

UNITED
NATIONS



Mechanism for International Criminal Tribunals

Case No. MICT-13-34-ES
 MICT-13-37-ES.2
 MICT-14-62-ES.1
Date: 15 May 2018
Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Theodor Meron, President

Registrar: Mr. Olufemi Elias

Order of: 15 May 2018

PROSECUTOR	PROSECUTOR	PROSECUTOR
v.	v.	v.
DOMINIQUE NTAWUKULILYAYO	HASSAN NGEZE	ALOYS SIMBA

PUBLIC

**INTERIM ORDER RELATED TO THE REQUEST TO THE
REPUBLIC OF RWANDA ON THE EARLY RELEASE
APPLICATIONS FROM MR. DOMINIQUE
NTAWUKULILYAYO, MR. HASSAN NGEZE, AND
MR. ALOYS SIMBA**

The Office of the Prosecutor

Mr. Serge Brammertz

Counsel for Mr. Dominique Ntawukulilyayo

Mr. Philippe Larochelle

Counsel for Mr. Hassan Ngeze

Ms. Mirjana Vukajlović

The Republic of Rwanda

Counsel for Mr. Aloys Simba

Ms. Caroline Buisman

The Republic of Mali

**Received by the Registry
Mechanism for International Criminal Tribunals
15/05/2018 12:05**

A handwritten signature in black ink, appearing to be the initials 'SB'.

I, THEODOR MERON, President of the International Residual Mechanism for Criminal Tribunals (“Mechanism”);

BEING SEISED OF: (i) an application from Mr. Hassan Ngeze (“Ngeze”) for commutation of sentence dated 8 March 2018 and received on 13 March 2018; (ii) an application for early release from Mr. Dominique Ntawukulilyayo (“Ntawukulilyayo”) dated 1 February 2017 and received on 25 February 2017; and (iii) an application for early release from Mr. Aloys Simba (“Simba”) dated 25 October 2016 and received on 27 October 2016;¹

RECALLING that, in line with past practice of the ICTR,² and pursuant to paragraph 4(d) of the Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence, and Early Release of Persons Convicted by the ICTR, the ICTY or the Mechanism, MICT/3, 5 July 2012 (“Practice Direction”), I invited Rwanda to provide its views on the Applications;³

NOTING that I requested the Republic of Rwanda (“Rwanda”), to file their response to the Applications, if any, no later than fourteen (14) days from the filing of the Requests and instructed Ngeze, Ntawukulilyayo, and Simba to file a reply, if any, to the response from Rwanda to the Applications no later than ten (10) days after receipt of the response;⁴

NOTING the “Omnibus Response of the Republic of Rwanda on the Requests for Early Release from Aloys Simba, Dominique Ntawukulilyayo and Hassan Ngeze and Request for Extension of Time” submitted by the Ministry of Justice of Rwanda, dated 10 May 2018, and

¹ See Letter from Mr. Hassan Ngeze, to Judge Theodor Meron, President, dated 8 March 2018 and received on 13 March 2018; Letter from Mr. Dominique Ntawukulilyayo, to Judge Theodor Meron, President, dated 1 February 2017 and received on 25 February 2017; Letter from Mr. Sadikou Ayo Alao, Counsel for Mr. Aloys Simba, to Judge Theodor Meron, President, dated 25 October 2016 (with annexes) and received on 27 October 2016. The three above-mentioned applications are collectively referred to as “Applications”.

² Rule 125 of the ICTR Rules of Procedure and Evidence (13 May 2015) held that “[t]he President shall, upon such notice, determine, in consultation with the members of the Bureau and any permanent Judges of the sentencing Chamber who remain Judges of the Tribunal and after notification to the Government of Rwanda, whether pardon or commutation is appropriate”.

³ *Prosecutor v. Aloys Simba*, Case No. MICT-14-62-ES.1, Request to the Republic of Rwanda Related to Request for Early Release from Mr. Aloys Simba, 26 April 2018; *Prosecutor v. Dominique Ntawukulilyayo*, Case No. MICT-13-34-ES, Request to the Republic of Rwanda Related to Request for Early Release from Mr. Dominique Ntawukulilyayo, 26 April 2018; *Prosecutor v. Hassan Ngeze*, Case No. MICT-13-37-ES.2, Request to the Republic of Rwanda Related to Application for Commutation of Sentence from Mr. Hassan Ngeze, 3 May 2018. The three above-mentioned requests are collectively referred to as “Requests”.

⁴ Requests, p. 3.

filed by the Mechanism on 11 May 2018,⁵ wherein Rwanda, *inter alia*: (i) opposes the early release of Ngeze, Ntawukulilyayo, and Simba; (ii) requests a public hearing on the early release of Ngeze, Ntawukulilyayo, and Simba that “would permit witnesses, including victims, and experts – psychologists and legal scholars – to come forward in a transparent manner”; and (iii) requests to be allowed to make further submissions within the next fourteen (14) days, if more information than what was stated in the Responses is found, and deemed to be in the interests of justice;⁶

FINDING that, in light of the complexity of the Applications and the issues raised in Rwanda’s Responses, it is in the interests of justice to obtain any further information from the relevant authorities of Rwanda in response to the Applications within the next fourteen (14) days (“Additional Responses”);

NOTING that Ngeze, Ntawukulilyayo, and Simba were given 10 days in the Requests to reply to the response of Rwanda to the Applications;

FINDING that it is in the interest of justice to grant Ngeze, Ntawukulilyayo, and Simba the right to reply to the Additional Responses, if any, and that the interests of judicial management dictate that any replies should address all the submissions of the Rwandan authorities including any Additional Responses;

PURSUANT TO paragraph 4(d) of the Practice Direction,

HEREBY INSTRUCT the Registry to transmit to, and inform, the relevant authorities of Rwanda about this Interim Order; and

REQUESTS that:

- i. the authorities of Rwanda file its Additional Responses to the Applications, if any, no later than fourteen (14) days from the filing of this Interim Order;

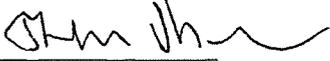
⁵ *Prosecutor v. Aloys Simba*, Case No. MICT-14-62-ES.1, Omnibus Response of the Republic of Rwanda on the Requests for Early Release from Aloys Simba, Dominique Ntawukulilyayo and Hassan Ngeze and Request for Extension of Time, 11 May 2018; *Prosecutor v. Dominique Ntawukulilyayo*, Case No. MICT-13-34-ES, Omnibus Response of the Republic of Rwanda on the Requests for Early Release from Aloys Simba, Dominique Ntawukulilyayo and Hassan Ngeze and Request for Extension of Time, 11 May 2018; *Prosecutor v. Hassan Ngeze*, Case No. MICT-13-37-ES.2, Omnibus Response of the Republic of Rwanda on the Requests for Early Release from Aloys Simba, Dominique Ntawukulilyayo and Hassan Ngeze and Request for Extension of Time, 11 May 2018. The three above-mentioned responses are collectively referred to as “Responses”.

⁶ See Responses, pp. 2, 19.

- ii. Ngeze, Ntawukulilyayo, and Simba shall file a reply, if any, to the Responses and any further information received from Rwanda, no later than twenty-one (21) days after receipt of the Additional Responses; and
- iii. if Rwanda does not file any Additional Responses, Ngeze, Ntawukulilyayo, and Simba shall file a reply, if any, to the Responses, no later than ten (10) days following the expiration of the deadline for the filing of Additional Responses.

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

Done this 15th day of May 2018,
At The Hague,
The Netherlands.



Judge Theodor Meron
President

[Seal of the Mechanism]





**TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH THE
MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS/
FICHE DE TRANSMISSION POUR LE DÉPÔT DE DOCUMENTS DEVANT LE
MÉCANISME POUR LES TRIBUNAUX PÉNAUX INTERNATIONAUX**

I - FILING INFORMATION / INFORMATIONS GÉNÉRALES

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From/ De :	<input checked="" type="checkbox"/> Chambers/ Chambre	<input type="checkbox"/> Defence/ Défense	<input type="checkbox"/> Prosecution/ Bureau du Procureur <input type="checkbox"/> Other/ Autre :
Case Name/ Affaire :	Prosecutor v. Dominique Ntawukulilyayo ; Hassan Ngeze ; Aloys Simba	Case Number/ Affaire n° :	MICT-13-34-ES;MICT-13-37-ES.2;MICT-14-62-ES.1
Date Created/ Daté du :	15 May 2018	Date transmitted/ Transmis le :	15 May 2018
		No. of Pages/ Nombre de pages :	4
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 :	Interim order related to the request to The Republic of Rwanda on the early release applications from Mr. Dominique Ntawukulilyayo, Mr. Hassan Ngeze, and Mr. Aloys Simba		
Classification Level/ Catégories de classification :	<input checked="" type="checkbox"/> Unclassified/ Non classifié	<input type="checkbox"/> Ex Parte Defence excluded/ Défense exclue	<input type="checkbox"/> Ex Parte Prosecution excluded/ Bureau du Procureur exclu
	<input type="checkbox"/> Confidential/ Confidentiel	<input type="checkbox"/> Ex Parte R86(H) applicant excluded/ Art. 86 H) requérant exclu	<input type="checkbox"/> Ex Parte Amicus Curiae excluded/ Amicus curiae exclu
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	<input checked="" type="checkbox"/> Order/ Ordonnance	<input type="checkbox"/> Book of Authorities/ Recueil de sources	<input type="checkbox"/> Notice of Appeal/ Acte d'appel
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II - TRANSLATION STATUS ON THE FILING DATE/ ÉTAT DE LA TRADUCTION AU JOUR DU DÉPÔT

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Rev: April 2014/Rév.: Avril 2014