

ICTR-98-44-T

13-03-2008

(34295-34292)

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UNITED NATIONS  
NATIONS UNIES

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

TRIAL CHAMBER III

Case No. ICTR-98-44-T

ENGLISH  
Original: FRENCH

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

Registrar: Adama Dieng

Date: 30 November 2007

THE PROSECUTOR

v.

ÉDOUARD KAREMERA  
MATHIEU NGIRUMPATSE  
JOSEPH NZIRORERA

JUDICIAL RECORDS/ARCHIVES  
UNIT III

2008 MAR 13 P 3 43

DECISION ON BIZIMUNGU'S DEFENCE'S EXTREMELY URGENT MOTION FOR ACCESS  
TO CLOSED SESSION TESTIMONY OF WITNESS ANU AND RELATED SEALED EXHIBITS

*(Rules 75 (F) and (G) 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  
Takch Sendze  
Deo Mbutu

Defence Counsel:

For Edouard Karemera  
Dior Diagne Mbaye and Félix Sow

For Mathieu Ndirumapatse  
Chantal Hounkpatin and Frédéric Weyl

For Joseph Nzirorera  
Peter Robinson and Patrick Niny Mayidika Ngimbi

For Augustin Bizimungu  
Gilles St-Laurent and Ronnie McDonald

occurred in Ruhengeri in April 1994 and which are also mentioned in the Indictment against General Bizimungu.<sup>8</sup> The witness had testified notably on an event on 8 April 1994 at the Busogo parish. Witness GAP had also testified on the same event at the *Bizimungu* trial.<sup>9</sup> The Trial Chamber therefore agrees with the Applicant's Defence that the testimony in question is closely linked to the Indictment against General Bizimungu. The Trial Chamber is satisfied that the Defence has shown that there is a legitimate and relevant purpose to warrant the disclosure of the closed session transcripts and exhibits admitted into evidence by the Trial Chamber during the testimony of protected Witness ANU.

7. Pursuant to Rule 75(F), the Defence for Augustin Bizimungu will be bound by the protective measures granted to Witness ANU in the *Karemera* case.

#### **FOR THE AFOREMENTIONED REASONS, THE TRIAL CHAMBER**

- I. ALLOWS** and grants Augustin Bizimungu's Motion for access to the transcript of Witness ANU's testimony given in closed session as well as the exhibits tendered during the said session;
- II. ORDERS** the Registrar to disclose to the Defence for Augustin Bizimungu the transcripts of Witness ANU's testimony given in closed session as well as the exhibits admitted under seal during his testimony in the present case<sup>10</sup> on 13, 14, 15 and 18 June 2007;
- III. DECLARES** that Augustin Bizimungu and his Counsel are bound *mutatis mutandis* by the protective measures granted to Witness ANU in the present case;
- IV. ORDERS** the Registrar to communicate this Decision to Augustin Bizimungu and his Counsel.

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Case (Appeals Chamber), 16 January 2006, para. 3; The Appeals Chamber decided that "An Accused in a case before the international Tribunal may be granted access to confidential material in another case if he shows a legitimate forensic purpose for such access. With respect to *inter partes* confidential material, it is sufficient for an applicant to demonstrate that "the material sought is likely to assist the applicant's case materially or at least that there is a good chance that it would". This standard can be met "by showing the existence of a nexus between the applicant's case and the case from which such material is sought, for example, if the case stems from events alleged to have occurred in the same geographical area at the same time"; Also see *the Prosecutor v. Bagosora*, Case No. ICTR-98-41-T, Decision on Nzirorera' Motion for Access to Protected Information, 19 May 2006, para. 2.

<sup>8</sup> *The Prosecutor v. Karemera et al.*, Case No. ICTR-98-44-T, French language transcript of the open session proceedings of 13 June 2007, pp. 30, 36, 42 and 47, *The Prosecutor v. Augustin Bizimungu et al.*, Case No. ICTR-99-50-I, indictment, paras. 54-56, 63-65.

<sup>9</sup> *The Prosecutor v. Karemera et al.*, Case No. ICTR-98-44-T, French language transcript of the open session proceedings of 13 June 2007, pp. 36-38; *The Prosecutor v. Ndindiliyimana et al.*, French language transcript of the open session proceedings of 15 February 2005, pp. 52-53;

<sup>10</sup> *The Prosecutor v. Karemera et al.*, Case No. ICTR-98-44-T.

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

Done in French at Arusha on 30 November 2007.

[Signed]

Dennis C.M. Byron  
Presiding

[Signed]

Gberdao Gustave Kam  
Judge

[Signed]

Vagn Joensen  
Judge

