



Mechanism for International Criminal Tribunals

Case No.: MICT-13-37

Date: 13 April 2017

Original: English

BEFORE THE APPEALS CHAMBER

Before: Judge Theodor Meron, Presiding
Judge Mparany Mamy Richard Rajohnson
Judge Prisca Matimba Nyambe
Judge Aminatta Lois Runeni N'gum
Judge Gberbao Gustave Kam

Registrar: Mr. Olufemi Elias

Decision of: 13 April 2017

PROSECUTOR

v.

HASSAN NGEZE

PUBLIC

**DECISION ON HASSAN NGEZE'S REQUEST FOR LEGAL
AID IN RELATION TO A POTENTIAL REQUEST FOR
REVIEW**

The Office of the Prosecutor

Mr. Serge Brammertz

Counsel for Mr. Hassan Ngeze

Ms. Mirjana Vukajlovic

Received by the Registry
Mechanism for International Criminal Tribunals

13/04/2017 15:08

Uwairapo

THE APPEALS CHAMBER of the International Residual Mechanism for Criminal Tribunals (“Appeals Chamber” or “Mechanism”, respectively);¹

RECALLING that, on 28 November 2007, the Appeals Chamber of the International Criminal Tribunal for Rwanda affirmed Hassan Ngeze's convictions for aiding and abetting genocide and extermination as a crime against humanity in Gisenyi Prefecture and direct and public incitement to commit genocide based on matters published in his newspaper *Kangura* in 1994 and sentenced him to 35 years of imprisonment;²

BEING SEISED OF a request filed on 24 February 2017 and a supplementary request filed on 3 March 2017 by Ngeze, in which he seeks funding at the expense of the Mechanism for his lead counsel and his legal assistant to travel to Koulikoro prison in Mali for one week of work in order to prepare for a potential request for review of his case;³

NOTING that the Prosecution did not file a response;

NOTING the “Registrar’s Notice of Recognition of Counsel” filed confidentially on 1 February 2017 notifying that, as of 19 October 2015, Ms. Mirjana Vukajlovic had been recognized by the Registry to act as the *pro bono* counsel of Ngeze for the purposes of a potential review of his case;⁴

NOTING that Ngeze submits that he has identified new facts supported by evidentiary material relevant to a potential request for review and that, for the first time since his conviction, he has the opportunity to be advised by a legal team on the preparation of a request for review of his judgement;⁵

¹ Order Assigning Judges to a Case before the Appeals Chamber, 15 March 2017.

² *Ferdinand Nahimana et al. v. The Prosecutor*, Case No. ICTR-99-52-A, Judgement, 28 November 2007, p. 346.

³ Hassan Ngeze Urgent Motion Seeking the Registrar to Grant the Finance his Lead Counsel One Week of Work in Koulikoro Mali with his Lawyer, the Visit that will Enable the Lead Counsel Meeting his Client for the First Time, and be Familiar with the Pending Case which will be Presented before the Judge for the Possible Review in Due Course [sic], 24 February 2017 (“Request”); Hassan Ngeze Urgent Supplementary Motion Seeking the Registrar to Add the Name of Legal Assistant Ricardo Izquierdo to his Lead Counsel Mirjana Vukajlovic as a Team that I am Seeking the Grant of Finance for One Week of Work in Koulikoro-Mali for Professional Visit that will Enable the Lead Counsel and the Legal Assistant to Meeting for the First Time with the Client, and be Familiar with the Pending Case which will be Presented Before the Judge for the Possible Review of the Case in Due Course [sic], 3 March 2017 (“Supplementary Request”) (collectively, “Requests”). Mr. Ngeze also refers to motions he previously filed pertaining, *inter alia*, to matters related to his conditions of detention and notably to access to material for the purpose of preparing a request for review of his case. Request, pp. 564, 563 (registry pagination). Given that a Single Judge is currently seized of a request for reconsideration or certification on the matter, the Appeals Chamber limits its findings in this decision to issues related to the funding of Ngeze’s legal team. See Motion for Reconsideration or, in the Alternative, Leave to Appeal the *Décision sur la Requête d’Hassan Ngeze with Extension of Time Limit and Extension of Word Limit*, 15 March 2017 (confidential); see also *Décision sur la Requête d’Hassan Ngeze*, 8 March 2017 (confidential).

⁴ Registrar’s Notice of Recognition of Counsel, 1 February 2017 (confidential with confidential annex), para. 1.

⁵ Request, p. 564 (registry pagination); Supplementary Request, p. 566 (registry pagination).

CONSIDERING that, before a review has been authorized, an applicant is only entitled to legal aid at the expense of the Mechanism if the Appeals Chamber deems it necessary to ensure the fairness of the proceedings, which is, to a great extent, assessed in light of the potential grounds for review put forward by the applicant;⁶

CONSIDERING that an applicant is required to provide information as to the potential grounds for review in the context of a request for legal aid;⁷

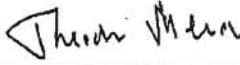
CONSIDERING that Ngeze merely refers in general terms to new facts that he has discovered following his Appeal Judgement without providing any explanation regarding the nature of these new facts and how they could impact any particular aspect of his conviction;⁸

CONSIDERING that, in these circumstances, Ngeze has not demonstrated that he is entitled to any legal aid at the expense of the Mechanism;

HEREBY DISMISSES the Requests.

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

Done this 13th of April 2017,
At The Hague,
The Netherlands.



Judge Theodor Meron
Presiding Judge

[Seal of the Mechanism]



⁶ *Prosecutor v. Vujadin Popović*, Case No. MICT-15-85-R-1, Decision on a Request for Assignment of Counsel, 23 September 2016, p. 2; *Eliézer Niyitegeka v. The Prosecutor*, Case No. MICT-12-16-R, Decision on Niyitegeka's Motion for an Extension of the Assignment of his Counsel, 27 May 2016, para. 7; *Eliézer Niyitegeka v. The Prosecutor*, Case No. MICT-12-16R, Order Lifting *Ex Parte* Status of Niyitegeka's Motion Requesting an Extension of the Assignment of his Counsel, 23 February 2016 ("*Niyitegeka* Order of 23 February 2016"), p. 1.

⁷ *Niyitegeka* Order of 23 February 2016, p. 2; *Jean de Dieu Kamuhanda v. The Prosecutor*, Case No. ICTR-99-54A-R, Decision on Motion for Legal Assistance, 21 July 2009, paras. 18-20; *Jean-Bosco Barayagwiza v. The Prosecutor*, Case No. ICTR-99-52A-R, Decision on Jean-Bosco Barayagwiza's Motion of 6 March 2008, 11 April 2008, p. 4.

⁸ Request, p. 564 (registry pagination); Supplementary Request, p. 566 (registry pagination).



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