



UNITED NATIONS
NATIONS UNIES

**International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda**

OR: ENG

TRIAL CHAMBER II

Before Judges: Arlette Ramaroson, presiding
Taghrid Hikmet
Joseph Masanche

Registrar: Adama Dieng

Date: 16 March 2009

**THE PROSECUTOR
v.
ILDEPHONSE HATEGEKIMANA**

Case No. ICTR-00-55B-T

ORAL DECISION – ORDER TO COMMENCE TRIAL IMMEDIATELY

Office of the Prosecutor:

William Egbe
Peter Tafah
Sulaiman Khan
Adama Niane
Guilain Disengi Mugeyo
Amina Ibrahim

Defence Counsel:

A.R. Dovi
Ata-Quam-Dovi-Avouyi

Transcript Extract: 16 March 2009, pages 1-2.

MADAM PRESIDENT:

This is the decision of the Chamber.

After consideration of the submissions of the parties on 22 January 2009, 23 January 2009, 26 January 2009, 27 January 2009, 13 March of 2009 and early today in their oral submissions, 16 March 2009, the Chamber finds as follows: Two (*sic*), concerning the first issue about identification alias of the Accused raised on 22 of January 2009, and again in the two days' oral motion the Defence raises two arguments. First, that the name of the Accused as it appears in the indictment is spelled differently than on the Accused's birth certificate. And two, that the nickname Bikomago referring to the Accused in the indictment is prejudicial.

Three, this identification issue has previously been addressed by the earlier Trial Chamber, specifically in the decision -- in the decisions of 25 September 2007 and 27 of January 2009. The Chamber rejected the argument that there is any question about the Accused's identity in the -- *il n'y a pas de problème*

THE ENGLISH INTERPRETER:

There is no problem.

MADAM PRESIDENT:

In the 25th of September 2007 decision the Chamber held that -- that it is clear from the supporting material that the amended indictment seeks to introduce the use of the nickname Bikomago only in identifying Hategekimana, as well as his alleged crimes, and does not use the nickname to confuse or associate the Accused with any other person named Bikomago who may have committed crimes in Burundi or elsewhere.

Additionally, at his initial appearance on 9 November 2007 the Accused himself recognised before the Court that his name is Idelphonse Hategekimana. The Chamber finds that the Defence has belaboured an issue that has already been determined. Accordingly, the Chamber emphasise that this issue has been settled.

Four, concerning the issue raised in the motion of 23rd of January 2009 and 23 of – 22 of January 2009 -- excuse me -- and 23 of January 2009 about translation of the documents, the Defence has asked for a reconsideration of the two -- of two decisions of Trial Chamber III dated 15 and 16 January 2009, respectively, because the Prosecution documents had not been translated in French.

Five, specifically in each decision dated 15 January 2009 and 16 January 2009, Trial Chamber III granted the Prosecution motions to allow the transfer of detained witnesses, and to accord protection measures to Prosecution witnesses.

The present Chamber notes that the Defence did not respond substantively to the Prosecution motion or indicate that the translation was necessary within the time limit prescribed by the rules. Consequently, the Chamber will not revisit these decisions to transfer detained witnesses and to accord protection measures to Prosecution witnesses.

Six, the Defence in its motions of 26 January 2009 and 13 March 2009 have further requested that the present Chamber cancel the 22 December 2008 order of Trial III pursuant to the status conference of 15 December 2008 establishing the commencement date of the trial in January 2009. The reason given by the Defence is to make a preliminary evaluation of the work and efforts accomplished and to accomplish by the parties before setting the date to commence the trial.

The Chamber finds that sufficient time has been afforded to the parties for preparation of the case and that there is no legal basis for the Defence request. Furthermore, the date for the commencement of the trial proceedings has already been postponed from January 2009 to the present date,
16 of March.

Seven, the Defence in its current motion has also reiterated a translation -- a translation issue raised in its motion of 27 January addressed to Trial Chamber III. Specifically the

Defence requests translation in French of all documents, substantive and procedural, within a relevant -- within a relevant time frame before the commencement of trial under the rules. However, the Defence does not indicate any specific documents to be translated.

Eight, the present Chamber notes the practice of the Tribunal to require translations only of documents or portions of documents that are directly relevant to the issues before the Chamber. But, in the course of the proceedings, all necessary arrangements for translation of relevant documents or portions of said documents are to be made available to the parties both in English and French in accordance with Rule 3(E) of the rules.

For the above reasons -- for the above reasons the present Trial Chamber rejects in their entirety the Defence motions of 22 January 2009, 23 January 2009, 26 January 2009, 27 January 2009, 13 of March, and the oral submissions of today, 16 March 2009. And the Chamber orders the commencement of the trial immediately.