



UNITED NATIONS  
NATIONS UNIES

ICTR-98-44-T  
20-05-2010  
(51037 - 51035)

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

51037  
A

OR: ENG

**TRIAL CHAMBER III**

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

**Registrar:** Adama Dieng

**Date:** 20 May 2010

JUDICIAL RECORDS/ARCHIVES  
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**THE PROSECUTION**

v.

**Édouard KAREMERA  
Matthieu NGIRUMPATSE  
Joseph NZIRORERA**

*Case No. ICTR-98-44-T*

**DECISION ON JOSEPH NZIRORERA'S MOTION FOR CERTIFICATE OF SAFE  
CONDUCT**

*Rule 54 of the Rules of Procedure and Evidence*

**Office of the Prosecution:**  
Don Webster  
Sunkarie Ballah-Conteh  
Takeh Sendze  
Jean-Baptiste Nsanzimfura

**Defence Counsel for Édouard Karemera**  
Dior Diagne Mbaye and Félix Sow

**Defence Counsel for Matthieu Ngirumpatse**  
Chantal Hounkpatin and Frédéric Weyl

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

*[Handwritten initials]*

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## INTRODUCTION

1. On 20 May 2010, Joseph Nzirorera made an oral motion for a certificate of safe conduct for the witness listed in a confidential annex to this decision who is the subject of an international arrest warrant.<sup>1</sup> The Prosecution does not oppose the motion.<sup>2</sup>

## DELIBERATION

2. Rule 54 states that, at the request of either party or *proprio motu*, a Judge or a Trial Chamber may issue such orders, summonses, subpoenas, warrants, and transfer orders as may be necessary for the purposes of an investigation or for the preparation or conduct of the trial. If a witness fears being arrested and extradited to the Rwandan authorities, it is appropriate for a Chamber to *proprio motu* issue an order of safe conduct for that witness pursuant to Rule 54.<sup>3</sup>

3. Noting that the witness at issue is the subject of an international arrest warrant, the Chamber grants the motion and issues a certificate of safe conduct for him to testify before the Tribunal. However, the Chamber recalls that an order for safe conduct is limited to immunity from prosecution for crimes that are within the jurisdiction of the ICTR, and which were committed before coming to the ICTR.<sup>4</sup> Additionally, the Chamber notes that this immunity is only valid for the time during which the witness is present at the ICTR to give testimony.<sup>5</sup>

## FOR THE ABOVE REASONS, THE CHAMBER

**I. GRANTS** the Motion in its entirety;

**II. ORDERS** pursuant to Rule 54, that the witness shall not be prosecuted, detained or subjected to any other restriction of his personal liberty, for acts or convictions falling within the jurisdiction of the Tribunal, during his presence in Tanzania and his travel between that country and his place of residence;

**III. DECIDES** that such immunity shall take effect from the date of the present Decision and shall remain in force for a maximum of seven days following the completion of the witness's testimony;

<sup>1</sup> T. 20 May 2010.

<sup>2</sup> T. 20 May 2010.

<sup>3</sup> *The Prosecutor v. Édouard Karemera, Mathieu Ndirumpatse and Joseph Nzirorera*, Case No. ICTR-98-44-T, Decision on Joseph Nzirorera's Motion for Certificate of Safe Conduct (TC), 17 February 2009, paras. 2, 3.

<sup>4</sup> *Ibid* at para. 7.

<sup>5</sup> *Id.*

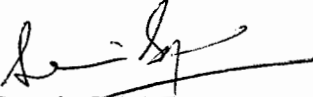
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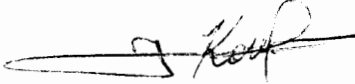
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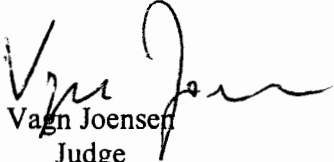
**IV. DECIDES**, moreover, that should illness prevent the witness from leaving Tanzania or should he be detained for an offence he may have committed during his stay in Tanzania, the seven-day time limit shall start to run from the time he is able to travel again or has been released;

**V. DECIDES** that the witness may travel only between Tanzania's point of entry and exit and his place of residence, within a limited radius around his place of residence in Tanzania, and between such place and the Tribunal.

Arusha, 20 May 2010, done in English.

  
Dennis C. M. Byron  
Presiding Judge

  
Gberdao Gustave Kam  
Judge

  
Vagn Joensen  
Judge

