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Case No:

MICT-18-116



International Residual Mechanism for Criminal Tribunals

Date:

5 September 2018

Original:

English

BEFORE THE DUTY JUDGE

Before:

Judge Vagn Joensen

Registrar:

Mr. Olufemi Elias

THE PROSECUTOR

V.

MAXIMILIEN TURINABO ANSELME NZABONIMPA JEAN DE DIEU NDAGIJIMANA MARIE ROSE FATUMA DICK PRUDENCE MUNYESHULI

PUBLIC

NOTICE OF FILING PUBLIC REDACTED VERSION OF THE INDICTMENT

The Office of the Prosecutor:

Mr. Mathias Marcussen

The Accused:

Mr. Maximilien Turinabo

Mr. Anselme Nzabonimpa

Mr. Jean de Dieu Ndagijimana

Ms. Marie Rose Fatuma

Mr. Dick Prudence Munyeshuli

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International Residual Mechanism for Criminal Tribunals
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1. Pursuant to the Order of the Duty Judge of the Mechanism¹ dated 5 September 2018,² granting the Prosecution's Motion³ to vary the confirming Judge's non-disclosure order of 24 August 2018,⁴ the Prosecution hereby files a public redacted version of the Indictment as indicated in Annex A of its Motion.⁵

Word Count: 216

Mathias Marcussen Senior Legal Officer

Dated this 5th day of September 2018 The Hague, The Netherlands

International Residual Mechanism for Criminal Tribunals ("Mechanism").

² Prosecutor v. Maximilien Turinabo et al., Case No. MICT-18-116, Decision on a Request for a Variation of Non-Disclosure Order and for a Public Redacted Version of an Indictment, 5 September 2018 ("Decision").

³ Prosecutor v. Maximilien Turinabo et al., Case No. MICT-18-116, Prosecution's Urgent Request for Variation of Non-Disclosure Order and for Public Redacted Version of Indictment (strictly confidential and ex parte with strictly confidential and ex parte Annex A), filed on 3 September 2018 and distributed on 4 September 2018 ("Motion").

⁴ Prosecutor v. Maximilien Turinabo et al., Case No. MICT-18-116, Order on Confirmation of Indictment, 24 August 2018 (strictly confidential and ex parte).

See Decision, p.2 (finding "that the proposed redactions to the Indictment, as set out in Annex A of the Motion, remove information that is subject to protective measures and confidentiality orders that remain in place", and ordering "the Prosecution to file a public redacted version of the Indictment, as set out in Annex A of the Motion").

THE INTERNATIONAL RESIDUAL MECHANISM FOR CRIMINAL TRIBUNALS

CASE NO.:

THE PROSECUTOR

AGAINST

MAXIMILIEN TURINABO ANSELME NZABONIMPA JEAN DE DIEU NDAGIJIMANA MARIE ROSE FATUMA DICK PRUDENCE MUNYESHULI

[PUBLIC REDACTED VERSION]

INDICTMENT

The Prosecutor of the International Residual Mechanism for Criminal Tribunals ("Mechanism"), pursuant to his authority stipulated in Articles 1(4)(a), 14(1) and 16(4) of the Statute of the Mechanism ("Statute") and Rule 90 of the Rules of Procedure and Evidence of the Mechanism ("Rules") charges:

MAXIMILIEN TURINABO

ANSELME NZABONIMPA

JEAN DE DIEU NDAGLJIMANA

MARIE ROSE FATUMA

DICK PRUDENCE MUNYESHULI

with CONTEMPT and INCITEMENT TO COMMIT CONTEMPT OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA AND THE MECHANISM as set forth below:

THE ACCUSED

1. **Maximilien TURINABO** was born on 11 July 1952 in Rurembo Cell, Rubona Sector, Nyamyumba Commune, Gisenyi Prefecture, Rwanda. At different stages during the *Prosecutor v. Augustin Ngirabatware* case ("*Ngirabatware* case") before

5 June 2018

the International Criminal Tribunal for Rwanda ("ICTR") (Case No. ICTR-99-54), **Maximilien TURINABO** worked as a Defence contact person in the Gisenyi area, where he continues to reside.

- 2. Anselme NZABONIMPA was born on 28 July 1954. Before mid-1994, he was *bourgemestre* of Kayove Commune, Gisenyi Prefecture, Rwanda. He is now a businessman residing in Gisenyi, Rubavu District, Western Province, Rwanda.
- 3. **Jean de Dieu NDAGIJIMANA** was born on 15 July 1963 in Bugasha Cell, Rubona Sector, Nyamyumba Commune, Gisenyi Prefecture, Rwanda. Before mid-1994, he was a teacher and school administrator in the Gisenyi area, including at Kiloji and Bwitereke schools. He resides in the Gisenyi area.
- 4. Marie Rose FATUMA was born on 28 September 1970 in Bugasha Cell, Rubona Sector, Nyamyumba Commune, Gisenyi Prefecture, Rwanda. She is the widow of Augustin NGIRABATWARE's half-brother Édouard BYUKUSENGE, also known as "Cenge", and resides in Busheke Cell, Rushubi Sector, Rubavu District, Western Province, Rwanda.
- 5. **Dick Prudence MUNYESHULI** was born on 22 March 1970 in Ruhondo, Rwanda. He served as a defence investigator on a number of cases before the ICTR and the Mechanism. From approximately August 2015 until January 2018, **Dick Prudence MUNYESHULI** was an investigator on the Defence team of Augustin NGIRABATWARE.

BACKGROUND

- 6. On 20 December 2012, ICTR Trial Chamber II convicted Augustin NGIRABATWARE of genocide, direct and public incitement to commit genocide and rape as a crime against humanity.
- 7. On 18 December 2014, the Mechanism Appeals Chamber upheld Augustin NGIRABATWARE's convictions for genocide and direct and public incitement to commit genocide and sentenced him to 30 years of imprisonment.
- 8. On 8 July 2016, Augustin NGIRABATWARE filed a Motion for Review of [REDACTED] Augustin NGIRABATWARE's convictions.

- 9. ICTR Trial Chamber II ordered protective measures for [REDACTED] (collectively "Protected Witnesses") in the *Ngirabatware* case [REDACTED]. The Mechanism Appeals Chamber [REDACTED] protective measures [REDACTED] in the *Ngirabatware* review proceedings.
- 10. On 7 November 2016 and 9 August 2017, Prosecution witness [REDACTED] informed Registry officials that [REDACTED] had been approached and offered money to [REDACTED].
 - 11. On 30 November 2017, Augustin NGIRABATWARE's then Defence counsel sought withdrawal from the case [REDACTED].

GENERAL ALLEGATIONS

- 12. The *Ngirabatware* trial was marked by allegations of interference with Prosecution witnesses by supporters and relatives of Augustin NGIRABATWARE. Following Augustin NGIRABATWARE's final conviction on appeal, this pattern of witness interference resurfaced in a concerted effort to secure Augustin NGIRABATWARE's acquittal at the review stage [REDACTED].
- 13. To this end, Maximilien TURINABO, Anselme NZABONIMPA, Jean de Dieu NDAGIJIMANA and Marie Rose FATUMA contacted the Protected Witnesses directly and/or used others known to them ("Intermediaries") to contact and influence the Protected Witnesses: *inter alia* Laurent MANIRAGUHA was used to contact [REDACTED]; Valentine MUKAMISHA was used to contact [REDACTED]; Vedaste MBARIMO was used to contact [REDACTED]; Vincent TWAGIRAYEZU was used to [REDACTED], and [REDACTED] were used to contact [REDACTED]. The Accused, Intermediaries and Protected Witnesses were in contact at key times leading up to the initiation of review proceedings in the *Ngirabatware* case and thereafter, including around:
 - 15 August 2015, when in Kampala, Uganda, Laurent MANIRAGUHA informed Augustin NGIRABATWARE's then Defence counsel that [REDACTED] against Augustin NGIRABATWARE.
- 24 November 2015, when Laurent MANIRAGUHA, Jean de Dieu
 NDAGIJIMANA, Vedaste MBARIMO and Vincent TWAGIRAYEZU each
 [Public Redacted Version]
 3 5 June 2018

- met with then Defence counsel and informed him, respectively, that [REDACTED] at the Ngirabatware trial.
- 27 January 2016, when [REDACTED], met with Maximilien TURINABO,
 Anselme NZABONIMPA, Jean de Dieu NDAGIJIMANA and/or Laurent
 MANIRAGUHA and signed prepared letters [REDACTED].
- The two-week period in February 2016 when [REDACTED], dated in October and November 2015, were all dispatched through DHL in Kigali by persons other than the Protected Witnesses.

INDIVIDUAL CRIMINAL RESPONSIBILITY

By their conduct described below,

- 14. Maximilien TURINABO, Anselme NZABONIMPA, Jean de Dieu NDAGIJIMANA and Marie Rose FATUMA are individually criminal responsible pursuant to Article 1(4)(a) of the Statute and Rule 90(A)(iv) of the Rules for committing contempt of the ICTR and the Mechanism as alleged in Count 1. By using the word "committing" in Count 1, the Prosecutor does not only mean that the Accused physically committed any of the crimes charged personally; commission also refers to their participation in a joint criminal enterprise.
- 15. Additionally or alternatively, Maximilien TURINABO, Anselme NZABONIMPA, Jean de Dieu NDAGIJIMANA, and Marie Rose FATUMA are individually criminal responsible pursuant to Article 1(4)(a) of the Statute and Rule 90(A)(iv) and 90(B) of the Rules for inciting others to commit the crimes as alleged in Count 2.
- 16. Additionally, **Dick Prudence MUNYESHULI** and **Maximilien TURINABO** are individually criminal responsible pursuant to Article 1(4)(a) of the Statute and Rule 90(A)(ii) and/or (iii) of the Rules for committing contempt of the ICTR and the Mechanism by disclosing protected information regarding the Protected Witnesses, and **Dick Prudence MUNYESHULI** for having prohibited indirect contact with the Protected Witnesses in knowing violation of a court order as alleged in Count 3.

Contempt: Witness Interference (Count 1)

Joint Criminal Enterprise

17. From at least August 2015 through September 2017, Maximilien TURINABO, Anselme NZABONIMPA, Jean de Dieu NDAGIJIMANA and Marie Rose FATUMA shared the intent for and participated in a joint criminal enterprise which sought to overturn Augustin NGIRABATWARE's final conviction by interfering with the administration of justice through the commission of crimes detailed in Count 1 below.

- 18. Other members of this joint criminal enterprise included Augustin NGIRABATWARE's family members and supporters, including Laurent MANIRAGUHA, Valentine MUKAMISHA, Vedaste MBARIMO and Vincent TWAGIRAYEZU. Alternatively, some or all of these individuals were not members of the joint criminal enterprise, but were used by Maximilien TURINABO, Anselme NZABONIMPA, Jean de Dieu NDAGIJIMANA and Marie Rose FATUMA to carry out the crimes in furtherance of the common purpose.
- 19. Maximilien TURINABO, Anselme NZABONIMPA, Jean de Dieu NDAGIJIMANA and Marie Rose FATUMA shared the intent for the crimes perpetrated in furtherance of the common purpose of the joint criminal enterprise.
- 20. By organising, planning or otherwise participating in the acts alleged in paragraphs 21-25 below, Maximilien TURINABO, Anselme NZABONIMPA, Jean de Dieu NDAGIJIMANA and Marie Rose FATUMA significantly contributed to the common plan to interfere with the administration of justice.
- 21. From at least August 2015 through September 2017, Maximilien TURINABO, Anselme NZABONIMPA, Jean de Dieu NDAGIJIMANA and Marie Rose FATUMA carried out the following acts directly and/or through others to influence the Protected Witnesses [REDACTED]:
 - (i) From August 2015, when Laurent MANIRAGUHA met NGIRABATWARE's then Defence counsel in Kampala, Uganda, Maximilien TURINABO, Anselme NZABONIMPA and Jean de Dieu NDAGLJIMANA with or through Laurent MANIRAGUHA continually pressured [REDACTED].
 - (ii) On or about 27 January 2016 at Mahoko Market, near Gisenyi, Rwanda, Maximilien TURINABO, Anselme NZABONIMPA and/or Jean de Dieu NDAGIJIMANA with or through Laurent MANIRAGUHA pressured [REDACTED].
 - (iii) Between approximately September 2016 and August 2017, Marie Rose FATUMA made repeated efforts, [REDACTED] and testify for the Defence.

- 22. Between 15 July 2017 and 2 August 2017, Maximilien TURINABO, Anselme NZABONIMPA and Jean de Dieu NDAGIJIMANA directed the Protected Witnesses and Intermediaries regarding what they should say and do if they were requested to meet with the Prosecution, including:
 - (i) Maximilien TURINABO directed Vedaste MBARIMO, Vincent TWAGIRAYEZU, Laurent MANIRAGUHA, [REDACTED] directly and/or through Vincent TWAGIRAYEZU, and/or he directed [REDACTED] through Laurent MANIRAGUHA; and
 - (ii) Jean de Dieu NDAGIJIMANA directed Valentine MUKAMISHA, Laurent MANIRAGUHA, [REDACTED] directly and/or through Laurent MANIRAGUHA.
- 23. From 28 July 2017 through September 2017, Maximilien TURINABO, Anselme NZABONIMPA, Jean de Dieu NDAGIJIMANA and Marie Rose FATUMA instructed the Protected Witnesses regarding what information to provide during investigative interviews and/or what testimony to give at the review hearing, including through the following acts:
 - (i) Maximilien TURINABO and Jean de Dieu NDAGIJIMANA provided instructions [REDACTED] directly and/or through Laurent MANIRAGUHA regarding what to say about [REDACTED];
 - (ii) Maximilien TURINABO and Anselme NZABONIMPA provided instructions to [REDACTED] regarding what to say about [REDACTED]; and
 - (iii) Marie Rose FATUMA provided instructions to [REDACTED] regarding how [REDACTED] should answer questions that she would be asked by the Defence and at the review hearing.
- 24. From 29 July 2017 through September 2017, **Maximilien TURINABO**, **Anselme NZABONIMPA** and **Jean de Dieu NDAGIJIMANA** took steps to procure false evidence from Laurent MANIRAGUHA, Vincent TWAGIRAYEZU and/or Valentine MUKAMISHA corroborating [REDACTED], including:

- (i) Maximilien TURINABO and Jean de Dieu NDAGIJIMANA instructing Valentine MUKAMISHA and/or Laurent MANIRAGUHA; and
- (ii) Jean de Dieu NDAGIJIMANA instructing Vincent TWAGIRAYEZU about the evidence they should give.
- 25. From approximately September 2016 through September 2017, Maximilien TURINABO, Anselme NZABONIMPA, Jean de Dieu NDAGIJIMANA and Marie Rose FATUMA offered bribes, directly and/or through others, to the Protected Witnesses and Intermediaries, including:
 - (i) Between September and November 2016, Marie Rose FATUMA offered [REDACTED], in exchange for [REDACTED] accepting to [REDACTED]; and
 - (ii) On 1 August 2017, **Maximilien TURINABO** and **Anselme NZABONIMPA** offered bribes to Laurent MANIRAGUHA and [REDACTED] in exchange for their cooperation with the NGIRABATWARE Defence and to influence their prospective evidence.

Physical commission

26. In the alternative to their commission of contempt through a joint criminal enterprise Maximilien TURINABO, Anselme NZABONIMPA, Jean de Dieu NDAGIJIMANA and Marie Rose FATUMA are individually criminal responsible for knowingly and wilfully committing contempt as follows, individually and/or through the use of the Intermediaries:

Maximilien TURINABO committed contempt directly and through Laurent MANIRAGUHA, Valentine MUKAMISHA, Vedaste MBARIMO and/or Vincent TWAGIRAYEZU as alleged in paragraphs 21-25.

Anselme NZABONIMPA committed contempt directly and through Laurent MANIRAGUHA, Valentine MUKAMISHA, Vedaste MBARIMO and/or Vincent TWAGIRAYEZU as alleged in paragraphs 21, 23 and 25.

Jean de Dieu NDAGIJIMANA committed contempt directly and through Laurent MANIRAGUHA, Valentine MUKAMISHA, Vedaste MBARIMO and/or Vincent TWAGIRAYEZU as alleged in paragraphs 21-24.

Marie Rose FATUMA committed contempt directly and through [REDACTED] as alleged in paragraphs 21, 23 and 25.

<u>Incitement to Commit Contempt: Witness Interference (Count 2)</u>

27. In addition or in the alternative to their commission of the crimes alleged in Count 1, Maximilien TURINABO, Anselme NZABONIMPA, Jean de Dieu NDAGIJIMANA, and Marie Rose FATUMA are individually criminal responsible pursuant to Article 1(4)(a) of the Statute and Rule 90(A)(iv) and 90(B) of the Rules for inciting others, including Laurent MANIRAGUHA, Valentine MUKAMISHA, Vedaste MBARIMO, Vincent TWAGIRAYEZU and/or [REDACTED], to commit contempt as follows:

Maximilien TURINABO incited Laurent MANIRAGUHA, Valentine MUKAMISHA, Vedaste MBARIMO and/or Vincent TWAGIRAYEZU to commit contempt as alleged in paragraphs 21-25.

Anselme NZABONIMPA incited Laurent MANIRAGUHA, Valentine MUKAMISHA, Vedaste MBARIMO and/or Vincent TWAGIRAYEZU to commit contempt as alleged in paragraphs 21, 23 and 25.

Jean de Dieu NDAGIJIMANA incited Laurent MANIRAGUHA, Valentine MUKAMISHA, Vedaste MBARIMO and/or Vincent TWAGIRAYEZU to commit contempt as alleged in paragraphs 21-24.

Marie Rose FATUMA incited [REDACTED] to commit contempt as alleged in paragraphs 21, 23 and 25.

Contempt: Knowing Violation of and failure to comply with Court Orders (Count 3)

- 28. **Dick Prudence MUNYESHULI** and **Maximilien TURINABO** are individually criminally responsible pursuant to Article 1(4)(a) of the Statute and Rule 90(A)(ii) and/or (iii) of the Rules for committing contempt.
- 29. On 15 July 2017, **Dick Prudence MUNYESHULI**, in knowing violation of the protective measures ordered by the Trial and Appeals Chambers [REDACTED], revealed to **Maximilien TURINABO** the identities of protected witnesses [REDACTED].
- 30. On 15 July 2017, **Maximilien TURINABO**, in knowing violation of the protective measures ordered by the Trial and Appeals Chambers [REDACTED], disclosed to **Jean de Dieu NDAGIJIMANA** the identities of protected witnesses the Prosecution wished to interview, including the identities of [REDACTED].
- 31. From at least 15 July 2017 to the second half of August 2017, **Dick Prudence MUNYESHULI** repeatedly had prohibited indirect contact with the Protected Witnesses through **Maximilien TURINABO** in knowing violation of protective measures ordered by the Trial and Appeals Chambers [REDACTED].

CHARGES

By their conduct set out above, the Accused are responsible for the following crimes:

COUNT 1

CONTEMPT OF THE ICTR AND THE MECHANISM

Maximilien TURINABO, Anselme NZABONIMPA, Jean de Dieu NDAGIJIMANA and Marie Rose FATUMA are criminally responsible for committing CONTEMPT, as alleged in paragraphs 21-26, by interfering with

- protected witnesses [REDACTED]; and
- Laurent MANIRAGUHA, Valentine MUKAMISHA, Vedaste MBARIMO and/or Vincent TWAGIRAYEZU,

punishable under Article 1(4)(a) of the Statute and Rule 90(A)(iv) of the Rules.

COUNT 2

INCITEMENT TO COMMIT CONTEMPT OF THE ICTR AND THE MECHANISM

Additionally or alternatively, Maximilien TURINABO, Anselme NZABONIMPA, Jean de Dieu NDAGIJIMANA and Marie Rose FATUMA are criminally responsible for INCITEMENT TO COMMIT CONTEMPT, as alleged in paragraphs 21-25 and 27, for inciting others, including Laurent MANIRAGUHA, Valentine MUKAMISHA, Vedaste MBARIMO, Vincent TWAGIRAYEZU and/or [REDACTED], to interfere with [REDACTED], punishable under Article 1(4)(a) of the Statute and Rule 90(A)(iv) and (B) of the Rules.

COUNT 3

CONTEMPT OF THE ICTR AND THE MECHANISM

Dick Prudence MUNYESHULI and Maximilien TURINABO are criminally responsible for CONTEMPT, as alleged in paragraphs 28-31, for knowingly disclosing the identities of protected witnesses [REDACTED], and Dick Prudence MUNYESHULI is criminally responsible for having prohibited indirect contacts with them, in knowing violation of a court order punishable under Article 1(4)(a) of the Statute and Rule 90(A)(ii) and/or (iii) of the Rules.

Serge Brammertz Prosecutor

Dated this 5th day of June 2018 Arusha, Tanzania

UNITED NATIONS International Residual Mechanism for Criminal Tribunals



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