



ICTR-98-41-T
31-10-2005
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
(25867-25865)

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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
ICTR

**DECISION ON REQUEST TO THE REPUBLIC OF BANGLADESH 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

blm

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

25866

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

BEING SEIZED OF the “Requête de la Défense de Bagosora visant la collaboration de l’État du Bangladesh”, filed on 29 June 2005;

HEREBY DECIDES the request.

1. The Bagosora Defence moves the Chamber to request the Government of Bangladesh, pursuant to Article 28 of the Statute, to facilitate a meeting with two members of the Bengali contingent of UNAMIR, Colonel Bashir (or Bashil) and Captain Wadud, who were present in Rwanda in 1994. A request by the Defence for assistance in locating and contacting these two individuals was made to the Permanent Mission of Bangladesh to the United Nations by letter dated 30 June 2004, followed by a Note Verbale issued by the Registrar of the Tribunal on 13 May 2005, addressed to the High Commission of Bangladesh in Nairobi, Kenya. Despite informal indications from the Government of Bangladesh to the Registry that they are willing to provide assistance, no clear response to the request has yet been given. The United Nations Office of Legal Affairs, in a letter attached to the motion, expresses no objection to the meeting requested, and refers the Bagosora Defence to the Government of Bangladesh for assistance.

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.¹

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 Bagosora Defence has made reasonable efforts to obtain the assistance without recourse to the Chamber. Furthermore, the type of assistance requested is defined with particularity, and is similar to that which has been granted in previous requests for assistance under Article 28.²

FOR THE ABOVE REASONS, THE CHAMBER

RESPECTFULLY REQUESTS the Government of Bangladesh to provide any relevant assistance in facilitating a meeting between the Defence for Bagosora and Colonel Bashir (or Bashil) and Captain Wadud concerning their knowledge of events in Rwanda in 1994;

¹ *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.

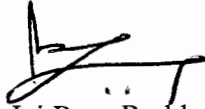
² *Bagosora et al.*, Decision on the Defence for Bagosora’s Request to Obtain the Cooperation of the Government of Ghana (TC), 25 May 2004, p. 3.

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

Arusha, 31 October 2005



Erik Møse
Presiding Judge



Jai Ram Reddy
Judge



Sergei Alekseevich Egorov
Judge

[Seal of the Tribunal]

