

**UNITED  
NATIONS**



International Residual Mechanism  
for Criminal Tribunals

Case No.: MICT-22-124

Date: 4 January 2024

Original: English

**BEFORE A SINGLE JUDGE**

**Before: Judge Joseph E. Chiondo Masanche**

**Registrar: Mr. Abubacarr M. Tambadou**

**Decision of: 4 January 2024**

**IN THE MATTER OF**

**FRANÇOIS-XAVIER NZUWONEMEYE  
PROSPER MUGIRANEZA  
PROTAIS ZIGIRANYIRAZO  
ANATOLE NSENGIYUMVA  
ALPHONSE NTEZIRYAYO  
ANDRÉ NTAGERURA  
INNOCENT SAGAHUTU**

***PUBLIC***

**FURTHER DECISION ON MOTIONS FOR AN ORDER  
FOR SUBSISTENCE FUNDS**

**Counsel for the Relocated Persons**

**Mr. François-Xavier Nzuwonemeye**

Mr. Peter Robinson

**Mr. Protais Zigiranyirazo**

Mr. John Philpot

**Mr. André Ntagerura**

Mr. Philippe Larochelle

**Mr. Alphonse Nteziryayo**

Mr. Iain Edwards

**Mr. Prosper Mugiraneza**

Ms. Kate Gibson

**Mr. Anatole Nsengiyumva**

Ms. Allison Turner

**Mr. Innocent Sagahutu**

Mr. Jean Flamme

**I, JOSEPH E. CHIONDO MASANCHE**, Judge of the International Residual Mechanism for Criminal Tribunals (“Mechanism”) and Single Judge in this case;<sup>1</sup>

**RECALLING** the Decisions of 7 February 2022 and 8 March 2022, wherein I found the Republic of Niger (“Niger”) to be in breach of the relocation agreement signed with the United Nations and ordered the Registrar of the Mechanism (“Registrar”) to continue to actively engage with Niger and other possible relocation States to ensure the respect of the fundamental rights of the acquitted and released persons relocated on the territory of Niger (“Relocated Persons”);<sup>2</sup>

**RECALLING** the Decision of 12 January 2023, wherein I ordered the Registry of the Mechanism (“Registry”) to provide a lump sum payment of \$10,000 to each of the Relocated Persons after the end of the first year following relocation and exhaustion of their initial installation grant, while efforts continue to find a safe third State for their relocation as well as to explore other options for additional support and funding;<sup>3</sup>

**NOTING** the motion filed by Mr. Anatole Nsengiyumva before the President of the Mechanism on 21 November 2023, requesting, *inter alia*, that the Registrar be ordered to provide additional subsistence funds to the Relocated Persons for the year 2024,<sup>4</sup> and the decision of the Registrar to grant such additional lump sum payments, as communicated by email to Mr. Prosper Mugiraneza and Mr. François-Xavier Nzuwonemeye on 27 November 2023;<sup>5</sup>

**NOTING** that, on 7 December 2023, the President of the Mechanism assigned me to consider the Nsengiyumva Motion, as the Single Judge assigned to previous motions for subsistence funds, having found that the Registrar lacked competence to decide on the dispensation of additional subsistence funds to the Relocated Persons;<sup>6</sup>

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<sup>1</sup> See Decision in Relation to Requests by Anatole Nsengiyumva, 7 December 2023 (“President Decision of 7 December 2023”), p. 3.

<sup>2</sup> See Decision on Motions Regarding the Relocation Agreement with Niger and Order for Transfer of the Relocated Persons to the Arusha Branch, 7 February 2022 (“Decision of 7 February 2022”), paras. 20-30; Further Decision Regarding the Relocated Persons in Niger, 8 March 2022 (“Decision of 8 March 2022”), pp. 1-4. See also Decision on Motions to Appeal Decision of 8 March 2022, for Reconsideration of Decision of 15 March 2022, and to Appear as *Amicus Curiae*, 27 May 2022, para. 48. See also Agreement Between the Government of the Republic of Niger and the United Nations on the Relocation of Persons Released or Acquitted by the International Criminal Tribunal for Rwanda or the International Residual Mechanism for Criminal Tribunals, 15 November 2021 (“Relocation Agreement”). A detailed procedural history can be seen in the Decision of 7 February 2022. See Decision of 7 February 2022, paras. 1-19.

<sup>3</sup> Decision on Motions for an Order for Subsistence Funds, 12 January 2023 (“Decision of 12 January 2023”), p. 3.

<sup>4</sup> See Anatole Nsengiyumva’s Response to Registrar’s Fourth and Fifth Bi-Monthly Submission, 21 November 2023 (“Nsengiyumva Motion”), paras. 30-36, p. 12.

<sup>5</sup> See Mugiraneza and Nzuwonemeye Submissions on Lump Sum Request, 11 December 2023 (“Mugiraneza and Nzuwonemeye Motion”), para. 7, n. 8, Annex A. See also President Decision of 7 December 2023, p. 2, n. 6.

<sup>6</sup> See President Decision of 7 December 2023, pp. 2, 3.

**BEING THEREFORE SEISED OF** the Nsengiyumva Motion, to the extent that it requests an order to the Registry to provide an additional lump sum payment of \$10,000 to Nsengiyumva and the other Relocated Persons based on the Mechanism’s duty to ensure the welfare of acquitted and released persons pending their relocation;<sup>7</sup>

**BEING FURTHER SEISED OF** a motion filed by Mugiraneza and Nzuwonemeye on 11 December 2023, requesting an additional lump sum payment of \$10,000 each while efforts continue to find a relocation State,<sup>8</sup> on the basis that they remain unable to support themselves and that the situation which justified a prior lump sum payment for the year 2023 continued, and actually worsened, in view of the *coup d’État* in Niger and termination by the International Committee of the Red Cross (“ICRC”) of their free medical care;<sup>9</sup>

**NOTING** the motions in joinder filed by Mr. Alphonse Nteziryayo and by Mr. André Ntagerura on 11 and 19 December 2023, respectively;<sup>10</sup>

**CONSIDERING** that I previously held that, in the circumstances of the present case where the relocation appears not to have been carried out in accordance with the full terms of the Relocation Agreement, and in particular where the Relocated Persons have not been put in a position to identify opportunities to support themselves, the duty of care of the Mechanism continues and shall encompass financial assistance;<sup>11</sup>

**CONSIDERING** that the latest reports of the Registrar, despite stressing the urgency caused by recent political developments in Niger, do not suggest a reasonable prospect for finding another safe relocation State for the Relocated Persons in the near future<sup>12</sup> and that, while the Mechanism agreed to cover necessary medical expenses following the termination of the ICRC’s support,<sup>13</sup> there is no indication that the Relocated Persons’ general situation and ability to take care of themselves has evolved positively since the issuance of the Decision of 12 January 2023;

<sup>7</sup> Nsengiyumva Motion, paras. 30-36, p. 12.

<sup>8</sup> Mugiraneza and Nzuwonemeye Motion, paras. 1, 13.

<sup>9</sup> Mugiraneza and Nzuwonemeye Motion, paras. 9-13.

<sup>10</sup> Nteziryayo Joinder to Nsengiyumva, Mugiraneza and Nzuwonemeye Requests for Additional Subsistence Payment, 11 December 2023, p. 1; Ntagerura Joinder to Nsengiyumva, Mugiraneza and Nzuwonemeye Requests for Additional Subsistence Payment, 19 December 2023, p. 1 (collectively, “Joinders”).

<sup>11</sup> Decision of 12 January 2023, p. 3 and references cited therein.

<sup>12</sup> See Registrar’s Third Bi-Monthly Submission in Relation to the “Further Instruction to the Registrar” of 19 December 2022, 6 July 2023 (public, with confidential annexes A-C) (“Registrar Third Bi-Monthly Submission”), paras. 4-16; Fourth Bi-Monthly Submission in Relation to the “Further Instruction to the Registrar” of 19 December 2022, 11 September 2023 (public, with confidential and confidential and *ex parte* annexes A-B), paras. 6-18; Registrar’s Fifth Bi-Monthly Submission in Relation to the “Further Instruction to the Registrar” of 19 December 2022, 10 November 2023 (public, with confidential and confidential and *ex parte* annexes A-D), paras. 8-18.

<sup>13</sup> See Registrar Third Bi-Monthly Submission, paras. 17-20, Annex C.

**FINDING**, in light of the above, that it is appropriate to order the Registrar to provide an additional lump sum payment of \$10,000 to each of the Relocated Persons for the year 2024 – while efforts continue to find a safe relocation State – in order to ensure the respect of their fundamental rights;

**NOTING** that the payment of these subsistence funds does not amount to an annual entitlement and that any future payments are contingent on an assessment of the situation of the Relocated Persons at the time of the request;

**FOR THE FOREGOING REASONS,**

**GRANT** the Nsengiyumva Motion, the Mugiraneza and Nzuwonemeye Motion, and the Joinders, to the extent that they request additional subsistence funds; and

**ORDER** the Registry to provide an additional lump sum payment of \$10,000 to each of the Relocated Persons, while efforts continue to find a safe relocation State, as well as to explore potential other options for additional support and funding.

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

Done this 4th day of January 2024,  
At Arusha,  
Tanzania



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Judge Joseph E. Chiondo Masanche  
Single Judge

**[Seal of the Mechanism]**



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