UNITED NATIONS

International Residual Mechanism for Criminal Tribunals

Case No.:	**MICT-13-33-ES.1**
Date:	**20 June 2026**
Original	**English**

THE PRESIDENT

Before: **Judge Graciela Gatti Santana, President**

Registrar: **Mr. Abubacarr M. Tambadou**

THE PROSECUTOR

v.

JEAN DE DIEU KAMUHANDA

Public

PETITION FOR EARLY RELEASE

Office of the Prosecutor:
Serge Brammertz

Jean de Dieu Kamuhanda:
Peter Robinson

1. Jean de Dieu Kamuhanda hereby files this petition for early release It is filed pursuant to paragraph 5 of the *Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence, and Early Release of Persons Convicted by the ICTR, the ICTY, or the Mechanism* (1 July 2024)("*Practice Direction*"), and Rule 150 of the Rules of Procedure and Evidence.

2. As set forth in more detail below, Mr. Kamuhanda contends that he meets the criteria for early release. Additionally, the prospect of his having to serve the remainder of his prison sentence in Rwanda makes this petition urgent and imperative. The legitimate reasons for his concern are set forth in the letters sent by Mr. Kamuhanda and the other prisoners in Senegal to the United Nations Security Council,[1] as well as the letter sent by his counsel and other defense counsel to the Security Council.[2]

I. BACKGROUND

3. Jean de Dieu Kamuhanda was born on 3 March 1953 in Gikomero Commune, Kigali-Rural Prefecture, Rwanda. He was a civil servant in the Rwandan Ministry of Higher Education and Scientific Research at the time the genocide began, and was appointed Minister in late May 1994.[3] He was arrested in France on 26 November 1999 and made his first appearance at the ICTR on 24 March 2000, pleading not guilty.[4]

4 On 22 January 2003, the Trial Chamber found Mr. Kamuhanda guilty of genocide and extermination for leading attacks in Gikomero commune in the early days of the genocide and sentenced him to life imprisonment.[5]

5. On 19 September 2005, the Appeals Chamber affirmed Mr. Kamuhanda's core convictions and his life sentence over a dissenting opinion by Judge Ines Monica Weinberg de Roca.[6]

6. On 25 August 2011, the Appeals Chamber denied Mr. Kamuhanda's request for review of his convictions, finding that the evidence he presented did not amount to "new facts" under the narrow ambit of review proceedings.[7]

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[1] The letter is attached as Annex A,
[2] That letter is attached as Annex B.
[3] *Prosecutor v Kamuhanda*, No. ICTR-99-54A-T, *Judgement and Sentence* (22 January 2003), para. 6
[4] *Id,* paras. 8-9.
[5] *Id*.
[6] *Kamuhanda v Prosecutor*, No. ICTR-99-54A-A *Judgement* (19 September 2005).
[7] *Kamuhanda v Prosecutor*, No. ICTR-99-54A-R, *Decision on Request for Review* (25 August 2011).

7. On 4 November 2008, Mr. Kamuhanda was designated to serve his sentence in the Republic of Mali.[8] On 16 December 2021, Mr. Kamuhanda was ordered to serve the remainder of his sentence in Senegal.[9]

8. Mr. Kamuhanda is now 73 years old and has served 26 1/2 years of his life sentence.

II. APPLICATION

9. This is Mr. Kamuhanda's first application for early release.

III. APPLICABLE LAW[10]

10. Rule 150 of the Mechanism's Rules of Procedure and Evidence provides that the President shall, upon receipt of a direct petition from the convicted person, determine, whether pardon, commutation of sentence, or early release is appropriate.

11. Rule 151 of the Rules provides that in making a determination on pardon, commutation of sentence, or early release, the President shall take into account, inter alia, the gravity of the crime or crimes for which the prisoner was convicted, the treatment of similarly-situated prisoners, the prisoner's demonstration of rehabilitation, and any substantial cooperation of the prisoner with the Prosecution.

12. Paragraph 5 of the *Practice Direction* provides that a convicted person may apply directly to the President for pardon, commutation of sentence, or early release, if he or she believes that he or she is eligible. Paragraph 10 of the *Practice Direction* indicates that the President may direct the Registry to collect information which he or she considers may be relevant to the determination of whether pardon, commutation of sentence, or early release is appropriate. Paragraph 12 of the *Practice Direction* provides that, once all information requested has been received, the President shall communicate, directly or through the Registry, relevant information to the convicted person in a language that he or she understands. Paragraph 13 of the *Practice Direction* states that the convicted person shall be given 14 days to examine the information received by the Registrar, following which he or she may provide any written submissions in response.

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[8] *Prosecutor v. Kamuhanda,* No. ICTR-99-54*, Decision on the Enforcement of Sentence* (4 November 2008*).*
[9] *Prosecutor v Kamuhanda,* No. MICT-13-33-ES.1, *Order Designating State in Which Jean de Dieu Kamuhanda is to Serve the Remainder of his Sentence,* (16 December 2021).
[10] *Prosecutor v Milosevic*, MICT-16-98-ES, *Decision on the Application for Early Release of Dragomir Milosevic* (13 December 2024), paras. 21-26

13. For persons who have not yet served 2/3 of their sentences, the President has held that she has the discretion on whether to direct the collection of information or to summarily deny the petition for early release.[11] This often turns on whether exceptional humanitarian circumstances are present in the case. While exceptional humanitarian circumstances have previously been due to a prisoner's health condition,[12] Mr. Kamuhanda contends that the possibility that he will be required to serve the remainder of his sentence in Rwanda constitutes an exceptional humanitarian circumstance at least warranting collection of information before condemning him to a fate of repatriation to Rwanda against his will. Early release is the only procedure that can save him from this fate.

IV. ANALYSIS

A. Eligibility

14. Mr. Kamuhanda has now served 26 ½ years of his life sentence. The President has previously determined that persons with life sentences would be deemed to have served 2/3 of their sentences for early release purposes after serving 30 years.[13]

B. General Standards for Granting

15. Rule 151 of the Rules provides a non-exhaustive list of factors to be considered by the President: (1) the gravity of the crime or crimes for which the prisoner was convicted, (2) the treatment of similarly-situated prisoners, (3) the prisoner's demonstration of rehabilitation, and (4) any substantial cooperation of the prisoner with the Prosecutor.

1. Gravity of Crimes and Wrongful Conviction

16. Mr. Kamuhanda acknowledges the high gravity of the crimes for which he has been convicted. However, he had nothing to do with these crimes and has been wrongfully convicted.

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[11] *Prosecutor v Galic,* No. MICT-14-83-ES, *Decision on the Application for Early Release of Stanislas Galic* (4 December 2024) at p. 4.
[12] *Prosecutor v Ngirumpatse*, No. MICT-14-73-ES.2, *Decision on the Application for Commutation of Sentence or Early Release of Mathieu Ngirumpatse* (9 October 2024) at para. 23.
[13] *Prosecutor v Galic*, No. MICT-14-83-ES, *Reasons for the President's Decision to Deny the Early Release of Stanisic Galic…*(23 June 2015) at para. 24; *Prosecutor v Musema*, No. MICT-12-15-ES.1, *Decision on the Application for Early Release of Alfred Musema* (12 January 2026) at para. 17.

2. Treatment of Similarly-Situated Prisoners

17. Mr. Kamuhanda acknowledges that Mechanism prisoners serving life sentences have not been granted early release. However, no convicted prisoner at the Mechanism has ever been handed over to serve his sentence in Rwanda.

3. Demonstration of Rehabilitation

(a) Behavior in Prison

18. The President is requested, pursuant to paragraph 10 of the *Practice Direction,* to direct the Registry to collect information on Mr. Kamuhanda's behavior in prison in Senegal for 4 1/2 years, Mali for 13 years, and at the United Nations Detention Facility ("UNDF") in Arusha for 9 years. This normally includes psychological reports and behavioral reports compiled by professionals at the prisons who have regular contact with a prisoner over a period of years. The President has found such reports to be among the most probative sources of assessing the issue of rehabilitation.[14]

19. Mr. Kamuhanda will provide any additional submissions, if necessary, pursuant to paragraph 13 of the *Practice Direction*, after examining the information provided by the prison authorities, should the President be willing to receive it.

(b) Acceptance of Responsibility and Genuine Expressions of Remorse

20. When he was arrested in France in 2000 and informed that he was charged with leading attacks on Tutsis in Gikomero commune, Mr. Kamuhanda said that he was not in Gikomero commune during the genocide and at the time of the Gikomero attacks was at home in Kigali protecting his family. He gave the investigators the names of his neighbors who could verify this.[15] At his trial, he continued to maintain that he had nothing to do with the Gikomero attacks and produced significant evidence that he was at his home in Kigali at the time, including from those very neighbors.[16] On appeal, he continued to protest his innocence.[17] When prosecution witnesses who had provided

[14] *Prosecutor v Musema*, No, MICT-12-15-ES.1, *Decision on the Application for Early Release of Alfred Musema* (12 January 2026), para. 44.
[15] *Prosecutor v Kamuhanda*, No. ICTR-99-54A-T, Transcript of testimony of Witnesses ENQ-1 and ENQ-2 (6, 10 February 2003).
[16] *Prosecutor v Kamuhanda*, No. ICTR-99-54A-T, *Judgement and Sentence* (22 January 2003), paras. 89-92.
[17] *Kamuhanda v Prosecutor*, No. ICTR-99-54A-A, Transcript of Appeals Hearing (19 May 2005), pp. 96-100.

evidence against him recanted their testimony, or were disbelieved in subsequent cases, Mr. Kamuhanda sought review of his conviction and again protested his innocence.[18] While he is desperate to obtain early release and not be sent to Rwanda, Mr. Kamuhanda is not about to falsely confess to crimes that he did not commit.

21. Mr. Kamuhanda notes that in the *Simba* early release decision, President Theodor Meron said:

> Although Simba does not accept responsibility for his crimes, I note that while there is limited case law of the ICTY which provides for remorse as a primary requirement for commutation of sentence specifically." remorse is not generally considered as such. It is mainly considered as just one of a number of factors that may be taken into account. Indeed numerous requests for early release have been granted where there was no clear indication of remorse' and in some instances where the convicted person expressly denied the crimes for which they were convicted. I do not consider that remorse should be treated as a determining factor in this case or in determining early release applications more generally. Rule 151 of the Rules provides that I must take into account "a prisoner's demonstration of rehabilitation" in determining whether early release is appropriate, but the applicable legal framework of the Mechanism (following that of its predecessor institutions, the ICTY and the ICTR) does not stipulate that remorse must be present.[19]

22. This President has acknowledged that acceptance of responsibility for one's own crimes is not a legal requirement.[20] Other early release decisions have established that acceptance of responsibility does not constitute a legal requirement to demonstrate rehabilitation, let alone serve as a precondition for early release.[21]

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[18] *Kamuhanda v Prosecutor,* No. ICTR-99-54A-R, *Mémoire en demande en révision* (21 May 2010).
[19] *Prosecutor v Simba*, No. MICT-14-62-ES.1, *Decision on the Early Release of Aloys Simba* (7 January 2019), para. 44.
[20] *Prosecutor v Musema*, No, MICT-12-15-ES.1, *Decision on the Application for Early Release of Alfred Musema* (12 January 2026), para. 61.
[21] *Prosecutor v Brdjanin*, No. MICT-13-48-ES, *Decision on the Application of Radoslav Brdjanin for Early Release* (28 February 2020), para. 95; *Prosecutor v Djordjevic*, No. MICT-14-76-ES, *Decision on the Applications for Early Release of Vlastimir Djordjevic* (30 November 2021) at para. 70; *Prosecutor v Brdanin*, No. MICT-13-48-ES , *Decision on the Application of Radislav Brdanin for Early Release* (1 April 2022) at para. 48; *Prosecutor v Stojic*, No. MICT-17-112-ES.3, *Decision on the Application for Early Release of Bruno Stojic* (11 April 2022) at para. 62; *Prosecutor v Pavkovic*, No. MICT-14-67-ES.2, *Decision on the Application for Early Release of Nebojsa Pavkovic* (18 May 2022) at para. 57; *Prosecutor v Krstic,* No, MICT-13-46-ES.1, *Decision on the Application for Early Release of Radislav Krstic* (15 November 2022) at para. 56; *Prosecutor v Bralo*, No. MICT-14-78-ES, *Decision on the Application for Early Release of Miroslav Bralo* (28 December 2023) at para. 59; *Prosecutor v Stojic*, No. MICT-17-112-ES.3, *Decision on the Application for Early Release of Bruno Stojic* (17 January 2024) at para. 56; *Prosecutor v Zupljanin*, No. MICT-13-53-ES.1, *Decision on the Application for Early Release of Stojan Zupljanin* (18 January 2024) at para. 52; *Prosecutor v Miletic*, No. MICT-15-85-ES.5, *Decision on the Application for Early Release of Radivoje Miletic* (18 January 2024) at para. 56; *Prosecutor v Kunarac*, No.

23. Nevertheless, the President has stated that acceptance of responsibility is, for her, an important factor in assessing a convicted person's progress towards rehabilitation.

> "Even where the convicted person maintains his or her innocence, it is still incumbent upon them to convincingly establish that granting early release would be a responsible exercise of my discretion."[22]

24. Mr. Kamuhanda believes that if the President heard from the authorities of the prisons in which he has spent the last 26 ½ years of his life, who have not only heard his words, but observed his deeds, she would be convinced that it would indeed be a responsible exercise of her discretion to grant him early release rather than to have him repatriated to Rwanda against his will. The truth is that Mr. Kamuhanda has nothing to be rehabilitated from, and those who know him find it unimaginable that he would have led the horrific attacks for which he has been convicted.

(c) Prospects of Successful Reintegration into Society

25. Mr. Kamuhanda would like nothing more than to join his wife and four children in France. But that appears to be impossible, as France will not even accept to allow acquitted persons from the Mechanism to rejoin their families.[23] So, if released, he would live in Senegal. Mr. Kamuhanda is willing to agree to any and all conditions of release that the President may impose.

26. Mr. Kamuhanda will present a detailed release plan, setting forth where he would live and how he would support himself, in connection with his comments on the materials collected by the Registrar pursuant to the *Practice Direction* should the President be willing to request the Registrar to collect that material.

(d) Overall Assessment

27. Mr. Kamuhanda has already served 26 ½ years in prison. He has been a model prisoner. There is every indication that he would be a model citizen if granted early release.

MICT-15-88-ES.1, *Decision on the Application for Early Release of Dragoljub Kunarac* (22 July 2024) at para. 53; *Prosecutor v Jelesic*, No. MICT-14-63-ES, *Decision on the Application for Early Release of Goran Jelesic* (13 August 2025) at para. 51.

[22] *Prosecutor v Musema*, No, MICT-12-15-ES.1, *Decision on the Application for Early Release of Alfred Musema* (12 January 2026), para. 61.

[23] *Prosecutor v Nzuwonemeye*, No. MICT-13-43, *Decision on Motion for Reconsideration* (15 November 2022).

4. Substantial Cooperation with the Prosecutor

28. Mr. Kamuhanda was never asked to cooperate with the Prosecutor. Since he did not participate in the crimes with which he was charged, he has no information that would help the Prosecutor convict those responsible.

C. Other Considerations

29. Should the President receive information from the Prosecutor, Government of Rwanda, the Witness Support and Protection Unit (WISP) and possibly other third parties on his petition for early release, Mr. Kamuhanda will respond to any such submissions in a consolidated submission with his comments on the additional material obtained by the Registry, as provided in paragraph 13 of the *Practice Direction*.

30. Mr. Kamuhanda will also elaborate on his health after reviewing the medical information provided by the Benin authorities, should the President be willing to request those materials from the government of Benin. He has recently had some health challenges. He requests the President to consider his medical condition as part of her early release decision.[24]

D. A New Consideration: Service of Sentence in Rwanda

31. Mr. Kamuhanda contends that if the Security Council decides that he and his fellow prisoners shall serve the remainder of their sentences in Rwanda, this will constitute a strong and compelling reason to grant him early release after serving 26 ½ years of his life sentence.

32. Since serving the remainder of his sentence in Rwanda remains uncertain at this time, Mr. Kamuhanda reserves further comment until he is given the opportunity to respond to the materials collected pursuant to the Practice Direction, or is otherwise allowed to supplement this petition following the developments at the Security Council.

V. CONCLUSION

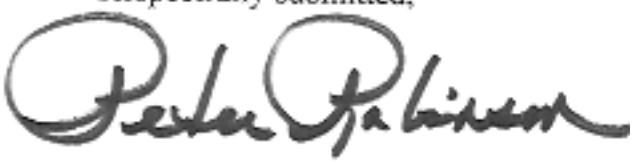
33. Jean de Dieu Kamuhanda respectfully requests that the President, pursuant to the *Practice Direction*, direct the Registry to collect information which she considers may be relevant to the determination of whether early release is appropriate, including from the prison authorities in Mali and Senegal and from Mr. Kamuhanda's time at the

[24] *Prosecutor v Ntawukulilyayo*, No. 13-34-ES, *Decision on the Application for Early Release of Dominique Ntawukulilyayo* (18 February 2026).

UNDF in Arusha. Should the President request this information, Mr. Kamuhanda will provide detailed written submissions in response. At the conclusion of that process, he respectfully requests that the President grant him early release.

Word count: 2849

Respectfully submitted,



PETER ROBINSON

Pro Bono Counsel for Jean de Dieu Kamuhanda

ANNEX A

ICTR/MICT Detainees
Maison de Correction de Sebikotane
P.O. Box 271 Bargny
SENEGAL
E-mail: macsebikhotane.dap@justice.gouv.sn

Sebikotane, 26 l

Our/Re€ : 05/DT-SN/2025

le 27/11/2025

His Excellency, the President of the United Nations Security Council
828 Second Avenue New York NY 10017 USA Email: **sc-wgcaac@un.org**

Subiect: Proposed closure of MICT and transfer of control of the enforcement of sentences

Your Excellency,

l . We, the undersigned currently detained in Senegal under International Criminal Tribunal for Rwanda (ICTR)/International Residual Mechanism for Criminal Tribunals (MICT), are quite conscious of the paramount importance of the forthcoming meeting of the UN Security Council on the MICT, scheduled for no later than 31 December 2025, at which the UN Secretary-General will present his report and discuss in particular the possibility of transferring the functions of monitoring the enforcement of sentences. It is our very considered view that the decisions that will be taken during this session will have a considerable impact on our legal, security, health, and material situation. In this regard, we have the honour to convey to you our position on this matter with three key considerations: categorical rejection of the transfer of any function of the MICT to Rwanda, call to bring to justice all those who committed crimes against humanity on both sides of the conflict, and request for conditional release of persons detained under the authority of the MICT.

Denunciation of Rwanda's request for supervision of the enforcement of sentences

2. We responded to the Thirteenth annual report presented by the Chair of the Mechanism to the UN General Assembly on 22 October 2025, in our letter to the President of the General Assembly dated 4 November 2025, taking care to inform you thereof and to refer to our open letter to the Judges of the ICTR/MICT, a copy of which we sent you in our letter dated 12 February 2024,

3. It was with dismay that, during the presentation of the report, we learnt of Rwanda's proposal to take over the functions currently carried out by the Mechanism, particularly monitoring the enforcement of sentences imposed on ICTR/MICT

convicts. Based on the reasons why the ICTR was not established in Rwanda, as well as the Rwandan government's bad intentions towards us, as evidenced by numerous statements made by its members and President Paul Kagame himself, we hereby firmly denounce any attempt to accede to Rwanda's malicious request in this important matter.

4. The primary reason that prevailed in 1994 that led to the refusal of the UN to establish the ICTR headquarters in Rwanda was that the leaders of that country were and still are subject to prosecution before this tribunal, for their leading role in the crimes against humanity and genocide committed in Rwanda in 1994. We would like to point out that the serious violations of international humanitarian law that you risk covering up by failing to comply with Article 1 of the ICTR Statute, are imprescriptible crimes, falling within the jurisdiction of the ICTR.

5. With unsuccessful effort to conceal his malicious intentions towards Rwandans acquitted and/or released by the ICTR/MICT, and a fortiori so towards us, President Kagame is quoted, in the 'Big Interview' published by Jeune Afrique in February 2022 about the dramatic situation of the eight people relocated to Niger in 2021, saying: "Nothing has been put in place to ensure that these individuals will not be involved in crimes similar to those they committed in the past. We generally observe that they lead seemingly peaceful lives and then contact the génocidaires they knew and resume their propaganda against Rwanda, as they did before, "

6. The Rwandan president's official response clearly demonstrated his intentions towards the 'disinherited Rwandans in Niger.' He wants them to be deported to Rwanda and to be retried, or to make them disappear. It is common knowledge, and the UN Security Council is regularly informed, that Rwanda is a country where numerous disappearances, recurrent assassinations in prisons and illegal imprisonments are part of everyday life for a people reduced to silence. Numerous pieces of evidence collected and published by independent NGOs confirm that President Kagame's Rwanda does not meet the conditions that would guarantee our safety. That being the case, the Rwandan president would hardly reserve a better fate for us than the one he already nourishes for those who have been acquitted and/or released by the ICTR.

7. Rwanda, as it currently stands, cannot guarantee the safety of individuals detained and convicted by the ICTR/MICT, since it considers them to be enemies to be eliminated or opponents to be silenced. Our fault is that we are the most potential witnesses, still alive, to the serious violations of international

humanitarian law committed by those very people who are demanding control over the enforcement of sentences.

8. Therefore, contrary to Rwanda's misleading assertions in the report of the Chairperson of the Mechanism, the enforcement of sentences in Rwanda or elsewhere, but with the collaboration of the Rwandan government, would only reinforce the long-criticised lack of justice in the handling of the Rwandan issue and would be a step completely contrary to the reconciliation that we so dearly wish for the entire Rwandan people. Furthermore, transfer to Rwanda would separate us permanently from our families, who are currently scattered throughout the world and whose members are unable to travel to Rwanda.

Enabling the international court to fulfil the mission entrusted to it

9. The UN Security Council should understand that the best solution for completing the work of the ICTR/MICT in a fair and equitable manner for the Rwandan people, is one that would allow this international court to carry out the mission entrusted to it to the very end. In order to do this, the UN Security Council must faithfully and fully carry out the mission assigned to the ICTR by bringing to justice all those who committed crimes against humanity, of both sides of the conflict. This is by the way indicated in the reports of the UN Secretary-General of 31 May 1994 and I October 1994 (S/ 1994/1125) and in the Secretary-General's Note on the situation of human rights in Rwanda dated 13 October 1994 (A/49/508 S/ 1994/1157). These Reports and Note served as the basis for the creation of the ICTR. This requirement to try those suspected of acts of genocide and other violations of international humanitarian law, on both sides of the conflict, is reiterated in the Secretary-General's Report of 13 February 1995 (S/1995/134), as well as in the first Report of the President of the ICTR, the late Laity Kama, to the UN General Assembly on 10 December 1996. You will find in the aforementioned Reports and Note that, neither the ICTR Statute, nor its Rules of Procedure and Evidence, as amended several times, limit the persons to be prosecuted and tried to members of the ethnic group that was attacked and defeated.

10. Numerous pieces of evidence collected and published by independent NGOs clearly establish that several Rwanda's current leaders committed serious violations of international humanitarian law, falling within the jurisdiction of the ICTR. This evidence is in addition to the findings of investigations carried out in 2003 into crimes committed by the RPF and the current leaders of Rwanda between I January and 31 December 1994, made by the ICTR Special Investigations Unit. The ICTR Office of the Prosecutor keeps secret the findings in the interests of politics and outside the bounds of justice, but the UN

Secretary General is aware of them. The Security Council should take the necessary measures to avoid falling into the trap of manipulation and lies by the perpetrators of genocide within the Rwandan government, to whom the ICTR/MICT has, until now, abusively guaranteed impunity. Failing to amend UN Security Council Resolution 1966 with a view to extending the temporal and material jurisdiction of the MICT with the aim at making the necessary corrections with regard to this impunity, it should create an Independent International Legal Commission for Rwanda (ILCR), which has already been called for by various Rwandan and international Non-Governmental Organizations.

Early release of persons detained under the authority of the Mechanism

11. In order to complete the work of the ICTR/MICT in a fair and equitable manner, it would also be wise to consider the possibility of conditional release for those concerned. Such early release would be a response to the very long prison terms served by ICTR/MICT detainees, especially since those terms are few and far between in the national legislations of UN member States. By June 2026, those convicted by the ICTR/MICT who are currently in detention will have spent between 17 and more than 31 years in prison, with an average age of 71 and the majority of them in increasingly poor health. Granting the 24 current detainees conditional release, facilitating family reunification, would be a just and equitable response, both politically and humanely commendable. It would contribute enormously to the reconciliation of the Rwandan people. Our various counsel would be prepared to file reasoned requests for this early conditional release with the competent judicial authority.

12. In the event that it does not decide to grant conditional release to the 24 of us who have been convicted, it would be imperative for the Security Council to take steps to provide the States responsible for our detention and/or the Institutions that will have inherited the responsibilities of the Mechanism, with the necessary and sufficient financial resources to enable them to monitor the enforcement of our sentences in accordance with their national laws and regulations.

Signatories

Kambanda Jean
Former Prime minister

Ngirabatware Augustin
Former minister

Renzaho Tharcisse, Colonel
Former Préfet of Kigali

Ntahobari Shalom
Former student at University

Jean de Dieu Kamuhanda
Former minister

ICTR/MICT Detainees

Sebikotane Correctional Facility
B.P.271 Bargny
SENEGAL

Sebikotane, 12 February 2024
Reference: 002/DT-SN/2024

E-Mail: macsebikotane.dap@justice.gouv.sn
Your Excellency the President of the Security Council of the United Nations 828 Second Avenue New York
NY 10017 USA

Subiect: Open letter to the Judges ofthe ICTR/MICT

Your Excellency Mr. President,

We have the honor of transmitting to you an open letter in which we take the liberty of addressing with deference to the Honorable Judges of the International Criminal Tribunal for Rwanda (ICTR) and of the Mechanism which carries out its residual functions (those still in office and those who have retired), in order to remind them that the mission entrusted to them by the supranational body over which you preside has not been accomplished.

While acknowledging that the Tribunal has ruled on the question of the planning of the Rwandan genocide and on the innocence of a few accused, our open letter summarizes some of the reasons explaining why the ICTR has failed: it has enshrined impunity for criminals from one side of the conflict, it has convicted innocent people from the assaulted country and from the losing side of the war, and it has in no way been an instrument of reconciliation between Rwandans.

Our most fervent wish is that the Judges join with the three Chief Prosecutors of the Tribunal who succeeded one another between 1995 and 2003 (Richard Goldstone, Louise Arbour and Carla del Ponte) and who stated unequivocally that justice has not been done regarding the Rwandan tragedy because the current Rwandan government has prevented them from doing their work by systematic obstruction.

We would also be grateful if you could revisit the correspondence from the Heads of the Permanent Missions of the United States, the United Kingdom and the European Union Delegation to the United Nations in New York addressed to His Excellency the President of the United Nations General Assembly in June 2020 in relation to the Draft Resolution entitled "International Day of Reflection on the 1994 Genocide

against the Tutsis in Rwanda" in conjunction with the commemoration of the 26th anniversary of the 1994 Genocide. The diplomatic notes suggest that during the period covered by the jurisdiction of the ICTR, i.e. the year 1994, the genocide against the Tutsis and the genocide against the Hutus were indisputable, something that the international court has refused to conclude despite t irrefutable evidence before it.

It is in this spirit that we ask you, Excellency Mr President, to refer the matter to the United Nations Security Council, which mandated the Judges to render justice in the Rwandan tragedy of 1994, so that it can take cognizance of the salient elements that characterized the failure of the ICTR/MICT with a view to correcting and repairing the errors committed. We also ask the Judges, to whom this open letter is addressed, to be aware of this resounding failure and to consider ways and means of helping the people to benefit from fair justice, which is a prerequisite for lasting reconciliation. In the hope of a positive response, and thanking you in advance, please accept, Excellency, the assurance of our highest consideration.

Ntahobari A. Shalom

Ngirabatware Augustin

Kamuhanda Jean de Dieu

Renzaho Tharcisse

Kambanda Jean

Nyiramasuhuko Pauline

Ngirumpatse Matthieu

Sebikhotane, 12 February 2024

Reference: OOI/DT-SN/2024

Open Letter to the Judges of the ICTR/MICT
(Serving and retired Judges)

Honorable Judges,

At the beginning of the year 2024, we, the UN detainees in the Republic of Senegal, would, first of all, like to send you our best wishes for happiness, prosperity, good health and success in your activities.
Thirty years have now passed since you were given the mission of rendering justice to the Rwandan people and to humanity, whose conscience was seriously shaken by the acts of genocide and other serious violations of international humanitarian law whose perpetrators you had to judge and punish. In this open letter, we would like to take a look back at the potholes along the road that was supposed to lead us to the Mount of Truth, but which ultimately proved to be a dead end.
Our approach is not to cover up for those guilty of proven facts, nor to blame the Judges, nor to attack the authority of res judicata. We simply want to draw your attention to your actions and decisions, which have obscured the Truth about what happened in our country in 1994 (and even long before and after). In this way, we hope to awaken your conscience so that, being free to express yourselves, you can free your conscience and reveal to the world what, often by force or coercion, you have buried deep inside you. The Rwandan people and future generations will be very grateful, and the judgment of History and future generations will be in your favor.
Honorable Judges,

It should be remembered that following the war of invasion that began on 1 October 1990 and the assassination of President Habyarimana Juvénal on 6 April 1994, our country, Rwanda, was subjected to massacres on a massive scale, war crimes, crimes against humanity and other serious violations of international humanitarian law. Some of these crimes were described as genocide. The crimes committed by the Rwandan Patriotic Front (RPF), currently in power in Kigali, have until now been ignored in order to protect the known perpetrators. The population, fleeing these atrocities, has been pursued even in the most remote regions beyond the borders, in neighboring countries, notably in Zaire (D.R. Congo). Along with the Congolese population, hundreds of thousands of Rwandans perished there, and the survivors were forced to return to Rwanda, to die in their own country, while others wandered into exile. Some were welcomed by their host countries, while others went missing, were murdered or imprisoned. The inconsolable faces of the Rwandan survivors of all these atrocities are eroded by the torrents of tears flowing from their eyes ever since. The shock is heightened when they co e into contact with their executioners who have never been brought to justice and when inno nt people are mistaken for guilty criminals while

proven criminals are considered innocent. We bow our heads before the memory of all the victims of the Rwandan tragedy.

Concerned by the extent and gravity of these massacres and other serious violations of international humanitarian law, the United Nations Security Council adopted Resolution 955 (1994) of 8 November 1994, creating the International Criminal Tribunal for Rwanda to try persons responsible for acts of genocide or other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for such acts or violations committed in the territory of neighboring States between 1 January and 31 December 1994. It was stated from the outset that the persons from both parties to the conflict would be prosecuted.

The Security Council was convinced that such prosecutions would contribute to the process of national reconciliation, the restoration and maintenance of peace, and the cessation and proper redress of reprehensible acts and other violations. All UN Member States had an obligation to cooperate fully with the Tribunal.
Honorable Judges,

It was in this context that, in 1995, you were called upon to sit on the International Criminal Tribunal for Rwanda, which later became the current Residual Mechanism in 2012. You have done a great deal of work for the person who, out of a sense of conscience, mandated you to prosecute only the party to the conflict that lost the war and was ousted from power. The Rwandan people, who had placed so much hope in the establishment of the ICTR, are still waiting for justice to be fairly done. They had hoped to find out the Truth about what really happened and to understand how such a massacre could have been inflicted on them. The Rwandan people were disappointed by the profusion of lies that poured out before you, session after session, which were the basis of several emotional and clearly unjust convictions.

Some of the Judges have passed away. We owe them a noble tribute. May they rest in peace. That said, we are firmly convinced that your willingness to right wrongs would certainly help to honor their memory.

In the course of your mission, as we have seen and witnessed, you have certainly encountered certain obstacles that are difficult to overcome. This includes pressure from all sides to take decisions that are contrary to your convictions and to the laws and regulations in force. Conditioned and influenced by certain rogue experts, you have assimilated a biased narrative underlying the tragic events we experienced. This narrative was designed to ensure the skewed approach to the events. Consciously or unconsciously, you bought into it.

We salute the courage of some of you who dared to stay the course in the search for Truth, at the risk of losing your jobs. These judges distanced themselves from their colleagues by showing their reasoned dissent from clearly erroneous majority decisions. They publicly exposed the lies and other malpractices of the Office of the Prosecutor, and they denounced arbitrary arrests (without indictment) and other violations of the rights of the accused to a full and complete defense, at a time when

others were turning a blind eye to the flagrant injustice which they should have reversed.

1. Arbitrary Arrests

As guarantors of international humanitarian law, you approved arrests of former political, administrative and military authorities, clerics, progressive peasants, businessmen and any other Hutu elite on the basis of their Hutu identity. Without you being moved by the situation, several defendants before the ICTR, arrested and detained for a long time at the detention center under your supervision, appeared before you without being duly notified of any indictment. This is in violation of the generally accepted principle of law: "Anyone who is arrested shall be informed, at the time of his arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

2. Untimely Amendments to Indictments

Once the indictment was confirmed and served on the accused, it was amended by the Prosecutor, always with your approval and encouragement. Arguments put forward by the Defense that would have made it possible to dismantle the false testimony on which the Prosecutor had based his indictment led to the amended indictments. Indictments have sometimes undergone politically motivated amendments in response to strong pressure from the powerful in this world. It will be recalled that the odious crime of rape was introduced in the middle of the Akayesu trial, at the instigation of Mrs Hilary Clinton, who visited the ICTR in March 1997 and offered 600,000 dollars to add the crime of rape to the Akayesu indictment at a time when the Prosecutor was completing his evidence and when rape was not charged.
As a result of these ill-timed amendments to the indictments, some of the defendants navigated by sight through their defense without knowing exactly what they were accused of. The defendants had no opportunity to investigate the evidence against them thereby tainting their trials with unfairness. Some Judges even joined forces with the Prosecutor to make up for his weaknesses and confuse the Defense in order to ensure a conviction. They even went so far as to change the Rules to suit their odious manipulation. For some of the Judges, any accusation, no matter how false and spurious, was automatically tantamount to a conviction. And the Prosecutor, Ms Carl Del Ponte, expressed her gratitude to them at a press conference back in 2000: "ourjudges are very goodjudges, because they can correct the errors ofthe Prosecution 'f.

3. Fabricated Evidence

Throughout the trials, you received mainly oral evidence. Some of you dared to go to the scene of the crime, others refused despite the insistent requests of the accused. In some judgements, you detected lies fabricated by the Prosecutor in order to convict innocent people. But other obviously fabricated evidence was tolerated and formed the basis of your often contradictory decisions, from one trial to the next. You ordered investigations into lying and contempt as well as witness tampering; but the reports of these investigations were not used when they implicated the Office of the Prosecutor, for fear

of running out of witnesses. As one of the Judges put it: "if we have to follow each person who gives a false testimony in court then we'll hardly have any witness come because at one stage some of them will stop coming". The Prosecutor's witnesses who went back on their false testimony were instead tried and convicted for contempt when they wanted to re-establish the Truth; others, if not murdered, were intimidated an iscouraged from

doing so when their conscience was still tormenting them for having convicted innocent people. A witness protected by the Tribunal, a prosecution witness in the Karemera et al case, who was going back on his false statements, disappeared on the very morning of his appearance. The falsity of the telegram of 11 January 1994, the famous "genocide-fax" on which the whole narrative of the planning of the genocide is based, came to light when, right before the Tribunal, it was proven that this famous telegram never existed in the form brandished by the Prosecutor. You did not draw the necessary conclusions in this regard because you had to protect the thesis on which convictions were based.

4. Extortion of Confessions

Some defendants were approached and forced to confess to crimes in open court, sometimes on the basis of promises of a possible reduction in sentence and other benefits. In return, they were encouraged to cooperate with the Prosecutor in fabricating charges against colleagues who had already been arrested or were still wanted. We remember the guilty plea of the Head of Government, Jean Kambanda, who was asked to provide evidence against almost all the former military and political-administrative leaders. The Tribunal was embarrassed when he denounced the psychological torture he had endured during his long solitary detention in a private residence far from the Arusha Detention Centre. But you kept your eyes closed and your ears shut for Mr Kambanda. Bordering on a scandal, you sentenced him to life imprisonment without allowing him to explain his true version of events to the Rwandan people. His confession and his many accusations against his colleagues, made under the influence of torture, certainly shook the inner conviction that guided your deliberations. How can the Truth be uncovered if the Head of the Interim Government is silenced? How do you explain the fact that a third of the members of his government, senior members of the political and administrative administration, generals and other senior military officers were acquitted at the same time as you are convicting their colleagues of a fictitious conspiracy to commit genocide? How can we move towards national reconciliation in Rwanda without first establishing the Truth about the Rwandan tragedy and if justice is not done fairly and justly?

5. The Triggering Event

Before the Prosecutor had to change his approach, he always stated that the assassination of President Habyarimana on 6 April 1994 was the trigger for the genocide of the Tutsis, the planning of which was blamed on Hutu extremists who did not want to share power with the Tutsis. The Prosecutor vowed to prosecute the perpetrators of this criminal act and bring them before you, as recommended by the Special Rapporteurs and the

Secretary General of the United Nations. To date, you have shown no willingness to expose to the entire world this criminal who, on that fateful date of 6 April 1994, gave the order to shoot down the plane carrying Presidents Juvénal Habyarimana of Rwanda and Cyprien Ntaryamira of Burundi and their entourages, as well as the French crew, thus triggering the genocide and the subsequent massacres. At the same time, the RPF launched murderous attacks on all fronts against an army it had just decapitated, killing defenseless civilians as it advanced towards undivided power. On the other hand, when the investigations carried out by the Prosecutor himself implicated the real perpetrators of this terrorist act, you used every subterfuge to protect them. The judges ran to the aid of the panicking Prosecutor to proclaim loud and clear that this crime did not fall within the repertoire of crimes that you were called on to judge.

Your sudden pirouette raised many suspicions and still raises many questions. What could have motivated your stubborn refusal to take an interest in the man who triggered and fuelled the apocalypse in Rwanda? If, for example, a fire breaks out in a forest and decimates the houses in the vicinity, it is only logical that the person who started it and his motives should be investigated and held to account. Even more so, this applies to the person who assassinated President Habyarimana and his entourage, thereby creating a vacuum of political and military power at the top of the State. The man who ordered the assassination should have been and still is answerable for this terrorist act and should bear all the consequences. Why does he continue to benefit from so much protection, enjoying an impunity that you have endorsed by refusing to prosecute him?

It is high time that you denounced all the pressures that have weighed on you and that have led you to abandon your responsibilities as magistrates entrusted with applying the law and dispensing justice. Ms Carla Del Ponte, Prosecutor of the ICTR (1999-2003), revealed to the world the pressure exerted on her until she was ousted from the post. Like her predecessors, now free of constraints and able to express themselves freely (Richard Goldstone (1994-1996) and Louise Arbour (1996-1999)), Ms Carla Del Ponte is calling for the investigation into the assassination of President Habyarimana to be reopened and for the prosecution of crimes against humanity committed by members of the RPA because they fall within the ambit of the ICTR/MICT and are linked to the genocide. She claims that the person who shot down President Habyarimana's plane was primarily responsible for the genocide. She is entirely right, because there is no legal justification or explanation for you continuing to protect and ensure impunity for the man who started the genocide in Rwanda.

It is worth reminding you that all the investigations into the assassination of President Habyarimana, initiated by national courts with universal jurisdiction (Belgium, Spain and France), were nipped in the bud by the RPF and the virtually invisible hand of its sponsors. Who has an interest in not revealing this Truth? Why are you covering it up? When will you be free to corroborate the claims of these three prosecutors whom you have supported in the past with the evidence presented to you in court? When will you finally demonstrate your independence and free yourself from the stranglehold of the pressure still weighing on you, and break your silence before it's too late? When will you stop wallowing in lies?

Paradoxically, the genocide that began on 6 April 1994 is currently commemorated on 7 April every year in Rwanda and in all the UN bodies, including the Mechanism. Why has the date for commemorating the genocide been changed from 6 to 7 April? And why not on 1 October, when the Organic Law of 30 August 1996 of Rwanda provides for the prosecution of offences constituting the crime of genocide or crimes against humanity committed on or after 1 October 1990?

6. Judicial Notice

Although you had quite rightly resisted considering the genocide as a matter of common public knowledge, you suddenly gave in to pressure on 16 June 2006 and you took judicial notice of the genocide of the Tutsis, the planning and execution of which you attributed to the Government of 9 April 1994 and to the entire Hutu elite. In this way, you exempted the Prosecutor from producing evidence of the c e of crimes, even though it is a almost all the indictments confirmed by the Tribunal. In order to cover up the real perpetrator and planner of this genocide, no adversarial debate was allowed to dissect the evidence that the Prosecutor had been required to produce. This had serious repercussions on the trials. It was necessary to reinforce, at all costs, the official thesis of how the genocide had been carried out, as narrated by Kigali, inoculated into public opinion and repeated in the indictments. And the convictions followed. As a result, no one will know who planned the genocide, when, why or how. The perpetrators and planners of this crime, which shocked the conscience of humanity, remain covered up and unpunished. The Tribunal wrongly focused only on the scapegoats, defeated at the end of a war that had been imposed on them.

In your judgements, you have admitted that the genocide of the Tutsis was not prepared by any political or military authority. Rather, it was the result of the ferocious and atrocious violence that occurred following the chaos created by the war imposed by the RPF and the assassination of President Habyarimana. Since genocide is generally known as the crime of the State or of any organization that behaves like a State, it would have been interesting to know how and when the State planned this genocide in order to pinpoint who was responsible. What caused you to make this about-face in 2006, when the major trials of the major structures of the Rwandan State (military, members of the government, politicians) were in progress in the first instance and you were demanding that the Prosecutor produce evidence of the planned genocide? Why did you hastily draw up a judicial notice, in total contradiction with your previous decisions, if it was not only to protect the initiators of the war imposed on the Rwandan people and the perpetrators of the assassination of President Habyarimana?

There are still objections to this judicial decision. Very recently, in April 2020, the representatives of the United States and the United Kingdom at the United Nations, who are also permanent members of the UN Security Council, as well as the representative of the European Union, questioned this judicial notice on the genocide against the Tutsis. In their letters to the President of the UN General Assembly, they assert that the genocide

was not committed only against the Tutsi and that "the importance of the violations committed against other [ethnic] groups should also be taken into account. Many Hutus and other members ofother groups were also killed during the genocide". The Rwandan authorities reacted by accusing these diplomats of trying to attack your decision of 16 June 2006 on the judicial notice. A fact that is one of common public knowledge is not generally contested. What value could be placed on the rulings you made on the basis of a judicial notice that is continually called into question by the most informed?

7. The Truth: Judgments Versus True Facts

In light of the above, we are entitled to wonder whether, by consulting the judgments you handed down after lengthy trials, we could discover the Truth. What truth can we expect from judgments handed down with excessive delay, on the basis of false statements and other fabricated evidence? "Not only must justice be done; it must also be seen to be done. Justice delayed is justice denied. " It is undeniable that some of your judgements are built on a sand-heap of lies that collapse on their own once confronted with the reality of the facts on the ground. How can you protect the truth of your judgements if the people concerned, the victims and the public see them as being out of touch with the reality of the facts as experienced in the heat of the moment? Repressive instruments are deployed here and there to forcibly protect "truth" of your

judgements. Those who defy the ban and question this truth are immediately labelled negationists-revisionists and prosecuted as such.

The President and the Prosecutor of the Mechanism recently requested the support of the United Nations Security Council, on 12 December 2023, to protect the truth of the judgements. Why all this determination if there are no flaws in your judgements? What is the truth that deserves "armored" protection? Is it the fragmented and contradictory truth of your judgements, or the truth that you have knowingly and deliberately concealed, and which could hurt the Institution and its sponsors if it were revealed in broad daylight? Now that the narrative once supported by human rights experts, journalists and NGOs has changed as they disavow themselves on the basis of their discovery of the Truth, isn't it high time that you adapted to the latest developments so as not to bring your judgements, and hence yourselves, into permanent disrepute? Why don't you dare to reverse yourselves outright, so that you can embark on the path of Truth, the true foundation of Reconciliation for the Rwandan people?

8. Alternative Sentencing and Social Reintegration

In modern society, a judicial conviction does not mean the total and irreversible removal of an individual. Rather, it aims to make the convicted person aware of his reprehensible acts so that he can make amends, repair the harm he has caused to others and reintegrate into society.

Until a few years ago, the ICTR appeared to be following this logic when it proceeded to the early release of convicts who met the conditions set out in the Directive. A number of convicts have been released before serving their full sentence, the last of whom was released in 2019. Since then, applications for early release have been effectively subjected to the requirement of an admission of guilt on the part of the applicant, a kind of retrial without a trial and without judges! The applications have been systematically rejected by the President of the Mechanism, who has absolute and exclusive power to decide on early release on the basis of vague and subjective criteria, after consultation with, among others, the party who should have been prosecuted for the same crimes. The problem of the release and reintegration of convicted persons and the relocation of released and acquitted persons to their respective families seems to have been relegated to oblivion. Those convicted, released and acquitted are currently scattered across Benin, Mali, Niger and Senegal. Solving this problem means courageously confronting our detractors, who are confident due to impunity and want us to disappear into prison or into so-called safe houses, far from our families. But it also means making sentencing more humane by helping the individual to reintegrate into the society in whose name justice was done.

Even though national legislation, which is supposed to apply to ICTR/MICT convicts, advocates early release according to objectively defined criteria, in favor of these convicts, the President of the Mechanism has decided to ignore favorable opinions issued by a State for a detainee who met the required conditions and, rather, has consistently opposed early release.

When will the Judges free themselves from the pressure exerted by certain States, principally Rwanda, and act independently and thus take an interest in the future of acquitted persons still in "detention"? When will they dare to address issues relating to the release and rehabilitation of convicted persons, some of whom ill soon be entering their 30th year in detention?

Honorables Judges,

It is worth reminding you that the mission of your Institution was to try those responsible for the crimes committed by both sides in the conflict, in order to put an end to impunity and move towards justice that is fair, equitable and reconciliatory between Rwandans, whatever their ethnic, regional or political affiliation. But it has to be said that during its thirty years of existence and operation, the ICTR/MICT, through you, has failed in its mission to ENFORCE the laws, to RENDER JUSTICE and to RECONCILIATE the Rwandan people, because it has sided solely with the victors and granted them impunity. It is this impunity that encourages them to sow terror in the region.

It is never too late to do some good. We expect you, each in his or her own right, to reveal the Truth that has long been concealed.

Yours sincerely,

Ntahobari V. Shalom

Ndayambaje Elie

Ngirabatware Augustin

Kamband a Jean

Kamuhanda Jean de Dieu

Nyiramasuhuko Pauline

Renzaho Tharcisse

Ngirumpatse Matthieu

ANNEX B

26 May 2026

OPEN LETTER TO THE UNITED NATIONS SECURITY COUNCIL AND THE SECRETARY-GENERAL OF THE UNITED NATIONS

Opposition to the Transfer of IRMCT/ICTR Detainees to Rwanda

We, the undersigned lawyers and Defence Counsel who represent individuals before the International Criminal Tribunal for Rwanda ("ICTR") and the International Residual Mechanism for Criminal Tribunals ("IRMCT"), write to express our profound opposition to any proposal to transfer persons convicted by the ICTR/IRMCT and currently serving sentences in Benin and Senegal to Rwanda.

The proposed transfer is not an ordinary administrative or financial measure. It concerns the fate, safety, dignity and fundamental rights of individuals who remain under the authority of a United Nations institution. The United Nations has a continuing legal and moral obligation to ensure that the enforcement of sentences complies with international human rights standards and the rule of law. The transfer of these detainees to Rwanda would violate those obligations.8

The detainees have made their position unmistakably clear. In their memorandum to the United Nations Security Council, they describe the prospect of transfer to Rwanda as a threat to their lives and physical safety (Annex T/1). Their fears are not irrational. They are grounded in law, evidence, and Rwanda's documented conduct.

The UN's Continuing Responsibility

The United Nations has continuing legal obligations toward all persons detained under the authority of the IRMCT. UN Security Council Resolution 2740 (2024) expressly emphasises the importance of ensuring that the rights of persons detained on the authority of the Mechanism are in accordance with applicable international standards relating to health care, including the United Nations Standard Minimum Rules for the Treatment of Prisoners (para. 16, Annex T/2).

IRMCT President Judge Graciela Gatti Santana, in her remarks before the United Nations General Assembly on 22 October 2025, acknowledged that protecting the fundamental rights of these prisoners is essential to the rule of law and that verdicts must not only be entered; sentences must be enforced (p. 2, Annex T/3). She further stressed that the "justice cycle" must be completed "fairly" (p.4, Annex T/3). That includes completing a sentence without breaching international principles and without being transferred to an unsafe state. Any transfer to Rwanda would undermine those principles. The Resolution further recognises that decisions concerning relocation and transfer must take into account the consent or any objections raised by the individuals to be relocated (para. 7, Annex T/2). The detainees have unequivocally objected. They object because they believe that transfer to Rwanda would expose them to persecution, retaliation, arbitrary detention conditions, denial of medical care, and potentially death (Annex T/1).

The United Nations cannot dismiss those fears simply because Rwanda offers assurances.

Rwanda Has Already Been Found to Breach International Obligations

The proposed transfer must be assessed against Rwanda's contemporary human rights record, its treatment of perceived opponents, and its documented history of disregarding international obligations.

In November 2023, the United Kingdom Supreme Court ('UKSC') delivered one of the most important judicial findings ever made concerning the modern Rwandan state. In R (AAA (Syria) and others) v Secretary of State for the Home Department [2023] UKSC 42 (Annex T/4), the UK Supreme Court concluded that there were substantial grounds for believing that individuals transferred to Rwanda faced a real risk of refoulement due to systemic deficiencies in Rwanda's asylum system and failures to comply with international obligations. The Court relied heavily on evidence from the United Nations High Commissioner for Refugees ("UNHCR"), including evidence of previous refoulement incidents and failures to honour refugee protection guarantees (T/5) and on evidence from Human Rights Watch (T/6). The Court's findings are particularly important because they rejected the argument that diplomatic assurances from Rwanda could simply be taken at face value.

These findings are directly relevant here. The issue is not merely whether Rwanda offers assurances. It is whether Rwanda can be trusted to comply with them. International courts and treaty bodies have repeatedly found that Rwanda has violated fundamental human rights obligations. In Ingabire Victoire Umuhoza v Republic of Rwanda (Application No. 003/2014, T/7), the African Court on Human and Peoples' Rights held that Rwanda violated fair trial guarantees and freedom of expression protections. Similarly, the European Parliament adopted a resolution confirming Rwanda had violated these rights in (Annex T/8). And the United Nations Human Rights Committee found that Rwanda violated rights protected under the International Covenant on Civil and Political Rights ("ICCPR") in its Concluding Observations on Rwanda (Annex T/9). The continuing treatment of Victoire Ingabire also demonstrates the limited practical value of international rulings against Rwanda. Although the African Court found that Rwanda violated Victorie Ingabire's fair trial and freedom of expression rights, the Rwandan authorities have continued to use domestic legal proceedings and prosecutorial mechanisms against her more than a decade later. In June 2025, the Rwandan government arrested Victoire Ingabire, almost four years after the arrest of nine others, eight of whom are members of Ingabire's unregistered political party, and one of whom is a journalist (T/10.1). These nine outspoken critics of the Rwandan regime were targeted for exercising their rights to freedom of expression, association, and peaceful assembly. Amnesty International has repeatedly called for an end to the harassment, prosecution, and intimidation of Ms Ingabire and members of her political movement (T/10.2). If a prominent opposition figure who successfully obtained a judgment from the African Court remains vulnerable to continuing legal harassment inside Rwanda, then ICTR detainees cannot reasonably expect different treatment.

The history of Rwanda's relationship with the African Court on Human and Peoples' Rights also demonstrates the inability of the international community to rely on Rwanda's diplomatic and legal assurances. In cases including Mugesera v Rwanda access to the African Court formed part of the broader international assurances relied upon regarding legal protection and judicial oversight (T/11). Yet Rwanda subsequently withdrew the declaration permitting individuals to bring cases directly before the African Court, thereby significantly limiting access to international judicial protection once scrutiny became politically inconvenient. This history is directly relevant to the present proposal. It demonstrates that formal legal guarantees offered by Rwanda cannot automatically be assumed to endure when they cease to align with the interests of the State.

Other recent examples of Rwanda's disregard for international legal obligations reinforce this concern. In June 2023, the Dutch Supreme Court refused the extradition of Pierre-Claver Karangwa to Rwanda because of concerns that he would not receive a fair trial (Annex T/12). The Court upheld findings that the risk of political interference and deficiencies in Rwanda's judicial system prevented extradition. This is a clear example of a leading European court refusing to trust Rwanda with the fair treatment of an accused person despite formal assurances from the Rwandan authorities. Even more recently, in March 2026, the United States imposed sanctions on the Rwanda Defence Force ("RDF") and senior Rwandan military officials for their direct operational support of the M23 armed group in eastern Democratic Republic of Congo ("DRC"). The U.S. Treasury stated that the RDF was "actively supporting, training, and fighting alongside" M23 and condemned Rwanda for "blatant violations of the Washington Peace Accords" brokered by the United States between Rwanda and the DRC. The United States further stated that M23's offensives, carried out with RDF support, involved human rights abuses, including "extrajudicial killings, arbitrary arrests, and torture" (T/13.1). The European Union similarly imposed sanctions on additional individuals and entities linked to the conflict in eastern Congo, citing continuing violence, destabilisation, and violations of international commitments arising from Rwanda's support for the M23 occupation of eastern Congo (T/13.2).

These are criticisms that directly relate to whether the UN can rely on assurances from Rwanda as to the treatment of the detainees post transfer. Further, these recent examples of breaches of international law come against a background of constant criticism from the press and human rights organisations. Human Rights Watch (T/14), Amnesty International (T/15), Reuters (T/16) and other international observers have consistently documented issues including (i) arbitrary detention; (ii) enforced disappearances; (iii) intimidation of critics; (iv) political prosecutions; (v) ill-treatment in detention; (vi) restrictions on freedom of expression; and (vii) reprisals against perceived opponents both within and outside Rwanda. These concerns are not historical abstractions. They are current, recurring, and well-documented, and they establish a clear, discernible pattern. Rwanda does not reliably tolerate perceived political enemies.

The UK Supreme Court in AAA held unanimously that Rwanda's assurances could not be relied upon because Rwanda had a demonstrated history of breaching non-

refoulement obligations and disregarding international commitments (T/4). The same reasoning applies directly to the proposed transfer of IRMCT sentence-enforcement prisoners: formal assurances from Rwanda cannot displace objective evidence of systemic political interference, reprisals against perceived regime opponents, and prior disregard of international obligations.

The Detainees Are Uniquely Vulnerable

Rwanda is not being asked to enforce the sentences of unknown foreign nationals. It is being asked to take custody of men whose convictions are permanently tied to Rwanda's national political identity and official genocide narrative.

The ICTR detainees are not ordinary prisoners. They are individuals whose identities remain permanently associated with Rwanda's most politically sensitive historical narrative. Many are viewed by the current Rwandan authorities not simply as convicted persons, but as symbolic political figures associated with the former Hutu-led state or with competing narratives concerning the events of 1994. That political reality matters. The detainees themselves have explained in their memorandum to the United Nations Security Council that they fear persecution, mistreatment, torture, reprisals, and even death if returned to Rwanda (Annex T/2). Their fears are not speculative.

If the UKSC found that Rwanda cannot be trusted with asylum seekers, it cannot safely be trusted with ICTR detainees. These detainees, as people convicted of genocide, are political enemies of the current regime. These are individuals whose return has symbolic political value in a country where politically sensitive detainees are especially vulnerable due to a lack of independence. Transfer to Rwanda will remove international oversight as to the enforcement of the sentence and leave the detainees at the mercy of a system that the UKSC has found to have a problematic level of executive influence (T/4).

The International Association of Democratic Lawyers ("IADL"), whose members include former ICTR Defence Counsel, warned in February 2026 that transfer to Rwanda would amount to "a death knell" for ICTR detainees and acquitted persons (p. 2, T/17). The IADL further observed that Rwanda's conduct toward political opponents and perceived enemies remains "abysmal and unchanged" and referred to intimidation, imprisonment of opposition figures, and the treatment of critics and dissidents (p. 2–3, T/17).

The Fear of the Detainees Is Objectively Reasonable

The detainees' fears are reinforced by extensive international reporting concerning arbitrary arrests and enforced disappearances on Rwandan soil; as well as Rwanda's well-documented campaign of extraterritorial killings, kidnappings and intimidation abroad.

Within its own borders, Rwanda pursues a ruthless campaign of repression against critics (T/18). Journalists, online commentators, and opposition-linked media figures continue

to face arbitrary arrest and prosecution. Alongside Victorie Ingabire and the other 8 arrested (T/10.1), Rwandan authorities recently arrested journalists associated with the "Imbarutso ya Demokarasi" YouTube channel, reflecting the continuing suppression of dissenting voices and independent criticism inside Rwanda (T/19). Such repression has formed the basis of successful asylum appeals by Rwandans to countries such as the UK (T/20).

Moreover, international reporting has shown undeniable evidence of regime critics suffering suspicious deaths whilst in custody. News organisations including the BBC (T/21.1 and T/21.2), and organisations such as Amnesty (T/15) and Human Rights Watch (T/21.3) have recorded deaths in Rwandan custody in highly controversial circumstances. In February 2020, gospel singer, reconciliation activist, and government critic Kizito Mihigo died in police custody shortly after being rearrested by Rwandan authorities (T/21.1). More recently, the academic and government critic Aimable Karasira died in custody on the very day he was due to be released from prison (T/21.2 and T/21.3). Rwanda has a clear pattern of suspicious deaths of high-profile critics in state custody and a well-established track record of evading its obligation to ensure transparent and independent investigations into those deaths (T/19).

Critics and perceived opponents of the Rwandan Government remain highly vulnerable within Rwanda itself, especially while in detention or state custody.

There is also clear evidence of transnational repression directed at Rwandan critics living abroad. International reporting, such as the Guardian (T/22) has documented allegations of murder plots, threats, intimidation, disappearances, and attacks directed at Rwandan critics living abroad. Human rights organisations including Human Rights Watch have documented Rwanda's extraterritorial repression, including killings, kidnappings, enforced disappearances, physical attacks, intimidation, and pressure directed at critics and their family members abroad. Human Rights Watch further observed that many Rwandans living outside Rwanda now "live in fear of traveling, being attacked, or seeing their relatives in Rwanda targeted." (T/23).

The documented treatment of Paul Rusesabagina, a known activist against the Rwandan government, further intensifies these concerns. In 2022, Mr Rusesabagina was seized in Dubai in violation of international laws against enforced disappearance and arbitrary detention (T/24). The United Nations Working Group on Arbitrary Detention concluded that Rwandan authorities had abducted him and found that his transfer to Rwanda was unlawful, that his subsequent trial was riddled with procedural irregularities and unfairness, and that his detention violated multiple protections under the ICCPR (T/25). If critics and perceived opponents are detained, persecuted, and killed inside Rwanda itself, and pursued even beyond Rwanda's borders, there can be no serious confidence that former ICTR detainees would be safe once returned directly to Rwandan state custody. The proposed transfer is a request for the United Nations to transfer detainees into the custody of a State that has already been found by UN mechanisms to have engaged in state-sponsored abduction and arbitrary detention. Evidence of deaths in custody shows that there is nowhere inside Rwanda that critics can be safe, and evidence

of such transnational repression begs the question: if critics are unsafe in London, how will detainees ever be safe inside Rwanda?

The Principle of Non-Refoulement Prohibits Transfer

The prohibition against refoulement is a cornerstone of international law. It is reflected in Article 3 of the Convention Against Torture ("CAT"), Articles 6 and 7 of the ICCPR, the Refugee Convention, customary international law and broader principles prohibiting transfer to a real risk of torture, cruel treatment, arbitrary detention, or persecution. The obligation applies wherever substantial grounds exist for believing that an individual faces a real risk of serious harm. That threshold is plainly met here. The United Nations cannot lawfully transfer detainees into the custody of a State where (i) there is credible evidence of political repression; (ii) the judiciary's independence has repeatedly been questioned; (iii) critics and perceived opponents face intimidation and reprisals; (iv) international courts and treaty bodies have already found violations of fundamental rights.

Diplomatic assurances cannot overcome that record.

The Right for a Sentence to be Supervised

The report of the Secretary General on the Transfer of functions under the IRMCT (S/2025/786) (T/26) confirms that supervision of the enforcement of a sentence under Article 25(2) is a distinct legal protection function that requires consideration of legal and other implications, not a mere administrative placement decision. Any transfer that places sentenced persons under the control of a politically interested receiving State while weakening independent international supervision would undermine the very rationale of the Mechanism's enforcement regime.

The ICTR repeatedly treated genocide-related proceedings in Rwanda as uniquely vulnerable to political pressure, intimidation, and practical unfairness. Rule 11bis jurisprudence including Prosecutor v Munyakazi (T/27) recognised credible fears of reprisals against defence witnesses, structural inequality of arms, and the inadequacy of formal assurances. If Rwanda could not reliably be trusted with trial proceedings under direct Tribunal scrutiny, it cannot safely be trusted with unsupervised sentence enforcement of convicted ICTR detainees whose political symbolism is even greater.

Legal Rights Would Be Impeded by Transfer

A transfer to Rwanda would not only endanger the detainees' physical safety, it would also materially impede their continuing legal rights. The IRMCT confirms that persons convicted by the ICTR, ICTY or Mechanism may apply for pardon, commutation of sentence or early release under Article 26 of the Mechanism Statute, with decisions taken by the Mechanism President (T/26). In practice, however, meaningful exercise of that right depends upon cooperation by the enforcing State, access to counsel, medical evidence, family support, and the ability to communicate freely with the Mechanism.

There is substantial reason to doubt that Rwanda would facilitate these rights in good faith for prisoners whom it regards as notorious political enemies. Rwanda's longstanding treatment of political opponents, dissidents and genocide-related detainees demonstrates a pattern of punitive and restrictive state conduct incompatible with impartial sentence administration. International courts and human rights organisations have repeatedly documented politically motivated prosecutions, arbitrary detention, intimidation, and lack of effective judicial independence. In these circumstances, there is a serious and well-founded concern that applications for early release or commutation by ICTR detainees transferred to Rwanda would be obstructed, undermined, politically opposed, or rendered practically meaningless.

Further, those rights depend on meaningful access to counsel, witnesses, family, and independent review, and transfer to Rwanda would make that access practically impossible.

Protected witnesses and review witnesses could not realistically be expected to travel to Rwanda. The ICTR's own Rule 11bis jurisprudence recognised this problem. In *Prosecutor v Munyakazi*, the Appeals Chamber accepted that witnesses may be unwilling to testify for the Defence because they feared "threats, harassment, torture, arrest, or being killed", and that witnesses abroad would fear intimidation and threats if required to testify in Rwanda (T/27). The same concern arose in *Kanyarukiga*, where the Appeals Chamber considered there was "sufficient information" about harassment of witnesses testifying in Rwanda, including threats, torture, arrests, detentions and killings, and that defence witnesses feared being accused of "genocidal ideology" if they testified (T/28). Nor can it be assumed that Defence Counsel could safely visit clients in Rwanda. Peter Erlinder, a lead ICTR Defence Counsel, was arrested by Rwandan authorities in Kigali in 2010 after travelling there to assist Victoire Ingabire, and detained in Kigali Central Prison for three weeks (T/29). The English High Court has also recorded evidence that John Philpot, who had worked extensively before the ICTR and had been critical of the Rwandan Government, was "no longer able to go to Rwanda for fear of his own safety", and that the Erlinder case made other foreign lawyers apprehensive about travelling there (T/30).

Transfer would also impede the right to family contact. Many family members of ICTR detainees are refugees or persons who fear Rwanda and could not safely travel there. The Nelson Mandela Rules require that prisoners be allowed, under necessary supervision, to communicate with family and friends "at regular intervals" through correspondence, telecommunications and visits (T/31). Human rights organisations have demonstrated clear examples of families being threatened abroad, providing concrete evidence for fears they would be unsafe in Rwanda (T/32).

Transfer to Rwanda would obstruct not only safety but the practical exercise of continuing legal rights including sentence review, early release, access to counsel, access to witnesses, protected witness security, and family contact. A sentence enforced in conditions where counsel cannot safely attend, witnesses cannot safely testify, and

families cannot safely visit is not merely inconvenient, it is incompatible with the fair and humane enforcement of a sentence under international law.

Financial Considerations Cannot Override Human Rights Obligations

We recognise the financial pressures currently facing the IRMCT and the United Nations. Judge Gatti Santana referred to the need to reduce costs and transfer or terminate certain functions where possible (p. 1, Annex T/3). However, budgetary concerns cannot justify exposing detainees to foreseeable human rights violations. Rwanda's offer to assume enforcement costs does not resolve the legal problem. On the contrary, it heightens concern that financial expediency may displace the United Nations' human rights obligations.

The question is not which State is cheapest. The question is whether the transfer would be lawful, humane, and consistent with the principles upon which international criminal justice was founded.

The Integrity of International Justice Is at Stake

The ICTR and IRMCT were established to uphold the rule of law, not to compromise it. The legitimacy of international criminal justice depends not only on prosecuting crimes but also on respecting the rights and dignity of those convicted. As Judge Gatti Santana stated before the General Assembly: "We cannot falter in this last mile of the justice cycle and risk undoing all that has come before" (p. 4, T/3).

A forced transfer to Rwanda against the wishes of the detainees, despite extensive evidence of serious human rights concerns, would do precisely that. It would irreparably damage confidence in the fairness, neutrality, and humanity of international criminal justice.

Request

We therefore call upon you to oppose any proposal of transfer of ICTR/IRMCT detainees to Rwanda. The treatment of these detainees will form part of the historical record by which international justice itself will ultimately be judged. The detainees must either be transferred to a State which complies with the international human rights obligations as set out above or be released.

Signatories:

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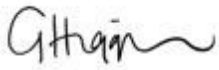
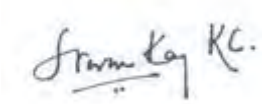


Steven Kay KC



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International Residual Mechanism
for Criminal Tribunals

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