



**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 28, 2000

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**THE PROSECUTOR v. GERARD NTAKIRUTIMANA AND 3 OTHERS  
(ICTR-96-10-T)**

**DECISION ON THE PROSECUTOR'S REQUEST TO WITHDRAW THE  
PROSECUTOR'S MOTION ENTITLED "REQUEST TO AMEND INDICTMENT  
ICTR-96-10-T PURSUANT TO RULE 50" DATED 13 AUGUST 1998**

Office of the Prosecutor:

Mr Charles Adeogun-Phillips

Counsel for the Accused:

Mr Edward Medvene

<p>International Criminal Tribunal for Rwanda Tribunal pénal international pour le Rwanda</p> <p>CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME COPIE CERTIFIÉE CONFORME A L'ORIGINAL PAR NOUS</p> <p>NAME / NOM: <i>Dr. M. M. D. A. ... Kin. M. ... An. ...</i></p> <p>SIGNATURE: <i>[Signature]</i> DATE: <i>28.03.2000</i></p>
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**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 indictment");

**CONSIDERING** the Prosecution's motion, filed on August 13, 1998, entitled *Request to Amend Indictment ICTR-96-10-T Pursuant to Rule 50*;

**CONSIDERING** the memorandum from the Prosecution Counsel, Mr Charles Adeogun-Phillips, dated March 8, 2000, to Mr Jean-Pele Fomete, Officer in Charge of the Tribunal's Court Management Section, which was copied to the Presiding Judge of the Trial Chamber and thereby seized of the matter, requesting that the said Prosecution motion referred to above, filed on August 13, 1998, be withdrawn from the Registry forthwith.

**FACTS**

On June 30, 1998, in its *Decision on A Preliminary Motion Filed by Defence Counsel for an Order to Quash Counts 1, 2, 3 and 6 of the Indictment*, in *Prosecutor v. Gerard Ntakirutimana*, Trial Chamber II ordered the Prosecution to, "either withdraw or amend the respective counts in the indictment. . .", as indicated in the said order. The Chamber stipulated that the said counts, if amended, should be filed "within 30 days from the signing of this order." On August 13, 1998, the Prosecution filed an amended indictment pursuant to the said decision, with the said counts duly amended.

On August 13, 1998, the Prosecution also filed a motion, entitled *Request to Amend Indictment ICTR-96-10-T Pursuant to Rule 50*. Therein, the Prosecution noted that the said decision of June 30, 1998, ordered that if the counts were to be amended, then it had to be done within 30 days from the signing of the said order. The Prosecution went on to request that the decision of the Trial Chamber be amended, so that the time period of 30 days runs from the date upon which the said order was served upon the Prosecutor, on the grounds that the decision was deposited with the Registry on 15 July 1998 and then transmitted to the Prosecutor on or about 20 July 1998.

The said Prosecution motion was served, on August 13, 1998, by the Registry, upon the Counsel for Gerard Ntakirutimana, Mr E. Loomu-Ojare, and the Counsel for Ruzindana, Mr Pascal Besnier. A copy of the entire file, including the said Prosecution motion, was served, on December 18, 1998, upon Edward Medvene, the new Counsel for Gerard

Ntakirutimana. The Counsel for the Defence has filed no response to the said motion of August 13, 1998.

On March 8, 2000, the Prosecution Counsel, Mr Charles Adeogun-Phillips, in a memorandum to Mr Jean-Pele Fomete, Officer in Charge of the Tribunal's Court Management Section, which was copied to the Presiding Judge of the Trial Chamber and thereby seized of the matter, averred that, "it would seem as though the original intention in filing the said motion was to seek leave to comply with the court's order. That was clearly wrong. The amended indictment reflecting the changes ordered by the court should simply have been filed at the registry without the additional need to seek leave of the Chamber to do so." The memorandum requested that the said Prosecution motion to amend, filed on August 13, 1998, be withdrawn from the Registry forthwith.

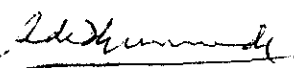
### **DELIBERATIONS**


Having considered all the facts and circumstances, the Trial Chamber is of the view that the request by the Prosecution to withdraw its motion, filed on August 13, 1998, entitled *Request to Amend Indictment ICTR-96-10-T Pursuant to Rule 50*, should be granted.

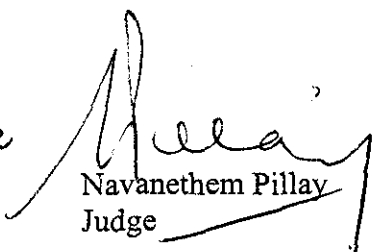
### **FOR ALL THE ABOVE REASONS THE TRIBUNAL**

**PERMITS** the withdrawal of the Prosecution's motion, filed on August 13, 1998, entitled *Request to Amend Indictment ICTR-96-10-T Pursuant to Rule 50*, and is hereby dismissed.

Arusha  
March 28, 2000

  
Asoka de Zoysa Gunawardana  
Presiding Judge

  
Erik Møse  
Judge

  
Navanethem Pillay  
Judge

Seal of the Tribunal

