

MICT-12-29-R
18-09-2017
(1810 - 1808)

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THE MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS

CASE No. MICT-12-29-R

THE APPEALS CHAMBER

Before: Judge Theodor Meron, Presiding
Judge Joseph Chiondo Masanche
Judge Aydin Sefa Akay
Judge Aminatta Lois Runeni N’Gum
Judge Gberdao Gustave Kam

Registrar: Mr. Olufemi Elias

Date Filed: 18 September 2017

THE PROSECUTOR

v.

AUGUSTIN NGIRABATWARE

Public

REQUEST FOR STATUS CONFERENCE

Office of the Prosecutor
Serge Brammertz
Mathias Marcussen
Thembile Segoete

Augustin Ngirabatware:
Peter Robinson

Received by the Registry
Mechanism for International Criminal Tribunals

18/09/2017 00:07

Thwaipopo

1. Dr. Augustin Ngirabatware requests that the Presiding Judge convene a status conference to allow him to address issues related to his mental and physical condition and to allow the parties to discuss issues related to the Review Hearing.

2. Rule 69(B) provides in pertinent part that:

The Appeals Chamber or an Appeals Chamber Judge shall convene a status conference, within one hundred and twenty days of the filing of a notice of appeal and thereafter within one hundred and twenty days after the last status conference, to allow any person in custody pending appeal the opportunity to raise issues in relation thereto, including the mental and physical condition of that person.

3. Rule 69 does not, by its express terms, apply to a person awaiting a review hearing before the Appeals Chamber. However, Rule 55 authorises a Judge or Chamber to issue orders necessary for the preparation or conduct of the proceedings. Rule 135 provides that the Pre-Appeal judge “shall ensure that the proceedings are not unduly delayed and shall take any measures related to procedural matters, including the issuing of decisions, orders, and directions with a view to preparing the case for a fair and expeditious hearing.”

4. Dr. Ngirabatware was granted review of his conviction on 19 June 2017, some 90 days ago.¹ His review hearing is not yet scheduled. Dr. Ngirabatware contends that, in the absence of a review hearing before then, a status conference should be held within 120 days of the review decision. This would accord with the spirit of Rule 69, which provides for the opportunity for a defendant to be heard during those periods when he is not otherwise appearing in court for his trial or hearing.²

5. Dr. Ngirabatware’s review has already been delayed because the government of Turkey wrongfully imprisoned Judge Akay in violation of the Judge’s diplomatic immunity. While waiting for trial or an appeal hearing in detention is difficult for anyone, it is particularly painful for a person like Dr. Ngirabatware who is innocent of the crimes for which he has been convicted.³ A status conference to inquire into his wellbeing, as well as to advance preparations for the review hearing, would be consistent with the goals

¹ *Decision on Ngirabatware’s Motion for Review* (19 June 2017)

² In the only other case in which review was granted, the issue of a Status Conference did not arise as a hearing was held approximately four months after the motion was filed, another hearing was held in four months later, and the review judgement was issued two months after that. *Prosecutor v Sljivancanin*, No. IT-95-13/1-R.1, *Review Judgement* (8 December 2010), paras. 1, 6, 9

³ As of 17 September 2017, he has served ten years in prison.

of Rule 69 and humanitarian principles.

6. Rule 69(C)(ii) provides that the defendant can appear at a status conference by video link. Should the Appeals Chamber wish to minimise time and expenses, the Presiding Judge can hold the status conference in The Hague, with Dr. Ngirabatware appearing by video link from Arusha, during the week of 16 October. Counsel for Dr. Ngirabatware will already be there for a status conference in the *Karadzic* case,⁴ and Counsel for the Prosecution is also based in The Hague.

7. For all of the above reasons, it is respectfully requested that a status conference be held in this case within 120 days of 19 June 2017.

Word count: 663

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Peter Robinson', written in a cursive style.

PETER ROBINSON

Counsel for Augustin Ngirabatware

⁴ The next status conference in the *Karadzic* case must be held by 21 October.



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Case Name/ Affaire :	Prosecutor v Ngirabatware		Case Number/ Affaire n° : MICT 12-29-R
Date Created/ Daté du :	18 September 2017	Date transmitted/ Transmis le :	18 September 2017
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Classification Level/ Catégories de classification :	<input checked="" type="checkbox"/> Unclassified/ Non classifié	<input type="checkbox"/> Ex Parte Defence excluded/ Défense exclue	<input type="checkbox"/> Other/Autre (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
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