

PROSECUTOR V FÉLICIEN KABUGA

MICT-13-38

February 15th, 2023

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 KAB035 and KAB002.

Mr. Félicien Kabuga was physically present in the courtroom.

Cross examination of protected witness KAB035 by the Defence Counsel.

Defence Counsel continued the cross-examination of the witness by asking him precisions about the people that were present in the stadium. The witness explained that the Inkotanyi had taken the Remera brigade after April 17th (after he had arrived in the stadium). These Inkotanyi soldiers came from different places such as Byumba and the CND to provide support to other forces in Kigali and Remera.

The Defence Counsel then asked the witness what happened to the Hutu population once the Inkotanyi had arrived and taken over these areas. The witness stated that all members of the population were asked to seek refuge. He added that he had not heard about Hutu massacres in Byumba after the Inkotanyi took over, in July 1994, or in any other area in the north of the country.

Me Altit questioned the witness on the lack of consistency between the witness 'statement in 2003 and his most recent one in 2020 as well as his testimony during this trial. He questioned why the witness had never mentioned Mr. Kabuga before and only mentioned him in 2020. The witness explained that his answers depended on the questions asked and refuted the Defence's question suggesting that the authorities had advised him to testify in this trial. The Defence Counsel summarized the previous statement of the witness for him to recall more clearly and compared it with his 2020 statement. The witness confirmed his 2003 statement, but explained some details and dates more precisely.

The Presiding Judge interrupted the cross-examination and asked the Defence Counsel to go straight to the point; the Counsel was advised to simply ask questions about the areas he felt were inconsistent.

The Defence asked the witness to provide details on his whereabouts in April 1994, more specifically around the 11th or 14th of April. The witness said that he went to two churches and then back to his neighborhood. This concluded the cross-examination of the witness by Me Altit.

Now it was the turn of the bench to put questions on the witness. Judge El Baaj's first questions were asked in camera to protect the identity of the witness. Back in public session, the Judge asked the witness if he remembered the first and last time the Interahamwe walked past his house between 1992 and 1994. The witness explained he could not remember the dates. He was then asked how many of the Interahamwe were armed with guns. The witness replied that when the Interahamwe would be near he would try to hide. He said that apart from the leader of the Interahamwe he was unable to say specifically who else had a gun.

Judge El Baaj asked for further details about the identity of the Interahamwe but the witness could not give their names. The Presiding Judge asked a precision about the witness's previous statements regarding the attack that took Sylvestre Gatwa's life. The witness's answer was given in camera.

The Prosecution then proceeded to the re-examination of the witness which took place in camera. This concluded the testimony of the witness.

Direct and Cross-examination of Witness KAB002

The Prosecution first read a summary of the testimony previously given by the witness. The Prosecution read that the witness had hidden in the Karama school during the genocide; he hid there along with some family members; his wife and other members of his family who had not hidden with him got killed. The witness said he fled from his hideout when he saw Interahamwe kill Sylvestre Gatwa. He suffered from injuries resulting from beatings and was made to dig his own grave. He and a woman who was with him were rescued by RPF soldiers on April 16th. The prosecution asked the witness which ethnicity he was identified with in 1994. The witness replied that he was identified as a Tutsi.

This concluded the examination of the witness by the Prosecution.

The Defence Counsel then proceeded with the cross-examination. Me Altit asked the witness to name the Interahamwe that started attacking Tutsi on April 7th; and if they belonged to a particular group. The witness explained that the Interahamwe were training at Kabuga's house and were shown how to kill Tutsi; they were given canned goods as compensation for training. He added that he had talked to some people that were trying to sell the canned food such as Vincent Kaboneka. The Defence Counsel asked the witness if Mr. Kaboneka was employed by Kabuga or simply a neighbor. The witness replied that the people in question did not work for Mr. Kabuga; he explained that, before the genocide, those people used to do training at Kabuga's house and received beer in compensation.

The remainder of the questions by the Defense was asked in camera. This concluded the day's 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.