



UNITED NATIONS
NATIONS UNIES

ICTR-98-44-1
R-2-2005
(17638-17636)

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

17638
Dumf
R

OR: ENG

TRIAL CHAMBER III

Before Judges: Dennis C. M. Byron, Presiding
Emile Short
G. Gustave Kam

Registrar: Adama Dieng

Date: 18 February 2005

JUDICIAL RECORDS/ARCHIVES
ICTR
2005 FEB 18 P 12: 16
Joseph Nzirorera

THE PROSECUTOR

v.

**Édouard KAREMERA
Mathieu NGIRUMPATSE
Joseph NZIRORERA**

Case No. ICTR-98-44-PT

**DECISION ON PROSECUTION MOTION FOR LEAVE TO FILE AMENDED
INDICTMENT AND FILING OF FURTHER SUPPORTING MATERIAL**

Rules 47(E), 47(F) and 50(A) of the Rules of Procedure and Evidence

Office of the Prosecutor:
Don Webster
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Defence Counsel for Édouard Karemera
Dior Diagne Mbaye and Félix Sow

Defence Counsel for Mathieu Ngirumpatse
Charles Roach and Frédéric Weyl

Defence Counsel for Joseph Nzirorera
Peter Robinson

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (“Tribunal”),

SITTING as Trial Chamber III, composed of Judge Dennis C. M. Byron, Presiding Judge, Judge Emile Short and Judge Gustave Kam (“Chamber”);

CONSIDERING the “Prosecutor’s Consolidated Motion to Sever Rwamakuba from the Joint Indictment and to Try Him Separately, For Leave to File a Separate Amended Indictment against Rwamakuba, and For Leave to File a Separate Amended Indictment Against Karemera, Ngirumpatse and Nzirorera, or alternatively, Prosecutor’s Motion for Leave to Amend the Indictment against Karemera, Ngirumpatse, Nzirorera and Rwamakuba”, filed on 20 December 2004 (“Prosecution Motion”);

CONSIDERING that, on 14 February 2005, the Chamber ordered the Prosecution to provide further additional supporting material as regards paragraphs 32.4 and 49 of the proposed Amended Indictment against Karemera, Ngirumpatse and Nzirorera (“proposed Amended Indictment”), no later than two days from the filing of the said Decision, or otherwise remove the said paragraphs;¹

CONSIDERING, pursuant to Rules 50(A)(ii) of the Rules, the further supporting material filed by the Prosecution on 16 February 2005 and its suggestion to amend paragraph 32.4 of the proposed Amended Indictment, as follows:

On or about 6 May 1994 **Joseph NZIRORERA** participated in a large pacification meeting with high level government officials, including Prime Minister Jean KAMBANDA, in Ruhengeri *préfecture*. By that time massive killings of Tutsi civilians in Ruhengeri had already substantially eliminated the Tutsi population in the region. **Joseph NZIRORERA**’s public association and endorsement of Interim Government ministers and policies were intended to, and had the consequence of, inciting further attacks upon the Tutsi.

1. The Chamber is satisfied that a *prima facie* case has been established with respect to paragraph 32.4, as amended by the Prosecution on 16 February 2005.
2. The Chamber is also satisfied that a *prima facie* case has been made as regards the first and third sentences of paragraph 49 except for the allegation that Justin Mugenzi was “representing the Interim Government” or was acting on “on behalf of the Interim Government”. The Prosecution should therefore remove the said phrases, but may indicate that Justin Mugenzi was a Minister of the Interim Government.
3. For the second sentence of paragraph 49, the Prosecution relies on a witness statement taken in May 1998 and not disclosed to the Defence up to now. Under the circumstances of the present case, such lack of diligence shall not permit the introduction of this new allegation in the Indictment. Furthermore, the Prosecution is not going to rely on that unique allegation for its case. Removing it from the Indictment will not prejudice the prosecution case.



¹ *Prosecutor v. Edouard Karemera, Mathieu Ngirumpatse, Joseph Nzirorera and André Rwamakuba*, Case No. ICTR-98-44-PT, Decision on Severance of André Rwamakuba and For Leave to File Amended Indictment (TC), 14 February 2005.

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FOR THE ABOVE REASONS, THE CHAMBER

1. **GRANTS** leave to maintain paragraphs 32.4 in the proposed Amended Indictment against Karemera, Ngirumpatse and Nzirorera, as follows:


On or about 6 May 1994 **Joseph NZIRORERA** participated in a large pacification meeting with high level government officials, including Prime Minister Jean KAMBANDA, in Ruhengeri *préfecture*. By that time massive killings of Tutsi civilians in Ruhengeri had already substantially eliminated the Tutsi population in the region. **Joseph NZIRORERA**'s public association and endorsement of Interim Government ministers and policies were intended to, and had the consequence of, inciting further attacks upon the Tutsi.

2. **GRANTS** leave to maintain paragraphs 49 in the proposed Amended Indictment against Karemera, Ngirumpatse and Nzirorera under the condition set out above in paragraphs 2 and 3.
3. **INSTRUCTS** the Prosecution to file the said Indictment, as amended according to the Decision of 14 February 2005 and the current order, no later than 23 February 2005.

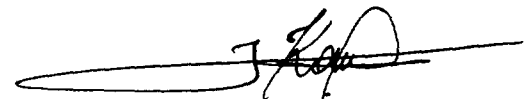
Arusha, 18 February 2005, done in English.


Dennis C. M. Byron

Presiding Judge


Emile Short

Judge


G. Gustave Kam

Judge

