

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-18-116-T

Date: 27 April 2021

Original: English

BEFORE A SINGLE JUDGE

Before: Judge Vagn Joensen
Registrar: Mr. Abubacarr Tambadou
Order of: 27 April 2021

PROSECUTOR

v.

**ANSELME NZABONIMPA
JEAN DE DIEU NDAGIJIMANA
MARIE ROSE FATUMA
DICK PRUDENCE MUNYESHULI
AUGUSTIN NGIRABATWARE**

PUBLIC

ORDER SCHEDULING CLOSING SUBMISSIONS

Office of the Prosecutor:

Mr. Serge Brammertz
Mr. Rashid S. Rashid

Counsel for the Defence:

Mr. Anselme Nzabonimpa
Mr. Geoffrey Roberts
Mr. Jean de Dieu Ndagijimana
Mr. Philippe Larochelle
Ms. Marie Rose Fatuma
Mr. Gatera Gashabana
Mr. Dick Prudence Munyeshuli
Mr. Kurt Kerns
Mr. Augustin Ngirabatware
Mr. David Hooper

I, VAGN JOENSEN, Judge of the International Residual Mechanism for Criminal Tribunals (“Mechanism”) and the Single Judge in this case;¹

RECALLING that, on 9 April 2021 and after the conclusion of in-court testimony of the last Defence witness in this case, I proposed to the parties two options for closing submissions: (i) simultaneous briefing with the filing of final trial briefs the week of 17 May 2021 and oral arguments for three days the week of 31 May 2021; or (ii) staggered briefing without oral arguments with the Prosecution final trial brief due the week of 17 May 2021, the Defence final trial briefs due the week of 24 May 2021, Prosecution rebuttal brief, if any, due the week of 31 May 2021, and any Defence rejoinder briefs due in the week of 7 June 2021;²

CONSIDERING the informal responses received from the Prosecution on 14 April 2021³ and the Defence on 19 April 2021,⁴ which both reflect a preference for oral closing submissions;⁵

CONSIDERING that the purpose of oral closing arguments is to address issues raised by the other party in its final trial brief and should not be used to repeat arguments already discussed in each party’s final trial brief;⁶

CONSIDERING that all pending motions related to the admission of evidence, including the bar table motions filed subsequent to end of in-court testimony, will be adjudicated soon and that none of the pending litigation in this case warrants significant delays to the scheduling of closing submissions as previously proposed;

CONSIDERING that the briefing schedule set forth below, followed by oral closing arguments, is in the interests of the safe, fair, and efficient administration of justice and will, *inter alia*, allow the

¹ Order Assigning a Single Judge, 11 September 2018, p. 1. *See also* *Prosecutor v. Maximilien Turinabo et al.* and *Prosecutor v. Augustin Ndirabatswe*, Case Nos. MICT-18-116-PT and MICT-19-121-PT, Decision on Prosecution Motion for Joinder of the *Ndirabatswe* and *Turinabo et al.* Contempt Cases, 10 December 2019, pp. 14, 15. The case name has changed following the termination of proceedings against Mr. Maximilien Turinabo. *See* Decision Terminating Proceedings Against Maximilien Turinabo, 19 April 2021.

² Transcript (“T.”) 9 April 2021 pp. 41, 42.

³ The Senior Trial Attorney shared the Prosecution’s views as to the closing procedures by way of email to the Chambers Senior Legal Officer on 14 April 2021.

⁴ Defence Counsel for Mr. Anselme Nzabonimpa shared the collective views of all Defence teams by way of email to the Chambers Senior Legal Officer on 19 April 2021. The Defence, *inter alia*, expressed uniform preference that the filing of the final trial briefs to be staggered, with the Prosecution final trial brief being filed on 24 May 2021, the filing of Defence final trial briefs on 21 June 2021, and oral closing submissions being held from 28 through 30 June 2021. Alternatively the Defence proposed staggered filing of Prosecution and Defence final trial briefs on 24 May and 21 June 2021, respectively, with the Prosecution rebuttal brief due on 5 July 2021 and Defence rejoinder briefs due on 12 July 2021.

⁵ Both parties suggest that COVID-19 risks related to oral closing arguments could be mitigated, and the Defence emphasizes that this would allow them to make final oral arguments on behalf of their clients and meet with them in Arusha rather than Kigali or elsewhere.

⁶ *See Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. MICT-15-96-T, Scheduling Order, 18 March 2021, p. 1 and references cited therein.

Defence to consult with and take instructions from their clients as well as adequately allow them to address factual and legal argumentation raised in the Prosecution's final trial brief, including argumentation related to electronic evidence admitted by way of bar table motion;⁷

PURSUANT TO Rules 55 and 103 of the Rules of Procedure and Evidence,

ORDER that:

- (i) The parties shall file their final trial briefs in accordance with the Practice Direction on Lengths of Briefs and Motions⁸ no later than Monday, 24 May 2021;
- (ii) Oral closing arguments shall be held on 14, 15, and 16 June 2021;
 - a. the Prosecution shall have two hours for oral arguments;
 - b. each Defence team shall have one hour;
 - c. the Prosecution shall have 30 minutes for rebuttal; and
 - d. each Defence team shall have 10 minutes for rejoinder.

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

Done this 27th day of April 2021,
At Arusha,
Tanzania



Judge Vagn Joensen
Single Judge

[Seal of the Mechanism]

⁷ In light of this order, I dismiss the motion filed by Nzabonimpa and Turinabo for consecutive briefing. *See* Joint Defence Motion for Consecutive Filing of Final Trial Briefs, 8 April 2021. *See also* Prosecution Response to Defence Motion for Consecutive Filing of Final Trial Briefs, 15 April 2021. I provisionally indicated that the four week delay for the filing of Defence final trial briefs after the Prosecution final trial brief was not justified. *See* T. 9 April 2021 p. 41. Furthermore, the purported prejudice that could be suffered by Nzabonimpa without staggered briefing in light of the electronic evidence admitted by way of bar table is not persuasive given that, *inter alia*, the Prosecution has already provided preliminary indications as to the allegations to which each piece of evidence is supposedly relevant and probative and that the time between the filing of the final trial briefs and the oral closing arguments will allow him to process and, if necessary, respond to specific exhibits cited in the Prosecution final trial brief.

⁸ *See* Practice Direction on Lengths of Briefs and Motions, MICT/11/Rev.1, 20 February 2019, paras. 1-3, 5, 16.



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