

ICTR-00-55B-T  
4-S-2009  
(1508-1506)

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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:** 04 May 2009

**THE PROSECUTOR**  
v.  
**ILDEPHONSE HATEGEKIMANA**

**Case No. ICTR-00-55B-T**

2009 MAY -4 A 10:10  
JUDICIAL RECORDS/ARCHIVE  
04/05/2009

**DECISION ON DEFENCE MOTION TO RECONSIDER TRIAL DATE**

**Office of the Prosecutor:**

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**Defence Counsel:**

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## INTRODUCTION

1. On 22 April 2009, the Defence filed a Motion requesting a reconsideration of the date of the Defence phase of the trial proceedings in the present case, scheduled, pursuant to the Chamber's oral decision of 16 April 2009, to commence on 15 June 2009.<sup>1</sup>
2. The Prosecution, in its Response filed on 28 April 2009, supported the Defence Motion, requesting the Chamber to accord a reasonable delay for the preparation of the Defence examination-in-chief, and similarly of the Prosecution cross-examination. The Prosecution also requested the Chamber to compel the Defence to provide timely disclosure of its witness list and the non-redacted statements of these witnesses.<sup>2</sup>

## DISCUSSION

### *Trial Schedule*

3. As a preliminary matter, the Trial Chamber notes that the Defence raises issues regarding trial readiness which are similar to those previously adjudicated in its oral Decisions of 16 and 31 March 2009. In those decisions, this Chamber recalled that the date for the commencement of the trial proceedings had already been postponed since January 2009 and found that sufficient time had been afforded both Parties for the preparation of their cases.
4. The determination of a date for the commencement of trial is a matter for the general administration of the Tribunal and its judicial calendar. In establishing its judicial calendar, the Tribunal evaluates priorities, particularly the right of an accused to be afforded a fair trial without undue delay, pursuant to Article 19 (1) and Article 20 (2) and (4)(b)(c) of the Statute. Other considerations include the availability of the Tribunal's facilities.<sup>3</sup> As the Appeals Chamber has held in regard to the preparation and presentation of the Defence case, the Trial Chamber must "balance the need for the accused to have adequate time for the preparation and presentation of his case and the need for an expeditious trial."<sup>4</sup> After fully considering all relevant factors, the Chamber must employ its discretion to determine the trial schedule.<sup>5</sup>

<sup>1</sup> The Defence Motion *Requête Respectueuse de la Défense en Reconsidération de l'Ordonnance de la Chambre en Date du 17 Avril 2009 Fixant au 15 Juin 2009 le Début de la Présentation des Moyens de Preuve à Décharge*

<sup>2</sup> The Prosecution Response, *Réponse du Procureur à la Requête de la Défense en Reconsidération de l'Ordonnance de la Chambre en Date du 17 Avril 2009 Fixant au 15 Juin 2009 le Début de la Présentation des Moyens de Preuve à Décharge*.

<sup>3</sup> *Prosecutor v. Hategemimana*, Case No. ICTR-0-55-I, Decision on Defence Motion for the Continuation of Proceedings before the Tribunal, 5 November 2007, para. 6.

<sup>4</sup> *Prosecutor v. Karemera et al.*, Case No. ICTR-98-44-PT, Decision on the Continuance of Trial, 14 September 2005, para. 3, citing *Prosecutor v. Slobodan Milosevic*, Case No. IT-02-54-AP73, Decision on Interlocutory Appeal by *Amici Curiae* Against the Trial Chamber Order Concerning the Presentation and Preparation of the Defence Case (AC), 20 January 2004, para. 8.

<sup>5</sup> *Prosecutor v. Ngirabatware*, Case No. ICTR-99-54-T, Decision on Defence Motion to Vacate Trial Date of 4 May 2009, 25 February 2009, para. 10, citing *Prosecutor v. Karemera et al.*, Case No. ICTR-98-44-PT, Decision on the Continuance of Trial, 14 September 2005, paras. 16-17.

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5. In view of the circumstances, the Chamber considers that there is no justification to delay the proceedings by vacating the scheduled trial date. However, because of issues relating to the availability of Tribunal facilities, the Defence phase of the proceedings shall commence on 22 June 2009, which is one week later than originally scheduled. The Chamber considers that the Defence has adequate time to prepare its case and recalls its instruction, issued in its oral decision of 16 April 2009 that “the Defence shall commence to prepare its case in relation to the Prosecution evidence presented to date.”

#### *Defence Disclosure*

6. The Prosecution presented the evidence of eighteen witnesses between 16 March and 16 April 2009. The evidence of the last Prosecution witness, presented via video-link, will be heard today, 4 May 2009, marking the close of the Prosecution case.

7. The Chamber recalls that, during the last trial session in Arusha on 16 April 2009, it ordered the Defence to disclose all identifying witness information as soon as possible before the commencement of its case or, at the latest, by 25 May 2009.

8. In light of the rescheduling of the Defence phase of the trial, now commencing on 22 June 2009, the Chamber orders the Defence to file all identifying witness information as soon possible, and at the latest by 01 June 2009, three weeks before the commencement of its case.

#### **FOR THE ABOVE REASONS, THE CHAMBER**

**ORDERS** that the Defence case shall commence on 22 June 2009,

**ORDERS** that the Defence shall disclose all identifying witness information no later than 01 June 2009.

Arusha, 04 May 2009 .



Arlette Ramaroson

Presiding Judge

[read and approved by]



Taghrid Hikmet

Judge

[absent at the time of  
signature]



Joseph Masanche

Judge

[Seal of the Tribunal]

