



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

1312/H

Arina

IN THE APPEALS CHAMBER

ICTR-98-44-A

Before:

Judge Theodor Meron, Pre-Appeal Judge 05th March 2013

{1312/H – 1308/H}

Registrar:

Mr. Bongani Majola

Decision of:

5 March 2013

**ÉDOUARD KAREMERA
MATTHIEU NGIRUMPATSE**

v.

THE PROSECUTOR

Case No. ICTR-98-44-A

**DECISION ON ÉDOUARD KAREMERA'S MOTION FOR AN EXTENSION OF TIME
FOR THE FILING OF HIS REPLY BRIEF**

Counsel for Édouard Karemera

Dior Diagne Mbaye
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Counsel for Matthieu Ngirumpatse

Frédéric Weyl

Office of the Prosecutor

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

ICTR Appeals Chamber

05 MAR 2013

Date:

Action: *R. Yuma*

Copied To: *Chambers Defend,
0-TP-ARAD&TQU-CMS*

TA

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME
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NAME / NOM: **ROSETTE MUZIGO-MORRISON**

SIGNATURE: *[Signature]* DATE: **05/03/13**

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,¹ am seized of a motion filed by Mr. Édouard Karemera on 1 March 2013 seeking an extension of time for the filing of his brief in reply.² The Prosecution has not yet filed a response to the Motion.³

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.⁴ 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.⁵ The Trial Chamber sentenced him to life imprisonment.⁶

3. On 10 February 2012, Mr. Karemera filed a motion for an extension of time to file his notice of appeal.⁷ 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 2012.⁸ Mr. Karemera filed his notice of appeal on 19 March 2012.⁹

4. On 28 March 2012, Mr. Karemera filed a motion seeking an extension of time to file his appeal submissions as well as other relief.¹⁰ On 25 April 2012, I granted his motion in part and ordered him to file his Appellant’s brief no later than forty days from the filing of the French translation of the Trial Judgement and to file his Respondent’s brief no later than twenty days from the filing of the French version of the Trial Judgement or the French version of the Prosecution’s

¹ Order Assigning a Pre-Appeal Judge, 27 January 2012.

² *Requête urgente d’Édouard Karemera tendant à la prorogation de délais impartis pour la duplique de l’appelant*, 1 March 2013 (“Motion”), paras. 7, 14.

³ In light of the relative urgency of the matter, 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.

⁴ 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.

⁵ T. 21 December 2011 p. 15; Trial Judgement, p. 310.

⁶ T. 21 December 2011 p. 15; Trial Judgement, para. 1762.

⁷ *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.

⁸ Decision on Motions for Extension of Time for the Filing of Appeal Submissions, 17 February 2012, paras. 12, 13.

⁹ *L’acte d’appel de Monsieur Édouard Karemera*, 19 March 2012.

¹⁰ *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, paras. 15-18.

Appellant's brief, whichever is later.¹¹ The French translation of the Trial Judgement was filed on 1 December 2012, and the French version of the Prosecution's Appellant's brief was filed on 8 February 2013.¹² Mr. Karemera's Respondent's brief was filed on 28 February 2013.¹³

5. Mr. Karemera filed his Appellant's brief on 10 January 2013,¹⁴ and the Prosecution filed its Respondent's brief on 19 February 2013.¹⁵ Pursuant to Rule 113 of the Rules of Procedure and Evidence of the Tribunal ("Rules"), Mr. Karemera's brief in reply is currently due no later than 6 March 2013.

6. Mr. Karemera submits that an extension of time for the filing of his brief in reply is warranted because the Prosecution's Respondent's brief is complex, lengthy, and in English while his and his Counsel's working language is French.¹⁶ He adds that the French version of the Prosecution's Appellant's brief was filed within the time frame allocated for the drafting of his brief in reply and that therefore he has had to concentrate on his Respondent's brief and on his brief in reply simultaneously.¹⁷ In his view, even if these circumstances do not amount to good cause, the interests of justice demand that he be granted an extension of time to be able to address the issues raised in the Prosecution Respondent's brief.¹⁸ Furthermore, Mr. Karemera submits that the Prosecution disclosed a number of documents on 20 February 2013 which he only received on 26 February 2013, and that an extension of time would allow him to address these documents in his brief in reply, if necessary.¹⁹ Mr. Karemera requests that he be granted an extension of time to file his brief in reply no later than 25 March 2013 and adds that the extension, if granted, would not have a major impact the overall time dedicated to considering the appeal.²⁰

7. Rule 116(A) of the Rules allows for the extension of time of any deadline upon a showing of good cause. I have previously denied Mr. Karemera's request for an extension of time to file his brief in reply based on his and his Counsel's language abilities.²¹ On that occasion I recalled that Mr. Karemera will have the opportunity to review the French translation of the Prosecution's Respondent's brief before the appeal hearing and will be able to provide any additional instruction

¹¹ Decision on Édouard Karemera's Motion for Extension of Time for the Filing of Appeal Submissions and Other Relief, 25 April 2012, ("Decision of 25 April 2012"), para. 14.

¹² The Prosecution filed its Appellant's brief in English on 21 May 2012. See Prosecutor's Appellant's Brief, 21 May 2012.

¹³ *Mémoire de l'intimé [de] Monsieur Édouard Karemera*, 28 February 2013.

¹⁴ *Le mémoire d'appel de Monsieur Édouard Karemera*, 10 January 2013.

¹⁵ Prosecutor's Brief in Response to Édouard Karemera Appeal, 19 February 2013.

¹⁶ Motion, paras. 9, 12.

¹⁷ Motion, para. 9.

¹⁸ Motion, para. 11.

¹⁹ Motion, paras. 6, 10.

²⁰ Motion, paras. 13, 14.

²¹ See Decision of 25 April 2012, paras. 7, 10, 12, 14.

to his Counsel, if necessary.²² Any additional matters arising from such a review could be raised during the appeal hearing.²³ 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 based on his and his Counsel's language abilities.

8. In addition, I am not convinced that the fact that the French version of the Prosecution's Appellant's brief was filed within the time frame allocated for the drafting of Mr. Karemera's brief in reply, thus requiring the preparation of two briefs simultaneously, amounts to good cause. Mr. Karemera likewise has not demonstrated that either the complexity or the length of the Prosecution's Respondent's brief warrants an extension of time for the filing of his brief in reply.

9. Furthermore, I recall that, according to the Practice Direction on Formal Requirements for Appeals from Judgement, the brief in reply shall be "limited to arguments in reply to the Respondent's Brief".²⁴ Therefore, the brief in reply is not the proper vehicle to address any arguments to the Appeals Chamber related to the documents recently disclosed by the Prosecution.²⁵

10. In light of the foregoing, I find that Mr. Karemera has failed to demonstrate good cause for an extension of time for the filing of his brief in reply.

11. Nevertheless, a limited extension of time may be allowed in the interests of justice where it will not impact the overall time dedicated to considering the appeal.²⁶ I recall that, in similar circumstances, I authorized an extension of time for the filing of the brief in reply of Mr. Karemera's co-appellant, Mr. Matthieu Ngirumpatse.²⁷ Accordingly, given the complexity of the trial record and the Trial Judgement in this case, the fact that the main working language of Mr. Karemera's Counsel is French, and the fact that a limited extension will not impact the overall consideration of this case, I am satisfied that it is in the interests of justice to allow Mr. Karemera a limited extension of fourteen days to file his brief in reply.

12. For the foregoing reasons, the Motion is **GRANTED**, in part, and Mr. Karemera is **ORDERED** to file his brief in reply no later than 20 March 2013.

²² Decision of 25 April 2012, para. 12.

²³ See Decision of 25 April 2012, para. 12.

²⁴ Practice Direction on Formal Requirements for Appeals from Judgement, 8 December 2006, para. 6.

²⁵ *But see, e.g.*, Rule 115(A) of the Rules.

²⁶ Decision on Matthieu Ngirumpatse's Motion for an Extension of Time for the Filing of his Brief in Reply, 22 August 2012 ("Decision of 22 August 2012"), para. 7; *Prosecutor v. Momčilo Perišić*, Case No. IT-04-81-A, Decision on Momčilo Perišić's Motion for an Extension of Time to File his Appeal Brief, 24 November 2011, pp. 1, 2; *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 his Respondent's Brief, 26 October 2009, paras. 5, 6.

²⁷ Decision of 22 August 2012, paras. 5, 7, 8.

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

1308/H

Done this 5th day of March 2013,
At The Hague,
The Netherlands.



[Seal of the Tribunal]

A handwritten signature in black ink, which reads "Theodor Meron".

Judge Theodor Meron
Pre-Appeal Judge