



MINUTES OF PROCEEDINGS
PROCES-VERBAL D'AUDIENCE
Rule 35 of the Rules of Procedure and

Case Name: 'Zigiranyirazo'.
Case No: ICTR-01-73-I.
Chamber: Three.

Before / Devant: **Judge Dennis Byron (Presiding).**
Specificities / Spécificités: Single Accused.
Prosecution / Poursuite: Stephen Rapp, Wallace Kapaya, Charity Kagwi (absent), Ifeoma Ojemeni Okali (absent), Gina Butler, Jane Mukangira.
Accused / Accusés: Protais Zigiranyirazo.
Defence / La Défense: John Philpot, Peter Zaduk (absent).
Registry / Greffe: Christopher Fry, Ramadhani Juma (Asst.), Zulpher Mhina (Asst.).
Date: Wednesday, 04 May 2005.

**Status
Conference**

1. Remarks / Remarques

- a. Defence Counsel (Mr. Philpot) informed the Chamber that he learned of the Status Conference only this morning. Mr. Philpot agreed to participate in the Status Conference, but noted that he is not fully prepared for all issues due to the late notice of the Status Conference.
- b. The Presiding Judge observed that he believed there were no further items for disclosure necessary pursuant to Rule 66(A)(i). Defence Counsel (Mr. Philpot) believed that the Prosecution fully complied, and Prosecution Counsel (Mr. Rapp) confirmed that the Prosecution disclosed all materials in redacted form, while the Prosecution will disclose unredacted material 30 days before trial.
- c. The Presiding Judge explained that the time for preliminary motions should begin as of today, and Defence Counsel (Mr. Philpot) agreed to file motions within 30 days of today, or sooner.
- d. Prosecution Counsel (Mr. Rapp) addressed disclosure under Rule 66(A)(ii). The Prosecution witness list is essentially the same as from the previous indictment. However, there is a chance that the Prosecution could identify additional witnesses. The Prosecution plans to disclose all witness statements 60 days before the start of the trial. The Presiding Judge requested the Prosecution to disclose all redacted witness statements by 04 July 2005, and the Prosecution agreed, subject to the unlikely circumstance that the Prosecution would invoke Rule 66(C) (*in camera* application for a Trial Chamber order to relieve the Prosecution of the obligation to disclose).
- e. Defence Counsel (Mr. Philpot) believed that the parties had no dispute regarding outstanding translation matters. Prosecution Counsel (Mr. Rapp) agreed and explained that the Language Service Section is working on an expedited basis to complete the few outstanding translations.
- f. Prosecution Counsel (Mr. Rapp) explained that Witness DAS, who would have testified to events in Kiyovu in Kigali Ville, died. The Prosecution will either identify further witnesses for the same charges or drop them.
- g. Prosecution Counsel (Mr. Rapp) explained that the Prosecution planned to call 25 witnesses. Mr. Rapp said that the expert witness (Alison des Forges) had not filed her report, required 21 days before her appearance. The entire Prosecution case should take about six weeks. The Presiding Judge requested the Prosecution to file the expert witness's report by 04 July 2005. The Prosecution agreed and undertook to inform the expert witness.
- h. Prosecution Counsel (Mr. Rapp) agreed to file the Pre-trial Brief by 04 July 2005. Mr. Rapp explained that if the Prosecution identified new witnesses, then the Prosecution may file an amendment to the Pre-trial Brief, possibly in conjunction with a Motion pursuant to Rule 66(C).
- i. Defence Counsel (Mr. Philpot) explained that the Defence may not be prepared for the beginning of trial in September 2005. Mr. Philpot explained that in September 2004 Rwandan Authorities denied him access to detained witnesses in the Gisenyi Prison. The Defence Investigator also failed to gain access thereafter on several occasions. The Registry requested the Rwandan Minister of Justice to facilitate Mr. Philpot's access to witnesses, but there was no response. Mr. Philpot plans to travel to Rwanda next week, and preparation for trial depends on successful investigations. The Presiding Judge requested the Prosecution to assist Defence

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Counsel (Mr. Philpot) to gain access to detained witnesses in Rwanda. Prosecution Counsel (Mr. Rapp) explained that there were allegations that Defence teams in other cases may have sought to suborn witnesses, spurring the Rwandan Prison Authorities to deny access to all Defence teams. Mr. Rapp believed that the Tribunal addressed the matter with Rwandan Authorities.

- j. Defence Counsel (Mr. Philpot) planned to notify the Prosecution of about 15 alibi witnesses pursuant to Rule 67(A)(ii)(a), but Mr. Philpot had not yet met all the witnesses. Mr. Philpot explained that both parties together could meet the alibi witnesses in various countries before trial. Mr. Philpot proposed a tentative trial schedule, due to the need to meet alibi witnesses before trial, and several other matters. The parties could meet the alibi witnesses in September/October, and the trial could begin in January 2006. Prosecution Counsel (Mr. Rapp) discussed whether there would be time to tour all the alibi witnesses in July and August.
- k. Prosecution Counsel (Mr. Rapp) explained that the Prosecution requested Rwandan Judicial Authorities to provide the full criminal case files of the detained Prosecution witnesses. The Rwandan Judicial Authorities have not yet provided the files, but the Prosecution continued to seek the files. Mr. Rapp expressed his concern that the files could reveal the Prosecution witnesses' identity earlier than 21 days prior to a witness's testimony, and reserved his right to redact the files before disclosing them to the Defence.
- l. Defence Counsel (Mr. Philpot) observed that the beginning of November could be a reasonable date to start the Prosecution case.
- m. Defence Counsel (Mr. Philpot) requested the Prosecution to disclose all the unredacted witness statements at the start of the Prosecution case, or at least 35 days before a witness's testimony. Mr. Philpot also raised the issue of the events around Kiyovu. The Presiding Judge suggested that the parties address these matters at the next Status Conference on Friday 06 May 2005.
- n. The Presiding Judge adjourned the proceedings until Friday, 06 May 2005, at 09:00 for a Status Conference.

2. Decisions & Orders rendered orally / *Décisions & Ordonnances rendues oralement*

- The Chamber ordered the parties to attend a Status Conference on Friday, 06 May 2005 at 09:00 hours in Courtroom Three.

Opening <i>Ouverture</i>	Adjournment <i>Suspension</i>		Signature	Signature
11:08 a.m.	12:20 p.m.		Signed.	Signed.
Xxxxxx	Xxxxxx		Roland Adjovi Coordinator, Chambers	Christopher Fry Legal Officer
Xxxxxx	Xxxxxx		For Judge Dennis Byron Presiding Judge	
Total time in Court		1hrs 12mins	Date: 04 May 2005.	Date: 04 May 2005.