

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

Or: ENG

TRIAL CHAMBER II

Before: Judge Khalida Rachid Khan, Presiding

Registrar: Mr. Adama Dieng

Date: 25 May 2004

The PROSECUTOR

v.

Casimir BIZIMUNGU

Justin MUGENZI

Jérôme BICAMUMPAKA

Prosper MUGIRANEZA

Case No. ICTR-99-50-T

**DECISION ON MOTION TO EXTEND DELAY TO FILE A RESPONSE OF
DEFENDANT BICAMUMPAKA TO "PROSECUTOR'S VERY URGENT
MOTION TO VARY HIS INITIAL LIST OF WITNESSES IN RESPONSE TO
STATUS CONFERENCE DELIBERATIONS OF 5 MARCH 2004 AND
VARYING/MODIFYING HIS MOTION FOR LEAVE TO VARY HIS INITIAL
LIST OF WITNESSES STILL PENDING BEFORE THE TRIAL CHAMBER"**

Office of the Prosecutor:

Mr. Paul Ng'arua

Mr. Ibukunolu Babajide

Mr. Justus Bwonwonga

Mr. Elvis Bazawule

Mr. Shyamlal Rajapaksa

Counsel for the Defence:

Ms. Michelyne C. St. Laurent and Ms. Alexandra Marcil for Casimir Bizimungu

Mr. Howard Morrison and Mr. Ben Gumpert for Justin Mugenzi

Mr. Pierre Gaudreau and Mr. Michel Croteau for Jérôme Bicomupaka

Mr. Tom Moran and Mr. Christian Gauthier for Prosper Mugiraneza

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

SITTING as Trial Chamber II, composed of Judge Khalida Rachid Khan, assigned to decide this Motion pursuant to Rule 73(A) of the Rules of Procedure and Evidence by the Trial Chamber also composed of Judge Lee Gacuiga Muthoga and Judge Emile Francis Short, (the "Trial Chamber");

BEING SEIZED of "Motion to Extend Delay to File a Response of Defendant Bicomumpaka to Prosecutor's Very Urgent Motion to Vary his Initial List of Witnesses in Response to Status Conference Deliberations of 5 March 2004 and Varying/Modifying his Motion for Leave to Vary his Initial List of Witnesses Still Pending Before the Trial Chamber" filed on 20 May 2004, (the "Motion");

TAKING INTO CONSIDERATION the "Decision on the Motions for Variation of the Prosecutor's Initial Witness List" filed on 19 May 2004 (the "Decision");

FURTHER TAKING INTO CONSIDERATION the "Decision on the Prosecutor's Motion for Protective Measures for Witnesses" filed on 12 July 2000, (the "Protective Measures Decision");

CONSIDERING that the Trial Chamber has already issued a Decision on the issues raised by the Defence, the Trial Chamber is of the view that the Motion is now rendered moot and should be dismissed in its entirety.


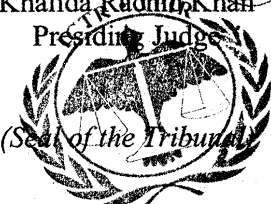
NEVERTHELESS the Trial Chamber noted that the Defence has mentioned names of protected Prosecution Witnesses in the Motion. The Chamber notes with regret the serious breach by the Defence of the Protective Measures Decision. The best protection available to witnesses before this Tribunal is anonymity, and when it is promised to witnesses but not adhered to by one of the Parties, the safety of witnesses and victims is put at risk. The Trial Chamber does not see any need, on this occasion, to apply sanctions to the Defence pursuant to Rule 77 of the Rules, considering that the Defence is undoubtedly aware of the serious nature of its mistake. The Trial Chamber trusts that measures will be put in place to ensure that it does not happen again.

FOR THE ABOVE REASONS, THE TRIAL CHAMBER

DISMISSES the said Motion.

VIEWS the Defence failure to comply with the provisions of the Protective Measures Decision with great concern.

Arusha, 25 May 2004


Khalida Rachid Khan
Presiding Judge

(Seal of the Tribunal)