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ICTR-05-88-1
04-04-2008
International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

62
May

(62 - 60)

ORIGINAL: ENGLISH

TRIAL CHAMBER I

Before: Judge Erik Møse, presiding
Registrar: Adama Dieng
Date: 4 April 2008

THE PROSECUTOR

v.

Callixte KALIMANZIRA

Case No. ICTR-2005-88-1

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DECISION ON TRANSFER OF DETAINED WITNESSES

The Prosecution
Christine Graham
Ousman Jammeh
Stephen Agaba
Kartik Murukutla

The Defence
Arthur Vercken
Anta Guisse

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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

SITTING as Trial Chamber I, composed of Judge Erik Møse, designated under Rule 73 (A) of the Rules of Procedure and Evidence;

BEING SEIZED OF the Prosecution Motion for the Transfer of Detained Witnesses, filed on 31 March 2008;

HEREBY DECIDES the motion.

INTRODUCTION

1. The Prosecution requests a transfer order to Arusha for Witnesses AZM, AZT, BBB, BCA, BCI, BCK, BCN, BDI, BDL, BXC, BXD, BXL and FAC, who are currently in detention in Rwanda. It submits that the requirements for transfer as set out in Rule 90 *bis* of the Rules of Procedure and Evidence, have been met.¹ On 18 March 2008, the Rwandan Ministry of Justice confirmed that the witnesses were available to testify and that the period of their detention would not be extended as a result.²

DELIBERATIONS

2. Pursuant to Rule 90 *bis* (A), a Trial Chamber may temporarily transfer any detained person, whose personal appearance as a witness is required, to the detention facilities of the Tribunal, conditional on his return within the period decided by the Chamber. Such a transfer order may only be issued by the Chamber if the following conditions, set out in Rule 90 *bis* (B), have been met:

(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 Chamber is satisfied that the letter from the Rwandan Minister of Justice is sufficient in relation to the requirements of Rule 90 *bis* (B).³ The Prosecution has requested that the witnesses be present in Arusha no later than 18 April 2008, so as to be available for the commencement of the Prosecution's case on 28 April 2008. The Chamber considers that the period of residence in Arusha under Rule 90 *bis* (A) should not extend beyond 13 June 2008, noting that the Prosecution case is expected to run for a period of four or five weeks.

¹ Motion, para. 2.

² Letter of 18 March 2008 from the Rwandan Minister of Justice to the ICTR Prosecutor, Motion, Annex B.

³ *Prosecutor v. Bagosora*, ICTR-98-41-T, Decision on the Prosecution's Request for the Transfer of Detained Witnesses (TC), 4 June 2003; *Prosecutor v. Bagosora*, ICTR-98-41-T, Order for Transfer of Witness AAA (TC), 25 May 2004; *Prosecutor v. Bagosora*, ICTR-98-41-T, Order for Transfer of Prosecution Witnesses A1 and AOM (TC), 3 September 2004; *Prosecutor v. Rukundo*, Case No. ICTR-01-70-T, Decision on Defence Motion for Subpoena and Transfer of Detained Witness SJA (TC), 21 September 2007.

6/11

FOR THE ABOVE REASONS, THE CHAMBER

ORDERS, pursuant to Rule 90 *bis* of the Rules, that Witnesses AZM, AZT, BBB, BCA, BCI, BCK, BCN, BDI, BDL, BXC, BXD, BXL and FAC be transferred to the Detention Unit in Arusha, arriving no later than 18 April 2008, and staying in Arusha until 13 June 2008 at the latest;

REQUESTS that the Government of Rwanda comply with this order and arrange for the transfer in cooperation with the Registrar and the Tanzanian Government;

INSTRUCTS the Registrar to:

- a) transmit this decision to the Governments of Rwanda and Tanzania;
- 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 given by the requested State which may possibly affect the length of the temporary detention and, with the shortest delay, inform the Trial Chamber of any such change.

Arusha, 4 April 2008

Erik Mose
Presiding Judge

[Seal of the Tribunal]

