



UNITED NATIONS
NATIONS UNIES

ICTR-98-UU-T
3-10-2006
(5337-5335) 5337
2006

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER III

Before Judges: Inés Mónica Weinberg de Roca, Presiding
Khalida Rachid Khan
Lee Gacuiga Muthoga

Registrar: Adama Dieng

Date: 3 October 2006

JUDICIAL RECORDS/ARCHIVES
REGISTRAR
2006 OCT-3 P 4: 51

THE PROSECUTOR

v.

Protais ZIGIRANYIRAZO

Case No. ICTR-2001-73-T

ORDER FOR FILING SUBMISSIONS ON THE PROSECUTION'S MOTION

FOR A VIEW OF THE *LOCUS IN QUO*

Rule 54 of the Rules of Procedure and Evidence

Office of the Prosecutor:

Wallace Kapaya
Charity Kagwi-Ndungu
Sylver Ntukamazina
Gina Butler
Iskandar Ismail
Jane Mukangira

Defence Counsel:

John Philpot
Peter Zaduk

5236

INTRODUCTION

1. Having closed its case against the Accused on 28 June 2006, the Prosecution, pursuant to Rules 4, 54, 73, and 89 (b) and (c) of the Rules of Procedure and Evidence (the "Rules"), now requests that the Chamber conduct a site visit in the Republic of Rwanda. The sites requested are listed in the Prosecution Motion, Annex A.¹

2. The Defence stresses that it has no objection in principle to an eventual site visit but submits that the Prosecution Motion is premature as the Defence case will narrow the issues for which a site visit may be essential to determine the truth. It therefore requests that the Chamber suspend its decision until the Defence case is well advanced and the issues in the case have been clarified.² Once its case proceeds, the Defence will have additional submissions concerning the sites to be visited.³

DELIBERATIONS

3. Rule 4 of the Rules 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 need for a site visit must be assessed in view of the particular circumstances of this case. A request to carry out a site visit should be granted when the visit will be instrumental to the discovery of the truth and determination of the matter before the Chamber.⁴ Chambers of this Tribunal have granted site visits at different stages of the proceedings, such as at the end of the Prosecution and Defence cases, and during the presentation of evidence by the Defence.⁵

5. In view of the circumstances of this case, the Chamber does not consider that the Prosecution Motion is premature. To assist it in ruling on the matter, the Chamber orders the Defence to provide it with any submission it intends to make on the sites presented by the Prosecution, as well as listing sites that the Defence may wish to add to the itinerary. Upon receipt of these submissions, the Chamber will decide the Prosecution Motion.

¹ "Prosecution Motion for a View of the Locus in Quo", filed on 17 August 2006 (the "Prosecution Motion").

² "Response to the Prosecution Motion for a View of the Locus in Quo", filed on 21 August 2006 (the "Defence Response").

³ The Defence Response, para. 13.

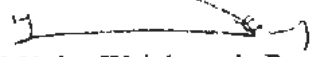
⁴ *Prosecutor v. Bagosora et al.*, Decision on Prosecutor's Motion for Site Visits in the Republic of Rwanda, 29 September 2004, para. 4; *Prosecutor v. Rwamakuba*, Decision on Defense Motion for a View Locus in Quo, 16 December 2005, para. 6 (the "*Rwamakuba* Decision").


⁵ See the *Rwamakuba* Decision; see *Prosecutor v. Athanase Seromba*, *Décision écrite relative à la requête du Procureur pour une visite de sites au Rwanda*, 24 March 2006.

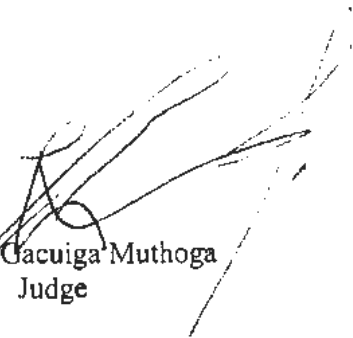
5:25

FOR THE ABOVE REASONS, THE CHAMBER ORDERS the Defence to make submissions on the sites presented in the Prosecution Motion and sites that the Defence may wish to add to the itinerary not later than 30 October 2006.

Arusha, 3 October 2006, in English.


Inés Mónica Weinberg de Roca
Presiding Judge


Khalida Rachid Khan
Judge


Les Ocuiga Muthoga
Judge

[Seal of the Tribunal]

