

RWANDA / JUDGMENT

# NDEJEJE v. LETA Y'U RWANDA (MINALOC)

RADA 0036/12/CS

## COURT

Supreme Court

## DECIDED

2 September 2014

## CASE / FILE NUMBER

RADA 0036/12/CS

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## NDEJEJE v. LETA Y'U RWANDA (MINALOC)

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### Text

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NDEJEJE V LETA Y'U RWANDA (MINALOC) [Rwanda URUKIKO RW'IKIRENGA – RADA 0036/12/CS (Mutashya, P.J., Nyirinkwaya na Rugabirwa, J.) 02 Nzeri 2014] Amategeko agenga imiburanishirije y'imanza z'ubutegetsi – Ibimenyetso – Umucamanza afite ububasha bwugutuma ibimenyetso ibindi niyo iburansha ryaba ripfundikiye.. Incamake y'ikibazo: Ndejeje yareze Leta y'u Rwanda mu Rukiko Rukuru avuga ko yananiwe kubahiriza amasezerano bagiranye ayo gutegura ibiganiro byamamaza ibikorwa byayo byu mushinga DCDP, kuva utangiye kugera urangiye bikaba byaragombaga guhita kuri radiyo na television by'u Rwanda. Akavuga ko yanze kumuha amafaranga yakoreye arimo 330.750 Frw akomoka ku kinyuranyo hagati y'igiciro bumvikanye kuzajya ahabwa kuri buri kiganiro kingana na 129.500 Frw ariko akishyurwa 124.250 mu biganiro 63 yari yakoze, amafaranga yamukase w'umusoro mu kwezi kwa 12/2008 kandi yarawutanze mu kwezi kwa gatatu k'uwo mwaka asaba n'indishyi zinyuranye Urwo Rukiko rwemeze ko ikirego cye ntashingiro gifite rumutegeka guha Leta y'u Rwanda indishyi zu gushorwa mu manza. Ndejeje yajuririye Urukiko rw'Ikirenga avuga ko urukiko rubanza rwirengagije ibimenyetso yarushyikirije, asaba ko byasuzumwa, maze akagenerwa indishyi yaregeye. Urwo rubanza rwaraburanishijwe rurapfundikirwa. Incamake y'icyemezo: Mbere yo guca urubanza burundu, ni

ngombwa ko iburanisha ry'urubanza risubukurwa Ubuyobozi Bukuru bw'Urwego rw'Igihugu rw'Itangazamakuru (RBA) bukyashyikiriza kopi z'ibiganiro by'umushinga DCDP/MINALOC byatambutse kuri Télévision Rwanda muri gahunda z'ibiganiro byo kwegereza abaturage ubuyobozi.. Iburanisha ry'urubanza rizongera gufungurwa ; Ubuyobozi Bukuru bw'Urwego rw'Igihugu rw'Itangazamakuru (RBA) bugomba gushyikiriza Urukiko kopi z'ibiganiro by'umushinga DCDP/MINALOC byatambutse kuri Télévision Rwanda muri gahunda z'ibiganiro byo kwegereza abaturage ubuyobozi.. Ntamategeko yashingiweho Nta manza zifashishijwe Urubanza IMITERERE Y'URUBANZA [1] Mu mwaka wa 2006 Leta y'u Rwanda (MINALOC), ibinyujije mu mushinga wayo DCDP, yatanze isoko ryo gutegura ibiganiro byamamaza ibikorwa byawo kuva utangiye kugera urangiye bikaba byaragombaga guhitwa kuri radiyo na television by'u Rwanda, NDEJEJE Jean Damascène aba ariwe uritsindira, maze impande zombi zigirana amasezerano yagiye avugururwa nyuma.

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[2] NDEJEJE yareze Leta (MINALOC) avuga ko mu mpera z'umwaka wa 2008 aribwo yatangiye kutubahiriza ayo masezerano yanga kumwishyura amafaranga yakoreye arimo 330.750 Frw akomoka ku kinyuranyo hagati y'igiciro bumvikanye kuzajya ahabwa kuri buri kiganiro kingana na 129.500 Frw ariko akishyurwa 124.250 mu biganiro 63 yari yakozwe, n'amafaranga 217.700 y'umusoro wa 3% yamukase mu kwezi kwa 12/2008 kandi yarawutanze mu kwezi kwa gatatu k'uwo mwaka. Yaregeye kandi 518.000 Frw y'ibiganiro bine yateguye bikanahita kuri radio Rwanda, 4.092.000 Frw aturuka kuri "bons de commande" n° 686/2008, n° 694/2008 na n° 562/2006, indishyi z'igihombo (manque à gagner) cya 40.533.500 Frw yatejwe no kugabanya umubare w'ibiganiro kuri Radio Rwanda, n'iz'igihombo cya 89.358.000 Frw y'ibiganiro byagabanyijwe kuri Télévision Rwanda kubera ko amasezerano yari ay'igihe kitazwi, na 11.000.000 Frw y'ideni yafashe muri CT Murambi kugirango abashe kubahiriza ayo masezerano, bikaba ngombwa ko agurisha ingwate kugira ngo yishyure kuko Leta itayubahirije. [3] Urukiko Rukuru rwasanze amafaranga NDEJEJE yaregeye y'ikinyuranyo hagati y'ayo yagombaga guhembwa n'ayo yahembwe nta bimenyetso byayo yatanze, naho ay'ibiganiro bine yateguye mu kwezi kwa 12/2008 n'akomoka kuri "bons de commande" ebyiri yahawe adafite ishingiro kuko amwe yemeye ko yayahawe, andi ntatange ibimenyetso byerekana koko ko ibyo biganiro byahitishijwe kuri Télévision. Ku birebana n'umusoro wafatiriwe wa 3%, urukiko rwavuze ko byakozwe mu rwego rwo kubahiriza itegeko n° 16/2005 ryo kuwa 18/08/2005 rigena imisoro itaziguye ku musaruro. [4] Ku byerekeye ibihombo yaregeye, urukiko rwasanze amasezerano ya nyuma yabaye tariki ya 03/03/2008 yari ay'amezi icyenda yashoboraga kongerwa, akaba rero nyuma yaho yaragombaga guta agaciro, naho ku zindi ndishyi z'akababaro, ikurikiranarubanza n'igihombo cya Avoka ruvuga ko atazihabwa kubera ko ikirego cyeyi nta shingiro gifite. [5] Ku ndishyi zasabwe na Leta kubera gushorwa mu manza, urukiko rwategetse NDEJEJE kuyiha 500.000 Frw. [6] NDEJEJE yajuririye Urukiko rw'Ikirenga avuga ko urukiko rubanza rwirengagije ibimenyetso yarushyikirije, asaba ko byasuzumwa, maze akagenerwa indishyi yaregeye. [7] Urubanza rwaburanishijwe mu ruhamwe tariki ya 14/10/2014, NDEJEJE Jean Damascène yunganiwe na

Me NIYIBIZI Jean Baptiste, Leta y'u Rwanda ihagarariwe na Me MBONERA Théophile, Intumwa ya Leta, iburanisha rirapfundikirwa, bamenyeshwa ko urubanza ruzasomwa kuwa 21/11/2014. [8] Nyuma yo gusuzuma dosiye mu mwiherero, Urukiko rurasanga, mbere yo guca urubanza burundu, ari ngombwa ko iburanisha ry'urubanza risubukurwa kugirango Ubuyobozi Bukuru bw'Urwego rw'Igihugu rw'Itangazamakuru (RBA) burushyikirize kopi z'ibiganiro by'umushinga DCDP/MINALOC buvuga mu ibaruwa yabwo n° 0954/12.01 yo kuwa 18/08/2014 bwandikiye Me NIYIBIZI, ko byatambutse kuri Télévision Rwanda muri gahunda z'ibiganiro byo kwegereza abaturage ubuyobozi. [9] Ibyo biganiro ni ibi bikurikira: - Imihigo y'Uturere Nyamagabe, Nyagatare, Gatsibo, Gicumbi na Huye; - Gutanga inka i Gicumbi; - Ibyagezweho mu mwaka wa 2007, ibiteganyijwe mu mwaka wa 2008; - Imihigo y'Akarere ka Bugesera (umuhinzi w'imyumbati).

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ICYEMEZO CY'URUKIKO [10] Rwemeje ko iburanisha ry'urubanza rizongera gufungurwa tariki ya 20/01/2015. [11] Rutegetse ko Ubuyobozi Bukuru bw'Urwego rw'Igihugu rw'Itangazamakuru (RBA) burushyikiriza kopi z'ibiganiro by'umushinga DCDP/MINALOC byavuzwe haruguru, byatambutse kuri Télévision Rwanda muri gahunda z'ibiganiro byo kwegereza abaturage ubuyobozi. [12] Ruvuze ko amagarama y'urubanza asubitswe.

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