

UNITED NATIONS
NATIONS UNIES

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER II

Before: Judge Asoka de Silva, Presiding
Judge Taghrid Hikmet
Judge Seon Ki Park

Registrar: Mr Adama Dieng

Date: 14 February 2007

ICTR-01-70-PT
14-02-2007
(2746-2744)

THE PROSECUTOR

v.

Emmanuel RUKUNDO

Case No. ICTR-2001-70-PT

2007 FEB 14 11 A 9:21
JUDICIAL RECORDS ARCHIVES
RECEIVED

**DECISION ON THE PROSECUTOR'S EXTREMELY URGENT MOTION TO
EXTEND THE PERIOD OF TEMPORARY TRANSFER OF DETAINED WITNESS
AMA PURSUANT TO RULE 90bis (F) AND 73 (A) OF THE RULES OF
PROCEDURE AND EVIDENCE**

Office of the Prosecutor:

Mr William T. Egbe
Mr Sulaiman Khan
Mrs Veronic Wright
Mr Patrick Gabaake
Mr Disengi Mugeyo
Ms Amina Ibrahim

Counsel for the Defence:

Ms Aïcha Condé
Ms Annie Olivier

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INTRODUCTION

1. On 3 November 2006, the Chamber ordered the transfer of detained Witness AMA from Rwanda to the Tribunal's Detention Facilities in Arusha stating that his detention should not go beyond 15 December 2006. On 15 November 2006 the case against the Accused started; on 8 December 2006 it was adjourned until 12 February 2007 for Prosecution to present the remainder of its case. Up to the time the case was adjourned last session, the Prosecution had not called Witness AMA to the witness stand. On 8 February 2007, the Prosecutor filed the present Motion requesting the Chamber to extend the period of temporary transfer for Witness AMA pursuant to Rule 90bis (F) of the Rules of Procedure and Evidence ('the Rules'), and avers that the witness will be required to be in Arusha from 16 to 26 February 2007.

DELIBERATIONS

2. The Chamber observes that the Prosecution has not indicated whether or not the previous transfer Order concerning Prosecution Witness AMA was implemented in November/December of last year. In any case, the Chamber notes that the time period within which its prior Order had to be executed elapsed on 15 December 2006. The Chamber therefore treats the current Motion as a request for a new transfer order.

3. The Chamber recalls that Sub-Rule 90bis (B) requires that a transfer order for a detained witness shall be issued only after prior verification that: (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 and (ii) that the transfer of the witness does not extend the period of his detention as foreseen by the requested State.

4. The Chamber notes the Prosecutor's letter of 6 February 2007 to the Rwandan Minister of Justice seeking confirmation that the conditions for the transfer of detained Witness AMA under the Rules are met. The Chamber notes, however, that it has to date not been served with any response from the Rwandan Minister of Justice to the Prosecution request.

5. However, the Chamber notes the Prosecution's representation that it has received assurances from the Rwandan authorities that they will consent to witness AMA's transfer to Arusha and that such transfer will not extend the period of his detention in Rwanda.

FOR THE ABOVE REASONS, THE CHAMBER

ORDERS that Witness AMA shall, at any time after the date of this Order, and upon confirmation from the Rwandan Minister of Justice that the presence of the detained witness is not required for any criminal proceedings in progress in Rwanda during the period the witness is required by the Tribunal, be transferred temporarily to the Tribunal's Detention Facilities in Arusha. His detention in Arusha shall not go beyond 15 March 2007;

ORDERS the Prosecution to communicate the said confirmation by the Rwandan Minister of Justice to the 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 witness in the Detention Unit of the Tribunal;



- remain abreast of any changes which may occur regarding witness AMA's 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;

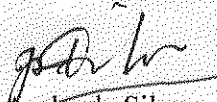
REQUESTS the Government of Rwanda and the Government of Tanzania to cooperate with the Registry in the implementation of this Order;

INSTRUCTS the Prosecution again to provide the Chamber with all necessary supporting documents at the time of filing of a Motion pursuant to Rule 90*bis*;

INSTRUCTS the Prosecution, in view of the protective measures granted to Prosecution witnesses in the present case, to file identifying material confidentially;

ORDERS the Registry to remove Annex A to the Motion from the public record and re-file it confidentially.

Arusha, 14 February 2007


Asoka de Silva
Presiding Judge


Taghrir Hikmet
Judge


Seon Ki Park
Judge

[Seal of the Tribunal]





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. Burriess
From:	<input checked="" type="checkbox"/> Chamber Bruno Zehnder (names)	<input type="checkbox"/> Defence (names)	<input type="checkbox"/> Prosecutor's Office (names)	<input type="checkbox"/> Other: (names)
Case Name:	The Prosecutor vs. E. Rukundo			Case Number: ICTR-2001-70-PT
Dates:	Transmitted: 14 February 2007		Document's date: 14 February 2007	
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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
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<input checked="" type="checkbox"/> Public	<input type="checkbox"/> Disclosure	<input checked="" type="checkbox"/> Order	<input type="checkbox"/> Appeal Book	<input type="checkbox"/> Accused particulars
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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:

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

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<input type="checkbox"/> Urgent		<input type="checkbox"/> Hearing date:
<input type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines: