

RWANDA / JUDGMENT

## Re MUKANKUNDIYE N'UNDI

RS/RECT/RC00001/2024/SC

COURT

Supreme Court

DECIDED

25 April 2025

CASE / FILE NUMBER

RS/RECT/RC00001/2024/SC

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## Re MUKANKUNDIYE N'UNDI

- Source: Amategeko
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- Date: 2025-04-25
- Case/document no.: RS/RECT/RC00001/2024/SC
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## Text

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Re MUKANKUNDIYE N'UNDI [Rwanda URUKIKO RW'IKIRENGA – RS/RECT/RC00001/2024/SC (Cyanzayire, J.P., Kazungu na Kalihangabo, J.) 25 Mata 2025] Amategeko agenga imiburanishirize y'ianza mbonezamubano – Gusobanuzwa urubanza – Biri mu bubasha bw'umucamanza kwemeza ko urubanza rukwiye gusobanurwa, igihe icyemezo cyafashwemo kitumvikana cyangwa giteye urujijo ku buryo bigoranye kugishyira mu bikorwa. Incamake y'ikibazo: Kamatamu yabyariye mu rugo iwabo akomeza kubana n'ababyeyi be Kanyandekwe na Nyirabuduguri, baza gupfa maze asigara mu nzu y'ababyeyi kuko yafatwaga nk'indushyi y'iwabo ariko na we muri 2010 aza kwitaba Imana, iyo nzu isigarana abana be Mukankundiye na Mukamuganga kuko abahungu bari baravukanye na we bari barashatse, bubatse. Uyu Mukankundiye na Mukamuganga bagiranye imanza na ba Nyirarume babarega mu Rukiko rw'Ibanze rwa Ruhango bavuga ko babambura isambu igizwe n'umunani wa nyina, ariko bo bakiregura bavuga ko nta munani nyina Kamatamu yahawe, ahubwo yahawe umurima w'igiseke, naho abahungu bahabwa iminani, bityo aho Abarega bita umunani wa nyina hahaweho umunani Rwarinda. Urukiko rw'Ibanze rwaciye urubanza rwemeza ko ikirego cya Mukankundiye na Mukamuganga nta shingiro gifite maze bakijuririra mu Rukiko Rwisumbuye rwa Muhanga,

rushingiye ku mpamvu zimwe Urukiko rw'Ibanze rwashingiyeho, na rwo rwemeza ko ubujurire bwabo nta shingiro bufite. Abarega ntibishimiye iki cyemezo maze batanga ikirego mu Rukiko rw'Ikirenga gisubirishamo urwo rubanza ku mpamvu z'akarengane. Mu rubanza RS/REV/INJUST/RC00033/2017/SC, Urukiko rw'Ikirenga rwemeje ko abana bose ba Kanyandekwe na Nyirabuduguri bafite uburenganzira bungana bwo kuzungura umutungo wasizwe n'ababyeyi babo, bakaba bagomba kuwugabana ku buryo bungana. Rwemeje kandi ko Abarega bafite uburenganzira bwo kuzungura mu byo kwa Kanyandekwe na Nyirabuduguri, bakomora ku mubyeyi wabo Kamatamu. Muri urwo rubanza, Abarega bagaragaje ko harimo amakosa ajyanye n'indishyi z'ikurikiranarubanza, kuko habayemo kwibeshya ku giteranyo cyazo, bituma batanga ikirego gisaba ko rukosorwa, maze mu rubanza RS/RECT/RC00002/2018/SC, Urukiko rw'Ikirenga rwemeza ko igika cya 40 cy'urwo rubanza RS/REV/INJUST/RC00033/2017/SC gikosowe. Nyuma y'uko Abarega batanze ikirego muri uru Rukiko rw'Ikirenga gisaba gukosora urwo rubanza RS/REV/INJUST/RC00033/2017/SC maze rugakosorwa n'urubanza RS/RECT/RC00002/2018/SC, bongeye batanga ikirego muri uru Rukiko kigamije gusobanura urwo rubanza, bavuga ko kururangiza byananiranye kuko hatagaragaramo ishusho n'ingano by'isambu yaburanywe, igomba kuzungurwa n'abakomoka kuri Kanyandekwe na Nyirabuduguri. Muri uru rubanza RS/RECT/RC00001/2024/SC, uru Rukiko rwifashishije umukozi w'Ikigo cy'Igihugu gishinzwe ubutaka, ubwo rwari aho ikiburanwa kiri kugirango apime ubutaka bwose rweretswe bavuga ko bukomoka kuri Kanyandekwe, ndetse hagaragazwe ubutaka bwose bugomba kuzungurwa n'abazungura bose ku buryo bungana nkuko byemejwe mu rubanza rusabirwa gusobanura. Incamake y'icyemezo: Biri mu bubasha bw'umucamanza kwemeza ko urubanza rukwiye gusobanurwa, igihe icyemezo cyafashwemo kitumvikana cyangwa giteye urujijo ku buryo bigoranye kugishyira mu bikorwa. Ni ngombwa ko icyemezo cyafashwe mu rubanza RS/REV/INJUST/RC00033/2017/SC gisobanurwa, hakagaragazwa ingano y'isambu igomba kuzungurwa n'abazungura bose ba Kanyandekwe na Nyirabuduguri, ku buryo bungana. Ikirego gisaba gusobanura urubanza gifite ishingiro. Amategeko yashingiweho:

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Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 90, 140 n'ya 189. Nta manza zifashishijwe Inyandiko z'abahanga zifashishijwe: Aurélien Bamde, Le recours en interprétation d'une décision de justice (art. 481 CPC), 13 septembre 2020, p.3. Urubanza I. IMITERERE Y'URUBANZA [1] Mukankundiye Agnès Agenesta na Mukamuganga Anastasie barega muri uru rubanza ni abana ba Kamatamu Deborah, uyu akaba yarababyariye iwabo akomeza kubana n'ababyeyi be Kanyandekwe Barnabas wapfuye mu 1972, na nyina Nyirabuduguri Keziya wapfuye mu 2001. Aba babyeyi bombi bamaze gupfa, inzu yabo yasigayemo Kamatamu Deborah n'abo bana be babiri, kuko abahungu yari yaravukanye nabo bose bari barashatse, bubatse, ku buryo ari we wafatwaga nk'indushyi yo mu nzu ya Kanyandekwe Barnabas. [2] Kamatamu Deborah yaje gupfa mu mwaka wa 2010, abana be Mukankundiye Agnès Agenesta na Mukamuganga Anastasie batangira imanza na ba nyirarume babarega ko babambura isambu igizwe n'umunani wa nyina, ariko ba nyirarume bo bakisobanura bavuga ko Kamatamu Deborah

atigeze ahabwa umunani, ahubwo kubera ko yari umukobwa yahawe umurima w'igiseke, naho abahungu bagahabwa iminani. Bavuga ko aho Mukankundiye Agnès Agenesta na Mukamuganga Anastasie bita umunani wa nyina ari umunani wahawe musaza wabo Rwarinda Thomas. [3] Mukankundiye Agnès Agenesta na Mukamuganga Anastasie bareze ba nyirarume mu Rukiko rw'Ibanze rwa Ruhango, ruca urubanza RC0278/012/TB/RHGO, rwemeza ko ikirego cyabo kidafite ishingiro. Urukiko rwasobanuye ko mu iperereza rwakoze, byagaragaye ko abahungu ba Kanyandekwe Barnabas bahawe iminani, ariko ko Kamatamu Deborah nta munani yahawe, ahubwo ko yahawe igiseke aricyo abana be bafiteho uburenganzira, naho isambu bita umunani wahawe nyina akaba nta kimenyetso kibigaragaza, ahubwo ko ari umunani wa Rwarinda Thomas. [4] Mukankundiye Agnès Agenesta na Mukamuganga Anastasie bajuririyeye mu Rukiko Rwisumbuye rwa Muhanga, ruca urubanza RCA0282/13/TGI/MHG ku wa 28/02/2014, rwemeza ko ubujurire bwabo budafite ishingiro, rushingiye ku mpamvu zimwe n'izo Urukiko rw'Ibanze rwashingiyeho. Mukankundiye Agnès Agenesta na Mukamuganga Anastasie ntibanyuzwe n'icyo cyemezo, batanga ikirego gisubirishamo urubanza ku mpamvu z'akarengane mu Rukiko rw'Ikirenga. [5] Ku wa 29/06/2018, Urukiko rw'Ikirenga rwaciye urubanza RS/REV/INJUST/RC00033/2017/SC, rwemeza ko:

- a) Abana bose ba Kanyandekwe Barnabas na Nyirabuduguri Keziya bafite uburenganzira bungana bwo kuzungura umutungo wasizwe n'ababyeyi babo, bakaba bagomba kuwugabana ku buryo bungana;
- b) Mukankundiye Agnès Agenesta na Mukamuganga Anastasie bafite uburenganzira bwo kuzungura mu byo Kanyandekwe Barnabas na Nyirabuduguri Keziya basize, bakomora ku mubyeyi wabo Kamatamu Deborah.

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[6] Urukiko rwategetse ko Bucyekabiri Amon, Habyarimana Justin, abazungura ba Bisindi Phénias n'abazungura ba Rwarinda Thomas bagumana buri wese aho yubatse n'imbuga yaho, ahandi hose hasigaye hahingwa hakagabanywa mu buryo bungana, umugabane wa buri wese ugahera ku mirima basanganywe. Rwategetse kandi ko igabana rigomba gukorwa nyuma y'isarura ry'imyaka ishobora kuba iri mu mirima, mu gihe haba hari ugabanye ahari ibikorwa by'undi bitahita bisarurwa, uhagukanye agasubiza agaciro kabyo. [7] Nyuma y'aho urwo rubanza ruciriwe, Mukankundiye Agnès Agenesta na Mukamuganga Anastasie batanze ikirego ku wa 18/09/2018, basaba gukosora urubanza RS/REV/INJUST/RC00033/2017/SC kubera amakosa y'imyandikire arimo, bavuga ko ahakenewe gukosorwa ari mu gice kijyanye n'indishyi z'ikurikiranarubanza aho biboneka ko habayeho kwibeshya ku giteranyo cyazo. [8] Ku wa 14/12/2018, Urukiko rwaciye urubanza RS/RECT/RC00002/2018/SC, rwemeza ko ikirego gisaba gukosora urubanza cyatanzwe na Mukankundiye Agnès Agenesta na Mukamuganga Anastasie gifite ishingiro. Rwemeje ko igika cya 40 cy'urubanza RS/REV/INJUST/RC00033/2017/SC rwaciye ku wa 29/06/2018 gikosowe mu buryo bukurikira: rutegetse Bucyekabiri Amon, Habyarimana Justin, abazungura ba Bisindi Phénias n'abazungura ba Rwarinda Thomas gufatanya guha Mukankundiye Agnès Agenesta na

Mukamuganga Anastasie 100.000Frw y'indishyi z'akababaro na 500.000Frw y'ikurikiranarubanza n'igihembo cya Avoka, yose hamwe akaba 600.000Frw, buri wese agatanga 150.000Frw. [9] Ku wa 17/02/2024, nanone Mukankundiye Agnès Agenesta na Mukamuganga Anastasie batanze ikirego muri uru Rukiko kigamije gusobanura urubanza RS/REV/INJUST/RC00033/2017/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 29/06/2018, rwakosowe n'urubanza RS/RECT/RC00002/2018/SC rwaciwe ku wa 14/12/2018, bavuga ko kururangiza byananiranye bitewe n'uko hatagaragaramo ishusho n'ingano by'isambu yaburanywe, igomba kuzungurwa n'abakomoka kuri Kanyandekwe Barnabas na Nyirabuduguri Keziya; ikirego cyabo cyandikwa kuri RS/RECT/RC00001/2024/SC. [10] Iburanisha ry'urubanza ryashyizwe ku wa 10/04/2024, ariko uwo munsu ntirwaburanishwa kuko habaye umunsu w'ikiruhuko (Eidil Fitri), rwimurirwa ku wa 13/05/2024, abatanze ikirego basabwa kuzaba bahari kugirango bagire ibisobanuro baha Urukiko. Kuri uwo munsu hitabye Mukankundiye Agnès Agenesta avuga ko umuvandimwe we Mukamuganga Anastasie yarwaye atabonye uko yitaba Urukiko, atanga amakuru ku byo Urukiko rwari rukeneyeho ibisobanuro. Urukiko rwapfundikiye iburanisha, rwemeza ko urubanza ruzasomwa ku wa 14/06/2024, ariko kuri uwo munsu ntirwasomwa kubera indi mirimo Urukiko rwari rufite, isomwa ryimurirwa ku wa 21/06/2024. [11] Kuri uwo munsu, Urukiko rwaciye urubanza rubanziriza urundi RS/RECT/RC00001/2024/SC, rwemeza ko mbere yo guca urubanza ari ngombwa gupfundura iburanisha kugira ngo rugire ibyo rusobanura abari ababuranyi bose mu rubanza rusabirwa gusobanurwa, n'abandi rwabona ko ari ngombwa. [12] Iburanisha ry'urubanza ryashyizwe ku wa 01/10/2024, hatumizwa abari ababuranyi mu rubanza rusabirwa gusobanurwa bakurikira:

- a) Mukamuganga Anastasie;
- b) Mukankundiye Agnès Agenesta
- c) Mukarusagara Elina, washakanye na Habyarimana Justin witabye Imana, nawe akaba ari umuzungura wa Kanyandekwe Barnabas;
- d) Bucyekabiri Amon, umuzungura wa Kanyandekwe Barnabas;
- e) Nyirahabimana Astérie, umuzungura wa Bisindi Phénias (umugore we) mwene Kanyandekwe Barnabas.

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[13] Undi wahamagawe utari mu rubanza rusabirwa gusobanurwa ni Nyiranzamurambaho Marie Goreti, wari Umunyamabanga Nshingwabikorwa w'Akagari ka Munanira, Umurenge wa Kabagari, Akarere ka Ruhango, Intara y'Amajyepfo. [14] Urukiko rwandikiye kandi Ikigo cy'Igihugu gishinzwe ubutaka rusaba kohererezwa ibyangombwa by'ubutaka bufitwe n'abana ba Kanyandekwe Barnabas. Ku wa 25/09/2024, Umuyobozi w'Ikigo cy'Igihugu gishinzwe ubutaka yohereje nimero z'ubutaka bwanditse kuri bamwe mu bazungura ba Kanyandekwe Barnabas. [15] Ku wa 01/10/2024, urubanza rwaburanishijwe hari abarega muri uru rubanza, hari bamwe mu bari ababuranyi mu rubanza rusabirwa gusobanurwa ari

bo Habimana Schadrack (witabye mu izina rya nyina Mukarusagara Elina), Seneza Emmanuel (witabye mu izina rya nyina Nyirahabimana Astérie washakanye na Bisindi Phénias); hari kandi na Nyiranzamurambaho Marie Goreti, wari Umunyamabanga Nshingwabikorwa w'Akagari ka Munanira. [16] Nyuma yo kumva abitabye, Urukiko rwamenyesheje ababuranyi ko ruzajya aho ikiburanwa kiri, rusaba Ubwanditsi bw'Urukiko kwandikira Ikigo cy'Igihugu gishinzwe Ubutaka, kikamenyeshwa ko nta hererekanya rigomba kuba ku butaka butunzwe n'ababurana mu gihe urubanza rutararangira. [17] Ku wa 19/11/2024, Urukiko rwageze ku kiburanwa rusanga hari abarega muri uru rubanza n'abandi baburanye urubanza rusabirwa gusobanurwa, bereka Urukiko imbibi z'ubutaka bavuga ko bukomoka kuri Kanyandekwe Barnabas. Hari kandi n'umukozi woherejwe n'Ikigo cy'Igihugu gishinzwe ubutaka, apima ubutaka bwose bweretswe Urukiko. [18] Nyuma yo kureba imiterere y'ikiburanwa no kumva ubutangabuhamy, Urukiko rwamenyesheje ababuranyi ko iburanisha rizasubukurwa ku wa 03/12/2024. Kuri uwo muni, urubanza rwaburanishijwe mu ruhamye, hitabye Mukankundiye Agnès Agenesta na Mukamuganga Anastasie, bunganiwe na Me Nyiramatama Bernadette. Mu bari bahamagajwe mu rubanza, hitabye Seneza Emmanuel ahagarariye nyina Nyirahabimana Astérie, Habimana Schadrack ahagarariye nyina Mukarusagara Elina, abandi baregwa mu rubanza rusabirwa gusobanurwa batitabye. Hitabye kandi n'umukozi w'Ikigo cy'Igihugu gishinzwe ubutaka wari wajyanye n'Urukiko aho ikiburanwa kiri. [19] Umukozi w'Ikigo cy'Igihugu gishinzwe ubutaka yasobanuye ko hari ubutaka bigaragara ko buri mu gishanga, kandi bene ubwo butaka bukaba ari ubwa Leta. Yavuze ko hari n'ahandi herekanywe ariko bigaragara ko ari ubutaka bw'abandi cyangwa ko hinjira mu bundi butaka bihana imbibi, ku buryo bishobora kuba ari amakosa yakozwe mu gihe cy'iyandikisha ry'ubutaka, ariko ashobora gukosorwa. [20] Nyuma yo kumva ibyagaragajwe n'umukozi w'Ikigo cy'Igihugu gishinzwe ubutaka no kumva icyo ababuranyi babivugaho, Urukiko rwasubitse iburanisha, rusaba Ikigo cy'Igihugu gishinzwe ubutaka gusubira aho ikiburanwa kiri, kugira ngo hasuzumwe ikibazo cy'ubutaka bwinjiranamo hari abo kireba bose. [21] Ku wa 07/02/2025 no ku wa 26/02/2025, Ikigo cy'Igihugu gishinzwe ubutaka cyashyikirije Urukiko raporo igaragaza urutonde rw'abantu bakosorewe imbibi, hamwe n'imbonerahamwe igaragaza uko UPI zakosowe. [22] Urubanza rwongeye kuburanishwa ku wa 05/03/2025, Mukankundiye Agnès Agenesta na Mukamuganga Anastasie bunganiwe na Me Nyiramatama Bernadette, naho mu baburanye urubanza rusabirwa gusobanurwa hitabye gusa Habimana Schadrack uhagarariye nyina Mukarusagara Elina, hari n'umukozi w'Ikigo cy'Igihugu gishinzwe ubutaka. Nyuma yo kumva ibisobanuro kuri raporo yatanze n'uyu mukozi, ndetse n'icyo abahamagawe mu rubanza bayivugaho, Urukiko rwapfundikiye iburanisha, rumenyesha ababuranyi ko urubanza ruzasomwa ku wa 25/04/2025.

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- [23] Ikibazo cyasuzumwe muri uru rubanza, ni ukumenya niba hari ibigomba gusobanurwa mu rubanza N° RS/REV/INJUST/RC00033/2017/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 29/06/2018, rwakosowe n'urubanza RS/RECT/RC00002/2018/SC rwaciwe ku wa 14/12/2018.

IBIBAZO BIGIZE URUBANZA N'ISESENGURWA RYABYO Kumenya niba hari ibigomba gusobanurwa mu rubanza RS/REV/INJUST/RC00033/2017/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 29/06/2018, rwakosowe n'urubanza RS/RECT/RC00002/2018/SC rwaciwe ku wa 14/12/2018 [24] Mukankundiye Agnès Agenesta na Mukamuganga Anastasie bavuga ko impamvu basabye ko urubanza rusobanurwa ari uko hatagaragaramo ishusho n'ingano by'isambu yaburanywe, igomba kuzungurwa n'abakomoka kuri Kanyandekwe Barnabas na Nyirabuduguri Keziya. Basobanura ko umukozi wa MAJ mu Karere ka Ruhango yaje kurangiza urwo rubanza, akababwira ko iyi ari inzitizi ituma rutabasha kurangizwa. Bavuga ko uwo mukozi yababwiye ko icyayivanaho ari ugusaba ko urubanza rusobanurwa, hakagaragazwa ingano y'isambu mbumbe ya Kanyandekwe Barnabas na Nyirabuduguri Keziya, hakanagaragazwa ingano y'aho buri wese agomba guherera, cyane cyane ko hari abamaze guha abana babo iminani, ku buryo ingano y'ahubitse n'imbuga bitangana kuri buri wese. UKO URUKIKO RUBIBONA [25] Ingingo ya 140 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, nk'uko ryahinduwe kugeza ubu, mu gika cyayo cya 1, iteganya ko ikirego gisobanura urubanza kiburanishwa nk'inyandiko nsobanurakirego itanzwe n'umuranyu umwe, [...]. Ingingo ya 189 y'iryo Tegeko, isobanura ko ibikubiye mu nyandiko nsobanurakirego bigomba kuba ari ibibazo bigaragara ko nta mpaka biteye ku buryo byaba ngombwa ko undi muburanyu ahamagarwa; naho ingingo ya 90 y'iryo Tegeko, mu gika cyayo cya kabiri, igateganya ko umucamanza washyikirijwe ikirego agisuzuma, yasanga ari ngombwa ko ahamagaza uwagitanze n'abandi bese abona ko bashobora kuza muri icyo kibazo akabahamagaza. [26] Hashingiwe ku ngingo ya 90 imaze kuvugwa, Urukiko rwasanze ari ngombwa ko abatanze ikirego, kimwe n'abari ababuranyu bese mu rubanza rusabirwa gusobanurwa, bahamagarwa kugira ngo ikibazo kiri mu rubanza gishobore gusobanuka. Ibisobanuro byatanze n'abahamagawe mu rubanza, bigaragaza ko ipfundo ry'ikibazo ari ukuba mu rubanza rusabirwa gusobanurwa, hatagaragaramo ingano y'isambu yaburanywe, kandi ariyo yatuma abazungura ba Kanyandekwe Barnabas na Nyirabuduguri Keziya bashobora kugabana mu buryo bungana isambu izungurwa. [27] Mu rubanza RS/REV/INJUST/RC00033/2017/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 29/06/2018 rusabirwa gusobanurwa, Urukiko rwemeje ko abana bese ba Kanyandekwe Barnabas na Nyirabuduguri Keziya bafite uburenganzira bungana bwo kuzungura umutungo wasizwe n'ababyeyi babo, bakaba bagomba kuwugabana mu buryo bungana. Rwemeje kandi ko Mukankundiye Agnès Agenesta na Mukamuganga Anastasie bafite uburenganzira bwo kuzungura mu byo Kanyandekwe Barnabas na Nyirabuduguri Keziya basize, bakomora ku mubyeyi wabo Kamatamu Deborah. Muri iki cyemezo, Urukiko ntirwagaragaje ingano y'isambu igomba kuzungurwa. [28] Umuhanga mu mategeko Aurélien Bamde, asobanura ko kugirango ikirego kigamije gusobanura urubanza cyakirwe, ari ngombwa kugaragaza ko icyemezo cyarufashwemo kitumvikana cyangwa giteye urujijo, ku buryo bigoranye kugishyira mu bikorwa. Ashingiye ku rubanza rwaciwe n'Urukiko Rusesa

1“Pour que les parties à un litige soient recevables à exercer un recours en interprétation, il doit être démontré que les termes de la décision rendue prêtent à discussion et plus précisément que l’une de ses dispositions présente une ambiguïté, une obscurité ou une contradiction. [...] Seul compte l’existence d’une obscurité ou d’une ambiguïté qui rende incertaine, à tout le moins

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imanza rwo mu bufaransa, yasobanuye ko biri mu bubasha bw’abacamanza kwemeza ko urubanza rukwiye gusobanurwa, ko icyemezo cyarufashwemo kitumvikana cyangwa giteye urujijo2. [29] Ku bijyanye n’uru rubanza, Urukiko rusanga kuba mu cyemezo cyafashwe mu rubanza rusabirwa gusobanurwa hataragaragajwe ingano y’isambu igomba kugabanywa, bitera urujijo ku buryo byagorana kugishyira mu bikorwa mu gihe hatabayeho kumvikana hagati y’abagomba kugabana. Urukiko rusanga rero ari ngombwa ko icyo cyemezo gisobanurwa, hakagaragazwa ingano y’isambu igomba kuzungurwa, kugira ngo urubanza rwaciwe ruzabashe kurangizwa. [30] Mu rwego rwo gushaka amakuru yafasha kugaragaza ingano y’isambu yasizwe na Kanyandekwe Barnabas na Nyirabuduguri Keziya, Urukiko rwiymbaje umukozi wo mu Kigo cy’Igihugu gishinzwe ubutaka, kugira ngo apime kandi agaragaze UPI z’ubutaka bugomba kuzungurwa. Abahamagawe mu rubanza bose bakomoka kuri Kanyandekwe Barnabas bemeranyijwe n’abatanze ikirego ko amasambu yapimwe n’uwo mukozi ari yo batunze kandi bakomora ku mubyeyi wabo, ko nta yagurishijwe, kandi ko nta yandi yiyongereyeho. Ibyo bikaba bivuga rero ko ubutaka bukomoka kuri Kanyandekwe Barnabas na Nyirabuduguri Keziya bugomba kugabanywa, ari igiteranyo cy’ubuso bw’ubutaka bwanditse cyangwa butunzwe n’abamukomokaho bose, ari bo Bucyekabiri Amon, Habyarimana Justin, Bisindi Phénias, Rwarinda Thomas, Kamatamu Deborah n’ababakomokaho cyangwa abazungura babo. [31] Raporo y’umukozi w’Ikigo cy’Igihugu gishinzwe ubutaka igaragaza ko ubutaka bwasizwe na Kanyandekwe Barnabas na Nyirabuduguri Keziya bufitwe n’abamukomokaho ku buryo bukurikira:

- a) Ubutaka bwanditse kuri Habyarimana Justin na Mukarusagara Elina: i. UPI: 2/06/03/02/1497 ifite ubuso bungana na SQM 2323,189413; ii. UPI: 2/06/03/02/1088 ifite ubuso bungana na SQM 281,300557; iii. UPI: 2/06/03/02/5211 ifite ubuso bungana na SQM 482,040323; iv. UPI: 2/06/03/02/1161 ifite ubuso bungana na SQM 576,546785; v. UPI: 2/06/03/02/1153 ifite ubuso bungana na SQM 915,429671; vi. UPI: 2/06/03/02/1148 ifite ubuso bungana na SQM 412,132227; vii. UPI: 2/06/03/02/1180 ifite ubuso bungana na SQM 273,777907; viii. UPI: 2/06/03/02/1182 ifite ubuso bungana na SQM 213,348749; ix. UPI: 2/06/03/02/1383 ifite ubuso bungana na SQM 145,966183; x. UPI: 2/06/03/02/1388 ifite ubuso bungana na SQM 72,782567. Igiteranyo cy’ubutaka bwose bafite ni SQM 5.696,514382.
- b) Ubutaka bwanditse kuri Bucyekabiri Amon na Mukasine Deborah: i. UPI: 2/06/03/02/5039 ifite ubuso bungana na SQM 284,406283; ii. UPI: 2/06/03/02/1092 ifite ubuso bungana na SQM 335,633981; iii. UPI: 2/06/03/02/1159 ifite ubuso bungana na SQM 2246,24614; iv. UPI: 2/06/03/02/1147 ifite ubuso bungana na SQM 324,694402;

difficultueuse, l'exécution de la décision"; Aurélien Bamde, Le recours en interprétation d'une décision de justice (art. 481 CPC), 13 Septembre 2020, p.3. 2 "À cet égard, la Cour de cassation considère que les juges du fond sont investis d'un pouvoir souverain pour juger de la nécessité d'interpréter, soit d'apprécier le caractère obscur ou ambigu d'une disposition du jugement" (Cass., com., 7 octobre 1981, n° 79-16.416); Ibidem.

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- v. UPI: 2/06/03/02/1174 ifite ubuso bungana na SQM 207,891762; vi. UPI: 2/06/03/02/1152 ifite ubuso bungana na SQM 477,742756; vii. UPI: 2/06/03/02/1184 ifite ubuso bungana na SQM 345,420976; viii. UPI: 2/06/03/02/1186 ifite ubuso bungana na SQM 175,523988; ix. UPI: 2/06/03/02/1389 ifite ubuso bungana na SQM 64,678301. Igiteranyo cy'ubutaka bwose bafite ni SQM 4.462,238589.
- c) Ubutaka bwanditse kuri Bisindi Phénias + na Nyirahabimana Astérie: i. UPI: 2/06/03/02/1004 ifite ubuso bungana na SQM 170,900889; ii. UPI: 2/06/03/02/1085 ifite ubuso bungana na SQM 182,683173; iii. UPI: 2/06/03/02/1162 ifite ubuso bungana na SQM 623,609619; iv. UPI: 2/06/03/02/1181 ifite ubuso bungana na SQM 1386,190155; v. UPI: 2/06/03/02/1188 ifite ubuso bungana na SQM 104,136001; vi. UPI: 2/06/03/02/1382 ifite ubuso bungana na SQM 244,137882; vii. UPI: 2/06/03/02/1066 ifite ubuso bungana na SQM 309,35066. Igiteranyo cy'ubutaka bwose afite ni SQM 3.021,008379. Hiyongereyeho ubutaka bufitwe na Hagenimana Jérôme (mwene Bisindi Phénias na mukarumongi): UPI: 2/06/03/02/1183 ifite ubuso bungana na SQM 378,583862. Igiteranyo ku butaka bwose bufitwe n'abo mu murungu wa Busindi Phénias ni SQM 3.399,592241
- d) Ubutaka bwanditse kuri Succession Rwarinda Thomas, ihagarariwe na Niyonshuti Patrick: i. UPI: 2/06/03/02/1103 ifite ubuso bungana na SQM 2.856,068944; ii. UPI: 2/06/03/02/5210 ifite ubuso bungana na SQM 520,4727684. Igiteranyo ku butaka bwose bufitwe n'abo mu murungu wa Rwarinda Thomas ni SQM 3.376,541712.
- e) Ubutaka budafite uwo bubaruyeho, ababuranyi bavuga ko ari igiseke cya Kamatamu Deborah:
- i. UPI: 2/06/03/02/1006 ifite ubuso bungana na SQM 87,161001. Igiteranyo cy'ubuso bw'ubutaka bwose ni SQM 17.022,047925. [32] Hakurikijwe ibyagaragajwe muri raporo y'umukozi w'Ikigo cy'Igihugu gishinzwe ubutaka, Urukiko rusanga ubutaka bwazizwe na Kanyandekwe Barnabas na Nyirabuduguri Keziya bufitwe ubuso bungana na SQM 17.022,047925. Ubwo buso nibwo bugomba kugabanwa n'abazungura babo mu buryo bungana, nk'uko byemejwe mu gika cya 36 cy'urubanza rusabirwa gusobanurwa. [33] Hashingiwe ku bisobanuro byose byatanze, Urukiko rurasanga hari ibigomba gusobanurwa mu rubanza RS/REV/INJUST/RC00033/2017/SC rwaciye n'Urukiko rw'Ikirenga ku wa 29/06/2018, rwakosowe n'urubanza RS/RECT/RC00002/2018/SC rwaciye ku wa 14/12/2018, umutungo uvugwa mu gika cya 36

3 Mu rubanza rusabirwa gusobanurwa handitse ko ari Astérie, akaba yaranabwiye Urukiko ko ari ko yitwa, ariko amazina agaragara mu Kigo cy'Igihugu gishinzwe ubutaka ni Esther. 4 Ubu butaka ntawe bubaruyeho ariko ababuranyi bemeranya ko ari ubwo mu muryango wa Rwarinda Thomas.

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cyarwo ugomba kugabanywa mu buryo bungana abana bose ba Kanyandekwe Barnabas na Nyirabuduguri Keziya, akaba ari ubutaka buri ku buso bungana na SQM 17.022,047925, bufite UPI zagaragajwe mu gika cya 31. [34] Ku bijyanye n'ibyo abarega basaba ko hagaragazwa aho buri wese aherera, Urukiko rurasanga bitasuzumwa kuko byafashweho icyemezo gisobanutse mu rubanza rusabirwa gusobanurwa, kubihindura bikaba byaba ari uguhindura imicire y'urubanza, ibyo bikaba bidashobora gukorwa mu rubanza rusobanura urundi. III. ICYEMEZO CY'URUKIKO [35] Rwemeje ko ikirego rwashyikirijwe na Mukankundiye Agnès Agenesta na Mukamuganga Anastasie, gisaba gusobanura urubanza RS/REV/INJUST/RC00033/2017/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 29/06/2018, rwakosowe n'urubanza RS/RECT/RC00002/2018/SC rwaciwe ku wa 14/12/2018, gifite ishingiro. [36] Rwemeje ko umutungo uvugwa mu gika cya 36 cy'urubanza RS/REV/INJUST/RC00033/2017/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 29/06/2018, rwakosowe n'urubanza RS/RECT/RC00002/2018/SC rwaciwe ku wa 14/12/2018, ari ubutaka buri ku buso bungana na SQM 17.022,047925, bufite UPI zikurikira:

- a) UPI: 2/06/03/02/1497 ifite ubuso bungana na SQM 2323,189413;
- b) UPI: 2/06/03/02/1088 ifite ubuso bungana na SQM 281,300557;
- c) UPI: 2/06/03/02/5211 ifite ubuso bungana na SQM 482,040323;
- d) UPI: 2/06/03/02/1161 ifite ubuso bungana na SQM 576,546785;
- e) UPI: 2/06/03/02/1153 ifite ubuso bungana na SQM 915,429671;
- f) UPI: 2/06/03/02/1148 ifite ubuso bungana na SQM 412,132227;
- g) UPI: 2/06/03/02/1180 ifite ubuso bungana na SQM 273,777907;
- h) UPI: 2/06/03/02/1182 ifite ubuso bungana na SQM 213,348749;
- i) UPI: 2/06/03/02/1383 ifite ubuso bungana na SQM 145,966183;
- j) UPI: 2/06/03/02/1388 ifite ubuso bungana na SQM 72,782567;
- k) UPI: 2/06/03/02/5039 ifite ubuso bungana na SQM 284,406283;
- l) UPI: 2/06/03/02/1092 ifite ubuso bungana na SQM 335,633981;
- m) UPI: 2/06/03/02/1159 ifite ubuso bungana na SQM 2246,24614;
- n) UPI: 2/06/03/02/1147 ifite ubuso bungana na SQM 324,694402;
- o) UPI: 2/06/03/02/1174 ifite ubuso bungana na SQM 207,891762;

- p) UPI: 2/06/03/02/1152 ifite ubuso bungana na SQM 477,742756;
- q) UPI: 2/06/03/02/1184 ifite ubuso bungana na SQM 345,420976;
- r) UPI: 2/06/03/02/1186 ifite ubuso bungana na SQM 175,523988;
- s) UPI: 2/06/03/02/1389 ifite ubuso bungana na SQM 64,678301;
- t) UPI: 2/06/03/02/1004 ifite ubuso bungana na SQM 170,900889;
- u) UPI: 2/06/03/02/1085 ifite ubuso bungana na SQM 182,683173;
- v) UPI: 2/06/03/02/1162 ifite ubuso bungana na SQM 623,609619;

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- w) UPI: 2/06/03/02/1181 ifite ubuso bungana na SQM 1386,190155;
- x) UPI: 2/06/03/02/1188 ifite ubuso bungana na SQM 104,136001;
- y) UPI: 2/06/03/02/1382 ifite ubuso bungana na SQM 244,137882;
- z) UPI: 2/06/03/02/1066 ifite ubuso bungana na SQM 309,35066; aa) UPI: 2/06/03/02/1183 ifite ubuso bungana na SQM 378,583862; bb) UPI: 2/06/03/02/1103 ifite ubuso bungana na SQM 2.856,068944; cc) UPI: 2/06/03/02/5210 ifite ubuso bungana na SQM 520,472768; dd) UPI: 2/06/03/02/1006 ifite ubuso bungana na SQM 87,161001. [37] Rwemeje ko uru rubanza rwujuje urubanza RS/REV/INJUST/RC00033/2017/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 29/06/2018, rwakosowe n'urubanza RS/RECT/RC00002/2018/SC rwaciwe ku wa 14/12/2018.

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Prepared on 13 October 2026 · Esheria