

PROSECUTOR V FÉLICIEN KABUGA

MICT-13-38

December 7th, 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 witness KAB046.

Mr. Félicien Kabuga was physically present in the courtroom.

The Prosecution first read a summary of the declaration of the witness. **The summary read that:** The witness was part of the Interahamwe group that trained in Kabuga compound, this group was known of Félicien's Interahamwe and consisted of around fifty Interahamwe. The President and vice-President of the group received instructions from Kabuga himself and they shared these instructions. Following these instructions, the group harassed and persecuted Tutsi in Kimironko. They trained in traditional dancing that was a form of indoctrination and encouraged killing Tutsi. Kabuga met with the group on at least two occasions: December 1993 and January 1994, on both occasions he provided money to the group and encouraged them to keep up the good work. Kabuga also provided uniforms, in MRND colours and a pick-up used to transport the Interahamwe to rallies. During the genocide, two roadblocks were erected at Kabuga's residence, one just toused the main entrance and another near the place the Interahamwe trained. These roadblocks were mend by members of Kabuga's Interahamwe. On April 7th 1994, members of the group brought a Tutsi to the roadblock outside the main entrance and killed him. It was the first killing in Kimironko during the genocide. KAB046 also killed a Tutsi woman and her two children. Around April 14th 1994, the Interahamwe also attacked a school where Hutu and Tutsi refugees were hiding, they separated the Hutu from the Tutsi and killed the Tutsi. Around three days after the beginning the genocide, the witness saw weapons being distributed and was told that Kabuga was giving them means to defend themselves. At one point during a relent in the killing, the Interahamwe were asked why they were so relaxed and if the killings should slow down, the witness thought at that point that all Tutsi had been killed. The witness was sentenced to 30 years by Gacaca courts for his participation in the killings as part of the Kabuga's Interahamwe. He estimated that Kabuga's Interahamwe killed 80% of the Tutsi in Kimironko.

Me Mathe started the cross-examination of the witness by asking him how long he had been in detention. The witness responded that he had been there for 26 years and was first sentenced to life imprisonment. The following questions on his sentence were asked in camera to avoid revealing his identity.

The Defence asked when the witness was first approached to testify in this case and by whom. He answered that he was first approached by an investigator while he was in the Kimironko prison but he could not recall the date but believes it was in 2010. Me Mathe followed up asking if the investigator was from the ICTR or from the Rwanda prosecution, to which he answered that it had been both but that he first met with the Rwandan investigator after his sentence. He confirmed that he had signed a transcript of his interview with the Rwandan investigator. He refuted the Defence's question that he had been promised advantages as a reward for testifying at the ICTR. Counsel further asked if the conditions of confidentiality during the interview were respected, which he confirmed and added that he did not talk about his testimony with other detainees.

Focusing now on the Interahamwe group, the Defence asked what age usually were the persons recruited into the group. The witness explained that there was no age limited, that he was recruited at 30 years old, and that age was not a factor and that any person could be recruited if they wanted to. The defence then showed photographs to the witness and asked him question about Kabuga's building and where the Interahamwe conducted training. The witness said that the Interahamwe did not enter the building but would go dance in the lower part of the compound.

Focusing on the exercises done by the Interahamwe, the Defence Counsel asked what type of dance and exercises the Interahamwe would do. The witness explained that they used to do professional dances to promote the MRND party as they were training to participate during rallies and as well as physical exercises. He confirmed to the Counsel that he saw Mr Kabuga in 1993 during one of these trainings who congratulated the Interahamwe and gave money (20,000 francs) to the vice-president. Regarding the second visit, the witness explained that he was not there but that he was told by the others to come and drink with them and that he was also given 5,000 francs. The cross examination continued in Camera to avoid the risk of revealing the identity of the witness.

Back in public session the Counsel asked several questions on different people that had been mentioned by the witness. The Defence asked who Mushotsi was, as he was mentioned alongside Kabuga as provider of uniforms for the Interahamwe, in a letter by the witness. The witness explained that he was a member of Parliament when the events happened and lived in the Kimironko neighbourhood and sold to Kabuga one the properties close to his. The Counsel also asked information on Finneas Ruhumuliza as the witness had mentioned him as he was able to support the Interahamwe and that the Interahamwe of Kimironko were guarding his residence. The witness explained that the Interahamwe would go to his residence as he was an influential member of the Interahamwe at national level. The Counsel then asked about Rukwengeri as the witness had declared that he used to buy him drinks occasionally. The witness said that he was a truck driver and he used to travel abroad and lived close to Kabuga and was an Interahamwe but he did not participated in the meetings often.

The Defence then asked if there were Tutsi amongst the Interahamwe in Kimironko. The witness confirmed that there were and added they often came to the meetings. He said that they sometimes had secret meetings to which the Tutsi were not invited, which resulted into the Tutsi deciding to leave the group. The Counsel questioned the witness to know if he had been aware of existing risks

of Tutsi revealing the military trainings of the Interahamwe, which the witness denied saying that the Tutsi had already been cast aside. The Defence asked the witness to precise in what way did the dances of the Interahamwe encouraged to persecute and kill the Tutsi. The witness explained that the dances and the threats made again the Tutsi were things they were told to do. The Bench asked the witness how he knew that Kabuga created the Interahamwe. The witness answered that he knew it because the Interahamwe's President and Vice-President used to have meetings with Kabuga and they were the recruiters of the Interahamwe and gave the orders. The Bench further asked what evidence the witness had of this meeting between the three men, the witness explained that he knew of this meeting because he saw the vehicle of Mr Kabuga enter the compound and when Kabuga's vehicle was in the compound the Interahamwe would stop training and the leaders would come back afterwards and give orders.

The Defence then focused on the events that started on April 7th 1994, and asked the witness the specific reason why he left for Ndera. The witness explained that he went at the beginning of the genocide because there were gunshots in his neighbourhood and the population got scared and fled. The Defence asked if the witness knew who was inside the vehicle shooting the population and the witness replied that nobody saw who was inside. The defence then asked a series of questions about the murder of a certain Jean-Pierre – a little brother of the witness told him about this murder which occurred in the compound of Kabuga according to the witness. When asked by the Bench if his brother was still alive to corroborate these affirmations, the witness said he did not know whether or not his brother was alive as he had not seen him since coming back from exile. The witness was further asked by the Bench if the witness was given any information by his brother on whether Mr. Kabuga had played any role in the abduction and assassination of Jean-Pierre. The witness affirmed that he had no additional information. The Defence quoted the witness's previous declarations stating that Jean-Pierre had died at the roadblock, and asked which version was accurate. The witness responded that he said that Jean-Pierre was killed above the compound and not inside. The Defence asked the witness if he participated to any other killings at the time of the Karama school attack. The witness replied that it was his brother that participated to the attack on the school. He said that he did not participate in any other killings other than that previously mentioned in his statements.

The Bench asked the witness if in the instruction the Interahamwe received Mr. Kabuga was supposed to play a role. The witness replied that the Interahamwe were executing the orders received when they were in Kabuga's residence.

The Defence then asked several questions about the president of the Interahamwe. The witness explained that when he fled from his home he did not see the President of the Interahamwe of Kimironko leave Kabuga's compound but saw him later as they were fleeing. The witness added that during the period between April 7th and his departure he did not see him exit Kabuga's building.

The cross-examination of the witness will continue at the next hearing.

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.