

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No. MICT-13-38-PT

Date: 20 January 2021

Original: English

IN THE TRIAL CHAMBER

Before: Judge Iain Bonomy, Pre-Trial Judge
Registrar: Mr. Abubacarr Tambadou
Decision of: 20 January 2021

PROSECUTOR

v.

FÉLICIEN KABUGA

PUBLIC

**DECISION ON DEFENCE MOTION TO SHARE
CONFIDENTIAL MEDICAL REPORTS**

Office of the Prosecutor:

Mr. Serge Brammertz

Counsel for Mr. Félicien Kabuga:

Mr. Emmanuel Altit

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

RECALLING that, following his arrest in France on 16 May 2020, Kabuga was temporarily transferred on 26 October 2020 to the United Nations Detention Unit at the Hague Branch of the Mechanism (“UNDU”) for a detailed medical assessment to determine whether and under what circumstances he may be safely transferred to the Arusha Branch of the Mechanism for trial;²

RECALLING that, following Kabuga’s initial appearance on 11 November 2020, I ordered the Registrar to file regular reports related to Kabuga’s health and the Defence to file any application on matters relating to Kabuga’s health by Friday, 22 January 2021;³

RECALLING FURTHER that, in scheduling the upcoming status conference for 3 February 2021, I further indicated that the parties should be prepared to discuss Kabuga’s health and fitness to be transferred to the United Nations Detention Facility in Arusha, United Republic of Tanzania to stand trial at the Arusha Branch of the Mechanism with a view to enabling the Trial Chamber to make a final decision thereon;⁴

NOTING the five reports received from the UNDU Medical Officer related to Kabuga’s health;⁵

BEING SEISED of a confidential Defence motion filed on 15 January 2021 requesting that it be allowed to share on a confidential basis the Five Medical Reports with doctors, including Kabuga’s prior attending physician, who may assist it in preparing submissions regarding Kabuga’s physical and mental state;⁶

¹ See Order Assigning a Trial Chamber, 1 October 2020, p. 1; Order Designating a Pre-Trial Judge, 29 October 2020 (“Order of 29 October 2020”), p. 1.

² See Order of 29 October 2020, p. 1; Decision on Félicien Kabuga’s Motion to Amend the Arrest Warrant and Order for Transfer, 21 October 2020, paras. 2, 11-18.

³ Order Following Initial Appearance, 25 November 2020 (“Order of 25 November 2020”), pp. 3, 4.

⁴ See Order Scheduling a Status Conference, 13 January 2021, p. 2.

⁵ See Registrar’s Submission in Relation to the “Preliminary Order Regarding Medical Examination of Félicien Kabuga” of 29 October 2020, 5 November 2020 (public, with confidential Annex); 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); Registrar’s Submission in Relation to the “Order Following Initial Appearance” of 25 November 2020, 9 December 2020 (public, with confidential Annex); Registrar’s Submission in Relation to the “Order Following Initial Appearance” of 25 November 2020, 23 December 2020 (public, with confidential Annex); Registrar’s Submission in Relation to the “Order Following Initial Appearance” of 25 November 2020, 6 January 2021 (public, with confidential Annex) (collectively “Five Medical Reports”).

⁶ *Requête de la Défense afin qu’elle puisse communiquer à des médecins les rapports rédigés par le médecin du quartier pénitentiaire*, 15 January 2021 (confidential, with confidential annexes A and B) (“Motion”), Registry pagination 811. The Defence submits that if the Motion is granted, it will have doctors to whom the Five Medical Reports will be transmitted sign confidentiality agreements that will be available to the Prosecution, Registrar, and the Chamber. See Motion, para. 11.

CONSIDERING that the Prosecution will not be prejudiced by the adjudication of the Motion without awaiting a response;

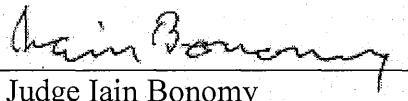
CONSIDERING that it is in the interests of justice and judicial economy to authorize the Defence to share on a confidential basis the Five Medical Reports with doctors it deems may assist in assessing Kabuga's health in relation to his fitness to travel to and stand trial at the Arusha Branch of the Mechanism;

FOR THE FOREGOING REASONS,

GRANT the Motion.

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

Done this 20th day of January 2021,
At Arusha,
Tanzania



Judge Iain Bonomy
Pre-Trial Judge

[Seal of the Mechanism]



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