



Mechanism for International Criminal Tribunals

Case No.: MICT-13-33-R86H.2

Date: 11 February 2016

Original: English

BEFORE A SINGLE JUDGE

Before: Judge Vagn Joensen

Registrar: Mr. John Hocking

Decision of: 11 February 2016

PROSECUTOR

v.

JEAN DE DIEU KAMUHANDA

PUBLIC

**DECISION ON AN APPLICATION PURSUANT TO
RULE 86**

Counsel for Jean de Dieu Kamuhanda:

Mr. Peter Robinson

The Office of the Prosecutor:

Mr. Hassan Bubacar Jallow
Mr. Richard Karegyesa

Received by the Registry
Mechanism for International Criminal Tribunals

11/02/2016 19:10

A handwritten signature in black ink, appearing to be 'A. Jallow'.

A handwritten mark or signature in black ink, consisting of a vertical line and a diagonal stroke.

I, **VAGN JOENSEN**, Judge of the International Residual Mechanism for Criminal Tribunals (“Mechanism”) and Single Judge in this case;¹

BEING SEISED OF a motion filed on 12 January 2016, in which Mr. Jean de Dieu Kamuhanda requests the rescission of protective measures granted to Defence Witnesses ENQ-1 and ENQ-2 by the International Criminal Tribunal for Rwanda (“ICTR”) in the case of *Prosecutor v. Jean de Dieu Kamuhanda*, Case No. ICTR-99-54 and the reclassification of their witness pseudonym sheets as public;²

RECALLING that, on 22 January 2016, I requested that the Registry’s Witness Support and Protection Unit contact Witnesses ENQ-1 and ENQ-2 to ascertain whether they consent to the rescission of protective measures in force after being properly advised of the consequences thereof;³

NOTING the “Registrar’s Submission Pursuant to Order of 22 January 2016”, filed confidentially and with a confidential annexes on 4 February 2016 (“Registrar’s Submission”), which indicates that Witnesses ENQ-1 and ENQ-2 oppose the rescission of their protective measures;⁴

CONSIDERING that Witnesses ENQ-1 and ENQ-2 do not consent to the variation of their protective measures;

NOTING Kamuhanda’s “Response to Registrar’s Submission re: Motion to Rescind Protective Measures for Defence Witnesses ENQ-1 and ENQ-2”, filed on 8 February 2016 (“Response”) in which Kamuhanda withdraws the Motion and asks for the reclassification of the Registry’s Submission as public and for the filing of public redacted versions of the annexes;⁵

CONSIDERING that all proceedings before the Mechanism shall be public unless exceptional reasons require keeping them confidential;⁶

CONSIDERING that the Registrar’s Submission does not contain confidential information and therefore there are no exceptional reasons for maintaining its confidentiality;

¹ Order Assigning a Single Judge to Consider an Application Pursuant to Rule 86(H), 18 January 2016.

² Motion to Rescind Protective Measures for Defence Witnesses ENQ-1 and ENQ-2, 12 January 2016 (“Motion”), paras. 1, 7, 8. *See also The Prosecutor v. Jean de Dieu Kamuhanda*, Case No. ICTR-99-54-T, Decision on Jean de Dieu Kamuhanda’s Motion for Protective Measures for Defence Witnesses, 22 March 2001.

³ Order for Submissions on an Application Pursuant to Rule 86, 22 January 2016, p. 1.

⁴ Registrar’s Submission, para. 4, Annex 1, Annex 2.

⁵ Response, paras. 4, 5.

⁶ *See, e.g., Prosecutor v. Sreten Lukic*, Case No. MICT-14-67-R.1, Decision on Sreten Lukic’s Application for Review, 8 July 2015, para. 8.

CONSIDERING, however, that the annexes to the Registrar's Submission contain information that may identify Witnesses ENQ-1 and ENQ-2 and that, accordingly, the annexes should remain confidential in their entirety;

PURSUANT TO Articles 18(4) and 20 of the Statute of the Mechanism and Rules 55, 86(A), and 92 of the Rules of Procedure and Evidence of the Mechanism;

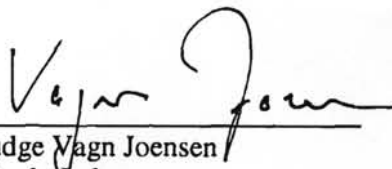
HEREBY DISMISS the Motion as moot;

ORDER the Registry to reclassify as public the Registrar's Submission;

DENY the request to order the filing of public and redacted versions of the annexes to the Registrar's Submission.

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

Done this 11th of February 2016,
At The Hague,
The Netherlands



Judge Vagn Joensen
Single Judge

[Seal of the Mechanism]





**TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH THE
MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS/
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MÉCANISME POUR LES TRIBUNAUX PÉNAUX INTERNATIONAUX**

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Case Name/ Affaire :	Prosecutor v. Jean De Dieu Kamuhanda		Case Number/ Affaire n° : MICT-13-33-R86H.2
Date Created/ Daté du :	11 February 2016	Date transmitted/ Transmis le :	11 February 2016
Original Language / Langue de l'original :	<input checked="" type="checkbox"/> English/ Anglais	<input type="checkbox"/> French/ Français	<input type="checkbox"/> Kinyarwanda
Title of Document/ Titre du document :	Decision on an application pursuant to rule 86		
Classification Level/ Catégories de classification :	<input checked="" type="checkbox"/> Unclassified/ Non classifié	<input type="checkbox"/> Ex Parte Defence excluded/ Défense exclue	<input type="checkbox"/> Ex Parte Prosecution excluded/ Bureau du Procureur exclu
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