



Mechanism for International Criminal Tribunals

Case No. MICT-13-33-AR90/108.1

Date: 8 December 2015

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IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Presiding
Judge Joseph E. Chiondo Masanche
Judge Ben Emmerson

Registrar: Mr. John Hocking

Decision of: 8 December 2015

PROSECUTOR

v.

JEAN DE DIEU KAMUHANDA

PUBLIC

**DECISION ON KAMUHANDA'S APPEAL OF DECISION ON
MOTION FOR APPOINTMENT OF *AMICUS CURIAE*
PROSECUTOR TO INVESTIGATE
PROSECUTION WITNESS GEK**

Office of the Prosecutor:

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1. The Appeals Chamber of the International Residual Mechanism for Criminal Tribunals (“Appeals Chamber” and “Mechanism”, respectively) is seised of the “Appeal of Decision on Jurisdiction to Investigate Prosecution Witness GEK” filed by Jean de Dieu Kamuhanda (“Kamuhanda”) on 15 October 2015 (“Appeal”).¹ The Prosecution responded on 23 October 2015² and Kamuhanda filed a reply on 27 October 2015.³

I. BACKGROUND

2. On 22 January 2004, Trial Chamber II of the International Criminal Tribunal for Rwanda (“ICTR”) found Kamuhanda, a former Minister of Higher Education and Scientific Research in the interim government,⁴ responsible for instigating, ordering, and aiding and abetting the killings and extermination of members of the Tutsi ethnic group on 12 April 1994 in Gikomero Parish Compound, and convicted him of genocide and extermination as a crime against humanity.⁵ The ICTR Trial Chamber, by majority, sentenced Kamuhanda to two concurrent sentences of imprisonment for the remainder of his life.⁶ On 19 September 2005, the ICTR Appeals Chamber, by majority, upheld Kamuhanda’s convictions for ordering genocide and extermination as a crime against humanity and affirmed his sentences.⁷

3. During the appeal proceedings, the ICTR Appeals Chamber admitted, as additional evidence, statements from Witnesses GAA and GEX, procured by Léonidas Nshogoza, a Defence investigator,⁸ and heard these witnesses.⁹ The ICTR Appeals Chamber also heard Witnesses GAG and GEK who were called by the Prosecution in rebuttal.¹⁰ At the evidentiary hearing before the ICTR Appeals Chamber, Witnesses GAA and GEX recanted the evidence they had given during trial incriminating Kamuhanda, and alluded to the possibility of collusion among witnesses

¹ See Order Assigning Judges to a Case Before the Appeals Chamber, 20 October 2015. See also Notice of Appeal, 1 October 2015.

² Prosecution Response to Kamuhanda’s Appeal, 23 October 2015 (confidential); Prosecution Response to Kamuhanda’s Appeal, 28 October 2015 (public redacted version) (“Response”).

³ Reply Brief: Appeal of Decision on Jurisdiction to Investigate Prosecution Witness GEK, 27 October 2015 (“Reply”).

⁴ *The Prosecutor v. Jean de Dieu Kamuhanda*, Case No. ICTR-99-54A-T, Judgement and Sentence, signed on 22 January 2004, filed on 23 January 2004 (“Trial Judgement”), para. 6.

⁵ Trial Judgement, paras. 646, 651, 652, 700-702, 750. See *The Prosecutor v. Jean de Dieu Kamuhanda*, Case No. ICTR-99-54A-T, Judge Maqutu’s Separate and Concurring Opinion on the Verdict, signed on 22 January 2004, filed on 23 January 2004, para. 60.

⁶ Trial Judgement, paras. 770, 771. See *The Prosecutor v. Jean de Dieu Kamuhanda*, Case No. ICTR-99-54A-T, Judge Maqutu’s Dissent on the Sentence, signed on 22 January 2004, filed on 23 January 2004.

⁷ *The Prosecutor v. Jean de Dieu Kamuhanda*, Case No. ICTR-99-54A-A, Judgement, 19 September 2005 (“Appeal Judgement”), para. 365. See Separate and Partially Dissenting Opinion of Judge Mohamed Shahabuddeen; Separate Opinion of Judge Inés Mónica Weinberg De Roca on Paragraph 77 of the Judgement; Dissenting Opinion of Judge Inés Mónica Weinberg De Roca.

⁸ *Jean de Dieu Kamuhanda v. The Prosecutor*, Case No. ICTR-99-54A-R, Decision on Request for Review, 25 August 2011 (“Kamuhanda Decision of 25 August 2011”), para. 6.

⁹ Appeal Judgement, paras. 211-226, 442. Witness GAA testified during the ICTR trial proceedings, while Witness GEX, whose statement was disclosed to Kamuhanda by the Prosecution, was not called to testify at trial. See Appeal Judgement, paras. 212, 222.

involving Witness GEK.¹¹ In her testimony before the ICTR Appeals Chamber, Witness GEK denied that she had persuaded other witnesses to incriminate Kamuhanda and stated that, following Kamuhanda's conviction by the ICTR Trial Chamber, two employees of the ICTR asked her to recant her testimony against Kamuhanda in exchange for monetary and other support.¹² At the close of the evidentiary hearing, the ICTR Appeals Chamber directed the ICTR Prosecutor to investigate: (i) allegations that ICTR employees may have attempted to interfere with the witness who had given evidence in proceedings before the ICTR; and (ii) discrepancies emanating from the evidentiary hearing and the consequent possibility of false testimony, with a view to the preparation and submission of an indictment for false testimony ("ICTR Oral Decision").¹³ The ICTR Appeals Chamber further stressed that, in directing the ICTR Prosecutor, it left it to "his discretion to take the eventual steps and measures which he deem[ed] necessary and appropriate under the circumstances".¹⁴ The ICTR Prosecutor subsequently appointed a Special Counsel to conduct the investigations.¹⁵

4. On 3 March 2006, the ICTR Prosecutor disclosed to Kamuhanda testimony given by Witness 7/14 in the ICTR case of *The Prosecutor v. André Rwamakuba*, according to which Witnesses GET and GEK organized false testimony against Kamuhanda during his trial.¹⁶ Following the disclosure of Witness 7/14's testimony, Kamuhanda requested that the ICTR Appeals Chamber: (i) order the ICTR Prosecutor to cease its investigation under the ICTR Oral Decision or, in the alternative, to allow Kamuhanda and his counsel to be heard by the Special Counsel; (ii) set a date for the filing of the Special Counsel's final report; and (iii) provide Kamuhanda with a copy thereof.¹⁷ The ICTR Appeals Chamber dismissed Kamuhanda's request, emphasizing that, in directing the ICTR Prosecutor to investigate the possibility of false testimony, it left it to the Prosecutor's discretion to take the eventual steps and measures which he may deem necessary and

¹⁰ Appeal Judgement, paras. 211, 442.

¹¹ Appeal Judgement, paras. 212, 213, 223, 225.

¹² *The Prosecutor v. Jean de Dieu Kamuhanda*, Case No. ICTR-99-54A-A, T. 19 May 2005 ("Appeal Hearing") pp. 4, 5; Appeal Hearing, pp. 7-9 (closed session).

¹³ Appeal Hearing, pp. 50, 51. In the Appeal Judgement, the ICTR Appeals Chamber found that Witness GAA's recantation during the evidentiary hearing was not credible and concluded that his additional evidence could not have been a decisive factor in reaching the decision at trial (*see* Appeal Judgement, para. 221). Similarly, with respect to Witness GEX, the Appeals Chamber concluded that her testimony during the evidentiary hearing was unreliable and found that there was no evidence supporting a collusion among the Prosecution witnesses with the goal to testify falsely against Kamuhanda (Appeal Judgement, para. 226).

¹⁴ Appeal Hearing, p. 51.

¹⁵ *See The Prosecutor v. Jean de Dieu Kamuhanda*, Case No. ICTR-99-54A-A, Prosecutor's Rep[ly] by way of Clarification in relation to Jean de Dieu Kamuhanda's Response to the "Prosecutor's Disclosure Pursuant to Rule 75(F) of the Rules, of the confidential transcript of the testimony of Defence Witness 7/14, in *Prosecutor v. Rwamakuba*", 20 March 2006, para. 10.

¹⁶ *The Prosecutor v. Jean de Dieu Kamuhanda*, Case No. ICTR-99-54A-A, Decision on Jean de Dieu Kamuhanda's Request Related to Prosecution Disclosure and Special Investigation, 7 April 2006 ("*Kamuhanda* Appeal Decision of 7 April 2006"), para. 3. The ICTR Prosecution had also provided Witness 7/14's testimony to the Special Counsel.

¹⁷ *Kamuhanda* Appeal Decision of 7 April 2006, para. 6.

appropriate under the circumstances.¹⁸ The ICTR Appeals Chamber further held that reports prepared in connection with the investigation were not subject to disclosure.¹⁹

5. Following the filing of an indictment against Witness GAA by the ICTR Prosecutor, Witness GAA pleaded guilty on 3 December 2007 to giving false testimony under solemn declaration and contempt of the ICTR, and was sentenced by an ICTR Trial Chamber to nine months of imprisonment.²⁰ Witness GAA admitted to falsely recanting his trial testimony at the evidentiary hearing before the ICTR Appeals Chamber.²¹ On 7 July 2009, Nshogoza was convicted for contempt for meeting with Witnesses GAA and GEX and disclosing their information to third parties in violation of the witnesses' protective measures, and was sentenced to 10 months of imprisonment.²² On appeal, the ICTR Appeals Chamber confirmed Nshogoza's conviction for contempt and, by majority, affirmed his sentence.²³

6. On 13 August 2009, in response to an order from the ICTR Appeals Chamber granting Kamuhanda's motion for legal assistance in preparing a potential request for review of the Appeal Judgement, the ICTR Prosecutor stated that no report containing the conclusions of the Special Counsel existed, that the investigations by the Special Counsel were never concluded, and that, as of that date, the investigations had resulted in the arrest and prosecution of Witness GAA and Nshogoza.²⁴ Subsequently, in his request for review of the Appeal Judgement, Kamuhanda submitted that the ICTR Prosecutor had committed contempt by failing to conclude the investigations.²⁵ The ICTR Appeals Chamber dismissed Kamuhanda's allegations of contempt, finding that the filing of a concluding report was not necessarily required and that it was within the ICTR Prosecutor's discretion instead to file indictments against Witness GAA and Nshogoza.²⁶

7. On 2 August 2015, Kamuhanda filed a motion before the Mechanism requesting the appointment of an *amicus curiae* prosecutor to complete the investigation ordered in the ICTR Oral Decision in relation to Witness GEK.²⁷ On 16 September 2015, the Single Judge found that he had

¹⁸ Kamuhanda Appeal Decision of 7 April 2006, para. 7. See also Appeal Hearing, p. 51.

¹⁹ Kamuhanda Appeal Decision of 7 April 2006, para. 7.

²⁰ *The Prosecutor v. GAA*, Case No. ICTR-07-90-R77-I, Judgement and Sentence, 4 December 2007 ("GAA Judgement"), paras. 3, 4, p. 6.

²¹ GAA Judgement, para. 5.

²² *The Prosecutor v. Léonidas Nshogoza*, Case No. ICTR-07-91-T, Judgement, 7 July 2009, paras. 188, 189, 233.

²³ *The Prosecutor v. Léonidas Nshogoza*, Case No. ICTR-07-91-A, Judgement, 15 March 2010, para. 112.

²⁴ *Kamuhanda Jean de Dieu v. The Prosecutor*, Case No. ICTR-99-54A-R, Prosecutor's Clarification on Kamuhanda's Request for Special Counsel's Report, 13 August 2009, para. 4. See *Jean de Dieu Kamuhanda v. The Prosecutor*, Case No. ICTR-99-54A-R, Decision on Motion for Legal Assistance, 21 July 2009, paras. 21, 22. See also *The Prosecutor v. Léonidas Nshogoza*, Case No. ICTR-07-91-PT, T. 30 October 2008 p. 11 (where the ICTR Prosecutor stated at the pre-trial conference that "[the Special Counsel] has never concluded her investigation, her assignment").

²⁵ Kamuhanda Decision of 25 August 2011, para. 62.

²⁶ Kamuhanda Decision of 25 August 2011, para. 65.

²⁷ *The Prosecutor v. Jean de Dieu Kamuhanda*, Case No. MICT-13-33, Motion for Appointment of *Amicus Curiae* Prosecutor to Investigate Prosecution Witness GEK, 2 August 2015 (with public annexes A-D and confidential annex

no jurisdiction to revisit a matter that had been decided by the ICTR Appeals Chamber and dismissed Kamuhanda's request in its entirety.²⁸ According to Kamuhanda, he subsequently attempted to file a motion for the appointment of an *amicus curiae* prosecutor before the ICTR.²⁹ However, the ICTR Registry informed Kamuhanda that the ICTR no longer had jurisdiction over his case and suggested that he contact the Mechanism.³⁰

II. SUBMISSIONS

8. Kamuhanda submits that the Single Judge erred in law in finding that the Mechanism lacked jurisdiction to appoint an *amicus curiae* prosecutor to "initiate" an investigation into the allegations of contempt and false testimony which had occurred before the ICTR involving Witness GEK.³¹ Specifically, Kamuhanda argues that the Single Judge misconstrued his motion as raising the same issues that had been raised before the ICTR Appeals Chamber.³² In this regard, Kamuhanda claims that it was only in 2015, after Kamuhanda's new counsel contacted the two ICTR employees implicated by Witness GEK, that new evidence was discovered, establishing false testimony and contempt by Witness GEK.³³ Further, Kamuhanda argues that the Single Judge erred in finding that the Mechanism has no jurisdiction to reconsider or modify ICTR decisions should new information arise.³⁴ Accordingly, Kamuhanda requests that the Appeals Chamber reverse the Impugned Decision and remand the matter to the Single Judge.³⁵

9. The Prosecution responds that the Appeal should be denied since Kamuhanda seeks to re-litigate a matter that was disposed of by the ICTR Appeals Chamber.³⁶ Further, the Prosecution submits that the only exception where a party may re-litigate a matter is through a request for reconsideration.³⁷ In this respect, the Prosecution argues that Kamuhanda did not file a motion for

E) ("Motion for Appointment of *Amicus Curiae*"), para. 28. See also Motion for Appointment of *Amicus Curiae*, para. 26. *The Prosecutor v. Jean de Dieu Kamuhanda*, Case No. MICT-13-33, Prosecution Response to Motion for Appointment of *Amicus Curiae* Prosecutor to Investigate Prosecution Witness GEK, 11 August 2015; *The Prosecutor v. Jean de Dieu Kamuhanda*, Case No. MICT-13-33, Reply Brief: Motion for Appointment of *Amicus Curiae* Prosecutor, 20 August 2015.

²⁸ *The Prosecutor v. Jean de Dieu Kamuhanda*, Case No. MICT-13-33, Decision on Motion for Appointment of *Amicus Curiae* Prosecutor to Investigate Prosecution Witness GEK, 16 September 2015 ("Impugned Decision"), p. 3.

²⁹ Appeal, para. 23. See Appeal, Annexes A, B.

³⁰ Appeal, para. 24; Appeal, Annex B.

³¹ Appeal, paras. 1, 19, 29, 55. See also Notice of Appeal, para. 3.

³² Appeal, paras. 43, 44, 46.

³³ Appeal, para. 45. See also Appeal, para. 18.

³⁴ Appeal, paras. 47-54.

³⁵ Appeal, paras. 55, 56.

³⁶ Response, paras. 1, 7, 13.

³⁷ Response, para. 9, citing *Callixte Nzabonimana v. The Prosecutor*, Case No. ICTR-98-44D-AR7bis, Decision on Callixte Nzabonimana's Interlocutory Appeal on the Order Rescinding the 4 March 2010 Decision and on the Motion for Leave to Appeal the President's Decision Dated 5 May 2010, 20 September 2010, para. 13.

reconsideration, and failed to show that new material circumstances exist or that the ICTR Oral Decision was erroneous and caused him prejudice.³⁸

10. In reply, Kamuhanda submits that he is not seeking a reconsideration of the ICTR Oral Decision;³⁹ rather, he is challenging the conclusion in the Impugned Decision that the “Mechanism has no jurisdiction to reconsider a matter that had been decided by the ICTR Appeals Chamber.”⁴⁰ Kamuhanda adds that, even if his submissions were to be construed as a request for reconsideration, the Mechanism would have jurisdiction to consider it based on the new material circumstances that “the investigation [into Witness GEK] was never carried out”.⁴¹

III. DISCUSSION

11. Pursuant to Rule 90(J) of the Rules of Procedure and Evidence of the Mechanism (“Rules”), a decision disposing of a contempt case rendered by a Single Judge is subject to appeal as of right. The Appeals Chamber notes that in the Impugned Decision, the Single Judge dismissed Kamuhanda’s request for the appointment of an *amicus curiae* Prosecutor to complete the investigations into contempt identified in the ICTR Oral Decision, thus effectively disposing of the contempt case before the Mechanism.⁴² Accordingly, the Appeals Chamber finds that an appeal as of right lies from the Impugned Decision under Rule 90(J) of the Rules, and recognizes the Appeal as validly filed.

12. The Appeals Chamber observes that in his Motion for Appointment of *Amicus Curiae*, Kamuhanda requested the appointment of an *amicus curiae* prosecutor to “complete the investigation ordered by the [ICTR] Appeals Chamber in 2005 and investigate the false testimony and interference with justice by Prosecution Witness GEK”.⁴³ In dismissing Kamuhanda’s request, the Single Judge noted that prior to the commencement date of the ICTR branch of the Mechanism, the ICTR Appeals Chamber had decided what steps should be taken in relation to Witness GEK, and subsequently found that the ICTR Prosecutor had acted within the directives of the ICTR Oral Decision.⁴⁴ The Single Judge pointed out that decisions taken by the ICTR Appeals Chamber, while properly seised of the matter and prior to the commencement date of the Mechanism, retain their

³⁸ Response, paras. 10-12.

³⁹ Reply, para. 6.

⁴⁰ Reply, para. 4 (emphasis omitted).

⁴¹ Reply, para. 7. The Appeals Chamber notes that Kamuhanda’s request that the Appeals Chamber order the Prosecution to file a public redacted version of the Response is moot. *See supra* n. 2; Reply, para. 3.

⁴² Impugned Decision, paras. 3, 11.

⁴³ Motion for Appointment of *Amicus Curiae*, para. 28. *See also* Motion for Appointment of *Amicus Curiae*, para. 26.

⁴⁴ Impugned Decision, paras. 10, 11.

validity before the Mechanism.⁴⁵ Consequently, the Single Judge concluded that he had no jurisdiction to revisit the matter.⁴⁶

13. Kamuhanda's contention on appeal that the Single Judge erred in not appointing an *amicus curiae* prosecutor to "initiate" an investigation into the allegations of contempt and false testimony misrepresents the issue that was before the Single Judge.⁴⁷ The Single Judge was seised with Kamuhanda's request for the completion of the investigation ordered in the ICTR Oral Decision, not with a request for the initiation of a new investigation.⁴⁸ Accordingly, the Appeals Chamber will examine whether the Single Judge erred in dismissing Kamuhanda's request to appoint an *amicus curiae* prosecutor to *complete* the investigation ordered in the ICTR Oral Decision.

14. The Appeals Chamber notes that, in the *Kamuhanda* Decision of 25 August 2011, the ICTR Appeals Chamber dismissed Kamuhanda's submission that the ICTR Prosecutor had the duty to conclude the investigations initiated pursuant to the ICTR Oral Decision.⁴⁹ Accordingly, the *Kamuhanda* Decision of 25 August 2011 effectively disposed of Kamuhanda's request for the completion of the investigations before the ICTR Appeals Chamber. The Single Judge therefore correctly observed that the matter before him had already been adjudicated by the ICTR prior to the date when the Mechanism's ICTR branch commenced its functions.⁵⁰

15. To the extent that Kamuhanda's request before the Single Judge may have been based on new circumstances, demonstrating an injustice, that have emerged after the *Kamuhanda* Decision of 25 August 2011 was rendered, it amounted to a request for a reconsideration of the ICTR Appeals Chamber's decision on the matter of the contempt investigations.⁵¹ The Appeals Chamber recalls that the Mechanism's mandate is to continue the jurisdiction, rights and obligations, and essential functions of the ICTR and the ICTY and that in doing so, it is bound to consider the relevant precedents of the *ad hoc* tribunals.⁵² Accordingly, while decisions of the ICTR Appeals Chamber, as correctly noted in the Impugned Decision, retain their validity before the Mechanism, applicants are not barred from seeking reconsideration of such decisions before the Mechanism, where appropriate.

⁴⁵ Impugned Decision, para. 10.

⁴⁶ Impugned Decision, para. 11.

⁴⁷ See Appeal, para. 1.

⁴⁸ See *supra* para. 12.

⁴⁹ *Kamuhanda* Decision of 25 August 2011, para. 65. See *supra* para. 6.

⁵⁰ See Impugned Decision, para. 11.

⁵¹ See Motion for Appointment of *Amicus Curiae*, para. 13; Appeal, para. 45.

⁵² *Phénéas Munyarugarama v. Prosecutor*, Case No. MICT-12-09-AR14, Decision on Appeal Against the Referral of Phénéas Munyarugarama's Case to Rwanda and Prosecution Motion to Strike, 5 October 2012 ("*Munyarugarama* Decision of 5 October 2012"), paras. 4, 6.

16. It is well established in the jurisprudence of the *ad hoc* tribunals that the Appeals Chamber has inherent discretionary power to reconsider a previous non-final decision if a clear error of reasoning has been demonstrated or if it is necessary in order to prevent an injustice.⁵³ The Appeals Chamber shall not reconsider final decisions terminating the proceedings in a case.⁵⁴ Such decisions include final judgements⁵⁵ and decisions denying requests for review.⁵⁶ The Appeals Chamber considers that the *Kamuhanda* Decision of 25 August 2011, in the part concerning the matter of the contempt investigations, does not belong to either category and that it may be subject to reconsideration before the Mechanism. Nevertheless, the Appeals Chamber emphasizes that the principle of finality dictates that the discretionary power to reconsider previous decisions should be exercised sparingly and a party must therefore meet a high threshold in its request for reconsideration.⁵⁷

17. The Appeals Chamber recalls, however, that a request for reconsideration, by definition, has to be made before the chamber that rendered the impugned decision.⁵⁸ Considering that the Statute

⁵³ *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-A, Decision on Motions for Reconsideration, 5 September 2014 (“Prlić Decision of 5 September 2014”), p. 3; *Ferdinand Nahimana v. The Prosecutor*, Case No. ICTR-99-52B-R, Decision on Ferdinand Nahimana’s Motion for Reconsideration of the Decision of 27 September 2011 and of his Sentence, 29 June 2012, p. 3; *Jean Uwinkindi v. The Prosecutor*, Case No. ICTR-01-75-AR11bis, Decision on Uwinkindi’s Motion for Review or Reconsideration of the Decision on Referral to Rwanda and the Related Prosecution Motion, 23 February 2012 (“Uwinkindi Decision of 23 February 2012”), para. 11, referring to *Juvénal Kajelijeli v. The Prosecutor*, Case No. ICTR-98-44A-A, Judgement, 23 May 2005, para. 203; *Aloys Ntabakuze v. The Prosecutor*, Case No. ICTR-98-41A-A, Decision on Peter Erlinder’s Motion to Reconsider Order Imposing Sanctions, 1 September 2011, p. 3.

⁵⁴ See *Uwinkindi* Decision of 23 February 2012, para. 10, referring to *Ferdinand Nahimana et al. v. The Prosecutor*, Case No. ICTR-99-52-A, *Décision relative à la requête de l’appelant Jean-Bosco Barayagwiza demandant l’examen de la requête de la Défense datée du 28 juillet 2000 et réparation pour abus de procédure*, 23 June 2006, para. 21; *Eliézer Niyitegeka v. The Prosecutor*, Case No. ICTR-96-14-R, Decision on Request for Reconsideration of the Decision on Request for Review, 27 September 2006 (“Niyitegeka Decision of 27 September 2006”), p. 3, referring to *Jean Bosco Barayagwiza v. The Prosecutor*, Case No. ICTR-97-19-AR72, Decision (Prosecutor’s Request for Review or Reconsideration), signed on 31 March 2000, filed on 7 April 2000, para. 49. Cf. *Prosecutor v. Pavle Strugar*, Case No. IT-01-42-Misc.1, Decision on Strugar’s Request to Reopen Appeal Proceedings, 7 June 2007, para. 25.

⁵⁵ *Prosecutor v. Mile Mrkšić and Veselin Šljivančanin*, Case No. IT-95-13/1-A, Decision on Motion on Behalf of Veselin Šljivančanin Seeking Reconsideration of the Judgement Rendered by the Appeals Chamber on 5 May 2009 – or an Alternative Remedy, 8 December 2009, p. 2; *Hassan Ngeze v. The Prosecutor*, Case No. ICTR-99-52-R, Decision on Hassan Ngeze’s Motions and Requests Related to Reconsideration, 31 January 2008, p. 3; *Georges Anderson Nderubumwe Rutaganda v. The Prosecutor*, Case No. ICTR-96-03-R Decision on Requests for Reconsideration, Review, Assignment of Counsel, Disclosure, and Clarification, 8 December 2006, para. 6; *Prosecutor v. Tihomir Blaškić*, Case No. IT-95-14-R, Decision on Prosecutor’s Request for Review or Reconsideration, 23 November 2006 (public redacted version), paras. 79, 80; *Prosecutor v. Zoran Žigić aka “Ziga”*, Case No. IT-98-30/1-A, Decision on Zoran Žigić’s “Motion for Reconsideration of Appeals Chamber Judgement IT-98-30/1-A Delivered on 28 February 2005”, 26 June 2006, para. 9.

⁵⁶ *Eliézer Niyitegeka v. Prosecutor*, Case No. MICT-12-16-R, Decision on Niyitegeka’s Request for Assignment of Counsel, 6 November 2014, para. 11, referring to *François Karera v. Prosecutor*, Case No. MICT-12-24-R, Decision on Request for Assignment of Counsel, 4 December 2012, para. 11; *François Karera v. The Prosecutor*, Case No. ICTR-01-74-R, Decision on Requests for Reconsideration and Review, 26 March 2012, para. 8; *Eliézer Niyitegeka v. The Prosecutor*, Case No. ICTR-96-14-R, Decision on Motion for Reconsideration of Fifth Review Decision, 25 March 2010, para. 5; *Niyitegeka* Decision of 27 September 2006, pp. 2, 3.

⁵⁷ *Prlić* Decision of 5 September 2014, p. 3, referring to *Prosecutor v. Mićo Stanišić and Stojan Župljanin*, Case No. IT-08-91-A, Decision on Mićo Stanišić’s Motion Seeking Reconsideration of Decision on Stanišić’s Motion for Declaration of Mistrial and Župljanin’s Motion to Vacate Trial Judgement, 24 July 2014, para. 12.

⁵⁸ *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-A & IT-95-5/18-T, Decision on Motion by Radovan Karadžić for Reconsideration of Decision on Motion for Access to Confidential Materials in the *Stanišić and*

of the Mechanism and the Rules reflect normative continuity with the Statute and the Rules of Procedure and Evidence of the ICTR,⁵⁹ the Appeals Chamber observes that the proper forum for a request for reconsideration of a decision rendered by the ICTR Appeals Chamber is the Appeals Chamber of the Mechanism. The Appeals Chamber therefore finds that the Single Judge did not err in concluding that he lacked jurisdiction to revisit a matter previously decided by the ICTR Appeals Chamber.

IV. DISPOSITION

18. For the foregoing reasons, the Appeals Chamber **DISMISSES** the Appeal.

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

Done this 8th of December 2015,
At The Hague,
The Netherlands



Judge Theodor Meron, Presiding

[Seal of the Mechanism]



Simatović Case, 16 February 2015, p. 2, referring to *Prosecutor v. Milan Lukić and Sredoje Lukić*, Case No. IT-98-32/1-A, Decision on the Prosecution's "Motion for Reconsideration and Rescission of the Order to Disclose Issued in Trial Chamber's 'Decision on Motion by Radovan Karadžić for Access to Confidential Materials in the Lukić and Lukić Case' of 10 July 2009", 7 December 2009, para. 4.

⁵⁹ *Munyarugarama* Decision of 5 October 2012, para. 5.



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| | <input checked="" type="checkbox"/> Order/ Ordonnance | <input type="checkbox"/> Book of Authorities/ Recueil de sources | <input type="checkbox"/> Notice of Appeal/ Acte d'appel | | |
| | <input type="checkbox"/> Judgement/ Jugement/Arrêt | <input type="checkbox"/> Affidavit/ Déclaration sous serment | | | |

II - TRANSLATION STATUS ON THE FILING DATE/ ÉTAT DE LA TRADUCTION AU JOUR DU DÉPÔT

| | | | | | |
|--|--|---|--------------------------------------|---|---|
| <input type="checkbox"/> Translation not required/ La traduction n'est pas requise | | | | | |
| <input checked="" type="checkbox"/> Filing Party hereby submits only the original, and requests the Registry to translate/ La partie déposante ne soumet que l'original et sollicite que le Greffe prenne en charge la traduction : (Word version of the document is attached/ La version Word est jointe) | | | | | |
| <input type="checkbox"/> English/ Anglais | <input checked="" type="checkbox"/> French/ Français | <input checked="" type="checkbox"/> Kinyarwanda | <input type="checkbox"/> B/C/S | <input type="checkbox"/> Other/Autre (specify/préciser) : | |
| <input type="checkbox"/> Filing Party hereby submits both the original and the translated version for filing, as follows/ La partie déposante soumet l'original et la version traduite aux fins de dépôt, comme suit : | | | | | |
| Original/ Original en | <input 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) : |
| Translation/ Traduction en | <input 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) : |
| <input type="checkbox"/> Filing Party will be submitting the translated version(s) in due course in the following language(s)/ La partie déposante soumettra la (les) version(s) traduite(s) sous peu, dans la (les) langue(s) suivante(s) : | | | | | |
| <input 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) : | |

Send completed transmission sheet to/ Veuillez soumettre cette fiche dûment remplie à :
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Rev: April 2014/Rév. : Avril 2014