

[ICTR-96-10-I]

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

UNITED NATIONS
NATIONS UNIES

TRIAL CHAMBER I

Original: English

Before: Judge Asoka de Zoysa Gunawardana, Presiding
Judge Navanethem Pillay
Judge Erik Møse

Registry: Abraham Koshopa

Date of Decision: March 27, 2000

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**THE PROSECUTOR v. OBED RUZINDANA & 3 OTHERS
(ICTR-96-10-I)**

**DECISION ON THE PROSECUTOR'S MOTION FOR LEAVE TO FILE AN
AMENDED INDICTMENT**

Office of the Prosecutor:

Mr Charles Adeogun-Phillips
Mr Wallace Kapaya

Counsel for the Accused:

Mr Pascal Besnier
Mr Willem Van Der Griend

P. Besnier

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (hereinafter the "Tribunal")

SITTING as Trial Chamber I, composed of Judge Asoka de Zoysa Gunawardana, Presiding, Judge Navanethem Pillay and Judge Erik Møse;

CONSIDERING the indictment, ICTR-96-10-I, confirmed on June 20, 1996, by Honourable Judge Khan, as amended on August 13, 1998, in the case of *Prosecutor v. Elizaphan Ntakirutimana, Gerard Ntakirutimana, Obed Ruzindana and Charles Sikubwabo* (hereinafter "the present indictment");

CONSIDERING the memorandum from the Chief Prosecutor, Ms Carla Del Ponte, dated February 23, 2000, to the Trial Chamber, a copy of which was also sent to Mr Pascal Besnier, Counsel for Ruzindana;

CONSIDERING the Prosecutor's motion for leave to file an amended indictment and attachment A, filed on March 10, 2000, in which the Prosecutor requested leave to amend the said indictment, by deleting all the charges and factual allegations against Ruzindana;

CONSIDERING the response, dated March 17, 2000, by the Counsel for Ruzindana, to the said motion, in which the Defence Counsel requested that the Tribunal grant the Prosecutor's motion.

CONSIDERING the Motion for Scheduling of the Trial, dated January 5, 1999, filed by the Defence.

The Motion

The Prosecutor requested leave to amend the present indictment pursuant to Rule 50 of the Rules of Procedure and Evidence (hereinafter the "Rules"). Under paragraph 4 of the said motion, the Prosecutor intended (i) the deletion of all the factual allegations against Ruzindana as contained in the preamble and in paragraphs 1, 3.3, 4.7, 4.8 and 4.10 of the present indictment; and (ii) the deletion of the charges against Ruzindana contained in counts 1-6 and referred to in paragraph 5 of the present indictment. The Prosecutor submitted that the request was proper in law and is in the interests of justice, and prayed for the following reliefs;

- (a) Order pursuant to Rule 54 of the Rules, that all the charges against Ruzindana, contained in counts 1-6 and referred to in paragraph 5 of the present indictment, be deleted.
- (b) Direct the Registrar to transmit the said order prayed for in paragraph (a) above, to Ruzindana, through his Counsel, forthwith.
- (c) Direct the Registrar to transmit the amended indictment to all the accused persons named therein, and to their respective Counsel, forthwith.

The Deliberations

The Chamber noted that the Prosecutor, by her memorandum to the Trial Chamber, dated February 23, 2000, has stated as follows, "I have reconsidered my position on this matter. Consequently, I hereby give notice that I no longer wish to pursue the charges in the said indictment against Mr. Ruzindana." The Prosecutor further stated that she will shortly file a motion seeking leave of the Trial Chamber, "to amend the indictment (ICTR-96-10-D) in order to withdraw the charges contained therein as against Mr. Obed Ruzindana." A copy of the said memorandum has been forwarded to the Counsel for Ruzindana, Mr Pascal Besnier. Further to the said memorandum, the instant motion was filed by the Prosecutor, a copy of which was also served on Mr Pascal Besnier, Counsel for the Defence. It was not deemed necessary to serve a copy of the said motion on the Counsel for the other co-accused in this case, since the amendments sought to be made do not in any way prejudice their rights, and they will not be required to plead to the amended indictment.

The Counsel for the Defence, by his response to the instant motion, dated March 17, 2000, stated that, "the request is proper in law and is in the interests of justice." The said response did not object to granting the motion of the Prosecutor.


Having considered all the facts and circumstances, the Trial Chamber is of the view that the Prosecutor's motion for leave to file an amended the indictment, should be granted.

In consequence, the Trial Chamber is also of the view that the pending Motion for Scheduling of the Trial, dated January 5, 1999, filed by the Defence Counsel for Ruzindana, is now moot, and should be dismissed.

**FOR ALL THE ABOVE REASONS
THE TRIBUNAL**


GRANTS the Prosecutor's motion, dated March 10, 2000, for leave to file an amended indictment, and the Trial Chamber hereby:

- (a) **Orders** that the factual allegations against Ruzindana, contained in the preamble and in paragraphs 1, 3.3, 4.7, 4.8 and 4.10, and the charges against Ruzindana, contained in counts 1-6 and referred to in paragraph 5 of the present indictment, be deleted;
- (b) **Directs** the Registrar to transmit the said order contained in paragraph (a) above, to Ruzindana, through his Counsel, along with a copy of the indictment amended in terms of the order made herein, (to be entitled "Indictment [as amended pursuant to the order of March 27, 2000]"), forthwith;



- (c) **Directs** the Registrar to transmit the indictment [as amended pursuant to the order of March 27, 2000], ICTR-96-10-I, to all the accused persons named therein, and to their respective Counsel, forthwith;
- (d) **Dismisses** the Motion for Scheduling of the Trial, dated January 5, 1999, filed by the Defence.

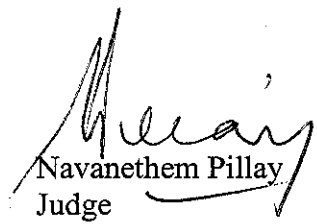
Arusha, March 27, 2000



Asoka de Zoysa Gunawardana
Presiding Judge



Erik Møse
Judge



Navanethem Pillay
Judge

