

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-12-29-ES.1

Date: 11 August 2026

Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Graciela Gatti Santana, President

Registrar: Mr. Abubacarr M. Tambadou

Decision of: 11 August 2026

PROSECUTOR

v.

AUGUSTIN NGIRABATWARE

PUBLIC

**DECISION ON THE APPLICATION FOR
COMMUTATION OF SENTENCE OR EARLY RELEASE
OF AUGUSTIN NGIRABATWARE**

Counsel for Mr. Augustin Ngirabatware:

Mr. David Hooper
Mr. Sam Blom-Cooper

Republic of Senegal

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

BEING SEISED of a direct petition for commutation of sentence or early release filed by Mr. Augustin Ngirabatware on 24 June 2026 (“Ngirabatware” and “Application”, respectively);¹

NOTING that, on 17 September 2007, Ngirabatware was arrested in the Federal Republic of Germany and, on 8 October 2008, was transferred to the custody of the International Criminal Tribunal for Rwanda (“ICTR”);²

NOTING that Ngirabatware is currently serving a 30-year sentence of imprisonment in the Republic of Senegal (“Senegal”),³ following his convictions for direct and public incitement to commit genocide and instigating and aiding and abetting genocide,⁴ as well as an additional two-year sentence of imprisonment to be served consecutively to his 30-year sentence for his conviction for having interfered with the administration of justice and violated court orders;⁵

NOTING that Ngirabatware submits that, although he has not yet served two-thirds of his sentence, he is considered eligible for release under Senegalese law, and that his age, declining health and family circumstances, together with the “practice of conditional early release” which can mirror a parole system, make a commutation of his sentence appropriate and in the interests of justice;⁶

NOTING also Ngirabatware’s submissions that he: (i) recognises the seriousness of his offences; (ii) poses no danger to any victim or witness; (iii) has been receiving regular visits and support from many family members and friends during his incarceration in Senegal; (iv) continues to work in economics, having received offers for collaboration from research centres and institutes in the event of a commutation of sentence or an early release; (v) would be willing to remain in Senegal pending an application for a visa to other States where family members reside; and (vi) is willing to accept

¹ Application for Commutation of Sentence or Early Release, 24 June 2026 (confidential). A public redacted version of the Application was filed on the same day. *See* Public Redacted Version of “Application for Commutation of Sentence or Early Release”, 24 June 2026.

² *See Prosecutor v. Augustin Ngirabatware*, Case No. ICTR-99-54-T, Judgement and Sentence, 21 February 2013 (“Trial Judgement”), para. 11, Annex A, para. 6.

³ Order for Transfer to Enforcement State, 28 May 2021, p. 2. *See also* Order Designating State in Which Augustin Ngirabatware is to Serve his Sentence, 28 November 2017, p. 2; Order Varying Order Designating State in Which Augustin Ngirabatware is to Serve his Sentence, 9 July 2018, p. 4; Decision on Augustin Ngirabatware’s Request to Change the Enforcement State and to Transfer him Expeditiously, 21 October 2020 (confidential), p. 4.

⁴ *See Augustin Ngirabatware v. Prosecutor*, Case No. MICT-12-29-A, Judgement, 18 December 2014 (“Appeal Judgement”), para. 279; *Prosecutor v. Augustin Ngirabatware*, Case No. MICT-12-29-R, Review Judgement, 27 September 2019 (“Review Judgement”), para. 65. *See also* Trial Judgement, paras. 1394, 1420.

⁵ *See Prosecutor v. Marie Rose Fatuma et al.*, Case No. MICT-18-116-A, Judgement, 29 June 2022, para. 121. *See also Prosecutor v. Anselme Nzabonimpa et al.*, Case No. MICT-18-116-T, Judgement, 25 June 2021, para. 409(iii).

⁶ Application, paras. 2-3, 22-24, 31, 38.

certain conditions, which would be sufficient to address the interests and concerns of the victims of his crimes;⁷

RECALLING that, according to Article 25(2) of the Statute of the Mechanism (“Statute”), the Mechanism supervises the enforcement of sentences pronounced by the ICTR, the International Criminal Tribunal for the former Yugoslavia (“ICTY”), or the Mechanism, including the implementation of sentence enforcement agreements entered into by the United Nations with Member States;

RECALLING that, pursuant to Article 26 of the Statute, there shall only be pardon or commutation of sentence if the President so decides on the basis of the interests of justice and the general principles of law;⁸

RECALLING that, pursuant to Rule 150 of the Rules, upon receipt of a direct petition from the convicted person, the President shall determine whether pardon, commutation of sentence, or early release is appropriate, in consultation with: (i) any Judges of the sentencing Chamber who are Judges of the Mechanism; or (ii) at least two other Judges, if none of the Judges who imposed the sentence are Judges of the Mechanism;

RECALLING that it is accepted in the Mechanism’s jurisprudence that, while commutation changes the nature of the sentence by reducing it or otherwise making it less severe, early release does not change the nature of the sentence but means that a convicted person is freed before the end of his or her sentence, either with or without conditions, and that the breach of any conditions imposed upon early release can result in the convicted person being transferred back to the Mechanism to serve the remainder of his or her sentence;⁹

RECALLING that all convicted persons serving a sentence under the supervision of the Mechanism are eligible to be considered for commutation of sentence or early release upon having

⁷ Application, paras. 29-30, 32-36, 38.

⁸ While Article 26 of the Statute, like the equivalent provisions in the Statutes of the ICTR and the ICTY, does not specifically mention requests for early release of convicted persons, the Rules of Procedure and Evidence of the Mechanism (“Rules”) reflect the President’s power to deal with such requests, which is also consistent with the longstanding practice of the ICTR, the ICTY, and the Mechanism. *See also* Agreement Between the Government of the Republic of Senegal and the United Nations on the Enforcement of Sentences Pronounced by the International Criminal Tribunal for Rwanda, dated 22 November 2010 (“Enforcement Agreement”), Articles 3(1), 8(1) and 8(3). The Enforcement Agreement applies, *mutatis mutandis*, to the Mechanism. *See* Security Council Resolution 1966 (2010), 22 December 2010, para. 4.

⁹ *Prosecutor v. Gaspard Kanyarukiga*, Case Nos. MICT-22-126 & MICT-22-126-ES.1, Decision on the Applications for Early Release and Commutation of Sentence of Gaspard Kanyarukiga, 9 June 2023, p. 4; *Prosecutor v. Hassan Ngeze*, Case No. MICT-13-37-ES.2, Decision on the Application for Commutation of Sentence of Hassan Ngeze and Related Motions, 14 April 2022 (public redacted), para. 99; *Prosecutor v. Milomir Stakić*, Case No. MICT-13-60-ES, Decision on Sentence Remission and Early Release of Milomir Stakić, 31 December 2020, para. 34.

served two-thirds of their sentence, irrespective of: (i) whether the person was convicted by the ICTR, the ICTY, or the Mechanism; (ii) where the sentence is being served; and (iii) whether the matter is brought before the President through a direct petition by the convicted person or a notification from the relevant enforcement State;¹⁰

RECALLING further that serving two-thirds of a sentence has been described as being “in essence, an admissibility threshold”,¹¹ and that, if a convicted person applies for commutation of sentence or early release before having served two-thirds of his or her sentence, the application may be considered without necessarily triggering the multi-step and resource-intensive process of requesting, receiving, translating, sharing, and considering additional information before determining whether the application should be denied as premature;¹²

CONSIDERING that eligibility under the national law of the enforcement State does not impact a convicted person’s eligibility for commutation of sentence or early release before the Mechanism;¹³

CONSIDERING that, having served approximately 19 years of his sentence,¹⁴ Ngirabatware has not yet reached the applicable threshold and is therefore not yet eligible to be considered for commutation of sentence or early release;

RECALLING that compelling or exceptional circumstances could arise in specific instances prior to the two-thirds threshold having been reached, which, in the exercise of my discretion as President, may overcome any eligibility concerns;¹⁵

RECALLING that previous decisions have determined that the state of the convicted person’s health may be taken into account in the context of an application for early release, especially when

¹⁰ *Prosecutor v. Jean Kambanda*, Case No. MICT-13-32-ES.1, Decision on the Application for Early Release of Jean Kambanda, 23 July 2026 (“*Kambanda Decision*”), p. 2; *Prosecutor v. Jean de Dieu Kamuhanda*, Case No. MICT-13-33-ES.1, Decision on the Application for Early Release of Jean de Dieu Kamuhanda, 23 July 2026 (“*Kamuhanda Decision*”), p. 2; *Prosecutor v. Radislav Krstić*, Case No. MICT-13-46-ES.1, Decision on the Early Release of Radislav Krstić, 10 September 2019 (public redacted), paras. 16, 18.

¹¹ *Kambanda Decision*, p. 3; *Kamuhanda Decision*, p. 2; *Prosecutor v. Paul Bisengimana*, Case No. MICT-12-07, Decision of the President on Early Release of Paul Bisengimana and on Motion to File a Public Redacted Application, 11 December 2012 (public redacted) (“*Bisengimana Decision*”), para. 19.

¹² *Kambanda Decision*, p. 3; *Kamuhanda Decision*, p. 2; *Bisengimana Decision*, para. 21.

¹³ *See Kambanda Decision*, p. 3; *Prosecutor v. Matthieu Ndirumpatse*, Case No. MICT-14-73-ES.2, Decision on the Application for Commutation of Sentence or Early Release of Matthieu Ndirumpatse, 9 October 2024 (public redacted), para. 22; *Prosecutor v. Laurent Semanza*, Case No. MICT-13-36-ES.2, Decision on Laurent Semanza’s Application for Early Release, 17 September 2020, para. 29.

¹⁴ *See Application*, para. 37.

¹⁵ *Kambanda Decision*, p. 3; *Kamuhanda Decision*, p. 3; *Prosecutor v. Laurent Semanza*, Case No. MICT-13-36-ES, Decision of the President on the Early Release of Laurent Semanza, 9 June 2016 (public redacted), para. 18.

the seriousness of the condition makes it inappropriate for the convicted person to remain in prison any longer;¹⁶

CONSIDERING that Ngirabatware’s submissions on his advanced age and health problems do not demonstrate compelling or exceptional circumstances that may overcome the fact that he has not yet met the eligibility threshold;¹⁷

OBSERVING that Ngirabatware himself submits that “[a]n early release would be beneficial to his [health] condition”,¹⁸ which falls short of the very high threshold for granting early release on compelling health-related grounds;

CONSIDERING that, in the specific circumstances of this case, which concerns an application prior to Ngirabatware meeting the eligibility threshold in relation to the 30 years of imprisonment to which he was sentenced for his convictions for core crimes, I have consulted the Judges who issued the judgements in relation to these convictions only;¹⁹

CONSIDERING therefore that I have consulted with Judge Joseph E. Chiondo Masanche, Judge William H. Sekule, Judge Lee G. Muthoga, Judge Burton Hall, Judge Liu Daqun and Judge Aminatta Lois Runeni N’gum in their capacity as Judges of the sentencing Chambers;²⁰

CONSIDERING further that all six Judges share my position that Ngirabatware is not yet eligible to be considered for commutation of sentence or early release and are of the view that he has failed to demonstrate compelling or exceptional circumstances that would warrant such a relief prior to him meeting the eligibility threshold;

¹⁶ *Kambanda* Decision, p. 4; *Prosecutor v. Radislav Krstić*, Case No. MICT-13-46-ES.1, Decision on the Application for Early Release of Radislav Krstić, 6 July 2026 (public redacted), para. 53; *Prosecutor v. Ljubiša Beara*, Case No. MICT-15-85-ES.3, Public Redacted Version of 7 February 2017 Decision of the President on the Early Release of Ljubiša Beara, 16 June 2017, paras. 47-49.

¹⁷ *See Prosecutor v. Dominique Ntawukuliyayo*, Case No. MICT-13-34-ES, Decision on the Application for Early Release of Dominique Ntawukuliyayo, 18 February 2026, para. 55; *Prosecutor v. Dragomir Milošević*, Case No. MICT-16-98-ES, Decision on the Application for Early Release of Dragomir Milošević, 5 December 2025 (public redacted), p. 4. *See also Prosecutor v. Radoslav Krstić*, Case No. MICT-13-46-ES.1, Decision on the Application for Early Release of Radoslav Krstić, 3 February 2025 (public redacted), para. 72 (finding that age and chronic health conditions did not rise to the level of compelling humanitarian considerations).

¹⁸ *See* Application, para. 31.

¹⁹ Ngirabatware was also convicted of offences against the administration of justice and sentenced to two years of imprisonment to be served consecutively to his 30-year term of imprisonment. *See supra* fn. 5.

²⁰ *See generally* Trial Judgement; Appeal Judgement; Review Judgement. *See also* Rule 150 of the Rules; Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence, or Early Release of Persons Convicted by the ICTR, the ICTY, or the Mechanism, MICT/3/Rev.4, 1 July 2024, para. 16.

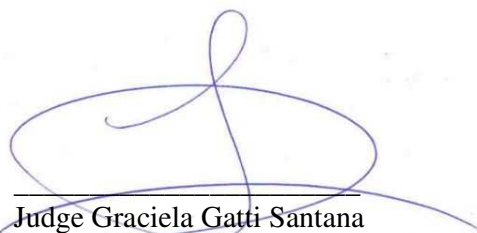
FINDING that Ngirabatware has failed to demonstrate that compelling or exceptional circumstances exist that might warrant granting commutation of sentence or early release before having reached the two-thirds eligibility threshold;

FOR THE FOREGOING REASONS,

HEREBY DENY the Application.

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

Done this 11th day of August 2026,
At Arusha,
Tanzania.



Judge Graciela Gatti Santana
President



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		☒ Arusha/ Arusha	☐ The Hague/ La Haye
From/ De :	☒ President/ Président	☐ Chambers/ Chambre	☐ Prosecution/ Bureau du Procureur	☐ Defence/ Défense
			☐ Registrar/ Greffier	☐ Other/ Autre
Case Name/ Affaire :	Prosecutor v. Augustin Ngirabatware		Case Number/ Affaire n° :	MICT-12-29-ES.1
Date Created/ Daté du :	11 August 2026		Date transmitted/ Transmis le :	11 August 2026
			Number of Pages/ Nombre de pages :	6
Original Language/ Langue de l'original :	☒ English/ Anglais	☐ French/ Français	☐ Kinyarwanda	☐ B/C/S
	☐ Other/ Autre (specify/ préciser):			
Title of Document/ Titre du document :	Decision on the Application for Commutation of Sentence or Early Release of Augustin Ngirabatware			
Classification Level/ Catégories de classification :	☒ Public/ Document public	☐ Ex Parte Defence excluded/ Défense exclue		
	☐ Confidential/ Confidentiel	☐ Ex Parte Prosecution excluded/ Bureau du Procureur exclu		
		☐ Ex Parte Rule 86 applicant excluded/ Article 86 requérant exclu		
		☐ Ex Parte Amicus Curiae excluded/ Amicus curiae exclu		
		☐ Ex Parte other exclusion/ autre(s) partie(s) exclue(s) (specify/ préciser) :		
Document type/ Type de document :	☐ Motion/ Requête ☐ Judgement/ Jugement/Arrêt ☐ Book of Authorities/ Recueil de sources ☐ Warrant/ Mandat ☒ Decision/ Décision ☐ Submission from parties/ Écritures déposées par des parties ☐ Affidavit/ Déclaration sous serment ☐ Notice of Appeal/ Acte d'appel ☐ Order/ Ordonnance ☐ Submission from non-parties/ Écritures déposées par des tiers ☐ Indictment/ Acte d'accusation			

II - TRANSLATION STATUS ON THE FILING DATE/ ÉTAT DE LA TRADUCTION AU JOUR DU DÉPÔT

☐ Translation not required/ La traduction n'est pas requise
☒ Filing Party hereby submits only the original, and requests the Registry to translate/ La partie déposante ne soumet que l'original et sollicite que le Greffe prenne en charge la traduction : (Word version of the document is attached/ La version Word du document est jointe)
☐ English/ Anglais ☒ French/ Français ☐ Kinyarwanda ☐ B/C/S ☐ Other/ Autre (specify/ préciser):
☐ Filing Party hereby submits both the original and the translated version for filing, as follows/ La partie déposante soumet l'original et la version traduite aux fins de dépôt, comme suit :
Original/ Original en : ☐ English/ Anglais ☐ French/ Français ☐ Kinyarwanda ☐ B/C/S ☐ Other/ Autre (specify/ préciser):
Traduction/ Traduction en : ☐ English/ Anglais ☐ French/ Français ☐ Kinyarwanda ☐ B/C/S ☐ Other/ Autre (specify/ préciser):
☐ Filing Party will be submitting the translated version(s) in due course in the following language(s)/ La partie déposante soumettra la (les) version(s) traduite(s) sous peu, dans la (les) langue(s) suivante(s):
☐ English/ Anglais ☐ French/ Français ☐ Kinyarwanda ☐ B/C/S ☐ Other/ Autre (specify/ préciser):