



International Criminal Tribunal for Rwanda
Tribunal pénal International pour le Rwanda

ICTR-98-41-T
29-08-2006
(29222-29220)

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S.Munda

TRIAL CHAMBER I

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

Registrar: Adama Dieng

Date: 29 August 2006

JUDICIAL RECORDS ARCHIVES
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THE PROSECUTOR

v.

Théoneste BAGOSORA

Gratien KABILIGI

Aloys NTABAKUZE

Anatole NSENGIYUMVA

Case No. : ICTR-98-41-T

DECISION ON TESTIMONY
OF WITNESS AMADOU DEME 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
Gershon Otachi Bw'Omanwa

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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

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

BEING SEIZED OF the Ntabakuze Defence "Request to Allow Witness Amadou Deme to Give Testimony via Video-Link", filed on 12 July 2006;

CONSIDERING the Prosecution Response, filed on 20 July 2006; and the Defence Reply, filed on 31 July 2006;

HEREBY DECIDES the motion.

INTRODUCTION

1. The Ntabakuze Defence requests the Chamber to allow Defence Witness Amadou Deme to give testimony by video-conference. The Defence states that the witness, a former information officer with UNAMIR, is primarily concerned that he will be denied re-entry to his country of residence and has received legal advice that he should not travel.¹ The Defence submits that the testimony of the witness is important, as it will address, among other issues, the existence of an alleged conspiracy to commit genocide, and whether killings of civilians took place near the airport in Kigali where Para-commando troops were stationed.²

2. The Prosecution opposes the motion, arguing that the circumstances of this witness do not fulfil the criteria for authorization of testimony via video-conferencing.

DELIBERATIONS

3. Rule 90 (A) of the Rules of Procedure and Evidence provides that "witnesses shall, in principle, be heard directly by the Chambers". A Chamber may nevertheless order under Rule 54 that testimony be heard by video-conference provided that it is in the interests of justice to do so.³ In making such an evaluation, the Chamber must weigh the importance of the testimony, the witness's inability or unwillingness to attend, and whether a good reason has been adduced for that inability or unwillingness.⁴

4. Mr. Deme, according to the Defence, will testify that he knows of no credible evidence that a conspiracy existed in January 1994 to commit genocide against Tutsis in Rwanda; that an informant who provided information that such a conspiracy existed was not credible; and that he received no reports of killings of civilians near Kigali airport, despite the presence of UNAMIR observers in the area. The testimony would, if credible, contradict Prosecution evidence which potentially incriminates the Accused.

¹ Motion, paras. 7-9; Ntabakuze Reply, para. 4.

² Motion, para. 10.

³ *Bagosora et al.*, Decision on Prosecution Request for Testimony of Witness BT via Video-Link (TC), 8 October 2004.

⁴ *Id.*, para. 6; *The Prosecutor v. Aloys Simba*, Decision Authorizing the Taking of the Evidence of Witnesses IMG, ISG, and BJK1 by Video-Link (TC), 4 February 2005, para. 4; *Bagosora et al.*, Decision on Testimony by Video-Conference (TC), 20 December 2004, para. 4.

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5. The Defence has established that Mr. Deme genuinely refuses to travel and that this refusal is based, at least in part, on advice from his lawyer not to undertake foreign travel. Although the Defence has not particularized the issues which may imperil the witness's residency status, the Chamber accepts that a sufficient showing has been made that the witness genuinely believes that he has good reason not to travel, and that these reasons are objectively supported, in particular, by advice from his attorney.

6. The Chamber finds, having considered the totality of the circumstances, that it is in the interests of justice to permit the witness to testify by video-conference.

FOR THE ABOVE REASONS, THE CHAMBER


AUTHORIZES the taking of the testimony of Witness Amadou Deme by video-conference from his country of residence;

INSTRUCTS the Registry, in consultation with the parties, to make all necessary arrangements in respect of the testimony of Witness Deme by video-conference during the upcoming trial segment from 4 September to 13 October 2006, and to videotape the testimony for possible future reference by the Chamber.

Arusha, 29 August 2006


Erik Møse
Presiding Judge


P. Sai Ram Reddy
Judge


Sergei Alekseevich Egorov
Judge

[Seal of the Tribunal]

