

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-25-135-I

Date: 7 November 2025

Original: English

BEFORE A SINGLE JUDGE

Before: Judge Joseph E. Chiondo Masanche

Registrar: Mr. Abubacarr M. Tambadou

Decision of: 7 November 2025

IN THE MATTER OF PETER ROBINSON

PUBLIC

**DECISION ON THE SUITABILITY OF
REFERRAL OF THE CASE**

Amicus Curiae:

Mr. Kenneth Scott

Mr. Peter Robinson

Government of the United States of America

1. I, Joseph E. Chiondo Masanche, Judge of the International Residual Mechanism for Criminal Tribunals (“Mechanism”) and Single Judge in this case against Mr. Peter Robinson,¹ hereby render this decision on whether it should be referred to the United States of America (“United States”) pursuant to Articles 1(4) and 6 of the Statute of the Mechanism (“Statute”).

I. BACKGROUND

2. On 25 February 2025, a Single Judge of the Mechanism issued an order in lieu of indictment against Mr. Peter Robinson, charging him with contempt or, in the alternative, with attempt or incitement to commit contempt, of the International Criminal Tribunal for Rwanda (“ICTR”) and/or the Mechanism pursuant to Article 1(4)(a) of the Statute and Rule 90(A) of the Rules of Procedure and Evidence of the Mechanism (“Rules”).² On the same day, the Single Judge: (i) referred the matter to the President of the Mechanism (“President”) to consider the designation of a Single Judge to conduct the matter and to determine whether it should be referred to the authorities of a State in accordance with Article 6 of the Statute; and (ii) deferred the determination as to whether four allegations should be subject to disciplinary measures to the Single Judge assigned to the matter.³

3. On 12 March 2025, following my appointment by the President and pursuant to Articles 1(4) and 6 of the Statute and Rule 55 of the Rules, I: (i) ordered the *amicus curiae*, who was appointed to conduct the investigation against Robinson (“*Amicus Curiae*”),⁴ to file a written submission on, *inter alia*, the suitability of referring the case to a State, including to the Republic of Rwanda (“Rwanda”) and the United States; and (ii) allowed Robinson to file a response and the *Amicus Curiae* to file a reply.⁵

4. On 26 March 2025, the *Amicus Curiae* filed his submissions, stating that conducting the case before the Mechanism would serve the interests of justice and expediency given, *inter alia*, the nexus between this matter and other cases before the Mechanism and ICTR.⁶ On 9 April 2025, Robinson

¹ Order Assigning a Single Judge to Consider a Matter, 3 March 2025 (“Assignment Order”), p. 1.

² Decision Issuing Order in Lieu of Indictment, 25 February 2025 (“Order in Lieu of Indictment”), p. 7. *See also* *Prosecutor v. Anselme Nzabonimpa et al.*, Case No. MICT-18-116-R90.1, Decision on Allegations of Contempt, 25 February 2025 (“Decision on Allegations of Contempt”), paras. 2-7 for additional background information on the case.

³ Decision on Allegations of Contempt, para. 41.

⁴ *See* Decision on Allegations of Contempt, para. 4, n. 12.

⁵ Order for Submissions, 12 March 2025, pp. 1, 2.

⁶ *Amicus Curiae*’s Submissions on the Suitability of the Referral of the Case, 26 March 2025 (public, with confidential annex) (“*Amicus Curiae* Submission”), paras. 13-24, p. 8, *referring, inter alia, to Prosecutor v. Anselme Nzabonimpa et al.*, Case No. MICT-18-116-R90.1; *Prosecutor v. Augustin Ndirabatsware*, Case No. MICT-12-29-R. *See also* *Amicus Curiae* Submission, paras. 9, 11, 25-28 (wherein the *Amicus Curiae* provided submissions relating to a possible referral of this matter to Rwanda). *See also* Decision on *Amicus Curiae*’s Motion for Reclassification of an Annex, 28 March 2025, p. 2 (wherein the *ex parte* status of the confidential and *ex parte* annex to the *Amicus Curiae* Submission was lifted and reclassified as confidential).

filed his response, in which he requested that, since referral to the United States appears possible, the United States be invited to make submissions on its jurisdiction, willingness, and preparedness to accept the case.⁷ He submitted that the criteria provided in Article 6(2) of the Statute are met, namely the alleged crimes were committed, in part, in the United States and he resides in and is a citizen of the United States.⁸ On 15 April 2025, the *Amicus Curiae* filed a reply, stating that there are no sufficient reasons to request submissions from the United States on the referral of the matter to its jurisdiction and reiterating that the case should be conducted before the Mechanism.⁹

5. On 13 May 2025, having reviewed the submissions of the *Amicus Curiae* and Robinson, I found that written submissions from the United States would facilitate my determination, in accordance with Articles 1(4) and 6 of the Statute, as to whether referring the case to that State would serve the interests of justice and expediency.¹⁰ I, therefore, invited the United States to provide written submissions on its jurisdiction, willingness, and preparedness to accept the matter for trial.¹¹

6. On 1 August 2025, the United States filed its submissions.¹² On 29 August 2025, the *Amicus Curiae* and Robinson filed their respective responses,¹³ and, on 5 September 2025, the *Amicus Curiae* and Robinson filed their respective replies.¹⁴

II. SUBMISSIONS

7. The United States submits that, at the federal level, no clear jurisdictional basis has been identified to criminally prosecute Robinson for the conduct described in the Order in Lieu of Indictment, and that even if such a basis existed, it is “highly likely that any applicable statute of limitations would bar initiation of such a prosecution”.¹⁵ It further submits that, at the state level, the

⁷ Preliminary Submissions on Referral, 9 April 2025 (“Robinson Submission”), paras. 1, 20-22.

⁸ Robinson Submission, paras. 9, 10, 17-19.

⁹ *Amicus* Reply Submission on the Suitability of the Referral of the Case, 15 April 2025, paras. 4-18.

¹⁰ Invitation for Submissions, 13 May 2025 (“Order of 13 May 2025”), p. 3.

¹¹ Order of 13 May 2025, pp. 2, 3 (wherein I considered, *inter alia*, that an accused’s nationality and place of residence are factors that have been taken into account for the purpose of inviting a State to provide written submissions and that the conduct charged against Robinson may be subject to the jurisdiction of the United States as contempt, an offence against the administration of justice, or a violation of another appropriate provision of their criminal code, which may vindicate the Mechanism’s interest in this matter).

¹² Submission of the United States on the Issue of Referral in Response to the Mechanism’s Order of 13 May 2025, 1 August 2025 (confidential) (“United States Submission”). See also Decision on Request for Extension of Time, 11 July 2025, p. 1.

¹³ *Amicus Curiae*’s Response to the Submissions of the United States of America on the Referral of the Case, 29 August 2025 (“*Amicus Curiae* Response”); Response to the Submission of the United States of America, 29 August 2025 (“Robinson Response”). See also Decision on Request for Extension of Time, 5 August 2025, p. 2.

¹⁴ *Amicus Curiae*’s Reply to Peter Robinson’s Response to the Submissions of the United States of America on the Referral of the Case, 5 September 2025 (“*Amicus Curiae* Reply”); Reply Re: Submission of the United States of America, 5 September 2025 (confidential; public redacted version filed on the same date) (“Robinson Reply”).

¹⁵ United States Submission, p. 1.

State Bar of California (“California State Bar”) “has informed the United States that [it] has jurisdiction and that it may be possible to refer this matter to appropriate disciplinary proceedings pursuant to [the] provisions of the California Business and Professions Code”,¹⁶ and that the North Carolina State Bar has advised the United States that reciprocal disciplinary penalties may be pursued if the California State Bar imposes penalties.¹⁷

8. In response, the *Amicus Curiae* submits that the case should remain with the Mechanism since the conditions of referral have not been met as Robinson cannot be criminally prosecuted in the United States for the conduct charged in the Order in Lieu of Indictment¹⁸ and disciplinary proceedings at the state level cannot adequately substitute criminal proceedings for contempt of the Mechanism, including with respect to the sanctions available.¹⁹ He also submits that conducting the case before the Mechanism would better serve the interests of justice and expediency, in particular given the nexus between the present matter and other contempt cases before the Mechanism, as well as the *Amicus Curiae*’s familiarity thereof.²⁰

9. Robinson responds that the matter should be referred to the United States,²¹ in view of: (i) the jurisdiction of the United States over the matter;²² (ii) the Mechanism’s jurisprudence, including its strong preference for referring contempt cases to a State;²³ and (iii) the interests of justice and expediency.²⁴ He further pledges his full cooperation with all proceedings conducted pursuant to a referral to the United States, as well as with the Mechanism’s monitoring of the proceedings.²⁵

¹⁶ United States Submission, p. 1, *referring, inter alia*, to California Business and Professions Code, Articles 6103, 6068(b). I note that the United States submits that, if the Mechanism was to make a referral to the California State Bar, contact should be directed to the Chief Trial Counsel in the Office of Chief Trial Counsel of the California State Bar. *See* United States Submission, p. 1. I note that the United States further submits that, although Robinson moved to “inactive” status with the California State Bar as of 1 February 2018, such status does not affect that Bar’s jurisdiction or ability to initiate appropriate disciplinary proceedings. *See* United States Submission, n. 2.

¹⁷ United States Submission, p. 1 (noting that Robinson is currently licensed and resides in North Carolina).

¹⁸ *Amicus Curiae* Response, paras. 16, 32; *Amicus Curiae* Reply, paras. 5, 7-19, p. 10.

¹⁹ *Amicus Curiae* Response, paras. 14, 16, 20-24 (wherein the *Amicus Curiae* submits that the disciplinary penalties do not constitute criminal sanctions), 32; *Amicus Curiae* Reply, paras. 7-19, p. 10. *See Amicus Curiae* Reply, paras. 20-22 (wherein the *Amicus Curiae* submits that the possibility of deferral cannot remedy the lack of jurisdiction of the United States to criminally prosecute Robinson).

²⁰ *Amicus Curiae* Response, paras. 25-31; *Amicus Curiae* Reply, paras. 23-29. *See also Amicus Curiae* Submission, paras. 13-24, p. 8.

²¹ Robinson Response, paras. 1, 30; Robinson Reply, paras. 1, 19. *See also* Robinson Submission, paras. 17-22.

²² Robinson Response, paras. 1, 5, 6. *See also* Robinson Reply, paras. 2-6.

²³ Robinson Response, paras. 8-24. *See also* Robinson Reply, paras. 7-10, 19.

²⁴ Robinson Response, paras. 26-29. *See also* Robinson Reply, paras. 11-13, 15-18.

²⁵ Robinson Response, para. 1. *See also* Robinson Reply, para. 14.

III. DISCUSSION

10. Pursuant to Article 1(4)(a) of the Statute, the Mechanism has the power to prosecute persons who have knowingly and wilfully interfered with the administration of justice of the Mechanism and the ICTR, and to hold such persons in contempt. Before proceeding to try such persons, however, the Mechanism is required to consider referring the case to the authorities of a State in accordance with Article 6 of the Statute, taking into account the interests of justice and expediency.²⁶ 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.²⁷ Accordingly, the Mechanism may only exercise jurisdiction after it has considered whether the case can be transferred to a national jurisdiction for trial.²⁸

11. Irrespective of whether or not the accused is in the custody of the Mechanism, a Single Judge shall determine whether the case should be referred to the authorities of a State: (i) in whose territory the crime was committed; (ii) in which the accused was arrested; or (iii) having jurisdiction and being willing and adequately prepared to accept such a case.²⁹ In situations where an arrest warrant has not been issued given the nature of the offence, I consider that the State of nationality or residence of the accused is an equally relevant factor, consistent with prior practice.³⁰ As a general matter, in making a determination for referral, the Single Judge must be satisfied that the accused will receive a fair trial and that the death penalty will not be imposed or carried out.³¹ The decision on whether or not to refer the case to the authorities of a State is within the discretion of the Single Judge.³²

²⁶ Articles 1(4) and 6(1) of the Statute; *In the Case Against Petar Jojić and Vjerica Radeta*, Case 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 (“*Jojić and Radeta* Appeal Decision of 12 December 2018”), para. 11.

²⁷ *Jojić and Radeta* Appeal Decision of 12 December 2018, para. 11. See *In the Case Against Petar Jojić and Vjerica Radeta*, Case 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. 14 (wherein the Appeals Chamber indicated “that the preference in the Mechanism for contempt cases to be tried by national jurisdictions can only be understood as conditional, in particular and primarily in the context of [that] matter, as various factors specific to a case must be prudently considered”).

²⁸ *Jojić and Radeta* Appeal Decision of 12 December 2018, para. 11.

²⁹ Article 6(2) of the Statute. See also Article 12(1) of the Statute; Rule 2(C) of the Rules.

³⁰ See *In the Matter of François Ngirabatware*, Case No. MICT-24-131-I, Decision on the Suitability of Referral of the Case, 17 September 2024, pp. 1-3, 5; *Prosecutor v. Vojislav Šešelj et al.*, Case No. MICT-23-129-I, Decision on Referral of the Case to the Republic of Serbia, 29 February 2024 (“*Šešelj et al.* Decision of 29 February 2024”), paras. 10, 11, 21. I note that contempt matters do not always necessitate an arrest warrant given the gravity of the crime and the general level of cooperation demonstrated by the accused during the proceedings. Furthermore, I consider that had an arrest warrant been issued, the State of nationality and residence would likely be the state of arrest.

³¹ Article 6(4) of the Statute.

³² See *Jojić and Radeta* Appeal Decision of 12 December 2018, para. 13.

12. At the outset, I note that it is not disputed that Robinson will be subject to fair proceedings and that the death penalty will not be imposed or carried out should the matter be referred to the United States. These are factors that weigh in favour of referring the matter to the United States.³³

13. Neither the Statute nor Rules mandate that a referred contempt case proceed as a criminal trial, nor do they preclude the possibility of disciplinary proceedings in the domestic jurisdiction. The absence of such a restriction reflects the underlying principle that the central issue in the consideration of a referral, in my view, specifically in contempt of court related matters, is whether the domestic process sufficiently vindicates the interests of the Mechanism. Moreover, there is no support that such vindication is exclusively achieved through criminal sanctions. In this respect, the only express limitation is that the maximum penalty for contempt is a term of imprisonment not exceeding seven years, or a fine not exceeding 50,000 Euros or the equivalent thereof, or both.³⁴ I note that, if the matter is referred to the United States, Robinson faces the possibility of disbarment or suspension of his license to practice law.³⁵ To the extent that the *Amicus Curiae* submits that such sanctions are insufficient,³⁶ I am not persuaded as they would directly impact Robinson, including his livelihood and reputation. Moreover, I observe that if a counsel is found guilty of contempt before the Mechanism, Rule 90(I) of the Rules permits the Single Judge, *inter alia*, to find that such conduct amounts to misconduct within the meaning of Rule 47 of the Rules. Pursuant to Rule 47(D) of the Rules, this finding enables the Single Judge, with the President's approval, to communicate the misconduct to the professional body regulating the conduct of counsel in the counsel's State of admission.³⁷ In other words, the sanctions available in the domestic jurisdiction fall within the scope contemplated by the Mechanism.

14. Further, the present matter should be distinguished from other referrals previously considered by the Appeals Chamber of the Mechanism, the ICTR, and the International Criminal Tribunal for the former Yugoslavia ("ICTY"), where it was held that the State of referral must have a legal framework that "criminalizes the alleged conducted of the accused".³⁸ These cases fell squarely under Article 1(3) of the Statute, addressing allegations of serious violations of international humanitarian

³³ See also *Šešelj et al.* Decision of 29 February 2024, para. 11.

³⁴ Rule 90(G) of the Rules.

³⁵ See California Business and Professions Code, Articles 6100, 6103.

³⁶ *Amicus Curiae* Reply, paras. 18, 19.

³⁷ See also Rule 2(C) of the Rules.

³⁸ See, e.g., *The Prosecutor v. Bernard Munyagishari*, Case No. ICTR-05-89-AR11bis, Decision on Bernard Munyagishari's Third and Fourth Motions for Admission of Additional Evidence and on the Appeals Against the Decision on Referral Under Rule 11bis, 3 May 2013, para. 27; *Prosecutor v. Phénéas Munyarugarama*, Case 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. Željko Mejakić et al.*, Case No. IT-02-65-AR11bis.1, Decision on Joint Defence Appeal Against Decision on Referral under Rule 11bis, 7 April 2006, paras. 45, 48.

law – the core purpose for which the aforementioned international tribunals were created, to support the effort to ending impunity. In contrast, the present matter falls under Article 1(4) of the Statute, which concerns the interference with the administration of justice and contempt of court. Moreover, I note that the language of Article 6(2) of the Statute largely mirrors that of Rule 11*bis* of the Rules of Procedure and Evidence of both the ICTR and the ICTY, where referral was contemplated only for core crimes cases and, consequently, required the existence of a legal framework that criminalizes the alleged conduct. In this context, I do not consider that criminalization of the alleged conduct is necessary for referral in relation to allegations of contempt.³⁹

15. Accordingly, it is within my discretion to refer this matter to the United States for disciplinary proceedings, provided that I find that such referral vindicates the Mechanism’s interests, taking into account the interests of justice and expediency.

16. Turning to whether referral of this matter to the United States vindicates the Mechanism’s interests, I am cognizant of the serious allegations against Robinson, having reviewed the *Amicus Curiae*’s reports that included Robinson’s statement and the transcripts of the *Amicus Curiae*’s interview with him.⁴⁰ Nonetheless, I consider that disciplinary proceedings in the United States, given its regulatory framework, would adequately vindicate the Mechanism’s interests. This finding is consistent with the statutory requirement that the Mechanism must first consider referral to the authorities of a State – a requirement that demonstrates the intention for contempt matters to be, by default, primarily dealt with by domestic jurisdictions.⁴¹ I am mindful of the Mechanism’s disciplinary proceedings⁴² and the sanctions available upon a finding of misconduct, which include alternatively or cumulatively, *inter alia*, a fine of up to 50,000 USD to the Mechanism, suspension from practicing before the Mechanism for a fixed period not exceeding two years, and banishment

³⁹ I note that, under the applicable code of conduct for Defence counsel, “commit[ting] a *criminal* act which reflects adversely on counsel’s honesty, trustworthiness or fitness as counsel” and “engag[ing] in conduct which is prejudicial to the proper administration of justice before the Mechanism” are professional misconduct that *may be dealt by a disciplinary panel* pursuant to the Code of Professional Conduct for Defence Counsel. See Code of Professional Conduct for Defence Counsel Appearing Before the Mechanism (MICT/6), 14 November 2012 (“Defence Counsel Professional Code of Conduct”), Articles 35, 36 (emphasis added). I refer to the applicable code of conduct for Defence counsel since the alleged acts and conduct took place prior to its revision in 2021.

⁴⁰ See Decision on Allegations of Contempt, para. 5 and references cited therein.

⁴¹ I note that this intention is closely related to the Mechanism’s operation as a small and efficient structure. See UNSC Resolution 2637 (2022), U.N. Doc. S/RES/2637 (2022), 22 June 2022, para. 7; UNSC Resolution 2529 (2020), U.N. Doc. S/RES/2529 (2020), 25 June 2020, para. 6; UNSC Resolution 2422 (2018), U.N. Doc. S/RES/2422 (2018), 27 June 2018, para. 5; UNSC Resolution 2256 (2015), U.N. Doc. S/RES/2256 (2015), 2 December 2015, para. 16; UNSC Resolution 1966 (2010), U.N. Doc. S/RES/1966 (2010), 22 December 2010, p. 1 (wherein the United Nations Security Council repeatedly emphasized since 2010 that the Mechanism shall be a “small, temporary and efficient structure, whose functions and size will diminish over time”).

⁴² See Defence Counsel Professional Code of Conduct, Articles 37-51.

from practicing before the Mechanism.⁴³ However, given the current stage of the Mechanism’s life cycle, I consider these sanctions may be insufficient to adequately address the seriousness of the allegations against Robinson. In addition, in line with Rule 47(D) of the Rules that enables the Single Judge to communicate to the professional body regulating the conduct of counsel in the counsel’s State of admission a finding of contempt,⁴⁴ I note that the decision of a disciplinary panel must be communicated to the “professional body regulating the conduct of the respondent in his [or her] State of admission”.⁴⁵

17. As to expediency, I am not persuaded that the nexus the *Amicus Curiae* identifies between this matter and prior Mechanism proceedings⁴⁶ outweighs the preference inherent in the Mechanism’s legal framework and jurisprudence to refer cases to a domestic jurisdiction where it is feasible. Nothing before me suggests that the United States will not diligently and expeditiously consider this matter, especially in view of the comprehensive *Amicus Curiae*’s reports, Robinson’s written statement, and the transcripts of the interview by the *Amicus Curiae*. In addition, I note that Robinson pledges his full cooperation with all proceedings conducted pursuant to a referral to the United States and consents to the disclosure of all materials that fall under Rule 76 of the Rules to the disciplinary authorities in the United States and to their use in any disciplinary proceedings.⁴⁷

18. Therefore, bearing in mind the strong preference to refer contempt cases if all requirements are met, I consider that, on balance, the above considerations and the context of this matter weigh in favour of referring the case against Robinson to the United States.

⁴³ Defence Counsel Professional Code of Conduct, Article 48(C). *See also* Defence Counsel Professional Code of Conduct, Article 48(D).

⁴⁴ *See supra* para. 13.

⁴⁵ Defence Counsel Professional Code of Conduct, Article 48(G).

⁴⁶ *See supra* paras. 4, 8, nn. 6, 20.

⁴⁷ Robinson Response, p. 1; Robinson Reply, para. 14. *See Prosecutor v. Anselme Nzabonimpa et al.*, Case No. MICT-18-116-AR90.1, Decision on Appeal of Decision on the Use of Material Subject to Rule 76 in Further Proceedings, 17 July 2024.

IV. DISPOSITION

19. For the foregoing reasons, pursuant to Articles 1(4), 6(2), and 6(4) of the Statute and Rule 14 of the Rules, I hereby:

ORDER the referral of the case against Mr. Peter Robinson (Case No. MICT-25-135-I) to the authorities of the United States for disciplinary proceedings;

INSTRUCT the Registry of the Mechanism to serve the present Decision on the Chief Trial Counsel in the Office of Chief Trial Counsel of the California State Bar, together with the confidential *Amicus Curiae*'s Report to the Single Judge dated 13 March 2023, the confidential *Amicus Curiae*'s Supplemental Report to the Single Judge dated 13 June 2023, and the transcripts of the *Amicus Curiae*'s interview of Robinson on 23 and 24 May 2023, filed confidentially and *ex parte* on 12 July 2023;

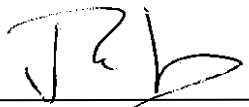
ORDER the *Amicus Curiae* to transfer to the Chief Trial Counsel in the Office of Chief Trial Counsel of the California State Bar, as soon as possible, all information relating to this case that he considers appropriate, including, in particular, all materials supporting the Order in Lieu of Indictment;

ORDER the Chief Trial Counsel in the Office of Chief Trial Counsel of the California State Bar to maintain the confidentiality of any material received bearing that classification; and

REQUEST the Chief Trial Counsel in the Office of Chief Trial Counsel of the California State Bar to periodically report on the status of the case to the President every six months until its completion.

Done in English and French, the English version being authoritative.

Done this 7th day of November 2025,
At Arusha,
Tanzania



Judge Joseph E. Chiondo Masanche
Single Judge

[Seal of the Mechanism]



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