

## **Open letter**

The Justice Minister, A. van der Steur  
Postbus 20301  
2500 EH DEN HAAG

July 18, 2016

About: Mugimba case

### **Honorable Minister**

In its judgment of July 5, 2016, The district court in The Hague overturned the decision of November 27, 2015 by the civil Judge who had ruled against my extradition to Rwanda.

It is striking that two judgments reach different conclusions in the same case and the same court, using the same information provided by the same expert witness, Mr M. R. Witteveen, Dutch, advisor to the National Public Prosecution of the government of Rwanda. It is also difficult to understand how one can have two contradictory court rulings, one for acquittal and one for life imprisonment in the same case in the same tribunal, basing themselves on the same facts and circumstances.

Referring to the conclusions made in the judgment of 5th July 2016, t.w R.O.4.9 and 4.10, the Court concludes that the declarations of Mugimba on the position of the Dutch Government were speculations.

But this is not true (it is not speculation) because I speak the facts with authentic evidence on the Dutch government, the Embassy of the Netherlands in Rwanda and evidence from trials carried out in Rwanda. The court in its meeting of June 6, did not ask any question about the arguments made at the court of First Instance and yet it took a decision in R.O.4.9 and 4.10, where the repatriation procedure does not offer any space for thorough investigations.

This also happened in reviewing my file in the civil procedure for foreigners which also refused to consider arguments that I presented. That Chamber said that the procedure was stopped because I refused to give permission for my comments and evidence to be discussed at a closed meeting between the Chamber and the Minister of Justice without my presence.

In Dutch law, recourse to an independent investigation happens in cases which are not clear in order to seek the truth. The results are accepted by all. Thus in politics, the authorities resign if it appears that the cases were not dealt with as they should be.

This is my story :

The Dutch government in 2011, conducted an investigation on my alleged participation in the genocide that occurred in Rwanda. On September 27, 2011, the investigator

(hereinafter known as confidant person 3 or VP3) presented his/her findings. We find this information in the summary paragraph of the letter of May 3, 2012, sent by the Embassy of the Netherlands in Rwanda (attachment 1). Part of the letter reads as follows:

**"The information below complements the report sent on September, 2011."**

**"On the dates of February 6, February 21 and March 6, 2012, you asked VP 3 to adjust some things but despite promises, the report does not give a liberating result. "**

**"In the same letter it appeared that there were no charges of genocide against me. It is said that: "This information (also referred to as allegations of genocide) obtained by the witness" 2 "does not appear anywhere in the old and first report of VP3."**

However, this report which absolves me of any wrongdoing was kept top secret and cannot be found until now. The Netherlands feeling obliged to open a second independent investigation in my case (as previous investigations had not led to expected outcome) hired another investigator (attachment 2).

The second investigator (VP4) presented his/her investigation report in my case on April 7, 2012 (attachment 3). In this report, it is said among other things: **"The name of Mugimba does not appear anywhere in the Gacaca court in Nyakabanda" the neighbourhood where I lived. In this report, it appears that the Gacaca authorities in Nyakabanda were interviewed about this case. And even the names of people who gave the information appear there."**

So the two missions of investigations initiated by the Dutch government show that I am innocent. The report of this second investigation was also kept secret, hence ignoring once again, the Netherlands standards and values.

Fortunately, we were able to get this second report thanks to our investigators in Rwanda. We put the questions to judges about this report but they stuck to their positions: they stated that the case must be dealt with in Rwanda and that they will not want to examine the contents of the report here in Holland.

On April 27, 2012, the Dutch Public Prosecutor sent a letter to Rwandan authorities relating to information to use in the case Mugimba. A few days later, on May 3, 2012, the first investigator VP3, who had already investigated the case in 2011, suddenly took another investigative report about me to the Embassy of the Netherlands in Rwanda (attachment 4).

This report is strange. You find a 2011 report that had nothing to report against me which this time around was adjusted to charge me (attachment 4). The real 2011 report remained in the drawers of the Embassy of the Netherlands in Rwanda and then the adjusted report was sent instead.

A shocking sentence appears in the forwarding message of the embassy regarding the adjusted 2011 report: **"VP3 has again done a report on the issues you raised, after earlier promises to make adjustments had failed to produce saving results"**

This statement therefore shows that the embassy, which had asked three times VP3 improve his report, does not understand why he is this time ready to adjust his report.

Presumably the embassy had not been informed of the content of the letter of 27 April 2012. I come to this conclusion because I do not see why the Netherlands would want the investigation report of VP3 to be reviewed while the second investigation by VP4 was still under way?

The Dutch government translated into Dutch the findings of the adjusted report of VP3 which had "liberating results" and hence became the official report on Mugimba (attachment 5).

The only evidence and source of information is taken from a newspaper advertisement about selling my house in Rwanda. However, the sale of my house in Rwanda had nothing to do with genocide, as confirmed by VP3 and witness "2" but due to a conspiracy to accuse me of theft in order to get hold of my property (attachment 6).

Genocide allegations of points 1 and 2 of the individual official report on Mugimba were dealt with in court in Nyarugunga on December 31, 2010 according to the witness "2". In reality, no Dutch government official has read the judgment of the court in question, yet this judgement is used blindly to extradite me to Rwanda.

I have demonstrated (see (attachment 7) judgment in Case 12/31/2010) that this case is not about the genocide and it is incomprehensible that the Dutch government uses false data considered as "liberating results" (desperately sought for this case).

In June 2012, the Embassy of the Netherlands in Rwanda once again tried to block the official report on Mugimba in the exchange emails with the Dutch government (attachment 8). We have also argued that the judgment of the Gacaca court of Nyarugenge of December 31, 2010 is not the only evidence in the case in Rwanda. It is also necessary to consider mail exchange of May 3, 2012 (attachment 1) between the Dutch Embassy in Rwanda and the Dutch Government. In addition to this, the prosecutor's office in Rwanda, also carried out its own investigations and its findings were made public July 25, 2012 (attachment 9).

The above ruling concerned the sale of my house due to false charges of theft charges against me. Fortunately, a witness at the hearing of 12/31/2010, withdrew his accusations and confessed to have been forced to bring false accusations against me. The false witness was charged for this and sentenced on the February 2, 2013 (attachment 10).

In summary: the case of 12/31/2010 and the extradition process to Rwanda reveal two facets of the Prosecutor General of Rwanda and Nyarugenge court, two crucial institutions in the judicial system of Rwanda. On the one hand, an inquiry is made and concluded that Mugimba is a victim of false accusations and the false witness is imprisoned for misrepresentation and on the other side, the Prosecutor General of Rwanda request the Netherlands to extradite me and at the same time the court in The Hague use the same case 12/31/2010 in which I was found a victim to indict me making me a victim again. And thus I am now detained since January 23, 2014 in Almere by the court of the Hague.

The extradition request was sent to the Netherlands on 22/11/2012 in response to the letter of 27 April 2012 that the Dutch Public Prosecutor had sent to Rwanda according to the words of the prosecutor himself (see point 11 of the Crown's Prosecution argument of June 23, 2014 before the extradition chamber).

The prosecution goes on to say that before 27 April 2012, Rwanda did not know the country that Mugimba was living in. Here, the Crown prosecution sought to confuse the judges. The information is false because the Rwandan immigration service had granted me twice a Rwandan passport.

Presumably, before 27/04/2012, Rwanda had nothing against me. And indeed they were indeed aware of the judgment ICTR-99-52-A of the International Criminal Tribunal on Rwanda (ICTR) in which it is stated that:

***“881: The Chamber recognizes that a political party and its leadership cannot be held accountable for all acts committed by party members or other affiliated to the party. A political party is unlike a government, military or corporate structure in that its members are not bound through professional affiliation or in an employment capacity to be governed by the decision-making body of the party. Nevertheless, the Chamber considers that to the extent that members of a political party act in accordance with the dictates of that party, or otherwise under its instruction, those issuing such dictates or instruction can and should be held accountable for their implementation. In this case, CDR party members and Impuzamugambi were following the lead of the party, and of Barayagwiza himself, who was at meetings, at demonstrations, and at roadblocks, Where CDR members and Impuzamugambi were marshalled into action by party officials, including Barayagwiza or under his authority as leader of the party. In these circumstances, the Chamber holds that Barayagwiza was responsible for the activities of CDR members and Impuzamugambi, to the extent that such activities were initiated by or undertaken in accordance with his direction as leader other CDR part”.***

***“882: In particular, as noted by the Trial Chamber, the leaders of a political party « cannot be held accountable for all acts committed by party members or others affiliated to the party...? Although the Appellant doubtless exerted substantial influence over CDR militants and Impuzamugambi, that is insufficient – absent other evidence of control – to conclude that he had the material capacity to prevent or punish the commission of crimes by all CDR militants and Impuzamugambi.”***

The Rwanda Tribunal has investigated and concluded that the two leaders (Barayagwiza and Ngezi) of CDR political party are responsible but that the party's management committee cannot be held responsible for the actions of its members. In its written statement of April 27, 2012, the Crown Prosecution of the Netherlands offered to the authorities of Rwanda more arguments to squeeze a political opponent, especially one who was a member of a vilified party like the CDR, and to neutralize the ruling of the International criminal tribunal for Rwanda.

Finally, the request for extradition includes the names of the victims of genocide in Nyakabanda. The investigator VP4 did a second investigation during which he visited the families of the victims of genocide to see if Mugimba was responsible for their deaths. In his

report (attachment 11), the investigator VP4 indicates that he was surprised to find out that no one could accuse me of the death of his or her family member and that my name does not appear anywhere in the gacaca courts. They even said that they were prepared to give the real names of those who killed their loved ones and to say how it happened.

My statements on the position of the Dutch Government are not speculation but nothing but the truth. There is nothing else I can do except trying to live, despite myself, with the consequences of injustice.

The prosecution requested the extradition request to prevent the trial in the Netherlands. The justice minister know that relatives of victims who have given their testimonies in confidence will not repeat them before a Rwandan court. It is also stated that relatives and judicial authorities of my former neighborhood in Rwanda (see report VP4 2012 Production 3) as in the previously conducted investigations, cannot and may not dare to give their evidence in a genocide case, and that the Netherlands and the Justice Minister know it.

My question is whether the embassy of the Netherlands in Rwanda would be ready to testify in my case as they have in their hands all the concocted evidence.

The press and other publications on Rwanda, including Amnesty International and Human Rights Watch show that the reality in Rwanda is different from what is officially presented.

I know that the government has the right to declare "persona non grata" an undesirable foreigner but this should not be done at the expense of standards and values of this country. The standards and values of the Netherlands should not be sacrificed with the aim to obtain a liberating result and let an accused disappear when all investigations exonerate him, simply because of trying to defend other interests of the country.

My belief is that if you, the Minister of Justice, had been aware of the contents of all investigations conducted by your government and of the content of the letter of 27 April 2012, you would have taken a different decision on Mugimba, including opposing the extradition until it is established whether or not I am responsible for the acts which I am accused of. I am the victim of a political conspiracy in which the charges against me are only stage managed and I have the evidence to prove it.

From the beginning, we have shown that there is no reason to try to circumvent the real issue by saying that the investigations were conducted during the processing of my file by the civil procedure for foreigners and not as part of the procedure for extradition. " The liberating result" is to provide flesh to the procedure for my extradition.

I chose to express myself in an open letter because the ruling of the court at The Hague is also in the public domain and is on the internet. Moreover, I have nothing to hide because I'm 100% innocent.

Probably my last words in the Netherlands are:

In Rwanda, I will not have a fair trial because I am a political opponent of the current regime. In addition, I find that the Dutch people (including my Dutch friends who have

always believed that I would not be extradited for a case like mine in which there are many errors) have the right to know the truth in order to allow them to make their own judgement as to whether indeed the Netherlands is a country of peace and rule of law.

Yours sincerely

Jean-Baptiste Mugimba

Cc:

- Mark Rutte, Minister-President,
- Foreign minister, Koenders
- The government of the Netherlands
- The court of the Hague
- Amnesty International
- Newspapers and TV-channels
- Advocate (Bart Stapert)
- Mr C.M. Bitter en A. Th. M. ten Broeke
- National ombudsman
- The major of Leusden