



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

ICTR-98-41-T
10-11-2004
(23030-23029)

23030
S. Mumba

OR: ENG

TRIAL CHAMBER I

Before: Judge Erik Møse
Registrar: Adama Dieng
Date: 10 November 2004

THE PROSECUTOR

v.

Théoneste BAGOSORA
Gratien KABILIGI
Aloys NTABAKUZE
Anatole NSENGIYUMVA

Case No. : ICTR-98-41-T

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DECISION ON EX PARTE MOTION

The Office of the Prosecutor

Barbara Mulvaney
Drew White
Christine Graham
Rashid Rashid

Counsel for the Defence

Raphaël Constant
Paul Skolnik
René Saint-Léger
Peter Erlinder
André Tremblay
Kennedy Ogetto
Gershom Otachi Bw'Omanwa

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

SITTING as Trial Chamber I, composed of Judge Erik Møse, designated by the Chamber in accordance with Rule 73 (A) of the Rules of Procedure and Evidence ("the Rules");

BEING SEIZED of the "Confidential Ex-Parte Motion to have Defence Witness O-08 Testify by Video Conferencing Pursuant to Rule 71 and 54 R.P.E", filed by the Defence for Bagosora on 14 October 2004;

HEREBY DECIDES the motion.

1. The Defence for Bagosora justifies the filing of its motion confidentially and *ex parte* on the basis that the witness for whom it requests video-conference testimony has not yet indicated whether he wishes to testify publicly. References to the witness's name and position are scattered throughout the motion.

2. As a general rule, motions must be filed *inter partes*. Rule 73 (E) contemplates the filing of motions *inter partes*, giving a "responding party" five days from the receipt of the motion to reply. Previous motions in the present case requesting testimony of a protected witness by video-conference have been filed *inter partes*, with protected witness information filed in an *ex parte* annex.¹ The moving party has not explained why such a procedure could not have been followed in the present motion, or given any other justification for deviating from the principle of *inter partes* submissions.

FOR THE ABOVE REASONS, THE CHAMBER

DECLARES the motion to be inadmissible.

Arusha, 10 November 2004

Erik Møse

Erik Møse
Judge

[Seal of the Tribunal]



¹ E.g. *Bagosora et al.*, Prosecution Motion for Special Protective Measures for Witnesses A and BY, 5 September 2003.