

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-12-23-AR53

Date: 1 October 2024

Original: English

IN THE APPEALS CHAMBER

Before: Judge Graciela Gatti Santana, Presiding
Judge Ivo Nelson de Caires Batista Rosa
Judge Claudia Hofer

Registrar: Mr. Abubacarr M. Tambadou

Decision of: 1 October 2024

PROSECUTOR

v.

FULGENCE KAYISHEMA

PUBLIC

**DECISION ON PROSECUTION APPEAL OF DECISION ON
RECONSIDERATION OF RECLASSIFICATION**

Office of the Prosecutor:

Mr. Serge Brammertz
Ms. Laurel Baig

Counsel for Mr. Fulgence Kayishema:

Mr. Philippe Larochelle
Ms. Kate Gibson

1. The Appeals Chamber of the International Residual Mechanism for Criminal Tribunals (“Appeals Chamber” and “Mechanism”, respectively)¹ is seized of an appeal filed by the Office of the Prosecutor of the Mechanism (“Prosecution”) on 23 August 2024,² against a decision issued by a Single Judge of the Mechanism (“Single Judge”) on 16 August 2024, concerning the reclassification of filings.³ Mr. Fulgence Kayishema (“Kayishema”) filed a response on 2 September 2024,⁴ and the Prosecution filed a reply on 6 September 2024.⁵

I. BACKGROUND

2. On 4 July 2001, a Judge of the International Criminal Tribunal for Rwanda (“ICTR”) confirmed an indictment against Kayishema,⁶ charging him with genocide, complicity in genocide, conspiracy to commit genocide, and extermination as a crime against humanity,⁷ and issued a warrant of arrest requesting all Member States of the United Nations to search for, arrest, and transfer Kayishema to the custody of the ICTR at its seat in Arusha, Tanzania.⁸ On 22 February 2012, an ICTR Trial Chamber referred the case against Kayishema to the authorities of the Republic of Rwanda (“Rwanda”) for trial before the High Court of Rwanda.⁹ Following the referral of the case, the ICTR, and subsequently the Mechanism, issued new warrants of arrest on 4 April 2012 and 7 May 2014, respectively, directing all Member States of the United Nations to search for, arrest, and transfer Kayishema to the Rwandan authorities.¹⁰

3. On 7 March 2019, the Prosecution requested the issuance of an amended warrant of arrest providing for Kayishema’s arrest and transfer to the Mechanism, instead of Rwanda, on the basis that a key partner could no longer assist in the tracking and apprehension of Kayishema as long as

¹ See Order Assigning a Bench of the Appeals Chamber to Consider an Interlocutory Appeal, 9 September 2024.

² Prosecution Interlocutory Appeal of the Decision on Reconsideration of Reclassification, 23 August 2024 (“Appeal”).

³ *Prosecutor v. Fulgence Kayishema*, Case No. MICT-12-23-PT, Decision on Motion for Reconsideration of Decision on Reclassification, 16 August 2024 (“Impugned Decision”).

⁴ Defence Response to Interlocutory Appeal of the Decision on Reconsideration of Reclassification, 2 September 2024 (“Response”).

⁵ Prosecution Reply to Defence Response to Interlocutory Appeal of the Decision on Reconsideration of Reclassification, 6 September 2024 (“Reply”).

⁶ See *The Prosecutor v. Fulgence Kayishema*, Case No. ICTR-2001-67-I, Decision on the Prosecutor’s *Ex Parte* Request for Search, Seizure Arrest and Transfer, 4 July 2001, para. 3, Registry Pagination (“RP.”) 97. The operative indictment against Kayishema was filed on 5 July 2001. See *The Prosecutor v. Fulgence Kayishema*, Case No. ICTR-2001-67-I, Indictment, 5 July 2001 (“Indictment”).

⁷ Indictment, RP. 111, 110, 107, 105.

⁸ *The Prosecutor v. Fulgence Kayishema*, Case No. ICTR-2001-67-I, Warrant of Arrest and Order for Transfer, 4 July 2001, RP. 102, 101.

⁹ *The 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, p. 44.

¹⁰ *The Prosecutor v. Fulgence Kayishema*, Case No. ICTR-00-67-R11bis, Warrant of Arrest and Order for Transfer, 4 April 2012 (“2012 Arrest Warrant”), p. 2; *Prosecutor v. Fulgence Kayishema*, Case No. MICT-12-23-PT, Warrant of Arrest and Order for Transfer Addressed to All States, 7 May 2014 (“2014 Arrest Warrant”), pp. 1, 2 (vacating the 2012 Arrest Warrant).

the warrant of arrest provided for Kayishema’s transfer to Rwanda.¹¹ The following day, the Duty Judge at the Arusha branch of the Mechanism vacated the operative warrant of arrest and issued an amended warrant of arrest, as an interim measure and to ensure Kayishema’s apprehension and trial, directing all Member States of the United Nations to search for, arrest, and transfer Kayishema to the custody of the Arusha branch of the Mechanism (“2019 Arrest Warrant”).¹² On 26 September 2019, a Trial Chamber of the Mechanism dismissed, without prejudice, a request by the Prosecution for revocation of the referral of Kayishema’s case to Rwanda and transfer of the case to the Mechanism (“Decision Denying Revocation of Referral”).¹³ Kayishema was arrested on 24 May 2023 in the Republic of South Africa (“South Africa”), where he remains pending his transfer to the Arusha branch of the Mechanism in accordance with the 2019 Arrest Warrant.¹⁴

4. On 21 May 2024, Kayishema filed a motion requesting that the Single Judge: (i) instruct the Prosecution to provide Kayishema and his counsel with the complete case file from the ICTR and the Mechanism and with all Prosecution correspondence with the authorities of South Africa that is relevant to South Africa’s position concerning the transfer of Kayishema to Rwanda pursuant to the 2019 Arrest Warrant; and (ii) reclassify as public, and/or instruct the filing of confidential redacted versions of the confidential and *ex parte* Decision Denying Revocation of Referral and three motions filed confidentially and *ex parte* by the Prosecution (collectively, “Filings”).¹⁵ On 28 June 2024, the Single Judge granted, in part, Kayishema’s motion: (i) instructing the Registry of the Mechanism (“Registry”) to reclassify as public the Decision Denying Revocation of Referral and the Motion to Lift Confidentiality of 2019 Arrest Warrant; (ii) requesting the Prosecution to publicly file the Motion for Amendment of Arrest Warrant and the Motion for Revocation of Referral, redacting information revealing the personal identity of an individual mentioned in the

¹¹ *Prosecutor v. Fulgence Kayishema*, Case No. MICT-12-23-PT, Decision on a Motion to Lift the Confidentiality of an Arrest Warrant, 7 September 2023 (“Decision of 7 September 2023”), p. 1.

¹² Decision of 7 September 2023, p. 2; *Prosecutor v. Fulgence Kayishema*, Case No. MICT-12-23-PT, Warrant of Arrest and Order for Transfer Addressed to All States, 8 March 2019 (confidential and *ex parte*; made public on 7 September 2023), p. 1.

¹³ *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 (confidential and *ex parte*), paras.1, 4, 7, 9, 12.

¹⁴ Decision of 7 September 2023, p. 2.

¹⁵ *Prosecutor v. Fulgence Kayishema*, Case No. MICT-12-23-PT, Motion for Disclosure [and] Reclassification, 21 May 2024 (public with confidential Annexes A to C) (“Motion of 21 May 2024”), paras. 21, 24, 25. The three motions referred to by Kayishema are: (i) *Prosecutor v. Fulgence Kayishema*, Case No. MICT-12-23-PT, Urgent Motion for Amendment of Arrest Warrant, 7 March 2019 (confidential and *ex parte*) (“Motion for Amendment of Arrest Warrant”); (ii) *Prosecutor v. Fulgence Kayishema*, Case No. MICT-12-23-PT, Urgent Motion for Revocation of Referral and Amendment of Arrest Warrant, 7 March 2019 (confidential and *ex parte*) (“Motion for Revocation of Referral”); and (iii) *Prosecutor v. Fulgence Kayishema*, Case No. MICT-12-23-PT, Prosecution Motion to Lift the Confidentiality of the Arrest Warrant Issued on 8 March 2019, 22 August 2023 (confidential and *ex parte*) (“Motion to Lift Confidentiality of 2019 Arrest Warrant”).

annexes to these motions; and (iii) dismissing Kayishema’s motion in all other respects.¹⁶ Upon Prosecution’s request, on 2 July 2024 the Single Judge stayed the implementation of the Decision of 28 June 2024.¹⁷

5. On 5 July 2024, the Prosecution sought reconsideration of the Decision of 28 June 2024, requesting that the confidential and *ex parte* status of the Filings be maintained or, alternatively, that they be reclassified as public with redactions proposed by the Prosecution.¹⁸ In the Impugned Decision, the Single Judge granted, in part, the Motion for Reconsideration: (i) ordering the Prosecution to redact the entirety of the annexes to the Motion for Amendment of Arrest Warrant and the Motion for Revocation of Referral; (ii) dismissing the Motion for Reconsideration in all other respects; and (iii) staying the implementation of the Impugned Decision until the resolution of the matter on appeal.¹⁹

II. DISCUSSION

6. The Prosecution submits that, in instructing that the Filings be reclassified as public, the Single Judge: (i) applied an erroneous legal standard; (ii) gave weight to extraneous considerations and erroneous facts, and failed to give weight to relevant ones; and (iii) failed to consider less intrusive remedies.²⁰ In arguing that the Single Judge misapplied the law, the Prosecution submits that the Single Judge overstated the exceptionality of confidential filings, given that the parties’ determination of the appropriate level of confidentiality is, generally, accorded deference and that confidential and *ex parte* filings are afforded special protections, with *ex parte* filings being the norm prior to the initial appearance of an accused.²¹ The Prosecution further argues that the Single Judge failed to apply the legal standard for access to confidential filings and to scrutinize the legitimacy of Kayishema’s reasons for seeking access, which are to delay or block his transfer to the Mechanism.²² The Prosecution also claims that, instead of Kayishema bearing the burden to show a heightened legitimate forensic purpose for access to confidential and *ex parte* filings, the Single Judge relied on the general presumption that all filings should be public, thus shifting the

¹⁶ *Prosecutor v. Fulgence Kayishema*, Case No. MICT-12-23-PT, Decision on Fulgence Kayishema Motion for Disclosure and Reclassification, 28 June 2024 (“Decision of 28 June 2024”), p. 6.

¹⁷ *Prosecutor v. Fulgence Kayishema*, Case No. MICT-12-23-PT, Decision on Urgent Motion for Stay of Decision on Fulgence Kayishema Motion for Disclosure and Reclassification, 2 July 2024, p. 2. *See also Prosecutor v. Fulgence Kayishema*, Case No. MICT-12-23-PT, Prosecution Urgent Motion for Stay of Decision on Fulgence Kayishema Motion for Disclosure and Reclassification, 28 June 2024.

¹⁸ Impugned Decision, p. 2, *referring to Prosecutor v. Fulgence Kayishema*, Case No. MICT-12-23-PT, Prosecution Motion for Reconsideration of Decision on Kayishema Motion for Disclosure and Reclassification, 5 July 2024 (public with confidential and *ex parte* annexes A-E) (“Motion for Reconsideration”), paras. 1, 6, 7.

¹⁹ Impugned Decision, p. 5.

²⁰ Appeal, paras. 1, 3. *See also* Appeal, paras. 4-24.

²¹ Appeal, paras. 4-6. *See also* Appeal, para. 12.

burden to the Prosecution and placing the public's general interest above a party's specific concerns to protect objectively sensitive information.²³

7. The Prosecution further submits that its request for revocation of the referral of Kayishema's case was not a relevant consideration for making the Filings public, and argues that the Single Judge's observation that the information contained in the Filings is already in the public domain was incorrect.²⁴ According to the Prosecution, the Single Judge also erred in failing to "afford[...] significant deference" to the Prosecution's assessment of the information's sensitivity as, absent a fair trial interest or other compelling reason, information related to the tracking of fugitives should generally be protected.²⁵ In this regard, the Prosecution asserts that the Single Judge erred in failing to take into account that Kayishema's arrest does not alleviate the Prosecution's concerns for safeguarding sensitive information regarding its tracking activities, practices and procedures.²⁶ According to the Prosecution, the Filings contain sensitive information relating to the Prosecution's tracking activities and making them public would damage institutional trust, reveal confidential information gathered by the Prosecution, harm its ongoing activities, and jeopardize its relationships with national and international law enforcement agencies.²⁷ Finally, the Prosecution submits that the Single Judge erred in failing to explain why issuing public redacted versions of the Filings, with the redactions proposed by the Prosecution, was insufficient to ensure the public nature of the proceedings.²⁸ As a remedy, the Prosecution requests that the Appeals Chamber maintain the confidential and *ex parte* status of the Filings or, at a minimum, instruct that the Filings be made public with the redactions proposed by the Prosecution.²⁹

8. In response, Kayishema submits that the Single Judge was correct in applying a legal standard whereby all proceedings before the Mechanism should be public unless there are exceptional reasons for keeping them confidential,³⁰ and in considering that the Prosecution bears the burden of demonstrating exceptional reasons for keeping the Filings confidential and *ex parte*.³¹ According to Kayishema, it is incorrect to require him to show legitimate forensic purpose for

²² Appeal, paras. 2, 4, 7-10. *See also* Appeal, paras. 3, 12.

²³ Appeal, paras. 4, 11, 12.

²⁴ Appeal, paras. 3, 13-16.

²⁵ Appeal, paras. 3, 17.

²⁶ Appeal, paras. 20, 21.

²⁷ Appeal, paras. 1, 18, 19.

²⁸ Appeal, paras. 3, 22-24.

²⁹ Appeal, paras. 3, 25.

³⁰ Response, paras. 2, 4. *See* Response, paras. 5-10.

³¹ Response, paras. 2, 6-9.

accessing the Filings in circumstances where the Prosecution can no longer justify their confidential and *ex parte* classification.³²

9. Kayishema further submits that the Single Judge took into account relevant considerations and correctly applied the legal standard in finding that the Prosecution had failed to demonstrate exceptional reasons for maintaining the confidential and *ex parte* status of the Filings.³³ Should the Appeals Chamber consider that there are exceptional reasons for keeping information on the Prosecution’s fugitive-tracking practices confidential and *ex parte*, Kayishema requests that the Appeals Chamber order the Prosecution to submit public redacted versions of the relevant Filings, with only necessary redactions.³⁴

10. In reply, the Prosecution submits that the Filings were appropriately classified as confidential and *ex parte*, and that releasing information to the public that could impact the Prosecution’s relationships with national and international partners would put at risk cooperation that is necessary to achieving the Prosecution’s mandate.³⁵ The Prosecution maintains that, until an indictee has surrendered to the Mechanism’s jurisdiction, their access to information is limited, and that only once transferred to the Mechanism, Kayishema may seek confidential *inter partes* versions of the Filings based on a showing of a legitimate forensic purpose.³⁶

11. The Appeals Chamber considers that the decision of a single judge concerning reclassification of filings is a discretionary one to which the Appeals Chamber must accord deference.³⁷ To succeed on appeal, the Prosecution must demonstrate that the Single Judge committed a discernible error in the Impugned Decision because it was based on an incorrect interpretation of the governing law, a patently incorrect conclusion of fact, or because it was so unfair or unreasonable as to constitute an abuse of discretion.³⁸ The Appeals Chamber will also consider whether the Single Judge has given weight to extraneous or irrelevant considerations or

³² Response, paras. 8-10.

³³ Response, paras. 2, 11-16.

³⁴ Response, paras. 2, 17-21, 23.

³⁵ Reply, paras. 1, 5. *See also* Reply, para. 3.

³⁶ Reply, paras. 2-4. *See also* Appeal, para. 9.

³⁷ *See Prosecutor v. Maximilien Turinabo et al., Prosecutor v. Augustin Ngirabatware, Prosecutor v. Jean de Dieu Kamuhanda*, Case Nos. MICT-18-116-AR80.1, MICT-12-29-R, MICT-13-33, Decision on Appeals of the Decision in Relation to Material Seized from Dick Prudence Munyeshuli, 19 August 2019 (“*Munyeshuli* Decision of 19 August 2019”), para. 24. *See also Prosecutor v. Vojislav Šešelj*, Case No. IT-03-67-AR73.5, Decision on Vojislav Šešelj’s Interlocutory Appeal Against the Trial Chamber’s Decision on Form of Disclosure, 17 April 2007, para. 14 (wherein the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia recalled that trial chambers “exercise discretion in many different situations, including ‘when deciding points of practice or procedure’”).

³⁸ *See, e.g., Prosecutor v. Anselme Nzabonimpa et al.*, Case No. MICT-18-116-AR90.1, Decision on Appeal of Decision on the Use of Material Subject to Rule 76 in Further Proceedings, 17 July 2024, para. 14 and references cited therein. *See also Munyeshuli* Decision of 19 August 2019, para. 24.

has failed to give weight or sufficient weight to relevant considerations in reaching the decision.³⁹ The relevant inquiry is whether the Single Judge has correctly exercised his discretion in reaching the decision, not whether the Appeals Chamber agrees with it.⁴⁰

12. The Appeals Chamber notes that, in the Decision of 28 June 2024, the Single Judge stated that the legal standard applicable to Kayishema's request for reclassification of the Filings is one whereby all proceedings before the Mechanism shall be public unless exceptional reasons require keeping them confidential, and considered that, with the arrest of Kayishema, no exceptional reasons required that the Filings remain confidential.⁴¹ In the Impugned Decision, upon examining the Prosecution's request for reconsideration of the Decision of 28 June 2024, the Single Judge held that a party seeking reconsideration of a decision must satisfy the chamber of the existence of a clear error of reasoning in the impugned decision, or of particular circumstances justifying reconsideration in order to avoid injustice, such as any new facts.⁴² Upon review of the additional information provided by the Prosecution in the Motion for Reconsideration, in the Impugned Decision the Single Judge considered that the Prosecution had failed to demonstrate that exceptional reasons required certain information in the Filings to remain confidential.⁴³ In reaching this conclusion, the Single Judge took into account that the information was already in the public domain and/or concerned the Prosecution's request for revocation of the referral of Kayishema's case to Rwanda.⁴⁴

13. The Appeals Chamber is not persuaded by the Prosecution's submission that the Single Judge overstated the exceptionality of confidential filings or otherwise failed to apply the correct legal standard in the Impugned Decision. It is well established in the jurisprudence that access to confidential *ex parte* material can only be granted when the requesting party demonstrates a heightened showing of a legitimate forensic purpose in order to protect the interests of the party who designated its filing as *ex parte* and who enjoys a protected degree of trust that the *ex parte* material will not be disclosed.⁴⁵ Should such access be granted to the requesting party, the material in question would remain confidential. In contrast, in the present case, Kayishema explicitly requested the Filings' reclassification to public.⁴⁶ In these circumstances, the Single Judge correctly

³⁹ *Munyeshuli* Decision of 19 August 2019, para. 24.

⁴⁰ *Munyeshuli* Decision of 19 August 2019, para. 24.

⁴¹ Decision of 28 June 2024, p. 5.

⁴² Impugned Decision, p. 3.

⁴³ Impugned Decision, p. 4.

⁴⁴ Impugned Decision, p. 4.

⁴⁵ See, e.g., *Prosecutor v. Radovan Karadžić*, Case No. MICT-13-55-R86H.9, Decision on a Motion to Reclassify Rule 86(H) Application, 24 January 2019, p. 2.

⁴⁶ See Motion of 21 May 2024, paras. 24, 25.

considered the applicable legal standard to be that all proceedings before the Mechanism shall be public unless exceptional reasons require keeping them confidential.⁴⁷ While *ex parte* filings may be afforded special protections, nothing in the Prosecution’s submission demonstrates that such filings constitute a category exempt from the legal standard applied in the Impugned Decision, notably that all proceedings before the Mechanism shall be public unless exceptional reasons require keeping them confidential.⁴⁸

14. The Prosecution also fails to demonstrate that the Single Judge impermissibly shifted the burden of proof to the Prosecution. In the Decision of 28 June 2024, the Single Judge explicitly noted Kayishema’s argument that there are no exceptional reasons for keeping the Filings confidential⁴⁹ and, in the Impugned Decision, correctly stated that the Prosecution, as the party requesting reconsideration of the Decision 28 June 2024, bears the burden of demonstrating the existence of a clear error of reasoning or of particular circumstances justifying reconsideration in order to avoid injustice, such as any new facts.⁵⁰ The Prosecution’s argument that Kayishema was impermissibly relieved of his burden to show a legitimate forensic purpose for accessing *ex parte* filings is based on its disagreement with the legal standard applied by the Single Judge, which the Appeals Chamber has found above to be correct.⁵¹

15. The Appeals Chamber also finds no merit in the Prosecution’s submission that the Single Judge gave weight to extraneous considerations and erroneous facts. The Single Judge’s consideration — that “certain” information contained in the Filings concerns the Prosecution’s request for revocation of the referral of Kayishema’s case⁵² — was relevant, as it pertains to the public interest in the Mechanism’s proceedings and judicial activities. The Single Judge also correctly observed that “certain” information contained in the Filings is already in the public domain.⁵³ As acknowledged by the Prosecution, the Single Judge’s decision lifting the confidentiality of the 2019 Arrest Warrant publicly referenced the Decision Denying Revocation of Referral, the Motion for Revocation of Referral, and the Motion to Lift Confidentiality of 2019 Arrest Warrant and, in addition, elucidated their content to a certain extent.⁵⁴

⁴⁷ See Impugned Decision, p. 3. See also Decision of 28 June 2024, p. 5.

⁴⁸ Impugned Decision, p. 2.

⁴⁹ Decision of 28 June 2024, p. 2, referring to Motion of 21 May 2024, para. 24.

⁵⁰ Impugned Decision, p. 3, referring to *Prosecutor v. François-Xavier Nzuwonemeye*, Case No. MICT-13-43, Decision on Motion for Reconsideration, 15 November 2022, p. 3 and references cited therein.

⁵¹ See *supra* para. 13.

⁵² See Impugned Decision, p. 4.

⁵³ See Impugned Decision, p. 4.

⁵⁴ See Decision of 7 September 2023, pp. 1, 2, nn. 6, 7, 9, 11, 12. See also Appeal, para. 15.

16. The Appeals Chamber turns next to the Prosecution’s argument that the Single Judge erred in failing to “afford[.] significant deference” to the Prosecution’s assessment of the sensitivity of the information contained in the Filings, and in failing to consider that Kayishema’s arrest did not alleviate the Prosecution’s concerns for safeguarding sensitive information regarding its tracking activities, practices, procedures, and relationships with national and international law enforcement agencies.⁵⁵ The Appeals Chamber observes that, in seeking reconsideration of the Decision of 28 June 2024, the Prosecution raised before the Single Judge the importance of safeguarding its investigative and tracking practices and procedures, as well as the cooperative working relationships with States and international law enforcement organizations, notwithstanding Kayishema’s arrest.⁵⁶ While in the Impugned Decision the Single Judge stated that he had reviewed the Prosecution’s submissions,⁵⁷ his conclusion that the Prosecution had failed to demonstrate exceptional reasons requiring the Filings to remain confidential was based on the explicit consideration of two factors: that certain information contained in the Filings is in the public domain and/or concerns the Prosecution’s request for revocation of the referral of Kayishema’s case to Rwanda.⁵⁸

17. In view of the reasoning in the Impugned Decision, the Appeals Chamber is unable to discern whether, in determining that the Prosecution had failed to demonstrate exceptional reasons for the Filings to remain confidential, the Single Judge took into account that information in the Filings concerned the Prosecution’s tracking activities, practices, procedures, and relationships with national and international law enforcement agencies, that may remain sensitive following Kayishema’s arrest. The Impugned Decision’s silence on this point leads the Appeals Chamber to conclude that the Single Judge did not find these factors relevant to his determination on whether exceptional reasons required that the Filings remain confidential or be made public with certain redactions. The Appeals Chamber finds that, in doing so, the Single Judge erred in failing to give weight to relevant considerations in reaching the Impugned Decision.

18. In view of the above conclusion, the Appeals Chamber considers it appropriate to remand the matter to the Single Judge to consider the above identified factors and exercise his discretion afresh. As a result, the Appeals Chamber need not address the remainder of the Prosecution’s arguments on appeal.

⁵⁵ *See supra* para. 7.

⁵⁶ *See, e.g.*, Motion for Reconsideration, Annex A, paras. 5-7, 11. *See also* Impugned Decision, p. 3.

⁵⁷ Impugned Decision, p. 4.

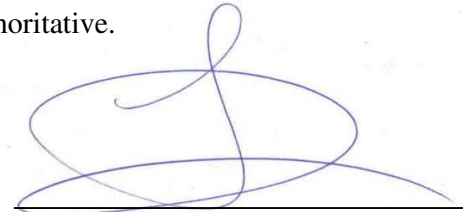
⁵⁸ Impugned Decision, p. 4.

III. DISPOSITION

19. For the foregoing reasons, the Appeals Chamber **GRANTS** the Appeal, in part, **REMANDS** the matter to the Single Judge for further consideration consistent with this Decision, and **DENIES** the remainder of the Appeal.

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

Done this 1st day of October 2024
At Arusha,
Tanzania



Judge Graciela Gatti Santana
Presiding Judge

[Seal of the Mechanism]



IRMCT • MIFRTP

TRANSMISSION SHEET FOR FILING OF DOCUMENTS / FICHE DE TRANSMISSION POUR LE DÉPÔT DE DOCUMENTS

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 :	Prosecutor v. Fulgence Kayishema		Case Number/ Affaire n° : MICT-12-23-AR53			
Date Created/ Daté du :	1 October 2024	Date transmitted/ Transmis le :	1 October 2024	Number of Pages/ Nombre de pages :	10	
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 Prosecution Appeal of Decision on Reconsideration of Reclassification					
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 checked="" type="checkbox"/> Decision/ Décision	<input type="checkbox"/> Submission from parties/ Écritures déposées par des parties	<input type="checkbox"/> Affidavit/ Déclaration sous serment	<input type="checkbox"/> Notice of Appeal/ Acte d'appel		
	<input type="checkbox"/> Order/ Ordonnance	<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):