ICTR-01-65



International Criminal Tribunal for Rwanda Tribunal pénal international pour le Rwanda 1090 - 1088

TRIAL CHAMBER I

Judge Jai Ram Reddy, presiding Before: Judge Sergei Alekseevich Egorov Judge Flavia Lattanzi

Registrar: Adama Dieng

Date:

10 February 2006

THE PROSECUTOR

v.

Jean MPAMBARA

Case No. : ICTR-2001-65-T

DECISION ON THE PROSECUTION MOTION FOR A SITE VISIT

The Prosecution Richard Karegyesa Andra Mobberley Didace Nyirinkwaya Ousman Jammeh

The Defence Arthur Vercken Vincent Courcelle-Labrousse

FFB 0 U .. 0

1090 Ivan



108

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA,

SITTING as Trial Chamber I, composed of Judge Jai Ram Reddy, presiding, Judge Sergei Alekseevich Egorov, and Judge Flavia Lattanzi;

BEING SEIZED OF the "Prosecution Motion for a View Locus in Quo", filed on 30 January 2006;

CONSIDERING the parties' oral submissions at the Status Conference on 9 February 2006;

CONSIDERING the "Réplique de la Défense à la Requête du Procureur en vue du Déplacement du Tribunal sur les Lieux", filed on 9 February 2006;

HEREBY DECIDES the motion.

INTRODUCTION

1. The Prosecution seeks to have the Judges of Trial Chamber I visit Rukara commune in order to familiarize themselves with the locations that are relevant to this case. In support of its request, the Prosecution submits that many of the disputed issues at trial turn on physical aspects of specific sites where offences are alleged to have been committed and argues that a site visit will allow the Chamber to more accurately assess the evidence adduced at trial. It further argues that a site visit can be accomplished with relative ease because the events occurred at a limited number of sites and can be accessed without any real difficulty from Kigali.

2. The Defence concurs that a site visit would assist the Chamber in more fairly assessing the evidence in this case in light of the topography of the area over which the Accused was responsible as *bourgmestre* of Rukara commune and the structure and location of the various sites at issue.

DELIBERATIONS

3. Rule 4 of the Rules of Procedure and Evidence 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. In accordance with the jurisprudence of the Tribunal, the Chamber must assess the request for a site visit on the basis of the particular circumstances in each case.¹ A decision to carry out a site visit should preferably be made when the visit will be instrumental in the discovery of the truth and determination of the matter before the Chamber.² At least one Trial

¹ Bagosora et al., Decision on Prosecutor's Motion for Site Visits in the Republic of Rwanda (TC), 29 September 2004, para. 4; Simba, Decision on the Defence Request for Site Visits in Rwanda (TC), 31 January 2005, para. 2; Simba, Decision on Defence Visits in Rwanda (TC), 4 May 2005, para. 2; Bagilishema, Judgement (TC), 7 June 2001, para. 10; Rwamakuba, Decision on Defence Motion for a View Locus in Quo (TC), 16 December 2005, para. 6.

² Bagosora, Decision on Prosecutor's Motion for Site Visits in the Republic of Rwanda (TC), 29 September 2004, para. 4.

Chamber has expressed the view that such visits should ideally take place at the close of presentation of the Prosecution and Defence cases.³

5. The Chamber agrees with the parties' submissions that many of the disputed issues at trial relate to physical attributes of various sites in Rukara commune and therefore finds that the particular circumstances in this case warrant a site visit. The Chamber has reviewed the itinerary suggested by the Prosecution, which the Defence does not appear to oppose, and the Chamber is satisfied that the proposed sites are relevant to the charges against the Accused and the evidence adduced at trial. Moreover, the Chamber notes that the proposed itinerary only requires two days and does not involve difficult logistical planning or significant costs to the Tribunal. The Chamber notes, however, that its grant of the Prosecution motion is subject to approval by the President in accordance with Rule 4.

6. In order to facilitate scheduling for the parties, particularly the Defence, the Chamber finds that the site visit should occur in conjunction with closing arguments, which are set for 2-3 May 2006. The Chamber therefore orders the site visit to take place between Wednesday, 26 April 2006 and Friday, 28 April 2006.

FOR THE ABOVE REASONS, THE CHAMBER

REQUESTS the President to authorize the Chamber's exercise of its function away from the Seat of the Tribunal, pursuant to Rule 4 of the Rules; and if such authorization is granted,

REQUESTS the Registry to make all the necessary arrangements, in liaison with the Chamber and the parties, to facilitate the implementation of this decision.

Arusha, 10 February 2006

Ram Reddy Presiding Judge

Sergei Alekseevich Egorov Judge



Flavia Lattanzi Judge

³ Ndayambaje, Decision on Prosecutor's Motion for Site Visits in the Republic of Rwanda Under Rules 4 and 73 of the Rules of Procedure and Evidence (TC), 23 September 2004, para. 15. See also Bagosora, Decision on Prosecutor's Motion for Site Visits in the Republic of Rwanda (TC), 29 September 2004, para. 4.



TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

COURT MANAGEMENT SECTION (Art. 27 of the Directive for the Registry)

To: Image: Section of the section o	I - GENERAL	INFORMATION (T	o be completed by	the Chambers / F	filing Party)
JP. Fornété M. Diop R. Mucigo-Morrison From: Q.Chamber I Defence Prosecutor's Office Other: Judge Reddy (names) (names) (names) (names) Case Name: The Prosecutor vs. MPAMBARA Case Number: ICTR-2001-65-T Dates: Transmitted: 10 February 2006 Document's date: 10 February 2006 No. of Pages: 4 Original Language: © English French Kinyarwanda Title of DECISION ON THE PROSECUTION MOTION FOR A SITE VISIT Document: Correspondence Submission from non-parties Strictly Confidential Usegement Mation Accused particulars Submission from non-parties Strictly Confidential Usegement Motion Accused particulars Submission from non-parties I: TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party Accused particulars Submission from non-parties I: FrankSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party French Submission from non-parties I: FrankSLATION Status only the original, and will not submit any translated version Frime party hereby submits Borin the original anthe translated version for filingas fotgys:	and the second second second	Trial Chamber I	Trial Chamber II	Trial Chamber II	I Appeals Chamber / Arusha
udge Reddy Judge Egorov Judge Egorov Judge Egorov Judge Egorov Judge Egorov Judge Egorov Judge Egorov Judge Lattanzi (names) (names) (names) Case Name: The Prosecutor vs. MPAMBARA Case Number: ICTR-2001-65-T Dates: Transmitted: 10 February 2006 Document's date: 10 February 2006 No. of Pages: 4 Original Language: Selisin French Kinyarwanda Title of Document: DECISION ON THE PROSECUTION MOTION FOR A SITE VISIT Correspondence Submission from non-parties © strictly Confidential Understand Affedvit Notice of Appeal Submission from non-parties © rundfidential Decision Affedvit Notice of Appeal Submission from non-parties © rundfidential Decision Order Appeal Book Accused particulars I - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party CMS SHALL take necessary action regarding translation. © Filing Party hereby submits only the original, and will not submit any translated version Kinyarwanda © Reference material is provided in annex to facilitate translated version for filing ranslation. Kinyarwanda © Reference material is provided in annex to facilitate translated version for filing ranslation in English French					R. Muzigo-Morrison
Case Name: The Prosecutor vs. MPAMBARA Case Number: ICTR-2001-65-T Dates: Transmitted: 10 February 2006 Document's date: 10 February 2006 No. of Pages: 4 Original Language: English French Kinyarwanda Title of DECISION ON THE PROSECUTION MOTION FOR A SITE VISIT Decument: Image: Comparison of the procession of the processin processin processical pranslation.	From:	Judge Reddy Judge Egorov Judge Lattanzi			ice Other:
No. of Pages: 4 Original Language: English French Kinyarwanda Title of Document: DECISION ON THE PROSECUTION MOTION FOR A SITE VISIT Image: Completed Strict Visit <td>Case Name:</td> <td colspan="2">The Prosecutor vs. MPAMBARA</td> <td></td> <td>Case Number: ICTR-2001-65-T</td>	Case Name:	The Prosecutor vs. MPAMBARA			Case Number: ICTR-2001-65-T
Title of Decision ON THE PROSECUTION MOTION FOR A SITE VISIT Indication Level: Indichi Level: Indication Level:	Dates:	Transmitted: 10 February 2006		Document's date: 10 February 2006	
Title of Document: DECISION ON THE PROSECUTION MOTION FOR A SITE VISIT Classification Level: Indictment Warrant Correspondence Submission from non-parties Strictly Confidential Under Seal Indictment Warrant Notice of Appeal Submission from non-parties Public Judgement Motion Book of Authorities Accused particulars I - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party CMS SHALL take necessary action regarding translation. Filing Party hereby submits only the original, and will not submit any translated version Traget Language(s): Image Status English French Kinyarwanda Kinyarwanda CMS SHALL NOT take any action regarding translation. French Kinyarwanda I - franslation in English French Kinyarwanda CMS SHALL NOT take any action regarding translation. Kinyarwanda Kinyarwanda CMS SHALL NOT take any action regarding translation. Kinyarwanda Kinyarwanda CMS SHALL NOT take any action regarding translation. Kinyarwanda Kinyarwanda CMS SHALL NOT take any action regarding translation. Confighered Service: Section of the ICTR / Arusha. DeFENCE is overseeing translation. </td <td>No. of Pages:</td> <td>4</td> <td>Original Language</td> <td colspan="2">e: English Erench Kinvarwanda</td>	No. of Pages:	4	Original Language	e: English Erench Kinvarwanda	
□ Strictly Confidential / Under Seal □ Indictment □ Warrant □ Correspondence □ Submission from non-parties □ Public □ Decision □ Affidavit □ Notice of Appeal □ Submission from non-parties □ Public □ Disclosure □ Order □ Appeal Book □ Accused particulars 1 - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party ■ Book of Authorities □ Accused particulars 1 - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party ■ Book of Authorities □ Accused particulars 1 - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party ■ Book of Authorities □ Accused particulars 1 - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party ■ Book of Authorities □ Accused particulars 1 - Translation In annex to facilitate translation. □ Translation (To annex to facilitate translated version for filing as follows: □ The Chambers / Filing Party wind be submitted for translation. □ Filing Party will be submitting the translated version(s) in due course in the following language(s): □ English □ French □ Kinyarwanda □ French □ Kinyarwanda □ Kinyarwanda □ Kinyarwanda □ Matter anslation. □ DEFENCE is overseeing translation.					
CMS SHALL take necessary action regarding translation. Filing Party hereby submits only the original, and will not submit any translated version. Reference material is provided in annex to facilitate translation. Target Language(s): Biling Party hereby submits BOTH the original and the translated version for filing ras follows: Original in Benglish French Kinyanwanda Translation Kinyanwanda CMS SHALL NOT take any action regarding translation. Filing Party hereby submits BOTH the original and the translated version for filing ras follows: Original in Benglish French Kinyanwanda Translation Kinyanwanda Filing Party will be submitting the translated version(s) in due course in the following language(s): Benglish French Kinpurwanda MinDLY FILL IN THE BOXES BELOW The OTP is overseeing translation. The document is submitted for translation to: The Language Services Section of the ICTR / Arusha. The Language Services Section of the ICTR / The Hague. An accredited service for translation; see details below: Name of contact person: Name of service:	Strictly Confidential / Under Seal Confidential		Indictment Warrant Correspondence Submission from non-parties Decision Affidavit Notice of Appeal Submission from parties Disclosure Order Appeal Book Accused particulars		
CMS SHALL take necessary action regarding translation. Filing Party hereby submits only the original, and will not submit any translated version. Reference material is provided in annex to facilitate translation. Target Language(s): Biling Party hereby submits BOTH the original and the translated version for filing ras follows: Original in Benglish French CMS SHALL NOT take any action regarding translation. Filing Party hereby submits BOTH the original and the translated version for filing ras follows: Original in Benglish French Kinyanwanda Translation French Filing Party will be submitting the translated version(s) in due course in the following language(s): Benglish French Kinparwanda Mindu Y FILL IN THE BOXES BELOW The OTP is overseeing translation. The document is submitted for translation regarding translation. The Language Services Section of the ICTR / Arusha. The Language Services Section of the ICTR / The Hague. An accredited service for translation; see details below: Name of contact person: Name of service: Address: E-mail / Tel. / Fax: <	I - TRANSLAT	TION STATUS ON	THE FILING DATE	(To be completed	by the Chambers / Filing Party
Original in English French Kinyazwanda Translation in English French Kinyazwanda CMS SHALL NOT take any action regarding translation. Kinyazwanda Kinyazwanda Filing Party will be submitting the translated version(s) in due course in the following language(s): Kinyazwanda Filing Party will be submitting the translated version(s) in due course in the following language(s): Kinyazwanda French Kinyazwanda Marcel Composition French KinbLY FilL IN THE BOXES BELOW Kinyazwanda The OTP is overseeing translation. DEFENCE is overseeing translation. The Language Services Section of the ICTR / Arusha. DEFENCE is overseeing translation. The Language Services Section of the ICTR / The Hague. Name of contact person: Name of contact person: Name of service: Name of service: Address: E-mail / Tel. / Fax: E-mail / Tel. / Fax: III - TRANSLATION PRIORITISATION (For Official use ONLY) Required date: Top priority COMMENTS Required date:	Target Languag English CMS SHALL N	e(s): OT take any action re	S French		Kinyarwanda T
Translation in English French Kinyarwanda CMS SHALL NOT take any action regarding translation. Filing Party will be submitting the translated version(s) in due course in the following language(s): Kinyarwanda English French Kinyarwanda Image: Comparison of the comparison of the regulation of the comparison of the ICTR / Arusha. Image: Comparison of the ICTR / Arusha. Image: Comparison of the ICTR / Arusha. Image: Comparison of the ICTR / The Hague. Name of contact person: Name of contact person: Name of service: Name of service: Address: E-mail / Tel. / Fax: E-mail / Tel. / Fax: E-mail / Tel. / Fax: Image: Comparison of the ICTR / Comments Comment is explained to the ICTR / The Hague. Required date: Image: Comment of the ICTR / The Hague. Name of contact person: Name of service: Address: E-mail / Tel. / Fax: E-mail / Tel. / Fax: Image: Comment of the ICTR / Tel. / Fax: E-mail / Tel. / Fax: E-mail / Tel. / Fax: Image: Comment of the ICTR / Tel. / Fax: E-mail / Tel. / Fax: E-mail / Tel. / Fax: Image: Comment of the ICTR / Tel. / Fax: E-mail / Tel. / Fax: E-mail / Tel. / Fax:			The original and the i		2
CMS SHALL NOT take any action regarding translation. Filing Party will be submitting the translated version(s) in due course in the following language(s): English French KINDLY FILL IN THE BOXES BELOW The OTP is overseeing translation. The document is submitted for translation to: The Language Services Section of the ICTR / Arusha. The Language Services Section of the ICTR / The Hague. An accredited service for translation; see details below: Name of contact person: Name of service: Address: E-mail / Tel. / Fax: III - TRANSLATION PRIORITISATION (For Official use ONLY) Top priority Ourgent		and the second			
Filing Party will be submitting the translated version(s) in due course in the following language(s): French Kinyarwanda Finglish French Kinyarwanda In the OTP is overseeing translation. In the BOXES BELOW In the OTP is overseeing translation. Inthe BOXES BELOW In the Corp is overseeing translation. Inthe BOXES BELOW In the Corp is overseeing translation to: Inthe Language Services Section of the ICTR / Arusha. In the Language Services Section of the ICTR / Arusha. Inthe document is submitted to DCDMS): In the Language Services Section of the ICTR / The Hague. Name of contact person: In accredited service for translation; see details below: Name of service: Name of service: Address: In the ICTR / Fax: E-mail / Tel. / Fax: III - TRANSLATION PRIORITISATION (For Official use ONLY) In opriority Comments In opriority Required date: In the uring date: Hearing date:					
The OTP is overseeing translation. DEFENCE is overseeing translation. The document is submitted for translation to: The Language Services Section of the ICTR / Arusha. The Language Services Section of the ICTR / The Hague. The document is submitted to DCDMS): An accredited service for translation; see details below: Name of contact person: Name of contact person: Name of service: Address: E-mail / Tel. / Fax: III - TRANSLATION PRIORITISATION (For Official use ONLY) Top priority COMMENTS Urgent Required date:	Filing Party v	승규는 방법이 물을 가지 못하는 것을 가지 않는 것을 가지 않는 것을 했다.	e translated version(s		
The Language Services Section of the ICTR / Arusha. The Language Services Section of the ICTR / The Hague. An accredited service for translation; see details below: Name of contact person: Name of service: Address: E-mail / Tel. / Fax: III - TRANSLATION PRIORITISATION (For Official use ONLY) Top priority COMMENTS Urgent translation (fees will be submitted to DCDMS): Name of contact person: Name of contact person: Name of contact person: Name of service: Address: E-mail / Tel. / Fax: III - TRANSLATION PRIORITISATION (For Official use ONLY) Urgent			•		erseeing translation.
Name of service: Address: Address: E-mail / Tel. / Fax: III - TRANSLATION PRIORITISATION (For Official use ONLY) Top priority COMMENTS Urgent Image: I	The document is submitted for translation to: The Language Services Section of the ICTR / Arusha. The Language Services Section of the ICTR / The Hague. An accredited service for translation; see details below:			translation (fees will be submitted to DCDMS): Name of contact person: Name of service:	
COMMENTS Required date: Urgent Hearing date:	Name of serv Address:	rice:			
Top priority COMMENTS Required date: Urgent Hearing date:	III - TRANSLA	TION PRIORITIS	ATION (For Official	use ONLY)	
Urgent Hearing date:	and the second				Required date:
		4			
					Other deadlines:

NB: This form is available on: http://www.ictr.org/ENGLISH/cms/cms1.doc

CMS1 (Updated on 21 February 2005)