



UNITED NATIONS
NATIONS UNIES

ICTR-98-44-T
13-08-2010
(51776-51774)

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

51776
A

OR: ENG

TRIAL CHAMBER III

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

Registrar: Adama Dieng

Date: 12 August 2010

THE PROSECUTOR

v.

Édouard KAREMERA
Matthieu NGIRUMPATSE
Joseph NZIRORERA

Case No. ICTR-98-44-T

11/08/2010
A

**DECISION RELATING TO REGISTRAR'S SUBMISSION NOTIFYING THE
DEMISE OF ACCUSED JOSEPH NZIRORERA**

Rule 54 of the Rules of Procedure and Evidence

Office of the Prosecution:
Don Webster
Sunkarie Ballah-Conteh
Takeh Sendze
Jean Baptist 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

AM

1. Joseph Nzirorera died 1 July 2010 at the Arusha Lutheran Medical Centre in Arusha, Tanzania.¹ The Chamber was notified of the death of Nzirorera on that same day, and is currently seized of the Registrar's Submission Notifying the Demise of Joseph Nzirorera and the attached copy of his death certificate.²
2. Other international tribunals and courts have held that the death of an Accused legally terminates the proceedings against that person effective the date of his or her death.³ Additionally, Trial Chamber II of this Tribunal has held that the death of an accused terminates proceedings in relation to that Accused.⁴ Furthermore, the Appeals Chamber has held that appellate proceedings should be terminated following the death of an appellant for lack of jurisdiction.⁵ As such, it is consistent jurisprudence that the death of an accused terminates the proceedings against him or her due to a lack of jurisdiction given the individual nature of the criminal charges against that person. This Chamber agrees that criminal responsibility is "individual and personalized"⁶ and that a "Chamber cannot exercise jurisdiction over a person"⁷ who is deceased. Therefore, the proceedings against Joseph Nzirorera must be terminated effective 1 July 2010.

FOR THESE REASONS, THE CHAMBER

I. ORDERS that the trial proceedings against the Accused Joseph Nzirorera are hereby

¹ Registrar's Submission Notifying the Demise of Joseph Nzirorera, filed 2 July 2010.

² *Id.*

³ See *Prosecutor v. Samuel Hinga Norman, Moinina Fofana, and Allieu Kondewa*, Case No. SCSL-04-14-T, Decision on Registrar's Submission of Evidence of Death of Accused Samuel Hinga Norman and Consequential Issues ("CDF Decision"), 21 May 2007 [Special Court for Sierra Leone]; *Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo, Raska Lukwiya, and Dominic Ongwen*, Case No. ICC-02/04-01/05, Decision to Terminate the Proceedings Against Raska Lukwiya ("LRA Decision"), 11 July 2007 [International Criminal Court]; *Prosecutor v. Djordje Djukic*, Case No. IT-96-20-A, Order Terminating the Appeal Proceedings (AC), 29 May 1996; *Prosecutor v. Mile Mrkic, Miroslav Radi, Veselin Ljivanjin, and Slavko Dokmanovic*, Case No. IT-95-13A-T, Order Terminating Proceedings Against Slavko Dokmanovic (TC) (Dokmanovic Decision), 15 July 1998; *Prosecutor v. Enver Hadzhasanovic, Mehmed Alagi, and Amir Kubura*, Case No. IT-01-47-PT, Order Terminating Proceedings Against Mehmed Alagi (TC), 21 March 2003; *Prosecutor v. Momir Tali*, Case No. IT-99-36/1-T, Order Terminating Proceedings Against Momir Tali (TC), 12 June 2003; *Prosecutor v. Slobodan Milojevic*, Case No. IT-02-54-T, Order Terminating the Proceedings (TC), 14 March 2006; *Prosecutor v. Rasim Delic*, Case No. IT-04-83-A, Decision on the Outcome of the Proceedings (AC) ("Deli Decision"), 29 June 2010 [International Criminal Tribunal for the Former Yugoslavia].

⁴ *Prosecutor v. Samuel Musabyimana*, Case No. ICTR-2001-62-I, Order Terminating the Proceedings Against Samuel Musabyimana (TC) ("Musabyimana Decision"), 20 February 2003.

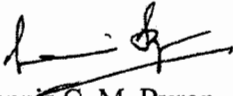
⁵ *Deli Decision*, para 8.

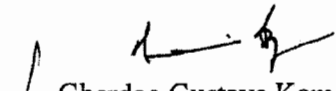
⁶ CDF Decision, para 14.

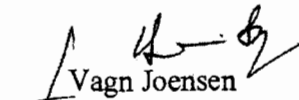
⁷ LRA Decision, p. 4.

terminated by reason of his death effective 1 July 2010;

Arusha, 12 August 2010, done in English.


Dennis C. M. Byron
Presiding Judge


Gberdao Gustave Kam
Judge


Vagn Joensen
Judge

