

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case Nos.: MICT-13-43
 MICT-14-75
 MICT-12-27
Date: 30 December 2021
Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Carmel Agius, President
Registrar: Mr. Abubacarr Tambadou
Order of: 30 December 2021

IN THE MATTER OF
FRANÇOIS-XAVIER NZUWONEMEYE
PROSPER MUGIRANEZA
PROTAIS ZIGIRANYIRAZO

PUBLIC

INSTRUCTION TO THE REGISTRAR

Counsel for Mr. François-Xavier Nzuwonemeye:

Mr. Peter Robinson

Counsel for Mr. Prosper Mugiraneza:

Ms. Kate Gibson

Counsel for Mr. Protais Zigiranyirazo:

Mr. John Philpot

Republic of Niger

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

NOTING the “Agreement between the Government of the Republic of Niger and the United Nations on the Relocation of Persons Released or Acquitted by the International Criminal Tribunal for Rwanda or the International Residual Mechanism for Criminal Tribunals”, dated 15 November 2021 (“Agreement”);

NOTING that the Agreement expressly governs the procedure for the relocation to the territory of the Republic of Niger (“Niger”) of nine persons who had been acquitted or released by the International Criminal Tribunal for Rwanda or the Mechanism (“Acquitted or Released Persons”);

NOTING further that Article 5 of the Agreement states that Niger shall grant permanent residence status and other relevant associated identification documents to the Acquitted or Released Persons within three months of their entry on its territory;

NOTING that, following the conclusion of the Agreement, eight of the Acquitted or Released Persons were relocated to the territory of Niger (“Relocated Persons”);

NOTING with serious concern that, on 27 December 2021, the authorities of Niger appear to have issued an order requiring the Relocated Persons to leave Nigerien territory within seven days (“Expulsion Order”);¹

NOTING the urgent motions filed by three of the Relocated Persons thus far, namely: (i) the “Urgent Request for an Order for Cooperation to the Government of the Republic of The Niger” filed by Mr. François-Xavier Nzuwonemeye in Case No. MICT-13-43 on 29 December 2021; (ii) the “Joinder to ‘Urgent Request for an Order for Cooperation to the Government of the Republic of The Niger’” filed by Mr. Prosper Mugiraneza in Case No. MICT-14-75 on 29 December 2021; and (iii) the “Joinder to Urgent Request for an Order for Cooperation to the Government of the Republic of The Niger” filed by Mr. Protais Zigiranyirazo in Case No. MICT-12-27 on 30 December 2021 (collectively, “Motions”);

RECALLING that, earlier today, I assigned the Motions to the duty Judge for the Arusha branch of the Mechanism;²

¹ See *Prosecutor v. François-Xavier Nzuwonemeye*, Case No. MICT-13-43, Urgent Request for an Order for Cooperation to the Government of the Republic of The Niger, 29 December 2021, Annex (comprising two photographs of a document purportedly constituting an expulsion order issued by the Minister of the Interior and Decentralisation of Niger).

EMPHASISING that the present Instruction is without prejudice to the adjudication of any matter raised in the Motions or in other related motions that may be filed by the Relocated Persons;

RECALLING that, pursuant to Rule 23(A) of the Rules of Procedure and Evidence of the Mechanism (“Rules”), the President shall supervise the activities of the Registry of the Mechanism;

CONSIDERING that Article 11 of the Agreement provides that any dispute, controversy, or claim arising out of, or relating to, the Agreement shall be settled by negotiation or by a mutually agreed mode of settlement;

CONSIDERING further that Article 2 of the Agreement states that all official communications between the Mechanism and Niger relating to matters provided for in the Agreement shall be directed to the Registrar of the Mechanism (“Registrar”) and the Minister of Foreign Affairs and Cooperation of Niger, respectively;

CONSIDERING that the Expulsion Order appears to be in violation of both the spirit and letter of the Agreement;

CONSIDERING further that, as the Registrar signed the Agreement on behalf of the United Nations, it is necessary to ensure that the Office of Legal Affairs of the United Nations continues to be informed of all relevant developments;

PURSUANT TO Rule 23(A) of the Rules;

HEREBY INSTRUCT the Registrar to continue to engage with the relevant authorities of Niger, including in line with the procedures provided for by Articles 2 and 11 of the Agreement, and to take all necessary actions in order to ensure that the Expulsion Order does not cause any prejudice to the fundamental rights of the Relocated Persons;

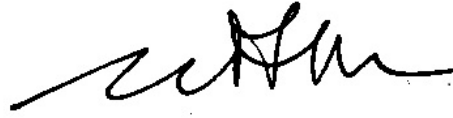
INSTRUCT the Registrar to provide me with frequent updates on the situation as it unfolds, including through public filings pursuant to Rule 31(B) of the Rules as appropriate;

REQUEST the Registrar to transmit the Motions and the present Instruction, as well as any further public filings before the Mechanism relating to this matter, to all counsel recognised by the Mechanism as currently representing the Acquitted or Released Persons, as well as any of the Relocated Persons acting *pro se* in relation to this matter; and

² Order Assigning Motions to the Duty Judge for the Arusha Branch, 30 December 2021, p. 1.

REQUEST the Registrar to also transmit the Motions and the present Instruction, as well as any further public filings before the Mechanism relating to this matter, to the Office of Legal Affairs of the United Nations.

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



Done this 30th day of December 2021,
At The Hague,
The Netherlands.

Judge Carmel Agius
President

[Seal of the Mechanism]



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Rev: August 2019/ *Rév. : Août 2019*