



ICTR-98-41-T
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
15-09-2005
(25300-25298)

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1444

OR: ENG

TRIAL CHAMBER I

Before: Judge Erik Møse

Registrar: Adama Dieng

Date: 15 September 2005

THE PROSECUTOR

v.

Théoneste BAGOSORA

Gratien KABILIGI

Aloys NTABAKUZE

Anatole NSENGIYUMVA

Case No. : ICTR-98-41-T

2005 09 15 P 14:44
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ORDER FOR TRANSFER OF PROSECUTION WITNESS DO

The Prosecution

Barbara Mulvaney
Drew White
Christine Graham
Rashid Rashid

Counsel for the Defence

Raphaël Constant
Paul Skolnik
Frédéric Hivon
Peter Erlinder
André Tremblay
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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

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;

BEING SEIZED of the Motion filed by the Nsengiyumva Defence on 18 May 2005;

HEREBY DECIDES the motion.

1. On 14 October 2004, the Chamber granted the Nsengiyumva Defence request to recall Prosecution Witness DO, who had testified on behalf of the Prosecution in late-June and early-July 2003.¹ The Nsengiyumva Defence now requests the Chamber to order the transfer of the witness, who is detained in Rwanda, under Rule 90 *bis* of the Rules. Rule 90 *bis* (B) sets two conditions for such an order: first, that “the witness is not required for any criminal proceedings in the territory of the requested State during the period the witness is required by the Tribunal”; and second, that the “transfer ... does not extend the period of his detention as foreseen by the requested State”. The Registry has advised the Chamber that the Government of Rwanda has expressed a willingness to transfer the witness to Arusha, which implies that the two conditions set out in Rule 90 *bis* (B) are satisfied.² On this basis, the Chamber finds that the requirements for the witness’s transfer under Rule 90 *bis* are met.

FOR THE ABOVE REASONS, THE CHAMBER

ORDERS, conditional upon the agreement of the Government Rwanda, that the individual designated by the pseudonym DO shall be temporarily transferred pursuant to Rule 90 *bis* of the Rules to the Detention Unit in Arusha;

REQUESTS the Government of Rwanda to facilitate the transfer in cooperation with the Registrar and the Tanzanian Government;

INSTRUCTS the Registrar to:

- 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

¹ T. 14 October 2004 p. 23. The witness was previously transferred to Arusha under Rule 90 *bis* for that testimony. *Bagosora et al.*, Decision on the Prosecution’s Request for the Transfer of Detained Witnesses (TC), 4 June 2003.

² *Ndindabahizi*, Order for Transfer of Defence Witnesses DC, DM, DN, DO and DR, Pursuant to Rule 90*bis* (TC), 2 October 2003, para. 2.

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length of the temporary detention, and as soon as possible, inform the Trial Chamber of any such change.

Arusha, 15 September 2005



Erik Møse
Presiding Judge

[Seal of the Tribunal]

