



UNITED NATIONS
NATIONS UNIES

ICTR-98-44-T
15-4-2010
(50870-50868)

50870
Jury

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: 15 April 2010

JUDICIAL
2010 APR 15 7:15 US
[Signature]

THE PROSECUTOR

v.

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

ORDER FOR THE TRANSFER OF A DEFENCE WITNESS FROM BENIN

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

Office of the Prosecution:
Don Webster
Saidou N'Dow
Sunkarie Ballah-Conteh
Takeh Sendze
Jean-Baptiste Nsanzimfura

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. Joseph Nzirorera has requested the Trial Chamber to issue an order, pursuant to Rule 90 *bis*, directing the authorities of the government of Benin to cooperate with the Tribunal and bring Defence Witness Juvénal Rugambarara from Benin, where he is detained, to Arusha so that he can give testimony on his behalf.¹ The Prosecution did not respond to the Motion.

DELIBERATIONS

2. Rule 90 *bis* (B) sets forth two conditions for an order for the transfer of detained witnesses: (1) the detained witness must not be required for any criminal proceedings in the territory of the requested State during the period the witness is required by the Tribunal; and (2) the transfer must 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 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. Although the Chamber has received no information from Joseph Nzirorera with respect to either criteria, it notes that the witness is a person who has been convicted by this Tribunal and who is serving his sentence according to an agreement between the Tribunal and the Republic of Benin. Consequently, 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 Rugambarara is required for any criminal proceedings in Benin from 21 May to 11 June 2010 and whether his transfer will extend his period of detention.

4. Subject to the Beninese authorities confirming that the requirements of 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 Rugambarara is not required in any trial or judicial proceedings in Benin from 21 May to 11 June 2010 and that his transfer to Arusha will not prolong his detention in Benin;

¹ Joseph Nzirorera's Fourth Motion for Order to Transfer Witnesses from Benin, filed on 9 April 2010.

² Agreement Between the Government of the Republic of Benin and the United Nations on the Enforcement of Sentences of the International Criminal Tribunal for Rwanda, 26 August 1999.

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 Rugambarara shall be temporarily transferred to the Detention Unit of the Tribunal in Arusha pursuant to Rule 90 *bis* as soon as practicable for the upcoming session starting 12 April 2010;


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


IV. INSTRUCTS the Registrar to:

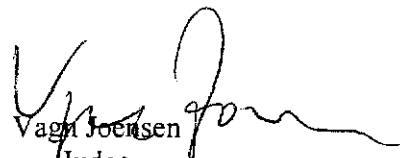
- A) transmit this decision to the Governments of Benin and Tanzania;
- B) ensure the proper conduct of the transfer, including the supervision of the witness in the Tribunal's detention facilities;
- C) remain abreast of any changes which might occur regarding the conditions of detention provided for 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 witness is facilitated as soon as practically possible after his testimony has ended.

V. REMINDS Joseph Nzirorera of its Order of 4 March 2010.

Arusha, 15 April 2010, done in English.


Dennis C. M. Byron
Presiding Judge


Gberdao Gustave Kam
Judge


Vagn Joensen
Judge

[Seal of the Tribunal]

