

RWANDA / JUDGMENT

UBUSHINJACYAHA v TUYIZERE

RPAA 00931/2024/CA

COURT

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UBUSHINJACYAHA v TUYIZERE

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Text

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UBUSHINJACYAHA v TUYIZERE [Rwanda URUKIKO RW'UBUJURIRE - RPAA 00931/2024/CA (Gakwaya, P.J) 29 Nzeri 2025] Amategeko agenga ibimenyetso – Ubuhamya – Urukiko rushobora kwakira ubuhamya bwatanzwe mu magambo cyangwa mu nyandiko, ariko bukorewe imbere y'urwego cyangwa imbere y'umuntu ubifitiye ububasha, ubwo buhamya bukaba bwaratanzwe, ubutanga amaze kurahirira kuvugisha ukuri. Amategeko agenga imanza nshinjabyaha – Ubusembure – Kuburanisha ubusembure – Mu mategeko habaho ubusembure igihe hari ibikorwa ukurikiranyweho icyaha yakorewe n'uwakorewe icyaha (victime), bituma ako kanya amukorera icyaha aregwa. Ni ishingano y'uregwa uburanisha ubusembure kubuzamura no kubutangira ibimenyetso, Umucamanza akaba afite ishingano yo kubusuzuma mu gihe abisabwa n'uregwa mu buryo bweruye kandi bwumvikana. Incamake y'ikibazo: Muri uru rubanza uregwa yakurikiranywe n'Ubushinjacyaha ku cyaha cy'ubwicanyi buturutse ku bushake nyuma yuko uwitwa Sikubwabo atewe icyuma mu nda, amara arasohoka, ajyanwa kwa muganga ariko bigeze saa sita z'ijoro arapfa. Uregwa we ntiyemera ko akwiye guhamwa n'icyaha cy'ubwicanyi buturutse ku bushake akavuga ko yasanze abantu bamuteze igico, bamutera icyuma hejuru y'ijisho, barakirwanira, bamutura hasi abura umwuka, nyuma nawe aragifata acyambura Sikubwabo

(nyakwigendera) akimutera mu nda, agasaba ko akwiye guhamwa n'icyaha cyo gukubita no gukomeretsa byateye urupfu ariko inkiko zabanje zamuhamije icyaha cy'ubwicanyi. Ku rwego rw'Urukiko Rw'ubujurire Tuyizere yajuriye avuga ko harebwe ibikorwa aregwa, inyito y'icyaha yahamijwe igomba guhinduka, agahamwa n'icyaha cyo gukubita no gukomeretsa byateye urupfu, akaba yaravugaga nyakwigendera atahise apfa ako kanya akimutera icyuma mu nda, ko ahubwo yaje gupfa nyuma aguye kwa muganga bitewe n'uko yatinze mu nzira agatinda kuvurwa. Anenga kandi Urukiko Rukuru, Urugereko rwa Rwamagana kuba rwarirengagije imvugo z'abatangabuhamya be kandi aribo bari kugaragaza ukuri, anagaragaza ko urukiko rutasesenguye neza imvugo z'umwe mu batangabuhamya bari kumwe na nyakwigendera igihe babategeraga mu nzira, witwa Nshimiyimana, ngo rubone ko nyakwigendera ariwe wamusembuye kuko ariwe wabanje kumusimbukira akamuniga akaba kandi ari nawe wazanye icyuma ashaka kukimutera bitewe n'inzika yari amufitiye kuko yari yaramwirukanye muri company icukura amabuye, maze nawe arakimwaka akimutera mu nda yitabara. Ubushinjacyaha bwo bugaragaza ko ibyerekeye guhindurirwa inyito y'icyaha cy'ubwicanyi nta shingiro bifite harebwe igikoresho cyakoreshejwe (icyuma) naho cyatewe (mu nda) bunavugaga kandi ko kuburanisha ubusembure nta shingiro bifite kuko uregwa atagaragaza ingaruka mbi byamugizeho cyangwa aho yaba yaramukomerekejwe bigatuma nawe atera icyuma nyakwigendera mu nda. Ko n'amenyo abiri, avuga yakuwe, abatangabuhamya bari bahari bemeza ko yayakuwe n'ibuye yatewe n'abari batabaye kuko yashakaga guhunga. Urukiko rw'ubujurire rwasuzumye ibibazo birimo kumenya niba Tuyizere akwiye guhamwa n'icyaha cyo gukubita no gukomeretsa byateye urupfu, aho kuba icyaha cy'ubwicanyi buturutse ku bushake yahamijwe, rusanga inyito y'icyaha yahamijwe itagomba guhinduka hashingiwe ku kuba nubwo uwatewe icyuma atarahise apfa ako kanya akaza gupfa nyuma, bitamukuraho

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gukurikiranwaho icyaha cy'ubwicanyi, kuko ikirebwa atari igihe umuntu yapfiriye, ako kanya cyangwa nyuma, ahubwo harebwa icyakoreshejwe cyatumye uwahohotewe apfa n'ahantu ku mubiri we cyakoreshejwe. Urukiko rw'Ubuujurire rwanasuzumye kandi ikibazo cyo kumenya niba Tuyizere yarakoze icyaha yahamijwe asembuwe, Urukiko Rukuru, Urugereko rwa Rwamagana rukaba rwarirengagije ibimenyetso yatanze bibyemeza, maze rusanga urwo Rukiko rwaragombaga byanze bikunze gusuzuma ibimenyetso byatanzwe n'uregwa, rukemeza ko byakiriwe cyangwa bitakiriwe, ndetse mu gihe byakiriwe, rukagaragaza impamvu bifite agaciro cyangwa bitagafite nuko mu buhamya bwatanzwe, Urukiko Rw'Ubuujurire rusanga hari ubugaragaza ko uwakoze icyaha yasembuwe na nyakwigendera bituma ahanishwa ibihano biteganyirijwe uwakoze icyaha biturutse ku busembure. Incamake y'icyemezo: 1. Urukiko rushobora kwakira ubuhamya bwatanzwe mu magambo cyangwa mu nyandiko, ariko bukorewe imbere y'urwego cyangwa imbere y'umuntu ubifitiye ububasha, ubwo buhamya bukaba bwaratanzwe, ubutanga amaze kurahirira kuvugisha ukuri.

2. Mu mategeko habaho ubusembure igihe hari ibikorwa ukurikiranyweho icyaha yakorewe n'uwakorewe icyaha (victime), bituma ako kanya amukorera icyaha aregwa. Ni ishingano y'uregwa uburanisha ubusembure kubuzamura no kubutangira ibimenyetso, Umucamanza

akaba afite ishingano yo kubusuzuma mu gihe abisabwa n'uregwa mu buryo bweruye kandi bwumvikana. Kuba Urukiko Rukuru, Urugereko rwa Rwamagana ntaho rwigeze rusesengura imvugo z'umutangabuhamya uwariwe wese watanze n'uregwa, urwo Rukiko rwagombaga byanze bikunze gusuzuma ibimenyetso byatanze n'uregwa, rukemeza ko byakiriwe cyangwa bitakiriwe, ndetse mu gihe byakiriwe, rukagaragaza impamvu bifite agaciro cyangwa bitagafite.

3. Mu manza nshinjabyaha, ikimenyetso cyose kirebana n'ibikorwa biregwa gishobora gutangwa mu buryo ubwo aribwo bwose bwemewe n'amategeko (principe de la liberté de l'administration de la preuve). Bityo imvugo za Nshimiyimana, Habyarimana na Habimana zavugiwe imbere y'Umukuru w'Umudugudu w'Umwiga n'Umunyamabanga Nshingwabikorwa w'Akagali ka Rwankuba ntizishobora kwakirwa nk'ubuhamya cyangwa nk'amakuru asanzwe (simples informations) ngo zisuzumwe kuko zakorewe imbere y'Abayobozi batabifitiye ububasha, imyirondoro y'abatanze amakuru itagaragara, ndetse batanarahiriye kuvugisha ukuri. Ubujurire bufite ishingiro kuri bimwe; Urubanza ruhindutse ku birebana n'igihano. Amategeko yashingiweho: Itegeko N° 062/2024 ryo ku wa 20/6/2024 rigenga ibimenyetso, Ingingo ya 2,8, 50 n'ya 56. Itegeko n° 13 bis/2014 ryo ku wa 21/5/2014 rigenga umurimo w'ubunoteri, Ingingo ya 3, agace ka kane (4°) n'aka gatanu (5°). Itegeko N° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ingingo ya 45. Itegeko N° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange, ingingo ya 57, agace ka mbere (1°). Imanza zifashishijwe:

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Ubushinjacyaha vs Sezikeye Emmanuel, RPAA 038/15/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 15/9/2017. RPAA 0110/10/CS rwaciwe n'Urukiko rw'Ikirengku ku wa 31/1/2014. RPA/Gén. 00001/2022/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 14/2/2025. RPAA 00522/2023/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 31/1/2025. RPAA 00453/2024/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 21/3/2025. RPAA 00462/2023/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 15/11/2024. RPAA 00244/2023/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 27/9/2024. RPAA 00362/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 19/7/2022. Ubushinjacyaha vs Kanani Eugène, RPAA 00001/2019/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 6/5/2020. Inyandiko z'abahanga: Général Likulia Bolongo, Droit pénal spécial zaïrois, Tome I, 2e édition, L.G.D.J., Paris, 1985, P. 52. Jean Pradel et Michel Danti-Juan, Droit pénal spécial, droit commun-Droit des affaires, 4e édition, Cujas, Paris, 2007-2008, P. 35. Jean Languier et Anne-Marie Languier, Droit pénal spécial, 10e édition, Dalloz, Paris, 1998, P. 10.

Urubanza I. IMITERERE Y'URUBANZA [1] Ku wa 5/5/2017, Tuyizere Ramadhan yateye icyuma Sikubwabo Fabien mu nda, amara arasohoka, ajyanwa kwa muganga ariko bigeze saa sita z'ijoro arapfa, intandaro ikaba ari amabuye y'agaciro bacukuraga, bari bagiye kugurisha barabipfa. [2] Iperereza rirangiye, Ubushinjacyaha bwareze Tuyizere Ramadhan mu Rukiko Rwisumbuye rwa Ngoma icyaha cy'ubwicanyi buturutse ku bushake, busaba ko cyamuhama, agahanishwa igihano cy'igifungo cya burundu, hashingiwe ku ngingo ya 107 y'Itegeko n°68/2018 ryo ku wa 30/8/2018

riteganya ibyaha n'ibihano muri rusange. [3] Tuyizere Ramadhan yaburanye ahakana icyaha, asobanura ko Sikubwabo Fabien n'abandi bantu babategeye mu nzira, ari kumwe na bagenzi be bavuye kugurisha amabuye y'agaciro, maze bavumbuka mu bihuru aho bari bihishe batangira kubakubita bashaka kubambura amafaranga bari bagurishije amabuye, barwana nabo, maze abo bari babateze bamukura amenyo abiri (2), bamutera icyuma aragikwepa gifata mugenzi wabo Sikubwabo Fabien kiramukomeretsa. [4] Mu rubanza no RP 01410/2021/TGI/NGOMA rwaciwe n'Urukiko Rwisumbuye rwa Ngoma ku wa 29/10/2021, rushingiye ku mvugo z'abatangabuhamya bashinje Tuyizere Ramadhan ko bamubonye afite icyuma amaze kugitera Sikubwabo Fabien mu nda, aryamye hasi ava amaraso menshi, amara yasohotse, n'abatabaye ashaka kukibatera, ku mvugo z'umutangabuhamya Nshimiyimana Charles by'umwihariko wongeyeho ko Tuyizere Ramadhan akura icyo cyuma mu

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gikoti yari yambaye yamurebaga, rushingiye ku mvugo za nyina wa nyakwigendera witwa Nyiraberwa Jeannette umushinja no kuri raporo ya muganga igaragaza ko Sikubwabo Fabien yapfuye azize kuba yarakaswe amara, rwemeje ko Tuyizere Ramadhan ahamwa n'icyaha cy'ubwicanyi, rumuhanisha igihano cy'igifungo cya burundu. [5] Tuyizere Ramadhan yajuririye Urukiko Rukuru, Urugereko rwa Rwamagana asaba ko inyito y'icyaha yahamijwe yahinduka agahamwa n'icyaha cyo gukubita no gukomeretsa byateye urupfu, aho kuba ubwicanyi. Yavuze kandi ko anenga urubanza kuko Urukiko rwabanje rwagendeye ku byavuzwe n'uruhande rumwe, rwirengagiza kwiregura kwe, ko yasanze abantu bamuteze igico, bamutera icyuma hejuru y'ijisho, barakirwanira, bamutera hasi abura umwuka, nyuma nawe aragifata acyambura Sikubwabo Fabien, akimutera mu nda, bapfa ko yari yaramwirukanye muri company ya bashinwa (chinois) icukura amabuye y'agaciro yari abereye kapita, ko kandi atari azi ko bamuteze igico ku buryo yari kwitwaza icyo cyuma. [6] Mu rubanza no RPA 01600/2021/HC/RWG rwaciwe n'Urukiko Rukuru, Urugereko rwa Rwamagana ku wa 19/8/2024, rushingiye ku bisobanuro byatanze n'Urukiko rwaciye urubanza ku rwego rwa mbere, rwemeje ko Tuyizere Ramadhan yari yitwaje icyuma, yahura na SIKUBWABO Fabien, akakivana mu myenda yari yambaye akakimutera, rurebye icyo gikoreshe cyakoreshejwe, n'ahantu cyatewe (mu nda), narwo rwemeje ko inyito y'icyaha itagomba guhinduka, ko kandi ibyo kuba yaratezwe igico nta kimenyetso abitangira kuko iyo biba ibyo atari guhunga, ndetse ngo ashake gutera icyuma abari batabaye, ko ahubwo aba yarahagaze agasobanura uko byagenze, naho ibyo avuga ko yatewe icyuma ku munwa agakomereka, bikaba atari byo, kuko yakomerekejwe n'ibuye yatewe ku munwa agerageza guhunga nk'uko abatangabuhamya babisobanuye, ko rero ubusembure aburanisha agaragaza ko SIKUBWABO Fabien ariwe wabaye nyirabayazana, nta shingiro bifite, rwemeza ariko ko akwiye kugabanyirizwa igihano, agahanishwa igifungo cy'imyaka makumyabiri n'itanu (25), kubera ko ari ubwa mbere akoze icyaha no mu rwego rwo kumufasha gusubirana ubumuntu. [7] Ku wa 9/9/2024, Tuyizere Ramadhan yajuririye Urukiko rw'Ubujurire avuga ko harebwe ibikorwa aregwa, inyito y'icyaha yahamijwe igomba guhinduka, agahamwa n'icyaha cyo gukubita no gukomeretsa byateye urupfu. Anenga kandi Urukiko Rukuru, Urugereko rwa Rwamagana kuba rwarirengagije imvugo z'abatangabuhamya be kandi aribo bari kugaragaza

ukuri, n'ubwo Ubushinjacyaha butababajije kandi bufite inshingano zo gushaka ibimenyetso bishinja n'ibishinjura, ko kandi rutasesenguye neza imvugo z'umwe mu batangabuhamya bari kumwe na Sikubwabo Fabien igihe babategeraga mu nzira, witwa Nshimiyimana Charles, ngo rubone ko Sikubwabo Fabien ariwe wamusembuye kuko ariwe wabanje kumusimbukira akamuniga, akaba kandi ari nawe wazanye icyuma ashaka kukimutera bitewe n'inzika yari amufitiye kuko yari yaramwirukanye muri company icukura amabuye, maze nawe arakimwaka akimutera mu nda yitabara. Avuga na none ko anenga urwo Rukiko kuba rwarashingiye ku Itegeko ryo mu mwaka 2018 riteganyaga ibyaha n'ibihano muri rusange, ritariho mu mwaka wa 2017 igihe icyaha cyakorwaga, ahubwo hariho Itegeko Ngenga ryo muri 2012 rishyiraho Igitabo cy'amategeko ahana. [8] Ubushinjacyaha buvuga ko ibivugwa na Tuyizere Ramadhan by'uko yasembuwe nta shingiro bifite kuko nta bimenyetso abitangira; kandi ko ibyo avuga ko habajijwe abatangabuhamya b'uruhande rumwe nabyo atari ukuri kuko uwitwa Rwamanywa Théoneste utari kumwe na Sikubwabo Fabien yemeje ko yahageze amubona aryamye hasi ava amaraso, kubera ko

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Tuyizere Ramadhan yari amaze kumutera icyuma mu nda, amara yasohotse. Naho ku birebana n'abatangabuhamya be avuga ko batabajijwe, buvuga ko uretse no kuba batarigeze bavugwa mbere, ariko ko n'ibyo bavugaga atari ukuri, kuko bivuguruzwa n'ibyo abari bahari bavuze. [9] Urubanza rwahawe no RPAA 00931/2024/CA, ruburanishwa ku wa 11/9/2025, Tuyizere Ramadhan yunganiwe na Me Catherine A. Sebazungu, Ubushinjacyaha buhagarariwe na Ntawangundi Béatrice, Umushinjacyaha ku rwego rw'Igihugu. [10] Mu iburanisha Tuyizere Ramadhan na Me Catherine A. Sebazungu umwunganira bavuze ko baretse impamvu y'ubujurire ijyanye n'Itegeko ryagombaga gushingirwaho. [11] Harebwe imyanzuro n'imiburanire y'ababuranyi, ibibazo bisazumwa muri uru rubanza ni ibi bikurikira:

- a) Kumenya niba Tuyizere Ramadhan akwiye guhamwa icyaha cyo gukubita no gukomeretsa byateye urupfu, aho kuba icyaha cy'ubwicanyi buturutse ku bushake yahamijwe;
- b) Kumenya niba Tuyizere Ramadhan yarakoze icyaha yahamijwe asembuwe, Urukiko Rukuru, Urugereko rwa Rwamagana rukaba rwarirengagije ibimenyetso yatanze bibwemeza, ariko rugashingira gusa ku bimenyetso bimushinja, kandi bivuguruzanya. II. IBIBAZO BIGIZE URUBANZA N'ISUZUMWA RYABYO
1. Kumenya niba Tuyizere Ramadhan akwiye guhamwa icyaha cyo gukubita no gukomeretsa byateye urupfu, aho kuba icyaha cy'ubwicanyi buturutse ku bushake yahamijwe [12] Tuyizere Ramadhan na Me Catherine A. Sebazungu bavugaga ko inyito y'icyaha cy'ubwicanyi buturutse ku bushake yahamijwe, ikwiye guhinduka, agahamwa n'icyo gukubita no gukomeretsa byateye urupfu kuko atari agamije kwica Sikubwabo Fabien, ko ahubwo byatewe n'uko ariwe wamutegeye mu nzira, aramusimbukira amufata mu ijosi aramuniga, bituma nawe amwaka icyuma yari afite akimutera mu nda, ariko ntiyahita apfa ako kanya, ahubwo aza gupfira kwa muganga bitewe n'uko yatinze mu nzira, ava amaraso menshi. [13] Uhagarariye Ubushinjacyaha avuga ko harebwe igikoresho yakoresheje (icyuma) naho

yagiteye Sikubwabo Fabien (mu nda), ibisabwa na Tuyizere Ramadhan byo guhindurirwa inyito y'icyaha cy'ubwicanyi buturutse ku bushake yahamijwe, agahamwa n'icyaha cyo gukubita no gukomeretsa byateye urupfu, nta shingiro bifite. UKO URUKIKO RUBIBONA [14] Impaka kuri iki kibazo zishingiye ku kumenya niba harebwe ibikorwa Tuyizere Ramadhan aregwa, Urukiko Rukuru rwarakoze amakosa yo kumuhamya icyaha cy'ubwicanyi buturutse ku bushake, nyamara bigize icyaha cyo gukubita no gukomeretsa byateye urupfu, ku buryo inyito y'icyaha yahamijwe igomba guhinduka.

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[15] Nk'uko byemejwe mu rubanza n° RPAA 00001/2019/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 6/5/2020, haburana Ubushinjacyaha na Kanani Eugène, ndetse n'uko abahanga mu mategeko babisobanuye, ubushake bwo kwica undi (volonté ou intention de donner la mort: intention homicide) bugaragazwa n'ikintu cyakoreshejwe gishobora kwica, aho cyakoreshejwe ku mubiri w'umuntu, ni ukuvuga mu cyico (partie vitale du corps humain), ndetse n'ihohoterwa rikabije ryakoreshejwe. [16] Nk'uko kandi byemejwe mu rubanza n° RPA/Gén. 00001/2022/CA rwaciwe ku wa 14/2/2025, uwajuriye ntashobora kugaruka (gusubira) gusa ku ngingo ze yaburanishije ku rwego rwa mbere, kandi zitarahawe ishingiro, atagaragaza amakosa Urukiko rwabanje rwaba rwarakoze ruzitesha agaciro n'uko ayo makosa agomba gukosorwa. [17] Naho mu rubanza n° RPAA 0110/10/CS rwaciwe ku wa 31/1/2014, hemejwe ko kuba uwakubiswe atarapfiriye aho yakubitiwe, ahubwo akaza gupfa ageze kwa muganga, ibi byonyine bidatuma icyaha kiba icyo gukubita no gukomeretsa byateye urupfu, kubera ko mu gihe ushinjwa yakoresheje intwari (igikoresheho) yica kandi agakubita mu cyico, ndetse na muganga akerekana ko umuntu yapfuye azize intwari yakoreshejwe, nta kabuza ko uwabikoze agomba guhamwa n'icyaha cyo kwica umuntu ku bushake, ibi bikaba ari nabyo byemejwe mu rubanza n° RPAA 00244/2023/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 27/9/2024, mu rubanza n° RPAA 00522/2023/CA rwaciwe ku wa 31/1/20252 no mu rubanza n° RPAA 00453/2024/CA rwaciwe ku wa 21/3/20253. [18] Nk'uko bigaragara mu gace ka cyenda (9) k'urubanza rujuririrwa, Urukiko Rukuru, Urugereko rwa Rwamagana rwasobanuye ko ku rwego rwa mbere, Urukiko rwagaragaje ko inyito y'icyaha Tuyizere Ramadhan yahamijwe itahinduka kubera ko yari yitwaje icyuma acyambariyeho imyenda, ahuye na Sikubwabo Fabien akimutera mu nda amara arasohoka bimuviramo gupfa, ko rero narwo rushingiye ku gikoresheho cyica cyakoreshejwe naho cyatewe mu nda, rubona nta kindi cyari kigamijwe uretse kwica, bityo ko ibyo asaba byo kwemeza ko icyaha yakoze ari icyo gukubita no gukomeretsa byateye urupfu nta gaciro byahabwa. [19] Urukiko rw'Ubujurire rurasanga ibivugwa na Tuyizere Ramadhan ko adakwiye guhamwa n'icyaha cy'ubwicanyi buturutse ku bushake kuko atari agamije kwica Sikubwabo Fabien, ko ahubwo yahamwa no gukubita no gukomeretsa byateye urupfu, bitahabwa agaciro kuko uretse kugaruka kubyo yaburanishije mbere, atanenga ibisobanuro byatanzwe n'Urukiko Rukuru, Urugereko rwa Rwamagana byatumye rwemeza ko ibikorwa yakoze bigize icyaha cy'ubwicanyi, bityo rero hashingiye ku murongo wagaragajwe haruguru, nta mokasa urwo Rukiko rwakozwe kuko

1 “ L’intention homicide peut résulter: soit de l’arme employée, lorsque celle-ci a une puissance mortelle en elle- même, soit de l’endroit où le coup a été porté lorsque celui-ci est une partie vitale du corps humain, soit du degré de la violence ou de sa gravité”, Général Likulia Bolongo, Droit pénal spécial zaïrois, Tome I, 2e édition, L.G.D.J., Paris, 1985, P. 52. “.....l’intention sera censée exister lorsque l’agent a frappé sur une partie vitale du corps et avec une arme dangereuse.....”Jean Pradel et Michel Danti-Juan, Droit pénal spécial, droit commun-Droit des affaires, 4e édition, Cujas, Paris, 2007-2008, P. 35. “L’intention peut s’induire de la nature de l’arme ou du coup, de la région du corps frappée par l’agent...”, Jean Languier et Anne-Marie Languier, Droit pénal spécial, 10e édition, Dalloz, Paris, 1998, P. 10. 2 “ Ubushake bwo kwica undi (volonté ou intention de donner la mort: intention homicide) bugaragazwa n’ikintu cyakoreshejwe gishobora kwica, aho cyakoreshejwe ku mubiri w’umuntu, ni ukuvuga mu cyico (partie vitale du corps humain), ndetse n’ihohoterwa rikabije ryakoreshejwe”, reba agace ka 51 k’urwo rubanza. 3 Reba agace ka 17 k’urwo rubanza.

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mu kwica Sikubwabo Fabien, urega yakoresheje icyuma (igikoresheho gishobora kwica), anakimutera ahantu hashobora kwica (mu nda mu mara). [20] Ku birebana n’ibivugwa na Tuyizere Ramadhan ko akwiye guhamwa n’icyaha cyo gukubita no gukomeretsa byataye urupfu kuko nyakwigendera atahise apfa ako kanya akimutera icyuma mu nda, ko ahubwo yaje gupfa nyuma aguye kwa muganga bitewe n’uko yatinze mu nzira agatinda kuvurwa, akava amaraso menshi, bitahabwa agaciro kubera ko n’ubwo koko ibyo bavuga ari ukuri, Sikubwabo Fabien akaba yarapfuye nyuma, ntabwo byamukuraho gukurikiranwaho icyaha cy’ubwicanyi, kuko ikirebwa atari igihe umuntu yapfiriye, ako kanya cyangwa nyuma, ahubwo harebwa icyakoreshejwe cyatumye uwahohotewe apfa n’ahantu ku mubiri we cyakoreshejwe, ni ukuvuga mu cyico, nk’uko byemejwe mu manza zavuzwe haruguru. [21] Urukiko rw’Ubujurire rurasanga na none ibivugwa na Tuyizere Ramadhan ko atari akwiye guhamwa n’icyaha cy’ubwicanyi ku mpamvu y’uko atari agamije kwica Sikubwabo Fabien kuko atari we wari witwaje icyuma cyamwishe, bitahabwa agaciro kubera ko n’ubwo ibyo avuga byaba ari ukuri, nta gushidikanya ko ariwe wamuteye icyuma mu nda. [22] Hashingiwe kuri ibyo byose byagaragajwe haruguru, Urukiko rw’Ubujurire rurasanga nta makosa Urukiko Rukuru, Urugereko rwa Rwamagana rwakoze rumuhamya icyaha cy’ubwicanyi buturutse ku bushake, bityo iyo nyito y’icyaha yahamijwe ikaba itagomba guhinduka. [23] Kubera izo mpamvu zose, Urukiko rw’Ubujurire rurasanga iyi ngingo y’ubujurire bwa Tuyizere Ramadhan nta shingiro ifite.

2. Kumenya niba Tuyizere Ramadhan yarakoze icyaha yahamijwe asembuwe, Urukiko Rukuru, Urugereko rwa Rwamagana rukaba rwarirengagije ibimenyetso yatanze bibyemeza, rugashingira gusa ku bimenyetso bimushinja, kandi bivuguruzanya. [24] Tuyizere Ramadhan avuga ko Urukiko Rukuru, Urugereko rwa Rwamagana rutagombaga kwanga guha agaciro imiburanire ye y’uko yasembuwe na Sikubwabo Fabien, rwitwaje ko nta bimenyetso yagaragaje kandi nyamara iyo rusesengura neza imvugo za Nshimiyimana Charles wari kumwe na Sikubwabo Fabien bamutegera mu nzira, rwari kubona ko abazwa muri RIB yasobanuye uko nyakwigendera ariwe wabanje kumusimbukira akamufata mu

ijosi akamuniga, maze rugahita rwumva ko ari nawe wari wateguye umugambi wo kumugirira nabi, ategura abaza kubimufashamo, ndetse azana n'icyuma nk'intwari, n'ubwo ku bijyanye n'uwaru witwaje icyo cyuma, mu rwego rwo guhunga icyaha kuko nawe yari mu bamuteze, uwo mutangabuhamya Nshimiyimana Charles atavugisha ukuri, amubeshyera ko ariwe wakizanye acyambariyeho imyenda, nyamara cyari gifitwe na Sikubwabo Fabien, bakakirwanira, akakimwaka akakimutera mu nda, yitabara kuko yari yamunize yamuhejeje umwuka. Bivuze ko iyo Sikubwabo Fabien ataza kumutega no kumuniga, ntaho bari guhurira, kuko nta n'icyo bapfaga cyari gutuma ashaka kumwica, ko rero ariwe ntandaro y'ibyabaye byose. [25] Tuyizere Ramadhan akomeza na none avuga ko urwo Rukiko rwanze guha agaciro ko yasembuwe na Sikubwabo Fabien, ruvuga ko nta bimenyetso yatanze bibyemeza, kandi rwarirengagije ubuhamya bukubiye mu nyandiko yarushyikirije, bwa Nshimiyimana François (Mitera), Habyarimana Joseph (Zolo) na Habimana Ngerageze banditse ku wa 30/5/2023, bemeza ko Sikubwabo Fabien (Mahungu) n'abandi bari kumwe babategeye mu nzira bagatangira

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kubakubita, bakomeretsa Habyarimana Joseph (Zolo) mu mutwe, nawe bamukura amenyo abiri arimo kurwanira na Sikubwabo Fabien (Mahungu) icyuma, muri icyo ntambara yari itewe na Sikubwabo Fabien (Mahungu) wari ufite inkota. Ashingiye kuri ibyo, avuga ko urwo Rukiko rutagombaga kwanzura ko nta kimenyetso yatanze cyerekana ko yasembuwe kandi afite n'inkovu zigaragara aho yatewe icyuma ku munwa ugasaduka, agakuka n'ayo menyo abiri, ndetse akaba afite fagitiri yivurijeho. [26] Me Catherine A. Sebazungu, umwunganira, avuga ko asaba uru Rukiko kwemeza ko Tuyizere Ramadhan yasembuwe, rukabishingiraho agabanyirizwa igihano, agahanishwa igifungo cy'imyaka ibiri (2). [27] Uhagarariye Ubushinjacyaha avuga ko ibivugwa na Tuyizere Ramadhan by'uko yasembuwe na Sikubwabo Fabien kuko yamusimbukiye akamufata mu ijosi akamuniga, nta shingiro bifite kuko atagaragaza ingaruka mbi byamugizeho cyangwa aho yaba yaramukomerekeje bigatuma nawe amutera icyuma mu nda. Avuga kandi ko ibyo avuga by'uko umutangabuhamya Nshimiyimana Charles yemeje ko yasembuwe nabyo ataribyo, kuko ahubwo yavuze ko yamubonye akura icyo cyuma mu mufuka w'imyenda yari yambaye, agitera nyakwigendera mu nda, amara arasohoka; ko rero nta kindi kimenyetso Tuyizere Ramadhan atanga cyerekana ko yasembuwe, uretse kuvuga ko yakuwe amenyo abiri, nyamara abatangabuhamya bari bahari bemeza ko yayakuwe n'ibuye yatewe n'abari batabaye kuko yashakaga guhunga. [28] Ku bijyanye n'ibivugwa na Tuyizere Ramadhan ko habajijwe abatangabuhamya b'uruhande rumwe, abe bakirengagizwa, uhagarariye Ubushinjacyaha avuga ko atari ukuri, kuko nk'uwitwaga Rwamanywa Théoneste atari kumwe nabo uregwa avuga ko bamutegeye mu nzira, kandi yemeje ko yabonye Sikubwabo Fabien aryamye hasi ava amaraso, kubera ko Tuyizere Ramadhan yari amaze kumutera icyuma mu nda, amara yasohotse. Ku birebana n'imvugo z'abatangabuhamya be Nshimiyimana François na Habyarimana Joseph avuga ko zirengagijwe, buvuga ko uretse no kuba atarigeze abavugaga mbere, ariko urebye n'ibyo bavugaga nta kuri kubirimo kuko bivuguruzwa n'ibyo abandi bari bahari bavuze. [29] Uhagarariye Ubushinjacyaha asaza asaba ko Tuyizere Ramadhan atagabanyirizwa igihano kuko nta

busembure bwabayeho, kandi ko kuva mu ntangiriro kugeza ubu ahakana icyaha, akaba nta kwicuza agaragaza, ndetse harebwe uburemere bw'icyaha yakoze akaba akwiye kugumishwa ku gihano cy'igifungo cy'imyaka makumyabiri n'itanu (25) yahanishijwe na mbere. UKO URUKIKO RUBIBONA [30] Impaka kuri iki kibazo zishingiye ku kumenya niba Urukiko Rukuru, Urugereko rwa Rwamagana rwarakoze amakosa yo kutemeza ko habayeho ubusembure, rusesengura nabi ubuhamya bwa Nshimiyimana Charles umushinja, bubwemeza, runirengagiza gusuzuma ubuhamya butandukanye rwashyikirijwe bumushinjura, bwa Nshimiyimana François (Mitera), Habyarimana Joseph (Zolo) na Habimana Ngerageze, nabwo bubwemeza, ndetse rushingira gusa ku mvugo z'abatangabuhamya bamushinja zitizewe kandi zivuguruzanya. [31] Ingingo ya 2, agace ka (I), (i), y'Itegeko n° 062/2024 ryo ku wa 20/6/2024 rigenga ibimenyetso ivuga ko ikimenyetso gishingiye ku buhamya cyumvikana nk'amagambo avugiwe imbere y'urwego rufite ububasha cyangwa yarushyikirijwe mu nyandiko n'umuntu (déclarations

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écrites ou orales- an oral or written statement) wabonye cyangwa wumvise ibyerekeranye n'ikibazo kiri mu mpaka. Naho agace kayo ka (o) gateganya ko "inyandiko ihamya" bivuga inyandiko umuntu ashahiraho igikumwe cyangwa umukono, nyuma yo kurahirira imbere y'umuntu ubiherwa ububasha n'itegeko, yemeza ko ibiyikubiyemo ari ukuri. [32] Ingingo ya 8 y'iryo Tegeko iteganya ko "Ikimenyetso gishobora gutangwa hakoreshejwe uburyo bw'inyandiko ihamya". [33] Ingingo zavuzwe haruguru zisuzumiwe hamwe zumvikanisha ko Urukiko rushobora kwakira buhamya bwatanzwe mu magambo cyangwa mu nyandiko, ariko bukorewe imbere y'urwego cyangwa imbere y'umuntu ubifiteye ububasha, ubwo buhamya bukaba bwaratanzwe, ubutanga amaze kurahirira kuvugisha ukuri. [34] Isuzumira hamwe ry'ingingo ya 2, agace ka (cc)5, iya 50, agace ka mbere (1)6 n'ya 567 z'Itegeko n° 062/2024 ryo ku wa 20/6/2024 ryavuzwe haruguru, zumvikanisha ko ubuhamya bwakirwa n'Urukiko cyangwa n'Urwego rubifitiye ububasha, kandi bugatangwa n'umutangabuhamya amaze kurahirira kuvugisha ukuri". [35] Ingingo ya 45, igika cya gatatu, y'Itegeko n° 027/2019 ryo ku wa 19/9/2019 nk'uko ryahinduwe kugeza ubu iteganya ko Umugenzacyaha cyangwa Umushinjacyaha ashobora kandi kubaza umuntu wese kugira ibisobanuro atanga no kumusaba gutanga ubuhamya amaze kurahira mu buryo buteganywa mu ngingo ya 47 y'iri tegeko". [36] Ingingo ya 3, agace ka kane (4°) n'aka gatanu (5°) y'Itegeko n° 13 bis/2014 ryo ku wa 21/5/2014 rigenga umurimo w'ubunoteri nk'uko ryahinduwe kugeza ubu iteganya ko mu byiciro by'abanoteri harimo umukozi w'Akarere ufite mu nshingano ze ibijyanye n'amategeko n'umukozi w'Akarere ku rwego rw'Umurenge ufite mu nshingano ze gukemura ibibazo by'abaturage. [37] Iyi ngingo ya 3 ivugwa mu gace kabanziriza aka yumvikanisha ko ku rwego rw'Intara abakira n'abemeza inyandiko ihamya cyangwa inyandiko mpamo ari abakozi b'Akarere cyangwa b'Umurenge bafite ububasha bwa noteri. [38] Hashingirwe ku byagaragajwe haruguru, ubuhamya butangwa mbere y'Urukiko, Ubushinjacyaha, Ubugenzacyaha na noteri ubifitiye ububasha mu ifasi y'aho bwakorewe.

4 Ingingo ya 2, agace ka gatatu (3°), y'Itegeko n° 13 bis/2014 ryo ku wa 21/5/2024 rigenga umurimo w'ubunoteri iteganya ko inyandiko mpamo ni inyandiko yanditswe cyangwa yakiranywe imihango yabugenewe n'umukozi wa Leta ufite ububasha bwo gukorera mu ifasi y'aho yandikiwe.

Agace ka karindwi (7°) k'iyoy ngingo giteganyako umunoteri ni umukozi wa Leta cyangwa undi muntu wikorera wabiherewe ububasha na Minisitiri, ufite ubushobozi bwo gukora inyandiko, kwakira cyangwa gufasha mu kuzishyiraho umukono kugira ngo zibe inyandiko mpamo mu rwego rw'amategeko no kwemeza ko amakopi y'izo nyandiko ahuye n'inyandiko z'umwimerere hakurikijwe ububasha ahabwa n'iri tegeko. 5 "urwego rufite ububasha" bivuga urukiko cyangwa urwego rwakira ikibazo kiri mu bubasha bwarwo cyangwa rugifataho icyemezo, rushingiye ku bimenyetso. 6 Iyo ngingo iteganyako " Ubuhamya butangwa umutangabuhamya ubwe ari imbere y'urwego rufite ububasha cyangwa atari imbere yarwo, hakoreshejwe uburyo bumugaragaza cyangwa butamugaragariza abaterebwa n'urubanza cyangwa ikibazo gisuzumwa" 7 Iyo ngingo iteganyako " Mbere yo gutanga ubuhamya, umutangabuhamya usabwe kurahira arahirira kuvugisha ukuri agira ati: "Jyewe....., ndahiriye kuvugisha ukuri. Nindamuka mbeshye nzabihanirwe n'amategeko".

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[39] Nk'uko byemejwe mu rubanza no RPAA 038/15/CS8 rwaciwe n'Urukiko rw'Ikirenga ku wa 15/9/2017, "Ubusembure bwumvikana nk'impamvu ngabanyagihano igizwe no kuba uwakoze icyaha yarabitewe n'uko yari yabanje gukorerwa igikorwa kimubabaza gikomeye kandi kimurenganya. [40] Nk'uko byemejwe kandi mu rubanza n° RPAA 00362/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 19/7/2022, " mu mategeko habaho ubusembure igihe hari ibikorwa ukurikiranyweho icyaha yakorewe n'uwakorewe icyaha (victime), bituma ako kanya amukorera icyaha aregwa". [41] Nk'uko byemejwe na none mu rubanza n° RPAA 00462/2023/CA rwaciwe ku wa 15/11/2024, " ni ishingano y'uregwa uburanisha ubusembure kubuzamura no kubutangira ibimenyetso, Umucamanza akaba afite ishingano yo kubusuzuma mu gihe abisabwa n'uregwa mu buryo bweruye kandi bwumvikana". [42] Inyandikomvugo y'iburanisha yo ku wa 5/8/2024 mu Rukiko Rukuru, Urugereko rwa Rwamagana igaragaza ko Tuyizere Ramadhan yanengaga urubanza rwaciwe ku rwego rwa mbere kuko rutahaye agaciro ubusembure yakorewe, bugaragazwa n'imvugo z'umutangabuhamya Nshimiyimana Charles n'ubuhamya bwatanzwe mu nyandiko na Nshimiyimana François Xavier n'abandi, barimo Habyarimana Joseph, bugaragaza ko nyakwigendera n'abandi bari kumwe aribo bamuteze igico. Tuyizere Ramadhan yasobanuye kandi ko yamuteye icyuma kubera ko ariwe watangiye kumuniga, ashaka kumwica. [43] Mu gace ka gatandatu (6) n'aka karindwi (7) tw'urubanza rujuririrwa, Urukiko Rukuru, Urugereko rwa Rwamagana rwagaragaje ko Tuyizere Ramadhan yarujuririye arusaba kwemeza ko Sikubwabo Fabien ariwe wamusembuye, akamutera icyuma hejuru y'ijisho akamukomeretsa, bakakirwanira, akamutera hasi akamuheza umwuka, maze nawe akakimwambura akakimutera mu nda; ko ubuhamya bwatanzwe na Nshimiyimana Charles bubushimangira, ndetse ko yateye Sikubwabo Fabien icyuma mu nda nyuma y'uko akimutera ku munwa amukura amenyo. [44] Mu gace ka cyenda (9) n'aka cumi (10) tw'urwo rubanza, urwo Rukiko rwasobanuye ko kuba Tuyizere Ramadhan avuga ko Sikubwabo Fabien ari we wamusembuye abanje kumutega igico, nta gaciro rwabiha kuko atagaragaza aho yaba yaramukomeretse mu gihe barwaniraga icyuma nk'uko abivugaga, ko ndetse nta

n'ikindi agaragaza yaba yaramukoreye cyatumye amutera icyo cyuma mu nda, ko ahubwo bigaragara ko Tuyizere Ramadhan ariwe wateze igico Sikubwabo Fabien amutera icyuma bimuviramo gupfa, ibyo bikaba bishimangirwa n'uko abahuruye nabo yashatse kukibatera, yarangiza agashaka guhunga, atagumye aho ngo asobanure ibimubayeho kandi avuga ko ariwe watezwe igico; ko rero n'ibyo avuga by'uko Sikubwabo Fabien ari we wabanje kumutera icyuma ku munwa agakomereka, atari ukuri kuko umwe mu batabaye ariwe wamukomerekeje amuteye ibuye, yitura hasi ubwo yageragezaga guhunga nk'uko abatangabuhamya babyemeza. Rwanzura ko nta busembure bwabayeho. [45] Mu nyandikomvugo y'umutangabuhamya Nshimiyimana Charles abazwa mu Bugenzacyaha ku wa 24/9/2021, yavuze ko Sikubwabo Fabien yaje kumureba, maze aramuherekeza, bageze mu nzira bahura na Tuyizere Ramadhan, Sikubwabo Fabien aramubaza

8 Urubanza no RPAA 038/15/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 15/9/2017, haburana Ubushinjacyaha na Sezikeye Emmanuel

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ngo: “waranyirukanye?” undi aramusubiza ngo: “narakwirukanye”, nibwo Sikubwabo Fabien yamusimbukiraga amufata mu ijosi atangira kumuniga, Tuyizere Ramadhan yari yambaye igikote kirekire ahita akuramo icyuma agitera Sikubwabo Fabien mu nda, aramukomeretsa, inyama zo mu nda ziragaragara, atangira kugenda avuza induru ngo Tuyizere Ramadhan anteye icyuma, ageze imbere yitura hasi, Tuyizere Ramadhan ahita yiruka ashaka kwambuka uruzi, bavuze induru abantu baramufata bamujyana kuri police, Sikubwabo Fabien bamujyana kwa muganga, bucya yapfuye, nyuma nibwo yaje kumva ko Tuyizere Ramadhan yatorotse. [46] Muri dosiye y'Urukiko Rukuru, Urugereko rwa Rwamagana, harimo inyandiko ikubiyemo amakuru yatanze n'uwitwa Nshimiyimana François-Xavier (Mitera) ku wa 30/5/2023, iriho umukono we, uw'Umukuru w'Umudugudu w'Umwiga n'uw'Umunyamabanga Nshingwabikorwa w'Akagali ka Rwankuba hamwe na cachet yako Kagali, wavuze ko we, Habyarimana Joseph (Zolo) na Tuyizere Ramadhan bahuriye mu nzira na Sikubwabo Fabien (Mahungu) ari kumwe na bagenzi be, batangira kubakubita, mahungu afite inkota, bakomeretsa Habyarimana Joseph (Zolo) mu mutwe, we ahita yiruka ariko asiga bamaze gukura Tuyizere Ramadhan amenyo, bukeye yumva ko we na muhungu bari mu bitaro, yongeraho ko Sikubwabo Fabien (Mahungu) ariwe wateje intambara. [47] Harimo kandi inyandiko yiswe “ubuhamya mu nyandiko”⁹ bwakozwe na Nshimiyimana François-Xavier ku wa 22/7/2024 imbere ya Noteri Nsengimana Jean-Pierre wahamije umukono we, aho nyuma yo kurahira kuvugisha ukuri, yasobanuye ko ku itariki atibuka neza mu kwezi kwa munani w'umwaka wa 2018, ku mugoroba, ari kumwe na Tuyizere Ramadhan, Habana na Habyarimana Joseph (Zolo), bavuye kugurisha amabuye y'agaciro i Duha, bahura n'igico cy'abantu babiteguye bashaka kubagirira nabi, barimo Sikubwabo Fabien, Nshimiyimana Charles n'abandi benshi; ko Sikubwabo Fabien alias Mahungu na Nshimiyimana Charles bavumbutse mu gihuru, bafata Ramazani baramuniga, muri ako kanya Ramazani ari gutabaza, abandi bose baza bafite ibyuma n'amabuye bakubira Zolo, we ahita ajya gukiza kuko yabonaga ariwe bahise bakomeretsa. Yasobanuye ko baje gutabarwa n'abashinzwe umutekano, basanze Sikubwabo Fabien (Mahungu) na Tuyizere Ramadhan baryamye hasi bakomeretse

bombi, babajyana kwa muganga; Sikubwabo Fabien yari yakomeretse mu nda, naho Tuyizere Ramazani we yari yakomeretse ku munwa bamuteye icyuma, akuka amenyo. [48] Harimo na none inyandiko nk'ivuzwe haruguru ya Habyarimana Joseph (Zolo), iriho umukono we, uw'Umukuru w'Umudugudu w'Umwiga n'uw'Umunyamabanga Nshingwabikorwa w'Akagali ka Rwankuba hamwe na cachet yako Kagali, wasubiyemo nk'ibyavuzwe na mugenzi we, yongeramo ko bamaze kumubita ibuye mu mutwe yasize mahungu na Tuyizere Ramadhan bari kurwanira icyuma, mu ntambara yatejwe na Sikubwabo Fabien (Mahungu). Indi nyandiko nk'iyi ni iya Habimana Ngerageze, nawe uvuga nk'ibya bagenzi be akongeramo ko Sikubwabo Fabien (Mahungu) ariwe wazanye icyuma. [49] Urukiko rw'Ubujurire rurasanga harebwe ibisobanuro byatanzwe n'Urukiko Rukuru, Urugereko rwa Rwamagana rusubiza ku kibazo kirebana n'ubusembure, rwemeza ko butabayeho ku mpamvu y'uko uregwa atabugaragariza ibimenyetso, ntaho rwigeze rusesengura imvugo z'umutangabuhamya uwariwe wese watanzwe na Tuyizere Ramadhan.

9 Yashyizwe muri system ku wa 24/7/2024.

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[50] Urukiko rw'Ubujurire rurasanga harebwe ibivuzwe mu gace kabanziriza aka n'umurongo wagaragajwe haruguru ku birebana no kwiregura k'uregwa gushingiye k'ubusembure, Urukiko Rukuru, Urugereko rwa Rwamagana rwaragombaga byanze bikunze gusuzuma ibimenyetso byatanzwe n'uregwa, rukemeza ko byakiriwe cyangwa bitakiriwe, ndetse mu gihe byakiriwe, rukagaragaza impamvu bifite agaciro cyangwa bitagafite. [51] Urukiko rw'Ubujurire rurasanga rero kuba amakosa y'Urukiko Rukuru, Urugereko rwa Rwamagana yo kudasuzuma ibyo bimenyetso agaragara, cyane cyane mu kwemeza ko nta bimenyetso bihari byatanzwe n'uregwa, kuri uru rwego hakwiye kurebwa niba koko ibimenyetso bivugwa byakwirakwira, ndetse bihamya ko habayeho ubusembure bugaragara mu myitwarire y'uwahohotewe. [52] Urukiko rw'Ubujurire rurasanga ubuhamya bwa Nshimiyimana Charles bwakorewe imbere y'Ubugenzacyaha n'ubwa Nshimiyimana François-Xavier bwakozwe ku wa 22/7/2024, imbere ya Noteri Nsengimana Jean-Pierre wahamije umukono we (légalisation de la signature), bugomba kwakirwa no gusesengurwa kuko nk'uko biteganywa n'amategeko bwatangiye imbere y'ubifitiye ububasha, ndetse nyuma yo kurahirira kuvugisha ukuri. [53] Hashingiye ku ihame ry'uko mu manza nshinjabyaha, ikimenyetso cyose kirebana n'ibikorwa biregwa gishobora gutangwa mu buryo ubwo aribwo bwose bwemewe n'amategeko (principe de la liberté de l'administration de la preuve), Urukiko rw'Ubujurire rurasanga imvugo za Nshimiyimana François-Xavier, Habyarimana Joseph na Habimana Ngerageze zavugiye imbere y'Umukuru w'Umudugudu w'Umwiga n'Umunyamabanga Nshingwabikorwa w'Akagali ka Rwankuba zidashobora kwakirwa nk'ubuhamya cyangwa nk'amakuru asanzwe (simples informations) ngo zisuzumwe kuko zakorewe imbere y'Abayobozi batabifiye ububasha, imyirondoro y'abatanze amakuru itagaragara, ndetse batanarahiriye kuvugisha ukuri. [54] Urukiko rw'Ubujurire rurasanga rero isesengura ry'ibyo Nshimiyimana Charles yasobanuye avuga ko Sikubwabo Fabien ariwe watangiye avugisha Tuyizere Ramadhan, bakivugana ahita amusimbukira

amufata mu ijosi aramuniga, birebewe hamwe n'ubuhamya bwatanzwe na Nshimiyimana François-Xavier imbere ya Noteri, bushimangira ko Sikubwabo Fabien ari kumwe na Nshimiyimana Charles, bavumbutse mu gihuru, bakaniga uregwa, rigaragaza mu buryo buhagije ko hari imyitwarire nyakwigendera yagize yatumye Tuyizere Ramadhan amutera icyuma, biza kumuviramo gupfa. [55] Urukiko rw'Ubujurire rurasanga ibindi bisobanuro byatanzwe na Tuyizere Ramadhan agaragaza ubusembure yakorewe na nyakwigendera, bitahabwa agaciro kuko abo batangabuhamya babiri bavuguruzanya ku birebana no kuba nyakwigendera yaramutegeye mu nzira, ndeste nta n'umwe muri abo batangabuhamya wemeza ko nyakwigendera ariwe wabanje gutera icyuma uregwa. [56] Hashingiwe ku byagaragajwe haruguru, Urukiko rw'Ubujurire rurasanga mu gukora icyaha aregwa, Tuyizere Ramadhan yarasembuwe na nyakwigendera, bityo iyi ngingo ye y'ubujurire ifite ishingiye, kandi ifite ingaruka ku gihano yahanishijwe. [57] Urukiko rw'Ubujurire rurasanga rero hashingiwe ku ngingo ya 57, agace ka mbere (1°), y'Itegeko n° 68/2018 ryo ku wa 30/8/2018 nk'uko yahinduwe kugeza ubu, iteganya ko iyo

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umucamanza yemeye impamvu zishingiye ku busembure bw'uwoze icyaha, ku cyaha cy'ubugome gihanishwa igifungo cya burundu, igihano kiragabanywa kikaba igifungo kitari munsu y'imyaka ibiri (2) ariko kitarenze imyaka itanu (5), TUYIZERE Ramadhan akwiye guhanishwa igifungo cy'imyaka itanu (5), aho kuba imyaka makumyabiri n'itanu (25) y'igifungo yari yahanishijwe n'Urukiko Rukuru, Urugereko rwa Rwamagana. [58] Kubera impamvu zose zasobanuwe haruguru, Urukiko rw'Ubujurire rurasanga ubujurire bwa Tuyizere Ramadhan bufite ishingiye kuri bimwe, urubanza yajuririywe rukaba ruhindutse ku bijyanye n'igihano yahanishijwe. III. ICYEMEZO CY'URUKIKO [59] Rwemeje ko ubujurire bwatanzwe na Tuyizere Ramadhan bufite ishingiye kuri bimwe; [60] Rwemeje ko urubanza n° RPA 01600/2021/HC/RWG rwaciwe n'Urukiko Rukuru, Urugereko rwa Rwamagana ku wa 19/8/2024, ruhindutse ku birebana n'igihano Tuyizere Ramadhan yahanishijwe; [61] Ruhanishije Tuyizere Ramadhan igihano cy'igifungo cy'imyaka itanu (5); [62] Rutegetse ko amagarama y'urubanza aherera ku Isanduku ya Leta.

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