

**UNITED  
NATIONS**



International Residual Mechanism  
for Criminal Tribunals

Case No: MICT-25-135-I

Date: 29 August 2025

Original: English

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**BEFORE THE SINGLE JUDGE**

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

**Registrar: Mr Abubacarr M. Tambadou**

**IN THE MATTER OF**

**PETER ROBINSON**

*Public*

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**RESPONSE TO THE SUBMISSION OF  
THE UNITED STATES OF AMERICA**

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**Amicus Curiae:**

Mr. Kenneth Scott

**Mr. Peter Robinson**

**Government of the United States of America**

## Introduction

1. The submission of the United States of America indicates that the United States has jurisdiction to prosecute me under California Business and Professions Code section 6013 for allegedly violating the Mechanism’s orders, and is willing and prepared to accept my case for trial.<sup>1</sup> Pursuant to Articles 1 and 6 of the Mechanism’s Statute, I respectfully request that the Single Judge refer my case to the United States. I pledge my full cooperation with all proceedings conducted pursuant to that referral as well as with the Mechanism’s monitoring of those proceedings.

## The Statute

2. Article 1(4) of the Mechanism’s Statute directs that before proceeding to try persons for contempt, the Mechanism “shall consider referring the case to the authorities of a State in accordance with Article 6 of the present Statute, taking into account the interests of justice and expediency.”

3. Article 6(2) requires the Mechanism to “determine whether the case should be referred to the authorities of a State: (i) in whose territory the crime was committed; or (ii) in which the accused was arrested; or (iii) having jurisdiction and being willing and adequately prepared to accept such a case, so that those authorities should forthwith refer the case to the appropriate court for trial within that State.”

4. Article 6(4) provides that the Mechanism must be satisfied that the accused will receive a fair trial and that the death penalty will not be imposed or carried out. Article 6(5) directs the Mechanism to monitor any cases referred to national courts. Article 6(6) provides for the revocation of the referral where “it is clear that the conditions for referral of the case are no longer met and it is in the interests of justice.”

5. As outlined in its submission, the United States has jurisdiction to prosecute the violation of court orders alleged in the *Order in Lieu of Indictment* under section 6013 of the California Business and Professions Code. That section provides that:

A wilful disobedience or violation of an order of the court requiring him to do or forbear an act connected with or in the course of his profession, which he ought in good faith to do or forbear, and any violation of the oath taken by him, or of his duties as such attorney, constitute causes for disbarment or suspension.

6. Prosecution for violation of section 6013 of the Business and Professions Code falls under the jurisdiction of the Office of Chief Trial Counsel of the California State Bar. That office prosecutes the case before the California State Bar Court. The case is tried in a full adversarial proceeding before one of five full-time State Bar Court judges and is reviewed by the California

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<sup>1</sup> *Submission of the United States on the Issue of Referral in Response to the Mechanism Order of 13 May 2025* (1 August 2025).

Supreme Court. The penalty upon conviction can be permanent disbarment from the practice of law.<sup>2</sup>

7. Nothing in the language of the Mechanism’s Statute requires that the State to which a case is referred conduct criminal proceedings. Article 6(2) provides for referral to “the appropriate court for trial within that State.” Article 6(4) requires that the accused will receive a “fair trial”, without requiring that such a trial be in a criminal court. Nothing in the Statute precludes referral to a State of a contempt case for trial in which the potential penalty is disbarment.

### **The Jurisprudence**

8. The jurisprudence of the Mechanism interpreting and applying Articles 1 and 6 demonstrates that there is a strong preference for referring a contempt case to a State and that the foremost consideration is whether the referral will vindicate the interests of the Mechanism.

9. The Mechanism has had four contempt cases where it determined whether to refer the case to a State.

10. In the first case, *Jojić & Radeta*, two Serbian citizens were charged with threatening, intimidating, and bribing witnesses. After receiving submissions from Serbia indicating its willingness to conduct criminal proceedings against the accused, the Single Judge ordered the referral of the case to Serbia.<sup>3</sup>

11. The *Amicus Curiae* appealed the decision. In its decision, the Appeals Chamber set forth the framework for referral of contempt cases:

Before proceeding to try such persons, however, the Mechanism shall consider referring a case to the authorities of a competent national jurisdiction, taking into account the interests of justice and expediency. This requirement is mandatory, and the inclusion of this provision in the Statute indicates a strong preference for referral if all relevant conditions are met. Accordingly, the Mechanism may only exercise jurisdiction after it has considered whether the case can be transferred to a national jurisdiction for trial.<sup>4</sup>

12. The Appeals Chamber held that “where a State expresses a willingness and commitment to try a case over which it has jurisdiction, as Serbia has done in this case, it should be given the opportunity to do so, provided other relevant factors are satisfied.”<sup>5</sup> However, the Appeals Chamber

<sup>2</sup> For an overview of the procedure, see Appendix D of the *Annual Discipline Report* (2024) located at <https://www.calbar.ca.gov/Portals/0/documents/reports/2024-Annual-Discipline-Report.pdf>

<sup>3</sup> *In the Case Against Jojić & Radeta*, No. MICT-17-111-R90, *Public Redacted Version of the 12 June 2018 Order Referring a Case to the Republic of Serbia* (12 June 2018), p. 4.

<sup>4</sup> *In the Case Against Jojić & Radeta*, No. MICT-17-111-R90, *Decision on Amicus Curiae’s Appeal Against the Order Referring a Case to the Republic of Serbia* (12 December 2018), para. 11.

<sup>5</sup> *Id.*, para. 21.

remanded the case to the Single Judge to reconsider the viability of the referral in light of the subsequent refusal of witnesses to testify in Serbia.<sup>6</sup>

13. The Single Judge thereafter revoked the referral, finding that it would be impossible for a trial in Serbia to proceed without the cooperation of the witnesses.<sup>7</sup> The government of Serbia appealed this decision. The Appeals Chamber affirmed the decision of the Single Judge.<sup>8</sup>

14. The lessons from the *Jojić & Radeta* jurisprudence to be applied to this case are that there is a strong preference for referral of contempt cases to a State, that the State should be given an opportunity to try the case in its national system, and that referral can be revoked when circumstances reveal that a fair trial is not possible.

15. The second contempt case at the Mechanism was the *Turinabo et al* case. In that case, five Rwandans were charged with interfering with witnesses through prohibited contacts and bribery. The defendants were arrested in Rwanda and transferred to the Mechanism. When the Single Judge sought submissions on referral of the case to Rwanda, the government of Rwanda expressed its preference that the case be prosecuted at the Mechanism. All of the defendants also strongly objected to the referral of the case to Rwanda on fair trial grounds. The Single Judge decided not to order the referral of the case, considering that the accused were detained at the Mechanism, and could be tried more expeditiously there.<sup>9</sup>

16. While the *Turinabo et al* case shares a factual nexus with this case, the circumstances relating to referral of the case are quite different. The accused were already detained at the Mechanism and preferred to be tried there, raising questions about the fairness of any trial in Rwanda. In my case, I am not detained at the Mechanism and reside in the United States. I don't prefer to be tried at the Mechanism, I prefer to be tried in the U.S. Unlike Rwanda, there is no question that I can receive a fair trial in the courts of the United States.

17. The third contempt case was the *Seselj et al* case. In that case, five citizens of Serbia were charged with publishing confidential protected witness information. The government of Serbia represented that it was willing and able to try the case and all defendants requested to be tried there.

18. In his referral decision, the Single Judge noted that the facts that the accused resided in Serbia, the crimes were committed there, the defendants raised no concerns about receiving a fair

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<sup>6</sup> *Id.*, paras. 22-24.

<sup>7</sup> *In the Case Against Jojić & Radeta*, No. MICT-17-111-R90, *Decision Re-Examining the Referral of a Case to the Republic of Serbia* (13 May 2019), p. 6.

<sup>8</sup> *In the Case Against Jojić & Radeta*, No. MICT-17-111-R90-AR14.1, *Decision on Republic of Serbia's Appeal Against the Decision Re-Examining the Referral of a Case* (24 February 2020), para. 18.

<sup>9</sup> *Prosecutor v Turinabo et al*, No. MICT-18-116, *Decision on Suitability of Referral of the Case* (7 December 2018) at pp. 4-5.

trial in Serbia, and the death penalty was inapplicable, all weighed in favor of referring the case to Serbia.<sup>10</sup> He expressed reservations as to whether Serbian law encompassed the offenses charged in the Mechanism indictment and whether the statute of limitations would preclude prosecution in Serbia.<sup>11</sup> He also expressed reservations as to whether the referral was in the interests of justice and expediency given Serbia's "inconsistent" record of cooperation.<sup>12</sup> These reservations were overcome by the existence of the possibility to bring the case back to the Mechanism if, while monitoring the case, the Mechanism observed that the accused were not brought to trial within a reasonable time or Serbia was otherwise unable to proceed with the trial.<sup>13</sup> He decided to exercise his discretion to refer the case to Serbia.<sup>14</sup>

19. Applying this analysis to my case should lead to the same result. The fact that I reside in the United States, the acts alleged were committed in part there, I agree that I can receive a fair trial in the United States, and the death penalty does not apply, all weigh in favor of referral to the United States. While the statute under which I would be tried in the United States does not provide for a criminal penalty, it fully encompasses the alleged violation of the court orders alleged in the Mechanism's *Order in lieu of Indictment*. As such, and given that nothing in the Mechanism's Statute requires that a referral State hold criminal proceedings, referral of the case to the United States would be wholly consistent with this prior practice in *Seselj et al.*

20. Moreover, unlike Serbia, the United States has always cooperated with the Mechanism and its predecessor tribunals. There is every reason to believe that the proceedings in the United States would be expeditious and just. The Mechanism can expect full cooperation from the United States and me with its monitoring of the case, and retains the possibility of revoking the referral should the proceedings in the United States be unduly delayed or derailed for any reason. Any reservations the Single Judge may have about referring the case to the United States, as in the *Seselj et al* case, ought to be resolved in favor of referral.

21. The fourth and final contempt case was the *Francois Ngirabatware* case. In that case, a Rwandan who resided in Belgium was accused of submitting false documents to the Mechanism in support of a request to have seized funds returned to him. The government of Belgium indicated that while, in principle, it had jurisdiction over the offences, trying the case in Belgium would require reopening the investigation. The trial judge would be at liberty to reclassify the acts, to hold that they do not constitute offences, or to find that s/he does not have jurisdiction. Its preference

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<sup>10</sup> *Prosecutor v Seselj et al*, No. MICT-23-129-I, *Decision on Referral of the Case to the Republic of Serbia* (29 February 2024) at para. 11.

<sup>11</sup> *Id.*, para. 16.

<sup>12</sup> *Id.*, para. 17.

<sup>13</sup> *Id.*, para. 18.

<sup>14</sup> *Id.*, para. 21.

was for the case to be tried at the Mechanism.<sup>15</sup>

22. The *Amicus Curiae* also favored trial before the Mechanism, arguing that such a trial would be more expeditious, as there was no telling how long it would take Belgium to investigate and prosecute the case.<sup>16</sup>

23. The Single Judge nevertheless referred the case to Belgium, noting the strong preference in the Statute for referring a contempt case to a national jurisdiction if all relevant conditions of Article 6 of the Statute were met. He framed the issue as whether, albeit on different charges, a prosecution in Belgium would vindicate the Mechanism’s interest in remedying the alleged interference with the administration of justice. Finding that it would, he approved the referral.<sup>17</sup>

24. Applying this framework to my case should yield the same result. Referring my case to the United States would fully vindicate the Mechanism’s interest in remedying the alleged interference with the administration of justice. While I would not face criminal penalties, I would face disbarment from the practice of law or suspension from practice which would, at my age, end my legal career. Every lawyer practicing before the Mechanism or its predecessor tribunals would be deterred from disobeying a court order if they knew that they risked losing their right to practice their profession, their reputation, and livelihood. Therefore, the proceedings in the United States would vindicate the Mechanism’s interest in deterring and remedying the alleged interference with the administration of justice. Referral of my case, like that of *Francois Ngirabatware*, is appropriate.

### **Interests of Justice and Expediency**

25. Article 1(4) of the Mechanism’s Statute directs that before proceeding to try persons for contempt, the Mechanism “shall consider referring the case to the authorities of a State in accordance with Article 6 of the present Statute, taking into account the interests of justice and expediency.”

26. The interests of justice strongly favor a referral of my case. The case involves conduct that took place a decade ago. I am now 72 years old. Requiring me to travel halfway around the world to defend myself at the Mechanism at this stage of my life, and the life of the Mechanism, would be an unreasonable burden on both of us. In the two cases in which attorneys have been convicted of contempt of court at the Mechanism’s predecessor Tribunals, no prison sentences were

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<sup>15</sup> *In the matter of Francois Ngirabatware*, No. MICT 24-131-I, *Decision on the Suitability of the Referral of the Case* (17 September 2024) at p. 3, fn. 11.

<sup>16</sup> *Id.*, pp. 2-3.

<sup>17</sup> *Id.*, p. 4.

imposed.<sup>18</sup> Therefore, the absence of a potential sentence of imprisonment would not be a sound reason for declining to refer my case.

27. In addition, the United States of America has been one of the strongest supporters of the Mechanism and its predecessor Tribunals. It would be a trusted partner in ensuring that justice was done, both for me and the Mechanism. I believe that I am the first American ever to be prosecuted by an international criminal court or Tribunal, going back some 80 years to Nuremburg and Tokyo. Respecting the sovereignty of the United States by allowing it to try one of its own citizens would be in the interest of justice and comity.

28. Referral of my case to the United States for trial would also be in the interests of justice by allowing the Mechanism to comply with the United Nations Security Council's mandate that it wrap up its work. It would also avoid further significant expenditures of scarce United Nations funds on the *Amicus Curiae* and his team, a defence team, and court personnel required to staff what would be a highly litigated and protracted proceeding. During the most recent session of the United Nations Security Council, the majority of Member States specifically encouraged the Mechanism to wrap up its work without further delay.<sup>19</sup> The President of the Mechanism, in her remarks to the Security Council, assured the States that "the Mechanism has narrowly exercised its contempt jurisdiction, and, in line with the Statute, the last two contempt cases have been referred to States."<sup>20</sup>

29. With respect to expediency, proceedings in the United States are routinely completed in a more expeditious manner than proceedings at the Mechanism. Given the 3 ½ year delay in the *Amicus Curiae*'s investigation and the proceedings before the *Order in lieu of Indictment*, there is no reason to believe that the Mechanism's trial and appeal proceedings would be significantly more expeditious than proceedings in the United States.

## Conclusion

30. Referral of my case to the United States would be consistent with the Mechanism's Statute and jurisprudence, indicating a strong preference for referral of contempt cases to a State. For the reasons set out above, referral to the United States will vindicate the interests of the Mechanism. It would also align with the desire of the United Nations' Security Council that the Mechanism wrap up its work without further delay and with prudent expenditure of scarce United Nations financial resources. Importantly, and in the circumstances of this case, referral to the United

<sup>18</sup> *Prosecutor v Aleksovski*, No. IT-95-14/1-AR77, *Judgment on Appeal of Anto Nobile against Finding of Contempt* (30 May 2001)(fine of 4000 Dutch Guilders); *Prosecutor v Tadic*, No. 94-1-A-AR77, *Appeal Judgment on Allegations of Contempt against Prior Counsel, Milan Vujin* (27 February 2001)(fine of 15,000 Dutch Guilders)

<sup>19</sup> S/PV.9934. See remarks of representatives of Republic of Korea (p. 9), Pakistan (p. 11), Panama (p. 12), Denmark (pp 14-15), China (p. 15), Algeria (p. 16), United Kingdom (p. 17), Russia (pp. 18, 20), France (p. 22), Guyana (p. 23).

<sup>20</sup> *Id.*, p. 3.

States would also serve the interests of justice and expediency. The Single Judge is respectfully requested to order the referral.

Word Count: 2953

Respectfully submitted,  
  
PETER ROBINSON





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