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ICTR-98-39-1  
29.9.1998  
(79-7)

UNITED NATIONS  
CRIMINAL REGISTRY  
RECEIVED  
International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda



ORG:ENG.

Before: Judge Yakov A. Ostrovsky

Registry: Ms. Prisca Nyambe  
Dr. Antoine Mindua

**THE PROSECUTOR**  
versus  
**OMAR SERUSHAGO**  
Case No. ICTR-98-39-I

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**DECISION ON THE REVIEW OF THE INDICTMENT**

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For the Prosecutor:

Ms. Josee D'Aoust  
Mr. Robert Petit  
Mr. Matar Diop

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**The International Criminal Tribunal for Rwanda (the "Tribunal"),**

SITTING AS Judge Yakov A. Ostrovsky, designated by President of the Tribunal under Rule 28 of the Rules of Procedure and Evidence ("the Rules");

CONSIDERING the order by President Laity Kama, on 30 June 1998, for the transfer and provisional detention of the accused, Omar Serushago, from the Ivory Coast to the United Nations Detention Facility;

CONSIDERING FURTHER the decision rendered by the Tribunal, on 8 September 1998, for the extension of the accused's provisional detention under Rule 40 *bis* of the Rules;

UPON RECEIVING from the Prosecutor, on 28 June 1998, an indictment, pursuant to Articles 17 and 18 of the Statute of The Tribunal ("the Statute"), and Rule 47 of the Rules charging Omar Serushago with conspiracy to commit genocide, genocide and crimes against humanity;

HAVING HEARD the Prosecutor, on 29 September 1998, pursuant to Rule 47(D) of the Rules to review the indictment;

NOTING that the Prosecutor, upon questions raised by the Tribunal, during the review, agreed to make amendments to the indictment, to the extent possible, on the following paragraphs of the concise statement of facts: 3.2, 3.3, 4.1, 4.12, 4.15, 5.3, 5.8, 5.9, 5.10, 5.11, 5.12, 5.13, 5.14, 5.15, 5.16, 5.18, 5.19 5.21, due to the vague nature of these paragraphs;

BEING SATISFIED, from the material tendered by the Prosecutor, that there is sufficient evidence to provide reasonable grounds that Omar Serushago has committed crimes within the jurisdiction of the Tribunal;

WHEREAS the Tribunal is convinced that a *prima facie* case has been established with regard to counts 2, 3, 4, 5 and 6, as set forth in the indictment, pursuant to Article 18(1) of the Statute;

RULING however, that under Article 2(3)(b) there is insufficient basis in the present indictment and supporting material attached thereto to sustain the allegations in count 1, stating that Omar Serushago conspired to commit genocide;

**HEREBY:**

DISMISSES count 1 of the indictment.

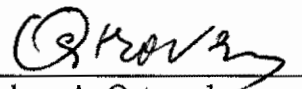
CONFIRMS counts 2, 3, 4, 5, and 6 of the indictment, against Omar Serushago, with the provision that the abovementioned agreed upon amendments are made.

TAKES NOTE of the Prosecutor's prayer that a warrant of arrest and order for continued detention be issued against Omar Serushago, who is presently detained in the United Nations Detention Facilities, in Arusha.

ORDERS, after consultation with the Prosecutor, that there be no public disclosure of the supporting documentation submitted with the indictment, pursuant to Rule 53(B) of the Rules until the

indictment has been served on the accused.

Arusha, 29 September 1998

  
Yakov A. Ostrovsky  
Judge

Seal of the Tribunal

YAO<sup>3</sup>