



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

BEFORE THE PRE-APPEAL JUDGE

Before: Judge Florence Ndepele Mwachande Mumba

Registrar: Mr. Adama Dieng

Order of: 13 May 2005

JEAN DE DIEU KAMUHANDA

(Appellant)

v.

THE PROSECUTOR

(Respondent)

Case No. ICTR-99-54A-A

ORDER FOR THE TRANSFER OF DETAINED WITNESS GEK

Counsel for the Prosecution

Mr. James Stewart

Counsel for the Appellant

Ms. Aïcha Condé

I, FLORENCE NDEPELE MWACHANDE MUMBA, Judge of 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 1994 and 31 December 1994 (“Tribunal”);

BEING SEIZED OF the “Prosecutor’s Extremely Urgent Motion for an Order for the Transfer of Detained Witness GEK, pursuant to Rules 90*bis*, 107 and 115, *Ex Parte*”, filed by the Prosecution on 12 May 2005 (“Transfer Motion”);

NOTING the “Decision on Appellant’s Motion for Admission of Additional Evidence on Appeal” filed on 12 April 2005, whereby the Appellant was granted leave pursuant to Rule 115 of the Rules of Procedure and Evidence of the Tribunal (“Rules”) to present as additional evidence the testimony of Witnesses GAA and GEX (“Additional Witnesses”), before the Appeals Chamber on a date to be specified (“Rule 115 Decision”);

NOTING the “Scheduling Order” of 18 April 2005, ordering that the Additional Witnesses shall be heard in Arusha on 18 May 2005;

NOTING that Rule 115 of the Rules provides that rebuttal material may be presented by any party affected by a motion for the admission of additional evidence;

NOTING that the Rule 115 Decision stipulated that the Additional Witnesses shall be heard by the Appeals Chamber “together with any rebuttal evidence submitted by the Prosecutor and admitted on appeal”;

NOTING the “Prosecutor’s Extremely Urgent Motion for Leave to Call Rebuttal Evidence, pursuant to Rules 54, 85, 107, and 115” filed by the Prosecution on 12 May 2005 (“Rebuttal Evidence Motion”) whereby the Prosecution seeks leave to present rebuttal evidence in the form of testimony of Witnesses GEK and GAG in Arusha on 18 May 2005;

NOTING the Prosecution’s submission made in the Transfer Motion that Witness GEK is detained in Rwanda;

NOTING that Rule 90*bis* of the Rules provides as follows:

“Any detained person whose personal appearance as a witness has been requested by the Tribunal shall be transferred temporarily to the Detention Unit of the Tribunal, conditional on his return within the period decided by the Tribunal.”

CONSIDERING the urgency of the matter, issue this Order before determining the admissibility of the rebuttal evidence of Witness GEK;

FOR THE FOREGOING REASONS,

GRANT the Transfer Motion;

ORDER that Witness GEK who is detained in Rwanda and whose personal appearance as a witness has been requested by the Prosecutor of this Tribunal, be temporarily transferred to the Detention Unit of the Tribunal and returned to the authorities of the State of Rwanda within the period of 13 May 2005 until 23 May 2005;

DIRECT the Registrar of this Tribunal to urgently transmit this Order to the authorities of the State of Rwanda;

FURTHER DIRECT the Registrar of this Tribunal to immediately implement this Order.

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

Pre-Appeal Judge
Done this 13th day of May 2005,

At The Hague,
The Netherlands.

(Seal of the International Tribunal)