

MICT-14-77-R
17-05-2016
(345 - 343)

345
JN

UNITED
NATIONS



Mechanism for International Criminal Tribunals

Case No: MICT-14-77-R

Date: 17 May 2016

Original: English

THE APPEALS CHAMBER

Before:

Judge Theodor Meron
Judge Jean Claude Antonetti
Judge Patrick Robinson
Judge Alphonse Orié
Judge Liu Daqun

Registrar:

Mr. John Hocking

The Prosecutor

v.

Aloys Ntabakuze

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

Office of the Prosecutor
Richard Karegyesa
Sunkarie Ballah-Conteh

Aloys Ntabakuze
Sandrine Gaillot, Esq.

Received by the Registry
Mechanism for International Criminal Tribunals
17/05/2016 15:50

A handwritten signature in black ink, appearing to be a stylized 'M' followed by a long horizontal stroke.

INTRODUCTION

1. Ntabakuze's "Motion for Contempt and to seek Execution of the order of 22 March 2016" is not properly before the Appeals Chamber and should be dismissed in its entirety.¹

2. In his application, Ntabakuze requests the Appeals Chamber to order the Prosecutor to disclose to him any and all statements made by members of the Muvumba battalion, including exhibit P.146 in the *Ndindilyimana* case. In addition, he requests that the Prosecutor be found in contempt of court, for his alleged failure to disclose exhibit P. 146 following the decision of 22 March 2016.²

PROSECUTOR'S SUBMISSIONS

3. By decision dated 22 March 2016, Judge Joseph E. Chiondo Masanche, sitting as Single Judge, dismissed Ntabakuze's Motion for Disclosure of Exculpatory Material.³ The Single Judge held that Ntabakuze failed to show that the Prosecution breached his disclosure obligation with regard to the statement contained in exhibit P.146 in the *Ndindilyimana* case, as the statement had already been disclosed to Ntabakuze on two separate occasions during his trial proceedings.⁴ In the interest of expediency, the Single Judge requested the Prosecution to provide Natabakuze with an additional copy of the statement.⁵

4. In addition, with regard to Ntabakuze's request for additional statements by members of the Muvumba Battalion, the Single Judge held that Ntabakuze had failed to identify any other potentially exculpatory material in the custody or under the control of the Prosecution which has not been disclosed to him in accordance with the Rules.⁶

5. Ntabakuze does not cite the rule nor provide the legal basis for his application before the Appeals Chamber. He never sought certification to appeal within seven days of the filing of the impugned decision, nor did he move the Single

¹ *Prosecutor v. Aloys Ntabakuze*, Case No. MICT-14-77-R, Ntabakuze's Motion for Contempt and to Seek Execution of Order of 22 March 2016, 10 May 2016.

² *Ibid.*, para.

³ *Prosecutor v. Aloys Ntabakuze*, Case No. MICT-14-77-R, Decision on Ntabakuze's Motion for Disclosure of Exculpatory Material, 22 March 2016.

⁴ *Ibid.*, para. 6

⁵ *Ibid.*, para. 9.

⁶ *Ibid.*, para. 7.

Judge for the alleged contempt. The Appeals Chamber should therefore strike Ntabakuze's application as inadmissible.

6. Furthermore, another copy of the statement contained in exhibit P.146 in the *Ndindiliyimana* case has been disclosed to Ntabakuze through the MICT Registry. His application for a finding of contempt for non-disclosure of exhibit P.146 is therefore moot.

Dated at Arusha this 17th day of May 2016


Richard Karegyesa
Senior Legal Officer


Sunkarie Ballah-Conteh
Legal Advisor

Word Count

409



**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

To/ À :	MICT Registry/ Greffe du MPTI	<input checked="" type="checkbox"/> Arusha/ Arusha	<input type="checkbox"/> The Hague/ La Haye
From/ De :	<input type="checkbox"/> Chambers/ Chambre	<input type="checkbox"/> Defence/ Défense	<input checked="" type="checkbox"/> Prosecution/ Bureau du Procureur Sunkarie B. Conteh
Case Name/ Affaire :	The Prosecutor v. Aloys Ntabakuze		Case Number/ Affaire n° : MICT-14-77-R
Date Created/ Daté du :	17 May 2016	Date transmitted/ Transmis le :	17 May 2016
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 :	Prosecution Response to Ntabakuze's Motion for Contempt and to seek Execution of Order of 22 March 2016		
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/ Confidential	<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
	<input type="checkbox"/> Strictly Confidential/ Strictement confidentiel	<input type="checkbox"/> Ex Parte other exclusion/ autre(s) partie(s) exclue(s) (specify/préciser) :	
Document type/ Type de document :	<input checked="" type="checkbox"/> Motion/ Requête	<input type="checkbox"/> Submission from parties/ Écritures déposées par des parties	<input type="checkbox"/> Indictment/ Acte d'accusation
	<input type="checkbox"/> Decision/ Décision	<input type="checkbox"/> Submission from non-parties/ Écritures déposées par des tiers	<input type="checkbox"/> Warrant/ Mandat
	<input type="checkbox"/> Order/ Ordonnance	<input type="checkbox"/> Book of Authorities/ Recueil de sources	<input type="checkbox"/> Notice of Appeal/ Acte d'appel
	<input type="checkbox"/> Judgement/ Jugement/Arrêt	<input type="checkbox"/> Affidavit/ Déclaration sous serment	

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

<input type="checkbox"/> Translation not required/ La traduction n'est pas requise
<input checked="" type="checkbox"/> 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 est jointe)
<input type="checkbox"/> English/ Anglais <input checked="" type="checkbox"/> French/ Français <input type="checkbox"/> Kinyarwanda <input type="checkbox"/> B/C/S <input type="checkbox"/> Other/Autre (specify/préciser) :
<input type="checkbox"/> 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 <input 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) :
Translation/ Traduction en <input 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) :
<input type="checkbox"/> 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) :
<input 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) :

Send completed transmission sheet to/ Veuillez soumettre cette fiche dûment remplie à :
JudicialFilingsArusha@un.org OR/OU JudicialFilings@lagu.org

Rev: April 2014/Rév. : Avril 2014