UNITED NATIONS

International Residual Mechanism for Criminal Tribunals

Case No.: MICT-25-135-I

Date: 13 May 2025

Original: English

BEFORE A SINGLE JUDGE

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

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

Order of: **13 May 2025**

IN THE MATTER OF PETER ROBINSON

PUBLIC

INVITATION FOR SUBMISSIONS

***Amicus Curiae*:**

Mr. Kenneth Scott

Mr. Peter Robinson

Government of the United States of America

I, **JOSEPH E. CHIONDO MASANCHE**, Judge of the International Residual Mechanism for Criminal Tribunals ("Mechanism") and Single Judge in this case;[1]

NOTING that, on 25 February 2025, a Single Judge of the Mechanism, pursuant to Article 1(4)(a) of the Statute of the Mechanism ("Statute") and Rule 90 of the Rules of Procedure and Evidence of the Mechanism ("Rules"): (i) issued an order in lieu of an 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 and/or the Mechanism; and (ii) directed the appointed *amicus curiae* ("*Amicus Curiae*") to prosecute the matter;[2]

CONSIDERING that Article 1(4) of the Statute provides, in relevant part, that before proceeding to try persons for contempt, the Mechanism shall consider referring the case to the authorities of a State in accordance with Article 6 of the Statute, taking into account the interests of justice and expediency;

CONSIDERING that, pursuant to Article 6(2) of the Statute, 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;

CONSIDERING FURTHER that, pursuant to Article 6(4) of the Statute, a Single Judge may order, *proprio motu*, the referral of a case "after having given to the Prosecutor, and, where applicable, the accused, the opportunity to be heard and after being satisfied that the accused will receive a fair trial and that the death penalty will not be imposed or carried out";[3]

RECALLING that, on 12 March 2025, I ordered the *Amicus Curiae* to file a written submission on the suitability of referring the case to a State, including the Republic of Rwanda and the United States of America ("United States"), and whether such referral would serve the interests of justice and expediency, and respect the rights of an accused to a fair trial;[4]

[1] Order Assigning a Single Judge to Consider a Matter, 3 March 2025, p. 1.
[2] Decision Issuing Order in Lieu of Indictment, 25 February 2025 ("Decision on Order in Lieu of Indictment"), Registry Pagination ("RP.") 7-1; *Prosecutor v. Anselme Nzabonimpa et al.*, Case No. MICT-18-116-R90.1, Decision on Allegations of Contempt, 25 February 2025 ("Decision on Contempt Allegations"), para. 41.
[3] *See also* Article 12(1) of the Statute; Rule 2(C) of the Rules.
[4] Order for Submissions, 12 March 2025, pp. 1, 2.

NOTING that, on 26 March 2025, the *Amicus Curiae* filed his submission, requesting that the case against Robinson be conducted before the Mechanism;[5]

NOTING that, on 9 April 2025, Robinson filed his submission, requesting that the United States be invited to make submissions on its jurisdiction, willingness, and preparedness to accept the case since: (i) the Statute "indicates a strong preference for referral if all relevant conditions are met" and the referral of this case to the United States appears possible as it meets the criteria identified in Article 6(2) of the Statute; (ii) the alleged crimes were committed, in part, in the United States as Robinson was based there during the relevant period of time and sent correspondence from the United States that are alleged to have caused or incited contact with protected witnesses; and (iii) Robinson resides in, and is a citizen of, the United States;[6]

NOTING that, on 15 April 2025, the *Amicus Curiae* filed his response to the Robinson Submission, stating that there are "no sufficient reasons to ask the United States to make submissions" on the referral of this case to its jurisdiction and reiterating that the case should be conducted before the Mechanism;[7]

NOTING that, in the determination of whether a case should be referred to a State, the Single Judge is not required to invite all States, which satisfy the criteria identified in Article 6(2) of the Statute, to make submissions on their jurisdiction, willingness, preparedness to accept this case;[8]

CONSIDERING 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 on its jurisdiction, willingness, and preparedness to accept a case for trial,[9] and that Robinson is a citizen of the United States, residing therein;[10]

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[5] *Amicus Curiae*'s Submissions on the Suitability of the Referral of the Case, 26 March 2025 (public with confidential annex) ("*Amicus Curiae* Submission"), p. 8. *See Amicus Curiae* Submission, paras. 13-24. *See also Amicus Curiae* Submission, paras. 9, 11; Decision on *Amicus Curiae*'s Motion for Reclassification of an Annex, 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).
[6] Preliminary Submissions on Referral, 9 April 2025 ("Robinson Submission"), paras. 1, 8, 9, 17-22.
[7] *Amicus* Reply Submission on the Suitability of the Referral of the Case, 15 April 2025 ("*Amicus Curiae* Reply"), para. 18. *See also Amicus Curiae* Reply, paras. 7-17.
[8] *See In the Matter of François Ngirabatware*, Case No. MICT-24-131-I, Order for Submissions, 25 July 2024 ("*Ngirabatware* Order for Submissions"), pp. 1-3.
[9] *Ngirabatware* Order for Submissions, pp. 2, 3. *See also 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, para. 11.
[10] *See* Robinson Submission, para. 19. *See also* Decision on Order in Lieu of Indictment, RP. 6.

CONSIDERING that there is no dispute between the *Amicus Curiae* and Robinson that the alleged crimes were committed, in part, in the United States;[11]

CONSIDERING FURTHER that, while a Single Judge previously determined that the nature of the offence and general cooperation of Robinson did not necessitate, at that stage of the proceedings, the issuance of an arrest warrant against Robinson,[12] any such warrant, if necessary, would most likely be effectuated by the authorities of the United States in view of Robinson's residence therein;[13]

CONSIDERING, therefore, that the conduct charged in relation to 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;

FINDING that, at this time and in these circumstances, written submissions from the United States on its jurisdiction, willingness, and preparedness to accept this case for trial would facilitate the determination, in accordance with Articles 1(4) and 6 of the Statute, as to whether referring the case to the United States would serve the interests of justice and expediency of the proceedings;

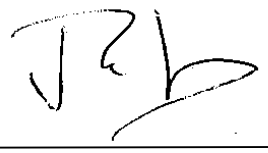
PURSUANT to Articles 1(4) and 6 of the Statute and Rule 55 of the Rules,

ORDER the Registry to serve the present Order on the United States, together with a copy of the Decision on Contempt Allegations and the Decision on Order in Lieu of Indictment;

INVITE the United States to provide, within 60 days of the issuance of the present Order, written submissions on its jurisdiction, willingness, and preparedness to accept this case for trial; and

ALLOW the *Amicus Curiae* and Robinson to file: (i) responses, if any, within 14 days of the filing of the submission from the United States; and (ii) replies, if any, within seven days of the filing of their respective responses.

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



Done this 13th day of May 2025,
At Arusha,
Tanzania

Judge Joseph E. Chiondo Masanche
Single Judge

[Seal of the Mechanism]

[11] *See* Robinson Submission, para. 18; *Amicus Curiae* Reply, para. 11.
[12] Decision on Contempt Allegations, n. 132. *See* Article 6(2)(ii) of the Statute.
[13] *See* Robinson Submission, para. 19.

UNITED NATIONS
International Residual Mechanism
for Criminal Tribunals

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

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