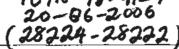


International Criminal Tribunal for Rwanda Tribunal pénal international pour le Rwanda ICIR 18-41-1



28224 S. Musa

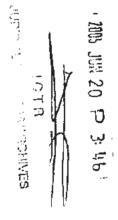
TRIAL CHAMBER I

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

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



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 videolink. 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.¹ 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".²

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.

T.L.

¹ Rule 75 (A) gives the Chamber discretion to "order appropriate measures to sifeguard 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 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 (para. 17).

² Bagosora et al., Decision on Prosecution Request for Testimony of Wittless BT via Video-Link (TC), 8 October 2004, para. 8.

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

