

# *PROSECUTOR V FÉLICIEN KABUGA*

MICT-13-38

February 14<sup>th</sup>, 2023

*The trial of Félicien KABUGA started on September 29th 2022 in The Hague courtroom of the Residual Mechanism for the International Criminal Tribunals. The accused is charged with six counts: One count of Genocide, One count of Direct and Public Incitement to Commit Genocide, One count of Conspiracy to Commit Genocide and Three counts of Crimes Against Humanity, namely Persecution on political grounds, Extermination, Murder.*

## *Direct and Cross examination of witness KAB035.*

*Mr. Félicien Kabuga was physically present in the courtroom.*

Opening the session, the presiding Judge paid tribute to his "loved colleague" Judge Elizabeth Ibanda-Nahamya who died in early January and underlined her remarkable role in the defence of human rights and the rule of law.

Judge Ivo Nelson de Caires Batista Rosa is now the reserve Judge on this case.

Ms Adong, representing the Prosecution, welcomed witness KAB035 and read a summary of the witness's statement as follows:

KAB035 is a Tutsi who lived in the Kimironko area not far from Félicien Kabuga's house. He saw members of the Interahamwe such as Hajabakiga, Penk, Yungo, Ruhara, Vincent, Gatete, Gatwaza, Munyakazi, who were armed with guns and some of them with machetes. The witness saw trucks with Interahamwe pick up Hajabakiga. As the Interhamwe danced and sung, trucks would leave to Kabuga's house. Even though the witness could not see Kabuga's house, people would notice those going to training there. The witness has learned that Hajabakiga had taken a close relative of the witness to a pit and shot him. In 1994, a church where the witness had sought refuge was attacked by the Interahamwe, he therefore left the church and fled. He later returned to the church and found bodies of Silvester and Mussoni on the road not too far from the church, they were both Tutsi. In the same night of 13 April 1994, the witness saw from the church a pick-up truck full of Interahamwe. That was when they started killing the refugees. He also heard about other killings in Kimironko.

The Prosecution did not have any questions and so Maître Altit, Defence Counsel, started cross-examination.

M. Altit asked KAB035 about the people dancing and singing whom he saw going to Kabuga's house; the Defense Lawyer wanted to know what kind of trucks the witness had seen. KAB035 answered

that it was one truck at a time picking up Hajabakiga and they were always small Toyota trucks. KAB035 continued saying that he witnessed this quite often, on a regular basis. When M. Altit asked for a specific number and period, the witness indicated that this happened around 10 to 15 times during the multipartyism era when the Interahamwe were created. The witness explained that it was said that Hajabakiga was the leader and that the people were being trained on how to behave versus other parties and how to defend themselves when necessary. They learned how to kill people, as they later did during the Genocide. The witness had not seen the training himself, but he said that when people got drunk in bars, they would rehearse what they had done at the training. KAB035 added that some of them also confessed this after the Genocide. In his written testimony, the witness had mentioned that Hajabakiga was thrown out of a house he rented from Nyandwi as the later did not want to hear the chants. He added that it was unbearable for Nyandwi, because they made a lot of noise and he lived just next to Hajabakiga.

The court went into private session. Back in open session, M. Altit wanted to continue his examination, but the Judge ordered a break since Kabuga seemed to be sleeping.

Back in session, M. Altit asked the witness about the groups active in Kimironko before the Genocide, the witness said that there were many groups active in the area. Some members of the groups were locals from the area, but mostly people who had come there to work.

The defence counsel then wanted to know more about life in Kimironko before the Genocide and specifically what changed after the RPF attack in 1990. The witness confirmed that the attack triggered many changes but did not specify. Asked whether he was part of a movement, KAB035 said that he did not belong to any particular group or political party and that he was just a regular employee. M. Altit then talking about roadblocks in the region, he said that inhabitants received orders to set up roadblocks to counter RPFs advance and wanted to know who issued such orders and whether the witness was also asked to man a roadblock. KAB035 answered that the orders were issued by authorities in place, and that he was not asked to attend roadblocks because he was a Tutsi, and the roadblocks were supposed to intercept Tutsi as they were deemed to be members of RPF. The witness remembered the location of four roadblocks in his area. One roadblock was close to his house and the house of a man referred to as "Premier". Another one in front of a residence, another close to "transformer" and another one further up in an area called "*groupement*". He also explained that at some roadblocks, people were bad and killed people, but others helped by hiding him and his children. The witness also mentioned that he was helped by one of the residents of the neighbourhood who was a gendarme.

**This note is a communication from the "Justice and Memory" program which aims to strengthen the involvement of affected populations and local actors, in international and national trials related to the genocide perpetrated against the Tutsi, treated on the basis of the universal jurisdiction, in order to consolidate unity, reconciliation, the perpetuation of the memory of the genocide and social cohesion in Rwanda.**

**The program is implemented by RCN Justice & Democracy, PAX PRESS, Haguruka and *Association Modeste et Innocent (AMI)*. The program follows the course of the proceedings in the trials of genocide cases based on the universal jurisdiction and informs impacted populations on the progress of the cases.**

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