



UNITED NATIONS  
NATIONS UNIES

14R-99-50-T  
25-06-2008  
(27980-27977)  
International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

27980  
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OR: ENG

**TRIAL CHAMBER II**

**Before Judges:** Lee Gacniga Muthoga  
*Pursuant to Rule 54 of the Rules of Procedure and Evidence*

**Registrar:** Mr. Adama Dieng

**Date:** 25 June 2008

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

Case No. ICTR-99-50-T

2008 JUN 25 10 29  
RECORDS ARCHIVES  
RECEIVED

**ORDER FOR THE REGISTRAR TO MAKE SUBMISSIONS ON PROSPER  
MUGIRANEZA'S MOTION  
TO INSTITUTE PROCEEDINGS PURSUANT TO RULE 77  
*Rules 33 (B) and 54 of the Rules of Procedure and Evidence***

**Office of the Prosecutor:**

Mr. Paul Ng'arua  
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Mr. Elvis Bazawule  
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**Counsel for the Defence:**

Ms. Michelyne C. St. Laurent and Ms. Andrea Valdivia 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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**THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA** ("Tribunal"),

**SITTING** as Trial Chamber II, composed of Judge Lee Gacuiga Muthoga ("Chamber"), pursuant to Rule 54 of the Rules of Procedure and Evidence ("Rules");

**BEING SEIZED** of "Prosper Mugiraneza's Motion to Institute Contempt Proceedings Pursuant to Rule 77," filed on 6 June 2008,<sup>1</sup> which contains certain allegations that 9 witnesses who testified for the Mugiraneza Defence, and who were protected witnesses within the meaning of the Statute and the Rules of this Tribunal,<sup>2</sup> were harassed and/or intimidated upon their return to Rwanda. The Motion annexes to it the following supporting materials:

- Two reports on witness harassment: one from the investigator employed by the Defence team and one from an unidentified individual who, according to the Defence for Mugiraneza, works for the Witness and Victims Support Section ("WVSS").<sup>3</sup>
- Witness statements from the nine complainants<sup>4</sup> and copies of a communication from the Defence investigator to Counsel for Mugiraneza<sup>5</sup>, as well as copies of communications from Counsel to WVSS at the Tribunal;<sup>6</sup>

**RECALLING** that, pursuant to Rule 77 (C), when a Chamber has reason to believe that a person may be in contempt of the Tribunal, it may: (i) direct the Prosecutor to investigate the matter with a view to preparing and submitting an indictment for contempt; or (ii) where the Chamber is of the view that the Prosecutor has a conflict of interest, direct the Registrar to appoint *amicus curiae* to investigate the matter and report back to the Chamber; or, (iii) initiate proceedings itself;

**RECALLING FURTHER** that, pursuant to Rule 77 (A) of the Rules, contempt is said to be committed when a person knowingly and willingly interferes with the Tribunal's administration of justice, including where a person "threatens, intimidates, causes any injury or offers a bribe to, or otherwise interferes with, a witness who is giving, has given, or is about to give evidence in proceedings before a Chamber..."; or incites others, or attempts, to do any of the aforementioned acts;<sup>7</sup>

**NOTING** that the information the Chamber has received from the Defence would tend to suggest that some witnesses may have been harassed upon their return to Rwanda, but **CONSIDERING** that the provenance of the material which supports the allegations has not

<sup>1</sup> *Prosecutor v. Casimir Bizimungu et al.*, ICTR-99-50-T, "Prosper Mugiraneza's First Amended Emergency Motion to Institute Proceedings Pursuant to Rule 77", filed on 6 June 2008 ("6 June Motion"). It filed a confidential annex related to the Motion separately on 6 June 2008. Prior to the filing of the 6 June Motion, the Defence for Prosper Mugiraneza filed an *Ex Parte* Strictly Confidential Restricted Distribution Motion on 22 May 2008 seeking the same relief as the 6 June Motion.

<sup>2</sup> *Bizimungu, et al.*, Decision on Prosper Mugiraneza's Motion for Protection of Defence Witnesses, 2 February 2005.

<sup>3</sup> 6 June Motion, annexes "Exhibit A" and "Exhibit F."

<sup>4</sup> *Ibid.*, annex "Exhibit B - Redacted Witness Statements."

<sup>5</sup> *Ibid.*, annex "Exhibit D - Report of Harassment of Investigator."

<sup>6</sup> *Ibid.*, annex "Exhibit C - Fax From Counsel to WVSS."

<sup>7</sup> Rule 77 (B).

been established, and that the information concerning any investigations carried out thus far is insufficient for the Chamber to exercise its discretion under Rule 77 (C);

**RECALLING** Rule 33 (B), which provides for the Registrar to make oral or written representations to the Chamber on any issue that arises in the context of a case and that may affect the Registrar's discharge of his functions,<sup>8</sup> and Rule 54 giving power to a Judge or a Trial Chamber to issue such orders as may be necessary for the preparation or conduct of the trial;

**NOTING** that WVSS, which falls under the authority of the Registrar, has among its responsibilities, to "develop short term and long term plans for the protection of witnesses who have testified before the Tribunal and who fear a threat to their life, property or family;"<sup>9</sup>

**CONSIDERING** that it is in the interests of justice to hear from the Registrar on its investigation into these matters before disposing of this Motion;

#### **THE CHAMBER**

**HEREBY DIRECTS** the Registrar, to make written submissions, to be filed no later than 16 July 2008, on the Defence's Rule 77 Motion, filed on 6 June 2008, addressing, but not limited to, the following issues with respect to the allegations of Witnesses RDA, RDB, RDI, RWE, RWZ, RWD, RDW, RWG, and RDC:

- 1) The details of investigations, if any, that have been carried out by Registry officers with respect to the allegations of witness harassment, including whether witness statements were taken from the abovementioned witnesses in relation to this matter;
- 2) Whether the report annexed to the Motion was indeed prepared by WVSS; and, if so, an explanation as to how it came to be, and by whom it was prepared;
- 3) The extent to which any harassment may be related to the witnesses' testimonies before the Tribunal on behalf of Mr. Mugiraneza;
- 4) Specific details concerning the individual or individuals who were allegedly involved in harassing witnesses, including their official positions;
- 5) The steps which have been taken by WVSS in Rwanda to ensure the ongoing protection and security of the aforementioned witnesses.

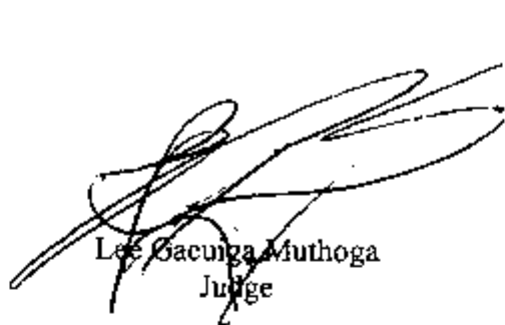
<sup>8</sup> Rule 33 (B) states: "The Registrar, in the execution of his functions, may make oral or written representations to Chambers on any issue arising in the context of a specific case which affects or may affect the discharge of his functions, including that of implementing judicial decisions, with notice to the parties where necessary."

<sup>9</sup> Rule 34 (A)(iii).



Arusha, 5 June 2008

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Lee Gacumba Muthoga  
Judge

