



UNITED NATIONS  
NATIONS UNIES

International Criminal Tribunal for Rwanda  
Tribunal penal international pour le Rwanda

ICTR-98-42-T  
08-06-2006  
(12144 - 12142)

12144  
PM

OR: ENG

**TRIAL CHAMBER II**

**Before:** Judge William H. Sekule, Presiding  
Judge Arlette Ramaroson  
Judge Solomy Balungi Bossa

**Registrar:** Mr. Adama Dieng

**Date:** 08 June 2007

The PROSECUTOR v.  
Pauline NYIRAMASUHUKO & Shalom NTAHOBALI  
Case No. ICTR-97-21-T

*Joint Case No. ICTR-98-42-T*

1207 JUN - 11 AM 11:55

**DECISION ON AUGUSTIN BIZIMUNGU'S EXTREMELY URGENT MOTION FOR  
DISCLOSURE OF THE CLOSED SESSION TESTIMONY OF WITNESS WKNMJ  
AND ANY SEALED EXHIBITS ADMITTED IN THE COURSE OF HER  
TESTIMONY**

**Office of the Prosecutor**

Ms. Silvana Arbia  
Ms. Adelaide Whest  
Ms. Holo Makwaia  
Ms. Althea Alexis Windsor  
Ms. Madeline Schwarz  
Ms. Tolulope Olowoye

**Defence Counsel for Ntahobali**

Mr. Normand Marquis, Mr. Louis Huot

**Defence Counsel for Bizimungu**

Mr. Gilles St-Laurent, Mr. Ronnie MacDonald

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

**SITTING** as Trial Chamber II composed of Judges William H. Sekule, Presiding, Arlette Ramarosan and Solomy B. Bossa (the "Chamber");

**BEING SEIZED** of the "*Requête en extrême urgence de la Défense du Général Augustin Bizimungu en communication des audiences à huis clos et des pièces produites sous scellées du témoin protégé de la Défense WKNMJ*", filed on 1 June 2007 (Bizimungu's Motion);

**CONSIDERING** the

- i) "*Réplique d'Arsène Shalom Ntahobali à la requête d'Augustin Bizimungu en communication des transcriptions d'audience du témoin WKNMJ*", filed on 4 June 2007 (Ntahobali's Reply);
- ii) "Prosecutor's Response to the *Requête en extrême urgence de la Défense du Général Augustin Bizimungu en communication des audiences à huis clos et des pièces produites sous scellées du témoin protégé de la Défense WKNMJ*", filed on 4 June 2007 (Prosecution Reply);

**CONSIDERING** the Statute of the Tribunal (the "Statute") and the Rules of Procedure and Evidence (the "Rules"), in particular Rules 69 and 75,

**HERERY DECIDES** the Motion.

1. The Chamber notes that the Defence for Bizimungu requests disclosure of the closed session testimony and any exhibits under seal for Witness WKNMJ.<sup>1</sup> The Witness is said to be one of Bizimungu's potential witnesses due to testify soon, and has apparently given his consent for the said disclosure. The Defence wishes to review the Witness' prior testimony as part of its preparation. Neither the Defence for Ntahobali or the Prosecution object to the Motion, as long as the protective measures ordered by the Trial Chamber in favour of the Witness apply *mutatis mutandis* to the Defence for Bizimungu.
2. Pursuant to Rule 75 (G) of the Rules, a party to the second proceedings (in this case Bizimungu in *Prosecutor v. Bizimungu et al.*) seeking to rescind, vary or augment protective measures ordered in the first proceedings (in this case Ntahobali in *Prosecutor v. Nyiramasuhuko et al.*) must apply to the Chamber seized of the first proceedings. As the *Nyiramasuhuko et al.* case remains before Trial Chamber II, the Bizimungu Defence has properly applied to this Chamber.
3. The Chamber considers that there are valid reasons to order the disclosure of the transcripts of the closed session testimony of Witness WKNMJ for the 28 and 29 November 2005 and exhibit D.373 (Ntahobali) admitted under seal.

<sup>1</sup> Witness WKNMJ testified on behalf of the Accused Ntahobali in the Butare Trial, on 28 and 29 November 2005.

4. The Chamber recalls that pursuant to Rule 75(F) (i), the protective measures ordered by this Chamber in the *Ntahobali* proceedings will continue to have effect *mutatis mutandis* in the *Bizimungu* proceedings.<sup>2</sup>

**FOR THE ABOVE REASONS, THE TRIBUNAL**

**GRANTS** the motion;

**ORDERS** the Registry to disclose the closed session transcripts and sealed exhibit of Witness WKNMJ to the Defence for Bizimungu;

**ORDERS** that the Defence for Bizimungu and any other party in receipt of the protected information, including the Accused, are bound *mutatis mutandis* by the terms of the witness protection order governing the witnesses for Ntahobali in the Butare trial.

Arusha, 08 June 2007



William H. Sekule  
Presiding Judge



Arlette Ramaroson  
Judge



Solomy Balungi Bossa  
Judge

[Seal of the Tribunal]

<sup>2</sup> See Decision on Arsène Shalom Ntahobali's Motion for Protective Measures for Defence Witnesses of 3 April 2001



## 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. Horretowu	<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 M. Diop	<input type="checkbox"/> Appeals Chamber / The Hague R. Muzigo-Morrison K. K. A. Afande
<b>From:</b>	<input checked="" type="checkbox"/> Chamber Lydia Mugambe (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. Pauline Nyiramasuhuko & Arsene Shalom Ntahobali		<b>Case Number:</b> ICTR-98-42-T	
<b>Dates:</b>	Transmitted: 08/06/2007		Document's date: 08/06/2007	
<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>	DECISION ON AUGUSTINE BIZIMUNGU'S EXTREMELY URGENT MOTION FOR DISCLOSURE OF THE CLOSED SESSION TESTIMONY OF WITNESS WKNMJ AND ANY SEALED EXHIBITS ADMITTED IN THE COURSE OF HER TESTIMONY			
<b>Classification Level:</b>	<b>TRIM Document Type:</b>			
<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 checked="" 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**

<input type="checkbox"/> The OTP is overseeing translation. The document is submitted for translation to: <input checked="" type="checkbox"/> The Language Services Section of the ICTR / Arusha. <input type="checkbox"/> The Language Services Section of the ICTR / The Hague. <input 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 overseeing 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: