



UNITED NATIONS  
NATIONS UNIES

**International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda**

OR: ENG

**TRIAL CHAMBER II**

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

**Registrar:** Mr. Adama Dieng

**Date:** 23 January 2008

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

**Case No. ICTR-99-50-T**

**DECISION ON CONFIDENTIAL MOTION FROM MR BICAMUMPAKA TO  
ALLOW VIDEO-LINK TESTIMONY FOR WITNESS CF-1**

*Rule 54 of the Rules of Procedure and Evidence*

**Office of the Prosecutor:**

Mr. Paul Ng'arua  
Mr. Ibukunolu Babajide  
Mr. Justus Bwonwonga  
Mr. Elvis Bazawule  
Mr. George William Mugwanya  
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

1. The Defence for Jérôme-Clément Bicomumpaka requests, pursuant to Rule 54 of the Rules of Procedure and Evidence,<sup>1</sup> that the Chamber allow Witness CF-1 to testify via video-link from the State where he currently resides, as he is unwilling to travel to Arusha to testify.<sup>2</sup> The Prosecution did not respond to the Motion.

## 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. The Defence submits that authorising Witness CF-1 to testify via video-link is in the interests of justice because (i) his testimony is highly relevant to the defence of Mr. Bicomumpaka, and (ii) he is unwilling to travel to Arusha for good reason.

5. The Defence Motion adequately demonstrates the importance of Witness CF-1’s testimony to its case, noting that CF-1’s testimony is expected to contradict the testimony of a Prosecution witness regarding Mr. Bicomumpaka’s alleged presence at a meeting where the Tutsi were allegedly described as enemies of Rwanda. The Defence submits that CF-1 is the only witness it intends to call to contradict the Prosecution’s evidence regarding the meeting in question. Witness CF-1’s signed statement describing his expected testimony is annexed to the Motion.<sup>4</sup>

6. Witness CF-1 is unwilling to travel to Arusha because immigration authorities of the State where he currently resides and the Witness’s own attorney have advised him that his provisional residency status is dependant on his continued physical presence in

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<sup>1</sup> All references to rules in this decision refer to the Rules of Procedure and Evidence unless specified otherwise.

<sup>2</sup> Confidential Motion from Defendant Bicomumpaka to Allow Video-Link Testimony for Witness CF-1, filed 18 December 2007 (“Motion”).

<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 (TC), 7 December 2006, para. 3.

<sup>4</sup> Motion, Annex A.

that State. In addition, the Defence submits that the Witness must remain physically present in the concerned State while his asylum request is pending.<sup>5</sup>

7. Under the particular circumstances of this case, the Chamber considers the immigration concerns of Witness CF-1 good reason for his unwillingness to travel to Arusha. As such, the Chamber is of the view that authorising Witness CF-1 to testify via video-link is in the interests of justice.

**FOR THESE REASONS**, the Chamber

**GRANTS** the Motion;

**REQUESTS** the Registry, in consultation with the parties and the authorities of the concerned State, to make arrangements for the testimony of Witness CF-1 via video-link from the State where he currently resides.

Arusha, 23 January 2008

Khalida Rachid Khan  
Presiding Judge

Lee Gacuiga Muthoga  
Judge

For and on behalf of  
Emile Francis Short  
Judge

[Seal of the Tribunal]

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<sup>5</sup> The Defence submission is supported by the Witness's Affidavit, annexed to the Motion as Annex B.