

UNITED NATIONS



International Tribunal for the
Prosecution of Persons
Responsible for 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: 8 December 1999
ENGLISH
Original: French

IN THE APPEALS CHAMBER

Before: Judge Claude Jorda, Presiding
Judge Lal Chand Vohrah
Judge Mohamed Shahabuddeen
Judge Wang Tieya
Judge Rafael Nieto-Navia

Registrar: Mr Agwu U Okali

Decision of: 8 December 1999

Jean KAMBANDA

v

THE PROSECUTOR

Case No.: ICTR-97-23-A

1999 DEC - 8 P 5: 58
ORIGINAL REGISTRY
RECEIVED
ICTR

DECISION

**(APPELLANTS' MOTION FOR LEAVE TO FILE A SECOND SUPPLEMENTARY
NOTICE OF APPEAL AND FOR EXTENSION OF TIME TO FILE BRIEF)**

Counsel for the Appellant
Mr Tjarda Eduard van der SPOEL

Counsel for the Prosecutor
Mr Bernard MUNA
Mr Mohamed OTHMAN
Mr Upawamsa YAPA
Mr Norman FERREL
Mr ZU Wen-qi

International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
CERTIFIED TRUE COPY OF THE ORIGINAL SEEN BY ME
COPIE CERTIFIÉE CONFORME A L'ORIGINAL PAR NOUS
NAME / NOM: *Tehele T. Alimandigbo*
SIGNATURE: *[Signature]* DATE: *8/12/99*

Case No.: ICTR-97-23-A

8 December 1999

THE APPEALS CHAMBER of the International Tribunal for the Prosecution of Persons Responsible for 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 (the 'Appeals Chamber' and the 'Tribunal' respectively);

NOTING the Judgement and Sentence in the *Prosecutor v Jean Kambanda*, Case No. ICTR-97-23-S, rendered on 4 September 1998; that Mr Kambanda had pleaded guilty to the indictment confirmed against him; and that he was sentenced to life imprisonment;

NOTING that a 'Notice of Appeal against Sentence of Trial Chamber I' was filed on 7 September 1998 on behalf of Mr Jean KAMBANDA ('the Appellant'), appealing against sentence;

NOTING FURTHER that a 'Supplementary Notice of Appeal against Sentence of Trial Chamber I' ('the First Supplementary Notice of Appeal') was filed on Monday, 8 October 1998 on behalf of the Appellant;

NOTING the letter from the Registry of the Tribunal to Mr Tjarda Eduard van der SPOEL, dated 13 August 1999, assigning him as from that date to be Counsel for the Appellant in his appeal ('the Counsel'), and that Mr van der Spoel thereby replaced the Appellant's former Counsel of record;

NOTING that by a Scheduling Order of this Chamber made on 29 September 1999, it was ordered that (a) Appellant shall file his appellate brief by 8 December 1999, (b) the Prosecutor ('the Respondent') shall file her response by 4 January 2000, and (c) the Appellant may file a reply by 19 January 2000;

NOW BEING SEISED of two documents by the Appellant: a Second Supplementary Notice of Appeal dated 24 November 1999, and a Motion requesting this Chamber to extend by three months the time-limit within which to file his appellate brief;

NOTING the Prosecutor's Responses of 3 December 1999 to the documents filed by the Appellant on 24 November 1999;

NOTING that both the first and second supplementary Notices of Appeal are out of time, in view of Rule 108(A) of the Rules of Procedure and Evidence which grants an appellant a right to file his or her Notice of Appeal within 30 days of the date of the judgment being appealed;

NOTING that the Prosecutor has not objected to the filing of the First Supplementary Notice of Appeal;

NOTING FURTHER the Prosecutor's positions that (a) the Appellant's Second Supplementary Notice of Appeal may be treated as motion for leave to file the supplementary Notice of Appeal, (b) although she does not object to the motion for leave to file a Second Supplementary Notice of Appeal, it is nevertheless within the Appeals Chamber's discretion to grant such leave, upon a showing of good cause; and (c) she does not object to the Appellant's motion for extension of time within which to file his appeal brief;

RESOLVING to treat both of the Appellant's supplementary Notices of Appeal as motions for leave to file those supplementary Notices of Appeal;

CONSIDERING that the unique circumstances of this appeal, particularly the fact of change of counsel of record between the trial and the appellate stages of the case and the Prosecutor's non-objection to granting leave, suggest the existence of good cause to grant the motions for leave;

HEREBY GRANTS the Motions of the Appellant, and

ORDERS as follows:

(1) the Appellant may add to his Notice of Appeal the additional indicated in:

- (i) his supplementary Notice of Appeal filed on 8 October 1998,
and
 - (ii) his second supplementary Notice of Appeal;
- (2) the Appellant shall file one consolidated Notice of Appeal, being a consolidation of all the grounds of appeal indicated in his Notice of Appeal and two supplementary Notices of Appeal noted in this decision; and
- (3) the parties shall file their briefs by the following time limits:
- (i) the Appellant shall his appeal brief by 8 March 2000;
 - (ii) the Prosecutor shall file her response by 7 April 2000; and
 - (iii) the Appellant may file a reply to the Prosecutor's response by 22 April 2000.

Done in French and English the French text being authoritative.

(signed)

Judge Claude JORDA
Presiding

Dated this eighth day of December 1999
At The Hague
The Netherlands.

[Seal of the Tribunal]

