



UNITED NATIONS  
NATIONS UNIES

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

ICTR-99-50-T

21-09-2007

(24394-24392)

24394  
AQ

OR:  
ENG

TRIAL CHAMBER II

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

**Registrar:** Mr. Adama Dieng

**Date:** 21 September 2007

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

Case No. ICTR-99-50-T

2007 SEP 21 09:14:00  
ICTR

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

**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. Michel Croteau and Mr. Philippe Larochelle for **Jérôme-Clément Bicamumpaka**  
Mr. Tom Moran and Ms. Marie-Pierre Poulain for **Prosper Mugiraneza**

INTRODUCTION

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

DISCUSSION

2. The Chamber recalls that the receipt of testimony via video-link is an exception to the general principle, articulated in Rule 90 (A) of the Rules, that witnesses "shall, in principle, be heard directly by the Chambers".<sup>3</sup> Although the Rules do not expressly provide for video-link testimony, this alternative method of receiving evidence 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 testimonies by video-conference under Rule 54 where it is in the interest of justice, based on (i) a consideration of the importance of the testimony; (ii) the inability or unwillingness of the witness to attend; and (iii) when a good reason has been adduced for the inability or unwillingness to attend. 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 authorised.<sup>4</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>5</sup>

5. The Defence Motion adequately demonstrates the importance of Witness JS-1's testimony 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. The Chamber is accordingly satisfied as to the importance of this Witness to the Defence case and the reason for his inability to travel to Arusha to testify.

<sup>1</sup> "Motion for Video-Link Testimony for Witness JS-1", filed 29 August 2007.

<sup>2</sup> "Prosecutor's Response to Jérôme Bicamampaka's Motion for Video-Link Testimony for Witness LJ-1", filed 4 September 2007.

<sup>3</sup> *Nahimana et al.*, ICTR-99-52-1, Decision on the Prosecutor's Application to add Witness X to its List of Witnesses and for Protective Measures (TC), 14 September 2001, para. 35; *Bagosora et al.*, Case No. ICTR-98-41-T, Decision on Prosecution Request for Testimony of Witness BT Via Video-Link (TC), 8 October 2004 ("*Bagosora*, Decision of 8 October 2004"), para. 15; *Bagosora et al.*, Decision on Testimony by Video-Conference (TC), 20 December 2004 ("*Bagosora*, Decision of 20 December 2004"), para. 4.

<sup>4</sup> *Bagosora*, Decision of 8 October 2004, paras. 6-7; *Bagosora*, Decision of 20 December 2004, para. 4; *Bagosora et al.*, Decision on Ntabakuze Motion to Allow Witness DK 52 to give Testimony by Video-Conference (TC), 22 February 2005, para. 4.

<sup>5</sup> *Bagosora et al.*, Decision on Prosecution Request for Testimony of Witness BT via Video-Link (TC), 8 October 2004, para. 8.



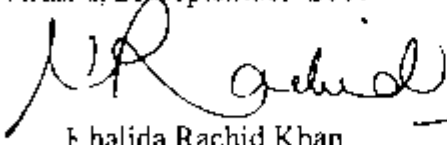
**FOR THE FOREGOING REASONS, THE CHAMBER**

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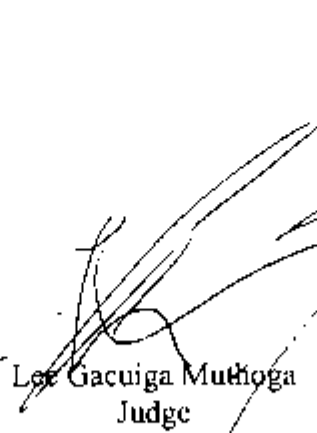
**GRANTS** the Defence Motion;

**REQUESTS** the Registry to make arrangements for the testimony of Witness JS-1 to be heard via video-link, from a location to be determined in consultation with the parties.

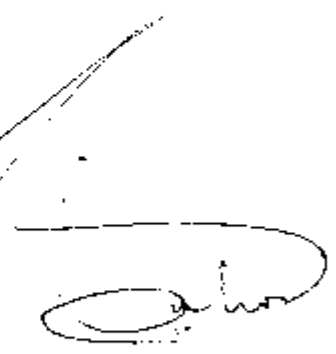
Arusha, 21 September 2007



Fhalida Rachid Khan  
Presiding Judge



Lee Gacuga Muthoga  
Judge



Emile Francis Short  
Judge

