



ICTR-99-46-I  
26-09-2000  
(2227-2225)

2227  
#m

International Criminal Tribunal for Rwanda  
Tribunal Pénal International pour le Rwanda

TRIAL CHAMBER III

ORIG: Eng.

Before: Judge Lloyd George Williams, Presiding  
Judge Yakov Ostrovsky  
Judge Pavel Dolenc

Registrar: Dr. Agwu Ukiwe Okali

Decision of : 26 September 2000

THE PROSECUTOR  
versus  
ANDRE NTAGERURA

THE PROSECUTOR  
versus  
EMMANUEL BAGAMBIKI  
SAMUEL IMANISHIMWE

Case No. ICTR-99-46-I

JUDICIAL RECORDS/ARCHIVES  
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2000 SEP 26 P 2:34

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**DECISION ON THE DEFENCE MOTION BY EMMANUEL BAGAMBIKI FOR  
THE RESTITUTION OF DOCUMENTS AND OTHER PERSONAL AND FAMILY  
PROPERTY (RULE 66(B) OF THE RULES OF PROCEDURE AND EVIDENCE)**

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Counsel for the Prosecutor:

Mr. Leonard ASSIRA  
Ms. Liliane RASENDRA  
Mr. Richard KAREGYESA  
Ms. Holo MAKWAIA

Counsel for the Defence:

Mr. Vincent LURQUIN

**THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA** (the “Tribunal”)

**SITTING** as Trial Chamber III, composed of Judge Lloyd George Williams, presiding, Judge Yakov Ostrovsky, and Judge Pavel Dolenc (the “Chamber”);

**BEING SEIZED** of the Defence Motion for the Restitution of Documents and Other Personal and Family Property (Rule 66(B) of the Rules of Procedure and Evidence), filed by Bagambiki’s Defence on 11 September 2000 (the “Motion”);

**CONSIDERING** the Prosecutor’s response to the Motion, filed on 19 September 2000;

**NOW CONSIDERS** the matter without a hearing solely on the briefs of the parties, pursuant to Rule 73(A) of the Rules of Procedure and Evidence of the Tribunal (the “Rules”).

**PLEADINGS BY THE PARTIES**

**Defence Submissions**

1. The Defence recalls that the Prosecutor seized various documents and personal and family property from the residence of the Accused Bagambiki at the time of his arrest.
2. The Defence further recalls that by a letter of 2 May 2000 it requested the Prosecutor to return to the Accused the seized items so that he may use them in preparing for trial. The Defence notes that on 26 May 2000, the Accused received from the Prosecutor a list of the seized materials without any reference to their restitution.
3. Consequently, the Defence requests the Chamber to order the Prosecutor to return to the Accused the seized items, pursuant to Rule 66(B) of the Rules, so that the Accused may prepare for trial.

**Prosecutor’s Response**

4. The Prosecutor recalls that during a meeting of the parties on 18 September 2000 she agreed to the Defence request.
5. The Prosecutor reiterates her verbal agreement and requests three weeks to execute it.

**FINDINGS**

6. Rule 66(B) of the Rules obligates the Prosecutor, at the request of the defence, to permit the defence to inspect, *inter alia*, items in her custody or control which were obtained from or belonged to the accused. However, the Chamber also recalls the Tribunal’s decisions recognizing the right of the Defence to prepare its case and the obligation of the Prosecutor to return seized items that are not relevant to her case.

*Prosecutor v. Ntagerura, Bagambiki & Imanishimwe*, ICTR-99-46-I

7. The Chamber consequently finds that the Prosecutor must permit the Defence, upon request, to inspect the items seized from the Accused and that she must return to the Accused such seized items as are not relevant to her case.

**FOR THESE REASONS, THE TRIBUNAL**

8. **GRANTS** the Defence request in the following terms: Orders the Prosecutor within three weeks from the date of this order to return to the Accused seized items that are not relevant to her case.
9. **DENIES** the Motion in all other respects.

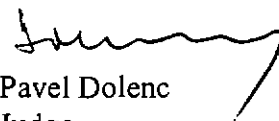
Arusha, 26 September 2000.



Lloyd George Williams  
Judge, Presiding



Yakov Ostrovsky  
Judge



Pavel Dolenc  
Judge

[Seal of the Tribunal]





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

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Arusha International Conference Centre  
P.O.Box 6016, Arusha, Tanzania - B.P. 6016, Arusha, Tanzanie  
Tel: 255 57 504207-11 504367-72 or 1 212 963 2850 Fax: 255 57 504000/504373 or 1 212 963 2848/49

**PROOF OF SERVICE – ARUSHA**  
**PREUVE DE NOTIFICATION AUX CHAMBRES DE PREMIERE INSTANCE - ARUSHA**

<b>Date:</b> 26/9/2000	<b>Case Name / affaire:</b> <b>Case No / no. de l'affaire:</b>	<b>The Prosecutor v. ANDRE NTAGERURA ,SAMUEL IMANISHIMWE &amp; EMMANUEL BAGAMBIKI ICTR-99-46-T</b>	
<b>To:</b> <b>A:</b>	<b>TC1</b> <input type="checkbox"/> Judge N. Pillay, President <input type="checkbox"/> Judge Møse, Vice President <input type="checkbox"/> Judge A. Gunawardana <input type="checkbox"/> E. Nahamya, Co-ordinator	<b>received by / reçu par:</b> _____ _____ _____	<b>ALO</b> <b>received by / reçu par:</b> <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____
	<b>TC2</b> <input type="checkbox"/> Juge L. Kama <input type="checkbox"/> Judge W. H. Sekule <input type="checkbox"/> Judge M. Güney <input type="checkbox"/> C. Aptel, Co-ordinator	_____ _____ _____	<input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____
	<input checked="" type="checkbox"/> <b>TC3</b> <input type="checkbox"/> Judge L.G. Williams <input type="checkbox"/> Judge P. Dolenc <input type="checkbox"/> Judge Y. Ostrovsky <input type="checkbox"/> M. Niang, Co-ordinator	_____ <u>26/09/00</u> <u>26/09/00</u> <u>26/09/2000</u>	<input checked="" type="checkbox"/> <u>Miner P. 26/09/00</u> <input checked="" type="checkbox"/> <u>Touwaend 26/09/00</u> <input type="checkbox"/> <u>Niza 26/09/00</u>
	<b>OTP / BUREAU DU PROCUREUR</b> <input checked="" type="checkbox"/> Trial Attorney in charge of case: <b>LEONARD ASSIRA</b> , received by _____	_____	<u>26/9/00</u>
	<b>DEFENSE: LURQUIN, MBIDA &amp; BENOIT</b> <input checked="" type="checkbox"/> Accused / <i>Accusé</i> : <b>NTAGERURA, BAGAMBIKI &amp; IMANISHIMWE</b> _____ complete / <i>remplir</i> "CMS4 FORM" <input type="checkbox"/> Lead Counsel / <i>Conseil Principal</i> : <input type="checkbox"/> In Arusha / à Arusha _____ (signature) <input type="checkbox"/> by fax complete / <i>remplir</i> "CMS3bis FORM" <input type="checkbox"/> Co-Counsel / <i>Conseil Adjoint</i> : <input type="checkbox"/> In Arusha / à Arusha _____ (signature) <input type="checkbox"/> by fax complete / <i>remplir</i> "CMS3bis FORM"	_____	<u>26/9</u>
<b>All Decisions:</b> <input type="checkbox"/> Appeals Chamber Unit, The Hague <input checked="" type="checkbox"/> Suzanne Chenault, Jurist Linguist <b>All Decisions &amp; Important Public Documents:</b> <input type="checkbox"/> Press & Public Affairs <input type="checkbox"/> Legal Library	_____	_____	
<b>From:</b> <b>De:</b>	<input type="checkbox"/> JP. Fomété <input type="checkbox"/> A. Ngum <input type="checkbox"/> F. Talon <input type="checkbox"/> A. Mindua <input type="checkbox"/> R. Muzigo-Morrison	<u>26/09/2000</u>	
<b>CC:</b>	<input type="checkbox"/> A. Okali <input type="checkbox"/> A. Miller, OLA, NY <input type="checkbox"/> BBK <input checked="" type="checkbox"/> K. Moghalu <input type="checkbox"/> WVSS-P <input type="checkbox"/> WVSS- D <input type="checkbox"/> LDFMS <input type="checkbox"/> GLSS	<u>26/9/00</u>	
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Pages

**1. DECISION ON THE DEFENCE MOTION BY EMMANUEL  
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PERSONAL AND FAMILY PROPERTY (RULE66(B) OF THE RULES  
OF PROCEDURE AND EVIDENCE)**

**26/9/2000 3**

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RESULT OK

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