YARI CORNACCHIA v. NSANAWE

[Rwanda URUKIKO RW'IKIRENGA – RCOMA0053/15/CS (Mutashya, P.J., Karimunda na Gakwaya, J.) 26 Gashyantare 2016]

Amategeko agenga amasezerano – Ibyemeranyijwe mu masezerano n'ibyemeranyijwe n'impande zombi mu bukemurampaka – Iyakirwa ry'ikirego cyabanje mu bukempurampaka – Icyo impande zombi zemeranyijwe ko kiburanwa mu bukemurampaka ntigishobora kuregerwa hasabwa ko gihinduka mu Rukiko – Iteka rya Minisitiri N°16/012 ryo kuwa 15/05/2012 rishyiraho amabwiriza y'ubukemurampaka y'Ikigo Mpuzamahanga cy'Ubukemurampaka cya Kigali, ingingo ya 29.

Amategeko agenga ubukemurampaka – Igihe cyo gusoma icyemezo cy'Urukiko Nkemurampaka – Agaciro k'icyemezo cy'Urukiko Nkemurampaka cyasomwe nyuma y'igihe impande zombi zumvikanyeho – Gusomwa kw'icyemezo cy'Urukiko Nkemurampaka nyuma y'igihe impande zombi zumvikanyeho mu masezerano si impamvu yatuma giteshwa agaciro – Itegeko N°005/2008 ryo kuwa 14/02/2008 ryerekeye ubukemurampaka n'ubwunzi, ingingo ya 47.

Incamake y'ikibazo: Sosiyete Papyrus Bakery Café Ltd y'uwitwa Nsanawe Serge Ndekwe yagurishije imigabane yayo ingana na 50% ku giciro cya 100.000 Euros, iyigurisha uwitwa YARI CORNACCHIA. Bakoranye amasezerano bayita *convention d'actionnariat* bumvikana ko ibibazo byayavukamo bizakemurwa n'inkiko, ariko nyuma yaho Nsanawe avuga ko yishyuwe gusa 60.000 Euros gusa aho kumwishyura 100.000 Euros.

YARI CORNACCHIA yasabye Nsanawe Ndekwe Serge kongera kugura imigabane yari yarangije kwishyura ihwanye na 60.000 Euros nyuma yo kunanirwa kwishyura 40.000 Euros yari asigaye. Nsanawe yarabyemeye, bakora andi masezerano bayita *convention de cession d'actions* bumvikana ko ibibazo bishobora kuvuka muri aya masezerano bizakemurwa n'Urukiko Nkemurampaka.

Haje kuvuka impaka kubyerekeye kurangiza amasezerano, YARI CORNACCHIA arega Nsanawe Ndekwe Serge mu kigo Mpuzamahanga cy'Ubukemurampaka cya Kigali, cyemeza ko NSANAWE Ndekwe Serge yavuye mu masezerano ya *convention* d'*actionnariat* ariko ko aya *convention cession d'action* agomba kubahirizwa. Nsanawe Ndekwe Serge ntiyabyishimiye ajurira mu Rukiko Rukuru rw'Ubucuruzi asaba ko icyo cyemezo cy'ubukemurampaka kivanwaho, avuga ko Ikigo Mpuzamahanga cy'Ubukemurampaka cya Kigali cyasuzumye ikibazo kidafitiye ububasha kuko nta ngingo iteganya ubukemurampaka mu masezerano ya *convention d'actionnariat*. Urukiko Rukuru rw'Ubucuruzi rwaciye urubanza rwemeza ko nta bubasha ubukemurampaka bwari bufite, rwemeza kandi ko icyo cyemezo kivuyeho.

YARI CORNACCHIA yajuririye icyo cyemezo mu Rukiko rw'Ikirenga avuga ko ikibazo cyashyikirijwe ubukemurampaka cyarebanaga na *mise en exécution ou défaut d'exécution* y'ibyari byemeranyijwe mu masezerano ya *cession d'actions* avuga ko ari nayo yateganyaga ubukemurampaka. Yakomeje avuga ko mu masezerano ya mbere yiswe *convention d'actionnariat* yateganyaga ko havutse ikibazo cyashyikirizwa Inkiko, ko ariko amasezerano ya kabiri yiswe aya *convention de cession d'actions* yateganyaga ko hiyambazwa Ikigo Mpuzamahanga cy'Ubukemurampaka cya Kigali mu gihe habayeho kutumvikana ndetse ibibazo byagaragaraga muri *contrat de cession d'actions* akaba ari nabyo biri muri *acte de mission*.

Nsanawe Ndekwe Serge yisobanura avuga ko YARI CORNACCHIA yareze mu Bukemurampaka asaba iseswa ry'amasezerano ya *convention d'actionnariat* kandi ayo masezerano yarateganyaga ko Inkiko ari zo zifite ububasha bwo gukemura ibibazo bishobora kuvuka. Anavuga ko nta hagaragara ko YARI CORNACCHIA yaregeye amasezerano ya *cession d'actions* bityo Ikigo Mpuzamahanga cy'Ubukemurampaka cya Kigali kikaba kitari kugira icyo gisuzuma ku masezerano ya *convention d'actionnariat* kandi itabifitiye ububasha.

Mu bujurire bwuririye ku bundi, Nsanawe Ndekwe Serge avuga ko imihango y'iburanisha itubahirijwe ku bijyanye n'iminsi ntarengwa yo kubona icyemezo cy'urukiko asaba ko gikurwaho anasaba indishyi z'ikurikiranarubanza n'iz'igihembo cy'Avoka. YARI CORNACCHIA yasubije avuga ko gutinda kubona icyo cyemezo bitagikuraho, kandi ko n'indishyi asaba zidafite aho zishingiye.

Incamake y'icyemezo: 1. N'ubwo ikirego cyatanzwe mu Bukemurampaka cyarebanaga n'amasezerano ya *convention d'actionariat*, bigararaga ko mu iburanisha hagiwe impaka ku mitangire y'ikirego aho impande zombi zemeranyijwe ko gishingiye ku masezerano ya *cession d'action* kandi muri ayo masezerano hari hateganyijwe ko ikibazo kizavuka kizakemurwa n'Ubukemurampaka. Bityo icyo impande zombi zemeranyijwe nk'iburanwa mu bukemurampaka ntigishobora kuregerwa hasabwa ko gihinduka mu rukiko.

2. Icyemezo cy'ubukemurampaka gisomwa mu gihe cyemeranyijweho kuva aho urukiko nkemurampaka rupfundikiye iburanisha. Iyo iyi minsi irenze icyo cyemezo kitarasomwa, nti biba impamvu yo kugitesha agaciro.

Ikirego gifite ishingiro.
Ubujurire bwuririye ku bundi nta shingiro bufite.
Urubanza rwaciwe n'Urukiko Rukuru rw'Ubucuruzi ruhindutse mu ngingo zarwo zose rukaba runavanyweho.
Amagarama y'urubanza aherereye kuwarezwe.

Amategeko yashingiweho:
Itegeko N°005/2008 ryo kuwa 14/02/2008 ryerekeye ubukemurampaka n'ubwunzi mu bibazo by'ubucuruzi, ingingo ya 47.
Iteka rya Minisitiri Nº16/012 ryo kuwa 15/05/2012 rishyiraho amabwiriza y'ubukemurampaka y'Ikigo Mpuzamahanga cy'Ubukemurampaka cya Kigali, ingingo ya 29.

Nta manza zifashishijwe.

Urubanza

I. IMITERERE Y'URUBANZA.

[1] Mu ntangiriro z'umwaka wa 2012, Bwana YARI CORNACCHIA yaguze imigabane muri Sosiyete Papirus Bakery Café Ltd yari ifite umunyamigabane umwe ariwe Bwana Nsanawe Ndekwe Serge, agura 50% y'imigabane. (Imigabane yose ikaba ihwanye na 100.000 Euros), ayo masezerano yitwa *convention d'actionnariat* ashyirwaho umukono kuwa 20/7/2012. Nsanawe Ndekwe Serge avuga ko YARI CORNACCHIA atigeze yubahiriza amasezerano kuko yishyuye 60.000 Euros gusa.

[2] YARI CORNACCHIA ntiyabashije kwishyura ayo yandi yari asigaye 40.000 Euros, aza gusaba Nsanawe Ndekwe Serge nk'umuntu washinze iyo Sosiyete, kugura imigabane ye ihwanye na 60.000 Euros yatanze. Akaba ari bwo haje gukorwa amasezerano kuwa 22/7/2013 yiswe *contrat de cession d'actions* yateganyaga ko Nsanawe Ndekwe Serge aguze imigabane ya YARI CORNACCHIA ingana na 54.000.000Frw (60.000 Euros), akazajya yishyura 1.500.000Frw buri kwezi mu gihe cy'amezi 35. Aho rero niho haje kuvuka impaka ku byerekeye kurangiza amasezerano, nibwo YARI CORNACCHIA yiyambaje Kigali International Arbitration (KIAC), nayo iza gufata icyemezo Nº2013-2014/017 cyo kuwa 06/03/2015 ko Nsanawe Ndekwe Serge yavuye mu masezerano ya *actionnariat*, ko ayo masezerano ya *cession d'actions* agomba kubahirizwa, uwo mwanzuro w'Ubukemurampaka ntiwigeze unyura Nsanawe Ndekwe Serge.

[3] Nsanawe Ndekwe Serge yajuririye icyo cyemezo mu Rukiko Rukuru rw'Ubucuruzi, asaba ivanwaho ryacyo.

[4] Mu mpamvu z'ingenzi yashingiragaho ubujurire bwe, ni uko nta ngingo iteganya Ubukemurampaka mu masezerano ya *convention d'actionnariat* bagiranye hashingiwe ku ngingo ya 47, igika cya 1 agace ka c na d y'Itegeko ryerekeye ubukemurampaka, ko rero Ikigo Mpuzamahanga cy'Ubukemurampaka cya Kigali yasuzumye ikibazo idafitiye ububasha.

[5] Urukiko Rukuru rw'Ubucuruzi rwaciye urubanza kuwa 9/7/2015 rwemeza ko umukemurampaka atari afite ububasha bwo gukemura ikibazo cya YARI CORNACCHIA na Nsanawe Ndekwe Serge, rwemeza ko icyemezo cy'umukemurampaka cyo ku wa 6/3/2015 n'ikigisobanura cyo ku wa 17/4/2015 bivuyeho.

[6] YARI CORNACCHIA uhagarariwe na Me Rukangira Emmanuel yajuririye icyo cyemezo mu Rukiko rw'Ikirenga, avuga ko ikibazo cyashyikirijwe ubukemurampaka ari ikibazo kirebana na *mise en exécution ou défaut d'exécution* y'ibyari byemeranyijwe mu masezerano ya *contrat de cession d'actions* ari nayo yateganyaga ubukemurampaka.

[7] Me Kiloha Olivier na Me Umupfasoni Blandine mu mwanzuro wabo, batanze inzitizi ko Urukiko rw'Ikirenga rudafite ububasha bwo kuburanisha ubujurire bwa YARI CORNACCHIA kuko butujuje ibivugwa mu ngingo ya 28, igika cya kabiri y'Itegeko Ngenga Nº03/2012/OL ryo ku wa 13/06/2012 rigena imiterere, imikorere, n'ububasha by'Urukiko rw'Ikirenga. Me Rukangira Emmanuel akavuga ko iyo nzitizi yabo nta shingiro ifite.

[8] Iyo nzitizi Urukiko rwayitesheje agaciro kuwa 04/12/2015, rwemeza ko Urukiko Rukuru rw'Ubucuruzi rwaciye urubanza rw'Ubukemurampaka ku rwego rwa mbere, rukaba rugomba gusuzumwa n'Urukiko rw'Ikirenga ku rwego rw'ubujurire mu rwego rwa mbere, bityo uru Rukiko rukaba rufite ububasha, urubanza rukaba rugomba kuburanishwa mu mizi.

[9] Urubanza rwaburanishijwe mu mizi kuwa 26/01/2016, YARI CORNACCHIA ahagarariwe na Me Rukangira Emmanuel, naho Nsanawe Ndekwe Serge ahagarariwe na Me Kiloha Olivier na Me Umupfasoni Blandine.

II. IBIBAZO BIGIZE URUBANZA N'ISESENGURA RYABYO.

Kumenya niba YARI CORNACCHIA yaratanze ikirego mu bukemurampaka ashingiye ku masezerano ya convention d'actionnariat cyangwa niba yaragitanze ashingiye ku masezerano ya cession d'actions.

[10] Me Rukangira Emmanuel uburanira YARI CORNACCHIA avuga ko amasezerano ya mbere ya *convention d'actionnariat*, yateganyaga ko havutse ikibazo cyashyikirizwa Inkiko za Kigali, ariko aho Nsanawe Ndekwe Serge aguriye imigabane ya YARI CORNACCHIA bakagira ibyo bumvikanaho ariko Nsanawe Ndekwe Serge ntabyubahirize, hakozwe andi masezerano ya kabiri ya *convention de cession d'actions* ateganya ko Nsanawe Serge Ndekwe aguze imigabane ya YARI CORNACCHIA ingana na 54.000.000Frw (60.000 Euros), akazajya yishyura 1.500.000Frw buri kwezi mu gihe cy'amezi 35.

[11] Avuga ko amasezerano ya kabiri ariyo ya *convention de cession d'actions* Nsanawe Ndekwe Serge yayubahirije igice kuko muri 54.000.000Frw yagombaga kwishyura, yishyuye 8.000.000Frw gusa ubundi aricecekera, ikaba ariyo mpamvu YARI CORNACCHIA ashingiye ku ngingo ya 12 y'ayo masezerano, yaregeye Kigali International Arbitration Center (KIAC) kuko muri iyo ngingo ariho hateganyijwe ko nihavuka ikibazo mu ishyirwa mu bikorwa by'ayo masezerano, haziyambazwa ubukemurampaka.

[12] Avuga kandi ko ikindi kigaragaza ko YARI CORNACCHIA yatanze ikirego mu Bukemurampaka ashingiye ku masezerano ya convention *de cession d'actions*, ari uko ibibazo biri muri *acte de mission* yasinyweho n'impande zombi byasabwaga gukemurwa, ari nabyo biri muri *convention de cession d'actions* kuko icyo yasabaga ari ukwishyurwa amafaranga yasigaye kuri 54.000.000Frw avugwa muri *convention de cession d'actions.* Yongeraho ko muri *acte de mission* ntaho umucamanza yigeze avuga ibijyanye na *convention d'actionnariat*, ndetse ko nta n'ingingo nimwe yo muri ayo masezerano yigeze igibwaho impaka.

[13] Me Umupfasoni Blandine avuga ko nkuko ikirego YARI CORNACCHIA yatanze mu Bukemurampaka kibigaragaza, yaregeye iseswa ry'amasezerano ya *convention d'actionnariat (constater la dénonciation de la Convention d'actionnariat)* kandi ayo masezerano ariyo yateganyaga ko Inkiko arizo zifite ububasha bwo gukemura ibibazo bishobora kuvuka, ko nta nahamwe mu myanzuro ye Me Rukangira Emmanuel yatanze havugwamo ko baregeye *cession d'actions.*

[14] Avuga ko kuba Me Rukangira Emmanuel ashingira ku ngingo ya 12 ya *cession d'actions* ivuga ko ibibazo byose birebana n'amasezerano bizakemurwa na Kigali International Arbitration Center (KIAC) nta gaciro byahabwa, kuko *convention d'actionnariat* yaregeye na *cession d'actions* ari amasezerano atandukanye, ko *cession d'actions* idashingiye kuri *convention d'actionnariat* nubwo ababuranyi ari bamwe.

[15] Me Kiloha Olivier nawe avuga ko ibyo Me Rukangira Emmanuel avuga ko kuba barasubije ku mwanzuro ngo bivuga ko bari bemeye ko haregewe *cession d'actions*, atari byo kuko bitari kubabuza gukora imyanzuro *à titre subsidiaire*, ko ibyo bitavuga byanze bikunze ko basubizaga ku masezerano ya *cession d'actions* atarubahirijwe, avuga ko Kigali *International Arbitration Center* (KIAC) itari kugira icyo isuzuma ku masezerano ya *convention d'actionnariat* kandi itabifitiye ububasha, ko ijambo *constater la dénonciation de la convention d'actionnariat* itandukanye cyane n'ijambo *constater la dénonciation de convention de cession d'actions*.

UKO URUKIKO RUBIBONA

[16] Ingingo ya 29 y'Iteka rya Minisitiri Nº16/012 ryo kuwa 15/05/2012 rishyiraho amabwiriza y'ubukemurampaka y'Ikigo Mpuzamahanga cy'Ubukemurampaka cya Kigali, iteganya ko Urukiko rw'Ubukemurampaka rukora rushingiye ku nyandiko cyangwa impande zose zihari kandi rugendeye ku nyandiko rumaze kubona, inyandiko igaragaza ubutumwa ruhawe. Iyo nyandiko iba ikubiyemo ibikurikira: 2° Incamake y'ibirego ndetse n'ibyemezo buri ruhande rushaka ko bifatwa, agaciro mu mafaranga k'ibirego; mu gihe bishoboka, ikigereranyo cy'agaciro mu mafaranga k'ibindi birego ibyo aribyo byose; 4° Uretse iyo urukiko rubona ko bidakwiye, urutonde rw'ibibazo bigomba kwigwaho; 7° N'ibindi byose birebana n'amabwiriza y'imiburanishirize akurikizwa, kugaragaza ububasha bwahawe urukiko rw'ubukemurampaka bwo gufata ibyemezo rushyize mu gaciro, iyo ariko biteganijwe.

> Urukiko rw'ubukemurampaka rushyikiriza Ikigo inyandiko y'ubutumwa yashyizweho umukono n'urukiko ndetse n'impande zose mu gihe kitarenze amezi abiri (2) uhereye ku itariki idosiye yohererejweho. Ikigo gishobora kongera iki gihe bitewe n'isaba ryumvikana ry'urukiko rw'ubukemurampaka cyangwa se ku bwacyo mu gihe kibona ko ari ngombwa kubikora.
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> Mu gihe hari uruhande rwanze kugira uruhare mu gutegura inyandiko y'ubutumwa cyangwa rwanze kuyishyiraho umukono, inyandiko y'ubutumwa ishyikirizwa ikigo kikayemeza. Iyo inyandiko y'ubutumwa imaze gushyirwaho umukono cyangwa yemejwe n'Ikigo, ubukemurampaka niho bushobora gukomeza.
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> Iyo Inyandiko y'ubutumwa imaze gushyirwaho umukono cyangwa kwemezwa, nta ruhande rushobora gutanga ibirego bishya bitari mu nyandiko y'ubutumwa keretse rubyemerewe n'urukiko rw'ubukemurampaka rushingiye ku miterere y'ibyo birego, rurebye aho ubukemurampaka bugeze n'ibindi byashingirwaho.

[17] Urukiko rurasanga mu Bukemurampaka, YARI CORNACCHIA yaratanze ikirego giteye gitya: "Constater la dénonciation de la Convention d'Actionnariat par le défendeur et par conséquent ordonner la restitution des sommes versées au défendeur et non remboursées à cette date équivalentes à 46.000.000Frw".

[18] Urukiko rurasanga mu iburanisha mu Rukiko Nkemurampaka, ababuranyi nyuma yo kujya impaka ku mitangire y'ikirego, baremeranyije ko ikiburanwa ari amasezerano ya *cession d'actions*, ndetse banatanga n'imyanzuro mishya nkuko bigaragara mu gika cya 55 na 56 by'urubanza nkemurampaka, Urukiko rukaba ariho rwahereye rukomeza urubanza kuko muri ayo masezerano ariho hateganyijwe ko ibibazo bizavuka bizakemurwa na *Kigali International Arbitration Center* (KIAC).

[19] Urukiko rurasanga icyaburanishijwe kandi ababuranyi bamaze kubyumvikanaho nkuko bimaze gusobanurwa, cyerekeranye n'amasezerano ya *convention de cession d'actions* Nsanawe Ndekwe Serge yubahirije igice kuko muri 54.000.000Frw yagombaga kwishyura, yishyuye 8.000.000Frw gusa, ayo masezerano akaba yaraje asimbura aya *convention d'actionnariat* kuko YARI CORNACCHIA yari amaze kugurisha imigabane ye na Nsanawe Serge Ndekwe, akaba atari akirebwa n'amasezerano ya *convention d'actionnariat.*

[20] Urukiko rurasanga kandi, uretse ko n'ababuranyi ubwabo babanje kumvikana ku kirego kigomba gusuzumwa mu bukemurampaka, ariko na YARI CORNACCHIA nta kibazo yari afite muri ayo masezerano ya *convention d'actionnariat* ku buryo yayaregera kuko atari

akiyabarizwamo, ahubwo aho yari agifite ni mu masezerano ya *cession d'actions* kuko ariwe utari warishyuwe amafaranga yose Nsanawe Ndekwe Serge yamugombaga, ndetse n'ikindi kigaragaza ko ari amasezerano ya *cession d'actions* yaregerwaga, ni uko nkuko bigaragara mu gika cya 15 na 16 by'urubanza nkemurampaka, Nsanawe Ndekwe Serge yagaragaje ubushake bwo kwishyura binyuze mu bwumvikane gusa YARI CORNACCHIA ntiyabyemera, birumvikana ko ibyo yashakaga kwishyura binyuze muri ubwo bwumvikane ari ibiteganywa mu masezerano ya *cession d'actions* .

[21] Urukiko rurasanga na none ikindi kigaragaza ko ari amasezerano ya *cession d'actions* yaregerwaga, ni uko 46.000.000Frw avugwa muri *acte de mission*, hamwe n'izindi ndishyi z'ubucyererwe zibazwe guhera ku wa 28/12/2013 kugeza kuwa 28/6/2014, n'indishyi z'igihombo YARI CORNACCHIA avuga yatejwe, izo ndishyi zose zivugwa mu bibazo bigomba gusuzumwa n'Urukiko nkemurampaka *(des points litigieux à être résolus par le Tribunal Arbitral)* ziboneka muri *convention de cession d'actions* yateganyaga ubukemurampaka ibibazo nibiramuka bivutse, kuko muri ayo masezerano ariho havugwamo 54.000.000Frw Nsanawe Ndekwe Serge yagombaga kwishyura YARI CORNACCHIA akamwishyura 8.000.000Frw gusa.

[22] Urukiko rurasanga rushingiye ku bimaze kuvugwa, YARI CORNACCHIA yaratanze ikirego mu Bukemurampaka ashingiye ku masezerano ya *cession d'actions* yateganyaga mu ngingo yayo ya 12 ko ikibazo cyose kizavuka gishingiye ku ishyirwa mu bikorwa by'ayo masezerano kizacyemurwa n'Urukiko nkemurampaka, bityo uru Rukiko rukaba rwari rufite ububasha bwo kuburanisha ikirego yari yatanze.

Kumenya niba ubujurire bwa Nsanawe Serge Ndekwe bwuririye ku bwa YARI CORNACCHIA bushingiye ku gutesha agaciro icyemezo cy'ubukemurampaka kubera ko cyarengeje igihe cyumvikanyweho cyo gusoma, bufite ishingiro.

[23] Me Kiloha Olivier avuga ko mu Rukiko Rukuru rw'Ubucuruzi bari baregeye ibintu bibiri ari byo gusaba gukuraho icyemezo cy'Urukiko nkemurampaka, no kuba imihango y'iburanisha itarubahirijwe kuko icyemezo bumvikanye ko kizaboneka ku wa 17/9/2014, kiboneka ku wa 06/03/2015 iminsi 45 ntarengwa ivugwa mu mabwiriza yararenze. Akavuga ko ingingo ya 47, 1º d y'Itegeko ry'ubukemurampaka ivuga ko icyemezo gikurwaho iyo ibyo ababuranyi bemeranyijwe bitubahirijwe, ko rero umucamanza wo mu Rukiko Rukuru yasuzumye impamvu imwe. Avuga kandi ko basaba Nsanawe Ndekwe Serge indishyi zingana na 1.500.000Frw y'ikurikirana rubanza, na 4.000.000Frw y'igihembo cya avoka.

[24] Me Rukangira Emmanuel avuga ko kuba urubanza rutubahirije ibihe rugomba kuba rwaciwemo, inkurikizi zabyo ntabwo ari izo gukuraho icyemezo cyafashwe, ahubwo hatangwa ibihano byo mu rwego rw'ubutegetsi, ko imihango y'imiburanishirize imbere y'umukemurampaka ikurikiza imihango y'izindi manza zisanzwe, gutinda rero bikaba bidakuraho icyemezo cy'Urukiko. Avuga kandi ko amafaranga basaba y'indishyi nta shingiro afite kuko imyaka ibaye itatu YARI CORNACCHIA yishyuza amafaranga ye, ahubwo ko ariwe wakagombye gusaba indishyi.

UKO URUKIKO RUBIBONA

[25] Ingingo ya 47(1º, d) y'Itegeko N°005/2008 ryo kuwa 14/02/2008 ryerekeye ubukemurampaka n'ubwunzi mu bibazo by'ubucuruzi Me Kiloha Olivier ashingiraho iteganya ko: "Imyanzuro yafashwe hakoreshejwe ubukemurampaka ishobora kuvanwaho n'urukiko ruvugwa mu ngingo ya 8 y'iri tegeko igihe gusa:

1° uwiyambaje ubukemurampaka usaba iryo vanwaho atanze ibimenyetso ko:

[.....]

d) imiterere y'Inteko y'Abakemurampaka cyangwa imiburanishirize bitakurikije amasezerano ababuranyi bagiranye, mu gihe ariko ayo masezerano atanyuranye n'ibiteganywa n'ingingo z'iri tegeko abagiranye amasezerano badashobora kwirengagiza, cyangwa ayo masezerano abaye adahari, iyo miterere n'imiburanishirize bitarakurikije iri tegeko".

[26] Urukiko rurasanga iyo ngingo Me Kiloha Olivier ashingiraho asaba ko icyemezo gikurwaho bitewe n'uko iminsi 45 yarenze, idashimangira ibyo avuga ngo yerekane ko iyo ngingo ituma icyemezo gihita kivaho mu gihe kiba kitasomewe ku gihe cyemeranyijweho, ntanagaragaza ko iyo bidakozwe inkurikizi ari ugusesa icyemezo cy'Umukeramurampaka ngo abigaragarize mu ngingo ziri muri iryo Tegeko ry'ubukemurampaka, bityo iyo ngingo ikaba nta shingiro ifite.

[27] Ku byerekeye indishyi zisabwa na Nsanawe Serge Ndekwe, Urukiko rurasanga izo ndishyi ntaho zishingiye kuko ikirego cye nta shingiro gihawe mu mizi yacyo.

III. ICYEMEZO CY'URUKIKO

[28] Rwemeje ko ikirego cya YARI CORNACCHIA gifite ishingiro;

[29] Rwemeje ko Urukiko nkemurampaka rwari rufite ububasha bwo kuburanisha ikirego cya YARI CORNACCHIA na Nsanawe Ndekwe Serge;

[30] Rwemeje ko ubujurire bwuririye ku bundi bwa Nsanawe Ndekwe Serge nta shingiro bufite;

[31] Ruvuze ko urubanza RCOMA0248/15/HCC rwaciwe n'Urukiko Rukuru rw'Ubucuruzi ku wa 09/07/2015 ruhindutse mu ngingo zarwo zose, rukaba ruvanyweho;

[32] Rutegetse Nsanawe Ndekwe Serge kwishyura amagarama y'urubanza angana na 100.000Frw.