



OR: ENG

TRIAL CHAMBER III

Before Judges:

Lloyd G. Williams, Q.C., Presiding
Yakov Ostrovsky
Pavel Dolenc

Registrar: Adama Dieng

Date: 26 February 2004

THE PROSECUTOR

v.

**ANDRÉ NTAGERURA
EMMANUEL BAGAMBIKI
SAMUEL IMANISHIMWE
Case No. ICTR-99-46-T**

DECISION ON THE PROSECUTOR'S REQUEST PURSUANT TO RULE 99(B)

Counsel for the Prosecution:

Richard Karegyesa
Holo Makwaia
Andra Mobberley

Counsel for André Ntagerura:

Benoît Henry
Hamuli Rety

Counsel for Emmanuel Bagambiki:

Vincent Lurquin
Seydou Doumbia

Counsel for Samuel Imanishimwe:

Marie Louise Mbida
Jean-Pierre Fofé

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (Tribunal),

SITTING as Trial Chamber III composed of Judge Lloyd G. Williams, Q.C., presiding, Judge Yakov Ostrovsky and Judge Pavel Dolenc (Chamber).

CONSIDERING the acquittal on all counts of André Ntagerura and Emmanuel Bagambiki, unanimously and by majority vote respectively, on 25 February 2004;

CONSIDERING The Prosecutor's oral notice of appeal against the two abovementioned acquittals;

BEING SEISED of the Prosecutor's request for further detention and arrest under Rule 99(B) of the Rules of Procedure and Evidence;

NOTING also the Prosecutor's alternative request, should the motion for further detention not be granted, that André Ntagerura and Emmanuel Bagambiki be released subject to certain conditions being imposed;

RECOGNISING that both André Ntagerura and Emmanuel Bagambiki have already been subject to many years of detention;

CONSIDERING the Statute of the Tribunal (Statute) the Rules of Procedure and Evidence (Rules);

CONSIDERING ALSO the Decision on the Prosecutor's Request Pursuant to Rule 99(B) in the case of The Prosecutor v. Ignace Bagilishema, dated 8 June 2001;

HAVING HEARD the oral submissions of the parties; and

HAVING REVIEWED the written submissions of the parties, filed on 26 February 2004;

HEREBY DECIDES the matter, and:

GRANTS the Prosecution's request under Rule 99(B) for the conditional release of André Ntagerura and Emmanuel Bagambiki;

ORDERS that André Ntagerura and Emmanuel Bagambiki be immediately released on satisfaction of the following conditions:

- i. that he provide an address where he will reside and undertake to inform the Tribunal and the local police nearest his residence in case of any change of address;
- ii. that he report on the first Monday of each month to the nearest local police station;
- iii. that he not travel outside the country of his residence without the written permission of the Tribunal;
- iv. that his travel documents be retained by the local police, unless directed otherwise by the Tribunal.

REMINDS the Parties that a failure to meet any of these conditions may result in the failing party being brought back into the protective custody of the Tribunal;

DIRECTS the Registrar to release immediately André Ntagerura and Emmanuel Bagambiki, when satisfied that the aforementioned conditions have been met, and that the necessary practical arrangements have been made, including required consultations with the relevant national and international authorities, as well as any other organization deemed relevant for such practical arrangements to be made. In the interim, the Registrar is requested to ensure that André Ntagerura and Emmanuel Bagambiki are placed in a safe house;

RECALLS that, pursuant to Article 28 of the Statute, States are under an obligation to afford cooperation and judicial assistance to the Tribunal;

DENIES the Prosecutor's Motion in all other respects.

Arusha, 26 February 2004

Lloyd G. Williams, Q.C.

Presiding Judge

Pavel Dolenc

Judge

Yakov Ostrovsky

Judge

[Seal of the Tribunal]