



1017-76-1  
12-5-2000  
(1778-1776)  
International Criminal Tribunal for Rwanda  
Tribunal Pénal International pour le Rwanda

1778

TRIAL CHAMBER III

ORIG: Eng.

Before: Judge George Lloyd Williams, Presiding  
Judge Yakov Ostrovsky  
Judge Pavel Dolenc

Registrar: Dr. Agwu Ukiwe Okali

Decision of: 12 May 2000

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ICTR  
COURT REGISTRY  
RECEIVED

THE PROSECUTOR  
versus  
ANATOLE NSENGIYUMVA

Case No. ICTR-96-12-I

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DECISION ON THE DEFENCE MOTION RAISING OBJECTIONS ON DEFECTS  
IN THE FORM OF THE INDICTMENT AND TO PERSONAL JURISDICTION ON  
THE AMENDED INDICTMENT

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Counsel for the Accused:

Mr. Kennedy Ogetto  
Mr. Gershom Otachi Bw'omanwa

Counsel for the Prosecutor:

Mr. Chile Eboe-Osuji  
Mr. Frederic Ossogo

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

**SITTING** as Trial Chamber III, composed of Presiding Judge Lloyd George Williams, Judge Yakov Ostrovsky, and Judge Pavel Dolenc (the "Trial Chamber" or the "Chamber");

**BEING SEIZED** of a Defence Motion Raising Objections on Defects in the Form of the Indictment and to Personal Jurisdiction on the Amended Indictment, dated 2 December 1999 and filed on 3 December 1999 (the "Motion");

**NOTING** the Prosecutor's response to the Motion, dated and filed on 30 March 2000;

**NOTING** the Chamber's Decision on the Defence Motions Objecting to the Jurisdiction of the Trial Chamber on the Amended Indictment, dated and filed on 13 April 2000 (the "Decision on Jurisdiction");

**HAVING HEARD** the arguments of the parties on 8 May 2000.

**PLEADINGS BY THE PARTIES**

**Defence Submissions**

1. The Defence submits that the amended indictment against Anatole Nsengiumva (the "Accused") is defective to the extent that certain of its paragraphs do not allege any specific indictable conduct of the Accused.
2. Consequently, the Defence requests the Chamber to make a declaration to this effect.
3. At the hearing, the Defence withdrew its request for the Chamber to declare that it lacks jurisdiction to adjudicate charges relating to institutions or organizations rather than natural persons since the Chamber already decided that matter on 13 April 2000 in its Decision on Jurisdiction.

**Prosecutor's Response**


1. The Prosecutor responds that if the amended indictment is considered as a whole, it is clear that the concise statement of facts set out in it demonstrates the specific role of the Accused in indictable offences.
2. Consequently, the Prosecutor argues the amended indictment is not defective and requests the Chamber to dismiss the Motion.


**DELIBERATIONS**

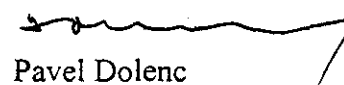
1. It is a general principle of criminal law that all the facts of a given offence attributed to an accused person are to be set out in the indictment against him or her. Therefore, for an indictment to be sustainable, facts alleging an offence must demonstrate the specific conduct of the accused constituting the offence. Rule 47(C) of the Rules of Evidence and Procedure of the Tribunal (the "Rules") reflects this principle when it prescribes that "The indictment shall set forth the name and particulars of the suspect, and a concise statement of the facts of the case and of the crime with which the suspect is charged."
2. It is true that a number of paragraphs in the amended indictment, including those listed in the Motion, do not mention the Accused and his role in the events alleged therein. However, it is not reasonable to expect the Prosecutor to mention the Accused in every paragraph of the amended indictment. Nor is it proper to consider the amended indictment in such a way as to disregard those paragraphs where not only is the Accused mentioned, but where acts and omissions for which the Prosecutor finds him individually responsible under the Statute of the Tribunal are described.
3. It is misleading to raise the question of defects in the amended indictment on the basis of isolated paragraphs. The amended indictment must be considered in its totality and it would be incorrect to make a conclusion as to any defect in it upon a selective reading of only certain of its paragraphs.
4. The Chamber therefore cannot adopt the approach of the Defence based upon a reading of certain paragraphs of the amended indictment in isolation from the rest of the document. As the Chamber pointed out earlier in its Decision on Jurisdiction, "The Trial Chamber does not read in isolation the paragraphs of the indictment challenged by the Defence. The Trial Chamber reads them in conjunction with, and in the context of, the other paragraphs relating to the crimes...." (Para. 34)

**FOR THESE REASONS, THE TRIBUNAL****DISMISSES** the Motion.

Arusha, 12 May 2000.

  
George Lloyd Williams  
Judge, Presiding

  
Yakov Ostrovsky  
Judge

  
Pavel Dolenc  
Judge

[Seal of the Tribunal]

