



UNITED NATIONS
NATIONS UNIES

ICTR-00-56-T
22-05-2008
(66913 - 66911)

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

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OR: ENG

TRIAL CHAMBER II

Before: Judge Asoka de Silva, Presiding
Judge Taghrid Hikmet
Judge Seon Ki Park

Registrar: Mr. Adama Dieng

Date: 22 May 2008

The PROSECUTOR
v.
Augustin NDINDILIYIMANA
Augustin BIZIMUNGU
François-Xavier NZUWONEMEYE
Innocent SAGAHUTU
Case No. ICTR-00-56-T

JUDICIAL RECORDS/ARCHIVES
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2008 MAY 22 P 4:46

**DECISION ON NDINDILIYIMANA'S MOTION FOR TEMPORARY TRANSFER
OF WITNESS CBP70 PURSUANT TO RULE 90BIS**

Office of the Prosecutor:

Mr. Alphonse Van
Mr. Moussa Sefon
Mr. Segun Jegede
Mr. Lloyd Strickland
Mr. Abubacarr Tambadou
Ms. Felistas Mushi
Ms. Faria Rekkas
Ms. Marlize Keefer

Counsel for the Defence:

Mr. Gilles St-Laurent and Mr. Ronnie MacDonald for Augustin Bizimungu
Mr. Christopher Black and Mr. Vincent Lurquin for Augustin Ndiindiliyimana
Mr. Charles Taku and Ms. Beth Lyons for François-Xavier Nzuwonemeye
Mr. Fabien Segatwa and Mr. Seydou Doumbia for Innocent Sagahutu

Taghrid

INTRODUCTION

1. The tenth trial session in this case is scheduled to commence on 26 May 2008 when the Accused Ndindiliyimana will continue to present his Defence. On 19 May 2008, the Defence for Ndindiliyimana filed a Motion for temporary transfer of Witness CBP70 from Rwanda to the United Nations Detention Facility in Arusha, pursuant to Rule 90bis of the Rules of Procedure and Evidence.¹

2. The Defence submits that the requirements for temporary transfer under Rule 90bis have been satisfied. Attached to the Defence Motion is a letter dated 29 April 2008 from the Ministry of Justice in Rwanda and addressed to the Registrar of the Tribunal confirming that Witness CBP70 is currently detained in Rwanda, but that he is available for transfer to the Tribunal under Rule 90bis for the purpose of testifying in this case.

DISCUSSION

3. Two preconditions must be satisfied before the Trial Chamber can make an order for transfer under Rule 90bis. First, the Chamber must verify that the presence of the detained witness is not required for any criminal proceedings in his country of detention during the period the witness is required by the Tribunal; secondly, a transfer under Rule 90bis must not extend the period for which the witness was detained in the requested State.

4. Having reviewed the Defence submissions and the annexed letter from the Ministry of Justice in Rwanda, the Chamber is satisfied that the conditions for transfer of detained witnesses under Rule 90bis have been satisfied.

THE CHAMBER THEREFORE

GRANTS the Defence request for temporary transfer of Witness CBP70 from Rwanda to the UNDF in Arusha;

ORDERS that the said transfer shall take place at any time from the date of this Order;

DIRECTS the Registry to transmit this Order to the national authorities of Rwanda and to ensure the proper conduct of the transfer, including the supervision of the witness in the Detention Unit of the Tribunal;

REQUESTS the Governments of Rwanda and Tanzania to cooperate with the Registry in the implementation of this Order;

FURTHER ORDERS that upon transfer, Witness CBP70 shall remain in Arusha for the period required to give his testimony, but shall be returned to Rwanda not later than 25 July 2008.

¹ Augustin Ndindiliyimana's Request for Temporary Transfer of Witnesses (sic) CBP70 Pursuant to Rule 90bis, filed on 19 May 2008.

Taghinec

Arusha, 22 May 2008



Taghrid Hikmet
Read and approved
Ascenda de Silva
Presiding Judge
(Absent at the time of
signature)

Taghrid Hikmet
Taghrid Hikmet
Judge

Seon Ki Park
Seon Ki Park
Judge

[Seal of the Tribunal]



TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

COURT MANAGEMENT SECTION
(Art. 27 of the Directive for the Registry)

I - GENERAL INFORMATION (To be completed by the Chambers / Filing Party)

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	<input type="checkbox"/> Chief, CMS J.-P. Fomété	<input type="checkbox"/> Deputy Chief, CMS M. Diop	<input type="checkbox"/> Chief, JPU, CMS M. Diop	<input type="checkbox"/> Appeals Chamber / The Hague R. Muzigo-Morrison K. K. A. Afande
From:	<input checked="" type="checkbox"/> Chamber P. Narayanan (names)	<input type="checkbox"/> Defence (names)	<input type="checkbox"/> Prosecutor's Office (names)	<input type="checkbox"/> Other: (names)
Case Name:	The Prosecutor vs. Augustin Ndindiliyimana et al.			Case Number: ICTR-00-56-T
Dates:	Transmitted: 22 May 2008		Document's date: 22 May 2008	
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<input type="checkbox"/> Ex-Parte		<input type="checkbox"/> Indictment <input type="checkbox"/> Warrant <input type="checkbox"/> Correspondence <input type="checkbox"/> Submission from non-parties		
<input type="checkbox"/> Strictly Confidential / Under Seal		<input checked="" type="checkbox"/> Decision <input type="checkbox"/> Affidavit <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Submission from parties		
<input type="checkbox"/> Confidential		<input type="checkbox"/> Disclosure <input type="checkbox"/> Order <input type="checkbox"/> Appeal Book <input type="checkbox"/> Accused particulars		
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II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party)

CMS SHALL take necessary action regarding translation.

☒ Filing Party hereby submits only the original, and will **not** submit any translated version.

☐ Reference material is provided in annex to facilitate translation.

Target Language(s):

☐ English ☐ French ☐ Kinyarwanda

CMS SHALL NOT take any action regarding translation.

☐ Filing Party hereby submits BOTH the original and the translated version for filing, as follows:

Original	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda
Translation	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda

CMS SHALL NOT take any action regarding translation.

☐ Filing Party will be submitting the translated version(s) in due course in the following language(s):

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III - TRANSLATION PRIORITISATION (For Official use ONLY)

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<input checked="" type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines: