

**UNITED
NATIONS**



International Residual Mechanism for
Criminal Tribunals

Case No. MICT-13-38-PT

Date: 1 March 2021

Original: English

BEFORE THE TRIAL CHAMBER

Before:

Judge Iain Bonomy, Presiding
Judge Graciela Susana Gatti Santana
Judge Elizabeth Ibanda-Nahamya

Registrar:

Abubacarr Tambadou

PROSECUTOR

v.

FÉLICIEN KABUGA

PUBLIC WITH PUBLIC AND CONFIDENTIAL ANNEXES

PROSECUTION'S SECOND AMENDED INDICTMENT

The Office of the Prosecutor

Serge Brammertz

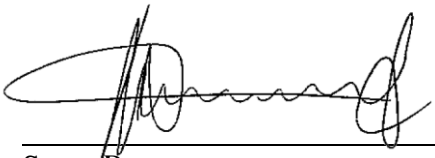
Counsel for Félicien Kabuga

Emmanuel Altit

1. Pursuant to the Trial Chamber's order,¹ the Prosecution hereby files its Second Amended Indictment.² The Second Amended Indictment comprises:

- (a) the public Indictment. As indicated by square brackets, certain sensitive information has been replaced by non-sensitive summary descriptions; and
- (b) the Confidential Schedule containing the full text of the information redacted from the public part of the Indictment.

Word Count: 82



Serge Brammertz
Prosecutor

Dated this 1st day of March 2021
The Hague, The Netherlands

¹ Decision on Prosecution Motion to Amend the Indictment, 24 February 2021.

² See also, Notice of Corrections to Proposed Indictment, 1 March 2021 (confidential).

PUBLIC

SECOND AMENDED INDICTMENT

UNITED NATIONS
INTERNATIONAL RESIDUAL MECHANISM
FOR CRIMINAL TRIBUNALS

Case No. MICT-13-38-PT

THE PROSECUTOR

V.

FÉLICIEN KABUGA

SECOND AMENDED INDICTMENT

The Prosecutor of the United Nations International Residual Mechanism for Criminal Tribunals (“Mechanism”), pursuant to the authority under Articles 1 and 16 of the Mechanism Statute and Article 17 of the Statute of the International Criminal Tribunal for Rwanda (“ICTR Statute”) charges:

Félicien KABUGA with

Count 1: Genocide pursuant to Articles 2(3)(a) and 6(1) of the ICTR Statute;

Count 2: Direct and public incitement to commit genocide pursuant to Articles 2(3)(c) and 6(1) of the ICTR Statute;

Count 3: Conspiracy to commit genocide pursuant to Articles 2(3)(b) and 6(1) of the ICTR Statute;

Count 4: Persecution on political grounds pursuant to Articles 3(h) and 6(1) of the ICTR Statute;

Count 5: Extermination pursuant to Articles 3(b) and 6(1) of the ICTR Statute; and

Count 6: Murder pursuant to Articles 3(a) and 6(1) of the ICTR Statute.

I. DEFINITIONS

1. In this indictment, the term “committed” refers to commission by a physical or principal perpetrator and commission through participation in a joint criminal enterprise (“JCE”).
2. The terms “harming” or “harm” refer to serious bodily or mental harm, including through sexual violence.
3. In this indictment, the term “*interahamwe*” is used to refer generically to militia groups and armed civilians, including the “*Interahamwe-MRND*”, the militia group of the political party *Mouvement Républicain National pour la Démocratie et le Développement* (“MRND”) and the “*Impuzamugambi*”, the youth and militia group of the political party *Coalition pour la Défense de la République* (“CDR”).

II. THE ACCUSED

4. Félicien KABUGA was born in 1935, in Muniga secteur, Mukarange commune, Byumba prefecture, Rwanda.
5. At all times relevant to this indictment, Félicien KABUGA was a wealthy and influential businessman. He had close ties to the Hutu political elite in Rwanda and was a prominent member of the ruling MRND party.

III. CONTEXT OF THE CRIMES

6. Between 6 April 1994 and 17 July 1994, genocide against the Tutsi ethnic group occurred in Rwanda. During this period, Rwandan citizens were identified according to the following ethnic classifications: Hutu, Tutsi, and Twa, which are protected groups falling within the scope of the Genocide Convention of 1948.
7. Between 6 April 1994 and 17 July 1994, there were throughout Rwanda widespread or systematic attacks against a civilian population based on Tutsi ethnic identification and/or political grounds.

IV. FÉLICIEN KABUGA'S CRIMINAL RESPONSIBILITY REGARDING RTLM BROADCASTS

A. Narrative

1. RTLM and Félicien KABUGA's role in RTLM

8. From as early as 1992, Félicien KABUGA was involved in efforts to set up a private radio station. On 8 April 1993, the radio station *Radio Télévision Libre des Mille Collines* ("RTLM") was founded by Félicien KABUGA, Ferdinand NAHIMANA, Jean-Bosco BARAYAGWIZA, Joseph NZIRORERA, Joseph SERUGENDO, Ephrem NKEZABERA and others, including prominent members of the MRND, CDR and Hutu-power political parties, as well as military and militia leaders and leaders of financial institutions. Félicien KABUGA was also an important financer of, and fundraiser for, RTLM.

9. From its inception until the end of its broadcasts in July 1994, Félicien KABUGA served as President of RTLM and, as such, had control over programming, operations, and finances of RTLM. He chaired RTLM's *Comité d'Initiative*, which functioned as RTLM's management committee. Félicien KABUGA was responsible for the overall management and direction of the radio station, supported by other members of the *Comité d'Initiative*, including Ferdinand NAHIMANA, and Jean-Bosco BARAYAGWIZA and by Phocas HABIMANA, the general manager of the station.

10. On or around 26 November 1993 and 10 February 1994, in meetings with the Minister of Information, Félicien KABUGA defended RTLM against criticism that its broadcasts were contrary to the terms of the convention which RTLM had signed with the government because they were inciting ethnic hatred and division. Félicien KABUGA did not take any steps to put an end to such broadcasts although he was under a legal duty and had the ability to do so. Instead, as set out above paragraphs 8-9, Félicien KABUGA acted to ensure the continued operation of the radio station.

11. From at least 1 January 1994 until July 1994, Félicien KABUGA, Ferdinand NAHIMANA, Jean-Bosco BARAYAGWIZA, Joseph NZIRORERA, Phocas HABIMANA, Joseph SERUGENDO, Ephrem NKEZABERA and RTLM journalists, including Valérie BEMERIKI, Gaspard GAHIGI, Noël HITIMANA, Georges RUGGIU, Kantano HABIMANA, Ananie NKURUNZIZA and Philippe MBILIZI operated RTLM in a manner that furthered hatred and violence against Tutsi and others perceived as "accomplices" or "allies" of the Rwandan Patriotic Front ("RPF") and agreed to disseminate an anti-Tutsi message with the goal to eliminate the Tutsi ethnic group in Rwanda.

2. RTLM broadcasts and related violence

12. RTLM started broadcasting in July 1993.

13. From before 1 January 1994 to July 1994, RTLM broadcasts denigrated and encouraged violence against Tutsi and others described as "accomplices" or "allies" of the

RPF, including moderate Hutus, as well as United Nations peacekeepers. RTLM broadcasts used pejorative and dehumanizing labels, such as cockroaches (“*Inyenzi*”) or snakes (“*Inzoka*”) for members of the Tutsi ethnic group. The broadcasts specifically denigrated and threatened Tutsi women, including in a manner focused on their sexuality, thereby encouraging sexual violence against them.

14. RTLM broadcasts caused extreme fear, prompting members of the Tutsi ethnic group and others who were targeted to flee their homes and/or go into hiding. Many sought safety in religious buildings, schools, hospitals and similar places of refuge.

15. Particularly after 6 April 1994, RTLM called on its listeners, including *interahamwe*, to kill and harm Tutsi and other perceived “accomplices” or “allies” of the RPF. RTLM broadcasts glorified this violence, celebrating killings, praising killers and encouraging perpetrators to continue the violence at roadblocks and other locations. In this way, RTLM broadcasts called for and contributed to the killing and harming of hundreds of thousands of persons across Rwanda. Many Tutsi women were raped and/or sexually assaulted or mutilated, often before being killed.

16. RTLM broadcasts called for and encouraged killing and harming by identifying locations where large numbers of Tutsi were seeking refuge such as religious buildings, schools and hospitals, which were then attacked by *interahamwe* and members of the armed forces.

17. In particular, from early April until early June 1994, RTLM broadcasts repeatedly identified sites of refuge in the Nyamirambo and Nyarugenge areas of Kigali, which contributed to repeated attacks and killings in these locations throughout this period.

18. Notably, between 10 and 13 April 1994, RTLM broadcasts identified Tutsi civilians hiding in the Khadafi Mosque and the Islamic Cultural Centre in Nyamirambo, Kigali and directed *interahamwe* to kill them. Subsequently, the people who had sought refuge at the mosque were attacked and more than 300 were killed. In June 1994, RTLM broadcasts again identified Tutsi civilians hiding in the Khadafi Mosque in Nyamirambo, Kigali and directed *interahamwe* to kill them and they were killed.

19. RTLM broadcasts also contributed to the killing and harming of Tutsi and other perceived “accomplices” or “allies” of the RPF by: (i) identifying targeted persons by name; (ii) providing information where they could be found; and/or (iii) providing other information that encouraged or facilitated their killing, including in the following instances:

- a. On 7 April 1994, the killing of Charles SHAMUKIGA, a prominent Tutsi businessman;
- b. On or shortly after 7 April 1994, the killing of Witness FS’s brother, sister-in-law, and their seven children, all Tutsi;
- c. On 7 or 8 April 1994, the killing of Désiré NSHUNGUYINKA (or NSUNGUYINKA) and three relatives, all Tutsi, after their vehicle’s license plate was identified on RTLM;
- d. Between 7 and 9 April 1994, the killing of Zacharie SERUBYOGO, a Hutu tradesman in Cyangugu and member of the MDR party;

- e. Between 8 and 15 April 1994, the killing of Daniel KABAKA and his child, both Tutsi;
- f. On or around 8 or 9 April 1994, the killing of Désiré MUDENGE and others traveling in his vehicle near the ONATRACOM building in Biryogo, Kigali, including Tutsi children;
- g. On 11 April 1994, the killing of Abdallar RUBAYIZA and Sultan, both Tutsi, who were lured by an RTLM broadcast back to their homes, where they were killed;
- h. On or around 12 to 13 April 1994, the killing of Antoine SEBERA, a prominent Tutsi businessman and human rights advocate;
- i. On or around 16 April, the killing of Dr. Théoneste GAFARANGA, a Hutu, Second Vice-President of *Parti Social Démocrate* political party;
- j. In April 1994, the killing of André GASESERO, a Hutu primary school teacher, along with members of his family;
- k. On or around 18 April 1994, the killing of Father Michel NSENGIYUMVA, a Tutsi;
- l. [As set out in the Confidential Schedule, in April 1994, the raping and killing of a woman and the killing of her husband, both Tutsi];
- m. In April 1994, the killing of notary Clément KABALIRA, and his wife, Valérie NGAMBIKI, both Tutsi;
- n. In May 1994, the killing of Charles KALINJABO, a Tutsi, who was lured by an RTLM broadcast to a roadblock where he was killed;
- o. In May 1994, the killing of Stanislas SINIBAGIWE, a Hutu, director of the Printing School; and
- p. On or around 31 May 1994, the killing of Tutsi Father Pierre NGOGA.

B. Responsibility under Article 6(1) ICTR Statute

20. Based on the facts alleged in paragraphs 8-19 above, Félicien KABUGA is responsible for:
- COUNT 1: genocide by killing and harming members of the Tutsi ethnic group;
 - COUNT 2: direct and public incitement to commit genocide against the Tutsi ethnic group;
 - COUNT 3: conspiracy to commit genocide against the Tutsi ethnic group;
 - COUNT 4: persecution as a crime against humanity on political grounds (i) by broadcasting denigrating and threatening (inciting to violence) statements against perceived political opponents, namely persons perceived as Tutsi and other perceived

“accomplices” or “allies” of the RPF, violating their fundamental rights to dignity and security; and (ii) by killing and/or harming them, violating their fundamental rights to life and/or physical or mental integrity;

- COUNT 5: extermination as a crime against humanity; and
- COUNT 6: murder as a crime against humanity.

1. JCE

21. From at least 1 January 1994 until July 1994, Félicien KABUGA is responsible as a member of a JCE for direct and public incitement to commit genocide and persecution through denigrating and threatening broadcasts.

22. The members of the JCE were Félicien KABUGA, Ferdinand NAHIMANA, Jean-Bosco BARAYAGWIZA, Joseph NZIRORERA, Phocas HABIMANA, Joseph SERUGENDO and Ephrem NKEZABERA as well as RTLM’s journalists, including Valérie BEMERIKI, Gaspard GAHIGI, Noël HITIMANA, Georges RUGGIU, Kantano HABIMANA, Ananie NKURUNZIZA, and Philippe MBILIZI.

23. The members of the JCE shared the common purpose to operate RTLM to further hatred against persons identified as Tutsi and other perceived “accomplices” or “allies” of the RPF and to disseminate an anti-Tutsi message with the goal to destroy, in whole or in part, the Tutsi ethnic group in Rwanda, as such. They shared the intent to incite *interahamwe* and others listening to RTLM broadcasts to commit genocide and acted with the intent to destroy in whole or in part the Tutsi ethnic group in Rwanda, as such. They further shared the intent to discriminate in fact against Tutsi and other perceived “accomplices” or “allies” of the RPF and to violate their right to dignity and security based on political grounds. They thus intended that direct and public incitement to commit genocide and persecution through denigrating and threatening broadcasts should be carried out.

24. The JCE members were further aware that the denigrating and threatening broadcasts formed part of the widespread or systematic attack against a civilian population based on Tutsi ethnic identification and/or political grounds.

25. By his acts and omissions set out in paragraphs 8-11 above, Félicien KABUGA contributed to the RTLM broadcasts targeting members of the Tutsi ethnic group and other political opponents. He thereby significantly contributed to the common purpose and thus to direct and public incitement to commit genocide, and persecution through denigrating and threatening (inciting to violence) broadcasts.

2. Aiding and abetting

(a) Aiding and abetting crimes committed by RTLM journalists

26. In the alternative to his responsibility as a member of a JCE, Félicien Kabuga is responsible for aiding and abetting direct and public incitement to commit genocide and persecution by denigrating and threatening broadcasts.

27. RTLM journalists intentionally committed direct and public incitement to commit genocide through their broadcasts that called for the elimination of the Tutsi in Rwanda. They acted with the intent to destroy, in whole or in part, the Tutsi ethnic group in Rwanda, as such.

28. Through their denigrating and threatening broadcasts, RTLM journalists also committed persecution against perceived political opponents, since they discriminated against them in fact and violated their rights to dignity and security. RTLM journalists acted intentionally and with the intent to discriminate on political grounds.

29. RTLM journalists were aware that their crimes formed part of a widespread or systematic attack against a civilian population based on Tutsi ethnic identification and/or political grounds.

30. By his conduct described in paragraphs 8-11 above, Félicien KABUGA substantially contributed to the crimes of direct and public incitement to commit genocide and persecution through denigrating and threatening speech.

31. Félicien KABUGA acted with the intent to destroy, in whole or in part, the Tutsi ethnic group in Rwanda, as such, and with the intent to discriminate in fact against Tutsi and other perceived “accomplices” or “allies” of the RPF. At a minimum, Félicien KABUGA was aware of the probability that the crimes would occur and that his conduct would assist in their commission. He was aware that the crimes formed part of a widespread or systematic attack directed against a civilian population based on Tutsi ethnic identification and/or political grounds.

(b) Aiding and abetting crimes committed by *interahamwe* and others

32. Félicien KABUGA is also responsible for aiding and abetting genocide, extermination, murder and persecution through killing and harming.

33. As described in paragraphs 16-19 above, *interahamwe* and others intentionally killed and harmed Tutsi, and other perceived “accomplices” or “allies” of the RPF. In doing so, they acted with the intent to destroy, in whole or in part, the Tutsi ethnic group in Rwanda, as such, and to discriminate against political opponents on political grounds. They were aware that the crimes formed part of a widespread or systematic attack directed against a civilian population based on Tutsi ethnic identification and/or political grounds.

34. By his conduct described in paragraphs 8-11 above, Félicien KABUGA substantially contributed to the commission of the crimes through his involvement and role in the RTLM radio station and its broadcasts.

35. Félicien KABUGA acted with the intent to destroy, in whole or in part, the Tutsi ethnic group in Rwanda, as such, and with the intent to discriminate in fact against Tutsi and other perceived “accomplices” or “allies” of the RPF. At a minimum, Félicien KABUGA was aware of the probability that genocide, extermination, murder and persecution through killing and harming would be committed and that his conduct would contribute to their commission. He was aware that the crimes formed part of a widespread or systematic attack directed against a civilian population based on Tutsi ethnic identification and/or political grounds.

3. Conspiracy to commit genocide

36. As described above, in particular at paragraph 11, Félicien KABUGA is responsible for conspiracy to commit genocide because he agreed with Ferdinand NAHIMANA, Jean-Bosco BARAYAGWIZA, Joseph NZIRORERA, Phocas HABIMANA, Joseph SERUGENDO, Ephrem NKEZABERA and RTLM journalists, including Valérie BEMERIKI, Gaspard GAHIGI, Noël HITIMANA, Georges RUGGIU, Kantano HABIMANA, Ananie NKURUNZIZA, and Philippe MBILIZI that genocide should be committed against the Tutsi ethnic group. The participants in the agreement possessed the intent to destroy, in whole or in part, the Tutsi ethnic group in Rwanda, as such.

V. FÉLICIEN KABUGA’S CRIMINAL RESPONSIBILITY REGARDING SUPPORT TO AND INVOLVEMENT WITH INTERAHAMWE

A. Narrative

37. From the early 1990s, Félicien KABUGA contributed to nationwide efforts to create and support *interahamwe*, and continued his support into 1994.

38. From 1 January 1994 to 17 July 1994, Félicien KABUGA supported attacks by *interahamwe* against Tutsi and other perceived “accomplices” or “allies” of the RPF.

39. In addition to encouraging attacks by *interahamwe* through his role in RTLM as set out in paragraphs 8-11, 13-19 above, Félicien KABUGA supported *interahamwe* attacks by providing material, logistical, financial and moral support to *interahamwe*, who killed and harmed Tutsi and other perceived “accomplices” or “allies” of the RPF in Kigali-Ville prefecture, Gisenyi prefecture and in Kibuye prefecture.

1. Félicien KABUGA provided support to *interahamwe* in Kigali-Ville prefecture where they committed crimes

(a) Kimironko

40. Félicien KABUGA provided material, logistical, financial and moral support to *interahamwe* in Kimironko, where he had his residence.

41. Félicien KABUGA supported a core group of *interahamwe* in Kimironko, with whom he had close ties such that the group was known as “Kabuga’s *interahamwe*”. This core group consisted of around 50 members. The leadership of this *interahamwe* group included HAJABAKIGA, Gerard SEHENE and Gratien MURENZI.

42. Between 1 January 1994 and 17 July 1994, Félicien KABUGA provided support to this core group and other *interahamwe* in Kimironko. Félicien KABUGA supported them in numerous ways, such as by providing them with space in his private compound in Kimironko for their meetings, training and group activities, and by providing weapons and ammunition, uniforms, food, and transportation. He further provided financial support, and rewarded and encouraged them.

43. Between 7 April 1994 and at least the end of June 1994, *interahamwe* who received Félicien KABUGA’s support as described above in paragraphs 40-42, participated in attacks, killing and harming Tutsi and other perceived “accomplices” or “allies” of the RPF in Kigali-Ville prefecture. They attacked victims at roadblocks, places of refuge and in houses. Notably:

- a. On 7 April 1994, *interahamwe* killed a Tutsi named SAHAHA in Kimironko;
- b. Around 7 April 1994, *interahamwe* killed a Tutsi named Joseph KAYIJUKA in Kimironko;
- c. [As set out in the Confidential Schedule, around 7 April 1994, *interahamwe* killed several members of a family];
- d. [As set out in the Confidential Schedule, around 7 April 1994, *interahamwe* killed two brothers at a private house];
- e. Between approximately 7 to 14 April 1994 at the roadblock in front of Félicien KABUGA’s residence, *interahamwe* arrested and killed Tutsi civilians, including Jean-Pierre NZARAMBA on 7 April 1994;
- f. Between approximately 7 to 25 of April 1994, *interahamwe* killed a Tutsi woman named MUKANDAHIRO and her two children at her house;
- g. [As set out in the Confidential Schedule, around 11 April 1994, *interahamwe* killed members of a man’s family in Kimironko. The man’s wife and children were subsequently killed in Kimironko by *interahamwe*];
- h. On or around 10 or 11 April 1994, *interahamwe* attacked some 200 refugees at Karama school and killed several Tutsi;

- i. On 10 and 11 April 1994, *interahamwe* attacked the ADEPR Church in Kimironko and killed Sylvestre NYIOMUGISHA;
- j. Around 14 to 15 of April 1994, *interahamwe* attacked Tutsi at the MUSHIMIRE family home killing several family members;
- k. When *interahamwe* were fleeing Kimironko, they killed David, his wife and their children in Kimironko;
- l. Several other Tutsi families were also attacked in April 1994 in Kimironko by *interahamwe*, in particular:
 - (i) around 8 April 1994, Léopold NYAKANA and MUNYESHULI;
 - (ii) around 10 April 1994, KALIMWIJABO was killed at a roadblock in Munga and dumped in a pit called *Chez Conseiller*;
 - (iii) around 18 April 1994, Semaragide (or Smaragde) NSENGIMANA and MUBERUKA;
 - (iv) MUGORENKABANDI was killed and dumped in a latrine in their compound; and
 - (v) the family of Célestin RUGIGANA.

(b) Kimihurura

44. Félicien KABUGA provided weapons and ammunition to *interahamwe* in Kimihurura, some of which were then supplied to the Kimironko *interahamwe*. In particular, on a date between 1 January 1994 and 6 April 1994, Félicien KABUGA distributed machetes and other traditional weapons to NZABANTERURA—the head of the *interahamwe* in Kimihurura—in front of his bar. Towards the end of May 1994, Félicien KABUGA supplied ammunition to *interahamwe* in Kimihurura; some of which was collected by HAJABAKIGA of the Kimironko *interahamwe*.

45. NZABANTERURA and his group were involved in attacking and killing of Tutsi civilians in Kigali. They attacked victims at roadblocks, places of refuge and in houses. Notably:

- a. Around 7 April 1994, *interahamwe* attacked the family of Josiane UWONKUNDA, killing her parents, brothers and sisters;
- b. [As set out in the Confidential Schedule, on 7 or 8 April 1994, *interahamwe* raped a mother and daughters; *interahamwe* participated in killing them and other members of the same family];
- c. During the period from 7-30 April 1994, *interahamwe* launched attacks in Rugando in Kimihurura secteur, killing Martin GATABAZI, Désiré RWAKAGEYO, members of JMV BUREGEYA's family, Athanase MUTAGA, Jean MUTERAHEJURU, Isaie TWATWA (or BUTWATWA) and SEBINYAVANGA;

- d. On unknown dates starting from 7 April 1994, *interahamwe* killed Tutsi civilians at a roadblock near the house of ZIGIRANYIRAZO, near EPR and at the roadblock of Fidele, near Péage; and
- e. On unknown dates starting from 10 April 1994, *interahamwe* killed Tutsi civilians who had sought refuge at the Presidential Guard Camp.

(c) Muhima

46. Félicien KABUGA placed part of his Muhima building at the disposal of *interahamwe*. Starting in 1992, *interahamwe* used the Muhima building for their meetings and training and continued to use it in 1994.

47. *Interahamwe* who attended meetings and/or had trained in the Muhima building were involved in attacks against Tutsi and other perceived “accomplices” or “allies” of the RPF, killing and harming numerous victims in Kigali-Ville prefecture, including in the Muhima area, such as:

- a. [As set out in the Confidential Schedule, on an unknown date between 7 and 22 April 1994, *interahamwe* killed a woman, four of her children and a cousin, at their family home];
- b. [As set out in the Confidential Schedule, on 8 April 1994, *interahamwe* killed a man];
- c. [As set out in the Confidential Schedule, on 8 April 1994, *interahamwe* raped and killed a female]; and
- d. [As set out in the Confidential Schedule, on 8 April 1994, *interahamwe* sexually assaulted and raped several women and thereafter transferred, detained and continued to sexually assault and rape some of them].

2. Félicien KABUGA provided support to *interahamwe* in Gisenyi prefecture

48. Between April and July 1994, Félicien KABUGA also supported *interahamwe* in Gisenyi prefecture. He raised funds for purchasing weapons and ammunition, imported arms and ammunition which were distributed to *interahamwe* in Gisenyi; provided financial support, transportation and encouragement as set out in further detail below.

(a) Félicien KABUGA provided support to *interahamwe* in various locations in Gisenyi prefecture

(i) Gisenyi MRND offices

49. In early April 1994, Félicien KABUGA provided machetes and other weapons to *interahamwe* in Gisenyi, which were distributed to them on or around 3 and 7 April 1994 at the Gisenyi MRND offices. In a meeting in the Gisenyi MRND offices in May or June 1994

Félicien KABUGA called on them to attack Tutsi and other “accomplices” or “allies” of the RPF and promised to provide *interahamwe* with weapons and ammunition, which he did.

(ii) Méridien hotel

50. Between April and June 1994, Félicien KABUGA attended at least three meetings at the Méridien hotel. During the meetings, Félicien KABUGA raised funds to buy weapons and ammunition to defeat Tutsi and other perceived “accomplices” or “allies” of the RPF and called for the Tutsi to be exterminated.

51. On or about 24 and 25 April 1994, in the Méridien hotel, Gisenyi, Félicien KABUGA chaired a meeting in which it was decided to establish the *Fonds de Défense Nationale* (“FDN”). The purpose of the FDN was to raise money to support the *interahamwe* and the army. This included raising funds to provide financial and logistical support for the *interahamwe*’s killing and harming of Tutsi and perceived “accomplices” and “allies” of the RPF. Félicien KABUGA was President of the *Comité Provisoire* of the FDN. Other members included Vice-President Abijah KWILINGIRA and Secretary Stanislas HARELIMANA. Félicien KABUGA was a signatory on several bank accounts held in the name of FDN along with Mathieu NYAGASAZA, Augustin BASEBYA, Gerard NSENGA and Pasteur MUSABE. At least as of the time of the meeting to found the FDN on 24 or 25 April 1994, Félicien KABUGA, Abijah KWILINGIRA, Stanislas HARELIMANA, Mathieu NYAGASAZA, Augustin BASEBYA, Gerard NSENGA, Pasteur MUSABE and others agreed to raise funds to provide financial and logistical support for the *interahamwe*’s killing and harming of the Tutsi group in Rwanda.

52. At the Méridien hotel, KABUGA also authorised and/or oversaw the distribution of weapons to *interahamwe*.

(iii) Umuganda stadium

53. In May and June 1994, Félicien KABUGA was present at, and/or represented at, at least two meetings at Umuganda stadium. He publically made a contribution for the purchase of arms and ammunition for the *interahamwe*, called on the population also to contribute and encouraged *interahamwe* to continue killing and harming Tutsi and other “accomplices” or “allies” of the RPF.

(iv) Gisenyi military camp

54. In May and June 1994, Félicien KABUGA provided weapons and financial support to *interahamwe* at Gisenyi military camp, reprimanded *interahamwe* for not being as active as *interahamwe* in other areas and encouraged them to continue attacking Tutsi and other perceived “accomplices” or “allies” of the RPF.

(v) Gisenyi prefecture hall

55. In May or June 1994 at the Gisenyi prefecture hall, Félicien KABUGA held a meeting to raise funds for the purchase of weapons and ammunition including for *interahamwe* to attack Tutsi and other “accomplices” or “allies” of the RPF.

(vi) Other locations in Gisenyi prefecture

56. In May or June 1994 in Bugoyi in Rubavu Commune, Félicien KABUGA rewarded *interahamwe* for attacking Tutsi and other perceived “accomplices” or “allies” of the RPF and encouraged them to continue doing so.

57. In May or June 1994 in Bruxelles in Nyamyumba, Félicien KABUGA rewarded *interahamwe* who reported back to him about attacks, and encouraged them to continue.

58. Félicien KABUGA provided transportation for use by *interahamwe* in Gisenyi, including to move victims who had been or were to be killed by *interahamwe* to *Commune Rouge* in Gisenyi.

59. Arms and ammunitions procured by Félicien KABUGA were brought to Gisenyi, including via Goma airport in the Democratic Republic of the Congo (then Zaire). Félicien KABUGA used trucks, including those marked with his initials “KF”, to transport such supplies. The transport was not limited to Gisenyi prefecture. For instance in May 1994, Félicien KABUGA supplied ammunition from Gisenyi to *interahamwe* in Kigali.

(b) Interahamwe supported by Félicien KABUGA committed crimes in Gisenyi prefecture, in Kibuye prefecture and in and around Kigali-Ville prefecture

60. The *interahamwe* supported by Félicien KABUGA in the ways described in paragraphs 8-11, 39-42, 44, 46, 48-59 above, killed and harmed Tutsi and/or other perceived “accomplices” or “allies” of the RPF in Gisenyi prefecture and in Bisesero in Kibuye prefecture between April and July 1994.

61. In Gisenyi prefecture, they carried out in particular the following attacks:

- a. On 7 April 1994 in Nyamyumba commune, *interahamwe* attacked the Tutsi families of Dominique, MUKARUGAMBWA, MAKUZA, as well as Samson, Nyiranrijekeri, Butitira and Thérèse NYIRANDUHIRABANDI, killing MUKARUGAMBWA and his family members, Samson, Nyiranrijekeri, Butitira and Thérèse NYIRANDUHIRABANDI, , while Dominique escaped;
- b. At some point after 7 April 1994, *interahamwe* killed Tutsi at roadblocks in Muduha and Bugoyi, both in Rubavu Commune, or took them to the *Commune Rouge* where they were killed;
- c. At some point after a meeting on 2 May 1994 at the Umuganda stadium, *interahamwe* attacked Tutsi and other “accomplices” or “allies” of the RPF at Saint Fidèle institute

and killed them; at the roadblock in front of bus terminal Nyenyeri, and killed them or transported them to *Commune Rouge* to be killed; in Majengo neighbourhood; and at a hospital in Gisenyi; and

- d. After the end of May 1994, *interahamwe* attacked Tutsi and other perceived “accomplices” or “allies” of the RPF at Nyundo parish.

62. At some point after 7 April 1994, *interahamwe* also killed Tutsi in Rutsiro in Kibuye prefecture, after having received arms distributed by Félicien KABUGA in Gisenyi. *Interahamwe* who received arms supplied by Félicien KABUGA at the Gisenyi military camp and at the Méridien Hotel were also sent to Bisesero hills in Kibuye prefecture and participated in the killing of many Tutsi there in May and June 1994.

63. *Interahamwe* who received ammunition from Félicien KABUGA used it to kill Tutsi and perceived “accomplices” and “allies” of the RPF in and around Kigali-Ville prefecture.

B. Responsibility under Article 6(1) ICTR Statute

64. Based on the facts alleged in paragraphs 37-63 above, Félicien KABUGA is responsible for:

- COUNT 1: genocide by killing and harming members of the Tutsi ethnic group;
- COUNT 3: conspiracy to commit genocide against the Tutsi ethnic group;
- COUNT 4: persecution as a crime against humanity on political grounds by killing and/or harming perceived political opponents, namely persons perceived as Tutsi and other perceived “accomplices” or “allies” of the RPF, violating their fundamental rights to life and/or physical or mental integrity;
- COUNT 5: extermination as a crime against humanity; and
- COUNT 6: murder as a crime against humanity.

1. Aiding and abetting crimes committed by *interahamwe*

65. As described in paragraphs 43, 45, 47, 60-63 above, *interahamwe* intentionally killed and harmed Tutsi, and other perceived “accomplices” or “allies” of the RPF. In doing so, they discriminated against them in fact and acted with the intent to destroy, in whole or in part the Tutsi ethnic group in Rwanda, as such, and to discriminate against political opponents on political grounds. They were aware that the crimes formed part of a widespread or systematic attack directed against a civilian population based on Tutsi ethnic identification and/or political grounds.

66. By his conduct described in paragraphs 39-42, 44, 46, 48-59 above Félicien KABUGA supported and encouraged *interahamwe* to commit the crimes charged. In addition, his conduct described in paragraphs 8-19 further encouraged *interahamwe* to commit the crimes

charged. Félicien KABUGA's conduct substantially contributed to the commission of these crimes. Félicien KABUGA acted with the intent to destroy, in whole or in part, the Tutsi ethnic group in Rwanda, as such, and with the intent to discriminate in fact against Tutsi and other perceived "accomplices" or "allies" of the RPF. At a minimum, Félicien KABUGA was aware of the probability that the crimes would occur and that his conduct would assist in their commission. Félicien KABUGA was aware that the crimes formed part of a widespread or systematic attack directed against a civilian population based on Tutsi ethnic identification and/or political grounds.

2. Conspiracy to commit genocide

67. Based on paragraph 51 above, Félicien KABUGA is responsible for conspiracy to commit genocide because he agreed with Abijah KWILINGIRA, Stanislas HARELIMANA Mathieu NYAGASAZA, Augustin BASEBYA, Gerard NSENGA, Pasteur MUSABE and others that genocide should be committed against the Tutsi ethnic group in Rwanda. The participants in the agreement possessed the intent to destroy, in whole or in part, the Tutsi group in Rwanda as such.

VI. AGGRAVATING CIRCUMSTANCES

68. Aggravating circumstances against Félicien KABUGA include: (1) abuse of his position of authority; (2) his pre-meditation; (3) the violent and humiliating nature of the crimes and the vulnerability of the victims; (4) the duration of the offences and suffering of the victims; and (5) his genocidal and/or persecutory intent for convictions in relation to modes of liability which do not require such intent.

Signed at The Hague, this 1st day of March 2021



Serge BRAMMERTZ
The Prosecutor



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