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Mechanism for International Criminal Tribunals

Date: 18 August 2015

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Before : Mr Theodor Meron, President

Registrar : Mr John Hocking

Wenceslas Munyeshyaka, Case No. MICT-13-45

NINTH MONITORING REPORT

Laetitia Husson

Officer in Charge of the Monitoring Mission in the *Munyeshyaka* Case for the
MICT

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A handwritten signature in black ink, appearing to read "Laetitia Husson", written over a stylized, wavy line.

1. This report is submitted in my capacity as the officer in charge of the monitoring mission for the Mechanism for International Criminal Tribunals ("MICT") in the case of *The Prosecutor v. Wenceslas Munyeshyaka* referred to the French authorities pursuant to Rule 11 *bis* of the Rules of Procedure and Evidence of the International Criminal Tribunal for Rwanda (hereinafter "Rules" and "ICTR"). It covers the period from mid-April to mid-July 2015.

Introduction and background

2. The ICTR Prosecutor brought an Indictment against Mr Munyeshyaka on charges of genocide and rape, extermination and murder as crimes against humanity committed in Rwanda in 1994. The Indictment was confirmed by a judge of the ICTR on 22 July 2005.¹ On 12 June 2007, the ICTR Prosecutor filed a request for referral of the indictment before the French courts, pursuant to Rule 11 *bis* of the Rules of the ICTR.²

3. On 20 November 2007, the Trial Chamber designated under Rule 11 *bis* of the Rules of the ICTR determined that the requirements for referral were met and accordingly ordered that the case of *The Prosecutor v. Wenceslas Munyeshyaka* be referred to the French authorities so that they might immediately assign the case to the appropriate national court.³

4. Mr Munyeshyaka was already under judicial investigation in France following his indictment by a French investigating judge after a complaint with civil party petition was filed in 1995. At the request of the Prosecutor's Office, the case referred by the ICTR was joined to the judicial investigation opened in France in 1995. Consequently, the *Munyeshyaka* case is now the subject of a single criminal investigation in France. Since September 2007, Mr Munyeshyaka has been released under court supervision.

Monitoring Mission

5. I conducted an initial monitoring mission in the *Munyeshyaka* case in June and July 2013, and a second mission in September and October 2013. The six subsequent monitoring missions were conducted in January 2014, April 2014, July 2014, October 2014, January 2015 and April and May 2015. The reports on these eight missions were submitted to the President of the MICT through the Registrar on 12 July 2013, 1 November 2013, 24 January 2014, 24 April 2014, 25 July 2014, 21 October 2014, 9 February 2015, and 27 May 2015, respectively, and made public by the latter on the

¹ *The Prosecutor v. Wenceslas Munyeshyaka*, Case No. ICTR-2005-87-I, "Decision on Confirmation of an Indictment against Wenceslas Munyeshyaka", 22 July 2005 (unsealed on 20 June 2007); *The Prosecutor v. Wenceslas Munyeshyaka*, Case No. ICTR-2005-87-I, Indictment, 20 July 2005 (unsealed on 20 June 2007).

² The Prosecutor amended this request on 19 and 27 June 2007. See *The Prosecutor v. Wenceslas Munyeshyaka*, Case No. ICTR-2005-87-I, "Prosecutor's Request for the Referral of Wenceslas Munyeshyaka's Indictment to France Pursuant to Rule 11 *bis* of the Tribunal's Rules of Procedure and Evidence of 12 June 2007", confidential, 27 June 2007.

³ *The Prosecutor v. Wenceslas Munyeshyaka*, Case No. ICTR-2005-87-I, "Decision on the Prosecutor's Request for referral of Wenceslas Munyeshyaka's Indictment to France", 20 November 2007.

MICT website on 15 July 2013, 7 November 2013, 28 January 2014, 28 April 2014, 5 August 2014, 30 October 2014, 16 March 2015 and 28 May 2015, respectively.⁴

6. In the course of this ninth monitoring mission, I spoke by telephone on 23 July 2015 with Mr Nicolas Peron, Deputy Prosecutor at the Unit for Crimes against Humanity and War Crimes of the Paris *Tribunal de Grande Instance*.

7. Mr Peron confirmed that the investigation file had been handed over to the Prosecutor's Office by the investigating judges seized of the case in an order of 26 March 2015, and that all the parties were informed. He pointed out that the Prosecution's Office was in the process of completing their reasoned final submissions, scheduled to be presented in August, that one of the civil parties had sent a written submission to the investigating judges, and that supporting exhibits were tendered into evidence by Mr Munyeshyaka's Defence.

8. Under the provisions of the French Code of Criminal Procedure, the Defence for Mr Munyeshyaka and the civil parties have one month, running from the date of the submission of their final submissions, to file any additional observations with the investigating judges. Mr Peron explained that it would then be for the investigating judges to issue a closing order and decide whether to dismiss, in whole or in part, the referral to the *Cour d'Assises*. He pointed out that Mr Munyeshyaka, the Prosecutor's Office or the civil parties could file an appeal against the closing order expected for autumn 2015.

9. Attorney Jean-Yves Dupeux, Attorney Florence Bourg and Attorney Thierry Massis, the legal representatives of Mr Munyeshyaka, did not have any remarks or concerns on the progress of the case or the respect of their client's rights to bring to the attention of the MICT.

10. The legal representatives of the Human Rights League (LDH), of the International Federation for Human Rights (FIDH), of the association *Survie*, and of the International League against Racism and Anti-Semitism (LICRA) informed me that they did not have any remarks. Representatives of the Collective of Civil Plaintiffs for Rwanda (CPCR) and the representatives of other civil parties in this case have not communicated any remarks to me either.

Done on 18 August 2015
The Hague (Netherlands)

⁴ *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Initial Monitoring Report on the *Munyeshyaka* Case, dated 12 July 2013, filed on 15 July 2013; *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Second Monitoring Report, dated 5 November 2013, filed on 7 November 2013; *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Third Monitoring Report, dated 24 January 2014, filed on 28 January 2014, *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Fourth Monitoring Report, dated 24 April 2014, filed on 28 April 2014, *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Fifth Monitoring Report, dated 25 July 2014, filed on 5 August 2014; *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Sixth Monitoring Report, dated 21 October 2014, filed on 30 October 2014; *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Seventh Monitoring Report, dated 9 February 2015, filed on 16 March 2015; *Wenceslas Munyeshyaka*, Case No. MICT-13-45, Eighth Monitoring Report, dated 27 May 2015, filed on 28 May 2015.

/signed/

Laetitia Husson

Officer in Charge of the Monitoring Mission in
the *Munyeshyaka* Case



TRANSMISSION SHEET FOR FILING OF TRANSLATIONS
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