



ICTR-98-42-T  
05-12-2003  
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International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

Or: ENG

TRIAL CHAMBER II

**Before:** Judge Solomy. B. Bossa

**Registrar:** Mr Adama Dieng

**Date:** 5 December 2003

The PROSECUTOR v Pauline NYIRAMASUHUKO & Arsène Shalom NTAHOBALI

Case No. ICTR-97-21-T

The PROSECUTOR v Sylvain NSABIMANA & Alphonse NTEZIRYAYO

Case No. ICTR-97-29A&B-T

The PROSECUTOR v Joseph KANYABASHI

Case No. ICTR-96-15-T

The PROSECUTOR v Elie NDAYAMBAJE

Case No. ICTR-96-8-T

[Joint Case No. ICTR-98-42-T]

CERTIFICATION IN THE MATTER OF PROCEEDINGS UNDER RULE 15BIS(D)

**Prosecution Counsel**

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**Defence Counsel for Nteziryayo**

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Richard PERRAS

S.B.B.

**I, Judge Solomy B. BOSSA**, having been assigned to Trial Chamber II by the President of the Tribunal on 20 October 2003 pursuant to Rule 15bis(D) of the Rules of Procedure and Evidence (the "Rules") for purposes of the present case;

**NOTING** the "Decision in the Matter of Proceedings under Rule 15bis(D)" of 15 July 2003 in the present case, in which Trial Chamber II composed of Judge William H. Sekule and Judge Arlette Ramaroson decided unanimously that "it serves the interest of justice to continue the trial with a substitute judge, in terms of Rule 15bis(D), on the basis of the existing record and decisions in the case";

**RECALLING** the Appeals Chamber "Decision in the Matter of Proceedings Under Rule 15bis (D)" of 24 September 2003 in the present case, in which the Appeals Chamber found the following:

The Trial Chamber composed of Judge Sekule and Judge Ramaroson had jurisdiction to decide whether the new Rule 15bis is applicable to the present proceedings, that the Trial Chamber did not err in finding that the application of the new Rule 15bis to the proceedings does not prejudice the rights of the accused in the proceedings, and that it did not err in concluding that it was in the interests of Justice that the proceedings should continue with a substitute judge.

**NOTING** particularly the following provisions of Rule 15bis(D) of the Rules:

(D) If, in the circumstances mentioned in the last sentence of paragraph (C), the accused withholds his consent, the remaining Judges may nonetheless decide to continue the proceedings before a Trial Chamber with a substitute Judge if, taking all the circumstances into account, they determine unanimously that doing so would serve the interests of justice. This decision is subject to appeal directly to a full bench of the Appeals Chamber by either party. If no appeal is taken or the Appeals Chamber affirms the decision of the Trial Chamber, the President shall assign to the existing bench a Judge, who, however, can join the bench only after he or she has certified that he or she has familiarised himself or herself with the record of the proceedings. Only one substitution under this paragraph may be made.

**I HEREBY** certify that I have familiarised myself with the record of the proceedings in *Prosecutor v Nyiramasuhuko et al.*, Joint Case No. ICTR-98-42-T.

Arusha, 5 December 2003

  
Judge Solomy B. Bossa  
