



OR: ENG

TRIAL CHAMBER II

ICTR-98-42-T

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

01-03-2006
(11622-11620)

Registrar: Mr Adama Dieng

Date: 1 March 2006

The PROSECUTOR

v.

Sylvain NSABIMANA

Case No. ICTR-97-29-T
Joint Case No. ICTR-98-42-T

DECISION ON THE PROSECUTOR'S MOTION FOR RECIPROCAL INSPECTION OF
DOCUMENTS INTENDED FOR USE BY THE DEFENCE OF SYLVAIN NSABIMANA

Office of the Prosecutor

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Defence Counsel for Nsabimana

Ms Josette Kadji, Mr Charles Tchakounte Patie

to NS

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 SEIZED of the Prosecutor's "Motion for Reciprocal Inspection of Documents Intended for Use by the Defence of Sylvain Nsabimana", filed on 20 February 2006 (the "Motion");

NOTING the Prosecution's letter to the Defence for Nsabimana, dated 13 February 2006, and requesting that inspection and examination of evidence be made possible as quickly as possible;

NOTING that the Defence for Nsabimana did not respond to the Motion;

WHEREAS the Prosecution prays that the Defence for Sylvain Nsabimana be directed to make all the material it intends to use in its defence case immediately available for inspection, since the Defence for Nsabimana has already inspected the books, documents, photographs and tangible objects in the Prosecution's custody or control which were intended for use during the presentation of the Prosecution case, pursuant to Rule 66 (B);¹

WHEREAS the Prosecution recalls that according to the directions given by the Trial Chamber during the Status Conference on 8 February 2006, the Defence for Nsabimana is to commence immediately after the conclusion of the Defence case for Arsène Shalom Ntahobali, due to end by 10 March 2006,² thus rendering it vital that the Prosecution be granted the opportunity for reciprocal inspection in enough time to prepare itself adequately;³

HAVING DELIBERATED, the Chamber

RECALLS that Rule 67 (C) states that "[i]f the Defence makes a request pursuant to Rule 66 (B), the Prosecutor shall in turn be entitled to inspect any books, documents, photographs and tangible objects, which are within the custody or control of the Defence and which it intends to use as evidence at the trial";

OBSERVES that according to the Prosecution letter addressed to the Defence for Nsabimana of 13 February 2006, it appears that the Defence has already availed itself of Rule 66 (B), and that this is not contested;

NOTES that if the Defence makes a request under Rule 66 (B), it triggers the reciprocal provision of Rule 67 (C);

FOR THIS REASON, THE CHAMBER

GRANTS the Motion;

DIRECTS the Defence for Nsabimana to comply with the provision of Rule 67 (C); and

¹ The Motion, para. 2.

² The Motion, para. 4.

³ The Motion, para. 5.



DIRECTS the Parties to set up an appointment for the Prosecution to inspect any books, documents, photographs and tangible objects within the Defence for Nsabimana's custody or care and which it intends to use as evidence at trial, as soon as possible.

Arusha, 1 March 2006



William H. Sekule
Presiding Judge



Arlette Ramaroson
Judge



Solomy Balungi Bossa
Judge

