

**IN THE HIGH COURT OF SOUTH AFRICA
(NORTH GAUTENG HIGH COURT)**

CASE NO: 30123/2011

In the matter between:

**CONSORTIUM FOR REFUGEES AND
MIGRANTS IN SOUTH AFRICA**

APPLICANT

And

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

1ST RESPONDENT

MINISTER OF HOME AFFAIRS

2ND RESPONDENT

MINISTER OF INTERNATIONAL RELATIONS

AND CO-OPERATION

3RD RESPONDENT

MINISTER OF STATE SECURITY

4TH RESPONDENT

DIRECTOR-GENERAL OF THE OFFICE OF THE

PRESIDENT

5TH RESPONDENT

DIRECTOR-GENERAL OF THE DEPARTMENT

OF HOME AFFAIRS

6TH RESPONDENT

DIRECTOR-GENERAL OF THE DEPARTMENT OF

INTERNATIONAL RELATIONS AND CO-OPERATION

7TH RESPONDENT

DIRECTOR-GENERAL OF THE DEPARTMENT

OF THE STATE SECURITY

8TH RESPONDENT

CENTRE MANAGER FOR THE CROWN MINES

REFUGEE RECEPTION OFFICE

9TH RESPONDENT

THE CHAIRPERSON: STANDING COMMITTEE

FOR REFUGEE AFFAIRS

10TH RESPONDENT

THE REFUGEE STATUS DETERMINATION OFFICER

RESPONSIBLE FOR GRANTING REFUGEE

STATUS TO THE TWELFTH RESPONDENT

11TH RESPONDENT


FAUSTIN KAYUMBA NYAMWASA

12TH RESPONDENT

FILING NOTICE FOR KAYUMBA NYAMWASA'S OPPOSING AFFIDAVIT

BE PLEASED TO TAKE NOTICE THAT the Twelfth Respondent herewith filling opposing affidavit on the main application in this matter.

SIGNED AND DATED PRETORIA ON THIS 26TH DAY OF November 2011



KENNEDY GIHANA ATTORNEYS

ATTORNEYS FOR Twelfth Respondent

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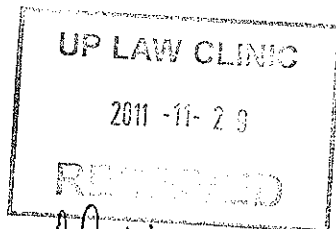
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Time 11:55

AND

TO THE OFFICE OF THE STATE ATTORNEYS

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Re: 3306/2011/z79/js

IN THE NORTH GAUTENG HIGH COURT

PRETORIA

(REPUBLIC OF SOUTH AFRICA)

CASE NO: 30123/11

In the matter between:

CONSORTIUM FOR REFUGEES AND
MIGRANTS IN SOUTH AFRICA

APPLICANT

and

PRESIDENT OF THE REPUBLIC OF SOUTH
AFRICA

FIRST RESPONDENT

THE MINISTER OF HOME AFFAIRS

SECOND RESPONDENT

THE MINISTER OF INTERNATIONAL
RELATIONS AND CO-OPERATION

THIRD RESPONDENT

THE MINISTER OF STATE SECURITY

FOURTH RESPONDENT

THE DIRECTOR-GENERAL OF THE OFFICE
OF THE PRESIDENCY

FIFTH RESPONDENT

THE DIRECTOR-GENERAL OF
DEPARTMENT HOME AFFAIRS

SIXTH RESPONDENT



THE DIRECTOR-GENERAL OF THE
DEPARTMENT OF INTERNATIONAL
RELATIONS AND CO-OPERATION

SEVENTH RESPONDENT

THE DIRECTOR GENERAL OF THE
DEPARTMENT OF STATE SECURITY

EIGHTH RESPONDENT

CENTRE MANAGEMENT FOR THE CROWN
MINES REFUGEE RECEPTION OFFICE

NINTH RESPONDENT

THE CHAIRPERSON: THE STANDING
COMMITTEE FOR REFUGEE AFFAIRS

TENTH RESPONDENT

THE REFUGEE STATUS DETERMINATION
OFFICER RESPONSIBLE FOR GRANTING
REFUGEE STATUS TO THE TWELVE
RESPONDENTS

ELEVENTH RESPONDENT

KAYUMBA NYAMWASA

TWELFTH RESPONDENT

TWELFTH RESPONDENT'S OPPOSING AFFIDAVIT

I, the undersigned,

KAYUMBA NYAMWASA

declare herewith under oath as follows:

1.




- 1.1 I am an adult male and the Twelfth Respondent in this matter. I am currently under protection of the South African government, firstly as a witness in an attempted assassination case and secondly as an asylum seeker to whom refugee status was granted. All my further particulars will thus not be disclosed due to security and confidentiality reasons.
- 1.2 The facts contained in this Affidavit are within my personal knowledge and belief, save where stated to the contrary or appears from the context hereof, and are both true and correct.
- 1.3 Where I make legal submissions, I do so based on the strength of the legal advice of my legal representatives, which advice I believe to be correct.

2.

I have read the Affidavit deposed to by Kajaal Ramjathan – Keogh (“Keogh”) on behalf of the Applicant. I am advised that it may assist the Honourable Court to deal with the matter under the following heads:

- 2.1 POINT *IN LIMINE*
- 2.2 COMMON CAUSE
- 2.3 PRIVACY AND CONFIDENTIALITY
- 2.4 EXTRADITION
- 2.5 SPANISH AND FRENCH INDICTMENTS
- 2.6 LEGAL PRINCIPLES
- 2.7 RESPONSE TO AVERMENTS IN APPLICANT’S AFFIDAVIT

POINTS IN LIMINE

3.

This aspect will be dealt with *infra*, under the heading Response to Averments in Applicant's Affidavit.

4.

I respectfully submitted that there are factors that are common cause between the parties.

4.1 My family and I applied for refugee status and were granted asylum in South Africa by the Respondents (Second, Sixth, Ninth, Tenth and Eleventh).

4.2 Several attempts have already been made on my life. The latest was on 19 June 2010 when I was shot in my stomach. The men, amongst them Rwandan, Tanzanian and Somali nationals, have been charged with attempted murder and conspiracy to commit murder. Resultant thereof, my family and I are under a witness protection program and under the protection of the South African government. Attached hereto and marked as Annexure "FN1" is an article posted by the editor, filed under the heading "Breaking News, Politics, Top Stories". The said article was also posted by Jacques Pauw, a renowned political journalist on "Investigations

Handwritten signature and initials, likely of the applicant, located at the bottom right of the page.

@ Media24.com". Attached hereto a copy of the article and marked as Annexure "FN2". The contents of the articles are to be read and incorporated as part of this Affidavit.

4.3 Resultant of the assassination attempt, South Africa recalled its envoy to Rwanda (and vice versa) following diplomatic tensions between Pretoria and Kigali. Attached hereto and marked as Annexure "FN3" is an article dated 5 August 2010 by Peter Clotey, "Voice of America News" confirming the situation. The severance of diplomatic ties between South Africa is also covered by Annexure "FN1" attached hereto. The contents of the articles are to be read and incorporated as part of this Affidavit.

4.4 I have been tried *in absentia* convicted and sentenced in Rwanda for crimes not related to these proceedings. A request by the Rwanda government for my extradition was refused by the South African government.

4.5 It is clear from the background, history and the situation in Rwanda, as highlighted in the "Briefing Paper", Annexure "KR7" to the Applicant's Affidavit that the principle of *non-refoulement* is applicable in these circumstances. The Applicant has conceded this principle in the Briefing Paper (Annexure "KR7" page 85 paragraphs 6 – 9) and I respectfully submit that even at this stage the relief sought by the Applicant is purely academic and will have no practical implication.

PRIVACY AND CONFIDENTIALITY

5.

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5.1 During my (and my family's) application for refugee status, I disclosed all relevant and material facts to the Respondents regarding asylum. It is clear from the Answering Affidavits on behalf of the Respondents that, having regard to Section 24 of the Refugees Act, 1998 ("the Act") taking into account international and domestic law, they applied their minds, exercised their discretion and granted me (and my family) refugee status and asylum.

5.2 In terms of international law and principles, especially in these types of applications, I have a right to privacy and confidentiality. This is enhanced by Section 21(5) of the Act:

"(5) The confidentiality of asylum applications and the information contained therein must be ensured at all times"

[my underlining and bold]

I exercise my constitutional rights and am not prepared to disclose any information regarding my application for refugee status publically and **definitely not in these proceedings.**

5.3 I am in total agreement with the answers given by the Respondents mentioned *supra* in their Answering Affidavits regarding the aspect of confidentiality and privacy.



EXTRADITION AND INDICTMENTS

6.

I have never been informed of any application for my extradition by the Spanish or French governments. I respectfully submit that no applications for my extradition by either the Spanish or the French governments were lodged by either government.

7.

7.1 A meeting by the African Union was held on 18 April 2008 in Addis Ababa, Ethiopia, which was attended by the Ministers of Justice and the Attorney Generals of the different states belonging to the African Union.

7.2 The Minister of Justice / Attorney General of the Republic of Rwanda, Mr Tharcisse Karugara, prepared a paper and addressed this meeting. It is important to note that his South African counterpart, the Minister of Justice, as well as the National Director of Public Prosecutions (previously Attorney General) also attended this meeting.

7.3 The heading of the paper delivered by Mr Karugarama is known as "The Issue of 'Universal Jurisdiction' where Foreign Judges Allocate Themselves the Duty and Responsibility to Take Over, Control and Dominate Judicial Process in Independent Sovereign States for the Purpose of Political Gain". Attached hereto and marked as Annexure "FN4" is a copy of such paper. It is respectfully requested that the content



thereof be read and incorporated as part of this Affidavit.

7.4 The central theme of the delivered paper is the condemnation of the Spanish and French indictments against Rwandan nationals. It also condemns European indictments against individuals of other African countries. The Court is respectfully referred to *inter alia* the following important paragraphs:

"(iv) ... In the case of the French and Spanish Indictments, the Judges clearly denied that genocide happened in Rwanda as being universally established. Instead they called the authors of genocide the actual victims and the victims of genocide the actual genociders."

and

"(vi) ... These compromised political Judges have never been to Rwanda, have never seen or interviewed the so-called suspects; so what is the basis of these indictments?"

and

"(viii) ... Interpol Headquarters based in Lyon, France has placed a caveat on those indictments and declared it can never sanction them unless they go through the normal judicial process and meet the minimum conditions that will make them enforceable under international law and under the Rules and Regulations of Interpol."



- 7.5 On the same day at Addis Ababa, Ethiopia in a draft declaration of Ministers of Justice and Attorneys Generals, the basis of the Paper mentioned *supra* was sanctioned. Attached find the Declaration annexed hereto and marked as Annexure "FN5". The contents of the article are to be read and incorporated as part of this Affidavit.
- 7.6 Similarly, in a meeting of the African Union in Sirtea, Libya on 3 July 2009, a meeting (assembly) that was attended by both the Presidents of Rwanda and South Africa, the blatant abuse of the Principle of Universal Jurisdiction, as set out in the previous assemblies, in Sharm El Sheikh, Egypt July 2008 and Addis Ababa, Ethiopia February 2009, was endorsed. Attached hereto and marked as Annexure "FN6" find a copy of the Decision of Assembly of the African Union. The contents of the article are to be read and incorporated as part of this Affidavit.
- 7.7 I thus respectfully submit that the Spanish and French Indictments are condemned by the African Union and furthermore will never be executed by Interpol as it does not comply with international law.

8.

- 8.1 The crimes that I am accused of and allegedly committed span the period before the adoption of the Rome Statute of the International Criminal Court 1998. Furthermore no warrant of arrest or indictment has been issued by



the International Criminal Court.

8.2 South Africa implemented the Rome Statute in 2002 in the Implementation of the Rome Statute of the International Criminal Court Act, 2002. Section 5(2) reads:

"No prosecution may be instituted against a person accused of having committed a crime if the crime in question is alleged to have been committed before the commencement of the Statute".

8.3 I respectfully submit that based on these facts alone the Applicant should not succeed with its application.

9.

A country that is obliged to fulfil its international obligations regarding crimes against humanity and war crimes, must at least have "reason to believe" or possess "acceptable evidence" that such crimes were indeed committed.

10.

I humbly submit *in casu* no such "believe of evidence" exist with regards to the paragraphs *supra* as well as *infra*.

SPANISH INDICTMENT



11.

11.1 I have read the report the United Nations released on 29 June 1998, namely "Report of the Secretary General's Investigative Team Charged with Investigating Serious Violations of Human Rights and International Humanitarian Law in the Democratic Republic of the Congo – S/1998/581" ("The UN Report") and find no identification of soldiers or commanding officers involved in the alleged crimes mentioned *supra*. Furthermore the UN conducted a "Human Rights Mapping Exercise" covering the period 1993 – 2003. Once again, I did not find my name mentioned anywhere. Attached hereto and marked as Annexure "FN7", find a copy of page 243 of the UN's report of the mapping exercise dated June 2010. The contents thereof should be read and incorporated in this Affidavit.

4.6 It is evident from this report that it relies on interviews with the Rwandan President, Paul Kagame, and General James Kabarebe in which it was admitted by both that General Kabarebe (then Colonel) lead the military operations in the DRC. General Kabarebe is presently the Minister of Defence of Rwanda. Attached hereto and marked as Annexure "FN8" find a copy of the article in the Washington Post dated 9 July 1997. The contents of the article are to be read and incorporated as part of this Affidavit. It is important and crucial to note that these interviews took place in 1997.

11.2 It is stated in paragraph 24 of Annexure "KR7" to the Applicant's Affidavit, that I was the Director of Military Intelligence in the Rwandan Patriotic

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Front from 1990 – 1994. According to this paragraph, I was thereafter appointed as Deputy Chief of Staff, Nationale Gendarmarie. It then continues to state that I was the Commander of the Rwandan's Patriotic Army's Brigade 221, stationed in North West Rwanda from 1994 – 1998. I would like to point out to the Court that this paragraph contains a contradiction in itself because it is two different positions held by two different persons; one cannot hold both positions simultaneously. Furthermore the Commander would have been at his command post in North West Rwanda whilst the Head Office of the Nationale Gendarmarie is in Kigali.

11.3 I am indicted by a Spanish Judge, of these crimes by virtue of the International Criminal Law Doctrine of Command Responsibility. I have already pointed out discrepancies in this regard to the Court and humbly submit that there is no "reason to believe" as set out in Section 4(1) of the Act, that I am responsible for these alleged crimes.

FRENCH INDICTMENT

12.

12.1 In 2006 French Judge Brugueire issued warrants of arrest for nine (9) Rwanda Patriotic Front officials accusing them of the assassination of *inter alia* former Rwandan President Habyarimana in 1994. My name was included as one of the nine (9) people.

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12.2 After the issuance of the warrants, the Rwandan government released a report internationally, blaming the French for shooting down the plane which caused the previous President of Rwanda and other people's demise. Resultant thereof, diplomatic ties between Rwanda and France were severed.

12.3 It is quite ironic that in 2010, diplomatic ties between Rwanda and France were reinstated and that the Presidents of these two countries engaged in visiting each others' countries.

12.4 On Tuesday 14 September 2010 Frank Kanyesigwe posted an article in Kigali under the heading "French Investigators into Habyarimana Plane Crash Arrive". Attached hereto and marked as Annexure "FN9" find a copy of the article. The contents should be read and incorporated as part of this Affidavit. It is enlightening to note the last paragraph:

"In discussions held recently between the Minister of Defence, General James Kabarebe and the French Ambassador to Rwanda, Laurent Contini, they agreed to begin a new chapter of clean joint investigations into the accusations, disregarding Brugueire's findings or allegations."

12.5 A further article by Edmund Kagire with the heading "French Judges Begin Investigations" was also posted on 14 September 2010. Attached hereto and marked as Annexure "FN10" is a copy of such article. The contents thereof should be read and incorporated as part of this Affidavit.



12.6 I humbly refer the Court to excerpts of this article:

"Information gathered during the judicial investigation and was later enriched by the investigation mission by the French and Belgium Parliaments revealed two contradicting outcomes, resulting into two French Judges carrying out more investigations in Rwanda"

and

"An earlier investigation by French Judge Louis Brugueire, which sought to lay blame on the RPF, was roundly renounced by both Rwanda and the wider international community."

and

"Brugueire, who never set foot in Rwanda, relied largely on testimonies by genocide perpetrators, most of them in prison at the ICTR in Arusha".

12.7 On 28 December 2010 an article was printed by the Independent Team and Agencies under the heading "French Court Lifts Arrest Warrants Over Habyarimana Plane Crash". Attached hereto and marked as Annexure "FN11" find a copy of the said article. The contents thereof should be read and incorporated as part of this Affidavit.



12.8 Six (6) high profile political associates of President Kagame were placed under investigation by a French Judge. I respectfully direct the Court's attention to *inter alia* the following excerpts from the article:

"Placing the men under investigation means that international arrest warrants issued for them – which led to Rwanda cutting off diplomatic relations with France in 2006 – can be dropped.

The judge can now decide whether to pursue the investigation and eventually send the suspects for trial, or drop the case."

12.9 The same principles or leniency regarding the French indictments, should therefore also be passed on to the remaining people, including myself. The warrants of arrest issued by the French Judge Brugueire should also "be dropped".

12.10 Based on the events described *supra*, I respectfully submit that there is not enough reason to believe that I committed a war crime or crimes against humanity.

LEGAL PRINCIPLES

13.

13.1 I travelled abroad on numerous occasions. I was *inter alia* in the UK in 2001 and was appointed Rwanda's Ambassador in India from 2005-2010.



I was never invited or approached by either the Spanish or the French Judges to comment on the allegations levelled against me.

13.2 I am advised that numerous legal principles, including the presumption of innocence, the *audi alterem partem*-rule, Article 14 of the International Covenant on Civil and Political Rights (a treaty that binds Rwanda), etc. need to be applied before one can argue that there is acceptable evidence on which "reason to believe" is based that the person committed these crimes.

13.3 I deny the allegations that I committed *inter alia* war crimes and crimes against humanity refer to in the Spanish and French indictments. However, I am advised that this is not the correct forum to divulge any information regarding my innocence. Thus if, and when, it is necessary, and in the correct forum, I shall do so.

RESPONSE TO AVERMENCE IN APPLICANT'S AFFIDAVIT

14.

14.1 This application is already voluminous. With the intent to limit the paper work and save the Honourable Court valuable time, I humbly submit that it would be a duplication of Affidavits if I were to answer each and every allegation made by the Applicant.

14.2 As mentioned *supra* I have read the Affidavit of **Keogh**.



14.3 I have also read the Affidavits of **Mkusili Apleni, Munyangani** and **Nxumalo** on behalf of the Respondents.

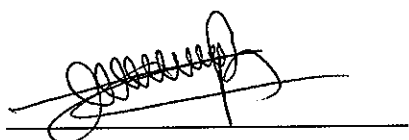
14.4 I identify myself with each and every response and answers the Respondents made to the averments of the Applicant and furthermore admit the content thereof where applicable to me.

14.5 Finally, any averment that has not been dealt with, must rather be seen as a denial than an admission thereof.

15.

In these premises, I therefore pray that the application be dismissed with costs.

DATED AND SIGNED IN PRETORIA ON THIS 26 DAY OF NOVEMBER 2011.



DEPONENT

SIGNED AND SWORN TO AT PRETORIA ON THIS ____ DAY OF NOVEMBER 2011 BY THE DEPONENT WHO HAS STATED THAT HE KNOWS AND UNDERSTANDS THE CONTENTS HEREOF AND THAT IT IS TRUE AND CORRECT AND HE HAS NO OBJECTION TO TAKING THE PRESCRIBED OATH AND THAT HE REGARDS THE PRESCRIBED OATH AS BINDING ON HIS CONSCIENCE.


COMMISSIONER OF OATH:

FULL NAMES:

CAPACITY:

AREA:

BUSINESS ADDRESS:


SIMON NARE MOLELE
 ATTORNEY RSA
 EX OFFICIO- COMMISSIONER OF OATHS
 1237 PRETORIUS STREET
 TSHWANE 0001

A would-be assassin revealed to South Africa's City Press, how the plot to murder the Rwandan General Kayumba Nyamwasa and his followers was hatched and how he had been recruited and paid by Rwanda's military intelligence service.

The Umuvugizi has also reliably learnt that the plot was master minded by none other than Gen. Jack Nziza and Col Emmanuel Ndahiro, the former head of security services but with clear knowledge of Gen. Paul Kagame.

Rwandan refugee Gustav Tuyishime told City Press that his main targets were former Rwandan army chief of staff and ambassador to India, General Nyamwasa and two of his confidants. Nyamwasa, once Rwandan president Paul Kagame's closest confidant, is now a key figure in Rwanda's exiled opposition movement. Nyamwasa is under witness protection after assassins allegedly sent by Kigali shot and wounded him in June last year and went ahead to allege his death even in the hospital where he was being operated, according to audio recordings obtained by Umuvugizi newspaper.

Ten men, among them Rwandan, Tanzanian and Somali nationals, have been charged with attempted murder and conspiracy to commit murder.

According to the City Press, South Africa's Crime Intelligence Unit and National Intelligence Agency have received information implicating individuals at the Rwandan embassy in Pretoria in the activities of Rwandan death squads. Tuyishime said he had received \$16 000 (R110 140) on May 15 this year to carry out the assassination.

He showed City Press SMSes from his handlers in Kigali inquiring how successful he had been in infiltrating Nyamwasa's inner circle. Tuyishime also received an email from Kigali with the address where Nyamwasa was being kept in witness protection. A picture of the house was attached. The address was accurate. Nyamwasa was moved to another safe house in June.

The renewed assassination efforts have increased tension between Rwanda and South Africa, with both countries withdrawing their respective ambassadors. Nyamwasa fled to South Africa last year. He is a founding member of the Rwandan National Congress (RNC), which wants to end what it labels Kagame's "tyrannical dictatorship".

Tuyishime was exposed as a would-be assassin after he told a member of the RNC in June that he had been hired to shoot Nyamwasa, his brother, Frank Ntwali, and senior RNC official Emile Rutagengwa.

The RNC informed South Africa's Crime Intelligence Unit of the plot and it detained and questioned Tuyishime. He co-operated and has made several statements and provided evidence of the plot. He now fears for his life and showed City Press messages ordering him to fly to Kenya, where he was to meet his handlers. "I've taken their money and now they're going to kill me," said Tuyishime, a former soldier who has lived in South Africa for more than 10 years.

Instead of buying an illegal gun and hiring hit men to assist him, Tuyishime bought a car and new clothes. "If they know what I've done, they'll kill me," he said. "Please help me."

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"FN2"

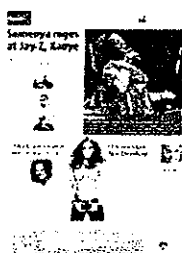
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Rwanda's plot to execute exiled general

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Would-be assassin says he was recruited and paid
JACQUES PAUW
investigations@media24.com

A would-be assassin revealed to City Press this week how he had been recruited and paid by Rwanda's military intelligence service to kill an exiled Rwandan general and his followers in Pretoria.

Rwandan refugee Gustav Tuyishime told City Press that his main targets were former Rwandan army chief of staff General Kayumba Nyamwasa and two of his confidants.

Nyamwasa, once Rwandan president Paul Kagame's closest confidant, is now a key figure in Rwanda's exiled opposition movement.

The Rwandan embassy denies the allegations.

Nyamwasa is under witness protection after assassins allegedly sent by Kigali shot and wounded him in June last year. Ten men, among them Rwandan, Tanzanian and Somali nationals, have been charged with attempted murder and conspiracy to commit murder.

City Press has also established that South Africa's Crime Intelligence Unit and National Intelligence Agency have received information implicating individuals at the Rwandan embassy in Pretoria in the activities of Rwandan death squads.

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He now fears for his life and showed City Press messages ordering him to fly to Kenya, where he was to meet his handlers.

"I've taken their money and now they're going to kill me," said Tuyishime, who has lived in South Africa for more than 10 years and is a former soldier.

Instead of buying an illegal gun and hiring hit men to assist him, Tuyishime bought a car and new clothes. "If they know what I've done, they'll kill me," he said. "Please help me."

You may also be interested in



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Mr. Ayanda Ntsaluba, the director general in the foreign ministry, told reporters that "foreign security operatives" were involved in the shooting of General Kayumba on June 19 in Johannesburg. "[This matter] also involves a country with which we have good and strong diplomatic relations," he said. This why we will not make a determination about where the suspected attackers of General Nyamwasa come from. We want to be cautious and we are not pointing an accusing finger at any country, it is accepted practice that the foreign missions of any country has fully declared intelligence and security operatives, he said. If people from another country operate clandestinely, that is an entirely different dimension. This cannot be taken lightly because that is subverting the stability of a country.

" So they might have come from Kyrgyzstan? Montenegro"?

VOA NEWS: South Africa Recalls Envoy to Rwanda over Assassination Attempt

Peter Clotey 05 August 2010

A political analyst says it is not surprising that South Africa recalled its envoy to Rwanda following diplomatic tensions between Pretoria and Kigali after a recent assassination attempt on an exiled Rwandan army general in Johannesburg. Professor Rok Ajulu said President Paul Kagame's government has become a rogue regime which he sees as increasingly intolerant of any dissent ahead of Sunday's presidential election. Since that attempt on General Kayumba [Nyamwasa], there have been tensions, but I think they have been handled quietly. It was some sort of quiet diplomacy. I think South Africa took exception to the fact that an attempt would be made on a former senior member of the Rwandan regime who had formerly come down here as a refugee and an attempt will be made on him here in South Africa," he said. Ajulu said that the Rwandan administration is known to often use state institutions and resources to harass and intimidate opponents.

African Union: 18TH APRIL, 2008 -

**Statement of Rwanda to the meeting of Ministers of
Justice and Attorneys General on legal matters -
Addis Ababa, Ethiopia;**

Mr. Chairman;

Distinguished Delegates;

**RE: The Issue of "Universal Jurisdiction" where
foreign Judges allocate themselves the duty and
responsibility to take over, control and dominate
judicial process in Independent Sovereign States for
the Purpose of Political Gain:**

I. Introduction

1. Rwanda would like to table before you a matter of great concern to our country in particular and to Africa in general. This is the issue of the so called "Universal Jurisdiction" where foreign Judges allocate themselves the duty and responsibility to take over, control and dominate judicial process in independent sovereign states for purposes of political gain.

It is an issue where these foreign Judges seek to recolonise Africa through a form of "Judicial Coup d'Etat"

under the guise of "Judicial Independence" and "Universal Jurisdiction". These Judges seek to exercise political power over independent sovereign states hiding behind "Judicial Independence" intentionally abused to serve their neo-colonial ambitions to control and dominate the targeted countries.

2. It is not acceptable that a foreign country or a foreign Judge should have the right to violate the sovereignty of independent sovereign states under the guise of "judicial independence" and "Universal Jurisdiction". What right does a foreign judge have to exercise judicial authority over Rwanda or any other African Country? This Pilot Project by foreign judges to take over Judicial Authority in sovereign African countries has been attempted on Rwanda, DRC, Congo Brazzaville and Djibouti. Tomorrow, if we do not resist, it will be extended to other African Countries. You stand warned that if we do not act together, we shall sink together.

3. This insult to our sovereignty and arrogance by these foreign Judges and their backers should be resisted by all African States and I propose to you distinguished delegates, to take the lead in speaking out loudly and resisting foreign domination through neo-colonial judicial coup d'etat. I urge you to condemn those hostile maneuvers.

II Background to Indictments over Rwanda

- (i) The UN Security Council and the UN General Assembly as well as the African Union have all unanimously declared what happened in Rwanda in 1994 as Genocide ;
- (ii) The UN, the AU and most countries in the world do join Rwandans every year on April 7th to commemorate the Rwandan Genocide;
- (iii) The ICTR set up to try genocide suspects, has handed down convictions and sentences to numerous people for the crime of genocide committed against the people of Rwanda. We therefore have both political and judicial precedents which should bind all States and all Judges irrespective of their political relationship with Rwanda;
- (iv) For some obscure reasons, some countries and their Judges have refused to accept the Rwandan genocide. In the case of the French and Spanish indictments, the Judges clearly deny that genocide happened in Rwanda as has been universally established. Instead they call the authors of genocide the actual victims and the victims of genocide the actual genociders. Is this a form of "Judicial sadism" being introduced in International Law? This twist of facts and events on the part of these Judges is dangerous for international law and order and should be condemned by all of us here present;
- (v) Rwanda is now a stable country and is slowly recovering from the deep wounds of genocide. The

Rwandan community is coming - together and the reconciliation process is on good course. But the genociders and their foreign backers are still active and determined to destabilize Rwanda and prevent it from attaining its recovery program. Hence those bogus and ridiculous indictments against Rwanda's political and military leaders;

(vi) These compromised political Judges have never been to Rwanda, have never carried out any investigations, have never consulted or dealt with Rwandan Judicial authorities, have never seen or interviewed the so-called suspects; so what is the basis of these indictments? The crimes were allegedly committed in Rwanda and by Rwandans and would therefore fall under the jurisdiction and competence of Rwanda's Judiciary. How does a French or Spanish Judge come in? what is known is that these Judges for obvious political reasons, just sat in their countries with genocide criminal fugitives and well-known genocide deniers and put together a pack of falsehoods, gossip and rumours and on the basis of that, issued indictments against Rwanda's political leaders for crimes allegedly committed in Rwanda and DRC;

(vii) The Judges adopted a bizarre procedure unknown in international legal practice. They just called a press conference and issued indictments via the Internet under the guise of judicial independence and universal jurisdiction. These indictments have never been officially communicated either to the alleged suspects or the

Rwandan government. What a shame to the Judiciary that the Judges could allow themselves to be so manipulated that they played the role of political activists, genocide deniers;

(viii) Interpol Headquarters based in Lyon, France has placed a caveat on those indictments and declared it can never sanction them unless they go through the normal judicial process and meet the minimum conditions that will make them enforceable under international law and under the Rules and Regulations of Interpol.

(ix) The so-called indictments is a document full of racist and revisionist language. It is also full of hate literature and political propaganda. It attacks many countries both in Africa and beyond. It is not a judicial document but a political statement and should be treated as such.

III. Request to AU Ministers of Justice/Attorneys General

It is for the above reasons that Rwanda requests you honourable delegates the following:

- a) To adopt a resolution condemning the French and Spanish indictments as violation of Rwanda's sovereignty;
- b) To adopt a resolution declaring that domestic national legislation of any country should have no universal application over independent sovereign States unless

such domestic national legislation have been adopted by the UN as having such universal application;

c) To declare that any country which seeks to have its own domestic law enjoy universal application should submit it to UN for examination and approval to sanction its universal applicability; and

d) To recommend that the African Union Commission takes up the matter further and takes whatever other appropriate action that the AU may deem fit and proper under the circumstances.

And so Rwanda prays, distinguished delegates, Ladies and Gentlemen.

Thank you for your kind attention and for the support and seriousness with which you will treat this matter of great concern to our country.

Tharcisse Karugarama

Minister of justice/Attorney General;
Republic of Rwanda

**DRAFT DECLARATION OF MINISTERS OF JUSTICE AND ATTORNEYS
GENERAL**

We, the Ministers of Justice and Attorneys General meeting in Addis Ababa, Ethiopia, on 18 April 2008,

HAVING heard the Statement by the Minister of Justice/Attorney General of the Republic of Rwanda entitled "*The Issue of Universal Jurisdiction where foreign Judges arrogate to themselves the duty and responsibility to take over, control and dominate judicial process in independent sovereign States for the purpose of political gain*", declare as follows:

1. The abuse of the principle of "universal Jurisdiction" by some non-African States is a great affront to sovereignty of States;
2. The spirit of the decision of the Assembly of the Union in the Hissen Habre case, wherein the Heads of State and Government decided that Hissen Habre would not be extradited for trial outside Africa, as well as the relevant resolutions of the United Nations General Assembly and the decisions of the International Court of Justice provide a strong basis on how the present issue should be handled;
3. In view of increasing nature of indictments issued in non-African Countries against African personalities, REQUEST the Commission of the African Union to carry out a comprehensive legal study and make appropriate recommendations to the Assembly, through the Executive Council, for its consideration at the next Ordinary Session scheduled for Sharm El Sheik, Egypt, in July 2008.

Done at Addis Ababa, Ethiopia this 18th day of April 2008

"FN 6"
AFRICAN UNION DECLARATION

, Assembly/AU/Dec.243(XIII) Rev.1

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Great Socialist People's Libyan

Arab Jamahiriya on 3 July 2009

DECISION ON THE ABUSE OF THE PRINCIPLE OF

UNIVERSAL JURISDICTION

Doc. Assembly/AU/11(XIII)

The Assembly,

1. TAKES NOTE of the Progress Report of the Commission on the Implementation of Decision Assembly/AU/Dec.199(XI) adopted by the Assembly in Sharm ElSheikh, Egypt in July 2008 as well as Decision Assembly/AU/Dec.213 (XII) on the Abuse of the Principle of Universal Jurisdiction adopted in Addis Ababa, Ethiopia in February 2009;
2. ENDORSES the recommendations of the Executive Council;
3. REITERATES its appeal to the Chairperson of the African Union to follow-up on this matter with a view to ensuring that it is exhaustively discussed at the level of the United Nations Security Council and the General Assembly, as well as the European Union;
4. REITERATES its previous positions articulated in Decisions Assembly/Dec.199(XI) and Assembly/Dec.213(XII) adopted in Sharm El Sheikh and Addis Ababa in July 2008 and February 2009 respectively to the effect that there has been blatant abuse of the Principle of Universal Jurisdiction particularly by some non-African States and EXPRESSES its deep concern that indictments have continued to be issued in some European States against African leaders and personalities. To this end, it CALLS FOR immediate termination of all pending indictments;
5. FURTHER REITERATES its conviction on the need for an international regulatory body with competence to review and/or handle complaints or appeals arising out of abuse of the Principle of Universal Jurisdiction by individual States;
6. CALLS UPON all concerned States to respect International Law and particularly the immunity of state officials when applying the Principle of Universal Jurisdiction;
7. EXPRESSES APPRECIATION to the Chairperson of the African Union and the Chairperson of the Commission for efforts made so far towards ensuring that this matter is exhaustively discussed at the level of the United Nations General Assembly and with the European Union, respectively;

FN6

8. REQUESTS the Commission to follow up on this matter and to report to the Assembly on progress made in the implementation of this Decision, in January/February 2010.

Adopted by the Thirteenth Ordinary Session of the Assembly in Sirte, Great Socialist People's Libyan

Arab Jamahiriya on 3 July 2000

DEMOCRATIC REPUBLIC OF THE CONGO, 1993–2003

Report of the Mapping Exercise documenting the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of the Congo between March 1993 and June 2003

June 2010

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1996-1998: First war

478. With all the information available today, the importance of the role of third-party States in the first war, which led to the overthrow of the Mobutu regime, cannot be dismissed. Although, in 1998, the Investigative Team of the Secretary-General in the DRC believed it was not in a position to classify the type of armed conflict that took place in the Congo during this period, whilst noting the active participation of Rwanda in the conflict,⁸⁸⁶ this is no longer the case. The involvement of Rwanda and Uganda in the conflict, from the outset, in setting up and organising the AFDL, operational planning and logistical support, such as providing weapons and training to some of the combatants, is now recognised by the highest authorities in the countries concerned.⁸⁸⁷ The military operations of the AFDL were placed under the command of Colonel James Kabarebe, a Rwandan officer who, by the end of the war, had become the *ad interim* Chief of Staff of the Congolese armed forces under the new Government.⁸⁸⁸

⁸⁸⁷ In an interview with the *Washington Post* on 9 July 1997, the Rwandan President Paul Kagame (Minister of Defence at the time) acknowledged that Rwandan troops had played a key role in the AFDL campaign. According to President Kagame, the battle plan consisted of three elements: *a* dismantling the refugee camps, *b* destroying the organisational structure of the ex- FAR and Interahamwe based in and around the camps and *c* overthrowing the Mobutu regime. Rwanda had planned the rebellion and had participated in supplying weapons, munitions and training facilities for the rebel Congolese forces. Operations, particularly critical operations, were led, according to Kagame, by mid-level Rwandan commanders. *Washington Post*,

"*Rwandans Led Revolt in Congo*", 9 July 1997. See also the interview given by General James Kabarebe, the Rwandan officer who led the military operations of the AFDL, to the *Observatoire de l'Afrique centrale*: "*Kigali, Rwanda. Plus jamais le Congo*", Volume 6, number 10, 3 to 9 March 2003. See also the televised interviews with the President of Uganda, the President of Rwanda and General James Kaberebe explaining in detail their respective roles in this first war, in "*L'Afrique en morceaux*", a documentary directed by Jihan El Tahri, Peter Chappell and **Hervé Chabalier**, 100 minutes, produced by Canal Horizon, 2000.

⁸⁸⁸ General James Kaberebe is currently Chief of Staff of the Rwanda Defence Forces.

"FN8"

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Rwandans Led Revolt In Congo

By John Pomfret

Washington Post Foreign Service
Wednesday, July 9 1997; Page A01



Troops of Laurent Kabila's rebel force stand guard outside the remains of the Kasese refugee camp in April. (Reuters)

Rwanda's powerful defense minister, Paul Kagame, has acknowledged for the first time his country's key role in the overthrow of president Mobutu Sese Seko in neighboring Congo, saying that the

Rwandan government planned and directed the rebellion that toppled the longtime dictator and that Rwandan troops and officers led the rebel forces.

Rwandan forces participated in the capture of at least four cities - the Congolese capital, Kinshasa; the southern copper-mining town of Lubumbashi; the key western crossroads of Kenge; and the diamond center of Kisangani, which fell on March 15 in what was considered the key battle of the war, Kagame said in an interview here Monday. He added that Rwandan "mid-level commanders" led Congolese rebel forces throughout the successful rebellion and that Rwanda provided training and arms for those forces even before the campaign to overthrow Mobutu began last October.

Kagame, the 40-year-old major general who commanded the 1994 takeover of Rwanda by a rebel army, offered what he said were "secrets of the war" in Congo, including the first public account by a senior Rwandan official of that country's involvement. Several other African countries, including Uganda, Angola, Burundi and Zambia, also are known to have supported the rebel cause. But Kagame's account suggests that the war, which began in the eastern Congo near the borders of Rwanda and Uganda, was planned primarily by Rwanda and that the plan to remove Mobutu originated in Kigali as well.

"There are not many people who thought that Mobutu was very weak. They thought of Mobutu as a big monster who wouldn't be defeated, with his big hat and his big stick. They thought little Rwanda and big Zaire," Kagame said with a smile. "Only when

we started did they look at the map and see the possibilities."

The Rwandans' role in the rebellion has been controversial in Congo. Rebel leader Laurent Kabila, who proclaimed himself president of Congo in May, has maintained that his victorious forces were assembled from among Congo's many ethnic groups. But the large number of ethnic Tutsis -- who account for a tiny percentage of Congo's population but dominate the government and armies of Rwanda and Burundi -- in the rebels' ranks have led Kabila's critics to claim Congo is being ruled by a Rwandan occupation force.

Kagame, a Tutsi, also responded to allegations that Tutsi officers of the Rwandan army ordered massacres of Rwandan Hutu refugees inside Congo. The Hutu refugees fled to Congo, then known as Zaire, in 1994 after Kagame's Tutsi-led army seized power in Rwanda and ended a campaign of massacres of Tutsis by Hutu troops and militiamen that killed at least 500,000 people. Rwandan officers interviewed in Congo said the Tutsis were given a free hand by the Congolese rebels to attack the Rwandan Hutus -- many of whom were former Rwandan soldiers and militiamen who participated in the 1994 genocide -- in exchange for backing the war against Mobutu.

While not denying the possibility of individual atrocities, Kagame accused U.N. officials who have leveled massacre charges against Rwandan army and Congolese rebel forces of fallaciously trying to equate their behavior with the genocide that Hutu extremists carried out in Rwanda.

"It is my strong belief that the United Nations people are trying to deflect the blame for failures of their own making onto us," he said. "Their failure to act in eastern Zaire directly caused these problems, and when things blew up in their faces they blamed us. These are people who want to be judges and nobody can judge them."

Kagame, who holds the titles of vice president and defense minister and is Rwanda's most powerful leader, said that months before war erupted, he warned the United States that Rwanda would take military action against Mobutu's regime and the refugee camps in eastern Congo that were being used as a base by the Hutu troops Kagame had defeated. As many as 1.1 million Hutus were housed by late 1996 in camps in eastern Congo.

While Kagame said he was unaware of any American military support for the rebellion, he commended the United States for "taking the right decisions to let it proceed."

Kagame, who studied at the U.S. Army Command and General

Staff College at Fort Leavenworth, Kan., in 1990, has directed military campaigns before. In the 1994 war in Rwanda, he led a rebel force of 8,000 -- predominantly Rwandan Tutsi exiles who had been given sanctuary and training in Uganda -- against a 30,000-strong, Hutu-dominated government army that was trained and equipped by France and backed by tens of thousands of armed Hutu militiamen. U.S. Army Gen. George Joulwan, the supreme commander of NATO forces, has described Kagame as "a visionary," a perception shared by other American and Western military officers.

The decision to prepare for a second war, Kagame said, was made in 1996, although rebels in Congo have said they were training for a year before the uprising began in October. The impetus for the war, Kagame said, was the Hutu refugee camps. Hutu militiamen used the camps as bases from which they launched raids into Rwanda, and Kagame said the Hutus had been buying weapons and preparing a full-scale invasion of Rwanda.

Kagame said that he and other Rwandan officials attempted to persuade the United Nations and Western countries to demilitarize the refugee camps and separate the Hutu troops from the real refugees. But, he said, "they were insensitive." He added: "We told them clearly: 'Either you do something about the camps, or you face the consequences.'"

In early August 1996, Kagame traveled to New York and Washington, where he said he met with State Department officials and "other people" in the Clinton administration. "I was looking for a solution from them," he said. "They didn't come up with any answers, not even suggestions." Kagame said he returned home sensing that war was inevitable.

[A State Department official said Tuesday that Kagame told officials during his visit that the camps had to be dismantled and that if the United Nations would not remove them somebody else would have to do it, staff writer Thomas W. Lippman reported from Washington.]

The Rwandan army had already begun training Tutsis from Congo who had been the target of attacks by Congolese Hutus for more than three years. Meanwhile, Rwandan agents started making contact with other Congolese rebel forces opposed to Mobutu. Slowly, the organization that would be known as the Alliance of Democratic Forces for the Liberation of Congo began to take shape.

Kagame said most of the guerrillas in the alliance were Congolese but that key units belonged to the Rwandan army.

Kind regards,

Could you please confirm your prices per night per room

"The main bulk of the force was [Congolese] forces except when there was a need for precision, for things to happen in a precise way," he said.

The alliance's opportunity came in early October when the Rwandans received information of a plan by the Hutus in Congo to attack the Banyamulenge, a group of Congolese Tutsis who live near Uvira and Bukavu, south of Goma. Agents also learned of a plan, Kagame said, to invade Rwanda with 100,000 Hutus, including 40,000 who had been members of the Rwandan army that Kagame vanquished in 1994.

Kagame dispatched Rwandan Tutsis who were related to the Congolese Tutsis near Uvira with messages instructing them to prepare for war. He also sent weapons and reinforcements. When the rebellion erupted in early October in the village of Lemera just north of Uvira, Kagame said, his enemies "were stunned by the effectiveness of the Rwandan and the Rwandan-trained troops."

Kagame said the battle plan as formulated by him and his advisers was simple. The first goal was to "dismantle the camps." The second was to "destroy the structure" of the Hutu army and militia units based in and around the camps either by bringing the Hutu combatants back to Rwanda and "dealing with them here or scattering them."

The third goal was broader -- toppling Mobutu. Kagame said, "it would have been more suitable" if Congolese rebels had done most of the fighting against Mobutu's troops, but it also would have been riskier.

"I don't think they were fully prepared to carry it out alone," he said. "We did continue to take some role because we thought doing it halfway would be very dangerous. We found the best way was to take it to the end." The Rwandans were backed in this final aim by Angola, which also contributed troops and arms to the rebels and pushed the rebels to take Kinshasa.

The towns of eastern Congo fell quickly to the rebels. But then came the threat Kagame said he feared most -- talk of a U.S.-backed international intervention force for eastern Congo.

While Canadian, American and British diplomats and officers trooped through Kagame's office in Kigali, talking about the multinational force, he prepared a scheme to bury the plan. It unfolded on Nov. 15, when rebel forces attacked the huge Mugunga refugee camp near Goma from the west, giving most of the more than 500,000 refugees there only one way to flee -- home to Rwanda.

Kagame declined to go into detail about how Kabila, a Congolese native and long time Mobutu foe, came to be leader of the alliance. But he strongly implied that such a figure was needed if the war was to be won. "The people of Zaire were simply tired of the regime," he said. "As long as the people at the forefront were Zairian, the rebellion was going to be easy."

Kagame said the question of who ran the offensive was a complex one. He acknowledged that James Kabari, whom Western and Congolese military officers point to as the senior commander, is a Rwandan army officer. "He's been assigned to help the army of Congo," Kagame said. "He's been requested to organize the army, training. He's one of many able commanders we've had around."

A senior Congolese officer whom Congolese government officials have identified as the top commander of the alliance, Gen. Nindaga Masasu, Kagame said, served in the Rwandan army.

Kagame said the fighting in Congo was bloodier than had been reported. Battles in the east around the towns of Walikale and Lubutu were "serious and intense," he said. In Bafwasende, a town at an important crossroads 140 miles east of Kisangani, thousands of troops were fighting for five days, he added. Lumbumbashi, in the south, fell after three to four days of battle, he said.

And in Kenge, 100 miles east of Kinshasa, 1,500 Angolan mercenaries from the Mobutu-backed UNITA rebel movement battled 600 Rwandan army troops for 10 hours in mid-May before the Angolans fled, he said. Kagame said Rwandan troops were used in the final march into Kinshasa because "we didn't want to take any chances." The Rwandan troops sped into the city "to fulfill the requirements of the Americans for a soft landing -- no killing of civilians," Kagame said.

"These are some of the things we had to do," Kagame said, summing up the war he planned. "They may not be popular, but we are more interested in the results than with the stories about the results."

Tuesday 14th of September, 2010

French investigators into Habyarimana plane crash arrive

By Frank Kanyesigye



KIGALI - TWO French judges and a bevy of experts are in the country to investigate charges instituted by French Judge Louis Brugueire against top Rwandan officials.

In 2006, Judge Brugiere issued arrest warrants for 40 Rwanda Patriotic Front (RPF) officials accusing them of downing the plane in which former Rwandan President Juvenal Habyarimana was killed in 1994.

The French team that arrived in the country yesterday will spend a week in Rwanda to try to determine how a plane carrying the president was shot down.

"We shall offer them maximum cooperation to conduct free, fair and transparent investigations," said. Rwanda's Justice Minister, Tharcisse Karugarama.

"Whatever they need so as to conduct their investigation, we shall be able to provide to them". The 17-person team also wants to determine where the missiles were fired as a possible clue as to who was behind the attack.

In discussions held recently between the Minister of Defence, Gen. James Kabarebe and the French Ambassador to Rwanda, Laurent Contini, they agreed to begin a new chapter of clean joint investigations into the accusations, disregarding Brugueire's findings or allegations.

Ends

Tuesday 14th of September, 2010

French Judges begin investigations

French Judges begin investigations

By Edmund Kagire

TWO French judges together with a team of experts in aeronautics and ballistics yesterday embarked on a week long investigations into the shooting of a plane carrying former Presidents Juvenal Habyarimana and 11 others.

The Judges; Marc Trévidic and Nathalie Poux, arrived in Kigali Saturday after the Government granted their request to carry out independent investigations into the shooting that took place on April 6, 1994.

Among those killed was the President of Burundi, Cyprien Ntaryamira and three French citizens; Jacky Heraud Jean-Pierre Minaberry and Jean Michel Perrine.

In a statement announcing the start of the investigations, the French judges will conduct "objective investigations" in an "independent and transparent manner."

According to Trévidic, the investigation will be conducted with an objective to find the real person behind and the shooting the plane and also verify the two contradicting theories available.

"Information gathered during the judicial investigation and was later enriched by the investigation mission by the French and Belgian Parliaments revealed two contradicting outcomes, resulting into two French Judges carrying out more investigations in Rwanda.

"As a result, the French Judges requested the Government of Rwanda for cooperation in the investigation and the request was favourably honoured," the statement reads in part.

The two judges are accompanied by a representative of the Public Prosecutor of Paris to and members of the judicial police as well as a team of experts with vast experience in aeronautics, ballistics and topography to assist in the investigations.

"The investigation team will study the two contradicting theories, how pertinent they are and if there connection between them based on the configuration of the sites and the revelations of witness," Trévidic and his team announced.

"The investigations, to be conducted in an independent and transparent manner, will be impartial and objective and the two concerned parties will be involved and will follow the investigations as they happen".

The outcomes of the investigations are expected in January 2011.
Rwanda has already promised to cooperate with the French judges.

An earlier investigations carried out by French Judge Louis Brugueire, which sought to lay blame on the RPF, was roundly denounced by both Rwanda and the wider international community.

Brugueire, who never set foot in Rwanda, relied largely on testimonies by genocide perpetrators, most of them imprisoned at the ICTR in Arusha.

Ends

Source: Newtimes

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French court lifts arrest warrants over Habyarimana plane crash

TUESDAY, 28 DECEMBER 2010 10:01 BY THE INDEPENDENT TEAM & AGENCIES

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A French judge placed Rwanda's defence minister and five other aides of President Paul Kagame under investigation in a probe into an attack seen as sparking the African country's 1994 genocide, legal sources said on Dec. 16.

The six, who include a general and a lieutenant-colonel, were informed of the indictments against them while in Burundi earlier this month and have been allowed to remain at liberty, the source said.

Placing the men under investigation means that international arrest warrants issued for them -- which led to Rwanda cutting off diplomatic relations with France in 2006 -- can be dropped.

The judge can now decide whether to pursue the investigation and eventually send the suspects for trial, or drop the case.

The men's lawyers welcomed the lifting of the arrest warrants, saying in a statement that it was "a very significant step in the procedure and a very important moment for relations between France and Rwanda."

Rwandan Justice Minister, Tharcisse Karugarama, described the development as a "first step" towards the revelation of the real truth behind the assassination of former President, Juvenal Habyarimana, and that it marks an end to the rulings of former French judge, Jean Louis Bruguiere's "baseless" arrest warrants.

"The Rwandan Government has welcomed this development and hopes that this is the first step towards the comprehensive conclusion of this unfortunate case based on political manipulations by people interested in

destabilising Rwanda," said Minister Karugarama.

"Government believes that now the investigations have been officially opened, the truth will come out for the whole world to know that the officers in question are not responsible at all for shooting down the plane on April 6, 1994."

It has since been discovered through confidential diplomatic cables leaked by whistle-blowing website, Wikileaks that Bruguiere, had confirmed that he had "conferred" with the Government of France, including President Chirac, on the timing and fallout of his issuance of arrest warrants against top RPF officials.

"He said he presented his decision to French officials, including President Chirac, to consult with them because he was convinced of the need to coordinate timing with the government," a section of the leaked documents reads.

The French anti-terror judge Marc Trevidic is now probing the 1994 downing of a plane carrying Rwanda's then president Juvenal Habyarimana because the crew of the aircraft were French nationals.

The killing of Habyarimana, who was travelling with his Burundian counterpart Cyprien Ntaryamira, is believed to have triggered the 1994 genocide which claimed the lives of some 800,000 Tutsis and moderate Hutus.

French experts probing the downing of the plane wound up their task of hearing witness testimonies and visiting key Kigali sites in September this year.

The five-member team including two anti-terrorism judges -- Trevidic and Nathalie Poux -- surveyors, ballistics, explosives and fire experts sought to determine the origin of missiles that downed the plane.

Pre-genocide Hutu extremists and Tutsi rebels are both suspected of being behind the April 6, 1994 shooting of the Falcon 50 craft.

The French team suspect a commando unit of Rwandan Patriotic Front (RPF) rebels of infiltrating the Rwandan Hutu army and firing two missiles from a hill east of the runway where the plane was coming in to land.

But the RPF government now in power in Kigali blames the attack on Hutu extremists within the FAR national army seeking to eliminate Habyarimana in order to launch a coup.

The two presidents were returning from a summit in neighbouring Tanzania to revamp a 1993 peace deal aimed at setting up a transitional government and integrate the RPF rebels.

Kigali broke off relations with France in late 2006 after a French anti-terror judge implicated Kagame's entourage in Habyarimana's assassination.

Rwanda responded by releasing a report accusing around 30 senior French political and military figures of complicity in the genocide.

Diplomatic relations were restored a year ago and in February this year President Nicolas Sarkozy made the first visit to Rwanda by a French president since the 1994 massacres.

Sarkozy acknowledged that France made mistakes during the genocide, paid homage to the victims but stopped short of apologising.

"What happened here is unacceptable, but what happened here compels the international community, including France, to reflect on the mistakes that stopped it from preventing and halting this abominable crime," he said