



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-18-116-PT

Date: 29 March 2019

Original: English

BEFORE A SINGLE JUDGE

Before: Judge Vagn Joensen

Registrar: Mr. Olufemi Elias

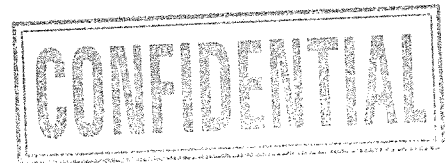
Decision of: 29 March 2019

PROSECUTOR

v.

MAXIMILIEN TURINABO
ANSELME NZABONIMPA
JEAN DE DIEU NDAGIJIMANA
MARIE ROSE FATUMA
DICK PRUDENCE MUNYESHULI

DECLASSIFIED IN
ACCORDANCE WITH ORDER
DATED 3 JULY 2019



CONFIDENTIAL

DECISION ON MAXIMILIEN TURINABO'S MOTION FOR
PROVISIONAL RELEASE

Office of the Prosecutor:

Mr. Serge Brammertz
Mr. Rashid S. Rashid

Government of United Republic of Tanzania

Government of the Republic of Rwanda

Counsel for the Defence:

Mr. Maximilien Turinabo
Mr. Stéphane Bourgon
Mr. Anselme Nzabonimpa
Mr. Geoffrey Roberts
Mr. Jean de Dieu Ndagijimana
Mr. Philippe Larochelle
Ms. Marie Rose Fatuma
Mr. Gatera Gashabana
Mr. Dick Prudence Munyeshuli
Mr. Kurt Kerns

Received by the Registry
International Residual Mechanism for Criminal Tribunals
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1. I, Vagn Joensen, Judge of the International Residual Mechanism for Criminal Tribunals (“Mechanism”) and the Single Judge in this case (“Single Judge”),¹ am seised of a motion filed confidentially by Maximilien Turinabo (“Turinabo”) on 14 February 2019 requesting provisional release to the Republic of Rwanda (“Rwanda”), or alternatively to a Mechanism operated “safe house” in the United Republic of Tanzania (“Tanzania”).² The Prosecution filed a response on 28 February 2019,³ and Turinabo filed his reply on 8 March 2019.⁴

I. BACKGROUND

2. Turinabo was indicted with four co-accused, Jean de Dieu Ndagijimana, Anselme Nzabonimpa, Marie Rose Fatuma, and Dick Prudence Munyeshuli on 24 August 2018 for crimes related to contempt under Article 1(4)(a) of the Statute and Rule 90 of the Rules of Procedure and Evidence (“Rules”).⁵ A warrant for his arrest was issued the same day.⁶ On 3 September 2018, Turinabo was arrested in Rwanda and, on 11 September 2018, transferred to the United Nations Detention Facility (“UNDF”) in Arusha, Tanzania.⁷ He pleaded not guilty to all crimes charged against him during the initial appearances of the Accused on 13 September 2018.⁸

3. Turinabo seeks provisional release pursuant to Rule 68 of the Rules to reside in his family home in Rwanda or, alternatively, to a Mechanism operated “safe house” in Tanzania, arguing that the conditions for such release are met.⁹ The Prosecution opposes Turinabo’s request for provisional release to Rwanda on the basis that he fails to demonstrate that he will not pose a danger to any victim, witness or other person.¹⁰ Instead, the Prosecution requests that I further explore his provisional release in Tanzania and request additional submissions from the Government of Tanzania regarding whether it would agree to Turinabo’s provisional release and its

¹ Order Assigning a Single Judge, 11 September 2018, p. 1.

² Motion for Provisional Release, 14 February 2019 (confidential) (“Motion”), paras. 1, 2, 23, 27.

³ Prosecution Response to Turinabo’s Motion for Provisional Release and Request for Order for Further Submissions from the Government of Tanzania, 28 February 2019 (confidential with confidential and *ex parte* Annex) (“Response” and “Annex”, respectively).

⁴ Request Seeking Leave to Reply, and Reply, to Prosecution’s Response to Turinabo’s Motion for Provisional Release, 8 March 2019 (confidential) (“Reply”). The Prosecution does not oppose the request, and I consider that it is in the interests of justice to consider the Reply.

⁵ Order on Confirmation of Indictment, 24 August 2018 (strictly confidential and *ex parte*; made public on 18 September 2018), pp. 1, 2. *See also* Indictment, 5 June 2018 (strictly confidential; public redacted version filed on 5 September 2018); Amended Indictment, 26 March 2019 (confidential) (“Indictment”).

⁶ Warrant of Arrest, Order for Search and Seizure, and Order for Detention and Transfer of Maximilien Turinabo, 24 August 2018 (strictly confidential and *ex parte*; made public on 18 September 2018).

⁷ Motion, para. 4; Transcript (“T.”) 13 September 2018 p. 4.

⁸ T. 13 September 2018 p. 24.

⁹ Motion, paras. 1, 2, 23, 24, 27; *See also* Addendum to ‘Motion for Provisional Release’ Submitted on 14 February 2019 and Corrigendum, 18 February 2019 (confidential with confidential Annex) (“Addendum”), Annex A, Registry pagination (“RP.”) 2776 (providing the location of Turinabo’s home); Reply, para. 23.

¹⁰ Response, paras. 1-4, 6.

ability to comply with conditions necessary to ensure the protection of victims, witnesses, and other persons.¹¹

4. On 20 February 2019, I issued an order inviting the Governments of Rwanda and Tanzania to provide written submissions on the possible provisional release of Turinabo to their respective States within twenty-one days of service of the order.¹² Neither filed a submission within the time frame provided.

II. SUBMISSIONS

5. Turinabo, age 67, argues that, on the balance of the probabilities,¹³ I may be satisfied that he will appear for trial because: (i) when previously charged with contempt by the International Criminal Tribunal for Rwanda (“ICTR”), he did not attempt to evade justice but fully participated in the proceedings;¹⁴ (ii) the maximum sentence for contempt as compared to the sentence for attempting to flee is minimal and does not pose a compelling inducement to flee;¹⁵ and (iii) incentive to flee is undermined by his strong family ties.¹⁶ He further argues that he will not pose a danger to any victim, witness, or other person as the allegations of witness interference against him concern a relatively small number of individuals and any violation of the applicable witness protection orders, which the Prosecution has the capabilities to monitor, would have a “catastrophic impact” on the merits of his case, constituting a compelling disincentive to violate them.¹⁷ Finally, Turinabo emphasizes that, because no date has been set for the start of the trial and due to the evidentiary complexity of this case, it is reasonable to estimate that the trial will be a lengthy process, which is a compelling factor in favour of provisional release.¹⁸ He is ready to accept any conditions of provisional release deemed appropriate.¹⁹

6. The Prosecution opposes Turinabo’s request for provisional release to Rwanda, arguing that he has failed to demonstrate, on a balance of the probabilities, that if released there, he would not

¹¹ Response, paras. 1, 5, 6.

¹² Order for Submissions, 20 February 2019 (confidential), p. 1 (“Order of 20 February 2019”). Informal communications with the Registry reflect that the Governments of Tanzania and Rwanda acknowledged receipt of the Order of 20 February 2019 the day after its issuance.

¹³ Motion, paras. 8, 9, 13; Addendum, para. 2.

¹⁴ Motion, paras. 1, 3, 10, 27.

¹⁵ Motion, paras. 1, 11, 27.

¹⁶ Motion, paras. 1, 12, 27.

¹⁷ Motion, paras. 1, 14, 15, 27. *See also* Motion, para. 16 (arguing, in the context of whether Turinabo will pose a danger to any victim, witness, or other person, that the contempt charges against him cannot be treated as decisive, highlighting a number of alleged contemnors before international criminal tribunals who were provisionally released or never remanded into custody).

¹⁸ Motion, para. 17.

¹⁹ Motion, paras. 25, 26. *See also* Addendum, Annex A, RP. 2776, 2775.

have any contact with concerned witnesses or that his release would not have an intimidating effect on them.²⁰ The Prosecution argues that the confirmation of the Indictment against Turinabo demonstrates concrete interference and therefore an objective basis to fear continued witness interference.²¹ It emphasizes that Turinabo's desire to be released to the Gisenyi area, where witnesses and potential witnesses in his case, as well as in the *Prosecutor v. Augustin Ngirabatware*, Case No. MICT-12-29-R, review proceedings ("*Ngirabatware* case"), reside, could have a negative impact on victims, witnesses, and potential witnesses.²² In support, the Prosecution has submitted on an *ex parte* basis an investigator's declaration expressing certain witnesses' fears for their security and that of their families in the Gisenyi area.²³ The Prosecution emphasizes that it is my role to counter witness intimidation and prevent the accused from undermining the Prosecution's ability to present its evidence at trial and that Turinabo's request for provisional release to Gisenyi should therefore be denied.²⁴

7. The Prosecution submits that Turinabo's alternative request for provisional release to Tanzania should be explored through a request for further submissions from the Government of Tanzania to establish whether it agrees to provisional release and what conditions it could enforce to ensure that Turinabo could not interfere with victims, witnesses or other persons.²⁵

8. In his reply, Turinabo objects to the Prosecution's reliance, without justification, on *ex parte* material in support of its Response and requests that I disregard it and order the Prosecution to file a redacted version of the material.²⁶ He further opposes the Prosecution's request for further submissions from the Government of Tanzania as unnecessary and irrelevant.²⁷

III. DISCUSSION

9. Under Rules 2(C) and 68(B) of the Rules, a single judge may grant provisional release only after having given both the host country and the State to which the accused seeks to be released the opportunity to be heard and only if the single judge is satisfied that, if released, the accused will appear for trial and will not pose a danger to any victim, witness, or other person.²⁸ In applying

²⁰ Response, paras. 1-4, 6.

²¹ Response, para. 3. In reply, Turinabo opposes the Prosecution's interpretation of case law, arguing that it conflates objective and subjective standards for fearing witness interference on provisional release. Reply, paras. 15-19.

²² Response, paras. 1-4, 6.

²³ Response, para. 3. *See also* Annex, RP. 3254.

²⁴ Response, para. 4.

²⁵ Response, paras. 1, 5, 6.

²⁶ Reply, paras. 2, 5-14.

²⁷ Reply, paras. 20-22.

²⁸ Decision on Marie Rose Fatuma's Motion for Provisional Release to Rwanda, 11 February 2019 (confidential) ("*Decision of 11 February 2019*"), para. 12, n. 46 and references cited therein.

Rule 68(B) of the Rules to the Motion before me, I will be guided by the legal principles set forth in a prior decision adjudicating Ms. Marie Rose Fatuma's request for provisional release to Rwanda.²⁹

10. As noted above, the Governments of Rwanda and Tanzania were invited to provide submissions in response to the Motion but neither have done so.³⁰ I will therefore first consider factors relevant to assessing if Turinabo will appear for trial. While the contempt charges against Turinabo relating to witness interference and violations of court orders are serious, a conviction carries the prospect of a much more limited term of imprisonment, if any, or a fine in particular when compared with sentences that may be imposed for other offences within the Mechanism's jurisdiction.³¹ In contrast, fleeing while on provisional release, or violating any terms or conditions of release, would likely carry a much more substantial term of imprisonment than the original offences charged in the Indictment. These circumstances minimize any incentive Turinabo may have to abscond.

11. The Prosecution does not dispute that, if provisionally released, Turinabo will appear for trial. His proven history of full participation in previous proceedings involving contempt charges against him where he was not remanded into custody is a compelling indication that he will return for trial when ordered to do so in this case. Furthermore, Turinabo's unequivocally expressed desire to reside in Rwanda with his family as well as his advanced age offer further support that he will not abscond. In addition, I observe that Turinabo has committed to appearing for trial when ordered and is willing to be provisionally released subject to any conditions deemed appropriate and imposed under Rule 68(C) of the Rules.³² I consider that all of the above minimize any incentive Turinabo may have to flee and demonstrate that he will appear to for trial when ordered.³³

²⁹ Decision of 11 February 2019, paras. 12, 13 and references cited therein.

³⁰ Although Tanzania did not respond to the Order of 20 February 2019, the Host State Agreement between the Mechanism and Tanzania contains provisions relating to Tanzania's obligations to facilitate provisional release to another State. *See* Article 38 of the Agreement Between the United Nations and the United Republic of Tanzania Concerning the Headquarters of the International Residual Mechanism for Criminal Tribunals, 26 November 2013.

³¹ *See* Rule 90(G) of the Rules.

³² Motion, para. 25. *See also* Addendum, Annex A, RP. 2776, 2775.

³³ In so concluding, I am mindful that the Government of Rwanda has not provided any guarantees as it relates to Turinabo's requested provisional release and, in relation to a previous application, opposed provisional release of one of his co-accused. *See* Decision of 11 February 2019, para. 15. However, guarantees from a State are not a prerequisite to obtaining provisional release and, in the absence of such guarantees, evaluation of Turinabo's personal circumstances is the primary consideration as to whether he will appear for trial if released. *See* Decision of 11 February 2019, n. 56 and references cited therein. Furthermore, the Government of Rwanda has expressly committed its cooperation and support to the Mechanism in relation to this trial and reiterated this position when presenting its views on a prior request for provisional release. *See* Decision of 11 February 2019, para. 17 and references cited therein. It has also demonstrated a willingness and ability to execute arrest warrants issued by the Mechanism and facilitate the transfer of the Accused to the Mechanism in this proceeding. I consider that these circumstances combined with conditions that may be imposed under Rule 68(C) of the Rules, sufficiently establish that Turinabo will appear for trial at the Mechanism when ordered.

12. As to whether Turinabo poses a danger to any victim, witness, or other person, the Prosecution argues that the confirmed charges against Turinabo establish objective fears of further interference with witnesses if provisionally released to Rwanda; it also emphasizes that Turinabo would be returning to the Gisenyi area, where witnesses and potential witnesses in his case and the *Ngirabatware* case reside, and that this could negatively impact them. In support, the Prosecution has submitted on an *ex parte* basis an investigator's declaration expressing certain witnesses' fears for their security and that of their families in the Gisenyi area in relation to this case.³⁴ I note that this same declaration was submitted in support of the Prosecution's request for harmonized protective measures in this case and I find it unnecessary to address Turinabo's objections to it or grant the relief requested for the purposes of this decision.³⁵

13. It must be emphasized that Turinabo is charged with non-violent offences related to the interference with the administration of justice.³⁶ The charges against him do not, on their face, indicate that he poses a "danger" to any victim, witness, or other person.³⁷ Furthermore, and mindful of the fears expressed in the investigator's declaration, I do not consider that the information provided demonstrates an objective basis to fear that Turinabo, if provisionally released to the Gisenyi area, will pose a danger to any victim, witness, or other person.³⁸ In addition, Turinabo has undertaken that he will not seek to contact witnesses or potential witnesses if released and to abide by conditions ordered pursuant to Rule 68(C) of the Rules.³⁹ I find these submissions compelling, particularly given the risk of substantially increased punishment if it were demonstrated that he interfered with victims, witnesses, or potential witnesses in violation of the terms of his provisional release or relevant protective measures.

14. I now turn to the Prosecution's position that it is my role to counter witness intimidation and prevent the accused from undermining the Prosecution's ability to present its evidence at trial. As discussed above, I do not consider that, on the balance of the probabilities, Turinabo will pose a danger to any victim, witness, or other person or that he will interfere with any such persons. I am also not convinced that his mere presence in Gisenyi will necessarily have a chilling effect on victims, witnesses or potential witnesses to such an extent that it would undermine the

³⁴ Response, para. 3. *See also* Annex, RP. 3254.

³⁵ *See* Prosecution Harmonized Application for Protective Measures, 18 February 2019 (confidential with confidential and *ex parte* Annexes A-E), Annex D.

³⁶ *See, e.g.*, Indictment, paras. 12, 13, 21(i), 21(ii), 22(i), 23(i), 23(ii), 24(i), 25(ii), 27, 30.

³⁷ *See* Rule 68(B) of the Rules.

³⁸ *See* Annex, RP. 3254. In this regard, I observe that the fears expressed in the declaration are not specific to Turinabo and do not relate specifically to his prospective provisional release.

³⁹ Motion, paras. 15, 25, 27.

Prosecution's ability to present its case.⁴⁰ Indeed, the Prosecution may seek alternative measures to ensure the integrity of its case and the presentation of its evidence that do not so severely impact Turinabo's liberty interests.⁴¹

15. Indeed, to place the Motion in context, I observe that Turinabo's situation is materially indistinguishable from that of Beqa Beqaj, who faced similar charges before the International Criminal Tribunal for the former Yugoslavia ("ICTY"),⁴² and sought provisional release to the very community in which he was alleged to have interfered with witnesses.⁴³ Notably, in that case, Beqaj's request for provisional release was unopposed by the Prosecution, who only requested the imposition of reasonable conditions on his release.⁴⁴ Beqaj was ordered to be provisionally released into the community from which the allegations against him arose, after four months of pre-trial detention, notwithstanding the absence of any guarantees from the governing authority receiving him that Beqaj would "not threaten, intimidate or pose any danger to any victim, witness, or accuse in other proceedings before [the ICTY]."⁴⁵ Moreover, the proceedings before the ICTY in which Beqaj's witness interference allegations related were ongoing at the time of his provisional release.⁴⁶

⁴⁰ See, e.g., *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR65.7, Decision on "Prosecution's Appeal from *Décision relative à la demande de mise en liberté provisoire de l'accusé Petković* Dated 31 March 2008", 21 April 2008 ("*Prlić et al.* Decision of 21 April 2008"), para. 17 ("Before granting provisional release, a Trial Chamber should take into consideration the position of victims and witnesses living in the same region where the accused, when released, will return"). I note that the circumstances as they pertain to Turinabo, who is not charged with international crimes and whose proceedings have not continued beyond a judgement of acquittal under Rule 121 of the Rules, are materially different to those considered in the *Prlić et al.* decision in assessing the potential impact of an accused's release to the region where victims and witnesses live. See *Prlić et al.* Decision of 21 April 2008, paras. 15, 17.

⁴¹ In this respect, the Prosecution has sought delayed disclosure as it relates to a number of witnesses or prospective witnesses to allay their concerns related to their participation in this case. See Prosecution Harmonized Application for Protective Measures, 18 February 2019 (confidential), para. 16.

⁴² See *Prosecutor v. Beqa Beqaj*, Case No. IT-03-66-T-R77, Judgement on Contempt Allegations, 27 May 2005, paras. 1, 2, 28, 31, 35, 38, 41, 43-47.

⁴³ Compare *Prosecutor v. Beqë Beqaj*, Case No. IT-03-66-R77, Order for Provisional Release, 4 March 2005 ("*Beqaj* Order of 4 March 2005"), pp. 2, 4 with *supra* n. 42 and references cited therein.

⁴⁴ *Beqaj* Order of 4 March 2005, pp. 2, 4. Specifically, the Prosecution did not oppose the Motion as long as Beqaj signed an undertaking not to have any contact with any victim, witness or accused in any ICTY proceedings and would comply with all other conditions imposed by the Trial Chamber. *Beqaj* Order of 4 March 2005, p. 2.

⁴⁵ *Beqaj* Order of 4 March 2005, pp. 2, 4. I further note that cases involving allegations of interference with the administration of justice before the ICTY where the relevant accused were remanded into custody (and were not also charged with the core crimes under the ICTY's Statute) reflect a near routine practice of provisionally releasing such accused. See, e.g., *In the Contempt Case of Milan Tupajić*, Case No. IT-95-5/18-R77.2, Decision on Motion for Provisional Release, 21 December 2011, para. 10; *Prosecutor v. Jelena Rašić*, Case No. IT-98-32/1-R77.2, Decision Granting Provisional Release Pending Trial, 12 November 2010 (confidential), p. 4; *Prosecutor v. Baton Haxhiu*, Case No. IT-04-84-R77.5, Decision on Provisional Release of Baton Haxhiu, 23 May 2008, para. 12; *Prosecutor v. Astrit Haraqija and Bajrush Morina*, Case No. IT-04-84-R77.4, Decision on Application for Provisional Release of Astrit Haraqija, 13 May 2008, para. 17; *Prosecutor v. Astrit Haraqija and Bajrush Morina*, Case No. IT-04-84-R77.4, Decision on Defence Motion for Provisional Release of the Accused Bajrush Morina, 13 May 2008, para. 17.

⁴⁶ See *Prosecutor v. Fatimir Limaj et al.*, Case No. IT-003-66, Judgement, 30 November 2005, para. 763.

16. In view of the above considerations, I am satisfied that the cumulative requirements of Rule 68(B) of the Rules are met and that Turinabo's provisional release to Rwanda, under the conditions set out below, is appropriate. I therefore dismiss Turinabo's alternative request for provisional release to Tanzania as well as the Prosecution's request for further submissions from the Government of Tanzania. I will remain alert and take necessary action in response to any information that may constitute a change of circumstances calling into question whether the pre-conditions set forth in Rule 68(B) of the Rules remain fulfilled.

17. Furthermore, and separate to the considerations addressed above, I find that the procedural posture of this multi-accused contempt case is a relevant factor that weighs heavily in favor of provisional release. Although there is every intention that this trial progress rapidly, Turinabo is one of five defendants, no date has been set for trial, and the commencement of trial will inevitably be affected by the trial readiness of the case against all defendants rather than him alone.⁴⁷ In this respect, one Defendant, who was assigned new counsel on 31 January 2019, is presently seeking a temporary stay of the proceedings.⁴⁸ As there is a possibility that a conviction results in limited or no jail time and Turinabo has already spent more than six months in detention, there is a risk that continued pre-trial detention could exceed his eventual sentence, if he were found guilty.⁴⁹

IV. DISPOSITION

18. For the foregoing reasons, pursuant to Rules 55, 68(B), and (C) of the Rules and Article 28 of the Statute, I:

GRANT the Motion, in part, and **ORDER** that:

- i. as soon as practicable, but subject to predicate conditions described below, Turinabo be transported from the UNDF to a Tanzanian airport by UN Security in coordination with Tanzanian authorities;
- ii. before leaving the UNDF, Turinabo shall provide to the Registrar of the Mechanism:
 - a. a written and signed declaration to abide by the provisions of this Decision ("Signed Declaration"); and

⁴⁷ See Decision of 11 February 2019, para. 20, n. 66 and reference cited therein.

⁴⁸ Motion for Temporary Stay of Proceedings and Orders Concerning Defence Preparation, 21 February 2019 (confidential).

⁴⁹ Cf. *Prosecutor v. Ramush Haradinaj et al.*, Case No. IT-04-84-AR65.2, Decision on Lahi Brahimaj's Interlocutory Appeal Against the Trial Chamber's Decision Denying his Provisional Release, 9 March 2006, para. 23 ("Undisputedly,

- b. the address at which he will be staying in Rwanda, which the Registrar shall transmit to the authorized official(s) of the Government of Rwanda (“Authorized Address”);
- iii. at the Tanzanian airport, Turinabo shall be provisionally released into the custody of a security officer designated by the Registrar who shall accompany Turinabo for the remainder of his travel to Rwanda;
- iv. Upon his arrival at the relevant Rwandan airport, the security officer designated by the Registrar shall deliver Turinabo into the custody of the authorized official(s) designated by the Government of Rwanda, who shall accompany him to the Authorized Address;
- v. during the period of his provisional release, Turinabo shall abide by, and the authorities of the Government of Rwanda, including the local police, shall ensure compliance with the following conditions:
 - a. Turinabo must reside at the Authorized Address and remain in Rwanda;
 - b. Turinabo shall surrender his passport and any other valid travel document to the authorized official(s) of the Government of Rwanda;
 - c. Turinabo shall report weekly to a local police station designated by the Government of Rwanda;
 - d. Turinabo shall consent to having the duly authorized officials of the Government of Rwanda verify his presence with the local police and to the making of occasional unannounced visits upon him by authorized officials of the Government of Rwanda or by a person designated by the Registrar;
 - e. Turinabo shall in no way interfere with victims, witnesses, or potential witnesses, or otherwise interfere in any way with any proceedings before the Mechanism;
 - f. Turinabo shall not violate any protective measures that continue to have effect before the Mechanism or may be ordered by the Mechanism;
 - g. Turinabo shall not discuss his case with anyone, including the media, other than his Counsel or members of his Defence team who have been duly recognized as such by the Registrar;

a Trial Chamber may determine whether the particular circumstances of a case warrant that provisional release be

- h. Turinabo shall refrain from seeking to alter or destroy any evidence;
- i. Turinabo shall strictly comply with any requirements of the authorities of the Government of Rwanda necessary to enable them to comply with their obligations under the present Decision;
- j. Turinabo shall return to the Mechanism at a date to be determined by the Single Judge;
- k. Turinabo shall strictly comply with any further order of the Single Judge varying the terms of or terminating his provisional release;

REQUIRE the Government of Rwanda to assume responsibility for:

- i. designating the authorized official(s) of the Government of Rwanda into whose custody Turinabo shall be provisionally released upon his arrival in Rwanda and who shall accompany him to the Authorized Address;
- ii. notifying, as soon as practicable, the Single Judge and the Registrar of the name(s) of these authorized official(s);
- iii. designating the closest local police station to the Authorized Address to which Turinabo is to report weekly during the period of his provisional release, and notifying, as soon as practicable, the Single Judge and the Registrar of the name and location of that police station;
- iv. ensuring Turinabo's personal security and safety while on provisional release in Rwanda;
- v. allowing confidential and privileged communications between Turinabo and his Counsel as duly recognized by the Registrar;
- vi. not issuing any new passports or other documents enabling Turinabo to travel;
- vii. submitting to the Single Judge every month a written report on Turinabo's compliance with this Decision;
- viii. arresting and detaining Turinabo immediately should he breach any of the conditions of this Decision; and
- ix. reporting immediately to the Single Judge any breach of the conditions set out above;

granted to an accused based on the actual or likely excessive length of his pre-trial detention.”).

INSTRUCT the Registrar of the Mechanism to:

- i. consult with the authorities of the governments of Tanzania and of Rwanda and make all arrangements, in consultation with such authorities, for Turinabo's travel from the UNDF to Rwanda and, when required, his return travel from Rwanda to the UNDF;
- ii. cover the costs associated with Turinabo's travel from the UNDF to Rwanda, and when required, his return travel from Rwanda to the UNDF;
- iii. continue to detain Turinabo at the UNDF in Arusha until such time as the Registrar has:
 - a. received Turinabo's Signed Declaration;
 - b. received the Authorized Address and transmitted it to the authorized official(s) of the Government of Rwanda;
 - c. been notified of the name(s) of the authorized official(s) of the Government of Rwanda into whose custody Turinabo will be provisionally released as set out above; and
 - d. made arrangements for Turinabo's travel from the UNDF to Rwanda;
- iv. provide to Turinabo and to the Government of Rwanda the contact details of the Registry of the Mechanism necessary for the communications set out in this Decision; and
- v. provide the Single Judge, without delay, the reports and notifications set out in this Decision;

REQUEST the authorities of the State(s) through whose territory Turinabo may travel to:

- a. hold him in custody for any time he will spend in transit at the airport of the State(s) in question; and
- b. arrest and detain Turinabo pending his return to the UNDF should he attempt to escape during travel;

INVITE the Registrar to file a submission pursuant to Rule 31(B) of the Rules in the event that he is not able to make the necessary arrangements to facilitate this Decision in a timely fashion;

DENY the remainder of the Motion; and

DENY the Prosecution's request that I seek further submissions from the Government of Tanzania in relation to the possible provisional release of Turinabo to Tanzania.

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



Done this 29th day of March 2019,
At Arusha,
Tanzania

Judge Vagn Joensen
Single Judge

[Seal of the Mechanism]





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Document type/ Type de document :	<input type="checkbox"/> Motion/ Requête <input type="checkbox"/> Judgement/ Jugement/Arrêt <input type="checkbox"/> Book of Authorities/ Recueil de sources <input type="checkbox"/> Warrant/ Mandat <input checked="" type="checkbox"/> Decision/ Décision <input type="checkbox"/> Submission from parties/ Écritures déposées par des parties <input type="checkbox"/> Affidavit/ Déclaration sous serment <input type="checkbox"/> Notice of Appeal/ Acte d'appel <input type="checkbox"/> Order/ Ordonnance <input type="checkbox"/> Submission from non-parties/ Écritures déposées par des tiers <input type="checkbox"/> Indictment/ Acte d'accusation		

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 checked="" 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 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 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) :

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