

ICTR-96-3-1
31-10-97
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UNITED NATIONS  NATIONS UNIES

International Criminal Tribunal for Rwanda

TRIAL CHAMBER I

OR:ENG

Before: Judge Laity Kama, Presiding Judge
Judge Lennart Aspegren
Judge Navanethem Pillay

Registry: Mr. Frederik Harhoff
Mr. Antoine Mindua

Decision of: 31 October 1997

THE PROSECUTOR

VERSUS

GEORGES ANDERSON NDERUBUMWE RUTAGANDA

Case No. ICTR-96-3-T


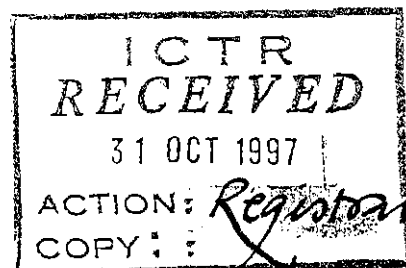
**DECISION ON THE ACCUSED'S MOTION FOR
WITHDRAWAL OF HIS LEAD COUNSEL**

The Office of the Prosecutor:

Mr. James Stewart
Mr. Udo Gehring
Ms. Holo Makwaia

The Counsel for the Accused:

Mr. Luc de Temmerman
Ms. Tiphaine Dickson



ICTR-96-3-T

THE INTERNATIONAL CRIMINAL TRIBUNAL for RWANDA (the "TRIBUNAL"),

SITTING AS Trial Chamber I, composed of Judge Laïty Kama, Presiding Judge, Judge Lennart Aspegren and Judge Navanethem Pillay;

HAVING RECEIVED from the accused, Georges Anderson Nderubumwe Rutaganda, on 25 August 1997, a request dated 20 August 1997 with a memorandum attached of 12 July 1997, in which he urgently requests the withdrawal of his assigned lead counsel, Mr. Luc de Temmerman, for the reason that the lead counsel has failed to provide sufficient legal and strategic assistance in support of his defence and that, consequently, the accused has lost confidence in the said counsel;

HAVING HEARD the lead counsel at the hearing held on 29 September 1997, during which he declared that he had no objections to the withdrawal of his assignment as counsel for the accused;

TAKING INTO CONSIDERATION the provisions in Article 20(4)(d) of the Statute of the Tribunal, Rule 45 of the Rules of Procedure and Evidence and Article 19(D) of the Directive on Assignment of Defence Counsel (the "Directive");

AFTER HAVING DELIBERATED:

1. The Tribunal observes, as it has done previously on several other occasions, that the unique and international character of the proceedings before this Tribunal necessitates full protection of the rights of the accused in accordance with international human rights standards in order to ensure a fair trial to the accused. One of these rights is the right to effective legal defence provided by qualified and impartial defence counsels.
2. A proper and efficient defence of the accused, however, does require establishment and maintenance of full confidence between the accused and the Defence Counsel. The counsels, in turn, whether or not assigned by the Tribunal, are bound by the ethical standards of their profession to ensure the best possible defence of their clients with prudence and vigour.
3. The Tribunal observes that the lead counsel in this case has been absent from hearings for some time and has been replaced by the co-counsel. The Chamber accepts, therefore, the reasons given by the accused for having lost confidence in his lead counsel and considers this loss of confidence as an exceptional circumstance within the meaning of Article 19(D) of the Directive. The Chamber notes, in addition, that the lead counsel had no objection to the request made by the accused.
4. The Tribunal finds, consequently, that there are sufficient grounds for directing the Registrar to replace, if possible, the lead counsel of the accused with his current counsel.




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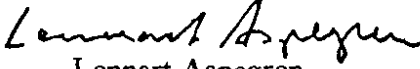
FOR THESE REASONS


THE TRIBUNAL DECIDES

- (1) that the assignment of Mr. Luc de Temmerman as lead counsel for the accused, Georges Anderson Nderubumwe Rutaganda, shall be withdrawn pursuant to Article 19(A) and (D) of the Directive;
- (2) to direct the Registrar to assign a new lead counsel for the accused without delay.

Arusha, 31 October 1997


Lally Kamb
Presiding Judge


Lennart Aspegren
Judge


Navanethem Pillay
Judge

