IKIGO CY'IMISORO N'AMAHORO (RRA) v. MUHIRE

[Rwanda URUKIKO RW'IKIRENGA – RCOMA0035/13/CS (Kayitesi R., P.J., Gakwaya na Gatete, J.) 3 Gicurasi 2016]

Amategeko agenga imisoro – Umusoro ku musaruro – Inyungu zikomoka ku bikorwa by'ubucuruzi – Amafaranga usora yahawe nk'inguzanyo ntagomba gusoreshwa kuko atari inyungu zikomoka ku bikorwa by'ubucuruzi cyangwa umusaruro ukomoka ku ishoramari – Itegeko N°16/2005 ryo kuwa 18/8/2005 rigena imisoro itaziguye ku musaruro, ingingo ya 10.

Indishyi – Igihembo cy'Avoka – Nubwo urega yatsindiye bimwe mu birego ntibyamubuza kugenerwa igihembo cy'Avoka mu gihe yamwiyambaje – Itegeko-Teka ryo kuwa 30/07/1888 rigenga amasezerano cyangwa imirimo nshinganwa, ingingo ya 258.

Amategeko agenga imisoro – Ubusaze bw'umusoro – Ubusaze bw'umusoro ku nyongeragaciro ni indemyagihugu ikaba ishobora kubyutswa n'usora igihe cyose bibaye ngombwa – Itegeko N°25/2005 ryo kuwa 4/12/2005 rigena imitunganyirize y'isoresha, ingingo ya 27 – Itegeko N°06/2001 ryo kuwa 20/1/2001 rishyiraho umusoro ku nyongeragaciro, ingingo ya 37.

Incamake y'ikibazo: Nyuma y'igenzura ryakorewe Muhire, RRA yamumenyesheje ko agomba kwishyura umusoro ungana na 32.957.990Frw ukubiyemo umusoro ku nyungu no ku nyongeragaciro ku myaka itandukanye atari yarishyuye. Muhire yatakambiye Komiseri Mukuru amusaba kurenganurwa ariko mu ibaruwa yo kuwa 16 Gicurasi 2012 asubizwa ko itakamba rye nta shingiro rifite.

Muhire yaregeye Urukiko Rukuru rw'Ubucuruzi avuga ko umusoro ku nyongeragaciro wo mu mwaka wa 2005, 2006 n'uwa 2007 itagishoboye kwishyurwa kuko RRA itawukurikiranye mbere y'uko habaho ubusaze ndetse ko mu kumwishyuza umusoro ku nyungu RRA yabariye amafaranga y'inguzanyo mu nyungu zisoreshwa. Urukiko rwemeje ko ubusaze bw'umusoro ku nyongeragaciro butasuzumwa kuko uwo musoro utigeze ujuririrwa kwa Komiseri Mukuru. Rwemeje kandi ko amafaranga Muhire yagurijwe atagombaga gukurwa mu byacurujwe usibye gusa umwenda wa 10.177.083Frw mu byacurujwe muri 2007.

RRA yajuririye mu Rukiko rw'Ikirenga ivuga ko Urukiko Rukuru rwirengagije ibisobanuro byatanzwe kuri 10.177.083Frw yemejwe ko agomba gukurwa mu byacurujwe. Yongeyeho ko mu ngingo zose Muhire yaregeye imwe gusa ariyo yatsindiye bityo akaba atari kugenerwa igihembo cya Avoka.

Muhire yasubije ko 10.177.083Frw ari ayo yagurijwe n'uwitwa Kwitonda nk'uko bigararagara mu ibaruwa yasubije RRA abyemera.

Muhire yatanze ubujurire bwuririye ku bundi avuga ko atagombaga kwishyuzwa imisoro ya 2005 na 2006 kuko kuba RRA itaragenzuye ko yakoze neza imenyekanisha mu gihe cy'imyaka 3 yatakaje ubwo burenganzira bituma umusoro uba ndakuka akaba atagomba gucibwa undi muri iyo myaka.

Incamake y'icyemezo: 1. Umusaruro usoreshwa ni inyungu zikomoka ku bikorwa by'ubucuruzi n'umusaruro ukomoka ku ishoramari, byumvikanisha ko amafaranga usora yahaweho inguzanyo atagomba gusoreshwa. Bityo Muhire akaba ataragombaga gusoreshwa amafaranga yahaweho inguzanyo.

2. Nubwo urega yatsindiye bimwe mu birego ntibyamubuza kugenerwa igihembo cy'Avoka mu gihe yamwiyambaje.

3. Ubusaze bw'umusoro ku nyongeragaciro ni indemyagihugu ikaba ishobora kubyutswa n'usora igihe cyose bibaye ngombwa.

Ubujurire nta shingiro bufite.
Ubujurire bwuririye ku bundi bufite shingiro.
Amagarama y'urubanza aherereye kuri RRA.

Amategeko yashingiweho:
Itegeko N°25/2005 ryo kuwa 4/12/2005 rigena imitunganyirize y'isoresha, ingingo ya 27(3).
Itegeko N°16/2005 ryo kuwa 18/8/2005 rigena imisoro itaziguye ku musaruro, ingingo ya 10.
Itegeko N°15/2004 ryo kuwa 12/6/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ingingo ya 3.
Itegeko N°06/2001 ryo kuwa 20/1/2001 rishyiraho umusoro ku nyongeragaciro, ingingo ya 36.
Itegeko ryo kuwa 30/07/1888 rigenga amasezerano cyangwa imirimo nshinganwa, ingingo ya 258.

Nta manza zifashishijwe.

Urubanza

I. IMITERERE Y'URUBANZA

[1] RRA yakoreye Muhire Jean-Pierre igenzura, imugaragariza ko agomba kwishyura umusoro ungana na 32.957.990Frw, ukubiyemo umusoro ku nyungu (IBPP), n'umusoro ku nyongeragaciro (TVA) ku myaka ya 2005, 2006 na 2007. Kuwa 20/03/2012, Muhire Jean-Pierre yatakambiye Komiseri Mukuru asaba kurenganurwa, kuwa 16/05/2012, Komiseri Mukuru amusubiza ko ubujurire bwe nta shingiro bufite.

[2] Muhire Jean-Pierre yaregeye Urukiko Rukuru rw'Ubucuruzi, maze mu rubanza N° RCOM0160/12/HCC rwo kuwa 07/01/2013, rwemeza ko ubusaze bw'umusoro wa TVA w'umwaka wa 2005 (ukwezi kwa mbere kugeza mu kwezi kwa cumi na kumwe) butasuzumwa kubera ko uwo musoro utari ndakuka kubera ko Muhire Jean-Pierre atigeze abijuririra kwa Komiseri Mukuru[1].

[3] Rwemeje kandi ko 9.000.000Frw, Muhire Jean-Pierre yavuze ko yagurijwe n'uwitwa Kayijuka Alphonse, atagombaga gukurwa mu byacurujwe mu mwaka wa 2005; rwemeza ko 7.350.432Frw yavuze ko yishyuwe na MINAGRI, hamwe na 4.863.500Frw yavuze ko yatunze umwuga, adakurwa mu nyungu zisoreshwa mu mwaka wa 2006. Rwemeza ko 10.177.083Frw akurwa mu byacurujwe muri 2007, maze Muhire Jean-Pierre agenerwa 300.000Frw y'igihembo cya Avoka.

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[1] Muhire Jean-Pierre yavugaga ko umusoro wo muri 2005 washaje kuko RRA itawukurikiranye, bamusubiza ko ibyo atabijuririye kwa Komiseri.

[4] Ikigo cy'Imisoro n'Amahôro (RRA) cyajuririye Urukiko rw'Ikirenga kivuga ko Urukiko Rukuru rwirengagije ibisobanuro cyatanze ku 10.177.083Frw yemejwe ko agomba gukurwa mu byacurujwe na Muhire Jean-Pierre mu mwaka wa 2007; ko urwo Rukiko rwirengagije kandi ko mu ngingo zose Muhire Jean-Pierre yaregeye imwe gusa ariyo yatsinze, ko rero atari kugenerwa igihembo cya Avoka.

[5] Muhire Jean-Pierre nawe yatanze ubujurire bwuririye ku bw'Ikigo cy'Imisoro n'Amahôro (RRA) avuga ko kidakwiye kumwishyuza imisoro ya 2005 na 2006 kuko kuba kitaragenzuye ko Muhire Jean-Pierre yakoze neza imenyekanisha mu gihe cy'imyaka itatu, yatakaje ubwo burenganzira, bityo umusoro yamenyekanishije ukaba warabaye ndakuka, akaba nta wundi agomba gucibwa muri iyo myaka yombi.

[6] Iburanisha mu ruhame ryabaye kuwa 29/3/2016, RRA ihagarariwe na Me Byiringiro Bajeni, naho Muhire Jean-Pierre ahagarariwe na Me Nsengiyumva Abel.

II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

a. Ku bujurire bw'Ikigo cy'Imisoro n'Amahôro (RRA).

Kumenya niba 10.177.083Frw atagomba gukurwa mu byacurujwe na Muhire Jean-Pierre mu mwaka wa 2007.

[7] Me Byiringiro Bajeni, uhagarariye Ikigo cy'Imisoro n'Amahôro (RRA), avuga ko Urukiko Rukuru rwirengagije imiburanire ya RRA ku bijyanye n'umusoro wa 10.177.083Frw wo mu mwaka wa 2007 Muhire Jean-Pierre avuga ko yagurijwe n'uwitwa Kwitonda Jean de Dieu. Asobanura ko amasezerano Muhire Jean-Pierre ashingiraho, Kwitonda Jean de Dieu yayahakanye mu ibaruwa yandikiye RRA kuwa 14/9/2010, kandi ibikubiye muri ayo masezerano bikaba bitandukanye cyane n'ibisobanuro Kwitonda Jean de Dieu ubwe yahaye RRA mu ibaruwa ye yo kuwa 8/1/2010 kuko mu masezerano, Muhire Jean-Pierre avuga ko Kwitonda yamugurije amafaranga, akavuga ko Kwitonda azajya amwungukira 1.000.000Frw kandi ariwe wamugurije, nyamara mu ibaruwa ye Kwitonda Jean de Dieu avuga ko yahaye Muhire Jean- Pierre mu ntoki, uyu akajya amwishyura amafaranga cyangwa "ciment" kuko yubakaga. Asoza avuga ko umukono wa Kwitonda Jean de Dieu uri kuri ayo masezerano ntaho uhuriye n'ugaragara ku mabaruwa yavuzwe haruguru kimwe no ku ndangamuntu ye.

[8] Me Nsengiyumva Abel, uhagarariye Muhire Jean-Pierre, avuga ko 10.177.083Frw, Muhire Jean-Pierre yayagurijwe n'uwitwa Kwitonda Jean de Dieu, Urukiko rukaba rwarashingiye ku masezerano y'imikoranire yo kuwa 4/1/2007 agaragaza ko yayamugurije kugira ngo abashe kurangura isima muri CIMERWA. Akomeza avuga ko RRA yandikiye Kwitonda Jean de Dieu imubaza niba koko yarahaye Muhire Jean-Pierre ayo mafaranga, asubiza abyemeza, bityo akaba asanga iyo ngingo y'ubujurire bwa RRA nta shingiro yahabwa.

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[9] Ingingo ya 3, igika cya mbere cy'Itegeko N°15/2004 ryo kuwa 12/6/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko "Buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana".

[10] Ingingo ya 10 y'Itegeko N°16/2005 ryo kuwa 18/8/2005 rigena imisoro itaziguye ku musaruro iteganya ko "Umusaruro ukomoka ku nyungu no ku ishoramari ugizwe n'ibi

bikurikira: 1° umusaruro ukomoka ku kazi, 2° inyungu zikomoka ku bikorwa by'ubucuruzi, 3° umusaruro ukomoka ku ishoramari".

[11] Nk'uko bigaragara mu gace ka 25 k'urubanza rwajuririwe, Urukiko Rukuru rwasobanuye ko ibivugwa n'Ikigo cy'Imisoro n'Amahôro by'uko cyabajije Kwitonda Jean de Dieu mu ibaruwa yo ku wa 14/9/2010 niba yaba yaragurije Muhire Jean-Pierre amafaranga, agahakana ko nta masezerano bagiranye ku wa 4/1/2007, bidafite ishingiro kuko amasezerano yahakanye ari ayo kuwa 4/1/2010. Rwasobanuye kandi ko iby'uko imikono ya Kwitonda Jean de Dieu idasa, bitasuzumwa kuko bitaregewe ko ari inyandiko mpimbano, bityo rwemeza ko 10.177.083Frw agomba gukurwa mu byacurujwe mu mwaka wa 2007 kuko Ikigo cy'Imisoro n'Amahôro cyabajije Kwitonda Jean de Dieu niba yarayagurije Muhire Jean-Pierre, mu ibaruwa yo kuwa 8/10/2010, agisubiza yemeza ko mu mwaka wa 2007 yayamugurije kugirango agure sima ayimugurishe ku giciro cya Cimerwa.

[12] Nk'uko bigaragara muri dosiye y'urubanza, Muhire Jean-Pierre yagiranye amasezerano y'imikoranire na Kwitonda Jean de Dieu ku wa 4/1/2007 aho bumvikanye ko Kwitonda Jean de Dieu yahaye Muhire Jean-Pierre amafaranga miliyoni icumi n'ibihumbi ijana na mirongo irindwi na birindwi (10.177.000Frw) kugirango abashe kugura sima muri Cimerwa yo gucuruza, ko azajya ayigura, akayiha Kwitonda Jean de Dieu akayicuruza ku buryo bwa "détail'' ku giciro cyemewe na Cimerwa kandi akayitanga ku izina rya Muhire Jean-Pierre, Kwitonda Jean de Dieu akajya yungukira Muhire Jean- Pierre amafaranga angana na miliyoni imwe (1.000.000Frw) ku mifuka ya sima 100, aya masezerano akazarangira mu gihe cyose Muhire Jean-Pierre azaba amusubije amafaranga ye y'ikiranguzo (+ ou - 10.177.083Frw).

[13] Ibaruwa ya Kwitonda Jean de Dieu yo kuwa 14/9/2010 iri muri dosiye y'urubanza, isubiza ibaruwa N°045/RRA/RSZ/LE/10 ya "coordinateur" wa RRA mu Karere ka Rusizi no mu Karere ka Nyamasheke igaragaza ko yasobanuye ko atagiranye amasezerano na Muhire Jean-Pierre ku itariki ya 4/1/2010 ahubwo bagiranye amasezerano mu ntangiriro z'umwaka wa 2007, amuguriza amafaranga mu gihe yiteguraga gucuruza sima ya Cimerwa. Mu ibaruwa ye yo kuwa 8/10/2010 igaragara muri dosiye y'urubanza, Kwitonda Jean de Dieu, asubiza ku ibaruwa y'Umuhuzabikorwa wa RRA, ishami rya Rusizi na Nyamasheke yo kuwa 22/9/2010, yemeza ko yahaye Muhire Jean-Pierre inguzanyo ya 1.000.000Frw mu mwaka wa 2006 n'inguzanyo ya 10.177.083Frw mu mwaka wa 2007.

[14] Urukiko rw'Ikirenga rurasanga isuzumwa ry'inyandiko zivugwa haruguru, rigaragaza nta gushidikanya ko Kwitonda Jean de Dieu yagurije koko Muhire Jean-Pierre 10.177.083Frw ku itariki ya 4/1/2007.

[15] Urukiko rw'Ikirenga rurasanga kandi ku birebana n'umucuruzi, umusaruro usoreshwa ari inyungu zikomoka ku bikorwa by'ubucuruzi n'umusaruro ukomoka ku ishoramari, kuba rero ayo mafaranga avugwa ari umwenda cyangwa inguzanyo Kwitonda Jean de Dieu yahaye Muhire Jean-Pierre agomba kuvanwa ku nyungu zisoreshwa (charge déductible).

[16] Ku birebana n'ibivugwa na RRA by'uko umukono wa Kwitonda Jean de Dieu uri kuri ayo masezerano ntaho uhuriye n'ugaragara ku mabaruwa yavuzwe haruguru kimwe no ku ndangamuntu ye, Urukiko rw'Ikirenga rurasanga mu gihe Kwitonda Jean de Dieu yemeza ko yahaye Muhire Jean-Pierre inguzanyo ya 10.177.083Frw nk'uko bigaragara mu masezerano bagiranye kuwa 4/1/2007, ibivugwa na RRA bitahabwa agaciro. Uretse n'ibyo, nk'uko

Urukiko Rukuru rw'Ubucuruzi rwabisobanuye, nta mpamvu yo gusuzuma ibivugwa na RRA kuko itaregeye ko ayo masezerano ari inyandiko mpimbano.

[17] Hashingiwe ku ngingo z'amategeko zavuzwe haruguru no ku bisobanuro byatanzwe mu bika bibanziriza iki, Urukiko rw'Ikirenga rurasanga 10.177.083Frw agomba kuvanwa ku nyungu zisoreshwa, bityo iyi ngingo y'ubujurire bw'Ikigo cy'Imisoro n'Amahôro (RRA) nta shingiro ifite.

Kumenya niba Muhire Jean-Pierre yari akwiye kugenerwa igihembo cya Avoka.

[18] Me Byiringiro Bajeni avuga ko Urukiko Rukuru rw'Ubucuruzi rwirengagije ko mu ngingo zose Muhire Jean-Pierre yaregeye imwe gusa ariyo yatsinze, ingingo RRA yatsindiye akaba ari nyinshi kurusha izo Muhire Jean-Pierre yatsindiye, bityo akaba asanga Muhire Jean-Pierre atari kugenerwa igihembo cya Avoka kuko batsindaguranye.

[19] Me Nsengiyumva Abel yiregura avuga ko kuba hari ikimenyetso cy'uko Muhire Jean-Pierre yaburaniwe na Avoka mu Rukiko Rukuru rw'Ubucuruzi, asanga ayo mafaranga yari akwiye kugenwa.

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[20] Ingingo ya 258 y'Igitabo cya III cy'urwunge rw'amategeko mbonezamubano iteganya ko "Igikorwa cyose cy'umuntu cyangirije undi gitegeka nyirugukora ikosa kuriha ibyangiritse".

[21] Hakurikijwe ibiteganywa n'iyo ngingo ya 258 yavuzwe haruguru, kuriha igihombo (ibyangiritse) bigomba gukorwa mu buryo bwuzuye (intégrale ou complète) ariko kugira ngo bishoboke icyo gihombo kigomba kugaragarizwa ibimenyetso.

[22] Nk'uko bigaragara mu gace ka 32 k'urubanza rujuririrwa, Ikigo cy'Imisoro n'Amahôro (RRA) cyavuze mu Rukiko Rukuru rw'Ubucuruzi ko igihembo cya Avoka Muhire Jean-Pierre asaba nta shingiro gifite naho mu gace ka 33 k'urwo rubanza, Urukiko rwasobanuye ko Ikigo cy'Imisoro n'Amahôro (RRA) kigomba kwishyura Muhire Jean-Pierre igihembo cya Avoka kuko mu byo aregera hari ibifite ishingiro kandi arabihemberwa.

[23] Urukiko rw'Ikirenga rurasanga nta makosa Urukiko Rukuru rw'Ubucuruzi rwakoze rugenera Muhire Jean-Pierre amafaranga y'igihembo cya Avoka yari yasabye, rushingiye ku ngingo ya 258 y'Igitabo cya gatatu cy'urwunge rw'amategeko mbonezamubano kuko byabaye ngombwa ko ashaka Avoka umuhagararira nk'uko byagaragaye igihe cy'iburanisha kandi yatsindiye bimwe mu birego yari yatanze. Rurasanga kandi kuba Ikigo cy'Imisoro n'Amahôro (RRA) na Muhire Jean-Pierre baratsindaguranye atari impamvu yari gutuma atagenerwa igihembo cya Avoka yari yasabye mu gihe bigaragara ko hari Avoka wamuhagarariye mu rubanza.

[24] Hashingiwe ku bisobanuro byatanzwe haruguru, Urukiko rw'Ikirenga rurasanga iyi ngingo y'ubujurire bw'Ikigo cy'Imisoro n'Amahôro (RRA) nta shingiro ifite.

b. Ku bujurire bwuririye ku bundi bwa Muhire Jean-Pierre.

Kumenya niba imisoro ku nyongeragaciro yo mu mwaka wa 2005 Muhire Jean-Pierre yishyuzwa yarashaje.

[25] Me Nsengiyumva Abel avuga ko Ingingo ya 27 y'Itegeko N°25/2005 ryo kuwa 4/12/2005 rigena imitunganyirize y'isoresha iteganya ko Ubuyobozi bw'Imisoro bwari bufite uburenganzira bwo kugenzura ko Muhire Jean-Pierre yakoze neza imenyekanisha mu gihe cy'imyaka itatu, ko kuba RRA itararikoze yatakaje ubwo burenganzira, umusoro yamenyekanishije ukaba warabaye ndakuka, bityo nta wundi agomba gucibwa muri iyo myaka yombi.

[26] Ku byerekeranye no kuba Umucamanza yaranze gusuzuma iyo ngingo (mu gace ka 7 k'urubanza) kubera ko itavuzwe mu bujurire bwatanzwe kwa Komiseri Mukuru, Me Nsengiyumva Abel asobanura ko Muhire Jean-Pierre atigeze ahindura ikirego (demande nouvelle), ko ahubwo ari uburyo bushya (moyen nouveau) bwo gusobanura ko RRA idakwiye kwishyuza imisoro ku nyongeragaciro yo mu mwaka wa 2005 n'iyo mu mwaka wa 2006.

[27] Me Byiringiro Bajeni yiregura asaba uru Rukiko kudasuzuma iyo ngingo kuko asanga ari ikirego gishya. Asobanura ko Muhire Jean-Pierre atayijuririye kwa Komiseri Mukuru nk'uko biteganywa n'amategeko y'imisoro, bivuze ko yari yemeye icyo cyemezo.

[28] Me Byiringiro Bajeni avuga ko Urukiko ruramutse rusanze ari ngombwa ko runabisuzuma, asanga na none nta gaciro rwabiha kuko Muhire Jean-Pierre yashyikirijwe inyandiko imumenyesha ko azakorerwa igenzura ry'imisoro y'iyo myaka ku itariki ya 23/12/2008, kandi ikaba itari yagashaje. Akomeza avuga ko ubwo busaze bwahagaritswe n'inyandiko yashyikirijwe ku wa 16/2/2011 kuko umunsi wa nyuma wari itariki 23/12/2011.

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[29] Ingingo ya 27, igika cya 3 cy'Itegeko N°25/2005 ryo kuwa 4/12/2005 rigena imitunganyirize y'isoresha ryakoreshwaga igihe Muhire Jean-Pierre yakorerwaga inyandiko ikosora iteganya ko "Inyandiko ikosora ishobora gutangwa mu gihe cy'imyaka itatu (3) uhereye ku munsi w'iyakira ry'imenyeshamusaruro. Inyandiko ikosora igomba kuba yakozwe nibura ku munsi wa nyuma w'icyo gihe cy'imyaka itatu (3). Ubusaze buvugwa muri iki gika buhagarikwa n'inyandiko imenyesha umusoreshwa igihe azangenzurirwa, inyandikomvugo y'icyaha, inyandiko y'umusoreshwa yemera umusoro n'ibindi bikorwa byose biteganywa n'amategeko asanzwe".

[30] Ingingo ya 36, igika cya mbere cy'Itegeko N°06/2001 ryo kuwa 20/1/2001 rishyiraho umusoro ku nyongeragaciro ryakoreshwaga igihe Muhire Jean-Pierre yakorerwaga inyandiko ikosora iteganya ko "Umusoreshwa wiyandikishije agomba gukora imenyekanisha ry'umusoro ku nyongeragaciro hakurikijwe impapuro n'uburyo bwabigenewe mu gihe kitarenze iminsi cumi n'itanu (15) nyuma y'igihe cy'umusoro ku nyongeragaciro".

[31] Urukiko rw'Ikirenga rurasanga nubwo mu myanzuro ye, Muhire Jean-Pierre asaba Urukiko kwemeza ko imisoro y'imyaka ya 2005 na 2006 yashaje, ariko nk'uko bigaragara mu gace ka kane k'urubanza rwajuririwe, Muhire Jean-Pierre yaburanye mu rwego rwa mbere asaba Urukiko Rukuru rw'Ubucuruzi kwemeza ko umusoro ku nyongeragaciro w'umwaka wa 2005 kuva mu kwezi kwa mbere kugeza mu kwezi kwa cumi na kumwe yamenyekanishije wabaye ndakuka kuko Ikigo cy'Imisoro n'Amahôro cyari gifite uburenganzira bwo kumugenzura mu gihe cy'imyaka itatu kikaba cyarabikoze igihe cyararenze, bityo uru Rukiko rukaba rugomba gusuzuma gusa ubusaze bw'umusoro ku nyongeragaciro w'umwaka wa 2005 buvugwa na Muhire Jean-Pierre.

[32] Urukiko rurasanga nk'uko bigaragara mu gace ka karindwi k'urubanza rwajuririwe, Urukiko Rukuru rw'Ubucuruzi rwarasobanuye ko ubusaze bw'umusuro ku nyongeragaciro (TVA) bw'umwaka wa 2005 kuva mu kwezi kwa mbere kugeza mu kwezi kwa cumi na kumwe (11) butasuzumwa kubera ko Muhire Jean-Pierre atigeze abijuririra Komiseri Mukuru kuko mu cyemezo cye ntahagaragara ko yajuririye ubusaze bw'umusoro kandi Urukiko ruregerwa iyo umusoreshwa atishimiye icyemezo cya Komiseri Mukuru, bityo umusoro ku nyongeragaciro (TVA) w'umwaka wa 2005 kuva mu kwezi kwa mbere kugeza mu kwezi kwa cumi na kumwe Muhire Jean-Pierre yamenyekanishije ukaba utari ndakuka.

[33] Urukiko rw'Ikirenga rurasanga Ikigo cy'Imisoro n'Amahôro (RRA) cyarandikiye Muhire Jean-Pierre ibaruwa kuwa 16/12/2008, akayibona kuwa 23/12/2008, imumenyesha ko azakorerwa kuwa 5/1/2009 ingezura ry'imenyekanisha ry'imisoro yakoze (IR, TPR na TVA) w'imyaka wa 2005, 2006 na 2007.

[34] Urukiko rw'Ikirenga rurasanga hashingiwe ku ngingo ya 36, igika cya mbere cy'Itegeko N°06/2001 ryo kuwa 20/1/2001ryavuzwe haruguru no ku ngingo ya 27, igika cya gatatu cy'Itegeko N°25/2005 ryo ku wa 4/12/2005 ryavuzwe haruguru, imenyekanisha ry'umusuro ku nyongeragaciro w'ukwezi kwa mbere w'umwaka wa 2005 ryaragombaga gukorwa n'Ikigo cy'Imisoro n'Amahôro (RRA) bitarenze itariki ya 15/2/2008 naho iy'ukwezi kwa cumi na kumwe ryagombaga gukorwa bitarenze itariki ya 15/12/2008, bityo kuba Ikigo cy'Imisoro n'Amahôro (RRA) cyaramenyesheje Muhire Jean-Pierre kuwa 23/12/2008 ko azakorerwa igenzura ry'imisoro y'imyaka ya 2005, 2006 na 2007 kuwa 5/1/2009, umusoro ku nyongeragaciro (TVA) w'umwaka wa 2005 kuva mu kwezi kwa mbere kugeza mu kwezi kwa cumi na kumwe Muhire Jean-Pierre yamenyekanishije ukaba warabaye ndakuka.

[35] Ku birebana n'ibivugwa n'Ikigo cy'Imisoro n'Amahôro (RRA) by'uko iyi ngingo irebana n'ubusaze bw'umusuro ku nyongeragaciro w'umwaka wa 2005 idasuzumwa n'uru Rukiko kuko ari ikirego gishya kitasuzumwe na Komiseri Mukuru wayo mu rwego rw'ubujurire, Urukiko rw'Ikirenga rurasanga atari ukuri kuko ubusaze buvugwa mu ngingo ya 27, igika cya gatatu cy'Itegeko N°25/2005 ryo kuwa 4/12/2005 ryavuzwe haruguru, ari indemyagihugu ku buryo bushobora kubyutswa n'umusoreshwa igihe cyose, haba imbere ya Komiseri Mukuru, haba no mu Rukiko. Rurasanga kandi ubwo busaze budafatwa nk'ikirego gishya kuko ari ingingo yo kwiregura umusoreshwa afite, kandi nk'uko byavuzwe haruguru, ashobora kuyifashisha igihe cyose ari ngombwa.

[36] Hashingiwe ku byasobanuwe mu bika bibanziriza iki, Urukiko rw'Ikirenga rurasanga iyi ngingo y'ubujurire bwa Muhire Jean-Pierre ifite ishingiro, bityo akaba agomba gucibwa gusa umusoro ku nyongeragaciro w'umwaka wa 2005 yamenyekanishije Ikigo cy'Imisoro n'Amahôro (RRA).

Kumenya niba Muhire Jean-Pierre akwiye guhabwa indishyi asaba.

[37] Muhire Jean-Pierre avuga ko asaba Urukiko gutegeka Ikigo cy'Imisoro n'Amahôro (RRA) kumwishyura 500.000Frw y'igihembo cya Avoka.

[38] Ikigo cy'Imisoro n'Amahôro (RRA) kivuga ko ibisabwa na Muhire Jean-Pierre nta shingiro bifite.

UKO URUKIKO RUBIBONA

[39] Ingingo ya 258 y'Igitabo cya III cy'urwunge rw'amategeko mbonezamubano iteganya ko ''igikorwa cyose cy'umuntu cyangirije undi gitegeka nyiri ugukora ikosa rigikomokaho kuriha ibyangiritse".

[40] Urukiko rw'Ikirenga rurasanga hashingiwe ku ngingo yavuzwe haruguru, Muhire Jean-Pierre akwiye guhabwa 500.000Frw y'igihembo cya Avoka asaba kuko byabaye ngombwa ko ashaka umuhagararira.

III. ICYEMEZO CY'URUKIKO

[41] Rwemeje ko ubujurire bw'Ikigo cy'Imisoro n'Amahôro (RRA) nta shingiro bufite;

[42] Rwemeje ko 10.177.083Frw agomba kuvanwa ku nyungu zisoreshwa Muhire Jean-Pierre;

[43] Rwemeje ko ubujurire bwa Muhire Jean-Pierre bwuririye ku bw'Ikigo cy'Imisoro n'Amahôro (RRA) bufite ishingiro;

[44] Rwemeje ko Muhire Jean-Pierre agomba gucibwa gusa umusoro ku nyongeragaciro w'umwaka wa 2005 yamenyekanishije Ikigo cy'Imisoro n'Amahôro (RRA);

[45] Rutegetse Ikigo cy'Imisoro n'Amahôro (RRA) kwishyura Muhire Jean-Pierre 500.000Frw y'igihembo cya Avoka kuri uru rwego;

[46] Rutegetse Ikigo cy'Imisoro n'Amahôro (RRA) kwishyura amagarama y'uru rubanza angana na 100.000Frw.