

**UNITED  
NATIONS**



International Residual Mechanism  
for Criminal Tribunals

Case No.: MICT-12-29-ES.1

Date: 28 May 2021

Original: English

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**THE PRESIDENT OF THE MECHANISM**

**Before: Judge Carmel Agius, President**

**Registrar: Mr. Abubacarr Tambaou**

**Order of: 28 May 2021**

**PROSECUTOR**

**v.**

**AUGUSTIN NGIRABATWARE**

***CONFIDENTIAL***

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**ORDER FOR TRANSFER TO ENFORCEMENT STATE**

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**The Office of the Prosecutor:**

Mr. Serge Brammertz

**Counsel for Mr. Augustin Ngirabatware:**

Mr. David Hooper

**I, CARMEL AGIUS**, President of the International Residual Mechanism for Criminal Tribunals (“President” and “Mechanism”, respectively);

**NOTING** that, on 18 December 2014, the Appeals Chamber of the Mechanism (“Appeals Chamber”) rendered its Appeal Judgement in which it, *inter alia*: (i) affirmed the convictions of Mr. Augustin Ngirabatware (“Ngirabatware”) for genocide and direct and public incitement to commit genocide; and (ii) sentenced him to 30 years of imprisonment;<sup>1</sup>

**NOTING** that, on 28 November 2017, the then-President of the Mechanism, Judge Theodor Meron, decided that Ngirabatware will serve his sentence in the Republic of Senegal (“Senegal”) in the event that the Appeals Chamber, which was then engaged in review proceedings, sustained a conviction and sentence requiring further enforcement;<sup>2</sup>

**NOTING** that, on 9 July 2018, my predecessor amended the Order of 28 November 2017 to the effect that Ngirabatware would be transferred from the United Nations Detention Facility in Arusha, United Republic of Tanzania to Senegal as soon as possible after the conclusion of the review hearing;<sup>3</sup>

**NOTING** that, on 16 September 2019, the Registrar of the Mechanism (“Registrar”) filed a submission indicating that, in light of an indictment charging Ngirabatware with allegations of contempt and incitement to commit contempt of the International Criminal Tribunal for Rwanda and the Mechanism, the Registry would defer Ngirabatware’s transfer to Senegal until further directed by the President;<sup>4</sup>

**NOTING** that, on 27 September 2019, the Appeals Chamber rendered its Review Judgement and decided that the Appeal Judgement remains in force in all respects;<sup>5</sup>

**NOTING** that, on 10 October 2019, an indictment was confirmed charging Ngirabatware with contempt and/or incitement to commit contempt;<sup>6</sup>

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<sup>1</sup> *Augustin Ngirabatware v. The Prosecutor*, Case No. MICT-12-29-A, Judgement, 18 December 2014 (“Appeal Judgement”), para. 279.

<sup>2</sup> Order Designating State in which Augustin Ngirabatware is to Serve his Sentence, 28 November 2017 (confidential) (“Order of 28 November 2017”), p. 2.

<sup>3</sup> Order Varying Order Designating State in which Augustin Ngirabatware is to Serve his Sentence, 9 July 2018 (confidential) (“Order of 9 July 2018”), p. 4.

<sup>4</sup> Registrar’s Submission in Relation to the “Order Varying Order Designating State in which Augustin Ngirabatware is to Serve his Sentence” of 9 July 2018, 16 September 2019 (confidential), paras. 7, 9-10.

<sup>5</sup> *Prosecutor v. Augustin Ngirabatware*, Case No. MICT-12-29-R, Review Judgement, 27 September 2019 (“Review Judgement”), para. 65. *See also Prosecutor v. Augustin Ngirabatware*, Case No. MICT-12-29-R, Decision on Augustin Ngirabatware’s Motion for Reconsideration of Review Judgement and Motion for Extension of Word Limit, 10 January 2020, p. 4.

**NOTING** that, on 21 October 2020, I instructed the Registrar to await my direction before transferring Ngirabatware to Senegal to serve the remainder of his sentence;<sup>7</sup>

**CONSIDERING** that the Judgement in the *Nzabonimpa et al.* case is expected to be pronounced in the near future;<sup>8</sup>

**PURSUANT TO** Article 25 of the Statute of the Mechanism and Rule 127 of the Rules of Procedure and Evidence of the Mechanism;

**HEREBY INSTRUCT** the Registrar to transfer Ngirabatware to Senegal for the enforcement of his sentence as expeditiously as possible after pronouncement of the Judgement in the *Nzabonimpa et al.* case;

**INSTRUCT** the Registrar to lift the confidential status of the present order as well as the Order of 28 November 2017 and the Order of 9 July 2018, and recirculate them as public filings once Ngirabatware's transfer to Senegal has been completed; and

**REQUEST** the Registrar to communicate the present Order to the Government of Senegal.

Done in English and French, the English version being authoritative.

Done this 28th day of May 2021,  
At The Hague,  
The Netherlands.



Judge Carmel Agius  
President

[Seal of the Mechanism]

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<sup>6</sup> *Prosecutor v. Augustin Ngirabatware*, Case No. MICT-19-121-I, Decision on Confirmation of Indictment, 10 October 2019, p. 1. Ngirabatware's case was subsequently joined to the case of *Prosecutor v. Maximilien Turinabo et al.* See *Prosecutor v. Maximilien Turinabo et al. & Prosecutor v. Augustin Ngirabatware*, Case Nos. MICT-18-116-PT & MICT-19-121-PT, Decision on Prosecution Motion for Joinder of the *Ngirabatware* and *Turinabo et al.* Contempt Cases, 10 December 2019, p. 14. I note that the case name has subsequently changed to *Prosecutor v. Anselme Nzabonimpa et al.* ("Nzabonimpa et al. case") following the termination of proceedings against Mr. Maximilien Turinabo. See *Prosecutor v. Maximilien Turinabo et al.*, Case No. MICT-18-116-T, Decision Terminating Proceedings Against Maximilien Turinabo, 19 April 2021.

<sup>7</sup> Decision on Augustin Ngirabatware's Request to Change the Enforcement State and to Transfer him Expeditiously, 21 October 2020 (confidential), p. 4.

<sup>8</sup> See *Prosecutor v. Anselme Nzabonimpa et al.*, Case No. MICT-18-116-T, Order Amending Order Scheduling Closing Submissions Dated 27 April 2021, 7 May 2021, p. 1 (scheduling oral closing arguments to be held on 21, 22, and 23 June 2021).



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