,  
At The Hague,  
The Netherlands.

  
\_\_\_\_\_  
Judge Theodor Meron  
Pre-Appeal Judge

[Seal of the Tribunal]



<sup>22</sup> Motion, para. 6.

<sup>23</sup> Practice Direction, para. (C)5.

<sup>24</sup> Decision of 3 January 2013, paras. 9, 10; Decision of 21 May 2012, paras. 7, 8.

<sup>25</sup> See, e.g., *Prosecutor v. Ljube Bošković and Johan Tarčulovski*, Case No. IT-04-82-A, Judgement, 19 May 2010, para. 246.