

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-13-38

Date: 10 July 2026

Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Graciela Gatti Santana, President

Registrar: Mr. Abubacarr M. Tambaou

Order of: 10 July 2026

PROSECUTOR

v.

FÉLICIEN KABUGA

PUBLIC WITH PUBLIC ANNEX

**ORDER PLACING ON THE RECORD
THE REPORT ON THE INQUIRY INTO THE
DEATH OF THE ACCUSED**

I, GRACIELA GATTI SANTANA, President of the International Residual Mechanism for Criminal Tribunals (“President” and “Mechanism”, respectively);

RECALLING that Mr. Félicien Kabuga (“Kabuga”), who was detained at the United Nations Detention Unit (“UNDU”) in The Hague, Kingdom of the Netherlands (“Netherlands”) for charges of genocide, direct and public incitement to commit genocide, conspiracy to commit genocide, as well as persecution, extermination, and murder as crimes against humanity, passed away on 16 May 2026;¹

RECALLING that, on the same day, I assigned Judge Alphons Orié to conduct an inquiry into the circumstances surrounding the death of Kabuga while in the custody of the UNDU and to report the findings of that inquiry to me directly as soon as is reasonably possible;²

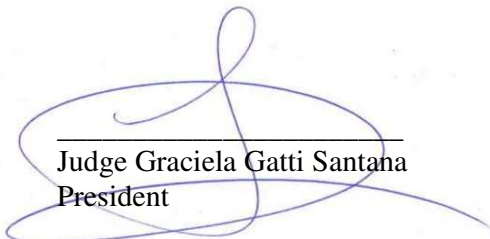
NOTING that I received Judge Orié’s report on 6 July 2026;

RECALLING that all proceedings before the Mechanism shall be public unless exceptional reasons require keeping them confidential;³

HEREBY PLACE ON THE RECORD Judge Orié’s final report.

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

Done this 10th day of July 2026,
At The Hague,
Netherlands.



Judge Graciela Gatti Santana
President

[Seal of the Mechanism]

¹ Order Assigning a Judge to Conduct an Inquiry, 16 May 2026 (“Order”), p. 1; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-T, Decision Imposing an Indefinite Stay of Proceedings, 8 September 2023, p. 5; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Prosecution’s Second Amended Indictment, 1 March 2021 (public with public and confidential annexes); *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-I, Decision on Félicien Kabuga’s Motion to Amend the Arrest Warrant and Order for Transfer, 21 October 2020, para. 18.

² Order, p. 1.

³ See, e.g., *Prosecutor v. Ratko Mladić*, Case No. MICT-13-56-ES, Order for a Public Redacted Version of Ratko Mladić’s Motion for Release, 28 April 2026, p. 1; *Prosecutor v. Jovica Stanišić*, Case No. MICT-15-96-ES.2, Order for a Public Redacted Version of Jovica Stanišić’s Application for Early Release, 15 April 2026, p. 1; *Prosecutor v. Paul Bisengimana*, Case No. MICT-12-07, Decision of the President on Early Release of Paul Bisengimana and on Motion to File a Public Redacted Application, 11 December 2012 (public redacted), para. 6.

ANNEX

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

**FINAL REPORT TO THE PRESIDENT
ON THE DEATH OF FÉLICIEN KABUGA**

JUDGE ALPHONS ORIE
6 JULY 2026

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I. INTRODUCTION

1. Félicien Kabuga died around mid-day on Saturday, 16 May 2026, in the Judicial Centre for Somatic Care (“JCvSZ”), or the prison hospital, of the Penitentiary Institution Haaglanden, while in the custody of the United Nations Detention Unit (“UNDU”) located in the same facility.

2. On 16 May 2026, the President of the International Residual Mechanism for Criminal Tribunals (“President” and “Mechanism”, respectively) assigned me to conduct an inquiry into the circumstances surrounding the death of Mr. Kabuga (“Inquiry”). I was instructed to report my findings directly to her as soon as reasonably possible. The President further requested the Registrar of the Mechanism (“Registrar” or “Registry”) to provide any assistance that I may require to complete the Inquiry.

3. The purpose of the Inquiry is to establish the facts preceding and immediately following Mr. Kabuga’s death. This Inquiry relies on medical reports, records and information provided by medical and custodial staff at the UNDU and the JCvSZ, and by relevant Dutch authorities, as well as my own investigations. I have promptly received the necessary cooperation from officials of the Mechanism and from Dutch staff and authorities. I have been able to conduct the Inquiry with full independence.

II. BACKGROUND

4. Mr. Kabuga was indicted before the International Criminal Tribunal for Rwanda in November 1997, but remained a fugitive for over 22 years until his arrest in France on 16 May 2020. At the time of his arrest, Mr. Kabuga was in his mid-eighties. He was among the highest leaders suspected of being the most responsible for the genocide in Rwanda. Mr. Kabuga was indicted on seven counts of genocide and crimes against humanity, arising from allegations that he, *inter alia*, co-founded the *Radio télévision libre des mille collines*, a radio station whose broadcasts incited genocide, supported the provision of arms and training of *Interahamwe* militiamen, including his own private militia that killed thousands of civilians, and incited the killing of Tutsis at mass rallies.

5. Following his arrest, Mr. Kabuga was temporarily transferred on 26 October 2020 to the Hague branch of the Mechanism for a detailed medical assessment. It aimed at determining whether and under what circumstances he may be safely transferred to the Arusha branch of the Mechanism for trial. On 13 June 2022, the Trial Chamber seised of the case decided that Mr. Kabuga shall remain detained at the Hague branch of the Mechanism and that his trial shall commence there.

6. The trial proceedings against Mr. Kabuga commenced on 29 September 2022. On 6 June 2023, the Trial Chamber found, by majority, that Mr. Kabuga was unfit to participate meaningfully in his trial and that it was unlikely for him to regain fitness in the future. It further decided that the most appropriate course of action was to proceed with an “alternative finding procedure that resembles a trial as closely as possible, but without the possibility of a conviction”. On 7 August 2023, the Appeals Chamber upheld the Trial Chamber’s conclusion that Mr. Kabuga was unfit to stand trial. It found, however, that the Trial Chamber erroneously exercised discretion in adopting an “alternative finding procedure” and remanded the matter to the Trial Chamber with an instruction to impose an indefinite stay of proceedings. The Appeals Chamber further instructed the Trial Chamber to expeditiously consider the appropriate modalities and conditions for Mr. Kabuga’s release.

7. On 8 September 2023, the Trial Chamber stayed the proceedings indefinitely and ordered that Mr. Kabuga remain in detention pending resolution of the issue of his provisional release. By the time of his death in May 2026, nearly three years after his trial was stayed, no State, where Mr. Kabuga wished to go, had agreed to accept him on its territory, except the Republic of Rwanda (“Rwanda”), the country of his nationality. On 14 November 2025, the Trial Chamber issued a decision finding, *inter alia*, Mr. Kabuga not fit to fly to Rwanda. On 28 April 2026, the Appeals Chamber upheld the Trial Chamber’s finding and invited the Trial Chamber to examine the appropriateness of vacating the order for Mr. Kabuga’s detention on remand. Throughout this time until the date of his death, Mr. Kabuga remained in detention at the UNDU.

III. RELEVANT RULES AND PROCEDURES

8. The legal framework relevant to the Inquiry includes the Rules Governing the Detention of Persons Awaiting Trial or Appeal Before the Mechanism or Otherwise Detained on the Authority of the Mechanism, adopted on 5 November 2018 (“Detention Rules”), the Agreement on Detention Facilities and Services Between the United Nations International Residual Mechanism for Criminal Tribunals and the Custodial Institutions Agency of the Netherlands, as last amended on 20 January 2025 (“Agreement on Detention Facilities and Services”), and relevant Dutch legislation.

9. The purpose of the Detention Rules is to govern the administration of the UNDU and to ensure the continued application and protection of the rights of detainees. The Detention Rules are guided by and based on principles of humanity, respect for human dignity, international human rights law, and internationally-accepted principles and standards for the treatment of persons deprived of their liberty. The Detention Rules continue to apply, where relevant, to detainees at all

times they are detained on the authority of the Mechanism and remain in its custody, even when detainees are temporarily physically absent from the UNDU.

10. In accordance with Rule 46 of the Detention Rules, the UNDU Medical Officer is responsible for managing the care of the physical and mental health of detainees. Pursuant to Rule 47 of the Detention Rules, detainees are entitled to at least the same standard of health care as is available in the community and shall have access to all medical services prescribed by the UNDU Medical Officer without undue delay, including specialist services and urgent medical attention. I understand the reference to “community” to be to that of the Kingdom of The Netherlands (“Host State”). Rule 47 of the Detention Rules also provides that detainees shall be treated within the UNDU or the host prison or transferred to an external medical facility, where services prescribed by the UNDU Medical Officer are internally unavailable.

11. The Agreement on Detention Facilities and Services stipulates that where a detainee falls ill or suffers injuries that can be treated at the JCvSZ, the JCvSZ shall provide the necessary medical services. I was informed that a detainee would be moved from the UNDU to the JCvSZ when they require nursing care 24 hours a day seven days a week and that, in such cases, the UNDU medical staff would stay in direct contact with their counterparts at the JCvSZ.

12. Rule 50(2) of the Detention Rules provides that, in the event of death of a detainee, the Host State may conduct an investigation in accordance with its legal requirements. Relatedly, Article 11 of the Agreement on Detention Facilities and Services stipulates that, in the event of a detainee’s death at the UNDU, an inquest and other necessary arrangements shall be conducted in accordance with the laws of the Host State.

13. Independent of the above, under Rule 50(3) of the Detention Rules, the President may order an internal inquiry into the circumstances surrounding the death of a detainee.

14. As to relevant procedures under Dutch law (*Wet op de lijkbezorging*), in the event of death a post-mortem examination (*schouw*) is conducted by a medical examiner (*schouwarts*), who is either the treating physician or a municipal forensic physician. During the *schouw*, the body is externally examined. The *schouwarts* assesses whether the body and its surroundings reveal any indicia of death by anything other than a natural cause. Unlike in many other states, under Dutch law there are no statutory provisions specifically regulating the procedure in the event of death in a detention facility. However, it is standard policy and practice, adopted by the Dutch Society of Forensic Physicians, that in such situations the post-mortem examination be conducted by the municipal forensic physician and not by the treating physician. If the *schouwarts* is convinced that the death

occurred as a result of natural causes, he or she issues a document to this effect that is sent to municipal authorities for further administrative processing.

15. In accordance with Dutch law, an autopsy (*sectie*) may be performed if the deceased person had given consent prior to his or her death or with the consent of the next of kin. I understand an autopsy to include an internal examination of body organs and tissue, related microscopic investigation, and toxicological screening. As an exception, in the absence of consent, an autopsy may also be ordered by a Dutch judicial authority in the context of a criminal investigation into the death of a detainee.

IV. THE INQUIRY

16. Following my assignment, I was notified that a forensic physician had already conducted an external post-mortem examination on Mr. Kabuga on 16 May 2026 and that he had issued a signed document confirming that a post-mortem examination had been performed and that the body of Mr. Kabuga may be transported. I was further informed that the forensic physician had spoken to the UNDU Commanding Officer and had advised the Dutch Police that Mr. Kabuga's death was due to natural causes, and that, under these circumstances, a criminal investigation would normally not follow. I was also notified that Mr. Kabuga's body was moved to a funeral centre on the evening of 16 May 2026.

17. On 17 May 2026, I had a virtual meeting with the Registrar, who assured me the Registry would fully support the Inquiry and provide me with all necessary assistance. The Registrar also confirmed that Mr. Kabuga's family and Defence Counsel had been informed of his death, and that at the time, the family's only request had been to see Mr. Kabuga's remains.

18. On 18 May 2026, the Registry conveyed to me that, according to one of Mr. Kabuga's daughters, who was the registered next of kin, Mr. Kabuga had not left instructions whether an autopsy should be conducted following his death. Without requesting a full autopsy, Mr. Kabuga's daughter inquired whether it was possible to conduct at least a toxicological examination, including blood sugar level testing as, in her view, this could provide answers and a minimum level of clarity.

19. On 19 May 2026, I conducted a site visit to the UNDU. I was received by the UNDU Commanding Officer and the UNDU Principal Officer on duty. They escorted me to Mr. Kabuga's cell – cell number seven on the ground floor of the JCvSZ wing specialized in the accommodation and care of elderly detainees – where Mr. Kabuga was found. The door was sealed and a note indicated that the cell shall not be entered. The seal was broken in front of me. I was told that the

cell had been sealed since Mr. Kabuga's body was removed. I inspected the cell and noted a partially eaten meal on the table and a wheelchair that Mr. Kabuga was found sitting in at the time of his death. I further noted, among other things, the following in Mr. Kabuga's cell: two types of hoists (active and passive) to move Mr. Kabuga into and out of bed, a padded mat next to his bed to prevent injuries in case of a fall, laminated flash cards as visual aids to facilitate communication with Mr. Kabuga, an annexed private bathroom with shower and toilet, and a large window next to the bed with a view of vegetation. I had a preliminary conversation with the UNDU Commanding Officer as well as the managing staff of the JCvSZ about the sequence of events on 16 May 2026.

20. I was then escorted to the UNDU, which is within walking distance from the JCvSZ in the same penitentiary complex. At the UNDU, I inspected Mr. Kabuga's cell and other facilities, including the family visitation area and two video-conference rooms – one for family calls and one providing remote connection to the courtroom. During the site visit to the UNDU, the UNDU Commanding Officer provided me with preliminary information about Mr. Kabuga's frequent movement between the JCvSZ and the UNDU. I also met with the UNDU Deputy Commanding Officer, the UNDU Language Assistant, and the UNDU Information System Assistant. I further spoke briefly with the Deputy UNDU Medical Officer.

21. On 20 May 2026, I invited Mr. Kabuga's daughter and Mr. Emmanuel Altit, Counsel for Mr. Kabuga, to provide any information that they consider appropriate for the purpose of the Inquiry. Later that day, the Registry informed me that Mr. Kabuga's family had opted to not have a toxicological examination conducted and that they would pay their last respects to Mr. Kabuga at the funeral centre on 21 May 2026.

22. On 21 May 2026, I received a medical statement, dated 20 May 2026 ("Medical Statement"), issued by the coordinator of forensic medicine at the Municipal Public Health Service Haaglanden, indicating that Mr. Kabuga died of cardiac arrest and that no autopsy had taken place. On the same date, Mr. Kabuga's death certificate was issued by the Municipality of the Hague.

23. On 21 May 2026, the Dutch authorities confirmed that the Dutch Public Prosecution Service was not investigating the cause of Mr. Kabuga's death in light of the forensic physician's conclusion ruling death by natural causes. On the same day, I received questions from Mr. Kabuga's daughter concerning the circumstances of her father's death.

24. On 22 May 2026, I interviewed the UNDU Commanding Officer, the UNDU Deputy Commanding Officer, the UNDU Language Assistant, and the UNDU Information System Assistant. The UNDU Commanding Officer provided also a written statement and shared

statements and reports prepared by staff on duty on 16 May 2026 at the UNDU and JCvSZ, about events leading up to and immediately following Mr. Kabuga's death.

25. On 25 May 2026, having obtained authorization from the President, the Registry provided me with access to all medical information filed on the judicial record in Mr. Kabuga's case.

26. On 28 May 2026, the remains of Mr. Kabuga were transferred outside the Netherlands, on the instruction of his family.

27. On 1 June 2026, I interviewed the forensic physician who performed the external post-mortem examination on Mr. Kabuga's body at the JCvSZ.

28. On 3 June 2026, I received a written statement from Mr. Kabuga's Counsel.

29. On 4 June 2026, I interviewed the JCvSZ staff, who served Mr. Kabuga his last meal, and the JCvSZ physician on duty the day Mr. Kabuga died. On 5 June 2026, I interviewed the UNDU Medical Officer.

30. On 15 June 2026, I received the forensic physician's report of the external post-mortem examination performed on Mr. Kabuga on 16 May 2026.

V. INCIDENT OF 16 MAY 2026

31. The events of Saturday, 16 May 2026, are well documented in UNDU officers' reports, with further information received during my interviews with UNDU and JCvSZ staff as well as with the forensic physician.

32. In the morning of 16 May 2026, at approximately 8:30am, JCvSZ staff, including nursing staff, entered Mr. Kabuga's cell to cleanse him and provide him with breakfast. At around 11:13am, Mr. Kabuga, assisted by a UNDU Officer, made a telephone call from his cell in the JCvSZ to one of his daughters that lasted just under seven minutes. At around, 12:00pm, a JCvSZ staff unlocked the door to Mr. Kabuga's cell and provided Mr. Kabuga with lunch consisting of rice, carrots, meat, tea, and yogurt. The JCvSZ staff greeted Mr. Kabuga in French, Mr. Kabuga responded, they shared a usual "fist bump", and the JCvSZ staff exited the cell and locked the cell door.

33. At approximately 12:50pm, another JCvSZ staff looked through the observation window on the cell door and saw Mr. Kabuga sitting in his wheelchair, slightly bent forward, believed to have fallen asleep. After opening the cell door and allowing the cleaner in, the JCvSZ staff observed that Mr. Kabuga had not fully eaten his meal and dessert. The JCvSZ staff and the cleaner noted that

Mr. Kabuga was no longer breathing and ran to report this to the control booth of the JCvSZ wing. While there is no video footage of the interior of Mr. Kabuga's cell, I was informed that the video footage of the JCvSZ wing, where Mr. Kabuga's cell was located, confirmed that no one entered Mr. Kabuga's cell in the period after he was provided lunch and before he was found unresponsive.

34. At 12:51pm, the JCvSZ physician on duty, who was on his way to the ground floor, was approached by JCvSZ nursing staff about Mr. Kabuga's situation and they proceeded to Mr. Kabuga's cell where the JCvSZ physician checked for breath, pulse, and response and confirmed at approximately 12:52pm that Mr. Kabuga had died. Around the same time, JCvSZ staff telephoned the UNDU Detention Officer on duty, informing him that Mr. Kabuga had stopped breathing. At 12:59pm, the UNDU Detention Officer telephoned the UNDU Principal Officer, the latter in charge of supervising the UNDU Detention Officers, and notified him of the situation. The UNDU Principal Officer instructed UNDU staff to lock the cell door and keep a record of people who enter the wing and the times they arrive. The UNDU Detention Officer arrived at the JCvSZ and together with JCvSZ staff locked Mr. Kabuga's cell door after the JCvSZ physician had exited.

35. At 1:05pm, the UNDU Principal Officer contacted the UNDU Commanding Officer and informed him of Mr. Kabuga's death. At 1:07pm, the UNDU Principal Officer called the Dutch emergency number and requested to be put through to the Dutch police, asking for detectives to be sent to secure the scene, based on UNDU's experience of earlier deaths in custody. At 1:13pm, the JCvSZ physician telephoned to inform the UNDU Medical Officer that Mr. Kabuga had died. At 1:18pm, the Dutch police contacted the UNDU Principal Officer and advised that no detectives would be sent as they believed the death to be due to natural causes and thus no need for their involvement. The UNDU Principal Officer responded that this was not in line with past practice, given that Mr. Kabuga was a detainee of the Mechanism rather than a Dutch detainee.

36. The UNDU Principal Officer arrived at the JCvSZ at 1:35pm and the UNDU Commanding Officer arrived at 1:45pm. At 2:00pm, through a central control outside the cell, the exterior shade of Mr. Kabuga's cell was lowered to prevent others from looking inside. At 2:13pm and 2:24pm, the UNDU Principal Officer received further calls from the Dutch police informing him that there was no need to send a detective, but that a decision would be taken at a higher level. At approximately 2:30pm, the forensic physician was dispatched.

37. At 3:20pm, the UNDU Principal Officer received a call from the forensic physician requesting background information, and at 3:59pm, the forensic physician arrived at the JCvSZ. The forensic physician spoke with the UNDU Commanding Officer and the JCvSZ physician on duty, who under the UNDU Medical Officer's guidance provided verbal information on

Mr. Kabuga's comorbidities, including cardiac problems, diabetes, hypertension, and anti-coagulant therapy.

38. The UNDU Principal Officer made a further call to the Dutch police at 4:05pm, explaining that the forensic physician had arrived. At 4:16pm, the Dutch police returned his call indicating that it was uncertain whether a detective would be sent, to which the UNDU Principal Officer responded that the forensic physician would proceed to carry out his duties.

39. At 4:20pm, Mr. Kabuga's cell door was opened and the forensic physician entered the cell accompanied by the JCvSZ physician on duty, two JCvSZ nurses, and two JCvSZ prison officers. The forensic physician walked through the cell, saw nothing particular in the environment, and observed "a man still sitting peacefully in his wheelchair, and who had been eating". The forensic physician moved, with the assistance of the JCvSZ physician on duty, Mr. Kabuga's body from the wheelchair onto the bed, removed Mr. Kabuga's clothing, and started the external post-mortem examination, cognizant of Mr. Kabuga's cardiac problems and recurrent transient ischemic attacks, precursors to strokes. The forensic physician examined Mr. Kabuga's body, including his head, eyes, mouth, neck, torso, and limbs, and saw neither signs of strangulation, defensive wounds, or anything similar, nor any indicia of an accident, including choking. On the basis of the information before him, the forensic physician was convinced that Mr. Kabuga had died of natural causes – being cardiac or intracranial – as there was no indication of unnatural causes. The forensic physician left the cell at 4:37pm.

40. The forensic physician spoke with the UNDU Commanding Officer about his conclusions and indicated that he would be interested to learn the outcome of further investigations, if any, into Mr. Kabuga's precise cause of death. He further left a signed note confirming that an external post-mortem examination was conducted and that Mr. Kabuga's body could be released for further transportation. At 4:40pm, the cell door was reopened for a JCvSZ nurse to cover Mr. Kabuga's body.

41. The forensic physician contacted the Dutch police and indicated that Mr. Kabuga's death was due to natural causes. According to the UNDU Principal Officer, two detectives from the Dutch police arrived at the prison and had a conversation with the forensic physician at the entrance of the penitentiary facility as he was leaving. The UNDU Principal Officer asked the detectives to at least take a quick look inside Mr. Kabuga's cell and they were escorted to the cell door. While standing at the doorway, one of the detectives received a telephone call and was instructed that they were not allowed to enter the cell. The two Dutch detectives proceeded to leave the JCvSZ.

42. At 6:22pm, the UNDU Commanding Officer informed the UNDU Principal Officer that Mr. Kabuga's body would be collected by a funeral centre later that evening given that there would be no criminal investigation. At 8:17pm, Mr. Kabuga's body was removed from the cell and taken to a funeral centre in The Hague. No autopsy was performed on Mr. Kabuga.

VI. MEDICAL TREATMENT OF MR. KABUGA

43. Mr. Kabuga's health was closely monitored since his transfer on 26 October 2020 to the Hague branch of the Mechanism. The Trial Chamber regularly received confidential medical reports from the UNDU Medical Officer or the UNDU Reporting Medical Officer, initially biweekly and subsequently monthly, on Mr. Kabuga's health, as well as reports from a panel of independent medical experts composed of: Professor Gillian Mezey, forensic psychiatrist; Professor Henry Gerard Kennedy, forensic psychiatrist; and Professor Patrick Cras, neurologist ("Independent Medical Experts"). For the purposes of the Inquiry, I was provided full access to these reports and received additional information from the UNDU Medical Officer, specifically also about Mr. Kabuga's health and treatment in the month leading up to his death. They describe an elderly man of gradually declining health. In the absence of an autopsy of Mr. Kabuga's remains, I consider it pertinent to describe in more detail the evolution of Mr. Kabuga's medical conditions and treatment while in the Mechanism's custody.

44. Upon his transfer to the Mechanism, Mr. Kabuga was immediately placed in quarantine in the JCvSZ due to risk of contracting both the COVID virus and an antibiotic-resistant bacterial infection, and to allow for an assessment of his medical condition. Following a series of diagnostic tests and assessments by medical specialists, it was established that Mr. Kabuga suffered from, *inter alia*, vision and hearing impairment, polyarthrosis of the spine and hips, hypertension, and diabetes type 2. Mr. Kabuga was administered antihypertensive therapy and was placed under the diabetes care protocol, which included regular laboratory analysis and assessments by a diabetes nurse, and ophthalmological testing. Mr. Kabuga was also provided with glasses and a hearing aid.

45. Upon confirmation that Mr. Kabuga suffered from osteoporosis, a long-term treatment plan aimed at reducing bone degeneration commenced. While an early medical report concluded that Mr. Kabuga was a moderately vulnerable, elderly individual with substantial chronic physical and mental afflictions and serious limitations related to activities of daily living, subsequent medical reports described him as an increasingly vital, active, and energetic elderly man. Mr. Kabuga's daily functioning was regarded as increasingly independent, requiring only limited support with everyday activities. He was taking daily walks in the fresh air yard and was able to take care of his personal hygiene.

46. While it was reported that, prior to his transfer to the Mechanism, Mr. Kabuga was in need of a wheelchair and walking stick, as he adjusted to the UNDU environment he gradually declined to use mobility assistance devices when walking outside. Adjustments to his UNDU cell addressed other stability concerns.

47. On 5 February 2021, Mr. Kabuga fell in his UNDU cell and broke his femur, which led to urgent surgery at a civilian hospital. This intervention disclosed a serious cardio-pulmonary issue. Following Mr. Kabuga's return to the JCvSZ, an apparent decline in his short-term memory and his ability to contextualize were observed, accompanied by recurring bouts of delirium. While his rehabilitation was progressing, he remained vulnerable and was provided palliative care. Mr. Kabuga remained in hospital care for over three months, frequently suffering from infections. In May 2021, it was decided to start bringing Mr. Kabuga to the UNDU for a few hours each weekday to help improve his social and mental activation.

48. Throughout Mr. Kabuga's stay at the UNDU and at the JCvSZ, certain medical conditions required a focus on hygiene and skincare. Mr. Kabuga's behaviour was becoming increasingly challenging over time, as the provision of related nursing care would trigger, on occasions, strong reactions from him.

49. In July 2021, Mr. Kabuga was admitted twice to a civilian hospital due to sudden renal failure and a transient ischemic attack, respectively. To optimize a personalized care approach, as of September 2021, a revised care plan was introduced to better synchronise the approaches of JCvSZ and UNDU in relation to medical and nursing care. A revised signalling plan was also put in place to better manage Mr. Kabuga's progressively challenging reactions.

50. On 25 August 2021, Mr. Kabuga was diagnosed in a civilian hospital with pneumonia. Two days later, he returned to the JCvSZ. On 7 October 2021, Mr. Kabuga underwent a surgery. Special care was taken to reduce the risk of Mr. Kabuga's exposure to COVID, with him being among the first detainees to receive a booster vaccination against the virus.

51. Mr. Kabuga's speech became moderately impaired and, on 1 February 2022, he suffered another transient ischemic attack and was briefly admitted to a civilian hospital.

52. A conference on Mr. Kabuga's health and care attended by all caregivers – JCvSZ medical staff, a gerontologist, custodial staff, and UNDU medical staff – took place on 5 April 2022. While his medical condition remained stable, Mr. Kabuga was considered a frail elderly man in need of special provisions and nursing care in order to facilitate his daily life activities. Mr. Kabuga

engaged in physiotherapy sessions twice a week, benefitted from exercising on a home trainer, and made use of a rollator.

53. In December 2022, Mr. Kabuga contracted influenza, complicated by pneumonia. In combination with a gastrointestinal infection, it marked a gradual and irreversible decline in his physical and mental state. Mr. Kabuga's several serious chronic ailments made his activities of daily living dependent on complex care requirements. A 24-hour ambulatory blood pressure monitoring showed a mixed pattern of hypertension and hypotension. Adjusting Mr. Kabuga's medication was not considered necessary and monitoring continued.

54. Throughout 2023, Mr. Kabuga's various ailments and additional short-term complications, including gastrointestinal issues, pneumonia, and other infections, resulted in adjusting his treatment and some of the practical aspects of his detention, including accommodation and visits. On 3 March 2023, the Independent Medical Experts unanimously concluded that Mr. Kabuga met the clinical criteria for dementia. A magnetic resonance imaging scan, performed in June 2023 on Mr. Kabuga's brain, showed both evidence of a past stroke and significant loss of brain tissue accompanied by signs of vascular damage (small vessel disease). Mr. Kabuga's diabetes, blood pressure, and heart condition continued to be regularly monitored.

55. As of January 2024, medical reports described Mr. Kabuga as a frail elderly man suffering from a combination of dementia and several physical ailments which have severely and permanently impaired his ability to function independently. Staff took extra care to approach Mr. Kabuga quietly and without haste. Measures were also taken to prevent the build-up of oedema in his lower legs, and Mr. Kabuga made use of an exercise bicycle.

56. Mr. Kabuga's diabetes continued to be closely monitored. His medication was adjusted in June 2024 and his nutrition was monitored under the supervision of a dietitian.

57. In July 2024, Mr. Kabuga was transferred to the newly built JCvSZ premises in the wing specialized in the accommodation and care of elderly detainees with significant medical and nursing needs. While Mr. Kabuga remained a detainee under the responsibility of the UNDU, his day-to-day nursing and medical care at the JCvSZ, including assistance with activities of daily living as well as support with food and fluid intake, was provided by JCvSZ staff with support from UNDU staff.

58. In September 2024, Mr. Kabuga choked while having lunch. He was promptly attended to by the medical staff and swiftly recovered without complications. In November 2024, Mr. Kabuga was treated again for pneumonia.

59. As of January 2025, Mr. Kabuga started receiving a therapy shown to have a positive and calming effect on some patients with dementia. Sensory activation was also introduced as well as flash cards with both illustrations and Kinyarwanda text to improve communication and avoid conflicts.

60. On 31 January 2025, Mr. Kabuga lost his balance and injured his shoulder, for which he received treatment. In February 2025, Mr. Kabuga suffered another gastrointestinal incident, which was successfully treated with medication. According to medical reports, as of May 2025, a clear deterioration in Mr. Kabuga's physical stamina and muscle strength was observed, with significantly diminished ability to stand and take steps with the aid of a walker.

61. On 4 June 2025, Mr. Kabuga had a fall, without being injured, followed by another fall a month later. The nursing staff started using an active lift to mobilize Mr. Kabuga and provide him personal care. Mr. Kabuga was no longer able to stand on his own or move around with a walker, and was being transported in a wheelchair.

62. As of August 2025, Mr. Kabuga was wheelchair-bound due to a reduction in muscle strength in his lower limbs. He was provided with a reclining wheelchair for comfort and to prevent the formation of pressure sores. No longer being aware of the need to swallow, Mr. Kabuga coughed regularly. His diabetes continued to be regularly monitored, with insulin dosage adjusted appropriately. Mr. Kabuga spent less time at the UNDU.

63. In September 2025, Mr. Kabuga experienced a few falls and, as a result, a 24/7 "noise alarm" was activated in his cell at the JCvSZ. Due to repeated incidents of hypoglycaemia, Mr. Kabuga's insulin dosage was slightly reduced, stabilizing his sugar levels. Mr. Kabuga's hygiene and skin care remained a priority for the nursing staff. Mobilization and nursing care were provided with the help of an active hoist. Physiotherapy sessions took place at the JCvSZ. Due to the risk of falling, a large soft mat was placed next to his bed to reduce possible impact. Mr. Kabuga was increasingly confused both in time and space – a clear demonstration of his progressive memory loss. In November 2025, Mr. Kabuga was vaccinated against influenza, COVID, pneumococcal disease, and shingles. His long-term glucose level was tested every three months, his kidney function every six months, and his cardiovascular risk was assessed once a year.

64. Mr. Kabuga's physical health remained stable during the last six months of his life. He visited the UNDU almost every weekday for one to two hours. In November 2025, Mr. Kabuga's overall progress and treatment plan were reassessed during the half-yearly meeting of medical staff involved in his care. In February 2026, his diabetes was considered to be well managed. The

absence of recent falls demonstrated that the preventative measures in place were effective. In March 2026, it was reported that Mr. Kabuga's blood sugar level was slightly elevated. It was nevertheless decided not to change his diabetes medication dosage, and instead to monitor the glucose level and have a renewed focus on healthy dietary intake. It was also considered that a slightly elevated glucose level diminished the risk of hypoglycaemia. In April 2026, Mr. Kabuga's diabetes was reported to be stable. His long-term glucose level was last tested on 7 May 2026, with the results showing an appropriate level.

65. According to the last medical report on record, Mr. Kabuga continued to exercise with the help of a physiotherapist twice a week. However, his mental state was steadily deteriorating, and he could not recall the current day, month, or year. At that point, Mr. Kabuga continued to be considered a frail elderly man, suffering from a combination of dementia and several physical ailments, which have severely and permanently impaired his ability to function independently. While his medical condition continued to be intensively monitored, his treatment and care remained strictly palliative.

66. In the month leading up to his death, Mr. Kabuga's condition was fragile but stable, with no medical incidents and no changes to his treatment plan. Mr. Kabuga received assistance in taking his daily medication and, according to the UNDU Medical Officer, there is a medication log reflecting that the prescribed medication was administered correctly, in line with JCvSZ procedures, up to and on the day of his passing.

67. The UNDU Medical Officer saw Mr. Kabuga on a weekly basis, mainly on Fridays, including the Friday before he died. There was no indication that his death was imminent. Nevertheless, the UNDU Medical Officer opined that, in view of Mr. Kabuga's age, comorbidities, and fragile state, his death did not come as a surprise.

68. Mr. Kabuga died on Saturday, 16 May 2026, just over 90 years old.

VII. CAUSE OF DEATH

69. According to the forensic physician, Mr. Kabuga died of natural causes – being likely cardiac or intracranial – as there was no indication of unnatural causes. This is reflected also in the forensic physician's detailed external post-mortem examination report. When questioned about the cause of Mr. Kabuga's death in the Medical Statement as “[c]ardiac arrest”, the forensic physician indicated that the statement was issued by the Municipal Public Health Service Haaglanden for the purposes of transporting Mr. Kabuga's remains abroad and, therefore, it primarily focused on ruling

out potential contagious diseases as cause of death. According to available information, cardiac arrest as a cause of death appears in that context routinely for administrative reasons.

70. Without having had an autopsy conducted in the context of a Dutch criminal investigation or upon request of the family, there is no definitive conclusion as to the precise cause of Mr. Kabuga's death. Notwithstanding, based on the totality of information gathered, including the extensive medical information on Mr. Kabuga's health and treatment, I am satisfied that there is no indication of unnatural causes for Mr. Kabuga's death.

VIII. COMPLIANCE WITH RELEVANT RULES AND PROCEDURES

71. It appears from the medical records that, following Mr. Kabuga's transfer to the Mechanism, his health was closely monitored by the UNDU Medical Officer and medical staff at the JCvSZ, where he spent most of his time while in detention. The UNDU Medical Officer and the JCvSZ medical staff were in regular communication, ensuring a well-considered and coordinated approach to Mr. Kabuga's treatment, based on shared medical opinion. Mr. Kabuga was regularly attended by external medical specialists, including the Independent Medical Experts, and on numerous occasions was promptly transferred to a civilian hospital for the investigation and treatment of acute and serious medical incidents. His blood sugar level, kidney function, cardiovascular risk, and mental condition were regularly assessed, with medication administered timely and as necessary. In addition, Mr. Kabuga received physiotherapy and the necessary nursing care in view of his age and comorbidities. I also note that, in their comments, Mr. Kabuga's daughter and his Counsel made no criticism of the medical treatment and care provided to Mr. Kabuga while he was in the Mechanism's custody. Mr. Kabuga's Counsel added that, in his view, Mr. Kabuga's physical and mental health were managed in a professional and effective manner while at the UNDU and the JCvSZ. In view of all the information before me, I am satisfied that Mr. Kabuga received adequate treatment and care while in the Mechanism's custody.

72. The main distinction between Mr. Kabuga's death and previous incidents of death at the UNDU is that Mr. Kabuga died at the JCvSZ, the hospital wing of the Penitentiary Institution Haaglanden, rather than on UNDU premises, and unlike prior cases, no autopsy was performed on Mr. Kabuga's body. Notably, following the forensic physician's conclusion that Mr. Kabuga had died of natural causes, no criminal investigation – and consequently no autopsy – was conducted by the Dutch Public Prosecution Service. This was confirmed in a letter by the Dutch authorities, dated 21 May 2026, addressed to the Registrar.

73. According to the forensic physician, in the context of death due to illness in normal circumstances, the patient's general practitioner or hospital physician would do the external post-mortem examination (*schouw*). To the contrary, in the context of death within a prison setting, like the death of Mr. Kabuga at the JCvSZ, the attending prison physician should not conduct such an examination; rather, a forensic physician is called to do the external post-mortem examination in order to maintain objectivity and neutrality. The forensic physician stated that contact was made first with the police and with the ambulance emergency dispatch centre. Once the forensic physician spoke with the Dutch police, he was informed of their understanding that Mr. Kabuga's death was likely due to natural causes. The forensic physician explained that the intention was for him to first perform the external post-mortem examination and if, during the examination, anything pointed to death by unnatural causes, the police would be immediately notified and called in. Notwithstanding his conclusion and the position of the Dutch police throughout that Mr. Kabuga died of natural causes, I note that the Dutch police did indeed send two detectives to the JCvSZ who came to the doorway of Mr. Kabuga's cell but left following instructions to not proceed with a criminal investigation.

74. I would like to highlight how UNDU and JCvSZ staff responded to the situation on Saturday, 16 May 2026. Within minutes of the discovery of the incident, JCvSZ staff attended to Mr. Kabuga in his cell and contacted the UNDU. Thereafter, a chain of events led to contacting key UNDU staff, specifically the UNDU Principal Officer (within 8 minutes), the UNDU Commanding Officer (within 14 minutes), and the UNDU Medical Officer (within 22 minutes). Instructions were also given to lock and secure Mr. Kabuga's cell and the door, which was only opened to let in the forensic examiner for the purpose of the external post-mortem examination at 4:20pm, for a JCvSZ nurse to cover Mr. Kabuga's body at 4:40pm, for staff of the funeral centre to remove his body at 8:17pm, and eventually for my site visit on 19 May 2026. I equally observe that, throughout the afternoon, the UNDU Principal Officer repeatedly and proactively inquired with the Dutch police about the possibility of initiating a criminal investigation.

75. In light of the foregoing, I am satisfied that despite the fact that no autopsy was conducted – due to the position of the Dutch police and Mr. Kabuga's family – I see no concerns with procedures that were followed after Mr. Kabuga's death at the JCvSZ. I am also satisfied that the responses of UNDU and JCvSZ staff on duty and off duty on 16 May 2026 were prompt, efficient, and well-coordinated.

IX. FINDINGS AND RECOMMENDATIONS

76. As noted above, Mr. Kabuga died of natural causes, likely cardiac or intracranial, given his existing comorbidities.

77. I am satisfied that the response of UNDU and JCvSZ staff on 16 May 2026 following the discovery of Mr. Kabuga's body was prompt, coordinated, and efficient.

78. I am satisfied that, while in detention, Mr. Kabuga received at least the same standard of healthcare as that available in the community of the Host State. The provision of medical and nursing care to Mr. Kabuga was adequate. I commend the staff at the UNDU and the JCvSZ for their professionalism in providing palliative care to a detainee with multiple and particularly challenging comorbidities.

79. Notwithstanding, I am of the view that an autopsy would have stood a better chance to provide clarity and finality on the precise cause of Mr. Kabuga's death, as was previously done for incidents of death at the UNDU.

80. I recommend that steps be taken to develop a protocol with the Host State for the event of a detainee's death in the custody of the Mechanism, occurring at the UNDU, the JCvSZ, or a civilian hospital. The protocol should aim at expeditiously reaching a well-considered decision by the relevant Dutch authorities, in coordination with the Mechanism, on whether and under what circumstances an autopsy would be performed. If the competent Dutch authorities refrain from ordering an autopsy, I recommend that the Registrar communicate with the next of kin and/or other person designated under Rule 32 of the Detention Rules that, under Dutch law, the option of having an autopsy conducted upon their initiative may be available to them.

Done this 6th day of July 2026
The Hague,
The Netherlands



Judge Alphons Orié



TRANSMISSION SHEET FOR FILING OF DOCUMENTS / FICHE DE TRANSMISSION POUR LE DÉPÔT DE DOCUMENTS

I - FILING INFORMATION / INFORMATIONS GÉNÉRALES

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Case Name/ Affaire :	Prosecutor v. Félicien Kabuga		Case Number/ Affaire n° : MICT-13-38								
Date Created/ Daté du :	10 July 2026	Date transmitted/ Transmis le :	10 July 2026	Number of Pages/ Nombre de pages :	21						
Original Language/ Langue de l'original :	<input checked="" type="checkbox"/> English/ Anglais	<input type="checkbox"/> French/ Français	<input type="checkbox"/> Kinyarwanda	<input type="checkbox"/> B/C/S	<input type="checkbox"/> Other/ Autre (specify/ préciser):						
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