UBUSHINJACYAHA v NSENGIYAREMYE

[Rwanda URUKIKO RW'UBUJURIRE – RPAA 00466/2021/CA (Nyirandabaruta, P.J.) 27 Mutarama 2023]

Amategeko agenga imanza nshinjabyaha – Impamvu nyoroshyacyaha – Imihanire y'umuntu mukuru ariko umaze igihe gito avuye mu bwana/young adult n'iy'umuntu ukuze urengeje imyaka 25 (adult) ikwiye gutandukana mu rwego rwo gutanga ubutabera buboneye kuri buri muntu, hitawe no kuburemere bw'icyaha, ingaruka zacyo n'amahirwe y'uko uhanwe ashobora kugororwa (rehabilitation).

Incamake y'ikibazo: Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa rwa Ngoma, uregwa akurikiranweho n'Ubushinjacyaha icyaha cyo kubika no gucuruza ibiyobyabwenge byo mu bwoko bw'urumogi, buvuga ko inzego z'umutekano zamufatiye mu Nkambi ya Mahama zimusangana utubure mirongo itatu (30) tw'urumogi yarimo gucuruza. Urwo Rukiko rwaciye urubanza rwemeza ko uregwa ahamwa n'icyaha cyo kubika, kunywa no kugurisha ibiyobyabwenge bihambaye byo mu bwoko bw'urumogi, ariko kuko yaraburanye yemera icyaha mu buryo budashidikanywaho rumuhanisha igifungo cy'imyaka makumyabiri (20) n'ihazabu ya miliyoni makumyabiri n'imwe (21,000,000Frw).

Uregwa yajuririye iyo mikirize y'urubanza mu Rukiko Rukuru, Urugereko rwa Rwamagana avuga ko icyaha aregwa acyemera akagisabira imbabazi bityo asaba ko yagabanyirizwa igihano ndetse n'inyito y'icyaha igahinduka. Urwo narwo rwaciye urubanza rusanga nta mpamvu ishingiye ku itegeko yatuma inyito y'icyaha ihinduka nk'uko uregwa yabisabaga, naho ku bijyanye no kugabanyirizwa ibihano, rusanga atakongera kugabanyirizwa kuko yagabanyirijwe ku rwego rwa mbere.

Uregwa yarongeye ajuririra imikirize y'urwo rubanza mu Rukiko rw'Ubujurire asaba ko inyito y'icyaha yahamijwe yahinduka ngo kuko atigeze acuruza urumogi nk'uko yabirezwe, ko n'abatangabuhamya bamushinja bavuga ibyo batabonye n'amaso yabo, ubuhamya bwabo bukaba bushidikanywaho, ko habayeho kugenekereza mu kumuhamya icyaha cyo gucuruza urumogi kuko urwo yafatanwe rwari urwo kunywa.

Ubushinjacyaha bwo bwaburanye buvuga ko ubujurire bw'uregwa nta shingiro bufite kuko mu Bugenzacyaha yemeye ko yafatanywe udupfunyika 30 tw'urumogi (30boules) kandi yemera ko yaruranguye kandi ko akuramo inyungu ngo abone ibyo kurya.

Incamake y'icyemezo: Imihanire y'umuntu umukuru ariko umaze igihe gito avuye mu bwana*/young adult* n'iy'umuntu ukuze urengeje imyaka 25 *(adult)* ikwiye gutandukana mu rwego rwo gutanga ubutabera buboneye kuri buri muntu, hitawe no kuburemere bw'icyaha, ingaruka zacyo n'amahirwe y'uko uhanwe ashobora kugororwa *(rehabilitation),* bityo kuba uregwa yarakoze icyaha afite imyaka 20 y'amavuko, byamubera impamvu nyoroshyacyaha, akaba akwiye kugabanyirizwa igihano.

Ubujurire bufite ishingiro kuri bimwe;
Urubanza ruhindutse gusa ku birebana n'igihano.

Imanza zifashishijwe:

Re Kabasinga, RS/INCONST/SPEC 00003/2019/SC rwaciwe n'Urukiko rw'Ikirenga rwaciwe kuwa 04/12/2019.

Ubushinjacyaha v. Niyonsaba, RS/INJUST/RP 00003/2019/SC rwaciwe n'Urukiko rw'Ikirenga kuwa 28/01/2022.

Ubushinjacyaha v. Ahimpereye, RPAA 00436/2020/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 28/06/2022.

Ubushinjacyaha v. Hakizimana, RPAA 00091/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 19/07/2022.

Ubushinjacyaha v. Shakabatenda, RPAA 00039/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 02/07/2021.

Ubushinjacyaha v. Nzafashwanimana, RPAA 00032/2019/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 28/02/2020.

Inyandiko zifashishijwe:

House of Commons Justice Committee, The Treatment of Young Adults in the Criminal Justice System Seventh Report of Session 2016–17 (2016), HC 169, p.9.

NCBI, Young Adults in the 21st Century - Investing in the Health and Well-Being of Young Adults. Available online at https://www.ncbi.nlm.nih.gov/books/NBK284782/ , accessed on 16th Jan.2023

Cosmin Peneoașum Judicial Individualization of Punishment in Special Situations. Judge's Role in these Cases, EIRP Proceedings, Vol 10 (2015). Available online at https://proceedings.univ-danubius.ro/index.php/eirp/article/view/1673/1657 , accessed on 18th Jan.2023.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Ngoma, Nsengiyaremye Elie akurikiranweho n'Ubushinjacyaha icyaha cyo kubika no gucuruza ibiyobyabwenge byo mu bwoko bw'urumogi, buvuga ko tariki ya 23/05/2019 inzego z'umutekano zamufatiye mu Nkambi ya Mahama zimusangana utubure mirongo itatu (30) tw'urumogi yarimo gucuruza.

[2] Nsengiyaremye yaburanye avuga ko urumogi yafatanwe rutari uwo gucuruza, ko rwari urwo kunywa. Mu rubanza No RP 00506/2019/TGI/NGOMA rwaciwe ku wa 18/06/2019, Urukiko Rwisumbuye rwa Ngoma rushingiye k'ukwiyemerera icyaha kw'uregwa kuba kandi yarashyize umukono ku nyandikomvugo y'ifatira ndetse akaba ashinjwa na Ntezimana Jean Claude na Bushyitse Désiré bamufashe arimo kugurisha urumogi mu Nkambi ya Mahama, rwemeje ko Nsengiyaramye ahamwa n'icyaha cyo kubika, kunywa no kugurisha ibiyobyabwenge bihambaye byo mu bwoko bw'urumogi, ariko kuko yaraburanye yemera icyaha mu buryo budashidikanywaho rumuhanisha igifungo cy'imyaka makumyabiri (20) n'ihazabu ya miliyoni makumyabiri n'imwe (21,000,000Frw).

[3] Nsengiyaremye yajuririye iyo mikirize y'urubanza mu Rukiko Rukuru, Urugereko rwa Rwamagana avuga ko icyaha aregwa acyemera akagisabira imbabazi bityo asaba ko yagabanyirizwa igihano ndetse n'inyito y'icyaha igahinduka.

[4] Mu rubanza Nº RPA 00565/2019/HC/RWG rwaciwe ku wa 15/02/2021, Urukiko Rukuru, Urugereko rwa Rwamagana rushingiye ku kuba uregwa mu ibazwa rye Mu Bugenzacyaha yaravuze ko yaguze urumogi n'umunyarwanda agafatwa arujyanye mu nkambi ya Mahama kurucuruza ngo aronke amafaranga yo kurya ko kandi yari asanzwe arucuruza, kuba Ntezimana na Bushyitse bamufashe bemeza ko yafatanywe urwo rumogi, ko kandi yababwiye ko asanzwe arucuruza no kuba yarashyize n'umukono ku nyandiko mvugo y'ifatira, rwasanze nta mpamvu ishingiye ku itegeko yatuma inyito y'icyaha ihinduka nk'uko uregwa n'umwunganira babisabaga, naho ku bijyanye no kugabanyirizwa ibihano, rusanga Nsengiyaremye Elie atakongera kugabanyirizwa kuko yagabanyirijwe ku rwego rwa mbere.

[5] Nsengiyaremye Elie yarongeye ajuririra imikirize y'urwo rubanza mu Rukiko rw'Ubujurire asaba ko inyito y'icyaha yahamijwe yahinduka ngo kuko atigeze acuruza urumogi nk'uko yabirezwe, ko n'abatangabuhamya bamushinja bavuga ibyo batabonye n'amaso yabo, ubuhamya bwabo bukaba bushidikanywaho, ko habayeho kugenekereza mu kumuhamya icyaha cyo gucuruza urumogi kuko urwo yafatanwe rwari urwo kunywa.

[6] Urubanza rwaburanishijwe mu ruhame ku wa 06/01/2023, Urukiko rw'Ubujurire rusuzuma ikibazo cyo kumenya niba Urukiko Rukuru Urugereko rwa Rwamagana hari ikosa rwakoze mu kudahindura inyito y'icyaha Nsengiyaremye yahamijwe cyo kunywa no kugurisha ibiyobyabwenge bihambaye byo mu bwoko bw'urumogi, n'icyo kumenya niba Nsengiyaremye Elie yakongera kugabanyirizwa ibihano.

II. ISESENGURWA RY'URUBANZA

Kumenya niba Urukiko rwaragombaga guhindura inyito y'icyaha Nsengiyaremye Elie agahanirwa kunywa ibinyobyabwenge aho kuba kubinywa no kubicuruza.

[7] Nsengiyaremye Elie, avuga ko anenga Urukiko Rukuru kuba rutarahinduye inyito y'icyaha yahamijwe kandi yararugaragarije ko atigeze acuruza urumogi nk'uko yabirezwe kandi n'ibyo yemereye mu Bugenzacyaha yabihatiwe, ko kandi n'abatangabuhamya bamushinja bavuga ibyo batabonye n'amaso yabo, hakaba hari ugushidikanya ku buhamyabwabo, ko habayeho kugnekereza mu kumuhamya icyaha cyo gucuruza urumogi kuko urwo yafatanwe rwari urwo kunywa kandi ko nta bandi yaruhayeho.

[8] Avuga ko umutangabuhamya witwa Ntezimana Jean Claude atamwemera kuko bapfuye umukobwa atangira kumuhiga, ko atumva impamvu atari yaramureze mbere ko yamubwiye ko acuruza urumogi; avuga ko Bushyitse we ntacyo bapfa, ko ari we wamufashe anavuga ko yasanze anywa urumogi.

[9] Nsengiyaremye Elie yakomeje avuga ko Urukiko rutari gushingira ku mvugo z'abatangabuhamya bavuga ibyo batabonye kuko zirimo ugushidikanya, kandi nta kindi

kimenyetso Ubushinjacyaha bwagaragaje cyerekana ko acuruza urumogi, uwo yaruhereje, uwamuhaye amafaranga n'ibindi.

[10] Me Uwiduhaye Julienne umwunganira avuga ko Urukiko Rukuru, Urugereko rwa Rwamagana rwaciye urubanza rwemeza ko Nsengiyaremye Elie yacuruzaga urumogi kandi nta bimenyetso bifatika rushingiyeho, kuko kuva yafatwa, yemera ko yafashwe anywa urumogi, kandi akaba yari afite "boules" 30 z'urumogi mu mufuka zo kunywa, umuntu nk'uwo wanyaga urumogi akaba nta kintu kizima yavuga ndetse ko n'Ubushinjacyaha mu kumushinja, nta kindi kimenyetso bushingiraho uretse imvugo ya Bushyitsi idafite ibindi bimenyetso biyishimangira. Ikindi, avuga ko nk'uko byemejwe mu rubanza No RPAA 0057/15/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 11/05/2018 haburana Ubushinjacyaha na Sikubwabo Emmanuel, kwemera icyaha k'ushinjwa kudahagije nk'ikimenyetso.

[11] Avuga ko Urukiko ruramutse rusanze uwo yunganira ahamwa n'icyaha cyo kunywa no gucuruza ibiyobyabwenge byo mu bwoko bw'urumogi, rwamugabanyiriza ibihano rushingiye ku mpamvu y'uko aribwo bwa mbere akoze icyaha, agahabwa igihano gito gishoboka, hashingiwe ku rubanza NO RS/INCONST/SPEC/00003/2019/SC rwitiriwe Kabasinga Floride, igika cyarwo cya [47]

[12] Uhagarariye Ubushinjacyaha avuga ko impamvu z'ubujurire za Nsengiyaremye Elie n'umwunganira nta shingiro zifite kuko Nsengiyaremye abazwa mu Bugenzacyaha yemeye ko yafatanywe udupfunyika 30 tw'urumogi (30boules) kandi yemera ko yaruranguye n'umunyarwanda amafaranga igihumbi (1,000Frw), kandi ko akuramo inyungu ngo abone ibyo kurya, ko iyo harebwe izo details byerekana ko ibyo avuga ari ukuri.

[13] Avuga ko umutangabuhamya Ntezimana Jean Claude na Bushyitse Désiré bemeza ko uregwa yafatanywe ikiyobyabwenge cy'urumogi kingana n'udupfunyika 30 kandi ko yababwiye ko acuruza urumogi. Bityo ko ibyo asaba ko yahindurirwa inyito y'icyaha bitashoboka kubera ko icyaha uregwa cyo kubika no gucuruza ikiyobyabwenge cy'urumogi aricyo yarezwe kandi yahamijwe hagendewe mvugo ye yo mu Bugenzacyaha aho yiyemereye ko yacuruzaga urumogi, kandi ko kuva yafatwa atigeze avuga ko hari icyo apfa n'abatangabuhamya bavuzwe haruguru, inyito y'icyaha ikaba idashobora guhinduka ku bw' ibyifuzo bye guşa adatangira ikimenyetso, bityo iyo mpamvu ikaba itahabwa ishingiro.

UKO URUKIKO RUBIBONA

[14] Imiburanire y'impande zombi igaragaza ibibazo bibiri by'ingenzi uru Rukiko rugomba gusuzuma, icyo kumenya niba inyito y'icyaha Nsengiyaremye Elie aregwa kandi yahamijwe ku rwego rubanza yaragombaga guhinduka n'icyo kumenya niba mu gihe inyito yaba idahindutse nabwo yagabanyirizwa ibihano.

[15] Mu rubanza No RPA 00565/2019/HC/RWG rujuririrwa rwaciwe n'Urukiko Rukuru, Urugereko rwa Rwamagana kuwa 15/02/2021, Nsengiyaremye Elie yaburanye avuga ko yemera icyaha aregwa, ariko akavuga ko inyito yacyo ikwiye guhinduka kuko urumogi yafatanywe rwari urwo kwinywera. Urukiko rwasanze Nsengiyaremye Elie ari imbere y'Umugenzacyaha yarabajijwe impamvu acuruza urumogi asubiza ko yashakaga amafaranga kandi hari n'abatangabuhamya bamushinje ko yababwiye ko yari asanzwe acuruza urumogi, rwanzura ko

Nsegiyaremye Elie aterekana uko yari kuvana amafaranga mu rumogi yafatanywe atarucuruje kandi ko Ntezimana Jean Claude na Bushyitse Désiré bemeje ko yababwiye ko yari asanzwe arucuruza urumogi[1].

[16] Dosiye y'urubanza igaragaza inyandikomvugo ya Nsengiyaremye Elie abazwa mu Bugenzacyaha, yerekana ko yabajijwe aho yavanye urumogi yafatanywe agasubiza ko yaruhawe n'umunyarwanda baruguze 1000Frw, akaba yari arujyanye mu nkambi ngo arebe ko yaronga amafaranga yo kurya. Yavuze ko ari ubwa mbere yaragerageje gucuruza urumogi kuko yashakaga amafaranga, ariko ko yafashwe n'ubundi ataragera mu nkambi.

[17] Dosiye igaragaza nanone inyandikomvugo y'ibazwa ry'umutangabuhamya witwa Bushyitse Désiré n'undi witwa Ntezimana Jean Claude, ari nabo bafatanye Nsengiyaremye Elie udupfunyika 30 tw'urumogi nawe ubwe yemera kuba yaradufatanywe, bemeza ko bakimufata yababwiye ko urwo rumogi ari urwo gucuruza, ko asanzwe acuruza urumogi.

[18] Urukiko rw'Ubujurire rurasanga nk'uko Urukiko Rukuru rwabibonye, kuba Nsengiyaremye Elie yarafatanywe udupfunyika (boules) mirongo itatu (30) tw'urumogi ubwe akavuga ko yarushakagamo amafaranga kugira ngo abonye ibyo kurya, nta kundi byafatwa uretse kwemeza ko yarucuruzaga, kubera ko aterekana uburyo yari kurunwa gusa akarubonamo ayo mafaranga atarucuruje, bigaragara ahubwo ko yari yiteguye kuruha umuntu wese urukeneye nawe akamuha amafaranga akeneye. Umurongo watnzwe n'uru Rukiko mu rubanza Nº RPAA 00436/2020/CA rwaciwe ku wa 28/06/2022 haburana Ubushinjacyaha na Ahimpereye Ndeze François, uvuga ko igihe cyose umuntu afite ibiyobyabwenge kandi yiteguye kubiha umuntu wese umugana ashaka ibyo agurisha, aba ari umucuruzi w'ibiyobyabwenge[2]. Kuba rero Nsengiyaremye Elie yari yiteguye kugurisha ibiyobyabwenge by'urumogi yafatanywe umuntu wese umugana, kugira ngo abone amafaranga yashakaga, bimugira umucuruzi w'ibiyobyabwenge.

[19] Urukiko rw'Ubujurire rurasanga nubwo Nsengiyaremye Elie ahakana imvugo ye yo mu Bugenzacyaha igihe yasubizaga ko yari agiye gushaka amafaranga mu rumogi yafatanwe kugira ngo abone ibyo arya, ibyo bitayitesha agaciro, kuko uburyo yasobanuye neza impamvu arucuruza n'aho yarukuye byerekana ko yabisobanuye yisanzuye, ahubwo nyuma akigira inama yo guhakana kurucuruza akavuga ko ari urwo yanyaga gusa kuko n'ubwo kunywa no gucuruza ibiyobyabwenge byose ari ibikorwa bihanwa n'amategeko bidahanwa kimwe kuko kubicuruza ari byo bihanwa ku buryo bukomeye kuruta kubinywa.

[20] Urukiko rurasanga uko gutesha agaciro imvugo ye yo mu Bugenzacyaha kwe nta shingiro bifite kuko umucamanza uburanisha urubanza mu mizi ariwe ureba agaciro imvugo y'uwiyemerera icyaha mu rwego rw'iperereza ifite, kabone n'iyo nyirayo yageze imbere y'Urukiko akayihindura nk'uko Nsengiyaremye Elie yabikoze[3]. Rusanga rero imvugo ya Nsengiyaremye Elie imbere y'urwego rw'Ubugenzacyaha itateshwa agaciro, kuko ishimangirwa n'imvugo za Ntezimana Jean Claude na Bushyitse Désiré bavuze ko yababwiye ko yari asanzwe

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[1] Urubanza RPA 00565/2019/HC/RWG rwaciwe n'Urukiko Rukuru-Urugereko rwa Rwamagana kuwa 15/02/2021, haburana Nsengiyaremye Elie n'Ubushinjacyaha, igika cya 13_15.

[2] Urubanza Nº RPAA 00436/2020/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 28/06/2022 haburana Ubushinjacyaha na Ahimpereye Ndeze François, igika cya 19.

[3] urubanza N° RPAA 00091/2021/CA rwaciwe n'uru Rukiko ku wa 19/07/2022 haburana Ubushinjacyaha na Hakizimana Gilbert

arucuruza urumogi, ibyo Nsengiyaremye Elie avuga ko ubuhamya bwatanzwe na Ntezimana Jean Claude butakwitabwaho kuko bapfaga umukobwa bakundaga bombi bikaba nta shingiro bikwiye guhabwa kubera ko nta kibigaragaza kandi na Bushyitse Désiré avuga ko ntacto bapfaga akaba amushinja.

[21] Hashingiwe kuri iryo sesengura, Urukiko rw'Ubujurire rurasanga kuba Urukiko Rukuru, Urugereko rwa Rwamagana rutarahinduye inyito y'icyaha Nsengiyaremye Elie yahamijwe ku rwego rwa mbere cyo kunywa no gucuruza ibiyobyabwenge bihambaye byo mu bwoko bw'urumogi nta kosa rwakoze kuko ari cyo cyaha kimuhama, bityo ubujurire bwe kuri iyo ngingo y'ubujurire bukaba nta shingiro bufite.

- Kumenya niba Nsengiyaremye Elie yakongera kugabanyirizwa ibihano

[22] Nsengiyaremye Elie avuga ko yahawe igihano kiri hejuru cyane y'icyaha yakoze kuko Inkiko zibanza zemeje ko ahamwa n'icyaha cyo gucuruza ibiyobyabwenge bihambaye bigatuma ahanishwa igihano cy'igifungo cy'imyaha 20 kandi icyaha we yemera ari nacyo cyabaye ari icyo kunywa no gufatanwa ibiyobyabwenge, gihanishwa igifungo kuva ku mwaka 1 kugeza ku myaka 2.

[23] Me Uwiduhaye Julienne wunganira Nsengiyaremye Elie, asaba ko yahanirwa kunywa urumogi atari gucuruza, agahabwa igiho gito gishoboka, Urukiko rwabibona ukundi, rukamugabanyiriza ibihano kuko ari ubwa mbere akoze icyaha, rukita ku myaka ye no mu rwego rwo kugorora, agahabwa igihano kigereranyije hashingiwe ku rubanza NORS/INCOST/SP/ RP 00003/2019 rwaciwe n'Urukiko rw'Ikirenga, agahabwa igihano kiri munsi y'igiteganywa n'itegeko. Asaba kandi Urukiko rw'Ubujuririre gushingira ku rubanza RPAA 00156/2022/CA rwaciwe kuwa 27/5/2022, rugahanisha Nsengiyaremye igihano cy'igifungo cy'umwaka 1 kuko ataruhije ubutabera kandi akaba ari ubwa mbere akurikiranyweho icyaha.

[24] Uhagarariye Ubushinjacyaha avuga ko igihano cyo gufungwa imyaka makumyabiri (20) n'ihazabu ya 21,000,000Frw Nsengiyaremye yahawe aricyo gikwiye kugumaho kubera ko mu ubujurire bwe atashoboye kuvuguruza ibimenyetso byagendeweho ashinjwa mu rwego rwa mbere.

UKO URUKIKO RUBIBONA

[25] Mu rubanza RS/INCONST/SPEC 00003/2019/SC rwaciwe kuwa 04/12/2019, Urukiko rw'Ikirenga rwatanze umurongo ku bijyanye n'igabanyagihano mu gihe hari impamvu nyoroshyacyaha, aho rwagaragaje ko kutagabanyiriza igihano ushinjwa mu gihe hari impamvu nyoroshyacyaha binyuranye n'amahame y'ubutabera, rubivuga muri aya magambo: "umucamanza agomba guhabwa ubwisanzure bwo gutanga igihano akurikije uburemere bw'icyaha, ingaruka icyaha cyateye, impamvu zatumye agikora, uko uwagikoze yari asanzwe yitwara, imibereho ye bwite n'uburyo icyaha cyakozwemo."[4] Uyu murongo niwo Urukiko rw'Ubujurire rwakurikije mu

[4] Urubanza no.RS/INCONST/SPEC 00003/2019/SC rwaciwe n'Urukiko rw'Ikirenga rwaciwe kuwa 04/12/2019, Kabasinga Florida, igika cya 48.

mikirize y'izindi manza nyinshi rwaciye, nk'urubanza nº RPAA 00039/2021/CA rwaciwe ku wa 02/07/2021[5], urubanza no RPAA 00032/2019/CA rwaciwe ku wa 28/02/2020[6] n'izindi.

[26] Urukiko rurasanga Nsengiyaremye Elie wavutse mu mwaka wa 1999, igihe yafatwaga afite utubure mirongo itatu (30) tw'urumogi yacuruzaga kuwa 23/05/2019, yari afite imyaka 20 y'amavuko. Bumwe mu bushakashatsi bwakozwe na komite y'ubutabera yashyizweho n'inteko Nshingamategeko y'Ubwongereza (The Justice Committee appointed by the House of Commons) bwagaragaje ko abantu bafite imyaka y'amavuko kuva kuri cumi n'umunani (18) batarageza imyaka makumyabiri n'itanu (18 to 25 years) bari mu cyiciro cyabo cyihariye gitandukanye n'icy'abana ndetse n'icy'abantu bakuru bafite cyangwa barengeje imyaka 25.[7] Iki cyiciro cy'abantu bari hagati y'imyaka 18 na 25 aribo biswe "Young adults" imikorere y'ubwonko n'imiterereze byabo biba bigikura, bigira ingaruka ku igenamigambi ry'abo hamwe n'amahitamo yabo nk'uko byemejwe n'ubushakashatsi bwakozwe na The National Center for Biotechnology Information muri Leta zunze ubumwe za America busohoka ku rubuga https://www.ncbi.nlm.nih.gov/books/NBK284782/ rwa National Library of Medicine .[8]

[27] Urukiko rurasanga nubwo Nsengiyaremye Elie ahamwa n'icyaha kiremereye cyo kunywa no gucuruza ibiyobyabwenge bihambaye byo mu bwoko bw'urumogi, akaba atanacyemera kuko avuga ko icyaha yemera ari icyo kurunywa gusa, kuba aribwo bwa mbere akurikiranwe n'ubutabera kandi igihe yakoraga icyo cyaha akaba yari akiri muri icyo kigero cya young adults kuko yari afite imyaka 20, atarashoboraga kugira igenamigambi rihamye ry'ubuzima bwe; rusanga Nsengiyaremye Elie akwiye kugabanyiriza igihano yahawe kuko mu mpamvu zishobora koroshya icyaha zirimo no kuba uwakoze icyaha ari mu kigero cy'iyo myaka nk'uko byanashimangiwe n'Urukiko rw'Ikirenga mu rubanza Nº RS/INJUST/RP 00003/2019/SC rwaciwe kuwa 28/01/2022[9].

[28] Urukiko rurasanga kuba Nsengiyaremye nta kindi cyaha yigeze akurikiranwaho atafatwa nk'umuntu usanzwe ari umunyarugomo, ndetse akaba yarakoze icyaha afite imyaka 20 y'amavuko, akwiye kugabanyirizwa igihano yahawe cy'igifungo cy'imyakamakumyabiri (20) n'ihazabu ya miliyoni makumyabiri n'imwe (21,000,000Frw) yari yaraciwe kubera ko Urukiko Rukuru, Urugereko rwa Rwamagana mu rubanza rujuririrwa rutigeze rwita k' uko yanganaga igihe

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[5] Urubanza Nº RPAA 00039/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 02/07/2021 haburana Shakabatenda Jean de Dieu n'Ubushinjacyaha igika cya 37.

[6] Urubanza RPAA 00032/2019/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 28/02/2020 haburana Nzafashwanimana Jean de Dieu n'Ubushinjacyaha, igika cya 16-18

[7] "Research from a range of disciplines strongly supports the view that Young adults are a distinct group with needs that are different both from children under 18 and adults older than 25, underpinned by the developmental maturation process that takes place in this age group." House of Commons Justice Committee, The Treatment of Young Adults in the Criminal Justice System Seventh Report of Session 2016–17 (2016), HC 169, p.9.

[8]"Brain systems supporting motivational and socioemotional processing are still maturing in young adulthood, influencing a more developed prefrontal executive system capable of more sophisticated and effective planning and resulting in unique influences on decision making, such as adaptive choices or risk-taking behavior." NCBI, Young Adults in the 21st Century - Investing in the Health and Well-Being of Young Adults. Available online at https://www.ncbi.nlm.nih.gov/books/NBK284782/ , accessed on 16th Jan.2023

[9] izindi ngero z'impamvu zishobora koroshya icyaha, muri zo hakavugwamo kuba nta bindi byaha uwahamwe n'icyaha yakurikiranyweho mbere (les bons antécédents du coupable), imyaka y'uwakoze icyaha by'umwihariko ukigera mu myaka y'ubukure kuva kuri 18 kugeza kuri 21(jeune adulte de 18 à 21 ans)" Urubanza Nº RS/INJUST/RP 00003/2019/SC rwaciwe n'Urukiko rw'Ikirenga kuwa 28/01/2022, haburana Niyonsaba Eric n'Ubushinjacyaha igika cya 30.

yakoraga icyaha, kandi bimwe mubyo umucamanza agomba kwitaho atanga igihano, birimo n'imibereho bwite y'uwakoze icyaha urugero: ikigero cy'imyaka ye y'amavuko kikaba ari indi mpamvu nyoroshyacyaha nk'uko byasobanuwe haruguru.

[29] Rurasanga imihanire y'umuntu mukuru ariko umaze igihe gito avuye mu bwana/young adult ndetse n'iy'umuntu ukuze urengeje imyaka 25 (adult) ikwiye gutandukana mu rwego rwo gutanga ubutabera buboneye kuri buri muntu, hitawe no kuburemere bw'icyaha, ingaruka zacyo n'amahirwe y'uko uhanwe ashobora kugororwa (rehabilitation) agasubira mu muryango nyarwanda. Rurasanga guhana kimwe umuntu ukiva mu bwana cyangwa umaze igihe gito abuvuyemo/Young adult kimwe n'umuntu wari usanzwe ukuze/adult, bitaba ari ugutanga ubutabera ndetse byaba binyuranye n'ihame ryo guha umwihariko buri muntu ukurikiranweho icyaha igihe agiye guhanwa (indivudualisation of punishment[10]).

[30] Urukiko rw'Ubujurire rushingiye kuri iryo sesengura, rurasanga kuba Nsengiyaremye Elie yarakoze icyaha afite imyaka 20 y'amavuko, ubu akaba afite 24 byamubera impamvu nyoroshyacyaha, bityo akaba akwiye kugabanyirizwa igihano kikagera ku gifungo cy'imyaka icumi (10) n'ihazabu y'amafaranga miliyoni icumi (5,000,000Frw), cyane cyane ko hakiri amahirwe y'uko ashobora kugororwa, agasubira mu muryango nyarwanda agifite imbaraga zatuma akomeza gufatanya n'abandi kubaka igihugu akaba uw'ingirakamaro.

III. ICYEMEZO CY'URUKIKO

[31] Rwemeje ko ubujurire bwa Nsengiyaremye Elie bufite ishingiro kuri bimwe;

[32] Rwemeje ko urubanza n°RPA 00565/2019/HC/RWG rwaciwe n'Urukiko Rukuru; Urugereko rwa Rwamagana kuwa 15/02/2021, ruhindutse gusa ku birebana n'igihano;

[33] Ruhanishije Nsengiyaremye Elie igifungo cy'imyaka icumi (10) n'ihazabu y'amafaranga y'u Rwanda miliyoni eshanu (5,000,000Frw);

[34] Ruvuze ko amagarama y'urubanza aherera ku isanduku ya Leta.

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[10] From a legal perspective, the term of individualization expresses strictly the punishment adaptation in relation to individuality, personality of each offender." Cosmin Peneoaşum Judicial Individualization of Punishment in Special Situations. Judge's Role in these Cases, EIRP Proceedings, Vol 10 (2015). Available online at https://proceedings.univ-danubius.ro/index.php/eirp/article/view/1673/1657 , accessed on 18th Jan.2023 .