

ICTR-99-50-T
04-02-2004
(12067 — 12065)

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

12067 *smm/leg*

Or: ENG

TRIAL CHAMBER II

Before: Judge Asoka de Zoysa Gunawardana, Presiding
Judge Khalida Rachid Khan
Judge Lee Gacuiga Muthoga

Registrar: Adama Dieng

Date: 3 February 2004

The PROSECUTOR
v.
Casimir BIZIMUNGU
Justin MUGENZI
Jerôme BICAMUMPAKA
Prosper MUGIRANEZA
Case No. ICTR-99-50-T

[Handwritten signature]
2004 FEB 11 9:10

**DECISION ON MOTION FROM CASIMIR BIZIMUNGU OPPOSING TO THE
ADMISSIBILITY OF THE TESTIMONY OF WITNESSES AEI, GKE, GKF AND
GKI**

Office of the Prosecutor:

Paul Ng'arua
Ibukunolu Babajide
Elvis Bazawule
George Mugwanya

Counsel for the Defence:

Michelyne C. St. Laurent and Alexandra Marcil for Casimir Bizimungu
Howard Morrison and Ben Gumpert for Justin Mugenzi
Pierre Gaudreau and Michel Croteau for Jérôme Bicamumpaka
Tom Moran and Christian Gauthier for Prosper Mugiraneza

[Handwritten mark]

12066

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

SITTING as Trial Chamber II, composed of Judge Asoka de Zoysa Gunawardana, Presiding, Judge Khalida Rachid Khan and Judge Lee Gacuiga Muthoga (the "Chamber");

BEING SEIZED of "Motion from Casimir Bizimungu Opposing to the Admissibility of the Testimony of Witnesses AEI, GKE, GKF and GKI" filed on 27 January 2004, (the "said Motion");

NOTING the "Prosecutor's Response to Motion from Casimir Bizimungu Opposing to the Admissibility of the Testimony of Witnesses AEI, GKE, GKF and GKI" filed on 3 February 2004, (the "Response");

TAKING INTO CONSIDERATION the submissions made by both parties when this matter was taken up in open court on 3 February 2004;

NOTING the "Decision on Motion from Casimir Bizimungu Opposing to the Admissibility of the Testimony of Witnesses GKB, GAP, GKC, GKD and GFA", filed on 23 January 2004, (the "Decision of 23 January 2004");

DELIBERATIONS

1. The Trial Chamber recalls its reasoning set out in its Decision of 23 January 2004. It is observed that there are no specific acts alleged against Casimir Bizimungu in relation to events that took place in Ruhengeri *préfecture* in any part of the Indictment. When questioned in open court by the Trial Chamber, the Prosecutor was unable to show the specific acts pleaded in the Indictment in respect of Casimir Bizimungu in Ruhengeri *préfecture*.

2. The Trial Chamber considers that it is a requirement of the law that, in addition to the charges against the Accused, an Indictment should contain a statement of the material facts which the Prosecutor intends to rely on in support of the charges. This must be given in sufficient detail so as to enable the Accused to prepare his defence. This forms the essence of a fair trial as guaranteed by the provisions of Article 20 of the Statute.

3. The Trial Chamber is of the view that the failure of the Prosecutor to mention the material facts in the Indictment regarding the involvement of Casimir Bizimungu in the events that took place in Ruhengeri *préfecture* upon which Witnesses AEI, GKE, GKF and GKI are yet to testify, leads to the conclusion that the said testimony should be disregarded in respect of Casimir Bizimungu.

4. After a careful analysis of the statements made by Witness AEI dated 30 April 1997, 1 April 1999 and 27 January 2000, the Trial Chamber is of the view that only the content of the statements dated 30 April 1997 and 27 January 2000 can be admitted into evidence. As the statement dated 1 April 1999 covers events involving Casimir

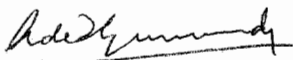
18065

Bizimungu in Ruhengeri *préfecture*, the Prosecutor is directed not to lead any evidence from this statement involving Casimir Bizimungu in Ruhengeri *préfecture*. Moreover, the statements made by Witness GKE on 12 May 2003 and Witness GKF on 10 April 2003 contain only events involving Casimir Bizimungu in Ruhengeri *préfecture*. Accordingly, the Prosecutor shall not lead evidence in relation to the facts referred to in these statements. As for Witness GKI, he has made four statements dated 7 February 2001, 18-19 June 2002, 25 June 2002 and 11 February 2003. In the statement dated 11 February 2003, Witness GKI only refers to matters involving Casimir Bizimungu in Ruhengeri *préfecture*. Therefore, evidence relating to events implicating Casimir Bizimungu in Ruhengeri *préfecture* shall not be led by the Prosecutor. In relation to the other three statements made by this witness, the Prosecutor may lead evidence of their contents.

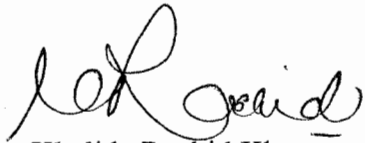
FOR THE ABOVE REASONS, THE TRIAL CHAMBER

GRANTS the said Motion in terms set out in the above paragraph 4.

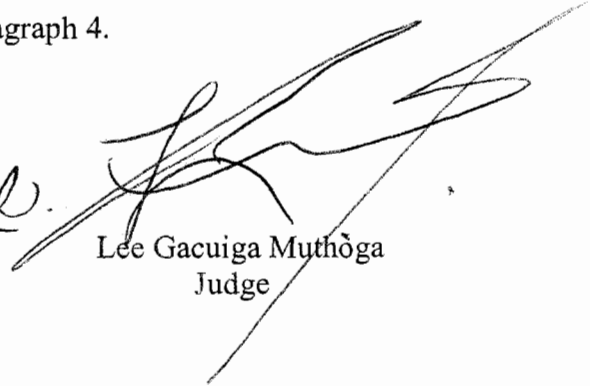
Arusha, 3 February 2004



Asoka de Zoysa Gunawardana
Presiding Judge



Khalida Rachid Khan
Judge



Lee Gacuiga Muthoga
Judge

