



UNITED NATIONS  
NATIONS UNIES

ICTR-99-50-T  
3-12-2004  
(19448 — 19445)  
International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

19448  
ambega

Or: ENG

**TRIAL CHAMBER II**

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

**Registrar:** Mr. Adama Dieng

**Date:** 3 December 2004

**The PROSECUTOR**  
v.  
**Casimir BIZIMUNGU**  
**Justin MUGENZI**  
**Jérôme-Clément BICAMUMPAKA**  
**Prosper MUGIRANEZA**  
*Case No. ICTR-99-50-T*

JUDICIAL RECORDS/ARCHIVES  
ICTR  
2004 DEC - 3 P 12: 44

**DECISION ON PROSECUTION MOTION FOR EXTENSION OF TIME  
WITHIN WHICH TO COMPLY WITH THE TRIAL CHAMBER'S ORDER OF  
24 NOVEMBER 2004**

**Office of the Prosecutor:**

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

**Counsel for the Defence:**

Ms. Michelyne C. St. Laurent and Ms. Alexandra Marcil for **Casimir Bizimungu**  
Mr. Ben Gumpert for **Justin Mugenzi**  
Mr. Pierre Gaudreau and Mr. Michel Croteau for **Jérôme-Clément Bicamumpaka**  
Mr. Tom Moran and Mr. Christian Gauthier 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 Gacuiga Muthoga and Judge Emile Francis Short (the "Chamber");

**BEING SEIZED** of the "Prosecutor's Motion for an Extension of Time Within Which to Comply With the Orders Dated 24 November 2004 in the 'Decision on Prosper Mugiraneza's Motions to Order the Prosecution to Disclose All Statements of Jean Kambanda'" filed on 1 December 2004 (the "Motion");

**HAVING RECEIVED** electronic correspondence from the Defence for Mugiraneza informing the Trial Chamber that it does not intend to oppose the Motion, under certain conditions;<sup>1</sup>

**NOW DECIDES THE MOTION**

1. On 24 November 2004 the Chamber issued the following Order<sup>2</sup>:


**ORDERS** the Prosecution to file with the Registry a summary providing clear, accurate and exhaustive information in relation to all materials currently within their possession regarding the status of disclosure of statements and exculpatory materials involving Prosecution Witness Jean Kambanda, in accordance with their disclosure obligations under Rules 66(A)(ii) and 68 of the Rules. This should be filed no later than Wednesday 1 December 2004. Any remaining disclosure relating to this list should be made concurrently.

2. The Chamber notes that Motion was filed on the last day of the expiration of the abovementioned deadline. In the Motion, the Prosecution explains that it is unable to comply with the deadline, as several materials are yet to be scanned into their database ("EDS"). Until this is done, the Prosecution indicates that it will have difficulty in identifying and disclosing them.

3. The Chamber finds that it is in the best interests of the Defence that the Prosecution provides "clear, accurate and exhaustive information" in accordance with its Order of 24 November 2004. It is also desirable to end the cycle of Motions and Responses on this particular issue. The Chamber accepts the Prosecution's assertion that it has not been logistically possible to comply with the Order of 24 November 2004 in the prescribed time.

<sup>1</sup> Email from Tom Moran to Roger Kouambo-Tchinda and Paul Ng'arua, dated 2 December 2004.

<sup>2</sup> *Prosecutor v. Bizimungu et al.*, Case No. ICTR-99-50-T, Decision on Prosper Mugiraneza's Motions to Order the Prosecution to Disclose All Statements of Jean Kambanda [TC], 24 November 2004 (the "Order of 24 November 2004").



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4. The Motion was filed within the deadline set by the Trial Chamber. The Defence has indicated that it does not intend to oppose the Motion, provided that the following conditions can be met:

- (i) That all statements by Jean Kambanda, including statements made to Stephen Rapp and other representatives of the Office of the Prosecutor are delivered to it by close of business on 31 December 2004, and;
- (ii) That all statements are delivered in electronic form in all languages and in all forms in which the Office of the Prosecutor possesses them.

5. The Trial Chamber accepts that it is a logistical problem that has prevented the Prosecution from complying with its order within the timescale given. Furthermore, the Trial Chamber finds that the Defence's task will be facilitated with "clear, accurate and exhaustive information".

6. The Trial Chamber notes that the Prosecution requests the Chamber to extend the deadline for compliance until 30 December 2004. The Defence agrees to this request provided that the disclosure can be made in electronic form on a DVD-ROM in Houston, Texas by 31 December 2004. The Trial Chamber appreciates the spirit of cooperation shown by the Defence, although it is unlikely that the possible materials envisioned can be delivered from Arusha, Tanzania to Houston, Texas in one day, perhaps especially considering the rather unique logistical delays that can occur at that time of year.

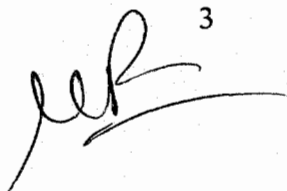
7. The Trial Chamber accepts the date proposed by the Prosecution to comply with its obligations in full. If the Prosecution can make disclosure sooner that would facilitate everyone's task. The Registry will do its best to facilitate disclosure to Houston, Texas as soon as possible after it receives the documentation, if any, from the Prosecution.

8. Lastly, the Prosecution has indicated that all documentation will be scanned into their database and stored in an electronic format. The Defence has requested that disclosure be made in electronic format. The Trial Chamber considers that it will save on both the time and resources of the Tribunal to make disclosure in electronic form. Thus it should so be done.

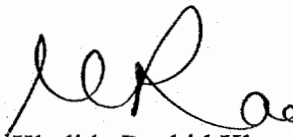
#### **CONSEQUENTLY THE TRIAL CHAMBER**

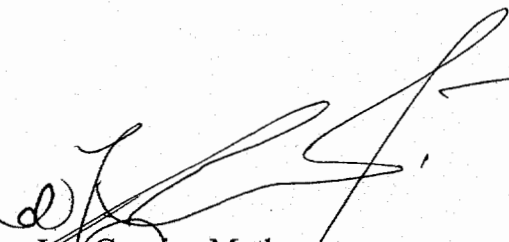
**GRANTS** the Motion, and

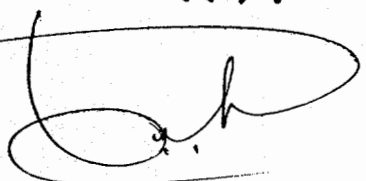
**ORDERS** the Prosecution to file with the Registry a summary providing clear, accurate and exhaustive information in relation to all materials currently within its possession regarding the status of disclosure of statements and exculpatory materials involving Prosecution Witness Jean Kambanda, in accordance with its disclosure obligations under Rules 66(A)(ii) and 68 of the Rules. This should be filed no later than Thursday 30 December 2004. Any remaining disclosure relating to this list should be made concurrently.

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Arusha, 3 December 2004

  
Khalida Rachid Khan  
Presiding Judge

  
Lee Gacuga Muthoga  
Judge

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Emile Francis Short  
Judge

