



UNITED NATIONS
NATIONS UNIES

ICTR-98-44-T
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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: 18 February 2011

JUDICIAL RECORDS ARCHIVE
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THE PROSECUTOR

v.

ÉDOUARD KAREMERA and
MATTHIEU NGIRUMPATSE

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Rule 54 bis of the Rules of Procedure and Evidence

Office of the Prosecutor:
Don Webster
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CIH11-0035E

Translation certified by LSS, ICTR

1. During the trial, the Chamber found a number of allegations not pleaded in the Indictment admissible and allowed the Prosecutor to present evidence thereon.

2. Under Rule 89 (C) of the Rules of Procedure and Evidence, the Chamber may admit any relevant evidence which it deems to have probative value. Consequently, the Chamber admitted a number of allegations that were not pleaded in the Indictment. These may be classified as follows: defects in the Indictment cured by subsequent disclosure of information, evidence admitted as providing context, evidence admitted for a specific purpose.

3. Nonetheless, mindful of developments in the case law on this issue, the Chamber considers that it would be in the interests of justice to revisit its decision on the matter in view of the current applicable law. Indeed, the Chamber has the inherent power to reconsider its decisions. However, the Chamber resorts to doing this only in exceptional circumstances.¹ Thus, the Chamber may reconsider one of its decisions when a new fact has been discovered that was not known to the Chamber, when there is reason to believe that the original decision was erroneous or constituted an abuse of power on the part of the Chamber resulting in an injustice thereby warranting reconsideration.² For this purpose, the Chamber therefore invites the Parties to make submissions for a possible reconsideration of the Chamber's decisions allowing evidence on the allegations that were not pleaded in the Indictment.

For these reasons, the Chamber

Invites the parties to file submissions no later than 9 May 2011 on the appropriateness of reconsidering the following decisions:

- i. Oral Decisions of 21 and 22 September 2005 and 27 February 2006 allowing evidence on the alleged rally in Kibungo in 1993.
- ii. Oral Decision of 22 September 2005 allowing evidence on the holding of an MRND rally at Amahoro stadium in 1993.
- iii. Oral Decision of 10 October 2005 allowing evidence on the alleged murder of the *Bagogwe* in Mukingo commune in 1992 and 1993.
- iv. Oral Decision of 10 October 2005 allowing evidence on an alleged CDR rally at Nyamirambo stadium in Kagali in March or April 1992.

¹ *Karemera et al.*, "Decision on Joseph Nzirorera's Motion for Reconsideration of 2 December 2008 Decision", 27 February 2009, para. 2.

² *Karemera et al.*, "Decision on Joseph Nzirorera's Second Motion for Finding of "No Case to Answer" and Motion for Reconsideration", 3 June 2008, para. 5; "Decision on Reconsideration of Protective Measures for Prosecution Witnesses", 30 October 2006, para. 2; *The Prosecutor v. Augustin Ndindiliyimana, François-Xavier Nzuwonemeye, and Innocent Sagahutu ("Ndindiliyimana et al.")*, "Decision on Bizimungu's Motion for Reconsideration of the Chamber's 19 March 2004 Decision on Disclosure of Prosecution Materials", 3 November 2004, para. 21.

- v. Oral Decision of 23 February 2006 allowing evidence on the alleged arrest of Tutsis following an RPF attack in October 1990.
- vi. Oral Decision of 23 February 2006 allowing evidence on Léon Mugesera's alleged speech in Kabaya in 1992 and the murders which followed the speech in Gisenyi and Ruhengeri *préfectures* in 1992.
- vii. Oral Decision of 27 February 2006 allowing evidence on the alleged holding of an MRND rally in Murambi in 1993, which Matthieu Ndirumpatse allegedly attended.
- viii. Oral Decisions of 16 May 2006 allowing evidence on the alleged murder of Tutsis in Byahi *secteur* in 1992.
- ix. Oral Decision of 16 May 2006 and written Decision of 19 October 2006 allowing evidence on the meetings which Matthieu Ndirumpatse allegedly held in Gisenyi from 1992 to late 1993 and on the meetings of civilian and military authorities in some places between 1990 and 1994.
- x. Oral Decision of 16 May 2006 allowing evidence on the alleged existence of the *Akazu*.
- xi. Oral Decision of 17 May 2006 allowing evidence on the alleged attack against the *Bagogwe* in Mutura commune in 1992.
- xii. Oral Decision of 8 June 2006 allowing evidence on the alleged murder of the *Bagogwe*.
- xiii. Oral Decision of 8 June 2006 allowing evidence on the acts of political violence allegedly carried out against opposition parties in 1992 and supposedly ordered by Joseph Nzirorera.
- xiv. Oral Decision of 21 June 2006 allowing evidence on the alleged CDR rally in Gisenyi between February and April 1994.
- xv. Oral Decision of 21 June 2006 and written Decision of 19 October 2006 allowing evidence on the co-operation between the civilian and military authorities.
- xvi. Decision of 19 October 2006 allowing evidence on the alleged presence of Joseph Nzirorera during the distribution of weapons at the 47th Battalion Army Headquarters after 6 April 1994.
- xvii. Oral Decision of 26 October 2006 allowing the testimony of Witness ALG on the structure of the MRND.
- xviii. Oral Decision of 27 October 2006 allowing evidence on the alleged presence of Édouard Karemera at an MRND rally at Nyamirambo stadium in Kigali in October 1993.
- xix. Oral Decision of 27 October 2006 allowing evidence on the alleged presence of Édouard Karemera at an MRND rally at the Nyamirambo stadium on 16 January 1994.
- xx. Oral Decisions of 27 October and 9 November 2006 allowing evidence on the alleged meeting of 10 April 1994 at *Hôtel des diplomates*.

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- xxi. Oral Decision of 9 November 2006 allowing evidence on the meetings allegedly held between the *Interahamwe* leaders and Joseph Nzirorera, Édouard Karemera and Mathieu Ndirumpatse at Murambi after 12 April 1994.
- xxii. Oral Decision of 22 November 2006 allowing evidence on the incidents affecting the Belgian contingent of UNAMIR after 6 April 1994.
- xxiii. Oral Decision of 4 December 2006 allowing evidence on the allegation relating to the acts and statements made by Dusabimana during the attack on the Appeals Court.

Arusha, 18 February 2011

[Signed]
Dennis C. M. Byron
Presiding Judge

[Signed]
Judge Gberdao Gustave Kam

[Signed]
Judge Vagn Joensen

[Seal of the Tribunal]

