



UNITED NATIONS
NATIONS UNIES

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

26579

ICTR-99-50-T

~~15-05-2004~~

(26579-26577)

OR: ENG

TRIAL CHAMBER II

Before Judges: Khalida Rachid Khan, Presiding
Lee Gacuiga Muthoga
Emile Francis Short

Registrar: Mr. Adama Dieng

Date: 15 May 2008

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JUDICIAL RECORDS ARCHIVES
RECEIVED

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

Case No. ICTR-99-50-T

**DECISION ON MOTION OF PROSPER MUGIRANEZA FOR THE TRANSFER OF
DETAINED DEFENCE WITNESS RRD TO TESTIFY IN THE INSTANT CASE**

Rule 90 bis of the Rules of Procedure and Evidence

Office of the Prosecutor:

Mr. Paul Ng'arua
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 Bicomumpaka**
Mr. Tom Moran and Ms. Cynthia Cline for **Prosper Mugiraneza**

INTRODUCTION

1. The Defence for Prosper Mugiraneza requests an order pursuant to Rule 90bis of the Rules of Procedure and Evidence, for the temporary transfer to the Tribunal of Defence Witness RRD, who is currently detained in Rwanda.¹
2. The Prosecution does not object to the Motion.²

DISCUSSION

3. Pursuant to Rule 90bis (A) "any 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." According to Rule 90bis (B), a transfer order shall be issued only after prior verification that:

- (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; and
- (ii) Transfer of the witness does not extend the period of his detention as foreseen by the requested State.

4. The Witnesses and Victims' Support Service ("WVSS") has provided the Chamber with a copy of a letter dated 14 May 2008 from the Minister of Justice of Rwanda to the Registrar of the Tribunal. The letter confirms that the Witness is available from the present until 30 June 2008, and that the transfer will be in accordance with the conditions set out in Rule 90bis.³ The Chamber is therefore satisfied that the conditions for a transfer order pursuant to Rule 90bis are met.

FOR THESE REASONS, the Chamber

GRANTS the Motion;

¹ Prosper Mugiraneza's Motion Pursuant to Rule 90 bis for Transfer of Detained Person to Testify in the Instant Case, filed 14 April 2008 ("Motion").

² Prosecutor's Response to Prosper Mugiraneza's Motion Pursuant to Rule 90 bis for Transfer of Detained Person to Testify in the Instant Case, filed 17 April 2008.

³ Although the letter from the Rwandan Minister of Justice does not refer to specific dates, the Chamber confirmed with WVSS that the period to which the letter refers is from 1 April to 30 June 2008. On 28 April 2008, the Registrar, at the bequest of the Defence, submitted a letter requesting availability of the Witness for a period to commence as soon as possible and to end on 30 June 2008. The 14 May 2008 letter from the Minister of Justice of Rwanda confirms RRD's availability for the requested dates, and states that the transfer would be in accordance with Rule 90bis.




ORDERS, pursuant to Rule 90bis of the Rules, that Defence Witness RRD be transferred to the United Nations Detention Facility in Arusha as soon as possible, for a term to end as soon as practically possible after the Witness' testimony has ended;

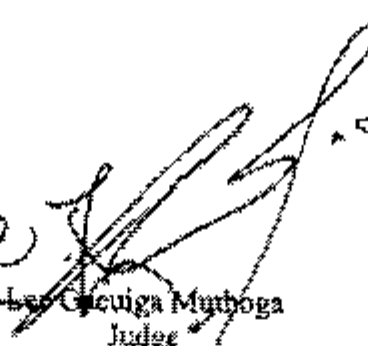
REQUESTS the Government of the Republic of Rwanda, in accordance with this Order, to cooperate with the Defense and the Registrar and, in conjunction with the Government of the United Republic of Tanzania, that the Registrar and the WYSS, take the necessary measures to implement the present Decision;

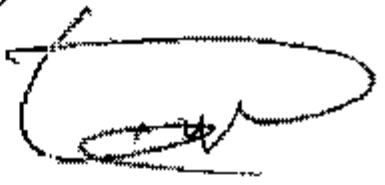
INSTRUCTS the Registrar to:

- A) transmit this decision to the Government of the Republic of Rwanda and the Government of the United Republic of Tanzania;
- 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, 15 May 2008


 Khalida Rashid Khan
 Presiding Judge


 Leoluca Muthoga
 Judge


 Emile Francis Short
 Judge

