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ICTR-98-39-I
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Case No. ICTR-98-39-S

ICTR
CRIMINAL REGISTRY
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International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda

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TRIAL CHAMBER I

OR:ENG

Before: Judge Laïty Kama, Presiding Judge
Judge Lennart Aspegren
Judge Navanethem Pillay

Registry: Mr. John Kiyeyeu

Decision of: 14 December 1998

THE PROSECUTOR
versus
OMAR SERUSHAGO

CASE No.: ICTR 98-39-T

DECISION RELATING TO A PLEA OF GUILTY

Office of the Prosecutor:

Mr. Bernard Muna, Deputy Prosecutor
Mr. Mohamed Othman, Senior Legal Adviser
Ms Josée d'Aoust, Legal Adviser

Defence counsel:

Mr. Mohamed Ismail

THE TRIBUNAL,

Sitting as Trial Chamber I of the International Criminal Tribunal for Rwanda ("the Tribunal"), composed of Judge Laïty Kama, presiding, Judge Lennart Aspegren and Judge Navanethem Pillay;

WHEREAS the accused Omar Serushago appeared today before the Tribunal pursuant to the provisions of Rule 62 of the Rules of Procedure and Evidence ("the Rules"), assisted by his Counsel, Mr. Mohamed Ismail;

WHEREAS the indictment, dated 8 October 1998, filed by the Prosecutor against him and confirmed on 29 September 1998 by Judge Yakov Ostrovsky, was read out to him;

WHEREAS, during the hearing, the Tribunal took note of several modifications made in the said indictment in order to harmonize the English and French versions of the text;

TAKING NOTE of the Plea Agreement reached between the Prosecutor, on the one hand, and the accused and his Counsel, on the other hand, pertaining to a guilty plea, which Agreement was filed with the Registry of the Tribunal on 10 December 1998;

WHEREAS Omar Serushago has pleaded guilty to the first four counts preferred against him in the said indictment, namely:

- (1) Genocide, a crime stipulated in Article 2(3)(a) of the Statute,
- (2) Crime against humanity (murder), a crime stipulated in Article 3(a) of the Statute,
- (3) Crime against humanity (extermination), a crime stipulated in Article 3(b) of the Statute,
- (4) Crime against humanity (torture), a crime stipulated in Article 3(f) of the Statute;

WHEREAS the accused has pleaded not guilty to Count 5, namely, Crime against humanity (rape), a crime stipulated in Article 3(g) of the Statute;

WHEREAS, consequently during the hearing, the Prosecutor orally sought leave from the Chamber, pursuant to the provisions of Rules 73 and 51 of the Rules, to withdraw Count 5 relating to the crime of Crime against humanity (rape);

WHEREAS the Tribunal decided on the bench to grant leave to the Prosecutor to make the required modification in the indictment and to withdraw Count 5 relating to Crime against humanity (rape) and all the facts in the said indictment which exclusively substantiate this Count;

WHEREAS the Tribunal, during the said initial appearance hearing, verified the validity of the plea of guilty by asking the accused:

- (i) whether his plea of guilty was voluntary, that is, whether he has entered the plea freely and consciously, without coercion, threats or promises;



(ii) whether he fully understood the nature of the charges brought against him, as well as the consequences of his pleading guilty; and

(iii) whether his plea of guilty is unequivocal, that is, whether he is aware that the said plea is incompatible with any defence which could refute it;

WHEREAS the accused answered in the affirmative to each of the Tribunal's questions;

WHEREAS, additionally, the Tribunal notes, firstly, that there exist sufficient facts to substantiate the crimes brought against him in the first four counts to which he pleaded guilty and, secondly, that the participation of the accused in their commission is established considering the absence of any disagreement between the parties on the said facts;

FOR THESE REASONS,

THE TRIBUNAL

FINDS the accused Omar Serushago guilty of the charges preferred against him in the indictment, namely:

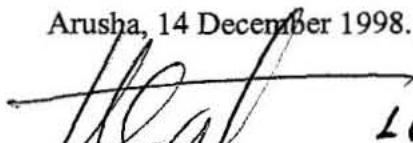
- (1) Genocide, a crime stipulated in Article 2(3)(a) of the Statute,
- (2) Crime against humanity (murder), a crime stipulated in Article 3(a) of the Statute,
- (3) Crime against humanity (extermination), a crime stipulated in Article 3(b) of the Statute,
- (4) Crime against humanity (torture), a crime stipulated in Article 3(f) of the Statute;

DECIDES that all relevant information that may assist in determining the appropriate sentence that the Parties may wish to submit to the Tribunal, pursuant to the provisions of Rule 100 (A) of the Rules, must be submitted to the Registry by the latest Friday 22 January 1999;


INSTRUCTS the Registrar to set the pre-sentencing hearing for Friday 29 January 1999 at 9.30 hrs;

ORDERS the continued detention of Omar Serushago under the same conditions as those which prevailed until his incarceration.

Arusha, 14 December 1998.


 Laity Kama
 Presiding Judge


 Lennart Aspegren
 Judge


 Navanethem Pillay
 Judge

(Seal of the Tribunal)