

ICR-96-15-T
8/6/2001
(1056 — 1053)

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International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER II

Before: Judge William H. Sekule, Presiding

Registrar: Adama Dieng

Date: 8 June 2001

THE PROSECUTOR

v.

Joseph KANYABASHI

Case No. ICTR-96-15-T

JUDICIAL RECORDS ARCHIVES
ICTR
2001 JUN -8 P 3:17

DECISION ON THE PROSECUTOR'S URGENT MOTION FOR
HARMONIZATION OF THE ENGLISH AND FRENCH VERSION OF THE
AMENDED INDICTMENT

The Office of the Prosecutor:

Silvana Arbia
Japhet Mono
Jonathan Moses
Adesola Adeboyejo
Manuel Bouwknecht

Counsel for Kanyabashi:

Michel Marchand
Michel Boyer

International Criminal Tribunal for Rwanda Tribunal pénal international pour le Rwanda	
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NAME / NOM: John N. Kiyeyen	
SIGNATURE: [Signature]	DATE: 8/6/2001

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08-06-2001

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

SITTING as William H. Sekule designated as a single Judge to review this Motion, pursuant to Rule 73(A) of the Rules of Procedure and Evidence (the "Rules") on the basis of the written briefs only;

BEING SEIZED of:

- i) the "Prosecutor's Urgent Motion for Harmonization of the English and French Version of the Amended Indictment" (the "Motion"), filed on 25 May 2001;
- ii) the "Réponse à la Requête Urgente du Procureur visant à Rendre Conformes les Versions Anglaise et Française de l'Acte d'Accusation et Requête de l'Accusé visant à Obtenir un Acte d'Accusation conforme aux Décisions de Cette Chambre" (the "Response"), filed on 29 May 2001;

CONSIDERING the initial Indictment confirmed by Judge Yakov Ostrovsky on 15 June 1996;

CONSIDERING the initial appearance of Joseph Kanyabashi on 29 November 1997;

CONSIDERING the Amended Indictment filed by the Prosecutor on 17 August 1999, upon leave granted by this Chamber on 12 August 1999;

CONSIDERING the Amended Indictment filed by the Prosecutor on 29 June 2000 (the "Amended Indictment of 29 June 2000"), following the "Décision faisant suite à la Requête en Exception Préjudicielle déposée par la Défense pour Vices de Forme de l'Acte d'Accusation sur la base d'Article 72(B) ii) du Règlement de Procédure et de Preuve" of 31 May 2000 (the "Decision of 31 May 2000");

CONSIDERING the subsequent Amended Indictment filed on 2 November 2000 (the "Amended Indictment of 2 November 2000") following the "Rectificatif à la Version Anglaise de la Décision faisant suite à la Requête en Exception Préjudicielle déposée par la Défense pour Vices de Forme de l'Acte d'Accusation sur la base d'Article 72(B) ii) du Règlement de Procédure et de Preuve" of 19 October 2000 (the "Decision of 19 October 2000");

CONSIDERING the Statute of the Tribunal and the Rules of Procedure and Evidence specifically Rule 50(A) of the Rules that reads: "The Prosecutor may amend an indictment, without prior leave, at any time before its confirmation, but thereafter, until the initial appearance of the accused before a Trial Chamber pursuant to Rule 62, only with leave of the Judge who confirmed it but, in exceptional circumstances, by leave of a Judge assigned by the President. At or after such initial appearance, an amendment of an indictment may only be made by leave granted by a Trial Chamber pursuant to Rule 73. If leave to amend is granted, Rule 47(G) and Rule 53 *bis* apply *mutatis mutandis* to the amended indictment";

NOTING the Prosecutor's request for the harmonization of the English and French versions of the Amended Indictment of 2 November 2000 for reasons of a disparity of reference between the English and French versions, with regard to:



- i) the paragraphs 6.42, 6.46 pertaining to counts 1, 2, 3, 5 and 9, under Article 6(3) of the Statute, in the French version, that should be deleted and substituted for 6.42 à 6.46 so as to read "...6.41, 6.42 à 6.46, 6.57..." (Pages 41 to 43, and 45 of the Amended Indictment of 2 November 2000);
- ii) the comma appearing immediately after paragraph 6.42 in count 3 under Article 6(3) of the Statute, in the English version, that should be deleted so as to read "...6.42 to 6.46, 6.57..." (Page 42 of the Amended Indictment of 2 November 2000);

NOTING the Defence objection to the Prosecutor's request on the grounds that the Prosecutor, in the Amended Indictment of 2 November 2000, modified without leave granted by the Chamber:

- i) the paragraphs 6.42, 6.46 pertaining to the counts 6, 7 and 8, under Article 6(3) of the Statute, in the French version of the Amended Indictment of 29 June 2000, by adding the paragraphs 6.43, 6.44 and 6.45 as to read "...6.41, 6.42 à 6.46, 6.57...";
- ii) the paragraphs 6.42, to 6.46 pertaining to the counts 1, 2, 5, 6, 7, 8 and 9, under Article 6(3) of the Statute, in the English version of the Amended Indictment of 29 June 2000, by suppressing the comma appearing immediately after 6.42 as to read "...6.41, 6.42 to 6.46, 6.57..."

NOTING FURTHER that the Defence requests the Trial Chamber to order the Prosecutor to modify the Amended Indictment of 2 November 2000 so as to ensure that the Indictment is in conformity with the Decisions of 31 May 2000 and 19 October 2000.

AFTER HAVING DELIBERATED,

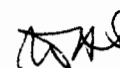
1. As a preliminary remark, the Trial Chamber decides to postpone its review of the Defence additional Motion for a further modification of the Indictment. The Trial Chamber now considers the instant Prosecutor's Motion on its merits and reviews the issue as to whether the English and French versions of the Amended Indictment of 2 November 2000 are to be harmonized.

2. The Trial Chamber notes in this respect that in the Amended Indictment of 17 August 1998, the paragraphs pertaining to the counts 1, 2, 3, 5, 6, 7, 8 and 9, under Article 6(3) of the Statute, in the English and French version, read, respectively, "6.42 to 6.46" and "6.42 à 6.46". The Trial Chamber notes the disparity in the English and French versions of the Amended Indictment of 2 November 2000 with regard to these paragraphs. The Trial Chamber notes that this disparity seems to result from the Prosecutor's inaccuracy in modifying the Amended Indictments of 17 August 1998 and 29 June 2000.

3. For reasons of clarity and to avoid a disparity in the English and French versions, the Trial Chamber finds that the English and French versions of the Amended Indictment of 2 November 2000 are to be harmonized in accordance with the Prosecutor's submission.

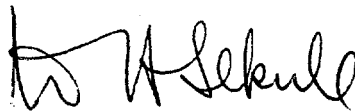
FOR THE ABOVE REASONS, THE TRIBUNAL:

- I. **GRANTS** the Prosecutor's request for harmonization of the English and French versions of the Amended Indictment;



- II. **ORDERS** the Prosecutor to harmonize the Amended Indictment of 2 November in accordance with its submission, so as to read for the paragraphs pertaining to the counts 1, 2, 3, 5, 6, 7, 8 and 9, under Article 6(3) of the Statute, in the English and French version, respectively, "...6.41, 6.42 to 6.46, 6.57..." and "...6.41, 6.42 à 6.46, 6.57...";
- III. **ORDERS** the Prosecutor to file with the Registry by Monday 11 June 2001, before 9.00 a.m., the English and French versions of the Indictment harmonized pursuant to this Decision.
- IV. **DIRECTS** the Registry to immediately notify the Parties and the Trial Chamber of the said Indictment filed pursuant to this Decision.

Arusha, 8 June 2001,



William H. Sekule
Presiding Judge

(Seal of the Tribunal)

