



Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

18156/H

JN

IN THE APPEALS CHAMBER

ICTR-98-42-A

Before:

Judge Fausto Pocar, Presiding
Judge Liu Daqun
Judge Carmel Agius
Judge Khalida Rachid Khan
Judge Bakhtiyar Tuzmukhamedov

25th March 2015

{18156/H - 18153/H}

Registrar:

Mr. Bongani Majola

Order of:

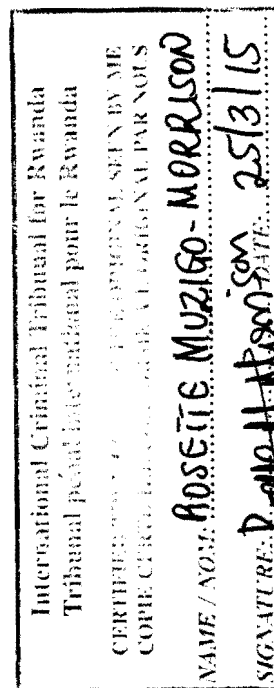
25 March 2015

THE PROSECUTOR

v.

**Pauline NYIRAMASUHUKO
Arsène Shalom NTAHOBALI
Sylvain NSABIMANA
Alphonse NTEZIRYAYO
Joseph KANYABASHI
Élie NDAYAMBAJE**

Case No. ICTR-98-42-A



ORDER FOR THE PREPARATION OF THE APPEALS HEARING

Counsel for Pauline Nyiramasuhuko

Nicole Bergevin and Guy Poupart

Office of the Prosecutor

Hassan Bubacar Jallow

Counsel for Arsène Shalom Ntahobali

Normand Marquis and Mylène Dimitri

James Arguin

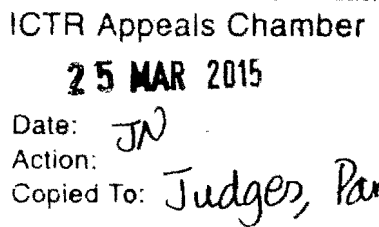
Deborah Wilkinson

Counsel for Sylvain Nsabimana

Josette Kadji and Pierre Tientcheu Weledji

Counsel for Alphonse Nteziryayo

Frédéric Titinga Pacéré and
Gershom Otachi Bw'Omanwa



Counsel for Joseph Kanyabashi

Michel Marchand and Alexandra Marcil

Counsel for Élie Ndayambaje

Pierre Boulé and Claver Sindayigaya

TCU

THE APPEALS CHAMBER of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States Between 1 January and 31 December 1994 (“Appeals Chamber” and “Tribunal”, respectively);

NOTING the Trial Judgement pronounced in this case by Trial Chamber II of the Tribunal on 24 June 2011 and issued in writing in English on 14 July 2011;¹

NOTING that Pauline Nyiramasuhuko (“Nyiramasuhuko”), Arsène Shalom Ntahobali (“Ntahobali”), Sylvain Nsabimana (“Nsabimana”), Alphonse Nteziryayo, Joseph Kanyabashi (“Kanyabashi”), Élie Ndayambaje (“Ndayambaje”), and the Prosecution lodged appeals against the Trial Judgement, and that the filing of their appeal submissions is complete;

RECALLING the Scheduling Order issued on 5 March 2015, which set the dates of the appeals hearing in this case for Tuesday, 14 April 2015 through Wednesday or Thursday, 22 or 23 April 2015;²

CONSIDERING the written appeal submissions of the parties in this case;

EMPHASISING that the present order in no way expresses the Appeals Chamber’s views on the merits of the appeals or limits its discretion to raise further questions in writing prior to the hearing as the case may require;

HEREBY INFORMS Nyiramasuhuko, Ntahobali, Nsabimana, Kanyabashi, Ndayambaje, and the Prosecution that, during the course of the appeals hearing, in addition to any matter that they may wish to raise in their oral arguments or that the Appeals Chamber may wish to raise, they are invited to:

- i) discuss whether the relevant factual findings of the Trial Chamber and the evidence contained in the record would support the conclusion that Nyiramasuhuko, Ntahobali, Nsabimana, Kanyabashi, and Ndayambaje committed persecution as a crime against humanity on political or racial grounds;

INFORMS Nyiramasuhuko that she is invited to:

¹ *The Prosecutor v. Pauline Nyiramasuhuko et al.*, Case No. ICTR-98-42-T, Judgement and Sentence, pronounced on 24 June 2011, issued in writing on 14 July 2011 (“Trial Judgement”).

² See Scheduling Order, 5 March 2015.

- i) clarify whether she challenges the 24 June 2004 oral decision by which the Trial Chamber admitted the report of Prosecution Expert Witness André Guichaoua; and
- ii) if so, clarify her allegation(s) of error in this respect and whether she raised the Prosecution's alleged violation of its disclosure obligations at the time the Trial Chamber decided to admit the report;

INFORMS Kanyabashi and the Prosecution that they are invited to:

- i) discuss, with reference to the record, whether Kanyabashi's ability to prepare his defence was materially impaired by the alleged lack of notice concerning the source of his knowledge of the crimes committed by his subordinates from the Ngoma communal police at Kabakobwa Hill on 22 April 1994;

ORDERS the Prosecution to file by 8 April 2015 further written submissions of no more than 7,000 words discussing:

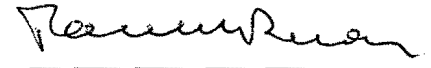
- i) what evidence cited in the Trial Judgement and findings of the Trial Chamber would support the conclusion that Nyiramasuhuko was convicted for ordering the killings of Tutsis who had sought refuge at the Butare Prefecture Office during the night around the end of May or the beginning of June 1994 when she and Ntahobali were found to have come to the Butare Prefecture Office three times;
- ii) what evidence cited in the Trial Judgement and findings of the Trial Chamber would support the conclusion that Ntahobali was convicted for ordering the killings of Tutsis who had sought refuge at the Butare Prefecture Office during the night around the end of May or the beginning of June 1994 when he and Nyiramasuhuko were found to have come to the Butare Prefecture Office three times;
- iii) what evidence cited in the Trial Judgement and findings of the Trial Chamber would support the conclusion that Ntahobali was convicted for ordering the killings of Tutsis who had sought refuge at the Butare Prefecture Office during the attacks conducted in the first half of June 1994;
- iv) whether, with references to the record, Ntahobali was given sufficient notice that he was charged with aiding and abetting the killing of Tutsis who had sought refuge at the Butare Prefecture Office during the attacks conducted there in which he was found to have participated and whether the findings of the Trial Chamber and relevant evidence in the record would sustain convictions on this basis; and

ORDERS Nyiramasuhuko to file her response to the Prosecution's additional written submissions, if any, of no more than 2,500 words by 30 April 2015;

ORDERS Ntahobali to file his response to the Prosecution's additional written submissions, if any, of no more than 6,000 words by 5 May 2015.

Done in English and French, the English version being authoritative.

Done this twenty-fifth day of March 2015,
at The Hague,
The Netherlands.



Judge Fausto Pocar
Presiding Judge

[Seal of the Tribunal]






**COURT MANAGEMENT
ADMINISTRATION DES CHAMBRES**

UNITED NATIONS
NATIONS UNIES

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**PROOF OF SERVICE TO DETAINEES
PREUVE DE NOTIFICATION D'ACTES AUX DETENUS**

Upon signature of the detainee, please return this sheet to the originator as proof of service.
Formulaire à être renvoyé à l'expéditeur dûment signé par le détenu.

Date: Wednesday, 25 March 2015		Case Name / affaire: The Prosecutor Vs. Pauline Nyiramasuhuko et al		
		Case No / no. de l'affaire: ICTR-98-42-A		
To: A:	Pauline Nyiramasuhuko et al.	TO BE FILLED IN BY THE DETAINEE A COMPLETER PAR LE DETENU Signature _____ Date, Time / Heure _____ I acknowledge receipt of the documents listed below. <i>J'accuse réception des documents mentionnés ci-dessous.</i>		
Through:	JPU, CMS, ICTR, Arusha.	Print name / nom _____ _____	Signature _____ _____	Date, Time / Heure _____ _____
From: De:	<input checked="" type="checkbox"/> Appeals Chamber, The Hague <input type="checkbox"/> CMS, Arusha <input type="checkbox"/> Other 			
Subject Objet:	Kindly find attached the following documents / Veuillez trouver en annexe les documents suivants.			
Documents name / titre du document		Date Filed / Date enregistré	Pages	
Order for the Preparation of the Appeals Hearing		25 mars 2015	<u>18156/H – 18153/H</u>	