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**International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

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**Office of the President
Cabinet du Président**

Before: Judge Erik Møse, President

Original: English

Registrar: Mr. Adama Dieng

Date: 2 March 2006

THE PROSECUTOR

VERSUS

AUGUSTIN NDINDILYIMANA

ICTR-00-56-T

**The President's Decision on the Request for Review of the Registrar's Decision of
13 October 2005**

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THE PRESIDENT OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

SEIZED of a request for review of the Registrar's decision of 13 October 2005 from Ms. Tiphaine Dickson, former Co-counsel of Augustin Ndindiliyimana;

HEREBY DECIDES THE REQUEST

INTRODUCTION

1. On 11 September 2005, Ms. Dickson sought permission to withdraw as Co-counsel due to exceptional circumstances of a personal nature. The Registrar withdrew her assignment on 13 October 2005. In his decision, he held that she had been in breach of her engagement under Article 45 *ter* to appear before the Tribunal, based on his finding that she had never appeared when Augustin Ndindilimana's trial was ongoing. The Registrar also decided that she was no longer eligible for future assignment and ordered that her name be struck off the list of eligible Counsel maintained under Rule 45 (A) of the Rules of Procedure and Evidence ("the Rules").¹

2. In her request for review, Ms. Dickson submits that she participated in scheduled hearings, filed a written motion and argued a point of law. She also met with the Accused several times during her stay in Arusha. According to Ms. Dickson, the Registrar neglected to make a finding as to whether her personal circumstances were exceptional or alternatively erred in finding them not to be exceptional but omitted to make an explicit finding to this effect.

3. Following the receipt of Ms. Dickson's submissions, the Registrar issued a revised decision on 21 November 2005.²

DELIBERATION

4. Defence Counsel are obliged to provide an undertaking to appear before the Tribunal within a reasonable time as specified by the Registrar, in accordance with Article 45 *ter* (A) of the Rules. Failure by assigned Counsel to make such appearance may result in the withdrawal of the assignment by the Registrar, or any appropriate sanctions, pursuant to Article 45 *ter* (B) of the Rules.

5. The Registrar may at the request of assigned Counsel, withdraw the assignment in accordance with Article 19 (A) (i) of the Directive on the Assignment of Defence Counsel. Counsel requesting withdrawal of assignment must demonstrate the existence of exceptional circumstances that will warrant such withdrawal.

6. The Registrar's decision of 13 October 2005 gave no indication as to whether or not Ms. Dickson's personal circumstances were exceptional as required by Article 19 (A) (i) of the Directive. The Registrar's revised decision of 23 November 2005 acknowledged that she did appear before the Tribunal as Co-counsel representing the Accused, contrary to the findings in the first decision. It was also held that Ms. Dickson's personal circumstances were exceptional, which warranted her withdrawal as assigned Counsel. The determination relating to Ms. Dickson's eligibility for future assignment as Counsel to indigent accused at the

¹ Decision of Withdrawal of Ms. Tiphaine Dickson as Co-counsel for Accused Augustin Ndindiliyimana, 13 October 2005 (Registrar).

² Decision Varying the Decision of Withdrawal of Ms. Tiphaine Dickson as Co-counsel for Accused Augustin Ndindiliyimana, 23 November 2005 (Registrar).

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Tribunal and the order to strike her name of the list of eligible counsel maintained by the Tribunal was reversed. Consequently, all the issues raised by Ms. Dickson in her request have already been favourably addressed by the Registrar. The request for review of the 13 October 2005 decision is therefore moot.

7. It should be added that the 23 November 2005 decision indicates that the factual basis for the 13 October 2005 decision was incorrect. The Registry should have verified this information before making that decision. The consequences arising from the decision were potentially serious for Ms. Dickson, particularly in her national jurisdiction. It is noted, however, that the 23 November 2005 decision has also been conveyed to the Presidents of the Bar Association of Quebec and the Law Society of Upper Canada.

FOR THESE REASONS,

THE TRIBUNAL

FINDS that Ms. Tiphaine Dickson's Request for Review of the Registrar's Decision of 13 October 2005 is moot in light of the Registrar's decision of 23 November 2005.

Arusha, 2 March 2006

Erik Møse

Erik Møse
President



(Seal of the Tribunal)

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