



United Nations  
Nations Unies

ICTR-01-72-A  
22-07-2009  
(743/A - 727/A)

International Criminal Tribunal for Rwanda  
Tribunal Pénal International pour le Rwanda

743/A  
A

IN THE APPEALS CHAMBER

Before: Judge Patrick Robinson, *Presiding*  
Judge Mehmet Güney  
Judge Fausto Pocar  
Judge Liu Daqun  
Judge Theodor Meron

Registrar: Mr Adama Dieng

Date of filing: 22<sup>nd</sup> July 2009

**Simon Bikindi, the Appellant**

v.

**The Prosecutor, the Respondent**

RECEIVED  
2009 JUL 22 P 5 23  
*[Signature]*

**DEFENCE REPLY RE THE ADMISSION OF  
ADDITIONAL EVIDENCE ON BIKINDI'S PRESENCE  
IN GERMANY**

*Counsel for Simon Bikindi.*

Andreas O'Shea

*Office for the Prosecutor*

Hassan Bubacar Jallow

Alex Obote-Odora

Dior Fall

**A. Translation and quality of production of copies in annexure**

1. The respondent seeks to have evidence rejected simply on the basis that the annexed copies of it are not in an official working language of the tribunal or are, according to him, illegible.<sup>1</sup> The question of translation of documentary evidence and the quality of production of witness statements are procedural matters which do not necessarily impact on the substance of the issues such evidence goes to, or the relevance of the evidence. Most importantly, where evidence may highlight a possible miscarriage of justice in the imposition of a long prison sentence, this would be a grossly unfair basis for the exclusion of evidence. Rule 115 does not provide a legal foundation for the exclusion of evidence on the grounds suggested by the respondent. It is rather something which can only be founded upon the provisions of relevant practice directions designed to ensure the efficient running of proceedings. The appellant submits that procedural requirements should not be employed to deprive the appellant of his substantive rights, or to allow his continued unjust imprisonment.
2. In so far as there are problems with the quality of the annexure, this does not reflect the quality of the evidence itself, and is partly due to factors beyond the appellant's control. These factors include the fact that documents must be scanned or copied on retrieval and at the time of filing, the poor scanning facilities of the tribunal itself and a lack of time and resources for the translation of documents.
3. The appellant made an effort to get such unofficial translations as were possible within the time available before the expiry of the deadline for the filing of the motion. Since the appellant is in prison and seeking a reversal of his conviction and release, his counsel did not deem it to be in his best interest to seek extensions of time for the filing of motions on additional evidence unless it was absolutely necessary. The additional time in prison could not be justified in the light of the length of time it can take to get translations, the fact that the pertinence of the evidence was plain on the face of the documents even in the absence of

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<sup>1</sup> Prosecution Response to Defence Motion to Admit Additional Evidence on Bikindi's Presence in Germany ("Prosecution Response"), para 7.

translations, and the fact that translations could be subsequently provided without undue prejudice to the respondent.

4. In any event, the respondent has not demonstrated how its position is prejudiced for such reasons by the admission of the proposed evidence. In the event that it had been so prejudiced the remedy for that prejudice would rather be to allow supplementary submissions once appropriate translations, originals or original copies of evidence and clearer witness statements were provided or available. It is submitted that the exclusion of relevant evidence would be an unnecessarily draconian measure for any prejudice suffered.
  
5. The appellant submits that the annexure in their present form in fact provide sufficient elements to decide on their relevance to the proceedings, and this must be the primordial question. The issue of relevance should be viewed in the light of the object of Rule 115. A distinction should be made between determining whether evidence has some probative value for the purposes of its admission into proceedings and its actual weight for the determination of the final issues. It is not in fact necessary, in the appellant's submission, for these annexure to be all translated and of the highest quality of production or in original form, in order for their relevance to be argued and determined. In the case of the annexure to the appellant's motion the probative value of the evidence sought to be admitted is determinable without enhancement of their quality or prior translation of their content. The circumstances and the process does not allow for the evidence to be provided in its original or best form.
  
6. The witness statements are not evidence in themselves but merely provide notice of what a witness is likely to say, if called. Such notice is largely provided in the body of the motion itself where the relevance of their evidence is explained.<sup>2</sup> The issue of notice of the parameters of their testimony becomes more important once the Appeals Chamber has determined that the evidence is relevant and, having regard to the matters outlined in Rule 115, ought to be heard. It follows that if the respondent has experienced difficulty with parts of the witness statements, this is

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<sup>2</sup> Defence Motion to Admit Additional Evidence on Bikindi's Presence in Germany ("Defence Motion"), paras 24-27.

a matter which can subsequently be rectified, but does not prevent submissions or determination of the relevance of the proposed testimony to the case.

7. The appellant disputes that these witness statements are illegible. They are hand written by counsel for the appellant, which while perhaps not pleasurable to the eye, is readable. Counsel did not at the time of filing perceive any difficulty which might arise reading his hand written statements. Some quality has been lost in the scanning process, but the appellant suggests that the scanned copies remain sufficiently legible to understand their content. The original statements are available for inspection and typed versions of these statements are annexed herewith as Annexure A (statement of Gerlinde Rahm), B (statement of Annick Seither) and C (statement of Sylvain Nsengiyumva),<sup>3</sup> in case the Appeals Chamber considers that counsel has misjudged the ability of others to read his own handwriting. The appellant submits that there are adequate elements to decide on the relevance of the testimony in the motion and annexure viewed as a whole. The appellant suggests that if this is not the case, there is a genuine problem in deciphering the content of these statements, and the relevance of the testimony cannot be determined without resolving that problem, then the appropriate course would be to allow supplementary submissions rather than disallow the motion. However, the appellant submits that the situation has not reached that level.
  
8. The remaining documents consist of exhibits, which it is proposed, are best entered into evidence through the proposed witnesses. Alternatively, they can be entered through the appellant himself. The originals can be made available at the hearing. With respect to the diary of Gerlinde Rahm<sup>4</sup> this is a contemporaneous record made by the witness and while it can stand on its own, is best tendered in support of Mrs Rahm's direct testimony. It is submitted that these diary entries are readable but any difficulty in reading them must be viewed as a result of the scanning process of the Tribunal at the time of filing and distribution. In the appellant's submission, the appellant's own scans of these entries are extremely clear. Moreover, the original can be made available for inspection and an

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<sup>3</sup> Defence Motion, Annexure "A", "B" and "C" respectively.

<sup>4</sup> Defence Motion, Annexure "A", at 377/H to 374/H.

unofficial translation of the entries has been provided. There is therefore no good reason to exclude the evidence simply on the basis of the reduced quality of the Tribunal's scan. The respondent observes that the first inside page of the diary is not translated,<sup>5</sup> but there is no need for the translation of this page, which is simply produced to indicate that the other pages were diary entries in a 1993 diary. Again, the original of the diary can be made available.

9. With respect to the photographs,<sup>6</sup> these were first scanned in Germany and in colour with a higher quality system than that of the Tribunal, but it is the scanned copies of the Tribunal that are distributed. The appellant cannot be blamed for this. The originals of these photographs are in the possession of the proposed witnesses Rahm and Seither and can be made available at the hearing. They demonstrate the presence of Bikindi at a location in Germany in June 1993. This has been explained in the motion<sup>7</sup> and the appellant or the witness producing the photographs can testify as to this. Since the appellant will be present at the hearing the Chamber can see for itself that one person depicted in the photographs at 371/H, 368/H, 367/H and 366/H is, or is probably Bikindi. The witnesses can testify and the photographs support that the dance group is the *Irindiro* ballet of Bikindi, that the location is Germany and the Roman Catholic celebration shown in the pictures is that of Corpus Christie, normally taking place in the month of June. The photo at 371/H, bearing the picture of the local mayor with Bikindi can be compared with the picture in the newspaper article at 373/H, bearing a similar image, and the articles on that page include a notation of the date by the witness. The witnesses can testify as to the time these photographs were taken.
10. As regards the newspaper articles and the program of the trip, neither the appellant nor the Tribunal had the resources to produce translations of these before the time for filing of the motion. The appellant undertakes to use his best endeavors to obtain translations as quickly as possible, with the assistance of the Registry. However, translation of these articles is not necessary for the purpose of deciding upon whether this evidence fulfils the requirements of Rule 115. There

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<sup>5</sup> Prosecution response, note 1.

<sup>6</sup> Defence Motion, Annexure "A", at 371/H, and Annexure "B" at 368/H-363/H

<sup>7</sup> Defence Motion, para 25.

are, it is submitted, sufficient indicia of reliability and relevance without the necessity of translation. These indicia include photographs of Bikindi (see para 9 *supra*), reference to the name Simon Bikindi (article top left and bottom right), dates (373/H, articles bottom left and bottom right) and references to 'Irindiro' (373/H, article top left), which was the name of Bikindi's ballet according to the respondent's as well as the appellant's case. Further details of their content can be provided by translation prior to the hearing or simply by explanation from the witnesses. The program at 358/H-357/H has the self evident title '*Programm des Ballet Irindiro*', consists of dates, times and names of locations in Germany, some well known (e.g. 357/H: '14., 15., 16.06, BONN'), has the date of 11 June 1993 stamped on the front page, as well as the facsimile date of 15 June 1993 at the top, visible on the scan at the second page, indicating its contemporaneous nature.

11. The appellant invites the Appeals Chamber to consider in the exercise of its discretion in this matter, the fact that the evidence in question can be inspected by the respondent and placed before the judges in its original form or the best copies thereof and that the respondent will have the opportunity to make further submissions on the basis of these originals or better copies, hopefully all translated, at the time of the hearing. The Appeals Chamber may also wish to consider the difficulties in which the appellant has been placed by the decision of the Registry to deny co-counsel at the time when motions for additional evidence were being prepared, as well as interests of both the accused and the Tribunal in expediting proceedings. Translations, as a matter of experience, involve a strain on resources and take significant time. It is possible and reasonable to avoid seeking or entertaining extensions of time for the filing of motions where procedural requirements such as the provision of translations can be rectified through subsequent action without delaying the consideration of the central issues set out in Rule 115. It should further be noted that lead counsel had been informed by the Registry in no uncertain terms that investigations for additional evidence would not be funded until there was a decision from the Appeals Chamber. So counsel conducted the mission leading to these results at his own cost and without the assistance of an investigator.

12. Even in cases where the legibility or form of documents cannot be rectified at a later stage in the proceedings, unlike in this case, it is submitted that the remedy to the problem is not found in its exclusion, but rather in the weight to be ultimately attached to that evidence. Documents cannot always be provided in a particularly legible or comprehensible form because of the age of the documents, the manner in which they were produced, or by virtue of the loss or unavailability of originals. If there are indicia of reliability and the evidence has probative value it should not be excluded in such circumstances but evaluated in the light of any such problems. The appellant suggests that there is good sense in the observation of the Trial Chamber in the *Karemera* case to the effect that:

The illegibility or incomprehensibility of the transcripts of an accused's interview does not preclude it from being reliable, but rather goes to the weight to be given to the evidence.<sup>8</sup>

13. *A fortiori*, where as here, difficulties with legibility or comprehension are due to poor quality reproduction, the circumstances in which the document was produced or the language in which they are written, do not significantly affect their ability to support the point for which they are produced, or can be rectified before an oral hearing and decision on the substantive issues.
14. The appellant submits that human rights standards and the practice of the ad-hoc tribunals themselves demonstrate that a Chamber should make every effort to use less intrusive means of remedying any prejudice caused by procedural impropriety and that the refusing to hear from a witness should be a last resort.<sup>9</sup> There must be some reasonable method of bringing evidence before the Appeals Chamber and it could give rise to a travesty of justice to exclude evidence simply because of the difficulties associated the process of filing written motions.

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<sup>8</sup> *Prosecutor v Karemera et al*, No. ICTR-98-44-T, Decision on the Prosecution Motion for Admission into Evidence of Post-Arrest Interviews with Joseph Nzirorera and Mathieu Ndirumpatse (2 November 2007) at para. 36

<sup>9</sup> The case of *Bricmont v. Belgium* before the European Court of Human Rights suggests that refusal to allow the calling of a witness could amount to a violation of the right to fair trial. In the case of *Bagosora*, the Trial Chamber decided that notwithstanding a breach of disclosure obligations on the part of the prosecution, the lesser remedy of additional time should be accorded to the Defence rather than the excluding the testimony of the witness: *Prosecutor v. Bagosora, Decision on the Defence for Bagosora's Motion for the Postponement or the Quashing of Testimonies of Witness Ruggiu, XAM and ZF*

**B. Availability at trial**

15. The respondent applies an artificial approach to the question of availability at trial. The reference to Bikindi's evidence on the tour of 1993, which he described as a tour of '1983' in French does not, contrary to the submission of the respondent, amount to an admission of availability at trial.<sup>10</sup> The only concession (not admission) made by the appellant, is that he gave his own testimony on a tour in Germany, which was thus available at trial. However, due to the mistaken reference to '1983', it was on its face evidence about a tour in 1983 and the evidence of the tour of '1993' was effectively not available at trial for the consideration of the judges.<sup>11</sup> It is therefore not admitted by the appellant that the evidence that he now seeks to admit, that is his own evidence of events in 1993 and that of other witnesses on these same events, in fact was available at trial.
16. What this error demonstrates is that a reasonable effort was made to adduce evidence from the appellant at trial on the issue of his presence in Germany in June 1993. This effort failed due to a simple error on the part of the appellant while giving his personal testimony. This error went by unnoticed at the time. This does not amount to a lack of due diligence as it is easy not to hear or overlook the fact that 1983 has been mentioned instead of 1993, especially in French, since the French for 1993 is 'quatre vingt trieze' as opposed to 'quatre vingt trois'. So it is a difference of a single word within a very similar expression. Counsel listened to the appellant in French in order to get the best appreciation of his testimony, but French is not his first language.
17. The fact that this error was made effectively rendered this evidence from the appellant unavailable at trial. The proof of this is that the Trial Chamber itself completely overlooked it in its analysis. Putting aside whether the Trial Chamber should nonetheless have realized the error because of the context and taken this evidence into account, this was a situation that arose as a result of no-one's fault. The rules of procedure and evidence must be applied fairly to a defendant and not in an over technical manner. Moreover, the principle of *in dubrio pro reo* must

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<sup>10</sup> Prosecution Response, para 9.

<sup>11</sup> See Defence Motion, para 32.

give the accused the benefit of the doubt where appropriate. The object of this requirement is to prevent the Appeals Chamber being turned into a trial *de novo*, but if an error led to evidence effectively not being part of the record, then it is submitted that the interests of justice dictate that it should be treated as not having been available at trial. In the alternative, the interests of justice dictate that the evidence should nonetheless be heard on the basis that not to do so would lead to a miscarriage of justice.

18. Regardless of whether the appellant unsuccessfully attempted to place his own evidence on an issue on record, this does not affect the right to bring further evidence on the same issue, which might be more compelling. Neither the witnesses nor their exhibits were available at trial.
19. The fact that three missions were conducted is *prima facie* evidence that due diligence was exercised to find evidence, in the absence of evidence demonstrating that these missions were not properly conducted. It is extremely difficult for the appellant to demonstrate that these missions were not properly conducted. It is even more difficult to prove the negative, as proposed by the respondent: that despite these missions having been executed, evidence was not found.<sup>12</sup> If evidence had been found, while the point supported by this evidence was not put to witness AKJ and the evidence was also not passed onto the present lead counsel, this would in itself amount to an indication of ineffective assistance. The respondent is attempting to place an unrealistic and unfounded burden on the appellant. The appellant's position in the alternative is that if due diligence is not demonstrated then this goes to the ineffective assistance of counsel.<sup>13</sup>
20. It makes absolutely no sense to assert, as the respondent does, that an argument of ineffective assistance of counsel does not assist the appellant and at best demonstrates failure to exercise due diligence.<sup>14</sup> This involves a rigid and unrealistic interpretation of Rule 115. If such an argument is accepted it gives an

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<sup>12</sup> Prosecution Response, para 11.

<sup>13</sup> Defence Motion, para 35.

<sup>14</sup> Prosecution Response, para 9-11.

appellant no chance to rectify matters on appeal if his interests have not been properly served by counsel at trial.

21. Finally, the appellant's argument in this respect completely overlooks the principle criterion of the interests of justice.<sup>15</sup> It does not address the appellant's argument at paragraph 12 of the motion with regard to the fact that evidence may still be admitted if its exclusion would amount to a miscarriage of justice, inasmuch as, had it been produced at trial it would have had an impact on the verdict.<sup>16</sup> This is despite the fact that the Appeals Chamber may find the evidence was available at trial.<sup>17</sup> It is clear that however one views the appellant's own evidence, it was not placed in the balance by the Trial Chamber. Had the Trial Chamber addressed its minds to the fact that Bikindi may have been in Germany in June 1993, this would have brought his presence at the 1993 Kivumu meeting into doubt, would have altered that particular finding of the Chamber, and would necessarily have had an *impact* on the question of the credibility and reliability of the evidence of AKJ and AKK, found credible, and thus the final verdict.

### C. The respondent's assertion that the proposed evidence is irrelevant

22. The respondent contends that the evidence in question has no relevance because it does not relate to findings material to the conviction or sentence in the sense that those findings were crucial or instrumental to the conviction or sentence.<sup>18</sup> This argument ignores the fact that the Chamber specifically found the said witnesses to be credible and implied that their evidence was reliable.<sup>19</sup> The proposed evidence undermines that credibility, and/or reliability on dates,<sup>20</sup> by addressing the *likelihood* of the appellant being present at a rally in May or June 1993.

<sup>15</sup> Decision on Six Motions, para. 10; Kajelijeli, 28 October 2004, para. 12; Ntagerura et al. Decision of 10 December 2004, para. 12. Blakic Decision of 31 October 2003, p. 3; Nikolic v. Prosecutor, Case No. IT-02-6011-A, Decision on Motion to Admit Additional Evidence, 9 December 2004, para. 25.

<sup>16</sup> See *ibid.*, and Defence Motion para 12, and 36-40.

<sup>17</sup> Decision on Six Motions, para. 9; Kajelijeli v. Prosecutor, Case No. ICTR-98-44A-A, Decision on Defence Motion for the Admission of Additional Evidence pursuant to Rule 115, 28 October 2004, para. 11; Ntagerura et al. Decision of 10 December 2004, para 11. Prosecution v. Delic, Case No. IT-96-21-R-119, Decision on Motion for Review, 25 April 2002, para. 18; Prosecution v. Krstic, Case No. IT-98-33-A, Decision on Application for Subpoenas, 1 July 2003, para. 16.

<sup>18</sup> Prosecution Response, para 14.

<sup>19</sup> TC Judgment, pp. 66-7 at paras 272 and 274.

<sup>20</sup> Defence Motion, para 19

23. The respondent asserts that witness AKJ spoke of May 1993 in cross-examination and that the appellant *merely* refers to the likelihood of the appellant attending a rally in May when he was preparing for a tour in June.<sup>21</sup> This assertion overlooks paragraph 16 of the appellant's motion: the evidence was in fact that this meeting was in June 1993 because the witness initially spoke of the rally taking place around 15 May 1993, then firmed up on the month of June 1993 instead.<sup>22</sup>
24. If the appellant is right in his interpretation of the evidence of AKJ, then a Trial Chamber properly applying itself *would* have been affected by such evidence, and the appellant should, it is respectfully submitted, be given the benefit of the doubt in this respect. Even if not right, the Trial Chamber would have been affected by this evidence since common sense dictates that such a tour of a musical dance group would require much preparation and preoccupied the accused, as asserted by the accused in his examination-in-chief. This is not a speculative argument as suggested by the respondent. It is the assertion of the appellant that he was busy with these preparations, an assertion which is supported by evidence relating to his tour. This necessarily weighs on the question of reasonable doubt.
25. Since the Trial Chamber found no reason to doubt the credibility of witnesses AKJ and AKK and was silent on reliability, this evidence is instrumental and crucial to the verdict, and we submit, must be admitted in the interests of justice, so that the Appeal Chamber may properly assess it in the context of the evidence presented at trial, in its consideration of the merits of the appeal as a whole.<sup>23</sup>

Andreas O'Shea



Counsel for the appellant

22<sup>nd</sup> June 2009

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<sup>21</sup> Prosecution Response, para 16.

<sup>22</sup> Transcript 21 September 2006, Page 15, l.22-23 and page 17, l.30-34. and Defence Motion, para 16.

<sup>23</sup> Decision on Six Motions, para.10; Kajelijeli Decision of 28 October 2004, para. 12; Ntagerura et al. Decision of 10 December 2004, para. 12. Blaskic Decision of 3 1 October 2003, p. 3; Nikolic v. Prosecutor, Case No. IT-02-6011-A, Decision on Motion to Admit Additional Evidence, 9 December 2004, para. 25.

F32/A

Annexure "A"

731/A

DECLARATION

I, Gerlinde Rahm, met  
with Bikindi Simon when he came to  
Germany with the Rwandan dance group.  
This was in June 1993. I  
saw the performance of the group on  
10 & 11 June when it performed in LANDAU.  
I then saw them perform again on  
23 June in Waldsee, and saw Bikindi.  
These sightings are recorded in my  
diary of the year 1993, which I produce  
in copy.

Read to me in German

Landau, 16 April 2009

Gerlinde Rahm

Taken by Andreas O'Shea,  
lead counsel for Bikindi

16/4/09

730/A

## Annexure "B"

729/A

DECLARATION

My name is Annick Seither.

I met Bikindi Simon, in June 1993.

He was here with his dance group in LANDAU,  
a town in the Rhineland

Pfalz (otherwise known in French as  
Rhenanie Palatinat). I think Bikindi  
stayed in Germany about a month.

Bikindi was touring with his group  
around the state of Rhineland Phalz.

At my home I lodged Cyrien and  
three others of Bikindi's group.

At the time I was part of  
an partnership between  
the town of LANDAU and KIGOMA  
in Rwanda.

The purpose of this partnership to  
help the poor in Rwanda.

16.04.09

Taken by Andreas O'Shea,  
lead counsel for Bikindi

16/4/2009

Annexure "C"

727/A

DECLARATION

Je connais Bikindi. Appolline est  
du meme village de ma femme.

Je le connais depuis des annes

Je suis venu a Rhenanie

Palatina, pour preparer le tour

du ballet qui a pris place

en June 1993.

J'avais laisse Bikindi et le ballet

a l'Aeroport de Kigali. En

se revu deux ou trois jours

après leur retour. Je connais

certain documents et un film sur

le tour et je suis en mesure de les identifier et verifier.

Sylvain Nsengiyumva

16/04/09

En presence de Andreas O'Shea

conseil principal de Bikindi

16/04/09



# TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

**COURT MANAGEMENT SECTION**  
(Art. 27 of the Directive for the Registry)

## I - GENERAL INFORMATION (To be completed by the Chambers / Filing Party)

<b>To:</b>	<input type="checkbox"/> Trial Chamber I N. M. Diallo	<input type="checkbox"/> Trial Chamber II R. N. Kouambo	<input type="checkbox"/> Trial Chamber III C. K. Hometowu	<input checked="" type="checkbox"/> Appeals Chamber / Arusha F. A. Talon
	<input type="checkbox"/> Chief, CMS J.-P. Fomété	<input type="checkbox"/> Deputy Chief, CMS M. Diop	<input type="checkbox"/> Chief, JPU, CMS M. Diop	<input type="checkbox"/> Appeals Chamber / The Hague R. Muzigo-Morrison K. K. A. Afande
<b>From:</b>	<input type="checkbox"/> Chamber  (names)	<input checked="" type="checkbox"/> Defence <b>Andreas O'Shea</b>  (names)	<input type="checkbox"/> Prosecutor's Office  (names)	<input type="checkbox"/> Other:  (names)
<b>Case Name:</b>	The Prosecutor vs. <b>Simon Bikindi</b>			<b>Case Number:</b> ICTR-1-72
<b>Dates:</b>	Transmitted: <i>22 July 2009</i>		Document's date: <b>22 July 2009</b>	
<b>No. of Pages:</b>	<b>11 + annexes (6)</b>	<b>Original Language:</b> <input checked="" type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda		
<b>Title of Document:</b>	<b>DEFENCE REPLY RE THE ADMISSION OF ADDITIONAL EVIDENCE ON BIKINDI'S PRESENCE IN GERMANY</b>			
<b>Classification Level:</b>		<b>TRIM Document Type:</b>		
<input type="checkbox"/> Ex-Parte <input type="checkbox"/> Strictly Confidential / Under Seal <input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Public		<input type="checkbox"/> Indictment <input type="checkbox"/> Warrant <input type="checkbox"/> Correspondence <input type="checkbox"/> Submission from non-parties <input type="checkbox"/> Decision <input type="checkbox"/> Affidavit <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Submission from parties <input type="checkbox"/> Disclosure <input type="checkbox"/> Order <input type="checkbox"/> Appeal Book <input type="checkbox"/> Accused particulars <input type="checkbox"/> Judgement <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Book of Authorities		

## II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party)

**CMS SHALL** take necessary action regarding translation.

Filing Party hereby submits only the original, and **will not submit** any translated version.

Reference material is provided in annex to facilitate translation.

Target Language(s):

English - *JUST ANNEX C*  French  Kinyarwanda

**CMS SHALL NOT** take any action regarding translation.

Filing Party hereby submits **BOTH the original and the translated version** for filing, as follows:

Original	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda
Translation	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda

**CMS SHALL NOT** take any action regarding translation.

Filing Party **will be submitting the translated version(s)** in due course in the following language(s):

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**KINDLY FILL IN THE BOXES BELOW**

<input type="checkbox"/> <b>The OTP</b> is overseeing translation. The document is submitted for translation to: <input type="checkbox"/> The Language Services Section of the ICTR / Arusha. <input type="checkbox"/> The Language Services Section of the ICTR / The Hague. <input type="checkbox"/> An accredited service for translation; see details below: Name of contact person: Name of service: Address: E-mail / Tel. / Fax:	<input type="checkbox"/> <b>DEFENCE</b> is overseeing translation. The document is submitted to an accredited service for translation (fees will be submitted to DCDMS): Name of contact person: Name of service: Address: E-mail / Tel. / Fax:
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## III - TRANSLATION PRIORITISATION (For Official use ONLY)

<input type="checkbox"/> Top priority	<b>COMMENTS</b>	<input type="checkbox"/> Required date:
<input type="checkbox"/> Urgent		<input type="checkbox"/> Hearing date:
<input type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines:



**COURT MANAGEMENT  
ADMINISTRATION DES CHAMBRES**

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**APPEALS - PROOF OF SERVICE – BY FAX  
PREUVE DE NOTIFICATION - CHAMBRE D'APPEL – PAR FAX**

<b>Date:</b> 20/07/2009	<b>Case Name / affaire:</b> - Simon BIKINDI	
	<b>Case No / no. de l'affaire:</b> ICTR-01-72-A	
<b>To: A:</b>	<b>Appeals Chamber Support Unit, The Hague:</b> - Mr. Koffi Afande - Ms. Rosette Muzigo-Morrison - Mr. Ramadhani T. Juma	<input type="checkbox"/> Judge / Juge Fausto Pocar <input type="checkbox"/> Judge / Juge Mohamed Shahabuddeen <input type="checkbox"/> Judge / Juge Liu Daqun <input type="checkbox"/> Judge / Juge Theodor Meron <input type="checkbox"/> Judge / Juge Carmel Agius
	<b>ACCUSED / DEFENSE</b> <input checked="" type="checkbox"/> Accused / Accusé <b>BIKINDI</b> ..... see / voir "CMS4" <input checked="" type="checkbox"/> Lead Counsel / Conseil Principal: <b>A. O'shea</b> <input type="checkbox"/> In Arusha / à Arusha: (see / voir CMS3) <input type="checkbox"/> Fax: <input type="checkbox"/> Co-Counsel / Conseil Adjoint: <b>J. D. Momo</b> <input type="checkbox"/> Arusha (see / voir CMS3) <input type="checkbox"/> Fax:	
	<b>OTP / BUREAU DU PROCUREUR</b> <input type="checkbox"/> Hassan Bubacar Jallow, Prosecutor <input type="checkbox"/> B. Majola, Deputy Prosecutor <input type="checkbox"/> J. Stewart, SAC <input checked="" type="checkbox"/> <b>D. Fall</b> , Senior Trial Attorney in charge of case: (input type="checkbox"/> name) <input type="checkbox"/> The Hague / La Haye <input type="checkbox"/> Arusha (see / voir CMS3) <input type="checkbox"/> Kigali	
<b>From: De:</b>	<input type="checkbox"/> JP. Fomété (Chief, CMS) <input type="checkbox"/> Matar Diop (Chief, JPU) <input checked="" type="checkbox"/> <b>C. Hometowu (TC III)</b> <input type="checkbox"/> F. A. Talon (Appeals/Team IV) <input type="checkbox"/> Other	
<b>CC:</b>	<input checked="" type="checkbox"/> Registrar <input type="checkbox"/> OLA, NY <input checked="" type="checkbox"/> Deputy Registrar <input type="checkbox"/> Press <input checked="" type="checkbox"/> ICTR Spokesperson <input checked="" type="checkbox"/> SAR <input type="checkbox"/> WVSS <input type="checkbox"/> DCDMS <input checked="" type="checkbox"/> CSS <input checked="" type="checkbox"/> SADR <input type="checkbox"/> Other	
<b>Subject Objet:</b>	Kindly find attached the following documents / <i>Veillez trouver en annexe les documents suivants:</i>	
<b>Documents name / titre du document</b>	<b>Date Filed / Date enregistrée</b>	<b>Pages</b>
<b>DEFENCE REPLY RE THE ADMISSION OF ADDITIONAL EVIDENCE ON BIKINDI'S PRESENCE IN GERMANY</b>	<b>22/07/2009</b>	<b>743/A – 727/A</b>

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