

RWANDA / JUDGMENT

Re. MUSEVENI

RADA 00003/2021/CA

COURT

Court of Appeal

DECIDED

3 March 2022

CASE / FILE NUMBER

RADA 00003/2021/CA

Source: amategeko.gov.rw · Research copy typeset by Esheria. Not court-issued or certified.

Re. MUSEVENI

- Source: Amategeko
- Section: Decisions (Judgements)
- Date: 2022-03-03
- Case/document no.: RADA 00003/2021/CA
- Collection: Court of Appeal

Text

Page 1

Re. MUSEVENI [Rwanda URUKIKO RW'UBUJURIRE – RADA 00003/2021/CA – (Munyangeri, P.J., Umugwaneza na Mukamurenzi, J.) 09 Werurwe 2022] Amategeko agenga imiburanishirize y'imanza z'ubutegetsu – Gutakamba – Ikirego cy'urubanza rw'ubutegetsu – icyemezo ku kudasubiza uwatakambiye umuyobozi – Iyo uwatakambye adasubijwe, ubutakambe bwe bufatwa nkaho bufite ishingiro uburenganzira akaba ashobora gutanga ikirego kugira ngo urukiko rutegeke ko uburenganzira bwe yatakambiraga bwubahirizwa gihe rwasanga abwemerewe – Itegeko N°22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezambano, iz'ubucuru, iz'umurimo n'iz'ubutegetsu, ingingo ya 178. Incamake y'ikibazo: Museveni yareze mu Rukiko Rukuru Akarere ka Gicumbi avuga ko kamwirukanye mu buryo budakurikije amategeko ubwo yari umunyamabanga nshingwabikorwa w'ako karere. Urukiko rwemeje ko yirukanywe mu buryo budakurikije amategeko maze rumugenera indishyi zitandukanye. Nyuma yo kwirukanwa, Minisiteri y'Ibikorwa remezo, ishingiye ku masezerano y'ubufatanye bw'imodoka yari afatanye na Leta, yamumenyesheje ko asabwa kwishyura umwenda wose, atabikora imodoka ye igafatirwa ikagurishwa mu cyamunara. Museveni yandikiye iyo Minisiteri asaba gusubizwa uburenganzira bwe yambuwe n'icyo cyemezo no guhabwa inyandiko yemeza ko

nta mwenda uwo ari wo wose ukomoka ku igurwa ry'iyi modoka akibereyemo Leta ariko yahise asubizwa ko ahawe integuza y'iminsi mirongo itatu yo kuba yishyuye uwo mwenda kubera ko atubahirije ibikubiye mu masezerano bagiranye. Ibi byatumye atakambira Nyakubahwa Minisitiri w'intebe ariko ubutakambe bwe ntibwasubizwa, atanga ikirego mu Rukiko Rukuru mu buryo bw'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe, asaba Urukiko Rukuru gutegeka ko uburenganzira bwe bwubahirizwa kuko atabusubijwe n'Urwego rw'Ubuyobozi yatakambiye, akaba nta n'igisubizo yahawe mu gihe cyagenwe n'itegeko. Urukiko Rukuru rubyibwirije rwabyukije inzitizi y'iburabubasha, rwemeza kutakira ikirego cye kuko kitarebana n'imanza z'ubutegetsi, ko ahubwo ari impaka zigomba gukemurwa n'Urukiko rubifitiye ububasha mu manza mbonezamubano. Urega yajuririye Urukiko rw'Ubujurire avuga ko Minisitiri y'Ibikorwa Remezo yafashe icyemezo cyimwambura imodoka kandi hari urubanza yatsinze rwemeje ko yirukanwe mu buryo bunyuranyije amategeko, aratakamba asaba gusubizwa iyo modoka ariko ntiyasubizwa akaba asanga iki ari icyemezo cy'ubutegetsi yafatiwe kimurenganya kandi ko nta handi yagombaga kukiregera uretse mu Rukiko ruburanisha imanza z'ubutegetsi. Urukiko rwategetse ko ikirego gisubizwa muri urwo Rukiko rukakiburanisha mu mizi kuko ari ikirego cy'ubutegetsi kandi ko kiri mu bubasha bwarwo. Urukiko Rukuru rwasuzumye ikirego cy'Urega rwemeza ko kitakiriwe, ruvuga ko kitagombaga kuregerwa mu nzira y'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe, ko ahubwo cyagombaga gutangwa mu nzira y'ibirego bisanzwe kubera ko kigaragaramo impaka zishingiye ku masezerano y'ubufatanye bw'imodoka yari afatanye na Leta. Uru rubanza Urega yarujuririye mu Rukiko rw'Ubujurire maze rusubizwa mu Rukiko Rukuru, Ibiro bya Minisitiri w'Intebe birugobokeshwamo maze hemezwa ko ikirego cy'Urega cyakiriwe, ariko ko ibyo asaba nta shingiro bifite, kuko bitagize uburenganzira atabusubijwe ku buryo Urukiko rwakwemeza ko bugomba kubahirizwa, ahubwo ko rusanga bigize ibindi bibazo asaba ko byakemurwa abiregeye mu bundi buryo bw'ibirego. Urega yajuririye mu Rukiko rw'Ubujurire asaba kuzasuzuma niba yaratakambye hagashira ukwezi gutegetswe atarashubizwa, n'agaciro kahabwa mu rwego rw'amategeko ubwo butakambe

Page 2

butasubirijwe igihe. Muri uru rubanza habanje gusuzumwa ikibazo cyo kumenya niba umucamanza ataragombaga gusuzuma ishingiro ry'ibyatakambiwe, aho Urega asaba gusubizwa uburenganzira yasabye mu ibaruwa itakamba, harimo gukuraho icyemezo gifatira imodoka, gusubizwa imodoka haba hari ibigomba kwishyurwa bikishyurwa n'Akarere ka Gicumbi. Ibiro bya Minisitiri w'Intebe byagobokeshejwe muri uru rubanza, bivuga ko ibyemezo by'ubutegetsi byose bidatakambirwa kuko aho umuburanyi atakamba mbere yo gutanga ikirego ari igihe yatakambye asaba ko icyemezo yafatiwe gikurwaho, naho igihe umuburanyi asaba indishyi, atari ngombwa ko itakamba rikorwa. Bikomeza bivuga ko Urega yasubijwe n'Umujyanama mu by'amategeko nyuma y'ukwezi, abwirwa ko nubwo habayeho imanza zirebana n'umurimo ntaho ikibazo cy'amasezerano yakozwe hagati ye na Minisitiri y'Ibikorwa Remezo cyasuzumwe, bityo ko yakwiyambaza inkiko kugira ngo ayo masezerano yakozwe kandi yabaye itegeko yubahirizwe. Bisoza bivuga ko nta nenge bibona muri uru rubanza kuko Urukiko rutari gutegeka ko

uburenganzira bwe bwubahirizwa rutabanje kureba icyo ubwo burenganzira bukomokaho. Ku kibazo cyo kumenya niba Urega afite uburenganzira ku modoka cyangwa agaciro kayo asaba gusubizwa, avuga ko yatakambye asaba gukuraho icyo cyemezo gifatira imodoka ye akayisubizwa, noneho ibyo Leta imwishyura bikishyuzwa Akarere ka Gicumbi, kuko ariko kamwirukanye ku kazi mu buryo bunyuranyije n'amategeko kandi nta kosa yakoze. Ibiro bya Minisitiri w'Intebe bivuga ko hashingiwe ku masezerano Urega yari afitanye na Minisitiri y'Ibikorwa Remezo yateganyaga ko iyo uwahawe imodoka adashoboye kwishyura itezwa cyamunara, Urega akaba yarandikiwe amenyeshwa ko imodoka yafatiriwe kubera kutubahiriza ayo masezerano. Bityo bikaba bisanga niba Urega atarishimiye icyemezo cya MINIMFRA, yari kuregera inkiko hagahamagazwa uwo bagiranye amasezerano, kuko uburenganzira asaba bukubiye muri ayo masezerano, ko Umucamanza atari guca hejuru ngo afate icyemezo atabanje kureba ishingiro ry'uburenganzira asaba. Incamake y'icyemezo: Iyo uwatakambye adasubijwe, ubutakambe bwe bufatwa nkaho bufite ishingiro bigaha umacamanza, mu gihe yaregewe, ububasha bwo gusuzuma niba uburenganzira busabwa mu butakambe bufite ishingiro. Bityo, kuba Urukiko Rukuru rwarabanje gusuzuma ibijyanye n'ibyo Museveni Sinese yasabaga mu ibaruwa yandikiye Minisitiri w'Intebe, ntibinyuranyije n'ibiteganywa n'amategeko. Ubujurire nta shingiro bufite. Imikirize y'urubanza rwaciye n'Urukiko Rukuru ntihindutse. Amagarama ahwanye n'ibyakozwe. Amategeko yashingiweho: 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 178, 180 n'ya 189. Nta manza zifashishijwe. Inyandiko z'abahanga zifashishijwe: Gérard Cornu, Vocabulaire Juridique, Assosiation Herni Capitant, 8eme edition, 2007, p335. Urubanza

Page 3

I. IMITERERE Y'URUBANZA [1] Museveni Sinèse yabaye umukozi wa Leta ku mwanya w'Umunyamabanga Nshingwabikorwa w'Akarere ka Gicumbi kuwa ku wa 04/05/2009, yirukanwa kuri uwo mwanya n'icyemezo cy'Inama Njyanama y'Akarere ka Gicumbi yateranye ku wa 22/07/2011, maze nyuma yo kutishimira icyo cyemezo, atanga ikirego mu Rukiko avuga ko yirukanwe mu buryo budakurikije amategeko. Ku wa 28/06/2013, Urukiko Rukuru mu rubanza RADA 0069/12/HC/KIG, rwemeje ko Museveni Sinèse yirukanwe mu buryo budakurikije amategeko, rumugenera 6.000.000 Frw y'indishyi z'akababaro. 1.060.940 Frw ya congé atahawe, 600.000 Frw y'igihembo cya Avoka na 10.000 Frw y'igarama. [2] Nyuma yo kwirukanwa, ku wa 13/06/2012, mu ibaruwa numero 1344/DT&PA/012, Minisitiri y'Ibikorwa Remezo ishingiyeye ku ingingo ya 5 y'amasezerano numero 199/UPPR/010 yo ku wa 06/04/2010 y'ubufatanye bw'imodoka RAB 243V Museveni Sinèse yari yaragiranye na Leta muri gahunda ya "Zero Fleet policy", yamumenyesheje ko asabwa kwishyura umwenda wose afitiye Leta, atabikora imodoka igafatirwa ikagurishwa mu cyamunara. [3] Ku itariki 09/07/2019, mu nyandiko yitwa "vehicle receiving and hand over form" Minisitiri y'Ibikorwa Remezo yafashe icyemezo cyo gufatira imodoka RAB 243V, maze ku wa 23/07/2019, Museveni Sinèse yandikira Minisitiri y'Ibikorwa Remezo asaba gusubizwa uburenganzira bwe yambuwe n'icyo cyemezo, asaba kandi guhabwa inyandiko yemeza ko nta mwenda uwo ari wo wose ukomoka ku igurwa ry'iyi modoka akibereyemo Leta.

[4] Ku wa 29/08/2019, Minisitiri y'Ibikorwa Remezo, yandikiye Museveni Sinèse ibaruwa numero 1246/TD/019, imumenyesha ko ishingiyeye ku masezerano yo gufatanya umutungo w'imodoka yo ku wa 06/04/2010 yagiranye na Minisitiri y'Ibikorwa Remezo, mu ngingo yayo ya 4 n'ya 5, imodoka RAB 243V yafatirwe kubera ko atubahirije ibikubiye muri ayo masezerano, ko ahubwo ahawe integuza y'iminsi 30 yo kuba yarangije kwishyura umwenda wose abereyemo Leta, atabikora imodoka ikagurishwa mu cyamunara. [5] Ku wa 20/09/2019, Museveni Sinèse yatakambiye Nyakubahwa Minisitiri w'Intebe (Primature) nk'Urwego rwisumbuyeho, amusaba gukurirwaho icyemezo gifatira imodoka ye, cyafashwe na Minisitiri y'Ibikorwa Remezo ku wa 09/07/2019. [6] Nyuma y'uko adahawe igisubizo cy'ibaruwa ye yo gutakamba, Museveni Sinèse ashingiyeye ku biteganywa n'ingingo ya 178, igika cya 3 y'Itegeko n°22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu, yatanze ikirego mu Rukiko Rukuru mu buryo bw'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe, asaba Urukiko Rukuru gutegeka ko uburenganzira bwe bwubahirizwa kuko atabusubijwe n'Urwego rw'Ubuyobozi yatakambiye, akaba nta n'igisubizo yahawe n'ubwo buyobozi mu gihe cyagenwe n'itegeko. [7] Ku wa 13/12/2019, Urukiko Rukuru rwaciye urubanza RAD 00013/2019/HC/KIG, maze rubyibwirije rubyutsa inzitizi y'iburabubasha, rwemeza kutakira ikirego cya Museveni Sinèse kuko kitarebana n'imanza z'ubutegetsu, ko ahubwo ari impaka zigomba gukemurwa n'Urukiko rubifitiye ububasha mu manza mbonezamubano.

1 Umuyobozi utakambiye agomba gusubiza ubwo butakambe mu gihe cy'ukwezi kumwe (1) kuburwa uherye umunsi yabubonyeho. Iyo adasubijwe, ubutakambe bufatwa nk'aho bufite ishingiro. Igika cya 5 kigateganya ko iyo uwatakambye nta gisubizo yahawe kandi atasubijwe uburenganzira bwe, ashobora gusaba urukiko ruburanisha imanza z'ubutegetsu gutegeka ko uburenganzira bwe bwubahirizwa. Icyo kirego gitangwa mu gihe kitarenze ukwezi kumwe (1) mu buryo bw'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe.

Page 4

[8] Museveni Sinèse ntiyishimiye imikirize y'urubanza, maze ajuririra Urukiko rw'Ubujurire, avuga ko Minisitiri y'Ibikorwa Remezo yafashe icyemezo kimwambura imodoka RAB 243V, kandi nyamara hari urubanza yatsinzemo Akarere ka Gicumbi rwemeje ko yirukanwe mu buryo bunyuranyije n'amategeko, akaba yaratakambiye Nyakubahwa Minisitiri w'Intebe asaba gusubizwa imodoka cyangwa agaciro kayo, ntiyamusubiza mu gihe giteganywa n'amategeko, akaba asanga iki ari icyemezo cy'ubutegetsu yafatiwe kimurenganya kandi ko nta handi yagombaga kukiregera uretse mu Rukiko ruburanisha imanza z'ubutegetsu. [9] Ku wa 19/06/2020, Urukiko rw'Ubujurire rwaciye urubanza RADA 00001/2020/CA, rwemeza ko ikirego cya Museveni Sinèse gishingiyeye ku iyubahirizwa ry'ingingo ya 178 y'Itegeko N°22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru, ko ari ikirego cy'ubutegetsu kandi ko kiri mu bubasha bw'Urukiko Rukuru, rutegeka ko ikirego gisubizwa muri urwo Rukiko rukakiburanisha mu mizi. [10] Urukiko Rukuru rwasuzumye bundi bushya ikirego cya Museveni Sinèse mu rubanza RAD 00003/20/HC/KIG rwaciye ku wa 14/08/2020, maze rushingiyeye ku biteganywa n'ingingo ya 189 y'Itegeko N°22/2018 ryo ku wa 22/04/2018

ryavuzwe haruguru2, rusanga ikirego cya Museveni kigaragaramo impaka zishingiye ku masezerano y'ubufatanye bw'imodoka yari afitanye na Leta, bityo ko bitaba ari ubutabera buboneye gufata icyemezo cyagira ingaruka ku muntu utarabaye umuburanyi mu kirego rwaregewe; rwemeza ko ikirego cya Museveni Sinèse kitakiriwe, ruvuga ko kitagombaga kuregerwa mu nzira y'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe, ko ahubwo cyagombaga gutangwa mu nzira y'ibirego bisanzwe. [11] Museveni Sinèse ntiyishimiye icyo cyemezo, ajuririra Urukiko rw'Ubujurire avuga ko urukiko Rukuru rwirengagije ibivugwa mu ngingo ya 178 igika cya 3 n'icya 5 y'Itegeko N°22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru, avuga ko nyuma y'uko Minisitiri w'Intebe adasubirije ubutakambe bwe mu gihe cyategetswe, iyi ngingo ivuga ko ubutakambe bwe bufatwa nk'ubwemewe, inzira isigaye ikaba ari ugutanga ikirego mu buryo bw'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe ivugwa mu gika cya 5 cy'iyi ngingo, aribyo yakoze. Avuga kandi ko Urukiko Rukuru rwirengagije ko Urukiko rw'Ubujurire rwategetse ko urubanza ruburanishwa mu mizi, bityo ko nta yindi nzitizi rwagombaga gusuzuma. [12] Ku wa 4/12/2020, Urukiko rw'Ubujurire rwaciye urubanza RADA 00004/2020/CA, rwemeza ko ikirego cya Museveni Sinèse kigomba kuburanishwa n'Urukiko Rukuru. [13] Urubanza rwasubiye kuburanishirizwa mu Rukiko Rukuru, maze Ibiro bya Minisitiri w'Intebe birugobokeshwamo; ubihagarariye Me Gahongayire Myriam (Intumwa ya Leta) avuga ko imodoka RAB 243V yafatiriwe igurishwa mu cyamunara kuko Museveni Sinèse atubahirije amasezerano y'ubufatanye bw'imodoka yari afitanye na Leta; ko rero mu gihe muri ayo masezerano harimo impaka ibyo yabiregera mu birego bisanzwe bitari inyandiko nsobanurakirego itanzwe n'umuburanyi umwe, kandi ko ntacyo aregera cyihutirwa kigomba kuramirwa. [14] Ku wa 3/9/2021, Urukiko Rukuru rwaciye urubanza RADA 00124/2021/HC/KIG, rwemeza ko ikirego cya Museveni Sinèse cyakiriwe, ariko ko ibyo asaba nta shingiro bifite, kuko bitagize uburenganzira atasubijwe ku buryo Urukiko rwakwemeza ko bugomba kubahirizwa, ahubwo ko rusanga bigize ibindi bibazo asaba ko byakemurwa; ibyo rero akaba yabiregera mu bundi buryo bw'ibirego, ariko atasaba ko bikemurirwa mu gusubizwa uburenganzira yavukijwe mu gihe rwasanze

2 Inyandiko nsobanurakirego itanzwe n'umuburanyi umwe ni uburyo budasanze bwo kuregera umucamanza umusaba kugira ibyo aramira mu buryo bwihuse. Ibikubiye muri iyo nyandiko bigomba kandi kuba ari ibibazo bigaragara ko nta mpaka biteye ku buryo byaba ngombwa ko undi muburanyi ahamagarwa.

Page 5

bitagize uburenganzira nk'uko bwumvikana mu ngingo ya 178 y'Itegeko N°22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru. [15] Museveni Sinèse ntiyishimiye imikiriye y'urubanza maze ajuririra Urukiko rw'Ubujurire, anenga imikiriye y'urubanza RADA 00124/2020/HC/KIG rwaciye n'Urukiko Rukuru ku wa 03/09/2021, kuba rwaratandukiriye umwimerere w'icyo yita uburenganzira asaba ko Urukiko rutegeka ko bwubahirizwa, kuko rwo rwitaruye ishingiro rikeshwa igeno ry'igika cya 3 cy'ingingo ya 178 y'Itegeko N°22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru; akaba asanga rero muri iyo mikiriye Urukiko rwaravuze ko ikirego nta shingiro gifite kandi nyamara ubutabera bugisabwamo (ikirego) buhuje rwose n'uko iryo tegeko

ryabuteganyije. Asaba Urukiko rw'Ubujurire kuzasuzuma niba yaratakambye hagashira ukwezi gutegetswe atarashyirwa, n'agaciro kahabwa mu rwego rw'amategeko ubwo butakambye butashyirwa igihe. [16] Iburanisha ry'urubanza ryashizwe ku wa 05/11/2021, uwo munsu ntirwaburanishwa, kubera ko Intumwa ya Leta yagaragaje ko ititeguye kuburana rwimurirwa ku wa 09/11/2021, mu iburanisha ry'uwo munsu ababuranyi basabye ko urubanza rusubikwa bakazakemura ikibazo mu bwumvikane, hagati aho Museveni Sinèse yigarika Avoka wamwunganiraga Me Amani Jean de Dieu wikuye mu rubanza nyuma y'uko inzitizi yo kumwigarika idahawe ishingiro mu rubanza rubanziriza urundi rwaciye ku wa 11/02/2022. Urubanza rwagiye rwimurwa kubera impamvu zitandukanye, ruburanishwa mu ruhamye ku wa 22/02/2022 arinawo munsu rwafundikiweho, Museveni Sinèse yunganiwe na Me Karemera Pierre Claver, naho Ibiro bya Minisitiri w'Intebe byagobokeshejwe bihagarariwe n'Intumwa ya Leta Me Gahongayire Myriam. II. IBIBAZO BIGIZE URUBANZA N'ISESENGURWA RYABYO

1. Kumenya niba umucamanza ataragombaga gusuzuma ishingiro ry'ibyatakambiwe [17] Museveni Sinèse n'Umwunganizi we Me Karemera Pierre Claver bavugaga ku wa 09/07/2019 Minisitiri y'Ibikorwa Remezo yafashe icyemezo cyo kumwambura imodoka RAB 243V yari afatanyije na Leta muri gahunda ya "Zero Fleet Policy", asabye kuyisubizwa ntibyakorwa, ku wa 20/09/2019, ahitamo gutakambira Nyakubahwa Minisitiri w'Intebe nk'Umuyobozi wisumbuyeho asaba kvanaho icyo cyemezo, ubwo butakambye akaba atarabuhereye igisubizo mu gihe cy'ukwezi kumwe (1) kwagenwe n'amategeko, ariyo mpamvu yatanze ikirego ashingiye ku biteganywa n'ingingo ya 178, igika cya 3 y'Itegeko N°22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi yavuzwe haruguru, asaba Urukiko gusuzuma niba yaratakambye nk'uko amategeko abiteganyaga ariko ntashyirwa nk'uko Urukiko rwabihariye rugategeka iyubahirizwa ry'uburenganzira bwe yambuwe bukomoka ku ishingiro ubwo butakambye bwahawe n'ingingo y'itegeko ryavuzwe haruguru, maze uburenganzira yasabaga muri icyo baruwa yubutakambye bugahabwa ishingiro nta zindi mpaka zigamije kubuhinyura. [18] Museveni Sinèse n'umwunganira bakomeza bavugaga ko atakambira Nyakubahwa Minisitiri w'Intebe yashingiye ku ingingo ya 178, igika cya 3 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganyaga ko uwatakambye ashubizwa mu gihe cy'ukwezi, ko hakurikijwe uko iryo tegeko ribiteganyaga uko kwezi yagombaga guhabwamo igisubizo cy'itakamba kwari kurangira ku wa 19/10/2019; ko igika cya 5 cy'icyo ingingo giteganyaga ko icyo ukwezi kurangiye uwatakambye adashyirwa, ubutakambye bwe buha bufite ishingiro, yaba atahawe uburenganzira yasabaga agasaba Urukiko ku byemeza; bityo akaba asaba gusubizwa uburenganzira yasabye mu ibaruwa itakamba yo ku wa 20/09/2019, harimo gukuraho icyemezo gifatira imodoka, gusubizwa imodoka haba hari ibigomba kwishyurwa bikishyurwa n'Akarere ka Gicumbi.

Page 6

[19] Basoza bavuga ko basanga Urukiko Rukuru rwaratandukiriye rurenga ibiteganywa n'ingingo ya 178 igika cya 3 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 yavuzwe, rushingira ku ngingo ya 189 yaryo kandi atariyo yagombaga gushingirwaho, ko nk'uko babisobanuye, basaba Urukiko gususuzuma ko yatakambye, ntasubirizwe ku gihe n'ingaruka zabyo kuko umushingamategeko avuga ko iyo uwatakambiye icyemezo atasubijwe mu gihe giteganywa n'amategeko ahabwa uburenganzira bwe. [20] Me Gahongayire Myriam avuga ko ibyemezo by'ubutegets byose bidatakambirwa kuko aho umuburanyi atakamba mbere yo gutanga ikirego ari igihe yatakambye asaba ko icyemezo yafatiwe gikurwaho, naho igihe umuburanyi asaba indishyi, atari ngombwa ko itakamba rikorwa nk'uko biteganywa n'ingingo ya 180 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegets. [21] Ku bijyanye no kuba Museveni Sinèse yaratakambiye Minisitiri w'Intebe amusaba kvanaho icyemezo cyafashwe na Minisitiri y'Ibikorwa Remezo ku wa 09/07/2019 cyamwambuye imodoka, Me Gahongayire Myriam uhagarariye PRIMATURE avuga ko ku itariki 20/09/2019, Museveni Sinèse yandikiye Nyakubahwa Minisitiri w'Intebe amutakambira, ariko kubera ubwinshi bw'akazi kaba mu Biro bya Minisitiri w'Intebe ibaruwa ya Museveni Sinèse yasubijwe n'Umujyanama mu by'amategeko mu Biro bya Minisitiri w'Intebe nyuma y'ukwezi guteganywa n'amategeko (ku itariki 3/01/2020), amubwira ko nubwo habayeho imanza zirebana n'umurimo ntaho ikibazo cy'amasezerano yakozwe hagati ye na Minisitiri y'Ibikorwa Remezo cyasuzumwe, bityo ko yakwiyambaza inkiko kugira ngo ayo masezerano yakozwe kandi yabaye itegeko yubahirizwe nk'uko ingingo ya 15 y'amasezerano ibiteganywa. Akomeza avuga ko ikirego cya Museveni Sinèse kiramutse gihawe ishingiro akemererwa ko uburenganzira yasabye bwakubahirizwa agahabwa amafaranga angana n'agaciro k'imodoka, Minisitiri y'Ibikorwa Remezo itarabonetse mu rubanza ngo hagirwe impaka kuri ayo masezerano impande zombi zagiranye ndetse zigateganyamo ibirebana n'ikemurwa ry'amakimbirane yavuka, asanga nta butabera bunoze bwaba butanzwe. [22] Me Gahongayire Myriam akomeza avuga ko nta nenge abona mu rubanza Museveni Sinèse ajuririra kuko n'ubwo ashingira ku ngingo ya 178 y'Itegeko n°22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegets, Urukiko rutari gutegeka ko uburenganzira bwe bwubahirizwa rutabanje kureba icyo ubwo burenganzira bukomokaho, rusuzuma amasezerano yakozwe hagati ya Museveni Sinèse na Minisitiri y'Ibikorwa remezo yo gufatanya imodoka, akirukanwa hashize umwaka n'amezi atatu amasezerano asinywe kandi ko igihe yirukanwaga amasezerano yahise ata agaciro, ariko ko iyo yirukanwa amaze imyaka ine (4) ntacyo Leta yari kumubaza, ko kuba yari ataramara iyo myaka no kuba atarubahirije ibikubiye mu masezerano bikaba byaratumye imodoka ye itezwa cyamunara kuko atashoboye kwishyura mu gihe yari yahawe. UKO URUKIKO RUBIBONA [23] Igika cya 1 cy'ingingo ya 178 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegets iteganywa ko ikirego gisaba gukuraho icyemezo cy'umuyobozi cyakirwa iyo cyerekeye icyemezo cy'umuyobozi cyaba cyeruye cyangwa

kiteruye. Igika cya 2 cy'iyi ngingo giteganywa ko mbere yo gutanga ikirego, unenga icyemezo cy'umuyobozi agomba kubanza gutakambira umuyobozi ufite ububasha bwisumbuye k'uwafashe icyemezo kinengwa; igika cya 3 cy'iyi ngingo kigateganywa ko umuyobozi utakambiwe agomba gusubiza ubwo butakambe mu gihe cy'ukwezi kumwe (1) kubakwa uhagaze umunsi yabubonyeho. Iyo adasubije, ubutakambe bufatwa nk'aho bufite ishingiro. Naho igika cya 5 cy'iyi ngingo giteganywa ko iyo uwatakambye nta gisubizo yahawe kandi atasubijwe uburenganzira

Page 7

bwe, ashobora gusaba urukiko ruburanisha imanza z'ubutegetsi gutegeka ko uburenganzira bwe bwubahirizwa. Icyo kirego gitangwa mu gihe kitarenze ukwezi kumwe (1) mu buryo bw'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe. [24] Urukiko rurasanga icyari kigamijwe mw'iteganywa ryakozwe n'iyi ngingo yavuzwe haruguru ari ukugira ngo abatakambiwe basubize abatakambiye ntabukererwe, hirindwe ko bahera mu gihirahiro kandi aribo batezeho ibisubizo. Ku watakambye, ibivugwa mu ngingo yavuzwe haruguru byumvikanisha ko mbere yo gutanga ikirego kiregera gukuraho icyemezo cy'ubuyobozi ari ngombwa gutakambira umuyobozi wisumbuye ku rwego rwafashe icyemezo, umuyobozi watakambiwe akaba ategatswe gusubiza mu gihe kitarenze ukwezi kumwe (1), iyo adasubije, igika cya 3 gisobanura ko ibikubiye mu ibaruwa y'itakamba bifatwa nk'aho bifite ishingiro, hanyuma uwambuwe uburenganzira akaba ashobora gutanga ikirego kugira ngo urukiko rutegeke ko uburenganzira bwe yatakambiraga bwubahirizwa gihe rwasanga abwemerewe. [25] Ku birebana n'uru rubanza, Museveni Sinèse yabaye umukozi wa Leta ku mwanya w'Umunyamabanga Nshingwabikorwa w'Akarere ka Gicumbi kuva ku wa 04/05/2009 kugeza ku wa 22/07/2011 ubwo yirukanwaga n'icyemezo cyafashwe n'inama nyanyama y'ako Karere. Muri icyo gihe Museveni Sinèse yakoreraga Leta yagiranye nayo amasezerano y'ubufatanye bw'imodoka ahabwa imodoka RAB 243V muri gahunda ya "Zero Fleet policy". Nyuma yo kwirukanwa mu kazi kwa Museveni Sinèse, ku wa 13/06/2012 Minisitiri y'Ibikorwa Remezo yamumenyesheje ko asabwa kwishyura umwenda wose afitiye Leta ujyanye n'imodoka yahawe, atabikora imodoka igafatirwa ikagurishwa mu cyamunara. [26] Nyuma y'iyi baruwa isaba Museveni Sinèse kwishyura imodoka yari afatanyije na Leta, ku wa 09/07/2019, Minisitiri y'Ibikorwa Remezo yafashe icyemezo cyo gufatira iyo modoka, ku wa 23/07/2019, Museveni Sinèse yandikira Minisitiri y'Ibikorwa Remezo asaba gusubizwa uburenganzira bwe yambuwe n'icyo cyemezo, asaba kandi guhabwa inyandiko yemeza ko nta mwenda uwo ari wo wose ukomoka ku igurwa ry'iyi modoka akibereyemo Leta, ku wa 29/08/2019, Minisitiri y'Ibikorwa Remezo imusubiza ko imodoka atayisubizwa kuko yafatiriwe bitewe n'uko atubahirije ibikubiye mu masezerano y'ubufatanye bw'imodoka bagiranye, ko ahubwo ahawe integuza y'iminsi 30 yo kuba yarangije kwishyura umwenda wose abereyemo Leta, atabikora imodoka ikagurishwa mu cyamunara. Ku wa 20/09/2019, Museveni Sinèse yatakambiye Nyakubahwa Minisitiri w'Intebe, amusaba gukurirwaho icyemezo gifatira imodoka ye, ubutakambe bwe ntibwasubizwa mu gihe giteganywa n'amategeko, bituma aregera Urukiko Rukuru asaba gusubizwa uburenganzira bwe. [27] Imikirize y'urubanza RADA 00124/2021/HC/KIG rwaciye n'Urukiko Rukuru ku wa 3/9/2021, igaragaza ko mbere yo gufata

icyemezo ku kirego cya Museveni Sinèse rwinjiye mu gusesengura ishingiro ry'uburenganzira Museveni Sinèse asaba gusubizwa avuga ko akomora ku kuba yaratakambiye Nyakubahwa Minisitiri w'Intebe ntasubizwe, nk'uko biteganywa n'ingingo ya 178 y'Itegeko N°22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru. [28] Uru Rukiko rusanga, ibyo Museveni Sinèse avuga ko Urukiko Rukuru rwagombaga gutegeka ko uburenganzira bwe bwubahirizwa agahabwa ibyo yatakambiye rudasuzumye ishingiro ryabyo, nta shingiro bifite kuko imyumvire y'ingingo ashingiraho ajurira, itabuza umucamanza gusuzuma ibijyanye n'uburenganzira asaba gusubizwa, cyane cyane ko n'igika cya gatatu cy'ingingo ya 178 y'Itegeko N°22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru nacyo kitavuga ko iyo uwatakambye adasubijwe, ubutakambe bufatwa nk'ubufite ishingiro ahubwo umushingamategeko yavuze ko bufatwa nk'aho bufite ishingiro. Bivuze ko atemeje ko ubutakambe bufatwa nk'ubufite ishingiro mu ngingo zabwo zose Ibi akaba ari byo biha umacamanza, mu gihe yaregewe, ububasha bwo gusuzuma

Page 8

niba uburenganzira busabwa mu butakambe bufite ishingiro koko kubera ko atafata icyemezo gitegeka gusa ko ibisabwa mu butakambe byubahirizwa atabanje kureba ishingiro ryabyo. [29] Urukiko ruragasanga rero, kuba Urukiko Rukuru rwarasuzumye ibijyanye n'ibyo Museveni Sinèse yasabaga mu ibaruwa yandikiye Minisitiri w'Intebe rutaranyuranyije n'ibiteganywa n'iyi ngingo, bityo ubujurire bwa Museveni Sinèse kuri iyi ngingo bukaba nta shingiro bufite.

2. Kumenya niba Museveni Sinèse afite uburenganzira ku modoka cyangwa agaciro kayo asaba gusubizwa [30] Museveni Sinèse n'umwunganira bavuga ko uburenganzira asaba gusubizwa harimo iseswa ry'icyemezo cyafashwe na Minisitiri y'Ibikorwa Remezo ku wa 09/07/2019 kikamwambura imodoka, kuyisubizwa cyangwa guhabwa agaciro kayo mu gihe kuyisubizwa bidashoboka. [31] Museveni Sinèse n'umwunganira bavuga ko Minisitiri y'Ibikorwa Remezo ishingiyeye ku ngingo ya 5, igika cya mbere y'amasezerano bagiranye yafatiriyeye imodoka ye ivuga ko yavuye mu kazi imyaka ine (4) iteganywa kugira ngo ayishyure itararangira, ikavuga ko kugira ngo ayegukane yagombaga kwishyura $\frac{1}{2}$ cy'ikiguzi cyayo kingana na 4.5000.000 Frw, kuko babahaga imodoka ya 9.000.000 Frw, ariko ko iyo ngingo ya 5, igika cya 2 y'amasezerano y'ubufatanye bw'imodoka yari afatanye na Minisitiri y'Ibikorwa Remezo iteganywa ko uwirukanwe mu kazi kubera makosa ye yishyura amafaranga yari asigaye kuri 50% y'ikiguzi cy'imodoka cyatanzwe na Leta ndetse n'imisoro, ariko we akaba atarirukanwe mu kazi kubera amakosa ye nk'uko bigaragagazwa n'urubanza RADA 00069/2012/HC/KIG rwemeza ko yirukanwe mu kazi mu buryo bunyuranyije n'amategeko, nta kosa yakozwe; ko ari yo mpamvu ayo mafaranga 4.500.000 Frw yishyuzwa atayemera kuko yirukanywe mu kazi nta kosa yakozwe. [32] Museveni Sinèse n'umwunganira bakomeza bavuga ko, imodoka yafatiriwe ku wa 09/07/2019, ku wa 23/07/2019 Museveni Sinèse yandikira MINIMFRA (Minisitiri y'Ibikorwa Remezo) ayigaragariza ko uburyo imodoka yafashwemo bunyuranyije n'amategeko, ku wa 29/08/2019 MINIMFRA imusubiza imuhakanira ibyo yayisabye, inamumenyesha ko nyuma y'iminsi mirongo itatu (30) imodoka izatezwa cyamunara, ku wa 20/09/2019 atakambira Primature (Ibiko bya Minisitiri w'Intebe) ayisaba gukuraho icyo cyemezo gifatira imodoka ye, asaba gusubizwa imodoka noneho ibyo Leta imwishyuzwa

bikishyuzwa Akarere ka Gicumbi, kuko ariko kamwirukanye ku kazi mu buryo bunyuranyije n'amategeko kandi nta kosa yakoze, ko icyo MINIMFRA yamurenganyijeho ari uko imwishyuza amafaranga y'imodoka nk'aho yikuye mu kazi cyangwa yakoze ikosa kandi inkiko zaremeje ko nta kosa yakoze, ko bibaza niba umuntu warenganyijwe bikemezwa n'inkiko nawe yishyuzwa ayo mafaranga. [33] Museveni Sinèse asoza avuga ko icyemezo gitakambirwa ari igisaba ko icyemezo cy'ubutegetsi gikurwaho, kandi nawe ari icyo yasabaga, ko nta by'indishyi yasabye, ko ahubwo yasabaga gusubizwa imodoka, yaba yaragurishijwe agasubizwa agaciro kayo, ko kubirebana n'amasezerano, hasuzumwa icyatumye adakomeza, bikagaragara ko ari ukubera akarengane yagiriwe. Naho kubirebana na cyamunara ivugwa, ko kuva mu Rukiko Rukuru basabye ko igaragarizwa ibimenyetso, ariko ko nta byagaragaye, kandi ko atumva uburyo cyamunara yakorwa abafatanyije umutungo badahari, ko n'ibyangombwa byose by'imodoka akibifite. [34] Me Gahongayire Myriam uburanira Ibiro bya Minisitiri w'Intebe byagobokeshejwe mu rubanza, avuga ko ku itariki ya 06/04/2010 hakozwe amasezerano nimeru 199/UPPR/010 yo gufatanya umutungo w'imodoka RAB 243V hagati ya Minisitiri y'Ibikorwa Remezo na Museveni Sinèse, impande zombi zemeranya ko iyo modoka izaba umutungo w'impande zombi, ndetse mu ngingo yayo ya 15, impande zombi zemeranywa ko impaka zose zizavuka zirebana n'ayo masezerano zidashobora gucyemuka mu bwumvikane, zizashyikirizwa inkiko zibifitiye ububasha. Bakomeza

Page 9

bavuga ko Museveni Sinèse yaje kwirukanwa mu kazi ataramara imyaka ine (4) yateganywaga kugira ngo uwafatanyije imodoka na Leta ayegukane burundu, maze ku wa 29/08/2019, Minisitiri y'Ibikorwa Remezo, imwandikira ibaruwa nimeru 1246/TD/019 imumenyesha ko ishingiyeye ku ngingo ya 5 y'amasezerano bagiranye, imodoka RAB 243V yafatiriwe kubera kutubahiriza ibikubiye muri ayo masezerano. [35] Me Gahongayire Myriam avuga kandi ko ingingo ya 3 n'ya 5 agace ka 4 z'amasezerano y'ubufatanye bw'imodoka hagati ya Museveni Sinèse na Leta iteganya ko iyo uwahawe imodoka adashoboye kwishyura itezwa cyamunara, Museveni Sinèse akaba yarandikwe amenyeshwa ko imodoka yafatiriwe kubera kutubahiriza amasezerano. Avuga na none ko ingingo ya 15 y'ayo masezerano iteganya ko iyo havutse impaka zikemurwa hitabajwe inkiko, bityo akaba asanga niba Museveni Sinèse atarishimiye icyemezo cya MINIMFRA, yari kuregera inkiko hagahamagazwa uwo bagiranye amasezerano, kuko uburenganzira asaba bukubiye muri ayo masezerano, ko Umucamanza atari guca hejuru ngo afate icyemezo atabanje kureba ishingiro ry'uburenganzira Museveni Sinèse asaba. UKO URUKIKO RUBIBONA [36] Igika cya 5 cy'ingingo ya 178 y'Itegeko n°22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'ianza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, giteganya ko iyo uwatakambye nta gisubizo yahawe kandi atasubijwe uburenganzira bwe, ashobora gusaba urukiko ruburanisha imanza z'ubutegetsi gutegeka ko uburenganzira bwe bwubahirizwa. Icyo kirego gitangwa mu gihe kitarenze ukwezi kumwe (1) mu buryo bw'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe, ibiri muri iki gika byumvikanisha ko uwatakambiye icyemezo cy'umuyobozi ntahabwe igisubizo kandi ntasubizwe uburenganzira bwe, ashobora kuregera

Urukiko ruburanisha imanza z'ubutegetsi atanze ikirego mu buryo bw'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe asaba ko uburenganzira bwe bwubahirizwa. Uburenganzira buvugwa mu gika kivuzwe haruguru bw'umvikana nk'uburenganzira ubwo aribwo bwose abantu ku giti cyabo cyangwa muri rusange bahabwa n'amategeko³. [37] Ingingo ya 5, igika cya 1 y'amasezerano nimeru 199/UPPR/10 yo gufatanya umutungo yakozwe hagati ya Leta y'u Rwanda na Museveni Sinèse ku wa 06/04/2010 iteganya ko iyo ufatanyije imodoka na Leta ahagaritswe ku kazi ke, yeguye cyangwa ataye akazi ku bushake, cyangwa se yirukanywe ku kazi bitewe n'imyitwarire idahwitse, cyangwa ikindi cyaha yakoze kigatuma yirukanwa, ahita ahagarara kubona ya mafaranga yahabwaga ya buri kwezi yo gufata neza imodoka kandi akishyura amafaranga azaba asigaye kuri ya mafaranga angana na 50% y'uruhare rwa Leta ku modoka, n'asigaye ku misoro yose n'amahoro Leta iba yaramutangiye hakurikijwe igihe yari amze mu kazi. Ibi bikurikizwa mu gihe cy'inyaka ine (4) aya masezerano atangiye gushyirwa mu bikorwa. [38] Igika cya 2 cy'iyi ngingo giteganya ko mu gihe ufatanyije imodoka na Leta, ku yindi mpamvu mu zitavuzwe mu ngingoya 5, igika cya 1. avuye mu kazi ka Leta mbere y'uko igihe cy'inyaka ine

- (4) cy'aya masezerano kirangira, asubiza Leta ya mafaranga 50% Leta yatanze hakuwemo agaciro k'imodoka k'igihe ayimaranye agahita anahagarara guhabwa ya mafaranga Leta yamuhaga buri kwezi yo kwita ku modoka.... [39] Igika cya 4 cy'ingingo ya 5 y'amasezerano yakomeje kuvugwa haruguru ivuga ko mu gihe ufatanyije imodoka na Leta adashoboye kwishyura mu gihe cyavuzwe mu ngingo ya 5, igika cya 3

3 Toute prérogative reconnue par la loi aux hommes individuellement ou collectivement", Gérard Cornu, Vocabulaire Juridique, Association Herni Capitant, 8eme edition, 2007, p335.

Page 10

mu buryo bumwe mu buteganywa mu gika cya 5.1 na 5.2, imodoka izafatirwa itezwe cyamunara hakurikijwe amategeko [40] Mu rubanza RADA 00124/2021/HC/KIG rujuririrwa, Urukiko Rukuru rwasanze mu gusesengura ingingo ya 178 y'Itegeko N°22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi yavuzwe haruguru, ibijyanye n'ibyo Museveni Sinèse yaregeye byo gusubizwa uburenganzira bwe, aribwo guhabwa imodoka yakoresheye mu kazi cyangwa akayirihwa, bitafatwa ko ari uburenganzira bwe atasubijwe yasaba ko bwakubahirizwa, kuko niba imodoka asaba gusubizwa yari yarayihawe nk'igikoreshe mu kazi, akaba yari ayifatanije na Leta y'u Rwanda mu masezerano "Vehicle co-ownership agreement" nk'uko abivuga, nyuma akaza kwirukanwa mu kazi, ari nabwo Leta yaje gufatira iyo modoka, rusanga yaratswe iyo modoka na Leta kuko atari akiri mu mwanya w'abayigenerwa (Umunyamabanga Nshingwabikorwa w'Akarere ka Gicumbi). [41] Urukiko Rukuru rwasanze n'ubwo Museveni Sinèse yaje gutsinda imanza yaregaga umukoresha we (Akarere ka Gicumbi), inkiko zikemeza ko yirukanywe mu buryo budakurikije amategeko, ibyo yavukijwe byo kwakwa imodoka yari afatanyije na Leta n'ibindi yita uburenganzira mu kirego cye, bitagize muri kamere yabyo uburenganzira buteganywa mu ngingo ya 178 igika cya 5 yavuzwe haruguru, kuko ibyo aregera ko atabisubijwe

atakibifiteho uburenganzira yakomoraga ku mwanya w'akazi yari ariho, ahubwo abaye aregera gusubizwa imodoka cyangwa se kuyirihwa, ibyo yabisaba mu buryo busanzwe bw'ibirego birebana n'abagiranye amasezerano y'ubufatanye ku kintu cyigaruriwe n'umwe muri bo mu buryo undi abona budakurikije amategeko ku ruhare rwa buri wese no kucyo buri wese agomba undi cyangwa se agomba kuryozwa niba gihari, ariko ibyo guhabwa iyo modoka cyangwa kuyirihwa n'ibindi, bikaba bitafatwa ko ari uburenganzira atasubijwe na Leta bugomba kubahirizwa. [42] Urukiko rw'Ubujurire rurasanga nk'uko n'Urukiko rukuru rwabibonye, ibyo Museveni Sinèse asaba gusubizwa yita ko ari uburenganzira bwe aribyo gusubizwa imodoka RAB 243V yari afatanyije na Leta muri gahunda ya "Zero Fleet policy" cyangwa gusubizwa agaciro kayo mu gihe iyo modoka yaba idashobora kuboneka, atabihabwa kuko bitagize uburenganzira bwe nk'uko abivuga, kubera ko uburenganzira yari afite kuri iyo modoka yabukomoraga ku masezerano nimeron 199/UPPR/010 y'ubufatanye bw'imodoka yagiranye na Leta ku wa 06/04/2010, ayo masezerano akaba yarabayeho kugira ngo Museveni Sinèse ahabwe imodoka nk'igikoresho cyo ku mworohereza mu kazi yari yarahawe ko kuba Umunyamabanga Nshingwabikorwa w'Akarere ka Gicumbi, ako kazi ayo amasezerano yari ashingiyeho kakaba karahagaze igihe cy'imyaka ine (4) giteganyijwe cyo kurangiza kwishyura imodoka kitararangira. [43] Ibyo bikaba byumvikanisha ko kuva umunsi yahagarikwaga ku kazi nta burenganzira yari agifite kuri iyo modoka mu gihe akazi kayimuhesheje kahagaze, ntanishyure amafaranga yasabwaga kwishyura kugira ngo ayegukane nk'uko biteganywa mu ngingo ya 5, igika cya 2 y'amasezerano y'ubufatanye bw'imodoka yakomeje kuvugwa haruguru. [44] Ibyo Museveni Sinèse n'abunganizi be baburanisha by'uko atakwishyuzwa 50% y'imodoka, ko yakwishyuzwa Akarere ka Gicumbi kamwirukanye mu kazi mu buryo bunyuranyije n'amategeko kuko yagatsinze mu rubanza RADA 0069/12/HC/KIG; Urukiko rusanga nta shingiro ryabyo, kuko nta tegeko riteganywa ko igihe uwirukanywe mu kazi bigaragaye ko yirukanywe mu buryo bunyuranyije n'amategeko uwamwirukanye mu kazi ariwe usubiza Leta 50% y'uruhare rw'uwo yirukanye agomba kwishyura ngo yegukane imodoka yakoresheye mu kazi. [45] Urukiko rurasanga icyo Museveni Sinèse yagombaga gusaba Akarere ka Gicumbi kamwirukanye mu buryo bunyuranyije n'amategeko ari ukumuha indishyi, kandi byarakozwe mu

Page 11

rubanza RADA 0069/12/HC/KIG rwavuzwe haruguru, akaba rero atahindukira ngo asabe ko kamwishyurira 50% y'uruhare ku modoka yakoresheye mu kazi ashingiyeho ku kuba kamwirukanye mu buryo budakurikije amategeko, mu gihe bitari munshingazo zako. [46] Kubera impamvu zose zimaze gusobanurwa haruguru, Urukiko rukaba rusanga kuba ubutakambe bwa Museveni Sinèse bwaratinze gusubizwa bidahagije ngo asubizwe ibyo yita ko ari uburenganzira bwe aribyo gusubizwa imodoka RAB 243V cyangwa agaciro kayo, kuko iyo modoka nta burenganzira akiyifiteho mu gihe yari yarayihawe kubera akazi yakoraga, nyuma akaza kugahagarikwaho, na nyuma y'aho asabiwe gusububiza imodoka ntiyishyure uruhare rwe yasabwaga kwishyura kugirango ayegukane, bityo ubujurire bwe buka nta shingiro bufite, hakaba hagumye urubanza RADA 00124/2021/HC/KIG ajuririra. III ICYEMEZO CY'URUKIKO [47] Rwemeje ko ubujurire bwa Museveni Sinèse nta shingiro bufite. [48] Rwemeje ko imikirize

y'urubanza RADA 00124/2021/HC/KIG, rwaciwe n'Urukiko Rukuru ku wa 03/09/2021 idahindutse.
[49] Rutegetse ko amagarama y'urubanza ahwanye n'ibyakoze byose.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.amategeko.gov.rw/view/doc/10156/10692>

CASE PAGE <https://chat.esheria.ai/case-law/rwanda/museveni-sinese-v-ibiro-bya-minisitiri-wintebe-primature-administrativeappeals-court-of-appeal-2022>

Prepared on 13 October 2026 · Esheria