



UNITED NATIONS
NATIONS UNIES

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

ICTR-00-56-1
10-04-2007
(64082-64082)

64082
PM

OR: ENG

TRIAL CHAMBER II

Before: Judge Asoka de Silva, Presiding
Judge Faghrîd Hikmet
Judge Seon Ki Park

Registrar: Mr Adama Dieng

Date: 10 April 2007

JUDICIAL RECORDS SECTION
INTERVIEW
2007 APR 11 A 12:30

The PROSECUTOR
v.
Augustin NDINDILYIMANA
Augustin BIZIMUNGU
François-Xavier NZUWONEMEYE
Innocent SAGAHUTU
Case No. ICTR-00-56-T

**DECISION ON THE DEFENCE REQUEST TO LIFT IN WHOLE OR IN PART
PROTECTIVE MEASURES GRANTED TO WITNESSES DB2-11,
DB2-13 AND DB2-3**

Office of the Prosecutor:

Mr Ciré Aly Bâ
Mr Moussa Sefou
Mr Segun Jegede
Mr Lloyd Strickland
Mr Abubacarr Tambadou
Ms Felistas Mushi
Ms Faria Rekkas
Ms Anne Pauline Bodley

Counsel for the Defence:

Mr Gilles St-Laurent and Mr Ronnie MacDonald for Augustin Bizimungu
Mr Christopher Black and Mr Patrick De Wolf for Augustin Ndindiliyimana
Mr Charles Taku for François-Xavier Nzuwonemeye
Mr Fabien Segarwa and Mr Seydou Doumbia for Innocent Sagahutu

INTRODUCTION

1. On 8 June 2004, the Chamber issued its "Decision on Defence Motion for Protective Measures for Defence Witnesses" in which it allowed the Defence to designate a pseudonym for each Defence witness that shall be used whenever referring to such witness in Tribunal proceedings, communications and discussions between the parties and the public.¹ The Chamber also ordered that the names, addresses, whereabouts and any other identifying information of witnesses (hereinafter referred to as "identifying information") be placed under seal by the Registry, and that such identifying information be communicated to the Witnesses and Victims Support Section (WVSS) in order to implement protection measures for such witnesses.

2. The trial against the four Accused commenced on 24 September 2004. On 7 December 2006, the Prosecution closed its case after presenting seventy-two witnesses. During the Pre-Defence Conference held on 15 February 2007, the Chamber ordered that the Defence evidence will be heard with effect from 16 April 2007 starting with the case of the Accused Bizimungu. The Chamber also reminded the Defence of their obligation to disclose the identifying information of witnesses they intend to call no later than 21 days prior to the date of each witness's testimony, following the Chamber's decision of 8 June 2004.

SUBMISSIONS

3. On 27 March 2007, the Bizimungu Defence filed the current motion asking the Chamber to: (i) partially lift the protective measures granted to Witness DB2-3 so as to allow this witness to stay at a hotel of his/her choice while in Arusha; and (ii) to lift in full protective measures granted to Witnesses DB2-11 and DB2-13 so as to allow them to testify in public and under their real names and to stay at a hotel of their choice in Arusha instead of the usual safe houses reserved for Tribunal witnesses by the Registry. In both cases, the Defence submits that the witness' stay at a hotel should be subject to the same financial limitations stipulated in the Registrar's Memorandum of 22 August 2006. Furthermore, all three witnesses confirm that they are not renouncing the Registry's assistance in securing visas to Tanzania and other arrangements upon their arrival in this country. The Defence further urges the Chamber to rule on its application before the arrival of the witnesses in Arusha.

4. Finally, the Defence submits that the request for a waiver of protective measures should not be interpreted by the Prosecution or its agents as leave to directly or indirectly contact the witnesses or any member of their family, unless authorized by the Chamber.

5. The Prosecution did not file any response.

DELIBERATIONS

6. The Chamber will determine the request for Witnesses DB2-11 and DB2-13 to testify in public and under their real names upon oral application made by the Defence at the commencement of the witness' testimony.

¹ *The Prosecutor v. Ndindiliyimana et al.*, "Decision on the Defence Motion for Protective Measures for Defence Witnesses," 8 June 2004, p. 4.

7. The Chamber considers that the remaining prayers of the Defence, including their accommodation at a hotel instead of the safe houses provided by the Registry, as well as their visa and transportation arrangements while in Arusha, are matters of an operational or logistical nature which fall squarely within the competence of the Registry.² The Chamber's Decision on protective measures for Defence witnesses envisages that the Registry is fully competent to make judgements on the day-to-day management of witnesses while in Arusha, including their accommodation and secure transportation to and from the Tribunal. The Chamber would be unduly burdened were it to concern itself with such matters.

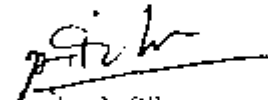
FOR THE ABOVE REASONS, THE CHAMBER

RESERVES its ruling on the Defence prayer for witnesses DB2-11 and DB2-13 to testify under their real names until the Defence makes an oral application to that effect at the commencement of the witness' testimony;

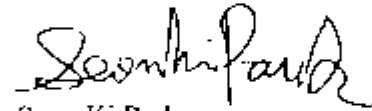
FURTHER DIRECTS the Defence to bring the issue of accommodation to the attention of the WVSS who may recommend to the Registrar the adoption of appropriate measures for the safe and secure accommodation of Witnesses DB2-3, DB2-11 and DB2-13 while in Arusha, taking into account all the submissions made by the Defence;

DENIES the Defence request in all other respects.

Arusha, 10 April 2007


Asoka de Silva
Presiding Judge


Tahirid Hikmet
Judge


Seon Ki Park
Judge



² *The Prosecutor v. Rukundo*, "Decision on the Prosecution Motion for Variation of the Protective Measures for Witness CS11", 24 November 2006, para. 3.



TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

COURT MANAGEMENT SECTION
(Art. 27 of the Directive for the Registry)

I - GENERAL INFORMATION (To be completed by the Chambers / Filing Party)

To:	<input type="checkbox"/> Trial Chamber I N. M. Diallo	<input checked="" type="checkbox"/> Trial Chamber II R. N. Kouambo	<input type="checkbox"/> Trial Chamber III C. K. Hometowu	<input type="checkbox"/> Appeals Chamber / Arusha F. A. Talon
	<input type="checkbox"/> Chief, CMS J.-P. Fomété	<input type="checkbox"/> Deputy Chief, CMS M. Diop	<input type="checkbox"/> Chief, JPU, CMS K. K. A. Afande	<input type="checkbox"/> Appeals Chamber / The Hague R. Burris
From:	<input checked="" type="checkbox"/> Chamber Bruno Zehnder <small>(names)</small>	<input type="checkbox"/> Defence <small>(names)</small>	<input type="checkbox"/> Prosecutor's Office <small>(names)</small>	<input type="checkbox"/> Other: <small>(names)</small>
Case Name:	The Prosecutor vs. A. Ndindillyimana et al.			Case Number: ICTR-00-56-T
Dates:	Transmitted: 10 April 2007		Document's date: 10 April 2007	
No. of Pages:	3	Original Language:	<input checked="" type="checkbox"/> English	<input type="checkbox"/> French
			<input type="checkbox"/> Kinyarwanda	
Title of Document:	DECISION ON THE DEFENCE REQUEST TO LIFT IN WHOLE OR IN PART PROTECTIVE MEASURES GRANTED TO WITNESSES DB2-11, DB2-13 AND DB2-3			
Classification Level:	TRIM Document Type:			
<input type="checkbox"/> Strictly Confidential / Under Seal	<input type="checkbox"/> Indictment	<input type="checkbox"/> Warrant	<input type="checkbox"/> Correspondence	<input type="checkbox"/> Submission from non-parties
<input type="checkbox"/> Confidential	<input checked="" type="checkbox"/> Decision	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Notice of Appeal	<input type="checkbox"/> Submission from parties
<input checked="" type="checkbox"/> Public	<input type="checkbox"/> Disclosure	<input type="checkbox"/> Order	<input type="checkbox"/> Appeal Book	<input type="checkbox"/> Accused particulars
	<input type="checkbox"/> Judgement	<input type="checkbox"/> Motion	<input type="checkbox"/> Book of Authorities	

II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party)

CMS SHALL take necessary action regarding translation.

Filing Party hereby submits only the original, and will **not** submit any translated version.

Reference material is provided in annex to facilitate translation.

Target Language(s):

English French Kinyarwanda

CMS SHALL NOT take any action regarding translation.

Filing Party hereby submits **BOTH the original and the translated version** for filing, as follows:

Original	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda
Translation	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda

CMS SHALL NOT take any action regarding translation.

Filing Party will be submitting the translated version(s) in due course in the following language(s):

English French Kinyarwanda

KINDLY FILL IN THE BOXES BELOW

<p><input type="checkbox"/> The OTP is over-seeing translation. The document is submitted for translation to:</p> <p><input type="checkbox"/> The Language Services Section of the ICTR / Arusha.</p> <p><input type="checkbox"/> The Language Services Section of the ICTR / The Hague.</p> <p><input type="checkbox"/> An accredited service for translation; see details below:</p> <p>Name of contact person: Name of service: Address: E-mail / Tel / Fax:</p>	<p><input type="checkbox"/> DEFENCE is over-seeing translation. The document is submitted to an accredited service for translation (fees will be submitted to DCDMS):</p> <p>Name of contact person: Name of service: Address: E-mail / Tel. / Fax:</p>
---	---

III - TRANSLATION PRIORITISATION (For Official use ONLY)

<input type="checkbox"/> Top priority	COMMENTS	<input type="checkbox"/> Required date:
<input type="checkbox"/> Urgent		<input type="checkbox"/> Hearing date:
<input type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines: