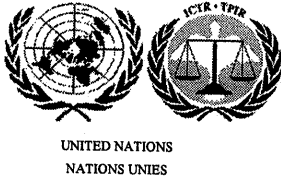


ICIR-98-44-I
29-9-2003
(6269 - 6267)

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International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda

Original: English

TRIAL CHAMBER III

Before: Judge Lloyd G. Williams, Q.C., Presiding
Judge Andréia Vaz
Judge Khalida Rachid Khan

Registrar: Adama Dieng

Date: 29 September 2003

JUDICIAL RECORDS/ARCHIVES
ICTR
2003 SEP 29 P. 5: 45
[Signature]

THE PROSECUTOR

v.

JOSEPH NZIRORERA *et al.*

Case No. ICTR-98-44-I

DECISION ON THE DEFENCE REQUEST FOR LEAVE TO INTERVIEW
POTENTIAL PROSECUTION WITNESSES JEAN KAMBANDA,
GEORGES RUGGIU AND OMAR SERUSHAGO

Counsel for the Defence:
Peter Robinson, for Joseph Nzirorera

Office of the Prosecutor:
Don Webster
Tamara Cummings-John

Counsel for the Co-Accused:
Didier Skornicki and John Traversi, for Edouard Karemera
David Hooper and Andreas O'Shea, for Andre Rwamakuba
Charles Roach and Frédéric Weyl, for Mathieu Ngirumpatse

[Signature]

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (“Tribunal”),

SITTING as Judge Andréia Vaz, designated by Trial Chamber III (“Chamber”) pursuant to Rule 73(A) of the Rules of Procedure and Evidence of the Tribunal (“Rules”);

BEING SEISED of the “Motion to Interview: Jean Kambanda, Georges Ruggiu and Omar Serushago”, filed on 22 September 2003 by the Defence for Accused Joseph Nzirorera (“Motion”);

NOTING the Prosecution Response to the Motion, filed on 26 September 2003 (“Response”);

CONSIDERING the Decision on the Prosecutor’s Motion for Protective Measures for Witnesses rendered in the present Case on 12 July 2000 by Trial Chamber II of the Tribunal (“Decision of 12 July 2000”);

CONSIDERING the Statute of the Tribunal (“Statute”) and the Rules;

NOW DECIDES the Motion, pursuant to Rule 73(A) of the Rules, solely on the basis of the written briefs filed by the Parties.

1. Trial Chamber II, then seised of the *Nzirorera* Case, ordered in the Decision of 12 July 2000:

(i) That the Accused or his Defence Counsel make a written request, on reasonable notice to the Prosecution, to the Chamber or a Judge thereof, to contact any protected victim or potential Prosecution witness or any relative of such person; and

(ii) That when such interview is granted by the Chamber or a Judge thereof, with the consent of such protected person or the parents or guardian of that person if that person is under the age of 18, the Prosecution undertake all necessary arrangements to facilitate such interview. (“Order of 12 July 2000”)

2. The Defence is seeking leave from the Chamber, under the terms of the Order of 12 July 2000, to interview Jean Kambanda, Georges Ruggiu and Omar Serushago, three persons convicted by the Tribunal for crimes within the Tribunal’s jurisdiction who are currently serving the sentences imposed upon them, and whose names appear in the Pre-Trial Brief filed on 15 March 2002 as potential prosecution witnesses.

3. Neither Jean Kambanda, Georges Ruggiu, nor Omar Serushago appear to be among the protected witnesses pursuant to the Decision of 12 July 2000. Contact with these potential witnesses should therefore remain an *inter partes* matter, save in the case of dispute between the parties.

4. The Defence does not submit that it contacted the Prosecutor so as to obtain his agreement to an interview with these potential prosecution witnesses. Neither does the Defence submit that the Prosecutor refused to authorise or facilitate such interview.

5. The Chamber emphasises that any interview of that kind should take place in the presence of a representative of the opposing party to protect the integrity of the process.

6. The Chamber considers this Motion to be frivolous and an abuse of process, within the meaning of Rule 73(F) of the Rules. The fees and costs associated with this Motion should therefore not be paid by the Registry to Counsel.

FOR THE ABOVE REASONS,

THE TRIBUNAL,

- I. DISMISSES** the Defence Motion to Interview Jean Kambanda, Georges Ruggiu and Omar Serushago; and
- II. DIRECTS** the Registrar, pursuant to Rule 73(F) of the Rules, to deny to the Defence payment of any fees or costs associated with this Motion.

Arusha, 29 September 2003



Andrézia Vaz
Judge

(Seal of the Tribunal)



FICHE DE TRANSMISSION POUR DEPOT DE DOCUMENTS

(Art. 27, Directive à l'intention du Greffe, Administration des Chambres, Tribunal Pénal International pour le Rwanda)

A :	<input type="checkbox"/> Chef, S.A.C. J.-P. Fomété	<input type="checkbox"/> Chambre I K. Afandé	<input type="checkbox"/> Chambre II R. Kouambo	<input checked="" type="checkbox"/> Chambre III F. Talon	<input type="checkbox"/> Chambre d'Appel F. Talon /A. N'Gum
De :	<input checked="" type="checkbox"/> Chambre Stéphane Wohlfahrt ALO TCIII, ext. 53 53 <small>(name)</small>	<input type="checkbox"/> Défense <small>(name)</small>	<input type="checkbox"/> Bureau du Procureur <small>(name)</small>	<input type="checkbox"/> Autre: <small>(name)</small>	
Nom de l'affaire:	Le Procureur c/ JOSEPH NZIRORERA et consorts		No. de l'affaire :	ICTR-98-44-I	
Date	Transmis le: 29 septembre 2003		Document daté du: 29 septembre 2003	No. de pages: 3	
Original / Traduc.	Document est un :	<input checked="" type="checkbox"/> ORIGINAL: Remplir cases ci-dessous <input checked="" type="checkbox"/> Eng <input type="checkbox"/> Fr <input type="checkbox"/> Kinyarwanda		<input type="checkbox"/> TRADUCTION vers <input type="checkbox"/> Eng <input type="checkbox"/> Fr <input type="checkbox"/> Kinyar. <small>(original enregistré le)</small>	
Titre du Doc.	DECISION ON THE DEFENCE REQUEST FOR LEAVE TO INTERVIEW POTENTIAL PROSECUTION WITNESSES JEAN KAMBANDA, GEORGES RUGGIU AND OMAR SERUSHAGO				
Classification Level: <input type="checkbox"/> Strictly Confidential / Under Seal <input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Public		TRIM Doc Type: <input type="checkbox"/> Indictment <input type="checkbox"/> Warrant <input type="checkbox"/> Order <input type="checkbox"/> Motion <input type="checkbox"/> Judgement <input checked="" type="checkbox"/> Decision <input type="checkbox"/> Correspondence <input type="checkbox"/> Disclosure <input type="checkbox"/> Submission from parties <input type="checkbox"/> Submission from non-parties <input type="checkbox"/> Affidavit <input type="checkbox"/> Accused particulars <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Appeal Book <input type="checkbox"/> Book of Authorities			

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**PROOF OF SERVICE – ARUSHA
PREUVE DE NOTIFICATION - ARUSHA**

Date: 30 September, 2003	Case Name / affaire: The Prosecutor vs. - JOSEPH NZIRORERA - MATHIEU NGIRUMPATSE - EDWARD KAREMERA - ANDRE RWAMAKUBA		
	Case No / no. de l'affaire: ICTR-98-44-T		
To: A:	<input type="checkbox"/> TC1	received by / reçu par:	ALO: received by / reçu par
	<input type="checkbox"/> Judge E. Møse, President	<i>[Signature]</i> 30.9.03	<input type="checkbox"/>
	<input type="checkbox"/> Judge J. Ram Reddy	<i>[Signature]</i> 30/9/03	<input type="checkbox"/>
	<input type="checkbox"/> Judge S. A. Egorov	<input type="checkbox"/>
	<input type="checkbox"/> J. Neuwirth, SLO	<input type="checkbox"/>
	<input type="checkbox"/> E. Nahamya, Co-ordinator	<input type="checkbox"/>
	<input type="checkbox"/> TC2		
	<input type="checkbox"/> Judge W. H. Sekule	<i>[Signature]</i> 30/9/03	<input type="checkbox"/>
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<input type="checkbox"/> Judge L.G. Williams	<i>[Signature]</i> 30-9-03	<input type="checkbox"/>	
<input checked="" type="checkbox"/> Judge A. Vaz	<i>[Signature]</i> 30/9/03	<input type="checkbox"/>	
<input type="checkbox"/> Judge K. R. Khan	<i>[Signature]</i> 30.9.03	<input type="checkbox"/>	
<input type="checkbox"/> E. O'Donnell, SLO	<i>[Signature]</i> 30.9.03	<input type="checkbox"/>	
<input type="checkbox"/> R. Adjovi, Co-ordinator	<i>[Signature]</i> 30.9.03	<input type="checkbox"/>	
<input checked="" type="checkbox"/> OTP / BUREAU DU PROCUREUR			
<input type="checkbox"/> Trial Attorney in charge of case:.....	DON WEBSTER	received by	<i>[Signature]</i> 30/09/03
<input checked="" type="checkbox"/> DEFENSE:			
<input type="checkbox"/> Accused /	NZIRORERA, NGIRUMPATSE, KAREMERA &		complete / remplir "CMS4 FORM"
<input type="checkbox"/> Accusé:	RWAMAKUBA		
<input type="checkbox"/> Lead Counsel / Conseil Principal:.....	P. ROBINSON, C. ROACH, D. SKORNICKI & D. HOOPER.		
<input type="checkbox"/> In / à Arusha ... (signature)		<input type="checkbox"/>	by fax complete / remplir "CMS3bis FORM"
<input type="checkbox"/> Co-Counsel / Conseil Adjoint..	Me Dior DIAGNE, Andreas O'SHEA		
<input type="checkbox"/> In / à Arusha (signature)		<input type="checkbox"/>	by fax complete / remplir "CMS3bis FORM"
All Decisions:	<input type="checkbox"/> Appeals Chamber Unit, The Hague	<input type="checkbox"/>	Suzanne Chenault, Jurist Linguist
All Decisions & Important Public Documents:	<input type="checkbox"/> Press & Public Affairs	<input type="checkbox"/>	Legal Library
From:	<input type="checkbox"/> J-P. Fomété (Chief, CMS) <input type="checkbox"/> N. Diallo (TC 1) <input type="checkbox"/> R. Kouambo (TC 2) <input checked="" type="checkbox"/> C. Hemstowy (TC 3) <input type="checkbox"/> F. A. Talon (Appeals)		
De:	<input type="checkbox"/> A. Dieng <i>[Signature]</i> <input checked="" type="checkbox"/> <i>[Signature]</i> 30/9/03 <input type="checkbox"/> E. Mumb <input type="checkbox"/> M. Niang <i>[Signature]</i> <input type="checkbox"/> S. Van Driessche		
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Subject Objet:	Kindly find attached the following document(s) / Veuillez trouver en annexe le(s) document(s) suivant(s): <i>[Signature]</i> 30/9/03		

Documents name / titre du document

**DECISION ON THE DEFENCE REQUEST FOR LEAVE TO INTERVIEW
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RUGGIU AND OMAR SERUSHAGO**

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**PROOF OF SERVICE TO DETAINEES
PREUVE DE NOTIFICATION D'ACTES AUX DETENUS**

Upon signature of the detainee, please return this sheet to the originator as proof of service.
Formulaire à être renvoyé à l'expéditeur dûment signé par le détenu.

Date: 30 September, 2003		Case Name / Affaire: The Prosecutor v. JOSEPH NZIRORERA - MATHIEU NGIRUMPATSE - EDWARD KAREMERA - ANDRE RWAMAKUBA		
		Case No / Affaire Nr.: ICTR-98-41-T		
To: A:	Name of detainee / nom du détenu KAREMERA	TO BE FILLED IN BY THE DETAINEE A COMPLETER PAR LE DETENU		
		I confirm reception of the document(s) listed below. <i>Je confirme réception du/des documents mentionné(s) ci-dessous.</i>	Signature	Date, Time / Heure
Via:	Security Officer Commanding Officer, UNDF	Print name / nom SAIDOU GUINDO	Signature 	Date, Time / Heure 1/10/03
From: De:	<input type="checkbox"/> J-P. Fomété (Chief, CMS) <input type="checkbox"/> N. Diallo (TC1) <input type="checkbox"/> R. Kouambo (TC2) <input checked="" type="checkbox"/> C. Hometowu (TC3) <input type="checkbox"/> F. A. Talon (Appeals) <input type="checkbox"/> Other / Autre			
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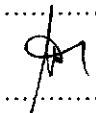
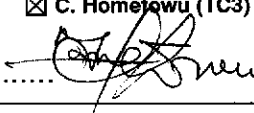


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To: A:	Name of detainee / nom du détenu NGIRUMPATSE	<p align="center">TO BE FILLED IN BY THE DETAINEE A COMPLETER PAR LE DETENU</p> <p>I confirm reception of the document(s) listed below. <i>Je confirme réception du/des documents mentionné(s) ci-dessous.</i></p> <p align="right">Signature:  Date, Time / Heure: 1/10/03</p>		
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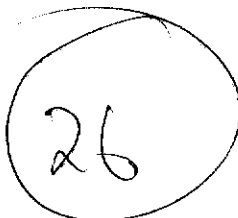
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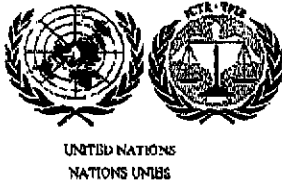
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ERROR INFORMATION

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Original: English

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