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(45620-45618)

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UNITED NATIONS
NATIONS UNIES

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER III

Before Judges: Dennis C. M. Byron, Presiding
Gberdao Gustave Kam
Vagn Joensen

Registrar: Adama Dieng

Date: 9 April 2009

THE PROSECUTION

v.

Édouard KAREMERA
Matthieu NGIRUMPATSE
Joseph NZIRORERA
Case No. ICTR-98-44-T

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ORDER FOR THE TRANSFER OF DETAINED WITNESSES

Rule 90bis of the Rules of Procedure and Evidence

Office of the Prosecution:
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Defence Counsel for Joseph Nzirorera
Peter Robinson and Patrick Nimy Mayidika Ngimbi

INTRODUCTION

1. On 19 January 2009, Joseph Nzirorera filed a motion, pursuant to Rule 90 *bis* of the Rules of Procedure and Evidence, requesting the Chamber to order the temporary transfer of seven detained witness who are scheduled to testify in the first phase of Nzirorera's defence case.¹ The witnesses are listed as numbers 1 to 7 in a confidential annex filed with the Motion.² The Prosecution has not responded to the Motion.

DELIBERATIONS

2. Pursuant to Rule 90 *bis* (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. Rule 90 *bis* (B) requires prior verification of two conditions for such an order:

- (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 notes that Joseph Nzirorera attached to the Motion a letter from the Rwandan Minister of Justice confirming that the witnesses are available to be transferred pursuant to the conditions outlined in Rule 90 *bis* (B) from 1 March 2009 to 29 May 2009.³ Given that the witnesses are now projected to give evidence on later dates, Nzirorera subsequently filed a letter addressed to the Rwandan Minister of Justice requesting confirmation of the availability of witness through 18 July 2009.⁴

4. In order to minimize any delay in the the trial, the Chamber considers that a transfer order for these witnesses is warranted so that the Witnesses and Victims Support Section may start consulting with the relevant Rwandan authorities in order to ensure their presence. This, however, will be subject to further confirmation by the Rwandan authorities that the witness 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.

¹ Joseph Nzirorera's Motion for Transfer of Detained Witnesses, 19 January 2009 ("Motion").

² Confidential Annexes to Joseph Nzirorera's Motion for Transfer of Detained Witnesses, 19 January 2009; *see* Annex A.

³ Annex B.

⁴ Letter to Rwandan Minister of Justice (Confidential), filed 2 April 2009.

FOR THESE REASONS, the CHAMBER

I. GRANTS Joseph Nzirorera's Motion as follows:


II. REQUESTS, pursuant to Rule 90 *bis*, the Registrar to make the necessary arrangements for the temporary transfer of the detained witness to the UNDF facility in Arusha, no later than 5 June 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. REQUESTS the Registrar to ensure that the return travel of the witnesses is facilitated as soon as practically possible after their testimony has ended;


IV. 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;

V. 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 witnesses in Arusha.

Arusha, 9 April 2009, done in English.


Dennis C. M. Byron
Presiding Judge


Gberdao Gustave Kam
Judge


Vagn Joensen
Judge

[Seal of the Tribunal]

