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UNITED
NATIONS



Mechanism for International Criminal Tribunals

Case No : MICT-14-77-R

Date : 10 May 2016

Original : English

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Presiding
Judge Jean Claude Antonetti
Judge Patrick Robinson
Judge Alphonse Orié
Judge Liu Daqun

Registrar: Mr. John Hocking

Aloys NTABAKUZE

v.

THE PROSECUTOR

**NTABAKUZE'S MOTION FOR CONTEMPT AND TO SEEK EXECUTION
OF ORDER OF 22 MARCH 2016**

The Applicant

Sandrine Gaillot, Esq.

The Office of the Prosecutor

Mr. Serge Brammertz
Mr. Richard Karegyesa
Mr. Sunkarie Ballah-Conteh

**Received by the Registry
Mechanism for International Criminal Tribunals
12/05/2016 04:45**

A handwritten signature in black ink, appearing to read 'McLean Carter', written over a white background within a black rectangular box.

INTRODUCTION

1. On 28 February 2016, Ntabakuze filed a Confidential Motion for Disclosure of Exculpatory Material in the Prosecution's Custody, pursuant to Rules 71(B) and (C), 72(D), 73 and 74 of MICT Rules.
2. In his Response to the Confidential Motion, the Prosecutor conceded that he was in possession of exculpatory material, which had been collected prior to trial (1998-1999) but only allegedly disclosed it in 2005. The Defense, however, had never been in possession of said evidence.
3. On 22 March 2016, this Chamber ordered the Prosecution to provide a copy of the statement given by a member of the 1st Muvumba Battalion, as identified in Ntabakuze's Confidential Motion (hereinafter "the Statement").

SUBMISSION

4. Pursuant to Rule 90 of the MICT Rules :

(A) The Mechanism in the exercise of its inherent power may, with respect to proceedings before the ICTY, the ICTR, or the Mechanism, hold in contempt those who knowingly and willfully interfere with the administration of justice, including any person who:

(iii) **without just excuse fails to comply with an order by a Chamber or Single Judge, including an order to attend before or produce documents before a Chamber or a Single Judge;**

5. To date, the Prosecution has yet to provide the Statement to Ntabakuze, as ordered by the Chamber.
6. The Prosecutor's failure to comply with this Chamber's latest order in this case is a testament to his overall disregard for the rights of Mr. Ntabakuze throughout this entire process. It is also strong indicia of the Prosecutor's repeated violations of its disclosure obligations under the Rules, which caused undue prejudice to Ntabakuze.

CONCLUSION

7. In light of the foregoing, it is respectfully requested that the Chamber take notice that the Prosecutor never did and still does not take his disclosure obligations seriously, and that

he violated this Chamber's order contained in the 22 March 2016 Decision on Ntabakuze's Confidential Motion.

8. Therefore, Ntabakuze requests this Chamber to order the disclosure of any and all statements made by members of the 1st Muvumba Battalion that are in the possession of the Prosecutor, including P.146, and that the Prosecutor be found in contempt of the Court.

Word count : 360



Sandrine Gaillot, Esq.

Pro bono Counsel for Ntabakuze



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