



UNITED NATIONS
NATIONS UNIES

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

ICTR-98-41-T
24-05-2006
27556-27554)

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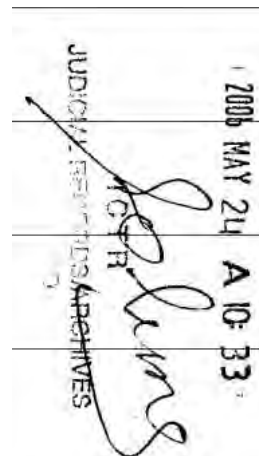
S. MUSA

TRIAL CHAMBER I

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

Registrar: Adama Dieng

Date: 24 May 2006



THE PROSECUTOR

v.

Théoneste BAGOSORA

Gratien KABILIGI

Aloys NTABAKUZE

Anatole NSENGIYUMVA

Case No. : ICTR-98-41-T

DECISION ON MOTION TO UNSEAL TESTIMONY OF
DEFENCE WITNESS RAS-1

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 the Prosecution "Motion to Unseal the Transcripts and Exhibits of the Testimony of Defence Witness RAS-1", etc., filed on 12 December 2005;

CONSIDERING the Response filed by the Nsengiyumva Defence on 20 December 2005;

HEREBY DECIDES the motion

INTRODUCTION

1. On 13 October 2005, the Nsengiyumva Defence requested that the testimony of Witness RAS-1 be held entirely in closed session citing, in particular, a concern that his voice was easily identifiable. The Prosecution opposed the motion. Following arguments, the Chamber ruled:

We do not find all the arguments advanced in relation to this witness convincing for holding his entire testimony in closed session. But the factual situation, leaving aside our view on some of the arguments, is that we do not have voice scrambling available ... And, therefore, because of the voice recognition issue, we will then grant your request, Mr Ogetto.¹

At the end of the testimony, the Prosecution raised the possibility of unsealing some of the testimony that had been heard in closed session. The Presiding Judge invited further submissions:

We have to now look into the transcripts because there will obviously be some portions that, by their substance, should be placed under seal, whereas there may be other portions which may not cause protection issues. If you would also, Defence, it's your witness, look into this matter, and then we can solve this in a practical way later on.²

2. The Prosecution now asks that all the testimony of Witness RAS-1 be unsealed, with the exception of excerpts specified in its motion. The Prosecution also requests that two of the three exhibits entered under seal be made public. The Defence opposes the motion, and cites several example of information that would reveal the identity of the witness.

DELIBERATIONS

3. The Chamber has reviewed Witness RAS-1's testimony in its entirety. There are numerous references throughout the transcript which could reveal the witness's identity. Parsing the testimony into two documents, one closed and one public, is impracticable. Neither would be comprehensible in light of the numerous transitions from public to confidential.

¹ T. 13 October 2005 p. 63.

² T. 19 October 2005 p. 30.



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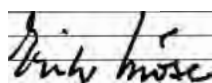
4. Exhibit P-336 does not seem likely to identify the witness. Accordingly, the Chamber grants the request to re-classify this exhibit as a public document. The re-classification shall be delayed for seven days from the date of this decision to give any party the opportunity to file submissions concerning this re-classification.

FOR THE ABOVE REASONS, THE CHAMBER

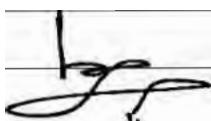
GRANTS the request to reclassify Prosecution Exhibit 366 as a public document, subject to a delay of seven days from the date of this decision;

DENIES the remainder of the motion.

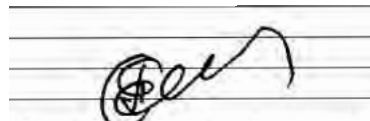
Arusha, 24 May 2006



Erik Møse
Presiding Judge



Jai Ram Reddy
Judge



Sergei Alekseevich Egorov
Judge

[Seal of the Tribunal]

