

ICTR-00-61-1
02-11-2004
(1460-1458)

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International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER I

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

Registrar: Adama Dieng

Date: 2 November 2004

JUDICIAL RECORDS/ARCHIVES
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THE PROSECUTOR

v.

Jean-Baptiste GATETE

Case No. ICTR-2000-61-1

DECISION ON THE DEFENCE REQUEST FOR NECESSARY RESOURCES FOR INVESTIGATIONS

Office of the Prosecutor

Richard Karegyesa
Andra Mobberley

Counsel for the Defence

Richard Dubé

[Handwritten initials]

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (“the Tribunal”);

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

BEING SEIZED OF the “Requête en extreme urgence de la défense afin d’obtenir les ressources nécessaires pour enquêter à décharge en vertu de l’article 73 du RPP”, filed on 31 March 2004;

CONSIDERING the Registrar’s response, filed on 21 October 2004;

HEREBY DECIDES the motion.

INTRODUCTION

1. The Accused was arrested on 11 September 2002 in Congo. The Indictment was confirmed on 19 December 2000 and he made his initial appearance on 20 September 2002. No trial date has yet been set in the case.

SUBMISSIONS

2. The Defence requests the Chamber to overturn the Registrar’s decision denying the work programmes of its investigators. The Defence wishes to interview as many witnesses as possible, in countries all over the world, and argues that the Registrar’s decision affects the Accused’s right to a fair trial and has caused him serious prejudice.

3. The Registrar submits that the motion is inadmissible as administrative decisions taken by the Registrar are not subject to the control of the Trial Chambers, but only to the President. Alternatively, if the Chamber accepts the motion, the Registrar argues that much of the investigators’ work can be done in their countries of residence, without requiring travel. The Defence wishes to interview witnesses without having considered if their information is relevant to the case, without taking into account any financial considerations and without exploring alternative forms of communication like the telephone. The Registrar cites a lack of control by Lead Counsel in determining the work programmes of investigators. The number of witnesses the Defence chooses to call must be reasonable. Moreover, the investigators have continued working from their residences with many witnesses who live close to the investigators and have billed for these hours of work.

DELIBERATIONS

4. The issue at bar concerns work programmes for Defence investigators, which is an administrative matter handled by the Registry and falls within the functions of the Registrar.

5. Rule 33 of the Rules of Procedure and Evidence (“the Rules”) states that the Registrar shall be responsible for the administration and servicing of the Tribunal, under the authority of the

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President. Rule 19 of the Rules provides that the President shall supervise the Registry's activities. Although the Rules provide a framework whereby the Registry is responsible for administrative matters, subject to Presidential review, the Chambers have in some instances instructed the Registrar in such administrative matters, including matters related to the assignment of Counsel, where it involved fair trial issues.¹

6. The Chamber notes that no trial date has yet been fixed in this case. The Registrar states that the decision to deny work programmes is a temporary one, and points out that in spite of the decision, work programmes for the Defence to interview more than 100 potential witnesses located in Africa have been authorized on 7 July, 23 August and 17 September 2004. One of the investigators has interviewed 24 witnesses near his place of residence, and the other has interviewed an indeterminate number of witnesses. In light of these submissions, which indicate that the Defence is able to conduct pre-trial preparations, the Chamber sees no reason to intervene.

FOR THE ABOVE REASONS, THE CHAMBER

DENIES the motion.

Arusha, 2 November 2004

Erik Møse
Presiding Judge

Jai Ram Reddy
A.P. Judge

Sergei Alekseevich Egorov
Judge

[Seal of the Tribunal]



¹ *Nahimana et al.*, Decision on Jean-Bosco Barayagwiza's Motion for Appointment of Counsel or a Stay of Proceedings (AC), 22 October 2004; *Bizimungu et al.*, Decision on Prosper Mugiraneza's Motion to Require the Registrar to Allow Access to a Witness (TC), 2 October 2003; *Muvunyi et al.*, Decision on the Accused's Request to Instruct the Registrar to Replace Assigned Lead Counsel (TC), 18 November 2003.