

PROSECUTOR V FÉLICIEN KABUGA

MICT-13-38

November 15, 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 witnesses KAB066.

Mr. Félicien Kabuga was physically present in the courtroom.

The hearing started with technical difficulties, which the presiding Judge Iain Bonomy said was unacceptable.

The court was informed that the witness who was scheduled for hearing was feeling unwell. Another witness with the acronym KAB066 was called and he also participated via livestream from Arusha. He was a MRND member and Interahamwe. The prosecution, represented by Mr ROSENZWEIG, summarized his witness statement, in which the witness admitted having listened to RTLM prior to the Genocide, where they degenerated the Tutsi and sensitized the Interahamwe and Impuzamugambi to kill the Tutsi. Ahead of the genocide, witness KAB066 attended rallies and meetings where the message was to unite against the Tutsi. In the beginning of the genocide, the witness helped offload traditional weapons of which he was informed were purchased by KABUGA. These weapons were later used to commit crimes in GISENYI. The witness testified that he also helped offload military type weapons imported from GOMA such as grenades, Kalashnikovs, and ammunition. In 1994, the witness began killing Tutsi together with other Interahamwe, because he was convinced that the Tutsi were responsible for the death of the President. Further, the witness testified about the COMMUNE ROUGE – a location in Gisenyi – where Tutsi were killed. The witness explained that among the people killed there were nuns and young children and that two vehicles, provided by KABUGA were used to carry their bodies.

After summarizing the witness statement, Mr ROSENZWEIG asked the witness about who had organised and attended the rallies he went to ahead of the genocide. The witness explained that in GISENYI, they were organized by political parties such as the CDR or the MRND, whose representatives attended the rallies. The youth wing of the MRND, the Interahamwe also attended those meetings.

The Prosecution then turned to the effect of RTLM broadcasts on the witness' conduct during the genocide and started by asking how often the witness listened to RTLM. KAB066 explained that RTLM was a radio for young people and was the only radio they listened to. The witness listened to it non-stop, taking his radio with him even when he went to bars. He said that he especially enjoyed listening to KANTANO and he and his fellow listeners were convinced that the Tutsi was evil and a bad person, so they hated them. The witness said that in the RTLM broadcasts, it was said that Tutsis had always tortured Hutus and from there the witness and other listeners understood that Tutsis had a plot to come and kill them, so they had no choice but, kill them first. Asked how the broadcasts made him feel, the witness said that he was really excited about it and that he could not even look at a Tutsi. The radio was telling them to hate Tutsis, so they hated them. The Prosecution's last question was if the witness thought that listening to RTLM had an effect on him and if that had motivated him to kill Tutsi during the genocide, "of course!" the witness responded. He explained that listening to RTLM had strongly influenced his conduct and had led him to participate in the genocide, although he got along well with them initially. He said that they all thought that RTLM was telling the truth. The witness then added: *"I ask for forgiveness from all the Tutsi families and the government and all Rwandans for all those bad things I committed due to RTLM and the political parties who told us Tutsis were evil and that we had to kill them."*

Cross Examination by the Counsel for Defence, Maître MATHE.

Maître MATHE started her examination by asking witness KAB066 about his imprisonment. The witness explained that he and others took refuge in former ZAIRE between 1994 and 1996 when the new government took over; he said he is in prison since 1997. He came back to RWANDA in 1996, when President MOBUTU was attacked, and their refugee camp was not safe anymore. The witness was first convicted by a court of first instance and sentenced to life imprisonment. He appealed the sentence, but the court of appeals sent his case to the Gacaca court, on grounds that he needed to be tried where he committed the crime. He was sentenced to 30 years in prison in 2007. According to his testimony, the idea to testify against KABUGA came in his mind in 2011 or 2012. Maître MATHE wanted to know why he decided back then to testify against KABUGA. The witness stated that he decided to testify against KABUGA because of the bad things he had done such as putting at disposal the weapons to kill the Tutsi. He made the decision to testify in case KABUGA was arrested one day and wrote letters where he stated this. Maître MATHE asked the witness who contacted him when he wrote the letters and he explained that the prison authorities verified the sender and signature and then sent it to the Rwandan Prosecution authorities who work hand in hand with Arusha, from where investigators came to the prison and told him that he should testify before judges.

Maître MATHE then asked whether the witness knew people in the plane he came with. He replied that he came with agents from the mechanism and other three people on the plane detained in the same facility as him. Maître MATHE asked if he knew their pseudonyms and the witness said no. The discussion continued in camera and resumed in public after a few moments.

Back in open session, Maître MATHE wanted to know when the witness started listening to RTLM. The witness said that he started in 1993 at the time political parties opposed MRND. Maître MATHE asked the witness how long he had known Kabuga. The witness said that he had seen KABUGA before the genocide when he visited the witness' neighbour, SINGAYE, who was also a rich person. The witness said he saw KABUGA again in 1994, as they left for exile. According to the witness, KABUGA's vehicles were parked in GISENYI military camp and GISENYI Station. When they fled for ZAIRE, the witness saw KABUGA leaving MUGUNGA CAMP without his trucks to take a flight in GOMA to KENYA. This was the last time he saw him.

The witness then stated that when KIGALI was taken by the RPF, the trucks belonging to KABUGA arrived in GISENYI. He added that he saw KABUGA in a MERCEDES BENZ car arriving in the military camp in GISENYI. The witness further said that KABUGA gave two trucks in 1994 to the president of the Interahamwe in GISENYI, a TOYOTA MITSUBISHI and a HIACE. Those vehicles were used to carry dead people and those transported to COMMUNE ROUGE to be killed. The witness stated that he knew that the trucks were provided by KABUGA because the president of the Interahamwe told him so, to whom he was really close. When asked about the colours of these vehicles, the witness explained that the MITSUBISHI was white, but repainted in a blackish colour so it could not be identified by Inkotanyi. Many vehicles which frequently drove to KIGALI were repainted. The HIACE vehicle however was not repainted because it was not white. The witness had also testified that he had seen the HIACE parked at the premises of a convent that was attacked, where a nun named FELICITE had been abducted.

The witness was then asked by Maître MATHE if he was involved in the offloading of the weapons at GOMA AIRPORT. The witness said that he was not and that he was only involved in offloading weapons in the GISENYI military camp, where the weapons arrived in a NISSAN truck belonging to a trader from ZAIRE who normally used the truck to carry food, particularly beans. The witness also confirmed that he was paid by Colonel ANATOLE to offload the weapons and that every time a Tutsi was killed, they would get all their property.

In the end, Maître MATHE came back to the letters the witness had written in 2011 and 2012 and asked him to name the person who physically wrote them, the person who held the pen. the witness said that he cannot read or write, so he asked a fellow inmate to write the document for him.

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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