

ICTR-98-44A-T
12/10/2000
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International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

Original: English

Trial Chamber II

Before: Judge William H. Sekule, designated by the Trial Chamber pursuant to Rule 73

Registrar: A. U. Okali

Decision of 12 October 2000

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The Prosecutor
v.
JUVÉNAL KAJELIJELI

CASE No. ICTR-98-44A-T

DECISION ON THE PROSECUTOR'S MOTION TO CORRECT THE INDICTMENT

The Office of the Prosecutor:

Ken Fleming
Don Webster
Ifeoma Ojemeni

Counsel for the Accused

Prof. Lennox S. HINDS

International Criminal Tribunal for Rwanda Tribunal pénal international pour le Rwanda	
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NAME / NOM: <u>John D. Kiyeyen</u>	DATE: <u>12/10/2000</u>
SIGNATURE: <u>[Signature]</u>	

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12. 10 2000

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

SITTING as Judge William H. Sekule, designated as a single judge to review this motion, pursuant to Rule 73 of the Rules of Procedure and Evidence ("The Rules");

CONSIDERING the Indictment confirmed on 29 August 1998 by Judge Navanethem Pillay against Juvénal Kajelijeli (the "Accused") and seven others charging them with Conspiracy to Commit Genocide, Genocide, Complicity in Genocide, Crimes against Humanity and Violations of Common Article 3 of the Geneva Conventions and Additional Protocol II;

NOTING that the Accused made his initial appearance before the Tribunal on 7 April 1999 and entered a plea of not guilty to all eleven counts of the Indictment;

CONSIDERING the "Decision of 6 July 2000 on the Defence motion in opposition to joinder and motion for severance and separate trial filed by the Accused Juvénal Kajelijeli" which granted, pursuant to Rule 82 (B) of the Rules of Procedure and Evidence ("the Rules"), the said Defence motion and ordered the Prosecutor to file, by 15 August 2000, a separate Indictment pertaining only to the Accused, in English and in French;

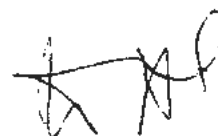
CONSIDERING the Indictment filed by the Prosecutor on 15 August 2000 and entitled "Amended Indictment";

BEING NOW SEIZED of a "Motion to correct amended indictment" ("the Prosecutor's Motion"), and of the "Brief in Support of Prosecutor's Motion to Correct Amended Indictment" filed on 29 August 2000;

CONSIDERING that the Judges have decided to consider the Prosecutor's Motion on briefs only and have requested the Registry to inform the Defence that, in case the Defence Counsel wished to reply to the Prosecutor's motion, he should do so in writing not later than the 7 September 2000;

CONSIDERING that, on 6 September 2000, the Defence Counsel, sent a facsimile letter to the Registrar indicating, firstly, that he does not object to the Prosecutor's Motion, and, secondly, requesting clarification on whether the Prosecutor should file an "Amended" Indictment or a new Indictment (following the above mentioned Chamber's Decision granting the Defence Motion for Severance and a separate trial), and under which Rule this should be done (Rule 47 or Rule 50);

CONSIDERING that the Registry forwarded the said letter to the Trial Chamber on 11 September 2000;



SUBMISSIONS OF THE PROSECUTOR

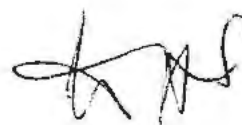
1. The Prosecutor requests that the Trial Chamber grants leave to correct the Indictment filed on 15 August 2000 pursuant to the Chamber's Decision of 6 July 2000.
2. The above Indictment should be corrected so that counts 2 and 4 be formulated in a manner identical to counts 4 and 2 in the original Indictment of 29 August 1998, and also presented in the same order as they appear in the original Indictment.
3. The Prosecutor requests that, once corrected, the Indictment be served on the Accused and Defence Counsel forthwith.

DEFENCE'S RESPONSE

4. The Defence Counsel does not object to the Prosecutor's Motion but wishes that the title of the Indictment to be filed by the Prosecutor be clarified to indicate "Separate Indictment" and not "Modified Indictment".

AFTER HAVING DELIBERATED

5. The Trial Chamber decides to grant the Prosecutor leave to correct the Indictment filed on 15 August 2000, so that counts 2 and 4 be formulated in a manner identical to counts 4 and 2 in the original Indictment of 29 August 1998, and also presented in the same order as they appear in the original Indictment.
6. The Trial Chamber notes that, as pointed out by the Defence, the Decision granting the Defence motion for a severance and a separate trial ordered the Prosecutor "to file a separate Indictment pertaining only to the Accused from the existing confirmed indictment bearing the Case Number ICTR-98-44A, in English and in French, by 15 August 2000".
7. The Trial Chamber is therefore of the view that the new Indictment against Juvénal Kajelijeli should be entitled "Separate Indictment" or even simply "Indictment". The Trial Chamber recalls that, in any case, the amendment of an indictment is governed by a specific provision of the Rules, namely Rule 50 (A).



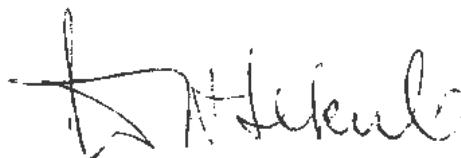
THEREFORE, THE TRIBUNAL

GRANTS the Prosecutor leave to correct the Indictment filed on 15 August 2000 so that counts 2 and 4 be formulated in a manner identical to counts 4 and 2 in the original Indictment of 29 August 1998, and also presented in the same order as they appear in the original Indictment;

ORDERS the Prosecutor to entitle the indictment "Separate Indictment" or "Indictment" and to file the corrected version, in English and in French, within 15 days from the date of this Decision;

FURTHER ORDERS that this Indictment be served on the Accused and Defence Counsel forthwith.

Arusha, 12 October 2000,



William H. Sekule,
Judge

(Seal of the Tribunal)

