

ICTR-2001-69-1
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INTEROFFICE MEMORANDUM — MEMORANDUM INTERIEUR

To: Antoine Mindua, Legal Officer
 A:

Date: June 21, 2001

Through: Ms. Silvana Arbia, Senior Trial Attorney

From: Faria Rekkas, OTP Case Manager
 De:

Subject: Indictment
 Objet:

Ref:

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2001 JUN 21 P 5:29

1. Please find enclosed three (3) indictments against Athanase Seromba, Fulgence Kayishema and Gregoire Ndahimana to be filed with the Honorable Jugde Pillay.
2. Also enclosed in the binders:
 - Ex Parte Request for Search, Seizure, Arrest and Transfer for the above mentioned three targets
 - A new supporting material
 - A new list of witnesses with Pseudonyms
 - A separate diskette containing electronic formats of the documents.
 - The material contained in the binders is extremely confidential and should be handled as such.
3. A new indictment against Nsengimana, Hormisdas is to be filed on this date, June 21, 2001.
4. Thank you for your cooperation.

21/06/01

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21-6-2001
(81 - 72)

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INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

Case No. ICTR-2001- 69 -I

THE PROSECUTOR

AGAINST

HORMISDAS NSENGIMANA

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INDICTMENT

- I. The Prosecutor of the International Criminal Tribunal for Rwanda, pursuant to the authority stipulated in Article 17 of the Statute of the International Criminal Tribunal for Rwanda (the "Statute of the Tribunal") charges:

HORMISDAS NSENGIMANA

with GENOCIDE; or in the alternative COMPLICITY IN GENOCIDE; CONSPIRACY TO COMMIT GENOCIDE; and CRIMES AGAINST HUMANITY for MURDER and EXTERMINATION; offences stipulated in Articles 2 and 3 of the Statute of the Tribunal, as set forth below.

II. THE ACCUSED:

Hormisdas NSENGIMANA was born on 06/08/1954 in Cyanika *commune*, Gikongoro, *préfecture*, in the Republic of Rwanda. At the time of the events referred to in this indictment, Hormisdas NSENGIMANA was a priest, with the function of *Rector* of *Christ-Roi* college, in Nyanza, Nyabisundi *commune*, Butare *préfecture* in the Republic of Rwanda.

III. CHARGES, including a CONCISE STATEMENT OF FACTS:

Count 1: GENOCIDE:

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Hormisdas NSENGIMANA** with **GENOCIDE**, a crime stipulated in Article 2(3)(a) of the Statute, in that on or between the dates of 6 April 1994 and end 31st May 1994, in Butare *préfecture*, Rwanda, **Hormisdas NSENGIMANA** was responsible for killing or causing serious

bodily or mental harm to members of the Tutsi population with intent to destroy, in whole or in part, a racial or ethnic group;

Pursuant to Article 6(1) of the Statute: by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged; *or alternatively,*

Pursuant to Article 6(3) of the Statute: by virtue of his actual and constructive knowledge of the acts and omissions of his subordinates including Cyprien GAZATI, Simon KALINDA, one called Phénéas, Cesar MUNDYARUBUGA, employees of the Christ-Roi college, and some students and interahamwe whose names are not known to the Prosecution, acting under his authority, and his failure to take necessary and reasonable measures to stop or prevent them, or to discipline and punish them, for their acts in the preparation and execution of the crime charged.

Or alternatively,

Count 2: COMPLICITY IN GENOCIDE:

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Hormisdas NSENGIMANA with COMPLICITY IN GENOCIDE**, a crime stipulated in Article 2(3)(e) of the Statute, in that on or between the dates of 6 April 1994 and end of May 1994 in Butare *préfecture*, Rwanda, **Hormisdas NSENGIMANA** was an accomplice to the killing or causing serious bodily or mental harm to members of the Tutsi population with intent to destroy, in whole or in part, a racial or ethnic group.

Pursuant to Article 6(1) of the Statute: by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged; *or alternatively,*

Pursuant to Article 6(3) of the Statute: by virtue of his actual and constructive knowledge of the acts and omissions of his subordinates including Cyprien GAZATI, Simon KALINDA, one called Phénéas, Cesar MUNDYARUBUGA, employees of the Christ-Roi college, and some students and interahamwe whose names are not known to the Prosecution, acting under his authority, and his failure to take necessary and reasonable measures to stop or prevent them, or to discipline and punish them, for their acts in the preparation and execution of the crime charged.

Concise statements of facts for Count 1 and Count 2

1. During the events described in the present indictment the Tutsi, the Hutu and the Twa were identified as ethnic or racial groups.
2. Since 1990, Hormisdas NSENGIMANA was gathering weapons to use to kill the Tutsi when the time came.
3. On or about April 1993, Hormisdas NSENGIMANA expelled from the *Christ-Roi* college two students, since they associated with some families who were considered by him as *Inyenzi* or *Inkotanyi*. These families were killed during the events of 1994.

4. Hormisdas NSENGIMANA, hated the Tutsi and the Tutsi priests living in the *Christ-Roi* college. These priests were killed during the events of 1994.
5. About the month of February or March 1994 Hormisdas NSENGIMANA stated: "*The time is over where the churches and the parishes were sites of refuge during the crisis that time is over*".
6. In March 1994, Hormisdas NSENGIMANA quarreled with the priest Justin FURAHA, one of the Tutsi priests of the *Christ-Roi* college, telling him: "*I hate the Tutsi, this will not last and you will see your fate*".
7. During the events referred to in this indictment, Hormisdas NSENGIMANA played a leading role in a group of killers called *Les Dragons* or *Escadron de la mort*. This group was composed of employees of the *Christ-Roi* college including Simon KALINDA, Cesar MUNYARUBUGA, Francois SEBUKAHIRE, Phénéas, *préfet de discipline* of the college, Gaspard and others extremists including, although not limited to Gaétan KAYTANI, *sous-prefet*, Apollinaire TUBIRIMO, director of Nyabisindu Iron Foundry, Célestin HIGIRO, doctor at the Hospital of Nyange and interahamwe not known to the Prosecution
8. In the evening of 6 April 1994, some soldiers (about five) came to the *Christ-Roi* college to announce to Hormisdas NSENGIMANA that the father of the nation was killed. Soon thereafter Hormisdas NSENGIMANA held a meeting with these soldiers, during which they agreed that it was necessary to keep watch and ensure that no Tutsi entered the college.
9. Soon afterwards, Hormisdas NSENGIMANA called some of his employees, and members of the group *Les Dragons* or *Escadron de la mort*. After having instructed the watchman of the college that if any Tutsi arrived, he should be informed immediately, Hormisdas NSENGIMANA in the company of this group and the soldiers, all armed with traditional weapons and firearms, left the college that evening and did not return until the day after in the early morning.
10. On or about 7 or 8 April 1994, after a nocturnal round, Hormisdas NSENGIMANA and his group held a meeting in Hormisdas' room. Afterwards, Phénéas, *préfet de discipline* of the college, went out and approached the students' dormitory screaming: "*You are sleeping while the father of the nation has been killed by the Tutsi*". As direct consequence of these statements, the Hutu students (about 700) launched an attack against the Tutsi students (about 100), who fled the college.
11. Hormisdas NSENGIMANA as Rector of the *Christ-Roi* college, and leader of group *Les Dragons*, or *Escadron de la Mort*, knew, or should have known the acts of Phénéas, as detailed above, and did nothing to stop or discourage him, sanction or punish him.
12. On or about 21 April 1994, Hormisdas NSENGIMANA and his group, after having captured a young Tutsi, Ruben KAYOMBYA, who tried to take refuge at the college, handed him over to the interahamwe to be killed.

13. On or about 23 April 1994, Hormisdas NSENGIMANA ordered students and interahamwe living in the college, among others MUGEMANA, to cut the bush surrounding the college, so that no *Inyenzi* (as were named the Tutsi) could hide there.
14. On or about 23 April 1994, Hormisdas NSENGIMANA ordered students to mount roadblocks around the *Christ-Roi* college, for the purpose of identifying Tutsi to be killed.
15. Many of the Tutsi were captured at these roadblocks and then killed during the months of April and May 1994. Among those killed was Xaverine and her son.
16. Hormisdas NSENGIMANA supervised at least three roadblocks: one located before the *Christ-Roi* college, one located in front of the *Ecole Normale Primaire* (ENP) near the college, and another one located near the "Pasteur's house."
17. All of these roadblocks were manned by employees or students of the college *Christ-Roi*, and interahamwe. Hormisdas NSENGIMANA by his *de jure* and or *de facto* authority knew or should have known of the acts of his subordinates, as detailed above, and did nothing to stop or discourage them, or sanction or punish them.
18. About the end of April or early May 1994, Hormisdas NSENGIMANA chaired a meeting with his group and interahamwe operating at a roadblock near the house of one "PASTEUR", and ordered them to kill all the Tutsi staying at Nyanza.
19. After this meeting the same group began screaming, saying that they will come to kill all the Tutsi. Then Hormisdas NSENGIMANA and his group went to the residence of a Tutsi named RUBIRIGITA, to kill him.
20. Hormisdas NSENGIMANA exercised control over the movements of the people who stayed at the college and in the neighborhood buildings, verifying their ethnic origin before authorizing any movement. He did not admit the Tutsi to his masses and he frequently visited the *Ecole Normale Primaire* (ENP), a school near the *Christ-Roi* college, to verify that no Tutsi took refuge there.
21. By 21 April 1994, all the Tutsi priests of the *Christ-Roi* college (Jean- Bosco YIRIWAHANDI, Innocent NYANGEZI, and Callixte UWITONZE), had fled the college being threatened by Hormisdas NSENGIMANA and his group. Father Mathieu NGIRUMPATSE alone remained at the college, considering himself too old to be killed.
22. On or about 25 April 1994, Hormisdas NSENGIMANA, accompanied by some soldiers and some employees (among others: Cyprien, Simon and Pheneas), entered the room of Father Mathieu NGIRUMPATSE, at that time bursar of the college. Then, after having extorted the safe of the college from him, they brought him out and shot him dead. Answering the soldiers who asked him whether they could kill Father Mathieu, Hormisdas NSENGIMANA blurted out: "*Let me kill this Tutsi dog myself, since I am sick and tired of him*". He then brandished his weapon and screamed: "*Let me kill and let me be proud of it, let me stop when my weapon kills five!*"

23. On or about 28 April 1994, Hormisdas NSENGIMANA handed over three Tutsi refugees to the interahamwe to be killed.
24. During May 1994, Hormisdas NSENGIMANA refused to admit to the college a certain man named *juge Jean*, and instead handed him over to the soldiers who killed him immediately in front of the college.
25. On or about 4 May 1994, Hormisdas NSENGIMANA gave a young orphan some money (about 30.000 Rwandan Francs) to get information about the hiding places of the three Tutsi priests who had fled the *Christ-Roi* college.
26. After being informed of their whereabouts, Hormisdas NSENGIMANA and his group left the college accompanied by some soldiers, in search of the three Tutsi priests. These priests were killed.
27. In early May 1994, a group of civilians not known to the Prosecution arrived to the *Christ-Roi* college and, shortly after, came out with weapons and masks. The same group of around 15 people headed for MUGONZI *cellule* and launched an attack against Tutsi civilians.
28. During this attack, many of Tutsi were killed. Among the victims were Galacan KAYIGIMA and his relatives (including his two daughters: Solange and Madoudou) but not his Hutu wife; Charles GAKWAYA; Célestin MUYAKAYANZA, his pregnant wife, and his sons; MWANVANEZA, MURANGAMIRWA and her child.
29. Among the killers were Phénéas and Simon KALINDA, both employees of Hormisdas NSENGIMANA and members of the group *Les Dragons*.
30. In May 1994, Hormisdas NSENGIMANA said that he would not flee without seeing the head of the Father Justin FURAHA (a Tutsi priest), and ordered his employees to search for him. Around end of May 1994, Justin FURAHA was killed.
31. On or about 20 May 1994, a former Tutsi student at *Christ-Roi* college, Callixte KAYITSINGA went to visit Hormisdas NSENGIMANA, who accommodated him at the college.
32. On the same day, Hormisdas NSENGIMANA called his employees, including Simon KALINDA, César MUNYARUBUGA and others not known to the Prosecution. They reached of Callixte KAYITSINGA's room; then, after beating him, led him to the students' dormitory to kill him.
33. On or about 22 May 1994, about thirty (30) armed and masked members of the group *Les Dragons*, including, among others, the two sons of the ENP's director, NYAMULINDA, CYUBAHIRO, and two sons of Appollinaire TUBILIMO, accompanied by armed soldiers, traveled from Nyanza to the center of an orphanage in Cyotamakara, in Ntyazo commune, Butare *préfecture*, a site well known by Hormisdas NSENGIMANA, to kill the Tutsi civilians seeking refuge there.

34. These attackers, using a list of persons who had left Nyanza, selectively identified the Tutsi refugees and forcibly removed them from the orphanage. Among these Tutsi refugees were six children of SEBAHUNGU, Gilbert MUDANGANYA and his brothers (Emile, Kigingi, Eric, Dadi and Kasungu), two daughters of Professor MUDANGANYA. All these people were transferred to Nyanza and killed.
35. Hormisdas NSENGIMANA embezzled the assets of the college, and stole the safe from Father Mathieu before killing him. Then he stole the clothes of his victims and looted their goods that he shared with his group.
36. The corpses of thirty six (36) victims were found in the latrines near the college *Christ Roi*, as well as mass graves near the carpentry of the same college. Among those corpses that were identified was that of Callixte KAYITSINGA.
37. Hormisdas NSENGIMANA, in his position of authority and acting in concert with others, participated in the planning, preparation or execution of a common scheme, strategy or plan to exterminate the Tutsi, by his own affirmative acts or through persons he assisted or by his subordinates with his knowledge and consent.

Count 3: CONSPIRACY TO COMMIT GENOCIDE:

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Hormisdas NSENGIMANA** with **CONSPIRACY TO COMMIT GENOCIDE**, a crime stipulated in Article 2(3)(b) of the Statute, in that on or between the dates of January 1994 and the end of May 1994 in Butare *préfecture*, Rwanda, **Hormisdas NSENGIMANA** did agree with BIRIKUNZIRA, a captain of gendarmerie at Nyanza; Gaétan Kayitani, *Sous-préfet*; Appollinaire TIBIRIMO, director of Nyabisindu Iron Foundry; Célestin HIGIRO, doctor at the Hospital of Nyanza and local leader of CDR party; some employees of the college: Simon KALINDA, Phénéas, Cesar MUNYARUBUGA, Francois SEBUKAHIRE, Cyprien GAZATI; soldiers, and other extremists not known to the Prosecution, to kill or cause serious bodily or mental harm to members of the Tutsi population with the intent to destroy, in whole or in part, a racial or ethnic group,

Pursuant to Article 6(1) of the Statute: by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged.

38. Around February 1994, and on 8 April 1994 Hormisdas NSENGIMANA held meetings with members of the MRND and CDR political parties, not known to the Prosecution with whom he used to meet with before 1994.
39. In February 1994 at the *Christ-Roi* college, Hormisdas NSENGIMANA held in his room, a meeting with Captain BIRIKUNZIRA, MBANZAMIHIGO, coordinator of MDR-Power, Célestin HIGIRO and others not known to the Prosecution.
40. Before 1994 and during the events referred to in this indictment, Hormisdas NSENGIMANA held several meetings, in his and in some public places such as

the *café de la cité nouvelle* or *le cabaret de NZIGIMFURA*, with some members of a group of killers called *Les Dragons* or *Escadron de la mort*.

41. That group, before and during the events referred to in this indictment, included some employees of the *Christ-Roi* college, such as Simon KALINDA, Phénéas, Cesar MUNYARUBUGA, Francois SEBUKAHIRE, Cyprien GAZATI and local authorities including Appollinaire TIBIRIMO, the former director of the governmental iron foundry; GAETAN, *sous-préfet*; KAREGE, deputy president of the CDR; NGIRUWONSANGA, *bourgmestre* and other extremist not known to the Prosecution. The purpose of their action was to hunt and kill the Tutsi civilians at Nyanza and its neighborhood.
42. On or about 6 April 1994, in the evening, soon after the death of the Rwandan president, a group of soldiers (about five) came to the *Christ Roi* college to meet Hormisdas NSENGIMANA. When they arrived inside the college they stated: "*Let's keep watch and ensure that no Tutsi comes into the college*".
43. After 6 April 1994 until the end of May 1994, Hormisdas NSENGIMANA started receiving at his college members of the Presidential Guard and the *Ecole Supérieure Militaire* (ESM). He met with them on a regular basis inside the college. During the same period Hormisdas NSENGIMANA, accompanied by his group, and by soldiers, and carrying weapons and masks left the college every evening remaining outside throughout the night until early morning.
44. On 19 April 1994, after the speech of the interim president Theodore Sindikubwabo in Butare, the killings were intensified in that *préfecture*. Many soldiers arrived and settled into the *Christ-Roi* college in Nyanza. Hormisdas NSENGIMANA and his group held frequent meetings with them. On some occasions the soldiers and the employees of the college went out with lists of persons to kill and headed for the houses of the Tutsi civilians to be eliminated.
45. On or about 20 April 1994, upon Captain BIRIKUNZIRA's instruction, roadblocks were erected in different sectors of Nyanza. A few days later Hormisdas NSENGIMANA ordered students to mount roadblocks around the *Christ-Roi* college for the purpose of identifying Tutsis to be killed.
46. During the period of the events described in this indictment, Hormisdas NSENGIMANA was escorted by members of the CDR party and on several occasions by the Presidential Guard.
47. After May 1994, the grounds of the *Christ-Roi* college was used by the soldiers to train young people; including college students. The training consisted of the use of firearms.

Count 4: MURDER as a CRIME AGAINST HUMANITY:

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Hormisdas NSENGIMANA** with **MURDER as a CRIME AGAINST HUMANITY**, as stipulated in Article 3(a) of the Statute, in that on or between the dates of April 1994 and the end of May

1994, in Butare *préfecture*, Rwanda, **Hormisdas NSENGIMANA** was responsible for killing persons, or causing persons to be killed, during mass killing events as part of a widespread or systematic attack against a civilian population on political, ethnic or racial grounds, as follows:

Pursuant to Article 6(1) of the Statute: by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged; *or alternatively,*

Pursuant to Article 6(3) of the Statute: by virtue of his actual and constructive knowledge of the acts and omissions of his subordinates including Cyprien GAZATI, Simon KALINDA, one called Phénéas, Cesar MUNDYARUBUGA, employees of the *Christ-Roi* college, and some students and interahamwe whose names are not known to the Prosecution, acting under his authority, and his failure to take necessary and reasonable measures to stop or prevent them, or to discipline and punish them, for their acts in the preparation and execution of the crime charged.

48. On or about 21 April 1994, Hormisdas NSENGIMANA and the group *Les Dragons* after having captured a young Tutsi, Ruben KAYOMBYA, who tried to take refuge at the Christ Roi college, handed him over to the interhamwe to be killed.
49. On or about 25 April 1994, Hormisdas NSENGIMANA, accompanied by some soldiers and some employees (among others: Cyprien, Simon and Pheneas), entered the room of Father Mathieu NGIRUMPATSE, at that time bursar of the college. Then, after having extorted the safe of the college from him, they brought him out and shot him dead. Answering the soldiers who asked him whether they could kill Father Mathieu, Hormisdas NSENGIMANA blurted out: "*Let me kill this Tutsi dog myself, since I am sick and tired of him*". He then brandished his weapon and screamed: "*Let me kill and let me be proud of it, let me stop when my weapon kills five!*"
50. Soon after having killed Father Mathieu, Hormisdas NSENGIMANA requested an old woman of the family of Father Mathieu, seeking refuge at the *Presbytère*, to follow him behind the parish, then killed her by sticking his sword in her thorax.
51. In May 1994, Hormisdas NSENGIMANA said that he would not flee without seeing the head of Father Justin FURAHA (a Tutsi priest), thus ordering his employees to search for him. Around the end of May 1994, Justin FURAHA was killed.
52. On or about 20 May 1994, a former Tutsi student at *Christ-Roi* college, Callixte KAYITSINGA went to visit Hormisdas NSENGIMANA, who accommodated him at the college. On the same day, Hormisdas NSENGIMANA called his employees, including Simon KALINDA, César MUNYARUBUGA and others not known to the Prosecution. They reached the room of Callixte KAYITSINGA, then, after beating him, led him to the students' dormitory to kill him.

Count 5: EXTERMINATION as CRIME AGAINST HUMANITY.

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Hormisdas NSENGIMANA** with **EXTERMINATION as a CRIME AGAINST HUMANITY**, as stipulated in Article 3(b) of the Statute, in that on or between the dates of April 1994 and the end of May 1994, in Butare *préfecture*, Rwanda, **Hormisdas NSENGIMANA** was responsible for killing persons, or causing persons to be killed, during mass killing events as part of a widespread or systematic attack against a civilian population on political, ethnic or racial grounds, as follows:

Pursuant to Article 6(1) of the Statute: by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged; *or alternatively,*

Pursuant to Article 6(3) of the Statute: by virtue of his actual and constructive knowledge of the acts and omissions of his subordinates including Cyprien GAZATI, Simon KALINDA, one called Phénéas, Cesar MUNYARUBUGA, employees of the *Christ-Roi* college, and some students and interahamwe whose names are not known to the Prosecution, acting under his authority, and his failure to take necessary and reasonable measures to stop or prevent them, or to discipline and punish them, for their acts in the preparation and execution of the crime charged.

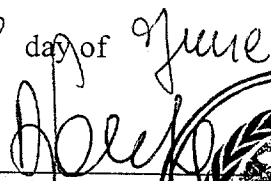
53. On or about 23 April 1994, Hormisdas NSENGIMANA ordered his students to mount roadblocks around the *Christ-Roi* college, for the purpose of identifying Tutsi to be killed. Hormisdas NSENGIMANA supervised at least three roadblocks: one located before the *Christ-Roi* college, one located in front of the *Ecole Normale Primaire* (ENP) near the college, and another one located near the "PASTEUR"'s house. Many Tutsi were captured at these roadblocks and then killed during the months of April and May 1994. Among those who were captured and killed was Xaverine and her son.
54. All of these roadblocks were manned by employees or students of the *Christ-Roi* college and other interahamwe. Hormisdas NSENGIMANA by his *de jure* and *de facto* authority knew or should have known of the acts of his subordinates as detailed above and did nothing to stop or discourage them, or sanction or punish them.
55. In early May 1994, a group of civilians not known to the Prosecution arrived to the *Christ-Roi* college and shortly after came out with weapons and masks. The same group of around 15 people headed for MUGONZI *cellule* and launched an attack against some Tutsi families.
56. During this attack, many Tutsi were killed. Among the victims were Galacan KAYIGIMA and his relatives (including his two daughters: Solange and Madoudou) with the exception of his Hutu wife; Charles GAKWAYA; Célestin MUNYANEZA, his pregnant wife; MURANGAMIRWA and her child.
57. Around the end of April or during May 1994, Hormisdas NSENGIMANA chaired a meeting with his group mentioned above and other interahamwe who had manned a roadblock near the house of one "PASTEUR", and ordered them to kill all the Tutsi staying at Nyanza.

58. After this meeting the same group began screaming, saying that they would come to kill all the Tutsi. Then Hormisdas NSENGIMANA and his group went to the residence of a Tutsi named RUBIRIGITA, to kill him.

The acts and omissions of Hormisdas NSENGIMANA detailed herein are punishable in reference to Articles 22 and 23 of the Statute of the Tribunal.

Dated in Arusha:

this 8 day of June 2001


Carla Del Ponte
Prosecutor

