



UNITED NATIONS
NATIONS UNIES

ICTR-98-44-T
12-01-2010
(49273-49271)

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HM

**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: 12 January 2010

JUDICIAL RECORDS ARCHIVES
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THE PROSECUTION

v.

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

ORDER FOR THE TRANSFER OF DETAINED WITNESSES

Rule 90bis of the Rules of Procedure and Evidence

Office of the Prosecution:
Don Webster
Saidou N'Dow
Sunkarie Ballah-Conteh
Eric Husketh
Takeh Sendze

Defence Counsel for Édouard Karemera
Dior Diagne Mbaye and Félix Sow

Defence Counsel for Matthieu Ngirumpatse
Chantal Hounkpatin and Frédéric Weyl

Defence Counsel for Joseph Nzirorera
Peter Robinson and Patrick Nimy Mayidika Ngimbi

[Signature]

INTRODUCTION

1. On 1 December 2009, Joseph Nzirorera filed a motion, pursuant to Rule 90 *bis* of the Rules of Procedure and Evidence (“Rules”), requesting the Chamber to order the temporary transfer of three detained witness who are scheduled to testify during the upcoming trial session.¹ The witnesses, Witnesses 19, 29 and 57 are listed as numbers 1 to 3 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 subsequently filed a second annex to his motion which is 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 18 January 2010 through 18 March 2010.³ Conditions for an order pursuant to Rule 90 *bis* are, therefore, satisfied.

FOR THESE REASONS, the CHAMBER

- I. **GRANTS** Joseph Nzirorera’s Motion;
- II. **ORDERS**, pursuant to Rule 90 *bis* of the Rules, that Joseph Nzirorera Defence Witnesses 19, 29 and 57 listed as number 1 to 3 in his Annex be transferred to the UNDF in Arusha as soon as practicable to testify during the upcoming trial session;


¹ Joseph Nzirorera’s Second Motion for Transfer of Detained Witnesses from Rwanda, 1 December 2009 (“Motion”).

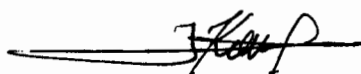
² Confidential Annex to Joseph Nzirorera’s Second Motion for Transfer of Detained Witnesses from Rwanda, 1 December 2009.


³ Second Confidential Annex to Joseph Nzirorera’s Second Motion for Transfer of Detained Witnesses from Rwanda, filed on 23 December 2009..

- 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; and
- 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, 12 January 2010, done in English.


Dennis C. M. Byron
Presiding Judge


Gberdao Gustave Kam
Judge


Vagn Joensen
Judge

