

MICT-12-16-R  
11-11-2015  
(5 - 1/1046bis)

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UNITED  
NATIONS

**Mechanism for International Criminal Tribunals (MICT)**

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Case No. MICT-12-16-R

**APPEALS CHAMBER**

Before the Honourable Judges: Theodore Meron, Presiding  
Jean-Claude Antonetti  
Carmel Agius  
Christoph Flügge  
Burton Hall

Registrar: Mr John Hocking

Date of filing: 15 October 2015

**VERY URGENT**

**ELIÉZER NIYITEGEKA**

v.

**THE PROSECUTOR**

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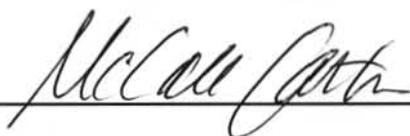
Eliézer Niyitegeka's Submission regarding Failure to Execute Appeals Chamber  
Decision of 13 July 2015

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**Applicant:**  
Eliézer Niyitegeka

**Office of the Prosecutor:**  
Hassan Bubacar Jallow  
Richard Karegyesa  
Cheickh Bangoura  
Sankarie Ballah-Conteh

**Received by the Registry**  
**Mechanism for International Criminal Tribunals**  
11/11/2015 13:34



1. Pursuant to Rule 31 (A) (ii) of the MICT Rules of Procedure and Evidence, the Registrar of the MICT shall assist the Chambers. In particular, he shall “take all appropriate measures so that the decisions rendered by the Chambers and the Judges are executed”.
2. Consequently, the following arguments are in response to the failure to execute the Appeals Chamber’s Decision of 13 July 2015 rendered in the present case, which directs the registrar to “assign [Eliézer] Niyitegeka counsel for a limited period of three months for the purpose of assisting him in relation to his request for review”.<sup>1</sup>
3. Eliézer Niyitegeka submits the following arguments to the Appeals Chamber that rendered the Decision in order to draw its attention to the fact that three months have elapsed and the said Decision has yet to be followed up on appropriately, despite extensive correspondence with the Registry on the matter. In fact:
  - On 14 July 2015, Niyitegeka wrote to the Registrar of the MICT asking him to send a list of counsel practicing before the Mechanism so that he could select one to assist him, pursuant to the directions of the Appeals Chamber. This letter went unanswered.
  - On 26 July 2015, Niyitegeka sent the Registrar a second letter reiterating his request to send him the list of counsel practicing before the Mechanism. This second letter also went unanswered.
  - On 13 August 2015, Niyitegeka sent the Registrar a third letter with a second reminder of his request to be sent the list of counsel practicing before the MICT so that he could choose one to assist him.

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<sup>1</sup> *Eliézer Niyitegeka v. The Prosecutor* (MICT-12-16-R): “Decision on Niyitegeka’s Request for Review and Assignment of Counsel”, rendered on 13 July 2015, para. 14.

➤ On 21 August 2015, Niyitegeka received letter no. MICT/A/IOR/2015/386, dated 18 August 2015 and signed by Tiyanjana Mphepo, the Registry legal officer. This letter acknowledged receipt of Niyitegeka's three letters and finally provided him with a list, updated by the Registry, containing the names of counsel that can be assigned. Furthermore, the letter from the Registry legal officer asked Niyitegeka on behalf of the MICT Registry to confirm as soon as possible whether he agrees to Attorney Philippe Larochelle representing him and providing assistance as part of his request for review. By doing this, the Registry gave legitimate hope to Niyitegeka that Attorney Larochelle would soon be assigned to represent him, especially since his name was also included on the Registry's list.

➤ That same day, 21 August 2015, Niyitegeka quickly replied to the letter that he received from the Registry legal officer and confirmed that he did indeed want Attorney Philippe Larochelle to represent him. As he sent him a copy of the letter, Niyitegeka took the opportunity to ask Mr Larochelle to meet with him as soon as he was assigned in order to discuss the work to be done and the strategy to adopt to complete the work efficiently within the allocated deadlines.

➤ On 21 September 2015, Niyitegeka had still not received a follow-up and wrote to Tiyanjana Mphepo, the Registry legal officer and the sender of the letter received a month earlier, in a last attempt to inquire about the developments in the matter of his case and to request assistance in order to surmount the obstacles to assigning Attorney Larochelle to represent him. He concluded his letter by recalling that each day of delay in assigning counsel to represent him prejudices him. However, to this date this letter has still not received a response.

4. Eliézer Niyitegeka deems that the above assessment demonstrates a clear failure to execute the Appeals Chamber's Decision of 13 July 2015 in the

present case, and it sufficiently demonstrates the relevance and importance of the present arguments.

5. The procedure to assign Attorney Philippe Larochelle to represent Niyitegeka should be unfolding smoothly for the following reasons:
  - a) Pursuant to Rule 31 (A) (ii) of the Rules, the MICT Registrar shall in particular take all appropriate measures to ensure execution of the Appeals Chamber Decision to assign counsel to represent Eliézer Niyitegeka;
  - b) Pursuant to Rule 43 of the Rules, the name of Attorney Philippe Larochelle is on the list of counsel that may be assigned to practice before the Mechanism;
  - c) In its letter of 18 August 2015, the MICT Registry, through its legal officer Tiyanjana Mphepo, raised Eliézer Niyitegeka's hopes that Attorney Philippe Larochelle would soon be assigned to represent him;
  - d) Each day of delay in assigning counsel to represent Niyitegeka prejudices him.
6. Therefore, Eliézer Niyitegeka resolves to bring this matter before the Appeals Chamber that rendered the Decision of 13 July 2015 and respectfully seeks a ruling, while guaranteeing that he can effectively claim his rights under Article 19 (4) of the MICT Statute.
7. However, because the situation appears to be so labyrinthine that it risks continuing to the detriment of Eliézer Niyitegeka's interests, he respectfully seeks that the Appeals Chamber order his release *ex officio* pending the resumption of the proceedings with assigned counsel. Eliézer Niyitegeka refers this matter to the discretion of the Appeals Chamber.

**RESPECTFULLY,**

Word count: 965 /in original/

Done in Koulikoro on 15 October 2015

Eliézer Niyitegeka

/signed/

Annexes:

- Eliézer Niyitegeka's letter to the MICT Registrar, dated 14 July 2015;
- Eliézer Niyitegeka's letter to the MICT Registrar, dated 26 July 2015;
- Eliézer Niyitegeka's letter to the MICT Registrar, dated 13 August 2015;
- Letter to Niyitegeka from Tiyanjana Mphepo, Registry legal officer, dated 18 August 2015;
- Eliézer Niyitegeka's letter to the MICT Registrar, dated 21 August 2015;
- Letter to Niyitegeka from Tiyanjana Mphepo, Registry legal officer, dated 21 August 2015;