

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

CASE NO: ICTR-00-60-I
CHAMBER II

THE PROSECUTOR
OF THE TRIBUNAL
v.
PAUL BISENGIMANA

THURSDAY, 17 NOVEMBER 2005
1445H
FURTHER APPEARANCE

Before the Judges:

Arlette Ramaroson, Presiding
William H. Sekule
Solomy Bossa

For the Registry:

Mr. John Kiyeyeu
Mr. Emmanuel Mwanja

For the Prosecution:

Mr. Charles A-Philips, Ms. Memory Maposa, Mr. Peter Tefah,
Ms. Maymuchka Lauriston, Ms. Florida Kabasinga

For the Accused Paul Bisengimana:

Ms. Catherine Mabile

Court Reporters:

Mr. Sheriffo Jammeh, Ms. Regina Limula, Mr. Haruna Farage,
Mr. Rex Lear, Ms. Judith Kapatamoyo

PROCEEDINGS

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MADAM PRESIDENT:

The session is called to order. Registry, could you please read the matter on the roll, please?

MR. KIYEYEU:

Thank you, Madam President.

Trial chamber II of the International Criminal Tribunal for Rwanda composed of Judge Arlette Ramarason, presiding, Judge William H. Sekule and Judge Solomy Bossa, is now sitting in open session ,today Thursday the 17th of November 2005, for a further appearance in the matter of the Prosecutor versus Paul Bisengimana, Case NO. ICTR-00-60-1.

Thank you, Madam President.

MADAM PRESIDENT:

Thank you, Madam President. The Chamber would like to ask the parties to introduce themselves for the record?

MR. ADEOGUN-PHILLIPS:

Good afternoon, Madam President, the Office of the Prosecutor is today represented by Mr. Peter Tafah, Ms. Memory Maposa, Ms. Florida Kabasinga, Ms. Maymuchka Lauriston and myself, Charles Adeogun-Phillips, senior trial attorney. I'm grateful, Your Honour.

MS. MABILLE:

Good morning Madam President, Your Honours. I'll introduce myself. Catherine Mabilille, an advocate in Paris. I am going to represent the Defence today. I am acting alone, by the way.

MADAM PRESIDENT:

The Chamber is obliged to ask the Registry to read the amended indictment.

MR. ADEOGUN-PHILLIPS:

Your Honours, if I can just crave your indulgence to point out some typographical errors in the amended indictment for the record. If Your Honours are minded to turn to the amended indictment, be it in English or French. We have inadvertently cited the case number of the instant matter as ICTR-2001-60-1. Your Honours, that should read ICTR-2000-60-I.

In addition, on page 3 of the English indictment, and also the same corresponding page 3 in the French, the sub title there which presently reads: "Events in Musha *cellule*, Musha *secteur*, Gikoro *commune*, should in fact, read: "Events in Musha *cellule*, Rutoma, R-U-T-O-M-A, *secteur*, not Musha *secteur*.

Those are the very slight amendments. Your Honours, we regret and apologise for this inconvenience. I'm grateful.

MADAM PRESIDENT:

I thank you, Counsel. Could the amendment be, therefore, corrected? The case number is 2000-60-I.

1 And then, the indictment, be it in English or French, instead of events in Musha *cellule*, Musha *secteur*,
2 read, events in Musha *cellule*, Rutoma *secteur*, Gikoro *commune*, and in French, page 3. I thank you.

3
4 We now come to the reading of the amended indictment to the Accused. Registry, you have the floor.

5 MR. KIYEYEU:

6 Thank you, Madam President.

7
8 United Nations International Criminal for Rwanda Case No. ICTR-2000-60-I,
9 The Prosecutor versus Paul Bisengimana, amended indictment.

10
11 The Prosecutor of the International Criminal for Rwanda, pursuant to the authority stipulated under
12 Article 7 (*sic*) of the Statute of the International Criminal Tribunal for Rwanda, (Statute of the Tribunal),
13 charges Paul Bisengimana with Genocide, pursuant to Article 2(3)(a) of the Statute of the Tribunal, or in
14 the alternative, with Complicity in Genocide, pursuant to Article 2(3)(e) of the Statute of the Tribunal;
15 Murder as a Crime Against Humanity, pursuant to Article 3(a) of the Statute of the Tribunal;
16 Extermination as a Crime Against Humanity, pursuant to Article 3(b) of the Statute of the Tribunal and
17 Rape as a Crime Against Humanity pursuant to Article 3(g) of the Statute of the Tribunal.

18
19 1. The events set out hereunder (*sic*) occurred in the Republic of Rwanda between the
20 1st of January 1994 and the 31st of July 1994.

21
22 2. The Accused, Paul Bisengimana was born in Rugarama in Duha *secteur*, Gikoro *commune*,
23 Kigali-Rural *préfecture* and was at all times referred to in this indictment *bourgmestre* of Gikoro
24 *commune*, Kigali-Rural *préfecture*.

25
26 3. Paul Bisengimana was appointed *bourgmestre* of Gikoro *commune*, Kigali-Rural *préfecture* by the
27 President of Rwanda on the 27th of May 1981, and remained in that position until the fall of Gikoro
28 *commune* to the Rwanda Patriotic Front between the 19th and the 21st of April 1994.

29
30 4. As *bourgmestre* of Gikoro *commune*, Paul Bisengimana was the representative of the central
31 government at the *communal* level and thus the embodiment of *communal* authority.

32
33 5. In his capacity as *bourgmestre* of Gikoro *commune*, Paul Bisengimana had hierarchical authority
34 over all civil servants and all persons holding public office within the boundaries of Galore *commune*.

35
36 6. In particular, in his capacity as *bourgmestre*, Paul Bisengimana had *de jure* responsibility for the
37 actions of all *conseillers*, *communal* policemen, other local government officials and all persons holding

1 public office within the boundaries of Gikoro *commune*. In addition, in his capacity as *bourgmestre* of
2 Gikoro *commune*, Paul Bisengimana had *de facto* command and control over military reservists and
3 militia men.

4
5 7. As *bourgmestre* of Gikoro *commune*, Paul Bisengimana was responsible for, amongst other things,
6 the enforcement of local laws and regulation. In that regard, as *bourgmestre* of Gikoro *commune*, Paul
7 Bisengimana was responsible for ensuring peace and public order and the safety of people and
8 property. To that end, Paul Bisengimana had a duty to protect, prevent or punish the illegal acts of his
9 subordinates as described in the indictment, but failed to do so.

10
11 8. As *bourgmestre* of Gikoro *commune*, Paul Bisengimana had the capacity to oppose the killings of
12 Tutsi civilians in and around the said *commune*, but rather, he acquiesced or chose to implement the
13 program of the interim government to exterminate civilians identified as Tutsi and other civilian political
14 opponents, using his subordinates.

15
16 The Charges: Count 1, Genocide pursuant to Article 2(3) (a) of the Statute of the Tribunal.

17
18 9. During the month of April 1994 in the Bugesera region of Kigali-Rural *préfecture*, Republic of
19 Rwanda, Paul Bisengimana acting individually and in concert with others, was responsible for the killing
20 or causing serious bodily or mental harm to members of the civilian population identified as Tutsi, with
21 intent to destroy, in whole or in part, members of the said ethnic group.

22
23 10. For all the acts adduced in support of this charge, the Prosecutor alleges that Paul Bisengimana
24 either, planned, ordered, instigated, committed, or otherwise, aided and abetted in the planning,
25 preparation or execution of the said offence pursuant to Article 6(1) of the Statute.

26
27 11. In addition, the Prosecutor alleges that Paul Bisengimana knew, or had reason to know, that his
28 subordinates were preparing to commit or had committed one or more of the acts referred to in Article
29 2(3) (a) of the Statute of the Tribunal and failed to take the necessary and reasonable measures to
30 prevent the said acts from being committed or to punish those who were responsible pursuant to Article
31 6(3) of the Statute.

32
33 Alternatively, Count 2, Complicity in Genocide pursuant to Article 2(3) (e) of the Statute of the Tribunal.

34
35 12. During the month of April 1994, in the Bugesera region of Kigali-Rural *préfecture*, Republic of
36 Rwanda, Paul Bisengimana was an accomplice to killing or causing serious bodily or mental harm to
37 members of the civilian population identified as Tutsi.

13. For all of the acts adduced in support of this charge, the Prosecutor alleges that Paul Bisengimana either, planned, ordered, instigated, committed, or otherwise aided and abetted in the planning, preparation or execution of the said offence pursuant to Article 6(1) of the Statute.

Particulars of the offence.

14. At all times referred to in this indictment, there existed in Rwanda a minority ethnic group known as Tutsi, officially identified as such by the government. In addition, the majority population was comprised of an ethnic group known as Hutu, also officially identified as such by the government.

15. The victims referred to in this indictment were civilians identified as Tutsi and politically moderate Hutu from the Bugesera region of Kigali-Rural *préfecture*, as well as other civilians that sought refuge in the Bugesera region of Kigali-Rural *préfecture*.

16. Paul Bisengimana spearheaded a campaign of the destruction of Tutsi homes and the killing of Tutsi civilians in his home *commune* of Gikoro in Kigali-Rural *préfecture* and its environs. The said campaign consisted of encouraging and ordering soldiers, Hutu militiamen, *communal* policemen, gendarmes to attack Tutsi refugees in places where they had sought refuge, such as churches, schools and public offices, resulting in thousands of death. Paul Bisengimana personally attacked and killed Tutsi civilians and ordered his subordinates to do same under circumstances where he knew or ought to have known, that the Tutsi civilians were, or would be killed by persons acting under his authority.

Events in Musha *cellule*, Rutoma *secteur*, Gikoro *commune*.

17. Between 8th and 13th April 1994, several thousand Tutsi civilians sought refuge at Musha church, Rutoma *secteur*, Gikoro *commune* of Kigali-Rural *préfecture* having fled from attacks on Tutsi civilians which were occurring through out the *préfecture* of Kigali-Rural.

18. On or about 9th April 1994, Paul Bisengimana together with Laurent Semanza and Juvenal Rugambarara came to Musha church to count the number of people that had sought refuge there and to verify their identity cards. They let the Hutu get out of the church and tore the identity cards of Tutsi. Later the same day, Rwabukumba, a brigadier from the Gikoro communal office in Rutoma *secteur* came and locked the doors so that the refugees could not leave the church.

19. At the beginning of April 1994, Paul Bisengimana together with Laurent Semanza, met with a certain Rugambajye, major in the Rwandan army, to ask for weapons for purposes of attacking Tutsi civilians who were seeking refuge in Musha church in Rutoma *secteur*, Gikoro *commune*, Kigali-Rural

1 *préfecture.*

2
3 20. On or about 12th April 1994, Paul Bisengimana, acting in concert with soldiers from the Rwandan
4 army, distributed weapons to Interahamwe militiamen and other armed civilians at Musha church. Paul
5 Bisengimana ordered that the said weapons be used for the purpose of attacking the Tutsi civilians who
6 sought refuge at the aforesaid Musha church.

7
8 21. On or about 13th April 1994, Paul Bisengimana along with Laurent Semanza, Juvenal
9 Rugambarara, soldiers from the Rwandan army, *Interahamwe* militiamen, armed civilians and
10 *communal* policemen launched an attack on Tutsi civilians seeking refuge in Musha church, using guns,
11 grenades, machetes, pangas and other traditional weapons. The said attack resulted in the killing of
12 thousands of Tutsi civilians who sought refuge at Musha church. During the said attack, a civilian
13 named Manda, set fire to the church causing the death of thousands of refugees.

14
15 22. On 13th April 1994, during the attack at Musha church in Rutoma secteur, Gikoro commune,
16 Paul Bisengimana together with Laurent Semanza cut the arms of a Tutsi man called Rusanganwa,
17 with a machete, following which he bled to death.

18
19 Events in Ruhita cellule, Rwamashyongoshyo *secteur*, Gikoro *commune*:

20
21 23. At the beginning of April 1994, Paul Bisengimana participated in a meeting where he publicly
22 instigated those present at the said meeting to kill Tutsi by stating that he did not want any Tutsi alive in
23 the area.

24
25 24. In the middle of April 1994, Paul Bisengimana publicly incited Interahamwe militiamen to kill all
26 Tutsi civilians in Rwamashyongoshyo *secteur*. When the said militiamen responded that they had killed
27 all the Tutsi civilians save for Witness VV, he ordered them to kill Witness VV, a Tutsi woman, on the
28 pretext that people like her could later reveal the criminal atrocities that had been carried out by various
29 perpetrators in Rwamashyongoshyo *secteur*.

30 *(Pages 1 to 5 by Sheriffo Jammeh)*

1 1510H

2 MR. KIYEYEU:

3 Events: At the Ruhanga Protestant church, Ruhanga *cellule*, Gicaca *secteur*, Gikoro *commune*.

4
5 26. Between 8th and 10th April 1994, having fled from attacks from Tutsi civilians occurring throughout
6 the *préfecture* of Kigali Rural, several Tutsi civilians sought refuge at the Ruhanga Protestant Church
7 and school in Gicaca *secteur*, Gikoro *commune*.

8
9 27. Sometime at the beginning of April 1994, on an unknown date, Paul Bisengimana came to the
10 Ruhanga Protestant Church and asked why no attacks had been launched on the Tutsi civilians
11 gathered at the said location.

12
13 28. Between the 10th and 15th April 1994, Paul Bisengimana, Brigadier Rwabukumba, along with
14 soldiers from the Presidential Guard, civilian militiamen and *communal* policemen, launched an attack
15 on Tutsi civilians seeking refuge in Ruhanga school and Ruhanga Protestant Church. During the said
16 attack, the attackers used guns, grenades, machetes, pangas and other traditional weapons, killing
17 thousands of Tutsi civilians who had sought refuge at Ruhanga church and school.

18
19 Events in Ruhanga *cellule*, Gicaca *secteur*, Gikoro *commune*.

20
21 29. Between January and March 1994, Paul Bisengimana, Laurent Semanza and
22 Juvenal Rugambarara, participated in a meeting at Rutoma Primary School, Gikoro *commune* where
23 they urged the population to kill all the Tutsi and to throw them in Lake Muhazi.

24
25 30. On the 7th of April 1994, Paul Bisengimana distributed boxes of grenades in Gicaca *secteur*,
26 Gikoro *commune*, to an *Interahamwe* named Rutayisire for purposes of attacking Tutsi civilians.

27
28 31. During the month of April 1994, near the Isumo centre, located between Rwamishyongoshyo and
29 Gicaca *secteur* in Gikoro *commune*, Paul Bisengimana, acting in concert with several militia men,
30 participated in several attacks on Tutsi civilians. The said attacks resulted in the killing of a certain
31 Domitiria, wife of Nicolas, a grandson, and a domestic worker called Shyirakera. The trio were tied to a
32 mattress -- sorry, sorry; the trio were tied to a mattress and burnt alive.

33
34 32. On or about 10th April 1994, Paul Bisengimana addressed the civilian population, Gicaca *secteur*.
35 During the said speech, he instigated Hutu civilians to kill their Tutsi counterparts.

36
37 33. In April 1994, on Gicaca Hill, near Ruhanga church, Paul Bisengimana, acting in concert with two

1 Hutu men, namely, Kamana and Habimana, and other civilian militiamen, participated in an attack on
2 Tutsi civilians. During the said attack, Paul Bisengimana was seen shooting at the said Tutsi refugees.
3

4 34. Between January and April 1994, Paul Bisengimana supervised the training of *Interahamwe*
5 militiamen and the distribution of weapons in the region of Gikoro *commune*, for purposes of attacking
6 Tutsi civilians.
7

8 Count 3: Murder as a crime against humanity, pursuant to Article A of the Statute of the Tribunal.
9

10 35. During the month April 1994, in the Bugesera region of Kigali Rural *Préfecture*, in the republic of
11 Rwanda, Paul Bisengimana, acting individually, and in concert with others, was responsible for killing or
12 causing persons to be killed in Gikoro *commune* and its environs, as part of a wide spread and
13 systematic attack against the civilian population on political, ethnic, or racial grounds.
14

15 36. For all of the acts adduced in support of this charge, the Prosecutor alleges that Paul Bisengimana
16 either planned or otherwise, aided and abetted in the plan, preparation or execution of the said offence,
17 pursuant to Article 6(1) of the Statute.
18

19 37. In addition, the Prosecutor alleged that Paul Bisengimana knew or had reason to know that his
20 subordinates were preparing to commit or had committed one or more of the acts referred to in
21 Article 3(a) of the Statutes of the Tribunal, and failed to take the necessary and reasonable measures to
22 prevent the said acts from being committed or to punish those who were responsible pursuant to Article
23 6(3) of the Statute.
24

25 Particulars of the offence.
26

27 38. Between 7th April, May and June 1994, there existed widespread or systematic attacks occurring
28 throughout Rwanda, directed against the civilian population on political, ethnic or racial grounds.
29

30 39. Paul Bisengimana, acting in concert with others, participated in the planning, preparation,
31 commission or execution of a common strategy or plan to kill Tutsi civilians, and by his acts or through
32 persons he assisted, or by the acts of his subordinates with his knowledge or consent.
33

34 40. Paul Bisengimana distributed weapons to militiamen and other attackers and facilitated the
35 transportation of the said attackers to several locations where several Tutsi civilians were killed.
36

37 41. As a direct consequence of his conduct, actions and orders, including the provision of logistical and

1 moral support to the attackers by Paul Bisengimana, thousands of civilian men, women and children
2 were killed.

3
4 42. Among the Tutsi civilians -- among the Tutsi civilians killed as a consequence
5 of Paul Bisengimana's direct acts or missions are: A Tutsi man called Rusanganwa, and a Tutsi
6 woman called Domitilla.

7
8 43. Paul Bisengimana's affirmative acts during the month of April 1994, VIZ: -- and they are pleaded
9 with greater particularity at paragraphs 21, 22, 24, 28, 31, 33, and 35 above, they conclude planning,
10 ordering, committing, or otherwise, aiding and abetting in the killing of Tutsi civilians at Ruhita *cellule*,
11 Rwamashyngoshyo *secteur* in Gikoro *commune*; Mushata in Gikoro *commune*, and near the Isumo,
12 located between Rwamashongosho and Gicaca *secteur* in Gikoro *commune*, and elsewhere. And I
13 hereby reiterated and incorporated herein by reference.

14
15 Count IV: Extermination, as crime against humanity, pursuant to Article 3(b) of the Statute of the
16 Tribunal.

17
18 44. During the month of April 1994, in the Bugesera region of the Kigali rural *préfecture*, Republic of
19 Rwanda, Paul Bisengimana, acting individually, or in concert with others, was responsible for killing or
20 causing persons to be killed during mass killing events in Gikoro *commune* and its environs, as part of a
21 widespread and systematic attack against a civilian population on political, ethnic or racial grounds.

22
23 45. For all of the acts adduced in support of this charge, the Prosecutor alleges that Paul Bisengimana
24 either planned, or otherwise, aided and abetted in the planning, preparation or execution of the said
25 offence, pursuant to Article 6(1) of the Statute.

26
27 46. In addition, the Prosecutor alleges that Paul Bisengimana knew or had reason to know that his
28 subordinated were preparing to commit or had committed. One or more of the acts referred to in Article
29 3(b) of the Statute of the Tribunal and failed to take the necessary and reasonable measures to prevent
30 the said acts from being committed or to punish those who were responsible pursuant to Article 6(3) of
31 the Statute.

32
33 Particulars of the offence.

34
35 47. Between 7th April, May and June 1994, there existed a widespread or systematic attacks occurring
36 throughout Rwanda directed against a civilian population on political, ethnic or racial

1 grounds.

2
3 48. Paul Bisengimana acting in concert with others, participated in the planning, preparation,
4 commission of execution of a common strategy or plan to kill Tutsi civilians, and by his acts or through
5 persons he assisted or by the acts of his subordinates, with his knowledge or concert.

6
7 49. Paul Bisengimana distributed weapons to militiamen and other attackers and facilitated the
8 transportation of the said attackers to several locations where Tutsi civilians were killed.

9
10 50. As a direct consequence of his conduct, actions and orders, including the provision of logistical and
11 moral support to the attackers, by Paul Bisengimana, thousands of men, women and children were
12 killed.

13
14 51. Paul Bisengimana's affirmative acts, during the month of April 1994, are pleaded with greater
15 particularity, at paragraphs 14 to 34 above. They include the planning, ordering, committing or
16 otherwise, aiding and abetting in the killing of Tutsi civilians in Ruhita *cellule*, take Rwamashyongoshyo
17 *secteur* in Gikoro *commune*; Musha church in Gikoro *commune*, and near the Isumu centre, located
18 between Rwamashyongoshyo and Gicaca *secteur* in Gikoro *commune* and elsewhere, and I hereby
19 reiterated and incorporated herein by reference.

20
21 Count 5. Rape as crime against humanity, pursuant to Article 3(G) of the Statute of the Tribunal.

22
23 52. During the month of April 1994, in the Bugesera region of Kigali-rural *préfecture*, Republic of
24 Rwanda, Paul Bisengimana acting individually and in concert with others, did cause women to be raped
25 in Gikoro *commune* and its environs, as part of a widespread and systematic attack against a civilian
26 population on political, ethnic or racial grounds.

27
28 53. For all the attacks adduced in support of this charge, the Prosecutor alleges that Paul Bisengimana
29 instigated or otherwise aided and abetted in the planning, preparation or execution of the said offence,
30 pursuant to Article 6(1) of the Statute.

31
32 54. In addition, the Prosecutor alleges that Paul Bisengimana knew or had reason to know that his
33 subordinates were preparing to commit or had committed one or more of the acts referred to in Article
34 3(g) of the Statute of the Tribunal, and fail to take the necessary and reasonable measures to prevent
35 the said acts from being committed or to punish those who were responsible pursuant to Article 6(3) of
36 the offence.

1 Particulars of the offence.

2
3 55. During the month of April 1994, in Musha, Paul Bisengimana, acting in concert with Laurent
4 Semanza and soldiers in the presidential guard, instigated a small crowd of Hutu civilians gathered in
5 Musha *cellule*, Musha *secteur*, and Gikoro *commune* to rape and sexually violate Tutsi women -- to
6 rape and sexually violate Tutsi women.

7
8 56. Following this incident, several Tutsi women and girls, including witness VV-K, and a woman
9 named Kayitesi, were raped and sexually violated by Hutu civilians and soldiers --

10 *(Pages 6 to 10 by Regina Limula)*

1 1530H

2 MR. KIYEYEU:

3 By his actions, the Accused directly and substantially contributed to the raping and sexual assault of
4 Tutsi civilians in Musha *cellule*, Musha *secteur*, Gikoro *commune*. The acts and omissions of
5 Paul Bisengimana, detailed herein are punishable under Articles 22 and 23 of the Statute. Signed at
6 Arusha 31st day of October 2005. Signed, Hassan Bubacar Jallow, Prosecutor. It bears the seal of the
7 Tribunal. Thank you, madam.

8 MADAM PRESIDENT:

9 Thank you, registry.
10

11 The Chamber would ask the Accused, Paul Bisengimana, to stand and to give his personal particulars.
12 Please could you come to the box here? Thank you. Could you please give your identity?

13 THE ACCUSED:

14 I thank you as well, Madam President. My name is Paul Bisengimana. I was born in 1948. My father's
15 name was Gervais Ngirumpatse. He is of late. And my mother was Verdiana Nyirabatera, who is also
16 of late. I am married, father of two children. I have been married twice. My first wife died in 1991,
17 leaving seven children. I remarried thereafter. My first wife's name was Kantarama Dorcas. I
18 remarried another lady called Marie Mukadabigiyimana, and I had two children with her. For a total of
19 nine children, including her own child, whom we adopted.
20

21 My primary education was in Gikoro *commune*. I attended secondary school in two shifts. The first
22 cycle -- or orientation in Rwamagana, over a two-year period. And thereafter, I went to Ecole Normal
23 du Byumba where I spent two years and graduated in 1970 with a D5 diploma as a teacher. After my
24 secondary education, I was a primary school teacher, and then I was transferred to the secondary
25 school as manager up to 1978.
26

27 In 1978, I was appointed judge of a canton court in Nyamata area around Kigali. And I was in that
28 position for three years until my appointment as *bourgmestre* on the 27th of May 1981. So from 1981
29 to '94, I was *bourgmestre* of Gikoro *commune* up to the time of my exile. I don't know whether I have
30 provided enough and sufficient information.

31 MADAM PRESIDENT:

32 Thank you. You have listened and heard the charges against you, which have just been read. Did you
33 fully understand those charges? And have you had opportunity to discuss them with your counsel?

34 THE ACCUSED:

35 Yes, I heard the content of the document. I have discussed with my counsel. And I have no objections
36 on that.
37

1 MADAM PRESIDENT:

2 I will read out the charges against you, and you will answer whether you plead guilty or not, on each of
3 the charges that would be read out against you.

4
5 First charge. "Genocide pursuant to Article 2(3) (A) of the Statute of the Tribunal, and following
6 provisions of Article 6(1), do you plead guilty or not?"

7 THE ACCUSED:

8 Not guilty, Madam President.

9 MADAM PRESIDENT:

10 Pursuant to Article 6(3) of the Statute, are you guilty or not? How do you plead?

11 THE ACCUSED:

12 For the first charge, genocide, I plead not guilty, whether it be under Article 6(1) or Article 6(3).

13 MADAM PRESIDENT:

14 Yes. Alternatively, count two, complicity in genocide pursuant to article 2(3) (E) of the Statute of the
15 Tribunal and pursuant to Article 6(1) of the Statute, how do you plead?

16 THE ACCUSED:

17 I plead not guilty, Madam President.

18 MADAM PRESIDENT:

19 On the third count, murder as a crime against humanity pursuant to Article 3(A) of the Statute of the
20 Tribunal, and pursuant to Article 6(1) of the Statute, how do you plead, guilty or not guilty?

21 THE ACCUSED:

22 I plead guilty on that count.

23 MADAM PRESIDENT:

24 Still pursuant to Article 6(3), murder, of the Statute, how do you plead, guilty or not guilty?

25 THE ACCUSED:

26 Under the third count? Is that still the third count?

27 MADAM PRESIDENT:

28 Yes, third count which includes murder pursuant to Article 6(1) and murder pursuant to Article 6(3) of
29 the Statute. If you so wish, I could read the provisions of Article 6(3) of the Statute, that would be
30 paragraph No. 37.

31
32 "You, Paul Bisengimana are guilty because you knew or had reason to know that your subordinates
33 were preparing to commit or had committed one or more of the acts referred to Article 3(A) of the
34 Statute of the Tribunal, and you failed to take the necessary and reasonable measures to prevent the
35 said acts from being committed or to punish those who were responsible, that is, excluding murder."
36 So this is what is covered by Article 6(3).

37

1 Counsel, have you provided enough explanation to him?

2 MS. MABILLE:

3 I believe that on several occasions I have explained that to him. We have talked about it on several
4 times. And I believe that he is quite disturbed right -- he is quite now upset. My client is quite upset
5 right now.

6 THE ACCUSED:

7 Maybe I didn't quite understand.

8 MS. MABILLE:

9 Would you grant me just one second to see him, Madam President? Thank you, Madam President.

10

11 I would like to thank the Court for granting me leave to see him for a brief moment.

12 MADAM PRESIDENT:

13 *(Microphone not activated)*

14 THE ENGLISH INTERPRETER:

15 Microphone, Madam President.

16 MADAM PRESIDENT:

17 I'm sorry. I repeat. Paul Bisengimana pled guilty for murder -- guilty of murder under 6(1), and still
18 under 6(1) of the Statute, Article 6(3) of the Statute with regard to murder, and I read that you knew or
19 had reason to know. How do you plead guilty or not guilty?

20 THE ACCUSED:

21 First of all, I am sorry for the misunderstanding. I am under great emotions. I said that I plead guilty.

22 MADAM PRESIDENT:

23 Thank you.

24

25 Count four: Extermination as a crime against humanity pursuant to Article 3(B) of the Statute of the
26 Tribunal and pursuant to Article 6(1) of the Statute. How do you plead guilty or not guilty?

27 THE ACCUSED:

28 On that fourth count I also plead guilty.

29 MADAM PRESIDENT:

30 You plead guilty?

31 THE ACCUSED:

32 Yes.

33 MADAM. PRESIDENT:

34 Still under the count four: Extermination and pursuant to the provisions of Article 6(3) of the Statute.
35 How do you plead, guilty or not guilty?

36 THE ACCUSED:

37 I still plead guilty under 6(1).

1 MADAM PRESIDENT:

2 But not under 6(3)?

3

4 Count 5: Rape as crime against humanity pursuant to Article 3 -- count 5: Rape as a crime against
5 humanity pursuant to Article 3(G) of the Statute of the Tribunal, and pursuant to Article 6(1) of the
6 Statute. How do you plead, guilty or not guilty?

7 THE ACCUSED:

8 I plead not guilty, Madam President.

9 MADAM PRESIDENT:

10 And pursuant to Article 6(3) of the Statute, guilty or not guilty?

11 THE ACCUSED:

12 I still plead not guilty.

13 MADAM PRESIDENT:

14 The Prosecutor, you have heard the manner he has pled -- his plea. He had pled guilty on two counts,
15 namely, murder under 6(1) of the Statute, as well as guilty under count 4, extermination, pursuant to
16 Article 6(1) of the Statute, but he has pled not guilty on all other counts. Do you, therefore, intend to
17 charge the Accused on the other counts on which he has pled not guilty?

18

19 I am sorry. I have been told that there has been a mistake in the English translation, whereas it was
20 very clear in French. Should I repeat? For clarity, we shall repeat. It would appear that there was a
21 poor translation into the English. I therefore repeat. And I'm sorry. Please speak out loud so that we
22 can hear whether you say -- you plead guilty or not guilty? Should I take all over from genocide? Or,
23 maybe I should speak specifically to the third count, that is, murder as a crime against humanity
24 pursuant to Article 3(A) of the Statute of the Tribunal and pursuant to Article 6.1 of the Statute, how do
25 you plead, guilty or not guilty?

26 THE ACCUSED:

27 I plead guilty, Madam President.

28 MADAM PRESIDENT:

29 He pleads guilty. Now still under murder pursuant to Article 6(3) of the Statute, do you plead -- how do
30 you plead, guilty or not guilty?

31 THE ACCUSED:

32 I plead not guilty.

33 MADAM PRESIDENT:

34 Very well. Count 4, extermination as a crime against humanity pursuant to Article 3(B) of the Statute of
35 the Tribunal, and pursuant to Article 6(1) of the Statute, how do you plead, guilty or not guilty?

36 THE ACCUSED:

37 I plead guilty, Madam President.

1 MADAM PRESIDENT:

2 And pursuant to Article 6(3) of the Statute in respect of extermination, how do you plead, guilty or not
3 guilty?

4 THE ACCUSED:

5 Not guilty, Madam President.

6 MADAM PRESIDENT:

7 I believe that everything is clear on the record now.

8

9 Now, I turn to the Prosecutor. And as I was saying a short while ago, the Accused has entered a plea
10 of guilty on two counts, namely, murder under the provisions of Article 6(1), and that was the third
11 count. And the fourth count, extermination as a crime against humanity pursuant to Article 3(B) of the
12 Statute of the Tribunal and pursuant to Article 6(1) of the Statute. And he has entered a plea of not
13 guilty on all the other counts.

14

15 So the Trial Chamber would like to know from the Prosecutor whether they intend to pursue the
16 charges on the counts where the Accused has pled not guilty. Please Prosecution, would you rise and
17 give us your answer?

18

19 Please, be seated, the Accused.

20 MR. ADEOGUN-PHILLIPS:

21 I am grateful to your - to Your Honours.

22

23 Your Honours, following an acknowledgment of our position as an office, as indicated in paragraph -- in
24 chapter 6, rather, of the plea agreement that we filed before Your Honours on the 20th of October 2005,
25 pursuant to a joint motion between myself and my learned friend, Madam Catherine Mabile, following
26 the plea of guilty to the charges of murder and extermination pursuant to Article 6(1) of the Statute, the
27 Prosecutor would request, Your Honours, by way of oral motion, pursuant to your powers under Rule
28 73, 54, and 51 of the Rules of Procedure and Evidence of this Tribunal, to dismiss and enter a verdict of
29 not guilty in relation to the following charges.

30

31 Your Honours, I make my request in relation to count 1, that of the offence of genocide as a violation of
32 Article 2(3) (A) of the Statute of the Tribunal. I make that application in relation to both 6.1 and 6(3),
33 responsibility.

34

35 I make the same application, Your Honours, in relation to count number 2, that of complicity in
36 genocide, as outlined in count 2 of the Statute, pursuant to article 3(B) (A) of the Statute of this
37 Tribunal. And, again, I make that request in relation to individual responsibility pursuant to 6(1) and

1 6(3).

2 Your Honours, I make a similar application in relation to count 5, the charge is one of rape as a crime
3 against humanity as is currently outlined in count 5 of the indictment, and I make that application in
4 relation to both 6.1 and 6.3, responsibility.

5
6 So, in summary, Your Honours, in relation to count number 1, 2, and 5 of the indictment that has just
7 been put to the Accused, Your Honours are invited to dismiss those charges and, in effect, acquit or
8 render a verdict of not guilty against Mr. Bisengimana in relation to those counts, Your Honour.

9
10 I'm in your hands, Your Honour, as to whether or not you want us to give you a further background to
11 the plea or if the representation as I had made to you will suffice -- sorry, in relation to the plea
12 agreement, not the plea.

13 MADAM PRESIDENT:

14 Thank you. But I still have a question for you. What about the provisions of 6(3) in respect of murder,
15 and on which the Accused has entered a plea of not guilty? And what about 6(3) in respect of
16 extermination on which the Accused has also entered a plea of not guilty? He has entered a plea of not
17 guilty -- of guilty, rather, only for murder under 6(1) and extermination under 6(1). Could you please
18 answer?

19 MR. ADEOGUN-PHILLIPS:

20 Pardon me, Your Honours. Yes, I omitted, inadvertently, to deal with those. In addition to the three
21 counts or charges that I have alluded to this afternoon, the Prosecutor would also invite Your Honours,
22 in relation to count number 3, that of murder as a crime against humanity, to dismiss, render a guilty -- a
23 not guilty verdict and, in effect, acquit Mr. Bisengimana, as far as those charges go in relation to 6(3),
24 responsibility under the Tribunal's Statute.

25
26 Your Honours, I make a similar application in relation to the 6(3) responsibility for count number 4, that
27 of extermination as a crime against humanity, and invite Your Honours to dismiss the 6(3) allegation
28 against him in relation to that offence, and in effect, render a not guilty verdict and acquit him in relation
29 to those charges. I'm grateful, Your Honours.

30 MADAM PRESIDENT:

31 Thank you. Before we go any further, I have a question for counsel. Did you explain what a plea of
32 guilt or not guilty entails in respect of the witness's right, and in respect of the Accused's rights?

33 MS. MABILLE:

34 Yes, Madam President.

35 MADAM PRESIDENT:

36 Mr. Bisengimana, you are fully aware of the consequences of the plea of guilty of a confession. When
37 you plead not guilty, you are presumed innocent until your guilt is proven beyond any reasonable doubt

by the Prosecution. You have the right to call Defence witnesses, to testify yourself, but when you plead not guilty -- when you plead guilty; rather, you waive all those rights.

THE WITNESS:

Yes, Madam President.

MADAM PRESIDENT:

We shall now put a few questions to you about your confession in compliance with Rule 52(B).

First of all, we would like to crosscheck the various aspects of the confession of guilt, or the plea of guilty. First of all, if -- we would like to ask you, as a Trial Chamber, whether this plea of guilt was made freely and voluntarily; that is, did you do it consciously without any pressure, threat or promise?

THE ACCUSED:

Yes, Madam President, it was a decision I made without any constraints.

MADAM PRESIDENT:

Secondly, the Trial Chamber would like to find out from you whether this is an informed plea, namely, that you understood the charges against you, as well as the consequences of a plea of guilt on each of those charges, that is, you have waived your rights to a trial.

THE ACCUSED:

Yes, Madam President, I am fully aware of that.

MADAM PRESIDENT:

And, thirdly, the Trial Chamber would like to ask you whether this is an unequivocal plea; that is, that doesn't stand against any defence that may arise against it.

THE ACCUSED:

Yes, it is unequivocal, Madam President.

MADAM PRESIDENT:

And, four, we would like to make sure that your plea is based on sufficient facts for the crime and your participation in the said crime, either on the basis of objective indicia or of lack of any material disagreement between the Prosecutor and yourself. It is true that we have been seized of motion, a plea arrangement between you and the Prosecutor in respect of this plea of guilt. And we have also appended to your file the plea agreement that you entered into with the Prosecution.

(Pages 11 to 17 by Haruna Farage)

1 1600H

2 MADAM PRESIDENT:

3 You may be seated. Now, we are going to unseal the agreement in question in open session. We
4 would like to recall here that we are not bound by this agreement in accordance with Rule 62 *bis*.

5
6 Accused, you signed that plea agreement after the benefit of the advice of your counsel; is that correct?

7 THE ACCUSED:

8 Yes.

9 MADAM PRESIDENT:

10 Now, what we realised, Counsel for the Prosecution, this is what the Chamber has noticed. The facts
11 recognised by the Accused -- the facts recognised or acknowledged by the accused person are not in
12 line with the amended indictment. So that equivocal nature remains. We are going to mention the
13 paragraphs where there is discrepancy with the amended indictment.

14
15 Paragraph 34, in your agreement, the agreement between the parties, it is said that, as far as the
16 Musha church, Rutoma *secteur*, Gikoro *commune*, the Accused acknowledged that "On the 13th of
17 April 1994, or thereabouts, he was aware that soldiers of the Rwandan army were distributing weapons,
18 such as guns and grenades, to *Interahamwe* militia and other armed civilians at the Musha church.

19
20 "The Accused was aware that those weapons were to be used to attack Tutsi civilians who had sought
21 refuge in the church."

22
23 In the amended indictment, as far as the Musha church is concerned, paragraph 19 and 20, we read,
24 "At the beginning of April 1994, Paul Bisengimana and Laurent Semanza had an interview with a
25 certain Rugambajye, major in the Rwandan army." -- I will spell Rugambajye for the Court reporters,
26 R-U-G-A-M-B-A-J-Y-E -- "major in the Rwandan army, to ask for weapons for purposes of attacking
27 Tutsi civilians who were seeking refuge in Musha church in Rutoma *secteur*, R-U-T-O-M-A, Gikoro
28 *commune*, Kigali Rural *préfecture*."

29
30 Paragraph 19 of the amended indictment.

31
32 Now, paragraph 20 of the amended indictment, "On or about the 12th of April 1994 Paul Bisengimana,
33 acting in concert with soldiers from the Rwandan army, distributed weapons to the *Interahamwe*,
34 militiamen, and other armed civilians at Musha church. He ordered that these weapons be used for the
35 purpose of attacking Tutsi civilians who had sought refuge at the church"

36
37 In the agreement between the parties, in paragraphs 35 and 36, Paul Bisengimana acknowledges that,

1 "On the 13th of April 1994, or thereabout, he was in the company of Laurent Semanza, soldiers of the
2 Rwandan army, *Interahamwe*, militiamen, armed civilians, and *communal* policemen, when an attack
3 was launched against Tutsi civilians who had sought refuge at Musha parish, using firearms, grenades,
4 machetes, pangas and other traditional weapons. The attackers killed over a thousand Tutsi civilians in
5 Musha. During the attack a civilian militia called "Manda" (phonetic) torched the church causing the
6 death of numerous refugees."

7
8 In paragraph 36 of the agreement between you, Paul Bisengimana also acknowledges that, "His
9 presence at Musha church during the attack was of a nature of encouraging the attackers and giving
10 them the impression that he cautioned (sic) the attack on the Tutsis who had gathered there."

11
12 In paragraph 37 of the agreement -- while in the amended indictment -- still as concerns the Musha
13 church -- it is said, in paragraph 21, "That on the 13th of April 1994, or around that date,
14 Paul Bisengimana, Laurent Semanza, Juvenal Ruzinbara, soldiers of the Rwandan army, *Interahamwe*
15 militiamen, armed civilians, and *communal* policemen launched an attack on Tutsi civilians, who had
16 sought refuge in Musha church, using guns, grenades, machetes, and other traditional weapons. That
17 attack resulted in the killing of thousands of Tutsi refugees, and during that attack a civilian militia
18 named Manda set fire to the church, causing the death of thousands of refugees."

19
20 The Chamber further notes that in paragraph 38 of the agreement between you, the Prosecutor, and
21 Paul Bisengimana. Paul Bisengimana admits that he was present when a Tutsi called Rusanganwa -- I
22 am being told that this is in paragraph 38 in English.

23 MS. MABILLE:

24 I'm sorry, I had problems following. It was paragraph 38 of the plea agreement.

25 MADAM PRESIDENT:

26 I am being told that the translation was not correct. It was paragraph 37, but it was not correctly
27 translated. Let me come back to that.

28
29 Still talking about the agreement between you, the Prosecutor and you, Mr. Paul Bisengimana, you
30 admitted you, Paul Bisengimana, that you were present when a Tutsi called Rusanganwa,
31 R-U-S-A-N-G-A-N-W-A, who had sought refuge at the Musha church in Rutoma *secteur*,
32 Gikoro *commune*, was murdered during the attack launched at that location on the 13th of April 1994."

33
34 However, in the amended indictment, in paragraph 22 and paragraph 42 -- let me start with paragraph
35 22. "On the 13th of April 1994, during the attack launched at Musha church in Rutoma *secteur*,
36 Gikoro *commune*, Paul Bisengimana and Laurent Semanza cut the arms off a Tutsi man called
37 Rusanganwa with a machete following which he bled to death."

1
2 And in paragraph 42 of the same indictment, among the Tutsi civilians killed, as a consequence of
3 Paul Bisengimana's direct acts or omissions, are a Tutsi man called Rusanganwa."

4
5 Now, in paragraph 39 in the plea agreement, Paul Bisengimana admits that the attack launched against
6 these people was a continued attack on the Tutsi civilians in most of a Rwanda throughout the month of
7 April 1994.

8
9 However, in the amended indictment, it is said in paragraph 38, "Between the 7th of April and
10 June 1994 there existed, throughout Rwanda, widespread or systematic attacks directed against a
11 civilian population on political, ethnic, or racial grounds.

12
13 And in paragraph 39 of the same indictment, "Paul Bisengimana contributed in the preparation,
14 commission and execution of a common strategy or plan to kill Tutsi civilians, and by his acts or through
15 persons he assisted or by the acts of his subordinates with his knowledge and consent."

16
17 In the agreement between you, the Prosecutor, and the Accused, it is said, "As concerns the school
18 and the Ruhanga protestant church, Ruhanga is spelled R-U-H-A-N-G-A, "Ruhanga *cellule*, Gacaca
19 *secteur*, Gikoro *commune*, Paul Bisengimana admits that between the 10th and the 15th of April 1994
20 the Brigadier Rwabukumba, R-W-A-B-U-K-U-M-B-A, members of the Presidential Guard, civilian militia,
21 and members of the *communal* police launched an attack against Tutsi civilians who had sought refuge
22 at the Ruhanga school and church. During this attack the attackers, carrying firearms, grenades,
23 machetes, pangas and other traditional weapons, killed many Tutsi civilians at the school and the
24 Ruhanga church."

25
26 But it is said in the amended indictment, as far as this school and the protestant church in Ruhanga
27 *cellule*, Gacaca *secteur*, Gikongo *commune* in paragraph 28, "That between the 10th and the 15th of
28 April 1994 Paul Bisengimana, Brigadier Rwabukumba, soldiers from the Presidential Guard, civilian
29 militiamen, and *communal* policemen, launched an attack on Tutsi civilians who had sought refuge in
30 Ruhanga school and Ruhanga Protestant church. The attackers used guns, grenades, machetes,
31 pangas and other traditional weapons and killed thousands of people amongst the Tutsi civilians.

32
33 Lastly, in the agreement between you, the Prosecutor, and the Accused, Paul Bisengimana, in
34 paragraph 42 the Accused, Paul Bisengimana, admitted that: "In spite of his capacity as *bourgmestre*
35 of Gikoro *commune*, in spite of the fact that he was aware that the refugees present at Musha church
36 had been attacked on the 13th of April 1994, he took no concrete measure to protect the Tutsis who
37 had sought refuge at the school and at the Musha church, Gacaca *secteur*, Gikoro *commune*, between

1 the 10th and the 15th of April 1994. He also admits that the attack launched against Tutsi civilians, who
2 had gathered at the school and at the Ruhanga protestant church, was part of the continued attacks,
3 which Tutsi civilians suffered throughout most of Rwanda in the month of April 1994."

4
5 But then in the indictment in paragraph 8, the amended indictment in paragraph 8, it is said that, "In his
6 capacity as *bourgmestre* of Gikoro *commune* he had the means to oppose to killings of the Tutsi
7 civilians, but Paul Bisengimana acquiesced or chose to implement the programme of the interim
8 government to exterminate civilians identified s Tutsi and other civilian political opponents using his
9 subordinates."

10
11 Still in the amended indictment in paragraph 39, it is said that, "Paul Bisengimana contributed in
12 preparing, committing, and executing, a common strategy or a common plan to kill Tutsi civilians and by
13 his acts or through persons he assisted, or by the acts of his subordinates with his knowledge and
14 consent."

15
16 Now, those are the facts we have noted and we would like to note that these discrepancies between the
17 agreement between you and him and the facts that have been admitted by the Accused, what is
18 entered these discrepancies, therefore, have an impact on the equivocal nature or character of the
19 plea.

20
21 So, Mr. Prosecutor and Counsel would like to ask you to provide an explanation therefore. Thank you.

22 MS. MABILLE:

23 (No interpretation)

24 MADAM PRESIDENT:

25 We'll start with the Prosecutor, and then I'll give you the floor later.

26 MR. ADEOGUN-PHILLIPS:

27 I'm grateful, Your Honours.

28
29 Your Honours are, indeed, correct with relation to the matters which you've drawn to our attention. And
30 in regard to the following paragraphs of the amended indictment, dated 31 October 2005, Your Honour,
31 which has been put to the Accused this afternoon, the Prosecutor wanted to be on record that he can
32 no longer support the allegations as outlined in paragraphs 8, 19, 20, 21, 22, 28, 38, and 39, as Your
33 Honour has rightly pointed out. And it will suffice to say that the paragraphs in the agreement, namely,
34 36, 37, 38, 39, 41 and 42, as they currently stand in the agreement filed before Your Honours on the
35 20th of October 2005, is indicative of the current state of affairs regarding the evidence available to the
36 Prosecutor at this stage. I'm grateful, Your Honour.

1 MADAM PRESIDENT:

2 What you mean, therefore, is that you accept the facts which have been established in the agreement
3 between you and the Accused and you, therefore, distance yourself or you are refraining from what is in
4 the indictment?

5 MR. ADEOGUN-PHILLIPS:

6 I wouldn't quite put it as distancing myself, Your Honour. It would suffice to say that we no longer
7 intend to rely on the paragraphs that I've indicated, and I would repeat them: 8, 19, 20, 21, 22, 28, 38
8 and 39, inasmuch as those paragraphs relate to the Accused in this case, Mr. Paul Bisengimana and
9 no other person named therein.

10

11 So, to recap, paragraph 8, 19, 20, 21, 22, 28, 38 and 39, as they are currently drafted in the indictment
12 of 31st October 2005, inasmuch as they relate to this Accused person, the Prosecutor no longer intends
13 to support those allegations against him -- no longer relies on those allegations in their current form.

14 MADAM PRESIDENT:

15 Counsel for the Prosecution, please, we would have a question to put to you. Judge Sekule has a
16 question for you.

17 JUDGE SEKULE:

18 Thank you, Madam President.

19

20 Learned Counsel for the Prosecution, we have taken note of what you have said with regard to the
21 current paragraphs in the indictment, and that you do not intend to proceed with them as they are, as
22 far as this particular Accused person is concerned. As this particular Accused person is concerned, we
23 understand you. And what is reflected in the various paragraphs that you have mentioned, with regard
24 to the plea agreement, are the issues that are -- seem to be the position with regard to this case
25 concerning this particular Accused person. We do note that fact.

26

27 Now, the question is, these paragraphs in the indictment do exist. What do you intend to do with them?
28 What do you intend to do about them? Do you understand what we mean? Because this is the current
29 indictment. This is the ongoing indictment. This is the present indictment. So what do you intend to do
30 about that kind of disparity, if you may wish to comment? We have followed you, and we do
31 understand you, your submissions, but we would like -- the Trial Chamber would like to hear from you
32 what you intend to do with the current state of affairs. You have the facts as they are in the agreement,
33 but you have also the facts that exist in the current indictment, as reflected in the relevant paragraphs
34 that you have just cited.

35 MR. ADEOGUN-PHILLIPS:

36 Your Honours, I note your concern, and in that regard I would try very much to refrain from describing
37 them, from my part, as discrepancies but, rather, as the fallout or the results of the negotiations that

1 have been involved in this matter.

2
3 Your Honours, personally, for me, based on my jurisdiction and my knowledge of these matters, I
4 wouldn't be personally troubled by allegations as they are in the indictment as they relate to
5 Mr. Bisengimana but, of course, I share Your Honour's concern in that sense. No useful purpose would
6 necessarily be served in leaving them in the indictment and, of course, we can always move to amend.
7 The difficulty we had until today was until five minutes ago, we didn't know whether we were going to
8 have a plea following the agreement. So, of course, we couldn't delete them before now. But having
9 now received the plea, no useful purpose is served for leaving them, and we would move to delete
10 them and we file a subsequent indictment. I thought I could handle it, but Your Honours are wanting a
11 filing of a subsequent document, and I have no problem with that, and I don't think Catherine will mind.
12 *(Pages 18 to 23 by R. Lear)*

1 1630H

2 MADAM PRESIDENT:

3 Excuse us, Counsel for the Prosecution, I do not know if it is an oversight on your part but you did not
4 mention paragraph 42.

5 MR. ADEOGUN-PHILLIPS:

6 Forty-two of the indictment. Your Honour?

7 MADAM PRESIDENT:

8 Oui, oui, oui.

9 MR. ADEOGUN-PHILLIPS:

10 Your Honour, yes. I am informed by my colleagues that you did mention 42, yes. If can go through
11 them again. Make amendments. I don't think delete is the right word because there are some
12 paragraphs -- there are some parts of the paragraph that would remain, but we would amend
13 paragraph 8, 19, 20, 21, 22, 28, 38, 39, and 42 of the indictment, dated 31st October 2005.

14 Your Honours. We will undertake to do that today, and we will file it the first thing in the morning.

15 We might -- Your Honour, sorry, we might not file it the first thing in the morning, the Prosecutor is in
16 New York. I will have to find someone to sign on his behalf.

17 MR. PRESIDENT:

18 We thank you. And, Ms. Mabile, you have the floor.

19 MS. MABILLE:

20 Before I take the floor once again, could you allow me five minutes so that I can consult with the
21 Prosecutor.

22 MADAM PRESIDENT:

23 You may.

24 MS. MABILLE:

25 Thank you, Madam President.

26 MADAM PRESIDENT:

27 Can we now proceed.

28 MS. MABILLE:

29 Madam President, Your Honours, a couple of comments in connection with the problem we are facing.
30 There's at any rate a matter that is quite clear to my client. In other words, we have signed an
31 agreement and that, as far as I am concerned and my client is concerned, it will be that agreement with
32 its wording and phraseology. That is what is valid nothing else is.

33

34 Now, to address the points made by the Court which I share and which I understand, we can resolve
35 the problem in the following manner; the Prosecutor undertakes to amend the indictment by deleting
36 paragraphs 8, 19, 20, 21, 28, 38. 39 and 42. I believe our plea agreement would not be ambiguous
37 and there would be a consistency between the indictment and the pre-agreement. And, as far as the

1 Defence is concerned if the Prosecutor makes such an undertaking, and we cannot but agree with that
2 approach so that we can then proceed --

3 MR. PRESIDENT:

4 Grateful. Is that the case, Prosecutor? Could you confirm?

5 MR. ADEOGUN-PHILLIPS:

6 Your Honour, sir we would make the amendments.

7 MADAM PRESIDENT:

8 Trial Chamber is grateful.

9
10 Very well, the Trial Chamber will, or the Bench will withdraw for deliberations, and say after 20 minutes,
11 five minutes to five. We will come up with a decision.

12
13 Thank you.

14 *(Court recessed from 1635H*

15 *(Pages 24 to 25 by Judith Kapatamoyo)*
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1 1740H

2 MADAM PRESIDENT:

3 The Court is called to order.

4
5 Here is the decision or ruling of the Trial Chamber:

6
7 Considering the joint motion regarding an agreement between the parties, namely, Paul Bisengimana
8 and the Prosecutor, and after having heard submissions by the parties, notes Bisengimana's plea with
9 respect to the five counts including the guilty plea on the count of murder and extermination as a crime
10 against humanity, pursuant to Article 6(1) of the Statute, duly notes the differences observed between
11 the plea agreement and the amended indictment in particular with respect to paragraphs 8, 19, 20, 21,
12 22, 28, 38, 39 and 42 of the amended indictment.

13
14 The Chamber notes that such discrepancies have an impact on the equivocal or unequivocal nature of
15 the plea, and determined on behalf of the Accused that he has pleaded not guilty to the counts of
16 murder pursuant to Article 6(1), and extermination, pursuant to Article 6(1) of the Statute as crimes
17 against humanity. In conformity wit Rule 62(a) sub 2 of the rules.

18
19 The Chamber at this juncture duly notes the not guilty plea entered for all the other counts. The
20 Chamber duly notes that the Prosecutor has undertaken to amend the indictment to ensure that it is
21 consistent with the facts on which the parties agreed in the plea agreement. It further notes that the
22 Defence subscribes to that commitment. In view of that agreement, the Trial Chamber urges the
23 parties to comply with the said commitment as soon possible, and to report to it with respect to the
24 measures taken in that regard. For the reasons set out above, the Chamber rejects the joint motion on
25 the plea agreement. The Trial Chamber directs that Paul Bisengimana be remanded in custody under
26 conditions that guarantee his security. That is the ruling of the Trial Chamber.

27
28 We shall now end this session if parties or if the Prosecutor has no further submission to make.

29
30 Thank you. Stands adjourned.

31 (Court adjourned at 1747H)

32 (*Page 26 by Sheriffo Jammeh*)

C E R T I F I C A T E

We, Sheriffo Jammeh, Regina Limula, Haruna Farage, Rex Lear and Judith Kapatamoyo, Official Court Reporters for the International Criminal Tribunal for Rwanda, do hereby certify that the foregoing proceedings in the above-entitled cause were taken at the time and place as stated; that it was taken in shorthand (*stenotype*) and thereafter transcribed by computer; that the foregoing pages contain a true and correct transcription of said proceedings to the best of our ability and understanding.

We further certify that we are not of counsel nor related to any of the parties to this cause and that we are in nowise interested in the result of said cause.

Sheriffo Jammeh

Regina Limula

Haruna Farage

Rex Lear

Judith Kapatamoyo