

1 THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA
2 CASE NO. ICTR-99-52-T (Joinder) THE PROSECUTOR
 ICTR-96-11-T OF THE TRIBUNAL
3 ICTR-97-27-T
 ICTR-97-19-T AGAINST
4
 FERDINAND NAHIMANA
5 HASSAN NGEZE
 JEAN BOSCO BARAYAGWIZA
6
 23 SEPTEMBER 2002
7 0910H
 CONTINUED TRIAL
8
9 Before: Judge Navanethem Pillay, Presiding
 Judge Erik Møse
 Judge Asoka Zoysa Gunawardana
10
11 For the Registry:
 Ms. Marianne Ben Salimo
 Mr. Edward Matemanga
12
13 For the Prosecution:
 Mr. Stephen Rapp
 Mr. William Egbe
14 Ms. Charity Kagwi
 Ms. Simone Monasebian
15
16 For the Accused Nahimana:
 Mr. Jean-Marie Biju-Duval
 Ms. Diana Ellis
17
18 For the Accused Ngeze:
 Mr. John Clifford Floyd III
 Mr. René Martel
19
20 For the Accused Barayagwiza:
 Mr. Giacomo Barletta Caldarera
 Mr. Alfred Pognon
21
22 Court Reporters:
 Mr. Rex Lear
 Ms. Karen Holm
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24
25

1 I N D E X

2

3 WITNESS

4

5 For the Defence

6 ACCUSED FERDINAND NAHIMANA

7 Examination-in-chief by Mr. Biju-Duval, continued.....1

8

9

10 EXHIBITS

11

12 Exhibit No. 1D147.....35

13 Exhibit No. 1D148.....97

14 Exhibit No. 1D149.....121

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1 P R O C E E D I N G S

2 MADAM PRESIDENT: Good morning, Mr. Nahimana.

3 THE ACCUSED NAHIMANA: Good morning, Madam President. Good
4 morning, Your Honours.

5 MADAM PRESIDENT: Mr. Biju-Duval.

6 MR. BIJU-DUVAL: Thank you, Madam President.

7 EXAMINATION-IN-CHIEF (continued)

8 BY MR. BIJU-DUVAL:

9 Q. Good morning, Mr. Nahimana. Mr. Nahimana, on Friday you
10 described the circumstances surrounding the airing of
11 communiqué by Radio Rwanda in March 1993. I will not go
12 back to all that, but I want you to express your
13 position on exactly what was put on air.

14 MR. BIJU-DUVAL: And, to simplify matters, I wish Mr. Nahimana
15 to be shown Exhibit P50, P5-0, so that Mr. Nahimana can
16 tell us what in his view was, indeed, put on air and
17 what was not.

18 BY MR. BIJU-DUVAL:

19 Q. Mr. Nahimana, do you have Exhibit P50?

20 A. Yes, I do.

21

22 Madam President, Your Honours, yes, I do have the
23 document.

24 Q. This is an extract from Mr. Guichaoua's book?

25 A. Yes, this is an extract from Mr. Guichaoua's book.

26 Q. Page 611, 612 and 613. Do you have all those pages?

27 A. Yes, I do.

28 Q. This text has two documents, one entitled "Communiqué De
29 Ferdinand Nahimana", Ferdinand Nahimana's Communiqué,
30 and this is the title which has been given by the writer

1 of the book and the second text is the letter to the
2 InterAfrican Non-violent Commission of Nairobi.

3
4 Mr. Nahimana, looking at this document, can you tell us,
5 clearly and simply, what in your view was, in fact, put
6 out on Radio Rwanda?

7 A. Madam President, Your Honours, the text, which was aired
8 on Radio Rwanda from the 3rd of March 1992 in the
9 broadcast which came out at 1315, 1:15 in the afternoon,
10 started with, "The aggressors of Rwanda are allegedly
11 preparing themselves to commit acts of terrorism and
12 destabilisation of institutions in their various
13 aspects".

14
15 This text, which is in italics, is the introduction
16 which was made by the journalist or the presenter
17 reading the text. It's an introduction of the
18 editorial. I want this to be quite clear. The
19 editorial was pre-recorded. The text in italics is the
20 text which introduces the tape, which is containing the
21 text beginning with "du tel plan" (phonetic), "such
22 plans", and ends up with the paragraph beginning "En a
23 con du" and so on. There is something missing. "While
24 awaiting to inform you in more detail about this matter,
25 we request you all to remain vigilant and not to cede to
26 the temptation of sowing seeds of terror and disorder in
27 Rwanda". This is the text which was read on several
28 occasions, as I have already said on Friday, on Radio
29 Rwanda.

30 Q. Mr. Nahimana, now, the second text which is in the same

1 exhibit is the letter from the InterAfrican Commission
2 for Non-violence. Can you tell us whether or not this
3 text, or part thereof, in the form of quotations, was
4 aired on Radio Rwanda, broadcast on Radio Rwanda, during
5 the same period of time?

6 A. Madam President, Your Honours, as I said on Friday, on
7 the 3rd of April -- of March 1992, we were looking at
8 several documents which were already well-known within
9 ORINFOR, especially by the heads of departments. When
10 this second text was brought, in other words, the letter
11 from the InterAfrican Commission for Non-violence in
12 Nairobi, we came to the conclusion that this text should
13 not be read out, because it was already known, but by
14 consensus we requested -- and I personally said this to
15 the editorialist, to use this text as any of the other
16 documents that we had in our possession.

17
18 So, specifically, it turned out that the only part -- I
19 don't see it immediately, but the part which was to be
20 broadcast was that the PL was mentioned as being the
21 inner core of the RPF. I cannot immediately see this
22 sentence in the letter. But another thing, for us to be
23 clear, Madam President, Your Honours, is when you look
24 at the various aspects in -- the dashes in the editorial
25 you see mention made of 22 personalities who were
26 allegedly assassinated. This is in the last dash of the
27 editorial at line 5, where the editorialist speaks of
28 22 personalities. This is, indeed, the figure that you
29 will find in the second text. In the second text
30 mention is made of 22 persons. The editorialist doesn't

1 read out the names of these personalities, but strictly
2 speaks about figures only. That wasn't the question
3 asked of me on Friday, but what came from Murambi, Taba,
4 and Kibuye, and obviously from Kigali-Rural, enabled the
5 journalist to come up with this synthesis or summary and
6 it was this, by chance, it fitted exactly with what the
7 letter from Nairobi itself contained.

8 MADAM PRESIDENT: Mr. Nahimana, we see the reference to the PL
9 in the Nairobi letter, it's on page 612, line 12, but
10 where is it in the text of the broadcast?

11 THE ACCUSED NAHIMANA: May I have a moment, please, Madam
12 President, Your Honours? Madam President, Your Honours,
13 in the last dash of the text, which was broadcast by
14 Radio Rwanda, the last dash, and in the second -- in the
15 third sentence, thereof, at the 4th line, beginning with
16 solo lumen according to the same source. These
17 destabilising elements may have themselves assisted by
18 the liberal party, which served them as a standard
19 within the party -- within the country. This is what
20 has been said by the president and the prime minister of
21 the republic when the situation was in crisis. This is
22 the only element which maybe bring about political
23 animosity on the part of the liberal party, PL, and, if
24 the Chamber allows me, I would say that at that time I
25 allowed this sentence to be put on air.

26 MADAM PRESIDENT: Yes, thank you, Mr. Nahimana. We see it
27 now.

28 BY MR. BIJU-DUVAL:

29 Q. Mr. Nahimana, Radio Rwanda's broadcasts, were they
30 archived or marked at the ORINFOR offices or in the

1 Radio Rwanda offices themselves?

2 A. Madam President, Your Honours, on Friday, when I was
3 talking about the context of simply what we at ORINFOR
4 had to deal with and not in relation to -- because I
5 want to be clear -- what I talked about on Friday didn't
6 concern the -- concerned ORINFOR alone. As for ORINFOR,
7 what I sent to the crisis task force and to the
8 president and the prime minister was a file, a dossier,
9 which I left behind at ORINFOR offices: That's one.
10 Now, two, the crisis task force -- and I think I didn't
11 underscore this matter -- the crises task force was at
12 the presidency and it requested the Minister for
13 Information to provide and make available all broadcasts
14 from the 1st March until the 6th of March 1992. As is
15 normal, at least that was the case when I was director
16 of ORINFOR, everything that was put on air was
17 automatically recorded and we had a machine which
18 recorded at minimum, at the very least, over a period of
19 30 days, without the tape having to be removed. So that
20 the machine would record everything which went on air on
21 Radio Rwanda over a period of 30 days. Now, since this
22 crisis task force asked that part of that be provided,
23 in other words, from the 1st to the 6th of March, the
24 ORINFOR technicians recorded this and everything was
25 given over to the task force. And this material was
26 available at ORINFOR in its archives, the sound archives
27 department at ORINFOR.

28 Q. Mr. Nahimana, last Friday you testified before the
29 Chamber that Mr. Shamukiga, according to what you heard,
30 allegedly intervened with the prime minister at the

1 time, Mr. Nsanzimana, in order to convince the latter of
2 the involvement of Radio Rwanda in the occurrence of the
3 Bugesera massacres. Can you please indicate to us
4 what -- why, in your view, Mr. Shamukiga would have
5 reason to proceed in this manner?

6 A. Madam President, Your Honours, two reasons enable me to
7 answer this question. First of all, Mr. Shamukiga was
8 one of those who recruited me and came to see me very
9 regularly when I was at ORINFOR offices in order to ask
10 me to join the PL party and to help the PL party, first
11 of all when the new regime was in place as and when we
12 discussed, and he talked to me about the persons with
13 whom I should work. He specified that, yes, Mugenzi,
14 was the chairman of PL, but that they were counting more
15 on Ndasingwa Landoald and he was my former colleague at
16 the university. And that they wanted to work together
17 with Mr. Kanyarengwe. Ndasingwa is spelled
18 N-D-A-S-I-N-G-W-A, Ndasingwa. I categorically refused,
19 and I remember that the very last time that I told him
20 no I was, in fact, at his house. And, at that time, he
21 threatened me by saying that I wasn't going to remain in
22 high positions such as the one I was holding at ORINFOR.
23 That was what he told me, and what I heard about him on
24 the meeting with Mr. Nsanzimana on the evening of the
25 5th of March 1992.

26
27 The second reason is this, the PL party was supported by
28 himself, mainly, and the party had held a meeting, which
29 I will not go back to, much later, which was attended by
30 many people, and it was considered by many people as

1 being a drum, an impuza, which was to launch a war in
2 the Bugesera area. And the subsequent information is
3 that Mr. Rwambuka launched a threat or pamphlet which
4 dealt with the Bugesera events. Now, he himself,
5 together with other members of PL, had this major
6 responsibility in the events that took place in
7 Bugesera. I myself in hindsight, when I analysed the
8 attitude of Mr. Shamukiga, directly, in what he wrote as
9 a letter of human rights associations, and his own
10 association AVP, Association for Volunteers for Peace,
11 he was a secretary and so I thought that Mr. Shamukiga
12 had reason to contact -- as soon as he heard the
13 outbreak -- to contact the prime minister and give his
14 own version of the events. And now I'm hoping that I
15 will not have to analyse text or newspapers of these
16 associations. But, nonetheless, there is enough press
17 material to show that PL, on the 1st of March, went not
18 to hold a rally, but to start off violence in the
19 Bugesera region. So, let me summarise. Mr. Shamukiga
20 had two reasons, first of all it was the opportunity
21 that he had to carry out what he had offered when I
22 refused to join the PL in order to serve the RPF.

23
24 Secondly, it was an opportunity, also, because
25 Radio Rwanda had broadcast the report on the rally and
26 this editorial, which absolutely had nothing to do with
27 it. And here, Madam President, Your Honours, I'm quite
28 categorical, at no point in time, whatsoever, be it in
29 the head of Ferdinand Nahimana, who is speaking now, or
30 in the minds of heads of sections who participated in

1 the meeting. Later on I contacted the editorialist.

2

3 We never knew, at any point in time, what the intent was
4 of provoking any kind of troubles in Rwanda. To the
5 contrary, our idea, which was unfortunately
6 misinterpreted but which was understood by the
7 administrative authorities of Rwanda, was to prevent
8 disturbances from occurring. I never came out of
9 ORINFOR because of the Bugesera events. That's
10 something else.

11 Q. Mr. Nahimana, how do you explain the press campaign
12 which was launched against you fervently by some
13 journalists and some associations, human rights
14 associations?

15 A. Madam President, Your Honours, it's very easy.

16 Q. You've already spoken about some of these aspects, can
17 you please make your answer quite simple?

18 A. Yes, I'll be very brief and quite clear. That's why I
19 put my watch in front of me. I was saying that it was
20 quite simple after having presented the context and
21 after having answered the previous question. At the
22 time, and maybe right up until now, what was known as
23 the opposition had an opinion and those who were close
24 to the opposition, we are not misleading the Chamber,
25 the human rights associations were in some way echoing
26 what the political parties were doing and there was at
27 the beginning of multipartiesm. I'm referring to
28 Mr. Shamukiga and Mr. Katabarwa spelled
29 K-A-T-A-B-A-R-W-A, Katabarwa. First of all, the
30 political party PL reacted immediately and its reason

1 was to cover its own responsibility or conceal its
2 involvement. And here this party galvanised and called
3 upon what at that time was known as the democratic --
4 the forces for democratic change and that was PL, MDR,
5 PDC and PSD.

6
7 First of all, the PL brought out its communiqué, but it
8 didn't speak about its involvement of -- its involvement
9 in the Bugesera massacres, which it, alone, had brought
10 out. And within this FDE (sic) each party made its
11 communiqué, and it's within this framework that the
12 famous MDR communiqué No. 12, which was so much referred
13 to, was signed by the political bureau in which
14 Katabarwa, Jean Kambanda, Eliézer Niyitegeka and the
15 others and the associations which were close to these
16 political parties amplified. And, as Professor Des
17 Forges said, this communiqué was sent to her and she
18 disseminated it also. And that is why, in fact, the
19 Bugesera matter or events, yes, the Bugesera event was
20 publicised a great deal, especially with reference to
21 the alleged responsibility of ORINFOR and that's Radio
22 Rwanda.

23
24 But, subsequently, it would come to light that
25 administratively, at that level, the witnesses changed
26 their story, depending on the accused. But
27 Mr. Nsanzawere came to the ground; he met the Radio
28 Rwanda journalists and the préfet, together with the
29 security forces, and they asked the population to show
30 who it was who had launched the disturbances in the

1 Bugesera area. It seems that there was a confusion
2 which was supposed to be created in the minds of people,
3 especially the foreigners. The local traitors, who were
4 attributed to the bourgmeste of the commune of Kanzenze
5 in the Bugesera region and who, in effect, called upon
6 the population to raise up against Mr. François Gahima
7 -- Gahima is spelled G-A-H-I-M-A -- a Tutsi, a president
8 or chairman of the PL who, then, who was a Tutsi. This
9 was for reasons of his own. During the rally of the 1st
10 of March Gahima was proclaimed bourgmestre by the PL for
11 Kanzenze commune when Mr. Rwambuka, who was the de
12 facto, the de jure, bourgmestre was there in person.

13 MR. FLOYD: If it please this Court, the translator, in
14 English, first did "de facto" and then said "de jure"
15 and I'm not sure which one she meant. Obviously one is
16 more important than the other. And I'm not sure what
17 Mr. Nahimana said, whether he said "de facto" or
18 "de jure" and I'd like for the interpreter to just
19 clarify that point.

20 THE WITNESS: Could the witness be asked to repeat his
21 sentence?

22 BY MR. BIJU-DUVAL:

23 Q. Mr. Nahimana, did you use any of these words?

24 A. No, I did not. On this part of the sentence I said the
25 PL had put in place Mr. Gahima; whereas the lawfully
26 appointed bourgmestre, Rwambuka, was present.

27 Q. Thank you. I myself did not hear the word de jure or
28 de facto in what you had said.

29

30 Mr. Nahimana, before the setting up on the 16th of April

- 1 1992 of the new government, were there any measures
2 which were taken against you? You have already
3 expressed yourself partially on this and I think maybe
4 your answer ought to be quite, quite fast.
- 5 A. No measures, Madam President, Your Honours, no measures
6 were taken, neither against myself nor against the
7 editorialists nor against the journalist responsible for
8 the regional information centre in Rural Kigali, which
9 includes the Bugesera region. To the contrary, I was
10 called upon by the task force, which told me that, after
11 having analysed the whole matter, the Radio Rwanda
12 journalists had no responsibility; but that, however, it
13 was necessary that in the future, in the event that
14 there were any crises, journalists had to be very
15 careful so that they are not misinterpreted.
- 16 Q. Who became Minister of Information on the 16th of April
17 1992 with the installation of the multiparty government?
- 18 A. On the 16th of April 1992 the MDR party saw it being
19 activated, the portfolio of Minister of Information and
20 the holder was Pascal Ndengejeho, spelled
21 N-D-E-N-G-E-J-E-H-O.
- 22 Q. You had said that he was a member of MDR party. As far
23 as you know, what was his political option from
24 October 1993, after the split which came about in the
25 MDR at the time?
- 26 A. Madam President, Your Honours, already on the 17th of
27 July, if I recall properly, 1993, 17th July 1993, when
28 there was a change in government, change of government,
29 Mr. Ndengejeho left the government because he was not in
30 agreement with Mrs. Agathe Uwilingiyimana, who had just

1 been appointed prime minister, and all those who
2 belonged to the MDR who didn't join the Agathe
3 Uwilingiyimana government formed the framework of what
4 was known as Hutu Power; in other words, the wing which
5 was against the RPF and the former MDR chairman,
6 Mr. Twagiramungu, who was pro-RPF. So Mr. Ndengejeho
7 was against the RPF and was classified according to
8 current technology -- terminology, within the Hutu Power
9 wing of the MDR.

10 Q. From his appointment on the 16th of April 1992, what was
11 his attitude towards you?

12 A. Mr. Ndengejeho was my former colleague and was a
13 lecturer at the science -- at the faculty of educational
14 sciences and I was in the department of history. We
15 were in different faculties, but we also were in
16 different parties; he was in the MDR, I was in the MRND.
17 And on the 16th of April, 1992, before that date the MDR
18 was at all costs looking to obtain the Ministry of
19 Information and ORINFOR itself. Mr. Ndengejeho was
20 seeking the Ministry for Information, or if not, the
21 ORINFOR, and Mr. Eliézer Niyitegeka was looking for the
22 same position, the same post, and from then the two
23 fervently fought for destroying people in the MRND.

24
25 Now Mr. Ndengejeho, the first thing that he did when the
26 first council of ministers meeting was convened was to
27 call for my removal, and this was under the prime
28 minister, Dismas Nsengiyaremye.

29 Q. You were dismissed on the 28th of April 1992. Can you
30 inform the Chamber as to the official reason for your

1 dismissal and the procedure adopted in order to
2 implement that decision of your dismissal? I'm asking
3 you to be brief as possible.

4 A. The meeting of the council ministers took place on the
5 28th of April '92, but a few days earlier, two or three
6 days earlier, Prime Minister Dismas Nsengiyaremye had
7 received the ambassador of Burundi to Rwanda,
8 Mark Nteturaye, which is spelled N-T-E-N-T-U-R-I-Y-E.
9 They spoke of the incursions of Burundi refugees who
10 were in Rwanda, incursions which were made on the
11 Burundian territory. After that audience, the two
12 personalities, Mr. Nsengiyaremye and Mr. Nteturaye,
13 signed a communiqué sanctioning their meeting. No, I'm
14 mistaken, they are not the ones who signed the
15 communiqué. At the end of the communiqué (sic) a
16 communiqué was drawn up -- I do apologise, Madam
17 President, Your Honours -- by the service of the prime
18 ministers's office and this communiqué was brought in
19 the afternoon, after
20 5 o'clock, to the Radio Rwanda studios by one
21 Bonaventure Ubalijoro. Ubalijoro is spelt
22 U-B-A-L-I-J-O-R-O.

23
24 Contrary to what was normal in communiqués from the
25 prime minister's office, Ubalijoro came to see the
26 journalists and gave the document to one Amabilici
27 (phonetic) Sibomana, a journalist who was responsible
28 for the Kinyarwanda news for that evening. Sibomana is
29 S-I-B-O-M-A-N-A, Sibomana. I'm saying this was against
30 what was normal practice. Because normally this kind of

1 press release or communiqué had necessarily to go
2 through the director of ORINFOR so that he can provide
3 instructions, specific instructions, regarding the
4 broadcasting of whether it was going to come out in full
5 and how many times and so on and so forth. Now, the
6 journalist that received this document placed the
7 document in the editorial room, so much so that the
8 journalist for the Kinyarwanda news in the evening, the
9 English news in the evening, the French news for the
10 evening, treated it as a normal communiqué. There was
11 no instructions from the radio service.

12
13 Now, I was at home; I heard at 7 p.m. that the prime
14 minister had received the ambassador. Towards
15 10 o'clock in the evening I heard, I got a telephone
16 call from Minister Ngulirinja, which is spell
17 N-G-U-L-I-R-I-N-Z-A, Ngulirinja who was a Minister for
18 Foreign Affairs.

19
20 He said, "How could you censor the prime minister"?

21
22 I said, "What are you talking about how could I censor
23 the prime minister"?

24
25 "No, I just heard the prime minister received the
26 ambassador in his office".

27
28 The Minister for Foreign Affairs said, "Well, we'll talk
29 about this tomorrow morning".

30

1 Now, the next morning, Madam President, Your Honours,
2 the next day at 11 in the morning I received from the
3 prime minister a letter requesting explanations, a
4 query, as to how I received a communiqué which came from
5 the prime minister's office. So I investigated, I tried
6 to find out how things happened and that's how I knew
7 that Mr. Ubalijoro had given the document from -- to a
8 journalist. And I asked that the head of radio service
9 makes a report to me about what was done with this
10 document. I brought together my staff. I convened my
11 staff and I said to them what had happened and we said,
12 we need to prepare a response. And I sent that same
13 response on that very day to the prime minister.

14
15 I had thought that things had been understood, because I
16 described, as I have done -- I described things as I
17 have done today.

18
19 Now, that evening, at the time when the French news came
20 on, I heard that the council of ministers had decided to
21 dismiss me from the ORINFOR position I was holding.
22 This is how things happened and this is what led to my
23 dismissal from ORINFOR. And when I was received,
24 because I said I was received by the Minister for
25 Foreign Affairs, who wanted to tell me that I should go
26 to Germany, I asked him what brought about my dismissal
27 and he was the one who gave me these details, which I
28 have described to you just now.

29 Q. Mr. Nahimana, we'll move on to another issue and we will
30 deal with everything that involves your policy for the

1 management of the staff of ORINFOR when you were there
2 as director.

3 JUDGE GUNAWARDANA: Is this the procedure that you adopted
4 when the communiqué from the prime minister came to
5 Radio Rwanda?

6 THE ACCUSED NAHIMANA: Your Honour, the procedure was as
7 follows, the secretariat of the office of the prime
8 minister or the press attaché for the prime minister
9 would bring the document directly to my office. And if
10 I was not in my office, if it was a communiqué to be put
11 on air, he would leave it with my secretary, asking her
12 to hand it over to the head of radio service. And it
13 was the head of radio who would give instructions to be
14 followed. And it seems that this procedure was not
15 followed, regarding the communiqué, which arrived on
16 that day from the office of the prime minister.

17 JUDGE GUNAWARDANA: Did you pinpoint the person who was
18 responsible for bypassing the correct procedure to the
19 prime minister?

20 THE ACCUSED NAHIMANA: Quite so, Your Honour. As I have said,
21 when I received the letter asking for explanations I
22 called my staff, I carried out a small investigation; I
23 said a small investigation, because this was very easy.
24 We heard, while at the meet being of the heads of
25 service, heads of departments, a meeting which I
26 chaired, we heard the journalist in question who told us
27 how he received the communiqué and what he had done with
28 it. He said, first of all, it was long, it was a long
29 document, and then he didn't have any instructions as to
30 putting it on air in total. And we placed all this

1 information in the letter, which we sent to the prime
2 minister in order to clarify my explanation.

3 JUDGE GUNAWARDANA: If I understood you right, the prime
4 minister and the counsellor of minister accepted your
5 application, they would have no course to censor you or
6 dismiss you from the force. How did it happen?

7 THE ACCUSED NAHIMANA: Madam President, Your Honours,
8 Judge Gunawardana is quite right in asking this question
9 because, in fact, the meeting of ministers, which
10 preceded the dismissal, which decided on the dismissal
11 -- this is what I heard later from the Minister of
12 Foreign Affairs and later the Minister for Information
13 and other ministers, but mainly those two whom I've just
14 mentioned.

15
16 The council ministers meeting was divided into two
17 because, on the one hand, most of the ministers were
18 saying that it was unacceptable to sanction or punish,
19 censure an agent who is not in error and the
20 prime minister, Dismas Nsengiyaremye, can be called and
21 he will say the same here. He said that the -- his
22 position was in danger. He said that, "I am the one who
23 is going to leave or it will be Ferdinand Nahimana who
24 is going to leave". And the President of the republic,
25 who was chairing the meeting, asked all the ministers to
26 leave the room and to consult one another and, according
27 to what I was told, it was the Minister Felicien
28 Gatabazi, spelled G-A-T-A-B-A-Z-I who found a solution.
29 He said, "We cannot accept a crisis in government but
30 nor should we censure someone who has not made a mistake

1 -- an official who has not made a mistake; for him, the
2 position he was proposing in the diplomatic circles was
3 the post of ambassador. But when the president of the
4 republic asked the holder of the foreign affairs
5 ministry said there was no vacancy in the
6 ambassadorships and that was how a diplomat's vacant
7 post was found in Germany; in other words, the post of
8 first counsellor to the ambassador. This is what I
9 learned from the ministers what happened during that
10 council of ministers meeting which led to my dismissal.

11 JUDGE GUNAWARDANA: You were made the scapegoat for the
12 communiqué and you were quick accepting the liability
13 and you were appointed the ambassador in Germany?

14 THE ACCUSED NAHIMANA: Yes, I was a scapegoat, but I was also
15 -- or rather it was an opportunity, as I've said, for
16 the MDR to have me kicked out so that they could control
17 the post of the Minister of Information as well as the
18 director of ORINFOR. Yes, I was a scapegoat.

19 JUDGE GUNAWARDANA: Thank you.

20 BY MR. BIJU-DUVAL:

21 Q. Mr. Nahimana, could you, very briefly, tell us how at
22 ORINFOR the authority regarding recruitment and
23 dismissal was distributed?

24 A. Madam President, Your Honours, with regard to
25 recruitment and dismissal of members of staff, the
26 procedure that was followed could be divided into two.
27 First, there was the procedure followed for members of
28 staff who were referred to as a first category,
29 category one. In other words, people who have degrees,
30 first degree up the doctorate, the As. And, then you

1 have the junior staff, who did not have degrees in arts
2 and this included such as messengers and so on and so
3 forth.

4
5 With regard to the first category, in general, and in
6 particular regarding journalists and technicians, there
7 was also a test held for a very long time and when I got
8 there I found that in place. I found that in force.
9 So, there was a test. First, there would be a radio
10 announcement to the effect that ORINFOR would like to
11 recruit a number of people for specific posts, which are
12 mentioned on the radio. So, candidates would apply and
13 there would be a committee or a panel which carries out
14 the tests up to the end: And by "the end" I mean here
15 the drawing up of the list of people, successful
16 candidates whose names are then proposed to the
17 management by the committee and after examination, after
18 review, the management sends it to the board of
19 directors, who also review them, and often the board of
20 directors or the governing counsel was the policy body
21 of ORINFOR was one of its roles. So the board would
22 make a decision for or against the recruitment of the
23 proposed candidates. And, after the opinion by the
24 governing counsel of board of directors, the director of
25 ORINFOR writes -- when ORINFOR, still under the
26 presidents office, so the director would write to the
27 president of the republic giving him the names for
28 appointment through a presidential decree. Now, with
29 regard to the junior staff, who were -- whose
30 appointment was directly under the director of ORINFOR,

1 the director of ORINFOR would carry out the recruitment
2 process, as well as the -- the recruitment process as
3 well.

4
5 Now, with regard to dismissals, it really depended; if
6 it was dismissal due through (sic) a mistake, an error,
7 therefore, a censure, that would come from the head of
8 the department, and -- who would receive opinion of the
9 junior staff, but by the time it gets to the director
10 the director reviews it, reviews it and, if need be, he
11 takes sanctions or measures which are referred to the
12 governing board, which examines such measures and takes
13 a decision to the effect that the board either accepts
14 the censorship -- the sanctions, or refuses the proposed
15 sanctions. And when the board makes it -- gives its
16 opinion, the director implements the decision of the
17 board.

18 Q. You spoke about two categories of the members of staff.
19 Let us take the example of journalists, in what category
20 were journalists?

21 A. In general the journalists were in the category which I
22 generally called category one. It was rare to have
23 journalists who did not obtain a readily acquired
24 educational level, that's six years post primary
25 education.

26 Q. When you took your post at ORINFOR, what was the
27 situation facing you in respect of staff issues? What
28 were the directives and the requirements which came
29 under the policy that you were to implement?

30 A. With regard to staff members, I joined ORINFOR when

1 ORINFOR, as was the case with other state institutions
2 and other government departments, was faced with what we
3 referred to as a structural adjustment programme, SAP,
4 and in all countries where this structural adjustment
5 programme had been set up, one of the first requirements
6 was the reduction of the number of staff members,
7 because it was said that big government had excessive
8 members of staff. So there was a need for reintegration
9 trenchment to reduce them.

10

11 So, my experience, the directive that I had was that I
12 should actually reduce the number of members of staff
13 and, in particular, to replace significant members of
14 staff, who are not qualified, by people who are
15 qualified and who could carry out their duties
16 efficiently and effectively and one person could carry
17 out effectively the work of three people. You know,
18 when you undertake such an exercise, such drastic
19 measures are called upon.

20

21 So the governing council gave me these instructions to
22 follow and this is what I did. I held several meetings
23 during February, March, April, and so on and so forth,
24 and these meetings finally led -- and here I'm referring
25 to 1991 -- and the finality of these meetings was the
26 proposal for the reduction of members of staff. And I
27 submitted the proposal to the governing council, or
28 board of directors, which reviewed it, and I think that,
29 in all -- all categories from messengers, drivers, but
30 journalists were not concerned; but it was rather, in

1 particular, administrative members of staff or support
2 staff, as we call them. Between 60 and 70 people out of
3 300, 400 people in the whole institution ORINFOR, be it
4 in Kigali or in the préfectures, were involved. So,
5 when the decision came from the governing council there
6 was considerable disgruntlement at ORINFOR to the extent
7 that the president of the republic, who was the
8 authority above that institution, had to contact the
9 board of director's chairman, who was
10 Boniface Ngulinzira, who I mentioned earlier, and who,
11 at that time, was the advisor of the president of the
12 republic in cultural and cultural and educational
13 matters. So the President contacted the board of
14 directors, whose chairman came to see me and told me
15 that we should stay the implementation of overall
16 measures which have been taken by the council. One week
17 later, a new meeting of the board of directors of
18 governing council was held and that meeting revised
19 downwards the number of staff members to be dismissed.

20 Q. When you took your office, a number of ORINFOR
21 officials, employees, hadn't they already left their
22 posts following the events, following the RPF offensive
23 of the 1st of October 1990?

24 (Pages 1 to 22 by R. Lear)

25
26
27
28
29
30

1 1020H

2 A. Of course. When I went to ORINFOR, that is, when I took
3 office in December 1990, there were a number of people
4 from ORINFOR, officials, who were either in prison or
5 who had been simply dismissed. Yes, there were people
6 who had left ORINFOR.

7 Q. Mr. Kamilindi, who came here to testify, alleged that
8 there was a list of Tutsis to be dismissed at ORINFOR.
9 What is your position with regard to these allegations?

10 A. Madam President, Your Honours, I think that if my memory
11 serves me well, I'd like to recall here that he had been
12 asked whether he saw the list but he said no, and I
13 thought -- I think that when I was sitting over there, I
14 said to myself, this is a great confusion. The list of
15 people to be dismissed existed following the
16 retrenchment of staff members. I am talking about the
17 list of people to dismiss, but there has never been a
18 list of Tutsis to be dismissed. Firstly, and here I'm
19 not giving a lecture on how to manage a company, but
20 when one conducts an exercise of retrenchment due to
21 budgetary reason, you don't look at individuals; you
22 look at the posts.

23
24 And Madam President, could I request a favour because,
25 looking there, I can see people from the Prosecutor's
26 bench talking, and this disturbs me. They are talking
27 -- I can see the ladies that are talking, and this
28 destabilises me.

29
30 So, Madam President, I was saying that when one reduces

1 the number of members of staff following a reduction in
2 budget, one does not look at the names. One looks at
3 the posts first.

4
5 At ORINFOR, the governing council, just to give you a
6 case in point, the board of directors told me, look, the
7 telephone operator, they tell me -- they tell me there
8 are four telephone operators. For example, we don't
9 need those four operators, we want only two people and
10 we want people who are competent, who can speak French,
11 English and Swahili. The decision regarding the
12 dismissal of such officers would be to say, look, these
13 people do not have these qualifications, and so on and
14 so forth, and it happened that in the case of ORINFOR,
15 there were indeed Tutsis who were dismissed, but they
16 were not dismissed because they were Tutsis. They were
17 not dismissed because they were Tutsis, no.

18
19 And what really disturbs me, Madam President,
20 Your Honours, is that when accusations are made here,
21 everything is done to talk about Tutsis. As far as I'm
22 concerned it was a reduction in the number of members of
23 staff and that concerned Hutus, Tutsis and even
24 Burundians and other foreigners. I've always said,
25 through my counsel, that let those files be brought here
26 because apparently those documents exist; they can be
27 sorted out and brought here. But personally,
28 Madam President, Your Honours, I never drew up a list of
29 Tutsis to be dismissed. I drew up a list at the
30 instruction of the board of directors. I drew up a list

1 of members of staff to be dismissed within the context
2 of the reduction in budget allocated to ORINFOR. Full
3 stop. Everything else is something that came out from a
4 figment of the imagination of some people.

5 MR. FLOYD: If it please Your Honour. Your Honour, it's a
6 translation problem. We've had the term "retrenchment"
7 used several times, and my understanding of
8 "retrenchment" means to "reorganise". But what it seems
9 to me that Mr. Nahimana is saying is "reduction in
10 force", and it's just a question of usage of language.
11 Could I ask the -- I'm not sure what French word you are
12 using that gets translated into the word "retrenchment",
13 but I'm -- could that just be clarified, whether he's
14 talking about a reduction in force or whether he's
15 talking about a reorganisation? That's unclear.

16 THE ACCUSED NAHIMANA: Madam President, each time I use the
17 expression "reduction of members of staff", not
18 "reorganisation of the department".

19 THE ENGLISH INTERPRETER: But, Madam President, with your
20 leave, the interpreter would like to point out that
21 within the context "retrenchment" means the "reduction
22 of members of staff" according to SAP.

23 BY MR. BIJU-DUVAL:

24 Q. Mr. Nahimana, at any point in time, in your opinion, the
25 ethnic group or the region of a person was taken into
26 consideration, either in dismissing people or in the
27 recruitment of people? I think you could reply to this
28 briefly because I've already described the context in
29 which these decisions were taken.

30 A. No. That was never -- those things were never taken

1 into consideration; in other words, ethnicity and one's
2 region of origin were never taken into consideration.

3 Q. Is this way of doing things or, rather, of not doing
4 things, valid also in respect of recruitment of
5 employees who were to work for the Rwandan Television?

6 A. Madam President, Your Honours, when I joined ORINFOR
7 there was already the plan -- the plan to launch
8 Television Rwanda, and members of staff of the future
9 Rwandan Television were to be trained in two groups or
10 in two phases, in two cohorts. The first one -- the
11 first phase had already been -- the first group had
12 already been recruited but they had not yet been sent
13 for training in Belgium. The procedure that had been
14 used was the same as I'd described earlier and, however,
15 I'd like to add a point here, and that is among the
16 people recruiting and members of the panel, there were
17 three Belgians, I believe, and they had come directly
18 from RTBF, it is the French language radio, Belgian
19 Radio and Television Services, who were to train the
20 future members of staff of our television station.

21
22 So they would work with Rwandans who were working at
23 ORINFOR, and the president or chairman of the
24 recruitment committee was Mr. Christophe Mfizi, my
25 predecessor. Mfizi is written M-F-I-Z-I. When I took
26 office, in order to follow up the members of staff, the
27 final members of staff and also to follow up the
28 implementation of the second group because the first
29 group had left in March 1991, so the second group was to
30 be directly recruited and be trained in the country,

1 following a short training session of about three
2 months, after which they would take -- they would take
3 tests, and those who passed the tests would go to
4 Belgium.

5 So I participated in the recruitment of the second batch
6 and I entrusted the chairmanship of the committee to one
7 head of department, a certain Mvulirwanande. I don't
8 remember his first name. Mvulirwanande is written
9 M-V-U-L-I-R-W-A-N-A-N-D-E. This committee included that
10 person and Jean-Marie -- Jean-Marie Vianney Higiro, and
11 a certain -- I could stop there. Plus three Belgians
12 who had come from Belgium. And these members of
13 committee would follow the whole process, and the
14 director of ORINFOR -- in other words, I received only
15 the list of people who had been selected, and I have to
16 say that I had no right whatsoever to review the list,
17 to remove any person or add any other person on the list
18 that had been selected. That is the first thing.

19
20 Secondly, these people who had been selected had to
21 first undergo training there and, once again, it was the
22 same committee which, after a period of three months'
23 training, actually prepared the tests and the list of
24 people who passed the tests. And I received that the
25 second batch was to be made up of 32 people, so 32
26 people were indeed selected -- or 42. I'm sorry about
27 the figures, but it doesn't matter. I don't think that
28 that's the main point. However, after receiving the
29 definitive list, the final list from the committee, in
30 other words, the name or names of people who were to go

1 to Europe, I, as the director of ORINFOR, contacted the
2 presidency, not so that the presidency would review the
3 list as such but, rather, I contacted the presidency
4 because the present -- it was under the presidency that
5 you had the passport department, the intelligence
6 services, and this was the practice throughout Rwanda,
7 not only with regard to ORINFOR. So I sent the lists so
8 that my future employees would have passports, allowing
9 them to travel to Europe for training.

10

11 If my memory serves me well, it so happened that
12 everybody in the second batch was-- the names of
13 everybody in the second batch were retained, apart from
14 one or two people and, in which case, the presidency
15 gave explanation either because the dossiers have not
16 been completed or they were still trying to find other
17 information regarding the specific people. So this is
18 how things happened.

19 MR. BIJU-DUVAL: Madam President, at this point I'd like to
20 give Mr. Nahimana the documents that this morning I gave
21 to the registry and of which I informed the OTP, and I
22 believe that a copy of this document --

23 THE ENGLISH INTERPRETER: The microphone is off.

24 MR. BIJU-DUVAL: On the one hand, we have a contract signed
25 between the Belgian television and, on the other hand,
26 ORINFOR; and secondly, there is a document whose heading
27 is "In interview with Jef Vandensande relating to
28 project Rwanda BRT-RTBF (1989-1993)".

29 MADAM PRESIDENT: Yes, Ms. Monasebian.

30 MS. MONASEBIAN: Thank you. I understand that counsel wants

1 to put both documents to the witness now. With regard
2 to the contract, I'm sure that Mr. Biju-Duval will make
3 a sufficient foundation, but with regard to this witness
4 statement, before it is even put to this witness, a
5 foundation has to be laid because I cannot see how it
6 can just be handed to this witness and be something
7 appropriate for this Court to entertain, being that
8 Mr. Nahimana has not signed it himself.

9 BY MR. BIJU-DUVAL:

10 Q. Mr. Nahimana, are you familiar with this contract signed
11 before you took office at ORINFOR?

12 A. Madam President, Your Honours, I earlier said in
13 response to a question concerning members of staff of
14 TVR, that is Rwanda Television, I said that these
15 members of staff were trained by the French language
16 radio and television services of Belgium. So there was
17 a contract between ORINFOR and RTBF, that is Radio and
18 Television -- Belgian Radio and Television. So I saw
19 this as soon as I joined ORINFOR, and I implemented it.

20 Q. Mr. Nahimana, are you familiar with the written
21 statement made by Mr. Jef Vandensande and signed on the
22 19th of April 2001? This written statement -- does it
23 match, in as far as its contents are concerned, the
24 description that you could make regarding this plan to
25 establish a television station in Rwanda?

26 MADAM PRESIDENT: Mr. Biju-Duval, will you give us some
27 explanation first before Mr. Nahimana answers? This is
28 a document dated 19 April 2001.

29 MR. BIJU-DUVAL: This is a written statement of
30 Mr. Vandensande, one of the Belgian officials working on

1 the project. This was a statement, written statement,
2 that was given on 19th April 2001 to the investigator of
3 the Defence team, Mr. Aloys Ngendahimana. This is a
4 written statement drawn up on that date, given by the
5 Belgian official on that project, and it seems to me it
6 is an important statement.

7
8 It is important for the Trial Chamber to see the written
9 statement and see whether the statement tallies with the
10 point of view expressed by Mr. Nahimana. Mr. Nahimana
11 -- Madam Monasebian, could I complete my sentence? I
12 have a few words left. I'll be very grateful if you
13 could be patient.

14
15 Mr. Nahimana got this document through the Defence team,
16 and I would like him to express his position in relation
17 to the statement contained in this document and that
18 these two documents, that is the contract between the
19 Belgian television and ORINFOR on the one hand and, on
20 the other hand, of the affidavit of Mr. Jef Vandensande
21 be tendered into evidence.

22 MADAM PRESIDENT: I'll give you the floor just now. Why don't
23 you sit down. I'll give you the floor and then you can
24 stand.

25
26 Mr. Biju-Duval, this is not the way you introduce
27 evidence. Is it your intention to call this witness,
28 Vandensande?

29 MR. BIJU-DUVAL: Madam President, up to now we are not sure of
30 being able to call him here.

1 MADAM PRESIDENT: Well, you can't put this through

2 Mr. Nahimana.

3

4 The same instruction goes for you, Mr. Floyd. I am
5 talking with Mr. Bijou-Duval now. Then I would give the
6 floor to Ms. Monasebian; thereafter, you.

7

8 Ms. Monasebian.

9 MS. MONASEBIAN: If Your Honours have made their ruling, then

10 I see no reason to add anything further. Is that

11 correct that a ruling has been made and that no further

12 information is required to Your Honours' ruling?

13 MADAM PRESIDENT: No, you are now given the opportunity to say

14 whatever it was you wanted to say to us.

15 MS. MONASEBIAN: Very well. Very well. Your Honours, there's

16 a few problems here, and Your Honour has pointed out one

17 of the problems, and the main problem, that being that

18 this is not an appropriate document to be put through

19 Mr. Nahimana. The appropriate manner is for the witness

20 statement to be put in through that witness,

21 Jef Vandensande. That's the first point.

22

23 The second point is, if there were some unavailability

24 due to illness or some other manifest reason calling for

25 this to be admitted in the interests of justice, there

26 are other procedures for which the Defence can avail

27 themselves of, one being the new Rule 92bis, if a proper

28 motion was made, another being the investigator making

29 himself available, although we know that this is an

30 investigator who no longer wants to work with the

1 Nahimana team, for whatever reasons that may be.

2

3 So what I would say, Your Honours, is that it is
4 inappropriate for a witness statement to be put through
5 the Accused. The Accused cannot know anything about the
6 witness statement, other than somebody handing it to
7 him. They have the contract here, and if the Accused
8 knows of the contract, he's free to talk about that, to
9 the extent that it's relevant, but this would not be an
10 appropriate statement for a witness statement to come in
11 through the Accused. Thank you, Madam President.

12 MR. FLOYD: Your Honour, Madam Monasebian thought what I was
13 thinking and that is, it seems to me this is completely
14 appropriate if it comes through 92bis. It is a
15 statement by a witness under sworn declaration and that
16 it is on a tangential issue, and the only determination
17 is whether or not the Chamber decides that they will
18 receive it. If, in fact, the Chamber does receive it,
19 then it's clear to me that Mr. Nahimana ought to be
20 allowed to comment on it.

21 MS. MONASEBIAN: Madam President, just one thing in response
22 to Mr. Floyd, if I may. With regard to Rule 92bis, this
23 would not be the appropriate way for us to use 92bis for
24 the first time. I submit to Your Honours that the
25 appropriate manner would be either for a motion to be
26 made or, to save the Court's time, for an effort to be
27 made between both sides to discuss whether or not
28 there's any objection, and to explain why it is this
29 Jef Vandesande cannot come.

30

1 This is not the way for Rule 92bis to be applied because
2 we have no foundation as to whether this witness --
3 where he is, what the Prosecutor can speak to him about,
4 whether the Prosecution can get its own statement, and
5 there is a procedure under 92bis for the Office of the
6 Prosecutor to object, or for either side to object, to
7 the admission of a statement under 92bis, particularly
8 here, where a showing has not been made and where the
9 contract is available.

10

11 Had the contract been lost, for example, and somebody
12 wanted to get the understanding of what a contract that
13 is no longer available said, then perhaps some kind of
14 foundation could be made, but even then an indication
15 should be made why the witness could not come. Here we
16 have the contract and here we have no reason to invoke
17 92bis, Madam President, with all due respect. Thank
18 you.

19 MR. FLOYD: If it please the Court, just briefly.

20 Your Honour, it just seems to me that 92bis is not only
21 because of unavailability, it's to save the ICTR money,
22 having to bring witnesses for very peripheral and,
23 again, tangential issues, and I would suggest that this
24 was clearly what was anticipated by the Judges when they
25 made the Rule of 92bis and this should fit foursquare
26 within those Rules, and it's up to the Chamber to decide
27 whether or not they will receive it.

28 MR. BIJU-DUVAL: Madam President, could I add something?

29 MADAM PRESIDENT: Mr. Biju-Duval.

30 MR. BIJU-DUVAL: With regard to the document of

1 Jef Vandensande, this in a way is a report in which
2 Mr. Jef Vandensande describes a procedure. We are not
3 here within a context of a testimony of a witness. It's
4 a form of a written report in which Mr. Jef Vandensande
5 describes events and describes a procedure. All parties
6 have seen that there have been numerous reports drawn up
7 and signed by people who did not come here to testify,
8 were admitted in evidence, so I'd like to request that
9 this document should be considered a search and be
10 tendered into evidence as being a report of
11 Mr. Jef Vandensande relating to the television project
12 which -- with regard to which he was one of the Belgian
13 officials. So I don't see why this report should be
14 admitted in the same way as numerous reports have been
15 admitted, and these are reports which have been -- which
16 were made by authors who signed them without coming here
17 to testify.

18 MS. MONASEBIAN: Madam President, if I may.

19 MADAM PRESIDENT: Mr. Biju-Duval, we will receive the contract
20 as an exhibit and Mr. Nahimana can give evidence of his
21 knowledge of how this training was conducted, and he has
22 already done so. For instance, he told us of a list of
23 persons of 42. So, we've already received that kind of
24 evidence. But with regard to a statement of someone
25 else, you have to either call that person or call the
26 investigator who prepared the statement. And you also
27 have other procedures you can follow, which is Rule 92.
28 So we cannot receive that statement as an exhibit
29 through Mr. Nahimana.

30 MR. FLOYD: Your Honour, if it pleases the Court --

1 MADAM PRESIDENT: First let's have this translated for
2 Mr. Biju-Duval's benefit. Yes, Mr. Floyd.

3 MR. FLOYD: Your Honour, if the Court -- would the Court then,
4 based on their ruling, reconsider the FBI report and
5 other reports that were put in at the time? And I made
6 similar or same objection that Ms. Monasebian is making
7 now, and that is I said that we didn't call the FBI
8 agent who wrote it, we didn't call the investigator who
9 allegedly received it and, as a matter of fact, we
10 raised an issue about that, and it seems to me that this
11 is the same situation, and I'm having to run all over
12 the western world trying to get them to talk to me and
13 become witnesses for my case, but we're put in -- I
14 mean, if it's good for the goose, it should be good for
15 the gander. The Court ruled at that point that you
16 would allow those reports to come in, the same character
17 as this. As a matter of fact, the FBI statements
18 weren't even sworn to. This statement has been sworn
19 to --

20 MADAM PRESIDENT: You're out of order, Mr. Floyd. There's a
21 ruling made.

22 MR. FLOYD: No, I'm asking you to make a new ruling. Will you
23 then strike --

24 MADAM PRESIDENT: Denied.

25 MR. FLOYD: Thank you.

26 MADAM PRESIDENT: What's the number of this exhibit,
27 Mr. Biju-Duval? 1D147?

28 MR. BIJU-DUVAL: 1D147, Madam President. I thank you.

29 (Exhibit No. 1D147 admitted)

30 BY MR. BIJU-DUVAL:

- 1 Q. Mr. Nahimana, I think you have expressed yourself
2 exhaustively enough about recruitment into the Rwandan
3 Television. Unless you have something very specific to
4 add to that, we are going to --
- 5 A. No, I have nothing else to add.
- 6 Q. Witness Agnes Murebwayire came here and made a number of
7 allegations against you concerning the circumstances of
8 her dismissal.
- 9 MR. BIJU-DUVAL: Madam President, I would like Mr. Nahimana to
10 be given Exhibit P83, which is a letter written by
11 Mr. Nahimana to Madam Agnes Murebwayire. I will spell
12 it so that it could be clear: M-U-R-E-B-W-A-Y-I-R-E.
- 13 BY MR. BIJU-DUVAL:
- 14 Q. Mr. Nahimana, do you have that document before you?
- 15 A. Yes, Madam President, Your Honours, I have it.
- 16 Q. It is dated 24th January 1991, is that correct?
- 17 A. Yes, it is.
- 18 Q. Now, Mr. Nahimana, could you first tell us if indeed you
19 wrote that document.
- 20 A. Yes, I wrote and signed that document.
- 21 Q. Could you tell this Chamber what Madam Agnes
22 Murebwayire's situation was when you took office at
23 ORINFOR?
- 24 A. Madam President, Your Honours, at the end of December
25 1990, Madam Murebwayire had already been suspended. My
26 predecessor, Mr. Christophe Mfizi, M-F-I-Z-I, in the
27 first days of October, I think, if I remember properly,
28 on the 9th or the 10th of October, and towards November,
29 the head of the radio service within which
30 Madam Murebwayire was working before, had told her that

1 she had been suspended from the air, but that she had to
2 continue to work and be responsible for other duties
3 within the same radio service.

4
5 The service head gave her a number of assignments that
6 she had to be responsible for, but she did not take care
7 of those assignments, and when I had the first meeting
8 with the staff of the radio, and that was in January --
9 I believe the second week of January 1991 -- Madam
10 Murebwayire came. In spite of her absence since
11 virtually October 1990, she attended that meeting. And
12 I brought up her problem in the meeting, and what she
13 actually wanted was to return on the air, where she was
14 a presenter of Samedi détente and other programs. And
15 I called on the service head for the radio. I told him,
16 "resolve the problem." The head of the radio service,
17 who has a number of sections under his responsibility,
18 pointed out to me what he had already done for this
19 employee, particularly that she had been assigned to the
20 documentation service.

21
22 The documentation service is responsible for the
23 training of newly recruited employees. It has the
24 entire documentation of ORINFOR, documentation without
25 which the journalist can do nothing at ORINFOR. I told
26 Madam Murebwayire immediately that she was bound to
27 follow the instructions of her service head. Madam
28 Murebwayire did not show up the day after, the following
29 day, and the subsequent days, and I had a report from
30 her service head to that effect.

1 I asked the service head to give me a written report so
2 that the normal steps should be taken, and it was on the
3 basis of the report which showed that Madam Murebwayire
4 had not been present at her service as from October 1990
5 right to the date on which I signed this document, that
6 I dismissed the person, and I was totally entitled to
7 dismissing her because she was under -- if you look at
8 the powers of the day of ORINFOR as to the daily
9 management of staff, that category of personnel is
10 directly under the management of the director of
11 ORINFOR.

12
13 It goes without saying that in the meeting following
14 that, the board of directors has to be informed. That
15 is what happened. I heard Mr. Thomas Kabalindi say that
16 Madam Murebwayire was dismissed because she was Tutsi.
17 Not at all. I am not the person who asked her to be
18 absent for that entire period. As a manager and in the
19 presence of a written report from her service head, I
20 could not do anything else. All the more so because I
21 personally had instructed her to follow her service
22 head's instructions.

23 Q. If you can remember, can you state the date of or first
24 meeting with Madam Murebwayire, the date or the period?

25 A. The first time I saw Madam Murebwayire -- I am not
26 talking about listening to her on the radio -- seeing
27 her in front of me, is on the day I held the first
28 meeting of the broadcasting service, which is, the
29 latest, the second week of January 1991.

30 Q. Madam Murebwayire came and said that you met her in

1 front of the embassy of Belgium and that, on that
2 occasion, you accused her of providing information to
3 the Belgians and that that must have been one of the
4 real causes of her dismissal. What is your stand as far
5 as her statement is concerned?

6 A. I do not remember the date she mentioned because she was
7 dismissed on the 21st of January 1991. If -- with leave
8 of the Chamber, could you remind me of the date she
9 mentioned as being the date we met in front of the
10 embassy of Belgium because I do not see the link between
11 these two issues?

12 Q. Whatever the situation, did you at any point in time
13 meet her?

14 A. I do not remember that clearly, not at all.

15 Q. Madam Murebwayire also testified that you took part in
16 an Interahamwe meeting during which her elimination is
17 said to have been discussed. Could you very briefly and
18 rapidly give us your stand on that allegation?

19 A. Very rapidly, Madam President, let me first state that,
20 notwithstanding that short meeting I had with
21 Mrs. Murebwayire, I had no other relations with her. I
22 did not know her. When she left ORINFOR, I had no
23 opportunity to meet her, and I do not see what could
24 have got me to be against her, not at all. So this
25 thinking exercise which makes me part of a plan to
26 eliminate her is groundless. And I believe, last week,
27 I stated clearly and precisely what relations I had with
28 the Interahamwe. I never held or participated in any
29 meeting whatsoever organised by the Interahamwe.
30 Consequently, if she claimed that during a meeting like

1 that, a decision was taken about her elimination, once
2 again, that's a false allegation. I took part in no
3 meeting of that kind.

4 Q. Witness SA came and described a scene he's alleged to
5 have witnessed, where the -- as director of ORINFOR, you
6 told Mr. Serugendo that you were not aware -- that you
7 had no confidence in a technician because he was a
8 Tutsi. What is your stand as far as that is concerned?

9 A. You said "conscience" or "awareness", but I'm sure you
10 meant "confidence".

11 THE ENGLISH INTERPRETER: There was no translation. He was
12 listening in French.

13 THE ACCUSED NAHIMANA: I will not like to blame the
14 interpreters because I heard it from your mouth.

15 MR. BIJU-DUVAL: I'm sorry; I'm sorry to the interpreters.

16 THE ACCUSED NAHIMANA: Madam President, Your Honours, once
17 again that is the kind of problem I described the last
18 time, accusing me of getting into the office. It is
19 true that, unlike my predecessor -- and this is what the
20 journalists and ORINFOR staff were telling me -- unlike
21 my predecessor, I went to the various services once a
22 fortnight to see what problems we were facing. And God
23 knows and the staff knows to what extent I solved a
24 number of problems as a result of this direct contact
25 between the management and the staff. But to say that I
26 went round the services with the intention of
27 strengthening the service and I came up with
28 declarations like "I trust this one", "I have confidence
29 in this one and not in this one", that seems to me to be
30 impossible from somebody who is a manager.

1 Secondly, talking about ethnic origin, let me state once
2 more, if I wanted to know who was Tutsi and who was not
3 Tutsi, I did not have to visit the services. I had the
4 personnel office. I could very well have -- and I did
5 not do this. Let us be very clear so there is no
6 confusion. I could have gone around and I could
7 subsequently have called the head of the personnel
8 service and asked for this or that person's file, and I
9 would have hesitated to do so. But in my way of doing
10 things -- in Kinyarwanda, it is said that a person's
11 tears don't flow outwards, it flows inwards.

12
13
14 I should tell you that, were it not for my culture that
15 trained me, I would have shed tears a number of times
16 here because, contrary to what is said here, I revolt
17 against any of these ethnic accusations. Myself,
18 Ferdinand Nahimana, before students or what category of
19 staff, I did not do any such thing. That the Prosecutor
20 should try to get me sentenced, that is their business,
21 but they should not listen to people who came here and
22 said that I behaved on ethnic lines. I have never
23 behaved in such a manner. So, Madam President, Your
24 Honours, I did not at any point in time whatsoever
25 display such an attitude.

26 MADAM PRESIDENT: We will take the break now, Mr. Biju-Duval.

27 Is that all right?

28 MR. BIJU-DUVAL: Yes. I will have one other question which
29 will only require a confirmation, and I would be through
30 with that point.

1 MADAM PRESIDENT: Yes, go ahead.

2 BY MR. BIJU-DUVAL:

3 Q. Mr. Nahimana, the same type of accusation, that is
4 ethnic and regional discrimination, was raised against
5 you by some witnesses as regards Mr. Emmanuel Sehene, a
6 certain Alphonsine, a certain Silas Mbonimana. Do you
7 confirm your denial of such conduct or do you have any
8 reservations?

9 A. Madam President, Your Honours, I confirm what I just
10 said a while ago about ethnic discrimination. And I
11 would even go ahead to say that as far as Silas is
12 concerned that talked about me, Sehene and all the
13 others, that Silas, we found him, thanks to Isibo, in
14 RPF. He deserted his post of duty and he left, and I
15 was said to have dismissed him because he was a Tutsi.
16 That is not true. And thanks to Isibo, we knew that he
17 was in RPF ranks. That is the type of accusation. And
18 as long as that had not been proven, Nahimana would have
19 been accused of having dismissed Silas because he was a
20 Tutsi. No, very simply, he joined the RPF ranks.

21 MADAM PRESIDENT: We will take a 15-minute break now.

22 (Court recessed at 1108H)

23 (Pages 23 to 42 by Karen Holm)

24

25

26

27

28

29

30

1 1130H

2 MADAM PRESIDENT: Mr. Biyu-Duval.

3 MR. BIJU-DUVAL: Madam President, I thank you.

4 BY MR. BIJU-DUVAL:

5 Q. Mr. Nahimana, to go on with specific allegations,
6 Witness X said that when you got into ORINFOR you
7 allegedly wanted to dismiss Mr. Seregendo, but that you
8 changed your mind, after learning from Witness X that
9 Mr. Seregendo was a member of the Interahamwe and the
10 MRND. What is your position concerning the allegations
11 of Witness X?

12 A. Madam President, Your Honours, first of all, I took
13 office in 1990, at the end of 1990. I only actually
14 started working at the beginning of January 1991, as far
15 as I know. And I said last week that we were still
16 within the single-party system; the Interahamwe
17 organisation did not yet exist. The Interahamwe
18 structure was still provisionally under the single-party
19 system, so that is a groundless allegation. That is the
20 first thing. And returning to -- if I refer to the
21 period when I took office.

22
23 Secondly, Mr. Seregendo is the person who knew better
24 than anybody else the technical makeup of ORINFOR, the
25 radio in particular, and it never occurred to me. I
26 never entertained the idea of dismissing him. Why would
27 I do so? On the contrary, he was a competent person who
28 never had a problem. And I am trying to rely on my
29 memory now. If you look at his file, his file is very
30 good, and if you look at how I assessed him, he had high

1 marks. And that is to accuse me unnecessarily and -- in
2 fact, the Interahamwe, in the final analysis, the
3 Interahamwe got to be known at the end of my first year
4 in ORINFOR. I do not believe that the Judges and even
5 the Prosecutor should even believe that type of
6 allegation; they are groundless.

7 Q. Mr. Nahimana, Professor Chrétien in his report claims
8 that after your departure from ORINFOR you became a
9 member of an informal group called ALLO group, A-L-L-O,
10 comprising, in particular, ORINFOR workers, and it is
11 thanks to that group that you maintained a sort of power
12 on the ORINFOR management or administration. Could you,
13 very briefly, express your stand about this allegation?

14 A. In two sentences I will answer that allegation,
15 Madam President, Your Honours.

16
17 First of all, I learned that a certain group called ALLO
18 allegedly existed after Mr. Chrétien's expert report and
19 other documents which the Prosecutor introduced during
20 this trial.

21
22 Secondly, until I left Rwanda, until I was arrested, I
23 had never heard about ALLO, never. So, as a result, it
24 is false to say that I was a member of that group, that
25 I chaired the deliberations of this group, which, as far
26 as I'm concerned, did not exist while I was in Rwanda.

27 Q. Does that imply that you broke relations with your
28 former colleagues or who are working for you under
29 ORINFOR?

30 A. Not at all. My human behaviour is very normal and when

1 you spend two, three years together, you build
2 friendship, you build relations and I continued
3 relations with certain employees of ORINFOR, in
4 particular those service heads, section heads, and so
5 on. And since I continued to be friends with my former
6 colleagues of the university and workers or staff of the
7 university at ORINFOR, I made friends. And I continued
8 to have relations with some of the employees of ORINFOR.

9 Q. Upon analysis of some of the newspaper articles of the
10 time, we realised that you were accused or reproached
11 with having, after your departure from ORINFOR, kept
12 some powers belonging to the director of ORINFOR. Could
13 you tell the Chamber what the real situation was like?

14 A. Madam President, Your Honours, there was a confusion.
15 First of all, immediately I ceased to be director of
16 ORINFOR. I was no longer paid as director of ORINFOR.
17 Neither did I continue to enjoy the benefits of that
18 post of manager.

19
20 Now, where does the confusion come from? The confusion,
21 in the minds of the journalists, I should say that
22 journalist, in particular, derives from the fact that
23 after my dismissal I remained in the house which I
24 occupied when I was director of ORINFOR. This was a
25 government house, not an ORINFOR house. ORINFOR had a
26 number of houses which were built using the ORINFOR
27 budget, but it just turned out that the house where I
28 was living was the property of the Ministry of Public
29 Works and Power and, as I said last week, I did not want
30 to return to Ruhengeri and move my family about. I was

1 in the process of putting up my own house. But the fact
2 that I left ORINFOR did not stop me from continuing to
3 be a government or state employee. I asked Minister
4 Gatabazi in writing, and then I want to see him
5 personally, too, to ask him to authorise me -- Minister
6 Gatabazi, I forgot to mention this, Madam President,
7 Your Honours, he was Minister of Public Works and Power.
8 So I went to see him and I asked him to authorise me as
9 an employee of the state to spend some time in that
10 house, because I explained to him that I was in the
11 process of completing my own house. He authorised me,
12 in writing, he granted that authorisation in writing
13 and, of course, immediately I could live in my own
14 house. I moved into it and I did so even before the
15 house was actually completed. And I remember that when
16 Mr. Bidiri was appointed as the director of ORINFOR, the
17 date I do not remember because there was somebody who
18 worked -- who was acting in between us. So I had
19 already moved from that house, water bills, electricity
20 bills, telephone bills were paid by myself.

21 Q. Mr. Nahimana, let us now move to something else.

22
23 We would like you to tell us the links you have or the
24 absence of any links, if that is the case, between you
25 and Mr. Hassan Ngeze. To make your answer clearer I
26 would suggest that you answer in a chronological
27 fashion. Could you tell us if you have any contact,
28 direct or indirect contacts, with Mr. Ngeze before your
29 appointment to the management of ORINFOR.

30 A. To that question I answer never. Before my appointment

1 at ORINFOR I had never met Mr. Hassan Ngeze.

2 Q. Let us go on to the next step in chronological order.

3 Same question as concerns the period when you were the
4 director of ORINFOR?

5 A. Madam President, Your Honours, when I was at ORINFOR I
6 met -- and this is as far as I can remember -- and I
7 think I can remember rightly and precisely I met
8 Mr. Ngeze in January 1991 during the meeting which
9 brought together the director of ORINFOR and officials
10 of the private and public press, which was held at the
11 centre of la pastor central in Kigali. I think it was
12 around the 25th of January 1991. That is the only time
13 when I greeted Mr. Ngeze, like I did the other
14 journalists, without even discussing anything with him.
15 I think that last week I know that subsequently he tried
16 to meet me, but I did not receive him in my office at
17 ORINFOR.

18 Q. Mr. Nahimana, did you meet him anywhere, apart from
19 ORINFOR, during that period?

20 A. When I was director of ORINFOR I am categorical: I did
21 not meet him, apart from that one meeting. In fact, I
22 even organised three meetings of public and -- officials
23 of public and private press, but he only attended the
24 first one. He did not attend the other two. So while I
25 was the director of ORINFOR I did not meet Mr. Ngeze any
26 other time.

27 Q. Now, as from the 28th of April 1992, when you were
28 dismissed, did you have any other contacts with
29 Mr. Ngeze and, if so, where and when?

30 A. After I left ORINFOR on the 28th of April 1992 I will

1 say right to the 14th of July 1994 I saw Mr. Ngeze two
2 times and twice only. The first time was the 11th of
3 July, 1993, during the general assembly of shareholders
4 of the RTLM Limited company at Amahoro Hotel,
5 M-A-H-O-R-O. I did not greet him. He was passing with
6 a camera. I noticed that he was a journalist, there was
7 a number of journalists. I did not greet him. We did
8 not talk to each other. And I think the second time was
9 before the 14th of July, was on the 7th of June. I
10 remember that date because it was two days before my
11 departure for Chilie (phonetic). It was in Gisenyi at a
12 service station. I was filling my car. I saw Mr. Ngeze
13 walk up and greet me, and when he greeted me I asked him
14 a question which made him turn back. I said, "Mr. Ngeze
15 it is said that you are in contact with the Inkotanyi".
16 When are your friends from Mulindi going to arrive at
17 Gisenyi, so that we should be getting ready to clear
18 away from this town?" Ngeze did not return any
19 response. He turned around and he left. He went back
20 to his car because I imagine that he, too, came to get
21 fuel. So I took my fuel and went away. I only saw
22 Mr. Ngeze again here at the detention centre, not here
23 in Court, but here at the detention facility.

24 Q. To your knowledge, did Mr. Hassan Ngeze participate
25 directly or indirectly in the creation of RTLM?

26 A. Madam President, Your Honours, I just testified that the
27 only time I saw Mr. Ngeze, as far as RTLM was concerned,
28 was the 11th of July 1993 during the general assembly of
29 the shareholders of that company. He was there as a
30 journalist, it would appear, because he had a camera and

1 he was taking pictures.

2

3 RTLM was set up on the 8th of April 1993. I did not see
4 him and I did not see him in any other meeting convened
5 by that company. So my conclusion is that he played no
6 role in the creation and no role in the development of
7 that company.

8 Q. Witness FS claims to have seen you at a Hutu Power
9 meeting in 1993 at the Nyamirambo stadium in the company
10 of Hassan Ngeze and Jean Bosco Barayagwiza and, in the
11 course of that rally, Mr. Ngirumpatse allegedly
12 introduced you as a member of Hutu Power and director of
13 RTLM.

14

15 Could you tell us what your position on these
16 allegations of a meeting with Ngeze is?

17 A. Madam President, Your Honours, as concerns the Hutu
18 Power meeting, I believe I expressed myself clearly
19 yesterday, or rather last week. I never took part in
20 that kind of meeting. The only meeting where it was
21 possible to see Mr. Ngeze would have been a CDR meeting.
22 I acknowledge that I attended such a meeting between
23 June and August. I can't pinpoint the date between
24 June and August 1992. Outside 1992 I did not attend any
25 meeting where Mr. Ngeze could have been present. And
26 even within the CDR I did not see Mr. Ngeze. I do not
27 remember having seen Mr. Ngeze and that is why I make no
28 mention of it. So, once again, to claim that there was
29 a meeting where I sat side-by-side with Mr. Ngeze is
30 false.

1 Q. Did you participate directly or indirectly in the
2 creation of the Kangura newspaper?

3 A. Madam President, Your Honours, from the articles and
4 issues provided by the Prosecutor, Kangura should have
5 been created around May 1990. I have just stated here
6 that I saw Mr. Ngeze for the first time around the
7 15th of July 1991, 15th of January 1991, I beg your
8 pardon, and before that date I did not know Mr. Ngeze.
9 I knew Mr. Ngeze because of these articles in the
10 newspaper, because I used to read them sometimes.
11 That's it. So there is no way I could have participated
12 in the creation of that newspapers with Mr. Ngeze, whom
13 I did not know.

14 Q. Did you take part in the creation of other newspapers?

15 A. No, not at all. The only press organ in whose
16 participation I -- in whose creation, I beg your pardon
17 -- in which I participated, is RTLM Limited, which
18 subsequently had a branch radio television libre de
19 milles colline.

20 Q. Did you contribute directly or indirectly to the
21 publication of the Kangura newspaper; for example, by
22 providing articles or accepting interviews or other
23 activities of that nature?

24 A. Madam President, Your Honours, when I got to ORINFOR,
25 Kangura, like other newspapers, were heralding my
26 arrival at ORINFOR and many journalists said that that
27 was the end of the Museci (phonetic) era. And I
28 remember that there was an article which said the
29 historian comes in and the literary person leaves,
30 referring to an article that I had made -- written.

1 Ngeze, in Kangura, hailed my appointment, but, as I
2 underscored last week, as soon as I took measures
3 restricting the space or time that was allowed to
4 newspapers, and he was affected, in fact the day that I
5 saw him one of my employees, Hakizamana, Joel, had been
6 caught working for Kangura and at the same time for
7 ORINFOR. And he was punished after the report that we
8 received. So Hakizamana is written H-A-K-I-Z-A-M-A-N-A.
9 Ngeze started publishing many articles and, it was at
10 that time that Mr. Ngeze published a famous article in
11 which he said, Radio Gatonde. Contrary to some
12 witnesses who said RTLM was Radio Gatonde. The first
13 person to talk about Radio Gatonde was Mr. Ngeze and he
14 wanted his readers to understand that I recruited many
15 journalists in the National Radio.

16
17 But now let me state this, from the time when that
18 article came out, right up to the time when I left
19 ORINFOR, there was not even one journalist who came from
20 Gitonde. So much for the lies. You would understand,
21 therefore, that I could not send an article to a
22 newspaper like that. Neither would I even accept or
23 grant an interview to a journalist who said that he was
24 coming from Kangura. It goes without saying, of course,
25 that if there is a press conference, or you come from
26 Kangura or Muhabura or anywhere else, you could register
27 what I said. But to grant him an exclusive interview,
28 to me, that was impossible.

29 Q. Mr. Nahimana, now I want us to look quickly at a matter
30 which goes through several testimonies that deal with

1 your membership of the Akazu.

2

3 In summary, can you express yourself on this allegation
4 that comes from several witnesses, according to which
5 you were allegedly a member of Akazu?

6 A. Madam President, Your Honours, I will be brief. I will
7 not refer to the historical acceptance of that word, but
8 I will limit myself to this very brief description. The
9 Akazu is a very restricted family, including some ten or
10 so people who, in terms of genealogy, can go three
11 generations back, beginning from ergo myself, ergo my
12 father and my grandfather. Those were the members who
13 were referred to as members of the Akazu. Inzu is the
14 origin, Inzu and Akazu is the diminutive of Inzu.

15

16 Now, politically speaking, with the arrival of political
17 partism, I was at the ORINFOR when this term was used
18 for the first time by members of the MDR party during a
19 rally. And on that basis I would say I was the direct
20 witness, because we had just agreed -- when I say "we",
21 I refer to directors of ORINFOR and the journalist -- we
22 had agreed on the political parties, so that the latter,
23 the political parties can give us their political
24 programme or agenda on the radio. And when the time
25 came for the MDR to speak, the person who gave the
26 political chronology of the MDR used the term Akazu for
27 the first time. And please bear in mind that we are
28 dealing with this specific time. Not even the president
29 of the republic, nor his brothers and sisters -- I'm
30 talking about President Habyarimana -- but the in-laws

1 of Habyarimana, in other words the brothers and half
2 brothers of Madam Habyarimana.

3
4 In subsequent days and in the next month, the term Akazu
5 was used in reference to the family members of President
6 Habyarimana and to the family members of his wife.
7 Gradually the term Akazu was used to refer to political
8 and administrative high-ranking officials who were
9 labelled as being very close to Habyarimana, his
10 confidant, if you will.

11
12 It's unfortunate I didn't have time to speak about this
13 to my counsel before I started my testimony here, but
14 they have already the CD-ROM, which we have just given
15 to Mr. Rapp. If I'm authorised to do so, I will do so
16 tomorrow. I saw on that CD-ROM an article from Isibo of
17 1991 or the beginning of 1992, an article giving a list
18 of the members of the Akazu and I found that day very
19 interesting as testimony because it was this journalist
20 from Isibo who said that this was -- that he was
21 publishing the results of a pub -- the results of a
22 polling that he had done with members of the MDR. And
23 that it was because of the MDR members that he was able
24 to provide this list of the members of Akazu.

25
26 I know I was asked what Akazu is, because it was
27 mentioned in meeting. He was asking what is Akazu,
28 because it was in a meeting; and Madam President, Your
29 Honours, I was director of ORINFOR and there were many
30 other directors of state organisation and I was not

1 mentioned. And although I had friends who were labelled
2 as being members of the Akazu I -- at least at the time
3 I was director of Akazu (sic), I was not mentioned as a
4 member of Akazu, later on I can say, no, I was never
5 ever mentioned as a member of Akazu.

6

7 I said this last week. I was the one who preached or
8 was an advocate of peace and unity in President
9 Habyarimana's regime, but I was never placed in being
10 close to members of the family of Habyarimana. Even
11 when I was director of ORINFOR I was not a confidant of
12 the president. I had that privilege -- I did not have
13 that privilege even when I was director of ORINFOR.

14 Q. Mr. Nahimana, we shall now move on to the RTLM.

15 A. Madam President, Your Honours, if I -- if you allow me,
16 may I tomorrow bring this list, which was published by
17 Isibo, a list which gives the names of the members of
18 the Akazu. Or if my counsel have been able to find this
19 list; otherwise I can print it myself this evening, if
20 this is of interest to the Chamber, of course.

21 MADAM PRESIDENT: Yes, do that, if it's not a Prosecution
22 exhibit already.

23 THE ACCUSED NAHIMANA: No, I don't believe so, Madam
24 President.

25 BY MR. BIJU-DUVAL:

26 Q. Mr. Nahimana, can you please tell the Chamber, as far as
27 you know, how, by whom, and on what date, was this idea
28 of the creation of RTLM born?

29 A. The idea of establishing the RTLM is born -- well, it
30 was communicated to me in September or October 1992.

1 I'm saying it was communicated to me because this was
2 done by two former colleagues who became my friends,
3 Mr. Joseph Serugendo, spelled S-E-R-U-G-E-N-D-O, and the
4 journalist Vénuste Nshimiyimana, which is spelled
5 N-S-H-I-M-I-Y-I-M-A-N-A, Nshimiyimana.

6
7 The latter was a journalist and worked for Rwandan
8 television. They came to see me at home and they told
9 me that the idea of the establishment of a radio station
10 was in vogue, the MDR has established a radio station,
11 and the PSD wanted to establish a radio station and so
12 did the Catholic Church. And this was in 1992. Radio
13 Muhabura was fully operational. For them it was seen as
14 a good thing for a radio station, which would be
15 politically established in order to counter what the RPF
16 was doing. I don't know where the idea came from, who
17 initiated it, but this is how I got to know of it.

18 Q. Can you please tell us how the circle of the founders of
19 RTLM developed?

20 A. Very, very quickly, Madam President, Your Honours. That
21 very evening, when they shared that idea with me --
22 first of all, I found it very interesting, as an idea,
23 and I asked them, why me, why did they come to me? Had
24 they talked about this with others? They said, "We know
25 you from ORINFOR, you are aware of press matters, and
26 you know quite a number of people". And in particular
27 we -- what is interesting to us is that we have the idea
28 but we don't have the means. So what we are interested
29 in is the funding. And you can contact, in particular,
30 people from MRND, because they knew very well that I was

1 in the préfectoral committee of MRND, so I was committed
2 to that party.

3

4 And, in fact -- and I want to go very quickly -- that
5 very evening, in their presence, I thought about
6 Mr. Félicien Kabuga. I said, "Well, what if we called
7 him and asked him?" So I called him at the same time
8 and he answered the call. I told him that I was with
9 some young journalists who are technical persons at the
10 radio station and they have an interesting idea. So, I
11 didn't really want to go into publishing my affairs, so
12 he agreed that the next day we would meet with him in
13 his office. Serugendo and Vénuste -- well, what I meant
14 to say is Joseph Vénuste and myself went to Kabuga the
15 next day, we discussed, Kabuga accepted, and he said no,
16 let's put this to others. We asked him to contact his
17 business men and women colleagues and the others; there
18 were people in administration; they would contact their
19 friends and so on and so forth. And we gave ourselves
20 an appointment for the next day, and he thought about us
21 meeting on Friday evening. And from then our meetings
22 were always held on Friday evenings.

23

24 So we met the following week and we realised that people
25 wanted to be involved with this project. They were
26 interested in the idea and there were already 15 people.
27 And Kabuga, better than us civil servants, came with
28 those whom he had contacted, a certain number of
29 businessmen, people who were in business, and on that
30 day we decided to render the idea concrete. And it was

1 on that day -- I cannot give you the name of all the
2 people -- names of all the people who were there, but
3 there were about 15 people in Mr. Kabuga's building, in
4 his office. And we set up a small structure, which
5 remained in operation until the 6th of April 1994.

6
7 It was a committee, which we have referred to as comité
8 de l'initiative of the RTLM company. And we appointed
9 those who were there and we appointed Mr. Kabuga as
10 chairman and we also appointed a secretary, who was one
11 Temahagari, spelled T-E-M-A-H-A-G-A-R-I. We also
12 assigned responsibilities in what would become a
13 commission. We said that a company like this could be
14 established and it needed to have articles of
15 association. And I knew the journalist who was present,
16 and I said to him that you deal with the legal matters
17 and you draw up a document.

18
19 Now, myself and Joseph, and myself, the small committee
20 assigned to us the technical material and programming
21 aspects, programming in terms of what the radio
22 television de milles collines would be, although it
23 hadn't yet adopted that name.

24
25 Now, we were also given the assignment of finding a name
26 for the radio station. It was also necessary to
27 interest the shareholders, one Nzabagerageza -- that's
28 spelled N-Z-A-B-A-G-E-R-A-G-E-Z-A -- he was appointed to
29 deal with the propaganda in order to draw shareholders.
30 I've spoken of two names. I've omitted saying that I

1 was appointed as being the person, the member of that
2 committee which would share the technical and
3 programming committee. So that's what happened during
4 the second meeting. We set up a committee.
5 Felicién Kabuga was the chairperson; Ignace was the
6 secretary. And then there were two committees, one,
7 which was legal and chaired by Mr. Jean Bosco; the
8 second, which was dealing with technical and programming
9 matters, was chaired by Nahimana. And the last one,
10 which was to deal with synthesisation was chaired by
11 Charles.

12 Q. In his report Mr. Chrétien refers to testimony by
13 Mr. Nsengomfura (phonetic) and from there it appears
14 that Mr. Sylvare Nsengumfora, apparently, attended one
15 of the initial or earlier meetings of this group of
16 founders of the RTLM. What is your position regarding
17 this?

18 A. If my memory serves me right, in the book of
19 Jean-Pierre Chrétien, The media du genocide or in his
20 testimony Sixbert said that the first meeting took place
21 at the president of the republic's home or that the
22 president attended that meeting.

23
24 First of all that is false. Secondly Mr. Sixbert never
25 attended any preparatory meeting before the RTLM company
26 was established. He was not amongst the two who
27 contacted me and, furthermore, during that meeting,
28 where we set up an embryonic initiative structure, he
29 was not present either. So it is false what he said to
30 Jean-Pierre Chrétien.

1 JUDGE GUNAWARDANA: But exactly what is going on in the media
2 spectrum that you get by setting up the RTLM.

3 THE INTERPRETER: Could Judge Gunawardana repeat his question?

4 JUDGE GUNAWARDANA: What exactly was going on in the media
5 spectrum that you gained by setting up the RTLM?

6 THE ACCUSED NAHIMANA: Madam President, Your Honours, in 1992
7 -- and I said this a moment ago, earlier today -- Radio
8 Rwanda, at the level of the radio, was in the hands of
9 the MDR, be it at the ministry level or at the ORINFOR
10 level and even when it comes to the head of service
11 dealing with broadcasting.

12

13 And not only were the parties complaining about the fact
14 that they no longer had access to the radio, but the
15 listeners, including myself, we realised -- at least
16 personally I realised -- that the opinion, which did not
17 go along with the Nsengiyarmye's government, did not
18 have any coverage by the National Radio station. And,
19 as a member of the MRND, and I'm not telling you
20 anything new in this, I told you that I swallowed the
21 idea immediately, because it was necessary to have
22 somewhere, something which would enable plurality in
23 ideas and in discussions and which would enable my
24 party, also, to make its voice heard.

25

26 Finally, and I think what I'm going to say is that if --
27 I think what I'm going to say will make you understand
28 why we established RTLM. If Radio Muhabura had not been
29 in existence, if Radio Muhabura was not doing this major
30 propaganda on behalf of the RPF, hiding the atrocities

1 and violence committed by the RPF, and showing that the
2 side which was being attacked -- in other words, the
3 government, and Rwanda was the one who was wrong -- or
4 in the wrong, I think the company, RTLM, would not have
5 been established, if Muhabura wasn't doing all these
6 things.

7
8 This was what motivated people to establish this
9 company. At least in my view, it's these factors which
10 dictated my involvement in the establishment of this
11 company. And here I've only mentioned the essential
12 factors.

13 JUDGE GUNAWARDANA: Thank you.

14 BY MR. BIJU-DUVAL:

15 Q. This project, which sees the light of day in September
16 1992, was it a secret or was it well-known to the
17 public?

18 A. I said awhile ago that we even established a propaganda
19 structure to recruit shareholders. No, the project was
20 widely disseminated or advertised from mouth-to-mouth
21 from neighbour-to-neighbour, from workmate-to-workmate.
22 So it was well-known about. It wasn't broadcast on
23 Radio Rwanda, but the idea was not hidden.

24 Q. When you were meeting in your group of 20 or so persons,
25 as you mentioned, how would you characterise the
26 political leanings of these initiators of the project?

27 A. Politically speaking, I'm trying to look at the
28 components of this meeting, the majority, if not the
29 large majority, let's take the figure 20, although that
30 figure should not be considered as being rigid. If we

1 were to take that figure of 20, at least, at least 16,
2 15 to 18 came from the MRND. I'm saying this because
3 I'm seeing members of the other parties, only
4 Mr. Barayagwiza and one Stanislas Simbizi, which is
5 spelt S-I-M-B-I-Z-I. So these are the only people that
6 I see who didn't belong to the MRND.

7 Q. How do you explain the presence of Mr. Stanislas Simbizi
8 and Jean Bosco Barayagwiza, at least in those early
9 stages, those meetings that you held?

10 A. As for Mr. Barayagwiza, with regard to the RTLM-to-be,
11 Barayagwiza was participating in these meetings of about
12 20 people, together with Simbizi. Now the procedure
13 that we followed was this. Knowing Mr. Joseph Serugendo
14 -- I didn't ask him. I'm expressing our reservations.
15 I'm saying that Mr. Serugendo talked about this to
16 Jean Bosco Barayagwiza.

17
18 Since Mr. Barayagwiza worked together with Mr. Simbizi
19 he must have spoken to him about it and this is how I
20 explained to myself. I am trying to explain the
21 presence of Mr. Jean Bosco Barayagwiza at these
22 meetings.

23
24 Now, why did we give him the task which dealt with legal
25 matters? Mr. Barayagwiza was a well-known jurist and
26 very well-known in Rwanda and he was a civil servant and
27 we wanted text, instruments. They very rapidly spoke of
28 the ideas that needed to be looked at, each one would
29 say the company must deal with this, and the company
30 must deal with that. And we told him that since he was

1 a lawyer he could give us a draft document on which we
2 could rely and improve upon to establish this company,
3 legally speaking.

4
5 So, it was because of his competence and his
6 qualifications that we opted to appoint him, and later,
7 as we have said, Barayagwiza is a man who is well-known,
8 he has many contacts. He was known by the
9 administration, by the government. Since the work
10 wasn't going to stop there, we wanted to ensure that
11 people continued to have interest in becoming
12 shareholders of the RTLM. So here, also, giving him
13 assignments or tasks would enable us to have someone who
14 is a civil servant, who is well-known, who is competent
15 and who is easily approachable and could draw other
16 shareholders to the company. That is why. That was the
17 motivation of our including Jean Bosco Barayagwiza.

18 Q. Mr. Nahimana, you have already told us last week that
19 you did not share the doctrine of the CDR in main
20 aspects. So, how did you come to accepting joining a
21 team including Mr. Barayagwiza, who was known as one of
22 the influential members of that party?

23 A. Madam President, Your Honours, I have already given my
24 profile and this is not a test in definition. As an
25 open person, for me, the political ideology of the CDR,
26 I have said this and I repeat it again, I did not share
27 it. It was the ideology which said that Hutus on the
28 one side defend their interest and the Tutsis on the
29 other side defend their own interest for them to come
30 together at the top of the pyramid and the top of that

1 pyramid was the Rwandan nation. I was not at all in
2 agreement with that policy. Because I say the Rwandan
3 people constitute a nation, be they Hutu, Tutsis, or Twa
4 we needed them all to work together in order to build
5 our nation. But this is my political vision or view of
6 things. The CDR was a party, it can defend its own
7 ideology. The MDR is another party and it has its own
8 ideology. But here we were establishing a company.

9
10 I have just said, in answer to a question, most of them,
11 even though we were talking about political influence,
12 most of those who were already present in that small
13 gathering was MRND. Even if we were to wonder whether
14 Barayagwiza wasn't going to influence us. Politically
15 I'm saying, no, Barayagwiza was one out of 20. And then
16 what we were assigning to him, it was as if I'm going
17 back to the middle ages where Catholics were waging a
18 holy war against the Muslims or Muslims were declaring
19 Jihad against Christians and others the time we had was a
20 time where we needed to dialogue and to discuss. So,
21 for me, Barayagwiza was a competent person who, in what
22 he had said, was able to discuss. So we gave him the
23 task of coming up with a legal text, a legal instrument
24 for us.

25
26 Personally, I didn't take Barayagwiza on that day, in
27 fact on subsequent days, as someone who was a member of
28 the CDR. I considered him as a future shareholder
29 during that initial meeting, a person whom I needed to
30 evaluate or appreciate depending on his qualities. And

1 Madam President, Your Honours, if you allow me to go
2 that far, my first impression was the draft that he gave
3 us, the draft of what was going to become the articles
4 of association of the RTLM SA, RTLM Limited. It was
5 that draft which was hardly amended and responded.
6 First of all, it demonstrated the competence of that man
7 and it also responded to the desires of the initiators
8 of the project. So, for me, the term -- you didn't use
9 the term "extremist" but it was still not to be used,
10 and in Mr. Barayagwiza's contributions during this
11 meeting -- these meetings, I didn't see anything out of
12 context. So nothing would allow me to deflate the
13 presence of Mr. Barayagwiza and not want to be involved
14 with him. I was thinking about this radio station,
15 television station where the plurality of ideas was
16 going to be heard.

17 Q. Mr. Nahimana, since we are dealing with your
18 relationships with Mr. Nahimana and if we are going to
19 refer to a testimony -- your relationship with
20 Mr. Barayagwiza, Witness WD, in September 1993, in other
21 words, a year later, described as seeing where you were
22 with Jean Bosco Barayagwiza on the terrace of the Hotel
23 de collines and while you were discussing with
24 Mr. Barayagwiza you allegedly said, "If the Tutsis are
25 killed, international organisations will, at one point
26 in time, make noise, but that will soon come to an end
27 as that was the case with the Bugesera". So my first
28 question, for us to deal with this allegation, what is
29 your position regarding this allegation, the description
30 of the incident by Witness WD? My second question,

1 which takes us back to 1992, September 1992, and the
2 months that followed, what was the nature and the
3 frequency of relationships and contacts that you had
4 with Jean Bosco Barayagwiza?

5 A. On the first question of the allegation made by this
6 witness, this is really false. I cannot imagine someone
7 normal who, at a drinking place, can speak in this
8 manner and more so in the presence of someone whom he
9 does not know.

10

11 Secondly, and I have had the time to say this, I did not
12 have any moment, whatsoever, the opportunity of making
13 this kind of revolting statement. No, no, that's not in
14 me at all, it's not my nature.

15

16 Thirdly, still on that allegation by the witness, I
17 cannot see, how I have heard Witness X and I've heard
18 Witness WD and they referred to drinking places -- I was
19 not someone who liked alcohol. I would go to hotels and
20 quite often -- or I would go to a place, really, only if
21 I had something very sincere. But if he was giving me
22 the impression that I was here drinking with
23 Mr. Barayagwiza, I would say no, I don't think so. I
24 don't think that I ever had any opportunity to drink
25 with Barayagwiza and to make such statements, never.

26

27 Secondly, concerning the frequency, after the small
28 committee assigned tasks in relation to the
29 establishment of the company RTLM, Madam President, Your
30 Honours, I'm sure you have realised that I am using, up

1 until now, the term "RTL Company Limited" and not
2 contrary to what was said often, the radio. There's an
3 involuntary or voluntary way to create confusion in
4 using the name of the organisation. We had a number of
5 meetings at the level of the comité d l'initiative and,
6 by leave of the Chamber, maybe I've mentioned the
7 chairman and the secretary of the committee. I think
8 there was six other people; I think they are well-known;
9 there were six persons, including the president and the
10 secretary who were appointed to make up this comité d
11 l'initiative.

12
13 Now, amongst the six there was Barayagwiza and myself,
14 and I'm answering the question concerning my meetings
15 with Barayagwiza. I would say we would have more or
16 less frequent meetings, at least once every fortnight,
17 on Friday afternoons up until the effective creation or
18 establishment of the company.

19 Q. Mr. Nahimana, concerning the chronological period from
20 September 1992 to April 1993, in other words, the
21 signing of the articles of association, I'm referring
22 only to that period of time, up to the signing of the
23 articles of association. What was your role, your
24 personal individual role? You have told us what your
25 title was. What I want to know, now, what I want you to
26 tell the Chamber is what were the activities that you
27 carried out, the work that you did within this period of
28 time, September 1992 until the signing of the articles
29 of association 1993. Concretely, what did you do?

30 A. Let me put aside the meeting and I will say that I was

1 involved in the selection of technical equipment. Well,
2 first of all, in the selection of determining what
3 should be the priority of the RTLM-to-be, and already,
4 at my level, I was already working together with the
5 small committee that we had formed. I decided that the
6 RTLM-to-be should, over and above the administrative
7 section, the accounting and so forth, should start off
8 with the radio. So the priority for me and for this
9 RTLM was setting up of the radio station. Once this
10 selection, made by the small technical and programming
11 committee, had been discussed by the comité d
12 l'initiative and adopted, my second level of involvement,
13 together with my small committee, was the selection of
14 equipment to be ordered. And then there was contact
15 with suppliers. And now, for you to better understand
16 why my colleagues chose me to head this committee,
17 because I was a former ORINFOR director, I knew the
18 companies that supplied radio equipment and so on and so
19 forth, and that's why I contacted companies in Germany;
20 some were also in Belgium, because in Germany -- it was
21 in Germany and in Belgium that we had suppliers for
22 radio equipment.

23
24 Thirdly, after having received replies from these
25 various companies, suppliers, we had to move into the
26 selection of equipment and we had to decide on which
27 suppliers would provide them. So, on the 8th, that's
28 the outside date which you gave me, on the 8th of April
29 1993, my committee had already completed the technical
30 file, as had Barayagwiza done with the legal documents,

1 and the technical committee also had the list of
2 potential shareholders and so on and so forth.

3 Q. Now, let's move on to the next question. In what
4 context did the signing of the constitution of the RTLM
5 take place or the articles of association?

6 A. Madam President, Your Honours, after the major
7 documents, that is the legal documents of the company,
8 the articles of incorporation, the technical files and a
9 list of potential shareholders were ready, the committee
10 of the initiative called upon all those people who had
11 supported the idea and who had expressed the hope that
12 the company should be launched, initially, to the first
13 general assembly, which was the constitution assembly.
14 And the chairman of the initiating committee,
15 Mr. Kabuga, even invited journalists. I do not remember
16 very well if there's an announcement on the radio, but
17 the fact remains that there were journalists from the
18 private media and ORINFOR was invited. And on the 8th
19 of April in the meeting room of the Urugwiro Hotel --
20 this is spelled U-R-U-G-W-I-G-O -- we met, in other
21 words the founders or people who would become founders,
22 we met there. There were about 50, 52 of us, and we
23 signed before a commission of oath, the articles of
24 incorporation of the RTLM Limited company, who shared
25 the constitution assembly. That assembly was shared by
26 Mr. Felicien Kabuga, who, as you know, before having the
27 articles signed, asked the various chairman of the
28 committees to present their report to the assembly.
29 Firstly the legal committee, in order to allow people
30 there to understand more the spirit of the articles of

1 incorporation and then she asked me so that we could see
2 things are feasible, and also how much money would be
3 needed for the technical equipment and the time frame
4 for the installation of the equipment, and the other
5 chairman, with regard to what was the reception to the
6 idea of the establishment of the station.

7

8 So we signed, and the whole assembly was under the
9 chairmanship of Mr. Felecién Kabuga, who was also the
10 chairman of the initiating committee.

11 BIJU-DUVAL: Madam chairman, at this juncture I would like to
12 request that we give to Mr. Nahimana Exhibit 1D11.
13 These are the articles of association of the RTLM
14 Limited.

15 BY MR. BIJU-DUVAL:

16 Q. Mr. Nahimana, on page 10 of this document, page 10 and
17 11, there is a list of 50 founders, right?

18 A. Yes.

19 Q. I'd like you to request you to skim through the list and
20 to tell the Trial Chamber, without considering
21 systematically all the names, but rather in a general
22 and in a summary, tell the Court who these 50 people are
23 on the basis of their political leanings, as you knew
24 them.

25 A. Madam President, I'm going to try, but I'm not going to
26 bet that I would be able to nail the political leanings
27 of each and every person on this list. I'll go
28 according the numbers.

29

30 No. 1, I don't know.

1 No. 2, CDR.
2
3 No. 3, CDR.
4
5 No. 4, MRND.
6
7 Five, MRND.
8
9 Six, MRND.
10
11 Seven, MRND.
12
13 Eight, I do not know.
14
15 Nine, MRND.
16
17 Ten, MRND.
18
19 Eleven, MRND.
20
21 Twelve, MRND.
22
23 Thirteen, MRND.
24
25 Fourteen, MRND.
26
27 Fifteen, MRND.
28
29 Sixteen, MRND.
30

1 Seventeen, MRND.
2
3 Eighteen, I do not know.
4
5 Nineteen, MRND.
6
7 This should be 21, the figure is not visible, so 21 is
8 MRND, this is Joseph.
9
10 Twenty-two, MRND.
11
12 Twenty-three, I do not know.
13
14 Twenty four, I do not know.
15
16 Twenty five, MRND.
17
18 Twenty-six, MRND.
19
20 Twenty-seven, MRND.
21
22 Twenty-eight, MRND.
23
24 Twenty-nine, MRND.
25
26 Thirty, MRND.
27
28 Thirty-one, MRND.
29
30 Thirty-two, MRND.

1 Thirty-three, MRND.
2
3 Thirty-four, MRND.
4
5 Thirty-five, MRND.
6
7 Thirty-six, MRND.
8
9 Thirty-seven, MRND.
10
11 Thirty-eight, I do not know; in any event I do not
12 remember.
13
14 Thirty-nine, I do not remember.
15
16 Forty, I do not know. I don't know the person's
17 political leanings. Same thing applies to 41, no, no, I
18 beg your pardon. I remember No. 41, he was a civil
19 servant in the ministry of foreign affairs, so he was an
20 MRND, this for 41.
21
22 Forty-two, I do not remember.
23
24 Forty-three, MRND.
25
26 Forty-four, MRND.
27
28 Forty-five, MRND.
29
30 Forty-six, MRND.

1 Forty-seven, MRND.

2

3 Forty-eight, MRND.

4

5 Forty-nine, MRND; and fifty, MRND.

6 Q. Mr. Nahimana, now, on this list are there names of
7 members who are not -- people who are known to be
8 members of the Interahamwe or even to be members of --
9 to be leaders of Interahamwe, to the best of your
10 knowledge?

11 A. This was in April 1993. The leaders of the Interahamwe
12 movement in Kigali because, at that time, basically,
13 they were in Kigali.

14

15 The way they presented themselves they were unknown.
16 Now, to avoid going back to this list, yes, I can say
17 there was Deodonaire (phonetic), who was known as an
18 official, but I do not think that at that time I knew
19 that he was a treasure. There was Georges Rutaganda,
20 who was known as being one of the leaders of the
21 Interahamwe. There was Pheneas, also, who was one of
22 the leaders of the Interahamwe. There was Ephram.
23 There was Bernard, whose name I mentioned earlier. Yes,
24 without being exhaustive, I don't know whether I
25 mentioned Joseph Seregendu, but he was among the leaders
26 of the movement. Without being exhaustive -- I would
27 say, yes, there were leaders of the Interahamwe who were
28 on the list of the founders of the RTLM Limited.

29 Q. How do you explain their presence among the 50 founders
30 of the RTLM?

1 A. Madam President, Your Honours, earlier on I said that
2 the majority of 50 people on the list were MRND members
3 and those who are in the Interahamwe movement were
4 members of the MRND. And I'm saying, why were people
5 from the MRND, people like myself, interested in the
6 MRND interested in the founding of this company?

7
8 The people from the Interahamwe movement came; they were
9 interested in the objectives which I described earlier.
10 And in order to make things clear, and this was my
11 impression from the outset, without the company being an
12 MRND company the RTLM Limited, from its inception, was
13 in the hands of members of the MRND at the political
14 level. This is undeniable. People who found companies
15 normally are interested in seeing with whom they can
16 speak, who they can talk to. The fact that we were at
17 the very first, people to have the idea where MRND
18 members -- goes without saying that we are interested in
19 other MRND members.

20
21 Now, concerning the presence of Interahamwe members,
22 such as Seregendo, which was one of the people who had
23 the idea of establishing the company. He was in the
24 Interahamwe, so he passed on the interest to his
25 colleagues, but when we came to signing the articles, we
26 thought about the contribution of people as individuals.
27 Never, never, did RTLM consider itself as an MRND
28 company. This answer has to be made very clear. The
29 ideas that would arise would be developed by the
30 founders, and which were anchored in this company, found

1 inspiration in the ideology of his founders, in other
2 words, peace and unity, which were the main ideas of the
3 MRND party.

4 MR. BIJU-DUVAL: Madam President, maybe this could be an
5 appropriate moment to take our break.

6 MADAM PRESIDENT: Yes, thank you, Mr. Biju-Duval. We will
7 resume at 2:30.

8 (Court recessed at 1308H)

9 (Pages 43 to 75 by R. Lear)

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1 1430H

2 MADAM PRESIDENT: Mr. Biju Duval?

3 BY MR. BIJU-DUVAL:

4 Q. Mr. Nahimana, we were talking about the constitutive
5 assembly of April 1993. Can you tell the Court what
6 were the decisions taken by the assembly of founders, in
7 particular with regard to the structure and the
8 functioning of the company which was nascent at that
9 time?

10 A. The first major decision that was taken was the
11 constitution itself through the signing of the legal
12 document; in other words, the establishment of RTLM
13 limited company. The second important decision was that
14 the 50 founders of the company approved all the
15 structures that were there; namely, the initiative
16 committee to which they gave a specific mission and that
17 mission was to prepare for the first general assembly of
18 RTLM's shareholders, and to do everything possible so
19 that the company which had just been established would
20 gradually be set up in such a way that at the next
21 general assembly the assembly would meet under proper
22 conditions. Basically, these were the two main
23 decisions that were taken.

24 Q. To your recollection, was that event reported on the
25 national radio station?

26 A. Madam President, Your Honours, the establishment of the
27 RTLM limited company was an event in Rwanda which was a
28 significant event, in that for 30 years Rwanda had only
29 one radio station, and which was a national radio
30 station and television station which belonged to the

1 State. In other words, the State had primacy over the
2 field of information.

3
4 The objective of the company was to set up a radio
5 station and television station, and this was an event,
6 the establishment of this company was an event, and this
7 event was reported both in Rwanda and outside Rwanda.
8 In any event, regarding the national radio after the
9 deliberations, journalists approached the founding
10 members, contacted founding members. I, too, was
11 contacted, and we were asked what was the objective of
12 the company. My interview was broadcast almost in its
13 entirety over Radio Rwanda.

14 Q. To your recollection, was Mr. Hassan Ngeze present among
15 the journalists who attended the signing of the articles
16 of attestation?

17 A. I told you before the lunch break that Mr. Ngeze was not
18 present. I did not see him on the event of the 8th of
19 April 1993.

20 Q. I would now like us to consider the period beginning
21 from the 8th of April 1993 and going up to the 11th of
22 July 1993.

23
24 First of all, I would like to ask you if you could tell
25 the Trial Chamber when did you begin your first
26 programs?

27 A. It's difficult for me to remember the date of the first
28 programs. We had small, or rather, a long period of
29 technical trials of the radio station of the company,
30 and the trial broadcasts started in any case before the

1 10th of July, because on the 11th of July there was
2 already instrumental music which was being aired on the
3 new radio station, which was known as the Radio
4 Télévision Libre des Mille Collines.

5 Q. In this period preceding the effective broadcasts; in
6 other words, that is, the establishment period with this
7 regard, could you concretely tell the Court what were
8 the various activities that were implemented?

9 A. Madam President, Your Honours, between the 8th of April
10 1993 and the 11th of July 1993 the Comité d'initiative
11 did everything in order to procure equipment for the
12 radio station and to install the equipment.

13
14 With regard to the installation of equipment, the
15 company had to have an appropriate building. So a
16 building was rented and this action was undertaken at
17 the initiative, then the Comité d'initiative during this
18 period of about three months set up an embryonic basic
19 stage which was an administrative and financial
20 structure. The Comité d'initiative recruited an
21 accountant and some people who helped him, plus since we
22 had just acquired, rented the building, plus supporting
23 staff, including night watchman and day watchman, and
24 then, as I said this morning, the choice of one of the
25 two essential branches which should have made up the
26 radio and television.

27
28 Now with regard to the first choice, the first choice
29 was the radio station. Now, during this period, April
30 to the beginning of July, the Comité d'initiative

1 employed the person who became editor in chief of the
2 radio station and that person was Mr. Gaspard Gahigi,
3 and as soon as Gaspard Gahigi arrived he proposed to the
4 initiative committee the recruitment of two other
5 journalists who were his former colleagues who used to
6 work at the national radio station of Rwanda, but who no
7 longer worked at the national radio station, and these
8 were Mr. Kantano Habimana and Mr. Noël Hitimana.

9
10 "Gahigi" is spelled G-A-H-I-G-I. Habimana Kantano;
11 "Habimana" is spelled H-A-B-I-M-A-N-A, and "Kantano" is
12 spelled K-A-N-T-A-N-O. Noël Hitimana; "Hitimana" is
13 spelled H-I-T-A-M-A-N-A (sic).

14
15 So another important activity undertaken by the Comité
16 d'initiative be it the procurement of equipment, paying
17 custom duty, the rental of the building and the
18 salaries, all these activities required that there
19 should be funds available. Up to that point, the banks
20 had accepted, and here I will not go into the legal
21 details because I am a layman as far as the law is
22 concerned, but the thing is that the banks had accepted
23 opening accounts for the RTLM. So at the appropriate
24 time the banks were to actually disperse the funds, but
25 we faced problems with regard to the signatories of the
26 account.

27
28 So that the last action which I will mention here and
29 which was carried out by the Comité d'initiative was the
30 delegation of authority given by the Comité d'initiative

1 to three of its members – Mr. Félicien Kabuga, Mr. Jean
2 Bosco Barayagwiza and Mr. Ferdinand Nahimana. So that
3 two of among these three people could sign jointly RTLM
4 limited cheques.

5
6 This delegation of authority was very specific. It was
7 to allow for the work of establishing the company which
8 was still, I would say nascent, in its infant stages.

9 MADAM PRESIDENT: Mr. Biju Duval, will you be more specific
10 with your questions so we can have less of these
11 day-to-day details.

12 MR. BIJU-DUVAL: Madam President, I would like to request that
13 Mr. Nahimana be given the document which is our number
14 19 of the list of new documents, and this is an excerpt
15 of the minutes of the RTLM committee of its meeting of
16 the 21st of May 1993 at Hotel de Mille Collines. It
17 seems to me that this document was not produced by the
18 OTP. Maybe I might be wrong. If the OTP --

19 MS. MONASEBIAN: The document has already been exhibited as
20 P-107/1, pages 8 and 9, 8 for the French, which is what
21 Mr. Biju-Duval has, Document No. 19, and 9 for an
22 English translation. So if you look at P-107/1 pages 8
23 and 9, it's been exhibited already.

24 MADAM PRESIDENT: Thank you, Ms. Monasebian. At least one
25 person knows exhibits around here.

26 BY MR. BIJU-DUVAL:

27 Q. Mr. Nahimana, do you have this document before you?

28 A. Yes, I have it in front of me.

29 Q. Does it concern the delegation of the authority to have
30 signatories, that you have just mentioned?

1 A. Yes, indeed, it does concern the delegation of the
2 authorities to the signatories.

3 Q. Mr. Nahimana, the articles of association of RTLM
4 provided for the appointment of a director to whom the
5 board of directors would give general powers of
6 management. Could you explain to the Court why, to your
7 knowledge, on that date or during that period after the
8 signing of the articles why no director was appointed?

9 A. Madam President, Your Honours, the appointment of the
10 director general of RTLM limited company was the
11 prerogative of the board of directors, and the members
12 of board of directors were elected by the general
13 assembly of shareholders.

14
15 Up to the 11th of July 1993, no general assembly of
16 shareholders had been held and it was, therefore, for
17 that reason that the constituent assembly of the
18 founding members, which provided for the convening of
19 the general assembly as soon as possible, simply
20 endorsed the Comité d'initiative as it had been on the
21 8th of April, and that is why during that time there was
22 no director general of the company; in other words, the
23 general assembly of shareholders had not yet been held.

24 Q. Did the Comité d'initiative take measures in order to
25 try and find someone who would fill in the post of the
26 director?

27 A. In view of the requirements of the management of the
28 company, which is a growing company, needed the presence
29 of a person who was capable of managing a company. The
30 Comité d'initiative and in particular Mr. Kabuga had

1 initiated contacts with the people who were known to
 2 have managed companies, big companies, and a short while
 3 before the end of the month of June, I remember that
 4 Kabuga at the meeting, the steering committee of the
 5 initiative committee, made proposals to us and those
 6 proposals consisted of the fact that Mr. Phocas Habimana
 7 - "Habimana" is spelled H-A-B-I-M-A-N-A - could accept
 8 to manage the company in the event where the conseiller
 9 set up a constitutive assembly, endorsed this and this
 10 is something that we spoke about at the general assembly
 11 of shareholders which was held on the 11th of July 1993.

12 Q. You told us about the recruitment of Mr. Gahigi and
 13 Mr. Kantano, as well as Mr. Hitimana. Now, in concrete
 14 terms how was the decision for recruitment taken and how
 15 was this recruitment carried out during the period prior
 16 to the 11th of July 1993?

17 A. I have to explain how Gahigi was contacted and convinced
 18 to join -- no. I would not be able to tell you how he
 19 was contacted and how he came to join the RTLM. But how
 20 he was appointed, on Kabuga's proposals, this is
 21 something we discussed at the Comité d'initiative and he
 22 took his post, which consisted of carrying out the
 23 studies of the program and broadcast of the future radio
 24 station. He said, he requested to be assisted by other
 25 professional journalists, and now this is something I
 26 know. It was he personally who actually chose his
 27 former colleagues; in other words, Hitimana and Kantano,
 28 as I have already said.

29
 30 He came to the steering committee in order to defend the

1 two candidates. I was present at the meeting and we
2 agreed to his proposal, and Mr. Kabuga actually granted
3 the recruitment in his capacity as the chairman of the
4 Comité d'initiative representing the company.

5 Q. During that period, you, Mr. Nahimana, what activities
6 did you undertake, in particular with regard to the
7 delegation of authority to sign as of 21st of May 1993?

8 A. During the period between April to July, this was a
9 period during which the committee which I led was very
10 active. It was very active, firstly, in meeting the
11 requirements of the government authorities. We had to
12 have specifications which would show the program grade,
13 and which also described the equipment that we had, and
14 so on and so forth. So we had these specifications which
15 were presented within as per agreement between us and
16 the government under the Ministry of Information.

17
18 Now, with regard to my use of the delegation which was
19 given to me with others on the 21st of May 1993, we, or
20 rather, I, signed several cheques, particularly for the
21 payment of equipment, as well -- I talked about the
22 equipment -- the equipment I am referring to, I am
23 referring to the technical equipment of the radio
24 station, the first transmitter that we had, and I signed
25 cheques relating to the payment of everything that was
26 required for the setting up of initial infrastructure
27 for the company.

28 MR. BIJU-DUVAL: Madam President, I would like to request that
29 we give Mr. Nahimana Document 1D-7. This, in substance,
30 is a file which was sent to the Minister of Information

1 by Mr. Kabuga in his capacity of the president of the
2 RTLM on the 17th of June 1992.

3 BY MR. BIJU-DUVAL:

4 Q. Mr. Nahimana, do you have that document in front of you?

5 A. Yes, I have it in front of me.

6 Q. This document is made, on the one hand, of a letter and
7 it is also made up, on the other hand, of an annex whose
8 title is "Program and equipment of RTLM" and so on and
9 so forth; right?

10 A. Yes.

11 Q. Now could you please look at page 4, and which has
12 number 4 on it?

13 A. Yes, I have seen it, Counsel.

14 Q. On number 4, that is, under paragraph 4, you have "RTLM
15 programs," or "RTLM program." Could you tell the Court
16 whether this is an area on which your committee worked
17 during that period?

18 A. Madam President, Your Honours, the title of the
19 committee was "Technical Aspects and Programs." So this
20 is the external and direct character regarding the
21 activities of the commission, or the committee; in other
22 words, we actually elaborated this kind of program which
23 was to subsequently actually govern the direction of the
24 radio station belonging to the company.

25 Q. So does this actually -- is this linked to the notion of
26 program grade or program set-up?

27 A. Madam President, if you go into a technical area, nor
28 the non-initiated it's possible to have confusion. So
29 when you talk about program schedule, we are talking
30 about preparing -- program schedule is different from

1 broadcast schedule. I was a member of the committee.

2 When I talk about the type of program, the type of
3 program can be replaced by program schedule.

4
5 What does this mean? This means the choice or the
6 choices, choices, if you wish, which would allow the
7 future radio station to function and this is -- and what
8 interests the company generally, what interests the
9 shareholders is that these ten points should be
10 respected in one way or the other -- I mean, these said
11 points should be respected in the functioning of the
12 radio station; in other words, these are the choices
13 regarding the types of programs.

14
15 When the radio station is already afoot the editor in
16 chief and his colleagues will know that the company,
17 radio wants the radio station to reflect these points
18 these ten points, and the editor in chief and the
19 colleagues therefore, would have what would be known as
20 broadcast schedule. For example, in reports there would
21 be recording covering these subjects, numbering so many
22 pages. So these were choices, I would even say
23 political choices relating to programs and this choice
24 was made by the company, RTLM Limited, and these choices
25 and this is what I want to say, because this document
26 was given in order to obtain the signing of the
27 agreement, so of the radio station and television
28 station belonging to the company. So what you have in
29 front of you are the choices relating, both to the radio
30 station and to the future television station.

1 Q. In the temporary structure of RTLM, who dealt with the
2 obtention of frequencies?

3 A. Measures in order to obtain frequency were carried out,
4 basically, by three people. Firstly, there was
5 Mr. Serugendo who was a good technician, also a member
6 of the program committee, since the allocation of
7 frequency came in a way under legal matters. Mr. Jean
8 Barayagwiza also took part. So I would say with regard
9 to the preparation of the obtention of the frequency,
10 the work was done by Barayagwiza and Serugendo. But
11 with regard to the preparation of the document itself as
12 prepared, Mr. Kabuga himself took part. So there were
13 three people – Mr. Kabuga, Mr. Jean Bosco Barayagwiza
14 and Mr. Serugendo and these were the three people who
15 dealt with the issue of frequencies.

16 Q. Now, let us move on to the first general assembly of the
17 11th of July 1993.

18
19 Could you tell the Court how were shareholders convened
20 and what was the agenda of the assembly?

21 A. Madam President, Your Honours, in July 1993, RTLM
22 Limited Company already had about 100 shareholders,
23 several hundred shareholders. Now, when it came to
24 convening the shareholders, the chairman of the Comité
25 d'initiative passed an announcement, made an
26 announcement on the national radio station and the
27 announcement called upon shareholders, invited
28 shareholders, to the first general assembly of the
29 shareholders.

30 Q. What was the agenda of that meeting?

1 A. The agenda comprised two items, yes, two items. First
2 of all, the report of the Comité d'initiative, and
3 secondly, the setting up of the statutory organs of the
4 company. Under (1), various reports of the different
5 commissions or committees were presented. Those were
6 the two items of the agenda.

7 Q. As concerns the shareholders, as of that date on the
8 month that ensued did you become aware of those who were
9 the most important shareholders? I mean by that those
10 who held the highest number of shares.

11 A. Yes, at that general assembly of shareholders the
12 question was raised. In fact, that was one of the
13 problems we could not immediately solve which affected
14 the setting up of the main organs. So in the months
15 that followed, either those who held the greatest number
16 of the actions on the 11th of July continued to buy more
17 shares and became even more influential shareholders of
18 the company, but there were even a greater number of
19 such people.

20 Q. To your knowledge, what was the political affiliations
21 of the 20 bigger shareholders that you got to know?

22 A. Madam President, Your Honours, to answer that question
23 precisely, I do not know if I might perhaps be allowed
24 to talk about the first list of shareholders that I saw,
25 and which was of September 1993, and which made it
26 possible for me to realize that the 25 people with the
27 highest shares, that is, those who had not less than 20
28 shares, the bulk of them, therefore, were from the MRND.
29 They included President Habyarimana, Juvénal
30 Habyarimana, that is, there was Joseph Nzirorera, there

1 was President Habyarimana's son in law and so on and so
2 forth.

3
4 If I talk about that even if the question has not been
5 put to me, Madam President, Your Honours, it is to
6 underscore the fact that contrary to what I heard here,
7 RTLM companies shareholders did not work in hiding. It
8 was said that there was planning and so, no, those
9 people were working in the open. Shares were invited
10 from everybody, and when Mr. Habyarimana had to become a
11 shareholder he put his money in the bank, the company
12 registered his shares, and he was in a public list as
13 such.

14 Q. Was Mr. Phocas Habimana a shareholder?

15 A. Yes, I believe so. I'm sorry, Madam President, Your
16 Honours, what period are you referring to?

17 Q. You talked about this list of 1st September. That is
18 the period I am referring to.

19 A. On that list, on that list the name of Mr. Phocas
20 Habimana appeared as a shareholder, and certainly before
21 September.

22 Q. How were the deliberations of that general assembly
23 meeting conducted; in other words, who chaired the
24 meeting and what was said during the assembly meeting of
25 the 11th of July?

26 A. The 11th July general assembly meeting took place in
27 Amahoro Hotel in Kigali. It was chaired by Félicien
28 Kabuga, and as I said earlier, the agenda comprised two
29 items, and after speaking generally about what the RTLM
30 company was, in particular its objectives which appeared

1 in Article 4 of the Statute, he gave the floor to each
2 of the chairpersons of the committees, and the committee
3 chairpersons in turn presented in a summary but clear
4 fashion what the different committees had accomplished,
5 and then the assembly discussed the issue and accepted
6 the report by the Comité d'initiative.

7 Q. Second agenda item?

8 A. The election of the members of the board of directors.
9 Madam President, Your Honours, there was a lot of
10 discussion on this issue, because, in fact, I should
11 admit here that our jurist, Barayagwiza, who was
12 chairing the legal committee, and even his colleagues of
13 that committee and even the entire Comité d'initiative
14 did not envisage the legal problem which would arise
15 during the election of members of the board of
16 directors.

17
18 Some of the shareholders took the stand that each
19 shareholder should have one vote, but others and those
20 who belonged to this second group said "One share. One
21 vote." And in the Statute the mode of election of
22 members of that board of directors is not provided for,
23 and it is said that whatever appears there should be
24 explained in the internal regulation or by-laws. So it
25 was said therefore, that the Comité d'initiative had to
26 pursue its action, that their terms of reference, or
27 rather, that they were going to extend their terms of
28 reference with a specific duty, and this is what caused
29 the extension of the term of office, on the condition
30 that by December 1993 they should come up with the

1 internal regulation or by-laws which would provide for
2 all the legal -- or cover up all the legal loopholes of
3 the Statute and which could not be discussed to complete
4 before that general assembly meeting.

5
6 That was the conclusion, but Mr. Kabuga was able to
7 present the difficulties faced in the management of that
8 company. That was almost when the actual takeoff of the
9 radio was about to occur, people were supposed to be
10 running around and asking for air time for
11 advertisement, and he asked that it should be authorized
12 that any candidate who contacted either the provisional
13 director of the company -- the participants of the
14 general assembly said that for the day-to-day management
15 of the company it was okay, but that the Comité
16 d'initiative would have to continue all that had been
17 assigned to it previously. That is how the meeting of
18 the first general assembly of the RTLM was conducted.

19
20 To be very clear, this means that the board of directors
21 was not set up, no. The board was not set up, because
22 of the legal problem that I just described.

23 Q. Was Mr. Phocas Habimana present at that general assembly
24 meeting?

25 A. Yes, Mr. Phocas Habimana was present, and when
26 Mr. Kabuga spoke about him and a number of shareholders
27 asked if that Phocas Habimana accepted to be the acting
28 manager before any decision that the board of directors
29 would take, he took the floor himself and accepted that
30 he was ready to manage the company. So as from the

1 11th, therefore, we had a manager of the company as far
2 as the day-to-day running was concerned. I was talking
3 about the 11th of July 1993.

4 Q. What happened about the delegation of signature of the
5 21st of May 1993 that had been given to you,
6 Mr. Barayagwiza and Mr. Félicien Kabuga?

7 A. Madam President, Your Honours, I have just said that the
8 general assembly meeting did not deal with this issue of
9 the board of directors in detail. The meeting clearly
10 stated that the Comité d'initiative had to continue to
11 cater for everything it did before, and that the only
12 new point was the presence of that gentleman, Mr. Phocas
13 Habimana, who sort of represented the general manager as
14 to the day-to-day management of the company. So the
15 delegation of authority or power continued to run, and
16 we hoped that during the next general assembly meeting
17 the members of the board of directors were going to be
18 elected and that those members were in turn going to
19 elect the general manager either by confirming
20 Mr. Phocas Habimana, or electing somebody else and
21 giving such a person the powers that were conferred by
22 the general assembly meeting.

23 Q. Did those who took the floor at the general assembly
24 meeting at any point in time publicly outline objectives
25 for RTLM, and what was the nature of these objectives?

26 A. When you talk about speakers at the meeting, I include
27 the members of the Comité d'initiative. The objectives,
28 in particular, of RTLM were said and repeated by
29 Mr. Félicien Kabuga, and each time that the members of
30 the Comité d'initiative spoke about the objectives of

1 RTLM, it was basically with reference to the objective
2 of the company which is found in Article 4. But
3 generally, those in attendance who took the floor
4 highlighted three main points. political discussion on
5 the important topical issue, such as the Arusha accords
6 which were avoided, and which were already being
7 criticized as concerns a number of protocol agreements
8 that had been signed previously. But the question of
9 power-sharing, it was said that it was necessary to have
10 a discussion on that issue.

11
12 Secondly yes, it was necessary for the company to make
13 more money, that the company should be a commercial
14 company. So it was decided that the commercialisation,
15 you need the television, radio, that that unit should be
16 a priority unit, and thirdly that it was the role of the
17 radio to broadcast to all its listeners the problems
18 which had resulted from the war, and that that radio was
19 going to be the countering factor on the RTLM radio.

20
21 So after the signing of the Arusha accords there was not
22 going to be a problem and so on, but the points which I
23 have just listed were the most important points that
24 were discussed.

25 Q. A number of witnesses came and said that during that
26 general assembly meeting speeches regarding Hutu power
27 or the mobilization of Hutus were delivered. Could you
28 state what your position is on this issue?

29 A. I would like to tell the Chamber that as a result of my
30 training as a historian, I do not like anachronisms.

1 Well, in July 1993, as I said earlier, the expression
2 "Hutu power" became fashionable on the 23rd of October
3 1993. It is, therefore, impossible that in July, and in
4 particular the 11th of July 1993, mention was made of
5 power.

6
7 No. It is true that to a small extent, not really,
8 because it was as from July 1993, following the RPF
9 attack and a little after June 1992 after the signature
10 by MDR, PL, with the RPF in Brussels. So as from
11 February and then June 1993, particularly MDR and PL in
12 particular, that they could find out who was supporting
13 RPF and who was against the RPF. But in July 1993 it
14 was not possible to talk about power, about Hutu power,
15 no.

16
17 So those who came and testified here only told lies,
18 their testimony was false.

19 Q. Without the use of the term "Hutu power" now, tell me,
20 amongst those who spoke, particularly on the -- were
21 there people who made speeches on the mobilization of
22 Hutus?

23 A. No, and as I just said, what was highlighted by some of
24 those who spoke was that the radio should counteract -- I
25 am talking about RTLM -- it should counter what the RPF
26 radio was saying. I am talking about Radio Muhabura,
27 and since it has become an unpleasant habit when you
28 talk about RPF, you are talking about Tutsis, and when
29 you talk about anything that is against the RPF it means
30 that you are mobilizing the Hutus. It would be

1 unfortunate to interpret things in that manner.

2

3 Madam President, Your Honours, what people insisted on
4 was that they should be able to counter RPF propaganda
5 which was launched and continued and pursued by Radio
6 Muhabura.

7 Q. At the end of this assembly meeting of the 11th of July
8 1993, can you, from your own point of view, describe the
9 operational structures of RTLM and Radio RTLM?

10 A. Yes, quite willingly, because I have that committed to
11 memory. The effective structure was as follows: You had
12 the general assembly of shareholders under which was the
13 Comité d'initiative chaired by Mr. Kabuga with Ignace I
14 cited before as secretary.

15

16 In addition to six members whom I think it is not
17 necessary to name, six to eight members, we made up what
18 was the Comité d'initiative. Below the Comité
19 d'initiative and in particular as from September, or
20 November 1993, there were three committees -- four
21 committees, I beg your pardon, who was working for the
22 Comité d'initiative, the legal committee, the committee
23 on techniques and programs, the committee on
24 sensitization and another committee which was set up
25 following the decision of the general assembly which
26 was, that we should increase the number of members in
27 the Comité d'initiative.

28

29 So the finance committee was set up which was chaired
30 and I have not given his name before, Silas Mucunkinko

1 which is spelled M-U-C-U-N-K-I-N-K-O.

2

3 So these committees report to the Comité d'initiative,
4 and above the Comité d'initiative is the general
5 management of the RTLM company, as far as the day-to-day
6 management is concerned, and this management had under
7 its authority the following services: administration and
8 finance, and broadcasting for the radio. Those were the
9 structures that were functioning effectively as from the
10 11th of July 1993 but which had more people as time went
11 on.

12 MR. BIJU-DUVAL: Madam President, to facilitate understanding
13 of Mr. Nahimana's statements, a document was prepared.
14 This document was prepared by Mr. Nahimana, the document
15 appears under the list of "Nouvelles Pieces" new
16 documents, new documents under number 20 and it is
17 entitled "the organizational chart of the RTLM,
18 structure of the RTLM." It mentions, on the one hand,
19 the structures which are provided for in the Statute,
20 some of which were never operational, and on the other
21 hand, provisional structures which actually existed and
22 were operational, and which appear with dashes. And I
23 would like that document to be placed before
24 Mr. Nahimana so that he can confirm that that indeed is
25 the document he prepared and it should be tendered as
26 Exhibit 1D148, and that will make it easier for the
27 position of Mr. Nahimana on the issue to be made clear.
28 (Pages 76 to 95 by Karlene Ruddock)

29

30

1 1545H

2 MS. MONASEBIAN: Madam President, if I may, before that is in
3 fact tendered.

4 MADAM PRESIDENT: Ms. Monasebian.

5 MS. MONASEBIAN: Thank you. Yes. So far, we've had two
6 previous organograms. Your Honours recall the one about
7 the university and the one about ORINFOR, neither of
8 which we objected to, and the reasons why we didn't
9 object to those is because we do find them to be
10 proficient and they were prepared by Mr. Nahimana. In
11 this instance we heard Mr. Nahimana a few minutes ago
12 say he has the whole structure committed to memory, and
13 if you look at this organogram, if it was indeed
14 prepared by him, as Mr. Biju-Duval testified to, it
15 says, "according to Exhibits 1D11 and P53". Now if this
16 is something Mr. Nahimana drew according to Exhibits
17 1D11 and P53, we have 1D11 and P53. They speak for
18 themselves and the witness should comment on those
19 dually admitted exhibits but not create an exhibit of an
20 exhibit. And so I don't think that this creation of
21 this so-called analysis of 1D11 and P53 is accurate. I
22 think it confuses matters, and I think the witness is in
23 a position saying he recalls this by heart, everything
24 about the structure, and he even started going through
25 it, and I have it in my notes, "general assembly".
26 Under that was "comité d'initiative". Under that was
27 "Kabuga and Ignace". He's gone through this whole
28 thing.

29
30 I think that not only is this leading, not only is this

1 misrepresentative of the two exhibits it purports to
 2 accurately describe, but certainly it can't be something
 3 he created other than from other derivative documents
 4 already exhibited, and this is not an appropriate
 5 instance for the witness to use that to lead him or to
 6 draw some legal conclusions about exhibits dually
 7 admitted. He should be given both of those exhibits and
 8 be permitted to comment on them. Thank you,
 9 Madam President.

10 MADAM PRESIDENT: Did you draw these documents, Mr. Nahimana?

11 THE ACCUSED NAHIMANA: Yes, Madam President. Indeed, as the
 12 Prosecutor says, I prepared this document and I could --

13 MADAM PRESIDENT: I just asked you if you drew these
 14 documents. That's all I want to know.

15 THE ACCUSED NAHIMANA: Yes, I did.

16 MADAM PRESIDENT: They will be admitted as 1D148. You have
 17 them in English and French, I see, Mr. Bijou-Duval. The
 18 French would be "A" and English "B".

19 (Exhibit No. 1D148 admitted)

20 BY MR. BIJU-DUVAL:

21 Q. Mr. Nahimana, I would like us to go through the period
 22 July 1993, 11 July 1993 to January 1994. As concerns
 23 the actual functioning of RTLM company and the RTLM
 24 radio, could you tell the Chamber what the effective
 25 role of the comité d'initiative was during that period?

26 A. The comité d'initiative continued to be responsible for
 27 the company's investments, and since the radio had just
 28 been launched and we had started with a not too strong
 29 radio station, the comité d'initiative, working through
 30 its committee on programs and techniques, tried to

1 improve on the transmitters, so much so that by the end
2 of 1993, the company had got a transmitter which was
3 powerful enough.

4
5 Secondly, this new equipment, and there were a number of
6 pieces of that equipment; the studio had to have more
7 equipment in addition to this transmitter. At the level
8 of the comité d'initiative, we also carried out
9 administrative steps with a view to the installation of
10 that equipment and, in particular, the relay
11 transmitter, where was this relay transmitter going to
12 be put so that the radio station would be able to
13 broadcast further? And the decisions of the comité
14 d'initiative itself or alone were not sufficient. They
15 needed the opinion of the political or the government
16 authorities, and since it was growing at the request of
17 Mr. Phocas and Mr. Gahigi and the accounting officer,
18 the company was faced with a shortage of manpower, and
19 so those of us in the comité d'initiative went on to the
20 next stage, that is, to increase the members of staff.

21
22 And it was in the course of the last few weeks of 1993
23 that we, first of all, gave the manager of the company
24 the green light to go ahead with recruitment. So he
25 called for candidates for recruitment towards the end of
26 1993. So those were basically the activities that were
27 carried out during that period.

28 Q. Now, personally, you, Mr. Nahimana, what was your role
29 within this RTLM structure during that period?

30 A. Madam President, Your Honours, during that period, I was

1 a member of the provisional board of directors, that is
2 the comité d'initiative. So I took part in all the
3 meetings. As long as I was in Rwanda, that I was not
4 abroad, I attended all the committees of the comité
5 d'initiative of the company. And I definitely chaired
6 the meeting of the committee on techniques and programs.
7 And, as I said, that committee which, as in the past,
8 has ordered equipment, was the committee which initiated
9 a more serious work or review of the programs schedule.
10 A small team of two journalists was set up and their
11 work ended towards February, if not March.

12
13 And something else that I did personally as
14 Ferdinand Nahimana, is that I continued to exercise the
15 delegation of power, authority that had been granted to
16 me since May 1993, so signing the cheques of the company
17 at the banks. Those were basically the activities I
18 carried out.

19 Q. What was the frequency of the meetings of the comité
20 d'initiative and where were they held?

21 A. Between July and end of November 1993, the frequency for
22 the comité d'initiative, the frequency of its meetings
23 were twice a month, and basically at the end of the
24 month. But after November 1993, up until the end of
25 March, it was mainly at the end of the month.

26 Q. What was the role of Mr. Phocas Habimana during that
27 period of time?

28 A. As any manager, any manager of a company, Mr. Habimana
29 dealt with the day-to-day running of the company,
30 personnel management and management of the company on a

1 day-to-day basis, yes.

2 Q. Why was this authorisation given to you,
3 Mr. Barayagwiza, and Habimana was not transferred to --
4 Phocas Habimana?

5 A. Because he was the director. Madam President,
6 Your Honours, I hope that I have been clear on this.
7 First of all, the comité d'initiative itself was a
8 temporary measure. It was confirmed; the structure was
9 confirmed twice already in its mandate, and on the 11th
10 of July, when the mandate was extended again, the full
11 membership of the committee was involved. First of all,
12 I must say that Mr. Barayagwiza asked that specific
13 question, in fact, during one of the meetings of the
14 comité d'initiative or steering committee, and we were
15 all unanimous in saying -- maybe I'm wrong but I think
16 in articles 12 or 13 of the articles of association,
17 what we were in fact doing, it is true, the role was
18 indeed the role of the management board but the
19 temporary committee did not give -- did not wish to give
20 the authorisation, the authority or delegation to
21 another individual who was provisional in his capacity,
22 his capacity as director.

23
24 Within the comité d'initiative, we had a banker, in
25 other words, Ephrem Nkezabera from the commercial bank
26 of Rwanda, and he was managing one of our accounts, in
27 fact, one of the most important of our accounts. Now,
28 we said that we cannot at bank level accept a
29 provisional structure which delegates, once again, its
30 powers to someone who is holding a temporary position.

1 Maybe there was no -- nothing wrong in our continuing to
2 carry on the job. And that's why we didn't look into
3 this delegation. I think it was a matter of simplifying
4 things.

5
6 And after explanations were provided by Mr. Ephrem,
7 personally, I didn't see that that provided any
8 difficulty at all. I was asked to work and I did my
9 job. I didn't think about whether it was useful to
10 fight over this or that because we were hoping that, at
11 the end of the year, the management board was going to
12 be set up, established, and that it was the one which
13 would delegate statutory powers to a director who was
14 statutorily elected or appointed.

15 Q. With regard to the operations for which you use your
16 signatory powers, together with Mr. Jean Bosco
17 Barayagwiza and Mr. Kabuga, who decided on the
18 commitments which were to be made?

19 A. I said that we had the habit of meeting at the end of
20 the month. Generally, Mr. Phocas, who in fact regularly
21 attended our meetings and particularly when it was a
22 matter of seeking funds, he would make -- he would
23 present the documents to Mr. Kabuga in calculating
24 salaries for the employees. So the accountant would
25 prepare the files containing the expenditures for the
26 coming month and salaries. For those who had bank
27 accounts, cheques were prepared for them. Those who
28 were to be paid in cash had a list drawn up for them.
29 So all these documents justified, if you will, the total
30 amount which would appear on a cheque, and that cheque

1 was signed by two of the signatories.

2

3 Now, before the signing was done, we would discuss the
4 document within the comité d'initiative and
5 Mr. Ephrem Nkezabera, who on the 21st of May 1993, we
6 had wanted to appoint because he was well-versed with
7 financial management and it was also supported by the
8 fact that he was a banker and was managing one of our
9 accounts, but during the meeting of the comité
10 d'initiative, he was the one who said that this was,
11 yes, correct, this was justified and so on and so forth;
12 so you can sign. So you will understand that, as a
13 historian that I am, banking is not one of my fortes,
14 but I went along with what he said and we signed, and
15 that's how we carried it out.

16 Q. You said that there was an assembly meeting which was
17 supposed to be held in December 1993. Did it actually
18 take place, an assembly of shareholders?

19 A. Unfortunately, Madam President, Your Honours, it had
20 been intended that the assembly take place during the
21 last week of December 1993. It happened that this was a
22 peculiar kind of political period of time with regard to
23 security, especially in Kigali, if not Rwanda in
24 general. But I am talking about Kigali in particular:
25 the security situation was not healthy, it wasn't calm,
26 so much so that contacts which had been made before
27 Christmas, before that period of time, determined who
28 was the chairman who attended the comité d'initiative,
29 and the comité d'initiative was unable to call a meeting
30 of the shareholders. So much so that we said that we

1 were going to hold the assembly of the shareholders
2 after the institutions from the Arusha Accords were set
3 up.

4
5 This is what delayed our action and which led to the
6 fact that this assembly which had been intended to take
7 place in July was postponed and postponed over and over
8 because the political institutions had not been set up.
9 We had hoped that once these institutions were in place,
10 we would have the necessary calm to enable such
11 assemblies of more than 1,000 people to be held in the
12 capital.

13 Q. During this period of time, who organised the work of
14 the journalists?

15 A. Obviously, this was the editor in chief,
16 Mr. Gaspard Gahigi.

17 Q. During this period of time, who had disciplinary control
18 of the personnel, over the staff?

19 A. As in all companies, at the first level it would be the
20 head of section and for French, there was Mbilizi. Over
21 him there was the editor in chief. Above the person on
22 a day-to-day level was Mr. Phocas, who was a director
23 from July 1993.

24 Q. During this period of time, did you deal with the editor
25 in chief or the journalists themselves or even the
26 director, Phocas Habimana, in order to have an influence
27 on the editorial policy?

28 A. Madam President, on this issue, for us to be quite
29 clear, I need to say that Phocas Habimana is someone
30 that I knew, Gaspard Gahigi, and so on and so forth.

1 These are people who I met. I met them socially
2 speaking. I discussed with them. I discussed politics
3 with them, and why not discuss the company? Yes. That
4 kind of discussion I did indeed have with them, as I
5 could have had with any other individual. But
6 specifically, in relation to the editorial policy,
7 neither myself as an individual or any individual, for
8 that matter, could have an influence over the activities
9 of the editor in chief, nor the journalists, and even of
10 Phocas Habimana. Because, first of all, if by editorial
11 policy one understands that we are referring to how
12 broadcasts are planned within the order of respecting
13 the programming line which I referred to a moment ago,
14 that was a kind of a decision which would come from
15 management and would go right up to the comité
16 d'initiative so that the latter can review its program
17 policy, if need be. So what I know personally, not only
18 about the RTLM, the radio station, even Radio Rwanda,
19 you don't mess around with an editorial policy anytime
20 you want. So, no, Ferdinand Nahimana, I never
21 intervened in order to influence the editorial policy of
22 the RTLM radio station.

23 Q. Now let's deal with the broadcasts themselves. Did you
24 listen regularly to Radio RTLM during this period of
25 time?

26 A. Yes, I would say that I listened to it more than any
27 other listener because I was interested. This was a
28 radio station which belonged to our company, RTLM
29 Company Limited, and I had an important role as a member
30 of the comité d'initiative in that company. So I

1 listened with a great deal of interest to the broadcasts
2 of Radio RTLM.

3
4 However, contrary to what has been said, for instance,
5 by Alison Des Forges, who gave the impression that she
6 knew me -- she does know me, in fact, and knew me before
7 1994 -- but she didn't seem to know that I was a
8 full-time lecturer at the National University of Rwanda
9 in 1992. I had my duties as a lecturer and that took up
10 a lot of my time, kept me busy. However, I didn't stop
11 writing in the meantime.

12
13 To be more specific, I would say that the broadcasts
14 that I claimed to have listened to closely would be
15 those which came on either on a Sunday -- on Sunday, in
16 fact, programs were interesting because there were many
17 discussions, or in the evenings, especially when I was
18 in Kigali, and even in Ruhengeri after February 1994,
19 after the installation of the relay transmitter for high
20 altitudes. If I was in Ruhengeri, yes, I would listen
21 to the RTLM radio especially -- I repeat -- especially
22 in the evenings and on Sundays.

23 Q. During this period of time from July to December 1993,
24 what would be your opinion of the broadcasts?

25 THE ENGLISH INTERPRETER: The witness didn't hear the question
26 and is asking a repetition of the same.

27 BY MR. BIJU-DUVAL:

28 Q. From July 1993 to December 1993, what would your
29 judgment be of the RTLM broadcasts that you heard?

30 A. I have two feelings about the broadcasts because, first

1 of all, you would have discussions, debates,
2 commercials, and so on and so forth. Yes, in that
3 category, the broadcasts had their place in the area of
4 broadcasting in general. Now, when it comes to
5 day-to-day practice, what I was happy about were mainly
6 the discussions or debates, debates during which there
7 was no subject considered to be taboo, whether you are
8 talking about ethnicity, Hutu or Tutsi, power sharing,
9 some articles of the Arusha Accords which were not
10 completely acceptable in the minds of most people; all
11 these issues were discussed. And I liked this kind of
12 discussion and I found that, contrary to what was
13 happening on national radio, matters were discussed,
14 things were put on the table.

15
16 And something which I also liked in these debates is
17 that this radio station contacted different people,
18 especially when you're dealing with political conflict,
19 for instance. I am not going to mention all the
20 broadcasts, but you had, for instance, people, leaders
21 such as Lando. You had even foreigners such as people
22 from Burundi who came following the assassination of the
23 President Melchior Ndadaye.

24
25 Now, the death, the assassination of the president of
26 Burundi, was a catalyst, not only -- a catalyst which
27 raised a lot of discussion, and Madam President,
28 Your Honours, it was from that point in time that we
29 heard in depth discussions of the ethnic issue. And I
30 said that my judgment was somewhat divided because I say

1 this was basically because of the tension that arose
2 immediately after what happened in Burundi, and the
3 propaganda-prone language became difficult to accept
4 sometimes for some people, for some of the people who
5 were involved. I don't know whether I expressed myself
6 properly.

7
8 The involvement of some persons who used RTLM radio
9 broadcasts became somewhat untenable because some went
10 as far as taking what is happening -- what was happening
11 in Burundi and said that it was possible, come what may,
12 that that was going to happen. I remember that on the
13 20th of November, I was upset and I said that this
14 should be a lesson, what was happening in Burundi should
15 be a lesson and people should be aware of this warning.

16
17 Now, what I intended was that I agreed with the
18 discussions that were taking place on the radio, but it
19 must be said that with these events which took place in
20 Burundi, there was a downturn.

21
22 Another important aspect is the relationship between the
23 Rwandan people in the country and the RPF. The RPF and
24 the Rwanda people had just signed the Arusha Accords,
25 but what did one see happening? There was increased
26 insecurity after August of 1993. Now, on Radio RTLM,
27 contrary to what was happening on Radio Rwanda, where
28 silence was golden, at the RTLM, the violent activities
29 which the regionalists believed were due to the RPF were
30 denounced and, once again, we did refer to the violence

1 carried out by the RPF, and I didn't see who had done
2 the killing but I saw the casualties. People who were
3 in the area said that, "We knew it was the RPF and we
4 even know who it was". And this kind of thing was put
5 on Radio RTLM by journalists. And this kind of
6 discussion made it that a part of Rwandan population,
7 that category containing Hutus and Tutsis, even
8 foreigners, thought that the RTLM was an extremist radio
9 station and the radio station belonging to the Hutu
10 Power. That was in fact said: a radio station which
11 advocated Hutuism.

12
13 And for me, and this is where my difference lies, when I
14 was at the ORINFOR, and even before -- before I became
15 director of ORINFOR, I had always gone for two-sided
16 discussions, discussions which are framed in such a way
17 that it contributes to the education of the citizens in
18 regard to what was happening or the problems facing the
19 country.

20 Q. I'll try and ask you to be a bit shorter in your
21 answers, but thank you nonetheless for the answers
22 you've given us so far. Did you personally hear or
23 place any blame on the Hutu peoples of -- on the Tutsis
24 at the time?

25 A. During this period, July 1993 and so on, maybe this
26 escaped me. I didn't hear all the broadcasts, but I
27 didn't hear any such broadcasts, and maybe something
28 which I haven't said is that in the comité d'initiative,
29 we also had an analysis of the other broadcasts that
30 came out, not only those of the RTLM.

1 Q. Over the period of time which goes up to 6th April 1994,
2 did you hear any such broadcasts?

3 A. Yes, I did hear a broadcast which, fortunately, amongst
4 the members of the comité d'initiative, there were at
5 least three who heard the same broadcast. It wasn't
6 referring to the killing of the Tutsis, and so on and so
7 forth, but there was a gentleman who had left Kigali and
8 was going to Cyangugu, a journalist had said that this
9 gentleman had Inkotanyis on his vehicle. I think this
10 was in March or February 1994. And I recall that
11 Kabuga, during a meeting of the comité d'initiative,
12 insisted that Mr. Kantano, Mr. Hitimana, Mr. Gahigi and
13 Phocas be present, and we discussed this matter and we
14 required that this kind of broadcast, especially in this
15 period of time where it was felt that we were seeing
16 that the institutions were not being set up and we were
17 envisaging a possible attack, we said that this kind of
18 broadcast should not be accepted. It wasn't even a
19 broadcast: it's a comment during which what was known as
20 a free discussion, in journalistic language. And within
21 the comité d'initiative, we required that Mr. Phocas and
22 Mr. Gahigi ensure, if that hadn't already been done,
23 that the gentleman who had dealt with that broadcast was
24 found.

25
26 Fortunately, it would seem that Gahigi hadn't shared
27 this with Mr. Phocas but he said that we have a
28 complaint about the person who was involved, a written
29 complaint. Personally, I didn't hear the answer but, in
30 any case, when I found -- when I looked for the

1 information later on, I got to learn that the -- the
2 gentleman in question had had the right of reply in
3 Kinyarwanda and in French. This is an example of what I
4 can say I was a witness to during the first part of the
5 broadcasts.

6 Q. Did you participate in meetings held at the ministry of
7 information concerning RTLM broadcasts?

8 A. There were two meetings at the ministry of information,
9 but let's not confuse matters here. The first meeting,
10 that of November 1993, did not come on RTLM radio and it
11 was the second, at least, its calling or the invitation
12 was given to Mr. Kabuga.

13 Q. Did you attend the November '93 meeting?

14 A. Yes.

15 Q. What date?

16 A. It was the 26th November 1993.

17 Q. Who asked you to participate in that meeting? Who asked
18 you to attend that meeting?

19 A. Mr. Kabuga received an information and he called the
20 comité d'initiative, during whose meeting he asked
21 Mr. Barayagwiza to accompany him because this was the
22 first meeting that the RTLM Company Limited was going to
23 have with the minister of information and he thought
24 that maybe there would be -- yes, according to the
25 agenda, there was mention made of the respect of
26 convention or agreements. So, yes, he was explaining
27 and we agreed, we, the members of the comité
28 d'initiative. I was aware of what was happening in the
29 ministry of information. I was from the interior, as it
30 were, and this is how I accompanied Mr. Kabuga to that

- 1 first meeting he had with the minister for information.
- 2 Q. Who else attended this meeting especially on behalf of
- 3 the RPF -- I'm sorry, RTLM?
- 4 A. Above Mr. Kabuga, there was Jean Bosco Barayagwiza.
- 5 There was Phocas who was there in the event that matters
- 6 pertaining to broadcasting were asked and he would be
- 7 able to respond and assist the comité d'initiative
- 8 represented by these three individuals. So we were four
- 9 in number.
- 10 Q. At any point during the meeting, were you presented or
- 11 introduced as the director of RTLM?
- 12 A. Who would have introduced me as director of RTLM,
- 13 whereas since for five, six months prior to that the
- 14 company had its own director, Mr. Phocas? No, no, not
- 15 at all. I must say that during many meetings, they were
- 16 happy to refer to me as a professor, that's all.
- 17 Q. Did you become aware and, if so, when, of a report or
- 18 minutes of that meeting?
- 19 A. The first time that I became aware of those minutes was
- 20 when I was in prison here in Arusha.
- 21 Q. Did you read it?
- 22 A. Yes, I did.
- 23 Q. As for words attributed to you in those minutes, do they
- 24 seem to you to correspond to what you actually said?
- 25 A. If my memory serves me right, because there were several
- 26 texts, and I think they were discussed here, but let's
- 27 say that, generally speaking, yes. With regard to the
- 28 meeting on the 26th, yes, indeed, the minutes were
- 29 faithful to what I said. It was a good summary.
- 30 Q. Witness GO stated that during that meeting you stated

1 that members of the ministry of information were Ibyitso
2 and that they had fallen into the trap of the Inkotanyi,
3 and that they should recognise the fact that Tutsis were
4 a scourge. And what would you say regarding this
5 testimony from Witness GO?

6 A. I say my memory is a bit faint. Did he say all this in
7 relation to the meeting of the 6th November 1993? Well,
8 at any rate, whether he said this regarding the meeting
9 of the 26th November 1993 or concerning the other
10 meeting, that of the 10th of February, 1994, in which I
11 attended also, such words cannot have come from my
12 mouth; more so in front of a minister. But these were
13 insults. Why would I be insulting anyone? And,
14 furthermore, we are in November. If I did say such
15 words in the presence of Mr. Rucogoza, a close friend of
16 Mr. Twagiramungu, I don't see that that would have been
17 a good thing for me to do because he supported my
18 appointment as minister in his government.

19 Q. Thank you. You spoke of recruitment procedure which
20 started in December 1993, within the RTLM. Can you tell
21 us how this procedure for recruitment was carried out
22 and who was its initiator?

23 A. Madam President, Your Honours, I know of the beginning
24 and the end of this process, sir. At the beginning,
25 this was the request of Mr. Phocas Habimana, who asked
26 for the increase in the number of employees, be it for
27 the administration and accounting, and even the night
28 watchman and radio broadcasting personnel. We discussed
29 about this, and in the comité d'initiative, we agreed on
30 a certain number of posts. And as for the rest, it was

1 handled by Mr. Phocas.

2

3 I came back to this issue when Mr. Phocas, in the
4 company of Mr. Gahigi and the chief accountant of the
5 company, came to the comité d'initiative, and this was
6 in January. They came to present the file of persons
7 who were selected. They were coming to explain why they
8 supported such a list, and this was done to the members
9 of the comité d'initiative. Now, as for the procedure,
10 I would imagine -- and here, once again, I didn't follow
11 this daily but I believe that Mr. Gahigi and
12 Mr. Kantano, who were former employees of ORINFOR, and
13 who were professionals in the area of information, they
14 must have carried out tests or interviewed regularly.
15 Well, they said such and such a person has passed the
16 test or the interview. But apart from those two points
17 from the beginning and the end, I cannot testify as to
18 what happened with regard to the recruitment itself of
19 these individuals except by hearsay. I can tell you
20 what I heard, but with regard to my direct testimony,
21 this is all I can say.

22 THE ENGLISH INTERPRETER: Madam President, it would seem that
23 the interpreter made a mistake in the previous answer.
24 Could the witness be requested to repeat the answer that
25 he gave prior to this one which has just been concluded,
26 dealing with Rucogoza, who was the minister of
27 information?

28

29 Counsel has moved on to another question.

30 MADAM PRESIDENT: Mr. Biju-Duval, would you just hold on a

1 second?

2

3 Mr. Nahimana, we didn't get the translation properly of
4 the last part of your earlier response. You recall you
5 were saying that you would not say these things in the
6 presence of Mr. Rucogoza, who was a close friend of the
7 Prime Minister, Mr. Twagiramungu. Do you recall what
8 you said? Can you repeat what you said there before.

9 THE ACCUSED NAHIMANA: Yes, I do remember what I said,
10 Madam President, Your Honours. I did say that, had I
11 said such words in front of Mr. Rucogoza, who was a
12 friend and a close political ally of Mr. Twagiramungu,
13 the latter, that is, Mr. Twagiramungu, would have had
14 reason not to accept my appointment as a minister
15 designate in the government -- in the broad-based
16 transitional government.

17 MADAM PRESIDENT: Thank you.

18 BY MR. BIJU-DUVAL:

19 Q. Mr. Nahimana, had you met Mr. Georges Ruggiu before
20 January 1994?

21 A. Yes. Obviously, yes. I met Mr. Ruggiu in May 1993 in
22 Belgium. I then met Mr. Ruggiu in -- either in July or
23 August 1993, at my house. He came with a friend,
24 Hatigekimana. Hatigekimana is spelled H-A-T-E-G-I --
25 not "I" but "E", K-I-M-A-N-A, Hategekimana. They came
26 to my house one evening. Hategekimana was the president
27 of the court of first instance in Kigali. They came to
28 my house late in the evening or, rather, in the evening.
29 And on their insistence, I received them. My wife was
30 away on business in Europe. And those are the two

1 meetings that I had with Mr. Georges Ruggiu before the
2 month of January 1994.

3 Q. During those meetings, was his recruitment to RTLM
4 discussed?

5 A. In May 1993, I met him at a conference which I was
6 leading with Mr. Joseph Mushyandi regarding the report
7 of the international commission on human rights
8 violations -- a report on human rights violations
9 prepared by an international commission. I met him in
10 the conference hall. But we did not talk about RTLM.
11 In July or August of 1993, had he come for that reason?
12 Because I found out that he was looking for a job,
13 through his statements, through his testimony before
14 this Trial Chamber. However, I'm just making a
15 supposition. Maybe because firstly I refused to receive
16 them and then I received them in a cool manner. Maybe
17 they preferred talking about other things, other than
18 RTLM. In any event, no, I did not speak about the RTLM
19 with Mr. Georges Ruggiu before January 1994.

20 Q. When did you meet or see Georges Ruggiu as from January
21 1994?

22 A. I have to tell you that I do not remember the date well
23 but I know that it was after the meeting of the board of
24 directors which gave a green light to the recruitment of
25 Mr. Phocas. In any event, it was during the second half
26 of January 1994.

27 Q. What was the occasion of that meeting and where did it
28 take place?

29 A. I told you that we held meetings. Often, it was the end
30 of the month and, actually, I'm wondering whether it was

1 not on the occasion of one of the meetings, otherwise --
2 because I happened to meet Mr. Phocas when I passed near
3 the RTLM, and at the RTLM building. So,
4 Madam President, Your Honours, I cannot really say with
5 certainty when I first met RTLM -- at RTLM
6 Mr. Georges Ruggiu. What I have in mind now is that I
7 must have met him inside the RTLM building, but how and
8 on what date, that is something that I am not sure of.

9 Q. Between that meeting, after the recruitment and the
10 previous meeting and the meeting of July 1993, did you
11 directly or indirectly intervene in his recruitment?

12 A. No, no, never. If one is to talk about my intervention
13 in recruitment, then it is at the level of the decision
14 that I took with my colleagues at the comité
15 d'initiative, because when Mr. Phocas brought to us the
16 file at the beginning of January, Georges Ruggiu's name
17 was there. So I participated in giving the green light
18 to the recruitment of Mr. Georges Ruggiu. So in that
19 manner, in that meaning -- in that manner, I did
20 intervene.

21 Q. But did you receive a call from President Habyarimana
22 regarding Mr. Georges Ruggiu? Could you be brief?

23 A. If I have to be brief, I'll answer "no". With regard to
24 Georges Ruggiu, I did not receive any call from the
25 president of the republic. Moreover, I have to say
26 that, after my departure from ORINFOR, the president no
27 longer called me.

28 Q. Did you at any point in time sign a letter of
29 appointment or a document which could be interpreted as
30 being a letter of appointment concerning

1 Mr. Georges Ruggiu?

2 A. Madam President, Your Honours, I remember this confused
3 discussion around -- concerning this letter. Before we
4 hired Mr. Phocas as a director, the person signing
5 letters of appointment did this in relation to Gahigi,
6 Kantano, Habimana, Hitimana, was the chairman of the
7 board of directors, chairman of the comité d'initiative,
8 Mr. Félicien Kabuga.

9
10 Generally, I can't really see this happening. Phocas
11 was there so I can't see how Ferdinand Nahimana, who is
12 being presented by propaganda as being the number one
13 man in RTLM or director -- if not director of RTLM, as
14 an influential man in RTLM. I was a member just like
15 the other members in the three-man committee. If
16 Mr. Phocas was not there, it was the chairman of the
17 comité d'initiative who would have signed such a letter
18 of appointment, so how could I have signed the letter of
19 appointment?

20
21 If you allow me to conclude, I would like to say that
22 before accusing someone, you should have some logic
23 which is at least close to the truth, and the truth is
24 that if he had said that it was Kabuga who had signed
25 instead of Mr. Phocas, then that would have been
26 something which makes sense but, otherwise, the answer
27 is no.

28 Q. During the period from -- or "rather" the period
29 previous to the 6th of April 1994, how often did you
30 visit the RTLM over time? Starting from July 1993 to

1 the beginning of April 1994, was there any change?

2 A. No, I did not increase my visits, the frequency of the

3 visits; maybe less. Firstly, between January and April,

4 that was a period where I did my university work. That

5 was my second term, and like elsewhere in the world,

6 this second term is one of the busiest terms at

7 university.

8

9 Secondly, it was a political period as well. When I was

10 not at the university, I dealt with politics with my

11 colleagues of MRND. The Prime Minister would call us to

12 the inauguration ceremony, which may be -- sometimes

13 would be cancelled and sometimes we would be told to

14 come the following day. So I went very few times. In

15 fact, I can't even give you a general -- specific -- the

16 specific times of frequency of the visits I paid there.

17 But I did go there when there were meetings of the

18 comité d'initiative, especially in order to sign

19 financial documents. But otherwise, I went there less

20 and less, much less, between January, beginning of

21 January and the 6th of April 1994.

22 (Pages 96 to 118 by Karen Holm)

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1 1645H

2 BY MR. BIJU-DUVAL:

3 Q. In the period prior to the 6th of April, if we are to
4 leave aside your participation in the meetings of the
5 comité d l'initiative, the signing of financial documents
6 within the authority delegated to you, as we have seen
7 earlier, what activities did you carry out in relation
8 to the RTLM? Were there other activities?

9 A. An important activity, which I mentioned I believe a few
10 hours ago, was the preparation of the new programme
11 schedule, because with the installation of the
12 transmitter on Mt. Muhe the area covered by our radio
13 became much bigger and the area -- the number of
14 listeners also became bigger and, here again, the comité
15 d l'initiative had to increase, and in order to make you
16 understand the programme schedule, we had to increase
17 the number of hours; instead of starting, let's say,
18 from 6 to 8 and go up to 8 we wanted to go from 6 to 10
19 and then from midday to 18 hours, and then take a short
20 rest and then I don't remember the exact times, but
21 maybe 7 p.m. up to 10 p.m.

22
23 In any case, my committee was to draw up a proposal.
24 Instead of all of us looking at one document, we
25 entrusted the document to a technician, a radio
26 technician and he, Mr. Gahigi, was already working at
27 something at the RTLM. And one Mr. Fredward (phonetic)
28 Ntawulikura, N-T-A-W-U-L-I-K-U-R-A and, if my memory
29 serves me well, I believe that the document was
30 submitted Ephram (unintelligible) to the office of

1 committee de initiative towards the end of the first
2 half of the month of March 1994. So these activities,
3 as apart from the other activities that you have
4 mentioned, but this was the bulk of the authority of my
5 committee.

6 MR. BIJU-DUVAL: Madam President, I'd like us to give to
7 Mr. Nahimana the document on No. 21 on the list of new
8 exhibits. This is a document whose heading is "The
9 Working Document on the Modalities and Re-structuring of
10 the Programme Schedule of the RTLM."

11 BY MR. BIJU-DUVAL:

12 Q. I'd like Mr. Nahimana to tell us whether he's familiar
13 with this document.

14 A. Yes, this is the document that I was talking about.

15 Q. Was the decision of the initiative committee taken with
16 regard to this issue?

17 A. Yes, of course, as I said, the comité d l'initative also
18 worked with the view of the next general assembly,
19 bearing in mind the next general assembly. After the
20 25th of March -- no, before, I believe, the 25th of
21 March. On the 25th of March there was the postponed
22 inauguration. In any case, it was on a Friday before
23 the 25th of the month of March; otherwise it should have
24 been on the evening of the 25th of March that we
25 discussed this document and we made amendments to it,
26 and we asked Mr. Phocas to have this document typed at
27 the secretariat of the RTLM and that document would be
28 then submitted to the general assembly. I beg your
29 pardon, not to the general assembly but rather to the
30 board of directors, which would be elected by the

1 general assembly or shareholders.

2 MR. BIJU-DUVAL: Madam President, I would request this
3 document be tendered into evidence as 1D149, 1D149.

4 MR. PRESIDENT: 1D149.

5 (Exhibit No. 1D149 admitted)

6 MR. BIJU-DUVAL:

7 Q. In February 1994 did you participate in a meeting that
8 was held at the Ministry of Information?

9 A. Yes, on the 10th of February 1994 I, once again,
10 attended a meeting that brought together people from
11 information and people from the RTLM Limited company.

12 Q. Who invited you to that meeting?

13 A. It was Mr. Kabuga who personally telephoned me and asked
14 me to accompany him, to the ministry. So I accompanied
15 him and when I got there I met Mr. Barayagwiza and
16 Mr. Phocas and Mrs. Bemeriki. Contrary to what had
17 happened on the 26th of November, 1993, according to
18 Mr. Kabuga he had not received a written invitation from
19 the minister; the minister had phoned him and he, in
20 turn, phoned us.

21 Q. Why did Mr. Kabuga ask you to attend that meeting?

22 A. He is the one who can answer that question. But I
23 imagine the reason is that I had already attended the
24 first meeting, so maybe he thought this was an extension
25 of the first meeting. He, too, did not know the
26 objective of the meeting. In fact, before the meeting
27 there was a lot of discussion regarding the meeting.
28 All I know is that he simply telephoned me and he told
29 me that the minister wanted me to go to the meeting, so
30 he wanted me to accompany him. He did not even tell me

1 who was going to accompany him there. I met him at the
2 Ministry of Information.

3 Q. Who participated in that meeting from the RTLM?

4 A. From RTLM there was Mr. Félicien Kabuga; there was
5 Mr. Jean Bosco Barayagwiza; there was Mr. Phocas
6 Habimana; there was Mrs. Valérie Bemeriki, and myself.

7 Q. How do you explain the presence of an ordinary
8 journalist, Mrs. Bemeriki?

9 A. This is what happened. When I got there the minister
10 sent his directeur u cabinet or the permanent secretary,
11 a certain P. Nzeyinana, Nzeyinana is spelled
12 N-Z-E-Y-I-N-A-N-A. He sent him, Nzeyinana, to tell us
13 that the item on the agenda, this agenda, was the
14 programmes of the RTLM regarding UNAMIR and the RPF in
15 relation to events which had taken place in a cellule
16 which was very near CND. The name of the cellule was
17 Gishushu, G-I-S-H-U-S-H-U, and that the minister -- the
18 ministry itself wanted an official position on the part
19 of the ministry, and the RTLM and the ministry had
20 invited quite a few journalists, without Phocas or
21 Mr. Kabuga or myself being aware they had invited. They
22 had telephoned Mr. Gahigi and asked him to send a
23 journalist to the meeting -- a journalist to the meeting
24 to cover the event, so there was a journalist from Radio
25 Rwanda. Basically there were journalists from twin
26 institutions, the RTLM, from Radio Rwanda. There were
27 also journalists from the television. There was Madam
28 Ellen from the print media. These were the journalists
29 that I was able to recognise. So we had a long
30 discussion with either the pierce (phonetic) or the

1 directeur u cabinet. And Kabuga,
2 Jean Bosco and myself said if you are talking about
3 programmes, then this is not the place for us. So
4 Mr. Phocas should remain here, and call Mr. Agis
5 (phonetic). So they discuss issues relating to
6 programmes.

7
8 The director went and met the minister and the minister,
9 himself came down to the conference hall and requested
10 us to remain there, because he said the issue to be
11 dealt with was important because it actually raised
12 matters concerning UNAMIR, and Madam Bemeriki was there
13 as a journalist. Kabuga had not been invited by aceda
14 (phonetic). He was invited by the minister; he was
15 invited by the minister to cover the event, and the
16 minister said that the journalists would participate in
17 the beginning of the meeting and we would call them back
18 again after the closure of the meeting.

19 Q. Could you simply and rapidly tell us the various stages
20 of that meeting? You mentioned the presence of
21 journalists, were there a number of stages? Was there
22 an open session or a closed session? Can you just tell
23 us the various stages of that meeting at the Ministry of
24 Information?

25 A. I'll do that rapidly. First of all, after our
26 discussion with the minister -- and finally we decided
27 to stay; we had the opening ceremony, during which the
28 minister delivered his opening speech and Mr. Kabuga
29 responded. Thereafter, the journalists were requested
30 to leave and only officials of the RTLM company, the

1 director and officials of the ministry, should remain,
2 and since we had had a problem with the meeting of
3 November 26 we asked the minister to accept that Madam
4 Bemeriki should stay back and play or act as a secretary
5 for the meeting.

6
7 Secondly, Mr. Phocas expressed himself in very strong
8 terms and said that if it were a Gishushu problem,
9 Phocas was in no position to talk. Kabuga would not
10 talk. Barayagwiza would not either. I wouldn't either.
11 Only a resource person who had covered the event, Ruggiu
12 and Madam Bemeriki, and that in those two capacities
13 Mrs. Bemeriki had to stay. So in the final analysis she
14 stayed. And we discussed this Gishushu issue. I will
15 not get into the details because I know there were
16 exhibits and that -- but there was a demonstration,
17 which had ended tragically in the sense that the RPF
18 soldiers fired into the crowd and that subsequently
19 UNAMIR stated that there were no gunshots and that RTLM,
20 in its coverage of the event, talked about RPF actions
21 and denied what UNAMIR said right to mentioning the
22 casualties at the hospital.

23
24 Now, Madam President, Your Honours, it was when
25 Mrs. Bemeriki took the floor that the problem was
26 resolved, because she gave a minute-by-minute account of
27 what happened. And, thereafter, the minister said,
28 Mr. General Manager and your workers, the report that
29 you gave me was incorrect. So I am going to contact
30 UNAMIR for an explanation and the meeting ended that

1 way.

2 Q. Now, at any point in time, in the course of that
3 meeting, whether it was in open or closed session, were
4 you introduced as director of RTLM or manager of RTLM?

5 A. No. The minister knew me very well, and when Phocas
6 intervened, using strong terms, as I said, he was saying
7 that he could not be responsible alone for the
8 programme. So the director was known, so why could I
9 have been introduced as a director? The minister knew
10 me very well.

11
12 Let me add something again, Minister Rucogoza, I studied
13 for seven years in the seminary with him. I was
14 ministry designate in the (unintelligible) government
15 with him, so he could not be mistaken. And, again, you
16 see to what extent lies can go.

17 Q. Mr. Nahimana, Witness GO alleged that you said during
18 the meeting that the minister had become a perfect
19 Inyenzi, that you expressed yourself in terms hostile to
20 the Arusha Accords and you said discriminatory ethnic
21 descriptions against the Tutsi. What do you have to say
22 about those allegations?

23 A. Madam President, I should state that during first
24 meeting of February 10th and contrary -- and perhaps I
25 might have forgotten to say that, contrary to what the
26 Prosecution tried to do by presenting a so-called
27 working document, the only issue which was discussed was
28 the Gishushu event. Besides, if you analyse the speech,
29 even if it's incomplete by the minister, he stresses
30 that and goes beyond to say that the agreements were

1 violated and so on. After Kabuga responded, he never
2 took the floor again. I did not speak in any capacity,
3 whatsoever. Those who spoke, for the most part, were
4 Mr. Phocas and Madam Bemmeriki and, once again, not only
5 was I not in a position to say that. I am a polite
6 person. There is no way I could have said that. And,
7 furthermore, I should say that this Gishushu issue was
8 more a technical issue than a political discussion that
9 a company would hold towards the public authorities. In
10 other words, I would have taken the floor, but that was
11 not the case.

12 Q. Now, did you, at any point in time whatsoever, take part
13 in one or more other meetings concerning the RTLM, but
14 generally bringing together members or Rwandan
15 government authorities and personalities involved with
16 the RTLM?

17 A. No.

18 MR. PRESIDENT: Are you moving on to a new area,
19 Mr. Biju-Duval? If you are we can stop now.

20 MR. BIJU-DUVAL: Just one other question on this issue so that
21 it can be perfectly clear.

22 BY MR. BIJU-DUVAL:

23 Q. For example, did you participate in a meeting of that
24 nature where Prosecutor Sanzawara (phonetic) was
25 present?

26 A. No.

27 MR. BIJU-DUVAL: Madam President, if you so wish, we may now
28 stop.

29 MR. PRESIDENT: How much longer would you be, Mr. Biju-Duval,
30 with your evidence-in-chief?

1 MR. BIJU-DUVAL: Madam President, my wish is to complete my
 2 examination at the end of tomorrow's morning and that is
 3 a wish which I hope you will grant.

4 MR. PRESIDENT: Thank you, Mr. Biju-Duval. We will adjourn
 5 now and resume at 9 a.m. tomorrow.

6 (Court recessed at 1708H)

7 (Pages 119 to 127 by R. Lear)

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C E R T I F I C A T E

We, Rex Lear, Karen Holm and Karlene Ruddock, Official Court Reporters for the International Criminal Tribunal for Rwanda, do hereby certify that the foregoing proceedings in the above-entitled causes were taken at the time and place as stated; that it was taken in shorthand (stenotype) and thereafter transcribed by computer under our supervision and control; that the foregoing pages contain a true and correct transcription of said proceedings to the best of our ability and understanding.

We further certify that we are not of counsel nor related to any of the parties to this cause and that we are in nowise interested in the result of said cause.

____ (pages 1-22, 43-75, 119-127)
Rex Lear

____ (pages 23-42, 96-118)
Karen Holm

____ (pages 76-95)
Karlene Ruddock