

UNITED  
NATIONS



International Residual Mechanism  
for Criminal Tribunals

Case No.: MICT-24-131-I

Date: 29 April 2024

Original: English

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**BEFORE A SINGLE JUDGE**

**Before:** Judge Mustapha El Baaj  
**Registrar:** Mr. Abubacarr M. Tambaou  
**Decision of:** 29 April 2024

**IN THE MATTER OF FRANÇOIS NGIRABATWARE**

***PUBLIC REDACTED***

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**DECISION ISSUING ORDER IN LIEU OF INDICTMENT**

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***Amicus Curiae***

Mr. Robert L. Herbst

**Counsel for Mr. François Ngirabatware**

Mr. Jean Gakwaya

I, **MUSTAPHA EL BAAJ**, Judge of the International Residual Mechanism for Criminal Tribunals (“Mechanism”) and Single Judge in this case;<sup>1</sup>

**RECALLING** the “Decision on Allegations on Contempt,” issued on 29 April 2024, in which I decided to initiate contempt proceedings and issue an order in lieu of indictment against François Ngirabatware;<sup>2</sup>


**PURSUANT TO** Article 1(4) of the Statute of the Mechanism and Rule 90(D)(ii) of the Rules of Procedure and Evidence of the Mechanism (“Rules”);

**ISSUE** an order in lieu of indictment against Ngirabatware for contempt of the Mechanism punishable under Rule 90(A) of the Rules, for knowingly and wilfully interfering with the administration of justice with respect to proceedings before the Mechanism in relation to the submission of three fraudulent documents before the Mechanism; and

**INSTRUCT** the Registrar of the Mechanism to serve the present Decision, the appended Order in Lieu of Indictment, as well as the Decision on Allegations on Contempt on Ngirabatware and to inform me as soon as practicable of the execution of their service.

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

Done this 29th day of April 2024,  
At Arusha,  
Tanzania



Judge Mustapha El Baaj  
Single Judge

**[Seal of the Mechanism]**

<sup>1</sup> *Prosecutor v. Félicien Kabuga*, Case Nos. MICT-13-38-Misc.1 & MICT-13-38-R90.1, Order Assigning a Single Judge to Consider a Matter Pursuant to Rule 90(C), 9 March 2022, p. 1.

<sup>2</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-R90.1, Decision on Allegations of Contempt, 29 April 2024 (confidential; public redacted version filed on the same day) (“Decision on Allegations of Contempt”), paras. 22, 24, 25, 44.

## ORDER IN LIEU OF INDICTMENT

**FRANÇOIS NGIRABATWARE**, former son-in-law of Félicien Kabuga, who is an accused before the International Residual Mechanism for Criminal Tribunals (“Mechanism”) in the case of *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38, is charged with one count of **CONTEMPT OF THE MECHANISM** for knowingly and wilfully interfering with the administration of justice with respect to proceedings before the Mechanism in relation to the submission of fraudulent documents as set forth below:

### BACKGROUND AND FACTUAL ALLEGATIONS

1. On 14 April 2021, Ngirabatware and his sister Catherine Mukakayange, through Peter Robinson, their counsel at the time, filed a confidential “Motion for Order Concerning Frozen Bank Accounts” in the case of *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-Misc.1 (“Motion of 14 April 2021”), requesting an order declaring that, following an arrest of Kabuga, the Mechanism and the International Criminal Tribunal for Rwanda (“ICTR”) no longer maintained an interest in freezing accounts nos. [REDACTED] and [REDACTED] at [REDACTED] Bank in Belgium, which they claimed were frozen at the request of the Prosecutor of the ICTR while Kabuga was a fugitive. In the Motion, Ngirabatware and Mukakayange argued, *inter alia*, that Kabuga was not the source of any of the funds contained in these accounts. On 14 October 2021, the Single Judge in that case issued the “Decision on Motions Filed by Félicien Kabuga’s Family for Return of Frozen Assets and Seized Property”, *inter alia*, denying without prejudice the Motion of 14 April 2021 as premature pending the completion of the inquiry by the Registrar of the Mechanism (“Registrar”) in respect of the legal aid granted to Kabuga.

2. On 16 November 2021, Robinson sent a letter to the Registrar and Office of the Prosecutor of the Mechanism, enclosing two documents. The first document was an agreement dated 3 July 2000 regarding a sale of trucks and trailers (“Purported Sale Agreement of 3 July 2000”) purportedly showing payments made to account no. [REDACTED]. The second document was a purported standing order form from a bank in Kenya dated 3 July 2020 (“Purported Standing Order of 3 July 2000”) regarding a transmission of payments to account no. [REDACTED].

3. On 3 January 2022, Ngirabatware and Mukakayange filed a “Second Motion for Order Concerning Frozen Bank Accounts” (“Motion of 3 January 2022”), reiterating that Kabuga was not the source of the funds in their accounts. In support, the motion annexed, *inter alia*, a letter dated 22 December 2021 addressed to Ngirabatware purportedly from a branch manager of [REDACTED] Bank in Belgium (“Purported Bank Statement of 21 December 2021”), stating in relevant parts:

“[f]urther to our meeting of 22 December 2022, we would like to inform you that your accounts and those of Catherine Mukakayange remain frozen and that the assets in question have been transferred outside our branch to the Service Recovery [...]”.

4. During the preparation of the Motion of 3 January 2022, Ngirabatware forged and sent to Robinson for submission to the Mechanism the Purported Sale Agreement of 3 July 2000, the Purported Standing Order of 3 July 2000, and the Purported Bank Statement of 21 December 2021 (“Three Fraudulent Documents”) with a view of obtaining funds in accounts nos. [REDACTED] and/or [REDACTED] at [REDACTED] Bank in Belgium.

5. In or around November 2021, Ngirabatware created, wrote, and/or typed the Purported Sale Agreement of 3 July 2000, had other persons sign the document, and inflated the purchase price in the document to make it appear that the proceeds of the sale of trucks and trailers constituted sizeable portion of the funds in his frozen account.

6. With respect to the Purported Standing Order of 3 July 2000, in or around November 2021, Ngirabatware obtained a standing order form from a bank in Kenya, had the form stamped and dated 3 July 2000, filled in or had another person fill in the form, and signed or had the form signed under a fake name.

7. In or around December 2021, Ngirabatware created the Purported Bank Statement of 22 December 2021, falsely presenting it as coming from the representative at [REDACTED] Bank in Belgium, whose signature he forged.

8. Ngirabatware submitted these fraudulent documents with the intention to deceive the Mechanism in his litigation to obtain release of the frozen funds. By committing these acts, Ngirabatware intentionally engaged in conduct involving dishonesty, fraud, deceit, and/or misrepresentation, amounting to the act of knowing and wilful interference with the administration of justice with respect to proceedings before the Mechanism.

## CHARGES

### COUNT 1

By the acts described above, **FRANÇOIS NGIRABATWARE** committed **Contempt of the Mechanism**, punishable under Rule 90(A) of the Rules of Procedure and Evidence of the Mechanism, for knowingly and wilfully interfering with the administration of justice with respect to the submission of the Three Fraudulent Documents before the Mechanism.



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