

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case Nos.: MICT-14-77-ES.1
MICT-13-30-ES
MICT-12-15-ES.1
MICT-16-100-ES
Date: 15 October 2024
Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Graciela Gatti Santana, President
Registrar: Mr. Abubacarr M. Tambadou
Order of: 15 October 2024

**PROSECUTOR v. ALOYS NTABAKUZE
PROSECUTOR v. JEAN-PAUL AKAYESU
PROSECUTOR v. ALFRED MUSEMA
PROSECUTOR v. ILDÉPHONSE NIZEYIMANA**

PUBLIC

ORDER FOR SUBMISSIONS

Counsel for Mr. Aloys Ntabakuze:

Ms. Sandrine Gaillot

Counsel for Mr. Jean-Paul Akayesu & Mr. Ildéphonse Nizeyimana:

Mr. John Philpot

Counsel for Mr. Alfred Musema:

Mr. Steven Kay
Ms. Gillian Higgins

Government of the Republic of Benin

I, GRACIELA GATTI SANTANA, President of the International Residual Mechanism for Criminal Tribunals (“President” and “Mechanism”, respectively);

NOTING that, on 18 December 2008, Trial Chamber I of the International Criminal Tribunal for Rwanda (“ICTR”) convicted Mr. Aloys Ntabakuze (“Ntabakuze”), pursuant to Article 6(3) of the Statute of the ICTR of genocide, of murder, extermination, persecution and other inhumane acts as crimes against humanity, and of violence to life as a serious violation of Article 3 Common to the Geneva Conventions and Additional Protocol II, and sentenced him to life imprisonment;¹

NOTING that, on 8 May 2012, the Appeals Chamber of the ICTR issued a judgement partially affirming Ntabakuze’s convictions and imposing a sentence of 35 years of imprisonment;²

NOTING that Ntabakuze is currently serving his sentence at the Akpro-Misséréké prison (“Prison”) in the Republic of Benin (“Benin”);³

NOTING that, on 19 August 2024, the Registrar of the Mechanism (“Registrar”) informed me about the search and seizure of electronic items from the persons convicted by the ICTR and currently serving their respective sentences at the Prison, including Ntabakuze, which took place at the Prison on 16 August 2024;⁴

NOTING that, on 28 August 2024, the Registrar contacted the Beninese authorities to clarify the policy of the Prison on the possession of the seized items;⁵

NOTING that a response from the Government of Benin is still pending;

NOTING the three requests filed by Messrs. Jean-Paul Akayesu, Alfred Musema, and Ildéphonse Nizeyimana (together, “Akayesu, Musema, and Nizeyimana Motions”), wherein they seek that I order: (i) the Registrar to ensure that the Beninese authorities return all items seized from them; or

¹ *Prosecutor v. Aloys Ntabakuze*, Case No. ICTR-98-41A-T, Judgement and Sentence, 18 December 2008, paras. 2160, 2188, 2196, 2215, 2226, 2247, 2258, 2278.

² *Prosecutor v. Aloys Ntabakuze*, Case No. ICTR-98-41A-A, Appeal Judgement, 8 May 2012, paras. 313-317.

³ See ICTR Press Release, More ICTR Convicts Transferred to Mali and Benin to Serve their Sentences, 3 July 2012, <https://unictr.irmct.org/en/news/more-ictr-convicts-transferred-mali-and-benin-serve-their-sentences>. See also, *Prosecutor v. Aloys Ntabakuze*, Case No. ICTR-98-41A-T, Decision on the Enforcement of Sentence, 21 June 2012, p. 2.

⁴ Email from the Registrar to the President, dated 19 August 2024. See also Letter from the *Régisseur* of the Akpro-Misséréké prison to the Head of the *Agence pénitentiaire du Bénin*, dated 18 August 2024; Letter from the Minister of Justice and Legislation of the Republic of Benin to the President, dated 5 September 2024.

⁵ Internal Memorandum from the Registrar to the President, dated 25 September 2024 (confidential), para. 5. See also

(ii) in case of non-compliance of the Beninese authorities, their immediate transfer to a different enforcement State, such as Senegal, along with their seized items;⁶

NOTING the order of 8 October 2024, whereby I, *inter alia*, (i) instructed the Registrar to file, within 14 days of issuance of said order, submissions including information on the subject-matter of the Akayesu, Musema, and Nizeyimana Motions and on the steps undertaken by his Office in connection with the matter and responses received from the Beninese authorities; and (ii) invited the Government of Benin to provide, within 21 days of service of the translated versions of said order and related motions, written submissions on the subject-matter;⁷

BEING SEISED OF a request filed by Ntabakuze, wherein he seeks that I order: (i) the Registrar to ensure that the Beninese authorities implement measures to guarantee the integrity of the seized items; (ii) the Registrar to ensure that the Beninese authorities return all items seized from him “in the next few days”; or (iii) in case of non-compliance of the Beninese authorities, Ntabakuze’s immediate transfer to a different enforcement State, such as Senegal, along with his seized items;⁸

NOTING that Ntabakuze submits that the seized items contain, *inter alia*, confidential information subject to protective measures and material protected by lawyer-client privilege and that said items and their content could be damaged if not stored properly;⁹

RECALLING Article 3(2) of the Enforcement Agreement,¹⁰ which stipulates that “the conditions of imprisonment shall be governed by the law of the requested State and be subject to the supervision of the Mechanism”;

Internal Memorandum from the President to the Registrar, dated 3 September 2024 (confidential), para. 6.

⁶ *Prosecutor v. Jean-Paul Akayesu*, Case No. MICT-13-30-ES, Urgent Request to the President, 2 October 2024 (public with confidential annexes), paras. 20, 26, 31-32, Registry Pagination (“RP”) 1116; *Prosecutor v. Alfred Musema*, Case No. MICT-12-15-ES.1, Urgent Request to the President Concerning Seizure of Electronic Devices of ICTR Prisoners at Akpro-Misséréké Prison in Benin, 2 October 2024, paras. 18-19, 21, 24, 29, 32-33; *Prosecutor v. Ildéphonse Nizeyimana*, Case No. MICT-16-100-ES, Urgent Request to the President, 3 October 2024 (public with confidential annexes), paras. 20, 26, 31-32, RP 64.

⁷ *Prosecutor v. Jean-Paul Akayesu*, Case No. MICT-13-30-ES, *Prosecutor v. Alfred Musema*, Case No. MICT-12-15-ES.1, *Prosecutor v. Ildéphonse Nizeyimana*, Case No. MICT-16-100-ES, Order for Submissions, 8 October 2024 (“Order of 8 October 2024”).

⁸ *Prosecutor v. Aloys Ntabakuze*, Case No. MICT-14-77-ES.1, Public Motion to the President Concerning Seizure and Imminent Destruction of Electronic Devices of ICTR Prisoners at Akpro-Misséréké Prison in Benin, 10 October 2024 (“Motion”), para. 31, p. 9.

⁹ Motion, paras. 9-12.

¹⁰ Agreement Between the United Nations and the Government of Benin on the Enforcement of Sentences Pronounced by the International Criminal Tribunal for Rwanda or the International Residual Mechanism for Criminal Tribunals, 12 May 2017 (“Enforcement Agreement”).

RECALLING that, pursuant to Article 25(2) of the Statute of the Mechanism (“Statute”), the Mechanism shall have the power to supervise the enforcement of sentences pronounced by the ICTR, the International Criminal Tribunal for the former Yugoslavia, or the Mechanism;

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;

RECALLING further that, pursuant to Rule 31(A) of the Rules, under the authority of the President, the Registrar shall be responsible for the administration and servicing of the Mechanism and shall serve as its channel of communication;

CONSIDERING that, in examining the Motion, I would benefit from receiving submissions from the Registrar and from the Government of Benin, as the enforcement State, on the subject-matter of the Motion;

FOR THE FOREGOING REASONS,

PURSUANT to Article 25(2) of the Statute and Rules 23(A) and 31(A) of the Rules;

HEREBY INSTRUCT the Registrar:

- (i) to include any information of relevance with respect to the subject-matter of the Motion in his submissions due per the Order of 8 October 2024; and
- (ii) to transmit translated versions of the Motion, including its annex, and the present order to the Government of Benin;

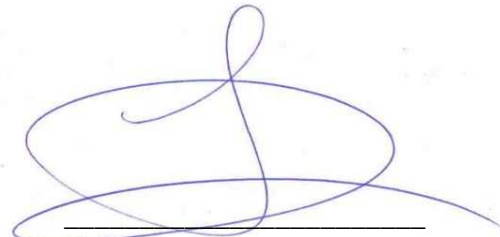
INVITE the Government of Benin to include in its written submissions, as per the Order of 8 October 2024, any information of relevance on the subject-matter of the Motion;

CLARIFY that the 21-day deadline for Benin’s submissions shall run from receipt of all documents referred to in the Order of 8 October 2024 and the present order; and

REMAIN SEISED OF the Motion.

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

Done this 15th day of October 2024,
At Arusha,
Tanzania.



Judge Graciela Gatti Santana
President

[Seal of the Mechanism]



TRANSMISSION SHEET FOR FILING OF DOCUMENTS / FICHE DE TRANSMISSION POUR LE DÉPÔT DE DOCUMENTS

I - FILING INFORMATION / INFORMATIONS GÉNÉRALES

To/ À :	IRMCT Registry/ Greffe du MIFRTP	<input checked="" type="checkbox"/> Arusha/ Arusha	<input type="checkbox"/> The Hague/ La Haye			
From/ De :	<input checked="" type="checkbox"/> President/ Président	<input type="checkbox"/> Chambers/ Chambre	<input type="checkbox"/> Prosecution/ Bureau du Procureur	<input type="checkbox"/> Defence/ Défense	<input type="checkbox"/> Registrar/ Greffier	<input type="checkbox"/> Other/ Autre
Case Name/ Affaire :	Prosecutor v. Aloys Ntabakuze Prosecutor v. Jean-Paul Akayesu Prosecutor v. Alfred Musema Prosecutor v. Ildenphonse Nizevimana		Case Number/ Affaire n° :	MICT-14-77-ES.1 MICT-13-30-ES MICT-12-15-ES.1 MICT-16-100-ES		
Date Created/ Daté du :	15 October 2024	Date transmitted/ Transmis le :	15 October 2024	Number of Pages/ Nombre de pages :	5	
Original Language/ Langue de l'original :	<input checked="" type="checkbox"/> English/ Anglais	<input type="checkbox"/> French/ Français	<input type="checkbox"/> Kinyarwanda	<input type="checkbox"/> B/C/S	<input type="checkbox"/> Other/Autre (specify/ préciser):	
Title of Document/ Titre du document :	Order for submissions					
Classification Level/ Catégories de classification :	<input checked="" type="checkbox"/> Public/ Document public	<input type="checkbox"/> Confidential/ Confidentiel	<input type="checkbox"/> Ex Parte Defence excluded/ Défense exclue <input type="checkbox"/> Ex Parte Prosecution excluded/ Bureau du Procureur exclu <input type="checkbox"/> Ex Parte Rule 86 applicant excluded/ Article 86 requérant exclu <input type="checkbox"/> Ex Parte Amicus Curiae excluded/ Amicus curiae exclu <input type="checkbox"/> Ex Parte other exclusion/ autre(s) partie(s) exclue(s) (specify/ préciser) :			
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II - TRANSLATION STATUS ON THE FILING DATE/ ÉTAT DE LA TRADUCTION AU JOUR DU DÉPÔT

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