

RWANDA / JUDGMENT

Me. MUGISHA v. URUGAGA RW'ABAVOKA MU RWANDA N'ABANDI

RAD 0007/15/HC/KIG

COURT

High Court

DECIDED

6 August 2015

CASE / FILE NUMBER

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Me. MUGISHA v. URUGAGA RW'ABAVOKA MU RWANDA N'ABANDI

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Text

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Me. MUGISHA v. Urugaga rw'Abavoka mu Rwanda n'abandi. [Rwanda URUKIKO RUKURU – RAD 0007/15/HC/KIG (Kaliwabo, P.J., Ndahayo na Mukakalisa, J.) 06 August 2015] Amategeko agenga imiburanishirije z'imanza z'ubutegetsi – Niba buri Avoka wesa afite ububasha n'inyungu byu gutanga ikirego cyu gusaba gutesha agaciro ibyavuye mu matora yu mukuru w'urugaga rwa bavoka – Buri Avoka afite uburenganzira nk'umunyamuryango w'Urugaga bwo kuregera ibyavuye mu matora yu Mukuru w'Urugaga, kuby'umwihariko iyo yayagizemo uruhare. Amategeko agenga imiburanishirije z'imanza z'ubutegetsi – Itangwa ry'ikirego kigamije iseswa ry'amatora y'umukuru w'urugaga rw'Abavoka – Uregera bene icyo kirego ntagomba kubanza gutakamba ahubwo abanza kugeza k'Umukuru w'urugaga icyo kirego kugira ngo agikemura mbere yo kujuririra Urukiko Rukuru Amategeko agenga imiburanishirije z'imanza z'ubutegetsi – Kumenyeshya nu gusaba Umukuru w'Urugaga rw'Abavoka gukemura impaka zivutse mu matora – Urwandiko rwandikiwe Umukuru w'Urugaga rw'abavoka rumumenyeshya ko yakemura impaka zivutse mu matora nibyanga ko bazajuririra Urukiko , ruba rutandikiwe umuntu ku giti

cye.ahubwo ruba rwandikiwe urwego rw'Umukuru w'Urugaga rw'Abavoka. Amatora – Amatora y'Umukuru w'Urugaga rw'Abavoka – Urupapuro rw'itora – Urupapuro rw'itora ruriho izina ryanditse nabi ntiruba impfabusa iyo ubushake bw'uwatoye bugaragarira buri wese kandi urwo rupapuro rukaba nta rujijo rutera hagati y'abakandida rureba. Amatora – Amatora y'Umukuru w'Urugaga rw'Abavoka – Iseswa ry'amatora – Inenge ishingiye ku rutonde rw'abatora aho amajwi arenga ku mubare wabatoye iba impamvu yo gusesa amatora y'umukuru w'urugaga rw'Abavoka hagategurwa andi matora yizewe Amategeko y'ubutegetsi – Urugaga rw'Abavoka – Inzibacyuho mu gihe Urukiko Rukuru rusheshe ibyavuye mu matora y'Umukuru w'Urugaga rw'Abavoka rugateguka ko asubirwamo – Urukiko arirwo rusuzuma niba ari ngombwa ko hakurikizwa ibiteganywa n'ingingo ya 62 y'Itegeko ngenga mikorere y'Urugaga rw'Abavoka.. Amategeko y'ubutegetsi – Urugaga rw'Abavoka – Iyo Umukuru w'Urugaga adahari cyangwa habonetse impamvu imubaza gukomeza imirimo ye, asimburwa n'umwe mu bavoka ugize Inama y'Urugaga ufite uburambe mu Rugaga kuruta abandi –.Itegeko No 83/2013 ryo kuwa 11/09/2013 rishyiraho Urugaga rw'Abavoka mu Rwanda rikanagena imitunganyirize n'imikorere byarwo ingingo ya 33 . Incamake y'ikibazo:Nyuma ya matora yu mukuru w,Urugaga rw,Abavoka yabaye mu Nama rusange kuwa 12 Kamena 2015 Me Mugisha yatanze ikirego mu Rukiko Rukuru asaba gutesha agaciro ibyavuye muri ayo matora.Muri uru rubanza harezwemo Urugaga rw'Abavoka hamwe na Me Rutabingwa Anthanase. Me. Mugisha avuga ko impamvu ashingiraho asaba ko ibyavuye mu matora bya teshwa agaciro n'uko amajwi yabaruwe aruta umubare w'abatoye kandi hari amajwi yagizwe imfabusa nyamara icyifuzo cy'abatoye kiboneka asaba ko Urugaga rwamuha indishyi.

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Urugaga rw'Abavoka mu Rwanda rwatanze inzitizi ko uwatanze ikirego nta bubasha, nta n'inyungu afite byo gusaba ko ibyemezo byafashwe n'Inama Rusange y'Abavoka biteshwa agaciro kuko atari umukandida mu matora, akab atigeze atakamba kandi atigeze asaba ubukemurampaka ku Mukuru w'Urugaga kandi ko amakosa y'umwanditsi w'Inama nta ngaruka afite ku gikorwa cy'amatora hakurikijwe umubare w'amajwi umukandida Me Nduwamungu arusha Me Kavaruganda, basaba ko bagenerwa indishyi zo gushorwa mu manza. Me Rutabingwa we akavuga ko atakagombye kuregwa kuko nta gikorwa yakoze mu izina rye, ko ibyakozwe mu matora, n'iyi byagira inenge atariwe wabibazwa. Me Mugisha we yasobanuye ko nk'umwe mu bagize Urugaga kandi wagize uruhare mu matora, afite inyungu yo kubona nta buriganya bwayabayemo kandi yandikiye Umukuru w'Urugaga amusaba gukemura impaka zavutse mu matora anamumenyesha ko azatanga ikirego mu gihe izo mpaka zaba zidakemuwe.. Me Mugisha akavuga ko Me Rutabingwa ari ngombwa mu rubanza kugira ngo asobanure imigendekere y'amatora nk'umuntu wayayoboye. Incamake y'icyemezo: 1. Buri Avoka afite uburenganzira nk'umunyamuryango w'Urugaga bwo kuregera ibyavuye mu matora yu Mukuru w'Urugaga, yagizemo uruhare kuko imigendekere myiza yayo matora ntabwo ireba abakandida biyamamaje bonyine, ahubwo ireba abagize urugaga bese, by'umwihariko, abavoka bagize uruhare mu matora.

2. Uregera ikirego kigamije iseswa ry'amatora y'umukuru w'urugaga rw'Abavoka ntagomba kubanza gutakamba ahubwo abanza kugeza k'Umukuru w'urugaga icyo kirego kugira ngo abanze agikemura mbere yo kujuririra Urukiko Rukuru
3. Urwandiko rwandikiwe Umukuru w'Urugaga rw'abavoka rumumenyesha ko yakemura impaka zivutse mu matora nibyanga ko bazajuririra Urukiko, ruba rutandikiwe umuntu ku giti cye.ahubwo ruba rwandikiwe urwego rw'Umukuru w'Urugaga rw'Abavoka .
4. Nubwo Me Rutabingwa Anthanase yayoboye amatora ahagarariye urwego rw'Umukuru w'Urugaga agomba kuguma mu rubanza kugira ngo asobanure ibyakozwe n'urwego yarahagarariye mu gikorwa cy'amatora
5. Urupapuro rw'itora ruriho izina ryanditse nabi ntiruba impfabusa iyo ubushake bw'uwatoye bugaragarira buri wese kandi urwo rupapuro rukaba nta rujijo rutera hagati y'abakandida rureba.
6. Icyizere cy'amatora ntigishingiye ku mubare w'amajwi buri mukandida yegukanye, ahubwo mu buryo igikorwa cyagenze n'isura bitanga mubagize Urugaga
6. Inenge ishingiyeye ku rutonde rw'abatora aho amajwi arenga ku mubare wabatoye iba impamvu yo gusesa amatora y'umukuru w'urugaga rw'Abavoka hagategurwa andi matora yizewe.
7. Inama rusange y'urugaga rw'Abavoka mu Rwanda ikwiye guterana mu igihe cy'amezi atatu kuva ku munsu urubanza rusomeweho kugira ngo isubire mu matora y'Umukuru w'Urugaga rw'Abavoka.

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9. Iyo Umukuru w'Urugaga adahari cyangwa habonetse impamvu imubuza gukomeza imirimo ye, asimburwa n'umwe mu bavoka ugize Inama y'Urugaga ufite uburambe mu Rugaga kuruta abandi
10. Urugaga rw'Abavoka mu Rwanda nta kosa ryakozwe ubwarwo byatuma rucibwa indishyi kandi narwo nta ndishyi rwagenerwa, kuko impamvu zatumye Me Mugisha Richard aregera Urukiko zifite ishingiro. Amatora y'umukuru w'Urugaga rw'Abavoka mu Rwanda asheshwe; Me MUGENI Anitha (Doyenne du Conseil de l'Ordre) ayobora Urugaga rw'Abavoka mu Rwanda kuva ku munsu uru rubanza rusomeweho kugeza ku munsu amatora y'Umukuru w'Urugaga rw'Abavoka azasubirwamo; Aamatora y'Umukuru w'Urugaga rw'Abavoka asubirwamo mu gihe kitarenze amezi atatu kuva ku munsu uru rubanza rusomeweho; Ingwate y'amagarama yatanze iguma mu isanduku ya Leta Rwibukije ko uru rubanza rutajuririrwa. 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 336. Itegeko No 83/2013 ryo kuwa 11/09/2013 rishyiraho Urugaga rw'Abavoka mu Rwanda rikanagena imitunganyirize n'imikorere byarwo ingingo ya 33 Amategeko agenga ngenga mikorere y'Urugaga rw'Abavoka, ingingo ya 61 Nta maza zifashishijwe: URUBANZA

IMITERERE Y'URUBANZA [1] Kuwa 18 Kamena 2015, Urukiko Rukuru rwashyikirijwe ikirego gisaba gutesha agaciro ibyavuye mu matora y'Umukuru w'Urugaga rw'Abavoka mu Rwanda yabaye kuwa 12/06/2015 ku mpamvu z'uho umubare w'amajwi yabaruwe (595) uruta umubare w'abatoye (561), kuba hari amajwi yagizwe imfabusa nyamara ngo icyifuzo cy'abatoye kiboneka. [2] Urugaga rw'Abavoka mu Rwanda ruvuga ko abatanze ikirego nta bubasha, nta n'inyungu bafite byo gusaba ko ibyemezo byafashwe n'Inama Rusange y'Abavoka bitesha agaciro ku mpamvu yuko Me Mugisha Richard atari umukandida mu matora, ko ikirego kidakwiye kwakirwa kuko ngo Me Mugisha atigeze atakamba, no kuba Me Mugisha atarasabye ubukemurampaka ku Mukuru w'Urugaga, akaba ataranamumenyesheje ko agiye kuregera inkiko. Kuri izi nzitizi, Me Mugisha avuga ko, nk'umwe mu bagize Urugaga kandi wagize uruhare mu matora, afite inyungu yo kubona nta buriganya bwayabayemo, ko yandikiye

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Umukuru w'Urugaga amusaba gukemura impaka zavutse mu matora anamumenyesha ko azatanga ikirego mu gihe izo mpaka zaba zidakemuwe. Urugaga rw'Abavoka ruvuga kandi ko imibare itangwa na Me Mugisha yatanzwe mu mushinga w'inyandiko mvugo y'amatora, hategerejwe ko abagize Urugaga bawutangaho ubugororangingo, kandi ko amakosa y'umwanditsi w'Inama nta ngaruka afite ku gikorwa cy'amatora hakurikijwe umubare w'amajwi umukandida Me Nduwamungu arusha Me Kavaruganda. [3]

3. Me Rutabingwa Athanase uburanirwa na Me Butare Emmanuel, we avuga ko atakagombye kuregwa kuko nta gikorwa yakoze mu izina rye, ko ibyakozwe mu matora, n'yo byagira inenge atariwe wabibazwa, mu gihe Me Mugisha we urega avuga ko Me Rutabingwa ari ngombwa mu rubanza kugira ngo asobanure imigendekere y'amatora nk'umuntu wayayoboye. Ibibazo bisabwa gukemurwa muri uru rubanza ni ibi bikurikira: Ububasha n'inyungu bya Me Mugisha watanze ikirego Ibijyanye no gutakamba Ibijyanye n'ubukemurampaka no kumenyesha Umukuru w'Urugaga Ishingiro ryo kurega Me Rutabingwa Ibijyanye n'inenge ivugwa mu ibarura ry'amajwi ISESENGURA RY'URUBANZA A. Inzitizi zatanzwe mu rubanza Ku birebana n'ububasha n'inyungu bya Me Mugisha Richard [4] Me Mhayimana Isaie uburanira Urugaga rw'Abavoka avuga ko Me Mugisha Richard nk'umwavoka ufite ijwi rimwe adashobora gusimbura Urugaga ngo asabe gutesha agaciro ibyakozwe n'inama rusange yarwo, ko ingingo ya 62 y'amategako ngengamikorere y'Urugaga ivuga ko umwavoka ubifitemo inyungu ashobora kuregera inenge yabaye mu matora y'inzego z'Urugaga, ariko ko ibi bivuze Avoka wabaye umukandida mu matora kuko ariwe ubifitemo inyungu, Me Kavaruganda wabaye umukandida mu matora ngo akaba yaremeye insinzi ya Me Nduwamungu J. Vianney akanashimira abamutoye. Me Mhayimana avuga kandi ko Me Mugisha Richard adashobora kwerekana inyungu bwite afite mu iseswa ry'amatora y'Umukuru w'Urugaga. [5] Me Mukesha David uburanira Me Mugisha Richard aburana avuga ko ingingo ya 62 y'amategako ngengamikorere y'Urugaga itavugako amatora aregerwa n'uwabaye umukandida, ko ahubwo buri Avoka afite uburenganzira bwo kuregera ibyavuye mu matora yagizemo uruhare, amatora y'Urugaga nawe abarizwamo, ko ingingo

ivuga neza “tout avocat interesse” aho kuvuga “tout avocat concerne”. [6] Ingingingo ya 62 al 3 y’amategeko ngengamikorere y’Urugaga rw’Abavoka yashyizwweho umukono kuwa 16 Nzeri 2014, ivuga ko “Buri mwavoka bireba ajuririra

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Urukiko Rukuru mu minsi itanu (5) y’akazi uheryeye umunsi ibyavuye mu matora byatangarijweho, yayirenza ikirego cye nticyakirwe. Urega agomba kubimenyesha Umukuru w’Urugaga, atabikora ikirego cye nticyakirwe”. [7] Urukiko rurasanga ibivugwa muri iyi ngingo bireba buri Avoka wese wagize uruhare mu matora. Nk’uko bivugwa n’ababuranira Me Mugisha Richard, imigendekere myiza y’amatora ntabwo ireba abakandida biyamamaje bonyine, ahubwo ireba abagize urugaga bese, by’umwihariko, abavoka bagize uruhare mu matora. Kuba amabwiriza yashizwweho n’Urugaga ubwarwo avuga ko “buri avoka wese bireba” ashobora kuregera amatora, ntibishobora kwitiranywa n’umwavoka wabaye umukandida mu matora agibwaho impaka. Urukiko rurasanga, inyungu ya Me Mugisha Richard isobanurwa no kuba ari umunyamuryango w’Urugaga, kandi akaba yarabaye umwe mu batoye. Urukiko rurasanga kandi inyungu bwite ya Me Mugisha Richard idashobora gushakirwa ku zindi nyungu zitajyanye n’umwuga akora mu gihe ikirego cye kirebana n’umwuga akora. Ku birebana n’inizizi yo kudatakamba [8] Ababuranira Urugaga rw’Abavoka bavuga ko Mugisha Richard wahisemo gutanga ikirego cy’ubutegetsi ko yagombaga kubanza gutakamba nk’uko biteganywa mu ngingo ya 336 y’Itegeko N° 21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y’imanza z’imbenezamubano iz’ubucuruzi, iz’umurimo n’iz’ubutegetsi, ijambo gutakamba ngo rikaba riboneka mu rwandiko Me Mugisha ubwe yandikiye umukuru w’Urugaga, ngo nubwo amategeko ngengamikorere y’Urugaga adakoresha ijambo ‘ugutakamba”. Bavuga kandi ko nta n’icyemezo atakambira ngo kuko icyo yashingiyeho ari umushinga w’inyandiko mvugo y’amatora igomba gukorerwa ubugororangingo. Basoza iyi ngingo bavuga ko hari ibihe (amezi abiri) byateganijwe uwatakambye agomba gutegereza mbere yo kurega, bityo ngo ikirego kikaba cyaratanzwe imburagihe. [9] Ababuranira Me Mugisha Richard bavuga ko inzira yo gutakamba iteganywa mu ngingo ya CPCCSA idashobora gukoreshwa ku birebana no kuregera ibyemezo by’amatora yakozwe mu Rugaga rw’Abavoka ngo kuko iri takamba rikorwa mu gihe urega asaba kvanaho icyemezo cy’ubutegetsi, ibi ngo bikaba bitandukanye n’icyaregawe muri uru rubanza. Bavuga kandi ko ibijyanye n’amatora mu Rugaga biteganywa mu mategeko ngengamikorere y’urugaga aho bavuga ko bitandukanye n’ibiteganywa n’ingingo iburanishwa n’Urugaga. [10] Ingingo ya 336 CPCCSA ivuga ko “ikirego gisaba gukuraho icyemezo cy’umuyobozi cyakirwa iyo cyerekeye icyemezo cy’umuyobozi cyaba cyeruye cyangwa kiteruye”. Urukiko rurasanga, ikirego cyatanzwe na Me Mugisha kirebana n’iseswa ry’amatora y’umukuru w’urugaga rw’Abavoka kitarebwa n’ingingo ya 336 CPCCSA kuko iki kirego kitagamije ivanwaho ry’icyemezo cy’umuyobozi runaka.

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Nk’uko Me Mugisha abiburanisha, uburyo amatora y’inzego z’Urugaga akorwa, n’uburyo aregerwa biteganijwe mu mategeko ngengamikorere y’Urugaga, aho mu ngingo ya 62 havugwa ko, impaka zose zirebana n’amatora zikemurwa n’Umukuru w’Urugaga cyangwa umusimbura,

utanyuzwe nabyo akajuririra Urukiko Rukuru mu gihe cy'iminsi 5, amaze kumenyesha Umukuru w'Urugaga. [11] Urukiko rurasanga, Urugaga rw'Abavoka rudashobora kurenga ku mategeko rwishyiriyeho ngo rusabe ko adakurikizwa. Rurasanga kandi, kuba mu rwandiko rwe rwo kuwa 15 Kamena 2015, Me Mugisha yarandikiye Umukuru w'Urugaga avuga ko amutakambiye kubera amatora yakozwe kuwa 12 Kamena 2015, bidahindura imiterere y'ibibazo ngo byitwe itakamba riteganywa mu ngingo ya 336 CPCCSA. Ingingo ya 62 y'amabwiriza yavuzwe haruguru, ivuga ko ibibazo bijyanye n'amatora bikemurwa n'umukuru w'urugaga, ntabwo iteganya cyangwa ngo ibuze ikoresheya ry'ijambo "gutakamba". icyo iteganya ubwacyo kirasobanutse, nuko Umukuru w'urugaga ariwe ukemura impaka zivutse mu matora mbere yo kujuririra Urukiko Rukuru. Ku birebana n'ubukemurampaka no kumenyesha umukuru w'urugaga [12] Me Rwigema uburanira Urugaga rw'Abavoka avuga ko ingingo ya 62 y'amategeko ngengamikorere y'Urugaga, ivuga ko impaka zose zivutse mu matora y'inzego z'Urugaga zikemurwa n'umukuru w'urugaga cyangwa umusimbura. Aha niho ashingira avuga ko ubukemurampaka bukorwa hashingiwe ku Itegeko No 005/2008 ryo kuwa 14/02/2008 ryerekeye ubukemurampaka no kurangiza ibibazo by'ubucuruzi, bityo ngo urega akaba yaragombaga gukurikiza ibiteganywa n'iri Tegeko. Asobanura kandi ko hakurikije ubusumbane bw'amategeko, inzira iteganywa n'amategeko ngengamikorere idashobora gukurikizwa mu gihe Itegeko rirebana n'ubukemurampaka ryabiteganije ukundi. Me Shumbusho nawe uburanira Urugaga, avuga ko mu gusaba ubukemurampaka, Me Mugisha yandikiye Me Rutabingwa Athanase wari wamaze kuva ku mwanya w'umukuru w'urugaga aho kwandikira Nduwamungu, bityo ngo akaba atarubahirije ingingo imusaba kumenyesha umukuru w'Urugaga mbere yo kuregera Urukiko. [13] Me Mukesha na Me Nkundabarashi baburanira Me Mugisha bisobanuye bavuga ko ubukemurampaka mu matora y'inzego z'urugaga bukorwa hakurikijwe amategeko ngengamikorere y'Urugaga. Bavuga kandi ko urwandiko rwandikiwe Umukuru w'Urugaga nka rumwe mu nzego z'Urugaga, ko batandiikiye umuntu ku giti cye. [14] Urukiko rurasanga inzitizi itangwa n'ababuranira Urugaga nta shingiro ifite kuko Itegeko No 005/2008 ryo kuwa 14/02/2008 bavuga ko ariryo ryari kwitabazwa mu bukemurampaka bw'amatora y'umukuru w'Urugaga rw'Abavoka, iri tegeko rirebana n'ubukemurampaka mu bibazo by'ubucuruzi, bitandukanye n'impaka zivuye mu matora. Ibirebwa n'iri Tegeko (Champ d'application) bivugwa mu ngingo ya 2 yaryo, aho igira iti ko : "Iri Tegeko rikoresheya mu bukemurampaka n'ubwunzi ku rwego rw'Igihugu no ku rwego mpuzamahanga mu bibazo by'ubucuruzi". [15] Ababuranira urugaga bitwaza ijambo "gukemura impaka" bakarivana muri "context" yaryo. Iri jambo ntabwo ari umwihariko w'Itegeko ryerekeye ubukemurampaka, kuko rikoresheya mu mategeko menshi kandi rikagira ubusobanuro bwaryo hakurikijwe Itegeko bireba. Urugero ni "impaka" zivutse mu irangizwa

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ry'urubanza, aho Itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano riteganywa ko zikemurwa n'Urukiko rwaciye urubanza bwa nyuma; Itegeko rigenga umurimo mu Rwanda rigateganywa ko impaka hagati y'umukozi n'umukoresha zikemurwa n'umugenzuzi w'umurimo mbere yo kuregerwa inkiko. Kuba amategeko ngengamikorere y'Urugaga rw'Abavoka yaragennye ko impaka zishingiye ku matora zikemurwa n'umukuru w'Urugaga ntabwo binyuranije

n'amategeko. [16] Urukiko rurasanga, mu rwandiko rwe rwo kuwa 15 Kamena 2015, Me Mugisha yarandikiye umukuru w'Urugaga rw'Abavoka mu Rwanda amusaba gusesa amatora y'umukuru w'Urugaga yabaye kuwa 12/06/2015 kubera amakosa yayaranze. Urukiko rurasanga, ibyo Me Mugisha yakoze bihuje n'ingingo ya 62 y'amategeko ngengamikorere y'Urugaga ivuga ko impaka zivutse mu matora zikemurwa n'Umukuru w'urugaga, aha bikaba byumvikana ko urwandiko rutandikirwa umuntu ku giti cye. Rurasanga kandi, Umukuru w'Urugaga ari rumwe mu nzego zigize urugaga rw'Abavoka nk'uko biteganywa n'ingingo ya 20 y'Itegeko No 83/2013 ryo kuwa 11/09/2013 rishyiraho Urugaga rw'Abavoka mu Rwanda, rikanagena imitunganyirize n'imikorere yarwo, bityo urwandiko rwanditswe na Me Mugisha rukaba rutarandikiwe Me Rutabingwa Athanase cyangwa ngo rube rwaragombaga kwandikirwa Me Nduwamungu J. Vianney, ahubwo rwarandikiwe urwego (umukuru w'Urugaga). [17] Urukiko rurasanga kandi, kuba muri urwo rwandiko Me Mugisha yaramenyeshije umukuru w'Urugaga ko nibirenga kuwa 17 Kamena 2015, azaregera Urukiko, ibi bisobanuye neza ko yamumenyeshije icyifuzo cye cyo kuregera Urukiko nk'uko biteganyijwe mu ngingo ya 62 yavuzwe haruguru. Ku birebana n'iregwa rya Me Rutabingwa Athanase [18] Me Butare Emmanuel uburanira Me Rutabingwa Athanase, yasabye ko uwo ahagarariye yavanwa mu rubanza ngo kuko ibyo yakoze yabikoze mu izina ry'Urugaga, bityo ngo n'amakosa yaba yaragaragaye mu gikorwa cy'amatora ngo akaba atayabazwa ku giti cye, naho ababuranira Me Mugisha bavuga ko Me Rutabingwa Athanase adashobora kuva mu rubanza kuko ariwe ugomba gusobanura imigendekere y'amatora yakozwe ayayoboye n'amakosa yagaragayemo. Urukiko rurasanga, nubwo Me Rutabingwa Athanase yayoboye amatora yo kuwa 12 Kamena 2015 nk'umukuru w'Urugaga (Urwego), akwiye kuguma mu rubanza kugira ngo asobanure ibyakozwe n'urwego yarahagarariye mu gikorwa cy'amatora. B. Imizi y'urubanza Kubirebana n'amajwi yagizwe imfabusa [19] Ababuranira Me Mugisha Richard bavuga ko hari amajwi 2 yagizwe imfabusa nyamara ngo abatora bari bagaragaje uwo batoye. Ayo ngo akaba arebana n'ijwi rimwe rya Nduwamungu aho uwatoye yanditse UWAMUNGU, n'irya Kavaruganda aho uwatoye yanditse KAVANGANDA. Ibyo ngo bikaba binyuranije n'igika cya 5 cy'ingingo ya 61 y'amategeko ngengamikorere y'Urugaga rw'Abavoka.

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Ababuranira Urugaga rw'Abavoka bavuga ko nta kosa ryakozwe kuko abitabiriye amatora basobanuriwe bihagije. [20] Ingingo yavuzwe mu gika kibanziriza iki igira iti: "Mu gihe hari abakandida benshi bitiranwa, amazina yose agomba kugaragazwa bitaba ibyo urupapuro rw'itora rukagirwa imfabusa. icyakora, urupapuro rw'itora ruriho izina ryanditse nabi ntiruba imfabusa iyo ubushake bw'uwatoye bugaragarira buri wese kandi urwo rupapuro rukaba nta rujijo rutera hagati y'abakandida rureba". [21] Urukiko rurasanga ibisobanuro byatanze n'ababuranira Urugaga nta shingiro bifite kuko, gusobanurira abatora bidasimbura ibyateganijwe mu mategeko ngengamikorere y'urugaga ubwarwo, kandi bakaba baterekana urujijo rwatewe n'imyandikire y'amazina byaba impamvu yo kuyagira imfabusa. Kubirebana n'umubare w'abatoye [22] Abunganira Me Mugisha Richard bavuga ko amatora y'umukuru w'Urugaga yo kuwa 12/06/2015 yaranze n'amakosa ashingiye ku kuba hatarabaruwe impapuro zatoreweho zigereranywa n'urutonde rw'abiyandikishije gutora. Bavuga ko inyandiko mvugo y'itora igaragaza

ko Me Nduwamungu yatowe ku majwi 316, Me Kavaruganda agatorwa ku majwi 272, naho amajwi y'imfabusa akaba 7, yose hamwe ngo akaba atanga umubumbe w'amajwi 595 mu gihe liste y'itora igaragaza ko abatoye bari 561. Bavuga kandi ko nyuma yo gusuzuma inyandiko zari zibitswe n'Urugaga (ariko ngo nazo zitakwizerwa), ngo basanze liste y'abatoye iriho abantu 587. Me Mukesha, Me Nkundabarashi na Me Kiloha, bese bahagarariye Me Mugisha bakaba basanga aya matora agomba guseswa kuko ngo yabonetsemo uburiganya. [23] Me Butare Emmanuel uburanira Me Rutabingwa wayoboye igikorwa cy'amatora, avuga ko Me Rutabingwa nawe nk'umwe mu batoye, yemera ko habonetse amakosa mu mibare y'abatoye, ko kandi nta barura rya "bulletins de vote" ryakozwe, ariko ko yatangaje amajwi uko byari byemejwe n'Inama rusange. Abahagarariye Urugaga rw'Abavoka bavuga ko Me Rutabingwa atakagombye kwigamba amakosa yabonetse mu matora yayoboye. Bavuga kandi ko abarega bashingiye ku mushinga w'inyandiko mvugo y'amatora, uwo mushinga ngo ukaba warashyikirijwe Abavoka bese ngo bawutangeho ibitekerezo mbere yuko wemezwa na "conseil de l'ordre", bityo ko Me Mugisha yihutiye kuregera inkiko aho gutanga ubugororangingo nk'uko yabisabwe. [24] Ababuranira Urugaga bavuga kandi ko, ukwibeshya mu mibare kwatwe na Me Bimenyimana Eric wateranije imibare nabi, aho hamwe yabonye umubare wa 558 mu mwanya wa 588, ko hari abatari bashyize umukono kuri "liste" y'itora abo nabo bongerewemo nka Me Rwabigwi Augustin na Me Mucyo. Bavuga kandi ko impapuro z'itora zatumijwe mu icapiro zishingiye ku mubare w'Abavoka 672 bemerewe gutora, ngo buri wese akaba yarahabwaga na Me Mupfasoni Blandine urupapuro rw'itora, naho Me Bimenyimana Eric agashyira akamenyetso imbere y'izina ry'utoye, ko rero nta mpaka zabonetse ku munsu habayeho amatora.

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Me Bizimana Shoshi nawe uburanira Urugaga avuga ko abavoka 599 aribo biyandikishije kuri liste y'itora ariko ngo bamwe bakaba baragiye igikorwa kitarangiye, abandi bakifata. Ku kibazo cyo kumenya umubare nyawo w'abatoye, Me Rwigema uburanira Urugaga avuga ko ibyo bavuga ari isesengura bakoze ubwabo, ko imibare ndakuka izemezwa na "conseil de l'ordre", naho Me Bizimana Shoshi avuga ko ibyemejwe n'Inama Rusange bigatangazwa n'umukuru w'urugaga bidashobora guhinduka ku bijyanye n'imibare, bityo ko ubugororangingo bureba amakosa y'imyandikire. [25] Ababuranira urugaga bavuga kandi ko n'iyi haba harabayeho amakosa mu mibare y'abatoye, ko nta ngaruka byagombye kugira kuko ngo haramutse havuyemo umubare w'amajwi ugibwaho impaka, Me Nduwamungu watowe agumana amajwi arenze aya Me Kavaruganda Julien bari bahanganye mu matora. [26] Ingingo ya 61 al3 y'amategeko ngengamikorere y'Urugaga rw'Abavoka ivuga ko: "Umukuru w'Urugaga cyangwa umusimbura akena abaseseri bane (4) nibura. Nyuma y'imirimo y'amatora, yemeza ko amatora arangiye agasaba abaseseri kubarura impapuro zatoreweho no kugenzura ko umubare wazo uhuye n'umubare w'abatoye. Hakurikiraho kubarura amajwi. Impapuro z'itora ziriho ubusa cyangwa iz'imfabusa ntizibarurwa mu majwi". Urukiko rurasanga haba Me Rutabingwa Athanase wayoboye igikorwa cy'amatora y'Umukuru w'Urugaga, haba ababuranira Urugaga, nta numwe washoboye kugaragaza ko abaseseri babaruye impapuro zatoreweho ngo bahuze umubare n'uwabatoye, ariyo ntandaro yo kuba impande zose zitazi umubare nyawo w'abatoye uretse

kuwubonera ku majwi yabaruriwe buri mukandida. Iyi ikaba ari inenge y'imitegurire y'amatora kuko irebana na "transparency" mu gikorwa cy'amatora. [27] Urukiko rurasanga, inyandiko mvugo y'Inama Rusange y'Urugaga rw'Abavoka mu Rwanda yo kuwa 12/06/2015, idashobora gufatwa nk'umushinga kuberekeranye n'umubare w'abatoye kimwe n'amajwi ya buri mukandida kuko, nk'uko bivugwa n'ababuranyi, nta rundi rwego rushobora kuvuguruza aya majwi yemejwe n'Inama Rusange, agatangazwa n'Umukuru w'Urugaga nk'uko biteganywa mu ngingo ya 62 y'amabwiriza yavuzwe haruguru. Urukiko rukaba rudashobora gushingira ku isesengura ryakozwe n'ababuranyi nyuma yuko amatora aregerwa Urukiko, kuko hari inyandiko mvugo yakozwe ku munsu amatora akorwa, cyane ko n'abahagarariye Urugaga badashobora kwerekana inyandiko ihamya nta shiti ko umubare w'abatoye ungana n'uw'amajwi yabaruwe. Ibijyanye n'ikosorwa ry'inyandiko mvugo rivugwa mu ngingo ya 13 y'aya mabwiriza bikaba bidashobora kuvuguruza ibyatangajwe n'umukuru w'urugaga kubirebana n'amatora nk'uko n'ababuranira Urugaga babivuga, ahubwo ikosora rikaba ryakorwa ku makosa y'imyandikire. [28] Urukiko rurasanga inyandiko mvugo yo kuwa 12/6/2015 igaragaza ko abatoye ari 595 kuri 561 bari biyandikishije, aribyo byatanze amajwi 316 kuri Me Nduwamungu Jean Vianney, amajwi 272 kuri Me Kavaruganda Julien n'amajwi 7 y'imfabusa.

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Urukiko rurasanga, Umuyobozi w'Urugaga wayoboye igikorwa cy'amatora yarabonye inenge y'amatora ku munsu amatora yakozweho nk'uko umuburanira abivuga, ndetse n'ababuranira Urugaga bakaba bemeza ko ibarura ry'amajwi ryakorewe mu nama Rusanga, bisobanuye ko abagize inama rusange bese babonye ikinyuranyo cyari hagati y'amajwi yabaruwe na liste y'abagombaga gutora, iyo nenge yashoboraga gukosorwa kuri uwo munsu (amatora asubirwamo), Umukuru w'Urugaga akaba yarayirenzeho agatangaza uwatsinze amatora. Urukiko rurasanga iyo mikorere ijenjetse (negligence notoire) mu gikorwa gikomeye cy'Urwego rwiubashye nk'Urugaga, ikaba ituma nta cyizere amatora yayobowe kuri ubu buryo yagirirwa (absence of credibility). [29] Urukiko rurasanga, imvugo y'ababuranira Urugaga rw'Abavoka ko ikinyuranyo cy'amajwi kitakagombye kugira ingaruka ku matora ngo kuko Me Nduwamungu J.Vianney agumana amajwi arenze aya Kavaruganda, nta shingiro ifite kuko, uretse no kuba amajwi 34 arenga kuri liste y'Abavoka 561 batoye, ubwawo ari umubare munini (6%), nyamara kandi "credibility" y'amatora ntikwiye gushakirwa mu mubare w'amajwi buri mukandida yegukanye, ahubwo mu buryo igikorwa cyagenze n'isura bitanga mubagize Urugaga mu gihe biboneka ko hari amajwi yabonetse inkomoko yayo itazwi. [30] Urukiko rurasanga, inenge nk'iyi ishingiyeye kuri liste y'abatora yarabaye impamvu yo gusesa amatora y'umukuru w'urugaga rw'Abavoka rwa Lubumbashi (RDC) yabaye kuwa 18/10/2014 aho byagaragaye ko Me R.T.K yatorewe kuba umukuru w'urugaga, hanyuma bikaza kugaragara ko, hari abagiye ku rutonde rw'abatora batujuje ibisabwa kimwe n'iheshabubasha (procurations) ryangiwe bamwe mu bagombaga gutora, ingaruka yabyo ikaba yarabaye gusesa amatora.1 Urukiko rurasanga amatora y'umukuru w'Urugaga rw'Abavoka mu Rwanda yabaye kuwa 12 Kamena 2015 akwiye guseswa kubera inenge y'amajwi 34 arenga ku mubare w'abatoye, hagategurwa andi matora yizewe. Ku birebana n'inzibacyuho [31] Ingingo ya 62 mu gika cyayo cya 5 y'amategako ngengamikorere igira iti:

“Umwe mu bagize urwego wagombaga gusimburwa mu matora yajuririwe aguma muri uwo mwanya kugeza ikirego gifatiwe umwanzuro, ndetse byaba ngombwa, agategereza kugeza Inama Rusange y’Urugaga iteranye ngo isubiremo amatora”. Urukiko rurasanga, iyi ngingo yumvikanisha ko amatora ajuririwe kugeza ikirego gifatiwe umwanzuro, umwe mubagize urwego wagombaga gusimburwa aguma muri uwo mwanya. Kubirebana no kuguma muri uyu mwanya kugeza amatora asubiwemo, iyi ngingo ikoresha ijambo “iyi bibaye ngombwa”, ibi bikaba bisobanuye ko Urukiko arirwo rusuzuma niba ari ngombwa. [32]

32. Urukiko rusanga Me Rutabingwa Athanase wayoboraga urugaga rw’Abavoka mu Rwanda mbere y’itariki ya 12 Kamena 2015, arebwa by’umwihariko n’amakosa 1 1 <http://nabiisamwelihouse.org/index.php/component/k2/item/1016-actualites-justice-confusion-autour-de-l-election-du-batonnier-a-lubumbashi>

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yakozwe muri ayo matora, akaba atarashoboye gufata icyemezo ku makosa yagaragaye mu cyumba cy’itora, nyamara kandi iyo bikosorwa ku gihe byari kurinda Urugaga ibibazo byatejwe no gutinda gukosora amakosa yakozwe. Urukiko rurasanga bitari ngombwa ko Me Rutabingwa Athanase ariwe utegura amatora azasubirwamo, bityo hashingiwe ku ngingo ya 33 y’Itegeko No 83/2013 ryo kuwa 11/09/2013 rishyiraho Urugaga rw’Abavoka mu Rwanda rikanagena imitunganyirize n’imikorere byarwo, Urugaga rukaba rugomba kuyoborwa na Avoka ugize Inama y’Urugaga ufite uburambe mu Rugaga kuruta abandi, uwo akaba ari Me MUGENI Anitha, ibyo kandi bigakorwa kuva ku munsu urubanza rusomeweho. [33] Urukiko rurasanga, igihe cy’amezi atatu kuva ku munsu urubanza rusomeweho aricyo gikwiye kugira ngo Inama rusange y’urugaga rw’Abavoka mu Rwanda iterane, isubire mu matora y’Umukuru w’Urugaga. Ku birebana n’indishyi [34] Me Mugisha Richard yasabye ko Urugaga rwamugenera indishyi z’ikurikiranarubanza zingana na 5.000.000Frw, naho Urugaga rw’Abavoka rusaba ko Me MUGISHA Richard yarugenera indishyi zo kurushora mu manza zingana na 8.000.000Frw n’indishyi z’ikurikiranarubanza zingana na 500.000Frw. [35] Urukiko rurasanga Urugaga rw’Abavoka mu Rwanda nta ndishyi rwagenerwa, kuko impamvu zatumye Me Mugisha Richard aregera Urukiko zifite ishingiro Urukiko rurasanga, nubwo Me MUGISHA atsinze urubanza, nyamara kandi nta kosa ryakozwe n’ Urugaga rw’Abavoka ubwarwo byatuma rucibwa indishyi. III. ICYEMEZO CY’URUKIKO [36] Rwemeje ko amatora y’umukuru w’Urugaga rw’Abavoka mu Rwanda yabaye kuwa 12 Kamena 2015 asheshwe; [37] Rwemeje ko Me MUGENI Anitha (Doyenne du Conseil de l’Ordre) ayobora Urugaga rw’Abavoka mu Rwanda kuva ku munsu uru rubanza rusomeweho kugeza ku munsu amatora y’Umukuru w’Urugaga rw’Abavoka azasubirwamo; [38] Rwemeje ko amatora y’Umukuru w’Urugaga rw’Abavoka asubirwamo mu gihe kitarenze amezi atatu kuva ku munsu uru rubanza rusomeweho; [39] Rutegetse ko ingwate y’amagarama yatanze (75.000 Frw) iguma mu isanduku ya Leta Rwibukije ko uru rubanza rutajuririrwa.

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