

Case No. ICTR-96-10 A-I



**International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

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TRIAL CHAMBER II

Before: Judge William H. Sekule, Presiding
Judge Yakov A. Ostrovsky
Judge Tafazzal Hossain Khan

Registry: Mr. John Kiyeyeu

Decision of: 19 May 1999

**THE PROSECUTOR
versus
ANDRÉ NTAGERURA**

Case No. ICTR-96-10 A-I

**DECISION ON THE DEFENCE MOTION FOR A RULING THAT THE
AMENDED INDICTMENT FILED ON 29 JANUARY 1998 DOES NOT
COMPLY WITH THE TRIAL CHAMBER'S DECISION OF 28
NOVEMBER 1997**

The Office of the Prosecutor:

Mr. Bernard Mono
Mr. Don Webster
Mr. Alphonse Van

Counsel for the Accused:

Mr. Fakhy N'Fa Kaba Konate
Mr. Benoit Henry

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

SITTING AS Trial Chamber II, composed of Judge William H. Sekule, Presiding, Judge Yakov A. Ostrovsky and Judge Tafazzal Hossain Khan (“the Trial Chamber”);

CONSIDERING the Indictment issued by the Prosecutor on 9 August 1996 against André Ntagerura pursuant to rule 47 of the Rules of Procedure and Evidence (“the Rules”) on the basis that there was sufficient evidence to provide reasonable grounds for believing that he has committed Genocide, Conspiracy to commit Genocide, Crimes Against Humanity and Violations of Article 3 common to the 1949 Geneva Conventions and Additional Protocol II thereto;

CONSIDERING the decision confirming the Indictment, signed by Judge Lennart Aspegren on 10 August 1996;

HAVING NOW BEEN SEIZED of a Defence motion filed on 23 July 1998 pursuant to the provisions of Article 20(2), 20(4)(a) of the Statute and rule 73 of the Rules of Procedure and Evidence (“the Rules”), seeking a ruling that the amended Indictment filed pursuant to the Trial Chamber’s decision of 28 November 1997 does not comply with the requirements of such decision and is hence null and void;

WHEREAS the main argument by the Defence was that to date the Prosecutor has not complied with the Trial Chamber’s decision of 28 November 1997 because the Prosecutor has maintained vague factual references in the amended Indictment that the Trial Chamber had ordered to be rectified thereby seriously violating the rights of the accused to a complete and unfettered defence;

CONSIDERING the response to the aforementioned motion by the Prosecutor filed on 17 September 1998 and the supplementary response filed on 14 January 1999, by which the Prosecutor argues that the requirements of the Trial Chamber’s decision of 28 November 1997 were fully complied with, in the amended indictment filed on the 29 January 1998.

TAKING INTO ACCOUNT the Trial Chamber’s Decision of 30 June 1998 in which the Chamber interpreted its Decision of 28 November 1997 and rectified the errors appearing in the operative part of the latter decision;

CONSIDERING Article 20 of the Statute of the Tribunal (“the Statute”) concerning the rights of the accused and the provisions regarding the filing of Motions in rule 73 of the Rules of Procedure and Evidence;

HAVING HEARD the parties on 19 March 1999.

AFTER HAVING DELIBERATED

WHEREAS THE Defence Counsel submitted that various defects exist in the Indictment filed

Non-compliance motion/19/3/99



by the Prosecutor on 29 January 1998;

WHEREAS any new issues on amendment should not be entertained as these should have been raised in an earlier motion, the Trial Chamber finds that the only pertinent issues in the motion are those which arise from the Trial Chamber's Decision of 28 November 1997 as interpreted by the Decision of 30 June 1998. Hence, what is in issue is whether the Prosecutor complied with the above mentioned decisions in its amended Indictment filed on 29 January 1999.

HAVING TAKEN COGNISANCE OF the amended Indictment filed on 29 January 1999 and noting that it complies with the Trial Chamber's Decision of 28 November as interpreted by the Decision of 30 June 1998, the Trial Chamber finds the defence motion without any merit.

FOR THESE REASONS, THE TRIAL CHAMBER

DISMISSES the defence motion.

Arusha, 19 May 1999.



William H. Sekule
Presiding Judge

Yakov A. Ostrovsky
Judge



Tafazzal H. Khan
Judge

(Seal of the Tribunal)