



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: 9 November 2006

The PROSECUTOR v. ÉLIE NDAYAMBAJE
The PROSECUTOR v. JOSEPH KANYABASHI
The PROSECUTOR v. PAULINE NYIRAMASUHUKO & ARSÈNE SHALOM NTAHOBALI
The PROSECUTOR v. SYLVAIN NSABIMANA & ALPHONSE NTEZIRYAYO
Joint Case No. ICTR – 98 – 42 – T

SCHEDULING ORDER

Rule 54 of the Rules of Procedure and Evidence

Office of the Prosecutor

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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”), pursuant to Rule 54 of the Rules of Procedure and Evidence (the “Rules”);

RECALLING the Scheduling Order of 5 October 2006 in which the Chamber ordered “the Defence for Alphonse Nteziryayo, Elie Ndayambaje and Joseph Kanyabashi to review their witness list with a view to significantly reducing the total number of witnesses as well as reducing the number of witnesses who are being called to prove the same facts, and to file a realistic and updated list of witnesses by Monday 6 November 2006 pursuant to Rule 73^{ter} of the Rules;”

RECALLING that the presentation of the Defence case should be completed by mid-2007 and that all efforts should be made to ensure the efficient conduct of the proceedings until then and to comply with that deadline;

CONSIDERING that as of 6 November 2006, neither Defence have complied with the Chamber’s Order of 5 October 2006: the Defence for Alphonse Nteziryayo has not submitted a revised witness list, the Defence for Kanyabashi has filed a list of witnesses that it does not intend to call but has not submitted a revised witness list,¹ and the Defence for Ndayambaje has not filed a revised list of witnesses;²

CONSIDERING that the Defence for Ndayambaje submits that since January 2006, it has been searching and identifying witnesses who are essential to the preparation of its Defence but because some witnesses have moved, or have otherwise disappeared, it is not in a position to provide the Chamber with a revised list of witnesses at this stage.

CONSIDERING that the Chamber’s instructions were very clear and straightforward, that the Defence for Ndayambaje has had 10 months since the last filing of its witness list to investigate its potential witnesses, there is not objective reasons justifying the non compliance with the 5 October 2006 Order;

FURTHER CONSIDERING that at this stage of the proceedings, each and every Defence must be in a position to file a list of the witnesses it intends to call to testify at Trial pursuant to Rule 73^{ter} of the Rules taking into account the Chamber’s instructions to downsize the total number of witnesses and to reduce the number of witnesses who are called to prove the same facts notwithstanding the order of presentation of the respective Defence case;

HAVING OBSERVED that Counsel’s non-compliance with the Chamber’s Order obstructs the proceedings and is also contrary to the interests of justice, the Chamber orders that this conduct must stop and instructs that if repeated, it may attract sanctions in accordance with the Rules.

¹ The Prosecutor v. Kanyabashi, *Mise à jour de la liste des témoins du mémoire préalable* (Scheduling Order du 5 octobre 2006), 6 November 2006.

² The Prosecutor v. Ndayambaje, *Réponse au “Scheduling Order” du 5 octobre 2006*, 6 November 2006.

HEREBY

RECALLS that the presentation of the Defence case should be completed by mid-2007;

ORDERS the Defence for Alphonse Nteziryayo, Elie Ndayambaje and Joseph Kanyabashi to review their witness list with a view to significantly reducing the total number of witnesses as well as reducing the number of witnesses who are being called to prove the same facts, and to file a realistic and updated list of witnesses by 4 December 2006, pursuant to Rule 73*ter* of the Rules.

Arusha, 9 November 2006

William H. Sekule
Presiding

Arlette Ramaroson
Judge

Solomy Balungi Bossa
Judge

[Seal of the Tribunal]