

RWANDA / JUDGMENT

NYIRINKINDI v. EDCL N'UNDI

RS/INJUST/RAD00002/2024/SC

COURT

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NYIRINKINDI v. EDCL N'UNDI

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Text

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NYIRINKINDI v. EDCL N'UNDI [Rwanda URUKIKO RW'IKIRENGA – RS/INJUST/RAD00002/2024/SC (Hitiyaremye, P.J., Kazungu na Kalihangabo, J.) 24 Ukwakira 2025] Amategeko agenga ibimenyetso – Itangwa ry'ibimenyetso – Inshingano z'urega zo kugaragaza ibimenyetso – Urega agomba kugaragaza ibimenyetso bidashidinywaho by'ibyo aregera, iyo atabitanze cyangwa agatanga ibishidikanywaho, aratsindwa. Incamake y'ikibazo: Nyirinkindi yatanze ikirego mu Rukiko Rwisumbuye rwa Nyarugenge arega Ikigo gishinzwe guteza imbere ingufu (Energy Development Corporation Limited: EDCL), asaba guhabwa indishyi ikwiye kubwo kunyuza umuyoboro w'amashanyarazi Gasogi-Gikomero mu isambu ye, hakaba harashyizwemo amapoto 3. Avuga ko uwo muyoboro washyizwemo mu mwaka wa 2013, aza kwandikira Ubuyobozi bw'icyo Kigo ku wa 20/06/2013 no ku wa 12/06/2019 abasaba kubahiriza ibiteganywa n'ingingo ya 35 y'Itegeko N° 32/2015 ryo ku wa 11/06/2015 ryerekeranye no kwimura abantu ku mpamvu z'inyungu rusange, ariko ntiyagira igisubizo ahabwa. EDCL ivuga ko mu mwaka wa 2013 Umujyi wa Kigali wubatse umuyoboro w'amashanyarazi Gasogi- Gikomero muri gahunda yo kugeza umuriro ku banyarwanda, uwo muyoboro ukaba waranyujijwe mu isambu ya Nyirinkindi ariko ukaba udashobora kwangiza imyaka. Ivuga ko uwo muyoboro ariwo ucanira Urega hamwe

n'abaturanyi be. Iki kigo cyasabye ko Umujyi wa Kigali ugobokeshwa mu rubanza kuza gusobanura iyo gahunda yo kugeza umuriro ku banyarwanda bose. Umujyi wa Kigali uvuga ko indishyi Urega asaba adakwiye kuzihabwa kuko kunyuzwa umuyoboro w'amashanyarazi muri kariya gace byari mu nyungu z'abahatuye bose, ndetse ukaba utamubuza gukoresha ubutaka bwe. Urukiko Rwisumbuye rwaciye urubanza rwemeza ko ikirego cy'Urega nta shingiro gifite, ajuriye mu Rukiko Rukuru narwo rwemeza ko ubujurire bwe nta shingiro bufite. Ibi byatumye yandikira Perezida w'Urukiko rw'Ubujurire asaba ko urubanza rwaciye n'Urukiko Rukuru rwasubirwamo ku mpamvu z'akarengane, nawe yandika abisaba Perezida w'Urukiko rw'Ikirenga arabyemeza rwongera kuburanishwa n'uru Rukiko rw'Ikirenga. Muri uru rubanza rw'akarengane Urega yabanje gutanga inzitizi avuga ko Umujyi wa Kigali nta bubasha n'inyungu ufite, kubera ko ibikorwa byose byakozwe ku butaka bwe ari EDCL yabikoze, ariko ntiyakirwa kuko Urukiko rwasanze imanza ziza mu karengane ziba zaraciye burundu, zifite abaziburanye, bityo akaba ari na bo bagaruka mu rubanza rw'akarengane. Urubanza rwakomeje mu mizi, impande zombi zemeranywa ko hashyirwaho umuhuza, bamwemeranywaho n'Urukiko ruramwemeza, ariko nta mwanzuro unogeye impande zombi washoboye kugerwaho, bituma inzira y'ubuhuza ihagarara urubanza rukomeza mu Rukiko. Mbere y'uko ibiranisha rikomeza, Urukiko rwageze aho ikiburanwa kiri, Urega arugaragariza ko ayo mapoto 3 amubangamiye, abajijwe uko abangamira ubuhinzi bwe, asubiza ko bitamubangamiye cyane, ko ariko hari ubuhinzi atemerewe gukora, nk'ubw'ibiti by'imbuta n'ibindi bizamuka cyane. Iyi akaba ariyo mpamvu asaba guhabwa indishyi kubera uwo muyoboro w'amashanyarazi wanyujijwe mu isambu ye cyangwa EDCL igategekwa kwimura amapoto yashyizemo, itabikora ikamwimura. Kuri icyo kibazo kijyanye no gusaba indishyi ikwiye, EDCL ivuga ko Uregwa adakwiye guhabwa izo ndishyi asaba, kuko yitwara nk'uwiye ku bw'inyungu rusange, nyamara isambu ye ayikoresha uko ashatse nta nkomyi, nk'uko uru Rukiko rwabibonye ubwo rwari aho ikiburanwa kiri. Ivuga kandi ko ibyo kwimura ayo mapoto bitahabwa ishingiro kuko Urega atabashije kugaragaza ingano y'ibyangijwe nayo, ko na raporo aburanisha yakozwe na EWSA nta mitungo ye yangijwe igaragaramo. Isoza isaba ko

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ibirebana no kuba yakwimurwa we n'umuryango we bitasuzumwa muri uru rubanza kuko bitigeze biburanwa mu manza zabanje. Umujyi wa Kigali nawo waburanye uvuga ko Urega adakwiriye guhabwa indishyi asaba, kuko ari mu nkiko zabanje no muri uru Rukiko ntiyigeze agaragaza ingano y'ibyo yangirijwe n'uwo muyoboro. Uvuga kandi ko kwimura amapoto nabyo bitahabwa agaciro kuko harebwe igihe umuyoboro wubakiye mu mwaka wa 2013 atigeze agaragaza ko yaba yarabujijwe gukoresha ubutaka bwe icyo bwagenewe (ubuhinzi), dore ko n'ubu agikomeje kubuhinga. Ibyo Urega avuga ko amapoto yakwimurwa kugira ngo abone aho kubaka binyuranyije n'amategako kuko ubutaka bwe bwagenewe ubuhinzi. Umujyi nawo usaba ko ikibazo cyo kwimura Urega hamwe n'umuryango kitasuzumwa muri uru rubanza rw'akarengane kuko bitigeze biburanwaho mbere. Incamake y'icyemezo: 1. Urega agomba kugaragaza ibimenyetso bidashidinywaho by'ibyo aregera, iyo atabitanze cyangwa agatanga ibishidikanywaho, aratsindwa. Bityo, Nyirinkindi Amiel ntiyahabwa indishyi asaba, kuko nta kimenyetso yatanze kigaragaza ko umuyoboro Gasogi-Gikomero umubangamiye, ko hari

uwamubujije guhinga ubutaka bwe busanzwe bugenewe ubuhinzi, no kuba nta kimenyetso kigaragaza ko hari imitungo ye yangiritse ubwo uwo muyoboro washyirwagaho.

2. Kuba urubanza rushobora gusubirishwamo ku mpamvu z'akarengane rukaburanishwa bundi bushya, ntibivuze ko umuburanyi yakwitwaza iyo nzira kugira ngo abe yazana ibirego bishya kandi bitararegawe ngo bisuzumwe mu rubanza rusabirwa gusubirwamo, kuko umuburanyi atavuga ko yagize akarengane ku kibazo atigeze asaba Urukiko gusuzuma. Ikirego gisaba gusubirishamo urubanza ku mpamvu z'akarengane, nta shingiro gifite. Amategeko yashingiweho: Itegeko N° 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso, ingingo ya 4. Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegets, ingingo ya 12 n'ya 111. Imanza zifashishijwe: RS/INJUST/RC00013/2024/SC, Kamali Léonard n'abandi na Radiant, rwaciwe n'Urukiko rw'Ikirenga ku wa 20/06/2025. RS/INJUST/RC00020/2022/SC, Gasana Tim Alphonse na Radiant, rwaciwe n'Urukiko w'Ikirenga ku wa 12/05/2023. RS/INJUST/RC00005/2019/CS, Karambizi Balthazar na Niyibizi Irénée n'abandi, rwaciwe n'Urukiko rw'Ikirenga ku wa 26/03/2021. RS/INJUST/RAD00003/2018/SC, Mujawamariya Claire n'Undi na Nyirandikubwimana Marie Goretti n'Undi, rwaciwe n'Urukiko rw'Ikirenga ku wa 17/07/2020. RS/INJUST/RC00002/2018/SC, Uwimana Marine na Kagitare Dancille, rwaciwe n'Urukiko rw'Ikirenga ku wa 21/02/2020. Urubanza I. IMITERERE Y'URUBANZA [1] Mu mwaka wa 2013, muri gahunda yo kugeza umuriro ku banyarwanda, hubatswe umuyoboro w'amashanyarazi Gasogi – Gikomero, uca mu isambu ya Nyirinkindi Amiel, hakaba harashyizwemo amapoto 3.

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- [2] Nyirinkindi Amiel yatanze ikirego mu Rukiko Rwisumbuye rwa Nyarugenge arega Ikigo gishinzwe guteza imbere ingufu (Energy Development Corporation Limited), iza kwitwa EDCL muri uru rubanza, asaba guhabwa indishyi ikwiye ku hanyujijwe umuyoboro w'amashanyarazi Gasogi – Gikomero cyangwa uwo muyoboro ukimurwa. Yakomeje avuga ko ku wa 20/06/2013 no ku wa 12/06/2019 yandikiye Umuyobozi Mukuru wa EWSA n'uwa EDCL (ni yo yahindutse ishambi rishinzwe amashanyarazi muri REG Ltd) abasaba kubahiriza ibiteganywa n'ingingo ya 35 y'Itegeko N° 32/2015 ryo ku wa 11/06/2015 ryerekeranye no kwimura abantu ku mpamvu z'inyungu rusange, ariko ntiyagira igisubizo ahabwa. [3] EDCL yireguye ivuga ko mu mwaka wa 2013, muri gahunda yo kugeza umuriro ku banyarwanda, Umujyi wa Kigali wubatse umuyoboro w'amashanyarazi uca Gasogi – Gikomero, ko kandi ari umuyoboro udashobora kwangiza imyaka, akaba ari nawo ugeza umuriro kuri Nyirinkindi Amiel n'abaturanyi be. Yasabye ko Umujyi wa Kigali ugobokeshwa mu rubanza kugira ngo usobanure uko politiki yo gukwirakwiza umuriro muri kariya gace yari iteye, inasobanure niba Nyirinkindi Amiel hari icyo yakwishyurwa, cyane cyane ko rimwe na rimwe umuriro ukwirakwizwa mu baturage ku busabe bwabo, hagamijwe kubakura mu bwigunge. [4] Umujyi wa Kigali wagobokeshejwe mu rubanza, maze uvuga ko nta ndishyi Nyirinkindi Amiel akwiye guhabwa kuko kunyuzwa umuyoboro w'amashanyarazi muri kariya gace byari mu nyungu z'abahatuye bose, ko kandi nta n'ibimenyetso yerekana bigaragaza ko atemerewe

gukoresha ubutaka bwe kuko ntawigeze abimubuza. [5] Ku wa 29/11/2022, Urukiko Rwisumbuye rwa Nyarugenge rwaciye urubanza RAD000170/2021/TGI/NYGE, rwemeza ko ikirego cya Nyirinkindi Amiel nta shingiro gifite, ko nta ndishyi agomba guhabwa kubera ko atabashije kugaragaza ikimenyetso cy'ibikorwa by'ubuhinzi bikorerwa muri uwo murima byabangamiwe n'umuyoboro w'amashanyarazi wahanyujijwe, ko kandi byakozwe mu rwego rwo guteza imbere abahaturiyeye bese na we arimo. [6] Nyirinkindi Amiel yajuririye urwo rubanza mu Rukiko Rukuru, ku wa 15/03/2024, urwo Rukiko ruca urubanza RADA00013/2024/HC/KIG, rwemeza ko ubujurire bwe nta shingiro bufite, ko urubanza rwajuririye rudahindutse. [7] Mu gufata icyo cyemezo, Urukiko rwashingiye ku mpamvu zikurikira: - Kuba nta kimenyetso Nyirinkindi Amiel atanga kigaragaza ko uwo muyoboro umubangamiye; - Kuba nta kimenyetso atanga cyerekana ko hari uwamubujije guhinga ubutaka bwe busanzwe bugenewe ubuhinzi; - Kuba nta kimenyetso kigaragaza ko imitungo ye yangiritse uretse kubivuga mu magambo gusa. [8] Nyirinkindi Amiel yandikiye Perezida w'Urukiko rw'Ubujuje asaba ko urubanza RADA00013/2024/HC/KIG rwaciye n'Urukiko Rukuru ku wa 15/03/2024 rusubirwamo ku mpamvu z'akarengane. Amaze gusuzuma icyo kibazo, Perezida w'Urukiko rw'Ubujuje yandikiye Perezida w'Urukiko rw'Ikirenga asaba ko urwo rubanza rwasubirwamo ku mpamvu z'akarengane. Amaze gusuzuma raporo yarukozweho, ku wa 07/08/2024 yafashe icyemezo numero 114/CJ/2024 ko rwoherezwa mu Bwanditsi bw'Urukiko rw'Ikirenga kugira ngo ruzongere ruburanishwe, ruhabwa RS/INJUST/RAD00002/2024/SC.

Indishyi ikwiye ishobora kuba amafaranga y'u Rwanda, cyangwa ubundi buryo bwumvikanyweho hagati y'uwimura n'uwimurwa. Kugira ngo iyimurwa ryemerwe, indishyi ikwiye ihabwa uwimurwa igomba kurikwira mbere y'uko yimuka.

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[9] Urubanza rwaburanishijwe mu ruhame ku wa 11/02/2025, Nyirinkindi Amiel yunganiye na Me Mukahiganiro Julianne, EDCL ihagarariye na Me Munyentwari Jean Maurice, naho Umujyi wa Kigali uhagarariye na Me Ntirushwamaboko Aloys. [10] Urukiko rwabanje gusuzuma inzitizi yatanze na Nyirinkindi Amiel aho yavugaga ko Umujyi wa Kigali udakwiye kwemererwa kuburana uru rubanza kuko nta bubasha n'inyungu ufite, kubera ko ibikorwa byose byakozwe ku butaka bwe ari EDCL yabikoze, kandi ko amasezerano EDCL yerekanye isaba ko ugobokeshwa muri uru rubanza yasinywe nyuma yo kwigabiza isambu ye. Abandi baburanyi bo bavuze ko iyo nzitizi nta shingiro ifite kubera ko iki kibazo kitigeze kiburanwaho ngo gisuzumwe haba mu Rukiko Rwisumbuye ari naho Umujyi wa Kigali wagobokesherejwe ndetse no mu Rukiko Rukuru. [11] Nyuma yo kumva ibivugwa n'impande zombi, Urukiko rwasanze imanza ziza mu karengane ziba zaraciye burundu, zifite abaziburanye bityo akaba ari na bo bagaruka mu rubanza rw'akarengane, rwemeza ko inzitizi yatanze na Nyirinkindi Amiel idashobora kwakirwa mu gihe atagaragaza ko iyi nzitizi ari yo akarengane ke gashingiyeho nk'uko byafashweho umurongo mu zindi manza zaciye n'uru Rukiko. [12] Nyuma y'icyo cyemezo, hakurikiyeho kuburanisha urubanza mu mizi, ababuranyi bemeranywa ko hashyirwaho umuhuza wabafasha gukemura ikibazo

cyabo, nyuma yo kumwumvikanaho Urukiko ruramwemeza. [13] Ku wa 21/03/2025, umuhuza washyizweho yagejeje ku Rukiko raporo y'ubuhuza, arumenyesha ko nta mwanzuro unogeye impande zombi washoboye kugerwaho, hafatwa icyemezo cyo guhagarika inzira y'ubuhuza ababuranyi bagakomeza urubanza. [14] Iburanisha ry'urubanza ryashyizwe ku wa 13/05/2025, ababuranyi bamaze kuvuga ku ngingo zigize urubanza, Urukiko rufata icyemezo ko ruzabanza kugera aho ikiburanwa giherereye, rukabona gukomeza iburanisha. [15] Ku wa 04/09/2025, Urukiko rwageze ku kiburanwa, Nyirinkindi Amiel yunganiwe na Me Mukahiganiro Julianne, EDCL ihagarariwe na Me Munyentwari Jean Maurice, Umujyi wa Kigali uhagarariwe na Me Kayigamba Alice hamwe na Me Ntirushwamaboko Aloys. Hari kandi Rutazigwa Louis na Muzeyi Jean Marie (abakozi ba EDCL) na Habinshuti Jean Pierre (umukozi mu Mujyi wa Kigali). [16] Nyirinkindi Amiel yagaragarije Urukiko amapoto 3 yanyujijwe mu isambu ye avuga ko amubangamiye, abajijwe uko abangamira ubuhinzi bwe, asubiza ko bitamubangamiye cyane, ko ariko hari ubuhinzi atemerewe gukora, nk'ubw'ibiti by'imbuto n'ibindi bizamuka cyane. Yerekanye kandi umuyoboro w'amashanyarazi munini (Haute tension) unyura mu isambu ye, avuga ko urubanza rurebana nawo rwarangiye, kandi ko rwategetse ko agomba kwimuka. [17] Hakurikiyeho igikorwa cyo gutambagira isambu ishinzeho amapoto Nyirinkindi Amiel asaba ko yakwimurwa, anerekana aho yifuza kubaka (hafi y'ipoto ya 2). [18] Iperereza rirangiye, Urukiko rwamenyesheje ababuranyi ko urubanza ruzasubukurwa ku wa 15/09/2025 kugira ngo bagire icyo bavuga ku byavuye muri iryo perereza. Kuri uwo muni, Nyirinkindi Amiel yitabye yunganiwe na Me Mukahiganiro Julianne, EDCL ihagarariwe na Me Munyentwari Jean Maurice, naho Umujyi wa Kigali uhagarariwe na Me Kayigamba Alice.

2Urubanza RS/INJUST/RC00002/2018/SC rwaciwe ku wa 21/02/2020 haburana Uwimana Marine na Kagitare Dancille, urubanza RS/INJUST/RAD00003/2018/SC rwaciwe ku wa 17/07/2020 haburana Mujawamariya Claire, Dusabeyezu Jeanne na Nyirandikubwimana Marie Goretti, Ikigo cy'Igihugu gishinzwe imicungire n'imikoreshereze y'ubutaka n'urubanza RS/INJUST/RC00005/2019/CS rwaciwe ku wa 26/03/2021 haburana Karambizi Balthazar na Niyibizi Irénée n'abandi.

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[19] Mu myanzuro hamwe no mu miburanire yabo, Nyirinkindi Amiel n'umwunganira basabye ko yahabwa indishyi kubera umuyoboro w'amashanyarazi wanyujijwe mu isambu ye cyangwa EDCL igategekwa kwimura amapoto yashyizemo, itabikora ikamwimura. Abaregwa bo bavuga ko Nyirinkindi Amiel nta ndishyi akwiriye guhabwa, ko nta n'impamvu yo kwimura ayo mapoto kubera ko isambu ye akiyifite yose, kandi ubutaka bwe akibukoresha icyo bwagenewe (ubuhinzi), no kuba atarabashije kugaragaza ingano y'ibyangijwe aregera. Banasaba kudasuzuma ibijyanye no kumwimura we n'umuryango we, kuko batabiburanyeho mu manza zabanje. [20] Muri uru rubanza, Urukiko rwasuzumye ibibazo bikurikira: - Kumenya niba Nyirinkindi Amiel yahabwa indishyi kubera umuyoboro w'amashanyarazi wanyujijwe mu isambu ye cyangwa EDCL igategekwa kwimura amapoto yashyizemo. - Gusuzuma ibijyanye n'indishyi zisabwa muri uru rubanza. II. IBIBAZO BIGIZE URUBANZA

N'ISESENGURWA RYABYO Kumenya niba Nyirinkindi Amiel yahabwa indishyi kubera umuyoboro w'amashanyarazi wanyujijwe mu isambu ye cyangwa EDCL igategekwa kwimura amapoto yashyizemo [21] Nyirinkindi Amiel na Me Mukahiganiro Julienne umwunganira bavuga ko mu manza zabanje yatsindishijwe n'uko inkiko zagiye zimubaza igenagaciro ry'umutungo we wangijwe agatsindwa no kuba atararitanze nyamara ari EWSA yagombaga kuba yarabikoze. Bakomeza gusaba kugenerwa indishyi ikwiye kubera umutungo we wangijwe n'umuyoboro w'amashanyarazi cyangwa EDCL igategekwa kwimura amapoto yashyize mu isambu ye kuko inkiko zabanje zanze ko uwo muyoboro wimurwa nyamara ari byo byari byasabwe na Komisiyo yashyizweho na EDCL mu mwaka wa 2022. [22] Bavuga kandi ko nk'uko raporo z'abahanga zibyerekana, umuyoboro uca hejuru y'inzu ye atuyemo n'umuryango we, ko niba EDCL itimuye umuyoboro wayo yamwimura ntakomeze gutura mu mashanyarazi kuko bitera ingaruka ku buzima bwe hamwe n'umuryango we. [23] Ku bijyanye n'ibyavuye mu iperereza, Nyirinkindi Amiel n'umwunganira bavuga ko Urukiko rwiboneye ko amapoto 3 asaba ko yakwimurwa yafashe igice kinini cy'isambu ye ugereranyije n'andi mapoto ayabanziriza, basaba ko ayo mapoto yakwimurirwa muri buffer zone hanze y'imiyenzi izitiye isambu ye, kandi ayo mapoto akajya ku murongo umwe. Bavuga ko hari urubanza rwategetse ko amazu atuyemo agomba gusenywa, kandi ko nta handi azimukira uretse mu isambu ye. [24] Bakomeza bavuga ko ayo mapoto abangamiye ubuhinzi bwe kuko adashobora guhingamo macadamia n'ibindi biti by'imbuta kuko iyo bizamutse bahita babitema. [25] Basaza basaba ko mu gihe Urukiko rwasanga umuyoboro w'amashanyarazi utari bwimurwe, Nyirinkindi Amiel yahabwa indishyi ikwiye ya 57.973.213Frw ashingiye ku mbonerahamwe y'ibyangijwe byose yakozwe n'umugenagaciro hamwe n'agaciro k'ubutaka. [26] Me Munyentwari Jean Maurice uhagarariye EDCL avuga ko Nyirinkindi Amiel nta ndishyi akwiriye guhabwa kubera ko yitwara nk'uwimuwe mu nyungu rusange kandi isambu ye akiyifite yose, ayikorera imirimo y'ubuhinzi uko abishaka nta kompy nk'uko n'Urukiko rwabyiboneye. [27] Ku birebana no kwimura amapoto yashyizwe mu isambu ya Nyirinkindi Amiel, bitakorwa agahabwa indishyi, EDCL ivuga ko nta gaciro byahabwa kuko atabashije kugaragaza ingano y'ibyangijwe aregera, haba mu nkiko zabanje ndetse no muri uru Rukiko, ko imibare ikubiye muri raporo yatanze ntacyo ishingiyeho kuko ari Nyirinkindi Amiel ubwe wayikoreye. Avuga ko muri raporo yakozwe na EWSA Nyirinkindi Amiel aburanisha nta mitungo ye yangijwe igaragaramo.

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[28] Ku kibazo kirebana no kwimura umuryango wa Nyirinkindi Amiel ntibakomeze gutura mu mashanyarazi nk'uko abisaba, Me Munyentwari Jean Maurice uhagarariye EDCL asaba ko kitasuzumwa kuko kitigeze kiburanwaho mu manza zabanje. [29] Me Ntirushwamaboko Aloys uhagarariye Umujyi wa Kigali na we avuga ko kuba Nyirinkindi Amiel atarabashije kugaragaza ingano y'ibyangijwe aregera, haba mu nkiko zabanje, haba no muri uru Rukiko, nta ndishyi akwiriye guhabwa. Avuga kandi ko ku birebana no kwimura amapoto na byo bitahabwa agaciro kubera ko atagaragaje ko hari icyo uwo muyoboro wamwangirije cyangwa ngo agaragaze ko, harebwe uko ibintu byari bimeze mu mwaka wa 2013 ubwo umuyoboro

wubakwaga, yaba yarabujijwe gukoresha ubutaka bwe icyo bwagenewe (ubuhinzi) kuko na n'ubu agikomeje kubuhinga. Na we asaba ko ikibazo cyo kwimura Nyirinkindi Amiel n'umuryango we nk'uko abisaba kitasuzumwa kuko kitaburanyweho mu manza zabanje. [30] Ku kibazo cy'uko Nyirinkindi Amiel yifuza ko amapoto yakwimurwa kugira ngo abone aho yubaka, Me Umurisa Alice na we uhagarariye Umujyi wa Kigali, avuga ko ibyo Nyirinkindi Amiel asaba binyuranyije n'amategeko kuko aho asaba kubaka hagenewe ubuhinzi, kandi ayo mapoto akaba ntacyo abangamiyeho ubuhinzi bwe nk'uko Urukiko rwabyiboneye, ko rero bitari ngombwa kwimura ayo mapoto. UKO URUKIKO RUBIBONA [31] Impande zombi muri uru rubanza zemeranya ko mu isambu ya Nyirinkindi Amiel isanzwe igenewe ubuhinzi, hanyujijwemo umuyoboro w'amashanyarazi, hakaba harashyizwemo amapoto 3. Ipfundo ry'ikibazo kigomba gusuzumwa akaba ari ukumenya niba hari ibimenyetso Nyirinkindi Amiel agaragaza byerekana ko hari icyo uwo muyoboro wamwangirije ku buryo yabiharerwa indishyi, cyangwa EDCL igategekwa kwimura ayo mapoto, bitakorwa akimurwa. [32] Ingingo ya 12, igika cya mbere, y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi nk'uko ryahinduwe, iteganya ko urega agomba kugaragaza ibimenyetso by'ibyo aregera, yabibura uwarezwe agatsinda. [33] Ingingo ya 4, igika cya mbere, y'Itegeko N° 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso, iteganya ko urega cyangwa utanze ikibazo agaragaza ikimenyetso cy'ibyo aregera cyangwa asaba. Uwiregura agaragaza ikimenyetso gishyigikira ukwiregura kwe. icyakora, umucamanza cyangwa ukemura ikibazo ashobora gutegeka umuburanyi cyangwa umwe mu bafitanye ikibazo cyangwa undi muntu gutanga cyangwa kwerekana ikimenyetso afite. [34] Ibiteganywa muri izo ngingo zivuzwe haruguru, byasesenguwe mu rubanza RS/INJUST/RC00020/2022/SC rwaciwe ku wa 12/05/2023, haburana Gasana Tim Alphonse na Radiant aho uru Rukiko rwavuze ko ufite ibyo yishyura ari we ugomba kubigaragariza ibimenyetso, yabibura Urukiko rukemeza ko ikirego cye nta shingiro gifite. [35] Mu rubanza N° RS/INJUST/RC00013/2024/SC rwaciwe ku wa 20/06/2025 haburana Kamali Léonard n'abandi na Radiant, Urukiko rw'Ikirenga rwifashishije umuhanga mu mategeko Chevalier BRAAS, rwavuze ko mu rukiko imvugo y'umuburanyi idahagije, ko urega agomba kugaragaza ikimenyetso cy'ibyo aregera, ko bidahagije kuvuga ko ufite uburenganzira, ahubwo ugomba no

3Reba urubanza RS/INJUST/RC00020/2022/SC rwaciwe ku wa 12/05/2023, haburana Gasana Tim Alphonse na Radiant, igika cya 16.

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kubugaragaza [gutanga ibimenyetso], ko iyo habayeho gushidikanya, kimwe no kubura ikimenyetso, uwareze atsindwa, uwarezwe agatsinda. [36] Ibivuzwe haruguru, byumvikanisha ko urega agomba kugaragaza ibimenyetso bidashidinywaho by'ibyo aregera, iyo atabitanze, cyangwa agatanga ibishidikanywaho, aratsindwa. [37] Ku birebana n'uru rubanza, dosiye ababuranyi bashyikirije Urukiko, igaragaza ko ku bijyanye n'ikibazo cyo guhabwa indishyi kubera umuyoboro w'amashanyarazi wanyujijwe mu isambu ye, Nyirinkindi Amiel yatsinzwe no kubura ibimenyetso kuko Urukiko Rwisumbuye rwemeje ko nta ndishyi agomba guhabwa kubera ko

atabashije kugaragaza ikimenyetso cy'ibikorwa by'ubuhinzi bikorerwa muri uwo murima byabangamiwe n'umuyoboro w'amashanyarazi wahanyujijwe. Urukiko Rukuru narwo rwemeje ko nta ndishyi yahabwa kubera ko nta kimenyetso yatanze kigaragaza ko uwo muyoboro umubangamiye, kuba atarerekanye ko hari uwamubujije guhinga ubutaka bwe busanzwe bugenewe ubuhinzi, no kuba nta kimenyetso kigaragaza ko hari imitungo ye yangiritse ubwo hashyirwaga uwo muyoboro. [38] Urukiko rurasanga no kuri uru rwego, Nyirinkindi Amiel atarabashije kurugaragariza icyo umuyoboro w'amashanyarazi wanyujijwe mu isambu ye wamwangirije kuko ubutaka bwe akibukoresha icyo bwagenewe nk'uko n'Urukiko rwabyiboneye ubwo ku wa 04/09/2025 rwageraga ku kiburanwa, rugasangamo ibihingwa bitandukanye harimo n'ibiti. Urukiko rurasanga kandi n'ibyo avuga ko hari ibihingwa adashobora guhingamo, nta gaciro byahabwa kubera ko nta nyigo y'umuhanga ihari ibyerekana uretse kubivuga mu magambo gusa. [39] Ku birebana n'imbonerahamwe igaragaza ibihingwa byangiritse Nyirinkindi Amiel yashyize muri dosiye, Urukiko rurasanga itahabwa agaciro kuko ari ikimenyetso gishidikanywaho kubera ko ari raporo yakozwe mu mwaka wa 2021, mu gihe umuyoboro washyizweho mu mwaka wa 2013. [40] Hashingiwe ku ngingo z'amategeko no ku bisobanuro byatanzwe haguruguru, Urukiko rurasanga indishyi zisabwa na Nyirinkindi Amiel kubera umuyoboro w'amashanyarazi wanyujijwe mu isambu ye ntazo agomba guhabwa kuko atashoboye kurugaragariza icyo zishingiyeho. Urukiko rurasanga kandi EDCL itagomba gutegekwa kwimura amapoto yashyizwe mu isambu ya Nyirinkindi Amiel kubera ko atagaragaza ko hari icyo uwo muyoboro ubangamiye ku bikorwa bye by'ubuhinzi nk'uko n'Urukiko rwabyiboneye. [41] Ku birebana no kuba Nyirinkindi Amiel asaba kwimurwa we n'umuryango we, Urukiko rurasanga iki kibazo kitagomba gusuzumwa mu rwego rw'akarengane kubera ko dosiye y'urubanza igaragaza ko kitaburanyweho mu manza zabanje. Uyu akaba ari umurongo watanze w'uru Rukiko mu manza zitandukanye, aho rwavuze ko kuba urubanza rushobora gusubirishwamo ku mpamvu z'akarengane rukaburanishwa bundi bushya, bitavuga ko umuburanyi yakwitwaza iyo nzira kugira ngo abe yazana ibirego bishya kandi bitararegwe ngo bisuzumwe mu rubanza rusabirwa gusubirwamo, kuko umuburanyi atavuga ko yagize akarengane ku kibazo atigeze asaba Urukiko gusuzuma.

2. Ku bijyanye n'indishyi zisabwa muri uru rubanza [42] Nyirinkindi Amiel asaba 5.000.000Frw y'igihembo cya Avoka kuva mu nkiko zose yaburaniyemo na 1.500.000Frw y'ikurikiranarubanza hamwe na 70.000Frw y'amagarama y'urubanza yatanze.

4Reba urubanza RS/INJUST/RC00013/2024/SC rwaciwe ku wa 20/06/2025 haburana Kamali Léonard n'abandi na Radiant, igika cya 20. 5Reba urubanza RS/INJUST/RC00024/2018/CS rwaciwe ku wa 21/02/2020, haburana Ngizweninshuti Albert na Muhima Giovanni, urubanza RS/INJUST/RC00007/2018/SC rwaciwe ku wa 13/03/2020, haburana Nditiribambe Samuel, Gatera Jason na Nyamaswa Faustin n'urubanza RS/INJUST/RC00004/2019/SC rwaciwe ku wa 28/07/2020 haburana Mukamana Mamique na bagenzi be na Candali Vèrene na bagenzi be).

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[43] Uhagarariye Umujyi wa Kigali n'uhagarariye EDCL bavuga ko ibijyanye n'amafaranga y'ikurikiranarubanza hamwe n'ay'igihembo cya Avoka Nyirinkindi Amiel asaba ntayo akwiye guhabwa kuko ari we wishoye mu manza ku bushake. [44] Uhagarariye EDCL arasaba Urukiko gutegeka Nyirinkindi Amiel kuyiha 1.000.000Frw y'igihembo cya Avoka na 300.000Frw y'ikurikiranarubanza. [45] Uhagarariye Umujyi wa Kigali na we arasaba Urukiko gutegeka Nyirinkindi Amiel kuwusubiza 2.000.000Frw akubiyemo 1.000.000Frw y'ikurikiranarubanza na 1.000.000Frw y'igihembo cya Avoka. [46] Nyirinkindi Amiel avuga ko ku birebana n'indishyi EDCL isaba nta shingiro zahabwa kuko na yo ubwayo idahakana ko hari ibikorwa byakorewe ku mutungo we, ari yo mpamvu idakwiriye kumusaba indishyi ahubwo ari yo ikwiriye kuzitanga. [47] Ku birebana n'indishyi asabwa n'Umujyi wa Kigali, avuga ko atari we wawuzanye mu rubanza, ko atumva uburyo uwuhagarariye yamusaba indishyi, cyane cyane ko ari wo ushinze kurengera abaturage. UKO URUKIKO RUBIBONA [48] Ingingo ya 111 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'ianza z'imbonezamubano, iz'ubucuruza, iz'umurimo n'iz'ubutegetsi nk'uko ryahinduwe, iteganya ko ikirego cy'amafaranga y'ikurikiranarubanza ari ikirego gishamikirira ku kirego cy'iremezo kigamije kwishyura ibyakoreshejwe mu rubanza. [49] Muri uru rubanza EDCL n'Umujyi wa Kigali basaba amafaranga y'igihembo cya Avoka kuko bari bahagarariye, bagasaba n'ay'ikurikiranarubanza. [50] Hashingiwe ku ngingo ya 111 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 rivuzwe haruguru, Urukiko rurasanga bakwiye guhabwa indishyi z'ikurikiranarubanza n'igihembo cya Avoka basaba kubera ko ari bo batsinze urubanza kandi bikaba bigaragara ko bashatse Abavoka bo kubaburanira bakanakurikirana urubanza. [51] Ku birebana n'amafaranga asabwa na EDCL, Urukiko rurasanga ari mu rugero rukwiye, bityo ikaba igomba kuyahabwa. Ni ukuvuga 1.000.000Frw y'igihembo cya Avoka na 300.000 Frw y'ikurikiranarubanza, yose hamwe akaba 1.300.000Frw. [52] Naho ku birebana n'ayasabwe n'Umujyi wa Kigali, Urukiko rurasanga ay'ikurikiranarubanza akabije kuba menshi kandi baterekana ko ari yo bakoresheje kuri uru rubanza, bityo mu bushishozi bwarwo bakaba bagenewe 600.000Frw hamwe na 1.000.000Frw y'igihembo cya Avoka basaba, yose hamwe akaba 1.600.000Frw. III. ICYEMEZO CY'URUKIKO [53] Rwemeje ko ikirego cyatanzwe na Nyirinkindi Amiel gisaba gusubirishamo ku mpamvu z'akarengane urubanza RADA00013/2023/HC/KIG, rwaciwe n'Urukiko Rukuru ku wa 15/03/2024, nta shingiro giftie. [54] Rwemeje ko nta gihindutse ku mikirize y'urubanza RADA00013/2023/HC/KIG, rwaciwe n'Urukiko Rukuru ku wa 15/03/2024.

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[55] Rutegetse Nyirinkindi Amiel guha Energy Development Corporation Limited (EDCL) 1.300.000Frw akubiyemo ay'igihembo cya Avoka n'ay'ikurikiranarubanza. [56] Rutegetse Nyirinkindi Amiel guha Umujyi wa Kigali 1.600.000Frw akubiyemo ay'igihembo cya Avoka n'ay'ikurikiranarubanza.

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