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UNITED NATIONS
NATIONS UNIES

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

TRIAL CHAMBER III

Case No. ICTR-05-88-T

ENGLISH
Original: FRENCH

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

Registrar: Adama Dieng

Date: 16 July 2008

THE PROSECUTOR

v.

CALLIXTE KALIMANZIRA

2008 SEP -2 P 12: 39
JUDICIAL RECORDS/ARCHIVES
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02/09/2008

**CALLIXTE KALIMANZIRA'S APPLICATION FOR RECONSIDERATION OF THE
8 JULY 2008 "SCHEDULING ORDER, RULE 54 OF THE RULES OF PROCEDURE
AND EVIDENCE [sic]" REGARDING THE TIME-LIMIT FOR DISCLOSURE
OF THE IDENTITY OF DEFENCE WITNESSES**

Article 69 C of the Rules of Procedure and Evidence

Counsel for Callixte Kalimanzira:

Arthur Vercken, Lead Counsel
Anta Guisse, Co-Counsel
Johann Soufi, Legal Assistant

Office of the Prosecutor:

Christine Graham
Veronica Wright
Stephen Agaba
Ousman Jammeh
Kartik Murukutla

1. On 8 July 2008, the Chamber issued a scheduling order¹ consisting of the following:
 - **ORDERS** that the Defence for Kalimanzira file its submissions, if any, pursuant to Rule 98*bis* of the Rules, no later than seven days after the Chamber renders its decisions on the two pending Prosecution motions concerning the admission of documents and materials;
 - **ORDERS** that the Defence case commence on 17 November 2008;
 - **ORDERS** that the Defence for Kalimanzira file the following, pursuant to Rule 73*ter* of the Rules, by 17 September 2008:
 - a. Admissions by the parties and statement of other matters which are not in dispute;
 - b. A statement of contested matters of fact and law;
 - c. Its proposed list of witnesses, including the name and pseudonym of each witness, a summary of the facts on which each witness will testify, the points in the indictment as to which each witness will testify, and the estimated length of time required for each witness;
 - d. A list of exhibits the Defence intends to offer in its case, stating where possible whether or not the Prosecutor has any objection as to authenticity;
 - **ORDERS** that the Defence for Kalimanzira file an expected order of appearance of the witnesses scheduled to be heard during their case by 17 October 2008; and
 - **ORDERS** that the Defence for Kalimanzira provide the Witnesses and Victims Support Section with all the information necessary to facilitate the appearance of the Defence witnesses in accordance with the schedule of the hearings.

Failure to file a motion under Rule 98*bis* of the Rules of Procedure and Evidence

2. Counsel for Callixte Kalimanzira would like, first of all, to inform the Chamber that, contrary to their previous submissions, they will not file a motion for judgment of acquittal at this stage of the proceedings.

Application for a one-month time-limit for disclosure of the identity of Defence witnesses

3. In the scheduling order, the Chamber directed the Defence to give the names and pseudonyms of their witnesses two months prior to the commencement of the Defence case, that is, on 17 September 2008.

4. It would, however, be recalled that the Prosecution, for its part, had been ordered to disclose the identity of its witnesses to the Defence only 30 days prior to commencement of its

¹ *Prosecutor v. Kalimanzira*, ICTR-05-88-I, Scheduling Order Rule 54 of the Rules of Procedure and Evidence, 8 July 2008.

case (see Decision of 8 November 2007).² It was, in fact, specified in paragraph 10 of the 8 November 2008 Decision that,

« 10. Identifying information of the protected witnesses shall be disclosed by the Prosecution to the Defence thirty days prior to commencement of the Prosecution case, in order to allow adequate time for the preparation of the Defence pursuant to Rule 69 C of the Rules »

The Prosecution, in compliance with this Decision, disclosed the identity of its witnesses on 28 March 2008.

5. Hence, Counsel for Kalimanzira submit that the two-month time-limit imposed on them would violate the principle of equality of arms between the Defence and the Prosecution. They therefore request the application of the same time-limit.

6. In light of the above-mentioned decision and to guarantee a fair trial, the Defence therefore requests the Chamber to reconsider its Decision of 8 July 2008 and appoint 17 October 2008 as the date for disclosure of the identity of Defence witnesses.

FOR THESE REASONS

Considering Rule 69 of the Rules of Procedure and Evidence,

Considering the 8 November 2007 “Decision on Prosecution motion for protective measures”,

May it please the Chamber to reconsider its “Scheduling Order” of 8 July 2008 and direct the Defence to disclose the identity of its witnesses on 17 October 2008.

Done in Paris, 15 July 2008.

[Signed]

Arthur Vercken
Lead Counsel

[Signed]

Anta Guisse
Co-Counsel

² *Prosecutor v. Kalimanzira*, ICTR-05-88-I, Decision on Prosecution motion for protective measures, 8 November 2007.