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**International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda**

**TRIAL CHAMBER III**

Case No. ICTR-98-44-T

ENGLISH  
Original: FRENCH

Before: Judge Andréia Vaz, presiding  
Judge Flavia Lattanzi  
Judge Florence Rita Arrey

Registrar: Adama Dieng

Date: 30 April 2004

**THE PROSECUTOR**

v.

**ÉDOUARD KAREMERA  
MATHIEU NGIRUMPATSE  
JOSEPH NZIRORERA  
ANDRÉ RWAMAKUBA**

JUDICIAL RECORDS/ARCHIVES  
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**DECISION ON THE PROSECUTOR'S MOTION FOR JUDICIAL NOTICE**  
*Rule 94 of the Rules of Procedure and Evidence*

Office of the Prosecutor

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Peter Robinson  
David Hooper and Andréas O'Shea  
Charles Roach and Frédéric Weyl

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

**SITTING** as Trial Chamber III (the "Chamber"), composed of Judges Andréia Vaz, presiding, Flavia Lattanzi and Florence Rita Arrey;

**BEING SEIZED** of a Prosecutor's motion for judicial notice pursuant to Rule 94 of the Rules of Procedure and Evidence (hereafter the "Rules"), filed on 10 November 2003;

**CONSIDERING** the Trial Chamber's Decision of 21 November 2003 on the request filed by Accused Rwamakuba, Nzirorera and Ngirumpatse, extending to 8 January 2004 the time-limit for a response to the Prosecutor's motion for judicial notice;

**CONSIDERING** Joseph Nzirorera's response of 15 December 2003;

**CONSIDERING** André Rwamakuba's response of 13 January 2004;

**CONSIDERING** Mathieu Ngirumpatse's response of 14 January 2004;

**CONSIDERING** that Édouard Karemera filed no response;

**RULING** solely on the basis of the briefs of the parties pursuant to Rule 73(A) of the Rules;

**NOW CONSIDERS THE MOTION.**

#### **The Parties' submissions**

##### ***The Prosecution***

1. The Prosecution requests the Chamber to take judicial notice of the facts set out in Annexes A and B. According to the Prosecution, the facts presented in Annex A are of common knowledge within the meaning of Rule 94(A) of the Rules, or are adjudicated facts from other proceedings of the Tribunal falling within Rule 94(B).
2. The Prosecution considers that judicial notice promotes efficiency of the proceedings and fosters judicial economy, while at the same time ensuring uniformity of decisions.
3. The Prosecution contends that, once it has been demonstrated that an alleged fact is a fact of common knowledge, the Chamber must take judicial notice of it in accordance with the provisions of Rule 94(A). In support of its argument, the Prosecution cites the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia (hereafter ICTY), which, in *Prosecutor v. Tadić*,<sup>1</sup> stressed that such judicial notice was in the interests of fairness. The Prosecution also cites the Decision rendered in *The Prosecutor v. Semanza*, where it was held that it is not necessary to prove matters of common knowledge,<sup>2</sup> and that

<sup>1</sup> *Prosecutor v. Tadić*, Case No. IT-94-1-AR72, Transcripts of the hearings on the interlocutory appeal concerning the Tribunal's jurisdiction, 7 September 1995, pp. 106-107.

<sup>2</sup> *The Prosecutor v. 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, para. 25.

there is no requirement that a matter be universally accepted in order to qualify for judicial notice.<sup>3</sup>

4. According to the Prosecution, the facts in Annex A are either facts of common knowledge known to the Tribunal, or legal conclusions that inevitably flow from them. The Prosecution adds that judicial notice would not in any way imply dispensation from the obligation to prove the essential ingredients of the crimes with which the four accused persons are charged. The Prosecution further submits that the facts set out in Annex A also constitute adjudicated facts from other proceedings within the meaning of Rule 94(B), and refers the Chamber to the findings of this Tribunal, which appear after the respective facts in Annex A.

5. The Prosecution adds that several Chambers have taken judicial notice of most of the official documents presented in Annex B, as "documentary evidence from other proceedings".

### ***The Defence***

#### ***Defence Counsel for Nzirorera and Rwamakuba***

6. The Defence for Joseph Nzirorera notes that the Prosecution requests the Chamber to take judicial notice of the same 16 facts which were the subject of a motion for judicial notice brought earlier in *The Prosecutor v. Juvénal Kajelijeli*.<sup>4</sup> Consequently, the Defence argues that the Chamber should be guided by that Decision and take judicial notice of the facts corresponding to points 1, 2, 3, 4 (a), (b), (c), (e), (f), 5 (a), (c), (d), (e), (f) and 7 of Annex A, and not take judicial notice of the facts set out in points 4(d), 5(b), 6 and 8 to 16 of Annex A.

7. The Defence for Rwamakuba does not object to judicial notice of the facts referred to in paragraphs 1, 2, 3, 4(a) and (e), 5(a) and (b), and 6 of Annex A.

8. However, the Defence for Rwamakuba argues that judicial notice cannot be taken of point 4(b), given the need to prove the relationship of authority between ministers and their subordinates, which is at issue in the instant case. The Defence relies on Trial Chamber II's Decision in *Nyiramasuhuko*.<sup>5</sup>

9. The Defence for Rwamakuba further contends that the Chamber cannot take judicial notice of the facts referred to in paragraphs 4(c), (d) and (f), since the nature and degree of a *préfet*'s authority in the circumstances that prevailed in Rwanda in 1994 are controversial issues which must be proved through evidence.

10. The Defence for Rwamakuba considers that the Chamber should take judicial notice only of the fact that in Rwanda there were ethnic groups known as Hutu, Tutsi and Twa,

<sup>3</sup> *Ibid.*, para. 31.

<sup>4</sup> *The Prosecutor v. Kajelijeli*, Case No. ICTR-44-A-T, *Decision on the Prosecutor's Motion for Judicial Notice Pursuant to Rule 94 of the Rules of Procedure and Evidence*, 16 April 2002.

<sup>5</sup> *The Prosecutor v. Nyiramasuhuko et al.*, Case No. ICTR-98-42-T, *Decision on the Prosecutor's Motion for Judicial Notice and Admission of Evidence*, 15 May 2002.

adding, however, that, since it has not been established that those were the only ethnic groups in Rwanda, point 7 should be reformulated.

11. It is also the view of the Defence for Rwamakuba that the Chamber cannot take judicial notice of paragraphs 8 to 16, since they mix law and fact and some constitute elements of alleged crimes and remain matters of dispute between the parties.

12. Regarding judicial notice of documentary evidence, the Defence for Nzirorera refers to the decision rendered in *Bizimungu*. The Defence points out that, in that decision, Trial Chamber II took judicial notice of the existence and authenticity of documents originating from United Nations bodies, but not of the truth of the statements and conclusions therein, since, although the documents were commissioned by the United Nations, their authors could not claim to speak for the Organization. Furthermore, since these documents contained facts that went to proof of guilt of the accused, they could not be judicially noticed.<sup>6</sup>

13. Accordingly, the Defence for Nzirorera does not object to judicial notice being taken of the existence and authenticity of the documentary evidence presented in points 1, 2, 12, 13, 23, 24 and 25 of Annex B.

14. Moreover, and again in line with the *Bizimungu* Decision, in which the Chamber took judicial notice of official documents originating from the Rwandan Government only with respect to their existence and authenticity,<sup>7</sup> the Defence is not opposed to judicial notice of the documentary evidence contained in points 15, 16, 17, 21 and 22 of Annex B.

15. Lastly, the Defence for Nzirorera objects to judicial notice of the documentary evidence referred to in points 3, 4, 5 to 11, 14, 18, 19 and 20 of Annex B, pointing out that the Tribunal has declined to take judicial notice thereof.

16. The Defence for Rwamakuba does not object to judicial notice of the existence of the documents presented in Annex B, but does object to their content, with the exception of the Rwandan legislation referred to in points 15, 16, 17 and 22, whose content can be judicially noticed as existing law.<sup>8</sup>

### ***Defence Counsel for Ngirumpatse***

17. The Defence argues that the issue of judicial notice should be resolved in light of the decision rendered in *Bagosora*, in which Trial Chamber III refused to take judicial notice of controversial factual allegations which formed the basis of the crimes mentioned in the indictment.<sup>9</sup>

18. Citing the Decision on judicial notice in *Bizimungu*, the Defence for Ngirumpatse argues that, in order for the adjudicated facts to be judicially noticed, this Tribunal must have

<sup>6</sup> *The Prosecutor v. Bizimungu et al.*, Case No. ICTR-99-50-T, *Decision on the Prosecutor's Motion for Judicial Notice Pursuant to Rules 73, 89 and 94*, 2 December 2003, para. 37.

<sup>7</sup> The Defence points out that the Prosecution has submitted the same documents in this motion.

<sup>8</sup> *Ibidem*.

<sup>9</sup> *The Prosecutor v. 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 of the Rules*, 11 April 2003.

deliberated upon them and made a decision, and such a decision must not have been challenged, or must have been upheld by the Appeals Chamber after being challenged.

19. The Defence considers that the documents listed in the Annexes to the Prosecutor's Motion can be divided into two categories. The first consists of United Nations documents and other United Nations reports, and the second of various laws and international conventions. According to the Defence, judicial notice cannot be taken of these documents, since they do not fall into any of the categories mentioned in Rule 94. Again citing the Decision on judicial notice in *Bizimungu*, the Defence describes the United Nations documents and reports referred to in Annexes A and B as position papers which set out the opinion of their authors, even if they were commissioned by the United Nations. Moreover, judicial notice cannot be taken of any adjudicated fact or documentary evidence from other proceedings of the Tribunal which goes to the guilt of an accused person.

20. The Defence cites as an example points 6 and 9 of Annex A and refers to the Decisions relating to judicial notice in *Nyiramasuhuko and Ntakirutimana*, in which the Chambers refused to take judicial notice of legal findings from other judgements relating to the nature of the Rwandan conflict and the crimes committed there.<sup>10</sup>

21. Furthermore, as to domestic legislation and international conventions, the Defence characterizes the Prosecution's list as vague and generalized. It contends that the Prosecution's argument that judicial notice should be taken of other documents by analogy, on the ground that they are similar in content or nature with adjudicated documentary evidence, is not supported by case law and is in flagrant contradiction with the language of Rule 94.

22. Consequently, the Defence requests the Chamber to dismiss the Prosecutor's Motion and considers that a distinction should be made between admission of the authenticity of a document and assessment of the veracity of its content. The Defence further requests the Chamber to address the points submitted by the Prosecution on an individual basis, as and when they arise.

#### ***Defence Counsel for Karemera***

23. The Chamber notes that there is no response from the Defence for Karemera, despite the extension of the deadline for response to 28 January 2004 at the request of the Defence.

#### **Deliberation**

24. Rule 94 of the Rules 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

<sup>10</sup> *The Prosecutor v. E & G Ntakirutimana*, Cases No. ICTR-96-10-T and ICTR-96-17-T, *Decision on the Prosecutor's Motion for Judicial Notice of Adjudicated Facts*, 22 November 2001.

evidence from other proceedings of the Tribunal relating to the matter at issue in the current proceedings.

25. The Chamber notes that the Prosecution fails to specify the basis, as between paragraphs A and B of Rule 94, on which it wishes the Chamber to take judicial notice. The Chamber would, however, stress that the implications are quite different. Thus the Chamber is to some extent obliged to take judicial notice of facts of common knowledge by reason of their very nature, although it has some discretion in their assessment. On the other hand, judicial notice of adjudicated facts or documentary evidence from other proceedings can only be taken after an assessment of their relevance to the matter at issue.

26. Consequently, the Chamber will examine the facts and documents of which the Prosecution wishes the Chamber to take judicial notice by placing them in what the Chamber considers to be their relevant categories.

27. In the opinion of the Chamber, a fact of common knowledge is a fact which is known to all, and which is verifiable by authoritative sources and hence cannot be reasonably disputed. Thus judicial notice can be taken of a fact of common knowledge despite the objection of one of the parties if the Chamber deems such objection to be unreasonable.

28. The Chamber will follow the Tribunal's case law on the matter, in which this notion has been defined on several occasions. For example, in its Decision of 3 November 2000, Trial Chamber III considered that the term "common knowledge" is generally accepted as encompassing "... 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 laws of nature".<sup>11</sup> The Chamber also considered that "[a] fact is said to be indisputable if it is either generally known within the territorial jurisdiction of a court or capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be called into question".<sup>12</sup>

29. With respect to the admission of adjudicated facts and documentary evidence from other proceedings, the Chamber has a certain discretion under Rule 94(B), which provides that the Chamber may take judicial notice thereof. As pointed out in *Ntakirutimana*: "It is for the Chamber to decide whether justice is best served by its taking judicial notice of adjudicated facts", while taking into account the accused's right to a fair trial.<sup>13</sup>

30. The Chamber duly notes that Ngirumpatse objects generally to judicial notice of the facts and documentary evidence presented by the Prosecution. However, the Chamber considers judicial notice as an essential element of the proceedings, in that it complies with the dictates of judicial economy, thus making formal proof unnecessary, and at the same time ensures a certain uniformity of decision. Consequently, the Chamber cannot accede to Ngirumpatse's request that it address the issues submitted by the Prosecution as and when they come up in the course of the trial.

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<sup>11</sup> *Semanza*, para. 23.

<sup>12</sup> *Ibid.*, para. 24.

<sup>13</sup> *Ntakirutimana*, para. 28.

### Judicial Notice of facts of common knowledge – Rule 94(A)

31. The Chamber notes that Rwamakuba does not object to judicial notice of the existence or the content of the Rwandan Laws referred to in points 15, 16, 17 and 22 of Annex B, which can be judicially noticed as existing legislation.

32. *Annex A, Point 1: Convention on the Prevention and Punishment of the Crime of Genocide;*

*Annex A, Point 2: Geneva Conventions and Additional Protocols;*

*Annex A, Point 3: Rwanda's administrative structures in 1994 pursuant, in particular, to Loi du 15 avril 1963 sur l'organisation territoriale and Loi du 23 novembre 1963 sur l'organisation communale;*

*Annex A, Point 4: Office of the préfet between 1 January and 17 July 1994 pursuant to Décret-loi 10/75 portant organisation et fonctionnement de la préfecture.*

In the opinion of the Chamber, many of the facts in Annex A of which the Prosecution requests the Chamber to take judicial notice are facts of common knowledge. Thus the Convention on the Prevention and Punishment of the Crime of Genocide and the Geneva Conventions and their Additional Protocols, as referred to in points 1 and 2, are well known international instruments whose content cannot be reasonably disputed. The same applies to the documents mentioned in point 3, which concern in particular Rwanda's administrative structures in 1994.

As regards point 4 relating to the office of the *préfet*, the Chamber duly notes Rwamakuba's objection to judicial notice of the fact that the *préfet* was appointed by the President, and also of Rwamakuba's and Nzirorera's objection to judicial notice of the fact that the *préfecture* was administered by the *préfet*. However, the Chamber considers that judicial notice can be taken of the content of the legislative decree setting out the *préfet*'s functions, though not of its interpretation.

Consequently, the Chamber takes judicial notice of the facts set out in points 1 to 4 of Annex A.<sup>14</sup>

33. *Annex B, Point 15: Décret-loi 10/75: Organisation et fonctionnement de la préfecture;*

*Annex B, Point 16: Organisation territoriale de la République (Loi du 15 avril 1963);*

*Annex B, Point 17: Loi sur l'organisation communale (Loi du 23 novembre 1963);*

*Annex B, Point 21: Arusha Accords;*

*Annex B, Point 22: Constitution of Rwanda.*

The Chamber takes judicial notice of the contents of the Rwandan Laws and other official texts by reason of their very nature. Thus judicial notice is taken of the existence, authenticity and contents of the documents mentioned in points 15, 16, 17, 21 and 22.

Regarding the Laws and Decrees, the Chamber recalls that it will not take judicial notice of their interpretation, as requested by the Prosecution in points 3, 4 and 5 of Annex A. The Chamber is obliged to take judicial notice of the content of the said Laws and Decrees

<sup>14</sup> The facts of which the Chamber will take judicial notice as facts of common knowledge are summarized in Annex I of the present Decision.

without, however, making any determination as to whether or not the prescribed functions of the appointed officials corresponded to their *de facto* powers.

34. *Annex B, Point 3: Encyclopaedia Britannica*

The Chamber notes that Nzirorera objects to judicial notice of this document. In the Chamber's view, the Encyclopaedia Britannica volume submitted to the Chamber does not contain facts of common knowledge, but rather subjective findings which cannot be judicially noticed.

35. *Annex B, Point 4: Report of the Steering Committee of the Joint Evaluation of Emergency Assistance to Rwanda;*  
*Annex B, Point 14: Report of "Physicians for Human Rights".*

The Chamber will not take judicial notice of the Reports mentioned in points 4 to 14, since they do not relate to facts of common knowledge and contain legal findings in which charges are made against parties to the conflict. In the Chamber's view, these facts must be demonstrated at trial.

36. *Annex B, Point 18: List of countries parties to the Geneva Conventions of 12/08/49 and Additional Protocols of 08/06/77;*  
*Annex B, Point 19: Geneva Conventions for the Protection of Victims of War: ratifications, accessions and successions;*  
*Annex B, Point 20: Signatories, ratifications, accessions or successions to the Additional Protocols on the Protection of Victims of Armed International Conflicts.*

The Chamber takes judicial notice of the above documents since they deal with facts of common knowledge. The Chamber accordingly takes judicial notice of the existence, authenticity and content of these documents.

37. *Annex A, Point 6: Non-international nature of the conflict that took place in Rwanda between 1 January and 17 July 1994.*

The Chamber takes note of Nzirorera's objection, but does not deem it necessary to take judicial notice of the non-international nature of the conflict that took place in Rwanda. The Chamber refers to its Decision of 26 February 2004, in which it found that "[t]he internal nature of the conflict is uncontroversial in view of Security Council Resolution 955 (1994)".<sup>15</sup>

38. *Annex A, Point 8: Nature of the crimes committed in Rwanda between 6 April and 17 July 1994*

The Chamber finds that judicial notice cannot be taken of the nature of the crimes committed in Rwanda, since they are not facts of common knowledge and it is the duty of the

<sup>15</sup> Request for certification to appeal decision on Accused Nzirorera's motion for inspection of materials, para. 9(ii).



Prosecution to prove them at trial.<sup>16</sup> Moreover, it is for the Chamber to determine the nature of the crimes, based on the evidence to be adduced at trial.

39. *Annex A, Point 9: Perpetrators of the crimes committed;*  
*Annex A, Point 10: Nature of the crimes committed (conspiracy);*  
*Annex A, Point 11: Planning of the massacres;*  
*Annex A, Point 12: Organization of the massacres;*  
*Annex A, Point 13: Incitement as an element of the extermination plan;*  
*Annex A, Point 14: Training of the militias;*  
*Annex A, Point 15: Parties that led the militias;*  
*Annex A, Point 16: Participants in the extermination plan.*

The Chamber does not consider the allegations in points 9 to 16 to be facts of common knowledge.

Relying on the reasoning followed in *Ntakirutimana* and *Nyiramasuhuko*,<sup>17</sup> the Chamber endorses the objections raised by the parties and finds that judicial notice cannot be taken of the matters in question, since they are indeed fundamental allegations that the Prosecution must prove at trial.

40. *Annex B, Point 23: United Nations Security Council Resolution establishing UNAMIR;*  
*Annex B, Point 25: Report of the United Nations High Commissioner for Human Rights on his mission to Rwanda.*

The Chamber takes judicial notice of the contents of the Security Council Resolution and of the Report of the United Nations High Commissioner for Human Rights, on the ground that the facts referred to therein are of common knowledge.

41. *Annex B, Point 1: United Nations Independent Commission of Experts, Interim Report;*  
*Annex B, Point 2: United Nations Commission of Experts, Final Report;*  
*Annex B, Point 12: Report by the Special Rapporteur on arbitrary executions;*  
*Annex B, Point 13: Report of the Special Rapporteur of the Commission on Human Rights;*  
*Annex B, Point 24: Report of the Special Rapporteur on the human rights situation in Rwanda.*

The Chamber finds that the above-mentioned Reports are common knowledge and consequently takes judicial notice of their existence and authenticity but not of their contents or of the veracity of the statements and findings therein.<sup>18</sup>

<sup>16</sup> *Nyiramasuhuko*, para. 115.

<sup>17</sup> *Ntakirutimana*, para. 35 and *Nyiramasuhuko*, para. 115.

<sup>18</sup> *Bagosora*, para. 57.

***Judicial notice of adjudicated facts or documentary evidence from other proceedings of the Tribunal relating to the matter at issue in the current proceedings – Rule 94(B).***

42. The Chamber recalls that, for facts or documentary evidence to be judicially noticed pursuant to Rule 94(B), the facts or documents presented must have been adjudicated in other proceedings of the Tribunal relating to the matter at issue in the current proceedings.

43. The Chamber notes that Rwamakuba does not object to judicial notice of the existence of documents 1 to 14, 18 to 21 and 23 to 25 of Annex B as adjudicated in other proceedings, but does object to their content. The Chamber further notes that Nzirorera is opposed to judicial notice of the documents listed in points 3 to 11, 14, 18, 19 and 20 of Annex B. However, while he does not object to judicial notice of the authenticity and existence of the other documents, as adjudicated in other proceedings, he does object to judicial notice of their content.

44. *Annex B, Point 5: Akayesu Judgement (extracts)*  
*Annex B, Point 6: Kambanda Judgement (extracts)*  
*Annex B, Point 7: Serushago Judgement (extracts)*  
*Annex B, Point 8: Kayishema-Ruzindana Judgement (extracts)*  
*Annex B, Point 9: Rutaganda Judgement (extracts)*  
*Annex B, Point 10: Musema Judgement (extracts)*  
*Annex B, Point 11: Ruggiu Judgement (extracts)*

In line with the Decision on judicial notice in *Kajelijeli*, the Chamber finds that judicial notice cannot be taken of adjudicated facts or documentary evidence from other cases which are still under appeal, since such facts are not, by definition, adjudicated facts.<sup>19</sup> The same applies to adjudicated facts from judgements based on the accused's plea of guilt or voluntary admission of facts during the trial, where the Prosecution was relieved of its burden of formal proof.<sup>20</sup>

Consequently, the Chamber takes judicial notice of adjudicated facts or documentary evidence from the *Akayesu*, *Kayishema-Ruzindana* and *Rutaganda* Judgements referred to in points 5, 8 and 9 of Annex B, since there are no pending appeals against them. However, judicial notice is restricted to the political and historical context in which the events took place.<sup>21</sup>

On the other hand, the Chamber will not take judicial notice of the adjudicated facts or documentary evidence in the extracts from the *Kambanda*, *Serushago*, *Musema* and *Ruggiu* Judgements cited in points 6, 7, 10 and 11 of Annex B, since they are based either on guilty pleas, or on voluntary admissions of facts by the Accused (*Musema*).

45. *Annex A, Point 5: Functions of the bourgmestre between 1 January and 17 July 1994*

<sup>19</sup> *Kajelijeli*, para. 14, citing *Prosecutor v. Kupreškić*, Appeals Chamber, 8 May 2001, paras. 6-12.

<sup>20</sup> *Kajelijeli*, para. 14, citing *Semanza*, para. 34.

<sup>21</sup> The facts of which the Chamber will take judicial notice as adjudicated facts or documentary evidence from other proceedings are summarized in Annex II to this Decision.

The Chamber notes that the powers and duties of the *bourgmestre* may be readily verified from reliable sources, such as the written legislation of Rwanda. This information is in fact available in the *Loi du 23 novembre 1963*. The Chamber therefore takes judicial notice of the facts set out in point 5, since they have been drawn from the above-mentioned Law and constitute adjudicated facts from other proceedings, such as the *Akayesu* Judgement in particular.

46. *Annex A, Point 7: Between 6 April and 17 July 1994, there were three ethnic groups in Rwanda, namely Hutu, Tutsi and Twa.*

The Chamber takes judicial notice of this fact, on the ground that Rwanda's ethnic division is an adjudicated fact from other proceedings relating to the matter at issue in the instant case. The Chamber further points out that the same fact was judicially noticed in the *Akayesu* Judgement, which is now *res judicata*.

### FOR THESE REASONS

### THE CHAMBER

**PARTIALLY GRANTS** the Prosecutor's Motion and takes judicial notice of the facts and documents listed in Annexes I and II hereto.

Arusha, 30 April 2004

[Signed]

Andrésia Vaz  
Presiding Judge

[Signed]

Flavia Lattanzi  
Judge

[Signed]

Florence Rita Arrey  
Judge

[Seal of the Tribunal]



## ANNEX I

### Judicial notice of facts of common knowledge

1. Convention on the Prevention and Punishment of the Crime of Genocide.
2. Geneva Conventions and Additional Protocols.
3. Rwanda's administrative structures in 1994 as set out in particular in *Loi du 15 avril 1963 sur l'organisation territoriale* and *Loi du 23 novembre 1963 sur l'organisation communale*.
4. The functions of the *préfet* between 1 January and 17 July 1994 as set out in *Décret-loi No. 10/75 portant organisation et fonctionnement de la préfecture*.
5. *Décret-loi 10/75: Organisation et fonctionnement de la préfecture*.
6. *Organisation territoriale de la République. (Loi du 15 avril 1963)*
7. *Loi sur l'organisation communale. (Loi du 23 novembre 1963)*
8. The Arusha Accords.
9. The Constitution of Rwanda
10. List of countries parties to the Geneva Conventions of 12 August 1949 and Additional Protocols of 8 June 1977.
11. List of countries having ratified, acceded to or succeeded to the Geneva Conventions for the Protection of War Victims
12. List of countries having ratified, acceded to or succeeded to the Additional Protocol Relating to the Protection of Victims in International Armed Conflicts
13. Security Council Resolution establishing UNAMIR
14. Report of the High Commissioner for Human Rights on his mission to Rwanda
15. Interim report of the independent commission of experts
16. Final Report of the independent commission of experts
17. Report of the Special Rapporteur on arbitrary executions
18. Report of the Rapporteur of the Human Rights Commission
19. Report of the Special Rapporteur on the human rights situation in Rwanda

## ANNEX II

### Judicial notice of adjudicated facts and documentary evidence from other proceedings of the Tribunal relating to matters at issue in the current proceedings

1. *Akayesu* Judgement (extracts)
2. *Kayishema-Ruzindana* Judgement (extracts)
3. *Ruzindana* Judgement (extracts)
4. Functions of the *bourgmestre* between 1 January and 17 July 1994
5. Between 6 April and 17 July 1994, there were three ethnic groups in Rwanda, namely Hutu, Tutsi and Twa.

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