

PROSECUTOR V FÉLICIEN KABUGA

MICT-13-38

October 25, 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.

Direct and Cross examination of Francois-Xavier NSANZUWERA, an expert witness.

Mr. Félicien Kabuga attended the hearing today via videoconference.

Francois-Xavier NSANZUWERA was a prosecutor in Kigali-City and Kigali-Rural from 1990 until he fled to Belgium in 1995.

Continuing the cross-examination of Mr. François-Xavier Nsanzuwera, Me Altit put to the witness a question suggesting that during the genocide the capital city, Kigali, was "*total chaos*". The witness refuted that suggestion of the defense. The witness held that Kigali was rather under control. He said that the violence witnessed was a result of clashes that unfolded as part of the Interahamwe recruitment process as Rwandans were forced to become members. Me Altit then asked him the names of the officials that intervened between 1991 and 1994 to ask him to release arrested party members. The witness said that he was a prosecutor during the said period, and he was asked to release Interahamwe of the MRND who had committed a lot of violence. He said that the head of the said party, namely Mr. Ndirumpatse, contacted him the most. He also cited Mr. Barayagwiza – another party official – who, he said, asked notably for the release of a member of the CDR arrested for vandalism.

Me Altit proceeded to ask Mr Nsanzuwera about his work as Secretary General of the FIDH and about their work to fight capital punishment sentences more precisely in the case of twenty-two people that were sentenced to death. The witness answered that they had tried to prevent it in his opinion and that he himself was against the death penalty. The witness was then asked about the threats he received as a magistrate once the RPF took power. He explained that he was targeted personally — because of his opinions on mass arrests and arrests without charges — and thought he had to leave. He added that magistrates were targeted individually not in a systematic way. Answering a question on who were the authors of the genocide, the witness stated that Interahamwe were seen and are still seen as the perpetrators of the genocide. In the mind of most people, authors of the genocide were and are still labelled as Interahamwe as the word is still used to this day.

Focusing now on the RPF forces, the Defense Counsel asked where they were in May 1994. The witness explained that Kigali had not been taken yet at that time, but, that, a neighbourhood around the capital city was occupied by RPF forces. He added that it was still in the middle of the war (as it would last until July 1994) that was spreading to the whole of the territory. Following up on the question, Me Altit reminded the witness of his previous statement on local authorities of surrounding regions asking for weapons after the attack of the RPF as early as 1990. The witness confirmed the events and added that this distribution of weapons to civilians was illegal because these authorities did not have the right to give weapons to civilians and because they were used to kill civilians and not to fight RPF soldiers. Me Altit continuing the cross-examination asking the witness about how easy it was to find weapons during the genocide and where could civilians find them. Mr. Nsanzuwera stated that many grenades were in circulation and were sold by soldiers in neighbourhoods and were used in ordinary criminal acts or during political rallies. This concludes the cross-examination of the witness by Me Altit.

Judge Elizabeth Ibanda-Nahamya asked a few precisions about the names used to refer to the RTLM before and during the genocide. The witness answered that the RTLM was nicknamed a word in Kinyarwanda meaning "to burn" referring to the Tutsi houses that were burnt down in 1959 after the abolition of the Tutsi monarchy. He added that it was perceived as an incitement to burn down in 1994 the homes of the Tutsi. Lastly she asked about who could be responsible for the attack against the plane of Juvenal Habyarimana. The witness explained that there were several theories about those responsible such as Hutu extremists, the President's close circle, the RPF, the moderate inside the party, units coming from outside Rwanda from France or Belgium but stated that he believed it was done to achieve the goals of those responsible.

The Prosecutor conducting the re-examination of the witness asked a few questions. He asked for clarification on who were the people that received weapons given and sold by soldiers. The witness replied that they were only distributed to the Hutu and that even the Hutu against the massacres did not receive the firearms. Finally, he asked him for precisions about Edouard Karemera, notably about his political party. The witness explained that Mr. Karemera was the Vice-President of the MRND and the Minister of the Interior he was appointed to the position in May 1994.

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.

The program receives financial support from the government of Belgium through the Directorate General for Development (DGD). The program also receives occasional support from the Embassy of France in Rwanda. Program communications do not engage the responsibility of the DGD or the Embassy of France.