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ICTR-99-46-T
17-2-2003
(3505 - 3503)

3505
HJM



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

Original: English

TRIAL CHAMBER III

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

Registrar: Adama Dieng

Date: 17 February 2003

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THE PROSECUTOR

v.

EMMANUEL BAGAMBIKI

CASE NO. ICTR-99-46-T

**DECISION ON THE DEFENCE MOTION FOR THE TRANSFER OF A
DETAINED WITNESS FROM RWANDA
RULE 90 *BIS***

Office of the Prosecutor:

Richard Karegyesa
Andra Mobberley
Holo Makwaia

Defence Counsel:

Vincent Lurquin
Seydou Doumbia

**THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA
("TRIBUNAL")**

SITTING as Trial Chamber III, composed of Judges Lloyd G. Williams, Q.C., Presiding, Yakov Ostrovsky and Pavel Dolenc ("Chamber");

BEING SEISED of the "Requête en vue de la délivrance d'un ordre de transfert temporaire du Rwanda d'un témoin détenu au siège du TPIR à Arusha [sic] conformément aux dispositions de l'article 90 bis du Règlement de Procédure et de Preuve" ("Motion"); filed by the Defence for Emmanuel Bagambiki on 22 January 2003 and considering the "Prosecutor's Response to Defence Motion by Emmanuel Bagambiki concerning the transfer of a detained witness from Rwanda"; filed on 29 January 2003;

CONSIDERING that the Bagambiki Defence, pursuant to Rule 90 *bis*, requests the transfer of Witness SLT, who is currently detained at the central prison of Cyangugu Prefecture, to the United Nations Detention Facility in Arusha so that the witness will be available to testify before the Tribunal between 4 March and 4 April 2003;

CONSIDERING that the letter of the Prosecutor General of the Cyangugu Appeals Court, appended to the Defence Motion, attests that Witness SLT is currently awaiting trial before a Gacaca court and that the witness is not expected to be released or to stand trial before 4 April 2003;

NOTING that the Prosecutor does not oppose the Defence's Motion;

DECIDING the matter solely on the basis of the written briefs of the parties, pursuant to Rules 73 (A) of the Rules of Procedure and Evidence;

HAVING DETERMINED that the requirements of Rule 90 *bis* are satisfied because the presence of witness SLT will not be required for any ongoing Rwandan criminal proceedings during the period when the witness is required by the Tribunal, nor do the Rwandan authorities foresee that the transfer will prolong her detention;

FOR THESE REASONS, THE TRIBUNAL:

ORDERS that Witness SLT be transferred temporarily to the United Nations Detention Facility in Arusha between 27 February and 15 March 2003;

REQUESTS the competent authorities in Rwanda to arrange for the transfer of Witness SLT in cooperation with the Registrar and the Tanzanian government;

INSTRUCTS the Registrar to:

Transmit this order to the governments of the Republics of Rwanda and Tanzania;

Ensure the proper conduct of the transfer, including the supervision of the witness in the Tribunal's Detention Facility;

Remain abreast of any changes regarding the conditions of witness's detention in the requested State which may affect the length of her temporary detention and to promptly inform the Trial Chamber of any such change.

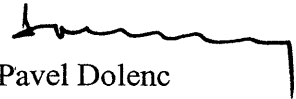
Arusha, 17 February 2003



Lloyd G. Williams, Q.C.
Judge



Yakov Ostrovsky
Judge



Pavel Dolenc
Judge

Seal of the Tribunal

