

UNITED
NATIONS

MICT-13-33
11-07-2017
(3 - 1/1557bis)



Mechanism
for International Criminal Tribunals

Case No.: MICT-13-33

Date: 27 June 2017

Original: French

SINGLE JUDGE

Before: Judge Gberdao Gustave Kam

Registrar: Mr Olufemi Elias

Decision of: 27 June 2017

THE PROSECUTOR

v.

JEAN DE DIEU KAMUHANDA

PUBLIC

**DECISION ON MOTION FOR AUTHORISATION TO
INTERVIEW A WITNESS**

The Office of the Prosecutor

Mr Serge Brammertz
Mr Richard Karegyesa
Ms Sunkarie Ballah-Conteh

Counsel for Jean de Dieu Kamuhanda

Mr Peter Robinson

**Received by the Registry
Mechanism for International Criminal Tribunals**

11/07/2017 13:24

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

I, **GBERDAO GUSTAVE KAM**, Judge of the International Residual Mechanism for Criminal Tribunals (“Mechanism”) and Single Judge in this case,¹

NOTING the Decision rendered on 21 March 2017 wherein Judge Jean-Claude Antonetti ordered the Prosecution to disclose to the Defence certain confidential documents concerning protected Prosecution Witness GEK in Case No. ICTR-99-54A, *The Prosecutor v. Jean de Dieu Kamuhanda* (“*Kamuhanda Case*”), tried before the International Criminal Tribunal for Rwanda,²

SEISED of the Motion filed on 12 May 2017 wherein Mr Jean de Dieu Kamuhanda seeks, *inter alia*, judicial authorisation to interview Witness GEK, if he consents, in order to confront the witness with his alleged lies and to convince him that his testimony for the Prosecution in the *Kamuhanda Case* was false,³

NOTING the Response filed on 25 May 2017 wherein the Prosecution submits, *inter alia*, that Mr Kamuhanda has failed to provide sufficient justification to warrant intrusion into Witness GEK’s privacy, especially considering that his case has been tried to final judgement,⁴

NOTING the Order issued on 8 June 2016 wherein I ordered, notably, the Registry’s Witness Support and Protection Unit to contact Witness GEK to inquire whether he consents to being interviewed by Counsel for Mr Kamuhanda, after being advised of the purpose and voluntary nature of the interview, and to inform me of his reply,⁵

NOTING the submission filed as a confidential document on 21 June 2017 wherein the Registrar informed me that, after being contacted by the Registry’s Witness Support and Protection Unit, Witness GEK indicated in a written and signed statement that he does not consent to being interviewed by Counsel for Mr Kamuhanda,⁶

¹ “Order Assigning a Single Judge to Consider a Motion”, 22 May 2017 (French version filed on 24 May 2017), p. 1.

² “Decision on Third Motion to Compel Disclosure of Witness GEK Material”, 21 March 2017, p. 6.

³ “Motion to Interview Prosecution Witness GEK”, 12 May 2017 (French version filed on 24 May 2017) (“Motion”), paras 1, 3 and 8 to 14.

⁴ “Prosecution Response to Defence Motion to Interview Prosecution Witness GEK”, 25 May 2017 (French version filed on 12 June 2017, paras 1, 3 and 7.

⁵ “Order to File Submissions”, 8 June 2017, pp. 2 and 3.

⁶ “Registrar’s Submission Pursuant to Order of 8 June 2017”, 21 June 2017, confidential, para. 2 and pp. 1549 and 1548 (Registry pagination).

CONSIDERING that Witness GEK stated, in writing, that he does not consent to being interviewed by Mr Kamuhanda,

FOR THE FOREGOING REASONS,

PURSUANT TO Article 20 of the Statute of the Mechanism and Rules 55 and 86 of the Rules of Procedure and Evidence,

DENY the Motion.

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

Single Judge

/signed/

Gberdao Gustave Kam

Done this twenty-seventh day of June 2017,
in Arusha (Tanzania)

[Seal of the Mechanism]





**TRANSMISSION SHEET FOR FILING OF TRANSLATIONS
WITH THE ARUSHA BRANCH OF
THE MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS**

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From	<input checked="" type="checkbox"/> ICTY CLSS	<input type="checkbox"/> ICTR LSS	
Original Submitting Party	<input checked="" type="checkbox"/> Chambers	<input type="checkbox"/> Defence	<input type="checkbox"/> Prosecution <input type="checkbox"/> Other
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Date Transmitted	11/07/2017	Language of Translation	<input checked="" type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda <input type="checkbox"/> Other
Title of original document	Décision relative à une demande d'autorisation d'interroger un témoin		
Title of translation	Decision on motion for authorisation to interview a witness		
Classification Level	<input checked="" type="checkbox"/> Unclassified <input type="checkbox"/> Confidential <input type="checkbox"/> Strictly Confidential	<input type="checkbox"/> Ex Parte Defence excluded <input type="checkbox"/> Ex Parte Prosecution excluded <input type="checkbox"/> Ex Parte R86(H) Applicant excluded <input type="checkbox"/> Ex Parte Amicus Curiae excluded <input type="checkbox"/> Ex Parte other exclusion (specify) :	
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