

ICTR-97-31-DP
01-10-2002
(19 — 16)

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S. Muneza

UNITED NATIONS



International Criminal Tribunal for the
Prosecution of Persons Responsible for
Genocide and Other Serious Violations of
International Humanitarian Law committed
in the territory of Rwanda and Rwandan
Citizens responsible for genocide and other
such violations committed in the territory of
neighbouring States, between 1 January 1994
and 31 December 1994

Case No. ICTR-97-31-DP

Date : 27 September 2002

ENGLISH

Original: FRENCH

Before : Judge Vaz
Registry : Adama Dieng
Decision of: 27 September 2002

THE PROSECUTOR

v.

THARCISSE RENZAHU

JUDICIAL RECORDS
ICTR
2002 OCT - 1 P 6:01
D. Muneza

ORDER FOR TRANSFER AND PROVISIONAL DETENTION
(Rule 40 bis)

Office of the Prosecutor :

Carla Del Ponte, Prosecutor
Silvana Arbia,

Translation certified by LCSS, ICTR

PII02-0038

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The Tribunal,

Sitting as Judge Andresia Vaz, designated by the President of the Tribunal, pursuant to Rule 28 of the Rules of Procedure and Evidence (“the Rules”),

Considering resolution 955 of 8 November 1994 adopted by the United Nations Security Council, to which is annexed the Statute of the Tribunal (the “Statute”), and in particular Article 28 of the said Statute,

Considering Rule 40 *bis* of the Rules,

Considering the Prosecutor’s request dated 26 September 2002 to the Congolese authorities, pursuant to Rule 40 *bis* of the Rules, for the arrest of Tharcisse Renzaho, who was subsequently placed in detention,

Considering the Prosecutor’s request (the “request”) of 26 September 2002, pursuant to Rule 40 *bis* of the Rules, for the transfer and provisional detention of Tharcisse Renzaho and the affidavit attached thereto,

Having heard the Prosecutor on 27 September 2002,

Bearing in mind the rights of the suspect as provided for, *inter alia*, in Article 20 of the Statute,

Decides and orders as follows:

1. Identity

1.1 The suspect, Tharcisse Renzaho, was born in 1944 in the Gaseta *Secteur*, Kigarama *commune*, in the Kibungu *préfecture*, Rwanda. He was *préfet* of Kigali-Ville *préfecture* during the period from April to July 1994.

1.2 Tharcisse Renzaho was arrested on 26 September 2002 in the Democratic Republic of the Congo, in accordance with Congolese domestic laws and he is currently detained by the Congolese Authorities in Kinshasa, Congo;

2. Grounds for Order

2.1 Rule 40 *bis* of the Rules provides that :

“(…)

(B) The Judge shall order the transfer and provisional detention of the suspect if the following conditions are met:

(i) The Prosecutor has requested a State to arrest the suspect and to place him in custody, in accordance with Rule 40 of the Rule, or the suspect is otherwise detained by a State;

(ii) After hearing the Prosecutor, the Judge considers that there is a reliable and consistent body of material which tends to show that the suspect may have committed a crime over which the Tribunal has jurisdiction; and

(iii) The Judge considers provisional detention to be a necessary measure to prevent the escape of the suspect, physical or mental injury to or intimidation of a victim or witness or the destruction of evidence, or to be otherwise necessary for the conduct of the investigation (...)."

2.2 The Office of the Prosecutor has conducted and is currently conducting investigations on the crimes allegedly committed by Tharcisse Renzaho.

2.3 The request made by the Prosecutor, the facts made known to the Tribunal by the affidavit attached to the request, and the body of material and information submitted during the hearing show that there are good grounds for believing that Tharcisse Renzaho might have committed the offences alleged in the three provisional charges set out in the request, namely genocide, crimes against humanity, and violations of Article 3 common to the Geneva Conventions.

2.4 Accordingly, the Tribunal finds that there are risks that Tharcisse Renzaho may escape, that he may evade justice and that he may seek to destroy evidence.

2.5 The Government of the Democratic Republic of the Congo appears to be in a position to cooperate and to favourably receive a positive decision on the request.

III. Decision

The Tribunal, pursuant to Rule 40 *bis* of the Rules,

Grants the said request;

Orders the transfer of the suspect, Tharcisse Renzaho, to the Tribunal;

Orders the provisional detention of the suspect, Tharcisse Renzaho, at the Detention Unit of the Tribunal for a maximum period of thirty days, with effect from the day following his transfer;

Respectfully requests the Government of the Democratic Republic of the Congo to comply with this order for transfer to the Tribunal and to keep Tharcisse Renzaho in custody until he is handed over to the Tribunal for transfer and detention under the authority of the Tribunal;

Requests the Prosecutor to issue an indictment against Tharcisse Renzaho before the expiration of the thirty-day period of provisional detention;

Requests the Registrar of the Tribunal to notify the Government of the Democratic Republic of the Congo of this Decision and to inform the Government of Rwanda thereof.

Arusha, 27 September 2002

(Signed)
Andresia Vaz
Judge

(Seal of the Tribunal)
