

**UNITED  
NATIONS**

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International Residual Mechanism  
for Criminal Tribunals

Case No.: MICT-25-135-I

Date: 15 April 2025

Original: English

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**BEFORE THE SINGLE JUDGE**

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

**Registrar: Mr. Abubacarr Tambadou**

**IN THE MATTER OF PETER ROBINSON**

**PUBLIC**

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***AMICUS* REPLY SUBMISSION  
ON THE SUITABILITY OF THE REFERRAL OF THE CASE**

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***Amicus Curiae***

Mr. Kenneth Scott

**Mr. Peter Robinson**

The *Amicus Curiae* (“*Amicus*”) respectfully files this reply submission on the suitability of referring the case titled *In the Matter of Peter Robinson* to State authorities, pursuant to Articles 1(4) and 6 of the Mechanism Statute, and the Single Judge’s *Order for Submissions* dated 12-March-2025.

1. On 25-February-2025, Judge de Prada Solaesa, in his capacity as Single Judge in the investigation concerning allegations of contempt against Peter Robinson (“Robinson”), issued his *Decision on Allegations of Contempt* (“Decision”) and his *Decision issuing Order in Lieu of Indictment* (“Indictment”), initiating contempt proceedings against Robinson.<sup>1</sup>

2. On 12-March-2025, Judge Chiondo Masanche, the Single Judge appointed to conduct the proceedings in the case titled *In the Matter of Peter Robinson* (“Single Judge”), ordered *Amicus* to file submissions, within fourteen days, on “the suitability of referring the case to a State and whether such referral would serve the interests of justice and expediency, and respect the rights of an accused to a fair trial, bearing in mind the preference for the referral of contempt cases as envisioned in the Statute”.<sup>2</sup> The Single Judge also noted that he would later seek submissions from the relevant State(s), and that *Amicus* would have the opportunity to respond to these submissions.<sup>3</sup>

3. On 26-March-2025, *Amicus* filed his Submissions on the suitability of referring the case.<sup>4</sup>

4. On 9-April-2025, Robinson filed his “Preliminary Submissions on Referral”.<sup>5</sup> In his submissions, Robinson requested the Single Judge “to invite the United States of America to

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<sup>1</sup> *Prosecutor v. Nzabonimpa et al.* (“*Nzabonimpa*”), MICT-18-116-R90.1, Decision on Allegations of Contempt, 25-February-2025; *In the Matter of Peter Robinson*, MICT-25-135-I (“*Robinson*”), Decision Issuing Order in Lieu of Indictment, 25-February-2025.

<sup>2</sup> *Robinson*, Order for Submissions, 12-March-2025, p.2.

<sup>3</sup> *Ibid.*, p.2.

<sup>4</sup> *Robinson*, *Amicus Curiae*’s Submissions on the Suitability of the Referral of the Case, 26-March-2025 (“*Amicus*’ Submissions”).

<sup>5</sup> *Robinson*, Preliminary Submissions on Referral, 9-April-2025 (“*Robinson*’s Submissions”).

make submissions on its jurisdiction, willingness, and preparedness to accept the case for trial.”<sup>6</sup> Robinson did not make submissions on the suitability of referring the case to State authorities, taking into account the interests of justice and expediency per Article 1(4) of the Mechanism’s Statute, and the fair trial rights pursuant to Article 6(4).<sup>7</sup> Robinson only argues, basically, that the United States should be invited to make submissions because it meets the criteria of Article 6(2),<sup>8</sup> which provides that the Single Judge: “shall determine whether the case should be referred to the authorities of a State”:

- (i) in whose territory the crime was committed; or
- (ii) in which the accused was arrested; or
- (iii) having jurisdiction and being willing and adequately prepared to accept such a case ...

5. Robinson argues that the United States meets the criteria of Article 6(2) because, first: “alleged crimes were committed in part in the United States of America. I was based in the United States during the relevant time period and sent e-mails from the United States that are alleged to have caused or incited the indirect contact with protected witnesses.” In footnotes, Robinson refers to the paragraphs in the Indictment where four incidents of witness contacts occurred involving Robinson emails, in violation of protective measures, out of the eight incidents included in the Indictment.<sup>9</sup>

6. Second, Robinson argues that he resides in, and is a citizen of the United States, and points to two decisions on the suitability of referring the case to State authorities in which the accused’s residence was taken into consideration.<sup>10</sup>

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<sup>6</sup> Robinson’s Submissions, para.1 and p.4.

<sup>7</sup> See Order for Submissions, p.2. *Amicus* was ordered to file “a written submission on the suitability of referring the case to a State and whether such referral would serve the interests of justice and expediency, and respect the rights of an accused to a fair trial, bearing in mind the preference for the referral of contempt cases as envisioned in the Statute”.

<sup>8</sup> Robinson’s Submissions, para.17.

<sup>9</sup> Robinson’s Submissions, para.18.

<sup>10</sup> Robinson’s Submissions, para.19.

7. While the accused’s residence and nationality can be markers of jurisdiction under the above-cited Article 6(2)(iii), the four contempt cases cited by Robinson show that the primary consideration in inviting a State to make submissions on its jurisdiction and potential referral of the case is the place where the crimes were committed.

8. In *Jocić & Radeta*, in inviting Serbia to make submissions on its jurisdiction and the suitability of referring the case, the Single Judge only noted that “the crimes charged in the Indictment were allegedly committed in Serbia”.<sup>11</sup>

9. In the *François Ngirabatware* case, where there were a “number of States” where the case could have been referred,<sup>12</sup> the Single Judge noted the accused’s place of residence, but considered primarily where the crimes were allegedly committed in determining which State to invite to make submissions. Indeed, the Single Judge noted that Ngirabatware allegedly submitted three fraudulent documents before the Mechanism with the objective of releasing funds from bank accounts in Belgiums and falsely presenting a letter he created as coming from a representative of a bank in Belgium. Based on this, the Judge determined that “the conduct charged in the Order in Lieu of Indictment in relation to the Accused, a Belgian national and resident, may potentially be subject to Belgium’s jurisdiction”, and invited Belgium to file submissions on its jurisdiction and the potential referral of the case.<sup>13</sup>

10. In *Šešelj et al.*, in one of the two decisions cited by Robinson, the Single Judge noted that the accused resided in Serbia as a factor in determining whether the case should be referred to State authorities or be conducted before the Mechanism, but, more importantly noted that the crimes were allegedly committed in Serbia.<sup>14</sup>

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<sup>11</sup> *In the case against Jocić & Radeta*, MICT-17-111-R90, Order for Submissions, 15-February-2018, p.2.

<sup>12</sup> *In the Matter of François Ngirabatware*, MICT-24-131-I. Order for Submissions, 25-July-2024, pp.1-2.

<sup>13</sup> *Ibid.*, pp.2-3 (emphasis added).

<sup>14</sup> The Single Judge noted that the accused resided in Serbia and stated: “These are factors that weigh in favour of referring the case to Serbia.” *Šešelj et al.*, MICT-23-129-I., Decision on Referral of the Case to the Republic of Serbia, 29-February-2024, para.11

11. In his earlier Submissions, *Amicus* submitted that the State with the most links to the crimes charged in the Indictment is the Republic of Rwanda.<sup>15</sup> *Amicus* noted that the United States has only very small links to the crimes charged in the case (the sending of a very few emails), which are not sufficient to move the case's center of gravity to the United States.<sup>16</sup>

12. In the closely-related *Nzabonimpa et al.* case – at the time titled *Turinabo et al.* – in inviting Rwanda to make submissions on its jurisdiction and on the potential referral of the case, the Single Judge only noted that “the Accused were arrested in Rwanda and that the conduct charged in the Indictment is alleged to have occurred there”.<sup>17</sup> Note, however, and importantly, that the *Nzabonimpa et al.* case was ultimately kept at the Mechanism.<sup>18</sup>

13. In the present case, most, if not all, of the prohibited contacts with protected witnesses occurred in Rwanda.<sup>19</sup> The contacts with protected witnesses constitute the core of the crime for which Robinson is charged, and it is those contacts which are the subject of the protective measures which Robinson is charged with violating. The fact that four out of the eight incidents of prohibited contacts with protected witnesses which form the basis of the Indictment are alleged by Robinson, without reference to evidence,<sup>20</sup> to have been initiated by emails which he would have sent from the United States, is a weak link of that State to the crimes compared to those of Rwanda. In addition, the evidence shows that other incidents of prohibited contacts in the Indictment were initiated by Robinson during meetings or interviews held in Rwanda.<sup>21</sup>

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<sup>15</sup> *Amicus*' Submissions, paras.9-12. It is nonetheless *Amicus*' submission that, taking all things considered, the case should proceed before the Mechanism.

<sup>16</sup> *Amicus*' Submissions, para.11 and Annex.

<sup>17</sup> *Prosecutor v. Turinabo et al.*, MICT-18-116, Order for Submissions, 18-September-2018, p.1 (emphasis added).

<sup>18</sup> *Prosecutor v. Turinabo et al.*, MICT-18-116-PT, Decision on the Suitability of Referral of the Case, 7-December-2018.

<sup>19</sup> *Amicus*' Submissions, Annex A, para.3.

<sup>20</sup> Robinson noted that *Amicus*' Submissions where it mentions that “at least some of Robinson's activities and exchange of communications as Ngirabatware's Counsel are likely to have occurred in the United States.” *Amicus* was referring to Robinson's activities and exchange of communications as Ngirabatware's Counsel in general, not necessarily those activities and exchange of communications that initiated prohibited contacts with protected witnesses. See *Amicus*' Submissions, Annex A, para.10.

<sup>21</sup> *Amicus*' Submissions, Annex A, para.1.

14. If the United States was to be invited to make submissions on whether the case should be referred to that State, *Amicus* submits that the interests of justice and expediency would be better served if the case was conducted before the Mechanism. Most of the potential evidence in the present case has nothing to do with the United States, with none of the witnesses located there (unless Robinson himself decides to testify). Any investigation and trial preparation by United States authorities and the presentation of the evidence and hearing of witnesses in any trial in the United States would be substantially more complex and inconvenient.

15. In any case, as argued in *Amicus*' submissions, the present case should be conducted before the Mechanism. This is a situation where the Mechanism needs to protect the core integrity of its own proceedings, where there was a massive obstruction of justice effort directed at the Mechanism, to overturn Ngirabatware's convictions for genocide through a fraudulent review case in relation to which protected witnesses were bribed, told what to do and say, illegally contacted and had their identity exposed. It is in the *Nzabonimpa et al.* case, conducted before the Mechanism, that the fraudulent nature of *Ngirabatware*'s review case was established, and Robinson's acts and conduct as counsel for Ngirabatware in relation to that review case allowed for and facilitated the implementation of the criminal scheme established in *Nzabonimpa et al.* Indeed, the present case is essentially an extension of the *Nzabonimpa et al.* case and appeal, in which Dick Prudence Munyeshuli, Robinson's own investigator in relation to *Ngirabatware*'s review case, was found to have violated protective measures pursuant to Robinson's instructions, the exact same instructions which are the basis of an incident for which Robinson is now charged. Robinson is charged for violating ICTR / Mechanism orders setting up protective measures regarding contacts with ICTR / Mechanism witnesses, in relation to a review case closely connected to the ICTR / Mechanism.<sup>22</sup>

16. A very large part of the evidence in the present case will come from the *Nzabonimpa et al.* case and *Ngirabatware*'s review case, something which, among other elements highlighted in *Amicus*' submissions, strongly supports the conduct of the case before the Mechanism, in

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<sup>22</sup> See *Amicus*' Submissions, paras.13-16, 24.

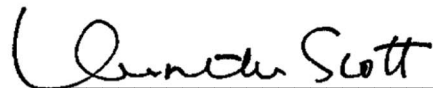
facilitating the production of such evidence and the application of this tribunal's adjudicated facts,<sup>23</sup> in protecting the core integrity of the Mechanism's proceedings.

17. In terms of witnesses and the production of evidence, the presentation of the case could be facilitated by trying the case in Arusha, which is very close to Rwanda.

18. *Amicus* submits that there are no sufficient reasons to ask the United States to make submissions, and, for all the reasons stated, the case should be conducted by and before the Mechanism.

Word count: 1908 words

Respectfully submitted this 15-April-2025.



Kenneth Scott  
*Amicus Curiae*

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<sup>23</sup> *Amicus'* Submissions, paras.16, 22-23. In relation to the other elements highlighted in *Amicus'* Submissions which support the conduct of the case before the Mechanism, see *Amicus'* Submissions, paras.17-21. Concerning Rwanda in particular, *see also* paras.24-28.



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<b>Case Name/ Affaire :</b>	In the Matter of Peter Robinson		<b>Case Number/ Affaire n° :</b> MICT-25-135-I			
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