

# PROSECUTOR V FÉLICIEN KABUGA

MICT-13-38

October 14, 2022

*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.*

## WITNESS EXAMINATION AND CROSS-EXAMINATION

*Cross examination of protected witness KAB038 about RTL M's anti-Tutsi broadcasts & their effect.*

*The accused has again chosen to not be present during the hearing.*

The Prosecution started the hearing by reading out the public summary of the testimony of witness KAB038, which was heard in private session to protect her privacy. The summary itself stated that the witness had heard Interahamwe explain that their actions were authorized by Mr. KABUGA. The witness also stated that she saw the defendant on two occasions. As to her personal history, the witness has explained — as related in the summary read by the Prosecution — that she was raped multiple times by Interahamwe, including by some linked to Félicien KABUGA and abducted along with other members of her close circle. Additionally, she stated that she witnessed Tutsi friends and members of her family being attacked and killed. During her testimony while questioned about the post-genocide consequences of sexual violence, she explained that a common consequence was contracting HIV and in some cases dying from the disease. Focusing then on the RTL M broadcasts, the Prosecution said that the witness had listened to the said radio before and during the genocide and had heard broadcasts specifically targeting Tutsi women and some Tutsi families. This concluded the summary of the testimony of witness KAB038 by the Prosecution.

The Prosecution then proceeded with the direct examination of the next protected witness known under the pseudonym witness KAB099. The representative of the Prosecutor's Office first asked her if she recalled the testimony she previously gave to the Office of the Prosecutor which she did. The Prosecution gave her the opportunity to make any additional clarifications or precisions to her previous statement. The witness said that there was only one car, not several as stated in her written testimony. She added that the information about the vehicle is not something she had seen herself, but, rather, she learned from other people, which was why she could not confirm the exact number of vehicles.

The Prosecution after asking these questions proceeded to read a public summary of the testimony of the witness. In the hearing of 12 October 2022, the Defense and Prosecution disagreed on procedural aspects regarding the readings of public summaries of witness statements. The Chamber this morning reached the decision that any disagreement on the content of the summaries must be solved between the counsels outside the Court and not to be brought up unless an agreement cannot be reached. The presiding judge — Mr. Ian Bonomy — added that the Court would assume that any further reading of public summaries of testimonies during this Trial will have followed this procedure. After the Chamber's decision, the Prosecution resumed the reading of the witness testimony. The document said that witness KAB099 was a domestic worker in Kigali-Ville. Before the genocide, she and her family experienced a deterioration in the security situation as attacks on Tutsi grew. According to her written testimony, the witness had seen Mr. KABUGA twice and had stated that she knew him before the two encounters as he had been pointed out to her outside his building which is why she could recognize him. About the two times — once in February 1994— she claimed to have seen the Defendant talking to the leader of the Interahamwe. The Prosecution explained that she had described KABUGA's involvement before 1994 in the distribution of traditional weapons and that she — herself — had seen weapons distributed. The documents read that the witness got separated from her husband and some members of her family were shot and killed by soldiers. During the genocide she stayed in a stadium where the situation was dangerous. She claims that she heard journalists on the radio RTLM encourage the killings and the tasting of women before their killings which the witness understood as an incentive to rape. In the written testimony the witness also relates her recollection of the sexual violence that took place in the stadium. Finally, the testimony explains how the witness was reunited with her husband and her return to Kigali.

The Prosecution then asked several questions to the witness. They first asked if she had heard the names and locations where Tutsi were hidden during broadcasts on the RTLM, to which the witness responded by affirmative. The Prosecution then asked the witness to name the locations she heard on the broadcasts. The witness answered that the broadcasts had told the people to get there and kill the Tutsi and that afterward some people did get killed. She named NYAMIRAMBO as a place mentioned on the RTLM. She said the radio asked people to go and smash the heads of the Inyenzi. The witness then explained that all the neighborhoods were mentioned on the radio, and people were encouraged to go there and join the attackers. She then added that the journalists seemed pleased that all the Tutsi had been killed saying things such as "God is great".

This concluded the Prosecution's direct examination. The Defense then proceeded with the cross-examination of the witness. The Defense asked the witness to specify the term used to designate the people whose extermination journalist KANTANO praised in his song on the radio. The witness answered that he praised the extermination of the Inyenzi or the Tutsi. The Defense Counsel then asked a second time what exact term was used in 1994 in the song on the radio, Tutsi, Inkotanyi or Inyenzi. The witness answered that the term used was Inyenzi.

Proceeding with a second question, the Defense asked the witness if she had had any specific instances where she or her family had been insulted because of their Tutsi ethnicity before 1990. The witness answered affirmatively stating that the expert she has been working for had offered her to come with her baby as they were in danger and could be killed and that her sister-in-law had told her that in her absence their house had been attacked by Interahamwe. The Defense explained to the witness that her question was not exactly on that matter but more linked to the insults, assaults or attacks she or her family might have experienced before 1990. The witness explained to the counsel that she had had issues before as a soldier had given weapons to her father in 1990. The Defense

asked her to confirm if before that episode her life had been safe in KIGALI, which she confirmed. She gave precisions on the episode in question. She stated that her father's house was attacked and that he gave his cattle away to stay safe and that the event happened before the offensive of the RPF in KIBUYE. The Defense then asked if the attack had targeted them personally or if it had been an excuse for looting, the witness answered that the attackers had only been looking for a pretext to loot her father's cattle.

The Defense then questioned the witness on her previous statement in which she had stated that there had been a second incident — while she was living at her brothers' house in front of NYAMIRAMBO — during which she had been given grenades by a RPF soldier. The witness confirmed the story, adding that the soldier was one of her father's godsons and that he warned them to watch out and be prepared which is why he gave them the grenades, this was in the year 1993 or 1994 before the start of the genocide. She then described that she did not know where to hide the grenades and that because of that she gave them back. The Defense asked the witness to be more precise on the number of grenades as she had previously stated that there had only been one grenade. The witness specified that they were given two grenades to protect themselves.

*The Defense asked a question about the house the witness lived in at the time of the incident. The hearing on this question was conducted in camera as it involved a risk of disclosing the identity of the witness.*

Concerning a statement of the witness according to which saw Kabuga for the second time at a training ground, the Defense asked the witness to provide precisions on the timing of the encounter. The witness said that the Interahamwe started training there at the end of 1993 and never stopped in 1994 as they were training all the time. The rest of the debates on this question was done in camera for the same reasons.

The Defense asked the witness about the physical troubles the witness may suffer from as a consequence of the assaults she experienced. The answer was given in camera to avoid disclosure of confidential information on the witness' health.

**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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