

ICTR-98-42-T  
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(12139-12137)

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UNITED NATIONS  
NATIONS UNIES

International Criminal Tribunal for Rwanda  
Tribunal penal 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:** 24 May 2007

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

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

**DECISION ON PAULINE NYIRAMASUHUKO'S MOTION FOR  
RECONSIDERATION OF THE DECISION ON PAULINE NYIRAMASUHUKO'S  
MOTION FOR RECALL OR RECONSIDERATION OF WITNESS AND-44, OR  
CERTIFICATION TO APPEAL THE DECISION OF 23 APRIL 2007**

Office of the Prosecutor

Ms Silvana Arbia  
Ms Adelaide Whest  
Ms Holo Makwaia  
Ms Althea Alexis Windsor  
Ms Madeleine Schwarz  
Ms Tolulope Olowoye

Defence Counsel for Nteziryayo

Ms Nicole Bergevin  
Mr Guy Poupart

**THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA** (the "Tribunal"),

**SITTING** as Trial Chamber II composed of Judges William H. Sekule, Presiding, Arlette Ramaroson and Solomy B. Bossa (the "Chamber");

**BEING SEIZED** of the "*Requête de Pauline Nyiramasuhuko en reconsidération de la 'Decision on Pauline Nyiramasuhuko's motion for recall or reconsideration of Witness AND-44, or certification to appeal the Decision of 23 April 2007' filed on 14 May 2007 (Nyiramasuhuko's Motion);*

**NOTING** the "*Réplique de l'accusée Pauline Nyiramasuhuko à la réponse du Procureur et de l'accusé Alphonse Nteziryayo à sa requête en rappel du témoin AND 44 et subsidiairement en reconsidération ou certification des décisions orales la chambre II du 23 avril 2007 (Rules 54, 73(A) et (B), 90 (G) du Règlement de procédure et preuve)*", filed on 11 May 2007 (Nyiramasuhuko's Reply);

**RECALLING** the "Decision on Pauline Nyiramasuhuko's motion for recall or reconsideration of Witness AND-44, or certification to appeal the decision of 23 April 2007" (the "Impugned Decision");

**CONSIDERING** the Statute of the Tribunal (the "Statute") and the Rules of Procedure and Evidence (the "Rules") in particular Rule 73 of the Rules;

**NOW DECIDES** the Motion pursuant to Rule 73 on the basis of the written submissions of the Parties.

#### **INTRODUCTION AND SUBMISSIONS**

1. On 11 May 2007, the Chamber issued the Impugned Decision. Later on the same day, the Defence for Nyiramasuhuko filed its reply to the responses of the Defence for Nteziryayo and the Prosecution in respect of the initial motion within the prescribed time limits. However, this reply was only brought to the Chamber's attention on 14 May 2007 by the Registry, after the Chamber had rendered its Decision.
2. The Defence for Nyiramasuhuko submits that its right to be heard was breached as the reply filed within the prescribed time-frame was not considered by the Chamber in reaching the Impugned Decision. The Defence requests the Chamber to reconsider its decision taking the Reply into account.

#### **HAVING DELIBERATED**

3. The Chamber finds that even after considering Nyiramasuhuko's Reply, there is no reasonable ground to warrant recall, reconsideration or certification to appeal its Decision of 23 April 2007 as the Defence submissions are very similar to those made in the initial motion. Accordingly the Impugned Decision of 11 May 2007 stands.





Arusha, 24 May 2007

A handwritten signature in black ink, appearing to read "W. Sekule".

William H. Sekule  
Presiding Judge

A handwritten signature in black ink, appearing to read "Arlette".

Arlette Ramaroson  
Judge

A handwritten signature in black ink, appearing to read "Solomy Balungi Bossa".

Solomy Balungi Bossa  
Judge

[Seal of the Tribunal]