

1589/A



UNITED NATIONS  
NATIONS UNIES



Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

IN THE APPEALS CHAMBER

ICTR-99-52-A  
27 October 2004  
(1589/A-1589/A)

Before: Judge Theodor Meron, Presiding  
Judge Mohamed Shahabuddeen  
Judge Florence Mumba  
Judge Fausto Pocar  
Judge Inés Mónica Weinberg de Roca

Registrar: Mr. Adama Dieng

Order of: 27 October 2004

JUDICIAL RECORDS/ARCHIVES  
RECEIVED  
ICTR  
2004 OCT 27 P 6:03  
*[Signature]*

Ferdinand NAHIMANA  
Jean-Bosco BARAYAGWIZA  
Hassan NGEZE  
(Appellants)

V.

THE PROSECUTOR  
(Respondent)

Case No. ICTR-99-52-A

---

**REGISTRAR'S REPRESENTATION PURSUANT TO RULE 33 (B) OF THE RULES OF  
PROCEDURE AND EVIDENCE REGARDING THE APPEALS CHAMBER DECISION  
ON JEAN BOSCO BARAYAGWIZA'S MOTION FOR APPOINTMENT OF COUNSEL OR  
A STAY OF PROCEEDINGS**

---

**Counsel for the Appellant**

Duty Counsel  
Mr. John Apollo Maruma

**Counsel for the Prosecutor**

Mr. James Stewart  
Ms. Melanie Werrett

1. Following the Appeals Chamber decision of 22 October 2004, "Order(ing) the Registrar to appoint Counsel for Appellant **Barayagwiza** pursuant to Rule 10 *bis* of the Directive no later than 29 October 2004", the Registrar wishes to bring the following observations to the attention of the Appeals Chamber, pursuant to Rule 33(B) of the Rules of Procedure and Evidence.
2. Upon being notified of the Appeals Chamber decision of 22 October 2004, the Registry sent a letter to **Mr. Barayagwiza** on 25 October 2004, informing him that the Registrar had been ordered to assign Counsel under Rule 10 *bis* no later than 29 October 2004. Consequently, the Registrar invited **Mr. Barayagwiza** to re-submit three names of eligible potential Counsel from the List of Counsel at the latest, the 26 October 2004.
3. The Registrar respectfully draws the attention of the Appeals Chamber to the fact that, prior to the decision of 22 October 2004, an assessment of **Mr. Barayagwiza's** request for assignment of Counsel was conducted: Among the three names of Counsel he had submitted, Mr. Ronnie Mac Donald was no longer available because he had been assigned as Co-Counsel on 5 October 2004 following his preference to be assigned as Co-Counsel instead of Lead Counsel; Mr. Richard Harvey was not eligible since his withdrawal and discharge from the List of Counsel on 2 April 2001; Mr Scott T. Johnson had informed the Registry that he would prefer to be assigned as Co-Counsel given his current workload.
4. Following this assessment, the Registrar wrote to **Mr. Barayagwiza** on 28 September 2004, 30 September 2004 and 14 October 2004 respectively, inviting him to re-submit three names of eligible potential Counsel. **Mr. Barayagwiza** refused to do so and informed the Registrar that he was awaiting the Appeals Chamber decision.
5. The Registrar respectfully recalls that during the Trial stage, **Mr. Barayagwiza** refused to cooperate with the Lead Counsel and Co-Counsel assigned to him in the interest of justice. Consequently, the Registrar, by offering to **Mr. Barayagwiza** the opportunity to re-submit three names of eligible potential Counsel, was aiming at reducing the scope for any lack of cooperation between the Appellant and any Counsel assigned to him.
6. To date, **Mr. Barayagwiza** is still refusing to cooperate with the Registrar despite the Registrar's willingness to take into consideration **Mr. Barayagwiza's** wishes by inviting him to re-submit three names of eligible potential Counsel. In his last letter of 26 October 2004, **Mr. Barayagwiza** is rather insisting on having Mr. Harvey re-instated on the List of Counsel thereby allowing for his subsequent appointment as Lead Counsel.
7. Thus, the Registrar, concerned by any delays in the proceedings, is respectfully seeking the Appeals' Chamber guidance in view of the deadline of 29 October 2004.

Respectfully submitted.

Arusha, 27 October 2004



Adama Dieng  
Registrar