

RWANDA / JUDGMENT

UBUSHINJACYAHA v. HABYARIMANA

RPAA/ECON 00003/2022/CA

COURT

Court of Appeal

DECIDED

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UBUSHINJACYAHA v. HABYARIMANA

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Text

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UBUSHINJACYAHA v. HABYARIMANA [Rwanda URUKIKO RW'UBUJURIRE – RPAA/ECON 00003/2022/CA (Gakwaya, P.J.) 28 Werurwe 2025] Amategeko agenga imanza nshinjabyaha – Itegeko ritariho – Itegeko ritariho rigomba kumvikana mu buryo bw'itegeko ritagikoreshwa (loi abrogée, repealed law), cyangwa itegeko ritaratangira gukoreshwa (loi non encore en vigueur/ a law not yet in force), cyangwa se itegeko ritigeze ribaho (qui n'a jamais existé/ a law that never existed). Amategeko agenga imiburanishirize y'imanza nshinjabyaha – Ubujurire bwa kabiri – Kutubahiriza ibiteganywa n'amategeko ntibiri mu mpamvu zatumye ubujurire bwa kabiri bwakwagirwa, bukaburanishwa mu mizi, ntibinafatwa nko gushingira ku Itegeko ritariho, ibi bikaba bishobora gukosorwa binyuze mu zindi nzira ziteganwa n'Itegeko ariko bitabaye impamvu yo kujurira (bidakosorwa mu rwego rw'ubujurire) bwa kabiri. Incamacye y'ikibazo: Ubushinjacyaha bwareze abitwa Birungi na Habyarimana mu Rukiko Rwisumbuye rwa Nyarugenge, bubakurikiranyeho icyaha cyo kunyereza umutungo, nyuma yuko SATGURU Company igize ikibazo cyo kubura amafaranga, ikeka abaregwa bari abakozi bayo, ibarega ko barigishije umutungo wayo ugera ku madolari y'Amerika 42.945,41\$, ko Birungi yakuraga mu matike yagurishaga cash, yarangiza agakorana na Habyarimana mu guhishira icyo gikorwa

bahimba fake email, ndetse bagashyira abakiriya bishyuye ku rutonde rw'ababarimo umwenda kandi baramaze kwishyura. Urwo Rukiko rwaciye urubanza rwemeza ko bombi bafatanyaga kunyereza uwo mutungo babyumvikanyeho, rubahamya icyo cyaha, rubahanisha igifungo cy'imyaka irindwi (7) n'ihazabu yikubye inshuro ebyiri z'umutungo wanyerejwe ingana n'amadolari y'amarika 85.890,82\$, kuri buri wese, rubatega gufatanya gusubiza SATGURU Company umutungo wayo banyereje ungana n'amadolari y'amerika 42,945.41 \$. Habyarimana yajuririye Urukiko Rukuru, avuga ko Urukiko Rwisumbuye rwa Nyarugenge rwitiranyije ibintu uko bitari bituma rumuhamya icyaha atakoze, ko rwirengagije ko ibigize icyaha cyo kurigisa cyangwa konona umutungo bituzuye, rukaba rwaraciye urubanza rwirengagije ibimenyetso bitandukanye bimushinjura. Urwo Rukiko rwaciye urubanza rwemeza ko ubujurire bwe nta shingiro bufite ko igihano cy'igifungo cy'imyaka irindwi (7) no gutanga ihazabu yikubye inshuro ebyiri z'umutungo wanyerejwe yahanishijwe ku rwego rwa mbere bigumye. Habyarimana, yajuririye Urukiko rw'Ubujujire avuga ko ubujurire bwe bukwiye kwakirwa kuko Urukiko Rukuru rwaciye urubanza rutanga ibihano bidateganyijwe, rushingiye ku Itegeko ritariho igihe icyaha cyakorwaga. Avuga kandi ko urwo Rukiko rwirengagije ibimenyetso bitandukanye bimushinjura, akaba asaba ko hasuzumwa niba raporo y'ubugenzuzi yarakozwe hakurikijwe amategeko ku buryo yari ikwiye gushingirwaho mu kumuhamya icyaha. Ubushinjacyaha bwatanze inzitizi yo kutakira ubujurire bwa kabiri bwa Habyarimana kuko bwatanzwe mu buryo budakurikije amategeko, ko ibyo avuga by'uko Urukiko Rukuru rwaciye urubanza rushingiye ku Itegeko ritariho icyaha gikorwa, nta shingiro bifite kuko ahubwo Urukiko Rwisumbuye rwa Nyarugenge rwaciye urubanza ku rwego rwa mbere arirwo rwemeje ko hagomba gushingirwa ku ngingo ya 325 y'Itegeko Ngenga n° 01/2012/OL ryo ku wa 2/5/2012 rishyiraho Igitabo cy'amategeko ahana, ryariho igihe abaregwa bakoraga icyaha.

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Incamacye y'ikemezo: 1. Itegeko ritariho rigomba kumvikana mu buryo bw'itegeko ritagikoreshwa (loi abrogée, repealed law), cyangwa itegeko ritaratangira gukoreshwa (loi non encore en vigueur/ a law not yet in force), cyangwa se itegeko ritigeze ribaho (qui n'a jamais existé/ a law that never existed). Bityo kuba nta tegeko ritariho ryakoreshejwe, nta bubasha Urukiko rw'Ubujujire rufite bwo kuburanisha ubujurire bwa kabiri bwatanzwe na Habyarimana.

2. Kutubahiriza ibiteganywa n'amategeko ntibiri mu mpamvu zatumye ubujurire bwa kabiri bwakwirakirwa, bukaburanishwa mu mizi, ntibinabwaho nko gushingira ku Itegeko ritariho, ibi bikaba bishobora gukosorwa binyuze mu zindi nzira ziteganwa n'Itegeko ariko bitabaye impamvu yo kujurira (bidakosorwa mu rwego rw'ubujurire) bwa kabiri.

Inzitizi y'Ubushinjacyaha ifite ishingiro.

Amategeko yashyirahwe: Itegeko N° 68/2018 du 30/8/2018 riteganyaga ibyaha n'ibihano muri rusange, ingingo ya 6 Itegeko Ngenga N° 01/2012/OL ryo ku wa 2/5/2012 rishyiraho Igitabo cy'amategeko ahana ingingo ya 325. Imanza zifashishijwe: Ubushinjacyaha vs Mukarusanga Olive, RPAA 0096/15/CS rwaciye n'Urukiko rw'Ikirenga ku wa 18/05/2018. Ubushinjacyaha vs Renzaho Alexis & PARAGONE Mining Industry Investment Co Ltd, RPAA 00322-00323/2022/CA

rwaciwe n'Urukiko rw'Ubujurire ku wa 26/4/2023. Urubanza I. IMITERERE Y'URUBANZA [1] SATGURU Company yagize ikibazo cyo kubura amafaranga ikeka uwitwa Birungi Christine na Habyarimana Athanase bari abakozi bayo, ibarega ko barigishije umutungo wayo ugera ku madolari y'Amerika 42.945,41\$, Birungi Christine yakuraga mu matike yagurishaga cash, yarangiza agakorana na Habyarimana Athanase mu guhishira icyo gikorwa bahimba fake email, ndetse bagashyira abakiriya bishyuye ku rutonde rw'abarimo umwenda kandi baramaze kwishyura. [2] Iperereza rirangiye, Ubushinjacyaha bwareze Birungi Christine na Habyarimana Athanase mu Rukiko Rwisumbuye rwa Nyarugenge icyaha cyo kunyereza umutungo, rusaba ko cyabahama bagahanishwa igihano cy'igifungo cy'imyaka irindwi (7) n'ihazabu y'amadorari 125.836,23\$, hashingiwe ku ngingo ya 325 y'Itegeko Ngenga n° 01/2012 ryo ku wa 2/5/2012 rishyiraho Igitabo cy'amategeko ahana. [3] Habyarimana Athanase yaburanye ahakana icyaha, asaba kugirwa umwere, naho BIRUNGI Christine mu nzego z'iperereza no mu kuburana ifunga n'ifungurwa ry'agateganyo

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yemera ko yanyereje amadorari ibihumbi cumi na bitanu (15.000\$) nk'uko yari yanabyanditse mu nyandiko, anashinja Habyarimana Athanase ko bafatanyije. Nyuma y'uko abaregwa barekuwe by'agateganyo n'Urukiko rw'Ibanze rwa Nyamirambo, urubanza mu mizi mu Rukiko Rwisumbuye rwa Nyarugenge rwaburanishijwe Birungi Christine adahari, kandi yari yahamagajwe mu buryo bukurikije amategeko. [4] Mu rubanza no RP 00121/2019/TGI/NYBE rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge ku wa 5/2/2021, rushingiye ku nyandiko yo ku wa 23/8/2018 Habyarimana Athanase yanditse yemera ko yarigishije amadorari y'amerika ibihumbi bibiri n'ijana (2.100\$) yahawe n'abakiriya ntayashyikirize abashinzwe kuyakira (cashier) n'indi yanditse yemera ko yabonye ko hari ibibazo byari muri Account z'abakiriya ba Birungi Christine mu mwaka wa 2017 na 2018, asaba imbabazi ko yamufashije gukoresha amafaranga ya Company amwizeza ko azayishyura kandi ko atazabyongera, ariko akaba atarayishyuye, kuba yemera ko hari amafaranga Birungi Christine yamuhaye yagombaga kuzishyura, rushingiye kandi ku nyandiko yanditswe na Birungi Christine yemera ko hari amadorari yarigishije, rwemeje ko bombi bafatanyaga kunyereza uwo mutungo babyumvikanyeho, rubahamya icyo cyaha, rubahanisha igifungo cy'imyaka irindwi n'ihazabu yikubye inshuro ebyiri z'umutungo wanyerejwe ingana n'amadolari y'amerika 85.890,82\$, kuri buri wese, rubatega gufatanya gusubiza Satguru Company umutungo wayo banyereje ungana n'amadolari y'amerika 42,945.41 \$ no gufatanya gutanga amagarama y'urubanza ibihumbi makumyabiri (20.000 Frw). [5] Habyarimana Athanase yajuririye Urukiko Rukuru, avuga ko Urukiko Rwisumbuye rwa Nyarugenge rwitiranyije ibintu uko bitari bituma rumuhamya icyaha atakoze, ko rwirengagije ko ibigize icyaha cyo kurigisa cyangwa konona umutungo bituzuye, rukaba rwaraciye urubanza rwirengagije ibimenyetso bitandukanye bimushinjura. [6] Mu rubanza no RPA/ECON 00031/2021/HC/KIG, rwaciwe n'Urukiko Rukuru, ku wa 8/7/2022, rushingiye ku nyandiko Habyarimana Athanase yanditse yemera ko hari amafaranga yanyereje agera ku madorari y'amerika ibihumbi bibiri n'ijana (2.100\$) n'indi yanditse yemera ko yafatanyije na Birungi Christine gutwara amafaranga ya Satguru Company, kuba Birungi Christine ashinja Habyarimana Athanase ko

igikorwa cyo kunyereza umutungo wa Satguru Company bagifatanyije, kuri raporo y'igenzura (Audit) igaragaza amafaranga yanyerejwe n'ubwo Habyarimana Athanase atayemera, ariko akaba ataragaragaje indi y'umuhanga iyivuguruzwa, rwemeje ko ubujurire bwe nta shingiro bufite ko igihano cy'igifungo cy'imyaka irindwi (7) no gutanga ihazabu yikubye inshuro ebyiri z'umutungo wanyerejwe ingana n'amadolari y'amerika yahanishijwe ku rwego rwa mbere bigumye. [7] Ku wa 21/7/2022, Me Mutabazi Jackson, wunganira Habyarimana Athanase, yajuririyeye Urukiko rw'Ubujurire avuga ko hashingiwe ku ingingo ya 52, igika cya kabiri, agace ka kabiri (2°) n'aka gatatu (3°), ubujurire bwa Habyarimana Athanase bukwiye kwakirwa kuko Urukiko Rukuru rwaciye urubanza aho rwatanze ibihano bidateganyijwe, rushingiye ku Itegeko ritariho igihe icyaha cyakorwaga. Avuga kandi ko urwo Rukiko rwirengagije ibimenyetso bitandukanye bimushinjura, akaba asaba ko hasuzumwa niba raporo y'ubugenzuzi yarakozwe hakurikijwe amategeko ku buryo yari ikwiye gushingirwaho mu kumuhamba icyaha. [8] Ubushinjacyaha bwatanze inzitizi yo kutakira ubujurire bwa kabiri bwa Habyarimana Athanase kuko bwatanzwe mu buryo budakurikije amategeko, ko ibyo avuga by'uko Urukiko

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Rukuru rwaciye urubanza rushingiye ku Itegeko no 54/2018 ryo ku wa 13/8/2018 ryerekeye kurwanya ruswa ritariho icyaha gikorwa, nta shingiro bifite kuko ahubwo Urukiko Rwisumbuye rwa Nyarugenge rwaciye urubanza ku rwego rwa mbere arirwo rwemeje mu gace karwo ka cumi n'icyenda (19) ko hagomba gushingirwa ku ngingo ya 3251 y'Itegeko Ngenga n° 01/2012/OL ryo ku wa 2/5/2012 rishyiraho Igitabo cy'amategeko ahana, ryariho igihe abaregwa bakoraga icyaha. [9] Urubanza rwahawe no RPAA/ECON 00003/2022/CA, ruburanishwa ku wa 10/3/2025, Habyarimana Athanase yunganiwe na Me Mutabazi Jackson, Ubushinjacyaha buhagarariye na Habimana Jean Cabin, Umushinjacyaha ku rwego rw'Igihugu. [10] Harebwe imiburanire y'ababuranyi, ikibazo kigomba gusuzumwa muri uru rubanza ni ukumenya niba ubujurire bwa kabiri bwatanzwe na Habyarimana Athanase budakwiye kwakirwa. II. IKIBAZO KIGIZE URUBANZA N' ISESENGURA RYACYO Kumenya niba ubujurire bwa kabiri bwatanzwe na HABYARIMANA Athanase budakwiye kwakirwa [11] Ubushinjacyaha buvuga ko ubujurire bwa kabiri bwatanzwe na Habyarimana Athanase budakwiye kwakirwa ngo busuzumwe kuko butari mu bubasha bw'Urukiko rw'Ubujurire, ko Urukiko Rukuru rutigeze rutanga igihano kidateganyijwe n'Itegeko, ndetse rukaba rutarashingiye ku Itegeko ritariho, nk'uko uregwa yabivuze mu mwanzuro we. Buvuga ko urwo Rukiko rutakoresheje Itegeko no 54/2018 ryo ku wa 13/8/2018 ryerekeye kurwanya ruswa ritariho igihe icyaha cyakorwaga, ko ahubwo icyo rwakoze ari ukwemeza ko urubanza n° RP/ECON 00079/2019/TGI/NYGE rwaciye n'Urukiko rwabanje, rushingiye ku Itegeko Ngenga n° 01/2012/OL ryo ku wa 2/5/2012 rishyiraho Igitabo cy'amategeko ahana, rwemeje ko uregwa ahamwe n'icyaha aregwa, agahanishwa igihano cy'imyaka cy'imyaka irindwi (7) no gutanga ihazabu (yikubye inshuro ebyiri z'umutungo wanyerejwe) ingana n'amadolari y'amerika 85.890,82, rudahindutse. [12] Ubushinjacyaha busobanura ko mu rubanza rwaciye n'Urukiko Rwisumbuye rwa Nyarugenge, mu gika cyarwo cya cumi n'icyenda (19), rwemeje ko hagomba gushingirwa ku ngingo ya 3252 y'Itegeko Ngenga n° 01/2012/OL ryo ku wa 2/5/2012 rishyiraho Igitabo cy'amategeko ahana, ryariho igihe Habyarimana Athanase na Birungi Christine bakoraga

icyaha,

1 Ivuga ko “Umukozi wese:1° urigisa umutungo, amafaranga, impapuro zivunjwa amafaranga, ibyemezo by'imari n'inyandiko bya Leta cyangwa bitari ibya Leta cyangwa ibintu byimukanwa by'undi yabikijwe ku bw'umurimo ashinzwe; 2° wonona cyangwa urigisa, akoresheje uburiganya, impapuro zifite agaciro k'imari, yabikijwe cyangwa yahawe ku bw'umurimo ashinzwe; ahanishwa igifungo kuva ku myaka irindwi (7) kugeza ku myaka icumi (10) n'ihazabu y'amafaranga yikubye inshuro kuva kuri ebyiri (2) kugeza kuri eshanu (5) z'agaciro k'umutungo warigishijwe cyangwa wononwe (...)” 2 Ivuga ko “Umukozi wese:1° urigisa umutungo, amafaranga, impapuro zivunjwa amafaranga, ibyemezo by'imari n'inyandiko bya Leta cyangwa bitari ibya Leta cyangwa ibintu byimukanwa by'undi yabikijwe ku bw'umurimo ashinzwe; 2° wonona cyangwa urigisa, akoresheje uburiganya, impapuro zifite agaciro k'imari, yabikijwe cyangwa yahawe ku bw'umurimo ashinzwe; ahanishwa igifungo kuva ku myaka irindwi (7) kugeza ku myaka icumi (10) n'ihazabu y'amafaranga yikubye inshuro kuva kuri ebyiri (2) kugeza kuri eshanu (5) z'agaciro k'umutungo warigishijwe cyangwa wononwe (...)”

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rugendeye ku kuba ariryo riteganywa ibihano bito ku bijyanye n'igihano cy'ihazabu, ugereranyije n'ibiteganywa n'ingingo ya 103 y'Itegeko n°54/2018 ryo ku wa 13/8/2018 ryavuzwe haruguru. [13] Ubushinjacyaha busoza buvuga ko kuba Urukiko Rukuru rwaremeje ko nta guhindutse ku mikirize y'urubanza rwaciwe ku rwego rwa mbere, bisobanura ko Inkiko zombi zaciye urubanza zishingiye ku Itegeko ryari ririhwo icyaha gikorwa, ndetse hatangwa n'ibihano hashingiwe kuri iryo Tegeko, ko rero ubujurire bwa Habyarimana Athanase butubahirije ibiteganywa n'ingingo ya 52 y'Itegeko n° 30/2018 ryo ku wa 2/6/2018 rigena ububasha bw'Inkiko. [14] Me Mutabazi Jackson, wunganira Habyarimana Athanase, avuga ko ubujurire bwa Habyarimana Athanase bukwiye kwakirwa kuko hashingiwe ku ngingo ya 52, agace ka kabiri (2°) n'aka gatatu (3°), Urukiko Rukuru rwaciye urubanza rushingiye ku ngingo ya 10 y'Itegeko no 54/2018 ryo ku wa 13/8/2018 ryerekeye kurwanya ruswa, ryatangajwe mu Igazeti ya Leta ku wa 20/9/2018, kandi rwaragombaga gushingira ku ngingo ya 344 y'Itegeko Ngenga no 01/2012/OL ryo ku wa 2/5/2012 rishyiraho Igitabo cy'amategeko ahana, ryariho igihe ibikorwa aregwa byakorwaga mu mwaka wa 2016, 2017 na mbere ya Nyakanga 2018, ko rero urwo Rukiko rwakoresheje Itegeko ritariho, ndetse rukanatanga ibihano bidateganyijwe n'amategeko. UKO URUKIKO RUBIBONA [15] Impaka kuri iki kibazo zishingiye ku kumenya niba ubujurire bwa Habyarimana Athanase budakwiye kwakirwa kuko butubahirije ibiteganywa n'Itegeko kugira ngo busuzumwe mu mizi ku rwego rw'ubujurire bwa kabiri. [16] Urukiko rw'Ikirenga, mu rubanza n° RPAA 0096/15/CS4 rwaciye ku wa 18/5/2018, rwemeje ko Itegeko ritariho rigomba kumvikana mu buryo bw'itegeko ritagikoreshwa (loi abrogée, repealed law), cyangwa itegeko ritaratangira gukoreshwa (loi non encore en vigueur/ a law not yet in force), cyangwa se itegeko ritigeze ribaho (qui n'a jamais existé/ a law that never existed). [17] Urukiko rw'Ubujurire, mu rubanza n° RPAA 00322-00323/2022/CA5 rwaciye ku wa 26/4/2023, narwo rushingiye ku byemejwe n'Urukiko rw'Ikirenga mu rubanza n° RPAA 0096/15/CS rwavuzwe haruguru, rwemeje ko kugira ngo ubujurire bwa kabiri bwakiriwe, urega mu bujurire agomba kugaragaza Itegeko ryaba

ryakoreshejwe mu rubanza rujuririrwa kandi ritariho. Muri urwo rubanza, hemejwe kandi ko kutubahiriza ibiteganywa n'amategeko bitari mu mpamvu zatuma ubujurire bwa kabiri bwakwirwa, bukaburanishwa mu mizi, kandi bitafatwa nko gushingira ku Itegeko ritariho. Hemejwe na none ko kutubahiriza amategeko ari amakosa yakosorwa binyuze mu zindi nzira ziteganwa n'Itegeko, adakosorwa mu rwego rw'ubujurire bwa kabiri, mu gihe urega atagaragaza imwe mu mpamvu ziteganywa n'Itegeko zishobora gutuma ubujurire bwa kabiri bwakwirwa kugira ngo buburanishwe mu mizi.

3 Reba urubanza n° RPAA 00322-00323/2022/CA rwaciwe n'Urukiko rw'Ubujujire ku wa 26/4/2023, haburana Ubushinjacyaha na RENZAHU Alexis & PARAGONE Mining Industry Investment Co Ltd., igika cya 27 na 28. 4 Reba urubanza n° RPAA 0096/15/CS rwaciye ku wa 18/05/2018, haburana Ubushinjacyaha na MUKARUSANGA Olive 5 Reba urubanza n° RPAA 00322-00323/2022/CA rwaciwe n'Urukiko rw'Ubujujire ku wa 26/4/2023, haburana Ubushinjacyaha na RENZAHU Alexis & PARAGONE Mining Industry Investment Co Ltd., igika cya 27 na 28.

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[18] Ibiteganywa n'ingingo ya 52, igika cya kabiri, agace ka kabiri (2°) ko Urukiko rw'Ubujujire ruburanisha mu rwego rw'ubujurire bwa kabiri imanza zaciwe n'Urukiko Rukuru (...), iyo izo manza zatanzwemo ibihano bidateganyijwe n'amategeko, byumvikanisha ko urwo Rukiko rwaba rwarahamije uregwa ikindi gihano kitari icyo Umushingamategeko yateganyirije icyaha runaka. [19] Ingingo ya 6 y'Itegeko n° 68/2018 du 30/8/2018 riteganya ibyaha n'ibihano muri rusange iteganya ko " Mu gihe hari amategeko ahana, rimwe ryariho mu gihe icyaha cyakorwaga, irindi rayaratangajwe nyuma y'uko icyaha gikorwa, ariko urubanza rutaracibwa burundu, itegeko rishya ni ryo rikurikizwa iyo riteganya igihano cyoroheje". [20] Iyo ngingo ya 6 y'Itegeko n° 68/2018 du 30/8/2018 yumvikanisha ko n'ubwo muri rusange ihame ry'amategeko ari uko Itegeko ryasohotse rikoreshewa ako kanya (Principe de l'application immédiate de la loi nouvelle), ariko mu manza nshinjabyaha n'ubwo haba hari Itegeko rishya ryasohotse, Itegeko ryariho igihe icyaha cyakorwaga niryo rikomeza gukurikizwa, irishya rikaba rigakoreshewa gusa iyo riteganya igihano cyoroheje (Application in mitius ou principe de l'application de la loi plus douce). [21] Nk'uko bigaragara mu gace ka munani (8) n'aka cumi na kamwe (11) tw'urubanza rujuririrwa, rusuzuma ikibazo kijyane no kumenya niba ibikorwa Habyarimana Athanase aregwa byuzuye kugira ngo ahamwe n'icyaha cyo kunyereza umutungo yahamijwe ku rwego rwa mbere, Urukiko Rukuru rwifashishije ingingo ya 10 y'Itegeko no 54/2018 ryo ku wa 13/8/2018 ryerekeye kurwanya ruswa, rusobanura ko Urukiko Rwisumbuye rwagombaga gusuzuma ibikorwa aregwa nk'icyaha cyo kunyereza umutungo nk'uko giteganywa n'iyi ngingo ya 10. [22] Hashingiwe ku byagaragajwe mu gace kabaniziriza aka, Urukiko rw'Ubujujire rurasanga koko Urukiko Rukuru rwarashingiye ku ngingo ya 10 mu kwemeza ko ibikorwa byakozwe n'uregwa bigize icyaha cyo kunyereza umutungo, bivuze ko Urukiko Rukuru rwitandukanyije n'Urukiko Rwisumbuye rwa Nyarugenge ku bijyanye n'Itegeko rigomba gukoreshewa muri uru rubanza. [23] Urukiko rw'Ubujujire rurasanga Habyarimana Athanase n'umwunganizi we bavuga ko ubujurire bwe bwa kabiri bukwiye kwakirwa muri uru Rukiko

kubera ko urubanza ajuririra rwaciwe hashingiwe ku Itegeko ritariho, nyamara hashingiwe ku byemejwe n'Urukiko rw'Ikirenga Itegeko ritariho ni itegeko ritagikoreshwa, cyangwa Itegeko ritaratangira gukoreshwa, cyangwa se Itegeko ritigeze ribaho, bivuze ko Itegeko n° 54/2018 ryo ku wa 13/8/2018 ryerekeye kurwanya ruswa ryari ririho igihe Urukiko Rukuru rwaburanishaga uru rubanza ku wa 22/6/2022, rukarusoma ku wa 8/7/2022. [24] Urukiko rw'Ubujurire rurasanga ikibazo kigaragara atari gushingira ku Itegeko ritariho, ahubwo ari ikibazo kijyanye no kutubahiriza ibiteganywa n'Itegeko, kuko mu kuburanisha uru rubanza, hagaragamo ikibazo cy'impurirane y'amategeko ahana kubera ko Itegeko Ngenga n° 01/2012/OL ryo ku wa 2/5/2012 rishyiraho Igitabo cy'amategeko ahana ryariho igihe uregwa yakoraga icyaha aregwa n'Itegeko n° 54/2018 ryo ku wa 13/8/2018 ryerekeye kurwanya ruswa ryari ryarasohotse igihe Inkiko zabanje zaruburanishaga, yombi ashobora gukoreshwa, ariko hubahirizwa ihame ry'amategeko ry'uko iritanga igihano cyoroheje ariryo rikurikizwa.

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- [25] Urukiko rw'Ubujurire rurasanga ingingo ya 325 y'Itegeko Ngenga n° 01/2012/OL ryo ku wa 2/5/2012 ryavuzwe haruguru ihanisha icyaha cyo kurigisa cyangwa konona umutungo, igifungo kuva ku myaka irindwi (7) kugeza ku myaka icumi (10) n'ihazabu y'amafaranga yikubye inshuro kuva kuri ebyiri (2) kugeza kuri eshanu (5) z'agaciro k'umutungo warigishijwe cyangwa wononwe, mu gihe ingingo ya 10 n'Itegeko n° 54/2018 ryo ku wa 13/8/2018 yo ihanisha icyaha cyo kunyereza umutungo igifungo kitari muni y'imyaka irindwi (7) ariko kitarenze imyaka icumi
- (10) n'ihazabu y'amafaranga y'u Rwanda yikubye inshuro kuva kuri eshatu (3) kugeza kuri eshanu
- (5) z'agaciro k'umutungo yanyereje. Rurasanga rero harebwe igihano cy'ihazabu giteganywa n'izo ngingo ebyiri, Itegeko ritanga igihano cyoroheje ari Itegeko Ngenga n° 01/2012/OL ryo ku wa 2/5/2012 ryavuzwe haruguru, akaba ariryo ryagombaga gukurikizwa. [26] Hashingiwe ku byasobanuwe haruguru, Urukiko rw'Ubujurire rurasanga Urukiko Rukuru rwarakoze amakosa yo kutubahiriza ibiteganywa n'ingingo ya 6 y'Itegeko n° 68/2018 du 30/8/2018 ryavuzwe haruguru, ariko rutarakozwe amakosa yo gukoresha Itegeko ritariho. [27] Urukiko rw'Ubujurire rurasanga rero hashingiwe ku murungo watanze mu rubanza n° RPAA 00322-00323/2022/CA rwavuzwe haruguru, ko kutubahiriza ibiteganywa n'amategeko bitari mu mpamvu zatumye ubujurire bwa kabiri bwakwirakwira, bukaburanishwa mu mizi, kandi bitafatwa nko gushingira ku Itegeko ritariho, ibi bikaba bishobora gukosorwa binyuze mu zindi nzira ziteganwa n'Itegeko, ariko bitabaye impamvu yo kujurira (bidakosorwa mu rwego rw'ubujurire) bwa kabiri. Rurasanga na none n'ubwo Urukiko Rukuru rwashingiye ku Itegeko n° 54/2018 ryo ku wa 13/8/2018, ariko igihano cy'igifungo cy'imyaka irindwi (7) n'ihazabu yikubye inshuro ebyiri z'umutungo wanyerejwe ingana n'amadolari y'amarika 85.890,82 byemejwe ku rwego rwa mbere, bigashimangirwa n'Urukiko Rukuru mu bujurire, atari ibihano bidateganyijwe n'Itegeko nk'uko byagaragajwe haruguru. [28] Urukiko rw'Ubujurire rurasanga rushingiye ku bisobanuwe haruguru byose, birebwe hamwe

n'imirongo nayo yagarutsweho muri uru rubanza, kuba nta Tegeko ritariho ryakoreshejwe, nta bubasha rufite bwo kuburanisha ubujurire bwa kabiri bwatanzwe na Habyarimana Athanase kuko butujuje ibisabwa n'amategeko kugira ngo bwakirwe busuzumwe, bivuze ko inzitizi yatanze n'Ubushinjacyaha yo kutakira ubujurire bwe bwa kabiri muri uru Rukiko, ifite ishingiro. III. ICYEMEZO CY'URUKIKO [29] Rwemeje ko inzitizi yatanze n'Ubushinjacyaha yo kutakira ubujurire bwa Habyarimana Athanase ifite ishingiro. [30] Rwemeje ko Ubujurire bwa kabiri bwatanzwe na Habyarimana Athanase butakiriwe kuko butujuje ibisabwa n'amategeko. [31] Rwemeje ko amagarama yatanze ahwanye n'ibyakozwe muri uru rubanza.

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