



Mechanism for International Criminal Tribunals

Case No: **MICT-12-20**

Date: November 19<sup>th</sup>, 2014

Original: English

**Before:** Judge Theodor Meron,  
MICT President

**Registrar:** Mr John Hocking

**Monitor:** Zbigniew Lasocik

**PROSECUTOR**

v.

**BERNARD MUNYAGISHARI**

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**MONITORING REPORT  
NOVEMBER 2014**

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*PUBLIC*

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## INTRODUCTION

1. Pursuant to the Terms of Reference for the Monitors, particularly part “C” of the Annex II to the MOU between MICT and ISLP (Europe), I respectfully submit this Report to the President of the MICT through the Registrar.
2. This Monitoring Report pertains to the activities in the *Munyagishari* case before the Judiciary in the Republic of Rwanda and the interactions of the Monitor of the Mechanism for International Criminal Tribunals (MICT) with various stakeholders during the month of November 2014.

## COURT HEARINGS AND FILES

### COURT HEARING IN *MUNYAGISHARI* CASE, NOVEMBER 5<sup>TH</sup>, 2014

3. The hearing started around 9.00. Prosecution was represented by Mr. Bonaventura Ruberwa. Defense was represented by Mr. Jean-Baptiste Niyibizi and Mr. John Hakizimana.
4. From the very beginning the hearing was interpreted from Kinyarwanda into French by Mr. Faustin Murangwa, Legal Adviser to the High Court. He was located at the place for witnesses, in front of the Court and between parties.
5. The Presiding Judge asked Mr. B. Munyagishari whether he submitted written reply to the Indictment? The Accused answered that he did not, as it was impossible due to difficulties related to arrangement of his defense. He stated that the lawyers supporting him did not sign the contract with the Government. He added that there was no money for collective evidence of his favor. Finally Mr. B. Munyagishari stated that all his rights to the defense had been violated. He informed the Court that instead of written reply for the Indictment he prepared the document that summarizes his position, which he would like to present to the Court.
6. With the permission of the Court Mr. Munyagishari started his presentation. He stated that again that his counsels were not being paid, that the contract with the Government on their services had not been signed and that the Ministry of Justice was not willing to negotiate this contract.
7. Soon after the Accused had begun his presentation the Presiding Judge stopped him stating that financial difficulties of the Defense are beyond mandate of the Court.

8. In replay Mr. Munyagishari asked the Court for intervention as according to him his basic right to defense had been violated.
9. The Presiding Judge expressed her disappointment that the written reply to the Indictment was not prepared. She asked the Counsels for their explanation.
10. Mr. Niyibizi stated that they did not prepare such reply as they were not paid to do so. He also described series of steps taken by them to get the contract signed. He also described obstacles they faced.
11. The Presiding Judge asked whether they still support the Accused or whether there was a need to replace them and appoint new lawyers.
12. Mr. Niyibizi stated that they support Mr. Munyagishari but it was impossible to be effective without money. He also informed the Court that they filed all documents related to difficulties of the Defense in getting contract signed.
13. The Presiding Judge stated that the Court is not interested in financial difficulties of the Counsels, the Court is interested in progress of the case.
14. The Court asked Prosecution for its position. Answering Mr. Ruberwa stated that Counsels are not telling the truth as there was a contract which they had not signed. According to him situation is simple: either they signed the contract as proposed by the Government or they leave. Mr. Ruberwa stated also that following assumption is justified: since the lawyers did not sign the contract they are not representing the Accused? He suggested that the by such steps the Defense is implementing its strategy to delay the proceedings. If there would be no other choice the Counsels should be dismissed – he stated.
15. The Presiding Judge asked the Counsels about their final decision.
16. Both Lawyers confirmed that they wanted to continue their job. Mr. Niyibizi stated that there are 4.000 pages of case materials, that the Prosecution had 10 years do work on that case, finally that the Prosecution had all possible means, including finances. But the Defense had only 6 months to replay and no financial means. In conclusion he requested Court for more time to prepare the defense.
17. The Court decided that the written reply for the Indictment must be submitted before December 2<sup>nd</sup>.
18. The Court decided that the next hearing is scheduled for December 10<sup>th</sup> (time was not indicated).

REVIEW OF THE FILE OF *MUNYAGISHARI* CASE , NOV. 5<sup>TH</sup>

19. There were only two new documents in the file. One was the document which Mr. Munyagishari submitted to the Court during the hearing the same day. Second document were the minutes of the hearing of Nov. 5<sup>th</sup>, 2014.
20. There was also a letter of Mr. Munyagishari to the President of the Bar Association dated May 6<sup>th</sup>, 2014 in which he requested list of lawyers. In this letter Mr. Munyagishari asked the President of the Bar whether it was true that his counsels were appointed only temporarily. There was no reply for this letter. Also it was not given running page number.

VISIT TO PRISON

MEETING WITH MR. MUNYAGISHARI, NOV. 6<sup>TH</sup>, 2014

21. Mr. Munyagishari stated that at the hearing on November 5<sup>th</sup> the Court violated his basic right to defense by refusing to present his statement at the public hearing. According to Mr. Munyagishari it violates the fair trial standards.
22. Mr. Munyagishari recalled that before he was transferred to Rwanda the Government of Rwanda gave him guaranties of fair trial. All these promises are now being ignored. According to Mr. Munyagishari his defense is in fact paralyzed by the deliberate action of the Ministry of Justice.
23. REDACTED
24. REDACTED
25. According to Mr. Munyagishari what the Government and the Court do is against the Constitution of the Republic and the Transfer Law. He also stated that the principle of equal arms was not observed since the Prosecution had all necessary means and a lot of time while he and his lawyers were given only few months and no money whatsoever.
26. Mr. Munyagishari pointed that the proceeding in his case was initiated in September 1995 but last investigating activity took place on October 7<sup>th</sup>, 2013. This means that the investigation lasted for 8 years. "As far as I know, the Prosecution hired (appointed) 23 investigators who "produced" 4.000 pages of materials but now the Court gives me and team of my lawyers 4 weeks to prepare written reply for the Indictment, is it fair trial?" – he asked.

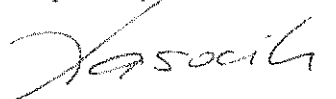
27. Mr. Munyagishari handed over to me a copy of the document which he submitted to the Court at the hearing the previous day. This document will be translated and should be transferred to the President of the Mechanism.

#### CONCLUSIONS

28. REDACTED

29. I will continue to monitoring of this case in the following months.

Respectfully submitted,



Zbigniew Lasocik, prof.  
Monitor for the *Munyagishari* case

Dated: November 19<sup>th</sup>, 2014.  
Warsaw, Poland