



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 September 2009

THE PROSECUTOR

v.

**Édouard KAREMERA
Matthieu NGIRUMPATSE
Joseph NZIRORERA**

Case No. ICTR-98-44-T

ORDER FOR THE TRANSFER OF DETAINED WITNESSES

Rule 90bis of the Rules of Procedure and Evidence

Office of the Prosecution:

Don Webster
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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

INTRODUCTION

1. On 11 September 2009, 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 seven detained witnesses, listed in an attached Confidential Annex.¹

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. Joseph Nzirorera indicates that he has addressed a letter to the Rwandan Minister of Justice on 11 September 2009 requesting confirmation of the availability of the seven detained witnesses. Nzirorera undertakes to file the response of the Minister of Justice once it is received.²

4. In order to minimize any delay in the the trial, the Chamber considers that a transfer order for the seven detained witnesses listed in the Confidential Annex is warranted so that the Witnesses and Victims Support Section may start consulting with the relevant Rwandan authorities in order to ensure the presence of these witnesses. This, however, will be subject to confirmation by the Rwandan authorities that the witnesses are not required in any trial or judicial proceedings in Rwanda during the aforementioned period, and that their transfer to Arusha will not prolong their detention in Rwanda.

FOR THESE REASONS, THE CHAMBER

I. GRANTS Joseph Nzirorera's Motion as follows:

¹ Joseph Nzirorera's Motion for Transfer of Detained Witnesses, filed 11 September 2009 ("Motion"); Confidential Annex to Joseph Nzirorera's Motion for Transfer of Detained Witnesses, filed 11 September 2009 ("Confidential Annex").

² Motion, para. 2; Confidential Annex.

II. REQUESTS, pursuant to Rule 90 *bis*, the Registrar to make the necessary arrangements for the temporary transfer of the seven detained witness listed in the Confidential Annex to the Motion to the UNDF facility in Arusha, the first five witnesses no later than 12 October 2009, the last two witnesses no later than 11 January 2010, after having verified, in coordination with the Prosecutor and the relevant Rwandan authorities, that these witnesses are not required in any trial or judicial proceedings in Rwanda during the aforementioned period, and that their transfer to Arusha will not prolong their detention in Rwanda;

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; 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 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.

Arusha, 16 September 2009, done in English.

Dennis C. M. Byron
Presiding Judge

Gberdao Gustave Kam
Judge

Vagn Joensen
Judge

[Seal of the Tribunal]