



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

TRIAL CHAMBER 1

OR : FR

Before:

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

Registry:

Ms. Prisca Nyambe
Mr. Jean-Pelé Fomété
Ms. Cécile Aptel

Decision of: 20 November 1996

**THE PROSECUTOR
AGAINST
JEAN-PAUL AKAYESU**

Case No. ICTR-96-4-T

**DECISION ON THE REQUEST OF THE ACCUSED FOR THE REPLACEMENT
OF ASSIGNED COUNSEL**

The Office of the Prosecutor:

Mr. Pierre-Richard Prosper

The Counsel for the Accused:

Mr. Michael G. Karnavas

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 Jean-Paul Akayesu, pursuant to Rule 47 of the Rules of Procedure and Evidence (AThe Rules@) on the basis that there was sufficient evidence to provide reasonable grounds for believing that he has committed genocide, complicity in 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 William H. Sekule on 16 February 1996;

CONSIDERING the decision of the Tribunal of 31 October 1996 adjourning the date of hearing to 9 January 1997 and authorising, upon the request of the accused, the replacement of Mr. Johan Scheers by Mr. Michael G. Karnavas as assigned counsel for the accused;

CONSIDERING the letter of 11 November 1996 addressed by Jean-Paul Akayesu to the President of the Tribunal;

CONSIDERING the memorandum of 15 November 1996 addressed to the Registrar by Mr. Karnavas in his capacity as counsel for Jean-Paul Akayesu, taking note of the request for his replacement by Mr. Scheers;

CONSIDERING the letter of 18 November 1996 addressed to the Registrar by Jean-Paul Akayesu in reply to the aforementioned memorandum;

CONSIDERING Article 20 of the Statute, Rule 45 of The Rules and Articles 2, 15 and 19 of the Directive on Assignment of Defence Counsel (ADirective@);

HAVING THEN HEARD all parties concerned at the hearing of 20 November 1996 held in camera following the order issued from the bench by the present Trial Chamber on the basis of the protection of the interests of justice, in accordance with Rule 79 (A)(iii) of The Rules;

AFTER HAVING DELIBERATED:

WHEREAS Jean-Paul Akayesu has requested the replacement of Mr. Karnavas, the reason being the latter's behaviour which he considers inappropriate and which, in his opinion, would result in a total lack of confidence in the ability of his counsel to act fully for his defence;

WHEREAS Mr. Karnavas takes exception to all the grievances set forth by Jean-Paul Akayesu, while not objecting, however, to the request made by his client and that, in that regard, he himself had written in his memorandum of 15 November 1996:

AGiven the fact that Mr. Akayesu (...) is unwilling to accept his currently assigned counsel, it behoves the Registrar to bring this matter immediately to the Tribunal=s

attention and urge that a hearing be scheduled forthwith. Mr. Akayesu is entitled to have counsel of his choice. We all must respect his wishes@;

WHEREAS the Tribunal, without taking a position in the conflict between the accused Akayesu and Mr. Karnavas, notes however that given the present circumstances and the resulting lack of confidence of the accused in his counsel, there was indeed an exceptional case, as provided in paragraph (D) of Article 19 of the Directive, as a condition for the replacement of assigned counsel upon decision by a Chamber;

WHEREAS the Tribunal consequently considers it appropriate to accede to the request made by Jean-Paul Akayesu for the replacement of his counsel;

FOR THESE REASONS

THE TRIBUNAL

GRANTS the second request of Jean-Paul Akayesu for the replacement of assigned counsel;

INSTRUCTS the Registrar to assign without delay a new counsel to Jean-Paul Akayesu in strict compliance with Article 20.4(d) of the Statute, Rule 45 (C) (iii) of The Rules and with the Directive, taking into account the need to ensure the effective commencement of the trial on the merits on 9 January 1997 at 9:30 am, as scheduled.

Arusha, 20 November 1996

Laïty Kama	Lennart Aspegren	Yakov A. Ostrovsky
Presiding Judge	Judge	Judge

(Seal of the Tribunal)