



ICTR-98-41-T
31-10-2005
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
(25870 - 25868)

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Ivan

TRIAL CHAMBER I

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

Registrar: Adama Dieng

Date: 31 October 2005

THE PROSECUTOR

v.

Théoneste BAGOSORA

Gratien KABILIGI

Aloys NTABAKUZE

Anatole NSENGIYUMVA

Case No. : ICTR-98-41-T

2005 OCT 31 P 14:05
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**DECISION ON REQUEST TO THE REPUBLIC OF TOGO FOR ASSISTANCE
PURSUANT TO ARTICLE 28 OF THE STATUTE**

The Prosecution

Barbara Mulvaney
Drew White
Christine Graham
Rashid Rashid

The Defence

Raphaël Constant
Allison Turner
Paul Skolnik
Frédéric Hivon
Peter Erlinder
André Tremblay
Kennedy Ogetto
Gershom Otachi Bw'Omanwa

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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

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

BEING SEIZED OF “Anatole Nsengiyumva’s Urgent Motion Requesting for an Order to the Government of Togo to Cooperate in Facilitating Defence Contacts with Potential Defence Witness TG-1”, filed on 7 September 2005;

HEREBY DECIDES the request.

1. The Nsengiyumva Defence moves the Chamber to make a request to the Government of Togo, pursuant to Article 28 of the Statute, to facilitate contact with Mr. Aquili Tchami Tchambi, a Togolese national who served as a United Nations military observer in Rwanda in 1994. The motion states that Mr. Tchami has expressed his willingness to meet with the Defence on condition that he is authorized by his superiors to do so.¹ A letter from the United Nations Office of Legal Affairs, attached to the motion, indicates that the United Nations has no objection to the interview.

2. Article 28 of the Statute imposes an obligation on States to “cooperate with the International Criminal Tribunal for Rwanda in the investigation and prosecution of persons accused of committing serious violations of international humanitarian law”. A request to a Chamber to make an order under Article 28 must set forth the nature of the information sought; its relevance to the trial; and the efforts that have been made to obtain it. The type of assistance sought should also be defined with particularity.²

3. The motion adequately articulates the nature of the information sought and its relevance to the proceedings against the Accused. The annexes to the motion also demonstrate that the Nsengiyumva Defence has made reasonable efforts to secure the authorization of the Government of Togo to meet with Mr. Tchami, without success. Formal and informal contacts by the Registry, including the issuance of a Note Verbale dated 30 May 2005, have not yet led to any response from the Togolese authorities concerning this matter.

FOR THE ABOVE REASONS, THE CHAMBER

RESPECTFULLY REQUESTS the Government of Togo to give its permission, to the extent required, to allow the Nsengiyumva Defence to meet and interview Mr. Aquili Tchami Tchambi concerning his knowledge of events in Rwanda in 1994, and to provide any relevant assistance that may reasonably be required to facilitate this meeting;

¹ Motion, para. 5.

² *Bagosora et al.*, Decision on Request to the Kingdom of The Netherlands for Cooperation and Assistance (TC), 7 February 2005, para. 5; *Bagosora et al.*, Decision on Request for Subpoena of Major General Yaache and Cooperation of the Republic of Ghana (TC), 23 June 2004, para. 4.

DIRECTS the Registry to transmit this decision to the relevant authorities of the Government of Togo.

Arusha, 31 October 2005



Erik Møse
Presiding Judge



Jai Ram Reddy
Judge



Sergei Alekseevich Egorov
Judge

[Seal of the Tribunal]

