

UNITED NATIONS



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 1994 and 31 December 1994

Case No. ICTR-97-23-A

Date : 2018 bis

ENGLISH

Original: FRENCH

APPEALS CHAMBER

ICTR-97-23-A
22-06-2000
(2018 bis - 2016 bis)

Before Judges : Claude JORDA, Presiding
Lal Chand VOHRAH
Mohamed SHAHABUDDEEN
Rafael NIETO-NAVIA
Fausto POCAR

Registry: Mr. Agwu U. OKALI

Decision rendered on : 13 June 2000

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ICTR
COURT REGISTRY
RECEIVED

Jean KAMBANDA
(Appellant)

vs.

THE PROSECUTOR
(Respondent)

DECISION
ON THE APPELLANT'S MOTION FOR ADMISSION OF NEW EVIDENCE

Office of the Prosecutor:
Mr. Solomon Loh

Counsel for the Defence:
Mr. Tjarda Eduard van der Spoel
Mr. Gerard P. M. F. Mols

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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 "the Appeals Chamber" and ("the Tribunal" respectively);

CONSIDERING the Judgement rendered on 4 September 1998 by Trial Chamber I in the matter *The Prosecutor vs. Jean Kambanda*, in which Jean Kambanda, "the Appellant", pleaded guilty to the charges brought against him in the confirmed indictment, and was sentenced to life imprisonment;

CONSIDERING the Notices of Appeal lodged by the Appellant and grouped under "consolidated Notice of Appeal" lodged on 8 February 2000, and the Decision of the Appeals Chamber of 18 May 2000 which granted leave for the addition of a supplemental ground of appeal;

CONSIDERING "the Appellant's Motion for Admission of New Evidence" filed by the latter on 30 March 2000 ("the Appellant's Motion"), by which he sought leave to supplement the record on appeal with new evidence on the first three grounds of appeal;

CONSIDERING the documents filed following the Appellant's motion, namely : the "Prosecution's Response to Appellant Jean Kambanda's Motion for Admission of New Evidence on Appeal, pursuant to the provisions of Rules 115 and 116 of the Rules of Procedure and Evidence", filed by the Prosecutor on 10 April 2000, the "Supplement to the Appellant's Motion for Admission of New Evidence" filed by the Appellant on 28 April 2000, the "Prosecution's Supplemental Response to Appellant Jean Kambanda's Motion for Admission of New Evidence on Appeal", filed on 4 May 2000, and the "Document in support of Appeal as mentioned in the Court Order of 24 May 2000", filed by the Appellant on 30 May 2000 ("Proposed Witness Statements");

CONSIDERING moreover, the Prosecutor's motion for extension of time limit entitled "Motion moving for extension of time limit within which to file a response to documents filed by Jean Kambanda regarding seven proposed witnesses that he seeks to call to testify before the Appeals Chamber", the Prosecutor's response entitled "Prosecution Response to documents filed by Jean Kambanda regarding seven proposed witnesses that he seeks to call to testify before the Appeals Chamber" (the Prosecutor's Response to the Proposed Witnesses' Statements"), both filed on 8 June 2000;

CONSIDERING that Document D18 and Annexes 4, 5, 6, 14,16, 17, 24 and 25 to Document D10 are an integral part of the record of appeal and that it is consequently not necessary to examine them in considering the Appellant's motion;

CONSIDERING that Document D17 is cited by the Appellant as jurisprudential evidence and that consequently, it is of no interest for the Appeals Chamber to consider its admission as supplementary evidence in the context of the Appellant's motion;

CONSIDERING however, that Document D17 should be included in the Book of Authorities of the Appellant;

CONSIDERING that apart from the Appellant's oral testimony, the new evidence whose admission is sought does not meet the criteria of admissibility, and, furthermore, that the Appellant does not satisfy the Appeals Chamber, seeing the grounds on which the appeal lodged, that it is in the interest of justice to allow its admission;

CONSIDERING, however, that the interest of justice demands to that the Appellant's testimony be heard so as to know whether his plea of guilty was voluntary, informed, unequivocal and based on sufficient facts for the crime and the accused's participation in it, as stipulated under Rule 62 of the Rules of Procedure and Evidence of the Tribunal, on condition that his testimony be limited to the factual context of the matter submitted before the Appeals Chamber.

FOR THE FOREGOING REASONS DECIDES as follows :

- (1) To allow the Prosecutor's motion for extension of time limits;
- (2) To allow the Prosecutor's Response to the potential witnesses' statements;
- (3) Document D17 shall be renumbered Document A13 and included in the Book of Authorities of the Appellant;
- (4) To allow the Appellant's motion to testify before the Appeals Chamber, within the limits set hereinabove;
- (5) The Appellant's motion is dismissed with regard to the other requests;

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

(Signed)
Claud Jorda,
President of the Appeals Chamber

Done on 13 June 2000
at the Hague, the Netherlands



(Seal of the Tribunal)