

ICTR-98-44-T
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(37343-37341)

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International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

TRIAL CHAMBER III

Case No. ICTR-98-44-T

ENGLISH
Original: FRENCH

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

Registrar: Adama Dieng

Date: 3 July 2008

THE PROSECUTOR

v.

ÉDOUARD KAREMERA
MATHIEU NGIRUMPATSE
JOSEPH NZIRORERA

JUDICIAL RECORDS SECTION

2008 SEP -8 1 A 9:07

ORDER REQUIRING THE DEFENCE FOR ÉDOUARD KAREMERA TO EXPLAIN
VIOLATIONS OF THE CHAMBER'S ORDERS ON THE PRESENTATION
OF DEFENCE EVIDENCE

Rules 46 and 54 of the Rules of Procedure and Evidence

Office of the Prosecutor:

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Dior Diagne Mbaye and Félix Sow

Counsel for Mathieu Ndirumpatse:

Chantal Hounkpatin and Frédéric Wey

Counsel for Joseph Nzirorera:

Peter Robinson and Patrick Nimy Mayidika Ngimbi

CTI08-0117 (E)

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1. On 18 June 2008, the Chamber ordered the Defence for Édouard Karemera to submit forthwith and in any case by 19 June 2008, at the latest, the order of appearance of all the witnesses it intends to call.¹
2. On 25 June 2008, having noted that the Defence for Édouard Karemera had failed to comply with the said Order, the Chamber ordered that the said list be filed by 26 June 2008, at the latest, during working hours, and also, indicated that it intended to impose sanctions pursuant to Rule 46 of the Rules of Procedure and Evidence, if necessary.²
3. On 27 June 2008, having observed that Édouard Karemera's Defence had still not complied with the Chamber's orders and that, such conduct constituted an obstruction to the proceedings and was contrary to the interests of justice, the Chamber issued a warning to the Lead Counsel and Co-counsel pursuant to Rule 46 of the Rules.³
4. On 27 June 2008, the Defence for Édouard Karemera filed the order of appearance for nine witnesses it intended to call for the session scheduled to commence on 7 July 2008. The list made no reference to the four witnesses who, at the request of the Defence, had already been scheduled to testify by video-link during the same session,⁴ whereas the Chamber had not at all ordered an amendment and whereas the necessary arrangements had been made for the video-link testimony to be given. The Chamber notes further that the Defence actually intends to call those witnesses as it had requested in a letter addressed to the Registrar, that their appearance be deferred to another trial session. That aside, no information is included on the remaining 47 witnesses on the list provided by the Defence pursuant to Rule 73 *ter* of the Rules.⁵
5. The Chamber considers that this list still does not comply with its previous orders. Such conduct by the Defence thus constitutes an obstruction to the proceedings and is contrary to the interests of justice. In the circumstances, the Chamber requires that Counsel for the Accused explain why, at this stage of proceedings, they should not be sanctioned pursuant to Rule 46(A).

¹ *The Prosecutor v. Édouard Karemera, Mathieu Ndirumpatse and Joseph Nzirorera*, Case No. ICTR-98-44-T, *Décision relative à la requête d'Édouard Karemera afin de ne pas communiquer les éléments d'identification de ses témoins protégés dans l'immédiat* (Trial Chamber), 18 June 2008.

² *Karemera et al.*, *Décision enjoignant à la défense d'Édouard Karemera de déposer immédiatement l'ordre de comparution de ses témoins* (Trial Chamber), 25 June 2008.

³ *Karemera et al.*, *Avertissement à la défense d'Édouard Karemera pour refus de se conformer aux ordonnances de la Chambre* (Trial Chamber), 27 June 2008.

⁴ *Karemera et al.*, *Decision on Édouard Karemera's Motion to Allow Defence Witnesses to Testify via Video-Link* (Trial Chamber), 2 April 2008; *Karemera et al.*, *Décision relative à la requête confidentielle d'Édouard Karemera aux fins de l'audition par vidéoconférence des témoins LOL et KBL* (Trial Chamber), 19 June 2008.

⁵ Annex to "*Urgente soumission ~~ex-parte~~ et confidentielle d'Édouard Karemera en vue de varier la liste de ses témoins potentiels préalablement à la présentation de sa défense*", filed with the Registry on 21 April 2008.

FOR THESE REASONS, THE CHAMBER ORDERS the Defence to submit such explanations in writing by Friday 4 July 2008, at the latest, and the other parties to reply by Monday 7 July 2008, at the latest.

Done in French at Arusha, on 2 July 2008

[Signed]

Dennis C. M. Byron
Presiding Judge

[Signed]

Gberdao Gustave Kam
Judge

[Signed]

Vagn Joensen
Judge

