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

TRIAL CHAMBER II

ICTR-97-29-I  
9-MAY-2000  
(364I-3640)

Before: Judge Laïty Kama, Presiding  
Judge William H. Sekule  
Judge Pavel Dolenc

Registry: Dr Agwu Ukiwe Okali

Decision of: 9 May 2000

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**The Prosecutor  
versus  
Sylvain NSABIMANA  
Case No. ICTR-97-29A-I**

**DECISION ON THE DEFENSE MOTION TO WITHDRAW CERTAIN  
COUNTS OF THE INDICTMENT AGAINST THE ACCUSED  
NSABIMANA, ORDERED ON 12 AUGUST 1999**

The Office of the Prosecutor :  
Mr. Japhet Mono  
Ms Andra Mobberley

Counsel for the Defense :  
Ms Josette Kadji  
Mr. Charles Tchakoute Patie

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA («The Tribunal»),

SITTING as Trial Chamber II composed of Judge Laïty Kama, Presiding, Judge William H. Sekule and Judge Pavel Dolenc ;

CONSIDERING the Motion to withdraw certain counts of the Indictment against the Accused Nsabimana, ordered on the 12<sup>th</sup> of August 1999, dated 2 November 1999 pursuant to Rule 73 (A) and (B) of the Rules of Procedure and Evidence (« the Rules ») ;

CONSIDERING the Interoffice Memorandum dated 7 April 2000, Ref :ICTR/PRES/48/00 by which the President of the Tribunal assigned Judge Pavel Dolenc to complete Trial Chamber II in the absence of Judge Mehmet Güney to review this motion ;

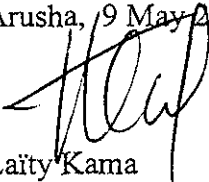
WHEREAS the review of this motion has enabled the Trial Chamber to note, *in limine litis*, that in reality what is asked for, by virtue of the Rules, can only be applied for in a preliminary Motion on Defects of the form of the Indictment (Rule 72 of the Rules), application for which the Accused is outside the time limit ;


THUS, this motion shall be declared inadmissible.

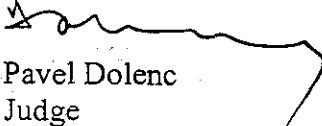
FOR THESE REASONS, THE TRIBUNAL,

DENIES the motion .

Arusha, 9 May 2000

  
Laïty Kama  
Presiding

  
William H. Sekule  
Judge

  
Pavel Dolenc  
Judge



(Seal of the Tribunal)