



**OPEN LETTER TO THE PRESIDENT OF THE UNITED NATIONS  
INTERNATIONAL RESIDUAL MECHANISM FOR CRIMINAL TRIBUNALS  
(IRMCT),**

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P.O. BOX 6016, Arusha, Tanzania

IRMCT  
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2517 JW, The Hague, The Netherlands

**RE: PETITION REQUESTING FOR THE REFERRAL OF GENOCIDE FUGITIVE  
FELICIEN KABUGA TO RWANDA**

**I. BACKGROUND**

*Since 1 July 2012, the supervision of the enforcement of sentences for ICTR cases fell under the jurisdiction of the United Nations International Residual Mechanism for Criminal Tribunals (IRMCT). The IRMCT also received jurisdiction to designate enforcement States, including for persons thereafter convicted by the Tribunal (Resolution 1966 (2010)). One key function assumed by the Mechanism is the tracking and arrest of the three accused who remain fugitives from justice. The ICTR indicted **Félicien Kabuga, Protais Mpiranya, and Augustin Bizimana** on charges of genocide and crimes against humanity, but the accused have to date evaded justice.*

**ABOUT THE FUGITIVE FELICIEN KABUGA**

Félicien Kabuga was an extremely rich businessman who was closely allied to the family of President Habyarimana through the activities of the famous “AKAZU” and other platforms such as “Réseau zéro” where the genocide against the Tutsi ideology was developed. Félicien Kabuga was heavily involved in the founding and bankrolling of “Radio Télévision Libre des Milles Collines” (RTLM), Kangura and other newspapers which were actively used in mass mobilization and incitement to exterminate Tutsis. In 1993, at an RTLM fundraising meeting organized by the MRND, Félicien Kabuga publicly defined the purpose of RTLM as the defense of Hutu Power. During the ICTR’s “media trial”, former RTLM presenter Georges Ruggiu named Félicien Kabuga as the "Chairman Director General" of the station, with duties such as "presiding over RTLM" and "representing RTLM".

From January 1993 to March 1994, a total of more than 500,000 machetes were imported into Rwanda by Félicien Kabuga which were used by militias in exterminating Tutsis, during the 1994 genocide against the Tutsi. Félicien Kabuga was indicted by the United Nations International Criminal Tribunal for Rwanda in 1997 on seven counts of genocide, complicity



in genocide, direct and public incitement to commit genocide, attempt to commit genocide, conspiracy to commit genocide, persecution and extermination, all in relation to crimes committed during the genocide against the Tutsi.

However, it has been 23 years since his indictment was issued but arresting and bringing him before the court of justice has been made difficult by his financial status and other external players who were alleged to create a safe haven for him to evade justice. Different authorities have tried their best to bring him to justice including the US government that put a five million-dollar (\$5,000,000) bounty on his head for whoever provides information leading to his arrest.

### **THE ARREST OF FELICIEN KABUGA IN FRANCE**

On Saturday May 16<sup>th</sup>2020, Félicien Kabuga was arrested in Asnières-Sur-Seine near Paris where he was living under false identity.

After 4 days following his arrest, on Wednesday May 20<sup>th</sup> 2020 Félicien Kabuga appeared before a French court. He gave his date of birth as March 1<sup>st</sup> 1933. His lawyers said in a statement ahead of the hearing that Félicien Kabuga had the right to be presumed innocent and opposed being transferred from France to the IRMCT. Defence lawyer Laurent Bayon told the court that Félicien Kabuga wished to be tried in France.<sup>1</sup> So far the Prosecutor of the IRMCT has requested the transfer of Félicien Kabuga from France to IRMCT for trial. The French court granted a request by the defence to defer the hearing and set the next date for May 27<sup>th</sup>.<sup>2</sup>

However, IBUKA and its partner organizations would like to recall France's international obligations and the shortcomings in trying those accused of genocide residing in France. In 2007, the ICTR was persuaded to letting France trial both Father Wenceslas Munyeshyaka and ex-prefect Laurent Bucyibaruta and the outcome of both cases turned out to be very disappointing and questionable as both men were allowed to avoid justice and continue to live freely in France!

## **II. SURVIVORS' REQUEST FOR FELICIEN KABUGA TO BE REFERRED TO RWANDA TO STAND TRIAL WHERE HE COMMITTED THE ALLEGED CRIMES**

- A. On behalf of survivors of the genocide against the Tutsi, IBUKA and its partner survivors' organizations would like to articulate their gentle request to the IRMCT and UNSC for the referral of Félicien Kabuga to stand trial in Rwanda where he committed the alleged crimes. This request is not only based on the needs of survivors but also on the interests of justice which both IRMCT and UNSC were created for and keep working tirelessly for. It's not going to be the first time that the ICTR/IRMCT



refers a case(s) to national jurisdiction in Rwanda. The referral to national authorities for prosecution at the domestic level demonstrates the principle of complementarity in action. Under this principle, national authorities retain the primary responsibility and obligation to prosecute international crimes.<sup>3</sup> In the wake of the genocide against the Tutsi, Rwanda's justice sector infrastructure was decimated. This infrastructure needed to be restored before international fair trial rights could be ensured. By partnering with the ICTR, UN Member States, and non-governmental organizations (NGOs), during the past 26 years Rwanda made great strides in restoring national capacity at all levels of its justice sector. Rwanda also undertook a host of substantive and procedural reforms aimed at bringing its national laws and practices into compliance with prevailing international fair trial standards. These reforms included incorporation of principles of customary international law into its Constitution, elimination of the death penalty, ensuring life tenure for judges, and extending broad immunity from arrest or prosecution for witnesses and defence teams working in Rwanda. More recent reforms include allowing international judges to sit on the panel of referred cases and alternative means of securing witness testimony through deposition or video-link, this made the ICTR to refer up to 10 cases of people who were supposed to be tried by the ICTR but finally these ones were tried by Rwanda and all the processes went well in the interests of justice. The genocide against the Tutsi affected the entire world, but the scars are borne by the people of Rwanda alone. The crimes were perpetrated by Rwandans on Rwandan soil. The vast majority of victims were Rwandan Tutsis. And those Rwandans who survived have suffered and will continue to suffer the pain of loss from now until the end of their lives. Félicien Kabuga was not an ordinary person. His trial means a lot to the international criminal justice system but more importantly to Rwandans and survivors in particular.

It's therefore our humble request that Félicien Kabuga be referred to Rwandan courts for trial; it would be monumental to have one of the alleged masterminds of the genocide tried on Rwandan soil. Trials closer to home do inevitably reduce the distance inherent in international criminal tribunals<sup>4</sup>.

In short, trying him in Rwanda will make it easy for Rwandans and more importantly survivors to follow the trial.

- B. In case the request to try Félicien Kabuga in Rwanda judicial system is not accepted, IBUKA and partner organizations would like to request the President of the IRMCT to transfer its Court Chamber to Rwanda on the basis of Rule 4 of the RPE of the ICTR/IRMCT - **Sitting Away from the Branch of the Mechanism** which reads as follows *“A Chamber may exercise its functions away from the seat of the relevant branch of the Mechanism, if so authorised by the President in the interests of justice.”*<sup>5</sup>



Mr. President if this article is followed, Rwandans and more especially survivors will get the same opportunity of following this trial closer to them in Rwanda instead of Arusha or The Hague.

- C. We would also ask that whichever courtroom the accused does stand trial in; survivors will be facilitated to be present and give a chance to all Rwandans to follow the case by the use of modern technology. Those who cannot attend must be able to see justice in action online by live streaming – something that the ICTR trials in Arusha never allowed. Where justice cannot be seen, the crime can more easily be denied.

Mr. President, we thank you for your continued attention to these matters that touch the hearts and minds of all of us who survived the genocide against the Tutsi.

We look forward to your kind consideration.

Signed on this 25 of May 2020, by:

- **Prof. Jean Pierre Dusangizemungu, PhD: *President, IBUKA Rwanda*** 

- **Étienne Nsanzimana: *President, IBUKA France and Europe*** 

- **César Murangira: *President, IBUKA Switzerland*** 

- **Félicité Lyamukuru: *President, IBUKA Belgium*** 

- **Christine Safari: *President, IBUKA Holland*** 

- **Honorine Mujyambere: *President, IBUKA Italy*** 

- **Jacqueline Mukandanga-Blam: *President, IBUKA Germany*** 

- **Eric Murangwa Eugène: *Founder and CEO, Ishami Foundation, UK*** 

- **Marie Chantal Muhigana: *President of Urukundo Rwandan Organisation, Norway*** 

- **Jacqueline Murekatete: *Founder & President of Genocide Survivors Foundation, USA*** 



Cc:

- Secretary General of the United Nations/New York
- Prosecutor of the International Residual Mechanism of Criminal Tribunals (MICT)/Arusha
- The Permanent Representative of the Republic of Rwanda to the United Nations/New York
- Minister of Justice and Attorney General of the Republic of Rwanda/Kigali
- Minister of Foreign Affairs, Cooperation and East African Community/Kigali
- Executive Secretary of National Commission for the Fight Against Genocide (CNLG)/Kigali

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<sup>1</sup> France 24, Rwanda Genocide Suspect Kabuga appears before French Court available at <https://www.france24.com/en/20200520-rwandan-genocide-suspect-kabuga-appears-before-french-court>

<sup>2</sup> Idem

<sup>3</sup> Complementarity in Action: Lessons Learned from The ICTR Prosecutor's referral of International Criminal Cases to National Jurisdictions for Trial.

<sup>4</sup>Theodor Meron, *The Making of International Criminal Justice: A View From the Bench* (Oxford University Press, 2011) 86.

<sup>5</sup> Rules of Procedure and Evidence (Adopted on 8 June 2012) (Corrected on 17 August 2012) (Amended on 18 April 2016), Rule 4.