

ICTR-07-91-T
12-2-2009
(2885-2883)

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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
Lee Gacuiga Muthoga
Aydin Sefa Akay

Registrar: Mr. Adama Dieng

Date: 12 February 2009

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THE PROSECUTOR

v.

Léonidas NSHOGOZA

Case No. ICTR-07-91-T

**DECISION ON THE DEFENCE MOTION FOR URGENT TRANSLATION OF
OFFICIAL FILINGS INTO FRENCH**

Rules 3 and 54 of the Rules of Procedure and Evidence

Office of the Prosecutor:

Paul Ng'arua
Abdoulaye Seye
Dennis Mabura
Marie Ka

For the Accused:

Allison Turner

INTRODUCTION

1. On 6 February 2009, the Defence filed a motion for translation of official filings into French on an urgent basis.¹ The Defence submits that the Accused has a right to have relevant and important documents translated into a language he understands and requests that the Chamber directs the Registrar to make the necessary arrangements urgently. The Prosecutor has not filed a Response.

DISCUSSION

Law on translation

2. Article 31 of the Statute and Rule 3 (A) of the Rules of Procedure and Evidence (“Rules”) provides that the working languages of the Tribunal shall be English and French. Pursuant to Rule 3 (E), responsibility for translations falls squarely within the domain of the Registry.² Accordingly, any issue regarding translations should first be raised with the Registry.

3. Furthermore, parties are not obliged to file their documents in both English and French since the Registrar is subsequently responsible for the translation of the documents into the other working language, if necessary, pursuant to Rule 3 (E).³

4. Pursuant to the Tribunal’s jurisprudence, a Trial Chamber will only intervene with regard to the translation of documents if the party, or parties, and the Registrar have been unable to settle a dispute regarding translations,⁴ or, where the unavailability of a translation impacts directly upon the trial, such as where it is necessary to preserve the rights of the accused.⁵

Should the Chamber be seized of the issue?

5. The Defence submits that it sent a letter dated 29 January 2009 to the Prosecutor and the Registrar, asking them to prioritise the translation of all relevant important documents into French. The Defence submits that it “turns, as a last resort”, to the assistance of the Chamber to protect the rights of the Accused.

6. The Chamber notes that the Motion was filed just over a week from the date of the letter, and the Chamber is not aware that the Registrar is failing to carry out the request. The

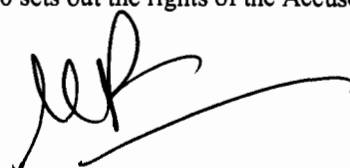
¹ *Prosecutor v. Nshogoza*, Case No. ICTR-07-91-PT, Defence Motion for Translation of Official Filings Into French, 6 February 2009 (“Motion”).

² Rule 3 (E) states that the Registrar shall make any necessary arrangements for interpretation and translation of the working languages.

³ *Prosecutor v. Mika Muhimana*, Case No. ICTR-95-I-B-I, 6 November 2001, (“Muhimana Decision”), para. 13.

⁴ *Prosecutor v. Gaspard Kanyarukiga*, Case No. ICTR-2002-78-I, Decision on Defence Request for Translation, 20 June 2008, para. 2; *Kanyarukiga*, Decision on Decision on the Defence Request for Kinyarwanda Translations of all Documents, 8 November 2004, para. 3; Muhimana Decision, para. 10.

⁵ *Prosecutor v. Casimir Bizimungu et. al.*, Case No. ICTR-1999-50-T, Decision on Prosper Mugiraneza’s Motion for Expedited Translation of the *Media* Judgement From the Appeals Chamber, 27 February 2008, para. 9. Further, pursuant to Article 19 (1) the Trial Chamber shall ensure that a trial is fair and expeditious and that proceedings are conducted in accordance with the Rules, and Article 20 sets out the rights of the Accused.



Chamber is therefore not satisfied that the Defence cannot resolve the matter directly with the Registrar. In addition the Defence has not shown how the unavailability of the translations impacts upon the trial, or affects the fair trial rights of the Accused. Accordingly, as detailed above, the Chamber is not obliged to become involved at this stage

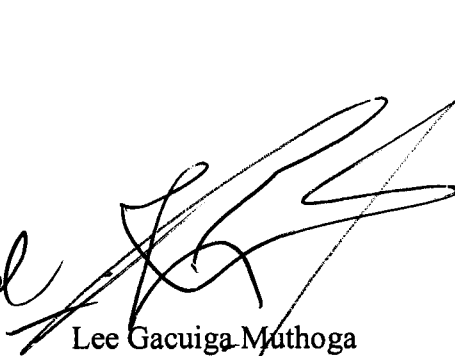
FOR THESE REASONS, the Chamber

DENIES the Defence Motion.

Arusha, 12 February 2009



Khalida Rachid Khan
Presiding Judge
[Seal of the Tribunal]



Lee Gacuiga Muthoga
Judge



Aydin Sefa Akay
Judge

