



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

UNITED NATIONS
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Original : French

TRIAL CHAMBER III

Before: Judge Andréia Vaz, presiding
Judge Jai Ram Reddy
Judge Sergei Alekseevich Egorov

Registrar: Adama Dieng

Date : 17 June 2004

The Prosecutor

v.

Sylvestre Gacumbitsi

Case No. ICTR-2001-64-T

**JUDGMENT
Summary**

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Office of the Prosecutor:

Richard Karegyesa
Andra Mobberley
Rachid Ramadam

Counsel for the Defence:

Kouengoua
Anne Ngatio Mbattang

1. Trial Chamber III, composed of Judge Andrézia Vaz, presiding, Judge Jai Ram Reddy and Judge Alekseevich Egorov, today renders its judgment in the case against Sylvestre Gacumbitsi. The Chamber shall now read the summary of the Judgment, which shall be interpreted into English and Kinyarwanda. Immediately after this hearing, the Judgment shall be served on the parties, and then made available to the public, in its written French version. An English translation shall be made available as soon as possible. Unlike the Judgment's integral text, this summary is not authentic
2. This Judgment comprises 5 Chapters. The first is the general introduction, the second deals with the assessment of the evidence and factual findings, the third deals with the legal findings, while the fourth contains the verdict. In Chapter five, the Chamber issues consequential orders.

A. Introduction

The Accused

3. The Accused, Sylvestre GACUMBITSI was born in 1943 in Kigina *secteur*, Rusumo *commune*, Kibungo *préfecture*.
4. He worked successively as a teacher in Kibungo *préfecture*, chairman of the *Banque Populaire de Rusumo* and, between 1983 and 1994, as *bourgmestre* of Rusumo *commune*.

The Indictment

5. The Indictment, which was confirmed on 20 June 2001, alleges that the Accused is responsible for genocide and, alternatively, for complicity in genocide, on Counts 1 and 2, for crimes against humanity on Count 3 (extermination), Count 4 (murder) and Count 5 (rape).
6. On 20 June 2001, the Tanzanian authorities arrested the Accused and transferred him the same day to the Tribunal's Detention Facility, where he is still in detention. On 26 June 2001, the Accused pleaded not guilty to each of the five counts in the Indictment.

Procedure

7. Mr. Richard Karegyesa, Ms. Andra Mobberly and Mr. Khaled Ramadam represented the Prosecutor, while Mr. Kouengoua and Ms. Anne Ngatio Mbattang represented the Defendant.
8. During the trial that commenced on 28 July 2003, the Chamber granted the Prosecutor's motion to admit into evidence the testimony of expert witness Alison des Forges in *Akayesu*. The expert witness subsequently appeared to be cross-examined by the Defence.
9. In its Decision of 2 October 2003, dismissing a Defence motion for partial acquittal of the Accused, the Chamber did not take into account some allegations of rape, made by a Prosecution witness, that had not been disclosed earlier, in order to safeguard the basic rights of the Accused.
10. The Prosecution closed its case on 27 August 2003 and the Defence closed its case on 25 November 2003. The Prosecution and the Defence presented their closing arguments on 1 March 2004, on which date the hearing was declared closed and deliberations commenced.

B. Factual Findings

11. Regarding the specific allegations made against the Accused, the Chamber found, on the basis of the testimonies of many credible Prosecution witnesses, that: between 7 and 14 April, the Accused participated in many meetings in Kibungo *préfecture* and in his own *commune*, subdivisions and *secteurs*. On 9 April 1994, the Accused instructed *conseillers* to hold meetings, without the knowledge of the Tutsi, to incite Hutu to massacre the accomplices of the *Inkotanyi*. On 7 April 1994, he met with various local officials, the *Interahamwe*, including Cyasa, one of their leaders, and gendarmes. Accompanied by the communal police, the Accused drove around in a communal vehicle. On 10 April 1994, the Accused was delivered boxes of weapons, which he either distributed or had distributed in the *secteurs* of the *commune*, at the Kibungo military camp in the presence of Colonel Rwagafirita. The Accused publicly incited the population to attack Tutsi at the Nyakarambi market on 13 April, at the Rwanteru, Kanyinya and Gisenyi Trade Centres on 14 April. He urged a Gisenyi local official not to allow people to cross the River Akagera to seek refuge in Tanzania.
12. The Chamber found that on 15 April 1994, Sylvestre Gacumbitsi participated in an attack on the Nyarubuye Parish, Rusumo, where many Tutsi refugees had gathered. Sylvestre Gacumbitsi arrived at the Parish in a convoy of many vehicles carrying the communal police and *Interahamwe*, who were armed with machetes and other traditional or crafted weapons, guns and grenades that they used in the attack against the refugees in the Nyarubuye Parish. However, based on the evidence adduced, the Chamber could not find that the machetes used by the assailants had been supplied earlier by Sylvestre Gacumbitsi, as alleged in the Indictment.
13. Shortly after arriving at around 3 p.m. and realizing that Murefu, a Tutsi refugee was moving towards him with confidence, Sylvestre Gacumbitsi

killed him, thus signaling the beginning of the massacres. He spoke to the crowd through a megaphone and instructed Hutu refugees to separate themselves from Tutsi. When some complied with the instructions, the communal police and *Interahamwe* attacked the refugees in the church building.

14. The Chamber found that members of the communal police attacked the Parish on the instructions of the Accused. The Accused directed the attacks and gave instructions, which the assailants understood as an incitement or encouragement to act.
15. The Chamber also found that, the following day, 16 April 1994, Sylvestre Gacumbitsi arrived at the Nyarubuye church building accompanied by a man named Rubanguka, a Judge at the Rusumo Court, and a group of assailants. Some assailants were armed with spears, machetes, and bows and arrows. It is not established that the Accused himself was armed. In the presence of the Accused, Rubanguka planted a spear into a body, but it was not established if it was still alive. The Chamber found that the Accused also directed the attack of 16 April, as he did with the attack of the previous day. During the attack of 16 April, the assailants, including Judge Rubanguka, finished off survivors, before proceeding to loot the parish building.
16. The Chamber found, on the basis of all the evidence adduced, that between 15 and 17 April 1994, Sylvestre GACUMBITSI directed attacks against Tutsi civilian refugees, who had gathered at the Nyarubuye Parish, and personally took part in the attacks. On 15 April 1994, he killed a Tutsi called Murefu. On 15, 16 and 17 April he directed attacks by giving clear instructions to assailants to attack Tutsi who had sought refuge in the Parish. Among the assailants of 15 April 1994 were the *Interahamwe*, gendarmes and communal police.
17. The Chamber considers that Sylvestre GACUMBITSI facilitated the transport of the communal police, *Interahamwe* and weapons to the Nyarubuye Parish

by authorizing or facilitating the use of *commune* vehicles. He led attacks against Tutsi civilians by giving an example or by instructing the assailants to kill the refugees.

18. The Chamber considers that it is established that thousands of Hutu and Tutsi civilians had sought refuge at the Parish in the days preceding the attack of 15 April 1994 and that on that same day, Hutu were separated from Tutsi, who were attacked. Very many Tutsi were killed that day. Survivors were finished off the following day and two days later. A few weeks later, the premises were still littered with many corpses. Thus, the Chamber found that a great number of Tutsi who found refuge at Nyarubuye Parish were killed there between 15 and 17 April 1994.
19. In his Pre-Trial Brief, the Prosecutor mentioned the murder, on 14 April 1994, in the residence or near the residence of the Accused, of a Tutsi man named Kanyogote, who was accompanied by his two children. The Prosecutor presented two testimonies in support of this allegation. The Chamber can only find that these allegations were not included in the Indictment.
20. In this case, it is indeed the substance of the Indictment that is affected by the inclusion of a criminal act of murder that was not contained in the Indictment, or by the amendment of the particulars of identification of the victims of the said murder. Consequently, the Chamber has decided to disregard the evidence adduced by the Prosecutor regarding the acts of the Accused in relation to the alleged murder of Kanyogote and his children, and has refrained from making a finding in this regard. However, the Chamber found that Kanyogote and his children, Tutsi who felt threatened because of their ethnicity, were killed in April 1994 in Rusumo *commune*.
21. Regarding the allegations relating to the murder of two Tutsi refugees at the Nyabitare Catholic Centre on 15 April 1994, as set out in paragraph 34 of the Indictment, the Chamber was not convinced by Witness TAC's testimony in support of this double allegation of murder. The Chamber found that several

factors negated its credibility and reliability. Witness TAC witnessed the incident recounted only for a very short time, while crawling on his stomach hidden in a banana field at a distance of about 30 metres from the incident. Considering the situation, coupled with the serious stress in which the Witness found himself at the time of the events, his identification of the Accused at the scene, and his narration of events and gestures, the Chamber assessed his account of events with caution. Moreover, the Chamber noted the existence of several inconsistencies and contradictions in Witness TAC's statements.

22. Regarding paragraph 36 of the indictment, the Chamber found that on 13 April 1994, at Nyakarambi, the Accused expelled his tenants, Marie and Béatrice, Tutsi women, knowing that by so doing he was exposing them to external dangers and the imminent risk of being targeted by assailants.
23. Marie and Béatrice were killed in the night of 13 April 1994. However, hearsay evidence is insufficient, failing corroboration, to establish that the Accused ordered the specific murder of Marie and Béatrice, and considering the circumstances under which Witness TAS obtained this information, her evidence was insufficient to establish beyond a reasonable doubt that the Accused gave the order.
24. Regarding the allegations of rape contained in the Indictment, and on the basis of all the evidence adduced, the Chamber found that the Accused, on 17 April 1994, publicly incited the rape of Tutsi girls, by specifying that sticks should be stuck into their genitals in the event they resisted. The Chamber considered as established beyond a reasonable doubt the rapes and other acts of sexual violence committed against and recounted by Prosecution Witness TAQ, and found that such acts were the consequences of the instigation made by the Accused against Tutsi women and girls.
25. In Rusumo *commune*, acts of sexual violence were part of a systematic and widespread attack against the Tutsi civilian population during the events of April 1994. Even if it is possible that many rapes were committed in Rusumo

commune in the period referred to in the Indictment, only a few cases of rape and acts of sexual violence were referred to the Chamber which did not enable it to make a finding on their widespread character.

26. The Chamber found that the rapes recounted by Prosecution Witnesses TAQ, TAO, TAS and TAP are established. However, with the exception of the rape of Witness TAQ, the Chamber did not find that these acts were the direct consequences of the instigation by the Accused to rape Tutsi women.
27. Moreover, the Chamber found that the Prosecutor has established beyond a reasonable doubt that, from April to June 1994, in Rusumo *commune* in Rwanda, there were rapes and other acts of sexual violence, which were part of a widespread and systematic attack against the Tutsi civilian population.
28. The Chamber is of the opinion that the *bourgmestre* had legal authority over the communal police, including the communal brigadiers. He occupied a position of superiority *vis-à-vis* the said communal personnel. Moreover, he was specifically responsible for the maintenance of law and order in the *commune*. However, the Chamber cannot find, in the light of the evidence before it, that the Accused had superior authority over the *conseillers* of the *secteurs*, gendarmes, soldiers and the *Interahamwe* that were in his *commune* at the time of the events under consideration. The law did not, *per se*, place him in such a position. Although his responsibilities regarding the maintenance of law and order afforded him the power to take legal measures in that respect, which would be binding on everyone in the *commune*. The Prosecutor did not adduce any evidence that such power placed him, *ipso facto*, in a position of superior *vis-à-vis* each of the category of persons mentioned above.

C. Legal Findings

29. After setting out its factual findings, the Chamber will now focus on their legal characterization and on the assessment of any responsibility the Accused may have incurred.

Genocide

30. With respect to genocide, the Prosecution must prove that the Accused had the specific intent to destroy, in whole or in part, a national, ethnical, racial or religious group, and that he committed any one of the acts enumerated in Article 2(2) of the Statute. In the case at bar, **Sylvestre Gacumbitsi** is charged with seeking to destroy the Tutsi ethnic group by killing or causing serious bodily or mental harm.
31. The Chamber found that during the period referred to in the Indictment, Rwandan citizens were individually identified according to the following ethnic groups: Tutsi, Hutu and Twa. In its factual findings, the Chamber largely referred to the utterances and actions of the Accused through which he manifested his genocidal intent. Thus, on the 9 April meeting, he exhorted the *conseillers de secteurs* to instigate the Hutus to kill the Tutsi; he made similar utterances to the population on the morning of 13 April, at the Nyakarambi market, and on 14 April, at Rwanteru and Kanyinya commercial centres. On 17 April, the Accused instigated the rape of Tutsi women and girls. Moreover, he personally killed Murefu, a Tutsi. The Chamber finds that at the time when the events occurred in Rusumo *commune*, which events have been established

in the factual findings above, **Sylvestre Gacumbitsi** had the intent to destroy, in whole or in part, the Tutsi ethnic group.

32. The Chamber also found that Sylvestre Gacumbitsi participated in the killing of Tutsis at Nyarubuye Parish, that he personally killed a Tutsi, Murefu, and that he caused serious bodily harm to Tutsi women who were raped at his instigation, all of which bear his requisite genocidal intent.

33. In the light of the foregoing, and with respect to Count 1, genocide, the Chamber finds that **Sylvestre Gacumbitsi** is liable under Article 6(1) of the Statute for planning, instigating, ordering communal police, committing and aiding and abetting the killing of, and perpetration of serious bodily harm on, members of the Tutsi group, as part of the crime of genocide. Hence, and on account of the similarity of the acts in question, the Chamber does not deem it necessary to consider whether he is also liable under Article 6(3) of the Statute.

34. Accordingly, the Chamber finds **Sylvestre Gacumbitsi** GUILTY of GENOCIDE, pursuant to Article 2(3)(a) and (b) of the Statute, as charged in Count 1 of the Indictment.

Complicity in Genocide

35. Count 2, complicity in genocide, is an alternative to Count 1, genocide. Moreover, it is based on the same factual allegations contained in the Indictment as Count 1. Since the Accused has already been found guilty of genocide as charged in Count 1, pursuant to Article 2(3)(a) and (b) of the Statute, the Chamber did not consider the COUNT OF COMPLICITY IN GENOCIDE, provided for in Article 2(3)(e). This count is therefore DISMISSED.

Crimes Against Humanity

36. With regard to crimes against humanity, Sylvestre Gacumbitsi is charged with extermination, murder and rape. Before assessing the facts established with respect to each of the three crimes, the Chamber first inquired whether the general constituent elements of this category of crime – crimes against humanity – were established. On that basis, the Chamber found that a widespread and systematic attack on a civilian population took place in the territory of Rusumo *commune* in April 1994, and that the instructions given by the Accused to the assailants contained an ethnic-based discriminatory factor which prevailed during the attacks and in the choice of victims.

Crimes Against Humanity – Extermination

37. Count 3 of the Indictment charges the Accused with extermination as a crime against humanity, pursuant to Article 3(b) of the Statute. The Chamber held, on the basis of its factual conclusions, *supra*, that the high numerical strength of the victims of the Nyarubuye parish massacre supports a finding of widespread killing. The Chamber noted that witness accounts show that it was a large scale massacre that resulted in numerous deaths, a fact that is corroborated by the testimony of Mr. Patrick Fergal Keane, a BBC journalist who, some weeks later, saw and filmed numerous corpses in the parish compound.

38. The Chamber found that the Accused knew of the existence of a widespread and systematic attack against a civilian population in Rusumo in April 1994 because, at local level, he planned and led certain operations.

39. On the days preceding the attack on Nyarubuye, the Accused participated in preparatory meetings with officials of the gendarmerie and *Interahamwe* with

a view to launching a massive attack against the Tutsi, incited *conseillers* and local political officials to single them out and kill them, distributed boxes of weapons in different locations and traveled within the *commune* to ensure that his instructions had produced the desired effect.

40. The Chamber, in conclusion, stated that it was satisfied beyond reasonable doubt that the Accused incurred individual criminal responsibility under Article 6(1) of the Statute, for planning extermination, instigating extermination, ordering the communal police to exterminate, and aiding and abetting the extermination of members of the Tutsi ethnic group in Rusumo *commune* in April 1994. Furthermore, the Chamber deemed it unnecessary to consider whether the Accused is equally liable under Article 6(3) of the Statute, given the similarity of the events in question.

41. Accordingly, the Chamber finds the Accused **GUILTY** of **EXTERMINATION AS A CRIME AGAINST HUMANITY**, as charged in Count 3 of the Indictment.

Crimes Against Humanity – Murder

42. Count 4 of the Indictment charges the Accused with murder as a crime against humanity, pursuant to Article 3(a) of the Statute. The Prosecutor's factual allegations in support of this charge are contained in paragraphs 31 to 36 of the Indictment.

43. The Chamber considered that the Prosecution has not established, beyond reasonable doubt, the allegations of murder. Consequently, the Chamber finds the Accused not guilty under Count 4: **MURDER AS A CRIME AGAINST HUMANITY**.

Crimes Against Humanity – Rape

44. In the opinion of the Chamber, all penetration of the victim's sexual organ by the sexual organ of the assailant or the insertion by the assailant of any object into the victim's sex organs amounts to rape, although those are not the only instances of conduct that constitute rape within the meaning of Article 3(g) of the Statute. The Chamber has already held that Prosecution Witness TAQ was raped at the same time as seven other Tutsi women and girls, on account of the fact that the assailants inserted their sex organs or a stick into the genitals of each of the victims; that the wife of Prosecution Witness TAO was raped, the assailant inserted his sex organ into that of the victim; that Witness TAS was raped in the same manner, as well as TAP and her mother. All these acts that have been recounted before this Chamber are covered by this definition.

45. The Chamber reiterates its earlier findings concerning the existence of a widespread and systematic attack on a civilian population in Rusumo in April 1994. The Accused had knowledge of such a widespread and systematic attack against a civilian population because he is one of those who masterminded it and because he planned, ordered and led the attack at certain times and in certain locations.

46. In its factual conclusions, the Chamber held that the widespread and systematic attack targeted specifically a civilian population, notably the Tutsi, and also that Prosecution Witness TAQ, TAP and TAS, including the wife of Prosecution Witness TAO, the mother of Prosecution Witness TAP and seven Tutsi women and girls were all raped, as recounted by Prosecution Witness TAQ. The evidence shows that all these victims are civilians, and at no time did the Defence challenge that status.

47. The Chamber is of the opinion that these rape victims were chosen because of their Tutsi ethnic origin or because of their relationship with a person of the Tutsi ethnic group, which is the case with Prosecution Witness TAS. The Chamber therefore found that the instructions given by the Accused to the assailants were discriminatory in character, and that this factor prevailed during the attacks and in the choice of rape victims.
48. In the circumstances of the present case, the utterances made by the Accused to the effect that in case of resistance the victims should be killed in an atrocious manner, and the fact that the rape victims were attacked by the very assailants they were fleeing from, sufficiently establish that they did not consent to the sexual acts of which they were victims.
49. The Chamber finds that the evidence adduced shows that Sylvestre Gacumbitsi certainly instigated the rape of Tutsi women and girls, on the basis of his utterances, such as were heard by Prosecution Witness TAQ. For his part, Prosecution Witness TAS also testified to having heard those who raped her saying that the Accused had ordered them to rape Tutsi women and girls.
50. The Chamber recalls that, immediately after the Accused made utterances instigating the rape of women and girls, while he was in the caravan crossing the bridge between Kankobwa and Nyarubuye, in the direction of Nyarubuye, Prosecution Witness TAQ and seven other Tutsi women and girls were raped by young men who, being in the vicinity, heard the *bourgmestre's* instigation. The Chamber therefore finds that the rapes recounted by Prosecution Witness TAQ resulted from the instigation of the Accused.
51. However, the Chamber finds no evidence of a link between the rape of prosecution Witness TAS and the possible utterances of the Accused, and cannot, therefore, find the Accused liable for rape on in this regard. The same applies to the rape of the wife of Prosecution Witness TAO and the rape of the

mother of Prosecution Witness TAP. The Chamber nevertheless considers that these rapes have been established and are part of the widespread and systematic attack against the civilian population in Rusumo.

52. The Chamber therefore finds Sylvestre Gacumbitsi criminally liable, pursuant to Article 6(1) of the Statute, for instigating the rape of TAQ and seven other Tutsi women and girls, thereby committing a crime against humanity. Consequently, the Chamber does not deem it necessary to *enquire* whether he is equally liable under Article 6(3) of the Statute, given the similarity of the facts and the absence of any evidence of a superior-subordinate relationship between the Accused and the perpetrators of the rapes.

53. Thus, with regard to Count 5, the Chamber finds **Sylvestre Gacumbitsi GUILTY OF RAPE AS A CRIME AGAINST HUMANITY**

Mr. Sylvestre Gacumbitsi, will you please stand up.

D. VERDICT

54. For the reasons set out in this Judgement, having considered all of the evidence and the arguments, Trial Chamber III, unanimously finds the Accused GUILTY of:

Genocide	Count 1
Crimes Against Humanity (Extermination)	Count 3
Crimes Against Humanity (Rape)	Count 5

55. The Chamber unanimously finds the Accused NOT GUILTY of:

Crimes Against Humanity (Murder)	Count 4
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56. Finally, unanimously, the Chamber in light of the guilty verdict for the Count of Genocide REJECTS Count 2, Complicity in Genocide.

E. SENTENCE AND CONSEQUENTIAL ORDERS

57. Chapter V of the Judgement contains the arguments of the parties with respect to mitigating and aggravating circumstances, as well as orders issued subsequent to the verdict.
58. With respect to aggravating circumstances, the Chamber first notes that pursuant to Article 23(2) of the Statute, the gravity of the crimes committed must be taken into account when determining the sentence to be imposed. Therefore, the more serious the crime, the more severe the sentence. However, in its determination of the gravity of the crimes of which the Accused has been found guilty, the Chamber has taken into account the particular circumstances of the case, as well as the form and degree of participation by the Accused in the commission of these crimes.
59. The Chamber considers that the status of the Accused in April 1994 as *bourgmestre* and as the most important and influential person in Rusumo *commune* constitute an aggravating circumstance, in so far as the Accused participated in the crimes committed there, in that he planned the crimes, instigated their commission and sometimes drove the attackers to the location of the massacres. In so doing, he abused the trust citizens placed in him. His active participation in these crimes indicates that he did not take any measures to prevent these crimes or punish the perpetrators thereof when he was in a position to do so. The gravity of the crimes committed, especially genocide, and the atrocious rapes suffered by some victims, also constitute aggravating circumstances.
60. With respect to mitigating circumstances, the Chamber has taken into account the work done by the Accused as *bourgmestre*, as well as his general character, prior to April 1994. These circumstances have been testified to by

Defence witnesses, including the Accused himself, and also by Prosecution witnesses, such as Witness TAW. This Witness testified to the good character of the Accused and his good relations with the Tutsi before the death of President Habyarimana. Further, the family of the Accused still lives in Rwanda in harmony with their neighbours of all ethnicities. However, these mitigating circumstances must be balanced with the aggravating circumstances, in order to determine the sentence.

61. With regard to sentencing, and taking into account the practices followed by ICTR and ICTY, the Chamber notes that the sentence must, first of all, be proportional to the gravity of the crime committed. Those who have been found guilty of genocide or of extermination as a crime against humanity, or of both, have been sentenced to varying periods of imprisonment from 15 years to life. Secondary or indirect forms of participation are generally sanctioned by a lesser sentence.
62. Taking into account the general scale of custodial sentences imposed by the *ad hoc* tribunals and those in Rwanda, and the mitigating and aggravating circumstances considered by the Chamber, the Chamber therefore deems it appropriate to impose an exemplary sentence on Sylvestre Gacumbitsi.
63. The Chamber is of the opinion that individual circumstances must influence the sentence in a manner such that the Chamber does not impose life imprisonment on Sylvestre Gacumbitsi.
64. For these reasons, in light of the aggravating and mitigating circumstances,
65. Ruling unanimously, publicly, and having heard all the parties in the first instance,
66. Pursuant to Articles 23, 26 and 27 of the Statute of the Tribunal and to Rules 101, 102, 103 and 104 of the Rules of Procedure and Evidence,
67. Considering that Sylvestre Gacumbitsi being found GUILTY of:

Genocide

Count 1

Crimes Against Humanity (Extermination) Count 3

Crimes Against Humanity (Rape) Count 5

68. Considering the Prosecution's Closing Brief,
69. Considering the Defence's Closing Brief,
70. Having heard the Prosecution, the Defence and the Accused,
71. For the aforementioned crimes,
72. Sentences, Sylvestre Gacumbitsi, to a single sentence of 30 years for all the Counts on which he has been found guilty.
73. Rules that credit for time served shall be deducted from the total sentence.
74. Rules that imprisonment shall be served in a State that shall be designated in consultation with the Trial Chamber.
75. Until his transfer to the designated place of imprisonment, Sylvestre Gacumbitsi shall be kept in detention under the present conditions.
76. Rules that this judgment shall be enforced immediately.
77. Upon notice of appeal, if any, the enforcement of the sentence shall be stayed until a decision has been rendered on the appeal, with the convicted person nevertheless remaining in detention.

Arusha, June 17 2004