

**UNITED
NATIONS**



International Residual Mechanism for
Criminal Tribunals

Case No. MICT-12-23-AR14.1

Date: 19 November 2025

Original: English

BEFORE THE APPEALS CHAMBER

Before: A Bench of the Appeals Chamber

Registrar: Abubacarr M. Tambadou

PROSECUTOR

v.

FULGENCE KAYISHEMA

PUBLIC

**PROSECUTION MOTION TO STRIKE KAYISHEMA'S
NOTICE OF APPEAL**

The Office of the Prosecutor

Laurel Baig

Counsel for Fulgence Kayishema

Philippe Laroche
Kate Gibson

1. The Prosecution moves to strike Kayishema’s Notice of Appeal.¹ Kayishema lacks standing to challenge the Trial Chamber’s refusal to assign him counsel, and the remaining grounds of appeal are not properly before the Appeals Chamber. Kayishema’s Notice of Appeal should therefore be dismissed.

2. Because Kayishema has not yet appeared before the Mechanism, he is precluded from seeking appellate review of the Trial Chamber’s denial of his request for assigned counsel.² In any event, he has failed to seek the requisite certification.³ The fact that the Trial Chamber disposed of Kayishema’s distinct Request for Assignment of Counsel⁴ in the same decision in which it partially ruled on his Revocation Request⁵ does not bestow on Kayishema an automatic right of appeal that he would not otherwise have.

3. Moreover, Kayishema’s Revocation Request remains pending before the Trial Chamber, which may yet order the relief Kayishema seeks when it issues a final ruling.⁶ The remainder of his Notice of Appeal is therefore premature and improper.⁷ It would not be an efficient use of judicial resources for the Appeals Chamber to entertain Kayishema’s partial appellate arguments while the Trial Chamber remains seized of the Revocation Request.

¹ Defence Notice of Appeal Against “Decision on Fulgence Kayishema’s Requests for Revocation of Referral and Assignment of Counsel”, 13 November 2025 (“Notice of Appeal”).

² See Mechanism Rules of Procedure and Evidence, MICT/1/Rev.9, 4 September 2025, Rule 80 (“(A) Subject to Rule 79, either Party may move before a Trial Chamber for appropriate ruling or relief *after the initial appearance of the accused ...*”) (emphasis added).

³ See e.g. Rule 80(B); *Prosecutor v. Karadžić*, Case No.IT-95-5/18-AR73.2, Decision on Interlocutory Appeal of the Trial Chamber’s Decision on Adequate Facilities, 7 May 2009, para.4. See also *Prosecutor v. Prlić et al.*, Case No.IT-04-74-AR73.1, Decision on Appeal by Bruno Stojić Against Trial Chamber’s Decision on Request for Appointment of Counsel, 24 November 2004, para.3.

⁴ Defence Request for Assignment of Counsel, 2 September 2025.

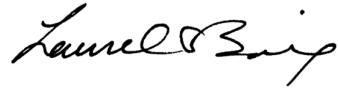
⁵ Request for Revocation of Referral to the Republic of Rwanda, 14 August 2025 (confidential with public redacted version filed 26 August 2025) (“Revocation Request”).

⁶ See Decision on Fulgence Kayishema’s Requests for Revocation of Referral and Assignment of Counsel, 29 October 2025, p.9 (inviting the Government of South Africa to file submissions in relation to Ground 1 of the Revocation Request before the Trial Chamber rules on Kayishema’s requested relief and stating that it remains seized of the matter).

⁷ See *Rutaganda v. Prosecutor*, Case No.ICTR-96-3-R, Decision on Georges Rutaganda’s Appeal Concerning Access to Closed Session Testimony and Sealed Exhibits, Registry Pagination 544/H. Also *Ndindabahizi v. Prosecutor*, Case No.ICTR-01-71-R75, Decision on Emmanuel Ndindabahizi’s Application Concerning Variation of Protective Measures, 9 September 2008, pp.2-3.

4. For these reasons, Kayishema's Notice of Appeal should be dismissed.

Word Count: 454



Laurel Baig
Senior Appeals Counsel

Dated this 19th day November 2025
At Arusha, Tanzania



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