



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: Friday, 06 May 2005.

**Status
Conference**

1. Remarks / Remarques

- a. The Presiding Judge announced the two agenda items for the day, the Defence Team's access to witnesses in Rwanda, and scheduling matters, and invited the parties to address the Chamber.
- b. Prosecution Counsel (Mr. Rapp) informed the Chamber that the ICTR Prosecutor yesterday met with the special representative of Rwanda to the ICTR to discuss the Motion to Request Cooperation with Rwanda filed by Defence Counsel (Mr. Philpot). Mr. Rapp affirmed the Prosecution's commitment to equality of arms and full access to all evidence by Defence Counsel. Mr. Rapp also said that the Prosecution is not yet fully seized of the details of ongoing investigations by Rwandan Authorities into alleged subornation of witnesses by some ICTR Defence teams. Mr. Rapp proposed that the Chamber's order be specific to the upcoming visit of (Defence Counsel) Mr. Philpot to prisons in Rwanda.
- c. The Presiding Judge inquired of Prosecution Counsel (Mr. Rapp) about how narrow the Chamber's order should be. Mr. Rapp proposed that the order should exclude interviews by Defence Investigators where Defence Counsel (Mr. Philpot) was not present. In general, Mr. Rapp agreed that the order should conform to the needs of Defence Counsel (Mr. Philpot).
- d. Defence Counsel (Mr. Philpot) explained the context of the Defence Team's difficulties gaining access to witnesses in Rwandan prisons. Rwandan Authorities denied him and his team access to prisons in November 2004. Mr. Philpot noted that the Rwandan Authorities did not respond to correspondence of December 2004. Mr. Philpot requested a permanent, general order that would clarify the right of the Zigiranyirazo Defence Team to gain full access to witnesses.
- e. The Presiding Judge noted that the outstanding question remained whether the interviews with witnesses must take place in the presence of the Defence Counsel (Mr. Philpot). Mr. Philpot responded that an order restricting access to witnesses only with Mr. Philpot's presence would hinder his investigations. Mr. Philpot stated that both Defence Team investigators are fully qualified professionals.
- f. Prosecution Counsel (Mr. Rapp) explained that both the ICTR and Rwandan Authorities are investigating malfeasance by some Defence investigators. Mr. Rapp supported an order that limited investigations to those including the Defence Counsel (Mr. Philpot)'s presence. Mr. Rapp said the order should be limited in time and could be revised thereafter.
- g. The Presiding Judge explained that he would issue a written order later today facilitating Mr. Philpot's access to Rwandan Prisons, and to other evidence.
- h. The Presiding Judge invited comments from the parties regarding the second agenda item, scheduling matters.
- i. Defence Counsel (Mr. Philpot) explained the Defence position regarding scheduling deadlines. Mr. Philpot issued a formal request for the trial to begin in early January 2006. Mr. Philpot stressed the need to undertake proper investigations with a fully functional Defence Team to prepare for trial. Mr. Philpot explained that Defence Co-counsel (Mr. Zaduk) cleared his schedule for May 2005 for the start of the Zigiranyirazo trial, but

scheduled important murder and narcotics trials for September – December in Canada. Mr. Philpot also explained difficulties regarding investigations of the Rurunga Hill allegations.

- j. Prosecution Counsel (Mr. Rapp) responded that the Prosecution will be ready for trial upon the Chamber's order. Mr. Rapp observed that a short trial session starting in late September could accommodate both Defence Counsel. The Prosecution could hold another session to finish the Prosecution case in January. Mr. Rapp noted that the deadlines for pre-trial disclosure could be adjusted until late July to conform to the postponed start of the trial date.
- k. The Presiding Judge observed that Defence Co-counsel (Mr. Zaduk) might be available for about four weeks starting late September. Defence Counsel (Mr. Philpot) responded that a case starting Tuesday, 27 September through Tuesday, 18 October 2005 would be feasible. The Pre-trial Conference could take place on Wednesday, 21 September 2005. Mr. Philpot agreed to the date of 25 July 2005 for the Prosecution to serve documents and disclose materials to the Defence. Mr. Philpot estimated that the Prosecution would hold another trial session starting in January, and complete the case on 15 February 2006. The Defence proposed to hold one court session in May 2006, and a final Defence trial session in September 2006.
- l. The Presiding Judge announced that he would issue a written scheduling order today, and agreed with Mr. Philpot's observations on the schedule. The Presiding Judge suggested that it was too early to schedule the Defence case at this time. Mr. Philpot requested that the Pre-trial Brief and the Expert Witness Report of Allison des Forges be translated into French on an expedited basis, because the Accused speaks French.
- m. Prosecution Counsel (Mr. Rapp) planned to maintain the 21-day limit on the disclosure of the unredacted witness statements to the Defence Teams. Mr. Rapp agreed to disclose the unredacted statements of all witnesses 21 days before the start of trial, instead of 21 days before the actual testimony of each witness.
- n. The Presiding Judge adjourned the proceedings until 21 September 2005 for the Pre-trial Conference.

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

- None.

Opening <i>Ouverture</i>	Adjournment <i>Suspension</i>		Signature	Signature
09:04 a.m.	10:22 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 18mins	Date: 06 May 2005.	Date: 06 May 2005.