



International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

ICTR-98-41-T  
20-06-2006  
(28224-28222)

28224  
S. MUSA

TRIAL CHAMBER I

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

**Registrar:** Adama Dieng

**Date:** 20 June 2006

THE PROSECUTOR

v.

Théoneste BAGOSORA

Gratien KABILIGI

Aloys NTABAKUZE

Anatole NSENGIYUMVA

*Case No. : ICTR-98-41-T*

ICTR  
REGISTRAR  
2006 JUN 20 P 3:46

DECISION ON BAGOSORA REQUEST FOR WITNESS Z-06 TO GIVE  
TESTIMONY BY VIDEO-LINK

**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

6/20

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA,

28223

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 Confidentielle", etc., filed by the Bagosora Defence on 12 June 2006;

HEREBY DECIDES the motion.

1. The Defence requests that Witness Z-06 be permitted to give his testimony by video-link. The witness's security situation is said to be particularly sensitive and he has refused to travel to Arusha in the absence of specific security measures which, despite efforts by the Defence, are apparently unavailable.

2. Video-link testimony may be authorized as a witness protection measure, pursuant to Rule 75 (A) of the Rules of Procedure and Evidence, where the witness is in a particularly vulnerable situation and, on that basis, refuses to testify in Arusha.<sup>1</sup> In such cases, the Chamber requires the moving party to "make some showing that giving testimony [by video-link] is necessary to safeguard the witness's security".<sup>2</sup>

3. The Defence's confidential submissions have established to the Chamber's satisfaction that, because of the notoriety of his family associations, the witness is in a particularly vulnerable position. The Defence has made reasonable efforts to explain the security measures which would be provided, but the witness has still refused to testify here, claiming that he would be unsafe without a personal escort throughout his journey. The Chamber finds that a sufficient showing has been made that video-link testimony is necessary to safeguard the witness's security.

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<sup>1</sup> Rule 75 (A) gives the Chamber discretion to "order appropriate measures to safeguard the privacy and security of victims and witnesses, provided that the measures are consistent with the rights of the accused". See *Bagosora et al.*, Decision on the Prosecution Motion for Special Protective Measures for Witness A Pursuant to Rules 66 (C), 69 (A) and 75 of the Rules of Procedure and Evidence (TC), 5 June 2002; *Bagosora et al.*, Decision on Prosecution Motion for Special Protective Measures for Witnesses A and BY (TC), 3 October 2003 paras. 8-10; *Rwamakuba*, Decision on Confidential Motion for the Testimony of Defence Witness 1.15 Be Taken By Video-Link (TC), 8 December 2005; *Nyiramasuhuka et al.*, Decision on Nyiramasuhuko's Strictly Confidential *ex parte* Under Seal Motion for Additional Protective Measures for Defence Witness WBNM (TC), 17 June 2005. See generally *Bagosora et al.*, Decision on Prosecution Request for Testimony of Witness BT via Video-Link (TC), 8 October 2004, para. 8 (distinguishing between the criteria for granting video-link testimony ordered under Rule 54 on the basis of the "interests of justice", and the standard for granting such testimony as a witness protection measure under Rule 75). The present Defence motion requests video-link testimony as a witness protection measure (para. 17).

<sup>2</sup> *Bagosora et al.*, Decision on Prosecution Request for Testimony of Witness BT via Video-Link (TC), 8 October 2004, para. 8.

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**FOR THE ABOVE REASONS, THE CHAMBER**

**28222**

**GRANTS** the motion;

**DIRECTS** the Registry, in consultation with the parties, to make all necessary arrangements in respect of the testimony of Witness Z-06 via video-conference, and to videotape the testimony for possible future reference by the Chamber.

Arusha, 20 June 2006

  
Erik Møse  
Presiding Judge

  
Jai Ram Reddy  
Judge

  
Sergei Alekseevich Egorov  
Judge

[Seal of the Tribunal]

