

## Prosecutor vs. Georges Ruggiu

### **Pleading Defence**

**(ICTR Court Transcripts, 15.05.2000, pp. 102-136; 191-242)**

MADAM PRESIDENT: Defence, do you have anything to address us on this stage of the proceedings on why we should accept the guilty pleas, for the purpose of conviction? And if you have any comments arising from the questions that were already addressed to the Prosecutor by the Judges? Please go ahead Mr Aouini.

MR AOUINI (Defence council): Madame President, Your Honours, we are now getting to the crux of the matter. That is, the bare essentials. At this stage in the proceedings, I don't think we should limit ourselves to saying that Mr Ruggiu is guilty. On the contrary what we need to do is first of all, and do that with great clarity, is to define the effects of the acts committed by Mr. Ruggiu, that is important because it's only after determining these effects that we can move on to the second phase of analyzing these facts, to arrive at the elements that will make Mr Ruggiu guilty. [...] The truth, Madame President, Your Honours always depends on knowledge of the reality. We should, therefore, scrupulously examine the minute details, each one of the facts, and examine them through witness statements corrected by the Prosecution. We cannot agree on a guilty plea without the parties first of all having established the facts. The plea agreement that the parties are presenting to you to day, it's more than the simple formulation of the confession of Mr Ruggiu. It's a two part agreement. The first part of the agreement, first of all is an agreement on the facts, and [...] their chronology. This agreement took long to arrive at but it is important and we were able to agree because the office of the prosecutor was certain that Mr Ruggiu was telling the truth and he is still telling the truth and nothing but the truth. If there is anything important which the parties are presenting to the Tribunal, it is precisely this first part of the agreement, the chronology of the facts. The court cannot share in the analysis of the parties in relation to the facts, but we should observe that the agreement was arrived at in an irrevocable manner.

The second portion, the second part Madame President, Your Honours, relates to the analysis in law and in interpretation. Your court at this stage will find the field which is more favourable to the exercise of its authority regarding the [count] Mr Ruggiu is being charged [with], Madam

President, Your Honours. [...] Mr Gilisen, with your leave, will deal with the most important aspects which we believe will convince you that it is proper to accept the plea agreement between the parties in the interest of justice. Thank you.

MR GILISEN [Second Defence Council]: Do I have leave to speak, Madam President, Your Honours? I thank you. I believe Madam President that we are, in fact, reaching a crucial stage in the trial [...]. The proceedings that we wanted to adopt as a method [...] should first of all include the determination of the facts and that is essential for Mr Ruggiu. He must know what the reality is and that bad reality is established. We have listened to this man who is behind me, we have assigned, attributed to him words which he did not say, words which were in other languages, in Kinyarwanda. So, it is important that things be clarified, there was an erroneous and ambiguous situation which was attributed to Mr Ruggiu. So it was important duly to establish the truth and to do this in all royalty, I wouldn't say hand in hand but with all royalty with the Office of the Prosecutor. Secondly, it is evident that we need to look into the criminal definition and this is necessary, and this can only be done when you are informed of the facts and that is how you would arrive at an analysis. So since the agreement is by two parties, I think it is a good idea to go into the presentation of the first part of the agreement because it is important. What are we dealing with? I feel, Madam President that this is a story which is terribly human and individual in its nature. [...] There is a misunderstanding, an atrocious misunderstanding. What Mr Ruggiu wants to do and I think he needs your understanding because of questions that you put to him that he wanted to plead guilty. So it was vital for his counsel within the mandate given to them that they do not go about things haphazardly, there is nowhere, any good reason for doing things haphazardly. So we tried to determine the facts and we ourselves tried to do the same and we were quite astounded as was the Office of the Prosecutor to find that the facts did not correspond at all to what we had imagined when we read some information in the press. So how are we supposed to understand these documents which come from the so-called experts from Rwanda? What can we discover factually and realistically and with the reality in support? We have found this ordinary man, I am sorry, he is a very ordinary man who is working in social environment, who is meeting Rwandans, there nothing criminal about that. So this man is going to make friendships with people, solid friendships with young Rwandans. Much to his regret and for the regret of those people who remained victims for Mr Ruggiu and all Rwandans that he met, all of them without any exception, Hutus, it is not a crime to be a Hutu, it is not a crime to meet with Hutus, Hutus from the north of the region from which the President [Habyarimana] came and Hutus who were seriously committed politically and you must know indeed that Ruggiu was in the nest of the MRND, the presidential party when he was in Belgium and he met Rwandan students who were studying under scholarships and they knew the political situation in Rwanda in 1991, 1992, 1993, so they were these happy few whom he met and Mr Ruggiu, who is a good man,

I am not wrong in saying that nor when I refer to the style nor to the time nor to the moment, he makes friendships with these young Rwandans and these are Rwandans who have made their trip for the first time and there is nothing which is criminal in there in their links. So there is a thunder-clap, a really thunder-clap which is increased because here we are dealing with young Rwandans and Mr Ruggiu becomes a person who is well versed with the Rwandan politics and there is nothing criminal in this. So he comes closer to these Rwandan friends and Madam President, Your Honours, what took place would have happened with anyone, be you on this side or on the other side of the Bar. So he was briefed, he was instructed and he receives information which by definition is partial and impartial. And so Mr Ruggiu discovers the Rwandans, discovers the Rwandan political life through a partial and impartial crucible. He didn't know Rwanda, he only knew the Rwanda that he was shown, he only knew the Rwanda which was described to him, which was spoken to him of. He didn't know Rwandans, he only knew one single person who was Tutsi. He didn't know anyone else who from the Tutsi community. It is probably necessary to know that Mr Ruggiu knew members of the Rwandan community only by what he was told. He went back to Rwanda for the second time, this time around, he felt that he needed to commit himself politically for and on behalf of his Rwandan friends. The Tribunal knows that this was a country which was in a civil war. It was at that point in time, a situation in which we could say the country was in civil war, and Mr Ruggiu managed the information that he was given, quite simply and he believed that, I do not want to be too long but there is the good and bad, it is the good which comes from the bad which comes from the outside that is the RPF who want to take power by force, they want to overthrow their President Habyarimana and after the Conference, there is an openness towards democracy and they wanted to be a perfect model but in Ruggiu's mind, there are those people who are good, who are in power and they represent the majority of the people of Rwanda who are in opposition and than there are the bad who are of a general quality, those who in fact want to take power by force. So these explanations, Madam President, I believe will show you quite fragrantly that there is no aspect of ethnicity. We are remaining at the political level. And Mr Ruggiu goes again to Rwanda because when he leaves Rwanda and this is important he had met and socialized politically with people. Mr Ruggiu was seeing the cream of the cream in the political arena, those who were in power, people whose names are well known. So when Mr Ruggiu leaves Rwanda the second time around, he leaves with the firm intention of coming back to settle. Your Honours, this is important, to come back and settle, not to burn the country down, not to plan a genocide or to contribute to it, not even for political struggle, he leaves the country with the firm conviction that he is coming back to marry the Rwandan that he had met, set up a family and live happily ever after, but he had to find a job. All I am telling you is that in the agreement with the office of the prosecutor, it is not being invented by the Defence. All of this has been verified by the Office of the Prosecutor. People were questioned. People went

to see who socialized with Ruggiu and who didn't. We have a character witness who could confirm to you if need be what we are trying to say to you and this would be in agreement with what has been asserted by the Office of the Prosecutor. Mr Ruggiu spoke about a windmill project and he spoke about a restaurant. He doesn't have any competence in this area but why not since he had competence in the radio. Now, he was working with the ONSS in the Belgium and so he was saying only a few weeks later, he had hardly gone back to Belgium that he was informed that, wonder of all wonders, he was going to have a job as broadcaster. Madam President, Your Honours, it was just nonsense. Mr Ruggiu has no training, no competence neither as a journalist nor as a broadcaster, a radio broadcaster and the language used should have warned Mr Ruggiu. So now, Mr Ruggiu with his Thunder Club, he didn't see the signal. He didn't see the warning signal telling him about danger. He went into this full pelt, and he left everything in Belgium, his relatives, his friends, his job to go to Rwanda. And he did this with every passion that he always has in everything he does. Maybe with excess, so in fact he went to Rwanda to work for the Radio Television which he knows is not a commercial radio as such. He participated in political meetings during which he heard that within the framework of the civil war in Rwanda, in the political arena, there was a media problem and Mr Ruggiu must have understood clearly that the project of establishing a radio station was a political solution. Now given the power to be taken by the radio, this was the Muhabura Radio, the RPF radio and Ruggiu knew this and he accepted this. Madam President, must I tell you that in this acceptance, I didn't see any criminal aspect. So he went back to Rwanda, but there is nothing for him at the radio. For a month, he was set aside and this has been researched and found to be the truth. Ruggiu is wondering around, he left everything in Belgium and one morning, he meets the Presidential escort. The escort stops, he speaks for five minutes and under the charm of the presidential person, he gets into the vehicle and he is taken to a place and he is totally overwhelmed by having seen the Rwandan President who told him that Mr Ruggiu you will soon have news about your employment in Rwanda. The next morning, Mr Ruggiu was called to the Radio Milles Collines and he was told that the tests which he had to sit, and which he had not sat, he had already passed that and that he would receive his contract a few days later. So clearly he is the president's man and this in the wave that has been constituted by the RTLM, there is the MRND, there is the CDR and there is a whole trend of Rwandan politicians who do not want to lose power and here Mr Ruggiu with his cup which he has received from the President. So he is trained for a very short time and he starts on his broadcasts. We have some cassettes, we have some testimonies, nothing special about them but he is not the only person who is broadcasting. In January, 1994, we know that there was nothing special about him. In February, 1994, the political situation in Rwanda deteriorates further and Mr Ruggiu in the broadcast that we have or the testimonies that we have, he participates in this change in the political tone, it becomes more hard, more harsh towards the

opposition and it is much much harder and extreme against the RPF and the accomplices, that means the opposition and we come to the month of March, Madam President, Your Honours, here the problem begins to show itself because then Madam President, Your Honours, and we all know this, the political situation in Rwanda truly becomes catastrophic. In March, 1994, there are political assassinations in Rwanda, and Ruggiu in fact, receives instructions from the management and he is called upon to adopt a harder and a more hard line language to integrate Kinyarwandan terms which he does not understand but which is translated to him quickly. Yes, he knew that Inyenzi was a cockroach as you can see it in this manner and that is how Mr Ruggiu himself saw it and he continues his broadcasts. I believe and Mr Aouini believes much more strongly than I do that Mr Ruggiu in March, 1994 was making propaganda of the worst kind and that's not a crime given the conventions on genocide. In the beginning of the month of April, we reach this night, the terrible night during which the Presidential plane coming back from Dar-es Salaam was shot down. I don't have to say much about that assassination myself, Mr Ruggiu doesn't know anything about this. The killings and assassinations begin and Mr Ruggiu is sleeping. It is only on the next morning when he wakes up that he is going to be told by his Rwandan friends that people are being killed and that people are killing without heed. Mr Ruggiu then goes to the Radio Milles Collines. He becomes aware of what is happening in the editorial room and I am sure you are all aware that there is a lot of emotion contrary to what should have been said, there is no calling to death but there is only somber music on the radio, there is no calling for deaths, the only message is the announcement of the death of the President. And Mr Ruggiu takes the microphone over the days which following on the 7th and the 8th to announce to those who are listening who may not know that the President had been killed on the night of the 6th and the 7th of April. He doesn't take the microphone for any other message except [...] to read Prefet Renzaro's message. It is an official message, he was told to read it and he reads it. There is no malice that he sees and even afterwards one could wonder whether he saw any malice in reading this. Mr Ruggiu knew that the killings were going on. He tells us that he supports the facts that at the time, he knew that people were killing but he did not see any bodies. On the 10th of April and you will see this in a chronology, I am not trying to waste your time, Your Honours, but he goes to the interim government on the 10th of April with Waldemerwick. He questions a few new ministers and he goes back to the Radio Station, the RTLM and there it is announced to him, "Careful George", that is how he was called. So Mr Ruggiu is told that he is in danger. In fact, Mr Phocas Habimana, the Director of the broadcasting Station is telling him the Belgian soldiers are looking for him who want to make him quiet at whatever cost and also if possible take him back to Belgium. Mr Ruggiu is not always as courageous as he may be seen given what I am going to tell you. So he becomes afraid, he doesn't go home because that is what he is advised and we lose the chronology of the facts but he spends two or three days at the

office and he made statements and we know what he said because we have cassettes. So after these 2 or 3 days or so that's around the 12th or the 13th, he is taken by the Rwandan Army, and he was taken to the Kigali camp to the officers' mess, he sleeps there on a carpet and he is put on ice. He is removed from any contacts [...]. We see also that the massacres start, Mr Ruggiu's words need to be analyzed systematically when we look at the potential of criminality but Madam President, Your Honours and I am bringing you the beginning of your questions a few moments ago; where is the criminal intent? Where is the mens rea? Madam President it is not myself nor Mr Othman who is going to give you an answer to this. It is to Mr Ruggiu himself. Mr Ruggiu, he has stated in fact that during these three days which he spent in Kigali camp, he was invited to a visit which was organized by the army, a visit of Kigali and this was for the Rwandan Press and this was taking place in Rwanda and not anywhere elsewhere. So when he visited Kigali, he said that he didn't see a single body. This was incredible for those who were in Kigali in the beginning of April, 1994. He does tell us that he went to a particular part of the city, he saw the horror in its purest state, the horror that he saw is a word which is used as it is very difficult to imagine or describe hundreds may be even thousands of bodies of poor people who were killed in abominable conditions, people who were thrown not even into a mass grave, people -- bodies which were thrown into fields, bodies which were stocked and then picked up later and Mr Ruggiu and what was of importance to me is the blood which was flowing, in other words blood which is still fresh. He had accepted the fact that people had been killed because the President had been killed and this was a political struggle. People were killed because there was no other way. He understands on that day, so this is between the 13th and maybe at best the 15th of April, that is systematically, that these people are mercilessly being killed. These people are being killed because unfortunately one day they were born and they were born Tutsi. Mr Ruggiu sees these people, there is no single body which belonged to the Hutu ethnic group he says. There was no bodies of combatants. These were women, men, children, old people mutilated, killed in abominable conditions. Mr Ruggiu who was there with the soldiers went back to Kigali Camp and he was told that he must go back to the RTLM Radio Station and he does that. At the time you will note that he did this on foot without any escort because he used a path which was secured by the army, which was still in power in Rwanda. He arrives at RTM offices, he meets his Director Kearsby Nsabimana and tells him what he has just seen. He tells him of the horror and repulsion of what he has just seen and I insist on emphasizing this, it is the object of the agreement with the office of the prosecutor. Mr Ruggiu in fact, is supposed to make a speech about something which he has never heard before. It is not a speech about a political struggle which goes wrong. It is not something which has a legitimate reaction by the people at the death of the president. Things are becoming clear, he has to choose, he is made to make this choice. Are you with us or you are with them? He is reminded of his previous broadcasts and

we have cassettes of them. He is reminded of people, [mayors] from zones occupied by the RPF and they say that the RPF are going to kill pregnant women, they are going to kill -- you are in Rwanda, you are in Africa, you know what is happening on other side. It is the same thing here, it is a total war. You will have to take a stand here now and your protection is not Ruggiu who is being protected, it is the RTLM broadcaster who is being protected. If that position is removed from you, there is no longer any protection that you will get, so the choice is simple, Madam President, Your Honours. His choice is simple, do I continue or do I stop? Okay I stop. Do I go out of Kigali into the arms of the RPF? If I stop do I stay in Kigali where killings are going about mercilessly and do I remain as a broadcaster of the RTLM? You can imagine the choices that he would have. Of course it is very easy to leave but who is he going to leave with? May be we are around the 14th of April, which embassy is still in Kigali? Maybe there will be one and the Chinese and they had already left and Mr Ruggiu is there. This is very important. Mr Ruggiu decides to continue despite what he had seen, having seen what he saw, having heard the speech made by his Director, Mr Ruggiu decides to continue and Mr Ruggiu continues to go on with the broadcasts and he does this only in French, I think that it is essential, may be it is evident to say that Mr Ruggiu doesn't speak Kinyarwanda, but he understood as he himself said but I was never told, nobody explained to me. At that point in time he understood and he accepted to continue to work in this frame of mind, with this specific knowledge, he continues to work at the RTLM. So he continued with his broadcasts. We have several cassettes thereof, witnesses have spoken to us about this. They are witnesses who are not so reliable, others who are reliable and we know that in fact that Mr Ruggiu [...] is going to continue with the broadcasts and he is going to speak favourably of what [...] was taking place at the roadblocks. He says go to work and he also uses the words Inyenzi in his speeches. It is important to understand what an Inyenzi is, it is not simply a cockroach, obviously who believes that is the only meaning. Mr Ruggiu himself clearly explains that when you speak about the Inyenzi it is in fact the RPF. So this comes to me in the Inyenzi and the Tutsis. It is true that Mr Ruggiu is going to include the concepts of completing the revolution of 195[9]. It is not in my habit to go over board. We should surely stay with reality. He met RPF members in the Congo, there were deaths, it is true Madam President that he is going to talk to us about these broadcasts, in the broadcasts of the problems of UNAMIR and the government. These are the facts, the facts as recognized by Mr Ruggiu and let me emphasize that the facts as embodied in the agreement. Madam President, Your Honours, we have the opportunity of having a lapse of time with facts and elements that enable us to assess these facts and determine them for what they are worth and then at a given point within this lapse of time, this time span, there is a point T, where we know that acts with apparently are criminal acts up to 12th and 15th April become in his mind the knowledge of the specificity of the massacres. That Madam President, Your Honours, is the confession of Mr Ruggiu. It is nothing

else, nothing else but it is all that, all that and all that that implies and what does that imply Madam President, Your Honours? I am going to talk about the facts and I think we need to talk about the law. Can I be faulted for talking about law in a court, incitement, persecution? Mr Aouini said it is -- a while ago that the first part of the agreement is [on] facts and the second part and the court is going to say what it thinks about it because that is where it has sovereign authority. It is the analysis of these facts. Incitement [...] is criminal only if it incites to a criminal act. It is obvious and it is even better when it is recalled and I think, Mr Ruggiu, unfortunately Madam President does recognize that, that is what he did. Mr Ruggiu, by the words and the terms that he used [...], which if in the beginning [he] did not know the real meaning [of, but it] became clear later on, through the words that he used and [...] in the context that these words were used, indeed Mr Ruggiu was inciting, inciting in two respects; incitement to serious mental harm of Tutsis. May I say Tutsis never attacked anybody never violated anybody, never looted from anybody. The specificity of the Ruggiu case are the statements made over Radio Mille Collines, simple and indeed when Mr Ruggiu causes serious bodily harm to Tutsis he does this, Madam President, Your Honours to Rwandans in April, 1994. He did this in those months, in those hellish months for the international community and at a given time he said it himself; I knew, knew I got to know, I understood. And Mr Ruggiu adds that I realized that by broadcasting statements over Mille Collines, by making statements that incite to serious bodily harm to members of the Tutsi population, I admit and I think that is where it becomes important or interesting, I accepted the risks to cause bodily -- mental harm to Tutsis in the Rwanda of 1994. There are two levels, he has come to an independent realization that any Tutsi found is a dead Tutsi, a woman Tutsi found is a raped woman and this Mr Ruggiu knew and this was eating him and this is why Mr Ruggiu is not saying I am guilty because you have noted that, that is not the way he is putting it. He is saying, I feel guilty. I believe, Madam President, that you will find the ingredients but these through others not from a January, 1994, not from February, 1994. It is indeed from this visit to Kigali that this element of mens rea takes significance. [...] Yes, Mr Ruggiu, agrees having undertaken criminal acts not just any but those [...] from the 12<sup>th</sup> to the 14<sup>th</sup> of April, having committed them in these circumstances, having admitted that they are criminal but not admitting that he did anything else. [...] I can understand that Mr Ruggiu, I can understand that he should be ready to plead guilty. I know that the legal practice is a bit restrictive but I believe that you will accept the confession of Mr Ruggiu, all his confession and nothing but his confession. I have spoken.

### **Sentencing Plea**

MR AOUINI: Madam President, Your Honours, the indictment drawn up by the Prosecutor [...] charged [...] incitement [to genocide] as set forth by Article [6(a) and (b) and 25 RS]. Mr Ruggiu has pleaded guilty and recognized-- admitted the errors that he made. This is not only an act

of repentance but also expresses his regret vis a vis the Rwandan victims, and also condemns the criminal acts that were committed in Rwanda, in the course of the year 1994. Thank God, who taught us a pardon, the principle of pardon and the profound conscience of humanity, we believe this should never happen in Rwanda again, in neighbouring countries or any other part of the world. One of the major objectives of this International Criminal Tribunal [...], is to contribute to the process of national reconciliation, for the establishment of peace -- establishment and maintenance of peace. In this respect, Mr Ruggiu, deeply touched by the consequences of the acts and violations committed in Rwanda, 1994, is deeply convinced that the determination of the truth, that he has declared to voluntarily participate and to strongly contribute to the process of reconciliation in Rwanda, which constitute the major objectives of the [Court]. Madam President, Your Honours, as HENRY MAROUF said, before you judge, and particularly in this case, to determine the quantum of the sentence because beyond certainty and beyond abysses which can derail justice not in a certain. Indeed, the multiple and uncontrollable factors that affects the mind of a man even if he is found guilty, if he is convicted, even if he admits his responsibility, constitute mitigating circumstances to his acts-- actions. In this respect, it appeared particularly important to briefly recall the factual elements that led Mr Georges Ruggiu to participate, if even non actively in the events that took place in Rwanda in 1994. Madam President, we would observe very quickly that this was a meeting of circumstances, a number of circumstances led to the events in this case, to the point that the will, the will of Mr Ruggiu is sometimes difficult to discern. When destiny take it course sometimes it is a difficult when you are passionate, insensitive, as in the case of Mr Ruggiu, to take yourself out of this- of the destiny was the case of Mr Ruggiu. This ordinary and simple man in his life as well as in his ideas who prior to this had no other activity apart from his activities within the social security service of Belgium, and who has no previous criminal records, indicate who was unfortunately, involved in the tragic events that took place in Rwanda in 1994. Those tragic events-- in the cause of those events he did not exercise any authority. In order [...] to clearly understand this case, and to understand what happen to Mr Ruggiu, it appears absolutely necessary to keep in mind the dual influence exercise on him by external factors and also [...] the ideological brainwash that he went through before going to Rwanda in 1992. In 1991, Mr Ruggiu came into contact with Rwandan students who were living in the same dormitory as him. These neighbours and obviously some of his friends initiated Mr Ruggiu and sensitize him in a particular way to the problems and life in Rwanda. First of all, within the circle of friends and then later on in student organization and much later on in political organizations, which were in Belgium. Between 1991 and 1992, the Accused's interest in Rwanda and Rwandan people, increased extensively particularly through the contacts that he had with Rwandans living in Belgium or simply during their trip to Rwanda as well as in the many meetings that he-- the many meetings he participated in the course of

1992, at the invitation of one of his Rwandan friends in a private capacity, Mr Ruggiu undertook a first trip to Rwanda. He was particularly charm by the country and its people to the point that he undertook to make other trips to Rwanda. But from that moment on, we note the increasing influence of ideas and concepts of the MRND movement on the personal as well as political development of Mr Ruggiu. And he does recognised that during the first trip to Rwanda, he met a few people who later on became politically engaged in the MRND, and they also insisted that he should visit a camp, a refugees camp. This visit deeply impressed and shocked Mr Ruggiu, and obviously contributed in his active commitment in the Rwandan political life, particularly with the MRND offensive. This is to say, Madam President, the intensity of the indoctrination that Mr Ruggiu knowingly had to undergo, and who said today, "after a reflection, I realized that during my first trip to Rwanda, I was never alone but on the contrary, I was always accompanied by Rwandans who permanently, presented the country, directed me where I should go, they wanted me to go and commented and explained everything I could see". This statement by Mr Ruggiu after a considered reflection indicates the degree of responsibility of Mr Ruggiu, who in fact was just a pond on a check board, a small collaborator in bigger grand strategy that he could do nothing about. And who saw things through a [...] reality deformed by those who were actually directing the country and its destiny. That in itself -- those people descend the exalted soul of Mr Ruggiu and [...] manipulated him in Belgium as well as in Rwanda, used him in a criminal undertaking without his knowledge. Madam President, that is the reality of the Ruggiu case. We can also see this through the various stages that marked the involvement of Mr Ruggiu in the Rwandan massacre of 1994. Thus, in the cause of the year 1993, and more specifically, in July, August 1993, Mr Ruggiu undertook a second trip to Rwanda, so as to attend a wedding of one of his friends and also take the opportunity to further develop his relationship with the Rwandan authorities and some political leaders-- party political leaders, particularly Hakitimana, President of the Court of Kigali, who suggested to him to come back and establish in Rwanda, and also promised to find him a stable job. This promise was respected because October 1993, Mr Ruggiu was informed that Mr Hakitimana found him a job with a radio station that was going to be establish, and that was going to enable him to live decently in Rwanda. The effective integration of Mr Ruggiu as a journalist in the RTLM, took place on 6th January 1994, and this was furthered by the personal intervention of the President, Mr Habyarimana, who greatly admired Mr Ruggiu. Indeed, this personal intervention of the President in

favour of Mr Ruggiu, was not for free or without any particular significance. Indeed, the RTLM was propagating the political ideas and constituted the media apparatus of President Habyarimana and his circle of friends as well as the MRND party. These objectives which at the beginning were part of a political media struggle between two opposing clans was no secret to anybody. Mr Ruggiu, indeed admitted in the cause of year 1993, soon after his meeting

with President Habyarimana, he was summoned by Mr Etienne Nahimana, during which he discussed with him the establishment of a new radio station in Rwanda, with the objective of counter balances. The message disseminated by Radio Rwanda and also enable the people of Rwanda to hear what they wanted to hear, what according to Mr Nahimana, the people wanted to hear and not what was disseminated by the radio. And that marked the beginning of an imperceptible degradation of the situation in Rwanda until the downing of the plane of Mr Habyarimana, in 1994, which led the political authorities and the administrators of RTLM to hardened the content of the message that was been broadcast. It is within this context that the management of RTLM expressly requested this journalist broad-- the journalist broadcasters to include terms such as Inyenzi, Inkontanyi, whose social historical connotations linked up to the revolution. Madam President, Your Honours, within that specific context of civil war in Rwanda in 1994, everything or virtually everything was dictated or imposed by those people who held power in Rwanda as well as the events, as well as successive events which were happening at a rate, at an uncontrollable rate which led to the demise of President Habyarimana, 6th April 1994. And that led to, to a violence in Kigali and other parts of the country, leading to massacres and killings. In these conditions there is absolutely no doubt on the fact that words and expressions that Mr Ruggiu used, during his radio broadcast did not reflect exclusively and necessarily his own conviction. For example, mid May, in mid May 1994, during a meeting of the Editorial Board of RTLM presided by Mr Gasper Gatiraya, (Phonetics) Mr Ruggiu, urged his colleagues to do like the others, that it was said that a total war has been declared and everything should be done to execute it. This was management asking Mr Ruggiu, and this gives us an indication of the personality of Mr Ruggiu in relation to administration of RTLM and the other journalist. If even, Mr Ruggiu admits having used during his broadcast, having used words and expressions which are regrettable, this was within a context of hatred, ethnic confrontation and chaos. This paradox, Madam President, between the reality of the nature of Mr Ruggiu, and some statements that he in fact made during the broadcast, indicates the weakness of humanity which in some conflictual situations, where his acts and decisions happened, without any assistance apart from that of God, that it becomes difficult to undertake acts that are compatible to one's own personal convictions. Mr Ruggiu admits or recognizes these errors and intends to assume these errors even in pain, with the ultimate hope that this personal suffering would bring some form of appeasement to the victims. Madam President, Mr Ruggiu's remorse today, and to the end of his days, is so intense that he said he did say during so many interrogations with the Office of the Prosecutor, that he has [...] lost all honesty in Rwanda and that today, after reflection he would be ready to give up his life if that sacrifice would ensure that the acts that occurred in Rwanda in 1994, do not occur ever again. Madam President, Your Honours, it is this man torn under the weigh of his guilt that you are going to convict, and in pursuant to Article [78 RS] of the Statute, that you

take into account his personal situation. This has to be evaluated not only on the basis of the normal basis but also and above all, on the basis of the situation in Rwanda which should change the perception of everybody and change the reality. Madam President, Your Honours, Mr Ruggiu, would wish as much as possible contribute to the process of national reconciliation and that is why he pleaded guilty. And at the same time freely, and freely accepts to collaborate with the Office of the Prosecutor, to help in the quest of the truth through the information-- by giving the information available to him, information on the events that occurred in Rwanda in 1994. Madam President, Your Honours, you may wish to take into account the fact that this collaboration is a consequence of the profound regret of Mr Ruggiu, and the expression of his profound remorse to the Rwandan victims as well as the entire people of Rwanda. This active and sincere cooperation constitute the best form of reparation that Mr Ruggiu can adopt today, vis a vis the victims. This cooperation is therefore the expression of two elements; one, his regret and his remorse and the second; his resolve to repaired the crime that he committed and this is the testimony of the honesty of Mr Ruggiu. [...] Let me also say that the contribution, Mr Ruggiu's contribution or cooperation with the Office of the Prosecutor was exceptionally honest and loyal. He is therefore giving a lot of details regarding facts and also-- he also communicated or disclosed a lot of new information to the Office of the Prosecutor on a whole number of cases which are before this Tribunal. This conscious and voluntary attitude is also a testimony of the evolution of Mr Ruggiu, who in spite of the various risk that he is opening himself out to, remains convinced that the only manner to repair his crime is through the determination of the truth in relation to the terrible massacres of 1994. This attitude gives hope particularly that of Mr Ruggiu, who has visibly repented and sincerely regrets his statements particularly giving the fact he was relatively young at the time of the acts that he's been charged with. Madam President, Your Honours, it was clearly established that Mr Ruggiu did not at any time personally and actively participate in the massacres in question. Even more, he never used or let anyone use the pistol, 9 millimeter calibre pistol that was given to him by the Rwandan Armed Forces for his personal protection, which obviously indicates the physical and mental revulsion of Mr Ruggiu, to criminal acts. Madam President, we are all aware that not only the impression, the emotions, perceptions are very often subject to external pressure. In this respect, I've already have the opportunity to say that the freedom of action within the RTLM was virtually-- was simply-- was not possible. There were orders and instructions which had to be strictly adhered with. Mr Ruggiu said [...] with the agreement of the Prosecutor, that one day, Mr Fokasimana (phonetics) summoned him to [...] immediately make a choice, that he should either consider himself with us or against us, given [...] the protection that he was given was not extended to him, accorded to him as Georges Ruggiu, but to his function as journalist broadcaster of RTLM, which meant that if he left the employment at the time of the killings and massacres, he was risking his own life. Under those conditions, Madam President, Your

Honours, was there really free choice, freedom of choice? And were these acts that were deliberate, a deliberate choice? Given the fact that Mr Ruggiu had absolutely no authority within the RTLM. Madam President, Your Honours, the negative answer, it is obvious that the answer to this question is negative. More so, given the fact that it was clearly established that the verbal excesses were to a large extent inspired or even prepared by the authorities. Under Article [33 RS], the fact that an accused acted in the execution of an order from a government or superior officer, [...] is not exonerating from criminal liability, but this could be considered as a mitigating factor in determining the punishment, if the International Tribunal for Rwanda deems that necessary for justice. Your Honour, in line with justice and fairness, it is proper to accord this mitigating circumstances to the case of Mr Ruggiu, who suffered defects, who was traumatized on account of the responsibilities that was his, in addition to the facts of his own admission of his culpability. Today, Mr Ruggiu, intends to collaborate with office of the Prosecutor to determine the truth. And if that can help the people of Rwanda to better understand exactly what happened and probably forgive him. [T]hose moments of excesses which Mr Ruggiu deeply regrets are so strong that sometimes to heal himself internally, he like [...] to remind himself or to remind us that he has voluntarily to save a lot of people particularly, a very young Tutsi child who lost his parents. Further, the Office of the Prosecutor recognizes the fact that Mr Ruggiu, several times spoke to people particularly, the militia people who [...] mount the roadblocks not to consume alcohol or use drugs so as to avoid committing a violent acts at the roadblocks. These acts are humanitarian acts and therefore acts of hope. Hope, Madam President, Your Honours, hope of a man who on account of the acts he committed, intends to, to redeem himself and to show to what extent solitude, suffering and this insurmountable feeling of remorse have change his own perception of things, to the extent that when he for the first time explicitly told the Office of the Prosecutor about his, his guilt. He was able to say that the effects of telling the truth constitute a relief on his conscience. Under the circumstances, Madam President, we can count on Mr Ruggiu, and also count on your generosity to give him an ultimate chance to be able to correct the offences that he has committed and which he regrets, he deeply regrets today. [...]

MR PRESIDENT: Thank you, Mr Aouini. Judge Møse has a question or two. JUDGE MØSE: [I have] two questions. [The] first [...] relates to the applicant's [beneficial] activities on behalf of young children and potential victims. The question to you is, what is the factual basis for these statements. And then to the [Prosecution] [I would like a confirmation whether] this information is not challenged by the O.T.P. [...] The next question deals with [...] the applicant's position within the Radio des Mille Collines. [...] [T]he defence stresses that the accused exercise no form of authority but was rather a subordinate without decision making power within the RTLM. [...] Now, the O.T.P in it's sentencing remarks mentioned that this was a

foreign journalist, a European, and stressed the adverse effect of a foreign journalist working in Rwanda. Is there any comment by the defence on this? [...]

MR GILISSEN: Madame President, Your Honour, by your leave, [...] the two parties agree that Ruggiu, and I quote " states that during that period between the 7th and the 10th of April 1994, that in the morning of the 8th April 1994, he took in and had treated a young wounded Tutsi child who was roaming about alone in the street in his neighbourhood. Mr Ruggiu's neighbours refused to render any assistance to this tableau need. During the questioning Mr Ruggiu gave us three similar kind of information. The first of which is as follows: On the 8th of April, and two other occasions, concerning on the one hand assistance given to a child, survivor of the massacre whom he took to the Priests, and the third time he gave assistance to a group of men, women and children cultivators who were in-- who were from the Tutsi community. But only the information concerning the [concerning the Tutsi child was verified]. So, as you have seen in our brief, we do not go into the other allegations that what we are dealing with here is that there is an agreement that there was indeed assistance provided to the young child but we do not have any facts which could enable us to legally and legitimately judge the effectiveness of what had been said with regard to the other two episodes.

MADAME PRESIDENT: Do you have any reaction to that, Mr Othman?

MR OTHMAN: Yes, I would concur with the last statement of the defence. It is basically-- this is coming out from the recorded interview of the accused and part of it understanding that he would be telling the Prosecution the truth and we have no independent evidential confirmation. But since in our investigation generally that we found it is possible sometimes for persons to aid and at the same time also to commit offences we have agreed-- we have a wording in the agreement of the plea which says basically what George Ruggiu declares, and that is what in fact he has declared in the recorded interview about these incidences, but we have not been able to trace either the victims or any other persons independent of Ruggiu himself, I think.

JUDGE MØSE: And then there was the other question to the defence, please. You will recall that the prosecutor made a point of the fact that even if Ruggiu may have had a subordinate formal role, his real role as a European or Belgian or whatever, may have had an impact greater than his formal position. What is your reaction to that statement please ?

MR GILISSEN: Madame President, Your Honours, I will have had-- I had the opportunity to express myself, and this is an item I should have looked at. I think that the Prosecutor has obviously put a finger on what I would call is a problem. In the relevant information that the two parties tried to bring to the court, it is obvious that there are attenuating circumstances and the aggravating circumstances. And that is the seriousness of the crime. We all know this.

Now, in the minds of many, especially those who are in the public, the idea, if I understood it, that Ruggiu's ethnic-- that his nationality would be an aggravating circumstance. Therefore he would have committed the crime of being born a Western. This would be to caricature the discussions to leave these matters at that level and obviously the prosecutor is right, and we suspect that the interest of those who organised and planned this genocide, their interest in Ruggiu was basically because he was a European, he was from the West. I think that the Prosecutor is right, that it is obvious when Mr Ruggiu was taking-- was speaking in a language which was not the language which was most used, we are not looking for the crime because the crime is established. What Ruggiu was saying in French was immediately translated into Kinyarwanda. So, I think the prosecutor, Mrs. Del Ponte is quite right because she must have read the document and she thought about it, and the fact that this element could become-- could be an aggravating circumstance-- if we do have the proof that Mr Ruggiu was aware of this, that would be so. Mr Ruggiu, and this is established by the case file, he comes to Rwanda with such disarming naivety. He comes there to live as a Rwandan. He is not coming there as a corporation officer. He is not going to live in a white man's area in the suburbs, he is not going to live as a white person. I am a white person. I do not live as a white person but I don't live as people who live in Arusha because I am here for a specific purpose. That is not what Mr Ruggiu was looking for. He wanted to integrate himself into this society. And I think that there is something which is somewhat cruel for Mr Ruggiu, because today the white man from the West whom he is being blamed for being white. And I think this is quite cruel. And I think everyone will agree. But I believe and I understand the scope of the observation made by Mrs. Del Ponte. I believe, many, having grasped this idea I think the Tribunal will say whether yes or no, Mr Ruggiu himself understood this.

JUDGE MØSE: You have addressed the question. I thank you.

MR GILISSEN: I thank you Madame President. I shall try and not be too long because I believe a good part of the substance of the information we believe is the most characteristic in this trial has already been provided to the Tribunal. I believe, Madame President, that at this point in time, it is essential to say how difficult it is in one day, in a few hours in an afternoon, to speak to you about a man and his history which I referred to recently as being terribly human, because we are convinced, myself and Mr Aouini that the matter is a matter which is really very important and it exists and we need to find a solution to it before we come to any decision.

[...] In fact Ruggiu became the political adviser of Mr Habyarimana who saw him in Belgium twice, on two occasions. Once this was for one minute, the time for handshake, and the second time, it is true, in a hotel in Brussels, he was received he was accompanying somebody who was being received. So, I think we need to know what foot to put forward. Was Ruggiu first, second, third or last political adviser of President Habyarimana, when he saw him only once?

Well, he discussed with him only once when he was in Belgium. Another time in Rwanda in this vehicle. I believe that this needs to be stressed. When we say that Mr Ruggiu was an important person, because Nahimana knew him and this was a link, I think that we are not speaking about Ferdinand Nahimana, we are talking about Eugenie Nahimana. It is not the same person, it is not the same position. This is a similar name simply and purely. When in fact, we are told that Mr Ruggiu was living together with members of the government in a Hotel Diplomat, this is an error. Hotel Diplomat was not-- the government was living in another town. The government was in another Hotel, the government was in another town. Mr Ruggiu did not live with the members of the government and he is not an adviser of the government. So we need to take the floor on this, Madame President. We believe that I cannot be very brief because I fear that there has been a misunderstanding which has been created. [...] If I am speaking untruth I should be stopped, I should be stopped in my pleas, but I repeat that in the agreement between Mr Ruggiu, and this is quite substantial, the confession made by Mr Ruggiu-- when we are talking about the guilt of incitement to commit genocide, he is telling you when and where. So, I am saying either there was a misunderstanding which should be cleared immediately, or to the contrary there was a simple misinterpretation. So, we should be clear. We should look at the dates and the information and find them where and situate them where they should be. Madame President, Your Honours, I am not going to go in depth into our brief. You have seen what we are filing, and our submissions are clear. We are providing you with a certain amount of factual information which seem to us to be so indicative of Mr Ruggiu's case. But this information could be taken by your Tribunal as attenuate or mitigating circumstances. We know that you have absolute powers in appreciating, in your appreciation of assessment. [...] What happened in Rwanda is simply, in a word, terrible. And when you look at the horror, the disgust of what happened in Rwanda inspires in us, you cannot find a true translation in English, in French, or I imagine in any of all the other languages of the world. Genocide is a term which has been invented quite recently. Never, Your Honours, and it is important that this is the basis of the confession made by Mr Ruggiu, never will the statute of the victims be recognised adequately to the Rwandan victims. This is a legal obligation for those who are alive, and Madame President, Your Honours, this is the matter of Mr Ruggiu. This is a man who is aware of not only what he has done, but also the scope of what he did and the horror of the crimes that he committed. [...] This is not a tactical confession, because we are dealing with things which are quite frightening. Madame President, Your Honours, those who are responsible, responsible for the genocide, the real big fish, the planners, the deciders, the perpetrators, but even those who are at the very lowest level, those who implemented the genocide must be convicted, because otherwise it will be a revolting situation. But I think Madame President, Your Honours, that in this Tribunal it will not be forgotten that those people whom you are judging, you are prosecuting are not monsters. They are persons,

they are human beings. They are men who committed these mistakes because each-- in each one of us there is this weak element in us, so that we are all capable of the worst possible crime, Mr Ruggiu knows this, he is aware of this. He is an honest man. He was an honest man, because now he is an honest man. We heard the witness just now someone who was objective. She was speaking the truth. I don't think that she told you any lies. And I believe that this is why amongst the tens of witnesses that I chose her. Madame President, Your Honours, I met people who lied to me through their teeth who would have protected him come what may. And these would have been bad witnesses, Madame President, Your Honours. The Witness AB who was here before you, is someone who seems to be honest. Her subjective truth about Mr Ruggiu would not be far from the reality. So I think that in a case such as this for Mr Ruggiu, requires that we find the question as to how a man who is so honest can find himself in such a situation. In genocide, in crimes against humanity there are always these people who are bad people. There are always ideologies there are also those who benefit from the situation and those who are detractors. We must always take this into account. But all of this is not very important. These are people who are honest. People who at a given point in time turn around. This is what we need to bear in mind because we must convict, you must punish Ruggiu, and you must punish him severely. You must punish him, however, within the framework of an individual punishment. What is punishment? It is first of all, it is a delicate and complex exercise. As you yourselves know, the Tribunal knows that this is an exercise-- it is not easy, you don't put everything on the table-- you don't declare your cards. You are the judges, and it is necessary that we judge justice in this manner, it is a matter of knowing how to determine what the difference is. It is delicate, it is difficult, but it is not impossible. I cannot tell you everything. But here we are looking at incitement. Obviously it is serious, but Madame President, there are a hundred and one ways of inciting a crime. When you have a man who reads you a list in the market square and on that list there are names of people to be killed, and each name would be involving a person, your Tribunal would wonder. Would this be the same crime as that of Mr Ruggiu? Your Tribunal would have to judge on this. I want to make myself understood. When you look at crimes which are voluntary, isn't there simply a difference between the person who uses his fists and clubs to massacre and the person who uses a slap. You need to look at the prevention. Are you going to convict this person in the same manner. Are you going to look at all the inciters no matter what they said, no matter what they did, no matter what the end of their incitement-- motivation of their incitement was. Would you punish them in the same way? Would we have a group of people who do not see the difference between what Ruggiu said at the RTLM and the abominable broadcasts in Kinyarwanda? Must we draw a parallel where none exists? I think, Madame President, Your Honours, you will punish Ruggiu, he deserves to be punished, but you will make a distinction

in how you go about this punishment. Similarly, Your Honours, you know what your professional conscious is and you have already

probably established a scale of sentences. And, talk about Mr Serushago. Mr Serushago is a man who for his own reasons which we should not judge killed with his own hand, he made blood flow. He ordered his subordinates before others to kill tens of people. You believed, in your justice and in your fairness, to give him fifteen years imprisonment. Madame, do I say-- do I need to say that Mr Ruggiu did not kill, that he did not strike a blow? It is true that there is a difference. It is true that the scale of sentences is not an easy matter to consider, but I am sure that this calls upon reflection that you will obviously be doing in your Tribunal. Similarly, Madame President, Your Honours, can we tell you how in all the courts of the world, the acts Ruggiu did would constitute complicity? The International legislator decided and this was his right, to incriminate this kind of act-- do you that this person is a co-perpetrator. If someone is co-perpetrator of a crime which is so abominable-- incitement by Mr Ruggiu, Madame President, Your Honours, ask the Prosecution to say what they have mentioned. But we are talking about indirect incitement. Which is not incriminated. I heard the Prosecutor a few minutes ago, she was doing her job, and doing it very well, and she told us that Mr Ruggiu was transmitting death sentences, that he was transmitting orders. I didn't hear this in the cassettes, I did not hear the same cassettes. Obviously, there was, and I said this a few minutes ago and we shall repeat it with a lot of conviction, I used the same words, we at no point in time heard Mr Ruggiu here, and this was done in Kinyarwanda -- I am not involved in fiction. We did not hear, at any point in time, Mr Ruggiu reading out a list of people to be killed. Mr Ruggiu at no point in time gave any instructions or orders. Obviously this was simply moral support that he was providing. And if we need to take this act by act we would probably in difficulty to find any crime. It is the conduct of the person which makes him guilty. At least this is what we are submitting. It is conduct which forms his confession, and if we were to withdraw from this you would set him free. Madame President, Your Honours, you will have understood that in fact the Ruggiu affair is not simple and nor is it easy-- and to speak about it with a bowed head, and to speak about it quickly in order to know the information, in fact, Mr Ruggiu has done what he did but we can only judge this person-- unless we situate the fact that he committed within the atmosphere-- the exceptional circumstances which obtained in Rwanda at the time. Mr Ruggiu arrives and he is intoxicated. He is intoxicated by the information, the false information which is also partial and impartial that his Rwandan friends gave to him. He arrives in a country which is in civil war. I am lucky to have never lived in a country which is in a civil war. I have some friends who have told me that it is not an easy thing-- that it is not an easy thing to see clearly when you are partisan, when you are biased and that you are not able to understand your actions especially when you are thinking that the same things you are doing is being done on the other side. This is what propelled Mr Ruggiu to cowardice. Yes, I

was telling you this is a human story. Yes, this is a story of cowardice to continue the broadcast in spite of everything. That is it, and nothing else. This explains, Madame President, Your Honours, this famous mental process, it was so easy for Mr Ruggiu to hide himself behind his good conscious, and that is what he said when he made his initial appearance, that is what he said for a year. This was a political struggle. You can't make an omelet without breaking eggs. And that was Mr Ruggiu's defence right from the start. Now, Madame President, Your Honours what we need is to support, inform and advise Mr Ruggiu. When we met him at the UNDF we had to support him because he was morally destroyed, because he was understood that he could no longer hide from himself and he could no longer hide from himself what he already was feeling. Mr Ruggiu is a criminal. His plea is courageous. And the road that he has travelled up until here to come and tell you this despite the obstacles, what he merits despite his crime, and I am sure you will recognise his mitigating circumstances in his case, because Madame President, Your Honours, you must always leave an open door for hope, and that Mr Ruggiu is a bearer of this hope. He is a man who has been struck much more because he was intoxicated by his own friendship. It is voluntary intoxication, yes. But through personal redemption that the plea is-- you know that for redemption you have to co-operate. Through his own personal redemption, he will serve the legitimate sentence that he deserves and then he will return to the society to which he belonged. I do not believe that this man who was 36 years old, 36 years old at the time, with the education that we know that he has, we do not believe that he should be seen as a hero, and I don't think that he should be blamed that he alone before the international community could have said that there was genocide which was being prepared in Rwanda. That is what I heard a few minutes ago. Madame President, Your Honours, this is a case which is a lesson in modesty, in humility for all of us, and too bad for those who will not have been able to learn this lesson. You will punish Mr Ruggiu because he deserves it, but I am convinced that you will certainly not adopt a ridiculous sentence and nor will you have a sentence which is excessive, but you will have a sentence that is justly in proportion and individualized.