

**UNITED  
NATIONS**



International Residual Mechanism  
for Criminal Tribunals

Case No.: MICT-13-38-T

Date: 25 April 2023

Original: English

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**IN THE TRIAL CHAMBER**

**Before:** Judge Iain Bonomy, Presiding  
Judge Mustapha El Baaj  
Judge Margaret M. deGuzman  
Judge Ivo Nelson de Caires Batista Rosa, Reserve Judge

**Registrar:** Mr. Abubacarr M. Tambaou

**Order of:** 25 April 2023

**PROSECUTOR**

v.

**FÉLICIEN KABUGA**

***PUBLIC***

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**ORDER FOR SUBMISSIONS**

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**Office of the Prosecutor:**

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

**Counsel for Mr. Félicien Kabuga:**

Mr. Emmanuel Altit  
Ms. Françoise Mathe

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

**RECALLING** that, in view of the conclusions in the joint report from Professor Henry Kennedy, Professor Patrick Cras, and Professor Gillian Mezey (“Independent Medical Experts”) filed 6 March 2023 regarding Mr. Félicien Kabuga’s fitness to stand trial,<sup>2</sup> and of the oral submissions of the parties on 8 March 2023,<sup>3</sup> the Trial Chamber found it appropriate to maintain the stay of evidentiary hearings pending resolution of the issue of Mr. Kabuga’s fitness to stand trial;<sup>4</sup>

**RECALLING** that, between 15 and 30 March 2023, the Trial Chamber heard testimony from the Independent Medical Experts, as well as oral submissions thereon from the parties;<sup>5</sup>

**RECALLING FURTHER** that, following the oral submissions on 30 March 2023, the Trial Chamber informed the parties of its intention to issue a decision regarding Mr. Kabuga’s fitness to stand trial as soon as reasonably possible and shared its concern about the procedure which would be appropriate in the event of a finding of unfitness;<sup>6</sup>

**CONSIDERING** that, although deliberations on Mr. Kabuga’s fitness remain ongoing, it would expedite the proceedings and possibly allow for a single comprehensive decision for the parties to file submissions concerning the consequences of a Trial Chamber decision that Mr. Kabuga is unfit for trial;

**CONSIDERING** that the parties’ submissions should take into account relevant international jurisprudence and domestic practice, in particular the possibility of proceeding with an examination of facts, and the Guidelines from the Committee on the Rights of Persons with Disabilities interpreting Article 14 of the United Nations Convention on the Rights of Persons with Disabilities;

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<sup>1</sup> See Order Assigning a Reserve Judge, 16 January 2023, pp. 1, 2. See also Decision Under Rule 19(E), 10 January 2023, p. 1; Order Replacing a Judge and Assigning a Reserve Judge, 26 August 2022, pp. 1, 2; Order Assigning a Trial Chamber, 1 October 2020, p. 1.

<sup>2</sup> Registrar’s Submission in Relation to the Oral Ruling of 14 December 2022, 6 March 2023 (confidential, with confidential Annex), para. 7, Annex, Registry Pagination 5030-5028.

<sup>3</sup> See T. 8 March 2023 pp. 2-30.

<sup>4</sup> See Further Order on Proceedings, 6 March 2023, p. 1; Scheduling Order, 10 March 2023, p. 1. See also T. 8 March 2023 p. 1.

<sup>5</sup> The Trial Chamber notes that Professor Kennedy testified between 15 and 17 March 2023 (see T. 15 March 2023 pp. 2-22, T. 16 March 2023 pp. 3-45, T. 17 March 2023 pp. 1-39), Professor Mezey testified on 23 March 2023 (see T. 23 March 2023 pp. 1-49), Professor Cras testified on 29 March 2023 (see T. 29 March 2023 pp. 1-51), and the parties provided oral submissions on 30 March 2023 (see T. 30 March 2023 pp. 1-47).

<sup>6</sup> T. 30 March 2023 pp. 47, 48.

**FOR THE FOREGOING REASONS,**

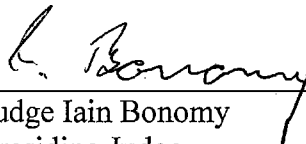
**PURSUANT** to Rule 55 of the Rules of Procedure and Evidence,

**HEREBY ORDERS** the parties to file submissions consistent with this Order within 14 days; and

**ORDERS** the parties to file their respective responses, if any, within seven days.

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

Done this 25th day of April 2023,  
At The Hague,  
The Netherlands

  
Judge Iain Bonomy  
Presiding Judge

**[Seal of the Mechanism]**



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