

RWANDA / JUDGMENT

UBUSHINJACYAHA v MUNYAMPUNDU

RPAA/GEN 00003/2022/CA

COURT

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UBUSHINJACYAHA v MUNYAMPUNDU

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Text

Page 1

UBUSHINJACYAHA v MUNYAMPUNDU [Rwanda URUKIKO RW'UBUJURIRE - RPAA/GEN 00003/2022/CA (Gakwaya, P.J., Mukamurenzi na Tugireyezu, J.) 12 Ukuboza 2025] Amategeko agenga imanza z'inshinjabyaha – Ibikorwa bigize icyaha – Inkiko nshinjabyaha ziregerwa kandi zisuzuma ibikorwa bigize icyaha zashyikirijwe mu buryo bwemewe n'amategeko, kandi bikaba ari byo byonyine zisuzuma, bivuze ko zidashobora guhindura cyangwa kongera ibikorwa zitashyikirijwe cyangwa bitagaragara mu nyandiko itanga ikirego, ngo zibisuzume. Amategeko agenga imanza z'inshinjabyaha – Ibikorwa bigize icyaha cy'ubwicanyi bukorwa mu buryo bwa rusange – N'ubwo imyirondoro y'abishwe ari ngombwa mu gutegura kwiregura k'uregwa, Ku birebana n'ibikorwa bigize icyaha cy'ubwicanyi bukorwa mu buryo bwa rusange, nk'icyaha cya jenocide cyangwa ibyaha byibasira inyokomuntu, si ngombwa ko hagaragazwa imyirondoro yose y'abantu uregwa yishe kugira ngo abihanirwe. Amategeko agenga ibimenyetso – Ibimenyetso mu manza nshinjabyaha – Ibimenyetso bishingiye ku buhamya – Umucamanza ashobora guha agaciro igice kimwe cy'ubuhamya, ikindi ntigihabwe agaciro. Amategeko agenga imanza z'inshinjabyaha – Ibyaha byakorewe mu gihiriri cy'abantu benshi – Mu byaha byakorewe mu gihiriri cy'abantu benshi bayobowe n'uburakari si ngombwa ko ugikurikiranyweho aba yafashe

intwaro kugira ngo ariyozwe icyo cyaha, apfa gusa kuba yari ari muri iyo mbaga kandi icyaha kikaba cyakozwe Incamake y'ikibazo: Uru rubanza rwabayeho nyuma yuko hatanzwe amakuru ko mu cyobo (fausse septique) kiri ku bitaro bya Gitwe, harimo imibiri y'Abatutsi biciwe kuri bariyeri yabaga imbere y'ibyo bitaro n'iyabaga imbere ya Collège kuri Centre ya Bienvenue bishwe muri jenocide yakorewe Abatutsi mu mwaka wa 1994, ndetse ko kuri icyo cyobo harengajweho itaka ryinshi. Bimaze kumenyekana, Ubuyobozi bw'Akarere ka Ruhango bufatanyije na CNLG ndetse n'abaturage bagiye kuri ibyo bitaro, bacukura icyo cyobo babonamo imibiri icumi (10). Nyuma yo kubona iyo mibiri, hatangijwe iperereza kugira ngo hagaragazwe ababigizemo uruhare nuko Ubushinjacyaha bukurikirana uwitwaga Urayenzeza ku cyaha cyo kuba icyitso mu cyaha cya jenocide n'icyaha cyo kuzimiza cyangwa gutesha agaciro ibimenyetso cyangwa amakuru byerekeye jenocide. Abitwa Munyampundu bakunze kwita Kinihira na Ruganiza Benjamin bubarega icyaha cyo gukora jenocide n'icyaha cyo kuzimiza cyangwa gutesha agaciro ibimenyetso cyangwa amakuru byerekeye jenocide. Naho Rutaganda, Nsengiyaremye na Nyakayiro baregwa icyaha cyo kuzimiza cyangwa gutesha agaciro ibimenyetso cyangwa amakuru. Ku rwego rubanza, Urukiko rwahamije abaregwa ibyaha baregwa ariko bigeze mu rukiko Rukuru, Urugereko ruburanisha ibyaha mpuzamahanga n'ibyaha byambuka imbibi, abaregwa bahanaguweho ibyaha uretse Munyampundu bakunze kwita Kinihira wahamijwe icyaha cya jenocide, agahanishwa igihano cy'igifungo cy'imyaka makumyabiri n'itanu (25). Uyu Munyampundu yajurirye Urukiko rw'Ubujurire avuga ko Urukiko Rukuru, rwamuhamije icyaha cya jenocide, nta kimenyetso kidashidikanywaho kigaragaza ko yagikoze, ndetse ko ku rwego rw'ubujurire yahamijwe icyaha gishya, ndetse atanabajijweho. Agaragaza ko rwamuhamije icyaha cyo kwica Mukamutara n'abana be 2, ndetse n'abandi bagera kuri 23, nyamara atarigeze abazwa kuri icyo cyaha haba mu Bugenzacyaha no mu Bushinjacyaha ngo acyiregureho, ndetse

Page 2

ko bitanagaragajwe mu mwanzuro w'Ubushinjacyaha no mu iburanisha ryo mu Rukiko Rukuru, ngo hagaragazwe urutonde n'amazina y'abo bantu bose kuko aribwo yari kubasha kubireguraho. Anasaba Urukiko ko rwazajya gukora iperereza aho bariyeri ivugwa yari iherereye. Iyo miburanire ye yatumye Urukiko Rw'Ubujurire rusuzuma ibibazo birimo kumenya niba ku rwego rw'ubujurire, Munyampundu yarhamijwe ibikorwa bishya atigeze yireguraho mu nzego z'iperereza no mu Rukiko rubanza; Kumenya niba Urukiko Rukuru rwamuhamije icyaha cya jenocide, rushingiye ku bimenyetso bishidikanywaho; Kumenya niba Urukiko Rukuru rwariyangagije imyiregurire ye bituma rumuhamya icyaha cya jenocide ntacyo yakozwe; no Kumenya niba Urukiko Rukuru rwariyangagije gukora iperereza yasabye.

Incamake y'icyemezo: 1. Inkiko nshinjabyaha ziregerwa kandi zisuzuma ibikorwa bigize icyaha zashyikirijwe mu buryo bwemewe n'amategeko, kandi bikaba ari byo byonyine zisuzuma, bivuze ko zidashobora guhindura cyangwa kongera ibikorwa zitashyikirijwe cyangwa bitagaragara mu nyandiko itanga ikirego, ngo zibisuzume.

2. N'ubwo imyirondoro y'abishwe ari ngombwa mu gutegura kwiregura k'uregwa, Ku birebana n'ibikorwa bigize icyaha cy'ubwicanyi bukorwa mu buryo bwa rusange, nk'icyaha cya jenocide cyangwa ibyaha byibasira inyokomuntu, si ngombwa ko hagaragazwa imyirondoro yose y'abantu uregwa yishe kugira ngo abihanirwe.
3. Umucamanza ashobora guha agaciro igice kimwe cy'ubuhamya, ikindi ntigihabwe agaciro.
4. Mu byaha byakorewe mu gihiriri cy'abantu benshi bayobowe n'uburakari si ngombwa ko ugukurikiranweho aba yafashe intwari kugira ngo aryoze icyo cyaha, apfa gusa kuba yari ari muri icyo mbaga kandi icyaha kikaba cyakozwe. Ubujurire bwa Munyampundu Léon bakunze kwita Kinihira nta shingiro bufite. Amategeko yashingiweho: Itegeko N° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange, Ingingo ya 20, 49, 91 n'ya 93. Itegeko N° 027/2019 ryo ku wa 19/9/2019 ryerekeye imiburanishirize y'imanza z'inshinjacyaha nk'uko ryahinduwe kugeza ubu, Ingingo ya 183. Imanza zifashishijwe: Ubushinjacyaha vs Nzajyibwami Emmnuel, RPAA 0101/09/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 9/3/2012. Ubushinjacyaha vs Sgt Biziyaremye na Cpl. Ngabonziza RPAA 0117/07/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 17/07/2010. Ubushinjacyaha vs Muvunyi Edouard na mugenzi we, RPA 0121/07/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 18/4/2008. Ubushinjacyaha vs Mugimba, RPAA/Gen 00001/2022/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 14/2/2025. Ubushinjacyaha vs Mbarushimana Kunda Emmanuel, RPA/GEN 00006/2019/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 29/10/2025.

Page 3

Ubushinjacyaha vs Twahirwa François, RPAA/Gén 00002/2018/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 25/7/2023. Ubushinjacyaha vs Shema Ernest, RPAA 00050/2024/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 26/4/2024. Ubushinjacyaha vs Birindabagabo Jean-Paul RPA/GEN 00004/2020/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 08/04/2022. Ubushinjacyaha vs Sendegeya na bagenzi be, RPA 00045/2020/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 28/1/2025. Ubushinjacyaha vs Munyakayanza Jean de Dieu, RPAA/GEN 00001/2022/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 29/5/2025. Ubushinjacyaha vs Habyarimana Jean, RPAA/Gen 00008/2019/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 28/2/2020. Ubushinjacyaha na Iyamuremye Jean-Claude bita Nzinga, RPA/Gén 00005/2021/CA-CMB RPA/Gén 00006/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 13/12/2024. Ubushinjacyaha vs Lt. Henri Jean-Claude Seyoboka, RPAA/GEN 00006/2022/CA rwaciwe ku wa 28/11/2025. Ubushinjacyaha vs Ndayishimiye alias Shema, RPAA 00194/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 22/7/2022. Ubushinjacyaha vs Simbandumwe Etienne, RPAA 00371/2023/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 23/5/2025. Ubushinjacyaha vs Mutiganda Thierry na bagenzi be, RPA 00103/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 14/2/2025. Ubushinjacyaha vs Simon Bikindi, ICTR-01-72-A rwaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyirwaho u Rwanda, Urugereko rw'ubujurire, ku wa 18 Werurwe 2010. Ubushinjacyaha vs Akayesu Jean-Paul, ICTR-9604-A rwaciwe n'Urukiko Mpanabyabyaha Mpuzamahanga rwashyirwaho u Rwanda (ICTR), Urugereko rw'Ubujurire, ku wa 1 Kamena 2001. Inyandiko z'abahanga: Antoine Rubbens, Le Droit judiciaire congolais,

L'instruction criminelle et la procédure pénale, Tome III, Larcier, Bruxelles, 1965, P. 220, n° 214. Michel Franchimont, Ann Jacobs et Adrien Masset, Manuel de procédure pénale, 2e édition, Larcier, Bruxelles, 2006.

Urubanza I. IMITERERE Y'URUBANZA [1] Abaturage batanze amakuru ko mu cyobo (fausse septique) kiri ku bitaro bya Gitwe, harimo imibiri y'Abatutsi biciwe kuri bariyeri yabaga imbere y'ibitaro bya Gitwe n'iyabaga imbere ya

Page 4

Collège kuri Centre ya Bienvenue bishwe muri jenocide yakorewe Abatutsi mu mwaka wa 1994, ndetse ko kuri icyo cyobo harengajweho itaka ryinshi riba nk'umugunguzi kugira ngo hatazagira n'uhirahira kuhatekereza, ibyo byatumye ku wa 11/06/2020, ku wa 12/06/2020 no ku wa 13/06/2020, Ubuyobozi bw'Akarere ka Ruhango bufatanyije na CNLG ndetse n'abaturage bajya kuri ibyo bitaro, bacukura icyo cyobo babonamo imibiri icumi (10). Nyuma yo kubona icyo mibiri, hatangijwe iperereza kugira ngo hagaragazwe ababigizemo uruhare. [2] Muri iryo perereza, abatangabuhamya babajijwe, bagaragaje ko kuri bariyeri yabaga imbere y'ibitaro bya Gitwe n'iyabaga imbere ya Collège kuri Centre ya Bienvenue habagaho RUGANIZA Benjamin na MUNYAMPUNDU Léon bakunze kwita Kinihira, babaga bafite imbunda bahawe na URAYENEZA Gérard wari umuyobozi w'ikigo cy'amashuri cya ESAPAG n'abandi, ko kandi uwo muyobozi yagiye yitabirira inama zitandukanye zo gutegura jenocide, akaba yaratanze n'imodoka yo mu bwoko bwa Daihatsu y'ikigo cy'ishuri cya ESAPAG, yatwaye abapasiteri bagera kuri 83 n'imiryango yabo, bakajya kwicirwa aho bita ku Gitovu. [3] Iperereza kandi ryagaragaje ko hari abandi bari bazi ko muri icyo cyobo harimo imibiri y'Abatutsi baricecekeraga, ntibatanga amakuru ngo icyo mibiri ishyingurwe mu cyubahiro, harimo: RUTAGANDA Dominique wari Konseye wa Segiteri ya Joma waje no kuba Perezida w'Inteko y'Urukiko Gacaca mu mwaka wa 2008, NSENGIYAREMYE Elysée wari Umuyobozi n'Umucungamutungo w'ibitaro bya Gitwe na NYAKAYIRO Samuel wemeye ko mu kwezi kwa 7/1994 ariwe wamennye itaka muri icyo cyobo kuko cyanukaga. [4] Iperereza rirangiye, Ubushinjacyaha bwatanze ikirego mu Rukiko Rwisumbuye rwa Muhanga, bukurikiranyeho URAYENEZA Gérard icyaha cyo kuba icyitso mu cyaha cya jenocide n'icyaha cyo kuzimiza cyangwa gutesha agaciro ibimenyetso cyangwa amakuru byerekeye jenocide. MUNYAMPUNDU Léon bakunze kwita Kinihira na RUGANIZA Benjamin bubarega icyaha cyo gukora jenocide n'icyaha cyo kuzimiza cyangwa gutesha agaciro ibimenyetso cyangwa amakuru byerekeye jenocide. Naho RUTAGANDA Dominique, NSENGIYAREMYE Elysée na NYAKAYIRO Samuel bubarega icyaha cyo kuzimiza cyangwa gutesha agaciro ibimenyetso cyangwa amakuru byerekeye jenocide, busaba ko bose bahamwe n'ibyo byaha, bakabihanirwa. [5] RUGANIZA Benjamin yaburanishijwe adahari kuko atitabye nta mpamvu yagaragaje, URAYENEZA Gérard, RUTAGANDA Dominique, NYAKAYIRO Samuel, NSENGIYAREMYE Elysée na MUNYAMPUNDU Léon bakunze kwita Kinihira, baburanye bahakana ibyaha baregwa. [6] URAYENEZA Gérard yaburanye avuga ko atemera icyaha cyo kuba icyitso muri jenocide akurikiranyweho kuko ntacyo yakoze, ko muri jenocide atabaga i Gitwe, ahubwo ko we n'umuryango we (umugore we n'abana be), n'abandi bantu bamuhungiyeho bahigwaga, bavuye i Gitwe ku wa 14/04/1994 bahungira iwabo mu Kagari ka Mbuye, Umurenge wa Karambi, Akarere ka Kabagari kandi ko icyo gihe

Jenoside yari itaratangira i Gitwe, hataranashyirwaho za bariyeri, ko yasubiye i Gitwe atwawe ku gahato n'abajandarume kugira ngo ajye gutanga imfunguzo z'inzu yagombaga kubamo abasirikare, ahita asubira iwabo, ko nyuma y'icyo gihe atongeye gusubira i Gitwe, ahubwo yagumye i Mbuye ahava ahunze n'abo bari kumwe, bahungira mu cyahoze ari Perefegitura ya Gikongoro ku buryo yahungutse igihugu kimaze gufatwa, ku wa 14/12/1994 abanza gusubira i Mbuye. URAYENEZA Gérard yavuze kandi ko nta nama itegura jenoside yitabiriye ndetse ko nta n'igikoresho cya gisirikare yigeze atunga. URAYENEZA Gérard yavuze ko atigeze amenya ko mu cyobo kiri mu bitaro bya Gitwe kirimo imibiri y'Abatutsi bazize jenoside cyangwa

Page 5

ngo ahabwe amakuru ko harimo imibiri, ko abatangabuhamya babajijwe bamushinja ibinyoma biturutse ku kagambane gaturuka ku bashaka kumufungisha. [7] MUNYAMPUNDU Léon bakunze kwita Kinihira yaburanye avuga ko atemera ibyaha akurikiranyeho, ko icyaha ashinjwa cyo gukora jenoside atacyemera kuko ahabwa akazi ko kurara izamu ku bitaro bya Gitwe, atagahawe na URAYENEZA Gérard kandi ko nta n'imbunda yigeze ahabwa mu gihe cya jenoside, ko n'ibivugwa ko yirutse kuri MURINDABYUMA Isidore ashaka kumwica ari ibinyoma. Avuga kandi ko atigeze ajya kuri bariyeri yiciweho Abatutsi yari imbere y'ibitaro bya Gitwe n'iyi kuri Centre ya Bienvenue, ko kandi ibyo aregwa yabiburanye mu Rukiko Gacaca rw'Umurenge wa Joma agirwa umwere, akaba atari akwiye kongera kubikurikiranwaho kuko kuburanishwa inshuro ebyiri ku cyaha kimwe bitemewe n'amategako. Ku birebana n'icyaha cyo kuzimiza cyangwa gutesha agaciro ibimenyetso cyangwa amakuru byerekeye Jenoside, MUNYAMPUNDU Léon bakunze kwita Kinihira yavuze ko atagikoze kuko ubwo yari ku kazi k'izamu, urugamba rukomeye, yahunze kandi icyo gihe nta mubiri wari wakajugunywe muri icyo cyobo. [8] RUTAGANDA Dominique, NYAKAYIRO Samuel na NSENGIYAREMYE Elysée baburanye bavuga ko batemera icyaha cyo kuzimiza cyangwa gutesha agaciro ibimenyetso cyangwa amakuru byerekeye Jenoside kuko batigeze bamenya ko mu cyobo kiri mu bitaro bya Gitwe harimo imibiri y'Abatutsi bishwe muri Jenoside, ndetse ko n'abatangabuhamya babashinja bavuga ibinyoma. [9] Muri urwo rubanza haregewemo indishyi n'abantu cumi n'umwe (11). [10] Mu rubanza no RP/GEN 00029/2020/TGI/MHG rwaciwe n'Urukiko Rwisumbuye rwa Muhanga ku wa 25/3/2021, Urukiko, kuri MUNYAMPUNDU Léon bakunze kwita Kinihira by'umwihariko, rushingiye ku kuba mutangabuhamya MURINDABYUMA Isidore amushinja ko yamwirutseho ari kumwe n'uwitwa KIRAGI bashaka kumwica, ariko akabacika ndetse akaba anamushinja ko yabaga kuri bariyeri yari imbere y'ibitaro bya Gitwe anafite imbunda, kuba MUHAYIMANA Charles amushinja ko yari afite imbunda aho yari umuzamu mu ishuri rya ESAPAG kandi ko yamwiboneye n'amaso ye ndetse ko yari mu bantu bishe KALISA Ephrem no kuba NGENDAHAYO Denis na KAMANZI Félicien bamushinja ko yari kuri bariyeri yari imbere y'ibitaro bya Gitwe afite imbunda kandi ko kuri iyo bariyeri hiciwe abantu benshi, ku mvugo za RUSHINGABIGWI Aaron waragaragaje ko yari mu bantu babaga kuri bariyeri; no ku mvugo z'abatangabuhamya MURINDABYUMA Isidore, MUHAYIMANA Charles, NGENDAHAYO Denis na KAMANZI Félicien bamushinja na RUGANIZA Benjamin ko bari kuri bariyeri yari imbere y'ibitaro bya Gitwe, bafite imbunda, rushingiye kandi no kuba kuri iyo bariyeri hiciwe abantu benshi kandi ko MUNYAMPUNDU Léon bakunze kwita

Kinihira ari mu bantu bajyaga kujugunya imibiri y'ababaga bishwe mu cyobo kiri mu bitaro bya Gitwe, rwasobanuye ko MUNYAMPUNDU Léon bakunze kwita Kinihira na RUGANIZA Benjamin bahamwa n'icyaha cya jenocide n'icyaha cyo kuzimiza cyangwa gutesha agaciro ibimenyetso cyangwa amakuru byerekeye jenocide. [11] Rushingiye na none ku bimenyetso rwashyikirijwe, Urukiko rwabanje rwemeje ko URAYENEZA Gérard ahamwa no kuba icyitso mu cyaha cya jenocide kandi ko ahamwa n'icyaha cyo kuzimiza cyangwa gutesha agaciro ibimenyetso cyangwa amakuru byerekeye jenocide, maze ruhanisha MUNYAMPUNDU Léon bakunze kwita Kinihira, RUGANIZA Benjamin na

Page 6

URAYENEZA Gérard buri wese igifungo cya burundu, runabategeka no gutanga indishyi zitandukanye. Rwemeje kandi ko RUTAGANDA Dominique, NYAKAYIRO Samuel na NSENGIYAREMYE Elysée bahamwa n'icyaha cyo kuzimiza cyangwa gutesha agaciro ibimenyetso cyangwa amakuru byerekeye jenocide, maze ruhanisha buri wese igifungo cy'imyaka umunani (8) n'ihazabu y'amafaranga y'u Rwanda ibihumbi magana arindwi na mirongo itanu (750.000 Frw), runabategeka no gutanga indishyi zitandukanye. [12] URAYENEZA Gérard, MUNYAMPUNDU Léon bakunze kwita Kinihira, RUTAGANDA Dominique, NYAKAYIRO Samuel na NSENGIYAREMYE Elysée ntibishimiye imikirize y'urubanza, bajuririra mu Urukiko Rukuru, Urugereko ruburanisha ibyaha mpuzamahanga n'ibyaha byambuka imbibi, bavuga ko bahamijwe ibyaha nta bimenyetso bigaragaza ko babikoze. URAYENEZA Gérard anavuga ko yaburanishijwe kandi anahanirwa ibyaha yari yaragizweho umwere mu Nkiko Gacaca, naho MUNYAMPUNDU Léon bakunze kwita Kinihira we akanavuga ko yaburanishijwe anahanirwa icyaha cya jenocide nyamara yari yarakiburanyeho mu Nkiko Gacaca akanarangiza n'ibihano. [13] Uhagarariye Ubushinjacyaha yaburanye avuga ko ubujurire bwabo nta shingiro bufite kuko mu kubahamya ibyaha, Urukiko Rwisumbuye rwa Muhanga rwagaragaje ibyo rwashingiyeho haba mu rwego rw'ibikorwa abaregwa bakoze, haba no mu rwego rw'amategeko, runashingira ku bimenyetso birimo imvugo z'ababajijwe mu iperereza zigaragaza ko bakoze ibyaha bakurikiranyweho. [14] Mu rubanza no RPA/GEN 00039/2021/HC/HCCIC rwaciwe n'Urukiko Rukuru, Urugereko rwihamye ruburanisha ibyaha Mpuzamahanga, n'ibyaha byambuka imbibi ku wa 31/3/2022, hashingiwe ku isesengura rwakoze ku buhamya butandukanye bwatangiye mu nzego z'iperereza bwahereweho n'Urukiko Rwisumbuye ruhamya abaregwa ibyaha no ku isesengura rwakoze ku mvugo abo batangabuhamya bavugiyemo mu Rukiko ku rwego rw'ubujurire, rwemeje ko URAYENEZA Gérard, RUTAGANDA Dominique, NYAKAYIRO Samuel, na NSENGIYAREMYE Elysée badahamwa n'ibyaha baregwa, rutegeka ko bahita barekurwa urubanza rukimara gusomwa ndetse ko MUNYAMPUNDU Léon bakunze kwita Kinihira nawe adahamwa n'icyaha cyo kuzimiza cyangwa gutesha agaciro ibimenyetso cyangwa amakuru byerekeye jenocide ariko rumuhamya icyaha cya jenocide, rumuhanisha igifungo cy'imyaka makumyabiri n'itanu (25). [15] Ku birebana n'icyaha cya jenocide, Urukiko Rukuru rwari rwasuzumye ikibazo cyo kumenya niba MUNYAMPUNDU Léon bakunze kwita Kinihira yarahamijwe icyaha cya jenocide kandi yari yarakiburanye, akakigirwaho umwere mu Nkiko Gacaca. Urwo Rukiko rwasanze iyi miburanire nta shingiro ifite kubera ko ikimenyetso kiri muri dosiye ari urubanza rwaciwe n'Urukiko Gacaca rw'Umurenge wa

Gitinda B, aho rugaragaramo ko MUNYAMPUNDU Léon bakunze kwita Kinihira yemeye ko yishe umuntu, amujugunya mu musararane, ahanishwa igifungo cy'imyaka cumi n'ibiri (12) ariko akaba nta rubanza rw'Urukiko Gacaca rw'Umurenge wa Joma rwamugize umwere ruri muri dosiye, ko rero ntaho rwahera rwemeza ko MUNYAMPUNDU Léon bakunze kwita Kinihira yaciriwe urubanza bwa kabiri ku cyaha yari yaraburanye mu Rukiko Gacaca rw'Umurenge wa Joma agirwa umwere nk'uko abivugaga. [16] Muri urwo rwego kandi, Urukiko Rukuru rwari rwasuzumye n'ikindi kibazo cyo kumenya niba MUNYAMPUNDU Léon bakunze kwita Kinihira yarahamijwe icyaha cya jenocide nta

Page 7

bimenyetso bidashidikanywaho, maze rusanga ubuhamya bwa MUHAYIMANA Charles n'amakuru yatanze na MURINDABYUMA Isidore n'imvugo zabo mu iperereza bigaragaza ko MUNYAMPUNDU Léon bakunze kwita Kinihira yagize uruhare mu iyicwa ry'Abatutsi baguye kuri bariyeri kubera ko haba mu Rukiko, haba no mu iperereza, MUHAYIMANA Charles yemeje ko ubwo yari yihishe yamubonye kuri izo bariyeri afite imbunda kandi ko izo bariyeri ziciweho Abatutsi bari bavuye ahantu hatandukanye bagera kuri makumyabiri na batatu (23), barimo UMUTONI Laetitia, UMULISA Angélique, MUKAMUTARA Emerita n'abana be babiri n'abandi ndetse bikaba binashimangirwa n'amakuru n'imvugo bya MURINDABYUMA Isidore wemeza nawe ko, MUNYAMPUNDU Léon bakunze kwita Kinihira yamufashe akamuzana kuri izo bariyeri zicirwagaho Abatutsi ariko ku bw'amahirwe akamucika. [17] MUNYAMPUNDU Léon bakunze kwita Kinihira ntiyishimiye imikirize y'urubanza, ajuririra mu Rukiko rw'Ubujurire, urubanza ruhabwa no RPAA/GEN 00003/2022/CA, iburanisha ryarwo rishyirwa ku wa 13/10/2025, MUNYAMPUNDU Léon bakunze kwita Kinihira yitabye yunganiwe na Me NDUWAYO Jean de Dieu na Me TWAGIRAYEZU Joseph naho Ubushinjacyaha buhagarariwe na SIBOYINTORE John Bosco, Umushinjacyaha ku rwego rw'Igihugu. [18] Mu mwanzuro w'ubujurire no mu miburanire, MUNYAMPUNDU Léon bakunze kwita Kinihira n'abamwunganira bavugaga ko yahamijwe icyaha cya jenocide, nta kimenyetso kidashidikanywaho kigaragaza ko yagikoze, ko rwirengagije ukwiregura kwe bituma rumuhamya icyaha cya jenocide ataragikoze, ndetse ko ku rwego rw'ubujurire yahamijwe icyaha gishya kandi atarigeze akibazwaho, anasaba Urukiko ko rwazajya gukora iperereza aho bariyeri ivugwa yari iherereye. [19] Uhagarariye Ubushinjacyaha avugaga ko impamvu z'ubujurire za MUNYAMPUNDU Léon bakunze kwita Kinihira n'abamwunganira nta shingiro zikwiye guhabwa kuko badasobanura ikimenyetso "kidashidikanywaho" Urukiko Rukuru rutashingiyeho ngo kandi nyamara aribo bafite ishingano yo gusobanura no kugaragaza ibimenyetso bashingiraho biregura. Akomeza avugaga ko ibyo bavugaga ko Urukiko Rukuru rwirengagije imyiregurire ye atari byo, kuko Urukiko Rukuru rwabyitayeho bimwe rubiha ishingiro, ibindi rubyima ishingiro. Naho ku birebana n'ibyo kuba yakurikiranyweho icyaha gishya, atigeze abazwaho ngo acyisobanureho, uhagarariye Ubushinjacyaha asobanura ko ibyo bavugaga nta shingiro bifite, kuko icyaha yakurikiranyweho ndetse yahamijwe mu rubanza rujuririrwa ari icyaha cyo gukora jenocide yakorewe Abatutsi muri 1994, kandi ko icyo cyaha yakibajijweho, ndetse anacyisonuraho guhera mu Bugenzacyaha. [20] Hakurikijwe ibivugwa na buri ruhande mu baburanyi, Urukiko rw'Ubujurire rusanga ibibazo bikwiye gusuzumwa ari ibi

bikurikira:

- a) Kumenya niba ku rwego rw'ubujurire, MUNYAMPUNDU Léon bakunze kwita Kinihira yarahamijwe ibikorwa bishya atigeze yireguraho mu nzego z'iperereza no mu Rukiko rubanza;
- b) Kumenya niba Urukiko Rukuru rwarahamije MUNYAMPUNDU Léon bakunze kwita Kinihira icyaha cya jenocide, rushingiye ku bimenyetso bishidikanywaho;

Page 8

- c) Kumenya niba Urukiko Rukuru rwariyangagije imyiregurire ya MUNYAMPUNDU Léon bakunze kwita Kinihira bituma rumuhamya icyaha cya jenocide ntacyo yakozwe;
 - d) Kumenya niba Urukiko Rukuru rwariyangagije gukora iperereza ryasabwe na MUNYAMPUNDU Léon bakunze kwita Kinihira. II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA
1. Kumenya niba ku rwego rw'ubujurire, MUNYAMPUNDU Léon bakunze kwita Kinihira yarahamijwe ibikorwa bishya atigeze yireguraho mu nzego z'iperereza no mu Rukiko rubanza [21] MUNYAMPUNDU Léon bakunze kwita Kinihira n'abamwunganira bavuga ko Urukiko Rukuru, ku rwego rw'ubujurire, rwamuhamije icyaha gishya, ndetse atanabajijweho. Basobanura ko, mu gika cya 228 cy'urubanza rujuririrwa, Urukiko Rukuru rwamuhamije icyaha cyo kwica MUKAMUTARA Emeritha n'abana be 2, ndetse n'abandi bagera kuri 231, nyamara atarigeze abazwa kuri icyo cyaha haba mu Bugenzacyaha no mu Bushinjacyaha ngo acyiregureho, ndetse ko bitanagaragajwe mu mwanzuro w'Ubushinjacyaha no mu iburanisha ryo mu Rukiko Rukuru, ngo hagaragazwe urutonde n'amazina y'abo bantu bose kuko aribwo yari kubasha kubireguraho. [22] MUNYAMPUNDU Léon bakunze kwita Kinihira n'abamwunganira bakomeza bavuga ko uretse kuba yarahamijwe icyaha atabajijweho kuko atigeze abazwa kuri UMUTONI Laetitia na bagenzi be bavugwa mu rubanza, ko abo bantu batigeze bavugwa mu buhamya bwa MUHAYIMANA Charles n'ubwa MURINDABYUMA Isidore kandi aribwo bwonyine Urukiko Rukuru rwashingiyeho rumuhamya icyaha. [23] Mu gusoza, MUNYAMPUNDU Léon bakunze kwita Kinihira n'abamwunganira bavuga ko ku rwego rwa mbere, yabajijwe anisobanura ku cyaha cya jenocide ku birebana n'urupfu rwa KALISA Ephrem na GASHUGI François, kandi ko Urukiko rwakimugizeho umwera, ko kuba, mu bujurire, yarahamijwe icyaha cyo kwica UMUTONI Laetitia na bagenzi be bavugwa mu rubanza, nyamara atarababajijweho mbere no muri urwo Rukiko, bigaragaza ko Urukiko Rukuru rwamuhamije icyaha gishya kandi atarakibajijweho, bityo ko rwamuburanishije hirya y'umurongo w'ibyajuririwe (ku bitarajuririwe), kandi bikaba binyuranye n'ingingo ya 188 y'itegeko no 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, aho iteganya ko Urukiko rwajuririwe ruburanisha gusa mu mbizi z'ibyajuririwe, basaba uru Rukiko gukosora iyo nenge, rukamurenganura rwemeza ko nta byaha bishya MUNYAMPUNDU Léon bakunze kwita Kinihira yari akwiye gukurikiranwaho mu bujurire. [24] Uhagarariye Ubushinjacyaha

avuga ko ibivugwa na MUNYAMPUNDU Léon bakunze kwita Kinihira n'abunganizi be ko yakurikiranweho icyaha gishya, atigeze abazwaho ngo acyisobanureho, nta shingiro bifite kuko icyaha yakurikiranweho, ndetse yahamijwe mu rubanza rujuririrwa, ari icyaha cyo gukora jenocide yakorewe Abatutsi muri 1994, kandi ko icyo cyaha yakibajijweho ndetse anacyisobanuraho guhera mu Bugenzacyaha, ko icyaha cya jenocide

1 Muri uru rubanza, itsinda ry'abo MUNYAMPUNDU Léon bakunze kwita Kinihira avuga ko ari bashya barimo UMUTONI Laetitia, UMULISA Angélique na MUKAMUTARA Emeritha n'abana be 2, ndetse n'abandi bagera kuri 23, mu bika bikurikira turabita UMUTONI Laetitia na bagenzi be.

Page 9

yakimenyeshejwe ndetse anakisobanuraho, ko rero kuba yarabajijwe ku cyaha cya jenocide bidasaba ko havugwa n'urutonde n'amazina y'abishwe, ahubwo ko harebwa umugambi wo kwica abo basanze mu ndangamuntu handitsemo ko ari Abatutsi. [25] Ku birebana n'ibyo MUNYAMPUNDU Léon bakunze kwita Kinihira n'abunganizi be bavuga ko abatangabuhamya bashingiweho batigeze bamushinja kwica UMUTONI Laetitia na bagenzi be, uhagarariye Ubushinjacyaha avuga ko nta shingiro bifite kuko MUHAYIMANA Charles yabivuze nk'uko bigaragara mu nyandikomvugo yo ku wa 04/06/2020, abazwa mu Bugenzacyaha, yabajijwe ku kibazo cya 11, asubiza ko mu bo yabonye bafite imbunda, ahera kuri MUNYAMPUNDU Léon bakunze kwita Kinihira ndetse n'abandi. Ku kibazo cya 13, abajijwe ibyo yabonye kuri bariyeri yabaga imbere y'ibitaro bya Gitwe, asubiza ko haguye abantu benshi barenga 23, ko kandi abo baguye kuri bariyeri yari imbere y'ibitaro bya Gitwe ari nayo MUNYAMPUNDU Léon bakunze kwita Kinihira ashinjwa ko yabagaho n'ibikorwa yahakoreye. [26] Ku birebana n'ibivugwa na MUNYAMPUNDU Léon bakunze kwita Kinihira n'abunganizi be ko ibyo yahamijwe yabibonye bwa mbere mu Rukiko Rukuru, uhagarariye Ubushinjacyaha avuga ko nta shingiro bikwiye guhabwa kuko mu gika cya 95 cy'urubanza rwo mu Rukiko Rwisumbuye rwa Muhanga, Urukiko rwagaragaje abatangabuhamya bashinja MUNYAMPUNDU Léon bakunze kwita Kinihira, harimo MUHAYIMANA Charles wemeje ko MUNYAMPUNDU Léon bakunze kwita Kinihira yabaga ari kuri bariyeri yari imbere y'ibitaro bya Gitwe, kandi ko hiciwe bamwe mu bo yavuze amazina ariko anavuga ko haguye n'abandi bantu benshi, ko rero MUNYAMPUNDU Léon bakunze kwita Kinihira atavugaga ibirebana n'iyicwa ry'abo Batutsi yahamijwe ari bishya kandi byaragaragajwe icyo gihe ntiyabivuguruza, ndetse no mu kujurira ntiyabijuririra. UKO URUKIKO RUBIBONA [27] Impaka kuri iyi ngingo zishingiye ku kumenya niba mu bujuriye, Urukiko Rukuru rwarakoze amakosa yo guhamya MUNYAMPUNDU Léon bakunze kwita Kinihira ibikorwa bishya birebana n'iyicwa rya UMUTONI Laetitia na bagenzi be, atireguyeho ku rwego rw'iperereza no mu Rukiko rwabanje, kandi atanamenyeshejwe urutonde rw'abantu bavuga ko yagize uruhare mu rupfu rwabo. [28] Nk'uko byemejwe mu rubanza n° RPAA/Gen 00001/2022/CA rwaciwe ku wa 25/2/20252, Inkiko nshinjabyaha ziregerwa kandi zisuzuma ibikorwa bigize icyaha zashyikirijwe mu buryo bwemewe n'amategako, kandi bikaba ari byo byonyine zisuzuma³, bivuze ko zidashobora

2 Reba agace ka 20 k'urwo rubanza hagati y'Ubushinjacyaha na MUGIMBA Jean-Baptiste. 3 La juridiction de jugement doit statuer sur tous les faits dont elle est valablement saisie (.....) et uniquement sur ceux- là", Crim. 23 juillet 1967, J.C.P. 1968. II 15678, note J. Michaud, in idem. " La saisine du juge concerne uniquement le fait précis indiqué dans l'acte de saisine; ce dernier ne doit mentionner ni tous les éléments juridiques constitutifs du fait mis à charge ni tous les éléments de fait. Il appartient au juge, si besoin est, d'apprécier la portée de l'acte de saisine, sans toutefois violer la foi due à cet acte, (....)", Cass., 2 juin 1887, Pas., I, P.283, in Henri-D. Bosly et Damien Vandermeersch, Droit de procédure pénale, 2e édition, La Charte, Bruges, 2001, P. 906.

Page 10

guhindura cyangwa kongera ibikorwa zitashyikirijwe cyangwa bitagaragara mu nyandiko itanga ikirego, ngo zibisuzume⁴. [29] Nk'uko byemejwe mu rubanza no RPA/GEN 00006/2019/CA rwaciwe ku wa 29/10/20255, n'ubwo imyirondoro y'abishwe ari ngombwa mu gutegura kwiregura k'uregwa, ariko uregwa ashobora guhamwa n'icyaha ku bijyanye n'abishwe batagaragarijwe imyirondoro yabo, kandi ko inyandiko itanga ikirego itagomba kuba iriho urutonde rw'abakorewe icyaha (victims); uyu murongo ukaba wumvikanisha ko ku birebana n'ibikorwa bigize icyaha cy'ubwicanyi bukorwa mu buryo bwa rusange, nk'icyaha cya jenocide cyangwa ibyaha byibasira inyokomuntu, bitari ngombwa ko hagaragazwa imyirondoro yose y'abantu uregwa yishe kugira ngo abihanirwe. [30] Nk'uko bigaragara mu gika cya 228 n'icya 232 by'urubanza rujuririrwa, Urukiko Rukuru, rushingiye ku buhamya bwa MUHAYIMANA Charles no ku makuru yatanze na MURINDABYUMA Isidore, rwasobanuye ko nta gushidikanya ko MUNYAMPUNDU Léon bakunze kwita Kinihira yagize uruhare mu iyicwa ry'Abatutsi kuri bariyeri y'imbere y'ibitaro no kuri Centre ya Bienvenue, bari bavuye ahanu hatandukanye, bagera kuri makumyabiri na batatu (23), barimo UMUTONI Laetitia, UMULISA Angélique, MUKAMUTARA Emerita n'abana be babiri n'abandi baguye kuri bariyeri kuko bayimubonyeho afite imbunda. Rwanzura ko, kuba ibikorwa yagizemo uruhare byakozwe hagamiywe kurimbura abo bantu kubera ubwoko bwabo, bigize icyaha cya jenocide giteganywa n'ingingo ya 91 y'Itegeko n° 68/2018 riteganyaga ibyaha n'ibihano muri rusange n'ingingo ya 2 y'Amasezerano Mpuzamahanga ku ikumira n'ihanwa ry'icyaha cya jenocide yo ku wa 9/12/1948, u Rwanda rwashyizeho umukono ku wa 12/2/1975. [31] Inyandiko y'Ubushinjacyaha itanga ikirego mu Rukiko Rwisumbuye (indictment) yo ku wa 29/7/2020, ku birebana MUNYAMPUNDU Léon bakunze kwita Kinihira, igaragaza ko akurikiranyweho kuba yahawe imbunda na URAYENEZA Gérard kugira ngo akore uburinzi kuri bariyeri imbere y'ibitaro bya Gitwe, ahiciwe Abatutsi benshi abazwi n'abatazwi, abari bahaturiyeye n'abaturukaga ahandi baza bahunze. Iyo nyandiko igaragaza kandi ko aregwa n'abatangabuhamya NGENDAHAYO Dionise, MUHAYIMANA Charles, MURINDABYUMA Isidore, KAMANZI Félicien na HABIYAMBERE Ildéphonse. [32] Inyandikomvugo y'ibazwa rya MUNYAMPUNDU Léon bakunze kwita Kinihira mu Bugenzacyaha ku wa 15/6/2020, igaragaza ko yamenyeshejwe ko aregwa kuba mu mwaka wa 1994 yarijanditse muri jenocide yakorewe Abatutsi, akajya kuri za barrières zitandukanye yitwaje intwari, akaba yaranishe Abatutsi bari guhunga (.....). Mu nyandikomvugo ye yo ku wa 19/8/2020 mu Bushinjacyaha, hagaragaramo ko yamenyesheje ko aregwa kuba yari kuri barrière imbere

y'ibitaro bya Gitwe yitwaje imbunda, ahiciwe Abatutsi, kandi ko aregwa na MUHAYIMANA Charles na NGENDA HAYO Dionise. [33] Inyandikomvugo y'umutangabuhamya MUHAYIMANA Charles, abazwa mu Bugenzacyaha ku wa 4/8/2020, igaragaza ko yavuze ko igihe cya jenocide yabonye MUNYAMPUNDU Léon bakunze kwita Kinihira afite imbunda, ko kuri bariyeri yari imbere

4Mais elle ne saurait substituer ou ajouter aux faits dont elle est saisie d'autres faits non visés dans l'acte de saisine", Crim. 11 mai 1971, Bull. n° 147, Gaz. Pal. 1971.2. 524, in Gaston Stéfani, Georges Levasseur et Bernard Bouloc, op.cit., P. 682, n° 669.

5 Reba agace ka 564 k'urwo rubanza hagati y'Ubushinjacyaha na MBARUSHIMANA Kunda Emmanuel

Page 11

y'ibitaro bya Gitwe haguye abantu benshi barenga 23, ko abo azi amazina ari abaturutse muri Gatagara 11 aribo: NIWEMWANA Thérèse n'abana be 2, aribo UMUTONI Laetitia na UMULISA Angélique, MUKAMUTARA Emerita n'abana be 2, aribo UWERA Chantal na MUNYETUZA Gustave, TUGIRUWERA Josepha, MUKARUSANGA n'umukobwa we ariwe NYIRAHABIMANA, Christine wigishaga mu kigo cya Gatagara, Immaculée wigaga muri ESPANYA (.....). [34] Mu bimenyetso Ubushinjacyaha bwatanze kandi, harimo inyandikomvugo ya MURINDABYUMA Isidore, abazwa mu Bugenzacyaha ku wa 9/6/2020, aho yashinje MUNYAMPUNDU Léon bakunze kwita Kinihira kuba yari mu bari kuri bariyeri yari imbere y'ibitaro bya Gitwe, ndetse ko hiciwe murumuna we HAKIZIMANA Juvénal, GASHUGI w'i Joma, n'abandi atazi amazina kuko abantu bari bavuye Gatagara, Gikongoro na Kibuye ntawaharengaga. [35] Mu nyandikomvugo y'iburanisha yo ku wa 12/2/2021 no mu rubanza rwaciwe ku rwego rwa mbere, hagaragaramo ko urugera indishyi UWERA Marie-Grâce yasabye Urukiko Rwisumbuye rwa Muhanga gutegeka URAYENEZA Gérard, MUNYAMPUNDU Léon bakunze kwita Kinihira na RUGANIZA Benjamin, buri wese kumuha indishyi z'akababaro zingana na miliyoni 60 n'indishyi mbonezamusaruro zingana na miliyoni 10 za nyina NIWEMWANA Thérèse na barumuna be babiri, aribo UMUTONI Laetitia na UMULISA Angélique bishwe bakajugunywa mu byobo i Gitwe6. [36] Iyo nyandikomvugo y'iburanisha yavuzwe haruguru igaragaza ko MUNYAMPUNDU Léon bakunze kwita Kinihira yavuze ko indishyi asabwa nta shingiro kuko abantu babiri aregwa ko yishe (KALISA Ephrem na GASHUGI François), nta n'umwe muri bo uvugwa mu kirego cy'indishyi. [37] Nk'uko bigaragara mu gace ka 98 n'aka 213 tw'urubanza rwaciwe ku rwego rwa mbere, Urukiko Rwisumbuye rwa Muhanga rwasobanuye ko rushingiye ku bimenyetso byatanzwe n'Ubushinjacyaha n'uhagarariye abaregera indishyi bihamya ku buryo budashidikanywaho ko MUNYAMPUNDU Léon bakunze kwita Kinihira na (...) mu gihe cya jenocide yo mu mwaka wa 1994 bari bafite imbunda kandi ko bagaragaye kuri za bariyeri ziciweho Abatutsi, ndetse ko banagize uruhare mu iyicwa ryabo, bahamwa n'icyaha cya jenocide. Rwasobanuye kandi ko indishyi z'akababaro zisabwa na UWERA Marie-Grâce zifite ishingiro, ariko mu bushishozi bwarwo akwiye guhabwa na URAYENEZA Gérard, MUNYAMPUNDU Léon bakunze kwita Kinihira na RUGANIZA Benjamin bafatanyije amafaranga angana na miliyoni icyenda (9.000.000 Frw) ku

bwa nyina na barumuna be bishwe mu gihe cya jenocide, bakajugunywa mu cyobo i Gitwe. [38] NK'uko bigaragara mu rubanza rujuririrwa, ku birebana n'icyaha cya jenocide yahamijwe ku rwego rwa mbere, MUNYAMPUNDU Léon bakunze kwita Kinihira yajuririye Urukiko Rukuru anenga Urukiko rwabanje kuba rwamuhamije icyaha cya jenocide, nyamara yari yarakiburanye akakigirwaho umwera mu Nkiko Gacaca no kuba rwaramuhamije urupfu rwa KALISA Ephrem n'urwa GASHUGI François rushingiye ku buhamya bushidikanywaho,

6 Reba agace ka 197 k'urwo rubanza.

Page 12

rwirengagiza ikimenyetso yatanze gishimangira ko nta ruhare abifitemo, ndetse n'ibisobanuro yatanze agaragaza ko nta mbunda yigeze atunga, kandi ko atigeze agera kuri bariyeri zivugwa. [39] Hashingiye ku nyandiko zigize dosiye y'urubanza zagaragajwe haruguru, Urukiko rw'Ubujurire rurasanga MUNYAMPUNDU Léon bakunze kwita Kinihira yaramenyeshwe mu buryo bwemewe n'amategeko ko aregwa kuba yari kuri barrière imbere y'ibitaro bya Gitwe yitwaje imbunda, yiciweho Abatutsi benshi, ko by'umwihariko ku giti cye yishe KALISA Ephrem na GASHUGI François. Rurasanga kandi mu nyandiko zatanze n'Ubushinjacyaha zigize dosiye y'urubanza, MUNYAMPUNDU Léon bakunze kwita Kinihira yamenyeshwe, harimo inyandikomvugo y'umutangabuhamya MUHAYIMANA Charles aho yavuze ko mu bantu baguye kuri bariyeri yari imbere y'ibitaro bya Gitwe, harimo NIWEMWANA Thérèse, UMUTONI Laetitia, UMULISA Angélique, MUKAMUTARA Emerita, UWERA Chantal, MUNYETUZA Gustave, TUGIRUWERA Josepha, MUKARUSANGA, NYIRAHABIMANA, Christine wigishaga mu kigo cya Gatagara, Immaculée wigaga muri ESPANYA n'abandi. Rurasanga na none MUNYAMPUNDU Léon bakunze kwita Kinihira yaraburanye mu Rukiko rwabanje ku bikorwa bigize ibyaha aregwa yamenshwe, yiregura ku bwicanyi bwabereye kuri bariyeri yari imbere y'ibitaro bya Gitwe, avuga ko atigeze ahagera, ndeste by'umwihariko yireguye no ku ndishyi zasabwe n'uregera indishyi UWIMANA Marie-Grâce kubera iyicwa rya NIWEMWANA Thérèse, UMUTONI Laetitia na UMULISA Angélique ryabereye kuri iyo bariyeri. [40] Ku birebana n'ibivugwa na MUNYAMPUNDU Léon bakunze kwita Kinihira ko Urukiko Rukuru rwashingiye ku mvugo za MUHAYIMANA Charles na MURINDABYUMA Isidore, rwemeza ko yishe UMUTONI Laetitia na bagenzi be, nyamara batarabamushinje, Urukiko rw'Ubujurire rurasanga bitahabwa agaciro kuko nk'uko byagaragajwe haruguru, abo batangabuhamya babiri bamushinje kuba yari mu bantu bicaga Abatutsi kuri bariyeri yari imbere y'ibitaro bya Gitwe, by'umwihariko MUHAYIMANA Charles yavuze ko mu baguye kuri iyo bariyeri, harimo UMUTONI Laetitia na bagenzi be. [41] Bitabangamiye ibyagaragajwe haruguru, Urukiko rw'Ubujurire rurasanga n'ubwo MUNYAMPUNDU Léon bakunze kwita Kinihira atamenyeshwe mu nyandiko itanga ikirego urutonde rwa bantu biciwe kuri bariyeri yari imbere y'ibitaro bya Gitwe, ndetse by'umwihariko mu Bugenzacyaha no mu Bushinjacyaha akaba atarigeze abazwa ku bwicanyi bwakorewe UMUTONI Laetitia na bagenzi be kuri iyo bariyeri ngo abiregureho, bitari kubuza ko hemezwa ko yagize uruhare mu iyicwa ryabo kuko nk'uko byemejwe mu murongo wagaragajwe haruguru, ku birebana n'ibikorwa bigize ubwicanyi bukorwa mu buryo bwa rusange, bitari ngombwa ko hagaragazwa imyirondoro y'abantu bose bishwe n'uregwa ahantu runaka, kugira ngo

abihanirwe ; icy'ingenzi akaba ari uko hagaragazwa ko aho hantu (kuri iyo bariyeri) hiciwe abantu bazira ko ari Abatutsi, kandi ko ubwo bicwaga uregwa yari ahari. [42] Urukiko rw'Ubujurire rurasanga rero hashingiwe ku bisobanuro byatanze haruguru, ibivugwa na MUNYAMPUNDU Léon bakunze kwita Kinihira ko Urukiko Rukuru rwakoze ikosa ryo kumuhamya icyaha cya jenocide rushingiye ku bikorwa byo kwica UMUTONI Laetitia na bagenzi be, kandi atarabirezwe ngo abyisobanureho, nta gaciro byahabwa kuko yarezwe ibyo bikorwa kuva mu rwego rw'iperereza, kandi abyireguraho mu Rukiko rwabanje ku rwego rw'ikirego nshinjabyaha no ku rwego rw'ikirego cy'indishyi.

Page 13

- [43] kubera ko izo mpamvu zose, Urukiko rw'Ubujurire rurasanga iyi ngingo y'ubujurire bwa MUNYAMPUNDU Léon bakunze kwita Kinihira, nta shingiro ifite.
2. Kumenya niba Urukiko Rukuru rwarahamije MUNYAMPUNDU Léon bakunze kwita Kinihira icyaha cya jenocide, rushingiye ku bimenyetso bishidikanywaho [44] MUNYAMPUNDU Léon bankuze kwita Kinihira n'abamwunganira bavuga ko Urukiko Rukuru rwamuhamije icyaha cya jenocide rushingiye ku buhamya bwa MURINDABYUMA Isidore n'ubwa MUHAYIMANA Charles, nyamara butera gushidikanya. [45] Kuri MURINDABYUMA Isidore, MUNYAMPUNDU Léon bakunze kwita Kinihira n'abamwunganira bavuga ko ubuhamya bwe butari bukwiye gushingirwaho kuko MUNANIRA Alexandre yavuze ko MURINDABYUMA Isidore yamusabye gushinja URAYENEZA Gérard na bagenzi be, ko aribo bishe se GASHUGI François arabyanga, ko na nyuma MURINDABYUMA Isidore yanditse inyandiko ivuguruza ibyo yari yavuze muri RIB, bityo akaba atafatwa nk'inyangamugayo kuko yivuguruza. Bakomeza bavuga ko, kuba mu buhamya yatanze burimo ko GASHUGI François na KALISA Ephrem bishwe na MUNYAMPUNDU Léon bakunze kwita Kinihira ndetse akanavuga ko URAYENEZA Gérard yatanze imbunda, ariko ntibihabwe agaciro n'Urukiko, rutari rukwiye no kubushingiraho ngo rwemeze ko MUNYAMPUNDU Léon bakunze kwita Kinihira yishe abantu batazwi amushinja, ko kuba hari ibyo yamushinje, Urukiko rukabimugiraho umwere, bikwiye kugaragaza ko ubuhamya bwe bufite inenge, ituma n'ibindi yavuze bitari bikwiye kwizerwa. [46] MUNYAMPUNDU Léon bakunze kwita Kinihira n'abamwunganira bakomeza bavuga kandi ko ubuhamya bwa MURINDABYUMA Isidore n'ubwa MUHAYIMANA Charles bwose butari bukwiye gushingirwaho kuko ku bandi bareganwaga hamwe nawe butahawe ishingiro, ariko kuri we bugahabwa ishingiro igice kimwe, kuko imbunda bavugaga ko yahawe na URAYENEZA Gérard, uyu yayibayeho umwere, ndetse ko nta n'uwo bagaragaje waba waricishijwe iyo mbunda. [47] By'umwihariko, ku birebana na MUHAYIMANA Charles, MUNYAMPUNDU Léon bakunze kwita Kinihira n'abamwunganira bavuga ko ukurikije aho yavuze ko yari ari, n'aho iyo bariyeri yari iri, bitari gushoboka ko abona ibyo yemeje kubera intera ihari. [48] Uhagarariye Ubushinjacyaha avuga ko iyi mpamvu y'ubujurire nta shingiro ikwiye guhabwa kuko nk'uko bigaragara mu rubanza rujuririrwa, Urukiko Rukuru rwashingiye ku buhamya bwa MUHAYIMANA Charles⁷ n'ubwa MURINDABYUMA Isidore⁸, kandi Urukiko arirwo rupima rukamenya agaciro ruha imvugo z'abatangabuhamya, ko kuba rwarahaye agaciro ubwo buhamya, nta cyambura agaciro ibyo

bavuze kuko ubwo buhamya bwabo bwakomeje kuba bumwe kuva muri RIB kugeza mu Rukiko Rukuru, kandi MUNYAMPUNDU Léon bakunze kwita Kinihira n'abamwunganira nta kintu gifatika bagaragaza banenga ubwo buhamya cyafatwa nk'ishingiro ryatuma ubwo buhamya bwabo butaragombaga kwizerwa n'Urukiko. [49] Uhagarariye Ubushinjacyaha avuga ko mu gika cya 228 cy'urubanza rujuririrwa, Urukiko Rukuru rwagaragaje impamvu rwashingiyeho rumuhamya icyaha cya jenocide, ndetse mu gika

7 Reba ibika bya 60, 61 na 62. 8 Reba ibika bya 101,102 na 103.

Page 14

cyarwo cya 232 rusobanura neza ku buryo budashidikanywaho ibimenyetso n'amategeko rwashingiyeho ruhamya MUNYAMPUNDU Léon bakunze kwita Kinihira icyaha cya jenocide. [50] Ku birebana n'ibivugwa na MUNYAMPUNDU Léon bakunze kwita Kinihira n'abunganizi be ko ubuhamya bwa MURINDABYUMA Isidore n'ubwa MUHAYIMANA Charles butari bukwiye gushingirwaho kuko igice kimwe cyabwo kitahawe agaciro, ko n'ikindi nta kuri kukirimo, uhagarariye Ubushinjacyaha avuga ko iyo miburanire nta shingiro ifite kuko Urukiko Rukuru rwasesenguye ubuhamya neza, hamwe rugaragaza ko bimwe rutabishingiraho kuko bitagaragaza ukuri kw'ibyabaye ku iyicwa rya GASHUGI François na KALISA Ephrem, ariko rugaragaza ko kuri MUNYAMPUNDU Léon bakunze kwita Kinihira hari ibindi bimushinja bidashidikanywaho birebana n'uruhare yagize mu kwica Abatutsi kuri bariyeri yari ku bitaro bya Gitwe, ko kuba rwarashingiye ku gice kimwe cy'ubuhamya atari ikosa rwakoze kuko bihura n'ibyakozwe no mu rubanza rwa BIKINDI Simon nk'uko Urukiko Rukuru rwabigaragaje. UKO URUKIKO RUBIBONA [51] Impaka kuri iyi ngingo zishingiye kuri ibi bikurikira:

- Kumenya niba ubuhamya bwa MURINDABYUMA Isidore bwari bukwiye gushingirwaho kandi yaravuguruye ibyo yari yavugiye mu Bugenzacyaha no kumenya niba MUHAYIMANA Charles atarashoboraga kubona ibyaberaga kuri bariyeri y'imbere y'ibitaro bya Gitwe
- Kumenya niba Urukiko Rukuru rwarakoze amakosa mu gushingira ku gice kimwe cy'ubuhamya bwa MURINDABYUMA Isidore na MUHAYIMANA Charles
- a) Kumenya niba Urukiko Rukuru rwarakoze amakosa yo gushingira ku buhamya bwa MURINDABYUMA Isidore buvuguruzanya no ku mvugo za MUHAYIMANA Charles zitizewe kuko aho yari ari atashoboraga kubona ibyaberaga kuri bariyeri y'imbere y'ibitaro bya Gitwe. [52] Ikibazo cyo kumenya agaciro gahabwa imvugo z'umutangabuhamya mu manza nk'ikimenyetso, byatanzweho umurongo n'uru Rukiko mu rubanza n° RPAA/Gén 00002/2018/CA rwaciwe ku wa 25/7/2023, Ubushinjacyaha buburana na TWAHIRWA François. Muri urwo rubanza, Urukiko rwemeje ko "Ihame ku birebana n'ubuhamya ari uko umutangabuhamya avuga mu Rukiko ibyo yiboneye cyangwa ibyo yumvise mu buryo butaziguye, ko Urukiko rwonyine rusuzuma mu bushishozi icyizere cyangwa ireme bukwiye guhabwa". [53] Ibyo bivuzwe haruguru byanashimangiwe kandi mu manza zitandukanye zaciwe n'uru Rukiko n'izaciwe n'inkiko mpuzamahanga harimo urubanza n° RPAA 00050/2024/CA9 no mu rubanza n° ICTR-01-72-A rwaciwe ku wa 18 Werurwe 2010 n'Urukiko Mpanabyaha

Mpuzamahanga rwashyiriweho u Rwanda, Urugereko rw'ubujurire, Simon BIKINDI aburana n'Ubushinjacyaha ; mu gika cyarwo cya 119, rwemeje ko “Mu kugena uburemere bw'ibimenyetso

9 Reba urubanza n° RPAA 00050/2024/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 26/4/2024, haburana Ubushinjacyaha na SHEMA Ernest.

Page 15

byerekeranye n'ubuhamya, Urukiko ari rwo rufite ububasha (discrétion) bwo kwita ku birebana nabwo byose”10. [54] Ku birebana n'umutangabuhamya MURINDABYUMA Isidore, dosiye y'urubanza igaragaza inyandikomvugo y'ibazwa rye mu Bugenzacyaha ku wa 09/06/2020, aho yavuze ko mu gihe cya jenocide yihishahishe mu mashyamba ya Gitwe, noneho byagera nijoro akanyura mu ruzitiro rw'ibitaro kuko rwari rurimo kubakwa, ko yahavaga butaracya, ko umunsi umwe hari igihe yatinze kuhava, abazamu baramufata bamushyira MUTIGANDA wari Burugumesitiri wa Komini Murama ari kumwe n'abajandarume bari kuri bariyeri yari imbere y'ibitaro, ababwira kumujyana aho bajyana abandi, ariko nyuma haza umusirikare atazi amazina amwitiranyaga na mukuru we wajyaga amugaburira asaba ko bamureka akagenda, baramurekura ageze hepfo ahura na Kinihira azanye uwitwa KIRAGI ngo ajye kumwica, maze ariruka arabasiga. Muri icyo nyandiko kandi MURINDABYUMA Isidore yemeje ko MUNYAMPUNDU Léon bakunze kwita Kinihira yabaga ari kuri bariyeri yari imbere y'ibitaro bya Gitwe, ndetse ko icyo bariyeri hiciwe abantu benshi barimo HAKIZIMANA Juvénal n'abandi baturutse i Gatagara, Gikongoro na Kibuye. [55] Dosiye igaragaza kandi inyandikomvugo ya MURINDABYUMA Isidore abazwa mu Bushinjacyaha ku wa 26/11/2020 agahakana ko inyandiko yo ku wa 18/11/2020 yanditswe igaragaza ko yivuguruye ku makuru yari yatanze mu gihe cy'ikusanyamakuru avuga ko atabonye URAYENEZA Gérard kuri bariyeri, avuga ko icyo nyandiko atariwe wayanditse. [56] Mu makuru MURINDABYUMA Isidore yahaye Urukiko Rukuru, agaragara mu gika cya 101, 102 na 103 by'urubanza rujuririrwa, ku birebana na MUNYAMPUNDU Léon bakunze kwita Kinihira yavuze ko hari ubwo yamubonye kuri bariyeri iri imbere y'ibitaro bya Gitwe kuko yayirirwagaho agasimbura na MUNYAKAYANZA, ko icyo bariyeri yiciweho murumuna we n'abandi bantu bari bavuye i Gatagara, ko hari n'ubwo na we yayimutwayeho amukuye ku nyubako y'ibitaro, ahageze ahura n'imodoka ya RUTIGANDA wari ugiye kwica abapasiteri, ndetse ko icyo gihe yari afite imbunda ariko ko, atamubonye ayicisha abantu kuko atahakoraga uretse murumuna we witwa HAKIZIMANA Juvénal yabonye yica. Yanavuze ko ahungira ku nyubako y'ibitaro yahasanze GASHUGI wamubwiye ko yahashyizwe n'umugore wa URAYENEZA Gérard amuha MUNYAMPUNDU Léon bakunze kwita Kinihira ngo azajye ahamurindira, nyuma aza kumva ko yapfuye, yibwira ko yaguye kuri icyo bariyeri, ko kandi umubiri wa murumuna we HAKIZIMANA Juvénal wabonetse mu mibiri yari mu byobo byo muni y'ibitaro ariko ko uwa GASHUGI François atamenye aho uherereye uretse ko yibwiraga ko na wo uri muri icyo cyobo. Yanavuze kandi ko inyandiko yo ku wa 18/11/2020 iriho umukono wa noteri yayikoze avuguruza icy'uwitwa NDAHIMANA Matayo yanditswe imwitirirwa akaba yarayisinye abisabwe n'abantu batanu (5) barimo RUSINE, muramu wa URAYENEZA Gérard, GASHAYIJA na Matayo, ko banamuhaye amafaranga ibihumbi mirongo itanu (50.000 Frw) ayaguramo ibintu binyuranye, bukeye ajya

kuyivuguruzwa mu Bugenzacyaha no kwa noteri ariko ko hari inyandiko yakoze ivuga ko URAYENEZA Gérard nta cyaha yakoze uyu akaba yari yamutumyehe NDIKURYAYO, ko kandi n'amakuru yatanze muri Gacaca ku muhungu wa URAYENEZA Gérard avuga ko atigeze amubona mu gihe cya jenocide, byatewe n'amafaranga ibihumbi bitanu (5.000Frw) uyu yamuhaye.

10 In determining the weight to attach to the evidence of any witness, the Trial Chamber has a broad discretion to consider all relevant factors

Page 16

[57] Mu makuru MUNANIRA Alexandre yahaye Urukiko Rukuru, agaragara mu gika cya 99 cy'urubanza rujuririrwa, yavuze ko yari asanzwe ari URAYENEZA Gérard kuko yari umukoresha wa se GASHUGI François, ariko ko mu gihe cya jenocide atigeze amubona. Asobanura ko hari uwitwaga AHOBANTEGEYE Charlotte wamusabye inshuro nyinshi kuri telefone kumufasha gushinje URAYENEZA Gérard na MUNYAMPUNDU Léon bakunze kwita Kinihira yemeza ko aribo bishe se, umubiri we bakawushyira mu cyobo kiri mu bitaro bya Gitwe, ko na nyuma yaje kumuhaza na NKURUNZIZA Emmanuel, Anita na RUZINDAZA, nyuma aza guhurira na Anita i Nyamirambo ari kumwe na Milton bamusaba ko yazavugaga ko se yaguye ku bitaro bya Gitwe ariko arabahakanyirye kuko yari ari muri Murama, naho NKURUNZIZA Emmanuel we bavuganyije kuri telefone amubwirako ibyo bintu byo gushinje yabyitondamo kuko harimo igihembo cy'amafaranga agera kuri miliyoni icumi (10.000.000 Frw). Anavugaga ko hari n'ubwo yahuye n'uwitwaga MURINDABYUMA bahuriye i Gitwe amusaba ko ibyo yari yaravuze mbere muri Gacaca by'uko se yaguye i Murama bazabihindurako bakavugaga ko yaguye mu bitaro bya Gitwe kandi ko harimo igihembo. [58] Ku birebana n'umutangabuhamya MUHAYIMANA Charles, abazwaga mu Bugenzacyaha ku wa 04/08/2020 yavuze ko mu minsi 9 yamaze yihishahisha mu bihuru, kuri bariyeri y'imbere y'ibitaro bya Gitwe, yibonye n'amaso ye abantu bafite imbunda, barimo MUNYAMPUNDU Léon bakunze kwita Kinihira. [59] Nk'uko bigaragara cyane cyane mu gika cya 226 n'icya 228 by'urubanza rujuririrwa, Urukiko Rukuru rwasanze ubuhamya bwa MUHAYIMANA Charles n'amakuru yatanze na MURINDABYUMA Isidore n'imbwira zabo mu iperereza bigaragaza ko MUNYAMPUNDU Léon bakunze kwita Kinihira yagize uruhare mu iyicwa ry'Abatutsi baguye kuri bariyeri kubera ko haba mu Rukiko, haba no mu iperereza, MUHAYIMANA Charles yemeje ko ubwo yari yihishye yamubonye kuri izo bariyeri afite imbunda kandi ko icyo bariyeri yiciweho Abatutsi bari bavuye ahantu hatandukanye bagera kuri makumyabiri na batatu (23), barimo UMUTONI Laetitia, UMULISA Angélique, MUKAMUTARA Emerita n'abana be babiri n'abandi, ndetse naho mu mvugo ze, MURINDABYUMA Isidore akaba yaremeje ko MUNYAMPUNDU Léon bakunze kwita Kinihira yamufashe akamuzana kuri izo bariyeri zicirwagaho Abatutsi ariko ku bw'amahirwe akamucika. [60] Urukiko rw'Ubuujurire rurasanga imvugo za MURINDABYUMA Isidore n'ubuhamya bwa MUHAYIMANA Charles haba mu gihe cy'iperereza n'imbere y'Urukiko Rukuru zihuriza ku kuba ubwabo baribonye imbonankubone MUNYAMPUNDU Léon bakunze kwita Kinihira ari kuri bariyeri yari imbere y'ibitaro bya Gitwe afite imbunda, ndetse MURINDABYUMA Isidore akanahamya ko kuri icyo bariyeri haguyeho Abatutsi benshi bari baturutse Gatagara, Kibuye na Gikongoro,

naho MUHAYIMANA Charles akemeza ko ubwo yari yihishe yamubonye kuri iyo bariyeri afite imbunda kandi ko iyo bariyeri yiciweho Abatutsi bari bavuye ahantu hatandukanye bagera kuri makumyabiri na batatu (23) barimo UMUTONI Laetitia, UMULISA Angélique, MUKAMUTARA Emerita n'abana be babiri n'abandi. [61] Rusanga rero uburyo MURINDABYUMA Isidore na MUHAYIMANA Charles babivuzemo bigaragaza neza ko bavuga ibintu bazi neza uko byagenze, badategwa kandi ntacyo bahimba, bityo imvugo n'ubuhamya bwabo bikaba bigomba gushingirwaho kuko bigaragarira Urukiko ko ibyo bavuga bifite ireme kandi ko bazi ukuri ku byabaye mu buryo budashidikanywaho. Rurasanga rero nta kosa Urukiko Rukuru rwakoze mu gushingira ku mvugo

Page 17

n'ubuhamya bya MURINDABYUMA Isidore na MUHAYIMANA Charles mu guhamya MUNYAMPUNDU Léon bakunze kwita Kinihira icyaha cyo gukora jenocide kuko zigaragaza uruhare rwe mu buryo budashidikanywaho. [62] Ku birebana n'imiburanire ya MUNYAMPUNDU Léon bakunze kwita Kinihira n'abamwunganira y'uko MUHAYIMANA Charles atashoboraga kubona ibibera kuri bariyeri ugereranije n'aho yari yihishe, nta shingiro bifite kuko nk'uko MUHAYIMANA Charles yabivuze mu buhamya bwe, yagendaga yihishahisha mu bihuru by'i Gitwe, bikaba byumvikana ko atari yihishe ahantu hamwe, kandi mu gihe cy'iminsi icyenda (9) yagendaga yihishahisha akaba aribwo yavuze ko yabonye MUNYAMPUNDU Léon bakunze kwita Kinihira ari kuri bariyeri yari imbere y'ibitaro bya Gitwe afite imbunda. [63] Ku birebana n'ibivugwa na MUNYAMPUNDU Léon bakunze kwita Kinihira n'abamwunganira ko ubuhamya bwa MURINDABYUMA Isidore budakwiye gushingirwaho kuko yivugurujye ku byo yari yavuze mu ikusanyamakuru ko atafatwa nk'inyangamugayo, Urukiko rw'Ubujurire rurasanga iyi miburanire nayo nta shingiro yahabwa, kuko MURINDABYUMA Isidore atigeze yivuguruzwa ku birebana n'ibyo amushinja cyane cyane ko nk'uko byasobanuwe haruguru, yaba mu gihe cy'iperereza n'amakuru yatangiye imbere y'Urukiko Rukuru yakomeje kwemeza ko yamwiboneye ari kuri bariyeri yari imbere y'ibitaro bya Gitwe afite imbunda, ndetse anahamya ko ubwe, yamufashe amuzana kuri iyo bariyeri yicirwagaho Abatutsi ariko ku bw'amahirwe akamucika. [64] Ku bijyanye n'inyandiko yo ku wa 18/11/2020 igaragaza ko MURINDABYUMA Isidore yivugurujye ku makuru yari yatanze mu gihe cy'ikusanyamakuru avuga ko atabonye URAYENEZA Gérard kuri bariyeri, Urukiko rw'Ubujurire rurasanga iyo nyandiko itashingirwaho hateshwa agaciro ubuhamya bwa MURINDABYUMA Isidore ku birebana n'ibyo ashinja MUNYAMPUNDU Léon bakunze kwita Kinihira kuko uretse kuba MURINDABYUMA Isidore avuga ko iyo nyandiko atariwe wayanditse, n'iyi yaba yarayanditse yivuguruzwa ubwabyo ntibyatesha agaciro ubuhamya bwe ku birebana MUNYAMPUNDU Léon bakunze kwita Kinihira kuko yaba atarivugurujye ku byo amushinja ari naryo reme ry'ubuhamya bwe kandi nk'uko byemejwe mu manza nyinshi zitandukanye, ukwivuguruzwa guteshwa agaciro ubuhamya kubaho gusa mu gihe umutangabuhamya yivugurujye ku ireme ryabwo. [65] Ku birebana n'ibyo MUNYAMPUNDU Léon bakunze kwita Kinihira avuga ko ubuhamya bwa MURINDABYUMA Isidore bukwiye guteshwa agaciro kuko MUNANIRA Alexandre yavuze ko MURINDABYUMA Isidore yamusabye gushinja MUNYAMPUNDU Léon bakunze kwita Kinihira, Urukiko rw'Ubujurire rurasanga nta

shingiro byahabwa kuko ibyavuzwe na MUNANIRA Alexandre byarebanaga n'urupfu rwa GASHUGI François n'uruhare MUNYAMPUNDU Léon bakunze kwita Kinihira yaba yarabigizemo kandi Urukiko

11 Reba urubanza n° RPAA 0117/07/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 17/07/2010 haburana Ubushinjacyaha na Sgt BIZIYAREMYE na Cpl. NGABONZIZA (igika cya 14), urubanza n° RPA/GEN 00004/2020/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 08/04/2022, haburana Ubushinjacyaha na BIRINDABAGABO Jean-Paul (igika cya 141), urubanza n° RPA 00045/2020/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 28/1/2025, Ubushinjacyaha buburana na SENDEGEYA Alexis na bagenzi be (igika cya 84) n'urubanza n° RPAA/GEN 00001/2022/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 29/5/2025, haburana Ubushinjacyaha na MUNYAKAYANZA Jean de Dieu (igika cya 34).

Page 18

rwabihereyeho rumugira umwere kuri icyo cyaha, ariko bikaba bitareba ubuhamya bwose bwa MURINDABYUMA Isidore. [66] Ku bw'ibyo, hashingiwe ku bisobanuro byatanze haruguru n'imirongo yatanze n'Inkiko nayo yagaragajwe haruguru, Urukiko rw'Ubujurire rurasanga nta kosa Urukiko Rukuru rwakoze rushingira ku buhamya bwa MURINDABYUMA Isidore n'invugo ya MUHAYIMANA Charles ku birebana na MUNYAMPUNDU Léon bakunze kwita Kinihira kuko nta nenge bufite, bityo ubujurire bwa MUNYAMPUNDU Léon bakunze kwita Kinihira kuri iyi ngingo bukaba nta shingiro bufite.

- b) Kumenya niba Urukiko Rukuru rwakoze amakosa mu gushingira ku gice kimwe cy'ubuhamya bwa MURINDABYUMA Isidore na MUHAYIMANA Charles [67] Kuri iyi ngingo harasuzumwa niba ubuhamya bwose bw'abashinje MUNYAMPUNDU Léon bakunze kwita Kinihira butari gushingirwaho mu gihe Urukiko Rukuru rwatesheje agaciro igice kimwe cyabwo. [68] Ikibazo cyo kumenya niba Urukiko rushobora gushingira ku gice kimwe cy'ubuhamya cyafashweho umwanzuro mu manza zitandukanye zaciwe n'uru Rukiko, harimo urubanza n° RPAA/Gen 00008/2019/CA rwaciwe ku wa 28/2/20212, haburana Ubushinjacyaha na HABYARIMANA Jean, urubanza n° RPA/Gén 00005/2021/CA-CMB RPA/Gén 00006/2021/CA13 rwaciwe ku wa 13/12/2024 n'urubanza no RPAA/GEN 00006/2022/CA14 rwaciwe ku wa 28/11/2025, haburana Ubushinjacyaha na 2Lt. Henri Jean-Claude SEYOBOKA aho rwemeje ko igice kimwe cy'ubuhamya gishobora gushingirwaho mu gihe aricyo cyizewe. [69] Nk'uko bigaragara mu gika cya 228, 229 na 230 by'urubanza rujuririrwa, Urukiko Rukuru rwasesenguye ubuhamya bwa MUHAYIMANA Charles n'ubwa MURINDABYUMA Isidore bwashingiweho mu guhamya MUNYAMPUNDU Léon bakunze kwita Kinihira icyaha cya jenosode, rusanga ku ruhande rumwe bugaragaza ko yagize uruhare mu iyicwa ry'Abatutsi baguye kuri bariyeri kubera ko haba mu Rukiko, haba no mu iperereza, MUHAYIMANA Charles yemeje ko ubwo yari yihishe yamubonye kuri iyo bariyeri afite imbunda, kandi ko iyo bariyeri ziciweho Abatutsi bari bavuye ahantu hatandukanye bagera kuri makumyabiri na batatu (23), barimo UMUTONI Laetitia, UMULISA Angélique, MUKAMUTARA Emerita n'abana be babiri n'abandi, ndetse bikaba binashimangirwa n'amakuru n'invugo bya MURINDABYUMA Isidore wemeza nawe ko MUNYAMPUNDU Léon

bakunze kwita Kinihira yamufashe akamuzana kuri iyo bariyeri yicirwagaho Abatutsi, ariko ku bw'amahirwe akamucika. [70] Ku rundi ruhande, Urukiko Rukuru rwanasanze ubuhamya bwa MUHAYIMANA Charles n'ubwa MURINDABYUMA Isidore butashyingirwaho hemezwa ko MUNYAMPUNDU Léon bakunze kwita Kinihira yagize uruhare mu iyicwa rya GASHUGI François na KALISA Ephrem kuko MUHAYIMANA Charles mu buhamya bwe mu Rukiko avuga ko atiboneye uregwa amwica, ahubwo avuga ko iby'iyicwa rye yabibwiwe n'umuzamu atibuka; naho ku bijyanye n'iyicwa rya GASHUGI François, mu buhamya bwe mu Rukiko akaba yaravuze ko ntacyo abiziho cyane cyane

12 Reba igika cya 57 cy'urwo rubanza 13 Reba agace ka 73 k'urwo rubanza rwaciwe ku wa 13/12/2024, hagati y'Ubushinjacyaha na IYAMUREMYE Jean- Claude bita NZINGA. Ari nako byemejwe mu rubanza n° ICTR-2000-55A-A rwa Procureur na MUVUNYI Tharcisse 14 Reba igika cyarwo cya 46 na 63.

Page 19

ko mu ibazwa rye mu gihe cy'iperereza nabwo atasobanuye neza niba yariboneye GASHUGI François yicwa cyangwa niba ari ibyo yabwiwe ndetse hari ubuhamya bw'umuhungu we witwa MUNANIRA Alexandre wemeje ko se GASHUGI François aticiwe i Gitwe, ahubwo yiciwe i Murama, ko kandi AHOBANTEGEYE Charlotte yamusabye inshuro nyinshi kuri telefone kumufasha gushinja URAYENEZA Gérard na MUNYAMPUNDU Léon bakunze kwita Kinihira ko ari bo bishe se, umubiri we bakawushyira mu cyobo kiri mu bitaro bya Gitwe, akabyanga. Ubwo buhamya bwabo kandi ntibwashingiweho n'Urukiko Rukuru ku birebana n'abandi bari bakurikiranywe hamwe na MUNYAMPUNDU Léon bakunze kwita Kinihira, bituma bagirwa abere. [71] Urukiko rw'Ubujurire rurasanga ibivugwa na MUNYAMPUNDU Léon bakunze kwita Kinihira ko, kuba hari ibyo MURINDABYUMA Isidore na MUHAYIMANA Charles bamushinje, Urukiko Rukuru rukabimugiraho umwere, n'uko hari ibyo bashinje abandi bareganwaga hamwe, rukabibagiraho abere, byari gutuma ubuhamya bwabo bwose buteshwa agaciro no ku bimureba byose nta shingiro bifite, kuko kuba Urukiko rwasesengura ubuhamya rugasanga igice kimwe kidakwiye gushingirwaho kuko giteye gushidikanywaho bitewe n'ibindi bimenyetso, ariko rwasuzuma ikindi gice rugasanga gikwiye kwizerwa kuko gikiranuye, nta kosa ruba rukoze nk'uko byasobanuwe haruguru, ko igice kimwe cy'ubuhamya gishobora guhabwa agaciro mu gihe aricyo cyizewe mu bushishozi bw'Urukiko. [72] Hashingiwe ku bisobanuro bitanzwe haruguru, Urukiko rw'Ubujurire rurasanga nta kosa Urukiko Rukuru rwakoze mu gushingira ku buhamya bwa MURINDABYUMA Isidore n'ubwa MUHAYIMANA Charles ku birebana n'abantu biciwe kuri bariyeri y'imbere y'ibitaro bya Gitwe kuko bukiranuye kandi budashidikanywaho, bityo ingingo y'ubujurire ya MUNYAMPUNDU Léon bakunze kwita Kinihira y'uko yahamijwe n'Urukiko Rukuru icyaha cya jenocide rushingiye ku bimenyetso bishidikanywaho, ikaba nta shingiro ifite.

3. Kumenya niba Urukiko Rukuru rwarirengagije imyiregurire ya MUNYAMPUNDU Léon bakunze kwita Kinihira bituma rumuhamya icyaha cya jenocide ntacyo yakoze [73] MUNYAMPUNDU Léon bakunze kwita Kinihira n'abunganizi be bavuga ko Urukiko Rukuru rwirengagije imyiregurire ye bituma rumuhamya icyaha ataragikoze, nyamara atirigeze ajya

kuri bariyeri kuko yabaga ari ku kazi arinze ibyo ashinzwe kuko nta buyobozi bwariho bwari gukumira ubujura, ahubwo yakoraga ku bitaro kandi bariyeri yari iri hafi y'aho yakoreraga. Bavuga ko n'ubwo MURINDABYUMA Isidore na MUHAYIMANA Charles bavuze ko bamubonye kuri bariyeri afite imbunda, ko batigeze babona hari uwo yicishije iyo mbunda, ariko Urukiko Rukuru rutabihaye agaciro, rumuhamya ko yishe abantu kandi ntawe umushinja ko yamubonye abica. [74] MUNYAMPUNDU Léon bakunze kwita Kinihira n'abunganizi be bavuga kandi ko yireguye agaragaza ko atigeze atunga imbunda, ariko Urukiko Rukuru ntirwabiha agaciro cyane cyane ko uwaregwaga kuyimuha ariwe URAYENEZA Gérard yari yabaye umwere ku cyaha cyo gutanga imbunda. [75] Uhagarariye Ubushinjacyaha avuga ko iyi mpamvu y'ubujurire y'uregwa nta shingiro ikwiye guhabwa, kuko ibyo we n'abunganizi be bavuga ko mu rubanza rujuririrwa, Urukiko Rukuru rwirengagije ukwiregura kwe atari byo kuko impamvu zose yatanze zigaragara kuva mu

Page 20

gika cya 216 kugeza mu cya 220, urwo Rukiko rwarazisuzumye, ndetse ruzifataho icyemezo nk'uko bigaragara mu bika bya 223, 224, 225, 226 228, 229 na 230, ko rero urukiko rwabyitayeho bimwe rubiha ishingiro, ibindi rubyima ishingiro, aho rwahaye ishingiro ko atishe abitwa KALISA Ephrem na GASHUGI François, kubera ko habonetse ubuhamya bw'abatangabuhamya bamwe mu Rukiko bemeje ko batabihagazeho, ariko ruha ishingiro ubuhamya bwa MUHAYIMANA Charles na MURINDABYUMA Isidore ku birebana n'aho bagaragaje ko bamwibonye kuri bariyeri afite imbunda, nk'uko bigaragara mu gika cya 228. [76] Ku birebana n'ibivugwa na MUNYAMPUNDU Léon bakunze kwita Kinihira ko yari ku bitaro bya Gitwe ngo akaba yarahakoraga nk'umuzamu waho, ko yari mu kazi gusa atabaga ari kuri bariyeri, uhagarariye Ubushinjacyaha avuga ko ari ugushaka guhunga icyaha, kuko bizwi ko mu gihe cya jenocide nta kazi kakorwaga, bityo kuba avuga ko yari ku kazi ku bitaro bya Gitwe, ngo akaba ariho yagumye gusa atageze kuri bariyeri yari imbere yaho, ko ibi ari amatakirangoyi aganisha ku guhunga icyaha, kuko n'ubwo ahakana ibyo abatangabuhamya bavuga ko bamubonye kuri bariyeri yari imbere y'ibitaro bya Gitwe, babitangira ibimenyetso nk'uko bigaragara mu gika cya 226 cy'urubanza rujuririrwa, nyamara we nta kimenyetso agaragaza kibivuguruzwa cyangwa cyemeza ko yabaga ari ku kazi koko, ko kandi n'ubwo yaba yari ari kuri ako kazi k'ubuzamu, nta cyari kumubuza kujya kuri bariyeri cyane cyane ko yari imbere y'aho avuga yakoraga izamu. [77] Ku birebana n'ibyo uregwa avuga ko Urukiko Rukuru rwamuhamije kwica abantu kandi nta muntu umushinja ko yamubonye yica abantu, uhagarariye Ubushinjacyaha avuga ko iyo miburanire nta shingiro yababwira kuko MUHAYIMANA Charles na MURINDABYUMA Isidore bemeje ko bamubonye kuri bariyeri, ko kuba ubwe yari ari kuri bariyeri kandi iyo bariyeri ikicirwaho abantu bihagije kuba yahamye icyaha cya jenocide, kabone n'ubwo iyo mbunda ashinjwaga yaba itagaragajwe uwo yicishijwe. Akomeza avuga ko ibyo ari nabyo byemejwe mu rubanza rwa NTITENGUHE Théoneste wajuriye asaba kugirwa umwere kuko nta kimenyetso kigaragaza ko yakoze icyaha, maze Urukiko rw'Ubujurire rushingira ku rubanza n° RPA 0121/07/CS rwaciye ku wa 18/04/2008 haburana Ubushinjacyaha na MUVUNYI Edouard na mugenzi we, rwemeza ko mu cyaha cyakozwe n'imbaga bidasaba ko hagaragazwa uruhare rwa buri wese, ko

bihagije kuba wari uri muri icyo mbaga kandi muhuje umugambi. Asoza avuga ko kuba MUNYAMPUNDU Léon bakunze kwita Kinihira yari ari kuri bariyeri, afite imbunda bihagije mu gihe icyo bariyeri yiciweho abantu, bityo kuba hataragaragajwe icyo icyo mbunda yakozwe, bikaba nta shingiro bikwiye guhabwa. UKO URUKIKO RUBIBONA [78] Impaka kuri iyi ngingo zishingiye ku kumenya niba Urukiko Rukuru rwarirengagije ukwiregura kwa MUNYAMPUNDU Léon bakunze kwita Kinihira ku birebana no kuba atarigeze agera kuri bariyeri, no kuba nta wigeze amubona yicisha umuntu imbunda aregwa ko yari afite. [79] Mu rubanza n° RPAA/Gen 00001/2022/CA rwaciwe ku wa 25/2/2025, hemejwe ko Urukiko rudategetswe, mu rubanza rwarwo, kugaragaza no gusobanura imyanzuro yarwo ku bisobanuro byose (arguments) byagaragajwe mu rubanza¹⁵, bivuze ko Urukiko rutagomba

15 La Chambre de première instance n'est pas tenue, dans son jugement, d'exposer et de justifier ses conclusions quant à chacun des arguments présentés au cours du procès", reba urubanza n° IT-96-21-A rwaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho ex-Yougoslavie, Urugereko rw'Ubujurire, Par. 498.

Page 21

gusubiza ku bisobanuro (arguments) byose byatanzwe n'ababuranyi, ko ariko rugomba gusubiza ku byo basaba byose (demandes), rugaragaza impamvu zishimangira ibisubizo byarwo¹⁶. Muri urwo rubanza, hemejwe kandi ko urubanza rugomba gusubiza ku buryo bweruye cyangwa butaziguye ku byasabwe byose n'ababuranyi, ku nzitizi batanze no ku mpaka (impamvu) bagaragaje, ariko ko rudategetswe gusuzuma imwe ku yindi muko bagaragaje zose, icyangombwa ni uko mu rubanza rwaciwe hagaragaramo impamvu zatumye ibyasabwe, inzitizi zatanze n'impaka (impamvu) zagaragajwe bitahawe agaciro¹⁷. [80] Ibirebana n'inshingano z'uwayuriye nk'uko zikubiye mu ngingo ya 183 y'Itegeko n° 027/2019 ryo ku wa 19/9/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha¹⁸, byasobanuwe mu rubanza n° RPAA00194/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 22/7/2022, haburana Ubushinjacyaha na NDAYISHIMIYE Emmanuel bakunze kwita Shema. Muri urwo rubanza, Urukiko rw'Ubujurire rwasobanuye ko uwajuriye afite inshingano yo kugaragaza ukwibeshya kwakozwe n'Urukiko rubanza gushingiye ku mategeko cyangwa ku byabaye kwatumye urubanza rujuririrwa rucibwa nabi cyangwa kwatuma ruta agaciro, icyo nta nenge uwajuriye agaragaje, biba bivuze ko ntacyo Urukiko rwajuririwe rwakosora, ahubwo haba hagomba kugumaho imikirize y'urubanza rwajuririwe. Ibi ni nako Inkiko Mpuzamahanga zibibona nko mu rubanza n° ICTR-9604-A rwaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda, rwemeje ko ujurira ari we ugomba kugaragaza ko Urugereko rubanza rwakozwe ikosa ryo mu rwego rw'ibyabaye kandi ko iryo kosa ryatumye urubanza rucibwa nabi¹⁹. [81] Na none byemejwe mu rubanza n° RPAA/Gen 00001/2022/CA rwaciwe ku wa 25/2/2025²⁰, "ko mu bujurire, uwajuriye adashobora kugaruka (gusubira) gusa ku ngingo ze yaburanishije ku rwego rwa mbere, kandi zitarahawe ishingiro, atagaragaza amakosa Urukiko rwabanje rwaba rwarakozwe ruzitesha agaciro n'uko ayo makosa agomba gukosorwa²¹".

16 “Il n’est pas nécessaire de répondre à tous les arguments des parties publiques ou privées, mais bien à chacune de leurs demandes, et c’est chacune de ces réponses qu’il convient de motiver”, Antoine Rubbens, *Le Droit judiciaire congolais, L’instruction criminelle et la procédure pénale*, Tome III, Larcier, Bruxelles, 1965, P. 220, n° 214. 17 “La décision doit répondre explicitement ou implicitement à toutes les demandes, les exceptions et les moyens, formulés par les parties et le ministère public. Le juge ne doit toutefois pas les examiner un à un: il suffit que de l’ensemble de la décision apparaissent les raisons pour lesquelles la demande, le moyen ou l’exception a été rejeté”, Michel Franchimont, Ann Jacobs et Adrien Masset, *Manuel de procédure pénale*, 2e édition, Larcier, Bruxelles, 2006, P. 722. “ Attendu que si le juge du fond doit répondre à tout chef de demande, à toute défense et à toute exception présentée par l’une des parties, il n’est pas tenu de rencontrer en termes exprès les arguments ou allégations de pur fait; que les décisions sont suffisamment et légalement motivées si elles opposent à ces arguments ou allégations une appréciation de fait dont résulte leur défaut de fondement”, Cass., 27 février 1939, Pas., 1939, I, p.101 in Michel Franchimont, Ann Jacobs et Adrien Masset, *idem*. 18 ingingo ya 183 y’Itegeko n° 027/2019 ryo ku wa 19/9/2019 ryerekeye imiburanishirize y’imanza z’inshinjabyaha nk’uko ryahinduwe kugeza ubu, mu gace kayo ka 6° iteganya ko “ Ujurira agomba kugaragaza amakosa yakozwe mu rubanza rujuririrwa hashingiwe ku bimenyetso n’amategeko, n’uburyo agomba gukosorwa”. 19 Urubanza n° ICTR-9604-A rwaciwe ku wa 1 Kamena 2001 n’Urukiko Mpanabyabaha Mpuzamahanga rwashiriweho u Rwanda (ICTR), Urugereko rw’Ubujurire, haburana AKAYESU Jean-Paul n’Ubushinjacyaha (Igika cya 178). 20 Reba agace ka 67 k’urwo rubanza hagati y’Ubushinjacyaha na MUGIMBA Jean-Baptiste. 21 “ Une partie ne saurait se contenter de répéter en appel des arguments qui ont échoué en première instance, à moins de démontrer que leur rejet constituait une erreur de nature à justifier l’intervention de la Chambre d’appel”, Affaire n° ICTR-01-73-A, Procureur contre ZIGIRANYIRAZO Protais, Para. 12. Dans ce sens, voir également l’Affaire n° ICTR-01-74-A Procureur contre François KARERA, Para. 11.

Page 22

[82] Nk’uko bigaragara guhera mu gika cya 216 kugeza ku cya 220 by’urubanza rujuririrwa, MUNYAMPUNDU Léon bakunze kwita Kinihira yaburanaga avuga ko yahamijwe icyaha cya jenocide nyamara yari yarakiburanyeho mu Rukiko Gacaca rw’Umurenge wa Joma akigirwaho umwere, ko rero atakurikiranwaho icyaha kimwe inshuro ebyiri, ko MUHAYIMANA Charles na MURINDABYUMA Isidore bavuze ko yishe KALISA Ephrem na GASHUGI François atari byo kubera ko uyu yishwe na NDAGIJIMANA Eraste wabyiyemereye, ko atigeze ajya kuri bariyeri ndetse ko atigeze atunga imbunda kuko na URAYENEZA Gérard bavuga ko ari we wayimuhaye yabihakanye. [83] Nk’uko bigaragara kandi guhera mu gika cya 224 kugeza mu gika cya 232, Urukiko Rukuru rwasesenguye imiburanire ya MUNYAMPUNDU Léon bakunze kwita Kinihira, rusanga atarahaniwe n’Urukiko rubanza icyaha cya jenocide inshuro ebyiri kubera ko ibikorwa yahaniwe muri Gacaca bitandukanye n’ibyo yahaniwe muri urwo Rukiko. Rwasanze kandi ubuhamya bwa MUHAYIMANA Charles n’ubwa MURINDABYUMA Isidore butashingirwaho hemezwa ko yagize uruhare mu iyicwa rya GASHUGI François na KALISA Ephrem kuko MUHAYIMANA

Charles mu buhamya bwe mu Rukiko avuga ko atiboneye uregwa amwica, ahubwo avuga ko iby'iyicwa rye yabibwiwe n'umuzamu atibuka; naho ku bijyanye n'iyicwa rya GASHUGI François, mu buhamya bwe mu Rukiko, nta cyo yavuze abiziho cyane ko mu ibazwa mu gihe cy'iperereza na bwo atasobanuye neza niba yariboneye GASHUGI François yicwa cyangwa niba ari ibyo yabwiwe, ndetse hari ubuhamya bw'umuhungu we witwa MUNANIRA Alexandre wemeje ko se GASHUGI François aticiwe i Gitwe ahubwo yiciwe i Murama, ko kandi AHOBANTEGEYE Charlotte yamusabye inshuro nyinshi kuri telefone kumufasha gushinja URAYENEZA Gérard na MUNYAMPUNDU Léon bakunze kwita Kinihira ko ari bo bishe se, umubiri we bakawushyira mu cyobo kiri mu bitaro bya Gitwe akabyanga. Rwasanze ariko ubuhamya bwa MUHAYIMANA Charles n'amakuru yatanze na MURINDABYUMA Isidore n'imvugo zabo mu iperereza no mu Rukiko bigaragaza ko MUNYAMPUNDU Léon bakunze kwita Kinihira yari ari kuri bariyeri yari imbere y'ibitaro bya Gitwe afite imbunda, bityo bikaba byemeza ko yagize uruhare mu iyicwa ry'Abatutsi baguye kuri bariyeri. [84] Ku birebana n'ibivugwa na MUNYAMPUNDU Léon bakunze kwita Kinihira ko atigeze ajya kuri bariyeri kuko yabaga ari ku kazi arinze ibyo ashinzwe, ko nta mbunda yigeze atunga ndetse ko na URAYENEZA Gérard bavuga ko yayimuhaye yabihakanye, uru Rukiko rurasanga byarasesenguwe n'Urukiko Rukuru mu ngingo ibanziriza iyi rushingira ku buhamya bwa MUHAYIMANA Charles na MURINDABYUMA Isidore bahamirije Urukiko Rukuru ko biboneye amaso ku maso MUNYAMPUNDU Léon bakunze kwita Kinihira ari kuri bariyeri, anafite imbunda kandi byagaragajwe ko ubwo buhamya bukwiye kwizerwa, cyane cyane ko atabashije kubuvuguruza. [85] Ku birebana n'ibivugwa na MUNYAMPUNDU Léon bakunze kwita Kinihira ko atari akwiye guhamywa icyaha cya jenocide kuko n'ubwo abatangabuhamya babimushinje ariko bavuze ko batigeze babona hari uwo yicishije iyo mbunda, Urukiko rw'Ubujurire rurasanga nk'uko byasobanuwe n'Urukiko Rukuru mu ngingo ibanziriza iyi, urwo Rukiko rwagaragaje ko uruhare rwe ari uko yabaye kuri iyo bariyeri kandi anafite imbunda, iyo bariyeri ikaba yaraguyeho Abatutsi, akaba rero atahakana uruhare rwe yitwaje ko nta wamubonye yica umuntu cyangwa yicisha iyo mbunda kuko nk'uko byasobanuwe n'Urukiko rw'Ikirenga, mu rubanza RPA

Page 23

0121/07/CS22 rwaciwe ku wa 18/4/2008, haburana Ubushinjacyaha na MUVUNYI Edouard na mugenzi we, mu byaha byakorewe mu gihiriri cy'abantu benshi bayobowe n'uburakari atari ngombwa ko ugikurikiranweho aba yafashe intwari kugira ngo aryozwe icyo cyaha, ko apfa gusa kuba yari ari muri iyo mbaga kandi icyaha kikaba cyakozwe. [86] Hashingiwe ku byagaragajwe haruguru no ku mirongo yavuzwe haruguru, Urukiko rw'Ubujurire rurasanga Urukiko Rukuru rutarirengagije imyiregure ye cyane cyane ku birebana no kuba atarageze kuri bariyeri imbere y'ibitaro bya Gitwe no kuba atarigeze atunga imbunda, kuko uretse ko rudategetswe gusuzuma ibisobanuro kimwe ku kindi cyangwa imiburanire yose y'ababuranyi, rwagaragaje ibisobanuro n'impamvu zatumye MUNYAMPUNDU Léon bakunze kwita Kinihira ahamwa n'icyaha cya jenocide, rushingiye ku buhamya bwa MUHAYIMANA Charles na MURINDABYUMA Isidore

rwasanze mu bushishozi bwarwo bukwiye kwizerwa. Rurasanga kandi uretse gusubira ku miburanire ye mu Rukiko Rukuru, MUNYAMPUNDU Léon bakunze kwita Kinihira ntacyo anenga ibisobanuro byatanze n'urwo Rukiko rumuhamya icyo cyaha, bityo kuba ntacyo anenga ibyo bisobanuro, ngo agaragaze ukwibeshya kwakozwe n'Urukiko Rukuru gushingiye ku mategeko cyangwa ku byabaye kwatumye urubanza rujuririrwa rucibwa nabi cyangwa kwatuma ruta agaciro, bikaba bivuze ko ntacyo Urukiko rwajuririwe rwakosora, ahubwo hakaba hagomba kugumaho imikirize y'urubanza rwajuririwe kuri iyo ngingo. [87] Kubera izo mpamvu zose Urukiko rw'Ubujurire rurasanga ingingo y'ubujurire ya MUNYAMPUNDU Léon bakunze kwita Kinihira y'uko Urukiko Rukuru rwirengagije imyiregurire ye bituma rumuhamya icyaha cya jenocide ntacyo yakoze, nta shingiro ifite.

4. Kumenya niba Urukiko Rukuru rwirengagije gukora iperereza ryasabwe na MUNYAMPUNDU Léon bakunze kwita. [88] MUNYAMPUNDU Léon bakunze kwita Kinihira n'abamwunganira bavuga ko bari basabye Urukiko Rukuru kugera aho bariyeri ashinjwa yari iri, aho kujyayo ruhamagaza abatangabuhamya, nyamara rwari kwibonera ko ibyavuzwe na MURINDABYUMA Isidore na MUHAYIMANA Charles ko bamubonye kuri iyo bariyeri bidashoboka harebwe aho bavuga bari bari n'aho iyo bariyeri yari iri. Bakomeza bavuga ko ubuhamya bwatanze na MUHAYIMANA Charles avuga ko yabonaga MUNYAMPUNDU Léon bakunze kwita Kinihira kuri bariyeri yari i Gitwe ari mu nzu iri ku marembo ya Collège Adventiste de Gitwe bidashoboka bitewe n'imiterere yaho n'iyi nyubako, ndetse n'intera yatandukanyaga iyo bariyeri. Basaza bavuga ko ariyo mpamvu basaba uru Rukiko kugera aho iyo bariyeri yari iri kugira ngo ruzibonere ko ubuhamya bwa MUHAYIMANA Charles ari ibinyoma. [89] Uhagarariye Ubushinjacyaha avuga ko ibivugwa na MUNYAMPUNDU Léon bakunze kwita Kinihira n'abamwunganira nta shingiro bifite, kuko nta mpamvu yo kujya i Gitwe, aho bariyeri ivugwa yari iri kuko ikigibwaho impaka ari ibyavuzwe n'umutangabuhamya kandi akaba yarabajijwe mu Rukiko, ko ubundi hakabaye hatumizwa MUHAYIMANA Charles kandi ibyo uyu yaza kuvuga n'ubundi yabivugiyemo mu Rukiko Rukuru. MUHAYIMANA Charles yavuze ko jeonside yabaye ari mukuru afite imyaka 29, kandi ko jenocide yabaye ari aho se wari Pasiteri yakoraga i Gitwe mu itorero ry'Abadivantiste. Mu gusobanura uko yabonye jenocide, MUHAYIMANA Charles yavuze ko iminsi 9 yayimaze yiruka mu bihuru naho indi minsi ayimara

22 Reba igika cyarwo cya 24.

Page 24

mu nzu iri imbere y'ibitaro bya Gitwe; ko rero nta mpamvu zo kujyayo. Mu gika cya 101 cy'urubanza rujuririrwa, MURINDABYUMA Isidore yavuze ko yabaga mu nzu y'ibitaro ari naho yarokokeye, ko nawe yemeza ko yabonye MUNYAMPUNDU Léon bakunze kwita Kinihira kuri bariyeri kandi afite imbunda. MUNYAMPUNDU Léon bakunze kwita Kinihira n'abamwunganira ntacyo bavuga kuri ubwo buhamya, nyamara yemeza ko we yabyibonye ari mu nzu y'ibitaro. UKO URUKIKO RIBIBONA [90] Impaka kuri iyi ngingo zishingiye ku kumenya niba Urukiko Rukuru rwirengagije ibyasabwe n'uregwa byo gukora iperereza i Gitwe ahari bariyeri ashinjwa

ko yabagaho, ku buryo byatuma uru Rukiko rubikora kugira ngo hamenyekane ukuri kubyo aregwa, cyane cyane ku birebana no kuba abatangabuhamya bamushinja batarashoboraga kumubona kuri iyo bariyeri urebye aho bavuga ko bari bihishe. [91] Nk'uko byemejwe mu rubanza n° RPAA 00371/2023/CA rwaciwe ku wa 23/5/202523, ko " mu bujurire, umuburanyi adashobora kunenga urubanza rujuririrwa kubyo atagaragaje cyangwa ataburanishije, ndetse atasabye ku rwego rwabanje ku birebana n'ibikorwa aregwa"; akaba afite ishingano zo kugaragaza ukwibeshya kwakozwe n'Urukiko rubanza gushingiye ku mategeko cyangwa ku byabaye kwatumye urubanza rujuririrwa rucibwa nabi cyangwa kwatuma ruta agaciro. [92] Ikibazo kirebana n'iperereza ryasabwe n'umuburanyi mu rubanza cyatanzweho umurongo n'Urukiko rw'Ikirenga mu rubanza n° RPAA 0101/09/CS rwaciwe ku wa 9/3/2012, haburana Ubushinjacyaha na NZAJYIBWAMI Emmnuel, ndetse unakurikizwa mu zindi manza zirimo urubanza n° RPA 00103/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 14/2/2025, Ubushinjacyaha buburana na MUTIGANDA Thierry na bagenzi be. Muri izo manza, Inkiko zagagaragaje ko Urukiko rudategetswe gukora iperereza igihe cyose bisabwe n'umuburanyi, iyo rubona ibimenyetso rwashyikirijwe bihagije. [93] Nk'uko byemejwe mu rubanza n° RPAA/Gen. 00002/2018/CA rwaciwe ku wa 25/7/2023, ku birebana n'ubusabe bw'umuburanyi bwo kumva abatangabuhamya, Urukiko ntirutegetswe kumva abatangabuhamya bose rwashyikirijwe n'uregwa24 cyangwa n'Ubushinjacyaha, rusuzuma ahubwo mu bushishozi bwawo niba ibyo bashaka gusobanura mu buhamya bwabo bifite ireme kandi bishobora kwemerwa, rukumva gusa abatangabuhamya bazavuga ibijyane n'ikiburanwa kandi byizewe, bivuze rero ko ari ishingano y'umuburanyi yo kugaragaza ko ubwo buhamya asaba ko Urukiko rwumva bufite akamaro n'inyungu kugira ngo ukuri kugaragare25, Urukiko rwo

23 Reba agace ka 32 na 33 tw'urwo rubanza hagati y'Ubushinjacyaha na SIMBANDUMWE Etienne. 24 En ce qui concerne la convocation et l'interrogatoire des témoins à décharge, la Cour européenne considère qu'il n'existe pas un droit absolu de convoquer tout témoin à décharge; il appartient à la juridiction saisie d'évaluer la pertinence d'une telle demande", Michel Franchimont, Ann Jacobs et Adrien Masset, Manuel de procédure pénale, 2e édition, Larcier, Bruxelles, 2006, P.1045. " Suivant la Cour de cassation, l'article 6. 3, d, qui reconnaît à tout accusé le droit d'interroger ou faire interroger les témoins à charge et d'obtenir la convocation et l'interrogation des témoins à décharge dans les mêmes conditions que les témoins à charge, ne prive pas le juge du fond du droit d'apprécier souverainement si un témoin tant à charge qu'à décharge doit être entendu pour former sa conviction", in Henri-D. Bosly et Damien Vandermeersch, Droit de procédure pénale, 2e édition, La Charte, Bruges, 2001, P.936. 25 Il appartient, dès lors, au prévenu non seulement de faire la demande d'entendre tel témoin à décharge mais également de préciser l'importance et l'intérêt pour la manifestation de la vérité de cette audition", Cour eur. D.H.,

Page 25

rumusubiza rumaze gusuzuma niba ubwo buhamya bwagaragaza ukuri26. Ibyemejwe ku birebana no gusaba kumva abatangabuhamya ni nako bigomba kugenda mu gusaba Urukiko gukora iperereza. [94] Dosiye y'urubanza igaragaza ko n'ubwo mu miburanire ye mu Rukiko

Rukuru atabigarutseho, mu gika cya 27 cy'umwanzuro we wo ku wa 16/7/2021, MUNYAMPUNDU Léon bakunze kwita Kinihira yasabye ko Urukiko Rukuru rugera aho ibitaro byari byubatswe kugira ngo rwirebere ko nta ntera yari iri hagati y'ibitaro n'umuhanda wariho bariyeri, kuko habayeho ikosa ryo kumwitiranya n'abari bayiraho kuri uwo muhanda, kandi we yari ku kazi arinda ibikoresho by'ibitaro. [95] Dosiye y'urubanza igaragaza ko MURINDABYUMA Isidore yavuze ko mu gihe cya jenocide yihishahishe mu mashyamba ya Gitwe, noneho byagera nijoro akanyura mu ruzitiro rw'ibitaro akajya kwihisha mu nzu y'ibyo bitaro kuko yari ikirimo kubakwa, ko yahavaga butaracya, ko nawe yabonye MUNYAMPUNDU Léon bakunze kwita Kinihira kuri bariyeri yari imbere y'ibitaro bya Gitwe, ndetse ko hari n'umunsi yamwirukankanye ari kumwe na KIRAGI ariko arabacika. [96] Dosiye igaragaza inyandikomvugo ya MUHAYIMANA Charles, abazwa mu Bugenzacyaha ku wa 4/8/2020, yavuze ko mu minsi 9 yamaze yihishahisha mu bihuru, yiboneye imbonankubone abantu bafite imbunda, barimo URAYENEZA Gérard n'abana be, ndetse anabona MUNYAMPUNDU Léon bakunze kwita Kinihira na Dany bafite imbunda. MUHAYIMANA Charles yavuze kandi ko mu bantu bari kuri bariyeri y'imbere y'ibitaro bya Gitwe bafite imbunda abatarakurikiranwe, harimo na MUNYAMPUNDU Léon bakunze kwita Kinihira, we wishe GASHUGI François na KALISA Ephrem. [97] Urukiko rw'Ubujurire rurasanga n'ubwo impamvu yagaragaye imbere y'Urukiko Rukuru itandukanye n'impamvu agaragaza imbere y'uru Rukiko, asaba ko hakorwa iperereza aho icyaha cyabereye, koko MUNYAMPUNDU Léon bakunze kwita Kinihira yasabye Urukiko Rukuru gukora iperereza ku bitaro bya Gitwe n'ahari bariyeri ntirwagira icyo rubivugaho; rukaba nyamara n'ubwo rutagiye gukora iryo perereza, rwaragombaga kugira icyo rubivugaho. [98] Urukiko rw'Ubujurire rurasanga abatangabuhamya MUHAYIMANA Charles na MURINDABYUMA Isidore bashinja MUNYAMPUNDU Léon bakunze kwita Kinihira ko bamubonye kuri bariyeri yari imbere y'ibitaro bya Gitwe afite imbunda, bakanavugaga ko bamubonye n'amaso yabo ubwo bihishahishaga mu bihuru bya Gitwe ndetse by'umwihariko MURINDABYUMA Isidore we akavugaga ko yihishaga mu bihuru ariko byagera mu ijoro akajya mu nzu y'ibitaro kuko yari icyubakwa, ubwo buhamya bw'abamwiboneye imbonankubone bukaba buhagije mu kugaragaza ukuri ku ruhare rwa MUNYAMPUNDU Léon alias Kinihira bitabaye ngombwa guhamagaza abandi batangabumya cyangwa gukora irindi perereza

Pisano contre Italie, 27 juillet 2000, R.U.D.H., 200, p. 430 et note, in Michel Franchimont, Ann Jacobs et Adrien Masset, idem. 26 Le prévenu ne dispose pas d'un droit illimité d'obtenir la convocation de témoins devant la justice, il appartient au juge de répondre à une demande introduite par le prévenu, tendant à entendre un témoin et d'apprécier si cette audition est nécessaire à la manifestation de la vérité. (...)", Cass., 27 avril 1999, Rev.dr.pén. crim., 2000, p. 359, in Henri-D. Bosly et Damien Vandermeersch, op.cit., P. 937.

Page 26

ry'inyongera, kuko Urukiko rudategetswe guhamagaza abandi batangabuhamya no gukora iperereza mu gihe rusanga ibimenyetso rufite bihagije mu guca urubanza. [99] Urukiko rw'Ubujurire rurasanga n'ubwo Urukiko Rukuru rwakoze ikosa ryo kudasubiza ku busabe bwa MUNYAMPUNDU Léon bakunze kwita Kinihira, ubuhamya bwa MUHAYIMANA Charles na

MURINDABYUMA Isidore bamubonye imbonankubone kuko bamushinja ko bamubonye kuri bariyeri yari imbere y'ibitaro bya Gitwe afite imbunda, bakanavuga ko bamubonye n'amaso yabo ubwo bihishahishaga mu bihuru bya Gitwe, ndetse by'umwihariko MURINDABYUMA Isidore we akavuga ko yihishaga mu bihuru, ariko byagera mu ijoro akajya mu nzu y'ibitaro kuko yari icyubakwa, buhagije mu kugaragaza ukuri ku ruhare rwe kucyaha yahamijwe, bitabaye ngombwa gukora iperereza aho cyabereye.

- [100] Urukiko rw'Ubujurire rurasanga kandi, uretse no kuba Urukiko rudategetswe gukora iperereza igihe cyose bisabwe n'umuburanyi, nk'uko byatanzweho umurongo mu manza zavuzwe haruguru, cyane cyane mu gihe rusanga ibimenyetso rufite bihagije mu guca urubanza, nta n'icyo iperereza ryasabwe na MUNYAMPUNDU Léon bakunze kwita Kinihira ryari kumumarira, kuko abatangabuhamya bamushinja ko bamubonye ubwo bihishahishaga kandi bakaba batarihishe ahantu hamwe, ahubwo bagendaga bahindura bitewe n'aho bareba ko interahamwe zibahiga zitababona, ko rero, atari ngombwa kujya gupima intera iri hagati y'aho babaga bihishe n'ahari bariyeri yari imbere y'ibitaro bya Gitwe, aho MUNYAMPUNDU Léon bakunze kwita Kinihira aregwa kuba yari ari.
- [101] Hashingiwe kuri ibyo bisobanuro, Urukiko rw'Ubujurire rurasanga ingingo ya MUNYAMPUNDU Léon bakunze kwita Kinihira isaba Urukiko kugera ahari bariyeri kugira ngo hamenyekane ukuri kubyo aregwa, nta shingiro ifite.
- [102] Urukiko rw'Ubujurire rurasanga harebwe isesengura ryakozwe muri rusange, ingingo zose z'ubujurire bwa MUNYAMPUNDU Léon bakunze kwita Kinihira nta shingiro zifite. III. ICYEMEZO CY'URUKIKO
- [103] Rwemeje ko ubujurire bwa MUNYAMPUNDU Léon bakunze kwita Kinihira nta shingiro bufite;
- [104] Rwemeje ko MUNYAMPUNDU Léon bakunze kwita Kinihira ahamwa n'icyaha cya jenocide;
- [105] Rwemeje ko igihano cy'igifungo cy'imyaka makumyabiri n'itanu (25) MUNYAMPUNDU Léon bakunze kwita Kinihira yahanishijwe n'Urukiko Rukuru, Urugereko rwihariye ruburanisha ibyaha mpuzamahanga n'ibyaha byambuka imbibi, kigumyeho.

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