

French judges close Habyarimana probe

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The New Times, December 22, 2017



The wreckage of Habyarimana's ill-fated Falcon 50 plane near the Kigali International Airport. Several investigations have concluded that the missiles that brought down the plane were fired from area under the control of his army. (Net photos).

French investigating judges have closed a long-running inquiry into the shooting down of former Rwandan president Juvénal Habyarimana's plane near Kigali International Airport on April 6, 1994.

Moments after the missile attack extremists in the Habyarimana government launched the Genocide against the Tutsi, which would claim the lives of at least a million people.

Observers say France has sought to use the inquiry as a bargaining chip in its relations with Rwanda, which accuses Paris of actively supporting the regime that planned and executed the Genocide, including through training and arming the Interahamwe militia that played a central role in the killings.

But the French judges handling the case, Jean-Marc Herbaut and Natalie Poux, on Wednesday this

week issued a notice of termination of the case.

Experts familiar with the French legal system told The New Times yesterday that the notice will become a permanent order after 90 days in the event there is no appeal against the decision or new testimony that compel the judges to reopen the inquiry.

This is the third time the case is being closed, with the previous two notices of termination being reversed.

Rwanda's Minister for Justice and Attorney General Johnston Busingye said Kigali was watching the developments closely, aware that last year a similar notice was revisited about just four hours to the 90th day after which it would have become a permanent notice.

"It's unprecedented that a case is opened three times over the same flimsy reasons," he said, citing fake testimonies and witnesses, and attempts to manipulate and hoodwink the judges.

Nonetheless, we trust in the wisdom of the judges, Busingye said.

When a similar notice was issued last year, a former Rwanda Defence Forces (RDF) soldier, James Munyandinda, alias Munyeragwe, turned up just hours to the expiry of the 90-day window claiming that he saw the surface-to-air missiles that brought down the Dassault Falcon 50 jet at the headquarters of the Rwanda Patriotic Army (RPA), the then rebels led by current President Paul Kagame.

"The lawyers for the accused people (all former RPA soldiers) supplied evidence of the real account of who Munyandinda is, which contradicted his flawed account," Busingye said. "Our case was too compelling to ignore and it appears that the judges have found that they had been taken for a huge ride."



French soldiers, seen in this undated picture with members of the Interahamwe – the pro-government militia that carried out most of the killings – are accused of supporting the genocidal regime through military training, supplies, fighting on the side of government troops in the 1990-94 war against then RPA rebels, and later securing the genocidal machinery a safe passage into the DR Congo. / Net photo.

The French public prosecutor is among the people who will give an opinion on the notice over the next three months.

The accused Rwandans in the case include Defence minister James Kabarebe, the country's envoy to China Charles Kayonga, Maj Gen (rtd) Sam Kanyemera Kaka, Maj Gen (rtd) Jack Nziza, Lt Col (rtd) Rose Kanyange Kabuye, Lt Col Jacob Tumwine, and Franck Nziza.

"This case should have been closed in August 2014," said Dr Jean Damascene Bizimana, the head of Rwanda's anti-genocide commission who was the deputy chairperson of a 2008 Rwandan inquiry into the missile attack, which concluded that the missiles were fired from Kanombe area which was under the control of the presidential guards.

Bizimana was referring to the work of French judges Marc Trévidic and Nathalie Poux, who came to Kigali in 2010 to investigate the case – along with a team of ballistics experts -before concluding two years later that the missiles had been launched from the Kanombe area, corroborating findings from

Rwanda's own inquiry.

This was contrary to claims by another French investigating judge, Jean-Louis Bruguière, who in 2006 sparked off a diplomatic row between Kigali and Paris after he blamed the attack on the RPF and issued arrest warrants against the Rwandan officials.

Bruguière claimed the missiles that brought down the Falcon 50 jet had been fired from the Masaka zone by RPA elements that had allegedly infiltrated the area. The RPA was RPF's military wing that defeated the genocidal regime in July 1994 and stopped the slaughter. It was later transformed into RDF.

"Bruguière's work was of course a sham, not just because he never conducted any site visit in relation to this case but his was a political investigation that was not backed by any scientific evidence," Bizimana told *The New Times* yesterday.

Tom Ndahiro, a genocide scholar, said the French inquiry into the Habyarimana plane crash should never have taken place in the first place.

"It was meant to end in failure," he said.

The investigation, he said, was intended to humiliate Rwandan leaders and absolve the real culprits.

"The suspects of the attack are in France, they were simply after the wrong targets," he said.

Ndahiro said several investigations, including one by French author Jacques Morel (author of *La France au cœur du génocide des Tutsis au Rwanda*, loosely; France at the heart of Genocide against the Tutsi in Rwanda), had meticulously documented the role of France in the Genocide, adding that Paris's attempts to drag the RPF's name through the mud was calculated to deflect attention away from its principal role in the Rwanda tragedy.

France says it got involved with the case mainly because a French crew died in the attack.

The case has been handled by three lots of judges over the years – first, Bruguière; then Marc Trévidic and Nathalie Poux; and then Jean-Marc Herbaut and Nathalie Poux.

The latest development comes hot on the heels of a new report by American law firm Cunningham Levy Muse LLP which says there is strong evidence linking France to the Genocide in Rwanda.

The Muse Report, commissioned by the Government of Rwanda, says French officials facilitated the

flow of weapons into Rwanda in the build-up to the Genocide, despite knowing about violent attacks against the Tutsi in the country.

British investigative journalist Linda Melvern, the author of the book, 'A People Betrayed : The Role of the West in Rwanda's Genocide', told The New Times yesterday that the French investigation "seemed nothing more than a determined attempt to blame the RPF for the crime".

The probe, she said, will be remembered in years to come as one of the most ignominious in French judicial history.

She linked the narrative that the RPF is to blame for the missile attack to high-ranking Genocide convicts and suspects.

"The story that the RPF was to blame originated with the génocidaires as their crime got underway, it was a story they promoted in their trials and which was spread by some of their lawyers and by their supporters, a cornerstone in their defense in court," Melvern said in reference to the Genocide trials conducted by the International Criminal Tribunal for Rwanda (ICTR).

This story, she added, is promoted by French military officers, political and diplomatic officials and conspiracy theorists. "Not a scrap of credible evidence was ever produced to prove it to be true."

"It might now be an appropriate moment for French archives to be opened, archives which contain the most crucial information about the role of the French military in these events which for years has been hidden from press and parliamentary scrutiny," the British author said.

"Burning questions need some urgent answers. A true reckoning of French policy in Rwanda has yet to come."

Bizimana said that if France was genuinely interested in the truth surrounding the assassination of Habyarimana it should have investigated its own military officers who were in Rwanda at the time of the missile attack because a French contingent controlled the Kanombe area – along with Habyarimana's para-commando battalion, elements of the presidential guard.

The French troops that controlled the Kanombe area were under Commander Grégoire De Saint

Quentin, while Habyarimana's para-commando battalion was under Major Aloyse Ntabakuze, who would later be arrested and sentenced to 30 years in jail for genocide by the ICTR.

Rwanda's own investigation into the case, popularly known as the Mutsinzi Commission, arrived at conclusions similar to those of a United Nations inquiry, which concluded that the plane had been shot down by three whites with the help of the presidential guard and that the missiles had been fired from the Kanombe military barracks.

The Rwandan inquiry was validated by British forensic experts.

Habyarimana's plane was shot down as he approached the airport from a regional summit in Tanzania intended to prompt implementation of a power-sharing agreement with the RPF that had been signed in August 1993.

A separate investigation by Rwanda's Mucyo Commission linked 33 French political and military officials directly with the slaughter.

"France needs to come to terms with its role before, during and after the Genocide," Minister Busingye said.

France is home to dozens of Genocide suspects and survivors have blamed French authorities for protecting their former tormentors from justice.

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