

UNITED
NATIONS



International Residual Mechanism
for Criminal Tribunals

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

Date: 25 November 2025

Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Graciela Gatti Santana, President

Registrar: Mr. Abubacarr M. Tambadou

Decision of: 25 November 2025

PROSECUTOR

v.

FULGENCE KAYISHEMA

PUBLIC

**DECISION IN RELATION TO DEFENCE NOTICE OF APPEAL
AGAINST “DECISION ON FULGENCE KAYISHEMA’S
REQUESTS FOR REVOCATION OF REFERRAL AND
ASSIGNMENT OF COUNSEL”**

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 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;¹

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;²

RECALLING that, on 14 August 2025, Kayishema filed a confidential motion, requesting the revocation of the referral of his case;³

RECALLING that, on 22 August 2025, I assigned a Trial Chamber to consider the Revocation Request pursuant to Article 6(6) of the Statute of the Mechanism;⁴

RECALLING that, on 2 September 2025, Kayishema filed a separate motion requesting the Trial Chamber to instruct the Registrar of the Mechanism (“Registrar”) to assign him Counsel remunerated under the Mechanism’s legal aid system for the purpose of proceedings concerning the Revocation Request;⁵

RECALLING that, on 29 October 2025, the Trial Chamber partially dismissed the Revocation Request with regard to three of the four grounds invoked, remained seised of the Revocation Request in relation to the fourth ground, and dismissed the Request for Assignment of Counsel in its entirety;⁶

NOTING Kayishema’s notice of appeal of the Impugned Decision in which he requests that the Appeals Chamber: (i) reverse the Impugned Decision; (ii) instruct the Registrar to assign Kayishema Counsel in the interests of justice for the purpose of the proceedings concerning the Revocation

¹ *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.

² *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.

³ Request for Revocation of Referral to the Republic of Rwanda, 14 August 2025 (confidential) (“Revocation Request”), paras. 2, 41. A public redacted version was filed on 26 August 2025.

⁴ Decision Assigning a Trial Chamber to Consider Fulgence Kayishema’s Request for Revocation of Referral to the Republic of Rwanda, 22 August 2025 (confidential), p. 2.

⁵ Defence Request for Assignment of Counsel, 2 September 2025 (“Request for Assignment of Counsel”), paras. 1, 28. See also Prosecution Response to Kayishema’s Request for Assignment of Counsel, 11 September 2025.

⁶ Decision on Fulgence Kayishema’s Request for Revocation of Referral and Assignment of Counsel, 29 October 2025 (“Impugned Decision”), pp. 8-9.

Request; and (iii) revoke the Referral Decision, or, alternatively, remand the Revocation Request back to the Trial Chamber for reconsideration;⁷

NOTING the Office of the Prosecutor’s motion to strike the Notice of Appeal;⁸

CONSIDERING that the Trial Chamber remains seised of the Revocation Request and that composing a bench of the Appeals Chamber to address any issues raised in the Notice of Appeal before the Trial Chamber’s final decision on the matter is unnecessary to preserve any of Kayishema’s rights,⁹ may result in a needless expenditure of judicial resources, and is not in the interests of justice;

FINDING that the Notice of Appeal does not provide a basis on which to compose a bench of the Appeals Chamber;

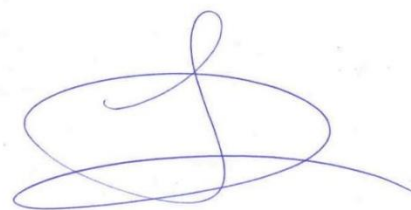
FOR THE FOREGOING REASONS,

HEREBY DECLINE to compose a bench in view of the Notice of Appeal; and

INSTRUCT Kayishema to file a notice of appeal, if any, following the final adjudication by the Trial Chamber of his Revocation Request.

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

Done this 25th day of November 2025,
At Arusha,
Tanzania.



Judge Graciela Gatti Santana
President

[Seal of the Mechanism]

⁷ 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”), pp. 5, 6. *See also* Notice of Appeal, paras. 9-20.

⁸ Prosecution Motion to Strike Kayishema’s Notice of Appeal, 19 November 2025, paras. 1-4.

⁹ Kayishema may seek appellate review of any findings of the Trial Chamber in relation to the Revocation Request once the Trial Chamber has definitively adjudicated the matter.



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