

RWANDA / JUDGMENT

UBUSHINJACYAHA v. NTIBIBUKA

RPA 00018/2022/CA

COURT

Court of Appeal

DECIDED

14 March 2025

CASE / FILE NUMBER

RPA 00018/2022/CA

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UBUSHINJACYAHA v. NTIBIBUKA

- Source: Amategeko
- Section: Decisions (Judgements)
- Date: 2025-03-14
- Case/document no.: RPA 00018/2022/CA
- Collection: Court of Appeal

Text

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UBUSHINJACYAHA v. NTIBIBUKA [Rwanda URUKIKO RW'UBUJURIRE – RPA 00018/2022/CA (Gakwaya P.J.) 14 Werurwe 2025] Amategeko agenga ibimenyetso – Ubuhamya – Nubwo abatangabuhamya babajijwe baba bafite icyo bapfa n'abaregwa, ibyo ntibyafatwa nk'umuziro kuribo utuma batabazwa, icy'ingenzi ni uko imvugo yabo itapfa kwemerwa cyangwa ngo ihakanwe itabanje gusuzumwa n'Urukiko. Incamacye y'ikibazo: Ubushinjacyaha bwareze Ntibibuka mu Rukiko Rukuru, Urugereko rwa Musanze, bumukurikiranyeho icyaha cyo gukwiza amakuru atariyo cyangwa icengezamatwara bigamije kwangisha rubanda Leta y'u Rwanda. Urwo Rukiko rwaciye urubanza, rushingiye kukwivuguruza kwe mubihe bitandukanye no kubuhamya bwatanzwe n'abatanga buhamya batandukanye rumuhamya icyaha, rumuhanisha igihano cy'igifungo cy'imyaka irindwi (7). Ntibibuka yajuririye Urukiko rw'Ubujurire avuga ko yaburanishijwe ku cyaha cyari cyaramaze gukurwaho n'itegeko kandi ko yahamijwe icyaha kidafitiwe ibimenyetso, anavuga ko atemera raporo ya Intelligence Officer w'Ikigo cya gisirikare cya Mukamira yashingiweho nk'ikimenyetso kimuhamya icyaha kandi ibiyikubiyemo ari ibyo yabwiwe, ko ndetse Urukiko Rukuru rwasesenguye nabi ibyo Umushingamategeko yashatse kuvuga mu ngingo ya 194 y'Itegeko N° 68/2018 ryo ku wa 30/8/2018. Ubushinjacyaha buvuga ko

kuba haragaragajwe ibimenyetso bihamya ko Ntibibuka yavuze amagambo y'ibihuha agamije kwangisha rubanda ubutegets, akaba yarajuriye ariko ntashobore kubivuguruza, nta cyatuma urubanza yajuririye ruhinduka. Incamacye y'icyemezo: 1. Nubwo abatangabuhamya babajijwe baba bafite icyo bapfa n'abaregwa, ibyo ntibifatwa nk'umuziro kuribo utuma batabazwa, icy'ingenzi ni uko imvugo yabo itapfa kwemerwa cyangwa ngo ihakanwe itabanje gusuzumwa n'Urukiko.

2. Agaciro k'ubuhamya ntigashingira ku babutanga, ahubwo gashingiye k'ukuri gukubiye muri ubwo buhamya, kwemezwa gusa n'Urukiko nyuma yo gusesengura imvugo z'abatangabuhamya.
3. Mu bujurire, 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.

Ubujurire nta shingiro bufite.

Amategeko yashingiweho:

Itegeko N° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange, Ingingo ya 194.

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Itegeko N° 15/2004 ryo ku wa 12/6/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, Ingingo ya 71.

Imanza zifashishijwe: Ubushinjacyaha vs Sgt. Biziyaremye & Cpl. Ngabonziza, RPAA 0117/07/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 17/9/2010. Ubushinjacyaha vs Nshimiyimana n'abandi, RPAA 0059/08/CS, rwaciwe n'Urukiko rw'Ikirenga ku wa 19/11/2010.

Urubanza I. IMITERERE Y'URUBANZA [1] Ku wa 16/10/2019, Ntibibuka Olivier ari mu mahugurwa n'abandi bahoze ari abarwanyi ba FDLR, yateguwe n'ingabo z'u Rwanda mu kigo cya Mukamira, baganiriye ku gitero cyagabwe n'umutwe w'iterabwoba wa RDLR-RUD- Urunana, mu Kinigi mu ijoro ryo ku wa 4/10 rishyira ku wa 5/10/2019, bica abaturage cumi na bane (14) hakoreshejwe intwari gakondo, bavuga uburyo adui (umwanzi) yishe abaturage, hanyuma we abaca mu ijamba avuga ko abo baturage bishwe na Leta y'u Rwanda, ko nta mwanzu (adui) wateye ari ukubeshya, ahubwo ko ari amayeri ya Kagame yo kwica abaturage bakabeshyera FDLR, abonye ntawe ushyigikiye ayo magambo ye arigendera, abo bari kumwe babibwira abayobozi babo. [2] Iperereza rirangiye, Ubushinjacyaha bwareze Ntibibuka Olivier mu Rukiko Rukuru, Urugereko rwa Musanze icyaha cyo gukwiza amakuru atariyo cyangwa icengezamatwara bigamije kwangisha rubanda Leta y'u Rwanda, busaba ko cyamuhama, agahanishwa igihano cy'igifungo cy'imyaka icumi (10), hashingiwe ku ngingo ya 194 y'Itegeko no 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange. [3] Ntibibuka Olivier yaburanye ahakana icyaha aregwa, avuga ko ibyo ashinjwa ari ukumubeshyera, ko Leta yamugiriye neza nta mpamvu afite yari gutuma ayivuga nabi. [4] Mu rubanza no RP 00033/2020/HC/MUS rwaciwe n'Urukiko Rukuru, Urugereko rwa Musanze ku wa 15/12/2020, rushingiye ku kuba Ntibibuka Olivier

yaragiye yivuguruza ahinduranya imvugo mu Bugenzacyaha, mu Bushinjacyaha no mu Rukiko, rushingiye kandi ku mvugo z'abatangabuhamya Kamineza Nsengiyumva na Kagorore Etienne, rwemeje ko amagambo Ntibibuka Olivier yavuze agize icyaha kuko ari ibihuha adafitiye ibimenyetso, kandi bikaba bishobora gutuma abatwaga cyangwa amahanga byanga Leta y'u Rwanda, bityo uko gukwiza ibihuha by'uho ubutegetsi bwitwaza ibitero bukica abantu, kandi atagaragaza ko ibyo avuga ari ukuri, bikaba bigize icyaha, rumuhanisha igihano cy'igifungo cy'imyaka irindwi (7).

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[5] Olivier yajuririye Urukiko rw'Ubujurire ku wa 5/1/2021, avuga ko yaburanishijwe ku cyaha giteganywa n'ingingo ya 2361 y'Itegeko no 68/2018 ryo ku wa 30/8/2018 riteganywa ibyaha n'ibihano muri rusange kandi icyo cyaha cyari cyaramaze gukurwaho n'ingingo ya 10 y'Itegeko n° 69/2019 ryo ku wa 8/11/2019 rihindura Itegeko no 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru. Avuga kandi ko yahamijwe icyaha kidafitiye ibimenyetso, ko ndetse atemera raporo ya Intelligence Officer w'Ikigo cya gisirikare cya Mukamira barimo, yashingiweho nk'ikimenyetso kimuhamya icyaha kandi ibiyikubiyemo ari ibyo yabwiwe; ko ndetse Urukiko Rukuru rwasesenguye nabi ibyo Umushingamategeko yashatse kuvuga mu ngingo ya 194 y'Itegeko no 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru, iteganywa icyaha yahamijwe. [6] Mu mwanzuro w'inyongera wo ku wa 14/11/2024, Ntibibuka Olivier yavuze ko kuba Urukiko rwabanje rwaramuhamije icyaha rushingiye kuri raporo ya Intelligence Officer w'Ikigo cya gisirikare cya Mukamira binyuranyije n'ingingo ya 732 y'Itegeko no 15/2004 ryo ku wa 12/6/2004 ry'ibimenyetso. Yavuze kandi ko urwo Rukiko rutagombaga kumuhamya icyaha rushingiye ku buhamya bwa Kamineza Nsengiyumva umushinja ibinyoma kubera ibyo basanzwe bapfa, asaba kugirwa umwere. [7] Ubushinjacyaha buvuye ko kuba haragaragajwe ibimenyetso bihamya ko Ntibibuka Olivier yavuze amagambo y'ibihuha agamije kwangisha rubanda ubutegetsi, akaba yarajuriye ariko ntashobore kubivuguruza, nta cyatuma urubanza yajuririye ruhinduka. [8] Urubanza rwahawe no RPA 00018/2021/CA, ruburanishwa ku wa 19/2/2025, Ntibibuka Olivier yunganiwe na Me Uzabakiriho Irénée, Ubushinjacyaha buhagarariye na Habineza Jean Damascène, Umushinjacyaha ku rwego rw'Igihugu. [9] Muri iryo buranisha, Ntibibuka Olivier yavuze ko aretse ingingo y'ubujurire irebana n'ingingo ya 236 y'Itegeko no 68/2018 ryo ku wa 30/8/2018 riteganywa ibyaha n'ibihano muri rusange, nk'uko ryahinduwe kugeza ubu, ko akomeza gusa n'ingingo zinega ubuhamya bwashingiweho n'Urukiko rubanza, raporo yakozwe na Intelligence Officer yashingiweho n'ibisobanuro bitaribyo byantanzwe ku ngingo ya 194 y'Itegeko no 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru. [10] Harebwe ibiteganywa n'Itegeko n'ibikorwa byakozwe n'uregwa, uru Rukiko rubyibwirije rwazamuye ikibazo kirebana no kumenya inyito y'icyaha ikwiye. Hashingiwe kandi ku myanzuro y'ababuranyi, hanasuzumwa niba Urukiko rubanza rwaramuhamije Ntibibuka Olivier icyaha rushingiye ku buhamya butizewe no ku mabwire. II. IKIBAZO KIGIZE URUBANZA N'ISESENGURA RYACYO Kumenya niba Urukiko rubanza rwaramuhamije Ntibibuka Olivier icyaha rushingiye ku buhamya butizewe no ku mabwire, ndetse n'inyito ibikorwa yakoze bikwiye guhabwa

1 Ingingo ya 236 ivugwa n'uregwa iteganya icyaha cyo gutuka cyangwa gusebya Perezida wa Repubulika, ariko nk'uko bigaragara mu rubanza sicyo cyaha yaburanishijweho. 2 "(...) abantu babwirwa amabanga kubera umurimo bashinzwe cyangwa umwuga wabo bashobora guhabwa uruhusa rwo kudatangwaho abatangabuhamya mu rukiko, keretse iyo hari ikimenyetso cyerekana ko babimenye ku bundi buryo budafite ihuriro n'ibanga ry'umwuga wabo (...)"

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[11] Ntibibuka Olivier na Me Uzabakiriho Irénée, umwunganira, bavuga ko banenga urubanza rujuririrwa kuba Urukiko rubanza rwarashingiye ku mvugo za Kamineza Nsengiyumva, nyamara bari benshi mu kigo, akaba ariwe wenyine wumvise amagambo aregwa, nta wundi muntu wabajijwe ngo abyemeze, ko rero kuba imvugo ze zidashyigikiwe n'imvugo z'abandi bantu, urwo Rukiko rutari kuziha agaciro. Bakomeza bavuga ko barunenga kuba rwarashingiye kuri raporo yakozwe na Intelligence Officer, nyamara atari ahari igihe bavuga ko yavugiye aya magambo, yari mu kazi muri bureau ye, akaba ibyo yanditse ari ibyo yabwiwe. Basoza basaba ko hagaragazwa ibimenyetso bifatika nka radio cyangwa telefone aho bafashe amajwi ye, kuko Kamineza Nsengiyumva amufitiye urwango ku mpamvu y'uko yamufashe acuruza ibiyobyabwenge, aramurega arafungwa. [12] Ku birebana n'ingingo ya 194 y'Itegeko no 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange, nk'uko ryahinduwe kugeza ubu, Ntibibuka Olivier na Me Uzabakiriho Irénée bavuga ko n'ubwo amagambo aregwa ntayo yavuze, ariko Urukiko rubanza ntirwanagaragaje uko yagiye akwirakwiza ayo makuru, nyamara amagambo aregwa ari ikiganiro cyabaye hagati y'abantu, ndeste nta bushake n'umugambi yari afite wo kuyakwirakwiza. Basoza bavuga ko haba ingingo ya 194, haba ingingo ya 204 y'iryo Tegeko, zitashingirwaho Ntibibuka Olivier ahamwe n'ibikorwa aregwa, kuko nta cyaha yakoze, akaba agomba kugirwa umwere. [13] Ubushinjacyaha buvuga ko ibivugwa na Ntibibuka Olivier ko anenga Urukiko rubanza kuba rwarashingiye ku mvugo za Kamineza Nsengiyumva umushinja, bitahabwa agaciro kuko uretse no kuba adatanga ikimenyetso kigaragaza ko bafitanye ibibazo, atari we wenyine amushinja, hari na Kagorore Etienne, ndetse ubwe hari igihe yavuze ko ntacyo bapfa kuko atamuzi, ariko mu by'ukuri baraziranye kuko bavanye muri FDLR. Buvuga kandi ko usibye n'ibyo Ntibibuka Olivier agenda ahinduranya imvugo, rimwe yemera ko hari ikiganiro bagiranye ku gitero kivugwa, ubundi akabihakana. [14] Ku birebana na raporo yakozwe na Intelligence Officer yashingiweho, Ntibibuka Olivier anenga, Ubushinjacyaha buvuga ko Urukiko arirwo ruha agaciro ibimenyetso byagaragajwe rumaze kubisesengura, kandi ko adatanga ikindi kimenyetso kivuguruza iyo raporo, ndetse amakuru ayikubiyemo yaturutse ku iperereza ryakozwe. [15] Ku byerekeye impamvu uregwa agaragaza avuga ko Urukiko rwabanje rutubahirije ibiteganywa n'ingingo ya 194 y'Itegeko no 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru kuko rutaragaragaje uko yagiye akwirakwiza ayo makuru, Ubushinjacyaha buvuga ko nta nyungu afite yo kubivuga kuko ahakana icyaha aregwa, bivuze rero ko hari ibyo yemera yakoze. Busoza buvuga ko ibivugwa mu ngingo ya 204 y'iryo Tegeko aribyo bihura neza n'ibikorwa Ntibibuka Olivier aregwa, aho kuba ibiteganywa n'ingingo ya 194 yavuzwe. UKO URUKIKO RUBIBONA [16] Impaka ziri muri iki kibazo ni

ukumenya niba mu guhamya Ntibibuka Olivier, Urukiko rwabanje rwarakoze amakosa yo gushingira ku bimenyetso bitizewe kandi rutagaragaje ibikorwa bigize icyaha aregwa, ndetse niyo byagaragara ko yaba yarabikoze, kugaragaza icyaha giteganyijwe n'Itegeko gihura nabyo.

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- [17] Mu rubanza no RPAA 0117/07/CS3 rwaciwe n'Urukiko rw'Ikirenga rusesengura ingingo ya 71 y'Itegeko n° 15/2004 ryo ku wa 12/6/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo rwemeje ko n'ubwo abatangabuhamya babajijwe baba bafite icyo bapfa n'abaregwa, ibyo ntibitafatwa nk'umuziro kuribo utuma batabazwa, ko icy'ingenzi ari uko imvugo yabo itapfa kwemerwa cyangwa ngo ihakanwe itabanje gusuzumwa n'Urukiko. Muri uru rubanza kandi byemejwe ko ukwivuguruza kutafatirwa gusa ku magambo umutangabuhamya akoresha cyangwa kudahuza neza imvugo mu gusobanura imigendekere y'ibyo atangira ubuhamya, ko icya ngombwa ari uko ireme ry'ibyo avuga (substance) ridahinduka. [18] Mu rubanza n° RPAA 0059/08/CS4 rwaciwe n'Urukiko rw'Ikirenga ku wa 19/11/2010, rwemeje ko agaciro k'ubuhamya kadashyirwa ku babutanga, ahubwo gashingiye k'ukuri gukubiye muri ubwo buhamya, kwemezwa gusa n'Urukiko nyuma yo gusesengura imvugo z'abatangabuhamya. [19] Nk'uko byemejwe mu rubanza n° RPA/Gen. 00001/2022/CA rwaciwe n'uru Rukiko ku wa 14/2/2025, mu bujuriye, 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. [20] Mu rubanza n° RPAA 00692/2021/CA rwaciwe ku wa 20/1/2023 n'uru Rukiko, hemejwe ko harebwe cyane cyane ku mwihariko w'imanza nshinjabyaha, ibimenyetso byose bishobora gushingirwaho mu gihe bigaragaza ukuri kw'ibyabaye (principe de la liberté de la preuve en matière pénale), ababuranyi bakaba barahawe uburyo bwo kuhaba ngo banyomozanye, kandi Urukiko rukaba arirwo rwemeza ko ibyo bimenyetso bishobora kwemerwa. [21] Nk'uko byemejwe mu rubanza n° RPA 00037/2022/CA rwaciwe n'uru Rukiko ku wa 28/5/2024, harebwe ikiciro cy'ibyaha ingingo ya 194 y'Itegeko no 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru, iherereyemo ikiciro cy'ibyaha bihungabanya umutekano w'igihugu, iyo ngingo ihana icyaha cyo gukwiza amakuru atariyo cyangwa icengezamatwara kigamije kwangisha Leta y'u Rwanda ibihugu by'amahanga, bivuze ko ibikorwa bivugwamo bifite aho bihuriye n'ibihugu by'amahanga, mu gihe ingingo ya 204 y'iryo Tegeko iherereye mu kiciro cy'ibyaha bihungabanya umutekano mu gihugu (bivutsa umudendeko mu gihugu), ryo rihana icyaha cyo guteza imvururu cyangwa imidugararo muri rubanda. [22] Ibyemejwe mu rubanza ruvugwa mu gace kabanziriza aka bisobanura ko ingingo ya 194 irebana n'ibikorwa bihungabanya umudendeko wa Leta n'ibindi bihugu, ni ukuvuga ibikorwa bigizwe no gukwiza amakuru atariyo cyangwa icengezamatwara bigamije kwangisha Leta y'u Rwanda mu bihugu by'amahanga, ariko ingingo ya 204 yo irebana n'ibikorwa bivutsa umudendeko mu gihugu byakozwe n'umuntu uteza imvururu cyangwa imidugararo muri rubanda. [23] Nk'uko bigaragara kuva mu gace ka 10 kugeza mu ka 15, Urukiko rubanza rushingiye ku buhamya bwa Sgt. Kamineza Nsengiyumva na Cpl. Kagorore Etienne bashinja Ntibibuka

Olivier

3 Reba urubanza no RPAA 0117/07/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 17/9/2010, haburana Ubushinjacyaha na Sgt. Biziyaremye Jean Baptiste na Cpl. Ngabonziza Faustin. 4 Reba urubanza n° RPAA 0059/08/CS, rwaciwe n'Urukiko rw'Ikirenga ku wa 19/11/2010, haburana Ubushinjacyaha na Nshimiimana Alexis n'abandi.

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ko yavuze amagambo aregwa5 bari mu karuhuko gato k'iminota nka cumi n'itanu (15) no ku mvugo z'uregwa zivuguruzanya yivugiye mu Bugenzacyaha, no mu Rukiko, aho yavuze ko umuntu baturukanye muri Congo muri FDLR ariwe umushinja ayo magambo kubera ko yamusize mu mashyamba, akaba amufitiye inzika, aza kuvuga ko yemera ko baganiriye ku bitero byo mu Kinigi ariko ko ayo magambo ntayo yavuze, ko atazi icyo apfa na Sgt. Kamineza Nsengiyumva na Cpl. Kagorore Etienne bamushinja kuko atabazi, na none ahindura imvugo avuga ko abeshyerwa n'abo mu muryango wa Cpl. Habineza kuko yafungishije muramu we na sebwewe (...), rwemeje ko amagambo yavuzwe n'uregwa agize icyaha cyo gukwiza amakuru atari yo agamije kwangisha abantu Leta y'u Rwanda. [24] Mu nyandikomvugo ye mu Bugenzacyaha, Sgt. Kamineza Nsengiyumva yasobanuye ko bagiye mu karuhuko k'iminota mike, bari kumwe n'abandi banakosi, harimo Kagorore Etienne n'abandi atibuka amazina, hatangira ikiganiro cy'ukuntu haduyi yateye mu Kinigi, akica abaturage, Ntibibuka Olivier yahise avuga ati: "ntago ari haduyi wishe bariya baturage mu Kinigi, ni amayeri Kagame yakoresheje ngo babice, barangije babigereka kuri FDLR. Ngo ni gute wananirwa gutera defence ugahitamo kwica abaturage". Yasobanuye kandi ko akimara kubivuga abantu benshi bari aho bahise bigendera, kuko n'ubwo bari muri icyo kigo, ariko bari bavuye ahantu hatandukanye. Yanasobanuye ko nyuma yo kubivuga, babibwiye Ubuyobozi bubakuriye. [25] Mu Bugenzacyaha, Cpl. Kagorore Etienne yasobanuye ko aya magambo Ntibibuka Olivier yayavuze kandi we ubwe yamwiyumviye ayavuga, hari banakosi benshi, bari mu karuhuko k'iminota itanu (5), batangira kuganira ku buryo haduyi yateye mu Kinigi bica abaturage bakoresheje intwari gakondo. [26] Ku birebana n'ibivugwa na Ntibibuka Olivier ko Urukiko rubanza rutari gushingira ku mvugo zitizewe za Sgt. Kamineza Nsengiyumva kuko zidashyigikiwe n'ubundi buhamya, Urukiko rw'Ubujurire rurasanga bitahabwa agaciro kubera ko nk'uko byagaragajwe haruguru, urwo Rukiko rwafashe icyemezo cyarwo rushingira no ku buhamya bwa Cpl. Kagorore Etienne washimangiye ibyavuzwe na Sgt. Kamineza Nsengiyumva. [27] Ku birebana n'ibivugwa na Ntibibuka Olivier ko Urukiko rwabanje rutari guha agaciro imvugo za Sgt. Kamineza Nsengiyumva kuko dosiye igaragaza ko amagambo aregwa, yayavuze hari abantu benshi, nyamara hakaba harabajijwe umuntu umwe gusa, Urukiko rw'Ubujurire rurasanga bitahabwa agaciro kuko nk'uko byavuzwe mu gace kabanjiriza aka, hatabajijwe umutangabuhamya umwe, ndetse hashingiwe ku murongo wagaragajwe haruguru, agaciro k'ubuhamya ntigashingira ku babutanga, ahubwo gashingiye k'ukuri gukubiye muri ubwo buhamya, kandi kemezwa gusa n'Urukiko nyuma yo gusesengura imvugo z'abatangabuhamya. [28] Ku byerekeranye n'ibivugwa na Ntibibuka Olivier ko Urukiko rwabanje rutari gushingira ku buhamya bwa Sgt. Kamineza Nsengiyumva kuko amufitiye urwango ku mpamvu y'uko yamufashe acuruza ibiyobyabwenge, akamurega akafungwa, Urukiko rw'Ubujurire rurasanga bitahabwa

agaciro kubera ko nk'uko byagaragajwe haruguru mu mirongo y'amategeko abiteganya, atagaragaza inenge ku bisobanuro byatanzwe n'Urukiko rwabanje rusubiza kuri iki

5 " Ntago ari haduyi wishe bariya baturage mu Kinigi, ni amayeri Kagame yakoresheje ngo babice barangije babigereka kuri FDLR, ngo ni gute wanabirwa gutera "defence", ugahitamo kwica abaturage".

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kibazo6 , kandi bikaba bitemewe ko mu bujurire, uwajuriye agaruka (asubira) gusa ku ngingo ze yaburanishije ku rwego rwa mbere, zitahawe ishingiro, atagaragaje amakosa Urukiko rwabanje rwaba rwarakoze ruzitesha agaciro n'uko ayo makosa agomba gukosorwa. Rurasanga kandi bitahabwa agaciro kuko nk'uko byemejwe mu wundi murongo nawo wavuzwe haruguru, n'ubwo abatangabuhamya babajijwe baba bafite icyo bapfa n'abaregwa, ibyo bitafatwa nk'umuziro kuribo utuma batabazwa, ko icy'ingenzi ari uko imvugo yabo itapfa kwemerwa cyangwa ngo ihakanwe itabanje gusuzumwa n'Urukiko. [29] Ku byerekeranye n'ibyo uregwa avuga anenga Urukiko rwabanje kuba rwarashingiye kuri raporo yakozwe na Intelligence Officer, nyamara atari ahari igihe bivugwa ko yavugiye ayo magambo, Urukiko rw'Ubujurire rurasanga bitahabwa agaciro kuko ntaho bigaragara mu rubanza rujuririrwa ko urwo Rukiko rwamuhamije icyaha aregwa rushingiye kuri iyo raporo, bivuze ko avugisha urwo Rukiko ibyo rutavuze, kandi adashobora kurunenga kubyo rutagaragaje. [30] Ku birebana n'ibyo uregwa avuga by'uko Urukiko rwabanje rutari kumuhamya icyaha aregwa mu gihe hataragaragajwe ibimenyetso bifatika nka radio cyangwa telefone byamufashe amajwi, Urukiko rw'Ubujurire rurasanga bitahabwa agaciro kuko ntaho Itegeko rivuga ko ukurikiranyweho icyaha nk'icyo Ntibibuka Olivier yarezwe, kimuhama kandi akagihanirwa ari uko hagaragajwe amajwi yafashwe. Rurasanga ahubwo nk'uko byagaragajwe haruguru, mu manza nshinjabyaha, ibimenyetso byose byabonetse mu buryo bwemewe n'amategeko bishobora gushingirwaho mu gihe bigaragaza ukuri kw'ibyabaye, icyangombwa ni uko abababuranyi baba barahawe uburyo bwo kuhaba ngo banyomozanye. [31] Hashingiwe ku byagaragajwe haruguru, Urukiko rw'Ubujurire rurasanga mu guhamya Ntibibuka Olivier icyaha aregwa nta kosa Urukiko rwabanje rwakoze rushingira ku mvugo z'abatangabuhamya bamushinja, ndetse no ku mvugo ze bwite zivuguruzanya, bityo ubujurire bwe nta shingiro bufite. [32] Urukiko rw'Ubujurire rurasanga ariko harebwe imigendekere y'icyaha uregwa yakoze, ni ukuvuga ahanu Ntibibuka Olivier yavugiye ayo magambo mu kigo cya Mukamira ari kumwe n'abandi bantu (Abanyarwanda) bari baje mu mahugurwa yateguwe na RDF, aya magambo akaba ataravuze agamije kwangisha amahanga Leta y'u Rwanda, ahubwo ibikorwa bye bikaba bihura n'ibiteganywa n'ingingo ya 204 y'iryo Tegeko, iherereye mu kicio cy'ibyaha bihungabanya umutekano mu gihugu (bivutsa umudendezo mu gihugu), kuko yayavuze ashaka kwangisha rubanda Ubutegetsi buriho no kubyutsa imidugararo mu gihugu, bityo akaba agomba guhamwa n'icyaha cyo guteza imvururu cyangwa imidugararo muri rubanda, akaba ari nacyo ahanirwa, aho kuba icyaha cyo gukwiza amakuru atariyo cyangwa icengezamatwara bigamije kwangisha Leta y'u Rwanda mu bihugu by'amahanga.

6 Mu gace ka cumi na gatatu (13) k'urubanza rujuririrwa, Urukiko rwabanje rwasobanuye ko ibivugwa na Ntibibuka Olivier ko aya magambo yayatwerewe n'abo yareze ko bacuruza kanyanga, bitahabwa agaciro kuko nta bimenyetso abitangira, bikaba kandi bitari ngombwa kubaza Umukuru w'Umudugudu kuko n'ubwo yaba yarabareze ko bacuruza kanyanga, ubwabyo bidahagije ngo hemezwe ku bamubeshyera, ikiyongeraho kandi ni uko iyi mpamvu atari yo yatanze mu Bushinjacyaha kuko ho yavuze ko ntacyo apfa n'abamushinja kuko atabazi".

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III. ICYEMEZO CY'URUKIKO [33] Rwemeje ko ubujurire bwatanzwe na Ntibibuka Olivier nta shingiro bufite. [34] Rwemeje ko urubanza n° RP 00033/2020/CA rwajuririwe rwaciwe n'Urukiko Rukuru, Urugereko rwa Musanze ku wa 15/12/2020 ruhindutse gusa ku birebana n'icyaha Ntibibuka Olivier yahamijwe. [35] Rwemeje ko Ntibibuka Olivier ahamwa n'icyaha cyo guteza imvururu cyangwa imidugararo muri rubanda, aho kuba icyaha cyo gukwiza amakuru atariyo cyangwa icengezamatwara bigamije kwangisha Leta y'u Rwanda mu bihugu by'amahanga. [36] Rwemeje ko igihano cy'igifungo cy'imyaka irindwi (7) yakatiwe ku rwego rwa mbere, kigumyeho. [37] Rutegetse ko amagarama y'urubanza aherera ku Isanduku ya Leta.

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Prepared on 14 October 2026 · Esheria