

**UNITED  
NATIONS**



International Residual Mechanism  
for Criminal Tribunals

Case No.: MICT-13-38-T

Date: 12 October 2026

Original: English

**IN THE TRIAL CHAMBER**

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

**Registrar:** Mr. Abubacarr M. Tambadou

**Decision of:** 12 October 2026

**PROSECUTOR**

**v.**

**FÉLICIEN KABUGA**

***PUBLIC***

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**ADDENDUM TO DECISION TERMINATING PROCEEDINGS  
ANNEX: PROCEDURAL HISTORY OF THE *KABUGA* CASE**

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**Office of the Prosecutor:**

Ms. Laurel Baig

**Counsel for Mr. Félicien Kabuga:**

Mr. Emmanuel Altit

**THE TRIAL CHAMBER** of the International Residual Mechanism for Criminal Tribunals (“Trial Chamber” and “Mechanism”, respectively) in this case;<sup>1</sup>

**RECALLING** that, on 20 May 2026, the Trial Chamber issued a decision terminating the proceedings against Mr. Félicien Kabuga following his death on 16 May 2026;<sup>2</sup>

**CONSIDERING** that compiling a complete procedural history with references to filings and source materials in this case was a pending ancillary matter at the time of the termination of the proceedings, and that supplementing the Termination Decision is now necessary following final editorial review;<sup>3</sup>

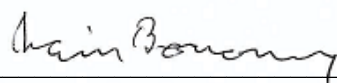
**NOTING** the significant nature of this case, as well as its impact on the victims and survivors of the crimes allegedly committed by Mr. Kabuga;

**NOTING FURTHER** the importance of providing a transparent, concise, and comprehensive account of the record of the proceedings to facilitate public and scholarly access and a full understanding of the procedural aspects of the case;

**HEREBY ISSUES** an addendum to the Termination Decision annexing the procedural history in this case.

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

Done this 12th day of October 2026,  
At The Hague,  
The Netherlands

  
\_\_\_\_\_  
Judge Iain Bonomy  
Presiding Judge

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<sup>1</sup> See Order on Composition of Trial Chamber, 15 August 2023 (“President Order of 15 August 2023”), p. 2. See also *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-I, Order Assigning a Trial Chamber, 1 October 2020 (“President Order of 1 October 2020”), p. 1; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order Replacing a Judge and Assigning a Reserve Judge, 26 August 2022 (“President Order of 26 August 2022”), pp. 1, 2; Decision Under Rule 19(E), 10 January 2023 (“Decision of 10 January 2023”), p. 1; Order Assigning a Reserve Judge, 16 January 2023 (“President Order of 16 January 2023”), pp. 1, 2. Chambers retain inherent jurisdiction over their orders, including after the closure of a case. See, e.g., *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-AR80.4, Decision on Prosecution Appeal or Motion for Reconsideration concerning Felicien Kabuga’s Release, 28 April 2026, paras. 10, 11; *In Re. André Ntagerura*, Case No. ICTR-99-46-A28, Decision on Motion for Leave to Appeal the President’s Decision of 31 March 2008 and the Decision of Trial Chamber III Rendered on 15 May 2008, 11 September 2008, para. 12.

<sup>2</sup> Decision Terminating Proceedings, 20 May 2026 (“Termination Decision”), pp. 1, 2. See also Transcript (“T.”) 20 May 2026 pp. 1, 2.

<sup>3</sup> Cf. *The Prosecutor v. Pauline Nyiramasuhuko et al.*, Case No. ICTR-98-42-A, Decision on Pauline Nyiramasuhuko’s Motion to Void Trial Chamber Decisions, 30 September 2011, p. 2. Cf. also *Théoneste Bagosora and Anatole Nsengiyumva v. The Prosecutor*, Case No. ICTR-98-41-A, Judgement, 14 December 2011, para. 25.

## ANNEX: PROCEDURAL HISTORY

### I. THE ACCUSED

1. According to the indictment, Mr. Félicien Kabuga was born in 1935 in Muniga secteur, Mukarange commune in Byumba prefecture in the Republic of Rwanda (“Rwanda”).<sup>4</sup> During the events relevant to the allegations against him, Mr. Kabuga was a wealthy and influential businessman, who allegedly had close ties to the Hutu political elite in Rwanda and to the *Mouvement Républicain National pour la Démocratie et le Développement*, and allegedly was the President and a founding member of the *Radio Télévision Libre des Mille Collines* (“RTLM”) and of the *Comité Provisoire* of the *Fonds de Défense Nationale* (“National Defence Fund”).<sup>5</sup>

### II. PROCEEDINGS BEFORE THE ICTR

2. *Initial Indictments and Warrants of Arrest.* The initial indictment against Mr. Kabuga was confirmed by Judge Lennart Aspegren of the International Criminal Tribunal for Rwanda (“ICTR”) on 26 November 1997.<sup>6</sup> On the same day, Judge Aspegren issued a warrant of arrest and order for surrender addressed to the authorities of the Republic of Kenya (“Kenya”) <sup>7</sup> and, on 28 September 1999, Judge Navanethem Pillay issued renewed warrants of arrest addressed to the authorities of Kenya and other countries where Mr. Kabuga was believed to be located.<sup>8</sup> On 8 November 2001, Judge Andréia Vaz issued a confidential warrant of arrest and order for transfer addressed to all States, pursuant to Rule 55 of the ICTR Rules of Procedure and Evidence (“ICTR Rules”), requesting these States to, *inter alia*, adopt provisional measures to freeze assets

<sup>4</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Prosecution’s Second Amended Indictment, 1 March 2021 (public with public and confidential Annexes) (“Operative Indictment”), para. 4; T. 11 November 2020 p. 10.

<sup>5</sup> See, e.g., Operative Indictment, paras. 5, 8, 9, 51; T. 11 November 2020 pp. 10, 12, 14. See also T. 29 September 2022 pp. 2, 3, 6, 10, 11, 14-16, 29, 40; T. 30 September 2022 pp. 2, 4, 5, 7, 9.

<sup>6</sup> *The Prosecutor v. Félicien Kabuga*, Case No. ICTR-97-22-I, Decision Confirming the Indictment, 26 November 1997 (confidential).

<sup>7</sup> *The Prosecutor v. Félicien Kabuga*, Case No. ICTR-97-22-I, Warrant of Arrest and Order for Surrender, 26 November 1997.

<sup>8</sup> *The Prosecutor v. Augustin Bizimana et al.*, Case No. 98-44-I, Warrant of Arrest and Order for Transfer and Detention, 30 August 1999, Registry Pagination (“RP.”) 1440-1438 (addressed to the Republic of France (“France”)); *The Prosecutor v. Augustin Bizimana et al.*, Case No. 98-44-I, Warrant of Arrest and Order for Transfer and Detention, 30 August 1999, RP. 1431-1429 (addressed to the Kingdom of Belgium); *The Prosecutor v. Augustin Bizimana et al.*, Case No. 98-44-I, Warrant of Arrest and Order for Transfer and Detention, 31 August 1999, RP. 1446-1444 (addressed to the Kingdom of the Netherlands (“Netherlands”)); *The Prosecutor v. Augustin Bizimana et al.*, Case No. 98-44-I, Warrant of Arrest and Order for Transfer and Detention, 28 September 1999, RP. 1044-1042 (addressed to Kenya); *The Prosecutor v. Augustin Bizimana et al.*, Case No. 98-44-I, Warrant of Arrest and Order for Transfer and Detention, 28 September 1999, RP. 1451-1449 (addressed to the Government of Gabon); *The Prosecutor v. Augustin Bizimana et al.*, Case No. 98-44-I, Warrant of Arrest and Order for Transfer and Detention, 28 September 1999, RP. 1463-1461 (addressed to the Swiss Confederation); *The Prosecutor v. Augustin Bizimana et al.*, Case No. 98-44-I, Warrant of Arrest and Order for Transfer and Detention, 28 September 1999, RP. 1460-1458 (addressed to the Federal Republic of Germany); *The Prosecutor v. Augustin Bizimana et al.*, Case No. 98-44-I, Warrant of Arrest and Order for Transfer and Detention, 28 September 1999, RP. 1457-1455 (addressed to the Government of New Zealand).

belonging to Mr. Kabuga located on their territories.<sup>9</sup> Indictments were further confirmed by Judge Pillay on 29 August 1998 and Judge Dennis C. M. Byron on 12 October 2005.<sup>10</sup>

3. On 13 April 2011, Judge Byron confirmed an amended indictment constituting the operative indictment before the ICTR, charging Mr. Kabuga with seven counts of genocide and crimes against humanity arising from the allegations that he co-founded the RTLM, which broadcasted messages inciting genocide, that he supported the provision of arms and training to *Interahamwe* militiamen, and that he incited the killing of Tutsis at mass rallies.<sup>11</sup> Judge Byron ordered that the materials supporting the amended indictment remain under seal until otherwise ordered.<sup>12</sup>

4. *Special Depositions.* On 15 March 2011, Trial Chamber III of the ICTR granted a request from the Prosecutor of the ICTR for the preservation of evidence by special deposition for a future trial against Mr. Kabuga pursuant to Rule 71 *bis* of the ICTR Rules.<sup>13</sup> A duty counsel was assigned to represent the interests of Mr. Kabuga as a fugitive accused<sup>14</sup> and was later authorized to conduct targeted investigations, as well as to preserve evidence relevant to the case against Mr. Kabuga.<sup>15</sup> On 17 March 2011, Judge Vagn Joensen, acting as Single Judge, ordered protective measures for

<sup>9</sup> *The Prosecutor v. Félicien Kabuga*, Case No. ICTR-97-22-I, Warrant of Arrest and Order for Transfer and Detention, 8 November 2001 (confidential), pp. 1-3.

<sup>10</sup> *The Prosecutor v. Augustin Bizimana et al.*, Case No. 98-44-I, Confirmation and Non-Disclosure of the Indictment, signed on 29 August 1998, filed on 31 August 1998; *The Prosecutor v. Félicien Kabuga*, Case No. ICTR-98-44B-I, Decision on the Amended Indictment, 12 October 2005 (“Decision of 12 October 2005”).

<sup>11</sup> *The Prosecutor v. Félicien Kabuga*, Case No. ICTR-98-44B-PT, Decision on the Prosecutor’s Request for Leave to File an Amended Indictment, 13 April 2011 (confidential) (“Decision of 13 April 2011”), para. 2, p. 5; *The Prosecutor v. Félicien Kabuga*, Case No. ICTR-98-44B-I, Amended Indictment, 14 April 2011 (“ICTR Indictment”), paras. 16-28, 44-53, 66-71, 81-84.

<sup>12</sup> Decision of 12 October 2005, p. 3; Decision of 13 April 2011, p. 5.

<sup>13</sup> *The Prosecutor v. Félicien Kabuga*, Case No. ICTR-98-44B-I, Decision on the Prosecutor’s Request for Preservation of Evidence by Special Deposition for a Future Trial (Pursuant to Rule 71 *bis*), 15 March 2011 (“Decision of 15 March 2011”), pp. 2-8. *See also* *The Prosecutor v. Félicien Kabuga*, Case No. ICTR-98-44B, The Prosecutor’s Request for Preservation of Evidence by Special Deposition for a Future Trial (Pursuant to Rule 71 *bis*), 7 February 2011 (confidential); *The Prosecutor v. Félicien Kabuga*, Case No. ICTR-98-44B, Designation of a Trial Chamber to Consider the Prosecutor’s Request for Preservation of Evidence by Special Deposition for a Future Trial, 15 February 2011; *The Prosecutor v. Félicien Kabuga*, Case No. ICTR-98-44B-R71*bis*, Designation of a Trial Chamber to Consider the Duty Counsel’s Motion for Authorisation to Conduct Investigations, 13 October 2011 (confidential); *The Prosecutor v. Félicien Kabuga*, Case No. ICTR-98-44B-R71*bis*, Order Reconstituting a Bench, 26 January 2012 (confidential). On 6 October 2021, the Trial Chamber varied the order in the Decision of 15 March 2011 that all proceedings shall be held *in camera* and authorized the parties to refer publicly to evidence taken during special depositions, so long as it does not violate existing orders regarding the disclosure of the identity of protected witnesses. *See* T. 6 October 2021 pp. 6, 7.

<sup>14</sup> *The Prosecutor v. Félicien Kabuga*, Case No. ICTR-98-44B-R71*bis*, Order for Submissions, 18 February 2011, p. 2; Decision of 15 March 2011, para. 2, p. 8, n. 4.

<sup>15</sup> *The Prosecutor v. Félicien Kabuga*, Case No. ICTR-98-44B-R71*bis*, Decision on the Duty Counsel’s Motion for Authorisation to Conduct Investigations for the Purposes of Preservation of Evidence by Special Deposition for Future Trial, 4 November 2011 (strictly confidential), para. 12; *The Prosecutor v. Félicien Kabuga*, Case No. ICTR-98-44B-R71*bis*, Decision on the Duty Counsel’s Request for Preservation of Evidence by Special Deposition for Future Trial, 31 January 2012 (strictly confidential), p. 9.

potential Prosecution witnesses in the special deposition proceedings.<sup>16</sup> Between 23 May 2011 and 22 May 2012, Trial Chamber III of the ICTR recorded in closed session by way of special deposition proceedings the evidence of 25 Prosecution witnesses, as well as six witnesses who may be relevant to the defence of Mr. Kabuga, covering the areas in the ICTR Indictment related to the RTLM, the National Defence Fund and procurement of weapons, the use of Mr. Kabuga's premises by the *Interahamwe*, and allegations of direct and public incitement.<sup>17</sup>

### III. PROCEEDINGS BEFORE THE MECHANISM: APRIL 2013 TO SEPTEMBER 2023

5. *Arrest Warrant and Order for Transfer.* On 29 April 2013, following the commencement of the Mechanism on 1 July 2012, Judge Joensen, acting as Single Judge, issued an arrest warrant and ordered the transfer of Mr. Kabuga to the Arusha Branch of the Mechanism for trial.<sup>18</sup>

6. *Arrest in France.* On 16 May 2020, after having been a fugitive for over two decades, Mr. Kabuga was arrested in France by the French authorities acting on the basis of the Arrest Warrant and Order for Transfer.<sup>19</sup> On 3 June and 30 September 2020, respectively, the French *Cour d'appel de Paris* and the Criminal Division of the *Cour de cassation* rejected all of Mr. Kabuga's challenges to the Mechanism's jurisdiction to take custody of and to transfer him to the Arusha Branch for trial.<sup>20</sup>

<sup>16</sup> *The Prosecutor v. Félicien Kabuga*, Case No. ICTR-98-44B-R71bis, Order for Disclosure and Protective Measures, 17 March 2011 ("Decision of 17 March 2011"), pp. 3-5.

<sup>17</sup> *The Prosecutor v. Félicien Kabuga*, Case No. ICTR-98-44B-R71bis, Scheduling Order, 30 March 2011; *The Prosecutor v. Félicien Kabuga*, Case No. ICTR-98-44B-R71bis, Variation of Scheduling Order, 6 May 2011; *The Prosecutor v. Félicien Kabuga*, Case No. ICTR-98-44B-R71bis, Scheduling Order, 9 March 2012 (confidential). See also *The Prosecutor v. Félicien Kabuga*, Case No. ICTR-98-44B-R71bis, T. 23 May 2011 (Witness SDFK10), T. 24 May 2011 (Witnesses SDFK15, SDFK17), T. 25 May 2011 (Witness SDFK17), T. 26 May 2011 (Witnesses SDFK26, SDFK25), T. 30 May 2011 (Witness SDFK25), T. 31 May 2011 (Witnesses SDFK27, SDFK20), T. 1 June 2011 (Witness SDFK20), T. 2 June 2011 (Witness SDFK28), T. 13 June 2011 (Witness SDFK19), T. 14 June 2011 (Witnesses SDFK11, SDFK14), T. 15 June 2011 (Witnesses SDFK14, SDFK39), T. 16 June 2011 (Witnesses SDFK39, SDFK22), T. 20 June 2011 (Witnesses SDFK30, SDFK4), T. 21 June 2011 (Witness SDFK4), T. 22 June 2011 (Witness SDFK4), T. 23 June 2011 (Witness SDFK4), T. 27 June 2011 (Witness SDFK38), T. 28 June 2011 (Witnesses SDFK38, SDFK35, SDFK18), T. 29 June 2011 (Witness SDFK18), T. 4 July 2011 (Witness SDFK3), T. 5 July 2011 (Witness SDFK3), T. 6 July 2011 (Witness SDFK3), T. 7 July 2011 (Witness SDFK29), T. 13 July 2011 (Witness SDFK37), T. 7 September 2011 (Witness SDFK43), T. 8 September 2011 (Witness SDFK43), T. 13 September 2011 (Witness SDFK6), T. 22 September 2011 (Witness SDFK40), T. 23 September 2011 (Witness SDFK40), T. 27 October 2011 (Witness SDFK9), T. 23 April 2012 (Witness DCFK2), T. 24 April 2012 (Witness DCFK2), T. 25 April 2012 (Witness DCFK12), T. 26 April 2012 (Witnesses DCFK12, DCFK59), T. 27 April 2012 (Witness DCFK59), T. 30 April 2012 (Witnesses DCFK59, DCFK56), T. 2 May 2012 (Witness DCFK56), T. 21 May 2012 (Witness DCFK57), T. 22 May 2012 (Witnesses DCFK57, DCFK17).

<sup>18</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38, Warrant of Arrest and Order for Transfer Addressed to All States, 29 April 2013 ("Arrest Warrant and Order for Transfer"), pp. 1-3.

<sup>19</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-I, Decision on Prosecutor's Request to Amend the Arrest Warrant and Order for Transfer, 27 May 2020 ("Decision of 27 May 2020"), para. 2.

<sup>20</sup> *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 ("Decision of 21 October 2020"), para. 3 and references cited therein.

7. *Surrender to the Mechanism.* On 27 May 2020, Judge William H. Sekule, acting as Duty Judge of the Arusha Branch of the Mechanism, denied as insufficiently supported and premature a request from the Office of the Prosecutor of the Mechanism (“Prosecution”) to modify the Arrest Warrant and Order for Transfer to allow for Mr. Kabuga’s temporary transfer to The Hague, the Netherlands, and mitigate any delay arising from potential litigation before the French courts as to the feasibility of a transfer to the United Republic of Tanzania (“Tanzania”) during the global COVID-19 pandemic.<sup>21</sup>

8. On 21 October 2020, in view of the significant shift in the nature and degree of information related to the risks associated with transferring Mr. Kabuga to Arusha on a long-haul flight, supported by comprehensive submissions from the Registrar of the Mechanism (“Registrar”), Judge Iain Bonomy, acting as Single Judge, determined that exceptional circumstances and the interests of justice justified amending the Arrest Warrant and Order for Transfer, requiring the temporary transfer of Mr. Kabuga to the United Nations Detention Unit (“UNDU”) at the Hague Branch of the Mechanism to assess whether and under what circumstances he might be safely transferred to the Arusha Branch for trial.<sup>22</sup> On 26 October 2020, Mr. Kabuga was transferred to the Hague Branch of the Mechanism and remanded to the custody of the UNDU.<sup>23</sup>

9. *Assignment of the Case to the Trial Chamber.* On 1 October 2020, the President of the Mechanism (“President”) assigned the case to the Trial Chamber initially composed of Judge Bonomy, presiding, Judge Graciela Susana Gatti Santana, and Judge Elizabeth Ibanda-Nahamya, which conducted the pre-trial phase of the proceedings.<sup>24</sup> On 26 August 2022, Judge Mustapha El Baaj was assigned to replace Judge Gatti Santana and Judge Margaret M. deGuzman was appointed as a reserve judge in order to ensure that the trial would be conducted expeditiously.<sup>25</sup>

<sup>21</sup> Decision of 27 May 2020, paras. 1, 4, 7-10. *See also Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-I, Urgent Motion for Amendment of Order for Transfer, 20 May 2020, paras. 1-7.

<sup>22</sup> Decision of 21 October 2020, paras. 11-18. The Registrar, along with the Medical Officer at the Arusha Branch of the Mechanism, supported transferring Mr. Kabuga to the Hague Branch of the Mechanism to allow for an informed conclusion regarding his fitness to travel to Arusha. *See* Decision of 21 October 2020, para. 9. *See also Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-I, Urgent Defence Motion for Félicien Kabuga’s Transfer to The Hague and Not to Arusha, 5 October 2020 (original in French; confidential with confidential Annex A; public English redacted version filed on 7 October 2020); *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-I, Order Assigning a Single Judge, 6 October 2020, p. 1; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-I, Prosecution Response to “*Requête urgente de la Défense afin que Félicien Kabuga soit transféré à La Haye et non à Arusha*”, 6 October 2020; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-I, Registrar’s Submission in Relation to the “*Requête urgente de la Défense afin que Félicien Kabuga soit transféré à La Haye et non à Arusha*” of 5 October 2020, 8 October 2020 (confidential); *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-I, Order for Submissions, 13 October 2020; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-I, Registrar’s Submission in Relation to the “Order for Submissions” of 13 October 2020, 16 October 2020 (confidential).

<sup>23</sup> *See, e.g., Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-I, Order Scheduling an Initial Appearance, 8 November 2020 (“Order Scheduling Initial Appearance”), p. 2.

<sup>24</sup> President Order of 1 October 2020, p. 1.

<sup>25</sup> President Order of 26 August 2022, pp. 1, 2.

On 10 January 2023, following the passing of Judge Ibanda-Nahamya, the trial continued with Judge deGuzman replacing Judge Ibanda-Nahamya<sup>26</sup> and, on 16 January 2023, Judge Ivo Nelson de Caires Batista Rosa was assigned as the reserve judge.<sup>27</sup> On 15 August 2023, following the order imposing an indefinite stay of proceedings in this case, the reserve judge was removed from the bench.<sup>28</sup>

10. *Preliminary Medical Assessment and Initial Appearance.* On 29 October 2020, Judge Bonomy, acting in his capacity as Pre-Trial Judge, ordered a preliminary medical assessment to facilitate the initial appearance while advising on further steps necessary to address Mr. Kabuga's fitness to undertake the journey to the Arusha Branch of the Mechanism for the purpose of his detention.<sup>29</sup> On 11 November 2020, Mr. Kabuga's initial appearance was held at the Hague Branch of the Mechanism, during which a plea of "not guilty" on all counts of the ICTR Indictment was entered on his behalf.<sup>30</sup> During the initial appearance, the Prosecution notified the Trial Chamber of its intention to request leave to amend the ICTR Indictment to bring it in line with pleading requirements and streamline the charges.<sup>31</sup> On 25 November 2020, the Trial Chamber issued a further order instructing the Registrar to submit medical reports regarding Mr. Kabuga's health and on-going medical assessment every 14 days and setting deadlines for the Prosecution to submit its request for leave to amend the ICTR Indictment and in relation to its disclosure obligations pursuant to Rule 73 of the Rules of Procedure and Evidence of the Mechanism ("Rules").<sup>32</sup>

11. *Assignment of Counsel.* On 2 October 2020, Mr. Emmanuel Altit was assigned as duty counsel to represent Mr. Kabuga before the Mechanism<sup>33</sup> and, on 6 January 2021, he was provisionally assigned as Mr. Kabuga's counsel pending the assessment as to Mr. Kabuga's indigency.<sup>34</sup> In the context of the COVID-19 pandemic, the Defence was authorized to conduct in-person consultations with Mr. Kabuga at the UNDU subject to appropriate safety protocols and

<sup>26</sup> Decision of 10 January 2023, p. 1.

<sup>27</sup> President Order of 16 January 2023, pp. 1, 2.

<sup>28</sup> President Order of 15 August 2023, pp. 1, 2.

<sup>29</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-I, Preliminary Order Regarding Medical Examination of Félicien Kabuga, 29 October 2020 ("Order of 29 October 2020"), pp. 1, 2. *See also Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-I, Order Designating a Pre-Trial Judge, 29 October 2020, p. 1.

<sup>30</sup> *See* Order Scheduling Initial Appearance, p. 3; T. 11 November 2020 pp. 1-47. *See also Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-I, Order for Release of Audio-Visual Record and Permitting Photography, 10 November 2020, p. 1.

<sup>31</sup> T. 11 November 2020 pp. 40, 41.

<sup>32</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order Following Initial Appearance, 25 November 2020 ("Order of 25 November 2020"), p. 3.

<sup>33</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-I, Decision, 2 October 2020, p. 2.

<sup>34</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision, 6 January 2021, pp. 2, 3.

health measures.<sup>35</sup> On 21 January 2021, Mr. Altit filed a motion requesting that the Trial Chamber order the Registrar to withdraw his assignment to represent Mr. Kabuga pursuant to Rule 43(G) of the Rules based on the existence of exceptional circumstances, namely the divergent views between Mr. Kabuga and the Defence team as to whether the Defence should take instructions from Mr. Kabuga's family and allow them to access the case file.<sup>36</sup> On 1 April 2021, the Trial Chamber denied Mr. Altit's motion to withdraw and further instructed the Registrar to appoint Mr. Altit as Mr. Kabuga's counsel under the Mechanism's legal aid scheme.<sup>37</sup> On 26 August 2022, the Trial Chamber denied a further request to change counsel arising from the unilateral actions of the accused and breakdown of communication and trust, emphasizing that the right to legal assistance financed by the Mechanism does not confer the right to counsel of one's choosing and that any change in representation would cause delays at a critical stage of the proceedings.<sup>38</sup> This decision was affirmed on appeal.<sup>39</sup> During the trial, Ms. Françoise Mathe was further assigned as co-counsel for Mr. Kabuga between 20 October 2022 and 1 October 2023.<sup>40</sup>

12. *Operative Indictment.* On 24 February 2021, the Trial Chamber granted a motion filed by the Prosecution to amend the ICTR Indictment to streamline the allegations by removing two counts, namely, complicity in genocide and attempt to commit genocide, dropping the third form of joint criminal enterprise, planning, ordering, instigating, and superior responsibility as bases for liability, and providing further clarity in line with the legal requirements for the crimes, including the reference to the victim group of the genocide as the "Tutsi ethnic group" and the pleading of discriminatory intent for the crime of persecution on the basis of political grounds rather than ethnic grounds.<sup>41</sup> The Trial Chamber also accepted new proposed allegations and bases for criminal

<sup>35</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-I, Decision on Urgent Motion for In-Person Visits Between Félicien Kabuga and His Defence Counsel, 4 November 2020, pp. 1-3; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Further Decision Concerning In-Person Visits Between Félicien Kabuga and His Defence Team, 30 November 2020, pp. 3, 4.

<sup>36</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Request Pursuant to Rule 43(G) of the Rules of Procedure and Evidence, 21 January 2021 (original in French; confidential and *ex parte* with confidential redacted English version filed on 27 January 2021), pp. 1, 2. *See also* *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Matters Related to Félicien Kabuga's Representation, 1 April 2021 ("Decision of 1 April 2021"), para. 4.

<sup>37</sup> Decision of 1 April 2021, paras. 11-18. *See also* *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order for Submissions Related to Representation, 29 January 2021; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order for Further Submissions Related to Representation, 4 March 2021.

<sup>38</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Second Decision Related to Félicien Kabuga's Representation, 26 August 2022, paras. 22-33.

<sup>39</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-AR80.2, Decision on an Appeal of a Decision on Félicien Kabuga's Representation, 4 November 2022, para. 26. *See also* *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Request for Certification to Appeal the Second Decision Related to Félicien Kabuga's Representation, 20 September 2022, pp. 1-3.

<sup>40</sup> Decision, 20 October 2022, RP. 4525; Decision, 11 October 2023, RP. 5925, 5924.

<sup>41</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution Motion to Amend the Indictment, 24 February 2021 ("Decision of 24 February 2021"), paras. 1, 10, 22, nn. 35, 36. *See also* *Prosecutor v.*

responsibility, including, *inter alia*, sexual violence as a basis for both genocide and persecution as a crime against humanity, a count of murder as a crime against humanity, new locations of weapons distributions, and the expansion of the types of perpetrators underpinning Mr. Kabuga's potential liability in relation to the RTLM allegations not only to the *Interahamwe* but to other listeners of the RTLM who were called upon and did attack Tutsis and other perceived accomplices or allies following the broadcasts.<sup>42</sup> The Trial Chamber concluded that these changes clarified and focused the case against Mr. Kabuga, could assist him in tailoring his defence, and would not cause any undue delay.<sup>43</sup>

13. On 1 March 2021, the Prosecution filed the Operative Indictment, according to which Mr. Kabuga was charged with six counts of genocide and crimes against humanity, namely genocide, direct and public incitement to commit genocide, conspiracy to commit genocide, persecution, extermination, and murder as crimes against humanity, arising from allegations that he acted individually and through a joint criminal enterprise to eliminate the Tutsi population across Rwanda. Specifically, the Prosecution alleged that Mr. Kabuga co-founded, financed, and directed the RTLM, a radio station that broadcasted messages inciting genocide, and that Mr. Kabuga mobilized financial resources *via* the National Defence Fund to procure and distribute weapons, provide logistical support, and fund the training of *Interahamwe* militiamen. The Prosecution further accused Mr. Kabuga of inciting and encouraging the extermination of Tutsis at mass political rallies and meetings across the Kigali, Gisenyi, and Kibuye prefectures of Rwanda.<sup>44</sup> The Defence subsequently raised preliminary challenges to the Operative Indictment, which the Trial Chamber dismissed on 14 May 2021.<sup>45</sup>

14. *Disclosure and Pre-Trial Briefs.* On 4 June 2021, the Trial Chamber established a pre-trial work plan setting, *inter alia*, timelines for the filing of motions for adjudicated facts and pre-trial briefs, pursuant to Rules 70(E), 70(F), and 115(B) of the Rules, as well as for the completion of disclosure of witness statements, expert reports, and notices pursuant to Rules 71(A)(ii) and 116(A)

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*Félicien Kabuga*, Case No. MICT-13-38-PT, Prosecution Motion Seeking Leave to Amend the Indictment, 15 January 2021 (confidential).

<sup>42</sup> Decision of 24 February 2021, paras. 11, 15-18, 22.

<sup>43</sup> Decision of 24 February 2021, paras. 15-18. The Trial Chamber also maintained Mr. Kabuga's plea of not guilty entered on his behalf at the initial appearance, which was confirmed on 1 June 2021 at the following status conference. See Decision of 24 February 2021, paras. 21, 22. See also T. 1 June 2021 pp. 4, 5.

<sup>44</sup> See generally Operative Indictment.

<sup>45</sup> See *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Defence Motion Pursuant to Rule 79 of the Rules of Procedure and Evidence, 29 March 2021 (original in French); *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Defence Preliminary Motion, 14 May 2021, paras. 2, 26. See also *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Defence Motion for Extension of Time to File Preliminary Motions, 23 December 2020, p. 2; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Prosecution Response to Defence Preliminary Motion, 12 April 2021.

of the Rules.<sup>46</sup> The Trial Chamber had also previously granted a Defence motion for access to certain confidential *inter partes* material relevant to Mr. Kabuga from other ICTR cases.<sup>47</sup> The Prosecution and the Defence filed their pre-trial briefs on 23 August 2021<sup>48</sup> and 15 November 2021,<sup>49</sup> respectively. On 20 December 2021, the Trial Chamber dismissed a Defence motion raising certain objections to the Prosecution Pre-Trial Brief.<sup>50</sup>

15. The Prosecution anticipated presenting the evidence of 103 witnesses, including 41 witnesses proposed to appear *viva voce*, as detailed in the amended witness list,<sup>51</sup> and tendering approximately 3,200 exhibits.<sup>52</sup> On 30 August 2021, the Prosecution further filed, pursuant to Rule 116 of the Rules, its notice of disclosure of the reports of four expert witnesses, namely Evariste Ntakirutimana, Jean-François Dupaquier, Binaifer Nowrojee, and Alison Des Forges.<sup>53</sup> Given Mr. Kabuga's health condition and the potential for delay due to the accommodations provided to him to ensure his participation during the proceedings, including the limitation of

<sup>46</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order Establishing a Pre-Trial Work Plan, 4 June 2021, p. 2, Annex. See also *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order for Submissions, 5 July 2021, p. 1 (wherein the Trial Chamber instructed the parties to file a joint submission on the progress of disclosure under Rule 73 of the Rules).

<sup>47</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Defence Motion Seeking Access to Confidential Records from Other Cases, 21 April 2021, pp. 2-6.

<sup>48</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Prosecution Pre-Trial Brief and Witness and Exhibit List, 23 August 2021 (confidential with confidential Annexes A to C; public redacted version filed on 12 October 2021) ("Prosecution Pre-Trial Brief"). See also *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution Motion to Exceed Pre-Trial Brief Word Limit, 16 August 2021.

<sup>49</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Defence Pre-Trial Submissions Pursuant to Rules 70(F), 72(B) and 116(B) of the Rules of Procedure and Evidence, 15 November 2021 (original in French; confidential).

<sup>50</sup> See *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision Regarding Defence Objections to the Prosecution Pre-Trial Brief, 20 December 2021, pp. 1, 2.

<sup>51</sup> See Prosecution Pre-Trial Brief, paras. 1, 3, Annex A; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Prosecution Revised Rule 70(E)(ii) Witness List, 17 August 2022 ("Prosecution Revised Witness List") (public with confidential Annex A). See also *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution Motion to Amend Its Rule 70(E)(ii) Witness List, 30 March 2022, pp. 1, 2; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution Motions to Amend Its Witness and Exhibit Lists, 10 May 2022 ("Decision of 10 May 2022"), pp. 1-3.

<sup>52</sup> See Prosecution Pre-Trial Brief, paras. 1, 5, Annex C. The exhibit list was thereafter amended several times. See, e.g., *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution Omnibus Motion for Admission of Evidence Pursuant to Rule 112, 11 April 2022 ("First Rule 112 Decision"), para. 81; Decision of 10 May 2022, p. 3; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution Motions for Admission of Evidence Pursuant to Rule 112, 19 July 2022 (confidential) ("Second Rule 112 Decision"), para. 31; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution Second Motion for the Admission of Evidence Pursuant to Rule 111, 2 August 2022 ("Second Rule 111 Decision"), para. 23; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution Fourth Motion for the Admission of Evidence Pursuant to Rule 111, 21 September 2022 ("Fourth Rule 111 Decision"), paras. 10, 17, 35; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution Fifth Motion for the Admission of Evidence Pursuant to Rule 111, 21 September 2022 ("Fifth Rule 111 Decision"), paras. 9, 27; T. 5 October 2022 pp. 1, 2.

<sup>53</sup> See *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Notice of Disclosure of Expert Reports in Compliance with Rule 116, 30 August 2021, para. 1. See also *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Prosecution Supplemental Notification under Rule 116(A) of Disclosure of Revised Expert Report of Witness Evariste Ntakirutimana, 30 May 2022; Prosecution Submission Correlating Sources Cited in the Expert Report of Jean-François Dupaquier to Its Rule 70(E)(iii) Exhibit List, 24 January 2023 (public with public Annex A and confidential Annex B).

hearings to a reduced number of hours and days per week, the Trial Chamber encouraged the Prosecution to streamline its case, resulting in a reduction in the time estimated for presentation of witness evidence from 160 hours to 40 hours.<sup>54</sup>

16. *Protection of Witnesses.* On 30 November 2020, the Trial Chamber confirmed that the protective measures granted to Prosecution witnesses and potential Prosecution witnesses in the special deposition proceedings, as well as the initial orders of confidentiality and non-disclosure to the public of the supporting material applicable to the indictments in this case, would continue to apply.<sup>55</sup> On 9 November 2021, to avoid causing disadvantage to the Defence and unnecessary *ad hoc* litigation as the proceedings in the case advanced, the Trial Chamber ordered the harmonization of protective measures for all witnesses identified by the Prosecution. This harmonization, aiming at clearly delineating the scope of the protection, included the continuation of protective measures and assignment of new pseudonyms for witnesses who already benefited from protective measures in the special deposition or other ICTR proceedings, and, for some witnesses, the granting of additional measures of non-disclosure of identifying information, as well as harmonized modalities governing Defence contact with witnesses and record retention instructions.<sup>56</sup>

17. *Adjudicated Facts.* On 6 October 2021, the Trial Chamber, in furtherance of judicial economy and harmonization of judgements of the Mechanism and ICTR and in accordance with Rule 115(A) and (B) of the Rules, took judicial notice of 45 out of 62 adjudicated facts proposed by the Prosecution, that were previously determined by chambers of the ICTR to be facts of common knowledge that are not reasonably subject to dispute.<sup>57</sup> These adjudicated facts included, *inter alia*, the recognition that a genocide against the Tutsi ethnic group occurred in Rwanda between

<sup>54</sup> See Prosecution Revised Witness List, para. 1, Annex A; T. 18 August 2022 pp. 3, 4. See also *infra* para. 31.

<sup>55</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution Motion for Confidentiality of Disclosed Information and Materials, 30 November 2020, pp. 1-5, referring to, *inter alia*, Decision of 17 March 2011, pp. 3-5. See also *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution Motion for Reconsideration or Certification to Appeal the Decision of 30 November 2020, 11 January 2021, paras. 9-17.

<sup>56</sup> See *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order on Prosecution Submission Concerning Protective Measures, 9 November 2021, paras. 12-16. See also *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Prosecution Submission Concerning Protective Measures Pursuant to Pre-Trial Work Plan, 21 August 2021 (confidential with confidential Annexes); *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution Motion for Additional Protective Measures, 22 December 2021, pp. 1, 2; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution Second Motion for Additional Protective Measures and Request for Reclassification, 10 October 2022, p. 2; Decision on Witness KAB101's Request for Protective Measures, 3 March 2023 (confidential), pp. 1, 2.

<sup>57</sup> See *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts, 6 October 2021 ("Decision of 6 October 2021"), pp. 1-7, Annex; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Defence Submission Related to Judicial Notice of Facts of Common Knowledge, 27 October 2021 ("Decision of 27 October 2021"), pp. 1-3. See also *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Prosecution Motion for Judicial Notice of Adjudicated Facts, 16 August 2021, paras. 1, 12, and Annex.

6 April 1994 and 17 July 1994 and that, during this period, the RTLM, which disseminated anti-Tutsi propaganda as early as the end of 1993, called on listeners to seek out and take up arms against the Rwandan Patriotic Front (“RPF”) and its “accomplices”, the Tutsi ethnic group, and against the *Inkotanyi* and *Inyenzi*, meaning “enemy” and “cockroach”, respectively, and referring on some occasions to the Tutsi ethnic group.<sup>58</sup> The Trial Chamber also took notice of adjudicated facts regarding the establishment, structure, training, and general role of the *Interahamwe* in the relevant genocidal events.<sup>59</sup> The Prosecution would still, however, be required to introduce evidence demonstrating that the specific events alleged in the Operative Indictment constituted genocide or crimes against humanity and that Mr. Kabuga’s conduct and mental state made him culpable for those crimes.<sup>60</sup>

18. *Health of the Accused during Pre-Trial Proceedings.* The pre-trial proceedings were marked by extensive litigation concerning Mr. Kabuga’s fitness to travel to, and stand trial at, the Arusha Branch of the Mechanism. On 25 November 2020, Judge Bonomy, acting in his capacity as Pre-Trial Judge, ordered the Registrar to submit medical reports regarding Mr. Kabuga’s health and on-going medical assessment every 14 days.<sup>61</sup> Early reports from the Medical Officer of the UNDU (“Medical Officer”) generally described Mr. Kabuga’s health as a moderately vulnerable, elderly individual with substantial chronic physical and mental conditions.<sup>62</sup> On 5 February 2021, the Pre-Trial Judge was informed that a health incident had occurred and that Mr. Kabuga required surgery.<sup>63</sup> Subsequent reports from the Medical Officer reflected that Mr. Kabuga’s health situation would require a long process of rehabilitation, with an uncertain outcome, and that Mr. Kabuga’s frailty resulting from advanced age in combination with pre-existing cognitive and physical ailments had been compounded by this most recent injury and hospital admission.<sup>64</sup> On

<sup>58</sup> See Decision of 6 October 2021, Annex, pp. 1, 2; Decision of 27 October 2021, pp. 1-3.

<sup>59</sup> See Decision of 6 October 2021, Annex, pp. 2-4.

<sup>60</sup> See Decision of 27 October 2021, p. 2.

<sup>61</sup> See Order of 25 November 2020, p. 3. See also Order of 29 October 2020, pp. 1, 2.

<sup>62</sup> See, e.g., *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Registrar’s Submission in Relation to the “Preliminary Order Regarding Medical Examination of Félicien Kabuga” of 29 October 2020, and the Judge’s Oral Order of 11 November 2020, 18 November 2020 (confidential with confidential Annex), Annex, RP. 264-262; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Registrar’s Submission in Relation to the “Order Following Initial Appearance” of 25 November 2020, 9 December 2020 (public with confidential Annex), Annex, RP. 400-398; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Registrar’s Submission in Relation to the “Order Following Initial Appearance” of 25 November 2020, 23 December 2020 (public with confidential Annex), Annex, RP. 445, 444; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Registrar’s Submission in Relation to the “Order Following Initial Appearance” of 25 November 2020, 20 January 2021 (public with confidential Annex), Annex, RP. 829, 828; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Registrar’s Submission in Relation to the “Order Following Initial Appearance” of 25 November 2020, 3 February 2021 (public with confidential Annex), Annex, RP. 881, 880.

<sup>63</sup> See *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Registrar’s Submission in Relation to the “Order for Submissions Related to Health” of 29 January 2021, 10 February 2021 (strictly confidential and *ex parte*; disclosed to the Defence pursuant to Trial Chamber’s decision on 24 February 2021), para. 3.

<sup>64</sup> See *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Registrar’s Submission in Relation to the “Order Following Initial Appearance” of 25 November 2020, 22 February 2021 (public with confidential Annex), Annex,

1 June 2021, the Trial Chamber rejected a Defence motion requesting a stay of proceedings on the basis of Mr. Kabuga's health or, in the alternative, his provisional release on humanitarian grounds to an appropriate facility in The Hague.<sup>65</sup>

19. On 15 April 2021, the Trial Chamber, acting upon a request from the Defence and pursuant to Rule 84(A) of the Rules, determined that it would benefit from additional medical expertise and information to guide its decisions on procedurally significant matters concerning the scheduling of the case, including Mr. Kabuga's fitness to be transferred to, and detained in, Arusha and to stand trial.<sup>66</sup> The Trial Chamber, therefore, ordered the Registrar to appoint an independent medical expert to examine Mr. Kabuga and provide evidence concerning his fitness.<sup>67</sup> Professor Francesco Mattace-Raso was appointed as an independent expert gerontologist in May 2021 and filed two reports in June and November 2021, concluding, *inter alia*, that Mr. Kabuga exhibited mild vascular cognitive impairment and cognitive decline for which additional evaluation by a forensic psychiatrist was recommended.<sup>68</sup>

20. On 26 November 2021, the Registrar informed the Trial Chamber that the United Nations Detention Facility at the Arusha Branch could manage Mr. Kabuga's care despite limitations on his activities of daily living and that the medical facilities in Arusha and Moshi could provide comparable treatments to those Mr. Kabuga was receiving in The Hague.<sup>69</sup> The Registrar noted, however, that, in case of a life-threatening emergency or a need for specialist medical care that

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RP. 959; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Registrar's Submission in Relation to the "Order Following Initial Appearance" of 25 November 2020, 2 March 2021 (public with confidential Annex), Annex, RP. 1038, 1037.

<sup>65</sup> See *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Defence Motion Seeking a Stay of Proceedings or, Alternatively, Provisional Release, 1 June 2021, pp. 1-4.

<sup>66</sup> See *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Defence Motion Seeking an Order for Expert Medical Assessments Pursuant to Rule 84, 15 April 2021 (confidential) ("Decision of 15 April 2021"), para. 15. See also *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Defence Motion Seeking an Order for an Expert Medical Assessment Pursuant to Rule 84 of the Rules of Procedure and Evidence, 22 January 2021 (original in French; confidential with public redacted English version filed on 5 February 2021); *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order for Submissions Related to Health, 29 January 2021 (confidential).

<sup>67</sup> Decision of 15 April 2021, paras. 16, 19.

<sup>68</sup> See *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Registrar's Notification of Appointment of Medical Expert, 21 May 2021 (confidential with confidential Annex), para. 2; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Registrar's Submission in Relation to the "Decision on Defence Motion Seeking an Order for Expert Medical Assessments Pursuant to Rule 84" of 15 April 2021, 18 June 2021 (confidential with confidential Annex), para. 3, Annex; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order for Further Independent Expert Evaluation and for Additional Information from the Registry, 13 August 2021 (confidential), pp. 2-4; T. 6 October 2021 pp. 7, 8; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Registrar's Submission in Relation to the "Order for Further Independent Expert Evaluation and for Additional Information from the Registry" of 13 August 2021, 26 November 2021 (confidential with confidential Annex) ("Registrar Submission of 26 November 2021"), para. 4, Annex, RP. 2719-2713.

<sup>69</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Registrar's Submission in Relation to the "Order for Further Independent Expert Evaluation and for Additional Information from the Registry" of 13 August 2021, 26 November 2021 (confidential) ("Registrar Submission of 26 November 2021 on Medical Facilities"), paras. 10-16, 18, 19, 23, 24.

could not be secured locally, medical evacuation to Dar es Salaam, Tanzania, or Nairobi, Kenya, would have to be considered.<sup>70</sup>

21. On 14 December 2021, the Registrar, acting upon instruction from the Trial Chamber, appointed Professor Gillian Mezey as an independent expert forensic psychiatrist.<sup>71</sup> In her report filed in January 2022, Professor Mezey opined that Mr. Kabuga was suffering from a combination of progressive moderate to severe vascular dementia and Alzheimer’s disease, and considered that Mr. Kabuga was unfit to stand trial and that his cognitive function could only be expected to decline over time, with acute deterioration to be expected during physical health crises.<sup>72</sup> The Trial Chamber considered it essential to proceed cautiously and to receive a second opinion from an additional forensic psychiatrist, to assist it in reaching a reasoned and informed decision as to Mr. Kabuga’s fitness to stand trial.<sup>73</sup> Professor Henry Gerard Kennedy was thereafter appointed on 22 March 2022.<sup>74</sup> In his report filed in April 2022, Professor Kennedy stated that Mr. Kabuga’s cognitive decline was mild and best described as normal aging, and considered that Mr. Kabuga was fit to stand trial.<sup>75</sup> On 25 May 2022, Professors Mezey and Kennedy filed a joint statement, wherein they agreed that Mr. Kabuga had significant physical illnesses and had previously experienced cerebrovascular accidents and vascular disease affecting his brain.<sup>76</sup> They disagreed, however, on the degree of Mr. Kabuga’s cognitive impairment and on Mr. Kabuga’s capacity to

<sup>70</sup> Registrar Submission of 26 November 2021 on Medical Facilities, paras. 20-22.

<sup>71</sup> See *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order for Further Independent Medical Expert Evaluation, 1 December 2021 (confidential), p. 3; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Registrar’s Submission in Relation to the “Order for Further Independent Medical Expert Evaluation” of 1 December 2021, 15 December 2021 (confidential with confidential Annex), para. 2; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Supplemental Order on Order for Further Independent Medical Expert Evaluation, 14 January 2022, pp. 1, 2.

<sup>72</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Registrar’s Submission in Relation to the “Supplemental Order on Order for Further Independent Medical Expert Evaluation” of 14 January 2022, 31 January 2022 (confidential with confidential Annex), Annex, paras. 57, 58, 87-90.

<sup>73</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution Motion for Further Fitness Evaluation and Order for Independent Expert Evaluation, 15 March 2022 (confidential) (“Decision of 15 March 2022”), paras. 24, 25, 28.

<sup>74</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Registrar’s Submission in Relation to the “Decision on Prosecution Motion for Further Fitness Evaluation and Order for Independent Expert Evaluation” of 15 March 2022, 22 March 2022 (confidential with confidential Annex), para. 2.

<sup>75</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Registrar’s Submission in Relation to the “Decision on Prosecution Motion for Further Fitness Evaluation and Order for Independent Expert Evaluation” of 15 March 2022, 21 April 2022 (confidential with confidential Annex), para. 3, Annex, Opinion, RP. 3553-3550.

<sup>76</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Registrar’s Submission in Relation to the “Order Instructing the Independent Medical Experts to Prepare a Joint Statement” of 16 May 2022, 25 May 2022 (confidential with confidential Annex), para. 3, Annex (“Joint Statement”), pp. 2, 3. See also *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order Instructing the Independent Medical Experts to Prepare a Joint Statement, 16 May 2022 (confidential), p. 2.

understand the course of proceedings, understand the details of the evidence, instruct counsel, and testify.<sup>77</sup>

22. As part of the extensive litigation concerning Mr. Kabuga's fitness, the Trial Chamber also allowed the Prosecution and Defence to appoint their own medical experts<sup>78</sup> and to access and share the medical reports on a confidential basis with doctors to assist in assessing Mr. Kabuga's health.<sup>79</sup> The Prosecution appointed Dr. Rutakayile Bizoza, whose report, filed on 6 May 2022, stated that Mr. Kabuga was fit to stand trial.<sup>80</sup> In contrast, the Defence appointed Dr. An Chuc, who concluded in her report, filed on 3 June 2022, that Mr. Kabuga was unfit to stand trial.<sup>81</sup> The Trial Chamber further received extensive written submissions from the parties on the matter.<sup>82</sup>

23. In May and June 2022, the Trial Chamber heard the testimony of three of the medical experts, namely Professor Kennedy, Professor Mezey, and Dr. Bizoza, as well as oral submissions from the parties on the issue of Mr. Kabuga's fitness to stand trial.<sup>83</sup>

24. *First Decision on Fitness to Stand Trial and to Be Transferred to Arusha.* On 13 June 2022, the Trial Chamber issued its first decision on Mr. Kabuga's fitness, finding that, in view of the evidence given by the experts and the accommodations that could be adopted, the Defence had not demonstrated by a preponderance of the evidence that Mr. Kabuga was unfit to participate meaningfully in his trial.<sup>84</sup> The Trial Chamber further held that, in the interests of justice and to avoid any disruption that could materially and adversely impact the ability to swiftly conclude the proceedings, Mr. Kabuga should remain detained at the Hague Branch of the Mechanism subject to periodic monitoring by a panel of three independent medical experts and that his trial should

<sup>77</sup> Joint Statement, pp. 2-8.

<sup>78</sup> Decision of 15 March 2022, paras. 21-23, 28; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Defence Motion for Appointment of a Defence Medical Expert, 13 May 2022 (confidential), pp. 2, 3.

<sup>79</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Defence Motion to Share Confidential Medical Reports, 20 January 2021, pp. 1, 2; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Defence Requests for Access and Order for Further Disclosure, 24 February 2021 (confidential), p. 4; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Further Defence Motion to Share Confidential Medical Materials, 4 March 2021, pp. 1, 2; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution Urgent Request for Access to Medical Records, 28 February 2022 (confidential), pp. 1, 2.

<sup>80</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Notice of Appointment of Prosecution Medical Expert, 22 March 2022 (confidential), paras. 1-3; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Notice of Filing of Prosecution Medical Expert Report, 6 May 2022 (confidential with confidential Annex A), para. 1, Annex A, pp. 6, 7.

<sup>81</sup> Notification by Félicien Kabuga's Defence of the Filing on the Case Record of a Report by Its Expert, 3 June 2022 (original in French; confidential with confidential Annex), Annex, pp. 27-32.

<sup>82</sup> See *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order for Submissions, 24 June 2021, pp. 1, 2; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Prosecution Response to Order for Submissions of 24 June 2021, 2 July 2021 (confidential with public redacted version filed on the same day); *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Defence Response to the "Prosecution Response to Order for Submissions of 24 June 2021", 12 July 2021 (original in French; confidential).

<sup>83</sup> See T. 11 May 2022 pp. 6, 7, 10; T. 31 May 2022; T. 1 June 2022; T. 7 June 2022.

commence as soon as possible.<sup>85</sup> The appeal filed by Mr. Kabuga against this decision was dismissed by the Appeals Chamber on 12 August 2022.<sup>86</sup>

25. *Conclusion of Pre-Trial Proceedings and Commencement of Trial.* During the pre-trial phase, status conferences were held every four months, pursuant to Rule 69(A) of the Rules. These took place in-person, on 1 June 2021, 6 October 2021, 3 February 2022, and 11 May 2022, and by way of written procedure between 9 March and 6 April 2021 due to the COVID-19 pandemic.<sup>87</sup> On 14 February 2022, the Trial Chamber issued its guidelines on the procedure for the conduct of trial.<sup>88</sup> The Trial Chamber held the pre-trial conference on 18 August 2022.<sup>89</sup> On 29 September 2022, the trial proceedings commenced at the Hague Branch of the Mechanism with an opening statement from the Prosecution, followed by an opening statement from the Defence on 30 September 2022, in accordance with Rule 100 of the Rules.<sup>90</sup>

26. *Oral and Written Evidence Adduced.* Between 5 October 2022 and 2 March 2023, over the course of 33 trial days, the Trial Chamber heard the evidence of 23 Prosecution witnesses and one expert witness<sup>91</sup> on allegations related to, *inter alia*: (i) the contribution of RTLM broadcasts to the

<sup>84</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on *Félicien Kabuga's* Fitness to Stand Trial and to Be Transferred to and Detained in Arusha, 13 June 2022 ("First Fitness Decision"), paras. 56, 62.

<sup>85</sup> First Fitness Decision, paras. 58-62.

<sup>86</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-AR80.1, Decision on an Appeal of a Decision on Félicien Kabuga's Fitness to Stand Trial, 12 August 2022, para. 22.

<sup>87</sup> See *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order Scheduling a Status Conference, 13 January 2021, p. 2; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order Postponing the Status Conference, 26 January 2021, p. 1; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order Regarding Commencement and Conduct of the Status Conference, 9 March 2021 (public with public and confidential Annexes), pp. 1-3; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order Concluding the Written Exchanges Procedure for the Status Conference, 6 April 2021 (public with public and confidential Annexes), p. 1; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order Scheduling a Status Conference, 7 May 2021, p. 3; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order Scheduling a Status Conference, 16 September 2021, pp. 1, 2; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order Scheduling a Status Conference, 11 January 2022, p. 2; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order Scheduling a Status Conference, 28 April 2022, p. 2. See also T. 1 June 2021 pp. 1-25; T. 6 October 2021 pp. 1-23; T. 3 February 2022 pp. 1-22; T. 11 May 2022 pp. 1-13.

<sup>88</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order on the Procedure for the Conduct of Trial, 14 February 2022, p. 1, Annex. See also *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order for Submissions on the Procedure for the Conduct of Trial, 14 December 2021.

<sup>89</sup> See *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Order Scheduling the Pre-Trial Conference, 7 July 2022, p. 2; T. 18 August 2022 pp. 1-21.

<sup>90</sup> T. 29 September 2022 pp. 1-44; T. 30 September 2022 pp. 1-21.

<sup>91</sup> This includes Prosecution Witness KAB041, whose testimony was declared complete when the proceedings were indefinitely stayed, subject to the witness being recalled if and when the trial resumes. See T. 2 March 2023 p. 34; Decision Imposing an Indefinite Stay of Proceedings, 8 September 2023 ("Decision of 8 September 2023"), pp. 4, 5. See also T. 5 October 2022 (Witness KAB005); T. 6 October 2022 (Witness KAB005); T. 11 October 2022 (Witnesses KAB005, KAB093); T. 12 October 2022 (Witness KAB093); T. 13 October 2022 (Witnesses KAB038, KAB099); T. 18 October 2022 (Witness Monique Mujawamariya); T. 19 October 2022 (Expert Witness Jean-François Dupaquier); T. 20 October 2022 (Witness François-Xavier Nsanzuwera); T. 25 October 2022 (Witness François-Xavier Nsanzuwera); T. 8 November 2022 (Witness KAB007); T. 9 November 2022 (Witnesses KAB007, KAB009); T. 10 November 2022 (Witness KAB009); T. 15 November 2022 (Witness KAB066); T. 16 November 2022 (Witnesses KAB066, KAB076); T. 17 November 2022 (Witnesses KAB076, KAB032); T. 22 November 2022

targeted killings and harming of Tutsi and others described as “accomplices” or “allies” of the RPF, as well as Mr. Kabuga’s position and functions within the RTLM; (ii) Mr. Kabuga’s material, logistical, financial, and other support to the *Interahamwe* in Kigali-Ville and Gisenyi prefecture, including the activities of *Interahamwe* at his properties in Kimironko and Muhima; and (iii) meetings at the Méridien Hotel between April and May 1994, where discussions took place regarding the establishment of the National Defence Fund to provide support to the army and the *Interahamwe*, with Mr. Kabuga being allegedly elected as President of the provisional committee for this fund. The witnesses testified in the courtroom in The Hague or *via* videoconference from the Arusha Branch of the Mechanism or the Kigali Field Office.<sup>92</sup>

27. Throughout the pre-trial and trial proceedings, to ensure the smooth and expeditious conduct of the trial, in accordance with the rights of the accused,<sup>93</sup> the Trial Chamber also reviewed and ruled on the admissibility of the evidence of 94 witnesses presented in written form, including 505 witness statements, records of interviews, transcripts of prior testimony, and associated exhibits. The Trial Chamber found the evidence of 25 deceased witnesses appropriate for admission pursuant to Rule 112 of the Rules, including that of Alison Des Forges.<sup>94</sup> The Trial Chamber also deemed the evidence of 22 other witnesses to be cumulative and relevant to the background and context of the allegations – but not related to the acts and conduct of Mr. Kabuga as charged in the Operative

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(Witnesses KAB009, KAB032); T. 23 November 2022 (Witness KAB032); T. 24 November 2022 (Witness KAB032); T. 1 December 2022 (Witness KAB032); T. 7 December 2022 (Witness KAB046); T. 8 December 2022 (Witnesses KAB046, KAB061); T. 13 December 2022 (Witnesses KAB061, KAB045); T. 14 December 2022 (Witness KAB045); T. 15 December 2022 (Witnesses KAB045, KAB025); T. 20 December 2022 (Witness KAB070); T. 21 December 2022 (Witnesses KAB070, KAB086); T. 22 December 2022 (Witnesses KAB086, KAB072); T. 14 February 2023 (Witness KAB035); T. 15 February 2023 (Witnesses KAB035, KAB002); T. 22 February 2023 (Witnesses KAB002, KAB053); T. 23 February 2023 (Witness KAB053); T. 28 February 2023 (Witnesses KAB053, KAB085); T. 2 March 2023 (Witnesses KAB085, KAB041).

<sup>92</sup> See Decision on Prosecution Motion for Video-Conference Link, 12 October 2022, paras. 8-19.

<sup>93</sup> The Trial Chamber issued 12 decisions during the pre-trial proceedings, between 11 April and 21 September 2022, and two decisions after the start of the trial, on 28 and 31 March 2023. See *infra* nn. 94, 95, 97.

<sup>94</sup> These Rule 112 witnesses are Witnesses KAB004, KAB012, KAB019, KAB020, KAB039, KAB043, KAB063, KAB068, KAB082, KAB084, KAB087, KAB094, KAB102, KAB104, KAB105, KAB106, Jérôme Bizimana, Rachel Mukansanga, Frédéric Mutagwera, Esdras Ndayambaje, Isaac Nzabihimana, David Semasuka, Joseph Serugendo, Mathieu Uwumukiza, and Alison Des Forges. See First Rule 112 Decision, paras. 15-81; Second Rule 112 Decision, paras. 9-31; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution Motion for Admission of Evidence of Witness KAB004 Pursuant to Rule 112, 26 August 2022, pp. 1-3. See also *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Prosecution Omnibus Motion for Admission of Evidence Pursuant to Rule 112, 3 November 2021 (public with confidential Annexes A to C); *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Prosecution Second Motion for Admission of Evidence Pursuant to Rule 112: KAB094 & Alison Des Forges, 25 February 2022 (public with public Annex A and confidential Annexes B and C); *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Prosecution Third Motion for Admission of Evidence Pursuant to Rule 112: KAB004, 2 August 2022 (public with confidential Annexes A and B).

Indictment – pursuant to Rule 110 of the Rules.<sup>95</sup> This evidence was formally admitted and placed on the record after the start of the trial.<sup>96</sup>

28. The Trial Chamber further considered appropriate for admission, following the fulfillment of the conditions set forth in Rule 111 of the Rules when the witnesses were present in court, the evidence of 47 witnesses previously given before the ICTR or the Mechanism,<sup>97</sup> including evidence recorded during the special deposition proceedings before the ICTR.<sup>98</sup> When the proceedings were

<sup>95</sup> These Rule 110 witnesses are Witnesses KAB013, KAB018, KAB027, KAB029, KAB037, KAB050, KAB052, KAB054, KAB055, KAB057, KAB064, KAB073, KAB077, KAB089, KAB090, KAB095, KAB097, KAB098, KAB103, KAB113, Roméo Dallaire, and Angélique Pitteloud. See *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution First Omnibus Motion for Admission of Evidence Pursuant to Rule 110, 26 April 2022 (confidential), paras. 12-43; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution Second Omnibus Motion for Admission of Evidence Pursuant to Rule 110, 8 June 2022 (confidential), paras. 7-39; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution Third Motion for Admission of Evidence Pursuant to Rule 110: Witnesses KAB050 and KAB097, 15 June 2022 (confidential), paras. 7-24; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution Motion for Admission of Evidence of Witness KAB027 Pursuant to Rule 110, 15 August 2022, pp. 1, 2. See also *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Prosecution First Omnibus Motion for the Admission of Evidence Pursuant to Rule 110, 2 December 2021 (public with confidential Annex A); *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Prosecution Second Omnibus Motion for Admission of Evidence Pursuant to Rule 110, 3 January 2022 (public with confidential Annex A); *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Prosecution Third Motion for the Admission of Evidence Pursuant to Rule 110: KAB050 & KAB097, 26 January 2022 (public with confidential Annexes A and B); *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Prosecution Fourth Motion for the Admission of Evidence Pursuant to Rule 110: KAB027, 26 July 2022 (public with confidential Annex A). On 31 March 2023, the Trial Chamber denied a Prosecution motion to admit in lieu of oral testimony, pursuant to Rule 110 of the Rules, the written statements of Witnesses KAB083 and KAB112, previously found to be relevant and have probative value for the purpose of admission pursuant to Rules 105 and 111 of the Rules. See *Prosecution Fifth Motion for the Admission of Evidence Pursuant to Rule 110: KAB083 and KAB112*, 22 February 2023 (public with confidential Annex A); *Decision on Prosecution Fifth Motion for the Admission of Evidence Pursuant to Rule 110: Witnesses KAB083 and KAB112*, 31 March 2023, pp. 1-3.

<sup>96</sup> See T. 6 October 2022 p. 1.

<sup>97</sup> These Rule 111 witnesses are Witnesses KAB002, KAB005, KAB006, KAB007, KAB008, KAB009, KAB016, KAB017, KAB024, KAB025, KAB028, KAB030, KAB031, KAB033, KAB034, KAB035, KAB038, KAB041, KAB045, KAB046, KAB048, KAB053, KAB061, KAB062, KAB066, KAB067, KAB069, KAB070, KAB071, KAB072, KAB076, KAB079, KAB081, KAB083, KAB085, KAB086, KAB092, KAB093, KAB096, KAB099, KAB112, KAB117, François Butare, Étienne Gasenge, Pascal Mukuralinda, Monique Mujawamariya, and François Xavier Nsanzuwera. See *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution Motion for the Admission of the Evidence of Twelve Witnesses Pursuant to Rule 111, 12 July 2022 (confidential), paras. 4-33; *Second Rule 111 Decision*, paras. 5-23; *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Decision on Prosecution Third Motion for the Admission of Evidence Pursuant to Rule 111, 26 August 2022, paras. 4-20; *Fourth Rule 111 Decision*, paras. 6-35; *Fifth Rule 111 Decision*, paras. 5-27; *Decision on Prosecution Sixth Motion for the Admission of Evidence Pursuant to Rule 111: KAB028*, 28 March 2023, pp. 1-4. The Trial Chamber granted, on an exceptional basis, the Prosecution's request to hear Witness KAB005 as a hybrid *viva voce* witness. See *Fourth Rule 111 Decision*, paras. 3, 24, 25, 35. See also *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Prosecution Motion for the Admission of the Evidence of Twelve Witnesses Pursuant to Rule 111, 28 February 2022 (public with confidential Annexes A and B); *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Prosecution Second Motion for the Admission of Evidence Pursuant to Rule 111, 19 May 2022 (public with confidential Annexes A and B); *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Prosecution Third Motion for the Admission of Evidence Pursuant to Rule 111, 8 July 2022 (public with confidential Annex A); *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Prosecution Fourth Motion for the Admission of Evidence Pursuant to Rule 111, 29 July 2022 (public with confidential Annexes A and B); *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Prosecution Fifth Motion for the Admission of Evidence Pursuant to Rule 111, 17 August 2022 (public with confidential Annexes A and B); *Prosecution Sixth Motion for the Admission of Evidence Pursuant to Rule 111: KAB028*, 23 February 2023 (public with confidential Annex A).

<sup>98</sup> See *supra* para. 4.

stayed, 21 of these witnesses had appeared before the Trial Chamber for cross-examination by the Defence and further questioning by the Judges.<sup>99</sup>

29. When the evidentiary hearings were suspended on 3 March 2023,<sup>100</sup> the Trial Chamber had placed on the record 416 Prosecution exhibits and 20 Defence exhibits.<sup>101</sup> Thereafter, the Prosecution compiled a preliminary and representative sample of excerpts of RTLM broadcasts relevant to the charges in the Operative Indictment to assist the Trial Chamber and the Defence by indicating the Prosecution's views on these documents, which was filed on the record on 10 March 2023.<sup>102</sup> A Prosecution sixth motion for admission of evidence pursuant to Rule 110 and a Prosecution motion seeking to admit 109 documents from the bar table, including, *inter alia*, reports and documents from the United Nations Assistance Mission for Rwanda, issues of the *Kangura* newspaper, financial documents concerning Mr. Kabuga and the RTLM, documents concerning the purchase of weapons and ammunitions, and videos of interviews of members of the alleged joint criminal enterprise, were also under scrutiny by the Trial Chamber and subsequently dismissed without prejudice when the proceedings were indefinitely stayed.<sup>103</sup>

30. *Site Visit.* On 24 November 2022, the Prosecution and Defence filed a joint submission requesting that the Trial Chamber undertake a site visit to agreed locations in Rwanda, to assist in its assessment of the evidence, between the close of the Prosecution case and the commencement of the Defence case.<sup>104</sup> On 22 December 2022, the parties filed additional submissions proposing a list of 15 sites in Rwanda, including seven sites in Kigali and eight sites in Gisenyi.<sup>105</sup> On 20 April 2023, upon the Trial Chamber's instruction, the parties filed a revised list of sites, explaining and justifying the purpose of each visit.<sup>106</sup> On 17 July 2023, the Trial Chamber issued an order instructing the Witness Support and Protection Unit of the Mechanism to conduct an

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<sup>99</sup> See *supra* n. 91.

<sup>100</sup> See *infra* para. 33.

<sup>101</sup> In addition, six Prosecution exhibits and one Defence exhibit remained marked for identification.

<sup>102</sup> Prosecution Submission Compiling a Preliminary and Representative Sample of RTLM Broadcasts, 10 March 2023, paras. 1-3, Annexes A and B. See also T. 8 March 2023 p. 8.

<sup>103</sup> See Prosecution Sixth Motion for the Admission of Evidence Pursuant to Rule 110: Kaiser Rizvi and Mathias Ruzindana, 3 May 2023 ("Sixth Rule 110 Motion"); Prosecution First Motion for Admission of Documents from the Bar Table and for Judicial Notice of Authenticity, 26 May 2023 (public with confidential Annexes A to C) ("Bar Table Motion"); Decision of 8 September 2023, pp. 3-5.

<sup>104</sup> Joint Submission on Trial Calendar and Site Visit, 24 November 2022 ("Site Visit Motion"), para. 2.

<sup>105</sup> Joint Submission on Joint Proposal for Site Visit, 22 December 2022 (public with confidential Annexes A to C), Annex A. See also Order for Submissions on the Joint Proposal for a Site Visit, 13 December 2022, pp. 1, 2.

<sup>106</sup> Order for Further Submissions on the Joint Proposal for a Site Visit, 21 March 2023 ("Order of 21 March 2023"), pp. 1-4; Further Submissions on the Joint Proposal for Site Visit, 20 April 2023 (public with confidential Annex) ("Submission of 20 April 2023"), para. 1, Annex A.

assessment of the risks presented by visiting these sites.<sup>107</sup> The Site Visit Motion was dismissed without prejudice in September 2023, when the proceedings were stayed indefinitely.<sup>108</sup>

31. *Health of the Accused during Trial Proceedings.* During the trial proceedings, the Trial Chamber remained actively engaged in litigation related to Mr. Kabuga's health. To accommodate Mr. Kabuga's condition, and based on medical advice, hearings were limited to two hours per day, three days per week. Mr. Kabuga was allowed to participate either in the courtroom or by video-conference link from the UNDU.<sup>109</sup> Between 29 September 2022 and 22 December 2022, Mr. Kabuga attended court proceedings in person on 18 occasions, elected to participate by video-conference link on three occasions, and waived his right to participate on eight occasions.<sup>110</sup> The Trial Chamber acknowledged in the First Fitness Decision that Mr. Kabuga's fitness could change overtime. It also implemented a monitoring regime whereby a panel of three independent experts would submit a joint report every 180 days.<sup>111</sup> On 13 July 2022, the Registrar appointed Professors Kennedy and Mezey as experts in forensic psychiatry and Professor Patrick Cras as expert in neurology ("Experts") to compose this panel.<sup>112</sup>

32. In their First Joint Monitoring Report filed on 12 December 2022, the Experts concluded unanimously that Mr. Kabuga was not fit to stand trial and recommended that a re-evaluation occur three months later to determine whether the change in condition was irreversible or part of a pattern of fluctuation.<sup>113</sup> The Trial Chamber instructed the Experts to re-evaluate Mr. Kabuga within the suggested timeframe and dismissed as premature a Defence request for an immediate stay of proceedings.<sup>114</sup> The parties also filed submissions regarding the practical recommendations set out in the First Joint Monitoring Report and possible arrangements for the continuation of trial.<sup>115</sup> In

<sup>107</sup> Second Order for Further Submissions on the Joint Proposal for Site Visit, 17 July 2023 (confidential), pp. 1, 2. *See also* Order of 21 March 2023, pp. 2, 3; Submission of 20 April 2023, para. 4.

<sup>108</sup> Decision of 8 September 2023, pp. 3-5.

<sup>109</sup> T. 18 August 2022 pp. 5-8.

<sup>110</sup> Mr. Kabuga attended in person on 11 October, 8, 9, 10, 15, 16, 17, 23, and 24 November, and 1, 7, 8, 13, 14, 15, 20, 21, and 22 December 2022, he waived this right on 29 and 30 September and 6, 12, 13, 18, 19, and 20 October 2022, and he participated remotely on 5 and 25 October and 22 November 2022.

<sup>111</sup> First Fitness Decision, paras. 57, 62.

<sup>112</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-PT, Registrar's Submission in Relation to the "Decision on Félicien Kabuga's Fitness to Stand Trial and to Be Transferred to and Detained in Arusha" of 13 June 2022, 18 July 2022 (public with confidential Annex), paras. 3, 4.

<sup>113</sup> Registrar's Submission in Relation to the "Decision on Félicien Kabuga's Fitness to Stand Trial and to Be Transferred to and Detained in Arusha" of 13 June 2022, 12 December 2022 (public with confidential Annex), Annex ("First Joint Monitoring Report"), p. 10.

<sup>114</sup> *See* T. 13 December 2022 p. 7; T. 14 December 2022 pp. 1-3; Decision on Félicien Kabuga's Motion for Certification to Appeal the Oral Decision of 14 December 2022, 11 January 2023 (confidential), pp. 1-3.

<sup>115</sup> Prosecution's Submission Pursuant to the 15 December 2022 "Order for Submissions in Relation to the Joint Monitoring Report", 22 December 2022 (confidential with confidential Annex); Defence Submissions in Response to the Chamber's Order of 15 December 2022, 29 December 2022 (original in French; confidential). *See also* Order for

January 2023, the Medical Officer reported that Mr. Kabuga had been diagnosed with further intercurrent health incidents and that the extent to which he would recover remained unclear.<sup>116</sup> The Trial Chamber postponed the resumption of the trial until February 2023 and further reduced the court schedule to two days a week, with Mr. Kabuga attending by video-conference link.<sup>117</sup> On 23 February 2023, the Trial Chamber again dismissed as premature a Defence motion for stay of proceedings and to declare Mr. Kabuga unfit to stand trial.<sup>118</sup>

33. In their Second Joint Monitoring Report filed on 3 March 2023, the Experts found unanimously that Mr. Kabuga's physical health and mental capacities had deteriorated significantly since their previous assessments and agreed that Mr. Kabuga could no longer meaningfully participate in his trial regardless of trial modalities or accommodations.<sup>119</sup> Evidentiary hearings were immediately suspended and procedural hearings were subsequently held to hear the parties and the Experts on the issue of Mr. Kabuga's fitness to stand trial, as well as its practical and procedural implications.<sup>120</sup>

34. *Second Decision on Fitness to Stand Trial and Alternative Finding Procedure.* On 6 June 2023, the Trial Chamber issued its Second Fitness Decision finding, Judge El Baaj dissenting, that Mr. Kabuga was not fit to stand trial and was very unlikely to regain fitness in the future.<sup>121</sup> Having considered the extensive medical record, including the First and Second Joint Monitoring Report, the testimonies of the Experts and the Medical Officer's reports, the Trial Chamber determined that Mr. Kabuga was unfit for trial.<sup>122</sup> The Trial Chamber particularly considered the Experts' agreement that: (i) Mr. Kabuga's cognitive and physical functions had progressively and significantly deteriorated since the pre-trial stage; (ii) he had severe dementia;

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Submissions in Relation to the Joint Monitoring Report and on Request for Access, 15 December 2022 (confidential), pp. 1, 2.

<sup>116</sup> Registrar's Submission in Relation to the "Order Following Initial Appearance" of 25 November 2020, 4 January 2023 (public with confidential Annex), Annex, RP. 4711; Registrar's Submission in Relation to the "Order Following Initial Appearance" of 25 November 2020, 11 January 2023 (public with confidential Annex), Annex, RP. 4734, 4733.

<sup>117</sup> See Order on Proceedings, 30 January 2023, p. 1; Further Order on Proceedings, 3 February 2023, p. 2; Decision on the Conduct of Trial Proceedings, 13 February 2023, paras. 18-23. See also T. 22 December 2022 p. 33; Registrar's Submission in Relation to the "Order Following Initial Appearance" of 25 November 2020, 26 January 2023 (public with confidential Annex), Annex, RP. 4856, 4855. Evidentiary hearings were held on 14, 15, 22, 23, 28 February 2023, and 2 March 2023.

<sup>118</sup> Decision on Félicien Kabuga's Motion for Certification to Appeal the Decision of 13 February 2023 on Conduct of Proceedings, 23 February 2023, pp. 1-3.

<sup>119</sup> Registrar's Submission in Relation to the Oral Ruling of 14 December 2022, 6 March 2023 (confidential with confidential Annex), para. 7, Annex ("Second Joint Monitoring Report"), RP. 5029.

<sup>120</sup> See Further Order on Proceedings, 6 March 2023, p. 1; Scheduling Order, 10 March 2023, pp. 1, 2. The parties were also ordered to file written submissions concerning the consequences of a Trial Chamber decision that Mr. Kabuga is unfit for trial. See Order for Submissions, 25 April 2023, pp. 1, 2.

<sup>121</sup> Further Decision on Félicien Kabuga's Fitness to Stand Trial, 6 June 2023 ("Second Fitness Decision"), paras. 39, 57-59.

(iii) he could not participate meaningfully in his trial, even with accommodations; (iv) he lacked the four capacities crucial to meaningful participation in a trial: the ability to understand the course of proceedings, understand the evidence, instruct counsel, and testify; and (v) he could not follow proceedings or understand evidence, except at the most superficial level.<sup>123</sup> The Trial Chamber also took into account the Expert's agreement that Mr. Kabuga, while having a superficial level of cognition, retained the capacities to enter a plea, and to understand the nature of the charges and the consequences of the proceedings.<sup>124</sup>

35. The majority of the Trial Chamber further determined that the best way to ensure respect for Mr. Kabuga's rights and to effectuate the goals of the Mechanism was to adopt an alternative finding procedure that resembled a trial as closely as possible, but without the possibility of a conviction.<sup>125</sup> The majority of the Trial Chamber opined that such a course of action was in line with generally accepted human rights norms and the United Nations Convention on the Rights of Persons with Disabilities.<sup>126</sup> The Trial Chamber also maintained the medical monitoring regime, including periodic reports from the Experts.<sup>127</sup>

36. *Appeal Decision on Fitness to Stand Trial and Indefinite Stay of Proceedings.* Both the Prosecution and the Defence filed appeals against the Second Fitness Decision.<sup>128</sup> On 7 August 2023, the Appeals Chamber affirmed the determination that Mr. Kabuga was not fit to stand trial and very unlikely to regain fitness but considered that the adoption of an alternative finding procedure in lieu of trial was incompatible with the Mechanism's legal framework.<sup>129</sup> The Appeals Chamber therefore instructed the Trial Chamber to impose an indefinite stay of proceedings and to address expeditiously the issue of Mr. Kabuga's detention and consider appropriate modalities for his release.<sup>130</sup>

<sup>122</sup> Second Fitness Decision, para. 30. *See also* Second Fitness Decision, paras. 35, 36.

<sup>123</sup> Second Fitness Decision, paras. 30, 31, 33 and reference cited therein.

<sup>124</sup> Second Fitness Decision, para. 34.

<sup>125</sup> Second Fitness Decision, paras. 57-59. *See also* Second Fitness Decision, paras. 36, 39.

<sup>126</sup> Second Fitness Decision, paras. 52-57, 59.

<sup>127</sup> Second Fitness Decision, para. 59.

<sup>128</sup> *See Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-AR80.3, Appeal Against the "Further Decision on Félicien Kabuga's Fitness to Stand Trial" of 6 June 2023, 23 June 2023 (original filed in French); *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-AR80.3, Prosecution Interlocutory Appeal of Decision that Kabuga is Not Fit to Stand Trial, 23 June 2023 (confidential with confidential and *ex parte* Annex; public redacted version filed on 26 June 2023); *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-AR80.3, Order Assigning Appeals to a Bench of the Appeals Chamber, 23 June 2023, pp. 1, 2. *See also* Decision on Motions for Certification to Appeal the Further Decision on Félicien Kabuga's Fitness to Stand Trial, 16 June 2023, p. 2.

<sup>129</sup> *See Prosecutor v. Félicien 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 ("Appeal Decision of 7 August 2023"), paras. 17-72, 79.

<sup>130</sup> *See* Appeal Decision of 7 August 2023, paras. 74, 76, 79.

37. On 6 September 2023, the Trial Chamber held a hearing to allow the parties to make oral submissions with respect to these issues.<sup>131</sup> On 8 September 2023, the Trial Chamber issued a decision on remand indefinitely staying the proceedings and ordering that Mr. Kabuga remain in detention at the UNDU, pending resolution of the issue of his provisional release, and that his medical monitoring regime be maintained.<sup>132</sup> The Trial Chamber stated that release prior to acquittal or termination of a case can only be contemplated through provisional release under Rule 68 of the Rules, as the Mechanism has no authority to compel States to accept an individual onto their territory, and that it would provide support for Defence efforts to secure Mr. Kabuga's release into a State it has already identified, or may identify in the future, willing to accept him.<sup>133</sup>

#### IV. PROCEEDINGS FOLLOWING STAY OF TRIAL: SEPTEMBER 2023 TO MAY 2026

38. *Status Conferences and Medical Monitoring.* In its Decision of 8 September 2023, the Trial Chamber ordered that status conferences be held every 120 days until Mr. Kabuga's release.<sup>134</sup> Status conferences were accordingly held on 13 December 2023, 26 March 2024, 24 July 2024, 11 December 2024, 1 May 2025, 25 September 2025, and 17 December 2025, providing the parties an opportunity to raise matters concerning Mr. Kabuga's health and detention and enabling the Trial Chamber to hear from the Defence about the progress it had made in identifying an appropriate and willing state for Mr. Kabuga's provisional release.<sup>135</sup> Mr. Kabuga's medical monitoring regime was also maintained with reports by the Medical Officer filed every two weeks, and then monthly,<sup>136</sup> between 20 September 2023 and 16 April 2026. The panel of Experts also filed four reports on Mr. Kabuga's fitness to stand trial between 26 February 2024 and 15 August 2025.<sup>137</sup>

<sup>131</sup> Order Scheduling a Hearing, 18 August 2023, pp. 1, 2; T. 6 September 2023.

<sup>132</sup> Decision of 8 September 2023, p. 5. The Trial Chamber dismissed all pending motions, including the Site Visit Motion, the Sixth Rule 110 Motion, and the Bar Table Motion, and further vacated an existing subpoena. *See* Decision of 8 September 2023, pp. 3-5; Decision Vacating a Subpoena, 8 September 2023 (confidential), p. 1.

<sup>133</sup> T. 6 September 2023 p. 19; Decision of 8 September 2023, pp. 2, 4, n. 7. *See also* Decision on Defence Request for an Article 28 Order for Provisional Release, 29 February 2024 (confidential) ("Decision of 29 February 2024"), pp. 4-6, nn. 20, 21. *See also infra* para. 40, n. 143.

<sup>134</sup> Decision of 8 September 2023, pp. 2, 5.

<sup>135</sup> Order Scheduling a Status Conference, 8 November 2023, p. 2; Order Scheduling a Status Conference, 7 March 2024, p. 2; Order Scheduling a Status Conference, 5 June 2024, p. 2; Order Scheduling a Status Conference, 23 October 2024, p. 2; Order Scheduling a Status Conference, 11 April 2025, p. 3; Order Scheduling a Status Conference, 11 August 2025, p. 3; Order Scheduling a Status Conference, 17 November 2025, p. 2. *See also* T. 13 December 2023; T. 26 March 2024; T. 24 July 2024; T. 11 December 2024; T. 1 May 2025; T. 25 September 2025; T. 17 December 2025.

<sup>136</sup> *See* Decision of 8 September 2023, pp. 2, 5; Order Amending the Medical Reporting Regime, 25 September 2023, pp. 1, 2.

<sup>137</sup> Registrar's Submission in Relation to the "Decision on Félicien Kabuga's Fitness to Stand Trial and to Be Transferred to and Detained in Arusha" of 13 June 2022, the "Further Decision on Félicien Kabuga's Fitness to Stand Trial" of 6 June 2023 and the "Decision Imposing an Indefinite Stay of Proceedings" of 8 September 2023, 26 February 2024 (confidential with confidential Annex); Registrar's Submission in Relation to the "Decision on Félicien Kabuga's Fitness to Stand Trial and to Be Transferred to and Detained in Arusha" of 13 June 2022, the "Further Decision on Félicien Kabuga's Fitness to Stand Trial" of 6 June 2023, the "Decision Imposing an Indefinite

On 23 January 2026, the Trial Chamber, considering that Mr. Kabuga's dementia and physical ailments had severely and permanently impaired his ability to function independently, with his treatment and care being strictly palliative, suspended Mr. Kabuga's periodic monitoring by the panel of Experts until further order.<sup>138</sup>

39. *Provisional Release.* The phase after the stay of proceedings was marked by the concerted efforts of the Trial Chamber, Defence, and Registry to implement the instruction of the Appeals Chamber to secure a State willing to receive Mr. Kabuga on its territory. In the Decision of 8 September 2023, the Trial Chamber ordered the Registry to use its good offices to provide all possible support in facilitating contact and communication between the Defence and the appropriate authorities of national jurisdictions in which Mr. Kabuga would seek provisional release, and the Defence was ordered to file regular reports regarding its progress in identifying an appropriate and willing State of provisional release.<sup>139</sup> Between 16 October 2023 and 17 May 2026, the Defence provided a total of 35 progress reports on its efforts to secure a State for Mr. Kabuga's provisional release. According to these reports, the Defence filed several administrative claims on different grounds in two European States, including France, and explored possible proceedings in a third State. It also raised the possibility that Mr. Kabuga could reside in a location considered to be an extension of the Mechanism's premises in The Hague.<sup>140</sup> It bears noting that the Government of the

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Stay of Proceedings" of 8 September 2023, and the "Order for Submissions" of 22 July 2024, 23 August 2024 (confidential with confidential Annex) ("Fifth Monitoring Report"); Registrar's Submission in Relation to the "Decision on Félicien Kabuga's Fitness to Stand Trial and to Be Transferred to and Detained in Arusha" of 13 June 2022, the "Further Decision on Félicien Kabuga's Fitness to Stand Trial" of 6 June 2023, the "Decision Imposing an Indefinite Stay of Proceedings" of 8 September 2023, and the "Order for Submissions" of 22 July 2024, 18 February 2025 (confidential with confidential Annex); Registrar's Submission in Relation to the "Decision on Félicien Kabuga's Fitness to Stand Trial and to Be Transferred to and Detained in Arusha" of 13 June 2022, the "Further Decision on Félicien Kabuga's Fitness to Stand Trial" of 6 June 2023, the "Decision Imposing an Indefinite Stay of Proceedings" of 8 September 2023, and the "Order for Submissions" of 22 July 2024, 15 August 2025 (confidential with confidential Annex).

<sup>138</sup> Further Order Amending the Medical Reporting Regime, 23 January 2026, pp. 2, 3.

<sup>139</sup> Decision of 8 September 2023, pp. 4, 5. On 17 December 2024, the Trial Chamber amended the Defence progress reporting regime, with an instruction to file a report on the progress it has made in identifying an appropriate State of provisional release as soon as possible should there be any material developments. *See* Order Amending the Progress Reporting Regime in Relation to Provisional Release, 17 December 2024, p. 2.

<sup>140</sup> *See, e.g.,* First Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 16 October 2023 (original in French; confidential), paras. 9-18; Second Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 30 October 2023 (original in French; confidential), paras. 10-21; Third Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 13 November 2023 (original in French; confidential with confidential Annexes), paras. 11-23; Fourth Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 27 November 2023 (original in French; confidential), paras. 12-28; Fifth Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 13 December 2023 (original in French; confidential with confidential Annexes), paras. 14-32; Sixth Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 28 December 2023 (original in French; confidential with confidential Annex), paras. 15-36; Seventh Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 8 January 2024 (original in French; confidential), paras. 16-38; Eighth Progress Report in relation to the Provisional Release of Félicien Kabuga

pursuant to the Trial Chamber's Order of 25 September 2023, 22 January 2024 (original in French; confidential), paras. 17-42; Ninth Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 5 February 2024 (original in French; confidential), paras. 18-44; Tenth Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 19 February 2024 (original in French; confidential), paras. 19-54; Eleventh Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 4 March 2024 (original in French; confidential), paras. 20-57; Twelfth Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 18 March 2024 (original in French; confidential), paras. 21-57; Thirteenth Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 1 April 2024 (original in French; confidential), paras. 22-70; Fourteenth Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 15 April 2024 (original in French; confidential), paras. 24-77; Fifteenth Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 29 April 2024 (original in French; confidential), paras. 25-79; Sixteenth Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 13 May 2024 (original in French; confidential and *ex parte* with confidential and *ex parte* Annex), paras. 25-80; Seventeenth Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 27 May 2024 (original in French; confidential), paras. 26-82; Eighteenth Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 10 June 2024 (original in French; confidential), paras. 27-84; Nineteenth Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 24 June 2024 (original in French; confidential with confidential Annex), paras. 28-86; Twentieth Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 8 July 2024 (original in French; confidential), paras. 29-89; Twenty-First Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 22 July 2024 (original in French; confidential with confidential Annex), paras. 30-85; Twenty-Second Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 5 August 2024 (original in French; confidential), paras. 31-86; Twenty-Third Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 19 August 2024 (original in French; confidential), paras. 32-90; Twenty-Fourth Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 2 September 2024 (original in French; confidential), paras. 33-92; *Vingt-cinquième rapport de situation concernant la mise en liberté provisoire de Félicien Kabuga, présenté conformément à l'ordonnance rendue par la Chambre de première instance le 25 septembre 2023*, 16 September 2024 (confidential), paras. 34-94; Twenty-Sixth Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 30 September 2024 (original in French; confidential), paras. 35-95; Twenty-Seventh Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 14 October 2024 (original in French; confidential), paras. 36-97; Twenty-Eighth Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 28 October 2024 (original in French; confidential), paras. 10-72; Twenty-Ninth Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 11 November 2024 (original in French; confidential), paras. 10-74; Thirtieth Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 25 November 2024 (original in French; confidential), paras. 10-75; Thirty-First Progress Report in relation to the Provisional Release of Félicien Kabuga pursuant to the Trial Chamber's Order of 25 September 2023, 9 December 2024 (original in French; confidential), paras. 10-75; Thirty-Second Progress Report in relation to the Provisional Release of Félicien Kabuga Pursuant to the Trial Chamber's Orders of 25 September 2023 and 17 December 2024, 23 June 2025 (original in French; confidential), paras. 13-44; Thirty-Third Progress Report in relation to the Provisional Release of Félicien Kabuga Pursuant to the Trial Chamber's Orders of 25 September 2023 and 17 December 2024, 16 September 2025 (original in French; confidential), paras. 14-50; Thirty-Fourth Progress Report in relation to the Provisional Release of Félicien Kabuga Pursuant to the Trial Chamber's Orders of 25 September 2023 and 17 December 2024, 17 December 2025 (original in French; confidential), paras. 14-65; *Trente-cinquième rapport de situation concernant la mise en liberté provisoire de Félicien Kabuga, présenté conformément aux ordonnances rendues par la Chambre de première instance le 25 septembre 2023 et le 17 décembre 2024*, 17 May 2026 (confidential) ("Thirty-Fifth Defence Progress Report"), paras. 2-66. *See also* T. 24 July 2024 pp. 9, 10; T. 11 December 2024 pp. 6-9; T. 1 May 2025 pp. 7, 9, 10; T. 25 September 2025 pp. 9-15; T. 17 December 2025 pp. 8-14.

Netherlands, as the host state, indicated from an early stage of the pre-trial proceedings that it would not consent to Mr. Kabuga's provisional release onto its territory as he had no right to reside there, a position that was reiterated after the stay of proceedings.<sup>141</sup>

40. Between 18 January 2024 and 20 April 2026, the Trial Chamber issued several confidential orders and decisions in relation to Mr. Kabuga's requests addressed to European States to accept him onto their territory as a provisionally released accused.<sup>142</sup> In a decision issued on 29 February 2024, the Trial Chamber emphasized that Article 28 of the Statute of the Mechanism ("Statute") does not give it the authority to compel a State to accept Mr. Kabuga onto its territory as a provisionally released accused over its refusal and that the Mechanism must rely on the voluntary cooperation of Member States to find an acceptable solution and effectuate his release.<sup>143</sup> On 27 May 2024, the Trial Chamber granted a Defence motion requesting that a State provide clarification concerning a decision rejecting Mr. Kabuga's request for provisional release onto its territory.<sup>144</sup> The State reiterated its inability to accept Mr. Kabuga onto its territory due to the absence of a "conventional framework on this matter" with the Mechanism.<sup>145</sup> On 29 October 2024, the President of the Mechanism denied a Defence request to modify the conditions of Mr. Kabuga's detention, pursuant to Rule 67 of the Rules, to allow him to reside in a location considered to be an extension of the Mechanism's premises in The Hague.<sup>146</sup>

41. As of the date of Mr. Kabuga's passing in May 2026, three years after the instruction to provisionally release him, no State which he had identified had agreed to accept him onto its territory.<sup>147</sup>

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<sup>141</sup> Decision of 1 June 2021, p. 3, n. 19 and references cited therein; Decision of 29 February 2024, p. 3, n. 15 and references cited therein. On 6 May 2026, the Government of the Netherlands reiterated its position in a *note verbale* sent in response to an order for submissions concerning a confidential Defence request to reclassify Mr. Kabuga's stay at the prison hospital as a modality of his provisional release. See Defence Motion to Reclassify Félicien Kabuga's Hospitalisation for the Purposes of Implementing His Provisional Release, 10 February 2026 (original in French; confidential); Order for Submissions, 10 April 2026 (confidential) ("Order of 10 April 2026"), pp. 1-5.

<sup>142</sup> See Order for Submissions, 18 January 2024 (confidential) ("Order of 18 January 2024"), pp. 1-3; Decision of 29 February 2024; Decision on Defence Request for Assistance, 27 May 2024 (confidential) ("Decision of 27 May 2024"); Decision on Defence Motion for Authorisation to Disclose Medical Information, 22 July 2025 (confidential), pp. 1, 2; Decision on Defence Motion for Authorisation to Disclose Medical Information, 7 October 2025 (confidential), pp. 1-3; Order of 10 April 2026, pp. 1-4.

<sup>143</sup> Decision of 29 February 2024, pp. 1-6. See also Order of 18 January 2024, pp. 1-3; T. 26 March 2024 pp. 2, 3.

<sup>144</sup> Decision of 27 May 2024, pp. 1-3; T. 24 July 2024 p. 2.

<sup>145</sup> See T. 24 July 2024 pp. 2, 3.

<sup>146</sup> See Decision on Félicien Kabuga's Application for Modification of Conditions of Detention, 29 October 2024, pp. 1-5. See also Application for the Modification of Félicien Kabuga's Detention Conditions Pursuant to Rule 67, 25 July 2024 (original in French; confidential). See also T. 24 July 2024 pp. 7, 8, 11; T. 11 December 2024 p. 3.

<sup>147</sup> Cf. Thirty-Fifth Defence Progress Report, para. 67; T. 20 May 2026 p. 3.

42. *Fitness to Travel to Rwanda*. On 16 February 2024, the Government of Rwanda, Mr. Kabuga's country of nationality, indicated its willingness to welcome Mr. Kabuga onto its territory as a provisionally released accused.<sup>148</sup> On 22 July 2024, the Trial Chamber instructed the Registrar to make preliminary inquiries with the Rwandan authorities about the facilities available for Mr. Kabuga's care in Rwanda, and invited the Experts to indicate whether they were able to assess Mr. Kabuga's fitness to travel to, and be released in, Rwanda.<sup>149</sup> In their Fifth Monitoring Report filed on 23 August 2024, the Experts agreed that Mr. Kabuga was not fit to travel to and be released in Rwanda, which they believed would be highly detrimental to his mental and physical health and might endanger his health to a life-shortening degree.<sup>150</sup>

43. On 16 December 2024, having considered the Experts' Fifth Monitoring Report and the parties' observations thereon,<sup>151</sup> the Trial Chamber instructed the Registrar to appoint an independent expert in the field of critical care medicine and medical transfers and to file a written report that addressed any risks to Mr. Kabuga's physical and mental health associated with transporting him by air.<sup>152</sup> Dr. Gert Muurling, who was appointed in January 2025,<sup>153</sup> filed two reports on 22 April 2025 and 23 June 2025, wherein he opined that Mr. Kabuga could not be declared fit to fly and that flying him to Rwanda would put him at severe risk of medical deterioration.<sup>154</sup> On 9 September 2025, the Prosecution filed a submission requesting that the Trial Chamber decide whether to provisionally release Mr. Kabuga to Rwanda, which was denied by the

<sup>148</sup> Registrar's Submission Pursuant to the Order in Relation to a Communication from the Registrar, 16 February 2024, Annex, RP. 6172, 6171. *See also* T. 26 March 2024 pp. 3, 4.

<sup>149</sup> Order for Submissions, 22 July 2024 (confidential), pp. 1, 2; T. 24 July 2024 p. 3.

<sup>150</sup> Fifth Monitoring Report, RP. 6645, 6644. *See also* Fifth Monitoring Report, RP. 6638, 6625, 6615.

<sup>151</sup> *See* Further Order for Submissions, 14 October 2024 (confidential), pp. 1, 2; Prosecution Submission Pursuant to the Chamber's 14 October 2024 Confidential Order for Submissions Concerning the Possibility of Kabuga's Release to Rwanda, 28 October 2024 (confidential with confidential Annexes A and B); Defence Submission on the Transfer of Félicien Kabuga to Rwanda, in Light of the Independent Medical Experts' Findings and Filed Pursuant to the Order of 14 October 2024, 28 October 2024 (original in French; confidential with confidential and *ex parte* Annex); Prosecution Response to Defence Submission Concerning the Possibility of Kabuga's Release to Rwanda, 5 November 2024 (confidential); Defence Response to "Prosecution Submission Pursuant to the Chamber's 14 October 2024 Confidential Order for Submissions Concerning the Possibility of Kabuga's Release to Rwanda", 5 November 2024 (original in French; confidential).

<sup>152</sup> Order for Further Independent Medical Expert Evaluation, 16 December 2024 (confidential), pp. 3, 4.

<sup>153</sup> Registrar's Submission in Relation to the "Order for Further Independent Medical Expert Evaluation" of 16 December 2024, 4 February 2025 (confidential with confidential Annex), para. 3. On 7 March 2025, Dr. Muurling was granted access to Mr. Kabuga's medical file on a strictly confidential basis and was ordered to file his report within 30 days. *See* Decision on Registrar's Second Submission in Relation to the Order of 16 December 2024, 7 March 2025 (confidential), pp. 4-6.

<sup>154</sup> Registrar's Submission in Relation to the "Decision on Registrar's Second Submission in Relation to the Order of 16 December 2024" Dated 7 March 2025, 22 April 2025 (confidential with confidential Annex), para. 8, Annex; Registrar's Submission in Relation to the "Order for Further Submissions from the Independent Medical Expert of 2 June 2025", 23 June 2025 (confidential with confidential Annex), para. 4, Annex. *See also* T. 1 May 2025 pp. 14-21, 25-28; Order for Further Submissions from the Independent Medical Expert, 2 June 2025, pp. 2, 3, Annex.

Trial Chamber during the status conference of 25 September 2025.<sup>155</sup> On 5 November 2025, the Prosecution filed a further expert opinion from Dr. Liam Scott, an air ambulance doctor in the United Kingdom.<sup>156</sup>

44. On 14 November 2025, the Trial Chamber issued a decision finding that Mr. Kabuga was not fit to travel to and be released in Rwanda, considering that such transfer would pose “clear and substantial risks to his life” and be incompatible with the Mechanism’s duty of care to Mr. Kabuga, especially in the absence of his consent.<sup>157</sup> As the decision was based on Mr. Kabuga’s unfitness to travel to Rwanda and not on whether Rwanda was an appropriate State of release for Mr. Kabuga, the Trial Chamber determined that it was not necessary to consider whether Rwanda had the capacity to provide adequate care and safety for Mr. Kabuga or whether release to Rwanda would otherwise violate his rights or be inconsistent with the Statute or Rules.<sup>158</sup> The Trial Chamber further requested that European States, especially those close to the Netherlands and where Mr. Kabuga had made an application for provisional release, reconsider accepting him onto their territories based on his deteriorating medical condition.<sup>159</sup> On 28 April 2026, the Appeals Chamber dismissed the Prosecution’s appeal against this decision, as well as its alternate request for the Appeals Chamber to reconsider its previous decision remanding the matter of Mr. Kabuga’s release to the Trial Chamber and refer instead the matter to the President.<sup>160</sup> The Appeals Chamber further invited the Trial Chamber to examine the appropriateness of vacating the order for Mr. Kabuga’s detention on remand.<sup>161</sup> At the time of Mr. Kabuga’s death, the Trial Chamber was still considering the instruction from the Appeals Chamber.

45. *Recovery of Legal Aid Funds.* On 23 October 2023, the Registrar concluded its investigation into Mr. Kabuga’s means and deemed that he was non-indigent and capable of fully funding his entire defence before the Mechanism, a determination that was conditional upon access to frozen

<sup>155</sup> Prosecution Submission Concerning Kabuga’s Provisional Release to Rwanda, 9 September 2025, paras. 1, 4; T. 25 September 2025 p. 4. *See also* Defence Reply to the “Prosecution Submission Concerning Kabuga’s Provisional Release to Rwanda” of 9 September 2025”, 22 September 2025 (original in French; confidential with public version filed on 23 September 2025).

<sup>156</sup> Prosecution Submission of Expert Opinion on Aeromedical Transfers, 5 November 2025, paras. 1, 2, Annex. The Trial Chamber concluded, however, that the Prosecution offered no justification for submitting a new expert report at such a late stage, nor had it convinced the Trial Chamber of the usefulness of the general information contained in Dr. Scott’s report in view of the extensive evidence before the Chamber from independent medical experts with deep familiarity with Mr. Kabuga’s clinical condition. *See* Decision on Félicien Kabuga’s Fitness to Travel to Rwanda, 14 November 2025 (“Decision of 14 November 2025”), para. 20.

<sup>157</sup> Decision of 14 November 2025, paras. 22-30, 32.

<sup>158</sup> Decision of 14 November 2025, para. 31.

<sup>159</sup> Decision of 14 November 2025, para. 32. *See also* Decision of 14 November 2025, para. 30.

<sup>160</sup> *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-AR80.4, Decision on Prosecution Appeal or Motion for Reconsideration Concerning Félicien Kabuga’s Release, 28 April 2026 (“Decision of 28 April 2026”), paras. 19-26, 28, 30.

<sup>161</sup> Decision of 28 April 2026, paras. 29, 30.

assets attributed to Mr. Kabuga in various domestic jurisdictions.<sup>162</sup> The Registry decided it was appropriate to defer seeking an order for contribution until a natural conclusion of the proceedings and/or a related order of the Trial Chamber.<sup>163</sup> On 26 February 2024, the Trial Chamber requested the Registrar to investigate the feasibility and method of recovering the cost of Mr. Kabuga's legal expenses.<sup>164</sup> The Registrar filed confidential submissions in April and August 2024.<sup>165</sup> On 2 October 2024, the Trial Chamber issued a confidential order for contribution to Mr. Kabuga to reimburse the Mechanism for defence costs, pursuant to Rule 43(E) of the Rules.<sup>166</sup> In that order, the Trial Chamber requested the relevant State to assist the Mechanism by taking the necessary steps to unfreeze the amount required from a bank account attributed to Mr. Kabuga to cover current and any future legal costs of his representation before the Mechanism, then estimated at \$1,240,810.99.<sup>167</sup> Since that date, despite concerted efforts by the Registrar and the Trial Chamber, including several meetings and *note verbales* exchanged with State authorities, no solution has been found to resolve this matter, which remains of crucial importance to the Mechanism.<sup>168</sup>

46. *Death of the Accused and Termination.* As the Trial Chamber was preparing to hold the scheduled status conference on 20 May 2026,<sup>169</sup> it was informed by the Registrar that Mr. Kabuga had passed away on 16 May 2026, while in custody at the UNDU in The Hague. On 16 May 2026, in accordance with Rule 50(3) of the Rules of Detention, the President ordered an internal inquiry into the circumstances surrounding his death, assigning Judge Alphons Orie to conduct the inquiry and to report his findings to the President.<sup>170</sup> On 20 May 2026, the Trial Chamber held the final

<sup>162</sup> Decision on Indigency of the Accused, 6 October 2023 (public with confidential and *ex parte* Annexes) ("Registrar Decision on Indigency"), paras. 22-24, 26, 34, 35, 37, 39. Mr. Kabuga did not challenge the Registrar Decision on Indigency. See Defence Response to the "Decision on Indigency of the Accused", 18 October 2023 (original in French; confidential), paras. 3-6; T. 13 December 2023 p. 13.

<sup>163</sup> Registrar Decision on Indigency, para. 37; T. 13 December 2023 p. 11.

<sup>164</sup> Order for Submissions, 26 February 2024 (confidential), p. 3. See also T. 26 March 2024 p. 4.

<sup>165</sup> Registrar's Response to the Trial Chamber's Order for Submissions of 26 February 2024, 11 April 2024 (confidential with confidential Annexes A1 to A5 and confidential and *ex parte* Annex B); Registrar's First Supplemental Submission in Response to the Trial Chamber's Order for Submissions of 16 February 2024, 17 April 2024 (confidential with confidential Annexes A1 to A5). See also T. 24 July 2024 pp. 3, 4; Registrar's Second Supplemental Submission and Application for Recovery of Legal Aid, 7 August 2024 (confidential with confidential and *ex parte* Annex). See also T. 11 December 2024 pp. 3, 4.

<sup>166</sup> Order for Contribution Pursuant to Rule 43(E) and Request to [] Pursuant to Article 28, 2 October 2024 (confidential with confidential and *ex parte* Annex; *ex parte* status lifted pursuant to Trial Chamber's oral order on 25 September 2025) ("Order of 2 October 2024"), p. 6.

<sup>167</sup> Order of 2 October 2024, pp. 5, 6.

<sup>168</sup> Registrar's Report on Implementation of the "Order for Contribution Pursuant to Rule 43(E) and Request to [] Pursuant to Article 28" of 2 October 2024, 1 November 2024 (confidential), paras. 14-21. See also T. 11 December 2024 pp. 4-6; T. 1 May 2025 pp. 3, 4; T. 25 September 2025 pp. 5-8; T. 17 December 2025 pp. 5-7.

<sup>169</sup> Order Scheduling a Status Conference, 20 April 2026, p. 3.

<sup>170</sup> See Order Assigning a Judge to Conduct an Inquiry, 16 May 2026, p. 1. See also Rules Governing the Detention of Persons Awaiting Trial or Appeal Before the Mechanism or Otherwise Detained on the Authority of the Mechanism, 5 November 2018 ("Rules of Detention").

hearing in this case and terminated the proceedings against Mr. Kabuga.<sup>171</sup> On 10 July 2026, the report on the inquiry into the death of the Accused was placed on the record, confirming that Mr. Kabuga died of natural causes.<sup>172</sup>

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<sup>171</sup> T. 20 May 2026 pp. 1, 2; Termination Decision, p. 2.

<sup>172</sup> Order Placing on the Record the Report on the Inquiry into the Death of the Accused, 10 July 2026, p. 1, Annex, paras. 39, 69, 70, 76.



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

**I - FILING INFORMATION / INFORMATIONS GÉNÉRALES**

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| <b>To/ À :</b>                                              | IRMCT Registry/ Greffe du MIFRTP                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                     | <input checked="" type="checkbox"/> Arusha/ Arusha        | <input type="checkbox"/> The Hague/ La Haye |
| <b>From/ De :</b>                                           | <input type="checkbox"/> President/ Président                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <input checked="" type="checkbox"/> Chambers/ Chambre                                               | <input type="checkbox"/> Prosecution/ Bureau du Procureur | <input type="checkbox"/> Defence/ Défense   |
|                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                     | <input type="checkbox"/> Registrar/ Greffier              | <input type="checkbox"/> Other/ Autre       |
| <b>Case Name/ Affaire :</b>                                 | Prosecutor v. Félicien Kabuga                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                     | <b>Case Number/ Affaire n° :</b>                          | MICT-13-38-T                                |
| <b>Date Created/ Daté du :</b>                              | 12 October 2026                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                     | <b>Date transmitted/ Transmis le :</b>                    | 12 October 2026                             |
|                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                     | <b>Number of Pages/ Nombre de pages :</b>                 | 30                                          |
| <b>Original Language/ Langue de l'original :</b>            | <input checked="" type="checkbox"/> English/ Anglais                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <input type="checkbox"/> French/ Français                                                           | <input type="checkbox"/> Kinyarwanda                      | <input type="checkbox"/> B/C/S              |
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| <b>Title of Document/ Titre du document :</b>               | ADDENDUM TO DECISION TERMINATING PROCEEDINGS<br>ANNEX: PROCEDURAL HISTORY OF THE KABUGA CASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                     |                                                           |                                             |
| <b>Classification Level/ Catégories de classification :</b> | <input checked="" type="checkbox"/> Public/ Document public                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <input type="checkbox"/> Ex Parte Defence excluded/ Défense exclue                                  |                                                           |                                             |
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**II - TRANSLATION STATUS ON THE FILING DATE/ ÉTAT DE LA TRADUCTION AU JOUR DU DÉPÔT**

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