**UNITED
NATIONS**

International Residual Mechanism
for Criminal Tribunals

Case No: MICT-25-135-I

Date: 5 September 2025

Original: English

BEFORE THE SINGLE JUDGE

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

Registrar: **Mr Abubacarr M. Tambadou**

IN THE MATTER OF

PETER ROBINSON

Public Redacted Version

REPLY RE: SUBMISSION OF THE UNITED STATES OF AMERICA

Amicus Curiae:
Mr. Kenneth Scott

Mr. Peter Robinson

Government of the United States of America

Introduction

1. As permitted by the Single Judge,[1] this is a reply to the submissions of the *Amicus Curiae*[2] on the question of whether this case should be referred to the United States of America for trial. The arguments raised by the *Amicus Curiae* in opposition to referral are not supported by the statute or the jurisprudence of the Mechanism, and contradict his own earlier submissions. Referral to the United States is permissible and preferable. It would fully vindicate the interests of the Mechanism[3] in deterring disobedience to its orders while respecting the United Nations Security Council's temporal and budgetary mandates for this institution and the sovereignty of a Member State.

Argument

I. The referral is an alternative that will vindicate the interests of the Mechanism

2. The *Amicus Curiae* complains that the referral to the United States can only be for disciplinary, rather than criminal proceedings.[4] However, he does not cite to any provision of the Mechanism's statute that requires a referral State to 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. Thus, it is undisputed that referral to the United States for disciplinary proceedings would be consonant with the plain language of the Mechanism's statute.

3. The *Amicus Curiae* refers to a quotation from the jurisprudence of the Mechanism that "the State must have a legal framework which criminalizes the alleged conduct of the accused" and "a penalty structure within the State [providing] an appropriate punishment for the offenses for which the accused is charged."[5]

4. This language originates from referral cases involving accused charged with genocide, crimes against humanity and war crimes. No parties in those cases ever suggested that non-criminal proceedings could be a substitute for criminal prosecution. While this language was, as the *Amicus*

[1] *Invitation for Submissions* (13 May 2025), p. 3.
[2] *Amicus Curiae's Response to the Submissions of the United States of America on the Referral of the Case* (29 August 2025) ("*Amicus Curiae's Response"*).
[3] *In the matter of Francois Ngirabatware, No. MICT 24-131-I, Decision on the Suitability of the Referral of the Case* (17 September 2024), p. 4 (*"Ngirabatware Decision"*).
[4] *Id*, para. 16.
[5] *Id*, para. 14, citing *Munyarugarama v. Prosecutor*, No. MICT-12-09-AR14, *Decision on Appeal Against the Referral of Phénéas Munyarugarama's Case to Rwanda and Prosecution Motion to Strike* (5 October 2012), para.18; *Prosecutor v. Mejakić et al.*, No. IT-02-65-AR11*bis*.1, *Decision on Joint Defence Appeal Against Decision on Referral Under Rule 11bis*, (7 April 2006), para.48; *Prosecutor v. Hategekimana*, No. ICTR-00-55B-R11*bis*, *Decision on the Prosecution's Appeal Against Decision on Referral under Rule 11bis,* (4 December 2008), para.4.

Curiae points out, repeated in the *Seselj et al* and *Ngirabatware* contempt cases,[6] there was no alternative to criminal prosecution proposed, discussed, or available in those cases. Indeed, both cases were referred to national jurisdictions despite uncertainties about the nature of the charges that might be brought and the punishment that would ultimately be imposed.

5. The purpose of requiring an adequate penalty structure is to "vindicate the Mechanism's interests" in promoting obedience to its orders and deterring interference with the administration of justice.[7] Referring my case to the United States would fully vindicate the Mechanism's interests. I would face serious, formal proceedings that could result in the loss of my law license, which is my sole means of earning a living and supporting my family. As well of stripping me of my livelihood, it would also permanently damage my professional standing. Every counsel practicing before the Mechanism, or any other international court or tribunal, would be strongly deterred from disobeying a court order if they knew they risked being forever barred from the practice of law.

6. In the two cases in which counsel were found in contempt of the ICTY, the Trial Chambers did not impose a sentence of imprisonment.[8] This demonstrates that imprisonment has not been deemed necessary to deter counsel from disobeying court orders. Therefore, contrary to the arguments of the *Amicus Curiae*,[9] proceedings in the United States for violation of California Business and Professions Code section 6013 would provide an adequate penalty structure to vindicate the Mechanism's interests. Importantly, the *Amicus Curiae* makes no mention of the Mechanism's ability to monitor and revoke a referral if the State proceedings do not appear to vindicate the Mechanism's interests, which exists a safeguard further justifying the preference for referral.

II. *The decision to refer the case is different from the decision to initiate charges*

7. The *Amicus Curiae* argues that the Single Judge who decided to initiate criminal proceedings in this case has already determined that criminal proceedings, rather than disciplinary action, was appropriate in this case.[10] However, the choice before the Single Judge was between criminal proceedings and disciplinary proceedings **at the Mechanism**. The consequences of those disciplinary proceedings would be limited to my ability to practice before the Mechanism. In contrast, the consequence of disciplinary proceedings in the United States would be to prevent me

[6] *Id*, citing *Prosecutor v. Seselj et al.*, No. MICT-23-129-I, *Decision on the Suitability of Referral of the Case*, (29 February 2024), para.12 ("*Seselj Decision*"); *Ngirabatware Decision,* p.4.
[7] *Ngirabatware Decision* at p. 4.
[8] *Prosecutor v Aleksovski*, No. IT-95-14/1-AR77, *Judgment on Appeal of Anto Nobilo 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)
[9] *Amicus Curiae's Response*, para. 21.
[10] *Id*, para. 23, referring to *Prosecutor v Nzabonimpa et al,* No. MICT-18-116-R90.1, *Decision on Allegations of Contempt* (25 February 2025).

from practicing law completely, take away my entire professional livelihood, and ruin a professional reputation I have built for over 40 years. This is a far more severe punishment.[11]

8. The Single Judge also was not tasked to consider the issue of criminal proceedings versus disciplinary proceedings in the context of the strong preference for referral of cases to States mandated by the United Nations Security Council. Had the alternative of referring the case to the United States for disciplinary proceedings been before the Single Judge, there is good reason to believe that he would have chosen that alternative. A judge of the Appeals Chamber, as well as the Association of Defence Counsel for International Criminal Tribunals ("ADC-ICT"), the International Criminal Court Bar Association ("ICCBA") and European Criminal Bar Association ("ECBA") have all expressed concerns about the appropriateness of criminal proceedings before the Mechanism in this case.[12]

9. In addition, since the Single Judge's decision, there has been a significant change in circumstances as regards the funding of United Nations bodies and organisations, providing further support for the already-strong preference for referral. The United Nations' budgetary situation has drastically worsened following the cutback in international aid by the United States. Many UN and other humanitarian agencies across the globe are struggling to feed the hungry, treat the sick, and shelter the displaced. A recent report from the United Nations indicated that "the UN is facing a deepening budget crisis that threatens lifesaving operations worldwide…critical programmes are on the brink of collapse…"[13] In this context, it would be irresponsible to spend United Nations funds on a complex and highly contentious trial and possible appeal at the Mechanism when the alternative exists to refer the case to the United States.

10. The United Nations Security Council has been insisting that the Mechanism reduce its operations and expenditures wherever it can.[14] Here, an alternative exists to an expensive trial in which the Mechanism would have to activate its dormant witness protection functions, conduct the international transfer of witnesses, engage interpreters, audiovisual technicians and other courtroom

[11] I have not earned any income from practicing at the Mechanism since 2019. In contrast, my entire professional income since then has come from practicing law in the United States.
[12] *Prosecutor v Nzabonimpa et al*, No. MICT-18-116-AR90.1, *Decision on Appeal of Decision on Allegations of Contempt and on Requests to Appear as Amici Curiae* (15 May 2025), *Dissenting Opinion of Judge Prisca Matimba Nyambe*; *ADC-ICT Request for Leave to Appear* as *Amicus Curiae* (17 March 2025); *ICCBA Request for Leave to Appear as Amicus Curiae* (20 March 2025); *Request for Leave to Appear as Amicus Curiae on Behalf of the European Criminal Bar Association (ECBA)* (22 April 2025).
[13] https://news.un.org/en/story/2025/05/1163901
[14] See S/RES/2740 (2024): "*Emphasizing* the substantially reduced nature of the residual functions following the conclusion of all core crime cases and the tracking of fugitives and the need for the Mechanism to complete its remaining functions expeditiously," and "*Emphasises* that, in view of the substantially reduced nature of the residual functions, the Mechanism was established to be a small, temporary and efficient structure, whose functions and size will diminish over time, with a small number of staff commensurate with its reduced functions, and *requests* the Mechanism to continue to be guided in its activities by these elements."

support staff, and security personnel for the trial, and pay the professional salaries of the *Amicus Curiae* and his team, as well as the defence team. The member States of the United Nations as well as the international community would be hard pressed to understand why the Mechanism had not chosen the alternative of referral in this case.

III. *The interests of justice and expediency favor referral*

11. Curiously, the *Amicus Curiae* argues that "conducting the present case before the Mechanism will better serve the interests of justice and expediency."[15] However, he previously told the Single Judge the opposite:

[quotation redacted][16]

12. The *Amicus Curiae* makes no mention in his submission to this court of the massive amount of material involved in the case, including intercepted telephone calls and texts in the Kinyarwanda language, the voluminous complex, highly-technical communications evidence,[17] requiring extensive technical proof including expert analysis, reports and testimony as well as expensive and time-consuming trips to Rwanda to locate and interview witnesses.[18] He also makes no effort to compare the duration of trials at the Mechanism and trials in the United States—a comparison that would show that even complex criminal trials in the United States are concluded within shorter timeframes than those at the Mechanism.

13. The *Amicus Curiae*'s claim that the Mechanism's access to the relevant materials would facilitate a more expeditious trial here[19] is belied by the fact that in every case that has been referred to a State, the Mechanism has provided State authorities with full access to the Mechanism's materials.[20] His claim that evidentiary shortcuts enacted to reduce the length of the Mechanism and *ad hoc* Tribunals' trials, such as judicial notice and admission of evidence from the bar table, would make a trial before the Mechanism more expeditious[21] ignores the fact that disciplinary proceedings do not involve formal rules of evidence at all.

14. The *Amicus Curiae*'s claim that I might not consent to the sharing of Rule 76 material[22] is fallacious, given that I have already unconditionally consented to use of the Rule 76 material in

[15] *Amicus Curiae's Response*, p. 7.
[16] *Prosecutor v Nzabonimpa et al*, No. MICT-18-116-R90.1, *Amicus Curiae Report to the Single Judge* (13 March 2023), para. 452 (confidential)(emphasis added).
[17] [redacted].
[18] [redacted].
[19] *Amicus Curiae Response,* para. 26.
[20] *Seselj Decision*, p. 10; *Ngirabatware Decision*, p.5.
[21] *Amicus Curiae Response,* para. 26.
[22] *Id,* para. 28.

disciplinary proceedings.[23] For the avoidance of doubt, I hereby consent to the sharing of all Rule 76 material with disciplinary authorities in the United States and its use at any disciplinary proceedings that might be brought against me pursuant to the Mechanism's referral.

15. The remaining arguments of the *Amicus Curiae* that the case is closely related to the underlying proceedings at the Mechanism and *ad hoc* Tribunals, that State authorities would be free to bring additional charges and would have to "learn and prepare the case from scratch", and that the Mechanism could more tightly control protected witness information,[24] are true of every contempt case before the Mechanism. Yet the Security Council enacted a statute that contains a "strong preference" for referral of contempt cases to national jurisdictions.[25] And, as the Appeals Chamber has observed in rejecting similar arguments, "[i]f that impact is to be determinative, the Mechanism would be precluded from transferring any such case to another State for trial."[26]

16. The *Amicus Curiae*'s submissions ignore the time it has already taken the Mechanism to conduct these proceedings since the Single Judge in the *Nzabonimpa et al* case referred this matter in September 2021.[27] Most of the delay is attributable to the *Amicus Curiae* himself, who sought six separate extensions of time to complete his report.[28] Indeed, his delay allowed the five-year statute of limitations for criminal prosecution in the United States to lapse.[29] To now contend that the Mechanism's proceedings in this decade-old case would suddenly become expeditious is to rewrite history.

17. The *Amicus Curiae*'s submissions also ignore that I have strongly protested my innocence throughout these proceedings, beginning with the 37-page written statement that I submitted to him, [30] continuing with our six-hour recorded interview,[31] my submissions to the

---

[23] *Prosecutor v Nzabonimpa et al*, No. MICT-18-116-R90.1, *Submission on Rule 76 and Privileged Materials* (22 November 2023), para. 1.
[24] *Amicus Curiae Response*, paras. 26-31.
[25] *In the Case Against Jojic & 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.
[26] *Prosecutor v Jokic & 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) at para. 14
[27] *Prosecutor v Nzabonimpa et al,* No. MICT-18-116-T, *Order Referring a Matter to the President* (20 September 2021).
[28] *Prosecutor v Nzabonimpa et al*, No. MICT-18-116-R90.1, *Decision on Request for Extension of Time,* (1 April 2022)*; Decision on Request for Extension of Time,*(28 July 2022)*; Decision on Request for Extension of Time,* (28 September 2022)*; Decision on Request for Extension of Time,* (29 November 2022)*; Decision on Further Request for Extension of Time,* (26 January 2023)*; Decision on Further Request for Extension of Time,* (13 February 2023).
[29] *Submission of the United States on the Issue of Referral in Response to the Mechanism Order of 13 May 2025* (1 August 2025), fn.1.
[30] *Prosecutor v Nzabonimpa et al*, No. MICT-18-116-R90.1, *Annex to Respondent's Brief* (15 May 2024)(public redacted version filed 5 May 2025).
[31] *Prosecutor v Nzabonimpa et al*, No. MICT-18-116-R90.1, *Amicus Curiae's Supplemental Report to the Single Judge* (13 June 2023), para. 4.

Single Judge,[32] and my appeal of the Single Judge's decision initiating contempt charges.[33] My actions were pursuant to a good faith interpretation of the court's protective measures orders, and not a wilful disobedience of them. Litigating these issues will result in a long and expensive trial at the Mechanism. The *Nzabonimana et al* case took almost four years to complete and cost millions of dollars. Trying this case at the Mechanism will be neither expedient nor in the interests of justice.

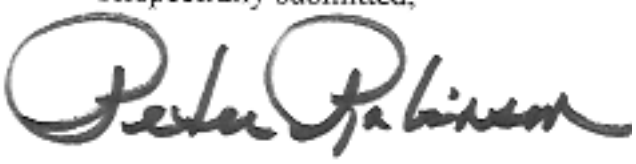
18. The interests of justice also include respecting the sovereignty and preference of the United States, a long-time supporter of the Mechanism and its predecessor Tribunals, to try one of its own citizens and allowing the Mechanism to comply with the United Nations Security Council's mandate and the preference of its Member States that it wrap up its work, particularly in the present context of an urgent need for United Nations funds to meet humanitarian needs. Referral of this case will promote both expediency and the interests of justice.

Conclusion

19. The *Amicus Curiae*'s arguments for trying this case before the Mechanism do not overcome the strong preference for referral of such cases found in the Mechanism's statute and jurisprudence. They ignore the Mechanism's ability to monitor and revoke a referral if the State proceedings do not appear to vindicate the Mechanism's interests. The Single Judge is respectfully requested to order the referral of this case to the United States where justice can and will be done.

Word Count: 2909

Respectfully submitted,



PETER ROBINSON

[32] *Prosecutor v Nzabonimpa et al*, No. MICT-18-116-R90.1, *Request for Leave to Make Submissions* (20 March 2023), para. 9.

[33] *Prosecutor v Nzabonimpa et al*, No. MICT-18-116-AR90.1, *Appeal of Decision on Allegations of Contempt* (3 March 2025), paras. 4-54.

UNITED NATIONS
International Residual Mechanism
for Criminal Tribunals

NATIONS UNIES
Mécanisme international appelé à exercer
les fonctions résiduelles des Tribunaux pénaux

IRMCT · MIFRTP

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* X Arusha/ *Arusha* ☐ The Hague/ *La Haye*

From/ *De* : ☐ President/ *Président* ☐ Chambers/ *Chambre* ☐ Prosecution/ *Bureau du Procureur* X Defence/ *Défense* ☐ Registrar/ *Greffier* ☐ Other/ *Autre*

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

Date Created/ *Daté du* : **5 September 2025** **Date transmitted/ *Transmis le* :** **5 September 2025** **Number of Pages/ *Nombre de pages* :** **7**

Original Language/ *Langue de l'original* : X English/ *Anglais* ☐ French/ *Français* ☐ Kinyarwanda ☐ B/C/S ☐ Other/*Autre* (specify/ *préciser*):

Title of Document/ *Titre du document* : **REPLY RE: SUBMISSION OF THE UNITED STATES OF AMERICA**
Public Redacted Version

Classification Level/ *Catégories de classification* :
X Public/ *Document public*
Confidential/ *Confidentiel*
☐ *Ex Parte* Defence excluded/ *Défense exclue*
☐ *Ex Parte* Prosecution excluded/ *Bureau du Procureur exclu*
☐ *Ex Parte* Rule 86 applicant excluded/ *Article 86 requérant exclu*
☐ *Ex Parte* Amicus Curiae excluded/ *Amicus curiae exclu*
☐ *Ex Parte* other exclusion/ *autre(s) partie(s) exclue(s)* (specify/ *préciser*) :

Document type/ *Type de document* :
☐ Motion/ *Requête*
☐ Decision/ *Décision*
☐ Order/ *Ordonnance*
☐ Judgement/ *Jugement/Arrêt*
X 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*):