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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 Hökberg
Gberdao Gustave Kam

Registrar: Adama Dieng

Date filed: 29 March 2006

THE PROSECUTOR

v.

ANTHANASE SEROMBA

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

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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (the “Tribunal”),

SITTING as Trial Chamber III, composed of Judge Andréia Vaz, presiding, Judges Karin Hökberg and Gberdao Gustave Kam (the “Chamber”);

BEING SEIZED of The Prosecutor’s Oral Motion for Site Visits in Rwanda, moved 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 must be tested against the particular circumstances of each case and their instrumentality in the discovery of the truth.¹ The number of sites to be visited as well as the related expenses to be borne by the Tribunal should be taken into account.

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

¹ *The Prosecutor v. André Rwamakuba*, Decision on Defence Motion for a View *locu in quo*, No. ICTR-98-44C-T, 16 December 2005; *The Prosecutor v. Bagilishema*, Case No. ICTR-95-1A-T, Judgement (TC), 7 June 2001; *The Prosecutor v. Bagosora et al.*, Case No. ICTR-98-41-T, Decision on Prosecutor’s Motion for Site 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 May 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
- **REQUESTS** the President of the Tribunal to authorize the Chamber to exercise its functions away from the seat of the Tribunal from 8 to 11 April 2006;
- **REQUESTS** 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]

Andrésia Vaz

[Signed]

Karin Hökberg

[Signed]

Gberdao Gustave Kam

[Seal of the Tribunal]

