



UNITED NATIONS  
NATIONS UNIES

ICTR-99-50-T  
17-08-2006  
(23300-23298)  
International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

23300  
R

OR: ENG

**TRIAL CHAMBER II**

**Before Judges:** Khalida Rachid Khan, presiding

**Registrar:** Mr. Adama Dieng

**Date:** 17 August 2006

JUDICIAL RECORDS/ARCHIVES  
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**THE PROSECUTOR**  
v.  
**CASIMIR BIZIMUNGU**  
**JUSTIN MUGENZI**  
**JÉRÔME-CLÉMENT BICAMUMPAKA**  
**PROSPER MUGIRANEZA**

Case No. ICTR-99-50-T

**DECISION ON CASIMIR BIZIMUNGU'S MOTION FOR CANCELLATION OF  
WITNESS PROTECTION ORDERS FOR WITNESSES WDA, WAG and WDP**  
*Rules 69 and 75 of the Rules of Procedure and Evidence*

**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. 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 Poulain for **Prosper Mugiraneza**

**THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA** (“Tribunal”),

**SITTING** as Trial Chamber II, composed of Judge Khalida Rachid Khan, designated by the Chamber to decide this Motion pursuant to Rule 73(A) of the Rules (the “Chamber”);

**BEING SEIZED** of the “Requête de la Défense du Dr Casimir Bizimungu en Annulation des Mesures de Protection des Témoins a Décharge WDA, WAG et WDP”, filed on 31 July 2006 (the “Motion”);

**CONSIDERING** “The Registrar’s Submissions Regarding Casimir Bizimungu’s Requests for Either the Cancellation or Amendment of Protective Measures for Defence Witnesses”, filed on 11 August 2006 (the “Registrar’s Submissions”);

**RECALLING** the “Decision on Casimir Bizimungu’s Motion for Protection of Defence Witnesses”, dated 27 June 2005, and the “Reconsideration of Decisions on Protective Measures for Defence Witnesses Pursuant to Appeals Chamber Ruling of 16 November 2005”, dated 17 February 2005 (together, the “Witness Protection Orders”);

**NOW DECIDES** the matter solely on the basis of the briefs of the parties pursuant to Rule 73 (A).

**PRELIMINARY MATTERS**

1. Judge Khalida Rachid Khan, sitting as a Judge of the Chamber, decides this Motion pursuant to the following Rules.

Rule 69: Protection of Victims and Witnesses

(A) In exceptional circumstances, either of the parties may apply to a Trial Chamber to order the non-disclosure of the identity of a victim or witness who may be in danger or at risk, until the Chamber decides otherwise.

(B) In the determination of protective measures for victims and witnesses, the Trial Chamber may consult the Victims and Witness Support Unit.  
[...]

Rule 75: Measures for the Protection of Victims and Witnesses

(A) A Judge or a Chamber may, proprio motu or at the request of either party, or of the victim or witness concerned, or of the Victims and Witnesses Support Unit, order appropriate measures to safeguard the privacy and security of victims and witnesses, provided that the measures are consistent with the rights of the accused.  
[...]

(I) An application to a Chamber to rescind, vary or augment protective measures in respect of a victim or witness may be dealt with either by the Chamber or by a Judge of that Chamber, and any reference in this Rule to “a Chamber” shall include a reference to “a Judge of that Chamber”.



**SUBMISSIONS**

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2. The Defence requests, pursuant to Rules 69 and 75, that the Chamber cancels the Witness Protection Orders for Witnesses WDA, WAG, and WDP. It informs the Chamber that these witnesses wish to testify under their own names, and have no fear of reprisals.<sup>1</sup>
3. The Registrar has no objection to the request. The Registrar asks the Chamber to note the administrative and security consequences of lifting protective measures for witness.<sup>2</sup>

**DELIBERATIONS**

4. The Witness Protection Orders, which presently remain in force, granted Protected Witness status to all potential Defence Witnesses for Casimir Bizimungu nominated to the Victims and Witnesses Support Unit in the proper format. The Defence is aware that cancellation of the Witness Protection Orders for these three witnesses means that the Tribunal will not be responsible for their safety.
5. In the determination of protective measures for victims and witnesses, the Trial Chamber may consult the Victims and Witnesses Support Unit. The Victims and Witnesses Support Unit is a unit of the Registry, under the overall authority of the Registrar. The Chamber invited the Registrar to make submissions on the matter. The Registrar in his Response has expressed no objection to the request.
6. Based upon the clear indication from Counsel that these witnesses do not require the Tribunal's protection, and the absence of objection from the Registrar to the Motion, the Chamber is prepared to grant the request for cancellation of the Witness Protection orders in respect of the above named witnesses.

**FOR THE FOREGOING REASONS, THE CHAMBER**

**GRANTS** the Defence Motion in the following terms only:

**CANCELS** the Witness Protection Orders for Witnesses WDA, WAG, and WDP.

Arusha, 17 August 2006



Khalida Rachid Khan

Presiding Judge

[Seal of the Tribunal]

<sup>1</sup> The Motion, paragraphs 5, 6, and 13.

<sup>2</sup> The Registrar's Submissions, paragraph 25.