

ICTR-98-41-T  
11-7-2002  
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UNITED NATIONS  
NATIONS UNIES

International Criminal Tribunal for Rwanda  
Tribunal Pénal International pour le Rwanda

**TRIAL CHAMBER III**

Original: ENGLISH

Before: Judge Lloyd George Williams, QC, Presiding  
Judge Pavel Dolenc  
Judge Andrézia Vaz

Registrar: Adama Dieng

Date: 10 July 2002

JUDICIAL RECORDS ARCHIVES  
ICTR  
2002 JUL 11 P 3:47  
*Edwin K...*

**THE PROSECUTOR**  
v.  
**THÉONESTE BAGOSORA**  
**GRATIEN KABILIGI**  
**ALOYS NTABAKUZE**  
**ANATOLE NSENGIYUMVA**

Case No. ICTR-98-41-T

**REQUEST TO THE GOVERNMENT OF UNITED STATES OF  
AMERICA FOR COOPERATION**

Office of the Prosecutor:  
Chile Eboe-Osuji  
Drew White  
Segun Jegede  
Christine Graham

Defence Counsel for Bagosora:  
Raphaël Constant

**THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (Tribunal),**

**SITTING** as Trial Chamber III (Chamber) composed of Judges Lloyd George Williams, QC, presiding, Pavel Dolenc and Andréia Vaz;

**BEING SEISED** of the Request by Counsel for Théoneste Bagosora seeking an order that the authorities of the United States of America arrange for Counsel to meet and interview the Ambassador of the United States of America to Rwanda in post in Kigali in April 1994, filed 12 November 2001;

**CONSIDERING** that the aforementioned request is made to enable Counsel to prepare the Defence case; that a meeting with the American Ambassador referred to might be important for the Defence to challenge certain facts alleged in the Indictment;

**CONSIDERING** that Counsel for Bagosora has used all the means at his disposal to get the authorities of the United States of America to voluntarily cooperate, to wit:

1. On 21 July 1998 Counsel wrote a letter to the President of the United States of America through the US Ambassador to France;
2. On 30 July 1998 the First Secretary of the US Embassy to France acknowledged receipt of the letter and stated that it had been forwarded to the State Department Bureau of African Affairs;
3. On 20 April 1999, Counsel sent a reminder through the same diplomatic channel;
4. Having received no answer from the US authorities, Counsel wrote to the Registrar of the Tribunal on 2 September 1999 seeking his intercession in order to get the US cooperation;
5. On 3 August 2000, the Registrar wrote to the US authorities requesting cooperation with the Defence to meet the Ambassador of the United States of America to Rwanda in post in Kigali in April 1994;
6. The Registrar's request having not been answered, on 16 November 2001, Counsel referred the matter to the Chamber, which instructed the Registry to write again to the US authorities and to find out whether they were willing to assist Counsel in his request;
7. The Registry wrote again to the US authorities on 30 November 2001;
8. Thus far no answer has been received from the US authorities.

**CONSIDERING** that Article 28 of the Statute provides:

1. States shall cooperate with the International Tribunal for Rwanda in the investigation and prosecution of persons accused of committing serious violations of international humanitarian law.
2. States shall comply without undue delay with any request for assistance or an order issued by a Trial Chamber, including but not limited to:
  - (a) The identification and location of persons;

- (b) The taking of testimony and the production of evidence
- (c) The service of documents;
- (d) The arrest or detention of persons;
- (e) The surrender or the transfer of the accused to the International Tribunal for Rwanda.

**CONSIDERING** that this Article vests the Tribunal with the power to issue requests and binding orders to States;

**CONSIDERING** that further the Chamber adopts the directive of the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia in *Prosecutor v. Blaskic* (Judgement on the Request of the Republic of Croatia for Review of the Decision of Trial Chamber II of 18 July 1997; Decision of 29 October 1997), whereby voluntary cooperation of States should be sought first and binding orders resorted to only when this first step has failed;

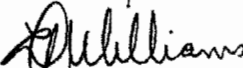
**CONSIDERING** that in the instant case Counsel and the Registry have exhausted the avenues of request for voluntary cooperation without success, rendering necessary the recourse to a formal decision of the Chamber;


**CONSIDERING** that the Bagosora trial started on 2 April 2002 and is due to resume on 2 September 2002 and that the request should therefore be complied with as soon as practicable.

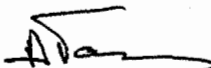
**FOR THE FOREGOING REASONS**

**REQUESTS** the authorities of the United States of America to arrange that Counsel for Théoneste Bagosora, as soon as practicable, be able to meet and interview the Ambassador of the United States of America to Rwanda in post in Kigali in April 1994.

Arusha, 10 July 2002.

  
Lloyd George Williams QC  
Judge, Presiding

  
Pavel Dolenc  
Judge

  
Andréia Vaz  
Judge

Seal of the Tribunal