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DECISION OF CHAMBERS DATED 29
NOVEMBER 2005.

ICTR-2005-83-I
10-06-2005
(50-37)

SD
Ivan



**International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

Arusha International Conference Centre
P.O. Box 6016, Arusha, Tanzania

UNITED NATIONS
NATIONS UNIES

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INTEROFFICE MEMORANDUM — MEMORANDUM INTERIEUR

To: Court Management Section
A: UN ICTR.

Date: 10 June 2005

Ref: wk/akazu/ju.1

From: Wallace Kapaya
De: Senior Trial Attorney.

Handwritten signature: Kapaya



Copy: Mr. Steven Rapp
Chief of Prosecutions.

Subject: Confirmation of Indictment Under Article 17 (4) and Rule 47 (E) and (F): Case
Objet: No. ICTR-2005-83-I Prosecutor v Juvenal UWILINGYIMANA

Dear Ms. Heskell,

In the course of the review and confirmation hearing in respect of Prosecutor v Juvenal Uwilingyimana held before Hon Judge J R Reddy today the Judge found that there is insufficient supporting material to support the allegation in paragraph 16 of the draft indictment. The Prosecutor has deleted paragraph 16 and renumbered the draft indictment accordingly.

Attached hereto please find the redrafted indictment duly signed by the Deputy Prosecutor, for your action.

Best regards.

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ICTR-2005-83-I
10-06-2005
(49-37)

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UNITED NATIONS
INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

THE PROSECUTOR
AGAINST
JUVÉNAL UWILINGYIMANA
Case No. ICTR-2005-83-I

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CONFIDENTIAL

INDICTMENT

- 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:**

Juvénal UWILINGYIMANA

With:

Count I	Conspiracy to Commit Genocide
Count II	Direct and Public Incitement to Commit Genocide
Count III	Genocide
Count IV	Alternatively, Complicity in Genocide
Count V	Murder as a Crime Against Humanity

II. THE ACCUSED

1. **Juvénal UWILINGYIMANA** was born in 1950 in Gihinga *Secteur*, Kayove *Commune*, Gisenyi *Préfecture*, Republic of Rwanda.
2. **Juvénal UWILINGYIMANA** was at the times referred to in this indictment:

(A) A senior public official who,

- (i) was the Minister of Commerce and Industry in 1988 to 1990 during the Presidency of Juvénal HABYARIMANA;
- (ii) was a deputy representing Kayove *commune* of Gisenyi *Préfecture* in the National Assembly in 1992;
- (iii) was the director of the Rwandan Office of Tourism of the National Parks (“ORTPN”) from 1990 to 1994;
- (iv) was a member and secretary of the committee *préfectoral* of the Revolutionary Movement for National Development (“MRND”) in Gisenyi *préfecture* from 1992 to 1994, and as such had effective control of the militia of the MRND, known as the *Interahamwe*, in this *préfecture*;
- (v) A founder and member of the organization of the *Interahamwe* in the Musasa *Secteur*, Kayove *Commune*, Gisenyi *Préfecture*, and as such had effective control of the *Interahamwe* in this *secteur*;

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 Tutsis, 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 the Hutus, also officially identified as such by the government of Rwanda.
4. From 1 January 1994 through 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, and these attacks were widespread or systematic. 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.

Count I: CONSPIRACY TO COMMIT GENOCIDE

The Prosecutor charges **Juvénal UWILINGYIMANA** 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, **Juvénal UWILINGYIMANA** did conspire with others, including but not limited to other influential and powerful persons such as Joseph MPORANYI, Wellars BANZI, Michel BAGARAGAZA, Simon BIKINDI, Albert DUTURANYI, Isidore MABURAKINDI, Bernard MUNYAGISHARI, Joseph NZIRORERA, Matthew NGIRUMPATSE, Felicien KABUGA, Augustin NGIRABATWARE Lieutenant HABIMANA and Robert KAJUGA 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 5 through 13.

CONCISE STATEMENT OF FACTS FOR COUNT I

5. Between an unknown date in early 1993 and 17 July 1994, **Juvénal UWILINGYIMANA** and other influential and powerful persons, including Joseph MPORANYI, Wellars BANZI, Michel BAGARAGAZA, Simon BIKINDI, Albert DUTURANYI, Isidore MABURAKINDI, Bernard MUNYAGISHARI, Joseph NZIRORERA, Matthew NGIRUMPATSE, Felicien KABUGA, Augustin NGIRABATWARE, Lieutenant HABIMANA and Robert KAJUGA and others committed the act of agreeing 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, as described in paragraphs 6 through 13.

6. On an unknown date in early 1993, a meeting was held in GISENYI *Préfecture* at which **Juvénal UWILINGYIMANA**, together with Michel BAGARAGAZA, Bernard MUNYAGISHARI and Robert KAJUGA agreed to establish an *Interahamwe* group in Gisenyi *Préfecture*, a militia that would be capable of attacking and killing their political enemies, particularly the members of the Tutsi racial or ethnic minority.
7. In the month of October 1993, **Juvénal UWILINGYIMANA**, agreed with *Bourgmestre* Isidore MABURAKINDI and Lieutenant HABIMANA, to stockpile firearms in the KAYOVE commune office for distribution to the *Interahamwe* for the purpose of killing Tutsis. From and after October 1993, **Juvénal UWILINGYIMANA** committed acts in furtherance of the agreement by distributing said weapons to the *Interahamwe*.
8. In the month of December 1993, **Juvénal UWILINGYIMANA**, agreed with Simon BIKINDI, Joseph MPORANYI, *Bourgmestre* Isidore MABURAKINDI, local MRND president Albert DUTURANYI, and *Interahamwe* from Gisenyi, to persuade the local citizens of Musasa *Secteur*, Kayove *Commune*, Gisenyi *Préfecture*, in particular the youth of the community, that the members of the Tutsi ethnic group were their enemies and to establish their own wing of the *Interahamwe* to destroy the Tutsi. In furtherance of this agreement, **Juvénal UWILINGYIMANA** and the others attended a meeting in December 1993 in Musasa where **Juvénal UWILINGYIMANA** explained that everyone's enemy was the Tutsi, who should be fought with full energy and attacked before the Tutsi could attack the Hutu. He urged the establishment of *Interahamwe* wings in each cell and sector and asked the youth to stop Hutu in-fighting and consider the Tutsi their only enemy. Later in the month of December 1993, in furtherance of the agreement, a local wing of the *Interahamwe* was created in the MUSASA *Secteur*.
9. In December 1993, **Juvénal UWILINGYIMANA** agreed with ten leaders of the *Interahamwe* at a meeting at the Méridien Hotel in GISENYI to target the Tutsi as the enemy.
10. In the end of the month of January 1994, **Juvénal UWILINGYIMANA** agreed with *Bourgmestre* Isidore MABURAKINDI to conduct a meeting at the Bugabo field near the KAYOVE commune office to urge local citizens, in particular the youth of the community, to prepare to kill the Tutsi. During said meeting, in furtherance of the agreement, **UWILINGYIMANA** told those who attended that they should be ready to defend themselves against the enemy Tutsi.
11. In the first week of the month of May 1994, a meeting was held in the GIHINGA *secteur* office where **Juvénal UWILINGYIMANA**, *Bourgmestre* Isidore

MABURAKINDI, Hassan NGEZE, *Interhamwe* members, and others agreed that all Tutsis must be targeted for killing. In furtherance of this agreement **Juvénal UWILINGYIMANA** told the attendees that President Juvénal HABYARIMANA was killed by Tutsis, and therefore all Tutsis of the locality must be searched for and killed.

12. On an unknown date in the middle of May 1994, a meeting was held in the centre of Musasa, where **Juvénal UWILINGYIMANA** and *Bourgmestre* Isidore MABURIKINDI agreed to ask the population of Shyika, Murama and Musasa to target all Tutsis in these secteurs. During said meeting, in furtherance of the agreement, **Juvénal UWILINGYIMANA** asked the Hutus to destroy the empty houses of the Tutsis and watch the movements of the Tutsi enemy and kill the Tutsi enemies wherever they were found.
13. On an unknown date during the month of June 1994, a meeting was held at the Meridien Hotel in GISENYI, where **Juvénal UWILINGYIMANA**, Joseph NZIRORERA, Matthew NGIRUMPATSE, Felicien KABUGA, and August in NGIRABATWARE agreed to collect funds from businessmen to purchase the firearms and otherwise support the campaign to destroy the common enemy, the Tutsi.

Count II: DIRECT AND PUBLIC INCITEMENT TO COMMIT GENOCIDE

The Prosecutor charges **Juvénal UWILINGYIMANA** with **DIRECT AND PUBLIC INCITEMENT TO COMMIT GENOCIDE**, a crime stipulated in Article 2(3)(c) of the Statute, in that on or between the dates of 1 January and 17 July 1994, throughout Rwanda, **Juvénal UWILINGYIMANA** was responsible for the direct and public incitement of persons to kill or cause serious bodily or mental harm to members of the Tutsi population with the intent to destroy, in whole or in part, a racial or ethnic group, as outlined in paragraphs 14 through 21.

CONCISE STATEMENT OF FACTS FOR COUNT II

Individual Criminal Responsibility

14. Pursuant to Section 6(1) of the Statute, the accused, **Juvénal UWILINGYIMANA**, is individually responsible for the crime of Direct and Public Incitement to Commit Genocide because he committed the act of delivering public speeches that defined the enemy as all members of the Tutsi racial or ethnic group and urged his listeners to attack and kill the Tutsi. In addition, **Juvénal UWILINGYIMANA** willfully and knowingly participated in a joint criminal enterprise whose object, purpose, and foreseeable outcome was the direct and public incitement to commit genocide against the Tutsi racial or ethnic group throughout Rwanda. To fulfill this criminal purpose, the accused acted

with Joseph MPORANYI, Simon BIKINDI, Albert DUTURANYI, Isidore MABURAKINDI, Hassan NGEZE, and Lieutenant HABIMANA and others, all such actions being taken either directly or through subordinates, for at least the period from an unknown date in early 1993 through 17 July 1994. The particulars that give rise to his individual criminal responsibility are set forth in paragraphs 15 through 21.

15. In the month of December 1993, at a public meeting in the centre of MUSASA, attended by Simon BIKINDI, Joseph MPORANYI, *Bourgmestre* Isidore MABURAKINDI, local MRND president Albert DUTURANYI, and *Interahamwe* from Gisenyi, and local citizens of Musasa *Secteur*, **Juvénal UWILINGYIMANA** gave a speech in which he said that everyone's enemy was the Tutsi, who should be fought with full energy, and that the Tutsi should be attacked before the Tutsi could attack the Hutu. He urged the establishment of *Interahamwe* wings in each cell and each sector and asked the youth to stop infighting among Hutus and consider the Tutsi their only enemy.
16. In the end of the month of January 1994, at a public meeting attended by *Bourgmestre* Isidore MABURAKINDI and local citizens at the Bugabo field near the KAYOVE commune office, **Juvénal UWILINGYIMANA**, spoke urging the citizens who attended the meeting, in particular the youth of the community, to be ready to defend themselves against the enemy Tutsi.
17. On or about 8 April 1994, at a public meeting at Bugabo field near the KAYOVE commune office attended by Lieutenant HABIMANA and *Interahamwe* who had just been armed and trained in Bugabo field, **Juvénal UWILINGYIMANA** spoke urging the *Interahamwe* to hunt down the enemy Tutsi and use the arms to kill the Tutsi.
18. On 12 April 1994, **Juvénal UWILINGYIMANA**, at a public meeting at the commune office in KAYOVE, spoke telling the *Interahamwe* to go to KIBUYE and kill the Tutsi in that préfecture.
19. In the first week of the month of May 1994, a public meeting was held in the GIHINGA secteur office attended by the *Bourgmestre* Isidore MABURAKINDI, Hassan NGEZE, **Juvénal UWILINGYIMANA**, members of the *Interahamwe* and other local personalities, as well as ordinary members of the population. During said meeting, **Juvénal UWILINGYIMANA** spoke stating that President Juvénal HABYARIMANA was killed by Tutsis, and therefore all Tutsis of the locality must be looked for and killed.
20. On an unknown date in the middle of May 1994, a public meeting was held in the centre of Musasa, attended by the *Bourgmestre* Isidore MABURAKINDI, **Juvénal UWILINGYIMANA** and the population of Shyika, Murama and Musasa. During

said meeting, **Juvénal UWILINGYIMANA** spoke asking that the Hutus destroy the empty houses of the Tutsis and kill the Tutsi enemies wherever they were found.

Count III: GENOCIDE

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Juvénal UWILINGYIMANA** with **GENOCIDE**, a crime stipulated in Article 2(3)(a) of the Statute, in that from 1 January 1994 through 17 July 1994, throughout Rwanda, particularly in Gisenyi *Préfecture*, **Juvénal UWILINGYIMANA** 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 22 through 37.

Alternatively,

Count IV: COMPLICITY IN GENOCIDE

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Juvénal UWILINGYIMANA** with **COMPLICITY IN GENOCIDE**, a crime stipulated in Article 2(3)(e) of the Statute, in from 1 January 1994 through 17 July 1994, throughout Rwanda, particularly in Gisenyi *Préfecture*, **Juvénal UWILINGYIMANA** 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 22 through 37.

CONCISE STATEMENT OF FACTS FOR COUNTS III AND IV

Individual Criminal Responsibility

21. Pursuant to Article 6(1) of the Statute, the accused, **Juvénal UWILINGYIMANA**, is individually responsible for the crimes of genocide or complicity in genocide because he planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of these crimes. With respect to the commission of those crimes, **Juvénal UWILINGYIMANA** 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 object, purpose, and foreseeable outcome 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 Joseph MPORANYI, Wellars BANZI, Simon BIKINDI, Michel BAGARAGAZA, Albert DUTURANYI, Hassan NGEZE, Isidore MABURAKINDI, Bernard MUNYAGISHARI, Joseph NZIRORERA, Matthew NGIRUMPATSE, Felicien KABUGA, Augustin NGIRABATWARE Lieutenant HABIMANA and Robert KAJUGA and others, all such actions being taken either directly or through subordinates, for at least the period from January 1999 through 17 July 1994. The particulars that give rise to his individual criminal responsibility are set forth in paragraphs 23 through 32.

The Killing Campaign

22. At the end of January 1994, *Bourgmestre* Isidore MABURAKINDI and **Juvénal UWILINGYIMANA** organized and held a meeting at the Bugabo field near the KAYOVE commune office attended by ordinary citizens, in particular the youth of the community. During said meeting, **UWILINGYIMANA** urged the attendees, and the youth in particular, to be ready to defend themselves against the enemy Tutsi, and by so doing instigated and aided and abetted in the killing of the Tutsi which thereafter occurred in Kayove commune.
23. On or about 8 April 1994, Lieutenant HABIMANA convened a meeting of the listed and trained *Interahamwe* at the KAYOVE commune office after which the *Interahamwe* transported firearms to the Bugabo field. Upon arrival at the Bugabo field, a training session of at least 12 hours was provided to the *Interahamwe*. Thereafter, during the same period, several firearms were supplied to the *Interahamwe*. Said firearms were distributed among the *Interahamwe* in the presence of **Juvénal UWILINGYIMANA**. **UWILINGYIMANA** told the *Interahamwe* to hunt down the enemy Tutsi and to kill them. Thereafter the *Interahamwe* who had been supplied with these firearms killed thousands of Tutsi at the Gatwaro Stadium in the NYAMAGUMBA Secteur in KIBUYE Préfecture and in the BISESERO Secteur in KIBUYE Préfecture. By distributing the arms and urging the killing of the Tutsi, **Juvénal UWILINGYIMANA** ordered, instigated and aided and abetted the subsequent killings.
24. On 12 April 1994, **Juvénal UWILINGYIMANA** met with *Interahamwe* of Gisenyi Préfecture at the commune office in KAYOVE and told the *Interahamwe* to go to KIBUYE Préfecture and kill the Tutsi in that Préfecture, and he thus ordered, instigated or aided and abetted the subsequent killings of the Tutsi located in KIBUYE.
25. In the first week of the month of May 1994, a meeting was held in the GIHINGA Secteur office attended by the *Bourgmestre* Isidore MABURAKINDI, Hassan NGEZE, **Juvénal UWILINGYIMANA**, members of the *Interahamwe* and other local personalities, as well as ordinary members of the population. During said meeting, **Juvénal UWILINGYIMANA** stated that President Juvénal

HABYARIMANA was killed by Tutsis, and therefore all Tutsis of the locality must be looked for and killed. As a result of the speech given by **Juvénal UWILINGYIMANA** several attacks were launched on the Tutsi in the locality and those fleeing from KIBUYE passing through KAYOVE, and he thus instigated and aided and abetted the subsequent killings of these Tutsi.

26. On an unknown date in the middle of May 1994, a meeting was held in the centre of Musasa, attended by the Bourgmestre Isidore MABURIKINDI, **Juvénal UWILINGYIMANA** and the population of Shyika, Murama and Musasa. During said meeting, **Juvénal UWILINGYIMANA** asked the Hutus to destroy the empty houses of the Tutsis and watch the movements of the Tutsi enemy and kill the Tutsi enemy when they would see him. Following this meeting, members of the local population destroyed the houses and continued the killing of the Tutsi in these areas. By his speech, **Juvénal UWILINGYIMANA** instigated and aided and abetted the subsequent killing of the Tutsi.
27. On an unknown date during the month of June 1994, a meeting was held at the Meridien Hotel in GISENYI, attended by Joseph NZIRORERA, Matthew NGIRUMPATSE, Felicien KABUGA, Augustin NGIRABATWARE and **Juvénal UWILINGYIMANA**, to discuss the collection of funds from businessmen to purchase the firearms to destroy and otherwise support the killing campaign against the common enemy, the Tutsi. Funds were then collected and used to arm and support the *Interahamwe*, thus aiding and abetting the subsequent killing of the Tutsi.

Specific Sites

28. On an unknown date in the month of May 1994, at a roadblock at the junction of KIBUYE-GISENYI road, **Juvénal UWILINGYIMANA**, while dressed in military uniform, accompanied by Lieutenant HABIMANA and Sergeant CELESTINE as well as the soldier named KUBARA, congratulated the *Interahamwe* on capturing six Tutsis who were in the back of a car at said roadblock and proceeded to commit the killing of one of the six Tutsis.
29. On an unknown date in the month of May 1994, at a roadblock at the junction of KIBUYE-GISENYI road, after killing of one of the six Tutsis in the back of a car to set an example, **Juvénal UWILINGYIMANA** ordered and instigated the *Interahamwe* to kill the five remaining Tutsis. **Juvénal UWILINGYIMANA** then provided the *Interahamwe* leader, NKUBITO, 100.000 Rwandan francs for a "job well done", and by doing so, aided and abetted these killings, and instigated continued killing by the *Interahamwe*.
30. On an unknown date in the month of May 1994, **Juvénal UWILINGYIMANA** while in the company of Boniface NSANZABEZA, a neighbour of Gakumba

ZARIAS, a Tutsi man, ordered and instigated the killing of Gakumba ZARIAS in Gahinga secteur, resulting in the death of said Gakumba ZARIAS.

31. On an unknown date in late May or early June 1994, **Juvénal UWILINGYIMANA** ordered and instigated two *Interahamwe* of Gisenyi *Préfecture* to kill the Tutsi wife of Longin RUDASINGWA, a cashier at the Banque de Kigali, in Gisenyi town, and after she was killed rewarded the killers with drinks at the Palm Beach Hotel, thus aiding and abetting her killing and instigating continued killings by the *Interahamwe* of Gisenyi *Préfecture*.

Criminal Responsibility as a Superior

32. Pursuant to Article 6(3) of the Statute, the accused, **Juvénal UWILINGYIMANA**, 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 leaders and members of the *Interahamwe* of Gisenyi *Préfecture*, particularly the *Interahamwe* and Musasa *Secteur*, Kayove *Commune*, Gisenyi *Préfecture*. The particulars of the acts of the subordinates are set forth in paragraphs 34 through 37.

The Killing Campaign

33. On or about 12 April 1994, *Interahamwe* of Gisenyi *Préfecture*, who were subordinates of **Juvénal UWILINGYIMANA**, and to whom he had provided with firearms, killed thousands of Tutsis at the Gatwaro stadium in the NYAMAGUMBA *Secteur* in KIBUYE *Préfecture*, and the BISESERO *Secteur* in KIBUYE *Préfecture*. **Juvénal UWILINGYIMANA** knew or had reason to know of the killing and failed or refused to take the necessary or reasonable measures to prevent this killing or to punish the perpetrators thereof.

Specific Sites

34. On an unknown date in May 1994, *Interahamwe* of Gisenyi *Préfecture*, who were subordinates of **Juvénal UWILINGYIMANA**, killed persons known as MUKYAGATANGA, SEKABANZA and WELLARS, in the KABIRZI *Secteur*, GAKOR *Cellule*. **Juvénal UWILINGYIMANA** knew or had reason to know of the killing and failed or refused to take the necessary or reasonable measures to prevent this killing or to punish the perpetrators thereof.

35. On an unknown date in the month of May 1994, at a roadblock at the junction of KIBUYE-GISENYI road, *Interahamwe* of Gisenyi *Préfecture*, who were subordinates of **Juvénal UWILINGYIMANA**, killed five Tutsi at the roadblock in **UWILINGYIMANA**'s presence. **Juvénal UWILINGYIMANA** knew of the killings and did not punish the perpetrators, in fact he rewarded the killers by providing the *Interahamwe* leader, NKUBITO, with 100,000 Rwandan francs for a "job well done."
36. On an unknown date at the end of May or in June 1994, two *Interahamwe* of Gisenyi *Préfecture*, who were subordinates of **Juvénal UWILINGYIMANA**, abducted and aided and abetted the killing of the Tutsi wife of Longin Rudasingwa in Gisenyi town. **Juvénal UWILINGYIMANA** knew of the killing and did not punish the perpetrators, in fact he rewarded the killers by buying them drinks at the Palm Beach Hotel in Gisenyi town.

Count V: MURDER as a CRIME AGAINST HUMANITY

The Prosecutor of the International Criminal Tribunal for Rwanda charges **Juvénal UWILINGYIMANA** with **MURDER as a CRIME AGAINST HUMANITY**, a crime stipulated in Article 3(a) of the Statute, in that from 1 January 1994 through 17 July 1994, throughout Rwanda, particularly in Gisenyi *Préfecture* **Juvénal UWILINGYIMANA**, with intent to kill members of the Tutsi racial or ethnic group or persons identified as Tutsi or presumed to support the Tutsi, was responsible individually and through the acts of his subordinates for the killing of such persons as part of a widespread or systematic attack against that civilian population on racial, ethnic and political grounds, as set forth in paragraphs 38 through 46.

CONCISE STATEMENT OF FACTS FOR COUNT V

Individual Criminal Responsibility

37. Pursuant to Article 6(1) of the Statute, the accused, **Juvénal UWILINGYIMANA**, is individually responsible for murder as a crime against humanity because he planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of this crime. With respect to the commission of this crime, **Juvénal UWILINGYIMANA** ordered those over whom he had authority as a result of his positions described in paragraph 2, and 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 object, purpose and foreseeable outcome was the commission of crimes against humanity against the Tutsi racial or ethnic group and persons identified as Tutsi or presumed to support the Tutsi or to be politically opposed to "Hutu Power" in Gisenyi *Préfecture* as well as throughout Rwanda on racial, ethnic or political grounds. To fulfill this criminal purpose, the accused acted

with Boniface NSANZABEZA, Lieutenant HABIMANA and others, all such actions being taken either directly or through their subordinates for at least the period of 1 January 1994 through 17 July 1994. The particulars that gave rise to his individual criminal responsibility are set forth in paragraphs 39 through 42.

38. On an unknown date in the month of May 1994, at a roadblock at the junction of KIBUYE-GISENYI road, **Juvénal UWILINGYIMANA**, while dressed in military uniform, accompanied by Lieutenant HABIMANA and Sergeant CELESTINE as well as the soldier named KUBARA, congratulated the *Interahamwe* on capturing six Tutsis who were in the back of a car at said roadblock and proceeded to commit the killing of one of the six Tutsis.
39. On an unknown date in the month of May 1994, at a roadblock at the junction of KIBUYE-GISENYI road, after killing of one of the six Tutsis in the back of a car to set an example, **Juvénal UWILINGYIMANA** ordered and instigated the *Interahamwe* to kill the five remaining Tutsis. **Juvénal UWILINGYIMANA** then provided the *Interahamwe* leader, NKUBITO, with 100,000 Rwandan francs for a “job well done”, and by doing so, aided and abetted these killings, and instigated continued killing of Tutsi by the *Interahamwe*.
40. On an unknown date in the month of May 1994, **Juvénal UWILINGYIMANA** while in the company of Boniface NSANZABEZA, the neighbour of Gakumba ZARIAS, a Tutsi man, ordered and instigated the killing of Gakumba ZARIAS in Gahanga secteur, resulting in the death of the said Gakumba ZARIAS.
41. On an unknown date in late May or early June 1994, **Juvénal UWILINGYIMANA** ordered or instigated two *Interahamwe* of Gisenyi Préfecture to kill the Tutsi wife of Longin RUDASINGWA, a cashier at the Banque de Kigali in Gisenyi town, and after she was killed rewarded the killers with drinks at the Palm Beach Hotel, thus aiding and abetting her killing and instigating continued killings of Tutsi by the *Interahamwe*.

Criminal Responsibility as a Superior

42. Pursuant to Article 6(3) of the Statute, the accused, **Juvénal UWILINGYIMANA**, is responsible for Murder as a Crime Against Humanity 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 leaders and members of the *Interahamwe* of Gisenyi Préfecture, particularly the *Interahamwe* and Musasa Secteur, Kayove Commune,

Gisenyi *Préfecture*. The particulars of the acts of the subordinates are set forth in paragraphs 44 through 46.

43. On an unknown date in May 1994, *Interahamwe* of Gisenyi *Préfecture*, who were subordinates of **Juvénal UWILINGYIMANA**, killed persons known as MUKYAGATANGA, SEKABANZA and WELLARS, in the KABIRZI *Secteur*, GAKOR *Cellule*. **Juvénal UWILINGYIMANA** knew or had reason to know of the killing and failed or refused to take the necessary or reasonable measures to prevent this killing or to punish the perpetrators thereof.
44. On an unknown date in the month of May 1994, at a roadblock at the junction of KIBUYE-GISENYI road, *Interahamwe* of Gisenyi *Préfecture*, who were subordinates of **Juvénal UWILINGYIMANA**, killed five Tutsi at the roadblock in **Juvénal UWILINGYIMANA**'s presence. **Juvénal UWILINGYIMANA** knew of the killings and did not punish the perpetrators, in fact he rewarded the killers by providing the *Interahamwe* leader, NKUBITO, with 100,000 Rwandan francs for a "job well done."
45. On an unknown date at the end of May or in June 1994, two *Interahamwe* of Gisenyi *Préfecture*, who were subordinates of **Juvénal UWILINGYIMANA**, abducted and aided and abetted the killing of the Tutsi wife of Longin Rudasingwa in Gisenyi town. **Juvénal UWILINGYIMANA** knew of the killing and did not punish the perpetrators, in fact he rewarded the killers by buying them drinks at the Palm Beach Hotel in Gisenyi town.

The acts and omissions of **Juvénal UWILINGYIMANA** detailed herein are punishable pursuant to Articles 22 and 23 of the Statute.

Signed at ARUSHA, Tanzania, this 10th day of June 2005.

For: Hassan Babacar Jallow
Prosecutor
UN-ICTR



