



UNITED NATIONS
NATIONS UNIES

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

3475
Mm

OR: ENG

TRIAL CHAMBER II

ICR-00-55A-T
15-06-2006
(3475 - 3472)

Before: Judge Asoka de Silva, Presiding
Judge Flavia Lattanzi
Sitting under Rule 15bis

Registrar: Mr Adama Dieng

Date: 15 June 2006

THE PROSECUTOR

v.

THARCISSE MUVUNYI

ICTR-2000-55A-T

15 JUN 2006 15:05:31
ICTR

**WRITTEN REASONS FOR THE ORAL DECISION ON ACCUSED THARCISSE
MUVUNYI'S MOTION FOR TRIAL CONTINUANCE RENDERED ON 6 JUNE 2006**

Office of the Prosecutor

Mr Charles Adeogun-Phillips, Senior Trial Attorney
Ms Adesola Adeboyejo, Trial Attorney
Ms Renifa Madenga, Trial Attorney
Ms Memory Maposa, Assistant Trial Attorney
Mr Dennis Mabura, Case Manager

Counsel for the Defence

Mr William E. Taylor, Lead Counsel
Ms Cynthia Cline, Legal Assistant

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (the "Tribunal"),

SITTING as Trial Chamber II composed of Judge Asoka de Silva, Presiding, and Judge Flavia Lattanzi (the "Chamber"), pursuant to Rule 15*bis* of the Rules of Procedure and Evidence;

BEING SEIZED of "Accused Tharcisse Muvunyi's Motion for Trial Continuance", filed on 29 May 2006 (the "Motion");

HAVING RECEIVED the "Prosecutor's Response to Accused Tharcisse Muvunyi's Motion for Trial Continuance", filed on 02 June 2006 (the "Response");

RECALLING the Chamber's Oral Decision of 6 June 2006 denying the Accused Tharcisse Muvunyi's Motion for Trial Continuance (the "Oral Decision");

NOTING that the Chamber rendered its:

- i. "Decision on Motion to Strike or Exclude Portions of Prosecutor's Exhibit No. 34, Alternatively Defence Objections to Prosecutor's Exhibit No. 34" on 30 May 2006;
- ii. "Decision on Muvunyi's Additional Objections to the Deposition Testimony of Witness QX, Pursuant to Article 20 of the Statute and Rules 44, 44*bis* and 73(F) of the Rules of Procedure and Evidence" on 31 May 2006;
- iii. "Decision on Muvunyi's Motion for Rejoinder Witness Pursuant to Rule 85" on 2 June 2006;

FURTHER NOTING that on 29 May 2006, the Appeals Chamber rendered its "Decision on Interlocutory Appeal", in which it also dismissed as moot the Defence request to stay the trial proceedings that was filed on 15 May 2006;

ALSO NOTING the corrigenda issued by the Language Services Section of the Tribunal on 30 May and further on 9 June 2006 following the order the Chamber issued on 6 June 2006, in connection with the errors or discrepancies in the French and English language transcripts relied upon by the Defence to support its Motion for Continuance;

CONSIDERING the Statute of the Tribunal (the "Statute") and the Rules of Procedure and Evidence (the "Rules");

NOW ISSUES the reasons for the Oral Decision.

SUBMISSIONS OF THE PARTIES

The Defence

1. The Defence sought a stay of the trial proceedings for the following reasons: first, that it had not received any ruling on several pending motions that could have an impact on the course and direction of the final brief;¹ secondly, that it needed a translation into English

¹ The Defence mentioned the following motions as pending: "Accused's Motion to Exclude Prosecutor's Exhibit 33", filed in February 2006; "Accused's Motion to Strike or Exclude Prosecutor's Exhibit 34", filed in March 2006; "Muvunyi's Motion to Include the Testimony of AOG/D/X/006 in the Appellate Record", filed in April 2006; "Muvunyi's Motion for Admission of Testimony Pursuant to Rule 92*bis*"; "Interlocutory appeal".



of the Judgement rendered by the International Tribunal for the former Yugoslavia (the "ICTY") in the *Hadzihasanovic and Kubura* case; and thirdly, that it had found a series of translation errors in the transcripts of proceedings.

2. The Defence asserted that until these matters were resolved, it would be impossible for it to complete the final trial brief and for the Trial Chamber to deliberate. The Defence further submitted that the Accused was being denied the right to a fair trial until he knew what evidence had been properly admitted against him and until the transcript errors were corrected.
3. The Defence attached to its Motion two annexes. Annex A is a summary of the ICTY judgment the Defence seeks to have translated. Annex B contains a copy of correspondence with the Court Management Section of the Tribunal as well as samples of the discrepancies in translation it reported to the Court Management Section.
4. During the Proceedings of 5 June 2006, however, the Defence indicated that it was abandoning all other grounds of the Motion except the one relating to the correction of the alleged errors in the transcripts.

The Prosecution

5. The Prosecution submitted that the Defence had not shown any exceptional circumstances that warranted a postponement of the hearing of the rejoinder witness on 5 June 2006. The Prosecution added that the Chamber had already rendered decisions for two of the pending motions mentioned by the Defence,² and that the Appeals Chamber had also handed down its Decision on Muvunyi's Interlocutory Appeal, dismissing as moot the Defence application to stay the trial proceedings. The Prosecution further added that the Language Services Section had issued a corrigendum for the errors alleged in the *Transcripts* of 13 December 2005, 15 December 2005, and 13 March 2006. The Prosecution finally submitted that the translation of the ICTY Judgement in the *Hadzihasanovic* case should have been anticipated by the Defence team and could not justify continuance of the trial proceedings.

REASONS

6. The Chamber carefully examined the errors in the transcripts. It also examined the two corrigenda issued by the Language Services Section.
7. The Chamber noted that the Language Services Section rectified all the errors pointed out by the Defence in the transcripts of 13 December 2005, 15 December 2005 and 13 March 2006. The Chamber also noted that the Language Services Section did not address the alleged errors relating to Witness MO23 and so ordered that Section to review the evidence of Witness MO23 given on 16 March 2006, and if necessary, to issue a corrigendum. The Chamber further noted that one of the alleged errors in translation was not rectified in the corrigendum issued on 30 May 2006 because there was in fact no error

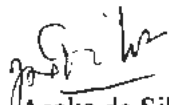
² "Accused's Motion to Strike or Exclude Portions of the Prosecutor's Exhibit No. 34, Alternatively Defence Objections to Prosecutor's Exhibit No. 34"; "Accused's Additional Objections to the Deposition Testimony of Witness QX Pursuant to Article 20 of the Statute."

and it appeared that the Defence wrongly quoted the English and corresponding French transcripts.³

FOR THE ABOVE REASONS, THE CHAMBER

DENIED the Motion.

Arusha, 15 June 2006


Asoka de Silva
Presiding Judge


Flavia Lattanzi
Judge

[Seal of the Tribunal]



³ For Witness MO31, instead of 15 December 2005, page 20, lines 14-16 of the English transcripts and page 19, lines 27-31 of the French transcripts, the Defence should have quoted page 20, lines 14-16 and page 21, lines 3-4 of the English transcripts and the English transcripts would have matched the French transcripts.