



UNITED NATIONS  
NATIONS UNIES

ICTR-99-50-T  
27-04-2007  
(24075-24073)  
International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

24075  
R

OR:  
ENG

**TRIAL CHAMBER II**

**Before Judges:** Khalida Rachid Khan, presiding  
Lee Gacuga Muthoga  
Emile Francis Short

**Registrar:** Mr. Adama Dieng

**Date:** 27 April 2007

JUDICIAL RECORDS/ARCHIVES  
ICTR

2007 APR 27 11 A 10 58

**THE PROSECUTOR**  
v.  
**CASIMIR BIZIMUNGU**  
**JUSTIN MUGENZI**  
**JÉRÔME-CLÉMENT BICAMUMPAKA**  
**PROSPER MUGIRANEZA**

Case No. ICTR-99-50-T

**DECISION ON JÉRÔME-CLÉMENT BICAMUMPAKA'S MOTION FOR  
VIDEO-LINK TESTIMONY FOR WITNESS LJ-1**

**Office of the Prosecutor:**

Mr. Paul Ng'arua  
Mr. Ibukunolu Babajide  
Mr. Justus Bwonwonga  
Mr. Elvis Bazawule  
Mr. Shyamal Rajapaksa  
Mr. Olivier De Schutter  
Mr. William Mubiru

**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**

**INTRODUCTION**

1. The Defence for Jérôme-Clément Bicumampaka requests that Witness LJ-1 be granted leave to testify via video-link from Europe, as he is unable and unwilling to travel to Arusha to testify.<sup>1</sup> The Prosecution does not oppose the Motion.<sup>2</sup>

**DISCUSSION**

2. Rule 90 (A) of the Rules states that "witnesses shall, in principle, be heard directly by the Chambers" at the seat of the Tribunal in Arusha. The Rules do not expressly provide for video-link testimony, but this option is well developed in the jurisprudence of the Tribunal as a means for hearing the testimony of witnesses who are unable or unwilling to travel to Arusha.

3. A Chamber may authorize video-link testimony under Rule 54 of the Rules where it is in the interests of justice, based on a consideration of the importance of the testimony, the inability or unwillingness of the witness to attend and, whether a good reason has been adduced for that inability or unwillingness. Where the witness is unwilling to attend, his refusal must be genuine and well-founded, giving the Chamber reason to believe that the testimony would not be heard unless the video-link is authorized.<sup>3</sup>

4. Video-link testimony may also be ordered under Rule 75 of the Rules, as an additional protective measure for the witness as long as this is consistent with the rights of the Accused. In such cases, the applicant must make some showing that video-link testimony is necessary to safeguard the witness's security.<sup>4</sup>

5. The Defence bases its request on Rule 54, submitting that authorising Witness LJ-1 to testify via video-link is in the interests of justice because (i) his testimony is highly relevant to the defence of Mr. Bicumampaka, (ii) he is unable to travel to Arusha because his health does not permit him to undertake such a long journey, and (iii) he is unwilling to travel to Arusha because of fear for his safety.

6. The Defence motion adequately demonstrates the importance of Witness LJ-1's testimony, which is based on direct knowledge of the Accused, for its case. An Attestation Médicale annexed to the Defence Motion shows that, given the Witness's medical condition, he should not be required to travel to Arusha to testify. In this instance, the Chamber considers the health concerns of Witness LJ-1 good reason for his inability to travel to Arusha.

<sup>1</sup> "Confidential Motion for Video-Link Testimony for Witness LJ-1", filed 19 April 2007.

<sup>2</sup> "Prosecutor's Response to Jérôme Bicumampaka's Confidential Motion for Video-Link Testimony for Witness LJ-1", filed 20 April 2007.

<sup>3</sup> *Prosecutor v. Bizimungu et al.*, Case No. ICTR-99-50-T, Decision on Casimir Bizimungu's Extremely Urgent and Confidential Motion to Have Witness WDK Testify via Video-Link", 7 December 2006, para. 3.

<sup>4</sup> *Prosecutor v. Bagosora et al.*, Case No. ICTR-98-41-T, Decision on Prosecution Request for Testimony of Witness BT via Video-Link, 8 October 2004, para. 8.



7. The Defence need not demonstrate that the Witness is unable *and* unwilling to travel to Arusha to testify. Pursuant to the jurisprudence of the Tribunal, it suffices that the testimony of the Witness is important, and a good reason has been adduced for *either* the inability *or* unwillingness to travel to Arusha. Therefore, the Chamber need not address Witness LJ-1's fear for his safety.

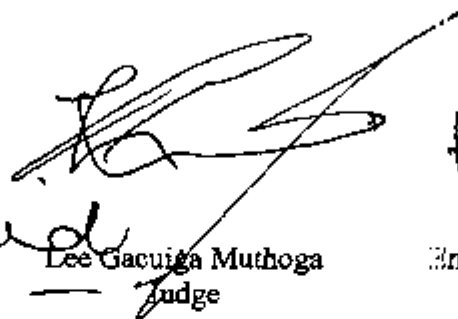
**FOR THE FOREGOING REASONS, THE CHAMBER**

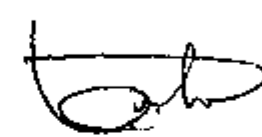
**GRANTS** the Defence Motion;

**REQUESTS** the Registry, in consultation with the parties, to make arrangements for the testimony of Witness LJ-1 via video-link from such suitable venue that the Tribunal is able to arrange.

Arusha, 27 April 2007

  
Khalida Rachid Khan  
Presiding Judge

  
Lee Gacumba Muthoga  
Judge

  
Emile Francis Short  
Judge





## 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)

<b>To:</b>	<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. Homelowu	<input type="checkbox"/> Appeals Chamber / Arusha F. A. Taion
	<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. Burriess
<b>From:</b>	<input checked="" type="checkbox"/> Chamber II David Kinnecome (names)	<input type="checkbox"/> Defence (names)	<input type="checkbox"/> Prosecutor's Office (names)	<input type="checkbox"/> Other: (names)
<b>Case Name:</b>	The Prosecutor vs. <b>Casimir Bizimungu et al.</b>			<b>Case Number:</b> ICTR-99-50-T
<b>Dates:</b>	Transmitted: 27 April 2007		Document's date: 27 April 2007	
<b>No. of Pages:</b>	3		<b>Original Language:</b>	<input checked="" type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
<b>Title of Document:</b>	<b>DECISION ON JÉRÔME-CLÉMENT BICAMUPAKA'S MOTION FOR VIDEO-LINK TESTIMONY FOR WITNESS LJ-1</b>			
<b>Classification Level:</b>	<input type="checkbox"/> Strictly Confidential / Under Seal <input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Public			
<b>TRIM Document Type:</b>	<input type="checkbox"/> Indictment <input type="checkbox"/> Warrant <input type="checkbox"/> Correspondence <input type="checkbox"/> Submission from non-parties <input checked="" type="checkbox"/> Decision <input type="checkbox"/> Affidavit <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Submission from parties <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)

<b>CMS SHALL take necessary action regarding translation.</b> <input checked="" type="checkbox"/> Filing Party hereby submits only the original, and will <b>not submit</b> any translated version. <input type="checkbox"/> Reference material is provided in annex to facilitate translation. Target Language(s): <input type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda				
<b>CMS SHALL NOT take any action regarding translation.</b> <input type="checkbox"/> Filing Party hereby submits <b>BOTH</b> 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
<b>CMS SHALL NOT take any action regarding translation.</b> <input type="checkbox"/> Filing Party will be submitting the translated version(s) in due course in the following language(s): <input type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda <b>KINDLY FILL IN THE BOXES BELOW</b>				
<input type="checkbox"/> The OTP is over-seeing translation. The document is submitted for translation to: <input type="checkbox"/> The Language Services Section of the ICTR / Arusha. <input type="checkbox"/> The Language Services Section of the ICTR / The Hague. <input checked="" type="checkbox"/> An accredited service for translation; see details below: Name of contact person: Name of service: Address: E-mail / Tel. / Fax:		<input type="checkbox"/> DEFENCE is over-seeing translation. The document is submitted to an accredited service for translation (fees will be submitted to DCDMS): Name of contact person: Name of service: Address: E-mail / Tel. / Fax:		

### III - TRANSLATION PRIORITISATION (For Official use ONLY)

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