



UNITED NATIONS
NATIONS UNIES

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

TRIAL CHAMBER III

Case No. ICTR-98-44-T

ENGLISH
Original: FRENCH

Before: Judge Dennis C. M. Byron, presiding
Judge Gerdao Gustave Kam
Judge Vagn Joensen

Registrar: Adama Dieng

Date: 13 August 2008

THE PROSECUTOR

v.

**ÉDOUARD KAREMERA
MATHIEU NGIRUMPATSE
JOSEPH NZIRORERA**

**DECISION ON MATHIEU NGIRUMPATSE'S MOTION FOR REVIEW OF THE
17 APRIL 2008 ORDER FOR PROTECTION OF HIS WITNESSES**

Rules 69, 75 and 73 *ter* of the Rules of Procedure and Evidence

Office of the Prosecutor:

Don Webster
Alayne Frankson-Wallace
Ian Morley
Gerda Visser
Saidou N'Dow
Sunkari Ballah-Conteh
Takeh Sendze
Deo Mbuto

Counsel for Édouard Karemera:

Dior Diagne Mbaye and Félix Sow

Counsel for Mathieu Ndirumpatse:

Chantal Hounkpatin and Frédéric Weyl

Counsel for Joseph Nzirorera:

Peter Robinson and Patrick Niny Mayidika Ngimbi

CH08-0141 (F)

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Translation certified by LSS, ICTR

INTRODUCTION

1. On 30 July 2008, Mathieu Ndirumpatse filed a motion for review¹ of the Order of 17 April 2008,² so that protective measures may be granted to his witnesses.
2. Mathieu Ndirumpatse prays the Chamber to reconsider its Decision of 25 June 2008 denying the requested protective measures whereby action would have been expressly enforced.

DELIBERATIONS

3. In that regard, Mathieu Ndirumpatse claims that, in his Brief of 14 July 2008,³ he had provided the Chamber with the same kind of information required for a case-by-case consideration as that filed by Édouard Karemera. Indeed, a column setting out the grounds for similar requests for protective measures was appended to the said Brief. Consequently, Mathieu Ndirumpatse was requesting the Chamber, under Rule 69 and 75 of the Rules of Procedure and Evidence ("the Rules"), to order a whole series of protective measures.
4. The Chamber recalls firstly that, under Rules 69 and 75 of the Rules, it had granted provisional protective measures, *proprio motu*, for Mathieu Ndirumpatse's witnesses, in the absence of information allowing for a case-by-case consideration of any real threat to the security of each witness and/or that of his/her family or an objective basis for the alleged fear. In that regard, the Chamber had asked Mathieu Ndirumpatse to disclose the said information within a reasonable time-limit.⁴
5. Further, by its Order of 30 July 2008, the Chamber had asked Mathieu Ndirumpatse to produce concrete and specific information on the current status of each witness, to enable the Judges to consider, on a case-by-case basis, the reality of the threat and any objective ground for the alleged fears solely in the case of witnesses that he actually intended to call.⁵ Moreover, by that same Order, the Chamber had maintained the protective measures currently applicable to Mathieu Ndirumpatse's witnesses, and set 13 August as the time-limit for the production of the required materials. The Chamber had also explained the specific nature of Édouard Karemera's

¹ *Requête de M. Ndirumpatse aux fins de rétractation de l'ordonnance du 17 avril 2008 ayant rejeté in globo sa requête du 7 avril 2008 tendant à voir ordonner des mesures de protection au bénéfice des témoins de la Défense, filed with the Registry on 30 July 2008.*

² *The Prosecutor v. Karemera et al., Case No. ICTR-98-44-T, Decision on Mathieu Ndirumpatse's Motion for Protection of his Witnesses, dated 17 April 2008.*

³ *Mémoire pour M. Ndirumpatse sur l'ordonnance du 25 juin 2008 lui prescrivant de préciser la liste de ses témoins, déposée ex parte et confidentielle le 15 juillet 2008.*

⁴ *Order on Mathieu Ndirumpatse's Brief Following the 17 April Decision on the Presentation of the Defence Evidence, dated 25 June 2008, para. 7.*

⁵ *Ordonnance relative au Mémoire pour M. Ndirumpatse sur l'ordonnance du 25 juin 2008 lui prescrivant de préciser la liste de ses témoins, dated 30 July 2008, paras. 7-11.*

situation at the beginning of his case, with the same information being required of him subsequently, in keeping with settled case-law regarding witness protection.⁶

6. In every respect therefore, the Motion had already been considered.

FOR THESE REASONS, THE CHAMBER, BY A MAJORITY,

DENIES Mathieu Ndirumputse's Motion and refers him to its Order of 30 July 2008.

Arusha, 13 August 2008 [Original in French].

[Signed]

Dennis C. M. Byron
Presiding Judge

[Signed]

Dennis C. M. Byron
For Vagn Joensen
Judge
(Absent at the time of signature)

[Seal of the Tribunal]



⁶ *Prosecutor v. Tadić*, Case No. IT-94-1, Decision on the Prosecutor's Motion Requesting Protective Measures for Victims and Witnesses, dated 10 August 1995, para. 25; *Prosecutor v. Brđjanin and Tadić*, Case No. IT-99-36, Decision on Motion for Protective Measures, dated 3 July 2000, para. 26; *The Prosecutor v. Rutaganda*, Case No. ICTR-96-3, Decision on Protective Measures for Defence Witnesses, dated 13 July 1998, para. 9; *The Prosecutor v. Bagilishema*, Case No. ICTR-95-1A, Decision on the Prosecutor's Motion for Witness Protection, dated 17 September 1999; *The Prosecutor v. Juvénal Rugambarara*, Case No. ICTR-00-59-1, Decision on the Prosecutor's Motion for Protective Measures for Witnesses (Trial Chamber), dated 28 October 2005, para. 6.