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

Registrar: Ms Marianne Ben Salimo

Decision date: 14 April 2000

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**THE PROSECUTOR
vs.
JEAN BOSCO BARAYAGWIZA**

Case No. ICTR-97-19-I

**DECISION ON THE DEFENCE'S EXTREMELY URGENT MOTION TO QUASH
THE INDICTMENT AGAINST THE ACCUSED PERSON ON THE GROUND OF
DEFECTS IN THE FORM OF THE INDICTMENT; ON THE DEFENCE'S
MOTION FOR MEASURES AND ORDERS AGAINST THE PROSECUTOR TO
DISCLOSE EVIDENCE, DOCUMENTS AND WITNESSES; AND, ON THE
DEFENCE'S MOTION FOR CLARIFICATION OF THE TERMS AND
EXPRESSIONS USED IN THE INDICTMENT**

Office of the Prosecutor:
Mr. William Egbe

Counsel for the Accused:
Mr J.P. L. Nyaberi (Counsel at the hearing)
Ms Carmelle Marchessault (newly assigned Counsel)

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

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

CONSIDERING the Defence’s Extremely Urgent Motion to Quash the Indictment Against the Accused Person on the Ground of Defects in the Form of the Indictment, filed on 24 February 1998;

CONSIDERING the Defence’s Motion for Measures and Orders Against the Prosecutor to Disclose Evidence, Documents and Witnesses, filed on 6 April 1998;

CONSIDERING the Defence’s Motion for Clarification of the Terms and Expressions Used in the Indictment, filed on 24 February 1999;

CONSIDERING that the Prosecutor did not file any response to the above three motions;

HAVING HEARD the Defence at a hearing on 18 October 1999;

NOTING the Appeals Chamber Decision of 3 November 1999, and its subsequent review Decision of 31 March 2000, in the Barayagwiza case.

The Facts

The original Indictment against the accused was confirmed on 23 October 1997. The accused made his initial appearance on 23 February 1998, pursuant to Rule 62 of the Rules, and pleaded not guilty to all the counts against him.

The present motions were adjourned at the hearing on 18 October 1999, pending the Trial Chamber’s decision on the Prosecutor’s motion for leave to file an amended indictment. Following the Appeals Chamber decision of 3 November 1999, which ordered, inter alia, that the Indictment against the accused be dismissed, all matters relating to Barayagwiza were put on hold, including the present decisions of this Trial Chamber relating to the three above mentioned motions. Following a request by the Prosecutor for a review of the said Appeals Chamber decision on the basis of new facts, the Appeals Chamber held a review hearing. On 31 March 2000, the Appeals Chamber rendered its review decision, which allows the case against Barayagwiza to continue.

The Defence’s Motions

On 24 February 1998, the Defence filed an Extremely Urgent Motion to Quash the Indictment Against the Accused Person on the Ground of Defects in the Form of the

Indictment. The Defence submitted that the indictment should be nullified notably for lack of precision.

On 6 April 1998, the Defence filed a motion for Measures and Orders Against the Prosecutor to Disclose Evidence, Documents and Witnesses. The motion sought an order requesting the Prosecutor to disclose the supporting material accompanying the Indictment when confirmation was sought.

On 26 May 1998, the Defence also filed a motion for Clarification of the Terms and Expressions Used in the Indictment. The Defence requested that these clarifications be integrated into the concise statement of facts within the Indictment or the supporting material that accompanied the Indictment.

The above three motions were brought on the basis of the indictment as confirmed on 23 October 1997, now amended by Order of 11 April 2000.

The Deliberations

At the hearing of 18 October 1999, the Defence averred that its motion for Measures and Orders Against the Prosecutor to Disclose Evidence, Documents and Witnesses and the motion for Clarification of the Terms and Expressions Used in the Indictment will become moot if the Prosecutor's request for leave to file an amendment indictment is granted.

The Chamber granted the Prosecutor's request for leave to file an amended Indictment on 11 April 2000 by allowing her to add one count of crimes against humanity for extermination, two counts of Serious Violations of Article 3 Common to the Geneva Conventions and of Additional Protocol II, the names of the alleged co-conspirators in the count of conspiracy to commit genocide, and to expand the factual allegations

All three above mentioned motions were brought on the basis of the former Indictment, confirmed on 23 October 1997. Consequently, they have been overtaken by events and are therefore moot.

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FOR THESE REASONS,

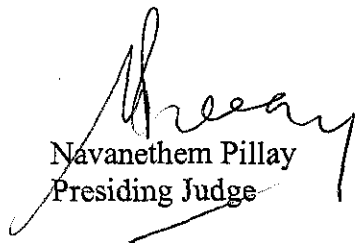
THE TRIBUNAL,

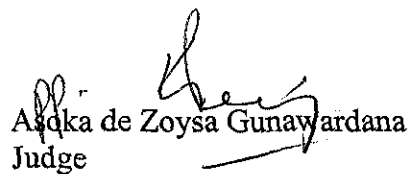
DISMISSES the Defence's Extremely Urgent Motion to Quash the Indictment Against the Accused Person on the Ground of Defects in the Form of the Indictment,

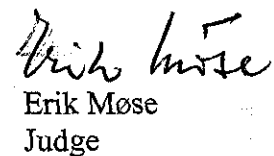
DISMISSES the Defence's Motion for Measures and Orders Against the Prosecutor to Disclose Evidence, Documents and Witnesses,

DISMISSES the Defence's Motion for Clarification of the Terms and Expressions Used in the Indictment.

Arusha, 14 April 2000


Navanethem Pillay
Presiding Judge


Anika de Zoysa Gunawardana
Judge


Erik Mose
Judge

Seal of the Tribunal