



UNITED NATIONS  
NATIONS UNIES

ICTR-98-42-T  
30-11-2004  
(11142 — 11140)  
International Criminal Tribunal for Rwanda  
Tribunal pénal International pour le Rwanda

11142 *mmh*

OR: ENG

**TRIAL CHAMBER II**

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

**Registrar:** Mr Adama Dieng

**Date:** 30 November 2004

**The PROSECUTOR**

v.

**Pauline NYIRAMASUHUKO et al.**  
**Joint Case No. ICTR-98-42-T**

JUDICIAL RECORDS/ARCHIVES  
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ICTR

2004 NOV 30 P 5:26

**DECISION ON PROSECUTOR'S MOTION FOR DISCLOSURE OF EVIDENCE  
FOR THE DEFENCE AND HARMONIZATION OF PROTECTIVE MEASURES  
FOR VICTIMS AND WITNESSES  
(Rules 54, 67, 69, 73 and 75)**

**Office of the Prosecutor**

Ms Silvana Arbia  
Ms Adelaide Whest  
Ms Adesola Adeboyejo  
Mr Michael Adenuga  
*Ms Astou Mbow, Case Manager*

**Defence Counsel**

Mr Michel Marchand, Ms Simone Santerre for Joseph Kanyabashi  
Mr Pierre Boulé, Mr Claude Desrochers for Elie Ndayambaje  
Ms Josette Kadji, Charles Tchacounte Patie for Sylvain Nsabimana  
Mr Duncan Mwanyumba, Mr Normand Marquis for Arsène Shalom Ntahobali  
Mr Titinga Frédéric Pacere, Mr Richard Perras for Alphonse Nteziryayo  
Ms Nicole Bergevin, Mr Guy Poupart for Pauline Nyiramasuhuko

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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 Arlette Ramaroson and Judge Solomy Balungi Bossa (the "Chamber");

**BEING SEISED** of the "Prosecutor's Motion for the Disclosure of the Evidence for the Defence and the Harmonization of Protective Measures for Victims and Witnesses (Rules 54, 67, 69, 73 and 75)" filed on 25 October 2004 (the "Motion");

**CONSIDERING** "Nsabimana's Response to the Prosecutor's Motion for the Disclosure of the Evidence for the Defence and the Harmonization of Protective Measures for Victims and Witnesses" filed on 2 November 2004 ("Nsabimana's Response");<sup>1</sup>

**CONSIDERING** the "Prosecutor's Reply to the Response of Nsabimana to the Motion on the Disclosure of the Evidence for the Defence and Harmonization of Protective Measures for Victims and Witnesses" filed on 5 November 2004 (the "Reply to Nsabimana");

**CONSIDERING** "Ndayambaje's Response to the Prosecutor's Motion for the Disclosure of the Evidence for the Defence and the Harmonization of Protective Measures for Victims and Witnesses" filed on 12 November 2004 ("Ndayambaje's Response");<sup>2</sup>

**CONSIDERING** the "Prosecutor's Reply to the Response of Ndayambaje to the Motion on the Disclosure of the Evidence for the Defence and Harmonization of Protective Measures for Victims and Witnesses" filed on 19 November 2004 (the "Reply to Ndayambaje");

**NOTING** the Chamber's Oral Ruling of 18 October 2004 on the harmonization of the disclosure of the identity of protected Defence witnesses (the "18 October 2004 Oral Ruling");<sup>3</sup>

**CONSIDERING** the Statute of the Tribunal (the "Statute") and the Rules of Procedure and Evidence (the "Rules");

**NOW DECIDES** the matter pursuant to Rule 73(A) of the Rules.

**WHEREAS** the Prosecution seeks to have the timeframe for disclosure of unredacted statements and full identity of protected Defence witnesses fixed at 21 days, or any other period ordered by the Trial Chamber, before the commencement of the Defence case;

**WHEREAS**, in its 18 October 2004 Oral Ruling, the Trial Chamber decided to harmonise the timeframes for disclosure of unredacted statements and full identity of protected Defence witnesses to twenty-one (21) days before the witness' testimony for all Accused;

<sup>1</sup> The Response was filed in French and entitled : « Réponse de Sylvain Nsabimana à la requête du Procureur en communication de la preuve de la Défense et en harmonisation des mesures de protection des victimes et témoins ».

<sup>2</sup> The Response was filed in French and entitled : « Réponse d'Elie Ndayambaje à 'Prosecutor's Motion for the Disclosure of the Evidence for the Defence and the Harmonization of Protective Measures for Victims and Witnesses' ».

<sup>3</sup> T. 18 October 2004, p. 18 (ICS).

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**WHEREAS** the Trial Chamber also decided in the same Oral Ruling that where specific issues arise, learned counsels may always come back to the Trial Chamber for further consideration;

**WHEREAS** the 18 October 2004 Oral Ruling was rendered after hearing the oral submissions made by the Parties;<sup>4</sup>

**WHEREAS** the submissions made by the Prosecution do not refer to a specific new issue but rather try to relitigate what was decided in the Oral Ruling;

**WHEREAS** the issues raised by the Prosecution in its Motion have already been ruled upon in the 18 October 2004 Oral Ruling and are therefore moot;

**FOR THE ABOVE REASONS,**

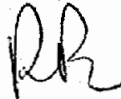
**THE TRIAL CHAMBER**

**DENIES** the Motion in its entirety.

Arusha, 30 November 2004



William H. Sekule  
Presiding Judge



Arlette Ramarason  
Judge



Solomy Balungi Bossa  
Judge

[Seal of the Tribunal]



<sup>4</sup> T. 18 October 2004, p. 8-9 (ICS).