

MICT-13-33-R86H.3
18-02-2016
(811 - 809)

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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: 18 February 2016

THE PROSECUTOR

v.

JEAN DE DIEU KAMUHANDA

Public

MOTION TO RESCIND PROTECTIVE MEASURES
FOR DEFENCE WITNESS ALB

Office of the Prosecutor:

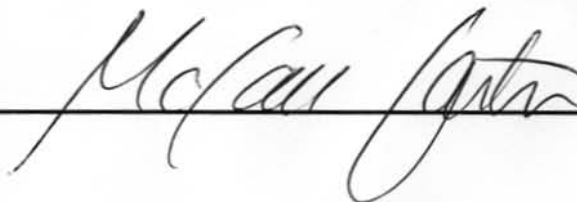
Mr. Hassan Jallow

Mr. Richard Karegyesa

Jean de dieu Kamuhanda:

Mr. Peter Robinson, Counsel

Received by the Registry
Mechanism for International Criminal Tribunals
18/02/2016 04:17



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 ALB.

Background

2. Defence Witness ALB testified at Mr. Kamuhanda's trial with protective measures on 5 and 9 September 2002. His true identity was contained on the pseudonym sheet admitted as Exhibit D48. During his testimony, evidence was taken in closed session when the answers might lead to revealing his identity, and three other exhibits were admitted under seal.

3. On 16 February 2016, Witness ALB advised the defence team of Mr. Kamuhanda that he would like the protective measures imposed in the *Kamuhanda* case to be rescinded and to have his testimony and his identity be made fully public.

Argument

4. 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.

5. 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.

6. 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

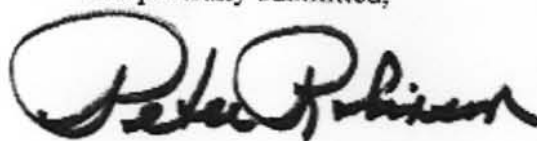
7. Mr. Kamuhanda, having been informed that Witness ALB wishes to seek rescission of the protective measures ordered in the *Kamuhanda* case, hereby requests, pursuant to Rule 86(H) that the President designate a Single Judge to direct the WISP to obtain a written statement from Witness ALB in which, 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).

8. Should the protective measures be rescinded, Mr. Kamuhanda requests that Exhibit D48, the pseudonym sheet of Witness ALB, as well as three exhibits admitted under seal during the testimony of Witness ALB, Exhibits D49 and P42 and P43, be reclassified as public, and that the closed session transcripts of the testimony of Witness ALB be reclassified as public after being reviewed by the WISP for necessary redactions in instances where other protected witness' identities were revealed.¹

9. 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: 645

Respectfully submitted,



PETER ROBINSON
Counsel for Jean de dieu Kamuhanda

¹ *Decision on an Application pursuant to Rule 86(H)*(12 January 2016)



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MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS/
FICHE DE TRANSMISSION POUR LE DÉPÔT DE DOCUMENTS DEVANT LE
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Case Name/ Affaire :	Prosecutor v Kamuhanda	Case Number/ Affaire n° :	MICT 13-33- ^{R86H.3} MLC
Date Created/ Daté du :	18 February 2016	Date transmitted/ Transmis le :	18 February 2016
Original Language / Langue de l'original :	<input checked="" type="checkbox"/> English/ Anglais	<input type="checkbox"/> French/ Français	<input type="checkbox"/> Kinyarwanda <input type="checkbox"/> B/C/S <input type="checkbox"/> Other/Autre (specify/préciser) :
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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
	<input type="checkbox"/> Confidential/ Confidentiel	<input type="checkbox"/> Ex Parte R86(H) applicant excluded/ Art. 86 H) requérant exclu	<input type="checkbox"/> Ex Parte Amicus Curiae excluded/ Amicus curiae exclu
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