

ICR-98-44-T  
18-04-2006  
(26473-26471)

26473  
OR



UNITED NATIONS  
NATIONS UNIES

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:** 18 April 2006

**THE PROSECUTOR**

v.

**Edouard KAREMERA  
Mathieu NGIRUMPATSE  
Joseph NZIRORERA**

**Case No. ICTR-98-44-T**

*Edouard Karemera  
18-04-2006*

**DECISION ON RECONSIDERATION OF THE SCHEDULING ORDER FOR THE  
NEXT TRIAL SESSION**

*Article 20 of the Statute of the Tribunal, Rule 73 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

*SB*

1. The second trial session in this case was completed on 17 March 2006 after hearing the third Prosecution witness. At the Status Conference held the same day, the parties agreed that the next trial session will take place from 15 May until 14 July 2006. On the basis of these discussions, the order of witnesses to be heard at the third trial session was addressed by the Chamber.<sup>1</sup> While the next session is scheduled to start on 15 May 2006, the Chamber decided that the testimony of Witness T should take place by video-link from 22 May 2006 in order to preserve the fairness of the trial and the rights of the Accused Ngirumpatse to examine the witness.
2. The Prosecutor now moves the Chamber to reconsider its prior Scheduling Order of 30 March 2006 and order that the testimony of Witness T take place by video-link starting on 15 May 2006.<sup>2</sup> He submits that it would be quite impracticable to have Witness T begin his testimony on 22 May 2006 for three reasons. First, the authorities of the State where the Witness will give his evidence agreed with the Prosecutor before the Chamber gave its Order that the video-link will commence on 15 May 2006. Second, since the Prosecutor's Trial team is working with limited manpower, he submits that the trial preparation will have to be re-arranged so that two attorneys will have to meet with Witness T the week before his testimony. As a result, those trial attorneys will not be available in Arusha to examine the other witnesses that are assigned to them and that are mentioned in the Scheduling Order. Finally, in the Prosecutor's view, it is highly improbable that Witness ALG could complete his testimony in five days, if it started on 15 May 2006, which means that Witness ALG's testimony will have to be suspended for the beginning of Witness T's testimony on 22 May 2006.
3. In his Response, Joseph Nzirorera suggests that the trial session be scheduled to commence on 22 May 2006.<sup>3</sup> In his view, this will solve the Prosecutor's problem as well as that of the Ngirumpatse team. He also suggests that a Status Conference or Working session be held during the week of 15 May 2006 to deal with disclosure issues, as well as any practice direction and time scheduling for witnesses. The Prosecutor replies that Joseph Nzirorera's suggestion is reasonable under the circumstances and that it seems to be a reasonable compromise to deal with logistical

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<sup>1</sup> *Prosecutor v. Edouard Karemera, Mathieu Ngirumpatse and Joseph Nzirorera*, Case No. ICTR-94-44-T, Scheduling Order (TC), 30 March 2006 (Scheduling Order).

<sup>2</sup> Motion for Reconsideration of Scheduling Order Dated 30 March 2006, filed on 3 April 2006.

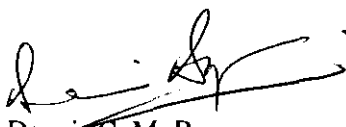
<sup>3</sup> Filed on 4 April 2006.

- challenges faced by the parties.<sup>4</sup> Mathieu Ngirumpatse also supports Nzirorera's suggestion.<sup>5</sup> Conversely, he firmly opposes the Prosecutor's application to begin on the 15 May 2006 with Witness T since it could affect his rights.
4. As the Chamber already stated, the authorities of the State where Witness T will reside during his testimony already confirmed their availability to support the organization of the video-link from 22 May 2006.<sup>6</sup> Further, in his Reply, the Prosecutor acknowledges that this witness could start his evidence from that date. This issue is therefore solved and does not need to be reconsidered.
  5. The trial in this case started *de novo* in September 2005 and, so far, the Chamber has heard only three Prosecution witnesses. While the Chamber has sympathy for the Prosecutor's current situation amongst his trial team, it also must guarantee the rights of the Accused to a fair trial, including the right to be tried without undue delay. The trial should therefore start on 15 May 2006 and the Prosecution should be ready to call his first witness from that date.
  6. In addition, the Chamber is of the view that all disclosure issues should be dealt with now. The parties are expected to cooperate in good faith in that matter and are strongly encouraged to find a prompt solution to all issues that might delay the continuation of the trial.

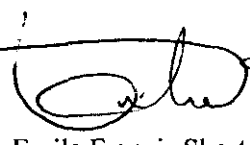
**ACCORDINGLY**, the Chamber

**DENIES** the Prosecutor's motion in its entirety.

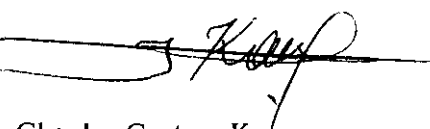
Arusha, 18 April 2006, done in English.



Dennis C. M. Byron  
Presiding Judge



Emile Francis Short  
Judge



Gberdao Gustave Kam  
Judge

[Seal of the Tribunal]

<sup>4</sup> Filed on 4 April 2006.

<sup>5</sup> Response file on 7 April 2006.

<sup>6</sup> Scheduling Order, par. 3.