



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

858
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ICTR-2001-63-PT
9-8-2006
858 - 857

Or: ENG

TRIAL CHAMBER III

Before: Judge Dennis C. M. Byron, Presiding
sitting pursuant to Rules 54 and 73(A) of the Rules

Registrar: Adama Dieng

Date: 9 August 2006

THE PROSECUTOR

v.

Siméon NCHAMIHIGO

Case No. ICTR-2001-63-PT

JUDICIAL RECORDS/ARCHIVES
ICTR
2006-AUG-9 P 3:59
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ORDER FOR FILING

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

Office of the Prosecutor:
Alphonse Van
Madeleine Schwarz

Defence Counsel:
Denis Turcotte
Benoît Henry

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1. The trial in this case is scheduled to begin on 25 September 2006. On 24 July 2006 the Prosecutor submitted an *Ex Parte* Motion for an Order for the Temporary Transfer of Witnesses Pursuant to Rule 90bis of the Rules of Procedure and Evidence. For the Chamber to grant such an Order, it must be satisfied according to Rule 90bis (B) that:

- (i) The presence of the detained 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
- (ii) Transfer of the witness does not extend the period of his detention as foreseen by the requested State.

2. The Prosecutor contends that the requirements set out by Rule 90bis of the Rules for the said transfer are met. In support of his Motion, the Prosecutor provided a copy of the letter to the relevant authorities requesting this confirmation. The Prosecutor further states that he expects the authorities to make the confirmation but no such evidence has yet been presented to the Chamber. To address that Motion, the Chamber is of the view that additional information is necessary.

3. The Prosecutor's ground for filing the Motion *ex parte* is to protect the identity of the witnesses. As a general rule, Motions must be filed *inter partes*.¹ The Chamber notes that the only identifying information in the Motion is in the Annexes, and finds that there is no danger of revealing any witness' identity if the substantive portion of the Motion is disclosed to the Defence.

FOR THOSE REASONS, THE CHAMBER

- I. **ORDERS** the Prosecutor to provide any document that would support his Motion for temporary transfer of detained witnesses;
- II. **REQUESTS** the Registrar to reclassify pages 1-3 of the Motion as public, while maintaining the *ex parte* nature of Annexes A, B and C.

Arusha, 9 August 2006, done in English.



Dennis C. M. Byron

Presiding Judge

[Seal of the Tribunal]

¹ *Prosecutor v. Edouard Karemera, Mathieu Ndirumpatse and Joseph Nzirorera*, Case No. ICTR-98-44-R66, Decision on Motion to Unseal *Ex Parte* Submissions and to Strike Paragraphs 32.4 And 49 from the Amended Indictment (TC), 3 May 2005, par. 11.