



ICTR-01-74-T
01-09-2006
(7462-7460)
International Criminal Tribunal for Rwanda
Tribunal pénal International pour le Rwanda

7462

S. Muna

TRIAL CHAMBER I

Before: Judge Erik Møse, presiding
Judge Sergei Alekseevich Egorov
Judge Florence Rita Arrey

Registrar: Adama Dieng

Date: 1 September 2006

THE PROSECUTOR

v.

François KARERA

Case No. : ICTR-01-74-T

2006 SEP 11 A 10 24
JUDICIAL RECORDS/ARCHIVES
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DECISION ON SITE VISIT TO RWANDA

The Prosecution

Charles Adeogun-Phillips
Adesola Adeboyejo
Peter Tafah
Memory Maposa
Florida Kabasinga

The Defence

Carmelle Marchessault
Steven Kelliher

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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

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SITTING as Trial Chamber I, composed of Judge Erik Møse, presiding, Judge Sergei Alekseevich Egorov, and Judge Florence Rita Arrey;

BEING SEIZED OF the "Prosecutor's Motion for a View *Locus in Quo*", filed on 27 March 2006;

CONSIDERING the Defence Response, filed on 12 May 2006;

HEREBY DECIDES the motion.

INTRODUCTION

1. The Prosecution requests that the Chamber visit locations in Rwanda that are relevant to this trial, in particular, Nyamirambo sector in Nyarugenge commune; Ntarama sector in Kanzenze commune; and Rushashi commune. Many of the disputed issues at trial relate to physical attributes of sites where the offences are alleged to have been committed. A site visit will therefore assist the Chamber in its assessment of issues of visibility, layout of buildings, distances between locations and correlative proximity of places. A first hand familiarization with the relevant locations will assist in the fair and expeditious determination of the case. The Defence concurs with the Prosecution motion, and requests to add another location to the visited sites, the Ruhengeri campus of the National University of Rwanda, which is relevant to its defence of alibi.

2. The motion was filed in March 2006, during the Prosecution case. This decision is rendered at the end of the presentation of the cases of both parties. In the present circumstances, this will best contribute to the discovery of the truth and determination of the case.¹

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". In accordance with the jurisprudence of the Tribunal, the Chamber must assess a request for a site visit on the basis of the particular circumstances in each case.² The Chamber recalls that the ability of some witnesses to observe the events about which they testified was disputed. These witnesses implicated the Accused in activities in Nyamirambo sector, Ntarama sector, and Rushashi commune. A visit to the locations from where these witnesses allegedly observed the events they described, could contribute to the discovery of the truth and determination of the case. It seems unlikely, however, that a visit to

¹ *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. 14; *Bagosora*, 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; *Mpambara*, Decision on the Prosecution Motion for a Site Visit, 10 February 2006, para. 4.

² *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; *Rwamakuba*, Decision on Defence Motion for a View *Locus in Quo* (TC), 16 December 2005, para. 6; *Mpambara*, Decision on the Prosecution Motion for a Site Visit, 10 February 2006, para. 4.

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the Ruhengeri campus will advance the Chamber's evaluation of the evidence, especially since no criminal events were alleged to have taken place there.


4. The Chamber considers that a visit to Nyamirambo, Ntarama and Rushashi could be conducted within a period of three days. It should take place from 1 to 3 November 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, 1 September 2006



Erik Møse
Presiding Judge



Sergei Alekseevich Egorov
Judge



Florence Rita Arrey
Judge

[Seal of the Tribunal]

