



UNITED NATIONS  
NATIONS UNIES

ICTR-98-44-T  
07-07-2011  
(53908-53906)

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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:** 7 July 2011

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*[Signature]*

**THE PROSECUTION**

v.

**Édouard KAREMERA and  
Matthieu NGIRUMPATSE**

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

**DECISION ON PROSECUTION'S MOTION TO ADMIT INTO EVIDENCE JMV  
MPORANZI'S JANUARY 2010 DEFENCE STATEMENT**

*Rules 54 and 89(C) of the Rules of Procedure and Evidence*

**Office of the Prosecution:**  
Don Webster  
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**Defence Counsel for Édouard Karemera**  
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**Defence Counsel for Matthieu Ngirumpatse**  
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## INTRODUCTION

1. On 30 May 2011, in response to a request by Édouard Karemera, the Chamber admitted the transcripts from Jean-Marie-Vianney Mporanzi's appearance as a Defence witness in the trial of *Prosecutor v. Callixte Nzabonimana* under Rules 92bis and 89(C).<sup>1</sup>
2. The Prosecution now requests the Chamber to admit the exhibits admitted during the course of Jean-Marie Vianney Mporanzi's testimony as evidence in this case. It also moves the Chamber to admit an 11 January 2010 statement into evidence, which Mporanzi made to the *Nzabonimana* Defence team ("11 January Statement").<sup>2</sup> Neither Édouard Karemera nor Matthieu Ngirumpatse responded to the Motion.

## DELIBERATION

### *Admission of Exhibits from the Nzabonimana Trial*

3. The Prosecution submits that the exhibits admitted during Jean-Marie Vianney Mporanzi's testimony in the *Nzabonimana* trial should be admitted into evidence in this case because the Chamber has routinely admitted all exhibits that were used to examine a witness when transcripts are offered in evidence under Rule 92bis.<sup>3</sup> According to the Prosecution, Mporanzi was cross-examined with two previously recorded statements from 1998 and 2003, which were admitted as P.55 and P.56, respectively.<sup>4</sup>
4. The Chamber concurs with the Prosecution<sup>5</sup> and orders that the exhibits be admitted into evidence.

### *Admission of 11 January Statement*

5. The Prosecution alleges that the Chamber's *proprio motu* admission of Jean-Marie Vianney Mporanzi's testimony deprived it of the opportunity to explain why Mporanzi's cross-examination was necessary.<sup>6</sup> The Prosecution claims it would have been necessary to cross-examine him because his testimony from *Nzabonimana* concerning an 18 April 1994 meeting in Murambi ("April Meeting") is important, highly contentious, and misleading when applied to this case.<sup>7</sup> Thus, the Prosecution argues that the Chamber should admit Mporanzi's 11 January Statement into evidence to remedy the prejudice it has suffered by not being allowed to cross-examine him. At a minimum, the Prosecution submits that paragraphs 24-27 of the statement should be admitted.<sup>8</sup>

<sup>1</sup> *The Prosecutor v. Édouard Karemera and Matthieu Ngirumpatse*, Case No. ICTR-98-44-T ("Karemera et al."), Décision sur la requête d'Édouard Karemera en admission des comptes rendus d'audience du témoignage de Jean-Marie Vianney Mporanzi dans l'affaire *Nzabonimana* ainsi que pour la prise de sanctions pour violation de l'article 68 (TC), 30 May 2011 ("Mporanzi Decision").

<sup>2</sup> Prosecutor's Motion Requesting the Admission into Evidence of JMV Mporanzi's January 2010 Defence Statement Pursuant to Rule 89(C), filed on 24 June 2011 ("Motion"). The Prosecution submits that

<sup>3</sup> Motion, para. 5.

<sup>4</sup> *Ibid.*, para. 2.

<sup>5</sup> See *Karemera et al.*, Decision on Joseph Nzirorera's Motions for Admission of Written Statements and Witness Testimony (TC), 15 July 2009; Decision on Joseph Nzirorera's Motions to Admit the Testimony of Witnesses YD-1, MCM, 4, 10, and 11 (TC), 23 October 2009; Decision on Joseph Nzirorera's Motion for Reconsideration of the Chamber's Decision on Admission of Written Statements (TC), 7 April 2010.

<sup>6</sup> Motion, para. 8.

<sup>7</sup> *Id.*

<sup>8</sup> Motion, para. 10.

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6. The Prosecution is interested in the 11 January Statement because it claims that it materially contradicts the Defence contention that the April Meeting was called in Murambi by Prime Minister Jean Kambanda.<sup>9</sup> The statement was not admitted as an exhibit in *Nzabonimana*.<sup>10</sup>

7. The Chamber recalls that paragraph 47 of the Indictment contains a pivotal factual allegation regarding a meeting at the Murambi Training School on or about 18 April 1994. That paragraph alleges that Édouard Karemera was present at the meeting and instigated a delegation from Gitarama to stop protecting the Tutsi population and instead allow killings of Tutsi civilians by *Interahamwe* to proceed.<sup>11</sup>

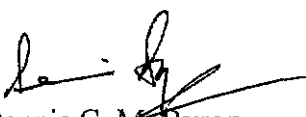
8. The Chamber notes that the relevance and probative value of Jean-Marie Vianney Mporanzi's testimony for this case hinges on his indication that Édouard Karemera did not attend the April Meeting.<sup>12</sup> Therefore, his testimony relates to an important and disputed issue in this case. Furthermore, because Karemera's presence at the meeting is not directly alleged in *Nzabonimana*,<sup>13</sup> Mporanzi was not examined fully on this matter. Accordingly, it would have been in the interests of justice to provide the Prosecution with the opportunity to cross-examine Mporanzi.

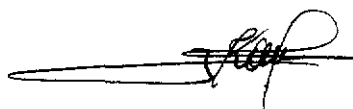
9. Paragraph 24 of the 11 January Statement materially contradicts the Defence contention that the April Meeting had originally been called in Murambi by Prime Minister Jean Kambanda. Mporanzi claims in that paragraph that *préfet* Uwizeye convened the meeting in Gitarama.<sup>14</sup> Accordingly, taking into account the statement admissibility under Rule 89(C) because it is relevant and has probative value, the Chamber finds that it is in the interests of justice to admit the 11 January Statement in its entirety as a remedy for the Prosecution.


**FOR THE ABOVE REASONS, THE CHAMBER**

**I. GRANTS** the Prosecution's Motion in its entirety.

Arusha, 7 July 2011, done in English.

  
Dennis C. M. Byron  
Presiding Judge

  
Gberdao Gustave Kam  
Judge

  
Vagn Joensen  
Judge



<sup>9</sup> *Ibid*, para. 9.

<sup>10</sup> Motion, para. 3.

<sup>11</sup> Indictment, para. 47.

<sup>12</sup> Mporanzi Decision, para. 13.

<sup>13</sup> See *The Prosecutor v. Callixte Nzabonimana*, Case No. ICTR-98-44D-PT, Indictment, para. 26 in particular.

<sup>14</sup> Motion, para. 9; Annexure to Motion, titled: "Declaration", para. 24.