



UNITED NATIONS
NATIONS UNIES

ICTR-97-31-T
27-06-2007
(4753-4751)

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International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

ORIGINAL: ENGLISH

TRIAL CHAMBER I

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

Registrar: Adama Dieng

Date: 27 June 2007

JUDICIAL RECORDS ARCHIVES
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THE PROSECUTOR

v.

Tharcisse RENZAHO

Case No. ICTR-97-31-T

DECISION ON DEFENCE REQUEST FOR VIDEO-LINK TESTIMONY

The Prosecution:
Jonathan Moses
Katya Melliush
Ignacio Tredici

The Defence:
François Cantier
Barnabé Nekuie

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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

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

BEING SEIZED OF the Defence request for video-link testimony, filed on 13 June 2007;

CONSIDERING the Prosecution Response, filed on 15 June 2007, and the Defence Reply thereto, filed on 20 June 2007;

HEREBY DECIDES the motion.

INTRODUCTION

1. The Defence requests that Witness MAJ be heard by video-link from The Hague. The witness is willing to testify before the Tribunal but refuses to come to Arusha out of security concerns that derive from his occupation and personal situation.¹ The Prosecution submits that the witness has previously testified without a pseudonym before the ICTR and in national proceedings, and that the Defence has provided no explanation to show why his situation has changed in the interim so as to justify the exceptional measure of video-link testimony. The Defence replies that it is precisely because the witness has testified under his own name in the past that he has attracted unwanted attention.²

DELIBERATIONS

2. Testimony by video-link may be ordered pursuant to Rules 54 and 71 (D) of the Rules of Procedure and Evidence on the basis that it is in the interests of justice. This depends on 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.³

3. According to the Defence, Witness MAJ will refute the Prosecution theory that the Accused participated in a joint criminal enterprise, was directly implicated in the events, and did nothing to stop the massacres or punish their perpetrators.⁴ The witness will testify that neither the Kigali-ville *prefecture* nor the Accused were the source of the arrests in 1990, and more generally regarding the role of that *prefecture* and its *prefet* during the 1994 events.⁵ The testimony will also include the attack on the CELA centre on 22 April 1994, and the problem of false testimony by Rwandan witnesses.⁶ The Chamber considers that Witness MAJ's testimony would, if credible, contradict potentially incriminating evidence and accepts that it is of potential importance.

4. Witness MAJ is willing to testify but refuses to travel to Arusha based on fears for his security. He is a human rights activist who is leading a non-governmental organization covering justice and accountability in Rwanda. According to the Defence, he is considered as

¹ Motion, paras. 31-37.

² Defence Reply, para. 10.

³ *Prosecutor v. Bagasora et al.*, Decision on Testimony of Witness Amadou Deme by Video-link (TC), 29 August 2006, para. 3; Decision on Testimony by Video-conference (TC), 20 December 2004, para. 4; Decision on Prosecution Request for Testimony of Witness BT via Video-Link (TC), 8 October 2004, para. 6.

⁴ Motion, para. 20.

⁵ Motion, paras. 21-22, 25.

⁶ Motion, paras. 27-28.

4751

an active opponent of the Rwandan government and as such, a potential target.⁷ It follows from his statement to the Defence that he was forced to flee Rwanda after the 1994 events due to the political situation there, and then took refuge abroad. The Defence avers to have made repeated efforts to convince the witness to travel to Arusha, but in vain.

5. The testimony that this witness gave under his own name before the Tribunal took place many years ago. He was scheduled to testify under his own name four years ago in another trial before the Tribunal, but ultimately did not testify. Since then, the witness has continued to work in the human rights sector and to denounce human rights abuses alleged to take place in Rwanda. According to the Defence, his security situation has deteriorated. Even though he recently gave evidence before a national jurisdiction, testifying in Arusha may pose different security concerns.

6. The Chamber finds it clear that Witness MAJ is unwilling to testify in Arusha based on his genuinely-held fears for his security.⁸ Even though they may be exaggerated the Chamber finds it in the interests of justice to grant the request for video-link transmission in view of the alleged significance of the testimony and the need to complete this trial without undue delay.

FOR THE ABOVE REASONS, THE CHAMBER

AUTHORIZES the taking of the testimony of Witness MAJ by video-link; and

INSTRUCTS the Registrar, in consultation with the parties, to make all necessary arrangements in respect of the testimony of Witness MAJ by video-link, and to videotape the testimony for possible future reference by the Chamber.

Arusha, 27 June 2007



Erik Mose
Presiding Judge



Sergei Alekseevich Egorov
Judge



Florence Rita Arey
Judge

[Seal of the Tribunal]



⁷ Motion, paras. 35-36.

⁸ *Prosecutor v. Bagosora et al.*, Decision on Video-conference Testimony of Kabiligi Witnesses YUL-39 and LAX-23 and to Hear Testimony in Closed Session (TC), 19 October 2006, para. 5.