

# BUGIRIMFURA v. UMUJYI WA KIGALI N'ABANDI

[Rwanda URUKIKO RW'IKIRENGA – RADA 0033/11/CS (Mutashya, P.J., Mukanyundo na Kayitesi, J.) 11 Nzeri 2013]

*Amategeko agenga imiburanishirize y'ianza z'ubutegetsi – Iyakirwa ry'ikirego gisaba gukuraho icyemezo cy'umuyobozi – Mbere yo kuregera Urukiko, unenga icyemezo agomba kubanza gutakambira uwagifashe cyangwa umuyobozi w'urwego rwisumbuyeho igihe cyo kuregera Urukiko kitararanga – Itegeko ryo kuwa 23/02/1963 ritunganya Urukiko rw'Ikirenga, ingingo ya 106 igika cya 6.*

**Incamake y'ikibazo:** Bugirimfura Alfred avuga ko yari afite ikibanza mu Murenge wa Gatenga, Akarere ka Kicukiro akaza kucyamburwa n'Umujyi wa Kigali mu buryo bunyuranyije n'amategeko ukagiha Fariyara John. Kuwa 04 Ugushyungo 1999 yatakambiye ubuyobozi bw'Umujyi wa Kigali ntiyagira igisubizo ahabwa maze kuwa 30 Werurwe 2002, aregera Urukiko rwa mbere rw'iremezo, nyuma y'ivugurwa ry'amategeko, urwo rubanza ruburishwa n'urukiko Rukuru ku rwego rwa mbere kuko ari rwo rwari rufite ububasha, rwemeza ko ikirego kitakiriwe kuko yaregeye urukiko akerekerewe nyuma yo gutakamba. Bugirimfura yajuririye Urukiko rw'Ikirenga avuga ko umucamanza w'Urukiko Rukuru yibeshye akavugaga ko urubanza rwatangiyeye muri 2007 nyamara rwatangiyeye muri 2002 bituma yemeza ko ikirego cyatanzwe gitanze atariko biri.

**Incamake y'icyemezo:** 1. Kuba unenga icyemezo yaratakambiye ubuyobozi bw'umujyi wa Kigali kuwa 4 Ugushyungo 1999 hagashira igihe cy'amezi abiri atarahabwa igisubizo bifatwa nk'aho nta cyahindutse ku cyemezo cyatakambiye bityo kuregera Urukiko kuwa 30 Mata 2002, n'ukuvugaga amezi atatu itegeko ryamuteganyirizaga kuba yaregeye Urukiko yararenze bituma ikirego cyo kitakwirwaga kuko yagitanze akerekerewe.

**Ubujurire nta shingiro bufite.  
Amagarama y'urubanza aherereye ku regwa.**

**Amategeko yashingiweho :**

Itegeko ryo kuwa 23/02/1963 ritunganya Urukiko rw'Ikirenga, ingingo ya 106.

**Nta manza zifashishijwe.**

## Urubanza

### I. IMITERERE Y'URUBANZA

[1] Bugirimfura Alfred avuga ko yari afite ikibanza mu Murenge wa Gatenga, Akarere ka Kicukiro akaza kucyamburwa n'Umujyi wa Kigali mu buryo bunyuranyije n'amategeko ukagiha Fariyara John. Bugirimfura Alfred yatanze ikirego mu Rukiko Rwisumbuye rwa Nyarugenge maze Urukiko rwemeza ko rudafite ububasha bwo kuburanisha urwo rubanza rurwohereza mu Rukiko Rukuru.

[2] Urukiko Rukuru mbere yo kuburanisha urubanza mu mizi rwabajije Bugirimfura Alfred niba yarabanje gutakambira umutegetsi wafashe icyemezo cyo kumwambura ikibanza, asubiza ko yatakambiyeho ubuyobozi ku wa 04/11/1999 ntagire igisubizo ahabwa agatangira kuregera inkiko muri 2001. Urukiko Rukuru rwafashe icyemezo kuri icyo ntituzi rwemeza ko ikirego cya Bugirimfura Alfred kitakiriye kubera ko atubahirije ibijyanye n'imihango yo gutakamba.

[3] Urukiko Rukuru rwasanze n'ubwo Bugirimfura Alfred yatakambye mbere y' umwaka wa 2004 mbere y'uko hajyaho itegeko riteganyaga igihe cy'amezi atandatu k'uwumva atanyuzwe agomba gutangamo ikirego n'uburyo ayo mezi 6 abarwa, ariko ntacyo yakozwe nyuma y'aho iryo tegeko rigiriyeho, bikarinda kugera aho atanga ikirego mu rukiko nyuma y'imyaka irindwi (7) mu gihe itegeko riteganyaga igihe cy'amezi atandatu(6) gusa.

[4] Bugirimfura Alfred yajuririye urubanza mu Rukiko rw'Ikirenga, avuga ko impamvu zatumye ajurira ari uko Umucamanza yibeshye akavugaga ko urubanza rwatangiyeho muri 2007 kandi ataribwo kuko rwatangiyeho muri 2002, uko kwibeshya kukaba kwatumye yemeza ko ikirego cyatanze gitanze nyamara atariko buri.

[5] Iburanisha ryashyizwe ku wa 02/07/2013, uwo muni ababuranyi baritaba, Bugirimfura Alfred yunganiye na Me Hakizimana Aloys, abazungura ba Fariyara John bahagarariye na Me Manirahari Nouredine, naho Umujyi wa Kigali uhagarariye na Me Rubango Epimaque.

[6] Ikibazo kigomba gusuzumwa muri uru rubanza, ni icyo kumenya niba BUGIRIMFURA yarubahirije igihe cyo gutanga ikirego mu nkiko nyuma y'itakamba.

## **II. ISESENGURA RY'IKIBAZO N'UKO URUKIKO RUBIBONA**

[7] Mu gusobanura ubujurire bwe, Bugirimfura Alfred n'umwunganira bavugaga ko umucamanza wo mu Rukiko Rukuru atasesenguye neza inyandiko ziri muri dosiyere, ngo kuko icyo azisesengura, yari kubona ko atatanze ikirego mu Rukiko Rwisumbuye rwa Nyarugenge muri 2007 nkuko abivugaga, ahubwo ko yagitanze mu Rukiko rwa Mbere rw'Iremezo rwa Kigali kuwa 30/03/2002 kigahabwa n° RC 37.938/02. Avugaga ko urwo rubanza rwamaze igihe kigera ku myaka ine (4) rutaraburanishwa ku buryo ivugurura ry'amategeko ryasanzwe rukiri ahongaho ruhabwa indi numero ariyo RAD 0016/07/NYGE.

[8] Bakomeza bavugaga ko kubera kwibeshya ku gihe ikirego cyatangiyeho, byatumye umucamanza yemeza ko hatubahirijwe igihe cy'amezi atandatu (6) ikirego kigomba kuba cyagejwe mu Rukiko nyuma yo gutakambira umutegetsi wafashe icyemezo nkuko byateganywaga n'ingingo ya 339 y'itegeko n° 18/2004 ryo ku wa 20/06/2004 ryagengaga imburanishirize y'imanza z'imboneza mubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi.

[9] Bavugaga nanone ko uko kwibeshya kwatumye umucamanza yemeza ko kuwa kuwa 04/11/1999 itariki yatakambiyeho (Bugirimfura Alfred) kwa Perefere w'Umujyi wa Kigali, kugeza muri 2007 umwaka yatangiyeho ikirego mu Rukiko Rwisumbuye rwa Nyarugenge, ya mezi atandatu(6) yavuzwe haruguru yari yararenze, bakaba basanga iryo tegeko ritari gushingirwaho kuko ryagiye hashize igihe urwo rubanza rwararegwe.

[10] Me Manirahari Nouredine uhagarariye abazungura ba Fariyara John avuga ko Bugirimfura Alfred yagombye kuba yaratangiye “procédure” nshyashya kubera ko ibya mbere byari byarangiye akaba yatanze ikirego muri 2001 akaza kukireka bityo ibintu bigasubira uko byari bimeze, akaba rero yaragombaga gutakamba nk’uko Urukiko Rukuru rwabyemeje.

[11] Me Rubango Epimaque uhagarariye Umujyi wa Kigali avuga ko ababuranyi bombi bemeranya ko itakamba ryabaye muri 1999, ko rero niba hakurikijwe ibyo Bugirimfura Alfred avuga ko urubanza rwatangiriye mu Rukiko rwa Kanto muri 2001, rugakomeza muri 2002 no muri 2007, ikirego cyaba cyaratanzwe igihe cyararenze haherewe kuwa 04/11/1999 avuga ko ariho yatakambye, kuko haba ku bw’Itegeko ryo kuwa 23/02/1963 ritunganya Urukiko rw’Ikirenga ryakurikizwaga mbere ya 2004, ndetse n’Itegeko n°18/2004 ryo kuwa 20/06/2004 ryagengaga imburanishirize y’imanza z’imbonezamubano, iz’ubucuru, iz’umurimo n’iz’ubutegets, nta gihe gutakamba bitari biteganyijwe muri ayo mategeko yombi, ko aho byari bitandukaniye gusa, hari ku ngano y’igihe ikirego cyagombaga gutangirwamo haherewe igihe itakamba ryabereye, ko rero umwanzuro Urukiko rwafashe w’uko igihe cyo gutanga ikirego nyuma y’itakamba kitubahirijwe, ugomba kugumaho.

## **UKO URUKIKO RUBIBONA**

[12] Inyandiko ziri muri dosiye zigaragaza ko kuwa 04/11/1999, Bugirimfura Alfred yandikiye uwari Perefè wa Perefegitura y’Umujyi wa Kigali atakamba amusaba kurengegurwa agasubizwa uburenganzira ku kibanza yari yambuwe n’Umujyi wa Kigali, kiri muri serire ya Kanengwa, Segiteri Gatenga. Bugirimfura Alfred mu mburanire ye, avuga ko Perefè wa Perefegitura y’Umujyi wa Kigali atigeze amubiza aricyo cyatumye atanga ikirego mu Rukiko rwa Kanto rwa Nyamirambo kuwa 24/04/2001.

[13] Ingingo ya 106 igika cya 6 y’Itegeko ryo kuwa 23/02/1963 ritunganya Urukiko rw’Ikirenga ryakurikizwaga igihe Bugirimfura Alfred yatakambaga, yavugaga ko mbere yo kujuririra Urukiko rw’Ubutegets, abarenganijwe bagomba kubanza gutakira ababarenganije cyangwa abakuru babo ngo bakize ako karengane, kandi bakabigira igihe cyo kujuririra Urukiko rw’Ubutegets kitarashira.

[14] Mu gika cyayo cya 7 ikavuga ko umutegets watakambiwe abifitiye ububasha ntagire icyo asubiza hakarinda gushira amezi 2, ni nkaho yahakanye icyo kibazo. Igika cya 8 cy’iyi ngingo kikavuga ko igihe cy’amezi 3 cyateganyirijwe urega kuba yagejeje ikirego mu Rukiko, gitangira kubarwa kuva aho uwatakiye umutegets amenyesherejwe igisubizo kimuhakanira, byaba bishyize kera kikabarwa kuva aho amezi 2 yateganijwe muri iyi ngingo arangiriye.

[15] Hashingiwe kuri iyi ngingo, Urukiko rurasanga Bugirimfura Alfred yaratakambye kuwa 04/11/1999 atanga ikirego mu Rukiko rwa Kanto rwa Nyamirambo kuwa 24/04/2001 hashize umwaka hafi n’igice amezi 3 itegeko ryamuteganyirije kuba yagejeje ikirego mu Rukiko yararenze kera, bivuze ko ikirego yatanze niyo ataza kukireka nkuko yabigenje muri urwo Rukiko, nubundi kitari kwakirwa, urubanza rukaba rurangiriye aho, na “procédure” yatangije ikaba irangiriye aho.

[16] Urukiko rurasanga ibyo Bugirimfura Alfred avuga ko yatanze ikirego mu Rukiko rwa Mbere rw’Iremezo rwa Kigali kuwa 30/03/2002 ashingiyeye ku itakamba yakoze kuwa 04/11/1999, nabyo ntacyo byamumarira kuko nabwo yari kuba yakererewe gutanga ikirego,

kuko nkuko byavuzwe haruguru, amezi 3 itegeko ryamuteganyirizaga kuba yagejeje ikirego mu Rukiko nyuma yuko hashize amezi 2 umutegetsi adasubije, yari yararenze.

[17] Urukiko rurasanga kubera izo mpamvu, nkuko umucamanza wo mu Rukiko Rukuru yabibonye, ikirego Bugirimfura Alfred yatanze mu Rukiko rwa Mbere rw'Iremezo rwa Kigali kuwa 30/03/2002 kigahabwa n° RC 37.938/02 kikaza kuburanishwa mu rwego rwa mbere n'Urukiko Rukuru kubera ivugurura ry'amategeko, yaragitanze akererewe kikaba kitagomba kwakirwa.

[18] Urukiko rurasanga nubwo umucamanza wo mu Rukiko Rukuru nawe yari yemeje ko ikirego kitagomba kwakirwa, atari gushingira icyemezo cye ku itegeko n°18/2004 ryo ku wa 20/06/2004 ryagengaga imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi kuko ryari ritarajyaho ahubwo yari kugishingira ku itegeko ryo kuwa 23/02/1963 ritunganya Urukiko rw'Ikirenga ryakoreshwaga igihe BUGIRIMFURA Alfred yatakambaga.

### **III. ICYEMEZO CY'URUKIKO**

[19] Rwemeje ko ubujurire bwa Bugirimfura Alfred nta shingiro bufite;

[20] Rumutegetse gutanga amafaranga y'amagarama angana na 37.500 Frw habariwemo n'ayo mu Rukiko Rukuru, atayatanga akava mu bye ku ngufu za Leta.