



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

5545
A

ICR-00-55C-PT

7-01-2011

(5545-5543)

OR: ENG

TRIAL CHAMBER III

Before Judges: Lee Gacuiga Muthoga, *Presiding*
Seon Ki Park
Robert Fremr

Registrar: Adama Dieng

Date: 7 January 2011

THE PROSECUTOR

v.

Ildephonse NIZEYIMANA

CASE NO. ICTR-2000-55C-PT

JUDICIAL RECORDS/ARCHIVE

2011 JAN 17 P 12:11

DECISION ON URGENT DEFENCE MOTION FOR A FAIR TRIAL REMEDY

Rule 54 of the Rules of Procedure and Evidence

Office of the Prosecution:

Drew White
Kirsten Gray
Yasmine Chubin
Zahida Virani
Astou Mbow

Defence Counsel for Ildephonse Nizeyimana:

John Philpot
Cainnech Lussiaa-Berdou
Myriam Bouazdi

Spand

5544.

INTRODUCTION

1. The trial in this case is scheduled to commence on 17 January 2011.¹
2. On 2 January 2011, the Defence filed an urgent motion requesting a fair trial remedy under Articles 19 and 20 of the Statute of the International Criminal Tribunal for Rwanda ("the Statute").² In this motion, the Defence asserts that "the Accused cannot materially prepare for a trial with 51 Prosecution witnesses" and that he does not know who will be testifying against him.³ The Defence therefore requests that the Chamber order the Prosecution to eliminate from its list any witnesses that it does not intend to call.⁴

DELIBERATIONS

3. As a preliminary matter, the Chamber notes that as the trial in this case will start in less than two weeks it has decided to make an order on this matter prior to receiving a response from the Prosecution and a reply from the Defence so that these proceedings may continue in an expeditious manner.
4. The Chamber is mindful of its obligations under Articles 19 and 20 of the Statute. The Chamber notes that these obligations include that the Trial Chamber ensure that the trial is conducted in a fair and expeditious manner, in accordance with the Rules of Procedure and Evidence, with full respect for the rights of the accused (as described in Article 20 of the Statute) and with due regard for the protection of victims and witnesses. However the Chamber does not find that these obligations would necessarily be satisfied by ordering the Prosecution to reduce its witness list as requested by the Defence. The Chamber notes that the Defence has had notice that the Prosecution intended to call 51 witnesses as early as 29 September 2010, when the Prosecution filed its Pre-Trial Brief.⁵ The Chamber therefore denies the Defence Motion.
5. Notwithstanding the Chamber's dismissal of the Defence Motion, in the interests of a fair and expeditious trial, it is necessary that the Prosecution give the Defence and the Chamber notice of the finalised order of appearance of witnesses for the first two weeks of

¹ Scheduling Order (TC), 3 November 2010, Order 11.

² Urgent Defence Motion for a Fair Trial Remedy, filed 2 January 2011 ("Defence Motion").

³ Defence Motion, para. 5.

⁴ Defence Motion, paras. 3-10.

⁵ Pre-Trial Brief, filed 29 September 2010, Witness Summaries.



5543

trial. The Chamber therefore orders that the Prosecution file a finalised order of appearance of witnesses for the period of 17 January 2011 to 28 January 2011.

FOR THESE REASONS, THE CHAMBER

DISMISSES the Defence Motion in its entirety; and

ORDERS the Prosecution to file a final order of appearance of its witnesses for the first two weeks of trial, the period of 17 January 2011 to 28 January 2011, by close of business Tuesday, 11 January 2011.

Arusha, 7 January 2011, done in English.

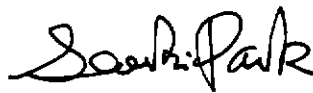
[read and approved by]



Lee Gacuiga Muthoga
Presiding Judge

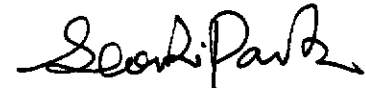
[absent at the time
of signature]

[read and approved by]



Seon Ki Park
Judge

[Seal of the Tribunal]



Robert Fremr
Judge

[absent at the time
of signature]