

UNITED  
NATIONS

MICT-12-05  
22-08-2012  
(22 - 20)

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Mechanism for International Criminal Tribunals

Cases No. MICT-12-05  
              MICT-12-06

Date: 22 August 2012

Original: English

**SINGLE JUDGE**

**Before:** Judge Vagn Joensen, Single Judge

**Registrar:** Mr. John Hocking

*In Re.*

**André RWAMAKUBA  
and  
Ildephonse HATEGEKIMANA**

Received by the Registry  
Mechanism for International Criminal Tribunals  
22/08/2012 15:45

*McCauley*

**DECISION IN RELATION TO PROSECUTOR'S REQUEST TO  
VARY THE PROTECTIVE MEASURES FOR WITNESSES  
BYQ AND GIO**

**The Office of the Prosecutor:**

Hassan Bubacar Jallow

*H*

## INTRODUCTION

1. On 29 June 2012, the Prosecutor of the International Criminal Tribunal for Rwanda (“ICTR”) filed an *ex parte* motion for variation of the protective measures for Prosecution Witnesses BYQ and GIO respectively in the *Hategekimana* and *Rwamakuba* cases in order to disclose their witness statements, testimony transcripts, exhibits and other necessary information to the United States Department of Justice to facilitate investigations and criminal proceedings against Beatrice Munyenyezi for her alleged role in the Rwandan genocide of 1994.<sup>1</sup>

2. The Motion was transferred to the Mechanism for International Criminal Tribunals (“MICT”).<sup>2</sup> By two orders of 20 July 2012, the MICT President assigned me to adjudicate the Motion.<sup>3</sup> On 25 July 2012, pursuant to Rule 86 (I) of the MICT Rules of Procedure and Evidence, I ordered the MICT Victims and Witnesses Section to inquire whether Witnesses BYQ and GIO consented to the variation of their protective measures for disclosure to the United States Department of Justice. The Registrar filed the affidavits of the two witnesses obtained through the MICT Victims and Witnesses Section on 13 August 2012.<sup>4</sup>

## DELIBERATION

3. Material from proceedings before the ICTR or MICT that reveals the identity of a protected witness cannot be disclosed to parties in other proceedings before the ICTR or MICT or before other jurisdictions unless the protective measures are varied or rescinded pursuant to Rule 86.

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<sup>1</sup> *In Re. André Rwamakuba*, Case No. MICT-12-05 and *Ildephonse Hategekimana*, Case No. MICT-12-06, Prosecutor’s Confidential Motion *Ex Parte* to Vary Protective Measures for Witnesses BYQ and GIO, filed on 29 June 2012 (“Motion”).

<sup>2</sup> *In Re. André Rwamakuba*, Case No. ICTR-98-44C and *Ildephonse Hategekimana*, Case No. ICTR-00-55B, Order regarding the Prosecutor’s Urgent *Ex Parte* Motion to Vary Protective Measures for Witnesses BYQ and GIO, 18 July 2012.

<sup>3</sup> *Prosecutor v. André Rwamakuba*, Case No. MICT-12-05, Order Assigning a Single Judge to Consider a Prosecution Motion to Vary Protective Measures for Witnesses BYQ and GIO (confidential and *ex parte*), 20 July 2012 and *Prosecutor v. Ildephonse Hategekimana*, Case No. ICTR-12-06, Order Assigning a Single Judge to Consider a Prosecution Motion to Vary Protective Measures for Witnesses BYQ and GIO (confidential and *ex parte*), 20 July 2012.

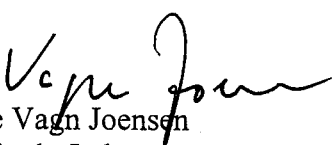
<sup>4</sup> Registrar’s Submissions Pursuant to Rule 31 (B) of the Rules in Compliance with the Order Dated 25 July 2012, filed on 13 August 2012.

4. Pursuant to Rule 86 (I), it is normally required that witnesses give their consent to the rescission, variation or augmentation of protective measures. In the present case, both witnesses agree to the requested variation of their protective measures.<sup>5</sup>

**FOR THE ABOVE REASONS, I**

- I. **GRANT** the Prosecution’s Motion;
- II. **REQUEST** the Registry to provide copies of the personal information sheet for Witnesses BYQ and GIO and other sealed exhibits that may reveal their identity, and transcripts of these Witnesses’ testimony in closed session respectively in the *Rwamakuba* and *Hategekimana* cases to the Prosecution for the purpose of transmission to the Authorities of the United States of America; and
- III. **ALLOW** the Prosecution to disclose the materials covered by the ICTR Decisions on protective measures of 16 January 2009 in the *Hategekimana* case and of 10 December 2004 in the *Rwamakuba* case to the authorities of the United States of America on the condition that the information that Witnesses BYQ and GIO have testified before the ICTR and that the material originates from proceedings before the ICTR shall be treated confidentially and only revealed to the Parties in the American proceedings.

Arusha, 22 August 2012, done in English.

  
 Judge Vagn Joensen  
 Single Judge

[Seal of the International Criminal Tribunal for Rwanda]

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<sup>5</sup> Registrar’s Submissions Pursuant to Rule 31 (B) of the Rules in Compliance with the Order Dated 25 July 2012, filed on 13 August 2012.



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FOR FILING OF DOCUMENTS WITH THE ARUSHA BRANCH OF  
THE MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS/  
POUR LE DEPOT DE DOCUMENTS A LA DIVISION D'ARUSHA DU  
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<b>Case Name/ Affaire:</b>	Rwamakuba - Hategekimana (Cross-filing)		<b>Case Number/ Affaire No:</b>	MICT-12-05 MICT-12-06
<b>Date Created/ Daté du:</b>	22/8/2012		<b>Date transmitted/ Transmis le:</b>	22/8/2012
<b>No. of Pages/ No de pages:</b>	3	<b>Original Language / Langue de l'original:</b>	<input checked="" type="checkbox"/> English/ Anglais	<input type="checkbox"/> French/ Français <input type="checkbox"/> Kinyarwanda
<b>Title of Document/ Titre du document:</b>	DECISION IN RELATION TO PROSECUTOR'S REQUEST TO VARY THE PROTECTIVE MEASURES FOR WITNESSES BYQ AND GIO			
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