

UNITED
NATIONS

MICT-13-34-ES
19-12-2018
(886 - 883)

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International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-13-34-ES

Date: 19 December 2018

Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Theodor Meron, President

Registrar: Mr. Olufemi Elias

Order of: 19 December 2018

**DECLASSIFIED IN
ACCORDANCE WITH
INSTRUCTIONS CONTAINED
WITHIN THIS ORDER.**

PROSECUTOR

v.

DOMINIQUE NTAWUKULILYAYO

CONFIDENTIAL

CONFIDENTIAL

**ORDER DESIGNATING STATE IN WHICH DOMINIQUE
NTAWUKULILYAYO IS TO SERVE THE REMAINDER OF HIS
SENTENCE**

The Office of the Prosecutor

Mr. Serge Brammertz

Mr. Dominique Ntawukulilyayo

Mr. Philippe Larochelle

Received by the Registry
International Residual Mechanism for Criminal Tribunals
19/12/2018 16:33

Thwaiipopo

I, THEODOR MERON, President of the International Residual Mechanism for Criminal Tribunals (“Mechanism”);

NOTING the Judgement rendered by the Appeals Chamber of the International Criminal Tribunal for Rwanda (“ICTR”) on 14 December 2011, in the case of *Dominique Ntawukulilyayo v. The Prosecutor*, Case No. ICTR-05-82-A (“Appeal Judgement”), in which Mr. Dominique Ntawukulilyayo was sentenced to twenty (20) years of imprisonment, subject to credit being given under Rule 101(C) of the Rules of Procedure and Evidence of the ICTR for the period already spent in detention,¹ and thereafter transferred to the Republic of Mali to serve the remainder of his sentence on 1 July 2012;²

CONSIDERING the confidential memorandum conveyed to me by the Registrar of the Mechanism (“Registrar”) on 12 December 2018 (“Memorandum”), in accordance with the terms of the Practice Direction on the Procedure for Designation of the State in Which a Convicted Person is to Serve His or Her Sentence of Imprisonment;³

CONSIDERING that in the Memorandum the Registrar indicated the willingness and readiness of the Republic of Benin to enforce the remainder of the sentence imposed upon Mr. Dominique Ntawukulilyayo;⁴

CONSIDERING the Agreement Between the United Nations and the Government of the Republic of Benin on the Enforcement of Sentences Pronounced by the International Criminal Tribunal for Rwanda or the International Residual Mechanism for Criminal Tribunals, entered into force on 12 May 2017, and the Agreement Between the United Nations and the Government of the Republic of Mali on the Enforcement of Sentences Pronounced by the International Criminal Tribunal for Rwanda or the International Residual Mechanism for Criminal Tribunals, which entered into force on 13 May 2016 (“Enforcement Agreement with the Republic of Mali”);⁵

RECALLING that Articles 9(1)(c) and 9(2) of the Enforcement Agreement with the Republic of Mali provide that the enforcement of a convicted person’s sentence shall cease following a decision

¹ Appeal Judgement, paras. 245-246.

² See *The Prosecutor v. Dominique Ntawukulilyayo*, Case No. ICTR-2005-82, Decision on the Enforcement of Sentence, 8 February 2012; Press Release, More ICTR Convicts Transferred to Mali and Benin to Serve their Sentences, dated 3 July 2012, available at <http://unictr.irmct.org/en/news/more-ictr-convicts-transferred-mali-and-benin-serve-their-sentences>.

³ MICT/2/Rev. 1, 24 April 2014 (“Practice Direction”). I note that the Registrar also conveyed to me a confidential memorandum on 26 November 2018 (“November Memorandum”) in this regard.

⁴ See Memorandum, paras. 3, 36. I note that the Registrar indicated the relevant Malian authorities have no objections to the transfer of Mr. Dominique Ntawukulilyayo from Mali to Benin. See November Memorandum, para. 3.

⁵ As amended on 30 June 2016.

of the Mechanism, and that the Mechanism may at any time decide to request termination of the enforcement of the sentence in the Republic of Mali and transfer the convicted person to another State or the Mechanism;

CONSIDERING that Mr. Dominique Ntawukulilyayo is currently serving his sentence in the Republic of Mali and is therefore in the custody of the relevant Malian authorities;

HAVING CONSIDERED the relevant factors enumerated in the Practice Direction including, *inter alia*, the general conditions of imprisonment and the rules governing security and liberty in the Republic of Benin, and relevant information that the Registrar considered may be of assistance to me in this regard;

PURSUANT TO Article 25 of the Statute of the Mechanism, Rule 127 of the Rules of Procedure and Evidence of the Mechanism, and paragraphs 5 and 7 of the Practice Direction;

HEREBY DECIDE that Mr. Dominique Ntawukulilyayo shall serve the remainder of his sentence in the Republic of Benin;

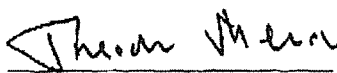
INVITE the Registrar to officially request the Government of the Republic of Benin to enforce the sentence of Mr. Dominique Ntawukulilyayo and, should the Government of the Republic of Benin accede to this request, inform the relevant authorities in the Republic of Mali and Mr. Dominique Ntawukulilyayo thereof, and take all necessary measures to facilitate the transfer of Mr. Dominique Ntawukulilyayo from the Republic of Mali to the Republic of Benin, including by liaising with the relevant authorities of the Republic of Mali for that purpose;

ORDER, pursuant to Article 9 of the Enforcement Agreement with the Republic of Mali, that Mr. Dominique Ntawukulilyayo shall remain in the custody of the relevant authorities in the Republic of Mali while awaiting his transfer to the Republic of Benin, which will be effectuated by the Mechanism as soon as practicable following the issuance of the present Order;

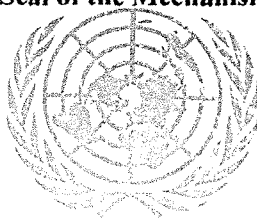
INSTRUCT the Registrar to lift the confidential status of the present Order once Mr. Dominique Ntawukulilyayo's transfer to the Republic of Benin has been completed and **ORDER** that the present Order shall thereupon and henceforth be considered a public filing.

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

Done this 19th day of December 2018
At The Hague,
The Netherlands.


Judge Theodor Meron
President

[Seal of the Mechanism]





I - FILING INFORMATION / INFORMATIONS GÉNÉRALES

To/ À :	IRMCT Registry/ <i>Grefe du MIFRTP</i>		☒ Arusha/ <i>Arusha</i>	☐ The Hague/ <i>La Haye</i>
From/ De :	☒ Chambers/ <i>Chambre</i>	☐ Defence/ <i>Défense</i>	☐ Prosecution/ <i>Bureau du Procureur</i>	☐ Other/ <i>Autre</i> :
Case Name/ Affaire :	Prosecutor v. Dominique Ntawukulilyayo		Case Number/ Affaire n° :	MICT-13-34-ES
Date Created/ Daté du :	19 December 2018	Date transmitted/ Transmis le :	19 December 2018	No. of Pages/ Nombre de pages : 4
Original Language / Langue de l'original :	☒ English/ <i>Anglais</i>	☐ French/ <i>Français</i>	☐ Kinyarwanda ☐ B/C/S	☐ Other/ <i>Autre</i> (specify/préciser) :
Title of Document/ Titre du document :	Order Designating State in which Dominique Ntawukulilyayo is to serve the remainder of his sentence			
Classification Level/ Catégories de classification :	☐ Unclassified/ <i>Non classifié</i>	☐ Ex Parte Defence excluded/ <i>Défense exclue</i>		
	☒ Confidential/ <i>Confidentiel</i>	☐ Ex Parte Prosecution excluded/ <i>Bureau du Procureur exclu</i>		
	☐ Strictly Confidential/ <i>Strictement confidentiel</i>	☐ Ex Parte R86(H) applicant excluded/ <i>Art. 86 H) requérant exclu</i>		
		☐ Ex Parte Amicus Curiae excluded/ <i>Amicus curiae exclu</i>		
		☐ Ex Parte other exclusion/ <i>autre(s) partie(s) exclue(s)</i> (specify/préciser) :		
Document type/ Type de document :				
☐ Motion/ <i>Requête</i>	☐ Judgement/ <i>Jugement/Arrêt</i>	☐ Book of Authorities/ <i>Recueil de sources</i>	☐ Warrant/ <i>Mandat</i>	
☐ Decision/ <i>Décision</i>	☐ Submission from parties/ <i>Écritures déposées par des parties</i>	☐ Affidavit/ <i>Déclaration sous serment</i>	☐ Notice of Appeal/ <i>Acte d'appel</i>	
☒ Order/ <i>Ordonnance</i>	☐ Submission from non-parties/ <i>Écritures déposées par des tiers</i>	☐ Indictment/ <i>Acte d'accusation</i>		

II - TRANSLATION STATUS ON THE FILING DATE/ ÉTAT DE LA TRADUCTION AU JOUR DU DÉPÔT

☐ Translation not required/ <i>La traduction n'est pas requise</i>				
☒ Filing Party hereby submits only the original, and requests the Registry to translate/ <i>La partie déposante ne soumet que l'original et sollicite que le Greffe prenne en charge la traduction :</i> (Word version of the document is attached/ <i>La version Word est jointe</i>)				
☐ English/ <i>Anglais</i>	☒ French/ <i>Français</i>	☒ Kinyarwanda	☐ B/C/S	☐ Other/ <i>Autre</i> (specify/préciser) :
☐ Filing Party hereby submits both the original and the translated version for filing, as follows/ <i>La partie déposante soumet l'original et la version traduite aux fins de dépôt, comme suit :</i>				
Original/ Original en	☐ English/ <i>Anglais</i>	☐ French/ <i>Français</i>	☐ Kinyarwanda ☐ B/C/S	☐ Other/ <i>Autre</i> (specify/préciser) :
Translation/ Traduction en	☐ English/ <i>Anglais</i>	☐ French/ <i>Français</i>	☐ Kinyarwanda ☐ B/C/S	☐ Other/ <i>Autre</i> (specify/préciser) :
☐ Filing Party will be submitting the translated version(s) in due course in the following language(s)/ <i>La partie déposante soumettra la (les) version(s) traduite(s) sous peu, dans la (les) langue(s) suivante(s) :</i>				
☐ English/ <i>Anglais</i>	☐ French/ <i>Français</i>	☐ Kinyarwanda	☐ B/C/S	☐ Other/ <i>Autre</i> (specify/préciser) :