

**UNITED  
NATIONS**



International Residual Mechanism  
for Criminal Tribunals

Case No.: MICT-13-38-PT

Date: 4 March 2021

Original: English

**IN THE TRIAL CHAMBER**

**Before:** Judge Iain Bonomy, Pre-Trial Judge

**Registrar:** Mr. Abubacarr Tambadou

**Order of:** 4 March 2021

**PROSECUTOR**

**v.**

**FÉLICIEEN KABUGA**

***PUBLIC***

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**ORDER FOR FURTHER SUBMISSIONS RELATED TO  
REPRESENTATION**

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**The Office of the Prosecutor:**

Mr. Serge Brammertz

**Counsel for Félicien Kabuga:**

Mr. Emmanuel Altit

**I, IAIN BONOMY**, Presiding Judge of the Trial Chamber of the International Residual Mechanism for Criminal Tribunals (“Mechanism”) and the Pre-Trial Judge in this case;<sup>1</sup>

**NOTING** that, on 6 January 2021, the Registrar temporarily assigned Mr. Emmanuel Altit as counsel to represent Mr. Félicien Kabuga for 90 days pending the Registry’s ongoing assessment as to Kabuga’s ability to remunerate counsel;<sup>2</sup>

**BEING SEISED OF** a motion filed on 21 January 2021 by Mr. Altit requesting that, based on the existence of exceptional circumstances, the Trial Chamber order the Registrar to withdraw his assignment and that of his team to represent Kabuga pursuant to Rule 43(G) of the Rules of Procedure and Evidence (“Rules”);<sup>3</sup>

**RE-EMPHASIZING** that, as counsel assigned under the Mechanism’s legal aid program, Mr. Altit continues to serve as Kabuga’s counsel before the Mechanism and must carry through to conclusion all matters undertaken for the client within the scope of his legal representation unless and until his representation is terminated or withdrawn *and* replacement counsel has been assigned by the Registrar;<sup>4</sup>

**RECALLING** the order filed on 29 January 2021 seeking submissions from the Registrar following additional consultations with Kabuga, as appropriate, on the following issues: (i) does Kabuga wish to have Mr. Altit replaced; (ii) has suitable alternative counsel been identified, either by Kabuga and/or the Registry, bearing in mind the requirements for assignment of counsel under the Rules and the Directive; and (iii) could assignment of new counsel occur immediately upon any order withdrawing Mr. Altit’s assignment;<sup>5</sup>

**RECALLING FURTHER** that the Order of 29 January 2021 emphasized that in relation to identifying suitable alternative counsel, any prospective counsel, if assigned, must conduct Kabuga’s defence in compliance with his or her ethical obligations to Kabuga, including, *inter alia*, only taking instructions from Kabuga in the conduct of his defence and ensuring that no

<sup>1</sup> See Order Assigning a Trial Chamber, 1 October 2020, p. 1; Order Designating a Pre-Trial Judge, 29 October 2020, p. 1.

<sup>2</sup> See Decision, 6 January 2021 (public, with confidential and *ex parte* Annex), Registry pagination 492-490.

<sup>3</sup> Request Pursuant to Rule 43(G) of the Rules of Procedure and Evidence, 25 January 2021 (confidential and *ex parte*, with confidential redacted version filed on 25 January 2021; original French version filed on 21 January 2021) (“Motion”), p. 2.

<sup>4</sup> Code of Professional Conduct for Defence Counsel Appearing Before the Mechanism, MICT/6, 14 November 2012, Article 11; Directive on the Assignment of Defence Counsel, MICT/5, 14 November 2012 (“Directive”), Article 22(A).

<sup>5</sup> Order for Submissions Related to Representation, 29 January 2021 (“Order of 29 January 2021”), p. 2.

confidential material or information is disclosed in violation of any judicial orders or ethical obligations;<sup>6</sup>

**NOTING** that the Registrar's submission filed on 8 February 2021 confirms that Kabuga wishes to have his Counsel replaced, that he has identified a replacement counsel, and that this counsel meets the relevant requirements for assignment and is immediately available, but that the submission does not address the concerns raised by the "exceptional circumstances" identified by Kabuga's assigned Counsel as justifying his withdrawal;<sup>7</sup>

**OBSERVING** that the Registrar's Submission of 8 February 2021 does not identify the proposed replacement counsel nor does it contain any discussion as to whether this individual is presently prepared to uphold his or her professional and ethical obligations in light of the specific circumstances underlying what appears on the face of the Motion to be the cause of the unilateral breakdown between Kabuga and his assigned Counsel;

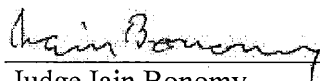
**FINDING** that, in view of the bases upon which Mr. Altit seeks to establish the existence of exceptional circumstances for withdrawal,<sup>8</sup> the information identified above that is absent from the Registrar's Submission of 8 February 2021 impedes the Trial Chamber's ability to render a decision on the Motion in view of its obligation to ensure that proceedings are fair and expeditious;

**FOR THE FOREGOING REASONS,**

**REQUEST** the Registrar, pursuant to Rule 31(B) of the Rules, to file a submission addressing the points mentioned in the foregoing final three paragraphs within seven days of this order.

Done in English and French, the English version being authoritative.

Done this 4th day of March 2021,  
At Arusha,  
Tanzania

  
Judge Iain Bonyony  
Pre-Trial Judge

**[Seal of the Mechanism]**

<sup>6</sup> Order of 29 January 2021, n. 7.

<sup>7</sup> Registrar's Submission in Relation to the "Order for Submissions Related to Representation" of 29 January 2021, 8 February 2021 ("Registrar's Submission of 8 February 2021"), para. 3.

<sup>8</sup> See Motion, paras. 4, 5.



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<b>Date Created/ Daté du :</b>	4 March 2021	<b>Date transmitted/ Transmis le :</b>	4 March 2021	<b>No. of Pages/ Nombre de pages :</b> 3
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