



The International Residual Mechanism for Criminal Tribunals (“Mechanism”) was established on 22 December 2010 by the United Nations Security Council to continue the jurisdiction, rights, obligations and essential functions of the International Criminal Tribunal for Rwanda (“ICTR”) and the International Criminal Tribunal for the former Yugoslavia (“ICTY”), which closed in 2015 and 2017 respectively.

CASE INFORMATION SHEET

On 10 October 2019, Judge Vagn Joensen confirmed an Indictment against Augustin Ngirabatware, dated 9 August 2019 and submitted by Prosecutor Serge Brammertz, for contempt of court and incitement to commit contempt, pursuant to Article 1(4)(a) of the Mechanism’s Statute (“Statute”) and Rule 90 of the Mechanism’s Rules of Procedure and Evidence (“Rules”).

MICT-19-121

AUGUSTIN NGIRABATWARE - *Contempt*



In July 1990, Ngirabatware was appointed Minister of Planning, a position he retained as part of the Interim Rwandan Government in April 1994. He was also a member of the Préfecture Committee of the National Republican Movement for Democracy and Development (“MRND”) political party in Gisenyi Préfecture, the National Committee of the MRND, and the technical committee of Nyamyumba Commune.

Indictment	A strictly confidential Indictment, dated 9 August 2019, was confirmed by Judge Vagn Joensen on 10 October 2019. A public version of the Indictment was filed on the same day.
IRMCT Single Judge	Judge Vagn Joensen
Status of the Case	Pre-Trial

INDICTMENT

In accordance with Article 1(4)(a) of the Statute and Rule 90 of the Rules, the Mechanism has the competence to conduct investigations, trials, and appeals in cases of contempt of court arising out of Mechanism, ICTR or ICTY proceedings. Those who knowingly and willfully interfere with the administration of justice, or incite or attempt to commit any of the acts punishable as contempt of the Mechanism, the ICTY or the ICTR, can be held in contempt.

The Indictment against Augustin Ngirabatware charges two counts of contempt of the ICTR and the Mechanism and one count of incitement to commit contempt of the ICTR and the Mechanism. Judge Vagn Joensen confirmed the Indictment in the Decision on Confirmation of Indictment on 10 October 2019, and the Prosecution filed a public version of the Indictment on the same day.

The Prosecution alleges that, from at least August 2015 through September 2018, Ngirabatware directly and/or through Maximilien Turinabo, Anselme Nzabonimpa, Jean de Dieu Ndagijimana and/or Marie Rose Fatuma sought to influence protected witnesses to recant their trial testimonies, thereby interfering with the administration of justice. In addition, or in the alternative, the Prosecution alleges that Ngirabatware knowingly and willfully incited Maximilien Turinabo, Anselme Nzabonimpa, Jean de Dieu Ndagijimana and/or Marie Rose Fatuma to commit contempt of the ICTR and the Mechanism. Furthermore, the Prosecution alleges that Ngirabatware knowingly disclosed confidential information and had prohibited contact with a protected witness in a knowing violation of a court order.



On 24 August 2018, a Mechanism Single Judge confirmed an Indictment against Maximilien Turinabo, Anselme Nzabonimpa, Jean de Dieu Ndagijimana, Marie Rose Fatuma and Dick Prudence Munyeshuli (*Turinabo et al.*), charging them with contempt of the ICTR and the Mechanism and incitement to commit contempt of the ICTR and the Mechanism. The charges against them concern protected witnesses and allege a concerted effort to secure Augustin Ngirabatware's acquittal at the review stage through interference with the administration of justice. These proceedings are currently ongoing.

The charges against Ngirabatware include:

Count 1 - Contempt of the ICTR and the Mechanism

- Interfering with protected witnesses

Count 2 - Incitement to commit contempt of the ICTR and the Mechanism

- Additionally or alternatively, inciting others to commit contempt by interfering with protected witnesses

Count 3 - Contempt of the ICTR and the Mechanism

- Knowingly disclosing the identities of protected witnesses in violation of court orders
- Having prohibited indirect contact with protected witnesses in violation of a court order

CASE BACKGROUND INFORMATION

ICTR INDICTMENT

Augustin Ngirabatware was charged by the ICTR with the crimes of conspiracy to commit genocide, genocide, complicity in genocide, direct and public incitement to commit genocide, and extermination and rape as crimes against humanity in Gisenyi prefecture, Rwanda, between 1 January and 17 July 1994.

Ngirabatware was alleged to bear individual criminal responsibility pursuant to Article 6(1) of the ICTR Statute for instigating, ordering, committing, including through participation in a joint criminal enterprise ("JCE"), or otherwise aiding and abetting various persons to plan or commit the crimes charged.

The ICTR Indictment also alleged that Ngirabatware was responsible as a superior pursuant to Article 6(3) of the ICTR Statute for the crimes of genocide or complicity in genocide.

One count of conspiracy to commit genocide*

One count of genocide

One count of complicity in genocide

One count of direct and public incitement to commit genocide

Two counts of crimes against humanity

- Extermination (Count 5)
- Rape (Count 6)

**The ICTR Prosecution later dropped this count.*

ICTR TRIAL CHAMBER JUDGEMENT

On 20 December 2012, Trial Chamber II of the ICTR convicted Augustin Ngirabatware of committing direct and public incitement to commit genocide based on his speech at a roadblock on the Cyanika-Gisa road in Nyamyumba Commune.

It also found him guilty of instigating and aiding and abetting genocide based on his role in distributing weapons and his statements at two roadblocks in Nyamyumba Commune on 7 April 1994. Ngirabatware was also convicted, under the extended form of JCE, of rape as a crime against humanity based on the rape of a Tutsi woman by members of the Interahamwe.

The Trial Chamber sentenced Ngirabatware to 35 years of imprisonment.



MECHANISM APPEALS CHAMBER JUDGEMENT

Augustin Ngirabatware filed an appeal before the Mechanism challenging his convictions and sentence.

On 18 December 2014, the Appeals Chamber of the Mechanism unanimously affirmed Ngirabatware's conviction for direct and public incitement to commit genocide.

A majority of the Appeals Chamber also affirmed his conviction for instigating and aiding and abetting genocide. However, the Appeals Chamber found that the ICTR Trial Chamber erred in expanding the charges regarding Ngirabatware's contribution to a JCE to exterminate the Tutsis. The Appeals Chamber found that, since the Prosecution failed to prove at trial Ngirabatware's contribution to the common purpose of exterminating the Tutsi civilian population as pleaded under the count of extermination, Ngirabatware's conviction for rape pursuant to the extended form of JCE could not be sustained. As a consequence, the Appeals Chamber unanimously reversed Ngirabatware's conviction for rape as a crime against humanity under the extended form of JCE.

In light of this reversal, the Appeals Chamber reduced Ngirabatware's sentence to a term of 30 years of imprisonment.

MECHANISM REVIEW PROCEEDINGS

On 8 July 2016, Augustin Ngirabatware filed before the Mechanism a request for review of the Appeal Judgement on the basis that the four key witnesses underpinning his convictions had recanted their trial testimony. On 25 July 2016, Judge Theodor Meron, President of the Mechanism, assigned a bench of the Appeals Chamber of the Mechanism to consider the request for review.

On 19 June 2017, the Appeals Chamber issued a decision granting Ngirabatware's request for review of the Appeal Judgement and determined that a hearing was necessary to allow the parties to present supporting and rebuttal evidence concerning the new fact. The review hearing was subsequently postponed twice due to the replacement of Ngirabatware's counsel in December 2017 and the disclosure in September 2018 of extensive material related to the *Turinabo et al.* case.

The review hearing took place from 16 September 2019 until 24 September 2019. Ngirabatware called six witnesses. At the conclusion of the presentation of evidence by Ngirabatware, the Appeals Chamber heard oral submissions by the parties for the purpose of determining whether Ngirabatware had presented sufficient evidence capable of belief to establish the new fact. On 24 September 2019, the Appeals Chamber decided that Ngirabatware had not presented such evidence and that it was not necessary to hear Prosecution evidence in rebuttal.

In the Review Judgement pronounced on 27 September 2019, the Appeals Chamber rejected Ngirabatware's attempt to show in review proceedings that the four key witnesses underpinning his convictions for direct and public incitement to commit genocide and instigating and aiding and abetting genocide had truthfully recanted their trial testimonies. The Appeals Chamber decided that the Appeal Judgement, sentencing Ngirabatware to 30 years of imprisonment for these crimes, remains in force.

For more information please visit the Mechanism website www.irmct.org.

For press inquiries, email mict-press@un.org.