

ICTR-98-44-T
24-01-2007
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ORGANISATION
NATIONALES

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER III

Before Judges: Dennis C. M. Byron, Presiding
Gberdao Gustave Kam
sitting pursuant to Rule 15bis of the Rules of Procedure and Evidence

Registrar: Adama Dieng

Date: 24 January 2007

THE PROSECUTOR

v.

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

JUDICIAL RECORDS ARCHIVES
RECEIVED

2007 JAN 24 1 P 3 49

SCHEDULING ORDER FOR THE FILING OF SUBMISSIONS

Rules 15bis and 54 of the Rules of Procedure and Evidence

Office of the Prosecutor:
Don Webster
Alayne Frankson-Wallace
Iain Morley
Saidou N'Dow
Sunkarie Ballah-Conneh
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 Niny Mayidika Ngimbi

1. The trial in this case started on 19 September 2005 with the presentation of the Prosecution case over four trial sessions. Thirteen Prosecution Witnesses have been heard so far by Trial Chamber III composed of Judge Dennis C. M. Byron, presiding, and Judges Emile Francis Short and Gberdao Gustave Kam.
2. On 19 January 2007, Judge Short informed in writing the Presiding Judge in the instant case that due to recent health challenges he has been undergoing, he reached the conclusions that it is not in the interest of his health and the completion strategy to continue sitting in *Karemera et al.* case and that he has decided to withdraw from the case. On the same day, in accordance with Rule 15 *bis* (C) of the Rules of Procedure and Evidence, Judge Byron reported to the President of the Tribunal that due to health reasons, Judge Short would be unable to continue sitting in the instant case.
3. In circumstances where a Judge is unable to continue sitting in a part-heard case for a period which is likely to be longer than a short duration, the President may assign another Judge to the case and order either a rehearing or continuation of the proceedings from that point.¹ Rule 15 *bis* (D) of the Rules further provides that if, after the beginning of the presentation of the evidence, "the accused withholds his consent [for the continuation of the proceedings with a substitute Judge], the remaining Judges may nonetheless decide to continue the proceedings before a Trial Chamber with a substitute Judge if, taking all the circumstances into account, they determine unanimously that doing so would serve the interests of justice."
4. During the fourth trial session held in December 2006, the parties were consulted on the issue of the withdrawal of Judge Short and its consequences. They expressed their views and it is likely that some of the Accused persons will oppose the continuation of the proceedings with a substitute Judge and request a rehearing of the case. In a letter dated 23 January 2006, the Defence Counsel for Nzirorera confirmed the position that the Accused "strongly believes that a rehearing, and not a continuation of the trial, should occur".²
5. As held by the Appeals Chamber, the parties have a right to be heard by the Chamber before it rules under Rule 15 *bis* (D) of the Rules.³ Without prejudging the President's

¹ Rules of Procedure and Evidence, Rule 15*bis* (C).


² Letter sent by Mr. Robinson, Lead Counsel for Nzirorera, to the President of the Tribunal, filed on 23 January 2007.

³ *Prosecutor v. Edouard Karemera, Mathieu Ngirumpatswe, Joseph Nzirorera and André Rwamakuba*, Case No. ICTR-98-44-A15bis, Decision in the Matter of Proceedings under Rule 15*bis* (D) (AC), 21 June 2004, paras. 8 and 13.

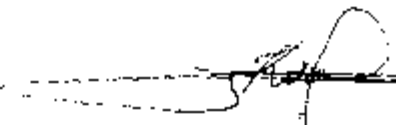
decision on this matter, the Chamber finds necessary to schedule the filing of the parties' submissions, if any, in order to avoid any unnecessary delay in the trial of the three co-Accused. The Chamber, composed of two Judges only as a result of Judge Short's withdrawal, is also of the view that there is no legal obstacle for it to deliver this scheduling order since it is directly related to the power of the two remaining Judges, under Rule 15 bis (D) of the Rules, to decide on the continuation of the proceedings where the Accused persons withheld their consent thereto.

ACCORDINGLY, THE CHAMBER ORDERS that the parties shall file their submissions on the rehearing or continuation of the proceedings, as a result of Judge Short's withdrawal, by 31 January 2007.

Atusha, 24 January 2007, done in English.



Dennis C.M. Byron
Presiding Judge



Gherdao Gustave Kam
Judge

[Seal of the Tribunal]





TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

COURT MANAGEMENT SECTION
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I - GENERAL INFORMATION (To be completed by the Chambers / Filing Party)

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	<input type="checkbox"/> Chief, CMS J.-P. Fomété	<input type="checkbox"/> Deputy Chief, CMS M. Diop	<input type="checkbox"/> Chief, JPU, CMS M. Diop	<input type="checkbox"/> Appeals Chamber / The Hague R. Muzigo-Morrison K. K. A. Afande
From:	<input checked="" type="checkbox"/> Chamber Catherine Denis (names)	<input type="checkbox"/> Defence (names)	<input type="checkbox"/> Prosecutor's Office (names)	<input type="checkbox"/> Other: (names)
Case Name:	The Prosecutor vs. Édouard KAREMERA, Mathieu NGIRUMPATSE and Joseph NZIRORERA		Case Number: ICTR-98-44	
Dates:	Transmitted: 24 January 2007		Document's date: 24 January 2007	
No. of Pages:	3		Original Language: <input checked="" type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda	
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		<input type="checkbox"/> Judgement	<input type="checkbox"/> Motion	<input type="checkbox"/> Book of Authorities
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				<input type="checkbox"/> Accused particulars

II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party)

CMS SHALL take necessary action regarding translation.

Filing Party hereby submits only the original, and will **not submit** any translated version.

Reference material is provided in annex to facilitate translation.

Target Language(s):

English French Kinyarwanda

CMS SHALL NOT take any action regarding translation.

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Translation	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda

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International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda

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Date: 24 January 2007 Case Name / Affaire: The Prosecutor vs. - Joseph NZIRORERA
- Mathieu NGRUMPATSE
- Edouard KAREMERA

Case No / Affaire No.: ICTR-98-44-T

To: A: TC1 received by / reçu par: ALO received by / reçu par
Judge E. Mese, President
Judge J. R. Reddy
Judge S. A. Egorov
Judge F. Lattanzi (Mpambara)
Judge F. R. Arrey (Kerera)
SLO
C. Gosnell, Co-ordinator

TC2
Judge W. H. Sekule
Judge A. Ramarosoan
Judge K. R. Khan (Bizimungu et al.)
Judge A. J. N. de Silva
Judge S. B. Bossa (Niyamasuhuku et al.)
Judge F. Lattanzi (Muvunyi)
Judge L. G. Muthoga (Bizimungu et al.)
Judge F. R. Arrey (Muvunyi)
Judge E. F. Short (Bizimungu et al.)
Judge T. Hikmet (Ndingiyimana et al.)
Judge S. K. Park (Ndingiyimana et al.)
SLO
A. Letoy, Co-ordinator
A. Marong (Ndingiyimana et al.)

TC3
Judge A. Yaz (Seromba)
Judge I. M. Weinberg de Roca (Zganyirazo)
Judge K. R. Khan
Judge D. C. M. Byron
Judge F. Lattanzi (Bikind & Rukundo)
Judge L. G. Muthoga (Zganyirazo)
Judge F. R. Arrey (Rukundo)
Judge E. F. Short (Karemura et al.)
Judge K. Hökberg (Seromba & Rwamakuba)
Judge G. G. Kam (Seromba, Karemera et al. & Rwamakuba)
E. O'Donnell, SLO
C. Denis, Co-ordinator (Karemura et al. & Rwamakuba)
H. Gogo, Co-ordinator (Seromba)

OTP / BUREAU DU PROCUREUR
Senior Trial Attorney in charge of case: D. Webster received by
DEFENSE
Accused / Accusé: J. Nzirorera, M. Ngrumpatse & E. Karemera complete / remplir "CMS4 FORM"
Lead Counsel / Conseil Principal: P. Robinson, C. Hounkpatin & D. Diagne
In / à Arusha Arusha signature: by fax complete / remplir "CMS3a FORM"
Co-Counsel / Conseil Adjoint: P. N. M. Ngimbi, F. Weyl & F. Sow signature: by fax complete / remplir "CMS3bis FORM"
In / à Arusha Arusha signature: by fax complete / remplir "CMS3bis FORM"

All Decisions: Appeals Chamber Unit, The Hague S. Chenault, Jurist Linguist
All Decisions & Important Public Documents: Press & Public Affairs Legal Library

From: J.-P. Fomété (Chief, CMS) N Diato (TC1) R Kouambo (TC2) C. Homelou (TOS) F. A. Talon (Appeals/Team IV)
De:
Cc: A. Dieng A. Miller, OLA, NY D. Registrar S. Menon M. Niang S. van Driessche
WVSS Spokesperson E. O'Donnell CCDMS P. Enow

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