

**UNITED
NATIONS**



International Residual Mechanism for
Criminal Tribunals

Case no.: MICT-24-131

Date: 15 April 2025

Original: French

Before: Judge Graciela Gatti Santana, President

Registrar: Mr Abubacarr Tambadou

**IN THE MATTER OF
FRANÇOIS NGIRABATWARE**

***PUBLIC DOCUMENT
WITH CONFIDENTIAL ANNEX***

FIRST MONITORING REPORT

Monitor

Ms Elsa Levavasseur

1. In his Order of 28 January 2025, the Registrar of the International Residual Mechanism for Criminal Tribunals (“Mechanism”) appointed me as monitor in charge of monitoring the contempt case against Mr François Ngirabatware (“*Ngirabatware case*” and “Mr Ngirabatware” respectively) referred to the authorities of the Kingdom of Belgium (“Belgium”) pursuant to Articles 1(4), 6(2) and 6(4) of the Mechanism’s Statute and Rule 14 of the Mechanism’s Rules of Procedure and Evidence (“Statute” and “Rules” respectively).¹ This first monitoring report covers the period starting from the referral of the case on 17 September 2024 up to and including 15 April 2025.

Introduction and Context

2. On 29 April 2024, a Single Judge of the Mechanism issued an Order in Lieu of Indictment against Mr Ngirabatware for contempt of the Mechanism, an offence under Article 1(4) of the Statute and Rule 90(A), for having knowingly and wilfully interfered with the administration of justice by presenting three fraudulent documents (“fraudulent documents”), with the intention of misleading the Mechanism, in the context of proceedings linked to the matter of *The Prosecutor v. Félicien Kabuga*, case no. MICT-13-38-Misc.1, regarding the unfreezing of assets in bank accounts in Belgium.² These documents include a letter, alleged to have been created by Mr Ngirabatware, which he falsely presented as coming from a representative of a Belgian bank, whose signature he is alleged to have falsified.³

3. The Single Judge then instructed the Registrar of the Mechanism to serve Mr Ngirabatware with the Decision on Allegations of Contempt as well as the Order in Lieu of Indictment, *inter alia*.⁴ On 29 May 2024, the Registrar of the Mechanism confirmed service on Mr Ngirabatware on 24 May 2024.⁵

4. On 17 September 2024, a second Single Judge of the Mechanism ordered the referral of proceedings regarding Mr Ngirabatware to the Belgian authorities for trial pursuant to Articles 1(4),

¹ *In the Matter of François Ngirabatware*, case no. MICT-24-131-I, Order Appointing a Monitor, 6 February 2025 (original English version filed on 28 January 2025) (“Order of 28 January 2025”), p. 1. *See also In the Matter of François Ngirabatware*, case no. MICT-24-131-I, Decision on the Suitability of Referral of the Case, 19 September 2024 (original English version filed on 17 September 2024) (“Decision of 17 September 2024”), pp. 5 and 6.

² *See* Decision of 17 September, p. 1; *In the Matter of François Ngirabatware*, case no. MICT-24-131-I, Decision Issuing Order in Lieu of Indictment, 7 May 2024 (original English version filed on 29 April 2024; confidential, public redacted version filed the same day) (“Decision of 29 April 2024”), pp. 1 to 4. *See also The Prosecutor v. Félicien Kabuga*, case no. MICT-13-38-R90.1, Decision on Allegations of Contempt, 14 May 2024 (original English version filed on 29 April 2024; confidential, public redacted version filed the same day).

³ *See* Decision of 29 April 2024, pp. 3 and 4.

⁴ *See* Decision of 29 April 2024, p. 1.

⁵ *See In the Matter of François Ngirabatware*, case no. MICT-24-131-I, Registrar’s Notice of Compliance with the “Decision Issuing Order in Lieu of Indictment” of 29 April 2024, 14 June 2024 (original English version filed on 29 May 2024; confidential).

6(2) and 6(4) of the Statute of the Mechanism and Rule 14 of the Rules.⁶ Mr Ngirabatware had previously made it known through his lawyer that, as a Belgian national residing in Belgium, he wanted the examination of this case to be entrusted to the relevant Belgian courts.⁷ The Belgian authorities, also invited to provide a written submission, indicated that the conduct alleged against Mr Ngirabatware could, *prima facie*, be qualified as forgery and use of forgery, pursuant to Articles 196 and 197 of the Belgian Criminal Code, and that, while favouring a trial by the Mechanism, Belgium was *a priori* competent to prosecute these offences and stood ready to initiate proceedings.⁸

5. The referral decision also ordered the *Amicus Curiae* initially responsible for prosecuting this case before the Mechanism, Mr Robert L. Herbst (“*Amicus Curiae*”), to transfer to the Prosecutor’s Office of Belgium, as soon as possible, all information relating to this case, including all materials supporting the Order in Lieu of Indictment.⁹ The Registry of the Mechanism was also ordered to take appropriate measures for an effective monitoring mechanism to be implemented in accordance with Article 6(5) of the Statute and Rule 14(A)(iv) of the Rules to ensure that Mr Ngirabatware benefits from the guarantees applicable to the case throughout the proceedings against him, and to report on the situation to the President of the Mechanism.¹⁰

6. On 28 January 2025, pursuant to Article 6(5) of the Statute and Rule 14 of the Rules, and following consultation with the President of the Mechanism, the Registrar of the Mechanism appointed me as monitor in the *Ngirabatware* case, to observe his trial in Belgium and to provide reports on the progress of the trial.¹¹ Following a first monitoring mission carried out in Belgium on 25 March 2025, as detailed below, and the filing of this first monitoring report, regular monitoring reports will be issued every quarter, in keeping with the terms of reference sent to me on 10 February 2025.

Monitoring Mission

7. In an email of 10 February 2025, the Registry of the Mechanism sent me the information necessary to commence the monitoring mission and indicated that any contact with the Belgian authorities should be initiated through the Central Authority for Cooperation with the International Criminal Courts and Mechanisms within the Department for International Humanitarian Law of the

⁶ See Decision of 17 September 2024, p. 5.

⁷ See Decision of 17 September 2024, p. 3 and references quoted.

⁸ See Decision of 17 September 2024, p. 3 and references quoted.

⁹ See Decision of 17 September 2024, p. 6.

¹⁰ See Decision of 17 September 2024, pp. 5 and 6.

¹¹ See Order of 28 January 2025, p. 1.

General Directorate for Legislation and Basic Rights and Freedoms of the Public Federal Service for Justice (“Central Authority for Cooperation”).

8. On 18 and 24 February 2025, having received the necessary authorisations, I made contact by email with the Head of the Central Authority for Cooperation, Mr Gérard Dive, in order to introduce myself, receive initial relevant information in the context of the first monitoring mission, and to suggest holding a meeting in Brussels with all the contact persons in the case.

9. During a video conference meeting on 24 February 2025, Mr Dive indicated that the International Humanitarian Law Section of the Belgian Federal Prosecutor's Office had already been notified and that Ms Kathleen Grosjean would be the Federal Prosecutor in charge of the case. He also informed me that the apostilles had been forwarded to the Federal Judicial Police and that no investigating judge had yet been appointed. It was also agreed that a meeting could take place on 24 or 25 March 2025. By email of 26 February 2025, Mr Dive confirmed that a hybrid meeting would be held on 25 March 2025 at the premises of the Federal Prosecutor's Office in Brussels, with his presence by video link, and that of Ms Grosjean in person.

10. On 25 March 2025, I went to the Federal Prosecutor's Office in Brussels to meet with the Federal Prosecutor, Ms Grosjean. The Head of the Central Authority for Cooperation, Mr Dive, sent his apologies. The Federal Prosecutor confirmed that file no. 24CR0519 concerning the *Ngirabatware* case had been assigned to her office and that, at her request, the Brussels Federal Police and Commissioner Thierry Wouters had been entrusted with the investigation.

11. The Federal Prosecutor informed me of a preliminary difficulty arising from the fact that the fraudulent documents had not been located by the federal police within the voluminous file submitted by the *Amicus Curiae*. Once this preliminary question has been resolved, and if the allegedly forged documents indeed appear to be manifestly fraudulent, the accused may be directly summoned to appear before the court, without it being necessary to appoint an investigating judge. This procedure should be carried out within a reasonable time and, in the event of a conviction, an appeal will be possible before the Brussels Court of Appeal.

12. [See Confidential Annex]

13. On 26 March 2025, I informed the Registry of the Mechanism of the issues raised during the meeting with the Federal Prosecutor, including the issue of fraudulent documents apparently missing from the file, requesting that they be located and/or communicated to the Belgian authorities. In an email of 27 March 2025, I informed the Federal Prosecutor of the steps taken.

14. On 13 April 2025, in response to a follow-up email sent on 9 April 2025, the Registry of the Mechanism informed me that the *Amicus Curiae* had sent an explanatory email to the Belgian authorities regarding the location of the fraudulent documents..

15. On 15 April 2025, in response to follow-up emails sent on 9 and 14 April 2025, the Head of the Central Authority for Cooperation confirmed that he had received and forwarded to the Federal Prosecutor's Office the explanatory email from the *Amicus Curiae*. Based on the information thus received, the Federal Prosecutor's Office was able to locate the allegedly fraudulent documents.

Outlook

16. Based on the information gathered during this initial monitoring mission of the matter of Mr Ngirabatware, and since the allegedly forged documents have been transmitted to the Belgian Federal Prosecutor's Office, the direct summons procedure should allow the accused to appear quickly before a court. In the event of conviction and appeal, however, it is foreseeable that hearing times will be longer before the Brussels Court of Appeal.

15 April 2025,
Done in The Hague
The Netherlands

/signed/
Elsa Levavasseur
Monitor