

UNITED
NATIONS



International Residual Mechanism
for Criminal Tribunals

Case Nos.: MICT-25-134

Date: 17 April 2025

Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Graciela Gatti Santana, President

Registrar: Mr. Abubacarr M. Tambadou

Date: 17 April 2025

IN THE MATTER OF

**JEAN-PAUL AKAYESU
AUGUSTIN BIZIMUNGU
JEAN-BAPTISTE GATETE
ILDEPHONSE HATEGEKIMANA
JUVÉNAL KAJELIJELI
ALFRED MUSEMA
SIMÉON NCHAMIHIGO**

**GRÉGOIRE NDAHIMANA
HASSAN NGEZE
ILDÉPHONSE NIZEYIMANA
ALOYS NTABAKUZE
CALLIXTE NZABONIMANA
LAURENT SEMANZA
ATHANASE SEROMBA**

PUBLIC

**REGISTRAR'S SECOND SUBMISSION ON THE "CONSOLIDATED
DECISION CONCERNING THE SEIZURE OF ELECTRONIC DEVICES"
OF 20 JANUARY 2025**

Counsel for the Applicants:

Mr. John Philpot for Mr. Jean-Paul Akayesu & Mr. Ildéphonse Nizeyimana
Mr. Steven Kay and Ms. Gillian Higgins for Mr. Alfred Musema
Ms. Marie-Hélène Proulx for Mr. Siméon Nchamihigo
Ms. Sandrine Gaillot for Mr. Aloys Ntabakuze
Mr. Philippe Larochelle for Mr. Callixte Nzabonimana

Counsel for the other convicted persons whose devices were seized:

Mr. Peter Robinson for Mr. Augustin Bizimungu & Mr. Laurent Semanza
Mr. John Philpot for Mr. Juvénal Kajelijeli
Mr. Mayombo Kassongo for Mr. Grégoire Ndahimana
Ms. Mirjana Vukajlović for Mr. Hassan Ngeze
Ms. Marie-Hélène Proulx for Mr. Jean-Baptiste Gatete

**Mr. Ildephonse Hategekimana
Mr. Athanase Seromba**

Government of the Republic of Benin

I. INTRODUCTION

1. Pursuant to Rule 31(B) of the Rules of Procedure and Evidence of the International Residual Mechanism for Criminal Tribunals (“Rules” and “Mechanism” respectively), and in compliance with the “Consolidated Decision Concerning the Seizure of Electronic Devices”,¹ I respectfully submit these updates on the implementation of the Consolidated Decision.
2. The Consolidated Decision instructed the Registrar to, *inter alia*, (i) take all reasonable and necessary measures, in coordination with the Beninese authorities, to ensure that the *status quo* of the security and physical integrity of the seized devices is preserved, including the confidentiality of material contained on said devices; (ii) liaise with the Beninese authorities to determine if and under what conditions the Applicants, and other convicted persons whose devices were seized, may be granted access to their respective seized devices that may reasonably be expected to contain documents related to their legal proceedings, in order to facilitate their work on post-conviction matters; (iii) if such access cannot be granted, liaise with the Beninese authorities and take all reasonable and necessary measures to facilitate the release of the seized items to Counsel for the Applicants, or, for individuals unrepresented by Counsel for post-conviction matters, to the Registry; and (iv) facilitate the provision of documents related to the convicted persons’ legal proceedings as requested by the convicted persons.²

II. SUBMISSIONS

3. On 17 February 2025, I filed my first submission on the implementation of the Consolidated Decision (“17 February 2025 Submission”), which included information on the Registry’s actions and engagement with the Republic of Benin (“Benin”) on the seizure of electronic equipment from the convicted persons serving their sentences at the Akpro-Misséréte prison under the Mechanism’s supervision (“Convicted Persons” and “Prison”, respectively).³
4. On 25 February 2025, in advance of the working-level mission to the Republic of Benin (“Benin”) and with a view to implementing the Consolidated Decision, the Registry sent a letter to Counsel of the Convicted Persons requesting their additional views on the transfer of the seized items from the custody of the Beninese authorities.⁴

¹ *In the matter of Jean-Paul Akayesu et al*, Case No. MICT-25-134, Consolidated Decision Concerning the Seizure of Electronic Devices, 20 January 2025 (“Consolidated Decision”).

² Consolidated Decision, page 12.

³ *In the matter of Jean-Paul Akayesu et al*, Case No. MICT-25-134, Registrar’s Submission on the “Consolidated Decision Concerning the Seizure of Electronic Devices” of 20 January 2025, 17 February 2025.

⁴ The letter was also sent to the three convicted persons who were unrepresented at the time, Messrs. Jean-Baptiste Gatete, Ildephonse Hategekimana and Athanase Seromba (hereinafter “25 February 2025 Letter to Counsel”).

5. On 28 February 2025, the Registry received a correspondence dated 27 February 2025 from twelve of the Convicted Persons sharing their observations on the 17 February 2025 Submission.⁵ The Convicted Persons provided the following observations: (1) the Beninese law identified by the authorities to justify the search and seizure of their computers and accessories only prohibits the possession of equipment that can be used as a means of communication and therefore does not prohibit the possession of computers; (2) their computers can be set up without Wi-Fi access as experience has shown at the United Nations Detention Facility (“UNDF”) in Arusha; (3) the security, the physical integrity of the seized computers and their accessories and the confidentiality of the information they contain are highly concerning and require action from the Registry to confirm the guarantees given by Benin; (4) the Convicted Persons should not be compared to the other detainees in Prison as their situations are quite distinct; (5) the need for the Registrar and his office to meet other senior officials in Benin.
6. On 28 February, 1 and 3 March 2025, the Registry received four responses to the 25 February 2025 Letter to Counsel,⁶ many of them referring to the observations of the Convicted Persons contained in their Letter of 27 February 2025. No additional observations have been received from other Counsel.
7. From 4 to 6 March 2025, the Registry conducted its annual mission to Benin to address various matters with the convicted persons, national authorities, International Committee of the Red Cross (“ICRC”) and United Nations Development Programme in Benin. The Registry also took this opportunity to raise issues concerning the seizure of electronic equipment personally with the national authorities and the Convicted Persons.
8. On 5 March 2025, the Registry officials met with the *Directeur Général* of the *Autorité Pénitentiaire du Bénin*. Following the seizure of electronic equipment in August 2024 and subsequent exchanges on the matter with the Registry, the *Directeur Général* maintained that the computers cannot be returned to the Convicted Persons, but he reiterated that they can be returned to designated persons such as relatives of the Convicted Persons or to the Mechanism. He emphasised that electronic equipment are forbidden in Benin prisons and referred to the *Décret* of 9 October 2024/1153 as the piece of legislation that prohibits the possession of electronic equipment.
9. The Registry informed the *Directeur Général* that the Convicted Persons require access to the confidential legal files on the computers and enquired about how this may be facilitated. The *Directeur Général* stated that a space with computers can be arranged in the Prison to allow the Convicted Persons to work on their files and access their documents, under the control of the

⁵ The letter was signed by Messrs. Gregoire Ndahimana, Siméon Nchamihigo, Jean-Paul Akayesu, Jean-Baptiste Gatete, Ildephonse Hategekimana, Athanase Seromba, Laurent Semanza, Callixte Nzabonimana, Augustin Bizimungu, Aloys Ntabakuze, Juvénal Kajelijeli and Alfred Musema (“Letter of 27 February 2025”).

⁶ The Registry received correspondence from Counsel John Philpot, Sandrine Gaillot, Peter Robinson, Gill Higgins and Steven Kay KC.

Prison administration. The *Directeur Général* stated that this space can also be used to facilitate audio and video calls via Internet, which has been a long-standing recommendation from the ICRC and request from the Mechanism and the Convicted Persons. The *Directeur Général* stated that the Convicted Persons could also be given back the USB keys and external drives that were seized and mentioned that the common space for the placement of computers for the Convicted Persons to work on their files and access their documents could be set up quite rapidly.

10. At the end of the meeting, the Registry officials were shown the secure area where the seized electronic items from the Mechanism's Convicted Persons are kept.

11. On 6 March 2025, the Registry met with the Convicted Persons at the Prison. The representative for the Convicted Persons spoke on their behalf and extensively discussed the issue of the search and seizure of the electronic equipment of August 2024. He notably highlighted the following:

- That this event has had a serious impact on the well-being of the Convicted Persons;
- There has been a long-standing practice in Benin and at the UNDF in Arusha to allow the Convicted Persons to use electronic equipment;
- They had requested the Mechanism's assistance in resolving the matter as soon as possible noting their concern that the seized material contains privileged information which may deteriorate with time;
- As the most relevant and important information is on their computers, having access to the seized USB Keys and external drives was not satisfactory as it does not allow them access to their files, including case files on the laptops which contain privileged communication with their Counsel and confidential information;
- Their laptops could be set up in a way to prevent them from having any access to the internet; and
- They did not want their seized items to be given to the Mechanism, Counsel, relatives or to anyone else.

12. Following the mission, the Registry has contacted the *Directeur Général* on multiple occasions to follow up on matters raised during the Registry's mission including the search and seizure of the electronic devices.

13. On 24 March 2025, the Registry received another letter dated 23 March 2025 from some of the Convicted Persons,⁷ highlighting the fact that (1) the seizure of their computers and accessories has no legal basis; (2) the agreement regarding enforcement of sentences was violated; (3) the refusal of the *Directeur Général* to give the Convicted Persons their computers and accessories back is a new legal fact which the President was not aware of when she rendered the Consolidated

⁷ The letter was signed by Messrs. Gregoire Ndahimana, Siméon Nchamihigo, Jean-Paul Akayesu, Jean-Baptiste Gatete, Ildephonse Hategekimana, Athanase Seromba, Callixte Nzabonimana, Augustin Bizimungu, Aloys Ntabakuze, Juvénal Kajelijeli, Alfred Musema, Laurent Semanza, and Ildephonse Nizeyimana

Decision and could be a basis for an eventual transfer to a different enforcement state; and (4) the Convicted Persons are worried about the integrity and the security of their computers and their accessories, as well as the confidentiality of the information herein contained.

14. On 3 April 2025, the Registry engaged the *Directeur Général* via telephone and enquired whether he would be willing to let the Convicted Persons themselves have direct access to their seized equipment only to retrieve their documents and transfer them to external drives or USB keys. The *Directeur Général* reiterated his willingness to let a designated family member or Counsel retrieve the electronic equipment or transfer their documents to external drives or USB keys. He highlighted, however, that the Convicted Persons cannot do it themselves.
15. During the conversation, the *Directeur Général* confirmed his agreement for the Convicted Persons to have access to land computers in a dedicated room to work on their case and confirmed his willingness to allow internet usage for audio and video calls via Internet to family members under supervision.
16. The Registry is actively working with the United Nations Development Programme in Benin to procure a limited number of computers for the common use of the Convicted Persons to facilitate work on their cases and allow audio and video calls via Internet to their family members and Counsel.

III. CONCLUSION

17. The Registry continues to make sustained efforts to engage the Prison authorities in Benin to resolve the issues related to the seizure of the electronic items in accordance with the Consolidated Decision.

Respectfully submitted,



Abubacarr M. Tambadou
Registrar

Done this 17th day of April 2025

At Arusha,

Tanzania.



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 type="checkbox"/> President/ Président	<input type="checkbox"/> Chambers/ Chambre	<input type="checkbox"/> Prosecution/ Bureau du Procureur	<input type="checkbox"/> Defence/ Défense	<input checked="" type="checkbox"/> Registrar/ Greffier	<input type="checkbox"/> Other/ Autre
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