



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER II

Before:

Judge William H. Sekule, Presiding
Judge Winston C. Matanzima Maqutu
Judge Arlette Ramaroson

Registrar: Adama Dieng

Date: 29 April 2002

THE PROSECUTOR

v.

Juvénal KAJELIJELI

Case No. ICTR-98-44A-T

**DECISION ON THE PROSECUTOR'S URGENT *EX PARTE* MOTION
REQUESTING AN ORDER DISCHARGING PROSECUTION WITNESSES
GDD, GAO, GDQ & GAP FROM FURTHER DETENTION IN UNDF (RULE 90
BIS)**

The Office of the Prosecutor:

Ken Fleming
Ifeoma Ojemeni
Dorothee Marotine

Counsel for Kajelijeli:

Lennox Hinds
Nkeyi Makanyi Bompaka

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (the
"Tribunal"),

SITTING as Trial Chamber II composed of Judge William H. Sekule, Presiding, Judge Winston C. Matanzima Maqutu and Judge Arlette Ramaroson (the "Chamber");

BEING SEIZED of:

- a. The Prosecutor's "Urgent *Ex-Parte* Motion for an Order Discharging Prosecution Witnesses GDD, GAO, GDQ and GAP from further Detention in UNDF pursuant to Rules 73(A), 54 and 90bis of the Rules of Procedure and Evidence" filed with the Registry on 22 April 2002 (the "Motion");
- b. The "Defence's Opposition to the Prosecutor's Ex-Parte Motion for an Order Discharging Prosecution Witnesses GDD, GAO, GDQ and GAP" filed with the Registry on 25 April 2002 (The "Defence Reply");

SUBMISSIONS OF THE PARTIES

The Prosecutor submits that:

1. Sometime in July 2001, Prosecution Witnesses GDD, GAO, GDQ and GAP were transferred to the UN Detention Facility (UNDF) pursuant to an Order of the Trial Chamber of 29 June 2001.
2. On 5 October 2001 the Trial Chamber made an Oral Ruling extending the time within which to detain the witnesses at the UNDF until such time as the Chamber ruled otherwise.
3. On 10 April 2002 the Prosecutor closed its case and informed the Chamber of its intention to return the witnesses to the Rwandan Authorities.
4. The Prosecutor therefore requests that the Chamber discharge its order of 5 October 2001 allowing the WVSS to return the witnesses to the Rwandan Authorities.

The Defence submits that:

5. Should the witnesses testimonies remain incomplete, the Defence case will be prejudiced as set out in their "Extremely Urgent Motion to Strike the Testimonies of Witnesses GDD, GAO, GDQ and GAP" as filed with the Registry on 18 April 2002, and that the Chamber should first rule on this earlier Motion before considering the present one.

DELIBERATIONS

6. The Chamber recalls the proceedings of 5 October 2001, whereby it ordered "pursuant to [Rule] 90bis, that the four detained witnesses known under the pseudonyms of GAO, GDD, GDQ and GAP shall remain temporarily detained at

the Tribunal detention facilities in Arusha until otherwise ordered by the Chamber so as to testify".

7. The Chamber notes the lengthy period of time that Witnesses GDD, GAO, GDQ and GAP have remained in custody at the UNDF.
8. The Chamber further notes the pending Motion of the Defence (the "Extremely Urgent Motion to Strike the Testimonies of Witnesses GDD, GAO, GDQ and GAP"), and does not see that any prejudice will be caused to the Defence by allowing Witnesses GDD, GAO, GDQ and GAP to return to Rwanda at this time.

FOR THE ABOVEMENTIONED REASONS, THE CHAMBER HEREBY

GRANTS the Prosecutor's Motion and:

DISCHARGES its Order of 5 October 2001 requiring the continued detention of Prosecution Witnesses GDD, GAO, GDQ and GAP at the UNDF in Arusha.

Arusha, 29 April 2002

William H. Sekule	Winston C. Matanzima Maqutu	Arlette Ramaroson
Presiding Judge	Judge	Judge

(Seal of the Tribunal)