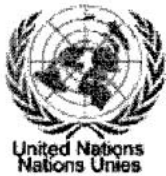


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ICTR-2005-86-I
1-12-2006
(236 - 325)
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

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Sumf

BEFORE THE TRIAL CHAMBER III

Judge Khalida Rachid Khan, Presiding
Judge Ines Monica Weinberg de Roca
Judge Dennis C. M. Byron

Registrar: Mr Adama Dieng

Date Filed: 1 December 2006

THE PROSECUTOR

v.

MICHEL BAGARAGAZA

Case No. ICTR-2005-86-I

JUDICIAL RECORDS/ARCHIVES
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2006 DEC - 11 A 10: 39

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AMENDED INDICTMENT

For the Prosecutor:

Hassan Bubacar Jallow
Stephen Rapp

For the Defence:

Geert-Jan Alexander Knoops

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

Michel BAGARAGAZA

With:

Count I	Conspiracy to Commit Genocide
Count II	Genocide
Count III	Alternatively to Count II, Complicity in Genocide
Count IV	Alternatively to Counts I, II, and III, Killing and causing violence to health and physical or mental well-being as serious violations of Article 3 Common to the Geneva Conventions of 1949 and Additional Protocol II of 1977

THE ACCUSED

1. **Michel BAGARAGAZA** was born in 1945 in Giciye *Commune*, Gisenyi *Préfecture*, Republic of Rwanda.
2. **Michel BAGARAGAZA** as at all times referred to in this indictment, unless otherwise stated below:

(A) A senior public official who,

- (i) was the Director General of OCIR/Thé, the government office that controlled the Rwandan tea industry, including the tea factories, and thus exercised *de jure* and *de facto* control over the managers and employees of the tea factories at, in particular, Rubaya and Nyabihu, in that he could order such managers and employees to commit or to refrain from committing unlawful acts and could discipline or punish them for unlawful acts or omissions;
- (ii) was a member of the Prefectural committee of the MRND political party in Gisenyi *Préfecture*, that established and controlled the *Interahamwe* militia in Gisenyi *Préfecture*.
- (iii) was, from an unknown date in March 1993, honorary president of the *Interahamwe* militia in Kabuga in Kigali-rural *Préfecture*; and as such had authority over of the *Interahamwe* of Kabuga.

III. CHARGES AND CONCISE STATEMENT OF FACTS

3. At all times referred to in this indictment there existed in Rwanda a minority racial or ethnic group known as Tutsi, officially identified as such by the government of Rwanda. The majority of the population of Rwanda was comprised of a racial or ethnic group known as Hutu, also officially identified as such by the government of Rwanda.
4. Between 6 April 1994 and 17 July 1994, throughout Rwanda, *Interahamwe* militias, soldiers of the *Forces Armees Rwandaises* ("FAR") and armed civilians targeted and attacked the civilian population based on ethnic or racial identification as Tutsi, or perceived sympathies to the Tutsi. During the attacks some Rwandan citizens killed or caused serious bodily or mental harm to persons perceived to be Tutsi. As a result of these attacks, large numbers of ethnically or racially identified Tutsi were killed.
5. Between 6 April 1994 and 17 July 1994, genocide against the Tutsi group occurred in Rwanda.
6. Between 6 April 1994 and 17 July 1994, there existed a non-international armed conflict throughout Rwanda. The belligerents in the said non-international armed conflict were the FAR and the Rwanda Patriotic Front ('RPF'). During the relevant period of 7 April 1994 and 17 July 1994, the FAR occupied portions of the Republic of Rwanda; trained and armed the *Interahamwe* militia; and were supported in the conflict by the *Interahamwe*, the *gendarmerie*, and the prefectural communal police.
7. Between 7 April 1994 and 17 July 1994, throughout Rwanda, *Interahamwe* militia, soldiers of the FAR, and armed civilians, under the guise of the non-international armed conflict referred to in paragraph 6 above, targeted and attacked the Tutsi civilian population in Rwanda because it was perceived to support or sympathise with the RPF and was therefore considered to be the 'enemy'. This definition of the 'enemy' as including the Tutsi civilian population of Rwanda had been propounded since at least the RPF invasion of 1990.
8. The general allegations contained in paragraphs 3 to 7 above are re-alleged and incorporated into each of the allegations set forth below.

Count I: CONSPIRACY TO COMMIT GENOCIDE

The Prosecutor charges **Michel BAGARAGAZA** with **CONSPIRACY TO COMMIT GENOCIDE**, a crime stipulated in Articles 2(3)(b) of the Statute, in that on or between the dates of 1 January and 17 July 1994, **Michel BAGARAGAZA** did conspire with Léon MUGESERA, Protais ZIGIRANYIRAZO, Mathias NYAGASAZA, Elie SAGATWA, Alcade SEBATWARE, Charles NZABAGERAGEZA, Bernard

MUNYAGISHARI, Robert KAJUGA, Mathieu NGIRUMPATSE, Captain SIMBIKANGWA, Captain HAGUMA, Doctor KABERA, Séraphin RWABUKUMBA, Laurent SEMANZA, Joseph SEBISOGO, Aloys NGIRABATWARE, Pierre Damien RUSAGIZA, Anastase NGAYABAREZI, Joseph NZIRORERA, Augustin NGIRABATWARE, Claver MVUYEKURE, Pasteur MUSABE, and others to kill or cause serious bodily or mental harm to members of the Tutsi racial or ethnic group with the intent to destroy, in whole or in part, a racial or ethnic group, as such, as outlined in paragraphs 9 through 16.

CONCISE STATEMENT OF FACTS FOR COUNT I

Individual Criminal Responsibility pursuant to Article 6(1) of the Statute

9. Pursuant to Article 6(1) of the Statute, the Accused Michel BAGARAGAZA, is responsible for the crime of Conspiracy to Commit Genocide because he committed the act of agreeing with Léon MUGESERA, Protais ZIGIRANYIRAZO, Mathias NYAGASAZA, Elie SAGATWA, Alcade SEBATWARE, Charles NZABAGERAGEZA, Bernard MUNYAGISHARI, Robert KAJUGA, Mathieu NGIRUMPATSE, Captain SIMBIKANGWA, Captain HAGUMA, Doctor KABERA, Séraphin RWABUKUMBA, Laurent SEMANZA, Joseph SEBISOGO, Aloys NGIRABATWARE, Pierre Damien RUSAGIZA, Anastase NGAYABAREZI, Joseph NZIRORERA, Augustin NGIRABATWARE, Claver MVUYEKURE, Pasteur MUSABE, and others to kill or cause serious bodily or mental harm to members of the Tutsi population with the intent to destroy, in whole or in part, the Tutsi ethnic group, and committed acts in furtherance of their agreement, such actions taking place between 22 November 1992 and 17 July 1994, as described in paragraphs 10 through 15.
10. On or about 22 November 1992, Léon MUGESERA, the Vice Chairman of Prefectoral committee of the MRND political party in Gisenyi *Préfecture*, of which committee **Michel BAGARAGAZA** was a member, gave a speech in town of Rubaya in *Gisenyi Préfecture*, calling on Hutus to send the Tutsis back to Ethiopia rapidly by the Nyaborongo River. **Michel BAGARAGAZA** attended the meeting together with other important persons in Bushiru area such as Protais ZIGIRANYIRAZO, Mathias NYAGASAZA, Elie SAGATWA, and Alcade SEBATWARE. **BAGARAGAZA** agreed with MUGESERA on the message given in his speech. This message defined the enemy to include Tutsis living in Rwanda and urged the destruction of the Tutsi ethnic group in Rwanda.
11. On unknown dates after the delivery of the Mugesera speech on 22 November 1992, in furtherance of the agreement described in paragraph 9, **Michel BAGARAGAZA** furnished uniforms of kitenge cloth, in the colors red, green and yellow, to the members of the *Interahamwe*.

12. On an unknown date in 1993, in furtherance of the agreement described in paragraph 9, a meeting was held in GISENYI *Préfecture* at which **Michel BAGARAGAZA**, together with Juvénal UWILINGIYIMANA, Bernard MUNYAGISHARI and Robert KAJUGA established an *Interahamwe* group in Gisenyi *Préfecture*.
13. In January 1993, **Michel BAGARAGAZA** agreed with Charles NZABAGERAGEZA, Captain SIMBIKANGWA, Captain HAGUMA, Doctor KABERA and Séraphin RWABUKUMBA, that the *Interahamwe* should receive paramilitary training so that it would be capable of attacking and killing their political enemies, particularly the members of the Tutsi racial or ethnic minority.
14. In March 1993, a meeting was held at **Michel BAGARAGAZA's** residence in Kabuga in Kigali-rural *Préfecture* and attended by **Michel BAGARAGAZA**, Laurent SEMANZA, Joseph SEBISOGO, Aloys NGIRABATWARE, Pierre Damien RUSAGIZA, Anastase NGAYABAREZI and local members of *Interahamwe*. At the meeting **Michel BAGARAGAZA** was chosen as "President d'Honneur" of the local *Interahamwe* of Kabuga, and he agreed with the other participants that they would remain faithful to their goal of eliminating the Tutsi and of the Hutu who supported the Tutsi.
15. On an unknown date in mid-1993, **Michel BAGARAGAZA** attended a meeting at the REBERO hotel together with Mathieu NGIRAMPATSE, Claver MVUYEKURE, Pasteur MUSABE, Séraphin RWABUKUMBA and Robert KAJUGA. At this meeting the participants agreed to raise funds to support the *Interahamwe* in Gisenyi *préfecture* in order to prepare a force that would be capable of eliminating the Tutsi.

Count II: GENOCIDE

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Michel BAGARAGAZA** with **GENOCIDE**, a crime stipulated in Article 2(3)(b) of the Statute, in that from 1 January 1994 to 17 July 1994, throughout Rwanda, particularly in Gisenyi *Préfecture*, **Michel BAGARAGAZA** was responsible for killing or causing serious bodily or mental harm to members of the Tutsi racial or ethnic group, with intent to destroy, in whole or in part, a racial or ethnic group, as such, as outlined in paragraphs 17 through 25.

Alternatively to Count II,

Count III: COMPLICITY IN GENOCIDE

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Michel BAGARAGAZA** with **COMPLICITY IN GENOCIDE**, a crime stipulated in Article 2(3)(e) of the Statute, in that from 1 January 1994 to 17 July 1994, throughout Rwanda,

particularly in Gisenyi *Préfecture*, **Michel BAGARAGAZA** was responsible for killing or causing serious bodily or mental harm to members of the Tutsi racial or ethnic group, with intent to destroy, in whole or in part, a racial or ethnic group, as such, or with knowledge that other people intended to destroy, in whole or in part, the Tutsi racial or ethnic group, as such, and that his assistance would contribute to the crime of genocide, as outlined in paragraphs 16 through 24.

CONCISE STATEMENT OF FACTS FOR COUNTS II AND III

Individual Criminal Responsibility pursuant to Article 6(1) of the Statute

16. Pursuant to Article 6(1) of the Statute, the accused, **Michel BAGARAGAZA**, is individually responsible for the crimes of genocide or complicity in genocide because he instigated, ordered, committed or otherwise aided and abetted in the preparation or execution of these crimes. With respect to the commission of those crimes, **Michel BAGARAGAZA** ordered those over whom he had authority as a result of his positions described in paragraph 2 above, and he instigated and aided and abetted those over whom he did not have authority. In addition, the accused willfully and knowingly participated in a joint criminal enterprise whose common purpose was the commission of genocide against the Tutsi racial or ethnic group and persons identified as Tutsi or presumed to support the Tutsi in Gisenyi *Préfecture* as well as throughout Rwanda. To fulfill this criminal purpose, the accused acted with leaders and members of the *Interahamwe*, including Thomas KURADUSENGE, Innocent BIRIKUNZIRA, Bernard SEBATASHYI, and Emmanuel MBARSHIMANA; members of the President Guard, whose names are not known; and other unknown participants, all such actions being taken either directly or through subordinates, for at least the period of 1 January 1994 through 17 July 1994. The particulars that give rise to his individual criminal responsibility are set forth in paragraphs 17 through 19.
17. On or about 7-9 April 1994, the *Interahamwe* and the Presidential Guard came to the Rubaya tea factory. **Michel BAGARAGAZA** ordered or instigated the employees of the tea factory, over whom he had authority as Director General of OCIR/Thé, to provide them with fuel for their vehicles. These *Interahamwe*, including Thomas KURADUSENGE, Innocent BIRIKUNZIRA, and Bernard SEBATASHYI, and members of the Presidential Guard, all who were members of the joint criminal enterprise referred to in paragraph 16 above, then attacked and killed more hundreds of Tutsis on Kesho Hill. By providing the means, **Michel BAGARAGAZA** aided and abetted the killings of the Tutsi who sought refuge on Kesho Hill.
18. On or about 7-9 April 1994, **Michel BAGARAGAZA** ordered or instigated one of the drivers from the Nyabihu factory, Emmanuel MBARSHIMANA, to go to the cathedral of Nyundo in Gisenyi *Préfecture* with a truck filled with *Interahamwe*, who were members of the joint criminal enterprise referred to in

paragraph 16 above, for the purpose of exterminating the Tutsi who had sought refuge at the Cathedral. By facilitating the transport of the *Interahamwe* to the Nyundo Cathedral **MICHEL BAGARAGAZA** aided and abetted the killing of the Tutsi that resulted.

19. On or about 9 April 1994, **Michel BAGARAGAZA** ordered or instigated a driver named NSANZIMANA, over whom he had authority, to transport a group of *Interahamwe*, who were members of the joint criminal enterprise referred to in paragraph 16 above, in a white Daihatsu to Rubaya where they killed Tutsis and looted their cattle. By ordering or instigating the transportation of the *Interahamwe* to Rubaya, **MICHEL BAGARAGAZA** aided and abetted the killings of the Tutsi in Rubaya.

Criminal Responsibility as a Superior pursuant to Article 6(3) of the Statute

20. Pursuant to Article 6(3) of the Statute, the accused, **Michel BAGARAGAZA**, is responsible for the crimes of genocide or complicity in genocide because specific criminal acts were committed by subordinates of the accused and the accused knew or had reason to know that such subordinates were about to commit such acts before they were committed or that such subordinates had committed such acts and the accused failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof. These subordinates included directors and other employees of the OCIR/Thé factories, including the director of the Rubaya tea factory, Anasthase DJARIBU, employees Emmanuel MBARSHIMANA and Bernard SEBATASHYI, the chief of the tea plantation at the Nyabihu tea factory, whose name is unknown; members of the *Interahamwe*; and other unknown persons. The particulars of the acts of these subordinates are set forth in paragraphs 21 through 24.
21. In the early months of 1994, a subordinate of **Michel BAGARAGAZA**, namely Anasthase DJARIBU, the director of the tea factory of Rubaya, in Gisenyi *Préfecture*, recruited military reservists for tea factory employment, provided military training for other tea factory workers in the nearby Gishwati forest, and furnished arms and ammunition that had been stored in the Rubaya tea factory to these reservists and other workers. Beginning on 7 April 1994, these individuals used these arms to kill Tutsis both inside and outside the factory as part of an extermination campaign against the Tutsi. **Michel BAGARAGAZA** knew or had reason to know that his subordinate was recruiting, training and arming personnel in preparation of a campaign to kill Tutsi, and failed to prevent or punish these acts.
22. On or about 8 April 1994, a subordinate of **Michel BAGARAGAZA**, the chief of the plantation at the tea factory of Nyabihu in Gisenyi *Préfecture* authorized vehicles to be filled with fuel at the tea factory for the purpose of enabling *Interahamwe* to be transported in the vehicles in a search for Tutsi to kill to avenge the death of the President. **Michel BAGARAGAZA** knew or had reason

to know that his subordinate was providing fuel for vehicles to transport *Interahamwe* to kill Tutsi, and failed to prevent or punish the provision of fuel for the vehicles by his subordinate, thus aiding and abetting the killings of Tutsi.

23. On or about 7-9 April 1994, a subordinate of **Michel BAGARAGAZA**, namely Anasthase DJARIBU, the director of the tea factory of Rubaya, in Gisenyi *Préfecture*, aided and abetted the *Interahamwe* by authorizing the provision of fuel for their vehicles, arms from the stockpile at the factory, and additional personnel from the factory to assist in the attack on hundreds of Tutsis who had sought refuge on the nearby Kesho Hill. Led by the chief of the *Interahamwe* of Karago Commune, Bernard SEBATASHYI, who was also an employer of this tea factory and a subordinate of **Michel BAGARAGAZA**, they attacked and killed hundreds of Tutsi on Kesho Hill. **Michel BAGARAGAZA** knew or had reason to know that of his subordinates' actions and failed to prevent or punish their actions.
24. On or about 8 or 9 April 1994, a subordinate of **Michel BAGARAGAZA**, namely Emmanuel MBARSHIMANA, a driver employed at the tea factory of Nyabihu, transported a truckload of *Interahamwe* to Nyundo in Gisenyi *Préfecture*, to exterminate the Tutsi who had sought refuge at the Nyundo Cathedral. **Michel BAGARAGAZA** knew or had reason to know of his subordinate's actions and failed to prevent or punish his actions.

Alternatively to Counts 1, II, and III,

Count IV: KILLING AND CAUSING VIOLENCE TO HEALTH AND PHYSICAL OR MENTAL WELL-BEING AS SERIOUS VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS OF 1949 AND ADDITIONAL PROTOCOL II OF 1977

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Michel BAGARAGAZA** with **KILLING AND CAUSING VIOLENCE TO HEALTH AND PHYSICAL OR MENTAL WELL-BEING AS SERIOUS VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS OF 1949 AND ADDITIONAL PROTOCOL II OF 1977**, a crime stipulated in Article 4(a) of the Statute, in that **Michel BAGARAGAZA** was responsible for killing and seriously injuring non-combatant Tutsi during the period 7 April 1994 and 17 July 1994 when there was throughout Rwanda a non-international armed conflict within the meaning of Articles 1 and 2 of Protocol II Additional to the Geneva Conventions of 1949, and the killing and serious injury of the victims was closely related to the hostilities or committed in conjunction with the armed conflict and the victims were persons taking no part in that conflict, all as set forth in paragraphs 25 to 34 below.

CONCISE STATEMENT OF FACTS FOR COUNT IV

Individual Criminal Responsibility pursuant to Article 6(1) of the Statute

25. Pursuant to Article 6(1) of the Statute, the Accused **Michel BAGARAGAZA** is responsible for the crime of killing and causing violence to health and physical or mental well-being as serious violations of Article 3 Common to the Geneva Conventions of 1949 and Additional Protocol II of 1977, because he instigated, ordered, committed and aided and abetted in the preparation and execution of the crime. With respect to the commission of the crime, the accused wilfully and knowingly participated in a joint criminal enterprise whose common purpose was the commission of killing and causing violence to health and physical or mental well-being as serious violations of Common Article 3 of the Geneva Conventions of 1949 and Additional Protocol II of 1977. To fulfil this criminal purpose, the Accused acted with leaders and members of the *Interahamwe*, including Thomas KURADUSENGE, Innocent BIRIKUNZIRA, Bernard SEBATASHYI, and Emmanuel MBARSHIMANA; members of the President Guard, whose names are not known; and other unknown participants, all such actions being taken between 1 January 1994 and 17 July 1994. The particulars that give rise to the Accused's individual criminal responsibility, including his participation in this joint criminal enterprise are set forth in paragraphs 26 to 29 below.
26. From 7 April 1994, Tutsi civilians sought refuge at Kesho Hill, Kisheshe Commune, and Nyundo Cathedral, Kanama Commune, in Gisenyi Prefecture. By 8 April 1994 there were approximately 2000 Tutsi civilian refugees at Kesho Hill, and approximately 1500 at Nyundo Cathedral. The said Tutsi civilian refugees were taking no active part in the non-international armed conflict referred to in paragraph 6 above but were perceived to be sympathisers or accomplices of the RPF.
27. On or about 7-9 April 1994, members of the *Interahamwe* and Presidential Guard went to Rubaya tea factory, where **Michel BAGARAGAZA** ordered or instigated employees of the factory to provide them with fuel for their vehicles. These *Interahamwe*, including Thomas KURADUSENGE, Innocent BIRIKUNZIRA, and Bernard SEBATASHYI, and members of the Presidential Guard, all who were members of the joint criminal enterprise referred to in paragraph 25 above, then intentionally attacked and killed and seriously injured hundreds of Tutsi civilian refugees on Kesho Hill. The said Tutsi civilian refugees were taking no active part in the non-international armed conflict referred to in paragraph 6 above but were perceived to be sympathisers or accomplices of the RPF. **Michel BAGARAGAZA** knew that in providing fuel for the vehicles of these *Interahamwe*, he was substantially contributing to the commission of these killings and serious injuries, and thereby he aided and abetted in these acts against the Tutsi at Kesho Hill on 7-9 April 1994.

28. On or about 8 or 9 April 1994, **Michel BAGARAGAZA** ordered or instigated a driver, Emmanuel MBARSHIMANA, an employee of Nyabihu tea factory, to drive a truck loaded with *Interahamwe*, who were members of the joint criminal enterprise referred to in paragraph 25 above, to Nyundo Cathedral, where they attacked and killed and seriously injured many of the Tutsi civilian refugees there. The said Tutsi civilian refugees were taking no active part in the non-international armed conflict referred to in paragraph 6 above but were perceived to be sympathizers or accomplices of the RPF. In giving this order, and in providing a driver for these *Interahamwe*, **Michel BAGARAGAZA** knew he was substantially contributing to the commission of these killings and serious injuries, and thereby aided and abetted the acts against Tutsi civilians.
29. On or about 9 April 1994, at his home in Rambura, **Michel BAGARAGAZA** ordered or instigated a driver named NSANZIMANA to transport a group of *Interahamwe*, who were members of the joint criminal enterprise referred to above in paragraph 25 above, in a white Daihatsu vehicle, to Rubaya where they killed and seriously injured many Tutsi civilians. The said Tutsi civilian refugees were taking no active part in the non-international armed conflict referred to in paragraph 6 above but were perceived to be sympathizers or accomplices of the RPF. By ordering the transportation of the *Interahamwe* to Rubaya, and by providing a driver and vehicle for these *Interahamwe*, **Michel BAGARAGAZA** knew he was substantially contributing to the commission of these killings and serious injuries, and thereby aided and abetted these acts against the civilian Tutsi at Rubaya.

Criminal responsibility as a Superior pursuant to Article 6(3) of the Statute

30. Pursuant to Article 6(3) of the Statute, the Accused, **MICHEL BAGARAGAZA**, is responsible for killings and causing violence to health and physical or mental well-being as serious violations of Article 3 common to the Geneva Conventions of 1949 and Additional Protocol II of 1977 thereto because specific criminal acts were committed by subordinates under the effective control of the Accused and the Accused knew or had reason to know that such subordinates were about to commit such acts before they were committed or that such subordinates had committed such acts and the Accused failed to take necessary or reasonable measures to prevent such acts or to punish the perpetrators thereof. These subordinates included directors and other employees of the OCIR/Thé factories, including the director of the Rubaya tea factory, Anasthase DJARIBU, employees Emmanuel MBARSHIMANA and Bernard SEBATASHYI, the chief of the tea plantation at the Nyabihu tea factory, whose name is unknown; members of the *Interahamwe*; and other unknown persons. The particulars that give rise to the Accused's individual criminal responsibility pursuant to Article 6(3) are set forth in paragraphs 31 to 34 below.

- 31. In the early months of 1994, Anasthase DJARIBU, a subordinate of **Michel BAGARAGAZA**, and Director of the tea factory of Rubaya, in Gisenyi Prefecture, recruited military reservists as employees of the tea factory; provided military training to other employees of Rubaya tea factory in the nearby Gishwati forest; allowed the storage of arms and ammunition at the Rubaya tea factory; and furnished arms and ammunition to the said employees. The purpose of this training and supply of weapons was the killing of and causing of serious injury to Tutsi civilians who were taking no active part in the non-international armed conflict referred to in paragraph 6 above but were perceived to be sympathizers or accomplices of the RPF. **Michel BAGARAGAZA** knew or had reason to know that the employees of the Rubaya tea factory were being trained and armed by his subordinate, Anasthase DJARIBU, with the intention that they kill and seriously injure Tutsi civilians, and he failed to prevent these acts.

- 32. On or about 7-9 April 1994, Anasthase DJARIBU, a subordinate of and under the effective control of **Michel BAGARAGAZA**, authorised the provision of fuel for the vehicles, arms from a stockpile at the Rubaya tea factory, and the use of employees of the factory, to members of the *Interahamwe*. These *Interahamwe*, with the said employees of the factory, launched an attack on Kesho Hill where they killed and seriously injured hundreds of Tutsi civilian refugees. The said Tutsi civilian refugees were taking no active part in the non-international armed conflict referred to in paragraph 6 above but were perceived to be sympathizers or accomplices of the RPF. Anasthase DJARIBU thereby planned, instigated and aided and abetted in killing and seriously injuring these Tutsi civilians, and **Michel BAGARAGAZA** knew or had reason to know of the actions of his subordinate and failed to prevent or punish these acts.

- 33. On or about 8 April 1994, the chief of the plantation of the Nyabihu tea factory in Gisenyi Prefecture, who was a subordinate of **Michel BAGARAGAZA** over whom he had effective control, provided fuel from the factory to vehicles to enable the transportation of *Interahamwe*, knowing and intending that these *Interahamwe* would kill and seriously injure Tutsi civilians in Gisenyi *Préfecture*, who were taking no active part in the non-international armed conflict referred to in paragraph 6 above but were perceived to be sympathizers or accomplices of the RPF. **Michel BAGARAGAZA** knew or had reason to know that his subordinate was providing fuel for vehicles to transport *Interahamwe* who would kill and seriously injure Tutsi civilians, and failed to prevent or punish such acts.

- 34. On or about 8 or 9 April 1994, a subordinate of **Michel BAGARAGAZA**, namely Emmanuel MBARSHIMANA, a driver at the tea factory of Nyabihu, transported a truck full of *Interahamwe* to Nyundo, which members of the *Interahamwe* attacked and killed and seriously injured the Tutsi civilians who had sought refuge at Nyundo Cathedral. These Tutsi civilians were taking no active part in the non-international armed conflict referred to in paragraph 6 above but were perceived to be sympathizers or accomplices of the RPF. **Michel**

BAGARAGAZA knew or had reason to know of his subordinate's actions and failed to prevent or punish his acts.

The acts and omissions of **Michel BAGARAGAZA** detailed herein are punishable in pursuant to Articles 22 and 23 of the Statute.

Signed at Arusha this 1st day of December 2006



HASSAN BUBACAR JALLOW
PROSECUTOR





TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

COURT MANAGEMENT SECTION
(Art. 27 of the Directive for the Registry)

I - GENERAL INFORMATION (To be completed by the Chambers / Filing Party)

To:	<input type="checkbox"/> Trial Chamber I N. M. Diallo	<input type="checkbox"/> Trial Chamber II R. N. Kouambo	<input checked="" type="checkbox"/> Trial Chamber III C. K. Hometowu	<input type="checkbox"/> Appeals Chamber / Arusha F. A. Talon
	<input type="checkbox"/> Chief, CMS J.-P. Fomété	<input type="checkbox"/> Deputy Chief, CMS M. Diop	<input type="checkbox"/> Chief, JPU, CMS K. K. A. Afande	<input type="checkbox"/> Appeals Chamber / The Hague R. Burriss
From:	<input type="checkbox"/> Chamber (name)	<input type="checkbox"/> Defence (name)	<input checked="" type="checkbox"/> Prosecutor's Office (Stephen RAPP)	<input type="checkbox"/> Other:
Case Name:	The Prosecutor vs. MICHEL BAGARAGAZA		Case Number: ICTR-2005-86-I	
Dates:	Transmitted: 01/12/2006		Document's date: 01/12/2006	
No. of Pages:	12	Original Language: English <input checked="" type="checkbox"/> French <input type="checkbox"/> Kinyarwanda <input type="checkbox"/>		
Title of Document:	AMENDED INDICTMENT			
Classification Level:		TRIM Document Type:		
<input type="checkbox"/> Strictly Confidential / Under Seal		<input type="checkbox"/> Indictment	<input type="checkbox"/> Warrant	<input type="checkbox"/> Correspondence
<input type="checkbox"/> Confidential		<input type="checkbox"/> Decision	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Notice of Appeal
<input checked="" type="checkbox"/> Public		<input type="checkbox"/> Disclosure	<input type="checkbox"/> Order	<input type="checkbox"/> Appeal Book
		<input type="checkbox"/> Judgement	<input type="checkbox"/> Motion	<input type="checkbox"/> Book of Authorities
		<input type="checkbox"/> Submission from non-parties		
		<input type="checkbox"/> Submission from parties		
		<input type="checkbox"/> Accused particulars		

II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party)

CMS SHALL take necessary action regarding translation.

Filing Party hereby submits only the original, and **will not submit** any translated version.

Reference material is provided in annex to facilitate translation.

Target Language(s):

English French Kinyarwanda

CMS SHALL NOT take any action regarding translation.

Filing Party hereby submits **BOTH the original and the translated version** for filing, as follows:

Original	in	<input type="checkbox"/> English <input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda
Translation	in	<input type="checkbox"/> English <input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda

CMS SHALL NOT take any action regarding translation.

Filing Party **will be submitting the translated version(s)** in due course in the following language(s):

English French Kinyarwanda

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<p><input type="checkbox"/> The OTP is over-seeing translation. The document is submitted for translation to:</p> <p><input type="checkbox"/> The Language Services Section of the ICTR / Arusha.</p> <p><input type="checkbox"/> The Language Services Section of the ICTR / The Hague.</p> <p><input type="checkbox"/> An accredited service for translation; see details below:</p> <p>Name of contact person: Name of service: Address: E-mail / Tel. / Fax:</p>	<p><input type="checkbox"/> DEFENCE is over-seeing translation. The document is submitted to an accredited service for translation (fees will be submitted to DCDMS):</p> <p>Name of contact person: Name of service: Address: E-mail / Tel. / Fax:</p>
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III - TRANSLATION PRIORITISATION (For Official use ONLY)

<input type="checkbox"/> Top priority	COMMENTS	<input type="checkbox"/> Required date:
<input type="checkbox"/> Urgent		<input type="checkbox"/> Hearing date:
<input type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines: