



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

**IN THE APPEALS CHAMBER**

Before: Judge Fausto Pocar, Presiding  
Judge Mohamed Shahabuddeen  
Judge Mehmet Güney  
Judge Liu Daqun  
Judge Theodor Meron

Registrar: Mr. Adama Dieng

Decision of: 9 September 2008

**Emmanuel NDINDABAHIZI**

**v.**

**THE PROSECUTOR**

*Case No. ICTR-01-71-R75*

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**DECISION ON EMMANUEL NDINDABAHIZI'S APPLICATION  
CONCERNING VARIATION OF PROTECTIVE MEASURES**

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**The Applicant**

Mr. Emmanuel Ndindabahizi, *pro se*

**The Office of the Prosecutor**

Mr. Hassan Bubacar Jallow  
Mr. Alex Obote-Odora  
Ms. Dior Fall  
Ms. Inneke Onsea

**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),

**BEING SEIZED OF** the “*Requête rappelant celle du 14 mars 2008 intitulée: ‘Requête de Ndindabahizi Emmanuel demandant à la Chambre de première instance I de reconsidérer sa décision du 5 mars 2008 sur les témoignages sous scellés des témoins CGE, CGX, CGB, CGF et CGH, ou à défaut lui accorder la certification d’appel’ - Articles 73(B) et 75 du Règlement de procédure et de preuve*”, filed by Emmanuel Ndindabahizi (“Applicant”) on 10 July 2008 (“Motion”);

**NOTING** that the Prosecution filed its response on 21 July 2008,<sup>1</sup> and that the Applicant filed his reply on 29 July 2008;<sup>2</sup>

**NOTING** that on 2 October 2007, the Applicant seized Trial Chamber I of the Tribunal (“Trial Chamber”) with a request for variation of protective measures to enable communication of closed session testimonies and sealed exhibits with respect to Witnesses CGE, CGX, CGF, CGB and CGH who testified in the Applicant’s case before the Tribunal, to the Gahigiro-Gasharu *Gacaca* court in Rwanda, following an allegedly successful compensation claim by one of these witnesses against the Applicant before that court;<sup>3</sup>

**NOTING** that on 5 March 2008 the Trial Chamber rejected the Applicant’s request, finding no basis to vary the witness protection measures currently in force in relation to these witnesses;<sup>4</sup>

**CONSIDERING** that the Applicant filed a request for reconsideration of the Decision of 5 March 2008, which is currently pending before the Trial Chamber and that the Trial Chamber therefore remains seized of the matter;<sup>5</sup>

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<sup>1</sup> Prosecutor’s Response to Ndindabahizi’s “*Requête rappelant celle du 14 mars 2008 intitulée: ‘Requête de Ndindabahizi Emmanuel demandant à la Chambre de première instance I de reconsidérer sa décision du 5 mars 2008 sur les témoignages sous scellés des témoins CGE, CGX, CGB, CGF et CGH, ou à défaut lui accorder la certification d’appel’ - Articles 73(B) et 75 du Règlement de procédure et de preuve*”, filed on 21 July 2008.

<sup>2</sup> *Réplique à la Réponse du Procureur du 21 juillet 2008, relativement aux requêtes de Ndindabahizi sur les témoignages de CGE, CGX, CGF, CGH et de CGB et à la décision de la Chambre de première instance du 5 mars 2008. Articles 73(B) et 75 du Règlement de procédure et de preuve*, filed on 29 July 2008.

<sup>3</sup> See *Emmanuel Ndindabahizi v. The Prosecutor*, Case No. ICTR-01-71-R75, Decision on Disclosure of Closed Session Testimony of Witnesses CGE, CGX, CGF, CGB and CGH”, issued on 5 March 2008 (“Decision of 5 March 2008”), p. 2.

<sup>4</sup> Decision of 5 March 2008.

**FINDING** therefore that the Motion is not properly before the Appeals Chamber;

**FOR THE FOREGOING REASONS,**

**DISMISSES** the Motion.

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

Done this 9<sup>th</sup> day of September 2008,  
At The Hague,  
The Netherlands.

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Fausto Pocar  
Presiding Judge

[Seal of the Tribunal]

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<sup>5</sup> *Emmanuel Ndindabahizi v. The Prosecutor*, Case No. ICTR-01-71-R75, *Requête de Ndindabahizi Emmanuel demandant à la Chambre de première instance I de reconsidérer sa décision du 5 mars 2008 sur les témoignages sous scellés des témoins CGE, CGX, CGB, CGF et CGH, ou à défaut lui accorder la certification d'appel*, 19 March 2008.