

# *PROSECUTOR V FÉLICIEN KABUGA*

MICT-13-38

December 13<sup>th</sup>, 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.*

## ***Cross examination of witness KAB061.***

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

The presiding judge announced that the defence wishes to stay proceedings in light of an expert report they received yesterday. The Chamber decided to discuss this motion after the witness has finished with his testimony.

The proceedings continued in camera, where the defence counsel Me Mathe started her cross-examination.

Back in open session, Me Mathe submitted a document that shows that Josph Nzirorera travelled from Goma to Kinshasa and then to South Africa on the 27th of May (the year was not mentioned). She said to the victim that this document proved that they could not have been at the meeting at the Meridian hotel the witness mentioned previously. The witness replied that this was not true and that he said the meeting took place between May and June and that he is not lying. He said that on the document shown it said June. Further, the witness explained that the population of Gisenyi could travel to Goma without their passports being stamped. The defence counsel reminded the witness that he said that he overheard the conversation at the end of May. The witness then said that he was telling the truth and that they (Mr. Bagosora and Mr. Nzirorera) did not leave the country before the dates mentioned in the document. He added that they left when large parts of the population left in June from Gisenyi to Goma. Me Mathe concluded her examination in camera.

Back in open session, Judge El-Baj put some questions to the witness regarding his previous testimony. He asked whether the witness could precise what he meant when he said that firearms were supposed to be for soldiers but that they were distributed to the local inhabitants and whether he could explain if the inhabitants were civilians or soldiers. The witness explained that the weapons offloaded at the military camp were given to soldiers, the Interahamwe and then civilians. Judge El-Baj then inquired what the witness meant when he said "enemies" and "accomplices". The witness replied that by enemy, they meant the soldiers of the RPF that had attacked their soldiers and that the

accomplices were RPF sympathisers, but mostly Tutsis who were considered to help RPF. During his testimony, the witness also talked about "the founder of RTLM" and Judge El-Baj wanted to know who he meant by that. The witness explained that he talked about President Habyarimana and Mr. Kabuga. Another question by the judge was about the people who told the witness about the weapons purchased by Mr. Kabuga. The witness said that he had friends who came back from Europe accompanying weapons that had been bought by Mr. Kabuga. Additionally, it was well understood that if Kigali was to be recaptured, Kabuga would get his money back.

Further, Judge Guzman also put some questions to the witness. The witness said that he did not commit a single crime he was convicted of, and the judge inquired whether that was still his position. The witness answered that he did not commit a single crime and that the time he drove a vehicle was to evacuate people. Judge Guzman then asked why the witness is afraid of retaliation. He explained that he is afraid of consequences because he has already seen the consequences when he testified in 2011. He continued that the Gacaca courts were organised by members of the population and that some of them were influenced and thus gave very severe penalties against the witness. Further, the witness claims that when he was summoned before the Gacaca, he saw people influencing the judges. The witness said this as an explanation as to why he claims that he did not commit a crime while he was found guilty and sentenced. He said this was retaliation for testifying in 2011. The witness told the court that the people they testify against are rich and powerful. He further said the evidence in this trial was likely to leak as each piece of evidence is immediately communicated to Mr. Kabuga by his defence counsels. Once he knows what is in the document, the witness said he is sure that Mr. Kabuga will retaliate against him.

In the end, the counsel for the Prosecution had a question about how often the witness heard Mr. Musabe, Mr. Bagosora and Mr. Nzirorera talk about bringing the weapons into Rwanda. He replied that he heard them several times, showing off and being happy about it, saying that the problem is solved now. Everyone knew that weapons were bought, the witness concluded.

Afterwards, the Court went into private session until the end. We have no further information about a possible stay of proceedings.

**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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