

INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

Case No. ICTR-2001-72-I

THE PROSECUTOR
AGAINST
SIMON BIKINDI

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INDICTMENT

- I. The Prosecutor of the International Criminal Tribunal for Rwanda, pursuant to the authority stipulated in Article 17 of the Statute of the International Criminal Tribunal for Rwanda (the "Statute of the Tribunal") charges:

Simon BIKINDI

with CONSPIRACY TO COMMIT GENOCIDE; GENOCIDE, or alternatively COMPLICITY IN GENOCIDE; DIRECT AND PUBLIC INCITEMENT TO COMMIT GENOCIDE; and MURDER and PERSECUTION, as a CRIME AGAINST HUMANITY; offenses stipulated in Articles 2 and 3 of the Statute of the Tribunal, as set forth below:

II. **THE ACCUSED:**

Simon BIKINDI was born on 28 September 1954 in Rwerere *commune*, Gisenyi *préfecture*, Rwanda. During the period material to this indictment, **Simon BIKINDI** was a well-known composer and singer of popular music and director of the performance group *Irindiro Ballet*. **Simon BIKINDI** was also an official in the Ministry of Youth and Sports of the Government of Rwanda and a member of the MRND political party.

III. **CHARGES and CONCISE STATEMENT OF FACTS:**

Count 1: CONSPIRACY TO COMMIT GENOCIDE:

The Prosecutor of the International Criminal Tribunal of Rwanda charges **Simon BIKINDI** with *CONSPIRACY TO COMMIT GENOCIDE*, a crime stipulated in

Article 2(3)(b) of the Statute, in that on or between the dates of 1 January 1994 and 31 December 1994, **Simon BIKINDI** did conspire with others, including, but not limited to, the political leadership of the MRND at the regional and national levels, including, though not limited to Callixte NZABONIMANA, Juvénal HABYARIMANA, Joseph NZIRORERA; *Interahamwe* leaders, including Robert KAJUGA; and other persons responsible for media programming and operations, including, though not limited to Jean-Bosco BARAYAGWIZA, Ferdinand NAHIMANA, Joseph SERUGENDO and Félicien KABUGA, to kill or cause serious bodily or mental harm to members of the Tutsi population with the intent to destroy, in whole or in part, a racial or ethnic group, as follows:

Pursuant to Article 6(1) of the Statute: by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged, in that:

1. Between 1 January and 31 December 1994, citizens native to Rwanda were severally identified according to the following ethnic or racial classifications: Tutsi, Hutu and Twa.
2. Between 1 January 1994 and 17 July 1994 there was a state of non-international armed conflict in Rwanda

Concise Statement of Fact:

3. **Simon BIKINDI** agreed or collaborated with Head of State Juvénal HABYARIMANA, Minister of Youth and Sports Callixte NZABONIMANA, national *Interahamwe* leader Robert KAJUGA, national MRND political leaders, such as Mathieu NGIRUMPATSE and Joseph NZIRORERA, and MRND-aligned military leaders, such as Théoneste BAGOSORA, to militarize the MRND *Interahamwe* youth wing and to indoctrinate *Interahamwe* militias with anti-Tutsi ideology and to disseminate anti-Tutsi propaganda, as follows:
4. During the early 1990's, the tight circle of MRND party and military leaders surrounding President HABYARIMANA devised and implemented a strategy to consolidate their hold on government power in the face of rising domestic political opposition and the threat of military attack by the RPF. That strategy: to incite hatred and fear of the Tutsi and to characterize the Tutsi as *ibityso*, domestic accomplices of a foreign invading enemy army. Also incorporated in that strategy: the creation of civilian militias exclusively aligned with the MRND party that would be armed, trained and sensitized to exterminate the Tutsi population.
5. Notably, in December 1991 Juvénal HABYARIMANA, at that time Commander in Chief of the *Forces Armées Rwandaises* (FAR) as well as Head of State, set up a military commission to devise an agenda to "*defeat the enemy militarily, in the media and politically.*" The commission generated a report that defined the enemy as: ... *Tutsis from inside or outside the country who are extremist and nostalgic for power, who have never recognized and do not yet recognize the realities of the Social Revolution of 1959, and are seeking to regain power in Rwanda by any means, including taking up arms.* Army Chief of Staff Deogratias NSABIMANA caused excerpts from the report to be circulated among the military Sector Commanders.

6. Subsequently, MRND-aligned military leaders provided military training and weapons to *Interahamwe* militias and sensitized the MRND youth wing to target the Tutsi and members of the political opposition as accomplices of the enemy. This military training was organized throughout Rwanda, particularly in military camps in Kigali, in Mutara and in Gisenyi.
7. Prior to the events of April 1994, **Simon BIKINDI** participated in the campaign to *defeat the enemy militarily* by conducting MRND membership drives and participating in recruitment and military training of *Interahamwe* militias, knowing and intending that such civilian militias would be deployed in exterminating campaigns against the Tutsi.
8. For example, in January 1994 **Simon BIKINDI** participated in military training of *Interahamwe* militias in Kigali.
9. **Simon BIKINDI** participated in the campaign to *defeat the enemy in the media* by collaborating with Ferdinand NAHIMANA, Jean-Bosco BARAYAGWIZA, Félicien KABUGA, André NTAGERURA, Georges RUTAGANDA, and Joseph NZIRORERA, among others, to launch *Radio-Télévision Libre des Mille Collines*, SA (RTLTM), a privately owned radio station aligned with extremist political currents in the MRND and the CDR. In part conceived as a media-alternative to Radio Rwanda, then subject to the programming restrictions of ORINFOR and the newly installed Ministry of Information, RTLTM programming interspersed popular music and listener participation with news reports and anti-Tutsi propaganda.
10. Although the preamble to the statutes creating RTLTM defines its purpose as facilitating the circulation of diverse ideas and objective news reporting, in actuality RTLTM was created as a vehicle for anti-Tutsi propaganda. RTLTM's anti-Tutsi broadcasts were often punctuated by musical selections composed and performed by **Simon BIKINDI**. The intertwining objectives of RTLTM's media programming and **Simon BIKINDI**'s musical recordings were the same: to sensitize the listening public, particularly the civilian militias, the government armed forces and the masses of Rwanda's Hutu peasantry, to extol Hutu solidarity and to target the Tutsi as accomplices of the enemy.
11. RTLTM received logistical support from Radio Rwanda, the government-owned radio station, and initially broadcasted its programs on the same frequencies as Radio Rwanda, enabling government-controlled Radio Rwanda broadcasts to flow seamlessly into the privately controlled programming of RTLTM. Minister of Transports and Communications André NTAGERURA, a longstanding senior member of the MRND, facilitated such seeming government support of RTLTM by authorizing the continued broadcasts in spite of RTLTM's violations of Rwanda media legislation.
12. Callixte NZABONIMANA, a member of MRND, authorized and sponsored rehearsal and recording of **Simon BIKINDI**'s musical compositions and live performances of his dance troupe IRINDIRO BALLET through the Ministry of Youth and Sports. **Simon BIKINDI** organized and rehearsed his compositions with youth groups at the level of the *commune*, also through the Ministry of Youth and Sports, with funds for such purposes disbursed to the youths through the *bourgmestres*.

- 7
13. **Simon BIKINDI** consulted with President Juvénal HABYARIMANA, Minister of Youth and Sports Callixte NZABONIMANA and MRND-aligned military authorities on song lyrics; recorded his compositions at the Radio Rwanda studios with assistance from Joseph SERUGENDO; distributed his tapes to RTLM; and performed his compositions at *Interahamwe* meetings and MRND and CDR party functions, many of which were large public gatherings.
 14. RTLM played **Simon BIKINDI**'s compositions several times a day, usually during an early morning broadcast, at lunchtime and in the early evening. After the reprise of civil hostilities in the non-international armed conflict, between April and July 1994, RTLM broadcast **Simon BIKINDI**'s compositions repeatedly throughout the day. The compositions that received intense airplay were *Bene sebahinzi* and *Naga abahutu*, songs that encouraged Hutu solidarity against a common foe.
 15. Over the course of April, May, June and the first few days of July of 1994, hundreds of thousands of civilian Tutsi men, women, children and the elderly, were persecuted, attacked, sexually assaulted, tortured, sequestered, and killed in Kigali-ville and Gisenyi *préfectures* and all across Rwanda. These attacks and killings were products of the Government campaign to *defeat the enemy* by enlisting local administrative authorities and civilians, organized as civilian militias or acting individually, to exterminate the Tutsi.
 16. The efficiency of the mobilization of Rwanda's Hutu peasantry for attacks upon the Tutsi during the period 7 April 1994 – mid July 1994, and the systematic nature of such attacks by the military forces of the Interim Government, including civilian militias equipped, trained and sensitized to target Tutsi civilians, imply planning and coordination at the highest levels of the political, military, business and media elites of MRND-affiliated governmental authorities. **Simon BIKINDI**'s musical compositions and live performances and recruitment, training and command of *Interahamwe*, were elements of the plan to mobilize civilian militias to destroy, in whole or in part, the Tutsi.
 17. Following the military defeat of the FAR and the retreat of the Interim Government across the border into neighboring Zaire, **Simon BIKINDI** continued the anti-Tutsi campaign by composing and performing anti-Tutsi songs and by collaborating with ex-FAR military leaders and former MRND-aligned government officials to continue the anti-Tutsi campaign as a means to regain power.

Count 2: GENOCIDE:

The Prosecutor of the International Criminal Tribunal of Rwanda charges **Simon BIKINDI** with *GENOCIDE*, a crime stipulated in Article 2(3)(a) of the Statute, in that on or between the dates of 7 April 1994 and 14 July 1994 throughout Rwanda, particularly in Kigali-ville and Gisenyi *préfectures*, **Simon BIKINDI** was responsible for killing or causing serious bodily or mental harm to members of the Tutsi population with intent to destroy, in whole or in part, a racial or ethnic group, as such;

Pursuant to Article 6(1) of the Statute: by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged; **and**

Pursuant to Article 6(3) of the Statute: by virtue of his actual or constructive knowledge of the acts or omissions of his subordinates, including *Interahamwe* and civilian militias, particularly *Interahamwe* members of his Irindiro Ballet, and his failure to take necessary and reasonable measures to stop or prevent them, or to discipline and punish them, for their acts in the planning, preparation or execution of the crime charged;

or alternatively,

Count 3: COMPLICITY IN GENOCIDE

The Prosecutor of the International Criminal Tribunal of Rwanda charges **Simon BIKINDI** with *COMPLICITY IN GENOCIDE*, a crime stipulated in Article 2(3)(e) of the Statute, in that on or between the dates of 1 January 1994 and 14 July 1994 throughout Rwanda, particularly Kigali-ville and Gisenyi *prefectures*, **Simon BIKINDI** was responsible for killing or causing serious bodily or mental harm to members of the Tutsi population with intent to destroy, in whole or in part, a racial or ethnic group, as such, as follows:

Pursuant to Article 6(1) of the Statute: by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged; in that:

Concise Statement of Facts for Counts 2 and 3:

18. Paragraphs 1 through 17, above, are incorporated by reference herein.
19. During the events referred to in this indictment, particularly from 6 April 1994 through the first days of July 1994, *Interahamwe* militias engaged in a campaign of extermination against Rwanda's Tutsi population. Hundreds of thousands of Tutsi men, women and children were killed.
20. **Simon BIKINDI**, among others, planned, instigated and prepared such killings by recruiting members for the *Interahamwe* militias, organizing and participating in military training for *Interahamwe* militias, indoctrinating *Interahamwe* militias with anti-Tutsi ideology and by engaging in a propaganda campaign to characterize civilian Tutsi citizens of Rwanda as accomplices of an invading enemy, and by specifically encouraging the militias to target the Tutsi population for attack.
21. During June and early July 1994, particularly in Gisenyi *préfecture*, **Simon BIKINDI** led, participated in, instigated and incited a campaign of violence against civilian Tutsis and against Hutus perceived to be politically opposed to the MRND and MRND-aligned political parties, resulting in numerous deaths.
22. Notably, sometime in mid-late June 1994 **Simon BIKINDI** and a band of *Interahamwe* that had arrived in Gisenyi from Kigali launched an attack on Tutsi living in Nyamyumba commune. Just prior to the attack, **Simon BIKINDI** announced to *Interahamwe* at a roadblock in Gisenyi-town that they should search out the Tutsis and kill them, and that Hutus helping Tutsis to flee to Zaire should also be killed. After these words, **Simon BIKINDI** led a caravan of armed *Interahamwe*, including Col. BUREGEYA and NOEL, to Nyamyumba and killed Tutsi residents and pillaged their belongings.

23. Similarly, in mid-late June 1994 **Simon BIKINDI** addressed a MRND meeting at Umuganda Stadium in Gisenyi where he publicly stated that, "*Hutus should know who the enemy is, and that the enemy is the Tutsi*" and that "*Hutus should hunt and search for the Tutsis and kill them.*" Following the meeting there was an intensive search for Tutsi that were still hiding.
24. Also in June 1994, at the border between Gisenyi and Zaire, following instructions from Lt. Colonel Anatole NSENGIYUMVA, **Simon BIKINDI** ordered his *Interahamwe* to take a group of Tutsi women that were trying to escape to Zaire behind a kiosk called Command Post and to kill them. The women were killed with UZI guns behind the Command Post. Shortly thereafter **Simon BIKINDI** remarked, "*See where we are now with these Tutsis.*"
25. In early July 1994, NOEL and PASCAL, two of **Simon BIKINDI**'s *Interahamwe*, discovered that ANCILLA, a Tutsi woman, had been hiding in the ceiling of her home, apparently protected by her Hutu husband. **Simon BIKINDI** stated that she was one of the people fighting Hutus and that she should be taken away (killed) and was present when NOEL and PASCAL led ANCILLA away. NOEL and PASCAL killed the woman and her 4-year-old daughter and buried them in a shallow grave.
26. Sexual violence against Tutsi women was systematically incorporated in the generalized attacks against the Tutsi. In leading, ordering and encouraging the campaign of extermination in Gisenyi *préfecture*, **Simon BIKINDI** knew, or should have known, that sexual violence against civilian Tutsi was, or would be, widespread or systematic, and that the perpetrators would include his subordinates or those that committed such acts in response to his generalized orders and instructions to exterminate the Tutsi.
27. By virtue of his command of the *Interahamwe*, particularly as reinforced by his close association with leading figures in the national leadership of the MRND and the *Interahamwe*, coupled with his unique status as a nationally recognized performer and director of the *Irindiro Ballet*, **Simon BIKINDI** ordered or directed or otherwise authorized civilian militias, particularly *Interahamwe* members of his own *Irindiro Ballet*, to persecute and kill or facilitate the killing of civilian Tutsi. By virtue of that same authority **Simon BIKINDI** had the ability and the duty to halt, prevent, discourage or sanction persons that committed, or were about to commit, such acts, and did not do so.

Count 4: DIRECT AND PUBLIC INCITEMENT TO COMMIT GENOCIDE:

The Prosecutor of the International Criminal Tribunal of Rwanda charges **Simon BIKINDI** with ***DIRECT AND PUBLIC INCITEMENT TO COMMIT GENOCIDE***, a crime stipulated in Article 2(3)(c) of the Statute, in that on or between the dates of 1 January 1994 and 14 July 1994, **Simon BIKINDI** was responsible for directly and publicly inciting persons, including, but not limited to, soldiers, local administrative officials, communal police, civilian militias and local residents, to kill or cause serious bodily or mental harm to members of the Tutsi population with the intent to destroy, in whole or in part, a racial or ethnic group, as such, as follows:

Pursuant to Article 6(1) of the Statute: by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged, in that:

28. During the period 1990 to 1994. **Simon BIKINDI** composed, performed, recorded or disseminated musical compositions extolling Hutu solidarity and characterizing Tutsi as enslavers of the Hutu. These compositions were subsequently deployed in a propaganda campaign to target Tutsi as the *enemy*, or as *enemy accomplices*, and to instigate, incite, and encourage the Hutu population to separate themselves from the Tutsi and to kill them.
29. **Simon BIKINDI** regularly performed his musical compositions at animation sessions at *Interahamwe* meetings and at political gatherings of the MRND and CDR political parties. **Simon BIKINDI** often circulated about Gisenyi town and Rwerere *commune*, Gisenyi *préfecture*, aboard a vehicle outfitted with a public address system and performed his compositions or broadcasted recordings of his compositions.
30. **Simon BIKINDI**'s animation sessions at MRND meetings and rallies were often a prelude or a motivating factor in anti-Tutsi violence against individuals and property in the vicinity of those public gatherings, both leading up to the meetings or immediately thereafter.
31. **Simon BIKINDI** publicly addressed MRND and CDR adherents at party meetings with specific exhortations to *work*, a coded reference advocating the extermination of the Tutsi.
32. Notably, in February 1994, shortly following the assassinations of Martin BUCYANA and Félicien GATABAZI, Simon BIKINDI addressed an MRND meeting at Umuganda Stadium in Gisenyi and told the population to take their clubs, machetes and other weapons and to look for the *inyenzi* and kill them. *Inyenzi* was a derogatory reference to the Tutsi.
33. Similarly, in March 1994 **Simon BIKINDI** addressed a meeting of the CDR and encouraged those in attendance to *work* and to kill those opposed to the CDR and the MRND. During the period relevant to this indictment, it was well known throughout Rwanda that the CDR was opposed to the Tutsi.
34. **Simon BIKINDI** also intervened in RTLM broadcasts and advocated the extermination of the Tutsi over the public radio air-waves. For example, sometime following the deaths of BUCYANA Martin and another CDR-affiliated *Interahamwe*, **Simon BIKINDI** stated, "*See how the Tutsi are exterminating you, the Hutu. If you do not react right away it's your fault ...*".
35. Notably, during the last week of February 1994 **Simon BIKINDI** attempted to incite violence against a group of Tutsi that had taken shelter at the Gatenga Youth Center in Kigali. When gendarmes prevented **Simon BIKINDI** and his group of *Interahamwe* from attacking the youth center, **Simon BIKINDI** telephoned the RTLM radio station to report that some Hutus were preventing Hutus from attacking the Tutsi at Gatenga.
36. Similarly, in late June 1994 in Gisenyi *préfecture* **Simon BIKINDI** operated a vehicle outfitted with a public address system and led a caravan of *Interahamwe*

on the main road between Kivumu and Kayove *communes* announcing, "*The majority population, it's you, the Hutu I am talking to. You know the minority population is the Tutsi. Exterminate quickly the remaining ones.*" **Simon BIKINDI** also used the vehicle-mounted public address system to broadcast his musical compositions.

37. Simon BIKINDI's song lyrics manipulated the politics and history of Rwanda to promote Hutu solidarity. Among **Simon BIKINDI**'s most popular compositions is *Twasezereye*, a song composed in 1987 which means "*we said good bye to the feudal regime*". Repeatedly broadcast over Radio Rwanda and RTLM airwaves in 1992 and 1993 *Twasezereye* was a public call for Hutu solidarity in opposition to the Arusha accords.
38. RTLM repeatedly broadcasted other **Simon BIKINDI** compositions, notably *Bene sebahinzi*, which means "the sons of the father of the cultivators", and *Nanga bahutu*, which means "I hate these Hutu ...". Calls for attacks on the enemy in RTLM broadcasts were often preceded or followed by these songs composed and performed by **Simon BIKINDI**. By the terms of Rwandan legislation governing author's rights, **Simon BIKINDI** had a right to forbid or enjoin public broadcasts of his compositions.

Count 5: MURDER as a CRIME AGAINST HUMANITY

The Prosecutor of the International Criminal Tribunal of Rwanda charges **Simon BIKINDI** with *MURDER as a CRIME AGAINST HUMANITY*, as stipulated in Article 3(a) of the Statute, in that on or between the dates of 7 April 1994 and 14 July 1994, **Simon BIKINDI** was responsible for killing persons, or causing persons to be killed, as part of a widespread or systematic attack against a civilian population on political, ethnic or racial grounds, as follows:

Pursuant to Article 6(1) of the Statute: by virtue of his affirmative acts in planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation or execution of the crime charged, *and*

Pursuant to Article 6(3) of the Statute: by virtue of his actual or constructive knowledge of the acts or omissions of his subordinates, including *Interahamwe* and civilian militias, particularly *Interahamwe* members of his Irindiro Ballet, and his failure to take necessary and reasonable measures to stop or prevent them, or to discipline and punish them, for their acts in the planning, preparation or execution of the crime charged; in that:

40. During the events referred to in this indictment, particularly from 6 April 1994 through 17 July 1994, there were throughout Rwanda widespread or systematic attacks directed against a civilian population on political, ethnic or racial grounds. Notably, *Interahamwe* militias engaged in a campaign of violence against Rwanda's civilian Tutsi population and against Hutu perceived to be politically opposed to the MRND. Hundreds of thousands of civilian Tutsi men, women and children and "moderate Hutu" were killed.
41. **Simon BIKINDI**, among others, planned, instigated and prepared such killings by recruiting members for the *Interahamwe* militias, organizing military training for *Interahamwe* militias, indoctrinating *Interahamwe* militias with anti-Tutsi ideology and by engaging in a propaganda campaign to characterize the Tutsi

citizens of Rwanda as accomplices of an invading enemy and by specifically encouraging civilian militias to target Tutsi for attack.

42. Notably, during June 1994, on a date uncertain, in Nyamyumba *commune*, Gisenyi *préfecture*, **Simon BIKINDI** participated in the killing of a wealthy Tutsi businessman by leading a band of *Interahamwe* to the man's home and by ordering several *Interahamwe*, including Paulin (last name unknown) and NOKORI, and members of his ballet, including SERUMVERI Bosco and DUSENGIMANA Kizito, to kill the Tutsi businessman and to steal his property. The group killed the businessman and loaded his property onto **Simon BIKINDI**'s vehicle.
43. Sometime during June 1994 at the Gisenyi-Zaire border, following instructions from Col. Anatole NSENGIYUMVA, **Simon BIKINDI** ordered his *Interahamwe* to kill a group of Tutsi women that were trying to escape across the border to Zaire. The women were then killed with UZI guns.
44. In early July 1994, **Simon BIKINDI** instigated the killing of ANCILLA, a Tutsi woman, by advising NOEL and PASCAL, two of his *Interahamwe*, that she was one of the people fighting Hutus and that she should be taken away (killed). NOEL and PASCAL killed the woman and her 4-year-old daughter and buried them in a shallow grave.
45. Given the generalized nature of attacks against the Tutsi during April through July 1994, **Simon BIKINDI** is responsible for the killings of numerous Tutsi that followed his exhortations in deed and in song and in word, particularly as directed to *Interahamwe* and civilian militias.

Count 6: PERSECUTION as a CRIME AGAINST HUMANITY

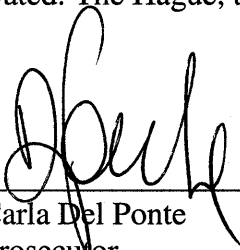
The Prosecutor Of The International Criminal Tribunal For Rwanda charges Simon Bikindi with **PERSECUTION a CRIME AGAINST HUMANITY** as stipulated in Article 3(h) of the Statute in that between the dates of 1st January 1994 and 31st December 1994, Simon BIKINDI collectively targeted persons belonging to the Tutsi ethnic group and was responsible for directly inciting persons including, but not limited to, soldiers, local administrative officers, communal police, civilian militias and civilian Hutu population to actively persecute people belonging to the Tutsi ethnic group. This conduct was committed as part of a widespread or systematic attack directed against a civilian population.

46. During the period 1990 to 1994. Simon BIKINDI addressed public gatherings, composed, performed, recorded or disseminated musical compositions extolling Hutu solidarity and characterizing Tutsi as enslavers of the Hutu. These compositions were subsequently deployed in a propaganda campaign to target Tutsi as the *enemy*, or as *enemy accomplices*, and to instigate, incite, and encourage the Hutu population to separate themselves from the Tutsi, to commit acts of violence against them and to kill them.

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The acts and omissions of Simon BIKINDI detailed herein are punishable in reference to Articles 22 and 23 of the Statute.

Dated: The Hague, this 27 day of June 2001:



Carla Del Ponte
Prosecutor

