



UNITED NATIONS  
NATIONS UNIES

ICTR-98-44-T  
2-10-2006  
(27820 - 27818)

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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:** 2 October 2006

**THE PROSECUTOR**

v.

**Édouard KAREMERA  
Mathieu NGIRUMPATSE  
Joseph NZIRORERA**

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

JUDICIAL RECORDS/ARCHIVES  
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**DECISION ON PROSECUTOR'S MOTION TO VARY ITS WITNESS LIST**

*Rule 73bis 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**  
Chantal Hounkpatin and Frédéric Weyl

**Defence Counsel for Joseph Nzirorera**  
Peter Robinson and Patrick Nimy Mayidika Ngimbi

1. The trial in this case commenced on 19 September 2005. On 13 December 2005, at the Prosecution's request, the Chamber granted leave to remove 51 witnesses from the Prosecution witness list and to add one witness, Witness ADE, to the same list.<sup>1</sup> Following this Decision, the Prosecution also notified to the Chamber and the Defence the pseudonyms and the name of six witnesses whose evidence would have been rendered unnecessary if ADE testified and could therefore be removed from its list.<sup>2</sup>

2. The Prosecution now moves the Chamber to grant leave to remove 10 other witnesses, including Witness ADE.<sup>3</sup> It further confirms the removal of the six other witnesses, who were to be removed subject to Witness ADE's testimony. The Defence for Nzirorera and for Ngirumpatse do not oppose this request. The Defence for Karemera did not file any response to the Prosecution's motion.

3. Rule 73bis (E) of the Rules states that "[a]fter the commencement of Trial, the Prosecutor, if he considers it to be in the interests of justice, may move the Trial Chamber for leave to reinstate the list of witnesses or to vary his decision as to which witnesses are to be called". Pursuant to the established jurisprudence, this Rule provides that a list of witnesses may be varied if the Chamber considers it to be in the interests of justice.<sup>4</sup>

4. The Prosecution witness list is currently composed of more than 160 witnesses, including 72 witnesses whom the Prosecution seeks admission of their evidence in the form of a written statement or transcript of prior testimony in lieu of oral testimony.<sup>5</sup> In the Chamber's view, the removal of 16 witnesses from the Prosecution witness list will contribute to expedite the proceedings and is therefore in the interests of justice.

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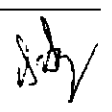
<sup>1</sup> *Prosecutor v. Edouard Karemera, Mathieu Ngirumpatse and Joseph Nzirorera*, Case No. ICTR-98-44-T ("Karemera et al."), Decision on Variance of the Prosecution Witness List (TC), 13 December 2005.

<sup>2</sup> ~~See Prosecution's filing following the Chamber's Decision of 23 December 2005 and Decision on Prosecution Motion Seeking Extension of Time to File Applications under Rule 92bis (TC), 10 February 2006.~~

<sup>3</sup> Prosecutor's Motion to Vary the Final List of Witnesses under Rule 73bis(B)(iv) (*Removal of certain witnesses*), filed confidential on 11 September 2006.

<sup>4</sup> *Prosecutor v. Musema*, Case No. ICTR-96-13-T, Decision on the Prosecutor's Request for Leave to Call Six New Witnesses (TC), 20 April 1999, par. 4 and 13; *Prosecutor v. Bagosora, Kabiligi, Ntabakuze, Nsengiyumva*, Case No. ICTR-98-41-T, Decision on Prosecution Motion for Addition of Witnesses Pursuant to Rule 73bis(E) (TC), 26 June 2003, par. 13.

<sup>5</sup> See the pending motion entitled *Prosecution Motion for Proof of Facts Other than by Oral Evidence Pursuant to Rule 92bis*, filed on 20 February 2006. The Chamber already admitted the transcripts of the evidence given by Mr. Lucassen in the *Prosecutor v. Edouard Karemera, Mathieu Ngirumpatse, Joseph Nzirorera and André Rwamakuba*, in lieu of his oral testimony (Decision on Admission of Transcript of Prior Testimony of Antonius Maria Lucassen (TC), 15 November 2005).



**ACCORDINGLY, THE CHAMBER**

- I. **GRANTS** the Prosecution Motion to remove witnesses known by the pseudonyms ADE, AFQ, AHJ, AKX, BIT, BW, CR, GBV, GDG, GFG, GGG, GGK, GJQ, IV and NNZ as well as Marc Nees; and
- II. **ORDERS** that the amended version of the Prosecution Witness List be filed according this Decision by 4 October 2006.

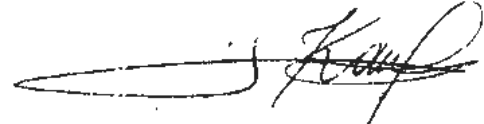
Arusha, 2 October 2006, done in English.



Dennis C. M. Byron  
Presiding



Emile Francis Short  
Judge



Ciberdao Gustave Kam  
Judge

