UBUSHINJACYAHA v. UWIRINGIYIMANA

[Rwanda URUKIKO RW'UBUJURIRE – RPAA 00346/2020/CA (Mukamurenzi, P.J.,) 25 Werurwe 2022]

Amategeko agenga imiburanishirije y'imanza z'inshinjabyaha – Ubutabera buboneye – Igihano – Umucamanza afite inshingano yo guhanisha uwahamwe n'icyaha igihano gikwiye, akurikije uburemere bw'icyaha yakoze, ingaruka cyateye, impamvu zatumye agikora, uko uwagikoze yari asanzwe yitwara, imibereho ye bwite n'uburyo icyaha cyakozwemo.

Incamake y'ikibazo: Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Rubavu, Ubushinjacyaha bukurikiranye Uwiringiyimana ku cyaha cyo gusambanya umwana, buvuga ko ku wa 17/10/2017 yasambanyije umwana wavutse kuwa 08/03/2003 wahawe izina rya U.C., akomeza kujya amusambanyiriza mu kabare yacururizagamo, amutera inda, nyuma amukodeshereza inzu. Uregwa yaburanye ahakana icyaha aregwa, avuga ko atazi ibyo yavuze abazwa mu Bugenzacyaha kuko yahageze yasinze, bandika ibyo bishakiye bamusinyisha batabimusomeye. Urwo Rukiko rwaciye urubanza rwemeza ko ahamwa n'icyaha cyo gusambanya umwana, rumuhanisha igifungo cy'imyaka makumyabiri n'itanu (25).

Uregwa yajuririye Urukiko Rukuru, Urugereko rwa Musanze, avuga ko nubwo ku rwego rwa mbere yaburanye ahakana icyaha, ubujurire bwe bugamije kwemera icyaha no gusaba kugabanyirizwa ibihano. Urwo Rukiko rwaciye urubanza ruvuga ko ubujurire bwe nta shingiro bufite kuko kuba yarasambanyije umwana, akanabana nawe nk'umugabo n'umugore yari guhanishwa igifungo cya burundu kitashoboraga kugabanywa kubera impamvu nyoroshyacyaha ariko kuko yajuriye wenyine igihano cy'imyaka makumyabiri n'itanu (25) yahanishijwe kikaba kitahinduka.

Uregwa yarongeye ajuririra Urukiko rw'Ubujurire avuga ko Urukiko Rukuru rwamuburanishije hanze y'imbibi z'icyajuririwe, kuko impamvu ijyanye n'uko yabanye na U.C. nk'umugabo n'umugore itigeze ijuririrwa ariko ruyishingiraho mu kumuha igihano. Mu bujurire bwe kandi, asaba kugabanyirizwa igihano hashingiwe ku kuba yaraburanye yemera icyaha akagisabira imbabazi n'uko icyo yahanishwa cyasubikwa kugira ngo ajye gufatanya na U.C. kurera umwana babyaranye.

Ubushinjacyaha bwo bwaburanye buvuga ko impamvu ze z'ubujurire zidakwiye guhabwa ishingiro, kuko Umucamanza ataciye urubanza hanze y'imbibi z'icyajuririwe ahubwo yarebye ibikorwa byakozwe maze agena inyito y'icyaha kandi ko amategeko abimwemerera, avuga ko uburyo icyaha yakozwemo akwiye guhanirwa icyaha cyo kubana n'umwana nk'umugabo n'umugore. Bunavuga ko uregwa adakwiye kugabanyirizwa igihano kubera kwemera icyaha kuko iyo mpamvu itujuje ibyo amategeko ateganya kugira ngo ukwemera kwe gufatwe nk'impamvu nyoroshyacyaha.

Incamake y'icyemezo: Umucamanza afite inshingano yo guhanisha uwahamwe n'icyaha igihano gikwiye, akurikije uburemere bw'icyaha yakoze, ingaruka cyateye, impamvu zatumye agikora, uko uwagikoze yari asanzwe yitwara, imibereho ye bwite n'uburyo icyaha cyakozwemo, bityo igihano cy'igifungo cy'imyaka 25 uregwa yari yaharanishijwe kikaba kigomba kugabanywa kigasimbuzwa igifungo cy'imyaka cumi n'itanu (15).

Ubujurire nta shingiro bufite;
Urubanza ruhindutse gusa ku birebana n'igihano.

Amategeko yakoreshejwe:
Itegeko Nº 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha**,** Ingingo ya 183, igika cya mbere, agace ka 5 n'aka 6**.**
Itegeko Nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, Ingingo ya 49 n'iya 133 igika cya kabiri.

Imanza zifashishijwe:

Urubanza RS/INCOSNT/SPEC 00003/2019/SC rwaciwe n' Urukiko rw'Ikirenga ku wa 04/12/2019.
Urubanza RS/INCOSNT/SPEC 00005/2020/CS-RS/INCOSNT/SPEC 00006/2020/CS rwaciwe n' Urukiko rw'Ikirenga ku wa 12/02/2020.
Ubushinjacyaha v. Nzafashwanimana, RPAA 00032/2019/CA rwaciwe n' Urukiko rw'Ubujurire ku wa 28/02/2020.
Ubushinjacyaha v. Nsengiyaremye Jean Paul, RPAA 00384/2020/CA CA rwaciwe n' Urukiko rw'Ubujurire ku wa 29/10/2021.
Ubushinacyaha v. UWIMANA Emile, RPAA 00641/2021/CA rwaciwe n' Urukiko rw'Ubujurire ku wa 21/01/2022.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Urubanza rwatangiriye mu Rukiko Rwisumbuye rwa Rubavu, Ubushinjacyaha bukurikiranye kuri UWIRINGIYIMANA Claude Jean Marie icyaha cyo gusambanya umwana, buvuga ko ku wa 17/10/2017 yasambanyije umwana wavutse kuwa 08/03/2003 wahawe izina rya U.C., akomeza kujya amusambanyiriza mu kabare yacururizagamo, amutera inda, nyuma amukodeshereza inzu. UWIRINGIYIMANA Claude Jean Marie yaburanye ahakana icyaha aregwa, avuga ko atazi ibyo yavuze abazwa mu Bugenzacyaha kuko yahageze yasinze, bandika ibyo bishakiye bamusinyisha batabimusomeye.

[2] Mu rubanza nº RP 00483/2017/TGI/RBV rwaciwe ku wa 30/10/2018, Urukiko Rwisumbuye rwa Rubavu rwasanze hari ibimenyetso bifatika byerekana ko yasambanyije U. C. birimo kuba abazwa mu Bugenzacyaha yaremeye icyaha, imvugo z'abatangabuhamya bamushinja ko yamusambanyije, anamutera inda, maze rwemeza ko ahamwa n'icyaha cyo gusambanya umwana, rumuhanisha igifungo cy'imyaka makumyabiri n'itanu (25).

[3] UWIRINGIYIMANA Claude Jean Marie yajuririye Urukiko Rukuru, Urugereko rwa Musanze, avuga ko nubwo ku rwego rwa mbere yaburanye ahakana icyaha, ubujurire bwe bugamije kwemera icyaha no gusaba kugabanyirizwa ibihano. Mu rubanza RPA 00510/2018/HC/MUS rwaciwe ku wa 19/07/2019, Urukiko Rukuru ruvuga ko ubujurire bwe nta shingiro bufite kuko kuba yarasambanyije umwana, akanabana nawe nk'umugabo n'umugore yari

guhanishwa igifungo cya burundu kitashoboraga kugabanywa kubera impamvu nyoroshyacyaha ariko kuko yajuriye wenyine igihano cy'imyaka makumyabiri n'itanu (25) yahanishijwe kikaba kitahinduka.

[4] UWIRINGIYIMANA Claude Jean Marie yajuririye icyo cyemezo mu Rukiko rw'Ubujurire avuga ko Urukiko Rukuru rwamuburanishije hanze y'imbibi z'icyajuririwe, kuko impamvu ijyanye n'uko yabanye na U.C. nk'umugabo n'umugore itigeze ijuririrwa ariko ruyishingiraho mu kumuha igihano. Mu bujurire bwe kandi, asaba kugabanyirizwa igihano hashingiwe ku kuba yaraburanye yemera icyaha akagisabira imbabazi n'uko icyo yahanishwa cyasubikwa kugira ngo ajye gufatanya na U.C. kurera umwana babyaranye.

[5] Mu myanzuro isubiza, Ubushinjacyaha buvuga ko impamvu ze z'ubujurire zidakwiye guhabwa ishingiro, kuko Umucamanza ataciye urubanza hanze y'imbibi z'icyajuririwe ahubwo yarebye ibikorwa byakozwe maze agena inyito y'icyaha kandi ko amategeko abimwemerera, avuga ko uburyo icyaha yakozwemo akwiye guhanirwa icyaha cyo kubana n'umwana nk'umugabo n'umugore. Bunavuga ko UWIRINGIYIMANA Claude Jean Marie adakwiye kugabanyirizwa igihano kubera kwemera icyaha kuko iyo mpamvu itujuje ibyo amategeko ateganya kugira ngo ukwemera kwe gufatwe nk'impamvu nyoroshyacyaha.

[6] Urubanza rwaburanishirijwe mu ruhame ku wa 03/03/2022, UWIRINGIYIMANA Claude Jean Marie yunganiwe na Me RWAHAMA Zacharie, Ubushinjacyaha buhagarariwe n' UWANZIGA Lydia, Umushinjacyaha ku rwego rw'Igihugu. Urubanza rupfundikiwe ababuranyi bamenyeshwa ko ruzasomwa kuwa 25/03/2022.

II. IBIBAZO BIGIZE URUBANZA N'ISESENGURWA RYABYO

Kumenya niba mu rubanza rujuririrwa haraciwe urubanza ku kitarajuririwe bigatuma UWIRINGIYIMANA Claude Jean Marie atagabanyirizwa igihano

[7] UWIRINGIYIMANA Claude Jean Marie n'umwunganira bavuga ko Urukiko Rukuru, urugereko rwa Musanze rwaciye urubanza ku kitarajuririwe kuko atigeze ajuririra ibijyanye n'uko yabanye na U.C. nk'umugabo n'umugore ariko mu guca urubanza rubishingiraho rumuha ibihano, ko impamvu babivuga ari uko hari hajuririywe kugabanyirizwa ibihano ariko urukiko ruvuga ko atagabanyirizwa kuko yabanye n'umwana nk'umugore n'umugabo, ko nubwo abyemera ko babanye ariko atari icyo yari yajuririye

[8] Uhagarariye Ubushinjacyaha avuga ko impamvu y'ubujurire ya UWIRINGIYIMANA Claude Jean Marie ijyanye n'uko Urukiko rwagiye hanze y'imbibi z'icyajuririwe, idakwiye guhabwa ishingiro kuko Umucamanza yarebye uburyo icyaha cyakozwe kandi n'uregwa abyemera, ko ahubwo bumvaga umucamanza yari kuvuga ko UWIRINGIYIMANA ahamwa n'icyaha cyo kubana n'umwana nk'umugabo n'umugore kubera ko itegeko ryariho icyaha gikorwa ryagiteganyaga, ko n'ibihano by'icyo cyaha n'icyo gusambanya umwana ari bimwe. Anavuga ko icyaha cyo kubana n'umwana nk'umugabo n'umugore atakiburanyeho kuko ubushinjacyaha bwamureze icyaha cyo gusambanya umwana ariko no kuba umucamanza yaranavuze ko banabanye nk'umugore n'umugabo nta kosa ririmo kuko n'Ubushinjacyaha bwabikomojeho bukavuga ko ari cyo cyaha yakagombye kuba yarahaniwe ku rwego rwa mbere ariko umucamanza mu kugena igihano akavuga ko atazamura igihano mu gihe Ubushinjacyaha butabijuririye.

UKO URUKIKO RUBIBONA

[9] Ingingo ya 183, igika cya mbere, agace ka 5 n'aka 6 y'itegeko Nº 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha iteganya ko Ubujurire bukorwa mu buryo bw'umwanzuro utanga ikirego, ugaragaza urutonde rw'inenge z'urubanza zisabirwa gukosorwa n'ibindi bibazo bigomba gusuzumwa; ibisobanuro kuri buri nenge cyangwa kuri buri kibazo bigaragaza amakosa yakozwe n'uburyo agomba gukosorwa hashingiwe ku mategeko n'ibimenyetso n'igisabwa urukiko naho ingingo ya 188 y'iryo Tegeko igateganya ko uregwa ashobora kujuririra urubanza rwose cyangwa zimwe mu ngingo atishimiye imikirize yazo, ko urukiko rwajuririwe ruburanisha gusa mu mbibi z'icyajuririwe.

[10] Mu mwanzuro wa UWIRINGIYIMANA Claude Jean Marie ajurira mu Rukiko Rukuru, Urugereko rwa Musanze yavugaga ko ajuriye yemera icyaha cyo gusambanya umwana yahamijwe n'Urukiko Rwisumbuye rwa Rubavu, ko impamvu ye y'ubujurire ari ugusaba kugabanyirizwa igihano yahawe ku rwego rwa mbere ndetse kikanasubikwa, mu byo yagaragarizaga urukiko kuzashingiraho rugabanya igihano ku gace ka kabiri yavuze ko urukiko rwazabona ko yafatiwe mu cyuho abana nk'umugabo n'umugore n'umwana utaruzuza imyaka makumyabiri n'umwe (21) y'amavuko.

[11] Mu rubanza rujuririrwa hasuzumwe ikibazo kijyanye n'uko yagabanyirizwa igihano, Urukiko Rukuru rurebye ibiteganywa n'ingingo ya 133 y'Itegeko Nº68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange iteganya ko iyo gusambanya umwana byakurikiwe no kubana nk'umugabo n'umugore bifatwa nk'impamvu nkomezacyaha, igihano kiba igifungo cya burundu kidashobora kugabanywa kubera impamvu nyoroshyacyaha, ruvuga ko uburyo UWIRINGIYIMANA yakozemo icyaha ari ubuteganywa n'iyo ngingo, ko yagombaga guhanishwa igifungo cya burundu kitashoboraga kugabanywa kubera impamvu nyoroshyacyaha ariko ko kuba Ubushinjacyaha butarajuriye igihano kidashobora kongerwa.

[12] Urukiko rw'Ubujurire rusanga urubanza rutaraciwe ku kitarajuririwe cyangwa icyaha UWIRINGIYIMANA Claude Jean Marie yahamijwe gihindurirwe inyito kuko mu gusuzuma niba yagabanyirizwa igihano, Urukiko Rukuru rwagaragaje ko igihano yahanishijwe cy'imyaka makumyabiri n'itanu (25) ari gito, rusobanura ko igika cya gatanu cy'ingingo ya 133 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange kivuga ko iyo gusambanya umwana byakurikiwe no kubana n'umwana nk'umugabo n'umugore, uwabihamijwe ahanishwa igifungo cya burundu kidashobora kugabanywa kubera impamvu nyoroshyacyaha. Rugasanga rero icyo umucamanza yakoze ari ukwibutsa itegeko no kugaragaza impamvu igihano yahamijwe kidashobora kugabanywa.

Kumenya niba UWIRINGIYIMANA Claude Jean Marie yagabanyirizwa igihano

[13] UWIRINGIYIMANA Claude Jean Marie avuga ko asaba kugabanyirizwa igihano hashingiwe ku kuba yaraburanye yemera icyaha akagisabira imbabazi n'uko icyo yahanishwa cyasubikwa kugira ngo ajye gufatanya na U.C. kurera umwana babyaranye. Asobanura ko icyo anenga imikirize y'urubanza rwajuririwe ari uko urukiko rwirengagije ko umukobwa yivugiye ko yamukuye mu mwuga w'uburaya amubwira ko akuze, ko unamurebye igihagararo ubona afite imyaka y'ubukure, akaba yaramukuye mu buraya bakabana nk'umugore n'umugabo umwaka wose bakanabyarana. Anavuga ko Urukiko Rukuru, Urugereko rwa Musanze rumuha igihano

rwashingiye ku itegeko rikurikizwa ubu aho gushingira ku itegeko ryakurikizwaga ubwo yakoraga icyaha bituma rumuhanisha igihano kirekire.

[14] Me RWAHAMA Zacharie umwunganira avuga ko mu kugena igihano UWIRINGIYIMANA yahanishijwe hari gushingira ku biteganywa n'ingingo ya 78 y'Itegeko Ngenga N° 01/2012/OL ryo ku wa 02/05/2012 rishyiraho igitabo cy'amategeko ahana ryakurikizwaga igihe icyaha cyakorwaga, ko kuri uru rwego asaba ko yagabanyirizwa igihano hashingiwe kuri iyo ngingo agahanishwa igifungo cy'imyaka itanu (5) ndetse rukanashingira ku ngingo ya 64 y'Itegeko nº68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, igihano yahabwa kigasubikwa akajya gufatanya n'uwo babyaranye kurera umwana, ko rero atagomba guhanirwa ko yamukuye mu buraya, kuko ari ikintu cyiza yamukoreye, ko ahubwo Urukiko rwabishingiraho kuko impamvu babanye nk'umugabo n'umugore ari uko yamuhishe imyaka uretse ko n'igihagararo cye kigaragaza ko ari mukuru.

[15] Uhagarariye Ubushinjacyaha avuga ko harebwe ibiteganywa n'ingingo ya 77 y'Itegeko Ngenga no 01/2012/OL ryo ku wa 02/05/2012 rishyiraho igitabo cy'amategeko ahana mu gace kayo ka 1 n'aka 3 n'ibiteganijwe mu gace ka 1 n'aka 3 tw'ingingo ya 59 y'Itegeko No 68/2018 ryo ku wa 30/08/2018 ryavuzwe, UWIRINGIYIMANA Claude Jean Marie adakwiye kugabanyirizwa igihano kuko atujuje ibyo amategeko ateganya kugira ngo ukwemera kwe gufatwe nk'impamvu nyoroshyacyaha, ko kandi ingingo ya 183 y'Itegeko no 027/2019 ryo ku wa 09/09/2019 rigenga imiburanishirize y'imanza z'inshinjabyaha mu gace ka 5 n'aka 6, isobanura neza ko impamvu z'ubujurire ziba zigamije kunenga no gusaba gukosora amakosa yakozwe mu rubanza n'uburyo agomba gukosorwa hashingiwe ku mategeko n'ibimenyetso, kwemera icyaha akaba atari ukunenga urubanza rwaciwe, bityo ko ubujurire bwa UWIRINGIYIMANA Claude Jean Marie butahabwa ishingiro.

UKO URUKIKO RUBIBONA

[16] Ingingo ya 133 igika cya kabiri y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange iteganya ko uhamijwe icyaha cyo gusambanya umwana ahanishwa igifungo kitari munsi y'imyaka makumyabiri (20) ariko kitarenze imyaka makumyabiri n'itanu (25).

[17] Ingingo ya 49 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange iteganya ko umucamanza atanga igihano akurikije uburemere bw'icyaha, ingaruka icyaha cyateye, impamvu zatumye agikora, uko uwagikoze yari asanzwe yitwara, imibereho ye bwite n'uburyo icyaha cyakozwemo naho ingingo ya 59 y'iryo Tegeko igateganya ko umucamanza ashobora kugabanya ibihano nk'iyo ushinjwa, mbere yo gukurikiranwa, yemeye icyaha akagisabira imbabazi uwo yakoreye icyaha n'umuryango nyarwanda mu buryo budashidikanywaho, akicuza kandi akishyura ibyo yangije nk'uko bari babimutegerejeho n'iyo mu ntangiriro z'iburanisha ku rwego rwa mbere, ushinjwa yireze akemera icyaha mu buryo budashidikanywa.

[18] Urukiko rusanga UWIRINGIYIMANA Claude Jean Marie aburana ku rwego rwa mbere yaraburanye ahakana icyaha cyo gusambanya umwana, maze Urukiko Rwisumbuye rwa Rubavu mu kugena igihano rushingira ku ngingo ya ngingo ya 133 igika cya kabiri y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 yavuzwe rumuhanisha igifungo cy'imyaka makumyabiri n'itanu (25).

Ajuririra Urukiko Rukuru, Urugereko rwa Musanze avuga ko yemera icyaha agasaba ko yagabanyirizwa igihano akanasubikirwa ariko Urukiko mu guca urubanza, ruvuga ko atagabanyirizwa igihano kuko gusambanya umwana byakurikiwe no kubana na we nk'umugabo n'umugore, ko ahubwo yari guhanishwa igifungo cya burundu kidashobora kugabanywa kubera impamvu nyoroshyacyaha.

[19] Urukiko rw'Ubujurire rusanga uko igihano gitangwa n'ibishingirwaho byarasesenguwe mu rubanza nº RS/INCOSNT/SPEC 00003/2019/SC rwaciwe ku wa 04/12/2019 no mu rubanza nº RS/INCOSNT/SPEC 00005/2020/CS-RS/INCOSNT/SPEC 00006/2020/CS rwaciwe ku wa 12/02/2020 aho Urukiko rw'Ikirenga rwasobanuye ko Umucamanza afite inshingano yo guhanisha uwahamwe n'icyaha igihano gikwiye, akurikije uburemere bw'icyaha yakoze, ingaruka cyateye, impamvu zatumye agikora, uko uwagikoze yari asanzwe yitwara, imibereho ye bwite n'uburyo icyaha cyakozwemo nk'uko biteganywa n'ingingo ya 49 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, ko kubuza Umucamanza kugabanya igihano giteganyijwe n'Itegeko mu gihe hari impamvu nyoroshywacyaha, cyangwa kubimwemerera ariko iryo gabanya ntirijye munsi y'igihano gito ntarengwa giteganyirijwe icyaha cyakozwe mu gihe icyo gihano kiri hejuru, byaba ari ukumwambura ubwisanzure n'ubwigenge bwo gutanga igihano kigendanye n'icyaha cyakozwe, bigatuma adaha umuburanyi uburenganzira ku butabera buboneye, ibyo kandi bikaba binyuranye n'ingingo ya 29 n'iya 151 z'Itegeko Nshinga rya Repubulika y'u Rwanda.

[20] Iryo sesengura ryakozwe n'Urukiko rw'Ikirenga ryashingiweho mu manza zaciwe n'Urukiko rw'Ubujurire zirimo urubanza nº RPAA 00032/2019/CA haburanaga Ubushinjacyaha na NZAFASHWANIMANA rwaciwe kuwa ku wa 28/02/2020, urubanza n° RPAA 00384/2020/CA Ubushinjacyaha buburana na NSENGIYAREMYE Jean Paul rwo ku wa 29/10/2021 n'urubanza no RPAA 00641/2021/CA haburana Ubushinacyaha n'UWIMANA Emile bita Murundi rwo ku wa 21/01/2022 bituma abahamwe n'ibyaha muri izo manza baganyirizwa igihano.

[21] Urukiko rw'Ubujurire rusanga muri uru rubanza naho uwo murongo wakurikizwa kuko nubwo imiburanire ya UWIRINGIYIMANA Claude Jean Marie yaranzwe no guhuzagurika ariko ikigaragara muri dosiye ni uko abazwa mu Bugenzacyaha yemeye icyaha asobanura ko yafataga U.C nk'indaya n'uko yamusambanyije nk'incuro enye amusanze mu kabari yacururizagamo, aburana ku rwego rwa mbere ahakana icyaha, ajurira acyemera asaba kugabanyirizwa igihano ndetse no muri uru Rukiko akomeza kugaragaza ko acyemera.

[22] Hashingiwe rero kuri iryo sesengura ryakozwe n'Urukiko rw'Ikirenga no ku biteganywa n'ingingo ya 49 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 ryavuzwe ivuga ibyo umucamanza akurikiza atanga igihano ndetse no ku biteganywa n'ingingo ya 59 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 ryavuzwe, kuba UWIRINGIYIMANA Claude Jean Marie yaremeye icyaha agifatwa, akongera kucyemera ajuriye mu Rukiko Rukuru, agakomeza kucyemera muri uru rukiko, hiyongereyeho no kuba ari ubwa mbere yari akoze icyaha, akaba nta yindi myitwarire mibi yigeze imugaragazwaho byamubera impamvu nyoroshyacyaha ituma agabanyirizwa igihano. Bityo hashingiwe ku biteganywa n'ingingo ya 133 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 ryavuzwe, igihano cy'igifungo cy'imyaka 25 yari yaharanishijwe kikaba kigomba kugabanywa kigasimbuzwa igifungo cy'imyaka cumi n'itanu (15).

[23] Urukiko rusanga ibyo UWIRINGIYIMANA Claude Jean Marie n'umwunganira bavuga ko yari kugabanyirizwa igihano hashingiwe ku ngingo 78 y'Itegeko Ngenga N° 01/2012/OL ryo ku wa 02/05/2012 rishyiraho igitabo cy'amategeko ahana ryakoreshwaga ubwo icyaha cyakorwaga agahanishwa imyaka itanu (5) kuko ari ryo Tegeko ryoroheje, nta shingiro bifite kuko itegeko riteganya igihano gito rireberwa ku gihano giteganyirizwa icyaha, ritareberewa ku bijyanye no kugabanya igihano kubera impamvu nyoroshyacyaha, ingingo ya 133 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 ryavuzwe akaba ariyo iteganya igihano gito kuko ishyira abakorewe icyaha mu byiciro by'imyaka, iteganya ko uwasambanyije umwana ufite hejuru y'imyaka 14 ahanishwa igifungo kitari munsi y'imyaka makumyabiri (20) ariko kitarenze imyaka makumyabiri n'itanu (25) ugerereranyije n'igihano cyateganywa n'ingingo ya 191 y'Itegeko Ngenga N° 01/2012/OL ryo ku wa 02/05/2012 ryavuzwe[1].

[24] Rusanga isubikagihano asaba ashingiye ku biteganywa n'ingingo ya 64 y'itegeko nº68/2018 ryo ku wa 30/08/2018 ryavuzwe[2] atarihabwa kuko yahanishijwe igifungo kiri hejuru y'imyaka itanu.

III. ICYEMEZO CY'URUKIKO

[25] Rwemeje ko ubujurire bwa UWIRINGIYIMANA Claude Jean Marie nta shingiro bufite;

[26] Rwemeje ko urubanza RPA 00510/2018/HC/MUS rwaciwe n'Urukiko Rukuru, Urugereko rwa Musanze ku wa 19/07/2019, ruhindutse gusa ku birebana n'igihano;

[27] Rwemeje ko UWIRINGIYIMANA Claude Jean Marie ahanishijwe igifungo cy'imyaka cumi n'itanu (15);

[28] Rutegetse ko asonerwa amagarama y'Urukiko kuko aburana afunzwe.

[1] Ingingo ya 191 y'Itegeko Ngenga N° 01/2012/OL ryo ku wa 02/05/2012 rishyiraho igitabo cy'amategeko ahana iteganya ko : "Umuntu wese usambanyije umwana, ahanishwa igifungo cya burundu cy"umwihariko".

[2] Ingingo ya 64 igika cya mbere y'Itegeko y'itegeko nº68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange iteganya ko : "Isubikagihano ni icyemezo cy'urukiko gihagarika irangizarubanza ku gihano itegeko riteganyiriza igifungo kitarengeje imyaka itanu (5)".