



UNITED NATIONS
NATIONS UNIES

ICTR-98-44-T
28-09-2009
(47938-47936)

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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: 28 September 2009

THE PROSECUTOR

v.

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

JUDICIAL RECORDS SECTION
2009 SEP 28 1 P 3:43

ORDER FOR THE TRANSFER OF DEFENCE WITNESSES FROM BENIN

Rules 54 and 90bis of the Rules of Procedure and Evidence

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INTRODUCTION

1. Joseph Nzirorera requests an order requesting the cooperation of the Republic of Benin to cooperate with the Tribunal and for the transfer of Defence Witness Juvénal Kajelijeli from Benin so that he may testify.¹ Nzirorera states that Kajelijeli is needed to testify during the week of 25 October 2009.

DELIBERATIONS

2. Rule 90 *bis* (B) sets two conditions for such an order: first, that “the detained witness is not required for any criminal proceedings in the territory of the requested State during the period the witness is required by the Tribunal”; and second, that the “[t]ransfer ... does not extend the period of his detention as foreseen by the requested State”. Furthermore, Article 4(2) of the agreement between the United Nations and the Government of the Republic of Benin specifically provides for the temporary transfer of a convicted person, if the Tribunal orders that the convicted person appear as a witness in a trial before the Tribunal.²

3. The Chamber has received no information with respect to either criteria. However, in order to minimize any delay in the proceedings, the Chamber requests the Registry to confer with the relevant authorities of the Republic of Benin and ascertain whether the requirements of Rule 90 *bis* (B) are met. In particular, the Registry is requested to ascertain whether Juvénal Kajelijeli is required for any criminal proceedings in Benin from 19 October to 15 November 2009 and whether the transfer of Kajelijeli, who is serving a sentence of 45 years of imprisonment,³ will extend his period of detention.

4. Should the Benin authorities confirm that the Rule 90 *bis* (B) are met, the Chamber finds that a transfer order is warranted.

FOR THE ABOVE REASONS, THE CHAMBER

I. **REQUESTS** the Registrar to confer with the relevant authorities of the Republic of Benin and confirm that Juvénal Kajelijeli is not required in any trial or judicial proceedings in Benin from 19 October to 15 November 2009 and that his transfer to Arusha will not prolong his detention in Benin;

¹ Joseph Nzirorera’s Motion for Order to Transfer Witness from Benin, 25 September 2009 (“Motion”)

² Agreement Between the Republic of the Government of Benin and the United Nations on the Enforcement of Sentences of the International Criminal Tribunal for Rwanda, 26 August 1999, <<http://www.ictt.org/ENGLISH/agreements/benin.pdf>>.

³ *Juvénal Kajelijeli v. The Prosecutor*, Case No. ICTR-98-44A-A, Judgement, 23 May 2005, p. 119.

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II. ORDERS, conditional upon the agreement of the Government of Benin and confirmation that the requirements of Rule 90 *bis* (B) are met; that Juvénal Kajelijeli shall be temporarily transferred to the Detention Unit of the Tribunal in Arusha pursuant to Rule 90 *bis* by 19 October 2009;

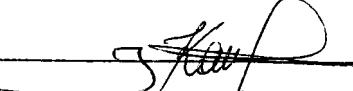
III. REQUESTS the Government of Benin to facilitate the transfer in cooperation with the Registrar and the Tanzanian Government;


IV. INSTRUCTS the Registrar to:

- A) transmit this decision to the Governments of Benin and Tanzania;
- B) ensure the proper conduct of the transfer, including the supervision of the witness in the Tribunal's detention facilities; and,
- C) remain abreast of any changes which might occur regarding the conditions of detention provided for by the requested State and which may possibly affect the timing of the temporary detention, and as soon as possible, inform the Trial Chamber of any such change; and,
- D) ensure that the return travel of the witnesses is facilitated as soon as practically possible after their testimony has ended.

Arusha, 28 September 2009, done in English.


Dennis C.M. Byron
Presiding Judge


Gberdao Gustave Kam
Judge


Vagn Joensen
Judge

