

## Prosecutor vs. Georges Ruggiu

### Examination of Defendant

#### Change of Plea and Examination of Defendant by the Court [ICTR, 15 May 2000, Court protocol pp. 41-74

MR AOUINI (Defence Council): Madam President, Your Honours, at this stage in the proceedings we are going to proceed with what the defence and Mr Ruggiu considers an important stage of the trial. For several months now, Mr Ruggiu has been involved in a personal, profound reflection, procedure-- process, which process led him to meet once again with the representative of the Office of the Prosecutor, and he accepted to be questioned, once again on the tragic events that took place in Rwanda during the year 1994, and in particular, on all the activities which he perpetrated during his presence in Rwanda. Rapidly it became very clear to one and all that this reflection had totally changed Mr Ruggiu in perception that he had of his role during the tragic events which led to blood shed in Rwanda in 1994. The change and development in Mr Ruggiu is such that it culminated logically in Mr Ruggiu asking his Defence Counsel to file a motion for leave to change his plea and the stand which he adopted during his initial appearance. Today Mr Ruggiu is therefore asking that you grant him leave to change his plea. Mr Ruggiu wishes to plead guilty. Such a change in a plea is obviously a serious and important stage in the proceedings. Mr Ruggiu is particularly aware of this fact. The choice which is his is that today more than ever he has decided freely and voluntarily to plead guilty. It is also in full awareness of the fact and without any ambivalence that he has chosen to act in this manner. Given the importance of this particular stage that we are at, we would wish to explain ourselves fully on the reasons and the motivation guiding Mr Ruggiu and which in his eyes justify to [...] request of you to change his plea. By your leave, Madam President, Your Honours, I shall now give the floor to Co-Counsel Gilissen who is going to try and endeavour to provide you with all the supplementary information [...].

MR GILISSEN: I thank you Madam President. [...] The explanations which we have for the court –

MR PRESIDENT: May be I could guide you here a bit. At this stage of the proceedings, you are making a motion to the court for the accused to change his plea. And after the motivation has been made, and after the Trial Chamber has personally interviewed the accused, and then the decision will be made on the motion. Thereafter, of course, there is the lengthy process where we will be considering the acceptance of that plea of guilt.

MR GILISSEN: We agree with that, Madam President, but we need to look into the steps of the proceedings. We need to look into what we are going to do, that is, the plea that Mr Ruggiu is submitting. We are, indeed, dealing singly with trying to reply in substance to a question which is quite simple. Why does Mr Ruggiu want to change his plea. And one might also wonder, why so late in the proceedings? [...] Mr Ruggiu, who a few days [after his arrest] was questioned by the investigators of the Office of the Prosecutor, he adopted at that questioning a position which is logically related to that which he adopted during his initial appearance [...]. During his initial appearance, Mr Ruggiu, in fact, [...] decided to plead not guilty. Madam President, Your Honours, I think that what we need to understand here is the state of mind which Mr Ruggiu is now. This is the man who rightly or wrongly believes that he participated in the struggle [...] which was exclusively political, and who believes wrongly that he was arrested and charged, but these charged did not

correspond to the very nature and reality of the acts that he committed. Mr Ruggiu entered the UNDF, he met other detained persons and I think it is quite useful at this stage in the proceedings to say, briefly, something about the atmosphere within the UNDF.

You have several detainees, he is the only non-Rwandan. Mr Ruggiu, he is meeting once again some people who he knows very well indeed. Others who he knows less well, but everybody knows one another there, and he believes that it is quite natural in this situation. You can imagine that there are two weaker forces which-- one of which will concede to the other and you have therefore all these detainees who are supporting one another, and Mr Ruggiu finds, at the detention facility, something which adds to what he was already thinking, rightly or wrongly, because they have simply lost the war-- the civil war in Rwanda. And for long months, and you have seen this in the proceedings, this was the position of Mr Ruggiu. It remains his position and when you received the mandate, when we had to come and plead before the court, things were clear, they were simple, there was no ambiguity whatsoever. Mr Ruggiu supported his absolute innocence in the [...] count [...] alleged against him. Madam President, things began to change on the day when Mr Ruggiu received, in prison, from one of the detainees, information according to which we must say everything in justice, according to which Mr Hassan Ngeze made a public speech to the other detainees affirming, wrongly or rightly so, that, in fact, the Rwandan genocide, was in fact a planned genocide. Mr Ruggiu learned from these other detainees about the speech [...] allegedly made by Mr Hassan Ngeze, and he is particularly disturbed. You know these things because this was part of the proceedings. He was a Journalist in a broadcast in Rwanda. He acquired a lot of information through his profession. And for Mr Ruggiu, it is less the fact that Hassan Ngeze thought that he had to make any speech whatsoever. It is even less important that he was informed of this information. But [...] for Mr Ruggiu, there was new information which he thus obtained which enabled him to reconstruct the whole puzzle. So, Mr Ruggiu, from this point in time, went into fresh reflection because his position had been that and it remained his position. Whatever he had done at no point in time whatsoever did he know, he was not informed either, nor did he understand until that particular day that this genocide allegedly had been planned. Mr Ruggiu then contacted the other detainees in the UNDF. You know that the UNDF has its own particularity in its internal organisation, which is more or less apparent or discrete. There is an internal organisation among the detainees who meet in groups-- political groups which make organised conferences and they consult one another. There is no individual activity. Everything is collective. They consult one another. So Mr Ruggiu tried to obtain information concerning what for him, rightly or wrongly, would constitute a real bomb. So, Mr Ruggiu goes to the other detainees who are considered as the chiefs and he says, what is happening, what is this what I am hearing? How-- we know how the political struggle ended up and he was wondering what was there about the planning. So, he was mocked and people laughed at him. And this is coming from the case file. I am not revealing any major secret. Mr Ruggiu is not particularly an easy character in his person. And he is a person when if he is not happy with the circumstances he acts quite violently and virulently. So Mr Ruggiu committed a tactical error, to my mind. He, when he realised that yes, indeed there was a plan, and that he is taken as a simple naive person, Mr Ruggiu is angry. And here Madam President, Your Honours, this is the beginning of the second stage which I feel that in the articulation of the chronological facts jells with the developments which we consider essential. Because from this point in time, from this time he becomes angry, Mr Ruggiu is going to be subjected to the whole scope of violence. His food is thrown away so that he can't eat-- his food is thrown on the floor when he is served, and he is threatened. He is called an 'Inyenzi' this is an expression which is a terrible expression, even in Rwanda. So, here is Mr Ruggiu, he is excluded from this small community of detainees at the UNDF. Mr Ruggiu, as soon as he got this information, he was careful to write to us, and he spoke with Mr Aouini on the telephone, asking us to come rapidly to his assistance. We came, given the time that we needed-- time-table problems, but we assure you, we came as soon as we could and we rearranged our time-table so that we could come to Mr Ruggiu, and we discovered in Mr Ruggiu a particularly troubled person. Mr Ruggiu's moral was very low. We listened to what he told us with trust but with a bit of reserve. So we came about a change. We were in the former UNDF where all the detainees were living together and there was a code, and there was no Counsel who would go into this place without greeting everybody, and we saw ourselves that there was some kind of spark in the air. The climate-- the atmosphere had changed. Mr Ruggiu described

the threats to us-- the threats against him, that we didn't hesitate to take the bull by the horns and we filed a motion which you will find in the case file. A motion asking, in fact, the separation of Mr Ruggiu, the objective of this motion was indeed to place Mr Ruggiu in another wing of the prison, allowing him to live away from a group which had become disagreeable and may be even dangerous to him. President Kama at that time rightly believed in what we said. He had an investigation made and the commanding officer of the UNDF at the time and did say that the position of Mr Ruggiu has changed, we had incidences and it is not exaggerating to say that Mr Ruggiu is in a situation such that he could be running a great risk. The Office of the Prosecutor which we have had informed of this matter took a positive view and agreed to this request for separation, this was a simple request for separation of the detainee. The President, Judge Kama, rendered a decision granting the separation of Mr Ruggiu. The UNDF at the time, Your Honours, was not ready for this kind of operation. When we [...] came to see Mr Ruggiu in the following days we found him in difficulties, and in particular, I think this is important, Madam President, he was in distress, and I would qualify his position as having deteriorated. Mr Ruggiu only had very little contact with the other detainees. He was in fact not suffering from the words which are coming to him through-- which come to him through the grape-vine, but Mr Ruggiu is sincerely convinced that he was wrong. Rightly or wrongly, Mr Ruggiu tells us about what he has been thinking and he believes that something was hidden from him, something which was essential. You will see that Mr Ruggiu's reflection takes place when each of the proceedings, including his, because his reflections as they continue, you will see that this is the first time this is happening in the history of this tribunal. He is one of the first detainees to accept to meet a judge who is asking to meet him within the framework of rogatory commission. [...] Madam President, I think you are aware of the request which was made by Damien Dranvege [...] the examining Magistrate from Belgium. Mr Ruggiu, looked at what was happening and he agreed to meet the examining magistrate from Bari, Italy, who met him and he was questioning him about the importation of the weapons at the time when the Security Council was looking at the issue of importation of [...] weapons into Rwanda. So, there is a second phase in the mental development of Mr Ruggiu at the time, in so far as at the time, the rogatory commission was meeting. When the examining-- when the Bari Prosecutor looked at the mandate of the rogatory commission, said that we need to grant the rogatory commission, but also desires to continue the questioning which was ongoing at the time. It is important to say that [...] Mr Ruggiu answered to each of the questions. Neither, none of these questions touched on the issue raised and didn't deal with the issues at trial and this was the second conner-stone [...] in the mental development of Mr Ruggiu and he will tell you this if you wish him to do so. This was a new vision which he had of the investigators of the Office of the Prosecutor and in the weeks that followed we met with the members of the office of the Prosecutor, were unaware of the development of Mr Ruggiu's mind. And he, Mr Ruggiu wanted simply to inform the Prosecutor of what he knows. Mr Egbe is here, Mr Othman is here, they are quite free to interrupt me if I am not reflecting the facts correctly. But we met with the representatives of the Office of the Prosecutor, Mr Aouini and myself, we went together to the UNDF, and this was simply in order to verify of the credibility of what Mr Ruggiu was saying. And on the basis of that meeting, there was a common stand, and it was decided that a meeting should take place respecting the form and the substance of the Rules of Procedure and Evidence concerning questioning. Now these questionings, Madam President, took a great deal of time, and it was necessary to make it understood that these questionings were going to take a long time, and they had a simple rule, these questionings. One questioning session for a whole week, a month of verifications and checkings by the representatives and investigators of the Office of the Prosecutor. And we would like to say that none of these checkings proved wrong, never. [...] It is often that there is some information which at certain points in time leave a poor interpretation of what he may accept, but never was he proved wrong in what he had said. And we all felt so and heard as the questioning continued we felt that Mr Ruggiu was, in fact, changing and developing. Madam President, and this is also in the case file, in the proceedings that at a certain point in time, we felt that Mr Ruggiu should feel free and it was necessary to allow him to continue this reflection, so that he come out of the UNDF and he would in fact find the motion of the defence filed in this regard and for which we thought that for security reasons Mr Ruggiu was in fact deprived of certain things. Mr Aouini and myself saw that there was, in fact, a [...] physical blockage, and Mr Ruggiu could only reach the telephone. So, we thought that for security reasons and also to enable Mr Ruggiu to continue his reflection, it was not

a matter of directing his thoughts, we were only advising, we were only legally advising Mr Ruggiu so that he completes the process he had entered. So, we came to Arusha, and in one of the things that he said, we saw something extraordinary in Mr Ruggiu. He was speaking to us at the time of his moral responsibility in the events, and he, in fact, throughout the questioning he changed and he no longer spoke of moral responsibility but spoke of merely responsibility, and finally one day, together with his Counsel, he said in the middle of one morning during the questioning, he no longer spoke of his responsibility but of his guilt. Madam President, I took a long time, but I feel somehow that this is an important part when we come to this change in the plea, and this is a golden note in the proceedings concerning Mr Ruggiu. And this is simply the truth, and this is the simple reality. Mr Ruggiu, therefore, thought that given the circumstances, the plea which he had made was no longer of any meaning because it didn't correspond with his feelings nor with the reality. I believe, Madam President, that I am together with Mr Aouini, at your disposal to answer any questions you may wish to ask us, but I wish to add a simple word here, Madam President, Your Honours, believe me, this mental process-- in this mental process which was very painful for Mr Ruggiu, we do not find this is an innocence which is coming from a child. We find nothing which is similar, someone who is innocent and one day looks into the mirror and finds that he is guilty. We have no further explanations, but we are assuring you about the reality. And we say this in front of the representatives of the Office of the Prosecutor and Mr Ruggiu himself, to grant him, for better or for worse, allow Mr Ruggiu to change his plea. And we thank you.

MADAM PRESIDENT: Thank you, Mr Gilissen. Judge Dolenc has a question for you, Mr Gilissen.

JUDGE DOLENC: You said that the accused became aware that genocide was planned only after some months he spent in the detention facilities here. Does it mean that at the time of his broadcast he was not aware of the role he was playing at that time?

MR GILISSEN: Yes, Your Honour, as part of the new position of Mr Ruggiu, which is a position which has been firmly arrived at, Mr Ruggiu clearly admits that at the time he had absolutely no idea, no information making him believe that the mass killings which had started in Rwanda in the night of 6th to 7th April, was a planned massacre. Mr President, Your Honour, to complete this, I would like to give to you the most relevant information that you require. If I must go beyond that I stand the risk of going into the area of confession. This information-- I would wish this information to be very complete. Without however go into the discussion, and if you allow-- if you grant Mr Ruggiu the change of plea, then that will come during the submissions. Thank you.

MADAM PRESIDENT: Does the Prosecutor have any comments on this submission?

MRS DEL PONTE: Yes, Madam President. A few points. Because Mr Ruggiu seeks leave to change his plea to guilty, we have learned that he did this freely and voluntarily. [...] As far as the prosecution is concerned, we are very much concerned about the facts, the sufficient facts which indeed is the nature of crimes. The typical nature of the laws of the crimes which are described in the indictment and submissions that we have made, incitement to genocide, incitement to commit genocide, that is clear, that has been proved. Direct incitement, public incitement, and radio broadcasts, but what is even more important and interesting, is the constituent **element of intent**. Here you have some shade of meaning which we heard from the defence, which is agreed that already at the time the accused Ruggiu could not not have known, or could not fail to understand what was happening, that it was a genocide [...] which was actively supported by himself through his activities, his acts, and particularly from 6th April, 1994. Madam President, Your Honours, these are facts-- facts from the confession-- the statements made by the accused Ruggiu, and which has been checked by the Prosecution. Obviously, we could say that checking on these facts is easy because everything is public but it is also the verification of the intent component which is more difficult, and the fact that the accused Ruggiu knew or did not know that the genocide was planned has no relevance here. The important thing is that the accused Ruggiu, was already, in 1994, participating in a genocide-- participating in inciting and instigating to killings and massacres. A lot has been said about the commission of the Judge of Bari. It is true, it is the right of every person to

respond to questions. I don't know if he is the first person to answer question of the rogatory commission. Madam President, Your Honours, you know there are several rogatory commissions. I read the answers of Mr Ruggiu to the question of Judge Barry. I cannot say that there was an indication of a confession. These are just things that he agreed on. And he had decided to confess. It is true defence is talking about moral responsibility first of all, and responsibility simply, and guilt. But all that is part of the same package. The same package according to me and based on the facts of the case. In the time given, January, 1994, it was not after the fact. It was not in prison. It is at the very time of the facts, 1994. [...]

### **Examination of defendant by the Court**

MADAM PRESIDENT: I ask for the security to please lead Mr Ruggiu to the front of the judges. Mr Ruggiu, we have heard the motion from your Counsel that you intend to change the plea of not guilty to the two counts alleged against you, which plea of not guilty you entered at your initial appearance [...] and that you now wish to change those pleas to guilty. Is that correct?

THE ACCUSED: That is correct, Madam President.

MADAM PRESIDENT: Mr Ruggiu, you heard the representations made by your counsel this morning. Do you confirm the circumstances and background that was explained on your behalf by your counsel?

THE ACCUSED: I do.

MADAM PRESIDENT: Because of the seriousness of a change of plea from not guilty to guilty, and because of the seriousness of a plea of guilty, the Judges wish to be satisfied about certain aspects, and therefore we will be asking you a few questions. Firstly, we need to be satisfied that this plea - change of plea you intend to make is made freely and voluntarily. So, can you tell us why you wish to change your plea?

THE ACCUSED: Madam President, when I had the opportunity to participate in many questionings and interviews with the representatives of the Office of the Prosecutor, gradually, as these interviews went on, I realised myself that some persons in Rwanda had been killed during the events of 1994, and that I was responsible, and guilty of those facts, that there was a direct link with what I had said, and their deaths, and under these circumstances I believed that I had no other choice, no other honest choice in and of myself than to plead guilty. Please be aware that these are events which I regret but which did indeed occur and I have decided to assume responsibility thereof.

MADAM PRESIDENT: So, are the Judges to understand that you are intending to plead guilty because you are convinced of your guilt?

THE ACCUSED: Yes, Madam President.

MADAM PRESIDENT: Have you received any inducements or promises which influenced you to decide to change your plea?

THE ACCUSED: No, Madam President.

MADAM PRESIDENT: Now when you make a decision such as this, then it has to be an informed plea. So, can you confirm whether the charges were explained to you in detail by your Counsel, and that you, yourself understand the charges that you face.

THE ACCUSED: Yes, Madam President. I understand the charges against me, and I confirm that these are serious charges, but I decided to plead guilty. No one made me any promises, nor was I offered any inducement. It is personally of my own free will that I decided to plead guilty.

MADAM PRESIDENT: Your Counsel spoke of threats and pressure exerted upon you by other detainees in the UN Detention Facility. How did these threats and pressure influence your decision to change your plea?

THE ACCUSED: These threats and this pressure made on me at the time simply enabled me to react. How could some people who had been my friends could become my enemies? So, I in fact realised that the reason for which these pressures were being exerted against me was to stop me from disclosing the real truth about what happened in Rwanda, and I must reiterate that I confirm that it was indeed a genocide and that unfortunately I participated in it. The persons who were at the time at the UNDF, did not want to accept this reality. In admitting it I became the target of their vexation because I was no longer part of their group and I was a potential enemy for them, and you deal with an enemy viciously. And I must tell you that I had, had to face for almost three months without any conversation or communication with my family, and I had to bear abuse, and that even my food was thrown into the garbage dump, and where I was detained was searched before hand, because they knew that I was going to be detained in that particular location. But that-- those are the material aspects and that no longer is of any importance to me now. I did not come here before the Tribunal for material reasons, but because of moral reasons, and I consider that pleading guilty for me is honestly a moral cause and the best that I can.

MADAM PRESIDENT: And it is my duty to explain to you the consequences of a plea of guilty, and I am going to proceed to do that now. When you plead not guilty, Mr Ruggiu, you have certain rights and that right is that you are presumed innocent until you are proved guilty beyond a reasonable doubt by the Prosecutor. You are entitled to a fair trial. You are entitled to cross-examine witnesses produced by the Prosecutor, and you are entitled to call witnesses of your own and also give testimony on your behalf. Do you understand that by pleading guilty you are waiving these rights?

THE ACCUSED: Yes, I freely decided to waive these rights.

MADAM PRESIDENT: Yes, thank you, Mr Ruggiu.

The Judges have heard the motion moved by the Defence for leave -- for Mr Ruggiu to change his plea from not guilty to guilty. The Trial Chamber has questioned Mr Ruggiu so closely, and is satisfied from his responses that he has the capacity to make this decision, that it is an informed decision, and that he is doing so freely and voluntarily. So, therefore, the motion is granted, and the plea will then be put afresh to Mr Ruggiu.