

MICT-13-33  
05-12-2015  
(725 - 722)

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THE MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS

CASE No. MICT-13-33

THE PRESIDENT

Before: Judge Theodor Meron

Registrar: Mr. John Hocking

Date Filed: 5 December 2015

THE PROSECUTOR

v.

JEAN DE DIEU KAMUHANDA

*Public*

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MOTION TO RESCIND PROTECTIVE MEASURES  
FOR DEFENCE WITNESS NTD

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Office of the Prosecutor:

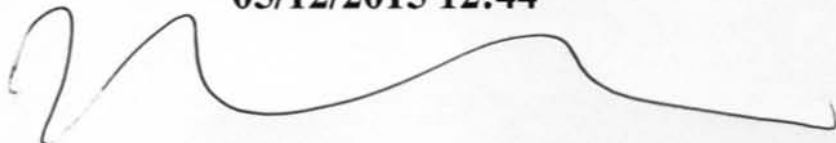
Mr. Hassan Jallow

Mr. Richard Karegyesa

Jean de dieu Kamuhanda:

Mr. Peter Robinson, Counsel

**Received by the Registry**  
**Mechanism for International Criminal Tribunals**  
**05/12/2015 12:44**



1. Jean de dieu Kamuhanda respectfully requests, pursuant to Rule 86(H), that the President designate a Single Judge to consider rescinding the protective measures for Defence Witness NTD.

### **Background**

2. Defence Witness NTD testified at Mr. Kamuhanda's trial with protective measures on 27 January 2003. His true identity was contained on the pseudonym sheet admitted as Exhibit D59. During his testimony, evidence was taken in closed session when the answers might lead to revealing his identity.

3. In 2009, Witness NTD testified as a defence witness under his own name, waiving his protective measures, in the *Nshogoza* case.

4. On 26 November 2015, counsel who is representing Mr. Kamuhanda in potential review proceedings met with Defence Witness NTD in Kigali, Rwanda. At that time, Witness NTD advised that he would like the protective measures imposed in the *Kamuhanda* case to be rescinded and to have his testimony on 27 January 2003 and his identity be made fully public.

5. On 27 November 2015, counsel sent an e-mail to the Mechanism's Witness Support and Protection Unit ("WISP") requesting that section to contact Witness NTD and to obtain his written waiver of the protective measures granted to him in the *Kamuhanda* case.

6. On 4 December 2015, in an e-mail, the WISP advised that counsel for Mr. Kamuhanda should first file a motion requesting the rescission of protective measures and if granted, request the services of WISP to facilitate the implementation.

### **Argument**

7. MICT Rule 86(H) provides that:

A judge or bench in another jurisdiction, parties in another jurisdiction authorised by an appropriate judicial authority, or a victim or witness for whom protective measures have been ordered by the ICTY, the ICTR, or the Mechanism may seek to rescind, vary, or augment protective measures ordered in proceedings before the ICTY, the ICTR, or the Mechanism by applying to the President of the Mechanism, who shall refer the application to a Single Judge or to the Chamber remaining seised of the proceedings.

8. Rule 86(I) provides that:

The Chamber determining an application under paragraphs (G) and (H) above shall ensure through the Victims and Witnesses Section that the protected victim or witness has given consent to the rescission, variation, or augmentation of protective measures; however, on the basis of a compelling showing of exigent circumstances or where a miscarriage of justice would otherwise result, the Chamber may order proprio motu the rescission, variation, or augmentation of protective measures in the absence of such consent.

9. Rule 86(J) provides that:

A victim or witness may waive in whole or in part protective measures granted pursuant to this Rule after being advised by a Trial Chamber or the Victims and Witnesses Section of the consequences thereof. The waiver must be made before a Trial Chamber or in a written statement signed by the victim or witness and an officer of the Victims and Witnesses Section

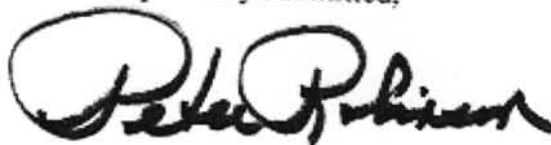
10. Mr. Kamuhanda, having been informed that Witness NTD wishes to seek rescission of the protective measures ordered in the *Kamuhanda* case, hereby requests, pursuant to Rule 86(H) that the President designate a Single Judge to direct the WISP to obtain a written statement from Witness NTD in which, having been advised of the consequences, he indicates his waiver of the protective measures pursuant to Rule 86(J), and then for the Single Judge to consider and order rescission of those protective measures pursuant to Rule 86(I).

11. Should the protective measures be rescinded, Mr. Kamuhanda requests that Exhibit D59, the pseudonym sheet of Witness NTD, be reclassified as public, and that the closed session transcript of the testimony of Witness NTD be reclassified as public with the exception of page 27, from lines 24 to 33, which identifies another protected witness.

12. Mr. Kamuhanda believes that it is important that as much information from his case be as public as possible, as he has been wrongfully convicted of crimes he did not commit through the false evidence of persons hiding behind pseudonyms.

Word count: 735

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter Robinson". The signature is written in a cursive style with large, rounded letters.

PETER ROBINSON  
Counsel for Jean de dieu Kamuhanda



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

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<b>Case Name/ Affaire :</b>	Prosecutor v Kamuhanda		<b>Case Number/ Affaire n° :</b>	MICT 13-33
<b>Date Created/ Daté du :</b>	5 December 2015	<b>Date transmitted/ Transmis le :</b>	5 December 2015	<b>No. of Pages/ Nombre de pages :</b> 4
<b>Original Language / Langue de l'original :</b>	<input checked="" type="checkbox"/> English/ Anglais	<input type="checkbox"/> French/ Français	<input type="checkbox"/> Kinyarwanda	<input type="checkbox"/> B/C/S
<b>Title of Document/ Titre du document :</b>	MOTION TO RESCIND PROTECTIVE MEASURES FOR DEFENCE WITNESS NTD			
<b>Classification Level/ Catégories de classification :</b>	<input checked="" type="checkbox"/> Unclassified/ Non classifié	<input type="checkbox"/> Ex Parte Defence excluded/ Défense exclue		
	<input type="checkbox"/> Confidential/ Confidentiel	<input type="checkbox"/> Ex Parte Prosecution excluded/ Bureau du Procureur exclu		
	<input type="checkbox"/> Strictly Confidential/ Strictement confidentiel	<input type="checkbox"/> Ex Parte R86(H) applicant excluded/ Art. 86 H) requérant exclu		
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<b>Document type/ Type de document :</b>	<input checked="" type="checkbox"/> Motion/ Requête	<input type="checkbox"/> Submission from parties/ Écritures déposées par des parties	<input type="checkbox"/> Indictment/ Acte d'accusation	
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Rev: April 2014/Rév. : Avril 2014