

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***

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

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**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. Elias'.

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

**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,<sup>2</sup>

**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,<sup>3</sup>

**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,<sup>4</sup>

**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,<sup>5</sup>

**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,<sup>6</sup>

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

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

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

<sup>4</sup> “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.

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

<sup>6</sup> “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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<b>To</b>	MICT Registry		
<b>From</b>	<input checked="" type="checkbox"/> ICTY CLSS	<input type="checkbox"/> ICTR LSS	
<b>Original Submitting Party</b>	<input checked="" type="checkbox"/> Chambers	<input type="checkbox"/> Defence	<input type="checkbox"/> Prosecution <input type="checkbox"/> Other
<b>Case Name</b>	KAMUHANDA	<b>Case Number</b>	MICT-13-33 <b>No. of Pages</b> 3
<b>Original Document No.</b>	MICT-13-33-0233		<b>Translation Reference No.</b> REG50590
<b>Date of Original</b>	27/06/2017	<b>Original Language</b>	<input type="checkbox"/> English <input checked="" type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
<b>Date Transmitted</b>	11/07/2017	<b>Language of Translation</b>	<input checked="" type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda <input type="checkbox"/> Other
<b>Title of original document</b>	<b>Décision relative à une demande d'autorisation d'interroger un témoin</b>		
<b>Title of translation</b>	<b>Decision on motion for authorisation to interview a witness</b>		
<b>Classification Level</b>	<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) :	
<b>Document type/ Type de document:</b>	<input type="checkbox"/> Indictment <input type="checkbox"/> Warrant <input type="checkbox"/> Motion <input checked="" type="checkbox"/> Decision	<input type="checkbox"/> Order <input type="checkbox"/> Affidavit <input type="checkbox"/> Correspondence <input type="checkbox"/> Judgement	<input type="checkbox"/> Appeal Book <input type="checkbox"/> Submission from non-parties <input type="checkbox"/> Submission from parties <input type="checkbox"/> Book of Authorities