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Mechanism for International Criminal Tribunals

Date : 21 November
2016

Original : French

Before : Mr Theodor Meron, President

Registrar : Mr John Hocking

Wenceslas Munyeshyaka, Case No. MICT-13-45

FOURTEENTH MONITORING REPORT

Savina Savidis

Officer in Charge of the Monitoring Mission in the *Munyeshyaka* Case for the MICT

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1. This fourteenth report is submitted in my capacity as officer in charge of the Monitoring Mission for the Mechanism for International Criminal Tribunals (hereinafter “MICT”) in the case of *The Prosecutor v. Wenceslas Munyeshyaka* referred to the French authorities pursuant to Rule 11 *bis* of the Rules of Procedure and Evidence of the International Criminal Tribunal for Rwanda (hereinafter “Rules” and “ICTR”).¹ It covers the period from September to November 2016.

Introduction and background

2. The ICTR Prosecutor brought an indictment against Mr Munyeshyaka on charges of genocide and rape, extermination and murder as crimes against humanity committed in Rwanda in 1994. The indictment was confirmed by a Judge of the ICTR on 22 July 2005.² On 12 June 2007, the ICTR Prosecutor filed a request for the referral of the indictment to the French courts, pursuant to Rule 11 *bis* of the ICTR Rules.³

3. On 20 November 2007, the Trial Chamber designated under Rule 11 *bis* of the ICTR Rules determined that the requirements for referral were met and accordingly ordered the case of *The Prosecutor v. Wenceslas Munyeshyaka* to be referred to the French authorities so that they might immediately assign the case to the appropriate domestic court.⁴

4. Mr Munyeshyaka was already under judicial investigation in France following his indictment by a French investigating Judge after a complaint with civil party petition was filed in 1995. At the request of the Prosecutor’s Office, the case referred by the ICTR was joined to the judicial investigation opened in France in 1995. Consequently, the *Munyeshyaka* case is now the subject of a single criminal investigation in France. Since September 2007, Mr Munyeshyaka has been released under court supervision following the order to dismiss the case of 2 October 2015.

Monitoring Mission

5. The first officer in charge of the monitoring mission for the MICT conducted an initial monitoring mission in the *Munyeshyaka* case in June and July 2013, and a second mission in September and October 2013. The seven subsequent monitoring missions were conducted in January 2014, April 2014, July 2014, October 2014, January 2015, April and May 2015, and July 2015. The reports on these missions were submitted to the President of the MICT through the Registrar on 12 July 2013, 1 November 2013, 24 January 2014, 24 April 2014, 25 July 2014, 21 October 2014, 9 February 2015, 27 May 2015, and 18 August 2015, respectively, and made public by the latter on the MICT website on 15 July 2013, 7 November 2013, 28 January 2014, 28 April 2014, 5 August 2014, 30 October 2014, 16 March 2015, 28 May 2015, and 17 September 2015, respectively.⁵ The second officer in charge of the monitoring mission for the MICT conducted an

¹ I refer to the Order of 23 June 2016 of the MICT Registrar Appointing a Monitor in the proceedings against Laurent Bucyibaruta and Wenceslas Munyeshyaka, Cases No. MICT-13-44 and MICT-13-45, Order Appointing a Monitor, 23 June 2016, filed on 24 June 2016.

² *The Prosecutor v. Wenceslas Munyeshyaka* Case No. ICTR-2005-85-I, “Decision on Confirmation of an Indictment against Wenceslas Munyeshyaka”, 22 July 2005 (unsealed on 20 June 2007); *The Prosecutor v. Wenceslas Munyeshyaka*, Case No. ICTR-2005-85-I, Indictment, 20 July 2005 (unsealed on 20 June 2007).

³ The Prosecutor amended this request on 19 and 27 June 2007. See *The Prosecutor v. Wenceslas Munyeshyaka*, Case No. ICTR-2005-85-I, “Prosecutor’s Request for the Referral of Wenceslas Munyeshyaka’s Indictment to France Pursuant to Rule 11 *bis* of the Tribunal’s Rules of Procedure and Evidence of 12 June 2007”, confidential, 27 June 2007.

⁴ *The Prosecutor v. Wenceslas Munyeshyaka*, Case No. ICTR-2005-85-I, “Decision on the Prosecutor’s Request for Referral of Wenceslas Munyeshyaka’s Indictment to France”, 20 November 2007.

⁵ *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Initial Monitoring Report in the *Munyeshyaka* Case, dated 12 July 2013, filed on 15 July 2013; *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Second Monitoring Report, dated 5 November 2013, filed on 7 November 2013; *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Third Monitoring Report dated 24 January 2014, filed on 28 January 2014; *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Fourth Monitoring Report dated 24 April 2014, filed on 28 April 2014; *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Fifth Monitoring Report dated 25 July 2014, filed on 5 August 2014; *Wenceslas Munyeshyaka*, Case No. MICT-13-45 Sixth Monitoring Report dated 21 October 2014, filed on

initial monitoring mission in November 2015 and submitted his report to the President of the MICT through the Registrar on 27 November 2015.⁶ The report was made public on 17 December 2015. The reports on the eleventh and twelfth missions were submitted to the President of the MICT through the Registrar on 25 February 2016 and 23 May 2016, respectively and made public on 25 February 2016 and 24 May 2016, respectively.⁷ I personally conducted an initial monitoring mission in August 2016 and my report was submitted on 23 August 2016.⁸ This report was made public on 24 August 2016.

6. For the purpose of this fourteenth monitoring mission, I exchanged emails on 31 October and 18 November 2016 with Mr Jean-Michel Aldebert, Advocate General and Head of the Investigation Chamber Division at the Paris *Cour d'Appel*. Mr Aldebert indicated that the petitions to the court should be examined in December 2016 and a hearing before the Trial Chamber scheduled in the first half of 2017.

7. Attorney Jean-Yves Dupeux, Attorney Florence Bourg, and Attorney Thierry Massis, the legal representatives of Mr Munyeshyaka, did not have any remarks as regards the progress of the case or respect of their client's rights to bring to the attention of the MICT.

8. The representative of the Human Rights League (LDH) indicated in an e-mail dated 31 October 2016 that the hearing before the Trial Chamber had still not taken place, and given that France had already been sanctioned by the ECHR (European Court of Human Rights) for undue delay, the lack of reaction on the part of the French judicial authorities is surprising. One of the legal representatives of the International League against Racism and Anti-Semitism (LICRA) indicated in an email dated 31 October 2016 that there were no remarks to be made on the progress of the case. The legal representatives of the International Federation for Human Rights (FIDH), of the association *Survie* and the Collective of Civil Plaintiffs for Rwanda (CPCR) were invited to share their comments but declined.

Done on 21 November 2016
The Hague (Netherlands)

/signed/

Savina Savidis

Officer in charge of the Monitoring Mission in the *Munyeshyaka* Case

30 October 2014; *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Seventh Monitoring Report dated 9 February 2015, filed on 16 March 2015; *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Eighth Monitoring Report dated 27 May 2015, filed on 28 May 2015; *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Ninth Monitoring Report dated 18 August 2015, filed on 17 September 2015.

⁶*Wenceslas Munyeshyaka*, Case No. MICT-13-45, Tenth Monitoring Report dated 27 November 2015, filed on 30 November 2015.

⁷*Wenceslas Munyeshyaka*, Case No. MICT-13-45, Eleventh Monitoring Report dated and filed on 25 February 2016; *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Twelfth Monitoring Report dated 23 May 2016, filed on 24 May 2016.

⁸*Wenceslas Munyeshyaka*, Case No. MICT-13-45, Thirteenth Monitoring Report dated 23 August 2016, filed on 24 August 2016.



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