

**THE REPUBLIC OF RWANDA
MINISTRY OF JUSTICE
OFFICE OF THE STATE PROSECUTOR**

Charge: Genocide
Crimes against humanity
Decree-Law No. 08/75 dated 12 February 1975

Accused: Théoneste Bagosora and accomplices

Plaintiff: OMP (State Prosecutor's Office)

Observations: Hearing of Balthazar Ndengeyinka

Report No. 0148, File No. **/CRIM/DA-KK/KGL/95
File 57/95, J. I. Vandermeersch

PRO JUSTITIA

On the fifteenth day of June, nineteen hundred and ninety-five,

Before us, Janvier Rutsindintwari, Deputy Auditor-General with the Military Court of Rwanda, duly commissioned by the State Prosecutor for Kigali for the purpose of fulfilling the duties within his jurisdiction,

In the context of the international commission rogatoire of Mr Damien Vandermeersch, Investigating Judge with the Court of Appeal of Brussels, Belgium.

In the presence of:
Mr Luc Ver Elst-Reul, Deputy Prosecutor for the King in Brussels.

The following appeared:
Balthazar Ndengeyinka, Colonel, born in (illegible) in Bubasi (Bilesi – Kibuye), currently resident at the Gako reorganisation school, who in his capacity as witness, declares to us the following in the language of his choice.

At the time of the events, I was a technical adviser at the Minadef.

At the time of the plane crash, I was in the city but did not know what was happening.

I returned home and received telephone calls in which I was asked for information. I was then called personally to the Minadef (Ministry of Defence) offices where I was informed of the GP's confirmation that the presidential aeroplane had crashed. That was before 2100 hours.

I immediately went to the army's chief of staff (EM). There I found Colonel Bagosora, General Ndindiliyimana, Lieutenant-Colonel Rwabalinda, Lieutenant-Colonel Kayomba, G3 Deputy Lieutenant-Colonel Kanyandekwe (possibly), and others whose names I no longer remember.

We spent the whole night discussing what had to be done.

Colonel Marchal, with whom I did my third university year in Belgium, joined us at around midnight, followed shortly by General Dallaire. As soon as the death of the President and Chief of Staff was officially announced, Colonel Bagosora proposed that the army should seize power, but the other officers, less close to the presidency, did not share that opinion. Kayumba shared the opinion of Bagosora after receiving telephone communications from officers. General Dallaire arrived and said that if we chose Bagosora's line of argument, the UN would have no choice but to withdraw.

During the meeting, the telephone never stopped ringing.

Bagosora ordered the calls to be diverted to another room. From that moment on, Bagosora went out every time the telephone rang. And he was the leader of the meeting.

All the participants showed up spontaneously. It was General Ndindiliyimana who proposed, given that the gendarmes and military personnel were all from the Minadef, that we should find a leader who represented the Minadef. He suggested to Bagosora that he should head the meeting. I think also that Ndindiliyimana, being the highest ranking and most senior officer, considered that the FAR troops present in Kigali were pro-MRND and mostly came from the North, the President's region, and that he was not convinced that he could make himself be obeyed.

The discussion went on, even after General Dallaire left. General Ndindiliyimana then proposed that the political branch of the UN not involved in the situation should give its advice. He proposed visiting Mr Booh-Booh, special representative of the United Nations Secretary-General.

We asked Bagosora to go there. We nominated Lieutenant-Colonel Rwabalinda, FAR-Minuar liaison officer, to accompany Colonel Bagosora with the intention of thus having a witness who could report to us objectively on the discussion to be held between Bagosora and Booh-Booh.

Previously, during the discussions, the status of Prime Minister Agathe was disputed.

For Bagosora, the government no longer existed. He even said that to General Dallaire. General Dallaire stated that he agreed if the situation moved in the direction of the peace agreements, but otherwise he would not hold it.

When Bagosora returned, he reported on his meeting with Booh-Booh. What remained in my memory was that the Arusha agreements did not provide for the replacement of the president if he died before the end of the peace process.

Bagosora stated that by agreement with the UN authorities, it appeared that a new president should be elected within the MRND but this should be discussed.

Before Bagosora went to meet Booh-Booh, it had been agreed that the proposals emerging from this meeting would be submitted for advice to all the operation sector commandants at the front, who were immediately summoned to appear on the morning of 7 April.

I remained at the EM until four in the morning. At that moment we left only two officers to maintain a permanent presence, including Lieutenant-Colonel Kayumba.

At around five, I had just got undressed at home when I heard gunfire very close by.

I was living on the corner of Avenue Paul VI and Rue Nyarugunga, in a house next door to Russia House. I called the permanent staff. Lieutenant-Colonel Kayuma told me: "we're the ones who want to prevent the Prime Minister from getting on the radio". I then understood that the incidents were occurring at Agathe's house.

In the morning, the meeting of the sector commandants started before 1000. Without discussion, and at Bagosora's proposal, it was agreed that the political parties were going to negotiate with a view to setting up a government. They also had to elect a new President.

The sector commandants were earnestly asked to explain that to the soldiers and keep them calm.

I remember that the commandant from Mutara sector, Colonel Nkundiye, expressed his approval and wish carry out the decisions taken. He questioned the Kigali sector commandant so that the GP could get back to quarters. During the night, the Minuar told us that only the GP had gone out. During the presentation by Colonel Nkundiye, we heard gunfire very close. I know that was the time when the Belgians got killed. After that, Colonel Nubaha came to say that the Belgian soldiers had been threatened with death and may even be already dead. He addressed Bagosora directly in an effort to get him to intervene.

It was Bagosora who repeated to us what Colonel Nubaha had told him. He did it without comment. No decision was taken.

The meeting ended and everybody left, I thought that Bagosora was going to intervene.

I know that Colonel Nubaha tried to intervene. He even came under fire from a war-wounded sub-lieutenant who was paralysed from the waist down and in a wheelchair. I can't remember his name now.

I learned that a group formed from GP and from soldiers from the Kigali camp (reconnaissance battalion?) wanted to get hold of Agathe but found themselves face to face with the Belgian blue berets. These people were disarmed and my children saw them walking past along Rue Nyanrugunga with hands on heads.

My children only mentioned white people.

This happened between 0900 and 1100 hours on 7 April 1994.

During the night, a rumour ran through the city that the Belgians had brought down the President's plane.

I did not see the bodies of the Belgian blue berets. I believe that the shots heard during the meeting lasted no more than two minutes. I heard no

more shorts or explosions coming from the Kigali camp after that instance.

After the sector commandants' meeting, I returned home.

With regard to the death of Agathe, I know that the attackers ransacked the residence of the US ambassador and a house belonging to the Swiss ambassador in an effort to find her, but it was in vain.

During the sector commandants' meeting, some soldiers went back to visit Agathe.

I believe somebody had decided that the soldiers should go back to Agathe.

I know that the MRND held a meeting, undoubtedly between 0400 and 0700 hours in the morning on 7 April. Bagosora participated in that meeting, because he had been invited. I remember hearing Bagosora say, undoubtedly before the sector commandants' meeting, that the MRND has been informed of the proposals from Booh-Booh but that he had expressed hesitations and I had the impression that he wanted to play for time. After the death of Agathe, the MRND accepted the proposed process.

On questioning, I state that a position for defending the ESM existed on the corner of Avenue de l'Armée and Rue Nyarugunga. It is possible that soldiers took up positions in my garden. There had been bullet holes there since October 1990.

Concerning RTLM, I heard Georges Ruggiu in the radio before the events. I heard him denounce the so-called "accomplice officers", Ibyitso (FRP spies) and thus condemn them to death.

During the war, I saw him wearing a smoking jacket, eating in the officers' mess at the Kigali Camp. He was in the company of other RTLM spokespeople.

Concerning Bikindi, he was busy with the MRND. He wrote the song that incited the Hutu peasants against the Tutsis. This was called "Mbuwira a bumna" ("I tell those who have ears").

I know Major Bernard Ntuyahaga, who is from my region. We were together at both primary and secondary school in Kibuye.

On questioning, I consider that he was a moderate. I even saw his wife, carrying in her arms a girl aged 11 or 12 whom she had saved in Gitarama. I saw her again in Kibuye in June 1994.

He lived in Kiovu, on the corner of Rue de la Jeunesse and Rue Kayoku.

Personally, I continued in my duties until 2 June 1994, on which date I was suspended because two or three days before I suggested a change of policy to Prime Minister Kaybanda. I was then accused of being an Ibyitso (collaborator).

During the first month, as an adviser to the Minister for Defence, I tried to influence the government to stop the massacres. After that, I was sent to Bugesera.

Finally, I fled to Zaire, crossing Lake Kivu in a pirogue at night, from Kibuye.

After the genocide, I lost a paternal uncle, his wife and three of his four daughters. On my mother's side, I lost all my cousins, or almost all; one out of thirty survived. On my wife's side, her younger sister lost her husband and all her children.

With regard to Rwabukumba, he officially negotiated the purchase of the R4 and 60-mm mortar bombs, bought from South Africa and delivered from 1991 onwards. Colonel Kayumba can give more detailed information. He is currently in Nairobi, He misappropriated four million dollars.

The hearing ended at 1410 hours.

After a reading, the witness persisted and signed in the minute book.

I swear that the present report is genuine.

(signature illegible)

Deputy Auditor General