



UNITED NATIONS
NATIONS UNIES

ICTR-98-44-T
1-2-2010
(49696 - 49694)
49696
2 May

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: 1 February 2010

THE PROSECUTOR

v.

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

JUDICIAL NOTICE RECEIVED

1 2010 FEB -1 P 11: 16

Signature

ORDER FOR THE TRANSFER OF DETAINED WITNESS FROM RWANDA

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

Office of the Prosecution:
Don Webster
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Defence Counsel for Édouard Karemera
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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 26 January 2010, 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 from Rwanda of Witness 13a in order to testify in Nzirorera's Defence case during the current trial session.¹ 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) [The t]ransfer of the witness does not extend the period of his detention as foreseen by the requested State.

3. The Chamber notes that the Ministry of Justice of the Republic of Rwanda has confirmed, in a letter dated 29 January 2010,² that the witness is available to be transferred pursuant to the conditions outlined in Rule 90 *bis* (B). Consequently, the conditions for the Chamber to issue an order pursuant to Rule 90 *bis* are met.

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 Witness 13a be transferred to the UNDF in Arusha as soon as practicable to testify during the current trial session;
- III. **REQUESTS** the Registrar to ensure that the return travel of the witness is facilitated as soon as practically possible after his testimony has ended;


¹ Joseph Nzirorera's Third Motion for Transfer of Detained Witnesses from Rwanda, 26 January 2010 ("Motion") and confidential annex attached thereto.

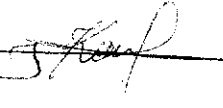
² Second Confidential Annex to Joseph Nzirorera's Third Motion for Transfer of Detained Witnesses from Rwanda, filed on 1 February 2010

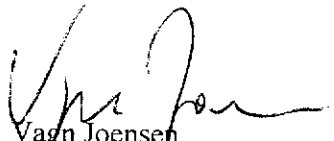
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- IV. **REQUESTS** the Governments of the Republic of Rwanda and the United-Republic of Tanzania to cooperate with the Registrar in the implementation of this Order; and
- V. **REQUESTS** the Registrar to cooperate with the authorities of the Governments of Rwanda and the United-Republic of Tanzania to ensure the proper conduct of the transfer and detention of the witness 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, 1 February 2010, done in English.


Dennis C. M. Byron
Presiding Judge


Gberdao Gustave Kam
Judge


Vagn Joensen
Judge

[Seal of the Tribunal]

