

ICTR-98-44-T
17-3-2006
(26365-26363)

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UNITED NATIONS
NATIONS UNIES

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER III

Before Judges: Dennis C. M. Byron, Presiding
Emile Francis Short
Gberdao Gustave Kam

Registrar: Adama Dieng

Date: 17 March 2006

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ICTR 17-03-2006
Emile Francis

THE PROSECUTOR

v.

Édouard KAREMERA
Mathieu NGIRUMPATSE
Joseph NZIRORERA

Case No. ICTR-98-44-T

DECISION ON REQUESTS FOR DISCLOSURE OF WITNESS T'S
IMMIGRATION RECORDS

Rule 54 of the Rules of Procedure and Evidence

Office of the Prosecutor:
Don Webster
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Sunkarie Ballah-Conteh
Takeh Sendze

Defence Counsel for Édouard Karemera
Dior Diagne Mbaye and Félix Sow

Defence Counsel for Mathieu Ngirumpatse
Chantal Hourkpatin and Frédéric Weyl

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

INTRODUCTION

1. Following a Defence application for orders to compel the Prosecution to disclose material relating to the testimony of Witness T, the Chamber requested a certain State¹ ("First State") to assist by providing documentation in its possession concerning the witness. In September 2005, the Prosecution received information from the First State, which included material from the witness' immigration files in another State² (the "Second State"). On 13 February 2006, the Chamber made an Order requesting the authorities of the First State to provide additional information specifically related to Witness T's immigration file.

2. On 15 February 2006, in its "Decision on Defence Motion to Report Government of a Certain State to United Nations Security Council and on Prosecution Motions under Rule 66(C) of the Rules", the Chamber reserved its ruling on the question of whether the Prosecution must disclose Witness T's immigration records to the Defence, until it had received a response to its Decision of 13 February 2006 from the First State. The Chamber received the said Response on 13 March 2006.³

DISCUSSION

3. The basis for the Prosecution seeking to be relieved of its obligation to disclose the records entirely or in redacted form under Rule 66 (C) of the Rules was that it would prejudice ongoing investigations or that it was contrary to the public interest of the First and Second States.

4. The Chamber notes from the Response of 13 March 2006 that the judicial authorities of the relevant States do not have any objection to the disclosure of Witness T's immigration records to the Parties, on the condition that the names of the witnesses mentioned in statement number 20041224 be redacted. Further, the Chamber has reviewed the immigration documents in question and does not find that the information contained in these documents would prejudice any ongoing investigation. Therefore, the Prosecution's argument is no longer applicable.

5. Finally, the Chamber notes that Joseph Nzirorera sought the same relief in his Confidential Motion to obtain the material from the Second State.⁴ That Motion is now moot and is dismissed.

FOR THE ABOVE MENTIONED REASONS, THE CHAMBER

- I. **ORDERS** the Prosecutor to disclose Witness T's immigration records to the Defence in accordance with the redaction below;
- II. **ORDERS** that the names of witnesses appearing in statement number 20041224 be redacted;
- III. **DENIES** the remainder of the Prosecutor's Motion with respect to Witness T's immigration file;
- IV. **DENIES** Joseph Nzirorera's Motion for Request for Cooperation to Government of the Second State in its entirety.

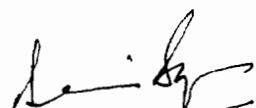
¹ In accordance with specific protective measures applicable in the instant case, the name of the State is specified in the Confidential Annex to the present Decision.

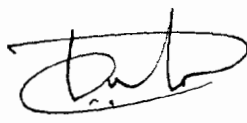
² In accordance with specific protective measures applicable in the instant case, the name of the Other State is specified in the Confidential Annex to the present Decision.

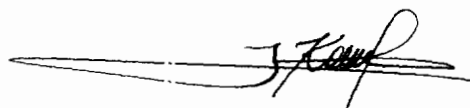
³ The State's response is also attached as a Confidential Annex to this decision.

⁴ Filed by Nzirorera on 29 November 2005.

Arusha, 17 March 2006, done in English.


Dennis C. M. Byron
Presiding


Emile Francis Short
Judge


Gberdao Gustave Kam
Judge

[Seal of the Tribunal]

