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UNITED
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Mechanism for International Criminal Tribunals

Date: 21 October 2014

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Original: French

Before: Mr Theodor Meron, President

Registrar: Mr John Hocking

Wenceslas Munyeshyaka, Case No. MICT-13-45

SIXTH MONITORING REPORT

Laetitia Husson:

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

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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. Wenceslas Munyeshyaka* 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 July to September 2014.

Introduction and Background

2. The ICTR Prosecutor brought an Indictment against Mr Munyeshyaka on charges of genocide and rape, extermination and murder as crimes against humanity committed in Rwanda in 1994. The Indictment was confirmed by a Judge of the ICTR on 22 July 2005.¹ On 12 June 2007, the ICTR Prosecutor filed a request for referral of the Indictment to the French court, 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. Wenceslas Munyeshyaka* be referred to the French authorities so that they might immediately assign the case to the appropriate national court.³

4. Mr Munyeshyaka was already under judicial investigation in France following his indictment by a French investigating judge after a complaint with civil party petition was filed in 1995. At the request of the Prosecutor’s Office, the case referred by the ICTR was joined to the judicial investigation opened in France in 1995.

¹ *The Prosecutor v. Wenceslas Munyeshyaka*, Case No. ICTR-2005-87-I, “Decision on Confirmation of an Indictment Against Wenceslas Munyeshyaka”, 22 July 2005 (unsealed on 20 June 2007); *The Prosecutor v. Wenceslas Munyeshyaka*, Case No. ICTR-2005-87-I, Indictment, 20 July 2005 (unsealed on 20 June 2007).

² The Prosecutor amended this request on 19 and 27 June 2007. See *The Prosecutor v. Wenceslas Munyeshyaka*, Case No. ICTR-2005-87-I Prosecutor’s Request for the Referral of Wenceslas Munyeshyaka’s Indictment to France Pursuant to Rule 11 *bis* of the Tribunal’s Rules of Procedure and Evidence of 12 June 2007, confidential, 27 June 2007.

³ *The Prosecutor v. Wenceslas Munyeshyaka*, Case No. ICTR-2005-87-I, “Decision on the Prosecutor’s Request for Referral of Wenceslas Munyeshyaka’s Indictment to France”, 20 November 2007.

Consequently, the *Munyeshyaka* case is now the subject of a single criminal investigation in France. Since September 2007, Mr Munyeshyaka has been released under court supervision.

Monitoring Mission

5. I conducted an initial monitoring mission in the *Munyeshyaka* case in June and July 2013, and a second mission in September and October 2013. The three subsequent monitoring missions were conducted in January, April and July 2014. The reports on these five missions were submitted to the President of the MICT through the Registrar on 12 July 2013, 1 November 2013, 24 January 2014, 24 April 2014 and 25 July 2014 respectively, and made public by the latter on the MICT website on 15 July 2013, 7 November 2013, 28 January 2014, 28 April 2014 and 5 August 2014, respectively.⁴

6. Attorney Jean-Yves Dupeux, Mr Munyeshyaka's legal representative, stated via e-mail that he was concerned about the impossibility of disclosing evidence from the file to his client. He stressed that "this ban issued by the Investigating Judge seriously prejudices the rights of the defence".

7. On 16 October 2014, I had a conference call with Ms Aurélia Devos, Deputy Prosecutor and Chief of Section AC5, Unit for Crimes Against Humanity and War Crimes of the Paris Tribunal de Grande Instance ("Unit") and with Mr Nicolas Peron, Deputy Prosecutor at the Unit. Ms Devos informed me that the prospects for this case remained the same, and that the judicial investigation would close by the end of 2014. She recalled that it would then be up to the parties to file their submissions and possibly request additional investigation activities. Ms Devos also specified that the

⁴ *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Initial Monitoring Report on the *Munyeshyaka* Case, dated 12 July 2013, filed on 15 July 2013; *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Second Monitoring Report, dated 5 November 2013, filed on 7 November 2013; *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Third Monitoring Report, dated 24 January 2014, filed on 28 January 2014, *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Fourth Monitoring Report, dated 24 April 2014, filed on 28 April 2014, *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Fifth Monitoring Report, dated 25 July 2014, filed on 5 August 2014.

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new assignment of the investigating judge and two interviews of Mr Munyeshyaka on the new evidence collected were completed in September 2014. Lastly, Ms Devos pointed out that Mr Munyeshyaka had full access to the investigation file at the office of the investigating judge and access to a copy of the file at the office of his attorneys.

8. Representatives of the civil parties will be invited to share their observations on the progress of the case and the compliance with the requirements of the referral of Mr Munyeshyaka's case during the next monitoring mission.

Done on 21 October 2014

The Hague (Netherlands)

/signed/

Laetitia Husson

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