

DOREBABA

[Rwanda URUKIKO RUKURU – 2013HC – RCA 0051/13/HC/KIG (Hitimana, P.J.) 7 Werurwe 2013]

Amategeko agenga ububasha bw'Inkiko – Ikirego gisaba ko Inyandikompamo yanditswe n'abategetsi bo mu mahanga irangirizwa mu Rwanda –Inyandikompamo y'ishyingirwa – Kopi y'inyandiko z'irangamimerere zisabirwa kwemerwa kurangirizwa mu Rwanda n'impamvu zisabirwa irangizwa zigomba kuba ntaho zinyuranyije n'amategeko rusange ndemyagihugu kimwe n'amahame ashingiweho n'amategeko y'u Rwanda kandi zikanaba zigaragaza ko hakurikijwe amategeko y'igihugu zandikiwemo, zujuje ibyangombwa byose bigaragaza ko ari inyandiko mvaho – Itegeko Ngenga n° 51/2008 ryo ku wa 09/09/2008 rigena imiterere, imikorere n'ububasha by'inkiko nk'uko ryahinduwe kandi ryujujwe kugeza ubu, ingingo ya 92 – Itegeko n° 22/99 ryo kuwa 12/11/1999 ryuzuzwa igitabo cya mbere cy'urwunge rw'amategeko mbonezamubano kandi rishyiraho igice cya gatanu cyerekeye imicungire y'umutungo w'abashyingiranywe, impano n'izungura, ingingo ya 70.

Incamake y'ikibazo: Urega yatanze ikirego mu Rukiko Rukuru asaba ko inyandiko y'ishyingirwa ryabereye mu gihugu cyahozze cyitwa Zaire aricyo Repubulika Iharanira Demokarasi ya Kongo y'ubu hagati ye n'umugabo we Ntwari Gatari irangirizwa mu Rwanda. Impamvu ashingiraho abisaba n'uko umugabo we yitabye Imana bityo kwemera ko iyo nyandiko irangirizwa mu Rwanda bikaba byamufasha kubona uburenganzira busesuye bukomoka ku nshingano z'abashakanye amategeko amwemerera.

Incamake y'icyemezo: Inyandiko yiswe "Extrait du registre des déclarations de Mariage" ikwiye kurangirizwa mu Rwanda kuko impamvu urega ashingiraho abisaba ntaho zinyuranyije n'amategeko rusange ndemyagihugu kimwe n'amahame ashingiweho n'amategeko y'u Rwanda, kandi ikaba inagaragaza ko hakurikijwe amategeko y'igihugu yandikiwemo, yujuje ibyangombwa byose bigaragaza ko ari inyandiko mvaho. .

**Ikirego gifite ishingiro.
Amagarama aherereye ku rega.**

Amategeko yashingiweho:

Itegeko Ngenga n° 51/2008 ryo kuwa 09/09/2008 rigena imiterere, imikorere n'ububasha by'inkiko nk'uko ryahinduwe kandi ryujujwe kugeza ubu, ingingo ya 92.

Itegeko n° 22/99 ryo kuwa 12/11/1999 ryuzuzwa igitabo cya mbere cy'urwunge rw'amategeko mbonezamubano kandi rishyiraho igice cya gatanu cyerekeye imicungire y'umutungo w'abashyingiranywe, impano n'izungura, ingingo ya 70.

Nta manza zifashishijwe.

Urubanza

I. IMITERERE Y'URUBAZA

[1] Dorebaba Rugomboka yashyikirije uru Rukiko ikirego asaba ko inyandiko y'ishyingirwa hagati ya Dorebaba Rugomboka na Ntwari Gatari yakorewe mu cyahoze ari Zaire ubu yahindutse Repubulika Iharanira Demokarasi ya Congo kuwa 18/07/1987 (Extrait du registre des déclarations de mariage) irangirizwa mu Rwanda.

[2] Ikibazo kigomba gusuzumwa muri uru rubanza ni ukumenya niba hashingiwe kuri iyo ngingo ya 92 y'Itegeko Ngenga n° 51/2008 ryo ku wa 09/09/2008 rigena imiterere, imikorere n'ububasha by'inkiko, iyo nyandiko y'ishyingirwa hagati ya Dorebaba Rugomboka na Ntwari Gatari yakorewe mu cyahoze ari Zaire ubu yahindutse Repubulika Iharanira Demokarasi ya Congo kuwa 18/07/1987 (Extrait du registre des déclarations de mariage) ikwiye kwemererwa kurangizwa mu Rwanda.

II. ISESENGURA RY'IKIBAZO KIGIZE URUBANZA

[3] Maître Nkeza S. Clément uhagarariye Dorebaba Rugomboka muri uru rubanza asaba Urukiko kwemeza ko inyandiko yiswe “inyandiko y'ishyingirwa ryabaye hagati ya Dorebaba Rugomboka na Ntwari Gatari ryakorewe mu cyahoze ari Zaire ubu yahindutse Repubulika Iharanira Demokarasi ya Congo kuwa 18/07/1987 (Extrait du registre des déclarations de mariage)” ikwiriye kwemererwa kurangizwa mu Rwanda, ashingiye ku ngingo ya 92 y'Itegeko Ngenga n° 51/2008 ryo ku wa 09/09/2008 rigena imiterere, imikorere n'ububasha by'inkiko, agasobanura ko iyo nyandiko yakozwe igaragaza ko Dorebaba Rugomboka na Ntwari Gatari bashyingiranywe mu buryo bukurikije amategeko yo muri icyo gihugu cya RDC, ariko ubu Ntwari Gatari akaba yaritabye Imana kuwa 06/05/2012, kwemera ko iyo nyandiko irangirizwa mu Rwanda bikaba byafasha Dorebaba Rugomboka kubona uburenganzira busesuye bukomoka ku nshingano z'abashakanye amategeko amwemerera.

[4] Hakurikijwe ibivugwa mu ngingo ya 92 y'Itegeko Ngenga n° 51/2008 ryo ku wa 09/09/2008 rigena imiterere, imikorere n'ububasha by'inkiko nk'uko ryahinduwe kandi ryujijwe kugeza ubu, inyandiko zivugwa muri iyo ngingo zishobora kurangirizwa mu Rwanda ni “inyandikompamo zifite ikigaragaza ko zanditswe n'abategetsi bo mu mahanga” (actes authentiques en forme exécutoire qui ont été dressés par une autorité étrangère).

[5] Ingingo ya 92 y'itegeko ngenga ryavuzwe hejuru inateganya ko inyandikompamo zifite ikigaragaza ko zanditswe n'abategetsi bo mu mahanga zishobora kurangirizwa mu Rwanda n'Urukiko Rukuru, iyo zujuje ibyangombwa bikurikira:

- Iyo impamvu bazisabira irangizwa ntaho zinyuranije n'amategeko rusange ndemyagihugu kimwe n'amahame ashingiweho n'amategeko y'u Rwanda;
- Iyo hakurikijwe amategeko y'igihugu zandikiweho, zujuje ibyangombwa byose bigaragaza ko ari invaho.

[6] Urukiko rubona impamvu Dorebaba Rugomboka asabira irangizwa ry'iki cyangombwa, ari ukugira ngo agire uburenganzira nk'uware warashakanye na nyakwigendera Ntwari Gatari,

ubwo burenganzira bukaba bunateganijwe mu ngingo ya 70 y'itegeko ry'u Rwanda rifite n° 22/99 ryo kuwa 12/11/1999 ryuzuzwa igitabo cya mbere cy'urwunge rw'amategeko mbonezamubano kandi rishyiraho igice cya gatanu cyerekeye imicungire y'umutungo w'abashyiranywe, impano n'izungura, aho riteganywa mu gace karyo ka mbere ko iyo umwe mu bashyiranywe apfuye, usigaye asigarana umutungo wose akubahiriza inshingano yo kurera abana no gufasha ababyeyi ba nyakwigendera iyo babikeneye, iyo mpamvu rero bazisabira irangizwa ntaho zinyuranije n'amategeko rusange ndemyagihugu kimwe n'amahame ashingiweho n'amategeko y'u Rwanda.

[7] Urukiko runasanga inyandiko y'ishyirirwa hagati ya Dorebaba Rugomboka na Ntwari Gatari yakorewe mu gihugu cyahoze ari Zaïre ubu cyabaye Repubulika Iharanira Demokarasi ya Congo kuwa 18/07/1987 (Extrait du registre des déclarations de mariage) Dorebaba Rugomboka yifuza ko yarangirizwa mu Rwanda, ari inyandiko yandikiwe mu gihugu cya Repubulika Iharanira Demokarasi ya Kongo, yandikwa n'uwitwa Gumba Mwishabongo, Officier de l'état civil uhabwa ububasha bwo kuba uwo mutegetsi n'ingingo ya 76 na 78 y'itegeko ry'umuryango ryo muri icyo gihugu, uyu akaba afite ububasha bw'umwanditsi w'irangamimerere muri icyo gihugu cya RDC, kandi nk'uko ingingo ya 368 y'igitabo cy'amategeko agenga umuryamo muri icyo gihugu ibiteganywa imihango y'ubukwe ishobora gukorerwa mu muryango hakurikijwe umuco, ikanateganywa ko muri icyo gihe, umwanditsi w'irangamimerere abyandika akanabikorera icyemezo kibigaragaza (le mariage peut être célébré en famille selon les formalités prescrites par les coutumes. Dans ce cas, l'officier de l'état civil enregistre le mariage et dresse l'acte le constatant), kandi nkuko bigaragazwa n'iyi nyandiko akaba ari umwanditsi w'irangamimerere wayemeje.

[8] Runasanga iyo nyandiko iriho umukono wa Notaire w'Umujyi wa Goma wayemeje kuwa 24/12/2012, ndetse na Ambassade ya Repubulika Iharanira Demokarasi ya Kongo iri i Kigali irabyemeza kuwa 31/12/2012.

[9] Rushingiyeye ku bimaze kugaragazwa hejuru, rusanga inyandiko Dorebaba Rugomboka asabira kwemerwa kurangirizwa mu Rwanda, impanvu azisabira irangizwa ntaho zinyuranije n'amategeko rusange ndemyagihugu kimwe n'amahame ashingiweho n'amategeko y'u Rwanda, kandi zikanaba zigaragaza ko hakurikijwe amategeko y'igihugu zandikiwemo, zujuje ibyangombwa byose bigaragaza ko ari inyandiko mvaho, ari nayo mpamvu byemewe ko iyo nyandiko yiswe "Extrait du registre des déclarations de mariage" ikwiye kurangirizwa mu Rwanda.

III. ICYEMEZO CY'URUKIKO RUKURU

[10] Rwemeje kwakira ikirego cyatanzwe na Dorebaba Rugomboka kuko cyatanzwe mu buryo buhuje n'itegeko, rugisuzumye rusanga gifite ishingiro.

[11] Rwemeje ko icyemezo kigaragaza ishyingiranwa ryabaye hagati ya Dorebaba Rugomboka na Ntwari Gatari ryakorewe mu gihugu cyahoze ari Zaïre ubu cyahindutse Repubulika Iharanira Demokarasi ya Congo kuwa 18/07/1987 (Extrait du registre des déclarations de mariage) kirangirizwa mu Rwanda kuko cyujuje ibyangombwa biteganywa n'amategeko y'u Rwanda.

[12] Rutegetse Dorebaba Rugomboka kwishyura amagarama y'uru rubanza angana n'amafaranga y'u Rwanda ibihumbi 7.000Frw, agomba gukurwa mu yo yatanzeho ingwate arega.