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Tribunal Pénal International pour le Rwanda  
International Criminal Tribunal for Rwanda

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ICTR-96-14-R  
01 July 2009  
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**IN THE APPEALS CHAMBER**

Before:

Judge Patrick Robinson, Presiding  
Judge Fausto Pocar  
Judge Liu Daqun  
Judge Theodor Meron  
Judge Carmel Agius

Registrar:

Mr. Adama Dieng

Decision of:

1 July 2009

ICTR Appeals Chamber  
Date: 01<sup>st</sup> July 2009  
Action: R. J. J. J.  
Copied To: Concerned Judges, SLOs,  
LOS, ALOs, POs, etc.

CMS Arisha, L.S.S.  
J. J. J. J.

**Eliézer NIYITEGEKA**

v.

**THE PROSECUTOR**

Case No. ICTR-96-14-R

JUDICIAL RECORDS ARCHIVE  
2009 JUL 12 A 9:39  
J. J. J. J.

**DECISION ON MOTION FOR CLARIFICATION**

**The Applicant**

Mr. Eliézer Niyitegeka, *pro se*

**Office of the Prosecutor**

Mr. Hassan Bubacar Jallow  
Mr. Alex Obote-Odora  
Mr. George Mugwanya  
Ms. Inneke Onsea

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- 2 JUL 2009  
ACTION: APPEALS  
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1. 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), is seized of the "*Requête aux fins d'une clarification suite au dessaisissement de la Chambre d'appel du TPIR dans sa 'Decision on Fourth Request for Review'*" filed on 11 May 2009 ("Request") by Eliézer Niyitegeka ("Niyitegeka"). The Prosecution did not file any response.

2. On 16 May 2003, Trial Chamber I of the Tribunal ("Trial Chamber") convicted Niyitegeka, the former Minister of Information in the Rwandan Interim Government in 1994, of genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, and murder, extermination, and other inhumane acts as crimes against humanity, and sentenced him to imprisonment for the remainder of his life.<sup>1</sup> In its Judgement of 9 July 2004, the Appeals Chamber dismissed Niyitegeka's appeal against his convictions and affirmed his sentence.<sup>2</sup>

3. Niyitegeka filed four requests for review, which the Appeals Chamber dismissed respectively on 30 June 2006,<sup>3</sup> 6 March 2007,<sup>4</sup> 23 January 2008,<sup>5</sup> and 12 March 2009.<sup>6</sup>

4. In his Request, Niyitegeka submits that the Appeals Chamber's holding in the Fourth Review Decision that "it is not within its jurisdiction to re-open terminated proceedings to alter otherwise final findings" amounts to its relinquishment of the case.<sup>7</sup> In the circumstances, Niyitegeka requests the Appeals Chamber to direct him to a jurisdiction competent: (1) to consider new information which shows that the Trial Chamber and the Appeals Chamber erred in their findings against him, and to award him reparation accordingly;<sup>8</sup> (2) to rule on the violations of his right to a fair trial, which the Appeals Chamber acknowledged but for which no remedy was provided;<sup>9</sup> and (3) to decide anew on the validity of his conviction to life imprisonment.<sup>10</sup> In case

<sup>1</sup> *The Prosecutor v. Eliézer Niyitegeka*, Case No. ICTR-96-14-T, Judgement, 16 May 2003, paras. 420, 429, 437, 447, 454, 467, 480, 502.

<sup>2</sup> *Eliézer Niyitegeka v. The Prosecutor*, Case No. ICTR-96-14-A, Judgement, 9 July 2004, para. 270.

<sup>3</sup> Decision on Request for Review, 30 June 2006.

<sup>4</sup> Decision on Request for Review, 6 March 2007.

<sup>5</sup> Decision on Third Request for Review, 23 January 2008.

<sup>6</sup> Decision on Fourth Request for Review, signed on 12 March 2009, public version filed on 21 April 2009 ("Fourth Review Decision").

<sup>7</sup> Request, paras. 4, 10-12, referring to Fourth Review Decision, para. 48.

<sup>8</sup> Request, para. 13(ii).

<sup>9</sup> Request, para. 13(iii).

<sup>10</sup> Request, para. 13(iv).

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there was no such jurisdiction, Niyitegeka requests that he be informed on how he should proceed to have justice rendered.<sup>11</sup>

5. Niyitegeka relies on specific provisions of the Statute of the Tribunal to underpin his Request. While Article 19(1) of the Statute relates to the "commencement and conduct of trial proceedings", Articles 20(2) and 20(4)(d) of the Statute provide rights for "the accused" in "the determination of charges against him". The Appeals Chamber stresses that the charges against Niyitegeka have already been determined and that his conviction has been confirmed on appeal; he is not an accused before the Tribunal but a convicted person whose case has reached finality.

6. Further, the Appeals Chamber observes that, despite the title of the Request, Niyitegeka is not seeking clarification of any of the Appeals Chamber's previous rulings or decisions, but is instead requesting legal advice concerning potential jurisdictions that could determine anew the validity of his conviction and rule on the alleged violations of his right to a fair trial. The Appeals Chamber considers that it is not within its remit to do so; the Appeals Chamber does not have advisory power,<sup>12</sup> in particular concerning other jurisdictions.

7. Niyitegeka's Request is accordingly **DISMISSED**.

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

Done this 1<sup>st</sup> day of July 2009,  
at The Hague, The Netherlands.



[Seal of the Tribunal]

  
\_\_\_\_\_  
Judge Patrick Robinson  
Presiding

<sup>11</sup> Request, para. 13(v).

<sup>12</sup> *The Prosecutor v. Jean-Paul Akayesu*, Case No. ICTR-96-4-A, Judgment, 1 June 2001, para. 23. See also *Prosecutor v. Radoslav Brdanin*, Case No. IT-99-36-A, Decision on Motion to Dismiss Ground 1 of the Prosecutor's Appeal, 5 May 2005, p. 3.



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

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To: A:	<p>✘ <b>In Arusha</b></p> <p><b>APPEALS UNIT</b> ✘ Ms Félicité Talon</p> <p><b>APPEALS CHAMBER</b></p> <p>✘ Judge / Juge Patrick Robinson, Presiding ✘ Judge / Juge Fausto Pocar ✘ Judge / Juge Liu Daqun ✘ Judge / Juge Theodor Meron ✘ Judge / Juge Carmel Agius</p> <p>✘ Ms Catherine Marchi-Uhel ✘ Mr Roman Boed ✘ Concerned Associate Legal Officers ✘ Kate Aboagye</p> <p><b>DEFENSE</b> ✘ Accused / <i>accusé</i> : Mr Niyitegeka, <i>pro se</i> (complete CMS4 Form)</p> <p>✘ Lead Counsel / <i>Conseil Principal</i>: _____ (name / nom) <input type="checkbox"/> In Arusha (complete CMS 2) ✘ Fax Number:</p> <p><input type="checkbox"/> Co-Counsel / <i>Conseil Adjoint</i>: _____ (name / nom)     <input type="checkbox"/> In Arusha (complete CMS 2)   <input type="checkbox"/> Fax Number:</p>	
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