

ICTR-99-50-I

15. 10. 2003

(7646 — 7643)

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

7646 amg.



United Nations  
Nations Unies

OR: ENG

**TRIAL CHAMBER II**

**Before:** Judge Asoka de Zoysa Gunawardana, presiding  
Judge Arlette Ramaroson  
Judge Khalida Rachid Khan

**Registrar:** Mr. Adama Dieng

**Date:** 15 October 2003

**The PROSECUTOR**

v.

Casimir BIZIMUNGU  
Justin MUGENZI  
Jerome BICAMUMPAKA  
Prosper MUGIRANEZA

Case No. ICTR-99-50-I

2003 OCT 15 A 11:31  
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TO BE  
FILED

**CLARIFICATION ORDER IN RESPECT OF DISCLOSURE OF IDENTIFYING  
INFORMATION OF PROTECTED WITNESSES**

Office of the Prosecutor

Paul Ng'aura  
Melinda Pollard  
Elvis Bazawule  
George Mugwanya

Counsel for the Accused

Michelyne St. Laurent, for Casimir Bizimungu  
Howard Morrison and Ben Gumpert, for Justin Mugenzi  
Pierre Gaudreau, for Jerome Bicamumpaka  
Tom Moran, for Prosper Mugiraneza

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**THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA** (the "Tribunal"),

**SITTING** as Trial Chamber II, composed of Judge Asoka de Zoysa Gunawardana, presiding, Judge Arlette Ramaroson, and Judge Khalida Rachid Khan (the "Chamber");

**BEING SEIZED** of:

- i. "Prosecutor's Motion Seeking the Clarification and variance of the Order Directing the Prosecutor to Disclose Page One of Witness Information Sheets Dated 7<sup>th</sup> October 2003 and other Appropriate Relief" filed on 8 October 2003 (the "Motion");

**HAVING RECEIVED AND CONSIDERED:**

- ii. The "Réponse en extrême urgence de la défense de Casimir Bizimungu au 'Prosecutor's Motion Seeking the Clarification and variance of the Order Directing the Prosecutor to Disclose Page One of Witness Information Sheets Dated 7<sup>th</sup> October 2003 and other Appropriate Relief'" filed on 9 October 2003 ("Bizimungu's Response");
- iii. The "Extremely Urgent Response to the Prosecutor's Motion Seeking the Clarification and variance of the Order Directing the Prosecutor to Disclose Page One of Witness Information Sheets Dated 7<sup>th</sup> October 2003 and other Appropriate Relief" filed on 13 October 2003 ("Mugenzi's Response");

**CONSIDERING** the Statute of the Tribunal (the "Statute"), and the Rules of Procedure and Evidence (the "Rules");

**RECALLING** the proceedings of the Pre-trial Conference of 7 October 2003;

**RECALLING** the Decisions regarding Protective Measures for Prosecution Witnesses given in this case;<sup>1</sup>

**NOW CONSIDERS THE MATTER:**

**SUBMISSIONS OF THE PARTIES**

1. The Prosecution requests a variation and clarification of the Chamber's oral Order given at the Pre-trial Conference on 7 October 2003, whereby the Chamber ordered that in the interpretation of the Decision on the Prosecutor's Motion for Protective Measures for Witnesses,<sup>2</sup> identifying information for the purposes of disclosure should include the details contained in "page 1" of the Witness Statements.

<sup>1</sup> *Bizimungu*, Decision on the Prosecutor's Motion for Protective Measures for Witnesses (TC), 22 September 2000; *Mugenzi*, Decision on the Prosecutor's Motion for Protective Measures for Witnesses (TC), 12 July 2000; *Bicamumpaka*, Decision on the Prosecutor's Motion for Protective Measures for Witnesses (TC), 12 July 2000; *Mugiraneza*, Decision on the Prosecutor's Motion for Protective Measures for Witnesses (TC), 12 July 2000

<sup>2</sup> *Bizimungu*, Decision on the Prosecutor's Motion for Protective Measures for Witnesses (TC), 22 September 2000

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2. The Prosecution submits that, as things presently stand, compliance with the oral Order would not fulfil its intended purpose, which is to provide identifying information of Prosecution Witnesses to the Defence. This is because there is no uniformity as regards the information contained on the various first pages which must now be disclosed.
3. The Prosecution also claims that compliance with the oral Order would compromise the privacy and security of the concerned witnesses.
4. The Prosecution suggests that the information to be provided should include only:
  - (i) Full names (family name, first and nicknames, and pseudonym)
  - (ii) Date of birth
  - (iii) Religion
  - (iv) Ethnic group
  - (v) Occupation
  - (vi) Address in April 1994
5. The Defence objects to the granting of a variation to the oral Order, and maintains that it should be provided with all the information provided in the "cover sheets". The Defence for Bizimungu, supported by the Defence for Mugenzi, suggests that the information to be provided should be in accordance with the template annexed to Bizimungu's Response.

#### HAVING DELIBERATED

6. Having reviewed the submissions of the Parties, the Chamber considers it appropriate to clarify the oral Order given during the Pre-trial Conference of 7 October 2003.
7. The Chamber based the said Order on the interpretation of the Decision this Chamber made in the Decision on the Prosecutor's Motion for Protective Measures for Witnesses<sup>3</sup> wherein it requires the Prosecutor to "disclose to the Defence the identity of the Prosecution witnesses before the beginning of the trial and no later than twenty-one (21) days before the testimony of said witness".
8. The Chamber clarifies that the purpose of the said oral Order was to ensure that the Defence is provided with full identifying information, as contained in page 1 of the witness information sheet, concerning the identification of Prosecution witnesses, who are to testify in this trial. Information which is not essential to the identification of the Witness, such as the names of interviewers, interpreters, language used in interview and place of interview, are not information essential to proper identification.
9. The Chamber now clarifies the oral Order appropriately.

#### THE TRIBUNAL HEREBY:

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<sup>3</sup> Bizimungu, Decision on the Prosecutor's Motion for Protective Measures for Witnesses (TC), 22 September 2000

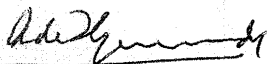
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**ORDERS** that the witness information sheet or sheets, as the case may be, that are served to the Defence, along with the witness's statement, should contain the following identifying information, if such information is contained in the original witness information sheets:

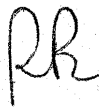
- (i) Full Names (including family, first and nicknames, and pseudonym)
- (ii) Date and Place of Birth
- (iii) Names of Parents
- (iv) Ethnic Group
- (v) Religion
- (vi) Address in April 1994
- (vii) Occupation in April 1994

**ORDERS** that this information shall not be disclosed by the Accused or the Defence Counsel, and that Defence Counsel shall take appropriate measures to ensure that this information remains secure.

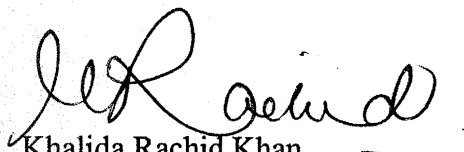
Arusha, 15 October 2003



Asoka de Zoysa Gunawardana  
Presiding Judge



Arlette Ramaroson  
Judge



Khalida Rachid Khan  
Judge

