

21 January 2014

CORRIGENDUM TO MATTHIEU NGIRUMPATSE'S APPEAL BRIEF

A12-0212

ICTR-98-44-A

27th Jan. 2014

{1354/H-1348/H}

Paragraph 17Instead of:

The Judges should have explained the credibility of Prosecution witnesses, particularly because this was challenged in reference to jurisprudence, even witnesses in the same category.

Read:

The Judges should have explained the credibility of Prosecution witnesses, particularly because this was challenged in reference to jurisprudence, even by the same Bench.

Paragraph 19Instead of:

The absence of a reasoned opinion affected other decisions rendered in the course of the trial, given that the decisions left the final Judgement to address the requests for acquittal, in the absence of witnesses; as such there were no proper determination of the requests.

Read:

The absence of a reasoned opinion affected other decisions rendered in the course of the trial, given that the decisions left the final Judgement to address the requests for acquittal and exclusion of witnesses. As such, there was no proper determination of the requests.

Paragraph 24Instead of:

- Analysis of the facts leaving aside the war context, the RPF attack and its extortions, and the accused persons being blamed for not having surrendered the power they had;

ICTR Appeals Chamber
Date: 27 JAN 2014
Action: <i>Juan R.</i>
Copied To: <i>Christer, Def. 0212</i>
<i>OTP-APP - JWA</i>

Corrigendum to Matthieu Ngirumpatse's Appeal Brief

Read:

- Analysis of the facts leaving aside the war context, the RPF attack and its extortions, and the accused persons being blamed for not having surrendered, to the extent that they had the ability to do so;

Paragraph 24

Instead of:

- Absence of sanctions and relief for the repeated violations of the disclosure obligations, to the extent of making a mockery of Witness FH;

Read:

- Absence of sanctions and relief for repeated violations of disclosure obligations, to a ridiculous extent as concerns Witness HH;

Paragraph 24

Instead of:

- Presumption of guilt: "the accused could not have been"

Read:

- Presumption of guilt: "it would have been impossible for the accused not to be aware..."

Paragraph 82

Instead of:

Trial Chamber III relied on the evidence of 16 witnesses, who testified belatedly after 2003, thereby discharging the Prosecutor of his commitments made at the status conference of 8 February 2002. Of the 23 witnesses called to testify against Ndirumpatse in 2000, only GBY, Twahirwa appeared, and the Judgment did not consider anything he said.

Read:

Trial Chamber III relied on the evidence of 16 witnesses, who surfaced belatedly after 2003, thereby discharging the Prosecutor of his commitments made at the status conference of

8 February 2002. Of the 23 witnesses called to testify against Ndirumpatse in 2000, only GBY, Twahirwa appeared, and the Judgement did not consider anything he said.

Paragraph 94

Instead of:

As detainees, this pressure influences their testimonies. Once released, they risk being arrested at any time to face fresh charges; when they finish being used in the ICTR, they disappear into solitary confinement to prevent them from disclosing the procedure, like **BTH/GFA**.

Read:

As detainees, this pressure influences their testimonies. Once released, they risk being arrested at any time to face fresh charges; upon completion of their assignment at ICTR, they disappear without trace, to prevent them from disclosing the procedure, like **BTH/GFA**.

Paragraph 105

Instead of:

The expert witnesses who testified against the MRND and also claimed to be members thereof are not conversant with anything, the constitution, organs and functioning of the party. At times, they were officials at a level that excluded their participation in the meetings they described.

Read:

Experts in testifying against the MRND while claiming to be members thereof and who were ignorant of everything; the constitution, organs and functioning of the party. At times, they were officials at a level that did not permit them to participate in the meetings they described.



Paragraph 114Instead of:

- G (on the date of the meetings, the choice of name, Ngirumpatse's statements on 14 S. Bikindi, G. Uwizigara on the existence and the need for training in 1992, the replacement of A. Ngirabatware, on the plot against A. Mbonnyunkiza, whom he did not even know);

Read:

G (on the date of the meetings, the choice of name, Ngirumpatse's statements on S. Bikindi (Footnote 217), G. Uwizigara on the existence and the need for training in 1992, the replacement of A. Ngirabatware, on the plot against A. Mbonnyunkiza, whom he did not even know);

Paragraph 121Instead of:

It was only on the basis of their connivance that **ALG, HH and UB** contradicted themselves: **ALG** was permanently in *consultation* with **HH**, and **UB** even in Arusha. **ALG** stated having heard from **HH about Kajuga's** visit to his bar on 8 April 1994, about meetings at **Maniragaba's** house, or at the *Diplomates* on 10 April 1994, at the *Diplomates* with **Dallaire** on 11 April 1994, and testified to having spoken at length with **HH**, and also in the *Karemera et al.* case **HH contradicted him.**

Read:

ALG, HH and UB contradicted one another solely with regard to their collusion; **ALG** was permanently in *consultation* with **HH**, and **UB** even in Arusha. **ALG** stated having heard from **HH about Kajuga's** visit to his bar on 8 April 1994, about meetings at **Maniragaba's** house, or at the *Diplomates* on 10 April 1994, at the *Diplomates* with **Dallaire** on 11 April 1994, and testified to having spoken at length with **HH**, and also in the *Karemera et al.* case **HH contradicted him.**

Paragraph 165

Instead of:

Contrary to what is on record, he claimed during examination-in-chief that he had never been prosecuted or arrested, but confessed on cross-examination that he had.

Read:

Notwithstanding the obvious, he claimed during examination-in-chief that he had never been prosecuted or arrested, but confessed on cross-examination that he had.

Paragraph 298

Instead of:

Lastly, the Trial Chamber relied on two paragraphs--353 and 354--to suggest the involvement of M. Ndirumpatse and the MRND Executive Bureau in the military training. The paragraphs contained inconsistent testimonies of conniving witnesses -AWD, HH, AWF-which the Chamber admitted because they were corroborated by its own uncorroborated assumptions or findings which emanated from the same errors, were based on the same testimonies which were neither credible nor probative. The Trial Chamber's errors feed upon each other and give way to the deep conviction that "*the accused did indeed*", which is a new reversal of the burden of proof.

Read:

Lastly, Trial Chamber III used merely two paragraphs--353 and 354--to suggest the involvement of M. Ndirumpatse and the MRND Executive Bureau in the military training. The paragraphs contained inconsistent testimonies of conniving witnesses -AWD, HH, AWF-which the Chamber admitted because they were corroborated by its own uncorroborated assumptions or findings which emanated from the same errors, were based on the same testimonies which were neither credible nor probative. The Trial Chamber's errors feed upon each other and give way to the deep conviction that "*the accused did indeed*", which is a new reversal of the burden of proof.



Paragraph 438Instead of:

The gravity of the violation of Rule 68 of the Rules and the prejudice caused the accused persons call for a fair remedy, with the help of an *a contrario* reading of paragraph 830 of the Judgement, "...considering the relatively low **[high]** probative value of the evidence that was untimely disclosed. ... the period during which exculpatory information was withheld **[more than a year]**, late disclosures **[after the closing arguments and two months before the Judgement]** the prejudice suffered by Mr Ngirumpatse [who could no longer request the recall of FH, Uwizeye and T24, which Trial Chamber III acknowledges it would have dismissed]. The appropriate solution would have been to exclude the acts which allegedly occurred on 18 April 1994 and the totality of the testimonies of FH and Uwizeye.

Read:

The gravity of the violation of Rule 68 of the Rules and the prejudice caused the accused persons call for a fair remedy, with the help of an *a contrario* reading of paragraph 830 of the Judgement, "...considering the relatively **[high]** probative value of the evidence that was untimely disclosed, ... the period during which exculpatory information was withheld **[more than a year]**, late disclosures **[after the closing arguments and two months before the Judgement]** the prejudice suffered by Mr Ngirumpatse [who could no longer request the recall of FH, Uwizeye and T24, which Trial Chamber III acknowledges it would have dismissed]. The appropriate solution would have been to exclude the acts which allegedly occurred on 18 April 1994 and the totality of the testimonies of FH and Uwizeye.

Paragraph 644Instead of:

It found that he contributed substantially to the crimes committed between 11 April and 18 April 1994. The admission of grounds 24 and 26 will render this finding baseless. Consequently, the submissions below are alternative submissions.

Read:

It found that he contributed substantially to the crimes committed on 11 and 18 April 1994. The admission of Grounds 24 and 26 will render this finding baseless. Consequently, the submissions below are alternative submissions.

Paragraph 745

Instead of:

e- Prior killings as part of a JCE and superior responsibility.

Read:

e- subsequent killings as part of JCE and superior responsibility.



Oscar Tanifum

Chief, Language Services Section



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PROOF OF SERVICE TO DETAINEES PREUVE DE NOTIFICATION D'ACTES AUX DETENUS

Upon signature of the detainee, please return this sheet to the originator as proof of service.
Formulaire à être renvoyé à l'expéditeur dûment signé par le détenu.

Date:	27 January 2014	Case Name / affaire:	The Prosecutor Vs. Edouard Karemera, Mathieu Ngirumpatse	
		Case No / no. de l'affaire:	ICTR-98-44-A	
To: A:	<input checked="" type="checkbox"/> Edouard Karemera, <input checked="" type="checkbox"/> Mathieu Ngirumpatse	TO BE FILLED IN BY THE DETAINEE A COMPLETER PAR LE DETENU Signature _____ Date, Time / Heure _____ I acknowledge receipt of the documents listed below. <i>J'accuse réception des documents mentionnés ci-dessous.</i>		
Through:		Print name / nom	Signature	Date, Time / Heure
		_____	_____	_____
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From: De:	<input checked="" type="checkbox"/> Appeals Chamber, The Hague <input type="checkbox"/> CMS, Arusha <input type="checkbox"/> Other			
Subject Objet:	Kindly find attached the following documents / <i>Veillez trouver en annexe les documents suivants.</i>			
Documents name / titre du document		Date Filed / Date enregistré		Pages
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