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Mechanism for International Criminal Tribunals

Date: 25 July 2014

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Original: French

Before: Mr Theodor Meron, President

Registrar: Mr John Hocking

Laurent Bucyibaruta, Case No. MICT-13-44

FIFTH MONITORING REPORT

Laetitia Husson:

Officer in Charge of the Monitoring Mission in the *Bucyibaruta* Case for the
MICT

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Anamarija

1. This report is submitted in my capacity as the officer in charge of the monitoring mission for the Mechanism for International Criminal Tribunals (“MICT”) in the case of *The Prosecutor v. Laurent Bucyibaruta*, referred to the French authorities pursuant to Rule 11 *bis* of the Rules of Procedure and Evidence of the International Criminal Tribunal for Rwanda (“Rules” and “ICTR”). It covers the period from April to June 2014.

Introduction and Background

2. The ICTR Prosecutor brought an indictment against Mr Bucyibaruta on charges of genocide, complicity in genocide, direct and public incitement to commit genocide, and charges of rape, extermination and murder as crimes against humanity committed in Rwanda in 1994. The indictment was confirmed by a Judge of the ICTR on 17 June 2005.¹ On 12 June 2007, the ICTR Prosecutor filed a request for referral of the indictment to the French judiciary, pursuant to Rule 11 *bis* of the Rules of the ICTR.²

3. On 20 November 2007, the Trial Chamber designated under Rule 11 *bis* of the Rules of the ICTR, determined that the requirements for referral were met and accordingly ordered that the case of *The Prosecutor v. Laurent Bucyibaruta* be referred to the French authorities so that they might immediately assign the case to the appropriate national court.³

4. Mr Bucyibaruta was already under judicial investigation in France following his indictment by a French investigating judge after a complaint with civil party

¹ *The Prosecutor v. Laurent Bucyibaruta*, Case No. ICTR-2005-85-I, Confirmation of the Indictment and Other Related Orders, 17 June 2005; *The Prosecutor v. Laurent Bucyibaruta*, Case No. ICTR-2005-85-I, Indictment, 20 July 2005 (unsealed on 14 June 2007).

² This request was amended by the Prosecutor on 27 June 2007. See *The Prosecutor v. Laurent Bucyibaruta*, Case No. ICTR-2005-85-I, Prosecutor’s Request for the Referral of Laurent Bucyibaruta’s Indictment to France Pursuant to Rule 11 *bis* of the Tribunal’s Rules of Procedure and Evidence, confidential, 27 June 2007.

³ *The Prosecutor v. Laurent Bucyibaruta*, Case No. ICTR-2005-85-I, Decision on Prosecutor’s Request for Referral of Laurent Bucyibaruta’s Indictment to France, 20 November 2007.

petition was filed in 2000. At the request of the Prosecutor's Office, the case referred by the ICTR was joined to the judicial investigation opened in France in 2000. Consequently, the *Bucyibaruta* case is now the subject of a single judicial investigation in France. Mr Bucyibaruta has been on release under court supervision since September 2007.

Monitoring Mission

5. I conducted an initial monitoring mission in the *Bucyibaruta* case in June and July 2013, and a second mission in September and October 2013. The two subsequent monitoring missions were conducted in January and April 2014. The reports on these four missions were submitted to the President of the MICT through the Registrar on 12 July 2013, 1 November 2013, 24 January 2014 and 24 April 2014, respectively, and made public by the latter on the MICT website on 15 July 2013, 7 November 2013, 28 January 2014 and 28 April 2014, respectively.⁴

Laurent Bucyibaruta

6. Attorney Philippe Greciano, the legal representative of Mr Bucyibaruta, stated in an email dated 9 July 2014 that Mr Bucyibaruta "wishes to put forth significant observations on the merits, but the court is refusing him access to his file". Mr Greciano added the following: "There should be equality in the rights accorded to the Prosecution and to the defendant to ensure a fair trial. This would serve justice and the truth. One must not go against international expectations and requirements."

Civil Parties

7. The legal representatives of the Collective of Civil Plaintiffs for Rwanda (CPCR), the Human Rights League (LDH), the International League against Racism

⁴ *Laurent Bucyibaruta*, Case No. MICT-13-44, Initial Monitoring Report in the *Bucyibaruta* Case, dated 12 July 2013, filed on 15 July 2013; *Laurent Bucyibaruta*, Case No. MICT-13-44, Second Monitoring Report, dated 1 November 2013, filed on 7 November 2013; *Laurent Bucyibaruta*, Case No. MICT-13-44, Third Monitoring Report, dated 24 January 2014, filed on 28 January 2014; *Laurent Bucyibaruta*, Case No. MICT-13-44, Fourth Monitoring Report, dated 24 April 2014, filed on 28 April 2014.

and Anti-Semitism (LICRA) and *Survie* stated that they did not have any observations to make at this time.

8. Attorney Safya Akorri, the legal representative of the International Federation for Human Rights (IFHR), pointed out that the investigation file had grown notably due to the return of letters rogatory and that she felt that tangible progress was being made in the case. She noted that the new technical organisation of the evidence in the investigation file allowed for easier consultation.

Prosecutor's Office

9. I spoke on the telephone with Mr Nicolas Peron, Deputy Prosecutor at the AC5 Section, Unit for Crimes against Humanity and War Crimes of the Tribunal de Grande Instance de Paris ("Unit") on 17 July 2014 as part of this new monitoring mission.

10. Mr Peron stated that the investigation file had grown due to the return of the letters rogatory conducted in Rwanda in 2012 and 2013. He also informed me that investigators from the Central Office for Combating Crimes Against Humanity, Genocide and War Crimes ("Central Office") and one of the investigating judges had again travelled to Rwanda between 8 June and 20 June 2014. He pointed out that, during this trip, several new interviews had been conducted by investigators as part of the judicial investigation launched against Mr Bucyibaruta.

11. Mr Peron also indicated that the creation of the Central Office, established in November 2013⁵ and operating since February 2014, would facilitate the future work of the investigating judges on cases entrusted to the Unit. The Central Office, attached to the criminal police subdivision of the directorate-general of the national gendarmerie and presently consisting of a dozen gendarmerie investigators, has taken over from the Paris Investigation Division in the *Bucyibaruta* case. Mr Peron explained that the Central Office aims to expand in the near future.

⁵ See Decree no. 2013-987 of 5 November 2013 creating a central office for combating crimes against humanity, genocide and war crimes, *Official Gazette of the Republic of France* no. 0259 of 7 November 2013.

12. In regard to the issue of Mr Bucyibaruta accessing his investigation file, Mr Peron stated that the investigating judges were opposed to handing over copies of the evidence from the file to Mr Bucyibaruta due to the risk of witness intimidation and to ensure respect of the guarantees of confidentiality notably accorded to the exhibits disclosed by the ICTR. Mr Peron pointed out that, in line with French law, Mr Bucyabaruta was nevertheless able to consult the investigation file at the office of the investigating judges, or the copy of the file at the office of his attorneys.

13. Mr Peron stated that new international letters rogatory would be prepared shortly but that, as things stand, the investigations could be concluded in 2015.

Done on 25 July 2014

The Hague (Netherlands)

/signed/

Laetitia Husson

Officer in Charge of the Monitoring Mission in the *Bucyibaruta* Case



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