



# MINUTES OF PROCEEDINGS PROCES-VERBAL D'AUDIENCE

Rule 35 of the Rules of Procedure and Evidence / Art. 44 of the Directive for the Registry on Court Management  
Art. 35 Règlement de Procédure et de Preuve / Art. 44 Directive au Greffe sur l'Administration des Chambres

Case Name: **NYIRAMASUHUKE ET AL.**

Case No: ICTR-98-42-T

Trial Chamber: Two

Before / Devant: **Judge William H. Sekule (Presiding)**, Judge Arlette Ramarason, Judge Solomy Bossa.

Specificities / Spécificités: Joinder.

Prosecution / Poursuite: S. Arbia, A. Adeboyejo, (absent) A. Whest, H. Makwaia, M. Adenuga, M. C. Tidiane (absent), A. Mbow, T. Olowoye.

Accused / Accusés: P. Nyiramasuhuko, A. Ntahobali, S. Nsabimana, A. Nteziryayo, J. Kanyabashi, E. Ndayambaje.

Defence / La Défense: N. Bergevin, G. Poupart, C. Campbell (Asst.), D. Mwanyumba, N. Marquis, M. Dimitri, (Asst.), J. Kadji, C. Tchakoute, (absent) P. T. Weledji (Asst.), D. Arsin (Asst.), F. Pacere, R. Perras, (absent), C. Buteau (Asst), P. Rukebesha (Asst.) (absent), M. Marchand, S. Santerre, (absent) J. Veillette (Asst.), P. Boulé, Desrochers (absent), F. Palardy (Asst.), C. Sindayigaya (Asst.).

Registry / Greffe: J. M. Kiyeyeu, E. Mwanja.

Date: Monday 31 January 2005

## TRIAL DAY 213

### 1. Remarks / Remarques

- a. Defence Counsel (Mr. Marchand) informed the Chamber that he has filed a motion this morning with regard to the disclosure that was served on the Parties while it was only intended for the Judges. He stated that he would like the Chamber to hear his oral motion so that the Chamber can direct the Registry to take the disclosure back from the Parties before any damage is caused pending the hearing of the substantive motion. The Chamber informed the Parties that it has not yet seen the said motion. The Registry informed the Chamber that the motion is being processed and that it would be distributed immediately afterwards. See the direction of the Chamber at paragraph 2a.
- b. Prosecution Counsel (Ms. Arbia) informed the Chamber that the information disclosed by the Defence of Nyiramasuhuko is inadequate and in violation of Rule 73 ter. Ms. Arbia prayed that the parts of evidence that have not been referred to in the Pre-Defence Brief and the disclosure that have not respected the 21 days disclosure order be declared inadmissible. Defence Counsel (Ms. Bergevin) informed the Chamber that on 11.1.2005 they disclosed the information and that they were within the time limit. She stated that on 12.1.2005 they submitted an erratum pertaining to a date. She submitted that there was no addition as alleged by the Prosecutor. Ms. Bergevin informed the Chamber that even in her motion filed on Friday 28.1.2005, the Prosecutor recognised that there was no problem with regard to Witnesses WFGS, WMCZ and WCHZ. See the Ruling of the Chamber at paragraph 2b.
- c. The Chamber made observations and directions as indicated at paragraph 2c-d. The Chamber made another direction as indicated at paragraph 2e. Defence Counsel (Ms. Bergevin) informed the Chamber that they have only one common witness, an Expert witness. Defence Counsel (Mr. Poupart) indicated that a motion for severance of the trial of Mr. Ntahobali had been filed. He prayed the Chamber not to continue with the Defence case until the Decision is rendered. Prosecution Counsel (Ms. Arbia) informed the Chamber that the issues raised by Ntahobali do not affect Nyiramasuhuko's defence, rather it concerns Nsabimana's defence. Mr. Poupart informed the Chamber that other Defence Counsel may cross-examine witnesses and Ntahobali may be affected in the process. See the Ruling of the Chamber at paragraph 2f. Defence Counsel (Mr. Marchand) informed the Chamber that the Chamber's direction to consider reducing the number of witnesses would be seriously considered.
- d. Defence Counsel (Ms. Bergevin) made the Defence Opening statement for Ms. Nyiramasuhuko. She thereafter conducted the examination-in-chief of Witness WFGS (DW1). She produced an exhibit indicated at paragraph 4. When asked by the Chamber whether Nyiramasuhuko is expected to testify, Ms. Bergevin stated that no decision has been taken yet as to whether Ms. Nyiramasuhuko should testify.
- e. The Chamber informed the Parties that the timetable of the proceedings would be similar to the last session namely: 9.00 a.m. up to 1.00 p.m. with a break at around 11.00 a.m. and at 2.30 p.m. up to 5.30 p.m. with a short break at around 4.00 p.m. The Chamber stated that there would be no session on Fridays unless otherwise indicated.
- f. Defence Counsel (Mr. Poupart) informed the Chamber that Ms. Campbell, Legal Assistant for the Defence of Nyiramasuhuko was refused access to the witness for the Defence of Ms. Nyiramasuhuko. The Registry

informed the Chamber that the WVSS has no problem to let the members of the Defence to meet with witnesses if the procedure is followed. See the direction of the Chamber at paragraph 2g.

- g. Defence Counsel (Mr. Marquis) informed the Chamber that he cannot cross-examine the witness but would wait until the Chamber made a decision on their motion. Defence Counsel (Kadji, Pacere and Boulé) informed the Chamber that they did not intend to cross-examine Witness WFGS. Mr. Marchand cross-examined Witness WFGS and Ms. Arbia commenced the re-examination of Witness WFGS.
- h. Defence Counsel (Mr. Marchand) made an oral motion before the Chamber pending the Chamber's consideration of the substantive motion. Mr. Marchand informed the Chamber that the Registry had inadvertently and pre-maturely disclosed to the Defence the disclosure that was only meant for the Judges. He prayed the Chamber to order that all the copies disclosed to the Parties be returned to the Registry for destruction. The Prosecutor and all the other Defence Counsel had no objection to the motion. See the Ruling of the Chamber at paragraph 2h.
- i. Defence Counsel (Mr. Poupart) requested the Chamber to authorise that Ms. Nyiramasuhuko be allowed to meet with her Defence witnesses after they finish their testimony. Prosecution Counsel (Ms. Arbia) opposed the request. The Chamber stated that the request would be considered when made at the appropriate time.
- j. The session was adjourned to Tuesday 1 February 2005 at 9:00 a.m. for the continuation of the defence case when Ms. Arbia will continue with the re-examination of Witness WFGS (DW1).

**2. Decisions & Orders rendered orally / Décisions & Ordonnances rendues oralement**

- a. The Chamber directed the Registry to serve the motion referred to by Mr Marchand as soon as possible.
- b. The Chamber directed that since the Prosecutor did not object to hear the evidence of the first witnesses, the Defence case would continue and if there are any other matters, they would be dealt with when dealing with the motion. The Chamber stated that if possible, it would hold a Status Conference where issues could be sorted out.
- c. The Chamber directed that the Defence should review the number of witnesses they intend to call with a view to reducing the number. The Chamber gave an example of the witnesses intended to be called by the Defence of Mr. Kanyabashi.
- d. The Chamber observed that with regard to the disclosure of a general nature, the summaries prepared by the Defence are expected to be sufficient enough to enable other parties to understand, especially where there are no statement.
- e. The Chamber directed that if there are joint witnesses between Nyiramasuhuko and Ntahobali, and if the Defence of Ntahobali opts not to make an opening statement now, then they must make an opening statement before the joint witness is called.
- f. The Chamber decided that the proceedings would continue without prejudice to the motion filed by Mr. Ntahobali.
- g. The Chamber directed that access to the witnesses by members of the Defence should be facilitated so that there is no delay in the proceedings.
- h. The Chamber directed that all the documents disclosed by mistake and pre-maturely be returned to the Registry and destroyed as prayed by the Defence of Mr. Kanyabashi. The Chamber also directed the Defence of Mr. Kanyabashi to disclose to the other Parties the redacted material so as to enable them to prepare. In response to the Chamber's order, Mr. Marchand informed the Chamber that he would disclose the redacted material by next Friday.

**3. Witnesses heard / Témoins entendus**

Defence Witness: WFGS (DW1).

**4. Exhibits tendered / Pièces à conviction présentées**

D. 263 – Protected Information Sheet for Witness WFGS (DW1), (Nyiramasuhuko) (Sealed).

Opening <i>Ouverture</i>	Adjournment <i>Suspension</i>
9:05 a. m.	10:55 a. m.
11:25 a. m.	1:05 p. m.
2:40 p. m.	4:03 p. m.
4:20 p. m.	5:40 p. m.
Total time in Court Durée des débats	6hrs 13 min

Signature

**SIGNED**

For Judge W. H. Sekule  
Presiding Judge

Alice Leroy,  
Coordinator, Chambers

**Date:** 31 January 2005

Signature

**SIGEND**

John M. Kiyeyeu

Courtroom Officer TCII

**Date:** 31 January 2005