

UNITED
NATIONS



International Residual Mechanism for
Criminal Tribunals

Case No: MICT-13-38-T

Date: 9 September 2025

Original: English

BEFORE THE TRIAL CHAMBER

Before: Judge Iain Bonomy, Presiding
Judge Mustapha El Baaj
Judge Margaret M. deGuzman

Registrar: Mr. Abubacarr M. Tambadou

PROSECUTOR

v.

FÉLICIEN KABUGA

PUBLIC

**PROSECUTION SUBMISSION CONCERNING KABUGA'S
PROVISIONAL RELEASE TO RWANDA**

The Office of the Prosecutor

Mr. Serge Brammertz
Mr. Rashid S. Rashid
Mr. Rupert Elderkin

Counsel for Félicien Kabuga

Mr. Emmanuel Altit

1. In the interests of justice, the Trial Chamber should decide whether to provisionally release Félicien Kabuga to Rwanda, his country of citizenship and the only State that has expressed willingness to accept him.¹ Based on the experience of the past two years, if Kabuga is ever to be released from detention, it will only be to Rwanda.²

2. In August 2023, the Appeals Chamber instructed the Trial Chamber to expeditiously address the issue of his detention, as well as consider appropriate modalities and conditions of for his release.³ It stated that while “identifying a State that will accept Kabuga on its territory may present obstacles, such a consideration may not be the basis for Kabuga’s continuous detention on remand”.⁴ Yet, two years later,⁵ Kabuga remains in limbo, while complaining that his continuing detention violates his most fundamental rights.⁶ His preferred European states have proved unwilling to accept him and the Host State is unequivocal that Kabuga “cannot be released onto its territory”.⁷

3. The Trial Chamber has sufficient information to make its decision on release to Rwanda. It has received the advice of the Independent Expert on aeromedical transfers explaining how Kabuga could be flown from the Netherlands to Rwanda while mitigating the risks associated with such a journey. Rwanda has expressed its willingness to provide assistance to the Mechanism; to cooperate with the Mechanism in respect of the logistics necessary for Kabuga’s transfer to Rwanda; and to ensure that his “rights and freedoms are protected. Those rights include medical care and support.”⁸ The parties have both provided

¹ See Registrar’s Submission Pursuant to the Order in Relation to a Communication from the Registrar, 16 February 2024, Annex (Submissions from the Government of Rwanda in Relation to the Provisional Release of Félicien Kabuga, 12 December 2023) (“Rwandan Submission on Provisional Release”).

² See T.1 May 2025, p.6: (“[JUDGE BONOMY: (...)] The Trial Chamber has afforded Mr. Kabuga every opportunity, and every avenue of assistance available to it, to identify a state of release where he would like to go. To date, all three of his preferred options, which are located in Europe, have refused. The only state willing - and obliged - to accept him is his native country Rwanda. However, he refuses to go there [...]”).

³ Decision on Defence Request for an Article 28 Order for Provisional Release (Public Redacted Version), 29 February 2024, p.1; Decision on Nzuwonemeye Motion for Public Redacted Version of “Decision on Defence Request for an Article 28 Order for Provisional Release” of 29 February 2024, 3 June 2024, Annex; *Prosecutor v. Kabuga*, Case No.MICT-13-38-AR80.3, Decision on Appeals of Further Decision on Félicien Kabuga’s Fitness to Stand Trial, 7 August 2023 (“Fitness Appeal Decision”), paras.75-76.

⁴ Fitness Appeal Decision, para.76.

⁵ See Decision Imposing an Indefinite Stay of Proceedings, 8 September 2023.

⁶ Decision on Félicien Kabuga’s Application for Modification of Conditions of Detention, 29 October 2024, pp.2-3.

⁷ See T.26 March 2024, p.3.

⁸ See Rwandan Submission on Provisional Release, para.6. The Government of the Netherlands has also made submissions regarding Kabuga’s potential provisional release. See T.26 March 2024, p.3.

numerous submissions concerning the question of provisional release to Rwanda, pursuant to a confidential order for submissions issued by the Trial Chamber on 14 October 2024.⁹

4. The Prosecution therefore requests that the Trial Chamber decide on Kabuga's provisional release. Should the Trial Chamber solicit any further submissions from the Netherlands and/or Rwanda pursuant to Rule 68(B),¹⁰ those submissions should not be delayed on the basis of any refusal to share Kabuga's medical records, as there is sufficient information about his general state of health that has been made public.

Word Count: 617



Rashid S. Rashid
Senior Trial Attorney



Rupert Elderkin
Senior Trial Attorney

Done this 9th day of September 2025,
At Arusha, Tanzania

⁹ See T.11 December 2024, p.3.

¹⁰ Order in Relation to a Communication from the Registrar, 15 February 2024.



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