

ICTR-98-44-T
27-9-2007
(31097-31095)

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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
Gberdao Gustave Kam
Vagn Joensen

Registrar: Adama Dieng

Date: 27 September 2007

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THE PROSECUTOR

v.

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

**DECISION ON JOSEPH NZIRORERA'S MOTION TO POSTPONE
COMMENCEMENT OF SIXTH TRIAL SESSION**

Articles 19 and 20 of the Statute

Office of the Prosecutor:
Don Webster
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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 Ngrumpatse
Chantal Hounkpatin and Frédéric Weyl

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

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INTRODUCTION

1. The trial in this case commenced on 19 September 2005. On 1 August 2007, at end of the fifth trial session, the proceedings were adjourned until 1 October 2007 for the sixth trial session.
2. On 21 August 2007, the Chamber issued a Scheduling Order providing for the resumption of the Prosecution case on 1 October 2007 until 7 December 2007 with one week break between 15 and 19 October 2007.¹ This scheduling had been discussed and agreed by all Parties.
3. On 12 September 2007, Joseph Nzirorera filed a Motion moving the Chamber to postpone the resumption of the trial from 1 October to 22 October 2007 in order to obtain the remaining prior statements or records from the Rwandan authorities concerning six Prosecution Witnesses scheduled to testify during the upcoming session and to give the Chamber more time to decide on pending motions.² The Prosecutor objects to the Motion.³

DISCUSSION

Concerning the Witnesses

4. Joseph Nzirorera points out that prior statements from Witnesses AMB, AWD and AJY have been identified but not yet produced; that records concerning a fraud charge against Witness BDX have not yet been disclosed; that despite the Prosecutor's best efforts records concerning Witness AXA have not been produced; and that, despite a request from the Chamber, additional records concerning Witness BDW have not been produced. He submits that "the commencement of the trial session should be postponed to allow more time for these statements to be obtained from the Rwandan government before the witnesses testify."⁴
5. According to Article 19 of the Statute of Tribunal, "[t]he Trial Chambers shall ensure that a trial is fair and expeditious and that proceedings are conducted in accordance with the Rules of Procedure and Evidence, with full respect for the rights of the accused and due

¹ *Prosecutor v. Edouard Karemera, Mathieu Ndirumpatswe and Joseph Nzirorera*, Case No. ICTR-98-44-T ("Karemera et al."), Scheduling Order (TC), 21 August 2007.

² Joseph Nzirorera's Motion to Postpone Commencement of Sixth Trial Session, filed on 12 September 2007 ("Nzirorera's Motion").

³ Prosecution Response to Joseph Nzirorera's Motion of 12 September 2007 to Delay the Commencement of the Sixth Trial Session from 1 October to 22 October, filed on 17 September 2007.

⁴ Nzirorera's Submissions, para. 6.

regard for the protection of victims and witnesses". Under Article 20, the Chamber must also guarantee the right of the accused to have sufficient time and facilities to prepare his or her defence.

6. In the Chamber's view, a postponement of the commencement of the sixth trial session will compromise the expediency of the trial.

7. The six witnesses in question have been on the Prosecutor's witness list since the beginning of the trial, two years ago. The Defence has, therefore, had ample opportunity to conduct the investigations it deems relevant. Furthermore, of the six witnesses concerned, only Witness AMB, the second witness the Prosecution intends to call during the sixth trial session, is projected to be fully examined before the break from 15 to 19 October 2007. In addition, of the two days estimated for the cross-examination of Witness BDX, the fourth witness to be called during the session, only a half-day is expected to take place before the break.

8. Further, taking into account that the Defence – upon showing good cause – may request an extension of time for cross-examination and that a witness could be recalled for further cross-examination, the Chamber finds that the right of the Accused to a fair trial does not warrant the postponement requested.


Concerning pending motions

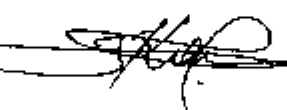
9. Joseph Nzirorera submits that when his Motion was filed, 18 motions were pending and that the postponement requested would give the Chamber more time to decide on the motions.

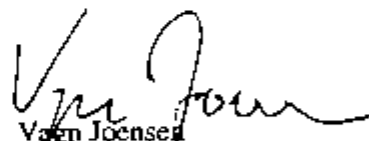
10. The Chamber, in scheduling the trial, is fully aware that motions should be decided within reasonable time. Nzirorera's suggestion is therefore without merit.

FOR THOSE REASONS, THE CHAMBER DENIES the Defence Motion in its entirety.

Arusha, 27 September 2007, done in English.


Dennis C. M. Byron
Presiding Judge


Gberdao Gustave Kam
Judge


Vagn Joensen
Judge

[Seal of the Tribunal]

