

PROSECUTOR V FÉLICIEN KABUGA

MICT-13-38

March 2nd, 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 KAB085 & KAB041.

Mr. Kabuga attended the hearing via video.

Cross-examination of Witness KAB085 – continued from Tuesday, February 28

Cross examination of Witness KAB085 commenced last Tuesday, February 28, 2023. The witness was scheduled to appear again on Wednesday 1st of March, but the hearing was adjourned due to some technical issues in the communication system. A link could not be established between The Hague Branch of the Residual Mechanism and the courthouse in Kigali where the witness was to testify from.

Cross Examination of witness KAB085 resumed this Thursday, March 2. Maître Altit asked the witness to say when he had arrived at the political rally previously mentioned. The witness stated that he arrived at the location between 8 and 9 AM, as he had first attended to his workplace. He first opened his shop and only joined the rally when the authorities asked him to close his business. The Defense reminded the witness that he had previously stated that the Interahamwe had attacked people before the beginning of the rally and asked him how he knew about these attacks if he was not on the premises. Witness KAB085 explained that he could witness the events from his shop as it was not far from where the rally took place.

The Defense asked the witness if, at the time of these attacks, authorities were present as he had previously stated that they had arrived at 9 AM. The witness said that the communal authorities had urged them to close their shops and go to the rally. Maître Altit asked the witness to confirm his previous testimony which stated that he had gone to the rally location, had seen people being attacked, and that subsequently, at around 11 AM, he had left because it had started raining, which the witness confirmed. He added that no one prevented him from leaving the site of the rally.

Focusing now on the arrival and speech of Mr. Kabuga at the rally. The Defense asked if it was accurate that the attacks against the Tutsi who attended the rally had been carried out continuously before, during and after Kabuga's speech. The witness confirmed that attacks did take place before his speech but that the attacks afterwards were motivated by his intervention at the rally. The Defense then asked Witness KAB085 for further details about the rest of the meeting. The witness explained that he had left the meeting and thus could not confirm at what point Mr. Kabuga had left; however, he knew that the rally had ended in the afternoon. The witness added that people were beaten because they were Tutsi observing that Hutu were not attacked. The witness testified that he learned this information the next day from direct eyewitnesses of the event. Maître Altit asked him why the Tutsi stayed at the rally if they were being continuously attacked. The witness replied that the Tutsi were present to follow the speeches and that the attacks worsened after. Maître Altit asked the witness why he ran away from the rally. The witness explained he left because the Interahamwe from Kigali asked the ones from Musave if he was part of the Tutsi and because of the words used when referring to him. Still concerning the rally, the Defense asked the witness if the speeches after the rain episode had been offensive towards the Tutsi and had brought about the violence, which he confirmed. He added that the Tutsi who stayed at the rally until the end were the ones under the sunshade and could not leave the site easily.

Me Altit then asked about an incident that the witness previously mentioned. Indeed, the witness had previously stated that his shop was looted the day of the rally and the next day an Interahamwe came by and asked him to write an invoice listing stolen items, which, supposedly, would be addressed to Félicien Kabuga. The Defense Counsel asked the witness to explain why he had stated that Mr. Kabuga knew about the acts going on. The witness explained that the Interahamwe was not sincere, but was clearly making fun of him. He added that the looters were numerous and he believed that the Interahamwe were among them.

The Defense moved to another line of questioning. In 2010, the witness had testified that the Interahamwe of his cellule had been training at the football pitch of Musave. Me Altit asked him why he had not mentioned Kabuga's compound. The witness answered that he did not know why this had not been mentioned.

The next questions were asked and answered in camera.

The Defense asked the witness if the rally was the first time he had seen Mr. Kabuga close-up since he had previously stated that he had seen him before. Witness KAB085 explained that from his shop, he could see Kabuga at the rally as the distance between the shop and the site of the rally was not long, and he knew him from before the encounter.

Questioning by the bench

Judge deGuzman asked the witness if Jean-Claude (the writer was unable to catch the spelling of family name) was the person who related to him that Kabuga had asked "do you know who snakes are?" The witness confirmed it. The judge then asked the witness why Jean-Claude Gwahira would have shared this particular sentence from Kabuga. The witness explained that he had told him about the other speakers and their speeches, insisting that Kabuga was the one who had asked that question to which the Hutu had replied "kill the snakes". The judge questioned the witness on the meaning of one of his previous statements in which he said that Mugenzi was close to Kabuga like child and

father. Witness KAB085 explained that in Rwandan culture a boss is like a father. The judge further asked how the witness knew that the training at Kabuga's compound was of military nature. He answered that upon their return from training, the people were very lively and would discuss the matter with Jean-Claude Gwahira who would then share the information with the witness. He added that he could also observe the training when they were carried out in public and could be seen by all and that seeing their actions during the genocide it was clear to him that the Interahamwe had received military training. The witness had previously stated that he had fled and had run to a hill after attacks were perpetrated. The Judge asked him if these attacks were the ones on the Karama school, which the witness confirmed.

Judge El Baaj then asked the witness to explain why he interpreted the sentence about snakes as a call to attack and kill Tutsi. The witness explained that after Kabuga's speech the Tutsi at the rally had been attacked and traumatized because in Rwandan culture snakes have a negative connotation and have to be smashed. He added that it was an incentive to kill the Tutsi. Judge El Baaj then questioned the witness on the identity of the guests that were introduced at the rally. The witness explained that Kabuga had arrived after the bourgmestre of the commune and other authorities from neighbouring communes. He added that he was introduced as "one of us" and described as a supporter of "all our actions". The Judge then asked the witness to confirm his previous statement in which he affirmed that Mr. Kabuga had said during his speech that Hutu needed to know what had happened to their counterparts and that two Hutu had been killed by Tutsi. The witness confirmed his statement and added that Kabuga had said to the Hutu to put aside their political party allegiance because their common enemy was the Tutsi. Focusing now on the death of President Juvenal Habyarimana, he asked the witness which radios had broadcasted news about his death. The witness explained the two radio stations at the time, namely Radio Rwanda and RTL, had broadcasted the death.

Judge El Baaj asked the witness which colour was the bag that Félicien Kabuga had given to the Interahamwe, according to the witness's previous testimony. The witness replied that he did not remember the colour, but he could remember that they had zippers and were travel bags. The witness had previously stated that he had heard a journalist on the radio advise people to go to Kabuga in order to be provided with things they needed during the genocide. The judge asked him to confirm and give more details about said broadcast. The witness explained that he had heard it while he was in hiding in the house of a soldier between April 15th and April 20th 1994. Focusing now on the bags and the grenades previously mentioned, the judge asked the witness if he had learned from his brother-in-law that Kabuga had distributed bags and weapons or if that was a conclusion he had personally drawn. Witness KAB085 explained that after he saw men with bags, Jean-Claude Gwahira had told him that he would soon learn what was inside and later on, Tutsi were attacked with the content of the same bags.

Judge de Caires Batista Rosa asked the witness how he knew that the bags and the grenades he had seen at the end of March 1994 were also the ones that were used to attack Tutsi later on. The witness explained that because Jean-Claude Gwahira had told him that he would soon know what the bags were for, he knew that these were the same bags. He added that these attacks started in broad daylight and continued late in the evening until they had massacred all the people.

The Presiding Judge, Ian Bonomy, asked the witness precisions about the death of his sister. The answer was given in camera and the hearing of the testimony of Witness KAB085 was concluded here.

Witness KAB041

The Prosecution introduced KAB041 and read a summary of the testimony of the witness as follows: The witness is a Tutsi and a long-term resident of the Kimironko. He provided information about Interahamwe before and during the genocide. He named Interahamwe from Kimironko including Faustin Munyakazi and others, he also cited nicknames of some of the Kimironko Interahamwe. He identified various locations in Kimironko relevant to the case including the neighbourhood of Kabuga's compound. He learned from Faustin Munyakazi that many Interahamwe were training at Kabuga's place and was able to get this information because he would offer beers to the Interahamwe.

Roadblocks were set up in Kimironko at different places such as at Groupement, near Anne-Marie's house, Kabuga's house and at a junction. The witness learned that the roadblocks were manned by Interahamwe. Around 2 PM on April 7th 1994, the witness saw Interahamwe going to houses in his neighbourhood while he was hiding in an attic in a house. He saw the Interahamwe attack and kill with machetes and clubs two people who had gone out of the house. He spent the night with his wife and children hidden in a banana plantation and took his family the next day to the ADEPR church, where they found many Tutsi.

On April 10th 1994, he saw the Interahamwe attack the Karama school and the same evening the church was attacked. People told the witness that the killings continued all day and only stopped at 3 PM when it started raining.

The same Interahamwe from Kimironko who had attacked the Karama school then attacked the ADEPR church again. The annexe of the witness's parents' house had been burned and his parents had been killed and buried. The witness then fled to Byumba before returning to KIGALI in June or July 1994. While in Byumba, a woman told him that his wife and children had been buried in their garden in Kimironko. The hearing was adjourned here and will resume on Tuesday, March 7, 2023.

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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