



UNITED NATIONS
NATIONS UNIES

ICTR-2001-72-T
6-12-2007
(4447 - 4445)

4447
Zhang

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER III

Before Judges: Inés Mónica Weinberg de Roca, Presiding
Florence Rita Arrey
Robert Fremr
Registrar: Adama Dieng
Date: 06 December 2007

ORIGINAL RECEIVED
2007 DEC -6 P 4:17
[Handwritten signature]

THE PROSECUTOR

v.

Simon BIKINDI

Case No. ICTR-2001-72-T

**DECISION ON DEFENCE MOTION FOR JUDICIAL VIEW
OF THE LOCUS IN QUO**

Rule 4 of the Rules of Procedure and Evidence

Office of the Prosecutor:
William T. Egbé
Sulaiman Khan
Veronic Wright
Patrick Gabaake
Peter Tafah
Amina Ibrahim
Gilain Disengi Mugoyo

Defence Counsel:
Andreas O'Shea
Jean de Dieu Momo

[Handwritten mark]

4446

INTRODUCTION

- 1. On 5 November 2007, the Defence filed a motion, pursuant to Rule 4 of the Rules of Procedure and Evidence (the "Rules"), requesting the Chamber to conduct a site visit in the Republic of Rwanda.¹ The Defence closed its case on 7 November 2007. The request for a site visit was discussed at the Status conference on 8 November 2007, and the Parties agreed to meet to establish a proposed itinerary.²
- 2. The Prosecution does not oppose the Motion.³
- 3. After having communicated with the Prosecution, the Defence filed an itinerary for the site visit incorporating the suggestions made by the Prosecution.⁴

DELIBERATIONS

- 4. Pursuant to Rule 4 of the Rules, "[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".
- 5. In accordance with jurisprudence of this Tribunal, the Chamber considers that the need for a site visit must be assessed in view of the particular circumstances of each case.⁵ A site visit may be authorized when instrumental to the discovery of the truth and to the determination of the matter before the Chamber.⁶ In making its decision, the Chamber should take into account the number of sites to be visited as well as their importance to the alleged facts of the case.⁷
- 6. The Chamber is persuaded by the submissions of the Parties on the need to travel to Rwanda to visit the relevant sites. After reviewing the proposed itinerary, the Chamber is satisfied that the proposed site visit is in the interests of justice as contemplated under Rule 4, and finds that, in the particular circumstances of this case, a first-hand knowledge of the areas listed in the itinerary would be instrumental to the discovery of the truth and the

¹ Defence Motion for Judicial View of the Locus in Quo, filed on 5 November 2007 (the "Motion").

² T. 8 November 2007, p. 3.

³ T. 18 October 2007, p. 52; T. 8 November 2007, p. 2.

⁴ Itinerary for Judicial View of Locus in Quo, filed on 14 November 2007.

⁵ Prosecutor v. Bagosora et al., Case No. ICTR-98-41-T, Decision on Prosecutor's Motion for Site Visits in the Republic of Rwanda (TC), 29 September 2004, para. 4; Prosecutor v. Simba, Case No. ICTR-01-76-T, Decision on the Defence Request for a Site Visit in Rwanda (TC), 4 May 2005, para. 2; Prosecutor v. Karera, Case No. ICTR-01-74-T, Decision on Site Visit to Rwanda (TC), 1 September 2006, para. 3; Prosecutor v. Nindiyimana et al., Case No. ICTR-00-56-T, Decision on Sagahutu's Motion for a Site Visit (TC), 6 October 2006, para. 7; Prosecutor v. Rwamakuba, Case No. ICTR-98-44C-T, Decision on Defence Motion for a View Locus in Quo, 16 December 2006, para. 6; Prosecutor v. Zigiranyiraza, Case No. ICTR-2001-73-T, Decision on the Prosecution Motion for a View of the Locus in Quo (TC), 19 June 2007, para. 3.

⁶ Prosecutor v. Simba, Case No. ICTR-01-76-T, Decision on the Defence Request for a Site Visit in Rwanda (TC), 4 May 2005, para. 2; Prosecutor v. Bagosora, Decision on Bagosora Motion for Site Visit (TC), 11 December 2006, para. 2; Prosecutor v. Rwamakuba, Decision on Defence Motion for a View Locus in Quo, 16 December 2006, para. 6; Prosecutor v. Zigiranyiraza, Case No. ICTR-2001-73-T, Decision on the Prosecution Motion for a View of the Locus in Quo (TC), 19 June 2007, para. 3.

⁷ Prosecutor v. Rwamakuba, Decision on Defence Motion for a View Locus in Quo, 16 December 2006, para. 6.

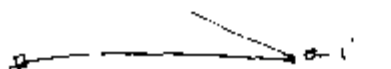
4448

determination of the case in issue. Specifically, part of the evidence adduced during the trial concerns the alleged ability of the Accused to travel from one place to another in a certain time frame. Additionally, the ability of certain witnesses to observe the events about which they testified is in dispute -- for example, in relation, to the alleged attack on the MRND Palace, the alleged incident at the Gisenyi Prison, the roadblocks along Kivumu Road, and the murder of Ancilla.

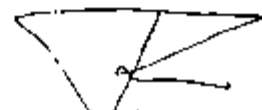
FOR THE ABOVE REASON, THE CHAMBER

- I. **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;
- II. **REQUESTS** the Registry to make all the necessary arrangements to visit the relevant sites during the week of 14 April to 18 April 2007, and to liaise with the Parties and the Chamber, to facilitate the implementation of the Decision.

Arusha 06 December 2007, in English.


Inés Mónica Weinberg de Roca
Presiding Judge


Florence Rita Arrey
Judge


Robert Fremr
Judge

[Seal of the Tribunal]

