

MICT-12-25-R14.1
02-09-2015
(3 - 1/1046bis)

3/1046bis
JN

**UNITED
NATIONS**

Mechanism for International Criminal Tribunals

MICT-12-25-R14.1
22 August 2015
Original: FRENCH

THE TRIAL CHAMBER

Before: Judge Vagn Joensen, Presiding
Judge William Hussein Sekule
Judge Florence Rita Arrey

Registrar: Mr John Hocking

PROSECUTOR

- v. -

JEAN UWINKINDI

UNCLASSIFIED

**REQUEST SEEKING ORDER INVITING PARTIES TO
PRESENT ORAL ARGUMENTS (ORAL HEARING) BEFORE
THE CHAMBER**

Office of the Prosecutor:
Hassan Bubacar Jallow

Counsel for Jean Uwinkindi:
Gatera Gashabana

**Received by the Registry
Mechanism for International Criminal Tribunals
02/09/2015 10:42**



I. INTRODUCTION

1. On 22 May 2015, the Presiding Judge rendered a Scheduling Order for the filing of written submissions by the parties.¹
2. Being seized of an urgent request by the Applicant for an extension of time to file a Brief to revoke the Referral Order, the Presiding Judge granted the said request and scheduled the date for the filing of the written submission for 5 August 2015.
3. It emerges from these decisions that no reference was made to having a hearing scheduled on a specific date in this case by the Presiding Judge during which the parties, including the Accused, would be invited to present their oral arguments *viva voce* before the present Chamber.
4. Pursuant to Rule 55 of the Rules of Procedure and Evidence, the Applicant requests that he be issued with a summons to appear in person to present his legal grounds (Oral Hearing) before the Chamber.

II. LEGAL DISCUSSION

5. Rule 55 of the Rules provides that:
“At the request of either Party or *proprio motu*, a Judge or a Trial Chamber may issue such order, summonses, subpoenas, warrants, and transfer orders as may be necessary for the purposes of an investigation or for the preparation or conduct of the trial”.²
6. This provision in the Rules is reinforced by several legal precedents on which the Chamber may draw.
7. The procedures in question refer to the transfer of the case-files of Yussuf Munyakazi and Bernard Munyagishari, in regard to which the Chamber heard the oral arguments of the Prosecution and the Defence, respectively, at the public hearings on 22 April 2008 and 12 April 2012.
8. On that occasion, the parties expressed their positions *viva voce* on the referral procedure before Rwandan courts presented by the Prosecution.³
9. In the present case, no provisions were made, either in the transfer procedure at the ICTR or in the Scheduling Orders for the filing of submissions, to allow the Applicant to present his complaints *viva voce* and provide information to the present Chamber on the multiple violations of his rights before the High Court and the Supreme Court.
10. However, the Accused is the only one who is in fact able to describe with conviction and in detail the ordeal that he has endured for over six months before the Rwandan courts, without any representation or possibility to exercise his right to present defence witnesses.

¹ Scheduling Order of 22 May 2015 of the Presiding Judge in Case no. MICT-12-25-R14.1.

² Mechanism for International Criminal Tribunals (MICT), BASIC TEXTS, September 2013, page 33.

³ Yussuf Munyakazi case-file, MICT-12-18, *The Prosecutor v. Bernard Munyagishari*, Case no. ICTR-2005-89-1, Oral Hearing, 12 April 2012.

11. An in-depth reading of the Monitoring Report for March 2015 and our Briefs are more than sufficient to prove this.⁴
12. In the interest of the proper administration of justice, it is appropriate for the Chamber to grant this request.
13. In the interest of the proper administration of justice, it is appropriate for the Chamber to grant this request.

MAY IT PLEASE THE COURT:

- To admit the present submission and declare it well-founded.
- Order the appearance of the parties before the Chamber to allow them to present oral arguments.

Word count /in original/: 703

ENSURING FAIR AND PROPER JUSTICE

DONE IN KIGALI, ON 22 AUGUST 2015

FOR THE APPLICANT

LEAD COUNSEL

Gatera Gashabana
Attorney-at-law

/signed and stamped/

⁴ Monitoring Report for the Uwinkindi Case (March 2015), 12 May 2015 (March 2015, Monitoring Report), para. 60. March 2015 Monitoring Report, para. 123, *see also* March 2015 Monitoring Report, paras 76, 78, 118, 120, as mentioned in the “Decision on Request for Revocation and an Order Referring a Case to the Republic of Rwanda”, Case MICT 12-25-R14.1