



Mechanism for International Criminal Tribunals

Case No: MICT-13-33

Date: 19 October 2015

Original: English

**THE SINGLE JUDGE**

**Before: Judge Vagn Joensen**

**Registrar: Mr. John Hocking**

**The Prosecutor**

**v.**

**Jean de Dieu Kamuhanda**

**PROSECUTION RESPONSE TO MOTION TO COMPEL  
DISCLOSURE OF WITNESS GEK EXCULPATORY MATERIAL**

**Office of the Prosecutor**

Hassan Bubacar Jallow  
Richard Karegyesa  
Sunkarie Ballah-Conteh

**Jean de Dieu Kamuhanda**

Peter Robinson, Counsel

**Received by the Registry  
Mechanism for International Criminal Tribunals  
19/10/2015 16:26**

A handwritten signature in black ink, appearing to read 'Sunkarie Ballah-Conteh', written over a white background within a black rectangular box.

## I. INTRODUCTION

1. In his “Motion to Compel Disclosure of Witness GEK Exculpatory Material”, Kamuhanda requests the Single Judge to order the Prosecutor to disclose all reports reflecting information provided by a Tribunal employee concerning the allegations by Witness GEK that the employee attempted to convince her to recant her testimony against Kamuhanda.

2. Kamuhanda asserts that the Prosecutor has in his possession material from the Tribunal employee, who is alleged by GEK to have attempted to bribe her to recant her testimony against Kamuhanda, wherein the employee in question states that there is no truth to GEK’s allegations.<sup>1</sup> Kamuhanda argues that statements of this nature made by the Tribunal employee during the investigations into GEK’s allegations, puts GEK’s credibility in question, and is therefore disclosable pursuant to Rule 73 of the MICT Rules.

3. Kamuhanda’s motion should be dismissed. The Prosecutor maintains his position that he has reviewed all the material in his possession, regarding GEK’s allegations of witness tampering, for potentially exculpatory content, and has determined that, beyond what has already been disclosed to Kamuhanda by the ICTR Prosecutor,<sup>2</sup> there is no additional disclosable material.

## II. SUBMISSIONS

4. The Prosecutor notes that in denying Kamuhanda’s application, during the appeals hearing, to call the Tribunal employees accused by GEK of having attempted to bribe her to change her testimony against Kamuhanda, the Appeals Chamber held that evidence from the Tribunal employees refuting GEK’s allegations would not be helpful in assessing GEK’s credibility.<sup>3</sup>

5. The ICTR Appeals Chamber has therefore already determined that statements from the Tribunal employees denying their involvement in attempting to bribe GEK, such as those sought by Kamuhanda, do not mitigate guilt or affect

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<sup>1</sup>*The Prosecutor v. Jean De Dieu Kamuhanda*, Case No. MICT-13-33, Motion to Compel Disclosure, 08 October 2015, para.16.

<sup>2</sup>*The Prosecutor v. Jean De Dieu Kamuhanda*, Case No. ICTR-99-54-A, Disclosure of 28 May 2009 and 14 January 2010.

<sup>3</sup>*The Prosecutor v. Jean De Dieu Kamuhanda*, Case No. ICTR-99-54-A, Appeals Hearing, 19 May 2005, p.50.

the credibility of prosecution evidence, and consequently do not fall within Rule 68 of the ICTR Rules and Rule 73 of the MICT Rules.

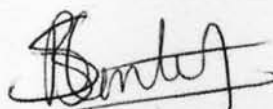
6. The Prosecutor reiterates his position that the material requested is not exculpatory and that substantial material emanating from the Special Investigation deemed to be potentially exculpatory has already been disclosed to Kamuhanda.<sup>4</sup>

7. Notwithstanding the foregoing, should the Single Judge deem it necessary to review the material in question, the Prosecutor requests an *ex parte*, hearing *in camera* at which the material can be made available to the Single Judge for his review and assessment.

**Dated at Arusha this 19<sup>th</sup> day of October 2015**



**Richard Karegyesa**  
Senior Legal Officer



**Sunkarie Ballah-Conteh**  
Legal Advisor

Word Count  
560

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<sup>4</sup>*The Prosecutor v. Jean De Dieu Kamuhanda*, Case No. ICTR-99-54-A, Disclosure of 28 May 2009 and 14 January 2010. See also "Prosecutor's Response to Second Motion for Access to Confidential *Inter Partes* Material from the Nshogoza Case", and the confidential annex, 08 October 2015,