



UNITED NATIONS
NATIONS UNIES

192-98-44-T
10-2-2009
(44785-44784)

44785
2/10/08
J

OR: ENG

TRIAL CHAMBER III

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

Registrar: Adama Dieng

Date: 10 February 2008

THE PROSECUTOR

v.

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

JUDICIAL RECORDS ARCHIVES
RECEIVED

2008 FEB 10 10 2: 59

Y. A. Dieng

**DECISION ON JOSEPH NZIRORERA'S MOTION FOR PUBLIC FILING OF
DECISION**

Rule 54 of the Rules of Procedure and Evidence

Office of the Prosecutor:
Don Webster
Alayne Frankson-Wallace
Iain Morley
Saidou N'Dow
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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 Nimy Mayidika
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1. On 25 November 2008, the Chamber filed a consolidated Decision on two motions for request for cooperation to a State filed by Joseph Nzirorera, which concerned witnesses T and Colonel Frank Claeys.¹ The Chamber filed the Decision confidentially because Witness T is currently in a witness protection program, and it felt that any public reference to the State at issue could have jeopardized his safety by revealing his country of residence.
2. On 28 November 2008, Joseph Nzirorera requested that the Chamber re-file a redacted version of the Decision publicly.² The Prosecution has decided not to respond, and leaves the matter to the discretion of the Chamber.³
3. The Decision at issue makes constant references to Witness T's country of residence, and bases its outcome largely on an analysis of that country's rules governing interviews by defence counsel of Prosecution witnesses, which reside in its territory. Therefore, the Chamber finds that the Decision cannot be sufficiently redacted so as to guarantee Witness T's safety. Moreover, even if the Chamber were to attempt to redact the Decision, it finds that the degree of redaction required to file the Decision publicly would dilute its reasoning enough to risk rendering it confusing to the public.
4. Accordingly, in the interests of justice, the Chamber will not redact the Decision and re-file it publicly.

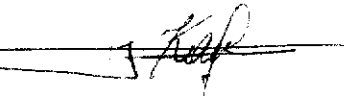
FOR THESE REASONS, THE CHAMBER

DENIES Joseph Nzirorera's motion in its entirety.

Arusha 10 February 2008, done in English.


Dennis C. M. Byron

Presiding Judge


Gberdao Gustave Kam




Vagn Joensen

Judge

¹ *Prosecutor v. Édouard Karemera, Mathieu Ngirumpatse and Joseph Nzirorera*, Case No. ICTR-98-44-T, ("Karemera et al."), Decision on Joseph Nzirorera's Motions for Request for Cooperation to a State: Interviews of Witness Colonel Frank Claeys and Witness T (TC), filed confidentially on 25 November 2008.

² Joseph Nzirorera's Second Motion for Public Filing of Decision, filed on 28 November 2008.

³ Email to Trial Coordinator from Don Webster, Lead Counsel for the Prosecution, dated 3 December 2008.