



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

ICTR-96-14-I
10-10-2002
(5176 - 5174)

5176
S. MUSA

TRIAL CHAMBER I

Before: Judge Erik Møse

Registrar: Adama Dieng

Date: 10 October 2002

The PROSECUTOR

v.

Éliézer NIYITEGEKA

Case No. ICTR-96-14-T

JUDICIAL RECORDS
RECEIVED
ICTR
2002 OCT 10 A 9 25
yh

ORDER FOR THE TRANSFER OF PROSECUTION WITNESS KJ

Rules 73 and 90 *bis* of the Rules of Procedure and Evidence

The Office of the Prosecutor

Kenneth C. Fleming
Melinda Y. Pollard
Amanda Reichman
Kirsten Keith

The Defence

Sylvia Geraghty
Feargal Kavanagh
Callixte Gakwaya

6. h

5175

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

SITTING AS Judge Møse, designated by the Trial Chamber pursuant to Rule 73 (A) of the Rules of Procedure and Evidence ("the Rules"), to review as a single judge the "Prosecutor's Extremely Urgent Motion for the Transfer of Detained Witness KJ Under Rule 90 *bis*", filed on 9 October 2002 ("the Motion");

NOW CONSIDERS the Motion:

1. According to Rule 90 *bis* (A) of the Rules, "[a]ny detained person whose personal appearance as a witness has been requested by the Tribunal shall be transferred temporarily to the Detention Unit of the Tribunal, conditional on his return within the period decided by the Tribunal."
2. The Prosecutor requests the Chamber, pursuant to the above Rule, urgently to order the temporary transfer as soon as possible from the Republic of Rwanda of detained Witness KJ to the United Nations Detention Facility at Arusha (UNDF) for the purposes of his testimony during the forthcoming trial session, which will commence on Monday 14 October 2002 at 2 p.m.
3. According to Rule 90 *bis* (B) of the Rules, a Trial Chamber may issue a transfer order only after verifying that the following conditions are met:
 - (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) The transfer of the witness does not extend the period of his detention as foreseen by the requested State.
4. The Prosecutor refers to a letter from the Rwandan Minister of Defence, dated 9 October 2002, demonstrating according to the Prosecutor that (i) the Rwandan Authorities agree to Witness KJ's transfer and (ii) his transfer is in compliance with the conditions of Rule 90 *bis* (B) as recalled above.
5. The Chamber, having examined the letter, concurs with this interpretation.
6. As noted by the Prosecutor, Witness KJ is the last Prosecution witness to be called in the present case. The Defence case will commence immediately thereafter. The trial resumes on Monday 14 October 2002 at 2.00 p.m. It is therefore essential that Witness KJ be transferred immediately to Arusha in co-operation with the Witnesses and Victims Support Section of the Tribunal.

FOR THE ABOVE REASONS

THE TRIBUNAL

ORDERS, pursuant to Rule 90 *bis* of the Rules, that Witness KJ be transferred immediately to the UNDF in Arusha in order to enable him to testify in the trial resuming on Monday 14 October 2002, for the duration of his testimony;

E. hu.

5174

REQUESTS the Government of Rwanda to immediately comply with this order and to arrange for the transfer in co-operation with the Tribunal's Registrar and the Tanzanian Government;

INSTRUCTS the Registrar to:

- A) Transmit this Order to the Governments of Rwanda and Tanzania;
- B) Ensure the proper conduct of the transfer, including the supervision of Witness KJ in the Tribunal's detention facilities;
- C) 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.

Arusha, 10 October 2002



Erik Møse
Judge

[Seal of the Tribunal]

