



UNITED NATIONS  
NATIONS UNIES

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

ICTR-98-44-T  
31-3-2006  
(26385-26384)

26385  
Zanyf

OR: ENG

TRIAL CHAMBER III

**Before Judge:** Emile Francis Short  
*sitting pursuant to Rule 73(A) of the Rules of Procedure and Evidence*

**Registrar:** Adama Dieng

**Date:** 31 March 2006

THE PROSECUTOR

v.

Édouard KAREMERA  
Mathieu NGIRUMPATSE  
Joseph NZIRORERA  
Case No. ICTR-98-44-T

31-03-2006  
Zanyf

ORDER FOR THE PROSECUTOR FOR FILING INFORMATION AND MATERIAL  
*EX PARTE* AND UNDER SEAL REGARDING WITNESS ADE

*Rules 66(C) and 68(D) of the Rules of Procedure and Evidence*

**Office of the Prosecutor:**  
Don Webster  
Gregory Lombardi  
Iain 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 and Patrick Nimy Mayidika Ngimbi



1. The trial in this case started on 19 September 2005. The Chamber is now seized of a Prosecutor's motion seeking, under Rules 66(C) and 68(D) of the Rules of Procedure and Evidence, permission for limited disclosure of information regarding payments and benefits provided to Prosecution Witness ADE and his family.<sup>1</sup> However, the Prosecutor did not provide the Chamber with the information and material sought to be kept confidential. He declares his willingness to submit to the Chamber *in camera*, and only to the Chamber, all the specifics not included in the disclosure already made to the Defence. The Accused Joseph Nzirorera contends that the Prosecutor's Motion should be denied on a technical ground because the Prosecution did not submit the material sought to be kept confidential as mandated by the Rules.<sup>2</sup>

2. When deciding whether the Prosecutor may be relieved from disclosure of material which may prejudice further or ongoing investigations, or may be contrary to the public interests or affect the security interests of any State, the Chamber must have access to the information and material that are sought to be kept confidential.<sup>3</sup> The fact that the Prosecutor did not directly make available to the Chamber the material does not as such prevent the Chamber from considering the merits of the application. In the present case, the Prosecutor offered to provide the information and material to be reviewed. At this stage, they should be therefore provided now to the Chamber only, in accordance with Rules 66(C) and 68(D) of the Rules.

**FOR THE ABOVE REASONS, THE CHAMBER**

**HEREBY ORDERS** the Prosecutor to file by Monday 3 April 2006, with the Registry, confidentially, under seal and only to the attention of the Chamber, the information and material that are sought to be kept confidential.

Arusha, 31 March 2006, done in English.

  
Emile Francis Short  


<sup>1</sup> Prosecutor's Motion to Permit Limited Disclosure of Information Regarding Payments and Benefits Provided to Witness ADE and His Family, filed on 15 December 2005.

<sup>2</sup> Joseph Nzirorera's Response to Prosecution's Motion to Permit Limited Disclosure of Information: Witness ADE, filed on 19 December 2005.

<sup>3</sup> Rule 66(C) of the Rules provides:

Where information or materials are in the possession of the Prosecutor, the disclosure of which may prejudice further or ongoing investigations, or for any other reasons which may be contrary to the public interest or affect the security interests of any State, the Prosecutor may apply to the Trial Chamber sitting *in camera* to be relieved from the obligation to disclose pursuant to Sub-Rules (A) and (B). When making such an application, the Prosecutor shall provide the Trial Chamber, and only the Trial Chamber, with the information or materials that are sought to be kept confidential.

Rule 68(D) of the Rules provides:

The Prosecutor shall apply to the Chamber sitting *in camera* to be relieved from an obligation under the Rules to disclose information in the possession of the Prosecutor, if its disclosure may prejudice further or ongoing investigations, or for any other reason may be contrary to the public interest or affect the security interests of any State, and when making such application, the Prosecutor shall provide the Trial Chamber (but only the Trial Chamber) with the information that is sought to be kept confidential.