

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

No.: MICT-13-38-Misc.2

Date: 23 June 2021

Original English

BEFORE THE SINGLE JUDGE

Before: Judge Mahandrisoa Edmond Randrianirina

Registrar: Abubacarr Tambadou

THE PROSECUTOR

v.

FELICIEN KABUGA

Public

RESPONSE TO REGISTRAR'S SUBMISSION

The Office of the Prosecutor:
Serge Brammertz

Counsel for Felicien Kabuga:
Emmanuel Altit

Counsel for Donatien Nshimyumuremyi,
Innocent Twagirumukiza,
Alain Gilbert Habumukiza and
Estate of Josephine Mukazitoni
Peter Robinson

1. Donatien Nshimyumuremyi, Innocent Twagirumukiza, Alain Gilbert Habumukiza, and the estate of Josephine Mukazitoni (“Applicants”) hereby respond to the *Registrar’s Submission in Relation to the Motions for Orders Concerning Frozen Assets* (9 June 2021).

2. In his submission, the Registrar claimed that the frozen assets might “constitute disposable means of the Accused and would be considered in a determination as to his ability to remunerate Counsel” and requested that the Single Judge defer his adjudication of the motion until “the Registry has meaningfully assessed Felicien Kabuga’s indigency status.”¹

3. Considering the Registrar’s position that the frozen assets could be used to fund Mr. Kabuga’s defence, Mr. Kabuga and the Applicants decided that they preferred their assets be used to retain counsel of Mr. Kabuga’s choice, rather than possibly used to fund the assigned counsel who has been imposed upon him against his will and with whom he and his family have had a breakdown in communication and trust.²

4. Therefore, on 14 June 2021, Mr. Kabuga sent a formal request to the Registrar, pursuant to Article 20(A) of the *Directive on the Assignment of Defence Counsel*, to withdraw the assignment of Emmanuel Altit and recognise Peter Robinson as his retained counsel.³ The Applicants have also sent a letter to the Registrar agreeing that the frozen funds could be used to retain Mr. Robinson.⁴

5. That request has not been acted upon as of the date of this filing.

6. Should the request for withdrawal of the assignment of counsel be granted, the Applicants and the Registry will work out the modalities of transferring the frozen assets and will seek the appropriate orders from the Single Judge. Since the assets would be under the control of the Registry, the Prosecution’s arguments that the assets could be used to injure or intimidate a victim or to destroy evidence⁵ would be moot.

¹ *Registrar’s Submission in Relation to the Motions for Orders Concerning Frozen Assets* (9 June 2021), paras. 8-9

² *Prosecutor v Kabuga*, No. MICT-13-38-PT, *Decision on Matters Related to Felicien Kabuga’s Representation* (1 April 2021)

³ Mr. Kabuga’s Request is attached as Annex A.

⁴ The letter is attached as Annex B.

⁵ *Prosecution Response to Motion for Order Concerning Frozen Assets* (29 April 2021), para. 9 (citing Mechanism Rule 37(A)(iii))

7. Should the request for withdrawal of the assignment of counsel be denied, the Applicants will file a supplemental response to the *Registrar's Submission*.

Word count: 421

Respectfully submitted,

A handwritten signature in black ink that reads "Peter Robinson". The signature is written in a cursive, flowing style with large, rounded letters.

PETER ROBINSON

Counsel for Donatien Nshimyumuremyi, Innocent Twagirumukiza, Alain Gilbert Habumukiza, and the estate of Josephine Mukazitoni

ANNEX A

DECLARATION OF FELICIEN KABUGA

I, FELICIEN KABUGA, do hereby declare under penalty of perjury, that the following is true and correct:

1. I am the accused in case number MICT-13-38-PT.
2. I have previously requested that counsel be assigned to me at the expense of the Mechanism.
3. I hereby withdraw that request.
4. I no longer wish to be represented by my assigned counsel, Emmanuel Altit. There has been a complete breakdown in communication and trust between me and Mr. Altit. I do not believe he is acting in my best interest.
5. I wish to retain Peter Robinson as my Lead Counsel.
6. I agree to fully cooperate with Mr. Robinson and the Registry by facilitating the transfer of those frozen assets needed to pay Mr. Robinson either directly to him or to the Registry.

DATED:

FELICIEN KABUGA

ANNEX B

14 June 2021

Mr. Abubacarr Tambadou, Registrar
International Residual Mechanism
for Criminal Tribunals
Churchillplein 1
2516JW The Hague
The Netherlands

Re: *Prosecutor v Felicien Kabuga*
No. MICT-13-38-PT

Dear Mr. Tambadou,

I am enclosing a statement from my father in which he withdraws his request for assignment of counsel to be paid by the Mechanism and requests that Peter Robinson be substituted as his counsel, to be paid from my father's own funds and those of his family.

I translated and read the statement in Kinyarwanda to my father over the telephone and he fully agreed to its contents. Since we are not allowed to visit him, I could not obtain his signature on the document, but he is fully prepared to sign it when presented to him by the UNDU or Registry.

On my own behalf, and that of Mr. Kabuga's other children, I agree to cooperate with the Registry to facilitate the transfer of those frozen assets needed to pay Mr. Robinson either directly to him or to the Registry.

Thank you very much for your consideration of this request.

Respectfully,



Donatien Nshimyumuremyi
On behalf of Felicien Kabuga family



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Case Name/ Affaire :	Prosecutor v Kabuga	Case Number/ Affaire n° :	MICT-13-38-Misc.2
Date Created/ Daté du :	23 June 2021	Date transmitted/ Transmis le :	23 June 2021
		No. of Pages/ Nombre de pages :	7
Original Language / Langue de l'original :	<input checked="" type="checkbox"/> English/ <i>Anglais</i>	<input type="checkbox"/> French/ <i>Français</i>	<input type="checkbox"/> Other/ <i>Autre</i> (specify/préciser) :
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Rev. July 2018/ Rév. : juillet 2018