



ICTR-04-81-1
07-11-2007
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
(1364-1362)

1364
Ivan

TRIAL CHAMBER I

Before: Judge Erik Mose

Registrar: Adama Dieng

Date: 7 November 2007

THE PROSECUTOR

v.

Ephrem SETAKO

Case No. ICTR-04-81-1

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71 P 543
11/11/07

DECISION ON DEFENCE REQUESTS TO LIFT CONFIDENTIALITY OF FILINGS

The Prosecution
Ifeoma Ojemeni-Okali
Simba Mawere
Christiana Fomenky

The Defence
Stefan Kirsch

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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

SITTING as Trial Chamber I, composed of Judge Erik Mose, designated in accordance with Rule 73 (A) of the Rules of Procedure and Evidence;

BEING SEIZED OF the Defence request to lift the confidential status of filings in its "Urgent Motion for Stay of Deadline to Respond and Other Relief", filed on 20 June 2007;

CONSIDERING the further Defence request to lift the confidential status of filings, in its "Response to Prosecutor's Motion for Related Orders", dated 17 September 2007;

HEREBY DECIDES the requests.

DELIBERATIONS

1. During the status conference held on 11 October 2007, the Defence raised the issue of its request to lift the confidential status of several motions and responses filed by both parties.¹ In its decision dated 22 June 2007, the Chamber did not deem it the appropriate time to decide the issue raised by the Defence of the public or confidential status of the parties' filings.² The Prosecution has confirmed that it has no objections to the Defence request, referring to all the documents named by the Defence except the Defence motion of 20 June 2007, but also including the Prosecution Reply to the Defence Response, filed 27 August 2007.³

2. Proceedings at this Tribunal must be public unless good cause is shown to the contrary. The only good cause for a party filing a document confidentially is if the information in the filing is confidential and exposure would risk damaging the proceedings.⁴ The Chamber finds that there is no need to retain the confidential status of the documents to which the parties have referred.

3. During the same status conference, there was a discussion about the Defence's intention to file a preliminary motion following the Chamber's decision dated 18 September 2007 to allow amendment of the Indictment.⁵ The Defence claimed that it was entitled to inspect certain materials before filing its preliminary motion.⁶

4. Under Rule 72 (A) of the Rules of Procedure and Evidence, the thirty-day deadline runs from the date of the Prosecution's compliance with its disclosure obligations under Rule 66 (A)(i). The Chamber accepts the Prosecution submission that it has complied with its Rule

¹ Motion, para. 21; Defence Response of 17 September 2007, para. 20. See also T. 11 October 2007 pp. 6-7. Specifically, the Defence requested that the confidential status be lifted for the following documents: the Prosecution motion for leave to amend the indictment filed on 15 June 2007, the Defence's response to that motion dated 20 August 2007, the Defence's 20 June 2007 motion for stay of the deadline to respond, the Prosecution's "Motion for Related Orders" etc., filed 10 September 2007, and the Defence response to that motion dated 17 September 2007.

² Decision on Defence Motions Relating to Prosecution Request to Amend the Indictment (TC), 22 June 2007, para. 8.

³ Email message from the Prosecution to Chamber of 19 October 2007.

⁴ *Prosecutor v. Muvunyi*, Decision on Prosecution Interlocutory Appeal Against Trial Chamber II Decision of 23 February 2005 (AC), 12 May 2005, para. 4.

⁵ Decision on the Prosecution's Request to Amend the Indictment (TC), 18 September 2007.

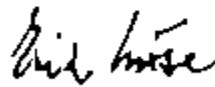
⁶ T. 11 October 2007 p. 12.

66 (A)(i) disclosure obligations.⁷ Such disclosure was completed on 9 October 2007.⁸ To dispel any doubt, the Chamber clarifies that the Defence should therefore file its preliminary motion by 8 November 2007.

FOR THE ABOVE REASONS, THE CHAMBER

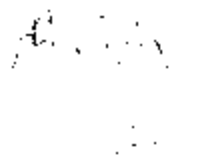
ORDERS that the confidentiality of the following documents be lifted, so that they are publicly available: the Prosecution motion for leave to amend the indictment, filed on 15 June 2007; the Defence's response to that motion, filed on 20 August 2007; the Defence's 20 June 2007 motion for stay of the deadline to respond; the Prosecution's "Motion for Related Orders" etc., filed 10 September 2007; and the Defence response to that motion, filed on 17 September 2007.

Arusha, 7 November 2007.



Erik Mose
Judge

[Seal of the Tribunal]



⁷ T, 11 October 2007 pp. 5, 9.

⁸ T, 11 October 2007 p. 3.