

MICT-12-29
27-08-2015
(3565 - 3563)

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THE MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS

CASE No. MICT-12-29

THE PRESIDENT

Before: Judge Theodor Meron

Registrar: Mr. John Hocking

Date Filed: 18 August 2015

THE PROSECUTOR

v.

AUGUSTIN NGIRABATWARE

Public

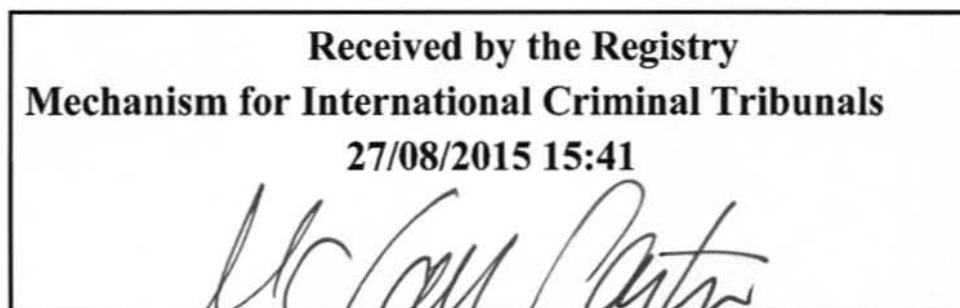
REQUEST FOR ACCESS

Office of the Prosecutor:

Mr. Hassan Jallow

Augustin Ngirabatware:

Mr. Peter Robinson, Counsel



1. Augustin Ngirabatware was convicted on 20 December 2012 by a Trial Chamber of the ICTR.¹ The MICT Appeals Chamber affirmed his convictions for genocide and incitement on 18 December 2014 and sentenced him to 30 years imprisonment.²

2. Ms. Mylene Dimitri of Canada represented Mr. Ngirabatware at trial and on appeal.

3. On 17 August 2015, Mr. Ngirabatware signed a power of attorney with the Mechanism designating Mr. Peter Robinson of the United States as his counsel for purposes of seeking review of his conviction before the Mechanism.

4. Mr. Robinson is on the List of Counsel admitted to practice before the Mechanism.³

5. On 18 August 2015, Mr. Robinson filed an undertaking with the Mechanism agreeing to serve as Mr. Ngirabatware's counsel and to respect the confidentiality of any disclosures made to him.

6. Mr. Ngirabatware requests that Mr. Robinson be given access to all of the public and confidential material in his case, except those documents filed by the prosecution that remain classified as *ex parte*. The purpose of such access is to allow Mr. Robinson to prepare an application for review of his judgement. The preparation of such an application requires that Mr. Robinson have unrestricted access to protected witness factual information as well as the legal pleadings filed in his case.

7. In the *Kamuhanda* case, the Single Judge held that such access should be granted under similar circumstances.⁴ In the *Brdjanin* case, the Single Judge held that such access should be granted even without a judicial order in the absence of exceptional circumstances.⁵

8. On 18 August 2015, an inquiry was made to the Registry as to whether it was willing to provide access to Mr. Ngirabatware's case file without a judicial order. On 27 August 2015, the Registry advised that it required a judicial order.

¹ *Prosecutor v Ngirabatware*, No. ICTR-99-54-T, *Judgement* (20 December 2012)

² *Ngirabatware v Prosecutor*, No. MICT 12-29-A, *Judgement* (18 December 2014)

³ See *Prosecutor v Kamuhanda*, No. MICT 13-33, *Registrar's Rule 31 (B) Submissions following the "Order for Submissions" of 20 May 2015* (10 June 2015) at para. 5

⁴ *Prosecutor v Kamuhanda*, No. MICT 13-33, *Decision on Request for Access* (25 June 2005)

⁵ *Prosecutor v Brdjanin*, No. MICT-13-48, *Decision on Request for Access* (3 August 2015)

9. Therefore, it is respectfully requested that the President, or a Single Judge designated by him, grant Mr. Robinson access to all confidential material in this case except for material classified as *ex parte* by the prosecution.

Word count: 467

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter Robinson". The signature is written in a cursive style with large, rounded letters.

PETER ROBINSON
Counsel for Augustin Ngirabatware