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UNITED NATIONS
NATIONS UNIES

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

Original: English

TRIAL CHAMBER III

Before: Judge Lloyd G. Williams, Q.C., Presiding
Judge Andréia Vaz
Judge Khalida Rachid Khan
Registrar: Adama Dieng
Date: 29 September 2003

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THE PROSECUTOR

v.

JOSEPH NZIRORERA *et al.*

Case No. ICTR-98-44-I

**DECISION ON THE DEFENCE REQUEST FOR LEAVE TO INTERVIEW
POTENTIAL PROSECUTION WITNESSES JEAN KAMBANDA,
GEORGES RUGGIU AND OMAR SERUSHAGO**

Counsel for the Defence:
Peter Robinson, for Joseph Nzirorera

Office of the Prosecutor:
Don Webster
Tamara Cummings-John

Counsel for the Co-Accused:
Didier Skornicki and John Traversi, for Edouard Karemera
David Hooper and Andreas O'Shea, for Andre Rwamakuba
Charles Roach and Frédéric Weyl, for Mathieu Ngirumpatse

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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA ("Tribunal"),

SITTING as Judge Andréia Vaz, designated by Trial Chamber III ("Chamber") pursuant to Rule 73(A) of the Rules of Procedure and Evidence of the Tribunal ("Rules");

BEING SEISED of the "Motion to Interview: Jean Kambanda, Georges Ruggiu and Omar Serushago", filed on 22 September 2003 by the Defence for Accused Joseph Nzirodera ("Motion");

NOTING the Prosecution Response to the Motion, filed on 26 September 2003 ("Response");

CONSIDERING the Decision on the Prosecutor's Motion for Protective Measures for Witnesses rendered in the present Case on 12 July 2000 by Trial Chamber II of the Tribunal ("Decision of 12 July 2000");

CONSIDERING the Statute of the Tribunal ("Statute") and the Rules;

NOW DECIDES the Motion, pursuant to Rule 73(A) of the Rules, solely on the basis of the written briefs filed by the Parties.

1. Trial Chamber II, then seised of the *Nzirodera* Case, ordered in the Decision of 12 July 2000:

(i) That the Accused or his Defence Counsel make a written request, on reasonable notice to the Prosecution, to the Chamber or a Judge thereof, to contact any protected victim or potential Prosecution witness or any relative of such person; and

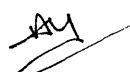
(ii) That when such interview is granted by the Chamber or a Judge thereof, with the consent of such protected person or the parents or guardian of that person if that person is under the age of 18, the Prosecution undertake all necessary arrangements to facilitate such interview. ("Order of 12 July 2000")

2. The Defence is seeking leave from the Chamber, under the terms of the Order of 12 July 2000, to interview Jean Kambanda, Georges Ruggiu and Omar Serushago, three persons convicted by the Tribunal for crimes within the Tribunal's jurisdiction who are currently serving the sentences imposed upon them, and whose names appear in the Pre-Trial Brief filed on 15 March 2002 as potential prosecution witnesses.

3. Neither Jean Kambanda, Georges Ruggiu, nor Omar Serushago appear to be among the protected witnesses pursuant to the Decision of 12 July 2000. Contact with these potential witnesses should therefore remain an *inter partes* matter, save in the case of dispute between the parties.

4. The Defence does not submit that it contacted the Prosecutor so as to obtain his agreement to an interview with these potential prosecution witnesses. Neither does the Defence submit that the Prosecutor refused to authorise or facilitate such interview.

5. The Chamber emphasises that any interview of that kind should take place in the presence of a representative of the opposing party to protect the integrity of the process.



6. The Chamber considers this Motion to be frivolous and an abuse of process, within the meaning of Rule 73(F) of the Rules. The fees and costs associated with this Motion should therefore not be paid by the Registry to Counsel.

FOR THE ABOVE REASONS,

THE TRIBUNAL,

I. DISMISSES the Defence Motion to Interview Jean Kambanda, Georges Ruggiu and Omar Serushago; and

II. DIRECTS the Registrar, pursuant to Rule 73(F) of the Rules, to deny to the Defence payment of any fees or costs associated with this Motion.

Arusha, 29 September 2003



Andrézia Vaz
Judge

(Seal of the Tribunal)

