



## I. INTRODUCTION

### A. Procedural Background

1. The Appeals Chamber of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens responsible for genocide and other such violations committed in the territory of

and "the Tribunal" respectively) is seized of an appeal lodged by Mr. Jean KAMRANDA

("the Appellant") against the Judgement and Sentence pronounced in his case by Trial Chamber I of the Tribunal ("the Trial Chamber") on 4 September 1998 ("the Judgement").<sup>1</sup>

Pr: Decimo - 60 D - 1999

withdrawn during the hearing on 28 June 2000. After the close of filing hours on 26 June

1. ■

35/2118/H

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Rwanda be taken into account in the determination of the sentence;

(6) failure to pronounce and issue

indictment, each count being a separate charge of an offence;

(8) considering the non-explanation of the convict when asked whether he had anything to say before sentence as militating against any discount.

The Appellant also characterised ground (8) as an error of fact.

11. The Appellant's Brief asks the Appeals Chamber to quash the guilty verdict and order a new trial on the basis of grounds (1) to (3). Failing that, the Chamber is asked to revise the sentence on the basis of

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## ONE'S OWN CHOOSING

### A. Arguments of the Parties

12. The Appellant argues that the Trial Chamber erred in law by not taking into

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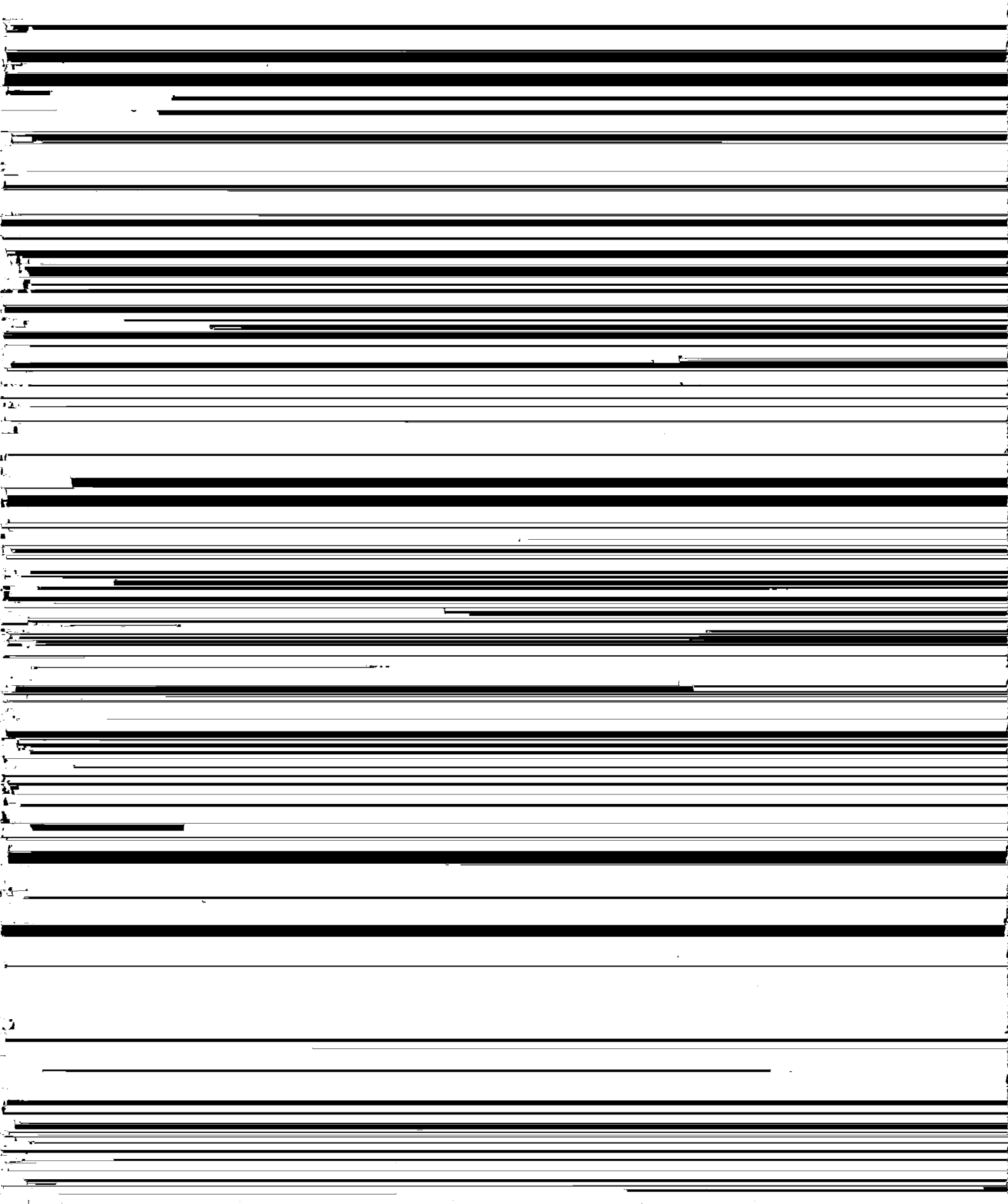
said that he felt it necessary<sup>16</sup>. On 11 August 1997, in a letter to the Registry, he declared

that he wished to waive his right to

verbally during the Trial Chamber hearings on 14 August<sup>17</sup> and 16 September 1997<sup>18</sup>. On 18 October 1997, the Appellant submitted a document entitled "*Renonciation temporaire au droit à l'assistance d'un conseil de la défense*" (Temporary Waiver of My Right to Defence Counsel), in which he once again confirmed his waiver of

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19. On 25 March 1998, following a request by the Registry for him to state his position in a more positive manner, the Appellant





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the Appellant writes that the Trial Chamber should have raised the issue of counsel and



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The obligation is on the complaining party to bring the difficulties to the attention of the

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cannot accept the Appellant's allegations

and

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systematic interpretation of the provisions of the Statute and the Rules<sup>46</sup>, read in conjunction

with the provisions of the Statute and the Rules<sup>47</sup>, read in conjunction

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III. SECOND GROUND OF APPEAL: UNLAWFUL DETENTION

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statement and plea agreement.<sup>56</sup>

38. In the Prosecutor's Response, the Prosecutor claims that the Appellant has waived

adds that the ground is not supported by facts currently in the record on appeal. Should

~~these two objections fail~~

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case depend for example because the matter could not be...

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IV THIRD GROUND OF APPEAL: INVALIDITY OF THE SENTENCE

PLEA

A. Summary of the Issues

40 The issues raised by the Appellant as to the validity of the guilty plea can be divided

the military plea.<sup>66</sup> The Prosecutor recounts that the Appellant and his counsel entered a

Plea Agreement with the Prosecutor on 29 April 1998, and when before the Trial Chamber on 1 May 1998, the Appellant acknowledged that he had signed the Plea Agreement, and further that four months later, at the pre-sentencing hearing on 3 September 1998, the

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**B. Was the Guilty Plea Voluntary, Informed, and Unequivocal?**

**1. Was the Guilty Plea Voluntary?**

a) Submissions of the Parties

56. As to whether the guilty plea was voluntary, the Appellant states: "Voluntariness involves two elements, firstly an accused person must have been mentally competent to understand the consequences of his actions when pleading guilty. See [redacted]

not have been the result of any threat or inducement other than the expectation of receiving credit for a guilty plea by way of some reduction for sentence."<sup>69</sup>

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... The ... that the competency of Appellant has never been raised and

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~~was not~~ ~~claim~~ that the Applicant was mentally incompetent and failed to understand the

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charges against him.”<sup>84</sup>

71. In distinguishing *Erdemović* from the present case, the Prosecutor asserts that the Appellant fails to point to any specific words or deeds that would demonstrate that his

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b) Legal Findings

75 The Appeals Chamber agrees with the parties that the standard for determining



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3. Was the Guilty Plea Unequivocal?

[REDACTED]

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82. The Prosecutor further submits that because the "Appellant did not object, after the lapse of four months between his plea on 1 May 1998 and the sentencing hearing on 4

Paragraph 1008 Etic illustrates that his guilty plea was unequivocal."97

83. In his Reply, the Appellant claims that "he did not object, after the lapse of four months between his plea on 1 May 1998 and the sentencing hearing on 4 September 1998,

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The accused replied in the affirmative to all these questions. On the strength of these answers, the Chamber delivered its decision from the bench.<sup>100</sup>

87. The Appeals Chamber considers that the Trial Chamber had several opportunities to question and observe the Appellant, and notes that it was satisfied that the Appellant's

Chamber finds no merit

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... of the Disposition Agreement entitled "Factual Basis"

... the Disposition to proceed with evidence

Chamber entered a plea of guilty against the accused on

all the counts in the indictment.”<sup>110</sup>

93. The Appeals Chamber notes that there was no disagreement between the parties as

to the Appellant’s participation in the crimes alleged in the

Indictment and agreed to in the Plea Agreement. Thus the Appeals Chamber can not

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**IV. FOURTH, FIFTH, SIXTH, SEVENTH AND EIGHTH GROUNDS**

**A. Introduction**

06 The Appellant has submitted as an "alternative" that, should the Appeals Chamber

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arguments in support of his or her claim is therefore not absolute: it cannot be said that a claim *automatically* fails if no supporting arguments are presented.

Consolidated Notice of Appeal, the Appeals Chamber will exercise its discretion to consider

whether the grounds have merit.

**B. Sixth Ground of Appeal**

100. In the Judgment, the Appellant was convicted of six counts relating to genocide and crimes against humanity for which he was sentenced to a single sentence of life

Article 23: Penalties

[REDACTED]



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205 T. D. ... the Director ... the choice between imposing a single sentence

multiple sentences as a discretionary one, her submission reading: "with regard to the

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... in several distinct ways but

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sentence. In addition, he submits that the Trial Chamber erred in law and on the facts in

say himself in mitigation before sentence.

he must show that the Trial

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as Prime Minister. He "acknowledge[d] that...he as Prime Minister, instigated, aided and abetted the *Prefets*, *Bourgmestres*, and members of the population to commit massacres and

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Appellant.<sup>137</sup> It noted the early guilty plea of the Appellant and the fact that both the Appellant and the Prosecutor

[redacted] (after Appellant's guilty plea as a result of his remorse)

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125. The Appeals Chamber notes that the crimes for which the Appellant was convicted were of the most serious nature. A sentence imposed should reflect the inherent gravity of

the criminal conduct. The Appeals Chamber of the ICTY has observed that "[c]onsideration

of the gravity of the conduct of the accused is normally the starting point for consideration

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**VI DISPOSITION**

**THE APPEALS CHAMBER**

NOTING Article 24 of the Statute of the Tribunal and Rule 118 of the Rules;

and its oral submissions at the hearing on 27

and 28 June 2000;

SITTING in open court;

REJECTS eight grounds of appeal against the Judgement of 4



**International Criminal Tribunal for Rwanda  
Tribunal Pénal International pour le Rwanda**

Arusha International Conference Centre

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**APPEALS CHAMBER - PROOF OF SERVICE – BY FAX  
PREUVE DE NOTIFICATION - CHAMBRE D'APPEL – PAR FAX**



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