



Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

119/H

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ICTR-01-71-R  
15<sup>th</sup> April 2011  
{119/H – 117/H}

IN THE APPEALS CHAMBER

**Before:** Judge Carmel Agius, Presiding  
Judge Mehmet Güney  
Judge Fausto Pocar  
Judge Liu Daqun  
Judge Theodor Meron

**Registrar:** Mr. Adama Dieng

**Decision of:** 15 April 2011

**EMMANUEL NDINDABAHIZI**

v.

**THE PROSECUTOR**

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

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**DECISION ON PROSECUTION'S MOTION TO PLACE FILINGS UNDER SEAL**

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**Counsel for Emmanuel Ndindabahizi**  
Philippe Moriceau

**Office of the Prosecutor**  
Hassan Bubacar Jallow  
James J. Arguin  
Abdoulaye Seye

ICTR Appeals Chamber  
Date: 15<sup>th</sup> April 2011  
Action: R. Jumar  
Copied To: Concerned Judges,  
Parties, Judicial Archives,  
LDs, LSS

International Criminal Tribunal for Rwanda  
Tribunal pénal international pour le Rwanda  
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME  
COPIE CERTIFIÉE CONFORME A L'ORIGINAL PAR NOUS  
NAME / NOM: ROSETTE MUZIRO-MORRISON  
SIGNATURE: *[Signature]* DATE: 15/4/11

*[Handwritten signatures and initials]*

**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),

**NOTING** the “*Requête en r[é]vision de la d[é]cision rendue par la Chambre d’appel du Tribunal p[é]nal international en date du 16 janvier 2007*”, filed by Mr. Emmanuel Ndindabahizi on 31 January 2011 (“Request for Review”);

**NOTING** the two “*Bordereau[x] de pi[è]ces pour divulgation*” filed by Mr. Ndindabahizi on 11 and 22 February 2011, respectively (collectively, “Documents for Disclosure”);

**NOTING** the response filed by the Office of the Prosecutor (“Prosecution”) to the Request for Review on 14 March 2011;<sup>1</sup>

**BEING SEISED OF** a confidential motion filed by the Prosecution on 16 March 2011 (“Motion”) in which it requests that the Request for Review and the Documents for Disclosure be placed under seal<sup>2</sup> because they disclose the identity of protected Prosecution Witnesses CGH, CGY, and CGN;<sup>3</sup>

**NOTING** that Mr. Ndindabahizi did not file a response to the Motion;

**CONSIDERING** that all submissions filed before this Tribunal shall be public unless there are exceptional reasons for keeping them confidential and that parties shall file public redacted versions of all confidential briefs;<sup>4</sup>

**RECALLING** the “Order for Non-Disclosure”, issued on 10 July 2001 by the Pre-Trial Judge in this case which, *inter alia*, orders the non-disclosure of information likely to reveal the identity of protected witnesses;<sup>5</sup>

**CONSIDERING** that the Request for Review and Documents for Disclosure reveal confidential information regarding protected witnesses;

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<sup>1</sup> Prosecutor’s Response to Emmanuel Ndindabahizi’s *Requête en Révision de la Décision rendue par la Chambre d’appel du Tribunal p[é]nal [i]nternational en date du 16 janvier 2007*, 14 March 2011.

<sup>2</sup> Prosecutor’s Application to place under seal Emmanuel Ndindabahizi’s *Requête en Révision de la Décision rendue par la Chambre d’appel du Tribunal p[é]nal [i]nternational en date du 16 janvier 2007* and the *Bordereau[x] de pièces pour divulgation*, 16 March 2011 (confidential), paras. 1, 6, 7.

<sup>3</sup> Motion, paras. 2-4.

<sup>4</sup> *Prosecutor v. Ramush Haradinaj et al.*, Case No. IT-04-84-A, Decision on Lahi Brahimaj’s Application for Provisional Release, 25 May 2009, para. 5 and references cited therein. *See also The Prosecutor v. Tharcisse Renzaho*, Case No. ICTR-97-31-A, Decision on Tharcisse Renzaho’s Appellant’s Brief, 16 March 2010, para. 4. *Cf.* Rules 69(A), 78, 107, and 122 of the Rules of Procedure and Evidence of the Tribunal.

**FINDING** therefore that the Request for Review and Documents for Disclosure shall be placed under seal;

**FOR THE FOREGOING REASONS,**

**GRANTS** the Motion;

**DIRECTS** the Registry to place the Request for Review and the Documents for Disclosure under seal; and

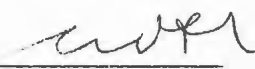
**ORDERS** Mr. Ndindabahizi to file a public redacted version of the Request for Review within 20 days of the filing of the French translation of this decision, that is, no later than 5 May 2011.

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

Done this fifteenth day of April 2011,  
at The Hague,  
The Netherlands.



[Seal of the Tribunal]

  
Judge Carmel Agius  
Presiding

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<sup>5</sup> *The Prosecutor v. Emmanuel Ndindabahizi*, Case No. ICTR-2001-71-I. Order for Non-Disclosure. 10 July 2001, para. 9.