

ICTR-98-44-T
13-11-2007
(32190-32188)

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INTERNATIONAL
CRIMINAL TRIBUNAL

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: 13 November 2007

THE PROSECUTOR

v.

Édouard KAREMERA
Mathieu NGIRUMPATSE
Joseph NZIRORERA

Case No. ICTR-98-44-T

2007 NOV 13 P 5:20
OFFICE OF THE PROSECUTOR
ICTR

**ACKNOWLEDGMENT ON JOSEPH NZIRORERA'S MEMORANDUM ON THE
APPLICABILITY OF THE ARUSHA ACCORDS TO THE REPLACEMENT OF
PRESIDENT HABYARIMANA**

Office of the Prosecutor:

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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

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INTRODUCTION

1. On 25 October 2007, during the continuation of the presentation of the Prosecution case, the Trial Chamber stated that it was interested in understanding the applicability of the Arusha Accords to the replacement of President Habyarimana in April 1994¹.

2. In his memorandum filed on 29 October 2007, Joseph Nzirorera explained his position to be that the Chamber should determine that issue as a matter of law in its final Judgement². After having reminded the Chamber of the agreements entered into between the government of Rwanda and the Rwandese Patriotic Front, Nzirorera stated that the Transitional Government and the National Assembly were, on 8 April 1994, yet to be established. He relies on the Article 42 of the Rwandan 1991 Constitution to explain why President Sindikubabwo replaced the President of the Republic of the Interim Government on 8 April 1994. Therefore, he considers that the transitional period had not yet started in Rwanda on 8 April 1994 and that the Arusha Accords could not be applied.

3. The Prosecutor opposes the memorandum, submitting that the formation of the Interim Government of 8 April 1994 was illegitimate because the former President of the *Conseil National de Développement* (CND) replaced former President Habyarimana³. He further submits that the Arusha Accords anticipated that Ndirumpatse should replace former President Habyarimana.

THE CHAMBER

I. ACKNOWLEDGES the submissions of both Parties

II. INVITES the Parties to address the issue in their closing arguments

Arusha, 13 November 2007, done in English.

¹ T. 25 October 2007.

² Joseph Nzirorera's Memorandum on the Applicability of the Arusha Accords to the replacement of President Habyarimana filed on 29 October 2007.

³ Prosecutor's Response to Joseph Nzirorera's Memorandum on the Applicability of the Arusha Accords to the replacement of President Habyarimana, filed on 5 November 2007.

Acknowledgment on Joseph Ndirere's Memorandum on the applicability of the Arusha accords to the replacement of President Habyarimana

13 November 2007

Dennis C. M. Hyon

Presiding Judge

Gberdao Gustave Kuru

Judge

Yagh Joennes

Judge

