

# PROSECUTOR V FÉLICIEN KABUGA

MICT-13-38

October 18, 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

*Direct and Cross examination witness Monique Mujawamariya, a human rights activist.*

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

The Prosecution proceeded today with the direct examination of Monique Mujawamariya. They first asked if she was a witness in the Nahimana trial which she was and she confirmed as true in substance the testimony she gave then. The Prosecution then read a very short summary of the said testimony: Monique Mujawamariya was a human rights activist in Rwanda. She recalls seeing Mr. Kabuga awaited a meeting in 1993 which had been announced earlier and whose objective was to establish a private radio station. When she realized that it was an Akazu meeting, she left. She stated that she knew Mr. Kabuga was the main financier of the RTLM. She listened to RTLM, but quickly RTLM broadcasts started to label Tutsi as enemies of the nation and accuse Hutu who married Tutsi or human rights activists or members of the political opposition to be accomplices of the enemy. The RTLM would also mention people by name or the names of certain neighborhoods and a few hours later the places would be attacked. She also stated in the testimony that "words kill more quickly and more efficiently than weapons". She said that her own name was called several times on the RTLM, and she said she suffered harassment because of that. She managed to escape RWANDA on April 12th 1994.

The Prosecution moved on to ask the witness questions. They first asked the witness if she could recall how many times and how often the RTLM had called her name on the radio. She answered that she could not be precise but that there were instances when she heard her name on the radio several times a day. She was then questioned on why she was targeted and Monique Mujawamariya explained that she was targeted because she was a human rights activist who would generate a lot of noise abroad, publish reports pointing out the human rights violations, the targeted assassinations and cases of harassment committed by the *Interahamwe* militia —and presidential guards. The witness was

further questioned on an incident that happened shortly after a broadcast involving a man showing her his genitals and asking "if that would shut her up" and if that type of incident had happened again. She explained that it had not as she had humiliated the man. She added that during the genocide only one man tried to sexually assault her but she managed to resist him. Following up on that answer, the Prosecution asked the witness about the clothing she and her partners made to resist rape attempts. She detailed that the garments were tights and that she could be wearing up to six at once.

When questioned Mrs Mujawamariya confirmed that she had met the US authorities more precisely Generals from the Pentagon during the genocide after she had escaped Rwanda to warn them about the events happening there. She asked the authorities to prevent the RTLM to broadcast as she believed that stopping the broadcast would save some lives, because she knew the radio was a terrible tool during the genocide as it gave strategic information to the Interahamwe and was similar to a strategic communication for war. The Prosecution showed the witness a report about A. Des Forges from the Human Rights Watch (HRW) whom she is said to have met on the 4<sup>th</sup> of May 1994 and asked her if she recalled A. Des Forges making a statement before a sub-committee of the US Congress about the genocide in Rwanda. The witnesses answered in the affirmative to this question. The Prosecution read an excerpt from the discourse and afterwards — when asked about it — the witness recalled being labeled a "bad patriot who deserved to die" by the RTLM. The witness further explained that on March 26<sup>th</sup> 1994 she sent a warning to HRW and other human rights organizations to share the evidence she had about an imminent disaster. She detailed that she had information for example about weapon distribution, she had obtained such information through her relations with high ranking officials she had access to thanks to her husband.

The Prosecution quoted the witness' previous testimony that stated "In principle I had been in favor of a private radio when I saw the initiator I said to myself oh oh that's not a good thing" and asked her why she had thought that way. The witness explained that she had seen the devastating effects of the small newspaper the same people had already created and was scared of the large reach of the radio. Her fear came from her knowledge of its creators' positions: their membership in the MRND party, their linkages with the militia and their determination to keep power between their hands.

The Presiding Judge asked the witness to name the creators of the RTLM she alluded to. The witness said it was Kabuga, Nahimana and Barayagwiza. The witness added that she knew very well the last two but had only known of Kabuga without being introduced to him. The Presiding Judge further asked the witness how she knew — as she had stated in her previous testimony during the Nahimana trial — that Mr. Kabuga was the financier of the RTLM. She answered that she had heard the radio thanking the accused for his financial contribution on the radio, she had also read about it in the newspaper.

Judge Mustapha El Baaj asked the witness how she knew the meeting she saw Kabuga in was an *Akazu* meeting and she answered she knew them all since her husband was a senior officer in the army and she knew that it was a group of intellectuals and businessmen created to protect their interests, easily recognizable. Judge Elizabeth Ibanda-Nahamya asked the witness whose mother was a Tutsi, how and why did the Generals in Rwanda trust her to the point of disclosing to her the evidence she brings this day before the court if she had a Tutsi mother. The witness said that the fact that her father was a Hutu and her husband a powerful officer from the North made it possible for her to maintain long-lasting and trusting relationships with them. Finally, she told Judge Margaret de Guzman that she knew Kabuga as she had seen him before during receptions but had never shaken hands with him.

Cross-examination by Maitre Françoise Mathe – Defense Lawyer

The Defense Counsel asked the witness what her occupations were before 1990. The witness said she was training as a social worker and worked in an institution dealing with the transmission of AIDS between mothers and infants. She was not a member of a political party during that time, she only joined one in 1992 for a couple of months. Following up on this statement, Me Mathe asked her if after the advent of multipartyism she made a choice between political parties. The witness explained that she chose the MDR as her father was an MDR leader and she did not want to join the MRND anyway, but she soon left as she saw the internal battles and ego issues existing within the party. The Defense then asked the witness if she had knowledge of youth movements, the witness responded in affirmative but she added that she had left the party before the creation of said group and did not know the objective of the youth movement when it was created. Me Mathe asked the witness if she had personally listened to the RTL M broadcasts, the witness responded in affirmative specifying that the broadcasts incited people to commit murders and rapes.

The Defense continued its cross-examination by asking if the witness had knowledge of infiltrated RPF members within the community in Rwanda. The witness explained that she had no evidence of that, but rumors were circulating that there were four human rights organizations that had been created by supporters of the RPF. The Defense asked the witness to confirm that the RPF soldiers would sometimes wear the Rwandan armed forces uniform which she confirmed but she refuted that it would lead to confusion between the two forces. The witness was further asked about the recruitment of minors by the RPF and she said that she had been informed about ostracized teenagers around the age of fifteen who would leave their homes and disappear.

The witness was then asked to explain how she was attacked in her home on April 2nd when her house was invaded by militiamen and she had to hide under the roof with the help of her servants. She managed to flee afterwards thanks to her the help of her friends in the military and was joined by her children in July of that same year in Canada before returning to Rwanda in August 1994 and publishing a human rights violations report notably on disappearances and imprisonments for which she was threatened by RPF members and other people. She added that she left Rwanda in 1997. She then detailed how human rights had been violated during that time and the different tensions that existed between different human rights figures which led to threats against her life as she explained.

The Defense then asked the witness if the RPF knew that she had been in contact with the army during the genocide to gain information. To this question, the witness responded that the RPF did know that her work could not have been done without such contacts.

Closing the cross-examination, the Defense finally asked the witness if she testified truthfully when she said that she listened to RTL M. The witness answered that sometimes her friends would call her and tell her to listen to RTL M which she did but she would switch it off when she did not find it interesting.

**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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