

MICT-12-21
30-04-2019
(331-326)

331
JT

UNITED
NATIONS



International Residual Mechanism for Criminal
Tribunals

Case No: MICT 12-21

Date: 23 April 2019

Original: English

Before: Judge Carmel Agius, President

Registrar: Mr. Olufemi Elias

PROSECUTOR

vs.

LADISLAS NTAGANZWA

PUBLIC

MONITORING REPORT FOR MARCH 2019

Monitor:

Ms. Elsy C. Sainna

Received by the Registry
International Residual Mechanism for Criminal Tribunals
30/04/2019 17:43

Thwaipopo

Table of Contents

INTRODUCTION.....	3
DETAILED REPORT.....	3
Monitoring Mission from 18 th to 21 st March 2019.....	3
High Court hearing 19 th March 2019	3
Meeting with Mr. Ladislav Ntaganzwa held on 19 th March 2019.....	4
Meeting with Defence Counsel Laurent Bugabo held on 21 st March 2019	5
CONCLUSION	6

INTRODUCTION

1. Pursuant to the Terms of Reference for the Monitors, particularly part "C" of Annex II to the MOU between the International Residual Mechanism for Criminal Tribunals ("IRMCT" or "Mechanism") and the Kenya Section of the International Commission of Jurists ("ICJ Kenya"), I respectfully submit this Monitoring Report to the President of the Mechanism through the Registrar.
2. This report pertains to interactions of the Monitor Ms. Elsy Sainna appointed by the Mechanism ("the Monitor") to monitor the proceedings in the case of Mr. Ladislav Ntaganzwa during the month of March 2019 ("the Reporting Period").
3. During the Reporting Period, the Monitor undertook one monitoring mission to Rwanda; from 18th to 21st March 2019. A hearing was scheduled for the 19th March 2019 but it did not proceed. Thereafter, the Monitor held discussions with Mr. Ladislav Ntaganzwa at Mpanga Prison and Defence Counsel Mr. Laurent Bugabo at his Law Chambers in Kigali.
4. A detailed report on the activities during the Reporting Period is provided below.

DETAILED REPORT

Monitoring Mission from 18th to 21st March 2019

High Court hearing 19th March 2019

5. The Monitor attended court but learnt that the hearing had been postponed until further notice. The Bench had informed parties that they would be attending a training course for the entire week.
6. The Monitor spoke with the Registrar of the High Court to express concern at the failure to relay information regarding the postponement of the hearing to the Monitors. The Registrar was apologetic and acknowledged that this was an inadvertent oversight and committed to formally notifying the Monitors in the event future hearing are rescheduled on notice.

Meeting with Mr. Ladislav Ntaganzwa held on 19th March 2019

7. The Monitor met with the Accused at Mpanga Prison. The meeting was held with the assistance of an Interpreter.
8. Mr. Ntaganzwa told the Monitor was also not aware that the hearing had been postponed - Defence Counsel had neither informed the Accused nor had he been to prison to prepare for the hearing.
9. Mr. Ntaganzwa further told the Monitor that he had tried to reach Defence Counsel upon learning that the hearing had been postponed without much success. The Accused maintained that his position that his issue of concern was to ensure he spoke with Defence Counsel before the next hearing.
10. The Monitor informed Mr. Ntaganzwa that she would follow up with Defence Counsel while in Kigali to obtain his explanations regarding the postponed hearing, Defence preparations that included the pending matter of Defence witness list.
11. On the Defence witness list, Mr. Ntaganzwa reiterated his position that he was yet to discuss this with Defence Counsel and remained an outstanding matter between them. To date, the Prosecution had shared with the Accused a list of 31 prosecution witnesses and was currently in the processes of reviewing the witness statements.
12. On the detention conditions, whereas Mr. Ntaganzwa observed that the status quo remained the same and revisited his concern that when the computer was handed over to the prison authorities for security check, a guest account was added when access to internet was disconnected.
13. In his view, Mr. Ntaganzwa suspects that the Prison IT Officer is the one who installed the guest account. He observed that this was a gross violation of his privacy since he is convinced, some of his documents were accessed by the prison authorities. The Monitor assured the Accused that she would be making a follow up on the concern with the Prison Director at a subsequent monitoring mission.

14. The Prison Director had notified the Monitor that he was not going to be available for a meeting on this occasion – he was attending to other official matters away from the Prison premises.

Meeting with Defence Counsel Laurent Bugabo held on 21st March 2019

15. The Monitor met with Defence Counsel Mr. Bugabo at his law chambers in the presence of an Interpreter.
16. The Monitor began by inquiring whether he had received notification on postponement of the hearing that had been scheduled for the 19th March and about the pending discussion between the Accused and Defence Counsel regarding defence witness list. In response, Defence Counsel explained that he had received notification on postponement of the hearing but did not get a chance to relay the information to the Accused. On the defence witness list, Mr. Bugabo explained that his strategy, which he had proposed to the Accused, was that they would first listen to the Prosecution witnesses before submitting the list of Defence witnesses to the court.
17. The Monitor sought clarification on the direction issued by the court which had directed both parties to file their list of witnesses. In compliance, the Prosecution had filed this list but not the Defence. Mr. Bugabo explained that whereas the court had indeed given this direction, the problem for the Defence was that he had not agreed on the list and Defence strategy with the Accused.
18. To further explain his position, Defence Counsel referred to the oral submission in court where he had stated that the Defence would submit its list before the last five prosecution witnesses testified.
19. Mr. Bugabo further explained that his challenge was that from the 31 prosecution witnesses, he had noted that 10 were not credible. He further told the Monitor that from his experience with these type of cases, he was apprehensive about sharing defence witness list at this early stage and preferred to do so at a later during the hearing. Thus, he would do is best to ensure that the defence witnesses were not compromised and for this reason, intended to keep the list of witnesses ‘confidential’

20. The Monitor raised concern expressed by the Accused that he was finding it difficult to either contact Mr. Bugabo on phone or agree on when both Counsels would meet with him in prison in order to prepare for the hearings and agree on defence strategy.
21. In response, Mr. Bugabo acknowledged that this was a persisted contention and attributed it to limited resources that had been allocated for the case which were proving insufficient. He said he had in fact written a letter to the Chief Registrar dated 1st March 2019 where he requested the court for direction on request to enhance the contractual amounts. He explained that the request was informed by court's decision to fast track the hearings which would be held at least twice a month on a priority basis. Mr. Bugabo showed a copy to the Monitor and in the letter, he described the travels to Nyanza court as 'dangerous and costly'
22. To cite an example of the indicative costs of making trips to Nyanza prison, Mr. Bugabo told the Monitor that each return trip costs him 85,000 RWF. In his view, the Prosecution was better resourced and thus he would like the court to make a determination on the matter.
23. In closing, Defence Counsel assured the Monitor that he would pick up the discussions on the issue of Defence witnesses list with the Accused before the next hearing.

CONCLUSION

The Monitor remains available to provide any additional information at the President's direction.

Dated this 23rd March 2019

Respectfully submitted,

//Elsy C. Sainna//

Ms. Elsy Sainna

Monitor for the *Ntaganzwa* case

Nairobi, Kenya.



**TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH THE
MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS/
FICHE DE TRANSMISSION POUR LE DÉPÔT DE DOCUMENTS DEVANT LE
MÉCANISME POUR LES TRIBUNAUX PÉNAUX INTERNATIONAUX**

I - FILING INFORMATION / INFORMATIONS GÉNÉRALES

To/ À :	MICT Registry/ Greffe du MTPI	<input checked="" type="checkbox"/> Arusha/ Arusha	<input type="checkbox"/> The Hague/ La Haye
From/ De :	<input type="checkbox"/> Chambers/ Chambre	<input type="checkbox"/> Defence/ Défense	<input type="checkbox"/> Prosecution/ Bureau du Procureur
			<input checked="" type="checkbox"/> Other/ Autre : Monitor
Case Name/ Affaire :	Prosecutor v. L. Ntangazwa		Case Number/ Affaire n° : MICT-12-21
Date Created/ Daté du :	23-04-2019	Date transmitted/ Transmis le : 23-04-2019	No. of Pages/ Nombre de pages : 6
Original Language / Langue de l'original :	<input checked="" 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) :
Title of Document/ Titre du document :	Monitoring Report for March 2019		
Classification Level/ Catégories de classification :	<input checked="" type="checkbox"/> Unclassified/ Non classifié	<input type="checkbox"/> Ex Parte Defence excluded/ Défense exclue	
	<input type="checkbox"/> Confidential/ Confidentiel	<input type="checkbox"/> Ex Parte Prosecution excluded/ Bureau du Procureur exclu	
	<input type="checkbox"/> Strictly Confidential/ Strictement confidentiel	<input type="checkbox"/> Ex Parte R86(H) applicant excluded/ Art. 86 H) requérant exclu	
		<input type="checkbox"/> Ex Parte Amicus Curiae excluded/ Amicus curiae exclu	
		<input type="checkbox"/> Ex Parte other exclusion/ autre(s) partie(s) exclue(s) (specify/préciser) :	
Document type/ Type de document :	<input type="checkbox"/> Motion/ Requête	<input type="checkbox"/> Submission from parties/ Écritures déposées par des parties	<input type="checkbox"/> Indictment/ Acte d'accusation
	<input type="checkbox"/> Decision/ Décision	<input checked="" type="checkbox"/> Submission from non-parties/ Écritures déposées par des tiers	<input type="checkbox"/> Warrant/ Mandat
	<input type="checkbox"/> Order/ Ordonnance	<input type="checkbox"/> Book of Authorities/ Recueil de sources	<input type="checkbox"/> Notice of Appeal/ Acte d'appel
	<input type="checkbox"/> Judgement/ Jugement/Arrêt	<input type="checkbox"/> Affidavit/ Déclaration sous serment	

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 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	<input type="checkbox"/> 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	<input type="checkbox"/> 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) :	

Send completed transmission sheet to/ Veuillez soumettre cette fiche dûment remplie à :

JudicialFilingsArusha@un.org OR/OU JudicialFilingsHague@un.org

Rev: April 2014/Rév. : Avril 2014

