



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

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SECRET/SECRET
NY/SECRET

OR: ENG

TRIAL CHAMBER III

Before Judges: Dennis C. M. Byron, Presiding
Vagn Joensen
Ghazal Gushwa Kam

ICTR-00-55A-PT
30.12.2008
(184 - 182)

Registrar: Adams Ditung

Date: 30 December 2008

THE PROSECUTION

v.

Thérèse MUVUNYI
Case No. ICTR-2000-55A-PT

JUDICIAL RECORDS SECTION
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**DECISION ON PROSECUTION'S MOTION FOR TRANSFER OF PROSECUTION
WITNESSES FROM RWANDA**

Rule 90B of the Rules of Procedure and Evidence

Office of the Prosecution:
Charles Adegun-Phillips

Defence Counsel for Thérèse Muvunyi:
Mr. William E. Taylor III

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INTRODUCTION

1. The retrial in the matter of the **Prosecutor v. Tharcisse Muvunyi** is scheduled to commence on 12 January 2008.
2. On 10 December 2008, The Prosecution filed a motion for temporary transfer of detained Witnesses CCP and AMJ to the seat of the Tribunal in Arusha pursuant to Rule 90*bis* of the Rules of Procedure and Evidence ("Rules").¹ The Accused did not file any response.

DELIBERATIONS

3. Rule 90*bis* (A) of the Rules states that "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 90*bis* (B), a transfer order shall *only* be issued 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 Prosecution indicates that it has addressed on 5 December 2008 a letter to the Rwandan Minister of Justice requesting confirmation of the availability of the said witnesses.²
5. In order to minimize any delay in the commencement of the trial, the Chamber considers that a temporary transfer order for the said witnesses 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 these witnesses for the forthcoming trial session. This, however, will be subject to confirmation by the Rwandan authorities that the witnesses are not required in any trial or judicial proceedings in Rwanda during the aforementioned period, and that their transfer to Arusha will not prolong his detention in Rwanda.

¹ Prosecutor's Motion for an Order for Temporary Transfer of Detained Witnesses from Rwanda to the Seat of the ICTR at Arusha, Pursuant to Rules 90*bis* and 73(A) of the Rules of Procedure of Evidence, filed on 10 December 2008 ("Motion").

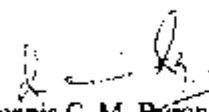
² Motion, para. 5.


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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 witnesses known by the pseudonyms CCP and AMJ to the UNDF facility in Arusha, at an appropriate from 5 January 2009 and in any case before the commencement of the presentation of Prosecution case on 12 January 2009, after having verified, in coordination with the Prosecutor and the relevant Rwandan authorities, that these witnesses are not required in any trial or judicial proceedings in Rwanda during the aforementioned period, and that their transfer to Arusha will not prolong their 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 witnesses is facilitated as soon as practically possible after their 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 witnesses 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 December 2008, done in English.


Dennis C. M. Byron
Presiding Judge


Vagn Joensen
Judge


Gberdao Gustave Kam
Judge

