

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-12-15-ES.1

Date: 29 October 2025

Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Graciela Gatti Santana, President

Registrar: Mr. Abubacarr M. Tambadou

Date: 29 October 2025

PROSECUTOR

v.

ALFRED MUSEMA

PUBLIC

CONFIDENTIAL ANNEX A

CONFIDENTIAL ANNEX B

**SUBMISSIONS ON BEHALF OF ALFRED MUSEMA PURSUANT TO
PARAGRAPHS 13 AND 18 OF THE PRACTICE DIRECTION ON
EARLY RELEASE**

The Office of the Prosecutor:

Mr. Serge Brammertz

Counsel for Mr. Alfred Musema:

Mr. Steven Kay QC

Ms. Gillian Higgins

I. Introduction

1. These supplemental submissions are filed pursuant to paragraph 10 of the Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence or Early Release of Persons Convicted by the ICTR, the ICTY, or the Mechanism (Practice Direction).¹
2. As of 11 February 2025, Mr. Musema had served two-thirds of his life sentence.² He has now spent more than 30 years in prison and is the longest serving ICTR prisoner. He is 76 years old.

II. Procedural History

3. An application on behalf of Mr Musema seeking his early release was filed on 13 January 2025.³
4. Pursuant to the Practice Direction, information collected by the Registry was signed for by Mr Musema on 19 September 2025, consisting of (i) a letter from the Registrar dated 8th September 2025, (ii) a Memorandum from the Prosecutor dated 28 April 2025 and (iii) three further reports (medical, psychological and a prison report). Counsel sought an extension of time to provide submissions on Mr Musema's behalf having received this information on 30 September 2025.⁴

¹ 1.7.2024. MICT/3/Rev.4.

² *Prosecutor v. Alfred Musema*, Case No. MICT-12-15-ES.1, Decision on Alfred Musema's Request for Assignment of Counsel, 14th August 2018, para.12. MICT President Agius Carmen directed that: "Considering that, despite the existence of a higher fixed-term sentence, my predecessor treated Musema's sentence of life imprisonment as being equivalent to a sentence of more than 45 years when he determined that Musema will have served two-thirds of his sentence of life imprisonment after 11 February 2025. Considering that in light of my predecessor's determination in Musema's case, I am of the view that this eligibility threshold must continue to apply to Musema." See page 4.

³ *The Prosecutor v Alfred Musema*, Case No. MICT-12-15-ES.1, Application for Early Release of Alfred Musema, 13 January 2025.

⁴ *The Prosecutor v Alfred Musema*, Case No. MICT-12-15-ES.1, Urgent Application for Extension of Time to File Submissions in Response to Registry's Service of Information Pursuant to Paragraph 10 of the Practice Direction on Early Release, 30 September 2025.

5. This request was granted by the President on 1 October 2025, with submissions to be provided by 30 October 2025.⁵

III. Submissions

6. The *sole* question at this stage is whether the President should exercise her discretion to release Mr Musema after having served more than 30 years in prison. To make this decision, Rule 151 of IRMCT Rules, provides that the President shall take into account, *inter alia*, the gravity of the crimes for which the prisoner was convicted, the treatment of similarly-situated prisoners, the prisoner's demonstration of rehabilitation, as well as any substantial cooperation of the prisoner with the Prosecutor. Before providing supplemental submissions, Counsel draws to the attention of the President a serious factual error made by the Prosecutor in his written memorandum.

(a) Prosecutor's Factual Error

7. Mr Brammertz's submissions opposing Mr Musema's early release do not demonstrate a balanced consideration of the relevant factors and fail to fully consider the substantial submissions made on his behalf, some of which, have been provided *ex parte* to the President alone.
8. Furthermore, his submissions are in part inaccurate and highly prejudicial as set out in Confidential Annex A.⁶ This approach reveals that the Prosecutor has not given this matter the careful attention it deserves. It is inconceivable that such a prejudicial error could be made in submissions to the President at this crucial stage. It is submitted that the Prosecutor should be reprimanded given the great distress it has caused to Mr Musema.

⁵ *The Prosecutor v Alfred Musema*, Case No. MICT-12-15-ES.1, Decision on Alfred Musema's Request for Extension of Time to File Written Submissions, 1 October 2025.

⁶ Prosecution's Memo, p.3.

(b) Gravity

9. In terms of the gravity of the crimes, Counsel submit that the Mechanism has previously granted early release to persons convicted by the ICTR for genocide and crimes against humanity after serving 2/3 of their sentences.⁷ Those released include individuals who like Mr. Musema, were convicted of grave crimes, continue to maintain their innocence, do not deny the existence of genocide in Rwanda and condemn the crimes which occurred.
10. Although gravity is one of the considerations that the Chamber must consider and is arguably the most important factor in the determination of a *sentence*, it is only *one* of the factors to be considered at the early release stage. Moreover, the gravity of crimes can be compensated by other factors such as rehabilitation, which are prayed in aid in the present case.
11. While Mr Musema's convictions of genocide and extermination were affirmed by the Appeals Chamber, the Prosecutor's account of gravity in his Memorandum is prejudicially inaccurate and ignores one of the Appeals Chamber's main findings. The substance of this matter is set out in Confidential Annex A.
12. Finally, from the beginning of his trial in 1999, Alfred Musema has admitted the gravity of the crimes committed in Rwanda from 1st January to 31st December 1994. Significantly, he was the first detainee to acknowledge that a genocide occurred in Rwanda, a fact that was Judicially Noted in his trial.⁸ Up until today, he acknowledges the tragic events that unfolded in Rwanda in 1994 and remains committed to truth, reconciliation and peace as reflected in his Personal Statement in the original Public Annex A. Mr. Musema was a civilian and director of a tea factory; he was not part of the military, police or government of Rwanda at the time of the genocidal acts.

⁷ *Prosecutor v Gerard Ntakirutimana*, Case No. MICT-12-17-ES, Public Redacted Version of the 26 March 2014 Decision of the President on the Early Release of Gerard Ntakirutimana, (24 April 2014); *Prosecutor v Ferdinand Nahimana*, Case No. MICT-13-37-ES.I, Public Redacted Version of the 22 September 2016 Decision of the President on the Early Release of Ferdinand Nahimana, (5 December 2016); *Prosecutor v Alphonse Nteziryayo*, Case No. MICT-15-90, Decision of the President on the Early Release of Alphonse Nteziryayo, (9 March 2016); *Prosecutor v Obed Ruzindana*, Case No. MICT-12-10-ES, Decision of the President on the Early Release of Obed Ruzindana, 13 March 2014 (public redacted version).

⁸ *Prosecutor v Alfred Musema*, Judgement and Sentence, 27 January 2000, para.316.

13. The Prosecutor argues that Mr Musema has not provided “*evidence of his personal criminal responsibility*”. While it is correct that he has maintained his innocence from the beginning, his acknowledgement of the genocide and the horrific crimes which took place in Rwanda must be weighed in his favour when determining his application. As previously stated, detainees released to date include individuals who, like Mr. Musema, continue to proclaim their innocence, but condemn the crimes which occurred.⁹ Of note, Aloys Simba, who was convicted of genocide and extermination as a crime against humanity, maintained his innocence, stated that the findings against him were based on false evidence, and that he could not be forced to confess to crimes he did not commit.¹⁰ President Meron saw fit to grant Mr. Simba early release, noting *inter alia* that he did not deny the existence of the genocide in Rwanda and condemned the massive slaughter that occurred.¹¹
14. When comparable circumstances have arisen in similarly-situated cases at the Mechanism, ICTR and ICTY, the absence of an admission of guilt has not been a barrier to early release.¹² It is submitted that Mr. Musema has indeed served his time having spent more than 30 years in prison, most of his adult life.

(c) Cooperation with the Prosecutor

15. Contrary to the Prosecution’s assertion, the President is entitled to take into account the factors presented in the original early release submission notwithstanding that they were also mitigating circumstances in sentencing Mr Musema.¹³

⁹ *Prosecutor v Simba*, MICT-14-62-ES.1, Decision on the Early Release of Aloys Simba, 7 January 2019; *Prosecutor v Rukundo*, MICT-13-35-ES, Decision of the President on the Early Release of Emmanuel Rukundo, 5 December 2016; *Prosecutor v Ntakirutimana*, MICT-12-17-ES, Decision of the President on the Early Release of Gerard Ntakirutimana, 24 April 2014; *The Prosecutor v Sainovic*, MICT-14-67-ES.1, Decision of the President on the Early Release of Nikola Sainovic, 27 August 2015; *The Prosecutor v Ljube Boskoski and Johan Tarculovski*, IT-04-82-ES, Decision of President on Early Release of Johan Tarculovski, 8 April 2013; *Prosecutor v Haradin Bala*, IT-03-66-ES, Decision of the President on Early Release of Haradin Bala, 9 January 2013; *Prosecutor v Martinović*, IT-98-34-ES, Decision of the President on Early Release of Vinko Martinović, 16 December 2011, paras 21, 26.

¹⁰ *Prosecutor v Simba*, MICT-14-62-ES.1, Decision on the Early Release of Aloys Simba, 7 January 2019, para. 43.

¹¹ *Prosecutor v Simba*, MICT-14-62-ES.1, Decision on the Early Release of Aloys Simba, 7 January 2019, para. 45.

¹² See *Prosecutor v Haradin Bala*, IT-03-66-ES, Decision of the President on Early Release of Haradin Bala, 9 January 2013, paras 23-25, 31, where although Bala’s “attitude towards the deeds for which [he] was convicted” was seen as a factor weighing against his application, given other factors weighing in his favour (such as good behaviour in prison), rehabilitation as a whole was seen as a neutral factor (para. 31).

¹³ See paragraph 19 of the Early Release Submissions.

(d) Social Reintegration

16. Contrary to the Prosecutor's assertion that "*there is no evidence in support of [Mr Musema's] claim*" as regards social reintegration, the President has been provided with extensive submissions to demonstrate amply his commitment in this regard.
17. Furthermore, the maintenance by Mr Musema of his innocence does not diminish his desire for social reintegration as suggested by the Prosecutor. The President is referred to Mr Musema's Personal Statement in original public Annex A.
18. The President has also been provided with evidence of Mr Musema's positive attitude during his incarceration towards people from different backgrounds. The recent report of the Director of Akpro-Misséréte Prison attests to his exemplary conduct and highlights the good relations he has maintained over the years with other inmates, who are of various ethnicities and nationalities. In terms of current positions held, he is the cashier for the members of his community, a position he occupies with great enthusiasm. Mr Musema has always been respectful of the rules and open to dialogue. He is sociable, calm and polite. Importantly, the report concludes that Mr Musema aspires to a better life outside of prison. He regrets the occurrence of the genocide and hopes that one day his country will be united in peace.
19. Counsel submit that the Prosecutor has argued unfairly that Mr Musema has not provided "*any evidence to support his argument that he participated in the various activities listed in his personal statement.*" Counsel questions whether it is being suggested that Mr Musema is not telling the truth about the level and extent of his engagement or that he has failed to provide a sufficient paper trail of evidence. The challenges facing those detained in Benin following the search and seizure of their cells on the night of 16th August 2024 and the removal of their entire case history, personal files, computers, USBs etc is well-known by the President and should also be well-known by the Prosecutor. Any potential prejudice resulting from Mr Musema not being able to provide corroborating documents to support his engagement in personal activities should not be held against him. Ongoing efforts are being made to enable him to have access to his case collection.

20. In the event the President wishes to confirm Mr Musema's significant participation in a range of rehabilitation programmes, or indeed any other matter which arises in these proceedings, the Registry should be asked to make enquiries of both directors of Mali and Benin Prisons for additional supporting information. Furthermore, should it be deemed to be useful or necessary, the President may choose to speak directly with Mr Musema as provided by the Practice Direction on Early Release.
21. The Prosecutor also asserts *without basis* that Mr Musema "*did not demonstrate that he could be trusted in his ability to reintegrate effectively and peacefully into society.*" His clear and positive intentions in this regard are set out in the early release submissions and will not be repeated.¹⁴
22. Counsel on behalf of Mr Musema urge the President to consider the totality of the information and extensive submissions supported by a range of testimonials, which militate substantially in favour of his early release.

(e) Health

23. Relevant information concerning Mr Musema's health condition from the medical and psychological reports is set out in Confidential Annex B.
24. Having consulted the medical reports, Mr Musema is confident that he will have the support to lead a "positive life with harmonious social integration", *in his own words*. He requests that his ongoing medical needs are taken into account in the decision on his early release.

¹⁴ See Section C in the Early Release Submissions.

(f) Communication with Relevant Authorities

25. Over a year ago, Counsel had written to the relevant authorities in respect of Mr Musema's reintegration post-release, details of which were provided by the MICT Registry. As no responses were received, Counsel has recently sent follow-up requests and continues to liaise with relevant authorities in the event of a positive decision on early release. Further assistance from the Registry of the MICT will be sought as necessary.
26. Mr Musema categorically opposes his return to Rwanda, due to fears for his own safety.

(g) Conditions of Release

27. The Prosecutor has proposed a significant number of conditions for the President to consider in the event of Mr Musema's early release.
28. Counsel submit that any conditions imposed in the event of a positive decision must be proportionate, fair and practically enforceable by the authorities tasked with monitoring Mr Musema's release. The conditions imposed must not be so inhumane and excessively restrictive to make life post-prison practically impossible. Mr Musema must be treated equally and consistently with others who have been convicted and released from custody.
29. While Mr Musema remains committed to adhering to conditions set by the President in the event of a positive decision supporting his early release from prison, counsel request the opportunity to provide written submissions on any specific conditions proposed by the President.

IV. Relief

30. Mr Musema's incarceration for over 30 years represents a clear case of time served.

31. Counsel request the President to exercise her discretion in favour of Mr Musema's early release given the totality of the circumstances which weigh substantially in favour of such a decision in this case.

Word Count: 2501

Handwritten signature of Steven Kay KC in blue ink.Handwritten signature of Gillian Higgins in black ink.

Steven Kay KC & Gillian Higgins

Counsel for Alfred Musema

Dated 29th October 2025



TRANSMISSION SHEET FOR FILING OF DOCUMENTS / FICHE DE TRANSMISSION POUR LE DÉPÔT DE DOCUMENTS

I - FILING INFORMATION / INFORMATIONS GÉNÉRALES

To/ À :	IRMCT Registry/ Greffe du MIFRTP		☒ Arusha/ Arusha	☐ The Hague/ La Haye
From/ De :	☐ President/ Président	☐ Chambers/ Chambre	☐ Prosecution/ Bureau du Procureur	☒ Defence/ Défense
			☐ Registrar/ Greffier	☐ Other/ Autre
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