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ICTR-96-3-T  
25 FEB. 97  
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UNITED NATIONS  NATIONS UNIES

International Criminal Tribunal for Rwanda

TRIAL CHAMBER 1

OR: ENG

Before: Judge Yakov A. Ostrovsky, Presiding Judge  
Judge Lennart Aspegren  
Judge Navanethem Pillay

Registry: Mr. Frederik Harhoff  
Mr. Jean-Pelé Fomété

Decision of: 7 February 1997

ICTR  
**RECEIVED**  
25 FEB 1997  
ACTION: *Registration*  
COPY :

**THE PROSECUTOR  
VERSUS  
GEORGES ANDERSON NDERUBUMWE RUTAGANDA**

Case No.: ICTR-96-3-T

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**DECISION ON THE REQUEST FILED BY THE DEFENCE  
FOR PROVISIONAL RELEASE OF GEORGES RUTAGANDA**

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The Office of the Prosecutor:  
  
Mr. Yacob Haile-Mariam

The Counsel for the Accused:  
  
Mr. Luc De Temmerman

ICTR-96-3-T

**THE TRIBUNAL,**

SITTING AS Trial Chamber 1, composed of Judge Yakov A. Ostrovsky, Presiding Judge, Judge Lennart Aspegren and Judge Navanethem Pillay;

TAKING INTO CONSIDERATION that the accused, subsequent to his transfer to the Tribunal's Detention Unit on 26 May 1996, has developed a serious illness for which he has been treated ever since with all necessary and appropriate medical care;

CONSIDERING the Chamber's decision of 25 September 1996, in which a request by the Defence Counsel for provisional release of the accused, Georges Rutaganda, on medical grounds was dismissed for lack of sufficient demonstration of exceptional circumstances pursuant to Rule 65 of the Tribunal's Rules of Procedure and Evidence ("the Rules");

UPON RECEIVING, further, a motion submitted on 6 December 1996 by the Defence Counsel, Mr. Luc de Temmerman, for provisional release and transfer of his client in order to provide for adequate medical treatment to the accused, and also for allocation by the Registrar of sufficient funds and security to allow for the required transfer and treatment of the accused;

HAVING HEARD the parties on this matter during a hearing in camera on 7 February 1997 in the presence of the accused;

**AFTER HAVING DELIBERATED,**

WHEREAS Rule 65 (B) of the Rules provides for provisional release by a Chamber of a detainee only in exceptional circumstances, after having heard the host country and only if satisfied that the accused will appear for trial and, if released, will not pose a danger to any victim, witness or other person;

WHEREAS serious illness does not in itself justify the provisional release of an accused as long as adequate medical treatment can be administered to him by the Tribunal;

WHEREAS the Chamber has not been provided with satisfactory documentation of any general and serious regression in the accused's medical condition, calling for an immediate change of the conditions under which the accused is currently held in custody;


WHEREAS the Defence Counsel has failed to demonstrate that exceptional circumstances exist at this moment in support and justification of the Defence Counsel's request for provisional release of the accused;


WHEREAS the accused is being offered the necessary and adequate medical treatment by the Tribunal's Medical Officer in close and constant cooperation with local physicians and foreign specialized medical institutions;


**FOR THESE REASONS,**

**DECIDES** to dismiss the further request for provisional release due to lack of exceptional circumstances as required under Rule 65 (B) of the Rules.

Arusha, 7 February 1997.

  
Yakov A. Ostrovsky  
Presiding Judge

  
Lennart Aspegren  
Judge

  
Navanethem Pillay  
Judge



(Seal of the Tribunal)