



International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

OR: ENG

**TRIAL CHAMBER II**

**Before:**

Judge William H. Sekule, Presiding  
Judge Arlette Ramarason  
Judge Solomy Balungi Bossa

**Registrar:** Mr Adama Dieng

**Date:** 13 April 2005

**The PROSECUTOR v. Élie NDAYAMBAJE**  
*(Case No. ICTR-96-8-T)*

**The PROSECUTOR v. Joseph KANYABASHI**  
*(Case No. ICTR-96-15-T)*

**The PROSECUTOR v. Pauline NYIRAMASUHUKO & Arsène Shalom  
NTAHOBALI**  
*(Case No. ICTR-97-21-T)*

**The PROSECUTOR v. Sylvain NSABIMANA & Alphonse NTEZIRYAYO**  
*(Case No. ICTR-97-29-T)*

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

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**ORAL DECISION ON THE QUALIFICATION OF MR. EDMOND BABIN AS  
DEFENCE EXPERT WITNESS**

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Mr Richard Perras

MR. PRESIDENT:

Yes, the proceedings are resumed.

Yes, this is the oral decision on qualification of Mr. Edmond Babin.[\[1\]](#)

Paragraph 1: During the hearing of 12 April 2001 - 2005, the Defence teams for Nyiramasuhuko and Ntahobali jointly tendered Mr. Edmond Babin as an expert in the field of crime scene analysis, who, on his part wrote an expert report containing sketches, videos, photographs of the various scenes he visited in Rwanda.

Paragraph 2: The Prosecution raised objection to Mr. Babin testifying as an expert at – at a trial. The Prosecution essentially submitted that the proposed expert, who worked as a police officer for over 31 years in Canada, requires more qualifications than the mere certificates he acquired during his career to be qualified to testify to in the field of crime scene analysis. The Prosecution argued that the Defence was required to demonstrate through academic qualifications, coupled with specific experience, the expertise of the witness in his field. The Prosecution submitted that the Defence had failed to do so.

Paragraph 3: In arguing against the Prosecution objection, the Defence teams of Nyiramasuhuko and Ntahobali made reference to jurisprudence of the Tribunal for Rwanda, and that of the

Former Yugoslavia on the requirement of a witness who may be called to appear in court as an expert. The Defence argued that it had sufficiently demonstrated that Mr. Babin is qualified to appear as an expert in this trial. The Defence submitted that there were various types of experts and that it is not a strict requirement that an expert possess academic qualification. Rather, his or her experience in the specialised field for which he is proffered could be - could be of assistance to the triers of fact when considering matters at issue before them. The Defence argued that it is - it was within the Chamber's discretion to decide who they considered to be expert to testify as an expert at trial. The Defence finally argued that the expert opinion of Mr. Babin was relevant to the issues before the Chamber in order to contradict the testimonies of Prosecution witnesses.

Paragraph 4: The Chamber has considered the submissions of the parties as well as the CV and the report for the proposed expert of the Defence, Mr. Edmond Babin, and it accordingly finds as follows:

Paragraph 5: The Chamber recalls the provisions of Rule 94 *bis*, which provide for the proffering of the testimony of expert witnesses at the Tribunal. The Chamber further notes the jurisprudence of the Tribunal that the role of an expert is to provide opinion or inferences to assist the finders of fact in understanding the facts at issue before the Chamber. Contrary to the submissions of the Prosecution, the opinion of an expert need not be essential or strictly necessary, or that any of his knowledge lie beyond the understanding of the triers of fact or as a predict - predicate of its admissibility. Rather, the said evidence needs to be useful to the finders of fact. The Chamber also notes that before a witness may be called to testify as an expert, he or she must possess some specialised knowledge acquired through education, experience, or training in the field that may assist the fact finders to understand the evidence or to assess a fact in issue.

Paragraph 6: The Chamber finds that the proposed expert is essentially a police officer, who started working as an investigator in road traffic accidents, and later became a crime scene technician in the police force of Canada. The Chamber notes that from his evidence his role was to visit the crime scene, inspect it, collect, trace, preserve, and gather evidence, then make a report which he gave to other colleagues for further action. Subsequently, if called upon - if called upon, Mr. Babin gave evidence before the criminal, penal and other courts in Canada, testifying in the capacity of a policeman working in the area of crime scenes. In regard to his role in Canada, the Chamber notes that the Defence did not demonstrate as to which specific areas of crime scene analysis Mr. Babin dealt with, and the exact nature of his evidence when he gave testimony in the courts of Canada. Moreover, the Chamber notes that there has been no demonstration by the Defence of Mr. Babin's academic qualifications apart from his on-the-job training.

Paragraph 7: The Chamber notes that although the witness has been proffered as an expert in crime scene analysis in this case, the Defence has not demonstrated the exact nature of the analysis he will give in this trial. In answer to questions put to him by counsel, Mr. Babin essentially testified that at the request of the Defence of Ntahobali, he and the said counsel went to Rwanda where they visited specific locations for purposes of drawing up diagrams, or sketches, which were a faithful reproduction of the scales of the locations visited. He then took photographs or videos of the said locations so as to determine the distances and determine whether someone in those locations may see or hear certain events. Mr. Babin testified that he was finally required to give testimony in court through the sketches, photographs, and videos he made.

Paragraph 8: After having carefully examined the evidence, the Chamber finds that Mr. Edmond Babin is essentially an investigator. Therefore, the Chamber is not convinced that he is an expert in the field for which he is proffered.

Paragraph 9: For these reasons, the Chamber finds that it will not derive assistance from the testimony of Mr. Babin if he testifies as an expert, but -- the Chamber therefore denies the Defence request to declare Mr. Babin an expert witness.

Paragraph 10: The Defence may however wish to call Mr. Babin as a factual witness.

This is the ruling of the Trial Chamber on this matter. So decided.

[\[1\]](#) T of 13 March 2005, pp 12 - 14