

ICTR-98-44-T
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UNITED NATIONS
NATIONS UNIES

**International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda**

TRIAL CHAMBER III

ENGLISH
Original: FRENCH

Before: Judge Dennis C. M. Byron, presiding
Judge Gberdao Gustave Kam
Judge Vagn Joensen

Registrar: Adama Dieng

Date filed: 15 June 2007

2007 SEP 20 A 9:55
[Signature]

THE PROSECUTOR

v.

**Édouard KAREMERA
Mathieu NGIRUMPATSE
Joseph NZIRORERA**

Case No. ICTR-98-44-T

DECISION ON NGIRUMPATSE'S MOTION FOR EXCLUSION OF WITNESS GBY
Rule 73 of the Rules of Procedure and Evidence

Office of the Prosecutor:
Don Webster
Alayne Frankson-Wallace
Iain Morley
Gerda Visser
Saidou N'Dow
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

CIJ07-0061 (E)

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The Prosecutor v. Édouard Karemera, Mathieu Ngirumpatse and Joseph Nzirorera, Case No. ICTR-98-44-T

Translation certified by LSS, ICTR

INTRODUCTION

1. The sixth session of the present trial began on 12 June 2007. On the previous day, Mathieu Ndirumpatse filed a motion to exclude Prosecution Witness GBY who appears on the list of witnesses to testify during the sixth session of the trial.¹ Due to the urgency of the matter, Prosecuting Counsel responded orally to this motion and requested the Chamber to reject it.²

DISCUSSION

2. Mathieu Ndirumpatse makes reference to the Prosecutor's correspondence expressing the latter's doubts about the credibility of Prosecution Witness GBY, to the extent of questioning the need for him to testify before the Chamber.³ He reiterates that it is up to each party to assess the credibility of witnesses whose testimonies they are requesting the Chamber to hear. He also notes that in support of the said Prosecutor's correspondence, the Prosecutor attaches correspondence which is wrongly attributed to him and which are allegedly forgeries.

3. Mathieu Ndirumpatse submits that the Prosecutor is aware of the risks involved in advancing inaccurate arguments during Witness GBY's testimony before the Chamber. Consequently, he requests the Chamber to exclude the testimony of this witness and order appropriate investigations to discover the circumstances under which the forgeries attached to the Prosecutor's notification were made and identify the perpetrators.

4. The Chamber notes that Mathieu Ndirumpatse mentions no prejudice that would warrant the exclusion of Witness GBY's testimony. Nor does he allege or establish any violation of his rights, or an erosion of the trial's fairness.

5. Thus, the Chamber finds no reason to exclude Witness GBY from the Prosecutor's list of witnesses. It reiterates that evidence will be assessed at a later stage in the proceedings in the light of the totality of the evidence adduced by all the parties to the trial. It further reiterates that the Accused may cross-examine the witness on all issues that will enable him to impeach the credibility of the witness.

FOR THE FOREGOING REASONS,

THE CHAMBER

DENIES Mathieu Ndirumpatse's motion in its entirety.

¹ Ndirumpatse's Motion for the Exclusion of Witness GBY filed on 11 June 2007.

² T. 12 June 2007, p. 10 (French version).

³ Letter dated 4 June 2007- Application for reciprocal disclosure of evidence pursuant to Rule 67 of the ICTR Rules of Procedure and Evidence.

Arusha, 15 June 2007

Dennis C. M. Byron
Presiding Judge

Gherdao Gustave Kam
Judge

Vagn Joensen
Judge

[Seal of the Tribunal]

