

102-98-44-T  
3-3-2005  
(17767-17765)

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UNITED NATIONS  
NATIONS UNIES

**International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda**

OR: ENG

**TRIAL CHAMBER III**

**Before Judges:** Dennis C. M. Byron, Presiding  
Emile Short  
Gberdao Gustave Kam

**Registrar:** Adama Dieng

**Date:** 3 March 2005

**THE PROSECUTOR**  
v.  
**Édouard KAREMERA**  
**Mathieu NGIRUMPATSE**  
**Joseph NZIRORERA**  
Case No. ICTR-98-44-PT

and

**THE PROSECUTOR**  
v.  
**André RWAMAKUBA**  
Case No. ICTR-98-44C-PT

JUDICIAL RECORDS/ARCHIVES  
ICTR  
2005 MAR -3 A 11: 38

**ORDER**

*Rules 54 and 90bis of the Rules of Procedure and Evidence*

**Office of the Prosecutor:**

Don Webster  
Holo Makwaia  
Dior Fall  
Gregory Lombardi  
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**Defence Counsel**

Dior Diagne Mbaye and Félix Sow,  
for Édouard Karemera  
Charles Roach and Frédéric Weyl,  
for Mathieu Ngirumpatse  
Peter Robinson,  
for Joseph Nzirorera  
David Hooper and Andreas O'Shea,  
for André Rwamakuba

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

**SITTING** as Trial Chamber III, composed of Judge Dennis C. M. Byron, Presiding Judge, Judge Emile Short and Judge Gberdao Gustave Kam ("Chamber");

**BEING SEIZED** of the "Prosecutor's Motion to Renew and Extend the Transfer Order of 2 October 2002 for Detained Prosecution Witness Omar Serushago" ("Prosecution Motion"), filed *ex parte* on 5 August 2004;

**HEREBY ORDERS** pursuant to Rules 54 of the Rules of Procedure and Evidence ("Rules").

1. While the appeal on continuation of the trial was pending before the Appeals Chamber,<sup>1</sup> the Prosecution filed a motion seeking renewal and extension of the transfer of the detained witness Omar Serushago. During that period, there was no bench having jurisdiction to adjudicate it. Consequent upon the appointment of the Presiding Judge, a Status Conference was held on 26 November 2004, where it was noted that the Prosecution Motion was still pending.<sup>2</sup> Having granted leave, on 14 February 2005, to file a Separate Amended Indictment against Rwamakuba and an Amended Indictment against Karemera, Ngirumpatse and Nzirorera, the Chamber may now address the said Motion.

2. The Chamber notes that the request is based on outdated information. Additional elements are necessary to assist the Chamber in its assessment of the Prosecution Motion, pursuant to Rule 90bis of the Rules. Details should be provided on whether the personal appearance of Omar Serushago as witness is still required and for which case. The Prosecution should establish that the conditions prescribed by Sub-Rule 90bis of the Rules are still met.

3. Considering the particular circumstances of the case, the Chamber is however of the view that the renewal and extension of the transfer of Omar Serushago should be temporarily granted until a decision on the Prosecution Motion is delivered on the basis of the further information to be provided.

**FOR THE ABOVE REASONS, THE CHAMBER**

**DIRECTS** the Prosecution to file by Monday, 7 March 2005, additional information on the grounds to renew and extend the transfer of the detained witness Omar Serushago pursuant to Rule 90bis of the Rules;

**GRANTS** renewal and extension of the transfer of the detained witness Omar Serushago temporarily, until a decision on the Prosecution Motion is delivered on the basis of the further information to be provided;

<sup>1</sup> *Prosecutor v. Edouard Karemera, Mathieu Ngirumpatse, Joseph Nzirorera and André Rwamakuba*, Case No. ICTR-98-44-AR15bis.2 (*Karemera et al.*), Decision on Interlocutory Appeals Regarding the Continuation of Proceedings with a Substitute Judge and on Nzirorera's Motion for Leave to Consider New Material (AC), 28 September 2004; *Karemera et al.*, Reasons for Decision on Interlocutory Appeals Regarding the Continuation of Proceedings with a Substitute Judge and on Nzirorera's Motion for Leave to Consider New Material (AC), 22 October 2004.

<sup>2</sup> See Transcripts of 26 November 2004, pp. 1-2.




Order

3 March 2005

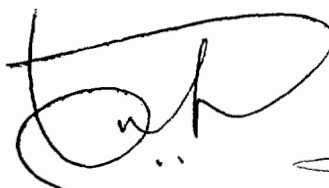
**INSTRUCTS** the Registrar to extend the transfer of Omar Serushago temporarily until a decision on the Prosecution Motion is delivered on the basis of the additional information to be provided.

Arusha, 3 March 2005, done in English.



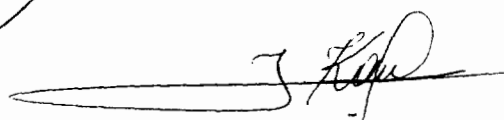
Dennis C. M. Byron

Presiding Judge



Emile Short

Judge



Gberdao Gustave Kam

Judge

