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André Klip and Göran Sluiter (eds.)
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PREFACE

This is the twelfth volume in the series “Annotated Leading Cases of International Criminal Tribunals” and contains the most important decisions of the International Criminal Tribunal for Rwanda (ICTR) from 1 January to 30 November 2003. It is the fourth volume in the series containing decisions of the ICTR.

The present volume is in its approach and structure similar to the previous eleven volumes. Thus, the book contains the full text of all the decisions and judgements, including separate, concurring and dissenting opinions, as well as annexes to the decisions. As in the previous volumes, the editors have ensured that the decisions are fully identical to the *written* original text as issued by the ICTR Press and Information Office and which bears the signatures of the Judges. We are aware that more and more decisions are available on the internet. However, only the written decisions bearing the signatures of the Judges can be considered authoritative versions. In the course of our editorial work on this and previous volumes, we have discovered inconsistencies between the written original version of the decision and the internet version, if the latter is available at all. Much of our editorial efforts consist in making the texts in this series identical to the written original version.

We could only include the full text of the decisions in this volume by reducing their original format. Still, we wanted the reader to be able to identify the page number of the original text, which is throughout the text put in brackets []. We are again very happy that a number of scholars in the field of international criminal law were prepared to write interesting and stimulating commentaries to the decisions.

A few words regarding the selection of decisions may give the user insight into our working method. In principle, we select all final judgements. In addition, we publish decisions taken in any stage of the procedure that are important for other reasons: because they deal with a specific legal question, because they are representative of a specific type of decision or because they enter new legal waters. Of course, we cannot publish all decisions. As a result we may not publish decisions in which issues have been decided in a way similar or identical to a decision that has already been selected.

The decisions are presented in different parts and under different headings.

Part 1 deals with preliminary matters, arising essentially prior to the commencement of the trial. This part contains decisions on provisional release and on (the form of) the indictment. All those matters can be considered “usual” pre-trial matters, although they continue to arise after commencement of the trial as well.

Part 2 is entitled procedural matters and deals with a variety of issues, which are sometimes only with difficulty able to be categorised under a common heading.

This is exemplified by heading 4, including decisions dealing with continuation of proceedings and an expeditious trial.

Heading 3 focuses on more tangible issues such as joinder and separation of trials.

Under heading 5, the reader will find decisions dealing with various aspects of disclosure in particular and access to evidence more generally.

The recurring theme of witnesses, which can be explored from a great variety of angles, is the object of heading 6, in which a number of decisions are grouped.

Heading 7 concentrates on another “regular” issue, namely the question of admission of evidence, which is this time joined by the closely related matter of judicial notice. The latter indeed gains significantly in importance in the daily work of international criminal tribunals.

'Contempt, counsel and right to an effective defence' is the title of the 8th heading. It brings together seven decisions dealing with the position of counsel/defence from different perspectives, including that of contempt.

Heading 9 deals with state cooperation and the enforcement of sentences. While these may seem separate issues, the provision of legal assistance by States is pivotal in enforcing sentences and the matters have therefore been grouped under a single heading.

Part 3 is entitled 'judgement and sentencing'. Under heading 10 we have brought four judgements, which also include aspects of sentencing. There is the trial judgement in the case of (the late) father and son *Ntakuritimana* (Eliziphan Ntakuritimana passed away in January 2007, while serving his sentence of imprisonment), as well as the trial judgements in *Niyitegeka* and *Semanza*. Finality in *Rutaganda* is marked by the appeals judgement in that case.

We owe acknowledgements to many persons without whom we could not have completed this twelfth volume. These include our publisher Intersentia, in particular Hans Kluwer and Isabelle van Dongen, our student assistants Thom Dieben (Maastricht University) and Denis Abels (University of Amsterdam), who both assisted with the corrections of the text and other editorial work. Rosette Muzigo Morrison and the ICTR Press and Information Office have helped us in obtaining all the hard copies of decisions. Steven Freeland from the University of Western Sydney, Australia, offered tremendous help by correcting our English. Last but not least, we wish to thank the distinguished authors for their commentaries to the decisions.

We hope that this volume will contribute to the further dissemination of the important work of the ICTR and that it will provide access to its decisions to practitioners, academics and students.

André Klip and Göran Sluiter
Maastricht/Amsterdam, June 2007