



UNITED NATIONS
NATIONS UNIES

ICTR-2001-73-T
17-1-2006
(4307-4306)

4307
-Hm

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER III

Before Judges: Inés Mónica Weinberg de Roca, Presiding
Khalida Rachid Khan
Lee Gacuga Muthoga

Registrar: Adama Dieng

Date: 17 January 2006

THE PROSECUTOR

v.

Protais ZIGIRANYIRAZO

Case No. ICTR-2001-73-T

2006 JAN 17 P 3:38
ICTR
RECORDS/ARCHIVES

**DECISION ON THE PROSECUTOR'S MOTION FOR THE TRANSFER OF
DETAINED WITNESSES AVY AND ATN**

Rule 90bis of the Rules of Procedure and Evidence

Office of the Prosecutor:
Wallace Kapaya
Gina Butler
Iskandar Ismail
Jane Mukangira

Defence Counsel:
John Philpot
Peter Zaduk

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

SITTING as Trial Chamber III, composed of Judges Inés Mónica Weinberg de Roca, Presiding, Khalida Rachid Khan, and Lee Gacuiga Muthoga ("Chamber");

BEING SEIZED of the "Prosecutor's Urgent Motion for the Transfer of Detained Witnesses: AVY and ATN" filed on 15 December 2005 ("Motion");

CONSIDERING the Defence Response filed on 20 December 2005 in which the Defence did not oppose the Motion but requested that the Chamber postpone the hearing of Witnesses AVY and ATN to one week after the disclosure requested in its two earlier motions;¹

CONSIDERING that the issue of postponement of the hearing is premature because the Defence has not demonstrated any prejudice or risk of prejudice to the Accused;

RECALLING its "~~Decision on the Transfer of Detained Witnesses of 22 September 2005~~", and reiterating the reasoning therein;

CONSIDERING that the requirements of Rule 90bis of the Rules are met in the present case, as the Government of Rwanda responded on 9 December 2005 to the Prosecutor's letter and confirmed that the witnesses are not required in any criminal proceedings in Rwanda and that their stay in Arusha (United-Republic of Tanzania) will not extend their detention in Rwanda;

THE CHAMBER

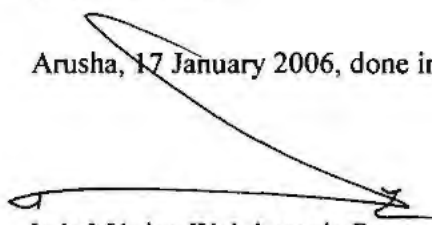
I. GRANTS the Prosecutor's Motion;

II. DENIES the Defence request for postponement of the hearing of the two witnesses;

III. ORDERS, pursuant to Rule 90bis(B) of the Rules, that Prosecution Witnesses AVY and ATN be transferred to Arusha for their hearing;

IV. REQUESTS the Governments of the Republic of Rwanda and of the United-Republic of Tanzania, to cooperate with the Prosecutor and the Registrar and the Witnesses and Victims Support Section of the Tribunal, to take the necessary measures to implement the present decision.

Arusha, 17 January 2006, done in English.



Inés Mónica Weinberg de Roca
Presiding Judge



Khalida Rachid Khan
Judge



Lee Gacuiga Muthoga
Judge

[Seal of the Tribunal]



¹ Urgent Motion to Request the Cooperation of the Government of Rwanda Re Judicial Documents Re Witness AVY, 31 October 2005; and Requête pour la communication des éléments exculpatoirs Re Dossier Prosecutor vs Ephrem Selako et le Procureur vs Théoneste Bagosora et al., 7 December 2005.