

RWANDA / JUDGMENT

SANLAM AG Plc vs TURYASINGURA

RS/INJUST/RC 00012/2024/SC

COURT

Supreme Court

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SANLAM AG Plc vs TURYASINGURA [Rwanda URUKIKO RW'Ikirenga – RS/INJUST/RC 00012/2024/SC (Mukantganzwa, P.J; Kalihangabo na Mukamulisa J.) 12 Ukuboza 2025] Amategeko Mbenezamubano – Ubwishingizi – amafaranga yo kwivuza – Umuntu uba mu mahanga wakoreye impanuka mu Rwanda ntiyategekwa kuhaguma kugira ngo ashobore kuhivuriza mu gihe atahatuye, atahafite ibikorwa cyangwa ubundi buryo bwo kuhaba Amategeko Mbenezamubano – Ubwishingizi – Inyemezabwishyu – Amafanga yo kwivuza, ingendo n'amafunguro atangwa hashingiwe ku nyemezabwishyu zemewe, ariko iyo inyemezabwishyu zitujwe ibisabwa kandi bigaragara ko uwahohotewe haribyo yatakaje bujyanye nabyo, ayo mafanga atangwa mu bushishozi bw'Urukiko. Incamake y'ikibazo: Uru rubanza rwatangiye Turyasingura arega SANLAM AG Plc mu Rukuko Rwisumbuye rwa Gicumbi asaba indishyi zitandukanye zingana na 24.383.900Frw, zikomoka ku mpanuka yakomerekejwemo n'ikinyabiziga ibereye umwishingizi SANLAM AG Plc yireguye ivuga ko bitewe n'uko Turyasingura aterekana icyo yinjizaga mu rwego rw'ubukungu, mu kugenerwa indishyi z'ibangamirabukungu, Urukiko rwashingira ku mushahara muto ntarengwa wemewe n'amategeko naho ku zindi ndishyi Urukiko rukazigena hakurikijwe ibimenyetso uwagize impanuka yatanze. Urukiko mu rubanza RC00028/2021/TGI/GIC

rwasanze indishyi Turyasingura agomba guhabwa zigomba kubarirwa ku mushahara mpuzandengo ungana na 3.000Frw kuko atagaragaza umushahara we mu kazi yakoraga ko kuvunja cyangwa inyungu nyakuri z'ibyo yavanagamo; rumugenera indishyi zose hamwe zingana na 26.412.900 Frw harimo n'amafaranga y'ikurikiranarubanza n'igihembo cya Avoka. Sanlam AG Plc yajuririyeye Urukiko Rukuru ivuga ko itanyuzwe n'ingingo z'amategeko Urukiko Rwisumbuye rwa Gicumbi rwashingiyeho ubwo rwageneraga Turyasingura indishyi z'ibangamirabukungu kandi ko urwo Rukiko rutagombaga kumugenera indishyi mbangamiraburanga ndetse n'iz'igihe gito. Turyasingura yiregura avuga ko ubujurire bwa SANLAM AG Plc nta shigiro bufite. Urukiko Rukuru mu rubanza RCA00060/2022/HC/KIG rwasanze: Ikibazo cyatanze na SANLAM AG Plc cyo kutemeranya ku ingingo z'amategeko zagombaga gushingirwaho cyafatwa nk'ikosa rigomba gukosorwa aho gufatwa nk'impamvu y'ubujurire, rwemeza ko ingingo ya 17 y'iteka rya Perezida No 31/01 ryo ku wa 25/08/2003, yashingiweho n'Urukiko Rwisumbuye rwa Gicumbi igomba gukosorwa, rwemeza ko ingingo yagombaga gushingirwaho ari iya 18 y'iryo Teka. Rwemeza ko Indishyi z'ibangamirabukungu zahawe Turyasingura zabazwe mu buryo bukurikije amategeko. Runemeza ko Turyasingura atagombaga guhabwa 6.480.000Frw y'indishyi z'igihe gito kuko Urukiko Rwisumbuye rwa Gicumbi rwazimugeneye kandi nyamara atarigeze aziregera. Urukiko rwanzuye ko ubujurire bwatanze na SANLAM AG Plc bufite ishingiro kuri bimwe ruvuga ko agomba guhabwa indishyi zingana na 19.932.900Frw SANLAM AG Plc yandikiye Perezida w'Urukiko rw'Ubujurire, asaba ko urubanza RCA00060/2022/HC/KIG rwaciwe n'Urukiko Rukuru rusubirwamo ku mpamvu z'akarengane. Perezida w'Urukiko rw'Ubujurire amaze kubisuzuma, yandikiye Perezida w'Urukiko rw'Ikirenga asaba ko urwo rubanza rusubirwamo, maze nawe mu cyemezo no 146/CJ/2024, yemeza ko rwoherezwa mu Bwanditsi bw'Urukiko rw'Ikirenga kugira ngo ruzongere ruburanishwe. Sanlam ivuga ko akarengane kayo gashingiye ku mafaranga yo kwivuzza nay'amafunguro n'ingendo Turyasingura yagenewe n'Urukiko kandi atayagaragariza ibimenyetso. Kandi ko inyemezabwishyu

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zigaragaza ko yivurije mu gihugu cya Uganda, zitashingirwaho kuko mbere yo kujyayo atabanje kubyemererwa n'akanama k'ubuvuzi gateganywa n'Amategeko. Bavuga kandi ko amafaranga y'ingendo n'amafunguro yagenewe nayo atayagaragarije ibimenyetso. Urukiko mu rubanza RS/INJUST/RC 00012/2024/SC, Rwemeje ko ikirego cyatanze na SANLAM AG Plc cyo gusubirishamo ku mpamvu z'akarengane urubanza RCA00060/2022/HC/KIG gifite ishingiro kuri bimwe. Incamake z'icyemezo: 1. Umuntu uba mu mahanga wakoreye impanuka mu Rwanda ntiyategekwe kuhaguma kugira ngo ashobore kuhivuriza mu gihe atahatuye, atahafite ibikorwa cyangwa ubundi buryo bwo kuhaba. Bityo, gusubira mu gihugu cye, akahivuriza, nibyo byaba bimworoheye kandi bitamuhenze ariko mu gihe yaba yatangiye gukurikirana idosiye yo kwishyurwa, akwiye kumenyesha umwishingizi asaba indishyi ko asubiye mu gihugu cye.

2. Uwahohotewe ufite ubushobozi ashobora kwivuka ku giti cye, nyuma akazasaba uwateje impanuka cyangwa uwamwishingiye kumusubiza amafaranga yatanze yivuka, ariko hamaze gutangwa ibimenyetso bigaragaza amafaranga y'ikiguzi yatanze kuri ubwo buvuzi, mu gihe yaba nta bushobozi afite agasaba abo bombi kumuvuka. Bityo, uwateje impanuka cyangwa uwamwishingiye yohereza uwahohotewe kwa muganga akavurwa, noneho akaba ari we wishyura ivuriro.
3. Amafaranga yo kwivuka, ingendo n'amafunguro atangwa hashingiwe ku nyemezabwishyu zemewe, ariko iyo nyemezabwishyu zitujye ibisabwa kandi bigaragara ko uwahohotewe hari byo yatakaje bujyanye nabyo, ayo mafaranga atangwa mu bushishozi bw'Urukiko. Gusubirishamo urubanza ku mpamvu z'akarengane bifite ishingiro kuri bimwe. Amategeko yashyirahweho: Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruza, iz'umurimo n'iz'ubutegetsi, Ingingo ya 111 Itegeko N° 41/2001 ryo ku wa 19/09/2001 ryerekeye imyishyurire y'abangirijwe n'impanuka zitewe n'ibinyabiziga bigenzwa na moteri kandi bigenda ku butaka, Ingingo ya 3 Iteka rya Perezida No 31/01 ryo ku wa 25/08/2003 rishyiraho uburyo bwo kwishyura indishyi ku bubabare bw'umubiri buturutse ku mpanuka zitewe n'ibinyabiziga, Ingingo ya 13 Imanza zifashishijwe: Urubanza RS/INJUST/RC 00012/2022/SC, haburana Mukakimenyi Marie Claire na SANLAM AG Plc rwaciye n'Urukiko rw'Ikirenga ku wa 02/02/2024, igika cya 28 Urubanza. I. IMITERERE Y'URUBANZA [1] Uru rubanza rukomoka ku mpanuka yabaye ku wa 01/01/2018, ubwo imodoka yo mu bwoko bwa Mercedes Benz actros ifite plaque RAD517A / RL1145 yageraga mu mudugudu wa Gatuna, Akagari ka Rwankonjo, Umurenge wa Cyumba, Akarere ka Gicumbi, yagonganye n'imodoka iri mu bwoko bwa Toyota Starlet ifite plaque RAC704A, bituma Habukuri James wari uyitwaye n'umugore we bakomereka byoroheje, baravurwa barataha ariko umugenzi wari kumwe nabo witwa Turyasingura Victor wari ufite imyaka 36 arakomereka bikomeye ajyanwa kuvurirwa mu bitaro bya Kaminuza ya Kigali (CHUK). [2] Kubera ko imodoka Toyota Starlet ifite plaque RAC704A yari ifite ubwishingizi muri SANLAM AG Plc; ku wa 06/09/2021, Turyasingura Victor yaregeye Urukiko Rwisumbuye rwa Gicumbi asaba ko

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iyi sosiyete y'ubwishingizi yamugenera indishyi zikomoka kuri iyi mpanuka zingana na 24.383.900Frw, zikubiyemo 5.832.000Frw y'indishyi z'ibangamirabukungu, 1.080.000Frw y'indishyi zikomoka ku bubabare (Doloris), 1.080.000Frw y'indishyi zo gutakaza uburanga (Esthetique), 7.583.450 Frw yakoreshejwe mu kwivuka, 2.454.325Frw y'ingendo, 2.354.125Frw y'amafunguro, 2.000.000Frw y'indishyi zo gushorwa mu manza n'ikurikiranarubanza na 2.000.000Frw y'igihembo cya Avoka. [3] SANLAM AG Plc yireguye ivuga ko bitewe n'uko Turyasingura Victor aterekana icyo yinjizaga mu rwego rw'ubukungu, mu kugenera indishyi z'ibangamirabukungu, Urukiko rwashingira ku gika cya 3 cy'ingingo ya 18 y'iteka rya Perezida No 31/01 ryo ku wa 25/08/2003 rishyiraho uburyo bwo kwishyura indishyi ku bubabare bw'umubiri buturutse ku mpanuka zitewe n'ibinyabiziga. Ivuga kandi ko indishyi mbangamiraburanga ntazo yagenerwa ; naho ku zindi ndishyi zisabwa, SANLAM AG Plc ivuga ko Urukiko rwazigena

hakurikijwe ibimenyetso uwagize impanuka yatanze. [4] Mu rubanza RC00028/2021/TGI/GIC rwaciwe ku wa 12/01/2022, Urukiko Rwisumbuye rwa Gicumbi rwasanze indishyi Turyasingura Victor agomba guhabwa zigomba kubarirwa ku mushahara mpuzandengo ungana na 3.000 Frw kuko atagaragaza umushahara we mu kazi yakoraga ko kuvunja cyangwa inyungu nyakuri z'ibyo yavanagamo; rwanzura ko ikirego cyatanzwe na Turyasingura Victor gifite ishingi, rutegeka SANLAM AG Plc kumuha 5.245.000Frw y'indishyi z'ibangamirabukungu, 216.000Frw y'indishyi z'akababaro, 1.080.000Frw y'indishyi z'ibangamiraburanga, 6.480.000Frw y'indishyi z'ubumuga bw'igihe gito mu gihe cy'amezi atandatu, 7.583.450Frw yakoresheje yivuzwa, 2.454.325Frw y'ingendo, 2.354.125Frw yakoresheje afata amafunguro, 500.000Frw y'ikurikiranarubanza na 500.000 y'igihembo cya Avoka; yose hamwe akaba 26.412.900Frw. [5] Sanlam AG Plc yajuririye Urukiko Rukuru ivuga ko itanyuzwe n'ingingo z'amategeko Urukiko Rwisumbuye rwa Gicumbi rwashingiyeho ubwo rwageneraga Turyasingura Victor indishyi z'ibangamirabukungu kandi ko urwo Rukiko rutagombaga kumugenera indishyi mbangamiraburanga ndetse n'iz'igihe gito. [6] Mu rubanza RCA00060/2022/HC/KIG rwaciwe ku wa 20/10/2023, Urukiko Rukuru rwasanze: Ikibazo cyatanzwe na SANLAM AG Plc cyo kutemeranya ku ngingo z'amategeko zagombaga gushingirwaho cyafatwa nk'ikosa rigomba gukosorwa aho gufatwa nk'impamvu y'ubujurire, bityo ko ingingo ya 17 y'iteka rya Perezida No 31/01 ryo ku wa 25/08/2003 ryavuzwe haruguru, yashingiweho n'Urukiko Rwisumbuye rwa Gicumbi igomba gukosorwa, rwemeza ko ingingo yagombaga gushingirwaho ari iya 18 y'iryo Teka rya Perezida ; Indishyi z'ibangamirabukungu zahawe Turyasingura Victor zarabazwe mu buryo bukurikije amategeko kuko kuba yaragize ubumuga bungana na 45%, indishyi yagombaga guhabwa zagombaga kubarwa hashingiwe ku ngingo ya 18 y'iteka rya Perezida ryavuzwe haruguru ; Turyasingura Victor ataragombaga guhabwa 6.480.000Frw y'indishyi z'igihe gito kuko Urukiko Rwisumbuye rwa Gicumbi rwazimugeneye kandi nyamara atarigeze aziregera. [7] Urukiko rwanzuye ko ubujurire bwatanzwe na SANLAM AG Plc bufite ishingi kuri bimwe, rwemeza ko ahari handitse ko Urukiko Rwisumbuye rwa Gicumbi rwashingiye ku ngingo ya 17 y'iteka rya Perezida N° 31/2001 ryo ku wa 25/08/2003 rishyiraho uburyo bwo kubara indishyi zikomoka ku mpanuka zatewe n'ibinyabiziga bigenzwa na moteri kandi bigenda ku butaka, hakosowe hakandikwa ko rushingiye ku ngingo ya 18 y'iryo teka rya Perezida, rutegeka ko 6.480.000Frw y'indishyi z'igihe gito yahawe Turyasingura Victor, akuweho, ruvuga ko agomba guhabwa indishyi zingana na 19.932.900 Frw kuko ari zo yemerewe. [8] Ku wa 14/11/2023, SANLAM AG Plc yandikiye Perezida w'Urukiko rw'Ubujurire, asaba ko urubanza RCA00060/2022/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 20/10/2023 rusubirwamo ku mpamvu z'akarengane. Perezida w'Urukiko rw'Ubujurire amaze kubisuzuma, yandikiye Perezida

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w'Urukiko rw'Ikirenga asaba ko urwo rubanza rusubirwamo, maze mu cyemezo no 146/CJ/2024 cyo ku wa 03/10/2024, yemeza ko rwoherezwa mu Bwanditsi bw'Urukiko rw'Ikirenga kugira ngo ruzongere ruburanishwe. [9] Iburanisha mu ruhame ryabaye ku wa 03/11/2025, SANLAM AG Plc ihagarariwe na Me Nkeza Sempundu Clément afatanyije na Me Niyondora Nsengiyumva, naho Turyasingura Victor ahagarariwe na Me Nkusi Murindangabo Dismas ; Urukiko rusuzuma niba

amafaranga yo kwivuza, ay'ingendo n'ay'amafunguro Turyasingura Victor yagenewe ari yo yagombaga guhabwa, runasuzuma niba indishyi zisabwa zatangwa. II. ISESENGURWA RY'IBIBAZO BIGIZE URUBANZA Kumenya niba amafaranga yo kwivuza, ay'ingendo n'ay'amafunguro TURYASINGURA Victor yagenewe ari yo yagombaga guhabwa [10] Ku bijyanye n'amafaranga yo kwivuza, Me Nkeza Sempundu Clément na Me Niyondora Nsengiyumva baburanira SANLAM AG Plc bavuga ko mu gutegeka amafaranga yo kwivuza SANLAM AG Plc yagombaga kwishyura ku rwego rwa mbere, Urukiko rwagombaga gushingira ku mafaranga agaragara ku nyemezabwishyu (factures), ari yo 4.457.495Frw yishyuwe mu bitaro bya kaminuza CHUK na 12.954Frw yishyuwe mu bitaro byitiriwe Umwami Fayisali (King Faisal Hospital). Bakomeza bavuga ko ku bijyanye n'inyemezabwishyu zatanzwe na farumasi (pharmacy) zitandukanye, nta kigaragaza ko Turyasingura Victor ari we wishyuye amafaranga azigaragara, bityo ko bashingiye ku kuba umwishingizi yishingira uwahohotewe gusa, basanga Urukiko rutaziha ishingiro. Naho inyemezabwishyu zigaragaza ko yivuriye mu gihugu cya Uganda, basanga nazo zitashingirwaho kuko mbere yo kujyayo atabanje kubyemererwa n'akanama k'ubuvuzi kagizwe n'umuganga w'uwahohotewe, uw'umwishingizi ndetse n'impuguke yasabwe n'abo bombi nk'uko biteganywa n'ingingo ya 131 y'Iteka rya Perezida No 31/01 ryo ku wa 25/08/2003 rishyiraho uburyo bwo kwishyura indishyi ku bubabare bw'umubiri buturutse ku mpanuka zitewe n'ibinyabiziga, bakaba batategewe kwishyura amafaranga yaba yarishyuwe na Turyasingura Victor kandi ataremerewe kujya kwivuza hanze uko biteganywa n'iyo ngingo yavuzwe haruguru. [11] Ku bijyanye n'amafaranga y'amafunguro n'ay'ingendo, bavuga ko Urukiko Rukuru rwirengagije imyanzuro ya SANLAM AG Plc ndetse n'ibyavugiwe mu iburanisha ryo ku wa 27/07/2023, kuko iyo rubyitaho rwari kubona ko 2.354.125Frw y'amafunguro na 2.454.325Frw y'ingendo yagenewe Turyasingura Victor mu Rukiko Rwisumbuye rwa Gicumbi atari ayakwiye kuko nta bimenyetso ayatangira, ndetse ntanagaragaze aho ahurira n'uburyozwe bw'umwishingizi. Yongeraho kandi ko kuba Urukiko Rukuru rutarafashe icyemezo kuri izo ndishyi kandi nyamara ziri mu byatumye bajurira ndetse zanafashe umwanya munini mu iburanisha rwirengagije ingingo ya 10 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi kuko Urukiko rutaciye urubanza ku cyari cyajuririwe cyose. [12] Basaza kuri iyi ngingo basaba ko Urukiko rw'Ikirenga rwemeza ko urubanza RCA00060/2022/HC/KIG rwaciye n'Urukiko Rukuru ku wa 20/10/2023, ruhinduwe ku bijyane n'amafaranga y'ibyatanzwe mu kwivuza, ingendo n'amafunguro; rugategewe Turyasingura Victor gusubiza SANLAM AG Plc 4.808.450Frw yishyuwe kuko atari ayakwiriye, ndetse rugakuraho na

1 Iyo ngingo iteganya ko "amafaranga yo kwivuza, yo gushyirwa mu bitaro, yo kugura imiti, yo gutwarwa mu modoka itwara abarwayi, yo kongera kumenyereza umubiri, yo kugorora ingingo, y'ibyuma bikoresha, y'insimburangingo n'ay'ingendo zo kujya kwivuza arihwa n'uwateje impanuka cyangwa umwishingizi we, hakurikijwe ibicio biriho mu Rwanda. Agomba kwishyurwa n'abo bombi, bamaze kubona inzandiko zibihamya, mu kwezi kw'iyakirwa ry'izo nyandiko. Iyo harimo ukwivuriza ahandi hatari mu Rwanda, uwahohotewe agenda bimaze kwemezwa n'akanama k'ubuvuzi kagizwe n'umuganga w'uwahohotewe, n'umuganga w'umwishingizi hamwe n'impuguke yasabwe n'abo bombi. Umwishingizi ntategetswe kwishyura

amafaranga azaba yarishywe igihe kohereza umurwayi bitazaba byakozwe muri ubwo buryo.”

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3.113.915Frw yo kwivuzwa ataratangiye ibimenyetso bigaragaza ko Turyasingura Victor yayishyuye mu buryo bukurikije amategeko. [13] Me Nkusi Murindangabo Dismas uhagarariye Turyasingura Victor avugaga ko indishyi zose zagenewe uwo ahagarariye zari zikwiye kuko zabazwe mu buryo buteganywa n'amategeko. Yongeraho ko yemeranya n'icyemezo cyafashwe n'Urukiko Rwisumbuye rwa Gicumbi ndetse n'icy'Urukiko Rukuru. [14] Akomeza avugaga ko kuba ababuranira SANLAM AG Plc bavugaga ko inyemezabwishyu zigaragaza ko Turyasingura Victor yivurije mu gihugu cya Uganda zitashingirwaho nta gaciro byahabwa kuko ibiteganywa n'ingingo ya 13 y'Iteka rya Perezida No 31/01 ryo ku wa 25/08/2003, bikurikizwa ku muntu wagiye kwivuriza mu gihugu cy'amahanga, bityo ko kuba Turyasingura Victor yaratahaye iwabo mu gihugu cya Uganda nta cyari kumubuza gukomeza kwivuzwa kuko impanuka yabaye yamugizeho ingaruka zatumye aza ubwenge. UKO URUKIKO RUBIBONA: [15] Muri uru rubanza, ababuranyi bombi bemeranya ko Turyasingura Victor yakozwe impanuka itewe n'ikinyabiziga cyishingiye na SANLAM AG Plc akaba yaragombaga guhabwa indishyi zitandukanye. icyo batumvikanaho ni amafaranga yo kwivuzwa, ay'ingendo n'ay'amafunguro yahawe Turyasingura Victor, SANLAM AG Plc ivugaga ko adafitiye ibimenyetso. Andi mafaranga batemeranyaho ni akomoka ku nyemezabwishyu zigaragaza ko yivurije mu gihugu cya Uganda, kandi atarabanje kubyemererwa n'akanama k'ubuvuzi kavugwa mu ingingo ya 13 y'Iteka rya Perezida No 31/01 ryo ku wa 25/08/2003 rishyiraho uburyo bwo kwishyura indishyi ku bubabare bw'umubiri buturutse ku mpanuka zitewe n'ibinyabiziga. Urukiko rugomba gusuzuma niba uwahungabanyijwe n'impanuka ibereye mu Rwanda kandi atari ho atuye, mu gihe yaba asubiye iwabo kugira ngo abashe kwivuzwa agomba kubanza kubyemererwa n'ako kanama. Rugomba kandi gusuzuma ibijyanye n'inyemezabwishyu Turyasingura Victor yishyuye SANLAM AG Plc ivugaga ko zidakwiye kwishyurwa kuko zitagaragarizwa ibimenyetso. [16] Ingingo ya 3 y'Itegeko N° 41/2001 ryo ku wa 19/09/2001 ryerekeye imyishyurire y'abangirijwe n'impanuka zitewe n'ibinyabiziga bigenzwa na moteri kandi bigenda ku butaka, iteganya ko "uwangirijwe n'impanuka itamuviriyemo urupfu afite uburenganzira bwo kuvuzwa cyangwa gusubizwa amafaranga yatanze yivuzwa n'ayo yaguze imiti kubera uburwayi yatewe n'ayo mpanuka. Afite uburenganzira bwo kwishyurirwa cyangwa gusubizwa amafaranga yatanze ku ngendo zo kujya kwivuzwa, amafaranga yatanze yitoza gusubira uko yari amaze mbere n'ayo yatanze yongera kwitoza umwuga we, kimwe n'amafaranga yo kugura amenyo y'amakorano cyangwa gusimbura ingingo zindi zamugaye, n'andi mafaranga yose yatanze n'uwangirijwe n'impanuka cyangwa yatanze n'undi wese wamwitagaho ku buryo ubwo ari bwo bwose." [...] [17] Ingingo ya 13 y'Iteka rya Perezida No 31/01 ryo ku wa 25/08/2003 rishyiraho uburyo bwo kwishyura indishyi ku bubabare bw'umubiri buturutse ku mpanuka zitewe n'ibinyabiziga iteganya ko "amafaranga yo kwivuzwa, yo gushyirwa mu bitaro, yo kugura imiti, yo gutwarwa mu modoka itwara abarwayi, yo kongera kumenyereza umubiri, yo kugorora ingingo, y'ibyuma bikoreshe, y'insimburangingo n'ay'ingendo zo kujya kwivuzwa arihwa n'uwateje impanuka cyangwa umwishingizi we, hakurikijwe ibiciro biriho mu Rwanda. Agomba kwishyurwa n'abo bombi, bamaze kubona inzandiko zibihamya, mu kwezi kw'iyakirwa ry'izo

nyandiko.” Igika cya kabiri cy’iyo ngingo giteganywa ko “Iyo harimo ukwivuriza ahandi hatari mu Rwanda, uwahohotewe agenda bimaze kwemezwa n’akanama k’ubuvuzi kagizwe n’umuganga w’uwahohotewe, n’umuganga w’umwishingizi hamwe n’impuguke yasabwe n’abo bombi.” Naho igika cya gatatu cy’iyo ngingo kigateganywa ko “Umwishingizi ntategetswe kwishyura amafaranga azaba yarishyuwe igihe kohereza umurwayi bitazaba byakozwe muri ubwo buryo.”

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Ku bijyanye n’inyemezabwishyu zigaragaza ko Turyasingura Victor yivuriye mu gihugu cya Uganda [18] Urukiko rurasanga icyo igika cya kabiri n’icya gatatu by’ingingo ya 13 y’Iteka rya Perezida No 31/01 ryo ku wa 25/08/2003 ryavuzwe haruguru bigamije, ari ugushyiraho uburyo umurwayi usanzwe utuye mu Rwanda ajya kwivuriza hanze (transfer/transfert nk’uko bivuze mu rurimi rw’igifaransa n’icyongereza) kuko atashoboye kubona ubuvuzi akeneye mu gihugu. Ikigamijwe muri iyi ngingo ni ukwemerera uwahungabanyijwe n’impanuka kuba yajya gushaka ubuvuzi adashoboye kubonera mu gihugu cye mu kindi gihugu gishobora kubutanga, ibyo bikaba bigomba kwemezwa n’akanama k’ubuvuzi kavugwa muri iyo ngingo. Rurasanga ibi bireba umuntu uba mu Rwanda, ariko umushingamategeko atateganyije uko bigenda igihe uwangirijwe n’impanuka ari utuye mu mahanga, wakoreye impanuka mu Rwanda nyuma agasubira mu gihu cye akaba ari ho yivuriza. [19] Urukiko rurasanga umuntu uba mu mahanga wakoreye impanuka mu Rwanda atategakwaha kuhaguma kugira ngo ashobore kuhivuriza mu gihe atahatuye, atahafite ibikorwa cyangwa ubundi buryo bwo kuhaba. Urukiko rurasanga kuba yasubira mu gihugu cye, akahivuriza, ari byo byaba bimworoheye kandi bitamuhenze, kuko bitaba ngombwa ko yishyura icumbi, amafunguro n’ibindi byose yakenera mu buzima bwa buri munsu, kandi atazi n’igihe bizamara. [20] Urukiko rurasanga rero umuntu usubiye iwabo atafatwa kimwe n’uvugwa mu ngingo ya 13 y’Iteka rya Perezida ryavuzwe haruguru kuko ahitwa mu kindi gihugu kuri we aba ari mu gihugu cye, bityo akaba atategakwaha gusaba kubyemererwa n’Akanama k’ubuvuzi kavugwa. Icyakora, mu gihe yaba yatangiye gukurikirana idosiye yo kwishyurwa, akwiye kumenyesha umwishingizi asaba indishyi ko asubiye mu gihugu cye. [21] Muri uru rubanza, Turyasingura Victor yabanje kwivuriza mu Rwanda mu bitaro bya CHUK, ariko nyuma asubira mu gihugu cye cya Uganda, aho yari asanzwe atuye, aba ari ho akomereza kwivuriza nk’uko bigaragazwa n’inyandiko zo kwa muganga yivuriyeho mu bitaro bya Mulago n’ibya Kabale. [22] Hashingiwe ku bimaze gusobanurwa, Urukiko rurasanga inyemezabwishyu Turyasingura Victor yivuriyeho n’iz’imiti yahawe mu gihugu cya Uganda zaragombaga kwakirwa, zigasuzumwa, zaba zujuje ibisabwa zikishyurwa. Urukiko rurasanga muri dosiye harimo inyandiko yo mu bitaro bya Kabale Regional Referral Hospital yo ku wa 05/02/2018 igaragaza ko Turyasingura Victor yashyizwe mu bitaro iherekejwe n’inyemezabwishyu ya UGX2 278,500 n’iy’imiti ya UGX 10.000; harimo kandi inyemezabwishyu ziri ku mazina ya Turyasingura Victor zitandukanye zo kwivuza (treatment) mu ivuriro rya Trust Medical Center rya Katuna ku matariki atandukanye zose zifite agaciro ka UGX 1.750.500, n’iyo muri Kampala Ear, Nose, Throat & Sinus Centre ya UGX 40.000, yose hamwe akaba ari $UGX\ 3.112.500 \times 0.4087253 = 1.272.156Frw$; aya akaba agomba kuyasubizwa kuko bigaragara ko ari ayo yivuriyeho mu bihe bikurikira impanuka yagize, kandi inyemezabwishyu ziri mu mazina ye. Ku bijyanye n’inyemezabwishyu z’amafaranga yo kwivuza

mu Rwanda, ingendo n'amafunguro [23] Mu rubanza Mukakimenyi Marie Claire yaburanaga na SANLAM AG Plc ndetse n'urwa Nyiraganza Ramu yaburanaga na Sonarwa General Insurance Company Ltd, Urukiko rw'Ikirenga rwavuze ko uwahohotewe ufite ubushobozi ashobora kwivuka ku giti cye, nyuma akazasaba uwateje impanuka cyangwa uwamwishingiye kumusubiza amafaranga yatanze yivuka, ariko hamaze gutangwa ibimenyetso bigaragaza amafaranga y'ikiguzi yatanze kuri ubwo buvuzi, mu gihe yaba nta bushobozi

2 UGX bivuga amashiringi ya Uganda 3 Ukurikije ivunja ritangwa na BNR selling rate yo ku wa 12/12/2025 <https://www.bnr.rw/exchangeRate>

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afite agasaba abo bombi kumuvuka. Rwasobanuye ko uwateje impanuka cyangwa uwamwishingiye yohereza uwahohotewe kwa muganga akavurwa, noneho akaba ari we wishyura ivuriro⁴. [24] Ku bijyanye n'uru rubanza, ababuranira SANLAM AG Plc bavuye ko Turyasingura Victor atagombaga gusubizwa amafaranga yo kwivuka mu Rwanda n'ay'imiti yahaguzwe, uretse ayo mu bitaro bya CHUK n'ayo mu bitaro bya Faysal; 2.354.125Frw y'amafunguro na 2.454.325Frw y'ingendo kuko nta bimenyetso ayatangira kandi ntanagaragaze aho ahurira n'uburyozwe bw'umwishingizi. Hashingiwe ku murongo watanze mu rubanza rwavuzwe haruguru, Urukiko rurasanga kugira ngo inyemezabwishyu yatanze zishyurwe zaragombaga kugaragaza ko zahawe Turyasingura Victor, kandi hakagaragazwa aho zihurira no kwivuka impanuka yagize. - Ku bijyanye n'inyemezabwishyu z'amafarumasi, Urukiko rurasanga inyemezabwishyu zatanze na Turyasingura Victor zitagaragaraho amazina ye, ndetse ntizigaragaza inyandiko ya muganga iriho izina rye imwandikira imiti yaguzwe (ordonnance). Urukiko rurasanga izo nyemezabwishyu zitujye ibisabwa kuko zitagaragaza aho zihurira n'impanuka Turyasingura Victor yagize, bityo zikaba zidashobora kwakirwa ngo zishyurwe.

- Ku bijyanye n'amafaranga y'ingendo n'ay'amafunguro, Urukiko rurasanga inyemezabwishyu Turyasingura Victor yatanze nazo zitagaragaraho amazina ye cyangwa ikindi kintu kigaragaza ko zijyanye n'impanuka yagize, zikaba zitashingirwaho yishyurwa. Rurasanga ariko dosiye igaragaza ko yamaze igihe kinini mu Rwanda yivuka ndetse yaragiye no mu bitaro inshuro nyinshi, bikaba byumvikana ko icyo gihe cyose yari akeneye amafunguro amutunga kuko atari asanzwe aba mu Rwanda kandi akaba nta cumbi yari ahafite ; bityo akaba akwiye gusubizwa amafaranga y'amafunguro yamutunze muri icyo gihe cyose. Rurasanga kandi yahabwa n'amafaranga y'ingendo yakoresheje muri icyo gihe. Urukiko rurasanga ariko kuko inyemezabwishyu yatanze zitashingirwaho nk'uko byasobanuwe haruguru, rugomba kugena ayo mafaranga mu bushishozi bwariwo, akaba ari muri urwo rwego agenewe 2.000.000Frw y'amafunguro na 1.000.000Frw y'ingendo mu gihe cyose yamaze mu Rwanda yivuka. [25] Hakurikijwe ibisobanuro bimaze gutangwa, Urukiko rurasanga Turyasingura Victor agomba guhabwa amafaranga yo kwivuka yose hamwe angana na 4.457.495Frw + 12.954Frw + 1.272.156Frw = 5.742.605Frw, ay'amafunguro 2.000.000Frw n'ay'ingendo 1.000.000Frw. Urukiko rurasanga SANLAM AG Plc yamaze kurangiza urubanza RCA00060/2022/HC/KIG rwaciye n'Urukiko Rukuru ku wa 20/10/2023,

ikaba yarashyize 19.932.900Frw kuri konti ya Bwesige Richard wahawe na Turyasingura Victor ububasha bwo kwakira amafaranga akomoka ku rubanza rwavuzwe haruguru5. Rurasanga SANLAM AG Plc yatanze amafaranga arenze ayo yagombaga gutanga, bityo Turyasingura Victor akaba agomba kuyisubiza ayo amafaranga arengaho angana na 1.840.850Frw yo kwivuza, 1.454.325Frw y'ingendo na 354.125Frw y'amafunguro, yose hamwe akaba 3.649.295Frw. Kumenya niba indishyi zisabwa muri uru rubanza zatangwa [26] Me Nkeza Sempundu Clément na Me Niyondora Nsengiyumva baburanira SANLAM AG Plc bavuga ko kuba Turyasingura Victor yarareze SANLAM AG Plc gusubizwa amafaranga yakoresheje ubwo yagiraga impanuka kandi abizi neza ko nta bimenyetso ayafitiye, basaba ko Urukiko rw'Ikirenga rwamutegeka gusubiza Sosiyete baburanira 700.000Frw y'igihembo cya Avoka yatanzwe mu Rukiko Rukuru na 700.000Frw kuri uru rwego ndetse na 200.000Frw y'indishyi z'ikurikiranarubanza ku nzego zombi kuko SANLAM AG Plc yaburanaga ihagarariwe na Avoka. [27] Me Nkusi Murindangabo Dismas uhagarariye Turyasingura Victor avuga ko indishyi SANLAM AG Plc isaba ntazo yagenerwa kuko ntacyo uwo ahagarariye yayibangamiyeho ; ahubwo ko bitewe n'uko

4 Reba urubanza No RS/INJUST/RC 00012/2022/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 02/02/2024, haburana MUKAKIMENYI Marie Claire na SANLAM AG Plc, igika cya 28 5 Reba inyandiko yo gutanga ububasha (procuration) yo ku wa 04/12/2023

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SANLAM AG Plc ari yo ikomeje kumushora mu manza no kuba hari ibindi yari yemerewe ariko agahitamo kubireka kubera kwanga gukomeza gukururuka mu manza; asaba ko Urukiko rwategeka SANLAM AG Plc kumuha 1.000.000Frw hakubiyemo 500.000Frw y'indishyi zo gushorwa mu manza na 500.000 Frw y'igihembo cya Avoka. [28] Ababuranira SANLAM AG Plc bavuga ko indishyi zisabwa na Turyasingura Victor nta shingiro zahabwa kuko kugeza n'uyu munsu atagaragaza ibimenyetso byashingirwaho azigenerwa. UKO URUKIKO RUBIBONA [29] Ingingo ya 111 y'itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ko "Ikirego cy'amafaranga y'ikurikiranarubanza ni ikirego gishamikira ku kirego cy'iremezo kigamije kwishyuza ibyakoreshejwe mu rubanza. Ikirego cy'amafaranga y'ikurikiranarubanza kiburanishirizwa rimwe n'ikirego cy'iremezo. Gishobora kandi kwakirwa kikanaburanishwa n'iyi ikirego cy'iremezo cyaba kitakiriwe." [30] Urukiko rurasanga amafaranga y'igihembo cya Avoka ndetse n'ay'ikurikiranarubanza asabwa n'ababuranyi badakwiye kuyahabwa kuko buri wese afite ibyo atsindiwe mu rubanza. III. ICYEMEZO CY'URUKIKO [31] Rwemeje ko ikirego cyatanzwe na SANLAM AG Plc cyo gusubirishamo ku mpamvu z'akarengane urubanza RCA00060/2022/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 20/10/2023, gifite ishingiro kuri bimwe ; [32] Rwemeje ko urubanza RCA00060/2022/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 20/10/2023, ruhindutse ku bijyanye n'amafaranga yo kwivuza, ay'amafunguro n'ay'ingendo. [33] Rutegetse Turyasingura Victor gusubiza SANLAM AG Plc 3.649.295Frw.

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