

ICTR-02-78-T
07-05-10
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International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

UNITED NATIONS
NATIONS UNIES

OR: ENG

TRIAL CHAMBER II

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

Registrar: Adama Dieng

Date: 7 May 2010

THE PROSECUTOR

v.

Gaspard KANYARUKIGA

Case No. ICTR-2002-78-T

JUDICIAL RECEIVED
2010 MAY 11 P 10: 16
RECORDS/ARCHIVES

**DECISION ON THE EXTREMELY URGENT DEFENCE MOTION FOR
ADMISSION INTO EVIDENCE OF RECORDS MADE DURING THE SITE
VISIT IN RWANDA**

Office of the Prosecutor:

Holo Makwaia
Althea Alexis Windsor
Cheikh Tidiane Mara
Lansana Dumbuya

Defence Counsel:

David Jacobs
Claver Sindayigaya
Marc Nerenberg
Iain Edwards

INTRODUCTION

1. On 3 March 2010, the Chamber issued a Supplemental Decision regarding the Site Visit in Rwanda and Itinerary of the Sites to be Visited (“3 March 2010 Decision”).¹ In Annex A to this decision, the Chamber ordered that a transcript and audio and video recordings be made during the site visit.² The Chamber noted that these materials could subsequently be admitted into evidence.³
2. The Trial Chamber undertook a site visit in Rwanda from 19 to 21 April 2010.
3. On 30 April 2010, the Registry distributed a report from the site visit, including transcripts and audio and video recordings, to the interested parties.
4. On 4 May 2010, the Defence for Gaspard Kanyarukiga filed an Extremely Urgent Motion for Admission into Evidence of Records Made during the Site Visit in Rwanda.⁴ The Defence requests the following be admitted into evidence and requests that the Chamber instruct the Registry to provide the following with the requisite exhibit numbers:
 - a. 1 x DVD entitled “Site Visit Day 1, 2, & 3”;
 - b. 4 x audio CDs;
 - c. Hard copies of the transcripts of 19, 20 and 21 April 2010 of the site visit;
 - d. A document from the Registry entitled “Kanyarukiga Mission Report.”⁵
5. On 5 May 2010, the Prosecution filed a response to the Defence Motion, in which it opposes the admission of the Requested Documents as Defence exhibits.⁶ The Prosecution notes that it is not opposed to the admission of the Requested Documents into evidence. The Prosecution then filed a Corrigendum to its Response, which indicated that the Prosecution would not object to the Requested Documents being admitted as Court Exhibits.⁷
6. On 6 May 2010, the Defence filed a Reply to the Prosecution’s Response, stating that the Defence attaches no significance to the exhibit numbers used for the Requested Documents and modifies its original request that they be given Defence exhibit numbers.⁸ The Defence leaves the allocation of exhibit numbers to the Trial Chamber and notes that the Requested Documents should be filed as confidential exhibits.

¹ Supplemental Decision Regarding the Site Visit in Rwanda and Itinerary of Sites to be Visited, 3 March 2010.

² Supplemental Decision Regarding the Site Visit in Rwanda and Itinerary of Sites to be Visited, 3 March 2010, Annex A, paras. 9, 10.

³ Supplemental Decision Regarding the Site Visit in Rwanda and Itinerary of Sites to be Visited, 3 March 2010, Annex A, paras. 9, 10.

⁴ Defence (*sic*) Extremely Urgent Motion for Admission into Evidence of Records Made During the Site Visit in Rwanda, filed on 4 May 2010 (“Defence Motion”).

⁵ Collectively “Requested Documents”.

⁶ Prosecution’s Response to the Defence Extremely Urgent Motion for Admission into Evidence of Records Made During the Site Visit in Rwanda, filed on 5 May 2010.

⁷ Corrigendum to Prosecutor’s Response to the Defence Extremely Urgent Motion for Admission into Evidence of Records Made During the Site Visit in Rwanda, filed on 5 May 2010.

⁸ Reply to the Prosecutor’s Response to the Defence Extremely Urgent Motion for Admission into Evidence of Records Made During the Site Visit in Rwanda, filed 6 May 2010.

DELIBERATIONS

7. The Chamber recalls that, in its decision of 3 March 2010, the Chamber ordered that audio and video recordings be made during the site visit and that a transcript of the proceedings be prepared in English.⁹ The Chamber made clear in the Rules of Procedure and Conduct for the Site Visit that these materials “may be subsequently admitted into evidence.”¹⁰

8. The Chamber further recalls that, under Rule 89(C) of the Rules of Procedure and Evidence, “[a] Chamber may admit any relevant evidence which it deems to have probative value.”

9. Therefore, having considered the submissions of the Parties, the Chamber hereby:

I. ORDERS the following to be admitted into evidence as Registry exhibits:

- a. 1 x DVD entitled “Site Visit Day 1, 2, & 3”;
- b. 4 x audio CDs;
- c. Hard copies of the transcripts of 19, 20 and 21 April 2010 of the site visit;
- d. A document from the Registry entitled “Kanyarukiga Mission Report.”

II. REQUESTS that the Registry allocate exhibit numbers to the above documents and place these exhibits under seal.

Arusha, 7 May 2010, done in English,



Taghrid Hikmet
Presiding Judge

Seon Ki Park
Judge

Joseph Masanche
Judge

[Seal of the Tribunal]

⁹ Supplemental Decision Regarding the Site Visit in Rwanda and Itinerary of Sites to be Visited, 3 March 2010, para. 15.

¹⁰ Supplemental Decision Regarding the Site Visit in Rwanda and Itinerary of Sites to be Visited, 3 March 2010, Annex A, paras. 9, 10.