

**UNITED  
NATIONS**



International Residual Mechanism  
for Criminal Tribunals

Case No.: MICT-12-23-R14.1

Date: 22 August 2025

Original: English

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**THE PRESIDENT OF THE MECHANISM**

**Before:** Judge Graciela Gatti Santana, President  
**Registrar:** Mr. Abubacarr M. Tambadou  
**Decision of:** 22 August 2025

**PROSECUTOR**

**v.**

**FULGENCE KAYISHEMA**

***CONFIDENTIAL***

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**DECISION ASSIGNING A TRIAL CHAMBER TO CONSIDER  
FULGENCE KAYISHEMA'S REQUEST FOR REVOCATION OF  
REFERRAL TO THE REPUBLIC OF RWANDA**

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**The Office of the Prosecutor:**

Mr. Serge Brammertz  
Ms. Laurel Baig

**Counsel for Mr. Fulgence Kayishema:**

Mr. Philippe Larochelle  
Ms. Kate Gibson

**I, GRACIELA GATTI SANTANA**, President of the International Residual Mechanism for Criminal Tribunals (“President” and “Mechanism”, respectively);

**RECALLING** that, on 22 February 2012, a Trial Chamber of the International Criminal Tribunal for Rwanda (“ICTR”) referred the case against Mr. Fulgence Kayishema (“Kayishema”) to the authorities of the Republic of Rwanda (“Rwanda”) for trial before the High Court of Rwanda;<sup>1</sup>

**RECALLING** that, on 26 September 2019, a Trial Chamber of the Mechanism dismissed without prejudice the motion of the Office of the Prosecutor of the Mechanism for the revocation of the Referral Decision;<sup>2</sup>

**RECALLING** that, on 24 May 2023, Kayishema was arrested in the Republic of South Africa, where he remains pending his transfer to the custody of the Mechanism for the purpose of his onward transfer to Rwanda;<sup>3</sup>

**BEING SEISED** of a confidential motion filed on 14 August 2025, wherein Kayishema requests revocation of the referral of his case to Rwanda and that I assign, pursuant to Rule 14(C) of the Rules of Procedure and Evidence of the Mechanism (“Rules”), a Trial Chamber to consider the request;<sup>4</sup>

**NOTING** Kayishema’s submission that the conditions for the referral to Rwanda are no longer met as: (i) there is a serious risk of death or physical harm at the hands of the Government of Rwanda;<sup>5</sup> (ii) the Rwandan judiciary lacks independence and impartiality with respect to his case;<sup>6</sup> (iii) there are inadequate guarantees of his right to a defence;<sup>7</sup> and (iv) his right to obtain the attendance and examination of witnesses is prejudiced by the prospective unavailability of defence witnesses;<sup>8</sup>

**NOTING** that Kayishema’s proceedings, as referred by the ICTR to Rwanda, have not commenced;

**CONSIDERING** that Rule 14(C) of the Rules grants the President discretion to assign a Trial Chamber to decide, pursuant to Article 6(6) of the Statute of the Mechanism (“Statute”), whether to

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<sup>1</sup> *Prosecutor v. Fulgence Kayishema*, Case No. ICTR-01-67-R11bis, Decision on Prosecutor’s Request for Referral to the Republic of Rwanda, 22 February 2012 (“Referral Decision”), para. 162, p. 44.

<sup>2</sup> *See Prosecutor v. Fulgence Kayishema*, Case No. MICT-12-23-PT, Decision on Urgent Motion for Revocation of Referral and Amendment of Arrest Warrant, 26 September 2019, paras. 9, 12.

<sup>3</sup> *Prosecutor v. Fulgence Kayishema*, Case No. MICT-12-23-PT, Decision on Fulgence Kayishema Motion for Disclosure and Reclassification, 28 June 2024, pp. 2, 4.

<sup>4</sup> Request for Revocation of Referral to the Republic of Rwanda, 14 August 2025 (confidential) (“Revocation Request”), paras. 2, 41.

<sup>5</sup> Request, paras. 29-31.

<sup>6</sup> Request, paras. 32-33.

<sup>7</sup> Request, paras. 34-35.

<sup>8</sup> Request, paras. 36-37.

revoke an order of referral and make a formal request for deferral of a referred case before an accused is found guilty or acquitted by a court in the State concerned;

**FINDING** that, in these circumstances, it is appropriate to assign a Trial Chamber to consider the Revocation Request pursuant to Article 6(6) of the Statute;

**FOR THE FOREGOING REASONS,**

**PURSUANT TO** Articles 6(6) and 12(1) of the Statute and Rule 14(C) of the Rules;

**HEREBY ASSIGN** the Revocation Request to a Trial Chamber composed as follows:

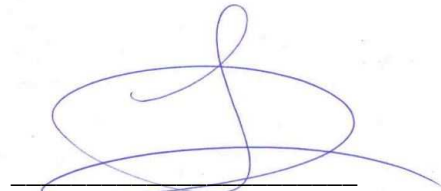
Judge Vagn Joensen, Presiding

Judge Claudia Hoefer

Judge Fatimata Sanou Touré

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

Done this 22nd day of August 2025,  
At Arusha,  
Tanzania.

  
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Judge Graciela Gatti Santana  
President

**[Seal of the Mechanism]**



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| <b>Case Name/ Affaire :</b>                                 | PROSECUTOR v. Fulgence Kayishema                                                                                                 |                                                                                                       | <b>Case Number/ Affaire n° :</b> MICT-12-23-R14.1                                 |
| <b>Date Created/ Daté du :</b>                              | 22 August 2025                                                                                                                   | <b>Date transmitted/ Transmis le :</b>                                                                | 22 August 2025                                                                    |
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