

UNITED NATIONS



NATIONS UNIES

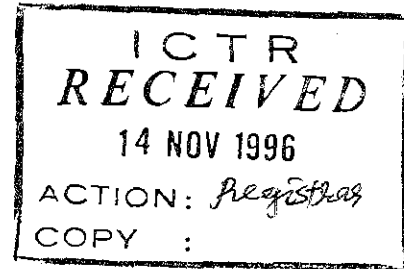
International Criminal Tribunal for Rwanda
TRIAL CHAMBER 1

OR : FR

Before: Judge Laïty Kama, Presiding Judge
 Judge Lennart Aspegren
 Judge Yakov A. Ostrovsky

Registry: Ms. Prisca Nyambe
 Ms. Cécile Aptel

Decision of: 6 November 1996



**THE PROSECUTOR
 VERSUS
 CLÉMENT KAYISHEMA**

Case No. ICTR-95-1-T

**DECISION ON THE JOINDER OF THE ACCUSED
 AND SETTING THE DATE FOR TRIAL**

The Office of the Prosecutor:

Mr. Jonah Rahetlah
 Ms. Elizabeth Ann Farr
 Ms. Brenda Sue Thorton
 Mr. Cheickh Mara

The Counsel for the Accused:

Mr. André Ferran

THE TRIBUNAL

Sitting as Trial Chamber 1, composed of Judge Laïty Kama as Presiding Judge, Judge Lennart Aspegren and Judge Yakov A. Ostrovsky;

CONSIDERING the indictment issued by the Prosecutor against Clément Kayishema pursuant to Rule 47 of the Rules of Procedure and Evidence ("The Rules"), on the basis that there was sufficient evidence to provide reasonable grounds for believing that he has committed genocide, conspiracy to commit genocide, crimes against humanity and violations of article 3 common to the 1949 Geneva conventions and Additional Protocol II thereto;

CONSIDERING the decision confirming this indictment, signed by Judge Navanethem Pillay on 28 November 1995;

CONSIDERING the preliminary motion filed on 23 October 1996 by the Defense for postponement of the trial;

CONSIDERING the motion for joinder of the accused filed by the Prosecutor on 5 November 1996;

CONSIDERING the decision of the Tribunal of 29 October 1996, following the initial appearance of Obed Ruzindana;

HAVING THEN HEARD the parties at the hearing held on 5 November 1996,

CONSIDERING the Statute and the Rules of the Tribunal;

AFTER HAVING DELIBERATED:

WHEREAS the Defense filed a motion before the Tribunal for postponement of the trial of Clément Kayishema to a later date, in order to enable it to prepare;

WHEREAS the Prosecutor, who is not opposed to the request by the Defense, also filed a motion for joinder of the trials of Clément Kayishema and of Obed Ruzindana, his co-accused in Case No. ICTR-95-1-T, should the Tribunal decide to grant the aforementioned motion;

WHEREAS the Rules provide for the possibility of joinder of the accused in Rule 48, which states that, "Persons accused of the same or different crimes committed in the course of the same transaction may be jointly charged and tried";

WHEREAS the Prosecutor argues in support of her request that Clément Kayishema and Obed Ruzindana are both presently awaiting trial before the Tribunal, that they are charged in the same indictment in Case No. ICTR-95-1-T, that these two individuals are accused of the same crimes of genocide, crimes against humanity and violations of article 3 common to the Geneva Conventions and Additional Protocol II thereto, that these crimes were committed in the course of the same transaction, namely massacres perpetrated in the area of Bisesero, in Kibuye *Préfecture*, during the month of April 1994;



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WHEREAS the possibility of a joinder of the accused had already been envisaged by the Tribunal in its decision of 29 October 1996, following the initial appearance of Obed Ruzindana;

WHEREAS, along with the Prosecutor, the Tribunal deems that the requested joinder would allow for a better administration of justice, by ensuring at the same time a more consistent and detailed perception of the evidence presented by the Prosecutor, better protection of the victims' and witnesses' physical and mental safety, and by eliminating the need for them to make several journeys and to repeat their testimony;

WHEREAS the Tribunal also deems that the requested joinder would obviate risks of contradiction in the decision rendered when related and indivisible facts are examined;

FOR THESE REASONS,

THE TRIBUNAL

ORDERS the joinder of the two accused Clément Kayishema and Obed Ruzindana in Case No. ICTR-95-1-T;

DECIDES that the trial date for Clément Kayishema shall consequently be postponed to the trial date set for Obed Ruzindana in Case No. ICTR-95-1-T, that is Thursday 20 February 1997 at 9:30 hours;

INSTRUCTS the Registrar to notify all parties concerned of this decision, including the Defense for Obed Ruzindana.

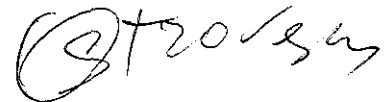
Arusha, 6 November 1996



Laity Kama
Presiding Judge



Lennart Aspegren
Judge



Yakov A. Ostrovsky
Judge

(Seal of the Tribunal)

