

ICTR -97-28-DP  
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UNITED NATIONS



NATIONS UNIES

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda

OR : FR

Before : Judge Laity Kama

Decision of : 30 June 1998

**THE PROSECUTOR**

**VERSUS**

**MATHIEU NGIRUMPATSE**

**Case No : ICTR - 97 - 28 -DP**

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**ORDER FOR TRANSFER AND PROVISIONAL DETENTION  
(UNDER RULE 40 BIS OF THE RULES )**

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Office of the Prosecutor : Mr. Matar Diop

Registry : Ms Prisca M. Nyambe

L1259

International Criminal Tribunal for Rwanda Tribunal pénal international pour le Rwanda	
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME COPIE CERTIFIÉE CONFORME À L'ORIGINAL PAR MOI	
NAME / NOM: PRISCA M. NYAMBE	
SIGNATURE: <i>Prisca M. Nyambe</i>	DATE: 15.7.98

**THE TRIBUNAL,**

SITTING in the person of Judge Laity Kama ;

HAVING RECEIVED on 16 June 1998, from the Prosecutor, a request in accordance with Rule 40 *bis* of the Rules of Procedure and Evidence of the Tribunal ("the Rules"), for the transfer and provisional detention of the suspect Mathieu Ngirumpatse, born in 1954 in Tare, Kigali Ngari Prefecture, Rwanda, who was carrying out the functions of President of the *Mouvement republicain national pour la democratie et le developpement* (MRND) (National Republican Movement for Democracy and Development) a political party in Rwanda in 1994;

CONSIDERING the affidavit dated 15 June 1998, attached to the said request from the Prosecutor and signed by Maxwell Nkole, Commander of Investigations at the Office of the Prosecutor ;

HAVING HEARD the Prosecutor during a hearing held to that end on 29 June 1998 ;

CONSIDERING the formal request dated 27 May 1998, addressed by the Prosecutor to the authorities of the Republic of Mali to arrest and hold in custody the suspect Mathieu Ngirumpatse, pursuant to Rule 40 of the Rules of Procedure and Evidence ;

CONSIDERING Resolution 955 of 8 November 1994 adopted by the United Nations Security Council, the Statute of the Tribunal annexed to the said Resolution, in particular, Article 28 of the said Statute and the pertinent provisions of the Rules, notably Rules 40 and 40 *bis*;

**AFTER HAVING DELIBERATED,**

WHEREAS Rule 40 *bis* of the Rules provides that :

"(...)

(B) The Judge shall order the transfer and provisional detention of the suspect if the following conditions are met :

- i) the Prosecutor has requested a State to arrest the suspect provisionally, in accordance with Rule 40, or the suspect is otherwise detained by a State;
- ii) after hearing the Prosecutor, the Judge considers that there is reliable and consistent body of material which tends to show that the suspect may have committed a crime over which the Tribunal has jurisdiction; and



- iii) the Judge considers provisional detention to be a necessary measure to prevent the escape of the suspect, injury to or intimidation of a victim or witness or the destruction of evidence, or to be otherwise necessary for the conduct of the investigation. (...)"

WHEREAS the Prosecutor formally requested the authorities of the Republic of Mali, on 27 May 1998, to arrest and hold in custody the suspect Mathieu Ngirumpatse, pursuant to Rule 40 of the Rules;

WHEREAS the authorities of the Republic of Mali granted the said request from the Prosecutor and arrested Mathieu Ngirumpatse on 5 June 1998 and that he has since then been held in custody;

WHEREAS the Prosecutor reports that she is currently investigating crimes allegedly committed by Mathieu Ngirumpatse in the territory of the Republic of Rwanda in 1994, crimes which fall within the jurisdiction of the Tribunal;

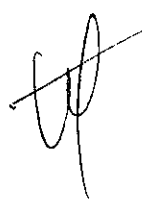
WHEREAS she points out that at the time of the events, from April to July 1994, Mathieu Ngirumpatse was present in Rwanda, and was carrying out the functions of President of the MRND;

WHEREAS, according to the Prosecutor, he conspired with others during 1993 and 1994, to commit crimes aimed at eliminating Tutsis and moderate Hutus and that, before and during the same period, he held meetings with *interahamwe* militia of the MRND in order to prepare massacres of the Tutsi civilian population of Rwanda;

WHEREAS Mathieu Ngirumpatse also participated in the recruitment and training of *interahamwe* and in the distribution of weapons to the said militiamen and that the Prosecutor submits that, in his capacity as President of the MRND party, he had definite authority over the *interahamwe* militiamen of his party, who engaged in massacres of Tutsi civilians of Rwanda, and that he knew or should have known that his subordinates were committing serious violations of international humanitarian law;

WHEREAS the Tribunal considers, on the basis of the request submitted by the Prosecutor, on the evidence brought to its attention in the affidavit attached to the request and the information disclosed during the hearing, that there exists a reliable and consistent body of material which tends to show that Mathieu Ngirumpatse may have committed the crimes of genocide, conspiracy to commit genocide, complicity in in genocide crimes against humanity and violations of Article 3 common to the Geneva Conventions, offences which fall within the jurisdiction of the Tribunal;

WHEREAS, furthermore, the Prosecutor explained to the Tribunal that the provisional detention of Mathieu Ngirumpatse is a necessary measure to prevent his escape and to prevent the said suspect from seeking to intimidate or to cause bodily harm to victims or witnesses or to destroy evidence,



in as much as, given in particular the post he occupied, he is in a position to do so;

WHEREAS the Tribunal is thereby convinced that the provisional detention of Mathieu Ndirumpatse, in this case and in all things considered, is necessary ;

**FOR ALL THESE REASONS**, the Tribunal considers that the request submitted by the Prosecutor for the transfer and provisional detention of Mathieu Ndirumpatse meets the conditions required under Rule 40 *bis* (B) of the Rules and that, consequently, the request should be granted;

**ON THESE GROUNDS**,

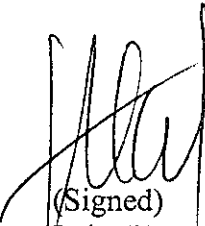
**THE TRIBUNAL**,

**GRANTS** the request submitted by the Prosecutor and consequently, orders that Mathieu Ndirumpatse be transferred as soon as possible to the Detention Facility of the Tribunal, and be kept in provisional detention for a maximum period of thirty days, with effect from the day after his transfer;

**INSTRUCTS** the Registrar to serve the present decision on the Government of the Republic of Mali and inform the Rwandan Government thereof;

**REQUESTS** the Government of the Republic of Mali to kindly comply with the present order of the Tribunal, pursuant to Resolution 955 of 8 November 1994 adopted by the United Nations Security Council and the Statute of the Tribunal annexed thereto.

Arusha, 30 June 1998

  
(Signed)  
Laity Kama  
Judge

(Seal of the Tribunal)

