



International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

1078-99-50-1  
02-12-2003  
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**TRIAL CHAMBER II**

**Before:** Judge Asoka de Zoysa Gunawardana, Presiding  
Judge Khalida Rachid Khan  
Judge Lee Gacuiga Muthoga

**Registrar:** Adama Dieng

**Date:** 2 December 2003

JUDICIAL REGISTRATION SERVICES  
ICTR  
2003 DEC -21 A 11:50

**The PROSECUTOR**  
v.  
**Casimir BIZIMUNGU**  
**Justin MUGENZI**  
**Jerôme BICAMUMPAKA**  
**Prosper MUGIRANEZA**  
*Case No. ICTR-99-50-I*

**DECISION ON PROSECUTION'S MOTION FOR JUDICIAL NOTICE  
PURSUANT TO RULES 73, 89 AND 94**

**Counsels for the Prosecution:**

Paul Ng'arua  
Ibukunolu Babajide  
Elvis Bazawule  
George Mugwanya

**Counsel for the Defence:**

Michelyne C. St. Laurent for Casimir Bizimungu  
Howard Morrison and Ben Gumpert for Justin Mugenzi  
Pierre Gaudreau and Michel Croteau for Jérôme Bicamumpaka  
Tom Moran and Christian Gauthier for Prosper Mugiraneza

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**THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA** (the "Tribunal"),

**SITTING** as Trial Chamber II, composed of Judge Asoka de Zoysa Gunawardana, Presiding, Judge Khalida Rachid Khan and Judge Lee Gacuiga Muthoga (the "Chamber");

**BEING SEIZED** of "Prosecution's Motion for Judicial Notice Pursuant to Rules 73, 89 and 94" filed on 12 November 2003, (the "said Motion");

**NOTING** the "Defence Arguments on the Prosecutor's Motion that the Court Should Take Judicial Notice of Documents P2.84 to P2.90 (On the OTP Schedule A) so as to Admit Them into Evidence as Exhibits" filed on 11 November 2003, (the "Response");

**NOTING** the "Prosecutor's Further Submissions on his Application for Judicial Notice Pursuant to Rules 73, 89 and 94 as Requested by the Trial Chamber filed on 14 November 2003, (the "Prosecutor's Further Submission");

**NOTING** the "Defence's Further Submissions on Judicial Notice" filed on 19 November 2003, (the "Defence's Further Submission");

**TAKING INTO CONSIDERATION** the submissions made by both parties when this matter was taken up in open court on 12 and 13 November 2003;

## **ARGUMENTS OF THE PARTIES**

### *Prosecution Submissions*

1. In furtherance of the Prosecutor's oral application made during the trial proceedings of 11 November 2003, the Prosecutor submitted his application for judicial notice to be taken of the documents contained in Annex A (the "UN Documents") and Annex B (the "Rwanda Official Documents").

2. The Prosecutor asserts that, "the documents in Annexes A and B and their contents are of common knowledge or constitute adjudicated facts or documentary evidence from other proceedings of the Tribunal and thus, prays that this Trial Chamber takes judicial notice thereof".

3. The Prosecutor recalls the position adopted by Trial Chambers of this Tribunal on a similar issue and mentioning the documents admitted in three previous cases namely, *The Prosecutor v. Jean-Paul Akayezu*<sup>1</sup> (the "Akayezu Decision"), *The Prosecutor v.*

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<sup>1</sup> *The Prosecutor v. Jean-Paul Akayezu*, Case No ICTR-96-4-T, Judgment, 2 September 1998.

*Laurent Semanza*<sup>2</sup> (the “*Semanza Decision*”) and *The Prosecutor v. Théoneste Bagosora et al.*<sup>3</sup> (the “*Bagosora Decision*”).

4. According to the Prosecutor, “the documents, mainly in Annex A, contain materials on the widespread and systematic killings that took place in Rwanda in 1994, a fact that is of notorious public history. It is not in the interest of justice and consistency of the jurisprudence of this Tribunal to depart from the approach taken in these decisions”.

5. The Prosecutor considers that, Annex A and B contain all documents enumerated in the *Akayezu Decision*. They also contain “other UN and Rwandan Government and Official documents that have not been judicially noticed in previous cases. The same principles and considerations should apply to them”. The Prosecutor submits that, first “the documents contain or encompass facts that are of common knowledge in that the facts are ‘generally known within the Tribunal’s jurisdiction, or are capable of accurate and ready determination by resort to sources whose accuracy cannot be reasonably called into question’<sup>4</sup>”. He submits further that, “the fact that UN documents emanate from organs and institutions of the United Nations is a material consideration”. Finally, he asserts that, “national legislation and documents relating to the administrative organization of a geographical area, and the legislative laws of Rwanda in general are matters of ‘common knowledge within the area of geographical jurisdiction of this Tribunal’<sup>5</sup> and which should be judicially noticed”.

6. Regarding the Defence’s submission relating to the facts which go to prove the guilt of the Accused, the Prosecutor submits that, “the Defence assertion fails to appreciate the differences between sub Rules 94(A) and (B). Whereas sub Rule (B) on which the Defence relies, permits discretion on the part of the Trial Chamber to allow adjudicated facts, sub Rule (A) obligates the Chamber to admit and take judicial notice of facts of common knowledge...”. The Prosecutor considers that he “grounds his application mainly under Rule 94(A)”. According to him, “the fact that there were widespread and systematic killings in Rwanda is a fact of notorious public history that cannot be re-written. This matter is ‘generally known within the Tribunal’s jurisdiction, or are capable of accurate and ready determination by resort to sources whose accuracy cannot be reasonably called into question’<sup>6</sup> regardless of whether or not the accused are implicated therein”.

7. Therefore the Prosecutor prays the Trial Chamber to take judicial notice of:

- a. “All the documents in the Prosecutor’s Annex A and B that had been judicially noticed and admitted into evidence in earlier cases.

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<sup>2</sup> *The Prosecutor v. Laurent Semanza*, Case No ICTR-97-20-I, “Decision on the Prosecutor’s Motion for Judicial Notice and Presumptions of Facts Pursuant to Rules 94 and 54”, 3 November 2000.

<sup>3</sup> *The Prosecutor v. Théoneste Bagosora et al.*, Case No ICTR-98-41-T, “Decision on the Prosecutor’s Motion for Judicial Notice Pursuant to Rules 73, 89 and 94”, 11 April 2003.

<sup>4</sup> *Semanza Decision*, paras 23-25 and *Bagosora Decision*, para 44.

<sup>5</sup> *Bagosora Decision*, para 38.

<sup>6</sup> *Semanza Decision*, paras 23-25 and *Bagosora Decision*, para 44.

- b. All other documents in Annex A and B that had not been judicially noticed in earlier [cases]”.

*Defence Submissions*

8. The Defence of all four accused objected to the admission of the said documents by means of Judicial Notice.

9. According to the Defence, Rule 94 of the Rules deals with three categories of material, which “may be admitted into evidence by virtue of Judicial Notice”.

- a. “The first category is that referred to in Rule 94(A) namely ‘facts of common knowledge’. Facts of common knowledge have been defined by this Tribunal<sup>7</sup>...”;
- b. “The second category is that referred to as ‘adjudicated facts’ in Rule 94(B). This category refers to factual statements which have been contended for in previous proceedings of the Tribunal and found, in the final judgements of those proceedings, to be correct...”;
- c. “The third category is that referred to as ‘adjudicated...documentary evidence’. This category refers to evidence contained within documents, which has been contended for in previous proceedings and found in the final judgements of those proceedings to be correct...”;

10. According to the Defence, none of the documents submitted by the Prosecutor could be admitted under Rule 94(A) as “they are not facts, still less facts of common knowledge. Equally the documents cannot be said to be ‘adjudicated facts...from other proceedings of the Tribunal’ and thus do not fall within the second category as described above”. The Defence considers that the documents submitted are not facts and that, “it has not been advanced by the prosecution that they have been contended for in any particular previous proceedings of the tribunal and found to be factually correct”.

11. The Defence thus asserts that, if the Prosecutor “were able to establish that the factual contents of the documents had been ruled upon in previous proceedings before this Tribunal and found to be correct, then the Chamber would have the discretionary power to take judicial notice of their factual contents”.

12. The Defence considers that the documents sought to be admitted, consist of legal assertions which are “not appropriate for admission by way of judicial notice” according to the *Bagosora* Decision.<sup>8</sup> Furthermore, according to the Defence, the said documents consist of assertions, which go to the guilt of the Accused. It could be therefore prejudicial to the rights of the Accused to have these documents and the facts contained in them admitted without having the opportunity to cross-examine the authors “who have asserted those matters”. According to the Defence, admitting such documents by the

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<sup>7</sup> *Semanza* Decision, para 25.

<sup>8</sup> *Bagosora* Decision, para 64.

way of judicial notice would be “contrary to the principle stated in *Prosecutor v. Bagosora et al.*”<sup>9</sup>

13. Regarding the documents listed in Annex B of the Prosecutor’s Motion, the Defence points out that they do not all constitute part of Rwanda Official Documents as asserted by the Prosecutor. The Defence admits that some of them form part of the Rwandan law but that the later cannot be admitted, as they do not fall under one or the other category mentioned in Rule 94 of the Rules.

14. The Defence finally submits that, “judicial notice should not be taken of the documents for which the prosecutor seeks it”.

#### *The Prosecutor’s Further Submission*

15. The Prosecutor addresses mainly the issue “whether or not the requirement ‘adjudicated’ in Rule 94(B) applies both to ‘facts’ and ‘documentary evidence’”.

16. The Prosecutor in his Further Submission submits that the wording of Rule 94(B) “clearly suggests that ‘adjudicated’ only relates to ‘facts’ and does not extend to ‘documentary evidence’”. According to him, “existing case law on Rule 94(B) construes ‘adjudicated facts’ and ‘documentary evidence’ as existing apart from each other, and as not requiring a reading of ‘adjudicated’ into ‘documentary evidence’”.

17. Regarding the Rwandan Official Documents, the Prosecutor considers that not only laws but also “official documents” are “generally fit for judicial notice”.

#### *The Defence’s Further Submissions*

18. The Defence first specified the scope of application of Sub-Rule 94(B). According to the Defence, “the proper construction of this Sub-Rule is that the participle ‘adjudicated’ governs both types of evidence of which judicial notice may be taken under Rule 94(B), namely ‘facts’ and ‘documentary evidence’”. The Defence points out the discrepancies between the French and the English version and submits that the Court should apply the principle of *in dubio pro reo*, whereby “when a statute or a rule may be fairly interpreted in two or more ways, the version favourable to the accused should be selected”<sup>10</sup>.

19. According to the Defence, the “wording of Rule 94, which deals with ‘facts’ in subsection (A) and ‘facts and documents’ in subsection (B) demonstrates that the drafters of Rule 94 were of the view that a rule separate from what is now 94(A) needed to be enacted to enable the contents of Documents be judicially noticed by a Trial Chamber”.

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<sup>9</sup> *Bagosora* Decision, para 61.

<sup>10</sup> *The Prosecutor v. Jean-Paul Akayezu*, Case No ICTR-96-4-T, Judgment, 2 September 1998. paras 319 and 501.

20. The Defence further submits that only matters contained in judgment could be the basis for applications under Rule 94(B). According to the Defence, this could not apply to adjudicated facts or documents which are not adjudicated in a final judgment.

21. Finally, the Defence states that the Trial Chamber should not take judicial notice of the content of the documents submitted by the Prosecutor. The Defence urges the Trial Chamber to apply the words of the Trial Chamber in the *Ntakirutimana* Decision and balance judicial economy and consistency of case law with the fundamental rights of the accused to a fair trial.

## DELIBERATIONS

22. Rule 94 of the Rules is divided into two Sub-Rules and reads as follows:

(A) A Trial Chamber shall not require proof of facts of common knowledge but shall take judicial notice thereof.

(B) At the request of a party or *proprio motu*, a Trial Chamber, after hearing the parties, may decide to take judicial notice of adjudicated facts or documentary evidence from other proceedings of the Tribunal relating to the matter at issue in the current proceedings.

### A. Judicial Notice Pursuant to Rule 94(A) and (B): Preliminary Remarks and Scope of the Rule.

#### 1. *Scope of Rule 94(A): Judicial Notice of Facts of Common Knowledge*

23. Rule 94(A) provides that, “a Trial Chamber shall not require proof of facts of common knowledge but shall take judicial notice thereof”. Thus, following Rule 94(A), a Trial Chamber is permitted to take judicial notice of facts if such facts are of “common knowledge”. The Trial Chamber is of the view that the jurisprudence of this Tribunal, as well as the International Criminal Tribunal for the former Yugoslavia (the “ICTY”) has dealt extensively with the notion and the definition of “common knowledge”.<sup>11</sup> Facts of common knowledge are facts of such notoriety, so well known and acknowledged that no reasonable individual with relevant concern can possibly dispute them. The notion was interpreted in the *Semanza* Decision to be “those facts which are not subject to reasonable dispute including, common or universally known facts, such as general facts of history, generally known geographical facts and the law of nature”.<sup>12</sup>

<sup>11</sup> See *inter alia*: *Semanza* Decision, paras 22-25; *Bagosora* Decision, para 44; *The Prosecutor v. Pauline Nyiramasuhuko et al.*, Case No ICTR-97-21-T, “Decision on the Prosecutor’s Motion for Judicial Notice and Admission of Evidence”, 15 May 2002, para 36 (the “*Nyiramasuhuko* Decision”); *The Prosecutor v. Sikirica et al.*, Case No IT-95-8-T (ICTY), “Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts”, 27 September 2000, para 4 (the “*Sikirica* Decision”).

<sup>12</sup> *Semanza* Decision, para 23.

24. The Trial Chamber is of the opinion that the judicial notice should not be taken of facts which are controversial or which are subject of disputed interpretation. Only facts that fall into that category of, “facts of common knowledge” may be taken judicial notice of, under this Sub-Rule.

25. The Trial Chamber sees no difficulty in taking judicial notice of, “facts of common knowledge” under Sub-Rule 94(A). However, the Prosecutor has not set out the facts that he would want the Trial Chamber to take judicial notice of under this Sub-Rule 94(A). He has, instead, provided two lists of documents – one titled “UN Documents” and the other “Rwanda Official Documents” – and requested the Trial Chamber to take judicial notice of these documents under either Sub-Rule 94(A) or 94(B).

26. The Trial Chamber finds this unsatisfactory and is not able to take judicial notice of any documents under Sub-Rule 94(A). The Chamber reiterates that no document can be taken judicial notice of, under Sub-Rule 94(A) which refers specifically to, “facts of common knowledge”.

***2. Scope of Rule 94(B): Judicial Notice of Adjudicated Facts or Documentary Evidence from Other Proceedings of the Tribunal Relating to the Matter at Issue in the Current Proceedings***

27. The Trial Chamber resolves that it will take judicial notice of, only such of the documents submitted by the Prosecutor in his two lists as come within the scope of Sub-Rule 94(B), which permits the taking of judicial notice of “documentary evidence from other proceedings of the Tribunal relating to the matter at issue in the current proceedings”.

28. Therefore the Trial Chamber will take judicial notice of only those documents in the Prosecutor’s Lists, which have been admitted in previous proceedings of this Chamber or any other Trial Chamber in this Tribunal. The documents, which will be taken judicial notice of on that basis, are set out in Appendix 1 thereof.

29. Rule 94(B) is divided into two parts and relates to two categories of facts or documentary evidence that could be judicially noticed.

*Adjudicated facts pursuant to Rule 94(B)*

30. The Chamber notes that, pursuant to Rule 94(B) of the Rules, the facts that may be judicially noticed must have been “adjudicated in other proceedings and must relate to matters at stake in the current proceeding”.<sup>13</sup> As stated in the *Ntakirutimana* Decision, “unlike Rule 94(A), *litra* (B) therefore is discretionary. It is for the Trial Chamber to decide whether justice is best served by its taking judicial notice of adjudicated facts”.<sup>14</sup>

<sup>13</sup> *Nyiramasuhuko* Decision, para 39.

<sup>14</sup> *Ntakirutimana* Decision.

31. Considering that the Prosecutor has not requested any previously “adjudicated fact” to be judicially noticed, the Trial Chamber observes that Rule 94(B) regarding “adjudicated facts” is without application in this particular case.

*Clarification on whether “adjudicated” relates to facts and/or documentary evidence*

32. The Defence pointed out the discrepancies between the French and English versions of Rule 94(B). According to the Defence, the terms “adjudicated ... from other proceedings of the Tribunal relating to the matter at issue in the current proceedings” relates to both “facts” and “documentary evidence”.

33. The Prosecutor in his Further Submission, considers that the wording of Rule 94(B) “clearly suggests that ‘adjudicated’ only relates to ‘facts’ and does not extend to ‘documentary evidence’”. According to him, “existing case law on Rule 94(B) construes ‘adjudicated facts’ and ‘documentary evidence’ as existing apart from each other, and as not requiring a reading of ‘adjudicated’ into ‘documentary evidence’”.

34. The Trial Chamber acknowledges that the French version reads as follows: “Une Chambre de première instance peut ... décider de dresser le constat judiciaire de faits ou de moyens de preuve documentaires *admis lors d'autres affaires portées devant le Tribunal et en rapport avec l'instance*”.<sup>15</sup> The Trial Chamber is of the view that, under Sub-Rule 94(B), both facts (which have been previously adjudicated) and documents (which have been received and admitted in previous proceedings) may be judicially noticed. Therefore, to be taken judicial notice of, the facts must be adjudicated facts, meaning facts upon which, on a previous occasion, in another case, this Tribunal in any of its several Chambers has deliberated and made a decision. Such decision must be conclusive in that it is not under challenge before the Appeals Chamber or if challenged, the Appeals Chamber upheld it. Regarding the second part of Sub-Rule 94(B), to be taken judicial notice of, documents must constitute “documentary evidence from other proceedings of the Tribunal” and must “relate to the matter at issue in this case”.

35. The Trial Chamber recalls Rule 7 of the Rules which provides that, “the English and French texts of the Rules shall be equally authentic. In case of discrepancy, the version which is more consonant with the spirit of the Statute and the Rules shall prevail”. With respect to the meaning of the French word “admis”, the Trial Chamber is of the opinion that the only issue to be considered by the Chamber is whether this document was tendered and received as evidence in other proceedings and relates to the matter at issue in the current proceedings. Documents do not need to be “adjudicated” *i.e.* the Chamber in other proceedings does not need to have pronounced a specific and unchallenged or unchallengeable decision on the admissibility of the document. It is enough that the document was admitted into evidence or “admis lors d'autres affaires portées devant le Tribunal”.

36. However, the Trial Chamber considers that it is the duty of the party seeking judicial notice to be taken to show that the document was tendered and received as

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<sup>15</sup> Emphasis added.



evidence in other proceedings and relates to the matter at issue in the current proceedings. In this particular case, the Prosecutor has only provided the Trial Chamber with a list of documents which were judicially noticed. Therefore, the Trial Chamber shall limit its prerogative to the examination of the documents mentioned by the Prosecutor in the said Motion, *i.e.* items that have been previously judicially noticed in other cases. Having identified the documents, the Trial Chamber will now address the issue whether or not the said documents should be judicially noticed.

#### **B. Judicial Notice of UN Documents contained in Annex A of the said Motion**

37. After a careful review of the documents 84, 85, 86, 87, 88, 147, 154 and 156 listed in Annex A, the Trial Chamber considers that the documents are position papers setting out opinions of their authors who, though commissioned by the United Nations cannot and do not claim to speak for the United Nations. Furthermore, they contain facts that go to the proof of the guilt of the accused and which content cannot be judicially noticed pursuant to Rule 94(B).

38. The Trial Chamber considers that a vague and generalised request to take judicial notice of the content of an entire batch of documents is insufficient to invoke Rule 94(B). A request must specifically point out the paragraphs or parts of each document of which it wishes judicial notice to be taken, and refer to particular facts. The Trial Chamber recalls the findings of *Semanza* Case by another Chamber of this Tribunal which stated that, "there is ample precedent in this Tribunal to take judicial notice of the existence and the authenticity of such documents without taking judicial notice of the content thereof".<sup>16</sup>

39. In the *Bagosora* Decision,<sup>17</sup> the Trial Chamber took the view that, as those documents originate from bodies or organs of the United Nations, there is no requirement for the Prosecutor to prove the existence or the authenticity of such documents. Thus, by taking judicial notice of the above-listed documents, the Chamber, merely relieves the Prosecutor of his formal burden of establishing the authenticity and existence of such documents. However, the Trial Chamber will decline to take judicial notice of the veracity of the statements and conclusions of such documents. Furthermore, the Trial Chamber notes that the following documents were already admitted and judicially noticed in other proceedings before this Tribunal. Therefore, the Trial Chamber takes judicial notice of the existence and authenticity of the documents n° 84, 85, 86, 87, 88, 147, 154 and 156, pursuant to Rule 94(B). Nevertheless, the Chamber stresses that it does not constitute admission that all the matters of facts therein contained are proved and admitted as such by the Chamber. The taking of judicial notice of the above-mentioned documents is limited to the existence and the authenticity of the documents.

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<sup>16</sup> *Semanza* Decision, para 38.

<sup>17</sup> *Bagosora* Decision, para 57.

**C. Judicial Notice of Rwandan Official Documents Contained in Annex B of the said Motion**

40. Regarding the so-called "Rwanda Official Documents", listed in Annex B of the said Motion, the Trial Chamber recalls its findings stated in paragraph 38. The Chamber does not consider that the documents listed by the Prosecutor in Annex B could be judicially noticed pursuant to Rule 94(A) as being facts of common knowledge. Moreover, for the reasons stated above, they do not constitute adjudicated facts pursuant to Rule 94(B).

41. However the Trial Chamber notes that the following documents listed in Appendix 2, were already judicially noticed for their existence and authenticity in other proceedings before this Tribunal and could therefore come within the scope of Rule 94(B).

42. Therefore, the trial Chamber will only take judicial notice of the following documents pursuant to Rule 94(B): 97, 98, 99, 100, 101, 102, 103, 104, 105, 143, 145, 169, 170, 171, 172 and 173 only in respect of the existence and authenticity of such documents.

**D. Other Documents Submitted by the Prosecutor in Annexes A and B**

43. Finally, the Trial Chamber will not take judicial notice of the following documents sought to be admitted by the Prosecutor: 110, 121, 124, 148, 149, 151, 152, 153, 155, 157, 159, 161, 162, 163, 164, 165, 166, 167, 168, 185 and 187 contained in Annex A of the said Motion and 78, 79, 80, 81, 92, 93, 94, 95, 106, 111, 112, 113, 125, 126, 129, 131, 132, 133, 134, 135, 136, 138, 141, 142, 146, 174, 175, 177, 179, 180, 181, 182 and 195 contained in Annex B of the said Motion.

44. The Trial Chamber, however, reminds the parties that they remain free to introduce evidence to contradict or challenge the contents of documentary evidence the Trial Chamber has taken judicial notice of, in the same way as they may call evidence to dispute or challenge other documents that have been regularly admitted into evidence.

**FOR THE ABOVE REASONS, THE TRIBUNAL**

**GRANTS** the said Motion in the following limited respects:

- (i) The Chamber takes judicial notice, pursuant to Rule 94(B) of the existence and authenticity of the UN Documents listed in Appendix 1.
- (ii) The Chamber takes judicial notice, pursuant to Rule 94(B) of the existence and authenticity of the Rwanda Official Documents listed in Appendix 2.

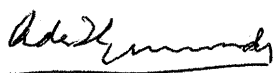
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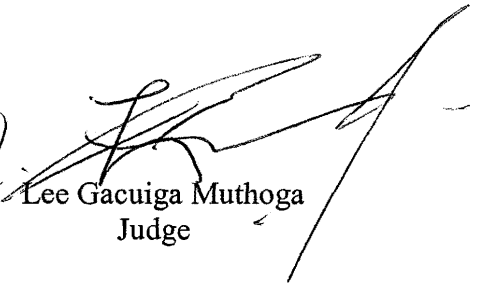
- (iii) The Chamber does not take judicial notice of the documents listed in Appendix 3.

**DENIES** the said Motion in all other respects.

Arusha, 2 December 2003

  
Asoka de Zoysa Gunawardana  
Presiding Judge

  
Khalida Reahid Khan  
Judge

  
Lee Gacuiga Muthoga  
Judge



**APPENDIX 1**

**The UN Documents of which judicial notice can be taken pursuant to Rule 94(B), only in respect of the existence and authenticity of such documents**

1. The United Nations and Rwanda 1993-1996. The United Nations Blue Book Series, Volume X, New York, Department of Public Information, United Nations, 1996 (Item 84).
2. Final Report of the Commission of Experts established pursuant to Security Council Resolution 935 (1994) dated 9 December 1994, S/1994/1405 (Item 85).
3. Report on the situation of human rights in Rwanda submitted by Mr. René Degni-Segui, Special Rapporteur of the Commission on Human Rights, under paragraph 20 of the Resolution E/CN.4/S-3/1 of 25 May 1994, dated 28 June 1994, E/CN.4/1995/7 (Item 86).
4. Report on the situation of human rights in Rwanda submitted by Mr. René Degni-Segui, Special Rapporteur of the Commission on Human Rights, under paragraph 20 of the Resolution E/CN.4/S-3/1 of 25 May 1994, dated 29 January 1996, E/CN.4/1996/68 (Item 87).
5. Report by the Special rapporteur on extrajudicial, summary or arbitrary executions on his mission to Rwanda Mr. Waly Ndiaye, 8-17 April 1993 (Item 88).
6. Report on the situation of human rights in Rwanda submitted by Mr. René Degni-Segui, Special Rapporteur of the Commission on Human Rights, under paragraph 20 of the Resolution E/CN.4/S-3/1 of 25 May 1994, dated 28 June 1995, E/CN.4/1996/7 (Item 147).
7. Special Report of the Secretary-General on the United Nations Assistance Mission for Rwanda dated 20 April 1994, S/1994/470 (Item 154).
8. Report of the United Nations High Commissioner for human rights, Mr. José Ayala Lasso, on his mission to Rwanda (11-12 May 1994), dated 19 May 1994, E/CN.4/S-3/3 (Item 156).

**APPENDIX 2**

**The Rwanda Official Documents of which judicial notice can be taken pursuant to Rule 94(B), only in respect of the existence and authenticity of such documents**

1. Arusha Peace Accords Between the Government of the Republic of Rwanda and the Rwandan Patriotic Front, 23 December 1993 (Items 97, 98, 99, 100, 101, 102, 103, 104 and 105).



2. Constitution de la République Rwandaise, 10 juin 1991 (*J.O.* 1991, p. 615), modifiée par Loi n° 18/93 du 3 août 1993, Article 45 (*J.O.* 1993, p. 1257) (Item 143).
3. Arrêté Ministériel n° 01/03 du 19 janvier 1981 portant mesures d'exécution du Décret-loi n° 01/81 du 16 janvier 1981 relatif au recensement, à la carte d'identité, au domicile et à la résidence des Rwandais (*J.O.* n° 2bis du 20 janvier 1981) (Item 145).
4. Loi du 15 avril 1963 portant organisation territoriale de la République, Article 1 (Item 169).
5. Décret-loi n° 10/75, Organisation et fonctionnement de la préfecture, 11 mars 1975, Articles 4, 8 and 15 (Item 170).
6. Loi du 23 novembre 1963 portant organisation communale, Articles 3, 13, 38, 46, 48, 59, 60 and 85 (Item 171).
7. Décret-loi portant création de la Gendarmerie Nationale, 23 janvier 1974, Articles 4, 24 and 28 ; Arrêté Présidentiel n° 86/08 portant intégration de la police dans l'armée rwandaise, 26 juin 1973, Articles 1 and 2 ; Arrêté Présidentiel n° 01/02, Statut des officiers des Forces Armées Rwandaises, 3 janvier 1973, Article 2 (Items 172 and 173).

### APPENDIX 3

#### Other Documents Which Need to Be Proved

1. Items 110, 121, 124, 148, 149, 151, 152, 153, 155, 157, 159, 161, 162, 163, 164, 165, 166, 167, 168, 185 and 187 contained in Annex A of the said Motion.
2. Items 78, 79, 80, 81, 92, 93, 94, 95, 106, 111, 112, 113, 125, 126, 129, 131, 132, 133, 134, 135, 136, 138, 141, 142, 146, 174, 175, 177, 179, 180, 181, 182 and 195 contained in Annex B of the said Motion.

