

ICTR-99-52-A

04 February 2005

(2034/H-2032/H)

2034/H  
RMM



UNITED NATIONS  
NATIONS UNIES

Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

IN THE APPEALS CHAMBER

Before:

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

Registrar:

Mr. Adama Dieng

Decision of:

04 February 2005

ICTR Appeals Chamber  
Date: 04 February 05  
Action:  
Copied To: Concerned Judges,  
Parties, Judicial Archive  
LDs, LSS *[Signature]*

Ferdinand NAHIMANA  
Jean-Bosco BARAYAGWIZA  
Hassan NGEZE  
(Appellants)

v.

THE PROSECUTOR  
(Respondent)

Case No. ICTR-99-52-A

JUDICIAL RECORDS/ARCHIVES  
2005 FEB -7 A 11:26  
*[Signature]*

**DECISION ON JEAN-BOSCO BARAYAGWIZA'S REQUEST FOR RECONSIDERATION  
OF APPEALS CHAMBER DECISION OF 19 JANUARY 2005**

Counsel for the Appellants

Mr. Jean-Marie Biju-Duval  
Mr. Donald Herbert  
Mr. Bharat Chadha

Counsel for the Prosecutor

Mr. James Stewart  
Ms. Melanie Werrett

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda  
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME  
COPIE CERTIFIÉE CONFORME A L'ORIGINAL PAR NOUS  
NAME / NOM: ROSETTE MUZIGO-MORRISON  
SIGNATURE: *[Signature]* DATE: 04/02/05

*[Handwritten mark]*

2033/H

**THE APPEALS CHAMBER** of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens responsible for genocide and other such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994 ("Tribunal");

**BEING SEISED OF** the "*Demande de réexamen de la décision de la Chambre d'Appel du 19 janvier 2005 rejetant mon 'Recours très urgent contre le refus du Greffier de commettre M. Richard Harvey comme mon Conseil principal en exécution de la décision de la Chambre d'appel du 03 novembre 2004'*" ("Request for Reconsideration"), submitted by Jean-Bosco Barayagwiza ("Appellant") on 25 January 2005, in which the Appellant requests the Appeals Chamber to reconsider its "Decision on Jean-Bosco Barayagwiza's Motion Concerning the Registrar's Decision to Appoint Counsel" issued on 19 January 2005 ("Decision of 19 January 2005"), dismissing the Appellant's challenge to the Registrar's assignment of Mr. Donald Herbert as his lead counsel;

**NOTING** the Appellant's submission that the Decision of 19 January 2005 fails to assign responsibility to the Registrar for the excessive delay in assigning counsel to him;

**NOTING** the Appellant's argument that the Decision of 19 January 2005 deprives him of assistance by a very competent counsel and might lead to further delays in the proceedings since counsel assigned by the Registrar is not familiar with the events in Rwanda, with the case law of this Tribunal and that of the International Criminal Tribunal for the former Yugoslavia ("ICTY"), or with the French language;

**NOTING** the Appellant's argument that the Decision of 19 January 2005 seems to be condoning what the Appellant considers a discriminatory decision by the Registrar;

**NOTING** the Appellant's argument that the assignment of Mr. Richard Harvey would not cause any inconvenience to the Tribunal, but that its refusal to do so would cause him great prejudice;

**CONSIDERING** that the Appeals Chamber has an inherent discretionary power to reconsider a previous interlocutory decision, for example, if a clear error of reasoning has been demonstrated or if it is necessary to do so in order to prevent an injustice;

**CONSIDERING** that, while the deadline for submitting a response has not expired, the Prosecutor would not be prejudiced by the fact that he still has not filed a response to the Request for Reconsideration;

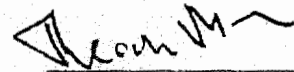
2032/H

**FINDING** that none of the arguments raised by the Appellant Barayagwiza against the Decision of 19 January 2005 justify reconsideration thereof;

**HEREBY DISMISSES** the Request for Reconsideration.

Done in French and English, the English text being authoritative.

Dated this 4<sup>th</sup> day of February 2005,  
At The Hague, The Netherlands.



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Theodor Meron  
Presiding Judge

[Seal of the Tribunal]

