



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

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ICTR-99-50-T
2-04-2008

(26160-26158)

OR: ENG

TRIAL CHAMBER II

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

Registrar: Mr. Adama Dieng

Date: 2 April 2008

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JUDICIAL RECORDS/ARCHIVES
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THE PROSECUTOR
v.
CASIMIR BIZIMUNGU
JUSTIN MUGENZI
JÉRÔME-CLÉMENT BICAMUMPAKA
PROSPER MUGIRANEZA

Case No. ICTR-99-50-T

**DECISION ON MOTION OF JÉRÔME-CLÉMENT BICAMUMPAKA FOR THE
TRANSFER OF DETAINED DEFENCE WITNESS LD-1 FROM RWANDA**

Rules 54 and 90 bis 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. Shyamlal Rajapaksa
Mr. Olivier De Schutter

Counsel for the Defence:

Ms. Michelyne C. St. Laurent 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. Cynthia Cline for Prosper Mugiraneza

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INTRODUCTION

1. The Defence for Jérôme-Clément Bicamumpaka requests an order pursuant to Rules 54 and 90*bis* of the Rules of Procedure and Evidence ("Rules"), for the temporary transfer to the Tribunal of Defence Witness LD-1 ("Witness"), who is currently detained in Rwanda.¹
2. The Defence requests that the Witness be transferred for the period 16 April to 30 April 2008 in order to accommodate the Witness' testimony during the course of Prosper Mugiraneza's case.²
3. The Prosecution did not respond to the Motion.

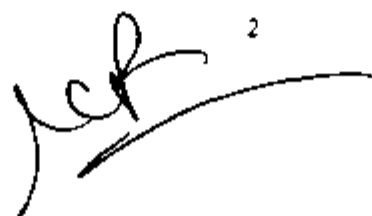
DISCUSSION

4. Pursuant to Rule 90*bis* (A) of the Rules "any detained person whose personal appearance as a witness has been requested by the Tribunal shall be transferred temporarily to the Detention Unit of the Tribunal, conditional on his return within the period decided by the Tribunal." According to Rule 90*bis* (B), a transfer order shall be issued only after prior verification that:
 - (i) The presence of the detained witness is not required for any criminal proceedings in progress in the territory of the requested State during the period the witness is required by the Tribunal; and
 - (ii) Transfer of the witness does not extend the period of his detention as foreseen by the requested State.
5. The Witnesses and Victims' Support Service (WVSS) has provided the Chamber with a copy of a letter dated 27 March 2008 from the Minister of Justice of Rwanda to the Tribunal. The letter confirms that the Witness is available for the period 1 April to 30 June 2008, and that the transfer will be in accordance with the conditions set out in Rule 90*bis*.³ The Chamber is therefore satisfied that the conditions for a transfer order pursuant to Rule 90*bis* are met.

¹ "Motion from Defendant Bicamumpaka for the Transfer of Detained Defence Witness LD-1 from Rwanda", filed 27 February 2008 ("Motion").

² Motion, para. 9. Prosper Mugiraneza's case commenced on 18 February 2008 and will continue during the next trial session scheduled to commence on 14 April 2008.

³ Although the letter from the Rwandan Minister of Justice does not refer to specific dates, the Chamber confirmed with WVSS that the period to which the letter refers is from 1 April to 30 June 2008. On 3 March 2008, the Defence had written to WVSS, attaching a letter of the same date addressed to the Minister of Justice of Rwanda, requesting availability of the Witness for the said period and that transfer would not prolong detention. By letter dated 27 March 2008, the Minister of Justice of Rwanda responded confirming availability and that the transfer would be in accordance with Rule 90*bis*.

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FOR THESE REASONS, the Chamber

GRANTS the Motion;

ORDERS, pursuant to Rule 90bis of the Rules, that Defence Witnesses LD-1 be transferred to the United Nations Detention Facility in Arusha no later than 16 April 2008, until as soon as practically possible after the Witness' testimony has ended;

REQUESTS the Government of the Republic of Rwanda, in accordance with this Order, to cooperate with the Defence and the Registrar and, in conjunction with the Government of the United Republic of Tanzania, that the Registrar and the WVSS, take the necessary measures to implement the present Decision;

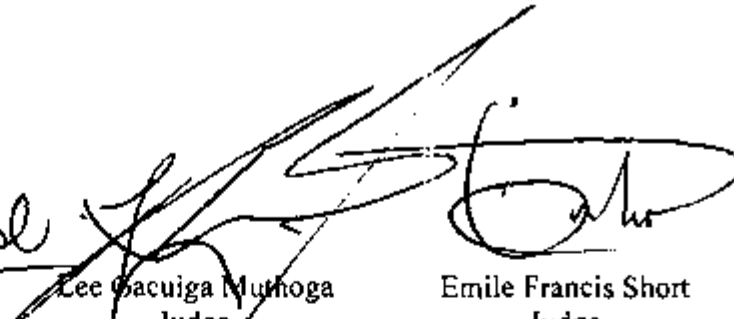
INSTRUCTS the Registrar to:

- A) transmit this decision to the Government of the Republic of Rwanda and the Government of the United Republic of Tanzania;
- B) ensure the proper conduct of the transfer, including the supervision of the witnesses in the Tribunal's detention facilities;
- C) remain abreast of any changes which might occur regarding the conditions of detention provided for by the requested State which may affect the timing of the temporary detention, and as soon as possible, inform the Trial Chamber of any such change.

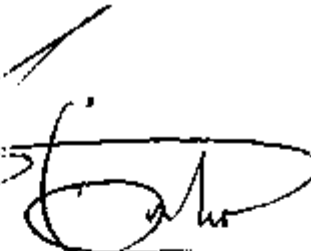
Arusha, 2 April 2008



Khalida Rachid Khan
Presiding Judge



Lee Gacuga Muthoga
Judge



Emile Francis Short
Judge





TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

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From:	<input checked="" type="checkbox"/> Chamber Nusrat Chagtal (names)	<input type="checkbox"/> Defence (names)	<input type="checkbox"/> Prosecutor's Office (names)	<input type="checkbox"/> Other: (names)
Case Name:	The Prosecutor vs. Casimir Bizimungu et al.			Case Number: ICTR-99-50-T
Dates:	Transmitted: 2 April 2008		Document's date: 2 April 2008	
No. of Pages:	3	Original Language:	<input checked="" type="checkbox"/> English	<input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
Title of Document:	DECISION ON MOTION OF JÉRÔME-CLÉMENT BICAMUMPAKA FOR THE TRANSFER OF DETAINED DEFENCE WITNESS LD-1 FROM RWANDA			
Classification Level:	<input type="checkbox"/> Strictly Confidential / Under Seal <input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Public			
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<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 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:				

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<input checked="" type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines: