

ICTR-99-46-T  
6-12-2000  
(2290 - 2288)

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UNITED NATIONS  NATIONS UNIES

International Criminal Tribunal for Rwanda

TRIAL CHAMBER III

Original: English

Before: Judge Lloyd George Williams, Presiding  
Judge Yakov Ostrovsky  
Judge Pavel Dolenc

Registrar: Agwu U. Okali

Date: 6 December 2000

THE PROSECUTOR

v.

André NTAGERURA

THE PROSECUTOR

v.

Emmanuel BAGAMBIKI and  
Samuel IMANISHIMWE

JUDICIAL RECORDS ARCHIVES  
RECEIVED

ICTR

2000 DEC -6 1 A 9 52

Case No. ICTR-99-46-T

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**DECISION ON THE PROSECUTOR'S EXTREMELY  
URGENT MOTION TO PROLONG THE TRANSFER  
OF DETAINED WITNESSES LAK AND LAB**

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The Office of the Prosecutor:

Léonard Assira  
Liliane Rasendra  
Richard Karegyesa  
Andra Mobberley  
Holo Makwaia

Defence Counsel for André Ntagerura:  
Henri Benoît

Defence Counsel for Emmanuel Bagambiki:  
Vincent Lurquin  
Luc Boutin

Defence Counsel for Samuel Imanishimwe:  
Marie-Louise Mbida  
Georges So'o

1. **THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA** (Tribunal),

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

**BEING SEISED** of the Prosecutor's "*Requête en extrême urgence aux fins de prolongation du séjour temporaire des témoins détenus LAK et LAB par application de l'article 90 [bis] [sic] du Règlement de procédure et de preuve*" filed on 30 November 2000 (Motion);

**RECALLING** that on 23 August 2000, the Chamber handed down its "Decision on the Prosecutor's Motion for the Transfer of the Detained Witnesses Pursuant to Rule 90 *bis*";

**RECALLING** that on 21 November 2000, the Chamber handed down its "Decision on the Prosecutor's *Requête aux fins de prolongation du délai de transfert temporaire et du renouvellement de l'ordre de transfert des témoins détenus par application de l'article 90 bis [du Règlement de procédure et de preuve]*"

**NOW CONSIDERS** the Motion on the basis of the briefs of the parties, pursuant to Rule 73(A) of the Tribunal's Rules of Procedure and Evidence (Rules).

**SUBMISSIONS OF THE PROSECUTOR**

2. The Prosecutor submits that the Chamber's Decision of 21 November 2000 ordered the prolongation of the transfer to, and retention at, the Tribunal's United Nations Detention Facility (UNDF) in Arusha of detained witnesses bearing pseudonyms LAK and LAB until 4 December 2000. Witnesses LAK and LAB were not able to testify before 4 December 2000.

3. The Prosecutor seeks that the Chamber, acting under Rule 54, issue a new order prolonging the retention of Witnesses LAK and LAB in Arusha until 28 February 2001.

**SUBMISSIONS OF THE DEFENCE**

4. To date, the Defence of the three Accused have not filed any response to the Motion.

**DELIBERATIONS**

5. Here, the Prosecutor filed the Motion on 30 November 2000. The Defence of the three Accused have not filed any response to the Motion. Thus, the Chamber notes that the Defence has not objected to the Motion.

6. The Chamber notes the requirements of Rule 90 *bis*, and finds that there is no representation that any circumstance has changed that warrants the remand of these two witnesses to Rwanda.

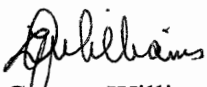
7. The Chamber notes that Rule 54 grants it authority to make orders as may be necessary for the conduct of the trial. Here, such an order is necessary to facilitate hearing the testimony of these two witnesses, avoid duplicating work, and ensure judicial economy.

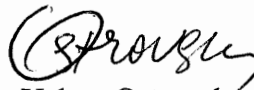
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8. For the above reasons, the Chamber, acting under Rule 54:

- (a) **GRANTS** the Motion;
- (b) **ORDERS** that the witnesses bearing pseudonyms LAK and LAB, who already have been transferred to the UNDF in Arusha, Tanzania, remain in the custody of the UNDF until they complete their testimony and for such a period of time as is necessary to organise their transfer back to Rwanda, but not later than Wednesday, 28 February 2001, and;
- (c) **ORDERS** the Registrar to:
  - (i) Supervise the custody of the detained witnesses at UNDF;
  - (ii) Remain abreast of any changes that might occur regarding the terms or conditions of detention provided for by the Government of the Republic of Rwanda and that possibly may affect the length of the temporary detention and, as promptly as possible, inform the Chamber of any such change, and;
  - (iii) Transmit a copy of this decision to the Government of the Republic of Rwanda and the Government of the United Republic of Tanzania.

Arusha, 6 December 2000.

  
Lloyd George Williams  
Judge, Presiding

  
Yakov Ostrovsky  
Judge

  
Pavel Dolenc  
Judge

Seal of the Tribunal