

ICTR-98-44-T
27-8-2007
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UNITED NATIONS
INTERNATIONAL
CRIMINAL TRIBUNAL
FOR RWANDA

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
Vagn Joensen

Registrar: Adama Dieng

Date: 24 August 2007

THE PROSECUTOR

v.

Édouard KAREMERA
Mathieu NGIRUMPATSE
Joseph NZIRORERA

Case No. ICTR-98-44-T

DECISION ON JOSEPH NZIRORERA'S MOTION FOR REQUEST FOR
COOPERATION OF GOVERNMENT OF RWANDA: STATEMENTS OF WITNESS
BDW

Article 28 of the Statute and Rule 54 of the Rules of Procedure and Evidence

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

INTRODUCTION

1. The trial in this case started on 19 September 2005 before Trial Chamber III composed of Judges Dennis C. M. Byron, presiding, Gberdao Gustave Kam and Vagn Joensen. The fifth trial session started on 12 June 2007 and concluded on 1 August 2007.

2. On 7 May 2007, Joseph Nzirorera moved, pursuant to Article 28 of the Statute of the International Criminal Tribunal for Rwanda for the Trial Chamber to issue a request to the Government of Rwanda that it produces statements made by Prosecution Witness BDW to Rwandan authorities, as detailed in confidential annex "A".¹

DISCUSSION

3. Article 28 of the Statute imposes an obligation on States to cooperate with the Tribunal and to comply with any request for assistance or order issued by a Trial Chamber.² Trial Chambers pursuant to Rule 54 of the Rules of Procedure and Evidence ("Rules") have issued binding orders to States where the request for cooperation sets forth the nature of the evidence sought with particularity, the relevance of that evidence to the trial and the efforts that have been made to obtain the evidence.³

4. The Prosecutor indicated that he had no objections but invited the Chamber to consider whether Joseph Nzirorera's request for all letters made by Witness BDW to Rwandan authorities between certain dates is sufficiently specific.⁴ However, the Chamber is satisfied Joseph Nzirorera's motion adequately particularizes the nature of the information sought because it was limited to letters in a particular dossier which was identified by number. The other criteria were clearly established as the letters are relevant to the proceedings against the Accused and reasonable efforts had been taken by Joseph Nzirorera to obtain the requested information.⁵

FOR THE ABOVE MENTIONED REASONS, THE CHAMBER

1. REQUESTS the cooperation of the Government of Rwanda in assisting the Defence

¹ Joseph Nzirorera Motion for Request for Cooperation of Government of Rwanda: Statements of Witness BDW filed on 7 May 2007, para 1

² Bagosora et al., Request to the Republic of France for Cooperation and Assistance pursuant to Article 28 of the Statute (TC), 22 October 2004, para 2

³ The Prosecutor v. Edouard Karemera, Mathieu Ndirumpatsa and Joseph Nzirorera, Case No. ICTR-98-44-T ("Karemera et al."), Decision Relative a la requete de Joseph Nzirorera aux fins d'obtenir la Cooperation du gouvernement francais, (TC) 23 February 2005, para 4; Bagosora et al., Case No. ICTR-98-41-T, Decision on Request to the Kingdom of the Netherlands for Cooperation and Assistance, 7 February 2005, para 5

⁴ Prosecutor's Response to Motion for Request for Cooperation of Government of Rwanda: Statements of Witness BDW filed on 8 May 2007, para 3 and 6.

⁵ Joseph Nzirorera Motion for Request for Cooperation of Government of Rwanda: Statements of Witness BDW filed on 7 May 2007, para 2 & 7.

for Joseph Nzirorera

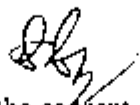
- 11. **DIRECTS** the Registrar to serve this request for cooperation to the Government of Rwanda, accompanied by the Defence Motion.

Arusha, 24 August 2007, done in English.




Dennis C. M. Byron

Presiding Judge



With the consent and on behalf
Gherdao Gustave Kam
Judge
(Absent during signature)



With the consent and on behalf of
Vagn Joensen
Judge
(Absent during signature)

[Seal of the Tribunal]





TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

(Art. 21 of the Statute of the Tribunal)
COURT MANAGEMENT SECTION
(Art. 21 of the Rules for the Registry)

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

To:	<input type="checkbox"/> Trial Chamber I N. M. Diallo	<input type="checkbox"/> Trial Chamber II R. N. Kouramba	<input checked="" type="checkbox"/> Trial Chamber III C. K. Hometowu	<input type="checkbox"/> Appeals Chamber / Arusha F. A. Talon
	<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. Muz go Morrison K. K. A. Afande
From:	<input checked="" type="checkbox"/> Chamber Hussein Mohamed Mohamud <small>(names)</small>	<input type="checkbox"/> Defence <small>(names)</small>	<input type="checkbox"/> Prosecutor's Office <small>(names)</small>	<input type="checkbox"/> Other <small>(names)</small>
Case Name:	The Prosecutor vs. Karemera et al			Case Number: ICTR-98-48-T
Dates:	Transmitted: 27-August-2007		Document's date: 24-August-2007	
No. of Pages:	3	Original Language:	<input checked="" type="checkbox"/> English	<input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
Title of Document:	DECISION ON JOSEPH NZIRORERA'S MOTION FOR REQUEST FOR COOPERATION OF GOVERNMENT OF RWANDA: STATEMENTS OF WITNESS BDW			
Classification Level:		TRIM Document Type:		
<input type="checkbox"/> Ex-Parte		<input type="checkbox"/> Indictment	<input type="checkbox"/> Warrant	<input type="checkbox"/> Correspondence
<input type="checkbox"/> Strictly Confidential / Under Seal		<input type="checkbox"/> Decision	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Notice of Appeal
<input type="checkbox"/> Confidential		<input type="checkbox"/> Disclosure	<input type="checkbox"/> Order	<input type="checkbox"/> Appeal Book
<input checked="" type="checkbox"/> Public		<input type="checkbox"/> Judgement	<input type="checkbox"/> Motion	<input type="checkbox"/> Book of Authorities
		<input type="checkbox"/> Submission from non-parties	<input type="checkbox"/> Submission from parties	
		<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

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Filing Party hereby submits **BOTH the original and the translated version** for filing, as follows:

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<input type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines:



**International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

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**PROOF OF SERVICE – ARUSHA
PREUVE DE NOTIFICATION – ARUSHA**

Date: **27 August 2007** Case Name / Affaire: **The Prosecutor vs. - Joseph NZIRORERA
- Mathieu NGIRUMPATSE
- Edward KAREMERA**

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

To:	<input type="checkbox"/>	TC1	received by / reçu par:	ALO:	received by / reçu par
A:	<input type="checkbox"/>	Judge E. Mese	<input type="checkbox"/>
	<input type="checkbox"/>	Judge J. R. Reddy	<input type="checkbox"/>
	<input type="checkbox"/>	Judge S. A. Egorov	<input type="checkbox"/>
	<input type="checkbox"/>	Judge F. Lattanzi (Mpamba/a)	<input type="checkbox"/>
	<input type="checkbox"/>	Judge F. R. Arrey (Kairora)	<input type="checkbox"/>
	<input type="checkbox"/> SLO	<input type="checkbox"/>
	<input type="checkbox"/>	C. Gosnell, Co-ordinator	<input type="checkbox"/>
	<input type="checkbox"/>	TC2	<input type="checkbox"/>	(Vacant)
	<input type="checkbox"/>	Judge W. H. Sekule	<input type="checkbox"/>	M. Andeanano
	<input type="checkbox"/>	Judge A. Ramaroson	<input type="checkbox"/>	(Vacant)
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	<input type="checkbox"/>	Judge A. J. N. de Silva	<input type="checkbox"/>	K. Greve
	<input type="checkbox"/>	Judge S. B. Bossa (Nyiramasuhuko et al.)	<input type="checkbox"/>	P. Matham
	<input type="checkbox"/>	Judge F. Lattanzi (Muvunyi)	<input type="checkbox"/>	S. Unnikrishnan
	<input type="checkbox"/>	Judge L. G. Muthoga (Buzumungu et al.)	<input type="checkbox"/>	K. Ardaut
	<input type="checkbox"/>	Judge F. R. Arrey (Muvunyi)	<input type="checkbox"/>	C. Duffy
	<input type="checkbox"/>	Judge E. F. Short (Buzumungu et al.)	<input type="checkbox"/>	B. Zehnder
	<input type="checkbox"/>	Judge T. Hikmet (Ndindiyimana et al.)	<input type="checkbox"/>	B. Zehnder
	<input type="checkbox"/>	Judge S. K. Park (Ndindiyimana et al.)	<input type="checkbox"/>
	<input type="checkbox"/>	M. Niang, SLO	<input type="checkbox"/>
	<input type="checkbox"/>	A. Leroy, Co-ordinator	<input type="checkbox"/>
	<input type="checkbox"/>	A. Marong, Judgement Co-ordinator	<input type="checkbox"/>
	<input type="checkbox"/>	S. Mawalla, Judgement Co-ordinator	<input type="checkbox"/>
	<input type="checkbox"/>	W. Romans, Judgement Co-ordinator	<input type="checkbox"/>
	<input checked="" type="checkbox"/>	TC3	<input type="checkbox"/>	D. Kinnecone
	<input checked="" type="checkbox"/>	Judge K. R. Khan	<input type="checkbox"/>	C. Rassl
	<input checked="" type="checkbox"/>	Judge I. M. Weinberg de Roca	<input type="checkbox"/>	(Vacant)
	<input checked="" type="checkbox"/>	Judge D. C. M. Byron President	<input type="checkbox"/>	S. Unnikrishnan
	<input type="checkbox"/>	Judge L. G. Muthoga (Ziganyiro)	<input type="checkbox"/>	K. Ardaut
	<input type="checkbox"/>	Judge F. R. Arrey (Bakete)	<input type="checkbox"/>	M. I. Mbadanga
	<input type="checkbox"/>	Judge G. G. Kam (Karemara et al & Nchamihigo)	<input type="checkbox"/>	(Vacant)
	<input type="checkbox"/>	Judge R. Fremt (Zinedi & Nchamihigo)	<input type="checkbox"/>
	<input type="checkbox"/>	Judge V. Joenen	<input type="checkbox"/>
	<input type="checkbox"/>	E. O'Donnell, SLO	<input type="checkbox"/>
	<input type="checkbox"/>	C. Denis, Co-ordinator (Karemara et al & Nchamihigo)	<input type="checkbox"/>
	<input type="checkbox"/>	H. Gogo, Co-ordinator	<input type="checkbox"/>
	<input checked="" type="checkbox"/>	OTP / BUREAU DU PROCUREUR	<input type="checkbox"/>
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	<input checked="" type="checkbox"/>	DEFENSE <i>[Signature]</i> 27/08/07	<input type="checkbox"/>	complete / remplir " CMS4 FORM "
	<input type="checkbox"/>	Accused / Accusé: J. Nzirorera, M. Ngirumpatse & E. Karemera	<input type="checkbox"/>
	<input type="checkbox"/>	Lead Counsel / Conseil Principal: P. Robinson, C. Hounkpatin & D. Diagne	<input type="checkbox"/>	by fax complete / remplir " CMS3bis FORM "
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Dz:	<input type="checkbox"/>	N. Diallo (TC1)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	C. Homelowo (TC3)
Cc:	<input type="checkbox"/>	R. Kouambo (TC2)	<input type="checkbox"/>	<input type="checkbox"/>	A. N'gum (TC3)
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	<input type="checkbox"/>	WVSS	<input type="checkbox"/>	<input type="checkbox"/>	P. Enow
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Documents name / titre du document: **DECISION ON JOSEPH NZIRORERA'S MOTION FOR REQUEST FOR COOPERATION OF GOVERNMENT OF RWANDA: STATEMENTS OF WITNESS BDW**

Date Filed / Date enregistrée: **27/08/2007** Pages: **3**