107R-01-66-T 21-02-2007 (4437-4435)

JNITED NATIONS NATIONS UNIES

International Criminal Tribunal for Rwanda Tribunal pénal international pour le Rwanda

TRIAL CHAMBER III

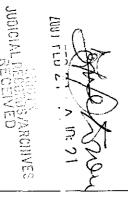
Case No. ICTR-2001-66-T

ENGLISH Original: FRENCH

- Before: Andrésia Vaz, presiding Karin Hökborg Gberdao Gustave Kam
- Registrar: Adama Dieng
- Date filed: 29 March 2006

THE PROSECUTOR

v.



ANTHANASE SEROMBA

DECISION ON PROSECUTOR'S MOTION FOR SITE VISITS IN RWANDA Rule 73 of the Rules of Procedure and Evidence

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Office of the Prosecutor Silvana Arbia Jonathan Moses Gregory Townsend Althea Alexis-Windsor Tolulope Olowoye Counsel for the Accused Patrice Monthé Barnabé Nekuie Sarah Ngo Bihegué

CIII06-0042 (E)

Translation certified by LSS, ECTR

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (the "Trilounal"),

SITTING as Trial Chamber III, composed of Judge Andrésia Vaz, presiding, Judges Karin Hökborg and Gberdao Gustave Kam (the "Chamber");

BEING SEIZED of The Prosecutor's Oral Motion for Site Visits in Rwanda, m-ved at the hearing of 23 March 2006;

CONSIDERING the positive response from the Defence;

CONSIDERING the Oral Decision of 24 March 2006;

CONSIDERING the lists of sites to be visited in Rwanda submitted by the parties

HEREBY DECIDES, pursuant to Rule 73 of the Rules of Procedure and Evidence (the "Rules").

INTRODUCTION

1. The Accused, Athanase Seromba, is under trial for genocide, or alternatively for complicity in genocide, conspiracy to commit genocide and extermination as a crime against humanity, which crimes are stipulated in Articles 2 and 3 of the Statute of the Tribunal. These charges are in connection with events that occurred in Nyange parish, located in Kivumu commune, Kibuye préfecture.

2. In his oral address, the Prosecutor moved the Chamber for leave to visit a number of sites in Rwanda, arguing that it would contribute to a better understanding of the facts of the present case. In this regard, the Prosecutor submits a list of sites to be visited in Rwanda. The Defence does not challenge the Prosecutor's request and also submits its own list.

DELIBERATIONS

3. Rule 4 of the Rules provides that a Chamber or a Judge may exercise their functions away from the Seat of the Tribunal, if so authorized by the President, in the interests of justice.

4. The Tribunal's jurisprudence considers that the relevance of site visits mus be tested against the particular circumstances of each case and their instrumentality in the di covery of the truth.¹ The number of sites to be visited as well as the related expenses to be bc me by the Tribunal should be taken into account.

5. The Chamber finds that the sites to be visited, particularly those in Ny ange, are relevant both to the charges against the Accused and to the witness statements. The Chamber

CIII03-0022 (E)

¹ The Prosecutor v. André Rwamakuba, Decision on Defence Motion fro a View *locu in quo*, No. IC "R-98-44C-T, 16 December 2005; The Prosecutor v. Bagilishema, Case No. ICTR-95-1A-T, Judgement (TC), 1 June 2001; The Prosecutor v. Bagosora et al., Case No. ICTR-98-41-T, Decision on Prosecutor's Motion for 5 te Visits in the Republic of Rwanda (TC), 29 September 2004; The Prosecutor v. Simba, Case No. ICTR-01-76 T, Decision on the Defence Request for Site Visits in Rwanda (TC), 31 January 2005; The Prosecutor v. Simba, Case No. ICTR-01-76-T, Decision on the Defence Renewed Request for Site Visits in Rwanda (TC), 4 Mi y 2005.

is of the view that site visits will be instrumental in the discovery of the truth in the present case.

6. Furthermore, the Chamber notes that the visits, which have limited duration and cover a number of sites, will be carried out without excessive costs to the Tribunal. The Chamber therefore finds that the Prosecutor's request should be granted and that it is in the interests of justice.

FOR THESE REASONS, THE CHAMBER

- **GRANTS** the Prosecutor's Motion
- **ORDERS** site visits in Rwanda
- **REQUEST**⁽⁵⁾ the President of the Tribunal to authorize the Chataber to exercise its functions away from the seat of the Tribunal from 8 to 11 April 2006;
- **REQUEST**S the Registrar to give effect to the President's authorization by facilitating implementation of the present decision.

Done at Arusha, on 29 March 2006

[Signed]

[Signed]

[Signed]

Andrésia Vaz

Karin Hökborg

Gberdao Gustave Kam



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