



ICTR-01-65-T  
10-02-2006

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

(1090 - 1088)

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**TRIAL CHAMBER I**

**Before:** Judge Jai Ram Reddy, presiding  
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*

JUDICIAL RECORDS ARCHIVED  
10 FEB 10 P 1:101  
*J. M. P. Mbarara*

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**DECISION ON THE PROSECUTION MOTION FOR A SITE VISIT**

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**The Prosecution**

Richard Karegyesa  
Andra Mobberley  
Didace Nyirinkwaya  
Ousman Jammeh

**The Defence**

Arthur Vercken  
Vincent Courcelle-Labrousse

**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.<sup>1</sup> 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.<sup>2</sup> At least one Trial

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<sup>1</sup> *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.

<sup>2</sup> *Bagosora*, Decision on Prosecutor’s Motion for Site Visits in the Republic of Rwanda (TC), 29 September 2004, para. 4.

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

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.

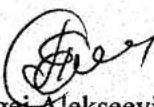
**FOR THE ABOVE REASONS, THE CHAMBER**

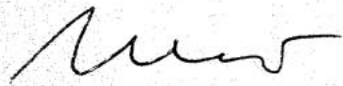
**REQUESTS** the President to authorize the Chamber's exercise of its function away from the Seat of the Tribunal, pursuant to Rule 4 of the Rules; and if such authorization is granted,

**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

  
Jai Ram Reddy  
Presiding Judge

  
Sergei Alekseevich Egorov  
Judge

  
Flavia Lattanzi  
Judge

[Seal of the Tribunal]



<sup>3</sup> *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.



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<b>From:</b>	<input checked="" type="checkbox"/> Chamber I Judge Reddy Judge Egorov Judge Lattanzi (names)	<input type="checkbox"/> Defence  (names)	<input type="checkbox"/> Prosecutor's Office  (names)	<input type="checkbox"/> Other:  (names)
<b>Case Name:</b>	The Prosecutor vs. MPAMBARA		<b>Case Number:</b> ICTR-2001-65-T	
<b>Dates:</b>	Transmitted: 10 February 2006		Document's date: 10 February 2006	
<b>No. of Pages:</b>	4	<b>Original Language:</b>	<input checked="" type="checkbox"/> English	<input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
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