

ICTR-99-54A-T

8. 7. 2002

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United Nations
Nations Unies

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: 6 July 2002

JUDICIAL RECORDS DIVISION
RECORDED
2002 JUL - 8 A.M. 08
ICTR

THE PROSECUTOR
v.
JEAN DE DIEU KAMUHANDA

Case No. ICTR-99-54A-T

**ORDER FOR TEMPORARY TRANSFER OF DETAINED WITNESS GEK
PURSUANT TO RULE 90 *bis* OF THE RULES**

Office of the Prosecutor:

Mr. Marks Moore
Mr. Ibukunolo Alao Babajide
Mr. Elvis Bazawule
Dr. George William Mugwanya
Ms. Dorothée Marotine

Defence Counsel:

Ms. Aïcha Condé
Ms. Patricia Mongo

AS

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

- i. The Prosecutor’s “*Ex Parte* Motion for an Order for the Transfer of Detained Witness GEK Pursuant to Rule 90 *bis*”, dated 17 May 2002 and filed on 20 May 2002;
- ii. The Prosecutor’s “Corrigendum Prosecutor’s Urgent *Ex Parte* Motion for the Transfer of a Detained Witness Pursuant to Rule 90 *bis*” [sic] filed on 26 June 2002;
- iii. The Prosecutor’s “Corrigendum to the Corrigendum to Prosecutor’s Urgent *Ex Parte* Motion dated 26 June 2002 for the Transfer of Detained Witness Pursuant to Rule 90 *bis*” filed on 2 July 2002;

CONSIDERING the Rules of Procedure and Evidence (the “Rules”);

CONSIDERING that although the Chamber had instructed that the Motion need not be considered as *ex parte*, and that it was subsequently distributed to all Parties by the Court Management Section, there has not yet been a filed Reply by the Defence. Although it has not been possible to have the Motion translated within an acceptable time period and that the deadline set by the Chamber for filing of a Reply by the Defence has not yet expired, the Chamber understands that it is in the interests of both Parties to have this matter dealt with as soon as possible. Counsel for Kamuhanda informed the Chamber by correspondence received on 5 July 2002, through the Court Management Section, that she did not intend to file a Reply to the Prosecutor’s Motion. Therefore, the Chamber considers the submissions to be complete.

CONSIDERING “Exhibit 1 – Letter Written by the Rwandese Authorities”¹, indicating that Witness GEK is detained at a specific prison in Rwanda and is ready for transfer to Arusha;

CONSIDERING the “Affidavit of Commander Samuel Akorimo Exhibit 1 Attached to the Corrigendum to the Prosecutor’s Urgent *Ex Parte* Motion for the Transfer of a Detained Witness Pursuant to Rule 90 *bis*”², indicating that the Rwandan Authorities are aware of the twin requirements of Rule 90 *bis*, and that permission for Witness GEK to travel was given with this knowledge;

CONSIDERING Rule 90 *bis* (B) of the Rules, which states that:

The transfer order shall be issued by a Judge or Trial Chamber only after prior verification that the following conditions have been met:

¹ Letter from Jean de Dieu Mucyo, *Ministre de la Justice et des relations institutionnelles*, Letter No. 907/17185 dated 10 May 2002 (kept under seal).

² Affidavit of Commander Samuel Akorimo, 26 June 2002.

- (i) the presence of the detained witness is not required for any criminal proceedings in progress in the territory of the requested State during the period the witness is required by the Tribunal;
- (ii) Transfer of the witness does not extend the period of his detention as foreseen by the requested State;

THE TRIBUNAL,

SATISFIED that the requirements of Rule 90*bis* have been met in the present case;

HEREBY

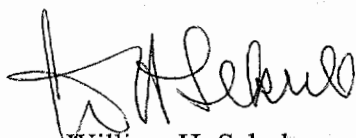
ORDERS, pursuant to Rule 90 *bis* of the Rules, that Witness GEK shall be transferred temporarily to the Tribunal's detention facilities in Arusha from the time he is due to testify until such time that he has completed his testimony in the trial of the Accused;

REQUESTS the Government of Rwanda to comply with this order and to arrange for the transfer of Witness GEK in liaison with the Registrar of the Tribunal and the Tanzanian Government;

INSTRUCTS the Registrar to:

1. Transmit this order to the Governments of Rwanda and Tanzania according to Rule 90 *bis* (C);
2. Ensure the proper conduct of the transfer, including the supervision of Witness GEK in the Tribunal's detention facilities according to Rule 90 *bis* (D);
3. Remain abreast of any changes which might occur regarding the conditions of detention provided for by the requested State and which may possibly affect the length of the temporary detention and, with the shortest delay, inform the Trial Chamber of any such change, according to Rule 90 *bis* (D).

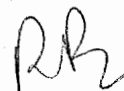
Arusha, 6 July 2002



William H. Sekule
Presiding Judge



Winston C. Matanzima Maqutu
Judge



Arlette Ramaroson
Judge

