

ICTR-99-52-T
05-12-2003
(34936 — 34483)

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Tribunal Pénal International pour le Rwanda
International Criminal Tribunal for Rwanda

34936
S. Mussa

Or. : Eng.

TRIAL CHAMBER I

Before Judges: Navanethem Pillay, presiding
Erik Mose
Asoka de Zoysa Gunawardana

Registrar: Adama Dieng

Judgement of: 3 December 2003

THE PROSECUTOR

V.

**FERDINAND NAHIMANA
JEAN-BOSCO BARAYAGWIZA
HASSAN NGEZE**
Case No. ICTR-99-52-T

JUDGEMENT AND SENTENCE

Counsel for the Prosecution

Mr Stephen Rapp
Ms Simone Monasebian
Ms Charity Kagwi
Mr William Egbe
Mr Alphonse Van

Counsel for Ferdinand Nahimana

Jean-Marie Biju-Duval
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Counsel for Jean-Bosco Barayagwiza

Mr Giacomo Barletta-Caldarera

Counsel for Hassan Ngeze

Mr John Floyd III
Mr René Martel

34576

Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza and Hassan Ngeze
Case No. ICTR-99-52-T

Tabaro (paragraph 7.9). The Prosecution also failed to prove that Ngeze killed the man in the *Commune Rouge* (paragraph 7.6).

1088. The Chamber therefore finds that Ngeze is not guilty of murder as a crime against humanity pursuant to Article 6(1) or 6(3) of the Statute.

9. Cumulative Charges and Convictions

1089. Cumulative charging is generally permissible, as it is not possible to determine which charges will be proven against an Accused prior to the presentation of the evidence.¹¹⁵¹

1090. Cumulative convictions are permissible only if the crimes involved comprise materially distinct elements.¹¹⁵² In this case, the three Accused are guilty of conspiracy to commit genocide, genocide, direct and public incitement to commit genocide and crimes against humanity (persecution and extermination). As these offences comprise materially distinct elements, discussed above in this chapter, convictions on these counts will be entered against the three Accused.

¹¹⁵¹ See eg. *Musema* (AC) paras. 346-370.

¹¹⁵² *Musema* (AC) paras. 346-370; *Delalic* (AC) para. 400.