

ICTR-98-44-T
3-11-2007
(31837-31835)

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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
Gberdao Gustave Kam
Vagn Joensen

Registrar: Adama Dieng

Date: 02 November 2007

JUDICIAL DEPARTMENT
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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 WITNESS FROM RWANDA

Rule 90bis of the Rules of Procedure and Evidence

Office of the Prosecutor:
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Deo Mbuta

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Dior Diagne Mbaye and Félix Sow

Defence Counsel for Mathieu Ngirumpatse
Chantal Hourkpatin and Frédéric Weyl

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

[Signature]

INTRODUCTION

1. On 31 October 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 Witness AMA¹ who is scheduled to testify on 12 November 2007. None of the accused has responded to the said motion.

DISCUSSION

2. 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.

3. In the present Motion, the Prosecution submits that such requirements are satisfied for the said Prosecution witness, and that the witness is expected to be in Arusha from 09 November 2007 and to be handed over to the Rwandan authorities on or before 30 November 2007. The Prosecution further indicates that it has addressed a letter to the Rwandan Minister of Justice requesting confirmation of the availability of the said witness. The Prosecution undertakes to file the response of the Minister of Justice once it is received.

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

¹ Prosecutor's Request for Temporary Transfer of Witnesses AMA Pursuant to Rule 90bis, filed on 31 October 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 the detained witness known by the pseudonym AMA to the UNDF facility in Arusha, at an appropriate time prior to his scheduled date to testify on 12 November 2007, after having verified, in coordination with the Prosecutor and the relevant Rwandan authorities, that this witness is not required in any trial or judicial proceedings in Rwanda during the aforementioned period, and that his transfer to Arusha will not prolong his 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 witness 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 witness is facilitated as soon as practically possible after his 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 witness at the UNDF and to inform the Chamber of any changes in the conditions which may affect the length of the stay of the witness in Arusha.

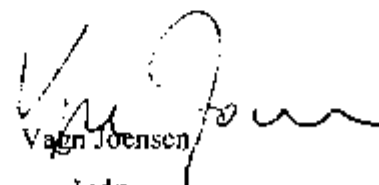
Arusha, 2 November 2007, done in English.



Dennis C. M. Hyron
Presiding Judge



Gberdao Gustave Kam
Judge
[Seal of the Tribunal]



Vagn Joensen
Judge