



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:** 30 January 2008

**THE PROSECUTOR**

v.

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

**ORDER FOR THE TEMPORARY TRANSFER OF  
PROSECUTION WITNESS BDW FROM RWANDA**

*Rule 90bis of the Rules of Procedure and Evidence*

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## INTRODUCTION

1. On 22 January 2008, 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 BDW<sup>1</sup> who is scheduled to be cross-examined in the first week of the next trial session commencing on 10 March 2008.<sup>2</sup> 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 Unit of the Tribunal, conditional on his return within the period decided by the Tribunal”. For such an order to be issued, Rule 90*bis*(B) requires prior verification of two conditions:

- (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 submits that such requirements are satisfied for the said Witness.<sup>3</sup> 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 and that it undertakes to file the response of the Minister of Justice once it is received.<sup>4</sup> The Prosecution also recalls that the Chamber has previously ordered the temporary transfer of Witness BDW, but as he did not complete his evidence, he was required for further examination by the Defence.<sup>5</sup>

4. In order to minimize any delay in the resumption of the trial, the Chamber considers that a temporary 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

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<sup>1</sup> Prosecutor’s Request for Temporary Transfer of Witnesses BDW Pursuant to Arusha for the Continuation of his Testimony Pursuant to Rule 90*bis*, filed on 22 January 2008. (“Prosecutor’s Request”)

<sup>2</sup> *The Prosecutor v. Édouard Karemera, Mathieu Ndirumpatse, Joseph Nzirorera* (“*Karemera et al.*”), Case No. ICTR-98-44-T, Décision relative à la requête d’Édouard Karemera en prorogation de délai pour soumettre les informations et documents requis par l’Article 73 ter du Règlement (TC), 18 January 2008.

<sup>3</sup> *Karemera et al.*, Scheduling Order (TC), 24 December 2007, para. 1.

<sup>4</sup> Prosecutor’s Request, paras. 4-5.

<sup>5</sup> Prosecutor’s Request, para. 2.

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.

**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 BDW to the UNDF facility in Arusha, at an appropriate time prior to his scheduled date to testify in the period commencing on 10 March 2008, 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, 30 January 2008, done in English.

Dennis C. M. Byron  
Presiding Judge  
Absent during signature

Gberdao Gustave Kam  
Judge

Vagn Joensen  
Judge

[Seal of the Tribunal]