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ICTR-97-36A-T
24-08-2009
(1069-1067)

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UNITED NATIONS
NATIONS UNIES

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER I

Before Judges: Florence Rita Arrey, Presiding
Mparany Mamy Richard Rajohnson
Aydin Sefa Akay

Registrar: Adama Dieng

Date: 24 August 2009

THE PROSECUTOR

v.

Yussuf MUNYAKAZI

Case No. ICTR-97-36A-T

DECISION ON DEFENCE MOTION FOR VARIATION OF PROTECTIVE MEASURES FOR DEFENCE WITNESSES "KHO", "YFD", "YFE" AND "YFTA"

Office of the Prosecutor:

Richard Karegyesa
Segun Jegede
Didace Nyirinkwaya

Counsel for the Defence

Jwani Mwaikusa
Barnabé Nekuie
Etienne Mutabazi
Malien Habyarimana
André Nteziriraza

Introduction

1. On 13 August 2009, the Defence filed a motion asking to vary the protective measures for witnesses "KHO", "YFD", "YFE" and "YFTA"¹ as ordered by the Chamber on 16 July 2009.² The Defence submits that while the witnesses are fully satisfied with the protective measures accorded to them by the Chamber, they would prefer to be accommodated in a hotel than in the safe house.³ The Defence notes that a witness' refusal to stay in accommodation provided by the Registry does not alter the protected status of that witness, and that it is the practice of the Tribunal to allow a choice of accommodation for witnesses without that choice affecting their protective measures.⁴
2. The Prosecution has not filed a response to this motion.

Deliberations

3. The Chamber recalls that the modification of a witness' protective measures can only be ordered by the Chamber. However, arrangements regarding accommodation of witnesses are an administrative and logistical matter within the exclusive purview of the Registry,⁵ and as such do not constitute part of the protective orders of 16 July 2009. Therefore, should the Defence seek to pursue the issue of accommodation for witnesses "KHO", "YFD", "YFE" and "YFTA", the Trial Chamber invites the Defence to address the issue directly with the Registry. The Chamber will only intervene if the outcome of discussions between the Defence and the Registry affect the fairness of the proceedings.⁶

¹ Motion for variation of protective measures for Defence witnesses "KHO", "YFD", "YFE" AND "YFTA", 13 August 2009 ("Motion").

² *Prosecutor v. Munyakazi*, ICTR-97-36A-T, Decision on Defence motion for protective measures for Defence witnesses, 16 July 2009.

³ Introduction to the Motion.

⁴ Motion, paras 2-5.

⁵ *Prosecutor v. Nyiramasuhuko et al*, ICTR-98-42-T, Decision on Defence motion for variation of protective measures for witnesses AND-36, AND-38 and AND-50, 20 April 2007.

⁶ *Prosecutor v. Bagasora et al*, ICTR-98-41-T, Decision on the Request to direct Registry to Comply with Order Concerning Witness Protection, 3 July 2006, para. 5.

ACCORDINGLY, THE CHAMBER

DENIES the Motion.

Arusha, 24 August 2009, done in English.



Florence Rita Arrey

Presiding Judge



Mparany Rajohnson

Judge



Aydin Akay

Judge

[Seal of the Tribunal]

