



UNITED NATIONS
NATIONS UNIES

ICTR-07-91-T
3-3-2009
(3122-3120)
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

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OR: ENG

TRIAL CHAMBER III

Before Judges: Khalida Rachid Khan, presiding
Lee Gacuiga Muthoga
Aydin Sefa Akay

Registrar: Mr. Adama Dieng

Date: 3 March 2009

JUDICIAL SECTION
RECEIVED
2009 MAR -3 P 5: 04

THE PROSECUTOR

v.

Léonidas NSHOGOZA

Case No. ICTR-07-91-T

**ORDER FOR THE DEFENCE TO COMPLY WITH THE CHAMBER'S ORDER OF
23 FEBRUARY 2009 AND THE CHAMBER'S DECISION OF 26 FEBRUARY 2009
FOR THE DEFENCE TO REDUCE ITS LIST OF WITNESSES**

Rules 46, 54 and 73 ter of the Rules of Procedure and Evidence

Office of the Prosecutor:

For the Accused:

Paul Ng'aura
Abdoulaye Seye
Dennis Mabura
Marie Ka

Allison Turner

3121

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

SITTING as Trial Chamber III, composed of Judges Khalida Rachid Khan, Lee Gacuiga Muthoga, and Aydin Sefa Akay (“Chamber”);

CONSIDERING the “Defence Strictly Confidential List of Witnesses,” filed on 2 March 2009, which contains twenty-two witnesses who will give oral testimony and a further thirteen witnesses whose testimony the Defence will seek to admit by written statement pursuant to Rule 92 *bis* of the Rules of Procedure and Evidence;¹

NOTING the Chamber’s Order of 12 February 2009 for the Defence to reduce the number of witnesses it intends to call to testify;² the Chamber’s Order of 17 February 2009 for the Defence to further reduce its witness list not later than 18 February 2009; and the Chamber’s Oral Order of 19 February 2009 for the Defence to file such list as ordered not later than 20 February 2009;³

CONSIDERING the Chamber’s Order of 23 February 2009 for the Defence to file a list of not more than ten witnesses, in addition to the Accused, who may give oral testimony (“23 February Order”),⁴ and the Chamber’s Decision of 26 February 2009 denying the Defence Motion for reconsideration, and ordering the Defence to comply with the Chamber’s 23 February Order (“Reconsideration Decision”);⁵

CONSIDERING FURTHER that Defence Counsel has not complied with the Chamber’s 23 February Order and Reconsideration Decision;

NOTING WITH CONCERN that Defence Counsel has previously disregarded the Chamber’s Orders;⁶

NOTING that the Chamber has previously issued a warning to counsel in respect of her conduct in these proceedings;⁷

NOTING FURTHER Rule 54 of the Rules, which allows a Chamber to issue such orders as may be necessary for the preparation or conduct of the trial; Rule 73 *ter* (D), which allows the Chamber to order the Defence to reduce the number of witnesses it intends to call to testify if it

¹ *Prosecutor v. Nshogoza*, Case No. ICTR-07-91-T, “Defence Strictly Confidential List of Witnesses,” filed 2 March 2009. Rule 92 *bis* (A) states: A Trial Chamber may admit, in whole or in part, the evidence of a witness in the form of a written statement in lieu of oral testimony which goes to proof of a matter other than the acts and conduct of the accused as charged in the indictment.

² *Nshogoza, Ex Parte* Order for the Defence to Reduce its List of Witnesses 12 February 2009.

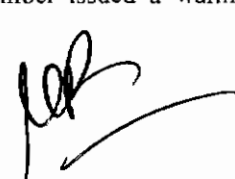
³ *Nshogoza, Ex Parte* Order for the Defence to Further Reduce its List of Witnesses, 17 February 2009; Record of Proceedings, 19 February, 2009.

⁴ *Nshogoza*, Further Order for the Defence to Reduce its List of Witnesses, 23 February 2009.

⁵ *Nshogoza*, Decision on Defence Motion for Reconsideration of the Chamber’s Further Order for the Defence to Reduce its Witness List, 26 February 2009.

⁶ For example, the Defence did not comply with the Chamber’s Order of 17 February 2009 to reduce its witness list, nor seek an extension of time to comply. The Chamber then made an Oral Order on 19 February 2009 for the Defence to comply with the 17 February Order no later than 20 February 2009.

⁷ *Nshogoza*, Decision on Defence Preliminary Challenge to Prosecutor’s Jurisdiction and Subsidiary Motion to Dismiss the Indictment, 17 December 2008, paras. 37-38. The Chamber issued a warning to counsel for misrepresenting information to the Chamber.



considers that an excessive number of witnesses are being called to prove the same facts; and Rule 46 of the Rules, which allows a Chamber to, "after a warning, impose sanctions against counsel if, in its opinion, his conduct remains offensive or abusive, obstructs the proceedings, or is otherwise contrary to the interests of justice;"

THE CHAMBER HEREBY

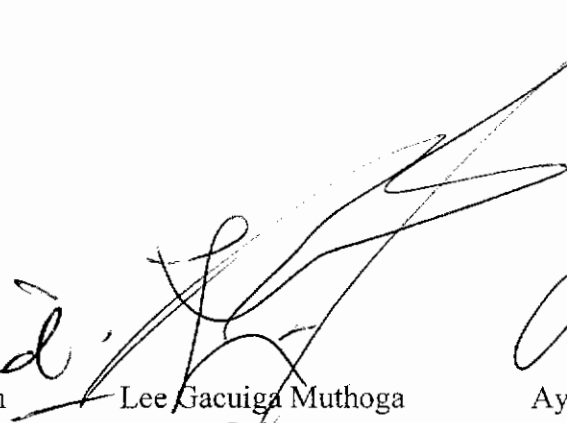
ORDERS, pursuant to Rule 54 of the Rules, that the Defence comply with the Chamber's 23 February Order and Reconsideration Decision, and reduce its list of witnesses to not more than ten witnesses, in addition to the Accused, who may give oral testimony; and,


FURTHER ORDERS the Defence to file such list not later than Wednesday, 4 March 2009; and,

WARNS Defence Counsel, pursuant to Rule 46 of the Rules, for her failure to comply with the Chamber's 23 February Order and subsequent Reconsideration Decision of 26 February 2009; and cautions Defence Counsel that, having now been warned twice by the Chamber, further misconduct may lead the Chamber to consider imposing sanctions in accordance with the Rules.

Arusha, 3 March 2009


Khalida Rachid Khan
Presiding Judge


Lee Gacuga Muthoga
Judge


Aydin Sefa Akay
Judge

[Seal of the Tribunal]

