



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

ICTR-98-41-T
03-09-2004
21728-21726

21728
S. Mulwa

OR: ENG

TRIAL CHAMBER I

Before: Judge Erik Møse

Registrar: Adama Dieng

Date: 3 September 2004

THE PROSECUTOR

v.

Théoneste BAGOSORA

Gratien KABILIGI

Aloys NTABAKUZE

Anatole NSENGIYUMVA

Case No. : ICTR-98-41-T

ORDER FOR TRANSFER OF PROSECUTION WITNESSES A and AOM

JUDICIAL RECORDS/ARCHIVES
ICTR
RECEIVED

2004 SEP - 3 P 2: 26

The Office of the Prosecutor

Barbara Mulvaney
Drew White
Christine Graham
Rashid Rashid

Counsel for the Defence

Raphaël Constant
Paul Skolnik
Jean Yaovi Degli
Peter Erlinder
André Tremblay
Kennedy Ogetto
Gershom Otachi Bw'Omanwa

6h

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA ("the Tribunal"), 21727

SITTING as Trial Chamber I, composed of Judge Erik Møse, designated by the Chamber in accordance with Rule 73 (A) of the Rules of Procedure and Evidence ("the Rules");

BEING SEIZED of the Prosecution "Motion for an Order for the Transfer of Detained Witnesses", etc., filed on 26 August 2004;

HEREBY DECIDES the motion.

1. Pursuant 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 Union of the Tribunal, conditional on his return within the period decided by the Tribunal". Rule 90*bis* (B) requires prior verification of two conditions for such an order:

- (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.

2. The Prosecution moves the Trial Chamber for an order authorizing the transfer of two of its prospective witnesses currently detained in Rwanda, known by the pseudonyms AI and AOM. These witnesses were previously the object of a 90*bis* transfer order of the Chamber which expired on 29 June 2004. The present request is, in effect, for an extension of that order to permit the transfer of those witnesses during the upcoming trial session, scheduled for 6 September through 15 October 2004.

3. In relation to the requirements of Rule 90*bis* (B), the Prosecution has submitted a letter dated 31 May 2004 from the Government of Rwanda indicating the availability of, *inter alia*, Witnesses AI and AOM. The Chamber was advised on 3 September 2004 by an official of the Government of Rwanda that the letter continued to be valid through 29 October 2004. The Chamber was further advised that neither Witness AI nor Witness AOM were required for judicial proceedings through 29 October 2004, and that their transfer would not extend their period of detention. On the basis of these assurances, the Chamber is satisfied that the conditions for an order under Rule 90*bis* (B) are met in relation to these witnesses.

FOR THE ABOVE REASONS, THE CHAMBER

ORDERS, pursuant to Rule 90*bis* of the Rules, that the individuals designated by the pseudonyms AI and AOM be transferred to the Detention Unit in Arusha, and returned to Rwanda no later than 29 October 2004;

REQUESTS the Government of Rwanda to comply with this order and to arrange for the transfer in cooperation with the Registrar and the Tanzanian Government;

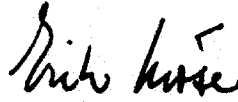
6/11

INSTRUCTS the Registrar to:

21726

- A) transmit this decision to the Governments of Rwanda and Tanzania;
- B) ensure the proper conduct of the transfer, including the supervision of the witnesses 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 as soon as possible, inform the Trial Chamber of any such change.

Arusha, 3 September 2004



Erik Møse
Presiding Judge

[Seal of the Tribunal]

