



International Criminal Tribunal for Rwanda
Tribunal pénal International pour le Rwanda

ICTR-98-4-T
21-09-2006
(29761-2959)

29761
S. Musinga

ORIGINAL: ENGLISH

TRIAL CHAMBER I

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

Registrar: Adama Dieng

Date: 21 September 2006

THE PROSECUTOR

v.

Théoneste BAGOSORA

Gratien KABILIGI

Aloys NTABAKUZE

Anatole NSENGIYUMVA

Case No. : ICTR-98-41-T

2006 SEP 21 11 A 9/01
JUDICIAL RECORDS/ARCHIVES,
UNICTR
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**DECISION ON REQUEST TO THE KINGDOM OF BELGIUM FOR ASSISTANCE
PURSUANT TO ARTICLE 28 OF THE STATUTE**

The Prosecution

Barbara Mulvaney
Drew White
Christine Graham
Rashid Rashid
Gregory Townsend

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

29760

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 ... visant la coopération du Royaume de Belgique”, filed by the Bagosora Defence on 20 September 2006;

HEREBY DECIDES the request.

1. The Bagosora Defence asks the Chamber to issue a request to the Government of Belgium to permit an interview with Alphonse Higaniro, a person now in detention in Belgium, who is scheduled to testify on behalf of the Nsengiyumva Defence in early October. The Defence indicates that such a meeting is for the purpose of determining whether it wishes to cross-examine the witness.

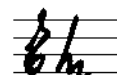
2. Article 28 of the Statute imposes an obligation on States to “cooperate with the International Criminal Tribunal for Rwanda in the investigation and prosecution of persons accused of committing serious violations of international humanitarian law”. A request to a Chamber to make an order under Article 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. This Chamber has previously found that Mr. Higaniro may have information relevant to this trial.² Colonel Bagosora is said to have been present on one of the occasions on which Mr. Higaniro may be able to give testimony.³ The correspondence appended to the motion shows that the Defence has tried to arrange the interview without recourse to the Chamber, but that Belgian law requires an order under Article 28 for such an interview to be permitted. Accordingly, the Chamber finds that the conditions for the issuance of a request under Article 28 are satisfied.

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 Request to the Kingdom of Belgium for Assistance Pursuant to Article 28 of the Statute (TC), 21 April 2006, para. 3; *Bagosora et al.*, Decision on Nsengiyumva Motion for Witness Higaniro to Testify by Video-Conference (TC), 29 August 2006.

³ *Bagosora et al.*, Decision on Nsengiyumva Motion for Witness Higaniro to Testify by Video-Conference (TC), 29 August 2006, para. 3.



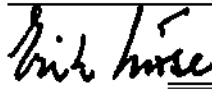
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FOR THE ABOVE REASONS, THE CHAMBER

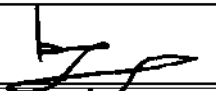
RESPECTFULLY REQUESTS the Kingdom of Belgium to provide any relevant assistance in facilitating a meeting between the Bagosora Defence and Mr. Alphonse Higaniro;

DIRECTS the Registry to transmit this decision to the relevant authorities of the Kingdom of Belgium.

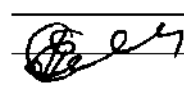
Arusha, 21 September 2006



Erik Mose
Presiding Judge



Jai Ram Reddy
Judge



Sergei Alekseevich Egorov
Judge

[Seal of the Tribunal]

