

In detention, ‘financier of 1994 Genocide’ still struggles to find host country

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Genocide suspect Felicien Kabuga during his trial at the International Residual Mechanism for Criminal Tribunals in The Hague. Courtesy

Felicien Kabuga, a key suspect of the 1994 Genocide against the Tutsi in Rwanda, is still in detention as his defence lawyers continue to face the daunting task of finding a host country for him.

In June 2023, the International Residual Mechanism for Criminal Tribunals (IRMCT) ruled that the 90-year-old was unfit to stand trial due to his health status, hence suspending his criminal proceedings.

The development meant that he could be

released from the IRMCT’s detention facility in The Hague, Netherlands, if he finds a host country. Currently, more than six months after the tribunal’s ruling, his lawyers’ attempts to find such a country have been futile.

“The trial chamber (of the IRMCT) has tasked his defence team to find a country to which Mr Kabuga can be provisionally released; that process is ongoing with his defence team. So far, they have not yet been successful, to my knowledge,” said Aboubacar Tambahou, IRMCT’s registrar, during a press conference in Kigali, on Thursday, February 15.

“Mr Kabuga remains in detention in The Hague pending the finding of a state that is willing to accept him even provisionally.”

A businessman before, and during the genocide, Kabuga was notoriously tagged “the financier of the genocide.” He allegedly provided massive support to the perpetrators of the 1994 genocide in terms of finance, logistics and moral support.

Before the suspension of his trial, prosecutors pinned him on providing uniforms,

weapons and vehicles to Interahamwe militia, in addition to using Radio RTLM, a media house he owned, to propagate anti-Tutsi propaganda and fuel hatred and killings against them. In earlier interviews, people acquainted with international law said the process of getting him a host country that is willing to take him up is complicated.

“The situation is much more complicated,” said Serge Brammertz, the chief prosecutor of the IRMCT, during an interview with Kigali Today, a Rwandan news outlet in 2023.

“If someone has been convicted, released or acquitted in a third country, in principle that person goes back to his country of nationality,” Brammertz said, as he noted that the most logical consequence would be that he returns to Rwanda since he is a Rwandan citizen.

Can Kabuga come to Rwanda?

Asked about the likelihood of Kabuga’s return to Rwanda, Brammertz said: “I don’t know. It will not be my decision.”

Such a decision will have to depend on a number of factors including Rwanda’s willingness to receive him, his willingness to return and so on, he said.

In the past, Rwanda has consistently stated its willingness to accept convicts of the Genocide against the Tutsi who had been tried, convicted and imprisoned in third countries.

The same applies to Rwandans who were

either acquitted or completed their sentences in the International Criminal Tribunal for Rwanda – the precursor of the Mechanism – who have, for years, failed to secure countries to take them in and the UN is stuck with them.

What are Kabuga’s options?

In a previous interview, a source who talked to The New Times on condition of anonymity pointed out a couple of countries that can be looked at as potential hosts for Kabuga in case he is released, but highlighted how difficult it will be.

The countries in question are mainly those where he has family. These are: France, Belgium and Canada.

France, the source said, would not “want to have him back on its territory because it could indicate that they were [before his arrest] hiding him and thus are happy to have him back.”

As regards Belgium, the source talked about the context of the recent diplomatic problems between Brussels and Kigali, and said Belgian authorities also would not want to take the burden of Kabuga in addition to the current problems in the relations of the two countries.

For Canada, the source highlighted that the North American country has a tough policy on war criminals, and it is very unlikely that they can accept Kabuga. Canada extradited Leon Mugesera to Rwanda to face

genocide charges. In January 2012, Mugesera was sent back to Rwanda, from Canada, after losing a last-minute court battle to stay in the North American country, bringing to end a case that spanned almost two decades. In September 2020, the Court of Appeal maintained the life sentence slapped on the Genocide convict by the High Court four years earlier after he was found guilty of crimes related to the 1994 Genocide against the Tutsi.

Canada also tried and convicted another genocidaire, Desire Munyaneza. In 2014, the Supreme Court of Canada ruled that it would not hear the appeal filed by Munyaneza, who was in 2009 sentenced to life in prison for playing a major role in the 1994 Genocide.

Can he stay at The Hague?

Brammertz explained that the current status under which Kabuga is staying at The Hague

is one of a detainee.

“He can only be released if there is a country which is accepting him on its territory,” he said.

Unlike the other Rwandans who are stuck with the UN, Kabuga is still a suspect and it is understood that even out of custody, there are other conditions that he will have to adhere to even after his release.

It is understood that the Dutch government earlier showed unwillingness to host Kabuga, even before the IRMCT’s decision to put his trial on hold due to his health status.

If the Dutch maintain this stand, the only condition under which he can stay there is by continuing to live at the UN’s detention unit.