



ICR 98-44-T  
1-3-2004  
9835-9832  
International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

9835  
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TRIAL CHAMBER

ENGLISH  
Original: FRENCH

Before: Judge Andréia Vaz, presiding  
Judge Flavia Lattanzi  
Judge Florence Rita Arrey

Registry: Adama Dieng

Date: 11 December 2003

THE PROSECUTOR

v.

Edouard KAREMERA and Others

Case No. ICTR-98-44-T

2004 MAR -1 P 5:00  
JUDICIAL RECORDS  
1016  
[Signature]

**DECISION ON THE PROSECUTOR'S *EX PARTE* MOTION FOR AN  
ORDER FOR THE TRANSFER OF DETAINED WITNESSES PURSUANT TO  
RULE 90bis OF THE RULES OF PROCEDURE AND EVIDENCE**

Office of the Prosecutor:

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Defence Counsel:

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David Hooper and Andreas O'Shea  
Charles Roach and Frédérik Weyl

CIIH03-0064 (E)

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Translation certified by LCSS, ICTR

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

**SITTING** in Trial Chamber III (the Chamber), composed of Judge Andréia Vaz, presiding, Judge Flavia Lattanzi and Judge Florence Rita Arrey.

**SEIZED** of an *ex parte* motion entitled, "*Motion for an Order for the Transfer of Detained Witnesses pursuant to Rule 90bis of the Rules of Procedure and Evidence of the Tribunal*", filed by the Prosecution on 13 October 2003.

**SEIZED FURTHER** of an additional motion entitled "*Supplemental Prosecutor's Motion for an Order for the Transfer of Detained Witnesses pursuant to Rule 90bis of the Rules of Procedure and Evidence of the Tribunal*", filed by the Prosecution on 8 December 2003.

**ACCORDINGLY DECIDES AS FOLLOWS:**

1. The Prosecution, in its *ex parte* Motion of 13 October 2003, requested the provisional transfer of protected witnesses GAP, GFF, GDQ, GFA and GBU from the Republic of Rwanda. Three of these witnesses are in custody at the Ruhengeri prison, and two are on provisional release from the Ruhengeri prison. The transfer was requested for 26 October 2003 insofar as these witnesses were scheduled to testify at the first session of the trial, which was scheduled for 3 November 2003.
2. Since these witnesses are now scheduled to testify at the session that will start on 19 January 2004, the Prosecution, by its Supplemental Motion, requested that they be transferred provisionally from their place of detention in Rwanda to the United Nations Detention Unit in Arusha, by 5 January 2004, at the latest, for the duration of their testimonies.
3. The Prosecution underscores that Witnesses GAP and GFF are currently in Arusha to testify in the case of *Bizimungu and Others*, and requests that an order be issued for them to remain in Arusha until the end of their testimonies in the present case.
4. Rule 90bis(B) requires that an order for the transfer of detained witnesses be issued only after prior verification that the following conditions have been 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) Transfer of the witness does not extend the period of his detention as foreseen by the requested State.

5. The Prosecution submits that the witnesses will not be required for any criminal proceedings in progress in Rwanda during the period the Tribunal will require the witnesses, and that their transfer will not extend the period of their detention. The Prosecution affirms further that the witnesses will not be released during the period they will be in Arusha.
6. The Chamber takes note of the letter of the Minister of Justice of the Republic of Rwanda, dated 5 November 2003, confirming the two facts. Consequently, the Chamber finds that the conditions of Rule 90*bis* of the Rules have been met in respect of Witnesses GFF, GDQ, GFA, GBU and GAP.

**FOR THE FOREGOING REASONS,**

**THE TRIBUNAL**

**ORDERS**, on the basis of Rule 90*bis* of the Rules that Witnesses GDQ, GFA and GBU should be transferred to the United Nations Detention Unit in Arusha on 5 January 2004, at the latest, for a period not exceeding three months after the date of their transfer.

**ORDERS** that Witnesses GAP and GFF should remain in custody at the United Nations Detention Unit in Arusha after their testimonies in the case of *Bizimungu and Others* for a period not exceeding four months after their testimonies in the above mentioned case.

**ORDERS** the Registrar:

- (a) To forward the present Decision to the Governments of Rwanda and Tanzania;
- (b) To ensure the proper conduct of the transfer, including the supervision of the witnesses at the United Nations Detention Unit in Arusha; and
- (c) To remain abreast of any changes which might occur regarding the conditions of detention of the witnesses in Rwanda, and which may possibly affect the duration of their detention, and to inform the Chamber thereof as soon as possible.

**REQUESTS** the Government of the Republic of Rwanda to comply with the present Order, to cooperate with the Prosecutor and the Registrar and to take, in collaboration with the Government of the Republic of Tanzania, the Registrar and the Witnesses and Victims Support Section of the Tribunal, the relevant measures for the accomplishment of this transfer.

Arusha, 11 December 2003

[Signed]  
Andrésia Vaz  
Presiding

[Signed]  
Flavia Lattanzi  
Judge

[Signed]  
Florence Rita Arrey  
Judge

[Seal of the Tribunal]

