



ICTR-2002-78-I
9-11-2004
(795-793)

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

795
2004

OR: ENG

TRIAL CHAMBER I

Before: Judge Erik Møse, presiding
Judge Jai Ram Reddy
Judge Sergei Alekseevich Egorov

Registrar: Adama Dieng

Date: 8 November 2004

THE PROSECUTOR

v.

Gaspard KANYARUKIGA

Case No. ICTR-2002-78-I

JUDICIAL RECORDS ARCHIVES
RECEIVED
ICTR
2004 NOV -9 A 9 56

**DECISION ON THE DEFENCE REQUEST FOR KINYARWANDA TRANSLATIONS
OF ALL DOCUMENTS**

Office of the Prosecutor

Silvana Arbia
Althea Alexis

Counsel for the Defence

Cecil Maruma

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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA ("the Tribunal");

SITTING as Trial Chamber I, composed of Judge Møse, presiding, Judge Jai Ram Reddy, and Judge Sergei Alekseevich Egorov;

BEING SEIZED OF the "Motion by the Applicant for Orders that all Documentation Relating to This Case be Translated to Kinyarwanda, Prior to the Trial", filed by the Defence on 6 October 2004;

CONSIDERING the Prosecution Response, filed on 11 October 2004;

HEREBY DECIDES the motion.

SUBMISSIONS

1. The Defence seeks to have all documents in the case translated into Kinyarwanda, the language of the Accused. The Accused can only read and write Kinyarwanda and submits that he has the right to use his own language.
2. The Prosecution argues that the working languages of the Tribunal are French and English. It is the Registry's responsibility to translate documents. Even where the Accused is entitled to translations, the documents must fit within the parameters of the evidence upon which the determination of charges will be based.

DELIBERATIONS

3. Under Rule 3 (A) of the Rules of Procedure and Evidence ("the Rules"), the working languages of the Tribunal are English and French. Rule 3 (B) provides that the Accused shall have the right to use his own language. Pursuant to Rule 3 (E), the Registrar shall make any necessary arrangements for interpretation and translation of the working languages. Therefore, issues of translation should first be raised with the Registry. The Chamber should only be seized if the issues have not been resolved. In determining whether or not to order translations, the Chamber must weigh the rights of the Accused against considerations of judicial economy.
4. The Chamber observes that it is not disputed that the Accused understands only Kinyarwanda. In *Muhimana*, the Chamber discussed jurisprudence which held that the Accused is entitled to translation of all those documents which are necessary for him to understand in order to have the benefit of a fair trial, to understand the case against him and to defend himself by putting forward his own version of the events.¹ In that case, the Chamber held that the following documents should be translated into Kinyarwanda: all evidentiary material which relates to the determination of the charges against him, including prior witness statements

¹ *Muhimana*, Decision on the Defence Motion for the Translation of Prosecution and Procedural Documents into Kinyarwanda, the Language of the Accused, and into French, the Language of his Counsel (TC), 6 November 2001, paras. 19-21 with references; see also *Rukundo*, Decision on Defence Motion for Translation Into French of Prosecution and Procedural Documents in the *Rukundo* Case (TC), 5 March 2004.

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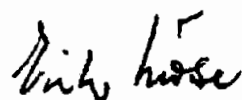
disclosed by the Prosecution under Rule 66 (A) (ii), and decisions and orders of the Chambers. Excluded from mandatory translation were disclosed documents not presented at trial; motions, briefs and other pleadings; transcripts of proceedings; memoranda, correspondence and similar documents. Such documents can only be translated to the extent the Registry's translation services have capacity to do so.

5. The Chamber directs that evidentiary material relating to the determination of the charges, including prior witness statements, and all decisions and orders of the Chambers, be translated into Kinyarwanda for the Accused's benefit.

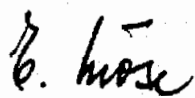
FOR THE ABOVE REASONS, THE CHAMBER

GRANTS the motion insofar as the documents to be translated fall within the categories specified above.

Arusha, 8 November 2004



Erik Møse
Presiding Judge



Jai Ram Reddy
Judge



Sergei Alekseevich Egorov
Judge

