

RWANDA / JUDGMENT

Ese USENGIMANA v. NIKOBASANZWE

RCOMAA 0012/13/CS

COURT

Supreme Court

DECIDED

13 November 2015

CASE / FILE NUMBER

RCOMAA 0012/13/CS

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- Date: 2015-11-13
- Case/document no.: RCOMAA 0012/13/CS
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Text

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Ese USENGIMANA v. NIKOBASANZWE [Rwanda URUKIKO RW'IKIRENGA – RCOMAA 0012/13/CS (Mukanyundo, P.J., Gatete na Mukamulisa, J.) 13 Novembre 2015] Amategeko agenga amasezerano – Amasezerano yo gutwara ibintu – Imirimo yakozwe n'ingano y'umwenda igomba kwishyurwa – Raporo y'abahanga – Urukiko rwifashishije abahanga kugirango rushobore gusobanukirwa neza imirimo yakozwe n'uwishyuza, babiri bashyizweho n'impande zombi, uwa gatatu ashwirwaho n'urukiko, raporo yabo bose bahuriyeho isesengura imirimo yakozwe n'agaciro kayo. Incamake y'Ikibazo: Nikobasanze yareze Ese Usengimana mu Rukiko rw'Ubucuruzi rwa Nyarugenge amwishyuza amafaranga angana na 361.500.000 Frws, n'ayandi 22.000.000Frw akomoka ku yandi masezerano, hamwe n'inyungu z'ubukererwe n'indishyi avuga ko akomoka ku bukode bw'amakamyo yo gutunda urusekabuye. Urukiko rwemeza ko ikirego cya Nikobasanze gifite ishingiro, rutegeka kandi Ese Usengimana kwishyura Nikobasanze amafaranga angana na 389.335.000 Frws. Ese Usengimana yajuririye Urukiko Rukuru rw'Ubucuruzi, rwemeza ko imikirize y'urubanza rwa mbere idahindutse. Yajuririye kandi Urukiko rw'Ikirenga, ivuga ko amafaranga Nikobasanze yishyuza adakwiye kuyabona kubera ko atakoze neza imirimo yerekeranye n'isoko yahawe nkuko byari biteganyijwe.Uru Rukiko rwaciye urubanza rubanziriza

urundi, rwemeza ko hashyirwaho abahanga batatu, babiri bashyizweho n'impande zombi, uwa gatatu ashwirwaho n'Urukiko, bashingwa kurukorera raporo imwe bahuriyeho bose igaragaza imirimo yakozwe na Nikobasanze n'agaciro kayo. Ku byerekeye couche de roulement, Ese Usengimana ivuga ko yagiranye amasezerano ya sous- traitance na Nikobasanze aho uyu yari gutanga amakamyo yo gutunda urusekabuye, akanatanga amavuta (carburant) yo gukoresha imashini, agatundira ibirometero mirongo ine (40 km). Nikobasanze avuga ko yakozwe akanarangiza imirimo ikubiye mu masezerano anyuranye ari muri dosiye y'uru rubanza, avuga ko bigaragazwa na factures yagiye atangako zishyurwa imirimo yakozwe. Ku bijyanye na plus-value de transport, Ese Usengimana ivuga ko amasezerano yagiranye na Nikobasanze ateganya ko plus-value de transport izishyurwa hagati ya PK 25+ 000 na PK 32+800 no kuva kuri PK 50+000 kugera kuri PK 52+100 (9.9 km), ivuga ko isanga kandi ibyataganyijwe mu masezerano y'inyongera ntabyo yakozwe kuko ibyo byakozwe na Ese Usengimana ubwayo. Ku bijyanye na déblais rocheux, Ese Usengimana yemera ko imirimo yerekeranye na "déblais rocheux" yakozwe, ariko ikavuga ko Nikobasanze atakozwe inyemezabuguzi (facture) ngo yishyurwe, ibyo ngo bikaba byaramugararijwe mu ma barwa atandukanye. Ku byerekeye évacuation des produits d'éboulement, Ese Usengimana ivuga ko yemera ko imirimo ijyanye n'iki gikorwa yakozwe, ariko ikaba yarasabye Nikobasanze gukora facture yujuje ibisabwa ntiyayitanga. Yemeranywa n'abahanga ko agaciro k'ibyakozwe gahwanye na frw 3.287.040.

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Ku bijyanye n'inyungu z'ubukererwe, Nikobasanze avuga ko hakurikijwe amasezerano yasinywe hagati y'impande zombi, Ese Usengimana ikwiye kumwishyura inyungu z'ubukererwe zibariye ku minsi 125 ku giciro fatizo gihwanye na frw 67.506.500 Ese Usengimana ivuga ko izo nyungu z'ubukererwe zidakwiye gutangwa kuko Nikobasanze atatangije imirimo ku gihe cyari giteganyijwe, ndetse hari n'imirimo itarangiye gukorwa, hakaba hari n'inyemezabuguzi (factures) zitari zujuje ibya ngombwa kugirango zishyurwe. Ku bijyanye na carburant, Ese Usengimana yishyurwa, ivuga ko Nikobasanze agomba kwishyurwa litiro 61.860 yafashe havuyemo litiro 15.000 yasutse mu kigega (citerne), akaba ariyo mpamvu, agomba gusubiza frw 46.860.000 ya carburant yakoresheje kuko ariwe wagombaga kuyishyura. Ku birebana n'igihembo cy'Abahanga, Nkuko kandi byari byemejwe n'Urukiko, uru rubanza rwaciwe hifashishijwe abahanga batatu, barimo umwe washyizweho n'Urukiko, akaba agomba guhembwa n'impande zombi mu buryo bungana, akaba ariyo mpamvu buri wese mu baburanyi agomba kumwishyura frw 2.250.000 kubera ko igihembo cye gihwanye na frw 4.500.000 Incamake y'icyemezo: 1.Urukiko rwifashishije abahanga kugirango rushobore gusobanukirwa neza imirimo yakozwe n'uwishyurwa, babiri bashyizweho n'impande zombi, uwa gatatu ashwirwaho n'urukiko, raporo yabo bose bahuriyeho isesengura imirimo yakozwe n'agaciro kayo. Bityo uwishyurwa agomba guha uwishyurwa amafaranga angana na 162.957.361 Frws yerekeranye n'imirimo yakozwe, hongeweho inyungu z'ubukererwe zihwanye na frw 67.506.500 ukuyemo frw 46.860.000 ahwanye n'agaciro ka carburant yakoresheje, yose hamwe akaba ahwanye na 183.603.861 Frws.

2. Ku byerekeye ibihembo by'abahanga batatu barimo umwe washyizweho n'Urukiko ugomba guhembwa n'impande zombi mu buryo bungana, akaba ariyo mpamvu buri wese mu baburanyi agomba kumwishyura frw 2.250.000 kubera ko igihembo cye gihwanye na frw 4.500.000 Frws.
3. Inyungu z'ubukererwe zisabwa n'uwishyura ntizatanga kuko atatangiyeye imirimo ku gihe cyari giteganyijwe, ndetse hari n'imirimo itarangiye gukorwa. Ubujurire bw'ababuranyi bose bufite ishingiro kuri bimwe. Urega agomba kwishyura uwarezwe amafaranga yose hamwe angana 183.603.861 Frws, wAbaburanyi bimbi bategetswe kwishyura umuhanga buri umwe wese amafaranga angana na 2250.000 Frws. Amagarama y'urubanza aherereye ku baburanyi bombi. Nta mategeko yashingiweho. Nta manza zifashishijwe.

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Urubanza

I. IMITERERE Y'URUBANZA [1] Uru rubanza rwatangiriye mu Rukiko rw'Ubucuruzi rwa Nyarugenge (RCOM 0013/13/TC/NYGE), Nikobasanzwe yishyura Ese Usengimana umwenda uhwanye na frw 361.500.000, ukomoka ku masezerano yo kuwa 19/10/2011 yerekeranye no gukodesha amakamyo yo gutunda urusekabuye rwo gukora umuhanda Kazabe-Rutsiro-Gashubi. Yishyuzaga kandi frw 22.000.000 akomoka ku yandi masezerano yihariye hiyongereyeho inyungu z'ubukererwe n'indishyi zinyuranye. [2] Mu guca urwo rubanza, Urukiko rw'Ubucuruzi rwemeje ko ikirego cya Nikobasanzwe gifite ishingiro, maze rutegeka Ese Usengimana kwishyura Nikobasanzwe frw 389.335.000 akubiyemo umwenda, indishyi z'akababaro, amafaranga y'ikurikiranarubanza n'igihembo cya Avoka. [3] Ese Usengimana yajuririyeye Urukiko Rukuru rw'Ubucuruzi (RCOM A 0140/13/HCC) rwemeza ko imikirize y'urubanza rwa mbere idahindutse, uretse frw 1.000.000 y'ikurikiranarubanza n'igihembo cya Avoka yiyongereyeho. [4] Ese Usengimana yajuririyeye Urukiko rw'Ikirenga, ivuga ko amafaranga Nikobasanzwe yishyura adakwiye kuyabona kubera ko atakoze neza imirimo yerekeranye n'isoko yahawe nkuko byari biteganyijwe. Urubanza rwaburanishijwe mu ruhamwe ku matariki atandukanye, Ese Usengimana ihagarariwe n'Umuyobozi wayo wunganirwa na Me Nkurunziza François-Xavier, Nikobasanzwe nawe yunganiwe na Me Nsabimana Jean Baptiste. Kuwa 17/10/2014, uru Rukiko rwaciye urubanza rubanziriza urundi, rwemeza ko hashyirwaho abahanga batatu, babiri bashyizweho n'impande zombi, uwa gatatu ashyirwaho n'Urukiko, bashingwa kurukorera raporo imwe rukumbi bahuriyeho bese igaragaza imirimo yakozwe na Nikobasanzwe n'agaciro kayo. II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA. A. Kumenya ingano y'umwenda Ese Usengimana igomba kwishyura Nikobasanzwe kubera imirimo yakoze.

- a. Ku byerekeye "couche de roulement". [5] Ese Usengimana n'uyunganira basobanura ko yagiranye amasezerano ya "sous- traitance" na Nikobasanzwe ku italiki ya 19/10/2011, ateganya ko uyu yiyemeje gutanga amakamyo yo gutunda urusekabuye rwo gukora umuhanda Kazabe - Rutsiro - Gashubi ku birometero 40 (40 km), 3 akanatanga amavuta (carburant) yo gukoresha imashini, agatundira ibirometero mirongo ine (40 km). [6] Banasobanura kandi ko ku italiki ya 20/10/2011 bemeranyijwe ku bipimo (dimensions)

Nikobasanzwe azajya akora kugirango yishyurwe, hemezwa ko couche de roulement irengeje

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umubyimba (épaisseur) wa 22cm izajya ibarwa hakurikijwe uko yakozwe ikishyurwa ku kigero cyayo hakoreshejwe “règle de trois”. [7] Bavuga kandi ko mu masezerano yo kuwa 08/03/2012, bumvikanye ko km 6 zari zarakozwe mbere zari zimaze kwangirika Nikobasanzwe yazikosora, noneho Ese Usengimana ikishyura km 3, na Nikobasanzwe akishyura km 3. [8] Banasobanura kandi ko nkuko Raporo y’uwagenzuraga umushinga ibyerekana, igice cy’umuhanda kuva kuri PK0+000 kugera kuri PK 25+000 hakozwe imirimo ingana na 28.751 m³ (nkuko biboneka kuri Annexe 239), bivuze ko ugendeye kuri bya bipimo byumvikanyweho, ku kilometero kimwe hagomba gukorwa 1000m * 6.3m * 22cm = 1.386m³, bivuzeko 28.751m³ biri ku burebure bwa kilometero 25, bingana na 20.7 km (28751 m³:1386 m³), wavanamo km 3 zibanza bagombaga kugabana hagendewe ku masezerano yo kuwa 08/03/2012 nkuko biboneka kuri Annexe ya 5, bikagaragaza ko Nikobasanzwe yagombaga kwishyurwa 17.7km (20.7km – 3 km), bihwanye na frw 110.625.000 (17.7 km * frw 6.250.000). [9] Basanga rero iyo Nikobasanzwe aza kuba yarubahirije amasezerano, yari kuba yarakoze 30,492m³ (22*1386 m³) aho kuba 28.751m³, kuri icyo gice akaba yarishyuye frw 83.494.800 aho kwishyurwa frw 110,625,000 kubera ko yishyuye havanywemo mazutu yari yarafashe ingana na frw 35.505.200 na avance ku masezerano yo kuwa 18/05/2012 ya “déblais rocheux” ingana na frw 7.000.000. [10] Nikobasanzwe n’umwunganira bo bemeza ko bakoze bakarangiza imirimo ikubiye mu masezerano anyuranye ari muri dosiye y’uru rubanza: amasezerano yo kuwa 24/08/2010 Ese Usengimana yagiranye na Leta y’u Rwanda; amasezerano yo kuwa 19/11/2011 yabaye hagati ya Ese Usengimana na Nikobasanzwe, ay’inyongera yo kuwa 08/03/2012 yo gutunda no kumena urusekabuye (latérite) ku bindi birometero icumi; n’ubwumvikane bwagiye buba hagati y’impande zombi uko imirimo yagendaga ikorwa. Hari kandi raporo y’ibipimo (calcul des quantités exécutées) yakozwe n’uwitwa Karangwa Justin (Ese Usengimana) na Niyonsaba Léonidas (TECOS – Mission de contrôle) igaragaza ko imirimo yakozwe ikarangira, hifashishijwe “Journal de chantier”. [11] Basobanura kandi ko ikigaragaza ko imirimo yagombaga gukorwa yarangiye, aruko muri facture n° 12, Ese Usengimana yishyuje frw 389.819.339 akubiyemo imirimo ya “couche de roulement”, “plus-value de transport” na “couche de foundation”, ku bwabo bikaba bigaragaza ko niba Ese Usengimana yarakoze iyo nyemezabuguzi (facture) yishyuzwamo imirimo Nikobasanzwe yakoze, bivuze ko yari yarangiye kuyikora. [12] By’umwihariko, basobanura ko muri facture n° 11, Ese Usengimana yishyuje 45,369.64 m³, kandi nyamara factures n° 12 & 13 zerekana ko hakozwe “couche de roulement” ihwanye na 52,725.87 m³, bivuze ko hari ikinyuranyo gihwanye na 7,356.23 m³ gifite agaciro ka frw 34.831.250 Nikobasanzwe nayo akwiye kwishyurwa. UKO URUKIKO RUBIBONA [13] Urukiko rusanga kugirango rushobore gusobanukirwa neza imirimo yakozwe na Nikobasanzwe, rwarifashishije abahanga batatu (3), babiri bashyizweho n’impande zombi, uwa

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gatatu ashyirwaho n'uru Rukiko nkuko byemejwe mu cyemezo cyarwo cyo kuwa 17/10/2014, raporo yabo bose bahuriyeho isesengura imirimo yakozwe n'agaciro kayo ku birometero by'umuhanda bitandukanye irushyikirizwa kuwa 20/04/2015. PK 00+000 – PK 25+000 (25 km) [14] Iyo raporo igaragaza ko ku byerekeranye na “couche de roulement”, abahanga bagiye aho imirimo yakorewe basuzuma ibyakozwe bifashishije “rapport corrigé de fin de contrat de contrôle et surveillance” yo mu Kuboza 2013 yakozwe na TECOS, basanga ku birometero 25 bya mbere byari biteganyijwe, harakozwe neza km 22, akaba ariyo mpamvu bemeje ko kuri iki gice cy'umuhanda (22 km) Nikobasanzwe akwiye kwishyurwa frw 137.500.000 ahwanye n'imirimo yakozwe (frw 6.500.000 * 22 km) nkuko amasezerano yari ateye¹. PK 25+000 – PK 27+200 (2.2 km) [15] Urukiko rusanga na none hifashishijwe iyo raporo ya TECOS, abahanga barasanze imirimo kuri icyo gice yarangiye ariko itaremezwa na “mission de contrôle”, kandi akazi kari gasigaye gukorwa katareba Nikobasanzwe, akaba ariyo mpamvu bemeje ko akwiye kubyishyurirwa frw 13.750.000 (frw 6.500.000 * 2.2 km)² PK 27+200 – PK 52+100 (24.9 km) [16] Urukiko rusanga kuri ubu burebure bw'umuhanda, abahanga hari aho bakoresheje umubyimba (épaisseur) uhwanyeye na 17.3 cm, ukaba ari impuzandengo (moyenne) y'imibyimba iri muri raporo ya TECOS yavuzwe haruguru. Rusanga kandi hari ahakoreshejwe umubyimba uhwanyeye na 18.8 cm hashingiwe ku bunini bw'imirimo yishyujwe nka “couche de foundation” (8,254.05 m³), uburebure bw'umuhanda wakozwe, n'ubugari bwawo. [17] Rusanga na none kuri iki gice cy'umuhanda, abahanga mu kubara agaciro k'imirimo yakozwe barakoresheje “coefficient de proportionnalité” ingana n'umubyimba wakozwe, ukawukuba n'ubugari bw'umuhanda bwakozwe, ibyo ubonye ukabigabanya n'umubyimba wagombaga gukorwa umaze kuwukuba n'ubugari bw'umuhanda wagombaga gukorwa. [18] Hari kandi n'igice cy'umuhanda ku burebure bwa km 12 (PK 40+100 – PK 52+100) abahanga bakoresheje igenekereza (extrapolation) kubera ko nta bipimo by'umubyimba w'umuhanda bashoboye kubona, rikaba rishingiye ku kinyuranyo cy'ibipimo by'imirimo yishyujwe na Ese Usengimana (38,111.62 m³ yerekeranye na “couche de roulement”) n'imirimo ya “couche de foundation” (8,254.05 m³) hongeweho couches de roulement zakozwe na Nikobasanzwe ku burebure bwa km 40.1, ibyo byose bikagabanywa n'ubugari ndetse n'uburebure kuva kuri PK 40+100 kugera kuri PK 50+300 (10.2 km). [19] Urukiko rurasanga rero ku byerekeye imirimo ya couche de roulement Nikobasanzwe yakoze ihwanye na frw 229.337.121 aho kuba frw 229.234.984 nkuko byari byabazwe n'abahanga.³ Rusanga kandi nkuko abahanga babinononsoye, nta mirimo ikubiye muri factures 1 1 Ingingo ya 2 y'amasezerano yo kuwa 19/10/2011 2 2 Ibidem 3 3 Kuri PK 29+750 – PK 32+800 hagombaga kubarwa km 3.050 aho kuba km 3.025

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n° 12 na 13 zakozwe na Ese Usengimana itaragaragajwe ngo inahabwe agaciro kubera ko ibipimo byakozwe byashingiye kuri raporo ya TECOS yo mu Kuboza 2013 ku mirimo yakozwe kuva kuri PK 25+000 kugeza kuri PK 32+825 no kuva kuri PK 40+150 kugeza kuri PK 53+109.

- b. Ku bijyanye na “plus-value de transport”. [20] Ese Usengimana ivuga ko amasezerano yagiranye na Nikobasanze ateganya ko “plus-value de transport” izishyurwa hagati ya PK 25+ 000 na PK 32+800 no kuva kuri PK 50+000 kugera kuri PK 52+100 (9.9 km). Isanga kandi ibyataganyijwe mu masezerano y’inyongera ntabyo yakozwe kuko ibyo byakozwe na Ese Usengimana ubwayo ndetse yishyura frw 679.221. [21] . Nikobasanze nta kibazo agaragaza kuri iki gice kandi yemeranywa n’isesengura ry’abahanga mu myanzuro yashyikirije Urukiko kuwa 04/06/2015. UKO URUKIKO RUBIBONA. [22] Urukiko rurasanga “plus-value de transport” igengwa n’amasezerano y’inyongera yo kuwa 15/05/2012 no kuwa 18/05/2012 yo gutunda urusekabuye akora “couche de roulement” na “remblais” zituzuye neza, hakurikijwe igiciro cyumvikanyweho mu masezerano yo kuwa 19/10/2011. Nkuko abahanga babigaragaje, imirimo yakozwe ihwanye na frw 6.380.800,4 Nikobasanze akaba yaragenewe 60%4 by’ayo mafaranga ahwanye na frw 3.828.000 nkuko byagaragajwe mu masezerano y’inyongera yavuzwe haruguru.
- c. Ku bijyanye na “déblais rocheux”. [23] Ese Usengimana yemera ko imirimo yerekeranye na “déblais rocheux” yakozwe, ariko ikavuga ko Nikobasanze atakozwe inyemezabuguzi (facture) ngo yishyurwe, ibyo ngo bikaba byaramugaragarijwe mu ma barwa atandukanye yo kuwa 31/10/2012 na 07/11/2012. [24] Nikobasanze nta kibazo agaragaza kuri iyi mirimo kandi yemeranya n’isesengura ryakozwe n’abahanga mu myanzuro yashyikirije Urukiko kuwa 04/06/2015. UKO URUKIKO RUBIBONA [25] Kuri iki kibazo, impande zombi zemeranywa ko imirimo ijyanye n’iki gikorwa yarangiye neza, hakaba hari hatanzwe “avance” ihwanye na frw 7.000.000, Ese Usengimana ikaba isigayemo Nikobasanze frw 10.000.000.
- d. Ku byerekeye “évacuation des produits d’éboulement”. 4 Umugereka wa 9 muri raporo y’Abahanga

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- [26] Ese Usengimana yemera ko imirimo ijyanye n’iki gikorwa yakozwe, ariko ikaba yarasabye Nikobasanze gukora facture yujuje ibisabwa ntiyayitanga. Yemeranywa n’abahanga ko agaciro k’ibyakozwe gahwanye na 3.287.040 Frws [27] Nikobasanze yemera iyi “évaluation” mu myanzuro ye yashyikirije Urukiko kuwa 04/06/2015. UKO URUKIKO RUBIBONA [28] Urukiko rusanga iyi ari imirimo yakozwe kuva kuri PK 00+000 kugeza kuri PK 22+000 yerekeranye no kvanaho inkangu zihwanye na 2,191.36 m³ nkuko byemejwe na RTDA ndetse na TECOS5, iyo mirimo ikaba ikwiye kwishyurwa. B. Ku bijyanye n’inyungu z’ubukererwe. [29] Nikobasanze avuga ko hakurikijwe amasezerano yasinywe8 hagati y’impande zombi, Ese Usengimana ikwiye kumwishyura inyungu z’ubukererwe zibariye ku minsi 125 ku giciro fatizo gihwanye na frw 54.005.200 (frw 137.500.000 – frw 83.494.800), ni ukuvuga frw 67.506.500 (54.005.200 x 0.01 x 125). [30] Ese Usengimana ivuga ko izo nyungu z’ubukererwe zidakwiye gutangwa kuko Nikobasanze atatangiyemo imirimo ku gihe cyari giteganyijwe, ndetse hari n’imirimo itarangiye gukorwa, hakaba hari n’inyemezabuguzi (factures) zitari zujuje ibya ngombwa kugirango zishyurwe. UKO URUKIKO RUBIBONA [31]

Kuri iki kibazo, Urukiko rusanga Ese Usengimana itakwitwaza ko hari imirimo ivuga ko itarangiye cyangwa ngo inyemezabuguzi (factures) zibe zitujuje ibyo yita ibya ngombwa ngo byanze bikunze yange kwishyura, ahubwo niba imirimo yakozwe itari yuzuye, yagombaga kwishyura ibyo yumva ko byakozwe (évaluation des travaux exécutés) kubera ko yari yamaze gusesa amasezerano. [32] Abahanga kandi bagiye aho imirimo yakorewe bagaragaje ibyakozwe, akaba ariyo mpamvu, hashingiwe ku biteganywa n'ingingo ya 144 y'itegeko n° 45/2011 ryo kuwa 25/11/2011 rigena amasezerano Ese Usengimana ikwiye kwishyura inyungu z'ubukererwe zihwanye na 67.506.500 zibariye ku minsi 125 y'ubukererwe nkuko impande zombi zabyumvikanyeho. [33] Urukiko rusanga kandi nta zindi ndishyi zasabwe zikwiye gutangwa mu gihe Nikobasanzwe agenewe indishyi z'ubukererwe kubera imirimo yakoze atishyuriwe ku gihe. 5 Rapport de reception d'éboulements.

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C. Ku bijyanye na “carburant” Ese Usengimana yishyura. [34] Ese Usengimana ivuga ko Nikobasanzwe agomba kwishyuzwa litiro 61.860 yafashe havuyemo litiro 15.000 yasutse mu kigega (citerne)6, akaba ariyo mpamvu, agomba gusubiza frw 46.860.00010 ya carburant yakoresheje kuko ariwe wagombaga kuyishyura. [35] Nikobasanzwe ntacyo asobanura ku byerekeranye na carburant yakoresheje. UKO URUKIKO RUBIBONA. [36] Urukiko rurasanga Nikobasanzwe, haba mu myanzuro haba no mu miburanire ye, atarigeze anyomoza ibyerekeranye na carburant ya Ese Usengimana ivuga ko yakoresheje, akaba ariyo mpamvu akwiye kwishyura ikiguzi cyayo gihwanye na frw 46.860.000 nkuko yabigaragaje. D. Ku bijyanye n'igihembo cya Avoka n'amafaranga y'ikurikiranarubanza. [37] Nikobasanzwe asaba ko Ese Usengimana yamuha indishyi z'ikurikiranarubanza n'igihembo cya Avoka bihwanye na frw 15.000.000 kubera ko ikomeje kumusiragiza mu manza nta mpamvu kandi nyamara yararangije gukora imirimo yari yiyemeje gukora. [38] Ese Usengimana isanga nta gihembo akwiye kugenerwa kubera ko atubahirije inshingano yari yiyemeje. UKO URUKIKO RUBIBONA [39] Urukiko rusanga izo ndishyi zisabwa atazigenerwa kubera ku buri ruhande rufite ibyo rutsindiye muri uru rubanza nkuko byagaragajwe muri raporo y'abahanga. [40] Hashingiwe rero ku bisobanuro byatanze, uru Rukiko rurasanga Ese Usengimana igomba guha Nikobasanzwe frw 162.957.36111 yerekeranye n'imirimo yakozwe, hongeweho inyungu z'ubukererwe zihwanye na frw 67.506.500 ukuyemo frw 46.860.000 ahwanye n'agaciro ka “carburant” yakoresheje, yose hamwe akaba ahwanye na frw 183.603.861. F. Ku birebana n'igihembo cy'Abahanga. [41] Nkuko kandi byari byemejwe n'uru Rukiko kuwa 17/10/2014, uru rubanza rwaciye hifashishijwe abahanga batatu, barimo umwe washyizweho n'Urukiko, akaba agomba 6 Ibyo bigaragarira muri carnet de livraison yo ku wa 09/07/2012 : 15.000 litres zakiriwe na Ir Bunani Augustin wa EseUsengimana

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guhembwa n'impande zombi mu buryo bungana, akaba ariyo mpamvu buri wese mu baburanyi agomba kumwishyura frw 2.250.000 kubera ko igihembo cye gihwanye na frw 4.500.000. III. ICYEMEZO CY'URUKIKO. [42] Rwemeje ko ubujurire bwa Ese Usengimana Richard n'ubwa

Nikobasanzwe Ntwali Gérard bubwuriyeho bufite ishingiro kuri bimwe; [43] Rutegetse Ese Usengimana Richard kwishyura Nikobasanzwe Ntwali Gérard frw 183.603.861; [44] . Rutegetse Ese Usengimana Richard kwishyura Ir Batanage Louis frw 2.250.000; [45] Rutegetse Nikobasanzwe Ntwali Gérard kwishyura Ir Batanage Louis frw 2.250.000; [46] Rutegetse Ese Usengimana Richard na Nikobasanzwe Ntwali Gérard gufatanya kwishyura amagarama y'urubanza ahwanye na frw 100.000.

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Prepared on 9 October 2026 · Esheria