

ICTR-98-42-AR75

3 SEPTEMBER 2004

(402/H - 400/H)

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Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

**IN THE APPEALS CHAMBER**

**Before:**

Judge Theodor Meron, Presiding Judge  
Judge Mohamed Shahabuddeen  
Judge Fausto Pocar  
Judge Wolfgang Schomburg  
Judge Inés Mónica Weinberg de Roca

**Registrar:**

Mr Adama Dieng

**Decision of:**

3 September 2004

ICTR Appeals Chamber  
Date: 03 September 2004  
Action: PG  
Copied To: Concerned Parties, Judicial Authorities, LSS

2004 SEP -3 P 2:09  
ICTR  
JUDICIAL RECORDS/ARCHIVES  
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**THE PROSECUTOR**

v.

**Pauline NYIRAMASUHUKO et al.**

Case No ICTR-98-42-AR75

**DECISION ON PROSECUTION'S  
REQUEST FOR LEAVE TO DISCLOSE SEALED TRANSCRIPTS FROM  
THE CASE *Prosecutor v. Georges Rutaganda*, Case No. ICTR-96-3-A**

**Counsel for the Prosecution**

Silvana Arbia  
Jonathan Moses  
Adelaide Whest  
Adesola Adeboyejo  
Althea Alexis  
Michael Adenuga  
Manuel Bouwknecht  
Astow Mbow

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda  
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NAME / NOM: ROSETTE MUZIGO-MUKIRISON  
SIGNATURE: [Signature] DATE: 03/09/04

**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 (“Appeals Chamber” and “International Tribunal”, respectively),

**BEING SEISED OF** an “Extremely Urgent Ex Parte Motion for Leave to Disclose the Sealed Transcripts of 28 February 2003 to the Defence to the Defence in Case No. ICTR-98-42-T (Butare Trial),” filed on 26 August 2004 (“Motion”), wherein the Prosecution requests the Appeals Chamber to be allowed to disclose to the Defence in the trial of *The Prosecutor v. Pauline Nyiramasuhuko et al.* the closed session transcripts of the testimony of Professor Guichaoua of 28 February 2003 from the case *The Prosecutor v. Georges Rutaganda*, Case No. ICTR-96-3-A;

**WHEREAS** Rule 75 (F) and (G) of the Rules of Procedure and Evidence of the International Tribunal (“Rules”) stipulates that:

- (F) Once protective measures have been ordered in respect of a victim or witness in any proceedings before the Tribunal (the “first proceedings”), such protective measures:
  - (i) shall continue to have effect *mutatis mutandis* in any other proceedings before the Tribunal (the “second proceedings”) unless and until they are rescinded, varied or augmented in accordance with the procedure set out in this Rule; but
  - (ii) shall not prevent the Prosecutor from discharging any disclosure obligation under the Rules in the second proceedings, provided that the Prosecutor notifies the Defence to whom the disclosure is being made of the nature of the protective measures ordered in the first proceedings.
- (G) A party to the second proceedings seeking to rescind, vary or augment protective measures ordered in the first proceedings must apply:
  - (i) to any Chamber, however constituted, remaining seised of the first proceedings; or
  - (ii) if no Chamber remains seised of the first proceedings, to the Chamber seised of the second proceedings.

**NOTING** that by Order of 6 March 2003, the Appeals Chamber in the *Rutaganda* case directed the Registrar to ensure that all references to a written communication dated 10 November 2002 should be redacted from the public sections of the transcripts of the hearings of 28 February 2003;

**CONSIDERING** that the Appeals Chamber is no longer seised of the case *The Prosecutor v. Georges Anderson Nderubumwe Rutaganda*, Case No. ICTR-96-3-A, having rendered its judgement in that case on 26 May 2003;

**CONSIDERING** therefore that pursuant to Rule 75 (G)(ii) of the Rules, the Motion should have been addressed to the Trial Chamber seised of the case of *The Prosecutor v. Pauline Nyiramasuhuko et al.*;

**FOR THE FOREGOING REASONS,**

**DISMISSES** the Motion.

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

Done this 3<sup>rd</sup> day of September 2004,  
At The Hague,  
The Netherlands.



Judge Theodor Meron,  
Presiding

[Seal of the International Tribunal]

