

**UNITED  
NATIONS**



International Residual Mechanism  
for Criminal Tribunals

No.: MICT-13-38-Misc.3

Date: 2 August 2021

Original English

**THE PRESIDENT**

**Before: Judge Carmel Agius**

**Registrar: Abubacarr Tambadou**

**THE PROSECUTOR**

**v.**

**FELICIEN KABUGA**

*Public*

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**MOTION FOR RETURN OF SEIZED PROPERTY**

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**The Office of the Prosecutor:**

Serge Brammertz  
Rupert Elderkin  
Rashid Rashid

**Counsel for Felicien Kabuga:**

Emmanuel Altit

**Counsel for Donatien Nshimyumuremyi,**

**Bernadette Uwamariva, and**  
**Felicite Mukademali**  
Peter Robinson

## Introduction

1. Donatien Nshimyumuremyi, Bernadette Uwamariya, and Felicite Mukademali, (“Applicants”) request that the President assign a Single Judge or Trial Chamber to issue an order, pursuant to Rule 55 of the Rules of Procedure and Evidence, for the return of property seized from them and their families in connection with the arrest of their father, Felicien Kabuga.

## Background

2. Felicien Kabuga was first indicted by the ICTR on 30 October 1997.<sup>1</sup> Subsequent indictments were filed against him on 29 August 1998,<sup>2</sup> 12 October 2005,<sup>3</sup> 14 April 2011,<sup>4</sup> and by the Mechanism on 1 March 2021.<sup>5</sup> He was arrested on 16 May 2020 in France.<sup>6</sup> Computers, phones, SIM cards, electronic files, tapes, photographs, and documentary material were seized by French police during searches of the apartments of Mr. Kabuga’s children. French authorities subsequently transferred the seized material to the Office of the Prosecutor in connection with that office’s prosecution of Mr. Kabuga.

3. Donatien Nshimyumuremyi is the eldest son of Felicien Kabuga. He was staying with his father in an apartment at the time of his father’s arrest, and his property and that of his family was seized during the search of that apartment.<sup>7</sup>

4. Bernadette Uwamariya is the daughter of Felicien Kabuga. Police searched the apartment where she resides in Paris, France with her two brothers and her daughter on the day of her father’s arrest and seized property belonging to her and her family during a search of her apartment.<sup>8</sup>

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<sup>1</sup> *Prosecutor v Kabuga*, No. ICTR-97-22, *Indictment* (30 October 1997)

<sup>2</sup> *Prosecutor v Bizimana, Karemera, Nzabonimana, Rwamakuba, Ngirumpatse, Nzirorera, Kabuga, and Kajelijeli*, No. ICTR-98-44-I, *Confirmation and Disclosure of the Indictment* (29 August 1998)

<sup>3</sup> *Prosecutor v Kabuga*, No. ICTR-98-44B-I, *Decision on the Amended Indictment* (12 October 2005)

<sup>4</sup> *Prosecutor v Kabuga*, No. ICTR-98-44B-PT, *Amended Indictment* (14 April 2011)

<sup>5</sup> *Prosecutor v Kabuga*, No. MICT-13-38-PT, *Prosecution’s Second Amended Indictment* (1 March 2021)

<sup>6</sup> *Urgent Motion for Amendment of Order for Transfer* (20 May 2020)

<sup>7</sup> A declaration of Donatien Nshimyumuremyi is attached as Annex A, along with a list of items seized from the apartment.

<sup>8</sup> A declaration of Bernadette Uwamariya is attached as Annex B, along with a list of items seized from her apartment.

5. Felicite Mukademali is the daughter of Felicien Kabuga. Police searched the apartment where she resides in Paris, France with her son on the day of her father's arrest and seized property belonging to her and her family during a search of her apartment.<sup>9</sup>

6. A total of 15 mobile phones, 2 SIM cards, 8 computers and tablets, and 32 external drives and discs were seized during the searches along with 18 VCR tapes, 2 photographs, and 195 files containing documents.<sup>10</sup>

7. On 6 July 2021, the Applicants requested that the Office of the Prosecutor set a date to return the seized property.<sup>11</sup> In subsequent e-mail correspondence culminating on 31 July 2021, the Office of the Prosecutor declined, indicating that it would retain the items for as long as they may be required in relation to the proceedings.<sup>12</sup>

### **Argument**

8. Applicants' argument is a simple one. They have no quarrel with the right of the Office of the Prosecutor to obtain legal process to search for evidence it can use in their father's case.<sup>13</sup> However, the Office of the Prosecutor now has had more than 14 months to examine the material seized from Applicants and their families and to have copied any items that are relevant to its case against their father. The seized items should now be returned to the Applicants.

9. The 15 mobile phones and 8 computers and tablets are worth thousands of Euros. If they contain data of relevance to the Prosecution's case, that data can be copied and retained for use at the trial. There is no justification for continuing to retain the devices themselves and deprive the Applicants of their right to use or sell these devices.

10. As an analogy, if the police seized a safe containing relevant papers from a bank, there would be no justification not to return the safe to the bank. It was simply the vessel that held the relevant material. Likewise, there is no justification for the Office of the Prosecutor to continue to retain the phones and computers seized from the Applicants. It can extract the data from those phones and computers and return them.

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<sup>9</sup> A declaration of Felicite Mukademali is attached as Annex C, along with a list of items seized from her apartment.

<sup>10</sup> Compiled from the inventories attached to Annexes A-C.

<sup>11</sup> The letter is Annex D.

<sup>12</sup> The e-mail correspondence is Annex E.

<sup>13</sup> This motion should not be construed as consent to search or examine the contents of the electronic devices. It is for the Office of the Prosecutor to obtain appropriate court authorisation for any such searches where necessary.

11. Similarly, any relevant data from the hard drives and discs, SIM cards and VCR tapes, as well as the documents and photographs, can be copied and the originals returned to the Applicants. Should there be some special significance to an original photograph or document, the original can be retained by the Office of the Prosecutor and a copy returned to the Applicants.

12. The Office of the Prosecutor has offered no reason why it cannot take these reasonable steps that allow for it to use all relevant evidence while at the same time respecting the rights of third parties.

13. The authority for ordering the Prosecution to return the seized property can be found in Rule 55 of the Rules of Procedure and Evidence:

At the request of either Party or proprio motu, a Judge or a Trial Chamber may issue such orders, summonses, subpoenas, warrants, and transfer orders as may be necessary for the purposes of an investigation or for the preparation or conduct of the trial.

14. In the *Tolimir* case, the Trial Chamber used the ICTY's equivalent of this rule to order that property seized from a third party be returned to him. It held that a diary seized from witness Dragomir Pecanac at the time of his arrest should be returned to him after his testimony in the *Tolimir* case, with high quality copies being retained for use at the trial.<sup>14</sup>

15. The Applicants, like Pecanac, are third parties who have had their property seized from them for use in a criminal case. Their property should likewise be ordered returned to them after the Prosecution has had the opportunity to make copies of relevant material for itself.

16. While the property in question does not belong to Mr. Kabuga, Rule 39 of the Rules of Procedure and Evidence provides an appropriate analogy. That Rule provides that:

(A) Subject to Rule 95, the Prosecutor shall be responsible for the retention, storage, and security of information and physical material obtained in the course of the Prosecutor's investigations until formally tendered into evidence.

(B) The Prosecutor shall draw up an inventory of all materials seized from the

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<sup>14</sup> *Prosecutor v Tolimir*, No. IT-05-88/2-T, *Order on Return of Documents to Dragomir Pecanac* (2 April 2012)

suspect or accused, including documents, books, papers, and any other objects, and shall serve a copy thereof on the accused or suspect. Materials that are of no evidentiary value shall be returned without delay to the suspect or accused.

17. This Rule and its predecessor, ICTR Rule 41, has been interpreted to create an affirmative obligation on the Prosecution to assess the evidentiary value of materials seized from the accused in a timely manner to justify the retention of any seized materials and to return any unnecessary material without delay.<sup>15</sup> Rule 71(B) requires that the accused be provided copies of all items seized from him.

18. Pursuant to these Rules, Mechanism and ICTR judges have ordered the Prosecution to timely review seized material, return those items of no evidentiary value, and provide copies of those items that are being retained.

19. In the *Turinabo et al* case, the Single Judge ordered the Prosecution to provide the accused a mirror image of his laptop's hard drives while litigation related to their seizure is pending.<sup>16</sup> In the *Karemera* case, the Prosecution provided copies of all seized items to the accused and the ICTR Trial Chamber ordered the Prosecution to review the seized material and return all items that were not needed as evidence.<sup>17</sup> In the *Ndindiliyimana* case, the Trial Chamber ordered the Prosecution to inventory the items seized from the accused and return those materials of no evidentiary value.<sup>18</sup>

20. In the *Bizimungu* case, where items seized from the accused, including his passports, were maintained by the Commander of the Detention Facility, the Trial Chamber ordered the material turned over to the prosecution, which was obligated to inventory the property, return all non-evidential material to the accused, and permit the accused to inspect any property retained. It further ordered that copies of passports should be provided to the accused.<sup>19</sup>

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<sup>15</sup> *Prosecutor v Rukundo*, No. ICTR-2001-70-I, *Decision on the Defence Motion for Return of Documents and Other Seized Personal Items* (20 November 2002), para. 10; *Prosecutor v Karemera*, No. ICTR-98-44-T, *Decision on Joseph Nzirorera's Motion for Immediate Return of Seized Property* (26 November 2007), para. 4

<sup>16</sup> *Prosecutor v Ngirabatware*, No. MICT-12-29-R, *Order to the Registry for Mirror Images of Augustin Ngirabatware's Laptops' Hard Drives* (17 July 2019) at p. 2

<sup>17</sup> *Prosecutor v Karemera*, No. ICTR-98-44-T, *Decision on Joseph Nzirorera's Motion for Immediate Return of Seized Property* (26 November 2007), paras. 8-9

<sup>18</sup> *Prosecutor v Ndindiliyimana et al*, No. ICTR-2000-56-T, *Decision on Defence Urgent Motion for the Disclosure of Evidence and for Return of Seized Items* (24 September 2001) at para. 6

<sup>19</sup> *Prosecutor v Bizimungu et al*, No. ICTR-99-50-T, *Decision on Jerome Clement Bicamumpaka's Motion for Return of Personal Properties* (22 June 2004)

21. At the International Criminal Court, a Single Judge recently held that the Prosecution should be provided with documents, mobile phones and SIM cards seized at the time of the suspect's arrest and return all items not relevant to the trial to the Registry for safekeeping on behalf of the suspect.<sup>20</sup>

22. While Rule 39 applies, by its own terms, to items seized from or belonging to an accused, there is no reason that third parties should be put in a worse position than an accused. If an accused is entitled to the return of items seized from him that are not needed as evidence, and to be provided with copies of those items retained, certainly third parties should be afforded the same protection from interference with their fundamental human right to enjoyment of one's property. The First Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms provides in Article 1 that "every natural and legal person is entitled to the personal enjoyment of his possessions."<sup>21</sup>

23. Therefore, the Trial Chamber or Judge considering this motion should order the Prosecution to return all items seized from the Applicants and set a reasonable deadline for it to do so.

Word count: 1863

Respectfully submitted,



PIETER ROBINSON  
Counsel for Donatien Nshimyumuremyi,  
Bernadette Uwamariya, and  
Felicite Mukademali

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<sup>20</sup> *Prosecutor v Al-Rahman*, No. ICC-02/05-01/20-123-Red, *Decision on the Prosecution's Request for Evidence in the Custody of the Registry...* (9 July 2021), para. 24

<sup>21</sup> See also American Convention on Human Rights, Article 21.

**ANNEX A**

DECLARATION OF DONATIEN NSHIMYUMUREMYI AND POWER OF ATTORNEY

1. I am the eldest son of Felicien Kabuga.
2. On 16 May 2020, French police came to the apartment where I was staying with my father, arrested him, and conducted a search of the apartment.
3. They seized various computers, phones, and documents belonging to me and my family. The items they seized are listed on the attached inventory that they provided after searching the apartment.
4. I am requesting the return of all of the items that were seized from me. I authorise Peter Robinson to file a motion with the United Nations International Residual Mechanism for Criminal Tribunals on my behalf to obtain the return of the seized property.

DATED: 01/08/2021



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DONATIEN NSHIMYUMUREMYI



**ANNEX B**

DECLARATION OF BERNADETTE UWAMARIYA AND  
POWER OF ATTORNEY

1. I am the daughter of Felicien Kabuga.
2. On 16 May 2020, the day my father was arrested, French police came to the apartment in Paris where I was living with my brothers, Innocent Twagirimukiza and Alain Habumukiza and our children, and conducted a search of the apartment.
3. They seized various computers, phones, and documents belonging to me and my family. The items they seized are listed on the attached inventory that they provided after searching my apartment.
4. I am requesting the return of all of the items that were seized from us. I authorise Peter Robinson to file a motion with the United Nations International Residual Mechanism for Criminal Tribunals on our behalf to obtain the return of the seized property.

DATED:

01/08/2021



BERNADETTE UWAMARIYA



<b>GENDARMERIE NATIONALE</b>			
Office Central de Lutte contre les Crimes contre l'Humanité, les Génocides et Crimes de Guerre			
154 boulevard Davout			
PARIS 75020			
Code unité	Nbr P.V.	Année	Nbr dossier justice
68103	00419	2020	

**PERSONNE EN FUITE**

**PROCÈS-VERBAL DE PERQUISITION**

Nbr pièce	N° feuille
8D11/C/J	1 / 2

Le samedi 16 mai 2020 à 08 heures 30 minutes

Nous soussigné Adjudant Emille Gault, Officier de Police Judiciaire en résidence à PARIS 20

Vu les articles 16 à 19 et 74-2 du Code de Procédure Pénale.

Vu les articles 15-1 et R 15-22 du CPP

Nous trouvant 87 rue de Baudricourt à PARIS 13 75013, rapportons les opérations suivantes :

Saisine :	Demande d'extradition hors mandat d'arrêt européen (Art. 696-9-1, 696-21 du CPP)
Personne recherchée :	
Magistrat :	Mme TARON, Avocat Général, Tribunal Judiciaire de PARIS 75000

Le samedi 16 mai 2020 à 08 heures 30 minutes, nous nous présentons pour y effectuer une perquisition au domicile de TWAGIRUMUKIZA Innocent, 87 rue de Baudricourt à PARIS 13 75013 (Insee : 75113), qui nous paraît détenir des pièces ou objets relatifs aux faits incriminés.

Nous sommes assistés par : Chef d'escadron Laurent PAJOT, Adjudant-chef Romuald PERUGIA, Maréchal des logis-chef Rodolphe IMPRONTA, de notre unité.

A notre arrivée, se trouvent sur place :

- TWAGIRUMUKIZA Innocent né le 05/06/1974 à BYUMBA, ses deux enfants TWAGIRUMUZIKA Ysé née le 10/04/2012 à PARIS, TWAGIRUMUZIKA Ella née le 14/09/2014 à PARIS
- UWAMARIYA veuve HABYARIMANA Bernadette née le 29/12/1963 à BYUMBA
- UWAMARIYA Cindy née le 19/11/1998 à NAIROBI
- HABUMUZIKA Alain née le 03/03/1979 à NYARUGENGE

Nous sommes reçus par UWAMARIYA veuve HABYARIMANA Bernadette.

Nous lui déclinons notre qualité, l'informons du but de notre visite et l'invitons à nous accompagner dans nos opérations de perquisition.

En la présence constante de TWAGIRUMUKIZA Innocent, UWAMARIYA veuve HABYARIMANA Bernadette, UWAMARIYA Cindy et HABUMUZIKA Alain nous procédons à la perquisition des pièces suivantes :

04 chambres, un WC, un salon, une cuisine, une salle de bains et une entrée.

Dans les lieux ci-après, nous découvrons les pièces à conviction suivantes :

- Lieu : Chambre de Alain HABUMUKIZA

- Pièce à conviction :

Catégorie : Multimédia (Saisi) Nature : DISQUE DUR Marque : TOSHIBA Quantité : 01 Numéro : 69M5T018THKG — Scellé numéro C/1

Catégorie : Multimédia (Saisi) Nature : ORDINATEUR PORTABLE et son câble d'alimentation Marque : DELL Modèle : Vostro 15 Quantité : 01 Numéro : 45173/SDPPI/2016 Code de déverrouillage NYANGABO79 — Scellé numéro C/2

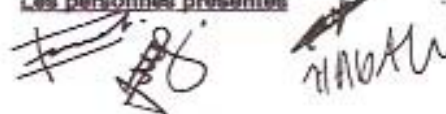
Catégorie : Multimédia (Saisi) Nature : TELEPHONE PORTABLE avec housse Marque : HUAWEI Numéro IMEI : 861233047527218 Code PIN : 0000 Code PUK : \_\_\_\_\_ Numéro d'appel : 06.95.18.58.54 Quantité : 1 Numéro : MYSNW19B29024888 Code de déverrouillage 197994 — Scellé numéro C/3

- Lieu : Chambre d'Innocent TWAGIRUMUKIZA

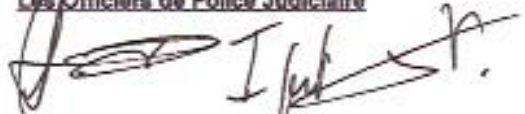
- Pièce à conviction :

Catégorie : Multimédia (Saisi) Nature : ORDINATEUR PORTABLE et son câble d'alimentation Marque : DELL Modèle : Latitude E5230 Quantité : 01 Numéro : 00186-221-865-367 Description : Mot de passe: simplon — Scellé numéro C/4

Les personnes présentes



Les Officiers de Police Judiciaire



Catégorie : Multimédia (Saisi) Nature : TELEPHONE PORTABLE et sa coque de protection  
Marque : Samsung Modèle : A50 Numéro IMEI : 356642100771251 Code PIN : 1234 Code PUK :  
Numéro d'appel : 06.18.25.26.52 Quantité : 1 Numéro : R58M33K0RRP Description : Code de  
dévrouillage: 1014 —Scellé numéro C/6

- Lieu : Chambre de Cindy UWAMARIYA

- Pièce à conviction :

Catégorie : Multimédia (Saisi) Nature : TELEPHONE PORTABLE et sa copie de protection  
Marque : APPLE Modèle : IPHONE 11 Numéro IMEI : 353999108466554 Code PIN : 1234 Code PUK :  
Numéro d'appel : 07.82.38.68.33 Quantité : 1 Description : Code de dévrouillage: Casseto  
—Scellé numéro C/6

Catégorie : Documents (Saisi) Nature : PHOTOS Quantité : 07 Description : Photographies à  
caractère privé représentant Félicien KABUGA —Scellé numéro C/7

Catégorie : Multimédia (Saisi) Nature : TABLETTE MULTIMEDIA et sa coque de protection  
Marque : APPLE Modèle : IPAD 2 Quantité : 01 Autre(s) numéro(s) : DLXJRMYP182 —Scellé  
numéro C/8

- Lieu : Chambre de Bernadette HABYARIMANA

- Pièce à conviction :

Catégorie : Multimédia (Saisi) Nature : TELEPHONE PORTABLE et sa coque de protection  
Marque : APPLE Modèle : iPhone 7 Numéro IMEI : 356554086612419 Code PUK : Numéro  
d'appel : 06.23.84.64.24 Quantité : 1 Description : Code de dévrouillage 123456 —Compte Apple:  
uwamariya@msn.com Mot de passe: Rosepink1 —Scellé numéro C/9

Catégorie : Multimédia (Saisi) Nature : TELEPHONE PORTABLE Marque : APPLE Modèle :  
iPhone Numéro IMEI : 353803086572450 Code PUK : Quantité : 1 Description : Pas de carte  
SIM—Scellé numéro C/10

- Lieu : Entrée de l'appartement

- Pièce à conviction :

Catégorie : Multimédia (Saisi) Nature : DISQUE DUR et son câble Marque : MAXONE Quantité :  
01 Numéro : / — Scellé numéro C/11

Nous déclarons à TWAGIRUMUZIKA Innocent, UWAMARIYA veuve HABYARIMANA Bernadette,  
UWAMARIYA Cindy et HABUMUZIKA Alain saisie de ces pièces à conviction.

Nous en portons mention sur l'inventaire des pièces à conviction et les plaçons sous scellés que  
paraphe avec nous chacune des personnes précitées.

Les objets saisis seront mis à la disposition du magistrat compétent en même temps que les  
pièces de la procédure.

Nos recherches au domicile de TWAGIRUMUKIZA Innocent n'amènent la découverte d'aucun  
autre objet susceptible de servir à la manifestation de la vérité.

La perquisition se termine le 16 mai 2020 à 09 heures 10 minutes.

Après lecture faite par elle-même, les personnes présentes signent avec nous le présent procès-  
verbal.

A PARIS 13 75013, le 16 mai 2020 à 09 heures 10 minutes.

Les personnes présentes

Les Officiers de Police Judiciaire

The block contains several handwritten signatures. On the left, there are three distinct signatures, likely belonging to the individuals mentioned in the text above. On the right, there are two larger, more formal signatures, likely belonging to the judicial police officers. The signatures are written in black ink on a white background.

## ANNEX C

DECLARATION OF FELICITE MUKADEMALI AND POWER OF ATTORNEY

1. I am the daughter of Felicien Kabuga.
2. On 16 May 2020, the day my father was arrested, French police came to the apartment in Paris where I was living with my son Lionel, and conducted a search of the apartment.
3. They seized various computers, phones, and documents belonging to me and my son. The items they seized are listed on the attached inventory that they provided after searching my apartment.
4. I am requesting the return of all of the items that were seized from us. I authorise Peter Robinson to file a motion with the United Nations International Residual Mechanism for Criminal Tribunals on our behalf to obtain the return of the seized property.

DATED: 01-08-2021

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FELICITE MUKADEMALI

A handwritten signature in black ink, appearing to read 'Felicite Mukademali', is written over a horizontal line. The signature is slanted downwards to the right.



<b>GENDARMERIE NATIONALE</b> Direction Générale de la Gendarmerie Nationale Office Central de Lutte Contre les Crimes contre l'Humanité, les Génocides et les Crimes de Guerre OCLCHGCG 75020 PARIS			<b>RECHERCHE PERSONNE EN FUTE</b>		
			<b>PROCÈS-VERBAL DE PERQUISITION</b>		
Code unité	Nmr P.V.	Année	Nmr dossier justice	Nmr pièce	N° feuillet
68103	00419	2020			1 / 3

Le samedi 16 mai 2020 à 06 heures 30 minutes.  
 Nous soussigné Adjudant Alexandra BEYER, Officier de Police Judiciaire en résidence à OCLCHGCG à PARIS 75020  
 Vu les articles 16 à 19 et 74-2 du Code de Procédure Pénale.  
 Vu les articles R 15-1 et R15-22 du Code de Procédure Pénale  
 Nous trouvant 142, Boulevard Massena à PARIS 75013, rapportons les opérations suivantes :

Agissant en application des directives de Madame **Clarisse TARON**, Avocate général au Parquet Général de Paris, et conformément aux instructions de notre chef de service.

Vu les articles 696-9-1 et suivants du code de procédure pénale et 74-2 et 56 à 62 du code de procédure pénale

Vu la loi n°95-1 du 2 janvier 1995, modifiée par la loi n° 96-432 du 22 mai 1996 et la loi n° 2013-711 du 5 août 2013, et ses articles 9, 10 et 11

Le samedi 16 mai 2020 à 06 heures 30 minutes, nous nous présentons pour y effectuer une perquisition au domicile de **MUKADEMALI épouse NGIRABATWARE Félicité**, 142 Boulevard Massena à PARIS 75013, où pourrait se trouver le fugitif **Félicien KABUGA** ou tout élément en lien avec lui, pouvant permettre sa localisation.

Nous sommes assistés par le Lieutenant Emmanuel LAFAYE, l' Adjudant Chef Rémy BUISSON et l'Adjudant Julien BLANC, OPJ de notre unité.

A notre arrivée, se trouvent sur place :

- **Félicité MUKADEMALI épouse NGIRABATWARE**, née le 17/10/1960 à MUKARANGE BU'YMBA au RWANDA
- **Lionel NGIRABATWARE MUGADO**, né le 20/09/1991 à KIGALI au RWANDA

L'appartement se compose de hall d'entrée, un wc, une cuisine, une salle de bains, un salon-salle à manger, et deux chambres. Une cave se trouve au sous-sol.

En la présence constante de **Félicité MUKADEMALI épouse NGIRABATWARE** nous procédons à la perquisition des pièces suivantes :

Mme **Félicité MUKADEMALI** et **Lionel NGIRABATWARE MUGADO** nous remettent leur téléphone portable respectifs :

- **Lionel NGIRABATWARE MUGADO** :
  - un téléphone portable de marque IPHONE : ligne 06.48.17.47.37
  - IMEI : 356612082390040. Code PIN : 804910 – Objet du scellé B/1
- **Félicité MUKADEMALI** :
  - un téléphone portable de marque SAMSUNG : ligne 07.61.68.99.71
  - IMEI 356650091313769/01
  - SN : R58K23C3RMH. Code PIN : 1717 – Objet du scellé B/2

Les personnes présentes

Les Officiers de Police Judiciaire

Dans les lieux ci-après, nous découvrons les pièces à conviction suivantes :

- Dans la chambre de Félicité NGIRABATWARE :

- Une photo de Félicien KABUGA, trouvée dans une bible posée sur la table de chevet . - Objet du scellé B/3
- Un support de carte SIM Ortel Mobile, numéro d'appel : 07.60.62.34.84  
Numéro de carte : 19.10.93.59.42.91.3.22.06  
Code PUK : 96.90.72.06  
*Ce support, ne permettant pas en l'état d'apporter d'élément nécessaire à l'enquête en cours, ne sera pas saisi avec le reste des pièces à conviction.*
- Un téléphone mobile de Marque NOKIA, modèle 105, IMEI 353635/08/579217/4, Mme NGIRABATWARE nous indique y insérer des puces prépayées, dont elle ne peut nous fournir de numéro en particulier. Ce téléphone est trouvé dans le tiroir du bas de l'armoire de la chambre. - Objet du scellé B/4
- Carte SIM Vodacom : 8046 - découverte dans une boîte à bijoux se trouvant dans l'armoire de la chambre. Mme NGIRABATWARE nous indique se servir de ce type de puce quand elle se rend en TANZANIE rendre visite à son mari incarcéré. - Objet du scellé B/5
- Un téléphone de marque NOKIA modèle 1600, IMEI 356445/01520388/3 se trouvant en bas de l'armoire dans la chambre. - Objet du scellé B/6
- Des lettres découvertes dans une boîte dans l'armoire de la chambre. Lettres adressées à Mme Félicité NGIRABATWARE par son mari. 118 feuillets manuscrits datés entre 2007 et 2008. Objet du scellé B/7
- Un téléphone de marque SAMSUNG - IMEI 356397081087066/01 - numéro de série R58HCSP22CV - Ligne : 06.15.62.32.02 - Code PIN : 1717. Objet du scellé B/8

- Dans la chambre de Lionel NGIRABATWARE MUGABO :

- 1 clé USB PNY 32 GB Bleue ciel trouvée dans la bibliothèque murale - Objet du scellé B/9
- Un téléphone IPHONE sans référence et abîmé, trouvé au sol à côté du lit - Objet du scellé B/10
- 1 clé USB SanDisk noire et rouge trouvée dans la bibliothèque murale - Objet du scellé B/11
- 1 clé USB FOTOBOMB publicité Fanta, trouvée dans la bibliothèque murale - Objet du scellé B/12
- 1 carte SD 16 GB trouvée dans la bibliothèque murale - Objet du scellé B/13
- 1 Note book PC ASUS modèle UX331F, Numéro de série 24M K5N0CV03458419A - Code de démarrage : jplmn80 et son alimentation. - Objet du scellé B/14
- 1 PC Portable de marque Packard Bell, Numéro de série NXC2CMF006322 0E7866600 - Code de démarrage : jplmn80 et son alimentation - Objet du scellé B/15
- 1 téléphone portable de marque BLACKBERRY - PRD-30001 - 066 - Objet du scellé B/16

- Dans le placard du couloir :

- Ensemble de documents relatifs à la défense de NGIRABATWARE Augustin. 32 feuillets - Objet du scellé B/17
- une cassette VHS portant la mention manuscrite Kabuga F et le chiffre 51, dans son boîtier intitulé IAFVP au RWANDA - Objet du scellé B/18
- 17 cassettes VHS portant des mentions manuscrites familiales - Objet du scellé B/19
- 26 disquettes informatiques - Objet du scellé B/20

Nous déclarons à Félicité NGIRABATWARE et Lionel NGIRABATWARE MUGABO saisie de ces pièces à conviction.

Nous en portons mention sur l'inventaire des pièces à conviction et les plaçons sous scellés que paraphe avec nous Félicité NGIRABATWARE et Lionel NGIRABATWARE MUGABO.

Les objets saisis seront mis à la disposition du magistrat compétent en même temps que les pièces de la procédure.

Les personnes présentes

Les Officiers de Police Judiciaire

PV n° 66103/00419/2020

Pièce n°

Feuillet n° 3 / 3

Nos recherches au domicile de Félicité NGIRABATWARE n'amènent la découverte d'aucun autre objet susceptible de servir à la manifestation de la vérité.

La perquisition se termine le 16 mai 2020 à 10 heures 20 minutes.

Après lecture faite par elle-même, les personnes présentes signent avec nous le présent procès-verbal.

A PARIS 75000, le 16 mai 2020 à 10 heures 20 minutes.

Les personnes présentes

Les Officiers de Police Judiciaire



**ANNEX D**

**PETER ROBINSON**  
*Defence Counsel*  
*Mechanism for*  
*International Criminal Tribunals*  
Churchillplein 1  
2517JW The Hague  
Netherlands  
**E-mail:** [peter@peterrobinson.com](mailto:peter@peterrobinson.com)

6 July 2021

Mr. Rupert Elderkin  
Office of the Prosecutor  
United Nations International Residual  
Mechanism for Criminal Tribunals  
Arusha, Tanzania

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

Dear Rupert,

I hope this letter finds you doing well in Arusha these days and that you are enjoying being back at the Mechanism.

I am writing on behalf of Felicien Kabuga's family members. They have asked me to request that the property seized from them on 16 May 2020 in connection with Mr. Kabuga's arrest be returned.

On 16 May, French authorities seized computers, phones, and other material belonging to Mr. Kabuga's son, Donatien Nshimyumuremyi, in the apartment where they arrested Mr. Kabuga. They also searched the apartments of Mr. Kabuga's daughters, Felicite Mukademali and Bernadette Uwamariya, and seized computers, phones, and other material belonging to them and their families. I am enclosing the inventory sheets listing the items seized.

I assume that this material was turned over to your office for possible use in Felicien Kabuga's trial.

Now that more than a year has passed since the seizure of these items, your office should be in a position to have determined which of these items, if any, will be needed to be retained for use as evidence in the trial, and to have obtained whatever information you needed from their electronic devices. On behalf of the family, I am requesting that those items no longer needed as evidence be returned to them at this time.

Mr. Rupert Elderkin  
--page two--

Thank you very much for your consideration of this request.

Respectfully submitted,

A handwritten signature in dark ink, reading "Peter Robinson". The signature is written in a cursive style with large, flowing loops for the letters.

PETER ROBINSON  
Counsel for family of Felicien Kabuga

cc: Emmanuel Altit

**ANNEX E**

To: Rupert Elderkin  
From: Peter Robinson  
Date: 07/06/2021 06:31PM  
Cc: Emmanuel Altit  
Subject: Property seized from Felicien Kabuga family

Dear Rupert,  
Greetings from USA. I hope all is well with you.  
I am attaching a letter on behalf of the family members of Felicien Kabuga.  
Thank you for your consideration.  
Yours truly,  
Peter

---

From: Rupert Elderkin  
To: Peter Robinson  
Cc: Emmanuel Altit  
Date: Wednesday, July 07, 2021 02:17AM  
Subject: Re: Property seized from Felicien Kabuga family

Dear Peter,  
Thank you for your e-mail and greetings. All is well here in Arusha; I hope also with you too. I will look into this letter.  
Kind regards,  
Rupert

---

To: Peter Robinson  
From: Rupert Elderkin  
Date: 07/15/2021 02:58AM  
Cc: Emmanuel Altit; Rashid Salim Rashid  
Subject: Rc: Property seized from Felicien Kabuga family

Dear Peter,  
  
Please can you let Mr. Kabuga's family members know that the seized materials are still under review.  
  
Kind regards,  
  
Rupert

---

To: Rupert Elderkin  
From: Peter Robinson  
Date: 07/15/2021 06:51AM  
Cc: Emmanuel Altit; Rashid Salim Rashid  
Subject: Re: Property seized from Felicien Kabuga family

Dear Rupert,

Thanks for your message, which I will indeed pass on.

But I would ask you to voluntarily set a reasonable date for the return of the originals of items not of evidentiary value and copies of time items you decide to retain, as well as the return of the devices from which any evidentiary material can be extracted. Otherwise, we would want to ask the Chamber to give you a deadline.

Your friend,

Peter

---

From: Peter Robinson  
To: Rupert Elderkin  
Cc: Rashid Salim Rashid; Emmanuel Altit  
Date: 07/27/2021 18:51  
Subject: Fw: Re: Property seized from Felicien Kabuga family

Dear Rupert,

I hope you are doing well in Arusha. Here in USA, all is good for those of us who are vaccinated.

As I haven't received a reply to my e-mail of 15 July (below), I wanted to let you know that it seems to me that 23 August 2021 is a reasonable deadline for returning the seized property to members of the Kabuga family, given that you will have been required to have selected and disclosed your exhibits on that day.

I plan on asking the Chamber to set a deadline if we are unable to agree.

Your friend,

Peter

To: Peter Robinson  
From: Rupert Elderkin  
Date: 07/28/2021 02:37AM  
Cc: Emmanuel Altit, Rashid Salim Rashid  
Subject: Re: Property seized from Felicien Kabuga family

Dear Peter,

Thanks for your e-mail and yes, all's good here. We cannot agree to the date you propose. As I mentioned previously, the seized materials are still under review and we will retain them for as long as they may be required in relation to our proceedings.

Kind regards,

Rupert

---

From: Peter Robinson  
To: Rupert Elderkin  
Cc: Emmanuel Altit, Rashid Salim Rashid  
Date: Fri, 30 Jul 2021 17:02  
Subject: KABUGA // Property seized from Felicien Kabuga family

Dear Rupert,

I have drafted a motion to be filed on Monday asking the Court to set a reasonable date for return of my clients' property. I thought I would make one more effort at an informal agreement to resolve this issue by sending you the draft and see if that persuades you.

Let me know if there is any chance you will reconsider.

Your friend,

Peter

---

To: Peter Robinson  
From: Rupert Elderkin  
Date: 07/31/2021 03:06AM  
Cc: Emmanuel Altit; Rashid Salim Rashid  
Subject: Re: Property seized from Felicien Kabuga family

Dear Peter,

Thank you for the courtesy copy of your motion. Our position remains the same.

Kind regards,

Rupert



**I - FILING INFORMATION / INFORMATIONS GÉNÉRALES**

<b>To/ À :</b>	IRMCT Registry/ <i>Greffe du MIFRTP</i>	<input checked="" type="checkbox"/> Arusha/ <i>Arusha</i>	<input type="checkbox"/> The Hague/ <i>La Haye</i>
<b>From/ De :</b>	<input type="checkbox"/> Chambers/ <i>Chambre</i>	<input type="checkbox"/> Defence/ <i>Défense</i>	<input type="checkbox"/> Prosecution/ <i>Bureau du Procureur</i>
		<input checked="" type="checkbox"/> Other/ <i>Autre</i> :	<b>Applicants</b>
<b>Case Name/ Affaire :</b>	<b>Prosecutor v Kabuga</b>	<b>Case Number/ Affaire n° :</b>	<b>MICT-13-38-Misc.3</b>
<b>Date Created/ Daté du :</b>	<b>2 August 2021</b>	<b>Date transmitted/ Transmis le :</b>	<b>2 August 2021</b>
		<b>No. of Pages/ Nombre de pages :</b>	<b>28</b>
<b>Original Language / Langue de l'original :</b>	<input checked="" type="checkbox"/> English/ <i>Anglais</i>	<input type="checkbox"/> French/ <i>Français</i>	<input type="checkbox"/> Kinyarwanda / <i>B/C/S</i>
			<input type="checkbox"/> Other/ <i>Autre</i> (specify/préciser) :
<b>Title of Document/ Titre du document :</b>	<b>MOTION FOR RETURN OF SEIZED PROPERTY</b>		
<b>Classification Level/ Catégories de classification :</b>	<input checked="" type="checkbox"/> Unclassified/ <i>Non classifié</i>	<input type="checkbox"/> Ex Parte Defence excluded/ <i>Défense exclue</i>	<input type="checkbox"/> Ex Parte Prosecution excluded/ <i>Bureau du Procureur exclu</i>
	<input type="checkbox"/> Confidential/ <i>Confidentiel</i>	<input type="checkbox"/> Ex Parte R86(H) applicant excluded/ <i>Art. 86 H) requérant exclu</i>	<input type="checkbox"/> Ex Parte Amicus Curiae excluded/ <i>Amicus curiae exclu</i>
	<input type="checkbox"/> Strictly Confidential/ <i>Strictement confidentiel</i>	<input type="checkbox"/> Ex Parte other exclusion/ <i>autre(s) partie(s) exclue(s)</i> (specify/préciser) :	
<b>Document type/ Type de document :</b>	<input checked="" type="checkbox"/> Motion/ <i>Requête</i>	<input type="checkbox"/> Judgement/ <i>Jugement/Arrêt</i>	<input type="checkbox"/> Book of Authorities/ <i>Recueil de sources</i>
	<input type="checkbox"/> Decision/ <i>Décision</i>	<input type="checkbox"/> Submission from parties/ <i>Écritures déposées par des parties</i>	<input type="checkbox"/> Affidavit/ <i>Déclaration sous serment</i>
	<input type="checkbox"/> Order/ <i>Ordonnance</i>	<input type="checkbox"/> Submission from non-parties/ <i>Écritures déposées par des tiers</i>	<input type="checkbox"/> Indictment/ <i>Acte d'accusation</i>
			<input type="checkbox"/> Warrant/ <i>Mandat</i>
			<input type="checkbox"/> Notice of Appeal/ <i>Acte d'appel</i>

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

<input type="checkbox"/> Translation not required/ <i>La traduction n'est pas requise</i>
<input checked="" type="checkbox"/> Filing Party hereby submits only the original, and requests the Registry to translate/ <i>La partie déposante ne soumet que l'original et sollicite que le Greffe prenne en charge la traduction :</i> (Word version of the document is attached/ <i>La version Word est jointe</i> )
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<input type="checkbox"/> Filing Party hereby submits both the original and the translated version for filing, as follows/ <i>La partie déposante soumet l'original et la version traduite aux fins de dépôt, comme suit :</i>
<b>Original/ Original en</b> <input type="checkbox"/> English/ <i>Anglais</i> <input type="checkbox"/> French/ <i>Français</i> <input type="checkbox"/> Kinyarwanda / <i>B/C/S</i> <input type="checkbox"/> Other/ <i>Autre</i> (specify/préciser) :
<b>Translation/ Traduction en</b> <input type="checkbox"/> English/ <i>Anglais</i> <input type="checkbox"/> French/ <i>Français</i> <input type="checkbox"/> Kinyarwanda / <i>B/C/S</i> <input type="checkbox"/> Other/ <i>Autre</i> (specify/préciser) :
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*Rev. July 2018/ Rév. : juillet 2018*