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

Arusha International Conference Centre
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**THE REGISTRAR
LE GREFFIER**

**ICTR-00-55A-T
22-12-2005
(2294 - 2291)**

**DECISION WITHDRAWING
MR. JEAN FLAMME'S ASSIGNMENT AS
ACCUSED THARCISSE MUVUNYI'S
CO-COUNSEL**

Seahms

THE REGISTRAR of the International Criminal Tribunal for Rwanda ('Tribunal');

CONSIDERING Articles 16 & 20 of the Statute of the Tribunal ('Statute') and Rules 45 and 45 *ter* of the Rules of Procedure and Evidence of the Tribunal ('Rules');

CONSIDERING Articles 10 *bis*, 13, 14, 15, 17 and 19 of the Registrar's Directive on the Assignment of Defence Counsel ('Directive') adopted on 9 January 1996 and amended, *inter alia*, on 15 May 2004, and specifically Articles 19 and 20 of the Directive;

CONSIDERING the Registrar's letter dated 7 January 2005, assigning Mr. William Taylor as Counsel to the Accused;

CONSIDERING the Registrar's letter dated 28 January 2005 to Mr. William Taylor, Lead Counsel for the Accused ('Counsel'), assigning Mr. Jean Flamme as Co-Counsel to the Accused ('Co-Counsel' or 'Mr. Flamme' – letter bearing ref. No. ICTR/JUD-11-5-2-044);

NOTING that the trial of Accused Tharcisse Muvunyi ('the Accused') commenced on 28 February 2005, that the Prosecution case was closed on 20 July 2005 and that the commencement of the Defence case was adjourned, first to 14 November 2005, then to 5 December 2005, and that the Accused's trial is ongoing;

CONSIDERING the following documents:

1. Counsel's "Application for the Withdrawal of Appointment of Co-Counsel" in a letter to the Registrar dated 24 October 2005, alluding to irreconcilable conflicts between Counsel and Co-Counsel, and between Co-Counsel and other members of the Defence Team. In this letter, Counsel outlines his dissatisfaction with Co-Counsel's support in the preparation of the Defence case and puts the blame for the Defence Team's inability to proceed with the Defence case's first phase to Co-Counsel's refusal and/or failure to provide witness information as requested;

2. Counsel's letter to Co-Counsel dated 29 August 2005 and an email from Co-Counsel to Counsel dated 19 September 2005, both attached in support of Counsel's assertion that Co-Counsel failed or refused to explain to him the nature of the work done in preparation of witnesses' appearance at trial;

3. Co-Counsel's response to the Registrar, dated 3 November 2005 referring to Counsel's letter dated 24 October 2005, denying Counsel's allegations, adding that they were meant to cover up for serious mistakes committed by others. A variety of correspondence is attached to this letter, outlining lack of organization, of coordination and of communication allegedly due to Counsel. Co-Counsel further notes that Counsel failed to ease his relationship with other defence team members;

4. Letter from Counsel to the Registrar dated 18 November 2005 in reply to Co-Counsel's response, dated 3 November 2005, denying all of Co-Counsel's claims above-noted, and emphasizing both the irreconcilable nature of the situation and the harm caused to their client's interests as a result;

5. Letter from the Accused to the Registrar dated 22 November 2005, acknowledging Counsel's reasons for requesting withdrawal of the appointment of Co-Counsel and concurring with this request, adding that he did not wish to be represented by someone who considered all detainees to be criminals as per a statement Mr. Flamme was allegedly quoted to have made to the Reuters News Agency on 8 January 1997, and requesting that another French speaking Co-Counsel be assigned to his Defence Team;

RECALLING that, pursuant to Articles 15(D) and 15(E) of the Directive, Lead Counsel has primary responsibility for the defence of the Accused, in terms of, both strategy and the organization of the defence team;

CONSIDERING that in the present case, it appears that Counsel has made decisions regarding the organization of the Defence Team in a way that should enable a favourable working environment to prevail;¹

CONSIDERING the necessity of avoiding a deadlock in the conduct of these proceedings;²

CONSIDERING that a total breakdown of communication is apparent from the content of the documents above-mentioned and the concerned parties' behaviour as described in the various above-mentioned correspondence, and that this circumstance constitutes, in the instant case, an exceptional circumstance within the meaning of Article 19(A)(ii) of the Directive;

FOR THE FOREGOING REASONS:

WITHDRAWS, pursuant to Article 19(A)(ii) of the Directive, Mr. Jean Flamme's assignment as Co-Counsel to the Accused;

ORDERS Mr. Flamme, pursuant to Article 20(C) of the Directive, to deliver to Counsel all original documents in his possession relevant to the Accused's Case within seven days of service of the present decision;

DECIDES pursuant to Article 19(C) of the Directive, that the present decision shall be notified to Counsel, Co-Counsel, the Accused and the President of the Bar Association of Gent;

¹ See *The Prosecutor v. Gratien Kabiligi et al*, Case No. 98-41-T, Registrar's "D cision de retrait de la commission d'office de Ma tre Ren  Saint-Leger, Co-Conseil de M. Gratien Kabiligi", 17 May 2005.

² See *The Prosecutor v. Mathieu Ngirumpatse*, Case No. ICTR-98-44, Registrar's "Decision of Denial of Mr. Charles Roach's Request for Withdrawal of Co-Counsel Mr. Frederic Weyl and of Withdrawal of Mr. Roach as Lead Counsel for the Accused Mathieu Ngirumpatse", 21 March 2005.

DIRECTS, pursuant to Article 20(D) of the Directive, that Counsel proffer three names of eligible Counsel, each of whom shall be French speaking with a sufficient working knowledge of English so as to enable him or her to communicate with the English speaking members of the Defence Team, for the Registrar to immediately replace Co-Counsel without prejudice to continuation of the trial in the present case.

Done at Arusha, this 21 December 2005,



Adama Dieng
Registrar



FICHE DE TRANSMISSION POUR DÉPÔT DE DOCUMENTS A LA S.A.C.

SECTION DE L'ADMINISTRATION DES CHAMBRES
(Art. 27, Directive à l'intention du Greffe)

I - INFORMATIONS GÉNÉRALES (à compléter par les Chambres / la Partie déposante)

A:	<input type="checkbox"/> Chambre I N. M. Diallo	<input checked="" type="checkbox"/> Chambre II R. N. Kouambo	<input type="checkbox"/> Chambre III C. K. Hometowu	<input type="checkbox"/> Ch. d'Appel / Arusha F. A. Talon
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De:	<input type="checkbox"/> Chambre (noms)	<input type="checkbox"/> Défense (noms)	<input type="checkbox"/> Bureau du Procureur (noms)	<input checked="" type="checkbox"/> Autre: Bureau du Greffier Wohlfahrt Stéphane (noms)
Affaire:	Le Procureur c. Tharcisse Muvunyi		Affaire No.: ICTR-00-55A-T	
Dates:	Transmis le: 22 décembre 2005		Document daté du: 21 décembre 2005	
No. de Pages:	6	Langue de l'original: <input type="checkbox"/> Français <input checked="" type="checkbox"/> Anglais <input type="checkbox"/> Kinyarwanda		
Titre du Document:	Registrar's Decision Withdrawing Mr. Jean Flamme's Assignment as Accused Tharcisse Muvunyi's Co-Counsel			
Classification Level:		TRIM Document Type:		
<input type="checkbox"/> Ex-Parte		<input type="checkbox"/> Indictment	<input type="checkbox"/> Warrant	<input type="checkbox"/> Correspondence
<input type="checkbox"/> Strictly Confidential / Under Seal		<input checked="" type="checkbox"/> Decision	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Notice of Appeal
<input type="checkbox"/> Confidential		<input type="checkbox"/> Disclosure	<input type="checkbox"/> Order	<input type="checkbox"/> Appeal Book
<input checked="" type="checkbox"/> Public		<input type="checkbox"/> Judgement	<input type="checkbox"/> Motion	<input type="checkbox"/> Book of Authorities
				<input checked="" type="checkbox"/> Submission from non-parties
				<input type="checkbox"/> Submission from parties
				<input type="checkbox"/> Accused particulars

II - ETAT DE LA TRADUCTION AU JOUR DU DÉPÔT (à compléter par les Chambres/la Partie déposante)

La S.A.C. DOIT prendre en charge la traduction:

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Le matériel de référence se trouve en annexe, pour faciliter la traduction.

Langue(s) visée(s):

Français Anglais Kinyarwanda

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III - PRIORITÉ POUR LA TRADUCTION (Pour usage officiel UNIQUEMENT)

<input type="checkbox"/> Prioritaire	COMMENTAIRES	<input type="checkbox"/> Date requise:
<input checked="" type="checkbox"/> Urgent		<input type="checkbox"/> Date d'audience:
<input type="checkbox"/> Normal		<input type="checkbox"/> Autres dates: