



UNITED NATIONS
NATIONS UNIES

**International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda**

OR: ENG

TRIAL CHAMBER III

Before Judges: Lee Gacuiga Muthoga
sitting pursuant to Rule 54 of the Rules

Registrar: Mr. Adama Dieng

Date: 9 March 2009

**THE PROSECUTOR
v.
DOMINIQUE NTAWUKULILYAYO**

Case No. ICTR-05-82-PT

**ORDER FOR THE PROSECUTOR TO COMPLY WITH THE CHAMBER'S ORDER
OF 27 FEBRUARY 2009**

Rules 54 and 66 of Rules of Procedure and Evidence

Office of the Prosecutor:

Charles Adeogun-Phillips
Ibukunolu Alao Babajide
Veronic Wright
Thembile Segoete

Counsel for the Defence:

François Roux
Dorothee Le Fraper du Hellen

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

SITTING as Trial Chamber III, composed of Judge Lee Gacuiga Muthoga, pursuant to Rule 54 of the Rules of Procedure and Evidence (“Rules”);

RECALLING the Trial Chamber’s Decision on “*Requête en Urgence de La Défense Concernant les Manquements du Procureur à ses Obligations de Communiquer les Pièces et ses Effets sur le Calendrier du Procès*” of 27 February 2009, in which the Chamber found the Prosecution in violation of its disclosure obligation under Rule 66 (A) (ii) and ordered that the Prosecution:

- (i) conduct a thorough and diligent review of the materials in its possession with a view to ensuring full compliance with its disclosure obligations under Rule 66 (A) (ii); and
- (ii) certify, in writing, that such a search has been conducted, and that all disclosures have been made, in accordance with Rule 66 (A) (ii) of the Rules no later than 9:30 a.m. 6 March 2009 (“Chamber’s Order”);

NOTING that while the Chamber’s Order relates to Rule 66 (A) (ii), the Prosecutor provided certification on 6 March 2009 that he had conducted a thorough and diligent review with regard to his disclosure obligations under Rule 66 (A) (i);¹

NOTING that sub-Rule 66 (A) (i) concerns the disclosure of material which accompanied the indictment in a case (“supporting materials”), whereas sub-Rule 66 (A) (ii) pertains specifically to the disclosure of witness statements of all witnesses that the Prosecutor intends to call to testify at trial. Therefore each sub-Rule is designed to govern the Prosecutor’s disclosure obligations in respect of distinct groups of material. The Chamber’s Order clearly referred to the latter;

CONSIDERING THEREFORE that the Prosecutor failed to comply with the Chamber’s Order;

HEREBY ORDERS the Prosecutor to immediately comply with the Chamber’s Order of 27 February 2009, and in any case no later than 5.00 p.m. on 11 March 2009.

Arusha, 9 March 2009

Lee Gacuiga Muthoga
Judge

[Seal of the Tribunal]

¹ *The Prosecutor v. Dominique Ntawukulilyayo*, Case No. ICTR-05-82-PT, Prosecutor’s Certification in Respect of Rule 66 Disclosure, 6 March 2009, paras. 3 and 5.