



UNITED NATIONS  
NATIONS UNIES

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

ICTR-99-50-T  
19-03-2008  
(26002 - 25-999)

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OR: ENG

**TRIAL CHAMBER II**

**Before Judges:** Khalida Rachid Khan, presiding  
Lee Gacuga Muthoga  
Emile Francis Short

**Registrar:** Mr. Adama Dieng

**Date:** 19 March 2008

**THE PROSECUTOR**  
v.  
**CASIMIR BIZIMUNGU**  
**JUSTIN MUGENZI**  
**JÉRÔME-CLÉMENT BICAMUMPAKA**  
**PROSPER MUGIRANEZA**

**Case No. ICTR-99-50-T**

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ICTR

**ORDER FOR TRANSFER OF DETAINED WITNESSES FROM RWANDA**

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

**Office of the Prosecutor:**

Mr. Paul Ng'anya  
Mr. Ibukunolu Babajide  
Mr. Justus Bwonwonga  
Mr. Elvis Bazawule  
Mr. Shyam Lal Rajapaksa  
Mr. Olivier De Schutter

**Counsel for the Defence:**

Ms. Michelyne C. St. Laurent for **Casimir Bizimungu**  
Mr. Ben Gumpert and Mr. Jonathan Kirk for **Justin Mugenzi**  
Mr. Michel Croteau and Mr. Philippe Larochelle for **Jérôme-Clément Bicamumpaka**  
Mr. Tom Moran and Ms. Cynthia Cline for **Prosper Mugiraneza**

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## INTRODUCTION

1. The Defence for Mr. Mugiraneza requests an order for the temporary transfer of four witnesses—RDF, RDZ, RDK and RWB—to the Detention Facility of the Tribunal in Arusha ("UNDF") for the purpose of testifying before the Chamber.<sup>1</sup> The four witnesses are detained in Rwanda. The Defence wishes to call the four witnesses during the trial session scheduled to commence on 14 April 2008.

## DISCUSSION

2. Pursuant to Rule 90 *bis* of the Rules of Procedure and Evidence (the "Rules"), an order to transfer detained witnesses to the UNDF for the purpose of hearing their testimonies may be allowed if: (i) "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 (ii) the "transfer ... does not extend the period of his detention as foreseen by the requested State."

3. The Defence submits that both conditions for transfer are met. Attached to the Motion is a letter dated 3 March 2008 from the Minister of Justice of Rwanda indicating that the four witnesses are not needed for any criminal proceedings during the dates requested by the Defence and that transfer would not extend the period of detention for any of the witnesses.<sup>2</sup> Both conditions for an order pursuant to Rule 90 *bis* are, therefore, satisfied.<sup>3</sup>

**FOR THESE REASONS**, the Chamber

**GRANTS** the Motion;

**ORDERS**, pursuant to Rule 90 *bis* of the Rules, that Defence Witnesses RDF, RDZ, RDK, and RWB be transferred to the UNDF in Arusha no later than 7 April 2008, until as soon as practically possible after each individual's testimony has ended;

**REQUESTS** the Government of the Republic of Rwanda, in accordance with this Order, to cooperate with the Defence and the Registrar and, in conjunction with the Government of the United Republic of Tanzania, the Registrar and the WVSS, to take the necessary measures to implement the present decision;

**INSTRUCTS** the Registrar to:

A) transmit this decision to the Government of the Republic of Rwanda and the Government of the United Republic of Tanzania;

<sup>1</sup> Prosper Mugiraneza's Motion Pursuant to Rule 90 *bis* for Transfer of Detained Persons to Testify in the Instant Case (confidential), filed 11 March 2008 ("Motion").

<sup>2</sup> Through informal consultation with the Witnesses and Victims Support Section, the Chamber has been informed that the dates for which the witnesses are available are from 18 February 2008 until 30 April 2008.

<sup>3</sup> Order for the Transfer of a Detained Witness from Rwanda (Rule 90 *bis*), 13 April 2007, para. 16.



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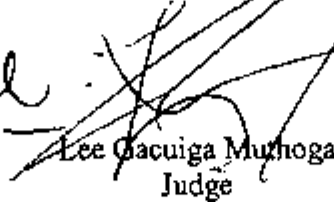
B) ensure the proper conduct of the transfer, including the supervision of the witnesses in the Tribunal's detention facilities;

C) remain abreast of any changes which might occur regarding the conditions of detention provided for by the requested State which may affect the timing of the temporary detention, and as soon as possible, inform the Trial Chamber of any such change.

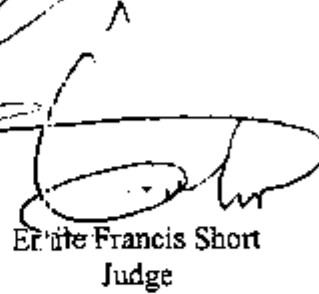
Arusha, 19 March 2008



Khadija Rachid Khan  
Residing Judge



Lee Gacumba Muzhoga  
Judge



Ernie Francis Short  
Judge

