

ICTR-07-91-PT
6-2-2009
(2684-2682)

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UNITED NATIONS
NATIONS UNIES

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

OR: ENG

TRIAL CHAMBER III

Before Judges: Khalida Rachid Khan, presiding
*sitting pursuant to Rules 54 and
75 (I) of the Rules*

Registrar: Mr. Adama Dieng

Date: 6 February 2009

THE PROSECUTOR

v.

Léonidas NSHOGOZA

Case No. ICTR-07-91-PT

JUDICIAL RECORDS/ARCHIVES
RECEIVED
1 2009 FEB - 6 A 11: 21
A. Dieng 06/02/2009.

ORDER VARYING WITNESS PROTECTION ORDER

Rules 54, 73 and 75 of the Rules of Procedure and Evidence

Office of the Prosecutor:

Richard Karegyesa
Abdoulaye Seye
Dennis Mabura
Florida Kabisanga

For the Accused:

Allison Turner

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (“Tribunal”),

SITTING as Trial Chamber III, composed of Judge Khalida Rachid Khan (the “Chamber”), pursuant to Rules 54 and 75 (I) of the Rules of Procedure and Evidence (“Rules”);

RECALLING the Chamber’s Decision of 24 November 2008 on the Prosecution Motion for Protective Measures for Victims and Witnesses, in which the Chamber: (i) augmented protective measures previously applicable in respect of Prosecution Witnesses GAA and GAF; and (ii) ordered further protective measures to apply to Prosecution Witnesses GAA, GAF, BUC, SP-003, and SP-004, as well as other witnesses the Prosecution may call to testify;¹

RECALLING FURTHER the Defence Motion to vary the Protective Measures Order so that Measure vii² of the said Order not apply to a family member of Prosecution Witness BUC, previously given the pseudonym SP-0017 by the Prosecution in 2005 (“Witness”);³

NOTING the Chamber’s Decision of 23 January 2009 with respect to the Defence Motion, in which the Chamber ordered that in respect of the Witness, who is on the Defence list of witnesses, the Defence provide the Chamber with a signed consent, obtained in accordance with the procedure set out in Measure vii of the Protective Measures Order, stating that the Witness has agreed to testify on behalf of the Defence;⁴

CONSIDERING that the Defence has provided the Chamber with the Witness’ written consent to testify on behalf of the Defence;⁵

NOTING FURTHER that the Chamber has ordered protective measures with regard to witnesses which the Defence may call to testify;⁶

THE CHAMBER,

HEREBY ORDERS, further to Rule 75 (I) of the Rules,⁷ the variation of the Protective Measures Order so that Measure vii of the said Order shall not apply to the Witness, who has

¹ *Prosecutor v. Nshogoza*, Case No. ICTR -07-91-PT, Decision on Prosecutor’s Extremely Urgent Motion for Protective Measures for Victims and Witnesses, 24 November 2008 (“Protective Measures Order”).

² Measure vii of the Protective Measures Order provides: “The Accused and the Defence team shall be prohibited from making contact with a protected witness and/or his or her family members unless the consent of the person concerned has first been obtained. The Accused and/or any member of the Defence team shall contact the Prosecutor, who, with the assistance of the WVSS shall ascertain whether such consent exists. In the event that consent exists, the WVSS shall facilitate the interview, which shall be conducted in the presence of a representative of the Prosecutor;”

³ *Nshogoza*, Urgent and Confidential Application for Variance of 24 November 2008 Witness Protection Order (Rules 54, 73, 75 (I) ICTR R.P.E.” filed by the Defence on 18 December 2008 (“Defence Motion”).

⁴ *Nshogoza*, Decision on Defence Motion for Variation of 24 November 2008 Witness Protection Order” of 23 January 2009. The Witness has been designated the pseudonym A10 by the Defence.

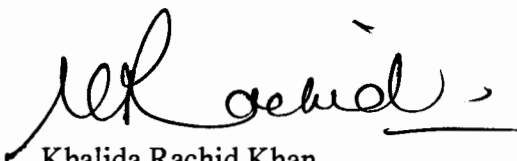
⁵ *Nshogoza*, Defence Filing of Written Consent of Defence Witness Further to Court Order of 23 January 2009, Annex C (Strictly Confidential).

⁶ *Nshogoza*, Decision on Defence Motion for Protective Measures for Victims and Witnesses, 22 January 2009 (“Decision of 22 January 2009”), Measures i – x.



been designated the pseudonym A10 by the Defence, and to whom the protective measures set out in the Chamber's Decision of 22 January 2009, shall apply.⁸

Arusha, 6 Febraury 2009



Khalida Rachid Khan
Presiding Judge
[Seal of the Tribunal]



⁷ Rule 75 (I) provides that an application to a Chamber to rescind, vary or augment protective measures in respect of a victim or witness may be dealt with either by the Chamber or by a Judge of that Chamber.

⁸ Measures i – x of the Decision of 22 January 2009.