



ICTR-98-44A-T
29.10.2003
(3263 — 3261)

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

3263
ambage

OR: ENG

TRIAL CHAMBER II

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

Registrar: Adama Dieng

Date: 29 October 2003

The PROSECUTOR
v.
Juvenal KAJELIJELI
Case No. ICTR-99-44A-T

JUDICIAL RECORDS SECTION
ICTR
2003 OCT 29 P 3:25

**DECISION ON JOSEPH NZIRORERA'S SECOND MOTION FOR DISCLOSURE
OF CLOSED SESSION TESTIMONY AND EXHIBITS RECEIVED UNDER SEAL**

Office of the Prosecutor
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Lennox Hinds
Nkeyi Makanyi Bompaka

Counsel for the Defence of Nzirorera
Peter Robinson

hml

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

3262

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

BEING SEIZED of "Joseph Nzirorera's Second Motion for Disclosure of Closed Session Testimony and Exhibits Received Under Seal," filed on 21 October 2003 (the "Motion") in which the Defence;

- (i) requests that the Prosecution disclose to it the testimony and exhibits for Prosecution witnesses ACM, GBE and GBV because the said witnesses are intended to be called during the first trial session at the trial of the Accused Nzirorera and the said witnesses also testified in the trial of the Accused Kajelijeli; and
- (ii) undertakes to be bound by the same protective measures as the Kajelijeli Defence team with respect to any disclosures received pursuant to the Motion;

HAVING RECEIVED AND CONSIDERED the "Prosecutor's Response to Joseph Nzirorera's Motion for Disclosure of Closed Session Testimony and Exhibits Received Under Seal," filed on 21 May 2003 (the "Prosecutor's Response") in which the Prosecution submits that it does not object to the Motion, however, it urges the Chamber to order the Defence for Nzirorera and those of his co-Accused to strictly comply with the Chamber's Decision of 6 July 2000 on the protective measures for the Prosecution witnesses in the case of the Accused Kajelijeli;

CONSIDERING the Statute of the Tribunal (the "Statute") and the Rules of Procedure and Evidence (the "Rules"), in particular Rules 54, 75, 66(A) and 81(B) of the Rules;

NOW DECIDES the Motion solely on the basis of the written briefs filed by the Parties pursuant to Rule 73(A) of the Rules.

HAVING DELIBERATED

RECALLING its Decision for the protection of Prosecution Witnesses of 6 July 2000 in the case of Kajelijeli;

RECALLING FURTHER its "Decision on Joseph Nzirorera's Motion for Disclosure of Closed Session Testimony and Exhibits Received under Seal," of 7 October 2003 whereby the Chamber granted the request of Counsel for Nzirorera instructing said Counsel and his team that they are under strict orders to comply with the orders made in the Chamber's above-mentioned Decision;

CONSIDERING its "Decision on Disclosure of Evidence," of 1 November 2000 in the case of *Prosecutor v. Nyiramasuhuko*, the Chamber extended the order for disclosure to the Defence of the co-Accused of Nzirorera;

ACCORDINGLY the Chamber grants the Defence request and orders the Prosecution to disclose to the Defence of Nzirorera the closed session testimony and exhibits under seal relating to Prosecution Witnesses ACM, GBE and GBV but that the Defence should preserve the confidentiality of the said closed session testimony and exhibits under all circumstances

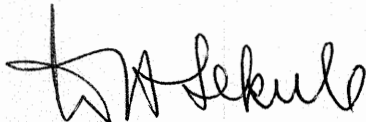
and in compliance with the protective measures made in the Chamber's Decision of 6 July 2000; **AND** extends this order for disclosure to the Defence of the co-Accused of Nzirorera;

FOR THE ABOVE REASONS, THE TRIBUNAL

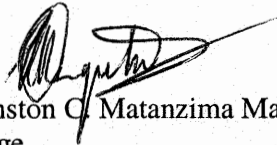
GRANTS the request of Counsel for Nzirorera instructing the Counsel for Nzirorera as well as the counsel for the Co-Accused and their teams that they are under strict orders to comply with the Chamber's Decision on protective measures for Prosecution Witnesses of 6 July 2000; and

ORDERS the Prosecution to disclose to the Defence Team of Nzirorera and the Defence Teams of his co-Accused the closed session testimony and exhibits under seal relating to Prosecution Witnesses ACM, GBE and GBV but that these Defence teams should preserve the confidentiality of the said closed session testimony and exhibits under all circumstances and in compliance with the protective measures made in the Chamber's Decision of 6 July 2000.

Arusha, 29 October 2003



William H. Sekule
Presiding Judge



Winston C. Matanzima Maqutu
Judge



Arlette Ramaroson
Judge

