

MECHANISM FOR INTERNATIONAL
CRIMINAL TRIBUNALSMÉCANISME POUR LES TRIBUNAUX
PÉNAUX INTERNATIONAUX

Case No. MICT-12-16-R
Eliézer Niyitegeka v. The Prosecutor

MICT-12-16-R
29-10-2015
(1054 - 1053)

DECISION**THE REGISTRAR,**

NOTING the Statute of the Mechanism for International Criminal Tribunals (“Statute” and “Mechanism” respectively) as adopted by the Security Council under Resolution 1966 (2010), and in particular Article 19 thereof;

NOTING the Rules of Procedure and Evidence as adopted by the Mechanism on 8 June 2012 (“Rules”), and in particular Rules 42 and 43 thereof;

NOTING the Directive on the Assignment of the Defence Counsel as adopted by the Mechanism on 14 November 2012 (“Directive”) and in particular Articles 5, 6, 11 and 14 thereof;

NOTING the Code of Professional Conduct for Defence Counsel appearing before the Mechanism;

CONSIDERING that the Mechanism is mandated to continue the “jurisdiction, rights and obligations and essential functions” of the International Criminal Tribunal for Rwanda (“ICTR”) and the International Criminal Tribunal for the Former Yugoslavia (“ICTY”);

CONSIDERING the Transitional Arrangements contained in Annex 2 of the Statute and in particular Article 3(2), which indicates that the Mechanism shall have competence to conduct and complete all review proceedings for which the application for review of the judgement is filed on or after the commencement date of the respective branch of the Mechanism;

CONSIDERING that Mr. Eliézer Niyitegeka filed his “*Requête en révision du jugement d’Eliézer Niyitegeka*” on 1 April 2015, which is classified as confidential;

NOTING Rule 46 of the Rules, which states that “[t]he [...] Chamber may, if it decides that it is in the interests of justice, instruct the Registrar to assign a Counsel to represent the interests of the accused;

CONSIDERING that in its 13 July 2015 “Decision on Niyitegeka’s Request for Review and Assignment of Counsel”, the Appeals Chamber directed the Registrar to assign Mr. Niyitegeka counsel for a limited period of three months for the purpose of assisting him in relation to his request for review;

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CONSIDERING that, on 30 July 2015, Mr. Philippe Larochelle informed the Registry that Mr. Niyitegeka requested that he be assigned as Counsel, and that Mr. Niyitegeka confirmed that he wished to be represented by Mr. Larochelle on 25 August 2015;

CONSIDERING that Article 14(3) of the Mechanism Code of Professional Conduct for Defence Counsel Appearing Before the Mechanism places an affirmative duty on the Registrar to determine whether a conflict of interest exists in deciding on the assignment of counsel;

NOTING that on 21 October 2015, Mr. Niyitegeka filed his "*Soumissions d'Eliezer Niyitegeka concernant le manquement à l'obligation d'exécution de la Décision de la Chambre d'appel rendue le 13 juillet 2015*";

NOTING that on 22 October 2015 the Registrar informed the Appeals Chamber that the Registry's conflict of interest assessment was ongoing, and requested the Appeals Chamber to issue an Order directing the Registrar to immediately assign Mr. Larochelle on an interim basis, pending the completion of this assessment;

CONSIDERING that on 28 October 2015, in its "Decision on Niyitegeka's Submissions Concerning the Appeals Chamber Decision of 13 July 2015", the Appeals Chamber ordered the Registrar to assign, on an interim basis, Mr. Larochelle as Niyitegeka's counsel pending the completion of the conflict of interest assessment;

CONSIDERING that Mr. Larochelle has indicated his willingness to be assigned to an indigent suspect or accused and is already included on the Mechanism's list of counsel eligible for assignment to indigent suspects and accused envisaged in Rule 43 of the Rules ("Rule 43 list");

HEREBY DECIDES to assign Mr. Larochelle on an interim basis as Lead Counsel to represent Mr. Niyitegeka before the Mechanism, effective as of the date of this Decision and pending the completion of the conflict of interest assessment, for a period not to exceed three months.



JH John Hocking
Registrar

Dated this 29th day of October 2015.
At The Hague,
The Netherlands.

