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17/H



UNITED NATIONS
NATIONS UNIES

Tribunal pénal international pour le Rwanda
International Criminal Tribunal for Rwanda

ICTR-05-88-AR75

26th April 2011

{17/H - 16/H}

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron

Registrar: Mr. Adama Dieng

Decision of: 26 April 2011

CALLIXTE KALIMANZIRA

v.

THE PROSECUTOR

Case No. ICTR-05-88-AR75

ORIGINAL FILED IN ARCHIVE
2011 APR 26 11:30 AM
ICTR

DECISION ON THE PROSECUTOR'S MOTION TO VARY PROTECTIVE MEASURES

Counsel for Callixte Kalimanzira:

pro se

The Office of the Prosecutor:

Mr. Hassan Bubacar Jallow
Mr. Richard Karegyesa
Mr. Fredrick Nyiti

ICTR
CENTRAL REGISTRY
26 APR 2011
ACTION: APPEALS/CMS
COPY 1:

16/H

I, **Theodor Meron**, Judge of the Appeals Chamber of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January and 31 December 1994 ("Tribunal");¹

BEING SEIZED of the Prosecution's motion, filed *ex parte* and confidentially on 19 April 2011, to vary protective measures of three Prosecution witnesses from the *Kalimanzira* case;²

CONSIDERING that Rule 75(G) of the Rules provides that jurisdiction to consider such a request lies with the "Chamber, however constituted, remaining seized of the first proceedings" or "if no Chamber remains seized of the first proceedings, to the Chamber seized of the second proceedings";

RECALLING that, in any other circumstances, the request should be directed to the President of the Tribunal so that the matter can be assigned to an appropriate Trial Chamber;³

CONSIDERING that, following the delivery of its Judgment in the *Kalimanzira* case on 20 October 2010, the Appeals Chamber is no longer seized of this case and lacks jurisdiction to consider the Motion;

FOR THE FOREGOING REASONS

DISMISS the Motion.

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

Done this 26th day of April 2011,
At The Hague,
The Netherlands.



[Seal of the Tribunal]

Theodor Meron
Judge Theodor Meron

¹ Order Assigning a Judge to a Case Before the Appeals Chamber, 21 April 2011. Pursuant to Rule 75(1) of the Rules of Procedure and Evidence of the Tribunal ("Rules"), an application to vary protective measures may be dealt with by a Chamber or a Judge of that Chamber.

² Prosecutor's Urgent Confidential *Ex Parte* Motion to Rescind Protective Measures for Witnesses, Art. 28 & Rule 75, 19 April 2011 ("Motion").

³ See, e.g., *The Prosecutor v. Eliézer Niyitegeka*, Case No. ICTR-96-14-R, Decision on Request for Disclosure, 11 June 2007, para. 5.