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UNITED NATIONS  
NATIONS UNIES

ICTR-98-41-T  
02-05-2007  
(38167-38165)  
International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

38167

S. Muna

TRIAL CHAMBER I

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

**Registrar:** Adama Dieng

**Date:** 2 May 2007

THE PROSECUTOR

v.

**Théoneste BAGOSORA**  
**Gratien KABILIGI**  
**Aloys NTABAKUZE**  
**Anatole NSENGIYUMVA**

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

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**DECISION ON BAGOSORA MOTION FOR ADDITIONAL TIME FOR CLOSING  
BRIEF AND ON RELATED MATTERS**

**The Prosecution**

Barbara Mulvaney  
Drew White  
Christine Graham  
Rashid Rashid  
Kartik Murukutla

**The Defence**

Raphaël Constant  
Allison Turner  
Paul Skolnik  
Frédéric Hivon  
Peter Erlinder  
Kennedy Ogetto  
Gershon Otachi Bw'Omanwa

John

38166

**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** le "Requête de la Défense de Bagosora visant le report de la date de dépôt du mémoire final", filed on 25 April 2007.

**RECALLING** the Bagosora "Request to Suspend Proceedings Pending Decisions on Interlocutory Motions", filed on 28 February 2007, and the Prosecution Response to various Bagosora Defence Motions, filed on 8 March 2007;

**HEREBY DECIDES** the motion.

**DELIBERATIONS**

(i) *Extension of Time*

1. In its decision of 13 March 2007, the Chamber extended the deadline for filing the Bagosora Defence Closing Brief from 2 April to 10 May 2007. The request was based on the fact that the working language of the Accused and Lead Counsel is French. In reaching its decision, the Chamber consulted the Language Section which indicated that the entire Prosecution Brief would be translated by 16 April 2007.<sup>1</sup>

2. The Bagosora Defence now requests additional time for the filing of its Closing Brief. It submits that a translated version of Chapters IV, V, VI, and VII of the Prosecution Closing Brief was only transmitted to Lead Counsel on 20 April 2007. At the time the motion was written, the Accused had yet to receive a complete translated copy. The Defence therefore requests an extension of one week to 17 May 2007. The Prosecution has not filed any response.

3. The Chamber has received confirmation from the Registry that the Brief was served on the Accused on 24 April 2007 and notes that Lead Counsel received the complete French version of the Prosecution Closing Brief on 20 April 2007. In light of these delays, the Chamber grants the Defence motion for an extension of time.

(ii) *Other Matters*

4. The Chamber's decision of 13 March 2007 to extend the deadline made it unnecessary to rule on a Bagosora request to suspend the proceedings pending decisions on certain motions. However, in connection with the present decision, the Chamber finds it useful to address one matter raised in that motion.<sup>2</sup>

<sup>1</sup> *Bagosora et al.*, Decision on Bagosora Motion Concerning Scheduling of Its Closing Brief (TC), 13 March 2007. That motion was filed on 13 December 2006.

<sup>2</sup> Bagosora Defence Request to Suspend Proceedings Pending Decisions on Interlocutory Motions, filed on 28 February 2007. All motions then pending has since been decided, except for "Requête de la Défense Bagosora en exclusion de preuve des allégations ne figurant pas dans l'act d'accusation", dated 13 May 2006. The Chamber reiterates that evidence remains before the Chamber unless and until it is specifically excluded. Any later exclusion of evidence will reduce the number of arguments to be considered by the Chamber. See *Bagosora et al.*, Decision on Defence motions for Extension of Time to File Their Closing Briefs (TC), 26 March 2007, para. 10.

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5. On 11 September 2006, the Chamber granted a Bagosora request for a subpoena to be issued to General Marcel Gatsinzi and ordered the Registry to communicate it to the witness through appropriate diplomatic channels.<sup>3</sup> The Registrar subsequently informed the Chamber that the witness was prepared to testify before the Tribunal under two conditions: (i) that he be called by the Chamber and not by the Bagosora Defence; and (ii) that he be allowed to testify by video link from Kigali due to his demanding professional schedule.<sup>4</sup> The Bagosora Defence later asked the Chamber to direct the Registry to inform the witness that his conditions for testifying were not acceptable to the Chamber and that he had to comply with the subpoena.<sup>5</sup>

7. The Chamber has already made its position clear. On 8 December 2006, the Chamber stated that it had no intention of calling General Gatsinzi as a Chamber witness.<sup>6</sup> At that time, the Chamber further noted that the Defence had made no request for the witness to appear by video-link.<sup>7</sup> The Defence had the opportunity to make such an application but chose not to do so. This means that the Chamber's initial decision of 11 September 2006 to issue the subpoena remained in force but that the conditions stipulated by the witness led to his non-appearance. Meanwhile, all parties completed the presentation of evidence on 12 December 2006, with the exception of three Kabiligi witnesses who testified in the week from 15 January 2007. Other than noting that General Gatsinzi was unwilling to testify as a Bagosora witness in Arusha, the Chamber can do nothing more at this time.

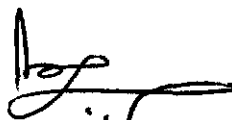
**FOR THE ABOVE REASONS, THE CHAMBER**

**ORDERS** that the Bagosora Defence file its Closing Brief by 17 May 2007.

Arusha, 2 May 2007



Erik Møse  
Presiding Judge



Jai Ram Reddy  
Judge



Sergei Alekseevich Egorov  
Judge

[Seal of the Tribunal]



<sup>3</sup> *Bagosora et al.*, Decision on Request for a Subpoena (TC), 11 September 2006.

<sup>4</sup> The Registrar's Submissions Regarding the Trial Chamber's Decision on Request for a Subpoena of 11 September 2006, 5 October 2006, paras. 6-7.

<sup>5</sup> T. 8 December 2006 pp. 4-5; T. 12 December 2006 pp. 12-15.

<sup>6</sup> T. 8 December 2006 p. 5 ("Mr. President: Mr. Constant, the Chamber has no intention to call Mr. Gatsinzi as a Chamber witness").

<sup>7</sup> T. 8 December 2006 p. 4 ("Mr. President: The Chamber has issued a subpoena. Mr. Gatsinzi has said that he's only willing to come and testify by video link. There is no request for video link").