

ICTR-98-41-T
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
02-10-2003
(16849-16847)

16849

TRIAL CHAMBER I

Before: Judge Erik Møse, presiding
Judge Jai Ram Reddy
Judge Sergei Alekseevich Egorov

Registrar: Adama Dieng

Date: 2 October 2003

THE PROSECUTOR

v.

Théoneste BAGOSORA

Gratien KABILIGI

Aloys NTABAKUZE

Anatole NSENGIYUMVA

Case No. : ICTR-98-41-T

2003 OCT - 2 | A 9:50
JUDICIAL RECORDS/ARCHIVES
ICTR

**DECISION ON PROSECUTION REQUEST FOR CERTIFICATION OF APPEAL
ON ADMISSION OF TESTIMONY OF WITNESS DBY**

The Office of the Prosecutor

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E. M.

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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA ("the Tribunal"),

SITTING as Trial Chamber I, composed of Judge Erik Møse, presiding, Judge Jai Ram Reddy, and Judge Sergei Alekseevich Egorov;

BEING SEIZED OF the Prosecution "Request for Certification Under Rule 73 With Regard to the Trial Chamber's 'Decision on Admissibility of Proposed Testimony of Witness DBY' issued on 18 September 2003, and Oral Ruling of 22 September 2003", filed on 23 September 2003;

HEREBY DECIDES the motion.

INTRODUCTION

1. By its written Decision of 18 September 2003 ("the Decision"), the Chamber ruled inadmissible portions of the anticipated testimony of Prosecution Witness DBY concerning events alleged to have occurred in 1990 and 1991. Further elaboration of the written Decision was given orally on 22 September 2003 in response to further objections by the Defence to questions posed to Witness DBY by the Prosecution.

SUBMISSIONS

2. The Prosecution argues that both the fair and expeditious conduct of the proceedings and the outcome of the trial are affected by the Decision. The Decision is said to critically restrict the presentation of the Prosecution case and to exclude relevant evidence. The Prosecution also argues that immediate resolution by the Appeals Chamber would materially advance the proceedings, noting that the same issue arises with respect to fifteen to twenty more of its witnesses, and that the Trial Chamber acknowledged that the jurisprudence of the Tribunal on the issue is limited.

DELIBERATIONS

3. Rule 73(B) of the Rules of Procedure and Evidence ("the Rules") provides that Decisions on motions are without interlocutory appeal unless certified by the Trial Chamber:

which may grant such certification if the decision involves an issue that would significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial, and for which, in the opinion of the Trial Chamber, an immediate resolution by the Appeals Chamber may materially advance the proceedings.

4. The Chamber is of the view that the admissibility of the evidence in question is an important issue which significantly affects the nature of the case before it. Immediate resolution by the Appeals Chamber will ensure that a substantial category of potential evidence is being correctly evaluated under the Rules.

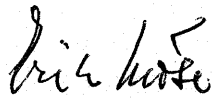
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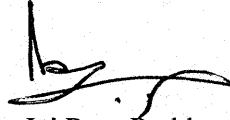
FOR THE ABOVE REASONS, THE CHAMBER

GRANTS certification to the Prosecution to appeal the Chamber's Decision on Admissibility of Proposed Testimony of Witness DBY, filed on 18 September 2003, and the subsequent oral elaboration thereof given on 22 September 2003.

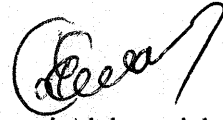
Arusha, 2 October 2003



Erik Møse
Presiding Judge



Jai Ram Reddy
Judge



Sergei Alekseevich Egorov
Judge

[Seal of the Tribunal]

