

RWANDA / JUDGMENT

# KALISA v. BPR

RCOMA 0055/11/CS

## COURT

Supreme Court

## DECIDED

14 March 2014

## CASE / FILE NUMBER

RCOMA 0055/11/CS

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## KALISA v. BPR

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- Date: 2014-03-14
- Case/document no.: RCOMA 0055/11/CS
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## Text

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KALISA v. BPR [Rwanda URUKIKO RW'IKIRENGA – 2014 SC – RCOMA 0055/11/CS (Havugiyaremye, P.J., Mukandamage na Kayitesi, J.) 14 Werurwe 2014] Amategeko y'ubucuruzi – Igihe cyo gutanga ibimenyetso – Nta muburanyi wasaba ko ibimenyetso bimwe byashingiweho n'urukiko byateshwa agaciro mu gihe byatanzwe mu buryo bukurikije amategeko, Itegeko n° 21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegets, Ingingo ya 352. Amategeko y'ubucuruzi – Amasezerano hagati y'abayagiranye – Inyandiko ikurikizwa mu gihe hagaragajwe amasezerano abiri yakorewe itariki imwe. – Uwatanze inguzanyo ntashobora gusiba bimwe mu bikubiye mu masezerano yagiranye n'uwo yayihaye ngo ayahindure atabanje kubimumenyesha ngo abyemere – Amasezerano atagaragaza ahasibye niyo akurikizwa, Itegeko n° 45/2011 ryo kuwa 25/11/2011 rigena amasezerano, Ingingo ya 64. Amategeko y'ubucuruzi – Indishyi, amafaranga y'ifunguro, ay'ingendo n'ay'ikurikiranarubanza – Usaba indishyi ntashobora kuzigenerwa mu gihe atagaragaza isano iri hagati y'ikosa yakorewe n'uwo azisaba ndetse nta n'ibimenyetso agaragaza ko afite umutungo zawubyara, Itegeko ryo kuwa 30/07/1888 rishyiraho urwunge rw'amategeko y'imbonezamubano, ibyerekeye imirimo nshinganwa, ingingo ya 258. Amategeko y'ubucuruzi –

Ubujurire bwuririye ku bundi – Indishyi zo gushorwa mu manza n’igihembo cya Avoka – Iyo ikirego kigamije kwiregura gitanzwe mu gihe cy’iburanisha ry’urubanza mu mizi nticyakirwa kuko kiba gitanzwe gikererewe – Nta ndishyi zo gushorwa mu manza nta mpamvu n’igihembo cya Avoka ahabwa uwayasabye mu gihe Urukiko rusanze ubujurire bw’uzisabwa bufite ishingiro, Itegeko n° 21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y’imanza z’imbenezamubano, iz’ubucuruzi, iz’umurimo n’iz’ubutegets. Ingingo 357 igika cya mbere. Incamake y’ikibazo: Uwajuriye yagiranye amasezerano y’inguzanyo y’ubwubatsi n’uregwa ya 15.000.000frw agomba kwishyurwa mu mezi 24. Uwajuriye akavuga ko yamboga kuyishyura mu mezi 48 akabigaragariza amasezerano. Nyuma yo kutumvikana uwajuriye yaregeye Urukiko Rukuru rw’Ubucuruzi asaba ko ayo masezerano yaseswa kuko uwarezwe yagiye yiyishyura amafaranga menshi mu buryo batasezeranye bituma ananirwa kwishyura. Urukiko rwemeje ko ikirego cye nta shingiro gifite kuko rwasanze hari amasezerano abiri atandukanye, muri amwe havugwa ko uwajuriye azishyura mu mezi 48 naho mu yandi agaragazwa n’uwarezwe hari ibyakosowe n’ikaramu handikwa ko azishyura mu mezi 24, akaba yarubahirije ayo masezerano ateganya kwishyura mu mezi 24 kuko yayishyuyeho mu gihe cy’amezi 8, bigaragaza ko yayemeraga, ko kandi nta kimenyetso agaragaza ko yashyizweho agahato n’uwarezwe kugirango yishyure ayo mafaranga. Uwajuriye yajuririye Urukiko rw’Ikirenga avuga ko hari ibimenyetso byatanzwe mu buryo bunyuranije n’amategeko ariko Urukiko rubanza rubishingiraho ruca urubanza. Avuga na none ko urukiko rwagaragaje ko hari amasezerano abiri atandukanye, amwe arimo ikosa ruyaha agaciro, maze atarimo ikosa ruyatesha agaciro nta mpamvu. Asaba kandi ko yagenerwa indishyi zose yaregeye ariko ntazihabwe.

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Incamake y’icyemezo: 1. Imyanzuro y’uwiregura igomba kugirwa n’ibisobanuro ku by’aregwa no ku ngingo ishingiyeho. Iyo myanzuro y’uwiregura yohererezwa urukiko, urega akagenerwa kopi, bitarenze iminsi cumi n’ine (14) uhaye ku munsu uregwa yakiriye urwandiko rw’ihamagara Bityo uwajuriye yabonye igihe gihagije cyo kubona imyanzuro mbere y’iburanisha ry’urubanza mu mizi hashingiwe ku nyandiko mvugo z’iburanisha ziri muri dosiye akaba yarashoboraga kuyireguraho, ibyo asaba ko ibimenyetso bimwe byashingiweho n’urukiko byateshwa agaciro ntashingiro byahabwa.

2. Amasezerano aba itegeko ku bayagiranye akaba agomba gukurikizwa nta buryarya. Bityo uwarezwe akaba atarashoboraga gusiba bimwe mu biyakubiyemo ngo ayahindure uwajuriye atabimenyeshejwe ngo abyemere. Ku bw’ibyo rero inyandiko y’amasezerano uwajuriye yatanze mu rukiko niyo igomba guhabwa agaciro kuko yo itagaragaramo ikosa, kandi uwarezwe ntiyigeze aregera ko ari impimbano ku buryo yateshwa agaciro. Ariko kuko uwarezwe atarubahirije ayo masezerano yagiranye n’uwajuriye, bituma ananirwa kumwishyura umwenda yahawe, bityo ayo masezerano akaba agomba guseswa, uwajuriye akishyura amafaranga y’umwenda havanywemo ayo yishyuye mu gihe cy’amezi 8, inyungu zikavanwaho kuko yabujijwe kwishyura ngo azibone kubera ikosa ry’uwarezwe.

3. Igikorwa cyose cy'umuntu cyangirije undi gitegeka nyirugukora ikosa rigikomokaho kuriha ibyangiritse. Kuba uwajuriye atagaragaza isano iri hagati y'ikosa yakorewe n'warezwe ryo kuba yarahinduye amasezerano batabyumvikanyeho no kuba imodoka ze zitarakozwe ngo zimufashe kwishyura umwenda, nta n'ikimenyetso atanga kigaragaza ko afite koko imodoka ebyiri zidakora n'amafaranga zakoreraga, indishyi asaba ntiyazigenerwa. Ku ndishyi zindi z'ingendo n'ifunguro ndetse n'ay'ikurikiranarubanza uwajuriye asaba uregwa ntiyayagenerwa kuko atayagaragariza ibimenyetso, kandi na none hari ibyo yaregeye bijyanye n'indishyi atsindiwe muri uru rubanza.
4. Ikirego kiregera kwiregura no kurega uwishingiye bikorwa mu buryo bwanditse mbere yo kurangiza iburanisha ry'ibanze. Kuba uregwa yaragitanze asaba ko uwajuriye amwishyura umwenda amubereyemo n'indishyi cyaratanzwe mu Rukiko Rukuru rw'ubucuruzi igihe cy'iburanisha ry'urubanza mu mizi, maze nticyakirwa kuko cyatanzwe gikererewe, kikaba rero n'ubu kitakwakirwa mu bujurire ngo gisuzumwe.
5. Ku byerekeye indishyi n'igihembo cya Avoka uregwa asaba uwajuriye kubera kumushora mu manza nta mpamvu ntiyayahabwa kuko ubujurire bw'uwajuriye bufite ishingiro kuri bimwe yaregeye bituma n'urubanza rwajuririwe ruhinduka, akaba rero atarashowe mu manza ku maherere. Ubujurire bufite ishingiro kuri bimwe. Ubujurire bwuririye kubundi nta shingiro bufite. Amagarama aherereye ku uregwa. Amategeko yashingiweho: Itegeko n° 21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, Ingingo ya 352 na 357 igika cya 1. Itegeko n° 45/2011 ryo kuwa 25/11/2011 rigena amasezerano, Ingingo ya 64.

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Itegeko ryo kuwa 30/07/1888 rishyiraho urwunge rw'amategeko y'imbonezamubano, ibyerekeye imirimo nshinganwa, ingingo ya 258. Nta manza zifashishijwe: Urubanza I. IMITERERE Y'URUBANZA [1] BPR yagiranye na KALISA Dominique amasezerano y'inguzanyo y'ubwubatsi ya 15.000.000 Frw, ikavuga ko ayo mafaranga yagombaga kuyishyura mu mezi 24, akajya atanga umugabane wa 625.000 Frw ku kwezi, naho KALISA akavuga ko yari kuyishyura mu mezi 48, akajya atanga 312.500 Frw ku kwezi. [2] Nyuma yo kutumvikana KALISA yaregeye Urukiko Rukuru rw'Ubucuruzi, asaba ko ayo masezerano aseswa kubera ko BPR yagiye yiyishyura amafaranga menshi iyavana kuri konti ye mu buryo batasezeranye, bituma ananirwa kwishyura umwenda, ndetse ananirwa no gukoresha imodoka ze ebyiri zagombaga kuvamo ubwishyu, bimutera igihombo asabira indishyi zingana na 133.200.000 Frw, akanasaba ko BPR imwishyura amafaranga y'ikurikiranarubanza n'igihembo cya avoka. [3] Urukiko Rukuru rw'Ubucuruzi yaregeye rwemeje ko ikirego cye nta shingiro gifite kubera ko rwasanze hari amasezerano abiri atandukanye, muri amwe havugwa ko KALISA azishyura mu mezi 48 (contrat igaragazwa na KALISA) naho mu yandi hari ibyakosowe n'ikaramu handikwa ko azishyura mu mezi 24 (contrat itangwa na banki), akaba yarubahirije ayo masezerano ateganya kwishyura mu mezi 24 kuko yagiye yishyura amafaranga 625.000 mu gihe cy'amezi 8, bigaragaza ko yayemeraga, ko rero atagomba kwitwaza ikosa ryakozwe na banki ngo ahindure amasezerano, ko kandi nta

kimenyetso agaragaza ko yashyizweho agahato na banki kugirango yishyure ayo mafaranga. [4] Urukiko rwamutegetse kwishyura BPR 50.000 Frw y'indishyi zo kuyishora mu manza nta mpamvu na 300.000 Frw y'igihembo cya avoka, naho ku byerekeye ikirego kigamije kwiregura cyatanzwe na BPR isaba ko KALISA yishyura umwenda ayibereyemo, urukiko ntirwacyakiriye kubera ko cyatanzwe gikererewe igihe cy'iburanisha ry'urubanza mu mizi. [5] KALISA yajuririye Urukiko rw'Ikirenga avuga ko hari ibimenyetso byatanzwe mu buryo bunyuranije n'amategeko ariko rubishingiraho ruca urubanza. Avuga na none ko urukiko rwagaragaje ko hari amasezerano abiri atandukanye, amwe arimo ikosa ruyaha agaciro, maze atarimo ikosa ruyatesha agaciro nta mpamvu. Asaba kandi ko yagenerwa indishyi zose yaregeye ariko ntazihabwe, BPR ikanahatirwa kuzishyura (astreinte). [6] BPR ivuga ko ubwo bujuriye nta shingiro bufite, ko ahubwo ikirego cyayo yatanze kigamije kwiregura isaba ko KALISA yayishyura umwenda ayibereyemo cyakwakirwa kigasuzumwa.

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- [7] Urubanza rwaburanishijwe mu ruhamye tariki ya 11/02/2014, KALISA Dominique aburanirwa na Me HAKIZIMANA Théogène, BPR iburanirwa na Me RWAKAYIJA John. II. IBIBAZO BIGIZE URUBANZA N'ISESENGURA RYABYO.
- a. Kumenya niba ibimenyetso Urukiko Rukuru rw'Ubucuruzi rwashingiweho byaratanzwe mu buryo bunyuranije n'amategeko. [8] Me HAKIZIMANA uburanira KALISA avuga ko hari ibimenyetso bigizwe n'icyemezo cyo kwinjira mu masezerano y'ubwishingizi mfatirwahamwe ku nguzanyo na fotokopi y'agatabo ke ko kuzigama kerekana ko yishyuraga amafaranga menshi, byatanzwe na BPR igihe cy'iburanisha ry'urubanza mu mizi ubwo yasobanuraga ikirego cyayo kigamije kwiregura, aho gutangirwa mu iburanisha ry'ibanze (audience préliminaire) nk'uko biteganywa n'ingingo ya 352 y'Itegeko n° 21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi. Avuga ko KALISA yasabye kubyireguraho ariko urukiko rurabyanga, nyuma biramutsinda nk'uko bigaragara ku gika cya 6 n'icya 7 cy'urubanza, agasaba ko ibyo bimenyetso byateshwa agaciro hagasigara haburanishwa gusa amasezerano. [9] Me RWAKAYIJA uburanira BPR avuga ko ibyo mugenzi we avuga atabitangira ibimenyetso, ko mu rukiko rubanza KALISA yemeye akaburana kandi yari afite uburenganzira bwo gusaba ko urubanza rusubikwa akabanza agasuzuma ibyo bimenyetso. [10] Avuga na none ko muri urwo rukiko, KALISA yabajijwe impamvu yishyuraga amafaranga menshi (625.000 Frw) ashingiye ku masezerano ateganywa ko azishyura mu mezi 24, kandi azi neza ko afite amasezerano ateganywa ko azishyura mu mezi 48, asubiza ko Banki yamushyizeho agahato atabashije gusobanura. Asanga rero icyemezo cy'ubwishingizi hamwe n'amafishi yishyuriragaho ari ibimenyetso bigaragaza uburyo yishyuye, ko kandi ibyo bimenyetso byatanzwe mbere y'iburanisha, akaba yarashoboraga kubyireguraho. Uko urukiko rubibona [11] Ingingo ya 352 y'itegeko n° 21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganywa ko "imyanzuro y'uwiregura igomba kugirwa n'ibisobanuro ku by'aregwa no ku ngingo ishingiyeho. Iyo myanzuro y'uwiregura yohererezwa urukiko, urega akagenerwa

kopi, bitarenze iminsi cumi n'ine (14) uhereye ku munsu uregwa yakiriye urwandiko rw'ihamagara. Kopi igenewe urega ayishyikirizwa n'uregwa iyo bishoboka, umwanditsi w'urukiko cyangwa umuhesha w'inkiko". [12] Inyandiko mvugo z'iburanisha ziri muri dosiye zigaragaza ko imyanzuro ya BPR nk'uregwa yatanze mu iburanisha ryo kuwa 17/06/2010, urubanza rwimurirwa kuwa 9/9/2010, uwo munsu nabwo rwimurirwa tariki ya 13/01/2011, BPR isabwa gutanga ibimenyetso ikeneye gutanga birimo n'amafishi y'umwenda, iburanisha rishyirwa kuwa 31/03/2011 ari nawo munsu urubanza rwaburanishijwe mu mizi.

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- [13] Urukiko rurasanga KALISA yarabonye igihe gihagije cyo kubona imyanzuro mbere y'iburanisha ry'urubanza mu mizi nk'uko biteganywa n'ingingo imaze kuvugwa, akaba yarashoboraga kuyireguraho, bityo ibyo asaba ko ibimenyetso bimwe byashingiweho n'urukiko byateshwa agaciro kuko byatanze mu buryo binyuranije n'iyi ngingo nta shingiro byahabwa kuko atari byo iyi ngingo iteganywa.
- a. Kumenya inyandiko y'amasezerano yagombaga gukurikizwa n'abayagiranye. [14] Me HAKIZIMANA uburanira KALISA avuga ko Urukiko rwagaragaje ko hari inyandiko z'amasezerano ebyiri zitandukanye, imwe ifitwe na BPR irimo ikosa n'indi ifitwe na KALISA itarimo ikosa, maze iyo ya nyuma ruyitesha agaciro kandi yaremezaga ko KALISA agomba kwishyura mu migabane 48 yishyura buri kwezi 312.500 Frw. [15] Asobanura ko KALISA nta na hamwe yigeze yishyura 625.000 Frw ubwe, kuko umushahara we kimwe n'andi mafaranga yavaga mu kazi k'imodoka ze yashyirwaga kuri konti ye, maze BPR ikayafatira, ko kuba rero mu masezerano umukozi wayo yaracishijemo umurongo ahanditse amezi 48 akandikamo 24, yabitwe nuko yagira ngo abihuze n'ibiri ku ifishi ye y'umwenda, ko nyuma y'amezi 8 yaje kubona ko yishyuzwa mu buryo butaribwo bitewe n'uko banki yamumenyesheje ko afite ibiranane kandi yari azi ko afite amafaranga menshi kuri konti, ayisabye kubikosora ntiyamusubiza. [16] Akomeza avuga ko atumva impamvu Banki yahinduye amasezerano bagiranye itabimubwiye ngo hakorwe andi, n'urukiko rukaba rutarasobanuye uburyo ayo masezerano yombi azarangizwa, akaba rero yari yareze asaba ko yaseswa ariko urukiko ntirwabikora. [17] Me RWAKAYIJA uburanira BPR avuga ko iyi banki yakuye kuri konti ya KALISA imigabane ingana ya 625.000 Frw buri kwezi hashira amezi 8 ntacyo avuze, abonye bimunaniye kwishyura ahimba imitwe avuga ko yagombaga kwishyura mu mezi 48 yitwaje amasezerano bigaragara ko ari amahimbano. Avuga ko mu rukiko rubanza KALISA yaburanaga avuga ko byakozwe ku gahato, nyamara ubu akaba avuga ko ntakabayeho. [18] Ku byerekeye amasezerano, Me RWAKAYIJA avuga ko KALISA atakwitwaza ko habayeho ikosa, kuko ryakosowe ahari, ko kandi yagiye yishyura umugabane akurikije ko ubwishyu buzarangira mu mezi 24 nk'uko byari no mu masezerano y'ubwishingizi yasabye. [19] Ku birebana no kuba urukiko rwarabonye ko hari amakosa BPR yakoze ariko ntirugire icyo rubivugaho, Me RWAKAYIJA avuga ko nta shingiro bifite kubera ko rutari rufite inshingano yo gusuzuma uko amasezerano akorwa n'uko akosorwa, ahubwo rwagomba gusuzuma niba koko BPR itarubahirije amasezerano. Uko urukiko rubibona

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- [20] Ingingo ya 64 y'Itegeko n° 45/2011 ryo kuwa 25/11/2011 rigena amasezerano, iteganya ko “amasezerano akozwe ku buryo bukurikije amategeko aba itegeko kubayagiranye. Ashobora guseswa ari uko babyumvikanyeho cyangwa ku mpamvu zemewe n'amategeko. Agomba kubahirizwa nta buryarya.” [21] Nk'uko Urukiko Rukuru rw'Ubucuruzi rwabibonye ndetse n'ababuranyi bakaba babyemera, tariki ya 08/07/2008 habaye amasezerano hagati ya BPR na KALISA bemeranywa ko umwenda ahawe wa 15.000.000 Frw uzishyurwa mu migabane 48 hishyurwa 312.500 Frw nyuma ya buri kwezi guhera tariki ya 15/10/2008 kugeza kuwa 15/10/2012 (ingingo ya 4), ariko mu masezerano ahanditse imigabane 48 banki yarahasibye yandika imigabane 24, ku buryo KALISA yishyujwe umugabane wa 625.000 Frw mu gihe cy'amezi umunani, aba aribwo havuka ikibazo kuko yabwiwe ko afite ibirarane. [22] Urukiko rurasanga ayo masezerano yari itegeko ku bayagiranye akaba yaragombaga gukurikizwa nta buryarya na BPR, bityo ikaba itarashoboraga gusiba bimwe mu biyakubiyemo ngo iyahindure KALISA atabimenyeshejwe ngo abyemere. Kuba uyiburanira avuga ko iryo kosa KALISA yari arizi kubera ko yishyuye amafaranga menshi mu gihe cy'amezi umunani nta gaciro byahabwa kuko atari we wajyaga kwishyurira banki, ahubwo ari banki yafatiraga umugabane wishyurwa buri kwezi kuri konti ye, bikaba rero byarashobokaga ko atinda kubimenya. [23] Urukiko rurasanga rero inyandiko y'amasezerano KALISA yatanze mu rukiko ariyo igomba guhabwa agaciro kuko yo itagaragaramo ikosa, kandi BPR ntiyigeze iregera ko ari impimbano ku buryo yateshwa agaciro. [24] Urukiko rurasanga ariko BPR itarubahirije ayo masezerano yagiranye na KALISA, bituma ananirwa kwishyura umwenda yahawe, bityo ayo masezerano akaba agomba guseswa, KALISA akishyura amafaranga y'umwenda havanywemo ayo yishyuye mu gihe cy'amezi 8, inyungu zikavanwaho kuko yabujijwe kwishyura ngo azibone kubera ikosa rya Banki, akishyura amafaranga akurikira:  $15.000.000 \text{ Frw} - (625.000 \text{ Frw} \times \text{amezi } 8) = 10.000.000 \text{ Frw}$ . [25] Hashingiwe ku bimaze kuvugwa, urukiko rusanga ubujurire bwa KALISA bufite ishingiro, urubanza yajuririyeye rukaba rugomba guhinduka, hagasuzumwa ibijyanye n'indishyi yaregeye atahawe.
- b. Ishingiro ry'indishyi zisabwa na KALISA [26] Me HAKIZIMANA uburanira KALISA avuga ko yari yaregeye indishyi z'igihombo yatewe na BPR zingana na 133.200.000 Frw mu gihe cy'amezi 8, kubera ko imodoka ze zamufashaga mu kwishyura umwenda zapfuye akabura amafaranga yo kuzikoresha, kuko banki yamaze amafaranga kuri konti ye, imwe ikaba yarinjizaga 169.000 Frw ku muni, indi ikinjiza 144.000 Frw. Asaba kandi ko yamuha 90.000 Frw y'ingendo yakoze akurikiranye uru rubanza, amafaranga 140.000 Frw y'ifunguro, na 150.000 yo gukurikirana urubanza, BPR igahatirwa kandi kwishyura izo ndishyi imuha 4% yayo buri muni mu gihe izaba itarazimwishyura. [27] Me RWAKAYIJA uburanira BPR avuga ko nta gihombo Banki yateje KALISA, ko ahubwo ariwe wayihemukiye afata umwenda akananirwa kwishyura. Ku byerekeye izindi

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ndishyi asaba z'ingendo n'ifunguro, avuga ko ntazo akwiye guhabwa kuko atazigaragariza ibimenyetso, naho iby'igihembo cya avoka asaba ko urukiko rwazabizusuma mu bushishozi mu gihe yaba atsinze urubanza, ko rero nta n'icyo BPR yahatirwa kwishyura. Uko urukiko rubibona [28] Ingingo ya 258 y'Itegeko ryo kuwa 30/07/1888 rishyiraho urwunge rw'amategeko y'imbonezamubano, ibyerekeye imirimo nshinganwa cyangwa amasezerano (CCLIII), iteganya ko "igikorwa cyose cy'umuntu cyangirije undi gitegeka nyirugukora ikosa rigikomokaho kuriha ibyangiritse". [29] Urukiko rurasanga KALISA atagaragaza isano iri hagati y'ikosa yakorewe na BPR ryo kuba yarahinduye amasezerano batabyumvikanyeho no kuba imodoka ze zitarakozwe ngo zimufashe kwishyura umwenda, nta n'ikimenyetso atanga kigaragaza ko afite koko imodoka ebyiri zidakora n'amafaranga zakoreraga, bityo indishyi asaba akaba atazigenerwa. [30] Ku byerekeye amafaranga y'ingendo n'ifunguro ndetse n'ay'ikurikiranarubanza KALISA asaba BPR, urukiko rurasanga atayagenerwa kuko atayagaragariza ibimenyetso, kandi na none hari ibyo yaregeye bijyanye n'indishyi atsindiwe muri uru rubanza.

- c. Ubujurire bwuririye ku bundi bwa BPR [31] Me RWAKAYIJA uburanira BPR avuga ko yuririye ku bujurire bwa KALISA asaba ko ayishyura umwenda ungana na 15.000.000 Frw ayibereyemo hyongereyeho n'inyungu z'ubukererwe hagakurwamo amafaranga yishyuye, hamwe n'indishyi za 1.000.000 Frw kubera kuyishora mu manza nta mpamvu na 500.000 Frw y'igihembo cya avoka ku rwego rw'ubujurire yiyongera kuri 300.000 Frw yagenewe mu rukiko rubanza. [32] Me HAKIZIMANA uburanira KALISA avuga ko ikirego kigamije kwiregura cyasabaga kwishyura umwenda n'inyungu zawo cyafashweho umwanzuro n'urukiko ntirwacyakira kuko cyatanzwe imburagihe. [33] Ku byerekeye indishyi Me HAKIZIMANA avuga ko BPR yazihabwa ari uko ikirego cya KALISA gisaba indishyi cyaba gifite ishingiro, bitaba ibyo urukiko rukemeza ko izo yagenewe n'urukiko rubanza arizo zigumaho kuko zihagije. Uko urukiko rubibona [34] Ingingo ya 357 igika cya mbere y'itegeko n° 21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu iteganya ko "Ikirego kiregera kwiregura no kurega uwishingiye bikorwa mu buryo bwanditse mbere yo kurangiza iburanisha ry'ibanze". [35] Urukiko rurasanga ikirego cya BPR kigamije kwiregura isaba ko KALISA ayishyura umwenda ayibereyemo n'indishyi cyaratanzwe mu Rukiko Rukuru rw'ubucuruzi igihe

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cy'iburanisha ry'urubanza mu mizi, maze ntacyakirwa kuko cyatanzwe gikererewe, kikaba rero n'ubu kitakwakirwa mu bujurire ngo gisuzumwe. [36] Ku byerekeye indishyi za 1.000.000 Frw BPR isaba KALISA kubera kuyishora mu manza nta mpamvu na 500.000 Frw y'igihembo cya avoka ku rwego rw'ubujurire yiyongera kuri 300.000 Frw yagenewe mu rukiko rubanza, urukiko rurasanga ayo mafaranga yose, kimwe n'amafaranga y'indishyi z'akababaro n'ay'igihembo cya avoka yari yagenewe n'urukiko rubanza, itagomba kuyahabwa kuko ubujurire bwa KALISA bufite ishingiro kuri bimwe yaregeye bituma n'urubanza rwajuririwe ruhinduka, ikaba rero itarashowe mu manza ku maherere. III. ICYEMEZO CY'URUKIKO [37] Rwemeje ko ubujurire bwatanzwe na

KALISA Dominique bufite ishingiro kuri bimwe. [38] Rwemeje ko ubujurire bwuririye ku bundi bwatanzwe na BPR nta shingiro bufite. [39] Rutegetse KALISA Dominique kwishyura BPR 10.000.000 Frw y'umwenda ayibereyemo. [40] Rutegetse BPR kwishyura amafaranga 31.900 Frw y'amagarama y'urubanza mu gihe cy'iminsi umunani, itayishyura, ayo mafaranga agakurwa mu byayo ku ngufu za Leta.

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Prepared on 14 October 2026 · Esheria