



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

Or: ENG

TRIAL CHAMBER II

Before:

Judge	Khalida	Rachid	Khan,	Presiding
Judge	Lee	Gacuiga	Muthoga	
Judge Emile Francis Short				

Registrar: Mr. Adama Dieng

Date: 31 October 2005

The PROSECUTOR

v

Casimir BIZIMUNGU
Justin MUGENZI
Jérôme-Clément BICAMUMPAKA
Prosper MUGIRANEZA

Case No. ICTR-99-50-T

DECISION ON DEFENCE MOTIONS PURSUANT TO RULE 98 BIS

Office of the Prosecutor:

Mr. Paul Ng'arua
Mr. Ibukunolu Babajide
Mr. Elvis Bazawule
Mr. Justus Bwonwonga
Mr. Shyamlal Rajapaksa

Counsel for the Defence:

Ms. Michelyne St. Laurent and Ms. Alexandra Marcil, for Casimir Bizimungu
Mr. Ben Gumpert and Mr. Jonathan Kirk, for Justin Mugenzi
Mr. Pierre Gaudreau and Mr. Michel Croteau, for Jérôme-Clément Bicamumpaka
Mr. Tom Moran and Ms. Marie-Pierre Pouline, for Prosper Mugiraneza

The Prosecution closed its case on 23rd June 2005, after calling 57 witnesses during 177 trial days and entering 113 exhibits. All four Defence teams subsequently filed motions for acquittal, pursuant to Rule 98 *bis* of the Rules of Procedure and Evidence. The Prosecution responded to each motion in a combined brief following which further replies were filed by three accused persons, namely,

Casimir Bizimungu, Jérôme Bicomumpaka and Prosper Mugiraneza.

The Chamber has read and considered all of the submissions and has conducted a preliminary analysis of the trial record. In brief, the enquiry, pursuant to Rule 98 *bis*, is simply whether the Prosecution has established sufficient evidence so that a reasonable trial of fact could find the count proved beyond a reasonable doubt if the evidence were to be believed. Where a count is sustained, it does not mean that a conviction will follow.

The Chamber has not examined the evidence in relation to individual paragraphs of the indictment, but, rather, the counts in the indictment. Rule 98 *bis* requires the Chamber to determine only whether the evidence is insufficient to sustain a conviction on one or more counts charged in the indictment, and to order a judgment of acquittal in respect of those counts.

The Chamber will now read out those counts on which either a partial or a full acquittal has been entered for one or more of Accused:

Count 1: Conspiracy to commit genocide; the Chamber acquits all four Accused in respect of

Article 6(3), responsibility only.

Count 6: Murder, as a crime against humanity; the Chamber acquits justice -- Justin Mugenzi in respect of Article 6(1) of the Statute, responsibility only. The Chamber acquits Jérôme Bicomumpaka and Prosper Mugiraneza in respect of both Articles 6(1) and 6(3) responsibility.

Count 8, rape as a crime against humanity; the Chamber acquits all four Accused in respect of both Articles 6(1) and 6(3), responsibility.

Count 10: War crimes outrages upon personal dignity; the Chamber acquits all four Accused in respect of both Articles 6(1) and 6(3), responsibility.

The Defence motions on Rule 98 *bis* are denied in all other respects