IRIBURIRO

Itegeko N° 76/2013 ryo kuwa 11/9/2013 rigena inshingano, ububasha, imiterere n'imikorere by'Urwego rw'Umuvunyi mu ngingo yaryo ya 4, riteganya ko mu nshingano z'Urwego rw'Umuvunyi harimo guhuza umuturage n'inzego z'ubutegetsi za Leta n'izigenga; gukumira no kurwanya akarengane, ruswa n'ibyaha bifitanye isano na yo mu nzego z'ubutegetsi bwa Leta n'izigenga; kwakira no gusuzuma ibirego by'abantu ku giti cyabo n'iby'amashyirahamwe, byerekeye ibikorwa by'abakozi ba Leta, iby'inzego zayo n'iby'abikorera, no gukangurira abo bakozi n'izo nzego gushakira umuti ibyo bibazo iyo rusanze bifite ishingiro. Urwego rw'Umuvunyi kandi rugira inama inzego za Leta n'iz'abikorera kugira ngo imikorere y'ubuyobozi irusheho kunogera abaturage.

Mu gushyira mu bikorwa izo nshingano, Urwego rw'Umuvunyi rwakira kandi rugasuzuma ibibazo biri mu byiciro bitandukanye. Muri byo, hari ibibazo bijyanye no gusubirishamo imanza ku mpamvu z'akarengane, ibyerekeye kurangiza imanza zaciwe burundu n'inkiko, ibyerekeranye n'imari, n'ibibazo rusange birebana n'ubutaka n'indi mitungo itimukanwa cyangwa yimukanwa.

Iki cyegeranyo kigamije kumenyekanisha imwe mu myanzuro yafashwe n'Urwego rw'Umuvunyi ku bibazo bitandukanye rwashyikirijwe. Cyerekana ishusho kandi kigatanga amakuru ku mikorere y'Urwego rw'Umuvunyi ku nshingano zo gukemura ibibazo by'abaturage.

Icyegeranyo cy'ibyemezo by'Urwego rw'Umuvunyi kizajya gisohoka buri gihembwe. Iyi nomero ya mbere, ikubiyemo imyanzuro yafashwe ku bibazo biri mu byiciro bikurikira:

1. Ibibazo byerekeye gusubirishamo imanza ku mpamvu z'akarengane;
2. ibibazo by'akarengane;
3. ibibazo byerekeye ubuhuza (mediation).

Urwego rw'Umuvunyi rurashimira buri wese ku ruhare rwe mu rugamba rwo gukumira no kurwanya akarengane na ruswa.

Bikorewe i Kigali, ku wa 01/08/2017.

CYANZAYIRE Aloysie
Umuvunyi Mukuru

Icyemezo cy'Urwego rw'Umuvunyi N^{o} Omb.cjru/01/13

IKIBAZO HAGATI YA W na M

Inshamake:

Ku wa 29/07/2013, Urwego rw'Umuvunyi rwakiriye ikibazo cya W asaba ko urubanza RCA 0235/12/TGI/NYGE rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge ku wa 17/12/2012 rwasobanuwe n'urubanza RCA 0195/13/TGI/NYGE rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge ku wa 24/07/2013, rwasabirwa gusubirwamo ku mpamvu z'akarengane. Muri urwo rubanza, W yaburanye n'umugabo we M ashinganisha umutungo w'umuryango bahuriyeho mu gihe imanza bari bafitanye ku butane zari zitaracibwa burundu. W ntiyishimiye imikirize y'urwo rubanza kubera ko mu rubanza RCA 0235/12/TGI/NYGE, Umucamanza w'Urukiko Rwisumbuye yakiriye ubujurire ku rubanza RC 0496/12/TB/NYGE rwaciwe n'Urukiko rw'Ibanze rwa Nyarugenge kuwa 17/10/2010, yirengagije ibihe by'ijurira byateganyijwe n'amategeko ku birebana n'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe; no kuba mu rubanza RCA 0195/13/TGI/NYGE, Umucamanza yararegewe ikirego kirebana no gusobanura urubanza, akinjira mu mizi agahindura ibyari byemejwe n'Urukiko rw'Ibanze.

Urwego rw'Umuvunyi rwasanze kuba Urukiko Rwisumbuye rwa Nyarugenge rwarakiriye ubujurire bw'urubanza bwarengeje ibihe by'ijurira, rugafata ibyemezo byagize ingaruka ku rubanza rwabaye itegeko, ari impamvu ituma urubanza rusabirwa gusubirwamo ku mpamvu z'akarengane.

Ku busabe bw'Urwego rw'Umuvunyi, Urukiko rw'Ikirenga mu rubanza RS/REV/INJ/CIV 0005/13/CS rwaciwe ku wa 28/02/2014, rwasubiyemo urubanza RCA 0235/12/TGI/NYGE rusobanurwa n`urubanza RCA 0195/13/TGI/NYGE, rusanga ikirego cya W cyaratanzwe mu buryo n`inzira bikurikije amategeko kandi ko gifite ishingiro, rwemeza ko urubanza RCA 0235/12/TGI/NYGE rusobanurwa n`urubanza RCA 0195/13/TGI/NYGE ruvanyweho kuko rwaciwe mu buryo bunyuranyije n`amategeko; ko urubanza Nº RC 0496/12/TB/NYGE rwaciwe n'Urukiko rw'Ibanze rwa Nyarugenge kuwa

17/10/2010 W yatsinzemo M rugumanye agaciro karwo; rutegeka M gutanga amagarama y'urubanza.

Amategeko yifashishijwe:

1. Itegeko Ngenga n° 03/2012/OL ryo ku wa 13/06/2012 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga;
2. Itegeko n° 21/2012 ryo ku wa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi.

IKIBAZO HAGATI YA W na M

I. Imiterere y'ikibazo

1. W yatanze ikirego cy'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe mu Rukiko rw'Ibanze rwa Nyarugenge. Mu kirego cye yashinganishaga umutungo w'umuryango ahuriyeho n'umugabo we M mu gihe imanza RC 0250/09/TB/NYGE na RC 0535/TB/NYGE zitaracibwa burundu.
2. Mu rubanza RC 0496/12/TB/NYG Urukiko rw'Ibanze rwategetse ko imitungo igizwe n'ibibanza no. 5686 na no. 5685 biri Nyabugogo mu Murenge wa Muhima, n'amazu abyubatsemo, ikibanza no. 720 n'inzu zicyubatsemo, biri mu Kagari ka Kiyovu mu Murenge wa Nyarugenge, ikibanza no. 4593 n'inyubako zikirimo, biri mu Karere ka Kicukiro, bishinganishijwe ku buryo bidashobora kugurishwa cyangwa ngo bitangweho ingwate W na M batabanje kubyumvikanaho.
3. Urukiko rw'Ibanze rwa Nyarugenge rwategetse kandi ko Frw 15,164,000 akomoka ku bukode bw'amazu, Frw 583,813,920 akomoka ku rubanza M yatsinzemo KOBIL ashinganishijwe, agashyirwa kuri konti W na M bahuriyeho, bagomba gufunguza mu gihe kitarenze iminsi itanu, bitakubahirizwa agashyirwa kuri konti 011-2001118 ya W iri muri FINA BANK na we atemerewe kubikuzaho atabiherewe uburenganzira n'umugabo we ariko bakaba bemerewe kubanza gukuraho ayo bakenera mu buzima bwabo bwa buri munsi.
4. Ku itariki ya 22/10/2012, bisabwe na W, ubwanditsi bw'Urukiko Rwisumbuye rwa Nyarugenge, bwamwandikiye icyemezo cy'uko urubanza RC 0496/12/TB/NYG, rwaciwe ku itariki ya 17/10/2012 rutigeze rujuririrwa.
5. Ku itariki ya 31/10/2012 nk'uko bigaragara ku nyandiko itanga ikirego (EFS Case #870443), M yajuririye urubanza RC 0496/12/TB/NYGE rwaciwe tariki ya 17/10/2012. Urukiko Rwisumbuye rwa Nyarugenge rwakiriye icyo kirego cyandikwa kuri nomero RCA 0235/12/TGI/NYGE. Urukiko rwemeje ko imikirize y'urubanza RC 0496//TB/NYG ihindutse kuri bimwe, maze Umucamanza akuraho icyemezo cyari cyafashwe n'Urukiko rw'Ibanze

ahavugwaga ko Frw 15,164,000 y'ubukode ndetse na Frw 585,813,920 M yatsindiye KOBIL PETROLEUM ashinganishijwe.

6. Umuhesha w'Inkiko utari uw'umwuga, yarangije urubanza RCA 0235/12/TGI/NYGE. Nyuma y'irangiza ry'urubanza M yatanze ikirego RC 0427/13/TGI/NYGE, gishingiye ku irangizarubanza ryakozwe nabi. Mu kirego cye, M yasobanuye ko Umuhesha w'Inkiko yarangije urubanza nabi ngo kuko atitaye ku bikubiye mu rubanza yarangije, ategeka ko amafaranga y'ubukode ndetse n'ayo M yatsindiye KOBIL PETROLEUM yayashinganishije ngo kandi urwo rubanza rwarategetse ko icyo cyemezo gikuweho.
7. Nyuma yo gusuzuma imiburanire ndetse n'imanza zarangijwe, Urukiko Rwisumbuye rwemeje ko Umuhesha w'Inkiko yazirangije nk'uko zaciwe, agendeye kuri "dispositif" zazo.
8. Ku itariki ya 18/07/2013 M yatanze ikirego RCA 0195/13/NYGE mu Rukiko Rwisumbuye rwa Nyarugenge, asaba gusobanuza urubanza RCA 0235/12/TGI/NYGE rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge ku wa 17/12/2012. Mu bisobanuro by'ikirego cye, yagaragaje ko yifuza ko Umucamanza yasobanura ibirebana n'ibikubiye mu gika cya 14 cy'urwo rubanza kandi bikanashyirwa muri "dispositif" y'urubanza.
9. Nyuma yo kumva ibisobanuro byatanzwe na M, Urukiko Rwisumbuye rwa Nyarugenge rwemeje ko ibikubiye mu gika cya 14 cy'urwo rubanza bikwiye kumvikana ko Urukiko rwavuze ko amafaranga ava mu bukode bw'amazu ya M na W atagomba gushinganishwa, bigahindura ibyo Urukiko rw'Ibanze rwa Nyarugenge rwari rwategetse mu rubanza RC 0496/12/TB/NYG, igika cya 20, ari nayo mpamvu havuzwe ko ruhindutse kuri bimwe.
10. Ku wa 29/07/2013, W yandikiye Urwego rw'Umuvunyi asaba ko urubanza RCA 0235/12/TGI/NYGE rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge ku wa 17/12/2012 rwasobanuwe n'urubanza RCA 0195/13/TGI/NYGE rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge ku wa 24/07/2013, rwasabirwa gusubirwamo ku mpamvu z'akarengane.

II. Isesengura ry'ikibazo

Ikibazo cy'amategeko gisesengurwa ni ukumenya niba ubujurire ku nyandiko nsobanurakirego yatanzwe n'umuburanyi umwe mu rubanza RC 0496/12/TB/NYGE rwaciwe n'Urukiko rw'Ibanze rwa Nyarugenge kuwa 17/10/2010, bwarubahirije ibihe biteganywa n'amategeko.

11. Urubanza RC 0496/12/TB/NYGE rwaburanishijwe n'Urukiko rw'Ibanze rwa Nyarugenge, rucibwa ku itariki ya 17/10/2012. Uru rubanza rukaba rwarakomokaga ku kirego cy'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe, cyatanzwe na W.
12. Ku itariki ya 31/10/2012 M yatanze ikirego cyo kujuririra urubanza RC0496/12/TB/NYGE Urukiko Rwisumbuye rwa Nyarugenge ruracyakira, ubujurire buhabwa RCA 0235/12/TGI/NYGE, rurakiburanisha rufata umwanzuro wo guhindura bimwe mu byari byategetswe n'Urukiko rw'Ibanze rwa Nyarugenge.
13. Itegeko n° 21/2012 ryo ku wa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi mu ngingo yaryo ya 329, iteganya ko kujuririra icyemezo cy'umucamanza cyafashwe ku nyandiko nsobanurakirego itanzwe n'umuburanyi umwe, bikorwa mu gihe cy`iminsi itanu (5), uhereye igihe ababuranyi bamenyesherejweho icyo cyemezo kandi bikajuririrwa inshuro imwe gusa.
14. Nk'uko bigaragara muri matolewa, urubanza RC 0496/12/TB/NYGE ku kirego cy'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe, rwaciwe n'Urukiko rw'Ibanze rwa Nyarugenge, ku itariki ya 17/10/2012. Ibi bivuze ko umuburanyi utaranyuzwe n'icyemezo cyafashwe n'urukiko, atagombaga kurenza iminsi itanu (5) iteganyijwe, ni ukuvuga ko umunsi wa nyuma wagombaga kuba ari ku itariki ya 24/10/2012 hagendewe ku buryo bw'ibara ry'ibihe byagenwe mu minsi, buteganywa n'ingingo ya 369 n'iya 370 z'itegeko ryavuzwe haruguru.
15. Ingingo ya 142, igika cya 2 y'Itegeko ryavuzwe haruguru, iteganya ko urukiko, rubyibwirije, rubyutsa inzitizi yo kutakira urubanza ku mpamvu ndemyagihugu. Zimwe muri izo mpamvu, harimo no kurenza igihe cyo kujurira. Kuba urukiko

rwarabirenzeho, rukakira ubujurire bw'urubanza rwarengeje igihe cyo kujuririrwa, ni ukwirengagiza ibiteganywa n'amategeko.

16. Nyuma yo kwakira no gufata icyemezo ku rubanza RCA 0235/12/TGI/NYGE bikozwe n'Urukiko Rwisumbuye rwa Nyarugenge, icyo cyemezo cyashamikiweho n'izindi manza kandi zagize ingaruka ku mikirize y'urubanza RC 0496/12/TB/NYGE rwaciwe n'Urukiko rw'Ibanze rwa Nyarugenge rwari rwarabaye itegeko. Ibi bikagaragazwa n'ikosozwa ry'urubanza RCA 0235/12/TGI/NYGE mu kirego RC 0195/13/NYGE cyatanzwe na M, aho rwatesheje agaciro ibikubiye mu rubanza rwabaye itegeko, maze rukemeza ko amafaranga y'ubukode n'ayo KOBIL PETROLEUM yagombaga kwishyura M atagomba gushinganishwa.
17. Hagendewe ku bimaze gusobanurwa, Urwego rw'Umuvunyi rusanga mu rubanza RCA 0235/12/TGI/NYGE rwasobanuwe n'urubanza RC 0195/13/NYGE rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge, harirengagijwe amategeko, urukiko rwakira ubujurire bw'urubanza rutagombaga kwakirwa.

III. Icyemezo cy'Urwego rw'Umuvunyi

18. Hashingiwe ku Itegeko Ngenga n° 03/2012/OL ryo ku wa 13/06/2012 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga mu ngingo yaryo ya 81, igika cya mbere, agace ka 2, iteganya ko Urwego rw'Umuvunyi rushobora gusaba Urukiko rw'Ikirenga gusubirishamo urubanza rwaciwe ku rwego rwa nyuma, mu gihe mu icibwa ryarwo, hari amategeko yirengagijwe;
19. Urwego rw'Umuvunyi rusanga kuba Urukiko Rwisumbuye rwa Nyarugenge rwarakiriye ubujurire bw'urubanza rwarengeje ibihe by'ijurira, rugafata ibyemezo byagize ingaruka ku rubanza rwabaye itegeko, ari impamvu ituma urubanza rusabirwa gusubirwamo ku mpamvu z'akarengane.

Bikorewe i Kigali, ku wa 19/08/2013.

Icyemezo cy'Urwego rw'Umuvunyi N^{o} Omb.cjru/02/13

IKIBAZO HAGATI YA B na F

Inshamake:

B yandikiye Urwego rw'Umuvunyi asaba ko urubanza RCA 0195/09/TGI/GSBO rwaciwe n'Urukiko Rwisumbuye rwa Gasabo ku wa 20/08/2010, rusubirishwamo ku mpamvu z'akarengane ashingiye ko Urukiko rwirengagije inyandiko y'ubuyobozi yari ishingiye ku buhamya bwatanzwe n'abanyamuryango n'abandi baturage, bemezaga ko F atari umwana wa Z (umuhungu wa B) kandi ko nyina wa F yari afite undi mugabo babanye uzwi; ko kandi nyuma y'imanza habonetse ikimenyetso simusiga cya Test ADN gishimangira ibyo ya nyandiko y'ubuyobozi yemezaga ko F atari umwana wa Z. Ikirego cyatangiriye mu Rukiko rw'Ibanze rwa Kacyiru mu rubanza RC102/06/TB/KCY rwemeje ko F yabyawe na Z. Uru rubanza rwatambamiwe na F (nyina wa Z) aho arumenyeye ariko mu rubanza RC0129/06/TB/KCY aratsindwa. Ntiyishimiye imikirize y'urubanza, arujuririra mu Rukiko Rwisumbuye rwa Gasabo na ho aratsindwa. F yongeye gusubirishamo urubanza ingingo nshya muri urwo Rukiko, nabwo aratsindwa. Yiyambje Ubushinjacyaha Bukuru, hakoreshwa Test ADN, ibizami bigaragaza ko F adashobora kuba umwana wa Z. B amaze kubona igisubizo cya Test ADN, yandikiye Urwego rw'Umuvunyi asaba ko urubanza RCA 0195/09/TGI/GSBO rusubirishwamo ku mpamvu z'akarengane.

Urwego rw'Umuvunyi rumaze gusesengura ikibazo rwagejejweho na B rwasanze ari ngombwa gusabira B kurenganurwa ku bw'akarengane yatewe n'urubanza RCA 0195/09/TGI/GSBO rutagishoboye kunyura mu zindi nzira z'ubujurire.

Ku busabe bw'Urwego rw'Umuvunyi, Urukiko rw'Ikirenga mu rubanza RS/REV/INJUST/CIV 0005/15/CS rwo ku wa 19/06/2015 rwemeje ko ikirego cyatanzwe na B gisaba gusubirishamo urubanza ku mpamvu z'akarengane gifite ishingiro, ko F atari mwene Z hashingiwe ku nyandiko z'ubuyoboyi, abatangabuhamya n'ibisubizo bya Test ADN.

Amategeko yakoreshejwe:

1. Itegeko Ngenga n° 03/2012/OL ryo ku wa 13/06/2012 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga;
2. Itegeko N° 76/2013 ryo ku wa 11/9/2013 rigena inshingano, ububasha, imiterere n'imikorere by'Urwego rw'Umuvunyi.

IKIBAZO HAGATI YA B na F

I. Imiterere y'ikibazo

Urubanza rwahereye mu Rukiko rw'Ibanze rwa Kacyiru, aho F yasabaga Urukiko kwemeza ko yabyawe na Z kuko ngo B yari yaramuhakanye, avuga ko umuhungu we Z nta mwana yabyaye hanze. Urukiko rusuzuma ikirego ndetse n'imvugo z'abatangabuhamya, harimo na H umuvandimwe wa Z ndetse n'undi mutangabuhamya wakoranaga na nyakwigendera. Urukiko mu rubanza RC102/06/TB/KCY rwemeza ko F yabyawe na Z.

B yaje kumenya ko urwo rubanza rwabayeho, ararutambamira ariko kubera ko umuhungu we H bari bafitanye ikibazo ku mazu Z yasize ari we wemezaga ko Z uwo mwana yamwemeraga, Urukiko rwagendeye ku buhamya bwe ndetse n'abandi batangabuhamya B avuga ko bari bagambanye na H, rwemeza ko, mu rubanza RC0129/06/TB/Kcy, B atsinzwe.

B ntiyishimiye imikirize y'Urubanza, ajuririra Urukiko Rwisumbuye rwa Gasabo. Urukiko narwo rwahaye agaciro imvugo z'abatangabuhamya nka H na bagenzi be bemezaga ko B ahakana uwo mwana F kubera gushaka kwikubira imitungo igizwe n'inzu ebyiri Z yasize. Bityo rwemeza ko atsinzwe.

B yasubirishijemo ingingo nshya ashingiye ku nyandiko y'ubuyobozi bw'Umurenge iriho ubuhamya bwatanzwe n'abanyamuryango ndetse n'abandi batangabuhamya babizi bemeza ko F atari umwana wa Z, ariko Urukiko ntirwabiha agaciro.

Nyuma yo kubona ko inzira zose azirangije, B yagannye Ubushinjacyaha Bukuru asaba ko bwamufasha hagakorwa ibizamini bya ADN.

Ibizamini bya ADN byakozwe hagati ya F, J (nyina wa F), H, B na Y, byemeje ko F adashobora kuba umwana wa Z.

II. Isesengura ry'ikibazo

Ikibazo cy'amategeko gisesengurwa ni ukumenya niba harabayeho kwirengagiza ibimenyetso bigizwe n'inyandiko y'ubuyobozi n'abatangabuhamya byaje kunganirwa na raporo y'umuhanga wakoze Test ADN.

Urukiko rwemeje ko inyandiko y'ubuyobozi itafatwa nk'ikimenyetso gishya kuko ngo abanyamuryango bayisinyeho, baburana ziriya manza zose bari bahari kandi bose barabajijwe, ndetse n'abatangabuhamya bavuga ko se wa F ari undi muntu ngo nabo bari bahari bikaba rero atari ibimenyetso bishya byabonetse nyuma bigomba kwakirwa ngo bisuzumwe nk'ingingo nshya.

Ikigaragara mu rubanza ariko, ni uko abatangabuhamya bagaragara mu nyandiko y'Umurenge bavuze ko bari baturanye n'ababyeyi ba F bakaba bazi neza se, batigeze bumvwa n'Urukiko. Uwaburaniye B yasabye ko hakorwa iperereza aho abo babyeyi bari batuye, Urukiko ruvuga ko atari ngombwa.

Urwego rw'Umuvunyi rusanga Urukiko rwarirengagije iriya nyandiko y'ubuyobozi yariho abaturanye n'ababyeyi ba F bemezaga ko atari umwana wa Z ndetse bakanagaragaza ko J ariwe nyina wa F yabanaga n'undi mugabo mu gihe F yavukaga. Ibyemezwaga n'abo batangabuhamya byaje no gushimangirwa na *Test ADN* yakozwe nyuma y'urubanza yemeje ko F adashobora kuba umwana wa Z.

Hashingiwe ku Itegeko Ngenga N°03/2012/OL ryo ku wa 13/06/2012 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga mu ngingo ya 79 iteganya ko "*iyo kuva aho urubanza ruciriwe burundu habonetse ibimenyetso bigaragaza akarengane kavugwa mu ngingo ya 81 y'iri Tegeko Ngenga, abari ababuranyi muri urwo rubanza bashobora kubimenyesha Urwego rw'Umuvunyi";*

Hashingiwe kandi ku Itegeko ryavuzwe haruguru mu ngingo yaryo ya 81 mu gika cya 2 iteganya ko *"urubanza rwaciwe ku rwego rwa nyuma rushobora gusubirwamo ku*

mpamvu z'akarengane iyo mu icibwa ry'urubanza hirengagijwe amategeko n'ibimenyetso bigaragarira buri wese";

Hashingiwe na none ku Itegeko N° 76/2013 ryo ku wa 11/9/2013 rigena inshingano, ububasha, imiterere n'imikorere by'Urwego rw'Umuvunyi mu ngingo yaryo ya 15 iteganya ko "*mu nyungu z' ubutabera, Urwego rufite ububasha bwo gusaba Urukiko rw'Ikirenga gusuzuma no gusubiramo urubanza rwaciwe n'inkiko zisanzwe, inkiko z'ubucuruzi cyangwa iza gisirikare ku rwego rwa nyuma, mu gihe hakigaragaramo akarengane…";*

Urwego rw'Umuvunyi rusanga ari ngombwa gusabira B ko yarenganurwa ku bw'akarengane yatewe n'urubanza rutagishoboye kunyura mu zindi nzira z'ubujurire.

III. Umwanzuro w'Urwego rw'Umuvunyi

Hashingiwe ku Itegeko Ngenga N° 03/2012/OL ryo ku wa 13/06/2012 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga, mu ngingo ya 79 n'iya 81 mu gika cya 2, Urwego rw'Umuvunyi rusanga urubanza RCA0195/09/TGI/GSBO rwaciwe ku wa 20/08/2010 n'Urukiko Rwisumbuye rwa Gasabo, rwasubirwamo ku mpamvu z'akarengane.

Bikorerwe i Kigali, ku wa 20/12/2013

Icyemezo cy'Urwego rw'Umuvunyi No Omb.cjru/01/14

IKIBAZO HAGATI YA BANKI X na H

Inshamake:

Banki X yasabye Urwego rw'Umuvunyi ko urubanza RCOMA 0081/12/CS rwaciwe n'Urukiko rw'Ikirenga ku itariki ya 21/03/2014 rwasubirishwamo ku mpamvu z'akarengane kubera ko Urukiko rw'Ikirenga rwaciye uru rubanza rwirengagije ibimenyetso rwagaragarijwe byerekana umwenda H yahawe na Banki atishyuye. Urubanza rwatangiriye mu Rukiko Rukuru rw'Ubucuruzi, mu rubanza RCOM 0043/08/HCC rwaciwe ku wa 28/02/2012, Urukiko Rukuru rwemeje ko nta mwenda H abereyemo Banki X ahubwo rugenera H amafaranga 44,355,983 akubiyemo ayavanywe ku makonti ye muri iyo Banki n'inyungu zayo n'amafaranga 1,500,000 y'ikurikiranarubanza n'igihembo cy'Avoka. Banki X ntiyishimiye imikirize y'urubanza ijuririra mu Rukiko rw'Ikirenga. Mu rubanza RCOMA 0081/12/CS rwaciwe n'Urukiko rw'Ikirenga ku itariki ya 21/03/2014, rwemeje ko ubujurire bwa Banki X nta shingiro bufite, rutegeka ko Banki yishyura H indishyi zose zikubiye hamwe zihwanye n'amafaranga 57,938,129.

Banki X ntiyanyuzwe n'imikirize y'urubanza RCOMA 0081/12/CS, ku wa 14/05/2014 yandikira Urwego rw'Umuvunyi isaba ko urwo rubanza rwasubirwamo ku mpamvu z'akarengane. Mu isesengura ryakozwe n'Urwego rw'Umuvunyi, rwasanze urubanza RCOMA 0081/12/CS rwaciwe n'Urukiko rw'Ikirenga rukwiye gusubirishwamo ku mpamvu z'akarengane, hashingiye ku kuba H yarahawe umwenda nk'uko bigaragazwa n'ibaruwa yandikiye Banki X ayigaragariza uburyo yifuza kwishyura umwenda yari amaze kwemererwa ndetse akaba yarawubonye nk'uko bigaragazwa na "historique bancaire", ahubwo rusanga icyo H atemeraga ari uburyo umwenda yahawe wazamutse ukagera ku mafaranga 76,381,561.

Ku busabe bw'Urwego rw'Umuvunyi, urubanza RCOMA 0081/12/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 21/03/2014, rwasubiwemo n'Urukiko rw'Ikirenga ku mpamvu z'akarengane, maze mu rubanza RS/REV/INJUST/COM 0002/15/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 30/10/2015, rwemeza ko ikirego cya Banki X cyo gusubirishamo urubanza ku mpamvu z'akarengane gifite ishingiro kuri bimwe kandi ko n'ubujurire bwa H bwuririye ku bwa Banki X bufite ishingiro kuri bimwe. Urukiko rwasanze H abereyemo Banki X amafaranga 76,381,561 nk'uko bigaragazwa na "Historique banquaire" n'ibaruwa yo ku wa 15/07/1999 Banki X yandikiye H imumenyesha umwenda ayibereyemo kandi akaba atarawuhakanye; rusanga Banki X nayo igomba kwishyura H amafaranga 29,913,800 yavanywe ku makonti ye na Banki X. Kubera izo mpamvu, rutegeka H kwishyura Banki X amafaranga 46.467.761 hakurikijwe ihwanya ry'imyenda, no gufatanya kwishyura amagarama y'urubanza.

Amategeko yifashishijwe:

Itegeko Ngenga n° 03/2012/OL ryo ku wa 13/06/2012 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga.

IKIBAZO HAGATI YA BANKI X na H

I. Imiterere y'ikibazo

1. H yakoranaga na Banki X mu bucuruzi bwe. Banki X ivuga ko yahaye H imyenda itandukanye, igera ku mafaranga 86,747,474 nk'uko bikubiye mu ibaruwa yayo yo ku wa 06/07/1993.
2. Nk'uko bivugwa na Banki X kandi bikagaragara mu ibaruwa ivuzwe haruguru, muri iyo myenda yahawe H harimo *ligne de crédit*, yiswe *campagne café* 1993/1994 ifite agaciro kangana n'amafaranga 55,000,000.
3. Nk'uko bigaragazwa n'ibaruwa yo ku itariki ya 30/07/1993, H yandikiye Banki X, ayigaragariza uburyo n'ibihe azishyuramo *ligne de crédit* y'amafaranga 55,000,000 yari yahawe. Nayo mu ibaruwa yayo yo ku wa 29/07/1993 yamusubije imumenyesha ko uburyo yifuza kwishyuramo ibumwemereye, uretse amafaranga 15,000,000 yifuzaga kwishyura hagati y'ukwezi kwa 08/1993 na 12/1993. Banki X igaragaza ko mu ibaruwa yayo yo ku wa 09/10/1993 yemereye H ibyo yari yasabye byo koroherezwa kwishyura igice cya nyuma cy'amafaranga 15,000,000 / *campagne café, a*kishyurwa guhera tariki ya 31/10/1993 ariko ntarenze tariki ya 31/12/1993.
4. Banki X ivuga ko amafaranga H yari yahaweho *ligne de crédit,* yatangiye kuyabikuza amaze kuyemererwa, kugeza tariki ya 11/07/1994 ubwo yabikuzaga sheki ya nyuma. Banki X isobanura ko ubwo H yari amaze gukoresha ayo mafaranga, bitewe n'uko imirimo y'ubucuruzi bwe yagendaga neza kandi akeneye amafaranga menshi, yongeye kuyandikira asaba inguzanyo yiyongera kuyo yari yarahawe nk'uko biri mu ibaruwa ye yo ku wa 06/07/1994.
5. Mu bisobanuro bitangwa na Banki X ivuga ko hari *chèques* 12 zasinywe zinabikuzwa na H n'abandi bantu batandukanye yagiye aziha, zifite agaciro k'amafaranga 20,938,129 hagati y'itariki 25/06/1994-08/07/1994. Izi *chèques* zikaba zarishyuwe na Banki X Ishami rya Cyangugu ngo ariko bitewe n'ibihe bya Jenoside, zikaba zitarigeze zinjizwa muri *système. Banki X ivuga ko,* nk'uko bigaragazwa na *historique bancaire,* habayeho *régularisation* maze izo *chèques* zishyirwa muri *système* ku munsi umwe wo ku wa 02/01/1997, ariyo mpamvu kuri iyo tariki hagaragara ko H yari afite *solde débiteur* y'amafaranga 55,903,168.

6. Banki X ku itariki ya 22/05/1995 yandikiye H imumenyesha ko kugera tariki ya 10/05/1995, yari ayibereyemo umwenda wose hamwe ungana n'amafaranga 58,961,111. Ibi byatumye H ayandikira ibaruwa yo ku wa 31/07/1995, ayimenyesha ko hari ibidasobanutse kuri konti ye ya Cyangugu ifite n° 61260. Banki X yongeye kwandikira umukiriya wayo ibaruwa yo ku wa 15/07/1999 imumenyesha ko umwenda ayirimo hiyongereyeho n'inyungu z'ubukererwe, bigeze mu mafaranga 76,381,561.
7. Banki X, ivuga ko nyuma yo kwishyuza H ariko ntayishyure, yahisemo kwiyambaza inkiko. Ni muri urwo rwego, Urukiko Rukuru rw'Ubucuruzi rwaciye urubanza RCOM 0043/08/HCC ku itariki ya 28/02/2012 mu kirego rwaregewe na Banki X yaregagamo H umwenda w'amafaranga 76,381,561 n'inyungu zayo, zibazwe guhera tariki ya 15/07/1999.
8. Urukiko Rukuru rw'Ubucuruzi mu gihe rwaburanishaga urubanza, Banki X yagaragaje ko yishyuza umwenda wavuzwe haruguru nk'amafaranga yagurijwe umukiliya wayo, naho uregwa avuga ko ayo mafaranga yishyuzwa nta bimenyetso umurega ayafitiye, ko ahubwo agendeye ku bimenyetso afite, Banki X ariyo igomba kumuha amafaranga ye yakuye ku makonti ye anyuranye.
9. Urukiko Rukuru rw'Ubucuruzi mu gusesengura ibibazo bigize urubanza, rwasuzumye ibikubiye kuri *historiques bancaires za comptes* za H ziri muri Banki X, Ishami rya Cyangugu, Gisenyi n'irya Kigali. Ku bijyanye n'ibigaragara kuri konti ya Cyangugu, Urukiko Rukuru rw'Ubucuruzi rwasanze ku itariki ya 22/05/1995, Banki X yarandikiye H imumenyesha ko ayifitiye umwenda ungana n'amafaranga 53,168,715, ariko na none tariki ya 02/01/1997, kuri konti y'uwo mukiriya hakaba harabikujweho amafaranga 20,939,045, bikozwe n'abantu batandukanye ndetse na nyiri iyo konti.
10. H mu miburanire ye ntiyemeraga umwenda, ibyo byatumye Urukiko Rukuru rw'Ubucuruzi rwemeza ko ibivugwa na Banki X ko ifitiwe umwenda nta shingiro bifite kuko itarugaragarije sheki z'umwimerere zabikurijweho amafaranga 20,939,045 ngo kandi ariyo yari izibitse.

11. Urukiko Rukuru rw'Ubucuruzi mubyo rwashingiyeho na none rwemeza ko nta mwenda H afitiye Banki X, ngo ni uko itashoboye gusobanura ukuntu tariki ya 31/07/1995 yavugaga ko yishyuzaga amafaranga 53,168,715 mu gihe tariki ya 02/01/1997 nk'uko biri kuri *historique bancaire* kuri konti ya H harabikujweho amafaranga 20,939,045. Ibyo rukabishingira kandi ku kuba *historique bancaire* yatanzwe na Banki X, igaragaza ko iyo *compte* itongeye gukoreshwa guhera mu kwezi kwa 07/1994.
12. Urukiko Rukuru rw'Ubucuruzi rwasanze ku bijyanye na *compte* ya Gisenyi ya H, hagendewe kuri *bordereaux* de *versement* yarugaragarije yerekana ko yabikijeho amafaranga 10,743,800F hagati y'itariki ya 30/06/1994 na 11/07/1994, rwabihereyeho rwemeza ko nta mwenda afitiye Banki X kuko na *historique bancaire* itagaragaza ko ayo mafaranga yageze kuri konti ye.
13. Urukiko Rukuru rw'Ubucuruzi rwasanze ibijyanye na konti ya H yo muri Banki X ku cyicaro gikuru (Kigali), ababuranyi bombi bemeranywa ko uregwa yari afitiye Banki umwenda ungana n'amafaranga 5,792,369. Urukiko rwasanze kandi ibivugwa na Banki X ko hari amafaranga 19,170,000 yavuye kuri iyo konti ya H i Kigali agashyirwa kuri konti ye y'i Cyangugu, nta shingiro bifite kuko *historique bancaire* itagaragaza ko yageze kuri konti yoherejweho**.**
14. Urukiko Rukuru rw'Ubucuruzi rwasanze ikirego cyo kwiregura cya H kigamije gusaba Banki X ko yamusubiza amafaranga yose yavanye ku makonti ye itagaragaza irengero ryayo, ndetse n'ay'ikurikiranarubanza n'igihembo cya avoka, gifite ishingiro, rumugenera amafaranga 44,355,983 akubiyemo ayavanywe ku makonti ye n'inyungu zayo n'amafaranga 1,500,000 y'ikurikiranarubanza n'igihembo cy'Avoka.
15. Banki X, yajuriye mu Rukiko rw'Ikirenga, ikirego cyandikwa kuri RCOMA 0081/12/CS. Urukiko rw'Ikirenga ku bijyanye na konti ya Cyangugu, rwasanze uburanira Banki X nta bimenyetso yagaragaje bivuguruza ibisobanuro byatanzwe na H, cyane cyane ko yaniyemereye ko hagishakishwa ibimenyetso byerekana ko Banki yatanze amafaranga 20,939,045F nk'uko bikubiye mu gika cya 12 cy'urubanza rw'Urukiko rw'Ikirenga.

16. Ku bijyanye na konti ya Gisenyi, Urukiko rw'Ikirenga rwasanze ibivugwa na Banki X, ko nta kuntu H yari kuyibitsaho amafaranga 10,743,800 hagati y'itariki ya 30/06/1994 na 11/07/1994 ngo kuko byari mu gihe cya Jenoside nta shingiro bifite, ahubwo ruha agaciro ibimenyetso bigizwe na *bordereaux de versements* eshanu zatanzwe nk'ibimenyetso bya H zerekana ko ayo mafaranga yageze kuri konti ye.
17. Ku bijyanye na konti ya Kigali, Urukiko rw'Ikirenga rwasanze ababuranyi na none bemeranywa ku mwenda w'amafaranga 5,792,369 H yari abereyemo Banki X kugeza tariki ya 10/05/1995 ariko ko amafaranga 19,170,000 bivugwa ko banki yakuye kuri *compte* ya H ya Kigali hifashishijwe uburyo bwa *virement par radio* ntabyabayeho kuko *historique bancaire* yagaragajwe na Banki mu gihe cy'iburana, iterekana ko ayo mafaranga yageze kuri konti y'uwo mukiriya ya Cyangugu. Urukiko rw'Ikirenga kandi rwasanze nk'uko bigaragazwa na Banki X, ku itariki ya 02/02/1996, yarishyuzaga umukiriya wayo amafaranga 1,067,141. Aya matariki anyuranye ku myenda ivugwa, akaba ari yo n'Urukiko rw'Ikirenga rwahereyeho rwemeza ko urujijo ateza, ari rwo rwatumye n'Urukiko Rukuru rw'Ubucuruzi, rwemeza ko hagaragara ukwivuguruza ku bijyanye n'umwenda Banki X yishyuzaga umukiriya wayo ku buryo ntaho rwahera rutegeka ko wishyurwa.
18. Urukiko rw'Ikirenga rwemeje ko ubujurire bwa Banki X nta shingiro bufite, rutegeka ko yishyura H indishyi zose zikubiye hamwe, zihwanye n'amafaranga 57,938,129.
19. Banki X ntiyanyuzwe n'imikirize y'urubanza RCOMA 0081/12/CS, ku wa 14/05/2014 yandikira Urwego rw'Umuvunyi isaba ko urwo rubanza rwasubirwamo ku mpamvu z'akarengane.

II. Isesengura

20. Urwego rw'Umuvunyi rurasanga H yarahawe umwenda nk'uko bigaragara mu ibaruwa yo ku wa 06/07/1993, aho Banki X yamwandikiye imwemerera *ligne de crédit* y'amafaranga 55,000,000 ijyanye na *campagne café 1993/1994* ndetse n'ibikubiye mu ibaruwa yo ku wa 30/07/1993 aho H yagaragazaga uburyo yifuza kwishyuramo Banki umwenda w'amafaranga 55,000,000 yari yemerewe. Aya mafaranga akaba yarayabonye nk'uko bigaragazwa na *historique bancaire*, yerekana ko nyuma yo guhabwa *ligne de crédit*, H yatangiye kuvana amafaranga

kuri konti ye nk'uko yari yayemerewe kugeza tariki ya 11/07/1994, aho kuri konti ye bigaragara ko yari amaze kubikuza amafaranga yose yari yaremerewe. Ibyo bigashimangirwa n'uko kuri iyo *historique bancaire*, *solde débiteur kugeza tariki ya 31/*12/1998 yari amafaranga 55,903,168. Aya mafaranga nta kimenyetso uwayahawe yigeze agaragariza urukiko ko yayishyuye.

21. Ku bijyanye n'amafaranga 20,939,045 Urukiko rw'Ikirenga rwavuze ko yakuwe kuri konti ya H kandi agomba kwishyurwa na Banki, Urukiko rwabihaye agaciro kuko Banki itigeze igaragaza sheki z'umwimerere ngo harebwe niba ari H wazitanze.
22. Urwego rw'Umuvunyi rurasanga Urukiko rw'Ikirenga rwaragombaga gufata icyemezo ku nguzanyo itarahakanwaga na H yahawe na Banki X ijyanye na *campagne café* 1993/1994 kuko atigeze arugaragariza ko yayishyuye nk'uko yabisezeranyije Banki mu ibaruwa ye yo ku wa 30/07/1993, cyane ko adahakana umwenda yaregwaga w'amafaranga 76,381,561 ahubwo icyo atemeraga ari uburyo umwenda wazamutse ukagera kuri ayo mafaranga nk'uko bigaragara mu gika cya mbere cya matolewa y'urubanza rwaciwe n'Urukiko rw'Ikirenga.

III. Umwanzuro w'Urwego rw'Umuvunyi

Hashingiwe ku Itegeko Ngenga n° 03/2012/OL ryo ku wa 13/06/2012 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga mu ngingo yaryo ya 81, igika cya mbere, agace ka 2, iteganya ko Urwego rw'Umuvunyi rushobora gusaba Urukiko rw'Ikirenga gusubirishamo urubanza rwaciwe ku rwego rwa nyuma, mu gihe mu icibwa ryarwo, hari amategeko n'ibimenyetso bigaragarira buri wese byirengagijwe;

Urwego rw'Umuvunyi rusanga, hashingiwe ku isesengura ryagaragajwe haruguru, urubanza RCOMA 0081/12/CS rwaciwe n'Urukiko rw'Ikirenga ku itariki ya 21/03/2014 rwasubirwamo ku mpamvu z'akarengane zasobanuwe nk'uko byasabwe na Banki X.

Bikorewe, i Kigali ku wa 03/07/2014

Icyemezo cy'Urwego rw'Umuvunyi No Omb.cjru/02/14

IKIBAZO HAGATI Y'UBUSHINJACYAHA vs G na S

Inshamake:

G yandikiye Urwego rw'Umuvunyi asaba ko urubanza RPA 0031/11/HC/MUS rwaciwe n'Urukiko Rukuru, Urugereko rwa Musanze ku wa 15/04/2011, rukamuhamya icyaha cyo gukora no gukoresha inyandiko mpimbano, rusubirishwamo ku mpamvu z'akarengane ashingiye ku kuba inyandiko Urukiko rwise ko ari impimbano yarakorewe imbere ya Noteri wa Leta.

Mu rubanza RP 0406/10/TGI/RBV rwaciwe ku wa 13/01/2011, Urukiko rwari rwasanze G na S bareganwaga ari abere kubera ko ikibanza S yagurishije G yari agifitiye ibyangombwa byatanzwe n'urwego rubishinzwe. Ubushinjacyaha bwajuririye uru rubanza buvuga ko Urukiko rwirengagije ibimenyetso. Mu rubanza RPA 0031/11/HC/MUS rwavuzwe haruguru, Urukiko Rukuru, Urugereko rwa Musanze rwemeje ko abaregwa bahamwa n'icyaha.

G ntiyishimiye imikirize y'urubanza mu Rukiko Rukuru, yandikira Urwego rw'Umuvunyi asaba gusuzuma akarengane kabaye mu rubanza rwaciwe n'Urukiko Rukuru, Urugereko rwa Musanze ku wa 15/10/2011. Mu isesengura ryakozwe n'Urwego rw'Umuvunyi, rwasanze mu icibwa ry'urubanza harirengagijwe amategeko, bityo ko rwasubirishwamo ku mpamvu z'akarengane.

Ku busabe bw'Urwego rw'Umuvunyi, Urukiko rw'Ikirenga mu rubanza RS/REV/INJUST/PEN 0003/15/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 08/04/2016 rwemeye kwakira ikirego cya G gisaba gusubirishamo urubanza ku mpamvu z'akarengane kandi ko gifite ishingiro, rwemeza ko G adahamwa n'icyaha cyo gukora no gukoresha inyandiko-mpimbano aregwa, agirwa umwere, anagenerwa indishyi z'akababaro n'iz'ikurikiranarubanza.

Amategeko yifashishijwe:

1. Itegeko Ngenga n° 03/2012/OL ryo ku wa 13/06/2012 rigena Imiterere, Imikorere n'Ububasha by'Urukiko rw'Ikirenga;
2. Itegeko-Teka no 21/77 ryo ku wa 18/08/1977 rishyiraho Igitabo cy'amategeko ahana.

IKIBAZO HAGATI Y'UBUSHINJACYAHA *vs* G na S

I. Imiterere y'ikibazo

G na S bakurikiranyweho n'Ubushinjacyaha icyaha cyo gukora inyandiko mpimbano mu rubanza RP 0406/10/TGI/RBV aho S yagurishije G ikibanza n^{o} 2956, amasezerano y'ubwo bugure akaba yarakorewe imbere ya Noteri. Ubushinjacyaha bwavugaga ko abo bombi bahimbye *contrat de location* (amasezerano y'ubukode) y'ikibanza kiri muri parcelle n^{o} 2956; bakakita icya S, bakanahimba amasezerano y'ubugure bavuga ko S akigurishije G bagamije kucyambura D wakiguze mu cyamunara, harangizwa urubanza rw'Urukiko Gacaca ku ndishyi zaciwe J kuko cyari icye ariko abarezwe bakavuga ko inyandiko zose zakozwe n'ubuyobozi bubifitiye ububasha.

Urukiko, rushingiye ko S yahawe n'ubuyobozi ikibanza ndetse agahabwa n'inyandiko arizo *contrat de location parcelle n^{o} 2956* yo ku wa 05/04/1997 na *avis d'octroi de parcelle n^{o} 2956* yo ku wa 30/04/1997 zavuye muri serivisi ibishinzwe, rwemeje ko nta kigaragaza ko ari impimbano kuko serivise y'ubutaka yazitanze itigeze ihakana imikono iziriho kandi zikaba zitanyuranye n'iziri muri serivisi ishinzwe gutanga ibibanza. Urukiko rwemeje ko S na G ari abere kuri icyo cyaha. Ibyo byatumye Ubushinjacyaha bujuririra Urukiko Rukuru, Urugereko rwa Musanze mu rubanza RPA 0031/11/HC/MUS, maze rwemeza ko ibyangombwa byahawe S ntaho rwahera rwemeza ko ari ibihimbano, ariko ko amasezerano y'ubugure yakoranye na G ari amahimbano rubahanisha igihano cy'igifungo cy'imyaka ibiri gisubitswe mu gihe cy'umwaka umwe.

II. Isesengura ry'ikibazo

Muri iri sesengura, harasuzumwa ikibazo cyerekeye kumenya niba amasezerano y'ubugure yakorewe imbere ya Noteri yakwitwa amahimbano.

Mu rubanza RPA 0031/11/HC/MUS, Urukiko rwerekanye ko ibyangombwa S yahawe n'ubuyobozi atari ibihimbano ariko rwemeza ko amasezerano y'ubugure hagati ye na G, yakorewe imbere ya Noteri ari amahimbano.

Kuba Urukiko rwaremeje ko inyandiko zigizwe na *contrat de location parcelle n^{o} 2956* yo ku wa 05/04/1997 na *avis d'octroi de parcelle n^{o} 2956* yo ku wa 30/04/1997 zahawe S ko atari impimbano, Urwego rw'Umuvunyi rusanga zaramuheshaga n'uburenganzira bwo kugurisha icyo kibanza nk'uko yabikoze kuri G. Icyemezo cyafashwe cyo kumuhamya icyaha kinyuranye n'itegeko nk'uko ingingo ya 202 y'igitabo cya kabiri cy'amategeko ahana ibyaha mu Rwanda yakoreshwaga icyo gihe yateganyaga ko *"guhimba inyandiko ari ugushyiraho sinyatire itariyo, konona inyandiko cyangwa amasinya, ari mu isimbuza ry'abantu abandi, ari mu mihimbire y'amasezerano y'imiterere y'ingingo, y'igitegetswe gukorwa mu masezerano cyangwa cyarangiye, cyangwa ukongera ibindi mu byo abantu barangije kwemeranya, ari ukongera cyangwa guhindura ingingo z'amasezerano, imvugo cyangwa ibikorwa, ibyo byari bigamije gusuzuma no guhamya".*

III. Umwanzuro w'Urwego rw'Umuvunyi

Hashingiwe ku Itegeko Ngenga n° 03/2012/OL ryo ku wa 13/06/2012 rigena Imiterere, Imikorere n'Ububasha by'Urukiko rw'Ikirenga mu ngingo zaryo iya 79 n'iya 81, Urwego rw'Umuvunyi rusanga urubanza RPA 0031/11/HC/MUS rwaciwe n'Urukiko Rukuru, Urugereko rwa Musanze ku wa 15/04/2011, rukwiye gusubirwamo ku mpamvu z'akarengane kubera ko mu icibwa ryarwo hirengagijwe amategeko.

Bikorewe i Kigali, ku wa 26/09/2014

Icyemezo cy'Urwego rw'Umuvunyi No Omb.cjru/03/14

IKIBAZO HAGATI YA Y na T

Inshamake:

Urwego rw'Umuvunyi rwakiriye ikibazo cya Y asaba ko urubanza yaburanye na T rwasubirwamo kubera ko Urukiko Rukuru, Urugereko rwa Nyanza rwakuyeho imikirize y'Urukiko Rwisumbuye n'iy'urw'Ibanze kuko imyanzuro y'Abunzi yaregewe itinze kandi nyamara Abunzi batarigeze bajya mu mizi y'ikibazo ngo bagire umwanzuro bafatira isambu yaburanwaga kuko batari babifitiye ububasha.

Y yatanze ikirego mu Nteko y'Abunzi arega T wigabije isambu ye, Inteko y'Abunzi yanzura ko nta bubasha ifite bwo kuburanisha icyo kirego kubera ko isambu iburanwa irengeje agaciro ka Frw 3,000,000. Y yaregeye Urukiko rw'Ibanze rwa Nyamabuye. Mu rubanza RC 0172/09/TB/NYBYE rwaciwe ku wa 24/06/2010, Urukiko rwanzuye ko isambu iburanwa ari iya Y kubera ko yari yarayitsindiye sekuru wa T. T ntiyishimiye imikirize y'urubanza ajuririra mu Rukiko Rwisumbuye rwa Muhanga, mu rubanza RCA 0358/010/TGI/MHG rwaciwe ku wa 28/01/2011, Urukiko rwemeje ko nta gihindutse ku mikirize y'urubanza rwajuririwe kubera ko T atagaragaje ibimenyetso by'ibyo avuga ko isambu iburanwa yayirazwe na sekuru. T yajuririye mu Rukiko Rukuru, Urugereko rwa Nyanza avuga ko Urukiko Rwisumbuye rwaciye urubanza rutagaragaza na busa impamvu rwashingiyeho. Mu rubanza RCAA 0078/11/HC/NYA rwaciwe ku wa 20/01/2012, Urukiko Rukuru rwasanze mu gihe Abunzi bafashe umwanzuro ku wa 23/04/2009, T atanga ikirego mu Rukiko rw'Ibanze ku wa 25/05/2009 kandi umunsi wa nyuma wo kuregera Urukiko wari ku wa 22/05/2009, rwemeza ko yakerewe gutanga ikirego, ko Urukiko rw'Ibanze n'Urukiko Rwisumbuye zirengagije ibihe biteganywa n'amategeko mu itangwa ry'ibirego bivuye mu Bunzi kandi ari indemyagihugu. Rwanzuye ko imanza zaciwe n'Urukiko rw'Ibanze n'Urwisumbuye zose zivanyweho. Ibyo byatumye Y yiyambaza Urwego rw'Umuvunyi ku wa 21/11/2013 asaba ko urubanza RCAA 0078/11/HC/NYA rwasubirwamo ku mpamvu z'akarengane.

Mu isesengura ryakozwe n'Urwego rw'Umuvunyi, rwasanze kubura ububasha kw'Abunzi biha uburenganzira uwari yabaregeye bwo kuregera inkiko zibibifitiye ububasha, ikirego kigafatwa nk'aho ari gishya nk'uko byemejwe mu rubanza RS/REV/CIV0001/12/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 30/11/2012, aho rwafashe umurongo wagenderwaho ruvuga ko iyo byagaragaye ko nta bubasha bwo kuburanisha ikirego, umuburanyi aba afite uburenganzira bwo gutanga ikirego gishya.

Ku busabe bw'Urwego rw'Umuvunyi, Urukiko rw'Ikirenga rwasubiyemo urubanza RCAA 0078/11/HC/NYA rwaciwe n'Urukiko Rukuru, Urugereko rwa Nyanza ku wa ku wa 20/01/2012, maze mu rubanza RS/REV/INJUST/CIV 0010/15/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 22/01/2016, rwemeza ko ikirego cya Y cyo gusubirishamo urubanza ku mpamvu z'akarengane gifite ishingiro; ko urubanza RCAA 0078/11/HC/NYA rwaciwe n'Urukiko Rukuru, Urugereko rwa Nyanza ruvanyweho; ko urubanza RCA 0358/010/TGI/MHG rwaciwe n'Urukiko Rwisumbuye rwa Muhanga ku wa 28/01/2011 n'urubanza RC 0172/09/TB/NYBYE rwaciwe n'Urukiko rw'Ibanze rwa Nyamabuye ku wa 24/06/2010 zigumyeho.

Amategeko yifashishijwe:

Itegeko Ngenga n° 03/2012/OL ryo ku wa 13/06/2012 rigena Imiterere, Imikorere n'Ububasha by'Urukiko rw'Ikirenga.

Imanza zifashishijwe:

Urubanza RS/REV/CIV0001/12/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 30/11/2012.

IKIBAZO HAGATI YA Y na T

I. Imiterere y'ikibazo

Ikibazo cyatangiriye mu Bunzi Y arega T kuba yarigaruriye isambu ye kandi yarayitsindiye mu rubanza RC 1324/4 rwaciwe n'icyahoze ari Urukiko rwa Mbere rw'Iremezo rwa Gitarama. Abunzi bafashe umwanzuro ku wa 23/04/2009 wo kudasuzuma ikibazo kubera iburabubasha bashingiye ku ngingo ya 8 igika cya 1 y' Itegeko Ngenga n° 31/2006 ryo kuwa 14/08/2006 rigena imiterere, ifasi, ububasha n'imikorere bya Komite y'Abunzi iteganya ko Komite y'Abunzi ifite ububasha bwo gusuzuma, mbere y'uko bishyikirizwa inkiko, ibibazo by'imbonezamubano byose byerekeranye n'ibi bikurikira: "amasambu n'indi mitungo itimukanwa iyo agaciro kabyo katarengeje miliyoni eshatu (3.000.000) z'amafaranga y' u Rwanda".

Nyuma Y yaregeye Urukiko rw'Ibanze rwa Nyamabuye mu rubanza RC 0172/09/TB/NYBYE. Urukiko rushingiye ko iyo sambu yari yarayitsindiye mu rubanza RC 1324/4 aho yaburanye na sekuru wa T, rwemeje ko isambu iburanwa ari iya Y.

T yajuririye Urukiko Rwisumbuye rwa Muhanga mu rubanza RCA 0358/010/TGI/MHG avuga ko ikirego cya Y kitagombaga kwakirwa mu Rukiko rw'Ibanze rwa Nyamabuye kubera ko yaregeye umwanzuro w'Abunzi yararengeje igihe cy'iminsi mirongo itatu, ngo kuko wafashwe ku wa 23/04/2009, Y awujuririra ku wa 25/05/2009. Urukiko rwemeje ko ikirego cy'ubujurire nta shingiro gifite, bituma T atanga ikirego cy'ubujurire bwa kabiri mu Rukiko Rukuru, Urugereko rwa Nyanza mu rubanza RCAA 0078/11/HC/NYA, maze ruruburanisha ku nzitizi y'uko ikirego kitagombaga kwakirwa mu Rukiko rw'Ibanze. Y yireguye avuga ko Abunzi batagiye mu mizi y'ikiburanwa. Urukiko Rukuru rwemeje ko ikirego cy'ibanze cyatanzwe gikererewe rutegeka ko imikirize y'urubanza RC 0172/09/TB/NYBYE n'iy'urubanza RCA 0358/010/TGI/MHG ivuyeho, hakurikizwa imyanzuro yatanzwe n'Abunzi ku wa 23/04/2009.

Y ntiyanyuzwe n'imikirize y'urubanza RCAA 0078/11/HC/NYA, yiyambaza Urwego rw'Umuvunyi ku wa 21/11/2013 asaba ko urwo rubanza rwasubirwamo ku mpamvu z'akarengane.

II. Isesengura ry’ikibazo

Muri iri sesengura, harasuzumwa niba mu kuregera Urukiko rw'Ibanze haragombaga kubahirizwa iminsi yo kuregera imyanzuro y'Abunzi, kandi Abunzi bari bavuze ko nta bubasha bafite bwo kuburanisha icyo kirego.

Mu mwanzuro w'Abunzi b'Akagari ka Nganzo ku wa 23/04/2009 bemeje ko basanze ikiburanwa kirengeje ububasha bwa Komite y'Abunzi. Y ntiyajuririye icyo cyemezo, ahubwo yaregeye Urukiko rw'Ibanze rubifitiye ububasha. Bivuga ko kubara ibihe by'ubujurire bitari ngombwa kuko atajuririraga icyemezo cya Komite y'Abunzi, ahubwo yatanze ikirego gishya mu Rukiko rw'Ibanze.

Kuba Urukiko Rukuru, Urugereko rwa Nyanza rwaremeje ko kuregera Urukiko rw'Ibanze byakozwe ibihe byo kujurira byararenze, rugategeka ko imikirize y'urubanza RC 0172/09/TB/NYBYE n'iy'urubanza RCA 0358/010/TGI/MHG ivuyeho, ko hagomba gukurikizwa umwanzuro watanzwe n'Abunzi ku wa 23/04/2009; byabaye kwibeshya cyangwa gukoresha nabi amategeko.

Urwego rw’Umuvunyi rusanga kuba Y nta rundi rwego yakwitabaza, ari inzitizi kuri we kandi nta mwanzuro Komite y'Abunzi yafashe uretse kuvuga ko badafite ububasha.

Urwego rw'Umuvunyi rusanga kubura ububasha kw'Abunzi biha uburenganzira uwari yabaregeye bwo kuregera inkiko zibibifitiye ububasha, ikirego kigafatwa nk'aho ari gishya nk'uko byemejwe mu rubanza RS/REV/CIV0001/12/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 30/11/2012, aho rwafashe umurongo wagenderwaho ruvuga ko iyo byagaragaye ko nta bubasha bwo kuburanisha ikirego, umuburanyi aba afite uburenganzira bwo gutanga ikirego gishya.

III. Umwanzuro w’Urwego rw’Umuvunyi

Hashingiwe ku bimaze gusobanurwa, Urwego rw’Umuvunyi rusanga mu icibwa ry’urubanza harirengagijwe amategeko ku byerekeye gutegeka kubahiriza umwanzuro wafashe icyemezo ku nzitizi y'iburababubasha;

Hashingiwe kandi ku biteganywa n’ingingo ya 79 n'iya 81 z’Itegeko Ngenga n° 03/2012/OL ryo ku wa 13/06/2012 rigena Imiterere, Imikorere n’Ububasha by’Urukiko rw’Ikirenga, Urwego rw’Umuvunyi rurasaba ko urubanza RCAA 0078/11/HC/NYA rwaciwe n’Urukiko Rukuru, Urugereko rwa Nyanza ku wa 20/01/2012, rwasubirwamo ku mpamvu z’akarengane.

Bikorewe i Kigali, ku wa 30/09/2014

Icyemezo cy'Urwego rw'Umuvunyi No Omb.cjru/01/16

IKIBAZO HAGATI YA P n'Ubushinjacyaha, Guest House na R

Inshamake:

R yandikiye Urwego rw'Umuvunyi asaba ko urubanza RPA 0510/13/HC/KIG -RPA 0533/13/HC/KIG-RPA 0560/13/HC/KIG rwaciwe ku wa 10/04/2014 n'Urukiko Rukuru, ruri i Kigali, rwasubirishwamo ku mpamvu z'akarengane. Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Gasabo, Ubushinjacyaha burega P wari manager wa Guest House icyaha cyo gukoresha imibonano mpuzabitsina ku gahato C, umugore wa R. Mu guca urubanza, Urukiko Rwisumbuye rwemeje ko P ahamwa n'icyaha cyo gukoresha imibonano mpuzabitsina ku gahato C, rumuhanisha igihano cy'igifungo cy'imyaka ine (4) n'ihazabu y'amafaranga 500,000, rumutegeka gufatanya na Z nyiri Guest House kwishyura indishyi zingana n'amafaranga 5,000,000. P na Z ntibishimiye imikirize y'urubanza barujuririra mu Rukiko Rukuru. R na we yatanze ikirego cy'indishyi muri urwo Rukiko, ibirego bihurizwa hamwe.

Mu rubanza RPA 0510/13/HC/KIG - RPA 0533/13/HC/KIG - RPA 0560/13/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 10/04/2014, rwemeje ko ubujurire bwa P nta shingiro bufite, rwemeza ko ubujurire bwa Z nyiri Guest House bufite ishingiro ko nta ruhare Guest House yagize mu ifatwa ku ngufu kwa C, rwategetse ko R waregeye indishyi yishyura Guest House amafaranga 1,000,000 y'ikurikirana rubanza kuko yayireze ku maherere. Ku bujurire bwa R, Urukiko rwemeje ko atsindiye indishyi P zingana n'amafaranga 4,500,000 n'amafaranga 500,000 y'ikurikiranarubanza, rutegeka ko urubanza RP 0104/13/TGI/GSBO rwaciwe n'Urukiko Rwisumbuye rwa Gasabo ruhindutse kubijyanye n'indishyi gusa.

R ntiyishimiye imikirize y'urubanza ku byerekeye uburyozwe bw'indishyi, avuga ko Urukiko Rukuru rwirengagije amategeko n'ibimenyetso rwemeza ko nta ndishyi Guest House ikwiriye gutanga. Kubera iyo mpamvu, R yandikiye Urwego rw'Umuvunyi ku wa 19/05/2014 no ku wa 28/10/2014 asaba ko urubanza RPA 0510/13/HC/KIG - RPA 0533/13/HC/KIG – RPA 0560/13/HC/KIG rwasubirishwamo ku mpamvu z'akarengane.

Mu isesengura ryakozwe n'Urwego rw'Umuvunyi rwasanze nta karengane kari mu rubanza R asabira gusubirwamo kubera ko kuba C yarasambanyijwe ku ngufu na P wari manager nta ruhare Guest House yabigizemo kuko P yabikoze atabitumwe kandi akaba atarabikoze agamije kuzuza inshingano n'inyungu za Guest House.

Amategeko yifashishijwe:

1. Itegeko Ngenga n° 03/2012/OL ryo ku wa 13/06/2012 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga;
2. Itegeko ryo kuwa 30 Nyakanga 1888 rishyiraho urwunge rw'amategeko y'imbonezamubano, Igitabo cya gatatu, ibyerekeye imirimo nshinganwa cyangwa amasezerano (CCLIII) mu ngingo yaryo ya 260, agace kayo ka 3.

Ibyemezo by'Inkiko (mpuzamahanga) n'inyandiko z'abahanga:

3. *Cour de Cassation, Assemblée plénière, du 19 mai 1988, 87-82.654, Publié au Bulletin Criminel 1988 N° 218 p. 567.*
4. X, La responsabilité de l'employeur pour la faute de son employé, *https://www.educaloi.qc.ca/capsules/la-responsabilite-de-lemployeur-pour-la-faute-de-son-employe*.

IKIBAZO HAGATI YA P n'Ubushinjacyaha, Guest House na R

I. Imiterere y'ikibazo

1. Ku wa 05/10/2012, R yavuye mu Gihugu cy'u Burundi aherekeje umugore we C wari uje gufatira indege ku Kibuga Mpuzamahanga cya Kigali kiri i Kanombe ubwo yari agiye kwivuriza muri Canada. Bageze i Kigali, bacumbitse muri Guest House ihereye mu Mujyi wa Kigali. R yasohotse mu cyumba agiye kuri *boutique* iri imbere ya Guest House, agarutse asanga *Manager* wayo witwa P yafashe ku ngufu umugore we C. R yitabaje Ubushinjacyaha.
2. Ubushinjacyaha bwakurikiranye P ku cyaha cyo gusambanya ku gahato C mu Rukiko Rwisumbuye rwa Gasabo, ikirego cyandikwa kuri nomero RP0104/13/TGI/GSBO. Urukiko rwemeje ko P ahamwa n'icyaha cyo gukoresha imibonano mpuzabitsina ku gahato C, rumuhanisha igihano cy'igifungo cy'imyaka ine (4) n'ihazabu y'amafaranga 500,000. Urukiko rwategetse P gufatanya na Z nyiri Guest House kwishyura indishyi zingana na 5,000,000, P akishyura miliyoni amafaranga 3,000,000 naho Z akishyura amafaranga 2,000,000.
3. P na Z nyiri Guest House ntibishimiye imikirize y'urubanza bayijuririra mu Rrukiko Rukuru, ruri i Kigali. R nawe yatanze ikirego cy'indishyi, ibirego bihurizwa hamwe byandikwa kuri RPA 0510/13/HC/KIG - RPA 0533/13/HC/KIG-RPA 0560/13/HC/KIG.
4. Mu gusuzuma ikirego cya buri wese, Urukiko rwemeje ko ubujurire bwa P nta shingiro bufite. Ku bujurire bwa Z nyiri Guest House, Urukiko rwemeje ko bufite ishingiro ko nta ruhare Guest House yagize mu ifatwa ku ngufu kwa C, rwategetse ko R yishyura Guest House amafaranga angana na 1,000,000 y'ikurikirana rubanza kuko yayireze ku maherere. Ku bujurire bwa R, Urukiko rwemeje ko atsindiye indishyi P zingana n'amafaranga 4,500,000 n'amafaranga 500,000 y'ikurikiranarubanza, rutegeka ko urubanza RP 0104/13/TGI/GSBO rwaciwe n'Urukiko Rwisumbuye rwa Gasabo ruhindutse kubijyanye n'indishyi gusa.
5. Ku wa 19/05/2014, R yandikiye Urwego rw'Umuvunyi asaba ko urubanza RPA 0510/13/HC/KIG - RPA 0533/13/HC/KIG-RPA 0560/13/HC/KIG rwasubirwamo ku mpamvu z'akarengane. Ku wa 28/10/2014, mu ibaruwa OMB.03/372/10.14/UJ,

Urwego rw'Umuvunyi rwamushubije rumugaragariza ko nta karengane kari mu rubanza asabira gusubirwamo.

6. Kubera kutishimira igisubizo yahawe, R ku wa 02/04/2015, yongeye kwandikira Urwego rw'Umuvunyi arusaba kongera gusuzuma ikibazo cye.

II. Isesengura ry'ikibazo

Ikibazo cy'amategeko gisesengurwa ni ukumenya niba Guest House ikwiye kuryozwa indishyi zikomoka ku cyaha cyakozwe na P wari manager wayo.

1. Urukiko Rukuru rwemeje ko P ahamwa n'icyaha cyo gukoresha imibonano mpuzabitsina ku gahato C, rushingiye ku bimenyetso bitandukanye harimo no kuba P ubwe yiyemerera ko yajyanye C mu kindi cyumba kitari icyo bari barayemo.
2. R uregera indishyi yunganiwe n'Avoka we yagaragaje ko bashaka indishyi zikomoka ku ngendo n'impamba bagiye bakoresha baza kureba dosiye iri mu Bushinjacyaha bingana n'amafaranga 20,000,000; basaba gusubizwa amafaranga y'itike y'indege C yagendeyeho asubira muri Canada, gusubizwa amafaranga yaguze imiti ubwo umugore we yari ari mu Rwanda . R avuga kandi ko amafaranga 5,000,000 yahawe mu Rukiko Rwisumbuye rwa Gasabo ari make, hakaba hakwiye kwiyongeraho andi mafaranga 50,000,000 y'indishyi z'akababaro. R yareze Guest House kuko ari yo mukoresha wa P.
3. Avoka uhagarariye Guest house avuga ko nta cyaha Guest House yakoze, ko n'ubwo icyaha cyaba cyarakozwe na P itakibazwa kuko mu nshingano Guest House rwamuhaye, nta gusambanya abantu ku ngufu birimo. Urukiko rwemeje ko nta kimenyetso na kimwe kigaragaza uruhare rwa Guest House mu kuba P yarasambanyije ku ngufu C rushingiye ku kuba mu nshingano yari afite nka *manager* nta gusambanya ku ngufu byari birimo.
4. Itegeko ryo kuwa 30 Nyakanga 1888 rishyiraho Urwunge rw'Amategeko y'Imbonezamubano, Igitabo cya gatatu, ibyerekeye imirimo nshinganwa cyangwa amasezerano (CCLIII) mu ngingo yaryo ya 260, agace kayo ka 3, iteganya ko **« *Ba shebuja n'abakoresha baryozwa ibyangijwe n'abakozi babo mu gihe bakora***

imirimo babashinze ». Ibyo bisobanuye ko abakoresha badashobora kuryozwa ibyangijwe n'umukozi igihe yakoraga ibitari mu nshingano umukoresha yamuhaye. Mu gusobanura iyi ngingo, twifashishije imvugo z'abahanga aho bagaragaje ko kugira ngo umukoresha ntaryozwe ibyo umukozi yakoze byangirije abandi, hagomba kuba hari ibintu bitatu : kuba umukozi yakoze ibitari mu nshingano ze, kuba umukozi ibyo yabikoze atabiherewe uburenganzira no kuba umukozi yabikoze atagamije kuzuza inshingano ze[1].

5. Mu gusesengura iyi ngingo, Urwego rw'Umuvunyi rusanga kuba C yarasambanyijwe ku ngufu na P wari *manager* wa Guest house, nta ruhare Guest House yabigizemo kuko P yabikoze bitari mu shingano ze, akaba yarabikoze ntawabimuhereye uburenganzira ndetse akaba atarabikoze agamije kuzuza inshingano n'inyungu[2] za Guest House, kuko kugira ngo hamenyekane niba umukoresha yaryozwa ibyangijwe n'umukozi we, hagomba kwitabwa ku kureba icyo umukozi yari agamije ubwo yakoraga iryo kosa[3].
6. Umukoresha ntashobora kuryozwa ibyangijwe n'umukozi we igihe umukozi yabikoze agamije inyungu ze bwite kandi ibyo yakoze nta sano bifitanye n'inshingano umukoresha yamuhaye kabone n'ubwo umukozi yaba yabikoze ari ku kazi no mu masaha y'akazi.
7. R aregera indishyi, akazirega Guest House. Avoka uburanira Guest House avuga ko nta cyaha Guest House yakoze, agaragaza ko yarezwe ku maherere, agasaba ko yakwishyurwa indishyi z'amafaranga 3,000,000 na 2,000,000 z'igihembo cy'Avoka. Urukiko rwemeje ko Guest House yarezwe ku maherere, rutegeka R

[1] Cour de Cassation, Assemblée plénière, du 19 mai 1988, 87-82.654, Publié au bulletin a éclairci le cas de l'abus de fonction en émettant *trois conditions cumulatives pour la mise en œuvre de la responsabilité du préposé :1. Le préposé a agi hors de ses fonctions; 2. Le préposé a agi sans autorisation; 3. Le préposé a agi à des fins étrangères à ses attributions.*

[2] https://www.educaloi.qc.ca/capsules/la-responsabilite-de-lemployeur-pour-la-faute-de-son-employe, explique qu'un employé est dans l'exécution de ses fonctions lorsqu'il agit pour le compte et dans l'intérêt de son employeur; lorsqu'il obéit aux ordres de son employeur ou exécute les tâches pour lesquelles il a été engagé. Un employé engagera notamment la responsabilité de son employeur dans les cas suivants: 1. s'il exécute mal les tâches qui lui ont été confiées et que son inhabileté, sa négligence ou son imprudence cause un dommage; 2. s'il exécute une tâche qui n'est pas strictement celle pour laquelle il a été engagé, mais qui est faite au bénéfice de son employeur.

[3] *ibidem*

kwishyura Guest house amafaranaga 1,000,000 akubiyemo indishyi z'ikurikiranarubanza n'igihembo cy'Avoka.

8. Mu gusesegura iyi ngingo, Urwego rw'Umuvunyi rusanga nta mpamvu yari gutuma Guest House iregwa nk'uko byasobanuwe haruguru. Kuba rero Urukiko, rushingiye ku ngingo ya 258 y'Itegeko ryo ku wa 30/07/1888 ryerekeye ibyerekeye imirimo nshinganwa cyangwa amasezerano aho iteganya ko *« Igikorwa cyose cy'umuntu cyangirije undi gitegeka nyir'ugukora ikosa rigikomokaho kuriha ibyangiritse »,* rwaremeje ko kuba R yarareze Guest House hari igihombo byayiteje cy'ikurikiranarubanza no gushaka ubunganira mu nkiko kandi ataragombaga kuyirega, rukamutegeka kwishyura miliyoni imwe 1,000,000 nta karengane karimo.
9. Kubera impamvu zimaze gusobanurwa, turasanga nta karengane, kaba agashingiye ku mategeko cyangwa ku bimenyetso kagaragara mu rubanza rusabirwa gusubirwamo.

VI. Umwanzuro w'Urwego rw'Umuvunyi

Dushingiye ku isesengura ryakorewe ikibazo cya R;

Dushingiye kandi ku biteganywa n'ingingo ya 81 y'Itegeko-Ngenga n° 03/2012/OL ryo ku wa 13/06/2012 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga;

Urwego rw'Umuvunyi rusanga Urubanza RPA 0510/13/HC/KIG - RPA 0533/13/HC/KIG - RPA 0560/13/HC/KIG rwaciwe ku wa 10/04/2014 n'Urukiko Rukuru, ruri i Kigali, rudakwiye gusubirwamo ku mpamvu z'akarengane.

Bikorewe i Kigali, ku wa 26/01/2016.

Icyemezo cy'Urwego rw'Umuvunyi N^{o} Omb.pfiu/01/15

IKIBAZO CYA B *vs* IKIGEGA CYIHARIYE CY'INGOBOKA (SGF)

***Inshamake*:**

B yandikiye Urwego rw'Umuvunyi asaba kumurenganura kubera ko indishyi yagenewe n'Ikigega Cyihariye cy'Ingoboka (SGF) ku bikorwa bye by'ubuhinzi byangijwe n'inyamaswa zo muri Parike y'Akagera, zitashingiye ku bipimo nyakuri no ku bwumvikane. Isesengura ryimbitse ryakozwe n'Urwego rw'Umuvunyi ryagaragaje ko nta karengane B yagiriwe kubera ko hari amasezerano na raporo y'ubwumvikane, aho B yemeye ku bushake «nta gahato» indishyi yabariwe n'Ikigega Cyihariye cy'Ingoboka (SGF). Bityo, Urwego rw'Umuvunyi ntirushobora guhindura amasezerano yabaye hagati y'impande zombi nta gahato.

IKIBAZO CYA B vs IKIGEGA CYIHARIYE CY'INGOBOKA (SGF)

I. Imiterere y'ikibazo

Ku wa 19/05/2015, B yandikiye Urwego rw'Umuvunyi asaba kurenganurwa kubera ko Ikigega Cyihariye cy'Ingoboka (SGF) cyamurenganyije mu kumugenera indishyi zikomoka ku bikorwa bye by'ubuhinzi bw'imyumbati byangijwe n'inyamaswa zo muri Pariki y'Akagera. Avuga ko ubwishyu bungana na Miliyoni eshanu n'ibihumbi magana atanu n'umunani (Frw 5,508,000) yagenewe nta bipimo cyangwa ubwumvikane byagendeweho, akaba yaremeye ubwishyu nk'amaburakindi kubera umwenda yarafitiye banki kandi akaba yari agiye mu butumwa bw'akazi.

II. Isesengura ry'ikibazo

Ikibazo gisesengurwa ni ukumenya niba indishyi B yahawe n'Ikigega Cyihariye cy'Ingoboka (SGF) zarashingiye ku bwumvikane hagati y'impande zombi.

Mu isesengura, Urwego rw'Umuvunyi rwifashishije inyandiko zitandukanye rwashyikirijwe na B n'izindi rwashyikirijwe n'Ikigega Cyihariye cy'Ingoboka (SGF). Muri izo nyandiko, iz'ingenzi ni amasezerano y'ubwishyu hagati ya B n'Ikigega Cyihariye cy'Ingoboka (SGF) na raporo y'ubwumvikane hagati y'impande zombi byasinywe ku wa 13/05/2013.

Mu masezerano na raporo y'ubwumvikane, B yemera indishyi za Miliyoni eshanu n'ibihumbi magana atanu n'umunani (Frw 5,508,000), nta ngingimira ndetse ko nta kindi azishyuza Ikigega Cyihariye cy'Ingoboka (SGF). Yahaye kandi icyo kigega uburenganzira bwo gukurikirana uwo ariwe wese byazagaragara ko yabaye nyirabayazana w'ibyangijwe.

Ikigega Cyihariye cy'Ingoboka cyasobanuriye Urwego rw'Umuvunyi uko kugena indishyi bikorwa n'amategeko akurikizwa. Aho B avuga ko ubwishyu yari yagenewe mbere bwahinduwe, dosiye zasesenguwe zigaragaza ko hakozwe igenzura ry'ibyangijwe inshuro ebyiri kuko ibyari byakozwe mbere byateye amakenga biza guhindurwa kandi byose bikamenyeshwa nyirubwite, B.

Byagaragaye ko ubwumvikane bwabaye hagati y'impande zombi, Ikigega Cyihariye cy'Ingoboka (SGF) na B, bwakozwe ku bushake, nta gahato. Iyo B asanga ubwishyu yagenewe budakwiye, ntiyari gushyira umukono ku masezerano y'ubwumvikane ahubwo yari kwiyambaza inkiko nk'uko amategeko abiteganya.

III. Icyemezo cy'Urwego rw'Umuvunyi

Urwego rw'Umuvunyi rushingiye ku masezerano na raporo y'ubwumvikane aho B yemeye ku bushake « nta gahato » indishyi yabariwe n'Ikigega Cyihariye cy'Ingoboka (SGF), ko nta kindi azigera yishyuza kandi akaba yarahaye icyo Kigega uburenganzira bwo gukurikirana uwo ari we wese byazagaragara ko yabaye nyirabayazana w'ibyangijwe;

Urwego rw'Umuvunyi rusanga B atararenganyijwe n'Ikigega Cyihariye cy'Ingoboka (SGF) kandi ntirushobora guhindura amasezerano yabaye hagati y'impande zombi ku bwumvikane nta gahato.

Bikorewe i Kigali, ku wa 17/06/2015.

Icyemezo cy'Urwego rw'Umuvunyi N^{o} Omb.pfiu/01/16

IKIBAZO CYA J *VS* KAMINUZA Y'U RWANDA-ISHAMI RYA HUYE N'IKIGO CY'UBWITEGANYIRIZE MU RWANDA (RSSB)

Inshamake:

J asaba Urwego rw'Umuvunyi kumurenganura kubera ko Kaminuza y'u Rwanda - Ishami rya Huye yakoreye, itamutangiye imisanzu nk'uko bikwiye mu Kigo cy'Ubwiteganyirize mu Rwanda (RSSB), iki kigo nacyo kikaba ntacyo cyamufashije. Urwego rw'Umuvunyi rumaze gusesengura ibimenyetso rwagaragarijwe, rwasanze J yararenganyijwe, ibyo bikaba byaragize ingaruka kuri pansiyo y'ubusaza ahabwa. Bityo, Urwego rw'Umuvunyi rwasabye Kaminuza y'u Rwanda-Ishami rya Huye gutangira J imisanzu y'inyongera mu Kigo cy'Ubwiteganyirize mu Rwanda (RSSB) kuva mu kwezi kwa Nyakanga 2010 kugera mu kwezi kw'Ukwakira 2013.

Kaminuza y'u Rwanda ishingiye ku cyemezo cy'Urwego rw'Umuvunyi, yemeye gutangira J imisanzu y'inyongera mu Kigo cy'Ubwiteganyirize mu Rwanda (RSSB).

I. Imiterere y'ikibazo

Ku wa 27/01/2016, J yagejeje ku Rwego rw'Umuvunyi ikibazo asaba kurenganurwa kubera ko Kaminuza y'u Rwanda - Ishami rya Huye yakoreye kuva muri Mutarama 1997 kugera Ukuboza 2013, itamutangiye imisanzu mu Kigo cy'Ubwiteganyirize mu Rwanda (RSSB) kuva mu kwezi kwa Nyakanga 2010 kugera mu kwezi kw'Ukwakira 2013. Ikibazo cyashyikirijwe Kaminuza y'u Rwanda-Ishami rya Huye n'Ikigo cy'Ubwiteganyirize mu Rwanda (RSSB) ariko nticyakemuka.

II. Gusesengura ikibazo

Ku wa 16/12/1996, Kaminuza y'u Rwanda yandikiye J ibaruwa N^{o} 1.10/0601/96 imumenyesha ko ahawe akazi ko kwigisha mu buryo buhoraho kuva ku wa 01/01/1997.

Ku wa 22/06/2010, Kaminuza y'u Rwanda yandikiye J ibaruwa N^{o} 0570/HR/2010 imumenyesha ko kuva ku wa 01/07/2010, azatangira ikirihuko cy'izabukuru (Retirement).

Ku wa 09/12/2010, Kaminuza y'u Rwanda yagiranye na J amasezerano y'umurimo atangira kubahirizwa kuva Mutarama 2011 kugera Ukuboza 2011.

Ku wa 14/11/2011, Kaminuza y'u Rwanda yagiranye na J andi masezerano y'umurimo atangira kubahirizwa kuva ku wa 01 Mutarama 2012 kugera ku wa 31 UKuboza 2012.

Ku wa 14/01/2013, Kaminuza y'u Rwanda yongeye kugirana na J amasezerano y'umurimo atangira kubahirizwa kuva ku wa 01 Mutarama 2013 kugera ku wa 31 Ukuboza 2013.

Ku wa 28/02/2014, J yandikiye Kaminuza y'u Rwanda-Ishami rya Huye, asaba gutangirwa imisanzu atatangiwe kuva mu kwezi kwa Nyakanga 2010 kugera mu kwezi kw'Ukwakira 2013.

Ku wa 06/03/2014, J yandikiye Ikigo cy'Ubwiteganyirize mu Rwanda (RSSB) asaba pansiyo y'ubusaza.

Ku wa 09/12/2014, Ikigo cy'Ubwiteganyirize mu Rwanda (RSSB) cyashyikirije J *Etat des Relevés nominatifs des Rémunerations par Assuré* igaragaza ko kuva mu kwezi kwa Nyakanga 2010 kugera mu kwezi kw'Ukwakira 2013, Kaminuza y'u Rwanda itigeze imutangira imisanzu. Ibi kandi byemejwe mu nyandiko n'umukozi mu Ishami rishinzwe imisanzu muri RSSB ku wa 11/02/2016 ubwo Urwego rw'Umuvunyi rwakurikiranaga iki kibazo muri icyo kigo.

Ku wa 07/05/2014, J yongeye kwandikira Ikigo cy'Ubwiteganyirize mu Rwanda (RSSB), asaba ko cyamusabira Kaminuza y'u Rwanda-Ishami rya Huye kumutangira imisanzu atatangiwe.

Ku wa 17/07/2014 no ku wa 08/12/2014, Ikigo cy'Ubwiteganyirize mu Rwanda (RSSB) cyandikiye Kaminuza y'u Rwanda-Ishami rya Huye, gisaba kandi cyibutsa ko J yatangirwa imisanzu atatangiwe kuva mu kwezi kwa Nyakanga 2010 kugera mu kwezi kw'Ukwakira 2013. Kaminuza y'u Rwanda-Ishami rya Huye, ntiyigeze isubiza na RSSB nta kindi yabikozeho.

Duhereye ku nyandiko z'inyongera (Listes de paye du mois de Septembre, Octobre, Novembre et Décembre 2010), Urwego rw'Umuvunyi rwashyikirijwe na J ku wa 16/02/2016, bigaragara ko nyuma yo gushyirwa mu kiruhuko cy'izabukuru (retirement), J yakomeje gukorera Kaminuza y'u Rwanda-Ishami rya Huye, akanakomeza guhembwa kuva mu kwezi kwa Nyakanga 2010 kugera mu kwezi kw'Ukwakira 2013.

III. Icyemezo cy'Urwego rw'Umuvunyi

Dushingiye ku isesengura ry'ibimenyetso byashyikirijwe Urwego rw'Umuvunyi nk'uko byagaragajwe haruguru ;

Urwego rw'Umuvunyi rusanga J ataratangiwe imisanzu mu Kigo cy'Ubwiteganyirize mu Rwanda (RSSB) kuva mu kwezi kwa Nyakanga 2010 kugera mu kwezi kw'Ukwakira 2013. Ibi bikaba bigira ingaruka kuri pansiyo y'ubusaza J ahabwa buri kwezi.

Urwego rw'Umuvunyi rusanga J yararenganyijwe, bityo Kaminuza y'u Rwanda-Ishami rya Huye, ikaba isabwa gutangira J imisanzu y'inyongera mu Kigo cy'Ubwiteganyirize mu Rwanda (RSSB) kuva mu kwezi kwa Nyakanga 2010 kugera mu kwezi kw'Ukwakira 2013.

Bikorewe i Kigali, ku wa 17/02/2016.

Icyemezo cy'Urwego rw'Umuvunyi No Omb.pfiu/02/16

UBUHUZA HAGATI YA RMS Ltd N'UMUHESHA W'INKIKO W'UMWUGA

Inshamake:

K uhagarariye RMS Ltd yandikiye Urwego rw'Umuvunyi asaba ko rumuhuza (mediation) n'Umuhesha w'Inkiko w'Umwuga washinzwe kurangiza imanza RCOM 1752/15fTC/NYGF na RCOMA 00238/2016/CHC/HCC IMR Ltd yatsinzemo RMS Ltd. Muri izo manza Urukiko Rukuru rw'Ubucuruzi rwategetse ko RMS Ltd igomba kwishyura IMR Ltd Frw 49,145.141 hiyongereyeho Frw 1.000.000 y'igihembo cya Avocat n'ikurikiranarubanza. Nyuma y'uko Imanza zibaye itegeko, RMS Ltd yatangiye kwishyura ku neza ariko Umuhesha w'Inkiko w'Umwuga atangira inzira zo kurangiza izo manza ku ngufu kubera ko RMS Ltd yari itararangiza kwishyura amafaranga yose yategetswe n'Urukiko.

Urwego rw'Umuvunyi rushingiye ku bubasha ruhabwa n'itegeko, rwahuje impande zombi zibasha kumvikana ko imanza zikomeza kurangizwa ku neza ndetse n'igihembo cy'Umuhesha w'Inkiko w'Umwuga kikazishyurwa nta gahato bitarenze itariki impande zombi zumvikanyeho.

Amategeko yifashishijwe:

Itegeko N^{o} 76/2013 ryo ku wa 11/09/2013 rigena inshingano, ububasha, imiterere n'imikorere by'Urwego rw'Umuvunyi.

UBUHUZA HAGATI YA RMS Ltd N'UMUHESHA W'INKIKO W'UMWUGA

I. Abarebwa n'ikibazo

- **Ku ruhande rumwe**:

  RMS Ltd ihagarariwe na K

- **Ku rundi ruhande**:

  Umuhesha w'Inkiko w'Umwuga ushinzwe kurangiza imanza RCOM 1752/15fTC/NYGF na RCOMA 00238/2016/CHC/HCC IMR Ltd yatsinzemo RMS Ltd

II. Imiterere y'ikibazo

Urwego rw'Umuvunyi rwakiriye ikibazo cya K uhagarariye RMS Ltd agaragaza ko IMR Ltd yatsinze RMS Ltd imanza z'ubucuruzi RCOM 1752/15fTC/NYGF na RCOMA 00238/2016/CHC/HCC zabaye itegeko kandi zikaba zaratangiye kurangizwa ku neza na K n'uhagarariye RMS Ltd.

Urukiko rw'Ubucuruzi rwategetse RMS Ltd Kwishyura IMR Ltd amafaranga miliyoni mirongo ine n'icyenda, ibihumbi ijana na mirongo ine na bitanu n'amafaranga ijana na mirongo ine na rimwe (Frw 49,145.141) hiyongereyeho miliyoni imwe (Frw 1.000.000) y'igihembo cya Avocat n'ikurikirana rubanza yategetswe n'Urukiko Rukuru rw'Ubucuruzi.

K uhagarariye RMS Ltd yagaragaje kandi ko mu byo yategetswe byose yatangiye kubyishyura ku neza ariko akaba afite ikibazo cyo kuba Umuhesha w'Inkiko w'Umwuga ashaka kururangiza ku ngufu no guteza cyamunara umutungo wa RMS Ltd, asaba ubuhuza kugira ngo bumvikane kurangiza urubanza ku neza hatabayeho gukoresha ingufu.

III. Inama y'ubuhuza

Nyuma yo gusobanurirwa ishingiro ry'inama y'ubuhuza batumiwemo n'Urwego rw'Umuvunyi, uhagarariye Urwego rw'Umuvunyi Bwana RUMAZIMINSI NTAGWABIRA Séraphin, Umuyobozi w'Ishami rishinzwe gukumira no kurwanya akarengane mu

Rwego rw'Umuvunyi yabagaragarije ingingo z'amategeko aha Urwego ububasha bwo gukora ubuhuza (ingingo ya 4, iya 5 n'iya 7 z'Itegeko No 76/2013 ryo ku wa 11/09/2013 rigena inshingano, ububasha, imiterere n'imikorere by'Urwego rw'Umuvunyi).

Abitabiriye ubuhuza batanze ibyifuzo byabo biri mu ngingo ikurikira:

IV. Ibyifuzo byatanzwe n'impande zombi

Ku ruhande rumwe, K uhagarariye RMS Ltd yasabye ko yahabwa igihe cyo kuba yashaka amafaranga asigaye angana na miliyoni mirongo itatu n'eshanu, ibihumbi magana ane na birindwi n'amafaranga mirongo ine n'icyenda (Frw 35.407.049).

Umuhesha w'Inkiko w'Umwuga uhagarariye IMR Ltd yasabye ko hakozwe inyandiko igaragaza ibyo K uhagarariye RMS Ltd yemera n'igihe ntarengwa yazishyuriraho, inyandiko igashyirwaho imikono, ko yabyemera kandi akabimenyesha uwamusabye kurangiza urubanza ari we IMR Ltd.

V. Imyanzuro

Inama y'ubuhuza yageze ku myanzuro yumvikanyweho ikurikira:

1. K uhagarariye RMS Ltd yiyemeje gukomeza kwishyura ku bushake amafaranga yose yatsindiwe akaba yarangije kwishyura bitarenze tariki ya 30/03/2017;
2. K uhagarariye RMS Ltd yiyemeje kuzishyura igihembo cy'Umuhesha w'Inkiko w'Umwuga nta gahato;
3. K uhagarariye RMS Ltd yemeye ko aramutse atubahirije iyi myanzuro hazakoreshwa inzira ziteganywa mu kurangiza imanza ku ngufu;
4. Umuhesha w'Inkiko w'Umwuga yemeye kumenyesha uwamusabye kurangiza urubanza ibyumvikanyweho n'uwatsinzwe kandi ko azategereza igihe bumvikanyeho na K uhagarariye RMS Ltd cyaba kitubahirijwe akabona gusubukura irangizarubanza ku ngufu.

Bikorewe i Kigali ku wa 30/12/2016

N.B: Iyi myanzuro ikozwe mu nyandiko enye (4) z'umwimerere.

Ku ruhande rumwe:	**Ku rundi ruhande**:
(Se)	(Se)
K uhagarariye RMS Ltd	Umuhesha w’Inkiko w’Umwuga

Umuhuza: RUMAZIMINSI NTAGWABIRA Séraphin

Umuyobozi w'Ishami rishinzwe gukumira no kurwanya akarengane mu Rwego rw’Umuvunyi