



UNITED NATIONS
NATIONS UNIES

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

ICTR-99-50-T
19-03-2008
(26002 - 25-999)

26002
12

OR: ENG

TRIAL CHAMBER II

Before Judges: Khalida Rachid Khan, presiding
Lee Gacuiga Muthoga
Emile Francis Short

Registrar: Mr. Adama Dieng

Date: 19 March 2008

THE PROSECUTOR
v.
CASIMIR BIZIMUNGU
JUSTIN MUGENZI
JÉRÔME-CLÉMENT BICAMUMPAKA
PROSPER MUGIRANEZA

Case No. ICTR-99-50-T

2008 MAR 19 12 46
JUDICIAL RECORDS/ARCHIVES
RECEIVED
UNICTR
19/03/08

ORDER FOR TRANSFER OF DETAINED WITNESSES FROM RWANDA

Rule 90 bis of the Rules of Procedure and Evidence

Office of the Prosecutor:

Mr. Paul Ng'arua
Mr. Ibukunolu Babajide
Mr. Justus Bwonwonga
Mr. Elvis Bazawule
Mr. Shyamlal Rajapaksa
Mr. Olivier De Schutter

Counsel for the Defence:

Ms. Michelyne C. St. Laurent for **Casimir Bizimungu**
Mr. Ben Gumpert and Mr. Jonathan Kirk for **Justin Mugenzi**
Mr. Michel Croteau and Mr. Philippe Larochelle for **Jérôme-Clément Bicomumpaka**
Mr. Tom Moran and Ms. Cynthia Cline for **Prosper Mugiraneza**

26001

INTRODUCTION

1. The Defence for Mr. Mugiraneza requests an order for the temporary transfer of four witnesses—RDF, RDZ, RDK and RWB—to the Detention Facility of the Tribunal in Arusha (“UNDF”) for the purpose of testifying before the Chamber.¹ The four witnesses are detained in Rwanda. The Defence wishes to call the four witnesses during the trial session scheduled to commence on 14 April 2008.

DISCUSSION

2. Pursuant to Rule 90 *bis* of the Rules of Procedure and Evidence (the “Rules”), an order to transfer detained witnesses to the UNDF for the purpose of hearing their testimonies may be allowed if: (i) “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”; and (ii) the “transfer ... does not extend the period of his detention as foreseen by the requested State.”

3. The Defence submits that both conditions for transfer are met. Attached to the Motion is a letter dated 3 March 2008 from the Minister of Justice of Rwanda indicating that the four witnesses are not needed for any criminal proceedings during the dates requested by the Defence and that transfer would not extend the period of detention for any of the witnesses.² Both conditions for an order pursuant to Rule 90 *bis* are, therefore, satisfied.³

FOR THESE REASONS, the Chamber

GRANTS the Motion;

ORDERS, pursuant to Rule 90 *bis* of the Rules, that Defence Witnesses RDF, RDZ, RDK, and RWB be transferred to the UNDF in Arusha no later than 7 April 2008, until as soon as practically possible after each individual’s testimony has ended;

REQUESTS the Government of the Republic of Rwanda, in accordance with this Order, to cooperate with the Defence and the Registrar and, in conjunction with the Government of the United Republic of Tanzania, the Registrar and the WVSS, to take the necessary measures to implement the present decision;

INSTRUCTS the Registrar to:

A) transmit this decision to the Government of the Republic of Rwanda and the Government of the United Republic of Tanzania;

¹ Prosper Mugiraneza’s Motion Pursuant to Rule 90 *bis* for Transfer of Detained Persons to Testify in the Instant Case (*confidential*), filed 11 March 2008 (“Motion”).

² Through informal consultation with the Witnesses and Victims Support Section, the Chamber has been informed that the dates for which the witnesses are available are from 18 February 2008 until 30 April 2008.

³ Order for the Transfer of a Detained Witness from Rwanda (Rule 90 *bis*), 13 April 2007, para. 16.

19 March 2008



25999

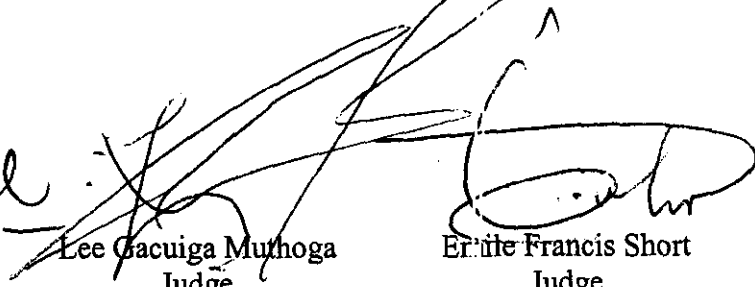
B) ensure the proper conduct of the transfer, including the supervision of the witnesses in the Tribunal's detention facilities;

C) remain abreast of any changes which might occur regarding the conditions of detention provided for by the requested State which may affect the timing of the temporary detention, and as soon as possible, inform the Trial Chamber of any such change.

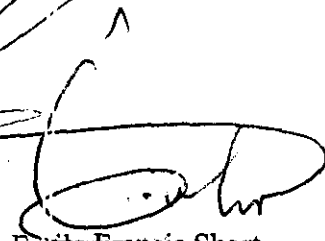
Arusha, 19 March 2008



Khadija Rachid Khan
Presiding Judge



Lee Gacuiya Muthoga
Judge



Ernie Francis Short
Judge





TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

COURT MANAGEMENT SECTION
(Art. 27 of the Directive for the Registry)

I - GENERAL INFORMATION (To be completed by the Chambers / Filing Party)

To:	<input type="checkbox"/> Trial Chamber I N. M. Diallo	<input checked="" type="checkbox"/> Trial Chamber II R. N. Kouambo	<input type="checkbox"/> Trial Chamber III C. K. Hometowu	<input type="checkbox"/> Appeals Chamber / Arusha F. A. Talon
	<input type="checkbox"/> Chief, CMS J.-P. Fomété	<input type="checkbox"/> Deputy Chief, CMS M. Diop	<input type="checkbox"/> Chief, JPU, CMS K. K. A. Afande	<input type="checkbox"/> Appeals Chamber / The Hague R. Burriss
From:	<input checked="" type="checkbox"/> Chamber II David Kinnecome (names)	<input type="checkbox"/> Defence (names)	<input type="checkbox"/> Prosecutor's Office (names)	<input type="checkbox"/> Other: (names)
Case Name:	The Prosecutor vs. Casimir Bizimungu et al.		Case Number: ICTR-99-50-T	
Dates:	Transmitted: 19 March 2008		Document's date: 19 March 2008	
No. of Pages:	3	Original Language:	<input checked="" type="checkbox"/> English	<input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
Title of Document:	ORDER FOR TRANSFER OF DETAINED WITNESSES FROM RWANDA			
Classification Level:	TRIM Document Type:			
<input type="checkbox"/> Strictly Confidential / Under Seal	<input type="checkbox"/> Indictment	<input type="checkbox"/> Warrant	<input type="checkbox"/> Correspondence	<input type="checkbox"/> Submission from non-parties
<input type="checkbox"/> Confidential	<input checked="" type="checkbox"/> Decision	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Notice of Appeal	<input type="checkbox"/> Submission from parties
<input checked="" type="checkbox"/> Public	<input type="checkbox"/> Disclosure	<input type="checkbox"/> Order	<input type="checkbox"/> Appeal Book	<input type="checkbox"/> Proposed particulars
	<input type="checkbox"/> Judgement	<input type="checkbox"/> Motion	<input type="checkbox"/> Book of Authorities	

II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party)

CMS SHALL take necessary action regarding translation.

Filing Party hereby submits only the original, and **will not submit** any translated version.

Reference material is provided in annex to facilitate translation.

Target Language(s):

English French Kinyarwanda

CMS SHALL NOT take any action regarding translation.

Filing Party hereby submits **BOTH the original and the translated version** for filing, as follows:

Original	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda
Translation	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda

CMS SHALL NOT take any action regarding translation.

Filing Party **will be submitting the translated version(s)** in due course in the following language(s):

English French Kinyarwanda

KINDLY FILL IN THE BOXES BELOW

<p><input type="checkbox"/> The OTP is over-seeing translation.</p> <p>The document is submitted for translation to:</p> <p><input type="checkbox"/> The Language Services Section of the ICTR / Arusha.</p> <p><input type="checkbox"/> The Language Services Section of the ICTR / The Hague.</p> <p><input type="checkbox"/> An accredited service for translation; see details below:</p> <p>Name of contact person: Name of service: Address: E-mail / Tel. / Fax:</p>	<p><input type="checkbox"/> DEFENCE is over-seeing translation.</p> <p>The document is submitted to an accredited service for translation (fees will be submitted to DCDMS):</p> <p>Name of contact person: Name of service: Address: E-mail / Tel. / Fax:</p>
--	---

III - TRANSLATION PRIORITISATION (For Official use ONLY)

<input type="checkbox"/> Top priority	COMMENTS	<input type="checkbox"/> Required date:
<input type="checkbox"/> Urgent		<input type="checkbox"/> Hearing date:
<input type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines: