

MICT-12-29-R
03-10-2017
(1821 - 1819)

UNITED
NATIONS



Mechanism for International Criminal Tribunals

Case No.: MICT-12-29-R

Date: 3 October 2017

Original: English

IN THE APPEALS CHAMBER

Before: Judge Theodor Meron, Pre-Review Judge
Registrar: Mr. Olufemi Elias
Decision of: 3 October 2017

PROSECUTOR

v.

AUGUSTIN NGIRABATWARE

PUBLIC

DECISION ON REQUEST FOR STATUS CONFERENCE

The Office of the Prosecutor:

Mr. Serge Brammertz
Mr. Mathias Marcussen
Mr. Richard Karegyesa
Ms. Thembile Segote

Counsel for Augustin Ngirabatware:
Mr. Peter Robinson

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I, THEODOR MERON, Presiding Judge of the Appeals Chamber of the International Residual Mechanism for Criminal Tribunals (“Appeals Chamber” and “Mechanism”, respectively), and Pre-Review Judge in this case;¹

RECALLING that, on 19 June 2017, the Appeals Chamber: (i) granted Augustin Ngirabatware’s request for review of his convictions; (ii) determined that a hearing shall be held to allow the parties to present evidence in this regard; and (iii) ordered the parties to submit in writing, no later than 31 July 2017, a list of evidence and witnesses, if any, each propose to introduce at the hearing;²

BEING SEISED of the “Request for Status Conference” filed by Ngirabatware on 18 September 2017 (“Request”), in which he requests, pursuant to Rule 69 of the Rules of Procedure and Evidence (“Rules”), that a status conference be convened to address issues related to his mental and physical condition and to allow the parties to discuss matters related to the review hearing;³

NOTING that, in response, the Prosecution submits that the Request is legally and factually unfounded and that Ngirabatware has failed to identify any specific issue that requires holding a status conference;⁴

NOTING that Ngirabatware did not file a reply;

CONSIDERING that the Rules require the holding of a status conference at regular intervals *only* at the pre-trial stage of the proceedings following the initial appearance of the accused⁵ and pending appeal if a convicted person is in custody following the filing of a notice of appeal;⁶

CONSIDERING that, in the absence of an express requirement in the Rules, a status conference or other procedural hearing may be held by a judge or a Chamber if it is in the interests of justice or required for the proper preparation of the hearing;

¹ Order Assigning Judges to Consider a Case Before the Appeals Chamber, 25 July 2016; Order Designating a Pre-Review Judge, 17 August 2016.

² Decision on Ngirabatware’s Motion for Review, 19 June 2017 (public and redacted version), pp. 2, 3. *See also* Motion for Review of Judgement, 8 July 2016 (confidential with confidential Annexes A-E); *The Prosecutor v. Augustin Ngirabatware*, Case No. MICT-12-29-A, Judgement, 18 December 2014.

³ Request, paras. 1, 7.

⁴ Prosecution Response to Request for Status Conference, 22 September 2017, p. 1.

⁵ *See* Rule 69(A) of the Rules. *See also* *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-T, Decision on Accused’s Request for Status Conference, 11 June 2014, para. 4.

⁶ *See* Rule 69(B) of the Rules. *See also* *Prosecutor v. Radovan Karadžić*, Case No. MICT-13-55, Decision on Request for Status Conference, 1 April 2016 (“*Karadžić* Decision of 1 April 2016”), p. 1.

CONSIDERING that Ngirabatware has not shown that a status conference is necessary because he does not identify any specific issue that he wishes to raise in relation to his mental or physical condition or in relation to the preparation of the review hearing;⁷

CONSIDERING that the conditions of detention of the detainees under the authority of the Mechanism at the United Nations Detention Facility in Arusha are supervised by the President and that, therefore, there is a separate avenue for raising concerns in relation to the detainees' mental and physical condition;⁸

CONSIDERING that the Appeals Chamber anticipates scheduling the review hearing in the near future;

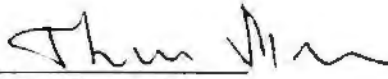
CONSIDERING that the proper preparation of the review hearing does not require, at this stage, the convening of a status conference;

FOR THE FOREGOING REASONS,

HEREBY DENY the Request.

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

Done this 3rd day of October 2017,
At The Hague,
The Netherlands.


Judge Theodor Meron,
Pre-Review Judge

[Seal of the Mechanism]



⁷ See *Karadžić* Decision of 1 April 2016, p. 2. See also Request, para. 5.

⁸ Cf. *Karadžić* Decision of 1 April 2016, p. 1. See also Decision on Motion to Report Government of Turkey to United Nations Security Council and for Modification of Conditions of Detention, 22 March 2017, p. 3.



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