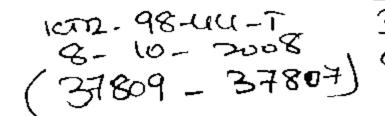
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# International Criminal Tribunal for Rwanda Tribunal pénal international pour le Rwanda

#### TRIAL CHAMBER III

Case No. ICTR-98-44-T

Before:

Judge Dennis C. M. Byron, presiding

Judge Gberdao Gustave Kam

Judge Vogn Joensen

Registrar:

Adama Dieng

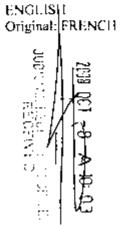
Date:

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

lan Morley

Gerda Visser Saidou N'Dow

Sunkarie Ballah-Conteh

Takeh Sendze Deo Mbuto Counsel for Edouard Karemera:

Dior Diagne Mbaye and Félix Sow

Counsel for Mathieu Ngirumpatse:

Chantal Hounkpatin and Frédéric Weyl

Counsel for Joseph Nzirorgra:

Peter Robinson and Patrick Nimy Mayidika Ngimbi

CH(08-0141 (E)

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Translation certified by LSS, ICTR

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Decision on Mathieu Ngirumpalse's Motion for Review of the 17 April 2008 Order for Protection of his Witnesses

13 August 2008

#### INTRODUCTION

- 1. On 30 July 2008, Mathicu Ngirumpatse filed a motion for review of the Order of 17 April 2008, so that projective measures may be granted to his witnesses.
- 2. Mathieu Ngirumpatse 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 Ngirumpatse claims that, in his Brief of 14 July 2008,<sup>3</sup> 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 Ngirumpatse 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 Ngirumpatse'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 Ngirumpatse to disclose the said information within a reasonable time-limit.<sup>4</sup>
- 5. Further, by its Order of 30 July 2008, the Chamber had asked Mathieu Ngirumpatse 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. Moreover, by that same Order, the Chamber had maintained the protective measures currently applicable to Mathieu Ngirumpatse'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

ERequête de M. Ngurumpatse aux fins de rétractation de l'ordonnance du 17 avril 2008 ayant rejeté in globo su 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.

<sup>&</sup>lt;sup>2</sup> The Prosecutor v. Karement et al., Case No. ICTR-98-44-T, Decision on Mathieu Ngirumpatse's Motion for Protection of his Witnesses, dated 17 April 2008.

<sup>&</sup>lt;sup>1</sup> Mémoire pour M. Ngirumpatse sur l'ordonnance du 25 juin 2008 lui prescrivant de préciser la liste de ses témoirs, déposée ex parte et confidentielle le 15 juillet 2008.

Order on Mathieu Ngirumpatse's Brief Pollowing the 17 April Decision on the Presentation of the Defence Evidence, dated 25 June 2008, para. 7.

Ordonnance relative au Mêmoire pour M. Ngirumpatse sur l'ordonnance du 25 juin 2008 lui préscrivant de préciser la liste de ses témoint, dated 30 July 2008, paras. 7-11.

Decision on Mathieu Ngirumpulse's Motion for Review of the 17 April 2008 Order for Protection of his Wimesses

13 August 2008

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.<sup>6</sup>

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

### FOR THESE REASONS, THE CHAMBER, BY A MAJORITY,

DENIES Mathieu Ngirumpatse'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]



<sup>&</sup>lt;sup>b</sup> 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. Brdjonin 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. Bagdishema. 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.