



ICTR-00-56-I
22-09-2004
(8919-8917)

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

8919
Mwanja

TRIAL CHAMBER II

Case No. ICTR-2000-56-I

ENGLISH
Original: FRENCH

Before: Judge Arlette Ramaroson, presiding
(designated pursuant to Rule 73(A) of the Rules)

Registrar: Adama Dieng

Date: 9 September 2004

THE PROSECUTOR

v.

AUGUSTIN BIZIMUNGU
AUGUSTIN NDINDILIYIMANA
INNOCENT SAGAHUTU
FRANÇOIS-XAVIER NZUWONEMEYE

DECISION ON THE PROSECUTOR'S MOTION FOR TRANSFER OF WITNESSES IN DETENTION OR UNDER COURT SUPERVISION: RULES 54 AND 90 *BIS* OF THE RULES OF PROCEDURE AND EVIDENCE

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CH04-0103 (E)

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

SITTING as Trial Chamber II, composed of Judge Arlette Ramaroson, presiding, (designated by the Chamber pursuant to Rule 73(A) of the Rules) ("the Rules");

BEING SEIZED OF the "Prosecutor's Extremely Urgent *Ex Parte* Motion for Transfer of Witnesses in Detention or under Court Supervision: Rules 54 and 90 *bis* of the Rules of Procedure and Evidence", filed on 6 September 2004;

HEREBY DECIDES the motion.

1. Considering Rules 54 and 90 *bis* of the Rules of Procedure and Evidence ("the Rules"), the Prosecution requests the temporary transfer of protected Witnesses KJ, GAP, UB, GFU, AMW, GFR and ANI/KEI who are detained in various prisons in Rwanda or under the jurisdiction of the Rwandan judicial authorities. The transfer is sought in view of the first session of the trial scheduled to commence on 20 September 2004.
2. The Prosecution requests that the competent authorities of the Republic of Rwanda and of the Republic of Tanzania be notified of the transfer order and that the Registry of the Tribunal be responsible for the transfer and custody of the said witnesses.
3. The Prosecution submits that the presence of the said witnesses would not be required for any court proceedings in Rwanda between 20 September 2004 and 31 December 2004. The Prosecution also states that their transfer is not likely to prolong their period of detention. It further requests the Chamber to issue an order that the said witnesses be remanded to the authorities of the Republic of Rwanda no later than 31 December 2004.
4. The Chamber recalls that Rule 90 *bis*(B) requires that an order for the transfer of witnesses in custody only be issued 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 Chamber takes due note of the letter dated 31 August 2004 from the Rwandan Minister of Justice, appended to the motion. The Chamber holds that the Rule 90 *bis*(B) conditions have been met, in respect of Witnesses KJ, GAP, UB, GFU, AMW, GFR and ANI/KEI.

FOR THESE REASONS, THE CHAMBER

HEREBY ORDERS, pursuant to Rule 90 *bis* of the Rules, that Witnesses KJ, GAP, UB, GFU, AMW, GFR and ANI/KEI be transferred, at the earliest opportunity, to the United Nations Detention Facility in Arusha, for a period not exceeding three months from the date of their transfer;

DIRECTS the Registrar:

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

REQUESTS the Government of the Republic of Rwanda to comply with this Order, to cooperate with the Prosecutor and the Registrar and to take the necessary steps to effect the said transfer, in collaboration with the Republic of Tanzania, the Registrar and the ICTR Witness and Victims Support Section.

Arusha, 9 September 2004

[Signed]

Judge Arlette Ramaroson
Presiding

[Seal of the Tribunal]

