

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-13-38-AR80.4

Date: 30 December 2025

Original: English

IN THE APPEALS CHAMBER

Before: Judge Carmel Agius, Presiding

Registrar: Mr. Abubacarr M. Tambadou

Decision of: 30 December 2025

PROSECUTOR

v.

FÉLICIEN KABUGA

PUBLIC

**DECISION ON FÉLICIEN KABUGA'S REQUESTS FOR
TRANSLATION AND EXTENSION OF TIME**

The Office of the Prosecutor:

Mr. Serge Brammertz
Mr. Rupert Elderkin
Ms. Laurel Baig

Counsel for Mr. Félicien Kabuga:

Mr. Emmanuel Altit

I, CARMEL AGIUS, Judge of the Appeals Chamber of the International Residual Mechanism for Criminal Tribunals (“Appeals Chamber” and “Mechanism”, respectively);¹

RECALLING the decision, issued on 7 August 2023, wherein the Appeals Chamber, *inter alia*, affirmed the finding of the Trial Chamber of the Mechanism (“Trial Chamber”) that Mr. Félicien Kabuga (“Kabuga”) was not fit for trial and very unlikely to regain fitness in the future, and instructed the Trial Chamber to impose an indefinite stay of proceedings and expeditiously address the issue of Kabuga’s detention on remand and the appropriate modalities and conditions for his release;²

NOTING the decision, issued on 14 November 2025, wherein the Trial Chamber, *inter alia*, found Kabuga not fit to travel to the Republic of Rwanda – the only State currently willing to accept him on its territory – and requested European States, especially those close to the Kingdom of the Netherlands and where Kabuga has made an application for provisional release, to reconsider accepting him onto their territories based on his current medical condition;³

NOTING that, in a motion filed on 28 November 2025 and distributed on 1 December 2025, the Office of the Prosecutor of the Mechanism (“Prosecution”) requested that the Appeals Chamber enforce the Decision of 7 August 2023 either by resolving itself the matter of “Kabuga’s indefinite detention” or by reconsidering its decision to assign this task to the Trial Chamber and refer instead the matter to the President of the Mechanism for resolution;⁴

BEING SEISED OF a motion, filed on 16 December 2025, wherein Kabuga requests, in view of the hybrid nature of the Prosecution Request – combining an appeal and a motion for reconsideration – and related time-limit uncertainties, that the Appeals Chamber clarify the deadline for filing a response and the date from which the deadline is calculated, and, if applicable, set a briefing schedule;⁵

¹ Order Assigning Judges to a Bench of the Appeals Chamber, 8 December 2025, p. 1. I was elected Presiding Judge of the Appeals Chamber in this case pursuant to Rule 24(C) of the Rules of Procedure and Evidence of the Mechanism (“Rules”).

² 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 (“Decision of 7 August 2023”), paras. 48, 74-76, 79.

³ *Prosecutor v. Félicien Kabuga*, Case No. MICT-13-38-T, Decision on Félicien Kabuga’s Fitness to Travel to Rwanda, 14 November 2025, paras. 22, 32.

⁴ Prosecution Appeal or Motion for Reconsideration Concerning Kabuga’s Release, 28 November 2025 (public with confidential annex) (“Prosecution Request”), paras. 1, 3, 4, 16, 19.

⁵ *Requête aux fins de directives sur le délai applicable à la réponse de la Défense à la “Prosecution Appeal or Motion for Reconsideration Concerning Kabuga’s Release”*, 16 December 2025 (English translation filed on 23 December 2025) (“First Motion”), paras. 1-3, 7. See also First Motion, para. 9.

NOTING Kabuga’s alternative request for an extension until 31 December 2025 or any date deemed appropriate by the Appeals Chamber to file a response to the Prosecution Request, in the event that the Appeals Chamber determines that the timeline had begun to run or where a response is expected shortly;⁶

NOTING the Prosecution’s response, filed on 17 December 2025, arguing that Kabuga has not shown good cause for the excessive extension of time he seeks and that there is no lack of clarity regarding the deadline for filing a response to justify his belated motion or any further delay in responding to the Prosecution Request;⁷

NOTING Kabuga’s reply filed on 22 December 2025;⁸

BEING FURTHER SEISED OF a motion, filed on 22 December 2025, wherein Kabuga requests, *inter alia*, that the Appeals Chamber: (i) order the Registry of the Mechanism (“Registry”) to provide him, as soon as possible, with a French translation of the Prosecution Request; and (ii) instruct that the deadline for filing a response to the Prosecution Request commence upon receipt of the French translation;⁹

NOTING the Prosecution’s position that it does not intend to file a response to the Further Motion;¹⁰

CONSIDERING that, unless otherwise stipulated, responses to appeal-related motions, including requests to reconsider decisions on appeal, shall be filed within ten days of the filing of the motion;¹¹

CONSIDERING that, unless otherwise stipulated, the recipient of a filing is deemed notified of the filing on the day the filing is electronically distributed by the Registry,¹² and that the calculation of the time limit has been found to run from the date of distribution;¹³

⁶ See First Motion, para. 8.

⁷ See Prosecution Response to Kabuga’s Motion for Extension of Time, 17 December 2025, paras. 1-3.

⁸ *Réplique de la Défense à la Réponse du Procureur à la Requête aux fins de directives sur le délai applicable à la réponse de la Défense à la “Prosecution Appeal or Motion for Reconsideration Concerning Kabuga’s Release”, 22 December 2025 (“Reply”)*, paras. 1-18.

⁹ *Requête de la Défense aux fins d’ordonner la traduction en français de la “Prosecution Appeal or Motion for Reconsideration Concerning Kabuga’s Release”, 22 December 2025 (“Further Motion”)*, paras. 1, 9, 10.

¹⁰ Internal Communication, 22 December 2025.

¹¹ See Practice Direction on Requirements and Procedures for Appeals, MICT/10/Rev.1, 20 February 2019 (“Practice Direction on Appeals”), paras. 15, 19, 23, 26; Rule 153(B) of the Rules; *Prosecutor v. Ratko Mladić*, Case No. MICT-13-56-A, Public Redacted Version of the “Decision on a Motion for Reconsideration and Certification to Appeal Decision on a Request for Provisional Release” Filed on 22 May 2018, 8 June 2018 (“*Mladić* Decision of 8 June 2018”), p. 2, n. 12.

OBSERVING that, in the present circumstances, the deadline for Kabuga to file a response to the Prosecution Request was 11 December 2025;

EMPHASISING that the Mechanism's deadlines are essential to ensure that proceedings are conducted in a fair and expeditious manner, and that parties are expected to plan and allocate resources as may be appropriate to comply with the prescribed timelines;¹⁴

RECALLING that, pursuant to Rule 154(A) of the Rules, the time limits prescribed in the Rules may be enlarged on good cause being shown;

NOTING Kabuga's submissions that the working language of the Defence is French and that, absent a French translation of the Prosecution Request, the Defence's ability to provide meaningful submissions in response would be compromised, given the complex procedural and substantive matters raised therein;¹⁵

CONSIDERING that Defence Counsel is able to understand submissions in English¹⁶ and that his ability to reply to Prosecution's submissions does not necessarily depend on the availability of a French translation,¹⁷ which in turn indicates that he has had sufficient time to familiarize himself with the main aspects of the Prosecution Request since its distribution on 1 December 2025;

CONSIDERING that, in these circumstances, and irrespective of any perceived ambiguity regarding the deadline, significant work should have already been undertaken in preparation of a response to the Prosecution Request;

NOTING that, in the meantime, Kabuga was provided a French translation of the Prosecution Request on 24 December 2025;¹⁸

CONSIDERING that allowing Defence Counsel to finalize the response to the Prosecution Request following receipt of the French translation is warranted in the interests of justice, given that

¹² Practice Direction on Judicial Records, MICT/42, 25 May 2023, para. 17(3).

¹³ See *Mladić* Decision of 8 June 2018, n. 12. See also Practice Direction on Appeals, para. 28.

¹⁴ See *Prosecutor v. Gérard Ntakirutimana*, Case No. MICT-12-17-R, Decision on Gérard Ntakirutimana's Request for an Extension of Time to File a Reply, 6 March 2024, p. 3; *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. MICT-15-96-A, Decision on Prosecution Motion for Extension of Time to File Reply Briefs, 4 February 2022, p. 2 and references cited therein.

¹⁵ Further Motion, paras. 2, 6, 7.

¹⁶ I note that in the context of a previous interlocutory appeal in this case, Defence Counsel filed submissions in response to an appeal filed by the Prosecution in English, without awaiting a French translation. See Decision of 7 August 2023, para. 1.

¹⁷ See Reply, paras. 4-16.

¹⁸ Internal Communication, 24 December 2025.

the main language of Defence Counsel is French and the complexity of the matters raised in the Prosecution Request;

FINDING, therefore, that it is appropriate, in the present circumstances, to grant Kabuga an extension of time to file a response to the Prosecution Request;

CONSIDERING that, in these circumstances, it is appropriate to grant also the Prosecution a limited extension of time to file a reply, if any;

FOR THE FOREGOING REASONS,

HEREBY GRANT the First Motion and the Further Motion, in part;

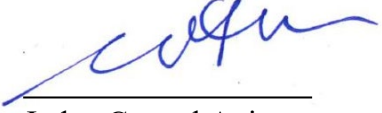
ORDER Kabuga to file a response to the Prosecution Request by Friday, 2 January 2026;

ORDER the Prosecution to file a reply, if any, by Friday, 9 January 2026; and

DISMISS the reminder of the Further Motion as moot.

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

Done this 30th day of December 2025,
At Arusha,
Tanzania



Judge Carmel Agius
Presiding

[Seal of the Mechanism]



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

I - FILING INFORMATION / INFORMATIONS GÉNÉRALES

To/ À :	IRMCT Registry/ Greffe du MIFRTP		☒ Arusha/ Arusha	☐ The Hague/ La Haye
From/ De :	☐ President/ Président	☒ Chambers/ Chambre	☐ Prosecution/ Bureau du Procureur	☐ Defence/ Défense
			☐ Registrar/ Greffier	☐ Other/ Autre
Case Name/ Affaire :	Prosecutor v. Félicien Kabuga		Case Number/ Affaire n° :	MICT-13-38-AR80.4
Date Created/ Daté du :	30 December 2025		Date transmitted/ Transmis le :	30 December 2025
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	☐ Other/ Autre (specify/ préciser):			
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Classification Level/ Catégories de classification :	☒ Public/ Document public	☐ Ex Parte Defence excluded/ Défense exclue		
	☐ Confidential/ Confidentiel	☐ Ex Parte Prosecution excluded/ Bureau du Procureur exclu		
		☐ Ex Parte Rule 86 applicant excluded/ Article 86 requérant exclu		
		☐ Ex Parte Amicus Curiae excluded/ Amicus curiae exclu		
		☐ Ex Parte other exclusion/ autre(s) partie(s) exclue(s) (specify/ préciser) :		
Document type/ Type de document :	☐ Motion/ Requête ☐ Judgement/ Jugement/Arrêt ☐ Book of Authorities/ Recueil de sources ☐ Warrant/ Mandat ☒ Decision/ Décision ☐ Submission from parties/ Écritures déposées par des parties ☐ Affidavit/ Déclaration sous serment ☐ Notice of Appeal/ Acte d'appel ☐ Order/ Ordonnance ☐ Submission from non-parties/ Écritures déposées par des tiers ☐ Indictment/ Acte d'accusation			

II - TRANSLATION STATUS ON THE FILING DATE/ ÉTAT DE LA TRADUCTION AU JOUR DU DÉPÔT

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