



UNITED NATIONS
NATIONS UNIES

ICTR-98-44-T
6-4-2010
(50737-50735)

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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: 06 April 2010

THE PROSECUTION

v.

Édouard KAREMERA
Matthieu NGIRUMPATSE
Joseph NZIRORERA

Case No. ICTR-98-44-T

JUDICIAL RECORDS/ARCHIVES
RECEIVED

2010 APR - 6
11: 48

ORDER FOR THE TRANSFER OF DETAINED WITNESSES FROM RWANDA

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

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INTRODUCTION

1. On 22 March 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 of three detained witnesses who are scheduled to testify during the upcoming trial session.¹ The witnesses, Witnesses 29, 92 *bis* 3 and 92 *bis* 19 are listed 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 received from the Witnesses and Victims Support Section on 23 March 2010 copy of a letter from the Ministry of Justice of Rwanda confirming the availability of the three witnesses.³ Conditions for an order pursuant to Rule 90 *bis* are, therefore, satisfied.

4. In view of the Chamber's oral order on 4 March 2010, the Chamber reminds Joseph Nzirorera's Defence that detained witnesses transferred to Arusha pursuant to Rule 90 *bis* shall testify as soon as possible after they arrive once the session has started.

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, 92 *bis* 3 and 92 *bis* 19 listed in the Confidential Annex to Nzirorera's

¹ Joseph Nzirorera's Fourth Motion for Transfer of Detained Witnesses from Rwanda, filed on 22 March 2010.

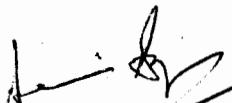
² Confidential Annex to Joseph Nzirorera's Fourth Motion for Transfer of Detained Witnesses from Rwanda, 22 March 2010.

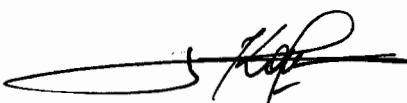
³ Letter dated 23 March 2010, Disponibilité des détenus pour témoigner devant le TPIR.

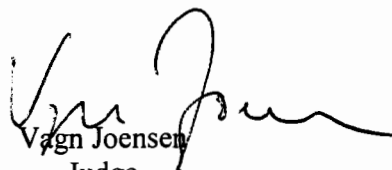
Motion be transferred to the UNDF in Arusha as soon as practicable to testify during the upcoming trial session which starts on 12 April 2010;

- 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; and
- VI. **REMINDS** Joseph Nzirorera of its Order of 4 March 2010.

Arusha, 06 April 2010, done in English.


Dennis C. M. Byron
Presiding Judge


Gberdao Gustave Kam
Judge


Vagn Joensen
Judge

[Seal of the Tribunal]

