



UNITED NATIONS  
NATIONS UNIES

ICTR-98-44-T  
11-2-2009  
(44837-44835)

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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:** 11 February 2009

**THE PROSECUTION**

v.

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

JUDICIAL RECORDS ARCHIVER  
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**SCHEDULING ORDER**

*Rule 54 of the Rules of Procedure and Evidence*

**Office of the Prosecution:**

Don Webster  
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 Ngirumpatse**  
Chantal Hounkpatin and Frédéric Weyl

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

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1. Mathieu Ngirumpatse has been unable to be physically present in the courtroom since 19 August 2008 for medical reasons. Nevertheless he agreed that the Chamber could proceed without him being present for the hearing of four of Édouard Karemera's Defence witnesses from 11 to 14 November 2008. During a status conference, on 6 November 2008, Counsel for Ngirumpatse also indicated that the proceedings could continue in Ngirumpatse's absence if he was provided with the adequate facilities enabling him to participate in his defence.
2. On 9 February 2009, the Chamber held a status conference prior to the resumption of the presentation of Édouard Karemera's Defence. During the said status conference, Counsel for Mathieu Ngirumpatse indicated that Ngirumpatse was not willing anymore to waive his right to be physically present during his trial and was therefore requesting a stay of proceedings of three months.
3. Following these submissions, the Chamber ordered the Parties to make oral submissions on Thursday 12 February 2009 on whether the situation requires a stay of proceedings or whether Mathieu Ngirumpatse should be severed from the rest of this trial.
4. On 10 February 2009, the Prosecution filed an application seeking to sever Mathieu Ngirumpatse from this trial.<sup>1</sup>
5. On 11 February 2009, Joseph Nzirorera filed a motion seeking the adjournment of the oral hearing scheduled for 12 February 2009 in order to have the opportunity to respond to the Prosecution's Motion.<sup>2</sup>
6. In a response to Joseph Nzirorera's Motion for postponement of the oral hearing,<sup>3</sup> the Prosecution submits that the purpose of its written submissions on the issues to be discussed during the oral hearing was to afford the Defence advance notice of the submissions it intended to make orally. It further indicated that if the filing of written submissions would result in a postponement of the hearing, it was ready to withdraw its application and to repeat its content orally during the oral hearing. Further, the Prosecution seeks the guidance of the Chamber as to whether at this stage of the proceedings a motion for severance needs to be in written form or could be done orally.<sup>4</sup>

<sup>1</sup> Prosecutor's Motion to Sever Mathieu Ngirumpatse Pursuant to Rule 82(B), filed on 10 February 2009.

<sup>2</sup> Joseph Nzirorera's Motion for Postponement of Oral Hearing, filed on 11 February 2009.

<sup>3</sup> Prosecutor's Response to Nzirorera's Motion to Postpone Oral Hearing, filed on 11 February 2009.

<sup>4</sup> Prosecutor's Response to Nzirorera's Motion to Postpone Oral Hearing, filed on 11 February 2009, para, 4.

7. Due to the importance of the issues to be discussed during the scheduled hearing and raised in the Prosecution's Motion, the Chamber considers that the Parties should be granted additional time to make written submissions and/or to prepare for their oral submissions. The Chamber also considers that the Parties should make submissions on whether a trial could proceed in Mathieu Ndirumpatse's absence, with or without his consent, until he is fit to follow the proceedings in the courtroom.

8. Regarding the guidance sought by the Prosecution, the Chamber is satisfied by the Prosecution's submissions that it did file its submissions in written form in order to give notice to the Defence on the content of those submissions. Consequently, the Chamber does not see any reason to order the Prosecution to withdraw its submissions.


**FOR THOSE REASONS, THE CHAMBER**

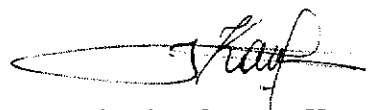
**GRANTS** Joseph Nzirorera's motion for adjournment;

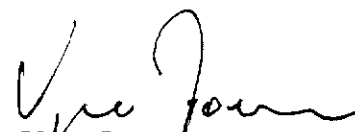
**ORDERS** that any written submissions on the issues mentioned above be filed by Friday 13 February 2009, close of business;

**DECIDES** that the hearing originally scheduled for Thursday 12 February 2009 will take place on Monday 16 February 2009, at 9:00 a.m.

Arusha, 11 February 2009, done in English.

  
Denis C. M. Byron  
Presiding Judge

  
Gberdao Gustave Kam  
Judge

  
Vagn Joensen  
Judge

[Seal of the Tribunal]

