

SUMMARY OF JUDGEMENT
in the Case of Prosecutor v. Hategekimana

I. Introduction

1. The Accused in this case is Ildephonse Hategekimana. During the events in 1994, he was the Commander of the Ngoma Military Camp in Butare *Préfecture*, a lieutenant in the *Forces Armées Rwandaises* and a member of the Butare *Préfectural* Security Council. The Prosecution has charged him with four counts: genocide, or, in the alternative, complicity in genocide, as well as murder and rape, as crimes against humanity.

2. The Defence disputes all charges. According to the Defence, the Prosecution has not proven beyond reasonable doubt Hategekimana's individual or superior responsibility in relation to any of the alleged crimes underpinning the counts of genocide or crimes against humanity, for murder and rape.

3. The trial commenced on 8 March 2009 and closed on 6 October 2009. Over the course of forty-three trial days, the Parties called forty witnesses. The Parties filed their Closing Briefs on 1 February 2010. Their closing arguments were heard on 26 and 28 April 2010.

4. The Chamber will now present a summary of its findings concerning the Prosecution's allegations against Hategekimana. Only the written judgement, which will be available shortly, is authoritative. The submissions of the Defence concerning certain fair trial issues are discussed in the judgement and will not be addressed here.

II. Alleged Meeting on 7 April 1994 at the ESO Military Camp

5. The Prosecution alleges that Hategekimana attended a meeting of Butare *Préfecture* military officials at the ESO Camp on 7 April 1994, the morning after the death of President Habyarimana. The Prosecution also asserts that, in accordance with a decision taken at the meeting, the Accused ordered Ngoma Camp soldiers under his command to kill *Tutsis* and to rape *Tutsi* women before killing them. The Defence denies that Hategekimana attended the meeting or that such a meeting was ever held.

6. One Prosecution witness, a soldier from ESO Military Camp, testified that Hategekimana attended a meeting with named military officers on 7 April 1994 at the

ESO Camp. However, the witness presented no direct or reliable evidence regarding the subject matter of the meeting. The witness did not attend this meeting and did not hear Hategekimana ever issue the alleged order to soldiers under his command to kill *Tutsis* and to rape *Tutsi* women before killing them. On the basis of the entirety of the evidence presented, the Chamber does not find that this allegation has been proven beyond reasonable doubt and thus dismisses it.

III. Hategekimana's Alleged Order to Erect and Man a Roadblock Outside of Ngoma Camp, between 7 April and 31 May 1994

7. The Prosecution alleges that, from 7 April until 31 May 1994, Hategekimana instructed soldiers stationed at Ngoma Military Camp to erect a roadblock outside and opposite the main entrance into the camp to intercept, identify, arrest and kill *Tutsis*. According to the Prosecution, this roadblock was manned by soldiers from Ngoma Camp under the supervision of the Accused. Many *Tutsi* civilians were arrested at this roadblock and killed or seriously injured. The Defence does not dispute the existence of the roadblock but argues that the roadblock, common to all military camps, had no criminal purpose.

8. After assessing the evidence presented by twelve witnesses, the Chamber finds that Hategekimana bears no criminal liability in respect of the establishment and manning of a roadblock outside of the Ngoma Camp. Therefore the Chamber dismisses this allegation.

IV. Hategekimana's Alleged Distribution of Weapons, on or after 7 April 1994

9. The Indictment asserts that, from 7 April until 14 July 1994, Hategekimana distributed weapons to Ngoma Camp soldiers, *Interahamwe* and armed civilians, who were participants in a joint criminal enterprise. According to the Prosecution, these weapons were used to kill *Tutsi* civilians.

10. The Chamber finds that the evidence is insufficient to establish this allegation and, accordingly, dismisses it.

V. Hategekimana's Alleged Issuance of *Laissez-Passers* to Assailants, between 7 April and 31 May 1994

11. The Prosecution argues that Hategekimana provided *laissez-passers* to facilitate the movement and equipping of soldiers, *Interahamwe* and armed civilians who

participated in the killings. The Chamber has heard testimony from one witness that he received a *laissez-passer*, signed by Hategekimana, to conduct his private business. No other evidence was presented linking the issuance of *laissez-passers* to the Accused.

12. Therefore the Chamber has not found that Hategekimana is criminally liable for the issuance of *laissez-passers* and dismisses this allegation.

VI. Hategekimana's Alleged Responsibility for the Murder of Jean-Bosco Rugomboka, on or about the Night of 8 to 9 April 1994

13. The Prosecution alleges that, on or about the night of 8 to 9 April 1994, Hategekimana led an attack on the home of the Rugomboka family in Ngoma *Secteur*. During the course of this attack, Hategekimana allegedly ordered soldiers, *Interahamwe* and armed civilians to arrest, torture and kill Jean-Bosco Rugomboka on the basis of his identification as a member of the *Tutsi* ethnic group. The Defence claims that the Prosecution evidence is not credible and that the allegations have not been proven beyond reasonable doubt. Specifically, the Defence asserts that members of the *Interahamwe* killed Rugomboka because of his political affiliation with the Rwandan Patriotic Front.

14. The Chamber has heard a detailed, credible eyewitness account of Hategekimana's authoritative conduct during the abduction of Jean-Bosco Rugomboka from his home by Ngoma Camp soldiers. The Chamber also has heard direct accounts about the threatening presence of Hategekimana, Ngoma Camp soldiers during the removal of Jean-Bosco Rugomboka's mutilated body from a pine wood as well as during and after the burial of the victim. Having considered the evidence as a whole, the Chamber concludes that Jean-Bosco Rugomboka was tortured and killed between 8 and 9 April 1994 by soldiers from Ngoma Camp and that Hategekimana ordered Jean-Bosco Rugomboka's murder.

15. The evidence overwhelmingly shows that the basis of Jean-Bosco Rugomboka's torture and killing was political. The evidence of Rugomboka's expressed leanings towards the Rwandan Patriotic Front, the soldiers' fixation on Rugomboka's T-shirt bearing the image of a political martyr named Rwigema, the forcing of Jean-Bosco Rugomboka to wear the T-shirt before he was abducted from his house and the traces of torture whereby Rwigema's effigy was carved through the T-shirt into Jean-Bosco Rugomboka's chest are strongly indicative that Jean-Bosco Rugomboka was killed for his political opinions and not because of his *Tutsi* ethnicity. The Chamber therefore has found Hategekimana criminally liable for the murder of Jean-Bosco Rugomboka as a crime against humanity, but has not found him guilty of genocide.

VII. Hategekimana's Alleged Endorsement of the Speech by Interim President Sindikubwabo at the MRND Palace, on 19 April 1994

16. According to the Indictment, Hategekimana attended the swearing-in ceremony for the new *préfet* of Butare *Préfecture*, Sylvain Nsabimana, which was held at the MRND Palace on 19 April 1994. At this meeting, *interim* President of Rwanda, Théodore Sindikubwabo, presented an inflammatory speech, which called on the Butare population to massacre the *Tutsi*. The Prosecution asserts that, by his presence, Hategekimana endorsed the sentiments expressed by the President to eliminate the *Tutsis*. There is no dispute that President Sindikubwabo delivered a speech on 19 April in Butare. However, the Defence denies that Hategekimana was present during the ceremony. It also denies any direct link between the message expressed in President Sindikubawbo's speech and Hategekimana's actions.

17. The Chamber finds that the evidence is insufficient to establish that Hategekimana attended the swearing-in ceremony and that he endorsed the message expressed in President Sindikubawbo's speech. The Chamber therefore dismisses this allegation.

VIII. Hategekimana's Alleged Responsibility for the Massacre at Matyazo Primary School, on or about 21 April 1994

18. The Prosecution alleges that, on 21 April 1994, Hategekimana ordered Ngoma Camp soldiers, *Interahamwe* and armed civilians to kill a large number of *Tutsis* who had sought refuge at the Matyazo Primary School. The Prosecution also alleges that Hategekimana was present at the Matyazo Primary School shortly before the attack. The Defence denies the participation of the Accused or Ngoma Camp soldiers in this attack.

19. The Chamber finds that the evidence is insufficient to establish that Hategekimana was involved in the killings perpetrated at the Matyazo Primary School. The Chamber therefore dismisses this allegation.

IX. Hategekimana's Alleged Responsibility for the Massacre at Matyazo Health Centre, on or about 21 April 1994

20. The Prosecution alleges that, on or about 21 or 22 April 1994, Ngoma Camp soldiers, *Interahamwe* and armed civilians launched an attack on *Tutsis* who had taken refuge at the Matyazo Health Centre. The Prosecution accuses Hategekimana of having ordered this attack, which resulted in the killing of many *Tutsis*. The Defence does not

dispute that the Matyazo Health Centre was attacked, but denies the involvement of Hategekimana or Ngoma Camp soldiers. The Defence maintains that the attack was perpetrated by armed civilians only, over whom Hategekimana exercised no authority.

21. The Trial Chamber, Judge Masanche dissenting, finds that the evidence is insufficient to prove beyond reasonable doubt Hategekimana's criminal responsibility for the killings at the Matyazo Health Centre. Accordingly, the Chamber dismisses the allegation.

X. Hategekimana's Alleged Responsibility for the Murders of Salomé Mujawayezu, Alice Mukarwesa, Jacqueline Mukaburasa on or about 23 April 1994

22. The Prosecution alleges that, on or about the night of 23 April 1994, Hategekimana, accompanied by certain Corporals from Ngoma Military Camp, visited the home of Salomé Mujawayezu in Ngoma *Secteur*, Butare Town. They demanded to see the identification cards of the residents. Salomé Mujawayezu and her cousins Alice Mukarwesa and Jacqueline Mukaburasa, who were identified as *Tutsi*, were dragged outside the home and killed by the soldiers and *Interahamwe* in Hategekimana's presence. The Defence denies the involvement of Hategekimana or of any soldiers from Ngoma Camp in these murders. It contends that the Prosecution evidence is insufficient and lacks credibility and reliability.

23. The Chamber considers that the manner in which Salomé Mujawayezu and her cousins were selected and killed on the basis of their *Tutsi* ethnicity demonstrates that their murders were perpetrated with genocidal intent. The evidence shows that Hategekimana was present before, during and after their murders and that his conduct demonstrated endorsement, if not encouragement. By lending armed reinforcements to the *Interahamwe* assailants, Hategekimana substantially contributed to the killings. The evidence also shows that these murders were targeted, intentional and committed as part of a widespread and systematic attack on the *Tutsi* civilian population. Accordingly, the Chamber finds Hategekimana guilty beyond reasonable doubt for genocide and murder as a crime against humanity for the killings of Salomé Mujawayezu, Alice Mukarwesa and Jacqueline Mukaburasa.

XI. Alleged Rapes of *Tutsi* Women in Butare Préfecture between 7 April and 31 May 1994 by Hategekimana and Soldiers from Ngoma Camp

24. According to the Indictment, Hategekimana and soldiers from Ngoma Camp under his command perpetrated rapes of *Tutsi* women in Butare *Préfecture* between 7

April and 31 May 1994. The Chamber has examined the alleged sexual crimes as follows:

(i) *Rapes of Tutsi Women at the Accused's Home*

25. The Prosecution alleges that Hategekimana, accompanied by his escorts, abducted *Tutsi* women, and kept them against their will at his home, where he raped them.

26. Having cautiously examined the circumstantial and hearsay evidence, the Chamber finds that the Prosecution has not established that *Tutsi* women were raped at the Accused's home. Accordingly, the Chamber dismisses this allegation.

(ii) *Rape of Nura Sezirahiga, on or about 23 April 1994*

27. The Indictment charges Hategekimana with genocide and crimes against humanity for having led Ngoma Camp soldiers and *Interahamwe*, on or about the night of 23 April 1994, to the home of Sadiki Sezirahiga. The assailants attacked the residents, and one of the soldiers raped Sadiki Sezirahiga's daughter Nura Sezirahiga, who was subsequently killed.

28. The Chamber has heard the reliable eyewitness account of the brutal rape of Nura Sezirahiga, by a soldier, on the night of 23 April 1994. The Prosecution also presented credible and reliable evidence identifying Hategekimana, Ngoma Camp soldiers and *Interahamwe* at Sadiki Sezirahiga's home during the attack. However, the evidence did not establish that Nura was a *Tutsi* or that she was raped with genocidal intent. Accordingly, the Chamber finds Hategekimana to be criminally responsible for the rape of Nura Sezirahiga as a crime against humanity but not as genocide.

(iii) *Rapes of Tutsi Women in and around Butare Town*

29. The Prosecution asserts generally that soldiers, *Interahamwe* and armed civilians under the military command or effective control of Hategekimana raped *Tutsi* women in and around Butare Town. The Defence denies the allegation.

30. The Chamber has heard testimonies of rapes of *Tutsi* women in and around Butare Town. However, this evidence does not establish that the rapes were committed by soldiers, *Interahamwe* or armed civilians under the military or effective control of the Accused. Therefore, the Chamber dismisses this allegation.

XII. Hategekimana's Alleged Responsibility for the Massacre at the *Groupe Scolaire*, on or about 27 April 1994

31. According to the Prosecution, on or about 27 April 1994, Hategekimana led armed soldiers to the *Groupe Scolaire*, a secondary school in Butare, where orphans and refugees had sought shelter. Hategekimana ordered them to separate *Tutsis* from *Hutus* and to kill the *Tutsis*. The Defence denies the presence of Hategekimana at the *Groupe Scolaire* and maintains that the Prosecution evidence is not credible.

32. Only one Prosecution witness testified about the massacre. This witness was not present at the secondary school during the killings, and no other witness provided evidence to support his account. The Chamber does not find that this allegation has been proven beyond reasonable doubt and dismisses it.

XIII. Hategekimana's Alleged Responsibility for the Massacre at Ngoma Parish, on or about 30 April 1994

33. The Prosecution alleges that Hategekimana led a group of armed soldiers, *Interahamwe* and civilians under his effective control to the Ngoma Parish, on or about 30 April 1994. Hategekimana ordered them to attack and kill refugees identified as *Tutsis* who had sought shelter at the Ngoma Parish. The Defence claims that the Prosecution evidence lacks credibility and that these allegations have not been proven beyond reasonable doubt.

34. The evidence shows that, on 29 April 1994, refugees, who had sought shelter at the Ngoma Parish, repelled assailants with stones and rang the church bells for assistance. Finally the second in command of Ngoma Camp, Lieutenant Niyonteze, arrived. Rather than offering assistance, he rebuked the priest, Father Masinzo, for harbouring *Tutsis* at the parish. The following morning, 30 April 1994, two soldiers from Ngoma Camp arrived to warn Father Masinzo that Hategekimana intended to kill him. One of the soldiers specified that Hategekimana had ordered the massacre of all the refugees at the parish. The two soldiers assisted the priest to hide in a false ceiling before the arrival of Hategekimana at the parish. Shortly afterwards, from his hiding place, Father Masinzo heard Hategekimana's voice, as he spoke to assailants. When the priest came out of hiding, he learned that the assailants, among whom were Ngoma Camp soldiers and *Interhamawe*, had attacked the parish and killed the refugees in an adjacent field.

35. The Chamber finds, beyond reasonable doubt, that Hategekimana ordered the genocide of *Tutsi* refugees who had sought refuge at the Ngoma Parish

XIV. Hategekimana's Alleged Responsibility for the Massacre at the *Maison Générale* (referred to as the Benebikira Convent) on or about 30 April 1994

36. The Prosecution alleges that, about 30 April 1994, Hategekimana led armed Ngoma Camp soldiers, *Interahamwe* and civilians under his effective control to the *Maison Générale*. Hategekimana ordered them to select, abduct and kill the *Tutsi* refugees sheltered at the convent. Among the victims were Solange Karenzi, Mulinga Karenzi and Clémence. The Defence disputes the credibility of the Prosecution witnesses, and asserts that neither Hategekimana nor Ngoma Camp soldiers participated in the abduction and killing of *Tutsis* from the *Maison Générale*.

37. Three eyewitnesses, all *Tutsi* women survivors, presented detailed and convincing evidence of the attack on the convent and of the abduction of refugees. One witness, a nun, observed a man, wearing a military uniform and a raincoat, who appeared to be the "leader" of the soldiers. According to the orders of this "leader," the soldiers herded the *Tutsi* refugees away and loaded them into a military truck. The "leader" was later identified to the witness by a reverend sister, as Hategekimana, the Commander of Ngoma Camp. Another eyewitness also heard the "leader's" orders to take away the *Tutsis* and to kill them.

38. On the basis of the entirety of the evidence, the Chamber finds beyond reasonable doubt that Hategekimana was present at the *Maison Générale* Convent and that he ordered the selection, abduction and the killings of the *Tutsis*. Accordingly, the Chamber finds beyond reasonable doubt that Hategekimana is guilty of genocide.

39. The Indictment charges Hategekimana with the murder of three identified children who were among the abducted refugees from the *Maison Générale*, by the names of Solange Karenzi, Mulinga Karenzi and Clémence. However, the consistent and corroborated evidence specifically identifies only one who was abducted and killed: a daughter of the Karenzi family by the name of Solange.

40. The Chamber concludes that one of the named children, Solange Karenzi, was among the victims who were abducted from the convent by assailants. Accordingly, the Chamber finds beyond reasonable doubt that Hategekimana is criminally responsible for the murder of Solange Karenzi as a crime against humanity.

XV. Findings

41. Will the Accused kindly rise and approach the bench to hear the Chamber's findings?

42. The Trial Chamber finds in respect of Ildephonse Hategekimana as follows:

Count 1: Genocide: Guilty,

for the killing of Salomé Mujawayezu, Alice Mukarwesa and Jacqueline Mukaburasa, on or about 23 April 1994;

for the killing of *Tutsis* at the Ngoma Parish, on or about 30 April 1994;

for the killing of *Tutsis* at the *Maison Générale*, on or about 30 April 1994.

Count 2: Complicity in Genocide: Not Guilty.

Count 3: Murder as a Crime against Humanity: Guilty,

for the murder of Jean-Bosco Rugomboka, on or about the night of 8 to 9 April 1994;

for the murders of Salomé Mujawayezu, Alice Mukarwesa and Jacqueline Mukaburasa, on or about 23 April 1994;

for the murder of Solange Karenzi, on or about 30 April 1994.

Count 4: Rape as a Crime against Humanity: Guilty,

for the rape of Nura Sezirahiga, on 23 April 1994.

XVI. Sentencing

43. The Chamber has considered the gravity of each of the crimes for which the Accused has been convicted as well as aggravating and mitigating circumstances mentioned by the parties. The Chamber has the discretion to impose a single sentence and chooses to do so. Considering the relevant circumstances discussed in the judgement, the Chamber sentences the Accused to a single sentence of life imprisonment.

44. In accordance with Rules 102 (A) and 103, the Accused shall remain in the custody of the Tribunal pending transfer to the state where he will serve his sentence.

45. This marks the end of the summary of the judgement. The trial proceedings in this case have come to an end. The court may please rise.
