



International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

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TRIAL CHAMBER II

**Before:** Judge Khalida Rachid Khan

**Registrar:** Mr. Adama Dieng

**Date:** 24 June 2005

ICR-99-50-T  
24-06-2005  
(21504-21501)

The PROSECUTOR  
v.  
Casimir BIZIMUNGU  
Justin MUGENZI  
Jérôme-Clément BICAMUMPAKA  
Prosper MUGIRANEZA

Case No. ICTR-99-50-T

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DECISION ON THE DEFENCE MOTION FOR THE CHAMBER  
TO VISIT SITES IN RWANDA

**Office of the Prosecutor:**

Mr. Paul Ng'arua  
Mr. Ibukunolu Babajide  
Mr. Elvis Bazawule  
Mr. Justus Bwonwonga  
Mr. Shyamlal Rajapaksa

**Counsel for the Defence:**

Ms. Michelyne St. Laurent and Ms. Alexandra Marcil, for *Casimir Bizimungu*  
Mr. Ben Gumpert, for *Justin Mugenzi*  
Mr. Pierre Gaudreau and Mr. Michel Croteau, for *Jérôme Bicamupaka*  
Mr. Tom Moran and Ms. Marie-Pierre Pouline, for *Proper Muginaneza*

ref

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

**SITTING** as Judge Khalida Rachid Khan, designated by Trial Chamber II, in accordance with Rule 73 (A) of the Rules of Procedure and Evidence (“the Chamber”);

**BEING SEIZED OF** “Justin Mugenzi’s Motion for the Chamber to Visit and View Sites in Rwanda of Particular Relevance to the Trial”, filed on 7 March 2005;

**CONSIDERING:**

- (a) The “Prosecutor’s Response to Justin Mugenzi’s Motion for the Chamber to Visit and View Sites in Rwanda of Particular Relevance to the Trial”, filed on 21 March 2005 (“the Response”);
- (b) “Justin Mugenzi’s Rejoinder to the Prosecutor’s Response to a Motion for the Chamber to Visit Sites in Rwanda”, filed on 29 March 2005 (the “Rejoinder”);
- (c) The “Brief from Casimir Bizimungu in Support of Justin Mugenzi’s Motion for the Chamber to Visit and View Sites in Rwanda of Particular Relevance to the Trial”, filed 30 March 2005 (“the Bizimungu Brief”);
- (d) The “Prosecutor’s Response to Casimir Bizimungu’s Brief in Support of Justin Mugenzi’s Motion for the Chamber to Visit and View Sites in Rwanda of Particular Relevance to the Trial”, filed on 5 April 2005 (“the Response”);

**CONSIDERING** the Statute of the Tribunal (“the Statute”) and the Rules of Procedure and Evidence (“the Rules”);

**HEREBY CONSIDERS** the Motion:

**SUBMISSIONS:**

*Mugenzi Defence Motion*

1. Counsel for Justin Mugenzi requests that the Chamber conduct site visits to three locations in Rwanda: Murambi (Gitarama); Muramba (Gisenyi Prefecture); and Gisenyi town. The Defence asserts that a visit to these locations will provide a greater understanding of the charges, as well as reveal the implausibility of many of the allegations relevant to the Prosecution case. The Defence contends that the visit should be conducted prior to the conclusion of evidence in the case and prior to the presentation of closing arguments.



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*Bizimungu Brief in Support of Mugenzi's Motion*

2. Counsel for Casimir Bizimungu endorses the Mugenzi Defence Motion and proposes three additional sites to be visited: the French Embassy in Kigali; the Meridien Hotel in Gisenyi; and the Conference Room in Rambura, Gisenyi. The Defence submits that a visit to these additional sites will enable the Chamber "to appreciate the powers of the accused and relationships with subordinates, decisions, capacity to act and omissions, as well as state of mind", as well as to properly evaluate and understand the testimonies of Witnesses "D", "GKI", "GTC", and Joseph Ngarambe.

*Prosecutor's Response to Mugenzi Defence Motion*

3. The Prosecution raises no objection in principle to the Chamber's inspection of sites in Rwanda, but argues that the Motion fails to comply with Rule 73 *ter* of the Rules and is, therefore, premature.

**DELIBERATIONS**

4. The Chamber, pursuant to Rule 4 of the Rules, may exercise its functions away from the Seat of the Tribunal, if so authorized by the President, in the interests of justice. Accordingly, Trial Chamber I of the Tribunal, in *Prosecutor v. Bagilishema*, visited sites in Kibuye *Préfecture* in Rwanda, which were deemed relevant to the allegations in the case, in order "to better appreciate the evidence to be adduced during the trial".<sup>1</sup>
5. The Chamber notes, however, that the need for a site visit must be assessed in view of the particular circumstances of each trial.<sup>2</sup> Further, in view of the logistics and the costs involved, a decision to carry out a site visit should be made preferably when the visit will be instrumental in the discovery of the truth and the determination of the matters before the Chamber.<sup>3</sup>
6. At this stage of the proceedings, the Chamber lacks sufficient information regarding the Defence case to make an appropriate determination about the proposed site visits. The Chamber is of the view that, as the trial proceeds, evidence may be adduced and exhibits, such as photographs, sketches, and maps, produced to shed light on the relevant locations. Therefore, the Chamber will

<sup>1</sup> *Bagilishema*, Judgement (TC), 7 June 2001, para. 10.

<sup>2</sup> *Bagasora et al.*, Decision on the Prosecutor's Motion for Site Visits in the Republic of Rwanda (TC), 29 September 2004, para. 4. See also *Simba*, Decision on the Defence Request for Site Visits in Rwanda, 31 January 2005, para. 2.

<sup>3</sup> *Simba*, Decision on the Defence Request for Site Visits in Rwanda, 31 January 2005, para. 3.



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consider the merits of the Defence request for site visits in Rwanda following commencement of the Defence case.

**FOR THE FOREGOING REASONS, THE TRIAL CHAMBER**

**DIRECTS** the Defence for Mugenzi and Bizimungu to renew their applications for site visits, after the commencement of the Defence case, precisely setting forth justifications for the proposed visits by the Chamber, in light of the allegations against the Accused, as well as a proposed itinerary for the visits.

Arusha, 24 June 2005



Khalida Rachid Khan

Judge

[Seal of the Tribunal]