

ICTR-00-55C-PT
31-12-2010
(5469-5467)



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

5469
RQ

OR: ENG

TRIAL CHAMBER III

Before Judges: Lee Gacuga Muthoga, *Presiding*
Seon Ki Park
Robert Fremr

Registrar: Adama Dieng

Date: 31 December 2010

JUDICIAL RECORDS ARCHIVES
2010 DEC 31 11:23
DIRECTOR

THE PROSECUTOR

v.

Ildephonse NIZEYIMANA

CASE NO. ICTR-2000-55C-PT

**ORDER FOR TRANSFER OF DETAINED WITNESSES AZM, BYE, QCY, YAL,
YAM AND ZBH**

Rule 90 bis of the Rules of Procedure and Evidence

Office of the Prosecution:
Drew White
Kirsten Gray
Yasmine Chubin
Zahida Virani
Astou Mbow

Defence Counsel for Ildephonse Nizeyimana:
John Philpot
Cainnech Lussiaa-Berdou
Myriam Bouazdi

Sparke

INTRODUCTION

1. The trial in this case is scheduled to commence on 17 January 2011.¹
2. On 1 December 2010, the Prosecution filed a motion pursuant to Rule 90 *bis* of Procedure and Evidence (“the Rules”), requesting the transfer of detained witnesses AZM, BYE, QCY, YAL, YAM and ZBH to the United Nations Detention Facility in Arusha, Tanzania, until such a time as the Chamber is satisfied that their presence is no longer required.²
3. On 17 December 2010, the Prosecution filed supporting documentation from the *Procureur General* and the Minister of Justice of the Republic of Rwanda.³

DELIBERATIONS

4. Rule 90 *bis* (A) of the Rules provides that, “[a]ny 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.”
5. According to Rule 90 *bis* (B) of the Rules, the Chamber shall issue a transfer order only after prior verification that the presence of the detained witness is not required for criminal proceedings in the requested State during the period he or she is required by the Tribunal and that transfer of the witness will not extend the period of his or her detention as foreseen by the requested State.
6. The Prosecution bears the burden of showing that the conditions set out in Rule 90 *bis* (B) of the Rules have been met. The Prosecution in this case has provide letters from the *Procureur General* and the Minister of Justice of the Republic of Rwanda confirming that witnesses AZM, BYE, QCY, YAL, YAM and ZBH are not required for criminal proceedings in Rwanda and that their transfer to Arusha will not extend the periods of their detention.⁴ The Chamber is therefore satisfied that the Prosecution has discharged its burden under Rule 90 *bis* (B) of the Rules.

¹ Scheduling Order (TC), 3 November 2010, Order II.

² Prosecutor’s Motion for the Transfer of Detained Witnesses Pursuant to Rule 90bis, filed on 1 December 2010 (“the Motion”).

³ Confidential Annex A of the Prosecutor’s Rule 90 *bis* Motion, filed on 17 December 2010.

⁴ Confidential Annex A of the Prosecutor’s Rule 90 *bis* Motion, filed on 17 December 2010.

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FOR THESE REASONS, the Chamber

GRANTS the Prosecution Motion;

ORDERS the Registry, pursuant to Rule 90 *bis* of the Rules, to temporarily transfer Prosecution Witnesses AZM, BYE, QCY, YAL, YAM and ZBH to the Tribunal's Detention Facilities in Arusha, at an appropriate time prior to their anticipated testimony during the trial session. Return travel shall be facilitated as soon as practicable after their testimony has ended. Their detention in Arusha shall not extend beyond 11 March 2011 without prior approval from the Trial Chamber;

INSTRUCTS the Registry to:

- transmit this Order to the Government of Rwanda and the Government of Tanzania;
- ensure the proper conduct of the transfer, including the supervision of the witnesses in the Detention Unit of the Tribunal;
- remain abreast of any changes which may occur regarding the witnesses' conditions of detention in the requested State, which may possibly affect the length of the temporary detention, and promptly inform the Trial Chamber of any such change;

REQUESTS the Government of Rwanda and the Government of Tanzania to cooperate with the Registry in the implementation of this order.

Arusha, 31 December 2010, done in English.

[read and approved by]



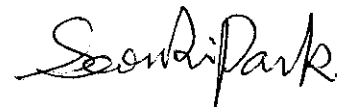
George Gacuiga Muthoga
Presiding Judge

[absent at the time
of signature]



[Seal of the Tribunal]

[read and approved by]



Robert Fremr
Judge

[absent at the time
of signature]