

**To the President
International Residual Mechanism for
Criminal Tribunals**

**Judge Gatti Santana, President
Registrar**

**CASE MICT-14-73-ES.2
PUBLIC REDACTED**

Matthieu NGIRUMPATSE

v.

Office of the Prosecutor

**NEW APPLICATION
By Mr Matthieu Ngirumpatse
Pursuant to Rules 149 to 151 of the Rules of Procedure and Evidence
PUBLIC REDACTED**

Office of the Prosecutor:
The Prosecutor

Counsel for Mr Matthieu Ngirumpatse
Mr Frédéric Weyl

Mr Ngirumpatse respectfully requests pardon and commutation of sentence and secondly for early release on health grounds pursuant to Rules 149 to 151 of the Rules of Procedure and Evidence [Rules] and the Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence or Early Release [**Practice Direction**].

FACTUAL AND LEGAL BACKGROUND

Matthieu Ngirumpatse was arrested in Bamako on 4 June 1998 and was prosecuted before the ICTR, where he entered a plea of not guilty.

He was found guilty on seven counts and sentenced to life imprisonment by ICTR Judgement 98-44 of 2 February 2012.

On 29 September 2014, the judgement was partially reversed by the Appeals Chamber vacated the finding on allegations of distributing weapons on 11 April 1994.

However, the Appeals Chamber upheld the Trial Chamber's verdict but with two dissenting opinions by Judges Tuzmukhamedov and K. Afande regarding Mr Ngirumpatse's guilt on certain counts and also the sentence,¹ which they considered to be too heavy.

Detained since his arrest at the UNDF in Arusha, he was transferred to the Sébikhotane Prison in Senegal, where he is serving his sentence.

Since 1999, he has experienced numerous problems which are only getting worse.

1. In 2008, he was hospitalised in Nairobi for nearly a year, for an illness from which he still suffers after-effects.
2. He has [REDACTED] and suffered [REDACTED].
3. He [REDACTED], suffers [REDACTED] regularly, is [REDACTED], has lost [REDACTED] and cannot [REDACTED], which deprives him [REDACTED].
4. He suffers from [REDACTED] and [REDACTED].
5. [REDACTED] is affected by [REDACTED].

His age and health are incompatible with being kept in prison and justify his release on humanitarian grounds.

The Senegalese authorities deem them incompatible for a prisoner aged over 70.

His condition has deteriorated in the two years since his previous application.

APPLICABLE LAW

In accordance with the **RULES**,

Rule 149

If, according to the law of the State of imprisonment, a convicted person is eligible for pardon, commutation of sentence, or early release the State shall, in accordance with Article 26 of the Statute, notify the Mechanism of such eligibility.

¹ Appeals Chamber Decision, Dissenting Opinion of Judge Tuzmukhamedov, in particular paragraphs 22 to 27
Dissenting Opinion of Judge Afande, in particular paragraph 25.

Rule 150

The President shall, upon such notice or upon receipt of a direct petition from the convicted person, determine, in consultation with any Judges of the sentencing Chamber who are Judges of the Mechanism, whether pardon, commutation of sentence, or early release is appropriate. If none of the Judges who imposed the sentence are Judges of the Mechanism, the President shall consult with at least two other Judges.

Rule 151

In determining whether pardon, commutation of sentence, or early release is appropriate, the President shall take into account, inter alia, the gravity of the crime or crimes for which the prisoner was convicted, the treatment of similarly-situated prisoners, the prisoner's demonstration of rehabilitation, as well as any substantial cooperation of the prisoner with the Prosecutor.

In accordance with the PRACTICE DIRECTION

7. *Applications for pardon, commutation of sentence, or early release may be submitted at any time.*
8. *Notwithstanding paragraph 7 of this Practice Direction, a convicted person serving a sentence under the supervision of the Mechanism will generally be eligible to be considered for early release only upon having served two-thirds of his or her sentence as imposed by the ICTR, the ICTY, or the Mechanism.*

In accordance with SENEGALESE law,

Article 47 of the Constitution bestows on the President of the Republic the right to grant pardons.

Pursuant to According to Article 699 of the Code of Criminal Procedure,

Convicted persons who must serve one or more custodial sentences may be granted conditional release if they have provided sufficient proof [...] of social rehabilitation.

[...]

For persons sentenced to forced labour for life, the eligibility period is twenty-five years.

Pursuant to Article 700 of the same Code,

The right to grant provisional release appertains to the Minister responsible for Administration of the Prison System [...]

Pursuant to Article 693-4 of the same Code,

A sentence reduction may be granted to convicted persons [...] if sufficient proof of good conduct is provided.

It should be noted that in items 15 and 16 of Resolution 2740, adopted on 27 June 2024, the Security Council recalled its encouragement in a preceding resolution for the

Mechanism to find “appropriate solutions” for situations of which that of Matthieu Ngirumpatse is particularly exemplary.

IN THIS CASE and this light

A) ON ADMISSIBILITY

1. Applied to Matthieu Ngirumpatse, Article 8 of the Practice Direction would prohibit him from seeking release before 4 June 2028 and the age of 90, provided that he survives a further two years in his current conditions of detention: he would thus be deprived, in a discriminatory manner, of the right to request and obtain a pardon, sentence reduction or early release.

This would be incompatible with the universal principles on this subject, which guarantee everyone the right to use legal means appropriate to the examination of their personal situation, and the right to respect for their dignity.

The term “generally” used in the Practice Direction must therefore be interpreted as a “general rule subject to exceptions” and implies the possibility of deviating from the principle to take into account the specific circumstances of the case.

2. Furthermore, in accordance with Senegalese law,

- A sentence reduction of three (3) months per year of detention may be granted to any convicted person: having served 25 years and 8 months, he may be eligible for a **sentence reduction of 6 years and 7 months**.
- He would be eligible for a pardon and early release, for which he meets the requirements.

It would be contrary to the Rules for a *strictu sensu* interpretation of Article 8 of the Practice Direction to supersede Rule 149 and for Matthieu Ngirumpatse to be deprived of his rights, those which are granted to any convicted person in the same situation in Senegal.

3. Furthermore, the stipulation under Article 8 of the Practice Direction concerns only applications for early release and cannot be extended to applications for a pardon or commutation of sentence, which, as authorised under Article 7, convicted persons may submit at any time, and which the court will use, *proprio motu*, to draw its conclusions regarding early release.

4. No provisions may stay your discretionary power to rule on pardons and/or early release based on strictly humanitarian considerations.

Moreover, you kindly deemed a previous application admissible.

B) ON THE MERITS

1. Under Senegalese law

He fully meets the conditions of age, health, good conduct, and potential for reintegration.

He has never been subject to any disciplinary action by the prison authorities in either Arusha or in Senegal, where he has been detained for nearly seven years.

2. Under Rule 151 of the RPE, consideration must be given, “*inter alia*” to the:**a) Gravity of the crime committed**

While maintaining his firm belief in his innocence, he will nevertheless abide by the Appeals Chamber’s ruling and will not contest the charges against him, which are based primarily on his position as President of the MRND, without any specific substantive act having been established against him.

b) Treatment of similarly-situated prisoners

In Senegal, prisoners of his age and in his situation do not remain detained, and in any case, if he were still detained at the age of 87, his condition would inevitably lead to his early release.

In 2021, [REDACTED] rejected a previous application only because the 25-year probationary period had not yet been completed; it has now been exceeded.²

c) The prisoner’s demonstration of rehabilitation

Given that he is now 87, the question is hardly relevant, except in light of his position during the proceedings, both at trial and on appeal, and the position he has famously maintained throughout his life:

- In his testimony during proceedings and in his personal statements at trial and on appeal, he expressed his profound grief and his commitment to working towards the reconciliation of the Rwandan people.
- As early as 10 April 1994, on Radio Rwanda, and subsequently, he solemnly and publicly called for an end to the killings, risking his own safety in the process.
- Similarly, risking his own safety, he worked to rescue numerous prominent figures.
- His entire life has been marked by the sincerity of his commitment to the Rwandan people, in all their diversity and without discrimination, as established by both defence and prosecution witnesses.
- The renown of his commitment to peace, democracy, the unity of the Rwandan people, and the fight against all forms of discrimination, as manifested in particular, but not exclusively, in the following:
 - When he was Prosecutor
 - In the exercise of his professional responsibilities
 - In his artistic expression, notably on the occasion of the jubilee of the Tutsi Bishop of Nyundo, whose bravery he celebrated in song
 - As the head of the Kigali choir, known for being composed of Tutsi singers
 - In his political statements on the occasion of his election to the presidency of the revamped MRND

² Letter from the Minister of Justice, (incorrectly dated) 17 November 2020 (*sic*)

- On the occasion of civil or religious ceremonies during which he publicly displayed his spirit of tolerance and rejection of all discrimination, , including towards opposition figures
- the recognition of these merits by prominent figures of the opposition to the MRND, who came to testify in his favour, by high-ranking diplomats, and even by one of the prosecution's experts, [REDACTED]

d) Any substantial cooperation of the prisoner with the Prosecutor

- He never obstructed any prosecution investigations
- He cooperated fully in all the interviews at the time of his arrest, even though no indictment had been filed against him
- He fully cooperated with the Prosecutor's cross-examination during proceedings
- He contributed to establishing the truth by testifying in the "military" trial

2. The following may also be taken into consideration:

a) Treatment of other accused

His life sentence, despite his age and health, and the mitigating circumstances that were acknowledged, can be compared with other, less severe sentences handed down to others convicted of offences of equal or even greater gravity.

This is what was recognised in the dissenting opinions.

b) Age and state of health

These criteria were not taken into consideration in sentencing, even though he was "only" 75 years old and had served "only" 16 years of imprisonment likely to affect his health.

Now that he is 87 years old and his health has deteriorated further due to 11 more years in prison, the criteria that Judges Tuzmukhamedov and Afande deemed to have been considered insufficiently are even more significant.

The two-thirds rule produces discriminatory effects based on age: unlike a younger prisoner, he has very little chance of reaching this limit, which almost certainly amounts to exposing elderly prisoners to the risk of life imprisonment to which only death will put an end, which is discriminatory compared to younger prisoners.

If he had been sentenced to 30 years, by 4 June 2018 he would have served two-thirds of his sentence and could have applied for early release more than eight years ago.

c) The principles prohibiting any violation of personal dignity and requiring that detention and material conditions of detention be terminated if they are manifestly incompatible with the age and state of health of the convicted person.

d) The universal principles prohibiting sentences of true life imprisonment, recognising the possibility of redemption for all convicted persons, and of reintegration into the human community.

3. Regarding the criteria established by the Mechanism President's jurisprudence, and in particular:

a) The convicted person's acceptance of responsibility for his crimes or for the actions that led to the commission of those crimes.

This condition of "acceptance" must be considered satisfied when a convicted person does not contest the judgement itself or the ICTR's interpretation of the actions and events in which he was involved; this does not mean a "retroactive guilty plea," or a recantation, or questioning of the sincerity and authenticity of the testimony given before the Tribunal.

b) Indications of the convicted person's critical reflection on his crimes by the convicted person

For the same reasons as those discussed above, he believes he has demonstrated critical reflection on the circumstances that led to the genocide and on those that led to his involvement in it.

c) Public or private expression of genuine remorse or regret

Having been detained for 28 years, without contact with the outside world, and with very little contact with his family, he has been unable to express any remorse or regret.

On the other hand, during his trial, he took every opportunity to express his regret in the most genuine way.

This was already the case when, on 10 April 1994, on Radio Rwanda, he called on "the killers to stop killing".

This is also what motivates the dissenting opinions expressed regarding the confirmation of the life sentence.

d) Actions taken to promote reconciliation

In his final statements at trial and on appeal, he emphasised the prospects for reconciliation and the paths they must take.

In this regard, he could only dedicate his early release to these same objectives, if that is the will of your jurisdiction;

e) Evidence that the convicted person has a positive attitude towards people of different cultures or origins

No contrary act has been attributed to him since his conviction. On the contrary, this positive attitude was acknowledged by all the witnesses who testified before the Court;

f) Participation in prison rehabilitation programmes

[...] a condition that he is even less able to satisfy since no rehabilitation program has been offered to him;

g) Mental health

[...] which is fortunately not in question, unlike his physical health and its profound and rapid deterioration.

h) A positive assessment of prospects for social reintegration

[...] which assessment can hardly be considered anything other than positive, given that this is a person over 87 years old, in frail health, who only longs to be reunited with his family and reintegrated into the human community in order to contribute, as much as he is able and as his strength allows, to the reconciliation of the Rwandan people.

If you grant his application, he agrees to withdraw and to remain at the address indicated in [REDACTED] [REDACTED] submitted confidentially for his safety and that [REDACTED] [REDACTED].

THEREFORE,

Noting, in particular, Security Council resolution 2740 (2024), Rules 149, 150 and 151 of the Rules of Procedure and Evidence, and Articles 699, 700, and 693-4 of the Senegalese Code of Criminal Procedure, he requests that, after consulting the Senegalese authorities, you

- commute his sentence to 25 years, or at the very least to a sentence not exceeding 36 years;
- rule that he has served his entire sentence, or at the very least more than two-thirds of it;
- officially recognise his commitment to remain at the residence designated in the annex, unless a new decision authorises his transfer;
- consequently, order his release, or at the very least his early release;
- Alternatively, grant him a pardon for the sentence time remaining to be served and consequently, order his release;
- As a further alternative, order his early release, strictly on consideration of the humanitarian grounds that render his continued detention incompatible with his state of health and with the requirements of respecting his dignity.

Respectfully submitted,

Paris, 20 October 2026

Frédéric Weyl
Attorney in Paris
Pro bono Counsel
/signed/

2,918 words /in the original/