

MICT-12-23  
27-03-2014  
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UNITED NATIONS  
NATIONS UNIES

**Mechanism for International Criminal Tribunals  
Mécanisme pour les Tribunaux Pénaux Internationaux**

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**THE OFFICE OF THE PRESIDENT**

Before: Judge Theodor Meron, President

Registrar: John Hocking

Date Filed: 26 March 2014

**THE PROSECUTOR**

v.

**FULGENCE KAYISHEMA**

Case No. MICT-12-23

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**PROSECUTOR'S REQUEST FOR A WARRANT OF ARREST AND  
AN ORDER FOR TRANSFER**

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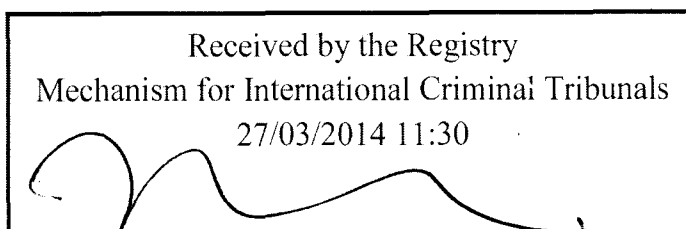
**Office of the Prosecutor**

Hassan Bubacar Jallow

Richard Karegyesa

Teresa Berrigan

Sunkarie Ballah-Conteh



## PROSECUTOR'S REQUEST FOR A WARRANT OF ARREST AND AN ORDER FOR TRANSFER

### BACKGROUND

1. The Indictment against **FULGENCE KAYISHEMA** (the Accused) was confirmed on 04 July 2001 by Judge Lloyd G. Williams of the International Criminal Tribunal for Rwanda (ICTR)<sup>1</sup> and a Warrant of Arrest and Order for Transfer issued in consequence thereof on the same day.<sup>2</sup>
2. On 22 February 2012, a referral Chamber designated by the President ordered the referral of the indictment of **FULGENCE KAYISHEMA** to the Republic of Rwanda pursuant to Rule 11*bis* of the ICTR Rules of Procedure and Evidence.<sup>3</sup> Consequent to the above-mentioned referral order, a Warrant of Arrest and Order for Transfer addressed to all Member States of the United Nations was issued on 04 April 2012 by Judge Vagn Joensen of the International Criminal Tribunal for Rwanda.<sup>4</sup>

### PROSECUTOR'S REQUEST

3. Having regard to Articles 1(1) and (2) of the MICT's Statute and Rule 57 of the MICT's Rules of Procedure and Evidence, the Prosecutor now requests the President to substitute the Warrant of Arrest and Order for Transfer and Detention dated 04 April 2012, issued by the ICTR, with one issued by the MICT, directing all States to arrest and transfer the Accused to the custody of the Rwandan authorities.
4. In this regard the Prosecutor seeks the following orders:
  - a) An **ORDER** for the search and seizure of all or any physical evidence related to **FULGENCE KAYISHEMA** and an **ORDER** for the transfer of all said evidence to the National Public Prosecution Authority of the Republic of Rwanda;

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<sup>1</sup> *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.

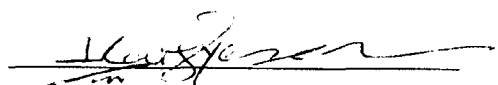
<sup>2</sup> *The Prosecutor v Fulgence Kayishema*, Case No. ICTR-2001-67-I, Warrant of Arrest and Order for Transfer, 04 July 2001.

<sup>3</sup> *The Prosecutor v Fulgence Kayishema*, Case No. ICTR-01-67-R11*bis*, Decision on Prosecutor's Request for Referral to the Republic of Rwanda, 22 February 2012.

<sup>4</sup> *The Prosecutor v Fulgence Kayishema*, Case No. ICTR-2001-67-I, Warrant of Arrest and Order for Transfer, 04 April 2012.

- b) An **ORDER** for the search and warrant for the arrest and transfer of **FULGENCE KAYISHEMA** to the custody of the Rwandan authorities; and
- c) Such other **ORDER(S)** as the President may deem just in the interest of justice.

Dated this 26<sup>th</sup> day of March 2014, at Arusha, Tanzania.



Richard Karegyesa  
Senior Legal Officer, OTP, MICT

**DRAFT ORDER**

**SITTING** as Judge Theodor Meron, President of the Mechanism for International Criminal Tribunals (MICT);

**BEING SEIZED** of the Prosecutor's Request for a Warrant of Arrest and an Order for Transfer of **FULGENCE KAYISHEMA** (the Accused) filed on [DATE] [xxx] 2014;

**CONSIDERING** the Indictment against **FULGENCE KAYISHEMA** confirmed on 04 July 2001 by Judge Lloyd G. Williams of the International Criminal Tribunal for Rwanda (ICTR);

**CONSIDERING** the Warrant of Arrest and Order for Transfer of **FULGENCE KAYISHEMA** dated 04 April 2012, which is currently in force;

**CONSIDERING** United Nations Security Council Resolution 1966 (2010) regarding the cooperation of States with the MICT;

**CONSIDERING** Article 28 of the MICT Statute and Rule 57 of the MICT Rules of Procedure and Evidence;

**NOTING** the need to vacate the Warrant of Arrest and Order for Transfer and Detention dated 04 April 2012 requesting transfer of **FULGENCE KAYISHEMA** to the custody of the Rwandan authorities, issued by the ICTR with a request for the arrest and transfer of the Accused to the custody of the Rwandan authorities, issued by the MICT, I:

1. **HEREBY RESPECTFULLY REQUEST** all States that are members of the United Nations to:
  - (a) **ARREST** and **TRANSFER** to the custody of the National Public Prosecution Authority of the Republic of Rwanda:

**FULGENCE KAYISHEMA**

A Rwandan citizen born in 1961, Originally from Kivumu *commune*, Kibuye *prefecture*, Rwanda, who is accused of having committed during 1994 in Rwanda the following crimes: genocide, conspiracy to commit genocide, complicity in genocide (in the alternative to genocide), and crimes against humanity (extermination).

- (b) **SERVE** on the Accused at the time of his arrest or as soon as practicable immediately following arrest, in a language he understands, a certified

copy of this warrant of arrest, accompanied by a copy of the indictment certified in accordance with Rule 48(G) and a statement of the rights of the accused set forth in Article 19 of the Statute and in Rules 40 and 41;

- (c) **INFORM** the Accused at the time of his arrest or as soon as practicable immediately following arrest, in a language he understands, that he is being transferred to the custody of the Rwandan authorities;
  - (d) **SEEK AN ACKNOWLEDGEMENT** of receipt from **FULGENCE KAYISHEMA** of a copy of the warrant of arrest, the indictment and the statement of rights in a language he understands, and return one set of documents together with proof of service to the National Public Prosecution Authority of the Republic of Rwanda;
  - (e) **SEARCH AND SEIZE** all physical evidence related to the crimes alleged against **FULGENCE KAYISHEMA**;
  - (f) **CREATE** an itemized inventory of all seized materials, including documents, books, papers or any other objects, that is properly witnessed and is acknowledged by the Accused;
  - (g) **TRANSFER** all seized evidence and the inventory to the National Public Prosecution Authority of the Republic of Rwanda;
  - (h) **NOTIFY** the Registrar of the MICT and the Prosecutor-General of the National Public Prosecution Authority of the Republic of Rwanda of the arrest of the Accused for the purposes of arranging his transfer to the custody of the National Public Prosecution Authority without delay;
  - (i) **REPORT** forthwith to the Registrar of the MICT and the National Public Prosecution Authority of the Republic of Rwanda if unable to execute this Warrant or Order for Transfer, indicating the reasons for the inability to do so; and
  - (j) **MAKE INQUIRIES** to discover whether the Accused has assets located within the territory of the Member State and if so, to adopt provisional measures to freeze such assets, without prejudice to the rights of third parties.
2. **HEREBY VACATE** the Warrant of Arrest and Order for the Transfer of **FULGENCE KAYISHEMA** dated 04 April 2012.

Dated this [ ] day of [MONTH] 2014 at Arusha, Tanzania.

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President/Judge



**TRANSMISSION SHEET / FICHE DE TRANSMISSION  
FOR FILING OF DOCUMENTS WITH THE ARUSHA BRANCH OF  
THE MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS/  
POUR LE DEPOT DE DOCUMENTS A LA DIVISION D'ARUSHA DU  
MECHANISME POUR LES TRIBUNAUX PENNAUX INTERNATIONAUX**

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<b>To/ A:</b>	MICT Registry/ Greffe du MTPI			
<b>From/ De:</b>	<input type="checkbox"/> Chambers/ Chambre	<input type="checkbox"/> Defence/ Défense	<input checked="" type="checkbox"/> Prosecution/ Bureau du Procureur	<input type="checkbox"/> Other/ Autre : <b>RICHARD KAREGYESA</b>
<b>Case Name/ Affaire:</b>	Prosecutor v. Fulgence Kayishema		<b>Case Number/ Affaire No:</b>	MICT-12-23
<b>Date Created/ Daté du:</b>	26 March 2014		<b>Date transmitted/ Transmis le:</b>	27 March 2014
<b>No. of Pages/ No de pages:</b>	6	<b>Original Language / Langue de l'original:</b>	<input checked="" type="checkbox"/> English/ Anglais	<input type="checkbox"/> French/ Français <input type="checkbox"/> Kinyarwanda
<b>Title of Document/ Titre du document:</b>	PROSECUTOR'S REQUEST FOR A WARRANT OF ARREST AND AN ORDER FOR TRANSFER			
<b>Classification Level/ Catégories de classement:</b>	<input checked="" type="checkbox"/> Unclassified/ Non classé	<input type="checkbox"/> Confidential/ Confidentiel	<input type="checkbox"/> Ex Parte	<input type="checkbox"/> Strictly Confidential/ Strictement confidentiel <input type="checkbox"/> Ex Parte (specify/ préciser): <input type="checkbox"/> Other Ex Parte/ Ex Parte Autre (specify/ préciser):
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