

ICTR-07-91-PT  
5-2-2009  
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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:** Khalida Rachid Khan, presiding  
*sitting pursuant to Rule 54 of the Rules*

**Registrar:** Mr. Adama Dieng

**Date:** 5 February 2009

JUDICIAL RECORDS/ARCHIVES  
RECEIVED  
2009 FEB - 5 1 P 5: 35  
2009-02-05/2009

**THE PROSECUTOR**

v.

**Léonidas NSHOGOZA**

**Case No. ICTR-07-91-PT**

**ORDER FOR THE PROSECUTION TO CONDUCT A THOROUGH REVIEW AND  
CERTIFY THAT IT HAS COMPLIED WITH ITS DISCLOSURE OBLIGATIONS**

*Rule 54 of the Rules of Procedure and Evidence*

**Office of the Prosecutor:**

Richard Karegyesa  
Abdoulaye Seye  
Dennis Mabura  
Florida Kabisanga

**For the Accused:**

Allison Turner

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

**SITTING** as Trial Chamber III, composed of Judge Khalida Rachid Khan (the “Chamber”), pursuant to Rule 54 of the Rules of Procedure and Evidence (“Rules”);

**NOTING** the “Extremely Urgent Defence Motion for Order for to the Prosecution to Fully and Immediately Comply with 22 December 2008 Disclosure Court Order and Other Disclosure Obligations,” filed on 29 January 2009, in which the Defence submits that the Prosecutor is in violation of his disclosure obligations;<sup>1</sup>

**NOTING FURTHER** the Defence “Urgent Motion for Stay of Proceedings Due to the On-going Violation of the Prosecutor’s Disclosure Obligations,” filed on 5 February 2009, in which the Defence submits that it received audio recordings of two interviews with Witness GAA for the first time on 19 January 2009 and 28 January 2009;<sup>2</sup>

**CONSIDERING** the Prosecutor’s Response in which he explains how it came to be that the audio recordings of interviews with Witness GAA which took place on 9 August 2007 and 29 September 2007, which the Prosecutor previously indicated do not exist, were overlooked and only disclosed on 19 and 28 January 2009;<sup>3</sup>

**NOTING** the Prosecutor’s previous submission that, as of 9 October 2008, he had fully complied with his disclosure obligations, and that the Prosecutor continues to maintain that he has complied with his disclosure obligations;<sup>4</sup>

**CONSIDERING** the Chamber’s Order of 22 December 2008 for the Prosecutor to ensure the disclosure of all witness statements in accordance with Rule 66 (A) (ii);<sup>5</sup>

**CONSIDERING FURTHER** that the trial is scheduled to commence on 9 February 2009, and that Rule 54 allows a Judge or a Trial Chamber to issue such orders as may be necessary for the preparation or conduct of the trial;<sup>6</sup>

**THE CHAMBER,**

<sup>1</sup> *Prosecutor v. Nshogoza*, Extremely Urgent Defence Motion for Order to the Prosecution to Fully and Immediately Comply with 22 December 2008 Disclosure Court Order and Other Disclosure Obligations,” filed 29 January 2009.

<sup>2</sup> *Nshogoza*, “Urgent Motion for Stay of Proceedings Due to the On-going Violation of the Prosecutor’s Disclosure Obligations,” filed on 5 February 2009

<sup>3</sup> *Nshogoza*, “Prosecutor’s Response to ‘Extremely Urgent Motion for Order to the Prosecution to Fully and Immediately Comply with 22 December 2008 Disclosure Court Order and Other Disclosure Obligations Pursuant to Rules 41, 54, 66, 68 and 73 of the ICTR Rules of Procedure and Evidence,” filed 4 February 2009 (“Prosecutor’s Response”).

<sup>4</sup> *Nshogoza*, Prosecutor’s Declaration and Disclosure Pursuant to Rules 66 and 75 of the Rules of Procedure and Evidence, Following Trial Chamber III’s Order of 1 October 2008, filed 9 October 2008; Prosecutor’s Response to ‘Defence Motion for Order to the Prosecution to Complete Rule 66 (A) (ii) Disclosure, Request for Time to Investigate Before Trial, and Motion for the Provisional Release of Léonidas Nshogoza’,” filed 3 November 2008; “Prosecutor’s Response to ‘Defence Application for Certification to Appeal Decision of 22 December 2009 and Alternatively Request for Review,” filed 5 January 2009; Prosecutor’s Response.

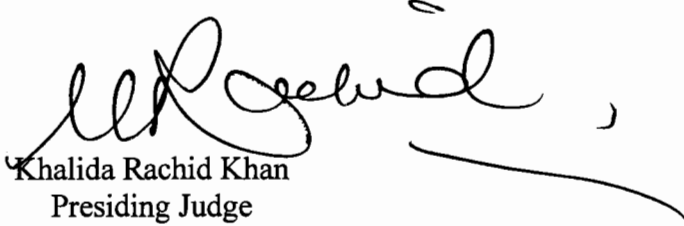
<sup>5</sup> *Nshogoza*, Decision on Defence Motions for Disclosure under Rules 66 and 68 of the Rules of Procedure and Evidence, 22 December 2008.

<sup>6</sup> Rule 54 of the Rules of Procedure and Evidence.

**HEREBY ORDERS** that the Prosecutor conduct a thorough and diligent review of the materials in his possession with a view to ensuring full compliance with his disclosure obligations; and,

**FURTHER ORDERS** that the Prosecutor certify, in writing, that he has conducted such a search, and that all disclosures have been made, in accordance with Rules 66 (A), 66 (B), and 68 of the Rules no later than 9:30 a.m. on 9 February 2009.

Arusha, 5 February 2009

  
Khalida Rachid Khan  
Presiding Judge  
[Seal of the Tribunal]

