



UNITED NATIONS
NATIONS UNIES

ICTR-97-31-T
08-06-2007
(4741-4739)
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

4741
1494

ORIGINAL: ENGLISH

TRIAL CHAMBER I

Before: Judge Erik Møse, presiding
Judge Sergei Alekseevich Egorov
Judge Florence Rita Arrey

Registrar: Adama Dieng

Date: 8 June 2007

THE PROSECUTOR

v.

Tharcisse RENZAHU

Case No. ICTR-97-31-T

2007 JUN -8 P 1:18
JUDICIAL RECORDS ARCHIVE
RECEIVED

**DECISION ON BIZIMUNGU REQUEST
FOR CLOSED SESSION TESTIMONY**

The Prosecution:
Jonathan Moses
Katya Mellsuish
Ignacio Tredici

The Defence for Renzaho:
François Cantier
Barnabé Nekuie

The Defence for Bizimungu:
Michelyne C. St-Laurent
Alexandra Marcil

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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

SITTING as Trial Chamber I, composed of Judge Erik Møse, presiding, Judge Sergei Alekseevich Egorov, and Judge Florence Rita Arrey;

BEING SEIZED OF the Bizimungu Defence "Requête ... en communication des audiences à huis clos du témoin à charge UL", filed on 5 June 2007;

HEREBY DECIDES the motion.

INTRODUCTION

1. Witness UL testified in the *Bizimungu et al.* trial from 1 to 3 March 2004. The Defence for Casimir Bizimungu now requests the closed session transcripts of his testimony for the Prosecution in the *Renzaho* proceedings on 9 and 10 January 2007. The Prosecution has indicated that it intends to use Witness UL's statements during its cross-examination of Bizimungu.¹ The Defence agrees to be bound by all of the witness protection measures in place in this case.² The parties in the *Renzaho* proceedings have indicated that they have no submissions to make in regard to this request.³

DELIBERATIONS

2. Pursuant to Rule 75 (G) of the Rules of Procedure and Evidence, witness protection measures ordered by a Trial Chamber in any "first proceedings" will continue to have effect *mutatis mutandis* in any other proceedings before the Tribunal (the "second proceedings") unless and until they are rescinded, varied or augmented in accordance with the procedure set out in the Rules. As the *Renzaho* trial is continuing before Trial Chamber I, the Bizimungu Defence – being a party to "second proceedings" – has properly applied to this Chamber for the relief requested.

3. The Appeals Chamber has held:

[A]n accused in a case before the International Tribunal may be granted access to confidential material in another case if he shows a legitimate forensic purpose for such access. With respect to *inter partes* confidential material, it is sufficient for an applicant to demonstrate that "the material sought is likely to assist the applicant's case materially or at least that there is a good chance that it would". This standard can be met "by showing the existence of a nexus between the applicant's case and the case from which such material is sought, for example, if the cases stem from events alleged to have occurred in the same geographical area at the same time".⁴

4. The Chamber finds that the material sought is likely to assist the applicant's case materially, or that there is a good chance that it would. Witness UL testified that he was an eyewitness to the meeting of 11 April in which Bizimungu is accused of participating. The testimony requested contains several references to Bizimungu and his alleged actions during

¹ Motion, para. 4.

² Motion, para. 13.

³ T. 7 June 2007.

⁴ *Blagojević and Jokić*, Decision on Momčilo Perišić's Motion Seeking Access to Confidential Material in the *Blagojević and Jokić* Case (AC), 18 January 2006, para. 4; *Prosecutor v. Galić*, Decision on Momčilo Perišić's Motion Seeking Access to Confidential Material in the *Galić* Case (AC), 16 February 2006, para. 3. See also *Bagosora et al.*, Decision on Nzirorera Request for Access to Protected Material (TC), 19 May 2006, para. 2.

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the 11 April meeting. Moreover, the witness has already testified in the Bizimungu case. In these circumstances, the Chamber is satisfied that the Bizimungu Defence has articulated a legitimate forensic purpose for the material requested and that access to the confidential material would materially assist the Defence.

5. Pursuant to Rule 75 (F), the Bizimungu Defence shall be bound by the Chamber's Prosecution witness protection orders in the *Renzaho* case.⁵


FOR THE ABOVE REASONS, THE CHAMBER

GRANTS the Defence motion;

DECLARES that the Bizimungu Defence and any persons under its instruction or authorization shall be bound *mutatis mutatis* by the terms of the Prosecution witness protection orders in the *Renzaho* case; and

DIRECTS the Registry to disclose the closed session transcripts for Witness UL to the Defence.

Arusha, 8 June 2007


Erik Mose
Presiding Judge


Sergei Alekseevich Egorov
Judge


Florence Rila Arrey
Judge

[Seal of the Tribunal]



⁵ Decision on the Prosecutor's Motion for Protective Measures for Victims and Witnesses to Crimes Alleged in the Indictment (TC), 17 August 2005.