

**UNITED
NATIONS**

Case No.: MICT-25-135-I
MICT-18-116-R90.1

International Residual Mechanism
for Criminal Tribunals

Date: 28 May 2025

Original: English

BEFORE THE SINGLE JUDGE

Before: Judge Joseph E. Chiondo Masanche

Registrar: Mr. Abubacarr Tambadou

IN THE MATTER OF PETER ROBINSON

PUBLIC

**NOTICE OF FILING A PUBLIC REDACTED VERSION OF THE
“REQUEST FOR ORDER TO THE REGISTRAR”
DATED 13-SEPTEMBER 2022**

Amicus Curiae

Mr. Kenneth Scott

Mr. Peter Robinson

The *Amicus Curiae* (“*Amicus*”) respectfully submits, as an annex to the present filing, a public redacted version of his “Request for Order to the Registrar” dated 13-September-2022.

1. On 22-May-2025, the Single Judge issued the “Decision on *Amicus Curiae*’s Motion in Relation to Material from Other Cases” (“Decision”).¹ In the Decision, the Single Judge, among others, granted Peter Robinson’s request for reclassification of a decision from confidential and *ex parte* to public, and of the related motion from confidential and *ex parte* to confidential,² noting that *Amicus* mentioned that he would file a public redacted version of the motion.³

2. Indeed, *Amicus* submitted, in response to Robinson’s request, that he should be allowed the opportunity to file a public redacted version of the Motion, which referred to the content of confidential filings, in the event that Robinson’s request is granted.⁴ The public redacted version of the Motion is included in annex to the present Notice.

Word count: 207 words

Respectfully submitted this 28-May-2025.



Kenneth Scott
Amicus Curiae

¹ *In the Matter of Peter Robinson*, MICT-25-135-I.

² *In the Matter of Peter Robinson*, MICT-25-135-I, Response to Request to Grant Access to Material from Previous Cases and Request for Reclassification of Registrar-Related Access Filings, 2-April-2025.

³ Decision, fn.10.

⁴ *In the Matter of Peter Robinson*, MICT-25-135-I, Response to Robinson’s Request for Reclassification of 2-April-2025, 7-April-2025.

**UNITED
NATIONS**

Case No.: MICT-18-116-R90.1

International Residual Mechanism
for Criminal Tribunals

Date: 13 September 2022

Original: English

BEFORE A SINGLE JUDGE

Before: José Ricardo de Prada Solaesa

Registrar: Mr. Abubacarr Tambadou

PROSECUTOR

v.

**ANSELME NZABONIMPA
JEAN DE DIEU NDAGIJIMANA
MARIE ROSE FATUMA
DICK PRUDENCE MUNYESHULI
AUGUSTIN NGIRABATWARE**

PUBLIC

**ANNEX:
PUBLIC REDACTED VERSION OF
“REQUEST FOR ORDER TO THE REGISTRAR”
DATED 13-SEPTEMBER 2022**

Amicus Curiae

Mr. Kenneth Scott

The *Amicus Curiae* (“*Amicus*”) respectfully requests the Single Judge to order the Registrar to provide information in the Registry’s possession concerning the external communication capabilities allowed to Augustin Ngirabatware and their legal and proper use from within the United Nations Detention Facility (“UNDF”) during the time of his detention there, as detailed below.

1. This motion is filed confidentially and *ex parte*, as it concerns an ongoing investigation and publication of its content would disclose (and possibly compromise) the nature and direction of this part of *Amicus*’ investigation.

PROCEDURAL HISTORY

2. On 20-December-2012, Augustin Ngirabatware was convicted of direct and public incitement to commit genocide, and of instigating and aiding and abetting genocide.¹

3. On 18-December-2014, the Appeals Chamber affirmed Ngirabatware’s convictions.²

4. On 27-September-2019, the Appeals Chamber issued its Judgement in the Review case, No. MICT-12-29-R (“Review Judgement”), concluding that Ngirabatware had not presented sufficient evidence to prove the existence of a new fact in relation to his convictions for direct and public incitement to commit genocide and instigating and aiding and abetting genocide.³

5. On 25-June-2021, Judge Vagn Joensen, the Single Judge in the case titled *The Prosecutor v. Anselme Nzabonimpa et al.*, No. MICT-18-116-T, found Augustin Ngirabatware and others guilty of interference with the administration of justice (the “Contempt Judgement”).⁴ The accused were charged with, and convicted of interference with the

¹ *The Prosecutor v. Ngirabatware*, No. ICTR-99-54-T, Judgement and Sentence, pronounced on 20-December-2012 and issued in writing on 21-February-2013.

² *Augustin Ngirabatware v. Prosecutor*, No. MICT-12-29-A, Judgement, 18-December-2014.

³ *Prosecutor v. Augustin Ngirabatware*, No. MICT-12-29-R, Review Judgement, 27-September-2019.

⁴ The Judge acquitted Dick Prudence Munyeshuli but issued a warning to him to closely scrutinize applicable witness protection measures in future cases. The Judgment was issued in writing on 20-September-2021. *Prosecutor v. Nzabonimpa et al.*, No. MICT-18-116-T, Judgement, 25-June-2021 (“Contempt Judgement”).

administration of justice for conduct related to the review proceedings in No. MICT-12-29-R, more specifically, violations of courts orders and/or interference related to witnesses who testified during the proceedings.⁵

6. On 20-September-2021, Judge Joensen issued an Order Referring a Matter to the Mechanism President, in which he stated that there is reason to believe that Mr Peter Robinson, former counsel for Augustin Ndirabatware, may be in contempt of the Mechanism. Judge Joensen referred the matter to the President of the Mechanism “so that another Single Judge can independently assess whether or not further proceedings under Rule 90 . . . or other appropriate disciplinary action against Robinson, including denial of audience before the Mechanism, is warranted” (“Referral Order”).⁶

7. On 8-October-2021, the President appointed Judge José Ricardo de Prada Solaesa as the Single Judge to assess whether contempt proceedings or other appropriate disciplinary action against Mr. Peter Robinson are warranted.⁷

8. On 25-October-2021, Judge de Prada Solaesa, in light of “the broad nature of the Single Judge’s recommendation in the [Referral] Order of 20-September-2021” and the potential conflict of interest of the Mechanism’s Prosecutor, ordered the Registrar to appoint an *Amicus Curiae* to investigate the matters raised (“Order to Appoint *Amicus*”).⁸

9. On 30-November-2021, the Registrar appointed Mr. Kenneth Scott as *Amicus*.⁹

⁵ Contempt Judgement, paras.7 & 10.

⁶ *Prosecutor v. Nzabonimpa et al.*, No. MICT-18-116-T, Order Referring a Matter to the President, 20-September-2021, p.3 (“Referral Order”).

⁷ *Prosecutor v. Nzabonimpa et al.*, Nos. MICT-18-116-R90.1 & MICT-18-116-T, Order Assigning a Single Judge to Consider a Matter Pursuant to Rule 90(C), 8-October-2021.

⁸ *Prosecutor v. Nzabonimpa et al.*, No. MICT-18-116-R90.1, Order Directing the Registrar to Appoint an *Amicus Curiae* to Investigate Pursuant to Rule 90(C)(ii), 25-October-2021, pp.2-3 (“Order to Appoint *Amicus*”).

⁹ *Prosecutor v. Nzabonimpa et al.*, No. MICT-18-116-R90.1, Registrar’s Decision, 30-November-2021.

10. On 29-June-2022, the Appeals Chamber in the *Fatuma et al.* case, No. MICT-18-116-A, dismissed in its entirety Marie Rose Fatuma’s appeal against the Contempt Judgement. The Appeals Chamber granted the Prosecution’s appeal against the sentence imposed on Augustin Ngirabatware and imposed a sentence of two years of consecutive imprisonment. The Appeals Chamber set aside Marie Rose Fatuma’s sentence of “time served” and imposed a sentence of eleven months’ imprisonment. The Appeals Chamber reversed Dick Prudence Munyeshuli’s acquittal and imposed a sentence of five months’ imprisonment.¹⁰

SUBMISSIONS

11. The Order to Appoint *Amicus* mandates *Amicus* to investigate, among other things, whether Peter Robinson was “having unauthorized communication with Ngirabatware”.¹¹ It cites Judge Joensen’s Referral Order stating that such communications occurred “through contraband communication devices and through means prohibited by the regulations of the United Nations Detention Facility”.¹² Judge Joensen referred to evidence suggesting that Ngirabatware and Robinson were communicating with each other via emails to and from the UNDF, while Ngirabatware was detained there, and cited a regulation on communications with detainees prohibiting the importation of contraband such as mobile phones.¹³

12. Two laptops and two mobile telephones were seized from Ngirabatware at the UNDF on 31-May-2018 and 7-February-2019.¹⁴ The Contempt Judgement states that Ngirabatware had “possession of contraband communication devices within the UNDF until they were seized from him”.¹⁵ Judge Joensen determined that the mobiles phones possessed by Ngirabatware

¹⁰ *Prosecutor v. Fatuma et al.*, Case No. MICT-18-116-A, Judgement, 29-June-2022.

¹¹ Order to Appoint *Amicus*, p.3.

¹² Order to Appoint *Amicus*, p.2, referring to the Referral Order, pp.2-3.

¹³ Referral Order, fn.11. Judge Joensen cited Regulation 2(A)(iii) of the Regulations on the Supervision of Visits to and Communications with Detainees, MICT/23, 5-December-2018, stating that it shall be an offence under these regulations to import contraband “such as mobile telephones and other communications devices or breaching these Regulations, the Rules of Detention or any other regulations rules, or guidelines relating to detention matters issued by the Mechanism”.

¹⁴ Contempt Judgement, para.23.

¹⁵ Contempt Judgement, para.303.

at the UNDF constituted contraband, adding: “Any potentially privileged information put on these devices or exchanges [communications] made through them cannot enjoy privilege provided by law. The protections of privilege do not extend to contraband.”¹⁶

13. In this context, *Amicus* seeks information from the Registrar regarding Ngirabatware's legal or allowed ability to use devices from within the UNDF to access the internet and send and receive emails from 1-June-2015 until and including 19-December-2017 (when Robinson’s motion to withdraw as Ngirabatware’s counsel was granted).¹⁷ In the event that Ngirabatware was allowed, in any way (either by *de jure* or *de facto* arrangements or practices), to send or receive emails during that time, *Amicus* asks the Registrar to address such allowed usage, and specifically Ngirabatware’s allowed usage of personal devices, including mobile telephones, giving him the ability to send and receive emails to and from the UNDF at the time.

14. Obtaining the requested information will substantially assist *Amicus* to fulfill his mandate, in determining whether Ngirabatware and Robinson exchanged emails by or through contraband devices or prohibited means or practices.¹⁸

15. In a publicly-issued Decision of 7-February-2019 in the *Nzabonimpa et al.* case, Judge Joensen stated that on 22-January-2019, “the Prosecution filed a confidential and *ex parte*

¹⁶ *Prosecutor v. Nzabonimpa et al.*, Case Nos. MICT-18-116-PT & MICT-12-29-R, Decision on the 7 February 2019 Search at the United Nations Detention Facility, 5-July-2019, para.28 (“Decision on the 7-February-2019 Search”).

¹⁷ At footnote, 223, the Trial Judgement in *Nzabonimpa et al.* states that the testimony of Dick Prudence Munyeshuli, an investigator who worked with Robinson when he was Counsel for Ngirabatware; “reflects that Robinson was in touch with him about assisting Ngirabatware in a request for review in June 2015. See Munyeshuli, T. 8 April 2021 p. 69.” Robinson’s motion to withdraw as Ngirabatware’s Counsel was granted on 19 December 2017. *Prosecutor v. Augustin Ngirabatware*, Case No. MICT-12-29-R, Decision on Defence Counsel’s Motion to Withdraw, 19 December 2017.

¹⁸ Dick Prudence Munyeshuli testified that there was a “channel of communication” by email between Ngirabatware and his Defence team. See *Prosecutor v. Nzabonimpa et al.*, Case No. MICT-18-116-T, transcript of Dick Prudence Munyeshuli’s testimony, 8-April-2021, p.39, l.21 to p.40, Q. And you can also confirm that Mr. Ngirabatware himself was also reachable via email, at WhatsApp and SMS, and you, the members of his review team Defence, knew that; right? A. I knew that there was a channel of communication, that is email. As to other means of communication, I was unaware of them. Q. All right. And Peter Robinson was also in communication with Mr. Ngirabatware via these other manners, right, by email, you know that? A. I was not aware at the time but today I am.” Munyeshuli also testified that he himself received two emails from Ngirabatware and that it was the first time he received correspondence from a detainee at the UNDF. Transcript of 8 April 2021, p.88, l.20 to p.89, l.18.

motion seeking, *inter alia*, access to records and/or information from the Registrar pertaining to (...) the sources of and technical capabilities of laptops or other electronic devices accessible to the *Turinabo et al.* Accused and Ngirabatware that are [were] capable of being used for communication and what if any facilities were available for use of the internet.” After seeking and receiving submissions from the Registrar “in view of his supervisory responsibilities concerning detention at the UNDF”, Judge Joensen determined “that the information and materials sought did not implicate attorney-client privilege,” and found it appropriate to grant the Prosecution access to the requested material and information.¹⁹ The Decision of 7-February-2019 demonstrates that the Registrar is clearly in a position to provide the information sought by this request. Further and importantly, this previous litigation and experience indicates that, in order to obtain the requested information, an order to the Registrar is required, [REDACTED]²⁰

16. *Amicus* also seeks information from the Registrar concerning Ngirabatware’s legal or allowed ability to own and/or use personal mobile phones while being detained at the UNDF. If Ngirabatware was allowed to have and/or use a mobile phone in any way, the Registrar should inform *Amicus* of the specific conditions and circumstances under which such ownership and use was allowed. While the two mobile phones seized from Ngirabatware apparently constituted contraband, the requested information will allow *Amicus* to determine whether any use of a personal mobile phone by a person detained at the UNDF was prohibited or allowed.

17. It is not sufficient for *Amicus* to simply have access to relevant UNDF or Registry rules or regulations concerning the above matters, as *Amicus*, in assessing Mr Robinson’s conduct, must consider (and determine) whether there might have been *de facto* practices, conduct or

¹⁹ Decision on the 7-February-2019 Search, paras.4-5.

²⁰ [REDACTED] *Amicus* was ordered, in relation to the material from Case No. MICT-18-116-T to which he gained access : “to safeguard the confidentiality of all information and material designated as confidential and/or ex parte and only disclose such information or material when strictly necessary for the conduct of the Investigation and provided that he obtains assurances under the threat of criminal sanctions that any party or person receiving such information or material for the purposes of the Investigation will strictly maintain its confidentiality.” *Prosecutor v. Fatuma et al.*, Case No. MICT-18-116-A, Decision on Amicus Curiae’s Motion for Access and Requests for Clarification and Variation of Protective Measures, 21-January-2022, p.5. This request discloses confidential information to the Single Judge as “strictly necessary” to the investigation.

allowances which provided for or allowed Ngirabatware and Robinson to engage in communications at issue in the investigation.

18. Finally, *Amicus* asks the Registrar to produce official documentation showing the dates (inclusive) during which Ngirabatware was detained at the UNDF in Arusha, Tanzania.

19. *Amicus* respectfully submits that there is no reason why Ngirabatware (or others) should be heard in relation to this request. Investigations are conducted confidentially, and *Amicus* is not requesting information regarding any particular communication (or content of any communication) by Ngirabatware or others. The information sought only concerns the UNDF's allowed communication practices and devices during the time that Ngirabatware was detained at the UNDF and what, if any, allowed usage was granted to Ngirabatware at the time.

RELIEF SOUGHT

For the reasons stated herein, *Amicus* respectfully requests the Single Judge to order the Registrar to provide:

- (1) Detailed information regarding what, if any, facilities and devices for internet access and email communications were allowed to Augustin Ngirabatware while detained at the UNDF in Tanzania, starting from 1-June-2015 and continuing to 19-December-2017. If any such facilities and/or devices or related communications were allowed, *Amicus* seeks detailed information concerning the conditions and limitations, if any, on such possession and use;
- (2) Detailed information regarding Ngirabatware's legal or allowed possession and use of personal mobile phones while being detained at the UNDF. If any such possession or use was allowed, *Amicus* seeks detailed information concerning the conditions and limitations imposed on such possession and use; and
- (3) Official documentation showing the dates (inclusive) during which Ngirabatware was detained at the UNDF in Arusha, Tanzania.

Word count: 2175 words

Respectfully submitted this 13 September 2022.



Kenneth Scott
Amicus Curiae



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		<input checked="" type="checkbox"/> Arusha/ Arusha	<input type="checkbox"/> The Hague/ La Haye
From/ De :	<input type="checkbox"/> President/ Président	<input type="checkbox"/> Chambers/ Chambre	<input type="checkbox"/> Prosecution/ Bureau du Procureur	<input type="checkbox"/> Defence/ Défense
	<input type="checkbox"/> Registrar/ Greffier	<input checked="" type="checkbox"/> Other/ Autre (Amicus)		
Case Name/ Affaire :	In the Matter of Peter Robinson		Case Number/ Affaire n° :	MICT-25-135-I & MICT-18-116-R90.1
Date Created/ Daté du :	28 May 2025		Date transmitted/ Transmis le :	28 May 2025
			Number of Pages/ Nombre de pages :	10
Original Language/ Langue de l'original :	<input checked="" type="checkbox"/> English/ Anglais	<input type="checkbox"/> French/ Français	<input type="checkbox"/> Kinyarwanda	<input type="checkbox"/> B/C/S
	<input type="checkbox"/> Other/ Autre (specify/ préciser):			
Title of Document/ Titre du document :	Notice of Filing a Public Redacted Version of the "Request for Order to the Registrar" Dated 13-September-2022			
Classification Level/ Catégories de classification :	<input checked="" type="checkbox"/> Public/ Document public	<input type="checkbox"/> Ex Parte Defence excluded/ Défense exclue		
	<input type="checkbox"/> Confidential/ Confidentiel	<input type="checkbox"/> Ex Parte Prosecution excluded/ Bureau du Procureur exclu		
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II - TRANSLATION STATUS ON THE FILING DATE/ ÉTAT DE LA TRADUCTION AU JOUR DU DÉPÔT

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<input checked="" type="checkbox"/> 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)				
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