Re MHAYIMANA

[Rwanda URUKIKO RW'IKIRENGA– RS/RECUS/RAD 00001/2022/SC – (Mukamulisa, P.J., Nyirinkwaya na Hitiyaremye, J.) 30 Ugushyingo 2022]

Amategeko agenga imiburanishirize y'imanza – Ubwihane bw'umucamanza – Iyakirwa ry'ubwihane bw'umucamanza – Ntibihagije ko utanze ikirego cy'ubwihane bw'umucamanza yakwandika gusa avuga ibiteganywa n'itegeko ahubwo agomba no kwerekana ibimenyetso ashingiraho ibyo avuga kugira ngo urukiko rubone aho ruhera rusuzuma ishingiro ryabyo.

Incamake y'ikibazo: Mhayimana yihannye umucamanza mu rubanza RS/INJUST/RAD 00002/2022/SC aburanamo n'Urugaga rw'Abavoka mu Rwanda, avuga ko uwo mucamanza uri mu nteko iburanisha urwo rubanza yasanze amufitiye urwango rukomeye rwakomotse ku burakari yatewe n'ibaruwa yandikiye Nyakubahwa Perezida wa Repubulika ifite impamvu igira iti: kubagezaho ikibazo cy'akarengane nagiriwe mu rubanza RS/INJUST/RCOM 00002/2020/CA rwaciwe n'Urukiko rw'Ubujurire naburanaga na sosiyeti KHAAS Ltd y'umunyapakistani no gusaba ko hashakishwa icyihishe inyuma y'ako karengane kakozwe mu buryo bugambiriwe bwo kwirengagiza ukuri n'amategeko.

Akomeza avuga ko muri iyo baruwa yandikiye Perezida wa Repubulika, yerekanye ko uwo mucamanza, mu buryo bwagaragaraga ko burimo akagambane n'uwo munyepakistani, yemeje ko urubanza RCOMA 00503/2019/HCC yari yarayitsinzemo rurimo akarengane, nyamara icyo kirego kitaragombaga kwakirwa. Asoza avuga ko uwo mucamanza aramutse agumye mu nteko imuburanisha nta butabera yazabona kuko noneho yaba abonye icyuho cyo kumwihimuraho.

Incamake y'icyemezo: Ntibihagije ko utanze ikirego cy'ubwihane bw'umucamanza yakwandika gusa avuga ibiteganywa n'itegeko ahubwo agomba no kwerekana ibimenyetso ashingiraho ibyo avuga kugira ngo urukiko rubone aho ruhera rusuzuma ishingiro ryabyo. Bityo, Mhayimana Isaie nta kimenyetso na kimwe atanga kigaragaza ko koko uwo mucamanza yihana amufitiye urwango, akaba ariyo mpamvu ikirego cye kitakwakirwa.

Ikirego cy'ubwihane nticyakiriwe.

Amategeko yashingiweho:
Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, z'umurimo n'iz'ubutegetsi, ingingo ya 103, 106 n'iya 107.

Imanza zifashishijwe:
Uwera Sharon, RS/RECUS/COM 0001/17/CS rwaciwe n'Urukiko rw'Ikirenga kuwa 14/06/2019.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Mu rubanza RS/INJUST/RAD 00002/2022/SC aburanamo n'Urugaga rw'Abavoka mu Rwanda, Mhayimana Isaïe yihannye umucamanza Karimunda Muyoboke Aimé, ubwo bwihane bukaba bwarakorewe mu ruhame mu iburanisha ryo ku itariki ya 21/11/2022. Ibyo byatumye iburanisha rihagarara, uwatanze ubwihane yibutswa ko agomba kubikorera inyandiko isobanura ikirego cye n'amategeko ashingiraho.

[2] Ku itariki ya 22/11/2022, abinyujije mu ikoranabuhanga rya IECMS ritangirwamo ibirego mu nkiko, Mhayimana Isaïe yanditse asobanura ko impamvu z'ubwihane bwe ari urwango rukomeye afitiwe n'umucamanza Karimunda Muyoboke Aimé.

[3] Ikibazo cyasuzumiwe mu Nama y'Abacamanza ku itariki ya 28/11/2022, hagendewe ku myanzuro y'uwatanze ikirego cyo kwihana umucamanza nk'uko biteganywa n'ingino ya 107, igika cya 5, y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, iteganya ko mu gusuzuma iyakirwa ry'ikirego cy'ubwihane hashingirwa gusa ku nyandiko zashyikirijwe Urukiko, bitabaye ngombwa ko ababuranyi bahamagazwa.

[4] Muri uru rubanza habanje gusuzumwa niba ikirego cy'ubwihane cyatanzwe na Mhayimana Isaïe gishobora kwakirwa hakurikijwe ibiteganywa n'ingingo ya 103, agace ka 3, y'Itegeko ryavuzwe haruguru kuko ariyo iteganya impamvu ashingiraho ikirego cye.

II. IKIBAZO KIGIZE URUBANZA N'ISESENGURA RYACYO

1. Kumenya niba ubwihane bwakozwe na Mhayimana Isaïe bwakwakirwa

[5] Mu nyandiko yashyize muri IECMS, Mhayimana Isaïe avuga ko impamvu yatumye yihana umucamanza Karimunda Muyoboke Aimé uri mu nteko iburanisha urubanza RS/INJUST/RAD 00002/2022/SC, ari uko yasanze amufitiye urwango rukomeye rwakomotse ku burakari uwo mucamanza yatewe n'ibaruwa yandikiye Nyakubahwa Perezida wa Repubulika ku itariki ya 28/09/2021 ifite impamvu igira iti: kubagezaho ikibazo cy'akarengane nagiriwe mu rubanza RS/INJUST/RCOM 00002/2020/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 25/06/2021 naburanaga na sosiyeti KHAAS Ltd y'umunyapakistani witwa Amjat Ali Merchant no gusaba ko hashakishwa icyihishe inyuma y'ako karengane kakozwe mu buryo bugambiriwe bwo kwirengagiza ukuri n'amategeko.

[6] Avuga ko iyo baruwa yaje ikurikira indi yo ku itariki ya 15/07/2020 yari yarandikiye Perezida w'Urukiko rw'Ubujurire, icyo gihe wari Karimunda Muyoboke Aimé, amusaba ko ubujurire bwa kabiri bwa sosiyete KHAAS Ltd yakodeshaga inyubako ze bwasuzumwa byihutirwa kuko yasangaga budashobora kwakirwa ahubwo bwarakozwe mu rwego rw'agahimano gusa, akandikirwa amabaruwa ndetse no muri IECMS ariko uwo mucamanza ntagire icyo abikoraho kugeza aho ahubwo yemeje ko urubanza RCOMA 00503/2019/HCC rusubirwamo ku mpamvu z'akarengane.

[7] Mhayimana Isaïe akomeza avuga ko muri iyo baruwa yandikiye Perezida wa Repubulika, yerekanye ko Umucamanza Karimunda Muyoboke Aimé wari Perezida w'Urukiko rw'Ubujurire, mu buryo bwagaragaraga ko burimo akagambane n'uwo munyepakistani Amjat Ali Merchant, Umuyobozi n'umunyamigabane wa KHAAS Ltd, yemeje ko urubanza RCOMA 00503/2019/HCC Mhayimana Isaïe yari yarayitsinzemo rurimo akarengane, nyamara icyo kirego kitaragombaga kwakirwa. Mu kubangamira Mhayimana Isaïe amubuza kurangirisha urubanza, umucamanza Karimunda Muyoboke Aimé, yanze ko ubwo bujurire bwa KHAAS Ltd bufatwaho umwanzuro, ngo bwandikwe hanyuma buburanishwe, cyangwa se bufatweho umwanzuro ko butemewe, ahubwo yihutira gusuzuma ikirego cya KHAAS Ltd cyo gusubirishamo urubanza ku mpamvu z'akarengane, n'ibindi byose byakozwe bigamije kugira ngo itsinde mu buryo bw'akarengane bwagaragajwe muri iyo baruwa ya Mhayimana Isaïe.

[8] Avuga kandi ko kuba yarandikiye Nyakubahwa Perezida wa Repubulika agaragaza uruhare rwa Karimunda Muyoboke Aimé muri urwo rubanza, akanagenera kopi Nyakubahwa Perezida w'Urukiko rw'Ikirenga na Minisitiri w'Ubutabera agaragaza amakosa yakozwe muri urwo rubanza, byateye Karimunda Muyoboke Aimé kumugirira urwango.

[9] Yanzura avuga ko ashingiye kuri ibyo bisobanuro byose, asanga umucamanza Karimunda Muyoboke Aimé aramutse agumye mu nteko imuburanisha nta butabera yazabona kuko noneho yaba abonye icyuho cyo kumwihimuraho.

UKO URUKIKO RUBIBONA

[10] Ku byerekeye kwihana umucamanza, ingingo ya 103, agace ka 3, y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, iteganya ko Umucamanza bashobora kumwihana iyo umwe mu baburanyi agaragaje ishingiro ry'urwango afitanye na we.

[11] Nanone ingingo ya 106 y'Itegeko rimaze kuvugwa, iteganya ko uwihannye umucamanza mu iburanisha agomba kwandikira Perezida w'Urukiko inyandiko isobanura ubwihane, naho ingingo ya 107, igika cya mbere, y'iryo Tegeko igateganya ko urukiko umucamanza arimo, rusuzuma ako kanya niba ubwo bwihane bushobora kwakirwa.

[12] Ingingo ya 106 n'iya 107 zimaze kuvugwa haruguru, zumvikanisha ko utanze ikirego atari ukwandika gusa avuga ibiteganywa n'itegeko, ahubwo agomba no kwerekana ibimenyetso ashingiraho ibyo avuga, kugira ngo urukiko rubone aho ruhera rusuzuma ishingiro ryabyo.

[13] Urukiko rusanga mu bisobanuro Mhayimana Isaïe yashyize mu ikoranabuhanga rya IECMS yihana umucamanza Karimunda Muyoboke Aimé, nta kimenyetso na kimwe atanga kigaragaza ko koko uwo mucamanza amufitiye urwango, kugira ngo hasuzumwe niba bifite ishingiro hakurikijwe ibiteganywa n'ingingo ya 103, agace ka 3, y'Itegeko N° 22/2018 ryavuzwe haruguru, uretse kuvuga gusa ko urwo rwango rukomoka ku ibaruwa yandikiye Nyakubahwa Perezida wa Repubulika.

[14] Ibyerekeranye n'uko uwatanze ikirego cy'ubwihane agomba gutanga ibimenyetso by'ibyo avuga, uru Rukiko rwabitanzeho umurongo mu rubanza rwaciwe ku itariki ya 14/06/2019, aho rwanze kwakira ubwihane bwari bwatanzwe n'uwaburaniraga Uwera Sharon avuga ko umucamanza afitiye urwango uwo yaburaniraga ariko ntabigaragarize ibimenyetso[1].

[15] Hashingiwe rero ku ngingo ya 103, agace ka 3, ndetse no ku ya 106 n'iya 107, igika cya mbere, z'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru, Urukiko rurasanga ikirego kigamije kwihana umucamanza Karimunda Muyoboke Aimé cyatanzwe na Mhayimana Isaïe kidashobora kwakirwa ngo gisuzumwe kuko nta bimenyetso yatanze ashingiraho yihana umucamanza ku mpamvu y'urwango avuga amufitiye.

III. ICYEMEZO CY'URUKIKO

[16] Rwemeje ko ikirego cy'ubwihane cyatanzwe na Mhayimana Isaïe kitakiriwe.

[1] Urubanza RS/RECUS/COM 0001/17/CS, igika cya 12.