

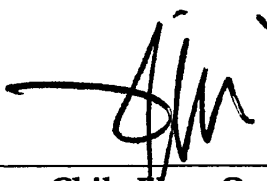
CONCURRING SEPARATE OPINION OF JUDGE EBOE-OSUJI

1. I concur in both the decision to vacate the trial date, as well as the decision to treat the new issues raised by the Defence as constituting a fresh application to which the Prosecution has a full right of response (thus leaving the Defence with the privilege of reply, if need be, upon grant of leave).
2. It is right to vacate the date for trial in the circumstances presented, without prejudice to the new issues raised by the Defence. This is because the issue of vacating (on the application of the Prosecutor) the date set for the commencement of trial is a matter quite separate from the question of whether or not the case should be terminated (on the application of the Defence).
3. I am, however, of the view that due to both the public significance that this case has acquired and the concerns raised by the Defence, it would have been more appropriate to hold a public hearing prior to the decision to vacate the date set for trial.
4. As I am of the view that the issue of vacating the existing trial date is separate from the issue of whether or not to terminate the case at the request of the Defence, I am also of the view that a new date should have been set, in this decision, for the commencement of trial; without prejudice to the request for termination presented by the Defence for a separate decision in the meantime. To vacate the existing trial date with the possibility of setting a new date only after litigation of the issues presented by the Defence, holds, in my view, the potential to confuse the two issues.

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

Dated this 23 January 2014

At The Hague, the Netherlands



Chile Eboe-Osuji
(Judge)