



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 and 31 December 1994

Case No: ICTR-96-4-A

Date: 27 July 1999

Original: English

IN THE APPEALS CHAMBER

Before: Judge Gabrielle Kirk McDonald, Presiding
Judge Mohamed Shahabuddeen
Judge Lal Chand Vohrah
Judge Wang Tieya
Judge Rafael Nieto-Navia

Registrar: Mr. Agwu U. Okali

Decision of: 27 July 1999

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ICTR
CRIMINAL REGISTRY
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JEAN-PAUL AKAYESU

v.

THE PROSECUTOR

DECISION RELATING TO THE ASSIGNMENT OF COUNSEL

The Office of the Prosecutor:

Mr. Bernard Muna
Mr. Mohamed C. Othman
Mr. Mathias Marcussen

Accused:

Jean-Paul Akayesu

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: Felicien Talon AHOUMBOGABO
SIGNATURE: [Signature] DATE: 28-07-99

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 and 31 December 1994 ("Appeals Chamber" and "Tribunal" respectively),

NOTING the Judgement in *The Prosecutor v. Jean-Paul Akayesu*, Case No. ICTR-96-4-T, rendered by Trial Chamber I on 2 September 1998;

NOTING the "Motion for Judicial Review under Section 19 of the Statute and Rules 73 and 105 of the Rules of Procedure and Evidence Urgent Motion for Oral Hearing", filed on 20 January 1999 ("Motion");

NOTING the "Scheduling Order" of the Appeals Chamber filed on 31 March 1999;

NOTING the "Décision portant maintien de Me Giacomo Barletta Caldarera aux intérêts de M. Jean-Paul Akayesu", filed on 31 March 1999;

NOTING the "Registry's Brief in Reply to the Motion", filed on 12 April 1999;

NOTING the "Appellant's Reply to the Registrar's Arguments" dated 23 April 1999, and filed on 28 April 1999;

NOTING the "Petition for Intervention as Amicus Curiae, of the International Criminal Defence Attorneys Association (Rule 74 of the *Rules of Procedure and Evidence*)", filed on 28 April 1999 ("the Petition");

NOTING the "Réplique de Jean-Paul Akayesu sur la Décision du Greffier datée le 24 mars 1999 pour maintenir la commission de Me Giacomo", filed on 4 May 1999;

NOTING the Directive on the Assignment of Counsel, as amended on 8 June 1998, which provides for a right of recourse against a decision not to assign counsel, but does not extend this right of recourse in relation to an appeal before the Appeals Chamber;

CONSIDERING, however, that, in respect of a decision to assign or not to assign counsel to represent an Appellant before the Appeals Chamber, a right of recourse to the Appeals Chamber is required for the effective exercise of the Appellant's rights under Article 20(4) of the Statute of the Tribunal and has been allowed by the Appeals Chamber of the International Criminal Tribunal for the Former Yugoslavia in the *Order on the Motion to Withdraw as Counsel due to a Conflict of Interest*, IT-96-21-A (24 June 1999) and the *Order Regarding Esad Landžo's Request for Removal of John Ackerman as Counsel on Appeal for Zejnil Delalić*, IT-96-21-A (6 May 1999);

CONSIDERING that the practice of the Tribunal has been to provide a list of approved counsel from which an accused may choose and that Mr. John Philpot was included in this list by the Registrar upon the insistence of the Appellant that he desired that Mr. Philpot be assigned to him, and considering further that the Registrar thereby gave the Appellant a legitimate expectation that Mr. Philpot would be assigned to represent him before the Tribunal;

NOTING that the Appellant has dismissed prior counsel assigned to him and that this is the sixth counsel appointed by the Appellant;

NOTING that the requirements of the Tribunal's Code of Conduct, Directive on the Assignment of Defence Counsel and the Rules of Procedure and Evidence of the Tribunal apply to Counsel assigned to the Appellant;

DIRECTS the Registrar to assign Mr. Philpot as lead counsel, effective 22 September 1998, the date on which the Registry placed Mr. Philpot on the list of approved counsel;

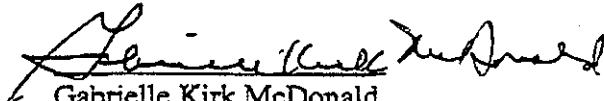
FURTHER DIRECTS the Registrar to reimburse Mr. Philpot in accordance with the Directive on the Assignment of Defence Counsel for any eligible work performed since 22 September 1998 in relation to the Appellant's appeal;

DECIDES that the Appellant and the Prosecution as Cross-Appellant shall comply with the following briefing schedule on the merits of the present case, pursuant to Rules 111 to 113:

- (1) The Appellant and the Cross-Appellant shall file their briefs by 25 October 1999;
- (2) The Respondent and the Cross-Respondent shall file their briefs by 22 November 1999;
- (2) Briefs in reply may be filed by 6 December 1999;

FURTHER DECIDES, in light of this Decision, to reject the Petition.

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


Gabrielle Kirk McDonald
Presiding Judge

Dated this twenty-seventh day of July 1999

At The Hague,
The Netherlands.



[Seal of the Tribunal]