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Mechanism for International Criminal Tribunals

Date: 27 May 2015

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**Before :** Mr Theodor Meron, President

**Registrar :** Mr John Hocking

*Wenceslas Munyeshyaka*, Case No. MICT-13-45

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**EIGHTH MONITORING REPORT**

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**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 (hereinafter "Rules" and "ICTR"). It covers the period from mid-January to mid-April 2015.

### **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.<sup>1</sup> On 12 June 2007, the ICTR Prosecutor filed a request for referral of the indictment before the French courts, pursuant to Rule 11 *bis* of the Rules of the ICTR.<sup>2</sup>

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.<sup>3</sup>

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. 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 five subsequent monitoring missions were conducted in January 2014, April 2014, July 2014, October 2014 and January 2015. The reports on these seven 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, 25 July 2014, 21 October 2014 and 9 February 2015, respectively, and made public by the latter on the MICT website on 15 July 2013, 7 November 2013, 28 January 2014, 28 April 2014, 5 August 2014, 30 October 2014 and 16 March 2015, respectively.<sup>4</sup>

<sup>1</sup> *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).

<sup>2</sup> 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.

<sup>3</sup> *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.

<sup>4</sup> *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; *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Sixth Monitoring Report, dated 21 October 2014, filed on 30 October 2014; *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Seventh Monitoring Report, dated 9 February 2015, filed on 16 March 2015.

6. In the course of this new monitoring mission, I spoke on 7 April 2015 with Ms Aurélie Devos, Deputy Prosecutor and Chief of Section AC5, Unit for Crimes Against Humanity and War Crimes of the Paris Tribunal de Grande Instance (hereinafter “Unit”), Mr Olivier L’Etang, Acting Prosecutor General of the Paris *Tribunal de Grande Instance* and with Mr Nicolas Peron, Deputy Prosecutor at the Unit.

7. Ms Devos informed me that the investigating judges in charge of the case, having completed their investigations, issued an order on 26 March 2015 handing over the case file to the Public Prosecutor’s Office and notified the parties accordingly.

8. Under the provisions of the French Code of Criminal Procedure, the parties have three months, running from the date of this order, to file requests for additional investigations or requests for annulment. Within the deadline, the parties are invited to file their written submissions on the closure of the judicial investigation to the investigating judges. The notification order also requires the Prosecution to submit within three months to the investigating judges its final reasoned submissions, stating in particular the position of the prosecuting authorities on the follow-up procedure in the case. It will then be for the investigating judges to make their final decision to dismiss the case or refer it to the *Cour d’Assises*.

9. Ms Devos stressed that this voluminous and complex case was a high priority for her section which is making every effort to process it expeditiously.

10. Attorney Jean-Yves Dupeux and Attorney Florence Bourg, the legal representatives of Mr Munyeshyaka, stated in an email on 19 May 2015 that they did not have any particular remarks on the progress of the case.

11. Attorney Michel Tubiana, representing the Human Rights League (LDH), and Attorney Jean Simon, representing the association *Survie*, have also informed me that they had no particular remarks to make at this stage of the investigation. Likewise, representatives of the Collective of Civil Plaintiffs for Rwanda (CPCR), of the International Federation for Human Rights (FIDH), the International League against Racism and Anti-Semitism (LICRA) and the representatives of other civil parties in this case have not communicated any remarks to me either.

Done on 27 May 2015  
The Hague (Netherlands)

*/signed/*

**Laetitia Husson**

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