

ICTR-99-50-T  
25-09-2007  
(24400-24398)

24400  
na



International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

UNITED NATIONS  
NATIONS UNIES

OR:  
ENG

**TRIAL CHAMBER II**

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

**Registrar:** Mr Adama Dieng

**Date:** 25 September 2007

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

Case No. ICTR-99-50-T

25 SEP 2007

**ORDER RELATING TO THE TESTIMONY OF FORMER UNITED STATES  
AMBASSADOR ROBERT FLATEN IN LIGHT OF THE APPEALS CHAMBER'S  
DECISION OF 17 JULY 2007**

**Office of the Prosecutor:**

Mr Paul Ng'arua  
Mr Ihukunolu Babajide  
Mr Justus Bwonwonga  
Mr Elvis Bazawule  
Mr Shyam Lal Rajapaksa  
Mr Olivier de Shutter  
Mr William Mubiru

**Defence Counsel:**

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 Laroche for **Jérôme-Clément Bicamumpaka**  
Mr Tom Moran and Ms Marie-Pierre Poulain for **Prosper Mugiraneza**

1. On 24 January 2007 this Chamber granted in part a Motion brought by the Defence for Casimir Bizimungu requesting an order that the provisions of Rule 70 of the Rules of Procedure and Evidence shall apply to information provided by Robert Flaten,<sup>1</sup> Ambassador of the Government of the United States of America (the "U.S. Government") to Rwanda between 1990 and 1993. On behalf of the U.S. Government, the Defence requested that the Chamber grant four additional conditions; the Chamber granted conditions (a), (c) and (d).<sup>2</sup>

2. The Chamber denied condition (b), which requested "that the scope of direct examination of Ambassador Robert Flaten shall be limited to that authorized by the U.S. Government, and cross-examination of the witness shall be confined to the scope of direct examination."<sup>3</sup>

3. On 8 February 2007, the Chamber denied two additional Defence motions requesting that it grant condition (b), which had been brought on the basis of additional details regarding the authorized scope of Ambassador Flaten's proposed testimony.<sup>4</sup>

4. On 26 April 2007, the Chamber denied a Defence request for reconsideration of the 8 February 2007 Decision brought on the basis of yet further information from the U.S. Government regarding the authorized scope of Ambassador Flaten's proposed testimony.<sup>5</sup> On 22 May 2007, the Chamber granted a Defence request for leave to appeal the Chamber's 26 April 2007 Decision.<sup>6</sup>

5. On 17 July 2007, the Appeals Chamber allowed the Appeal brought by the Defence for Casimir Bizimungu, set aside the Trial Chamber's 26 April 2007 Decision, and ordered the Trial Chamber to grant condition (b).

**FOR THE FOREGOING REASONS, the Trial Chamber**

**GRANTS** condition (b) requested by the Defence for Casimir Bizimungu and the U.S. Government;

<sup>1</sup> The protective measures entered on behalf of Ambassador Flaten (formerly WDA) were cancelled at the request of the Defence. See *Prosecutor v. Bizimungu et al.*, Case No. 99-50-T, Decision on Casimir Bizimungu's Motion for Cancellation of Witness Protection Orders for Witnesses WDA, WAG and WDP (TC), 17 August 2006.

<sup>2</sup> T 24 January 2007, pp. 45-47 (closed session). Conditions (a), (c) and (d) concerned the presence of U.S. Government representatives during Ambassador Flaten's testimony, and the U.S. Government's understanding of the scope of Rule 70 regarding inquiries into Ambassador Flaten's credibility and the scope of possible questioning from the Chamber, respectively.

<sup>3</sup> *Id.*

<sup>4</sup> Decision on Casimir Bizimungu's Motions in Relation to Condition (B) Requested by the Government of the United States of America (TC), 8 February 2007.

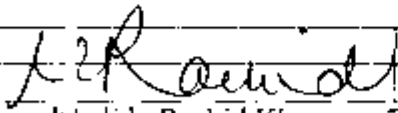
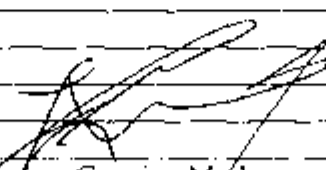
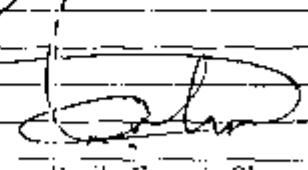
<sup>5</sup> Decision on Casimir Bizimungu's Motion in Reconsideration of the Trial Chamber's Decision dated February 8, 2007, in Relation to Condition (B) Requested by the United States Government (TC), 26 April 2007.

<sup>6</sup> Decision on Casimir Bizimungu's Request for Certification to Appeal the Decision on Casimir Bizimungu's Motion in Reconsideration of the Trial Chamber's Decision dated February 8, 2007, in Relation to Condition (B) Requested by the United States Government, 22 May 2007.

**ORDERS** that the scope of direct examination of Ambassador Robert Flaten shall be limited to that authorized by the U.S. Government, and cross-examination of the witness shall be confined to the scope of direct examination;

**ORDERS** the Defence for Mr Bizimungu to consult with the Defence teams for Mr Bican Ampaka and Mr Mugiraneza to arrange a convenient time for the testimony of Ambassador Flaten;

**REQUESTS** that the Registry assist the Defence for Mr Bizimungu in making arrangements for the testimony of Ambassador Flaten, as necessary.

Arusha, 25 September 2007		
		
Khalida Rachid Khan Presiding Judge	Lee Gacunga Muthoga Judge	Emile Francis Short Judge
