



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

ICTR-00-55A-PT

26-05-2009

(900-898)

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OR: ENG

TRIAL CHAMBER III

Before Judges: Dennis C. M. Byron, Presiding
Gberdao Gustave Kam
Vagn Joensen

Registrar: Adama Dieng

Date: 26 May 2009

THE PROSECUTOR

v.

Tharcisse MUVUNYI

Case No. ICTR-00-55A-PT

2009 MAY 26 10 41: 24
JUDICIAL RECORDS/ARCHIVES
RECEIVED

ORDER TO COMPLY WITH SCHEDULING ORDER

Rules 54 and 46 of the Rules of Procedure and Evidence

Prosecution Counsel:
Mr. Charles Adeogun-Phillips
Mr. Ibukunolu Babajide

Defence Counsel:
Mr. William E. Taylor III
Ms. Abbe Jolles

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1. On 29 April 2009, a status conference was held where the parties discussed and agreed upon deadlines for filing of motions and other pre-trial matters, as well as dates for the commencement of the retrial before this Chamber.¹
2. On 8 May 2009, the Chamber issued a Scheduling Order confirming various deadlines for both the Prosecution and the Defence.²
3. On 22 May 2009, the Chamber issued a warning to the Senior Trial Attorney in this case because he did not comply with the deadline set by the Scheduling Order for filing a motion requesting the transfer of detained witnesses.³
4. The Chamber notes that the Prosecution has not yet complied with other aspects of the Scheduling Order, for instance the direction to file a list of exhibits it intends to use at trial and disclose the exhibits themselves, no later than 11 May 2009. Further, the Prosecution has not filed a motion requesting protective measures for those witnesses who did not testify during the first trial of Tharcisse Muvunyi, as he was directed to do by 15 May 2009. The Prosecution has been, however, referring to them by a pseudonym.
5. The Chamber notes that Rule 46(A) of the Rules of Procedure and Evidence give the Chamber the power to impose sanctions when the conduct of any Counsel remains “offensive or abusive, obstructs the proceedings or is otherwise contrary to the interests of justice”. The repeated disregard for the Scheduling Order constitutes such offensive conduct; it is disrespectful and unacceptable from an officer of the Court. The Chamber further notes that the Prosecution’s conduct could have an impact on trial fairness and the obligation to conduct proceedings without undue delay under Articles 19 and 20 of the Statute.
6. Accordingly, the Senior Trial Attorney is again warned pursuant to Rule 46(A) to respect orders of the Tribunal. Further, should the deadlines imposed in the Scheduling Order not be met by Friday, 29 May 2009, the Chamber warns the Prosecution that it may not accept any filings in respect of those matters thereafter.
7. With respect to protective measures in particular, the Chamber orders the Prosecution to file, by 27 May 2009, submissions in relation to the protective status of its witnesses. If it appears that some of its witnesses are not protected and the Prosecution nevertheless seeks

¹ T. 29 April 2009.

² *The Prosecutor v. Muvunyi*, Case No. ICTR-00-55A-PT (“*Muvunyi*”), Scheduling Order, 8 May 2009, p. 3 (“Scheduling Order”).


³ *Muvunyi*, Order for the Transfer of Prosecution Witnesses from Rwanda, 22 May 2009, para. 2.

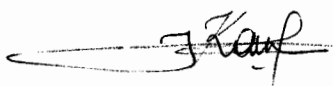
protective measures from the Chamber, the Chamber further directs the Prosecution to do so by 29 May 2009 and explain why it did not apply for such protective measures in accordance with the deadline imposed in the Scheduling Order.

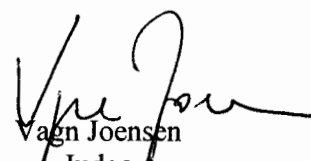
FOR THE FORGOING REASONS, THE CHAMBER

- I. **ORDERS** the Prosecution to file by 27 May 2009 submissions in relation to the protective status of all of its witnesses;
- II. **ORDERS** the Prosecution to file any preliminary motions, as referred to in the Scheduling Order, including any motion for protective measures, by 29 May 2009;
- III. **ORDERS** the Prosecution to file a list of the exhibits it intends to use at trial, as described in the Scheduling Order, and serve a copy of each of the said exhibits to the Defence and Chamber by 29 May 2009;
- IV. **AMENDS** the Scheduling Order and **DIRECTS** the Defence to file any objections to the admission of documentary evidence disclosed by the Prosecution no later than 5 May 2009;
- V. **WARNS**, pursuant to Rule 46(A) of the Rules, the Prosecution to comply with orders of this Tribunal; and,
- VI. **REQUESTS** the Registry to serve the present order on the Prosecutor and the Senior Trial Attorney, Charles Adeogun-Phillips, in person.

Arusha, 26 May 2009, done in English.


Dennis C.M. Byron
Presiding Judge


Gberdao Gustave Kam
Judge


Vagn Joensen
Judge

