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ICTR-01-76-T  
31-01-2005  
(3226-3224)



International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

3226  
S. Musa

OR: ENG

**TRIAL CHAMBER I**

**Before:** Judge Erik Møse, presiding  
Judge Sergei Alekseevich Egorov  
Judge Dennis C. M. Byron

**Registrar:** Adama Dieng

**Date:** 31 January 2005

JUDICIAL PROCEEDINGS/ARCHIVES  
ICTR  
2005 JAN 31 P 5:35

**THE PROSECUTOR**

v.

Aloys SIMBA

*Case No. ICTR-01-76-T*

**DECISION ON THE DEFENCE REQUEST FOR SITE VISITS IN RWANDA**

**Office of the Prosecutor:**

Richard Karegyesa  
Sulaiman Khan  
Ignacio Tredici  
Amina Ibrahim

**Counsel for the Defence**

Sadikou Ayo Alao  
Beth Lyons

6h

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

**SITTING** as Trial Chamber I, composed of Judge Erik Møse, presiding, Judge Sergei Alekseevich Egorov, and Judge Dennis C. M. Byron;

**BEING SEIZED OF** the “Requête en extrême urgence de la défense en vue du transport du tribunal sur les lieux”, filed on 7 January 2005;

**NOTING** that the Prosecution has not filed a response;

**HEREBY DECIDES** the motion.

### **SUBMISSIONS**

1. The Defence requests that the Chamber conduct site visits in Rwanda at a number of locations described by Prosecution witnesses and mentioned in the Indictment. This will provide a greater understanding of the charges and their material probability as well as reveal the implausibility of many of the allegations and descriptions of the locations relevant to the Prosecution case.

### **DELIBERATIONS**

2. The Chamber recalls that the need for a site visit has to be assessed in view of the particular circumstances of each trial.<sup>1</sup> In the present case, the Defence has proposed that the Chamber should visit several locations described by Prosecution witnesses and mentioned in the Indictment. The Chamber notes that a number of photographs and maps have been tendered into evidence. As the trial proceeds, it is expected that more evidence from Defence witnesses will shed light on the relevant locations and that additional photographs, maps, and measurements will be submitted for consideration. This may further reduce the need for site visits.

3. In view of the logistics and costs involved, 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 this stage of the presentation of the evidence, the Chamber is not persuaded that this will be the case. The Chamber does not exclude that it may be feasible, at a later stage, to visit some places in Rwanda that are relevant to the present trial. The Defence is at liberty to renew its request, if required.

<sup>1</sup> *Bagosora et al.*, Decision on the Prosecutor’s Motion for Site Visits in the Republic of Rwanda (TC), 29 September 2004, para. 4. See also *Bagilishema*, Judgement (TC), 7 June 2001, para. 10 (site visit held before presentation of evidence); *Ndayambaje et al.*, 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, paras. 14-15 (denying site visit and holding that even if such visits are ordered, they should occur at the close of all evidence).

<sup>2</sup> *Bagosora et al.*, Decision on the Prosecutor’s Motion for Site Visits in the Republic of Rwanda (TC), 29 September 2004, para. 4. See also *Akayesu*, Decision on the Defence Motion Requesting an Inspection of the Site and the Conduct of a Forensic Analysis (TC), 17 February 1998, para. 8.

**FOR THE ABOVE REASONS, THE CHAMBER**

**3224**

**DENIES** the Defence motion.

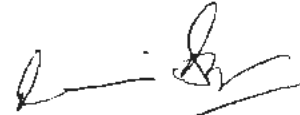
Arusha, 31 January 2005



Erik Møse  
Presiding Judge



Sergei Alekseevich Egorov  
Judge



Dennis C. M. Byron  
Judge

(Seal of the Tribunal)