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UNITED NATIONS
NATIONS UNIES

International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda

TRIAL CHAMBER I

Original : English

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

Registrar: Ms Aminatta N'gum

Decision date: 12 May 2000

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THE PROSECUTOR vs. HASSAN NGEZE
(Case No. ICTR-97-27-I)

DECISION ON THE DEFENCE MOTION TO ADOPT AND CONFORM

Office of the Prosecutor:

William T. Egbe
Cydney G. Crickard

Counsel for the Accused:

Patricia Mongo
John C. Floyd, III

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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 motion from the Defence to adopt and conform, filed on 23 March 2000, and the Prosecutor's reply, filed on 11 April 2000;

NOTING that the motion was considered on the basis of the written briefs of the Parties, pursuant to Rule 73 of the Rules of Procedure and Evidence ("the Rules"), as notified to the Parties on 28 March 2000.

The Submissions

The Defence submitted that the joinder of the cases against Hassan Ngeze and Ferdinand Nahimana, should allow the accused to adopt and conform all motions filed on behalf of his co-accused, Ferdinand Nahimana. The Defence submitted further that conforming the motions would lessen the work of all the Parties and would ensure the protection of the rights of the accused.

In response, the Prosecution submitted that the issues regarding the two accused are not identical and therefore, the Defence Counsel may file motions that are not applicable to the co-accused.

The Deliberations

The Chamber notes that the Defence has not invoked any authority to support its motion. There is no ICTR case-law to the effect that one accused will automatically benefit from motions filed on behalf of a co-accused. There are separate Indictments for Mr Ngeze and Mr Nahimana, and their respective procedural history differs. Consequently, the legal issues are not necessarily the same, and there may be a conflict of interest between the two accused.

The above-mentioned reasons are sufficient to deny the motion.

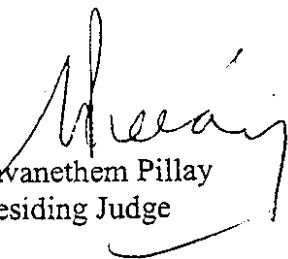
The present finding in no way prevents the lawyers of the co-accused to co-operate or co-ordinate strategies in order to facilitate the proceedings, for instance by filing joint motions. The practice of this Chamber is to require the Registry to communicate motions filed by one accused to the co-accused.

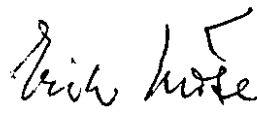
FOR THESE REASONS,

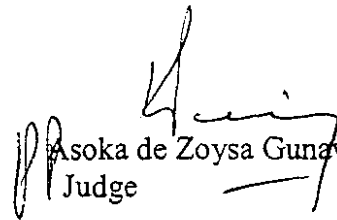
THE TRIBUNAL

DENIES the Defence motion to adopt and conform.

Arusha, 12 May 2000


Navanethem Pillay
Presiding Judge


Erik Møse
Judge


Asoka de Zoysa Gunawardana
Judge



Seal of the Tribunal