



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

sitting pursuant to Rule 90 bis of the Rules of Procedure and Evidence

Registrar: Adama Dieng

Date: 4 September 2007

THE PROSECUTOR

v.

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

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

Rule 90bis of the Rules of Procedure and Evidence

Office of the Prosecutor:

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Defence Counsel for Mathieu Ngirumpatse
Chantal Hounkpatin and Frédéric Weyl

Defence Counsel for Joseph Nzirorera
Peter Robinson and Patrick Nimy Mayidika Ngimbi

INTRODUCTION

1. The trial in this case is scheduled to resume on 1st October 2007 for the continuation of the Prosecution case.¹

2. On 27 August 2007, the Prosecution filed a motion, pursuant to Rule 90 *bis* of the Rules of Procedure and Evidence (“Rules”), moving the Chamber to order the temporary transfer from Rwanda of detained Prosecution Witnesses AWD, AXA and BDW who are scheduled to testify during the next trial session.² None of the Accused has responded to the said motion.

DISCUSSION

3. Pursuant to Rule 90 *bis* (A) of the Rules, “[a]ny detained person whose personal appearance as a witness has been requested by the Tribunal shall be transferred temporarily to the Detention Union of the Tribunal, conditional on his return within the period decided by the Tribunal”. Rule 90 *bis* (B) requires prior verification of two conditions for such an order:

- (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.

6. In the present Motion, the Prosecution submits that such requirements are satisfied for the three considered Prosecution witnesses. It further indicates that it has addressed a letter to the Rwandan Minister of Justice requesting confirmation of the availability of the said witnesses. It undertakes to file the said response of the Minister of Justice once it is received.

8. In order to minimize any delay in the resumption of the trial, the Chamber considers that a transfer order of the three witnesses is warranted so that the Witnesses and Victims Support Section (WVSS) may start consulting with the relevant Rwandan authorities in order to ensure their presence for the forthcoming trial session. This, however, will be subject to confirmation by the Rwandan authorities that these witnesses are not required in any trial or judicial proceedings in Rwanda during the aforementioned period, and that their transfer to Arusha will not prolong their detention in Rwanda.

¹ *Prosecutor v. Edouard Karemera, Mathieu Ndirumpatse, Joseph Nzirorera* (“*Karemera et al.*”), Case No. ICTR-98-44-T, Scheduling Order (TC), 21 August 2007.

² Prosecutor’s Request for Temporary Transfer of Witnesses AWD, AXA and BDW for the 6th Trial Session Pursuant to Rule 90bis, filed on 27 August 2007.

FOR THESE REASONS, the CHAMBER

I. GRANTS the Prosecution Motion as follows:

II. REQUESTS, pursuant to Rule 90 *bis* of the Rules, the Registrar to make the necessary arrangements in view of the temporary transfer of detained witnesses known by the pseudonyms AWD, AXA and BDW to the UNDF facility in Arusha, at an appropriate time prior to their scheduled dates to testify during the period from 1st October through 7 December 2007, after having verified, in coordination with the Prosecutor and the relevant Rwandan authorities, that these witnesses are not required in any trial or judicial proceedings in Rwanda during the aforementioned period, and that their transfer to Arusha will not prolong their detention in Rwanda;

III. ORDERS the Prosecution to provide the Chamber and the Defence, as soon as possible, with any additional supporting material or information as to the availability of the witnesses in accordance with the requirements set out by Rule 90 *bis* (B) of the Rules;

IV. REQUESTS the Registrar to ensure that the return travel of the witnesses is facilitated as soon as practically possible for each witness after their testimony has ended;

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

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

Arusha, 4 September 2007, done in English.

Dennis C. M. Byron
Presiding Judge

[Seal of the Tribunal]