

1. On 2 October 2007, the convicted person Emmanuel Ndindabahizi filed a Motion seeking an authorization to disclose the closed session transcripts of witnesses CGE, CGZ, CGF, CGB and CGH and related under seal documents in Gahigiro *Gacaca* proceedings in Rwanda. He detailed therein how the testimony of those witnesses are related to a civil claims proceeding which one of those witness has won before the same *Gacaca* court against him.

2. On 31 October 2007, the Prosecution responded to the Motion, submitting that Rule 75 of the Rules of Procedure and Evidence applies only to cases before the Tribunal, whereas there is currently no pending case against the convicted person. The President considers that such an argument is contrary to Rule 75. The Tribunal has made a protective order in the case against Emmanuel Ndindabahizi. The Tribunal still has jurisdiction to vary such a protective order, whether the case has ended or not. Such interpretation has been consistently applied in the jurisprudence of the Tribunal whenever the President has appointed a Trial Chamber to address such motions.¹

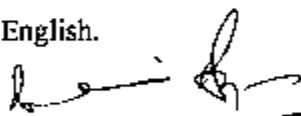
3. The President notes that the proceedings in the case against Emmanuel Ndindabahizi are over, the Appeals Chamber having already delivered its Judgement. No Trial Chamber is therefore still seized at this stage. However, the Judges who were assigned to the benches in those cases are still serving at the Tribunal and one of them is an *ad litem* Judge.

FOR THOSE REASONS,

THE PRESIDENT

DESIGNATES Trial Chamber I composed of Judges Erik Møse (Presiding), Rachida Khalid Khan and Sergei Alekseevich Egorov to adjudicate on Emmanuel Ndindabahizi's Motion.

Arusha, 19 February 2008, done in English.



Dennis C. M. Byron
President

[Seal of the Tribunal]

¹ See: *The Prosecutor v. Éliézer Niyitegeka*, Case No. ICTR-96-14-R75, Designation of a Trial Chamber to Consider the Request for Disclosure of Closed Session Transcripts (President), 15 November 2007 ("4. While Rule 75 does not explicitly provide for situations where no Chamber remains seized of the matter, referring the matter to the Judges who constituted the original Chamber would conform to this Rule's general purpose."). It is worth noting that the Office of the Prosecutor has also and recently made a similar application in the cases against Muhimana, Niyitegeka and Ntakirutimana. See: Prosecution's Ex Parte Motion to Unseal and Disclose to the Dutch Authorities the Closed Session Transcripts of Witnesses BI and AT in the Muhimana case, GGO in the Niyitegeka case and GG in the Ntakirutimana case, 21 December 2007.