NZEYIMANA N'ABANDI v. MUHIRWA N'ABANDI

[Rwanda URUKIKO RW'UBUJURIRE – RADAA 00009/2018/CA – (Karimunda, P.J., Kanyange, Ngagi, J.) 17 Mutarama 2020]

Amategeko agenga imiburanishirize y'imanza z'ubutegetsi – Ubusobekerane bw'imanza – Ubujurire bw'ibyemezo ku busobekerane bw'imanza – Ibyemezo bitegeka cyangwa ibyanga ko imanza zifatanywa bijuririrwa kimwe nk'uko bikorwa ku bijyanye n'ububasha bw'inkiko kandi bikaba bigomba kubanza gukemuka mbere y'uko imanza zikomeza kuburanishwa.

Amategeko agenga imiburanishirize y'imanza z'ubutegetsi – Kuregera urukiko – Inyungu yo kurega – Ni agaciro urega ku giti cye aha icyo asaba urukiko, kagomba kuba kataziguye kandi kemewe n'amategeko, ku buryo kadahari, nta burenganzira aba afite bwo kurega. Iyo nyungu ireberwa kuba hari ihungabana ry'uburenganzira, nubwo urubanza rwagaragaza ko ubwo burenganzira bwahungabanye cyangwa butahungabanye.

Incamake y'ikibazo: Nzeyimana na Mukayisenga bareze Muhirwa na Muhorakeye mu Rukiko Rwisumbuye rwa Gasabo basaba gutesha agaciro amategeko shingiro ya ASPPEK. Batanze ikindi kirego muri urwo Rukiko barega RGB, ASPPEK, Muhirwa na Muhorakeye basaba gukuraho icyemezo giha ASPPEK ubuzimagatozi.

Muhirwa na Muhorakeye batanze inziti ebyiri, imwe yo kutakira ikirego kuko abareze bagombaga kubanza gushyikiriza ikibazo cyabo urwego rukemura amakimbirane, indi ivuga ko abarega n'abaregwa nta nyungu n'ububasha bafite, ko batagomba kuregwa ahubwo ugomba kuregwa ari ASPPEK, iyi nayo itanga inzitizi ivuga ko atari yo yagombaga kuregwa.

Urukiko rwafashe icyemezo cyo guhuza izo manza zombi rwemeza ko abareze batagombaga kubanza gushyikiriza ikibazo cyabo urwego rukemura amakimbirane, kuko amategeko shingiro yo mu mwaka wa 2001 iri shyirahamwe ryari rishingiyeho atateganyaga urwego nkemurampaka, rusanga kandi inzitizi zose zatanzwe n'ababuranyi nta shingiro zifite. Ku birebana n'urubanza mu mizi, rwemeje ko icyemezo, giha ASPPEK ubuzimagatozi kivanwaho, rutegeka ko amategeko shingiro yayitiriwe yo mu mwaka wa 2013 nayo ateshejwe agaciro.

ASPPEK, Muhirwa na Muhorakeye bajuririye mu Rukiko Rukuru bavuga ko hari amategeko Urukiko Rwisumbuye rwirengagije bituma batsindwa, naho RGB itanga ubujurire bwuririye ku bundi ivuga ko itagombaga gucibwa indishyi kuko nta makosa yakoze mu gutanga ubuzimagatozi. Urukiko Rukuru rwemeje ko ubujurire bwa ASPPEK, Muhorakeye na Muhirwa nta shingiro bufite, ko ubwa RGB bwo bufite ishingiro.

ASPPEK yajuririye mu Rukiko rw'Ikirenga ivuga ko Urukiko Rwisumbuye rwa Gasabo rutari rufite ububasha bwo kuburanisha urubanza ruregwamo RGB no kuba ibyemezo by'inkiko zabanje zirengagije ibiteganywa n'itegeko rigenga imiryango itari iya Leta. Nyuma y'ivugururwa ry'Urwego rw'Ubucamanza, ubujurire bwa ASPPEK bwoherejwe mu Rukiko rw'Ubujurire hashingiwe ku Itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko.

Mu bujurire bwa ASPPEK ivuga ko Urukiko Rwisumbuye rutari rufite ububasha bwo kuburanisha ikirego cy'ubutegetsi cyasabaga ko icyemezo kiyiha ubuzimagatozi kivanwaho, ko n'Urukiko Rukuru rwaje kwemeza ko yamburwa ubuzimagatozi narwo rutari rufite ububasha. Ikomeza ivuga ko RGB ifite icyicaro mu Murenge wa Remera uri mu ifasi y'Urukiko Rwisumbuye rwa Nyarugenge, ari narwo rwari rufite ububasha. Ivuga na none ko urwo rubanza rutagombaga guhuzwa n'urubanza mbonezamubano rwatanzwe na Nzeyimana hamwe na Mukayisenga basaba gutesha agaciro amategeko shingiro yayo, bivuze ko urwo Rukiko rutari guhuza imanza ebyiri, rumwe rutari mu bubasha bwarwo.

Muhirwa na Muhorakeye nabo bemeza ko uru rubanza rwagombaga kuburanishwa n'Urukiko Rwisumbuye rwa Nyarugenge, kuko icyemezo cyaregewe cyafashwe n'umuyobozi wo mu Karere ka Nyarugenge, kandi ko imanza zombi zitagombaga guhuzwa, kuko zifite kamere itandukanye; bikaba byaratumye urubanza mbonezamubano ruhindurwa urw'ubutegetsi kandi bidashoboka.

Nzeyimana na Mukayisenga basanga Urukiko Rwisumbuye rwa Gasabo rwari rufite ububasha, kuko ikiburanwa ari ugutesha agaciro Amategeko Shingiro ya ASPPEK, kandi ikaba ifite icyicaro i Gasabo, bityo nta kibazo cy'ububasha bw'Urukiko bushingiye ku ifasi cyakagombye kubaho. Bavuga kandi ko kuba izo manza zombi zarahujwe kandi zidahuje kamere byari ngombwa kubera ko zifitanye isano, icibwa ry'urubanza rumwe ryagombaga byanze bikunze kugira ingaruka ku rundi kandi nta n'amategeko yishwe mu kuzihuza.

Mu bujurire bwayo, RGB ivuga ko bitewe n'uko urubanza mbonezamubano rwagombaga kugira ingaruka ku rubanza rw'ubutegetsi, izo manza zagombaga guhuzwa byanze bikunze ku bw'inyungu z'ubutabera; kuko Urukiko Rwisumbuye rwa Nyarugenge n'urwa Gasabo zombi zifite ububasha bumwe kandi bikaba bitari ngombwa gusiragiza umuburanyi.

Ku kibazo kijyanye no kumenya niba ASPPEK yaragombaga kuregwa mu Rukiko na Nzeyimana ndetse na Mukayisenga kugirango amategeko yayo n'icyemezo kiyiha ubuzimagatozi biteshwa agaciro kandi batari abanyamuryango bayo, ivuga ko kuba barayireze mu Rukiko kandi batari abanyamuryango bayo, nta nyungu bari bafite yo gusaba ko ibiyiranga bivaho, ko iyo baba ari abanyamuryango bari kuba barasinye ku Mategeko Shingiro yo mwaka wa 2013; ariko ko bahisemo kwigomeka, hafatwa icyemezo cyo kubahagarika, ahubwo ikaba isanga ahubwo ari cyo bagombaga kuregera.

Muhirwa avuga ko Abagize uwo muryango ari abashyize umukono ku mategeko shingiro yawo, bityo Nzeyimana na Mukayisenga bakaba nta kuntu baregera ayo mategeko batari abanyamuryango, bakaba nta nyungu bari bafite zo kurega.

Mu bujurire bwabo, Nzeyimana na Mukayisenga bavuga ko abavuga ko birukanywe muri ASPPEK batigeze bagaragaza ibaruwa ibirukana; ko kugeza ubu bakiri, ndetse bari ku rutonde rw'abanyamuryango nk'uko bigaragazwa n'Amategeko Shingiro yo mu mwaka wa 2001 yashyizweho umukono na Noteri mu mwaka wa 2009. Bakomeza bavuga ko kuba batarasinye ku Mategeko Shingiro yakozwe mu buryo bunyuranyije n'amategeko kandi abangamiye inyungu zabo atari byo bibambura uburenganzira bwo kuba abanyamuryango.

RGB ivuga ko ikibazo cy'isuzumwa ry'inyungu mu rubanza rwaciwe n'Urukiko Rwisumbuye kitayireba cyane. Avuga ko kuba sitati yo mu mwaka wa 2001 n'iyo mu mwaka wa 2013 zose zigaragaza ko Nzeyimana na Mukayisenga bari abanyamuryango, asanga bari bafite ububasha bwo kurega.

Incamake y'icyemezo: 1. Ibyemezo bitegeka cyangwa ibyanga ko imanza zifatanywa bijuririrwa kimwe nk'uko bikorwa ku bijyanye n'ububasha bw'inkiko kandi bikaba bigomba kubanza gukemuka mbere y'uko imanza zikomeza kuburanishwa.

2. Inyungu yo kurega ni agaciro urega ku giti cye aha icyo asaba urukiko, kagomba kuba kataziguye kandi kemewe n'amategeko, ku buryo kadahari, nta burenganzira aba afite bwo kurega. Iyo nyungu ireberwa kuba hari ihungabana ry'uburenganzira, nubwo urubanza rwagaragaza ko ubwo burenganzira bwahungabanye cyangwa butahungabanye.

Ubujurire nta shingiro bufite.
Ubujurire bwuririye ku bundi bufite ishingiro kuri bimwe.
Imikirize y'urubanza rwaciwe n'Urukiko Rukuru ntihindutse.

Amategeko yashingiweho:

Itegeko – ngenga Nº 51/2008 ryagenaga imiterere, imikorere n'ububasha by'inkiko, ingingo ya 121, 122, 152, 156 n'iya 178.
Itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko, ingingo ya 105.
Itegeko Nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi
Itegeko Nº 04/2012 ryo ku wa 17/02/2012 rigena imitunganyirize n'imikorere by'imiryango nyarwanda itari iya Leta
Itegeko Nº 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo

Nta manza zifashishijwe.

Inyandiko z'abahanga:
A. Benabent, *Droit des obligations*, 14e éd., Paris, LGDJ, 2014, p.167. G.
Cornu, *Vocabulaire juridique*, Association Henri Capitant, Paris, PUF, 1998, p. 456.
G. DE Leval et autres, *Droit judiciaire, Manuel de procédure civile*, tome 2, Larcier, p. 80.
Philippe t Kint, *Les associations sans but lucratif*, Bruxelles, Larcier, 1999, p. 68).
Serge Guinchard, *Droit et Pratique de la procédure civile*, 8ème Ed., Paris, Dalloz,2014, p.290.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Gasabo, Nzeyimana Bertin na Mukayisenga Cécile barega Muhirwa Alexandre na Muhorakeye Grâce, basaba urwo Rukiko gutesha agaciro Amategeko Shingiro «statuts» ya ASPPEK, ikirego cyabo gihabwa nimero RC 0427/14/TGI/GSBO-RC 0428/14/TGI/GSBO. Nyuma batanze ikindi kirego muri urwo Rukiko barega RGB, ASPPEK, Muhirwa Alexandre na Muhorakeye Grâce basaba gukuraho icyemezo nimero 121/2014 cyo ku wa 17/10/2014, giha ASPPEK ubuzimagatozi, ikirego gihabwa RAD 0009/15/TGI/GSBO-RAD 0010/15/TGI/GSBO, Urukiko rufata icyemezo cyo guhuza izo manza zombi.

[2] Kuri urwo rwego, Muhirwa Alexandre na Muhorakeye Grâce batanze inzitizi ebyiri, iya mbere isaba Urukiko kutakira ikirego kuko abareze bagombaga kubanza gushyikiriza ikibazo cyabo urwego rukemura amakimbirane, iya kabiri ivuga ko abarega n'abaregwa nta nyungu n'ububasha bafite, ko batagomba kuregwa ahubwo ugomba kuregwa ari ASPPEK, iyi nayo itanga inzitizi ivuga ko atari yo yagombaga kuregwa, Urukiko rwemeza ko ruzafata icyemezo ku nzitizi hamwe n'urubanza mu mizi.

[3] Ku wa 04/03/2016, Urukiko Rwisumbuye rwa Gasabo rwaciye urubanza RAD 0009/15/TGI/GSBO - RAD0010/15/TGI/GSBO - RC0427/14/TGI/GSBO - RC 0428/14/TGI/GSBO rwemeza ko abareze batagombaga kubanza gushyikiriza ikibazo cyabo urwego rukemura amakimbirane, kuko amategeko shingiro yo mu mwaka wa 2001 iri shyirahamwe ryari rishingiyeho atateganyaga urwego nkemurampaka, kandi ko hatagombaga kwifashishwa amategeko rusange cyangwa "*statuts*" za 2013 abareze batemera, batanagizemo uruhare.

[4] Urukiko rwasanze inzitizi y'uko Nzeyimana Bertin na Mukayisenga Cécile bareze nta nyungu n'ububasha bafite nta shingiro ifite, kuko ababuranyi bose bemeje ko abareze bombi hamwe na Muhirwa Alexandre na Muhorakeye Grâce bari bahuriye mu ishyirahamwe ryashyizeho ASPPEK, hakaba nta kigaragaza ko birukanywe cyangwa barisezeyemo.

[5] Urukiko rwasanze kandi inzitizi y'uko abarezwe batagombaga kuregwa nayo nta shingiro ifite, ruvuga ko Nzeyimana Bertin na Mukayisenga Cécile bari bafite uburenganzira bwo kurega Muhirwa

Alexandre na Muhorakeye Grâce kuko ari bo bafite uruhare runini mu bikorwa byakozwe nk'uko bishimangirwa n'inyandiko zitandukanye Muhorakeye Grâce yasinye nk'umuyobozi w'inama zabaga zakozwe, ubundi akagaragara nka "*Présidente*" w'umuryango cyangwa umuvugizi wawo. Ku birebana na ASPPEK, rwasanze nta cyabuza ko nayo iregwa, mu gihe hari abanyamuryango bumva ko hari ibikorwa byabayeho bibarenganya, naho RGB ikaba iregwa kuko ari yo yatanze icyangombwa kiregerwa.

[6] Ku birebana n'urubanza mu mizi, Urukiko Rwisumbuye rwa Gasabo rwemeje ko icyemezo nimero 121/2014 cyo ku wa 17/10/2014, giha ASPPEK ubuzimagatozi kivanwaho, kuko cyatanzwe mu buryo bunyuranyije n'amategeko, rutegeka ko Amategeko Shingiro yayitiriwe yo mu mwaka wa 2013 nayo ateshejwe agaciro, rutegeka ASPPEK, RGB, Muhirwa Alexandre na Muhorakeye Grâce gufatanya kwishyura Nzeyimana Bertin na Mukayisenga Cécile indishyi zingana na 1.500.000 Frw, kandi bagasubiza amagarama yatanzwe n'abarega angana na 200.000 Frw, uretse RGB.

[7] ASPPEK, Muhorakeye Grâce na Muhirwa Alexandre bajuririye Urukiko Rukuru bavuga ko hari amategeko Urukiko Rwisumbuye rwa Gasabo rwirengagije bituma batsindwa, RGB itanga ubujurire bwuririye ku bundi ivuga ko itagombaga gucibwa indishyi kuko nta makosa yakoze mu gutanga ubuzimagatozi, ubujurire bwabo bwandikwa kuri RADA 00148/2016/HC/KIG.

[8] Ku wa 06/02/2017, Urukiko Rukuru rwaciye urubanza RADA 00148/2016/HC/KIG rwemeza ko ubujurire bwa Muhorakeye Grâce, Muhirwa Alexandre na ASPPEK nta shingiro bufite, ko ubwa RGB bwo bufite ishingiro, rushimangira ko icyemezo nimero 121/2014 cyo ku wa 17/10/2014 giha ASPPEK ubuzimagatozi kivanweho, ndetse n'Amategeko Shingiro yayitiriwe yashyizweho mu mwaka wa 2013 akaba nayo avanweho. Rwemeje ko nta ndishyi RGB igomba gutanga kuko nta kigaragaza ko yamenye ko yahawe amakuru atari ay'ukuri ngo ibirengeho itange ibyangombwa, ko Muhirwa Alexandre na Muhorakeye Grâce ari bo bonyine bafatanya kwishyura Nzeyimana Bertin na Mukayisenga Cécile indishyi zingana na 1.500.000 Frw yiyongera kuri 200.000 Frw yemejwe mu rubanza rwajuririwe, bakongeraho na 500.000 Frw y'igihembo cya ba Avoka babiri bababuraniye

[9] ASPPEK ntiyishimiye imikirize y'urubanza ijuririra Urukiko rw'Ikirenga, irusaba gusuzuma niba Urukiko Rwisumbuye rwa Gasabo rwari rufite ububasha bwo kuburanisha urubanza ruregwamo RGB, kuko iki kigo cya Leta gifite icyicaro mu Murenge wa Remera uri mu ifasi y'Urukiko Rwisumbuye rwa Nyarugenge, isaba ko ayo makosa yakosorwa maze imanza zabanje zigakurwaho. Indi mpamvu y'ubujurire ASPPEK yatanze, ni ugusuzuma niba Nzeyimana Bertin na Mukayisenga Cécile bari bafite inyungu zo kuyirega mu Rukiko basaba ko Amategeko shingiro yayo n'icyemezo kiyiha ubuzimagatozi biteshwa agaciro kandi batari abanyamuryango bayo.

[10] Mu bujurire bwayo kandi, ASPPEK ivuga ko inkiko zabanje zafashe ibyemezo zirengagije ibiteganywa n'Itegeko rigenga imiryango itari iya Leta, uyihagarariye asaba Urukiko rwajuririwe gusuzuma niba umunyamuryango w'ishyirahamwe ridafite ubuzimagatozi wanze gusinya ku mategeko shingiro igihe iryo shyirahamwe ryiyemezaga kuba umuryango nyarwanda utari uwa Leta, ashobora kwemererwa gutesha agaciro ibyakozwe hashingiwe ku itegeko ryasimbuwe. Ivuga na none ko iki kirego kitashoboraga kwakirwa kitabanje gusuzumirwa mu rwego nkemurampaka ruteganywa n'Itegeko rigenga imiryango itari iya Leta n'Amategeko Shingiro ya ASPPEK, kandi ko hari ibimenyetso yatanze bitasuzumwe n'inkiko zibanza, isaba n'indishyi zitandukanye.

[11] Nyuma y'ivugururwa ry' Urwego rw'Ubucamanza, ubujurire bwa ASPPEK bwoherejwe mu Rukiko rw'Ubujurire hashingiwe ku ngingo ya 105 y'Itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko[1].

[1] Ingingo ya 105, igika cya mbere iteganya ko: Guhera igihe iri tegeko ritangiriye gukurikizwa uretse imanza zatangiye kuburanishwa, imanza zose zitakiri mu bubasha bw'Urukiko zaregewe, zohererezwa Urukiko rubifitiye ububasha hakurikijwe ibiteganywa n'iri tegeko.

[12] Iburanisha ry'urubanza ryashyizwe ku wa 11/02/2019, uwo munsi rirasubikwa kubera ko Avoka wa ASPPEK atari yitabye, Muhirwa Alexandre yari yarwaye kandi Avoka we atarahawe ubutumwa bwo kumuhagararira; urubanza rwimurirwa ku wa 20/02/2019.

[13] Ku wa 20/02/2019, ababuranyi bitabye Urukiko, ASPPEK ihagarariwe na Me Bayingana Janvier, Nzeyimana Bertin na Mukayisenga Cécile bunganiwe na Me Katushabe Mary, Muhirwa Alexandre yunganiwe na Me Munyandamutsa Jean Pierre, uyu akaba anahagarariye Muhorakeye Grâce, RGB ihagarariwe na Me Kayiranga Rukumbi Bernard, hasuzumwa inzitizi y'iburabubasha bw'Urukiko yatanzwe na Nzeyimana Bertin hamwe na Mukayisenga Cécile, ndetse n'iyatanzwe na Me Kayiranga Rukumbi Bernard wasabaga ko ubujurire bwa ASPPEK butakirwa kuko inenga urubanza rwaciwe n'Urukiko Rwisumbuye rwa Gasabo aho kunenga urwaciwe n'Urukiko Rukuru, maze ku wa 29/03/2019, Urukiko rwemeza ko izo nzitizi nta shingiro zifite, ruvuga ko iburanisha ry'urubanza mu mizi rizakomeza ku wa 16/05/2019, uwo munsi ababuranyi batangira kujya impaka ku mpamvu z'ubujurire, ariko iburanisha rirasubikwa kugira ngo impande zombi zigerageze kwiyunga, ryimurirwa ku wa 11/06/2019.

[14] Nyuma y'uko ubwumvikane bunaniranye, urubanza rwongeye kuburanishwa mu ruhame ku wa 04/12/2019, ASPPEK ihagarariwe na Me Bayingana Janvier, RGB ihagarariwe na Me Gahongayire Myriam, Nzeyimana Bertin na Mukayisenga Cécile bunganiwe na Me Katushabe Mary, Muhirwa Alexandre na Muhorakeye Grâce bunganiwe na Me Munyandamutsa Jean Pierre, uwo munsi iburanisha rirasubikwa kubera ubwire, ryimurirwa ku wa 09/12/2019.

[15] Iyo tariki igeze ababuranyi bitabye Urukiko bunganiwe nka mbere, uretse ko Me Katushabe Mary yari afatanyije na Me Minani Sempinga Jean d'Amour bunganira Nzeyimana Bertin na Mukayisenga Cécile.

I. IBIBAZO BIRI MU RUBANZA N'ISESENGURA RYABYO

A. UBUJURIRE BWA ASPPEK

1. Kumenya niba Urukiko rwarirengagije amategeko mu guhuza imanza RC 0427/14/TGI/GSBO-RC0428/14/TGI/GSBO-RAD0009/15/TGI/GSBO- RAD0010/15/TGI/GSBO no kuba rutari rufite ububasha bushingiye ku ifasi

[16] Me Bayingana Janvier, uhagarariye ASPPEK, avuga ko hashingiwe ku ngingo ya178 y'Itegeko Nº 51/2008 ryagenaga imiterere, imikorere n'ububasha by'inkiko, Urukiko Rwisumbuye rwa Gasabo rutari rufite ububasha bwo kuburanisha ikirego cy'ubutegetsi cyasabaga ko icyemezo giha ASPPEK ubuzimagatozi kivanwaho, bikaba binasobanuye ko n'Urukiko Rukuru rwaje kwemeza ko ASPPEK yamburwa ubuzimagatozi narwo rutari rufite ububasha. Akomeza avuga ko RGB ifite icyicaro mu Murenge wa Remera, umwe mu mirenge iri mu ifasi y'Urukiko Rwisumbuye rwa Nyarugenge, ari narwo rwari rufite ububasha, ko iyo nzitizi yatanzwe ku rwego rwa mbere no mu bujurire ntiyahabwa ishingiro. Avuga na none ko urwo rubanza rutagombaga guhuzwa n'urubanza mbonezamubano rwatanzwe na Nzeyimana Bertin hamwe na Mukayisenga Cécile basaba gutesha agaciro Amategeko Shingiro ya ASPPEK kuko RGB itagombaga kuregwa mu Rukiko Rwisumbuye rwa Gasabo, bivuze ko urwo Rukiko rutari guhuza imanza ebyiri, rumwe rutari mu bubasha bwarwo. Asoza asaba ko Urukiko rwajuririwe rwakosora ayo makosa kuko ari ndemyagihugu, maze imanza zabanje zigakurwaho.

[17] Me Munyandamutsa Jean Pierre avuga ko uru rubanza rwagombaga kuburanishwa n'Urukiko Rwisumbuye rwa Nyarugenge, kuko icyemezo cyaregewe cyafashwe n'umuyobozi wo mu Karere ka Nyarugenge, kandi ko imanza zombi zitagombaga guhuzwa, kuko zifite kamere itandukanye; bikaba byaratumye urubanza mbonezamubano ruhindurwa urw'ubutegetsi kandi bidashoboka; ko rero ibintu bigomba gusubira uko byari bimeze mbere. Avuga ko nta kuntu abatangije urubanza bavuga ko baregeye

Urukiko Rwisumbuye rwa Gasabo bashingiye ku kuba ariho ikiburanwa kiri, kuko icyemezo gitanga ubuzimagatozi kitagira aho kibarizwa *(résidence*) ndetse imanza z'ubutegetsi zikaba zigira umucamanza wazo.

[18] Me Katushabe Mary, wunganira Nzeyimana Bertin na Mukayisenga Cécile, avuga ko hashingiwe ku biteganywa n'ingingo ya 122 y'Itegeko-Ngenga rigena imiterere, imikorere n'ububasha bw'inkiko yubahirizwaga igihe cy'itangwa ry'ikirego, asanga Urukiko Rwisumbuye rwa Gasabo rwari rufite ububasha, kuko ikiburanwa ari ugutesha agaciro Amategeko Shingiro ya ASPPEK, kandi ikaba ifite icyicaro i Gasabo, hakaba rero nta kibazo cy'ububasha bw'Urukiko bushingiye ku ifasi cyakagombye kubaho hashingiwe ku ngingo ya 121 n'iya 122 z'Itegeko-Ngenga Nº 51/2008 ryo ku wa 09/09/2008 rigena imiterere, imikorere n'ububasha bw'inkiko

[19] Ku byerekeranye no kuba imanza zarahujwe kandi zidahuje kamere, Me Katushabe Mary avuga ko nta ngingo y'amategeko yari iriho ivuga ko imanza zidahuje kamere zidashobora guhuzwa, ko kandi we abona kuba izo manza zari zifitanye isano, byari ngombwa ko zihuzwa kuko icibwa ry'urubanza rumwe ryagombaga byanze bikunze kugira ingaruka ku rundi kandi ko nta mategeko yishwe mu kuzihuza kuko buri rubanza rwatangiriye mu Rukiko rwarwo, ziza guhurizwa hamwe mu rubanza rw'ubutegetsi, ndetse hakaba hari ibaruwa yo gutakamba nk'uko biteganyijwe muri bene izo manza. Asaba ko mu gufata icyemezo, Urukiko rwazashingira ku ngingo ya 122 n'iya 178 z'Itegeko-Ngenga ryerekeye imiterere, imikorere n'ububasha by'inkiko ryakurikizwaga igihe Nzeyimana Bertin na Mukayisenga Cécile baregaga.

[20] Uburanira RGB avuga ko imanza zombi zitagombaga gutangirira hamwe kuko Urukiko Rwisumbuye rwa Gasabo rutagombaga kwakira ikirego kiregwamo RGB; ariko bitewe n'uko urubanza mbonezamubano rwagombaga kugira ingaruka ku rubanza rw'ubutegetsi, zagombaga guhuzwa byanze bikunze ku bw'inyungu z'ubutabera; kuko Urukiko Rwisumbuye rwa Nyarugenge n'Urukiko Rwisumbuye rwa Gasabo zombi zifite ububasha bumwe, bikaba bitari ngombwa gusiragiza umuburanyi ava mu Rukiko rumwe ajya mu rundi. Asoza avuga ko, kubera inyungu z'ubutabera zishingiye ahanini ku kwirinda gusiragiza ababuranyi mu nkiko, byari ngombwa ko izo manza zihuzwa.

UKO URUKIKO RUBIBONA

a. Ku byerekeye ububasha bw'Urukiko Rwisumbuye rwa Gasabo bushingiye ku ifasi

[21] Ingingo ya 121 y'Itegeko-Ngenga Nº 51/2008 ryo ku wa 09/09/2008 rigena imiterere, imikorere n'ububasha by'inkiko ryakurikizwaga igihe Nzeyimana Bertin na Mukayisenga Cécile baregaga, iteganya ko Uretse mu gihe hari andi mategeko abiteganya ukundi, Urukiko rw'aho uregwa atuye ni rwo rufite ububasha bwo kuburanisha urubanza. Iyo hari abaregwa benshi, urega yihitiramo urukiko rw'aho umwe muri bo atuye. Igihe aho uregwa atuye hatazwi, urubanza ruburanishwa mu Rukiko rw'aho aba.

[22] Ingingo ya 122 y'Itegeko-Ngenga Nº 51/2008 ryo ku wa 09/09/2008 ryibukijwe haruguru, iteganya ko "Imanza ziregwamo Leta, ibigo byayo n'inzego z'ubutegetsi zigenga, ziburanishirizwa mu Rukiko rwo mu ifasi y'aho icyicaro cyabyo kiri cyangwa y'aho ikiburanwa kiri".

[23] Inyandiko ziri muri dosiye zigaragaza ko Nzeyimana Bertin na Mukayisenga Cécile bareze Muhirwa Alexandre, Muhorakeye Grâce, ASPPEK na RGB mu Rukiko Rwisumbuye rwa Gasabo, Urugereko rw'Imanza z'Ubutegetsi barusaba gukuraho icyemezo nimero 121/2014 giha ASPPEK ubuzimagatozi, ibirego byabo bihabwa RAD 0009/15/TGI/GSBO- RAD 0010/15/TGI/GSB.

[24] Imikirize y'urubanza rwajuririwe igaragaza ko, Urukiko Rukuru rwemeje ko Urukiko Rwisumbuye rwa Gasabo rwari rufite ububasha bushingiye ku ifasi rushingiye ku ngingo ya 122 y'Itegeko- Ngenga Nº 51/2008 ryo ku wa 09/09/2008 rigena imiterere, imikorere n'ububasha by'inkiko,

ruvuga ko kuba abatanze ikirego barasobanuye ko ASPPEK ikorera mu Karere ka Gasabo ari naho hakorewe Amategeko Shingiro yashingiweho mu gutanga ubuzimagatozi, byerekana ko uru Rukiko rwari rufite ububasha.

[25] Muri uru rubanza, ASPPEK, Muhirwa Alexandre na Muhorakeye Grâce bavuga ko Urukiko Rwisumbuye rwa Gasabo nta bubasha bushingiye ku ifasi rwari rufite bwo kuburanisha urubanza ruregwamo RGB, icyo kigo kibarizwa mu Murenge wa Remera wari mu ifasi y'Urukiko Rwisumbuye rwa Nyarugenge.

[26] Urukiko rurasanga koko Umurenge wa Remera, ahari icyicaro cya RGB igihe cyo gutanga ikirego wari uri mu ifasi y'Urukiko rw'Ibanze rwa Nyarugunga narwo rwari mu ifasi y'Urukiko Rwisumbuye rwa Nyarugenge, ariko nk'uko ingingo z'amategeko zagaragajwe haruguru zibigaragaza, Nzeyimana Bertin na Mukayisenga Cécile bari bafite uburenganzira bwo guhitamo kuregera Urukiko Rwisumbuye rwa Gasabo aho abandi baburanyi babarizwa nk'uko imyirondoro yabo ibigaragaza, bityo akaba nta kosa Urukiko rwakoze mu kuburanisha uru rubanza rushingiye ku ihame rusange rigaragara mu ngingo ya 121 y'Itegeko y'Itegeko-Ngenga Nº 51/2008 ryo ku wa 09/09/2008 yibukijwe haruguru, kuko RGB nk'uko byagaragajwe yari yareganwe n'abandi baburanyi babarizwa mu ifasi y'Urukiko Rwisumbuye rwa Gasabo nk'uko bagaragajwe.

[27] Urukiko rurasanga ibyo Me Munyandamutsa Jean Pierre avuga ko abareze batavuga ko baregeye Urukiko Rwisumbuye rwa Gasabo bashingiye aho ikiburanwa kiri kuko icyemezo gitanga ubuzimagatozi kitagira aho kibarizwa nta shingiro bifite, kuko nk'uko bimaze gusobanurwa kuburanira mu Rukiko Rwisumbuye rwa Gasabo byashingiye y'uko bamwe mu baburanyi batuye mu ifasi yarwo.

b. Ku byerekeranye n'icyemezo cyo guhuza imanza RC 0427/14/TGI/GSBO- RC 0428/14/TGI/GSBO-RAD 0009/15/TGI/GSBO-RAD 0010/15/TGI/GSBO.

[28] Ingingo ya 152 y'Itegeko-Ngenga Nº 51/2008 ryo ku wa 09/09/2008 rigena imiterere, imikorere n'ububasha by'inkiko nk'uko ryagiye rihindurwa ryakurikizwaga igihe Urukiko Rwisumbuye rwa Gasabo rwaregerwaga, iteganya ko habaho imanza zisobekeranye iyo imanza nyinshi, zifitanye isano ku buryo ikemurwa rya rumwe rigira ingaruka ku rundi kandi ku buryo ziramutse ziciwe, rumwe ukwarwo urundi ukwarwo, imikirize yazo ishobora kuvuguruzanya. Ingingo ya 156 y'Itegeko-Ngenga Nº 51/2008 ryo ku wa 09/09/2008 rigena imiterere, imikorere n'ububasha by'inkiko ryibukijwe haruguru iteganya ko imanza n'ibyemezo bitegeka cyangwa byanga kwimurira imanza mu zindi nkiko, kimwe n'ibitegeka ko zifatanywa zitandukanywa bishobora kujurirwa.

[29] Umuhanga mu mategeko Serge Guinchard, avuga ko bitewe n'uko nta gisobanuro nyacyo cy'ubusobekerane bw'imanza kiriho mu itegeko, umucamanza mu bushishozi bwe kandi akurikije imiterere y'imanza n'ibyemezo bishobora kuzafatwa, yemeza ko imanza zisobekeranye, ibyo bikaba bitafatwaho umurongo n'Urukiko rusesa imanza kuko atari ikibazo cy'amategeko[2].

[30] Ku birebana n'uru rubanza, dosiye igaragaza ko nyuma y'uko Nzeyimana Bertin na Mukayisenga Cécile baregeye Urukiko Rwisumbuye rwa Gasabo ikirego cy'imbonezamubano n'icy'ubutegetsi, ku wa 08/04/2015, Umwanditsi Mukuru w'Urukiko Rwisumbuye rwa Gasabo yafashe icyemezo cyo guhuza izo manza zombi kugira ngo zizaburanishirizwe hamwe n'inteko iburanisha imanza z'ubutegetsi.

[31] Dosiye igaragaza ko, Urukiko Rukuru mu gufata icyemezo kuri iyi ngingo, rwemeje ko kuba mu Rukiko rumwe harasabwaga gutesha agaciro Amategeko Shingiro yo ku wa 05/04/2013 yashyizweho mu

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[2] La connexité, en l'absence de définition précise dans la loi, suppose évidemment une large marge d'appréciation et d'anticipation de la part des juges. Elle est considérée comme une question de fait que la Cour de Cassation ne contrôle pas et laisse à l'appréciation souveraine des juges du fond (Serge Guinchard, *Droit et Pratique de la procédure civile*, 8ème Ed., Paris, Dalloz,2014, p.290.

buryo butubahirije amategeko, mu rundi rubanza hasabwa gukuraho icyemezo gitanga ubuzimagatozi cyafashwe na RGB ishingiye ku mategeko shingiro nayo asabirwa guteshwa agaciro, bigaragaza ko izo manza zari zisobekeranye ku buryo icibwa rya rumwe ryashoboraga kugira ingaruka ku rundi.

[32] Isesengura ry'ingingo ya 156 y'Itegeko-Ngenga Nº 51/2008 ryo ku wa 09/09/2008 rigena imiterere, imikorere n'ububasha by'inkiko ryibukijwe haruguru ryumvikanisha ko icyo umushingamategeko yari agamije ateganya ko imanza n'ibirego bitegeka cyangwa byanga kwimurira imanza mu zindi nkiko, kimwe n'ibitegeka ko imanza zifatanywa cyangwa zitandukanywa bishobora kujurirwa, ari uko bene ibyo birego bisuzumwa nk'ibirego byihariye bigomba kubanza gukemurwa mbere y'uko urukiko ruburanisha ibibazo nyirizina ababuranyi barushyikirije, akaba ari nayo mpamvu yateganyije ko bishobora kujuririrwa ukwabyo, bitabaye ngombwa ko biburanishirizwa hamwe n'ibindi bibazo bigize urubanza. Umuhanga mu mategeko Serge Guinchard wavuzwe haruguru nawe avuga ko ibyemezo ku busobekerane bw'imanza, byaba ari ibitegeka cyangwa ari ibyanga ko imanza zifatanywa bishobora kujuririrwa kimwe nk'uko bikorwa ku bijyanye n'ububasha bw'inkiko[3], bikaba bishatse kuvuga ko bene ibyo bibazo bigomba kubanza gukemuka mbere y'uko imanza zikomeza kuburanishwa.

[33] Hashingiwe ku bisobanuro bimaze gutangwa no kubiteganywa n'ingingo ya 156 y'Itegeko-Ngenga Nº 51/2008 ryo ku wa 09/09/2008 ryibukijwe haruguru, Urukiko rurasanga ASPPEK, Muhirwa Alexandre na Muhorakeye Grâce bari kubanza kujuririra iyi ngingo y'ubujurire ukwayo igafatwaho icyemezo, bivuze ko Urukiko Rukuru rutagombaga kwakira iyi ngingo y'ubujurire ngo ruyiburanishirize hamwe n'urubanza mu mizi, bityo kuva inzira bahisemo yo kuyijuririra hamwe n'urubanza mizi inyuranyije n'ibiteganywa n'ingingo ya 156 y'Itegeko-Ngenga Nº 51/2008 ryo ku wa 09/09/2008 ryibukijwe haruguru, icyemezo cyafashwe n'Urukiko Rukuru kuri iyo ngingo kikaba gikwiye guteshwa agaciro, ibintu bikaguma uko byari biri nyuma y'icibwa ry'urubanza rw'Urukiko Rwisumbuye rwa Gasabo.

2. Kumenya niba Nzeyimana Bertin na Mukayisenga Cécile bari bafite inyungu zo kurega ASPPEK mu Rukiko basaba ko amategeko yayo n'icyemezo kiyiha ubuzimagatozi biteshwa agaciro kandi batari abanyamuryango bayo

[34] Me Bayingana Janvier, uhagarariye ASPPEK, avuga ko Nzeyimana Bertin na Mukayisenga Cécile bareze ASPPEK mu Rukiko Rwisumbuye rwa Gasabo kandi atari abanyamuryango bayo, bityo bakaba nta nyungu bari bafite yo gusaba ko ibiyiranga bivaho, ko iyo baba ari abanyamuryango bari kuba barasinye kuMategeko Shingiro yo mwaka wa 2013; ariko ko bahisemo kwigomeka, hafatwa icyemezo cyo kubahagarika, akaba asanga ahubwo ari cyo bagombaga kuregera aho kuregera Amategeko Shingiro batazi ibikubiyemo batanafitemo uruhare yo mu mwaka wa 2013, kuko ayo bemera ari ayo mu mwaka wa 2001, aya akaba atari yo yashingirwaho mu gutanga ubuzimagatozi. Avuga ko iyi nzitizi yatanzwe mu nkiko zibanza ntihayabwa agaciro, akaba ari yo mpamvu igarutse.

[35] Muhirwa Alexandre avuga ko Amategeko Shingiro ya ASPPEK avuga ko abagize umuryango ari abayashyizeho umukono, kandi ko Nzeyimana Bertin na Mukayisenga Cécile batarimo, bakaba nta kuntu baregera Amategeko Shingiro n'ubuzimagatozi batagizemo uruhare, ndetse ko mu mwaka wa 2014 abanyamuryango bari bemeje ko batagifite amahirwe yo kugaruka muri ASPPEK kubera imyitwarire yabo nk'uko bigaragara mu nyandikomvugo y'inama yashyikirijwe urukiko. Avuga ko kubera izo mpamvu nta nyungu bafite zo kurega, ko habaye hari ibindi bakurikiye muri ASPPEK batanga ikirego mu bundi buryo.

[36] Me Munyandamutsa Jean Pierre avuga ko ntacyo Nzeyimana Bertin na Mukayisenga Cécile bari bakwiye gushingiraho barega ASPPEK mu gihe batakiri muri sitati zayo, ko rero nta bubasha bari bafite

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[3] Les décisions sur la connexité, qu'elles ordonnent le renvoi ou le refusent, sont susceptibles de recours comme en matière de compétence (*Idem*, p. 291).

bwo kurega kuko bayirukanywemo, bakaba batanagaragaza impamvu barega Muhirwa Alexandre na Muhorakeye Grâce bonyine, aho kurega abandi banyamuryango.

[37] Nzeyimana Bertin na Mukayisenga Cécile bavuga ko abavuga ko birukanywe muri ASPPEK batagaragaza ibaruwa ibirukana; ko kugeza ubu hari abanyamuryango bane (4) muri ASPPEK, Nzeyimana Bertin akaba ari we wari Perezida, ndetse bari ku rutonde rw'abanyamuryango nk'uko bigaragazwa n'Amategeko Shingiro yo mu mwaka wa 2001 yashyizweho umukono na Noteri mu mwaka wa 2009, akaba anagaragaraho umukono we, uwa Nzeyimana Bertin, Muhirwa Alexandre na Muhorakeye Grâce, ayo Mategeko Shingiro akaba afatwa nk'amasezerano hagati yabo. Bavuga kandi ko ikindi kigaragaza ko ari abanyamuryango ari nyandiko ziri mu magazeti ya Leta, inyandiko yo ku wa 25/01/2012 ishyira Nzeyimana Bertin mu mwanya wa Perezida, n'indi y'ihererekanyabubasha hagati ye na Muhirwa Alexandre.

[38] Bakomeza bavuga ko kuba batarasinye ku Mategeko Shingiro yakozwe mu buryo bunyuranyije n'amategeko kandi abangamiye inyungu zabo atari byo bibambura uburenganzira bwo kuba abanyamuryango ba ASPPEK, kandi ko nta kimenyetso abajuriye bashingiraho bavuga ko abahoze ari abanyamuryango batashyize umukono ku mategeko shingiro, bamburwa uburenganzira bwo kuba abanyamuryango.

[39] Me Katushabe Mary avuga ko Amategeko Shingiro yo mu mwaka wa 2001 yateganyaga uburyo umuntu aba umunyamuryango n'uburyo yirukanwa, kandi byose bigakorwa n'Inama Rusange (*Assemblée Générale*), ikaba yari igizwe na Muhirwa Alexandre, Muhorakeye Grâce, Kalisa Mbanda, Nzeyimana Bertin na Mukayisenga Cécile. Akomeza avuga ko ingingo ya 11 y'Amategeko Shingiro ya 2001 iteganya inama rusange n'intego za ASPPEK, ariko ko Muhirwa Alexandre n'umugore we Muhorakeye Grâce biherereye bombi biha ububasha bwo gushyiraho abanyamuryango bashya n'intego zayo. Avuga ko abanyamuryango ba ASPPEK bivugwa ko ari bo birukanye Nzeyimana Bertin na Mukayisenga Cécile nta bubasha bari bafite kuko binjiye mu muryango mu buryo butubahirije amategeko, kandi ko ibyo abajuriye bavuga ko Urukiko Rukuru rutigeze rugira icyo ruvuga ku bubasha bwo kurega bwa Nzeyimana Bertin na Mukayisenga Cécile atari ukuri, kuko guhera ku rupapuro rwa 4 kugeza k'urwa 8 rw'ica rubanza, urwo Rukiko rwafashe umwanya wo kubisesengura rwanzura ko Nzeyimana Bertin na Mukayisenga Cécile bari bafite ububasha bwo kurega.

[40] Ku birebana no kuba hararezwe Muhirwa Alexandre na Muhorakeye Grâce gusa, Me Katushabe Mary avuga ko ari uko ari bo bazwi nk'abanyamuryango ba ASPPEK bemewe n'amategeko, akaba ari bo bafite ibikorwa bakoze mu rwego rw'amategeko.

[41] Uhagarariye RGB avuga ko ikibazo cy'isuzumwa ry'inyungu mu rubanza rwaciwe n'Urukiko Rwisumbuye rwa Gasabo kitareba RGB cyane. Avuga ko kuba sitati yo mu mwaka wa 2001 n'iyo mu mwaka wa 2013 zose zigaragaza ko Nzeyimana Bertin na Mukayisenga Cécile bari abanyamuryango ba ASPPEK, asanga bari bafite ububasha bwo kurega. Asoza asaba ko Urukiko rw'Ubujurire rwemeza ko Nzeyimana Bertin na Mukayisenga Cécile bareze bafite ububasha kubera ko bakiri abanyamuryango ba ASPPEK kuko birukanwe n'abatabifitiye ububasha.

[42] Akomeza avuga ko impaka ku bubasha bwa Nzeyimana Bertin na Mukayisenga Cécile zitareba RGB kuko amategeko shingiro yo mu mwaka wa 2001 n'ayo mu mwaka wa 2013 yose agaragaza ko bari abanyamuryango.

UKO URUKIKO RUBIBONA

[43] Ingingo ya 3 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 cyakirwa mu rukiko iyo urega afite ububasha, inyungu n'ubushobozi byo kurega keretse igihe itegeko ribiteganya ukundi.

[44] Dosiye igaragaramo Amategeko Shingiro y'ishyirahamwe ridaharanira inyungu ASPPEK yo ku wa 15/11/2001 yashyizweho umukono n'abanyamuryango bane (4) ari bo Muhirwa Alexandre, Nzeyimana J. Bertin, Mukayisenga Cécile na Muhorakeye Grâce. Dosiye igaragaza kandi ko bakomeje gukorana kugeza mu mwaka wa 2012 nubwo hagiye haba ibibazo n'amakimbirane hagati yabo, ariko ikibazo nyamukuru kikaba cyaravutse, ubwo ku wa 05/04/2013, hasohotse sitati nshya za ASPPEK, ziriho amazina n'imikono ya Muhorakeye Grâce na Mutsiri Elvanie, ziza kongera kwemezwa mu nama yo ku wa 14/04/2013, aho inyandikomvugo yayo igaragaraho urutonde rw'abantu cumi na bane (14) nk'abanyamuryango bashya ba ASPPEK, ariko muri bo, Nzeyimana Bertin, Mukayisenga Cécile na Prof. Kalisa Mbanda bakaba batarayishyizeho umukono, kuko nk'uko Nzeyimana Bertin na Mukayisenga Cécile babivuga, impamvu bo batayishyizeho umukono n'uko nta ruhare bayigizemo bakaba rero batayemera kandi batumva uburyo bahejwe mu itegura ryayo n'uburyo abo banyamuryango bashya binjiye bitemejwe n'Inteko Rusange ya ASPPEK yemewe n'amategeko.

[45] Dosiye igaragaza ko RGB ishingiye kuri izo sitati yafashe icyemezo cyo guha ASPPEK ubuzimagatozi, na none ku wa 25/09/2014, Inteko Rusange ya ASPPEK yari yitabiriwe n'abanyamuryango icumi (10) nayo ifata icyemezo cyo gukuraho icyizere kuri batatu aribo Prof. Kalisa Mbanda, Nzeyimana Bertin na Mukayisenga Cécile kubera imyitwarire mibi bagaragarije abanyamuryango ba ASPPEK bari bifuje gukorana nabo bakanga gusinya sitati ngo babe abanyamuryango shingiro b'umuryango ASPPEK. Nyuma y'icyo cyemezo cyo kubirukana mu muryango nibwo Nzeyimana Bertin na Mukayisenga Cécile bafashe umwanzuro wo kuregera inkiko basaba gukuraho icyemezo nimero 121/2014 cyo ku wa 17/10/2014 giha ASPPEK ubuzimagatozi, no gutesha agaciro amategeko shingiro (statuts) yitiriwe ASPPEK, imanza zitangira ubwo.

[46] Ku byerekeranye no kumenya niba Nzeyimana Bertin na Mukayisenga Cécile nta nyungu bari bafite yo kurega, Urukiko rurasanga ari ngombwa kubanza gusobanura icyo inyungu yo kurega ivuze, mbere yo gufata umwanzuro kuri iki kibazo. Umuhanga mu mategeko Gérard Cornu avuga ko inyungu yo kurega ari agaciro urega aha icyo asaba urukiko, ako agaciro kagomba kuba ari ake ku giti cye, kataziguye kandi kemewe n'amategeko, ku buryo iyo kadahari, urega nta burenganzira aba afite bwo kurega[4]. Umuhanga mu mategeko Georges De Leval na bagenzi be bavuga ko inyungu itareberwa mu kizava mu rubanza, ko ahubwo ari ukuba hashobora kuba hari ihungabana ry'uburenganzira, nubwo nyuma yo kubisuzuma, urubanza rwagaragaza ko ubwo burenganzira bwahungabanye cyangwa butahungabanye[5].

[47] Ku birebana n'uru rubanza, kuba umuryango ASPPEK waratangijwe n'abantu bane (4) bakagira ibyo bawushoramo harimo n'ishuri (*Ecole de l'Espoir de Gasogi*) hanyuma babiri muri bo bagafata icyemezo cyo guhindura Amategeko Shingiro n'intego bya ASPPEK no kwinjiza abanyamuryango bashya, abo batangiranye batabigizemo uruhare, kugeza n'aho bafatiwe icyemezo cyo kwirukanwa muri uwo muryango ku wa 25/09/2014, hitwajwe ko batasinye amategeko shingiro yo ku wa 05/04/2013, Urukiko rurasanga Nzeyimana Bertin na Mukayisenga Cécile baravukijwe uburenganzira bwabo kuri ASPPEK, bakaba rero bari bafite inyungu yo kubiregera.

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[4] Importance qui, s'attachant pour le demandeur à ce qu'il demande, le rend recevable à le demander en justice (si cette importance est assez personelle, directe et légitime) et à défaut de laquelle le demandeur est sans droit pour agir (G. Cornu, *Vocabulaire juridique*, Association Henri Capitant, Paris, PUF, 1998, p. 456).

[5] L'intérêt s'apprécie *in abstracto*; il s'agit de la possibilité de l'atteinte à un droit au moment où la demande est formée quand bien même la reconnaissance ne devrait être établie-ou non étable-qu'à la prononciation du jugement à l'issue d'une verification *in concreto* (G. De Leval et autres, *Droit judiciaire, Manuel de procédure civile*, tome 2, Larcier, p. 80).

[48] Urukiko rurasanga ibyo ASPPEK na Muhirwa Alexandre bavuga ko mu gihe Nzeyimana Bertin na Mukayisenga Cécile batari bakiri abanyamuryango ba ASPPEK nta burenganzira bari bafite bwo kurega ASPPEK bitahabwa agaciro, kuko uburenganzira bwo kurega budashingira ku kuba ari abanyamuryango, ahubwo bushingira ku nyungu yabo bwite, itaziguye kandi yemewe n'amategeko bifuza ko yarengerwa. Urukiko rurasanga gusaba gutesha agaciro amasezerano byakorwa n'umuntu uwo ari we wese ubifitemo inyungu, ni ukuvuga uwo uko gutesha agaciro byagirira akamaro[6]. Ubu burenganzira bushobora gukoreshwa n'impande ziri mu masezerano, nk'uko bwakoreshwa n'undi wese utayarimo; urugero, ababerewemo umwenda (créanciers) bafite inyungu yo gusaba ko ubugure bwakozwe n'ubabereyemo umwenda (*débiteur*) bwateshwa agaciro kugira ngo uwo mutungo usubire mutungo y'ubabereyemo umwenda (*débiteur*), bivuze ko nta cyabuza Nzeyimana Bertin na Mukayisenga Cécile gusaba ko sitati zibangamiye inyungu zabo ziteshwa agaciro.

[49] Urukiko rurasanga na none nta tegeko ritegeka umuntu gusinya amasezerano cyangwa amategeko shingiro ku ngufu mu gihe abona ko bibangamiye inyungu ze, bityo mu gihe Nzeyimana Bertin na Mukayisenga Cécile bari bamaze guhezwa nk'abanyamuryango ba ASPPEK, bari bafite uburenganzira bwo gusaba ko sitati batashyizeho umukono iteshwa agaciro, hagashyirwaho Amategeko Shingiro impande zose zemeranyijweho, bivuze ko bari banafite uburenganzira bwo gusaba ko icyemezo giha ASPPEK ubuzimagatozi cyatanzwe hashingiwe kuri izo sitati nacyo kivanwaho.

3. Kumenya Ametegeko Shingiro Nzeyimana Bertin na Mukayisenga Cécile bari gushingiraho batanga ikirego

[50] Me Bayingana Janvier avuga ko, nk'uko biteganyijwe muri "*statuts*" za ASPPEK za 2013 no mu ngingo ya 24 n'iya 6 z'Itegeko Nº 04/2012 rigenga imiryango itari iya Leta, mbere yo gutanga ikirego, ikibazo cyagombaga kubanza kwigirwa mu kanama nkemurampaka, Urukiko Rukuru rukaba rwaravuze ko iyi mpamvu y'ubujurire nta shingiro ifite kubera ko ako kanama nta kari gahari nyamara kari gahari n'abakagize bahari, kuko ikibazo kivuka Mukayisenga Cécile na Nzeyimana Bertin bari batarasezererwa mu muryango. Asaba ko Urukiko rw'Ubujurire rusanze ako kanama kari gahari abareze ntibakiyambaze kandi gateganyijwe mu Mategeko Shingiro, urubanza rwajuririwe rwateshwa agaciro, abareze bagasubira inyuma bakabanza bakakiyambaza, batakemurirwa ikibazo bakabona kwiyambaza inkiko.

[51] Muhirwa Alexandre avuga ko ako kanama kari gahari kagizwe na Kamali Aimé Fabien, MUKASHYAKA Bernadette n'abandi bari mu nyandiko bashyikirije Urukiko; kandi ko byari itegeko kubanza kukiyambaza mbere yo kwiyambaza inkiko nk'uko biteganywa n'itegeko ryo mu mwaka wa 2012, kuko ikirego cyatanzwe mu mwaka wa 2014.

[52] Me Munyandamutsa Jean Pierre avuga ko ubwumvikane bwari ngombwa mbere y'uko ikirego kijyanwa mu Rukiko nk'uko byateganywaga na sitati za ASPPEK.

[53] Mukayisenga Cécile na Nzeyimana Bertin bavuga ko ako kanama katateganywaga mu Mategeko Shingiro yo mu mwaka wa 2001, ko ariko n'ubundi hari izindi nzego babanje kwiyambaza mbere yo kugana inkiko harimo Urwego rw'Umuvunyi, RGB, Umujyi wa Kigali n'Akarere ka Gasabo. Bavuga kandi ko nta kuntu abajuriye bavuga ko bari kwiyambaza akanama nkemurampaka batabemera nk'abanyamuryango ba ASPPEK kuko babasezereye ku wa 25/09/2014, batanga ikirego mu kwezi kwa 10/2014, kandi ko iyo bakiyambaza bari kuba banyuranyije n'Amategeko Shingiro, cyane ko n'abakagize bagiyeho mu buryo bunyuranyije n'amategeko.

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[6] On estime alors que la nullité peut être demandée par toute personne qui y trouve un intérêt, c'est-à-dire qui peut retirer l'avantage de la nullité. Cela concerne donc toutes les parties au contrat, mais encore les tiers; par exemple les créanciers d'un vendeur ont intérêt à la nullité de la vente pour voir le bien revenir dans le patrimoine du vendeur (A. Benabent, *Droit des obligations*, 14e éd., Paris, LGDJ, 2014, p.167.

[54] Me Minani Sempinga Jean d'Amour avuga ko koko hari Amategeko Shingiro yo mu mwaka wa 2013 agaragaza ko Nzeyimana Bertin na Mukayisenga Cécile ari abanyamuryango, ko ariko batigeze basinya kuri urwo rutonde, ari nayo mpamvu inkiko zayatesheje agaciro, ndetse ko batagombaga kwiyambaza akanama nkemurampaka bataragize uruhare mu ishyirwaho ryako.

[55] Me Katushabe Mary avuga ko Amategeko Shingiro yo mwaka wa 2001 adateganya akanama nkemurampaka, ko ahubwo ingingo ya 21 yayo iteganya ko icyemezo kigomba gufatwa na ¾ by'abagize umuryango. Akomeza avuga ariko ko n'ubwo akanama nkemurampaka katari gateganyijwe muri ayo Mategeko Shingiro, bari bagerageje kugakora kagizwe na RGB, Umujyi wa Kigali, Akarere ka Gasabo n'Urwego rw'Umuvunyi, ariko birangira batumvikanye, hakaba nta cyabuzaga rero ko biyambaza inkiko.

[56] Me Gahongayire Myriam, uburanira RGB, avuga ko Urukiko rw'Ubujurire rukwiye gusuzuma niba igihe ikirego cyatangwaga kariya kanama nkemurampaka kari gahari, rwasanga kari gahari ntikiyambazwe rukemeza ko ikirego kitagombaga kwakirwa kuko uwo muhango wirengagijwe.

UKO URUKIKO RUBIBONA

[57] Ingingo ya 27 y'Itegeko Nº 04/2012 ryo ku wa 17/02/2012 rigena imitunganyirize n'imikorere by'imiryango nyarwanda itari iya Leta iteganya ko amakimbirane yose avutse mu muryango nyarwanda utari uwa Leta cyangwa hagati y'inzego zawo agomba kubanza gukemurwa n'urwego rushinzwe gukemura amakimbirane ruteganyijwe mu ngingo ya 6 y'iri tegeko. Iyo ubwo buryo bunaniranye, uruhande rubyifuje rushyikiriza ikirego urukiko rw'u Rwanda rubifitiye ububasha.

[58] Ingingo ya 3 y'Itegeko Nº 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko buri muburanyi agomba kugaragaza ukuri bw'ibyo aburana.

[59] Ku byerekeranye no kumenya niba Nzeyimana Bertin na Mukayisenga Cécile baragombaga kubanza kuregera urwego rushinzwe gukemura amakimbirane, Urukiko rurasanga ari ngombwa kubanza kumenya Amategeko Shingiro agomba gushingirwaho hagati ya sitati zo ku wa 15/11/2001 n'izo ku wa 05/04/2013.

[60] Kuri iki kibazo, ingingo ya 6 y'Amategeko Shingiro ya ASPPEK yo ku wa 15/11/2001 iteganya ko abanyamuryango bashinze ishyirahamwe ari abashyize umukono kuri ayo mategeko; abaryinjiyemo nyuma ni abanyamuryango b'abayoboke basabye kwinjiramo bakabyemererwa n'Inteko Rusange kandi bakemera gukirikiza amategeko n'intego by'ishyirahamwe. Ingingo ya 11, igika cya mbere, agace ka 1, y'Amategeko Shingiro ya ASPPEK amaze kwibutswa iteganya ko Inteko Rusange ifite ububasha bwo gushyiraho no guhindura Amategeko Shingiro n'Amategeko Ngengamikorere by'ishyirahamwe. Naho ingingo yayo ya 14 igateganya ko Inteko Rusange iterana iyo hari abarenga ½ cy'abanyamuryango nyirizina. Iyo uwo mubare fatizo utuzuye hatumizwa indi nama mu minsi irindwi ikurikiraho, igafata ibyemezo iyo 1/3 cy'abanyamuryango bitabiriye inama[7].

[61] Dosiye igaragaza ko Amategeko Shingiro ya ASPPEK yashyizweho umukono ku wa 15/11/2001, ari yo yakomeje gukoreshwa na ASPPEK kugeza ku wa 05/04/2013, ubwo hasinywaga andi Mategeko Shingiro mu rwego rwo kuyahuza n'ibiteganywa n'ingingo ya 39 y'Itegeko Nº 04/2012 ryo ku wa 17/02/2012 rigena imitunganyirize n'imikorere by'imiryango nyarwanda itari iya Leta, itegeka imiryango nyarwanda itari iya Leta guhuza imikorere n'amategeko yayo n'iri tegeko mu gihe kitarenze amezi cumi n'abiri (12) uhereye ku munsi ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

[62] Dosiye igaragaza ko ASPPEK yahinduye Amategeko Shingiro ku wa 05/04/2013, igihe giteganywa n'Itegeko kitararangira, kuko cyagombaga kurangira ku wa 08/04/2013, bivuze ko kugeza

[7] Ibi byaribagaranye mu Kinyarwanda, ariko bigaragara mu gifaransa no mu cyongereza.

kuri iyo tariki ya 05/04/2013 ku bijyanye no guhindura cyangwa kwemeza abanyamuryango bashya hagombaga kubahirizwa ibyateganywaga n'Amategeko Shingiro yo ku wa 15/11/2001, bitewe n'uko ritari ishyirahamwe rishya rigiyeho, ahubwo ni iryari risanzweho ryasabwaga guhuza imikorere yaryo n'ibyo Itegeko rishya ryasabaga.

[63] Dosiye igaragaramo Amategeko Shingiro yo ku wa 05/04/2013, ariho umukono wa Muhorakeye Grâce nka Perezida w'umuryango ASPPEK, n'uwa Mutsiri Elvanie nka Visi Perezida wa ASPPEK, igaragaramo na none inyandikomvugo y'Inama Rusange yahinduye Amategeko Shingiro (statuts) y'Umuryango w'Ababyeyi Uharanira Iterambere n'Amajyambere y'Uburezi mu Rwanda (ASPPEK) yo ku wa 14/04/2014 bigaragara ko yashyizweho umukono n'abanyamuryango 11 kuri 14 bari ku rutonde, batatu bakaba nta mikono yabo ihari.

[64] Urukiko rurasanga mbere y'uko Amategeko Shingiro ya ASPPEK ahindurwa ku wa 05/04/2013, harubahirizwaga ayo ku wa 15/11/2001 kuko yari agifite agaciro, hashingiwe ku biteganywa n'ingingo ya 39 y'Itegeko Nº 04/2012 ryo ku wa 17/02/2012 rigena imitunganyirize n'imikorere by'imiryango nyarwanda itari iya Leta kuko igihe cy'umwaka umwe giteganyijwe cyari kitararangira.

[65] Urukiko rurasanga hashingiwe ku byateganywaga n'Amategeko Shingiro ya 2001, ari nayo yagombaga gukurikizwa, cyane cyane mu ngingo za 11 na 14, haragombaga kubanza gutumizwa inama y'Inteko Rusange ya ASPPEK igizwe n'abanyamuryango bayitangije uko ari bane (4), ikaba ari nayo yari ifite ububasha bwo guhindura Amategeko Shingiro ya ASPPEK no kwemeza abanyamuryango bashya, kandi iyo nama ikaba yari guterana ari uko habonetse abanyamuryango barenga nibura 2 kuri 4 bari bayigize, bitashoboka, inama igatumizwa ku nshuro ya kabiri, icyo gihe ikaba yafata ibyemezo ari uko 1/3 cy'abanyamuryango bitabiriye inama. Kuba rero ibyakozwe binyuranyije n'ibyari biteganyijwe n'Amategeko Shingiro y'ishyirahamwe ASPPEK, byumvikanisha ko, Amategeko Shingiro yo ku wa 05/04/2013 agomba guteshwa agaciro ndetse n'icyemezo giha ASPPEK ubuzimagatozi cyayashingiyeho nacyo kikaba kigomba kuvanwaho nk'uko inkiko zabanje zabibonye.

[66] Urukiko rurasanga kandi kuba kugeza ubu Amategeko Shingiro atarahindurwa ngo ahunzwe n'ibiteganywa n'ingingo ya 39 y'Itegeko Nº 04/2012 ryo ku wa 17/02/2012 rigena imitunganyirize n'imikorere by'imiryango nyarwanda itari iya Leta, ndetse n'ubuzimagatozi ASPPEK yahawe bukaba buteshejwe agaciro, nyamara uyu muryango warakomeje gukora, kandi n'ubu ukaba ugikora, bivuze ko nk'uko abahanga mu mategeko babisobanura, ASPPEK iriho nk'umuryango ariko udafite ubuzimagatozi (*association de fait*), bivuze ko Amategeko shingiro yo ku wa 15/11/2001 agomba gukomeza kubahirizwa n'abanyamuryango bayo nk'amasezerano hagati yabo, kandi yaba abayashyizeho umukono cyangwa abatari abanyamuryango bakaba batagomba kubyitwaza bavuga ko uwo muryango ufite ubuzimagatozi[8], ko ahubwo ukomeza kuba umuryango hagati y'abawugize. Abo bahanga bakomeza bavuga ko iyo umuryango ugeze aho ukabona ubuzimagatozi, wemeza ibikorwa byakozwe mbere mu izina ryawo, ko ariko bidakuraho uburyozwe bw'abanyamuryango ku giti cyabo kuko ubuzimagatozi budasubira inyuma (*pas d'effet rétroactif*), ahubwo umuryango wabuhawe uvuka mu buryo bwemewe n'amategeko, umunsi waboneyeho ubwo buzimagatozi[9].

[67] Urukiko rurasanga mu gihe bimaze kugaragara ko Amategeko Shingiro ya ASPPEK yagombaga gukurikizwa ari ayo ku wa 15/11/2001, kandi akaba ntaho ateganya ko ikirego ku makimbirane yavutse mu muryango nyarwanda utari uwa Leta kigomba kubanza gusuzumwa n'urwego nkemurampaka ruteganywa n'itegeko ndetse n'Amategeko Shingiro z'uwo muryango, ibyo ASPPEK ivuga ko

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[8] Les statuts s'imposent sans doute aux signataires comme contrat d'association de fait, mais ni les signataires ni les tiers ne peuvent, de l'existence des statuts non publiés, déduire la naissance d'une personne morale (Philippe t KINT, Les associations sans but lucratif, Bruxelles, Larcier, 1999, p. 68).

[9] Une fois née, la personne morale ratifiera les actes juridiques antérieurs, mais cette ratification ne dégagera nullement les associés de leur responsabilité personnelle. En effet, la ratification n'a pas d'effet rétroactif, (…) la personne morale naît seulement, sans rétroactivité, au jour de sa publication (Philippe' t Kint, *op. cit.*, p. 70).

Nzeyimana Bertin na Mukayisenga Cécile bari kubanza ikirego cyabo mu kanama nkemurampaka nta shingiro bifite.

[68] Hashingiwe ku bimaze gusobanurwa haruguru, Urukiko rurasanga mu gihe bigaragaye ko ibyakozwe na ASPPEK, ari byo binyuranyije n'ibiteganywa n'Amategeko Shingiro yayo, kandi Amategeko Shingiro yo ku wa 05/04/2013 agomba guteshwa agaciro ndetse n'icyemezo giha ASPPEK ubuzimagatozi cyayashingiyeho nacyo kivanwaho nk'uko inkiko zabanje zabibonye, bitakiri ngombwa gusuzuma ingingo y'ubujurire ijyanjye no kumenya niba hari ibimenyetso ASPPEK yatanze byerekana uko Nzeyimana Bertin na Mukayisenga Cécile bateshutswe ku nshingano zabo zo kugendana n'umuryango bagamije kuwusubiza inyuma ngo udakora mu buryo bwemewe n'amategeko.

4. Kumenya niba hari indishyi ASPPEK yagenerwa

[69] Me Bayingana Janvier avuga ko ASPPEK isaba ko Nzeyimana Bertin n'umugore we Mukayisenga Cécile bayiha 10.000.000 Frw yo gushorwa mu manza ku maherere, 4.000.000 Frw y'itegura ry'urubanza n'ikurikiranarubanza na 10.000.000 Frw y'igihembo cya Avoka.

[70] Nzeyimana Bertin na Mukayisenga Cécile ndetse na Me Katushabe Mary bavuga ko Muhorakeye Grâce na Muhirwa Alexandre ari bo bakwiye gutanga indishyi zisabwa na ASPPEK kuko ari bo babaye intandaro y'itangwa ry'ibirego, na RGB ikaba igomba gufatanya nabo kuko yagize uruhare mu gutanga ubuzimagatozi kandi bari bayibujije.

[71] Muhirwa Alexandre na Muhorakeye Grâce basaba 10.000.000 Frw y'ikurikiranarubanza mu nkiko, 7.000.000 Frw y'igihembo cya Avoka, na 20.000.000 Frw y'indishyi z'akababaro. Me Munyandamutsa Jean Pierre avuga ko abo aburanira basaba izi ndishyi kuko hari ibintu byinshi batabasha gukurikirana ku birebana n'inyungu za ASPPEK kuko bahora basiragizwa mu nkiko kandi n'ikigo kikaba kihatakariza icyizere.

[72] Nzeyimana Bertin na Mukayisenga Cécile bavuga ko ASPPEK idakwiye guhabwa indishyi isaba kuko ari yo yishoye mu manza.

[73] Me Katushabe Mary avuga ko izi ndishyi zidakwiye kuko Muhirwa Alexandre na Muhorakeye Grâce ari bo babyaza umusaruro ASPPEK.

[74] Me Gahongayire Myriam, uhagarariiye RGB, avuga ko indishyi zitasabwe mu nama ntegurarubanza, abazisabye batazigenerwa.

UKO URUKIKO RUBIBONA

[75] Urukiko rurasanga 10.000.000 Frw yo gushorwa mu manza ku maherere, 4.000.000 Frw y'itegura n'ikurikiranarubanza na 10.000.000 Frw y'igihembo cya Avoka, ASPPEK isaba Nzeyimana Bertin na Mukayisenga Cécile kuri uru rwego ntayo ikwiriye guhabwa kuko bigaragaye ko ubujurire bwayo nta shingiro bufite. Rurasanga na none Muhirwa Alexandre na Muhorakeye Grâce badakwiye guhabwa 10.000.000 Frw y'ikurikiranarubanza mu nkiko, 7.000.000 Frw y'igihembo cya Avoka, na 20.000.000 Frw y'indishyi z'akababaro, kuko ari bo babaye intandaro y'imanza zabaye bakora ibikorwa binyuranije n'amategeko.

B. UBUJURIRE BWURIRIYE KU BUNDI

[76] Nzeyimana Bertin na Mukayisenga Cécile basaba 5.000.000 Frw y'ikurikiranarubanza n'igihembo cya Avoka, 33.000.000 Frw (28.000.000 Frw + 5.000.000 Frw) y'indishyi z'akababaro mu birego byombi, igihembo cya Avoka kingana 2.000.000 Frw na 500.000 Frw y'ikurikiranarubanza mu

bujurire. Me Katushabe Mary asobanura ko impamvu abo yunganira basaba indishyi z'akababaro ari uko bahejwe mu gutegura Amategeko Shingiro mashya y'umuryango ASPPEK no mu gusaba ubuzimagatozi, bavutswa uburenganzira ku musaruro w'umuryango, ndetse bakaba basohora amafaranga yo guhemba aba Avoka batakagombye gusohora.

[77] Me Bayingana Janvier, uburanira ASPPEK, avuga ko indishyi zasabwe nta shingiro zifite kubera ko ari uburenganzira bwa ASPPEK bwo kujurira.

UKO URUKIKO RUBIBONA

[78] Ingingo ya 111, igika cya 2, 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 kiburanishirizwa rimwe n'ikirego cy'iremezo. Gishobora kandi kwakirwa kikanaburanishwa n'iyo ikirego cy'iremezo cyaba kitakiriwe.

[79] Urukiko rurasanga amafaranga y'igihembo cya Avoka n'ay'ikurikiranarubanza Nzeyimana Bertin na Mukayisenga Cécile basaba bayakwiye kuko byabaye ngombwa ko biyambaza Abavoka babiri bo kubaburanira kuri uru rwego, rurasanga ariko 2.000.000 Frw y'igihembo cya Avoka na 500.000 Frw y'ikurikiranarubanza kuri uru rwego ari menshi, hakurikijwe ibyakozwe mu rubanza hamwe n'uko hari ayo bagenewe mu nkiko zabanje (1.500.000 Frw + 200.000 Frw + 500.000 Frw), rukaba mu bushishozi bwarwo rubageneye 1.000.000 Frw akubiyemo 800.000 Frw y'igihembo cya Avoka na 200.000 Frw y'ikurikiranarubanza, kandi akaba ASPPEK, Muhirwa Alexandre na Muhorakeye Grâce ari bo bakwiye gufatanya kuyatanga, kuko nk'uko Urukiko Rukuru rwabibonye, RGB, yatanze ubuzimagatozi yibwira ko ASPPEK yujuje ibisabwa n'amategeko byose.

[80] Rurasanga kandi 33.000.000 Frw (28.000.000 Frw + 5.000.000 Frw) y'indishyi z'akababaro basaba ASPPEK, Muhirwa Alexandre na Muhorakeye Grâce na RGB ntazo bakwiye guhabwa, kuko kujurira ari uburenganzira bw'umuburanyi wumva ko atishimiye icyemezo cy'urukiko, bityo akaba nta kababaro ASPPEK yateje Nzeyimana Bertin na Mukayisenga Cécile gakomoka ku kuba yarajuriye.

III ICYEMEZO CY'URUKIKO

[81] Rwemeje ko ubujurire bwa ASPPEK nta shingiro bufite.

[82] Rwemeje ko ubujurire bwururiye ku bundi bwatanzwe na Nzeyimana Bertin hamwe na Mukayisenga Cécile bufite ishingiro kuri bimwe.

[83] Rwemeje ko nta gihundutse ku mikirize y'urubanza RADA 00148/2016/HC/KIG rwaciwe n' Urukiko Rukuru ku wa 06/02/2017.

[84] Rutegetse ASPPEK, Muhirwa Alexandre na Muhorakeye Grâce gufatanya guha Nzeyimana Bertin na Mukayisenga Cécile 2.200.000 Frw yemejwe n'inkiko zabanje (1.500.000 Frw+ 200.000 Frw +500.000 Frw), hiyongereyeho 800.000 Frw y'igihembo cya Avoka na 200.000 Frw y'ikurikiranarubanza agenwe kuri uru rwego.

[85] Ruvuze ko ingwate y'amagarama yatanzwe ihwanye n'ibyakozwe mu rubanza.