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THE INTERNATIONAL CRIMINAL TRIBUNAL (205-156)
FOR RWANDA

Case No. ICTR-95-1-A

IN THE APPEALS CHAMBER

Before: Judge Claude Jorda, Presiding
Judge Mohamed Shahabuddeen
Judge Lal Chand Vohrah
Judge Wang Tieya
Judge Rafael Nieto-Navia

Registrar: Mr. Agwu U. Okali

Date Filed: 25 November 1999

1999 NOV 25 P 6:45
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THE PROSECUTOR

v.

CLÉMENT KAYISHEMA
AND
OBED RUZINDANA

PROSECUTION MOTION FOR CORRECTION AND
CLARIFICATION OF THE TRIAL RECORD ON APPEAL

The Office of the Prosecutor:
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Senior Appeals Counsel

Counsel for Clément Kayishem:
Mr. Andre Ferran

Counsel for Obed Ruzindana:
Mr. Pascal Besnier

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1. BACKGROUND

- 1.1 By way of letter dated 29 July 1999, the Registrar of the International Criminal Tribunal for Rwanda ("ICTR"), acting pursuant to Rule 109 of the Rules of Procedure and Evidence, ("the Rules") purported to certify the record of proceedings in the case of *The Prosecutor vs. Clément Kayishema and Obed Ruzindana*, ICTR-95-1-T.¹
- 1.2 The "record of proceedings" as certified by the Registrar consists of:
- (1) 7 volumes of case files;
 - (2) an appeals file consisting of 1 volume;
 - (3) 62 diskettes of transcripts which contain electronic transcripts from each day's proceedings *between 13 October 1997 to 21 May 1999* in French (33 diskettes) and in English (29 diskettes);²
 - (4) 161 certified top pages (in French and English) which supposedly correspond with the respective first pages of the electronic transcripts on the diskettes; and
 - (5) the exhibits entered in the case.
- 1.3 Rule 109(A) of the *Rules* provides that the record on appeal shall consist of the parts of "the Trial Record" as certified by the Registrar.³

¹ See Annex A.

² The Prosecution notes that opening speeches in this case took place on 11 April 1997. (*Judgement*, 21 May 1999, para. 21.) Notwithstanding this fact, the Registry chose to only certify transcripts from 13 October 1997. Although the Prosecution has received electronic transcripts from proceedings that date back to 31 May 1996 from the Registry, no explanation has been provided by the Registry regarding why it certified only part of the trial record in this case.

³ As amended in plenary, Arusha, 1 July 1999.

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- 1.4 Rule 109(B) of the *Rules* provides that within 30 days of the certification of the "trial record" by the Registrar, the parties shall (by agreement) designate the parts of the record which, in their opinion, are necessary for the decision of the appeal.
- 1.5 Rule 109 (C) of the *Rules* further provides that if the parties fail to do this within 30 days of certification, each Party is to designate "to the Registrar, within sixty days of certification, the parts of the Trial Record which he considers necessary for the Appeal."
- 1.6 Pursuant to Rule 109A of the *Rules*, the parties have designated the following as the appeals record in this case::
- (1) all procedural elements in the case (motions, orders and decisions)
 - (2) all transcripts of proceedings before the Trial Chamber; and
 - (3) all exhibits entered by the parties.⁴
- 1.7 Pursuant to this designation, by way of letter dated 23 August 1999, the Registry certified as the trial record on appeal "the whole Trial Records" of the case and forwarded to the parties the items listed in its letter of 29 July 1999.⁵
- 1.8 The Prosecution has now examined the documents and other items sent by the Registry and, as explained below, submits that the materials submitted by the Registry do not properly constitute the trial record on appeal as designated by the parties.
- 1.9 Accordingly, the Prosecution makes this motion for correction and clarification of the trial record on appeal.

⁴ See Annexes "B", "C", and "D" attached. (Letters from M. Othman, dated 23 August 1999; A. Ferran, dated 7 July 1999; and P. Besnier, dated 4 July 1999.)

⁵ See paragraphs 1-1 and 1-2 above.

2. DISCUSSION.

2.1 As noted above, and in accordance with Rule 109B of the *Rules*, the parties have designated those parts of the record that are necessary for purposes of appeal in this case. Further, the Registry has transferred documents and materials which it purports to be the certified record of proceedings in this case. However, the Prosecution submits that the materials transferred by the Registry do not constitute the trial record on appeal as was designated by the parties pursuant to Rule 109. The specific concerns of the Prosecution are set out below.

(A) The Procedural Elements in this Case (Motions, Orders and Decisions)

2.2 The parties agreed that all procedural elements (motions, orders and decisions) filed with or by the Trial Chamber in this case would form part of the record on appeal. Specifically, these include all notices, motions, responses and replies by the parties (and attachments, if any) filed before the Trial Chamber, as well as all orders and decisions of the Trial Chamber itself. It is respectfully submitted that this is appropriate, as such material was placed before the Trial Chamber and available to it when considering the evidence in the case and in arriving at its Judgement.

2.3 The Prosecution acknowledges that the Registry has transferred to the Prosecution (and presumably to the other parties and the Appeals Chamber) seven volumes of material representing the "case files" in this case. However, the Prosecution has several concerns about the transferred materials. Primarily, much of the information contained in the files do not form part of the record on appeal as designated by the parties pursuant to Rule 109 of the *Rules*, and should not have been certified or transmitted to the parties as part of the record on appeal. The information which falls under this category are delineated and discussed below.

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(i) ***Confidential and/ or Privileged Work Product Materials***

2.4 The Registry has included in the transferred material, internal and confidential Office of the Prosecution documents which constitute privileged work product material in some instances. These include the following:

- (1) index document 47 (stamped as document 49). This document is a confidential document from the Prosecution to the Registrar transmitting confidential information about the arrest of an accused. This document should not have been transferred to any party and does not constitute part of the trial record;
- (2) index document 42 (stamped as document 44) is an internal Office of the Prosecution confidential communication that constitutes work product. The Office of the Prosecution does not know how the Registry acquired possession of this document, but nonetheless, this document was not part of the trial record in this case, should not have been transferred to any party, and cannot be considered part of the record of appeal; and
- (3) index document 41 (stamped as document 43) is an internal Office of the Prosecution memorandum transmitting confidential information to the Registrar about the arrest of Clément Kayishema. This should not have been distributed by the Registry to any Party and cannot be considered part of the record of appeal.

(ii) ***Pre-Trial Documents***

2.5 The transmitted volumes contain an abundance of pre-trial documents that the Prosecution submits are not part of the trial record on appeal. For example, index document numbers 13, 14, 15 and 16 (included and stamped as documents 14, 15, 16 and 17, respectively) are various versions of the supporting material/ documentation that accompanied the original Indictment upon confirmation. The Prosecution submits that this information was not available or put before the Trial Chamber in the first instance. Accordingly, it is submitted that this pre-trial information should not constitute part of the record on appeal.

- 2.6 In addition, other pre-trial documents and other information in the transmitted volumes do not fall under the umbrella of the record on appeal, as delineated in Rule 109 of the *Rules*. These documents include, for example, information relating to the arrest of the two accused (and other accused)⁶ and internal documents from the Registry to other governments concerning the transfer of arrest warrants and indictments.

(iii) *Correspondence Between the Parties and/ or the Registry*

- 2.7 The seven case volumes contain correspondence between the parties and/ or the Registry. These documents were not filed before the Trial Chamber, cannot be considered part of the trial record, and were not designated by the parties as constituting any part of the appeals record.
- 2.8 The Prosecution submits that before a Registry document, correspondence between the Registry and a Party, or correspondence between the parties themselves can become part of the official trial record, such correspondence or document must have been filed by either the Registry or a Party at trial.⁷
- 2.9 In light of the above, the Prosecution submits that it is necessary for there to be a clear identification of what documents in the case files submitted by the Registry constitute the record on appeal. Due to the state of the transferred files, the Prosecution submits that it is necessary for the Registry to transmit to the parties and the Appeals Chamber the following:
- (1) a certified list of all notices, motions responses and replies (and attachments, if any) filed before the Trial Chamber by the parties;
 - (2) a certified list of all orders and decisions of the Trial Chamber; and

⁶ The Prosecutor considers "pre-trial documents" as any document which pre-date the initial appearance of the accused before the Trial Chamber.

⁷ The Prosecutor notes that according to the Directive for the Registry of the International Criminal Tribunal for Rwanda, NO.2/98 Article 13 designates that a "case file" would contain all documents brought before a Judge or Chamber. Many of the documents that are included in this case file are internal Office of the Prosecutor or Registry documents that in no way should be included in a case file, much less the trial record or record on appeal.

(3) identify which document in the file are certified translations of original documents.

2.10 Those documents which the Prosecution submits fall under the purview of Rule 109 of the *Rules*, and which have been designated by the parties are delineated in Annex E to this Motion.

(B) The Transcripts of Proceedings

(i) English Transcripts

2.11 The Prosecution and the parties agreed that all transcripts of Trial Chamber hearings would be part of the record on appeal.⁸

2.12 The Prosecution acknowledges that the Registry has transmitted to the Prosecution (and presumably to the other parties and the Appeals Chamber) electronic transcripts on diskettes, and corresponding certified cover top pages.⁹ However, upon reviewing these items, it is apparent that the Prosecution did not receive a complete or accurate electronic record of the trial proceedings.

2.13 With respect to the English electronic transcripts and certified top cover pages, the Prosecution notes:

(1) In its 29 July 1999 letter, the Registry indicated that it was transferring to the Prosecution 161 certified top pages. However, the Prosecution received only 155 certified cover top pages. Furthermore, several of those certified cover pages appear to be duplicates. As a result, it is difficult for the Prosecution to ascertain if it is missing transcripts;

(2) The Prosecution received 29 disks with electronic files on them (labelled E.1 - E.29). Those disks, however, contain only 139 electronic files. As a result, the Prosecution submits that the electronic files do not match the corresponding certified top pages (either the 161 asserted by the Registrar or the 155 actually received by the Prosecution.)

⁸ See annexes "B", "C", and "D."

⁹ See Annex A. A "certified cover top page" is a hard copy of the first page of each transcript that was provided in electronic form. Meaning that for each electronic file, there should be a corresponding top page in hard copy that matches the first page on the electronic file.

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Accordingly, it is difficult for the Prosecution to determine whether it has received a complete record of the transcripts covering all trial proceedings which occurred;

- (3) The Prosecution was provided with certified top pages, but did not receive the corresponding electronic transcripts for the hearings on 21 March 1997 and 1 April 1997; and
- (4) The Prosecution was provided with certified top pages and corresponding electronic transcripts for the following dates, but upon review of the electronic transcript, the Prosecution has identified the following discrepancies:¹⁰
 - (a) **26 August 1998:** A closed session was held on this day. It is indicated in the electronic transcript on page 8, lines 20 - 21 that "At this point the in camera hearing was redacted from the transcript." The Prosecution has not been provided with an electronic transcript of this closed session. As a result, this electronic transcript is incomplete;
 - (b) **20 August 1998:** A status conference was held on this day. The Prosecution has received the electronic version and a certified top page of the status conference in French, but not in English;
 - (c) **25 June 1998:** The Prosecution has received two certified cover pages indicating that there are two transcripts from this day: a transcript of a 11:55 proceeding and a transcript of a 16:00 proceeding. The Prosecution has not, however, received an electronic transcript for the 16:00 status conference. As a result, this electronic transcript is incomplete;
 - (d) **16 June 1998:** The Prosecution received two identical certified top pages of 9:30 a.m. proceedings that occurred on that day. The Prosecution received an electronic transcript which covers motions that were heard on that day. In addition to the motions, a

¹⁰ The Prosecution notes that at this stage it has not been able to review every transcript in its entirety in order to determine whether the electronic transcript is complete. However, in light of the deficiencies identified below, it is clear that the record as certified is defective and that an accurate, reliable and complete record prepared by the Registrar for the use of the parties and the Appeals Chamber is required.

witness was also heard on that day. The transcript, in electronic form, does not contain the testimony of the witness who testified after the motions. As a result, this electronic transcript is incomplete;

- (e) **15 June 1998:** The Prosecution received two certified top pages indicating that there are two transcripts from this day: a transcript of a 9:30 a.m. proceeding and a transcript of a 9:50 a.m. proceeding. The Prosecution has not, however, received an electronic transcript for the 9:50 a.m. proceeding. After review of its records, it appears to the Prosecution that the electronic transcript from the 9:30 a.m. proceeding is the full transcript of the proceedings for that day. However, as the Prosecution has received a certified cover page indicating that there is another session at 9:50 a.m., the Prosecution needs the transcript from that session, or verification that there was no session that corresponds to the certified top page;
- (f) **13 March 1998:** The Prosecution did not receive a certified top page of this day. It did, however, receive an electronic transcript;
- (g) **12 March 1998:** The Prosecution did not receive a certified top page of this day. It did, however, receive an electronic transcript;
- (h) **11 March 1998:** The Prosecution did not receive a certified top page for this day. It did, however, receive an electronic transcript;
- (i) **10 March 1998:** The Prosecution received two copies of certified top pages for a 9:00 a.m. proceeding, two copies of certified top pages for a 9:30 a.m. proceeding, and two copies of certified top pages for a 10:00 a.m. motion that was heard on this date. However, the Prosecution did not receive in electronic form, transcripts which correspond to the 9:00 a.m. and 9:30 a.m. proceedings. After review of the its record, the Prosecution does not think that there were proceedings prior to 10:00 a.m., as indicated by the certified cover pages. However, after the conclusion of the 10:00 a.m. motion, the Prosecution presented witnesses 50 and 51, and there was a status

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conference. The electronic transcript received does not include the testimony of these witnesses or the status conference. As a result, this electronic transcript is incomplete;

- (j) **2 March 1998:** A closed session was held on this day. It is indicated in the electronic transcript on page 7, beginning on line 24 where it states "the following portion of the proceedings was redacted from the transcript herein and sealed under separate cover as the session was heard in camera." The Prosecution has not been provided with an electronic transcript of this closed session. As a result, this electronic transcript is incomplete;
- (k) **24 February 1998:** There were two separate electronic transcripts transferred to the Prosecution for this day: an electronic transcript from a 9:00 a.m. status conference and an electronic transcript from a 10:00 a.m. proceeding. The Prosecution only received a certified top page from the 10:00 a.m. session. The Prosecution notes, however, that the certified cover page of the transcript for the 10:00 a.m. proceeding does not match the first page of the electronic file (the dates differ). As a result, the Prosecution cannot determine if it has the appropriate transcript;
- (l) **12 November 1997:** A closed session was held on this day. It is indicated in the electronic transcript on page 8, lines 8 - 10, where it states "At this juncture a portion of the transcript was redacted since it was held in camera." The Prosecution has not been provided with a transcript of this closed session. This should be part of the trial record. As a result, this electronic transcript is incomplete;
- (m) **11 November 1997:** A closed session was held on this day. It is indicated in the electronic transcript on page 73, lines 23 - 25, where it states "At this point, a portion of the transcript was redacted because the sitting was held in camera." As a result, this electronic transcript is incomplete;

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- (n) **7 November 1997:** A status conference was held on this date. There is no record of this. Accordingly, the transcript record is incomplete;
- (o) **16 October 1997:** A status conference was held on this date. There is no record of this in the electronic transcript. Accordingly, the transcript record is incomplete;
- (p) **29 April 1997:** The Prosecution has received a certified top page for 29 April 1997, indicating that there is a transcript from a proceeding on that day that commenced at 9:30 a.m. The Prosecution has indeed verified that there was a proceeding on that day. However, the electronic transcript does not contain the morning session, which included the testimony of Witness I. Furthermore, the first page of the electronic transcript does not match the certified cover page, indicating that what was transferred in electronic form is not the certified transcript; and
- (q) **31 May 1996:** The Prosecution has received a certified cover page indicating that there is a transcript of a proceeding on this day. However, the first page of the electronic transcript and the certified cover page are not the same, indicating that what was transferred in the electronic form is not the certified transcript.

(ii) ***French Transcripts***

2.1.4 With respect to the French electronic transcripts and certified top cover pages the Prosecution notes the following:

- (1) In its certificate dated 29 July 1999, the Registry indicated that it was transferring to the Prosecution 161 certified top pages.¹¹ The Prosecution has received 160 cover pages, not 161. Furthermore, and as is noted below, several of those certified cover pages appear to be duplicates. As a result, it is difficult for the Prosecution to ascertain if it is missing any of the French transcripts;
- (2) One certified top page should correspond to the first page of one electronic file. The Prosecution received 33 disks with

¹¹ See Annex A.

electronic files on them. Those disks, however, contain only 156 electronic files. As a result, the Prosecution submits that the electronic files do not match the corresponding certified top pages (either the 161 as asserted by the Registrar or the 160 actually received by the Prosecution). As a result, it is difficult for the Prosecution to determine whether it has received the correct trial record;

- (3) The Prosecution was provided certified French top pages, but did not receive corresponding electronic transcripts for the following dates: 21 March 1997 and 6 November 1996; and
- (4) The Prosecution was provided certified top pages and corresponding electronic transcripts for the following dates, but upon review, the Prosecution has identified various discrepancies:
 - (a) **25 August 1998:** The Prosecution received two certified top pages of the 9:30 a.m. proceeding and two certified top pages of the 16:25 proceeding. It appears that they are duplicates since the Prosecution received one electronic transcript for each proceeding;
 - (b) **24 August 1998:** The Prosecution received two certified top pages of a 9:30 a.m. proceeding, but only one electronic transcript. It appears that they are duplicates since the Prosecution received only one electronic proceeding;
 - (c) **19 August 1998:** The Prosecution received two certified top pages of a 9:30 a.m. proceeding, but only one electronic transcript. It appears that they are duplicates since the Prosecution received only one electronic proceeding;
 - (d) **18 August 1998:** The Prosecution received two certified top pages of a 15:00 proceeding, but only one electronic transcript. It appears that they are duplicates since the Prosecution received only one electronic proceeding;
 - (e) **2 July 1998:** The Prosecution has not received the certified top page indicating that a session took place on that day. It did, however, receive an electronic transcript;

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- (f) **24 February 1998:** The Prosecution received two certified top pages for this day indicating that there was a proceeding at 9:05 a.m. (a status conference was held) and 10:30 a.m. However, the Prosecution only received the electronic version of the 10:30 a.m. proceeding. Accordingly, the transcript record is incomplete;
- (g) **9 February 1998:** A status conference was held on this date. There is no record of this. Accordingly, the transcript record is incomplete;
- (h) **7 November 1997:** A status conference was held on this date. There is no record of this either in the certified top page or in the electronic transcript provided to the Prosecution. Accordingly, the transcript record is incomplete;
- (i) **16 October 1997:** A status conference was held on this date. There is no record of this in the electronic transcript. Accordingly, the transcript record is incomplete;
- (j) **22 April 1997:** The Prosecution received two certified cover pages for this day, one indicating that there is a transcript of a 9:30 a.m. proceeding and the other one making no mention of the hour when the proceeding took place. After review of its records, it appears to the Prosecution that in the morning of that day an oral motion for witness protection was submitted and that witness F testified in the morning and in the afternoon of that day. It appears that the electronic transcripts of the motion and the morning session are missing. The Prosecution has only received the electronic transcript of the afternoon session. Accordingly, the transcript record is incomplete;
- (k) **21 March 1997:** The Prosecution received a certified top page indicating that a hearing was held on this day. The Prosecution, however, has not received the electronic transcript of this day. Accordingly, it appears that the transcript record is incomplete;
- (l) **6 November 1996:** The Prosecution received a certified cover page for this date, but did not receive

the electronic transcript for the same day. Accordingly, the transcript record is incomplete; and

- (m) **29 October 1996:** The Prosecution received the electronic transcript for this date. However, the Prosecution did not receive a certified cover page for this day.

2.15 Due to the inaccuracies that have been identified above, the Prosecution submits that it has not received a complete electronic record of the proceedings. As a result, the Prosecution requests that the Registry be ordered to rectify the above and to do the following:

- (1) compile a certified list of the dates the Trial Chamber sat from at least 11 April 1997;
- (2) to designate what occurred on each day of trial (i.e. which witnesses were heard, whether a motion was heard, and whether a status conference was held); and
- (3) to transmit that list to the parties and the Appeals Chamber, so that the parties can ensure that the electronic transcripts received are complete.

(C) **Prosecution and Defence Exhibits**

2.15 The parties have designated, pursuant to Rule 109 of the *Rules*, that the exhibits tendered by the parties during the trial constitute part of the record on appeal. On 25 October 1999, the Prosecution received copies of what the Registry certified as the exhibits of the parties in the case and has now reviewed those documents.¹²

2.17 The Prosecution has the following concerns with what was transferred by the Registry as certified copies of Prosecution exhibits:

¹² See *Prosecution's Notice of Receipt of Exhibits*, 26 October 1999.

(i) Witness Protection Issues

2.18 The Prosecution is concerned that some of the Prosecution exhibits which identify protected witnesses are not designated as confidential documents (or, in the alternative, properly redacted). In this case, the Prosecution filed two motions for the protection of Prosecution witnesses and victims. In both instances, the Trial Chamber ordered that the following measures, among others, be taken:

The names, addresses and other identifying information of the victims and witnesses, as well as their locations, shall be kept under seal and shall not be placed in any file at the Tribunal.

In cases where the names, addresses and other identifying information of the victims and witnesses, as well as their locations, appear in any existing files at the Tribunal, such information shall be expunged from the said files.¹³

2.19 During the trial, both parties attempted to identify when any identifying information of protected witnesses was included in a document or testimony, and asked that the information be removed from the record or otherwise redacted. This was difficult during a large part of the trial, as daily transcripts of the proceedings were not provided to the parties,¹⁴ nor were certified copies of the exhibits provided to the parties. Furthermore, at the close of the Prosecution case, the Prosecution reviewed the files of the Registry and brought to the attention of the Trial Chamber some witness protection concerns with the exhibits.¹⁵

2.20 Despite all of the above precautions, the parties in some instances may have inadvertently entered information identifying protected

¹³ 6 November 1996 Order (protective order measure delineated in paragraphs 3 and 4) and 31 January 1997 Order (protective order measure delineated in paragraphs 3 and 4).

¹⁴ This issue was raised repeatedly by the Prosecution, who made continuing motions, both written and oral, for the production of daily accurate transcripts. See for example, *Prosecution Motion for Daily Transcripts*, filed 28 April 1997, *Oral Motion for Daily Transcripts made by the Prosecutor*, English Electronic Transcript, 24 February 1998, page 10 line 21 and *Oral requests for Transcripts*, made by the Prosecution, English Electronic Transcript, 13 March 1998 beginning on page 43.

¹⁵ See English Electronic Transcript, 13 March 1998, beginning on page 34.

witnesses. The Prosecution submits that if any material does identify a protected witness, there is a continuing obligation on the Tribunal to ensure that the material is not transferred to the Public. Indeed, only the parties and the Appeals Chamber should have unedited versions of materials that identify protected witnesses. In no event should unredacted versions such documents be made available to the public or persons other than the parties.

- 2.21 Even in relation to such materials that are transferred by the Registry to the parties and the Appeals Chamber, the face of such materials or documents should clearly indicate that they are confidential, were stricken off the record at trial, were filed under seal, or were subject to an order of expungement, depending on the circumstances. It is incumbent on the Registry to designate these materials in such a way that it is apparent to the parties and the Appeals Chamber that they contain information regarding protected witnesses.
- 2.22 The Prosecution acknowledges that the majority of Prosecution exhibits which contain identifying information on protected witnesses are, in fact, properly identified as confidential documents in the Registry's list of Prosecution exhibits. However, after reviewing the exhibits supplied by the Registrar, the Prosecution notes the following:
- (1) Prosecution exhibit 32 contains confidential information that reveals the identity of a protected witness. This information should not be revealed to the public. On 22 April 1997 the Prosecution moved to have the identifying material expunged from both the transcripts and the exhibit, and that request was granted by the Trial Chamber.¹⁶ Furthermore, the Prosecution asked that this exhibit be sealed on 13 March 1998;¹⁷
 - (2) Prosecution exhibit 73 includes the picture of a protected witness;
 - (3) Prosecution exhibit 75 contains the name of a protected witness. On 13 March 1998, the Prosecution noted that the

¹⁶ See English Electronic Transcript, 22 April 1997 beginning on page 1, line 12.

¹⁷ See English Electronic Transcript, 13 March 1998, page 34 line 17.

exhibit contained the name of this witness and asked that it be redacted;¹⁸

- (4) The first page of Prosecution exhibit 76 contains the name of a protected witness. This was noted by the Prosecution on 13 March 1998 and the Prosecution asked that this document be sealed and a copy be made for the record which deletes the name of Witness O;
- (5) Prosecution exhibit 309 is a sealed exhibit. What has been transferred as Prosecution exhibit 309, however, is Prosecution exhibit 310, and what has been transferred as Prosecution exhibit 310 is in fact Prosecution exhibit 309. This needs to be rectified; and
- (6) Prosecution exhibit 346 identifies the name of a protected defence witness.

2.23 The Prosecution submits that pursuant to the above mentioned orders,¹⁹ and the Tribunal's continuing obligation to the witnesses that testified before the Trial Chamber, the above identified Prosecution exhibits should also be considered confidential documents and should not be released to the public until redacted appropriately by the Registry.

(ii) Translation of Documentary Exhibits

2.24 The Prosecution is also concerned that the record on appeal does not contain certified translations of the exhibits that were tendered by the parties during the trial.

2.25 In this case, the original of an exhibit was either in French, English or Kinyarwanda. The working languages of the Tribunal are French and English. During trial, if the translation of an exhibit (into French or English) had been finalised by the Registry, the translation was also formally submitted at the time that the exhibit was being entered into evidence. However, on most occasions, and with respect specifically to Prosecution Exhibits, the Registry provided working draft translations to the parties and the Trial Chamber, with final translation and certification of the translation the responsibility of the Registry. This issue was brought up repeatedly during trial and it was clear

¹⁸ *Ibid.* page 38, line 12.

¹⁹ See para 2.13 above, Fn 11.

that the Registry was to provide final certified translations of the exhibits to the parties and the Trial Chamber.²⁰

2.26 As transferred, the majority of exhibits do not contain certified translations. However, it is important that the record on appeal contain a copy of an exhibit (in its original form), as well as a proper certified translation. Below are some exhibits which do not have corresponding certified translations in either or both official languages of the Tribunal:

- (1) Prosecutions Exhibits 51, 52, 77, 79, 81, 82, 83, 84, 86, 87, 88, 89, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 332, 333, 334, 335, 336, 337, 338, 339, 341, 342, 343, 344, 345 and 346 were provided only in French;
- (2) Prosecution Exhibits 294(A) and 345 were provided only in English; and
- (3) Prosecution Exhibits 297 and 341 are provided only in Kinyarwanda.

(iii) Inaccuracies and other Problems Relating to Prosecution Exhibits

2.27 Prosecution exhibit 76 is not identified or marked correctly. Prosecution exhibit 76 is the entire agenda of Witness O. While the agenda is included in the list of exhibits, it is marked as exhibit 76(A). Prosecution exhibits 76(a-t) referred to specific dates in the agenda about which the witness was questioned by the Prosecution. Certain portions of the said exhibits were put to a witness as an alleged prior inconsistent statement and were then highlighted in the exhibit. Those portions are not apparent in the exhibits forwarded by the Registry.²¹

2.23 Prosecution exhibits 78(A) and 78 are mislabelled. The Prosecution exhibit marked 78(A) is the French report, while that marked exhibit 78 is, in fact, the English translation.

2.29 Prosecution exhibit 103(A) is identified as the English translation to Volume I of an expert witness report. The Prosecution was

²⁰ The issue of certified translations of exhibits was brought up repeatedly by both parties during trial. See for example English Electronic Transcript 13 March 1998, page 41 line 12.

²¹ See Testimony of Witness O (13 October 1997).

transferred two versions of this document.²² The Prosecution notes that during trial, the Prosecution detected a serious translation error in Prosecution exhibit 103(A) and asked that the previous version be removed from the record and replaced with the correct translation and this was in fact done.²³ As a result, it is imperative that the record contain an accurate and final version, and not the erroneous version that was first filed.

- 2.30 In addition, it appears that also included in exhibit 103(A) are the last pages of exhibit 103(B). These should be removed.
- 2.31 Prosecution exhibit 103(B) is identified as the English translation to Volume II of an expert witness report. Missing is the translation of the last annexes (Annexes 20-21.) English translations to these annexes appear, however, to be included in Prosecution exhibit 103(A). As a result, the Prosecution submits that several pages that were included in Prosecution Exhibit 103(A) are in fact the last pages of Prosecution Exhibit 103(B). This needs to be rectified.
- 2.32 Two copies of Prosecution 104(A) were transferred to the Prosecution.²⁴ The Prosecution notes that there should just be one certified original of Prosecution Exhibit 104(A) and asks for clarification as to which is the certified exhibit.
- 2.33 Prosecution Exhibit 108(A). Two different articles were transferred as certified originals of this exhibit. The original Prosecution Exhibit was the article in French titled "The Final Solution of the Prefect of Kibuye." The Prosecution respectfully asks that the Appeals Chamber order the Registrar to so certify and amend the index accordingly.
- 2.34 Prosecution Exhibit 219(A). A full copy of this exhibit has not been provided to the Prosecution.
- 2.35 Prosecution Exhibit 331(A). A full copy of this exhibit has not been transferred to the Prosecution.
- 2.35 Prosecution exhibit 337 is an original letter signed by Clément Kayishema. The copy that was provided to the Prosecution is

²² Both versions were contained in Volume II of the Prosecution Exhibits.

²³ English Electronic Transcript 13 March 1998, page 39 line 15.

²⁴ One version was transferred in Volume III, Prosecution Exhibits file. A second version was transferred in Volume II, Prosecution Exhibits file..

incomplete in that it contains only the first page. A full copy of this exhibit needs to be included in the record.

2.37 Prosecution exhibit 348 is a copy of a hand-written letter, authored by Clément Kayishema, with parts which he did not write highlighted by him. A copy of this exhibit, with its corresponding highlights, has not been transferred to the Prosecution.

2.38 Prosecution exhibits 349(A) and 350(A) were transferred as confidential exhibits. These are the taped interviews of the accused Clément Kayishema. Although they were entered in sealed envelopes, so as to preserve their integrity, for the sake of accuracy, the Prosecution notes that they are not sealed exhibits.

(iv) Inaccuracies and other Problems Relating to Defence Exhibits

2.39) The Prosecution has the following concerns with respect to the defence exhibits that were transferred by the Registry.

a) Defence Exhibits are not Properly Marked

2.40) Pursuant to an Order of the Trial Chamber, if a party perceived that there was a contradiction between the oral testimony of a witness and what was contained in a previous written statement of that witness, that part of the statement (the alleged prior inconsistent statement / contradiction) was to be put to the witness and the witness was given a chance to explain the alleged contradiction.²⁵

2.41) After an explanation by a witness, if a Party still believed that there was a contradiction between the testimony and the written statement of the witness, the witness' written statement was to be entered into evidence, with the alleged contradiction clearly marked for later consideration by the Trial Chamber. The defence on several occasions followed this procedure, exhibited previous statements of prosecution witnesses. The extracts alleged to amount to contradictions were identified and given specific exhibit numbers. Pursuant to this Order, the tendering party was to mark the designated portion of its exhibit accordingly.

²⁵ See, *Order on the Probative Value of Alleged Contradiction between the Oral and Written Statement of a Witness During Examination*, 17 April 1997.

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2.42 In many cases, the Prosecution submits that what was transferred to the parties as the certified exhibits are not properly marked, in accordance with the Order detailed above. Some examples of this are provided below:

- (1) Defence exhibit 2(a) appears to contain two markings, (a) and (b). However, the copies themselves are not clearly marked;
- (2) Defence exhibit 3 is not clearly marked or described. The description of it in the index indicates that various sentences are marked and underlined as Defence exhibits 3(a) - (g). This is not done in the exhibit. Some are clearly marked and underlined, while others are not;
- (3) The description for Defence exhibits 4(a) and 4(b) indicates that it is "paragraphs 8 and 9" of the statement. What is marked on the English version is two parts of paragraph 12. As a result, the marking does not correspond to the description. The French version is not marked;
- (4) Defence exhibit 5 is not clearly marked. The Description indicates that it is the last two lines of the statement of witness X. However, part of paragraph 6 appears to be indicated as the marked portion;
- (5) Defence exhibit 7(A) and 9(A) need to be properly marked in both the English and French versions;
- (6) Defence exhibit 10(a) is not clearly marked and entered as indicated in the record.²⁶ Further the Prosecution submits that the description of this exhibit is wrong. It states that paragraph 2 is the part of the Statement which was entered as the exhibit. When one checks the record it is not paragraph 2 as described. Rather, it is the second paragraph on the second page.²⁷ An accurately identified and marked defence exhibit needs to be transmitted to the parties;
- (7) Paragraph 14 should be clearly marked as Defence exhibit 11(a) in all versions; and
- (8) Defence exhibit 12a, while described properly in the index, is not properly marked. Paragraph 23 should be clearly

²⁶ See page 101, line 2 (18 November 1997 English Electronic Transcript).

²⁷ *Ibid* page 98, line 20.

marked as Defence exhibit 12(a) in both the English and French versions.

b) Other Deficiencies in Relation to Defence Exhibits

- 2.43 The Prosecution has other concerns with the defence exhibits as transferred to the parties by the Registry.
- 2.44 Attached to Defence exhibit 13 (which is in English only) is a page in French. This is not part of Defence exhibit 13.
- 2.45 It is clear in the record that Defence exhibit 15 was the complete statement of Witness H (in French and English).²⁸ This is not what has been transferred to the Prosecution as Defence exhibit 15. The Prosecution asks for an accurate and certified copy of Defence exhibit 15.
- 2.46 Defence exhibit 16, with the appropriate parts designated, was not transferred to the Prosecution.
- 2.47 Defence exhibit 19 consists of three documents. The Prosecution submits that Defence Exhibit 19, as transferred, is not accurate and its description in the index is also inaccurate.
- 2.48 Defence exhibit 20, is a copy of Prosecution exhibit 342, with page numbers highlighted by the defence. Defence exhibit 20, as transferred, is not highlighted as described and its description in the index is also not accurate.
- 2.49 Defence exhibit 32 was not transferred to the Prosecution.
- 2.50 Defence exhibit 41(b), the English translation of Dr. Pouget's report, was not transferred to the Prosecution.
- 2.51 Defence exhibit 40(b), the English translation of Dr. Pouget's *curriculum vitae*, was not transferred to the Prosecution.
- 2.52 Defence exhibit 42(A) and (B) purport to be certified copies of Part VI of Dr. Pouget's Report in French and in English, respectively. What was transferred as the certified copy of Defence exhibit 42(A) appears to contain more than this. Part VI of his report in French is 25 pages, while what was transferred as the English Translation, Defence Exhibit (42)(B) is only 3 pages.

²⁸ See page 133, line 5 (English Electronic Transcript 17 February 1998).

- 2.53 There were two accused in this case. At times, the defence for Kayishema would enter an exhibit and at times the defence for Ruzindana would enter an exhibit. It is not clearly delineated on each exhibit which Party entered it into evidence. The tendering party becomes apparent when one reviews the list of defence exhibits along with the corresponding portions of the transcript. Notwithstanding this, it is submitted that the index forwarded by the Registry should make this distinction.
- 2.54 For the reasons given in paragraphs 2.38 to 2.52 above, the Prosecution submits that the Registry should review the Defence exhibits that it certified and forwarded to the parties, and cure the deficiencies highlighted above to ensure that a consistent and accurate record of appeal is available to the parties and the Appeals Chamber when determining the matter before it.

3. RELIEF REQUESTED

3.1 With respect to the materials submitted in the 7 case files the Prosecutor requests that the Appeals Chamber:

- (1) Order the Registry to provide to the parties and the Appeals Chamber, a certified list of the following:
 - (a) all written notices, motions and responses filed by the parties (and attachments, if any) from the initial appearance of Clément Kayishema on 1 May 1996; and
 - (b) all orders and decisions issued by the Trial Chamber in this case after the initial appearance of Clément Kayishema on 1 May 1996.
- (2) order the Registry to identify which document (in the documents transferred) is the final certified French and English record of each document; and
- (3) order the Registry to cure the errors and omissions in the record of appeal identified by the Prosecution in paragraphs 2.2-2.5 above.

3.2 With respect to the electronic transcripts of the proceedings that were transferred to the Prosecution and presumably to the other parties and the Appeals Chambers, the Prosecution asks that the Appeals Chamber:

- (1) order the Registry to provide to the parties and the Appeals Chamber a certified list of the hearing dates before the Trial Chamber from 1 May 1996, with a designation as to what occurred on that day (i.e. which witnesses were heard, whether a motion was heard, whether a status conference was held, and in the event that there was a closed session, a designation of that closed session);
- (2) order the Registry to produce a public record of the proceedings that has been adequately redacted for witness protection concerns; and

- (3) order the Registry to cure the errors and omissions in the record of appeal identified by the Prosecution in paragraphs 2.12 – 2.15 above.

3.3 With respect to the transferred exhibits, the Prosecution asks that the Appeals Chamber:

- (1) order the Registry to ensure that the Prosecution Exhibits 32, 73, 75, 76, 309 and 310 are identified as confidential exhibits and not released to the public, unless all identifying information of protected witnesses are redacted;
- (2) order the Registry to indicate what exhibits are original exhibits tendered by the parties, and to produce and identify in an index what the certified translations of these exhibits are;
- (3) order the Registry to cure the errors and omissions in the record of appeal identified by the Prosecution in paragraphs 2.19 – 2.52 above.

2-11-99

Upawansa Yapa
Senior Appeals Counsel

Dated this 25th day of November 1999,
At The Hague, Netherlands

INTERNATIONAL CRIMINAL TRIBUNAL
FOR RWANDA

THE PROSECUTOR

V.

CLÉMENT KAYISHEMA
AND
OBED RUZINDANA
CASE NO. ICTR-95-1-A

ANNEX A

TO

Motion for correction and clarification of the
record on appeal

Letter from A. U. Okali dated 29 July 1999



International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda

Arusha International Conference Centre
P.O. Box 6016, Arusha, Tanzania - B.P. 6016, Arusha, Tanzania
Tel: 255 57 4207-11/4367-72 or 1 212 963 2850 Fax: 255 57 4000/4373 or 1 212 963 2848/49

REGISTRY CERTIFICATE ON THE RECORD IN CASE NO. ICTR-95-I-A
THE PROSECUTOR VS. CLEMENT KAYISHEMA AND OBED RUZINDANA.

I, Agwu U. OkALI, Registrar of the International Criminal Tribunal for Rwanda, Pursuant to Rule 109 a of the Rules of Procedure and Evidence, hereby certify the record of proceedings in the case of the Prosecutor vs. Clément Kayishema and Obed Ruzindana, Case No. ICTR-95-I-A and Appeal record of the same case, which consists of true copies of the following document:

- A-
- 1- Case files 7 Volumes
 - 2- Appeal file 1 Volume
 - 3- Diskettes of Transcripts 62:
 - 33 French Diskettes
 - 29 English Diskettes

B- The 7 volumes of the case files containing 7 Indexes Files. One for each index describing the enclosed documents.

C- The Appeal File describing the natures of each document included in the file.

D- The Transcripts on diskettes¹ containing all hearings held in the case of Clement Kayishema and Obed Ruzindana from 13 October 1997 to 21 May 1999.

E- 161 certified top pages of all the transcripts in french and in English.

F- The exhibits, which have been outsourced for reproducing, will be sent as soon as possible.

Dated 29 July of 1999
Arusha, Tanzania


Agwu U. Okali,
Registrar.

INTERNATIONAL CRIMINAL TRIBUNAL
FOR RWANDA

THE PROSECUTOR

V.

CLÉMENT KAYISHEMA
AND
OBED RUZINDANA
CASE NO. ICTR-95-1-A

ANNEX B

TO

**Motion for correction and clarification of the
record on appeal**

Letter from M. Othman dated 23 August 1999



**International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

Arusha International Conference Centre
P.O. Box 6016, Arusha, Tanzania - B.P. 6016, Arusha, Tanzanie
Tel: 255 57 4207-11/4367-72 or 1 212 963 2850 Fax: 255 57 4000/4373 or 1 212 963 2648/49

23 August 1999

Ms. Felicité Talon Ahouandogbo
Appeals Officer
ICTR - ARUSHA

Subject: ICTR-95-1T Prosecutor vs. Clement Kayishema & Obed Ruzindana
Certification of Records for Appeal (Article 109)

Further to the letter of the Defense Counsel for Obed Ruzindana, dated 4th July 1999 and that of the Counsel for Clement Kayishema, dated 7th July 1999, the Office of the Prosecutor also wishes to designate the same dossiers, documents & exhibits as trial records for the purpose of the Appeal.

These consists of;

- all procedural elements (Motions, Orders & Decisions)
- all transcripts of Trial Chamber hearings
- all exhibits

These records should be sent to the attention of Mathias Marcussen, Legal Adviser, Office of the Prosecutor, The Hague.

Thanking you in advance for your cooperation.

Mohamed C. Othman
Chief of Prosecution

c.c. Ms. Prisca Nyambe
Chief, Court Management Section

Mathias Marcussen, Legal Adviser
Wen-qi/K. Khan, Legal Advisers

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INTERNATIONAL CRIMINAL TRIBUNAL
FOR RWANDA

THE PROSECUTOR

V.

CLÉMENT KAYISHEMA
AND
OBED RUZINDANA
CASE NO. ICTR-95-1-A

ANNEX C

TO

Motion for correction and clarification of the
record on appeal

Letter From A. Ferran dated 7 July 1999

ICTR COMMUNICATIONS CENTRE RECEIVED FERRAN - VINSONNEAU - NOY

SOCIETE CIVILE PROFESSIONNELLE D'AVOCATS

1999.07.08 08:06

André FERRAN
D. de Science Criminelle
Spécialité : Droit Pénal
Ancien Directeur de l'Ordre
Membre de l'Institut National des Barreaux
Carole VINSONNEAU
Spécialité en Droit Public
Spécialité en Droit des Médecins et d'Éducation
Laureat de l'Ordre
Véronté NOY

AVOCATS ASSOCIES

ENCADRE JURIDIQUE

Anthony CHARENT
CESS Droit Social
Stéphane ROCHIGNEUX
Eric CHIFFAGNE DE LABROLLE
Valérie LEJANE-DUPUY
Sophie HEREMAT
DEA Droit Privé

AVOCATS A LA COUR

Leslie UNWIEU
JURISTE

Antoine K.M. MINDUA
Legal Officer
Court Management Section
ICTR - ARUSHA
Fax: 255 57 4000

1999 JUL - 9 A 8:44
CRIMINAL REGISTRY RECEIVED

Montpellier, le 7 juillet 1999

AF : KAYISHEMA CLEMENT / M.P.
Dossier N° 0012468
Vos Réf : ICTR 95 / T-SUBJUDICIAL CALENDAR

To Mrs. Lilibeth T.
for your action please.
[Signature]

Cher Monsieur,

Suite à l'acte d'appel du 21 juin 1999, dont vous m'avez accusé réception le 2 juillet 1999, nous faisons application des dispositions de l'article 109 du Règlement de Procédure et de Preuve, relatif à la certification du dossier par le Greffier.

Ce dossier est normalement constitué :

- des éléments de la procédure (requêtes et ordonnances),
- de l'ensemble des procès-verbaux d'audiences,
- de toutes les pièces à conviction présentées par les parties.

Eu égard aux délais impératifs que fait courir la certification quant au dépôt du mémoire de l'appelant, il me semble utile que vous indiquez l'état d'avancement de ce travail et la date approximative de son achèvement.

.../...

En application de l'article 2270 du Code Civil, les Juges ainsi que les personnes qui ont agi en vertu de leur mandat sont déchargés des pièces ainsi que après le jugement ou la cessation de leur mandat.

4, RUE TRESORIERS DE LA BOURSE - 34000 MONTPELLIER - TEL. 04 67 60 47 57 - FAX 04 67 60 72 13
N°MET 25141527104019

membre d'une association de gestion agréée, le règlement par chèques est accepté

A toutes fins utiles, je demeure à votre entière disposition pour tout renseignement, que je ne manquerai pas de vous communiquer.

Enfin, j'ai pris bonne note de ce que le texte intégral du jugement rendu le 21 mai 1999 serait disponible le 7 juillet prochain, et je vous remercie de bien vouloir faire le nécessaire pour que les versions française et anglaise de ce document me soient adressées dans les plus brefs délais que possible, ainsi qu'à mon conseil adjoint, Maître Philippe MORICEAU.

Dans cette attente,

Je vous prie d'agréer, Cher Monsieur, l'expression de mes sentiments très distingués.

Antonie A. FERRAN

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INTERNATIONAL CRIMINAL TRIBUNAL
FOR RWANDA

THE PROSECUTOR

V.

CLÉMENT KAYISHEMA
AND
OBED RUZINDANA
CASE NO. ICTR-95-1-A

ANNEX D

TO

Motion for correction and clarification of the
record on appeal

Letter from P. Besnier dated 4 July 1999

04-JUL-99 11:05

76

RECEIVED
1999 JUL 5 A 8:08

Pascal BESNIER

Avocat à la Cour

72, rue de Rochechouart - 75009 PARIS

Tél. et Fax: (33) 1 53 21 03 21

Touche R 630

Paris, le 4 juillet 1999

Monsieur Antoine MINDUA
Legal Officer
Court Management Section
ICTR - ARUSHA

Fax : 1 212 963 2848

Ref: ICTR 95 IT - Obed RUZINDANA - Procédure d'Appel.

Cher Monsieur,

J'ai bien reçu votre courrier du 1^{er} juillet courant me confirmant la bonne réception de l'Acte d'appel de Monsieur Ruzindana, et je vous en remercie. Je pense qu'entre-temps vous aurez reçu l'original de ce document, expédié par DHL le 21 juin dernier. Je dispose également d'une copie électronique de l'Acte d'appel que je suis en mesure de vous transmettre par e-mail si vous prenez soin de me faire connaître l'adresse du destinataire. Mes propres coordonnées sont : defense75@hotmail.com.

Comme vous le savez, nous devons désormais mettre en œuvre la procédure prévue à l'article 109 du Règlement de Procédure et de Preuve qui évoque, en ses paragraphes A), B) et C) la certification du dossier par le Greffier. Or les appels successifs de la défense et du Procureur ont affecté l'ensemble du Jugement rendu le 21 mai 1999, de sorte que tout le dossier doit être certifié ce qui devrait, je l'espère, simplifier votre tâche.

Selon moi, ce dossier est donc constitué :

- des éléments de la procédure (requêtes et Ordonnances) ;
- de l'ensemble des procès-verbaux d'audiences ;
- de toutes les pièces à conviction présentées par les parties .

J'attire votre attention sur le fait que la certification du dossier fait courir plusieurs délais importants, notamment celui du dépôt du mémoire de l'appelant. Il me semble donc utile que vous indiquiez aux parties l'état d'avancement de ce travail de certification et la date

RECEIVED

04 JUL 1999

ACTION:

COPY: 2

CMS

SEULEMENT DANS UNE ASSOCIATION SOUSCRITE, LE REGLEMENT DES MEMBRES PAR CHECKER EST ACCEPTÉ

34-JUL-99 17:03

2

approximative de son achèvement. Bien entendu, je me tiens à votre entière disposition pour vous fournir toute l'aide que vous jugerez utile et appropriée en cette occasion.

Enfin, j'ai pris bonne note de ce que le texte intégral du Jugement rendu le 21 mai 1999 serait disponible le 7 juillet prochain, et je vous remercie de bien vouloir faire le nécessaire pour que les versions française et anglaise de ce document me soient adressées aussitôt, ainsi qu'à mon conseil adjoint, Mr Van der Griend.

Dans cette attente je vous prie de croire, Cher Monsieur, en l'assurance de mes sentiments dévoués.



Pascal BESNIER

Copies : Bureau du Procureur - Me Ferran.

INTERNATIONAL CRIMINAL TRIBUNAL
FOR RWANDA

THE PROSECUTOR

V.

CLÉMENT KAYISHEMA
AND
OBED RUZINDANA
CASE NO. ICTR-95-1-A

ANNEX E

TO

Motion for correction and clarification of the
record on appeal

The Prosecution submits that, pursuant to Article 109 and the Designation of the Parties, accurate certified copies of the following documents would constitute part of the record on appeal in this case. The Prosecution has designated the corresponding index and stamp number of each document for those documents that were included in the file sent by the Registry. The Prosecution notes, however, that there are instances where documents are missing, not provided in both languages, or provided in an incomplete form. The Prosecution has identified any deficiencies that it could detect and notes that certified copies of the originals of all filed documents need to be provided to the Parties and the Appeals Chamber before certification of the record can be completed.

No.	Title	Date	Filing date	Pages	Index No.	Stamp No.	Vol.	Remarks
1	<i>Decision: Order for the Continued Detention Awaiting Trial.</i>	31/05/96	9/07/96	186-185 322 - 321	64 (E) 65 (F)	67 (E) 68 (F)	2	
2	<i>Exceptions prejudiciables (Kayishema).</i>	26/07/96	05/08/96	358bis - 326bis	69 (F)	72 (F)	2	English version missing
3	<i>Response to the Preliminary Motions Brought Forth by the Defense.</i>	02/09/96	04/09/96	199 - 191 366bis - 359 bis	70 (E) 71 (F)	73 (E) 74 (F)	2	Filing date illegible on English copy
4	<i>Conclusions de la défense.</i>	24/10/96	25/10/96	430bis - 396 bis	80 (F)	83 (F)	2	English version missing
5	<i>Décision quant à la requête en exception préjudicielle introduite par la défense.</i>	06/11/96	14/11/96	440bis - 436 bis	89 (F)	92 (F)	2	English version missing
6	<i>Motion by the Office of the Prosecutor for Orders for Protective Measures for Victims and Witnesses of Crimes Alleged in the Indictment plus exhibits A and B.</i>	01/08/96 ...	04/09/96	214 - 200 379 bis - 367 bis	72 (E) 73 (F)	75 (E) 76 (F)	2	No doc. date on French copy
7	<i>Réponse à la requête en exception introduite par le Bureau du Procureur aux fins que soient ordonnées des mesures destinées à assurer la protection des victimes et des témoins des crimes allégués dans l'acte d'accusation.</i>	24/10/96	25/10/96	430 bis - 396 bis	80 (F)	83 (F)	2	English version missing
8	<i>Decision on the Motion filed by the Office of the Prosecutor for Orders for Protective Measures for Victims and Witnesses (Kayishema).</i>	06/11/96	14/11/96	247 - 243 445 bis - 441 bis	90 (E) 91 (F)	93 (E) 94 (F)	2	
9	<i>Decision on the Motion by the Office of the Prosecutor for a Joinder of Accused and Setting the Date for Trial.</i>	06/11/96	14/11/96	448 bis - 446 bis 250 - 248	92 (F) 93 (E)	95 (F) 96 (E)	2	
10	<i>Defence Motion for a Hearing on Disclosure of Evidence (Ruzindana).</i>	19/11/96	08/02/97	526 bis - 523 bis	112 (E)	116 (E)	2	French version missing
11	<i>Office of the Prosecutor's Response to a Defense Request for a Hearing on Discovery Issues</i>	11/12/96	17/02/97 illegible	406-403 illegible	138 (E) 140 (F)	146 (E) 149 (F)	3	

12	<i>Motion by the Office of the Prosecutor for Orders for Protective Measures for Witnesses in Criminal Proceedings in the Indictment and Brief in Support of the Motion.</i>	...	5/12/96	351 - 337	100 (F&F)	103 (E&F)	2	No doc. dates Page numbers illegible on copies
13	<i>Defense Response to the Motion by the Office of the Prosecutor for Orders for Protective Measures for Prosecution Witnesses and Victims.</i>	24/01/96	27/01/96	522 bis - 518 bis	109 (F)	114 & 115 (F) 119 (E)	2	
14	<i>Décision quant à la requête du Procureur concernant la protection des victimes et des témoins (Ruzindana).</i>	31/01/97	28/02/97	361 - 357 588 bis - 584 bis 454 - 450	149 (F) 150 (E)	161 (F) no stamp	3	
15	<i>Décision quant à la requête du Procureur concernant la protection des victimes et des témoins/Corr (Ruzindana).</i>	04/03/97	13/03/97	699 bis - 694 bis 494 - 490	179 (F) 177 (E)	207 (F) 205 (E)	3	
16	<i>Defense Preliminary Motions (Ruzindana).</i>	... 27/12/96	08/01/97 06/02/97	515 bis - 505 bis 369 - 362	103 (F) 115 (E)	106 (F) 120 & 121 (E)	2	No doc. date on French copy.
17	<i>The Prosecutor's Response to Preliminary Motions filed by the Defense in Case NO's ICTR 95-1-T and ICTR 96-10-T.</i>		17/02/97	414 - 409	143 (E)	151 (E)	3	French version missing No doc. date
18	<i>Conclusions de la défense en réplique aux observations du Procureur sur les exceptions préjudicielles.</i>		12/03/97 13/03/97	685 bis - 679 bis 489 - 484	168 (F) 176 (E)	192 (F) 201 (E)	3	No doc. dates
19	<i>Decision on the Preliminary Motions Filed by the Defense (Ruzindana).</i>	21/03/97	24/03/97	519 - 514 728 bis - 729 bis	190 (E) 192 (F)	no stamp 222 (F)	3	
20	<i>Request by the Office of the Prosecutor for Permission to Make a Copy in Front of a Judge of the Tribunal of the Tape of the Questioning of Clément Kayishema (French and English Versions) with attached letter</i>	17/01/97	17/01/97	...	104 (E&F)	107 (E&F)	2	No page numbers indicated.
21	<i>Motion to Withdraw the Request by the Office of the Prosecutor for Permission to Make a Copy in Front of a Judge of the Tribunal of the Tape of the Questioning of Clément Kayishema</i>	...	04/03/97 20/03/97	459-458 721 bis - 717 bis	158 (E) 187 (F)	no stamp 219 (F)	3	No doc. dates

33	<i>Additional information filed by the Office of the Prosecutor in Conjunction with its Response of 28/04/97 to the Motion filed by Mr. Ferran in Application of Article 20 (2), (4) B of the statute of the Tribunal</i>	20/04/97	05/05/97 29/04/97	Illegible 853 bis - 851 bis	236 (E) 235 (F)	271 (E) 267 (F)	4	
34	<i>Order on the Motion by the Defence Counsel for Application of Article 20 (2) and (4) (b) of the statute of the International Criminal Tribunal for Rwanda</i>	05/05/97	05/05/97 30/05/97	595 - 592 876 bis - 872 bis	240 (E) 251 (F)	no stamp no stamp	4	
35	<i>Motion by the Office of the Prosecutor for Confirmation of the Trial Date in the above Captioned Case and Submission of Amended Indictment for ICTR 95-1-T.</i>	...	26/03/97 08/04/97	530 - 529 illegible (749 bis -?)	195 (E) 203 (F)	225 (E) 231 (F)	3	No doc. dates and illegible page number in English version.
36	<i>Superseding Indictment.</i>	26/03/97	26/03/97	528 - 521 (?) 737 bis - 729 bis	194 (E) 193 (F)	no stamp 223 (F)	3	Illegible page numbers in English version.
37	<i>Réponse de la défense a la requête introduite par le Parquet aux fins de confirmation de la date du procès et de présentation d' un acte d'accusation modifié pour l' affaire ICTR-95-1-T.</i>	09/04/97	10/04/97 24/04/97	760 bis - 750 bis 576 - 571	207 (F) 226 (E)	no stamp 257 (E)	4	
38	<i>Decision on the Motion Filed by the Prosecutor for Confirmation of the Trial Date and Submission of a Superseding Indictment.</i>	10/04/97	14/04/97	563 - 566	216 (E)	no stamp	4	French version missing
39	<i>First amended indictment.</i>	11/04/97	11/04/97	558 - 549	211 & 210 (E)	242 (E)	4	Duplicate of English version.
40	<i>Order on the Probative Value of Alleged Contradiction between the Oral and Written Statement of a Witness During Examination.</i>	17/04/97	21/04/97	771 bis - 761 bis 570 - 568	212 (F) 222 (E) 234 (F)	243 (F) no stamp no stamp	4	

41	Prosecutor's Motion for Verification and Correction of Translation Errors in Witness E and Witness C's Testimony.	...	28/04/97 30/04/97	580 - 578 856 bis - 854 bis	228 (E) 236 (F)	illegible no stamp	4	No doc. dates
42	Decision on the Prosecutor's Motion for Verification and Correction of Errors in the Translation of witnesses E and C's Testimonies.	08/05/97	21/05/97 27/05/97	605 - 602 868 bis - 866 bis	245 (E) 248 (F)	illegible illegible	4	
43	Prosecutor's Motion for Daily Transcripts of Proceedings.	...	28/04/97	582-581 858 bis - 857 bis	229 (E) 237 (F)	no stamp no stamp	4	No doc. dates
44	Order on the Oral Request by the Prosecutor to Withdraw its Motion for the Provision of Daily Transcripts of Proceedings	08/05/97	08/05/97	601 - 599 illegible	244 (E) 250 (F)	no stamp no stamp	4	Page numbers in French copy illegible.
45	Requête en exception introduite par la défense aux fins que soient ordonnées des mesures de protection des témoins.	23/06/97 09/07/97	18/06/97	Illegible 618 - 616	253 (F) 254 (E)	no stamp no stamp	4	Page numbers in French copy illegible
46	Justification de la requête en exception introduite par la défense aux fins que soient ordonnées des mesures de protection des témoins et précisions quant aux mesures demandées. Attachments: Affidavit of Oyvind Olsen, Article: Security on Rwanda, Newspaper Article, Motion by Ndayambaje, Report of Ecosoc.	26/09/97 26/09/97	26/09/97 07/10/97	883 bis - 881 bis 641 - 639	258 (F) 272 (E)	no stamp stamp 304 (E)	4	Attachments missing
47	Response by the Office of the Prosecutor to a Motion by the Defence of Ruzindana for an order for Protective Measures for defence Witnesses	27/09/97	29/09/97	627 - 622 891 bis - 887 bis	259 (E) 261 (F)	291 (E) 293 (F)	4	
48	Decision on the Motion for the Protection of Defence Witnesses.	06/10/97	07/10/97 25/11/97	648 - 642 906 bis - 899 bis	273 (E) 300 (F)	305 (E) 332 (F)	4	

49	<i>Requête en exception introduite par la défense aux fins que soient ordonnées des mesures de protection des témoins.</i>	24/09/97	29/09/97 07/10/97	886 bis - 884 bis 638 - 635	260 (F) 271 (E)	290 (F) 303 (E)	4	
50	<i>Response by the Office of the Prosecutor to a Motion by the Defence for Orders for Protective Measures for Witnesses.</i>	27/10/97	28/10/97	659 - 655 898 bis - 894 bis	280 (E) 281 (F)	no stamp 312 (F)	4	
51	<i>Decision on the Defense Preliminary Motion for Protective Measures (Kayishema).</i>	23/02/98	11/03/98 15/05/98	827-823 980bis - 976bis	358 (F) 384 (F)	393 (F) no stamp	5	
52	<i>Motion to Amend indictment ICTR-95-1-T Pursuant to Rule 50</i>	...	05/02/98	744 - 738 921 bis - 915 bis	311 (E) 319 (F)	no stamp 354 (F)	4	No doc. dates
53	<i>First Amended Indictment</i>	11/04/97	11/04/97	737 - 728 727 - 717	310 (E) 309 (F)	345 (E) 344 (F)	4	No doc. date on French copy
54	<i>Attached Statements of Witness PP, TT and UU</i>	716 - 690	308	343	4	In French and English. No dates
55	<i>Request for an in Camera Proceeding to Determine whether to Order Additional Protective Measures for Witness VV Pursuant to Rule 75 (A) and (B).</i>	...	06/02/97	766 - 765 914 bis - 913 bis	316 (E) 317 (F)	no stamp 352 (F)	4	No doc. dates
56	<i>Attachment 1: Decision quant a la requete du Procureur concernant la protection des victimes et des temoins.</i>	06/11/97	14/11/96	754 - 750 749 - 745	313 (F) 312 (E)	348 347	4	Filed separately. See Doc. No. 8.
57	<i>Attachment 2: Decision quant a la requete du Procureur concernant la protection des victimes et des temoins.</i>	31/01/97	28/02/97	759 - 755 764 - 760	314 (F) 315 (E)	349 (F) 350 (E)	4	Filed separately. See Doc. No. 14.
58	<i>Decision on the Prosecution's Motion Requesting an in camera Proceeding to Determine Whether Additional Protective Measures for Witness VV Should Be Ordered Pursuant to Rule 75 (A) and (B).</i>	10/02/98	11/02/98	782 - 780	324 (E)	359 (E)	4	French version missing
59	<i>Prosecutor's Notice of Intended Order of Appearance.</i>	...	10/02/98	777 - 768	321 (E)	illegible	4	French version missing

													No doc. date
60	<i>Motion by the Office of the Prosecutor for Directions Respecting the Scheduling of the Continuation of the Trial of Clément Kayishema and Obed Ruzindana on the Charges Contained in Indictment No. ICTR-95-I-T.</i>	17/02/99	10/03/98	700 - 707 935 bis - 933 bis	339 (E) 345 (F)	374 (E) 380 (F)	4						
61	<i>Réponse à la requête de Procureur pour la continuation du procès de MM. Kayishema et Ruzindana en date du 17.02.1998.</i>	...	02/03/98 10/03/98	930 bis - 923 bis 815 - 806	340 (F) 346 (E)	375 (F) 381 (E)	5					No doc. Date	
62	<i>Attachments provided by the Defense on 9 March 1998.</i>		09/03/98										Documents missing
63	<i>Decision on the Prosecution Motion for Directions for the Scheduling of the Continuation of the Trial of Clément Kayishema and Obed Ruzindana on the Charges as Contained in the Indictment No. ICTR-95-I-T</i>	12/03/98	13/03/98	833 - 828	359 (E)	394 (E)	5						French version missing
64	<i>Motion by the Prosecutor for an Order Requiring Compliance by the Defence with Rule 67 (A) (ii) and 67 (C).</i>	...	12/03/98	822 - 819	357 (E)	392 (E)	5						French version missing
65	<i>Attachment 1: Letter of 8 July 1996 of Prosecutor addressed to Defence lawyer Ferran.</i>	08/07/96	12/03/98	953 bis - 952 bis	356 (F)	391 (F)	5						English version missing
66	<i>Attachment 2: Letter of 3 March 1997 of Prosecutor addressed to Defence lawyers Besnier and Ferran.</i>	03/03/97	12/03/98	951 bis & 749 bis	355 (E&F)	390 (E&F)	5						English version of letter to Mr. Besnier missing. French version of letter to Mr. Ferran missing.
67	<i>Attachment 3: Letter of 9 May 1997 of the Prosecutor addressed to Defence counsel Ferran.</i>	09/05/97	12/03/98	950 bis - 949 bis	354 (F)	389 (F)	5						English version Missing
68	<i>Attachment 4: Letter of 26 September 1997 of the Prosecutor addressed to Defence counsel Mr. Ferran.</i>	26/09/97	12/03/98	948 bis - 946 bis (F) 748 - 747 (E)	353 (E&F)	388 (E&F)	5						

69	<i>Attachment 5: Letter of 29 January 1997 of the Prosecutor addressed to Defence counsel Ferraro.</i>	29/01/98	12/03/98	945 bis - 942 bis (F) English version illegible	352 (E&F)	387 (E&F)	5	
70	<i>Attachment 6: Letter of 13 February.</i>	13/02/98	12/03/98		351		5	Document missing
71	<i>Attachment 7: Letter of 23 February 1998 of Mr. Ferran addressed to the Prosecutor</i>	23/02/98	12/03/98	939 bis - 938 bis	3512(F)	385 (F)	5	English version missing
72	<i>Attachment 8: Letter of 23 February 1998 of Mr. A. Ferran addressed to the Prosecutor</i>	23/02/98	12/03/98	818 - 817	349 (E)	384 (E)	5	Draft translation of No. 72 only. Final copy required.
73	<i>Attachment 9: Letter of 11 March 1998 of Mr. P. Besnier addressed to the Prosecutor.</i>	11/03/98	12/03/98	937 bis - 936 bis (E & F)	348 (E&F)	383 (E&F)	5	Both English and French versions have same page numbers.
74	<i>Attachment 10: Decision on the Motion Filed by the Prosecutor on the Protection of Victims and Witnesses.</i>	31/01/97	12/03/98					Document missing as attachment. Separately indicated as No. 15.
75	<i>Attachment 11: Decision on the Motion for the Protection of Defence Witnesses.</i>	06/11/97	12/03/98					Document missing as attachment. Separately indicated as No. 9.

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76	<i>Réponse à la requête des juges de 12 03 98 par la présentation des témoins par la défense.</i>	28/04/98 12/05/98	968 bis - 964 bis 862 - 858	367 (F) 371 (E)	no stamp 404 (E)	5	
77	<i>Decision on the Prosecution Motion for an Order Requesting Compliance by the Defence with Rules 67 (A) (ii) and 67 (C) of the Rules.</i>	15/06/98	895 - 891 1022 bis - 1018bis	390 (E) 412 (F)	423 445 (F)	5	
78	<i>Requête en interprétation de l'article 67 A(ii) a b du règlement de procédure et de preuve.</i>	22/04/98	975 bis - 969 bis 869 - 863	366 (F) 372 (E)	no stamp 405 (E)	5	
79	<i>Prosecutor's (1) Response to a Motion on the Interpretation of Rule 67 (A) (ii) and (B) of the rules of Procedure and (2) Submissions on a Response to the Motion by the Presentation Dated 12 March 1998 on the Presentation of Witnesses by the Defence.</i>	11/05/98	857 - 840	370 (E)	403 (E)	5	French version missing
80	<i>Memorandum to judges of 9 April 1998 (attached to inter-office memorandum of 9 April 1998)</i>	09/04/98					Document missing
81	<i>Memorandum from Nyambe to judges.</i>	07/05/98					Document missing
82	<i>Decision on the Joint Defence Motion Requesting the Interpretation of rules 67 of the Rules.</i>	15/06/98 05/06/98	890 - 886 1013bis-1008bis	389 (E) 409 (F)	no stamp no stamp	5	Doc. Dates of both versions differ.
83	<i>Request of the Prosecutor for an Order that the Evidence of Mr. Pouget, Defence Psychiatrist, not be Admitted or that Immediate Disclosure be Made in relation to the Proposed Testimony of Mr. Pouget and, Following Disclosure, that the Prosecutor be Permitted a Reasonable Time to Prepare her Position on Admissibility and to Prepare Cross-Examination. Article 19-1 and rules 54 and 67</i>	09/06/98 15/06/98	880 - 878 983bis - 981bis	381 (E) 385 (F)	no stamp 418 (F)	5	

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93	<i>Motion on the Continued Non Compliance by the Defence for Clement Kayishema with Rule 67 (A) of the Rules of Evidence and Procedure and with the Written and Oral Orders of the Trial Chamber Requiring Defence Compliance with this Rule.</i>		11/08/98	947-942 1044bis-1042bis	410 (E) 429 (F)	443 (E) 460 (F)	5	
94	<i>Réponse a la requête du Procureur tendant a contraindre la défense a l' application de l' article 67 A(ii).</i>	...	27/08/98	1034bis-1030bis 984-982	416 (F) 430 (E)	452 (F) 461 (E)	5	French version missing
95	<i>Decision on the Prosecution Motion for a Ruling on the Defence Continued Non Compliance with rule 67 (A) (ii) and with the Written and Oral Orders of the Trial Chamber.</i>	03/09/98	03/09/98	996 - 993	436 (E)	468 (E)	5	
96	<i>Notice of Intention to Present Prosecution Evidence in Rebuttal and Notice of Testimony of Expert Witness Rule 85(A) (iii) and Rule 94 bis (A). (and attachments)</i>	18/08/98 18/08/98	18/08/98 16/09/98	967 - 953 1072bis-1061bis	420 (E) 446 (F)	450 (E) 477 (F)	5	
97	<i>Notification de l' intention de la défense de contre interroger le témoin expert présenté en replique par le bureau du Procureur: Articles 85(A) et 94 (A) et (B).</i>	31/08/98	31/08/98 illegible	1050bis-1049bis illegible	443 (F) 447 (E)	475 (F) 479(E)	5	
98	<i>Prosecutor's Closing Brief.</i>	09/10/98	illegible 22/10/98	1157 - 1005 illegible	448 (E) 457 (F)	480 (E) 488 (F)	6	
99	<i>Prosecutor's Sentencing Brief.</i>	09/10/98	illegible illegible	1180-1158 illegible	449 (E) 467 (F)	481 (E) 499 (F)	6	
100	<i>Mémoire de la défense de Clement Kayishema. (and attachment)</i>	16/10/98	16/10/98 20/10/98	1095bis-1082bis 1207-1198 1218-1209	453 (F) 459 (E) 462 (E)	no stamp 491 (E) 493 (E)	6	Attachment missing in English versions Duplicate
101	<i>Mémoire écrit de la défense (Ruzindana).</i>	...	illegible	illegible	455 (F)	487 (F)	6	English version missing
102	<i>Lay-Out of Memoire écrit by Mr. Van der Griend.</i>	...	19/10/98	1191 - 1188	462 (E)	489 (E)	6	English version missing No doc. date

