



UNITED NATIONS  
NATIONS UNIES

**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:** 16 June 2008

**THE PROSECUTOR**

v.

**Callixte KALIMANZIRA**

*Case No. ICTR-05-88-T*

**DECISION ON THE PROSECUTION MOTION FOR THE EXTENSION OF THE  
TRIAL CHAMBER'S "DECISION ON TRANSFER OF DETAINED WITNESSES"  
OF 4 APRIL 2008**

*Rule 90 bis of the Rules of Procedure and Evidence*

**Office of the Prosecutor**

Christine Graham  
Veronic Wright  
Ousman Jammeh  
Stephen Agaba  
Kartik Murukutla

**Defence Counsel**

Arthur Vercken  
Anta Guisse

1. On 12 June 2008, the Prosecution filed a motion to extend the transfer of 11 Prosecution Witnesses.<sup>1</sup> Witnesses AZM, AZT, BBB, BCA, BCI, BCK, BDI, BDL, BXC, BXL, and FAC are currently detained at the United Nations Detention Facility ("UNDF"), pursuant to a transfer order which expires on 13 June 2008 ("Order").<sup>2</sup> The Prosecution requests that the Order be extended until 18 July 2008 in respect of these 11 witnesses.

2. The Chamber notes that the Order, which was issued before the commencement of the trial, set the 13 June 2008 deadline because that was the approximate date expected at the time for the close of the Prosecution case.<sup>3</sup> Since the issuance of the Order, new circumstances arose which made it necessary to change the composition of the bench and affected the commencement of the trial.<sup>4</sup> The Prosecution case is now expected to spill over into the month of July 2008.<sup>5</sup>

3. Rule 90 *bis* (B) of the Rules of Procedure and Evidence ("Rules") provides that a Trial Chamber may issue a transfer order only after prior verification that the following conditions are met:

- 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.

4. On 9 June 2008, the Rwandan Minister of Justice confirmed that the witnesses were available to testify until 1 August 2008, and that the period of their detention would not be extended as a result.<sup>6</sup> The Chamber is satisfied that such confirmation is sufficient to fulfill the requirements of Rule 90 *bis* (B).

5. In view of the urgency of the matter, taking into consideration the rights of the Accused, and in accordance with the practice of the Tribunal, the Chamber considers it unnecessary for the Defence for Kalimanzira to provide a response to the present motion.

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<sup>1</sup> Prosecution Motion for the Extension of the Trial Chamber's "Decision on Transfer of Detained Witnesses" of 4 April 2008, filed on 12 June 2008.

<sup>2</sup> *The Prosecutor v. Callixte Kalimanzira*, Case No. ICTR-05-88-I ("Kalimanzira"), Decision on Transfer of Detained Witnesses (TC), 4 April 2008.

<sup>3</sup> See *ibidem*, para. 3.

<sup>4</sup> *Kalimanzira*, Order Reassigning the Case (Office of the President), 29 April 2008.

<sup>5</sup> See T. 22 May 2008, p. 52.

<sup>6</sup> See Annex to Prosecution Motion for the Extension of the Trial Chamber's "Decision on Transfer of Detained Witnesses" of 4 April 2008, filed confidential and *ex parte* on 12 June 2008.

**FOR THESE REASONS, THE CHAMBER**

**GRANTS** the Prosecution Motion;

**ORDERS** that detained Prosecution Witnesses AZM, AZT, BBB, BCA, BCI, BCK, BDI, BDL, BXC, BXL, and FAC transfer to the UNDF in Arusha be extended until 18 July 2008 at the latest; and

**REITERATES** the terms of the Order of 4 April 2008 in all other respects.

Arusha, 16 June 2008, done in English.

Dennis C. M. Byron

Presiding Judge

Gberdao Gustave Kam

Judge

[Seal of the Tribunal]

Vagn Joensen

Judge