

MICT-13-43  
08-03-2015  
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**MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS (MICT)**

**Judge: Justice Vagn Joensen**

**Registrar: Mr. John Hocking**

**Date Filed: 9 March 2015**

**THE PROSECUTOR**

v.

**F.X. NZUWONEMEYE**  
*Case No. MICT-13-43*

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**REPLY TO PROSECUTOR'S CONSOLIDATED RESPONSE TO REQUEST  
FOR LEAVE TO EXCEED THE WORD LIMITS AND MOTION FOR  
COMPENSATION AND DAMAGES FOR VIOLATIONS OF THE  
FUNDAMENTAL RIGHTS OF F.X. NZUWONEMEYE, PURSUANT TO  
SECURITY COUNCIL RESOLUTION 1966 (2010)**

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**PUBLIC FILING**

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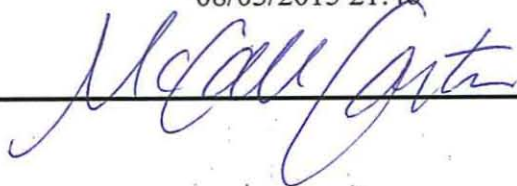
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Received by the Registry  
Mechanism for International Criminal Tribunals  
08/03/2015 21:46



1. The Prosecution's Consolidated Response to Applicant Nzuwonemeye's Request for Leave and Motion for Compensation fails to address the inescapable wrong in this case:

When F. X. Nzuwonemeye was acquitted by the ICTR's highest court, the Appeals Chamber, he had already served his punishment for the crimes for which he was acquitted.

2. In such a situation, both former Tribunal Presidents Pillay and Jorda recommended that when a person who has been detained is acquitted by a final decision of the Tribunal, there should be an award of compensation.<sup>1</sup>

3. But the ICTR Prosecution appears to view the situation differently.

4. The Prosecution contends that the Applicant suffered no violation of international human rights, based on lack of notice and undue delay and is therefore entitled to no compensation.

5. The Prosecution argues that because the Appeals Chamber made mixed findings on notice (some findings of lack of notice, and other findings that there was no lack of notice), the conclusion is that there is no fundamental violation of notice here.

6. First, the Appeals Chamber has the right to accept some arguments and reject other arguments. We trust that the Prosecution is not challenging this point.

7. The Appeals Chamber also has the authority to make its conclusion, based on its findings.

8. But the Prosecution implicitly challenges this authority. Its reasoning is this: the existence of some individual findings which did not find lack of notice lessens the seriousness of, or invalidates, the Appeals Chamber's reversals based on lack of notice.

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<sup>1</sup> See, Appendix of Applicant's Motion.

This makes no sense because each lack of notice still remains a violation of a fundamental right under the ICCPR, ICTR Statute and other international instruments.

9. Second, the Prosecution claims that a finding of no undue delay in respect to Ndindiliyimana is applicable to Nzuwonemeye's claim, based on the fact that both are co-Accused.<sup>2</sup>

10. This argument is wrong: it violates Rule 82(A)<sup>3</sup> which provides that an Accused in a joint trial has the same rights as if he were being tried separately.

11. Nzuwonemeye and Ndindiliyimana are not fungible, and the violation of undue delay must be decided separately.

12. In fact, the violation of undue delay was raised in Nzuwonemeye's Appellant's Brief,<sup>4</sup> but the issue was not decided by the Appeals Chamber.

13. Third, in terms of the Prosecution's word limit argument, the Applicant notes that the jurisprudence referred to in its footnotes is in reference to Appellants' and Respondents' Briefs. This is factually distinguishable from single issue motions, as we have here. Hence, the complexity of the case is irrelevant and a moot point.

14. Lastly, the Prosecution does not contest that Applicant has suffered prejudice as a direct result of the violations of his international human rights.

15. In sum, the issue before the Tribunal is simple: Will the MICT rectify a grave injustice to an acquitted person through financial compensation, in accordance with international standards?

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<sup>2</sup> Prosecution's Consolidated Response, para. 11.


<sup>3</sup> ICTR, Rules of Procedure and Evidence.

<sup>4</sup> Nzuwonemeye's Appellant's Brief, paras. 3-6.

For the reasons stated above, the Applicant respectfully requests that the Honorable Judge grant his Motion to Exceed the Word Limits, and accept and grant the remedy in the accompanying Motion for Compensation and Damages for Violations of Fundamental Rights.

Word count: 544

Respectfully submitted,

  
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