



UNITED NATIONS
NATIONS UNIES

**Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda**

IN THE APPEALS CHAMBER

Before: Judge Patrick Robinson, Presiding
Judge Mehmet Güney
Judge Fausto Pocar
Judge Liu Daqun
Judge Theodor Meron

Registrar: Mr. Adama Dieng

Order of: 10 September 2010

**Théoneste BAGOSORA
Aloys NTABAKUZE
Anatole NSENGIYUMVA**

v.

THE PROSECUTOR

Case No. ICTR-98-41-A

ORDER RESCINDING PROTECTIVE MEASURES

Counsel for Théoneste Bagosora

Raphaël Constant
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Peter Erlinder
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THE APPEALS CHAMBER of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States Between 1 January and 31 December 1994 (“Appeals Chamber” and “Tribunal”, respectively),

NOTING the Letter from Trial Chamber III of the Tribunal addressed to the Appeals Chamber on 8 September 2010, in which Trial Chamber III informs the Appeals Chamber that in the course of his testimony in the *Karemera and Ngirumpatse* case,¹ Witness Emmanuel Neretse sought to rescind the protective measures granted to him as Ntabakuze Defence Witness DM-190 in the *Bagosora et al.* case;²

NOTING that Witness Emmanuel Neretse was informed about the implications of the rescission of the protective measures granted to him in previous cases before the Tribunal and unequivocally confirmed his wish that they be rescinded;³

NOTING that, pursuant to Rule 75(F)(i) of the Rules of Procedure and Evidence of the Tribunal (“Rules”), once protective measures have been ordered in respect of a witness in any proceedings before the Tribunal, such protective measures shall continue to have effect *mutatis mutandis* in any other proceedings before the Tribunal unless and until they are rescinded, varied, or augmented;

CONSIDERING that, as the Chamber seised of the proceedings in the *Bagosora et al.* case, the Appeals Chamber has jurisdiction pursuant to Articles 54, 75, and 107 of the Rules to rescind, vary, or augment the protective measures previously granted to Emmanuel Neretse in this case;

CONSIDERING that in light of Emmanuel Neretse’s request for rescission, the protective measures previously granted to him in this case are no longer justified;

¹ *The Prosecutor v. Édouard Karemera and Matthieu Ngirumpatse*, Case No. ICTR-98-44-T.

² Letter from Trial Chamber III to the Appeals Chamber regarding the rescission of protective measures, dated 8 September 2010 (“Trial Chamber III’s Letter”). See also *The Prosecutor v. Théoneste Bagosora et al.*, Case No. ICTR-98-41-T, Decision on Ntabakuze Motion for Protection of Witnesses, 15 March 2004, pp. 3, 4; *The Prosecutor v. Théoneste Bagosora et al.*, Case No. ICTR-98-41-T, Decision Amending Defence Witness Protection Orders, 2 December 2005, p. 3.

³ *The Prosecutor v. Édouard Karemera and Matthieu Ngirumpatse*, Case No. ICTR-98-44-T, T. 8 September 2010 pp. 35, 36 (draft). See also Trial Chamber III’s Letter.

FOR THE FOREGOING REASONS, THE APPEALS CHAMBER

RESCINDS the protective measures granted to Emmanuel Neretse in the *Bagosora et al.* case;

INSTRUCTS the Registrar to lift the confidentiality of the transcripts and exhibits related to Emmanuel Neretse's testimony as Defence Witness DM-190 in the *Bagosora et al.* proceedings.

Done in English and French, the English text being authoritative.

Done this tenth day of September 2010
At The Hague,
The Netherlands.

Judge Patrick Robinson
Presiding Judge

FSeal of the Tribunal