

ICTR-98-44-T  
13-09-2006  
(27718-27716)

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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:** 13 September 2006

JUDICIAL RECORDS/ARCHIVES  
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**THE PROSECUTOR**

v.

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

**ORDER FOR THE TRANSFER OF PROSECUTION WITNESSES FROM RWANDA**

*Article 28 of the Statute of the Tribunal and Rule 90bis of the Rules of Procedure and Evidence*

**Office of the Prosecutor:**

Don Webster  
Alayne Frankson-Wallace  
Iain Morley  
Saidou N'Dow  
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 fourth trial session is scheduled to start on 23 October 2006. The Prosecutor now 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, HH, GK, GGK and GBU, who are currently detained or on provisional release in Rwanda, to the United Nations Detention Facilities (UNDF) in Arusha (United-Republic of Tanzania), so that they can testify in the present case during the next trial session.<sup>1</sup>

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) stipulates the conditions that an applicant must satisfy 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 Rwandan Prosecutor General addressed to the Rwandan Minister of Justice and a letter from the Rwandan Ministry of Justice confirming the availability of Witnesses ALG, HH, GK and GGK to be transferred temporarily to Arusha during the period 23 September to 21 December 2006.<sup>2</sup> The Chamber is satisfied that these witnesses are not required for criminal proceedings in Rwanda during that time and that the witnesses' presence at the Tribunal will not extend the period of their detention in Rwanda.

4. According to the letter from the Rwandan Prosecutor General, Witness GBU is on provisional release. Rule 90*bis* cannot apply to him since he remains free in Rwanda subject to restrictions to his freedom of movement. His presence is nonetheless requested to allow him to give evidence during the next trial session. The Chamber is of the view that this witness should temporarily be transferred to Arusha with the cooperation of the Rwandan authorities in accordance with Article 28 of the Statute of the Tribunal.

<sup>1</sup> Prosecutor's Motion filed on 14 July 2006 and Prosecutor's Supplemental filing filed on 5 September 2006.

<sup>2</sup> Prosecutor's Supplemental filings filed on 5 and 11 September 2006.

**FOR THE ABOVE REASONS, THE CHAMBER**

**I. GRANTS** the Prosecution Motion as follows:

**II. REQUESTS**, pursuant to Rule 90bis of the Rules, the Registrar to temporarily transfer detained witnesses known by the pseudonyms ALG, HH, GK and GKG to the UNDF facility in Arusha, at an appropriate time prior to their scheduled dates to testify during the period 23 October to 15 December 2006.

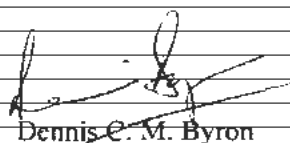
**III. REQUESTS**, pursuant to Article 28 of the Statute, the Government of Rwanda to cooperate with the Tribunal to ensure the temporary transfer of witness known by the pseudonym GBU to Arusha at an appropriate time prior to his scheduled dates to testify during the period 23 October to 15 December 2006;

**IV. REQUESTS** the Registrar to make all the necessary arrangements to implement this Decision and to ensure that the return travel of Witnesses ALG, HH, GK, GKG and GBU to Rwanda is facilitated as soon as practically possible for each witness after the individual's testimony has ended;

**V. REQUESTS** the Governments of Rwanda and United-Republic of Tanzania to cooperate with the Registrar in the implementation of this Order;

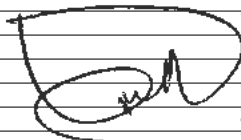
**IV. REQUESTS** the Registrar to cooperate with the authorities of the Governments of Rwanda and United-Republic of Tanzania; to ensure proper conduct during the transfer and during the detention of the witnesses at the UNDF; to inform the Chamber of any changes in the conditions which may affect the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

Arusha, 13 September 2006, done in English.



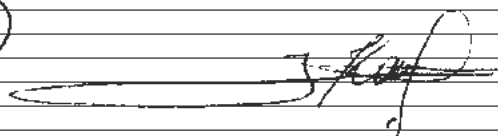
Dennis C. M. Byron

Presiding Judge



Emile Francis Short

Judge



Gberdao Gustave Kam

Judge

[Seal of the Tribunal]

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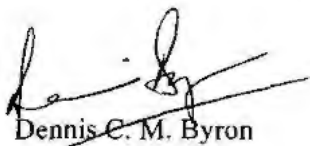
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**IV. REQUESTS** the Registrar to make all the necessary arrangements to implement this Decision and to ensure that the return travel of Witnesses ALG, HH, GK, G GK and GBU to Rwanda is facilitated as soon as practically possible for each witness after the individual's testimony has ended;

**V. REQUESTS** the Governments of Rwanda and United-Republic of Tanzania to cooperate with the Registrar in the implementation of this Order;

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Arusha, 13 September 2006, done in English.

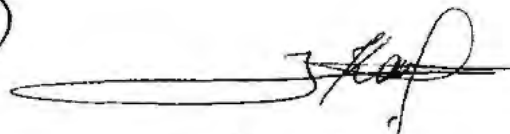


Dennis C. M. Byron

Presiding Judge



Emile Francis Short



Gberdao Gustave Kam

Judge

