

ICTR-98-44-PT

9-9-2005

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UNITED NATIONS  
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International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

OR: ENG

**TRIAL CHAMBER III**

**Before Judges:** Dennis C. M. Byron, Presiding  
Emile Francis Short  
Gberdao Gustave Kam

**Registrar:** Adama Dieng

**Date:** 9 September 2005

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D. M. Byron

**THE PROSECUTOR**

v.

**Édouard KAREMERA  
Mathieu NGIRUMPATSE  
Joseph NZIRORERA**

Case No. ICTR-98-44-PT

**DECISION ON JOSEPH NZIRORERA'S MOTION TO EXCLUDE EVIDENCE  
SEIZED IN BENIN**

*Rule 95 of the Rules of Procedure and Evidence*

**Office of the Prosecutor:**  
Don Webster  
Gregory Lombardi  
Ian Morley  
Gilles Lahaie  
Sunkarie Ballah-Conteh  
Takeh Sendze

**Defence Counsel for Édouard Karemera**  
Dior Diagne Mbaye and Félix Sow

**Defence Counsel for Mathieu Ngirumpatse**  
Chantal Hounkpatin and Frédéric Weyl

**Defence Counsel for Joseph Nzirorera**  
Peter Robinson

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

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

**BEING SEIZED** of “Joseph Nzirorera’s Motion to Exclude Evidence Seized in Benin” (“Motion”), filed by the Defence for the Accused Nzirorera (“Defence”) on 14 July 2005;

**CONSIDERING** the Prosecution’s Response thereto, filed on 25 July 2005, which opposes the Motion;

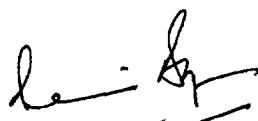
**HEREBY DECIDES** the Motion pursuant to Rule 73 of the Rules of Procedure and Evidence (“Rules”).

1. The Motion seeks an order pursuant to Rule 95 of the Rules to exclude any evidence seized from the residence of the Accused in Benin.
2. Rule 95 of the Rules prescribes the exclusion of evidence “if obtained by methods which cast substantial doubt on its reliability or if its admission is antithetical to, and would seriously damage, the integrity of the proceedings”.
3. In the current case, the trial has not yet commenced and, as such, the Prosecution has not yet made an application for the admission into evidence of any items seized from the Accused’s residence. The Motion is therefore speculative and premature.

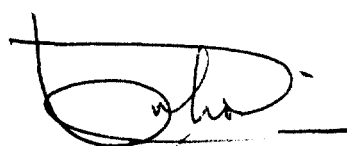

**FOR THE ABOVE REASONS, THE CHAMBER**

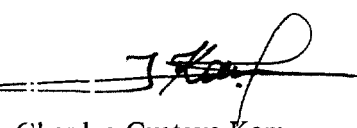
**DENIES** the Motion.

Arusha, 9 September 2005, done in English.

  
Dennis C. M. Byron

Presiding Judge

  
Emile Francis Short  
  
[Seal of the Tribunal]

  
Gberdao Gustave Kam  
Judge