

**THE INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIA**

**Case No. IT-06-90-PT**

**BEFORE TRIAL CHAMBER I**

**Before:** Judge Alphons Orie, Presiding  
Judge Christine Van Den Wyngaert  
Judge Bakone Justice Moloto

**Registrar:** Mr Hans Holthuis

**Date Filed:** 28 August 2007

**THE PROSECUTOR**

**v.**

**ANTE GOTOVINA, IVAN CERMAK AND MLADEN MARKAC**

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**DEFENDANT ANTE GOTOVINA'S  
MOTION TO STRIKE APPENDICES 11, 12, 13, 14, 15, 16, 17, AND 18 FROM  
THE PROSECUTION'S RESPONSE OPPOSING GOTOVINA'S  
MOTION FOR PROVISIONAL RELEASE  
[PUBLIC]**

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Mr. Alan Tieger  
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**For Mladen Markac:**

Mr. Goran Mikulicic

**THE INTERNATIONAL CRIMINAL TRIBUNAL  
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**THE PROSECUTOR  
v.  
ANTE GOTOVINA et al.**

**DEFENDANT ANTE GOTOVINA'S  
MOTION TO STRIKE APPENDICES 11, 12, 13, 14, 15, 16, 17, AND 18 FROM  
THE PROSECUTION'S RESPONSE OPPOSING GOTOVINA'S  
MOTION FOR PROVISIONAL RELEASE**

**I.        Introduction**

1.        General Gotovina respectfully requests the Trial Chamber to strike appendices 11 through 18 of the Prosecution's Response Opposing Gotovina's Motion for Provisional Release ("Prosecution Response"). The Prosecutor offers no admissible evidence to support her allegations that Gotovina "twice failed to stand trial in France or to serve his sentence imposed *in absentia*," or that "Gotovina received protection and assistance from 100 to 200 armed former military personnel in Croatia as well as from acquaintances and friends in South America and from members of the Italian mafia." Because the Prosecution has failed to attach a single affidavit in support of these assertions, Appendices 11 through 18 must be stricken.
  
2.        As set forth below, if the Prosecutor is compelled to provide a competent witness who can testify to General Gotovina's background in France, the evidence will show that General Gotovina is not a fugitive from the French courts and did not commit any crimes in France. The French authorities have never pursued General Gotovina precisely because he is the victim of a French criminal enterprise, and not a member of one.

3. Gotovina categorically denies the allegations contained in Appendices 11 through 18 and demands that his right to cross-examine witnesses be enforced.
4. Neither General Gotovina nor his attorneys have any firsthand knowledge of any criminal proceedings *in absentia* against him. The French authorities have never contacted General Gotovina or his attorneys about any allegations of criminal convictions *in absentia*. In fact, General Gotovina frequently met with representatives of the French military in his capacity as a General of the Croatian Army. (See picture attached hereto as Exhibit A of General Gotovina meeting with French government representative in Zagreb, military attaché Colonel Bernard Francois on 13 May 1997. Also pictured are U.S. deputy military attaché Ivan Sarac and other senior U.S. and Croatian officers).
5. The picture of 13 May 1997 illustrates the close relations between France and General Gotovina that existed throughout all times relevant to this Joinder Indictment, and subsequently. Indeed, the French authorities issued a new French passport to General Gotovina in 2001. Accordingly, it is irresponsible to suggest, as the Prosecution does in its Response, that General Gotovina evaded French authorities by “twice fail[ing] to stand trial in France or to service his sentence imposed *in absentia*.”

**II. Legal Standard: An Affidavit is required before the appendices can be admitted as evidence**

6. The Gotovina defence categorically denies the allegations made in the Prosecution Response. The Prosecution is required, pursuant to Rule 92 *bis*, to secure an affidavit from a competent witness who could testify in detail about the authenticity of exhibits 11 through 18, as well as the factual

assertions contained therein.<sup>1</sup> The Prosecution Response violates Rule 92 *bis* in that it attempts to submit disputed, inflammatory documents without witness testimony to provide a foundation. The Tribunal has held that documents which are “based on anonymous sources or hearsay statements which are now incapable of being cross-examined” are inadmissible into evidence.<sup>2</sup>

7. General Gotovina has a fundamental right to cross-examine witnesses against him pursuant to Article 21(4)(e). The Prosecutor cannot avoid such fundamental rules of procedural fairness by simply submitting the documents without any witness testimony whatsoever.

### **III. Gotovina is not a fugitive in France**

8. General Gotovina has a good faith basis for disputing the substance of these documents, and does not concede their authenticity.
9. To the best of the knowledge and belief of the Gotovina defence, no arrest warrant has ever been issued for General Gotovina on these charges, and the French government has never sought him. Moreover, General Gotovina has been widely known to be in the custody of the Tribunal for the last one and a half years. The French government has never attempted to contact him. Accordingly, one cannot be a “fugitive” from a case about which he has no knowledge.

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<sup>1</sup> Prosecutor v. Delalic, *Decision on Motion to Preserve and Provide Evidence*, Case No. IT-96-21-A (22 April 1999), pp. 4-5 (see also the Separate Opinion of Judge Hunt, at paras. 7-9).

<sup>2</sup> Prosecutor v. Kordic, Case No. IT-95-14/2-T, *Decision on Prosecution’s Submissions Concerning “Zagreb Exhibits” and Presidential Transcripts*, at para. 39-40 (11 December 2000).

**IV. General Gotovina is a victim of a criminal French police enterprise which has recently been convicted of official wrongdoing**

10. The improper submission of these unverified Appendices has had the effect of defaming General Gotovina in the public domain and falsely portraying him as a recidivist criminal. The French authorities have never sought General Gotovina because he along with many other French citizens is the victim of a criminal police conspiracy in France.
11. On 15 November 2004, 12 former members of an anti-terrorist cell (GIGN) loyal to French President Francois Mitterrand went on trial in France under charges of official misconduct, including illegal wiretapping and falsification of evidence in criminal proceedings.<sup>3</sup> The case is now known as the “French Watergate.” The charges related to GIGN’s activities throughout the 1980’s and early 1990’s. According to the *Agence France Presse*:

In an affair described as France's answer to Watergate, 12 former government officials and senior police officers went on trial in Paris Monday for running a phone-tapping operation which was used by the late president Francois Mitterrand to keep tabs on his personal enemies.

An astonishing 22 years after the undercover listening-room was set up at the Elysee palace, the 12 - who include the current head of Renault Louis Schweitzer - are accused of breach of privacy and face a maximum sentence of a year in jail and a fine of EUR 45,000 (USD 58,000).

Originally conceived in 1982 as a specialist anti-terrorist unit answerable to the president, the team ended up eavesdropping on journalists, lawyers and businessmen in a bid to discover embarrassing information and snuff out potential scandals.<sup>4</sup>

12. One of the accused was GIGN’s deputy chief, Paul Barril. Barril was already infamous in France because, in 1993, *Le Monde* revealed that GIGN and

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<sup>3</sup> Agence France Presse, *Mitterrand’s Phone-Tappers Stand Trial, 22 Years On*, (15 November 2004), attached hereto as Exhibit B).

<sup>4</sup> *Ibid.*

Barril had framed three Irish citizens in 1982 as “superterrorists” preparing a terrorist attack in France (known as the “Irishmen from Vincennes affair”).<sup>5</sup> Barril sued *Le Monde* for defamation in 1993, and in 1995 the French Supreme Court ruled in favor of *Le Monde*, finding that, “the operation was from beginning to end a frame-up carried out by Capt Barril, who tricked the political and judiciary authorities and public opinion, and who provoked [. . .] the imprisonment of three innocent people.”<sup>6</sup>

13. At the commencement of his trial in 2004, Barril confessed that GIGN had been regularly involved in framing criminal cases in order to suit the political purposes of President Mitterrand. Barril stated:

Our tool was diverted for political ends, for dirty police work, for manipulation. The orders came from Mitterrand’s office. I always denounced the abuses.<sup>7</sup>

14. On 9 November 2005, Barril and six of his GIGN associates were convicted for their crimes by a French court.<sup>8</sup>
15. In the 1990s, Barril engaged in even more serious criminal activity. Human Rights Watch reports that he may have been involved in aiding and abetting the Rwandan genocide.<sup>9</sup> The U.S. State Department also alleges that, in 2003,

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<sup>5</sup> The Irish Times, *Irish Citizens Became Victim of a French Frame-Up*, 6 February 2002 (attached hereto as Exhibit C).

<sup>6</sup> *Ibid.* A copy of the French high court decision in favor of *Le Monde* and against Barril is attached hereto as Exhibit D.

<sup>7</sup> See footnote 5. (Emphasis added).

<sup>8</sup> Agence France Presse, *French Wiretap Trial Ends in Conviction of Mitterrand Associates*, 9 November 2005 (attached hereto as Exhibit E).

<sup>9</sup> Human Rights Watch Report, *Leaving None to Tell the Story: Genocide in Rwanda*, as found in the section titled, *Acknowledging Genocide*, as found on the Internet at: [http://www.hrw.org/reports/1999/rwanda/Geno15-8-02.htm#P311\\_93936](http://www.hrw.org/reports/1999/rwanda/Geno15-8-02.htm#P311_93936). (Attached hereto as Exhibit F, at page 15 of 30).

Barril was a mercenary using child soldiers to put down a rebellion in the Central African Republic.<sup>10</sup>

**V. The GIGN conspirators framed Ante Gotovina in the 1980's and 1990's**

**a. The break-in at the Foix military barracks, and the “Allende Syndrome”**

16. Barril has admitted that he and GIGN arrested Ante Gotovina in 1984, on the basis of an inquiry opened in 1982, the same year that three Irish citizens were framed in the Irishmen from Vincennes affair.<sup>11</sup> In his book, *Missions tres speciales*, published in 1984, Barril described Gotovina and his associate, Dominique Erulin, as “aggressive anti-communists” whom he deemed to be “the executioners of the French extreme right who are of most interest” to Barril and GIGN.
17. Barril admits in an interview in *Globus* that he and GIGN became obsessed with Gotovina in 1981, when GIGN was preparing a “large police action approved by the top of the state” that would “arrest and eliminate right-wing militant legionnaires.”<sup>12</sup> According to his 1984 book, Gotovina and Erulin became the subject of the GIGN plotters after a commando-style break-in at the Foix military barracks on 22 November 1981 which resulted in the theft of weapons.<sup>13</sup> Barril writes that a group of retired Legionnaires were suspected of seizing the weapons as part of a plot for the “right-wing overthrow” of President Mitterrand.<sup>14</sup> However, on 5 January 1982, the French police

<sup>10</sup> U.S. Department of State, Country Reports on Human Rights Practices 2003, *Central African Republic*, as found on the internet at: <http://www.state.gov/g/drl/rls/hrrpt/2003/27718.htm>. (Attached hereto as Exhibit G, at page 9 of 12).

<sup>11</sup> *Globus*, Paul Barril: *I arrested Ante Gotovina*, (17 June 2005), attached hereto as Exhibit H.

<sup>12</sup> *Globus*, *Ibid*.

<sup>13</sup> For more on the Foix military base break-in, see the Associated Press article attached hereto as Exhibit I.

<sup>14</sup> Paul Barril, *Missiones tres speciales*, Paris, 1984, at pp. 142 et seq. See also UPI, *Report: Increased Security for Mitterrand*, 30 November 1981, attached hereto as Exhibit J.

arrested the true burglars at the Foix military barracks, who were completely unrelated to Gotovina, Erulin or the Foreign Legion.<sup>15</sup>

18. Nevertheless, the break-in at Foix resulted in years of persecution of Gotovina and Erulin. Many years later, Barril published another book titled, “*Les Archives Secretes de Mitterrand*,” in which he admits the paranoia in Mitterrand’s inner-circle which resulted in the victimization of a number of individuals, including Gotovina and Erulin:

I think this whole business concerning ERULIN, claiming that there was a project to assassinate President Mitterrand, was a phantasm of [Gilles] MENAGE and the cell of the Elysee.<sup>16</sup> . . . Concerning the ALLENDE experiment, [Regis] DEBRAY and her comrades brought to France a syndrome of the same name. They maintained a psychosis of a *coup d’etat* by “right-wing revanchists.” [. . .] This ambience of paranoia made it possible to transform a character as unimportant as ERULIN into public enemy number 1. ***ERULIN [and by extension Gotovina] became the first victim of the “Allende syndrome.”***<sup>17</sup>

**b. GIGN falsely suspects that Erulin and Gotovina are plotting to kill Mitterrand<sup>18</sup>**

19. In a 1981 memo obtained by the Gotovina defence from the files of Christian Prouteau, who was the leader of GIGN and was Barril’s boss (convicted with Barril in 2005), it is clear that GIGN was obsessed with Gotovina because of the paranoia of a plot of a *coup d’etat* resulting from the Foix burglary:

Named Anté GOTOVINA, formerly of the Legion, codenamed GRABOLAC, has been with Dominique ERULIN for the last year (to

<sup>15</sup> UPI, *French police recover cache of hijacked machine guns*, 5 January 1982, attached hereto as Exhibit K.

<sup>16</sup> Paul Barril, *Les Archives Secretes de Mitterrand*, 2001, edited by Albin Michel, at p. 78.

<sup>17</sup> *Ibid.*, at pp 194-195. (Emphasis added).

<sup>18</sup> The “Allende syndrome” was so pervasive that in February 1982, Prouteau connected future French President Jacques Chirac to Erulin (and by extension Gotovina). See memo obtained from GIGN files, dated 11 February 1982, attached hereto as Exhibit L.

some extent he is his right-hand man) and is sought at present by our services. Very intelligent and very dangerous individual in close combat.<sup>19</sup>

20. One month later, GIGN located Erulin and Gotovina in Pietrasanta, Italy.<sup>20</sup> GIGN sent commander Blancheteau (this name is important for reasons set forth below) to locate them in Pietrasanta. A memo obtained by the Gotovina defence shows that GIGN felt that Blancheteau would find Gotovina “with two hand grenades” and some “weapons from the Foix burglary.”<sup>21</sup> It is thus indisputable that in 1982 GIGN believed (falsely, as Barril admits in his 2001 book) that Gotovina and Erulin had stolen weapons from Foix and were plotting to use them to assassinate the French president.

**c. Gotovina was not a fugitive in 1983: he was working with Erulin who was a member of the French intelligence service, DGSE**

21. From the Foix burglary in 1981 onwards, Barril and GIGN targeted Gotovina and Erulin for various plots, including assassination. The depth of the obsession of Barril, GIGN and Mitterrand with Erulin and by extension Gotovina is found in the memo of Prouteau, who on 7 April 1983 wrote to Mitterrand:

Given Dominique Erulin’s personality, the decision to arrest him is delicate. Therefore, while we are prepared to use strictly legal means when we locate Erulin, I preserved the possibility of avoiding an arrest operation. If you think that these legal means are not convenient or that it would be preferable to neutralize this man by another method, it will so be done according to your will...<sup>22</sup>

22. In 1997, Erulin testified before the French court investigating the criminal activities of Barril and his comrades in GIGN. According to Erulin’s

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<sup>19</sup> See the 30 December 1981 memo attached hereto as Exhibit M.

<sup>20</sup> Memo obtained from GIGN files, dated 2 March 1982, attached hereto as Exhibit N.

<sup>21</sup> Memo obtained from GIGN files, dated on or about 2 March 1982 attached hereto as Exhibit O.

<sup>22</sup> See copy of the memo, attached hereto as Exhibit P. See also the article, *La Cellule des ecoutes de l’Elysee*, also attached hereto as Exhibit Q, at page 5 of 10.

testimony, he and Gotovina first became aware in 1983 that they were suspects in a robbery in Paris (the “Salomon affair”) while they were in the Ivory Coast. The French intelligence services knew that they were in the Ivory Coast, because Erulin at that time was working for DGSE, the French intelligence service and a rival of GIGN.<sup>23</sup> Gotovina was working with Erulin at that time, and accordingly Gotovina strongly disputes the Prosecutor’s assertions that he can be classified as a “fugitive” from the GIGN plotters.

23. Erulin also testified to the French court in 1997 that Gotovina was “now a General in the Croat Army.”<sup>24</sup> Accordingly, there is no doubt that the French courts knew exactly where Gotovina was in 1997 and still did not seek him to appear before the French courts.

#### VI. Gotovina was framed by the GIGN conspirators

24. Gotovina nevertheless returned to France in 1984. Barril says in *Globus* that, shortly after his return, Barril personally participated in the arrest. Barril reveals that Gotovina’s arrest had nothing to do with any criminal activity by Gotovina. Rather, Barril and GIGN had other motives:

Perhaps from today’s perspective it appears ridiculous, but at that time Gotovina was not of particular interest to us. Our desire was to get Dominique Erulin. As a result, we arrested Ante Gotovina because he was Erulin’s right-hand man.<sup>25</sup>

25. A review of the record also makes clear how GIGN framed Gotovina. GIGN was never able to tie Gotovina or Erulin to the *Foix* burglary. Instead, they created a frame-up case precisely so that they could remove “Erulin’s right-hand man” in the hopes of getting to Erulin himself.

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<sup>23</sup> See transcript of Erulin’s 1997 testimony, attached hereto as Exhibit R.

<sup>24</sup> *Ibid.*

<sup>25</sup> See *Globus* interview, at Exhibit H.

26. In January 1982, at the height of the investigation of the Foix burglary and the paranoia about a plot to assassinate Mitterrand, Barril framed Gotovina and Erulin by implicating them in the robbery of two million francs from a jeweler named Salomon. Barril claimed that these two million francs were to be used for “militant right wing activities,”<sup>26</sup> i.e. the overthrow of President Mitterrand. Barril later repudiated these claims of a “militant right-wing plot,”<sup>27</sup> but nevertheless Gotovina suffered the consequences of Barril and GIGN’s efforts to frame him as someone conspiring to assassinate Mitterrand, the result of which was Gotovina’s false conviction in 1985.
27. The victim of the theft, Salomon, did not identify Gotovina (or Erulin) as participants in the burglary, despite the fact that the police report reveals that the police attempted to influence Salomon’s testimony by telling him in advance that Gotovina was a perpetrator.<sup>28</sup> Rather, the only allegation of Gotovina’s participation in the Salomon burglary was made by the co-accused CHAILLOT. Chaillot, however, only made this claim after Gotovina’s name was suggested to him in January 1982 by his police interrogator, Commander Blancheteau, the same Blancheteau who two months later in 1982 would go to Pietrasanta thinking that Gotovina was armed with weapons from the Foix burglary.
28. Blancheteau was a conspirator of the criminal GIGN group. Barril describes him in his 1984 book as the “most faithful of the faithful ones.”<sup>29</sup> Interestingly, Barril writes about an incident in December 1982 in which Barril and Blancheteau were accused by a man named Engrand of having instructed him to burglarize a certain business. Barril writes that as a result of this affair, Blancheteau was suspended from the police.<sup>30</sup>

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<sup>26</sup> See *Globus* interview, at Exhibit H.

<sup>27</sup> See footnote 17.

<sup>28</sup> Testimony of victim Henri Salomon, 6 May 1985, attached hereto as Exhibit S.

<sup>29</sup> Barril, *Missiones tres speciales*, at p. 162 and 186.

<sup>30</sup> Barril, *Missiones tres speciales*, at p. 199-202.

29. On 5 January 1982 (two months before he went to Pietrasanta), Blancheteau interrogated Chaillot as follows:

Q. On 29 September 1981 a burglary was committed at the Salomon home. Our investigation, depositions, testimonies and information that we have obtained prove that you took part in this burglary in the company of BOYER, Dominique Erulin and Ante Gotovina. Do you agree with this explanation?<sup>31</sup>

Chaillot agreed with the statement, but only after Blancheteau lied to him that BOYER (his co-perpetrator) had implicated Gotovina and Erulin. Later, at the 1985 trial and subsequently, Chaillot recanted his statement implicating Ante Gotovina and testified that Gotovina's name had been suggested by Blancheteau.<sup>32</sup>

30. This would not have been the first time that the GIGN conspirators suggested to Chaillot to falsely implicate Gotovina in criminal activities. In his 1984 book, Barril writes about a planned police raid on a group of former legionnaires that was foiled when the legionnaires were tipped about the raid and left before the police arrived. Barril claims that Chaillot said Gotovina was the man who tipped the legionnaires, but then admits that "Judge Boulouque accused me of having suggested this story to Chaillot."<sup>33</sup>
31. Finally, Barril writes in his book about how he too had been falsely accused of illegal arms trafficking and plotting a *coup d'etat*, and that as a result he had been accused by a judge. Barril explains in the book how easy it was for him to become a victim because all it took was for the "police to suggest to the perpetrator my name" in order for him to be suspected.<sup>34</sup> Barril and Blancheteau would later use the same tactic against Gotovina and Erulin.

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<sup>31</sup> Statement of 5 January 1982 attached hereto as Exhibit T.

<sup>32</sup> Transcript of 4 June 1985 attached hereto as Exhibit U.

<sup>33</sup> Barril, *Missiones tres especiales*, at p. 143-144.

<sup>34</sup> Paul Barril, *Missiones tres especiales*, page 138 et seq.

## VII. Gotovina committed no crimes in France

32. It is beyond doubt that Gotovina was not a “petty criminal,” but rather one of several French citizens targeted as “public enemy number one” by a criminal group loyal to Mitterrand which was admittedly ready, willing and able to discredit its perceived opponents through the “frame-up” of criminal cases (see the “Irishmen from Vincennes affair,” the French Supreme Court decision in the Barril v. LeMonde case, and Barril’s admission of “dirty police work for political purposes” at the opening of his 2004 trial). Indeed, Barril and GIGN’s pursuit of Gotovina as a “terrorist” occurred in the same year that Barril and GIGN plotted to frame as “terrorists” the “Irishmen from Vincennes.”
  
33. General Gotovina has never been accused in France of any “right wing extremist” crimes. Barril admits in the *Globus* interview that, “there was never really any evidence that Gotovina and Erulin wanted to assassinate Mitterrand.”<sup>35</sup> It is submitted that criminal proceedings against him in 1984 were the result of the actions of government officials who have now admitted to engaging in “dirty police activities” for political purposes, and who have recently been convicted and discredited for these crimes. Put simply, General Gotovina, along with many others in France, was victimized by Paul Barril, Christian Prouteau, GIGN and the “Allende Syndrome.”
  
34. Any proceedings *in absentia* in the early 1990s were based on the illegal activities of that same criminal group. It is likely that the French government knows this, and as a result the French government continued to maintain close relations with General Gotovina throughout the 1990s and into 2001 by holding high-level meetings with him, providing him a passport and never seeking his arrest or transfer from Croatia or even advising him of such proceedings in absentia.

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<sup>35</sup> See *Globus* interview at Exhibit G.

35. It is not a coincidence that all French government criminal inquiries against Ante Gotovina ended in 1995, the year that Mitterrand left office and Jacques Chirac became president of France. After 1995, the criminal group in GIGN was no longer able to pursue their criminal frame-ups of individuals, including Gotovina.
36. This is the good-faith basis upon which General Gotovina insists that the documents submitted as Appendices 11 through 17 be stricken, as General Gotovina is entitled to cross-examine those who would wish to use these “French allegations” against him. General Gotovina would also then be allowed to present witnesses who would refute these prosecution witnesses, including perhaps Paul Barril himself.

**VIII. Appendix 18 should also be stricken because it amounts to anonymous hearsay**

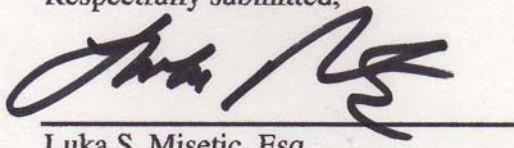
37. Appendix 18 purports to be a report from the Croatian government which recounts various anonymous tips that were reported to the Croatian government. The Croatian Report mentions rumors that “Gotovina received protection and assistance from 100 to 200 armed former military personnel in Croatia as well as from acquaintances and friends in South America and from members of the Italian mafia.” These are not statements of fact by the Croatian government, but rather recitation of unverified rumors, rumors which General Gotovina vigorously denies.
38. Because the authenticity of the Croatian Report is disputed, as well as the substance of the anonymous hearsay statements contained therein, the Croatian Report should be stricken because the Prosecution has failed to provide an affidavit authenticating the substance of the allegations contained in the Croatian Report.

## IX Conclusion

39. For the above reasons, Ante Gotovina categorically denies the Prosecutor's allegations that he was ever a fugitive from France, or that he ever committed a crime in France. The Prosecution is required to abide by the rules of procedural fairness and thereby should have submitted an affidavit from a competent witness who could testify to all of the aforementioned matters, and who could be subjected to cross-examination. The Prosecution's failure to do so requires that Exhibits 11 through 18 be stricken on the basis that these exhibits are inadmissible evidence.
40. The Gotovina Defence acknowledges that it has attached many exhibits to this motion without a witness affidavit, and advises the Trial Chamber that it will re-file these exhibits with appropriate affidavits should the Prosecution file any affidavits in support of their Appendices 11 through 18. The initial burden is on the Prosecution to identify competent witnesses who can testify concerning Appendices 11 through 18. The Gotovina Defence will then submit its affidavits in response.

Word Count: 3543

Dated: 28 August 2007

Respectfully submitted,  
  
Luka S. Misetic, Esq.

Defence Counsel for Ante Gotovina

# **EXHIBIT A**

COL. FRANKS



5 13 '97

## **EXHIBIT B**

**Document Links:**[Start of Document](#)[LENGTH:](#)[HEADLINE:](#)[DATELINE:](#)[BODY:](#)[LOAD-DATE:](#)

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Agence France Presse -- English

November 15, 2004 Monday 4:57 PM GMT

**LENGTH:** 570 words

**HEADLINE:** Trial opens in Mitterrand phone-tap scandal

**DATELINE:** PARIS Nov 15

**BODY:**

In an affair described as France's answer to Watergate, 12 former government officials and senior police officers went on trial in Paris Monday for running a phone-tapping operation which was used by the late president Francois Mitterrand to keep tabs on his personal enemies.

An astonishing 22 years after the undercover listening-room was set up at the Elysee palace, the 12 -- who include the current head of Renault Louis Schweitzer -- are accused of breach of privacy and face a maximum sentence of a year in jail and a fine of 45,000 euros (58,000 dollars).

Originally conceived in 1982 as a specialist anti-terrorist unit answerable to the president, the team ended up eavesdropping on journalists, lawyers and businessmen in a bid to discover embarrassing information and snuff out potential scandals.

One of the targets was even the actress and Chanel model Carole Bouquet.

At the trial -- which is to last three months -- the defendants are expected to argue that they were following orders that came from Mitterrand and other politicians, none of whom has faced charges in the affair.

"Our tool was diverted for political ends, for **dirty police** work, for manipulation. The orders came from Mitterrand's office. I always denounced the abuses," said the unit's deputy chief **Paul Barril**, who is one of the accused.

Among the public figures who were targeted during the unit's three years in operation was Edwy Planel, current editor-in-chief at Le Monde newspaper, who at the time was investigating claims -- since shown to be true -- that Barril and others framed evidence against alleged Irish terrorists.

Another target was the late writer Jean-Edern Hallier who was threatening to publish the story of Mitterrand's secret daughter Mazarine. On one occasion the Elysee allegedly learned that Hallier was to appear on a television chat-show and had the programme cancelled.

Others were journalists and lawyers looking into the 1985 Rainbow Warrior affair, in which French agents in New Zealand blew up a boat belonging to the environmental group Greenpeace killing a crew-member. In all some 150 people were tapped.

Barril's lawyer -- courtroom veteran Jacques Verges -- said he hoped the trial would "reveal the truth about everyone -- even those in the highest places. Who gave the orders, and who manipulated it all so that others carried the can?"

The existence of the secret listening-room was not revealed until 1993, when it confirmed for many in France the arrogance and intrigue of the Mitterrand era. It was one of the factors behind the emergence of a new generation of Socialists, led by Lionel Jospin, eager to move out of Mitterrand's shadow.

It took a further 11 years to bring the case to court, largely because of a series of state secrecy orders decreed by governments of left and right which prevented the examining judge Jean-Paul Valat from gaining access to key documents.

Of those on trial, Schweitzer, 62, was cabinet director for the Socialist prime minister Laurent Fabius between 1984 and 1986 when he is alleged to have transmitted phone-tap orders to the undercover cell. Mitterrand's cabinet chief Gilles Menage, 61, is also a defendant, as well as the unit's chief Christian Prouteau, 60.

The former head of an elite gendarme squad, Prouteau was allegedly told by Mitterrand to set up the secret anti-terrorist unit following a bombing in central Paris in August 1982 that killed nine people.

**LOAD-DATE:** November 16, 2004

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**HEADLINE:** Irish citizens became victims of a French frame-up

**BYLINE:** By LARA MARLOWE

**BODY:**

Nearly 20 years after he and two Irish friends were framed by a French supergendarme, Stephen King remembers the events of August 28th, 1982, with total clarity.

King was lying face down on the floor in an apartment rented under an assumed name by another Irish Republican Socialist Party militant, Michael Plunkett. His T-shirt was pulled over his head and his hands tied behind his back.

"They put a cold metallic object in my hand," he recalled. "I heard the magazine click, and I thought, 'they're putting my fingerprints on the gun and they'll make it look like a suicide.' Half an hour later, Mick came home and was arrested. He saw my red T-shirt and he thought it was blood and he shouted, 'Are you okay?' and I said, 'Yeah, it's a frame-up'."

That night, Francois Mitterrand's Elysee Palace issued a triumphant statement. The arrests were reported around the world as a brilliant feat by the newly formed Groupe d'intervention de la gendarmerie nationale (GIGN) - described as "an elite anti-terrorist unit" - against Irish superterroristes. King was taken to Fresnes prison, Plunkett to La Santé and his companion, Mary Reid, to Fleury-Mérogis.

The three IRSP members spent the first two of nine months in prison in solitary confinement. "The warders treated us very badly in the beginning," King continued. "I had lots of comrades locked up. It was always a possibility." But the Elysee's case quickly unravelled. In February 1983, Le Monde accused the GIGN of fabricating evidence. No fingerprints were submitted from the three Czech handguns seized in the apartment, and photos taken at the time of the arrests disappeared. Pierre Caudan, a local gendarme, told a magistrate that "objects may have been brought to the apartment before the arrests" and that he "received orders to dissimulate a certain number of points." The three Irish citizens were cleared on October 5th, 1983.

Two years later, a Frenchman named Bernard Jégat confirmed that he had personally handed over the weapons and explosives used to frame the Irish to Capt **Paul Barril**, the GIGN officer who staged the raid on the Vincennes apartment. In 1992, Plunkett and Reid filed a suit against Barril for "violation of personal freedom", which King later joined as a civil plaintiff. The investigating magistrate did nothing for more than eight years, during which Caudan and Jégat, both key witnesses, died. Under pressure from the media and his superiors, Judge Yves Madre finally began working on the case towards the end of 2000. Two weeks ago, the Versailles appeals court annulled 20 years of proceedings on minor technicalities, and Capt Barril was let off.

Plunkett and Reid, who now live in Dublin and Derry, have appealed to France's Supreme Court, and King may join the appeal from his home in Brittany.

The Versailles annulment is all the more absurd because the Supreme Court recognised Capt Barril's guilt in a November 28th, 1995, ruling in favour of Le Monde, whom Barril tried to sue three times for libel.

Le Monde was correct in reporting that "the operation was from beginning to end a frame-up carried out by Capt Barril, who tricked

the political and judiciary authorities and public opinion, and who provoked . . . the imprisonment of three innocent people," the Supreme Court concluded.

Jean Pineau, a gendarme in Versailles when the Irish were arrested, told Judge Madre that he saw Barril take out a chunk of plastic explosives wrapped in aluminium foil, stick fuses into it and hide it in the toilet of the Vincennes apartment.

Another gendarme, Michel Lemonnier, saw serial numbers on the weapons placed by Barril in the apartment, but these were filed off by the time Barril delivered them to the gendarmerie station in plastic bags .

Barril's supervisor, Christian **Prouteau**, was awarded the Legion of Honour and made a government prefect by the late President Mitterrand. Barril left the French army, wrote a best-seller and started a private security firm called "Secrets". Both men are officially under investigation in another Mitterrand era scandal, the wire-tapping of hundreds of telephones in connection with the Irish arrests and the sinking of the Rainbow Warrior. But that case has not gone forward either.

Le Monde said the Versailles court's cancellation of the case against Barril demonstrated "the inability of French justice to deal with crimes committed in the name of the State and implicating the institution of the presidency."

Antoine Comte, the lawyer for Plunkett and Reid, says the Irish episode is "a textbook case of impunity for state crimes".

Yet Comte puts faith in the final appeal, which could be heard this year.

"If the Supreme Court turns the case around," he says, "then Barril is going to be sitting in front of his judges."

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## **EXHIBIT D**

" Or, curieusement, le personnage clé de cette affaire ne sera pas dans le box des prévenus. M. Barril n'a en effet jamais été entendu au cours de l'instruction, a fortiori n'a jamais été inculqué et est aujourd'hui hors de toute atteinte judiciaire, puisque cet oubli surprenant a laissé passer le délai légal de la prescription. A moins qu'il n'accepte de venir témoigner, l'ancien capitaine ne sera pas là pour éclaircir des accusations qui pourtant convergent toutes vers lui. Cette étonnante absence est le résultat d'une curieuse cuisine politico-judiciaire où tout a été fait pour que la justice en sache le moins possible sur cette ténébreuse affaire.

" Une situation que l'on pourrait ainsi résumer : en haut lieu, la vérité était connue de longue date, mais elle sera sciemment cachée au juge d'instruction et quand, toujours grâce à la presse, elle sera en partie dévoilée, "on" fera en sorte que la justice n'ait à la connaître que partiellement. Deux documents confidentiels aujourd'hui en notre possession le prouvent. Le premier est une note interne au palais de l'Elysée, rédigée le 20 avril 1984 par l'un des conseillers de François Mitterrand, qui a quitté la présidence depuis, M. Régis Debray. L'autre est un long procès-verbal établi du 17 au 25 janvier 1985 par deux policiers de la Direction de la surveillance du territoire (DST)...

" Ces deux documents concernent le personnage le plus énigmatique de cette affaire, M. Bernard Jégat. Ancien sympathisant actif de la cause irlandaise, mêlé à des activités clandestines de logistique militaire, c'est lui qui est à l'origine de toute l'affaire. En août 1982, en pleine vague d'attentats parisiens d'origine proche-orientale, il croira totalement à tort que ses anciens amis irlandais y sont impliqués. Après qu'il eut été aiguillé par des journalistes du Nouvel Observateur vers M. Barril, sa seule intime conviction déclenchera l'opération de Vincennes. Or Jégat sait, depuis l'arrestation des Irlandais, que les pièces à conviction saisies n'en sont pas. Et pour cause : c'est lui qui les a remises au capitaine Barril avant l'interpellation de Michael Plunkett, Stephen King et Mary Read.

" L'existence de Jégat... paraît le jour où Jégat, après trois ans d'errance, de peur et de dépression, accepte enfin de raconter son histoire au juge d'instruction chargé du dossier, M. Alain Verleene. Mais durant ces trois ans, Jégat avait beaucoup parlé à d'autres, et pas à n'importe qui. A M. Barril, évidemment, qui s'efforcera de le contrôler durant un an, jusqu'à l'automne 1983...

" J'ai rencontré M. Bernard Jégat hier, écrit M. Debray dans cette note datée du 20 avril 1984. Il me paraît bien être le seul témoin capital et se déclare prêt à faire crever l'abcès, dût-il aller lui-même en prison. Cette clarification aurait l'avantage de mettre clairement le commandant Proutcau hors de cause et d'authentifier l'extrême importance de l'affaire des Irlandais, lamentablement saccagée par le capitaine Barril...

" M. Jégat continue de porter comme un lourd fardeau son secret, et ses protecteurs ne lui donnent pas le seul conseil sage : se confier à la justice. C'est pourquoi, se sentant menacé par M. Barril et ses amis, il ira, le 17 janvier 1985, se confier à la DST, avec sans doute toujours l'idée de "servir" la lutte antiterroriste...

" Faut-il ajouter que ce procès-verbal, transmis huit mois plus tard au parquet de Paris, quand il ne sera plus possible de faire autrement, ne sera jamais communiqué au juge d'instruction ?

Attendu que, par acte du 6 mai 1991, les prévenus ont fait signifier à Paul Barril une offre de

preuve de la vérité des faits diffamatoires, comportant copie de pièces et dénonciation de témoins ;

Qu'avant toute défense au fond, la partie civile a soulevé l'irrecevabilité de l'offre de preuve, au motif, notamment, que l'écrit incriminé comportait une imputation se référant à un fait constitutif d'une infraction prescrite, tombant, comme telle, sous le coup de l'interdiction prévue par l'article 35 de la loi du 29 juillet 1881 ;

Que, par décision avant dire droit du 22 novembre 1991, le tribunal a constaté que les prévenus renonçaient à l'offre de preuve relative à l'imputation suivante, " l'ancien major José Windels expliquera qu'il a menti à la justice sur ordre de MM. Prouteau et Barril au nom de la raison d'Etat, et M. Prouteau rejettera l'accusation en assurant que M. Barril lui a toujours caché la vérité ", et qu'ils renonçaient également à l'audition du témoin Prouteau ;

Que, par cette même décision, les juges, rejetant l'exception soulevée, ont déclaré l'offre de preuve régulière et recevable, et ont sursis à statuer jusqu'à la disparition de l'empêchement faisant obstacle à l'audition, en qualité de témoins dénoncés en application de l'article 55 de la loi précitée, de Jean-Michel Beau et de Bernard Jégat, alors poursuivis pour des faits présentant un lien étroit avec ceux de la présente procédure ;

Que, par jugement du 17 septembre 1992, le tribunal, statuant au fond, a constaté le caractère diffamatoire de certains passages de l'article incriminé et, après avoir analysé les pièces et témoignages produits, a considéré que la preuve de la vérité des faits diffamatoires avait été rapportée ; qu'il a en conséquence relaxé les prévenus, mis hors de cause la société Le Monde, et débouté Paul Barril de ses demandes ;

Qu'appel ayant été interjeté par celui-ci de cette seule décision, la juridiction du second degré a, par l'arrêt attaqué, écarté diverses exceptions soulevées par la partie civile et confirmé le jugement entrepris ;

En cet état ;

Sur le premier moyen de cassation pris de la violation de l'article 6 de la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales, ensemble violation des droits de la défense ;

" en ce que l'arrêt attaqué a été rendu par la cour composée, entre autres, de M. Chanut, conseiller ;

" alors que le principe d'impartialité édicté par la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales interdit qu'une juridiction de jugement soit composée de magistrats ayant déjà eu à connaître, directement ou indirectement, des faits déférés à son jugement et à prononcer sur ces faits ; qu'en l'espèce, le conseiller Chanut qui composait la onzième chambre de la cour d'appel de Paris pour juger des faits soumis à cette chambre sur l'appel du capitaine Barril dans l'action en diffamation diligentée contre MM. Lesourne et Plénel et la SARI, le Monde relativement aux imputations diffamatoires portées contre cet ancien officier de gendarmerie à propos de l'affaire dite des "Irlandais de Vincennes", composait également la onzième chambre de la cour d'appel lorsque cette chambre a eu à connaître des faits reprochés au commandant Prouteau et au commandant

Beau, et qui ont donné lieu à son arrêt du 15 janvier 1992 ; qu'en effet, pour relaxer le commandant Proutcau des fins de la poursuite du chef de complicité de subornation de témoins, la cour de Paris a retenu, entre autres, que le capitaine Barril avait participé à l'opération incriminée, en avait assuré le commandement effectif et avait le contact avec les hommes auxquels avait été donné l'ordre de faire des déclarations mensongères sur les conditions dans lesquelles s'était déroulée l'arrestation des trois Irlandais (arrêt du 15 janvier 1992, p. 14 § 2 et 3) ; qu'il s'ensuit que la composition de la cour d'appel pour statuer sur l'appel du capitaine Barril et prononcer sur la diffamation reprochée à MM. Lesourne et Plénel n'était pas impartiale au sens de l'article 6 de la Convention européenne susvisée qui a été violé et que les droits de la défense ont été méconnus “ ;

Attendu que la participation d'un même conseiller de la chambre des appels correctionnels aux débats relatifs à deux procédures différentes, opposant des parties distinctes sur des faits également distincts, fussent-ils connexes, n'est pas contraire à l'exigence d'impartialité énoncée par l'article 6 § 1 de la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales ;

Que, dès lors, le moyen doit être écarté ;

Sur le deuxième moyen de cassation : (sans intérêt) ;

Sur le troisième moyen de cassation : (sans intérêt) ;

Sur le cinquième moyen de cassation pris de la violation des articles 6 § 3 de la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales, 31, 35 alinéa 3 de la loi du 29 juillet 1881, 6 et 593 du Code de procédure pénale, défaut de motifs et manque de base légale :

” en ce que l'arrêt attaqué a débouté la partie civile de ses demandes à l'encontre de MM. Lesourne et Plénel, et de la SARI, le Monde, civilement responsable ;

” aux motifs que l'absence de poursuite à l'encontre d'une personne diffamée, pour les faits qui lui sont imputés, alors même qu'ils constitueraient une infraction pénale, ne saurait faire obstacle à la mise en oeuvre et à l'exercice de l'action en diffamation fondée sur les dispositions de la loi du 29 juillet 1881 ; qu'il est constant que la vérité des faits diffamatoires pouvait toujours être prouvée, sous réserve du respect des formes prévues par l'article 55 de ladite loi, à l'exception des cas limitativement énoncés par l'article 35 alinéa 3, étrangers à l'espèce ; que le jugement du 22 novembre 1991 dont il n'a pas été relevé appel avait déclaré régulière et recevable l'offre de preuve présentée par les prévenus et constaté qu'aucun des faits dont la preuve était offerte n'était atteint par l'une des prohibitions énoncées à l'article 35 alinéa 3 ;

” alors, d'une part, que l'article 35 de la loi du 29 juillet 1881 porte, en son alinéa 3, que la preuve des faits diffamatoires est interdite lorsque l'imputation se réfère à un fait constituant une infraction pénale amnistiée ou prescrite ; qu'il en est ainsi même si les faits imputés n'ont reçu aucune qualification pénale et qu'il appartient alors aux juges du fond de rechercher la qualification qu'ils auraient pu recevoir afin de vérifier si leur prescription est ou non acquise et la preuve s'y rapportant recevable ; qu'en se bornant à affirmer que les faits imputés à la partie civile étaient étrangers aux cas énoncés par l'article 35 alinéa 3 sans rechercher s'ils

pouvaient ou non constituer une infraction pénale ni s'expliquer, le cas échéant, sur la qualification pénale qu'ils auraient pu recevoir, la cour d'appel a violé ce texte ;

" alors, d'autre part, que seul a l'autorité de la chose jugée le jugement qui juge une partie du principal ; que, dès lors que le jugement avant dire droit du 22 novembre 1991 a simplement affirmé, de façon vague, qu'aucun des faits dont l'offre de preuve était proposée n'apparaissait, en l'état, atteint par l'une des prohibitions de l'article 35 (3e alinéa) de la loi du 29 juillet 1881, sans exposer ni qualifier les faits qui n'auraient pas été atteints par la prescription, la partie civile était parfaitement recevable à faire constater, au jour où l'affaire a été examinée au fond, que certains des faits dont l'offre de preuve était proposée constituaient des délits qui étaient atteints par la prescription et dont la preuve tombait sous le coup de l'interdiction de l'article 35 susmentionné ; qu'en se déterminant par les motifs susrapportés, la cour d'appel a violé les articles 6 de la Convention précitée, et 35 de la loi du 29 juillet 1881 " ;

Attendu que, pour écarter les prétentions de Paul Barril faisant grief aux premiers juges d'avoir rejeté l'exception d'irrecevabilité de l'offre faite par les prévenus de rapporter la preuve des imputations diffamatoires, la juridiction du second degré relève notamment que le jugement du 22 novembre 1991, par lequel le tribunal a constaté qu'aucun des faits dont la preuve était offerte n'était atteint par l'une des prohibitions énoncées à l'article 35, alinéa 3, c) de la loi du 29 juillet 1881, n'a pas été frappé d'appel ;

Attendu qu'en cet état, et dès lors que la décision incidente sur l'exception précitée était passée en force de chose jugée, la cour d'appel n'avait pas à examiner, comme elle l'a fait, ladite exception ;

D'où il suit que le moyen, qui critique le rejet de cette dernière, est irrecevable ;

Sur le quatrième moyen de cassation pris de la violation des articles 6 de la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales, 35 et 55 de la loi du 29 juillet 1881, 427 et 593 du Code de procédure pénale, défaut de motifs, manque de base légale, ensemble violation des droits de la défense :

" en ce que l'arrêt attaqué a rejeté l'exception tirée de la violation, par les premiers juges, du principe d'impartialité des juridictions de jugement édicté par l'article 6 § 1 de la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales, à raison de la production, par les prévenus, au titre de l'offre de preuve, de pièces et documents en l'espèce des albums de photos et des cassettes qui n'ont pas été communiqués à la partie civile ;

" aux motifs que la décision des premiers juges n'était fondée ni sur la production par les prévenus et par le civilement responsable de pièces qui n'auraient pas été notifiées dans le cadre de l'offre de preuve, ni sur l'audition de témoin dont le nom, la profession et le domicile n'auraient pas fait l'objet d'une signification conforme aux dispositions de l'article 55 de la loi du 29 juillet 1881 ; qu'il n'apparaissait pas que les premiers juges aient examiné et tiré argument d'un quelconque document dans des conditions qui n'auraient pas permis aux parties d'en discuter librement et contradictoirement la teneur, la valeur et la portée ;

" alors que l'article 55 de la loi du 29 juillet 1881 impose au prévenu, qui veut être admis à

prouver la vérité des faits diffamatoires, de faire signifier au plaignant la copie des pièces dont il entend se prévaloir ; que cette signification s'entend aussi bien des pièces qui seraient produites par le prévenu lui-même que de celles qui seraient produites par les témoins dont il a demandé l'audition ; qu'en l'espèce, le témoin Péan a produit à l'audience un album de photographies et une cassette qui n'avaient pas été communiqués à la partie civile dans le cadre de l'offre de preuve de la vérité des faits diffamatoires et qui ont, de surcroît, au terme du témoignage de ce témoin, été remis, à sa demande, au président qui les a conservés ; que cette façon de procéder qui constituait une violation à la fois de l'article 55 de la loi du 29 juillet 1881 et de l'article 6 de la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales qu'il appartenait à la cour d'appel de sanctionner, a été dénoncée dans la note adressée par le conseil de la partie civile au président de la juridiction par une note en date du 7 septembre 1992 ; que, dès lors, peu important que le tribunal ait ou non examiné ou tiré argument de ces documents non régulièrement communiqués à la partie civile, la procédure était entachée d'une nullité que la cour d'appel devait constater ;

" alors, en tout état de cause, que la cour qui admet que le témoin Péan, signific à la partie civile, a produit aux débats un article de l'Evènement du Jeudi relatant la représentation à Jégat des photographies des armes et des pièces à conviction trouvées à Vincennes, lequel n'avait pas été signific à la partie civile conformément à l'article 55 de la loi susmentionnée, devait constater que les dispositions de ce texte avaient été violées et que cette violation constituait une atteinte au principe de l'impartialité des juridictions " ;

Attendu qu'il n'importe que, lors de son audition par le tribunal, un des témoins, régulièrement dénoncés en application de l'article 55 de la loi du 29 juillet 1881, ait produit divers documents non significés et que ceux-ci aient été versés au dossier, dès lors que, ainsi que la Cour de Cassation est en mesure de s'en assurer, les juges n'ont pas fait état de ces pièces dans leur appréciation de la preuve de la vérité des faits diffamatoires ;

Qu'ainsi, le moyen doit être écarté ;

Sur le sixième moyen de cassation pris de la violation des articles 29, 30, 31, 32, 53 et 55 de la loi du 29 juillet 1881, 437, 512 et 593 du Code de procédure pénale, défaut de motifs, manque de base légale :

" en ce que l'arrêt a déclaré que la preuve de la vérité des faits diffamatoires était rapportée et a débouté la partie civile de ses demandes ;

" aux motifs que Jégat avait été poursuivi, puis condamné au vu de ses propres explications et que sa version des faits formait un tout ; que l'irrégularité avérée des conditions de la perquisition opérée le 28 août 1982 au domicile de Plunkett ne pouvait s'expliquer que par une grave anomalie dans la conception et l'organisation mêmes de l'interpellation des Irlandais, étant rappelé que l'affaire a eu pour origine l'obtention de renseignements par le capitaine Barril ; que les documents produits et les témoignages recueillis au titre de l'offre de preuve constituaient des sources diversifiées d'informations complémentaires amplement concordantes et fiables, d'où il résultait que la preuve de la vérité de l'imputation diffamatoire était rapportée ;

" alors, d'une part, que seuls peuvent être retenus comme rapportant la preuve des faits diffamatoires les éléments que l'auteur de la diffamation étaient en mesure de produire au

moment où les faits diffamatoires ont été rendus publics ; qu'en retenant, pour déclarer rapportée la preuve des faits diffamatoires, la condamnation prononcée contre Jégat qui n'est intervenue que le 24 septembre 1991 et que les prévenus ne pouvaient connaître à la date de la publication (21 mars 1991) de l'article incriminé, la cour d'appel a violé les textes susvisés ;

" alors, d'autre part, que, aux termes de l'article 35 de la loi du 29 juillet 1881, la preuve de la vérité du fait diffamatoire pourra être établie par les voies ordinaires ; que, à peine de nullité des témoignages reçus, les témoins doivent préalablement à leur déposition prêter serment ; qu'en l'espèce, il résulte du jugement du 17 septembre 1992 que ni M. Jégat, ni M. Beau, ni M. Péan, entendus par les premiers juges en qualité de témoins et sur les déclarations desquels se fonde la décision de relaxe, n'ont prêté serment ; qu'il s'ensuit que ces témoignages qui étaient entachés de nullité et devaient être écartés des débats ne pouvaient permettre de retenir que la preuve de la vérité des faits diffamatoires était rapportée ; qu'ainsi, la cour d'appel a violé l'ensemble des textes susvisés " ;

Attendu que, pour écarter l'argumentation de la partie civile, qui contestait la fiabilité des déclarations de Bernard Jégat, entendu au titre de l'offre de preuve de la vérité des faits diffamatoires, la juridiction du second degré énonce que, lors de son audition par les fonctionnaires de la DST, ce témoin a fait une relation précise et détaillée des propos tenus par Paul Barril et du comportement de celui-ci à son domicile ; qu'il a décrit minutieusement les armes, documents et objets remis par lui à l'officier de gendarmerie et dont il a toujours affirmé la correspondance avec les pièces à conviction saisies dans l'appartement de l'un des Irlandais ; que la cour d'appel ajoute que ses déclarations concordent avec plusieurs données extrinsèques qu'elle énumère ; qu'elle en déduit que " la remise au capitaine Barril, par Jégat, des armes, explosifs et documents qu'il détenait, constituait l'aboutissement logique de son revirement et de ses démarches tendant à l'information des autorités compétentes sur ses activités antérieures et ses liens avec les milieux terroristes " et ajoute que, comme l'a indiqué le tribunal, " Jégat a été poursuivi et condamné au vu de ses propres explications et que sa version des faits forme un tout " ;

Attendu qu'en l'état de ces énonciations, dont il résulte que la condamnation pénale prononcée contre Bernard Jégat le 24 septembre 1991 n'a pas été retenue par les juges du fond comme un élément de preuve de la vérité des faits diffamatoires, mais a été prise en considération uniquement pour justifier la crédibilité du témoin, l'arrêt attaqué n'encourt pas les griefs allégués à la première branche du moyen ;

D'où il suit que celui-ci, irrecevable en sa seconde branche, qui invoque pour la première fois devant la Cour de Cassation le défaut de prestation de serment des témoins entendus au titre de l'offre de preuve de la vérité des imputations diffamatoires, ne saurait être accueilli ;

Sur le septième moyen de cassation pris de la violation de l'article 6 § 2 de la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales, de l'article 55 de la Constitution du 4 octobre 1958 et de l'article 593 du Code de procédure pénale :

" en ce que l'arrêt attaqué a rejeté l'exception de violation du principe de la présomption d'innocence édictée par l'article 6 de la Convention européenne et confirmé le jugement déféré en ce qu'il a débouté Paul Barril, partie civile, de ses demandes en réparation du préjudice que lui avait causé un article diffamatoire à son égard paru dans le journal Le Monde du 21 mars 1991 ;

" aux motifs que les premiers juges dont la Cour confirme elle-même les appréciations de fond ont relevé, après avoir analysé les imputations figurant dans l'article litigieux, "qu'il s'agit là d'une accusation capitale, qui porte très gravement atteinte à l'honneur et à la considération de Paul Barril" et qu'il "s'agit incontestablement de l'une des plus graves accusations qui puisse se concevoir contre un fonctionnaire public, militaire de surcroît" ; que les premiers juges ont également énoncé "que certains obstacles de droit, comme la difficulté d'appliquer une qualification pénale appropriée aux circonstances de l'espèce, ou de fait, comme l'inaction du parquet ou l'inertie du juge d'instruction, peuvent s'opposer à la poursuite et au jugement de l'auteur d'un comportement répréhensible qui, dès lors, ne saurait tirer de son impunité un brevet d'innocence" ; que les premiers juges répondaient ainsi à l'argument de "l'ex-capitaine Barril" (sic) qui faisait valoir que son absence d'inculpation dans le délai de prescription suffisait à interdire à quiconque de l'impliquer dans les faits que lui impute l'article litigieux ; que cependant le jugement de première instance et par suite l'arrêt confirmatif attaqué lui-même n'a pas pour autant condamné Paul Barril ni ne l'a déclaré coupable de quelque infraction que ce soit par une motivation qui se situe essentiellement dans le cadre des dispositions de la loi sur la presse ; qu'au demeurant Paul Barril n'a pas la qualité d'accusé au sens de l'article 6 § 2 de la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales ; que l'absence de poursuite à l'encontre d'une personne diffamée pour les faits qui lui sont imputés, alors même qu'ils constitueraient une infraction pénale, ne saurait faire obstacle à la mise en oeuvre et à l'exercice de l'action en diffamation fondée sur les dispositions de la loi du 29 juillet 1881 et qu'il est constant que la vérité des faits diffamatoires peut toujours être prouvée, sous réserve du respect des formes prévues par l'article 55 de ladite loi, à l'exception des cas limitativement énoncés par l'article 35 alinéa 3, étrangers à l'espèce ;

" alors, d'une part, qu'au sens de l'article 6 § 2 de la Convention européenne, qui est un texte de droit international, la qualification d'accusé ne doit pas être restreinte au sens qu'elle revêt en droit pénal interne français et que la présomption d'innocence qui est un aspect du droit fondamental de l'homme à l'honneur s'impose à toute juridiction, répressive ou non, et ce quelle que soit la qualité dans laquelle la personne à qui est imputée une infraction se trouve mise en cause ;

" et alors, d'autre part, que l'article 55 de la Constitution du 4 octobre 1958 assure la primauté du droit conventionnel sur le droit interne, que la présomption d'innocence garantie par la Convention européenne doit donc prévaloir sur les dispositions de la loi du 29 juillet 1881 dans tous les cas où il existerait une incompatibilité entre les deux textes et qu'en l'espèce, la présomption d'innocence interdit à la juridiction répressive saisie d'une action en diffamation et qui reconnaît le caractère diffamatoire d'une grave accusation formulée contre la partie civile dans un article de presse, de débouter cette partie civile de sa demande au motif, qui constitue le soutien nécessaire du dispositif et qui revêt donc l'autorité de chose jugée, que les accusations diffamatoires sont l'expression de la vérité, ce qui implique nécessairement de la part de l'autorité judiciaire interne, à l'encontre de la partie civile, présomption qu'elle est coupable d'avoir commis les infractions dont elle a été accusée sans que sa culpabilité ait été légalement établie " ;

Attendu que, pour rejeter les conclusions de la partie civile faisant valoir que le tribunal, en la déboutant de ses demandes par les motifs rappelés au moyen, avait méconnu la présomption

d'innocence édictée par l'article 6 § 2 de la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales, la cour d'appel relève que le plaignant n'a pas été condamné, ni même déclaré coupable d'une quelconque infraction par le jugement entrepris, dont la motivation est cantonnée aux dispositions de la loi sur la liberté de la presse ; qu'elle ajoute que Paul Barril n'avait pas la qualité d'accusé au sens de l'article précité ;

Attendu qu'en prononçant ainsi, la juridiction du second degré a justifié sa décision sans encourir les griefs allégués au moyen, lequel ne saurait, dès lors, être admis ;

Et attendu que l'arrêt est régulier en la forme ;

REJETTE le pourvoi.

Publication : Bulletin criminel 1995 N° 360 p. 1047

Décision attaquée : Cour d'appel de Paris, 1993-07-08

Titrages et résumés : 1° CONVENTION EUROPEENNE DES DROITS DE L'HOMME - Article 6.1 - Tribunal indépendant et impartial - Juridictions correctionnelles - Composition - Cour d'appel - Magistrat ayant participé aux débats relatifs à deux procédures différentes opposant des parties distinctes sur des faits distincts.

1° La participation d'un même conseiller de la chambre des appels correctionnels aux débats relatifs à deux procédures différentes, opposant des parties distinctes sur des faits également distincts, fussent-ils connexes, n'est pas contraire à l'exigence d'impartialité énoncée par l'article 6, paragraphe 1, de la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales.

1° JURIDICTIONS CORRECTIONNELLES - Composition - Incompatibilités - Cour d'appel - Magistrat ayant participé aux débats relatifs à deux procédures différentes opposant des parties distinctes sur des faits distincts (non)

2° PRESSE - Procédure - Appel - Jugement statuant sur le fond - Exception rejetée par un jugement incident passé en force de chose jugée - Pouvoirs des juges.

2° En l'absence d'appel d'un jugement ayant statué sur une exception, autre que celle d'incompétence, dans les conditions prévues par l'article 59, alinéa 2, de la loi du 29 juillet 1881, la juridiction du second degré, saisie de l'appel formé contre le jugement sur le fond, n'a pas à examiner l'exception écartée par la décision incidente passée en force de chose jugée(1).

4° PRESSE - Diffamation - Preuve de la vérité des faits diffamatoires - Moyens - Pièces portant sur des faits antérieurs à la diffamation - Nécessité

3° PRESSE - Diffamation - Preuve de la vérité des faits diffamatoires - Moyens - Documents non signifiés à la partie civile - Portée.

3° La production, par un témoin dénoncé en application de l'article 55 de la loi du 29 juillet 1881, de documents non signifiés à la partie civile, n'affecte pas la régularité de la procédure, dès lors que les juges ne font pas état de ces pièces dans leur appréciation de la preuve de la

vérité des faits diffamatoires.

4° PRESSE - Diffamation - Preuve de la vérité des faits diffamatoires - Moyens - Pièces portant sur des faits antérieurs à la diffamation - Nécessité

4° PRESSE - Diffamation - Preuve de la vérité des faits diffamatoires - Moyens - Elément justifiant la crédibilité d'un témoin entendu au titre de l'offre de preuve de la vérité des faits diffamatoires (non).

4° Il résulte de l'article 55 de la loi du 29 juillet 1881 que, pour être admises au titre de l'offre de preuve de la vérité des faits diffamatoires, les pièces visées par l'article 55 de la loi du 29 juillet 1881 doivent, quelle que soit leur date, concerner des faits antérieurs à la perpétration de la diffamation.

N'entrent pas dans cette catégorie les éléments pris en considération par les juges du fond uniquement pour justifier la crédibilité d'un témoin entendu au titre de l'offre de preuve(2).

4° PRESSE - Diffamation - Preuve de la vérité des faits diffamatoires - Moyens - Pièces portant sur des faits antérieurs à la diffamation - Nécessité

5° CONVENTION EUROPEENNE DES DROITS DE L'HOMME - Article 6.2 - Présomption d'innocence - Presse - Diffamation - Preuve de la vérité des faits diffamatoires - Administration.

5° Ne méconnaît pas le principe de présomption d'innocence édicté par l'article 6, paragraphe 2, de la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales, la cour d'appel qui décide que la preuve de la vérité des faits diffamatoires a été rapportée, dès lors que, à supposer ces faits constitutifs d'une infraction pénale et en l'absence de poursuites, la personne diffamée n'a pas la qualité d'accusé au sens de l'article précité.

5° PRESSE - Diffamation - Preuve de la vérité des faits diffamatoires - Administration - Convention européenne des droits de l'homme - Article 6 - Présomption d'innocence

Précédents jurisprudentiels : CONFER : (2°). (1) A comparer: Chambre criminelle, 1967-05-30, Bulletin criminel 1967, n° 167, p. 396 (rejet), et l'arrêt cité ; Chambre criminelle, 1976-02-12, Bulletin criminel 1976, n° 58, p. 136 (cassation), et les arrêts cités ; Chambre criminelle, 1980-03-17, Bulletin criminel 1980, n° 92, p. 215 (rejet), et les arrêts cités. CONFER : (4°). (2) A rapprocher : Chambre criminelle, 1991-12-10, Bulletin criminel 1991, n° 468 (4), p. 1199 (cassation partielle), et les arrêts cités.

Traites cités : 1° : Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales 1950-11-04 art. 6 par. 1. 5° : Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales 1950-11-04 art. 6 par. 2.

Lois citées : 2° : Loi 1881-07-29 art. 59, al. 2. 4° : Loi 1881-07-29 art. 55.

**Cour de Cassation**  
**Chambre criminelle**  
**Audience publique du 28 novembre 1995**

**Rejet**

**N° de pourvoi : 93-84134**

**Publié au bulletin**

**Président : M. Le Guehec**

Rapporteur : Mme Batut.

Avocat général : M. Libouban.

Avocats : la SCP Lescourd et Baudin, la SCP Lyon-Caen, Fabiani et Thiriez.

## REPUBLIQUE FRANCAISE

### AU NOM DU PEUPLE FRANCAIS

REJET du pourvoi formé par Barril Paul, partie civile, contre l'arrêt de la cour d'appel de Paris, 1<sup>re</sup> chambre, du 8 juillet 1993, qui l'a débouté de ses demandes, après relaxe de Jacques Lescourne et Edwy Plenel des chefs de diffamation publique envers un fonctionnaire public et complicité.

LA COUR,

Vu l'article 21 de la loi du 3 août 1995 portant amnistie ;

Vu les mémoires produits en demande, en défense et en réplique ;

Attendu qu'il résulte de l'arrêt attaqué et des pièces de la procédure que, par exploit du 26 avril 1991, Paul Barril, officier retraité de la gendarmerie, a fait citer devant le tribunal correctionnel Jacques Lescourne, directeur de la publication du quotidien Le Monde, pour diffamation publique envers un fonctionnaire public et Edwy Plenel, journaliste audit quotidien, pour complicité de ce délit, en application des articles 29 alinéa 1, 31 alinéa 1, 42 et 43 de la loi du 29 juillet 1881, ainsi que la SARL Le Monde, en qualité de civilement responsable, à la suite de la parution, dans le numéro daté du 21 mars 1991 du journal précité, d'un article intitulé " Irlandais de Vincennes : les cachotteries de l'Elysée ", portant en sous-titre " Deux documents confidentiels confirment que la vérité sur cette affaire, connue en haut lieu, fut cachée à la justice ", et retenu à raison des passages suivants :

" Une fois n'est pas coutume, une affaire d'Etat, plus pitoyable que dramatique, va donc connaître un épilogue judiciaire. Dans le prétoire, quelques vérités seront enfin échangées, notamment à l'initiative de Jean-Michel Beau, cet ancien officier de gendarmerie qui, après avoir pris sur lui les manipulations de procédure de Vincennes, s'est retourné contre ceux qui l'ont trompé. Ainsi l'ancien major José Windels expliquera qu'il a menti à la justice sur ordre (du commandant Beau, ce dernier ajoutera qu'il est en effet coupable de subornation de témoins mais qu'il a agi sur ordre) de MM. Prouteau et Barril au nom de la "raison d'Etat", et enfin M. Prouteau rejettera l'accusation en assurant que M. Barril lui a toujours caché la vérité ;

## **EXHIBIT E**

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Agence France Presse -- English

November 9, 2005 Wednesday 4:17 PM GMT

**LENGTH:** 511 words

**HEADLINE:** French wiretap trial ends with conviction of Mitterrand associates

**DATELINE:** PARIS Nov 9

**BODY:**

One of France's longest-running legal cases came to an end Wednesday with the conviction of seven former associates of late president Francois Mitterrand being convicted for a phone-tapping scandal dating back 20 years.

The two main defendants, Gilles Menage, Mitterrand's cabinet director between 1988 and 1992, and Christian Prouteau, who was in charge of the anti-terrorist office at the Elysee palace where the bugging was carried out, were each fined 5,000 euros and given suspended prison terms of six and eight months respectively.

The others convicted of invasion of privacy -- a crime that can carry a one-year prison term and a 45,000 euro (58,000 dollar) fine -- included Louis Schweitzer, cabinet director for Mitterrand's prime minister Laurent Fabius in the mid-1980s who is today boss of the Renault car company.

He and another prime ministerial cabinet director, Michel Delabarre, had no sentence pronounced against them, however.

The others found guilty were all former members of the secret unit. Five other defendants were acquitted.

The scandal broke in 1993 when Liberation newspaper reported that the telephones of around 150 people -- including journalists, lawyers and celebrities -- had been tapped from the Elysee palace between 1983 and 1986 with Mitterrand's full approval.

Among those put under surveillance were Edwy Plenel, until recently editorial chief at Le Monde newspaper, actress Carole Bouquet and Jean-Edern Hallier, a writer who committed suicide in 1997.

According to the prosecution, Hallier was suspected of having wanted to reveal the existence of Mitterrand's out-of-wedlock daughter Mazarine, who was finally put into the public's gaze just over a year before her father's death in 1996.

The investigation was held up by successive attempts to have the evidence declared inadmissible under state secrecy laws.

Menage and Prouteau, who both admitted they had ordered some of the phone taps while claiming they were legitimate and stressing that they were following orders, said Wednesday that they accepted the verdicts against them.

Prouteau said he thought the judgement "fair" and said he was happy to see the case come to an end, while Menage said he found the verdict "balanced".

The judge said Schweitzer's lack of sentence was because he had opposed most of the wiretaps, although he was unable to dissuade Mitterrand from putting Hallier's phone under surveillance.

One member of the secret tapping unit, Captain **Paul Barril**, said he would appeal his six-month suspended sentence and 5,000 euro

fine.

A court official said the sentences applied could be wiped from the books under amnesty laws once the fines were paid.

Mitterrand set up his secret anti-terrorist office in August 1982, just after a bomb killed nine people in Paris.

Officials began the phone-tapping operation the next year, using what the investigation said were specious pretexts for monitoring the president's personal enemies.

Revelation of the scandal at the end of Mitterrand's second term helped establish his reputation for intrigue and self-aggrandisement.

**LOAD-DATE:** November 10, 2005

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## **EXHIBIT F**



## ACKNOWLEDGING GENOCIDE

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The killers had counted on international inaction and they were right. It took three weeks of slaughter—well-publicized, brutal slaughter—for the international community to begin recognizing the genocide and three months to send the troops meant to stop it.

On April 29 Secretary-General Boutros-Ghali finally acknowledged that the killing of civilians was distinct from the war, although related to it, and that it had to be ended. The same day, nonpermanent members of the Security Council who had followed the lead of the dominant actors rejected their direction and began to insist on more responsible action. The process of creating a second UNAMIR force, set in motion at that time, delivered peacekeepers to Rwanda in late July. By that time, the RPF had defeated the interim government and driven it into exile.

International leaders had available means other than armed force to influence the interim government but did not use them. They could have eliminated the hate radio, an action which would have had great symbolic as well as practical effect, but they did not do so. Nor did major donors ever threaten publicly that all financial assistance in the future would be withheld from a government guilty of genocide. Such a warning would have raised immediate concern among the many Rwandans who knew how much local and national authorities depended on foreign support and might have caused them to reject the interim government. The leading international actors continued to conduct diplomacy as usual, dealing with the interim government as a valid party to the negotiations which they hoped to broker. Belgium and the U.S. at one time refused to receive representatives of the interim government, but the effect of this exclusion was lessened by the welcome they received in Paris and at the U.N. Fourteen members of the Security Council tolerated a representative of Rwanda at their daily meetings, putting the observance of procedural decorum before the need to denounce a genocidal government and the crime it was committing.

The Security Council discussed an arms embargo at the end of April but imposed it only in mid-May, after thousands more had been slaughtered. The U.N. Human Rights Commission decided in late May that genocide *might* have been committed and mandated an investigation, with the possibility of judicial action against its perpetrators.

The potential effect of these measures, timid and late to begin with, was weakened by continued French support of the interim government. Some French policymakers, led by Mitterrand, were determined to block an RPF victory, even if it meant continuing to collaborate with genocidal killers until they could locate better representatives of the “great majority.” They launched Operation Turquoise as much to prevent an RPF conquest of the entire country as to save civilian lives. In the end, the French soldiers did rescue thousands of persons, but instead of arresting the perpetrators of genocide, they permitted—and in some cases apparently helped—them to escape.

Zaire and the Seychelles assisted the interim government in obtaining arms, and arms dealers in Israel, Albania, and the United Kingdom continued to do business with authorities engaged in genocide. In addition,

Zaire blocked the flight of Tutsi trying to escape the killing campaign and Kenya returned some evacuees to an almost certain death in Kigali.

International leaders took a very long time to admit the appropriateness of the term “genocide” and even then never fulfilled the legal or moral obligation to stop it.

### **The End of April: Recognizing Genocide**

In the last days of April, RTLM urged new attacks to finish “cleaning up” the city of Kigali before May 5, the day projected for Habyarimana’s funeral. Dallaire, who took this call to slaughter seriously enough to deploy the guards mentioned above, also warned headquarters that the killers might be on the point of launching a new round of massacres. Dallaire or another “U.N. officer” in Kigali used the press to alert the public to the “catastrophic” situation and the continuation of massive killings. He stated that if UNAMIR received the necessary resources, it could halt killings by the militia in Kigali immediately. Then he warned, “Unless the international community acts, it may find it is unable to defend itself against accusations of doing nothing to stop genocide.”<sup>1</sup> In the last week of April also, U.N. Undersecretary-General for Humanitarian Affairs Peter Hansen returned from a brief visit to Kigali, appalled by the extent of the horrors.

At the same time, U.N. officials reported outflows of hundreds of thousands of refugees, with the potential to upset the stability of adjacent countries. From April 28 to April 29, an estimated quarter of a million Rwandans fled to Tanzania. In Burundi, an attempted coup by paratroopers was averted, but served nonetheless to warn of the potential catastrophe if large-scale violence there were added to the slaughter in Rwanda.<sup>2</sup>

Many criticized the decision to reduce UNAMIR as reports of the killings continued. The Organization of African Unity accused the U.N. of applying a double standard by cutting troops in Rwanda while strengthening involvement in the former Yugoslavia.<sup>3</sup> The president of Tanzania charged that the reduction of UNAMIR made it appear that “the tragedy was of no concern to the international community.”<sup>4</sup> Human Rights Watch and FIDH stepped up their efforts to demand action from national governments and the U.N., as did a host of other humanitarian and human rights groups. On April 28, Oxfam issued a call for international action against the “genocidal slaughter,” an appeal seconded on May 1 by the European coalition of nongovernmental organizations known as Eurostep, which also recognized the slaughter as “genocide.” Oxfam organized a series of vigils that drew the attention of the secretary-general. The International Committee of the Red Cross said it had “rarely seen a human tragedy on the scale of the massacres.”<sup>5</sup> All agreed that killers were slaughtering civilians away from the battlefield as part of a deliberate campaign against Tutsi and demanded that the U.N. protect them.

### ***Statement by the Secretary-General***

On April 29, the secretary-general finally acknowledged that the war and the civilian massacres constituted two different problems and that the mandate for UNAMIR established the week before dealt with the first, but not with the second. Although ready to assign responsibility for the massacres to “uncontrolled military” and “armed groups of civilians,” he portrayed them as independent actors, motivated by “deep-rooted ethnic hatreds” and taking advantage of the breakdown of law and order. Thus he continued to obscure the government-directed nature of the genocide and lent his credibility to the deliberately inaccurate depiction of the slaughter being disseminated by some representatives of France and by the genocidal government itself. Citing estimates that 200,000 people had been killed in the previous three weeks and warning of the “implications for the stability of neighboring countries,” he asked the council to consider “forceful action” to end the massacres. He suggested that rather than allocate the considerable resources required for a U.N. military operation, the council might choose to act through delegation to a member state. In this way, he opened the door to the later French military operation known as Operation Turquoise.<sup>6</sup>

### *Statement of the President of the Security Council*

As the secretary-general was moving hesitantly towards dealing more effectively with the Rwandan crisis, the Security Council was forced by some of its nonpermanent members to confront the genocide for what it was. During the last week of April, the ambassador of the Czech Republic, Karel Kovanda, began to doubt the interpretation of the crisis as presented by the secretariat. Made aware of the genocidal nature of the slaughter through the press and information from Human Rights Watch and other groups, he called a Human Rights Watch representative on Saturday morning, April 30, to discuss the problem. He said, "You can understand that the issue of Rwanda is not a national priority for the Czech Republic, but as a human being, I cannot sit here and do nothing."<sup>7</sup> He had prepared a draft statement for the council that called the slaughter in Rwanda by its rightful name, genocide, and that warned the interim government of its responsibility for halting it. This attempt to lead the council to confront the genocide produced an acrimonious debate that lasted for eight hours. Rwanda profited from its seat on the council to delay proceedings and to attempt to weaken the statement. It was supported by its ally Djibouti, whose ambassador explained afterwards that some members of the council had not wanted to "sensationalize" the situation in Rwanda.<sup>8</sup> China, generally opposed to dealing with human rights issues in the Security Council, reportedly opposed the use of the term "genocide," as did Nigeria, a leader among the nonaligned members of the council. France continued its campaign to minimize the responsibility of the interim government for the slaughter. The delegate from United Kingdom, who initially derided the draft statement as "laughable" or words to that effect, opposed strong action by the council. As had been clear in the discussion of protection for displaced persons, his government wanted to keep commitments of the U.N. limited, apparently fearing the organization might collapse under the strain of trying anything more ambitious than its usual role of diplomacy. The U.S. delegation supported a fairly strong statement but one without the word "genocide" in it.<sup>9</sup>

Colin Keating, the ambassador from New Zealand, was to finish his term as president of the council at midnight. As it drew near that time, Keating announced his firm intention to have a text decided before he left the chair. Because presidential statements must be adopted unanimously, the supporters of various positions would have to compromise. To ensure that they did so, Ambassador Keating threatened to use his prerogative to declare the meeting an open session, which would have made public the positions of the various delegations. Those most opposed to a strong statement did not want that and so were obliged to agree on a statement that included the wording of the genocide convention, although it did not use the word "genocide." The statement noted that most of the attacks on defenseless civilians had occurred in areas under the control of the interim government. It recalled that persons who instigated or participated in breaches of international humanitarian law were "individually responsible" and it directed the secretary-general to suggest how to investigate reports of such violations.

The council could not be pushed to do much about the genocide at that time. It requested the secretary-general to consult with the OAU to find a way to restore order in Rwanda. In a more forceful vein, it asked states to end arms deliveries and military assistance to the interim government and said it was prepared to impose an arms embargo.<sup>10</sup>

Yet the council had finally been obliged to debate the Rwandan crisis in depth and to hear an interpretation of the Rwandan crisis far more damning of the interim government than that presented by the secretary-general. The nonpermanent members—particularly the Czech Republic, New Zealand, Spain, and Argentina—who at first had left leadership to the secretariat and to the dominant actors, took the initiative on April 30 to insist on measures to halt the genocide. They continued to inform themselves about the issue at a long briefing by a representative of Human Rights Watch organized by Kovanda two days later. In the weeks to come, they were among the most persistent members of the council in pushing for action in Rwanda. Had they been more accurately informed about the slaughter during the first week of April, they might have taken their responsible stand earlier and shamed other members and staff into joining them.

### **Diplomacy as Usual**

Even as officials in foreign governments and the U.N. were beginning to acknowledge the organized nature and enormous scale of the killing in Rwanda, they continued to engage in diplomacy as usual. One U.S. State Department official remarked that the Rwandan crisis differed from others she had experienced because events happened much faster than analysts could interpret them. It is true that the genocide took its toll with astonishing rapidity. But in the Rwandan case, the problem was not just the speed of events but their extraordinary nature. Diplomats are accustomed to dealing with wars; they are not yet accustomed to dealing with genocides.

Although increasingly willing to admit that the slaughter of civilians was an issue apart from the combat, the U.S. and other governments remained stuck in the familiar track of trying to bring the belligerents together.<sup>[11](#)</sup> They sought to repeat their success at Arusha and, to this end, carried on contacts “with everyone imaginable,” as one State Department official put it. In early May, the U.S. ambassador to Rwanda and the assistant secretary of state for human rights and humanitarian affairs traveled to the region to try to mobilize neighboring African governments to put pressure on the warring parties. The French sent their ambassador to various African governments to do the same.

Achieving a cease-fire remained an unlikely goal because the interim government demanded that the RPF put down its guns before it end the killings of Tutsi and the RPF refused to stop firing while the slaughter of civilians continued. Focusing on these diplomatic manoeuvres led the U.S. and others to continue treating the genocidal government as a valid interlocutor which supported its efforts to present itself as legitimate at home as well as abroad. The wish to ensure “neutrality” in order to mediate the conflict kept officials from the frank and forceful condemnation of the genocide that might have affected Rwandans, both those most implicated in the killing and the moderates who dissented from it. On April 22, at the urging of Human Rights Watch, National Security Adviser Anthony Lake issued a statement calling on General Bizimungu, Colonel Bagosora, Colonel Nkundiye, and Captain Simbikangwa to “do everything in their power to end the violence immediately.”<sup>[12](#)</sup> This innovative step remained an exception. One State Department official who recognized the potential value of drawing attention to the alleged leaders of the genocide despaired of getting any further action from the U.S. government and suggested that nongovernmental organizations publish a full-page notice in the international press denouncing those responsible for the slaughter. President Clinton did make a one-minute radio address to Rwanda on April 30. But the message—that he hoped all Rwandans would recognize their common bonds of humanity—was so mild as to be worthless. In fact, it may have done more harm than good. Killers could take satisfaction that the U.S. president had no stronger words of reproach for them, while the victims could feel betrayed by the weakness of the remarks.

Human Rights Watch also asked both the State Department and the White House to mobilize the heads of all the major donor nations to make a joint statement, preferably in conjunction with the World Bank, vowing never to assist any government that had come to power through genocide. U.S. officials, and likely others, transmitted such warnings to General Bizimungu and other authorities privately, but they never delivered such a message publicly in a way that would have ensured its impact both on the genocidal authorities and on moderates who might have been encouraged to oppose them.<sup>[13](#)</sup>

Because it was well known that radio RTLM was inciting genocide, Human Rights Watch and others asked U.S. officials to jam the station. The State Department assigned a team of lawyers to examine the question, but they decided that an international agreement on broadcasting and the traditional American commitment to freedom of speech were more important than disrupting the voice of genocide. Efforts by FIDH and other organizations to obtain action on RTLM from European governments also produced no results.<sup>[14](#)</sup>

Throughout the first weeks of killing, international leaders refused to talk of “genocide,” apparently because they feared the legal and moral obligations that would follow from recognizing the crime. The U.N. discouraged use of the term and apparently cautioned Dallaire not to use it, perhaps after the press statement mentioned above. Claes also corrected himself in public after he mentioned “genocide,” saying “We are not using that word, but that’s what it is.”<sup>[15](#)</sup> The U.S. State Department and National Security Council told staff to

acknowledge only that “acts of genocide may have occurred.”[16](#)

The pope actually used the word “genocide” in condemning the violence on April 27.[17](#) Boutros-Ghali followed suit a few days later and various national leaders, beginning with French Minister Alain Juppé and representatives to a meeting of the European Union, two weeks after that.[18](#) At the May 25 meeting of the United Nations Human Rights Commission, however, the delegates concluded only that genocide might have occurred and should be investigated (see below). The next day, the State Department declared that the question of whether genocide was taking place was “under very active consideration.” Only after the directive to avoid using the term was revealed in the *New York Times* on June 10 and was ridiculed by critics did U.S. Secretary of State Warren Christopher agree that use of “genocide” was appropriate when talking of Rwanda.[19](#)

In one of the few routine diplomatic actions to show public disapproval of the interim government, the U.S., Belgium, and a number of other governments refused to receive its delegations sent abroad at the end of April. But the impact of this refusal was at least in part counterbalanced by their being received at the United Nations. There the undistinguished Foreign Minister Jérôme Bicomumpaka, supported and directed by CDR leader Jean-Bosco Barayagwiza, took the seat of the Rwandan delegation at the May 16 meeting of the Security Council. In a somewhat incoherent and unconvincing address, Bicomumpaka attempted to justify the genocide, recounting for the diplomats many of the lies and distortions ordinarily delivered over RTLM. In addition to the usual assertions about the hundreds of thousands of Hutu killed by the RPF “simply because they were Hutu,” he introduced the novel allegation that RPF soldiers ate the hearts of their victims. He recounted that the radio in Rwanda was broadcasting messages of peace and that government leaders were crisscrossing the country to hold pacification meetings. He claimed in fact that the killing was finished, except in areas where fighting with the RPF continued.

The delegates of the fourteen other nations around the Security Council table then had a chance to comment. Given the rare opportunity to address directly a high-ranking official of a government that was even then carrying out genocide, representatives of Brazil, China, Djibouti, France, Oman, Pakistan, the Russian Federation, the United States, and Nigeria spoke only in the vaguest terms of humanitarian catastrophes, or at best said, “the killings must stop” without indicating who must stop them. Only the representatives of Argentina, the Czech Republic, New Zealand, Spain, and the United Kingdom addressed remarks of varying sharpness to the messenger who would shortly be returning to Rwanda. The delegate of Nigeria, who spoke last, called on the international community to support “the innocent civilians in Rwanda.” But in this august setting, he and the representatives of eight other nations had missed an opportunity to do just that. They had failed to deliver a firm and unanimous denunciation of the genocide being executed by the government whose representatives sat at the table with them.[20](#)

Perhaps these Rwandan emissaries, or others who traveled to various African countries were subjected to frank criticism in private about the genocide, but, in public, diplomatic appearances were preserved. From what other Rwandans heard of these meetings abroad, they could surmise only that foreign governments and the U.N. as well had little knowledge of the genocide or did not think it merited serious comment.

The Organization of African Unity, which had promoted the Arusha negotiations and provided military observers before the U.N. became involved, proved no readier than the U.N. to call genocide by its rightful name. It opposed the reduction of UNAMIR, but referred to the slaughter as “carnage and bloodletting” and “massacres and wanton killings.”[21](#) Fourteen heads of African states finally condemned “genocide” in early June, but at the OAU summit in mid-June, Interim President Sindikubwabo was seated as the representative from Rwanda. That meeting, which described the killings as “crimes against humanity,” provided the occasion for discussions that produced a cease-fire that was never executed.[22](#)

## UNAMIR II

At the same meeting where Rwandan representatives tried to explain away the genocide, the Security Council finally voted to send a second UNAMIR force to Rwanda. Had the new force been mobilized quickly, it might have rendered real assistance to the “innocent civilians” spoken of by the Nigerian representative. But just as the council was slow in authorizing it, so the various national and international bureaucracies were slow in implementing it. The new force arrived too late to protect Tutsi from genocide.

The secretary-general had been asking member states to provide troops for Rwanda since early May. No nation outside the continent was likely to send soldiers to Rwanda and, in fact, it proved very difficult to muster the needed forces from other African countries. But by May 10, the supply of troops seemed well enough assured to proceed with crafting the mandate for the force. The U.S., in its first official application of PDD 25, wanted to go carefully through all the steps devised in Washington. Just when the process appeared finished and a resolution in sight for Friday, May 13, the U.S. delegation announced it had “no instructions” for the vote, forcing a postponement until May 16.[23](#)

In the resolution adopted on May 17,[24](#) the Security Council still eschewed the word “genocide” although once again using the words of the 1948 Genocide Convention. It mentioned again that such crimes were punishable under international law and, for the first time, drew attention to the role of the mass media in inciting violence. The mandate itself provided for contributing “to the security and protection of displaced persons, refugees and civilians at risk in Rwanda” and for providing security to humanitarian relief operations. It broadened the sphere of responsibility from the city of Kigali to Rwanda as a whole and it authorized “secure humanitarian areas,” so recognizing and enlarging upon what UNAMIR had been doing in practice in Kigali since the start of the crisis. Although still officially a Chapter VI mandate, this charge recognized that UNAMIR “may be required to take action in self-defense against persons or groups who threaten protected sites and populations,” making it really a chapter “six and a half” operation. The difference in mandate from that of UNAMIR I was, in fact, very small, except in terms of the larger geographical area of responsibility. The real difference was in the size of force projected, some 5,500 troops, a number that Dallaire himself had said would be necessary to stop the genocide. The resolution also imposed an arms embargo against the government of Rwanda.[25](#)

At the time of the vote, the U.S. delegation required further information and field assessments before deploying the full force. Dallaire had proposed having UNAMIR II land in Kigali where its troops could most rapidly end the massacres, but the U.S. feared the force might then become caught in combat between the Rwandan army and the RPF. Instead it favored deploying the troops on the periphery of Rwanda where they could establish safe zones to protect civilians. One reason for caution was the strong position taken by the RPF against a second UNAMIR force (see below). Neither the U.N. nor the U.S. nor any other national actors wished to risk a confrontation between peacekeepers and a force that had appeared very effective in combat.

For the peacekeepers in Kigali, the wait for authorization of a new force had seemed interminable. They understood that action by the Security Council would not necessarily deliver prompt assistance to Rwanda and to UNAMIR I. Executive Director Abdul Kabiah tried to convey a sense of urgency that might spur the various national and international bureaucracies to faster action. He told the press:

We need logistical support, armoured personnel carriers (APCs) and troops to stop the carnage. Everyone is appalled by the killing but the world must back up this kind of concern and act now.[26](#)

The lengthy exchanges about plans, troops, finances, logistics, and strategy between Washington and the U.N.—complete with mutual recriminations about unnecessary delays—finally produced the authorization for UNAMIR II on June 8, two months and a day after the first slaughter and more than five weeks after the secretary-general had announced the need for a new force. Because the African soldiers to be sent lacked essential equipment, the secretariat then engaged in further long exchanges to obtain the necessary provisions from better-equipped nations. In a process that was already well-established in other peacekeeping operations, the troop-supplying nations used this as an opportunity to squeeze the maximum amount from the wealthier

nations, while the latter sought to keep their contributions to a minimum. The U.S. was much criticized for its outrageous delay of seven weeks in negotiating the conditions of delivery for fifty armored personnel carriers. It appeared that the problems had to do with adequate payment for transport and spare parts. But other wealthy nations also contributed little or contributed it slowly. The U.K., for example, came up with only fifty trucks.[27](#)

Such delays were not unusual in mustering U.N. operations. What was unusual was the context of the operation. In its June 8 resolution, the Security Council had finally used the word “genocide,” not in its full brutality, but in the more tentative form “acts of genocide.” Even though its members had acknowledged the crime for what it was, they could not get the additional troops to Rwanda in time to make any difference. In mid-June, Clinton was criticized by members of Congress and the press for tolerating the delays. He then directed U.S. officials to move faster to help get the new U.N. force to Rwanda.[28](#) But if this effort had results in Washington, it seems to have done little to cut through the red tape and to move the bureaucrats in New York. It was business as usual, as it had been diplomacy as usual, with no sense of the lives lost through delay. After the RPF had won the war and established a new government on July 19, there were still about the same number of UNAMIR soldiers in Rwanda as there had been at the time of the withdrawal in April.[29](#)

## Human Rights Agencies

The genocide in Rwanda began just after José Ayala Lasso assumed the newly created post of the U.N. High Commissioner for Human Rights. The office had been established not only to give greater visibility to human rights but also to permit faster and more flexible reactions to crises than were possible with the somewhat cumbersome Human Rights Commission. At the request of various national governments and nongovernmental organizations, the high commissioner visited Rwanda in early May. There he pressed the interim government to allow the evacuation of Tutsi trapped at the Mille Collines and other sites in Kigali. Soon after the Rwandan authorities became more cooperative in permitting evacuations, perhaps as a consequence of his efforts and of their growing concern with their image abroad.[30](#) Lasso’s report, issued on May 19, 1994 described the killings in Rwanda as “a human rights tragedy of unprecedented dimensions” and made clear that those in command of the killings must be held individually responsible for their violations of international law. But it was only in the context of urging “all players” to end the tragedy that he mentioned “genocide,” asking for strict observance of international conventions, including that against genocide.[31](#)

Although the high commissioner showed early awareness of the crisis and courage in going to assess its extent personally, he failed to translate his concern into forceful action. Rather than suggest new strategies for coping with the catastrophe, he issued the expected calls to stop the violence and the usual warnings about the consequences of not stopping. He also proposed a special meeting of the Human Rights Commission and suggested that the commission consider appointing a special rapporteur with a supporting staff of human rights field officers. These measures, which were taken, were valuable, but only in the longer term.[32](#) After his initial visit and report, the high commissioner made no sustained, vigorous effort to keep the genocide before the international community and to insist on action in this crisis which, although just one of his responsibilities, was certainly the most urgent.

The U.N. Human Rights Commission, which had refused to discuss the case of Rwanda in open session in 1993, was called into emergency session on the initiative of Canada on May 25, 1994 to deal with the ongoing slaughter. After a day and a half of formal denunciations of the violence by professional diplomats, it heard an afternoon of less polished but more heart-rending testimony by representatives of Rwandan and international nongovernmental organizations. Although a number of delegates, including those from France and the U.S. spoke of genocide or acts of genocide, the final resolution did not acknowledge that genocide had occurred. Rather it named a special rapporteur to investigate if genocide had in fact taken place.[33](#) At the meeting, diplomats and activists pressed for an international tribunal to bring to trial those accused of genocide.

The Human Rights Commission’s special rapporteur on Rwanda, René Degni-Ségui, presented his first report

on June 28. He concluded that genocide had been committed in Rwanda and should be punished by an international tribunal. He also condemned executions and assassinations of Hutu by the RPF.<sup>34</sup> On July 1 the Security Council created a Commission of Experts to evaluate the evidence of serious human rights violations including possible acts of genocide in Rwanda with the expectation that an international tribunal would be established to deal with them, as had been done recently in the case of former Yugoslavia.<sup>35</sup>

International denunciations and the associated threat of action by an international tribunal worried some of those responsible for the genocide. RTLM sought to dispel their concerns by claiming that the international disapproval resulted from RPF propaganda, such as that which had convinced U.S. senators to write to Clinton denouncing the killings as genocide.<sup>36</sup> Censure by foreigners would be fleeting said RTLM, having been provoked by “the action of the *Inkotanyi* girls who spread their legs in hotels...[to seduce the European] and recount to him the anguish of their brothers...in order to get the Rwandan government and the FAR [Rwandan army] condemned for genocide.” The announcer continued,

I would like...to remind the FAR that if we fight well and win, the Europeans will forget these stories of commissions; they will forget these stories of embargoes; all these things that they are talking about, and even foreign aid will be re-established...

We cannot do anything else to shut up those people who try to discourage us by threatening to bring us before an international tribunal, or wherever...All who seek to demoralize us, we must fight them.<sup>37</sup>

RTLM responded quickly to news of the special rapporteur’s report and the Security Council resolution. On July 2, Kantano Habimana declared that the international community had done nothing to punish slaughter in Burundi in 1972 or in 1993 and that the International Tribunal for Bosnia had not convicted anyone. Perhaps using the strategem of “accusing in a mirror,” Kantano Habimana concluded, “So for Rwanda, they cannot say anything that will worry us...let us continue to do our work and to fight against the *Inyenzi-Inkotanyi* that began this combat and that has since already killed more than a million people.”<sup>38</sup>

The apparent impact of international censure, even at this late date when so many had committed themselves to the killing campaign, suggests that similar denunciations, made earlier and more forcefully, could have swayed the decisions of those not yet active in the genocide.

## Arms and Ammunition

The message of condemnation of the genocide, sent in a tardy and hesitant way, was counterbalanced throughout these months of horror by another message from international actors indicating acquiescence in the slaughter. A small number of persons, officially and unofficially—in such countries as France, the United Kingdom, Israel, Albania, South Africa, the Seychelles—supplied the weapons needed by the authorities who were executing the killing campaign. (For the case of France, see below.)

On April 10, in one of its first actions, the newly installed interim government made contact with the Mil-Tec corporation, arms dealers in the United Kingdom, to place an urgent order for U.S.\$854,000 worth of arms and ammunition.<sup>39</sup> A weeklater, it sent Lt. Col. Cyprien Kayumba on a two month mission to Kinshasha, Nairobi, Paris, Tunis, Cairo and Tripoli in search of arms.<sup>40</sup> Bagosora also went to the Seychelles and apparently to Malta and perhaps elsewhere to buy weapons.<sup>41</sup> Ndindiliyimana went to Europe in June with the charge to speed lagging deliveries.<sup>42</sup> Other emissaries may also have been sent to attempt to purchase firearms.<sup>43</sup>

Clearly the interim government placed great importance on ensuring a supply of weapons and ammunition. Clearly also it was ready even to change policy to avoid an interruption in the flow of arms. As official statements down to the level of the commune show, “pacification” was in part a response to the fear that the supply of arms would be disrupted. (See above.) On one level, continued deliveries were important to the

legitimacy of the interim government, as an indicator that the international community was prepared to tolerate even if it did not approve of the genocide. On a practical level, the guns and bullets were needed to fight the RPF, a consideration which weighed especially heavily with the military officers in charge of combat. In addition, the firearms were needed in exterminating the Tutsi. Some foreign observers have minimized the importance of firearms in the genocide. Colonel Marchal, for example, stated that “the massacres were done by militias with machetes,” an opinion voiced also by Kofi Annan.<sup>44</sup> Certainly most assailants killed Tutsi with machetes, hammers, clubs, and other such weapons. But, as the evidence above shows, soldiers and militia slew thousands of civilians with firearms and grenades. They used these weapons also to terrorize tens of thousands of others, paralyzing them before assailants who killed them by other means. At massacre sites, bullet shells litter the ground and holes in walls and ceilings testify to the use of the grenades. Witnesses from various regions agree that the attacks began with the use of firearms, including sometimes even heavy weaponry. They also agree that the guards at most important barriers had at least one firearm or several grenades which they used to execute Tutsi or to intimidate them to make it easier to kill them in other ways.

As is often the case with the profitable arms trade where a multiplicity of parties compete, official or unofficial actors from at least thirteen countries participated in the commercial transactions that kept Rwanda supplied with arms. In addition to the French authorities and private agents (discussed below), government officials in the Seychelles twice shipped arms to Rwanda. Bagosora himself went there to negotiate the delivery of some eighty tons of arms and ammunition at a cost of some U.S.\$330,000. The government of Zaire provided an essential link in the supply line by permitting its airports at Kinshasha and Goma to be used for the delivery of arms that were then shipped on to Rwanda.<sup>45</sup>

Arms dealers in Israel, the United Kingdom, South Africa, and Albania had no scruples about selling weapons to authorities who were executing a genocide. Lieutenant Colonel Kayumba arranged for the delivery of five different shipments from the Mil-Tec Corporation, operated by two Kenyans, Anup Vidyarthi and Rakeesh Gupta, and under the directorship of two British subjects, John and Trevor Donnelly. Rwandan records show that Mil-Tec shipped U.S.\$5.5 million worth of ammunition and grenades on April 18, April 25, May 5, May 9, and May 20. They obtained the first two shipments in Israel and the later ones from Albania. Shipping documents show that Mil-Tec used an aircraft registered in Nigeria but leased from a company in the Bahamas to make its deliveries.<sup>46</sup> In another case, a South African plane reportedly delivered arms to Butare airport at the end of May, as mentioned above.

According to correspondence between Mil-Tec and the National Westminster Bank in the U.K., Mil-Tec deposited payments for arms sales to Rwanda in an account there. A U.N. commission investigating the traffic in weapons to Rwanda found that banks in Belgium (Banque Bruxelles Lambert), France (Banque National de Paris), Switzerland (Union Bancaire Privée, Geneva), Italy (Banca Nazionale del Lavoro), and in the U.S. (Federal Reserve Bank, Chase Manhattan Bank) also handled financial transactions involved in the purchase of weapons.<sup>47</sup>

Because the profitable trade in small arms is not subject to the same monitoring as the traffic in heavier weapons and involves so many actors, observers sometimes conclude that arms embargoes targeting such weapons can be nothing more than futile gestures. In the Rwandan case, once the Security Council had declared an arms embargo on May 17, arms dealers took the usual route of obtaining false declarations from friendly governments—in this case, Zaire—to hide continued traffic. Bagosora used this device in the Seychelles, presenting false documentation and claiming to be an officer in the army of Zaire. In another case, Zaire issued the necessary false documents for two arms dealers who intended to transfer arms stocked in Belgium to Goma for Rwandan use.<sup>48</sup>

Still the embargo did slow and hinder the delivery of weapons to the interim government. The government of Egypt, which had been negotiating an exchange of weapons for tea then stocked at Mombasa, ended discussions after the imposition of the embargo. The government of Libya, which had also promised arms, in

the end delivered none, perhaps because of the embargo.<sup>49</sup> South African officials reportedly refused to violate the embargo but offered to help Bagosora obtain arms by other means.<sup>50</sup> The government of the Seychelles asserts that it unknowingly violated the embargo because it believed the arms to be destined for Zaire and that it canceled a planned third shipment of arms when it learned this was not the case. In fact, Seychelles authorities may have known that the arms were meant for Rwanda even at the time of the first shipments. They may have refused to send the third shipment because the local press had embarrassed them by publicizing the deal.<sup>51</sup> In June, the British government issued an order prohibiting firms in the U.K. from selling arms from a third country to Rwanda as the Mil-Tec Corporation had been doing.<sup>52</sup> At about the same time, U.S. authorities may have blocked the transfer of funds from the Federal Reserve Bank that were intended to pay for the last shipment of the Mil-Tec Corporation.<sup>53</sup> In a case to be discussed below, the French company SOFREMAS, ready to do business for U.S.\$8 million worth of arms on May 6 reportedly decided in the end not to do so because of the embargo.<sup>54</sup>

The arms embargo, first mentioned on April 30, was imposed only on May 17, after thousands more people had been slaughtered. After that time, governments acted to enforce compliance on individuals and corporations operating on their territory only slowly or not at all. Rwandan authorities feared a disruption in the flow of arms and the prospect of an embargo was one of the most important spurs to the policy of “pacification.” Had the embargo been put in place earlier and enforced more rigorously, it might have pushed the interim government to end the slaughter instead of just changing the way it was carried out.

### **“Vive La Cooperation Franco-Rwandaise”**

Even as the number of victims of genocide mounted, some French officials pursued the goal of assuring the heirs of Habyarimana the predominant political role in Rwanda. In so doing they weakened the impact of weak and tardy efforts to halt the slaughter and strengthened the resolve of the genocidal government. The French had hoped to use the U.N. peacekeepers to protect the Rwandan government against the RPF, but this strategy collapsed with the renewal of combat and the withdrawal of UNAMIR into passivity. President Mitterrand and some of the military closest to him were not prepared to accept the prospect of a RPF victory. General Christian Quesnot, head of the president’s own military staff, and General Jean-Pierre Huchon, who had been part of Mitterrand’s military staff until he became head of the French military assistance program in mid-1993, apparently shared and shaped Mitterrand’s analysis of the Rwandan situation.<sup>55</sup> Mitterrand, military officers with links to Rwanda, and many political leaders as well, had assimilated the doctrine of the *rubanda nyamwinshi* propagated by Hutu Power advocates. Like them, they unquestioningly equated the ethnic majority to the political majority. Whether they chose to speak of Hutu representing 80 percent of the Rwandan population or of Tutsi comprising 15 per cent of the total (the missing 5 percent was never mentioned), they never doubted that Hutu had the right to dominate political life. That the minority was supported by their Anglo-Saxon rivals only reinforced their loyalty to the Hutu.<sup>56</sup> With the resumption of combat, some high-ranking military officers held even more strongly to their belief that the RPF were “Black Khmers” and some privately challenged the Arusha Accords. One told a researcher, “Arusha is Munich,” referring to the classic case of appeasement of the Nazis that preceded World War II.<sup>57</sup> Soldiers used terms like “Tutsiland” and “Hutu country” in private correspondence and even in official orders.<sup>58</sup> For policymakers and soldiers trapped in this ethnic analysis of the situation, Habyarimana had been the quintessential representative of the majority people. With his death, they saw the circle of those identified with him as the only leaders likely to succeed in withstanding the RPF threat.

### ***“Getting Your Hands Dirty”***

The Rwandan politicians who formed the interim government on April 8 realized the importance of French support and kept French Ambassador Jean-Michel Marlaud well informed of their progress toward taking control. He found the new government acceptable even though it was composed exclusively of Hutu Power supporters and even though it had refused his suggestion to make Faustin Twagiramungu, designated prime minister by the Arusha Accords, head of the government instead of Kambanda.<sup>59</sup> The day after its

installation, the interim government sent its foreign minister to ask Marlaud for French troops to “contain the situation.”[60](#)

French soldiers were supposed to have left Rwanda in December 1993 under the terms of the Arusha Accords. Only twenty-four remained officially after this date, as part of a military training program for the army general staff, the National Police and other units. But according to Michel Roussin, then Minister of Cooperation, forty to seventy soldiers were actually in Rwanda in early April.[61](#) Within minutes after the plane was shot down, French soldiers were at the site of the crash, although UNAMIR soldiers were prevented by Rwandan troops from approaching it. The next morning, four French soldiers stood guard outside the Habyarimana’s home while members of the Presidential Guard escorted visitors in and out.[62](#) Early on April 9, French soldiers secured the airport for the arriving evacuation force, working in close cooperation with Rwandan army troops, and they served as intermediary between the Rwandan soldiers and the Belgian evacuation force, then regarded as hostile by the Rwandans.[63](#)

The deputy defense attaché at the French embassy, Lt. Col. Jean-Jacques Maurin, was in charge of the troops because the defense attaché was out of the country. Maurin, who had served as adviser to the general staff since 1992, was well-acquainted with Rwandan military leaders and presumably well-placed to influence them. According to Ambassador Marlaud, he and Maurin tried on the afternoon of April 7 to persuade Bagesora to “take control of the situation,” ignoring the fact that he was already in control of the violence.[64](#) Otherwise there has been no account of the role played by these French advisers during the first days of the crisis, when the officers whom they had been training were ordering their troops to slaughter civilians. Nor has there been an explanation of the duties of the two French soldiers slain by the RPF, along with the wife of one of them, on April 8. They were supposedly found in possession of communications equipment. Some officers in Belgian military intelligence believed that the French had tapped the phone system in Kigali.[65](#)

For several days, the French considered meeting the request of the interim government for military assistance. According to a commission of the French National Assembly that investigated the Rwandan tragedy, the evacuation operation had a “strictly humanitarian purpose” but “could have developed into something other than a simple humanitarian operation.”[66](#) They mention that the force came equipped with Milan missiles and that a group of thirty-five men, at least one of them an intelligence expert, remained in Rwanda under Maurin’s orders even after the embassy had been closed and all the foreigners and other French soldiers had been evacuated. The contingent left behind was ordered to gather information on the local situation, propose appropriate action, and guide air support operations. As the commission notes, it is difficult to imagine for whom the air support might be destined if not the Rwandan army.[67](#)

The relative weakness of the government troops and the rapid advance of the RPF must have discouraged decision makers in Paris from attempting yet one more rescue of the Rwandan army. The French had also consulted with at least the U.S. and Belgium about some form of intervention, as mentioned above, and had found them unwilling to participate. According to official records, the last of the French troops was withdrawn on April 14.

Some soldiers long committed to supporting Rwandan colleagues regretted this decision. Col. Jean Balch, one of that group, commented:

...it would have taken very little (a few French military advisers) to reverse the situation. June 1992 and February 1993 [when French aid had halted the RPF] could perfectly well have been “replayed” in April 1994.[68](#)

Unwilling to provide military aid, the French provided discreet but vital political support to the interim government, at the U.N., in diplomatic exchanges with other governments, and through public statements.[69](#) They argued, as did the Kigali authorities, that the massacres were a virtually inevitable response to RPF military advances.[70](#) They often refused to acknowledge the role of Rwandan authorities in directing the

genocide; as late as June 22, French military officers spoke of the need to help authorities reestablish control over the killers.<sup>71</sup> At other times, they admitted the responsibility of the interim government, but sought to minimize it by depicting the genocide as part of a particularly vicious “tribal war” with abuses on both sides.<sup>72</sup> In an interview with representatives of Human Rights Watch and the International Federation of Human Rights Leagues, Mitterrand’s chief adviser on Africa, Bruno Delaye, conceded that the “Hutu” had done terrible things, but he insisted that it was because they were fighting for their lives. It was regrettable, but that was the way Africans were.<sup>73</sup> On May 16, then Foreign Minister Alain Juppé became one of the first important statesmen to use the term “genocide” in referring to Rwanda, but in mid-June he wrote about “genocides,” suggesting both sides were engaged in the crime.<sup>74</sup>

Using the pretext of keeping contact with all parties to the conflict, Juppé and Delaye welcomed to Paris the delegation of the interim foreign minister, Jérôme Bicomumpaka, and CDR head Jean-Bosco Barayagwiza. Although a French government spokesman described the visit as unofficial, the two were received at the French Presidency and at the Office of the Prime Minister. At the time, Human Rights Watch questioned a French representative in Washington about the meetings and was told that French officials had used the occasion to press for an end to the massacres.<sup>75</sup> In Paris, Delaye answered a similar question from Daniel Jacoby, then President of FIDH, by saying that it was better to talk to them than not to.<sup>76</sup> Challenged subsequently about the wisdom of meeting with representatives of a government engaged in genocide, Delaye stated that he had received 400 assassins and 2,000 drug traffickers in his office. “You cannot deal with Africa,” he asserted, “without getting your hands dirty.”<sup>77</sup>

During the 1998 inquiry at the National Assembly, Foreign Minister Hubert Védrine, who was secretary-general at the French Presidency in 1994, was asked why France had accorded legitimacy to the genocidal government. He responded that:

It was not a question of legitimacy or illegitimacy, which is based in a democratic way of thinking not appropriate in the context of the period.... France does not select and does not judge some as more than legitimate than others. It saw that there was a terrible conflict which it watched with consternation since its purpose had been for years...to prevent that conflict. Hence its desire to negotiate a cease-fire, which required continuing a dialogue with all the parties.<sup>78</sup>

In fact, as shown above, other governments also continued discussions with the interim authorities but found more private ways to do so. If French officials chose such a highly visible way to maintain contact with the genocidal government, they did so fully aware of the political message being sent. It made genocide seem respectable in Paris, an encouragement to its supporters in Rwanda and a lever for the interim government to use in securing entry in other capitals abroad.

According to former minister of cooperation, Bernard Debré, Mitterrand at first remained “very attached to former President Habyarimana and his family, and to everything that was part of the old regime.”<sup>79</sup> This attachment took the concrete form of a gift of some U.S.\$40,000 to Madame Habyarimana at the time of her arrival in France, a sum that was designated as “urgent assistance for Rwandan refugees” and was taken from the budget of the Ministry of Cooperation.<sup>80</sup> This grant provoked such anger among staff of the ministry that information about it was leaked to the press. Ministry staff also formally and unanimously demanded that “money budgeted by the Ministry of Cooperation for Rwanda be used for humanitarian assistance for the people of the country” and deplored the French refusal to evacuate Rwandan employees, some of whom had worked with the French for many years.<sup>81</sup>

French authorities occasionally used their influence to protect people, as when they intervened at the Hotel Mille Collines. Just after the mid-May incident, an official at the foreign ministry remarked to a reporter that the success of the initiative “shows to what extent Paris can still influence events.”<sup>82</sup> But when asked to use their power to produce a more general change in the policies of the interim government, French officials often professed having no means to do so. Two weeks after the first incident, Delaye told representatives of

Médecins sans Frontières that he could not exert influence on Rwandan authorities because he could not get them on the telephone.<sup>83</sup> When asked to comment four years later on whether pressure from Paris had brought about change in the policies of the genocidal government, a high-ranking French official familiar with the Rwandan dossier replied, “What pressure? There was no pressure.”<sup>84</sup>

### *Aid to the Rwandan Armed Forces*

Official deliveries of arms by the French government to other governments are regulated by well-defined rules, but in the case of Rwanda—as in many others—the rules were rarely followed. According to the National Assembly investigative commission, thirty-one of thirty-six deliveries of weapons to Rwanda during the years 1990 to 1994 were made “without following the rules.”<sup>85</sup> According to the commission, there were no legal and official deliveries of arms after April 8, 1994, a position reiterated by an official from the Ministry of Defense. But the commission left open the possibility of other kinds of deliveries linked to France, saying specifically that its report did not “exhaust the reality of the subject.”<sup>86</sup> Speaking privately, various military officers and officials in the ministries of cooperation and defense indicated that deliveries of weapons by French actors—perhaps unofficially, illegally, or transacted outside France—took place while the genocide was going on.<sup>87</sup> Bernard Debré reported his impression that France might have supplied arms for some time after the start of the genocide. He stated that he asked Mitterrand about this and the French president replied, “Do you think that the world woke up on April 7 saying today the genocide is beginning?”<sup>88</sup>

According to a U.N. military observer, one of the three French planes that delivered the troops of the evacuation mission also brought cases of ammunition for mortars. French officials had informed UNAMIR that the first planes bringing troops of the evacuation force would land at 6 a.m. on April 9 but they actually arrived more than two hours early. Rwandan soldiers, correctly informed of the arrival time, had removed the trucks blocking the runway to allow the plane to land. The ammunition was unloaded from the plane and taken away by Rwandan army vehicles.<sup>89</sup>

Research done by the Arms Division of Human Rights Watch established that the French government or French companies operating under government license delivered arms to the Rwandan forces five times in May and June through the town of Goma, just across the border from Gisenyi, in Zaire.<sup>90</sup> The first of these shipments may have taken place before May 17, when the Security Council imposed an embargo on the supply of arms to the interim government, but it was still done in disregard of its April 30 appeal “to refrain from providing arms or any military assistance” to the parties to the conflict. On one of the dates in question, May 25, a plane from Malta landed at Goma with a single passenger, T. Bagosora, in addition to its cargo.<sup>91</sup>

Lt. Col. Cyprien Kayumba spent twenty-seven days in Paris in an effort to speed the supply of arms and ammunition to the Rwandan army. During that time, he was reportedly a regular visitor to the office of French military cooperation, where he frequently saw its head, General Huchon.<sup>92</sup> Just two days after the visit of Barayagwiza and Bicomumpaka to French officials, Kayumba submitted a large order for arms to SOFREMAS, Société Française d’Exploitation de Matériels et Systèmes d’Armement, an enterprise controlled by the French state that serves as intermediary between French arms manufacturers or dealers and countries seeking arms. According to correspondence later recovered from the archives of the Rwandan Ministry of Defense, SOFREMAS wrote Kayumba on May 5 at his Paris address, stating that they were prepared to ship U.S.\$8 million worth of ammunition of South African manufacture as soon as they received a payment of 30 percent of the price and the necessary EUC/Zaire. EUC stands for End User Certificate, the formal attestation by a government that the arms purchased were for its own use and not for resale or transshipment elsewhere. This document was to be provided by Zaire in a clear attempt to hide the real purchaser of the arms, which would have been shipped to Goma, not to Kigali. Although the arms embargo had not yet been voted by the Security Council, SOFREMAS knew it would be embarrassing to be discovered supplying arms to Rwanda during a period when a genocide was being executed.

On May 5, the day that SOFREMAS confirmed its deal with Kayumba, the French cabinet decided that all authorizations for the export of arms to Rwanda would be suspended and that no new authorisations would be accorded. This decision confirmed a provisional suspension that had been in effect since April 8.<sup>93</sup> The director of SOFREMAS, Germaine Guell, states that the U.S.\$8 million order was cancelled by SOFREMAS once the arms embargo went into effect and that company made no further shipments to Rwanda after May 17.<sup>94</sup> This carefully worded statement, like those of the government ministers, did not exclude deliveries to Zaire. In fact, Guell explicitly conceded that “it is possible and even probable that Mobutu’s government agreed to have Goma serve as a conduit for material meant for Rwanda.” He admitted that his company had been asked to deliver arms in this way—the mention of the End User Certificate in the document cited above proves that they had actually agreed to this arrangement—but he declares that they did not do so. He hastened to add that the practice of deliveries through Zaire must have ended quickly. He remarked, “It would take a pretty unscrupulous government to deliver materiel to Zaire that it knew would end up in Rwanda.”<sup>95</sup>

Admiral Jacques Lanxade, chief of staff of the French army, discounted any impact of French-delivered arms on the genocide. In a radio interview on June 29, 1994 he said, “We cannot be reproached with having armed the killers. In any case, all those massacres were committed with sticks and machetes.”<sup>96</sup> Lanxade was wrong about the importance of the use of firearms in the genocide, as data above shows. But even apart from any direct link between arms delivered by French actors and those used in massacring civilians, providing weapons desperately needed by the Rwandan armed forces in its war against the RPF strengthened a government engaged in genocide.

Lt. Col. Ephrem Rwabalinda of the Rwandan army came to Paris to press for more extensive aid than just arms. He reported on his four-day mission to the headquarters of French military assistance in a May 16 letter to the Rwandan minister of defense and chief of staff of the army.<sup>97</sup> On May 9, Rwabalinda had the first of a series of meetings with General Huchon. He requested French political support in the international community, French soldiers to be sent to Rwanda—at least some instructors who could “help out” under a military assistance program, and what he called the “indirect use of foreign soldiers, regular or irregular” (i.e., mercenaries). He also cited several “urgent needs”: at least 2,000 rounds of 105mm ammunition and ammunition for individual arms, even if this had to be delivered indirectly through neighboring friendly countries.

By Rwabalinda’s account, Huchon told him that a secure telephone to permit encoded conversations between himself and General Bizimungu had already been sent from Paris and was awaiting shipment from Ostend. The French had also sent seventeen small radio sets to facilitate communications between various units and Kigali. Huchon reportedly stressed that it was urgent to locate a usable airfield where landings could be made “in complete security.” They agreed that Kamembe, in the southwestern town of Cyangugu, was the most likely site, provided that the runway was repaired and that “spies were driven away” from the airport.

When Rwabalinda pushed for more immediate aid, Huchon is said to have stated very clearly that “French soldiers had their hands and feet tied” and could not intervene to help the Rwandan army and interim government because of the bad press they had been getting. Unless something were done, Huchon reportedly stressed, Rwandan military and leaders will be “held responsible for the massacres committed in Rwanda.” They must prove the legitimacy of their war “to turn international opinion back in favor of Rwanda in order to be able to resume bilateral aid.” According to Rwabalinda, Huchon said that in the meantime the French military cooperation service “is preparing measures to save us.”

Rwabalinda reported that Huchon returned several times to this point—that the “French government would not put up with accusations of helping a government condemned by international opinion if that government did not do what was necessary to defend itself. The media war is urgent and all subsequent operations depend on it.” Huchon is said to have promised that the “urgent needs” Rwabalinda described would be evaluated in a “detailed and concrete” way once the secret telephone contact were established between him and Bizimungu.

Rwabalinda forwarded to his superiors the suggestion that a government spokesman who was up to the demands of the job be sent to Paris immediately. He reported that he had done his part to launch the media campaign by delivering some articles to one of his Rwandan colleagues there. Rwabalinda concluded his report with the suggestion that a visit “at high political” level would be a good idea to push for the desired assistance.

Assuming Rwabalinda reported the meeting accurately, Huchon and his aides were more concerned about the public perception of the killing than about the killing itself. The condition for important renewed French assistance was not to end the genocide but to make it more presentable in the international press.<sup>[98](#)</sup>

Some otherwise unidentified French generals did their part to improve the image of the interim government by depicting it as the victim of outside aggression. In early May—just about the same time when Rwabalinda was meeting with Huchon—they approached journalist Renaud Girard with private information about the presence of Ugandan battalions backing the RPF in its offensive on Kigali. Girard checked the “information” and found it to be false.<sup>[99](#)</sup>

The message about the need to improve the Rwandan image was also delivered in Rwanda. Two days after Rwabalinda wrote his report, RTL M told its listeners, “please, no more cadavers on the roads.”

### **French Soldiers: A Private Initiative?**

One of the needs mentioned by Rwabalinda was “foreign soldiers,” whether regulars or mercenaries, to serve as “instructors.” Captain Paul Barril, the former French policeman who had served as security consultant to Habyarimana, may have agreed to fill that need. Barril was reportedly linked to the French president directly as well as through Mitterrand’s confidant De Grossouvre, who committed suicide at the presidency on April 7 (see above). According to one press report, a high-ranking military officer was so suspicious of Barril’s activities in Rwanda in 1993 that he questioned Mitterrand directly about them, fearing that the president might be compromised by what Barril was doing. Mitterrand reportedly replied that Barril had received no orders from him.<sup>[100](#)</sup>

Barril claims to have been present in Rwanda from the beginning of the genocide through to its end. He maintains that he was one of the last to leave Kigali before the RPF victory, taken out by helicopter. In fact, he was in Europe for at least part of the period—he appeared on television at the end of June to describe his theory about how the RPF shot down Habyarimana’s plane—but he seems to have been in Kigali on April 6 or soon after. He provides no specifics of his activities but relates that the Rwandans were so panic-stricken by Habyarimana’s death that they “were running around like rabbits” and that senior officers of the Rwandan army, notably General Bizimungu, needed to turn to him for advice. The situation was “unimaginable,” he says, explaining that this was “deepest Africa.”<sup>[101](#)</sup> Barril declared that he acted on his own and “did not have to await for agreement from the ministry of foreign affairs to intervene,” yet he also claims that he resided at the French embassy during the time after April 12 when he was in Kigali.<sup>[102](#)</sup> He says that he raised the flag over the embassy and that this pleased Rwandans who were waiting for the French to return.<sup>[103](#)</sup>

Rwandan military sources, assert that Barril was hired by the Rwandan Ministry of Defense to conduct a training program for 30 to 60 men, eventually to grow to 120, at Bigogwe military camp in the northwest. He was to provide training in marksmanship and infiltration tactics for an elite unit in preparation for attacks behind the RPF lines. The operation was code-named “Operation Insecticide,” meaning an operation to exterminate the inyenzi or “cockroaches.” In late April or early May, commanders of army and National Police units were ordered to recruit volunteers for the program. In June, Rwandan military officers decided to offer rewards to encourage participants in the training program to attack behind the RPF lines, which were vulnerable because stretched over a long distance. But the military situation changed too rapidly for them to put the decision into effect.<sup>[104](#)</sup>

According to Sébastien Ntahobari, then military attaché at the Rwandan embassy in Paris, Minister of Defense Bizimana transferred U.S.\$1,200,000 from Nairobi to Paris in June 1994 and faxed Ntahobari to pay that sum to Barril for otherwise unspecified “services and assistance.” An assistant of Barril came to collect the money from the embassy.<sup>[105](#)</sup>

When asked about the training program in the course of an interview with a Human Rights Watch researcher, Barril denied knowledge of it and ended the conversation abruptly.<sup>[106](#)</sup>

UNAMIR, Rwandan army officers and RPF sources all reported seeing several white men in military uniform in Rwanda—and not part of UNAMIR—in early April and again after mid-May. Three or four French-speaking white men in military uniform ate at the Rwandan army officers’ mess for several days in April and then left Kigali by helicopter for the northwest. Two or three, who spoke French and carried a considerable amount of gear, were transported to Bigogwe by Rwandan army helicopter in mid-May. They engaged in conversation with a Rwandan army officer and indicated by their questions that they were not familiar with Rwanda. According to one witness, the pilot of the helicopter was white and French-speaking.<sup>[107](#)</sup> At about this time, UNAMIR officers reported seeing whites in military uniform driving rapidly through Kigali on two occasions.<sup>[108](#)</sup> A Rwandan army officer and RPF sources both recall seeing one or more French-speaking soldiers at the Hotel Meridien in Gisenyi.<sup>[109](#)</sup> Other testimony reports French-speaking soldiers in the southern part of the country at about this same time.<sup>[110](#)</sup> When questioned about the reported presence of French-speaking soldiers in Rwanda at a time when regular troops were supposed to have left, one French officer replied that they were probably mercenaries.<sup>[111](#)</sup> If that were the case, it leaves unresolved the further question of whether Captain Barril or any other private agent had formal or informal support from French authorities in providing mercenaries to the Rwandan government.

### *Operation Turquoise*

In mid-June, the French foreign minister announced that France would send troops to Rwanda “to stop the massacres and to protect the populations threatened with extermination.”<sup>[112](#)</sup> At the time, French political leaders labored to convince press and public of the humanitarian nature of the operation and four years later they were still defending the reasons for undertaking it. Even those reportedly opposed to Operation Turquoise in 1994, such as then Prime Minister Edouard Balladur, responded angrily to criticism sparked by the National Assembly inquiry in 1998. Balladur insisted that France had sent its soldiers because it had a “duty to try to save lives.” He found it “revolting” that others who had done nothing brought charges against France, “the only country in the world to have acted.”<sup>[113](#)</sup>

Posturing and self-congratulation aside, Operation Turquoise did have another purpose besides saving lives: preventing a victory by the RPF. One observer reports that some military officers in Paris talked openly of “breaking the back of the RPF.”<sup>[114](#)</sup> Others, like General Jean-Claude Lafourcade, commander of Operation Turquoise, spoke more discreetly of “putting the Arusha Accords back into operation,” meaning implementing an agreement which required the RPF to share power with other parties.<sup>[115](#)</sup> The investigative commission of the National Assembly concluded that besides saving lives Operation Turquoise was meant to preserve the necessary conditions for a cease-fire and subsequent political negotiations, that is, “territory and legitimacy” for the interim government.<sup>[116](#)</sup>

Mitterrand, who apparently continued to play the major role in determining policy towards Rwanda throughout the months of the genocide, reportedly disavowed Habyarimana’s successors by mid-June, calling them “a bunch of killers.”<sup>[117](#)</sup> According to former minister Bernard Debré, Mitterrand held that these Rwandan leaders could no longer be supported and must be punished “not only because there had been a genocide but also because his trust had been betrayed.”<sup>[118](#)</sup> Mitterrand remained convinced, however, that “maintaining Hutu in power was the democratic thing to do.” Whatever Mitterrand’s personal repugnance towards the “bunch of killers,” the French government had no immediate candidates to replace them. This, according to the commission, led France into the “untenable situation” of continuing to accept the legitimacy

of the interim government, “either not taking account of the reality of the genocide, or not analyzing the responsibilities of the interim government for it.”[119](#)

The French may have been planning a military intervention as early as the first part of May when, according to Rwabalinda, General Huchon said that the military cooperation service was preparing some way to help the Rwandan army. According to the Rwandan military attaché Ntahobari, the coded telephone discussed with Rwabalinda was meant to facilitate communications for Operation Turquoise “which was being prepared,” even at that time.[120](#) Two or three weeks later—in late May or early June—the French “invited” the U.S. to join a military operation in Rwanda, hoping to obtain at least air transport for the undertaking. The U.S. refused—a decision “overshadowed by the ghost of Somalia,” according to one Washington official. In addition to general concerns about becoming involved in an intractable conflict in Africa, the U.S. saw no interest in assisting the French to slow the advance of the RPF or to prop up the interim government. Policymakers in Washington, including those who did not favor the RPF, saw its victory as the most likely way to end the genocide.[121](#)

According to Gérard Prunier, who advised the Ministry of Defense on Operation Turquoise, Mitterrand was finally pushed into action in mid-June by the prospect that South Africa—another “Anglo-Saxon” country—might intervene in Rwanda. Humanitarian and human rights organizations had also been attacking French policy in Rwanda with increasing vigor throughout the end of May and early June and officials were anxious to quiet this criticism and, if possible, restore French honor.[122](#) While these considerations may have had their impact on thinking in Paris, the decision to act quickly in mid-June was more likely influenced by a serious deterioration in the position of Rwandan government forces. After a counter-offensive against the RPF failed in early June, the government army also lost the important town of Gitarama on June 13, leaving the way to the west largely free for further RPF advances. The government forces still held part of Kigali, but they were short on ammunition—apparently in part because officers in the northwestern town of Ruhengeri were hoarding their stock awaiting the French return in hopes of then launching an effective counterattack. General Bizimungu assessed the overall situation as hopeless and commented privately on June 17 that the government forces had lost the war.[123](#)

Mitterrand at first insisted that French troops must take control of all of Rwanda, a position he may have adopted under the influence of military officers like General Quesnot, who takes credit for persuading Mitterrand to intervene in the first place.[124](#) But Prime Minister Balladur firmly opposed such a large undertaking and the two compromised on a less ambitious objective, apparently that of establishing French authority over the part of Rwanda still controlled by the Rwandan government forces.[125](#) At the U.N., French diplomats who were trying to rally support for Operation Turquoise at first showed a map with a proposed zone of French control that would have encompassed all territory west of a line running from Ruhengeri in the north, southeast to Kigali, then southwest down to Butare. This area would have encompassed Gisenyi, where the interim government had taken refuge, as well as the larger northwestern region that was the home of Habyarimana and many of the leading officers of the Rwandan army. This zone, where the government forces had concentrated substantial troops and supplies, would have served as the best location from which to launch a counteroffensive. Some important actors at the U.N.—including the U.S.—expressed hesitations about French plans to move into an area that was so large and so likely to provoke confrontations with the RPF. Prunier and others voiced the same reservations in Paris.[126](#)

Proponents of an aggressive strategy thought it essential for French troops to arrive in Kigali. By establishing a French presence there, they could enable the interim government to hang on to control of some parts of the city and thus more credibly claim to still govern Rwanda. Given that Operation Turquoise was supposedly a humanitarian operation, some French officials expected to find support for their position with humanitarian activists. The activist and politician Bernard Kouchner was one who had become known for his efforts to save lives. The RPF had solicited his aid in arranging for the evacuation of orphans and others besieged in Kigali and the U.N. secretary-general had given him an informal mandate to support his activities. Kouchner was ready to argue the case for sending French troops to the capital. On June 17, he and a French colleague visited

General Dallaire in Kigali. According to one person present at the interview, the two French visitors brought with them a map marked with a line to delineate the zone that might come under French control. Like the map shown by French representatives at the U.N., it included most of western Rwanda and parts of the city of Kigali. Kouchner reportedly urged Dallaire to ask for French troops to rescue orphans and missionaries trapped behind “Interahamwe lines” in the capital. Such a plea by Dallaire might have persuaded sceptics at the U.N. or in Paris to agree to sending French forces to Kigali. Dallaire, suspicious of French intentions, responded, “Hell, no. I don’t want to see any French around here. If you want to help, provide the troops waiting to join UNAMIR with the transport and equipment they need.”<sup>127</sup> Kouchner confirms having made the visit and having brought along a map, which he remembers showing sites in Kigali where Tutsi or others were awaiting rescue. He recalls that he was given the map by officials in Paris, but not by whom.<sup>128</sup> With no appeal forthcoming from Dallaire, proponents of a relatively limited operation influenced the plan adopted. Prime Minister Balladur set a number of conditions for the undertaking, one of which was that it was to be based largely outside Rwanda—in effect in Zaire—with its troops making forays into Rwanda to assess the situation and to rescue people as needed.<sup>129</sup>

François Léotard, minister of defense in 1994, declared at the National Assembly hearings that orders for Operation Turquoise “prohibited French soldiers from making hostile military contact with the RPF.”<sup>130</sup> At least one set of orders, those issued June 22, 1994, do not prohibit engaging in combat with the RPF. Leaving vague the actions to be undertaken, they focus on shaping how those actions might be interpreted:

Adopt an attitude of strict neutrality to the different parties to the conflict. Insist on the idea that the French army has come to stop the massacres and not to fight the RPF or to support the FAR so that the actions undertaken not be interpreted as aiding the government troops.<sup>131</sup>

In explaining the context of the operation, the orders echoed the language of the interim government. They described “very serious ethnic clashes” and never mentioned the word “genocide” which had been used by Foreign Minister Juppé and other civilian officials more than a month before. They devote three paragraphs to recounting the RPF military advance and only then turn to the slaughter of Tutsi, which is laid to “groups of uncontrolled Hutu civilians and soldiers.” The orders state that the RPF seems to have also engaged in little known summary executions and “ethnic cleansing” and that “several hundred thousand persons of the Hutu and Tutsi ethnic groups” have been exterminated. By citing the Hutu first, they suggest that as many Hutu as Tutsi have been killed—or perhaps, even more.<sup>132</sup> Given that the mission of the troops was to stop the massacres, using force if necessary, the identification of Hutu as victims and the RPF as killers implied that soldiers could well be drawn into fighting the RPF.

When plans for the operation were discussed, Prunier had argued for sending troops into southwestern Rwanda at Cyangugu. From there, they could move quickly to rescue Tutsi at Nyarushishi, which would produce excellent publicity for the operation and firmly establish its humanitarian character. He had pointed out that sending troops into Rwanda at Gisenyi in the northwest might raise questions about the professed goal of saving lives since there were virtually no Tutsi left to save in that region. According to Prunier, Léotard was convinced by his logic and ordered the operation to proceed through Cyangugu. The military commanders also appeared to have accepted Prunier’s reasoning: they ordered the troops to first assure protection for the Nyarushishi camp “to demonstrate the humanitarian character of the operation.” Only after that were they to extend their area of control progressively over “Hutu country” and to move out from southwestern Rwanda towards Gisenyi in the northwest, towards Butare due east, and even “in the direction of Kigali.”<sup>133</sup> As the French commanders must have known, their troops could not progress too far in those directions without encountering the RPF.

According to press accounts, the soldiers themselves believed that they were supposed to fight against the RPF. One officer stated, “At that time, the orders were very clear: it was planned to go as far as Kigali.”<sup>134</sup> The soldiers were drawn from the elite of the reconnaissance and rapid reaction units. They included nearly 300 soldiers of the French special forces, more than had been deployed in any previous French operation.<sup>135</sup>

Some, including several of the commanding officers, had previously served in Rwanda where their task had been to support the Rwandan troops in fighting the RPF, and for many of them the RPF had become their enemy as well. They had resented being withdrawn the year before in a move which had seemed to hand the RPF a victory and they were ready to “kick butt” according to one U.S. military officer who talked frequently with several of them.<sup>136</sup> The soldiers were well equipped to do just that with more than one hundred armored vehicles, a battery of 120mm. mortars, ten helicopters, four ground-attack jet planes and four reconnaissance jet planes. Amply supplied with heavy weaponry, the force lacked the ordinary vehicles, like trucks, needed to pick up civilians and ferry them to safety.<sup>137</sup>

The French authorities had initially hoped for some kind of international intervention, but in the end found only the Senegalese willing to send soldiers for the operation. They asked the Security Council for a Chapter VII mandate to cover Operation Turquoise, thus following the course suggested by the secretary-general on April 29. With the difficulties that the U.N. was experiencing in organizing UNAMIR II, it would have been difficult for the Security Council to refuse the request. When the French authorities decided to move, they wanted immediate action, probably because they feared the Rwandan government forces were so close to defeat. They were ready to send troops without a resolution and on the basis of “less formal cover,” if the secretary-general agreed.<sup>138</sup> The French government did not even wait for the Security Council decision and landed its troops in Goma, which was to serve as the rear-base of the operation, hours before the council, with five abstentions, voted the mandate for Operation Turquoise.<sup>139</sup>

As planned, one detachment of troops entered Rwanda in the southwest and went directly to Nyarushishi. They were accompanied by the expected entourage of journalists who published the desired favorable reports about the rescue operation. Col. Didier Thibault was in command. According to Prunier, Thibault was a false name being used by Col. Didier Tazuin, who had previously served as an adviser to the Rwandan army. The investigative commission identified Tazuin as head of the French operation that had helped the Rwandan forces “spectacularly save the situation” in turning back the RPF offensive in February 1993.<sup>140</sup> With much fanfare, Colonel Thibault and his men ordered militia to dismantle their barriers. One French officer confiscated a grenade from a militia member and gave him a reproving lecture before the journalists.<sup>141</sup>

At the very same time, and with virtually no attention from the foreign press, another detachment of 200 elite troops crossed into northwestern Rwanda at Gisenyi and began carrying out reconnaissance in the region.<sup>142</sup> Their arrival in Gisenyi was hailed gleefully by announcers on RTLM and Radio Rwanda.<sup>143</sup> Perhaps the only foreign reporter to cover the story wrote that French troops in the northwest were “discreet.” Unlike their fellows to the south, they did not interfere with the militia at the barriers. Within the next day or two, they brought important quantities of equipment and supplies from Goma and set up camps in Gisenyi, ready to protect the town that housed the genocidal government.<sup>144</sup> The troops then moved east some fifteen miles to Mukamira, a military camp where the French had once trained Rwandan soldiers. There they were near Bigogwe, where Barril was supposedly carrying on a training program and well positioned to advance the twelve or so miles to the town of Ruhengeri, which was then besieged by the RPF. On June 24, Colonel Thibault said that the French were considering moving on to Ruhengeri.<sup>145</sup>

In a briefing in Paris on June 23 military spokesmen said that a small detachment had crossed the border to Gisenyi and that a larger force would arrive there subsequently. When questioned in Paris about the deployment two days later, however, Gen. Raymond Germanos, deputy chief of staff of the army, reportedly declared that a first contingent of thirty had crossed into northwestern Rwanda only at noon that day, June 25. It seems unlikely that General Germanos, identified as the officer in charge of the operation, did not know of the earlier deployment.<sup>146</sup> Perhaps he was simply distinguishing between information relating to humanitarian concerns and that dealing with “military secrets,” a practice recommended in a confidential, official document about Operation Turquoise.<sup>147</sup> The inaccurate information delivered by General Germanos and the absence of discussion about the deployment in the northwest at the time and since—including in the report of the investigative commission—suggest that it was part of the “military secrets” of Operation Turquoise.<sup>148</sup>

The French commanders ordered their troops to encourage local civilian and military officials to “reestablish their authority,” persisting in their view that the genocide resulted from governmental failure rather than governmental success.<sup>149</sup> The French soldiers followed orders. Even in regions where they dismantled barriers and chased away militia, they took no action against local authorities. They worked every day with Prefects Kayishema and Bagambiki and many of their subordinates, even though well aware of the evidence against them. Colonel Thibault described the Rwandan government and army as “legal organisations,” meanwhile admitting that some of their officials “might have blood on their hands.”<sup>150</sup> He declared that he had no mandate to replace these people and that “the legitimacy of this government is not my problem.”<sup>151</sup> Thibault’s opinions reflected those held at the highest levels of the French government. When questioned at the Presidency in early July, Bruno Delaye, the African adviser to Mitterrand, defended French collaboration with local authorities. He said that France had no choice but to continue relying on them because it lacked the personnel to replace them.<sup>152</sup>

Rwandan authorities at first believed that Operation Turquoise was the rescue mission promised by Huchon and they immediately became more assertive towards the RPF and towards UNAMIR.<sup>153</sup> Once French troops landed in Gisenyi and moved towards Ruhengeri, General Bizimungu—convinced a week before that the war was lost—declared that his forces would soon be launching an offensive against the RPF.<sup>154</sup> Ordinary people too anticipated French support and welcomed the troops with cheers, flowers, and banners. At one barrier a member of the Interahamwe “sporting a straw hat painted to resemble the tricolour, posed for the camera with his weapons—bows and arrows, a spear, and a machete—in front of a sign that read, “Vive La France.”<sup>155</sup> The prefect of Gikongoro assured a warm welcome by having residents of the prefectural center gather to rehearse their “spontaneous” cheers and in Gisenyi authorities deployed entire schools of children to wave little French flags.<sup>156</sup>

As the dismantling of barriers in Cyangugu became known, some militia and government officials expressed anger and disappointment at the French. RTLM announcer Valerie Bemeriki sought to prevent any further erosion in relations between the interim government and the foreign troops. She urged listeners to make special efforts to seek out the French soldiers, to sing and dance for them, drink with them, invite them for dinner, and serve as guides when they went out in their cars. All these occasions should be used, she advised, to explain to them the “problem of Hutu and Tutsi” and the “wickedness of the Inyenzi and their supporters.”<sup>157</sup> Announcer Gaspard Gahigi harangued the French about not interfering with roadblocks and directed officials to prepare people at the barriers with appropriate responses should the French ask what they were doing.<sup>158</sup>

Several days after arriving in Cyangugu, Colonel Thibault and some of his troops moved further east to establish a base at the town of Gikongoro. There they took no action against militia and did not react to civilians carrying grenades. Asked why, Thibault reportedly answered that “the French army has no authority to disarm the militia or dismantle the road-blocks even though they are a threat to civilian lives.”<sup>159</sup> French soldiers did confiscate a limited number of weapons from militia on an “empirical” basis according to a later statement by Colonel Thibaut. They reportedly collected about one hundred firearms Gikongoro and another one hundred in Kibuye. In some regions, the French soldiers permitted civilians to retain their arms if the local administrators indicated this was necessary “to assure usual police missions.”<sup>160</sup> It is unclear why the French soldiers were ready to dismantle barriers and collect grenades in Cyangugu and not in Gisenyi or Gikongoro. Perhaps after having established the “humanitarian” nature of the operation in the first few days, they believed that it was no longer necessary to impress journalists. Perhaps as criticism by interim authorities grew, they wished to minimize any cause of conflict with them.<sup>161</sup> Or perhaps, as an official telegram reported in early July, they feared “provoking a general reaction” against their troops by militia or government forces.<sup>162</sup> In Paris as well as in the region, high-ranking officers expressed this concern just as others in New York and elsewhere had previously voiced anxiety over the risk of injury to UNAMIR soldiers.<sup>163</sup>

The readiness of French soldiers to be swayed by local authorities accounts in part for their slowness in rescuing Tutsi at Bisesero, an incident that came to symbolize French indifference to the genocide. On June

26, journalist Sam Kiley informed French soldiers that Tutsi were being attacked nightly at Bisesero, the site of long-standing resistance described above. He showed them on a map exactly where the Tutsi were located, only a few miles distant from a French camp.<sup>164</sup> The commanding officer, Capt. Marin Gillier, sent a small patrol in that direction the next day. According to Tutsi survivors, they spoke with these soldiers who promised to return in three days. The Tutsi relate that the soldiers were accompanied by local authorities and that by having come out to speak with the French, they exposed themselves to an attack soon after that killed many of their number.<sup>165</sup> According to Gillier's account, the patrol found no Tutsi but were told by local authorities that RPF infiltrators had penetrated the region and were threatening them.<sup>166</sup> French soldiers had observed weapons fire on at least one occasion at Bisesero and Gillier knew, as he told reporters, that people were being killed every night. But he remarked that he did not want to "get involved in politics" and declined to say who were the victims and who the killers.<sup>167</sup>

Gillier requested permission on June 27 and again on June 28 to investigate the situation in Bisesero. He received no response and hesitated to move on his own authority, he later explained, because his forces—according to the press nearly seventy elite French troops—might be put at risk.<sup>168</sup> The general staff of the operation, presumably referring to information Gillier had received from local authorities, told journalists that as many as one to two thousand well-armed RPF soldiers might have penetrated the government lines and infiltrated to the banks of Lake Kivu.<sup>169</sup> Remarkably enough, elite reconnaissance troops, equipped with such equipment as night-vision goggles, had found no evidence of infiltration and the commanding officers of the operation, with numerous sophisticated helicopters and airplanes at their disposition, apparently ordered no aerial reconnaissance to discover whether any RPF troops were actually in the area.

On June 29, Defense Minister François Léotard came to the French post near Bisesero on an inspection visit. Gillier briefed him on the situation, including the possibility that there were Tutsi needing rescue in the area. According to *New York Times* correspondent Raymond Bonner, who interviewed soldiers on the spot, Léotard "rejected any operation to evacuate or protect the embattled Tutsi at Bisesero," saying that the French did not have enough troops to protect everyone. A French journalist, however, reported that as Léotard was leaving, he turned back under the persistent questioning of the *New York Times* correspondent and ordered that troops be sent the next day. This account does not indicate where the soldiers were to be sent. Gillier later reported that their objective was to offer evacuation to a French priest at a church beyond Bisesero. He described locating the endangered Tutsi as an accident, the result of a chance sighting by some of his soldiers. Once he and most of his troops arrived at the church on June 30, he received a radio message from another part of the group who had turned back after having seen "some people different from those we had encountered since our arrival." They had discovered the Tutsi and called for urgent help.<sup>170</sup>

When Gillier and the rest of his force reached the site, they had no trouble seeing who were the killers and who the victims. A band of armed assailants had gathered on a nearby hill as the ragged, starving and wounded Tutsi survivors emerged from the bushes and caves. Confronted finally with the reality of the genocide, these French troops provided protection, food and medical help to the Tutsi survivors. Some 300 of the 800 who straggled out of the bush needed medical attention, about one hundred of them urgently so.<sup>171</sup>

The next morning, the soldiers walked through Bisesero valley, which had been inaccessible to their vehicles, and discovered hundreds of bodies, many of persons recently slain. It was, Gillier reported, "intolerable."<sup>172</sup> He urged a television cameraman to film the corpses, saying "People must see this."<sup>173</sup> The soldiers discovered no weapons or other evidence that the Tutsi were RPF infiltrators, leading Sgt. Maj. Thierry Prunnaud to complain, "We were manipulated. We thought the Hutu were the good guys and the victims."<sup>174</sup> Some of the soldiers who had been pleased at first by the warm welcome from militia now rejected their professions of friendship. As one said, "I've had enough of being cheered by murderers."<sup>175</sup> One French officer who had instructed soldiers of the Presidential Guard broke down and cried so moved was he at the crimes that might have been committed by men whom he had trained.<sup>176</sup> The commander of Operation Turquoise, General Lafourcade, declared that Rwandan officials had engaged in a deception to keep

the French from intervening at Bisesero.[177](#)

Recognizing the crimes and deceptions of the genocidal authorities, however, did not make French military officers any more conciliatory towards the RPF. Seeing the government defense of Kigali crumbling before a persistent RPF attack, military experts in Paris predicted a “catastrophe” if the RPF were to win a “total victory.”[178](#) On June 30, General Germanos ordered French soldiers in the north to maintain their forward position at Mukamira, some ten or twelve miles from the front at Ruhengeri, and directed those in the south to make forays as necessary to evacuate persons at risk in Butare.[179](#) A small French plane and a helicopter went to Butare on July 1 and returned the next day with some clergy, including the Bishop of Butare, and some faculty from the university.[180](#) During a second mission on July 3, described above, the French troops were fired on by the RPF. The next day, at noon, French troops at Gikongoro were ordered to hold the line against any RPF advance. They dug in, some of them at least seeming to anticipate combat with some relish. Colonel Thibault reportedly declared that if the RPF challenged the “line in the sand” drawn by the French, “we will open fire against them without any hesitation...and we have the means.”[181](#)

Rwandan authorities at both local and national levels did their best to incite the French to open conflict with the RPF. Callixte Kalimanzira of the Interior Ministry asked the interim government to appeal urgently to the French to “protect the innocent people threatened by the Inkotanyi” in Butare prefecture.[182](#) The prefect of Cyangugu insisted that the French must “go into the RPF area and free our civilian population taken as hostages by the rebels,” a desire expressed also by the prefects of Butare and Ruhengeri.[183](#) Foreign Minister Bicamumpaka appealed to France to order its troops to stop the RPF advance and to intervene between the two sides.[184](#) The head of the Interahamwe, Robert Kajuga, assured a journalist that he was not concerned about the approaching RPF troops. “France is a great power, like America or England. They can stop the war.”[185](#) Radio Rwanda and RTL M alternately pleaded with the French to come to Kigali and promised that they were sure to do so.[186](#)

On July 6, the French and the RPF decided not to make war.[187](#) Several days earlier, the French government announced that its forces would stay in Rwanda only if the Security Council authorized the creation of a “secure humanitarian zone” to “ensure that the people are safe from any threat from any side,” according to Juppé.[188](#) The Security Council never authorized or approved the zone, but did acknowledge what amounted to a unilateral extension of the French mandate. The zone encompassed the southwestern quadrant of the country but did not include any of the northwest, nor did it reach to Kigali. French withdrawal from Gisenyi took place unheralded, presumably on or about July 5, and left the interim government and its troops without foreign protection in the northwest. French authorities thus signaled their readiness to stand aside for an RPF advance almost certain to result in the “total victory” that they had deplored just days before. In all likelihood, the withdrawal and the acceptance that it symbolized constituted part of an unpublicized agreement which ended the confrontation with the RPF.

Obviously distressed at the change in French policy, the interim authorities began to realize that the best they could hope for was passive protection rather than a more aggressive defense.[189](#) Ferdinand Nahimana, counselor at the Presidency, at first criticized the French bitterly for establishing an “Indian reservation,” and then tried to persuade them to extend the zone at least to cover all the territory still more or less controlled by the Rwandan army.[190](#) Interim Prime Minister Kambanda and Interim President Sindikubwabo each made the same request formally to their French counterparts several days later, Sindikubwabo stressing the need to save nearly four million people threatened by massacres by the RPF.[191](#)

Once the French backed off from combat with the RPF, the French representative at Goma, Yannick Gérard, deputy director of African and Malagasy Affairs at the Ministry of Foreign Affairs, advocated severing links clearly and publicly with the interim government. He pointed out that Washington was preparing to do so and advised Paris:

Their collective responsibility in calls to murder over Radio Mille Collines during these months seems to me

well established. Members of this government cannot in any case, be considered valid interlocutors for a political settlement. Their usefulness lay in facilitating the good operation of Operation Turquoise. Now they will only try to complicate our task.<sup>192</sup>

Gérard wrote the next day that further contact with the “discredited authorities” would be “useless and even harmful.” He concluded, “We have nothing more to say to them, except to get lost as fast as possible.”<sup>193</sup>

Administrative officials, members of militia and Rwandan army soldiers flooded into the secure zone along with ordinary civilians who feared the RPF advance. At this time, both officials and RTLM were ordering people to flee and warning that the RPF would surely kill them if they did not. The French joined in such warnings, telling people in Butare to flee west to Gikongoro and later warning people in Cyangugu to seek refuge across the border in Zaire.<sup>194</sup> On July 11, the commanding officer of Operation Turquoise reportedly stated that officials of the interim government could seek asylum in the zone if the RPF took Gisenyi.<sup>195</sup> Three days later, the Foreign Ministry in Paris countermanded the invitation and asked its local representative to inform Rwandan authorities that they were not welcome.<sup>196</sup> General Lafourcade informed Gérard on July 15, however, that several important figures of the interim government—they turned out to be the interim prime minister and interim president—were in Cyangugu and reconstituting their government. The ambassador immediately notified Paris:

Since we consider their presence undesirable in the secure humanitarian zone and knowing as we do that the authorities bear a heavy responsibility for the genocide, we have no other choice, whatever the difficulties, but arresting them or putting them immediately under house arrest until a competent international judicial authority decides their case.<sup>197</sup>

The question of arrests involved also the numerous local authorities with whom the French had been collaborating, including the prefects of Kibuye and Cyangugu. As of July 10, French officers had compiled detailed information about their responsibilities in the genocide, which they had presumably communicated promptly to Paris.<sup>198</sup>

Gérard’s insistence that the interim authorities be arrested seemed to accord with the position taken by Foreign Minister Juppé three weeks before when he wrote that “France will make no accommodation with the killers and their commanders...[and] demands that those responsible for these genocides be judged.”<sup>199</sup> At the Presidency, however, Bruno Delaye insisted that arresting those accused of genocide did not fall within the French mandate. On July 16, the Foreign Ministry bowed to this view. In an uncanny echo of the pretexts used to explain U.N. failure to act, it declared that “our mandate does not authorize us to arrest them on our own authority. Such a task could undermine our neutrality, the best guarantee of our effectiveness.”<sup>200</sup> The French government could have requested that the mandate be changed or could have unilaterally redefined the mandate, as it had in effect done by creating the secure humanitarian zone. Instead the French government, like the U.N., hid behind the cover of legal technicalities. After all the important authorities had left the zone, the French arrested a small number of persons who had not held government posts. In one case, they arrested nine persons accused of genocide, but failed to transfer them, as had been promised, to U.N. custody.<sup>201</sup>

When the French government declared that it would not arrest genocidal leaders, it was criticized at the U.N. and elsewhere for protecting persons guilty of genocide.<sup>202</sup> To end these criticisms and to avoid embarrassment should the newly established Kigali government ask for these persons to be handed over to them, French authorities wanted them to leave the zone quickly. General Lafourcade maintains that once the Rwandan authorities understood that they were unwelcome, they left the zone on their own initiative and without French assistance.<sup>203</sup> A French military journal reported in October 1994, however, that the tactical general staff “initiated and organized” the evacuation of the transitional government to Zaire on July 17.<sup>204</sup> The report of the investigative commission confirms that French troops evacuated former prime minister Dismas Nsengiyaremye, who was to be part of the transitional government, from Cyangugu by air on July 17.<sup>205</sup> No charges had been made against Nsengiyaremye, but others who were supposed to serve in the

transitional government were at the time serving as ministers in the interim government and were apparently implicated in the genocide: Minister of Defense Augustin Bizimana, Minister of Family and Women's Affairs Pauline Nyiramasuhuko, Minister of Planning André Ntagerura, and Minister of Commerce Justin Mugenzi. Ferdinand Nahimana, who was to serve as minister of higher education in the transitional government, had directed activities at RTLM and was an adviser to the presidency. Official French sources have not indicated if any of these five were part of the transitional government members who benefited from French assistance in leaving Rwanda on or about July 17.

After local officials most implicated in the genocide fled into exile, French soldiers kept the administration functioning through their own efforts and those of Rwandans whom they selected on the spot.<sup>206</sup> Presumably they could have achieved the same results several weeks before at a time when Delaye and others had asserted it was impossible for the French to replace local officials.

When French authorities decided to sever ties with the interim government, they continued to hope that some military officers could serve as valid representatives of the "Hutu" force that they wished to support. In a telegram of July 7, Gérard commented on the continuing authority of General Bizimungu. Expressing a wish that sounds almost like a directive, he wrote:

...it would be very desirable for the chief of staff of the FAR to dissociate himself very quickly politically from the Gisenyi authorities in order to strengthen his position as an interlocutor and negotiator.<sup>207</sup>

Bizimungu did not disavow the genocide, but other officers did, as discussed below. French soldiers evacuated at least some of those officers, perhaps hoping one of them would take the leadership role they had wanted Bizimungu to play.<sup>208</sup> Journalist Sam Kiley charged that French soldiers who arrived in Butare on July 1 also evacuated Colonel Bagosora, flying him out on July 2 along with a small number of other persons. Kiley's source was a high-ranking French officer who knew Bagosora well and who had reason to be well-informed about the details of the operation.<sup>209</sup> If the French did indeed provide this service for Bagosora, it was a mark of surprising consideration for a man who was characterized as "filth" by a French officer who dealt with him regularly.<sup>210</sup>

The French authorities permitted Rwandan soldiers to remain in and to transit through the secure zone without hindrance. In most circumstances they did not disarm them and in some cases, they assisted them on their way. One foreign soldier witnessed French soldiers refueling Rwandan army trucks before they departed for Zaire with their loads of goods looted from local homes and businesses. In Zaire, French soldiers drove their Rwandan colleagues around in official vehicles and, according to the report of the investigative commission, French soldiers delivered ten tons of food to Rwandan troops at Goma on July 21, 1994.<sup>211</sup>

In the first days of the operation, the French authorities showed little interest in blocking RTLM or Radio Rwanda, but once those stations began propaganda hostile to the French forces, France announced at the U.N. that it would do everything possible to silence them. French officers made contact with the broadcasters of Radio Rwanda, who were operating in the secure humanitarian zone, and quickly obliged them to change the tone of their comments. When Bruno Delaye was asked to end broadcasts of RTLM, he said that the mandate did not cover such an operation and that, in any case, French forces had been unable to find its transmitters. But within days of beginning work on the problem, French agents were also able to locate some of the relay stations used by RTLM and to destroy them.<sup>212</sup>

Once the staunchest supporter of the interim government, France finally provided the resources that saved a substantial number of its intended victims. As the RPF advanced in June, killers hurried to finish their "work." The RPF managed to save thousands as it moved forward, but could not have reached the southwest and west quickly enough to save the groups of Tutsi already exhausted by months of attack, hunger and flight, who were hidden on mountain tops or in river valleys. The thousands who were confined at Nyarushishi were safe only because the local National Police commander, Lieutenant Colonel Bavugamenshi, insisted on

protecting them. Had he been removed, they too would have faced attack and possible extermination before the RPF could have reached them.<sup>213</sup> To all those people, the French soldiers who came to their rescue were saviors, regardless of what had moved officials in Paris to send them to Rwanda.

According to French estimates, their 2,500 elite soldiers, equipped with the best equipment available, saved some 8,000 to 10,000 people at Nyarushishi, another 1,100 at Bisesero and another 6,000 in Gikongoro, a total of approximately 15,000 to 17,000 people.<sup>214</sup> UNAMIR, with its barely 500 men, poorly armed and equipped, protected at one time nearly twice that number. Like members of the U.N., the French could and did save lives when it suited their interests. And, when it did not, they too hid behind excuses of insufficient troops and concerns for their safety or they used a supposed commitment to adhering to the mandate or to preserving neutrality as pretexts for inaction.

### **The Kigeme Declaration and the End to “Legitimacy”**

Among those who profited from the security provided by the French were some of the military officers who had signed the original call for an end to violence on April 12. After that one effort, they had been disheartened and intimidated. They may have continued to dissent privately, but they took no further public position against the slaughter.

They came together once more within the secure zone under the leadership of Gatsinzi and Rusatira. At Kigeme on July 6—three months after the start of the slaughter—they signed a statement committing themselves to fighting the genocide which they “denounced and condemned” with all their strength. They deplored the elimination of Rwandans because of their political beliefs. They denounced a government that had reduced its people to silence by terror and the group of extremists who had ruled by intimidation. They urged a cease-fire and negotiations with the RPF.<sup>215</sup>

Had these high-ranking and respected officers issued such a statement in early April, they might have inspired others to join them in challenging the organizers of the killing campaign. They lacked the courage to take such a stand as well as the troops and equipment to back it up. Had the international community provided a counterweight to the Presidential Guard and its allies, had it taken a united and uncompromising stand—with the threat of the refusal of any future funding for the interim government—or had it silenced RTL, these officers could have drawn on these sources of support to sustain their own efforts and to persuade others to join them.

At the time of the Kigeme Declaration and shortly after, foreigners—and not only the French—were still treating the Rwandan authorities as legitimate. But with the Rwandan army defeated and the interim government in flight, the international community finally recognized it for what it had always been—a band of killers. In Washington, the U.S. government ordered the Rwandan embassy closed and its assets frozen on July 15. Clinton said that the U.S. could not “allow representatives of a regime that supports genocidal massacres to remain on our soil,” as if officials had just discovered that they were there or had just learned that the regime they represented was carrying out genocide.<sup>216</sup> The U.S. announced also that it would begin efforts to remove the Rwandan representative from the Security Council. Soon after, the Security Council, as if newly awakened to its power to control its own procedure, decided that Rwanda would not take its scheduled turn as president of the council. Decided on August 25, the measure came so late that it applied, ironically, to the government that ended the genocide rather than the one that perpetrated it.<sup>217</sup>

Had the international community denied the legitimacy of the interim government in the early stages of the genocide, some of the hesitant—like the officers at Kigeme—might have found the resolve to confront the organizers of the killing campaign. One former Rwandan army officer deplored his own lack of courage and that of other Rwandans who, in fear for their own lives, failed to oppose the interim authorities. He remarked, “We now must have the courage to pay the price of our cowardice.” The same holds true for those international leaders who, secure in their distant offices, could have intervened—at no risk to their lives—and

yet did not.

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Monsieur le Ministre de la Défense, December 26, 1994. 44 Jean de la Guérivière, “Un officier belge maintient ses déclarations sur l’attitude de la France lors du génocide rwandais,” *Le Monde*, August 23, 1995; Assemblée Nationale, Mission d’information commune, *Enquête*, Tome II, Annexes, p. 331. 45 Human Rights Watch Arms Project, “Rwanda/Zaire: Rearming with Impunity,” vol. 7, No.4, May 1995, pp. 9-12, 14; United Nations, *The United Nations and Rwanda*, pp. 679-81. 46 Mil-Tec Corporation Ltd to Minister of Defense, Republic of Rwanda, December 7, 1994, and attached waybills and invoices; Lt. Col. Kayumba Cyprien to Ministre de la Défense, December 26, 1994; Christopher Elliott and Richard Norton-Taylor, “Arms sales to Rwanda questioned,” *Guardian*, November 19, 1996. 47 Mrs. M. 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d'Etat," *Le Figaro*, January 14, 1998. 88 Assemblée Nationale, Mission d'information commune, *Enquête*, Tome III, Auditions, Volume 1, p. 414. 89 Jean de la Guérivière, "Un Officier Belge Maintient Ses Déclarations sur l'Attitude de la France lors du Génocide Rwandais," *Le Monde*, July 23, 1995. The commander of the operation admitted that he had requisitioned Rwandan army vehicles but denied that his men had delivered ammunition for mortars. He did not mention the possibility that they might have delivered another kind of ammunition. Assemblée Nationale, Mission d'information commune, *Enquête*, Tome II, Annexes, pp 356-7. 90 Human Rights Watch, "Rwanda/Zaire: Rearming with Impunity," pp. 6-8. 91 The government of Malta has been unable to provide clarification of this case. United Nations, Letter Dated 22 January 1998 from the Secretary-General Addressed to the President of the Security Council, S/1998/63, January 26, 1998. 92 Callamard, "French Policy in Rwanda," pp. 22, 36. 93 Assemblée Nationale, Mission d'information commune, *Enquête*, Tome III, Annexes, volume I, p. 100. 94 Patrick de Saint-Exupéry, "France-Rwanda: le temps de l'hypocrisie," *Le Figaro*, January 15, 1998. 95 Bernard Duraud, "Rwanda: deux documents mettent la France en accusation," and Bruno Peuchamiel, "La réponse des sociétés mises en cause," *L'Humanité*, November 20, 1996. 96 Prunier, *The Rwanda Crisis*, p. 278. 97 Lt. Col. Ephrem Rwabalinda to Minister of Defense and Chief of Staff, Rwandan Army, May 16, 1994. Subsequent quotations about this meeting with Huchon are all from this document. 98 Human Rights Watch/FIDH sought a meeting with General Huchon to discuss this letter, but were unable to arrange one. Rwabalinda's account is confirmed by a Rwandan military source and, in regard to the sending of the secure telephone, by a letter from Huchon to the Mission d'Information. Human Rights Watch/FIDH interview, Brussels, November 8, 1998; Assemblée Nationale, Mission d'information commune, *Enquête*, Tome II, Annexes, p 574. 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Arnaud de la Grange, "Les ambiguïtés de 'Turquoise,'" *Le Figaro*, April 2, 1998. 135 Agence France Presse, "Le ministre de la Défense constate la difficulté de l'opération Turquoise," BQA No. 14245, 30/6/94, p. 31. 136 Human Rights Watch/FIDH interview, by telephone, November 14, 1998; Assemblée Nationale, Mission d'information commune, *Enquête*, Tome I, Rapport, p. 305. 137 Prunier, *The Rwanda Crisis*, p.291. 138 Assemblée Nationale, Mission d'information commune, *Enquête*, Tome II, Annexes, p. 319. 139 Ibid., p. 397; Human Rights Watch/FIDH interview, Plainsboro, New Jersey, June 14, 1996. 140 Prunier, *The Rwanda Crisis*, p. 294, n. 27; Assemblée Nationale, Mission d'information commune, *Enquête*, Tome I, Rapport, p. 176. 141 Robert Block, "French claim early success in Rwanda," *Independent*, June 29, 1994; Agence France Presse, "Les paras français aux miliciens: 'retournez chez vous travailler,'" BQA No. 14242, 27/06/94, p. 47. 142 Agence France Presse, "L'arrivée des premiers soldats français au Rwanda," BQA No. 14241, 24/06/94, p. 33. 143 UNAMIR, Notes, Radio Rwanda 19:00, June 25 and 26, 1994, RTLM, June 25, 1994. 144 Agence France Presse, "Les troupes françaises consolident leurs positions à Gisenyi," BQA No. 14242, 27/06/94, p. 47. 145 Mark Fritz, "First French commandos protect Tutsi refugees," *Independent*, June 25, 1994. 146 Agence France Presse, "Les miliciens hutus contrôlent l'entrée de Gisenyi," and "Des soldats français à Gisenyi," BQA No. 14242, 27/06/94, pp. 51, 53. 147 De la Grange, "Les ambiguïtés de 'Turquoise.'" 148 In an otherwise detailed description of the operation, Prunier never mentions the deployment in the northwest. The commission report mentions Gisenyi once in passing once but does not make clear that there was a substantial number of French troops in the area for more than a week. 149 Assemblée Nationale, Mission d'information commune, *Enquête*, Tome II, Annexes, p. 387. 150 Chris McGreal, "French compromised by collaboration in Rwanda," *Guardian*, July 1, 1994. 151 Block, "French claim early success"; Raymond Bonner, "Fear Is Still Pervasive in Rwanda Countryside," *New York Times*, June 29, 1994. 152 Human Rights Watch/FIDH interview, Paris, July 4, 1994. 153 ICTR-96-4-T, Testimony of Romeo Dallaire, February 25, 1998, p. 189. 154 Agence France Presse, "Poursuite d'une guerre cruelle à Kigali," BQA No. 14242, 27/06/94, p. 58. 155 Lindsey Hilsum, "Lindsey Hilsum in Butare," *Observer*, July 3, 1994. 156 Agence France Presse, "Gikongoro se prépare à accueillir 'spontanément' les Français," BQA No. 14243, 28/06/94, p.25. 157 UNAMIR, Notes, RTLM, June 25, 1994. 158 Ibid., and June 27, 1994. 159 McGreal, "French compromised by collaboration in Rwanda"; Raymond Bonner, "Fear Is Still Pervasive in Rwanda Countryside," *New York Times*, June 29, 1994. 160 Assemblée Nationale, Mission d'information commune, *Enquête*, Tome I, Rapport, pp. 328. 161 Assemblée Nationale, Mission d'information commune, *Enquête*, Tome II, Annexes, p. 429. 162 Ibid., p. 327. 163 Agence France Presse, "Des soldats français à Gisenyi," and "'Tensions' dans certaines zones où interviennent les troupes françaises," BQA No. 14242, 27/06/94, pp. 51, 56; Corine Lesnes, "M. Léotard craint de nouvelles difficultés pour le dispositif 'Turquoise,'" *Le Monde*, July 1, 1994. 164 Gillier, perhaps seeking to preempt questions about why he did not act on information from the journalists, describes the encounter with misleading vagueness and says he took them for intelligence agents. Assemblée Nationale, Mission d'information commune, *Enquête*, Tome II, Annexes, p. 404. 165 African Rights, *Resisting Genocide, Bisesero, April-June 1994*, Witness no. 8, pp. 61-64. 166 Assemblée Nationale, Mission d'information commune, *Enquête*, Tome II, Annexes, p. 402. 167 Robert Block, "French troops rescue starving Tutsi," *Independent*, July 1, 1994. 168 Assemblée Nationale, Mission d'information commune, *Enquête*, Tome II, Annexes, p. 403. 169 Agence France Presse, "Des forces du FPR seraient parvenues jusqu'au lac Kivu," BQA No. 14245, 30/06/94, p. 31. 170 Raymond Bonner, "Grisly Discovery in Rwanda Leads French to Widen Role," *New York Times*, July 1, 1994; Corine Lesnes, "M. Léotard craint de nouvelles difficultés pour le dispositif 'Turquoise,'" *Le Monde*, July 1, 1994. Asked twice to comment on the accuracy of this account, Mr. Léotard replied that it would be inappropriate to resume debate on this "aid operation whose results have since enjoyed undisputed international recognition." François Léotard to Catherine Choquet, FIDH, September 25, 1996. 171 Assemblée Nationale, Mission d'information commune, *Enquête*, Tome II, Annexes, p. 405. 172 Ibid., p. 406. 173 Raymond Bonner, "As French Aid the Tutsi, Backlash Grows" *New York Times*, July 2, 1994. 174 Ibid. 175 De la Grange, "Les ambiguïtés de 'Turquoise.'" 176 Patrick de Saint-Exupéry, "France-Rwanda: le temps de l'hypocrisie." *Le Figaro*, January 15, 1998. 177 Corine Lesnes, "Le Chef de l'Opération 'Turquoise' Prévoit que le FPR Va Progresser Jusqu'à la Limite de la Zone Humanitaire," *Le Monde*, July 3, 1994; Chris McGreal, "Hunted Rwandans Tell of Courage Amid Cruelty," *Guardian*, July 4, 1994. 178 Agence France Presse, "Paris mise sur l'humanitaire et la diplomatie,"

BQA No. 14243, 30/06/94, p. 30. 179 Assemblée Nationale, Mission d'information commune, *Enquête*, Tome I, Rapport, p. 311. 180 Human Rights Watch/FIDH interview, by telephone, Antwerp, January 20, 1999. 181 Raymond Bonner, "French Establish a Base in Rwanda to Block Rebels," *New York Times*, July 5, 1996. 182 Telegram, Callixte Kalimanzira to Mininter-Minadef, no 94/066, June 28, 1994 (Butare prefecture). 183 Prunier, *The Rwanda Crisis*, p. 293; Lindsey Hilsum, "Rwandan Rebels Advance as French Forces Hang Back," *Guardian*, July 2, 1994; Karin Davies, "Below the Volcanos, Hutus Wait for the Enemy," Associated Press, July 8, 1994. 184 "Rwanda Asks France to Help Hold Off Rebels," *New York Times*, July 3, 1994. 185 Lindsey Hilsum, "Lindsey Hilsum in Butare," *Observer*, July 3, 1994. 186 UNAMIR, Notes, RTL, June 26, June 27, June 30, July 3, 1994; Radio Rwanda, 19:00, June 26, 1994. 187 Raymond Bonner, "France Backs Away from Battle in Rwanda," *New York Times*, July 6, 1994. 188 SWB, AL/2039A/3, July 3 1994. 189 Patrick McDowell, "Tutsi rebels take over army HQ in Kigali push," *Daily Telegraph*, July 5, 1994. 190 Agence France Presse, "Dix-sept partis s'engagent à favoriser un dialogue entre le FPR et le gouvernement déchu," July 4, 1994. 191 Assemblée Nationale, Mission d'information commune, *Enquête*, Tome I, Rapport, pp. 323-24. 192 Ibid., p. 321. 193 Ibid., p. 322. 194 Human Rights Watch/FIDH interview, Butare, October 20, 1995; Chris McGreal, "French Accused of Protecting Killers," *Guardian Weekly*, September 4, 1994. 195 Prunier, *The Rwanda Crisis*, p. 296. 196 Assemblée Nationale, Mission d'information commune, *Enquête*, Tome I, Rapport, p. 325. 197 Ibid., p. 325. 198 Assemblée Nationale, Mission d'information commune, *Enquête*, Tome II, Annexes, pp. 415, 494-500. 199 Juppé, "Intervenir au Rwanda." Note the plural "genocides." 200 Assemblée Nationale, Mission d'information commune, *Enquête*, Tome I, Rapport, p. 325. 201 Chris McGreal, "French Accused of Protecting Killers." 202 Assemblée Nationale, Mission d'information commune, *Enquête*, Tome II, Annexes, pp. 454, 457. 203 Ibid., p. 535. 204 Patrick de Saint-Exupéry, "Rwanda: les 'trous noirs' d'une enquête," *Le Figaro*, December 17, 1998. 205 Assemblée Nationale, Mission d'information commune, *Enquête*, Tome I, Rapport, p. 326. 206 Ibid., p. 315. 207 Assemblée Nationale, Mission d'information commune, *Enquête*, Tome II, Annexes, p. 412. 208 Ibid., p. 451; Human Rights Watch/FIDH interview, by telephone, Brussels, September 22, 1998. 209 Sam Kiley, "A French Hand in Genocide," *Times* (London), April 9, 1998; Human Rights Watch/FIDH interview, by telephone, September 22, 1998. 210 Assemblée Nationale, Mission d'information commune, *Enquête*, Tome I, Rapport, p. 352. 211 Ibid., pp. 327-29; Human Rights Watch/FIDH interview, by telephone, Montreal, September 26, 1996. 212 Human Rights Watch/FIDH interview, Paris, July 4, 1994; Assemblée Nationale, Mission d'information commune, *Enquête*, Tome I, Rapport, pp. 329-30. 213 Human Rights Watch/FIDH interviews, Butare, February 25 and July 6, 1995. 214 Assemblée Nationale, Mission d'information commune, *Enquête*, Tome I, Rapport, p. 310; Tome II, Annexes, pp. 397, 525. 215 Declaration de Kigeme, July 6, 1994. 216 The White House, Statement by the Press Secretary, July 15, 1994. 217 United Nations, *The United Nations and Rwanda*, p. 334. Rwanda presided over the council in December.

## **EXHIBIT G**



U.S. DEPARTMENT of STATE

## Central African Republic

### Country Reports on Human Rights Practices - 2003

Released by the Bureau of Democracy, Human Rights, and Labor  
February 25, 2004

During the first part of the year, the Central African Republic (CAR) continued to be a multiparty state led by President Ange-Félix Patassé, who had been re-elected in 1999. However, on March 15, a 6-month rebellion culminated in a military coup led by former Armed Forces Chief of Staff General François Bozizé, with the assistance of demobilized Chadian soldiers and the tacit involvement of active Chadian soldiers. General Bozizé declared himself President, suspended the Constitution, and dissolved the National Assembly. Between March and June, he appointed a Prime Minister; appointed a transitional cabinet from members of all political parties, including the party of deposed President Patassé, and civil society; and established a National Transitional Council (NTC), a law-advisory body intended to reestablish the rule of law, assist the presidency in drafting a new constitution, and prepare the country for multiparty elections in 2004 and 2005. The suspended Constitution provides for an independent judiciary; however, the judiciary was subject to executive interference, both before and after the March 15 coup.

The National Police are under the direction of the Ministry of Interior and Public Security, while the military forces and the National Gendarmerie are under the jurisdiction of the Ministry of Defense; all shared responsibility for internal security. Civilian authorities did not maintain effective control of the security forces. Following the coup, the Presidential Security Unit (USP) was dissolved on April 30 and reintegrated into the National Army. In addition, President Bozizé ordered the disbandment of the Security Investigation Division (SERD), a military intelligence unit which operated as part of presidential security services, due to accusations that the SERD committed human rights abuses such as torture, rape, and extortion during the year; however, this order had not been carried out by year's end. Former members of the security forces were involved in the coup. In December, President Bozizé signed an order dismissing a number of soldiers from the army because of indiscipline; the soldiers named reportedly were removed from army lists and sent home. As part of its efforts to protect citizens and safeguard property, in May the Bozizé Government launched joint security operations in the capital conducted by the Armed Forces, the Central African Economic and Monetary Community (CEMAC) force, and French forces. Members of the security forces committed numerous serious human rights abuses.

The economy, already extremely weak because of repeated political-military troubles and a cycle of coup attempts, was in a state of collapse, with approximately 60 percent of the population living at or below the poverty line. The economy was partially market-based and partially government directed, and was dominated by subsistence agriculture. Approximately 80 percent of its 3.8 million inhabitants were farmers. Foreign assistance remained an important source of national income. After the coup, most international donors suspended financial assistance, although by year's end, many had resumed assistance programs. Large-scale looting and vandalism in the wake of the coup devastated not only the state infrastructure and facilities but also the remaining economic and industrial activity of the country. The salary arrears owed to civilian employees and the military continued to impair the functioning of the Bozizé Government and the ability of the State to enforce the rule of law. Before and after the March coup, misappropriation of public funds and corruption in the Government remained widespread. In addition, the large displacement of persons during and following the October 2002 coup attempt and the March 15 coup adversely affected economic productivity during the year.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. Citizens did not have the right to peacefully change their government during the year. Security forces continued to commit extrajudicial and other unlawful killings, including government-tolerated executions of suspected bandits, with impunity. The 6-month rebellion in the north, culminating in the March 15 coup, resulted in numerous killings of civilians in Bangui and the northern part of the country by security forces and both pro- and anti-government rebels. During and following the coup, security forces, pro-government rebels of the Movement for the Liberation of Congo (MLC) from the Democratic Republic of the Congo (DRC), and Bozizé's rebels engaged in widespread looting, beating, and raping of civilians. Security forces continued to torture, beat, and otherwise abuse suspects and prisoners. Impunity remained a problem. Other abuses included harsh prison conditions, arbitrary arrest, prolonged detention without trial, and infringements on privacy. The Government restricted freedom of the press, assembly, and association. There were limits on movement. The coup resulted in numerous deaths and abuses, thousands of internally displaced persons (IDPs), and significant numbers of refugees in neighboring countries. Violence and discrimination against women, female genital mutilation (FGM), child prostitution, discrimination against indigenous people (Pygmies), trafficking in persons, and child labor, including instances of forced child labor, continued to be problems. Societal violence also remained a problem.

Between January and the March 15 coup, MLC rebels loyal to the Patassé Government committed numerous killings and abuses of civilians, including acts of torture, numerous rapes, harassment, and widespread looting. Between January and the March 15 coup, pro-Bozizé rebels, including former members of the security forces and Chadian combatants, committed numerous killings and rapes of civilians in the north and in Bangui. Widespread looting by Bozizé's rebels was a serious problem. After March 15, the MLC forces were forced to flee back to the DRC.

### RESPECT FOR HUMAN RIGHTS

#### Section 1 Respect for the Integrity of the Person, Including Freedom from:

##### a. Arbitrary or Unlawful Deprivation of Life

There were no reports that security forces committed political killings; however, security forces continued to commit extrajudicial killings with

impunity throughout the year. Fighting between government and rebel soldiers in the North and the subsequent March 15 coup in Bangui resulted in numerous killings of civilians.

During the year, the special police Squad for the Repression of Banditry (OCRB) continued to operate and were responsible for extrajudicial killings and torturing civilians. The OCRB committed such abuses with tacit government support and popular approval, partly because the OCRB's actions were seen as an effective means of reducing crime. There were fewer reports that the OCRB killed persons after President Bozizé came into power. The Government did not take action against OCRB members responsible for killings or other abuses committed during the year.

There were credible reports that the security forces continued to commit extrajudicial killings with impunity under President Bozizé's rule. On December 3, members of the security forces reportedly killed three young boys belonging to a local self-defense and anti-poaching unit in the eastern province of Haute Kotto. The boys were reportedly tortured at the headquarters of the SERD in Bangui and later taken to the Ndres cemetery where they were summarily executed. The Government took no action against the soldiers responsible for the killings.

There were credible reports that security forces committed other unlawful killings, some allegedly in connection with personal disputes or rivalries. For example, on August 18, security forces of General Bozizé killed one student and injured others in front of a high school. The responsible soldier was arrested and demoted.

On September 18, retired Gendarmerie Captain Joseph Koyanao was found dead in Bangui after he had been shot several times; his relatives believe he was killed by or on the orders of an army officer because of a property dispute. The case was under investigation at year's end.

In September, members of the military reportedly killed a Nigerian trader on the road to Boali. By year's end, no action had been taken against the soldiers responsible for the killing.

There were no further developments in the January 2002 killing of two civilians by soldiers or the December 2002 killing of a magistrate by a soldier.

During President Patassé's rule, sporadic border clashes in the north between security forces and rebel soldiers loyal to General Bozizé continued to result in the killing of an undetermined number of civilians.

In addition, from the 2002 coup attempt until the March 15 coup, rebel soldiers loyal to General Bozizé killed numerous civilians in areas under their control. However, no numbers were available because those areas remained inaccessible to nongovernmental organizations (NGOs) and humanitarian groups.

During the first part of the year, MLC troops committed numerous extrajudicial killings of civilians, raped numerous women and girls, and engaged in widespread looting of houses and businesses; MLC troops killed civilians with the tacit support of the Patassé Government, including suspected supporters of Bozizé. Following a failed coup attempt by General Bozizé's rebels in October 2002, MLC President Jean-Pierre Bemba sent approximately 1,500 MLC troops to assist President Patassé's security forces in fighting General Bozizé's rebels. Following the March 15 coup, MLC troops returned to the DRC.

From the beginning of the year until the March 15 coup, MLC rebels under Bemba's command reportedly killed and raped numerous persons in Bangui and in the northern part of the country.

During the March 15 coup in Bangui, fighting between pro-government forces and General Bozizé's rebels and the shooting of looters by the rebels resulted in numerous deaths. During the fighting, security forces killed individuals because of their ethnicity or on the suspicion that they were members of Bozizé's rebels. Both sides, particularly the Government, targeted densely populated areas; security forces launched rockets and mortar rounds indiscriminately into neighborhoods suspected of harboring rebels, and both sides committed summary executions.

On March 15, General Bozizé's rebels reportedly killed three Congolese soldiers from the CEMAC peacekeeping force in Bangui at President Patassé's residence.

Following the coup, General Bozizé's rebels and MLC troops before their withdrawal continued to commit massive human rights violations such as killings, beatings, and racketeering.

During and after the March 15 coup, there were reports of killings committed by Chadian combatants who assisted General Bozizé in the coup. Human rights organizations and some political parties called for the repatriation of the armed Chadian forces and for the trial of those accused of crimes. In June, President Bozizé personally conducted a disarmament mission in some police stations in Bangui held by Chadian soldiers. In June, with the assistance of CEMAC peacekeeping forces, most of the Chadian combatants were sent back to Chad.

No action was taken against security forces responsible for killings following the attempted coups in October 2002 and May 2001.

No action was taken against rebel soldiers loyal to General Bozizé responsible for the killing of numerous civilians in the October 2002 attempted coup.

No report had been published by year's end by the 2002 Patassé commission of inquiry into the deaths of 63 Sudanese in May 2002, which were attributed to societal violence.

Civilians continued to take vigilante action against presumed thieves, poachers, and some persons believed to be Chadian combatants. For example, on December 5, vigilantes killed two Chadian combatants; earlier that same day, the two Chadians had reportedly killed Patrick Assombebe, a Lieutenant in the Armed Forces, in a Bangui suburb. Perpetrators were generally not prosecuted and received popular support.

Mobs reportedly continued to injure and kill suspected sorcerers or witches during the year.

#### b. Disappearance

There were no confirmed reports of politically motivated disappearances by the Government during the year; however, there were reports of disappearances during the months-long rebellion that culminated in the March coup in the North.

During the year, cattle raiders kidnapped, held hostage, and demanded large ransoms for the children of cattle herdsman. For example, on November 18, a group of cattle raiders demanded \$3,300 (2 million CFA francs) before releasing 10 herdsman's sons in Boyali.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Penal Code prohibits torture and specifies sanctions for those found guilty of physical abuse; however, police continued to torture, beat, and otherwise abuse criminal suspects, detainees, and prisoners. The Government did not take effective action to punish police who tortured suspects, and impunity remained a problem. Family members and human rights groups, including the Human Rights League (HRL) Executive Committee, pursued court complaints filed in previous years with the prosecutor regarding the deaths of several prisoners due to police abuse; however, authorities continued not to take action on any of the cases. The HRL did not file any court complaints of police abuse during the year.

Police beat persons while forcibly dispersing demonstrators (see Section 2.b.).

No investigation was conducted into the 2001 beating by gendarmes of Assingambi Zarambaud, who had published a series of articles critical of the Government; however, in April, Zarambaud was freed and became a minister in the Government.

In August, a member of the military reportedly raped a woman at Camp Beal in Bangui. In November, the Central African Human Rights League (LCDH) criticized the Government for not taking action against the soldier responsible.

On October 28, five presidential guards gang-raped a woman at the barracks of the SERD in Bangui; the woman had been apprehended in the street by patrolling security forces. Her husband, who went to the SERD barracks and requested her release, was severely beaten and tortured. Shortly after the rape was reported, the five guards and two of their accomplices were arrested and dismissed from the army.

Juvenile Court President Magistrate Brigitte Balipou, head of the Humanitarian Commission, declared during an interview with Radio France Internationale that approximately 400 women and young girls who had been raped by MLC forces, were being cared for by humanitarian organizations that provided psychological assistance and medical care to those infected by HIV/AIDS and sexually transmitted diseases.

Members of the armed forces often committed other abuses against civilians, including armed robbery and racketeering. No action generally was taken against soldiers involved in such abuses.

During the months-long rebellion that culminated in the March coup, soldiers loyal to the Patassé Government and General Bozizé's rebel troops committed serious violations of human rights and humanitarian law, including widespread looting, rape, disappearances, inhuman, cruel and degrading treatment, and the recruitment and use of children as soldiers.

There were reports that pro-Patassé MLC troops based around Bangui committed numerous abuses of civilians, including torture, killings, rape, and harassment.

On May 15, the private newspaper Le Citoyen criticized some pro-Bozizé Chadian combatants for committing abuses against taxi and bus drivers, including torture, beatings, and theft of vehicles or goods. Taxi and bus drivers were regularly beaten in the street (see Section 1.d.).

Following the coup, there continued to be reports that Abdoulaye Miskine, a pro-Patassé Chadian ally who led forces against General Bozizé in 2002 and early in the year, continued to commit abuses against civilians in the northwestern part of the country.

No action was taken against members of security forces, rebel groups, and foreign rebels who committed abuses against the population during the year.

Prison conditions were extremely harsh. Prison cells were overcrowded, and basic necessities, including food, clothing, and medicine, were in short supply and often were confiscated by prison officials for their personal use. There were reports that guards tortured prisoners and that women inmates were raped. Prisoners depended on family members to supplement inadequate prison meals and were sometimes allowed to forage for food in areas near the prison. Prisoners frequently were forced to perform uncompensated labor at the residences of government officials and magistrates. Prison conditions outside of Bangui were generally worse, and most of these prisons were completely destroyed during the fighting between January and March.

In October, the Government reopened Ngaragba Prison, the only prison for men in Bangui, after 7 months of closure. Male prisoners who were being held in police and gendarmerie stations were transferred to the facility. The Ngaragba Prison was among the public facilities that were looted, damaged, or destroyed following the 15 March coup, which resulted in the escape of many detainees.

Male and female prisoners were held in separate facilities in Bangui but housed together elsewhere. There were no separate detention facilities for juvenile prisoners, who routinely were housed with adults and often subjected to physical abuse. Pre-trial detainees were not held separately from convicted prisoners.

The Government permitted prison visits by human rights observers. The International Committee for the Red Cross (ICRC) and religious groups routinely provided supplies, food, and clothes to prisoners. The ICRC had unrestricted access to prisoners.

#### d. Arbitrary Arrest, Detention, or Exile

The law provides protection against arbitrary arrest and detention and accords the right to a judicial determination of the legality of detention; however, the security forces frequently ignored such provisions, and arbitrary arrest and detention were problems.

Police were not effective, partly as a result of salary arrears owed by the Government and a lack of resources. Many citizens lacked faith in the police, and consequently, mob violence against persons suspected of theft and other offences remained a problem (see Section 1.a.). The Government did not take effective action to punish abusers, and impunity remained a problem. During the year, the LCDH sharply criticized the police and other security forces, and accused the security forces of terrorizing the population, killing civilians, and committing armed robbery.

Judicial warrants were not required for arrest. The law stipulates that persons detained in cases other than those involving national security must be brought before a magistrate within 96 hours. In practice authorities often did not respect this deadline, in part due to inefficient judicial procedures. By law national security detainees are defined as "those held for crimes against the security of the state" and may be held without charge for up to 2 months; however, in practice persons were held without charge for long periods. The law allows detainees to have access to their family and to legal counsel; however, in cases involving state security, the Government prohibited detainees from consulting legal counsel, pending an investigation. Indigent detainees may request a lawyer provided by the Government. Detainees were allowed to post bail or have family members post bail for them. Lawyers and families generally had free access to detainees.

On January 25, security forces arrested Joseph Bendounga, leader of the Movement for the Rebuilding and Evolution of CAR, at the airport while trying to leave the country. He was released by the court on February 12.

On February 21, members of the Presidential Guard arrested General Bozizé's son, Socrates, a 23-year-old student. After he was accused of sending sensitive information to his father in Paris, Socrates was publicly beaten in the streets and taken to SERD headquarters. He was later released during the March coup.

On June 8, police arrested eight leaders of the former ruling political party of President Patassé, the Movement for the Liberation of the Central African People (MLPC) during a meeting in Bangui. The eight leaders were accused of organizing "subversive meetings" to destabilize the Government. They were released on June 10.

On November 12, security forces arrested former chief of the Presidential guard, General Ferdinand Bomayéké, after he left his refuge at the French Embassy. According to the General Prosecutor, General Bomayeke was accused of threats, numerous killings of civilians through air bombardments, arbitrary arrests, rape, and destruction of public and private properties. He had not been tried by year's end.

Security forces arrested journalists during the year (see Section 2.a.).

Police arrested demonstrators during the year (see Section 2.b.).

Colonel Danzoumi Yalo was arrested on December 23 allegedly for plotting a coup. The case was under investigation at year's end.

On May 14, Chadian soldiers arrested lawyer and human rights activist Emilien Bizon Jr. after he publicly protested the beating of a taxi driver in downtown Bangui. He was freed a few hours later, after a protest by the Bar and human rights organizations.

Prolonged pre-trial detention was a serious problem; however, the number of pre-trial detainees was unknown at year's end. Detainees were usually informed of the charges levied against them; however, many waited in prison for several months before seeing a judge. Some detainees remained in prison for years because of lost files and bureaucratic obstacles.

The suspended Constitution does not permit the use of exile, and the Government did not employ it in practice. The Government has stated repeatedly that any person in exile for strictly political, rather than criminal, reasons may return without fear of persecution. The April amnesty granted by President Bozizé encouraged thousands of exiles, including former President André Kolingba, members of Kolingba's Yakoma ethnic group, and Rwandan refugees, to return home, mostly from the DRC, and the Republic of the Congo (ROC) (see Sections 1.e. and 2.d.). In addition, approximately 1,000 members of the military who fled following the failed 2001 coup were reintegrated into the army on a case-by-case basis.

On April 9, Jean-Paul Ngoupande, the opposition leader who fled the country after gendarmes invaded his house in January 2001, returned to the country and was appointed as a special advisor to President Bozizé.

On April 22, dignitaries of the former Patassé regime, including former Vice-President Hugues Dobozeni and former President of the National Assembly, Appolinaire Dondon, returned home and were able to move freely throughout the country.

#### e. Denial of a Fair Public Trial

The suspended Constitution provides for an independent judiciary; however, the judiciary was subject to executive interference, both before and after the March 15 coup. There was inefficient administration of the courts, a shortage of trained personnel, growing salary arrears, and a lack of material resources.

The judiciary consists of a tribunal of first instance, the court of appeal, the cassation court, the High Court of Justice, commercial and administrative courts, a military court, and the Constitutional Court. The highest court is the Constitutional Court, which determines whether laws passed by the National Assembly conform to the Constitution. The Constitutional Court also receives appeals challenging the constitutionality of a law. The Constitutional Court was dissolved after the coup on March 15. Lower courts hear criminal and civil cases and send appeals to the Court of Appeals. Military courts tried only soldiers, not civilians. The courts of justice and the juvenile court barely functioned due to inefficient administration, shortage of trained personnel, salary arrears, and a lack of resources.

In general trial procedures, if the prosecutor believes there is sufficient evidence that an offense has occurred and that the accused committed

it, he places the accused under an arrest warrant. If there is insufficient evidence, the case is dropped. Trials are held publicly, and defendants have the right to be present and to consult a public defender. Defendants also have the right to question witnesses, to present witnesses and evidence on their own behalf, and to have access to government-held evidence relevant to their case. Defendants are presumed innocent until proven guilty, and if convicted, defendants have the right to appeal. The Government generally complied with these legal requirements; however, the judiciary did not enforce consistently the right to a fair trial, and there were many credible reports of corruption within the court system. A number of persons were subjected to prolonged detention without trial or were killed summarily and extrajudicially (see Section 1.a.).

The Criminal Court did not resume its activities after the March coup. Many cases remained pending before the Court, including the cases of former Minister of Communication and second Vice-President of the former ruling MLPC party and Patassé's spokesman, Jean-Edouard Koyambounou, who remained in pre-trial detention in the Ngaragba prison. Koyambounou was accused of misappropriation of public funds.

Due to judicial inefficiency, citizens in a number of cities established their own courts to deal with cases through parallel justice.

On April 23, President Bozizé granted amnesty to 800 persons, including former President André Kalingba, who were convicted in August 2002 of involvement in a coup attempt in 2001; there were no reports that they experienced government harassment.

On August 28, the State Prosecutor issued an international warrant for the arrest of former President Patassé, who remained in exile, for embezzlement of public funds, human rights violations, and economic crimes.

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits invasion of homes without a warrant in civil and criminal cases; however, on occasion police used provisions of the Penal Code governing certain political and security cases that allow them to search private property without a warrant. Security forces continued to carry out warrantless searches for guns and ammunition in private homes. The increase of banditry in Bangui has become a pretext for the police to carry out warrantless house searches.

During the fighting prior to and during the coup, troops from both sides illegally entered, searched, and looted homes, in some cases killing the residents, and in other cases causing them to flee. Ministries and residences of former dignitaries were looted and destroyed. Hundreds of vehicles belonging to the Government, private companies, and individuals were also stolen. Bozizé's rebels looted homes, businesses, and church and NGO properties, according to missionary groups, the Central African (Catholic) Episcopal Conference (CAEC), and residents who fled to Bangui.

Following the coup, the joint security forces, supported by CEMAC troops, continued to carry out warrantless searches of entire neighborhoods and seized vehicles, electronic goods, appliances, and other items for which residents could not produce sales receipts, alleging that the property was stolen. Few of these items were returned to the owners.

From April to July, police and gendarmes in Bangui surrounded several neighborhoods and searched houses for arms as part of a mandatory disarmament program.

After the coup, Bozizé's forces conducted massive looting in Bangui and in other parts of the country.

The Government continued to engage in wiretapping without judicial authority.

#### Section 2 Respect for Civil Liberties, Including:

##### a. Freedom of Speech and the Press

The suspended Constitution provides for freedom of speech and of the press; however, the Government continued to restrict the freedom of the press, particularly the freedom of the print media to criticize the Government. The law criminalizes offenses such as defamation committed by members of the media, and some journalists and editors were imprisoned during the year. The Government continued to dominate domestic broadcast media. Before the March coup, pressure from the Patassé Government resulted in the self-censorship of journalists in both the public and private press; however, local media observers said there has been greater press freedom since President Bozizé took power.

The law prohibits the Government from censoring the press and defines the rights and responsibilities of private media.

At the beginning of the year, the Patassé Government owned and controlled three newspapers, the Centrafrique Presse, the Agence Centrafricaine de Presse (ACAP) bulletin, which appeared sporadically, and Forum de l'Unité. Echo de Centrafrique, a private daily newspaper, was influenced by and treated favorably the ruling party. More than a dozen private newspapers were published at varying intervals and often criticized the President, the Government's economic policies, and official corruption. President Bozizé did not control any newspapers.

Radio was the most important medium of mass communication because the literacy rate was low, and newspapers and television were relatively expensive and rarely found outside urban areas. The Government owned and operated a radio station and a television station. The activities of the President and other senior government officials dominated programming. On January 8, the former National Assembly passed a law creating the CAR Radio and Television Office (ORTCA), making it a parastatal for better management. Private citizens can own shares in this new company. The USP remained in control of the national radio station until the March 15 coup, when they were replaced by the national police force.

There were no privately owned stations that broadcast domestically produced national news or political commentary. Africa Number One, a

private radio station in Bangui, broadcast national news coverage. Radio Notre Dame, which was owned and operated by the Catholic Church, broadcast national news, debates, legal counseling, and human rights education. Radio-France Internationale (RFI) also broadcast domestically; its programming included some national news coverage by a correspondent based in the country. The private radio station N'Deke Luka broadcast from Bangui on FM with assistance from foreign governments and development organizations.

The Government continued to monopolize domestic television broadcasting. The High Council of Communication was responsible for authorizing private television as well as radio stations, but received no applications to establish a private television station.

During the year, security forces arrested, detained, threatened, or otherwise harassed some journalists. For example, on February 19, police in Bangui detained Joseph Bénamasé, a correspondent for the British Broadcasting Corporation and the Associated Press. The authorities interrogated him about his reports on the presence of Rwandan troops among MLC rebels who were supporting President Patassé; Bénamasé was released later that day.

On February 20, police arrested Marthurin Momet, the editor of the private newspaper *Le Confident*, in Bangui and held him in incommunicado detention. He was accused of threatening internal security and "inciting hatred" after publishing articles in February criticizing the pro-government MLC forces for committing human rights abuses, and President Patassé for failing to control the MLC rebels. On March 3, newspapers in Bangui suspended publication for 48 hours to protest Momet's detention, and on March 15, following the coup by General Bozizé, Momet was released.

On July 7 and 8, authorities threatened and summoned Faustin Bambou, publication director of the newspaper *Les Collines du Bas-Oubangui*, to the police station in Bangui; police officers interrogated him about a July 3 article in which he criticized the privileges granted by the Government to a Chadian businessman. In the following week, the General Prosecutor also interrogated Bambou.

On July 11, police in Bangui arrested Ferdinand Samba, publication director of the independent daily *Le Démocrate*, on accusations of inciting panic and disseminating "alarming and incorrect information." Police interrogated him about a July 8 article in which he reported that rebels loyal to former President Patassé had launched an attack on the city of Kaga Bandoro. Samba was released on July 15 and was not charged with any offense.

During the first 2 months of the year, authorities censored two international radio stations, RFI and Africa Number One, by forcing them to stop broadcasting for several days because they reported on Bozizé's troops' progress.

On May 18, police arrested and detained Michel Ngokpele, publication director of the privately-owned newspaper *Le Quotidien de Bangui*, in the southwestern city of Mbaiki. The arrest followed the May publication of an article in which he detailed acts of corruption and embezzlement allegedly committed by the head doctor at the Mbaiki hospital, with the complicity of a local prosecutor and a police commissioner. On June 26, a court in Mbaiki sentenced Ngokpele to 6 months' imprisonment with no parole for defamation and "incitement to ethnic hatred." At year's end, Ngokpele remained in prison.

The Government did not limit Internet access.

The Government did not restrict academic freedom. University faculty and students belonged to many political parties and generally expressed their views without fear of reprisal.

#### b. Freedom of Peaceful Assembly and Association

The suspended Constitution provides for the right of assembly; however, the Government at times restricted this right. Organizers of demonstrations and public meetings were required to register with the Government 48 hours in advance, and political meetings in schools or churches were prohibited. The Government wanted any association to write a letter to the Ministry of Interior and get the Ministry's approval prior to holding any meeting. In many cases, when associations asked for such approval, the Ministry refused "for security reasons."

On February 15, the Ministry of Interior cancelled a meeting by a political opposition party for security reasons and because of the occupation of part of the country by General Bozizé. Under President Patassé's rule, most of the leaders of the opposition were often accused of supporting the rebellion of General Bozizé.

Police forcibly dispersed several demonstrations during the year by university students and professors protesting the non-payment of scholarships and salaries by the Government. In January, police used tear gas to break up one such demonstration.

In December, police arrested demonstrators of the "pot strike" during a peaceful march. Following the encouragement of opposition leaders, demonstrators used pots to make noise for 2 minutes each day, from December 27 to 31, to protest human rights abuses committed by MLC soldiers and to request the withdrawal of Libyan and MLC soldiers. The demonstrators were released several days after the strike.

No action was taken against members of the security force responsible for the use of excessive force to disperse demonstrations in 2002 or 2001.

The suspended Constitution provides for freedom of association; however, the Government limited it in practice. All associations, including political parties, must register with the Ministry of Interior to enjoy legal status. The Government usually granted registration expeditiously. A variety of associations have registered with the Government following a 3-month background investigation; there were more than 35 registered political parties and a variety of nonpolitical associations. The Government normally allowed them to hold congresses, elect officials, and publicly debate policy issues without interference, except when they advocated sectarianism or tribalism. After March 15, political parties operated freely.

The law prohibiting nonpolitical organizations from coalescing for political purposes remained in place; there were no reports of enforcement of this law.

### c. Freedom of Religion

The suspended Constitution provides for freedom of religion but establishes fixed legal conditions and prohibits what the Government considers religious fundamentalism or intolerance. The Government closed 34 churches during the year. The constitutional provision prohibiting religious fundamentalism was understood widely to be aimed at Muslims, who make up approximately 15 percent of the population.

Religious groups (except for traditional indigenous religious groups) were required by law to register with the Ministry of Interior. The Ministry's administrative police kept track of groups that failed to register; however, the police did not attempt to impose any penalty on such groups. The Ministry could decline to register, suspend the operations of, or ban any organization that it deemed offensive to public morals or likely to disturb the peace. Any religious or nonreligious group that the Government considered subversive was subject to sanctions. The Ministry of Interior also could intervene to resolve internal conflicts about property, finances, or leadership within religious groups. However, the Government imposed no new sanctions on any religious group during the year.

On September 26, the Minister of Territorial Administration issued a decree suspending the activities of 34 churches because they were created with disregard for official rules and regulations. To resume their activities, religious institutions must prove that they have a minimum of 1,000 members; the reverends must bring evidence that they graduated from the highest religious schools and fulfilled official requirements on church creation. This decree was intended to regulate the proliferation of places of worship.

General Bozizé's church was reopened after the March 15 coup.

In general, there was religious tolerance among members of different religious groups during the year; however, there were occasional reports that some villagers who were believed to be witches were harassed, beaten, or sometimes killed by neighbors.

During the fighting in the north, especially in Bossangoa, the Chadian combatants of General Bozizé looted churches and killed two priests. Bandits and rebels of both sides attacked, robbed, and injured missionaries and Muslims during the year.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

### d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The suspended Constitution provides for the right to move freely throughout the country; however, the Government restricted this right during the year. Police, security forces, customs officers, and other officials harassed travelers unwilling or unable to pay bribes or "taxes" at checkpoints along major intercity roads and at major intersections in Bangui (see Section 1.c.). Attacks by bandits on major routes to the north and east sometimes occurred. In addition, a nightly curfew imposed by the Bozizé Government in March remained in effect until October.

During the 6-month rebellion in the North, which culminated in the March 15 coup, traffic was entirely interrupted on the main roads between Bangui and the upcountry cities, restricting the free movement of the population.

The Patassé Government generally allowed opposition leaders to travel abroad or inside the country without restrictions; however, on January 25, two political leaders, Joseph Bendounga of the Democratic Movement for the Rebirth and the Evolution of CAR and Enoch Derant Lakoue of the Democratic and Social Party were prevented from leaving the country prior to the National Dialogue of Reconciliation (see Section 1.d.). Throughout the year, security forces continued to be stationed at the airport. During and immediately following the March 15 coup, the Government closed M'Poko Airport and all border crossings in the country. Private planes were not allowed to fly without permission from the military.

With the exception of diplomats, the Government required that all foreigners obtain an exit visa from the headquarters of the National Police. Travelers could be required to obtain affidavits to prove that they owed no money to the Government or to parastatal companies.

As a result of fighting between General Bozizé's rebels and security forces, an estimated 30,000 CAR refugees and Chad returnees fled to Chad between mid-February and March 14. Chadian officials reported that since February 20, approximately 3,500 Chadians fled the cities of Bozoum, Paoua, and Sibut for Chad following clashes between government forces and Bozizé's rebels. There were many reported cases of looting and abuses committed against civilians suspected of supporting the rebellion.

In June, the Office of the U.N. High Commissioner for Refugees (UNHCR) repatriated at least 2,000 CAR refugees from northern DRC. At least 1,000 former soldiers also returned to the country. On June 9, the Government established a special commission with the assistance of the UNHCR to welcome approximately 3,000 refugees who returned from the DRC and the Republic of the Congo. In August, the UNHCR began the repatriation of approximately 1,700 CAR refugees from Betou in the ROC, where they had resided since 2001.

In December, the Bozizé Government allowed the UNHCR to repatriate refugees from the DRC using the Oubangui river, which had been closed to human traffic since September. On December 16, a repatriation program facilitated by the UNHCR repatriated approximately 300 refugees from the DRC.

The fighting between the Patassé Government and General Bozizé's rebels resulted in large numbers of IDPs during the year. According to the U.N., between October 2002 and the March 15 coup, an estimated 200,000 persons were internally displaced as the conflict escalated.

The law provides for the granting of asylum or refugee status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. The Government provided protection against refoulement and granted refugee and asylum status. The Government continued to work with the UNHCR and provided temporary protection to Chadian, Sudanese, Rwandan, and Congolese refugees. Applicants for asylum often were accepted. Almost all refugees were registered with the National Commission for Refugees. According to the UNHCR, by year's end, there were at least 50,000 refugees in the country, among whom 37,000 were from Sudan, and 7,000 from the DRC. Others were from Angola, Burundi, Liberia, and Uganda.

In November, the UNHCR conducted training seminars for gendarmes on basic refugee rights and the refugee-related obligations of security forces. The seminars followed newspaper reports published earlier in the year indicating that some refugees were being recruited as mercenaries. The reports had prompted police and gendarmerie to crack down on refugees from Rwanda, Burundi, and the DRC.

### Section 3 Respect for Political Rights: The Right of Citizens to Change their Government

The suspended Constitution provides citizens with the right to change their government; however, in practice, citizens did not have this right following the March 15 coup.

President Patassé's MLPC won both the Presidency and half of the seats in the National Assembly in the 1998 and 1999 elections. International observers deemed both elections generally free; however, the presidential elections were marred by irregularities in voter registration and distribution of electoral materials. The Government strongly influenced the electoral process, and some of the registration irregularities tended to favor the ruling party.

After seizing power, General Bozizé declared himself President, suspended the Constitution, and dissolved the National Assembly. After ruling by decree for a short period, President Bozizé established new government institutions and governed by two constitutional acts. On March 23, President Bozizé appointed Abel Goumba, a civilian and leader of the opposition coalition, as Prime Minister. On March 31, Prime Minister Goumba named a transitional government, composed of 28 members, including representatives of all political parties and civil society representatives. In December, President Bozizé dismissed Goumba and the transitional government and appointed Celestin Le Roi Gaoumbale, a civilian, as Prime Minister and head of a new transitional government.

During the year, President Bozizé also shared power with the NTC, a legislative body comprised of 96 representatives from civil society and all political parties. In November, a government committee announced that the transition was expected to result in the adoption by referendum of a new constitution by September 2004; in addition, presidential, legislative, and municipal multiparty elections would be held between November 2004 and April 2005. In late December, the NTC authorized the Government to collect taxes and customs fees until February 2004, pending the adoption of a new budget.

Between September 15 and October 27, the Government held a national reconciliation dialogue in Bangui intended to end years of armed conflict, coups, and ethnic rivalries. The dialogue's 350 delegates, who represented different political, social, religious and professional affiliations, adopted recommendations to be implemented by a government committee. Although some former presidents of the country and members of former President Patassé's political party participated in the dialogue, former President Patassé remained in exile and was not invited to participate.

The suspended Constitution provides for multiple political parties, and there were no reports that the Government prevented parties from operating freely during the year.

The state remained highly centralized. The central government appointed all subnational government officials, and subnational government entities had no significant fiscal autonomy. Provisions in the suspended Constitution provide for municipal elections; however, by year's end, they had not been held. The country's towns continued to be led by mayors appointed by the President.

Until the National Assembly was dissolved in March, 8 of the 109 members were women, and in the former cabinet, 2 of the 24 members were women. Following the March coup, President Bozizé appointed a woman as governor of Ombella M'poko Province, in which Bangui is located. By year's end, there were 6 women in the 96-member NTC.

President Patassé was a member of the Sara-Kaba ethnic group. Until the March coup, members of northern ethnic groups, including the Sara and Baya, continued to predominate among the President's advisors, in the leadership of the ruling party, and among ruling party members of the National Assembly. There were no Muslims in the Cabinet, but there were at least five Muslims in the National Assembly. President Bozizé was a member of Baya ethnic group. Members of northern ethnic groups, especially the Baya, continued to predominate among the National Army. There were Muslims in the Cabinet and in the National Transitional Council.

Pygmies (Ba'Aka), the indigenous inhabitants of the southern part of the country, represented between 1 and 2 percent of the population; they were not represented in the Government and continued to have little political power or influence (see Section 5).

### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat responsive to their views. Several NGOs, including the Movement for the Defense of Human Rights and Humanitarian Action, the Human Rights Observatory, and some religious groups actively monitored human rights problems. The LCDH publicized human rights violations, including those allegedly committed by the army, and pleaded individual cases of human rights abuses before the courts.

In February, the International Federation of Human Rights Leagues (FIDH) released a report accusing Bemba, Miskine, and former President Patassé of committing war crimes in 2002.

In November, government ministerial aides and lawyers attended a U.N.-sponsored 10-day seminar in Bangui on human rights and the techniques of writing human right reports. A U.N. human rights expert instructed the participants on basic human rights principles and different approaches to human rights protection and promotion.

During the year, the Government established a Truth and Reconciliation Commission to identify the causes of crises and unrest that have harmed the country since 1960. In October, the Commission presented its findings to delegates of the national reconciliation conference. It recommended that President Bozizé enlarge his transitional government to allow for broader consensus in his administration and criticized Bozizé for failing to manage the post-coup period effectively, highlighting human rights abuses and widespread looting committed after the coup. The Commission also solicited public apologies from politicians, the army, and others for abuses and mistakes committed in the past. In

addition, the Commission recommended that ethnic groups be fairly represented in the army, that all army recruits be taught international humanitarian law, and that a center for conflict prevention and resolution be established.

#### Section 5 Discrimination based on Race, Sex, Disability, Language, or Social Status

The suspended Constitution stipulates that all persons are equal before the law without regard to wealth, race, or sex; however, the Government did not enforce these provisions effectively, and significant discrimination existed.

##### Women

Domestic violence against women, including wife beating, reportedly was common; however, inadequate data made it impossible to quantify. Spousal abuse was considered a civil matter unless the injury was severe. Victims seldom reported incidents. The courts tried very few cases of spousal abuse, although litigants cited these abuses during divorce trials and civil suits. Some women reportedly tolerated abuse to retain a measure of financial security for themselves and their children. The Government did not address this problem during the year.

The law prohibits rape; however, it does not specifically prohibit spousal rape. Police sometimes arrested men on charges of rape; however, the social stigma induced many families to avoid formal court action. There were numerous credible reports that security forces and rebels raped women during and following the March coup (see Section 1.c.).

The law prohibits FGM; however, girls continued to be subjected to this traditional practice in certain rural areas, and to a lesser degree in Bangui. According to the World Health Organization, FGM affected more than 40 percent of girls. In addition, according to a study published jointly by UNICEF and the Government in 2001, approximately 36 percent of adult females had undergone FGM.

Trafficking was a problem (see Section 6.f.).

Women were treated as inferior to men both economically and socially. Single, divorced, or widowed women, even those with children, were not considered to be heads of households. Only men were entitled to family subsidies from the Government. Women in rural areas generally suffered more discrimination than did women in urban areas. There were no accurate statistics on the percentage of female wage earners. Women's access to educational opportunities and to jobs, particularly at higher levels in their professions or in government service, was limited.

Polygamy is legal, although this practice faced growing resistance among educated women. The law authorizes a man to take up to four wives, but a prospective husband must indicate at the time of the first marriage contract whether he intends to take additional wives. In practice, many couples never married formally because men could not afford the traditional bride payment. Women who were educated and financially independent tended to seek monogamous marriages. Divorce was legal and could be initiated by either partner.

The law does not discriminate against women in inheritance and property rights, but a number of discriminatory customary laws often prevailed. A family code further strengthened women's rights, particularly in the courts. The Association of Central African Women Lawyers advised women of their legal rights. The organization also published pamphlets in conjunction with the Ministry of Social Affairs on the dangers of FGM. During the year, several active women's groups organized workshops and seminars to promote women's and children's rights and to participate fully in the political process.

##### Children

The Government spent little money on programs for children. Churches and NGOs had relatively few programs for youths. The failure of the education system, caused by a meager budget and salary arrears, resulted in a shortage of teachers and an increase in the number of street children. Education was compulsory from ages 6 to 14; however, parents rarely were prosecuted for their children's nonattendance. In practice, the age that a child started school often varied by 2 to 3 years in rural areas. At the primary level, girls and boys enjoyed equal access to education; however, the majority of young women dropped out at age 14 or 15 due to societal pressure to marry and bear children. According to UNICEF, 39 percent of girls of primary school age were enrolled in school, compared with 47 percent of boys. In addition, 35 percent of the country's women were literate compared with 60 percent of men. School enrollment in urban areas generally was significantly higher than in rural areas.

The Government did not provide medical coverage for uninsured children. However, in November, the Government launched a national anti-polio immunization campaign intended to reach at least 650,000 children under 5 years of age.

According to numerous credible reports, male teachers in primary and secondary schools as well as at the university level routinely pressured their female students into having a sexual relationship in exchange for passing grades; the spread of HIV/AIDS was extremely prevalent between teachers and their female students.

The Penal Code forbids parental abuse of children under the age of 15 years. In addition, illegitimate children had the same rights as those born in wedlock. A juvenile court tried cases involving children and provided counseling services to parents and juveniles during the year.

FGM was performed primarily on young girls (see Section 5, Women).

Trafficking and child prostitution were problems (see Section 6.f.).

Child labor was a problem (see Section 6.d.).

There were approximately 5,000 street children between the ages of 5 and 18 residing in Bangui. Many children begged and stole; several charitable organizations provided them with humanitarian assistance.

On February 5, many street children were enrolled in security forces to fight against Bozizé's rebellion. Captain Paul Barril, French mercenary and special advisor to President Patassé, recruited teenagers aged 12 to 15 for military activities on the battlefield, according to various

sources. After a few days of military training, they received \$100 and were sent to reinforce the pro-government MLC rebels in Damara and Bossembele. Many of them were killed.

There were several NGOs specifically promoting children's rights, including some which dealt with street children.

#### Persons with Disabilities

There was no codified or societal discrimination against persons with disabilities; however, there were no legislated or mandated accessibility provisions for persons with disabilities. There were several government- and NGO-initiated programs designed to assist persons with disabilities, including handicraft training for the blind and the distribution of wheelchairs and carts by the Ministry of Social Services.

#### Indigenous People

Despite constitutional protection, there was societal discrimination against Pygmies (Ba'Aka), the earliest known inhabitants of the rain forest in the southern part of the country. Pygmies comprised approximately 1 to 2 percent of the country's population. In general, Pygmies had little input in decisions affecting their lands, culture, traditions, and the allocation of natural resources. Indigenous forest-dwelling Pygmies, in particular, were subject to social and economic discrimination and exploitation, which the Government has done little to prevent. However, on August 23, the Government issued birth certificates to 97 Pygmy children, thereby effectively recognizing them as citizens and allowing them access to greater civil rights. Pygmies often worked for villagers at wages lower than those paid to members of other groups.

Refugees International released a report during the year on Pygmies, stating that Pygmies occupied the role of "second-class citizens." The report noted that the popular perception of Pygmies as barbaric, savage, and subhuman had seemingly legitimized their exclusion from mainstream society.

#### National/Racial/Ethnic Minorities

The population included approximately 80 ethnic groups; many of these groups spoke distinct primary languages and were concentrated regionally outside urban areas. The largest ethnic groups were the Baya (33 percent), the Banda (27 percent), the Mandja (13 percent), the Sara (10 percent), the Yakoma (4 percent), and the M'baka (4 percent). The Mbororo comprised approximately 7 percent of the population but played a preponderant role in the economy; they were involved in mining development and remained the most important cattle breeders in the country.

Major political parties tended to have readily identifiable ethnic or ethnic-regional bases.

On February 4, the Government arrested several Chadians in connection with rebel attempts to overthrow the Government. On February 17, the Government released the prisoners following a visit from the President of Chad and the launching of a reconciliation process between the two countries. Thousands of Chadians have been residing in the country for generations and many have acquired citizenship. Since a failed coup attempt in 2001, when General Bozizé fled to Chad with part of the national army, tensions have remained between the Chadian community and those who consider themselves to be native to the country.

#### Section 6 Worker Rights

##### a. The Right of Association

Under the Labor Code, all workers were free to form or join unions without prior authorization, and a relatively small part of the workforce, primarily wage earners such as civil servants, exercised this right. There were five recognized labor federations, including the Organization of Free Public Sector Unions and the Labor Union of Central African Workers (USTC), which were independent of the Government.

The law expressly forbids discrimination against employees on the basis of union membership or union activity. Employees can have their cases heard in the Labor Court. The Labor Code does not state whether employers found guilty of anti-union discrimination were required to reinstate workers fired for union activities; however, employers legally were required to pay damages, including back pay and lost wages. There were reports of anti-union discrimination.

Labor federations were free to affiliate internationally, and the USTC was affiliated with the ICFTU.

##### b. The Right to Organize and Bargain Collectively

The Labor Code grants trade unions full legal status, including the right to file lawsuits. It requires that union officials be full-time wage-earning employees in their occupation, and they may conduct union business during working hours. The Code does not specifically provide that unions may bargain collectively; however, the law protects workers from employer interference in their right to organize and administer their unions. The Government usually was involved in the collective bargaining process. While collective bargaining has taken place in some instances, no collective bargaining occurred during the year.

The Ministry of Labor and Civil Service set wage scales. Collective bargaining played a role in setting wages in private industry. Private sector wages have not changed since they were collectively bargained. Salary arrears continued to be a problem during the year for both civilian and military personnel. The Government owed both groups approximately 30 months of salary arrears. The arrears continued to be a major complaint of the unions. The Bozizé administration paid civil servants their monthly salaries from April until September.

In July, an inter-ministerial commission established in May to investigate the size of the civil service found 866 ghost workers on the payroll. The Bozizé Government said corruption and embezzlement under the Patassé administration resulted in the former government's failure to pay salaries for at least 30 months.

Unions had the right to strike in both the public and private sectors, and workers exercised this right. To be legal, strikes had to be preceded by the union's presentation of demands, the employer's response to these demands, a conciliation meeting between labor and management,

and a finding by an arbitration council that union and employer failed to reach agreement on valid demands. The union also was required to provide 8 days' advance written notification of a planned strike. The Labor Code states that if employers initiate a lockout that is not in accordance with the Code, the employer is required to pay workers for all days of the lockout. However, the Government has the authority to end strikes because of public interest. The Code makes no other provisions regarding sanctions on employers for acting against strikers. There were no reports of employer actions against strikers.

On April 30, teachers ended their 7-month national strike for partial payment of their 32 months in salary arrears. An agreement was reached between the Teachers' Federation, which represents two teachers' unions, and the Ministry of Education. On May 5, classes resumed.

There are no export processing zones.

#### c. Prohibition of Forced or Bonded Labor

The Labor Code specifically prohibits forced or bonded labor; however, there were reports that such practices occurred (see Sections 6.d. and 6.f.). Prisoners were forced to work without compensation for government officials or magistrates. The indigenous Ba'Aka, including children, often were coerced into agricultural, domestic, and other types of labor within the country. The Ba'Aka often were considered to be the slaves of other local ethnic groups, and subjected to wages far below those prescribed by the labor code.

#### d. Status of Child Labor Practices and Minimum Age for Employment

Child labor was common in many sectors of the economy, especially in rural areas. The Labor Code forbids the employment of children under 14 years of age; however, the Ministry of Labor and Civil Service enforced the provision only loosely. The Labor Code defined the worst forms of child labor as dangerous work or tasks involving serious risks to the child's health, security, or morality. The Labor Code generally covered all labor sectors, although specific regulations covered specific sectors. In some cases, the Labor Code provides that the minimum age for employment could be reduced to 12 years for some types of light work in traditional agricultural activities or home services. Children frequently worked on farms at rural schools.

In some rural areas, teachers or principals used school children as labor on farms, ostensibly to teach them how to work the land since many students did not further their education beyond secondary school (see Section 5). The schools used the proceeds from the sale of the farm produce to purchase school supplies and equipment and to fund school-related activities. In addition, an international agency reported that children worked in the diamond fields alongside adult relatives.

The Labor Code prohibition of forced or bonded labor applies to children, although they are not mentioned specifically; however, forced child labor occurred (see Section 6.c.).

The Government did not have sufficient human or material resources to enforce the prohibition against forced labor effectively.

#### e. Acceptable Conditions of Work

The Labor Code states that the Minister of Labor must set minimum wages by decree. The minimum wage varies by sector and by kind of work. For example, the monthly minimum wage was equivalent to approximately \$12 (7,800 CFA francs) for agricultural workers but approximately \$28 (18,000 CFA francs) for office workers. The minimum wage did not provide a worker and family a decent standard of living. Most labor was performed outside the wage and social security system, especially by farmers in the large subsistence agricultural sector.

The law sets a standard workweek of 40 hours for government employees and most private sector employees. Household employees may work up to 55 hours per week. The law also requires a minimum rest period of 48 hours per week.

There also were general laws on health and safety standards in the workplace, but the Ministry of Labor and Civil Service neither precisely defined nor actively enforced them, a matter about which the ILO has expressed concern to the Government for many years. The Labor Code states that a labor inspector may force an employer to correct unsafe or unhealthy work conditions, but it does not provide the right for workers to remove themselves from such conditions without risk of loss of employment.

The Labor Code protects both legal and illegal foreign workers.

#### f. Trafficking in Persons

The law does not prohibit trafficking in persons, and there were reports that persons, particularly children, were trafficked. Child prostitution remained a problem. The Government has recognized that trafficking in persons occurs; however, statistics and specific examples of trafficking were not available.

Traffickers can be prosecuted under laws against slavery, Labor Code violations, mandatory school age laws, and laws against the exploitation of prostitution by means of coercion or fraud. Specific laws address the crime of prostitution and have been used to punish those who trafficked women for the purposes of prostitution.

The Government did not actively investigate cases of trafficking, nor did it use or have access to special investigative techniques in trafficking investigations. A government-established commission studied the extent of the trafficking problem, identified those responsible, and devised a plan to combat the problem; however, few resources have been devoted to the problem. The Ministries of Social Affairs, Interior, Labor, Rural Development, Justice, and Defense were involved in anti-trafficking efforts and were part of the commission. There were no known NGOs specifically working to combat the problem.

Trafficking was confined primarily to children who were brought in by the foreign Muslim community from Nigeria, Sudan, and Chad to be used as domestic servants, shop helpers, and agricultural workers (see Section 5). Merchants, herders, and other foreigners doing business in and transiting the country also brought girls and boys into the country. Such children, who may or may not be related to their caretakers, were not afforded the benefit of a formal education, despite the mandatory school age, and worked without remuneration for their labor. There were a

few anecdotal reports of children being trafficked to Nigeria and several other nearby countries for use as agricultural workers. There was no evidence of sexual exploitation, but there were reports that children were publicly beaten.

Some girls entered prostitution to earn money for their families.

In previous years, there were credible reports that persons obtained a Ba'Aka child by deception and subsequently sent the child to Europe for adoption; however, there were no such reports during the year.

## **EXHIBIT H**



**Kaplara Gotovinu uhitio sam 1985. zbog plja**

# Ja sam uhapsio Gotovinu

**PAUL BARRIL (59)**, bivši francuski obavještajac, koji je deset godina bio na čelu specijalne postrojbe zadužene za sigurnost predsjednika François Mitterranda, u ekskluzivnom intervjuu Globusu otkriva kako je, i zašto, prije dvadeset godina uhatio kaplara Legije stranaca, koji će nekoliko godina poslije postati general Hrvatske vojske

NEVIDLJIVI GRADANIN SVIJETA

## Gotovina ima i putovnicu Obale Bjelokosti

■ Što znate o Gotovini prije njegova povezivanja s Erulinom i ekstremnom francuskom desnicom?

- On je bio dobar legionar, koliko znam. Dobio je i čin kaplara, pet godina bio je u Legiji i dobio francusko državljanstvo. Ante Gotovina danas je jednako toliko francuski državljanin koliko i hrvatski, njegovo francusko državljanstvo nije mu oduzeto i to vam također mnogo govori o tome koliko su jake njegove veze. Međutim, ne budite naivni, on ima još nekoliko putovnica.

■ Na primjer?

- Dominique Erulin i Ante Gotovina mnogo su radili s Obalom



**LEGIONARSKO BRATSTVO**  
General više vjeruje svojim prijateljima iz Legije stranaca nego onima koje je poslije stekao u Hrvatskoj

Bjelokosti i Gotovina sigurno ima njihovu putovnicu. Ondje su se bavili prodajom oružja, ali, koliko znam, bili su povezani i s režimima u drugim zemljama - Libanonu, Gvatemali, Paragvaju, Kolumbiji i, naravno, Francuskoj. I Gotovina i Erulin su

1990. radili za vladu Obale Bjelokosti i nije bio problem dobiti njihovu putovnicu. Uz to, šef tajne službe u toj zemlji njihov je veliki prijatelj. Erulin je stručnjak za nabavu putnih isprava. Ne znamo s kojim je ispravama došao 1992. u Hrvatsku, u posjet svom prijatelju Gotovini, koji je tada, ako se ne varam, bio zapovjednik zbornog područja Split. Ali, vjerojatno je došao dogovarati kupnju oružja.

ačke, ali sumnjam da će ga itko opet uloviti

**FRANCUSKI JATACI** General ima čvrste veze s francuskim obavještajcima, a ljudi koji ga štite ne žele da se preda jer bi svašta mogao otkriti

U ZEMLJI SATOVA I ČOKOLADE

## General je intervju dao u Švicarskoj

■ Tko su ljudi koji danas štite Gotovinu?

- On ima mnogo poznanstava po svijetu, čak i po nekim "mirmim" zemljama za koje to možda ne biste pretpostavili. Jeste li znali da, recimo, ima iznimno jake kontakte u Švicarskoj? U Švicarskoj je bio do prije dvije godine i ondje je dao intervju koji je objavljen u Hrvatskoj. Dugo je ondje boravio jer ima zaštitu jednog saudijskog princa. Gotovina je bio zapovjednik njegovih tjelohranitelja - čuvao ga je, prijatelj mu je.

**PREDAJA** Gotovina će se predati eventualno ako se ispune njegovi uvjeti



1983. Barril snimljen na Korzici tijekom jedne policijske akcije

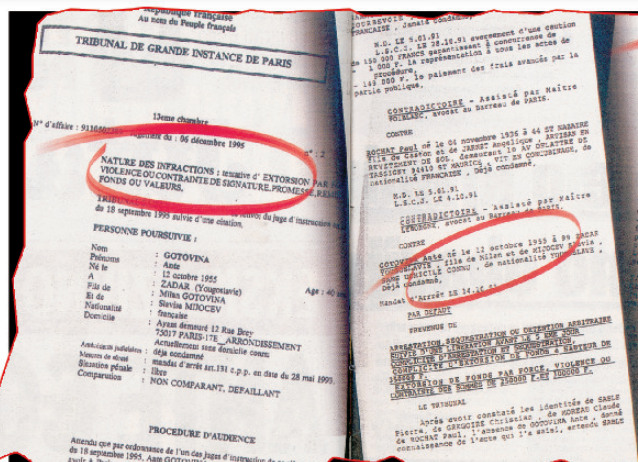
# Gotovina ne može biti miran u Hrvatskoj: s francuskim

Razgovarala Bisera LUŠIĆ  
Fotografije SIPA i arhiv EPH

**K**apetan Paul Barril, drugi čovjek jedinice za antiterorizam koja je osiguravala pokojnog francuskog predsjednika François Mitterranda, jedini je dosad uspješno ulazio u trag Anti Gotovini, a pod Barrilovim zapovjedništvom članovi njegove antiterorističke jedinice uspjeli su i uhititi kontroverznog legionara koji će poslije postati hrvatski general, a zatim i haški bjegunac. Barril je bio na čelu antiterorističke skupine koja je prva uhitila Gotovinu sredinom osamdesetih godina.

## Desničarski urotnici

U svojoj knjizi *Missions très spéciales* (Posebne misije) iz 1984., u kojoj govori o antiterorističkim operacijama koje je vodio, izdvaja Dominique Erulina, brata zapovjednika legionara Phillipea, i Antu Gotovinu kao "najzanimljivije pionire i egzekutore francuske ekstremne desnice". Gotovina je, tvrdi Barril u knjizi, ali i u ekskluzivnom razgovoru za Globus, imao vrlo dobre veze u francuskim tajnim službama, a istodobno je održavao dobre kontakte s desničarima. Prvi je put za hrvatskog



**PRESUDA** Preslika presude francuskog suda kojom je Gotovina, sredinom osamdesetih, zbog pljačke osuđen na 9,5 godina zatvora

JATACI IZ LANGLEYA?

## CIA-i nije u interesu da Gotovina bude uhićen

■ Mislite li da će biti uhićen ili da će se predati?

- Sumnjam da će biti uhićen. Predat će se eventualno ako se ispune uvjeti koje on traži, a koje je objavio u intervjuu. Iz njegovih se riječi dalo naslutiti da je dobro zaštićen i da ima lojalne ljude koji ga čuvaju. Međutim, ljudi koji ga

štite ne žele da se preda jer bi mogao otkriti stvari koje ne bile poželjne za njih. Na primjer, ni CIA-i ne bi bilo svedjedno što Gotovina ima reći o njihovu angažmanu. Tako svima odgovara situacija u kojoj se on skriva. Mislim da će on ostati dobro zaštićen.

legionara čuo kada je istraživao moguće prijetnje skupine bivših legionara plaćenika, članova Druge pukovnije padobranaca i "agresivnih antikomunista".

■ Kada ste prvi put čuli za Antu Gotovinu i kako je do toga došlo?

- 27. rujna 1981. dobili smo dojavu o mogućim prijetnjama sigurnosti francuske države. Uhitili smo dvojicu i povezali ih s militantnom desnicom koja je namjeravala pokrenuti sumnjive aktivnosti. U te su svrhe raspolagali s dva milijuna dolara. Ta su nam dvojica odala imena dvojice drugih ljudi - jedan je bio Dominique Erulin, a drugi Ante Gotovina. Erulin je uvijek bio blizak francuskoj desnici, osobito Jean-Marie Le Pen, i brat je Phillipea Erulina, zapovjednika u Legiji stranaca koji je vodio vojne akcije u Kongu i Zairu. Phillipe Erulin bio je šef Anti Gotovini, koji je služio u padobranskoj pukovniji, i preko njega je upoznao Dominiquea, koji je uskoro postao Gotovinin civilni šef. Gotovina je Erulinu bio desna ruka.

## Šverc oružja

■ Kako je on uhićen i zbog čega?

- Naše su ga službe tražile zbog šverca oružja između Italije, Španjolske i Korzike i nakon dojave o desničarskom okupljanju, ali nismo ga uspjeli uhvatiti sve dok nije na-



**SABOTAŽA** Gotovina je 1981. onemogućio policijsku akciju hvatanja ekstremnih desničara koji su navodno planirali napad na Mitterranda i državni udar

ZAŠTITAR I PISAC

## Eksplzivni Barrilovi bestseleri

Osim knjige "Posebne misije" (Missions très spéciales), u kojoj govori o antiterorističkim operacijama, Paul Barril objavio je i djelo o Mitterrandovim tajnim dokumentima te knjigu *L'Enquête Explosive*, u kojoj izlaže niz zanimljivih informacija o krijumčarenju oružja na Crnom kontinentu. U knjizi "Posebne misije" Barril je još 1984. opisao veze koje je Gotovina imao s obavještajnim službama i desničarskim organizacijama.

**POSEBNA MISIJA** U knjizi je Barril 1984. opisao veze Gotovine i desničarskih organizacija



# n državljanstvom i putovnicom mirniji je negdje drugdje

kratko napustio Erulina. Uhićen je 1985. Razlog je bila pljačka.

### ■ Gdje je uhićen?

- U Francuskoj, na lokaciji koju ne smijemo otkriti. Bio nam je jedno vrijeme izvan dohvata jer je s Erulinom boravio u Španjolskoj i u Obali Bjelokosti, ali uхваćen je kad se vratio u Francusku, i to bez svog najboljeg prijatelja.

■ **Kako je izgledala ta akcija? Je li bilo opasno? Je li Gotovina pružao otpor?**

- Bila je to rutinska dnevna prosječna akcija kakva se brzo zaboravlja. Samo vam mogu reći da je sve izvedeno lako jer smo ga uhvatili neopremnog. Bio je iznenađen. Nikakva otpora nije bilo.

### ■ Zašto?

- Zato što nije očekivao da će biti uhićen: i tada je mislio da ima zaštitu. Ali, moji ljudi i ja bili smo izvan toga.

### Plan za državni udar

#### ■ Što se zatim dogodilo?

- Možda to iz današnje perspektive djeluje smiješno, ali nama tada Gotovina nije bio osobito zanimljiv. Mi smo željeli doći do Dominiquea Erulina pa smo Gotovinu hvatali zato što mu je bio desna ruka. On je zbog te pljačke malo odsjedio u zatvoru, ali nama se tada potpuno izgubio interes za njega. Nisam ni pratio



**POD SUMNJOM** Francuski policajac navodno je sudjelovao i u kontroverznom događaju koji su prethodili izbijanju krvavog sukoba u Ruandi

SLUČAJ CRNE KUTIJE

## Barrilova uloga u Ruandi

Kapetan Barril u Francuskoj je kontroverzan i zbog nerazjašnjenih uloga oko istrage o padu zrakoplova ruandskog predsjednika Juvenala Habyarimana, nakon čega su u toj državi 1994. godine počeli stravični sukobi Hutua i Tutsija. Iako su postojale tvrdnje da su zrakoplov raketom zemlja-zrak srušili odmetnuti Tutsiji, na čelu s Paulom Kagameom koji je poslije postao predsjednik te afričke države, istražitelji dugo nisu mogli doći do crne kutije iz kokpita predsjedni-

čkog zrakoplova koja je možda mogla otkriti što se događalo u zrakoplovu prije eksplozije. Navodno je upravo kapetan Barril, koji je u to vrijeme boravio u Ruandi, uzeo crnu kutiju, jer francuske postrojbe nisu dopuštale prilaz mjestu nesreće. O crnoj se kutiji deset godina ništa konkretno nije znalo, da bi je 2004. godine netko "slučajno" otkrio u skladištima zrakoplovne tehnike u New Yorku. Podaci nađeni na njoj nisu otkrili ništa novo.

što se s njim zbivalo sve dok nije otišao u Hrvatsku i ondje započeo vojnu karijeru.

■ **Kada ste shvatili da ima jake veze s francuskim obavještajnim vrhom?**

- On je u prosincu 1981. onemogućio uspješno izvođenje jedne velike policijske akcije koju je naredio i odobrio francuski državni vrh s ciljem uhićenja i eliminiranja desničarskih militantnih pučista-legionara. U toj su akciji trebali biti uhićeni militanti ekstremne desnice koji su navodno planirali napad na predsjednika Mitterranda s konačnim ciljem izvođenja državnog udara. Akcija vladinih specijalnih jedinica s kopna i iz zraka trebala je biti izvedena dok su desničarski pučisti održavali tajni sastanak na jednom privatnom posjedu u blizini Toulona. Posjed je okružen, izvršen je napad helikopterima. Medutim, nađena su samo dva pištolja, a desničarima nije bilo ni traga, već je na posjedu bio tek njegov vlasnik, također jedan od njih. On je poslije potvrdio da se desničarsko društvo razbježalo nekoliko sati prije policijskog upada, kao i to da je informaciju o briznoj i tajno pripremanoj akciji okupljenima prenio upravo Ante Gotovina. To je dovoljno govorilo o njegovim jakim vezama s francuskim obavještajcima.

► **■ Je li točno da su Ante Gotovina i Dominique Erulin bili dio desničarske ekipe koja je planirala atentat na francuskog predsjednika François Mitterranda početkom osamdesetih godina?**

- Ne postoje konkretni dokazi da su baš to htjeli učiniti. Ali, postojale su jake indicije da se želi rušiti tadašnji državni sustav i da su se bivši legionari - plaćenici - povezivali s ekstremnom desnicom. Što se zapravo pripremalo, ni danas ne znamo, ali u to vrijeme postojale su jake indicije da se nešto sprema protiv režima. Sumnjam da su Gotovinu zanimali politički razlozi svrgavanja nekog režima - mislim da ga je tada više zanimalo novac.

### Veza s Le Penom

■ Odakle veza Gotovine i Le Pena?

- Preko Dominiquea Erulina. Ta se veza nastavlja nakon ratova u Alžiru, kada se stvorila fronta protiv francuske vlade. Ti su se ljudi povezali preko Jean-Marie Le Pena, koji je osobni Erulinov prijatelj. Preko Erulina u taj je milje ušao i Ante.

■ Mislite li da je Gotovina i danas u kontaktu sa svojim prijateljem Dominiqueom Erulinom?

- Siguran sam 99 posto da jesu u kontaktu. On ima jaku zaštitu jer poznaje mnogo moćnih ljudi, a za neke je i radio.

■ Glavna haška tužiteljica Carla Del Ponte kaže da on ima pomagalice u Hrvatskoj, vi sada tvrdite da ima moćne zaštitnike u Francuskoj?

- On ima prijatelje u Hrvatskoj, ali to su sve mali igrači u odnosu na ove u Francuskoj. Vjerujte mi, on danas više vjeruje svojim prijateljima iz Legije stranaca i ljudima koje je upoznao dok je bio u Francuskoj, nego prijateljima koje je poslije stekao u Hrvatskoj. Ante Gotovina mnogo je vremena proveo u Francuskoj i imao



**10 GODINA NA VRHU** Bivši obavještajac deset je godina bio na čelu specijalaca koji su se brinuli za sigurnost francuskoga šefa države

SPECIJALAC IZ ELIZEJSKE PALAČE

## Mitterrandov čuvar u aferi prisluškivanje

Bivši obavještajac Paul Barril deset je godina bio na čelu specijalaca koji su se brinuli za sigurnost francuskog šefa države (danas vodi zaštitarsku kompaniju sa sjedištem u Parizu) i u svom radnom vijeku uhitio je 115 ljudi i oslobodio više od 450 talaca. Međutim, u Francuskoj ga smatraju kontroverznim zbog afere u Ruandi, u koju je navodno bio umiješan neposredno prije početka genocida u toj zemlji. Rođen 13. travnja 1946., Barril potječe iz vojne obitelji i cijeli svoj život proveo je u policijskim i antiterorističkim strukturama. Danas ga, pohvalit će se, kao stručnjaka za sigurnost traže ne samo svjetski vladari i moćnici, nego i šefovi država i vlada kojima je na raspolaganju kao savjetnik. Premda se povukao iz javnog života, a većinu vremena provodi u svojoj tvrtki i pišući knjige, Barril se prošle godine ponovno našao u središtu zanimanja javnosti, u



**PREDSEDNIK** Barril kaže da se pokušao boriti protiv Mitterrandova neovlaštena prisluškivanja

takozvanoj aferi Elyseegate, kada su na vidjelo izašli razmjeri prisluškivanja francuskih građana u Mitterrandovo doba, o čemu su svjedočili francuski obavještajci, među njima i Barril. On je na sudu rekao da se oduvijek nastojao boriti protiv zloporaba i neovlaštena prisluškivanja, ali da su sve naredbe dolazile izravno iz Mitterrandova kabineta.

je priliku, zbog prirode svog posla, upoznati mnogo moćnih ljudi. On dobro poznaje i samu zemlju, zna da su legionarski veterani na Korzici i da žive ondje, a među njima postoji goleme vjernost i povezanost, bratstvo krvi. Meni je jasno kako se stvara slika da je on u Hrvatskoj i da je hrvatski heroj. Ali činjenica je da on u Hrvatskoj ne može biti miran dokle god je raspisana nagrada od pet milijuna dolara za dojavu o njegovu uhićenju. Prema tome, s francuskim državljanstvom i putovnicom on je mimiji negdje drugdje. A štiti ga francuska ekstremna desnica.

### Rondotova misija

■ Je li vam logična informacija da je francuska vlada angažirala francuskog superšpijuna, generala Philippea Rondota, da pokuša stupiti u kontakt s Gotovinom i nagovoriti ga na predaju?

- Rondot je vrlo važna osoba, koja ima jaku reputaciju u obavještajnim krugovima. Posljednjih desetak godina vodi i koordinira sve važnije obavještajne operacije i tajne misije. Poznato vam je da je on uhvatio najvećeg svjetskog terorista Carlosa u Sudanu. Međutim, general Rondot nikada ne djeluje na svoju ruku, nego kada ga za tu misiju angažira francuska država. Stoga je moguće da ga je francuska vlada i ovoga puta angažirala da pokuša stupiti u kontakt s Antom Gotovinom jer je njegov slučaj vrlo delikatna i za samu Francusku, budući da je on i francuski državljanin. Ante Gotovina mnogo zna. Nije on samo povezan s Francuskom, nego i s Amerikancima, odnosno s CIA-om. Njegovim uhićenjem ili predajom svašta bi moglo izbiti na vidjelo, i imati teške posljedice... Tako nije nemoguće da je general Rondot želio stupiti s njim u kontakt po naredbi francuskih vlasti. ■

## Siguran sam 99 posto da je Gotovina u kontaktu s Erulinom

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## GLOBUS--TRANSLATION

## PAUL BARRIL: I AM THE ONE WHO ARRESTED GOTOVINA

Captain Paul Barril, the deputy of the anti-terrorist unit which guarded the deceased French President Francois Mitterrand, is the only man so far who has managed to successfully track Gotovina, and under Barril's command members of his anti-terrorist unit managed to arrest the controversial former legionnaire who later became a Croatian general, and later an ICTY fugitive. Barril was at the head of the antiterrorist unit which first arrested Gotovina in the middle of the 1980's.

Right Wing Conspiracy

In his book, *Missions tres speciales* (Special Missions) from 1984, in which he writes of antiterrorist operations which he led, he singles out Dominique Erulin, the brother of the commander of the Legionnaires Phillipe, and Ante Gotovina as "the pioneers and executioners of the French extreme right of most interest." Gotovina, says Barril in the book, as well as in this exclusive interview with *Globus*, had excellent contacts with the French intelligence services, and at the same time maintained contacts with the members of the political Right. The first time he heard of the Croatian legionnaire when he was investigating potential threats by a group of former legionnaires, members of the second company parachute regiment and "aggressive anticommunists."

- Q. When was the first time you heard of Ante Gotovina and how did that come about?
- R. 27 September 1981 we received a report of a potential threat to the security of the French state. We arrested two men and connected them to the militant Right which was planning suspicious activities. For their activities this group had two million dollars. Those two then gave us the names of Ante Gotovina and Dominique Erulin. Erulin was always close to the French Right, particularly Jean-Marie LePen, and his brother was Phillipe Erulin, a commander in the Foreign Legion who led combat operations in the Congo and Zaire. Phillipe Erulin was the commander of Ante Gotovina, who served in the parachute regiment, and through him met Dominique, who soon became Gotovina's civilian boss. Gotovina was Erulin's right-hand man.
- Q. When was he arrested and for what?
- R. Our services were looking for him because of arms trading between Italy, Spain and Corsica and after a report of a meeting of right-wingers. We did not manage to arrest him until he left Erulin for a short time. He was arrested in 1985. The reason was a robbery.
- Q. Where was he arrested?

- R. In France, at a location which I cannot disclose. He was for a time outside our reach because he was living in Spain and the Ivory Coast, but he was arrested when he returned to France, without his best friend.
- Q. What did that action look like? Was it dangerous? Did Gotovina resist?
- R. It was a routine, average daily action which is of the type that is quickly forgotten. I can only tell you that things went easily because we arrested him unprepared. He was surprised. There was no resistance.
- Q. Why?
- R. Because he was not expecting to be arrested. He thought he enjoyed protection. But my men and I were outside the reach of his friends.

### **THE PLOT FOR A COUP D'ETAT**

- Q. What happened after that?
- R. Perhaps from today's perspective it appears ridiculous, but for us at that time Gotovina was not particularly of interest. We wanted to get to Dominique Erulin, so we arrested Gotovina because he was Erulin's right-hand man. Because of that robbery, he had to sit for a little while in jail, but we lost interest in him after that. I didn't even follow what happened to him until he went to Croatia and there started his military career.
- Q. When did you realize that he has strong connections to the very top of French intelligence?
- R. In December 1981 he obstructed the execution of a large police action which was approved by the head of the French state with the task of arresting and eliminating right-wing military putschist legionnaires. In that action we were to arrest militant right wing elements who were planning an attack on President Mitterrand with the objective of a coup d'etat. The action by the governments special forces from land and air was to be carried out while the right-wing putschists were having a secret meeting on a private property in Toulon. The property was surrounded, and an attack was launched via helicopter. However, we only found two handguns, and there was no sign of any right-wingers. The only person on the property was the owner, who was also a member of this group. He later confirmed that this right-wing group dispersed a few hours before the police attack, as well as confirming the fact that the information concerning this secret and well-planned attack was passed on to them by Ante Gotovina. That should tell you enough about his strong connections to French intelligence circles.
- Q. Is it true that Ante Gotovina and Dominique Erulin were part of a right-wing group which was planning to assassinate President Mitterrand at the beginning of the 1980s?
- R. There is no concrete evidence that that is what they were planning to do. However, there was strong indicia that they wanted to topple the then state

institutions, and that former legionnaires—mercenaries—were connected to the extreme right. What was actually being prepared, we today do not know, but at that time there were strong indicia that something was being prepared against the regime. I doubt that Gotovina was interested in any political reasons to overthrow the regime—I believe at that time he was more interested in money.

# **EXHIBIT I**

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The Associated Press

**November 22, 1981**, Sunday, AM cycle

**SECTION:** International News

**LENGTH:** 274 words

**DATELINE:** FOIX, France

**BODY:**

Armed and masked men overpowered two sentries and raided an army reserve supply center early Sunday, stealing four heavy machine guns, more than 100 submachine guns and some rifles, police sources said.

An army communique acknowledging the raid said all the weapons stolen were inoperable because their firing mechanisms had been removed.

An army spokesman would not confirm the numbers of weapons reported stolen but did not deny the numbers given by the police sources. The army denied reports that supplies of ammunition were also taken.

An army truck used by the raiders in their getaway was found abandoned about 30 miles down the road.

Defense Minister Charles Hernu expressed his surprise at "the extreme competence of this commando." He ordered an investigation of security at military bases. Hernu said seven people executed the attack. Earlier reports had said there were 10 commandos.

Police said they received several calls claiming responsibility for the raid, including one from a previously unknown group calling itself the "Anti-Hernu Committee," which said similar raids would be staged elsewhere.

The gang took over the center, about 1 1/2 miles outside town, after overpowering the sentries. Eight men sleeping in the barracks were bound. About an hour after the raiders left a sentry freed himself and sounded the alarm.

Police roadblocks were thrown up throughout the Pyrenees area of southern **France**.

The center holds arms, uniforms and other supplies for reservists of the Toulouse military region. The arms are stocked in special buildings behind armor-plated doors and surrounded with barbed wire.

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## **EXHIBIT J**

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United Press International

**November** 30, 1981, Monday, AM cycle**SECTION:** International**LENGTH:** 349 words**HEADLINE:** Report increased security for Mitterrand**DATELINE:** PARIS**BODY:**

Security around President Francois Mitterrand and other French officials has been reinforced following a mysterious raid on an army base in which 10 men stole more than 100 machine guns and other arms, a leading newspaper said Monday.

Mitterrand was in Alergia for the start of an official visit and there was no comment on the Le Monde report. The visit is only the second by a French president since Algeria gained independence from **France** in 1962 after a bloody revolution. Le Monde also said its correspondent traveling with Prime Minister Pierre Mauroy in northern **France** noted "protection was discreetly reinforced."

The newspaper first said Saturday that security measures had been stepped up for Mitterrand, who flew to and from his country house by helicopter instead of driving there for his usual weekend rest.

The increased security follows the theft of four machineguns, 113 submachine guns and other arms in a pre-dawn raid by unidentified men Nov. 22 at the Clauzel Base at **Foix** in southern **France**, the newspaper said. Details of the incident have been sparse.

Officials have ordered guards at military bases to open fire if intruders fail to obey commands to halt and soldiers are receiving special training for guard duty over the next three to four weeks, a Defense Ministry official said Monday. "Sanctions have been taken against certain officers at the command level (for the theft)," Defense Minister Charles Hernu said in Lyon but gave no details.

The thieves operated under orders from their leader in military fashion, witnesses reported shortly after the incident.

Hernu ruled out speculation the theft might have been part of an attempted army coup planned by right-wing opposition to Mitterrand. "It is not possible that our officers could be mixed up in the arms theft," he said. "I am convinced of the fidelity of the army to the Republic."

Officials in **Foix** believe French Basque nationalists stole the arms to give to Basque terrorists in Spain. French Basques in Biarritz have insisted none of their people were involved in the theft.

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United Press International

**January 5, 1982, Tuesday, AM cycle****SECTION:** International**LENGTH:** 257 words**HEADLINE:** French police recover cache of hijacked machine guns**DATELINE:** TOULOUSE, **France,****BODY:**

French police recovered a cache of 115 heavy machine guns and submachine guns seized by bandits in a daring commando-style raid on a military base in southwest **France**, authorities said Tuesday.

Police said a member of the gang was arrested Monday and led investigators to a country house 30 miles south of Toulouse where the weapons were found buried. They were in perfect condition, wrapped in plastic garbage bags.

Francis Emourgeon, 28, who was arrested after a holdup, confessed to taking part in the raid Nov. 22 on the Camp Clauzel military base near **Foix** in southwest **France**.

The bandits hijacked a truck loaded with 115 heavy machine guns and submachine guns and hauled it to his family country house in the village of Caujoc, Emourgeon told police.

He said the bandits planned to sell the weapons to French gangsters, ending weeks of speculation in the French press that the military-style raid was carried out by either rightist or leftist extremists.

The solving of the Camp Clauzel mystery began when two armed men robbed \$6,000 from a car carrying funds of the state railway line. One of the robbers was recognized by a railway employee and police shortly thereafter arrested Vincent Coronna, 24, who gave police the name of his accomplice, Emourgeon.

Police discovered Emourgeon was on the list of suspects who had done his military service in Camp Clauzel and thus knew the camp. Among Emourgeon's personal papers police found photographs of the stolen weapons, used as a "catalogue" for prospective clients.

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# **EXHIBIT L**

*RGx 92 11.2.82 renseignements donnés par téléphone*

*Dominique ERULIN très lié avec J. CHIRAC.*

*son frère, le colonel, était un compagnon d'armes de Chirac en Algérie.*

*D. ERULIN serait responsable de plusieurs assassinats.*

# **EXHIBIT M**

C.92 / 1

Le 30 DECEMBRE 1981

NANTERRE

CONFIDENTIEL

EXTREME - DROITEInformations provenant de milieux d'extrême-droite

Selon des informations provenant de milieux proches de l'extrême-droite :

== le nommé Anté GOTOVINA (O.P.) ancien caporal-chef de la Légion Etrangère (2ème R.E.P.), dit "GRABOLAC" et dont le numéro de téléphone serait 720.51.94 (1), serait depuis un an avec Dominique ERULIN (en quelque sorte son bras droit) présentement recherché par nos services. Cet individu serait très intelligent et très dangereux dans le combat rapproché. Il disposerait d'une Renault 30 T.X.

== le nommé LINARD Hugues, domicilié 28 rue Bayen et 21 rue Pierre Demours à Paris 17ème où il occupe une chambre individuelle dans un foyer pour personnes âgées tenue par sa mère, se livrerait au trafic d'armes. Il aurait actuellement en sa possession un pistolet 7.65mm, un 38 ainsi que plusieurs fusils et deux grenades.

(1) Le n°de téléphone 720.51.94 est attribué au nommé PENEGRE Pierre-Eric, 8 rue Quentin Beauchard à Paris 8ème lequel d'après la même source d'information est effectivement en relation avec GOTOVINA.

(2) Il s'agit bien de LINARD Hugues né le 23 mai 1953 à Paris 14ème, connu de nos services pour être en relation avec les nommés LECRIVAIN Jean et DITRIA tous deux trafiquants d'armes et ce dernier étant par ailleurs Directeur de la "Société Générale de Surveillance et d'Investigation"(S.G.S.I.) 22 rue de Lénine à Paris 8ème.

# **EXHIBIT N**

ORIGINE : INFO II/9 N°307

DESTINATAIRE : INFO II/6

LE 2 MARS 1982

URGENT

OBJET : Séjour de présumés extrémistes de droite français à Pietrasanta

De notre correspondant à Rome :

De source confidentielle sûre, nous avons appris que deux présumés extrémistes de droite français Dominique AROLIN, taille 1m80, poids 120Kg et Ante GOTOVINA, taille 1m80, se trouveraient actuellement à Pietrasanta (province de Lucques) chez un sculpteur italien, non encore identifié, qui séjournerait à l'étranger, vraisemblablement à Paris et ignorerait leur présence à son domicile.

Des recherches sont en cours pour vérifier l'exactitude de ces informations. Toutefois, nous vous saurions particulièrement gré de nous faire savoir dans les meilleurs délais si les deux personnes précitées appartiennent à des mouvements extrémistes de droite français ainsi que tous renseignements dignes d'intérêt à leur sujet.

\* \*  
\*

# **EXHIBIT O**

*Cdt BLANCHETEAU adj. chef*

*est allé en Italie : D prévenu par Jean BOURDIER 1h avant*

*est allé en Suisse où D a demeuré à Genève dans une villa prêtée par*

*François BEAUVAL et avec un V.A. BAGHEERRA prêtée par BEAUVAL*

*GOTOVIVA aurait deux grenades*

*G & D auraient les armes de Foix restantes*

# **EXHIBIT P**

PRÉSIDENCE  
DE LA  
RÉPUBLIQUE

Conseiller Technique

Le 7 avril 1983

N° 53/2 *encre*

65 bis

NOTE

à l'attention de Monsieur le Président de la République

O B J E T : EXTREME DROITE.

Comme je vous en ai parlé, il y a plusieurs mois, sur l'ensemble des problèmes qui concernaient ma mission, j'ai apporté une attention particulière au cas de D. ERULIN.

Au moment où nous avons pris cette affaire, grâce à des complicités à l'intérieur de la police, la trace de D. ERULIN avait été perdue. Après 4 mois de travail, le G.A.M. l'a localisé précisément à l'étranger.

Le juge d'instruction, chargé de l'affaire, a délivré un mandat d'arrestation international dans le plus grand secret.

L'information précise que nous avons, laisse, sans aucun doute possible, penser que si des actions violentes sont organisées au niveau de l'extrême droite, elles le seront à l'évidence par Dominique ERULIN.

L'engagement qu'il avait eu pour le précédent gouvernement pour exécuter des basses besognes lui assurait une protection à haut niveau.

De ce fait, la présence de votre gouvernement lui interdit l'accès du territoire national.

Comme il serait difficile de l'arrêter sous un prétexte activiste, compte tenu des répercussions que cela pourrait engendrer, nous sommes limités à son passé de droit commun. Ce passé étant assez chargé, il est évident que dès qu'il sera arrêté, son incarcération ne posera pas de problème.

-2-

Etant donné la personnalité de D. ERULIN la décision de son arrestation est délicate. C'est pour cela que tout en utilisant la voie légale dès que nous avons eu retrouvé D. ERULIN, j'ai conservé la possibilité d'éviter l'arrestation. Si vous pensez que celle-ci n'est pas opportune ou qu'il serait préférable de neutraliser cet homme par un autre procédé, il sera fait, selon votre volonté.

Note transcrite suite à communication téléphonique avec le Chef d'Escadron PROUTEAU, actuellement en déplacement.

## **EXHIBIT Q**

**Warning:** mysql\_connect() [function.mysql-connect]: Access denied for user: 'overtarggig@10.0.61.85' (Using password: YES) in /home/overtarg/gign/admin/include/adodb/drivers/adodb-mysql.inc.php on line 211



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24 Août 2007, Saint Barthélemy

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## La cellule des écoutes de l'Élysée



L' **affaire des écoutes de l'Élysée** est une affaire d'écoutes téléphoniques illégales dans laquelle serait impliquée la cellule antiterroriste de l'Élysée dirigée par [Christian Prouteau](#) et créée par François Mitterrand en 1982. Cette affaire, qui a été révélée pour la première fois par le quotidien *Libération* le 2 avril 1993, aurait selon le dossier concerné 150 personnes. Près de 3000 conversations auraient été enregistrées entre janvier 1983 et mars 1986. Les écoutes, que les initiés appellent les « bretelles du président », ont apparemment cessé au moment de la victoire de la droite aux élections législatives de mars 1986 qui a entraîné une période de cohabitation.

Le procès de l'affaire s'est ouvert le **15 novembre 2004** devant la 16ème chambre du tribunal correctionnel de Paris.

Il a fallu près de vingt ans pour que l'affaire soit enfin jugée. Cela est dû en premier lieu au fait que les révélations, en grande partie anonymes, ont été

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#### Témoignages

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tardives. Ensuite, le juge instructeur, **Jean-Paul Vallat** s'est heurté pendant longtemps au secret défense. C'est seulement en décembre 1999 que la Commission consultative du secret de la Défense nationale a donné un avis favorable à une déclassification (partielle) du dossier. Enfin, bien qu'il ait bouclé son dossier en 2000, il a dû attendre quatre ans pour que le procès soit ouvert. Ce procès est celui à la fois d'une affaire d'Etat et d'un monstrueux dérapage. Il va réveiller, vingt ans plus tard, tous les fantômes et les secrets du premier septennat de **François Mitterrand**.

Il s'agit en fait pour moi de vous garantir une discrétion totale de vos déplacements (surtout dans le cadre de ce qu'il est convenu d'appeler "le privé"...) [...] Les lignes téléphoniques que nous possédons par l'intermédiaire du cabinet réservé du ministère de la Défense n'ont pas leur contenu diffusé.

Cette procédure, qui, à l'expérience, a fait preuve de son intérêt et de sa discrétion, nous permettant de vous tenir informé de problèmes sensibles, rencontre actuellement quelques difficultés en la personne de M. Schweitzer. » Cette note confidentielle, adressée le 6 novembre 1985 à François Mitterrand par **Christian Prouteau**, illustre à merveille la nature des débats qui vont se dérouler au tribunal correctionnel de Paris.



Christian PROUTEAU et Paul BARRIL

### **Le box des accusés est bondé :**

- **Christian Prouteau**, chef de la cellule anti-terroristes de l'Élysée et ancien chef du Groupe d'Intervention de la Gendarmerie Nationale (GIGN), ;
- **Marie-Pierre Sajous**, secrétaire de M. Prouteau ;
- cinq membres de ladite cellule :
- **Jean-Louis Esquivié**, général de la gendarmerie,
- **Pierre-Yves Gilleron**, ancien commissaire de la DST,
- **Jean Orluc**, ancien membre des Renseignements généraux (RG),
- **Michel Tissier**, inspecteur de police,

- **Dominique Mangin**, également ancien des RG ;
- **Pierre-Eugène Charroy**, général de brigade de l'armée de terre, qui était responsable à l'époque du groupement interministériel de contrôle (GIC) ;
- **Gilles Ménage**, ancien directeur du cabinet de François Mitterrand ;
- **Michel Delebarre**, ancien directeur du cabinet de Pierre Mauroy, ancien ministre ;
- **Louis Schweitzer**, son successeur auprès de Laurent Fabius, actuel PDG de Renault.
- **Paul Barril**, capitaine de gendarmerie, ancien chef du GIGN, déjà impliqué dans le scandale des Irlandais de Vincennes.

Les onze premiers sont poursuivis pour atteinte à la vie privée, et le dernier, qui est également partie civile, ayant lui-même fait l'objet d'écoutes, pour recel de fichiers informatiques.

Ils encourent une peine pouvant aller jusqu'à un an d'emprisonnement et **45000 euros** d'amende.

Ce procès fleuve - il va durer trois mois - devra examiner dans quelles circonstances l'ancien chef de l'Etat s'est entouré, entre 1982 et 1986, d'une sorte de garde prétorienne - la « brigade du chef » - chargée essentiellement de protéger sa vie privée.

**La cellule élyséenne**, créée initialement pour lutter contre le terrorisme, va en effet rapidement servir à protéger la « seconde famille » de François Mitterrand et à dissimuler l'existence de sa fille, **Mazarine**. Mais, plus encore, ce président individualiste, qui aimait les plaisirs de la vie, les voyages secrets - à Venise ou à Florence - et les mondes parallèles, a toujours souhaité farouchement préserver sa liberté de mouvement et d'esprit.

La cellule va donc constituer un outil idéal, mais entraîner une confusion inédite entre service de la République et service privé. Dirigée par un ancien gendarme responsable du GIGN - le commandant Prouteau - supervisée par un haut fonctionnaire docile - **Gilles Ménage** - elle va, pour satisfaire le « prince », violer allègrement quelques principes démocratiques. De façon plus inquiétante, elle ira jusqu'à proposer, entre les



lignes, l'« élimination » de personnes gênantes... (ce qui ne sera, heureusement, jamais fait).

### « Informer » le président

L'arme principale de la cellule demeurera l'écoute téléphonique. Pour « informer » le président, elle obtient - une première dans la Vème République - 20 lignes téléphoniques spécialement affectées à son usage. Même si le ministère de la Défense et Matignon en conservent théoriquement le contrôle, c'est bien la petite équipe des hommes du président qui les utilise à son gré.

En trois années, de 1983 à 1986, ces 20 lignes permettent de placer sur écoutes **150 personnes**. Ainsi, plus de 3 000 conversations sont enregistrées et archivées par les « **grandes oreilles** » de l'Elysée. Les noms de 2 000 personnes sont conservés dans trois fichiers informatiques.

Ces données incontestables sont même en deçà de la réalité, car elles ne représentent que le contenu de cinq disquettes obtenues par la justice dans des circonstances rocambolesques.

Le 12 janvier 1995, une jeune femme élégante, tout de noir vêtue, cheveux bruns coupés au carré et maquillage voyant, se présente à 16 h 30 au maréchal des logis-chef Lionel Billard, qui assure la garde de la galerie des juges d'instruction au palais de justice. Elle lui remet une enveloppe brune destinée au juge Valat, qui instruit l'affaire des écoutes téléphoniques. « C'est de la part de Me Berger », glisse-t-elle avant de s'éclipser.



Renseignement pris, il n'existe aucun M e Berger au palais. Mais la lecture des disquettes contenues dans l'enveloppe révèle l'existence de 5184 fiches d'écoutes... On y entend, par exemple, **Charles Pasqua** s'entretenir avec l'un de ses lieutenants ; l'épouse du Premier ministre de l'époque, **Laurent Fabius**, se confier à un journaliste ; l'écrivain **Michel Droit** évoquer les coulisses de la prochaine élection à l'Académie française ou le pamphlétaire **Jean-Edern Hallier** se pencher

sur les secrets d'alcôve du chef  
de l'Etat...

Deux ans plus tard, la découverte, tout aussi romanesque, dans le fond d'un garage de Plaisir (Yvelines), de huit cantines contenant les archives du commandant [Prouteau](#) confirme que **François Mitterrand** connaissait parfaitement l'existence de ces interceptions illégales. Plusieurs des 165 notes confidentielles, adressées directement au président, font référence aux écoutes et plusieurs portent la mention manuscrite « **vu** » ou « **oui** » de la main même du chef de l'Etat.

Dès son installation à l'Élysée, en 1982, la cellule est d'abord victime, comme le président, du « syndrome Allende », craignant les manœuvres de déstabilisation d'une extrême droite - voire d'une extrême gauche révolutionnaire - qui ne supporterait pas l'arrivée au pouvoir de l'alliance socialo-communiste.

Première crainte, un complot visant à attenter à la vie du président. La cellule s'inquiète en particulier d'un certain Dominique Erulin, frère du colonel de parachutistes qui avait sauté, en 1978, sur Kolwezi. Cet ancien garde du corps de **Jean-Marie Le Pen**, écouté sous le nom de code d'« Edredon », est finalement localisé au Paraguay. Dans une note du 7 avril 1983, [Christian Prouteau](#) écrit froidement : « Etant donné la personnalité de D. Erulin, la décision de son arrestation est délicate. C'est pour cela que, tout en utilisant la voie légale [...], j'ai conservé la possibilité d'éviter l'arrestation. Si vous pensez que celle-ci n'est pas opportune ou qu'il serait préférable de neutraliser cet homme par un autre procédé, il sera fait selon votre volonté ... » Un « autre procédé »... On croirait La Reynie s'adressant à Louis XIV...

Dans la foulée, la cellule va aussi s'intéresser à la droite classique, moins dangereuse, mais toujours suspecte... De septembre 1985 à mars 1986, elle branche un proche de **Charles Pasqua**, **Joël Galipapa**, aujourd'hui décédé. L'homme sert un peu de « relais » entre le Front national et l'entourage de Pasqua. Le 11 décembre 1985, les « grandes oreilles » recueillent un dialogue direct entre « Guichet » (Galipapa) et le leader gaulliste : la fiche précise même l'adresse de Charles Pasqua à Neuilly-sur-Seine. Elle relève que « les deux hommes ont pris rendez- vous le 13 novembre en fin de journée »... Le patron de la cellule va plus loin puis qu'il précise, dans une note de 1985 : « M. Pasqua a reçu hier (jeudi 20 novembre), à 16 heures, Rifat el-Assad, à sa demande. Nous allons

tenter de savoir qu'elle (*sic*) était la teneur de l'entretien... »

Mais, bientôt, les « grandes oreilles » vont s'enflammer contre les journalistes - auteurs de « fuites inacceptables » - et contre un écrivain pamphlétaire, ex-confident du président. La presse de vient rapidement la proie des écouteurs, particulièrement certains journalistes, anciens militants d'extrême gauche ou d'extrême droite, supposés être particulièrement hostiles au pouvoir. Ces surveillances vont aboutir à des situations invraisemblables. Ainsi, en espionnant Georges Marion, rédacteur au *Canard enchaîné*, les écouteurs découvrent qu'il est ami avec Françoise Castro, à l'époque épouse du Premier ministre socialiste en exercice, **Laurent Fabius**...

Cela n'empêche pas les gendarmes de noter consciencieusement leurs conversations à propos du patron de *Libération*, Serge July, ou de photos volées sur une plage et pâmes dans *Minute*. Les hommes du président vont même jusqu'à rédiger une note biographique digne des libelles d'extrême droite d'avant guerre : « L'épouse de Laurent Fabius, Françoise, née Castro, née juive gréco-turque, née au Mexique, naturalisée française. En contact avec Bout [Georges Marion] et Benêt [**Edwy Plenel**]. »



Edwy Plenel

Le futur patron du *Monde* sera, lui, l'objet d'une véritable fixation de la part des écouteurs de l'Élysée : plus de 600 fiches ou conversations le concernant sont conservées dans les disquettes. Pour le seul mois de décembre 1985, par exemple, 69 comptes rendus lui sont consacrés, qui détaillent méthodiquement son emploi du temps, jusqu'au plus petit détail : « Le 5, Benêt demande un médecin pour sa femme [otite]. » Le 6, les gendarmes précisent : « 11 s'agit d'une double otite. » Ce qui intéresse surtout les « grandes oreilles », c'est évidemment la teneur des articles publiés par le journaliste sur l'affaire des Irlandais de Vincennes ou, plus tard, sur l'affaire Greenpeace.

Mais l'abonné le plus prisé par la cellule demeure sans conteste l'écrivain **Jean-Edern Hallier**. Cette personnalité remuante du Tout-Paris, dont François Mitterrand a loué en 1974 le talent - « Un grand écrivain vaste et fort, au premier rang de sa génération » - menace de publier un ouvrage choc sur la vie privée du président, au titre évocateur : *Tonton et Mozarine... ou l'honneur perdu de François Mitterrand. Le pamphlétaire - déçu de n'avoir pas obtenu de poste prestigieux - veut aussi dénoncer les « impostures » du président, évoquant son évasion ou la francisque obtenue pendant la guerre.* Les « **grandes oreilles** » vont prendre ce « risque » très au sérieux. Elles soupçonnent, en effet, Hallier d'être à l'origine d'un attentat contre le domicile d'un autre intellectuel, Régis Debray.



Michel Delebarre

Du coup, Jean-Edem ne pourra plus proférer un mot sans être pisté. Les gendarmes placent sur écoutes son domicile, mais aussi sa concierge, ses cafés préférés - le Vieux Comptoir, la Closerie des lilas - son éditeur, ses proches. Il va apparaître sous les noms de code de Kid, Fou, Fabulateur, Fabre, Débile... Un fichier spécial de 800 pages est spécialement créé à son intention. On y croise le gotha des écrivains français, au point que ces notes d'écoutes constituent une - involontaire - contribution à l'histoire des lettres françaises en cette fin du xxème siècle.

Quelques exemples d'une conversation entre Jean-Edern et Michel Droit pour « descendre en flammes un candidat à l'Académie française » : « II est plus jeune que les autres et va prendre la commission du livre. C'est un type amer, aigri, pas sympathique... » Autre échange de vues animé entre **Philippe Sollers** et **Jean-Edern Hallier** : « Je raconte d'une manière absolument précise toute l'histoire de l'honneur perdu de François Mitterrand... » Philippe Sollers : « Les histoires vont recommencer. Il ne faut pas... » J.-E. H. : « II faut bien qu'il sorte, ce bouquin, bordel. » P. S. :

« Je sais bien, mais il faut attendre... »

Les gendarmes réalisent aussi un joli scoop littéraire. Ils enregistrent la voix d'un écrivain qui ne parle jamais, Cioran, auquel Jean-Edern, toujours téméraire, tente d'arracher une interview pour *Paris Match*. Jean-Edern se plaint aussi auprès de **Jean Cau** d'être victime d'une « crucifixion en rosé » et affirme que l'Elysée l'a empêché de participer à un clip publicitaire qui devait passer à la télévision. L'auteur n'a pas tout à fait tort.



Le 29 février 1984, **Christian Prouteau** écrit à **François Mitterrand** : « Par les moyens techniques dont nous disposons, nous avons appris hier qu'Edern Rallier devait être l'un des invités surprises d'une émission appelée *Aujourd'hui la vie*, qui devait être diffusée aujourd'hui en direct, à 13 h 30. J'ai donc averti immédiatement **M. Colliard** (alors directeur de cabinet), qui a pris les dispositions qui s'imposaient et l'émission a été annulée... »

Si l'on comprend la motivation de certaines écoutes, d'autres, en revanche, apparaissent plus mystérieuses. Pourquoi, par exemple, placer sous surveillance la responsable du magasin de meubles Ready Made (pseudo Rouen), qui habite l'immeuble, rue Jacob, où logeaient Mazarine et sa mère, Anne Pinget, avant d'être mises à l'abri dans un appartement de fonction de l'Elysée, quai Branly ? La gérante de ce magasin, Marguerite C., apparaît comme une amie d'Anne Pinget, qu'elle appelle à son travail, au musée d'Orsay... Alors, affaire personnelle, problème de sécurité ? Le président, en tout cas, en a forcément été averti.

Autres incroyables écoutes, celles de **Marthe Mercadier** - elle connaissait, semble-t-il, une personne liée à l'affaire du Carrefour du développement et, surtout, celle de **Carole Bouquet**, qui a fait couler beaucoup d'encre. Durant plusieurs semaines de l'hiver 1985, la célèbre comédienne est « branchée » à son domicile sous le pseudonyme disgracieux de « Bûche ». Toutes les rumeurs ont couru à propos de ce branchement. Le président Mitterrand avait-il voulu se

renseigner sur la façon dont vivait cette jeune et jolie femme ?... A moins que les écouteurs ne s'intéressent à son mari - aujourd'hui disparu - le producteur **Jean-Pierre Rassam**, grand ami du président algérien **Chadli Bendjedid** ? C'est, en tout cas, la seule explication qui vient à l'esprit de l'actrice lors de son audition par le juge Valat. Scandalisée, Carole Bouquet portera plainte pour violation de la vie privée et sera partie civile au procès.

Une écoute qui laisse également perplexe le directeur de cabinet de Laurent Fabius, **Louis Schweitzer**, entraîné à son corps défendant dans cette affaire.

« Je ne pense pas avoir ordonné l'écoute de **Carole Bouquet**, car son nom était connu et il aurait fallu m'apporter des éléments sérieux pour me convaincre d'autoriser son écoute... » S'il s'agit d'une simple « attention personnelle », alors, comme le dit un spécialiste du contre-espionnage, on quitte le siècle du Roi-Soleil pour celui de Louis XVIII, qui recevait, chaque soir, son ministre de la Police, le duc Decazes et de Glucksberg, pour se faire conter les aventures galantes de Paris...



Carole Bouquet

Mais le feuilleton de la cellule comprend un épisode beaucoup plus noir. L'un de ses membres s'est donné la mort au moment où la justice allait lui demander des comptes. L'adjudant-chef **Pierre-Yves Guézou** représentait le lien entre la cellule et le centre d'écoutes téléphoniques (GIC), installé dans les sous-sols d'un bâtiment des Invalides. « J'allais tous les jours au GIC, confirmera-t-il au juge Valat, le 25 mai 1994. J'écoutais les conversations qui avaient été enregistrées pour la cellule et je les transcrivais de façon manuscrite, parfois mot à mot, mais, le plus souvent, je faisais des synthèses. » Nommé capitaine au mérite, **Pierre-Yves Guézou** demeurera à l'Élysée après la dissolution de la cellule, en 1986. C'est, très vraisemblablement, lui qui a gardé les traces de toutes les écoutes conservées dans les disquettes informatiques. Un trésor convoité par beaucoup. Le monde de ce militaire s'écroule lorsqu'il est convoqué par le magistrat instructeur afin d'être mis en examen.

### **Le symbole d'un dangereux dérapage d'Etat**

Le 14 décembre 1994, à l'aube, il se pend dans l'appentis qui jouxte son pavillon de Noisy-le-Sec, sans laisser d'explications. N'a-t-il pas supporté la perspective du déshonneur d'une condamnation ? Connaissait-il l'origine des fuites et a-t-il craint d'être obligé de la révéler un jour ou l'autre à la justice ? Etait-il détenteur de secrets d'Etat trop lourds pour lui ? Le procès permettra peut-être d'éclairer les circonstances de cette mort mystérieuse. Même si, vingt ans après les faits, il n'est pas facile de juger les protagonistes de cet avatar de l'ère mitterrandienne, la cellule restera néanmoins comme le symbole d'un dangereux dérapage d'Etat.

Dans son livre d'autojustification, *L'Œil du pouvoir*, le « superviseur » de la cellule, **Gilles Ménage**, pose cette question : « Etait-il légitime que l'Etat utilise l'ensemble des moyens à sa disposition pour parvenir à la fin qui lui était assignée, à savoir la protection de la vie privée du président de la République ? » On pourrait lui répondre que, dans une démocratie, la fin ne justifie jamais les moyens et que détourner la loi pour rendre la vie plus facile au chef de l'Etat consiste à franchir la ligne jaune qui sépare la légalité de l'arbitraire.

Le 30 janvier 1985, **Gilles Ménage** adresse à **François Mitterrand** cette note manuscrite : « M. le Président, le document ci-joint va être exploité dans le prochain numéro de L'Express. Il s'agit d'une lettre du comité central du PC d'Union soviétique au comité central du PC français datant de 1977. » Deux jours plus tard, L'Express publiait la lettre...

Extrait du magazine 54 L'EXPRESS 15/11/2004

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Le site du Groupe d'Intervention de la Gendarmerie Nationale.

## **EXHIBIT R**

TRIBUNAL  
DE GRANDE INSTANCE  
DE PARIS

-----  
CABINET  
de Jean-Paul VALAT  
Premier Juge d'Instruction  
-----

PROCES-VERBAL D'AUDITION  
DE PARTIE CIVILE

PARQUET N° .9307820023.  
CABINET N° . 2058/93/32.

Le 11 juin 1997 (14h46)

Devant Nous, Jean-Paul VALAT, Premier Juge d'Instruction au Tribunal de Grande instance de Paris, étant en notre cabinet, assisté de Isabelle MASSON greffier,

**A comparu**

**M. ERULIN Dominique**

PARTIE CIVILE,

**Mentionnons que :**

- Maître JACQUES TREMOLET

Avocat(s) de la partie civile régulièrement convoqué(s) par lettre recommandée avec demande d'avis de réception le 14 mai 1997 et à la disposition de qui la procédure a été mise quatre jours ouvrables au plus tard avant la présente audition, est présent.

**LE JUGE : Pouvez vous m'expliquer ce que vous avez fait en 1981 et vous situer un peu professionnellement et politiquement ?**

**REPONSE :** Je suis un ancien parachutiste. J'ai d'abord été parachutiste militaire puis j'ai fait du parachutisme sportif, j'ai même été champion du monde en 1968.

Je suis issu d'une famille de militaires. Mon père a été tué en Indochine. Mon frère commandait le deuxième REP et s'est illustré en sautant sur Kolwezi en 1978. Il est mort en septembre 79.

De tout temps j'ai travaillé dans la sécurité comme consultant.

Politiquement, je me suis toujours situé à droite, je suis entré en politique en 1956 au moment de Budapest, j'ai connu Jean-Marie LE PEN à l'époque et

*Erulin* *f* *Valat*

51278

Z.

je l'ai trouvé attachant et sympathique. En 1965, j'ai assuré la sécurité de la campagne présidentielle de Jean-Louis TIXIER-VIGNANCOUR. En 1974, j'ai assuré la campagne de Valéry Giscard d'Estaing avec Hubert BASSOT. En 1981, je n'ai pas fait la campagne de GISCARD car j'étais un déçu du Giscardisme. Je me suis présenté aux élections législatives de juin 1981 contre COUVE DE MURVILLE sous l'étiquette "Rassemblement pour les libertés et la patrie". Je n'ai jamais compté d'amis ni chez les gaullistes ni chez les socialistes.

Après ma défaite aux législatives, j'ai repris mes activités de consultant en sécurité et la gestion de mon restaurant "l'atelier" 61 Boulevard Murat dans le 16ème. J'ai fait quelques missions de sécurité notamment en récupérant un stock de livres dans la région de Toulon.

En décembre 1981, ma vie a basculé. J'ai appris par des relations que j'avais dans les services français, que j'allais être arrêté pour le vol d'armes qu'il y avait eu dans une caserne à Foix quelques semaines auparavant. Je n'avais rien à voir avec ce vol. Il allait être facile de le prouver car à la date du vol, j'étais à Nancy chez un Général. J'ai contacté un avocat qui m'a dit que les services étaient dans un tel état d'hystérie que je n'arriverais pas à m'en sortir avant un ou deux ans. Le bruit courait que je préparais un complot contre le Président de la République et on m'a donc conseillé de m'éloigner. Je suis parti à l'étranger. Quelques temps après, les auteurs du vol de Foix ont été arrêtés. J'ai pensé que j'allais pouvoir rentrer en France mais des amis m'ont alors informé qu'apparemment il y avait une multitude de chefs d'inculpation contre moi. Mes amis m'ont dit qu'ils avaient appris qu'il ne s'agissait plus de m'arrêter mais de m'éliminer. Cela éviterait que je me défende des accusations farfelues portées contre moi.

A la suite de ça, il y a eu une multitude d'opérations policières françaises ou franco-étangères visant à me retrouver.

En 1983, j'ai appris qu'un mandat d'arrêt international avait été délivré contre moi pour un hold-up commis en septembre 81 chez des bijoutiers parisiens. A la date du hold-up, j'avais un alibi mais compte-tenu du contexte, je ne suis pas rentré pour m'expliquer. J'ai donc vécu caché. Je me suis installé ensuite en Côte d'Ivoire, je suis devenu conseiller à la présidence de la Côte d'Ivoire. Les services français savaient parfaitement où je me trouvais. Je n'ai plus été inquiété car à ce moment-là j'ai travaillé pour la DGSE. Un beau jour j'ai été prevenu que les RG socialistes voulaient monter une opération contre moi. J'ai donc quitté la Côte d'Ivoire et je me suis réfugié au Paraguay où j'ai finalement obtenu l'asile politique. La France a d'ailleurs demandé mon extradition au Paraguay, extradition qui a été refusée.

Fin 87, j'ai espéré pouvoir entrer en France courant 1988 mais la réélection de François Mitterrand m'en a empêché. Je suis donc resté au Paraguay. J'ai fini Colonel de l'armée du Paraguay.

Fin 1994, j'ai appris que j'avais été condamné en France par contumace à 20

J. Enss...

502757

ans de réclusion pour le hold-up chez les bijoutiers datant de septembre 1981. En septembre 1995, j'ai été grièvement blessé dans une opération militaire. J'ai exprimé le souhait de revenir en France. On m'a alors dit que le dossier de contumace était creux et que je pouvais rentrer. Fin novembre 95, je suis arrivé en France. J'ai été incarcéré à l'hôpital de Fresnes. Au bout d'un peu plus d'un mois la Cour d'assises m'a libéré le 11 janvier 1996, jour de deuil national. L'instruction de la purge de contumace est toujours en cours. BOYER et CHAILLOT qui m'avaient accusé dans un premier temps se sont retractés. Ante GOTOVINA qui avait été accusé aussi par eux a été condamné. Il a purgé sa peine et est maintenant Général de l'armée croate.

**LE JUGE : Avez vous fait des passages en France entre décembre 81 et novembre 95 et si oui chez qui ?**

**REPONSE :** J'ai fait un certain nombre de passages. Je suis allé notamment chez mon amie Laurence TORDJMAN. Elle occupait mon appartement 17 rue Duret qui m'avait été passé par Jean-Pierre LORAIN policier aux voyages officiels qui assurait la sécurité de Paul DIJOUD. J'hésite à dire que LORAIN est un ami car on m'a dit que c'est lui qui avait inventé, pour se sortir d'une mauvaise histoire, la fable selon laquelle je préparais un complot contre le Président de la République. Je n'ai jamais su quelle était la vérité mais je n'ai pas revu LORAIN depuis 81. J'ai eu quelques contacts téléphoniques avec lui mais je me suis méfié car il insistait trop pour me fixer des rendez-vous.

Dans cette période, je suis descendu plusieurs fois à l'hôtel "Concorde Lafayette" car je connaissais la directrice du personnel Madame LISSARDI. J'ai également eu des contacts avec mon ami Jacky BRETON qui dirigeait la société DIP Industrie. Il s'agit d'une entreprise de nettoyage mais BRETON travaillait aussi dans la sécurité.

J'ai également eu des contacts avec Gaby VILLANOVA qui dirigeait la société Novéclair. Il s'agit là encore d'une entreprise de nettoyage mais il faisait aussi dans la sécurité. La mère de Laurence TORDJMAN travaillait au "Caramel", boîte de nuit du Boulevard St Germain.

Je fréquentais le "Don Camillo", restaurant cabaret. Je connaissais le directeur Jean VERNES et j'avais placé chez lui différents agents de sécurité.

Je fréquentais aussi le restaurant "Chez Félix", tenu par Félix DEBUJADOUX, aujourd'hui décédé.

J'avais des contacts avec la société "Normandie" entreprise de sécurité dirigée par Fernand LOUSTAU qui est décédé.

J'avais bien sûr des contacts avec ma soeur Chantal.

J'avais également des contacts avec Jean LUCAT. Il travaillait à l'époque à la DST. Il a quitté la police depuis. Il m'a dit qu'il était prêt à témoigner. Il habite 2 ou 4 rue Louis Codet PARIS 7ème.

Enfin

4

(V. L.)

D 1275

**LE JUGE :** Est ce que le nom de Mickaela VIDLER vous dit quelque chose?

**REPONSE :** Je pense qu'il s'agissait d'une amie de Laurence TORDJMAN.

**LE JUGE :** Parmi les listes de noms qui ont été publiées, quels sont les noms qui vous disent quelque chose en dehors de ceux que nous venons d'évoquer?

**REPONSE :** Dina VIERNY était une amie de Jean LUCAT. Je fréquentais le bar "pourquoi pas". Je connais Christian DE BONGAIN. Le nom de Brigitte CHAUVIDANT me dit quelque chose mais je ne sais plus pourquoi. Je fréquentais le restaurant "Chez Francis". Je connais Roger DELPEY. Il travaillait avec Guy PENNE quand j'étais en Côte d'Ivoire. Je connais LE CAVELIER mais il est de notoriété que c'est un agent des RG et je ne lui aurais pas confié ce que je faisais et où je me trouvais. Je connais un Michel MONTAGNE qui tenait deux restaurants "L'écurie" et "Le Poulailier" où se réunissaient souvent des mercenaires.

**LE JUGE :** Dans le dossier placé sous scellé 6 A que j'ai trouvé dans les archives de Christian PROUTEAU, il est fait état à la page 10 de cinq fiches au FPR. Il y est notamment question d'une affaire à Toulon.

**REPONSE :** Je vous ai dit tout à l'heure que j'avais récupéré un stock de livres. Dans ce cadre nous avons eu des démêlés avec la CGT et une banale histoire s'est transformée en une affaire pénale contre moi. Cette histoire comme celle de Foix s'est éteinte d'elle même sans que je sois judiciairement inquiété.

**LE JUGE :** Page 12 du même dossier il est question d'une affaire de faux sur Marseille.

**REPONSE :** J'avais été mandaté avec d'autres personnes par un syndic pour récupérer une créance. Le débiteur était un proche de Gaston DEFERRE et l'affaire s'est donc retournée contre moi. Cette affaire a été cloturée par un non-lieu.

**LE JUGE :** Page 10 et 15, il est indiqué que vous avez été témoin d'un homicide volontaire commis le 18 janvier 80 sur Myrtille HAMCHART.

**REPONSE :** Il s'agissait de l'amie d'un parachutiste que je connaissais et qui était un délinquant. Je n'ai aucunement été témoin de l'homicide. Ce n'est pas la seule affaire qu'on a essayé de m'imputer. Dans son rapport au Juge TEXTIER pour l'affaire des bijoutiers, l'adjudant BLANCHETEAU

*J. En. Qui* *f* *15-01-80*

D-1273/1

a écrit qu'avec GOTOVINA nous étions été recherchés pour une affaire d'homicide par le SRPJ de Versailles.

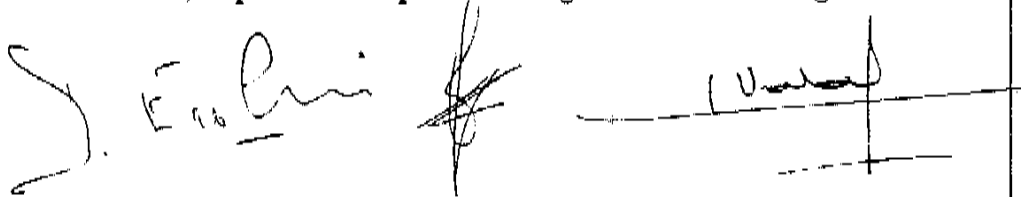
**LE JUGE :** A la page 36 du dossier, il est indiqué qu'en 1972 vous avez été détenu six mois à Fresnes.

**REPONSE :** C'est exact, c'était une affaire post OAS qui est maintenant amnistiée.

**LE JUGE :** Avez vous fait l'objet de tentatives d'assassinat pendant cette période ?

**REPONSE :** J'ai été agressé trois ou quatre fois apparemment par des bandits . J'ai le souvenir d'une agression quand j'étais en Côte d'Ivoire puis d'une autre agression où j'ai été laissé pour mort en Argentine en 1984. En 83, à Pâques, alors que je me trouvais aux Canaries, les roues de ma voiture ont été dévissées. J'ai évité l'accident car je me suis arrêté dès que mes roues ont vibré. Quelques jours après , les policiers espagnols ont essayé de m'arrêter. Ils avaient suivi Laurence qui était venue avec une amie. Les policiers se sont trompés et ont suivi l'amie de Laurence au lieu de suivre Laurence et du coup ils ont arrêté d'autres personnes.

Lecture faite, la partie civile persiste et signe avec nous et le greffier.

The block contains two handwritten signatures. The signature on the left is written in dark ink and appears to be 'S. Enlin'. The signature on the right is also in dark ink and is more stylized, possibly reading 'L. V. ...'. Both signatures are written over a horizontal line.

## **EXHIBIT S**

**TRIBUNAL  
DE GRANDE INSTANCE  
DE PARIS**

**CABINET**  
de M. .... Jean ZAMPONI  
**JUGE D'INSTRUCTION**

Réf. générale N° .....  
Réf. du cabinet N° ..... 73/84

**PROCES-VERBAL D'AUDITION  
DE PARTIE CIVILE**

Le **6 MAI 1985** devant nous, **Jean ZAMPONI**  
Juge d'Instruction au Tribunal de grande instance de Paris, étant en notre  
Cabinet, au palais de justice, à Paris, assisté de **Mme LETOURNEUX**  
Greffier

A comparu **SALOMON Henri**

Partie civile

Me **COHEN UZAN**

Conseil de la partie civile, régulièrement convoqué par lettre recommandée  
adressée le **23 avril 85**

et à la disposition de qui la procédure a été mise deux jours ouvrables au  
plus tard avant la présente audition est **absent**

**S.I** : vous m'avez convoqué en qualité de partie civile  
Effectivement, je me suis constitué partie civile en cours  
d'instruction, et c'est en cette qualité que je me suis présenté  
devant la Cour d'Assise, dans la 2ème quinzaine de septembre 84  
au moment où **BOYER** et **CHAILLOT** ont été jugés.

J'avais fait choix de M° **COHEN UZAN** comme avocat, mais  
devant la cour d'Assise, c'est M° **BESSON** qui m'a assisté.

Aujourd'hui, je demande à ne plus être considéré comme  
partie civile, et j'accepte d'être entendu dans cette affaire  
comme témoin.

Lecture faite, persiste et signe avec nous et le  
greffier

*(Signatures)*

000036

INS 305



N° 517

RECÉPISSE  
D'UN ENVOI RECOMMANDÉ

PARIS - 32 BIS PALAIS DE JUSTICE

Enregistré et 510 et 510 bis  
L'ann. 455  
23/85

S.I : en ce qui concerne les circonstances du vol à main armée dont j'ai été victime le 29 septembre 81, je n'ai rien à ajouter de particulier, et je confirme ce qui figure dans la procédure.

S.I : lors du procès de BOYER et CHAILLOT, je n'ai pas reconnu physiquement ces hommes comme étant mes agresseurs, mais il faut dire que les faits étaient anciens, et que mes agresseurs étaient en partie masqués. Mais, il n'est pas douteux que ce sont eux compte tenu de la description des faits qu'ils ont donné. En ce qui concerne les autres agresseurs, vous me dites avoir arrêté un 3ème personnage. Je ne serais pas en mesure physiquement de le décrire, et compte tenu du temps écoulé, je ne suis pas sûr non plus de pouvoir le reconnaître. Il ne faut pas oublier qu'au cours des faits, j'ai été d'une part paniqué, ensuite, j'ai eu les yeux bandés, et on m'a obligé à m'allonger au sol, ce qui fait que je n'ai qu'une vision fugitive de mes agresseurs.

S.I : le 9 janvier 82, j'avais pu penser reconnaître des silhouettes sur des personnes représentées en photos (D 55). Il me semblait que les photographies n° 8 et n° 13 me rappelaient les silhouettes de mes agresseurs. Et même à cette époque, j'avais déclaré que je n'étais pas affirmatif. Aujourd'hui, j'accepte de revoir les photos qui m'avaient été présentées, et de confirmer ou non ma reconnaissance de l'époque: vous me présentez un album photographique (D 325), sur lequel figurent 18 portraits :

la photo n° 9 me permet de dire qu'il s'agit de CHAILLOT, pour la bonne raison que j'ai assisté au procès d'assise, et que je suis resté en sa présence une demi-journée, c'est l'unique raison qui me le fait reconnaître. Je reconnais aussi la photo n° 12, mais, je n'ai vu cette personne qu'au cours de l'audience d'assise. C'est la seule raison qui me fait le reconnaître.

Mise à part ces 2 personnages que j'ai retrouvés dans l'album, mais uniquement parce que je les ai vues à la cour d'Assise en septembre dernier, aucun des personnages figurant dans cet album ne me rappelle quelque chose.

Nous présentons au témoin une autre série de photos, incluses à la cote D 327, et nous lui demandons s'il reconnaît un ou plusieurs personnages :

S.I : sur les photos numérotés de 1 à 6, la seule personne que je reconnais, c'est M. LE PEN.

sur les photos 7 à 10, je ne reconnais non plus personne. Au cours de l'agression, dont j'ai été victime, je n'ai pas gardé le souvenir d'un barbu.

MENTION DU JUGE : lors de la présentation des photos de la cote D 327, nous avons masqué les noms figurant sur cette cote avant de présenter les photos au témoin.

PRESENTONS au témoin une cote D 328, comportant deux photos identiques d'un même personnage, et demandons au témoin si le visage présenté lui rappelle quelque chose.

S.I : ce visage ne me dit absolument rien.

S.I : vous me faites savoir que vous prépariez à me confronter aujourd'hui avec une personne arrêtée récemment, et inculpée d'avoir commis à mon préjudice le vol à main armée pour lesquels CHAILLOT et BOYER ont déjà été jugés.

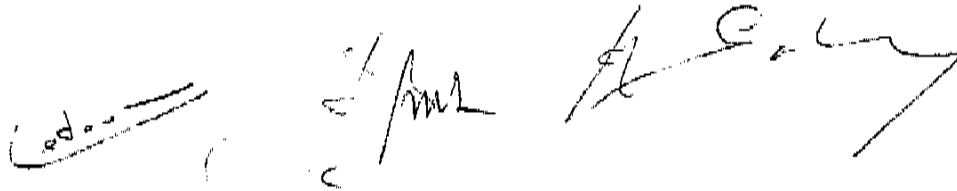
*Handwritten signatures and notes:*  
000038

- 3 -

Vous me faites savoir que cette personne s'appelle GOTOVINA, et qu'il a été mis en cause par BOYER et CHAILLOT. Je ne souhaite pas être mis en présence de cet individu, car je ne pense pas être en mesure de le reconnaître physiquement.

S.I : il est exact que le jour où j'ai été agressé, il y avait 4 personnes, et l'une d'entre elles parlait avec un accent que je qualifierais d'étranger, sans que je puisse apporter d'autres précisions que la suivante, cet accent ne me paraissait pas anglo saxon. Cet accent pouvait être aussi bien slave, que du bassin méditerranéen.

Lecture faite, persiste et signe avec nous et le greffier



000039

## **EXHIBIT T**

~~Gendarmerie~~  
Section recherches  
ARIS - MINIMES (75)

## GENDARMERIE NATIONALE

876

## PROCÉDURE SUR COMMISSION ROGATOIRE

Brigade  
de recherches  
ARIS - MINIMES (75)

**PROCÈS-VERBAL D'AUDITION**DE PERSONNE GARDÉE A VUE

AUDITION DE

: CHAILLOT  
m : Jean-Louis

L'an mil neuf cent quatre vingt deux,  
le vingt trois janvier,

Nous, BLANCHETEAU, Maurice, M.D.L. Chef,  
officier de police judiciaire, agissant en vertu de la commission rogatoire :  
Délivrée le cinq janvier mil neuf cent quatre vingt deux,  
par Monsieur TEXIER, Philippe, Juge d'instruction,  
chargé d'informer contre \*\*\*\*\*X\*\*\*\*\*

: N° 36 /

Inculpé de vol avec port d'arme, infraction à la législation sur les armes et munitions,

Donnant mission de (voir procès-verbal de synthèse)

Vu les articles 16 et 151 à 155 du Code de procédure pénale :

Nous trouvant à au bureau de notre Brigade,  
faisons comparaître devant nous, à douze heures  
le témoin ci-après nommé et lui donnons connaissance des faits pour  
lesquels sa déposition est requise.

Après avoir prêté serment de dire toute la vérité, rien que la vérité,  
le témoin, entendu séparément et hors la présence de l'inculpé, dépose  
ainsi qu'il suit :

----- La personne entendue ----- D.O.P.J. -----

000214

--- Audition de CHAILLOT J.L. - 2ème feuillet ---

---

Je me nomme C H A I L L O T Jean-Louis, je suis né le 11 Octobre 1946 à PARIS 18<sup>ème</sup>, je suis employé par des sociétés de protection et depuis assez longtemps je travaille pour mon compte. J'étais domicilié 83 allée Daniel Casanova à Pavillons sous bois (93), je suis de nationalité Française, j'ai deux enfants, une fille de 16 ans et une fille de 14 ans. Je suis séparé d'avec mon épouse BACK Nicole. - - - - -

Je ne suis ni parent, ni allié, ni au service des victimes.  
 - Question : Le 29 Septembre 1981 vers 20 heures 30, un vol avec armes a été commis au domicile de SOLOMON Henri, 7 avenue de la République à PARIS 11<sup>ème</sup>. De notre enquête effectuée, des dépositions recueillies, des témoignages reçus, des renseignements et rapprochements, nous avons pu déterminer que vous avez participé à ce vol en compagnie des nommés Philippe BOYER, Dominique BRULIN et ANTE SOTAVILA.

Au cours de ce vol la victime principale a déclaré avoir été détroussée de valeurs représentant 2.000.000 de frs. Il nous a été précisé par les victimes qu'un coup de feu avait été tiré pour intimider. D'autre part notre transport nous a permis de récupérer la balle qui est d'un calibre de 38. Consentez-vous à vous expliquer ? - - - - -

- Réponse : Je consens effectivement à m'expliquer spontanément. Je ne fuis pas mes responsabilités dans cette affaire. Je désire donc m'expliquer. - - - - -

- Etant inquiété dans une affaire de trafic d'armes instruite par Monsieur BOULOUQUE, juge d'instruction à BOBIGNY, j'ai exprimé le besoin de quitter le territoire national.

--- Etant démuné d'argent j'étais donc réceptif à toute proposition qui pouvait m'être faite. C'est ainsi qu'un jour peu de temps avant le 29 septembre 1981, peut-être quarante huit heures avant, un coup intéressant a été proposé à moi-même et mes amis. - - - - -

Cette personne a déclaré qu'il avait travaillé avec un marchand de coffres-forts, d'origine israéliite, qui n'était pas tout à fait correcté dans des affaires qu'il traitait. Précisant entre autre que cet homme achetait des coffres d'occasion à l'occasion de décès et quelque fois, voir très souvent, il prétendait ne pas pouvoir les ouvrir et ainsi récupérer leur contenu, après l'achat. - - - - -

Notre informateur de nous donner toutes les précisions sur la quantité des coffres qu'il avait chez lui, quatre, - le nombre de personnes, le nombre de pièces, et le montant approximatif de ce que nous prendre. - - - - -

Au départ de l'affaire, l'informateur de nous dire qu'il y avait au minimum, 3.000.000 à 4.000.000 de francs. Il avait été convenu que sa part était de l'ordre de 10 0/0. Il nous fournissait également le moyen de nous faire ouvrir la porte sans problème, moyennant une part pour cette personne. Il s'agissait d'une jeune-fille d'environ 28 ans, petite, assez enveloppée, cheveux bruns, mi-longs, certainement d'origine arabe ou de type méditerranéen. - - - - -

Il avait été convenu que cette personne se ferait ouvrir la porte de l'appartement en pré-xtant une livraison de fleurs. C'est ce qui s'est effectivement produit. - - - - -

Les accords de principe étant passés, nous nous sommes donc retrouvés tous place de la République. Nous étions quatre homme et la jeune femme en question. L'informateur nous attendait place de la République et téléphoniquement il a fait venir cette jeune-fille. - - - - -  
 la personne gardée à vue : L. O. P. J.

000215

## **EXHIBIT U**

TRIBUNAL  
DE GRANDE INSTANCE  
DE PARIS

CABINET  
de M. Jean ZAMPONI  
JUGE D'INSTRUCTION

Réf. générale N° .....  
Réf. du cabinet N° .....

# Procès-verbal d'interrogatoire

et de CONFRONTATION

Le 3 JUIN 1985 à 15 heures

Devant nous Jean ZAMPONI

Juge d'Instruction au Tribunal de grande instance de Paris.

assisté de Memo LETOURNEUX greffier.

étant en notre cabinet au palais de justice.

A comparu GOTOVINA Anté

inculpé détenu

Me LETORT

conseil de l'inculpé régulièrement convoqué par lettre recommandée adressée le 24 mai 85 et à la disposition de qui la procédure a été mise deux jours ouvrables au plus tard avant le présent interrogatoire.

est présent  
absent

Nous avons poursuivi, ainsi qu'il suit, l'interrogatoire de l'inculpé

Introduisons les nommés CHAILLOT Jean Louis et BOYER Philippe, en qualité de témoins, qui prêtent serment conformément à la loi.

QUESTION au témoin BOYER : j'ai effectivement été condamné par la Cour d'Assise de PARIS, le 23 décembre 84, pour les faits, objet de la présente information. J'ai été condamné à 6 ans de réclusion criminelle

QUESTION au témoin CHAILLOT : je suis dans la même situation que BOYER, condamnation et peine.

S.I de CHAILLOT : à la cote D 78 du dossier, vous avez déclaré qu'au moment des faits, un nommé Ante se trouvait avec vous pour commettre le vol à main armée. Maintenez-vous cette déclaration aujourd'hui ?

Réponse de CHAILLOT : je maintiens qu'il y avait un nommé Ante avec nous.

QUESTION : connaissez-vous beaucoup de Ante ?

Réponse : j'en connais deux

QUESTION : est-ce qu'Ante GOTOVINA, ici présent, fait partie de ces deux ?

REPOSE : oui

|                                       |   |      |                  |         |      |
|---------------------------------------|---|------|------------------|---------|------|
| Date                                  | H | PRIX | Nom de l'éditeur | Servies | Taux |
| DESTINAIRE : J. Lebert, G.M.          |   |      |                  |         |      |
| 100 rue de la République, 75011 Paris |   |      |                  |         |      |
| Société de l'Éclair                   |   |      |                  |         |      |
| R1 R2 R3 R4 R5                        |   |      |                  |         |      |
| R6 R7 R8 R9 R10                       |   |      |                  |         |      |
| R11 R12 R13 R14 R15                   |   |      |                  |         |      |
| R16 R17 R18 R19 R20                   |   |      |                  |         |      |
| R21 R22 R23 R24 R25                   |   |      |                  |         |      |
| R26 R27 R28 R29 R30                   |   |      |                  |         |      |
| R31 R32 R33 R34 R35                   |   |      |                  |         |      |
| R36 R37 R38 R39 R40                   |   |      |                  |         |      |
| R41 R42 R43 R44 R45                   |   |      |                  |         |      |
| R46 R47 R48 R49 R50                   |   |      |                  |         |      |
| R51 R52 R53 R54 R55                   |   |      |                  |         |      |
| R56 R57 R58 R59 R60                   |   |      |                  |         |      |
| R61 R62 R63 R64 R65                   |   |      |                  |         |      |
| R66 R67 R68 R69 R70                   |   |      |                  |         |      |
| R71 R72 R73 R74 R75                   |   |      |                  |         |      |
| R76 R77 R78 R79 R80                   |   |      |                  |         |      |
| R81 R82 R83 R84 R85                   |   |      |                  |         |      |
| R86 R87 R88 R89 R90                   |   |      |                  |         |      |
| R91 R92 R93 R94 R95                   |   |      |                  |         |      |
| R96 R97 R98 R99 R100                  |   |      |                  |         |      |

INS 149

QUESTION à BOYER : le Ante que vous connaissez est-il Ante GOTOVINA présent dans mon cabinet aujourd'hui ?

REPONSE : non pas du tout

QUESTION : avez-vous déjà rencontré Ante GOTOVINA, présent dans mon cabinet, ce jour ?

REPONSE : je l'ai rencontré une fois ou deux dans les boîtes à PARIS

QUESTION : connaissez-vous son nom ?

REPONSE : je connaissais pas son nom, on se connaissait de

vue

QUESTION : qui était le Ante qui était avec vous le jour du vol à main armée ?

Réponse : c'est un yougoslave que j'avais rencontré 2 ou 3 fois auparavant; je ne le connaissais pas plus.

S.I : j'avais fait la connaissance de ce yougoslave par l'intermédiaire de Dominique ERULIN et de Jean Louis CHAILLOT

QUESTION à BOYER : est-ce que Dominique ERULIN dont vous venez de prononcer le nom, était présent le jour du vol à main armée ?

Réponse : j'ai répondu à tout cela devant la Cour d'Assise

QUESTION à CHAILLOT : est-ce que Dominique ERULIN dont le nom vient d'être prononcé par BOYER a participé au vol à main armée ?

REPONSE DE CHAILLOT : il est assez connu pour qu'il n'y ait aucun doute sur son identité.

QUESTION à l'inculpé GOTOVINA : confirmez-vous les déclarations que vous m'avez faites le 11 février 85, sur la façon dont vous avez fait la connaissance de CHAILLOT ?

REPONSE de GOTOVINA : je le confirme

QUESTION à CHAILLOT : avez-vous des remarques à faire sur ce qui vient d'être dit ?

REPONSE DE CHAILLOT : je n'ai pas d'observations, c'est exact.

QUESTION à l'inculpé GOTOVINA : confirmez-vous les déclarations que vous m'avez faites le 11 février 85, sur vos relations avec BOYER ?

REPONSE de GOTOVINA : je confirme

QUESTION à BOYER : avez-vous des remarques à faire sur ce qui vient d'être dit ?

Réponse de BOYER : je n'ai pas de remarque à faire, cela me semble exact.

Le témoin CHAILLOT désire faire la déclaration suivante : lorsque nous avons été arrêtés, l'Adjudant Chef BLANCHÉTEAU de la Section de Recherches de Gendarmerie de PARIS m'a dit à propos de ce vol à main armée, en substance, sans que je puisse redire les paroles exactes : ~~xxx y x x~~ lorsque BOYER est passé dans nos services, il y a deux mois, je lui ai cité 5 noms : lui-même BOYER, Dominique ERULIN, mon nom CHAILLOT

000043

Heinrich STROHM et Ante GOTOVINA. Il y avait un nom de lequel était-ce ? BOYER a répondu : "Heinrich STROHM". ai conclu, comme je connaissais ERULIN et BOYER, que l'Ante qui était avec nous, s'appelait GOTOVINA.

Le témoin BOYER déclare : au moment où j'ai été les gendarmes ne m'ont pas posé la question comme l'a qué CHAILLOT. Il connaissait l'existence de STROHM, mais m'ont dit que STROHM n'était pas dans ce vol à main armée.

QUESTION du JUGE à CHAILLOT et BOYER : est-ce que Heinrich STROHM a participé avec vous à un vol à main armée ?

REPONSE DE CHAILLOT : avec moi, non.

REPONSE de BOYER : j'ai été condamné avec STROHM pour une attaque à main armée contre un su-permacché.

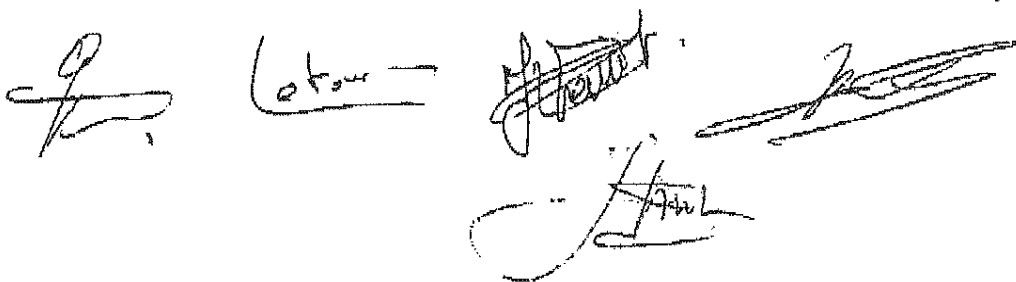
QUESTION à l'inculpé GOTOVINA et aux témoins CHAILLOT et BOYER : connaissez-vous Heinrich STROHM ?

REPONSE de GOTOVINA : je l'ai connu à la légion.

REPONSE de CHAILLOT : je l'ai connu à PARIS.

REPONSE DE BOYER : nous avons travaillé ensemble dans la même société de sécurité.

Lecture faite, persistent et signent avec nous, greffier, et les témoins, en approuvant cinq mots rayés n.



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