



International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

ICTR-99-54-T  
13 - 05 - 2009  
(830 - 828)

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OR: ENG

TRIAL CHAMBER II

Before: Judge William H. Sekule,  
*sitting pursuant to Rule 54 of the Rules*

Registrar: Mr. Adama Dieng

Date: 12 May 2009

The PROSECUTOR

v.

Augustin NGIRABATWARE

Case No. ICTR-99-54-T

JUDICIAL RECORDS ARCHIVES  
RECEIVED  
2009 MAY 13 1 P 3: 23

SCHEDULING ORDER

*Pursuant to Rule 54 of the Rules of Procedure and Evidence*

**Office of the Prosecutor**  
Mr. Wallace Kapaya  
Mr. Patrick Gabaake  
Mr. Brian Wallace  
Mr. Iskandar Ismail

**Defence Counsel**  
Mr. David C. Thomas

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

**SITTING** as Trial Chamber II, composed of Judge William H. Sekule, pursuant to Rule 54 of the Rules of Procedure and Evidence (the “Rules”);

**NOTING** the “Decision on Augustin Ngirabatware’s Appeal of Decisions Denying Motions to Vary Trial Date”, rendered by the Appeals Chamber on 12 May 2009 (the “Appeals Chamber Decision”);

**CONSIDERING** the Statute of the Tribunal (the “Statute”) and the Rules;

**RECALLS** the following:

1. On 25 February 2009, the Trial Chamber denied the Defence motion to vacate the 4 May 2009 trial date but, for scheduling reasons, ordered that the trial shall commence on 18 May 2009 (“Decision of 25 February 2009”).<sup>1</sup>
2. On 11 March 2009, the Defence filed a motion to defer the 18 May 2009 trial date.<sup>2</sup> In a decision of 25 March 2009 the Trial Chamber denied the motion, reiterating its order that the trial shall commence on 18 May 2009 (“Decision of 11 March 2009”).<sup>3</sup>
3. On 15 April 2009, the Chamber granted the Defence certification to appeal the Decision of 25 March 2009 and ordered a stay of the commencement of the trial should a determination of the appeal be filed later than the set trial date of 18 May 2009.<sup>4</sup>
4. On 12 May 2009, the Appeals Chamber granted the Defence’s appeal, reversed the decisions rendered by the Trial Chamber on 25 February and 11 March 2009, and remanded the determination of a trial date to the Trial Chamber holding that:

[T]he Trial Chamber abused its discretion in failing to address the factors relevant to its taking a fully informed and reasoned decision as to whether the setting of the trial in May 2009 infringed Ngirabatware’s right to a fair trial and in setting an unreasonable date for the start of the trial. Because the Trial Chamber is in the best position to determine what would be an appropriate date for the start of the trial, the Appeals Chamber remands the matter to the Trial Chamber.<sup>5</sup>


<sup>1</sup> Decision on Defence Motion to Vacate Trial Date of 4 May 2009, 25 February 2009, p. 4.

<sup>2</sup> Defence Motion to Continue 18 May 2009 Trial Date, 11 March 2009, para. 21.

<sup>3</sup> Decision on Defence Motion to Vary Trial Date, 25 March 2009, pp. 5-6.

<sup>4</sup> Decision on Defence Motion for Certification to Appeal the Trial Chamber’s Decision of 25 March 2009 on Defence Motion to Vary Trial Date, 15 April 2009, para. 21 and disposition.

<sup>5</sup> Appeals Chamber Decision, para. 32.




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**THE CHAMBER THEREBY:**

- I. **ORDERS** that the appropriate date for the commencement of the trial will be determined on the basis of written submissions addressing the issues raised in the Appeals Chamber Decision;
- II. **ORDERS** the Defence to submit within five days from the filing of this Scheduling Order its proposed date for the commencement of the trial and the reasons for proposing this date;
- III. **ORDERS** the Prosecution to file its response, if any, to the Defence's submissions within five days of the filing of these submissions;
- IV. **ORDERS** the Defence to file its reply, if any, to the Prosecution's response within five days of the filing of the response.

Arusha, 12 May 2009



William H. Sekule  
Judge

[Seal of the Tribunal]