



International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

ICTR-98-44-PT  
22-3-7557  
(17878-17877)

17878  
Dumf

THE PRESIDENT

Before: Judge Erik Møse

Registrar: Adama Dieng

Date: 22 March 2005

THE PROSECUTOR

v.

EDOUARD KAREMERA  
MATHIEU NGIRUMPATSE  
JOSEPH NZIRORERA

Case No. : ICTR-98-44-PT

2005 MAR 22 A 11: 16  
ICTR  
JUDICIAL RECORDS/ARCHIVES

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DECISION ON MOTION TO REASSIGN CASE TO DIFFERENT TRIAL  
CHAMBER

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**The Office of the Prosecutor**

Don Webster  
Dior Fall  
Holo Makwaia  
Gregory Lombardi

**Counsel for Nzirorera**

Peter Robinson

Chu

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

**SITTING** as the President, Judge Erik Møse;

**BEING SEIZED** of the "Motion to Transfer Case from Trial Chamber III or for Disqualification of Judge Vaz", filed by the Defence for Nzirovera on 22 December 2004;

**CONSIDERING** the Prosecution Response thereto, filed on 19 January 2005;

**HEREBY DECIDES** the motion.

1. The Nzirovera Defence complains that Judge Vaz, in her capacity as Presiding Judge of Trial Chamber III, retains supervisory authority over the bench of Trial Chamber III now constituted to hear pre-trial matters in the case. The Defence argues that she is disqualified from exercising such authority by virtue of the decision of the Appeals Chamber of 22 October 2004, and that the case should either be reassigned to another Trial Chamber, or that she should be expressly prohibited from exercising supervisory authority.<sup>1</sup> A memorandum of 14 December 2004 written by Judge Vaz to the presiding judge of the trial, Judge Byron, is cited by the Defence as proof that she exercises such authority.

2. The issue to be determined is whether the position of Judge Vaz as Presiding Judge of Trial Chamber III could give rise to a reasonable apprehension of bias or lack of independence in respect of the judges presently hearing proceedings against the Accused. Nothing in the memorandum of Judge Vaz, nor in any rule or practice of the Tribunal concerning the position of a Presiding Judge of a Trial Chamber, could reasonably be construed as interfering with the judicial independence and impartiality of the judges in *Karemera et al.* It is significant, in this regard, that the Defence does not suggest that Judge Vaz had any role to play in the appointment of these judges and, furthermore, requests that they continue to sit on the case.<sup>2</sup>

**FOR THE ABOVE REASONS, THE TRIBUNAL**

**DENIES** the motion.

Arusha, 22 March 2005



Erik Møse  
President

[Seal of the Tribunal]



<sup>1</sup> *Karemera et al.*, Decision on Interlocutory Appeals Regarding the Continuation of Proceedings with a Substitute Judge and on Nzirovera's Motion for Leave to Consider New Material (AC), 22 October 2004. The Appeals Chamber found that an appearance of bias had arisen in respect of Judge Vaz which precluded her continuation as a trial judge in the case.

<sup>2</sup> For the sake of completeness, it should be noted that in his memorandum of 4 January 2005, the President of the Tribunal affirmed the composition of the bench for pre-trial purposes.