



UNITED NATIONS  
NATIONS UNIES

ICTR-98-42-T  
17-06-2004  
(10315 - 10313)

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

10315  
Mwamp

OR: ENG

TRIAL CHAMBER II

**Before:** Judge William H. Sekule, Presiding  
Judge Arlette Ramaroson  
Judge Solomy Balungi Bossa

**Registrar:** Mr. Adama Dieng

**Date:** 17 June 2004

ORIGINAL RECORD  
ICTR  
2004 JUN 17 P 5:00

**The PROSECUTOR v. Élie NDAYAMBAJE**

**The PROSECUTOR v. Joseph KANYABASHI**

**The PROSECUTOR v. Pauline NYIRAMASUHUKO & Arsène SHALOM**

**NTAHOBALI**

**The PROSECUTOR v. Sylvain NSABIMANA & Alphonse NTEZIRYAYO**

*[Joint Case No. ICTR-98-42-T]*

**ORDER FOR THE TRANSFER OF DETAINED WITNESSES FROM RWANDA  
(RULE 90 bis)**

**Office of the Prosecutor**

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Adelaide Whest  
Jonathan Moses  
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*Manuel Bouwknecht, Case Manager*

**Defence Counsel**

Michel Marchand and Simone Santerre for  
Kanyabashi  
Pierre Boulé and Claude Desrochers for Ndayambaje  
Josette Kadji and Charles Tchakounte for Nsabimana  
Duncan Mwanyumba and Normand Marquis for  
Ntahobali  
Frédéric Titinga Pacere and Richard Perras for  
Nteziryayo  
Nicole Bergevin and Guy Poupart for  
Nyiramasuhuko

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

**SITTING** as Trial Chamber II, composed of Judge William H. Sekule, Presiding, Judge Arlette Ramaroson and Judge Solomy Balungi Bossa, (the "Chamber");

**BEING SEISED** of the "Extremely Urgent Prosecutor's Motion for the Temporary Transfer of Detained Witnesses under Rule 90 *bis*" filed on 3 June 2004 (the "Motion");

**NOTING** that the Defence did not object to the Motion;

**NOTING** the 24 July 2001 "Decision on the Prosecutor's Motions For Leave to Call Additional Witnesses and For the Transfer of Detained Witnesses" and the 30 March 2004 "Decision on Prosecutor's Motion to Drop and Add Witnesses",

**WHEREAS** the Prosecution requests the Trial Chamber, pursuant to Rule 90 *bis*, to order the temporary transfer of Witness FCC (the "Witness") from the Republic of Rwanda, where the witness is currently detained;

**WHEREAS** the Prosecution provides a facsimile transmission of a letter dated 31 May 2004 from Jean de Dieu Mucyo, Attorney General of the Republic of Rwanda, to the Minister of Justice, which lists the witness among 60 detainees who may be transferred to the Tribunal for testimony;

**HAVING DELIBERATED,**

**WHEREAS**, in pursuance of Rule 90 *bis* (B), a transfer order shall be issued by a Judge or a Trial Chamber 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;

**WHEREAS** the requested State has listed the witness among those detainees who may be transferred to the Tribunal for testimony, satisfying the two conditions in Rule 90 *bis* (B);

**WHEREAS** the witness was not on the Prosecution witness list when on 24 July 2001 the Trial Chamber granted the Prosecutor's Motion to transfer 27 detained witnesses;

**WHEREAS** the witness was added to the Prosecution's witness list pursuant to this Chamber's Decision to grant the Prosecution's Motion to Add and Drop Witnesses of 30 March 2004;

**PURSUANT TO RULE 90 BIS OF THE RULES, THE TRIAL CHAMBER**

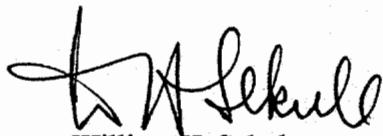
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**GRANTS** the Prosecution's motion to transfer Witness FCC to the Tribunal;

**ORDERS** the Registry, pursuant to Rule 90 bis of the Rules, to temporarily transfer Detained Witness FCC to the United Nations Detention Facility in Arusha (UNDF), at an appropriate time prior to his anticipated testimony during the trial session. The return travel should be facilitated as soon as practically possible after his testimony has ended. In any event, without prior approval from the Chamber, his return into Rwandan custody should be facilitated at a time not later than two months from the date of transfer to the UNDF;

**REQUESTS** the Governments of Rwanda and Tanzania to cooperate with the Registry in the implementation of this Order.

Arusha, 17 June 2004



William H. Sekule  
Presiding Judge



Arlette Ramaroson  
Judge



Solomy Balungi Bossa  
Judge

