

**ANNOTATED LEADING CASES OF
INTERNATIONAL CRIMINAL TRIBUNALS**

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2005-2006**

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PREFACE

This is the twenty-fourth 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 9 November 2005 up to and including 12 September 2006. It is the eighth volume in the series containing decisions of the ICTR. A further selected volume on ICTR case law will be volume 25, and others will follow.

The present volume is in its approach and structure similar to the previous 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 with 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 as 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 regarding 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 at 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, ‘Preliminary Matters’, relates to two decisions concerning the referral to Norway in the Bagaragaza case, as well as to decisions concerning joint criminal enterprise and the joinder and severance of proceedings

Part 2 deals with procedural matters. Whereas some decisions concern the way the proceedings are conducted in view of the requirements of a fair trial, others relate to the rights and obligations of witnesses, or to disclosure and the position of counsel.

Part 3, ‘Judgement and Sentencing’, contains seven judgements and covers by far the largest part of this volume. As mentioned above, judgements are by definition included in this series, because of their importance, both from a factual and legal perspective.

Part 4, “Post Conviction or Acquittal Issues” deals with various issues arising after the proceedings have come to an end.

We owe acknowledgements to many persons without whom we could not have completed this twenty-fourth volume. These include Registrar Adama Dieng of the ICTR and his staff, who offered generous assistance in obtaining all the hard copies of decisions. We are particularly most grateful to Registrar Dieng and Ms Nana Moeljadi for arranging an official translation into English of a decision available only in French. Our publisher Intersentia, in particular Hans Kluwer, Tom Scheirs and Isabelle van Dongen, facilitated our work. We also acknowledge the work of our student assistants, Thom Dieben (Maastricht) and Hadassa Noorda (Amsterdam), who assisted with the corrections of the text and without whom we would not be able to publish this series. The Netherlands School of Human Rights Research stimulated our work. 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 on 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, July 2009