

ICTR-00-55-T
03-08-2009
(964-962)

964
/



UNITED NATIONS
NATIONS UNIES

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER III

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

Registrar: Mr. Adama Dieng

Date: 03 August 2009

THE PROSECUTOR

v.

Tharcisse MUVUNYI
Case No. ICTR-00-55A-T

JUDICIAL RECEIVED
2009 AUG 3 1 P-5: 06
[Signature]

**DECISION ON THARCISSE MUVUNYI'S APPLICATION TO VARY THE
PRE-DEFENSE BRIEF AND ALLOW WITNESS M099 TO TESTIFY
ON 14 SEPTEMBER 2009**

Office of the Prosecutor:

Charles Adeogun-Phillips
Ibukunolu Alao Babajide

Counsel for the Accused:

William E. Taylor III
Abbe Jolles

[Handwritten mark]

INTRODUCTION

1. On 29 June 2009, the date for the Defence's case was set for 24 August 2009.¹ On 6 July 2009, the Defence filed its Pre-Defence Brief indicating that the presentation of its case would last one week.²
2. On 14 July 2009, the Defence filed an application to vary its Pre-Defence Brief and allow for Witness M099 to testify on 14 September 2009, since this witness will be unavailable before that date.³ The Prosecution did not file a response.

DELIBERATIONS

3. The present Motion raises issues in relation to the judicial calendar and the general administration of the Tribunal. In setting up its judicial calendar, the Tribunal evaluates various priorities taking into consideration; *inter alia*, the rights of the accused to have a fair trial within a reasonable time, and the availability of the Tribunal facilities.⁴
4. The Judges composing this Bench are also sitting in other cases, including one for which the trial is scheduled to start on 31 August 2009. Consequently, accommodating the Defence's request would involve a modification of the judicial calendar.
5. The Defence submits that Witness M099 is an essential and critical eyewitness for the accused as it expects the Witness' testimony to address Muvunyi's alleged incitement at the Gikore security meeting.⁵ Given that Witness M099 personally attended the Gikore meeting⁶ and is therefore in a position to give evidence regarding the central issues in these proceedings, the Chamber accepts that he is an essential witness for the Defence. Further, because the relief requested by the Defence only involves a small adjustment to the trial schedule, and the judicial calendar, the Chamber finds that it would not be prejudicial to the Prosecution, or undermine judicial economy, to grant the request.

¹ *The Prosecutor v. Muvunyi*, Case No. ICTR-00-55A-T ("*Muvunyi*"), Amendment to Scheduling Order, 29 June 2009, para. 2.

² Accused Tharcisse Muvunyi's Pre Defence Brief, filed 6 July 2009, para. 23 ("*Pre Defence Brief*").

³ Tharcisse Muvunyi's Application to Vary the Predefense Brief and Allow Essential Witness M099 to Testify on September 14, 2009, filed 14 July 2009, paras. 2, 5 ("*Application to Vary the Predefense Brief*").

⁴ *The Prosecutor v. Augustin Ngirabatware*, Case No. ICTR-99-54-T, Decision on Defence Motion to Vacate Trial Date of 4 May 2009, 25 February 2009, para. 10 citing *The Prosecutor v. Hategimana*, Case No. ICTR-00-55-I, Decision on Defence Motion for the Continuation of Proceedings Before the Tribunal, 5 November 2007, para. 6.

⁵ Application to Vary the Pre-Defense Brief, para. 5; Pre Defence Brief, para. 23(5).

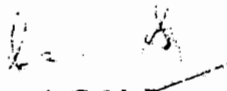
⁶ Pre-Defence Brief, para. 23.5.

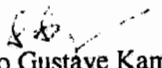
6. However, the Chamber notes that, as a result of permitting Witness M099 to testify on 14 September 2009, the parties will have a period of two weeks to prepare closing briefs between the presentation of the bulk of the Defence case and the testimony of Witness M099. Accordingly, the Chamber finds that it would be reasonable to require the parties to file their respective closing briefs no later than 23 September 2009. Subsequently, the Chamber will hear closing arguments on Friday, 2 October 2009. Each party will be allotted one hour to present their closing arguments as well as a period of twenty minutes for rebuttal arguments.


FOR THE FOREGOING REASONS, THE CHAMBER

- I. **GRANTS** the Defence's motion;
- II. **ORDERS** the Parties to file closing briefs no later than 23 September 2009; and
- III. **ORDERS** that closing arguments will take place on Friday, 2 October 2002. Each party is allotted one hour to present its argument and twenty minutes for rebuttal arguments.

Arusha, 03 August 2009, done in English.


Dennis C. M. Byron
Presiding Judge


Gberdao Gustave Kam
Judge


Vagn Joensen
Judge

