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**International Criminal Tribunal for Rwanda  
Tribunal Pénal International pour le Rwanda**

Arusha International Conference Centre  
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Case No. ICTR-99-49-DP

ICTR 99 49 DP

OR: ENG

16.04.99

Before: Judge Pavel Dolenc

9-7

Decision of: 16 April 1999

**THE PROSECUTOR**

**VERSUS**

**JÉROME BICAMUMPAKA**

**Case No. ICTR-99-49-DP**

1999 APR 16 P 4: 59  
ICTR  
CRIMINAL REGISTRY  
RECEIVED

**ORDER FOR TRANSFER AND PROVISIONAL DETENTION  
(UNDER RULE 40 *BIS* OF THE RULES OF PROCEDURE  
AND EVIDENCE)**

Office of the Prosecutor:

Mr. Don Webster

Registry:

Mr. John M. Kiyeyeu

Case No. ICTR-99-49-DP

## THE TRIBUNAL

**SITTING** in the person of Judge Pavel Dolenc;

**HAVING RECEIVED** on 16 April 1999, from the Prosecutor, a request in accordance with Rule 40 *bis* (A) of the Rules of Procedure and Evidence of the Tribunal (“the Rules”), for the transfer and provisional detention of the suspect Jérôme Bicomumpaka, who was the Minister of Foreign Affairs in the Interim Government of Rwanda and the affidavit dated 14 April 1999, attached to the said request from the Prosecutor and signed by Maxwell Nkole, Commander of Investigations at the Office of the Prosecutor;

**HAVING HEARD** the Representative of the Prosecutor’s office during an *ex parte* hearing held on 16 April 1999;

**CONSIDERING** Resolution 955 of 8 November 1994 adopted by the United Nations Security Council, the Statute of the Tribunal annexed to the said Resolution, in particular, Article 28 of the said Statute and the pertinent provisions of the Rules, notably Rules 40 and 40 *bis*;

**AFTER HAVING DELIBERATED**, Rule 40 *bis* (B) of the Rules provides that the Judge shall order the transfer and provisional detention of the suspect if:

- (i) the Prosecutor has requested a State to arrest the suspect provisionally, in accordance with Rule 40, or the suspect is otherwise detained by a State;
- (ii) after hearing the Prosecutor considers that there is reliable and consistent body of material which tends to show that the suspect may have committed a crime over which the Tribunal has jurisdiction; and
- (iii) considers provisional detention to be a necessary measure to prevent the escape of the suspect, injury to or intimidation of a victim or witness or the destruction of evidence, or to be otherwise necessary for the conduct of the investigation.

**WHEREAS** the Prosecutor requested the authorities of the Republic of Cameroon to arrest and hold in custody the suspect Jérôme Bicomumpaka, and the request was granted on 6 April 1999.

**WHEREAS** the Prosecutor reports that she is currently investigating crimes of genocide and conspiracy to commit genocide in the territory of the Republic of Rwanda in 1994, which fall within the jurisdiction of the Tribunal that the suspect as the member of the Interim Government of Rwanda:

- (a) with the other members of the Interim Government of Rwanda planned the measures for extermination of the Tutsi population;
- (b) with the others put the plans into effect and purchased the arms, distributed the arms to members of political parties, militias and some of the population, with the knowledge that these arms would be used in the perpetration of the massacres of the Tutsi population;

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(c) with the other members of Interim Government, agreed by consensus to congratulate, encouraged and assisted prefects under whose prefectures massacres of the civilian Tutsi population were being committed;

(d) founded Radio Télévision Libre des Mille Collines (RTL) and used it and the other media to incite, aid and abet the perpetration of massacres of the Tutsi population and to disseminate anti-Tutsi propaganda;

(e) took no measures to stop the killings of the Tutsi civilian population although knew that members of the Rwandan Armed Forces, the Gendarmerie, the Communal Police, the Administration and some civilians, were participating in the massacres of the Tutsi population;

**WHEREAS** the suspect left Rwanda after the Interim Government was defeated and the provisional detention is necessary to prevent the escape of the suspect.

**On these grounds,**

**THE TRIBUNAL,**

1. **GRANTS** the request submitted by the Prosecutor, and consequently:
2. **ORDERS** that Jérôme Bicomumpaka be transferred as soon as possible to the Detention Facility of the Tribunal, and be kept in provisional detention.
3. **RESPECTFULLY REQUESTS** the Authorities of the Republic of Cameroon to respect the Tribunal's order for transfer and keep the suspect in custody until he can be handed over to the detention under the authority of the Tribunal;
4. **REQUESTS** the Registrar of this Tribunal to notify the Cameroonian Government and to inform the Rwandan Government of this order.
5. **ORDERS** the provisional detention of the suspect Jérôme Bicomumpaka for a period not exceeding 30 (thirty) days from the day after the transfer to the Tribunal's Detention Facilities, in accordance with the Rule 40 *bis* (B)(iii) of the Rules.

Arusha, 16 April 1999

Pavel Dolenc  
Judge

