



International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

OR: ENG

**TRIAL CHAMBER III**

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

**Registrar:** Adama Dieng

**Date:** 19 January 2006

**THE PROSECUTOR**

v.

**Édouard KAREMERA**  
**Mathieu NGIRUMPATSE**  
**Joseph NZIRORERA**

*Case No. ICTR-98-44-R90bis*

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**ORDER FOR THE TRANSFER OF DETAINED WITNESSES FROM RWANDA**  
*Rule 90bis of the Rules of Procedure and Evidence*

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**Office of the Prosecutor:**

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**Defence Counsel for Joseph Nzirorera**

Peter Robinson and Patrick Nimy Mayidika  
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**THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA** (“Tribunal”),

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

**BEING SEIZED** of the “Requête du Procureur pour l’émission d’une ordonnance de transfert de certains témoins détenus” (“Motion”), pursuant to Rule 90*bis* of the Rules of Procedure and Evidence (“Rules”) filed on 13 December 2005;

**CONSIDERING** the “Production d’une lettre de la Ministère de la Justice de la République du Rwanda”, filed on 17 January 2006 ;

**NOTING** the resumption of the present trial scheduled on 13 February 2006;

**NOW DECIDES** the Motion pursuant to Rule 73(A) of the Rules as follows:

### **INTRODUCTION**

1. The Prosecution requests the Chamber, pursuant to Rule 90 *bis* of the Rules, to order the temporary transfer of Witnesses with the pseudonyms HH, UB and AWB from Rwanda, where they are currently detained, to the United Nations Detention Unit (UNDF) in Arusha, Tanzania, so that they can testify in the present case.

### **DELIBERATIONS**

2. Rule 90*bis*(A) of the Rules gives the Chamber power to make an order to transfer a detained person to the Detention Unit of the Tribunal if his or her presence has been requested. Rule 90*bis*(B) lays out the conditions to be met, as shown by the applicant, before such an order can be made:

(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;

3. The Prosecution has exhibited a letter from the Minister of Justice in Rwanda dated 12 January 2006 confirming the availability of Witnesses HH, UB, AWB, to testify during the indicated period of the upcoming trial session, which is from 13 February 2006 to 17 March 2006. The Chamber is therefore satisfied that these witnesses are not required for criminal proceedings in Rwanda during that time and that the witnesses’ presence at the Tribunal does not extend the period of their detention in Rwanda.

### **FOR THE ABOVE REASONS, THE CHAMBER**

**I. ORDERS** the Registrar, pursuant to Rule 90 *bis* of the Rules, to temporarily transfer Detained Witnesses known by the pseudonyms HH, UB and AWB to the UNDF facility in Arusha, at an appropriate time prior to their scheduled dates to testify. Their return travel to Rwanda should be facilitated as soon as practically possible for each witness after the individual’s testimony has ended.

**II. REQUESTS** the Governments of Rwanda and Tanzania to cooperate with the Registrar in the implementation of this Order.

**III. REQUESTS** the Registrar to cooperate with the authorities of the Governments of Rwanda and Tanzania; Ensure proper conduct during transfer and during detention of the witnesses at the UNDF; Inform the Chamber of any changes in the conditions of detention determined by the Rwanda authorities and which may affect the length of stay in Arusha.

Arusha, 19 January 2006, done in English.

Dennis C. M. Byron

Emile Francis Short

Gberdao Gustave Kam

Presiding Judge

Judge

Judge

[Seal of the Tribunal]