

ICTR-98-41-T
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
27-05-2005
(24954-24953)

24954
IVAN

TRIAL CHAMBER I

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

Registrar: Adama Dieng

Date: 27 May 2005

THE PROSECUTOR

v.

Théoneste BAGOSORA

Gratien KABILIGI

Aloys NTABAKUZE

Anatole NSENGIYUMVA

Case No. : ICTR-98-41-T

JUDICIAL RECORDS/ARCHIVES
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2005 MAY 27 P. 11:00
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**DECISION ON REQUEST FOR ASSISTANCE PURSUANT TO ARTICLE 28 OF
THE STATUTE**

The Prosecution

Barbara Mulvaney
Drew White
Christine Graham
Rashid Rashid

The Defence

Raphaël Constant
Paul Skolnik
Peter Erlinder
André Tremblay
Kennedy Ogetto
Gershom Otachi Bw'Omanwa

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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

24953

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

BEING SEIZED OF a "Motion Requesting an Order to Compel the Cooperation With the Tribunal of the Republic of France", filed on 5 April 2005;

HEREBY DECIDES the request.

1. The Ntabakuze Defence requests the Chamber to order the Republic of France to facilitate a meeting with an officer of its armed forces, Colonel Grégoire de St. Quentin, who is said to have been present in Rwanda during 1994. The Defence also asks that orders be issued to facilitate the appearance of the officer as a witness before the Chamber, should the Defence decide to call him.

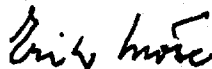
2. One of the conditions for granting a request under Article 28 is a showing that reasonable efforts have been made to secure the assistance of the state, and that those efforts have been unsuccessful.¹ The Chamber has received a copy of a letter from the Registry to the Ntabakuze Defence, dated 23 May 2005, which reports that the Government of France is willing to cooperate voluntarily with the Defence request. This being the case, there is at present no need for an order or request to be issued under Article 28.

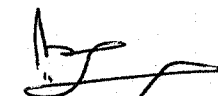
3. The Defence has not yet decided whether it wishes to call the prospective witness, nor is there any indication that he would not testify voluntarily if so called. The proposed orders compelling the appearance of the prospective witness are, accordingly, premature.


FOR THE ABOVE REASONS, THE CHAMBER

DENIES the motion.

Arusha, 27 May 2005


Erik Møse
Presiding Judge


Jai Ram Reddy
Judge


Sergei Alekseevich Egorov
Judge

[Seal of the Tribunal]



¹ *Bagosora et al.*, Request to the Government of Rwanda for Cooperation and Assistance Pursuant to Article 28 of the Statute (TC), 10 March 2004, para. 4; *Bagosora et al.*, Decision on the Defence for Bagosora's Request to Obtain the Cooperation of the Republic of Ghana (TC), 25 May 2004, para. 6.