REPUBULIKA Y'U RWANDA

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IMIRONGO YATANZWE MU MANZA ZACIWE N'URUKIKO RW'UBUJURIRE

Kigali, Nzeri 2022

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IJAMBO RY'IBANZE

Mu rwego rwo kubaka ubutabera bushingiye ku mirongo yatanzwe hagamijwe gufata abantu kimwe ku buryo abahuje ibibazo babona ibisubizo bisa no kwirinda imanza zitari ngombwa mu nkiko, Urukiko rw'Ubujurire ruzajya rubagezaho buri kwezi imirongo yagiye itangwa mu manza zaciwe.

Ababuranyi (Abavoka, Abashinjacyaha), abacamanza n'abashakashatsi mu nkiko, basabwe kujya bayisoma kugira ngo twese hamwe dufatanye guteza imbere no gushimangira uyu muco, wo gutanga ibisubizo bimwe ku bibazo bisa.

Tuboneyeho kandi gusaba ababuranyi (Abashinjacyaha n'Abavoka) kuburana bifashishije iyi mirongo, nk'ikimenyetso kitagibwaho impaka gihamya ukuri kw'ibyo bavuga, igihe basanze bihuje koko n'ibivugwa mu manza ziri muri iyi nyandiko.

Turasaba Abacamanza kwita kuri iyi mirongo mu manza baca tunabibutsa ko batemerewe kunyuranya nayo kimwe n'indi yatanzwe n'izindi nkiko uko zigenda zisumbana nk'uko biteganywa mu mabwiriza ya Perezida w'Urukiko rw'Ikirenga yo ku wa 15 Werurwe 2021.

Tuboneyeho kandi gukangurira ababuranyi ko igihe basanze haratanzwe umurongo batemeranya nawo ku kibazo runaka kandi bakaba bahatirwa kuwukurikiza hashingiwe ku mahame agenga imicire y'imanza zishingiye ku mirongo yatanzwe mu manza (Precedents), bajya bibuka kubiregera Urukiko rw'Ikirenga kugira ngo ruwuhindure nk'uko biteganywa n'ingingo ya 65 n'iya 73 y' Itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko. Naho igihe utarahinduka, ntacyo bimaze kuburana ushaka kumvikanisha ko utemeranya na wo imbere y'Urukiko ruri munsi y'urwawutanze.

Turabashimiye.

RUKUNDAKUVUGA François Régis
Perezida w'Urukiko rw'Ubujurire

I. IRIBURIRO

Aka gatabo gakubiyemo imirongo yatanzwe n'Urukiko rw'Ubujurire mu manza rwaciye mu kwezi kwa Nyakanga n'ukwa Kanama 2022. Iyo mirongo iri byiciro bikurikira:

✓ **IMANZA NSHINJABYAHA**

1. Icyaha cyo gusambanya umwana n'icyaha cyo gukoresha undi imibonano mpuzabitsina ku gahato (Imirongo 5)
2. Icyaha cy'ubwicanyi (Imirongo 4)
3. Icyaha cy'ikoresha ritemewe ry'ibiyobyabwenge n'urusobe rw'imiti ikoreshwa nkabyo (Imirongo 6);

✓ **IMANZA MBONEZAMUBANO**

1. Kutubahiriza amasezerano (Imirongo 4)
2. Imanza z'imisoro (Umurongo 1)
3. Ifatira na cyamunara (Umurongo 1)

II. IMANZA NSHINJABYAHA

1. ICYAHA CYO GUSAMBANYA UMWANA N'ICYAHA CYO GUKORESHA UNDI IMIBONANO MPUZABITSINA KU GAHATO

1. Gusambanya umwana utarageza ku myaka 14 - impamvu nyoroshyacyaha - kudahatirwa gutanga igifungo cya burundu

Urubanza rwasuzumwe: Urubanza Nº RPAA 00194/2021/CA rwaciwe ku wa 22/07/2022 rw'Ubushinjacyaha na NDAYISHIMIYE Emmanuel alias Shema.

Ibibazo byasuzumwe: Ese iyo hari impamvu nyoroshyacyaha uwahamwe n'icyaha cyo gusambanya umwana utarageza ku myaka 14 y'amavuko ashobora kudahabwa igihano cya burundu, akagabanyirizwa ibihano?

Ingingo y'itegeko umurongo ushingiyeho : Ingingo ya 4 Itegeko Nº 69/2019 ryo ku wa 08/11/2019 rihindura Itegeko Nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange iteganya ko Umuntu wese ukorera ku mwana kimwe mu bikorwa bishingiye ku gitsina bikurikira, aba akoze icyaha:

1º gushyira igitsina mu gitsina, mu kibuno cyangwa mu kanwa k'umwana;

2º (…)

(…) Iyo umuntu mukuru asambanyije umwana uri munsi y'imyaka cumi n'ine (14), igihano kiba igifungo cya burundu kidashobora kugabanywa kubera impamvu nyoroshyacyaha.

✓ Mu rubanza RS/INCONST/SPEC 00005/2020/CS- RS/INCONST/SPEC 00006/2020/CS rwaciwe ku wa 12/02/2020, haburana KABASINGA Florida na NIYOMUGABO Ntakirutimana na Leta y'u Rwanda, Urukiko rw'Ikirenga rwemeje

ko: «igika cya 3 cy'ingingo ya 133 y'Itegeko Nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, agace kavuga ko iyo gusambanya umwana byakorewe ku mwana uri munsi y'imyaka cumi n'ine (14), **igihano kiba igifungo cya burundu kidashobora kugabanywa kubera impamvu nyoroshyacyaha, kanyuranyije n'ingingo ya 29, n'iya 151 z'Itegeko Nshinga; ako gace kakaba nta gaciro gafite.**

Imvano y'ikibazo: Ubushinjacyaha bwaregeye Urukiko Rwisumbuye rwa Nyagayare NDAYISHIMIYE Emmanuel alias Shema bumukurikiranyeho icyaha cyo gusambanya umwana ufite imyaka 11, rumuhanisha igifungo cya burundu rushingiye ku kwemera kwe mu Bugenzacyaha, ubuhamya bw'uwahohotewe, imvugo ya nyina no ku cyemezo cya muganga. Yajuririye Urukiko Rukuru rwemeza ko nta gihindutse ku mikirize y'Urubanza. NDAYISHIMIYE Emmanuel alias Shema yatanze ubujurire bwa kabiri avuga ko yemera icyaha asaba kugabanyirizwa igihano. Urukiko rw'Ubujurire rwasanze ukwemera kwe ntacyo kwamumarira kuko ntacyo anenga urubanza yajuririye, ariko rushingiye ku mpamvu nyoroshyacyaha zijyanye n'uko ari **ubwa mbere akoze icyaha no kuba aribwo yari akiva mu bwana afite imyaka 20,** rushingiye no ku manza zitandukanye rwemeza ko agabanyirizwa igihano agahanishwa igifungo cy'imyaka 15 aho kuba igihano cya burundu yari yahanishijwe mu nkiko zabanje

.

Umurongo imanza zihuriyeho: Iyo Urukiko rusanze hari impamvu nyoroshyacyaha ku wahamwe n'icyaha cyo gusambanya umwana uri munsi y'imyaka 14 y'amavuko, rushobora kuzishingiraho rukamugabanyiriza igihano

Izindi manza zafashwemo uyu murongo:

❖ Urubanza Nº RPAA 00291/2020/CA rwaciwe ku wa 22/04/2022 rw'Ubushinjacyaha na ABAYISENGA Joseph. **Impamvu nyoroshyacyaha**

zashingiweho ni ukuba yaremeye icyaha akakicuza kuva agifatwa, no kuba ari ubwa mbere akurikiranyweho icyaha mu buryo buzwi, ahanishwa igifungo cy'imyaka 20 aho kuba igifungo cya burundu yari yarahanishijwe n'inkiko zabanje kubwo gusambanya umwana w'imwaka 10.

❖ Urubanza Nº RPAA 00046/2021/CA rwaciwe ku wa 22/07/2022 rw'Ubushinjacyaha na HARAGIRIMANA Jean Paul (Igika cya 18). **Impamvu nyoroshyacyaha yashingiweho ni ukuba yaremeye icyaha kuva agifatwa, kuba yari asanzwe atari umunyarugomo,** ahanishwa igifungo cy'imyaka 15 aho kuba igifungo cya burundu yari yarahanishijwe n'Urukiko rwabanje kubwo gusambanya umwana w'imyaka 11.

Urubanza ruyoboye izindi (Leading case): Urubanza ruyoboye izindi kuri iki kibazo ni urubanza RS/INCONST/SPEC 00005/2020/CS- RS/INCONST/ SPEC 00006/2020/CS rwaciwe ku wa 12/02/2020, haburana KABASINGA Florida na NIYOMUGABO Ntakirutimana na Leta y'u Rwanda kuko ari rwo rwemeje ko igika cya 3 cy'ingingo ya 133 y'Itegeko Nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, agace kavuga ko iyo gusambanya umwana byakorewe ku mwana uri munsi y'imyaka cumi n'ine (14), igihano kiba igifungo cya burundu kidashobora kugabanywa kubera impamvu nyoroshyacyaha, kanyuranyije n'ingingo ya 29, n'iya 151 z'Itegeko Nshinga; ko ako gace nta gaciro gafite.

2. Impamvu nyoroshyacyaha - kutabuzwa gutanga igihano kiri munsi y'igihano gito giteganywa n'itegeko.

Urubanza rwasuzumwe: Urubanza Nº RPAA 00131/2021/CA rwaciwe ku wa 22/07/2022 rw'Ubushinjacyaha na UWAYEZU Damien.

Ibibazo byasuzumwe: Ese iyo hari impamvu nyoroshyacyaha, Urukiko rushobora kugabanya igihano kugera munsi y'igihano gito giteganywa n'itegeko?

Ingingo y'itegeko umurongo ushingiyeho: Ingingo ya 4 y'Itegeko Nº 69/2019 ryo ku wa 08/11/2019 rihindura Itegeko Nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange iteganya ko Umuntu wese ukorera ku mwana kimwe mu bikorwa bishingiye ku gitsina bikurikira, aba akoze icyaha:

1º gushyira igitsina mu gitsina, mu kibuno cyangwa mu kanwa k'umwana;

2º (…)

(…) Iyo abihamijwe n'Urukiko, ahanishwa igifungo kitari munsi y'imyaka makumyabiri **(20) ariko kitarenze imyaka makumyabiri n'itanu (25).**

Imvano y'ikibazo: UWAYEZU Damien yakurikiranyweho icyaha cyo gusambanya umwana w'imyaka 17, yaburanye yemera icyaha Urukiko Rwisumbuye rumuha igifungo cy'imyaka 20, ajuririra icyo gihano, Urukiko Rukuru rushimangira igihano cyatanzwe n'Urukiko rubanza. UWAYEZU Damien yajuriye bwa kabiri, mu Rukiko rw'Ubujurire, Urukiko rushingiye ku kuba uregwa yaremeye icyaha kuva agifatwa, kuba ari ubwa mbere akoze icyaha mu buryo buzwi no kuba atari asanzwe arangwa n'imyitwarire mibi rumuhanisha igifungo cy'imyaka 10 aho kuba imyaka 20 yari yarahanishijwe n'Urukiko rwabanje.

Umurongo imanza zihuriyeho: Iyo Urukiko rusanze hari impamvu nyoroshyacyaha igihano gishobora kugabanywa kugera munsi y'igihano gito giteganywa n'itegeko iyo intera iri hagati y'igihano gito (minimum) n'ikiri hejuru (maximum) ari ndende; naho mu gihe iyo ntera ari nto, umucamanza ashobora kugabanya akagera munsi y'igihano gito giteganywa n'itegeko hitawe ku buremere bw'icyaha n'ingaruka cyateje.

Izindi manza zafashwemo uyu murongo:

❖ Urubanza Nº RPAA 00032/2019/CA rwaciwe ku wa 28/02/2020 rw'Ubushinjacyaha na NZAFASHWANIMANA Jean de Dieu. **Impamvu nyoroshyacyaha** yashingiweho ni ukuba yaremeye icyaha agifatwa akaba mu bujurire bwa kabiri agaruye umutima akongera kucyemera, kuba asanzwe atari umunyarugomo no kuba ari ubwa mbere akoze icyaha, ahanishwa igifungo cy'imyaka 10 aho kuba igifungo cy'imyaka 25 yari yarahanishijwe. (igika cya 18).

❖ Urubanza Nº RPAA 00013/2020/CA rwaciwe ku wa 31/12/2021 rw'Ubushinjacyaha na HABIYAKARE Olivier. **Impamvu nyoroshyacyaha yashingiweho** ni ukuba yaremeye icyaha akakicuza kuva agifatwa, kuba aribwo yari akiva mu bwana kuko yari afite imyaka 19, kuba ari ubwa mbere akoze icyaha mu buryo buzwi, ahanishwa igifungo cy'imyaka 10 aho kuba imyaka 20 yahanishijwe ku rwego rubanza. (igika cya 22).

❖ Urubanza N° RPAA 00384/2021/CA rwaciwe ku wa 29/10/2021 rw'Ubushinjacyaha na NSENGIYAREMYE Jean Paul. **Impamvu nyoroshyacyaha yashingiweho** ni ukuba, uregwa asanzwe atari umunyarugomo no kuba ari ubwa

mbere akoze icyaha, ahanishwa igifungo cy'imyaka 10 aho kuba imyaka 20 yahanishijwe ku rwego rubanza (igika cya 25).

❖ Urubanza Nº RPAA 00205/2020/CA rwaciwe ku wa 12/11/2021 rw'Ubushinjacyaha na BARAKAGWIRA Gilbert. **Impamvu nyoroshyacyaha** yashingiweho ni ukuba yaremeye icyaha akakicuza kuva agifatwa, no kuba aribwo yari akiva mu bwana kuko yari afite imyaka 19, agasambanya umwana w'imyaka 16, ahanishwa igifungo cy'imyaka 10 aho kuba 20 yahanishijwe ku rwego rubanza.

❖ Urubanza Nº RPAA 00174/2021/CA rwaciwe ku wa 18/03/2022 rw'Ubushinjacyaha na DUSABIMANA Vivens. **Impamvu nyoroshyacyaha** yashingiweho ni ukuba yaremeye icyaha akakicuza kuva agifatwa, no kuba aribwo yari akiva mu bwana kuko yari afite imyaka 20, agasambanya umwana w'imyaka 17, ahanishwa igifungo cy'imyaka 10 aho kuba imyaka 20 yari yarahanishijwe mu Rukiko rubanza.

❖ Urubanza Nº RPAA 00171/2020/CA rwaciwe ku wa 27/04/2022 rw'Ubushinjacyaha na MUTSINZI Jean Pierre. **Impamvu nyoroshyacyaha** yashingiweho ni ukuba yaremeye icyaha akakicuza kuva agifatwa, no kuba ari ubwa mbere akurikiranyweho icyaha mu buryo buzwi, ahanishwa igifungo cy'imyaka 10 aho kuba igifungo cy'imyaka 20 yari yarahanishijwe n'inkiko zabanjre ku mpamvu yo gusambanya umwana w'imwaka 15.

❖ Urubanza Nº RPAA 00283/2020/CA rwaciwe ku wa 22/04/2022 rw'Ubushinjacyaha na NZAMURAMBAHO David. **Impamvu nyoroshyacyaha** yashingiweho ni ukuba yaremeye icyaha akakicuza kuva agifatwa, no kuba ari ubwa mbere akurikiranyweho icyaha mu buryo buzwi, ahanishwa igifungo cy'imyaka 10

aho kuba igifungo cy'imyaka 25 yari yarahanishijwe n'inkiko zibanza kubwo gusambanya umwana w'imwaka 17, bigakurikirwa no kubana bakaba bari bafitanye umwana.

❖ Urubanza Nº RPAA 00167/2020/CA rwaciwe ku wa 25/03/2022 rw'Ubushinjacyaha na KWIZERA Etienne. **Impamvu nyoroshyacyaha** yashingiweho ni ukuba yaremeye icyaha akakicuza kuva agifatwa, no kuba ikigero yarimo akora icyaha kidatandukanye cyane n'icy'uwahohotewe kuko yari afite imyaka 23 agasambanya umwana w'imyaka 16, ahabwa igifungo cy'imyaka 10 aho kuba igifungo cya burundu yari yarahanishijwe n'inkiko zibanza.

❖ Urubanza Nº RPAA 00641/2021/CA rwaciwe ku wa 21/01/2022 rw'Ubushinacyaha na UWIMANA Emile. **Impamvu nyoroshyacyaha** yashingiweho ni ukuba yaremeye icyaha akakicuza kuva agifatwa, kuba ari ubwambere yari akoze icyaha mu buryo buzwi no kuba ari bwo yari akiva mu bwana kuko yari afite imyaka 22, ahanishwa igifungo cy'imyaka 12 aho kuba igifungo cy'imyaka 20 yari yarahanishijwe n'Urukiko rubanza.

❖ Urubanza Nº RPAA 00105/2020/CA rwaciwe ku wa 30/09/2021, haburana UWIMANA Pascal n'Ubushinjacyaha. **Impamvu nyoroshyacyaha** yashingiweho ni ukuba yaremeye icyaha akakicuza kuva agifatwa, kuba yari asanzwe atari umunyarugomo, ahabwa igifungo cy'imyaka 10 aho kuba igifungo cy'imyaka 25 yari yarahanishijwe n'Urukiko rubanza kubwo gusambanya umwana w'imyaka 16 bigakurikirwa no kubana bakanabyarana umwana.

❖ Urubanza Nº RPAA 00434/2021/CA rwaciwe ku wa 15/07/2022 rw'Ubushinjacyaha na TUYISHIME Moise. **Impamvu nyoroshyacyaha**

yashingiweho ni ukuba yaremeye icyaha kuva agifatwa, kuba yari asanzwe atari umunyarugomo, kuba ari bwo yari akiva mu bwana kuko yari afite 19, ahanishwa igifungo cy'imyaka 10 aho kuba igifungo cy'imyaka 20 yari yarahanishijwe n'Urukiko rubanza kubwo usambanya umwana w'imyaka 15.

❖ Urubanza Nº RPAA 00039/2021/CA rwaciwe ku wa 02/07/2021 rw'Ubushinjacyaha na SHAKABATENDA Jean de Dieu. **Impamvu nyoroshyacyaha** Urukiko rwashingiyeho ni ijyanye no kuba ingano nto y'urumogi yahamijwe gucuruza (4boules) no kuba ari ubwa mbere akoze icyaha bizwi, rwemeza ko agabanyirizwa igihano agahabwa igifungo cy'imaka cy'imyaka 8 n'ihazabu ya 5.000.000 Frw, aho kuba igifungo cy'imyaka 25 n'ihazabu ya 21.000.000 Frw yari yahanishijwe n'inkiko zabanje

❖ Urubanza Nº RPAA 00031/2021/CA rwaciwe ku wa 28/10/2021 rw'Ubushinjacyaha na BAHATI Françoise. **Impamvu nyoroshyacyaha** zashingiweho ni ukuba yaremeye icyaha kuva agifatwa akakicuza, no kuba ari ubwambere akoze icyaha bizwi. Ahabwa igifungo cy'imyaka 10 n'ihazabu ya 5.000.000 Frw, aho kuba igifungo cy'icy'imyaka 25 n'ihazabu ya 21.000.000 Frw yari yahanishijwe n'inkiko zabanje (igika cya 42)

❖ Urubanza Nº RPAA 00269/2021/CA rwaciwe ku wa 20/05/2020 rw'Ubushinjacyaha na DUSENGIMANA Martin **Impamvu nyoroshyacyaha** zashingiweho ni ukuba yaremeye icyaha kuva agifatwa akakicuza, no kuba ari ubwambere akoze icyaha bizwi. Ahanishwa igifungo cy'imyaka 15, aho kuba igifungo cy'imyaka 20 yari yahanishijwe n'Urukiko rubanza kubwo guhamwa n'icyaha cyo gucuruza urumogi (Yafatanywe udupfunyika 34)

❖ Urubanza Nº RPAA 00118/2020/CA rwaciwe ku wa 20/05/2022 rw'Ubushinjacyaha na MUKANTAMBARA Benitha, **Impamvu nyoroshyacyaha** zashingiweho ni ukuba yaremeye icyaha kuva agifatwa akakicuza, no kuba ari ubwambere akoze icyaha bizwi. Ahanishwa igifungo cy'imyaka 10 n'ihazabu ya 5.000.000 Frw, aho kuba igifungo cy'imyaka 20 n'ihazabu ya 20.000.000 Frw yari yahanishijwe n'Urukiko rubanza.

❖ Urubanza Nº RPAA 00202/2020/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 20/05/2022, rw'Ubushinjacyaha na HAVUGIMANA Valens, **Impamvu nyoroshyacyaha** zashingiweho ni ukuba yaremeye icyaha kuva agifatwa akakicuza, no kuba ari ubwambere akoze icyaha bizwi no kuba nta ngaruka zikomeye icyaha cyateje. Ahanishwa igifungo cy'imyaka 10 n'ihazabu ya 5.000.000 Frw, aho kuba igifungo cy'imyaka 25 n'ihazabu ya 20.000.000 Frw yari yahanishijwe n'inkiko zabanje, ku bwo guhamwa n'icyaha cyo gutunda urumogi aho yafatanwe ibiro 2 n'udupfunyika 5.

❖ Urubvanza Nº RPAA 00225/2021/CA, rwaciwe ku wa 19/07/2022 Ubushinjacyaha buburana na UKWISHAKA Claude, **Impamvu nyoroshyacyaha** zashingiweho ni ukuba yaremeye icyaha kuva agifatwa akakicuza, no kuba ari ubwambere akoze icyaha bizwi nta n'indi myitwarire mubi yamuranze. Ahanishwa igifungo cy'imyaka 10 n'ihazabu ya 10.000.000 Frw, aho kuba igifungo cy'imyaka 25 n'ihazabu ya 10.000.000 Frw yari yahanishijwe n'Urukiko rubanza rwamuhamije icyaha cyo gucuruza urumogi aho yafatanye udupfunyika 100. (igika cya 31)

❖ Urubanza N° RPAA 00091/2021/CA, rwaciwe ku wa 19/07/2022 rw'Ubushinjacyaha na HAKIZIMANA Gilbert, **Impamvu nyoroshyacyaha** zashingiweho ni ukuba ari ubwambere akoze icyaha bizwi kuba nta myitwarire mibi

yari asanzwe azwiho no kuba yarafatanywe ingano nto y'urumogi yari atangiye gucuruza (udupfunyika 4). Ahanishwa igifungo cy'imyaka 10 n'ihazabu ya 10.000.000 Frw, aho kuba igifungo cy'imyaka 20 n'ihazabu ya 20.000.000 Frw yari yahanishijwe n'inkiko zabanje (Igika cya 32)

❖ Urubanza Nº RPAA 00273/2021/CA rwaciwe ku wa 15/07/2022 rw'Ubushinjacyaha na MUBARAKA Eduine, **Impamvu nyoroshyacyaha** zashingiweho ni ukuba yaremeye icyaha kuva agifatwa akakicuza. Ahanishwa igifungo cy'imyaka 15 n'ihazabu ya 10.000.000 Frw, aho kuba igifungo cy'imyaka 25 n'ihazabu ya 20.000.000 Frw yari yahanishijwe n'inkiko zabanje (Igika cya 19)

Urubanza ruyoboye izindi (Leading case): Urubanza rugaragara mu manza zitandukanye ko ruyoboye izindi ni Urubanza Nº RPAA 00032/2019/CA rwaciwe ku wa 28/02/2020 rw'Ubushinjacyaha na NZAFASHWANIMANA Jean de Dieu kuko arirwo rwafashwemo bwa mbere icyemezo kigabanya igihano kugera munsi y'igihano gito giteganywa n'amategeko.

3. Ukwemera icyaha bwa mbere mu bujurire - ntibigirira akamaro uregwa

Urubanza rwasuzumwe: Urubanza Nº RPAA 00048/2021/CA rwaciwe ku wa 22/07/2022 haburana MUNYEMANA Eric alias Nyinya (Igika cya 22)

Ibibazo byasuzumwe: Ukwemera icyaha bwa mbere mu bujurire byaba impamvu nyoroshyacyaha yagirira akamaro uregwa?

Ingingo y'itegeko umurongo ushingiyeho:

- ✓ Ingingo ya 59, agace ka mbere 1˚ n'aka 3˚, y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange; Mu gace kayo ka mbere (1˚), iyo ngingo iteganya 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''*. Agace kayo ka gatatu (3˚) iteganya ko*: "Umucamanza ashobora kugabanya ibihano nk'iyo ushinjwa, mu ntangiriro z'iburanisha ku rwego rwa mbere, ushinjwa yireze akemera icyaha mu buryo budashidikanywaho.*

- ✓ Ingingo ya 183, agace ka gatanu n'aka gatandatu 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, ugizwe n'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".*

Imvano y'ikibazo: MUNYEMANA Eric alias Nyinya yakurikiranyweho icyaha cyo gusambanya umwana w'imyaka 15, mu Rukiko Rwisumbuye aburana ahakana icyaha, Urukiko nyuma yo kukimuhamya rumuhanisha igifungo cy'imyaka 20, yajuririye Urukiko Rukuru aburana yemera icyaha yicuza anagisabira imbabazi, Urukiko rubishingiraho rumuhanisha igifungo cy'imyaka 15. Yajuriye bwa kabiri mu Rukiko rw'Ubujurire mu myanzuro ye agaragaza ko ahakana icyaha ariko mu iburanisha ndetse no mu myanzuro y'inyongera aburana yemera icyaha yicuza anagisabira imbabazi ariko Urukiko ntirwabiha ishingiro rwemeza ko ntagihindutse ku mikirize y'Urukiko rubanza.

Umurongo imanza zihuriyeho: Kwemera icyaha bwa mbere mu bujurire, ntibigira akamaro uregwa kuko ujurira aba azanye ingingo nshya ataburanishije mu nkiko zibanza kandi umucamanza w'ubujurire afite gusa inshingano yo gukosora amakosa yaba yarakozwe n'izo nkiko.

Izindi manza zafashwemo uyu murongo:

- ❖ Urubanza Nº RPA GEN 00004/2019/CA rwaciwe ku wa 07/05/2021 rw'Ubushinjacyaha na MUNYAGISHALI Bernard (igika cya 70)
- ❖ Urubanza Nº RPAA 00028/2020/CA rwaciwe ku wa 27/10/2021 rw'Ubushinjacyaha na NIYONAGIZE Amos (igika cya 14)
- ❖ Urubanza Nº RPAA 00074/2020/CA rwaciwe ku wa 21/01/2022 rw'Ubushinjacyaha na BISUBIREHO Egide (igika cya 17)
- ❖ Urubanza Nº RPAA 00135/2020/CA rwaciwe ku wa 28/01/2022 rw'Ubushinjacyaha na NDAYIZEYE William (igika para.19)
- ❖ Urubanza Nº RPAA 00266/2021/CA rwaciwe ku wa 17/05/2022 rw'Ubushinjacyaha na BARAKAGIRA
- ❖ Urubanza Nº RPAA 00168/2020/CA rwaciwe ku wa 22/04/2022 rw'Ubushinjacyaha na MANZI Fred
- ❖ Urubanza Nº RPAA 00135/2020/CA rw'Ubushinjacyaha na HABYARIMANA Evariste rwaciwe ku wa 30/04/2021 (ibika bya 16-20)
- ❖ Urubanza Nº RPAA 00048/2020/CA rw'Ubushinjacyaha na BIMENYIMANA Jean Paul rwaciwe n'Urukiko rw'Ubujurire ku wa 26/05/2022
- ❖ Urubanza Nº RPAA 00054/2020/CA rw'Ubushinjacyaha na MAFETERI SAFARI Eric rwaciwe n'Urukiko rw'Ubujurire ku wa 11/06/2021 (igika cya 25)

❖ Urubanza Nº RPAA 00402/2022/CA rw'Ubushinjacyaha na NDAHAYO Aimable rwaciwe n'Urukiko rw'Ubujurire ku wa 27/05/2022

❖ Urubanza Nº RPAA 00323/2020/CA rw'Ubushinjacyaha na NDINABO Eric rwaciwe n'Urukiko rw'Ubujurire ku wa 20/05/2022

❖ Urubanza Nº RPAA 00213/2020/CA rw'Ubushinjacyaha na HARERIMANA Deo rwaciwe n'Urukiko rw'Ubujurire ku wa 20/05/2022

❖ Urubanza Nº RPAA 00357/2020/CA rw'Ubushinjacyaha na HABIYAMBERE Justin rwaciwe n'Urukiko rw'Ubujurire ku wa 22/04/2022

❖ Urubanza Nº RPAA 00165/2020/CA rw'Ubushinjacyaha na HATUNGIMANA Théogène rwaciwe n'Urukiko rw'Ubujurire ku wa 30/05/2022

❖ Urubanza Nº RPAA 00249/2021/CA rwaciwe ku wa 29/07/2022 rw'Ubushinjacyaha na BARIBANE Réverien

Urubanza ruyoboye izindi (Leading case): Urubanza ruyoboye izindi ni urubanza Nº RPAA 00048/2020/CA rwaciwe ku wa 26/05/2022 rw'Ubushinjacyaha na BIMENYIMANA Jean Paul kubera ko n'ubwo rwaciwe nyuma, nirwo rwasobanuye neza ibiteganywa n'ingingo ya 59, agace ka mbere 1˚ n'aka 3˚, y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu (Ryavuzwe haruguru) runasobanura impamvu hadakwiye gukomeza gukurikiza umurongo watanzwe mu zindi manza zaciwe mbere zashingiraga ku itegeko rya kera zirimo:

✓ Urubanza Nº RPA 0282/08/2008/CS rwaciwe ku wa 12/03/2010 rw'Ubushinjacyaha na NYIRANGONDO Virginie

✓ Urubanza Nº RPAA 0124/09/SC rwaciwe ku wa 01/06/2012 rw'Ubushinjacyaha na TWIZEYIMANA Isaie

- ✓ Urubanza Nº RPA 0246/09/CS rw'Ubushinjacyaha na Mukankusi Victoire rwaciwe ku wa 14/12/2012

- ✓ Urubanza Nº RPAA 0024/14/CS rwaciwe ku wa 19/05/2017 rw'Ubushinjacyaha na RURAMUGARUYE Eric

- ✓ Urubanza Nº RPAA 00194/2021/CA rwaciwe ku wa 22/07/2022 rw'Ubushinjacyaha na NDAYISHIMIYE Emmanuel alias Shema (igika cya 18) Aho muri izi manza hari haremejwe ko: «**nta gihe ntarengwa cyo kwemera icyaha nk'impamvu nyoroshyacyaha».**

4. Kugabanya igihano mu bujurire - impamvu z'ubujurire nta shingiro - ntakibuza umucamanza kugena igihano gihwanye n'uburemere bw'icyaha

Urubanza rwasuzumwe : Urubanza Nº RPAA 00194/2021/CA rwaciwe ku wa 22/07/2022 rw'Ubushinjacyaha na NDAYISHIMIYE Emmanuel alias Shema

Ikibazo cyasuzumwe: Ese Urukiko rushobora kugabanya igihano impamvu z'ubujurire zitahawe ishingiro ku bijyanye n'imikorere y'icyaha ?

Ingingo y'itegeko umurongo ushingiyeho: Ingingo ya 49, igika cya mbere y'Itegeko n° 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»*

Imvano y'ikibazo: *NDAYISHIMIYE Emmanuel yakurikiranywe n'inkiko ku cyaha cyo gusambanya umwana w'imyaka 11. Mu Rukiko Rwisumbuye no mu Rukiko Rukuru Uregwa yaburanye ahakana icyaha yari yaremeye mu Bushinjacyaha, urukiko Rwisumbuye rumuhanisha igifungo cya burundu kinemezwa n'urukiko Rukuru.*

NDAYISHIMIYE Emmanuel yatanze Ubujurire bwa kabiri avuga ko impamvu ajuriye agamije kwemera icyaha mu buryo budashidikanywaho ndetse akanagisabira imbabazi. Urukiko rusanga kuba NDAYISHIMIYE Emmanuel ntacyo anenga urubanza ajuririra, bituma ubujurire bwe budahabwa ishingiro.

Urukiko ariko rwasanze nubwo yakoze icyaha gikomeye cyo gusambanya umwana ufite imyaka 11 ntacyabuza ko agabanyirizwa igihano hashingiwe ku mpamvu nyororashyacyaha ijyanye no kuba ari ubwambere akoze icyaha no kuba yarakoze icyaha aribwo akiva mu busore bityo ahanishwa igifungo cy'imyaka 15 aho kuba igifungo cya burundu yahawe n'Urukiko Rukuru.

Umurongo imanza zihuriyeho: Kwemera icyaha bwa mbere mu bujurire bwa kabiri, ntibyaba impamvu nyoroshyacyaha, kuko uwajuriye ntacyo aba anenga urubanza yajuririye. Urukiko ariko nta cyabuza ko rugabanyiriza igihano uregwa hagamijwe gutanga igihano gihwanye n'uburemere bw'icyaha kabone n'ubwo iby'igihano byaba bitaburanyweho

Izindi manza zafashwemo uyu murongo

❖ Urubanza Nº RPAA 00069/2021/CA rwaciwe ku wa 28/07/2022 rw'Ubushinjacyaha na NYIRANZEYIMANA Odette. Muri uru rubanza, Urukiko rwasanze ukwemera icyaha k'uregwa mu bujurire ntacyo byamumarira ariko rushingiye ku kuba ubwinjiracyaha yakoze bwo kwica umugabo we nta ngaruka zikomeye byateje kuko uwo yashakaga kwicisha atapfuye kandi abagombaga

kumwica nta gikomere cyo ku mubiri bamuteye, rumuhanisha igifungo cy'imyaka 10 aho kuba igifungo cy'imyaka 25 yari yahanishijwe n'Urukiko rubanza.

- Urubanza Nº RPAA 00039/2021/CA rwaciwe ku wa 02/07/2021 rw'Ubushinjacyaha na SHAKABATENDA Jean de Dieu. Impamvu ze z'ubujurire zijyanye no kwemeza ko urumogi yafatanywe rwari urwo kunywa aho kuba urwo gucuruza (…) ntizahawe ishingiro ariko hashingiwe ku kuba yarafatanywe udupfunyika 4 gusa tw'urumogi no kuba ari ubwa mbere akoze icyaha bizwi, rwemeza ko agabanyirizwa igihano agahabwa igifungo cy'imaka cy'imyaka umunani (8) n'ihazabu ya 5.000.000 Frw, aho kuba igifungo cy'imyaka 25 n'ihazabu ya 21.000.000 Frw yari yahanishijwe n'inkiko zabanje.

5. Kwemera icyaha mu iperereza - Kugihakana mu Rukiko ubwabyo ntibitesha agaciro uko kwemera

Urubanza rwasuzumwe: Urubanza Nº RPAA 00202/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 22/07/2022 haburana Ubushinjacyaha na NSENGIMANA Alphonse bita Gatera (Igika cya 16)

Ikibazo cyasuzumwe: Ese kuba uregwa ahakanye icyaha mu Rukiko bitesha agaciro ibyo yemeye mu rwego rw'iperereza cyangwa mu Bushinjacyaha?

Imvano y'ikibazo: NSENGIMANA Alphonse bita Gatera yakurikiranyweho icyaha cyo gusambanya umwana w'imyaka 6, mu Rukiko Rwisumbuye yaburanye ahakana icyaha ariko yari yaracyemeye mu Bugenzacyaha, nyuma yo gusanga kimuhama Urukiko rwamuhanishije igifungo cya burundu. Yajuririye Urukiko Rukiko avuga ko yahamijwe icyaha atakoze rwemeza ko nta gihindutse mu bujurire.

NSENGIMANA Alphonse bita Gatera yajuriye bwa kabiri avuga ko inkiko zibanza zamuhamije icyaha atakoze. Urukiko rushingiye ku mirongo yatanze mu manza zitandukanye no ku nyandiko z'abahanga rwemeza ko nta kosa Urukiko rubanza rwakoze mu kumuhamya icyaha rwemeza ko igifungo cya burundu yahawe ku rwego rubanza gihamyeho.

Umurongo watanzwe: Umucamanza ntategetswe gushingira ku mvugo ihakana icyaha mu Rukiko nyamara ushinjwa yaracyemeye mu nzego z'ikurikiranacyaha. Umucamanza ashobora gushingira ku mvugo yavugiwe mu nzego z'ikurikiranacyaha iyo asanze arizo zihuje n'ukuri kw'ibyabaye kandi zifite ibindi bimenyetso bizunganira.

Izindi manza zafashwemo uyu murongo

❖ Urubanza Nº RPA 0010/ 06/CS - RPA 0011/06/CS - RPA 0012/06/CS, rwaciwe ku wa 18/07/2008, rw'Ubushinjacyaha na Sgt NTAGANIRA na bagenzi be (igika cya 46)

❖ Urubanza Nº RPAA 0029/13/CS rwaciwe ku wa 10/02/2017 rw'Ubushinjacyaha na HABIMANA Aimable alias Gahinja

❖ Urubanza N° RPAA 00091/2021/CA, rwaciwe ku wa 19/07/2022 rw'Ubushinjacyaha na Hakizimana Gilbert (igika cya 24)

❖ Urubanza Nº RPAA 00436/ 2020/CA, rwaciwe ku wa 28/06/2022 rw'Ubushinjacyaha na AHIMPEREYE NDEZE François (igika cya 19)

Ibitabo by'abahanga: Michel Franchimont, in Manuel de Procédure Pénale1, Ed. Collection Scientifique de la Faculté de Droit de Liège, 1989, p. 772: *«Le juge de fond apprécie souverainement la sincérité d'un aveu fait par le prévenu au cours de*

l'instruction préparatoire, même quand cet aveu a été ultérieurement rétracté devant le tribunal».

Urubanza ruyoboye izindi (Leading case): Ni Urubanza Nº RPA 0010/ 06/CS - RPA 0011/06/CS - RPA 0012/06/CS, rwaciwe ku wa 18/07/2008, rw'Ubushinjacyaha na Sgt NTAGANIRA na bagenzi be kuko arirwo rwanyuma rwaciwe mbere n'Urukiko rw'Ikirenga rukanatangazwa.

2. ICYAHA CY'UBWICANYI

1. Kwemera impamvu nyoroshyacyaha - kutagabanya igihano - Urukiko ntirutegetswe kugabanya igihano niyo rwaba rwemeye impamvu nyorashyacyaha

Urubanza rwasuzumwe: Urubanza Nº RPAA 00312/2021/CA rwaciwe ku wa 29/07/2022 rw'Ubushinjacyaha na MBONABUCYA Donatien (igika cya 20).

Ibibazo byasuzumwe: Ese igihe cyose iyo hari impamvu nyoroshyacyaha Urukiko rutegetswe kuyishingiraho rugabanyiriza uregwa ibihano?

Ingingo y'itegeko umurongo ushingiyeho: Ingingo ya 49, igika cya mbere y'Itegeko n° 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»*

Imvano y'ikibazo : Muri uru rubanza Urukiko rwasanze nubwo uregwa yemera icyaha akanagisabira imbabazi ariko nta kosa Urukiko Rukuru rwakoze ryo kwanga kugabanyiriza MBONABUCYA Donatien igihano, harebwe ubugome bukabije

yakoranye icyaha cyo kwica AYINKAMIYE Claudine birimo no kuba nyuma yo kumwica yaramutwitse (…) rwemeza ko igihano cya burundu yahawe n'Urukiko Rukuru gikwiranye n'icyaha yakoze.

Umurongo imanza zihuriyeho: Urukiko ntirutegetswe kugabanya igihano niyo hari impamvu nyoroshyacyaha, ahubwo rugena igihano mu bushishozi bwarwo rurebye imikorere y'icyaha uregwa akurikiranyweho cyangwa uburyo cyakozwemo.

Izindi manza zafashwemo uyu murongo

- ❖ Urubanza Nº RPA 0282/08/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 12/03/2010 rw'Ubushinjacyaha na NYIRANGONDO Virginie, (Icyegeranyo cy'ibyemezo by'inkiko, Igitabo cya mbere, nº 8, Mutarama 2011, page 21-22)
- ❖ Urubanza Nº RPAA 0021/14/CS-RPAA 0022/14/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 13/10/2017, rw'Ubushinjacyaha na NTABANGANYIMANA Félicien n'undi, (igika cya 14)
- ❖ Urubanza Nº RPAA 0024/14/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 19/05/2017, rw'Ubushinjacyaha na RURAMUGARUYE Eric (Igika cya 15)
- ❖ Urubanza Nº RPA 0255/13/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 21/04/2017, rw'Ubushinjacyaha na UWIZEYE Eustache (igika cya 16)
- ❖ Urubanza Nº RPA 0246/09/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 14/12/2012 rw'Ubushinjacyaha na MUKANKUSI Victoire
- ❖ Urubanza Nº RPAA 0021/14/CS-RPAA 0022/14/CS rwaciwe n'Urukiko rw'ikirenga ku wa 13/10/2017, rw'Ubushinjacyaha na UZABAKIRIHO
- ❖ Urubanza Nº RPA 0047/11/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 27/03/2015, rw'Ubushinjacyaha na NSHUTIRAKIZA Narcisse

- ❖ Urubanza Nº RPAA 00381/2020/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 18/03/2022, rw'Ubushinjacyaha na MUSANGAMFURA
- ❖ Urubanza Nº RPAA 00363/2020/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 29/04/2022, rw'Ubushinjacyaha na SIBOMANA Damascène
- ❖ Urubanza Nº RPAA 00353/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 29/07/2022 rw'Ubushinjacyaha na BIRIMIMANA Jean Bosco (igika cya 19);
- ❖ Urubanza Nº RPAA 00362/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 19/07/2022 rw'Ubushinjacyaha na MUKAKINANI Claudine (igika cya 27)

Urubanza ruyoboye izindi (Leading case): Urubanza ruyoboye izindi ni urubanza Nº RPAA 0021/14/CS- Nº RPAA 0022/14/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 13/10/2017 rw'Ubushinjacyaha na UZABAKIRIHO (kuko arirwo rwaciwe nyuma rucibwa n'Urukiko rw'Ikirenga kandi rukaba rwaratoranyijwe rukanatangazwa mu cyegeranyo cy'ibyemezo by'Inkiko nk'Urutanga umurongo kuri iki kibazo ({2018} 4 RLR)

2. Ubuhamya bwemewe - ubuhamyamya butanzwe n'abakorewe icyaha n'abo bafitanye isano - Urukiko nirwo rusuzuma ireme ry'ubuhamya rushingiye ku bumenyi bw'ababutanga n'uburyo basobanura ibyo biboneye cyangwa bumvise, rukabigereranya n'ibindi bimenyetso

Urubanza rwasuzumwe: Urubanza Nº RPAA 00268/2021/CA, rwaciwe ku wa 29/07/2022 rw'Ubushinjacyaha na NTAKIRUTIMANA Martin

Ikibazo cyasuzumwe: Ese ubuhamya butanzwe n'abakorewe icyaha n'abafitanye isano nabo bwahabwa agaciro n'Urukiko ?

Ingingo y'itegeko umurongo ushingiyeho: Ingingo ya 65 y'Itegeko N° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko: "Urukiko ni rwo rwonyine rupima ko imikirize y'abatangabuhamya ihuye n'ikiburanwa, ifite ingingo zikiranuye kandi ikaba ikwiye kwemerwa cyangwa guhakanwa. Ntirwitsitsa ku mubare w'abatangabuhamya. Rwita cyane cyane ku bumenyi bwabo bw'ibyabaye, no ku buryo babivuga uko byagenze nta cyo bihimbira".

Imvano y'ikibazo: NTAKIRUTIMANA Martin yakurikiranyweho icyaha cy'ubwinjiracyaha mu cyaha cy'ubwicanyi, aho yateye urugo rwa Gahizi Elizaphan amutema mu mutwe naho umugore we amutema urutuga agamije kubica. Urukiko Rwisumbuye rwamuhamije icyaha rumuhanisha igifungo cy'imyaka 25. Ntiyishimiye imikirize ajuririra Urukiko Rukuru imwe mu mpamvu nyinshi yatangaga akaba ari uko yahamijwe icyaha hashingiwe ku buhamya bw'abafitanye isano n'abakoreweho icyaha, aribo NDATIMANA umwana wa GAHIZI na NKURUNZIZA, umukozi wa GAHIZI. Urukiko Rukuru rwasanze ubujurire bwe nta shingiro bufite, bushimangira igihano cyatanzwe n'Urukiko rubanza. Uregwa yajuriye bwa kabiri mu Rukiko rw'Ubujurire, avuga ko inkiko zibanza zamuhamije icyaha zishingiye ku buhamya bw'abafitanye isano n'abakoreweho icyaha (…) Urukiko rw'Ubujurire rusanga Ubuhamya butateshwa agaciro no kuba ababutanze bafite aho bahuriye n'uwakorewe icyaha ko Urukiko arirwo rubuha agaciro (…) bityo impamvu y'ubujurire ntiyahabwa ishingiro. Urukiko ariko rwasanze icyaha cyakozwe cyarateye ingaruka nke rugabanyiriza igihano uregwa, rumuhanisha igifungo cy'imyaka 18 aho kuba 25 yari yarahawe ku rwego rubanza

Umurongo uhuriweho n'izindi manza: Kuba umutangabuhamya afitanye isano n'uwahohotewe cyangwa ari uwahohotewe ubwe, ubwabyo ntibitesha agaciro ubuhamya-Urukiko nirwo rusuzuma ireme ry'ubuhamya rushingiye ku bumenyi bw'ababutanga n'uburyo basobanura ibyo biboneye cyangwa bumvise, rukabigereranya n'ibindi bimenyetso (igika cya 35)

Izindi manza zafashwemo uyu murongo

- Urubanza Nº RPAA0118/11/CS, rwaciwe ku wa 13/11/2015 haburana Ubushinjacyaha na NGURINZIRA, (igika cya 13 Vol [2017] 1 RLR)

- Urubanza Nº RPAA0059/08/CS, rwaciwe n'Urukiko rw'Ikirenga ku wa 19/11/2010 haburana Ubushinjacyaha na Nshimiyimana Alexis n'abandi.
-

Urubanza ruyoboye izindi (Leading case): Ni urubanza Nº RPAA0118/11/CS, rwaciwe ku wa 13/11/2015 rw'Ubushinjacyaha na NGURINZIRA, kuko rwaciwe n'Urukiko rw'Icyegeranyo kandi rutangazwa mu cyegeranmyo (Vol [2017] 1 RLR)

3. Kongera kugabanya igihano mu bujurire - Urukiko rushobora kongera kugabanya cyangwa ntirugabanye igihano mu bujurire harebwe uburemere bw'icyaha n'uburyo cyakozwemo.

Urubanza rwasuzumwe: Urubanza Nº RPAA 00157/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 28/07/2022 haburana Ubushinjacyaha na BAGIRUWUBUSA Jean Nepomuscène.

Ikibazo cyasuzumwe: Kumenya niba uwagabanyirijwe ibihano mu nkiko zibanza yakongera kugabanyirizwa mu bujurire.

Ingingo y'itegeko umurongo ushingiyeho: Ingingo ya 49, igika cya mbere y'Itegeko n° 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»*

Imvano y'ikibazo: Urukiko Rwisumbuye rwa Musanze rwahamije BAGIRUWUBUSA Jean Nepomuscène icyaha cy'ubwicanyi, rumuhanisha igifungo burundu, ajuririye urwo rubanza mu Rukiko Rukuru, Urugereko rwa Musanze, rumuhanisha igifungo cy'imyaka 25 hashingiwe ku mpamvu nyoroshyacyaha zirimo kwemera icyaha no kugisabira imbabazi. BAGIRUWUBUSA Jean Nepomuscène yongeye kujuririra Urukiko rw'Ubujurire arusaba kumugabanyiriza igihano kubera ko yemeye icyaha akanagisabira imbabazi kuva agifatwa kugera muri uru Rukiko, ariko rusanga atakongera kugabanyirizwa igihano hashingiwe kuri iyo mpamvu nyoroshyacyaha kuko ari nayo yashingiweho n'Urukiko Rukuru rumugabanyiriza igihano, rumuhanisha igifungo cy'imyaka 25, aho kumuhanisha igifungo cya burundu.

Umurongo imanza zihuriyeho: Uregwa ntiyongera kugabanyirizwa ibihano, iyo mu bujurire Urukiko rusanga yarabigabanyirijwe bihagije, harebwe uburemere bw'icyaha n'uburyo icyaha cyakozwemo.

Izindi manza zafashwemo uyu murongo

- Urubanza Nº RPA 0249/13/CS rwaciwe ku wa 25/11/2016 rw'Ubushinjacyaha na NTEZIRYAYO Emmanuel (Icyegeranyo cy'ibyemezo by'inkiko, V.2, Mata, 2018, p.120-121).
- Urubanza Nº RPAA 0083/12/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 17/06/2016, rw'Ubushinjacyaha na MUBERUKA Gracien (Igika 12).
- Urubanza Nº RPA0047/11/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 27/03/2015 rw'Ubushinjacyaha na NSHUTIRAKIZA Narcisse (igika cya 14-16).
- Urubanza Nº RPA 0129/10/CS rwaciwe ku wa 7/03/2014, Ubushinjacyaha buburana na MPITABAKANA (Icyegeranyo cy'ibyemezo by'inkiko, V. 2, Ukwakira 2014. p.127.).
- Urubanza Nº RPA 00071/2018/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 07/06/2019 rw'Ubushinjacyaha na NDORIMANA Emmanuel n'abandi (igika cya 14).

- Urubanza Nº RPAA 00195/2020/CA rwaciwe ku wa 27/05/2022 rw'Ubushinjacyaha na AYIRWANDA Emmanuel.
- Urubanza Nº RPAA 00087/2020/CA rwo ku wa 27/05/2022 rw'Ubushinjacyaha na HAGABIMANA Emmanuel.
- Urubanza Nº RPAA 00170/2020/CA rwaciwe ku wa 30/05/2022 rw'Ubushinjacyaha na MUSHUMBA NGABIRANO.
- Urubanza Nº RPAA 00398/2020/CA rwaciwe ku wa 20/05/2022 rw'Ubushinjacyaha na NDIKUBWIMANA Marc.
- Urubanza Nº RPAA 00351/2020/CA rwaciwe ku wa 19/04/2022 rw'Ubushinjacyaha NGERAGEZE KARAMIRA.
- Urubanza Nº RPAA 00174/2020/CA rwaciwe ku wa 06/05/2022 rw'Ubushinjacyaha na NGEZAHAYO JMV n'abandi.

- Urubanza Nº RPAA 00244/2020/CA rwaciwe ku wa 19/04/2022 rw'Ubushinjacyah na NKOMEZA Etienne.
- Urubanza, Nº RPAA 00363/2020/CA rw'Ubushinjacyaha na SIBOMANA Damascene.
- Urubanza Nº RPAA 00366/2020/CA – CMB Nº RPAA 00196/2021/CA rw'Ubushinjacyaha na TWAGIRAYEZU Jullien alias Mafene na RUKUNDO Julliet.
- Urubanza Nº RPAA 00230/2020/CA rwaciwe ku wa 13/5/2022 rw'Ubushinjacyaha na Minani francois.
- Urubanza Nº RPAA 00360/2020/CA rwaciwe ku wa 28/04/2022 rw'Ubushinjacyaha na MBARUSHIYEZE Theoneste.

Urubanza ruyoboye inzindi: Ni urubanza Nº RPA 0129/10/CS rwaciwe ku wa 7/03/2014, Ubushinjacyaha buburana na MPITABAKANA kuko rwaciwe mbere n'Urukiko rw'Ikirenga kandi rukaba rwaratoranijwe rukanatangazwa mu cyegeranyo cy'ibyemezo by'inkiko (V.2 [2014]RLR) nk'urutanga umurongo kuri iki kibazo.

4. Imvugo z'abatangabuhamya mu iperereza - Si ngombwa ko zongera kuvugirwa imbere y'urukiko kugira ngo zibone kugira agaciro nk'ibimenyetso

Urubanza rwasuzumwe: Urubanza Nº RPAA 00331/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 28/07/2022 rw'Ubushinjacyaha na IRANZI Siméon alias Rasta (igika cya 26-28)

Ikibazo cyasuzumwe : Ese imvugo abatangabuhamya bavugiye imbere y'inzego z'iperereza zigira agaciro nk'ikimenyetso ari uko bongeye guhamagazwa bakumvwa n'Urukiko?

Imvano y'ikibazo: IRANZI Siméon alias Rasta yahakanye icyaha cy'ubwicanyi cyakorewe TUYISENGE Thacien, ariko Urukiko Rwisumbuye n'Urukiko Rukuru zimuhamya icyo icyaha zishingiye ku bimenyetso biri muri dosiye bigaragaza ko yafatanwe "sim card", telefoni, inkweto n'ibindi bikoreshyo bya nyakwigendera, IRANZI Siméon alias Rasta yari yarimuriye mu nzu ya GAHAMANYI Evariste yakodeshaga, Uregwa yatanze ubujurire bwa kabiri imwe mu mpamvu z'ubujurire yatangaga ikaba ari uko inkiko zitagombaga guha agaciro ubuhamya bw'abamushinja kuko batabutangiye mu Rukiko (…) Urukiko rwasanze iyo mpamvu y'Ubujurire nta shingiro ifite butanga umurongo ukurikira:

Umurongo uhuriweho n'izindi manza: Imvugo abatangabuhamya bavugiye mu nzego z'iperereza igira agaciro nk'ikimenyetso bitabaye ngombwa ko Urukiko rwongera kubumva.

Izindi manza zafashwemo uyu murongogeko

❖ Urubanza Nº RPAA/GEN 00008/2019/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 28/02/2020 haburana Ubushinjacyaha na HABYARIMANA Jean

❖ Urubanza Nº RPA 00003/2020/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 09/04/2021 rw'Ubushinjacyaha na RUTONDE Emmanuel

Ibitabo by'abahanga byifashishijwe

❖ Michel FRANCHIMONT, Ann JACOB et Adrien MASSET, Manuel de Procédure Pénale, Liège, Belgique, 2012, p.758 "*Le caractère contradictoire de*

la procédure permet, certes, aux parties de contredire et discuter les éléments recueillis au cours de la phase préliminaire du procès pénal, mais (…) le juge du fond peut fonder sa conviction sur des éléments de l'information et de l'instruction qui ont été recueillis non contradictoirement et qui ne doivent pas nécessairement être repris oralement et contradictoirement à l'audience".

❖ Michel FRANCHIMONT, Ann Jacob et Adrien MASSET, idem, p.797. *"Les témoins sont convoqués à l'initiative du ministere public ou des parties (...). C'est toutefois au juge qu'il appartient de décider quels sont les témions qu'il est pertinent d'entendre à l'audience"*

Urubanza ruyoboye izindi (Leading case): Ni urubanza Nº RPAA/GEN 00008/2019/CA rwaciwe ku wa 28/02/2020 rw'Ubushinjacyaha na HABYARIMANA Jean kubera ko ari rwa mbere rwatanze uyu murungo rushingiye ahanini ku manza zaticiwe na ICTR.

3. ICYAHA CY'IKORESHA RITEMEWE RY'IBIYOBYABWENGE N'URUSOBE RW'IMITI IKORESHWA NKABYO

1. Umucuruzi w'Ibiyobyabwenge - ibimenyetso by'uko ari umucuruzi wabyo - kutaba ngombwa ko asanganwa abaguzi - igihe cyose abifatanywe kandi bigaragara ko yiteguye kubiha umuntu wese umugana ashaka kubigura, aba ari umucuruzi wabyo.

Urubanza rwasuzumwe: Urubanza Nº RPAA 00436/2020/CA rwaciwe ku wa 28/06/2022 rw'Ubushinjacyaha na AHIMPEREYE NDEZE François (Igika cya 19).

Ibibazo byasuzumwe: Ni iki gishingirwaho ngo hemezwe ko uwafatanywe ibiyobyabyenge ari umucuruzi wabyo.

Imvano y'ikibazo: Uregwa yemeye icyaha mu nzego z'iperereza no mu bushinjacyaha cy'uko ari umucuruzi w'urumogi ko yafatanwe udupfunyika 86, ariko ageze imbere y'inkiko zose yaburanyemo ahakana icyaha anavuga ko nta n'umuguzi wafashwe ngo amushinje ko yamugurishije urumogi (…) ariko Urukiko ntirwabiha ishingiro bituma rufata umurongo ukurikira:

Umurongo imanza zihuriyeho: Umuntu ntagirwa umucuruzi w'ibiyobyabwenge no kuba hari abaguzi babonetse aho acuririza, ahubwo igihe cyose afite ibicuruzwa kandi yiteguye kubiha umuntu wese umugana ashaka ibyo agurisha, aba ari umucuruzi w'ibiyobyabwenge.

Izindi manza zafashwemo uyu murongo

- ❖ Urubanza Nº RPAA 00293/2021/CA, rwaciwe ku wa 15/07/2022 rw'Ubushinjacyaha na Murindahabi Jean de Dieu (igika cya 30)

Icyitonderwa: Umurongo uri muri uru rubanza Nº RPAA 00436/2020/CA rwaciwe ku wa 28/06/2022 rw'Ubushinjacyaha na AHIMPEREYE NDEZE François, ugomba gufatwa nk'usimbura uwari watanzwe mu Rubanza Nº RPAA 00156/2022/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 27/05/2022 rw'Ubushinjacyaha na MUSABYIMANA Elysee aho muri urwo rubanza ho bavuga ko mu guhamya uregwa gucuruza ibiyobyabwenge hagomba **kugaragazwa ubushake bwo kubicuruza** ***n'ibimenyetso bigaragaza ko yabicuruje.***

Urubanza ruyoboye izindi (Leading case): Urubanza ruyoboye izindi ni urubanza Urubanza Nº RPAA 00436/2020/CA rwaciwe ku wa 28/06/2022 rw'Ubushinjacyaha na AHIMPEREYE NDEZE François kubera ko ari rworwasobanuye neza ko umuntu atagirwa umucuruzi w'ibiyobyabwenge no kuba hari abaguzi babonetse aho acururiza, ahubwo ko igihe cyose afite ibicuruzwa kandi yiteguye kubiha umuntu wese umugana ashaka ibyo agurisha.

2. Guhinga urumogi-kurubagarira - kuba rwarimejeje ntibyaba impamvu ivanaho icyaha mu gihe urukiko rusanze uregwa arubagarira agamije kurufata neza

Urubanza rwasuzumwe: Urubanza Nº RPAA 00132/2021/CA, rwaciwe ku wa 15/07/2022 rw'Ubushinjacyaha na UYISENGA Théogène alias Rasta

Ikibazo cyasuzumwe: Ese uregwa wafashwe abagarira Urumogi (Ikiyobyabwenge) ariko nta bimenyetso bigaragaza ko ariwe waruteye yafatwa nk'umuhinzi w'Urumogi?

Imvano y'Ikibazo: Uyisenga Théogène alias Rasta yaburanye yemera icyaha cyo guhinga ibiyobyabwenge byo mu bwoko bw'urumogi aho yafatanywe ibiti 2 biteye mu murima we w'imboga, Urukiko Rwisumbuye rumuhamya icyaha cyo guhinga ibiyobyabwenge rumuhanisha igifungo cy'imyaka 25 n'ihazabu ya miliyoni 20, iki gihano kinemezwa n'Urukiko Rukuru. Uregwa yajuriye bwa kabiri avuga ko atarakwiye guhanwa nk'uwahinze ibiyobyabwenge kandi ibiti bibiri yafatanwe atariwe wabiteye ko byimejeje, ko icyo yakoze ari ukubibagarira, akajya anabinywaho, ko igikorwa cyo kubagarira urumogi rwimejeje bitafatwa nko

guhinga. Urukiko rushingiye ku nyandiko z'abahanga rwasanze igikorwa cyo kubagara kiba kigamije gufata neza igihingwa bityo ko kubagarira urumogi bigize igikorwa cyo guhinga.

Umurongo uhuriweho n'izindi manza: Kubagarira ibiyobyabwenge (byo mu bwoko bw'urumogi) byimejeje mu murima w'uregwa ntiyabishingiraho asaba kudakurikiranwaho icyaha cyo guhinga urumogi mu gihe bigaragajwe ko n'ubwo rwimejeje kandi atari we waruteye, yarubagariye, akarufata neza agamije kugira ku ntego ye

3. Guhinga urumogi ruke - ntibifatwa nko guhinga urumogi bivugwa mu ngingo ya 263 igika cya 3 y'Itegeko Nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange – Bifatwa nk'uwari ugamije kubyikoreshereza - agahabwa igihano gito

Urubanza rwasuzumwe: Urubanza Nº RPAA 00132/2021/CA, rwaciwe ku wa 15/07/2022 rw'Ubushinjacyaha na UYISENGA Théogène alias Rasta.

Ikibazo cyasuzumwe: Ese uregwa ufatanywe ibiti bibiri by'urumogi yabagariraga arukoreshaga ku giti cye (simple drug possession), mu rwego rwo kurunywa, yahanwa hashingiwe ku gufatanwa ibiyobyabwenge agamije kubigurisha no kubikwirakwiza?

Umurongo uhuriweho n'izindi manza: Iyo nta bimenyetso bigaragaza ko uregwa wafatanywe ingano nto y'ibiyobyabwenge yahinze yari agamije kubikwirakwiza no kubigurisha, afatwa nk'uwari ugamije kubyikoreshereza (simple drug possession)

aho kubicuruza no kubikwirakwiza (drug trafficking /drug distribution), agahabwa ibihano bito.

Imvano y'Ikibazo : Uyisenga Théogène alias Rasta yaburanye yemera icyaha cyo guhinga ibiyobyabwenge byo mu bwoko bw'urumogi aho yafatanywe ibiti 2 biteye mu murima we w'imboga, Urukiko Rwisumbuye rumuhamya icyaha cyo guhinga ibiyobyabwenge rumuhanisha igifungo cy'imyaka 25 n'ihazabu ya 20,000,000 Frw, iki gihano kinemezwa n'Urukiko Rukuru. Uregwa yajuriye bwa kabiri avuga ko atarakwiye guhanwa nk'uwahinze ibiyobyabwenge kandi ibiti bibiri yafatanwe atariwe wabiteye ko byimejeje, ko icyo yakoze ari ukubibagarira, akajya anabinywaho, bityo ko asaba kugabanyirizwa igihano. Urukiko rushingiye ku nyandiko z'abahanga, rwasanze kubagarira urumogi bigize igikorwa cyo guhinga ariko rushingiye ku zindi manza zatanze umurongo rusanga urebye icyo Umushingamategeko yari agamije mu guhana uhinga ibiyobyabwenge ari icyo guca intege abahinga bagamije gucuruza no gukwirakwiza mu bandi ibiyobyabwenge, bityo ko umubare w'ibiti bibiri gusa byabagarirwaga ari muto ku buryo utatuma hemezwa ko yari agamije gucuruza cyangwa gukwirakwiza ibyo biti cyangwa urumogi asaruye, rubishingiraho rwemeza ko agomba guhanwa nk'uwafatanywe ibiyobyabwenge, rumuhanisha igifungo cy'imyaka 2 aho kuba igifungo cy'imyaka 25 n'ihazabu ya 20,000,000 Frw yari yarahanishijwe ku rwego rubanza.

Izindi manza zafashwemo uyu murongo

❖ Urubanza Nº RPAA 00200/2020/CA, rwaciwe ku wa 27/07/2022 rw'Ubushinjacyaha na HAKIZIMANA Eric, muri uru rubanza uregwa yafatanywe ibiti 2 by'urumugi yateye mu murima we w'ibishyimbo Urukiko Rwisumbuye rumuhamya icyaha cyo guhinga urumogi, rumuhanisha igifungo cya burundu n'ihazabu ya Miliyoni 20, ajuriye Urukiko Rukuru rumuhanisha igifungo cy'imyaka

25 n'ihazabu ya Miliyoni 20. Uregwa yajuriye bwa kabiri mu Rukiko rw'Ubujurire, nyuma yo gusesengura rusanga akwiye guhanwa nk'uwafatanywe ibiyobyabwenge aho guhanwa nk'uwahinze ibiyobyabwenge, rumuhanisha igifungo cy'imyaka ibiri (2) (Igika cya 33)

Urubanza ruyoboye izindi: Urubanza Nº RPAA 00132/2021/CA, rwaciwe ku wa 15/07/2022 rw'Ubushinjacyaha na UYISENGA Théogène alias Rasta kuko arirwo rwafashe icyemezo bwa mbere kuri uyu murongo.

4. Kugabanya igihano - ingaruka z'igihano - Ntawakwitwaza ingaruka z'icyaha ngo asabe kukigabanyirizwa mu bujurire

Urubanza rwasuzumwe: Urubanza Nº RPAA 00080/2021/CA, rwaciwe ku wa 29/07/2022 rw'Ubushinjacyaha na HABIMANA Samson alias Moussa

Ikibazo cyasuzumwe: Ese uregwa yashingira ku ngaruka z'icyaha akurikiranyweho agasaba kugabanyirizwa igihano?

Imvano y'ikibazo: Nyuma y'uko HABIMANA Samson alias Moussa ahamijwe n'Urukiko Rwisumbuye ndetse n'Urukiko Rukuru icyaha cyo kubika ibiyobyabwenge bihambaye byo mu bwoko bw'urumogi agahanishwa igifungo cy'imwaka 20 n'ihazabu ya Miliyoni 10 yajuriye bwa kabiri mu Rukiko rw'Ubujurire asaba kugabanyirizwa igihano agaragaza impamvu zitandukanye zirimo ukuba umugore we usanzwe afite ubumuga bwo kutabona atabona umwitaho, ko abana bavuye mu ishuri kandi babayeho nabi kuko adahari ngo abiteho, bituma Urukiko rushimangira umurongo wari waratanzwe n'Urukiko rw'Ikirenga rwemeza

ko izo ari ingaruka z'icyaha kandi ko uregwa atazishingiraho asaba kugabanyirizwa igihano (igika cya 48).

Umurongo Uhuriweho n'izindi manza: Ntawakwitwaza ingaruka mbi z'igihano yahawe ngo asabe kukigabanyirizwa

Izindi manza zafashwemo uyu murongo

Urubanza Nº RPA0129/10/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 07/03/2014 rw'Ubushinjacyaha na MPITABAKANA muri uru rubanza imwe mu mpamvu uregwa yagaragarije Urukiko rw'Ikirenga asaba kugabanyirizwa igifungo cy'imyaka 20 yahawe n'Urukiko Rukuru ni uko yagira ngo ajye kurera imfubyi umugore we yasize nyuma y'uko amwishe, Urukiko rusanga abo bana ariwe ubwe wabagize imfubyi, akaba atakwitwaza ingaruka mbi z'icyaha yakoze ngo agabanyirizwe igihano. (igika cya 16)

❖ Urubanza Nº RPAA 00270/2021/CA, rwaciwe ku wa 28/07/2022 rw'Ubushinjacyaha na HABAKURAMA Côme. Muri uru rubanza uregwa yajuriye bwa kabiri mu Rukiko rw'Ubujurire, imwe mu mpamvu yatangaga asaba kugabanyirizwa igifungo cy'imyaka 20 n'ihazabu ya Miliyoni 20 yahawe n'inkiko zibanza, ikaba iy'uko byamuha amahirwe yo kujya kwita ku muryango we utagira kivurira kuko abana be badafite nyina ubitaho, ariko Urukiko rusanga iyo mpamvu nta shingiro yahabwa kuko atakwitwaza ingaruka z'icyaha ngo asabe kugabanyirizwa igihano (Igika cya 23)

Urubanza ruyoboye izindi (Leading case): Ni Urubanza Nº RPA0129/10/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 07/03/2014 rw'Ubushinjacyaha na MPITABAKANA kuko rwaciwe mbere n'Urukiko rw'Ikirenga.

5. Ukwemera icyaha - Ukwemera icyaha kugira agaciro - ni ugukozwe byibura mbere y'uko iburanisha ku rwego rwa mbere ripfundikirwa, kudashidikanywaho, kandi uwemera agaragaza ko yumva uburemere bw'ibikorwa yemera n'ingaruka zabyo, abyicuza, abisabira imbabazi no kuba yiteguye gusubiza ibyo yangije uko abitegerejweho.

Urubanza rwasuzumwe : Urubanza Nº RPAA 00080/2021/CA, rwaciwe ku wa 29/07/2022 rw'Ubushinjacyaha na HABIMANA Samson alias Moussa (Igika cya 46).

Ikibazo cyasuzumwe: Ni ukuhe kwemera icyaha gushobora kugirira akamaro uregwa?

Ingingo y'itegeko umurongo ushingiyeho: Ingingo ya 59, agace ka mbere 1˚ n'aka 3˚, y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange; Mu gace kayo ka mbere (1˚), iyo ngingo iteganya 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''*. Agace kayo ka gatatu (3˚) iteganya ko*: "Umucamanza ashobora kugabanya ibihano nk'iyo ushinjwa, mu ntangiriro z'iburanisha ku rwego rwa mbere, ushinjwa yireze akemera icyaha mu buryo budashidikanywaho.*

Imvano y'ikibazo: HABIMANA Samson alias Moussa yahamijwe n'Urukiko Rwisumbuye icyaha cyo kubika ibiyobyabwenge byo mu bwoko bw'Urumogi rumuhanisha igifungo cy'imyaka 20 n'ihazabu ya Miliyoni 10, ajuririye Urukiko

Rukuru narwo rwemeza icyo gihano, Uregwa yajuriye bwa kabiri avuga ko atari akwiye guhamywa icyo cyaha no guhabwa ibihano biremereye kuko yemeye icyaha kuva agifatwa no kuba icyaha yakoze ari icyo kurya no kunywa ibiyobyabwenge aho kubika ibiyobyabwe. Urukiko rw'Ubujurire rwasanze uregwa ataremeye icyaha mu buryo bwuzuye ku buryo byamugirira akamaro, ko yaranzwe no guhindagura imvugo bityo rwemeza ko igihano yahawe n'Urukiko rubanza gihamyeho.

Umurongo uhuriweho n'izindi manza: Ukwemera icyaha kugira agaciro gashobora gutuma uregwa agabanyirizwa igihano iyo gukozwe byibura mbere y'uko iburanisha ku rwego rwa mbere ripfundikirwa, kudashidikanywaho, kuba uwemera agaragaza ko yumva uburemere bw'ibikorwa yemera n'ingaruka zabyo, abyicuza, abisabira imbabazi no kuba yiteguye gusubiza ibyo yangije uko abitegerejweho.

Izindi manza zafashwemo uyu murongo

- ❖ Urubanza Nº RPA 00060/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa rw'Ubushinjacyaha na NSABIMANA n'abandi, (igika cya 136).
- ❖ Urubanza Nº RPA 0343/10/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 27/02/2015 rw'Ubushinjacyaha na MPIRANYA Boniface. (igika cya 13)

Urubanza ruyoboye izindi (Leading case): Ni Urubanza Nº RPA 00060/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa rw'Ubushinjacyaha na NSABIMANA n'abandi, kuko arirwo rubanza rwasobanuye iyi ngingo kuva aho itegeko ririho ubu ritangarijwe kandi rwasesenguye byimbitse ingingingo ya 59 (1º&3º) y'Itegeko n° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu.

6. Guhamwa no gucuruza ibiyobyabwenge - Gucuruza ingano nto - kugabanyirizwa ibihano - Uwahamwe no gucuruza ibiyobyabwenge ashobora kugabanyirizwa igihano mu rwego rwo guhuza igihano n'uburemere bw'icyaha (Principe de la proportionnalité de la peine à l'infraction)

Urubanza rwasuzumwe: Urubanza Nº RPAA 00499/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 22/07/2022 rw'Ubushinjacyaha na MBARUSHIMANA Damascène (Igika cya 26)

Ikibazo cyasuzumwe: Ese ingano nto uregwa gucuruza ibiyobyabwenge yafatanywe byamugirira akamaro akagabanyirizwa igihano?

Imvano y'ikibazo: MBARUSHIMANA Damascène yahamijwe n'Urukiko Rwisumbuye icyaha cyo gucuruza ibiyobyabwenge byo mu bwoko bw'Urumogi aho yafatanywe udupfunyika 3, yari arimo gucuruza. Urukiko Rwisumbuye rwamuhanishije igifungo cya burundu n'ihazabu ya 20.100.000 Frw, uregwa yajuririye Urukiko Rukuru rwemeza ko igihano cyatanzwe n'Urukiko rubanza gihamyeho. MBARUSHIMANA yatanze ubujurire bwa kabiri mu Rukiko rw'Ubujirire asaba kugabanyirizwa igihano avuga ko yahawe ibihano biremereye kandi Urumogi yafatanywe ari urwo kwinywera atari urwo gucuruza. Urukiko rwasanze nta kosa urukiko Rukuru rwakoze mu kumuhamya icyo cyaha kuko ibimenyetso rwashingiyeho bifatika birimo n'ukwiyemerera kwe mu Bushinjacyaha. Urukiko rusanga ariko hakurikijwe ingano nto (udupfunyika 3) y'urumogi MBARUSHIMANA yafatanywe, akwiye guhanishwa igifungo cy'imyaka icumi (10) n'ihazabu ya 5.000.000 Frw aho kuba igifungo cya burundu n'ihazabu ya 20.100.000 yahanishijwe n'Urukiko Rukuru.

Umurongo uhuriwe n'izindi manza: Urukiko rushobora kugabanya igihano rushingiye ku ngano y'ibiyobyabwenge ushinjwa yatunze cyangwa yacuruje, mu rwego rwo guhuza igihano n'uburemere bw'icyaha (Principe de la proportionnalité de la peine à l'infraction).

Izindi manza zafashwemo uyu murongo

❖ Urubanza Nº RPAA 00039/2021/CA rwaciwe ku wa 02/07/2021 rw'Ubushinjacyaha na SHAKABATENDA Jean de Dieu. Imwe mu mpamvu zatumye uregwa agabanyirizwa igihano ni ingano nto y'urumogi yacuruzaga yafatanywe (udupfunyika 4) bituma agabanyirizwa igihano ahabwa igifungo cy'imyaka 8 n'ihazabu ya 5.000.000 Frw, aho kuba igifungo cy'imyaka 25 n'ihazabu ya 21.000.000 Frw yari yahanishijwe n'inkiko zabanje.

❖ Urubanza Nº RPAA 00293/2021/CA rwaciwe ku wa 15/07/2022 rw'Ubushinjacyaha na Murindahabi Jean de Dieu (Igika cya 35) muri uru rubanza Urukiko Rukuru rwashimangiye igifungo cy'imyaka 25 n'ihazabu ya miliyoni 20 cyatanzwe n'Urukiko Rwisumbuye nyuma yo kumuhamya icyaha cyo gucuruza urumogi. Uregwa yatanze ubujurire bwa kabiri mu Rukiko rw'Ubujurire avuga ko yahaniwe icyaha atakoze ko hari hakwiye guhabwa ishingiro imbabazi yasabye ku cyaha yemera cyo gufatanwa urumogi. Urukiko rushingiye ku bimenyetso bitandukanye rwasanze uregwa ahamwa n'icyaha cyo gucuruza urumogi, ariko rushingiye ku ngano nto yafatanywe (udupfunyika 16), ku manza zitandukanye zatanze umurongo rwemeza ko ingano nto yafatanywe y'ibiyobyabwenge yamubera impamvu nyoroshyacyaha agahanishwa igifungo cy'imyaka 20 n'ihazabu ya 10,000,000 frw.

Urubanza ruyoboye izindi (Leading case): Ni Urubanza Urubanza Nº RPAA 00039/2021/CA rwaciwe ku wa 02/07/2021 rw'Ubushinjacyaha na SHAKABATENDA Jean de Dieu kuko arirwo rwaciwe mbere kuri iki kibazo.

III. IMANZA MBONEZAMUBANO

1. KUTUBAHIRIZA AMASEZERANO

1. Gutsindwa ku mpamvu zimwe - Impamvu zimwe - Impamvu zimwe zisuzumirwa mu bisubizo byatanzwe ku mpamvu z'ubujurire hagereranywa ibyavuzwe mu rubanza rujuririrwa n'ibyavuzwe mu rwego rw'ubujurire kuri izo mpamvu

Urubanza rwasuzumwe: Urubanza Nº RCOMAA 00012/2022/CA, rwaciwe ku wa 22/07/2022 haburana BUFCOFFEE Ltd na TEUSCHER INVEST Ltd, yahindutse KIVUBELT COFFEE Ltd (igika cya 17)

Ibibazo byasuzumwe: Ni ryari bivugwa ko umuburanyi yatsinzwe ku mpamvumvu zimwe?

Ingingo y'itegeko umurongo ushingiyeho: Ingingo ya 52, igika cya 3, y'Itegeko Nº 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko, iteganya ibikurikira: (…) *"Icyakora kandi ubujurire bwa kabiri ntibushobora kwakirwa ku manza z'ababuranye bemera ibyo baregwa, cyangwa ku muburanyi watsinzwe mu nkiko zombi hashingiwe ku mpamvu zimwe".*

Umurongo uhuriweho n'izindi manza: Bifatwa ko umuburanyi yatsinzwe ku mpamvu zimwe mu nkiko zabanje, iyo Urukiko rwajuririwe, nyuma yo gusesengura

imikirize y'urubanza mu nkiko zombi, rusanze ingingo z'ingenzi zasuzumwe, impamvu zashingiweho kugira ngo hagerwe ku cyemezo cyafashwe ari zimwe kandi zaratumye hafatwa ibyemezo bisa. Icyo gihe Urukiko rwemeza ko ubujurire butari mu bubusha bw'urukiko.

Izindi manza zafashwemo uyu murongo

- Urubanza Nº RC/INJUST/RCOM 00002/2020/SC rwaciwe ku wa 25/09/2020 haburana ROAD SOLUTION PAVEMENTS PRODUCT na MAILCO Ltd (igika cya 24)

- Urubanza Nº RS/INCOST/SPEC 00004/2020/SC rwaciwe ku wa 26/03/2021 haburana ASIIMWE Frank na Leta y'u Rwanda (igika cya 29).

- Urubanza N◦ RCOMAA 0038/16/CS-RCOMAA 0033/2016/CS rwaciwe ku wa 21/04/2017 haburana Bank of Kigali Ltd na MULISA KANA Martin (igika cya 21).

- Urubanza Nº RCOMAA 0048/16/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 19/05/2017, haburana RRA na SODAR Ltd (igika cya 18)

- Urubanza N° RS/INJUST/RCOM 00003/2020/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 27/11/2020 haburana UNIVERSITY OF RWANDA (UR) na SANLAM Assurance Générales Plc (igika cya 23)

- Urubanza Nº RS/INJUST/RCOM 00005/2020/SC, rwaciwe n'Urukiko rw'Ikirenga ku wa 27/11/2020 haburana BPR na NKUSI Evariste (ibika bya 27-29)

- ❖ Urubanza Nº RCOMAA 00010/2018/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 15/03/2019, haburana KOPERATIVE DUKUNDUMURIMO (KOADU) na KING CONSTRUCTION AND SERVICE COMPANY (KICOSECA) (igika cya 12).

- ❖ Urubanza Nº RCOMAA 00060/2022/CA, rwaciwe ku wa 28/07/2022 haburana NYAMASWA Raphaël na BPR Plc (Igika cya 21)

Urubanza ruyoboye izindi (Leading case): Urubanza Nº RC/INJUST/RCOM 00002/2020/SC rwaciwe n'Urukiko rw'Ubujurire ku wa 25/09/2020 haburana ROAD SOLUTION PAVEMENTS PRODUCT na MAILCO LTD ni rwo rubanza ruyoboye izindi kubera ko ari rwo rwasobanuye neza ko mu gusuzuma niba umuburanyi yaratsinzwe mu nkiko zombi zabanje ku mpamvu zimwe, harebwa icyaburanwaga n'imitekerereze ya buri rukiko (raisonnement juridique) mu kugaragaza impamvu zashingiweho, kugira ngo rugere ku cyemezo rwafashe, hitawe ku kureba niba ingingo zaburanywe mbere arizo zagarutsweho mu bujurire kandi ko inkiko zombi zazishubijeho mu buryo bumwe. Impamvu zigomba gutandukanywa n'icyemezo cy'urukiko, kuko impamvu arizo zishingirwaho mu kugaragariza no gusobanurira ababuranyi icyatumye urukiko rufata icyemezo.

2. Irangizwa ry'amasezerano - Amasezerano arimo akarengane - Mu gihe bigaragaye ko harimo akarengane, urukiko rutegeka ko atarangizwa hakarebwa ingaruka zikomoka ku kutarangizwa kwayo.

Urubanza rwasuzumwe: Urubanza Nº RCAA 00003/2021/CA-RCAA 00004/2021/CA rwaciwe ku wa 15/07/2022 haburana KAMURASE Laurent, Succession HABIMANA ihagarariwe na KARIGIRWA Félicité, MUZIMA Rutikanga Frederick n'abandi (igika cya 39).

Ibibazo byasuzumwe: Ese igihe amasezerano impande zombi zagiranye Urukiko rusanze harimo akarengane rushobora kugena ubundi buryo yarangizwa butandukanye n'ibyumvikanyweho n'impamde zombi?

Ingingo z'itegeko umurongo ushingiyeho: ingingo ya 9 y'Itegeko No 45/2011 ryo ku wa 25/11/2011 rigenga amasezerano iteganya ko: *"Kugira ngo amasezerano akorwe, ukwemera k'uruhande rumwe kugomba guhura n'ukwemera k'urundi ruhande".* Naho iya 73 y'iryo Tegeko iteganya ko: *"Iyo amasezerano cyangwa ingingo zayo birimo kubangamira uburenganzira bw'uruhande rumwe igihe amasezerano yakorwaga, uruhande rubangamiwe rushobora gusaba urukiko kwanga ko amasezerano arangizwa cyangwa kwemeza ko harangizwa ibisigaye ku masezerano hatarimo ingingo zirimo kubangamira uruhande rumwe".*

Imvano y'ikibazo: Mu urubanza Nº RCA 00305-00306/2019/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 24/12/2020 (rwajuririwe), Urukiko rwasanze amasezerano KARIGIRWA Félicité na KAMURASE Laurent bagiranye yujuje ibiteganywa n'ingingo ya 4 y'Itegeko No 45/2011 ryo ku wa 25/11/2011 rigenga amasezerano, ariko ku bijyanye n'igiciro umutungo wagurishijweho, rushingiye kuri raporo y'Umugenagaciro yagaragaje ko uwo mutungo ufite agaciro ka 312.810.000 Frw, ku manza zaciwe mu bihugu by'amahanga no ku nyandiko z'abahanga mu mategeko, rusanze ayo masezerano arimo ubusumbane bukabije, ku buryo kuyashyira mu bikorwa uko ateye, KAMURASE Laurent akegukana umutungo uburanwa ku giciro cya 17.600.000 Frw yawuguze (Ikigizi cy'umutungo kigaragara mu masezerano) kaba ari akarengane ku ruhande rwa KARIGIRWA Félicité, maze rwemeza ko amasezerano y'ubugure bw'umutungo utimukanwa ubaruye kuri UPI: 1/02/09/03/404, succession HABIMANA Joseph ihagarariwe na KARIGIRWA Félicité yagiranye na KAMURASE Laurent ahamaho gusa ari uko KAMURASE

Laurent yemeye gutanga igiciro cyemejwe n'umugenagaciro washyizweho n'Urukiko gihwanye na 312.810.000 Frw. Mu bujurire bwa kabiri Urukiko rwabibonye ukundi Urukiko rurasanga succession HABIMANA Joseph igomba gusubiza KAMURASE Laurent 17.600.000 Frw n'inyungu zayo zibariwe ku gipimo cya 18%, umutungo ugahamanwa na succession HABIMANA Joseph.

Umurongo uhuriweho n'izindi manza: Amasezerano ni ingaruka zo kwemera kw'impande zombi. Agomba kurangizwa cyangwa gushyirwa mu bikorwa mu gihe atabangamira cyangwa atarenganya urundi ruhande. Mu gihe bigaragaye ko harimo akarengane, ikigomba gukorwa ntabwo ari ukugena ubundi buryo yarangizwa butandukanye n'ibyo impande zombi zumvikanye mu masezerano, ahubwo ni ugutegeka ko atarangizwa hakarebwa ingaruka zikomoka ku kutarangizwa kwayo

3. Kudashyira mu bikorwa amasezerano - Gusubiza ikiguzi n'inyungu - igipimo kibarirwaho inyungu - Umuburanyi asubizwa amafaranga yatanze hiyongereho inyungu zibazwe ku gipimo cya 18% kuko aricyo gipimo mpuzandengo Banki zitangiraho inguzanyo.

Urubanza rwasuzumwe: Urubanza Nº RCAA 00003/2021/CA-RCAA 00004/2021/CA rwaciwe ku wa 15/07/2022 haburana KAMURASE Laurent, Succession HABIMANA ihagarariwe na KARIGIRWA Félicité, MUZIMA Rutikanga Frederick n'abandi (igika cya 50)

Ibibazo byasuzumwe: Ese iyo Urukiko rusanze ikiguzi cyatanzwe n'uruhande rumwe muzagiranye amasezerano kigomba gusubizwa hamwe n'inyungu, izo nyungu zibarirwa ku kihe kigero?

Inkomoko y'umurongo: Mu rubanza ruvuzwe haruguru, Urukiko rwasanze succession HABIMANA Joseph igomba gusubiza KAMURASE Laurent 17.600.000 Frw (ikiguzi cy'umutungo uburanwa kigaragara mu masezerano) n'inyungu zayo kuko amasezerano impande zombi zagiranye yagaragazaga akarengane ku ruhande rumwe hagibwa impaka ku kigero cyabarirwaho izo nyungu Urukiko rusanga nta tegeko ririho, rushingira ku ngingo ya 9 PCCSA rwemeza ko inyungu zabarirwa kuri 18%.

Umurongo uhuriweho n'izindi manza: Mu gihe Urukiko rusanze ikiguzi cyatanzwe n'uruhande rumwe muzagiranye amasezerano kigomba gusubizwa hamwe n'inyungu; Umuburanyi asubizwa amafaranga yatanze hiyongereho inyungu zibazwe ku gipimo cya 18% kuko aricyo gipimo mpuzandengo Banki zitangiraho inguzanyo

Izindi manza zafashwemo uyu murongo

❖ Urubanza Nº RCOMA 0024/10/CS rwaciwe ku wa 08/10/2010 Mpakaniye Innocent aburana na Banki y'Ubucuruzi y'u Rwanda.

❖ Urubanza Nº RCOMA 0027/13/CS rwaciwe ku 14/11/2014 Maheshe Munyerenkana Floride aburana na ECOBANK Ltd.

❖ Urubanza Nº RCAA 00002/2020/CA rwaciwe ku wa 28/07/2022 haburana NDATINYA Vedaste, GAKWAYA Aloys n'abandi

❖ Urubanza Nº RCOMAA 00038/2022/CA- RCOMAA 00039/2022/CA, ku wa 20/07/2022 haburana KINAZI CASSAVA PLANT Ltd na JBT Co Ltd (igika cya 55)

❖ Urubanza Nº RCAA 00033/2020/CA rwaciwe ku wa 14/01/2022, haburana NDAYISABA Jean Damascène na RUTAGENGWA Georges hamwe na RUTAGENGWA Matter Elisabeth (Igika cya 32&34)

Icyitonderwa: Urubanza rwaciwe nyuma kuri iki kibazo ni urubanza RS/INJUST/RC 00012/2021/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 22/07/2022 haburana NSENGIYUMVA Theoneste na NTAGUNGIRA Jérôme n'abandi aho ibijyanye n'inyungu zigenerwa ugomba gusubizwa ikiguzi yatanze mu gihe hemejwe ko amasezerano nta gaciro afite cyangwa ateshejwe agaciro, Urukiko rushingiye ku ihame ryo kutikungahaza nta mpamvu rwasanze uwaguze mu masezerano yateshejwe agaciro yasubizwa ikiguzi yatanze hiyongereyeho inyungu zibariwe ku gipimo kingana na 8% igipimo amabanki aheraho abakiliya bayo igihe babikije amafaranga kugirango abungukire. Uyu akaba ari nawo murongo ugomba gukurikizwa igihe utarahinduka.

4. Ubwumvikane mu rubanza - agaciro k'amasezerano y'ubwumvikane - Bugira agaciro nk'ak'amasezerano akozwe mu buryo bukurikije amategeko bugashyirwa mu bikorwa n'ababuranyi babugiranye.

Urubanza rwasuzumwe: Urubanza Nº RS/INJUST/RC 00012/2021/CA rwaciwe ku wa 15/07/2022 haburana NIBAGWIRE Béatrice n'abandi Vs SANLAM AG PLC

Ikibazo cyasuzumwe: Kumenya agaciro k'ubwumvikane bwagezweho n'ababuranyi bose

Imvano y'ikibazo: BAVUGABATAZIMANA Jean Pierre yaguye mu mpanuka ya moto, Nyuma y'uko abo mu muryango we bananiwe kumvikana na SANLAM AG Plc yishingiye ikinyabiziga baregeye Urukiko Rwisumbuyeabo rugenera indishyi abarega ariko ntibazishimira bajuririra Urukiko Rukuru rwemeza ko nta gihindutse ku ndishyi zatanzwe, basaba gusubirishamo urubanza ku mpamvu z'akarengane, ubusabe buremerwa, Perezida w'Urukiko rw'Ikirenga yohereza ikirego Urukiko rw'Ubujurire ngo rukiburanishe ariko ku munsi w'iburanisha ababuranyi bose bitabye bemerera imbere y'Urukiko ko habaye ubwumvikane hagati y'Urega n'uregwa ku ndishyi SANLAM AG Plc igomba guha abarega bityo urukiko bwemeza ko ubwo bwumvikane bufite agaciro k'amasezerano akurikije amategeko bukaba bugomba kubahirizwa n'ababuranyi babugiranye

Umurongo uri mu rubanza: Ubwumvikane bugezweho n'ababuranyi mu rubanza bugira agaciro nk'ak'amasezerano akozwe mu buryo bukurikije amategeko. Bugomba gushyirwa mu bikorwa n'ababuranyi babugiranye

2. IMANZA Z'IMISORO

1. Kwandikisha ubucuruzi - Ubucuruzi bw'ubwikorezi - Uburenganzira bwo gukora ubwikorezi - Kwandikisha ubucuruzi burimo n'ubwikorezi bitandukanye no guhabwa uburenganzira bwo gukora ubwikorezi

Urubanza rwasuzumwe: Urubanza Nº RCOMAA 00030/2022/CA, rwaciwe ku wa 20/07/2022 haburana MAFAM Ltd na RRA (Igika cya 30)

Ibibazo byasuzumwe: Ese kwandikisha ubucuruzi burimo n'ubwikorezi ku rwego rubishinzwe, bihesha uwiyandikishije uburenganzira bwo gukora ubwikorezi?

Ingingo y'itegeko umurongo ushingiyeho: Ingingo ya 6,5° d, y'Itegeko N° 37/2012 ryo ku wa 09/11/2012 rishyiraho umusoro ku nyongeragaciro, yateganyaga ko serivisi y'ubwikorezi bwo gutwara ibintu mu nzira y'ubutaka isonewe umusoro ku nyongeragaciro, ikaba yaraje guhindurwa n'ingingo ya 2 y'Itegeko n° 40/2016 ryo ku wa 15/10/2016 hashyirwamo ikigombero iteganya ko serivisi z'ubwikorezi zikozwe **n'ababiherewe uruhushya** zisonewe umusoro ku nyongeragaciro.

Imvano y'ikibazo: Impaka zagiwe mu rubanza rwavuzwe haruguru ni ukumenya niba MAFAM Ltd yiyandikishije nka Sosiyete muri *Rwanda Development Board* (RDB) ko izakora ibikorwa birimo n'ibyubwikorezi yasonerwa umusoro ku nyongeragaciro mu gihe itasabye uburenganzira bw'ubwikorezi urwego rubishinzwe *(Rwanda Utilities Regulatory Authority RURA).* Urukiko rw'Ubujurire rwasanze bidahagije kwandikisha ubucuruzi burimo n'ubwikorezi muri RDB ngo utanga izo servisi asonerwe umusoro ku nyongeragaciro kuri serivisi z'ubwikorezi ko ahubwo agomba kubisabira uburenganzira muri RURA kuva aho iitegeko n° 40/2016 ryo ku wa 15/10/2016 ritangarijwe

Umurongo uhuriweho n'izindi manza: Kwandikisha ubucuruzi burimo n'ubwikorezi bitandukanye no guhabwa uburenganzira bwo gukora ubwikorezi

Izindi manza zafashwemo uyu murongo

❖ Urubanza Nº RCOMAA 00001/2022/CA, rwaciwe ku wa 25/03/2022, haburana RRA na SRDS Ltd;

❖ Urubanza Nº RCOMAA 00057/2021/CA rwaciwe ku wa 25/03/2022, haburana RRA na SUGIRA Ltd.

3. IFATIRA NA CYAMUNARA

1. Ubujurire bwa kabiri - ifatira ry'umutungo w'urimo umwenda - iburanisha mu buryo bw'ibirego byihutirwa - kutabuzwa gukora ubujurire bwa kabiri ku ifatira ryakozwe n'Umuhesha w'inkiko abisabwe n'uberewemo umwenda ushingiye ku gikorwa cy'ubucuruzi, hasabwa ko Urukiko rwemeza umwenda

Urubanza rwasuzumwe: Urubanza Nº RCOMAA 00058/2022/CA, rwaciwe ku wa 22/07/2022 haburana MANUMETAL Ltd na TEDMER INT TRADE CO Ltd (Igika cya 16)

Ibibazo byasuzumwe: Ese ibirego bishingiye ku ifatira ry'ibintu ry'ubereyemo umwenda undi ni ibirego byihutirwa ku buryo bidashobora kujuririrwa bwa kabiri (Kujuririrwa inshuro ebyiri)?

Ingingo y'itegeko umurongo ushingiyeho: Ingingo ya 185, igika cya mbere, 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 ibikurikira: "*Iyo hari ikirego cy'iremezo, ariko hagomba kugira icyemezwa by'agateganyo mu buryo bwihuta ku rubanza rwaregewe urukiko rutaraburanishwa, ikirego cyihutirwa gishyikirizwa umucamanza ushinzwe kurangiza impaka zihutirwa w'aho zigomba gukemurirwa hakurikijwe uburyo busanzwe bw'ihamagara*".

Ingingo ya 232 igika cya 1, 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 abantu bashobora gusaba Umuhesha w'inkiko gufatira ibintu by'umubereyemo umwenda, mu gika cya kabiri ikavuga ko: *"Mu gihe*

kitarenze amasaha 48, uberewemo umwenda agomba kuba yagejeje ikirego cy'iremezo mu rukiko rubifitiye ububasha kugirango hemezwe umwenda aberewemo''. Igika cya gatatu cy'iyo ngingo giteganya ko: "*Ifatira rivugwa mu gika cya 2 cy'iyi ngingo rigumaho, keretse iyo muri urwo rubanza uwafatiriwe asabye ko rivaho akabyemererwa n'urukiko. (…) Bene urwo rubanza ruburanishwa mu buryo bw'ibirego byihutirwa''*.

Umurongo uhuriweho n'izindi manza: Ikirego cyihutirwa ni ikirego gishamikiye ku kirego cy'iremezo. Bene icyo kirego kijuririrwa inshuro imwe gusa ariko urubanza rushingiye ku ifatira ryakozwe n'Umuhesha w'inkiko abisabwe n'uberewemo umwenda ushingiye ku gikorwa cy'ubucuruzi, rusaba Urukiko kwemeza umwenda ni ibirego bisanzwe ariko biburanishwa mu buryo bw'ikirego cyihutirwa, bikaba bishobora kujuririrwa inshuro irenze imwe

Izindi manza zafashwemo uyu murongo

❖ Urubanza Nº RCOMAA 0031/2016/SC-RCOMAA 00036/16/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 06/04/2018, haburana BK Ltd na HABIMANA Védaste

❖ Urubanza Nº RCOMAA 00012/2019/CA, rwaciwe ku wa 09/12/2019 NZITONDA Kiyengo aburanamo na COGEBANQUE Ltd, HIGIRO Martin, Umwanditsi Mukuru muri RDB na GASHEMA Félicien, (igika cya 15 n'icya 16)

IV. IMANZA ZASHINGIYE KU MIRONGO IMENYEREWE

1. Ugushidikanya ku bimenyetso - Gushidikanya kurengera uregwa akagirwa umwere ku cyaha akurikiranyweho

Urubanza rwasuzumwe: Urubanza Nº RPAA 00131/2021/CA rwaciwe ku wa 22/07/2022 rw'Ubushinjacyaha na UWITIJE J. Damascene (Igika cya 28).

Ingingo y'itegeko umurongo ushingiyeho: Ingingo ya 111 y'Itegeko nº 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, iteganya ko: ''Gushidikanya birengera ushinjwa. Iyo urubanza rwakurikiranywe mu buryo bwose, ntihagire ibimenyetso *nyakuri biboneka byemeza nta shiti abacamanza ko ushinjwa yakoze icyaha koko, bagomba kwemeza ko atsinze.*

Umurongo imanza zihuriyeho: Ugushidikanya kurengera ushinjwa, akagirwa umwere ku cyaha yari akurikiranyweho.

Izindi manza zafashwemo uyu murongo :

- Urubanza Nº RPA0084/10/CS rwaciwe 9/05/2014 rw'Ubushinjacyaha na GATERA, Vol [2015] 4 RLR
- Urubanza Nº RPAA0297/11/CS rwaciwe ku wa 24/3/2016 rw'Ubushinjacyaha na RUZINDANA, Vol [2016] 4 RLR
- Urubanza Nº RPAA0048/12/CS, rwaciwe ku wa 6/05/2016 rw'Ubushinjacyaha na NSANZINTWALI, Vol [2017] 2 RLR
- Urubanza Nº RPAA 00064/2018/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 13/09/2019 rw'Ubushinjacyaha na NSANZUMUHIRE Jean Baptiste (Igika cya 24).

- ❖ Urubanza Nº RPAA 00007/2021/CA rwaciwe ku wa 22/07/2022, rw'Ubushinjacyaha na MBONIMANA Thierry (Igika cya 31)

Urubanza ruyoboye izindi (Leading case): Ni Urubanza Nº RPA0084/10/CS rwaciwe 9/05/2014 rw'Ubushinjacyaha na GATERA, kuko rwaciwe mbere rukanasohoka mu cyegeranyo : Vol [2015] 4 RLR

2. Imanza Nshinjabyaha - Kujuririra urubanza - Urupfu rw'uregwa mbere y'icibwa ry'urubanza - Bituma haba ubuzime bw'ikurikiranacyaha

Urubanza rwasuzumwe: Urubanza N° RPAA 00272/2021/CA, rwaciwe ku wa 02/06/2022 rw'Ubushinjacyaha na BAYAVUGE Omar (Igika cya 10)

Incamake y'urubanza: Bayavuge Omar nyuma yo kujurira bwa kabiri mu Rukiko rw'Ubujurire ku cyaha cyo gucuruza ibiyobyabwenge yari yahamijwe n'Urukiko Rukuru rukamuhanisha igifungo cy'imyaka 25 n'ihazabi ya miliyoni 20, yaje ngupfa. Urukiko rushingiye ku nyandiko z'abahanga rutanga umurongo ukurikira:

Umurongo uhuriweho: Mu gihe uregwa apfuye nyuma y'uko urubanza rujuririwe, urukiko rwajuririwe rugomba kuvuga gusa ko habayeho ubuzime bw'ikurikiranacyaha

V. ITANGWA RY'IBIHANO

Imanza zagabanyije igihano

	Icyaha cyo gusambanya umwana/ gukoresha undi imibonano mpuzabitsina ku gahato				
S/N	**Urubanza**	**Ababuranyi**	**Impamvu**	**Igihano giteganyirijwe n'itegeko**	**Igihano cyatanzwe**
1.	Nº RPAA 00131/2021/CA rwaciwe ku wa 22/07/2022	UWAYEZU Damien na UBUSHINJACYAHA	Urukiko rwagabanyije igihano rushingiye ku **kuba yaremeye icyaha mu buryo budashidikanywaho kuva yatangira gukurikiranwa, no kuba nta kigaragaza ko yari asanzwe yitwara nabi**	*Ingingo ya 133 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu,iteganya ko uwahamwe n'icyaha cyo gusambanya umwana ahanishwa igifungo kitari munsi y'imyaka makumyabiri (20) ariko kitarenze imyaka makumyabiri n'itanu (25).*	Yahanishijwe **Igifungo cy'imyaka 10** aho kuba igifungo cy'imyaka 20 yahawe ku rwego rubanza ku ubwo gusambanya umwana w'imyaka 17.
2.	N° RPAA 00434/2021//2021/CA 15/07/2022	TUYISHIME Moïse na UBUSHINJACYAHA	Urukiko rwashingiye ku mpamvu nyoroshyacyaha ijyanye no kuba yaremeye icyaha kuva agifatwa, kuba yari asanzwe atari	*Idem*	Yahanishijwe igifungo cy'imyaka icumi (10) aho kuba igifungo cy'imyaka 20 yahanishijwe ku rwego rubanza. Ku bwo

			umunyarugomo no kuba aribwo yari akiva mu bwana kuko yari afite 19,		usambanya umwana w’imyaka 15.
3.	Nº RPAA 00014/2021/CA rwaciwe ku wa 22/07/2022	NSABAYUMVA Isidore, na UBUSHINJACYAHA	Impamvu nyoroshyacyaha Urukiko rwashingiyeho ni iyo kuba yaremeye icyaha kuva agifatwa agasobanura imikorere yacyo, agasaba imbabazi ndetse agaragaza ukwicuza no kuba nta kigaragaza ko yari asanzwe yitwara nabi	*Idem*	Yahanishijwe igifungo cy’imyaka icumi (10) aho kuba igifungo cy’imyaka 20 yahanishijwe ku rwego rubanza. Ku bwo usambanya umwana w’imyaka 15.
4.	Nº RPAA 00236/2021/CA ku wa 29/07/2022	UWITIJE Jean Damascène UBUSHINJACYAHA na	Urukiko rw’Ubujurire rurasanga **ibimenyetso byashingiweho mu guhamya icyaha uregwa bitera gushidikanya**.	*Idem*	**Urukiko rw’Ubujurire rwagize umwere uregwa**

	Nº RPAA 00007/2021/CA ku wa 22/07/2022	UBUSHINJACYAHA NA MBONIMANA Thierry	Urukiko rw'Ubujurire rurasanga **ibimenyetso byashingiweho mu guhamya icyaha uregwa bitera gushidikanya**.	*Idem*	**Urukiko rw'Ubujurire rwagize umwere uregwa**
5.	Nº RPAA 00046/2021/CA KU WA 22/07/2022	HARAGIRIMANA Jean Paul na UBUSHINJACYAHA	Impamvu nyoroshyacyaha yashingiweho ni ukuba yaremeye icyaha kuva agifatwa, kuba yari asanzwe atari umunyarugomo,	*Ingingo ya 133 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu, iteganya ko uwahamwe n'icyaha cyo gusambanya umwana uri munsi y'imyaka cumi n'ine (14), igihano kiba igifungo cya burundu*	Yahanishijwe igifungo cy'imyaka 15 aho kuba igifungo cya burundu yari yarahanishijwe n'Urukiko rubanza ku bwo gusambanya umwana w'imyaka 11.
6.	Nº RPAA 00194/2021/CA ku wa 22/07/2022	UBUSHINJACYAHA Na NDAYISHIMIYE Emmanuel alias Shema	Impamvu Urukiko rwashingiyeho ni ukuba ari ubwa mbere akoze icyaha no kuba aribwo yari akiva mu bwana afite imyaka 20,	*Idem*	Yahanishijwe igifungo cy''imyaka 15 aho kuba igihano cya burundu yari yahanishijwe mu nkiko zibanza ku bwo gusambanya umwana w'imyaka 11.
7.	Nº RPAA 00006/2020/CA	UBUSHINJACYAHA	Impamvu nyoroshyacyaha Urukiko rwashingiyeho ni iyo kuba yaremeye	*Idem*	Yahanishijwe igifungo cy''imyaka 25 aho kuba

	KU WA 22/07/2022	NA NDIMURWA NGO Evariste	icyaha kuva agifatwa agasobanura imikorere yacyo, agasaba imbabazi ndetse agaragaza ukwicuza gukomeye, kuba ari ubwa mbere aguye mu cyaha, kuba nta yindi myitwarire mibi yagaragajwe yari asanganywe mbere y'uko akora icyaha na nyuma y'aho, kuba mu gihe cy'iburanisha imbere y'uru Rukiko yaragaragaye nk'umuntu ufite intege nke mu mitekerereze ye		igihano cya burundu yari yahanishijwe mu nkiko zibanza ku bwo gusambanya umwana w'imyaka 7
	Icyaha cy'ubwicanyi				
1.	N° RPAA 00200/2021/CA KU WA 15/7/2022	UBUSHINJACYAHA NA BAGWANEZA Jean-Marie Vianney	Urukiko rwashingiye ku mpamvu nyoroshyacyaha ijyanye no kuba icyaha nta ngaruka zikomeye cyateje, kuba ari ubwa mbere akoze icyaha mu buryo buzwi	*Ingingo ya 107 n'iya 21 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu, zisomewe hamwe ; ubwinjiracyaha ku cyaha cy'ubwicanyi buhanishwa igifungo kingana n'imyaka 25.*	Yahanishijwe igifungo cy''imyaka 10, aho kuba igifungo cy'imyaka 25 yahawe ku rwego rwo hasi.

2.	N° RPAA 00206/2021/CA ku wa 19/7/2022	UBUSHINJACYAHA NA HABIMANA Obed	Urukiko rwashingiye ku mpamvu nyoroshyacyaha ijyanye no kuba icyaha nta ngaruka zikomeye cyateje, kuba ari ubwa mbere akoze icyaha mu buryo buzwi	*Idem*	Yahanishijwe igifungo cy''imyaka 10, aho kuba igifungo cy'imyaka 25 yahawe ku rwego rwo hasi.
3.	N° RPAA 00362/2021/CA ku wa 19/07/2022	UBUSHINJACYAHA NA MUKAKINANI Claudine	Urukiko rwashingiye ku mpamvu nyoroshyacyaha ijyanye no kuba icyaha nta ngaruka zikomeye cyateje, kuba ari ubwa mbere akoze icyaha mu buryo buzwi	*Idem*	Yahanishijwe igifungo cy''imyaka 20 aho kuba igifungo cy'imyaka 25 yahawe ku rwego rwo hasi.
4.	Nº RPAA 00130/2020/CA KU WA 20/05/2022	UBUSHINJACYAHA na UZABAKIRIHO Théodosie	Urukiko rwashingiye ku mpamvu nyoroshyacyaha ijyanye no kuba uwajuriye yaremeye icyaha kuva agifatwa no kuba yariyunze n'umuryango yahemukiye	*Idem*	Yahanishijwe igifungo cy''imyaka 20 aho kuba igifungo cy'imyaka 25 yahawe ku rwego rwo hasi.
5.	Nº RPAA 00290/2020/CA KU WA 08/07/202	UBUSHINJACYAHA Na RUKUNDO Emmanuel	Urukiko rwashingiye ku mpamvu nyoroshyacyaha ijyanye no kuba icyaha nta ngaruka zikomeye cyateje.	I*dem*	Yahanishijwe igifungo cy''imyaka 18 aho kuba igifungo cy'imyaka 25 yahawe ku rwego rwo hasi.
6.	Nº RPAA 00069/2021/CA	UBUSHINJACYAHA	Urukiko rwashingiye ku mpamvu nyoroshyacyaha ijyanye no kuba	I*dem*	Yahanishijwe igifungo cy''imyaka 10 aho kuba

	ku wa 28/07/2022	na NYIRANIZEYIMANA Odette	icyaha nta ngaruka zikomeye cyateje.		igifungo cy'imyaka 25 yahawe ku rwego rwo hasi.
7.	Nº RPAA 00458/2021/CA ku wa 28/07/2022	UBUSHINJACYAHA na NZABONIMANA Théoneste	Urukiko rwashingiye ku mpamvu nyoroshyacyaha ijyanye no kuba icyaha nta ngaruka zikomeye cyateje.	I*dem*	Yahanishijwe igifungo cy''imyaka 15 aho kuba igifungo cy'imyaka 25 yahawe ku rwego rwo hasi.
8.	Nº RPAA 00268/2021/CA rwaciwe ku wa 29/07/2022	NTAKIRUTIMANA Martin na UBUSHINJACYAHA	Urukiko rwashingiye ku mpamvu nyoroshyacyaha ijyanye no kuba abahohotewe (Victume) nta n'umwe wasigaranye ubumuga buhoraho, n'ingaruka zatewe n'icyaha zikaba zaragabanutse kurusha uko zari zitezwe	I*dem*	Yahanishijwe igifungo cy''imyaka 18 aho kuba igifungo cy'imyaka 25 yahawe ku rwego rwo hasi.

9.	Nº RPAA 00056/2021/CA ku wa 28/07/2022	UBUSHINJACYAHA na RWABARINDA Japhet	Urukiko rwashingiye ku mpamvu nyoroshyacyaha ijyanye no kuba uwajuriye yaremeye icyaha kuva agifatwa	*Ingingo ya 107 n'iya 60 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu, iteganyua ko: ubwicanyi buhanishwa igifungo cya burundu icyo kikaba gishobora gishobora kugabanywa ariko ntikijye munsi y'imyaka25..*	Yahanishijwe igifungo cy''imyaka 25 aho kuba igifungo cya burundu yahawe ku rwego rwo hasi.
	Ikoresha ritemewe ry'ibiyobyabwenge n'urusobe rw'imiti ikoreshwa nkabyo				
1.	N0 RPAA 00396/2020/CA ku wa 13/07/2022	UBUSHINJACYAHA NA MUTUYIMANA Théophile	Impamvu nyoroshyacyaha Urukiko rwashingiyeho ni iyo kuba yaremeye icyaha kuva agifatwa agasobanura imikorere yacyo, agasaba imbabazi ndetse agaragaza ukwicuza no kuba ari ubwa mbere akoze icyaha bizwi	*Ingingo ya 263, igika cya gatatu (3), agace ka mbere (1), y'Itegeko n° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu, iteganya ko icyaha cyo gucuruza ibiyobyabwenge bihambaye bihanishwa igifungo cya burundu n'ihazabu y'amafaranga arenze*	Yahanishijwe igifungo cy''imyaka 10 n'ihazabu ya 5.000.000 Frw aho kuba igifungo cy'imyaka 20 n'ihazabu ya 20.000.000 Frw yahawe ku rwego rwo hasi.

				20.000.000 Frw, ariko atarenze 30.000.000 Frw	
2.	Nº RPAA 00027/2021/CA ku wa 15/7/2022	UBUSHINJACYAHA Na SHAKUBONE Reverien	Urukiko rwasanze rukwiye kongera kugabanya igihano kuko icyatanzwe n'urukiko rubanza kitaragabanyijwe mu buryo buhagije ubirebeye hamwe n'uburemere bw'icyaha cyakozwe.	*Idem*	Yahanishijwe igifungo cy''imyaka 17 n'ihazabu ya 2.000.000 Frw aho kuba igifungo cy'imyaka 20 n'ihazabu ya 2.000.000 Frw yahawe ku rwego rwo hasi.
3.	N° RPAA 00091/2021/CA ku wa 19/07/2022	UBUSHINJACYAHA NA HAKIZIMANA Gilbert	Impamvu nyoroshyacyaha Urukiko rwashingiyeho ni iyo kuba ari ubwambere yakurikiranywaho icyaha mu buryo buzwi, nta yindi myitwarireri mibi yamuranze mbere y'uko akora icyaha, no kuba urumogi yari atangiye gucuruza rwari ruke	*Idem*	Yahanishijwe igifungo cy''imyaka 10 n'ihazabu ya 10.000.000 Frw aho kuba igifungo cy'imyaka 20 n'ihazabu ya 20.000.000 Frw yahawe ku rwego rwo hasi.
4.	N° RPAA 00225/2021/CA	UBUSHINJACYAHA NA	Impamvu nyoroshyacyaha Urukiko rwashingiyeho ni iyo kuba yaremeye icyaha mu buryo	*Idem*	Yahanishijwe igifungo cy''imyaka 10 n'ihazabu ya 10.000.000 Frw, aho

	, ku wa 19/07/2022	UKWISHAKA Claude	budashidikanywaho kuva mu iburanisha ku rwego rwambere, akaba ari ubwambere yakurikiranwaho icyaha, no kuba nta n'indi mwitwarire mibi yamuranze		kuba igifungo cy'imyaka 25 n'ihazabu ya 10.000.000 Frw yari yahanishijwe n'Urukiko rubanza
5.	Nº RPAA 00273/2021/ca ku wa 15/07/2022	MUBARAKA Eduine na UBUSHINJACYAHA	Impamvu nyoroshyacyaha Urukiko rwashingiyeho ni iyo kuba yaremeye icyaha kuva agifatwa, ingano ntoya y'urumogi (66 boules) yacuruzaga yafatanywe	*Idem*	Yahanishijwe igifungo cy''imyaka 15 n'ihazabu ya 10.000.000 Frw, aho kuba igifungo cy'imyaka 25 n'ihazabu ya 20.000.000 Frw yari yahanishijwe n'Urukiko rubanza
6.	Nº RPAA 00293/2021/CA rwaciwe ku wa	MURINDAHABI Jean de Dieu na UBUSHINJACYAHA	Impamvu nyoroshyacyaha Urukiko rwashingiyeho ni iyo kuba ari ubwa mbere aguye mu cyha mu buryo buzwi, kuba yarafatanywe ingano nto (Udupfunyika 16) y'urumogi yacuruzaga yafatanywe no ku gihe	Idem	Yahanishijwe igifungo cy''imyaka 20 n'ihazabu ya 10.000.000 Frw aho kuba igifungo cy'imyaka 25 n'ihazabu ya 20.000.000 Frw yahawe ku rwego rwo hasi.

			gito cy'amezi 2 yari amaze arucuruza.		
7.	Nº RPAA 00499/2021/CA rwaciwe ku wa 22/07/2022	MBARUSHIMANA Damascène na UBUSHINJACYAHA	Urukiko rwagabanyije igihano rushingiye ku ngano nto (Udupfunyika 3) y'uru rumogi uregwa yacuruzaga yafatanywe	Idem	Yahanishijwe igifungo cy''imyaka 10 n'ihazabu ya 5.000.000 Frw. aho kuba igifungo cya burundu n'ihazabu ya 20.000.000 Frw yahawe ku rwego rwo hasi.
8.	Nº RPAA 00054/2022/CA rwaciwe ku wa 22/07/2022.	NSENGIMANA Oreste na UBUSHINJACYAHA	Urukiko rwagabanyije igihano rushingiye ku kuba uregwa ari ubwa mbere yari akoze icyaha, nta yindi myifatire mibi asanze azwiho aho abarizwa ndetse akaba yaranakoze icyaha cyo kunywa no gucuraza urumogi akiva mu busore afite imyaka 23	Idem	Yahanishijwe igifungo cy''imyaka 15 n'ihazabu ya 15.000.000 Frw. aho kuba igifungo cya burundu n'ihazabu ya 21.000.000 Frw yahawe ku rwego rwo hasi.
9.	Nº RPAA 00148/2021/CA ku wa 29/07/2022	UBUSHINJACYAHA Na	Impamvu nyoroshyacyaha Urukiko rwashingiyeho ni iyo kuba yaremeye icyaha kuva agifatwa no kuba yarafatanywe ingano nto	*Ingingo ya 263, igika cya gatatu (3), agace ka mbere (1), y'Itegeko n° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri*	Yahanishijwe igifungo cy''imyaka 15 n'ihazabu ya 5.000.000 Frw aho kuba igifungo cy'imyaka 20

		MUKAMUTESI Julienne	(Udupfunyika 31) y'ibiyobyabwenge yacuruzaga yafatanywe	*rusange nk'uko ryahinduwe kugeza ubu, iteganya ko icyaha cyo* ***kubika no gutunda*** *ibiyobyabwenge bihambaye bihanishwa igifungo cya burundu n'ihazabu y'amafaranga arenze 20.000.000 Frw, ariko atarenze 30.000.000 Frw*	n'ihazabu ya 10.000.000 Frw yahawe ku rwego rwo hasi.
. 10.	N° RPAA 00200/2020/CA ku wa 27/07/2022	UBUSHINJACYAHA na HAKIZIMANA Eric.	Urukiko rwasanze kuba yarafatanywe ibiti 2 yahinze akwiye guhanwa nk'uwafatanywe ibiyobyabwenge aho guhanwa nk'uwahinze ibiyobyabwenge, bityo agahabwa ibihano bito rumuhanisha igifungo cy'imyaka ibiri (2)	*Ingingo ya 263, igika cya gatatu (3), agace ka mbere (1), y'Itegeko n° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu iteganya ko icyaha cyo* ***guhinga*** *ibiyobyabwenge bihambaye bihanishwa igifungo cya burundu n'ihazabu y'amafaranga arenze 20.000.000 Frw, ariko atarenze 30.000.000 Frw.*	Yahanishijwe igifungo cy''imyaka 2 aho kuba igifungo cy'imyaka 25 n'ihazabu ya 20.000.000 Frw yahawe ku rwego rwo hasi.

Imanza zagumishijeho igihano cyari cyatanzwe

	Icyaha cyo gusambanya umwana/ gukoresha undi imibonano mpuzabitsina ku gahato				
S/N	**Urubanza/**	**Ababuranyi**	**Impamvu**	**igihano giteganyirijwe n'itegeko**	**Igihano cyatanzwe**
1.	Nº RPAA 00442/2020/CA, ku wa 22/07/2022	NKUNDIMANA Jean Bosco na UBUSHINJACYAHA	Impamvu z'ubujurire zatanzwe n'uregwa ntizahawe ishingiro (ijyanye no kuba iyo aba yarasambanyije victume koko aba yaramuteye ubwandu bwa SIDA amaranye imyaka 26 n'ijyanye n'uko abatangabuhamya batavugishije ukuri)	*Ingingo ya 133 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018* riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu *iteganya ko uwahamwe n'icyaha cyo gusambanya umwana ahanishwa igifungo kitari munsi y'imyaka makumyabiri (20) ariko kitarenze imyaka makumyabiri n'itanu (25).*	Urukiko rw'Ubujurire rwemeje ko **igifungo cy'imyaka 25**, yahawe n'urukiko rubanza kidahindutse.
2.	N° RPAA 00008/2021/CA, ku wa 15/07/2022	UBUSHINJACYAHA na HABIYUMVA Jean Bosco	Urukiko ntirwahaye ishingiro ikimenyetso gishinjura uregwa kuko cyanditswe nyuma y'umwaka kandi uregwa we yari yariyemereye icyaha mu ikurikiranacyaha no mu nkiko zibanza	Idem	Urukiko rw'Ubujurire rwemeje ko **igifungo cy'imyaka 15**, yahawe n'urukiko rubanza kidahindutse.

3.	N° RPAA 00042/2021/CA, ku wa 20/07/2022	UBUSHINJA CYAHA NA SINAMENYE Pierre	Urukiko rwasanze Ukwemera icyaha kwe kudashidikanywaho, kuko yayiye ahinduranya imvugo, rusanga atagabanyirizwa igihano kubera uburemere bw'icyaha n'ubugome yagikoranye agasambanya umwana we (Umwana umugore yatahanye iwe afite umwaka umwe) akabigira akamenyero (…)	*Idem*	Urukiko rw'Ubujurire rwemeje ko **igifungo cy'imyaka 22** yahawe n'urukiko rubanza kidahindutse
4.	Nº RPAA 00202/2021/CA, ku wa 22/07/2022	NSENGIMANA Alphonse bita Gatera na UBUSHINJA CYAHA	Urukiko ntirwahaye agaciro impamvu ze z'zubujurire aho yajuriye ahakana icyaha, yari yaremeye mu ikurikiranacyaha rusanga hari ibimenyetso bihagije bigaragaza ko yasambanyaga umwana w 'imyaka 6	*Ingingo ya 133 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018* riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu *iteganya ko uwahamwe n'icyaha cyo gusambanya umwana uri munsi y'imyaka cumi n'ine (14), igihano kiba igifungo cya burundu*	Urukiko rw'Ubujurire rwemeje ko **igifungo cya burundu** yahawe n'urukiko rubanza kidahindutse
5.	Nº RPAA 00356/2020/CA, ku wa 22/07/2022	UBUSHINJA CYAHA	Urukiko rusanga nta kimenyetso gifatika uregwa atanga kigaragaza ko icyaha ashinjwa cyo	*Idem*	Urukiko rw'Ubujurire rwemeje ko **igifungo cya burundu** yahawe

		Na HABIMFURA Obed	gusambanya umwana w'imyaka 11 atagikoze.		n'urukiko rubanza kidahindutse
6.	Nº RPAA 00284/2020/CA, ku wa 22/07/2022	UBUSHINJA CYAHA NA BIZUMUREMYI Dadi	Urukiko rwasanze impamvu z'ubujurire zatanzwe n'uregwa nta shingiro zifite, ko nta gushidikanya no kugenekereza kwabaye kandi ko ibimenyetso byashingiweho kugirango uregwa ahamwe n'icyaha bihagije	*Idem*	Urukiko rw'Ubujurire rwemeje ko **igifungo cya burundu** yahawe n'urukiko rubanza kidahindutse
7.	Nº RPAA 00370/2021/CA, ku wa 22/07/2022	UBUSHINJA CYAHA NA NIYIBIZI Athanase	Urukiko rwasanze impamvu z'ubujurire zatanzwe n'uregwa nta shingiro zifite ko ibyo avuga ko icyaha cyo gusambanya umwana w'imyaka 11 yakoze nta ngaruka zikomeye cyateje ko iyo mvugo irimo kutumva uburemere bw'ingaruka icyaha cyateje umwana wahohotewe n'ababyeyi be (…)	idem	Urukiko rw'Ubujurire rwemeje ko **igifungo cy'imyaka 20** yahawe n'urukiko rubanza kidahindutse

	Icyaha cy'ubwicanyi				
1.	N° RPAA 00017/2021/CA, ku wa 15/07/2022	UBUSHINJA CYAHA NA BIGIRIMANA Jean Bosco	Urukiko rwasanze nubwo uregwa yemeye icyaha aregwa bitamubera impamvu nyoroshyacyaha cyangwa ngabanya gihano, bitewe n' uburemere bw'icyaha yahamijwe, n'ubugome bukabije yagikoranye	*Ingingo ya 107 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018* riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu*, iteganya ko icyaha cy'ubwicanyi gihanishwa igifungo cya* burundu	Urukiko rw'Ubujurire rwemeje ko **igifungo cya burundu** yahawe n'urukiko rubanza kidahindutse
2.	N° RPAA 00291/2021/CA, ku wa 29/07/2022	UBUSHINJA CYAHA NA HABIYAKARE Pontien	Urukiko rwasanze igihano yahawe n'urukiko rubanza gihagije kandi gikwiranye n'icyaha yakoze, bityo akaba adakwiye kongera kukigabanyirizwa	*Idem*	Urukiko rw'Ubujurire rwemeje ko **igifungo cy'imyaka 25** yahawe n'urukiko rubanza kidahindutse
3.	N° RPAA 00312/2021/CA, ku wa 29/07/2022	UBUSHINJA CYAHA NA MBONABUCYA Donatien	Urukiko rwasanze igihano yahawe n'urukiko rubanza gikwiranye n'icyaha yakoze, bitewe n' uburemere bw'icyaha yahamijwe, n'ubugome bukabije yagikoranye, aho nyuma yo kwica Ayinkamiye Claudine yaramutwitse.	*Idem*	Urukiko rw'Ubujurire rwemeje ko **igifungo cya burundu** yahawe n'urukiko rubanza kidahindutse

4.	NºRPAA 00311/2021/CA, ku wa 28/07/2022	UBUSHINJA CYAHA na IRANZI Siméon alias Rasta	Urukiko rwasanze uregwa ataratanze ibimenyetso bivuguruza ibyo Urukiko Rukuru rwashingiyeho rumuhamya icyaha cy'ubwicanyi ko igihano yahawe n'urukiko rubanza gikwiranye n'icyaha yakoze	Idem	Urukiko rw'Ubujurire rwemeje ko **igifungo cya burundu** yahawe n'urukiko rubanza kidahindutse
5.	Nº RPAA 00314/2021/CA, ku wa 28/07/2022	NTAMBARA na UBUSHINJA CYAHA	Urukiko rwasanze igihano yahawe n'urukiko rubanza gikwiranye n'icyaha yakoze, rwasanze ukwemera icyaha kwe kutuzuye ku buryo byamugirira akamaro kandi impamvu aburanisha z'uko yasembuwe urukiko ntirwayihaye ishingiro kuko nta bimenyetso yabitangiye	*Idem*	Urukiko rw'Ubujurire rwemeje ko **igifungo cy'imyaka 20** yahawe n'urukiko rubanza kidahindutse
6.	Nº RPAA 00308/2021/CA, ku wa 28/07/2022	UBUSHINJA CYAHA na	Urukiko rwasanze igihano yahawe n'urukiko rubanza gikwiranye n'icyaha yakoze, rwasanze ukwemera icyaha kwe kutuzuye ku	Idem	Urukiko rw'Ubujurire rwemeje ko **igifungo cya burundu** yahawe

		ITANGISHAKA Anicet	buryo byamugirira akamaro kandi impamvu atanga y'ubusembureurukiko ntirwayihaye ishingiro kuko nta bimenyetso yabitangiye		n'urukiko rubanza kidahindutse
7.	Nº RPAA 00157/2021/CA, ku wa 28/07/2022	UBUSHINJACYAHA na BAGIRUWUBUSA Jean Nepomuscène	Urukiko rusanga uregwa atakongera kugabanyirizwa igihano hashingiwe ku mpamvu nyoroshyacyaha yo kwemera icyaha kuko ari nayo yashingiweho n'Urukiko Rukuru rumugabanyiriza igihano.	Idem	Urukiko rw'Ubujurire rwemeje ko **igifungo cy'imyaka 25** yahawe n'urukiko rubanza kidahindutse
8.	Nº RPAA 00320/2021/CA, ku wa 28/07/2022	UBUSHINJACYAHA na NDIKUBWIMANA Joseph	Urukiko rwasanze nta bimenyetso uregwa agaragaza bivuguruza ibyashingiweho n'Urukiko Rukuru mu kumuhamya icyaha.	Idem	Urukiko rw'Ubujurire rwemeje ko **igifungo cya burundu** yahawe n'urukiko rubanza kidahindutse
9.	N° RPAA 00353/2021/CA,	UBUSHINJACYAHA NA	Urukiko rwasanze nubwo uregwa yemeye icyaha aregwa bitamubera impamvu nyoroshyacyaha	*Iyo gukubita cyangwa gukomeretsa byateye urupfu, igihano kiba igifungo kitari munsi y'imyaka cumi n'itanu (15)*	Urukiko rw'Ubujurire rwemeje ko **igifungo cy'imyaka 15**

	ku wa 29/07/2022	BIRIMIMANA Jean Bosco	cyangwa ngabanya gihano, bitewe n'uburyo icyaha yagikozemo, rusanga igihano yahawe gikwiranye n'icyaha yakoze.	*ariko kitarenze imyaka makumyabiri (20) n'ihazabu ya 5.000.000 FRW ariko atarenze 7.000.000 FRW.*	**n'ihazabu ya 5,000,000** yahawe n'urukiko rubanza kidahindutse
	Ikoresha ritemewe ry'ibiyobyabwenge n'urusobe rw'imiti ikoreshwa nkabyo				
1.	N° RPAA 00436/2020/CA	UBUSHINJACYAHA NA AHIMPEREYE NDEZE François	Urukiko rw'Ubujurire rurasanga uregwa adakwiye kongera kugabanyirizwa igihano kuko icyo yahawe kiri mu rugero rw'uburemere bw'icyaha yakoze.	*Ingingo ya 263, igika cya gatatu (3), agace ka mbere (1), y'Itegeko n° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu iteganya ko* ***icyaha cyo gucuruza ibiyobyabwenge*** *bihambaye bihanishwa igifungo cya burundu n'ihazabu y'amafaranga arenze 20.000.000 Frw, ariko atarenze 30.000.000 Frw.*	Urukiko rw'Ubujurire rwemeje ko **igifungo cy'imyaka 25 n'ihazabu ya 21,000,000** yahawe n'urukiko rubanza kidahindutse
2.	N° RPAA 00270/2021/CA ku wa 28/07/2022.	HABAKURAMA Côme na UBUSHINJACYAHA	Urukiko rwasanze igihano yahawe ku rwego rubanza kiri mu rugero rw'uburemere bw'icyaha yakoze kandi ko atakwitwaza ingaruka	*Idem*	Urukiko rw'Ubujurire rwemeje ko **igifungo cy'imyaka 20 n'ihazabu ya**

			mbi z'icyaha yakoze aburanisha ngo asabe kudahanishwa igihano Itegeko ryagiteganyirije		**20,000,000** yahawe n'urukiko rubanza kidahindutse
3.	*Nº RPAA 00021/2021/CA rwaciwe ku wa* 29/07/2022.	HABUMUGISHA Jean Claude na UBUSHINJACYAHA	Urukiko rw'Ubujurire rwasanze impamvu z'ubujurire zijyanye n'uko urumogi rungana n'udupfunyika 20 ndetse na ½ kg yafatanywe ari urwo kunywa nta shingiro zifite (…) rwemeza ko igihano cyatanzwe gihamaho	Idem	Urukiko rw'Ubujurire rwemeje ko **igifungo cy'imyaka 25 n'ihazabu ya 21,000,000** yahawe n'urukiko rubanza kidahindutse
4.	Nº RPAA 00111/2021/CA rwaciwe ku wa 22/07/2022	AKAYEZU Théophile na UBUSHINJACYAHA	Urukiko rw'Ubujurire rwasanze igihano yahawe ku rwego rubanza kiri mu rugero rw'uburemere bw'icyaha yakoze kuko ingano y'urumogi yatunze (4kg) iri hejuru cyane ari nako ingaruka zabyo zigera ku mubare munini w'abantu.	*Ingingo ya 263, igika cya gatatu (3), agace ka mbere (1), y'Itegeko n° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu iteganya ko* ***icyaha* cyo gutunda *ibiyobyabwenge*** *bihambaye bihanishwa igifungo cya burundu n'ihazabu y'amafaranga arenze 20.000.000 Frw, ariko atarenze 30.000.000 Frw*	Urukiko rw'Ubujurire rwemeje ko **igifungo cy'imyaka 25 n'ihazabu ya 20,000,000** yahawe n'urukiko rubanza kidahindutse

5.	N° RPAA 00109/2021/CA rwaciwe ku wa 29/07/2022.	NSENGIYUMVA Jean Claude na UBUSHINJACYAHA	Urukiko rw'Ubujurire rwasanze uregwa yaragabanyirijwe igihano ku buryo buhagije ahanishwa igifungo cy'imyaka 20 aho kuba igifungo cya burundu giteganyijwe ku cyaha yahamijwe, rusanga nta yindi mpamvu rubona yatuma ibyo bihano bigabanywa.	Idem	Urukiko rw'Ubujurire rwemeje ko **igifungo cy'imyaka 20 n'ihazabu ya 10,000,000** yahawe n'urukiko rubanza kidahindutse
6.	No RPAA 00119/2020/CA rwaciwe ku wa 22/07/2022	DUSHIMIMANA Olivier, na UBUSHINJACYAHA	Urukiko rw'Ubujurire rwasanze impamvu z'ubujurire zitangwa n'uregwa nta shingiro zifite ruhamishaho ibihano byatanzwe ku rwego rubanza	Idem	Urukiko rw'Ubujurire rwemeje ko **igifungo cy'imyaka 25 n'ihazabu ya 20,000,000** yahawe n'urukiko rubanza kidahindutse
7.	*N° RPAA 00226/2021/CA rwciwe ku wa* 22/07/2022	UWIMBABAZI Phonique na UBUSHINJACYAHA	Urukiko rw'Ubujurire rwasanze igihano yahawe ku rwego rubanza kiri mu rugero rw'uburemere bw'icyaha cyo kubika ibiyobyabwenge yakoze	*Ingingo ya 263, igika cya gatatu (3), agace ka mbere (1), y'Itegeko n° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu iteganya ko*	Urukiko rw'Ubujurire rwemeje ko **igifungo cy'imyaka 20 n'ihazabu ya 10,000,000** yahawe

				icyaha cyo **kubika no gutunda** ***ibiyobyabwenge bihambaye*** *bihanishwa igifungo cya burundu n'ihazabu y'amafaranga arenze 20.000.000 Frw, ariko atarenze 30.000.000 Frw*	n'urukiko rubanza kidahindutse
8.	Nº RPAA 00024/2021/CA rwaciwe ku wa 29/07/2022	MUKAYISENGA na UBUSHINJACYAHA	Urukiko rw'Ubujurire rwasanze uregwa ntacyo anenga ukutakirwa k'urubanza rwe mu rukiko rubanza akaba atagaragaza amakosa yakozwe n'urwo rukiko yatuma icyemezo rwafashe giteshwa agaciro	*Ingingo ya 263, igika cya gatatu (3), agace ka mbere (1), y'Itegeko n° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu iteganya ko icyaha cyo* **kubika no gucuruza** ***ibiyobyabwenge bihambaye*** *bihanishwa igifungo cya burundu n'ihazabu y'amafaranga arenze 20.000.000 Frw, ariko atarenze 30.000.000 Frw*	Urukiko rw'Ubujurire rwemeje ko **igifungo cya burundu n'ihazabu ya 20,000,000** yahawe n'urukiko rubanza kidahindutse
9.	No RPAA 00106/2021/CA rwaciwe ku wa 27/07/2022	NDAYAMBAJE Benoit na UBUSHINJACYAHA	Urukiko rw'Ubujurire rwasanze ukwemera icyaha k'uregwa kutamugirira akamaro ngo agabanyirizwe igihano kuko atemeye icyaha ku buryo	Idem	Urukiko rw'Ubujurire rwemeje ko **igifungo cy'imyaka 20 n'ihazabu ya 15,000,000** yahawe

			Budashidikanywaho..		n'urukiko rubanza kidahindutse
. 10	N° RPAA 00080/2021/CA rwaciwe ku wa 29/07/2022	HABIMANA Samson alias Moussa na UBUSHINJA CYAHA	Urukiko rw'Ubujurire rwasanze ukwemera icyaha k'uregwa kutamugirira akamaro ngo agabanyirizwe igihano kuko atemeye icyaha ku buryo Budashidikanywaho.	*Ingingo ya 263, igika cya gatatu (3), agace ka mbere (1), y'Itegeko n° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu iteganya ko icyaha* cyo **kunywa no gucuruza *ibiyobyabwenge bihambaye*** *bihanishwa igifungo cya burundu n'ihazabu y'amafaranga arenze 20.000.000 Frw, ariko atarenze 30.000.000 Frw*	Urukiko rw'Ubujurire rwemeje ko **igifungo cy'imyaka 20 n'ihazabu ya 10,000,000** yahawe n'urukiko rubanza kidahindutse
	Icyaha cyo Gucuruza abantu				
1	N° RPA 00035/2020/CA ku wa 29/4/2022	UBUSHINJA CYAHA NA KABURERE Gérard	Urukiko rwasanze impamvu z'ubujurire atanga nta shingiro zahabwa kandi ko ibyo uregwa avuga ko atemera icyaha, nta shingiro ifite, kuko bigaragara ko **ibikorwa yakoze bigize icyaha cyo gucuruza abantu, ka**	Icyaha giteganywa kandi kigahanishwa ingingo ya 18 y'itegeko nº 51/2018 ryo ku wa 13/08/2018 ryerekeye gukumira, kurwanya no guhana icuruzwa ry'abantu no gushakira inyungu mu bandi.	Urukiko rw'Ubujurire rwemeje ko **igifungo cy'imyaka 20 n'ihazabu ya 20,000,000** yahawe n'urukiko rubanza kidahindutse.

	Icyaha cyo Guteza imvururu cyangwa imidugararo muri rubanda.				
1	A N° RPA 00011/2020/CA	UBUSHINJA CYAHA NA BAYAVUGE UKUYEMUYE Emmanuel	Urukiko rwasanze Ukwemera icyaha kwe mu bujurire kugabanyije kugabanyisha igihano kutahabwa ishingiro	Ingingo ya 204 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange. Iteganya ko uhamwe n'icyaha cyo guteza **imvururu cyangwa imidugararo muri rubanda**, ahanishwa igifungo kitari munsi y'imyaka (10) ariko kitarenze imyaka15.	Urukiko rw'Ubujurire rwemeje ko **igifungo cy'imyaka 10** yahawe n'urukiko rubanza kidahindutse

VI. UMWANZURO

Nk'uko twateruye tubivuga, iyi nyandiko igamije korohereza abacamanza, abanditsi, abashakashatsi, abashinjacyaha, aba Avoka n'ababuranyi muri rusange kumenya imirongo yatanzwe n'Urukiko rw'Ubujurire. Nk'uko biteganywa n'itegeko, muzi ko Urukiko rw'Ubujurire arirwo ruburanisha imanza ku rwego rwa nyuma, haseguriwe ububasha bwihariye bwahawe Urukiko rw'Ikirenga bwo kuba rwasubirishamo imanza ku mpamvu z'akarengane.

Ni muri urwo rwego, imirongo iba yagaragaye muri iyi nyandiko iba igomba kumurikira Urukiko rw'Ubujurire ndetse n'inkiko zose rukuriye ku bijyanye n'ibyemezo zifata; kandi narwo rwitwararitse kubahiriza imirongo yatanzwe n'Urukiko rw'Ikirenga.

Iyi nyandiko ntivuguruza cyangwa ngo igongane n'imanza zisanzwe zisohorwa mu cyegeranyo. Ariko, kuko mu cyegeranyo hasohokamo imanza nke kandi kigasohoka gitinze, twahisemo kujya tubamenyesha imirongo yafashwe mu manza zose zaciwe n'Urukiko rw'Ubujurire buri kwezi, kugira ngo hatazabaho kwitwaza ko hari imirongo yatanzwe yaba itari izwi.

By'umwihariko, twongeye kwibutsa Ababuranyi (Abavoka, Abashinjacyaha) baburanira mu Rukiko rw'Ubujurire ko mbere yo gukora umwanzuro ugenewe uru rukiko, bakwiye kujya iteka bareba niba ikibazo kigibwaho impaka kitarigeze kibonerwa igisubizo mu manza zabanje, bifashishije izi nyandiko.

Ni muri ubwo buryo, twese dufatanyije, tuzagenda dushimangira intego yo gutanga ubutabera bumwe ku bibazo bisa no kwirinda kubogama ku mpamvu iyo ari yo yose.

Murakoze.

P.O. BOX 2197 KIGALI