



ICTR-98-42-T  
22-01-2003  
(7307-7300)

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

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TRIAL CHAMBER II

**Before:** Judge William H. Sekule, Presiding  
Judge Winston C. Matanzima Maqutu  
Judge Arlette Ramaroson

**Registrar:** Adama Dieng

**Date:** 22 January 2003

OR: ENG  
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JUDICIAL RECORDS/ARCHIVES  
ICTR

THE PROSECUTOR v. ÉLIE NDAYAMBAJE

THE PROSECUTOR v. JOSEPH KANYABASHI

THE PROSECUTOR v. PAULINE NYIRAMASUHUKO & ARSÈNE SHALOM NTAHOBALI

THE PROSECUTOR v. SYLVAIN NSABIMANA & ALPHONSE NTEZIRYAYO

*Case No. ICTR-98-42-T*

**DECISION ON THE PROSECUTOR'S MOTION TO REMOVE FROM HER  
WITNESS LIST FIVE DECEASED WITNESSES AND TO ADMIT INTO EVIDENCE  
THE WITNESS STATEMENTS OF FOUR OF SAID WITNESSES**

**The Office of the Prosecutor:**

Silvana Arbia, Senior Trial Attorney  
Jonathan Moses, Trial Attorney  
Adelaide Whest, Trial Attorney  
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Manuel Bouwknecht, Case Manager

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Josette Kadji, Lead Counsel  
Charles Patie Tchacounte, Co-Counsel

**Defence Counsel for Nteziryayo:**

Titinga Frédéric Pacere, Lead Counsel  
Richard Perras, Co-Counsel

**Defence Counsel for Ndayambaje:**

Pierre Boulé, Lead Counsel

**Defence Counsel for Kanyabashi:**

Michel Marchand, Lead Counsel  
Michel Boyer, Co-Counsel

**Defence Counsel for Nyiramasuhuko:**

Nicole Bergevin, Lead Counsel  
Guy Poupart, Co-Counsel

**Defence Counsel for Ntahobali:**

Duncan Mwanyumba, Lead Counsel  
Normand Marquis, Co-Counsel

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

SITTING as Trial Chamber II, composed of Judge William H. Sekule, Presiding, Judge Winston C. Matanzima Maqutu and Judge Arlette Ramaroson (the "Chamber");

BEING SEISED of:

- (i) The "Prosecutor's Motion to Remove From Her Witness List Five Deceased Witnesses and Admit into Evidence the Witness Statements of Four of Said Witnesses", filed on 28 August 2002 (the "Motion");
- (ii) The "Annexes 1 and 2 to the Prosecutor's Motion to Remove from Her Witness List Five Deceased Witnesses and Admit into Evidence the Witness Statements of Four of Said Witnesses", filed by the Prosecution on 22 October 2002;
- (iii) The "*Réponse de Sylvain Nsabimana à la requête du bureau du procureur aux fins d'omission de certains accusés de la liste des témoins et d'admission des déclarations de certains témoins comme preuve*",<sup>1</sup> filed by Counsel for Nsabimana on 4 September 2002;
- (iv) The "*Réponse à la requête du procureur aux fins de retirer de sa liste de témoins cinq témoins décédés et d'admettre en preuve les déclarations de quatre de ces témoins*",<sup>2</sup> filed by Counsel for Kanyabashi on 4 September 2002;
- (v) The "*Réponse de Alphonse Nteziryayo à la requête du procureur aux fins de retirer de sa liste de témoins cinq témoins décédés et d'admettre en preuve les déclarations de quatre de ces témoins*",<sup>3</sup> filed by Counsel for Nteziryayo on 19 September 2002;
- (vi) The "*Réponse de Pauline Nyiramasuhuko à la requête du procureur pour retirer de sa liste de témoins cinq témoins décédés et admettre en preuve les déclarations antérieures de quatre de ces dits témoins*",<sup>4</sup> filed by Counsel for Nyiramasuhuko on 11 October 2002;
- (vii) The "*Réponse de Arsène Shalom Ntahobali à la requête du procureur pour retirer de sa liste de témoins cinq témoins décédés et admettre en preuve les déclarations antérieures de quatre de ces dits témoins*",<sup>5</sup> filed by Counsel for Ntahobali on 11 October 2002 ;

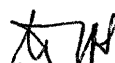
<sup>1</sup>Response of Sylvain Nsabimana to the Prosecutor's Motion to Remove Certain Accused from the List of Witnesses and Admit into Evidence the Statements of Certain Witnesses [Unofficial Translation].

<sup>2</sup>Response to the Prosecutor's Motion to Remove From Her Witness List Five Deceased Witnesses and Admit into Evidence the Witness Statements of Four of Said Witnesses [Unofficial Translation].

<sup>3</sup>Alphonse Nteziryayo's Response to the Prosecutor's Motion to Remove from Her Witness List Five Deceased Witnesses and Admit into Evidence the Witness Statements of Four of Said Witnesses [Official Translation].

<sup>4</sup>Response of Pauline Nyiramasuhuko to the Prosecutor's Motion to Remove from her Witness List Five Deceased Witnesses and Admit into Evidence the Previous Statement of Four of Said Witnesses [Unofficial Translation].

<sup>5</sup>Arsène Shalom Ntahobali's Response to Prosecutor's Motion to Remove from her Witness List Five Deceased Witnesses and Admit into Evidence the Witness Statements of Four of Said Witnesses [Official Translation].



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- (viii) The “*Réponse à la requête du procureur intitulée : ‘Prosecutor’s Motion to Remove from her Witness List Five Deceased Witnesses and Admit into Evidence the Witness Statement of Four of Said Witnesses’*”,<sup>6</sup> filed by Counsel for Ndayambaje on 14 October 2002;
- (ix) The “Prosecutor’s Reply on Her Motion to Remove from Her Witness List Five Deceased Witnesses and Admit into Evidence the Witness Statements of Four of Said Witnesses”, filed on 31 October 2002;
- (x) The “*Duplique de Arsène Shalom Ntahobali à la réplique du procureur pour retirer de sa liste de témoins cinq témoins décédés et admettre en preuve les déclarations antérieures de quatre de ces dits témoins*”,<sup>7</sup> filed by Counsel for Ntahobali on 4 November 2002; and
- (xi) The “*Duplique de Pauline Nyiramasuhuko à la réplique du Procureur pour retirer de sa liste de témoins cinq témoins décédés et admettre en preuve les déclarations antérieures de quatre de ces dits témoins*”,<sup>8</sup> filed by Counsel for Nyiramasuhuko on 5 November 2002;

**CONSIDERING** the provisions of:

- (i) The Statute of the Tribunal (the “Statute”), specifically Article 20 of the Statute; and
- (ii) The Rules of Procedure and Evidence (the “Rules”), particularly Rules 54, 66, 73, 73*bis*, 89, and 92*bis* of the Rules;

**NOW CONSIDERS** the Motion based solely on the written briefs filed by the Parties, pursuant to Rule 73 (A) of the Rules.

## **ARGUMENTS OF THE PARTIES**

### **The Prosecution**

1. The Prosecution seeks an order to delete witnesses QAA, QE, QZ, RZ and SO from its witness list pursuant to Rule 73*bis* (E) of the Rules. The Prosecution submits that witnesses QAA, QE, QZ, RZ, and SO have been confirmed dead either by death certificate or by a verbal communication from a close relative of the deceased to Tribunal investigators.

<sup>6</sup> Response to the Prosecution’s Motion titled: “Prosecutor’s Motion to Remove from her Witness List Five Deceased Witnesses and Admit into Evidence the Witness Statement of Four Said Witnesses” [Official Translation].

<sup>7</sup> Arsène Shalom Ntahobali’s Rejoinder to Prosecutor’s Reply on her Motion to Remove from her Witness List Five Deceased Witnesses and Admit into Evidence the Witness Statements of Four of Said Witnesses [Official Translation].

<sup>8</sup> Pauline Nyiramasuhuko’s Rejoinder to Prosecutor’s Reply on Her Motion to Remove from her Witness List Five Deceased Witnesses and Admit into Evidence the Witness Statements of Four of Said Witnesses [Unofficial Translation].

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2. The Prosecution further seeks an order admitting into evidence the written statements of witnesses QAA, QZ, RZ, and SO pursuant to Rules 89 (C) and 92bis (C) of the Rules.
3. The Prosecution submits that the statements are admissible pursuant to Rule 89 (C) of the Rules, which provides for the admission of any evidence that is relevant and has probative value. The Prosecution submits that the statements “are relevant and probative as they relate to the acts and/ or omissions for which criminal charges have imposed (sic) against the accused in this case”, including *inter alia*: QAA’s statements “about criminal conduct of Ntahobali and Nyiramasuhuko”; QZ’s statements referring “specifically to [...] criminal conduct by Ntahobali”; RZ’s statements “about criminal conduct of Nsabimana, Ntahobali, and Nyiramasuhuko”; and SO’s statements containing “relevant and probative” evidence “about Kanyabashi, Nsabimana and Ndayambaje” and about “crimes scenes alleged in the indictment”.
4. The Prosecution also submits that the statements are admissible pursuant to Rule 92bis (C), provided that the Chamber is satisfied that “on a balance of probabilities” the witness is deceased and “finds from the circumstances in which the statement was made and recorded that there are satisfactory indicia of its reliability”. In Annexes 1 and 2 of its submissions, the Prosecution proffers a death certificate for witness QAA and an affidavit from a Tribunal investigator confirming the deaths of witnesses QZ, RZ and SO. The Prosecution further submits that the statements “have more than satisfactory indicia of reliability”, noting that the statements were collected by Tribunal investigators, were signed, were “often” witnessed by others, and constitute first-hand hearsay.
5. The Prosecution notes that written statements of unavailable witnesses have been admitted as evidence before the Tribunal and that written statements of deceased witnesses have been admitted as evidence before the International Criminal Tribunal for the former Yugoslavia (the “ICTY”). The Prosecution further notes that affidavits of deceased witnesses were admitted at the Nuremberg and Tokyo trials, and that numerous civil and common law jurisdictions provide for the admissibility of statements of deceased witnesses.

#### The Defence

6. Counsel for Kanyabashi, Nteziryayo, Nyiramasuhuko, Ntahobali and Ndayambaje do not oppose the Motion to remove the names of witnesses QAA, QE, QZ, RZ and SO from the Prosecution’s witness list. Counsel for Nsabimana opposes this aspect of the request, arguing that the Prosecution has failed to provide sufficient evidence of death.
7. The Defence argues that the witness statements are inadmissible pursuant to Rule 92bis (A), which provides that the Chamber may admit a written statement of an unavailable witness “which goes to proof of a matter other than the acts of the accused as charged in the indictment”. The Defence notes that according to the Prosecution, the witness statements relate directly to acts and omissions of the Accused for which criminal charges have been brought.

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8. The Defence disputes the Prosecution's submission that the statements are admissible under the provisions of Rule 89 (C) of the Rules, arguing that Rule 89 is limited by the provisions of Rule 92bis (A). The Defence invokes the principle of interpretation of law that special provisions override general ones (*generalibus specialia derogant*).
9. The Defence also disputes the Prosecution's submission that the statements can be admitted under Rule 92bis (C) without satisfying the provisions of Rule 92bis (A), and cites, in support of its argument, the ICTY Appeals Chamber *Galic* Decision<sup>9</sup>.
10. The Defence submits that the Prosecution has not presented sufficient evidence of reliability of the statements. The Defence argues that the fact that the statements were taken by Tribunal investigators is not sufficient proof of their reliability and offers past examples of inaccurate witness statements. The Defence further asserts that to admit the statements would contravene the rights of the Accused to examine the witnesses against them pursuant to Article 20 of the Statute.

### The Prosecution Reply

11. In its reply, the Prosecution notes that the ICTY Appeals Chamber *Galic* and *Milosevic*<sup>10</sup> Decisions are "adverse" to its argument for the admission of the statements under Rule 92bis (C), but cites the dissenting opinion of Judge Shahabuddeen in the *Milosevic* Decision to support its position that the "amendment adding Rule 92bis did not 'repeal by implication' the general Rule 89".
12. With respect to the right of the Accused to cross-examine the witnesses against them, the Prosecutor submits that there is no "absolute right to confrontation" and that any such right "must be balanced against those of the deceased witness and the Prosecutor's duty and right to prove her case".
13. The Prosecution argues that if the Chamber finds the statements inadmissible under Rule 89 and Rule 92bis (C), the Chamber may admit the statements but consider only those portions of the statements which do not prove acts or conduct of the accused as charged in the indictments. The Prosecution submits that these portions "could include, but are not limited to" evidence of the presence of refugees and *Interahamwe* at the Prefecture, roadblocks in Butare town, the location of mass graves and the movement of refugees from the Prefecture to Rango. The Prosecution acknowledges that this alternative prayer was not specifically pled in the original Motion.

### HAVING DELIBERATED,

#### As to the Modification of the Prosecution Witness List

14. The Chamber notes that pursuant to Rule 73bis (E) of the Rules, "[a]fter commencement of Trial, the Prosecutor, if he considers it to be in the interests of justice, may move the Trial Chamber for leave to reinstate the list of witnesses or to

<sup>9</sup> *Prosecutor v. Galic*, Case No. IT-98-29-AR73.2, Appeals Judgement, 7 June 2002 (the "*Galic* Decision").

<sup>10</sup> *Prosecutor v. Milosevic*, Case No. IT-02-54-AR73.2, Decision on Admissibility of Prosecution Investigator's Evidence, 30 September 2002 (the "*Milosevic* Decision").

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vary his decision as to which witnesses are to be called". The Chamber further recalls the Tribunal's finding in the *Nahimana* Decision that "the final decision as to whether it is in the interests of justice to allow the Prosecution to vary its list of witnesses rests with the Chamber".<sup>11</sup>

15. The Chamber acknowledges that the death certificate and investigator's affidavit submitted by the Prosecution in Annexes 1 and 2 establish the unavailability of witnesses QAA, QZ, RZ and SO. The Chamber notes that no such evidence was adduced in respect of witness QE. Nonetheless, the Chamber finds that the interests of justice pursuant to Rule 73bis (E) do not require proof of the death of a witness as a precondition to the variation of a witness list.
16. The Chamber notes that Counsel for Kanyabashi, Nteziryayo, Nyiramasuhuko, Ntahobali and Ndayambaje do not oppose this aspect of the Prosecution request.
17. The Chamber discerns no evidence from the current submissions that the removal of the deceased witnesses would prejudice the rights of the Accused to adequately prepare a defence and to be tried without undue delay pursuant to Article 20 of the Statute.
18. For the aforementioned reasons, the Trial Chamber grants the Prosecution leave to remove Witnesses QAA, QE, QZ, RZ and SO from its list of witnesses.

**As to the Admission of the Written Statements of Deceased Witnesses Pursuant to Rules 89 (C) and 92 bis**

19. The Chamber notes that Rule 92 bis (A) of the Rules provides that the Chamber "may admit, in whole or in part, the evidence of a witness in the form of a written statement in lieu of oral testimony *which goes to proof of a matter other than the acts and conduct of the accused as charged in the indictment*" [emphasis added]. The purpose of such a restriction is to protect the right of the Accused "to examine, or have examined, the witnesses against him or her", pursuant to Article 20 (4) (e) of the Statute.
20. As a preliminary matter, the Chamber rejects the Prosecution's argument that the written statement of a deceased witness is admissible subject only to Rule 89 (C) of the Rules, which provides that the Chamber "may admit any relevant evidence which it deems to have probative value". This was the state of the law prior to the enactment of Rule 92 bis, which limits the circumstances in which written witness statements are admissible as evidence. The Chamber, noting the ICTY Appeals Chamber's interpretation of the equivalent Rule 92 bis,<sup>12</sup> finds that the general requirement under Rule 89 that admissible evidence be relevant and probative applies in addition to, and not in lieu of, the more specific provisions of Rule 92 bis.<sup>13</sup>

<sup>11</sup> *Prosecutor v. Nahimana*, Case No. ICTR-99-52-I, Decision on the Prosecutor's Oral Motion for Leave to Amend the List of Selected Witnesses, 26 June 2001 (the "*Nahimana* Decision").

<sup>12</sup> *Galic* Decision, para. 31; *Milosevic* Decision, para. 18

<sup>13</sup> See the Appeals Chamber's conclusion that "a party is not permitted to tender a written statement given by a prospective witness to an investigator of the Office of the Prosecutor under Rule 89 (C) in order to avoid the stringency of Rule 92 bis", *Galic* Decision, para. 31.

21. In regard to the Prosecution's assertion that a written statement of a deceased witness is admissible pursuant to Rule 92 *bis* (C) of the Rules,<sup>14</sup> the Chamber, noting the ICTY Appeals Chamber's interpretation of Rule 92 *bis*,<sup>15</sup> finds that any statement admitted under the provisions of Rule 92 *bis* must first comply with the threshold requirement of Rule 92 *bis* (A) that the evidence go to proof of a matter other than the conduct of the accused as charged in the indictment. Rule 92 *bis* (C) merely grants the Chamber the discretion to admit the written statement of a deceased witness absent the attached declaration required under Rule 92 *bis* (B). It does "not provide a separate and self-contained method of producing evidence in written form in lieu of oral testimony."<sup>16</sup>
22. In the instant case, the Chamber notes the Prosecution's general assertion that the written statements for which it seeks admission "are relevant and probative as they relate directly to the acts and/or omissions for which criminal charges have imposed (sic) against the accused". The Chamber further notes that the Prosecution has specified that each of the statements in question establishes facts related to the alleged criminal conduct of the Accused, making specific reference to the indictments.
23. The Chamber finds that Rule 92 *bis* of the Rules does not allow the admission of statements relating to the alleged criminal conduct of the accused as charged in the indictment. Because the witnesses are deemed deceased, their credibility cannot be challenged by the Defence through cross-examination. Furthermore, the Chamber, recalling the concerns of the Appeals Chamber in the *Milosevic* Decision,<sup>17</sup> observes that prior statements made to Prosecution investigators by prospective witnesses for the purposes of legal proceedings raise serious issues of reliability that are most effectively tested through the process of cross-examination.
24. For the aforementioned reasons, the Chamber dismisses the Prosecution's request that the Chamber admit in whole the written statements of deceased witnesses QAA, QZ, RZ and SO because those statements relate to the alleged criminal conduct of the accused as charged in the indictments.

#### **As to the Admission of Portions of the Written Statements of Deceased Witnesses**

25. The Chamber notes the Prosecution's request that the Chamber admit the statements but consider only those portions which "do not show acts or omissions of the accused". The Chamber acknowledges that portions of the statements may be admissible if they go to proof of a matter other than the acts and conduct of the Accused as charged in the indictment pursuant to Rule 92*bis* (A) of the Rules. The

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<sup>14</sup> (C) A written statement not in the form prescribed by paragraph (B) may nevertheless be admissible if made by a person who has subsequently died, or by a person who can no longer with reasonable diligence be traced, or by a person who is by reason of bodily or mental condition unable to testify orally, if the Trial Chamber:

- (i) is so satisfied on a balance of probabilities; and
- (ii) finds from the circumstances in which the statement was made and recorded that there are satisfactory *indicia* of reliability.

<sup>15</sup> *Galic* Decision, para. 24.

<sup>16</sup> *Id.*

<sup>17</sup> *Milosevic* Decision, para. 18.

Chamber notes that Rule 92*bis* (E) provides that “[t]he Trial Chamber shall decide, after hearing the parties, whether to admit the statement [...] in whole or in part”.

26. The Chamber observes that even if it were to accept the Prosecution’s assertion that portions of the statements are relevant and probative but do not go to prove the conduct of the Accused as charged in the indictments, the Chamber must make a further determination pursuant to Rule 92*bis* (A)(i) and (ii)<sup>18</sup> as to whether the evidence should be admitted. The Chamber cannot make such a determination based on the current submissions, which do not include the written statements of the alleged deceased witnesses.

27. The Chamber notes that because the Prosecution’s additional request was not pleaded in the original Motion and since the Defence has not had sufficient opportunity to respond, the Chamber cannot rule on that request.

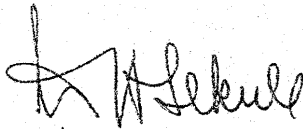
**FOR ALL THE ABOVE REASONS,**

**THE TRIAL CHAMBER**

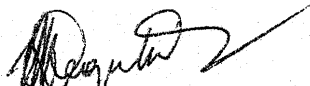
**GRANTS** the removal of Witnesses QAA, QE, QZ, RZ and SO from the Prosecution’s list of witnesses;

**DENIES** the Prosecution Motion in all other respects.

Arusha, 22 January 2003



William H. Sekule  
Presiding Judge



Winston G. Matanzima Maqutu



Arlette Ramarason  
Judge



<sup>18</sup> Rule 92 *bis* (A)[...]

(i) Factors in favour of admitting evidence in the form of a written statement include, but are not limited to, circumstances in which the evidence in question:

- (a) is of a cumulative nature, in that other witnesses will give or have given oral testimony of similar facts;
- (b) relates to relevant historical, political or military background;
- (c) consists of a general or statistical analysis of the ethnic composition of the population in the places to which the indictment relates;
- (d) concerns the impact of crimes upon victims;
- (e) relates to issues of the character of the accused; or
- (f) relates to factors to be taken into account in determining the sentence.

(ii) Factors against admitting evidence in the form of a written statement include whether:

- (a) there is an overriding public interest in the evidence in question being presented orally;
- (b) a party objecting can demonstrate that its nature and source renders it unreliable, or that its prejudicial effect outweighs its probative value; or
- (c) there are any other factors which make it appropriate for the witness to attend for cross-examination.



**TRANSMISSION SHEET FOR OFFICIAL FILING OF DOCUMENTS WITH CMS**  
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<b>From:</b>	<input checked="" type="checkbox"/> Chamber <b>Alice Leroy</b> (name)	<input type="checkbox"/> Defence (name)	<input type="checkbox"/> Prosecutor's Office (name)	<input type="checkbox"/> Other: (name)		
<b>Case Name:</b>	The Prosecutor vs. <b>ÉLIE NDAYAMBAJE, JOSEPH KANYABASHI, PAULINE NYIRAMASUHUKO &amp; ARSÈNE SHALOM NTAHOBALI, SYLVAIN NSABIMANA &amp; ALPHONSE NTEZIRYAYO</b>			<b>Case Number:</b>	<b>ICTR-98-42-T</b>	
<b>Date:</b>	Transmitted: 22 January 2003		Document's date: <b>21</b> January 2003	No. of Pages: 8		
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<b>Doc. Title</b>	<b>DECISION ON THE PROSECUTOR'S MOTION TO REMOVE FROM HER WITNESS LIST FIVE DECEASED WITNESSES AND TO ADMIT INTO EVIDENCE THE WITNESS STATEMENTS OF FOUR OF SAID WITNESSES</b>					

**TRANSLATION STATUS ON DATE OF FILING OF ORIGINAL** (completed by Chamber / Filing Party)

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<input type="checkbox"/> Top Priority <input checked="" type="checkbox"/> Urgent <input type="checkbox"/> Normal	(prioritisation to be completed by CMS in consultation with Chambers / LCSS ) <b>COMMENTS</b>	<input type="checkbox"/> Required Date: <input type="checkbox"/> Hearing Date: <input type="checkbox"/> Other deadlines:



**International Criminal Tribunal for Rwanda  
Tribunal Pénal International pour le Rwanda**

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**PROOF OF SERVICE – ARUSHA  
PREUVE DE NOTIFICATION – ARUSHA**

Date: <b>22 January, 2003</b>	Case Name / Affaire: <b>The Prosecutor v</b>	- <b>ELIE NDAYAMBAJE</b> - <b>JOSEPH KANYABASHI</b> - <b>PAULINE NYIRAMASUHUKO</b> - <b>ARSENE SHALOM NTAHOBALI</b> - <b>SYLVAIN NSABIMANA</b> - <b>ALPHONSE NTEZIRYAYO</b>																																																																														
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From: De:	<input type="checkbox"/> JP. Fomété (Chief, CMS) <input type="checkbox"/> K. Afande (TC 1) <input checked="" type="checkbox"/> <i>[Signature]</i> Kouambo (TC 2) <input type="checkbox"/> F. Talon (TC 3) <input type="checkbox"/> F. Talon (Appeals)																																																																															
Cc:	<input type="checkbox"/> A. Dieng <input type="checkbox"/> A. Miller, OLA, NY <input type="checkbox"/> L. G. Munlo <input type="checkbox"/> K. Moghalu <input type="checkbox"/> S. Van Driessche <input type="checkbox"/> WVSS- D <input type="checkbox"/> WVSS-P <input type="checkbox"/> E. O'Donnell <input type="checkbox"/> LDFMS <input type="checkbox"/> P. Nyambe <input type="checkbox"/> P. Enow																																																																															
Subject Objet:	Kindly find attached the following document(s) / <i>Veillez trouver en annexe le(s) document(s) suivant(s):</i>																																																																															

Documents name / titre du document

Date Filed / Date enregistré Pages

**DECISION ON THE PROSECUTOR'S MOTION TO REMOVE FROM HER WITNESS LIST FIVE DECEASED WITNESSES AND TO ADMIT INTO EVIDENCE THE WITNESS STATEMENTS OF FOUR OF SAID WITNESSES**

22/01/2003

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\*\*\* ERROR TX REPORT \*\*\*  
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ICTR-98-42-I  
22-01-2003  
7307-7300

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International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

7070

TRIAL CHAMBER II

Before: Judge William H. Sekule, Presiding  
Judge Winston C. Matanzima Maqutu  
Judge Arlette Ramaroson  
Registrar: Adama Dieng  
Date: 22 January 2003

JUDICIAL RECORDS ARCHIVES  
ICTR  
2003 JAN 22 A 9:03  
OR: ENG

THE PROSECUTOR v. ÉLIE NDAYAMBAJE

THE PROSECUTOR v. JOSEPH KANYABASHI

THE PROSECUTOR v. PAULINE NYIRAMASUHUKO & ARSÈNE SHALOM NTAHOBALI

THE PROSECUTOR v. SYLVAIN NSABIMANA & ALPHONSE NTEZIRYAYO

Case No. ICTR-98-42-T

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Defence Counsel for Nsabimana:  
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Charles Patie Tchacounte, Co-Counsel

Defence Counsel for Nteziryayo:  
Titinga Frédéric Pacerc, Lead Counsel  
Richard Perras, Co-Counsel

Defence Counsel for Ndayambaje:  
Pierre Boulé, Lead Counsel

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\*\*\* ERROR TX REPORT \*\*\*  
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*ICTR-98-42-T  
22-01-2003  
(7307-7300)*

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International Criminal Tribunal for Rwanda  
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TRIAL CHAMBER II

Before: Judge William H. Sekule, Presiding  
Judge Winston C. Matanzima Maqutu  
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THE PROSECUTOR v. ÉLIE NDAYAMBAJE

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Defence Counsel for Ndayambaje:  
Pierre Boulé, Lead Counsel

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(7307-7300)

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International Criminal Tribunal for Rwanda  
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Defence Counsel for Ndayambaje:

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Defence Counsel for Ndayambaje:

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Defence Counsel for Ndayambaje:

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Defence Counsel for Ndayambaje:



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Defence Counsel for Ndayambaje:

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RESULT OK

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ICTR-98-42-1  
22-01-2003  
(7307-7300)

7307  
Mudmp



International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

TRIAL CHAMBER II

Before: Judge William H. Sekule, Presiding  
Judge Winston C. Matanzima Maqutu  
Judge Arlette Ramaroson  
Registrar: Adama Dieng  
Date: 22 January 2003

JUDICIAL RECORDS/ARCHIVES  
ICTR  
2003 JAN 22 A 9:03  
OR: ENG

THE PROSECUTOR v. ÉLIE NDAYAMBAJE

THE PROSECUTOR v. JOSEPH KANYABASHI

THE PROSECUTOR v. PAULINE NYIRAMASUHUKO & ARSÈNE SHALOM NTAHOBALI

THE PROSECUTOR v. SYLVAIN NSABIMANA & ALPHONSE NTEZIRYAYO

Case No. ICTR-98-42-T

DECISION ON THE PROSECUTOR'S MOTION TO REMOVE FROM HER  
WITNESS LIST FIVE DECEASED WITNESSES AND TO ADMIT INTO EVIDENCE  
THE WITNESS STATEMENTS OF FOUR OF SAID WITNESSES

The Office of the Prosecutor:  
Silvana Arbia, Senior Trial Attorney  
Jonathan Moses, Trial Attorney  
Adelaide Whest, Trial Attorney  
Gregory Townsend, Assistant Trial Attorney  
Adesola Adeboyejo, Assistant Trial Attorney  
Manuel Bouwknecht, Case Manager

Defence Counsel for Nsabimana:  
Josette Kadji, Lead Counsel  
Charles Patie Tchacounte, Co-Counsel

Defence Counsel for Nteziryayo:  
Titinga Frédéric Pacere, Lead Counsel  
Richard Perras, Co-Counsel

Defence Counsel for Ndayambaje:

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\*\*\* TX REPORT \*\*\*  
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TRANSMISSION OK

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Defence Counsel for Ndayambaje:

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TRANSMISSION OK

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ICTR-98-42-1  
22-01-2003  
7307-7300

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Ndayambaje



International Criminal Tribunal for Rwanda  
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Richard Ferras, Co-Counsel

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\*\*\* ERROR TX REPORT \*\*\*  
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TX FUNCTION WAS NOT COMPLETED

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22-01-2003  
7307-7300

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International Criminal Tribunal for Rwanda  
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