UNITED NATIONS

International Residual Mechanism for Criminal Tribunals

Case No.: **MICT-13-36-ES.2**

Date: **19 June 2026**

Original **English**

THE PRESIDENT

Before: **Judge Graciela Gatti Santana, President**

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

THE PROSECUTOR

v.

LAURENT SEMANZA

Public

PETITION FOR EARLY RELEASE

Office of the Prosecutor:
Serge Brammertz

Laurent Semanza:
Peter Robinson

1. Laurent Semanza hereby files this petition for early release It is filed pursuant to paragraph 5 of the *Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence, and Early Release of Persons Convicted by the ICTR, the ICTY, or the Mechanism* (1 July 2024)("*Practice Direction*"), and Rule 150 of the Rules of Procedure and Evidence.

2. As set forth in more detail below, Mr. Semanza contends that he meets the criteria for early release. Additionally, the prospect of his having to serve the remainder of his prison sentence in Rwanda makes this petition urgent and imperative. The legitimate reasons for his concern are set forth in the letter sent by Mr. Semanza and the other prisoners in Benin to the United Nations Security Council,[1] as well as the letter sent by his counsel and other defense counsel to the Security Council.[2]

I. BACKGROUND

3. Laurent Semanza was born in 1944 in Musasa Commune, Kigali Prefecture Prefecture, Rwanda. He was the former bourgmestre (mayor) of Bicumbi commune at the time of the genocide.[3] He was arrested in Cameroon on 26 March 1996 and made his first appearance at the ICTR on February 16, 1998, pleading not guilty.[4]

4 On 15 May 2003, the Trial Chamber found Mr. Semanza guilty of genocide, extermination, murder, torture, and rape, and sentenced him to 35 years imprisonment.[5]

5. On 20 May 2005, the Appeals Chamber affirmed most of Mr. Semanza's convictions, and reduced his sentence to 34 1/2 years imprisonment.[6]

6. On 4 November 2008, Mr. Semanza was designated to serve his sentence in the Republic of Mali.[7] On 21 December 2018, Mr. Semanza was further transferred to serve the remainder of his sentence in Benin.[8]

7. Mr. Semanza is now 82 years old and has served 30 years of his 34 ½ year sentence.

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[1] The letter is attached as Annex B,
[2] That letter is attached as Annex C.
[3] *Prosecutor v Semanza*, No. ICTR-97-20-T, *Judgement and Sentence* (15 May 2003), para. 15.
[4] *Id,* paras. 16,23.
[5] *Id*.
[6] *Semanza v Prosecutor*, No. ICTR-97-20-A *Judgement* (20 May 2005).
[7] *Prosecutor v. Semanza,* No. ICTR-97-20-E, *Decision on the Enforcement of Sentence* (4 November 2008).
[8] *Prosecutor v Semanza,* No. MICT-13-36-ES, *Order Designating State in Which Laurent Semanza is to Serve the Remainder of his Sentence,* (19 December 2018).

II. APPLICATION

8. This is Mr. Semanza's third application for early release.

9. On 25 May 2015, Mr. Semanza submitted a petition for early release. On 9 June 2016, President Theodor Meron denied the petition, primarily on the grounds that Mr. Semanza had not yet served 2/3 of his sentence.[9]

10. On 26 July 2018, Mr. Semanza filed a second petition for early release upon completion of 2/3 of his sentence. On 17 September 2020, President Carmel Agius denied the petition, finding that Mr. Semanza's failure to accept responsibility for his crimes demonstrated that he had not yet engaged in critical reflection of his crimes such as to convince the President that he had been rehabilitated.[10]

III. APPLICABLE LAW[11]

11. Rule 150 of the Mechanism's Rules of Procedure and Evidence provides that the President shall, upon receipt of a direct petition from the convicted person, determine, whether pardon, commutation of sentence, or early release is appropriate.

12. Rule 151 of the Rules provides that in making a determination on pardon, commutation of sentence, or early release, the President shall take into account, inter alia, the gravity of the crime or crimes for which the prisoner was convicted, the treatment of similarly-situated prisoners, the prisoner's demonstration of rehabilitation, and any substantial cooperation of the prisoner with the Prosecution.

13. Paragraph 5 of the *Practice Direction* provides that a convicted person may apply directly to the President for pardon, commutation of sentence, or early release, if he or she believes that he or she is eligible. Paragraph 10 of the *Practice Direction* indicates that the President may direct the Registry to collect information which he or she considers may be relevant to the determination of whether pardon, commutation of sentence, or early release is appropriate. Paragraph 12 of the *Practice Direction* provides that, once all information requested has been received, the President shall

[9] *Prosecutor v Semanza*, No. MICT-13-36-ES, *Decision of the President on the Earlu Release of Laurent Semanza* (9 June 2016).
[10] *Prosecutor v Semanza*, No. MICT-13-36-ES.2, *Decision on Laurent Semanza's Application for Early Release* (17 September 2020), paras. 72-73.
[11] *Prosecutor v Milosevic*, MICT-16-98-ES, *Decision on the Application for Early Release of Dragomir Milosevic* (13 December 2024), paras. 21-26

communicate, directly or through the Registry, relevant information to the convicted person in a language that he or she understands. Paragraph 13 of the *Practice Direction* states that the convicted person shall be given 14 days to examine the information received by the Registrar, following which he or she may provide any written submissions in response.

IV. ANALYSIS

A. Eligibility

14. Mr. Semanza has now served 88% of his 34 ½ year sentence and is therefore eligible for early release.[12]

B. General Standards for Granting

15. Rule 151 of the Rules provides a non-exhaustive list of factors to be considered by the President: (1) the gravity of the crime or crimes for which the prisoner was convicted, (2) the treatment of similarly-situated prisoners, (3) the prisoner's demonstration of rehabilitation, and (4) any substantial cooperation of the prisoner with the Prosecutor.

1. Gravity of Crimes

16. Mr. Semanza acknowledges the high gravity of the crimes for which he has been convicted.

2. Treatment of Similarly-Situated Prisoners

17. Having served more than 2/3 of his sentence, Mr. Semanza has met the eligibility threshold for early release. Many ICTY and ICTR prisoners have been released after serving 2/3 of their sentences.

3. Demonstration of Rehabilitation

(a) Behaviour in Prison

18. The President is requested, pursuant to paragraph 10 of the *Practice Direction,* to direct the Registry to collect information on Mr. Semanza's behaviour while in prison in Mali for 10 years, Benin for 8 years and at the United Nations Detention Facility ("UNDF") in Arusha for 10 years. Mr. Semanza notes that the assessment of his

[12] *Prosecutor v Milosevic*, MICT-16-98-ES, *Decision on the Application for Early Release of Dragomir Milosevic* (13 December 2024), paras. 39-41

behaviour in prison for his previous early release application was a positive one.[13] He will provide any additional submissions, if necessary, pursuant to paragraph 13 of the *Practice Direction*, after examining the information provided by the prison authorities.

(b) Acceptance of Responsibility and Genuine Expressions of Remorse

19. Mr. Semanza submitted a statement of remorse in connection with his 2018 early release application.[14] Because of the uncertainty that he might be transferred to Rwanda, and the further uncertainty of the existence of a judicial body that might enforce the principle of *non bis in idem* (second prosecution for the same offence), Mr. Semanza is unable to make a further statement about his personal responsibility at this time. He reserves the right to submit a statement once the United Nations Security Council has decided upon the issue of transfer of the prisoners to Rwanda and may do so during the process of responding to the material collected by the Registrar pursuant to the *Practice Direction*.

20. Mr. Semanza notes that in the *Simba* early release decision, President Theodor Meron said:

> Although Simba does not accept responsibility for his crimes, I note that while there is limited case law of the ICTY which provides for remorse as a primary requirement for commutation of sentence specifically." remorse is not generally considered as such. It is mainly considered as just one of a number of factors that may be taken into account. Indeed numerous requests for early release have been granted where there was no clear indication of remorse' and in some instances where the convicted person expressly denied the crimes for which they were convicted. I do not consider that remorse should be treated as a determining factor in this case or in determining early release applications more generally. Rule 151 of the Rules provides that I must take into account "a prisoner's demonstration of rehabilitation" in determining whether early release is appropriate, but the applicable legal framework of the Mechanism (following that of its predecessor institutions, the ICTY and the ICTR) does not stipulate that remorse must be present.[15]

21. Of the dozens of prisoners granted early release by the ICTY, ICTR, and the Mechanism without regard to their expressions of remorse, not a single one has

[13] *Prosecutor v Semanza*, No. MICT-13-36-ES.2, *Decision on Laurent Semanza's Application for Early Release* (17 September 2020), paras. 50-53.
[14] *Prosecutor v Semanza*, No, MICT-13-36-ES.2, *Submission pursuant to Paragraph Six of the Early Release Practice Direction* (27 February 2019), Annex D.
[15] *Prosecutor v Simba*, No. MICT-14-62-ES.1, *Decision on the Early Release of Aloys Simba* (7 January 2019), para. 44.

reoffended. Therefore, there is no logical basis to exclude from early release those prisoners, like Mr. Semanza, who are unable or choose not to express remorse.

(c) Prospects of Successful Reintegration into Society

22. Mr. Semanza plans to live in Cotonou, Benin if released. The reason for this is simple. There is nowhere else he can go. All of the persons who have been released after serving their ICTR sentences , and even those who have been acquitted, have been refused permission to join their families in Europe, or even to migrate to other countries in Africa. Therefore, Mr. Semanza must live in Benin.

23. The government of Benin has allowed all other persons granted early release to continue to live in Benin. There is no reason to believe that Mr. Semanza would not be given the same opportunity. Indeed, in Article 12 of the *Agreement between the United Nations and the Government of the Republic of Benin on the Enforcement of Sentences Pronounced by the International Criminal Tribunal for Rwanda or the International Residual Mechanism for Criminal Tribunals* (12 May 2017), the government of Benin has undertaken to facilitate the stay of a released person pending his transfer to a State that will receive him.

24. Mr. Semanza will rent a house if he is released with funds provided for by his children. His children are willing and able to support him in this way, as well as to advance him money to start a small business if he is able. They would also visit him regularly in Benin.

25. With a roof over his head, Mr. Semanza will be able to live quietly in Cotonou, tending to his garden, attending church services, and living the life of a retired 82-year-old man. Mr. Semanza remains willing to agree to any and all conditions of release that the President may impose.

26. Mr. Semanza hopes to present a release plan, setting forth where he would live and how he would support himself, in connection with his comments on the materials collected by the Registrar pursuant to the *Practice Direction.*

(d) Overall Assessment

27. Mr. Semanza has already served 30 years in prison. He has a structure in place to allow for a successful, peaceful, and quiet integration into life in Benin. He is a strong candidate for early release.

4. Substantial Cooperation with the Prosecutor

28. Mr. Semanza was never asked to cooperate with the Prosecutor and has not done so.

C. Other Considerations

29. Mr. Semanza understands that the President will receive and consider information from the Prosecutor, Government of Rwanda, the Witness Support and Protection Unit (WISP) and possibly other third parties on his petition for early release. He will respond to any such submissions in a consolidated submission with his comments on the additional material obtained by the Registry, as provided in paragraph 13 of the *Practice Direction*.

30. Mr. Semanza will also elaborate on his health after reviewing the medical information provided by the Benin authorities. He is 82 years old and not in good health. He requests the President to consider his medical condition as part of her early release decision.[16]

D. A New Consideration: Service of Sentence in Rwanda

31. Mr. Semanza contends that if the Security Council decides that he and his fellow prisoners shall serve the remainder of their sentences in Rwanda, this will constitute a strong and compelling reason to grant him early release after serving 30 years of his 34 ½ year sentence. In Mr. Semanza's case, it would constitute the fifth country where he was imprisoned in this one case: 2 years in Cameroon awaiting transfer to the Tribunal, 10 years in Arusha at the United Nations Detention Unit, 10 years in Mali, and 8 years in Benin.

32. Since serving the remainder of his sentence in Rwanda remains uncertain at this time, Mr. Semanza reserves further comment until he is given the opportunity to respond to the materials collected pursuant to the Practice Direction.

V. CONCLUSION

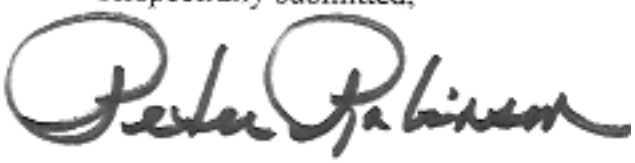
33. Laurent Semanza respectfully requests that the President, pursuant to the *Practice Direction*, direct the Registry to collect information which she considers may be relevant to the determination of whether early release is appropriate, including from the

[16] *Prosecutor v Ntawukulilyayo*, No. 13-34-ES, *Decision on the Application for Early Release of Dominique Ntawukulilyayo* (18 February 2026).

prison authorities in Mali and Benin and from Mr. Semanza's time at the United Nations Detention Facility in Arusha. Once all information has been provided to him and his counsel, Mr. Semanza will provide detailed written submissions in response. At the conclusion of that process, he respectfully requests that the President grant him early release.

Word count: 2307

Respectfully submitted,



PETER ROBINSON
Pro Bono Counsel for Laurent Semanza

ANNEX A

Apro-Missérété, 6 April 2026

United Nations / IRMCT Detainees
Apro-Missérété Prison
P.O. Box 45, Apro-
Missérété Republic of
Benin

His Excellency the President of the United Nations Security Council

Subject: Memorandum on the proposed transfer of control over the enforcement of sentences imposed by the ICTR/IRMCT to States, including Rwanda

Your Excellency,

1. We, the undersigned, prisoners falling under the jurisdiction of the IRMCT and currently serving our sentences in Benin, have the honour to address your high authority in order to submit this memorandum, for the purpose of expressing our serious concerns and profound apprehensions regarding the prospect of transferring the supervision of the enforcement of sentences imposed by the International Criminal Tribunal for Rwanda (ICTR) and the International Residual Mechanism for Criminal Tribunals (IRMCT) to States, including Rwanda.

2. During the presentation of the Thirteenth Annual Report by the President of the Mechanism to the United Nations General Assembly on 22 October 2025, this prospect was addressed. On that occasion, Rwanda put itself forward, stating that it was "*ready to carry out the mandate of the Mechanism by assuming its responsibilities with regard to the 25 convicted persons*. *For Rwanda, the enforcement of sentences is not a burden but an extension of the national experience of justice, reconciliation and the rule of law initiated after 1994*."

3. In his report S/2025/786 of 1st December 2025 to the United Nations Security Council (hereinafter "the Report"), the Secretary-General addresses the issue of transferring the Mechanism's functions to States upon the completion of its mandate.

4. With regard to Rwandan convicted persons under the authority of the Mechanism, the Report indicates that the Mechanism has requested Benin and Senegal to consider whether they could assume responsibility for the ongoing monitoring of conditions of detention. After noting that these two States receive substantial financial contributions as well as considerable logistical and administrative support from the Mechanism, and without specifying their responses, the Report recommends that consultations should continue (paragraph 30 of the Report). It should be noted that Senegal has hosted Rwandan persons convicted by the United Nations since 2017,

currently numbering eight, while fifteen are presently serving their sentences in Benin, where the first transferees arrived in 2009.

5. The Report then refers to the possibility of transferring this responsibility to Rwanda. Emphasis is placed on the country's stated willingness to receive its nationals detained under the authority of the Mechanism, on the grounds that it has concluded an agreement with the ICTR, possesses the necessary infrastructure, and has relevant experience, notably through hosting prisoners from Sierra Leone, and that, unlike Senegal and Benin, Rwanda has indicated that it would assume all costs currently borne by the Mechanism and take on additional administrative responsibilities (paragraph 31 of the Report).
6. Finally, the Report states that "*the President of the Mechanism has the authority to designate Rwanda as an enforcement State, and the Security Council may opt to encourage the President to do so or adopt a binding decision to that effect"* (paragraph 32 of the Report).

7. During the meeting of the Security Council held on 10 December 2025, devoted to the Mechanism and attended by the Representative of Rwanda, who took the opportunity to reiterate his country's position, reaffirming that Rwanda stands ready to assume responsibility for the enforcement of all remaining sentences on its territory and to bear all associated costs (Security Council, meeting of 10 December 2025, S/PV.10059).

8. Our memorandum is structured around the following points:

   - A review of certain prior instances of the persistent interference of the Rwandan Government in the functioning of the ICTR/IRMCT;
   - The IRMCT Directive of 15 May 2020 and its impact on early release;
   - A denunciation of the offer made by the Rwandan Government and the need to take into account other objective criteria;
   - Alternative options;
   - The necessity of restoring the truth regarding the Rwandan tragedy.

a. Review of certain precedents concerning the persistent interference of the Rwandan Government in the functioning of the ICTR/IRMCT

9. At first glance, it should be recalled that the mandate of the ICTR was to prosecute both parties to the conflict and that the Kagame regime (in power since July 1994 to the present), strongly protected, has spared no effort to obstruct any attempt to bring alleged RPF criminals to justice, including those responsible for the attack against the aircraft of President Habyarimana, a terrorist act that triggered the Rwandan genocide.

10. Initially, the Kagame's regime sought to exercise control over the ICTR by advocating for itsseat to be established in Kigali, which did not succeed. Thereafter, it undertook sustained efforts to interfere in the functioning of the ICTR and

succeeded in having its representative accredited thereto.[17] One of the functions of this official representative of Kigali was to coordinate fabricated testimony produced by the Rwandan authorities against accused persons before the ICTR, with the aim of consolidating the propagandist thesis of the RPF accusing Hutus of having planned the genocide. Even though the planning of the genocide by the former regime was not established by the ICTR/IRMCT, the damage had already been done, as many individuals were convicted on the basis of such false testimony.

11. The representative of the Rwandan Government before the ICTR was generally tasked withreporting back to the authorities so that measures could be taken to prevent the prosecution of members of the RPF responsible for serious violations of international humanitarian law committed in Rwanda between 1 January and 31 December 1994. To that end, the Government in Kigali resorted to repeated threats, coercion, and harassment directed at the Tribunal in order to achieve this objective.

12. One of the most significant acts of obstruction by the RPF regime was the blocking of theinvestigations initiated by the former Prosecutor of the ICTR, Ms Carla Del Ponte. In several of her testimonies and writings, she describes in detail how President Kagame personally, together with his government and their powerful supporters, prevented her from carrying out her mandate, and how she was removed from her position in order to ensure that individuals among the members of the RPF who were liable to prosecution would not be brought before the ICTR. According to her, however, granting impunity to the RPF amounted to seriously undermining the prospects for reconciliation among Rwandans.

13. In her book, Ms Carla Del Ponte states: "*The mandate of the Tribunal was therefore to investigate war crimes committed by all parties to the Rwandan conflict and, where the evidence so permitted, to prosecute those most responsible, on both sides. It was also tasked with establishing an account of events likely to contribute to the reconciliation of the Hutu and Tutsi communities. Failing to investigate the abuses committed by the Rwandan Patriotic Front would have amounted to accepting and proclaiming that Tutsi leaders were shielded by impunity, that they were above the law, and that the innocent victims of their violence did not matter. Such a failure would have seriously jeopardized the future of Rwanda and the fate of many people scattered across East Africa and beyond*."[18]

14. Since 2004 to the present, the RPF regime has conducted a sustained campaign aimed at securingthe transfer to Rwanda of Rwandan detainees convicted or on trial

[17] Recalling a meeting she had with President Kagame in Kigali on 28 June 2002, the former Prosecutor of the ICTR, Ms Carla Del Ponte, refers to Martin Ngoga- who held that position at the time, in the following terms: "*Kagame was surrounded by Gérard Gahima, the Prosecutor General of Rwanda, by Martin Ngoga, the eyes and ears of Rwanda in Arusha, and by various army officers*" (Carla Del Ponte, *La traque, les criminels de guerre et moi*, Éditions Héloïse d'Ormesson, 2009, p. 372). It should be understood that this is the same Martin Ngoga who is currently the Representative of the Kagame regime to the United Nations.

[18] Carla Del Ponte : *Carla Del Ponte : La traque, les criminels de guerre et moi : Éditions Héloïse d'Ormesson, 2009, page 299*

before the ICTR, for the purpose of their imprisonment or prosecution there. At the same time, it has continuously exerted political pressure on States that have granted asylum to the families of persons acquitted or granted early release by the ICTR/IRMCT, in order to prevent such individuals from reuniting with their families. The Government of Kigali has even opposed the transfer of the mortal remains of convicted, released, or acquitted persons to countries that have granted asylum to their families for burial.

15. The most striking example is that of the acquitted and released persons of the ICTR/IRMCTrelocated to Niger under the Agreement between the Government of Niger and the United Nations dated 15 November 2021. Upon their arrival in Niger on 5 December 2021, these relocated persons were suddenly subjected to an expulsion order issued on 27 December 2021, reportedly for diplomatic reasons. It quickly became apparent that the Rwandan Government was behind this reversal by the Government of Niger. Following decisive intervention by the IRMCT, the expulsion order was suspended; however, the threat of expulsion remains. Meanwhile, the Rwandan authorities continue their efforts to secure the transfer of these relocated persons to Rwanda against their will.

16. The Rwandan Government did not stop there. In line with its strategy of manipulation, it hassystematically and vehemently opposed the early release decisions lawfully granted by the ICTR/IRMCT, going so far as to seek to be systematically consulted prior to any determination in individual cases. Faced with the resistance of the President of the IRMCT, the Honourable Judge Theodor Meron, the Rwandan Government ultimately circumvented this position, as it had done previously, by taking advantage of its participation in the proceedings of the United Nations Security Council to promote the adoption of a resolution encouraging the IRMCT to impose conditions on applicants seeking to benefit from early release.

17. That is how, in its Resolution 2422 of 27 June 2018, the Security Council "*encourages the Mechanism to seek an appropriate solution, including by considering the imposition of conditions on early release in suitable cases*" (see paragraph 10 of the Resolution).[19]

18. Referring to that resolution, Judge Theodor Meron granted early release to Simba Aloys,notwithstanding the fact that he had not accepted responsibility for the crimes for which he had been convicted. The decision notes that: "…*numerous applications*

[19] United Nations Security Council Resolution No. 2422 of 27 June 2018 provides, in paragraph 10, as follows: "*Takes note of the views and concerns expressed by certain Member States during the Security Council debate held on 6 June 2018 regarding the current position of the Mechanism with respect to the early release of persons convicted by the ICTR, and encourages the Mechanism to seek a satisfactory solution, including by considering the establishment of conditions for early release in appropriate cases*." A reading of the report of the debates of 6 June 2018 clearly shows that it was on the basis of the excessive insistence of the Representative of the Rwandan Government that conditional early release was ultimately retained.

for early release have been granted even where the convicted persons had not clearly expressed remorse and, in certain cases, where the convicted person had expressly denied the crimes for which he had been convicted[20]".

19. After a prolonged period of pressure from Kigali, which accused him of various wrongdoingsand, in some instances, even labelled him a *genocidaire*, Judge Meron stepped down from his position as President of the IRMCT on 19 January 2019. His successors significantly altered this approach by requiring an admission of guilt as a sine qua non condition for the granting of early release.

b. The Direction of 15 May 2020 and its impact on early release

20. The Practice Direction regarding the Assessment of Applications for Pardon, Commutation ofSentence or Early Release of Persons Convicted by the ICTR, the ICTY or the Mechanism was adopted by the Judges on 15 May 2020, that is, approximately two years after the United Nations Security Council Resolution of 27 June 2018. The innovation introduced by this modification, with far-reaching consequences, is that the new Directive provides, in its article 20, that "E*arly release may be granted subject to conditions*."

21. It should be emphasized that during the two-year period preceding the adoption of this newDirection, all applications submitted by applicants who met the requirements under the previous Direction and the relevant jurisprudence were effectively frozen, without any explanation being provided to the persons concerned, with the exception of Simba Aloys, who was granted early release by the President, Judge Theodor Meron, in January 2019.

22. From the decisions subsequently rendered on the basis of the Direction of 15 May 2020, itappears that, in order to obtain release, an applicant is now required to admit guilt for the crimes for which he was convicted. This requirement is unjust and inequitable in comparison with those who benefited from early release prior to the adoption of the new directive. The most adversely affected are the applicants whose requests were frozen for approximately two years pending the adoption of the new directive, in violation of the principle of non-retroactivity of criminal law.
23. It is also important to note that, prior to the Direction of 15 May 2020, early release waseffectively equivalent to an unconditional commutation of sentence. This unequal treatment of ICTR/IRMCT convicts is incomprehensible and aberrant.

24. The most serious impact of this new Direction is that it has led to a systematic blockage of earlyreleases as a result of conditioning release on the acknowledgment of guilt and the request for forgiveness for the crimes for which the person was convicted, contrary to past practice, and this following political pressure from the Rwandan Government. In any event, this requirement of a confession after the conclusion of judicial proceedings is iniquitous for a person whose sentence was

[20] IRMCT: Decision of the President dated 7 January 2019 on the early release of Aloys Simba, paragraph 44.

determined by the judges taking into account the fact that he pleaded not guilty and the gravity of the crimes. We believe that this manner of extorting a guilty plea from convicted persons at this stage is incomprehensible, as it completely undermines the possibility of revision of the judgment, which is nevertheless provided for in the Statute of the Tribunal.

c. Denunciation of the offer made by the Rwandan Government and the need to take into account other objective criteria

25. We note that the Secretary-General, in his report to the United Nations Security Council, givespreference to Rwanda over the two other countries (Senegal and Benin) on the sole ground that Rwanda is willing to assume the costs of maintaining Rwandan prisoners convicted by the ICTR/IRMCT, without taking into account other objective criteria. He further states that "*the President of the Mechanism has the authority to designate Rwanda as the State responsible for the enforcement of sentences, and the Security Council may decide to invite her to proceed with such designation or to adopt a binding decision to that effect*" (see paragraph 32 of the Report).

26. However, the Practice Direction on the procedure for the designation of the State in which aconvicted person is to serve his or her sentence of imprisonment, in force since 7 May 2025, provides in paragraph 4 that the President may obtain, directly or through the Registrar, and take into consideration a range of information, including any "*relevant observations from the convicted person*." This means that, in designating a State, it is not sufficient to consider only its capacity to bear the costs of maintaining prisoners, whereas any decision of transfer must imperatively comply with applicable international obligations, in particular Articles 7 and 10 of the International Covenant on Civil and Political Rights, which respectively guarantee the prohibition of inhuman treatment and the respect for the dignity of persons deprived of their liberty.

27. Accordingly, any transfer measure must be preceded by a rigorous, independent and transparentassessment, addressing in particular:

- The conditions of detention in the State concerned;
- The effective independence of the judicial system;
- Concrete and robust guarantees against all forms of inhuman or degrading treatment; - The existence of effective monitoring and remedies.

28. Furthermore, in order to ensure compliance with international standards and to preserve thecredibility of international justice, it is essential that:

- Any decision to transfer be subject to effective, verifiable and continuing guarantees;
- An international supervision mechanism be maintained;
- Regular independent inspections be ensured;

- A mechanism allowing for the removal or transfer of detainees be activated in the event of violations of fundamental rights.

29. However, Amnesty International's 2024 report on Rwanda notes that Rwanda has once againfailed to ratify the International Convention for the Protection of All Persons from Enforced Disappearance.[21] In addition, the NGO Human Rights, in its report for the year 2023, has identified several violations of human rights committed in Rwanda and emphasized the failure of the Rwandan Government to conduct investigations into these abuses and to prosecute those responsible. Furthermore, On the other hand, in its report of 18 July 2025, Human Rights Watch (HRW) has, more extensively and in greater detail, documented that human rights, in particular the rights of prisoners, are violated in Rwanda (see in particular paragraphs 1, 4, 6, 15, 21, 23, 26, 29, 30, 31 and 32 of the Report).[22]

30. As far as we are concerned, it should not be overlooked that some of us held positions of highpolitical and military responsibility, and that such individuals are still regarded by the Rwandan Government as its enemies. It follows that they would be treated as such, persecuted, humiliated, and subjected to torture, potentially to the point of death.

31. It should also be noted that most of us were tried *in absentia* by the *Gacaca* courts in Rwanda, and our presence there would provide an opportunity for the enforcement of those judgments. It should further be recalled that certain civilian and military authorities have appropriated our assets (houses, properties, etc.), and that, consequently, if we are transferred to Rwanda, we would constitute a serious inconvenience to those individuals, with a significant risk of being eliminated by one means or another.

32. Another serious consequence of the transfer to Rwanda of Rwandan persons convicted by theIRMCT/ICTR is that our families, who are refugees in various countries, would no longer be able to visit us, given their refugee status and the fact that their safety would not be guaranteed in Rwanda under the RPF regime. The ideology promoted by the RPF and by Ibuka, according to which "*the child of a genocidaire is a genocidaire*," would only increase the risk that members of our families could themselves be imprisoned on the basis of fabricated accusations. During his meeting with the youth on 30 June 2013 in Kigali, President Kagame stated that Hutu children must ask for forgiveness because, according to him, those who committed the genocide did so in their name: "*Even if you did not kill, stand up*

[21] Original version: « *Rwanda again failed to ratify the International Convention for the Protection of All Persons from Enforced Disappearance* »

[22] In paragraph 26, HRW states: "*However, Human Rights Watch research shows that the government does not conduct credible and effective investigations into most allegations of extrajudicial executions, enforced disappearances, arbitrary detention, torture and ill-treatment, or prosecute alleged perpetrators. Rwandan authorities continued to arrest and detain people in unofficial military detention centres, where score of detainees have been tortured in recent years".*

and ask for forgiveness for those who killed in your name…". It is the same Kagame who declared on 25 March 2010 that "*if a hammer must be used to kill the fly, we will do so*." Furthermore, our close relatives who remain in Rwanda are survivors of RPF massacres. They are persecuted and live in fear and terror under the regime. They would therefore not dare to visit us for fear of reprisals.

33. It should be noted that ideologues of the RPF, including Mr Jean Damascène Bizimana, thecurrent Minister of Reconciliation and National Unity, have developed strategies aimed at neutralizing any Hutu and any other person not aligned with the regime. Thus, in the history of the genocide they produced between 2015 and 2020, entitled "*AMATEKA YA JENOSIDE YAKOREWE ABATUTSI"* (Ndr: *History of the Genocide against the Tutsi*), organized by prefecture, it appears that facts are invented or distorted. On the basis of false testimony, they compile lists of alleged planners and perpetrators of the genocide, in which all those accused before the ICTR, whether acquitted or convicted, are systematically placed at the top. Regrettably, this is what is taught in schools and repeated in official meetings and during annual genocide commemorations. By calling into question the releases decided by the ICTR/IRMCT, these ideologues urge genocide survivors that, should they be dissatisfied with judicial decisions, they ought to mobilize and take justice into their own hands against those they label as genocidaires. It would therefore be inappropriate to expose us to popular vindictiveness orchestrated by such extremists.

34. One would have to be naïve to believe that the RPF can be trusted to respect the protection of ourconfidential documents and, above all, of our protected witnesses, as well as the confidentiality of proceedings before the IRMCT in the event of applications for revision of judgments. The prospect of handing over to the RPF regime Rwandan prisoners convicted by the ICTR/IRMCT would provide an easy means of bringing an end to the revision of judgments, despite the fact that such revision is provided for in the Statute of the ICTR/IRMCT. The Government would do everything possible to ruin the proceedings or to make new evidence disappear, or even to eliminate applicants or witnesses before the process is completed. Members of the RPF will stop at nothing when it comes to shielding themselves from any form of prosecution.

35. In short, the general conditions of imprisonment and the rules governing security and libertyreferred to in Article 4(f) of the Practice Direction of the President of the IRMCT dated 7 May 2025 cannot be met, in our case, by Rwanda. This is the reason why, we strongly denounce Rwanda's request to be designated as the State to receive Rwandan persons convicted by the ICTR/IRMCT and to be entrusted with the control of the enforcement of their sentences, as well as the custody of the ICTR/IRMCT archives.

36. In light of these objective criteria and all the antecedents set out above, we prefer to remain inBenin, the country that has hosted us for several years and has treated us humanely, rather than be transferred to Rwanda, where we risk being subjected to torture and an atrocious death. As stated in paragraph 28 of the Report of the United

Nations Secretary-General, "…*the Mechanism could immediately seek to transfer to each enforcement State the supervision of the conditions of imprisonment for the respective prisoners. The transfer would require each State's willingness to accept this responsibility and the necessary amendments to the Statute, the Rules of the Procedure and Evidence and relevant enforcement agreements.*" As regards judicial and other functions, it is, in our view, logical that they should be exercised by an independent international jurisdiction in order to preserve equality and fairness.

d. Other possible options

37. By removing the conditions that compromise the possibility of filing applications for revision ofjudgments, the blockage of early releases would be lifted. This option would make it possible to significantly reduce the number of prisoners to take care of and, consequently, to reduce the budget required for their upkeep.

38. At present, those eligible may represent approximately half of the Rwandan prisoners servingtheir sentences in Senegal and Benin. This means that, following a first wave of early release after the lifting of the blockage, the budget required to maintain those still awaiting their turn would decrease by approximately half. In these circumstances, it would be irrational for the United Nations' concern to save 250,000 US dollars to be placed above the right to life and to fair justice claimed by persons convicted by the ICTR/IRMCT. We therefore consider that the United Nations should continue negotiations with the countries hosting us. We recommend maintaining the funding of subsistence costs and medical expenses of the convicted persons.

39. Furthermore, it is abnormal that persons convicted by the ICTR/IRMCT are not entitled to anyform of sentence adjustment.

c. The need to restore the truth about the Rwandan tragedy

40. We believe that at a moment when tongues are beginning to loosen and the truth about seriousviolations of international humanitarian law committed by members of the RPF in Rwanda and in the Democratic Republic of the Congo (DRC) for more than thirty years is being brought to light by credible witnesses who, for a long time, were compelled to conform to the narrative imposed by the powerful supporters of the RPF regime, the international jurisdiction should fulfil the mandate entrusted to it and seize this opportunity to correct course and deliver justice to all victims of this tragedy.

41. Ultimately, accepting the transfer to Rwanda of Rwandan prisoners convicted by theICTR/IRMCT would be a decision carrying extremely serious consequences. Indeed, such a decision would amount to endorsing victor's justice, while General Kagame and his forces (the other party to the conflict) remain subject to prosecution before the Rwandan people, the international community, and history. It will be recalled that, since coming to power and up to the present day, Kagame and his close associates have remained preoccupied with suppressing the truth and obscuring their role in the Rwandan tragedy, doing everything possible to definitively shift

responsibility for their own crimes onto their opponents, including several convicted by the ICTR/IRMCT. Accordingly, handing them over would be equal to definitively entrenching impunity for alleged perpetrators within the RPF, despite the existence of substantial evidence of their responsibility in the Rwandan tragedy.

42. By way of illustration, it is important to recall the confidence shared by General Kagame withGeneral Roméo Dallaire, Commander of UNAMIR, on 2 April 1994. In his book, General Dallaire writes: "*I looked at his face. Never had I seen him so sombre. He only added that we were on the eve of a cataclysm and that, once unleashed, nothing would be able to control it."*[23]The cataclysm was triggered on 6 April 1994 with the downing of President Habyarimana's aircraft, and it is known that the Kagame regime continues to strive to attribute this fatal act to its adversaries. Yet relevant and substantial evidence concerning the attack implicates the RPF and its leader.

43. It should also be reminded the significant statement made by the former ICTR Prosecutor, MsCarla Del Ponte, who, approximately one year after taking office, stated: "*If it were established that it was the RPF that shot down President Habyarimana's plane, the history of the genocide would be rewritten*."[24] Unfortunately, the Tribunal closed its doors without having tried the members of the RPF implicated in this attack.
44. Errors have already been made in exempting the RPF from prosecutions that fell within themandate of the ICTR/IRMCT. It would be inappropriate to multiple these errors by handing over its adversaries who have been convicted, as if they were trophies.

Excellency Mr President of the United Nations Security Council,

In light of the foregoing, we hope that, under your authority and wisdom, the Security Council will take into account our concerns and our proposals and will not accept the offer of the Rwandan Government, and will allow us to continue serving our sentences under conditions that are humanly acceptable.

Please accept, Excellency Mr President of the Security Council, the assurances of our highest consideration.

<u>The signatories</u>:

1. NIZEYIMANA Ildephonse
2. NCHAMIHIGO Siméon
3. NDAHIMANA Grégoire
4. BIZIMUNGU Augustin

[23] General Roméo Dallaire, *J'ai serré la main du diable*, p. 279. In his sworn testimony before the ICTR, General Dallaire confirmed this statement made by Kagame four days before 6 April 1994
[24] Carla Del Ponte, see *Jeune Afrique*, 17 April 2000

5. GATETE Jean Baptiste
6. MUSEMA UWIMANA Alfred
7. HATEGEKIMANA Ildephonse
8. NTABAKUZE Aloys
9. AKAYESU Jean Paul
10. SEROMBA Athanase
11. SEMANZA Laurent
12. NZABONIMANA Callixte
13. KAJELIJELI Juvénal

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- Members of the United Nations Security Council, New York, USA;
- The President of the IRMCT, The Hague, Netherlands;
- The Judges of the IRMCT;
- The Registrar of the IRMCT, The Hague, Netherlands;
- The President of the United Nations Human Rights Commission, Geneva, Switzerland;
- Me John Philpot, email: johnmphilipot@gmail.com;
- Defence Lawyers (all);
- ICRC, Geneva;
- Families of the signatories.

ANNEX B

26 May 2026

OPEN LETTER TO THE UNITED NATIONS SECURITY COUNCIL AND THE SECRETARY-GENERAL OF THE UNITED NATIONS

Opposition to the Transfer of IRMCT/ICTR Detainees to Rwanda

We, the undersigned lawyers and Defence Counsel who represent individuals before the International Criminal Tribunal for Rwanda ("ICTR") and the International Residual Mechanism for Criminal Tribunals ("IRMCT"), write to express our profound opposition to any proposal to transfer persons convicted by the ICTR/IRMCT and currently serving sentences in Benin and Senegal to Rwanda.

The proposed transfer is not an ordinary administrative or financial measure. It concerns the fate, safety, dignity and fundamental rights of individuals who remain under the authority of a United Nations institution. The United Nations has a continuing legal and moral obligation to ensure that the enforcement of sentences complies with international human rights standards and the rule of law. The transfer of these detainees to Rwanda would violate those obligations.8

The detainees have made their position unmistakably clear. In their memorandum to the United Nations Security Council, they describe the prospect of transfer to Rwanda as a threat to their lives and physical safety (Annex T/1). Their fears are not irrational. They are grounded in law, evidence, and Rwanda's documented conduct.

The UN's Continuing Responsibility

The United Nations has continuing legal obligations toward all persons detained under the authority of the IRMCT. UN Security Council Resolution 2740 (2024) expressly emphasises the importance of ensuring that the rights of persons detained on the authority of the Mechanism are in accordance with applicable international standards relating to health care, including the United Nations Standard Minimum Rules for the Treatment of Prisoners (para. 16, Annex T/2).

IRMCT President Judge Graciela Gatti Santana, in her remarks before the United Nations General Assembly on 22 October 2025, acknowledged that protecting the fundamental rights of these prisoners is essential to the rule of law and that verdicts must not only be entered; sentences must be enforced (p. 2, Annex T/3). She further stressed that the "justice cycle" must be completed "fairly" (p.4, Annex T/3). That includes completing a sentence without breaching international principles and without being transferred to an unsafe state. Any transfer to Rwanda would undermine those principles. The Resolution further recognises that decisions concerning relocation and transfer must take into account the consent or any objections raised by the individuals to be relocated (para. 7, Annex T/2). The detainees have unequivocally objected. They object because they believe that transfer to Rwanda would expose them to persecution, retaliation, arbitrary detention conditions, denial of medical care, and potentially death (Annex T/1).

The United Nations cannot dismiss those fears simply because Rwanda offers assurances.

Rwanda Has Already Been Found to Breach International Obligations

The proposed transfer must be assessed against Rwanda's contemporary human rights record, its treatment of perceived opponents, and its documented history of disregarding international obligations.

In November 2023, the United Kingdom Supreme Court ('UKSC') delivered one of the most important judicial findings ever made concerning the modern Rwandan state. In R (AAA (Syria) and others) v Secretary of State for the Home Department [2023] UKSC 42 (Annex T/4), the UK Supreme Court concluded that there were substantial grounds for believing that individuals transferred to Rwanda faced a real risk of refoulement due to systemic deficiencies in Rwanda's asylum system and failures to comply with international obligations. The Court relied heavily on evidence from the United Nations High Commissioner for Refugees ("UNHCR"), including evidence of previous refoulement incidents and failures to honour refugee protection guarantees (T/5) and on evidence from Human Rights Watch (T/6). The Court's findings are particularly important because they rejected the argument that diplomatic assurances from Rwanda could simply be taken at face value.

These findings are directly relevant here. The issue is not merely whether Rwanda offers assurances. It is whether Rwanda can be trusted to comply with them. International courts and treaty bodies have repeatedly found that Rwanda has violated fundamental human rights obligations. In Ingabire Victoire Umuhoza v Republic of Rwanda (Application No. 003/2014, T/7), the African Court on Human and Peoples' Rights held that Rwanda violated fair trial guarantees and freedom of expression protections.

Similarly, the European Parliament adopted a resolution confirming Rwanda had violated these rights in (Annex T/8). And the United Nations Human Rights Committee found that Rwanda violated rights protected under the International Covenant on Civil and Political Rights ("ICCPR") in its Concluding Observations on Rwanda (Annex T/9).

The continuing treatment of Victoire Ingabire also demonstrates the limited practical value of international rulings against Rwanda. Although the African Court found that Rwanda violated Victorie Ingabire's fair trial and freedom of expression rights, the Rwandan authorities have continued to use domestic legal proceedings and prosecutorial mechanisms against her more than a decade later. In June 2025, the Rwandan government arrested Victoire Ingabire, almost four years after the arrest of nine others, eight of whom are members of Ingabire's unregistered political party, and one of whom is a journalist (T/10.1). These nine outspoken critics of the Rwandan regime were targeted for exercising their rights to freedom of expression, association, and peaceful assembly. Amnesty International has repeatedly called for an end to the harassment, prosecution, and intimidation of Ms Ingabire and members of her political movement

(T/10.2). If a prominent opposition figure who successfully obtained a judgment from the African Court remains vulnerable to continuing legal harassment inside Rwanda, then ICTR detainees cannot reasonably expect different treatment.

The history of Rwanda's relationship with the African Court on Human and Peoples' Rights also demonstrates the inability of the international community to rely on Rwanda's diplomatic and legal assurances. In cases including Mugesera v Rwanda access to the African Court formed part of the broader international assurances relied upon regarding legal protection and judicial oversight (T/11). Yet Rwanda subsequently withdrew the declaration permitting individuals to bring cases directly before the African Court, thereby significantly limiting access to international judicial protection once scrutiny became politically inconvenient. This history is directly relevant to the present proposal. It demonstrates that formal legal guarantees offered by Rwanda cannot automatically be assumed to endure when they cease to align with the interests of the State.

Other recent examples of Rwanda's disregard for international legal obligations reinforce this concern. In June 2023, the Dutch Supreme Court refused the extradition of Pierre-Claver Karangwa to Rwanda because of concerns that he would not receive a fair trial (Annex T/12). The Court upheld findings that the risk of political interference and deficiencies in Rwanda's judicial system prevented extradition. This is a clear example of a leading European court refusing to trust Rwanda with the fair treatment of an accused person despite formal assurances from the Rwandan authorities. Even more recently, in March 2026, the United States imposed sanctions on the Rwanda Defence Force ("RDF") and senior Rwandan military officials for their direct operational support of the M23 armed group in eastern Democratic Republic of Congo ("DRC"). The U.S. Treasury stated that the RDF was "actively supporting, training, and fighting alongside" M23 and condemned Rwanda for "blatant violations of the Washington Peace Accords" brokered by the United States between Rwanda and the DRC. The United States further stated that M23's offensives, carried out with RDF support, involved human rights abuses, including "extrajudicial killings, arbitrary arrests, and torture" (T/13.1). The European Union similarly imposed sanctions on additional individuals and entities linked to the conflict in eastern Congo, citing continuing violence, destabilisation, and violations of international commitments arising from Rwanda's support for the M23 occupation of eastern Congo (T/13.2).

These are criticisms that directly relate to whether the UN can rely on assurances from Rwanda as to the treatment of the detainees post transfer. Further, these recent examples of breaches of international law come against a background of constant criticism from the press and human rights organisations. Human Rights Watch (T/14), Amnesty International (T/15), Reuters (T/16) and other international observers have consistently documented issues including (i) arbitrary detention; (ii) enforced disappearances; (iii) intimidation of critics; (iv) political prosecutions; (v) ill-treatment in detention; (vi) restrictions on freedom of expression; and (vii) reprisals against perceived opponents both within and outside Rwanda. These concerns are not historical abstractions. They are

current, recurring, and well-documented, and they establish a clear, discernible pattern. Rwanda does not reliably tolerate perceived political enemies.

The UK Supreme Court in AAA held unanimously that Rwanda's assurances could not be relied upon because Rwanda had a demonstrated history of breaching non-refoulement obligations and disregarding international commitments (T/4). The same reasoning applies directly to the proposed transfer of IRMCT sentence-enforcement prisoners: formal assurances from Rwanda cannot displace objective evidence of systemic political interference, reprisals against perceived regime opponents, and prior disregard of international obligations.

The Detainees Are Uniquely Vulnerable

Rwanda is not being asked to enforce the sentences of unknown foreign nationals. It is being asked to take custody of men whose convictions are permanently tied to Rwanda's national political identity and official genocide narrative.

The ICTR detainees are not ordinary prisoners. They are individuals whose identities remain permanently associated with Rwanda's most politically sensitive historical narrative. Many are viewed by the current Rwandan authorities not simply as convicted persons, but as symbolic political figures associated with the former Hutu-led state or with competing narratives concerning the events of 1994. That political reality matters. The detainees themselves have explained in their memorandum to the United Nations Security Council that they fear persecution, mistreatment, torture, reprisals, and even death if returned to Rwanda (Annex T/2). Their fears are not speculative.

If the UKSC found that Rwanda cannot be trusted with asylum seekers, it cannot safely be trusted with ICTR detainees. These detainees, as people convicted of genocide, are political enemies of the current regime. These are individuals whose return has symbolic political value in a country where politically sensitive detainees are especially vulnerable due to a lack of independence. Transfer to Rwanda will remove international oversight as to the enforcement of the sentence and leave the detainees at the mercy of a system that the UKSC has found to have a problematic level of executive influence (T/4).

The International Association of Democratic Lawyers ("IADL"), whose members include former ICTR Defence Counsel, warned in February 2026 that transfer to Rwanda would amount to "a death knell" for ICTR detainees and acquitted persons (p. 2, T/17). The IADL further observed that Rwanda's conduct toward political opponents and perceived enemies remains "abysmal and unchanged" and referred to intimidation, imprisonment of opposition figures, and the treatment of critics and dissidents (p. 2–3, T/17).

The Fear of the Detainees Is Objectively Reasonable

The detainees' fears are reinforced by extensive international reporting concerning arbitrary arrests and enforced disappearances on Rwandan soil; as well as Rwanda's

well-documented campaign of extraterritorial killings, kidnappings and intimidation abroad.

Within its own borders, Rwanda pursues a ruthless campaign of repression against critics (T/18). Journalists, online commentators, and opposition-linked media figures continue to face arbitrary arrest and prosecution. Alongside Victorie Ingabire and the other 8 arrested (T/10.1), Rwandan authorities recently arrested journalists associated with the "Imbarutso ya Demokarasi" YouTube channel, reflecting the continuing suppression of dissenting voices and independent criticism inside Rwanda (T/19). Such repression has formed the basis of successful asylum appeals by Rwandans to countries such as the UK (T/20).

Moreover, international reporting has shown undeniable evidence of regime critics suffering suspicious deaths whilst in custody. News organisations including the BBC (T/21.1 and T/21.2), and organisations such as Amnesty (T/15) and Human Rights Watch (T/21.3) have recorded deaths in Rwandan custody in highly controversial circumstances. In February 2020, gospel singer, reconciliation activist, and government critic Kizito Mihigo died in police custody shortly after being rearrested by Rwandan authorities (T/21.1). More recently, the academic and government critic Aimable Karasira died in custody on the very day he was due to be released from prison (T/21.2 and T/21.3). Rwanda has a clear pattern of suspicious deaths of high-profile critics in state custody and a well-established track record of evading its obligation to ensure transparent and independent investigations into those deaths (T/19).

Critics and perceived opponents of the Rwandan Government remain highly vulnerable within Rwanda itself, especially while in detention or state custody.
There is also clear evidence of transnational repression directed at Rwandan critics living abroad. International reporting, such as the Guardian (T/22) has documented allegations of murder plots, threats, intimidation, disappearances, and attacks directed at Rwandan critics living abroad. Human rights organisations including Human Rights Watch have documented Rwanda's extraterritorial repression, including killings, kidnappings, enforced disappearances, physical attacks, intimidation, and pressure directed at critics and their family members abroad. Human Rights Watch further observed that many Rwandans living outside Rwanda now "live in fear of traveling, being attacked, or seeing their relatives in Rwanda targeted." (T/23).

The documented treatment of Paul Rusesabagina, a known activist against the Rwandan government, further intensifies these concerns. In 2022, Mr Rusesabagina was seized in Dubai in violation of international laws against enforced disappearance and arbitrary detention (T/24). The United Nations Working Group on Arbitrary Detention concluded that Rwandan authorities had abducted him and found that his transfer to Rwanda was unlawful, that his subsequent trial was riddled with procedural irregularities and unfairness, and that his detention violated multiple protections under the ICCPR (T/25). If critics and perceived opponents are detained, persecuted, and killed inside Rwanda itself, and pursued even beyond Rwanda's borders, there can be no serious confidence that former ICTR detainees would be safe once returned directly to Rwandan state

custody. The proposed transfer is a request for the United Nations to transfer detainees into the custody of a State that has already been found by UN mechanisms to have engaged in state-sponsored abduction and arbitrary detention. Evidence of deaths in custody shows that there is nowhere inside Rwanda that critics can be safe, and evidence of such transnational repression begs the question: if critics are unsafe in London, how will detainees ever be safe inside Rwanda?

The Principle of Non-Refoulement Prohibits Transfer

The prohibition against refoulement is a cornerstone of international law. It is reflected in Article 3 of the Convention Against Torture ("CAT"), Articles 6 and 7 of the ICCPR, the Refugee Convention, customary international law and broader principles prohibiting transfer to a real risk of torture, cruel treatment, arbitrary detention, or persecution. The obligation applies wherever substantial grounds exist for believing that an individual faces a real risk of serious harm. That threshold is plainly met here. The United Nations cannot lawfully transfer detainees into the custody of a State where (i) there is credible evidence of political repression; (ii) the judiciary's independence has repeatedly been questioned; (iii) critics and perceived opponents face intimidation and reprisals; (iv) international courts and treaty bodies have already found violations of fundamental rights.

Diplomatic assurances cannot overcome that record.

The Right for a Sentence to be Supervised

The report of the Secretary General on the Transfer of functions under the IRMCT (S/2025/786) (T/26) confirms that supervision of the enforcement of a sentence under Article 25(2) is a distinct legal protection function that requires consideration of legal and other implications, not a mere administrative placement decision. Any transfer that places sentenced persons under the control of a politically interested receiving State while weakening independent international supervision would undermine the very rationale of the Mechanism's enforcement regime.

The ICTR repeatedly treated genocide-related proceedings in Rwanda as uniquely vulnerable to political pressure, intimidation, and practical unfairness. Rule 11bis jurisprudence including Prosecutor v Munyakazi (T/27) recognised credible fears of reprisals against defence witnesses, structural inequality of arms, and the inadequacy of formal assurances. If Rwanda could not reliably be trusted with trial proceedings under direct Tribunal scrutiny, it cannot safely be trusted with unsupervised sentence enforcement of convicted ICTR detainees whose political symbolism is even greater.

Legal Rights Would Be Impeded by Transfer

A transfer to Rwanda would not only endanger the detainees' physical safety, it would also materially impede their continuing legal rights. The IRMCT confirms that persons convicted by the ICTR, ICTY or Mechanism may apply for pardon, commutation of

sentence or early release under Article 26 of the Mechanism Statute, with decisions taken by the Mechanism President (T/26). In practice, however, meaningful exercise of that right depends upon cooperation by the enforcing State, access to counsel, medical evidence, family support, and the ability to communicate freely with the Mechanism. There is substantial reason to doubt that Rwanda would facilitate these rights in good faith for prisoners whom it regards as notorious political enemies. Rwanda's longstanding treatment of political opponents, dissidents and genocide-related detainees demonstrates a pattern of punitive and restrictive state conduct incompatible with impartial sentence administration. International courts and human rights organisations have repeatedly documented politically motivated prosecutions, arbitrary detention, intimidation, and lack of effective judicial independence. In these circumstances, there is a serious and well-founded concern that applications for early release or commutation by ICTR detainees transferred to Rwanda would be obstructed, undermined, politically opposed, or rendered practically meaningless.

Further, those rights depend on meaningful access to counsel, witnesses, family, and independent review, and transfer to Rwanda would make that access practically impossible.

Protected witnesses and review witnesses could not realistically be expected to travel to Rwanda. The ICTR's own Rule 11bis jurisprudence recognised this problem. In *Prosecutor v Munyakazi*, the Appeals Chamber accepted that witnesses may be unwilling to testify for the Defence because they feared "threats, harassment, torture, arrest, or being killed", and that witnesses abroad would fear intimidation and threats if required to testify in Rwanda (T/27). The same concern arose in *Kanyarukiga*, where the Appeals Chamber considered there was "sufficient information" about harassment of witnesses testifying in Rwanda, including threats, torture, arrests, detentions and killings, and that defence witnesses feared being accused of "genocidal ideology" if they testified (T/28). Nor can it be assumed that Defence Counsel could safely visit clients in Rwanda. Peter Erlinder, a lead ICTR Defence Counsel, was arrested by Rwandan authorities in Kigali in 2010 after travelling there to assist Victoire Ingabire, and detained in Kigali Central Prison for three weeks (T/29). The English High Court has also recorded evidence that John Philpot, who had worked extensively before the ICTR and had been critical of the Rwandan Government, was "no longer able to go to Rwanda for fear of his own safety", and that the Erlinder case made other foreign lawyers apprehensive about travelling there (T/30).

Transfer would also impede the right to family contact. Many family members of ICTR detainees are refugees or persons who fear Rwanda and could not safely travel there. The Nelson Mandela Rules require that prisoners be allowed, under necessary supervision, to communicate with family and friends "at regular intervals" through correspondence, telecommunications and visits (T/31). Human rights organisations have demonstrated clear examples of families being threatened abroad, providing concrete evidence for fears they would be unsafe in Rwanda (T/32).

Transfer to Rwanda would obstruct not only safety but the practical exercise of continuing legal rights including sentence review, early release, access to counsel, access to witnesses, protected witness security, and family contact. A sentence enforced in conditions where counsel cannot safely attend, witnesses cannot safely testify, and families cannot safely visit is not merely inconvenient, it is incompatible with the fair and humane enforcement of a sentence under international law.

Financial Considerations Cannot Override Human Rights Obligations

We recognise the financial pressures currently facing the IRMCT and the United Nations. Judge Gatti Santana referred to the need to reduce costs and transfer or terminate certain functions where possible (p. 1, Annex T/3). However, budgetary concerns cannot justify exposing detainees to foreseeable human rights violations. Rwanda's offer to assume enforcement costs does not resolve the legal problem. On the contrary, it heightens concern that financial expediency may displace the United Nations' human rights obligations.

The question is not which State is cheapest. The question is whether the transfer would be lawful, humane, and consistent with the principles upon which international criminal justice was founded.

The Integrity of International Justice Is at Stake

The ICTR and IRMCT were established to uphold the rule of law, not to compromise it. The legitimacy of international criminal justice depends not only on prosecuting crimes but also on respecting the rights and dignity of those convicted. As Judge Gatti Santana stated before the General Assembly: "We cannot falter in this last mile of the justice cycle and risk undoing all that has come before" (p. 4, T/3).

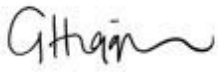
A forced transfer to Rwanda against the wishes of the detainees, despite extensive evidence of serious human rights concerns, would do precisely that. It would irreparably damage confidence in the fairness, neutrality, and humanity of international criminal justice.

Request

We therefore call upon you to oppose any proposal of transfer of ICTR/IRMCT detainees to Rwanda. The treatment of these detainees will form part of the historical record by which international justice itself will ultimately be judged. The detainees must either be transferred to a State which complies with the international human rights obligations as set out above or be released.

Signatories:

Gillian Higgins



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☐ Decision/ *Décision*
☐ Order/ *Ordonnance*
☐ Judgement/ *Jugement/Arrêt*
Submission from parties/ *Écritures déposées par des parties*
☐ Submission from non-parties/ *Écritures déposées par des tiers*
☐ Book of Authorities/ *Recueil de sources*
☐ Affidavit/ *Déclaration sous serment*
☐ Indictment/ *Acte d'accusation*
☐ Warrant/ *Mandat*
Notice of Appeal/ *Acte d'appel*

II - TRANSLATION STATUS ON THE FILING DATE/ *ÉTAT DE LA TRADUCTION AU JOUR DU DÉPÔT*

Translation not required/ *La traduction n'est pas requise*

X Filing Party hereby submits only the original, and requests the Registry to translate/
La partie déposante ne soumet que l'original et sollicite que le Greffe prenne en charge la traduction :
(Word version of the document is attached/ *La version Word du document est jointe)*

English X French/ *Français* X Kinyarwanda ☐ B/C/S ☐ Other/*Autre* (specify/*préciser*):

☐ Filing Party hereby submits both the original and the translated version for filing, as follows/
La partie déposante soumet l'original et la version traduite aux fins de dépôt, comme suit :

Original/ *Original en :* ☐ English/ *Anglais* ☐ French/ *Français* ☐ Kinyarwanda ☐ B/C/S ☐ Other/*Autre* (specify/ *préciser*):

Traduction/ *Traduction en :* ☐ English/ *Anglais* ☐ French/ *Français* ☐ Kinyarwanda ☐ B/C/S ☐ Other/*Autre* (specify/ *préciser*):

☐ Filing Party will be submitting the translated version(s) in due course in the following language(s)/
La partie déposante soumettra la (les) version(s) traduite(s) sous peu, dans la (les) langue(s) suivante(s):

☐ English/ *Anglais* ☐ French/ *Français* ☐ Kinyarwanda ☐ B/C/S ☐ Other/*Autre* (specify/*préciser*):