

RWANDA / JUDGMENT

LETA Y’U RWANDA v. NTAHORUGIYE**RADA 0001/15/CS****COURT**

Supreme Court

DECIDED

22 April 2016

CASE / FILE NUMBER

RADA 0001/15/CS

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LETA Y’U RWANDA v. NTAHORUGIYE

- Source: Amategeko
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- Date: 2016-04-22
- Case/document no.: RADA 0001/15/CS
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Text**Page 1**

LETA Y’U RWANDA v. NTAHORUGIYE [Rwanda URUKIKO RW’IKIRENGA – RADA 0001/15/CS (Rugege, P.J., Ngagi, na Mukandamage, J.) 22 Mata 2016] Amategeko agenga imanza z’ubutegetsi – Iseswa ry’amasezerano y’umurimo – Ingaruka zo kuba umukozi ya kwirukanwa hashingiwe ku ibaruwa mu gihe yari yarashyizwe mu akazi n’iteka rya Misitiri w’intebe – Abakozi bashyizwe mu kazi n’iteka rya Misitiri w’intebe bavanwaho na ryo – Itegeko Nshinga rya Repubulika y’u Rwanda ryo ku wa 04 Kamena 2003, mu gace ka 8 (d) nk’uko ryavugururwe, ingingo ya 118 (8) d ; 121, 20 . Amategeko agenga imanza z’ubutegetsi – Kwirunwa mu buryo bunyuranyije n’amategeko – Byitwa kwirukanwa binyuranyije n’amategeko igihe umukozi atamenyeshejwe ikosa yakoze mu kazi ngo aryisobanureho mu nyandiko rimuhame – Itegeko n° 22/2002 ryo ku wa 09/07/2002 rishyiraho sitati rusange igenga abakozi ba Leta, ingingo ya 90 na 94. Indishyi – Imperekeza – Indishyi zikomoka ku isezererwa rinyuranyije n’amategeko – Kwirunwa mu buryo bunyuranyije n’amategeko bitangirwa indishyi zingenwa mu bushishozi bw’urukiko – Amafaranga y’imperekeza ntagenwa igihe hatabayeho ivanwaho cyangwa ibura ry’umurimo – Itegeko n° 86/2013 ryo kuwa 11/09/2013 rishyiraho Sitati rusange igenga abakozi ba Leta, ingingo ya 95. Incamake y’ikibazo: Ntahorugiye yashyizwe mu kazi n’iteka rya Minisitiri w’intebe ryo ku wa

31/12/2007 ryashyiraga ku myanya y'imirimo abakozi b'amashami cyangwa serivisi mu bigo bya Leta na za Komisiyo; ni muri urwe rwego nawe yashyizwe mu ONATRACOM nk'umukozi wayo. Nyuma yaho yaje ahagarikwa ku mirimo n'ibaruwa ya Minisitiri w'Intebe n° 875/03.0 yo ku wa 20/06/2011, anategukwa guhita akora ihererekanyabubasha n'umusimbuye. Ntahorugiye yandikiye Minisitiri w'Intebe amusaba kurenganurwa ntibyagira icyo bitanga, bituma aregera Urukiko Rukuru avuga ko yirukanywe mu buryo budakurikije amategeko, asaba n'indishyi zikomoka kuri icyo cyemezo cyamurenganyije, amafaranga y'amashimwe y'imyaka itandatu atahawe n'ay'imperekeza. Urwo rukiko rwemeje ko Ntahorugiye atahagaritswe ku kazi by'igihe gito ahubwo yarasezerewe burundu kandi muburyo bunyuranyije n'amategeko kuko icyemezo kimuhagarika mu kazi kitaragombaga kugaragarira mu ibaruwa, ahubwo cyaragombaga kuba gikubiye mu Iteka rya Minisitiri w'Intebe rishyizweho imikono y'ingereka y'Abaminisitiri, Abanyamabanga ba Leta n'abandi bashinzwe kurishyira mu bikorwa ikindi kandi imihango ikurikizwa kugirango umukozi ahabwe igihano itubahirijwe, maze ruhera ko rumugenera indishyi indishyi zinyuranyen'amafaranga y'ikurikiranarubanza n'igihembo cy'Avoka ariko ko atagenerwa ay'ishimwe hamwe nay'imperekeza. Leta y'u Rwanda yajuririye Urukiko rw'Ikirenga ivuga ko uwari gusinya Iteka rihagarika Ntahorugiye ari nawe wasinye ibaruwa imuhagarika, ko n'ingaruka ari zimwe, ko kandi indishyi zatanze ntaho zishingiye kuko nta cyemeza ko yari kuzageza ku kiruhuko cy'izabukuru agikorera ONATRACOM. Ntahorugiye yatanze ubujurire bwuririye ku bundi avuga ko asaba guhabwa imperekeza yaregeye atahawe ndetse n'amafaranga y'igihembo cy'Avoka umuburanira.

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Incamake y'icyemezo: 1. Abakozi bashyizwe mu kazi n'iteka rya Minisitiri w'Intebe bavanwaho na ryo bityo rero nk'uko Ntahorugiye ari ryo ryakoreshejwe mu kumushyira ku kazi yakoraga, ni naryo Minisitiri w'Intebe yagombaga gukoresha mu gihe yirukanywe mu kazi aho gukoresha ibaruwa isanzwe.

2. Byitwa kwirukanwa binyuranyije n'amategeko igihe umukozi atamenyeshejwe ikosa yakoze mu kazi ngo aryisobanureho mu nyandiko rimuhame.
3. Kwirunwa mu buryo bunyuranyije n'amategeko bitangirwa indishyi zingenwa mu bushishozi bw'urukiko kubwibyo rero Ntahorugiye akaba izo yagenewe mu rukiko rubanza ntaho zishingiye kubera ko nta cyemeza ko byanze bikunze yari kuzajya mu kiruhuko cy'izabukuru akiri umukozi wa ONATRACOM ni muri uru rwego yagenewe indishyi zingana n'umushahara we w'amezi atandatu mu bushishozi bw'Urukiko.
4. Amafaranga y'imperekeza ntagenerwa igihe hatabayeho ivanwaho cyangwa ibura ry'umurimo bityo rero Ntahorugiye akaba atayagenerwa kubera ko atasezerewe kubera ivanwaho cyangwa ibura ry'umurimo, ahubwo yirukanywe mu kazi.
5. Amafaranga y'igihembo cy'Avoka agenerwa mu bushishozi bw'Urukiko. Ubujurire bufite ishingiye kuri bimwe; Ubujurire bwuririye ku bundi bufite ishingiye kuri bimwe; Amagarama y'urubanza aherereye ku isanduku ya Leta. Amategeko yashingiweho: Itegeko Nshinga rya

Repubulika y'u Rwanda ryo ku wa 04 Kamena 2003, mu gace ka 8 (d) nk'uko ryavugururwe, ingingo ya 118 (8)d ; 121, 20 Itegeko n° 22/2002 ryo ku wa 09/07/2002 rishyiraho sitati rusange igenga abakozi ba Leta, ingingo ya 90 na 94. Itegeko n° 86/2013 ryo kuwa 11/09/2013 rishyiraho Sitati rusange igenga abakozi ba Leta, ingingo ya 95. Itegeko ryo kuwa 30/07/1888 rigenga amasezerano cyangwa imirimo nshinganwa, ingingo ya 258. Nta manza zifashishijwe. Urubanza IMITERERE Y'URUBANZA [1] Ntahorugiriye Damien yari umukozi wa ONATRACOM, washyizwe mu kazi n'Iteka rya Minisitiri w'Intebe ryo ku wa 31/12/2007 ryashyiraga ku myanya y'imirimo abakozi b'amashami cyangwa serivisi mu bigo bya Leta na za Komisiyo, ahagarikwa ku mirimo

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n'ibaruwa ya Minisitiri w'Intebe n° 875/03.0 yo ku wa 20/06/2011, anategukwa guhita akora iherekanyabubasha n'umusimbuye. [2] Ntahorugiriye Damien yandikiye Minisitiri w'Intebe amusaba kurenganurwa ntibyagira icyo bitanga, bituma aregera Urukiko Rukuru avuga ko yirukanywe mu buryo budakurikije amategeko, asaba n'indishyi zingana na 138.576.772 Frw zikomoka kuri icyo cyemezo cyamurenganyije, amafaranga y'amashimwe y'imyaka itandatu atahawe n'ay'imperekeza. [3] Tariki ya 11/09/2014, Urukiko Rukuru rwaciye urubanza n° RAD 0091/13/HC/KIG rusanga Ntahorugiriye Damien atarahagaritswe ku kazi by'igihe gito ahubwo yarasezerewe burundu ku kazi na Minisitiri w'Intebe ashingiye ku bubasha ahabwa n'ingingo ya 118 y'Itegeko Nshinga. [4] Ku birebana n'imizi y'urubanza, urukiko rwasanze icyemezo kimuhagarika mu kazi kitaragombaga kugaragarira mu ibaruwa, ahubwo cyaragombaga kuba gikubiye mu Iteka rya Minisitiri w'Intebe rishyizweho imikono y'ingereka y'Abaminisitiri, Abanyamabanga ba Leta n'abandi bashinzwe kurishyira mu bikorwa. Rwasanze na none imihango iteganywa n'ingingo ya 90 n'ya 94 z'Itegeko n° 22/2002 ryo ku wa 09/07/2002 rishyiraho Sitati rusange igenga abakozi ba Leta yakurikizwaga icyo gihe kugira ngo umukozi ahabwe igihano itarubahirijwe, kuko ziteganywa ko nta kosa na rimwe umukozi wa Leta ashobora guhanirwa atabanje guhabwa umwanya wo kwisobanura mu nyandiko, ko nta gihano na kimwe gishobora gushyirwa mu bikorwa ikosa ritarahama nyir'ubwite, ko kandi igihano cyose cyo mu rwego rwa kabiri, mbere y'uko cyemezwa, kigomba kugezwa ku mukozi nk'umushinga, kugira ngo atange ibindi bisobanuro. [5] Ku byerekeye indishyi Ntahorugiriye yaregeye, urukiko rwasanze agomba guhambwa izingana n'imishahara yavukijwe mu myaka 7,5 yari asigaje gukora, zihwanye na 72.655.740 Frw, kubera ko yirukanywe mu kazi mu buryo bunyuranyije n'amategeko, kandi ko iyo adasezererwa yari gukomeza kugeza agiye mu kiruhuko cy'izabukuru, cyane cyane ko n'Intumwa ya Leta itagaragaje ukundi byari kugenda, hiyongeraho indishyi z'akababaro z'amafaranga 1.000.000 kubera ko yahagaritswe mu kazi mu buryo butunguranye kandi budasobanutse cyane cyane ko atahawe umwanya wo kwisobanura ku makosa yaba yarakoze, n'amafaranga 500.000 y'ikurikiranarubanza n'igihembo cy'Avoka. [6] Urukiko ariko rwasanze amafaranga y'ishimwe rya buri mwaka rya 3% n'ay'imperekeza Ntahorugiriye yasabye atabihabwa kuko nta shingiro ryabyo. [7] Leta y'u Rwanda yajuririye Urukiko rw'Ikirenga ivuga ko uwari gusinya Iteka rihagarika Ntahorugiriye Damien ari nawe wasinye ibaruwa imuhagarika, ko n'ingaruka ari zimwe, ko kandi indishyi zatanze ntaho zishingiye kuko nta cyemeza ko yari

kuzageza ku kiruhuko cy'izabukuru agikorera ONATRACOM. [8] Mu bujurire bwuririye ku bundi, Ntahorugiye Damien avuga ko asaba guhabwa imperekeza yaregeye atahawe ndetse n'amafaranga y'igihembo cy'Avoka umuburanira. [9] Urubanza rwaburanishijwe mu ruhame tariki ya 22/03/2016, Leta y'u Rwanda ihagarariwe na Me Umwali M.Claire, naho Ntahorugiye Damien aburanirwa na Me Karake Canisius.

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II. IBIBAZO BIGIZE URUBANZA N'ISESENGURA RYABYO A. UBUJURIRE BWA LETA Y'U RWANDA

Kumenya niba Ntahorugiye Damien yarirukanywe mu kazi mu buryo bunyuranyije n'amategeko [10] Me Umwali M. Claire uhagarariye Leta y'u Rwanda avuga ko Urukiko Rukuru rwemeje ko icyemezo gikubiye mu ibaruwa ya Minisitiri w'Intebe ihagarika Ntahorugiye gifite inenge, rwirengagije ko uwari gusinya ku Iteka rimuhagarika mu kazi ari we wanditse ibaruwa imusezerera, ko icyo cyemezo Minisitiri w'Intebe yagifashe ashingiye ku bubasha ahabwa n'Itegeko Nshinga mu ngingo yaryo ya 118, ko rero niyo haza kubaho iteka rya Minisitiri w'Intebe rimuhagarika ku kazi naryo ryari kugira ingaruka zimwe n'izo ibaruwa yamugizeho. [11] Akomeza avuga ko yaba ibaruwa ya Minisitiri w'Intebe, yaba Iteka rye, byombi byashoboraga gukoreshwa mu guhagarika Ntahorugiye Damien mu kazi, agasanga rero nta nenge icyemezo cyafashwe na Minisitiri w'Intebe gifite kuko ingaruka cyagize ntaho zitandukaniye n'iyi haza gukoreshwa Iteka rya Minisitiri w'Intebe, byose ari uguhagarikwa ku kazi. [12] Me Karake Canisius, uhagarariye Ntahorugiye Damien, avuga ko nta ngingo y'itegeko uhagarariye Leta y'u Rwanda ashingiraho avuguruza icyemezo cy'Urukiko yajuririye, ko urubanza rujuririrwa rwagumana agaciro karwo. [13] Akomeza avuga ko ubusanzwe, Iteka rya Minisitiri w'Intebe rigibwaho impaka mu Nama y'Abaminisitiri, bakarisinyaho ndetse n'Abanyamabanga ba Leta bashinzwe kurishyira mu bikorwa, ko rikoranwa ubushishozi burenze ubw'ibaruwa isanzwe, ko iyo bikoranwa ubushishozi nk'ubwo, Ntahorugiye Damien atari kwirukanwa ku kazi. Yongeraho ko Itegeko Nshinga ridadekanye ko mu bibazo bisaba Iteka rya Minisitiri w'Intebe, rishobora gusimbuzwa ibaruwa ye isanzwe, cyangwa ko kimwe muri ibyo byombi gishobora gufatwa mu mwanya w'ikindi, ko kuba mu ngingo yaryo ya 118 ryarashatse ko bikorwa nk'uko ribitegeka, kubihindura uvuga ko ufite ububasha bwo gukoresha kimwe cyangwa ikindi byasaba ko iyo ngingo ibanza guhindurwa bikandikwa gutyo, ko rero inzira Iteka rya Minisitiri w'Intebe rinyuramo itandukanye n'iy'ibaruwa isanzwe, ndetse n'inyito zabyo zitandukanye. Anavuga ko mu bwubahane bw'amategeko n'ibyemezo by'ubuyobozi, inzira icyemezo cyanyuzemo gifatwa ari nayo ikurikizwa mu kugukuraho, ko Minisitiri w'Intebe adashobora gukuraho Iteka rye, akoresheje ibaruwa ye isanzwe. [14] Asanga kandi Leta y'u Rwanda atari yo ikwiye kuzana impaka nk'izo kuko ishinze kureberera abaturage bose, kurinda ubusugire bw'Itegeko Nshinga no kubahiriza andi mategeko, ko ahubwo ikwiye kugaragaza ikosa ryo mu rwego rw'akazi Ntahorugiye yazize ku buryo byavugwa ngo n'iyi hakoreshwa inzira y'Iteka rya Minisitiri w'Intebe n'ubundi yagombaga kwirukanwa, n'icyatumye yirukanwa huti huti hadakurikijwe amategeko. UKO URUKIKO RUBIBONA [15] Ubujurire bwatanzwe na Leta y'u Rwanda kuri iyi ngingo bugamije kugaragaza ko Ntahorugiye Damien yirukanywe na Minisitiri w'Intebe ashingiye ku bubasha ahabwa n'Itegeko

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Nshinga, ko kandi kuba yarakoresheje ibaruwa isanzwe aho gukoresha Iteka rye nta nenge bifite kuko hakoreshwa kimwe cyangwa ikindi, ingaruka ari zimwe. [16] Ingingo ya 118 y'Itegeko Nshinga rya Repubulika y'u Rwanda ryo ku wa 04 Kamena 2003, mu gace ka 8 (d) nk'uko ryavugururwe ryakurikizwaga igihe Ntahorugiye yirukanwaga ku kazi mu mwaka wa 2011, iteganya ko Minisitiri w'Intebe ashira umukono ku mateka yerekeye ishyirwa ku murimo n'ivanwaho ry'abakozi bakuru mu bigo bya Leta igihe ntaho biteganyijwe ukundi. [17] Naho ingingo ya 90 y'Itegeko n° 22/2002 ryo ku wa 09/07/2002 rishyiraho sitati rusange igenga abakozi ba Leta n'inzego z'imirimu ya Leta ryakurikizwaga icyo gihe, iteganya ko nta kosa na rimwe umukozi wa Leta ashobora guhanirwa atabanje guhabwa umwanya wo kuryisobanuraho mu nyandiko. Nta gihano na kimwe gishobora gushyirwa mu bikorwa ikosa ritarahama nyir'ubwite. Na none ingingo ya 94 igika cya mbere y'iryo Tegeko iteganya ko igihano cyose cyo mu rwego rwa kabiri mbere y'uko cyemezwa, kigomba kugezwa ku mukozi nk'umushinga, kugirango atange ibindi bisobanuro. [18] Nk'uko bigaragara mu ibaruwa n° 875/03.0 yo ku wa 20/06/2011 ya Minisitiri w'Intebe yandikiye Ntahorugiye amuhagarika mu kazi, yashingiye ku ngingo ya 118 y'Itegeko Nshinga yavuzwe haruguru, amumenyesha ko kuva tariki ya 20 Kamena 2011 ahagaritswe ku kazi yakoraga nk'Umuyobozi Ushinzwe Tekiniki muri ONATRACOM, ko akimara kubona iyo baruwa asabwe gukora ihererekanyabubasha n'umusimbuye. [19] Urukiko rurasanga iyo ngingo y'Itegeko Nshinga yashingiweho mu guhagarika Ntahorugiye mu kazi iteganya ko mu nshingano ze, Minisitiri w'Intebe ashira umukono ku mateka yerekeye ishyirwa ku murimo n'ivanwaho ry'abakozi bakuru mu bigo bya Leta. Na none, iteka rya Minisitiri w'Intebe rigomba gusuzumwa n'Inama y'Abaminisitiri mbere y'uko rishyirwa mu bikorwa nk'uko biteganywa n'ingingo ya 121, 2° y'Itegeko Nshinga ryavuzwe, bityo rero nk'uko ari ryo yarakoreshejwe mu kumushyira ku kazi yakoraga, ni naryo Minisitiri w'Intebe yagombaga gukoresha mu gihe yirukanywe mu kazi aho gukoresha ibaruwa isanzwe. [20] Urukiko rurasanga kandi, nk'uko Urukiko rwabanje rwabisobanuye, uburyo buteganyijwe n'ingingo z'amategeko za Sitati rusange yagengaga abakozi ba Leta zavuzwe haruguru butarubahirijwe kubera ko Ntahorugiye atamenyeshejwe ikosa yakoze mu kazi ngo aryisobanureho mu nyandiko, rimuhame, akaba rero yarirukanywe mu buryo budakurikije amategeko. Kumenya niba Ntahorugiye Damien yaragenewe n'urukiko indishyi nyinshi nta mpamvu [21] Me Umwari M.Claire uhagarariye Leta y'u Rwanda avuga ko nta ndishyi Ntahorugiye akwiye guhabwa, ko mu kumugenera indishyi, Urukiko Rukuru rwafashe ihagarikwa rye nk'aho yambuwe uburenganzira, ububasha n'ubushobozi bwo kuba yagira akandi kazi yakora, bisa nk'aho icyemezo cyo kumwirukana cyamumugaje burundu (incapacité totale) ku buryo nta kindi yashobora gukora. [22] Yibaza ukuntu umukozi yirukanwe afite nk'imyaka 25, yabarirwa imishahara ye y'imyaka 40 yaba asigaje ngo ajye mu kiruhuko cy'izabukuru, agasanga bidakwiye, kubera ko

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niba indishyi zigomba gushingira ku byangiritse nyakuri (dommage certain), ntaho urukiko rwabikuye rwemeza ko mu myaka 7,5 Ntahorugiye yari asigaje ngo ajye mu kiruhuko cy'izabukuru yagombaga byanze bikunze kuba agikorera ONATRACOM kandi ahembwa

umushahara umwe nk'uwo yahembwaga igihe yirukanwaga. [23] Ku byerekeye indishyi z'akababaro zingana na 1.000.000 Frw Ntahorugiye yagenewe n'urukiko, Me Umwali Claire nazo asanga nta shingiro ryazo. [24] Me Karake Canisius avuga ko Ntahorugiye Damien yakoreye Leta agitangira akazi akaba yari ashigaje imyaka irindwi n'igice kugirango ajye mu kiruhuko cy'izabukuru, akaba nta kosa ry'imyitwarire yigeze akora, ko nta kigaragaza ko iyo myaka yari ashigaje atari kuyimara agihembwa umushahara yahembwaga kuko umukozi atera imbere mu mushahara, adasubizwa inyuma, keretse iyo bibaye igihano. [25] Ku byerekeye ibyo Ntahorugiye yangirijwe n'icyemezo yafatiwe cyo kumwirukana, Me Karake avuga ko yatakaje akazi kari kamutunze we n'umuryango we, akabura mu manzaganya kandi yari ageze mu gihe cy'izabukuru nta handi yabona akazi. [26] Yanzura avuga ko Leta y'u Rwanda ikwiye kwemera amakosa yakoze yo kwirukana umukozi nta mpamvu, itanakurikije uburyo buteganywa n'amategeko, maze indishyi zikabarwa nk'uko Urukiko rwabanje rwabikoze kuko Ntahorugiye wari umaze imyaka 31 mu kazi adakwiye kugereranywa n'umusore w'imyaka 25 ugitangira akazi. UKO URUKIKO RUBIBONA [27] Ingingo ya 258 y'Igitabo cya gatatu cy'urwunge rw'amategeko mbonezamubano (CCLIII), iteganya ko "Igikorwa cyose cy'umuntu cyangirije undi gitegeka nyirugukora ikosa rigikomokaho kuriha ibyangiritse". [28] Indishyi Ntahorugiye yaregeye mu Rukiko Rukuru, nk'uko bikubiye mu myanzuro iherekeje ikirego cye, zishingiye ku ngingo y'itegeko imaze kuvugwa, impamvu yazo akaba ari uko igikorwa cya Minisitiri w'Intebe kigaragazwa n'ibaruwa yanditse cyamurenganyije kandi kinyuranyije n'amategeko mu buryo bugaragarira buri wese. [29] Nk'uko byasobanuwe haruguru, ibaruwa Minisitiri w'Intebe yandikiye Ntahorugiye amuhagarika ku kazi ifite inenge kandi yamwirukanye mu buryo budakurikije amategeko, bityo Leta y'u Rwanda ikaba ikwiye kubimuhera indishyi kuko byumvikana ko byamugizeho ingaruka mu mibereho ye. [30] Urukiko rurasanga ariko indishyi z'akababaro yagenewe n'Urukiko rwabanje zingana n'imishahara Ntahorugiye yavukijwe mu myaka 7,5 yari asigaje gukora, zihwanye na 72.655.740 Frw, n'izindi zingana na 1.000.000 Frw, ntaho zishingiye kubera ko nta cyemeza ko byanze bikunze yari kuzajya mu kiruhuko cy'izabukuru akiri umukozi wa ONATRACOM, agikorera no ku rwego rw'umurimo yari ariho, mu bushishozi bw'Urukiko akaba agomba kugenerwa izingana n'umushahara we w'amezi atandatu, ni ukuvuga $807.286 \text{ Frw} \times 6 = 4.843.716 \text{ Frw}$. B. UBUJURIRE BWURIRIYE KU BUNDI BWA NTAHORUGIYE DAMIEN

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Amafaranga y'imperekeza [31] Mu bujurire bwuririye ku bundi, Me Karake Canisius uhagarariye Ntahorugiye Damien, avuga ko Ntahorugiye akwiye guhabwa amafaranga y'imperekeza, Urukiko Rukuru rwanze kumuha, kuko impamvu rwashingiyeho mu kuyamwima ruvuga ko atagaragaje amategeko ashingiraho, nta shingiro ifite kubera ko urukiko ruzi amategeko rukaba rutabwirizwa gukurikiza amategeko runaka, ko icyo umuburanyi agomba kugaragaza ari imiterere y'ikibazo cyamubayeho, narwo rugahitamo ingingo y'itegeko rwakoresha. Avuga ko kuba umuburanyi yagaragaza ingingo y'itegeko yakurikizwa byaba ari akarusho, ko ariko kutabikora bitaba igihano ngo bimwambure uburenganzira bwe. [32] Akomeza avuga ko mu Rukiko Rukuru, Ntahorugiye yari yabaze amafaranga y'imperekeza ashingiyeye ku ngingo ya 95 n'ya 96 z'itegeko n° 86/2013 ryo ku wa 11/09/2013 rishyiraho Sitati rusange igenga abakozi ba Leta mu buryo bukurikira: 970.524

Frw y'umushahara x amezi 6 = 5.823.144 Frw. [33] Me Umwali M. Claire uhagarariye Leta y'u Rwanda avuga ko umukozi wirukanywe adahabwa imperekeza kuko bitandukanye n'igihe umwanya w'umurimo utariho cyangwa yasimbujwe undi, ko ingingo bagaragaje nta kamaro zabagirira kuko zidahuye n'ikibazo bafite. UKO URUKIKO RUBIBONA [34] Ingingo ya 95 y'Itegeko n° 86/2013 ryo kuwa 11/09/2013 rishyiraho Sitati rusange igenga abakozi ba Leta iteganya ko "iyi umukozi wa Leta asezerewe kubera ivanwaho cyangwa ibura ry'umurimo, agenerwa amafaranga y'imperekeza yishyurwa yose n'Urwego umukozi wa Leta akorera mu gihe cy'isezererwa. Amafara ng a y'imperekeza abarwa hafashwe umushahara mbumbe umukozi wa Leta yari ageze ho, hagakurwamo imisoro gusa, kandi atangwa hakurikijwe uburambe umukozi afite mu Butegetsi bwa Leta ku buryo bukurikira: (...)“, naho iya 96 yaryo ikavuga ibyubahirizwa mu gutanga imperekeza. [35] Urukiko rurasanga izo ingingo z'itegeko Ntatorugiye ashingiraho asaba amafaranga y'imperekeza zitashingirwaho muri uru rubanza, maze ngo ayagenerwe kubera ko atasezerewe kubera ivanwaho cyangwa ibura ry'umurimo, ahubwo yirukanywe mu kazi nk'uko byasobanuwe haruguru. Ikindi kandi bigaragara ko yirukanywe iri tegeko ritarajyaho, akaba rero atarikor esha muri uru rubanza kuko ritareba ibyahise (loi non rétroactive), bityo iyi mpamvu ye y'ubujurire nta shingiro ifite. Amafara ng a y'igihembo cy'Avoka [36]

36. Me Karake Canisius avuga ko kuri uru rwego rw'ubujurire Ntatorugiye Damien akwiye kugenewa 3.000.000 Frw y'igihembo cy'Avoka yiyongera kuri 500.000 Frw yategetswe mu rwego rwa mbere, yose hamwe akaba 3.500.000 Frw. [37] Ku byerekeye igihembo cy'Avoka, Me Umwali M. Claire uhagarariye Leta y'u Rwanda avuga ko amasezerano yabaye hagati ya Ntatoruguye Damien n'Avoka umwunganira abareba, ko kandi Leta atari yo yamushoye mu manza kuko ari we wareze, nayo ikaba yari ifite uburenganzira bwo kujurira.

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UKO URUKIKO RUBIBONA [38] Hashingiwe ku ingingo ya 258 y'Igitabo cya gatatu cy'urwunge rw'amategeko mbonezamubano yavuzwe haruguru, Urukiko rurasanga Leta y'u Rwanda yarakoreye amakosa Ntatorugiye, bituma yiyambaza Avoka wo kumuburanira urubanza mu nkiko, ubujurire bwayo muri uru rubanza bukababufite ishingiro gusa ku buryo indishyi zagenwe, ariko muri rusange itsinzwe n'urubanza, ikaba rero igomba kumwishyura amafaranga y'igihembo cy'Avoka wamuburaniye kuri uru rwego, ariko ayo uyu asaba akaba ari ikirenga, mu bushishozi bw'Urukiko akaba agenewe 500.000 Frw yiyongera kuri 500.000 Frw yagenewe n'Urukiko Rukuru, yose hamwe akaba 1.000.000 Frw. III. ICYEMEZO CY'URUKIKO [39] Rwemeje ko ubujurire bwatanzwe na Leta y'u Rwanda bufite ishingiro kuri bimwe; [40] Rwemeje ko ubujurire bwuririye ku bundi bwatanzwe na Ntatorugiye Damien bufite ishingiro kuri bimwe; [41] Rutegetse Leta y'u Rwanda kwishyura Ntatorugiye Damien indishyi z'akababaro zingana na 5.823.144 Frw, hiyongereyeho 1.000.000 Frw y'igihembo cy'Avoka ku nzego zombi, yose hamwe akaba 6.823.144 Frw; [42] Rutegetse ko amafaranga y'amagarama y'urubanza aherera ku Isanduku ya Leta.

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Prepared on 13 October 2026 · Esheria