

ICTR-02-78-T
11 - 09 - 2009
(4738 - 4738)

4740
Mwama



UNITED NATIONS
NATIONS UNIES

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

OR: ENG

TRIAL CHAMBER II

Before Judges: Taghrid Hikmet, Presiding
Seon Ki Park
Joseph Masanche

Registrar: Adama Dieng

Date: 11 September 2009

THE PROSECUTOR

v.

Gaspard KANYARUKIGA

Case No. ICTR-2002-78-T

JUDICIAL RECORDS ARCHIVER
2009 SEP 11 11 A 9:43

ORDER FOR DISCLOSURE OF UNDF INVENTORY LIST

Rules 54 and 73 of the Rules of Procedure and Evidence

Office of the Prosecutor:
Holo Makwaia
Althea Alexis Windsor
Cheikh Tidiane Mara
Lansana Dumbuya

Defence Counsel:
David Jacobs
Claver Sindayigaya
Marc Nerenberg

INTRODUCTION

1. The trial in this case began on 31 August 2009.¹
2. On 7 August 2009, the Defence filed a motion pursuant to Rule 68(A) of the Rules of Procedure and Evidence ("the Rules"), requesting that the Prosecution disclose and return exculpatory documents allegedly seized from the Accused at the time of his arrest.²
3. On 18 August 2009, the Chamber issued an Interim Order, instructing the Prosecutor to provide further information regarding the arrest of the Accused and the seizure, inventory and custody of the Accused's possessions.³
4. On 21 August 2009, the Prosecutor filed a response to the Chamber's Interim Order, indicating that he had requested a list of the personal effects with which the Accused had arrived at the United Nations Detention Facility.⁴
5. On 1 September 2009, the Prosecution filed a confidential request for a court order.⁵ The Prosecution submits that UNDF will not disclose the list of the Accused's personal effects without an order from the Chamber.⁶
6. The Defence did not file a response.

DELIBERATIONS

7. As a preliminary matter, the Chamber notes that the Prosecution request was filed confidentially. The Chamber finds that the information contained in the Motion is not of a confidential nature and the confidentiality should therefore be lifted.
8. Concerning the merits of the Prosecution Motion, the Chamber notes that the request was made in order to comply with the Chamber's Interim Order of 18 August 2009, which requested the Prosecutor to provide to the Chamber further information regarding the arrest of the Accused and the seizure, inventory and custody of the Accused's possessions.
9. In light of the aforementioned, the Chamber hereby:

¹ Scheduling Order (TC), 7 July 2009; T. 31 August 2009.

² Motion for the Prosecution to Disclose and Return Exculpatory Documents Seized from the Accused, filed on 7 August 2009.

³ Interim Order Concerning the Defence Request for Rule 68 Disclosure (TC), 18 August 2009.

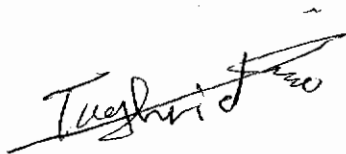
⁴ Prosecutor's Response to the Interim Order of the Trial Chamber Concerning the Defence Request for Rule 68 Disclosure, filed on 21 August 2009, para.

⁵ Requête du Bureau du Procureur aux fins D'Ordonner au Greffe la Communication au Procureur de la Liste des Effets Aisis et Remis à Gaspard Kanyarukiga et qui sont en Possession du Centre de Détention des Nations Unies Articles 54 et 73 du Règlement, filed on 1 September 2009.

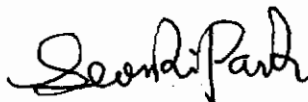
⁶ Requête du Bureau du Procureur aux fins D'Ordonner au Greffe la Communication au Procureur de la Liste des Effets Aisis et Remis à Gaspard Kanyarukiga et qui sont en Possession du Centre de Detention des Nations Unies Articles 54 et 73 du Règlement, filed on 1 September 2009, paras. 3-4.

- I. **GRANTS** the Prosecution motion; and
- II. **ORDERS** the Registry to transmit to the Prosecution the list of items seized from the Accused, Gaspard Kanyarukiga, at the time of his admission to UNDF;
- III. **ORDERS** the Registry to reclassify the Prosecution Motion as a public document.

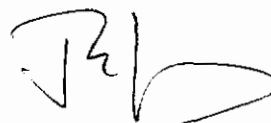
Arusha, 11 September 2009



Taghriddin Hikmet
Presiding Judge



Seon Ki Park



Joseph Masanche
Judge