

MICT-12-09-AR14

27-03-2014

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UNITED NATIONS
NATIONS UNIES

**Mechanism for International Criminal Tribunals
Mécanisme pour les Tribunaux Pénaux Internationaux**

THE OFFICE OF THE PRESIDENT

Before: Judge Theodor Meron, President

Registrar: John Hocking

Date Filed: 26 March 2014

THE PROSECUTOR

v.

PHÉNÉAS MUNYARUGARAMA

Case No. MICT-12-09

**PROSECUTOR'S REQUEST FOR A WARRANT OF ARREST AND
AN ORDER FOR TRANSFER**

Office of the Prosecutor

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PROSECUTOR'S REQUEST FOR A WARRANT OF ARREST AND AN ORDER FOR TRANSFER

BACKGROUND

1. The initial Indictment against **PHÉNÉAS MUNYARUGARAMA** (the Accused) was confirmed on 04 March 2002 by Judge William H Sekule of the International Criminal Tribunal for Rwanda (ICTR) ¹ and a Warrant of Arrest and Orders for Transfer and Detention and for Search and Seizure issued in consequence thereof on the same day.² The Amended Indictment against the Accused was confirmed on 13 June 2012.³

2. On 28 June 2012, a referral Chamber designated by the President ordered the referral of the indictment of **PHÉNÉAS MUNYARUGARAMA** to Rwanda pursuant to Rule 11bis of the ICTR Rules of Procedure and Evidence.⁴ Consequent to the above mentioned referral order, a Warrant of Arrest and Order for Transfer addressed to all Member States of the United Nations was issued on 28 June 2012 by Judge Vagn Joensen of the International Criminal Tribunal for Rwanda.⁵

PROSECUTOR'S REQUEST

3. Having regard to Articles 1(1) and (2) of the MICT's Statute and Rule 57 of the MICT's Rules of Procedure and Evidence, the Prosecutor now requests the President to substitute the Warrant of Arrest and Order for Transfer dated 28 June 2012, issued by the ICTR, with one issued by the MICT, directing all States to arrest and transfer the Accused to the custody of the Rwandan authorities.

¹ *The Prosecutor v Phénéas Munyarugarama*, Case No. ICTR-2002-79-I, Decision on the Prosecutor's *ex parte* motion for review and confirmation of the Indictment and other related orders, 04 March 2002.

² *The Prosecutor v Phénéas Munyarugarama*, Case No. ICTR-2002-79-I, Warrant of Arrest and Orders for Transfer and Detention and for Search and Seizure, 04 March 2002.

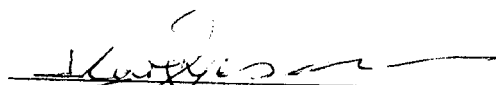
³ *The Prosecutor v Phénéas Munyarugarama*, Case No. ICTR-2002-79-I, Ex Parte and Under Seal Amended Indictment, 13 June 2012.

⁴ *The Prosecutor v Phénéas Munyarugarama*, Case No. ICTR-02-79-R11bis Decision on the Prosecutor's Request for Referral of the Case to the Republic of Rwanda, 28 June 2012; confirmed on appeal *Phénéas Munyarugarama v The Prosecutor*, Case No MICT-12-09-AR14, Decision on Appeal against the Referral of Phénéas Munyarugarama's Case to Rwanda and Prosecution Motion to Strike, 5 October 2012.

⁵ *The Prosecutor v Phénéas Munyarugarama*, Case No. ICTR-2002-79-I, Warrant of Arrest and Order for Transfer, 28 June 2012.

4. In this regard the Prosecutor seeks the following orders:
- a) An **ORDER** for the search and seizure of all or any physical evidence related to **PHÉNÉAS MUNYARUGARAMA** and an **ORDER** for the transfer of all said evidence to the National Public Prosecution Authority of the Republic of Rwanda;
 - b) An **ORDER** for the search and warrant for the arrest and transfer of **PHÉNÉAS MUNYARUGARAMA** to the custody of the Rwandan authorities; and
 - c) Such other **ORDER(S)** as the President may deem just in the interest of justice.

Dated this 26th day of March 2014, at Arusha, Tanzania.


Richard Karegyesa
Senior Legal Officer, OTP, MICT

DRAFT ORDER

SITTING as Judge Theodor Meron, President of the Mechanism for International Criminal Tribunals (MICT);

BEING SEIZED of the Prosecutor's Request for a Warrant of Arrest and an Order for Transfer of **PHÉNÉAS MUNYARUGARAMA** (the Accused) filed on [DATE] [xxx] 2014;

CONSIDERING the Amended Indictment against **PHÉNÉAS MUNYARUGARAMA** confirmed on 13 June 2012;

CONSIDERING the Warrant of Arrest and Order for Transfer of **PHÉNÉAS MUNYARUGARAMA** dated 28 June 2012, which is currently in force;

CONSIDERING United Nations Security Council Resolution 1966 (2010) regarding the cooperation of States with the MICT;

CONSIDERING Article 28 of the MICT Statute and Rule 57 of the MICT Rules of Procedure and Evidence;

NOTING the need to vacate the Warrant of Arrest and Order for Transfer dated 28 June 2012 requesting transfer of **PHÉNÉAS MUNYARUGARAMA** to the custody of the Rwandan authorities, issued by the ICTR with a request for the arrest and transfer of the Accused to the custody of the Rwandan authorities, issued by the MICT, I:

1. **HEREBY RESPECTFULLY REQUEST** all States that are members of the United Nations to:

(a) **ARREST** and **TRANSFER** to the custody of the National Public Prosecution Authority of the Republic of Rwanda:

PHÉNÉAS MUNYARUGARAMA

A Rwandan citizen believed to have been born on 1 January 1948, in Kidaho *commune*, Ruhengeri *prefecture*, Rwanda, who is accused of having committed during 1994 in Rwanda the following crimes: genocide; complicity in genocide; direct and public incitement to commit genocide; and crimes against humanity (murder, extermination, persecution and rape).

(b) **SERVE** on the Accused at the time of his arrest or as soon as practicable immediately following arrest, in a language he understands, a certified

copy of this warrant of arrest, accompanied by a copy of the indictment certified in accordance with Rule 48(G) and a statement of the rights of the accused set forth in Article 19 of the Statute and in Rules 40 and 41;

- (c) **INFORM** the Accused at the time of his arrest or as soon as practicable immediately following arrest, in a language he understands, that he is being transferred to the custody of the Rwandan authorities.
 - (d) **SEEK AN ACKNOWLEDGEMENT** of receipt from **PHÉNÉAS MUNYARUGARAMA** of a copy of the warrant of arrest, the indictment and the statement of rights in a language he understands, and return one set of documents together with proof of service to the National Public Prosecution Authority of the Republic of Rwanda;
 - (e) **SEARCH AND SEIZE** all physical evidence related to the crimes alleged against **PHÉNÉAS MUNYARUGARAMA**;
 - (f) **CREATE** an itemized inventory of all seized materials, including documents, books, papers or any other objects, that is properly witnessed and is acknowledged by the Accused;
 - (g) **TRANSFER** all seized evidence and the inventory to the National Public Prosecution Authority of the Republic of Rwanda;
 - (h) **NOTIFY** the Registrar of the MICT and the Prosecutor-General of the National Public Prosecution Authority of the Republic of Rwanda of the arrest of the Accused for the purposes of arranging his transfer to the custody of the National Public Prosecution Authority without delay;
 - (i) **REPORT** forthwith to the Registrar of the MICT and the National Public Prosecution Authority of the Republic of Rwanda if unable to execute this Warrant or Order for Transfer, indicating the reasons for the inability to do so; and
 - (j) **MAKE INQUIRIES** to discover whether the Accused has assets located within the territory of the Member State and if so, to adopt provisional measures to freeze such assets, without prejudice to the rights of third parties.
2. **HEREBY VACATE** the Warrant of Arrest and Order for the Transfer of **PHÉNÉAS MUNYARUGARAMA** dated 28 June 2012.

Dated this [] day of [MONTH] 2014 at Arusha, Tanzania.

President/Judge



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Case Name/ Affaire:	Prosecutor v. Pheneas Munyarugarama	Case Number/ Affaire No:	MICT-12-09
Date Created/ Daté du:	26 March 2014	Date transmitted/ Transmis le:	27 March 2014
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