



UNITED NATIONS
NATIONS UNIES

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

OR: ENG

TRIAL CHAMBER II

Before: Judge Asoka de Silva, Presiding
Judge Taghrid Hikmet
Judge Seon Ki Park

Registrar: Mr. Adama Dieng

Date: 22 August 2008

The PROSECUTOR

v.

**Augustin NDINDILYIMANA
Augustin BIZIMUNGU
François-Xavier NZUWONEMEYE
Innocent SAGAHUTU**

Case No. ICTR-00-56-T

**DECISION ON SAGAHUTU'S REQUEST TO HEAR EXPERT WITNESS DR.
HELMUT STRIZEK VIA VIDEO-LINK**

Office of the Prosecutor:

Mr. Alphonse Van
Mr. Moussa Sefon
Mr. Segun Jegede
Mr. Lloyd Strickland
Mr. Abubacarr Tambadou
Ms. Felistas Mushi
Ms. Faria Rekkas
Ms. Marlize Keefer

Counsel for the Defence:

Mr. Gilles St-Laurent and Mr. Benoît Henry **for Augustin Bizimungu**
Mr. Christopher Black and Mr. Vincent Lurquin **for Augustin Ndindiliyimana**
Mr. Charles Taku and Ms. Beth Lyons **for François-Xavier Nzuwonemeye**
Mr. Fabien Segatwa and Mr. Seydou Doumbia **for Innocent Sagahutu**

INTRODUCTION

1. The Prosecution closed its case on 7 December 2006. Following the Defence cases for Bizimungu and Ndindiliyimana, the Defence for Nzuwonemeye began the presentation of its case on 23 June 2008. The Defence case for Sagahutu is expected to start during the next trial session after the completion of the Nzuwonemeye Defence.

2. On 26 May 2008, the Chamber granted a Defence request to add Dr. Helmut Strizek to its witness list.¹ On 30 July 2008, the Defence for Sagahutu filed the current Motion requesting the Chamber to allow Dr. Strizek to testify via video-link during the presentation of its case. In support of its application, the Defence has annexed to its Motion, two medical attestations advising that Dr. Strizek not travel by plane.² The Prosecution and the other Co-Accused did not respond to the Motion.

DELIBERATIONS

3. The Chamber has the discretion to hear testimony via video-link in lieu of physical appearance for purposes of witness protection or where it is in the interests of justice to do so. In determining the interests of justice, the Chamber has to assess 1) the importance of the testimony; 2) the inability or unwillingness of the witness to travel to Arusha; and 3) whether a good reason has been adduced for that inability or unwillingness. The burden of proof lies with the party making the request.³

4. The Chamber has already determined the importance of the witness.⁴ It has now considered the medical information annexed to the Motion and is satisfied that there is sufficient reason for the unwillingness of the Witness to travel to Arusha. Therefore, the Chamber finds that it is in the interests of justice to permit the testimony of Dr. Helmut Strizek to be given via video-link.

FOR THE ABOVE REASONS, THE CHAMBER

GRANTS the Defence Motion; and

¹ *Prosecutor v. Augustin Ndindiliyimana, Augustin Bizimungu, François-Xavier Nzuwonemeye, Innocent Sagahutu*, Case No. ICTR-00-56-T, Decision on Sagahutu's Request to Vary His Witness List (TC), 26 May 2008.

² « Requete du Capitaine Innocent Sagahutu Dans L'Interet de la Justice et sur le Fondement des Articles 71 et 90 du Reglement de Procedure et de Preuve en Vue D'Autoriser le Temoin-Expert Dr. Helmut Strizek a Deposer Par Voie de Videoconference », filed on 30 July 2008.

³ *Ndindiliyimana et. al.*, Decision on Ndindiliyimana's Urgent Application to Hear Witness Michel Robardey via Video-Link (TC), 17 July 2008, para. 2; *Ndindiliyimana et. al.*, Decision on Nzuwonemeye's Extremely Urgent and Confidential Request for Video-Link Testimony of Witnesses Y1, S2, Y3, F10 and F11 (TC), 9 June 2008, para. 3; *Prosecutor v. Casimir Bizimungu, Justin Mugenzi, Jérôme-Clément Bicamumpaka, Prosper Mugiraneza*, Case No. ICTR-99-50-T, Urgent Decision on Prosper Mugiraneza's Motion for the Testimony of Witness RDG to be Taken by Deposition and Chamber's Order for Video-Link Testimony (TC), 24 January 2008, para. 11; *Prosecutor v. Emmanuel Rukundo*, Case No. ICTR-2001-70-T, Decision on the Defence's Urgent and Confidential Motion Requesting Authorisation for Witness SJD to Testify Via Video-Link (TC), 24 September 2007, para. 3; *Rukundo*, Decision on the Prosecutor's Urgent Motion for Witnesses BPA, BLR and BLN to give Testimony Via VideoLink (TC), 14 February 2007, para. 9.

⁴ *Ndindiliyimana et. al.*, Decision on Sagahutu's Request to Vary His Witness List (TC), 26 May 2008, para. 6.

DIRECTS the Registry, in consultation with the Parties, to make the necessary arrangements for Dr. Helmut Strizek to testify via video-link from a suitable location in Europe on a suitable date, on or after 15 September 2008.

Arusha, 22 August 2008

Asoka de Silva
Presiding Judge

[read and approved by]
Taghrid Hikmet
Judge

[read and approved by]
Seon Ki Park
Judge

[Seal of the Tribunal]