

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-25-135-I

Date: 12 March 2025

Original: English

BEFORE A SINGLE JUDGE

Before: Judge Joseph E. Chiondo Masanche

Registrar: Mr. Abubacarr M. Tambadou

Decision of: 12 March 2025

IN THE MATTER OF PETER ROBINSON

PUBLIC

**DECISION ON *AMICUS CURIAE*'S REQUEST FOR
RECLASSIFICATION OF INVESTIGATIVE REPORTS
TO *EX PARTE***

Amicus Curiae:

Mr. Kenneth Scott

Mr. Peter Robinson

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, Judge José Ricardo de Prada Solaesa, the Single Judge previously assigned to assess whether proceedings, 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”), or other appropriate disciplinary action against Mr. Peter Robinson was warranted, initiated contempt proceedings and issued an Order in Lieu of an Indictment against Robinson;²

NOTING FURTHER that Judge de Prada lifted the *ex parte* status of two reports submitted to him by the *amicus curiae*, who was appointed to conduct the investigation against Robinson (“Reports” and “*Amicus Curiae*”, respectively),³ while retaining their confidential status;⁴

BEING SEISED of a motion filed on 28 February 2025,⁵ in which the *Amicus Curiae* submits that the Reports should remain confidential and *ex parte*, and, therefore, requests: (i) the reinstatement of the *ex parte* status of the Reports; and (ii) that Robinson be ordered to destroy the Reports, if he has already been provided with a copy of them;⁶

NOTING the *Amicus Curiae*’s submission that: (i) the lifting of the *ex parte* status of the Reports is “neither proper nor justified, is unfair to the *Amicus [Curiae]* and potentially detrimental to the case against Robinson”, arguing that nothing in the Rules provides for the right of an accused to receive “confidential internal investigative reports by an *Amicus Curiae* to the overseeing Single Judge”; and (ii) Judge de Prada failed to explain why the Decision of 25 February 2025 needs to be read in conjunction with the Reports in a way that would justify the lifting of their *ex parte* status and release to Robinson;⁷

¹ Order Assigning a Single Judge to Consider a Matter, 3 March 2025, p. 1.

² *Prosecutor v. Anselme Nzabonimpa et al.*, Case Nos. MICT-18-116-R90.1 & MICT-18-116-T, Order Assigning a Single Judge to Consider a Matter Pursuant to Rule 90(C), 8 October 2021, p. 1; *Prosecutor v. Anselme Nzabonimpa et al.*, Case No. MICT-18-116-R90.1, Decision on Allegations of Contempt, 25 February 2025 (“Decision of 25 February 2025”), paras. 1, 41; *In the Matter of Peter Robinson*, Case No. MICT-25-135-I, Decision Issuing Order in Lieu of Indictment, 25 February 2025, pp. 2-7 (“Order in Lieu of an Indictment”).

³ See Decision of 25 February 2025, para. 4, n. 12.

⁴ Decision of 25 February 2025, para. 40.

⁵ *Amicus Curiae*’s Urgent Request for Reclassification of Investigative Reports to *Ex Parte*, 28 February 2025 (“Motion”). In view of the disposition of the present Decision, I consider that adjudicating the Motion without awaiting a response will not cause any prejudice to Robinson.

⁶ Motion, pp. 1, 5, paras. 5, 14, 15. I note that the Reports were distributed on 27 February 2025, one day prior to the filing of the Motion, and that, therefore, the *Amicus Curiae*’s request that their distribution be suspended, pending the determination of the Motion (pp. 1, 5, para. 14), is moot.

⁷ Motion, paras. 5, 7, 9.

NOTING the *Amicus Curiae*'s further submission that the Reports "are plainly material falling under the work-product privilege" that are not subject to disclosure pursuant to Rule 76(A) of the Rules and that, even if the Reports contain supporting material that the accused has a right to receive, they also include the *Amicus Curiae*'s candid deliberations, mental impressions, and recommendations;⁸

OBSERVING that the *Amicus Curiae* does not provide any explanation or references in support of his contention that the reclassification of the Reports, lifting their *ex parte* status, is potentially detrimental to the case against Robinson;⁹

NOTING that, in lifting the *ex parte* status of the Reports, Judge de Prada referred to the right of an accused to have copies of supporting material that accompanied the indictment when confirmation is sought pursuant to Rule 71(A)(i) of the Rules and to his discretion to issue, *proprio motu*, such orders as may be necessary for the preparation or conduct of trial pursuant to Rule 55 of the Rules;¹⁰

NOTING FURTHER that the Decision of 25 February 2025 refers extensively to the Reports,¹¹ and that, on this basis, Judge de Prada considered that the Decision of 25 February 2025 should be read in conjunction with the Reports, including the Annexes thereto;¹²

CONSIDERING that there are no provisions in the Statute or Rules that requires an *amicus curiae* report, which arises from a contempt investigation, to remain *ex parte* and that the disclosure of such a report or reports, as the case may be, to an individual subject to the investigation, who is subsequently charged with contempt, is not unprecedented;¹³

CONSIDERING that lifting the *ex parte* status of the Reports, which was within the purview of Judge de Prada's discretion, is in line with the interests of transparency and justice;¹⁴

⁸ Motion, paras. 2, 8, 10, 11, referring, *inter alia*, to Rules 71(A) and Rule 90(E) of the Rules. *See also* Motion, paras. 12, 13.

⁹ *See* Motion, para. 5.

¹⁰ Decision of 25 February 2025, para. 40.

¹¹ *See generally* Decision of 25 February 2025, paras. 14-21, 23-31, 33 and references cited therein.

¹² Decision of 25 February 2025, para. 40.

¹³ *See, e.g., In Re Deogratias Sebureze and Maximilien Turinabo*, Case No. MICT-13-40-R90, Public Redacted Version of Decision on Allegations of Contempt of the ICTR, 18 July 2013, para. 4. *See also The Prosecutor v. Augustin Ndirabatware*, Case Nos. ICTR-99-54-T & MICT-12-29, Decision on Allegations of Contempt, 21 February 2013, para. 21.

¹⁴ *Cf. The Prosecutor v. Pauline Nyiramasuhuko et al.*, Case No. ICTR-98-42-A, Judgement, 14 December 2015, paras. 299, 300 (wherein the Appeals Chamber of the International Criminal Tribunal for Rwanda stated that the disclosure of *amicus curiae* reports to the parties of the main proceeding is in the interests of transparency and that there may be instances where the relevant chamber may exercise its discretion not to allow for such disclosure as it is not in the interests of justice). *See also The Prosecutor v. Callizte Nzabonimana*, Case No. ICTR-98-44D-T, Order to Disclose the *Amicus Curiae* Report to the Parties, 12 July 2010, p. 3.

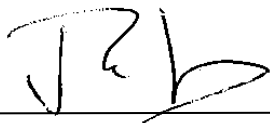
FINDING that, in these circumstances, it is not necessary to reinstate the *ex parte* status of the Reports;

FOR THE FOREGOING REASONS,

HEREBY DENY the Motion.

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

Done this 12th day of March 2025,
At Arusha,
Tanzania



Judge Joseph E. Chiondo Masanche
Single Judge

[Seal of the Mechanism]



I - FILING INFORMATION / INFORMATIONS GÉNÉRALES

To/ À :	IRMCT Registry/ Greffe du MIFRTP	<input checked="" type="checkbox"/> Arusha/ Arusha	<input type="checkbox"/> The Hague/ La Haye			
From/ De :	<input type="checkbox"/> President/ Président	<input checked="" type="checkbox"/> Chambers/ Chambre	<input type="checkbox"/> Prosecution/ Bureau du Procureur	<input type="checkbox"/> Defence/ Défense	<input type="checkbox"/> Registrar/ Greffier	<input type="checkbox"/> Other/ Autre
Case Name/ Affaire :	In the Matter of Peter Robinson		Case Number/ Affaire n° :	MICT-25-135-I		
Date Created/ Daté du :	13 March 2025	Date transmitted/ Transmis le :	13 March 2025	Number of Pages/ Nombre de pages :	4	
Original Language/ Langue de l'original :	<input checked="" type="checkbox"/> English/ Anglais	<input type="checkbox"/> French/ Français	<input type="checkbox"/> Kinyarwanda	<input type="checkbox"/> B/C/S	<input type="checkbox"/> Other/Autre (specify/ préciser):	
Title of Document/ Titre du document :	Decision on Amicus Curiae's Request for Reclassification of Investigative Reports to Ex Parte					
Classification Level/ Catégories de classification :	<input checked="" type="checkbox"/> Public/ Document public	<input type="checkbox"/> Confidential/ Confidentiel	<input type="checkbox"/> Ex Parte Defence excluded/ Défense exclue	<input type="checkbox"/> Ex Parte Prosecution excluded/ Bureau du Procureur exclu	<input type="checkbox"/> Ex Parte Rule 86 applicant excluded/ Article 86 requérant exclu	<input type="checkbox"/> Ex Parte Amicus Curiae excluded/ Amicus curiae exclu
Document type/ Type de document :	<input type="checkbox"/> Motion/ Requête	<input type="checkbox"/> Judgement/ Jugement/Arrêt	<input type="checkbox"/> Book of Authorities/ Recueil de sources	<input type="checkbox"/> Warrant/ Mandat	<input type="checkbox"/> Order/ Ordonnance	<input type="checkbox"/> Submission from parties/ Écritures déposées par des parties
	<input checked="" type="checkbox"/> Decision/ Décision	<input type="checkbox"/> Submission from non-parties/ Écritures déposées par des tiers	<input type="checkbox"/> Affidavit/ Déclaration sous serment	<input type="checkbox"/> Notice of Appeal/ Acte d'appel	<input type="checkbox"/> Submission from non-parties/ Écritures déposées par des tiers	<input type="checkbox"/> Indictment/ Acte d'accusation

II - TRANSLATION STATUS ON THE FILING DATE/ ÉTAT DE LA TRADUCTION AU JOUR DU DÉPÔT

<input type="checkbox"/> Translation not required/ La traduction n'est pas requise
<input checked="" type="checkbox"/> Filing Party hereby submits only the original, and requests the Registry to translate/ La partie déposante ne soumet que l'original et sollicite que le Greffe prenne en charge la traduction : (Word version of the document is attached/ La version Word du document est jointe)
<input type="checkbox"/> English/ Anglais <input checked="" type="checkbox"/> French/ Français <input checked="" type="checkbox"/> Kinyarwanda <input type="checkbox"/> B/C/S <input type="checkbox"/> Other/Autre (specify/préciser):
<input type="checkbox"/> Filing Party hereby submits both the original and the translated version for filing, as follows/ La partie déposante soumet l'original et la version traduite aux fins de dépôt, comme suit :
Original/ Original en : <input type="checkbox"/> English/ Anglais <input type="checkbox"/> French/ Français <input type="checkbox"/> Kinyarwanda <input type="checkbox"/> B/C/S <input type="checkbox"/> Other/Autre (specify/ préciser):
Traduction/ Traduction en : <input type="checkbox"/> English/ Anglais <input type="checkbox"/> French/ Français <input type="checkbox"/> Kinyarwanda <input type="checkbox"/> B/C/S <input type="checkbox"/> Other/Autre (specify/ préciser):
<input type="checkbox"/> Filing Party will be submitting the translated version(s) in due course in the following language(s)/ La partie déposante soumettra la (les) version(s) traduite(s) sous peu, dans la (les) langue(s) suivante(s):
<input type="checkbox"/> English/ Anglais <input type="checkbox"/> French/ Français <input type="checkbox"/> Kinyarwanda <input type="checkbox"/> B/C/S <input type="checkbox"/> Other/Autre (specify/préciser):