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ICTR-97-21-T
06-05-04
(1235-1233)

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UNITED NATIONS
NATIONS UNIES

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER II

Before: Judge William H. Sekule, Presiding
Judge Arlette Ramarson
Judge Solomy Balungi Bossa

Registrar: Mr Adama Dieng

Date: 6 May 2004

The PROSECUTOR

v.

Pauline NYIRAMASUHUKO

Case No. ICTR-97-21-T

AD
JUDICIAL RECORDS
2004 MAY -6 P 5:22

**DECISION ON NYIRAMASUHUKO'S MOTION FOR CERTIFICATION
TO APPEAL THE "DECISION ON NYIRAMASUHUKO'S MOTION TO
DECLARE THE EVIDENCE OF WITNESS FAS INADMISSIBLE
AGAINST HER"**

Office of the Prosecutor

Silvana Arbia
Adelaide Whest
Jonathan Moses
Adesola Adeboyejo
Manuel Bouwknecht, Case Manager

Defence Counsel

Nicole Bergevin
Guy Poupart

1234

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (“Tribunal”),

SITTING as Trial Chamber II composed of Judge William H. Sekule, Presiding, Judge Arlette Ramarosan and Judge Solomy Balungi Bossa (the “Chamber”);

RECALLING the “Decision on Defence Urgent Motion to Declare the Evidence of Witness FAS Inadmissible Against Her” of 16 April 2004 (the “Impugned Decision”);

BEING SEISED of “Nyiramasuhuko’s Motion for Certification to Appeal the Decision on Defence Urgent Motion to Declare the Evidence of Witness FAS Inadmissible Against Her”, filed by Nyiramasuhuko on 23 April 2004 (“Nyiramasuhuko’s Motion”);¹

CONSIDERING the “Prosecutor’s Response to Nyiramasuhuko’s Motion For Certification To Appeal the ‘Decision on Nyiramasuhuko’s Motion to Declare the Evidence of Witness FAS Inadmissible A and for Certification to Appeal the Decision’” (the “Response”), filed on 28 April 2004;

CONSIDERING the Statute of the Tribunal (the “Statute”) and the Rules of Procedure and Evidence (the “Rules”);

RECALLING the “Decision on Ntahobali’s and Nyiramasuhuko’s Motions For Certification to Appeal the ‘Decision on Defence Urgent Motion to Declare Parts of the Evidence of Witnesses RV and QBZ Inadmissible’” of 18 March 2004;

NOW DECIDES the matter, pursuant to Rule 73 (B), on the basis of the written submissions of the Parties.

WHEREAS the impugned Decision raises the same issues as the Chamber’s former “Decision on Defence Urgent Motion to Declare Parts of the Evidence of Witnesses RV and QBZ Inadmissible” of 16 February 2004,

WHEREAS, in its “Decision on Ntahobali’s and Nyiramasuhuko’s Motions For Certification to Appeal the ‘Decision on Defence Urgent Motion to Declare Parts of the Evidence of Witnesses RV and QBZ Inadmissible’” of 18 March 2004, the Chamber granted the certification to appeal its Decision of 16 February 2004, on the grounds that the issue of admissibility of testimonies of Prosecution Witnesses could significantly affect the outcome of the trial against the Accused, insofar as the issue as to whether the Trial Chamber will take into account the testimony of these witnesses for its final deliberation or not could significantly affect this deliberation,

WHEREAS the Trial Chamber further considered that, as the Defence for Nyiramasuhuko indicated that the same issue of admissibility may recur with regard to several oncoming Prosecution Witnesses, an immediate resolution by the Appeals Chamber may materially advance the proceedings in the current case,

¹ The Motion was filed in French and originally entitled: « *Requête de Pauline Nyiramasuhuko aux Fins de Certification d’Appel de la ‘Decision on Defence Urgent Motion to Declare the Evidence of Witness FAS Inadmissible Against Her’* ».



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WHEREAS the current Motion for certification to appeal meets the same merits as the former Motion for certification,

WHEREAS the Trial Chamber considers that the present requests for certification fall, like the previous one, within the purview of Rule 73(B).

FOR THE ABOVE REASONS,

THE TRIAL CHAMBER

GRANTS the certification of appeal.

Arusha, 6 May 2004



William H. Sekule
Presiding Judge



Arlette Ramaroson
Judge



Solomy Balungi Bossa
Judge

[Seal of the Tribunal]

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COURT MANAGEMENT SECTION

(Art. 27 of the Directive for the Registry)

I - GENERAL INFORMATION (To be completed by the Chambers / Filing Party)

To:	<input type="checkbox"/> Trial Chamber I N. M. Diallo	<input checked="" type="checkbox"/> Trial Chamber II R. N. Kouambo	<input type="checkbox"/> Trial Chamber III C. K. Hometowu	<input type="checkbox"/> Appeals Chamber / Arusha F. A. Talon
	<input type="checkbox"/> Chief, CMS J.-P. Fomété	<input type="checkbox"/> Deputy Chief, CMS M. Diop	<input type="checkbox"/> Chief, JPU, CMS K. K. A. Afande	<input type="checkbox"/> Appeals Chamber / The Hague R. Burriss
From:	<input checked="" type="checkbox"/> Chamber Cyril LAUCCI (names)	<input type="checkbox"/> Defence (names)	<input type="checkbox"/> Prosecutor's Office (names)	<input type="checkbox"/> Other: (names)
Case Name:	The Prosecutor vs. Pauline Nyiramasuhuko		Case Number: ICTR-97-21-T	
Dates:	Transmitted: 6 May 2004		Document's date: 6 May 2004	
No. of Pages:	3		Original Language: <input checked="" type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda	
Title of Document:	Decision on Nyiramasuhuko's Motion for Certification to Appeal the "Decision on Nyiramasuhuko's Motion to Declare the Evidence of Witness FAS Inadmissible Against Her"			
Classification Level:		TRIM Document Type:		
<input type="checkbox"/> Strictly Confidential / Under Seal		<input type="checkbox"/> Indictment	<input type="checkbox"/> Warrant	<input type="checkbox"/> Correspondence
<input type="checkbox"/> Confidential		<input checked="" type="checkbox"/> Decision	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Notice of Appeal
<input checked="" type="checkbox"/> Public		<input type="checkbox"/> Disclosure	<input type="checkbox"/> Order	<input type="checkbox"/> Appeal Book
		<input type="checkbox"/> Judgement	<input type="checkbox"/> Motion	<input type="checkbox"/> Book of Authorities
		<input type="checkbox"/> Submission from non-parties	<input type="checkbox"/> Submission from parties	
		<input type="checkbox"/> Accused particulars		

II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party)

CMS SHALL take necessary action regarding translation.

Filing Party hereby submits only the original, and **will not submit** any translated version.

Reference material is provided in annex to facilitate translation.

Target Language(s):

English French Kinyarwanda

CMS SHALL NOT take any action regarding translation.

Filing Party hereby submits **BOTH the original and the translated version** for filing, as follows:

Original	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda
Translation	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda

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Filing Party **will be submitting the translated version(s)** in due course in the following language(s):

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<input type="checkbox"/> Top priority	COMMENTS	<input type="checkbox"/> Required date:
<input type="checkbox"/> Urgent		<input type="checkbox"/> Hearing date:
<input type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines:

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ICTR-97-21-T

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2004 MAY -6 P 5:22

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ICTR-97-21-T

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Case No. ICTR-97-21-T

AD
MEDICAL PROSECUTOR
10:17
2004 MAY -6 P 5:27

DECISION ON NYIRAMASUHUKO'S MOTION FOR CERTIFICATION
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ICTR-97-21-T

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International Criminal Tribunal for Rwanda
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Case No. ICTR-97-21-T

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DECISION ON NYIRAMASUHUKO'S MOTION FOR CERTIFICATION
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UNITED NATIONS
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ICTR-97-21-T

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*** TX REPORT ***

TRANSMISSION OK

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International Criminal Tribunal For Rwanda
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PROOF OF SERVICE - ARUSHA
PREUVE DE NOTIFICATION - ARUSHA

Date: 07/05/2004
Case Name / Affaire: The Prosecutor v - ELIE NDAYAMBAJE
- JOSEPH KANYABASHI
- PAULINE NYIRAMASUHUKO
- ARSENE SHALOM NTAHOBALI
- SYLVAIN NSABIMANA
- ALPHONSE NTEZIRYAYO
Case No / Affaire Nr.: ICTR-98-42-T
To: A: [List of judges and staff with checkboxes and received dates/signatures]
Trial Attorney in charge of case: SILVANA ARBIA received by 10/05/04
DEFENCE / DÉFENSE: Accused / Accusé: E. NDAYAMBAJE, J. KANYABASHI, P. YIRAMASUHUKO, A.S. NTAHOBALI, S. NSABIMANA AND A. NTEZIRYAYO
Lead Counsel / Conseil Principal: BOULE, MARCHAND, BERGEVIN, MWANYUMBA, KADJI AN, PACERE
All Decisions: [Checkboxes for Appeals Chamber Unit, Suzanne Chenault, Jurist Linguist]
All Decisions & Important Public Documents: [Checkboxes for Press & Public Affairs, Legal Library]
From: De: [List of staff with checkboxes and received dates/signatures]
Cc: [List of staff with checkboxes and received dates/signatures]
Subject / Objet: Kindly find attached the following document(s) / Veuillez trouver en annexe le(s) document(s) suivant(s):