167R - 2001-74-7 26 - 1-2006 59960 - 58660) 599bis

TRIBUNAL PÉNAL INTERNATIONAL POUR LE RWANDA

CHAMBRE I

HONORABLE JUGE ERIK MØSE, PRÉSIDENT HONORABLE JUGE SERGEI ALEKSEEVICH EGOROV HONORABLE JUGE FLORENCE RITA ARREY

GREFFIER: M. ADAMA DIENG

DATE DE DÉPÔT: 26 JANVIER 2006

ICTR-2001-74-T

LE PROCUREUR

C.

FRANÇOIS KARERA

LISTE DES ADMISSIONS Article 73bis(b)(ii) des Règles de procédure et de preuve

LE PROCUREUR:
HASSAN BUBACAR JALLOW
STEPHEN RAPP
CHARLES ADEOGUN-PHILLIPS
MEMORY MAPOSA
PETER TAFAH
FLORIDA KABASINGA

LA DÉFENSE :
CARMELLE MARCHESSAULT
STEVEN KELLIHER
ALEXANDRE BERGEVIN
RITA FRANCIS

LISTE DES ADMISSIONS Article 73bis(b)(ii) des Règles de procédure et de preuve

Table des matières

- 1. Liste des admissions soumises par le Procureur le 16 novembre 2005
- 2. Réponse de la Défense soumise le 5 décembre 2005

Tel que convenu par les parties, les documents ci-joints constituent les seuls documents pouvant faire foi des faits admis par la Défense.

La Défense demande, par la présente, le retrait du dossier de la soi-disant liste des admissions des parties, laquelle fut déposée par le Procureur en annexe de son « *Pre-Trial Brief* » du 12 décembre 2005 aux pages 1593 à 1587 et le remplacement de cette liste par les documents de la Défense ci-annexés.

Fait à Arusha, le 26 janvier 2006

Me Carmelle Marchessault, conseil principal

Me Steven Kelliher, co-conseil

Me Alexandre Bergevin, assistant légal

Me Rita Francis, assistante légale



International Criminal Tribunal for Rwanda Tribunal Pénal International pour le Rwanda

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Office of The Prosecutor Bureau du Procureur

Arusha International Conference Centro
P.O.Box 6016, Arusha, Tanzania - B.P. 8016, Arusha, Tanzanie
Tel:+255 27 256 5329 or +1 212 963 2850 Fax: +255 27 2565464

THIS COMMUNICATION IS MADE WITHOUT PREJUDICE.

16 November 2005

Ms. Carmello Marchessault
Advocate, Mediator
Malo, Danscreau
Association d' avocats
500, Place d' Armes, Bureau 2100
Montreal, Quebec
H2Y 2W2
Canada

By Fax: +1 514 843 8104

Dear Ms. Marchessault.

Re: The Prosecutor v François Karera No: ICTR-2000-74-I Request to Admit Facts.

I write to you in connection with the above-mentioned matter and in that regard, have the pleasure of attaching herewith, the above-mentioned document.

To that end, I would be grateful if you could obtain your clients' instructions in that regard and revert to me at your earliest.

I thank you in anticipation of your kind assistance.

Yours sincerely

Mr. Charles Adoogun-Phillips

Senior Trial Attorney.



International Criminal Tribunal for Rwanda Tribunal Pénal International pour le Rwanda

Sent by:0

The PROSECUTOR

v.

François KARERA Case No. ICTR-2001-74-1

PROSECUTOR'S REQUEST TO ADMIT (Made under 73bis (b) (ii) of the Rules Procedure and Evidence)

Office of the Prosecutor
Charles ADEOGUN-PHILIPS Peter TAFAH Memory MAPOSA Florida KARASINGA

Defense Counsel Carmelle MARCHESSAULT

Pursuant to Rule 73 bis of the Rules of Procedure and Evidence, YOU ARE REQUESTED TO ADMIT, for purposes of these proceedings only, the truth of the statement set out herein below. For each statement to which partial admission or denial is made, please explain on a separate piece of paper the part of the statement which is partly admitted or denied, as the case may be.

ADMINISTRATION								
1.1 Between 1 April and 30 June 1994, Rwarda consisted of 11 prefectures, that is Butare, Byumba, Cyangugu, Gikongoro, Gisenyi, Gitarama, Kibungo, Kibuye, Kigali-Ville, Kigali-Rurand Ruhengeri.	al							
ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED								
1.2 Each prefecture was subdivided into communes.								
ADMITTED [] DENIED [ADMITTED/[] NEITHER ADMITTED [DENIED IN PART NOR DENIED]							
1.3 Each commune was subdivided into sarews								
ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED								
1.4 Each sectour was subdivided into cellules. ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED								
1.5 Nyanigenge commune was one of the communes in Kigali-Ville prefecture.								
ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED								
1.6 Kankenze commune was one of the communes in Kigali-Rural prefecture.								
ADMITTED DENIED ADMITTED NEITHER ADMITTED DENIED IN PART NOR DENIED]							
1.7 Rushashi Commune is one of the Communes in Kigali-Rural prefecture.								
ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED								
1.8 Rushashi is one of the secteurs in Rushashi Commune, Kigali-Rufal prefecture.								
ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED								
1.9 Nyamirambo secteur was one of the secteurs in Nyamigenge commune, Kigali-Ville.								
ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED								

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The Prosecutor v. Kurera, Case No. ICTR-2001-74-1

1.10 Ntarama secteur was one of the secteurs in Kanzenze commune, Kigali-Rural. ADMITTED 🔲 DENIED 🗌 ADMITTED/ 🗎 NEITHER ADMITTED 📋 DENTED IN PART NOR DENIED 1.11 Between 1 April and 30 June 1994, the Tursi, the Huru and the Twa were respectively identified as ethnic groups. ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED 1.12 Each prefecture was run by a Prefet/ Sous Prefet ADMITTED | DENIED | ADMITTED/ | NEITHER ADMITTED | DENIED IN PART NOR DENIED 1.13 The Prefer was appointed by the President of the Republic on the recommendation of the Minister of the Interior. ADMITTED | DENIED | ADMITTED/ | NEITHER ADMITTED DENIED IN PART NOR DENIED 1.14 As the administrator of the Prefecture, the Prefet was responsible for ensuring peace, public order and safety of people and property. ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED 1.15 In the discharge of his policing duties of maintaining peace and order, the Prefet had authority to request the intervention of the army and of the Gordanisme Nationale. ADMITTED [DENIED ADMITTED | NEITHER ADMITTED | DENIED IN PART NOR DENIED 1.16 The Prefet had hierarchical authority over all civil servants and all persons holding public office within the boundaries of the prefecture, including the longeromes and conseiller its section. ADMITTED DENIED ADMITTED/ II NEITHER ADMITTED II DENIED IN PART NOR DENIED 1.17 Each commune was nin by a Bourgmestre. ADMITTED | DENIED | ADMITTED/ | NEITHER ADMITTED | DENIED IN PART NOR DENIED 1.18 The bourgmestre was appointed by the President of the Republic on the recommendation of the Minister of Interior. ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED 1.19 The bourgmestre had authority over the civil servants posted in the commune and his policing duties also included maintenance of order and law enforcement. ADMITTED DENIED ADMITTED/ NEITHER ADMITTED [DENIED IN PART NOR DENIED

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The Prosecutor v. Karera, Case No. ICTR-2001-74-1

	1.20 During the events referred to in this indictment, the main political parties in Rwanda were the MRND (Mouvement Republican National pour la Demontie et le Development), the CDR (Coalition pour la Defense de la Republique), the MDR (Mouvement Demontique Republican), the PSD (Parti Social-Demonte) and the PL (Parti Liberal).							
	ADMITTED DENIED ADMITTED NEITHER ADMITTED DENIED IN PART NOR DENIED							
2.	HISTORICAL CONTEXT							
®	2.10n 6 April 1994, the plane carrying, among other passengers, the President of the Republic of Rwauda, Juvenal Habyarimana, was shot down on its approach to Kigali airport.							
	ADMITTED DENIED ADMITTED NEITHER ADMITTED DENIED IN PART NOR DENIED							
	2.2 By the morning of 7 April 1994 members of the military, security and other civilians had started with the aid of lists, arresting, confining and carrying out systematic assassinations of a number of political opponents of the Habyarimana government and Rwandese dignitaries with moderate or liberal political sentiments – both Hutu and Tutsi.							
	ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED							
	2.3 In the hours that followed the crash of President Habyarimana's plane, violence set in and the massacres began in Kigali-Ville and Kigali-Rural and in other prefectures in the country, marking the beginning of the genocide.							
	ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED							
	2.4 Roadblocks were set up at strategic points throughout Rwanda. At these roadblocks, the identity cards of anyone wishing to pass were checked and people identified as being Tutsi were killed.							
	ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED							
	2.5 A new government (the Interim Government), made up of persons of Hutu ethnicity was sworn in on 9 April 1994.							
	ADMITTED DENIED ADMITTED NEITHER ADMITTED DENIED NOR DENIED							
	2.6 During April, May and June 1994, some politicians at all levels, local and central government officials, in association with members of the Flutu militia, gendames, policemen and soldiers, actively participated in the massacres of the Tursi throughout Rwanda.							
	ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED NOR DENIED							
3. 1	FACTUAL ALLEGATIONS							
	3.1 During the events alloged to in the indictment there were some roadblocks in Kigali-Rural prefecture and in Kigali-Ville prefecture.							
	ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED							

3.2 Many Tutsi civilians were killed at these roadblocks.
ADMITTED DENIED ADMITTED DENIED NOR DENIED
3.3 During events referred to in the indistruent, the soldiers, communal police and civilian militiwere all armed.
ADMITTED DENIED ADMITTED NEITHER ADMITTED DENIED IN PART NOR DENIED
3.4 By 14 April 1994, many Tutsi civilians had sought refugee at Niarama Church and Ntarama Primary School in Numum secteur, Kankenze commune.
ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED
3.5 On 15 April 1994 the Tutsi refugees at Ntarama Church and Ntarama Primary School were attacked by armed nulitia, soldiers and members of the Presidential guard. The said attack left many Tutsi civilians dead.
ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED
3.6 The following state of affairs, among others, obtained in Rwanda between April and July 1994.
Genocide as defined in Article 2 (2)(a) of the Statute of the International Tribunal for Rwanda was committed.
ADMITTED DENIED ADMITTED NEITHER ADMITTED DENIED IN PART NOR DENIED
(a) There were mass killings of Tutsi men, women and children.
ADMITTED DENIED ADMITTED NEITHER ADMITTED DENIED IN PART NOR DENIED
(b) Serious bodily or mental harm was inflicted on a mass number of Tursi men, women and children.
ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED
3.7 The acts described above had the following features:
(a) They were directed against a civilian population.
ADMITTED DENIED ADMITTED NEITHER ADMITTED DENIED IN PART NOR DENIED
(b) They were committed on ethnic grounds.
ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED

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The Prosecutor v. Karera, Case No. ICTR-2001-74-1

	They were specifically directed at persons affiliated with the Tutsi ethnic group.							
	ADMITTED DENIED ADMITTED/ NEITHER DENIED DENIED IN PART NOR DENIED							
	(d) they were committed with the intent to destroy in whole or in part the Tursi group.							
	ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED							
	(e) they were part of a widespread or systematic attack.							
	ADMITTED DENIED ADMITTED NEITHER ADMITTED DENIED IN PART NOR DENIED							
4.	PARTICULARS OF THE ACCUSED FRANCOIS KARERA							
	4.1 Francois KARERA was born around 1938, Huro secteur, in Musasa commune, Kigali-Rural préfecture, Rwanda.							
	ADMITTED DENIED ADMISSION/ NEITHER ADMITTED DENIED IN PART NOR DENIED							
	4.2 Francois KARERA served as lowegrastic of Nyanigenge commune in the prefecture of Kigali-Ville from 24 July 1975.							
	ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED							
	4.3 Prancois KARERA served as as som prefer of Kigali-Rural prefecture for the Bugesera region from 9 November 1990.							
	ADMITTED DENIED ADMITTED NEITHER ADMITTED DENIED IN PART NOR ADMITTED							
	4.4 Prancois KARERA was appointed acting prefet of Kigali-Rural on 24 August 1993.							
	ADMITTED DENIED ADMISSION/ NEITHER ADMITTED DENIED IN PART NOR DENIED							
	4.5 Francois KARERA was appointed prefet of Kigali-Rural prefecture in April 1994.							
	ADMITTED DENIED ADMISSION/ DENIED NOR DENIED NOR DENIED							
	4.6 He served in that capacity until mid-July 1994.							
	ADMITTED DENIED DENIED NEITHER ADMITTED DENIED IN PART NOR ADMITTED							
	4.7 François KARERA was the president of the MRND political party in Nyarugenge commune, Kigali-Ville.							
	ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED							

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4.8 Francols KARERA was the President of the prefectoral committee of the MRND in Kigali-Rural.
ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED
4.9 François KARERA was the President of the of the prefectoral committee of the Interahamwe in Kigali-Rural.
ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED
4.10 François KARERA had a house in Nyamirambo secteur, Nyarugenge commune, Kigali-Ville where he used to stay with his family.
ADMITTED DENIED ADMITTED/ NEITHER ADMITTED DENIED IN PART NOR DENIED
4.11 François KARERA had at least two other houses in Rushashi secteur, Rushashi commune, Kigali-Rural one of which he stayed in before he went into exile.
ADMITTED DENIED ADMITTED NEITHER ADMITTED DENIED NOR DENIED
4.12 Francois KARERA's house in Nyamiramho secteur, Nyarugenge commune, Kigali-Ville was guarded by 3 communal politemen.
ADMITTED DENIED ADMITTED NEITHER ADMITTED DENIED IN PART NOR DENIED
ha this 16th day of November 2005

At Arus

For the Prosecutor signed:

Charles Adeogun-Philips Senior Trial Attorney

Cannelle MARCHESSAULT Counsel for Francois Karem:

Date:

December, 5th, 2005

Mr. Charles Adeogun-Phillps Senior Trial Attorney Office of the Prosecutor Arusha International Conference Centre P.O. Box 6061 Arusha, Tanzania

WITHOUT PREJUDICE

By Fax Only: +255 27 2565464

Dr. Mr. Adeogun-Phillips

Re: François Karera, Court File # ICTR-2000-74-1

Please receive this as our response to your request for admissions:

1. ADMINISTRATION

- 1.1 This is admitted on the understanding that Kigali-Ville is: la Préfecture de la ville de Kigali and Kigali-Rural is properly referred to as: la Préfecture de Kigali;
- 1.2 Admitted;
- 1.3 Admitted;
- 1.4 Admitted;
- 1.5 Admitted as qualified as per 1.1;
- 1.6 Admitted as qualified by 1.1, a typographical error includes the letter "k" in Kanzenze;
- 1.7 Admitted as qualified by 1.1;
- 1.8 Admitted as per 1.1;
- 1.9 Admitted as per 1.1;
- 1.10 Admitted;



- 1.11 This statement is too vague to be admitted. If what is being sought is an admission that, at the relevant times, the people of Rwanda held government issued identity papers which identified individuals on the basis of ethnicity, the defence would likely make such an admission. Neither admitted nor denied;
- 1.12 This again is a statement which is too vague to be admitted. For example does the verb "run" intend to convey certain administrative authority, or military authority, or both? The plain meaning is that either the Préfet or the Sous Préfet had absolute power. This is completely inaccurate and cannot be admitted. Denied;
- 1.13 This statement is not adequately specific. The defence would be prepared to admit that the Préfet of Kigali was ordinarily appointed by.... Neither admitted nor Denied;
- 1.14 The word "responsible" is too vague to be admitted. What specific authority at what specific time is being referred to in this statement? Denied;
- 1.15 There would likely be no objection if this statement were re-cast to state that in the course of his duties the Préfet had the authority to request the intervention of.... Neither admitted nor denied:
- 1.16 This statement is vague in the sense that the word "hierarchical" connotes general and absolute authority which is factually incorrect. Denied;
- 1.17 The comments in respect to 1.12 apply. Denied;
- 1.18 This would likely be admitted if it were specified which appointment and when. Neither admitted nor denied;
- 1.19 Neither admitted nor Denied;
- 1.20 Admitted but Denied in part;

2. HISTORICAL CONTEXT

- 2.1 Admitted;
- 2.2 Neither Admitted nor Denied;
- 2.3 This would likely be admitted if it were restricted to a statement that following the crash violence set in and massacres began in the Rwanda. Denied as currently drafted;
- 2.4 Neither Admitted nor Denied;



- 2.5 Admitted;
- 2.6 Neither Admitted nor Denied;

3. FACTUAL ALLEGATIONS

- 3.1 Admitted;
- 3.2 Admitted;
- 3.3 Neither Admitted nor Denied;
- 3.4 Neither Admitted nor Denied;
- 3.5 Denied;
- 3.6 Neither Admitted nor Denied, genocide being a question of law; (a.) Admitted; (b.) Admitted;
- 3.7(a) Admitted but Denied in part; (b) Neither Admitted nor Denied; (c.) Neither Admitted nor Denied; (d.) Neither Admitted nor Denied; (e.) Neither Admitted nor Denied;

4. PARTICULARS OF THE ACCUSED FRANCOIS KARERA

- 4.1 Admitted;
- 4.2 Admitted but Denied in part; Karera served as bourgmestre de la commune urbaine de Nyarugenge up to 1990;
- 4.3 Admitted as per 1.1 but Denied in part;
- 4.4 Denied;
- 4.5 Admitted but Denied in part; François Karera was appointed Préfet de la Préfecture de Kigali, on april 17th, 1994
- 4.6 Admitted but Denied in part;
- 4.7 Admitted but Denied in part; in 1992, Karera was elected President of MRND political party but didn't exercise as such; he was replaced by the Vice –president, Hamad Nshimiyimana);
- 4.8 Denied;

- 4.9 Denied;
- 4.10 Admitted;
- 4.11 He had two houses, not "at least" two. Admitted with this qualification.
- 4.12 Denied (up to April 7th, 1994);

It is noted that many of the requested admissions have been denied in full or in part because of imprecision in the statement of the fact sought to be admitted. The defence is certainly willing discuss further admissions once you have had a chance to consider this response.

Yours sincerely,

Carmelle Marchessault, Lead Counsel.

Steven Kelliher, Co-counsel.

Alexandre Bergevin, Assistant.



FICHE DE TRANSMISSION POUR DEPÔT DE DOCUMENTS A LA S.A.C.

SECTION DE L'ADMINISTRATION DES CHAMBRES

(Art. 27, Directive à l'intention du Greffe)

I - INFORMATIC	JNS GENEKALES	(a completer par les Ci	nambres / la P	artie de	posante)		
A :	Chambre I N. M. Diallo	Chambre II R. N. Kouambo	Chambre III C. K. Hometowu		Ch. d'Appel / Arusha F. A. Talon		
	Chef, S.A.C. JP. Fomété	Chef Adjoint, S.A.C. M. Diop	Chef, UPJ, M. Diop	S.A.C.	Ch. d'Appel / La Haye R. Muzigo-Morrison K. K. A. Afande		
De:	Chambre	Défense Me Carmelle	Bureau du F	Procureur	Autre:		
	(noms)	Marchessault conseil principal	(nom:	s)	(noms)		
		(noms)		1			
Affaire:	Le Procureur c. Frai	nçois KARERA		Affaire	No.: ICTR-2001-74-T		
Dates:	Transmis le: 26 janvier 2006		Document daté du:26 janvier 2006				
No. de Pages:	14	Langue de l'original: 🛛 🖂	Français [Anglais	Kinyarwanda		
Titre du Liste des admissions Document:							
Classification	n Level:	TRIM Document Type: Indictment Warrant			Submission from non-parties		
Strictly Confid Confidential Public	Strictly Confidential / Under Seal Confidential / Under Seal Disclosure Discl						
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	les Langues du TPIR.		Le document est soumis au service de traduction agréé ci-après: Les frais seront soumis à S.A.C.D.C.D.				
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Nom de la per	·	Adresse: Courriel / Tel. / Fax:					
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Prioritaire		COMMEN MINES		Date requi	se: 		
☐ Urgent			Date d'audience:				