

# *PROSECUTOR V FÉLICIEN KABUGA*

MICT-13-38

November 17, 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 KAB076 and KAB032 and*

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

The Defence continued the cross examination of the witness KAB076. The defense asked the witness if he had seen the Interahamwe in Mr. Kabuga's building. He explained that he had seen them inside the residence but was not able to count them. He added that there was no military training *per se* in Kabuga's residence. The Counsel asked if there were Tutsi in the Interahamwe in Kabuga's compound, the witness said that he did not think so. The Counsel pointed out the discrepancies between the witness' testimonies regarding this last point. The witness explained that there were no Tutsi in the Interahamwe but that they could have been present in some of the locations. The Judge interrupted the Defence indicating his incomprehension as to why this line of questioning was being used. The Prosecution reacted as well stating that this trend of highlighting testimonial differences by testing the witnesses' memories should be done fairly by presenting the witnesses with their relevant prior evidence.

The Defence continued by asking the witness if he went to Kimironko on the nights of 7 and 8 April 1994. The witness replied that on April 8th, he went through the place to see what was happening at Kabuga's compound. He added that he had been there three times but could not remember precisely when. The Defence asked if he had received third-party information that Kabuga was indeed in Kigali at that time. The witness stated that only the leader of the Interahamwe and president of the MRND were the only people he could talk to about this. The Counsel further asked if the meeting in mid-May 1994 between Kabuga and the President of the MRND did happen, the witness confirmed this. The witness was asked if he had seen Kabuga in Kigali between April 8th and mid-May 1994, the witness replied that he had not seen him in Kigali. Focusing now on a delivery of ammunitions at the end of May 1994, the defence asked if the witness remembered it, which the witness confirmed. The Defence asked how much and what kind of ammunition was delivered. The witness explained that they received ammunitions for small individual weapons and gave them to the people in the field, notably the Interahamwe. The Defence then asked what he meant by "the killings were beyond Kabuga". The witness explained that no one, not the government, not Kabuga was able to stop what was happening. Quoting the witness, where he had stated that "it was very difficult to control the

Interahamwe and that it was impossible for Kabuga to oppose the massacres”, The Defence asked him if it was true that it was impossible for Kabuga to oppose the Interahamwe. The witness confirmed that the events were beyond everyone. This was the end of the cross-examination of the witness.

The Presiding Judge asked the witness to clarify what he meant by "no military training was taking place at Kabuga's building. Only the president showed us how to handle a firearm". The witness explained that by showing them, he was training them and that the activity was discovered when a stray bullet went through the window and this was the end of it.

The Prosecutor then re-examined the witness and first asked him if he was present when the said shot was fired which the witness confirmed. He also confirmed that this event happened a few days before July 1993. The Prosecutor then reminded the witness that in his prior evidence from 2011, he had stated that the training went on in secret after a request from Kabuga so that the UNAMIR would not know about it. The witness replied that he did not remember if the UNAMIR was already in Rwanda at the time of the incident but that they had already left the building. Focusing now on a question asked by the Defence during cross-examination, the Prosecution asked the witness if he knew, whether Kabuga had tried, in any way to stop the massacres. The witness stated that he did not have such knowledge.

### **Examination of Witness KAB032.**

The Prosecution started the examination of the witness by asking him general questions about the administrative division of Rwanda in 1994. The witness explained that the country was divided into 11 prefectures, each led by a prefect reporting to the Ministry of Home Affairs and Communal Development. Underneath were the communes, sectors, and cellules. KAB032 was then asked if during the multipartism he was part of a political party, he responded that he had been a member of the MRND which had a prefectural committee at the prefectural level. The witness was then asked to explain the function of the committee: he explained that they were in charge of carrying out all decisions made by the national committee, and they could make suggestions based on information from the MRND communal level authorities. Subsequent questions were asked in camera.

Back in public session, the Prosecution asked the witness if he knew Kabuga before 1994 which the witness confirmed. He added that the Defendant was an influential member of the MRND party, and was helping that party and the Interahamwe. The witness further stated that Kabuga was known as a person of great influence for having set up the RTLM radio station and also for being the wealthiest person in Rwanda. The Prosecution asked about the witness's familiarity with the RTLM in 1993. The witness stated that he had been familiar with it since its creation as he was told about it by the president of the MRND and by the editor in chief of the RTLM. KAB032 was then further questioned about his understanding of the purpose of RTLM when he first heard about it. The witness explained that it had been created to promote the Republic and to avoid the reintroduction of the monarchy by the Tutsi. He summarized that the RTLM criticized the opposition parties as well as the Tutsi and the RPF. When asked about which interests did the RTLM protect, the witness replied that it defended the Hutu power. KAB032 was asked if he knew who financed the RTLM, he stated that the most prominent financier was Félicien Kabuga but that President Juvenal Habyarimana was also one of them. He added that he had this knowledge since he followed the radio closely due to his position as an authority and was able to receive information from his colleagues. He also had the opportunity to read documents with names of the shareholders at the prefecture of Kigali-Ville.

Following up on this, the witness was asked if he was offered to buy shares of the RTLM. The witness confirmed that he was approached by the President of the MRND who at the time was National Secretary of the party as they had worked together before. He was told that Kabuga was creating three radios supported by the MRND and that the witness' role would be to contact potential shareholders. Focusing now on the MRND newspaper, which the witness had knowledge of before, the Prosecution asked the witness if he was aware of any connections between the said newspaper and the RTLM. The witness responded that they were collaborating very closely as what was published in the newspaper was the same information broadcasted on the radio, this, according to the witness proved that there was close collaboration between the two. Additionally, he stated that the institutions of the newspaper were absorbed by the radio after its creation and that the journalists of the newspaper were hired by the radio and the editor in chief of the newspaper became the editor in chief of the RTLM. He gave the name of Gaspard Gahigi as an example of journalist that was hired after the merger. The Prosecution asked him how he knew the journalist, the witness explained that he was his neighbour and that they were close friends when he was a journalist of the newspaper; He added that Mr Gahigi told him that he was recruited at the RTLM in 1993 by Félicien Kabuga after a discussion with the President of the MRND. The Prosecution asked the witness if he knew how the RTLM decided what content to air. He explained that a committee comprised of four members was set up which was under the stewardship of Félicien Kabuga. It was composed of Mr. Nahimana, Mr. Barayagwiza and Mr Serugendo. He stated that Kabuga organized meetings with journalists and told them what to do.

The Prosecution finally asked KAB032 how often would the subject of RTLM would come up with Mr. Gahigi. The witness said that they used to talk about RTLM and politics each time they met, including in 1994 during the genocide. During these talks he would tell his friend that some broadcasts were going too far and were too extremists likely to lead to killings and were always targeting the Tutsi and the opposition.

**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.**