

ICTR-98-44-T
19-04-2006
(26476-26474)

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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 Francis Short
Gberdao Gustave Kam

Registrar: Adama Dieng

Date: 19 April 2006

19-04-2006
Adama Dieng

THE PROSECUTOR

v.

Édouard KAREMERA
Mathieu NGIRUMPATSE
Joseph NZIRORERA
Case No. ICTR-98-44-A28

ORDER FOR THE TRANSFER OF PROSECUTION WITNESSES FROM RWANDA

Article 28 of the Statute of the Tribunal and Rule 54 of the Rules of Procedure and Evidence

Office of the Prosecutor:

Don Webster
Gregory Lombardi
Iain Morley
Gilles Lahaie
Sunkarie Ballah-Conteh
Takeh Sendze

Defence Counsel for Édouard Karemera

Dior Diagne Mbaye and Félix Sow

Defence Counsel for Mathieu Ngirumpatse

Chantal Hounkpatin and Frédéric Weyl

Defence Counsel for Joseph Nzirorera

Peter Robinson and Patrick Nimy Mayidika Ngimbi

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1. The trial in this case started on 19 September 2005. The third trial session is scheduled to start on 15 May 2006. In a Motion filed on 4 April 2006, the Prosecutor requests the Chamber, pursuant to Rule 90*bis* of the Rules of Procedure and Evidence, to order the temporary transfer of Witnesses with the pseudonyms ALG, XBM and AWB from Rwanda, where they are currently on provisional release, to the United Nations Detention Unit (UNDF) in Arusha (United-Republic of Tanzania), so that they can testify in the present case during the next trial session. The Prosecutor contends that the requirements set out by Rule 90*bis* of the Rules are met. He is awaiting a letter from the Rwandan Ministry of Justice confirming this affirmation. The Prosecutor further submits that none of these witnesses will be released by the Rwandan authorities during the period they will be detained at the UNDF.

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. In the present case, the witnesses whom transfer is requested to Arusha are not detained in Rwanda but rather on provisional release, which implies that they remain free subject to restrictions to their freedom of movement. While Rule 90*bis* cannot therefore apply to those witnesses, their presence is requested to allow them to give evidence during the next trial session.

3. The Chamber is of the view that Witnesses ALG, XBM and AWB should temporarily be transferred to Arusha with the cooperation of the Rwandan authorities in accordance with Article 28 of the Statute of the Tribunal. In addition, since these witnesses are on provisional release in Rwanda, they will remain under the Tribunal's control and custody so that they can be returned back to Rwanda, as soon as each witness completes his or her testimony.

FOR THE ABOVE REASONS, THE CHAMBER

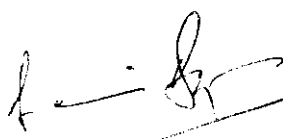
I. REQUESTS, pursuant to Article 28 of the Statute, the Government of Rwanda to cooperate with the Tribunal to ensure the temporary transfer of witnesses known by the pseudonyms ALG, XBM and AWB to the UNDF facility in Arusha;

II. REQUESTS the Government of Tanzania to cooperate with the Registrar in the implementation of this Order;

II. ORDERS the Registrar, pursuant to Rule 54 of the Rules, to temporarily transfer these witnesses 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 each witness completes his or her testimony;

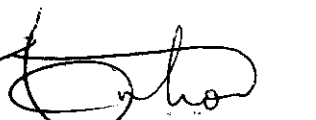
IV. REQUESTS the Registrar to cooperate with the authorities of the Governments of Rwanda and United-Republic of Tanzania; to ensure proper conduct during the transfer and during the detention of the witnesses at the UNDF; to inform the Chamber of any changes in the conditions which may affect the length of stay in Arusha.

Arusha, 19 April 2006, done in English.



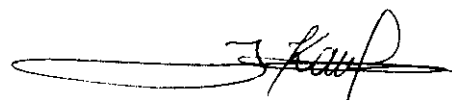
Dennis C. M. Byron

Presiding Judge



Emile Francis Short

Judge



Gberdao Gustave Kam

Judge

[Seal of the Tribunal]