

PROSECUTOR V FÉLICIEN KABUGA

MICT-13-38

February 28th, 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 KAB053 and KAB085.

Mr. Félicien Kabuga was physically present in the courtroom.

The hearing started with the judges asking the witness KAB053 for clarifications on his previous declarations. Judge El-Baaj wanted to know why the witness understood that the President wanted to kill the Tutsi by saying "go down". The witness explained that the Tutsi were always portrayed as the accomplices of Inkotanyi and so she thought that "go down" means to go to the centre of the country and start killing Tutsi. She also added that some members of the population and started killing people; and the Tutsis were considered second-class citizens. Talking about the MRND people, the witness said that they hated Tutsis and were all implicated in the massacres. The judge then inquired why she said that Tutsi were identified as "accomplices". The witness replied that, they, as Tutsis, were always searched and arrested. The judge then wanted to know when she left her home. She explained that she and her family stayed home the night of the crash listening to classical music, and then left the next day. However, they could not go far. Asking about the death of a woman named Margaret she had mentioned previously, KAB053 told the court that she did not witness the woman's assassination but heard about it from neighbours. She added that such info travelled quickly through songs of the Interahamwe in which they would name those they had killed. After that, Judge de Guzmán also put some questions to the witness, but started off by saying that the Chamber is very grateful that the witness shared her story and that they understood how hard it must be to testify about the events the witness had experienced. The judge then turned to the vehicle taking Mugenzi to Kabuga's house and asked the witness how she knew that the car belonged to Kabuga. The witness explained that Mugenzi was driven to the training at Kabuga's house, so no one else could have possessed that vehicle. The Judge then wanted to know whether KAB053 could identify the different Interahamwe groups she talked about. The witness said that each neighbourhood had several Interahamwe groups with different leaders but she could not name them. She added that ordinary citizens who were Hutus, but not Interahamwe, were also trained and given firearms and machetes. Those people also came to the school where she and others had sought refuge. The witness said to Judge de Guzmán that she should thank God that she has never met Interahamwe, because they did what they wanted, fuelled with

money given to them at Kabuga's home. Presiding Judge Bonomy also had some questions he wanted to put to the witness. He pointed out that language is very important and asked about the connotation of the word Inyenzi for the Tutsi. The witness replied that Inyenzi referred to an insect that if you find it in your food or cupboard, you kill it. It was thus regarded as an insult. Judge Bonomy then asked the same question for the word Inkotanyi. KAB053 explained that Tutsi were not happy to be called that, because it was a way of pinpointing and insulting. However, after the Genocide, it was more perceived as an idea of fighting and courage. After establishing that the walking distance between Kimironko and Kabuga's house was roughly 10 km (which the witness walked regularly), the presiding judge thanked the witness and adjourned to prepare for a new witness.

Witness KAB085 is a Tutsi who lived in Musave in 1994. He saw Kabuga at an MRND rally in 1994 in Musave, together with the chairman of the CDR. The majority of the people attending were from the commune, those from outside were Interahamwe, Kabuga – the guest of honour and Nzirorera. People were beaten up even before the rally started because they were Tutsi. The witness attended the rally only in the beginning, since he became afraid and left when the Interahamwe president said that he is not one of them. He went into hiding at his brother's house. His brother-in-law told him that speakers at the rally had identified the Tutsi as the enemy. According to the witness, Kabuga called on the Hutu to collaborate and to know that the Tutsi was their common enemy. After the rally, the Interahamwe of the commune started attacking Tutsis, one of the children of the witness was beaten up and the witness' shop was looted. The witness fled when the Musave school was attacked by the Interahamwe and went to seek refuge elsewhere. He remembered an RTLM broadcast congratulating Hutus of Kimironko and inviting them to go to Kabuga's house to be rewarded.

After reading this summary of the witness statement, the Prosecution had no further questions and the defence counsel, Maitre Altit, was invited to start cross examination. He asked the witness about the distance between Musave and Kimironko by foot. KAB085 replied that it was around 30 minutes. Asked if he had testified before, the witness explained that he had testified in 2011 and in numerous Gacaca courts, but he could not remember how many. Maître Altit then asked the witness a question about other political meetings in Kigali. The witness told the Court that political meetings were had been suspended because of the deaths of two political figures who were said to have been murdered by the Tutsi. The MRND then held a rally to tell the Hutu to stay united. Maitre Altit asked why they needed to hold a rally to announce the deaths of the political figures when they could have said that through other channels. The witness said that they wanted to raise awareness and to persuade people to join the MRND. This prompted Maitre Altit to ask whether there were any Tutsi in the MRND. The witness acquiesced and explained that some of them were at the rally, but left after the speeches. He made an observation that there were no Tutsi in the Interahamwe. Maitre Altit wondered why the witness went to the rally knowing that the Interahamwe had attacked several people before. KAB085 answered that he was hoping for a speech telling people to live together peacefully and that the troublemakers would be arrested.

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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