

19R-99-50-T  
22-6-2004  
(15029-15027)  
International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

15029  
amhgs

Or: ENG

**TRIAL CHAMBER II**

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

**Registrar:** Mr. Adama Dieng

**Date:** 22 June 2004

**The PROSECUTOR**

v.

**Casimir BIZIMUNGU  
Justin MUGENZI  
Jérôme-Clément BICAMUMPAKA  
Prosper MUGIRANEZA**

*Case No. ICTR-99-50-T*

DIGITAL RECORD  
ICTR  
2004 JUN 22 P 5  
C.H. Foy

**DECISION ON JÉRÔME-CLÉMENT BICAMUMPAKA'S MOTION FOR  
RETURN OF PERSONAL PROPERTIES**

**Office of the Prosecutor:**

Mr. Paul Ng'arua  
Mr. Ibukunolu Babajide  
Mr. Elvis Bazawule  
Mr. Justus Bwonwonga  
Mr. Shyamlal Rajapaksa

**Counsel for the Defence:**

Ms. Michelyne C. St. Laurent and Ms. Alexandra Marcil for Casimir Bizimungu  
Mr. Howard Morrison, Q.C. and Mr. Ben Gumpert for Justin Mugenzi  
Mr. Pierre Gaudreau and Mr. Michel Croteau for Jérôme-Clément Bicamumpaka  
Mr. Tom Moran for Prosper Mugiraneza

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

**SITTING** as Trial Chamber II, composed of Judge Khalida Rachid Khan, Presiding, Judge Lee Gacuga Muthoga and Judge Emile Francis Short, (the “Trial Chamber”);

**BEING SEIZED** of “Jerome Bicomumpaka’s Motion for Return of Personal Properties” filed on 21 May 2004, (the “Motion”);

**NOTING AND BEING ALSO SEIZED** of the “Prosecutor’s Response and Cross Motion to Jérôme Bicomumpaka’s Motion for Return of Personal Properties” filed on 26 May 2004, (the “Cross-Motion”);

**ARGUMENTS OF THE PARTIES**

*Submissions by the Defence*

1. The Defence seeks an order from the Trial Chamber requiring the Commander of the United Nations Detention Facility (“UNDF”) to give to the Defence the passports bearing numbers 006836/94 and 040400/93, which belong to Jérôme-Clément Bicomumpaka and which the Commander has in his possession. The Defence asserts that the passports are necessary for the preparation of the defence case.

*Submissions by the Prosecutor*


2. The Prosecutor argues that he was not aware of the fact that the Commander of the UNDF was in possession of personal effects belonging to the Accused. Therefore, the Prosecutor also seeks an order from the Trial Chamber requiring the Commander of the UNDF to release the passports, as well as any additional documents, books, papers, and other objects that are in his custody, to the Prosecutor, so that the Prosecutor may fulfil his duties pursuant to Rules 41 and 66(B) of the Rules of Procedure and Evidence (the “Rules”).

3. The Prosecutor has no objection to an order requiring the UNDF Commander to make photocopies of Bicomumpaka’s two passports and release said photocopies to Bicomumpaka and his Defence. The Prosecutor therefore seeks an order requiring the UNDF Commander to make photocopies of Jérôme-Clément Bicomumpaka’s passports and release the said photocopies to the Accused and his Defence.

**HAVING DELIBERATED**

5. The Trial Chamber concurs with the Defence and the Prosecutor’s argument that the passports in the possession of the Commander of the UNDF may be useful for the Accused in the preparation of his defence. Therefore, the Trial Chamber is of the view that copies of the passports shall be given to the Defence and the Accused without any further delay.

6. The Trial Chamber notes that, pursuant to Rule 41(A), the Prosecutor shall be responsible for the preservation, storage and security of information and physical evidence obtained in the course of its investigation. The Trial Chamber also considers that the Prosecutor should be given all personal effects belonging to Jérôme-Clément Bicomumpaka which are now in the custody of the Commander of the UNDF pursuant to Rule 41(A). The Trial Chamber further observes that, pursuant to Rule 41(B) the Prosecutor shall draw up an inventory of the personal effects



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belonging to the Accused and return to him without delay any materials that are of no evidentiary value.

7. After the personal items are handed over to the Prosecutor by the Commander of the UNDF, the Trial Chamber reminds the Prosecutor that pursuant to Rule 66(B) the Prosecutor shall, at the request of the Defence, permit the defence to inspect any documents [books, photographs and tangible objects] in his custody or control, which are material to the preparation of the defence and were obtained from or belonged to the accused.

**FOR THE ABOVE REASONS, THE TRIAL CHAMBER**

**GRANTS** the Motion in the following terms:


**ORDERS** the Commander of the UNDF to release to Jérôme-Clément Bicamumpaka and his Defence, photocopies of the passports bearing numbers 006836/94 and 040400/93 which belong to the Accused.

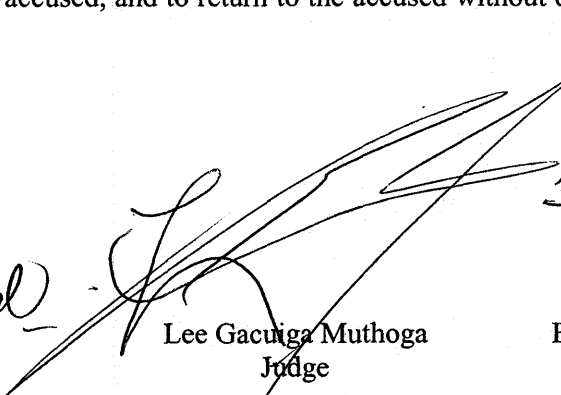
**GRANTS** the Cross-Motion in the following terms:

**ORDERS** the Commander of the UNDF to release the passports and any other documents, books, papers, and other objects belonging to Jérôme-Clément Bicamumpaka that are in his custody to the Prosecutor.

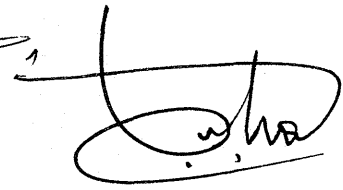
**REMINDS** the Prosecutor of his obligations under Rule 41(B) to draw up an inventory of all materials seized from the Accused, including documents, books, papers and other objects, to serve a copy thereof to the accused, and to return to the accused without delay any materials that are of no evidentiary value.

Arusha, 22 June 2004

  
Khalida Rachid Khan  
Presiding Judge



Lee Gacuga Muthoga  
Judge

  
Emile Francis Short  
Judge

(Seal of the Tribunal)

