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International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER II

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

Registrar: Mr Adama Dieng

Date: 15 May 2006

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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

DECISION ON KANYABASHI'S ORAL MOTION TO CROSS-EXAMINE NTAHOBALI USING NTAHOBALI'S STATEMENTS TO PROSECUTION INVESTIGATORS IN JULY 1997

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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");

SEISED of Kanyabashi's oral Motion to use Ntahobali's interviews taken by Prosecution investigators in July 1997 argued on 9 May 2006;

CONSIDERING the Responses of the Prosecution and of the co-Accused as well as a Reply by the Defence also argued on 9 May 2006;

CONSIDERING that at the end of the hearing on 9 May 2006, the Chamber directed the Registry to transmit to it the transcripts of the statements that are said to have been made and all the relevant documents for its deliberations;[1]

CONSIDERING that on 10 May 2006, the Prosecution filed a number of documents, which were transmitted to the Chamber on 12 May 2006 and that the Chamber examined the following documents when it considered the Motion, which in the Decision it will refer to as "Ntahobali's interviews":

i) two copies of a document entitled, "Avis de droits du suspect" with Registry numbers 12504*bis* and 12502*bis*, which show that the Accused Ntahobali read his rights under Rules 42 and 43 or they were read out to him in a language he understood. The two documents are dated 24 July 1997 at 01:07 am in Nairobi and signed by the Accused and the witness, Mr. Robert Petit ("Waiver of 01:07am of 24 July 1997");

ii) a handwritten statement dated and signed by the Accused Ntahobali on 24 July 1997 at 01.24 am in Nairobi, with Registry number 12503*bis*, which shows that the Accused surrendered himself to the Tribunal;

iii) a handwritten page dated 24 July, 1997 at 01:10 am which appears to be the copy of the one numbered 12503*bis* but containing no name or signature with Registry number 12501*bis*;

iv) two pages of a Registry form filled in by hand indicating the name of the witness as being the Accused Ntahobali and other particulars, both pages dated 24 July 1997 at 01:42 am, and signed by the Accused and the interviewers, with Registry numbers 12500*bis* and 12499*bis*;

v) 2 pages of photos, one containing 2 photos, with Registry number 12498*bis* and the other containing 4 photos, with Registry number 12496*bis*. Both pages include the date of 24 July 1997 and signed; a blank page with a signature dated 24 July 1997 at 15:42, with Registry number 12497*bis*;

vi) A document entitled "Avis de droits du suspect" with Registry number 12495*bis*, which shows that the Accused Ntahobali read his rights under Rules 42 and 43 or they were read out to him in a language he understood . It is signed conjointly by the Accused and Mr. Robert Petit as a witness on 24 July 1997 at 15.35 and at 15.36 respectively ("Waiver of 15:35 and 15:36 of 24 July 1997");

[1] T. 9 May 2006 pp 55, "We will adjourn this proceeding regarding this motion, these submissions for deliberations. We will certainly say to the registry, the Trial Chamber would like to have the transcripts of the statements that are said to have been made and all the pertinent documents for the Chamber's consideration as is used during its deliberations[...]"

vii) a sketch with the name of the Accused Ntahobali and those of the investigators namely, R. Petit and P. Dobbie, dated 26 July 1997 and signed at the bottom, with Registry number 12494*bis*;

viii) A document entitled "Avis de droits du suspect" with Registry number 12486*bis*, which shows that the Accused Ntahobali read his rights under Rules 42 and 43 or they were read out to him in a language he understood on 26 July 1997 at 09:26 in Arusha ("Waiver of 26 July 1997");

ix) transcripts of Ntahobali's interviews of 24 and 26 July 1997 in French, with Registry numbers 12485*bis* to 11911*bis*;

x) transcripts of Ntahobali's interviews of 24 and 26 July 1997 in French, with Registry numbers 11909*bis* to 11526*bis*;

HAVING RECEIVED a letter from Arsène Shalom Ntahobali, dated 9 May 2006 filed on 11 May 2006 ("Letter from Ntahobali");

CONSIDERING the Prosecution's Response to Ntahobali's letter of 11 May 2006;

HAVING ALSO RECEIVED an Affidavit by Arsène Shalom Ntahobali, signed on 11 May 2006, filed on 12 May 2006 ("Ntahobali's Affidavit");

CONSIDERING the submissions made on 15 May 2006 during proceedings;

CONSIDERING the Statute of the Tribunal (the "Statute") in particular Article 20(4) of the Statute and the Rules of Procedure and Evidence (the "Rules"), specifically Rules 42, 43, 63, 89, 92 and 95 of the Rules;

NOW DECIDES the Motion

SUBMISSIONS OF THE PARTIES

Defence for Kanyabashi

1. The Defence for Kanyabashi requests the Chamber to grant it leave to use earlier statements made by Arsène Shalom Ntahobali during his cross-examination. These are statements he made on 24 and 26 July 1997 to Prosecution Investigators ("transcripts of Ntahobali's interviews"), as well as related documents signed by the Accused, including three waivers of his rights, biographical elements of 23 and 24 July 1997, and a one page sketch, dated 26 July 1997. At the end of Ntahobali's examination-in-chief, the Defence communicated to the other defence teams, its intention to use these documents.

2. The Defence submits that it will use the documents to challenge the credibility of the Accused, but that it will not address their substance. Further, the Defence submits that they should not be used against co-Accused. It maintains that it is justified to use the documents, since Kanyabashi, who is being jointly tried with Ntahobali, has been implicated by the latter during his testimony. Accordingly, the Defence argues that it has the right to challenge Ntahobali's credibility by using the statements Ntahobali made to the Prosecution in 1997.

3. However, the Defence submits that, at this stage of proceedings, the Prosecution is foreclosed from requesting a *voir dire* with the aim of tendering the statements

into evidence, since it is a fundamental right for an accused person to know the entirety of the evidence against him before he decides to put up his defence. In this sense, the rights of an accused differ from those of the Prosecution, for example, the Prosecution does not have the right to remain silent.

4. The Defence refers to Rules 42, 43, 63, 92, and 95. Rule 92 makes no distinction between the Prosecution and the Defence and refers to Rule 63, which concerns the admissibility. Rules 42 and 43 address issues of substance and form, respectively, Rule 43 being less exacting than Rule 42. The Defence submits that the rights of the Accused Ntahobali have been respected in the production of the relevant documents, as there are three statements to the effect that no promises or threats were used. Rule 42 has been complied with, as well as the substance of Rule 43.[2] It only remains with the Chamber to determine the question whether a *voir dire* should be held before the documents in question may be used.

5. As to the question whether the same rules regarding foreclosure are applicable to the Prosecution and co-accused, the Defence relies on the English decision in *Queen v. Myers*,[3] in which it was held that an out-of-court confession made by one defendant, which the Prosecution had not relied upon because of admitted breaches of procedural rules, may be put in evidence by the second defendant as evidence of the facts stated, as long as the confession is relevant to the second Defence and so long as it appears that the confession was not obtained in a manner which would have made it inadmissible. Therefore, according to English law, the Defence can use an earlier declaration of a co-accused, even if the Prosecution may not. Further, two other English decisions allow the use of an inadmissible confession in cross-examining a co-accused.[4]

6. In support of its submission that such statements may not be used against co-accused, the Defence relies on the English decision in *Rawson*, which held that it was a fundamental rule of evidence that statements made by one defendant either to the Police or to others (other than statements, whether in the presence or absence of co-defendant, made in the course and pursuance of a joint criminal enterprise to which the co-defendant was a party), are not evidence against a co-defendant, unless the co-defendant either expressly or by implication adopts the statements and thereby makes them his own.[5]

Submissions made by the Prosecution

7. The Prosecution submits that Ntahobali's 1997 statements do not contain a confession in the strict legal sense, but merely explain the Accused's role in the 1994 events. The statements made in 1997 are closer to 1994 and therefore more reliable than subsequent statements. According to the Prosecution, it is in the interests of justice that the interviews be admitted into evidence.

[2] Counsel for Kanyabashi opined that about 90% of Rule 43 had been observed but admitted that he found some of the questions related to this issue hard to answer, such as whether a copy had immediately been given to Ntahobali.

[3] *R. v. Myers* [1998] A.C. 124, House of Lords, in: Archbold, *Criminal Pleadings, Evidence and Practice* (2001) p. 1492, para. 15-367.

[4] *R. v. Rawson* [1986] Q.B. 174, 80 Cr.App.R.218, CA; *Lui Mei Lin v. R.* [1989] A.C. 288, PC. In: Archbold, *Criminal Pleadings, Evidence and Practice* (2001) p. 1492, para. 15-367.

[5] R. v. Rudd, 32 Cr.App.R. 138, CCA; R. v. Gunewardene [1951] 2 K.B. 600, 35 Cr.App.R.80, CCA; R. v. Rhodes, 44 Cr.Ap.R. 23, CCA, in: Archbold, *Criminal Pleadings, Evidence and Practice* (2001) p. 1492, para. 15-368.

8. Pursuant to Rule 89 (C), a previous statement made in an interview can be used by the Parties to the proceedings, as it is the very purpose for which such interviews are conducted by the Prosecution. The Prosecution had also intended using the documents in question in its cross-examination of Ntahobali. Further, the interview itself is admissible as an exhibit. There is no material prejudice, as the Prosecution has complied with the Rules, including Rules 42 and 43. This is evident from the transcripts of the interviews and the documents signed by the Accused.

9. The Prosecution submits that the Chamber is entitled to examine the transcripts of the interviews, as well as the accompanying documentation, including the waivers signed by the Accused and it will discern that there is no material prejudice, because the Prosecution has complied with the Rules, including Rules 42 and 43. This is evident from the transcripts of the interviews and the documents signed by the Accused.

10. The Prosecution recalls that Ntahobali voluntarily surrendered to the Tribunal and freely agreed to be interviewed without Counsel. According to the Prosecution, he is a man of high intellect and intellectual accomplishments, so that there can be no question of his not understanding what was occurring during the interviews. The interviews were sealed in his presence, and he signed to that effect. There is no evidence of threats, torture, or oppression used during the interview. Rule 42 was fully complied with because the Accused was informed of his right to Counsel, to the free assistance of an interpreter, and to remain silent.

11. The Prosecution submits that it did not use the statements during the Prosecution case because it was not known at the time whether the Accused was going to testify and whether his testimony would be inconsistent with his previous statements.

12. The Prosecution submits that it does not seek a *voir dire*, as it is neither applicable, nor relevant. Since the Accused is in the witness box, he can be asked questions in cross-examination or re-examination. Further, the documents in question are self-evident and self-explanatory. The Prosecution recalls that a *voir dire* is not essential before International Tribunals. It submits that the *Zigiranyirizo* case, which orders a *voir dire*,[6] is distinguishable from the instant case because it concerns a Defence Motion for Disclosure of Evidence. Further, the case at hand is heard before three professional judges, whereas the *voir dire* procedure has been developed to facilitate the work of a jury.[7]

13. As to the applicable law, the Prosecution relies on the decision to admit Nsabimana's statements through its expert witness Desforges,[8] while its weight and probative value were to be determined at a later stage. According to the Prosecution, there is no jurisprudence with regard to a possible foreclosure of the Prosecution to tender the relevant documents.

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[6] *Prosecutor v. Protais Zigiranyirazo*, Decision on the Defence Motion for Disclosure of *Voir Dire* Evidence, 27 April 2006.

[7] *Prosecutor v. Milosevic*, Decision on Prosecution Motion for *Voir Dire* Proceeding, 9 June 2005, para. 2; *Prosecutor v. Delalic et al.*, Decision on the Motions for the Exclusion of Evidence by the Accused, Zejnil Delalic, para. 29.

[8] *Prosecutor v. Nyiramasuhuko et al.*, T. 8 June 2004.

14. The Prosecution further relies on a decision in *Bizimungu et al.*, on the Prosecution's compliance with Rules 40, 42 and 43.[9] A similar decision was issued in *Delalic et al.*,[10] when it was stated that the standard of oppression changes with the age and experience with the administration of justice the interviewee may have. In a decision in *Kabiligi and Ntabakuze*, it was held that the Trial Chamber does not exercise a general control over investigations conducted by the Prosecution as such, but may only grant relief if an alleged unlawful investigation results in material prejudice to an accused.[11]

15. The Prosecution further stresses the wide discretion the Chamber has pursuant to Rules 89 (D) and 94. It quotes a decision in *Martic* which held that the Tribunal's practice is in favour of admissibility, whereas the admission of a document is not equivalent to the recognition of its correctness.[12]

Defence for Ndayambaje

16. The Defence for Ndayambaje agrees with the Defence for Kanyabashi as far as the Prosecution's foreclosure from introducing the documents at this point is concerned. Further, there might also be a prejudice to the Accused Ndayambaje, which had to be raised at this moment, as it might not be possible to do so later.

17. The Defence also argues that if the Prosecution did not tender the documents in question because they did not know if the Accused would testify, then it would have been the proper procedure to reserve the right to cross-examination regarding this document in the eventuality that the Accused would testify in his own defence.

Defence for Nteziryayo

18. The Defence for Nteziryayo relies on the Canadian decision rendered in *Regina v. Crawford*. Its solution for the competing rights of co-accused is that a co-accused is not bound by the rules on the admissibility of a statement, but can cross-examine on credibility matters. Further, he cannot produce a statement as evidence without admissibility issues being resolved. An accused who testifies against a co-accused must accept that his credibility can be fully challenged by the latter.[13] Therefore, in the cited decision, a *voir dire* was not held to be necessary. The Defence adds that the Canadian Supreme Court did not have to contend with the equivalent of Rule 82 of the Rules.

Defence for Nyiramasuhuko

19. The Defence for Nyiramasuhuko agrees with the proposition that an accused has the fundamental right to be informed of the evidence that may be used against him. It

[9] *Prosecutor v. Bizimungu et al.*, Decision on Prosper Mugiraneza's Renewed Motion to Exclude His Custodial Statements from Evidence, 4 December 2003, para. 37.
[10] *Prosecutor v. Delalic et al.*, Decision on Zdravko Mucic's Motion for the Exclusion of Evidence, 2 September 1997, paras. 63-67, upheld in the Appeals Chamber Judgment, 20 February 2001, paras. 528, 533, 543, 551, 554.
[11] *Prosecutor v. Kabiligi and Ntabakuze*, Decision on Kabiligi's Motion to Nullify and Declare Evidence ~~Inadmissible, 2 June 2000, para. 19~~. The Prosecution also relies on *Prosecutor v. Oric*, Decision on Defence Motion to Exclude Interview of the Accused Pursuant to Rules 89(D) and 95, 7 February 2006, para. 29.
[12] *Prosecutor v. Martic*, Decision Adopting Guidelines on the Standards Governing the Admission of Evidence, 19 January 2006, para. 2.
[13] *R. v. Crawford*, [1995] 1 S.C.R., pp. 874-882.

recalls that the Prosecution has chosen a different procedure and has not tendered the evidence in question within the framework of its case. According to the Defence for Nyiramasuhuko, the Defence for Kanyabashi is as foreclosed as the Prosecution from tendering the documents in question.

20. The Defence states that the ICTY jurisprudence reflects the position that mere compliance with Rules 42 and 43 is not enough to use a document.[14] Further, it is incongruous that an Accused may prove that the Prosecution has respected these Rules.

21. The Defence refers to the cited decision in *Crawford*, but stresses that the passage relevant to the matter at hand states that where allegations on a co-accused are relevant to his defence, an accused can not be limited. The remedy would be to request severance, which may be granted if there is serious prejudice.[15] It was pointed out by the Defence for Nteziryayo, however, that this passage was merely the Supreme Court's analysis of the Court of Appeals' decision.

22. The Defence submits that there is a further distinction between *Crawford* and the instant case, because in the Canadian case, each co-accused was charged with having murdered the same person, whereas *Butare* addresses the alleged joint commission of genocide and crimes against humanity.

23. The Defence also submits that while the Defence for Kanyabashi has argued that the documents will only be used against Ntahobali, the latter has spoken frequently about his mother, the Accused Nyiramasuhuko. Her Defence therefore seeks clarification on whether the documents will not also be used to make allegations against Nyiramasuhuko, particularly as the presentation of her case and her testimony has already been concluded. The possible prejudice arising from such use is obvious.

24. The Defence recalls that Ntahobali is not an ordinary witness, but an Accused. He has the right to know the evidence to be used against him; that it is a co-accused who decides to use it, changes nothing. This right is so fundamental that at the present moment, it is impossible to use the declarations against Ntahobali.

Defence for Ntahobali

25. The Defence for Ntahobali objects to anyone using the documents in question, for any end. A simple summary examination of the documents will not end the discussion or provide an answer to the question whether they may be used by the Defence for Kanyabashi.

26. According to the Defence, the hearing held on 9 May 2006, cannot be equated to a *voir dire*, because a simple examination of the documents does not permit the Chamber to know whether the Accused answered questions while a gun was held to his head.

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[14] *Prosecutor v. Delalic et al.*, Decision on Zdravko Mucic's Motion For the Exclusion of Evidence, 2 September 1997; *Prosecutor v. Oric*, Decision on Defence Motion to Exclude Interview of the Accused Pursuant to Rules 89(D) and 95, 7 February 2006; *Prosecutor v. Halilovic*, Decision on Motion for Exclusion of Statement of Accused, 8 July 2005.

[15] *R. v. Crawford*, [1995] 1 S.C.R., p. 866, 870.

27. The Defence argues that it is impermissible for the Defence for Kanyabashi to submit that 90% of the documents in question have been obtained in compliance with the Rules, because Counsel may not testify.

28. The Defence also submits that the Canadian law as to a co-defendant's right to launch allegations against an accused is not as clear as has been pleaded. The decision in *Crawford* is distinguishable, as an interrogation in this case would have concerned the absence of a declaration, rather than an existing earlier declaration as in the present case.

29. The Defence refers to the Canadian Supreme Court decision of *R. v. G. (B.) [B.G.]*,[16] made after the decision in *Crawford*, which held,

> To reintroduce an involuntary statement in this way would run counter to the most fundamental aspect of trial fairness. In many cases, as here, the guilt of the accused will depend solely on his credibility and of that of the other witnesses. To allow the statement to be used, even for the limited purpose of undermining the credibility of the accused, could lead to abuse and serious injustice. That is why the traditional rule, in force in Canadian law, must be interpreted in such a way that no use may be made of an inadmissible statement at any stage whatsoever of the trial.

30. Further, the Defence submits that it is incumbent on the Chamber to fully explore the circumstances surrounding the taking of the allegedly voluntary interviews.[17] It also recalls that it was held in a *Bagosora et al.* decision that the most exacting standards must be observed in determining whether an interview was given under oppressive conditions.[18]

31. The Defence therefore submits that the Chamber must demand convincing proof from the Prosecution as to the free and voluntary character of the statements and the compliance with the Rules when the statements were obtained. It recalls that the Prosecution carries the burden of proof in that matter. The Defence further submits that it has informed the Chamber as of 2001 of its objections to the use of the documents in question. In 2001, the Defence had indicated to the Chamber that when Ntahobali made the interviews in 1997, he was under the belief that he was cooperating with representatives of the Tribunal, rather than those of the Office of the Prosecutor.[19] This also applies to the interviews having been granted in the context of arrests of Ntahobali's family members and the payment of money to the Kenyan police in exchange for the promise of their liberation, particularly his father's.

32. The Defence also submits that two of the declarations in question have been illegally obtained from Ntahobali and that an illegally obtained declaration may never be used to cross-examine the accused who is its author. If they were to be used, a *voir dire*

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[16] *R.. v. G. (B.) [B.G.],* [1999], 2 S.C.R., p. 660, para. 34. The Chamber takes note that this passage refers to confessions and that the following paragraph distinguishes the law applicable to confessions from the use of former mere statement of an accused in the cross-examination conducted by a co-accused.

[17] The Defence relies on *Prosecutor v. Sefer Halilovic*, Decision on Motion for Exclusion of Statement of Accused, 8 July 2005.

[18] *Prosecutor v. Bagosora et al.*, Decision on the Prosecutor's Motion for the Admission of Certain Materials under Rule 89 (C), 14 October 2004, para. 17, quotes *Prosecutor v. Delalic et al.*, Decision on Zdravko Mucic's Motion For the Exclusion of Evidence, 2 September 1997, para. 42.

[19] *Prosecutor v. Nyiramasuhuko et al.*, Decision on the Defence Motion to Suppress Custodial Statements by the Accused, 8 June 2001

procedure would have to be ordered, as has been done at this Tribunal.[20] In the case of such a procedure, all witnesses implicated in the production of the statement will have to be heard.

33. The Defence for Ntahobali concludes by stating that the highest standards of justice should be applied by International Tribunals, given that they judge the most serious crimes.

Letter from Ntahobali

34. The Accused Arsène Shalom Ntahobali submits that he has written a letter to the Chamber on 9 May 2006 because he is testifying and has not been able to address his Counsel during the proceedings held on that day. He argues that if he had been given the floor in court, he would have made suggestions to them or addressed himself to the Chamber, but he was not asked to speak. Therefore, he wishes to raise certain issues regarding the use of the interviews.

35. Ntahobali submits, as he indicated to the Chamber on Monday, 8 May 2006, that he has never received the nine original audio tapes made in the course of the 1997 interviews. Further, he has never received the document he wrote himself at the Hotel Intercontinental, as confirmed in the French transcripts of tape 3, p. 8 (K0133936).

36. Besides, Ntahobali submits that the transcripts have been signed neither by him, nor by the investigators. It is not clear that these transcripts are a faithful reflection of the originals. Further, while browsing the transcripts, he has noticed several mistakes.

37. Ntahobali submits that whilst the Prosecution has alleged that there is a document handwritten by him and dated 24 July 1997, this is not the case. Rather, this one-page document has been handwritten by Mr Robert Petit.

38. The Accused Ntahobali recalls that Robert Petit introduced himself as Legal Officer of the Tribunal, and Paul Dobbie as an Investigator of the Tribunal. Nobody told him that they were working at the Office of the Prosecutor.

39. Further, five Accused in the Butare proceedings have made statements, including Kanyabashi, who was in largely more favourable conditions when interrogated. The Accused Ntahobali requests to know if the Chamber will allow him to use these declarations, which in several respects exonerate him.

40. The Accused Ntahobali requests to be heard by the Chamber regarding the circumstances under which these interviews were conducted, and how he spent his nights handcuffed, before an unjust or prejudicial decision is taken. He also requests to be given the nine original audio tapes to allow him to undertake the necessary verifications and to answer questions.

[20] *Prosecutor v. Protais Zigiranyirazo*, Decision on the Defence Motion for Disclosure of *Voir Dire* Evidence 27 April 2006.

Prosecution's Response to Letter from Ntahobali

41. In its Response, the Prosecution submits that the interview tapes of Ntahobali were on the Prosecution Modified Exhibits List of 27 September 2001, and that the Prosecution wrote to all Defence Counsel in the Butare case on 12 October 2001 to collect 5 CD Roms containing the proposed Prosecution exhibits, including Ntahobali's interviews. The Prosecution confirms that the Defence for Ntahobali, as well as the other Defence teams subsequently received copies of the interview tapes and transcripts on 16 October 2001, while the originals remain sealed and under the Prosecution's custody.

42. As to the transcript of the interview on tape 3, the Prosecution submits that K0133936 refers to two documents. The Accused confirmed in the course of the interview that the first document was handwritten by him at the Hotel Intercontinental. The document in question indicates that no threat was made and no promise or inducement was offered to the Accused to surrender. The second typed document containing the rights of the Accused during the interviews was prepared by the Interviewing Officer and signed by the Accused Ntahobali. The Prosecution submits that it is currently unable to confirm if copies of these two documents have been served on the Accused. However, Counsel for Kanyabashi served copies on all Parties at the beginning of his cross-examination of the Accused Ntahobali.

Ntahobali's Affidavit

43. The Accused Ntahobali submits in his affidavit dated 11 May 2006 that his interviews of 1997 need to be viewed in the context of arrests of his immediate family members, including his father. His family members were only released in exchange for sums of money paid to the Kenyan police. However, when he surrendered to ICTR representatives, he did so under the impression that in exchange for his cooperation, his father would be released. Further, the ICTR representatives did not make it clear to him that they were working for the Prosecutor. Ntahobali submits that although he was detained in Nairobi from 23 July 1997, he was not formally arrested before 25 July 1997. Further, he had to sleep handcuffed. The Accused submits that while he was being acquainted with his rights, he was not afforded a real opportunity of considering and exercising them. He argues that subterfuge was used to surprise him into making statements as he did not understand who he was talking to and nobody had told him that the persons he took to be "ICTR representatives" were in fact working for the Prosecution.

44. In the hearing on 15 May 2006, the Chamber asked the Accused Ntahobali whether the issues raised in the affidavit corresponded to those he had wanted to be heard on, as stated in his letter, and whether he had anything to add to his affidavit. The Accused replied that those were the issues he had wished to discuss and that he had nothing to add, reiterating his complaint about a missing handwritten document.

DELIBERATIONS

45. The Chamber notes that three main issues were raised on 9 May 2006: whether it should conduct a *voir dire* proceeding to ascertain that Ntahobali's interviews were properly taken; the scope of the use of Ntahobali's interviews at this stage of the proceedings; and their admissibility.

The Request for a *Voir Dire* Proceeding

46. The Chamber notes that in its submissions, the Defence for Ntahobali, relying heavily on Canadian jurisprudence and practice, maintains that for Ntahobali's interviews to be used by the Defence of Kanyabashi, the Chamber is required to hold a *voir dire* procedure to determine whether they were given voluntarily and thus legally obtained by the Prosecution, in compliance with the Statute and the Rules.

47. The common law procedure of a 'trial within a trial,' also referred to as a *voir dire* procedure is, "a preliminary examination to test the admissibility of evidence [on the ground that it was not made voluntarily] in the absence of the jury, the purpose being to avoid contaminating the minds of the jury with material that might never become evidence in the case."[21] In the United Kingdom, the *voir dire* procedure has been extended to apply to "the admissibility of a confession if the Defence represents to the court that the confession may have been obtained by oppression of the person who made it, or in consequence of anything said or done which was likely, in the circumstances existing at the time, to render unreliable any confession which might be made by him in consequence thereof."[22]

48. The jurisprudence has been that for the procedure to be triggered, the Defence is required to satisfy the court of the existence of any of the situations amounting to an accused's statement not having been made voluntarily,[23] and, once a statement is challenged on the ground that it was not made voluntarily, "the Prosecution has the burden of proving, beyond a reasonable doubt," that it was made voluntarily and that it was not obtained either by fear of prejudice or hope of advantage held out by interrogators.[24]

49. The Chamber notes that the *voir dire* procedure is not specifically provided for under the Rules. The Appeals Chamber in the *Delalic et al.* case opined that "rules of evidence as expressly provided in the Rules should be primarily applied, with assistance of national principles only if necessary for guidance in the interpretation of these Rules."[25] However, the Appeals Chamber did not rule out the application of the *voir dire* procedure by a Trial Chamber if in a particular case it thought it appropriate.[26]

[21] *Prosecutor v. Milosevic*, Decision on Prosecution Motion for Voir Dire Proceeding of 9 June 2005 which also quoted Archbold 2003 at paras. 4-288 to 4-291 giving examples of circumstances in which a voir dire procedure may be used to include determining the admissibility of the defendant's previous guilty plea to the offence for which he is currently on trial, the admissibility of a confession by the accused, the admissibility of identification evidence, the admissibility of *res gestae* statements, the competence of witnesses, questioning by a judge of an unwilling witness, and whether the jury should be directed that they may draw inferences against a defendant who fails to give evidence; *Prosecutor v. Delalic et al*, Decision on the Motions for the Exclusion of Evidence by the Accused, Zejnil Delalic of 25 September 1997 at para. 29, quoting the English case of *Ibrahim v. R (1914) A. C. 609* where it was declared: "It has long been established as a positive rule of English criminal law that no statement by an accused is admissible in evidence against him unless it is shown by the prosecution to have been a voluntary statement, in the sense that it has not been obtained from him either by fear of prejudice or hope of advantage exercised or held from him either by fear of prejudice or hope of advantage exercised or held out by a person in authority. The principle is as old as Hale."

[22] *Prosecutor v. Delalic et al*, Decision on the Motions for the Exclusion of Evidence by the Accused, Zejnil Delalic of 25 September 1997, para. 31.

[23] *Prosecutor v. Delalic et al*, Decision on the Motions for the Exclusion of Evidence by the Accused, Zejnil Delalic of 25 September 1997, para. 31

[24] *Prosecutor v. Delalic et al*, Decision on the Motions for the Exclusion of Evidence by the Accused, Zejnil Delalic of 25 September 1997 at para. 32; *Prosecutor v. Bagosora et al*, Decision on the Prosecutor's Motion for the Admission of Certain Materials under Rule 89(C) (TC), 14 October 2004, para. 17.

[25] *Prosecutor v. Delalic et al*, Appeals Chamber Judgment of 20 February 2001, para. 538.

[26] *Prosecutor v. Delalic et al*, Appeals Chamber Judgment of 20 February 2001, para. 543.

50. While the Chamber recalls that since a *voir dire* procedure is usually embarked upon in the absence of the jury in order to prevent contamination of evidence, there is no such risk of contamination of evidence because the Chamber is composed of professional Judges who hear the case without the aid of jurors.[27]

51. The Chamber notes that since Ntahobali's interviews are not confessions to the commission of the crimes for which he has been charged and that, rather, the interviews include Ntahobali's account of the events of 1994, the *voir dire* procedure requested is not appropriate in the circumstances of the case.

52. The Chamber finds the Defence for Ntahobali's submission that if the Chamber were to hold a *voir dire*, it may show that during Ntahobali's interviews, the Accused may have had a weapon put against his head or he may have been given promises inducing him to give the interviews, to be mere speculation.

53. The Chamber agrees with the Appeals Chamber that the Rules should be primarily applied, with assistance of national principles only if necessary for guidance in the interpretation of these Rules. The Chamber is not convinced that it is only by way of a *voir dire* that the challenge to the Prosecution's compliance with the Statute and the Rules when it conducted Ntahobali's interviews can be dealt with.

54. The Chamber recalls that in the cases of *Bagosora et. al.*,[28] *Bizimungu et. al.*,[29] and *Kabiligi and Ntabakuze*,[30] Trial Chambers at the Tribunal perused the transcripts of the interviews in which custodial statements of the respective accused persons were taken and made determinations as to whether the Prosecution complied with the relevant Articles, i.e., Articles 18 and 20 and the relevant Rules, i.e., Rules 42, 43, 63 and 92.

55. The Chamber finds that through a perusal of the transcripts of Ntahobali's interviews as well as through the normal procedure of admissibility of evidence provided under Rule 89(C), and the conditions laid out in Rules 89(D) and 95, it is able ascertain whether the Prosecution obtained Ntahobali's interviews in compliance with Article 20 of the Statute and Rules 42, 43 and 63 of the Rules.

56. Accordingly, the Chamber denies the Defence of Ntahobali's request to hold a *voir dire* procedure.

Scope of the Use of Ntahobali's Interviews

57. The Chamber recalls that the Defence for Kanyabashi, Ndayambaje and Nyiramasuhuko submitted that the Prosecution is not entitled to tender into evidence Ntahobali's interviews or to use them to challenge his credibility, at this stage of the proceedings. According to the Defence of Kanyabashi and Nyiramasuhuko, this tendering should have been done during the presentation of the Prosecution case. The Defence for

[27] *Prosecutor v. Milosevic*, Decision on Prosecution Motion for *Voir Dire* Proceeding, 9 June 2005.
[28] *Prosecutor v. Bagosora et al*, Decision on the Prosecutor's Motion for the Admission of Certain Materials under Rule 89 (C), 14 October 2004.
[29] *Prosecutor v Bizimungu et al*, Decision on Prosper Mugiraneza's Renewed Motion to Exclude his Custodial Statements from Evidence, 4 December 2003.
[30] *Prosecutor v Kabiligi and Ntabakuze*, Decision on Kabiligi's Motion to Nullify and Declare Evidence Inadmissible, 2 June 2000.

Ndayambaje adds that according to common-law jurisdictions, the Prosecution must use any statement made by an accused during the presentation of its own case and not afterwards. Furthermore, Kanyabashi and Nyiramasuhuko's Defence point out that an accused has the right to know the totality of the evidence that may be used against him.

58. The Defence for Nyiramasuhuko argued that the foreclosure extends to the co-accused.

59. The Chamber also recalls the Prosecution submissions that it intends to use Ntahobali's interviews to cross-examine him and that it is not foreclosed from doing so. The Prosecution further indicates that during the presentation of its case, it was not in a position to know whether or not the Accused would testify on his own behalf and that he would give evidence which is inconsistent with his previous statements.

60. The Chamber is of the opinion that as a general principle, the use of prior statements of a witness during the witness' cross-examination for the purpose of challenging his credibility is allowed and should not be precluded if it is shown to be relevant and reliable. The Chamber considers that there is no distinction between an ordinary witness and an accused who testifies on his behalf in this regard.

61. The Chamber sees no reason to preclude the Prosecution, or any other cross-examining party, from using Ntahobali's interviews for the purpose of cross-examining the Accused on issues pertaining to his credibility only, as long as they are admissible. The Chamber stresses, however, that since the Prosecution did not seek to use the interviews as evidence during the presentation of its case, it is precluded from using their substance at this stage of the proceedings. Regardless of the Accused's choice whether to testify on his own behalf, the Prosecution should have presented this evidence if it intended to rely on the substance of the interviews.

62. Accordingly, the Chamber denies the Motion to declare the Prosecution foreclosed from using Ntahobali's interviews.

63. Finally, the Chamber finds Nyiramasuhuko's submission alleging that the foreclosure should extend to the co-accused to be without legal basis.

Admissibility of Ntahobali's Interviews

64. As a preliminary matter, the Chamber notes that the record of Ntahobali's interviews contains portions in which the word "inaudible" is recurrent. The Chamber has noted that the quality of the tapes is assessed in the cover page of the transcript and ranges from bad to good. Based on this assessment of the quality of the tapes, the Chamber is not convinced that ordering a new transcription of the tapes would result in more clarity in the transcription of the questions and answers. Moreover, the Chamber does not find that the mention of the word "inaudible" in the transcripts affects the reliability and/or substance of the information contained therein.

65. The Chamber recalls that the Defence for Kanyabashi requested to use Ntahobali's interviews in cross-examination to challenge his credibility and that the Prosecution also requested to use them in cross-examination because of alleged inconsistencies with Ntahobali's testimony in court.

66. In the Chamber's opinion, for the Parties to use Ntahobali's interviews in the current proceedings, it is necessary that they be admissible into evidence, provided the relevant safeguards and procedural protections under Article 20 of the Statute and Rules 42, 43 and 63 of the Rules were complied with when the interviews were taken, and provided they are relevant.

67. The Chamber notes that when Ntahobali was interviewed on 24 and 26 July 1997 by Prosecution investigators, his Indictment had already been confirmed by Judge Yakov Ostrovsky on 29 May 1997.[31]

68. Article 20(4) guarantees the accused, *inter alia,* the right not to be compelled to testify against himself or to confess guilt.

69. Once an Accused is in the custody of the Tribunal, the Prosecution is required to comply with the provisions of Rule 63 if it intends to question him.[32] Rule 63 indicates that the questioning shall not proceed without the presence of counsel unless the Accused has waived his right. The questioning also has to comply with the recording procedure under Rule 43 and the Accused has to be reminded of his right to remain silent and of the fact that the statement may be used as evidence pursuant to Rule 42(A)(iii) of the Rules.

70. The transcripts of Ntahobali's interviews show that the Accused was clearly informed of his rights under Rules 42 and 43 at the beginning of the interview of 24 July 1997 as well as at the beginning of the interview of 26 July 1997, as well as on several occasions throughout the interview.

71. The Accused was informed of his right to counsel, to the free assistance of an interpreter and that if he chooses to answer questions without the presence of counsel, he can stop the interview at any time and request a counsel. The Accused answered that he understood. When the Accused was informed of his right to remain silent and that any statements he makes shall be recorded and may be used in evidence, he indicated that he

[31] *Prosecutor v Nyiramasuhuko et al*, Decision to Confirm the Indictment of 29 May 1997.

[32] **Rule 63 (Questioning of Accused)** provides: Questioning by the Prosecutor of an accused, including after the initial appearance, shall not proceed without the presence of counsel unless the accused has voluntarily and expressly agreed to proceed without counsel present. If the accused subsequently expresses a desire to have counsel, questioning shall thereupon cease, and shall only resume when the accused's counsel is present. The questioning, including any waiver of the right to counsel, shall be audio-recorded or video-recorded in accordance with the procedure provided for in Rule 43. The Prosecutor shall at the beginning of the questioning caution the accused in accordance with Rule 42 (A) (iii);

Rule 42 (Rights of Suspects during Investigation) provides: **(A) (iii)** the right to remain silent, and to be cautioned that any statement the suspect makes shall be recorded and may be used in evidence.

Rule 43 (Recording Questioning of Suspects) provides: Whenever the Prosecutor questions a suspect, the questioning shall be audio-recorded or video-recorded, in accordance with the following procedure: (i) the suspect shall be informed in a language the suspect speaks and understands that the questioning is being audio-recorded or video-recorded; (ii) in the event of a break in the course of the questioning, the fact and the time of the break shall be recorded before audio-recording or video-recording ends and the time of resumption of the questioning shall also be recorded; (iii) at the conclusion of the questioning the suspect shall be offered the opportunity to clarify anything the suspect has said, and to add anything the suspect may wish, and the time of conclusion shall be recorded; (iv) a copy of the recorded tape will be supplied to the suspect or, if multiple recording apparatus was used, one of the original recorded tapes; (v) after a copy has been made, if necessary, of the recorded tape, the original recorded tape or one of the original tapes shall be sealed in the presence of the suspect under the signature of the Prosecutor and the suspect; and (vi) the tape shall be transcribed if the suspect becomes an accused.

understood. After the Accused read out a paper containing a waiver of rights to counsel, the investigator asked him if he understood that what he had read meant that he chose to be interviewed without a lawyer. The Accused answered in the affirmative. The Accused was asked if he chose to be interviewed without threat or duress from anyone, and he confirmed this fact. The Accused was offered the option to write down his account of the events or to be questioned and he chose to be questioned.

72. The Chamber further notes that Ntahobali's interviews were audio-recorded, in accordance with the procedure set out in Rule 43 of the Rules. The records indicate that throughout the interviews, there were regular breaks, upon request by the Accused. Even if the Accused appears to have been tired at the end of the 26 July 1997 interview, there is no evidence that the questioning may have been oppressive or that the Accused had lost control of the situation.

Issues raised in Ntahobali's affidavit

73. The Chamber has taken note of the submissions made by Ntahobali in his affidavit, and has also given him the opportunity to further elaborate on them in court. The Chamber is of the opinion that the issues raised in the affidavit refer to matters prior to the Accused's 1997 interviews and his arrest.

74. The Chamber observes that in the handwritten document which the Accused signed in Nairobi on 24 July 1997 at 01.24 a.m., he stated that he would go to Arusha himself, if he had the means. He further asserted that no promises or threats had been used to obtain his surrender.

75. The Chamber observes that the waivers of rights were signed after the rights pursuant to Rules 42 and 43 of the Rules had been read to the Accused or he had read them himself. The latter confirmed in the proceedings held on 15 May 2006 that he signed a waiver of his rights, which is also clear from the transcripts of the interviews.[33] These are the right to Counsel, free of charge, the right to an interpreter, free of charge, the right to remain silent, the information that the interview would be taped and may serve as evidence against the Accused, and the right to stop the interview at any moment to request the assistance of Counsel. Ntahobali signed that he had read or been told in a language he understood about these rights, that he was ready to answer questions and make a statement and that he did not request Counsel at the time. He also signed to the effect that there had been neither promises, nor threats, and that no pressure was put on him.

76. The Chamber also notes that it is clear from the transcripts that at least one of the ICTR representatives introduced himself as an investigator.[34] The Chamber observes that the interrogators introduced themselves to the Accused as coming from the Tribunal, and that there was nothing to mislead him to believing otherwise. In any case, the Chamber notes that Rule 37 (B) of the Rules allows the Prosecutor to authorize investigators or any other person to act on his behalf. The Chamber therefore does not find that the Accused did not know whom he was talking to, or that subterfuge was used by the investigators.

[33] Tape 1, pp. 2-5 (English version), K-0153970, K-0153971, K-0153972, K-0153973
[34] Tape 1, p. 2 (English version), K-0153970.

Issues raised in Ntahobali's letter

77. With regard to the submissions contained in Ntahobali's letter, the Chamber notes that there is no legal requirement for the transcripts of interviews to be signed by either interviewee or investigators. Further, the Chamber observes that the Prosecution has indicated, without being challenged, that copies of the original audio tapes were communicated to all Defence teams, including the Accused's. Therefore, the Chamber finds that the Accused Ntahobali had access to a copy of the recordings of the interviews. Should he wish to examine the [35]originals, he would have to formally apply and give reasons for such a request.

78. Finally, as to the missing document the Accused referred to in his letter and in the proceedings held on 15 May 2006, the Chamber has carefully examined the transcripts and is of the view that while there may have been two handwritten statements signed by the Accused on 24 July 1997, one handwritten by the Accused and one by another person, and while the first document has not been filed, they appear to have had similar contents.[36] From the transcripts, the filed document appears to be a summary of the one alleged to have been handwritten by the Accused, and both state the Accused's surrender to the ICTR representatives. The Accused confirmed on 15 May 2006 that he signed the handwritten document filed by the Prosecution. Taking into account the handwritten document dated 24 July 1997, signed by the Accused, and the waivers of his rights signed on 24 and 26 July by the Accused, the Chamber finds that the absence of an additional handwritten document does not diminish the value of the Accused's signed statements that he had surrendered freely, that no threats or promises had been used, that he had waived his rights and that he would go to Arusha himself, if he had the means to do so.

Conclusion on the admissibility

79. Rule 89 (C) empowers the Chamber to admit evidence which is relevant to the subject matter before it and which has probative value while Rule 89 (D) deals with the Chamber's powers to verify the authenticity of evidence obtained out of court. However, Rule 95 empowers the Chamber to exclude evidence which is obtained by methods casting substantial doubt on its reliability or if its admission is antithetical to, and would seriously damage, the integrity of the proceedings.

80. Having reviewed Ntahobali's interviews, the Chamber has not found any instance in which the Accused asked to stop the interview to obtain presence of Counsel, or which showed that his statement was given under duress. The Chamber finds that Ntahobali's interviews show that the Accused was questioned voluntarily and answered in a language that he understood. The Chamber concludes that Ntahobali's interviews fully comply with the requirements of Article 20 of the Statute and Rules 42, 43 and 63of the Rules and are relevant to the trial. Moreover, the Chamber recalls that the Defense for Ntahobali did not challenge that Ntahobali made the interviews in issue. Accordingly, the Chamber finds that Ntahobali's interviews are admissible under Rule 89 (C) for the purpose of cross-examining Ntahobali on issues relating to his credibility.

[35] Tape 3 (English version), K-0166746.
[36] Tape 3 (English version), K-0166746.

81. The Chamber notes that among Ntahobali's interviews, the one taken on 24 July 1997 starting at 3:31 p.m. refers to written statements taken from the Accused after his arrest at around 1:07 a.m. on 24 July 1997. The Chamber notes, after a perusal of the interviews that the Accused had signed waivers of rights to Counsel, before those statements were taken; one relating to the conditions of his surrender and the other containing biographical information; pictures were also taken after his arrest and form part of these records. The Chamber notes that in the transcripts of the 24 and 26 July 1997 interviews, the Accused confirms that his rights were read out to him before he signed a waiver of rights and made those statements. The Chamber finds that these written statements are admissible under Rule 89 (C) of the Rules for the purpose of cross-examining Ntahobali on issues relating to his credibility and that they will be admitted after the cross-examination by each Party concerned, if they are used.

82. Accordingly, the Chamber grants Kanyabashi's and any other co-Accused's Motion as well as the Prosecution's Motion to cross-examine the Accused Ntahobali using his interviews to challenge his credibility. Following its practice, the Chamber adds that only the portions of Ntahobali's interviews that will be used by Kanyabashi, the Prosecution, and any other Party during cross-examination on issues of credibility, will be admitted as evidence.

FOR THE ABOVE REASONS, THE TRIBUNAL

RULES ADMISSIBLE Ntahobali's interviews of 1997. A request for admission of any portion used in cross-examination by the co-Accused or the Prosecution will be determined at the end of each cross-examination;

GRANTS Kanyabashi's Motion to use Ntahobali's interviews in cross-examination to test Ntahobali's credibility;

GRANTS in part, the Prosecution Motion and allows it to use Ntahobali's interviews in cross-examination to test Ntahobali's credibility;

DENIES the Prosecution Motion in all other respects;

DENIES Ntahobali's request to hold a *voir dire* procedure;

DENIES the request to declare the Prosecution foreclosed from using Ntahobali's interviews.

Arusha, 15 May 2006

William H. Sekule
Presiding Judge

Arlette Ramaroson
Judge

Solomy Balungi Bossa
Judge

[Seal of the Tribunal]

TRANSMISSION SHEET
FOR FILING OF DOCUMENTS WITH CMS

COURT MANAGEMENT SECTION
(Art. 27 of the Directive for the Registry)

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

To:	☐ Trial Chamber I N. M. Diallo	☒ Trial Chamber II R. N. Kouambo	☐ Trial Chamber III C. K. Hometowu	☐ Appeals Chamber / Arusha F. A. Talon
	☐ Chief, CMS J.-P. Fomété	☐ Deputy Chief, CMS M. Diop	☐ Chief, JPU, CMS M. Diop	☐ Appeals Chamber / The Hague R. Muzigo-Morrison K. K. A. Afande
From:	☒ Chamber **Sia Mawalla** (names)	☐ Defence (names)	☐ Prosecutor's Office (names)	☐ Other: (names)
Case Name:	The Prosecutor vs. **Nyiramasuhuko et. al.**		**Case Number:**	ICTR-98-42-T
Dates:	Transmitted: **15 May 2006**		Document's date: **15 May 2006**	
No. of Pages:	17	**Original Language:**	☒ English	☐ French ☐ Kinyarwanda
Title of Document:	**DECISION ON KANYABASHI'S ORAL MOTION TO CROSS-EXAMINE NTAHOBALI USING NTAHOBALI'S STATEMENTS TO PROSECUTION INVESTIGATORS IN JULY 1997**			

Classification Level:
- ☐ Strictly Confidential / Under Seal
- ☐ Confidential
- ☒ Public

TRIM Document Type:

☐ Indictment	☐ Warrant	☐ Correspondence	☐ Submission from non-parties
☒ Decision	☐ Affidavit	☐ Notice of Appeal	☐ Submission from parties
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Translation	in	☐ English	☐ French	☐ Kinyarwanda

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Date:	**16/05/2006**	Case Name / *Affaire:*	**The Prosecutor vs.** - **Elie NDAYAMBAJE** - **Joseph KANYABASHI** - **Pauline NYIRAMASUHUKO** - **Arsene Shalom NTAHOBALI** - **Sylvain NSABIMANA** - **Alphonse NTEZIRYAYO**
		Case No /*Affaire No.*:	**ICTR-98-42-T**

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☐	Judge D. C. M. Byron (Simba.)	.....	☐	.....
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☒	**TC2**			
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☐	**Judge K. R. Khan** *(Bizimungu et al.)*	.....	☐	.....
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☒ ***OTP / BUREAU DU PROCUREUR***

☒ Trial Attorney in charge of case: **S. Arbia** received by .....

☒ ***DEFENSE***

☒ Accused / *Accusé*: **E. Ndayambaje, J. Kanyabashi, P. Nyiramasuhuko, A. S. Ntahobali, S. Nsabimana & A. Ntezi ryayo** complete / *remplir* " CMS4 FORM"

☒ Lead Counsel / *Conseil Principal* **P. Boulé, M. Marchand, N. Bergevin, N. Marquis J. Kodji & F. Pacere**

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☒ Co-Counsel / *Conseil Adjoint*: **C. Desrochers, S. Santerre, G. Poupart, L. Huot, G. Tchakoute & R. Perras**

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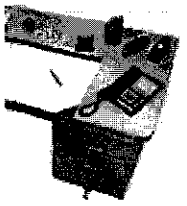

Paschal Magele

15/05/2006 19:07

To: William Sekule/ICTR/UNO@UNICTR, Arlette Ramaroson/ICTR/UNO@UNICTR, Solomy Bossa/ICTR/UNO@UNICTR, Silvana Arbia/ICTR/UNO@UNICTR, Adelaide Whest/ICTR/UNO@UNICTR, Adesola Adeboyejo/ICTR/UNO@UNICTR, Althea Alexis/ICTR/UNO@UNICTR, Michael Adenuga/ICTR/UNO@UNICTR, Astou Mbow/ICTR/UNO@UNICTR, nicolebergevin@hotmail.com, pacere@fasonet.bf, rperras12@hotmail.com, jkadji28@yahoo.fr, Gregory Townsend/ICTR/UNO@UNICTR, Mandiaye Niang/ICTR/UNO@UNICTR, Stephane Wohlfahrt/ICTR/UNO@UNICTR, Aminatta N'gum/ICTR/UNO@UNICTR, Holo Makwaia/ICTR/UNO@UNICTR

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Subject: NYIRAMASUHUKO ET AL - DECISION ON KANYABASHI'S ORAL MOTION TO CROSS - EXAMINE NTAHOBALI USING NTAHOBALI'S STATEMENTS TO PROSECUTION INVESTIGATORS IN JULY 1997

Dear all,

Attached is "NYIRAMASUHUKO ET AL - DECISION ON KANYABASHI'S ORAL MOTION TO CROSS - EXAMINE NTAHOBALI USING NTAHOBALI'S STATEMENTS TO PROSECUTION INVESTIGATORS IN JULY 1997"

Best regards,

Paschal

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