



ICTR-97-31-1
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
12-12-2006
(2180-2178)

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TRIAL CHAMBER I

Before: Judge Erik Møse

ORIGINAL: ENGLISH

Registrar: Adama Dieng

Date: 12 December 2006

CONFIDENTIAL

THE PROSECUTOR

v.

Théoneste RENZAHO

Case No. : ICTR-97-31-1

2006 DEC 12 14:11:18
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ORDER FOR TRANSFER OF FIVE PROSECUTION WITNESSES
PURSUANT TO RULE 90 BIS

The Prosecution

Jonathan Moses
Katya Melluish
Ignacio Tredici
Shamus Mangan

The Defence

François Cantier

6/12

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

2179

SITTING as Trial Chamber I, composed of Judge Erik Møse, presiding;

BEING SEIZED OF the Prosecutor's "Request for an Order Transferring Detained Witnesses Pursuant to Rule 90 *bis* of the Rules of Procedure and Evidence", filed on 30 November 2006;

CONSIDERING the Renzaho Response to the Prosecution Request for Transfer of Detained Witnesses under Rule 90 *bis*, filed on 4 December 2006;

HEREBY DECIDES the motion.

1. The Prosecution requests an order for the temporary transfer of five of its witnesses, Witnesses ALG, AWE, BUO, GLJ and UB, currently detained in Rwanda, to the Detention Unit of the Tribunal in Arusha for the purpose of testifying in the present case before the Chamber. The Prosecution requests that the witnesses be ordered transferred until such time as they have completed their testimony, as a fixed period may prove too inflexible. The Defence does not oppose the Prosecutor's request.¹

2. Rule 90 *bis* (B) sets two conditions for such an order: first, that "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"; and second, that the "[t]ransfer ... does not extend the period of his detention as foreseen by the requested State".

3. The trial against the Accused Renzaho is scheduled to begin on 8 January 2007. The Prosecutor states that it has taken the necessary steps to ensure that the five witnesses in question are not required for criminal proceedings in Rwanda during the proposed period of transfer.² The Prosecution further avers that the transfer of each of the witnesses will not extend the period of their detention.³ Finally, annexed to its motion, the Prosecution filed a letter from the Rwandan Ministry of Justice, dated 28 November 2006, confirming that the five requested witnesses who are detained in Rwanda will be available from 2 January to 28 February 2007 to testify in this case. The Chamber is satisfied that the conditions of Rule 90 *bis* are satisfied.

FOR THE ABOVE REASONS, THE CHAMBER

GRANTS the Prosecution motion;

INSTRUCTS the Registrar, pursuant to Rule 90 *bis* of the Rules of Procedure and Evidence and conditional upon the agreement of the Government of Rwanda, to temporarily transfer the five detained witnesses indicated in the letter from the Rwandan Ministry of Justice dated 11 November 2006, and having the pseudonyms ALG, AWE, BUO, GLJ and UB, to the United Nations Detention Facilities (UNDF) 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, but in any case, no later than 28 February 2007;

FURTHER INSTRUCTS the Registrar to:

A) transmit this decision to the Governments of Rwanda and Tanzania;

¹ Response, para. 25.

² Motion, para. 4.

³ Motion, para. 5.



- B) ensure the proper conduct of the transfers including the supervision of the witnesses in the Tribunal's detention facilities; **2178**
- C) remain abreast of any changes which might occur regarding the conditions of detention provided for by the requested State and which may possibly affect the timing of the temporary detention, and as soon as possible, inform the Trial Chamber of any such change; and

REQUESTS the Government of Rwanda to facilitate the transfers in cooperation with the Registrar and the Government of Tanzania.

Arusha, 12 December 2006



Erik Møse
Presiding Judge

[Seal of the Tribunal]

