



UNITED NATIONS
NATIONS UNIES

ICTR-07-91-T
28-06-2009
(4316-4314)
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

4316
A

OR: ENG

TRIAL CHAMBER III

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

Registrar: Mr. Adama Dieng

Date: 26 June 2009

THE PROSECUTOR

v.

Léonidas NSHOGOZA

Case No. ICTR-07-91-T

2009 JUN 26 P 2:03
JUDICIAL NOTICE OF RECEIPT
26/06/2009

**ORDER ADMITTING THE PROSECUTION WITNESS PROTECTIVE MEASURES
FROM THE KAMUHANDA CASE INTO EVIDENCE**

Rule 89 (C) of the Rules of Procedure and Evidence

Office of the Prosecutor:

Richard Karegyesa
Abdoulaye Seye
Dennis Mabura
Marie Ka

For the Accused:

Allison Turner

4315

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA ("Tribunal"),

SITTING as Trial Chamber III, composed of Judge Khalida Rachid Khan, presiding, and Judges Lee Gacuiga Muthoga and Aydin Sefa Akay;

RECALLING that the Accused is charged with "knowing violation of [the] protective measures" ordered by the *Kamuhanda* Trial Chamber on 7 July 2000 under Count 1 of the Indictment,¹ and for "showing reckless disregard for the witness protection order" under Count 3 of the Indictment;²

NOTING the Chamber's Order of 16 June 2009 for the Prosecution to produce the prosecution witness protective measures ordered by Trial Chamber II in the case of *Prosecutor v. Kamuhanda*³ for the "completeness of the trial record", and its invitation to the parties to raise any objections on their admission as evidence in this case;⁴

NOTING that the Prosecution has filed the requested *Kamuhanda* protective measures and makes no objections to its admission;⁵

NOTING that the Defence filed a Response to the Production Order in which it expressed concern at the Chamber "assisting the Prosecution", through the exercise of its discretion to order the production of evidence, and notes that the Production Order was issued at a late stage in these proceedings;⁶

NOTING HOWEVER that, despite raising the aforementioned reservations, the Defence refrains from formally objecting to the production and admission of the *Kamuhanda* protective measures;⁷

NOTING FURTHER that, in addition to the references in the Indictment to the *Kamuhanda* protective measures, several references have been made during the course of the evidence in this case to the *Kamuhanda* protective measures;⁸

RECALLING that Rule 89 (C) of the Rules empowers the Chamber to "admit any relevant evidence which it deems to have probative value";

¹ *Prosecutor v. Nshogoza*, Case No. ICTR-07-91-T, Indictment, paras. 5, 7, 8, and 16.

² *Prosecutor v. Nshogoza*, Case No. ICTR-07-91-T, Indictment, para. 41.

³ *Prosecutor v. Kamuhanda*, Case No. ICTR-99-50-T, Decision on the Prosecutor's Motion for Protective Measures for Witnesses, 7 July 2000 ("*Kamuhanda* protective measures").

⁴ *Prosecutor v. Nshogoza*, Case No. ICTR-07-91-T, Order for the Production of Prosecution Witness Protective Measures from the Kamuhanda Case, 16 June 2009 ("the Production Order").

⁵ *Prosecutor v. Nshogoza*, Case No. ICTR-07-91-T, "Prosecutor's Filing in Compliance with the Trial Chamber's "Order for the Production of Prosecution Witness Protective Measures from the Kamuhanda Case, Rule 98 of the Rules of Procedure and Evidence", filed 18 June 2009.

⁶ *Prosecutor v. Nshogoza*, Case No. ICTR-07-91-T, "Defence Response to Order for the Prosecution Witness Protective Measures from the Kamuhanda Case and to Prosecutor's Filing," filed 18 June 2009, paras. 3-4.

⁷ *Prosecutor v. Nshogoza*, Case No. ICTR-07-91-T, "Defence Response to Order for the Prosecution Witness Protective Measures from the Kamuhanda Case and to Prosecutor's Filing," filed 18 June 2009, para. 4.

⁸ See for example, T. 18 February 2009, p. 2, wherein Prosecution Witness GAA testified that he was a protected prosecution witness in the *Kamuhanda* trial; T. 16 March 2009, p. 41, wherein Defence Witness Aïcha Condé testified that protective measures are ordered for both Prosecution and Defence witnesses in all cases, including in the *Kamuhanda* case; See also T. 31 March 2009, pp. 44-45, 46; Exhibit P. 20.



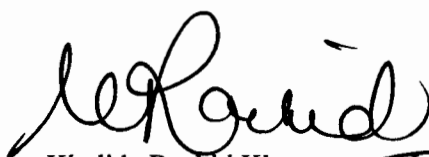
4314

CONSIDERING ALSO the interests of justice;

HEREBY ADMITS the *Kamuhanda* prosecution witness protective measures dated 7 July 2000 as evidence in this case; and

DIRECTS the Registrar to assign the document an exhibit number forthwith.

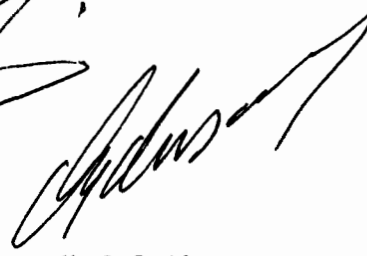
Arusha, 26 June 2009



Khalida Rachid Khan
Presiding Judge



Lee Gacuiga Muthoga
Judge



Aydin Sefa Akay
Judge

