

ICTR-98-44D-I
13-2-2009
(1156 - 1153)

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International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER III

Before Judges: Dennis C. M. Byron, Presiding

Registrar: Adama Dieng

Date: 13 February 2009

JUDICIAL RECORDS ARCHIVES
1 2009 FEB 13 1 P 2 20

THE PROSECUTOR
v.
CALLIXTE NZABONIMANA
Case No. ICTR-98-44D-I

**INTERIM ORDER ON PROTECTIVE MEASURES
FOR PROSECUTION WITNESSES**

*Articles 19, 20 and 21 of the Statute and Rule 75 of the Rules of Procedure and
Evidence*

Office of the Prosecutor:

Paul Ng'arua
Memory Maposa
Kartik Murukutla

Defence Counsel:

Vincent Courcelle Labrousse

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

SITTING as Trial Chamber III composed of Judge Dennis C. M. Byron, sitting pursuant to Rule 75 of the Rules of Procedure and Evidence (“Rules”);

CONSIDERING the Prosecution Motion for Witness Protective Measures filed on 19 November 2008 and Annex A thereto;

CONSIDERING the Status Conference held on 12 February 2009 at which the Prosecution agreed to disclose the unredacted statements of their witnesses;

TAKING NOTE of the need to ensure the interim protection of the Prosecution witnesses pending a final determination of the matter;

CONSIDERING Rule 75 of the Rules, vesting in a Judge the power to order *proprio motu* or at the request of either party, “appropriate measures to safeguard the privacy and security of victims and witnesses, provided that the measures are consistent with the rights of the accused”;

CONSIDERING Articles 19, 20 and 21 of the Statute of the Tribunal (“Statute”), which ensure a fair trial to the accused but provide also for protective measures for witnesses if necessary;

CONSIDERING the general security status in the Great Lakes and the volatile security situation in Rwanda;

CONSIDERING that the evidence of the volatile security situation in Rwanda and neighbouring countries, and of potential threats against Rwandans living in other countries, indicates that witnesses could justifiably fear that disclosure of their participation in the proceedings of this Tribunal would threaten their safety and security;

FOR THE ABOVE MENTIONED REASONS, THE CHAMBER

DECIDES to order interim protective measures pending a final determination;

ACCORDINGLY ORDERS the following protective measures in respect of all Prosecution witnesses or potential Prosecution witnesses wherever they reside and who have not affirmatively waived their right to protective measures (“protected witness”):

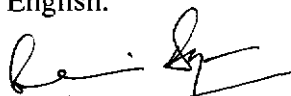
- a. That the names, addresses, whereabouts of, and other identifying information concerning potential Prosecution witnesses who are the

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- subject of unredacted disclosure by the Prosecution shall be sealed by the Registry and not included in any public records of the Tribunal;
- b. That the names, addresses, whereabouts of, and other identifying information concerning the individuals cited above be communicated only to the Victims and Witness Support Unit personnel by the Registry in accordance with established procedure and only to implement protective measures for these individuals;
 - c. That the Prosecution shall designate a pseudonym for each Prosecution witness, which will be used whenever referring to each such witness in proceedings, communications and discussions between the Parties to the trial, and to the public, until such time that the Chamber otherwise decides.
 - d. That, to the extent that any names, addresses, whereabouts of, and any other identifying information concerning these individuals are contained in existing records of the Tribunal, that such information be kept confidential including, where appropriate, the documents in question;
 - e. That disclosure to the public or the media of the names, addresses, whereabouts of, and any other identifying data in the supporting material or any other information on file with the Registry or any other information which would reveal the identity of these individuals, is prohibited and this order shall remain in effect pending a final order and, if appropriate, after the termination of the trial;
 - f. That the Defence and the accused is prohibited from sharing, revealing or discussing, directly or indirectly, any documents or any information contained in any documents, or any other information which could reveal or lead to the identification of any individuals so designated to any person or entity other than the accused, assigned counsel or other persons working on the immediate Defence team;
 - g. That the Defence shall designate to the WVSS, the Chamber and the Prosecutor the names of all persons working on the immediate Defence team who, pursuant to paragraph (e) above, will have access to any information referred to in Paragraph (a) through (d) above, and requiring Defence Counsel to advise the Chamber in writing of any changes in the composition of this team and to ensure that any member leaving the Defence team has remitted all materials that could lead to the identification of potential Prosecution witnesses.
 - h. That the photographing, audio and/or video recording, or sketching of any Prosecution witness at any time or place without leave of the Chamber and the Parties is prohibited;
 - i. That the accused or his Defence Counsel shall make a written request, on reasonable notice to the Prosecution, to the Chamber or a Judge thereof, to

contact any protected victim or potential Prosecution witnesses or any relative of such person; and requiring that when such interview has been granted by the Chamber or a Judge thereof, with the consent of such protected person or the parents or guardian of that person if that person is under the age of 18, that the Prosecution shall undertake all necessary arrangements to facilitate such interview.

Arusha, 13 February 2009, done in English.



Dennis C. M. Byron
Presiding Judge

[Seal of the Tribunal]
