

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-12-14

Date: 19 March 2024

Original: English

BEFORE A SINGLE JUDGE

Before: Judge Prisca Matimba Nyambe

Registrar: Mr. Abubacarr M. Tambadou

Decision of: 19 March 2024

PROSECUTOR

v.

ALOYS NDIMBATI

PUBLIC

DECISION ON MOTION TO TERMINATE PROCEEDINGS

The Office of the Prosecutor

Mr. Serge Brammertz

Government of the Republic of Rwanda

I, PRISCA MATIMBA NYAMBE, Judge of the International Residual Mechanism for Criminal Tribunals (“Mechanism”) and Single Judge in this case;¹

RECALLING the initial indictment against Mr. Aloys Ndimbati (“Ndimbati”), confirmed by a Judge of the International Criminal Tribunal for Rwanda (“ICTR”) on 28 November 1995,² and the operative indictment against Ndimbati, confirmed by a Judge of the ICTR on 8 May 2012,³ charging him with genocide, complicity in genocide, direct and public incitement to commit genocide, as well as extermination, murder, rape, and persecution as crimes against humanity committed in the Republic of Rwanda (“Rwanda”) between April and July 1994;⁴

RECALLING that, on 25 June 2012, pursuant to Rule 11*bis* of the Rules of Procedure and Evidence of the ICTR, a Chamber of the ICTR ordered that the proceedings concerning Ndimbati be referred to the authorities of Rwanda⁵ and that, on 7 May 2014, a Single Judge of the Mechanism vacated the previous ICTR warrant of arrest and order for transfer of Ndimbati and issued a new warrant of arrest and an order for his transfer to Rwanda;⁶

BEING SEISED OF a motion filed by the Office of the Prosecutor of the Mechanism (“Prosecution”) on 15 February 2024, seeking a judicial order terminating the proceedings in the present case before the Mechanism on account of Ndimbati’s death;⁷

NOTING the Prosecution’s submission that its investigation provides sufficient information – as further set out in confidential Annex A to the Motion and “corroborated by an independent investigation conducted by the National Public Prosecution Authority of Rwanda” – to establish that Ndimbati is deceased;⁸

¹ Order Assigning a Single Judge to Consider a Motion, 23 February 2024, p. 1.

² See *The Prosecutor v. Clement Kayishema et al.*, Case No. ICTR-95-1-I, Decision of the Review of the Indictment, 28 November 1995; *The Prosecutor v. Clement Kayishema et al.*, Case No. ICTR-95-1-I, Indictment, 22 November 1995.

³ *The Prosecutor v. Aloys Ndimbati*, Case No. ICTR-95-1-I, Decision on the Confirmation of the Second Amended Indictment, 8 May 2012 (confidential and *ex parte*), p. 7.

⁴ *The Prosecutor v. Aloys Ndimbati*, Case No. ICTR-95-1F-I, Second Amended Indictment, 8 May 2012.

⁵ *The Prosecutor v. Aloys Ndimbati*, Case No. ICTR-95-1F-R11*bis*, Decision on the Prosecutor’s Request for the Referral of the Case of Aloys Ndimbati to Rwanda, 25 June 2012, p. 18.

⁶ *The Prosecutor v. Aloys Ndimbati*, Case No. MICT-12-14-PT, Warrant of Arrest and Order for Transfer Addressed to All States, 7 May 2014, pp. 1, 2. See also *The Prosecutor v. Aloys Ndimbati*, Case No. ICTR-95-1F-R11*bis*, Warrant of Arrest and Order for Transfer, 25 June 2012; *The Prosecutor v. Aloys Ndimbati*, Case No. ICTR-95-1D-I, Warrant of Arrest and Transfer, 1 July 2003.

⁷ Motion to Terminate Proceedings, 15 February 2024 (public with confidential Annex A) (“Motion”), paras. 1, 4.

⁸ Motion, paras. 2, 3. See also Motion, Annex A, paras. 4, 16-18.

CONSIDERING that the Mechanism retains certain powers following the referral of a case to a national jurisdiction and prior to the accused being found guilty or acquitted by a national court;⁹

CONSIDERING that, notwithstanding any possible termination of the case against Ndimbati before a court in Rwanda, in circumstances where the Prosecution has presented sufficient information to establish that an accused at large is deceased, a judicial order closing the case before the Mechanism is warranted;¹⁰

CONSIDERING that the Prosecution has presented sufficient information in the Motion to establish that Ndimbati is deceased,¹¹ and that, according to the Prosecution, this conclusion is corroborated by the outcome of an independent investigation conducted by the authorities of Rwanda;¹²

FINDING, therefore, that a judicial order closing Ndimbati’s proceedings before the Mechanism is warranted;

FOR THE FOREGOING REASONS,

GRANT the Motion; and

TERMINATE the proceedings with respect to Ndimbati before the Mechanism.

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

Done this 19th day of March 2024,
At Arusha,
Tanzania



Judge Prisca Matimba Nyambe
Single Judge

[Seal of the Mechanism]

⁹ See *Prosecutor v. Phénéas Munyarugarama*, Case No. MICT-12-09, Decision on Motion to Terminate Proceedings, 16 December 2022 (“*Munyarugarama* Decision of 16 December 2022”), p. 2, n. 11, referring to Articles 6(5) and 6(6) of the Statute of the Mechanism and Rule 14(C) of the Rules of Procedure and Evidence of the Mechanism (“Rules”).

¹⁰ See *Munyarugarama* Decision of 16 December 2022, pp. 2, 3, referring, *inter alia*, to *Prosecutor v. Protais Mpiranya*, Case No. MICT-12-02, Decision on Motion to Terminate Proceedings, 14 September 2022, pp. 1, 2, *Prosecutor v. Augustin Bizimana*, Case No. MICT-13-39, Decision on Request to Terminate the Proceedings, 4 November 2020, pp. 1, 2, *Prosecutor v. Janko Bobetko*, Case No. IT-02-62-I, Order Terminating Proceedings Against Janko Bobetko, 24 June 2003, Rule 15 of the Rules.

¹¹ See Motion, Annex A.

¹² See Motion, para. 3, Annex A, paras. 4, 16-18.



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