

MICT-12-16-R
10-05-2017
(1320 - 1318)

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UNITED
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Mechanism for International Criminal Tribunals

Case No.: MICT-12-16-R

Date: 10 May 2017

Original: English

BEFORE A SINGLE JUDGE

Before: Judge Lee G. Muthoga
Registrar: Mr. Olufemi Elias
Decision of: 10 May 2017

ELIÉZER NIYITEGEKA

v.

PROSECUTOR

PUBLIC

DECISION ON A REQUEST FOR CERTIFICATION

The Office of the Prosecutor

Mr. Serge Brammertz
Mr. Richard Karegyesa
Ms. Sunkarie Ballah-Conteh

Counsel for Mr. Eliézer Niyitegeka

Mr. Philippe Larochelle

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

10/05/2017 16:00

A handwritten signature in black ink, consisting of a large, stylized 'M' followed by a horizontal line.

I, LEE G. MUTHOGA, Judge of the International Residual Mechanism for Criminal Tribunals (“Mechanism”) and Single Judge in this case;¹

RECALLING the decision, filed on 29 January 2016, in which I found, *inter alia*, that Mr. Eliézer Niyitegeka failed to establish a legitimate forensic purpose for access to information and materials related to several Prosecution witnesses;²

BEING SEISED OF Niyitegeka’s request for certification filed on 8 February 2016;³

NOTING that, due to a processing error, the Request was only circulated to all intended recipients on 28 April 2017;⁴

NOTING the Prosecution’s response, filed on 8 May 2017, in which it opposes the Request;⁵

RECALLING that Rule 80(B) of the Rules of the Mechanism (“Rules”) is not applicable to decisions rendered after the close of trial and appeal proceedings of a case and that decisions regarding witness protective measures do not require certification;⁶

CONSIDERING that the Decision of 29 January 2016 was issued after the close of trial and appeal proceedings in Niyitegeka’s case;⁷

FINDING, therefore, that Rule 80(B) of the Rules is not applicable in this instance;

FOR THE FOREGOING REASONS,

HEREBY DISMISS the Request in its entirety.

¹ *Eliézer Niyitegeka v. The Prosecutor*, Case No. MICT-12-16, Order Assigning a Single Judge to Consider a Request, 12 January 2016.

² *Eliézer Niyitegeka v. The Prosecutor*, Case No. MICT-12-16, Decision on Niyitegeka’s Urgent Request for Orders Relating to Prosecution Witnesses, 29 January 2016 (“Decision of 29 January 2016”), paras. 4, 9, 12.

³ Request for Certification of the “Decision on Niyitegeka’s Urgent Request for Orders Relating to Prosecution Witnesses”, 8 February 2016 (“Request”).

⁴ See Registrar’s Submissions Pursuant to Rule 31(B) of the Rules, 28 April 2017 (confidential), paras. 4, 5.

⁵ Prosecution Response to Request for Certification of the Decision on Niyitegeka’s Urgent Request for Orders Relating to Prosecution Witnesses, 8 May 2017.

⁶ See *Prosecutor v. Jean de Dieu Kamuhanda*, Case No. MICT-13-33, Decision on Appeal Decision Declining to Rescind Protective Measures for a Deceased Witness, 14 November 2016, para. 6.

⁷ See Decision of 29 January 2016, paras. 2, 3.

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



Judge Lee G. Muthoga
Single Judge

Done this 10th day of May 2017,
At Arusha,
Tanzania

[Seal of the Mechanism]





**TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH THE
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Case Name/ Affaire :	ELIÉZER NIYITEGEKA v. PROSECUTOR		Case Number/ Affaire n° : MICT-12-16-R
Date Created/ Daté du :	10 May 2017	Date transmitted/ Transmis le :	10 May 2017
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