UBUSHINJACYAHA v NSABIMANA N'ABANDI

[Rwanda URUKIKO RW'UBUJURIRE – RPA 00060/2021/CA (Rukundakuvuga, P.J., Gakwaya na Kamere J.) 04 Mata 2022]

Amategeko agenga imanza nshinjabyaha – Icyaha cy'iterabwoba – Uteye inkunga iyari yo yose iterabwoba aba akoze igikorwa cy'iterabwoba – Umuntu uyobora, woshya, ushishikariza, utera inkunga, utegura cyangwa utanga ibikoresho agatuma abandi bakora ibyaha bisanzwe biteganyijwe n'amategeko ahana ibyaha hagamijwe iterabwoba, ntahanirwa ibyo byakozwe n'abandi, ahubwo ahanirwa kuba yarakoze ibikorwa byabibanjirije, byatumye ibindi bikorwa by'iterabwoba byabaye nyuma bishyirwa mu bikorwa – Itegeko Nº 69/2018 ryo ku wa 31/08/2018 rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba, ingingo ya 2 – Itegeko Nº 46/2018 ryo ku wa 13/08/2018 ryerekeye kurwanya iterabwoba, ingingo ya 2.

Imikorere y'inkiko – Ihame ry'ukubahiriza umurongo wafashwe (stare decisis) – Guhindura umurongo – N'ubwo guhindura umurongo bikwiriye gukorwa mu buryo bweruye ariko bishobora no kubaho mu buryo buteruye – Umurongo utanzwe bwa nyuma ku kibazo runaka, uba uhinduye uwari usanzweho kuri icyo kibazo.

Amategeko agenga imiburanishirije y'imanza nshinjabyaha – Kwemera icyaha – Ukwemera icyaha kugira agaciro gashobora gutuma uregwa agabanyirizwa igihano iyo gukozwe mbere y'uko iburanisha ku rwego rwa mbere ripfundikirwa – Ukwemera icyaha kugira agaciro gashobora gutuma uregwa agabanyirizwa igihano iyo gukozwe mbere y'uko iburanisha ku rwego rwa mbere ripfundikirwa, iyo kudashidikanywaho, kuba uwemera agaragaza ko yumva uburemere bw'ibikorwa yemera n'ingaruka zabyo, abyicuza, abisabira imbabazi no kuba yiteguye gusubiza ibyo yangije uko abitegerejweho.

Amategeko agenga imiburanishirije y'imanza nshinjabyaha – Igihano – Umucamanza wese, mu gutanga igihano ashinzwe kureba imibereho y'uwakoze icyaha mbere yo kugikora, igihe yagikoraga na nyuma yo kugikora, akabihuza n'uko icyaha cyakozwe, uburemere bwacyo n'ingaruka cyateye muri sosiyete – Ubwo burenganzira Umucamanza abufite n'ubwo icyaha aregwa cyaba ari icyaha cy'ubugome (crime) cyangwa icyaha gikomeye (délit) – Itegeko N˚ 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange ingingo za 49 na 58.

Amategeko agenga imiburanishirije y'imanza nshinjabyaha – Ubujurire – Ubujurire bwuririye ku bundi – Mu manza nshinjabyaha ntabwo hatangwamo ubujurire bwuririye ku bundi – Ubujurire bwose burebana n'ikirego cy'ikurikiranacyaha bugomba kuba ubujurire bw'ibanze kandi bugatangwa mu bihe biteganywa n'itegeko.

Amategeko agenga imiburanishirije y'imanza nshinjabyaha – Ikirego cy'indishyi – Uregera indishyi mu rubanza nshinjabyaha yemerewe kubikora igihe cyose, apfa gusa kuba yarangije kuzuza ibisabwa mu itangwa ry'ikirego cy'indishyi, urubanza rw'inshinjabyaha rutarapfundikirwa ku rwego rwa mbere. – Abasangiye icyaha bafatanya kwishyura indishyi.

Amategeko agenga imiburanishirije y'imanza nshinjabyaha – Igihano – Isubikagihano – Isubikagihano ari uburyo igihano cy'igifungo cyategetswe n 'Umucamanza gikwiye kurangizwa – Isubikagihano rishobora kutangwa no mu gihe uwahamwe n'icyaha atarisabye.

Incamake y'ikibazo: Ku wa 20/09/2021, Urukiko Rukuru, Urugereko rwihariye ruburanisha ibyaha mpuzamahanga n'ibyaha byambuka imbibi rwaciye Urubanza RP 00031/2019/HC/HCCIC ku rwego rwa

mbere, ruhamya abaregwa barimo Rusesabagina Paul wari Perezida wa MRCD-FLN, Nsabimana Callixte alias Sankara wari visi Perezida wa 2 wa MRCD-FLN ndetse akaba n'umuvugizi wayo, kimwe n'abandi bari abayobozi, abanyamuryango n'abarwanyi muri MRCD-FLN ibyaha birimo ibyo gukora no kugira uruhare mu bikorwa by'iterabwoba bikomoka ku bitero uwo mutwe wagabye ku butaka bw'u Rwanda, bikica abaturage, bikabangiriza imitungo iyindi bikayisahura ndetse bigatwika n'imodoka zirimo izitwara abagenzi; runabategeka kwishyura indishyi bafatanyije. Mu bahamwe n'ibyaha muri urwo rubanza harimo kandi n'abayobozi bakuru mu gisirikare cya FDLR aribo Nsanzubukire Félicien na Munyaneza Anastase.

Ubushinjacyaha, Abaregwa ndetse n'Abaregera indishyi ntibanyuzwe na zimwe mu ngingo z'imikirize y'urwo rubanza, bajuririra Urukiko rw'Ubujurire. Urubanza mu Rukiko rw'Ubujurire rwaburanishijwe Rusesabagina Paul adahari kuko yanze kwitaba ku bwende kandi yarahamagajwe mu buryo bukurikije amategeko.

Hashingiwe ku myanzuro bari barashyikirije Urukiko, Ababuranyi n'Urukiko babanje kumvikana ku ngingo z'ingenzi zigomba gusuzumwa mu rubanza n'uburyo zizakurikirana mu iburanisha. Urukiko rwayoboye iburanisha kuri izo ngingo, impaka zigibwa ku bibazo bitandukanye, runabifataho umwanzuro. Iby' ingenzi muri byo ni ibi bikurikira:

i. Ese Rusesabagina Paul, Nsabimana Callixte alias Sankara na Nizeyimana Marc nk'abayobozi mu mpuzamashyaka ya MRCD-FLN bakwiye guhanirwa kugira uruhare mu bikorwa byakozwe n'abarwanyi b'uwo mutwe mu bitero byagabwe ku butaka bw'u Rwanda nk'uko byari byemejwe n'Urukiko ku rwego rwa mbere, cyangwa ahubwo bakwiye guhanwa nk'abakoze ibikorwa by'iterabwoba ubwabo?

Ubushinjacyaha kuri iyi ngingo buvuga ko ibikorwa by'iterabwoba bivugwa mu ngingo ya 19, igika cya mbere, y'Itegeko N° 46/2018 ryo ku wa 13/08/2018 ryerekeye kurwanya iterabwoba, ari byo gukora igikorwa cy'iterabwoba, kugerageza gukora igikorwa cy'iterabwoba, kugira uruhare mu bikorwa by'iterabwoba no gushyigikira ibikorwa by'iterabwoba, byose bihurira ku ijambo ''ibikorwa by'iterabwoba'' bisobanurwa mu ngingo ya 2, agace ka kane (4)(a) na (b). Buvuga ko iyo ari yo mpamvu Nsabimana Callixte alias Sankara, Rusesabagina Paul na Nizeyimana Marc, nka bamwe mu bayobozi b'umutwe wa MRCD-FLN, bahurira n'ibikorwa byakozwe n'abo barwanyi, ku kuba barateye inkunga y'amafaranga, bagatanga uburenganzira bwo kugaba ibitero bitandukanye byagabwe mu Rwanda, bagashishikariza abandi kubikora. Kubera iyo mpamvu, Ubushinjacyaha bukaba busanga bakwiye guhamwa no gukora ibikorwa by'iterabwoba, aho guhamwa no kugira uruhare mu bikorwa by'iterabwoba byakozwe n'abo barwanyi, nk'uko Urukiko rubanza rwari rwabyemeje.

Nsabimana Callixte alias Sankara, mu gusubiza kuri iyi ngingo, yabwiye Urukiko ko we abona nta kosa Urukiko rubanza rwakoze mu guhana Abaregwa rushingiye ku ngingo ya 19 y'Itegeko N° 46/2018 ryo ku wa 13/08/2018 ryerekeye kurwanya iterabwoba. Impamvu atanga ni uko iyo ngingo iri mu mutwe uteganya ibyaha n'ibihano ku bikorwa by'iterabwoba, bikaba byumvikana ko ibijyanye n'inyito y'ibyaha Abaregwa bakurikiranweho ariho bikwiye gushakirwa, aho kujya kurebera mu gice cy'ingingo rusange zitanga ibisobanuro by'amagambo, aricyo ingingo ya 2 y'iryo Tegeko Ubushinjacyaha bwitsitsaho ihererereyemo. Muri urwo rwego, Nsabimana Callixte alias Sankara yavuze ko nk'umuvugizi atakagombye kuryozwa ibikorwa bya gisirikare atari afitemo ijambo kandi hari abari babishinzwe, basubijwe mu buzima busanzwe.

ii. Ikibanzo kindi cyasuzumwe n'urukiko n'ukumenya niba Urukiko rubanza rwaribeshye mu kwemeza ko Rusesabagina Paul, Nsabimana Callixte alias Sankara na Nizeyimana Marc badahamwa n'icyaha cyo kurema umutwe w'ingabo bitemewe?

Impaka kuri iyi ngingo zari zishingiye ku kumenya niba Abaregwa muri uru rubanza, uretse icyaha cyo kuba mu mutwe w'iterabwoba bahamijwe, bakwiye no guhamwa n'icyaha cyo kurema umutwe w'ingabo bitemewe cyateganywaga mu ngingo ya 459 y'Itegeko Ngenga N˚ 01/2012/0L ryo ku wa 2/5/2012 rishyiraho Igitabo cy'amategeko ahana.

Ubushinjacyaha buvuga ko butemera ibyo Urukiko rubanza rwavuze, ko kugira ngo icyaha cyo kurema umutwe w'ingabo bitemewe cyibeho, hagomba kuba, mu kugikora, hari hagamijwe ko Igihugu cy'u Rwanda cyigarurirwa n'ibihugu by'amahanga no kuba hagomba kuba hifashishijwe Abacancuro "*les mercenaires*" kuko iyo urebye ingingo ya 459 y'Itegeko Ngenga N° 01/2012/OL ryo ku wa 02/05/2012 rishyiraho Igitabo cy'amategeko ahana ntaho ubona Umushingamategeko yateganyije ibyo bintu bibiri Urukiko Rukuru rwashingiyeho rubagira abere nk'ibigize icyaha (*les éléments constitutifs*) cyo kurema umutwe w'ingabo bitemewe.

Kwitonda André avuga ko iyi ngingo y'ubujurire bw'Ubushinjacyaha idakwiye guhabwa ishingiro kuko Ubushinjacyaha buyisobanura bwibanda gusa ku mikoreshereze y'imanza zabanje (*jurisprudence)* ariko bukirengagiza ko mu kubagira abere Urukiko Rukuru rutashingiye gusa ku byo inkiko zemeje mu manza zabanje, ahubwo rwanagendeye ku cyo abaregwa bari bagendereye (*mobile*).

Mu gusubiza kuri iyi ngingo, Urukiko rw'Ubujurire rwanasubije ku zindi mpaka zari ziyishamikiyeho zikurikira:

a. Bigenda bite iyo hari imanza ebyiri z'Urukiko rw'Ikirenga zatanze imirongo itandukanye ku kibazo kimwe? Ese urubanza rwaciwe nyuma rushobora gufatwa nk'urwahinduye umurongo usanzweho kandi rutaragize icyo ruvuga ku rubanza rwa mbere?

b. Ese ni ngombwa ko kugira ngo habeho icyaha cyo kurema umutwe w'ingabo bitemewe, muri izo ngabo haba harimo ingabo z'amahanga cyangwa hagambiriwe komeka igihugu cy'u Rwanda ku bihugu by'amahanga?

iii. Ikindi kibazo n'ukumenya niba Rusesabagina Paul ahamwa n'icyaha cyo gutera inkunga iterabwoba giteganywa n'Itegeko Nº 69/2018 ryo ku wa 31/08/2018 rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba.

Impaka kuri iki kibazo zishingiye ku kumenya niba Rusesabagina Paul, nyuma yo guhamwa n'ibyaha byo gukora no kugira uruhare mu bikorwa by'iterabwoba, yaragombaga no guhamwa n'icyaha cyo gutera inkunga iterabwoba nk'uko Ubushinjacyaha bwabisabaga mu bujurire.

Ikindi kibazo cyasuzumwe n'Urukiko rw'Ubujurire ni ukumenya niba Rusesabagina Paul, Nizeyimana Marc, Nsanzubukire Félicien, Munyaneza Anastase, Nsengimana Herman, Kwitonda André, Nshimiyimana Emmanuel, Ndagijimana Jean Chrétien, Hakizimana Théogène na Mukandutiye Angelina baremeye icyaha ku buryo bibabera impamvu yo kugabanyirizwa igihano.

Urukiko rw'Ubujurire rwasuzumye ibiranga ukwemera gutuma abaregwa bashobora kugabanyirizwa ibihano nk'uko biteganywa mu ngingo ya 59, agace ka mbere (1˚), y'Itegeko N˚ 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange.

iv. Ikindi kibazo n'ukumenya niba Urukiko ku rwego rwa mbere rwari rwemerewe kugabanyiriza ibihano Rusesabagina Paul, Nsabimana Callixte alias Sankara, Nizeyimana Marc, Nikuzwe Siméon, Ntabanganyimana Joseph, Niyirora Marcel, Iyamuremye Emmanuel, Nsengimana Herman, Kwitonda André, Nshimiyimana Emmanuel, Ndagijimana Jean Chrétien, Hakizimana Théogène na Mukandutiye Angelina kubera impamvu nyoroshyacyaha, rukajya munsi y'igihano gito giteganyijwe n'itegeko.

Kuri iyi ngingo, Ubushinjacyaha buvuga ko mu kugabanyiriza abaregwa ibihano, Urukiko rubanza rwakoresheje nabi ingingo ya 60 y'Itegeko nº 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange, iteganya uburyo ibihano bigabanywa iyo hari impamvu nyoroshyacyaha ndetse ya 47 n'iya 48 z'Itegeko ryavuzwe haruguru, aho Umucamanza abujijwe guca urubanza yirengagije ibyo itegeko riteganya ndetse hakaba nta cyaha gishobora kugabanyirizwa igihano atari mu bihe no mu buryo buteganywa n'itegeko. Bityo, bukaba busanga kuba Urukiko rubanza rwaragabanyije igihano kikajya munsi y'igihano gito, rwirengagije icyo amategeko ateganya. mu kugabanya ibihano, rwashingiye ku manza zaciwe n'Urukiko rw'lkirenga n'Urukiko rw'Ubujurire, kandi hakurikijwe ibiteganywa n'ltegeko Nshinga mu ngingo yayo ya 95 iteganya uburyo amategeko asumbana, busanga ibyemezo by'inkiko bidasumba itegeko. Bityo, ko kuba itegeko ryari rihari kandi ryumvikana, ko ari ryo ryagombaga gukoreshwa, keretse hari icyemezo cy'Urukiko rw'Ikirenga cyemeje ko iryo tegeko rinyuranyije n'Itegeko Nshinga, ko uretse n'ibyo ariko, uwo murongo utashingirwaho mu gihe unyuranyije n'itegeko.

Abaregwa bose barebwa n'iyo ingingo y'ubujurire hamwe n'ababunganira, bitabye Urukiko bavuga ko Urukiko rubanza rwasanze impamvu nyoroshyacyaha zituma bagabanyirizwa ibihano zuzuye, kandi rusanga kutajya munsi y'igihano gito byaba ari ukunyuranya n'ihame ry'ubutabera buboneye nk'uko riteganywa mu ngingo ya 29 y'Itegeko Nshinga rya Repubulika y'u Rwanda.

Bakomeza bavuga ko mu rwego rwo gutanga ubutabera buboneye, Umucamanza mu guca urubanza adashingira ku mategeko gusa, ko n'ibyemezo by'inkiko ari ngombwa ko bishingirwaho, ari nayo mpamvu umurongo watanzwe n'Urukiko rw'Ikirenga mu rubanza RS/INCOST/SPEC/00003/2019/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 4/12/2019, haburana Kabasinga Florida na Leta y'u Rwanda, urubanza RPAA 00032/2019/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 28/2/2020, haburana Ubushinjacyaha na Nzafashwanimana Jean de Dieu n'urubanza RPA 00031/2021/CA rwaciwe ku wa 28/10/2021, zerekeranye n'uburyo kubuza Umucamanza kugabanya igihano ari ukubangamira ihame ry'ubutabera buboneye.

v. Urukiko rw'Urwubujurire kandi rwasuzumye niba Urukiko rubanza rwarakoze ikosa mu kugubanyiriza Rusesabagina Paul, Nizeyimana Marc, Nsanzubukire Félicien, Munyaneza Anastase na Mukandutiye Angelina igihano rushingiye kuba ari ubwa mbere bakora icyaha kandi baregwa ibyaha bikomeye.

Impaka kuri iyi ngingo zishingiye ku kumenya niba uburemere bw'icyaha bwaba imbogamizi mu kugabanyiriza uregwa igihano hashingiwe ku kuba ari ubwa mbere akurikiranweho icyaha.

vi. Rwasuzumye kandi niba ubujurire bwuririye ku bundi mu manza nshinjabyaha bushoboka.

Impaka kuri iyi ngingo zishingiye ku bujurire bwuririye ku bundi bwatanzwe n'Abaregwa bashingiye ku kuba itegeko rigena imiburanishirize y'imanza nshinjabyaha ntacyo ribivugaho, ahubwo rikaba rinateganya ko ku byo ritavugaho, hakurikizwa ibiteganywa mu itegeko rigena imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, kandi iri ryo rikaba riteganya ubu bwoko bw'ubujurire.

vii. Kumenya niba ibirego by'indishyi byatangiwe ingwate y'igarama cyangwa ibyemezo by'isonerwa ryayo urubanza rwaratangiye kuburanishwa bishobora kwakirwa.

Impaka kuri iyi ngingo zazanwe n'Abarega, banenga urubanza rujuririrwa kuba rwarakiriye ibirego by'abaregera indishyi rugatangira no kuburanisha, bataratanga ingwate y'igarama, bakayitanga ari uko abaregwa babigaragaje nk'ikibazo.

viii. Kumenya niba abahamijwe ibyaha by'iterabwoba ariko batageze aho ibyaha byakozwe n'umutwe w'iterabwoba babarizwamo byakorewe bashobora kuryozwa indishyi z'ibyangijwe n'abarwanyi b'uwo mutwe.

Impaka kuri iki kibazo zakuruwe n'Abaregwa bagaragaza ko bakwiye kuryozwa ibyangijwe n'ibitero bagaragayemo gusa.

ix. Ibijyanye no guhindura, mu rwego rw'ubujurire, icyemezo cyafashwe mu bushishozi bw'Urukiko ku rwego rwa mbere.

Mu rwego rw'ibirego nshinjabyaha, impaka kuri iyi ingingo zari zishingiye ku kumenya niba Urukiko, mu bujurire rushobora kongera kugabanya igihano, iyo abaregwa nta kindi banenga Urukiko rubanza uretse kuvuga gusa ko batagabanyirijwe bihagije.

x. Ibyerekeye isubikagihano risabwa na bamwe mu baregwa.

Urukiko rw'Ubujurire rwasuzumye ibiteganywa n'ingingo ya 64, igika cya mbere, y'Itegeko N˚ 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange rusanga iteye urujijo kuko uretse no kuba itavuga bimwe mu kinyarwanda no mu zindi ndimi yanditsemo n'amagambo "irangizarubanza ku gihano itegeko riteganyiriza igifungo" ayivugwamo ntiyumvikana neza, kuko igihano kidateganyirizwa igifungo ahubwo icyaha aricyo giteganyiriza igifungo; maze rusobanura ko bikwiye kumvikana ko isubikagihano rishingira ku gihano cy'igifungo kitarengeje imyaka itanu (5) cyemejwe n'Urukiko, aho kuba ku cyaha itegeko ryateganyirije igihano cy'igifungo kirengeje imyaka itanu (5).

Incamake y'icyemezo: 1. Umuntu uyobora, woshya, ushishikariza, utera inkunga, utegura cyangwa utanga ibikoresho agatuma abandi bakora ibyaha bisanzwe biteganyijwe n'amategeko ahana ibyaha hagamijwe iterabwoba, ntahanirwa ibyo byakozwe n'abandi, ahubwo ahanirwa kuba yarakoze ibikorwa byabibanjirije, byatumye ibindi bikorwa by'iterabwoba byabaye nyuma bishyirwa mu bikorwa, bityo Rusesabagina, Nsabimana na Nizeyimana nk'abayobozi mu mpuzamashyaka ya MRCD-FLN bagomba guhamwa no gukora ibikorwa by'iterabwoba, aho kuba kugira uruhare mu bikorwa byakozwe n'abo bayobora.

2. Guhindura umurongo, nubwo bikwiriye ari uko bikorwa mu buryo bweruye, bishobora no kubaho mu buryo buteruye. Bityo umurongo utanzwe bwa nyuma ku kibazo runaka, uba uhinduye uwari usanzweho kuri icyo kibazo.

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

4. Umucamanza wese, mu gutanga igihano, ashinzwe kureba imibereho y'uwakoze icyaha mbere yo kugikora, igihe yagikoraga na nyuma yo kugikora, akabihuza n'uko icyaha cyakozwe, uburemere bwacyo n'ingaruka cyateye muri sosiyete kandi ubwo burenganzira Umucamanza abufite n'ubwo icyaha aregwa cyaba ari icyaha cy'ubugome (*crime*) cyangwa icyaha gikomeye (*délit*)

5. Bitewe na kamere y'imanza nshinjabyaha idashobora gutuma ubujurire bwuririye ku bundi bushoboka, ubujurire bwose burebana n'ikirego cy'ikurikiranacyaha bugomba kuba ubujurire bw'ibanze kandi bugatangwa mu bihe biteganywa n'itegeko.

6. Uregera indishyi mu rubanza nshinjabyaha yemerewe kubikora igihe cyose; apfa gusa kuba yarangije kuzuza ibisabwa mu itangwa ry'ikirego cy'indishyi, urubanza rw'inshinjabyaha rutarapfundikirwa ku rwego rwa mbere.

7. Isubikagihano n'uburyo igihano cy'igifungo cyategetswe n'Umucamanza gikwiye kurangizwa, kandi Umucamanza ashobora kuritanga no mu gihe uwahamwe n'icyaha atarisabye, hitawe ku gihano yahaye uregwa, imibereho ye bwite no ku buremere bw'icyaha yakoze. Bityo, nta cyabuza uwahamwe n'icyaha ku rwego rwa mbere kubisaba ubwa mbere mu bujurire.

Ubujurire bw'Ubushinjacyaha bufite ishingiro kuri bimwe.
Ubujurire bwuririye ku bw'Ubushinjacyaha bwatanzwe na Kwitonda, Ndagijimana, Hakizimana na Nikuzwe butakiriwe.
Ubujurire bwa Nsabimana bufite ishingiro.
Ubujurire bwa Nsabimana bufite ishingiro kuri bimwe.
Ubujurire bwa Nizeyimana, Nsengimana, Nshimiyimana, Matakamba, Ntibiramira, Byukusenge, Shabani, Bizimana, Niyirora, Iyamuremye, Mukandutiye, Nsanzubukire na Munyaneza, nta shingiro bufite.

Amategeko yashingiweho:

Itegeko n˚ 027/2019 ryo ku wa 19/9/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ingingo ya 11,12,16,116,154,181, 183.

Itegeko nº 69/2018 ryo ku wa 31/08/2018 rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba, ingingo 2.

Itegeko nº 46/2018 ryo ku wa 13/08/2018 ryerekeye kurwanya iterabwoba nk'uko ryahinduwe kugeza ubu, ingongo ya 2,18,19,38.

Itegeko nº 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu, ingingo ya 28,33 47,49, 54, 55, 58, 59, 60, 64.

Itegeko n°30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko, ingingo ya 65 na 73.

Itegeko nº 15/2004 ryo ku wa 12/6/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ingingo ya 3,104

Amabwiriza nº 001/2021 yo ku wa 15 Werurwe 2021 ya Perezida w'Urukiko rw'Ikirenga agenga itangazwa ry'imanza mu cyegeranyo cy'ibyemezo by'inkiko, mu ngingo yayo ya 9, igika cya 2 n'icya 3.

Itegeko Ngenga n˚ 01/2012/0L ryo ku wa 2/5/2012 rishyiraho Igitabo cy'amategeko ahana, (ryavanyweho) ingingo ya 77, 85, 503, 459, 503.

Itegeko-Teka nº 21/77 ryo ku wa 18/08/1977 ryashyiragaho Igitabo cy'amategeko ahana, (ryavanyweho) ingingo 97, 163.

Imanza zifashishijwe:

Re GLIHD, RS/INCONST/SPEC 00004/2019/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 04/12/2019

Ubushinjacyaha v Ingabire Umuhoza n' abandi, n˚ RPA 0255/12/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 13/12/2013.

Ubushinjacyaha v Habyarimana, n˚ RPA 0224/12/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 13/01/2017.

Ubushinjacyaha v Ndererimana n˚ RPA 0249/13/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 16/09/2016.

Ubushinjacyaha v Mpiranya, nº RPA 0343/10/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 27/02/2015.

Ubushinjacyaha v Mushayidi, RPA 0298/10/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 24/02/2012.
Ubushinjacyaha v Musangamfura, RPAA 00381/2020/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 18/3/2022.
Ubushinjacyaha v Nzafashwanimana, no RPAA 00032/2019/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 28/ 02/2022.
Urubanza rwa Vojislav Šešelj, IT-03-67-R77.2-A, rwaciwe na ICTY (International Criminal Tribunal for the former Yugoslavia, Appeals Chamber) ku wa 19/ 05/2010.
Urubanza, Porokirere v Kambanda, n˚ ICTR-97-23-S, rwaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda (TPIR) ku wa 4/09/1998.

Inyandiko z'Abahanga:

Antoine Rubbens, L'instruction criminelle et la procédure pénale, Tome III, Larcier, Bruxelles, 1965, P. 265, n˚ 259.
Bernard Bouloc, Droit pénal général, 26e édition, Dalloz, Paris, 2019, P. 591, n˚ 791
Christiane Hennau et Jacques Verhaegen, Droit pénal général, 3e édition, Bruylant, Bruxelles, 2003.
Harald Renoult, Droit pénal général, 19e édition, Bruylant-Paradigme, Bruxelles, 2020, P. 291.
Michel Franchimont, Ann Jacobs et Adrien Masset, Manuel de procédure pénale, 2e édition, Larcier, Bruxelles, 2006.
Nyabirungu mwene Songa, Droit pénal général zaïrois, DES, Kinshasa, 1989, P. 340.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Ubushinjacyaha bwareze: NSABIMANA Callixte alias Sankara, NSENGIMANA Herman, RUSESABAGINA Paul, NIZEYIMANA Marc, BIZIMANA Cassien alias Passy, MATAKAMBA Jean Berchmas, SHABANI Emmanuel, NTIBIRAMIRA Innocent, BYUKUSENGE Jean-Claude, NIKUZWE Siméon, NTABANGANYIMANA Joseph, NSANZUBUKIRE Félicien, MUNYANEZA Anastase, IYAMUREMYE Emmanuel, NIYIRORA Marcel, NSHIMIYIMANA Emmanuel, KWITONDA André, HAKIZIMANA Théogène, NDAGIJIMANA Jean Chrétien, MUKANDUTIYE Angelina na NSABIMANA Jean Damascène alias Motard, mu Rukiko Rukuru, Uregereko Rwihariye Ruburanisha ibyaha Mpuzamahanga n'ibyambukiranya imbibi. Bubarega buri wese ku giti cye ibyaha bitandukanye ;

[2] Mu byo baregwaga harimo : kurema umutwe w'ingabo utemewe cyangwa kuwujyamo, kuba mu mutwe w'iterabwoba, iterabwoba ku nyungu za politiki, gutera inkunga iterabwoba. Hari kandi ubwicanyi nk'igikorwa cy'iterabwoba, itwarwa ry'umuntu ritemewe n'amategeko nk'igikorwa cy'iterabwoba, kwiba hakoreshejwe intwaro nk'igikorwa cy'iterabwoba, gutwikira undi ku bushake inyubako, ibigenewe gutwara abantu cyangwa ibintu nk'igikorwa cy'iterabwoba, gukubita no gukomeretsa ku bushake nk'igikorwa cy'iterabwoba, ubwinjiracyaha bw'ubwicanyi nk'igikorwa cy'iterabwoba. Hari na none gutanga, kwakira no gushishikariza kwakira ibikomoka ku iterabwoba, kugambana no gushishikariza abandi iterabwoba. Hakaba no gukwiza amakuru atariyo cyangwa icengezamatwara bigamije kwangisha Leta y'u Rwanda mu bihugu by'amahanga, guhakana jenoside, gupfobya jenoside, kugirana umubano na Leta y'amahanga bigiriwe gushoza intambara no guhabwa ku bw'uburiganya cyangwa gukora no gukoresha inyandiko n'impapuro bitangwa n'inzego zabigenewe.

[3] Urubanza rwahawe nº RP 00031/2019/HC/HCCIC, abaturage bagera kuri 98 bagizweho ingaruka na bimwe mu bikorwa abaregwa bakurikirwayweho, bisunga Ubushinjacyaha muri urwo rubanza baregera indishyi. Mu iburanisha ryarwo, umwe mu baregwa RUSESABAGINA Paul, yikuye mu rubanza rugeze hagati yanga kwitabira iburanisha, urubanza ruburanishwa adahari, maze rusomwa ku wa 20/9/2021.

[4] Mu isesengura Urukiko rubanza rwakoze, rwasanze ku bijyanye n'icyaha cyo kurema umutwe w'ingabo utemewe cyangwa kuwujyamo, icyo cyaha kidahama abo kiregwa kuko bitewe n'uko ibikorwa baregwa bitari mu rwego rw'ibyaha bihungabanya umudendezo wa Leta n'ibindi bihugu kandi batabikoze bagamije gushyigikira igitero cy'intambara cy'ingabo zindi zitari izemewe z'igihugu. Rwasanze kandi ku bijyanye n'icyaha cyo gutera inkunga iterabwoba cyaregwaga RUSESABAGINA Paul, ibikorwa akurikiranweho bihanwa n'amategeko abiri atandukanye1, hamwe bihanwa nk'icyaha cyihariye cyo gutera inkunga iterabwoba, ahandi gutera inkunga iterabwoba bigahanwa nka kimwe mu bikorwa by'iterabwoba, Urukiko rubanza rumaze gusesengura ayo mategeko rwasanze ibikorwa aregwa bikwiye guhanwa nk'ibikorwa by'iterabwoba, aho guhanwa n'icyaha cyo gutera inkunga ibikorwa by'iterabwoba.

[5] Mu cyemezo cyarwo, Urukiko Rukuru, Urugereko rwihariye ruburanisha ibyaha mpuzamahanga n'ibyaha byambuka imbibi, rwemeje ko :

> NSABIMANA Callixte alias Sankara ahamwa n'icyaha cyo kuba mu mutwe w'iterabwoba, icyo gukora no kugira uruhare mu bikorwa by'iterabwoba, icyo guhakana jenoside, icyo gupfobya jenoside n'icyaha cyo guhabwa ku bw'uburiganya cyangwa gukora no gukoresha inyandiko n'impapuro bitangwa n'inzego zabigenewe. Rwemeza ko adahamwa n'icyaha cy'irema ry'umutwe w'ingabo bitemewe, icyaha cyo kugirana umubano na Leta y'amahanga bigiriwe gushoza intambara, icyo gutanga, kwakira no gushishikariza kwakira ibikomoka ku iterabwoba, icy'iterabwoba ku nyungu za politiki, icyo kugambana no gushishikariza abandi gukora igikorwa cy'iterabwoba n'icyo gukwiza amakuru atariyo cyangwa icengezamatwara bigamije kwangisha Leta y'u Rwanda mu bihugu by'amahanga. Rumuhanisha igifungo cy'imyaka makumyabiri (20), rutegeka ko urwandiko rw'inzira (passport) na telefoni yafatanwe binyagwa.
>
> RUSESABAGINA Paul ahamwa n'icyaha cyo kuba mu mutwe w'iterabwoba n'icyo gukora no kugira uruhare mu bikorwa by'iterabwoba, ariko ko adahamwa n'icyaha cy'irema ry'umutwe w'ingabo bitemewe, rumuhanisha igifungo cy'imyaka makumyabiri n'itanu (25).
>
> NIZEYIMANA Marc ahamwa n'icyaha cyo kuba mu mutwe w'iterabwoba n'icyo gukora no kugira uruhare mu bikorwa by'iterabwoba, ariko ko adahamwa n'icyaha cyo kurema ry'umutwe w'ingabo bitemewe n'icyo kugirana umubano na Leta y'amahanga bigiriwe gushoza intambara, rumuhanisha igifungo cy'imyaka makumyabiri (20).
>
> BIZIMANA Cassien alias Passy ahamwa n'icyaha cyo kuba mu mutwe w'iterabwoba, icyo gukora no kugira uruhare mu bikorwa by'iterabwoba, icyo gukoresha binyuranyije n'amategeko ikintu giturika ahantu hakoreshwa na rubanda n'icyo kugambana no gushishikariza abandi gukora igikorwa cy'iterabwoba, rwemeza ko adahamwa n'icyaha cyo kurema cyangwa kujya mu mutwe w'ingabo bitemewe, maze rumuhanisha igifungo cy'imyaka makumyabiri (20).
>
> MATAKAMBA Jean Berchmas, SHABANI Emmanuel, NTIBIRAMIRA Innocent, BYUKUSENGE Jean-Claude na NSABIMANA Jean Damascène bahamwa n'icyaha cyo kuba mu mutwe w'iterabwoba, icyo gukora no kugira uruhare mu bikorwa by'iterabwoba, icyo gukoresha

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[1] Itegeko nº 69/2018 ryo ku wa 31/08/2018 rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba ndetse n'Itegeko no 46/2018 ryo ku wa 13/08/2018 ryerekeye kurwanya iterabwoba nk'uko ryahinduwe kugeza ubu nk'igikorwa cy'iterabwoba

binyuranyije n’amategeko ikintu giturika ahantu hakoreshwa na rubanda n’icyo kugambana no gushishikariza abandi gukora igikorwa cy’iterabwoba, rubahanisha buri wese igifungo cy’imyaka makumyabiri (20).

NIKUZWE Siméon ahamwa n’icyaha cyo kuba mu mutwe w’iterabwoba, ahanishwa igifungo cy’imyaka icumi (10).

NSANZUBUKIRE Félicien, MUNYANEZA Anastase na HAKIZIMANA Théogène bahamwa n’icyaha cyo kuba mu ishyirahamwe ry’iterabwoba, ariko ko badahamwa n’icyaha cy’irema ry’umutwe w’ingabo bitemewe, rubahanisha buri wese igifungo cy’imyaka itanu (5).

NTABANGANYIMANA Joseph, NSENGIMANA Herman, IYAMUREMYE Emmanuel, NIYIRORA Marcel, KWITONDA André, NSHIMIYIMANA Emmanuel, NDAGIJIMANA Jean Chrétien na MUKANDUTIYE Angelina bahamwa n’icyaha cyo kuba mu mutwe w’iterabwoba, ariko badahamwa n’icyaha cy’irema ry’umutwe w’ingabo utemewe, ruhanisha NSENGIMANA Herman, IYAMUREMYE Emmanuel, NIYIRORA Marcel, KWITONDA André na MUKANDUTIYE Angelina buri wese igifungo cy’imyaka itanu (5). Naho NTABANGANYIMANA Joseph, NSHIMIYIMANA Emmanuel na NDAGIJIMANA Jean Chrétien buri wese igifungo cy’imyaka itatu (3).

[6] Ku bijyanye n’ikirego cy’indishyi, Urukiko rubanza rwemeje ko abaregwa bose, uretse NSANZUBUKIRE Félicien na MUNYANEZA Anastase, bafatanya kwishyura abaregera indishyi mu buryo bukurikira:

NSENGIYUMVA Vincent indishyi zingana na 21.500.000 Frw,

HAVUGIMANA Jean-Marie Vianney 600.000 Frw,

BAPFAKURERA Vénuste 600.000 Frw,

RUGERINYANGE Dominique na NTABARESHYA Dative buri wese 5.000.000 Frw,

HABYARIMANA Jean-Marie Vianney 300.000 Frw,

INGABIRE Marie Chantal 10.000.000 Frw,

SHUMBUSHA Damascène 300.000 Frw,

NSABIMANA Anastase 300.000 Frw,

MUKASHYAKA Joséphine 10.000.000 Frw,

SIBORUREMA Vénuste 300.000 Frw,

NGENDAKUMANA David 300.000 Frw.

NDUTIYE Yussuf 7.000.000 Frw,

OMEGA Express Ltd 164.700.000 Frw,

ALPHA Express Company Ltd 80.100.000 Frw,

RUDAHUNGA Ladislas 7.690.200 Frw,

KIRENGA Darius, UMURIZA Adéline, SHUMBUSHO David na RUDAHUNGA Dieudonné bahagarariwe na RUDAHUNGA Ladislas buri wese 2.000.000 Frw,

KAREGESA Phénias 5.500.000 Frw,

NYIRAYUMVE Eliane 10.500.000 Frw,

NGIRABABYEYI Désiré 2.500.000 Frw,

HABIMANA Zerothe 2.500.000 Frw,

NIYONTEGEREJE Azèle 2.000.000 Frw,

KAYITESI Alice 2.000.000 Frw,

NYIRANDIBWAMI Mariane 5.000.000 Frw,

UWAMBAJE Françoise 10.000.00 Frw,

abana batanu ba MUKABAHIZI Hilarie bahagarariwe na MBONIGABA Richard aribo MUKESHIMANA Diane, NDIKUMANA Isaac, MUKANKUNDIYE Alphonsine, UZAYISENGA Liliane na HABAKUBAHO Adéline buri wese 5.000.000 Frw,

abavandimwe barindwi ba MUKABAHIZI Hilarie ari bo MBONIGABA Richard, VUGABAGABO Jean-Marie Vianney, MURENGERANTWALI Donat, HAKIZIMANA Denis, RWAMIHIGO Alexis, NYIRANGABIRE Valérie na SEMIGABO Déo buri wese 2.000.000 Frw.

NKURUNZIZA Jean Népomuscène 3.000.000 Frw,

NSABIMANA Joseph 3.000.000 Frw,

RUTAYISIRE Félix 4.000.000 Frw,

MAHORO Jean Damascène 5.000.000 Frw,

NZEYIMANA Paulin 2.000.000 Frw.

[7] Rwemeje ko nta ndishyi zigenewe abaregera indishyi kubera ibitero byagabwe mu ishyamba rya Nyugwe, mu Murenge wa Kitabi ari bo: YAMBABARIYE Védaste, NYAMINANI Daniel, MUGISHA GASHUMBA Yves, BWIMBA Vianney na NTIBAZIYAREMYE Samuel.

[8] Rwemeza ko nta ndishyi zigenerwa abo mu Murenge wa Nyabimata aribo: HABIMANA Viateur, NGIRUWONSANGA Venuste, BENINKA Marceline, NYIRAMINANI Mélanie, NYIRAHORA Godelive, RUHIGISHA Emmanuel, MUYENTWALI Cassien, BANGAYANDUSHA Jean-Marie Vianney, NSABIMANA Straton, SEBAGEMA Simon, BARAYANDEMA Viateur, KARERANGABO Antoine, NYIRAGEMA Joséphine, NSAGUYE Jean, NYIRAZIBERA Dative, NDIKUMANA Viateur, NDIKUMANA Callixte, NYIRASHYIRAKERA Théophila, KANGABE Christine, NANGWAHAFI Callixte, NYIRAHABIMANA Vestine, NYIRAMANA Bellancille na HABYARIMANA Damascène.

[9] Rwemeza ko nta ndishyi zigenerwa abo mu Murenge wa Ruheru aribo: MANARIYO Théogène, GASHONGORE Samuel, NZABIRINDA Viateur, NIYOMUGABA, NDAYISENGA Edouard, BIGIRIMANA Fanuel, BARAGAMBA, RUTIHUNZA Enos, BARIRWANDA Innocent, NSABIYAREMYE Pascal, HABIMANA Innocent, SEBARINDA Emmanuel, NZAJYIBWAMI Yoramu, NKUNDIZERA Damascène, HABAKURAMA Gratien na HARERIMANA Emmanuel.

[10] Rwemeza ko n’abo mu Murenge wa Kivu ari bo: NGAYABERURA Emmanuel, DUSENGIMANA Solange, KANYANDEKWE Vénant, NYIRAMYASIRO Verediana, HAGENIMANA Patrice, NSANGIYEZE Emmanuel na NYIRAKOMEZA Claudine, nta ndishyi bahabwa, ndetse na GAKWAYA Gérard wo mu Murenge wa Nyakarenzo.

[11] Ubushinjacyaha, bamwe mu baregwa, kimwe na bamwe mu baregera indishyi ntibishimiye imikirize y'urubanza ku ngingo zinyuranye, bajuririra Urukiko rw'Ubujurire. Ubushinjacyaha bugaragaza ko butanyuzwe n'igisobanuro cyatanzwe n'Urukiko rubanza ku cyaha cyo kurema umutwe w'ingabo bitemewe, butanyuzwe kandi n'icyemezo cyo kugira umwere RUSESABAGINA Paul ku cyaha cyo gutera inkunga umutwe w' iterabwoba, icyo guhindura inyito z' ibyaha byihariye birimo icy'ubwicanyi, itwarwa ry'umuntu ritemewe n'amategeko, kwiba hakoreshejwe intwaro, gutwikira undi ku bushake inyubako, ibigenewe gutwara abantu cyangwa ibintu, ubwinjiracyaha bw'ubwicanyi, gukubita no gukomeretsa ku bushake byarezwe abaregwa nk'ibikorwa by'iterabwoba, ko butanyuzwe na none n'ibihano byatanzwe buvuga ko byatanzwe mu buryo budakurikije amategeko.

[12] NSABIMANA Callixte alias Sankara we ajurira anenga ko atagabanyirijwe igihano bihagije kandi yemera icyaha ku buryo budashidikanywaho, asaba ko yakongera kugabanyirizwa. NSENGIMANA Herman ajurira avuga ko atanyuzwe n'uburyo atagabanyirijwe igihano bihagije kandi yemera icyaha mu buryo budashidikanywaho no kuba yaraciwe indishyi, kandi nta ruhare rutaziguye yagize mu bikorwa byangirije abaregera indishyi.

[13] NIZEYIMANA Marc ajurira, avuga ko yahamijwe ibyaha atagizemo uruhare, ndetse acibwa indishyi kandi nta ruhare yagize mu byaha byakozwe. BIZIMANA Cassien alias Passy we yajuriye ku mpamvu z'uko atagabanyirijwe ibihano ku buryo buhagije kandi ntibinasubikwe. MATAKAMBA Jean Berchmas we yajurijwe n'uko ngo Urukiko rubanza rutasesenguye neza impamvu zamuteye gukora icyaha ngo ruzishingireho mu gufata icyemezo; ko kandi yahaniwe igitero cyo mu Karangiro kandi atarakigizemo uruhare, ndetse agaragaza ko atanyuzwe n'igihano yahanishijwe.

[14] NSABIMANA Jean Damascène alias Motard na SHABANI Emmanuel nabo barajuriye kuko Urukiko rubanza rutahaye agaciro impamvu nyoroshyacyaha barugaragarije no kuba barategetswe gutanga indishyi ku bijyanye n'ibitero byabereye mu Karere ka Rusizi. NSABIMANA Jean Damascène alias Motard, by' umwihariko, anenga Urukiko rubanza kuba rwaramuhamije icyaha cyo kugambana n'icyo gushishikariza abandi gukora igikorwa cy'iterabwoba kandi atakirezwe.

[15] NTIBIRAMIRA Innocent na BYUKUSENGE Jean-Claude nabo bajuriye banenga Urukiko Rukuru, urugereko rwihariye ruburanisha ibyaha mpuzamahanga n'ibyaha byambuka imbibi kuba rutarahaye agaciro impamvu nyoroshyacyaha barugaragarije no kuba rutaragaragaje igihe bafatiwe kandi aricyo gikwiye guherwaho habarwa igihe bazamara muri gereza.

[16] NSANZUBUKIRE Félicien na MUNYANEZA Anastase nabo bajuriye kubera ko Urukiko rubanza rutaragaragaje igihe bafatiwe kandi aricyo gikwiye guherwaho babara igihe bazamara muri gereza no kuba bataragabanyirijwe igihano kugera ku mwaka umwe (1), kandi bemera icyaha. IYAMUREMYE Emmanuel, NIYIRORA Marcel na NSHIMIYIMANA Emmanuel bo ntibemeranijwe n'Urukiko rubanza ku bijyanye no gukurikiranwa mu nkiko ndetse bagahanwa, aho gusubizwa mu buzima busanzwe nk'abandi, kuba batarahawe isubikagihano mu gihe hatabayeho gusubizwa mu buzima busanzwe n'ibijyanye n'indishyi baryozwa kandi nta ruhare bagize zashingiraho.

[17] KWITONDA André, NDAGIJIMANA Jean Chrétien, HAKIZIMANA Théogène na NIKUZWE Siméon batanze ubujurire bwuririye ku bw'Ubushinjacyaha ku mpamvu zinyuranye.

[18] Ku rundi ruhande abaregera indishyi barimo HAVUGIMANA Jean-Marie Vianney, BAPFAKURERA Vénuste, RUGERINYANGE Dominique, NTABARESHYA Dative,

HABYARIMANA Jean-Marie Vianney, INGABIRE Marie Chantal, SHUMBUSHA Damascène, NSABIMANA Anastase, MUKASHYAKA Joséphine, SIBORUREMA Vénuste, NGENDAKUMANA David, RUDAHUNGA Ladislas, KIRENGA Darius, UMURIZA Adéline, SHUMBUSHO David na RUDAHUNGA Dieudonné bahagarariwe na RUDAHUNGA Ladislas, KAREGESA Phénias, NYIRAYUMVE Eliane, NGIRABABYEYI Désiré, HABIMANA Zerothe, NIYONTEGEREJE Azèle, KAYITESI Alice, NYIRANDIBWAMI Mariane, UWAMBAJE Françoise, abana batanu ba MUKABAHIZI Hilarie bahagarariwe na MBONIGABA Richard, aribo MUKESHIMANA Diane, NDIKUMANA Isaac, MUKANKUNDIYE Alphonsine, UZAYISENGA Liliane na HABAKUBAHO Adéline, MUKABAHIZI Hilarie, MBONIGABA Richard, VUGABAGABO Jean-Marie Vianney, MURENGERANTWALI Donat, HAKIZIMANA Denis, RWAMIHIGO Alexis, NYIRANGABIRE Valérie na SEMIGABO Déo, NKURUNZIZA Jean Népomuscène, NSABIMANA Joseph, RUTAYISIRE Félix, MAHORO Jean Damascène, NZEYIMANA Paulin, NSENGIYUMVA Vincent, NDUTIYE Yussuf, OMEGA Express Ltd, ALPHA Express Company Ltd bajuriye banenga kuba Urukiko rubanza rwarabageneye indishyi nkeya rugendeye ku bushishozi bwarwo kandi izo bari basabye zari zatangiwe ibimenyetso.

[19] Abaregera indishyi barimo YAMBABARIYE Védaste, NYAMINANI Daniel, MUGISHA GASHUMBA Yves, BWIMBA Vianney, NTIBAZIYAREMYE Samuel, HABIMANA Viateur, NGIRUWONSANGA Venuste, BENINKA Marceline, NYIRAMINANI Mélanie, NYIRAHORA Godelive, RUHIGISHA Emmanuel, MUYENTWALI Cassien, BANGAYANDUSHA Jean-Marie Vianney, NSABIMANA Straton, SEBAGEMA Simon, BARAYANDEMA Viateur, KARERANGABO Antoine, NYIRAGEMA Joséphine, NSAGUYE Jean, NYIRAZIBERA Dative, NDIKUMANA Viateur, NDIKUMANA Callixte, NYIRASHYIRAKERA Théophila, KANGABE Christine, NANGWAHAFI Callixte, NYIRAHABIMANA Vestine, NYIRAMANA Bellancille, HABYARIMANA Damascène, MANARIYO Théogène, GASHONGORE Samuel, NZABIRINDA Viateur, NIYOMUGABA, NDAYISENGA Edouard, BIGIRIMANA Fanuel, BARAGAMBA, RUTIHUNZA Enos, BARIRWANDA Innocent, NSABIYAREMYE Pascal, HABIMANA Innocent, SEBARINDA Emmanuel, NZAJYIBWAMI Yoramu, NKUNDIZERA Damascène, HABAKURAMA Gratien, HARERIMANA Emmanuel, NGAYABERURA Emmanuel, DUSENGIMANA Solange, KANYANDEKWE Vénant, NYIRAMYASIRO Verediana, HAGENIMANA Patrice, NSANGIYEZE Emmanuel, NYIRAKOMEZA Claudine na GAKWAYA Gérard, bajuriye banenga Urukiko rubanza kuba nta ndishyi rwabageneye rushingiye ku kuba nta bimenyetso bazitangiye, kandi hari imvugo z’abazi uko ibintu byangenze, imvugo z’abaregwa ubwabo biyemereye ndetse bigambye ibyaha babakoreye, rukaba rwarirengagije ingaruka byabagizeho.

[20] Ubujurire bwabo bose bwahawe nomero zitandukanye, zihurizwa hamwe, iburanisha rishyirwa ku wa 17/01/2022, uwo munsi ababuranyi bose baritaba, uretse RUSESABAGINA Paul. Ibyo byateye impaka ku bijyanye no kumenya niba yarahamagajwe ku buryo bukurikije amategeko, Urukiko rujya kwiherera, maze ku wa 18/01/2022, rwemeza ko RUSESABAGINA Paul yahamagajwe mu buryo bukurikije amategeko, rutegeka ko urubanza ruburanishwa adahari, nk’uko biteganywa n’ingingo ya 128 y’Itegeko nº 027/2019 ryo ku wa 19/9/2019 ryerekeye imiburanishirize y’imanza z’inshinjabyaha. Iburanisha ryashyizwe ku wa 20/01/2022.

[21] Kuri uwo munsi, ababuranyi bamaze gusobanurirwa ingingo z’ingenzi zigize ubujurire bwabo, bemeranyijwe n’Urukiko ko zikubirwa mu bibazo bizasesengurwa mu byiciro bitanu bikurikira:

a. Ibyerekeye inyito y’ibyaha Urukiko rubanza rwahamije ababuranyi;

b. Ibyerekeye ibyaha abaregwa bagizweho abere;

c. Ibyerekeye ibyaha abaregwa bahamijwe n'Urukiko;

d. Ibyerekeye ibihano bahawe;

e. Ibyerekeye indishyi.

Banemeranyije kuri gahunda y'uburyo bizaburanishwa.

[22] Mu iburanisha byagaragaye ko NSHIMIYIMANA Emmanuel yajuririye icyaha cyo kurema umutwe w'ingabo bitemewe kandi Urukiko rutarakimuhamije, maze ari we, Ubushinjacyaha n'uru Rukiko bemeranya ko kidakwiye kuba mu bibazo bisuzumwa.

[23] Muri iryo buranisha kandi, Ubushinjacyaha bwamenyesheje Urukiko ko bwahinduye ibisobanuro byabwo ku bireba impamvu ya mbere irebana n'ibyaha byahinduriwe inyito, ko ubu iyo mpamvu ireba gusa abaregwa RUSESABAGINA Paul, NSABIMANA Callixte alias Sankara na NIZEYIMANA Marc ku bijyanye n'inyito y'icyaha kigomba kubahama ku byaha byakozwe n'abarwanyi ba MRCD-FLN.

I. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

1. IMPAMVU Z'UBUJURIRE ZISHINGIYE KU NYITO Y'IBYAHA URUKIKO RWAHAMIJE ABAREGWA

- **Kumenya inyito y'icyaha RUSESABAGINA Paul, NIZEYIMANA Marc na NSABIMANA Callixte alias Sankara bagomba guhanirwa ku birebana n'ibikorwa bigize ibyaha byakozwe n'abarwanyi ba MRCD-FLN**

[24] Kuri iyi ngingo y'ubujurire, Ubushinjacyaha buvuga ko hari ibyo bwemeranwaho n'Urukiko Rukuru, urugereko rwihariye ruburanisha ibyaha mpuzamahanga n'ibyambuka imbibi mu isesengura rwakoze, ariko ko hari n'ibyo bunenga. Buvuga ko butemera isesengura Urukiko rubanza rwakoze mu bika bya 162, 164 na 236 by'urubanza rujuririrwa, aho rwemeje ko NSABIMANA Callixte alias Sankara, RUSESABAGINA Paul na NIZEYIMANA Marc batagomba gukurikiranwa nka gatozi ku bikorwa by'iterabwoba, ahubwo bakurikiranwa nk'abagize uruhare mu bikorwa by'iterabwoba byakozwe n'abarwanyi ba MRCD-FLN.[2] Ubushinjacyaha bukagaragaza ko gufata abayobozi b'umutwe w'iterabwoba nk'abagize uruhare mu bikorwa by'iterabwoba byakozwe n'abo bayobora, aho kubafata nk'abakoze ibikorwa by'iterabwoba nyirizina, ataribyo kuko nk'abayobozi b'umutwe w'iterabwoba, bateguye, bagatera inkunga ndetse bagashishikariza abandi gukora ibikorwa by'iterabwoba, itegeko ryateganyije ko ibyo bakoze ubwabyo ari ibikorwa by'iterabwoba. Ibyo bukabishingira ku bisobanuro itegeko ryahaye igikorwa cy'iterabwoba nk'uko biri mu ngingo ya 2, agace ka 4 (a) na (b) y'Itegeko nº 46/2018 ryo ku wa 13/08/2018 ryerekeye kurwanya iterabwoba nk'uko ryahinduwe kugeza ubu, ivuga ko: "Igikorwa cy'iterabwoba ari:

[2] Mu gika cya 164 cy'urubanza rujuririrwa, Urukiko Rukuru, Urugereko rwihariye ruburanisha ibyaha mpuzamahanga n'ibyambuka imbibi rubivuga muri aya amagambo: "… Urukiko rusanga rero ibikorwa byakozwe n'abarwanyi ba MRCD-FLN mu bitero Ubushinjacyaha bukurikiranyeho NSABIMANA Callixte alias Sankara na RUSESABAGINA Paul nka gatozi b'ubwicanyi, gukubita no gukomeretsa, itwarwa ry'umuntu ritemewe n'amategeko, gutwikira undi ku bushake inyubako, ibigenewe gutwara abantu cyangwa ibintu no kwiba hakoreshejwe intwaro nk'ibikorwa by'iterabwoba ndetse n'icy'ubwinjiracyaha bw'ubwicanyi nk'igikorwa cy'iterabwoba kuri RUSESABAGINA Paul **batagomba kubikurikiranwaho nka gatozi, ahubwo** nk'uko byasobanuwe Urukiko rwasanze **icyo bakoze ari ukugira uruhare muri ibyo bikorwa by'iterabwoba bigize icyaha cyo gukora no kugira uruhare mu bikorwa by'iterabwoba**."

a) igikorwa cyose cyagambiriwe kinyuranyije n'amategeko mpanabyaha gishobora kubangamira ubuzima, umutekano, umudendezo, gukomeretsa bikomeye cyangwa guteza urupfu rw'umuntu uwo ari we wese, umubare runaka cyangwa itsinda ry'abantu cyangwa cyangiza cyangwa gishobora kwangiza umutungo wa Leta cyangwa uw'umuntu ku giti cye, umutungo kamere, ibidukikije cyangwa umurage ndangamuco, gikozwe hagamijwe:

i. gukanga, gutera ubwoba, gukoresha ku ngufu, guhatira cyangwa gutera Leta, umuryango, urwego, abaturage cyangwa icyiciro runaka cyabo gukora cyangwa kudakora igikorwa icyo ari cyo cyose, gufata cyangwa kureka umurongo runaka cyangwa kugendera ku mahame runaka;

ii. kubuza imirimo ya Leta igenewe abaturage, itangwa rya serivisi za ngombwa ku baturage gukomeza uko bisanzwe cyangwa guteza imidugararo;

iii. guteza ubwigomeke ku butegetsi mu gihugu;

b. igikorwa cyose cyo guteza imbere, gutera inkunga, guha ubufasha, kuyobora, gufasha, koshya, kwigisha, gutoza, kugerageza, gushishikariza, gukangisha, kugambana, gutegura cyangwa gutanga ibikoreshwa, gikozwe n'umuntu uwo ari we wese hagamijwe gukorwa icyo ari cyo cyose mu bivugwa mu gace ka a)''.

[25] Ubushinjacyaha buvuga ko ibikorwa by'iterabwoba bivugwa mu ngingo ya 19, igika cya mbere, y'Itegeko nº 46/2018 ryo ku wa 13/08/2018 ryerekeye kurwanya iterabwoba, ari byo gukora igikorwa cy'iterabwoba, kugerageza gukora igikorwa cy'iterabwoba, kugira uruhare mu bikorwa by'iterabwoba no gushyigikira ibikorwa by'iterabwoba, byose bihurira ku ijambo **''ibikorwa by'iterabwoba''** bisobanurwa mu ngingo ya 2, agace ka kane (4)(a) na (b). Buvuga ko iyo ari yo mpamvu abaregwa NSABIMANA Callixte alias Sankara, RUSESABAGINA Paul na NIZEYIMANA Marc, nka bamwe mu bayobozi b'umutwe wa MRCD-FLN, bahurira n'ibikorwa byakozwe n'abo barwanyi, ku kuba barateye inkunga y'amafaranga, bagatanga uburenganzira bwo kugaba ibitero bitandukanye byagabwe mu Rwanda, bagashishikariza abandi kubikora. Kubera iyo mpamvu, Ubushinjacyaha bukaba busanga bakwiye guhamwa no gukora ibikorwa by'iterabwoba, aho guhamwa no kugira uruhare mu bikorwa by'iterabwoba byakozwe n'abo barwanyi, nk'uko Urukiko rubanza rwari rwabyemeje.

[26] Me RUGEYO Jean, wunganira NSABIMANA Callixte alias Sankara, mu gusubiza kuri iyi ngingo, yabwiye Urukiko ko we abona nta kosa Urukiko rubanza rwakoze mu guhana abaregwa barimo uwo yunganira, rushingiye ku ngingo ya 19 y'Itegeko nº 46/2018 ryo ku wa 13/08/2018 ryerekeye kurwanya iterabwoba. Impamvu atanga ni uko iyo ngingo iri mu mutwe uteganya ibyaha n'ibihano ku bikorwa by'iterabwoba, bikaba byumvikana ko ibijyanye n'inyito y'ibyaha abaregwa bakurikiranweho ariho bikwiye gushakirwa, aho kujya kurebera mu gice cy'ingingo rusange zitanga ibisobanuro by'amagambo, aricyo ingingo ya 2 y'iryo Tegeko Ubushinjacyaha bwitsitsaho ihererereyemo. Muri urwo rwego, NSABIMANA Callixte alias Sankara yavuze ko nk'umuvugizi atakagombye kuryozwa ibikorwa bya gisirikare atari afitemo ijambo kandi hari abari babishinzwe, barimo *Colonel* GATABAZI Joseph wari ushinzwe ibikorwa bya gisirikare (*opérations militaires*) basubijwe mu buzima busanzwe.

[27] Nyuma y'uko Ubushinjacyaha butanze ibisobanuro bikosora umwanzuro w'ubujurire kuri iyi ngingo, abandi baregwa barebwa n'icyo kibazo, ntacyo babivuzeho.

UKO URUKIKO RUBIBONA

[28] Urukiko rw'Ubujurire rurasanga impaka kuri iki kibazo zishingiye ku kumenya uko abayobozi b'umutwe w'iterabwoba bagomba guhanwa ku byaha byakozwe n'abo bayobora, byagize ingaruka ku baturage b'aho byakorewe.

[29] Ubushinjacyaha busaba ko hemezwa ko RUSESABAGINA Paul, NSABIMANA Callixte alias Sankara na NIZEYIMANA Marc bakoze icyaha cy'iterabwoba, aho kuba icyaha cyo kugira uruhare mu bikorwa by'iterabwoba nk'uko Urukiko rubanza rwabyemeje mu bika bya 162, 164 na 236 by'urubanza rujurirwa. Muri make ikibazo cy'Ubushinjacyaha, si ukwemeza ko bagomba guhanwa nka gatozi cyangwa nk'icyitso ku bikorwa by'iterabwoba byakozwe n'abarwanyi ba MRCD-FLN[3], ahubwo ni ukwemeza ko bakoze icyaha giteganywa mu ngingo ya 19 y'Itegeko ryerekeye kurwanya iterabwoba. Kugira uruhare bivugwa muri iyo ngingo bikaba bidakwiye kwitirwanywa no kuba icyitso gisobanurwa mu ngingo ya 2 y'Itegeko n˚68/2018 ryo ku wa 30/8/2018riteganya ibyaha n'ibihano muri rusange.

[30] Mu by'ukuri, kugira uruhare bivugwa mu ngingo ya 19 y'Itegeko ryerekeye kurwanya iterabwoba ni icyaha; mu gihe icyitso kivugwa mu ngingo ya 2 y'Itegeko riteganya ibyaha n'ibihano muri rusange ari ukugira uruhare runaka mu ikorwa ry'icyaha *(mode de participation).*

[31] Ingingo ya 83, igika cya mbere (1) n'icya kabiri (2), y'Itegeko n˚68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange iteganya ko "*Icyaha kiryozwa uwagikoze ubwe, uwafatanyije na we kugikora cyangwa icyitso cye. Umuntu ukora icyaha abishaka ni we uhanwa. Icyakora* (….)''.

[32] Nk'uko biteganywa mu ngingo ya 2 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, **uwakoze icyaha** *(Auteur)* ni *"uwakoze igikorwa gihanwa n'itegeko cyangwa uwanze gukora igikorwa gitegetswe n'itegeko"*. Iyo ngingo inasobanura ugomba gufatwa nk'umufatanyacyaha, ndetse n'icyitso.

[33] Umufatanyacyaha ni "uwafatanyije ku buryo butaziguye n'uwakoze icyaha''; naho icyitso akaba "umuntu wafashije uwakoze icyaha mu byagiteguye bigaragarira muri kimwe mu bikorwa bikurikira:

a. utuma hakorwa icyaha akoresheje igihembo, isezerano ry'igihembo, iterabwoba, agakabyo k'ubutegetsi cyangwa k'ububasha cyangwa amabwiriza agamije gukoresha icyaha;
b. ufasha uwakoze icyaha mu byagiteguye, mu byoroheje imikorere yacyo cyangwa mu byakinonosoye kandi yarabikoze abizi, cyangwa uwashishikaje uwakoze icyaha;
c. utuma undi akora icyaha akoresheje imbwirwaruhame, urusaku rushishikaza cyangwa iterabwoba, bibereye ahantu hateraniye abantu barenze babiri (2), inyandiko, ibitabo cyangwa ibindi byanditswe n'icapiro, biguzwe cyangwa bitangiwe ubuntu cyangwa byatangarijwe ahantu hateraniye abantu benshi, amatangazo amanitse cyangwa yeretswe rubanda;
d. uwahishe uwakoze icyaha, umufatanyacyaha cyangwa uwahishe icyitso kugira ngo ataboneka cyangwa adafatwa, umufasha kwihisha cyangwa gucika cyangwa umuha aho

[3] Ibi bishimangirwa n'ibyasobanuwe n'Urukiko rubanza mu gace ka 162 k'urubanza rujuririrwa aho rwavuze ko "Harebwe ibiteganywa n'ingingo ya 18 n'iya 19 zavuzwe, umuntu udakoze igikorwa cy'iterabwoba gishobora kubangamira ubuzima, gukomeretsa bikomeye, guteza urupfu cyangwa kwangiza umutungo bivugwa mu ngingo ya 2, agace ka 4˚ a) ariko agakora igikorwa cyo guteza imbere, agatanga inkunga, ubufasha, akayobora, akoshya n'ibindi bikorwa bivugwa muri iyi ngingo, agace ka 4˚, b) aba agize uruhare mu bikorwa by'iterabwoba, akaba agomba guhanirwa icyaha cyo gukora no kugira uruhare mu bikorwa by'iterabwoba, giteganywa n'ingingo ya 19 yavuzwe''.

kwihisha cyangwa uwamufashije guhisha ibintu byakoreshejwe cyangwa byagenewe gukoreshwa icyaha;

e. uwahishe abizi ikintu cyangwa ibikoresho byakoreshejwe cyangwa byagenewe gukoresha icyaha;

f. uwiba, uhisha cyangwa wonona nkana ku buryo ubwo aribwo bwose ibintu byagombye gufasha kugenza icyaha, gutahura ibimenyetso cyangwa guhana abakoze icyaha''.

[34] Mu ngingo z'igenzi z'amasezerano Mpuzamahanga yerekeranye no guhana abakora iterabwoba rikoresha ibisasu biturikana ingufu yemejwe n'Inama Rusange y'Umuryango w'Abibumbye ku wa 15/12/1997, nk'uko yemejwe burundu n'Iteka rya Perezida n˚40/01 ryo ku wa 14/4/2002, ziteganya ko umuntu wese utega mu buryo butemewe kandi nkana ikintu giturika cyangwa ikindi kintu cyica, ahantu rusange, mu kigo cya Leta cyangwa ikindi kigo rusange, sisitemu yo gutwara abantu cyangwa ibikorwa remezo, ufite intego yo guteza urupfu cyangwa kwangiza umubiri, cyangwa kurimbura ibintu bikomeye bivamo cyangwa bishobora guteza igihombo kinini mu bukungu, ugerageza gukora kimwe muri ibyo byaha byavuzwe haruguru cyangwa akagira uruhare muri icyo cyaha, cyangwa agategura ikorwa ryacyo **cyangwa agategeka abandi kugikora cyangwa gutanga umusanzu mu bundi buryo ubwo ari bwo bwose ku itsinda ry'abantu mu ikorwa ryacyo, aba akoze icyaha cy'iterabwoba[4].**

[35] Ingingo ya 2, agace ka kane (4˚), b) y'Itegeko nº 46/2018 ryo ku wa 13/08/2018 ryerekeye kurwanya iterabwoba yumvikanisha ko umuntu wese uteza imbere, utera inkunga, uha ubufasha, uyobora, ufasha, woshya, wigisha, utoza, ugerageza, ushishikariza, ukangisha, ugambana, utegura cyangwa utanga ibikoresho, hagamijwe iterabwoba, aba akoze ibikorwa by'iterabwoba bihanishwa ingingo za 19 n'iziyikurikira z'iryo Tegeko.

[36] Bimaze kugaragara hirya no hino ku isi ko akenshi abahanirwa ibyaha byo gukora iterabwoba ari ababishyira mu bikorwa, mu gihe bigoye guhanira abayobozi bakuru ibikorwa byakozwe n'abo bayobora[5] kandi aribo bategura umugambi, bagategeka abo bayobora kuwushyira mu bikorwa; ndetse n'igihe bishobotse ko bahanwa, ugasanga badahanwe mu buryo bumwe kuko hari aho usanga bafashwe nk'ibyitso kandi nyamara aribo ba nyiri ibitekerezo byo gushinga imitwe y'iterabwoba no gushishikariza abandi gukora iterabwoba[6].

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[4] *''Commet une infraction au sens de la Convention quiconque illicitement et intentionnellement livre, pose, ou fait exploser ou détonner un engin explosif ou autre engin meurtrier dans ou contre un lieu public, une installation gouvernementale ou une autre installation publique, un système de transport public ou une infrastructure, dans l'intention de provoquer la mort ou des dommages corporels graves, ou des destructions massives entraînant ou risquant d'entraîner des pertes économiques considérables. Commet également une infraction au sens de la Convention quiconque tente de commettre une des infractions ci-dessus ou se rend complice d'une telle infraction,* ***ou en organise la commission ou donne l'ordre à d'autres personnes de la commettre ou contribue de toute autre manière à sa commission par un groupe de personnes agissant de concert''.***

[5] *"Les infractions pénales traditionnelles et les sanctions qui leur sont applicables ont été principalement conçues pour punir les exécuteurs matériels d'un acte illicite. Elles ne sont cependant pas forcément efficaces pour réprimer les groupes très hiérarchisés dans lesquels les tâches, tels que l'exécution matérielle des attentats à la bombe, les meurtres ou les détournements d'aéronefs, sont séparées de celles qui portent sur la préparation, la planification et le soutien logistiques. La répression efficace du terrorisme passe par l'inculpation pénale des personnes qui ont planifié, organisé et commandité des opérations terrorists". Office des Nations-Unies contre la drogue et les crimes, Recueil de cas sur les affaires de terrorisme, New-York, 2010.*

[6] Nko mu rubanza rwa KATANGA Germain n'ubwo atari akurikiranyweho ibikorwa by'iterabwoba, Urukiko Mpuzamahanga Mpanabyaha mu rwego rw'ubujurire rwemeje ko agomba guhanwa nk'icyitso mu bikorwa byakozwe n'abo yayoboraga. Reba urubanza ICC-01/04-01/17 rwaciwe ku wa 07/03/2014. P.709

[37] Mu rwego rwo kubahiriza ihame ry'uko uburyozwacyaha ari gatozi no kurwanya mu buryo bukwiye ibyaha bikorwa n'itsinda ry'abantu rikorera kuri gahunda kandi rifite umugambi wo gukora ibikorwa by'iterabwoba, Umushingamategeko w'u Rwanda yemeje ko umuntu uyobora, woshya, ushishikariza, utera inkunga, utegura cyangwa utanga ibikoresho hagamijwe gukanga, gutera ubwoba, guhatira cyangwa gutera Leta cyangwa sosiyete nyarwanda gukora cyangwa kudakora igikorwa icyo ari cyo cyose, gufata cyangwa kureka umurongo runaka cyangwa kugendera ku mahame runaka, kubuza serivisi za Leta gukora, guteza ubwigomeke ku butegetsi mu gihugu, aba akoze ibikorwa by'iterabwoba.[7]

[38] Ibikorwa by'iterabwoba bivuzwe haruguru bigize icyaha cyihariye cyo gukora iterabwoba. Ibyo bivuze ko umuntu uyobora, woshya, ushishikariza, utera inkunga, utegura cyangwa utanga ibikoresho agatuma abandi bakora ibyaha bisanzwe biteganyijwe n'amategeko ahana ibyaha hagamijwe iterabwoba, adahanirwa ibyo byakozwe n'abandi, ahubwo we ahanirwa kuba yarakoze ibikorwa byabibanjirije, kandi byatumye ibindi bikorwa by'iterabwoba byabaye nyuma bishyirwa mu bikorwa.

[39] Urukiko rw'Ubujurire rurasanga rero harebwe ibikorwa NSABIMANA Callixte alias Sankara na RUSESABAGINA Paul bakoze, batera inkunga y'amafaranga, bategura, bayobora, bashishikariza, batanga ibikoresho byafashije abarwanyi ba MRCD-FLN gushyira mu bikorwa umugambi w'uwo mutwe wo kugaba ibitero mu Turere dutandukanye, nyuma bakabyigamba ku maradiyo no ku mbuga nkoranyambaga, bagomba guhamwa no gukora iterabwoba, aho kuba kugira uruhare mu bikorwa byakozwe n'abo bayobora.

Mu gihe mu rwego rubanza Urukiko rwari rwemeje ko ahanwa nka gatozi kuri ibyo byaha.
Mu zindi manza nk'urwa Nicolas Rodrigues Bautista wo muri Colombie na bagenzi bayoboraga umutwe wa Ejertico de Liberacion Nacional wateze igisasu mu bitembo bya peterole (Aléoduc), bikaza kugira ingaruka ku baturage bo mu gace kitwa Machuca, Urukiko rw'Ikirenga, Urugereko mpanabyaha rusesa imanza rwahamije icyaha abo bayobozi b'umutwe ELN nka gatozi, bategetse ko icyo gisasu gitegwa n'ubwo bo batageze aho icyaha cyakorewe (*élément intentionnel*).
Ni nako byagenze mu rubanza rwa Abmeil Guzman n'abandi bayobozi b'umutwe wa *Sentier Lumunieux* muri Perou. Nabo bahamijwe ibyaha nka gatozi n'ubwo batigeze bagera aho byakorewe. Reba Corte Suprema, arrêt du 13 oct. 2006 (Abimael Guzmán). Cité par Werle, G. & Burghardt, B. (2012). Les formes de participation en droit international pénal. Revue de science criminelle et de droit pénal comparé, 1, 47-67. https://doi.org/10.3917/rsc.1201.0047 no muri Recueil de cas sur les affaires de terrorisme. NATIONS UNIES. New York, 2010 iboneka kuri https://www.unodc.org/documents/terrorism/Publications/Digest_of_Terrorist_Cases/French.pdf .
Ubu buryo kandi bwo guhamya abayobozi ibyaha hashingiwe ku bubasha bafite ku bikorwa by'imitwe bayobora mu byaha byakozwe n'imitwe ikorera uri gahunda *(Groupes Organisés et structurés)* bwanemejwe mu manza zo mu Budage zakurikiranwagamo abanyamuryango ba *conseil national de défense* ya RDA n'abagize biro politike ya SED mu bwicanyi bwabereye ku mupaka wa *Germano-Allemande*. Reba *Cour fédérale de justice, arrêt du 26 juill. 1994, BGHSt 40, 218 (p. 237 s.); Cour fédérale de justice, arrêt du 4 mars 1996, BGHSt 42 (p. 65, 68) ; Cour fédérale de justice, arrêt du 8 nov. 2002, BGHSt 45, 270 (p. 296)*

[7] Ibi kandi si Umwihariko w'u Rwanda. Hari n'ibindi bihugu byagiye muri uyu murongo. Urugero ruri nko mu itegeko ryerekeye kurwanya iterabwoba mu Bwami bw'Ubwongereza ryo mu 2000, aho mu ngingo yaryo ya 56 riteganya icyaha kihariye ku muntu wese uyobora ku rwego urwo ari rwo rwose ibikorwa by'umutwe ufite aho uhurira n'iterabwoba. (*Terrorism Act 2000, 56. — (1) A person commits an offence if he directs, at any level, the organisation. Activities of an organisation, which is concerned in the commission of acts of terrorism*.) Itegeko ryo mu Bushinwa (Amendment (III) of the Criminal Law of the People's Republic of China, Paragraph 1 of Article 120 *"Whoever forms, leads or actively participates in a terrorist organization shall be sentenced to fixed-term imprisonment of no less than ten years or life imprisonment; the active participants shall be sentenced to fixed-term imprisonment of no less than three years but no more than ten years; other participants shall be sentenced to fixed-term imprisonment of no more than three years, criminal detention, public surveillance, or be deprived of political rights."*

[40] Ku birebana na NIZEYIMANA Marc, n'ubwo atageze aho ibitero byabereye mu Rwanda, ariko harebwe kuba ariwe wateguraga abarwanyi akajonjoramo abajya mu bitero, akabambutsa umupaka, hakanarebwa imikoranire ye ya hafi n'abasirikare bateguye kandi bayoboye ibyo bitero, nawe agomba guhamwa no gukora ibikorwa by'iterabwoba, byatumye abarwanyi bakora ibyaha bakoze mu bitero hagamijwe iterabwoba, aho kuba kugira uruhare ku byaha byakozwe n'abo barwanyi.

[41] Kubera izo mpamvu, Urukiko rw'Ubujurire rurasanga Urukiko rubanza rwaribeshye mu kwemeza ko NSABIMANA Callixte alias Sankara, RUSESABAGINA Paul na NIZEYIMANA Marc bagize uruhare mu byaha byakozwe n'abarwanyi b'umutwe wa MRCD-FLN, ahubwo hashingiwe ku ngingo ya 19 y'Itegeko n° 46/2018 ryo ku wa 13/08/2018 ryerekeye kurwanya iterabwoba, bahamwa no gukora ibikorwa by'iterabwoba byatumye abo barwanyi bakora ibyaha mu bitero bagabye hagamijwe iterabwoba.

2. IMPAMVU Z'UBUJURIRE ZISHINGIYE KU BYAHA ABAREGWA BAGIZWEHO ABERE

- **a. Ku birebana n'icyaha cyo kurema umutwe w'ingabo bitemewe**

[42] Ubushinjacyaha buvuga ko Urukiko Rukuru, urugereko rwihariye ruburanisha ibyaha mpuzamahanga n'ibyambuka imbibi rwasesenguye nabi ingingo ya 459[8] y'Itegeko Ngenga n° 01/2012/OL ryo ku wa 2/05/2012 rishyiraho Igitabo cy'amategeko ahana, maze rugira abere RUSESABAGINA Paul na NSABIMANA Callixte alias Sankara baregwaga kurema umutwe w'ingabo bitemewe, ndetse na NIZEYIMANA Marc, BIZIMANA Cassien alias Passy, NSENGIMANA Herman, IYAMUREMYE Emmanuel, NIYIRORA Marcel, KWITONDA André, NSHIMIYIMANA Emmanuel, NDAGIJIMANA Jean Chrétien, NSANZUBUKIRE Félicien, MUNYANEZA Anastase na HAKIZIMANA Théogène baregwaga kujya muri uwo mutwe.

[43] Bukomeza buvuga ko butemera ibyo Urukiko rubanza rwavuze, ko kugira ngo icyaha cyo kurema umutwe w'ingabo bitemewe cyibeho, hagomba kuba mu kugikora hari hagamijwe ko Igihugu cy'u Rwanda cyigarurirwa n'ibihugu by'amahanga, no kuba hagomba kuba hifashishijwe Abacancuro "les *mercenaires"*. Ubushinjacyaha buvuga ko iyo urebye ingingo ya 459 y'Itegeko Ngenga n° 01/2012/OL ryo ku wa 02/05/2012 rishyiraho Igitabo cy'amategeko ahana, ntaho ubona Umushingamategeko yateganyije ibyo bintu bibiri Urukiko Rukuru rwashingiyeho rubagira abere, nk'ibigize icyaha *(les éléments constitutifs)* cyo kurema umutwe w'ingabo bitemewe.

[44] Ubushinjacyaha bukomeza buvuga kandi ko bunenga Urukiko Rukuru gushingira ku manza ebyiri zaciwe n'Urukiko Rukuru zikemezwa n'Urukiko rw'Ikirenga, zirimo urubanza rwa MUSHAYIDI Déogratias n'Urubanza rwa INGABIRE Umuhoza Victoire. Buvuga ko muri izo manza ingingo ziteganya icyaha cyo kurema umutwe w'ingabo bitemewe, zasesenguwe mu buryo butari bwo, kuko zashingiye ku isobanurampamvu y'Itegeko-Teka nº 21/77 ryo ku wa 18/08/1977 ryashyiragaho Igitabo cy'amategeko ahana ahagaragara ibijyanye no kwifashisha ingabo z'amahanga *(les mercenaires).* Urukiko rwabifashe nk'ibigize icyaha *(éléments constitutifs)* cyo kurema umutwe w'ingabo bitemewe, nyamara atari ko biri, kuko iyo urebye ku rupapuro rwa 12 rw'iryo sobanurampamvu usanga iri jambo ritarakoreshejwe

[8] Ingingo ya 459-y'Itegeko Ngenga n°01/2012/OL ryo ku wa 2/5/2012 rishyiraho Igitabo cy'amategeko ahana iteganya ko: "Umuntu wese urema umutwe w'ingabo cyangwa akabisembura cyangwa akagirana amasezerano na zo, abikoresheje impano, igihembo, iterabwoba, igitugu, abigirira gushyigikira igitero cy'intambara cy'ingabo zindi zitari izemewe z'igihugu (…..) Umuntu wese wemera, ku bushake, kwinjira cyangwa gutorerwa kujya mu ngabo zitari ingabo zemewe z'igihugu (….)".

hagamijwe kugaragaza ibigize icyaha cyo kurema umutwe w'ingabo bitemewe, ahubwo hasobanurwaga ibijyanye n'ibyaha bikurikiranwa hatanzwe uruhushya rwa *Gouvernement*. Buvuga kandi ko n'iyo urebye neza usanga ibyo Urukiko Rukuru rwavuze ko iki cyaha kigomba kuba kigamije ko igihugu cy'u Rwanda kigarurirwa n'ibihugu by'amahanga, nabyo atari ko biri, kuko ingingo ya 459 yagarutsweho igaragaza neza ko icyo cyaha gikorwa hagamijwe gushyigikira igitero cy'intambara cy'ingabo zindi zitari ingabo zemewe z'igihugu.

[45] Ubushinjacyaha buvuga ko nyuma y'izo manza Urukiko rubanza rwashingiyeho, hari izindi zaciwe zafashe umurongo utandukanye n'uwo. Muri zo harimo urubanza n° RPA 0249/13/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 16/09/2016 hajuririrwa urubanza n° RP 0108/12/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 29/10/2013, haburana Ubushinjacyaha na NDERERIMANA Norbert alias Gaheza hamwe na bagenzi be n'urubanza n° RPA 0224/12/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 13/1/2017 haregwa uwitwa HABYARIMANA Emmanuel. Izo manza zombi zikaba zaragaragaje ko icyaha cyo kurema umutwe w'ingabo bitemewe gikorwa hagamijwe kugaba igitero cy'intambara kandi bitabaye ngombwa ko hiyambazwa ingabo z'amahanga.

[46] Ubushinjacyaha busoza iyi ngingo buvuga ko abaregwa bane ari bo RUSESABAGINA Paul, NSABIMANA Callixte alias Sankara, NIZEYIMANA Marc, BIZIMANA Cassien alias Passy bagombaga guhamwa n'icyaha cyo kurema umutwe w'ingabo bitemewe, naho icyenda (9) basigaye aribo NSENGIMANA Herman, IYAMUREMYE Emmanuel, NIYIRORA Marcel, KWITONDA André, NSHIMIYIMANA Emmanuel, NDAGIJIMANA Jean Chrétien, NSANZUBUKIRE Félicien, MUNYANEZA Anastase na HAKIZIMANA Théogène bagahamwa n'icyaha cyo kwinjira mu mutwe w'ingabo utemewe.

[47] Me RUGEYO Jean, wunganira NSABIMANA Callixte alias Sankara, avuga ko n'ubwo Ubushinjacyaha buvuga ko umurongo wari uri mu rubanza rwa MUSHAYIDI Déogratias ndetse n'Urubanza rwa INGABIRE Umuhoza Victoire Urukiko rubanza rwashingiyeho bagirwa abere waje gukurwaho mu manza zaciwe nyuma, butagaragaza aho bubishingira kuko ntaho muri izo manza bigaragara ko uwo murongo uvanweho. Akavuga ko kuba muri izo manza Urukiko rutaragendeye kuri uyu murongo bitavuze ko byanze bikunze uwo murongo wavanweho.

[48] Me URAMIJE James, wunganira IYAMUREMYE Emmanuel, NIYIRORA Marcel na NSHIMIYIMANA Emmanuel, we avuga ko abo yunganira bakurikiranweho kwinjira mu mutwe w'ingabo utemewe, kandi ko ibyo babyemeranyaho n'Ubushinjacyaha, ko ariko icyo batemeranyaho ari uburyo binjiye muri iyi mitwe kuko batari bazi ko ari umutwe w'ingabo utemewe, ko kandi batinjiyemo ku bushake kuko bashyizweho agahato; bityo, bakaba badakwiye guhanirwa icyo cyaha.

[49] Me MUGABO Sharifu Yussuf, wunganira KWINTONDA André, avuga ko iyi ngingo y'ubujurire bw'Ubushinjacyaha idakwiye guhabwa ishingiro kuko Ubushinjacyaha buyisobanura bwibanda gusa ku mikoreshereze y'imanza zabanje (*jurisprudence)* ariko bukirengagiza ko mu kubagira abere Urukiko Rukuru rutashingiye gusa ku byo inkiko zemeje mu manza zabanje, ahubwo rwanagendeye ku cyo abaregwa bari bagendereye (*mobile).* Avuga ko Urukiko rwasobanuye ko abaregwa bakoze ibikorwa bakurikiranweho mu mugambi wo gukora iterabwoba. Ibi bikaba bihura n'ibisobanuro bihabwa ibikorwa by'iterabwoba. Bityo, Urukiko rubanza rukaba nta kosa rwakoze kuko n'ubundi abaregwa bahamijwe icyaha cyo kuba mu mutwe w'iterabwoba.

[50] Uretse abaregwa bunganiwe na Me MUGABO Sharifu Yussuf, Me URAMIJE James ndetse na Me RUGEYO Jean, abandi ntacyo bavuze kuri iyi ngingo y'ubujurire bw'Ubushinjacyaha.

UKO URUKIKO RUBIBONA

[51] Urukiko rw'Ubujurire rurasanga mbere na mbere impaka kuri iyi ngingo y'ubujurire zishingiye ku kumenya niba abaregwa bavugwa muri iyi ngingo y'ubujurire bahamwa n'icyaha kivugwa mu ngingo ya 459 y'Itegeko Ngenga n˚ 01/2012/0L ryo ku wa 2/5/2012 rishyiraho Igitabo cy'amategeko ahana. Nk'uko bivugwa n'Ubushinjacyaha, hari imanza zaciwe n'Urukiko rw'Ikirenga ku birebana n'icyaha kivugwa muri iyo ngingo zigaragaza imirongo ibiri yafashwe n'urwo Rukiko ijyanye n'ibikorwa bigize icyo cyaha n'ubushake bwo kugikora. Ikibazo kikaba ari ukumenya umurongo ugomba kwifashishwa muri uru rubanza, hagati yizo manza zombi.

[52] Ikibazo cyo kumenya umurongo watanzwe n'inkiko ukurikizwa mu micire y'imanza, cyasubijwe mu rubanza n˚ RS/INCONST/SPEC 00004/2019/SC rwaciwe ku wa 04/12/2019, haburana GLIHD (Great Lakes Initiative for Human Rights Development) na Leta y'u Rwanda, aho mu gika cya 33, Urukiko rw'Ikirenga rwagaragaje ko mu mikorere y'inkiko zishingira ku mahame yo kubahiriza umurongo wafashwe (*stare decisis*), buri rukiko ruba rugomba kubahiriza umurongo rwafashe ku kibazo runaka, n'uwafashwe n'Urukiko rurukuriye hakurikijwe uko zisumbana (*the higher up a court is in the hierarchy, the more authoritative its decisions: decisions of the higher courts will bind lower courts to apply the same decided principle*).

[53] Ibi kandi byashimangiwe mu mabwiriza nº 001/2021 yo ku wa 15 Werurwe 2021 ya Perezida w'Urukiko rw'Ikirenga agenga itangazwa ry'imanza mu cyegeranyo cy'ibyemezo by'inkiko, mu ngingo yayo ya 9, igika cya 2 n'icya 3, aho igira iti: "*Buri mucamanza ategetswe kubahiriza umurongo usanzweho waba uwo ku rwego rw'Urukiko arimo cyangwa urwisumbuyeho uko inkiko zigenda zisumbana. Icyakora umucamanza ashobora kudakurikiza umurongo usanzweho iyo ashoboye kugaragaza ko ibibazo biri mu rubanza aca bidasa n'ibyaburanwe mu murongo usanzweho (distinguishing) cyangwa iyo abashije kugaragaza ko uwo murongo ubangamiye inyungu z'ubutabera (overruling).*"

[54] Mu magambo macye umucamanza ategetswe kubahiriza umurongo watanzwe n'inkiko zimukuriye, uw'Urukiko arimo cyangwa uwo yatanze mu manza yaciye ku bibazo bisa n'icyo agomba gucyemura[9]. Nk'uko byasobanuwe, guhindura uwo murongo bishobora gukorwa gusa n'Urukiko rwisumbuye ku rwaciye urubanza cyangwa urwo rukiko ubwarwo. Uretse muri ibyo bihe, Umushingamategeko w'u Rwanda yateganyije uko bigenda igihe umuburanyi atemeranya n'umurongo uriho mu rubanza ruheruka gucibwa ku kibazo gisa n'icye. Icyo gihe, nk'uko biteganywa mu ngingo za 65 na 73 z'Itegeko rigena ububasha bw'inkiko[10], abiregera Urukiko rw'Ikirenga kugira ngo ruwuhindure. Ntibisaba ko uwo murongo usabirwa guhinduka uba ari uwatanzwe n'Urukiko rw'Ikirenga. Upfa gusa kuba, ku kibazo gisa n'icyo afite, ari wo watanzwe mu rubanza rwaciwe ku rwego rwa nyuma.

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[9] Walker Jr, J. M. (2016). The role of precedent in the United States: How do precedents lose their binding effect. *Stanford Law School China Guiding Cases Project*.S Available at: https://cgc.law.stanford.edu/commentaries/15-john-walker/#:~:text=How%20Do%20Precedents%20Lose%20Their%20Binding%20Effect%3F,-In%201932%2C%20Justice&text=In%20the%20federal%20system%2C%20the,en%20banc%E2%80%9D%20in%20plenary%20session.

[10]Itegeko N°30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko

[55] Guhindura umurongo bishobora gukorwa mu buryo bweruye *(explicite)* cyangwa buteruye *(implicite).* Iyo bikozwe mu buryo bweruye, ari nabwo buryo bukunze kubaho kandi bukwiriye, urukiko rugereranya ikiburanwa n'icyemezo rwafashe ku bibazo bisa nacyo, rwamara kwemeza ko bisa, rugasuzuma umurongo rwari rwafashe, rugasobanura impamvu udakwiye gukomeza kugenderwaho; ko rwari rwibeshye ruwufata, ko utakijyanye n'igihe cyangwa se indi mpamvu rwasobanura; hanyuma rukemeza ko uwo murongo uhindutse. Icyakora, bishobora kubaho ko urukiko rusuzuma ikibazo rwashyikirijwe, rukagifataho icyemezo rutabanje kugenzura ko icyo kibazo cyasuzumwe mbere mu rubanza rwabaye itegeko rukagifataho umurongo runaka, rugafata icyemezo kiri mu murongo unyuranye cyangwa uvuguruza usanzweho. Ibyo bishobora guterwa no kutamenya, uburangare cyangwa ubucukumbuzi buke. Ibyo aribyo byose, iyo ibyo bibaye, hubahirizwa umurongo watanzwe nyuma. Mu yandi magambo umurongo uherutse niwo uba ukwiye kubahirizwa n'urwo Rukiko ndetse n'inkiko ziri munsi yarwo[11]. Birumvikana ko iyo urwo rubanza rwaciwe n'Urukiko rw'Ikirenga, nk'Urukiko rukuriye izindi zose mu gihugu, umurongo mushya rufashe ku kibazo runaka uba ubaye itegeko kuri rwo ubwarwo no ku nkiko zose z'igihugu. Ntibikenera ko uba waravanyeho usanzweho mu buryo bweruye.

[56] Muri uru rubanza, abaregwa bakurikiranweho ibyaha biteganywa n'ingingo ya 459 y'Itegeko Ngenga nº 01/2012/0L ryo ku wa 2/5/2012 rishyiraho Igitabo cy'amategeko ahana ryakoreshwaga ubwo abaregwa bakoraga ibikorwa bakurikiranweho, iteganya ibi bikurikira: "*Umuntu wese urema umutwe w'ingabo cyangwa akabisembura cyangwa akagirana amasezerano na zo, abikoresheje impano, igihembo, iterabwoba, igitugu, abigirira gushyigikira igitero cy'intambara cy'ingabo zindi zitari izemewe z'igihugu, ahanishwa igifungo kuva ku myaka icumi (10) kugeza ku myaka cumi n'itanu (15).*

Umuntu wese wemera, ku bushake, kwinjira cyangwa gutorerwa kujya mu ngabo zitari ingabo zemewe z'igihugu, ahanishwa igifungo kuva ku myaka irindwi (7) kugeza ku myaka icumi (10). Ibyaha bivugwa mu gika cya mbere n'icya kabiri by'iyi ngingo bikurikiranwa biregewe cyangwa bitangiwe uruhushya n'Umushinjacyaha Mukuru cyangwa Umushinjacyaha Mukuru wa Gisikare hakurikijwe imiterere y'icyaha."

[57] Iyi ngingo yasimbuye iyari iya 163 mu Itegeko-Teka nº 21/77 ryo ku wa 18/08/1977 ryashyiragaho Igitabo cy'amategeko ahana yagiraga iti:'' A*zahanishwa igifungo kuva ku myaka itanu kugeza ku myaka icumi n'ihazabu y'amafaranga atarenga ibihumbi magana abiri, umuntu uzarema ingabo, cyangwa akabisembura, cyangwa akagirana amasezerano nazo, abikoresheje ibiguzi, ibihembo, amasezerano, iterabwoba, igitugu cy'ubutegetsi cyangwa cy'umulimo kandi abigiriye gushyigikira igitero cy'intambara z'ingabo zindi zitari izemewe z'igihugu.*

Azahanishwa igifungo kuva ku mwaka umwe kugeza kuri itanu n'ihazabu y'amafaranga atarenga ibihumbi ijana, Umuntu wese uzaba yemeye ku bwende bwe kwinjira cyangwa gutorerwa kujya mu gitero cy'intambara kitabariwe mu ngabo zemewe z'igihugu. Ibyaha bivuzwe muri iyi ngingo bizakurikiranwa leta ya Repubulika ibiregeye cyangwa ibyemeye."

[11] "*When the Supreme Court does overrule precedent, it often does so expressly. In that situation, lower courts are obliged to follow the overruling decision. But the Supreme Court sometimes overrules prior holdings only by implication. As the Court stated more than a century ago : "Even if it were true that the decision referred to was not in harmony with some of the previous decisions, we had supposed that a later decision in conflict with prior ones had the effect to overrule them, whether mentioned and commented on or not."* Reba muri Shannon, B. S. (2009). Overruled by implication. Seattle UL Rev., 33, 151. Available at: https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1972&context=sulr

[58] Ubushinjacyaha buvuga ko Urukiko Rukuru, urugereko rwihariye ruburanisha ibyaha mpuzamahanga n'ibyaha byambuka imbibi, rwasobanuye iyo ngingo rugendeye ku murongo watanzwe n'imanza zaciwe mbere zemeje ko abaregwa kurema umutwe w'ingabo bitemewe badahamwa n'icyo cyaha rutitaye ku kuba hari izindi zaciwe nyuma yazo ku bari bakurikiranweho icyo cyaha cyikabahama. Mu gukemura izo mpaka, uru Rukiko rurasuzuma niba izo manza koko zarasuzumye ibibazo bisa, hanyuma zigafata imirongo itandukanye.

[59] Mu rubanza n˚ RPA 0255/12/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 13/12/2013, INGABIRE UMUHOZA Victoire na bagenzi be baburana n'Ubushinjacyaha, bakurikiranweho kuba barashinze umutwe wiswe *Coalition des Forces Démocratiques* (CFD), ushamikiye ku ishyaka FDU-Inkingi, bagamije guteza umutekano muke mu gihugu mu rwego rwo guhatira Leta y'u Rwanda kujya mu mishyikirano. Ubushinjacyaha bushingiye kuri ibyo bikorwa bwabareze icyaha cyo kurema umutwe w'ingabo bitemewe bagamije igitero cy'intambara cyateganywaga n'ingingo ya 163 yavuzwe haruguru.[12]

[60] Muri urwo rubanza, Urukiko rw'Ikirenga rwasanze ibikorwa bigize ibyaha byo kurema umutwe w'ingabo bitemewe hagamijwe guteza umutekano muke mu gihugu, atari ibyaha bigendereye guhungabanya umudendezo wa Leta n'ibindi bihugu, ahubwo bigendereye kurwanya inzego za Leta iriho mu rwego rwo gufata ubutegetsi ku ngufu cyangwa guhatira Ubuyobozi buriho kujya mu mishyikirano, bitewe n'uko iyo ngingo ya 163 iherereye mu cyiciro cya mbere cy'ibyaha bikorerwa igihugu. Muri icyo cyiciro hakaba havugwamo ibyaha bigendereye guhungabanya umudendezo wa Leta n'ibindi bihugu (*atteinte à la sûreté extérieure de l'Etat*), naho ibyo abaregwa bari bakurikiranweho bikaba biri mu cyiciro cya kabiri kivuga ibyaha bigendereye kuvutsa igihugu umudendezo (*atteinte à la sûreté intérieure de l'Etat*). [13]

[61] Muri urwo rubanza kandi Urukiko rw'Ikirenga rwagaragaje ko ari bwo bwa mbere rwari rusuzumye ikibazo nk'iki kuko mu rubanza n˚ RPA 0298/10/CS rwaciwe ku wa 24/02/2012, haregwa MUSHAYIDI Déogratias, Urukiko rw'Ikirenga rutagisuzumye kubera ko mu bujurire nta muburanyi wari wakirushyikirije.[14] Ni muri urwo rwego kandi n'urubanza n˚ RPA 0249/13/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 16/09/2016, haburana Ubushinjacyaha na NDERERIMANA Norbert alias Gaheza hamwe na bagenzi be, rwagarutsweho n'Ubushinjacyaha narwo rutari bushingirweho muri uru rubanza bitewe n'uko narwo rutasuzumye ibijyanye n'iremwa ry'umutwe w'ingabo bitemewe kuko icyo kibazo kitajuririwe ngo gisuzumwe n'Urukiko rw'Ikirenga. Hajuririwe gusa ibijyanye n'ibihano. Bityo, urubanza rwa INGABIRE UMUHOZA Victoire na bagenzi be akaba ari rwo rugomba kugereranywa n'urubanza n˚ RPA 0224/12/CS rwa HABYARIMANA Emmanuel n'Ubushinjacyaha rwaciwe n'Urukiko rw'Ikirenga ku wa 13/01/2017 kuko arirwo ruheruka gucibwa kuri icyo kibazo.

[62] Muri urwo rubanza rwa HABYARIMANA Emmanuel yarezwe kuba yarinjiye mu ishyaka ry'umwami KIGELI ryitwa *Rwandese Protocol for the Return of the Kingdom* (RPRK), rikorana na KAYUMBA NYAMWASA ryari rigamije ko umwami KIGELI agaruka mu gihugu akaba yari ashinzwe gushaka insoresore zo gutoza igisirikare kugirango bazatere igihugu cy'u Rwanda. Mu gusesengura ibikorwa bigize icyaha, Urukiko rw'Ikirenga ntirwigeze rwita ku kumenya niba kurema umutwe w'ingabo utemewe ushamikiye kuri RPRK ugamije igitero cy'intamabara byari bigendereye kwegurira cyangwa komeka igice cy'u Rwanda ku bihugu by'amahanga cyangwa niba uwo mutwe ugizwe n'ingabo

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[12] Reba ibika bya 396 na 397 by'urubanza nº RPA 0255/12/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 13/12/2013
[13] Idem, ibika 409-410
[14] Reba mu gika cya 407 cy'urubaza rwa INGABIRE UMUHOZA Victoire rwavuzwe

z'amahanga (*les mercenaires*), ahubwo nk'uko bigaragara muri urwo rubanza, Urukiko rwemeje ko kwinjiza abantu mu mutwe w'ingabo zindi zitari izemewe z'igihugu ugamije guhungabanya umutekano w'igihugu byihagije kugirango icyaha cyo kurema umutwe w'ingabo bitemewe cyibe cyuzuye. Ibyo bigaragarira aho Urukiko rw'Ikirenga rwahamije HABYARIMANA Emmanuel icyaha cyo kurema umutwe w'ingabo utemewe rugendeye ku kuba yemera ko yahaye SEBATEMBA misiyo yo gushaka abasore bo kujyana mu gisirikare cya ba KAYUMBA NYAMWASA ukorana n'ishyaka ry'umwami KIGELI, ibyo SEBATEMBA nawe akabimushinja kandi n'abo basore bakaba barafatiwe i Kayonza, bagiye kujyanwa Uganda.[15]

[63] Urukiko rw'Ubujurire rurasanga izi manza zavuzwe, yaba urubanza rwa INGABIRE UMUHOZA Victoire ndetse n'uru rwa HABYARIMANA Emmanuel ruheruka, zihuriye ku kuba abaregwa bari abanyarwanda bakukiranweho kurema imitwe y'ingabo bitemewe igamije kugaba ibitero by'intambara bigamije guhungabanya umutekano hagenderewe guhindura ubutegetsi buriho. Ndetse muri iyo mitwe y'ingabo ivugwa yose hakaba nta n'umwe muri yo ugizwe n'abanyamahanga cyangwa abacanshuro (mercenaires) kuko ari abayigize n'abashishikarizwaga kuyijyamo ari abanyarwanda. Ibi rero bigaragaza ko ibikorwa byaregerwaga muri izi manza bisa. Kuba rero Urubanza rwa HABYARIMANA Emmanuel, ari narwo ruheruka, rutaragaragaje ko kugira ngo iki cyaha cyuzure ari ngombwa ko umutwe w'ingabo utemewe uba ugamije kwegurira igice cy'u Rwanda ibihugu by'amahanga cyangwa izo ngabo zigomba kuba zigizwe n'aba *mercenaires*, bivuze ko umurongo wari mu rubanza rwa INGABIRE UMUHOZA Victoire, mu buryo buteruye, wahinduwe.

[64] Uru Rukiko rurasanga icyakora, n'ubwo urwo rubanza rwakemuye izo mpaka ku ruhande rumwe ku birebana n'abashobora gukurikiranwaho icyo cyaha, rutarasobanuye neza ibijyanye no kumenya ibigize icyaha cyo kurema umutwe w'ingabo bitemewe. Hashingiwe ku kuba iki cyaha giherereye mu cyiciro cy'ibyaha bihungabanya umudendezo wa Leta n'ibindi bihugu (*Infractions contre la sûreté extérieure de l'Etat*), uru Rukiko rurasanga icyangombwa, rugendeye mu murongo w'urwo rubanza ruheruka rw'Urukiko rw'Ikirenga, ari uko abahungabanya umutekano w'igihugu babikorana n'imitwe yashingiwe hanze, igamije guhungabanya umutekano w'igihugu iturutse hanze yacyo, kabone n'ubwo yaba ifatanyije na bamwe mu bari mu gihugu imbere. Muri icyo gihe rero, abawurimo bose bakurikiranwaho iki cyaha, bapfa kuba bujuje ibiteganywa mu ngingo ya 459, ni ukuvuga kurema umutwe w'ingabo utari mu zemewe z'igihugu, gusembura iremwa ryazo, (gukora ibintu bituma ziremwa), kugirana amasezerano nazo, gushyigikira igitero cy'intambara cy'ingabo nk'izo no kuzishyigikira hifashishijwe impano, igihembo, iterabwoba cyangwa igitugu.

[65] Muri uru rubanza abaregwa icyaha cyo kurema umutwe w'ingabo bitemewe banaregwa icyaha cyo kuba mu mutwe w'iterabwoba, bamwe muri bo bakanaregwa icyo gukora no kugira uruhare mu bikorwa by'iterabwoba. Ibi byaha byombi bitandukaniye ku kiba kigambiriwe mu gukora icyaha. Mu gihe kurema umutwe w'ingabo bitemewe biteganywa mu ngingo ya 459 ikiba kigambiriwe ari ugushyigikira igitero cy'intambara cy'ingabo zindi zitari izemewe z'igihugu, umutwe w'iterabwoba wo uba ugambiriye ibikorwa by'iterabwoba[16].

[66] Abaregwa muri uru rubanza ku bijyanye n'iki cyaha bari mu byiciro 2: hari abari muri FDLR-FOCA na CNRD-FLN batigeze bajya muri MRCD-FLN, abo ni NSANZUBUKIRE Félicien na

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[15] Igika cya 17 n'icya 23 cy'urwo rubanza n˚ RPA 0224/12/CS

[16] Reba ingingo ya 2, agace ka 11, y'Itegeko nº 46/2018 ryo ku wa 13/08/2018 ryerekeye kurwanya iterabwoba nk'uko ryahinduwe kugeza ubu isobanura **umutwe w'iterabwoba** : itsinda ry'abantu rikorera kuri gahunda, kandi rifite umugambi wo gukora ibikorwa by'iterabwoba ;

MUNYANEZA Anastase. Hakaba n'ababaye muri MRCD-FLN imaze guhurizwamo CNRD-FLN n'andi mashyaka. Ababaye muri FDLR-FOCA bari mu mutwe w'iterabwoba kuko uwo mutwe washyizwe ku rutonde rw'imitwe y'iterabwoba n'umuryango w'abibumbye.[17] Bityo rero, Urukiko rusanga badashobora guhamwa n'icyaha cyo kurema umutwe w'ingabo bitemewe mu gihe bari mu mutwe wemejwe kuba uw'iterabwoba; ni ukuvuga ugamije ibikorwa by'iterabwoba nk'uko itegeko ribisobanura. Ababaye muri MRCD-FLN bavugwa muri iki cyiciro bakurikiranweho ibyaha byo kuba mu mutwe w'iterabwoba n'icyo gukora no kugira uruhare mu bikorwa by'iterabwoba; ku rwego rwa mbere birabahama, bamwe barajurira abandi ntibajurira. Ku byerekeye NIZEYIMANA Marc n'ubwo we yajuririye ko ibikorwa yakoze bitagize icyaha cyo kuba mu mutwe w'iterabwoba, uru Rukiko rwamuhamije icyaha cyo gukora no kugira uruhare mu bikorwa by'iterabwoba nk'uko bigaragara mu gika cya 41 cy'uru rubanza. Naho ku bireba NSHIMIYIMANA Emmanuel, nawe icyo cyaha yagihamijwe n'uru Rukiko nk'uko bigaragara mu gika cya 89 cy'uru rubanza. Muri rusange abahamijwe iki cyaha bahoze mu mutwe wa MRCD-FLN batabijuririye ni RUSESABAGINA Paul, NSABIMANA Callixte alias Sankara, NSENGIMANA Herman, IYAMUREMYE Emmanuel, NIYIRORA Marcel, KWITONDA André, NDAGIJIMANA Jean Chrétien na HAKIZIMANA Théogène, bivuze ko bemera ko babaye mu mutwe w'iterabwoba.

[67] Uru Rukiko rurasanga rero umutwe wa FLN abaregwa baremye[18] abandi bakawubamo atari umutwe w'ingabo utemewe kuko utari ugamije igitero cy'intambara nk'uko bivugwa mu ngingo ya 459, ahubwo nk'uko ibikorwa byawo byawugaragaje mu bitero wagabye ku butaka bw'u Rwanda, mu Turere twa Rusizi, Nyamasheke, Nyamagabe na Nyaruguru uwo mutwe wari ugamije ibikorwa by'iterabwoba nk'uko biteganywa mu ngingo ya 2, iya 18 n'iya 19 z'Itegeko nº 46/2018 ryo ku wa 13/08/2018 ryerekeye kurwanya iterabwoba nk'uko ryahinduwe kugeza ubu. Kubera izo mpamvu uru Rukiko rurasanga ibyo Ubushinjacyaha bwajuririye busaba ko aba baregwa bahamwa n'icyaha cyo kurema umutwe w'ingabo bitemewe nta shingiro bifite.

- **Ku birebana n'icyaha cyo gutera inkunga iterabwoba**

[68] Ubushinjacyaha bunenga uburyo Urukiko rubanza rutahamije RUSESABAGINA Paul icyaha cyo gutera inkunga iterabwoba nk'icyaha ukwacyo, ahubwo ibikorwa bikigize rukabifatira hamwe n'ibindi yakoze byo kuba mu mutwe w'iterabwoba. Ibi Ubushinjacyaha bubishingira ku kuba ibikorwa yakoze bihura n'ibiteganywa mu ngingo ya 3 (1°) (a) y'Itegeko nº 69/2018 ryo ku wa 31/08/2018 rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba.

[69] Ubushinjacyaha bukavuga ko Urukiko rubanza rutagombaga gushingira ku Itegeko nº 46/2018 ryo ku wa 13/08/2018 ryerekeye kurwanya iterabwoba ngo rwemeze ko ibyo yakoze bigize icyaha cyo kuba mu mutwe w'iterabwoba kuko iyo hari amategeko abiri ahana icyaha kimwe, itegeko ryihariye ari ryo rigomba gukoreshwa. Bukomeza buvuga ko bitewe n'uko aya mategeko yombi ahana uwateye inkunga iterabwoba, itegeko ryagombaga gushingirwaho ari Itegeko nº 69/2018 ryo ku wa 31/08/2018 rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba, kuko muri iri tegeko icyaha cyo gutera inkunga iterabwoba cyateganyijwe nk'icyaha cyihariye, aho gufatwa nka kimwe mu bikorwa bigize icyaha cyo gukora ibikorwa by'iterabwoba.

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[17] The FDLR was listed on 31 Dec. 2012 pursuant to the criteria set out in paragraph 4 of resolution 2078 (2012)

[18] Ku birebana n'iremwa ry'uyu mutwe, nk'uko bigaragara mu nyandikomvugo y'ibazwa ya RUSESABAGINA Paul ryo ku wa 31/08/2020, ku rupapuro rwa 4 n'urwa 5, RUSESABAGINA Paul yemeye ko afatanyije n'abandi bari kumwe muri MRCD bemeje ko igira n'umutwe w'ingabo, bawuha izina rya FLN. N'ubwo avuga ko atari mu baremye FLN kuko yahoze ari iya CNRD, igihe bari bamaze gushinga MRCD ni nabwo bemeje kuyiha umutwe w'ingabo bawita FLN, ndetse uza kongerwamo n'ingabo zazanywe na RRM ya NSABIMANA Callixte alias Sankara.

[70] Ubushinjacyaha buvuga kandi ko iby'uko Urukiko rubanza rwasanze icyaha cyo gutera inkunga iterabwoba cyagombye kuregwa undi muntu ku giti cye cyangwa umuryango ufite ubuzimagatozi utera inkunga umutwe w'iterabwoba, ariko atari mu bawushinze cyangwa ngo abe ari mu bagize inzego z'Ubuyobozi bwawo, akabikora azi ko iyo nkunga izakoreshwa ibikorwa by'iterabwoba, atari byo kuko nta na hamwe Umushingamategeko yateganyije ko umuntu washinze umutwe w'iterabwoba cyangwa uri mu bawuyobora atahamwa n'icyaha cyo gutera inkunga iterabwoba mu gihe ibikorwa bigize icyo cyaha byuzuye. Buvuga ko ahubwo Urukiko rubanza rwagombaga kubona ko ibi byaha byombi byakozwe mu mpurirane mbonezamugambi.

[71] Ubushinjacyaha buvuga kandi ko ibikorwa bitandukanye byo gutera inkunga iterabwoba RUSESABAGINA Paul ubwe yakoze, birimo gutanga inkunga y'amafaranga, iy'ibikoresho bya gisirikari (nk'uko byemejwe n'Urukiko rubanza mu bika bya 113-132 by'urubanza rujuririrwa) bihura n'ibiteganywa mu ngingo ya 3 (1°) (a) y'Itegeko nº 69/2018 ryo ku wa 31/08/2018 ryavuzwe haruguru, ko rero nta cyari kubuza ko ahamwa n'icyaha cyo gutera inkunga iterabwoba, ndetse bitanabujije ko ahamwa n'icyaha cyo kuba mu mutwe w'iterabwoba wa MRCD-FLN, kuko ibyo byaha byombi bibangikana cyane ko byakozwe mu mugambi umwe w'iterabwoba, kandi bigize impurirane mbonezamugambi y'ibyaha.

[72] RUSESABAGINA Paul ntacyo yasubije kuri iki kibazo.

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[73] Urukiko rw'Ubujurire rurasanga nta mpaka ziri ku kuba RUSESABAGINA Paul yarateye inkunga ibikorwa by'iterabwoba by'umutwe wa MRCD-FLN, abereye umuyobozi nk'uko byanasobanuwe mu gika cya 139 cy'urubanza rujuririrwa. Rurasanga ahubwo impaka ziri ku kumenya niba ibikorwa yakoze byo gutera inkunga iterabwoba bikwiye guhanwa hashingiwe ku Itegeko nº 69/2018 ryo ku wa 31/08/2018 rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba cyangwa niba hashingirwa ku Itegeko nº 46/2018 ryo ku wa 13/08/2018 ryerekeye kurwanya iterabwoba, cyangwa yombi.

[74] Ingingo ya 2 y'Itegeko nº 69/2018 ryo ku wa 31/08/2018 rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba ivuga abarebwa n'iryo tegeko muri ubu buryo: "*Iri tegeko rireba umuntu ku giti cye cyangwa umuryango ufite ubuzimagatozi, mu rwego rw'imirimo bakora, bayobora, bagenzura, cyangwa batanga inama ku byerekeranye no kubitsa, kuvunjisha, gushora imari, guhindura cyangwa ubundi buryo bwose bwo kwimura amafaranga cyangwa undi mutungo*."

[75] Iyi ngingo ya 2 y'Itegeko nº 69/2018 ryo ku wa 31/8/2018 ryavuzwe haruguru, igaragaza ko kugira ngo umuntu akurikiranwe, anahanwe, hashingiwe kuri iri tegeko hagomba kubanza kugaragazwa ko ari mu bo rireba. Ni ukuvuga kuba ari umuntu cyangwa umuryango ufite ubuzima gatozi mu rwego rw'imirimo akora akaba:

- ayobora,
- agenzura, cyangwa
- atanga inama, ku byerekeranye no kubitsa, kuvunjisha, gushora imari, guhindura cyangwa ubundi buryo bwose bwo kwimura amafaranga cyangwa undi mutungo.

Ibi nyamara siko byahoze mu Itegeko n°47/2008 ryo ku wa 09/09/2008 rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba, kuko ryo nta mwihariko ryashyiraga ku bo rireba; bikaba byumvikanisha ko Umushingamategeko yashatse ko Itegeko nº 69/2018 ryo ku wa 31/08/2018 rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba rihana abavugwa mu ngingo ya 2 yaryo gusa[19].

[76] Ingingo ya 2 y'Itegeko nº 46/2018 ryo ku wa 13/08/2018 ryerekeye kurwanya iterabwoba isobanura ibikorwa by'iterabwoba. Mu agace kayo ka 4º, (b) igateganya ko igikorwa cy'iterabwoba ari igikorwa cyose cyo guteza imbere, **gutera inkunga**, guha ubufasha, kuyobora, gufasha, koshya, kwigisha, gutoza, kugerageza, gushishikariza, gukangisha, kugambana, gutegura cyangwa gutanga ibikoreshwa, gikozwe n'umuntu uwo ari we wese hagamijwe gukorwa icyo ari cyo cyose mu bivugwa mu gace ka a). Ingingo ya 19 y'iryo Tegeko yo igateganya ko "*Umuntu ukora, ugerageza gukora, ugira uruhare mu bikorwa by'iterabwoba cyangwa ushyigikira ibikorwa by'iterabwoba, aba akoze icyaha"*.

[77] Izo ngingo zombi zisomewe hamwe zumvikanisha ko uteye inkunga iyari yo yose iterabwoba aba akoze igikorwa cy'iterabwoba. Nta mwihariko iri tegeko ryashyize kubakwiye gukurikiranwaho ibyo bikorwa kuko rihana uwo ari we wese bigaragayeho. Mu gihe nk'uko byasobanuwe haruguru gukurikiranwaho ibyaha hashingiwe ku Itegeko nº 69/2018 ryo ku wa 31/08/2018 rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba bisaba kuba uri mu kiciro cy'abarivugwamo. Nk'uko byumvikana aya mategeko yombi akaba atareba abantu bamwe, bityo, hakaba nta n'impaka zikwiye kugibwa ku birebana n'itegeko rikwiye gukoreshwa aha cyangwa hariya kuko buri ryose ryagenewe abo rikwiye gukoreshwaho. Ni muri urwego rero Itegeko rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba ridashobora gukoreshwa ku bikorwa byo gutera inkunga iterabwoba RUSESABAGINA Paul akurikiranweho hatabanje kugenzurwa niba ari mu cyiciro cy'abarebwa n'iryo Tegeko.

[78] Mu rubanza rujuririrwa n'ubwo Urukiko rubanza rutahamije RUSESABAGINA Paul icyaha cyo gutera inkunga ibikorwa by'iterabwoba hashingiwe ku Itegeko nº 69/2018 ryo ku wa 31/08/2018 rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba, ntirwasuzumye niba ari mu barebwa n'iryo tegeko, ahubwo rwavuze ko iki cyaha cyo gutera inkunga iterabwoba cyagombye kuregwa undi muntu ku giti cye cyangwa umuryango ufite ubuzimagatozi utera inkunga umutwe w'iterabwoba, ariko atari mu bawushinze cyangwa ngo abe ari mu bagize inzego z'ubuyobozi bwawo, akabikora azi ko iyo nkunga izakoreshwa ibikorwa by'iterabwoba[20].

[79] Urukiko rw'Ubujurire rurasanga ikibazo atari ukuba uregwa ari mu bashinze cyangwa mu bayobozi b'umutwe w'iterabwoba hanyuma agatera inkunga iterabwoba nk'uko Urukiko rubanza rwabyemeje, ahubwo icyagombaga gusuzumwa ni ukureba niba RUSESABAGINA Paul abarizwa mu cyiciro cy'abarebwa n'itegeko rihana gutera inkunga ibikorwa by'iterabwoba biteganywa n'itegeko rikumira iyezandonke no gutera inkunga iterabwoba.

[80] Urukiko rw'Ubujurire rurasanga haba mu rwego rwa mbere no mu rwego rw'Ubujurire, nta mpaka zagiwe ku bijyanye no kumenya niba RUSESABAGINA Paul mu rwego rw'imirimo ye, ari umuntu ukora, uyobora, ugenzura, cyangwa utanga inama ku byerekeranye no kubitsa, kuvunjisha, gushora imari,

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[19] *Article 2 of the law nº 69/2018 of 31/08/2018 on prevention and punishment of money laundering and terrorism financing.* ***Scope of this Law : "****This Law applies to any individual or legal person that, in the framework of his/her or its profession, conducts, controls or advises on transactions involving deposits, exchanges, investments, conversions or any other movement of capital or any other property".*

[20] Reba igika cya 138 cy'urubanza rujuririrwa

guhindura cyangwa ubundi buryo bwose bwo kwimura amafaranga cyangwa undi mutungo ku buryo iri tegeko rimureba. Bityo, Urukiko rukaba ntaho rwahera rumuhamya icyaha kivugwa muri iryo Tegeko nº 69/2018 ryo ku wa 31/8/2018 rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba.

3. KU BYAHA ABAREGWA BAJURIRIYE

A. Ku birebana n'icyaha cyo kuba mu mutwe w'iterabwoba n'icyaha cyo gukora no kugira uruhare mu bikorwa by'iterabwoba

[81] Abajuririye ibi byaha ni NSHIMIYIMANA Emmanuel na NIZEYIMANA Marc.

- **NSHIMIMANA Emmanuel**

[82] NSHIMIYIMANA Emmanuel n'umwunganira ntibemera ibyo yahamijwe n'Urukiko rubanza by'uko yabaye muri FLN, kuko icyo yemera ari uko yabaye muri FDLR na CNRD-Ubwiyunge, kandi iyo mitwe akaba yarayigiyemo ku ngufu ayinjijwemo n'abasirikare bayo, bamukuye ku ishuri afite imyaka cumi n'irindwi (17), ndetse akaba atarashoboraga kuyivamo kuko yabigerageje agakubitwa inkoni 300 kandi n'uwabigeragezaga wese akaba yarafatirwaga ibihano bikomeye birimo n'urupfu. Avuga ko Urukiko rubanza rutitaye ku mibereho ye bwite no kuba MRCD-FLN itandukanye na CNRD kandi ibyo kuba iyo mitwe yari itandukanye byaranasobanuwe na *Colonel* NIYONZIMA Arthémon wari *trésorier général* wa CNRD-Ubwiyunge mu mvugo ze abazwa mu Bugenzacyaha. Avuga kandi ko kuba atarigeze aba mu mutwe w'iterabwoba wa MRCD-FLN, byemezwa n'ubuhamya bwa Gén. MBERABAHIZI David. Asoza avuga ko yakoreshejwe icyaha ku gahato, bityo hakaba nta buryozwacyaha bukwiye kubaho.

[83] Ubushinjacyaha buvuga ko ibyo NSHIMIYAMANA Emmanuel aburanisha mu bujurire, ari nabyo yireguje ku rwego rubanza, Urukiko rumaze kubisuzuma rumuhamya icyaha. Ubushinjacyaha buvuga ko unenga urubanza rujuririrwa aba agomba kugaragaza amakosa Urukiko rubanza rwakoze, kandi NSHIMIYIMANA Emmanuel akaba ntayo agaragaza, kuko Urukiko Rukuru nyuma yo gusuzuma ibimenyetso byatanzwe n'impande zombi kuri iki kibazo n'impaka zakigiweho, rwemeje ko ahamwa n'iki cyaha, mu bujurire akaba nta kindi kimenyetso agaragaza ko Urukiko rubanza rwibeshye.

[84] Ubushinjacyaha buvuga kandi ko Urukiko rubanza rwamuhamije icyaha cyo kuba mu mutwe w'iterabwoba wa MRCD-FLN, rushingiye ku bimenyetso bitandukanye bwatanze, birimo ibyo ubwe yiyemereye mu mabazwa ye mu Bugenzacyaha, nk'uko bigaragara mu nyandikomvugo yo ku wa 15 Nyakanga 2020, ku kibazo n'igisubizo cya 4, aho yavuze ko yabaye muri FDLR-FOCA kuva mu mwaka wa 2012 kugeza mu mwaka wa 2016, ndetse akaba no muri MRCD-FLN kugeza afashwe ku wa 22 Gashyantare 2020. Ibyo ni nabyo yiyemereye mu Bushinjacyaha ku wa 14 Kanama 2020 no ku wa 24 Nzeri 2020. Buvuga na none ko ibyo NSHIMIYIMANA Emmanuel avuga ko atigeze aba mu mutwe w'iterabwoba ashingiye ku mvugo za Gén. MBERABAHIZI David, nta shingiro bifite kuko uwo Gén. MBERABAHIZI David, mu ibazwa rye mu Bugenzacyaha ryo ku wa 02 Gashyantare 2020, ntiyigeze agaragaza ko NSHIMIYIMANA Emmanuel atigeze aba mu mutwe w'iterabwoba. Naho ku birebana no kuba yari umwana ubwo yinjiraga muri iyo mitwe, Ubushinjacyaha buvuga ko atari impamvu imukuraho uburyozwacyaha, kuko atari umwana wo kutaryozwa ibyo yakoze.

UKO URUKIKO RUBIBONA

[85] Urukiko rw'Ubujurire rurasanga impaka ku bujurire bwa NSHIMIYIMANA Emmanuel zishingiye ku kumenya niba Urukiko rubanza rwarakoze amakosa mu kwemeza ko yabaye muri MRCD-FLN no kuba rutaritaye ku mibereho ye bwite rushingiye ku buryo yinjijwe muri uwo mutwe ku gahato, kandi akiri umwana no kuba atarashoboraga kuwigobotora.

[86] Ku byerekeye kuba atarigeze aba mu gisirikare cya MRCD-FLN, Urukiko rw'Ubujurire rurasanga nta shingiro bifite kuko nk'uko Urukiko rubanza rwabisobanuye mu gika cya 445, NSHIMIYIMANA Emmanuel yinjiye mu gisirikare cya FDLR, aho gicikiyemo ibice, ajya muri CNRD nk'uko nawe abyiyemerera. Rurasanga ikindi kidashidikanwaho, ari uko CNRD n'ingabo zayo, mu mwaka wa 2018, byaje kwiyunga n'indi mitwe bikabyara MRCD-FLN, ko rero ubwo NSHIMIYIMANA Emmanuel yafatwaga ku wa 22/02/2020, CNRD nta ngabo bwite yari igifite, kuko zari zarabaye FLN ya MRCD. Kubera izo mpamvu, Urukiko rw'Ubujurire rurasanga Urukiko rubanza rutaramurenganyije kuko ubwo yafatwaga, igisirikare cya CNRD cyari cyarabaye MRCD-FLN, kandi akaba ari ni nacyo yafatiwemo.

[87] Naho ku byerekeye kuba ngo Urukiko rubanza rutaritaye ku mibereho ye bwite rushingiye ku kuba yarinjijwe muri uwo mutwe ku gahato, ari umwana kandi akaba atarashoboraga kuwigobotora, uru Rukiko rurasanga nabyo nta shingiro bifite kuko nk'uko nawe ubwe abyiyemerera, yinjiye mu gisirikare cya FDLR afite imyaka cumi n'irindwi (17), akaba atari akiri umwana muto utaryozwa icyaha. Rurasanga ahubwo nk'uko Urukiko Rukuru rwabibonye, iyo myaka rwayishingiyeho rumugabanyiriza igihano, aho kumuhanisha igifungo cy'imyaka cumi n'itanu (15), rumuhanisha igifungo cy'imyaka itatu (3)[21].

[88] Urukiko rw'Ubujurire rurasanga kandi ubwo yinjiraga mu gisirikare cya CNRD, yari yaramaze kuba mukuru bihagije kuko yari amaze kugira imyaka makumyabiri n'itatu (23)[22]. Ibyo bikaba binagaragaza ko igihe igisirikare cya CNRD cyari gihindutse MRCD-FLN, nta rwitwazo rwo kuba umwana cyangwa agahato yari agifite kuko yakomeje kukigumamo.

[89] Naho ibyo kuba atarashoboraga kukigobotora, Urukiko rw'Ubujurire rurasanga uretse imvugo ye gusa ko yagerageje kukivamo akabihanirwa, n'abashakaga kukivamo ngo bakaba barahabwaga ibihano bya kinyamaswa, nta kimenyetso agaragaza kibishimangira, ndetse imvugo za HAKIZIMANA Uzziel na GATABAZI Joseph ntizigaragaza ko ari ko byamugendekeye. Uru Rukiko rurasanga ariko yaba iyo mvugo ye yaba n'izo nyandikomvugo avuga, bitafatwa nk'ukuri kuko ababivuze atari abantu bari bivanye muri icyo gisirikare ku bushake ku buryo baba badafite aho babogamiye. Kubera izo mpamvu Urukiko rurasanga icyaha cyo kuba mu mutwe w'iterabwoba kimuhama. Ubujurire bwe kuri iyi ngingo bukaba nta shingiro bufite.

- **NIZEYIMANA Marc**

[90] NIZEYIMANA Marc avuga ko atemera icyaha cyo kuba mu mutwe w'iterabwoba n'icyaha cyo gukora no kugira uruhare mu bikorwa by'iterabwoba yahamijwe n'Urukiko rubanza, ko icyo yemera ari uko yabaye mu mutwe w'ingabo utemewe. Asobanura ko yafashwe ari Koloneli mu ngabo za FLN, ari *commandant* wungirije wa segiteri ya kabiri, ko mu mwaka wa 2002 yinjiye muri FDLR- FOCA agenda azamuka mu ntera ya gisirikari, aba *commandant* ushinzwe *protection* ya segiteri i Masisi. Avuga ko yavuye muri FDLR mu mwaka wa 2016 nyuma y'uko habaye ukutumvikana ku bijyanye no kubarura impunzi, ko abari bashyigikiye icyo gitekerezo batandukanye na FDLR, bashinga CNRD, nawe ajyana ingabo yayoboraga muri uwo mutwe, akomeza imirimo yakoraga. Avuga ko bigeze mu mwaka wa 2018,

[21] Igika cya 687 cy'urubanza rujuririrwa
[22] Ubwo FDLR yacikakagamo ibice, kimwe cyikiyita CNRD.

Gén. IRATEGEKA Wilson yamubwiye ko hashinzwe impuzamashyaka ya MRCD nk'umutwe wa politike, ariko we ntiyabyitaho kuko nta munyapolitike bavuganaga, ko we akenshi yabaga ari mu mirwano, ntamenye aho inama zaberaga, ko rero ntaho ahuriye n'ibyaha yahamijwe, kandi n'Ubushinjachaha bukaba nta kimenyetso bwabitangiye, uretse kubivuga gusa.

[91] Ubushinjacyaha buvuga ko urubanza rujuririrwa rwashingiye ku mvugo za NIZEYIMANA Marc ubwe yavuze abazwa mu Bugenzacyaha no mu Bushinjacyaha, aburana ku ifunga n'ifungurwa ry'agateganyo, ndetse anaburana urubanza mu mizi no ku mvugo za bamwe mu babanye na NIZEYIMANA Marc mu mitwe y'iterabwoba, barimo BIZIMANA Cassien alias Passy, MUKANDUTIYE Angelina, KWITONDA André, IYAMUREMYE Emmanuel na NSABIMANA Callixte alias Sankara.

[92] Ubushinjacyaha buvuga ko ingingo ya 107, igika cya 3, y'Itegeko n° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha iteganya ko iyo icyaha cyabonewe ibimenyetso bikigaragaza, ugikurikiranweho cyangwa umwunganira ashobora kwerekana impamvu zose yireguza, zerekana ko ikirego kitakwemerwa, zihamya ko icyo aregwa atari icyaha cyangwa se ko ari umwere n'izindi mpamvu zose zivuguruza izimuhamya icyo cyaha. Nyamara, mu bujurire bwe, NIZEYIMANA Marc n'umwunganizi we bakaba ntaho bagaragaza ko Urukiko rubanza rwaba rwarakoze ikosa mu gushingira kuri biriya bimenyetso kandi akaba atarigeze agaragariza Urukiko Rukuru ibimenyetso bivuguruza ibyo Ubushinjacyaha bwarushyikirije bimushinja ibyaha.

[93] Ubushinjacyaha buvuga ko Urukiko rubanza rwashingiye ku mwanya yari afite mu gisirikare cya FLN n'uburyo ibyemezo bya gisirikali byafatwaga, kandi uko yabisobanuye ku rwego rubanza, akaba ari nta gishya yongeyemo. Bityo, nk'uko byemejwe mu rubanza n° RPAA 0024/10/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 14/03/2014, haburana Ubushinjacyaha na NSENGIYUMVA na bagenzi be[23], mu gihe nta ngingo atanga zivuguruza iby'Urukiko rubanza rwashingiyeho, uru Rukiko rukwiye kwemeza ko ubujurire bwe nta shingiro bufite.

UKO URUKIKO RUBIBONA

[94] Urukiko rw'Ubujurire rurasanga impaka kuri iyi ngingo y'ubujurire ya NIZEYIMANA Marc zishingiye ku kuba atemera ko kuba mu ngabo za FLN bigize icyaha cyo kuba mu mutwe w'iterabwoba n'icyo gukora no kugira uruhare mu bikorwa by'iterabwoba.

[95] Ingingo 2 y'Itegeko n°46/2018 ryo ku wa 13/8/2018 ryerekeye kurwanya iterabwoba, isobanura igikorwa cy'iterabwoba mu byiciro 2 bikurikira: *Ikiciro cya mbere kirimo ibikorwa nyirizina bigira ingaruka ku buzima n'imitungo y'abaturage nk'uko bigaragara mu gace kayo ka 4 a), bikozwe hagamijwe:*

i. gukanga, gutera ubwoba, gukoresha ku ngufu, guhatira cyangwa gutera Leta, umuryango, urwego, abaturage cyangwa icyiciro runaka cyabo gukora cyangwa kudakora igikorwa icyo ari cyo cyose, gufata cyangwa kureka umurongo runaka cyangwa kugendera ku mahame runaka;

[23] Uwajuriye utarigeze atanga ibimenyetso bivuguruza iby'Urukiko rubanza rwashingiyeho nta shingiro ubujurire bwe buhabwa. Urukiko rwabivuze muri aya magambo : "Urukiko rukaba rusanga Banki y'Abaturage itarashoboye gutanga ibimenyetso bivuguruza iby'Urukiko Rukuru rwashingiyeho ruhanaguraho Nyaguhirwa icyaha, Bityo, ubujurire bwayo bukaba nta shingiro bufite […]".

ii. kubuza imirimo ya Leta igenewe abaturage, itangwa rya serivisi za ngombwa ku baturage gukomeza uko bisanzwe cyangwa guteza imidugararo;

iii. guteza ubwigomeke ku butegetsi mu gihugu;

Igice cya kabiri kikabamo ibikorwa byatumye igikorwa nyirizina gishoboka cyangwa byakozwe mu kugitegura cyangwa mu kukiyobora nk'uko biteganyijwe muri ako gace.

[96] Naho agace ka 11 k'iyo ngingo ko kakavuga ko umutwe w'iterabwoba ari "*itsinda ry'abantu rikorera kuri gahunda, kandi rifite umugambi wo gukora ibikorwa by'iterabwoba*. Kuba mu mutwe w'iterabwoba bigahanwa n'ingingo ya 18 ivuga ko: "*Umuntu uba cyangwa wemera kuba mu mutwe w'iterabwoba cyangwa ugira uruhare mu bikorwa by'umutwe w'iterabwoba cyangwa ukora ikintu cyose cyongerera ubushobozi undi mutwe w'iterabwoba, aba akoze icyaha (...*). Ingingo ya 19 yo ihana gukora no kugira uruhare mu bikorwa by'iterabwoba ikavuga ko: "*Umuntu ukora, ugerageza gukora, ugira uruhare mu bikorwa by'iterabwoba cyangwa ushyigikira ibikorwa by'iterabwoba, aba akoze icyaha (...*)".

[97] Izi ngingo zisomewe hamwe, zumvikanisha ko kuba mu mutwe w'iterabwoba no gukora no kugira uruhare mu bikorwa by'iterabwoba bigaragarira mu bikorwa birimo ibyo kuba mu mutwe ukorera kuri gahunda ugamije gukora *ibikorwa bigira ingaruka ku buzima n'imitungo y'abaturage, bikozwe hagamijwe gukanga, gutera ubwoba, gukoresha ku ngufu**, guhatira cyangwa gutera Leta,** umuryango, urwego, abaturage cyangwa icyiciro runaka cyabo* ***gukora cyangwa kudakora igikorwa icyo ari cyo cyose, gufata cyangwa kureka umurongo runaka cyangwa kugendera ku mahame runaka.***

[98] Urukiko rw'Ubujurire rurasanga ibyo NIZEYIMANA Marc avuga ko atari azi imigambi y'iterabwoba mu mitwe y'ingabo yabayemo, nta shingiro bifite, kuko yabaye muri FDLR-FOCA azi ko ari umutwe w'iterabwoba, nk'Uko n'Urukiko Rukuru rwabisobanuye[24], akayigumamo kugeza ubwo icikiyemo ibice, mu mwaka wa 2016 akajya mu kiswe CNRD cyaje kwihuza n'andi mashyaka bikabyara MRCD-FLN.

[99] Urukiko rw'Ubujurire rurasanga nk'uko NIZEYIMANA Marc yanabisobanuye mu Rukiko Rukuru, yemeye ko uwo mutwe wari ugamije gukuraho ubutegetsi mu Rwanda, ndetse hakaba hari n'ingabo yatoranyije azifasha kwambuka zijya mu gace ka Nyamasheke. Ibyo bikorwa bye bigize ibikorwa by'iterabwoba nk'uko bisobanurwa mu ngingo ya 2, agace ka 4, y'Itegeko n° 46/2018 ryo ku wa 13/8/2018 ryerekeye kurwanya iterabwoba ryavuzwe nk'uko byasobanuwe mu gika cya 95 cy'uru rubanza.

[100] Naho ibyo avuga ko atageze ku butaka bw'u Rwanda aho ibyaha byakorewe, nabyo uru Rukiko rurasanga bitamuvanaho icyaha cyo gukora no kugira uruhare mu bikorwa by'iterabwoba kuko nk'uko byasobanuwe mu gika cya 38 cy'uru rubanza nk'umuyobozi w'ingabo zakoze ibikorwa by'iterabwoba, ntahanirwa ibyo byakozwe n'abandi, ahubwo we ahanirwa kuba yarakoze ibikorwa byabibanjirije, kandi **byatumye ibindi bikorwa by'iterabwoba byabaye nyuma bishyirwa mu bikorwa.**

[24] Mu gika cya 229, Urukiko Rukuru rwasobanuye ko FDLR mu bihe bitandukanye yagiye igaba ibitero by'iterabwoba ku butaka bw'u Rwanda bikica abantu, bigasenya ibikorwa remezo, bikangiza imitungo yaba iya Leta cyangwa iy'abantu ku giti cyabo ari umutwe w'iterabwoba nk'uko byemejwe mu manza zitandukanye zaciwe n'Urukiko rw'Ikirenga nk'urubanza MANIRAGUHA Rwego Gilbert na bagenzi be n'urwa NSHIMIYIMA na SHEMA Jimmy zavuzwe ndetse n'akanama gashinzwe umutekano k'Umuryango w'Abibumbye nako ku wa 31/12/2012 kawushyize ku rutonde rw'imitwe y'iterabwoba.

[101] Kubera izo mpamvu, Urukiko rw'Ubujurire rurasanga, ubujurire bwa NIZEYIMANA Marc kuri iyi ngingo nta shingiro bufite.

B. Ku birebana n'icyaha cyo kugambana no gushishikariza abandi gukora igikorwa cy' iterabwoba

~~[102]~~ **NSABIMANA Jean Damascène alias Motard** yajuririye icyaha cyo kugambana n'icyo gushishikariza abandi gukora igikorwa cy'iterabwoba, avuga ko Urukiko rubanza rwakoze ikosa ryo kukimuhamya kandi atarakirezwe, agasaba uru Rukiko ko rwakimuhanaguraho, kuko Urukiko rubanza rwakoze ikosa ryo kumushyira mu gikundi kimwe na MATAKAMBA Jean Berchmas na bagenzi be bagiye bashishikariza abandi gukora ibyo byaha.

~~[103]~~ Ubushinjacyaha buvuga ko bwemeranya na NSABIMANA Jean Damascène alias Motard ko atigeze aregwa cyangwa ngo asabirwe ibihano ku cyaha cyo kugambana no gushishikiriza abandi gukora ibikorwa by'iterabwoba, bityo ko adakwiye kugihamywa n'Urukiko.

UKO URUKIKO RUBIBONA

[104] Urukiko rw'Ubujurire rurasanga nk'uko bigaragara mu rubanza rujuririrwa mu gika cya 697, Urukiko Rukuru Urugereko rwihariye ruburanisha ibyaha rpuzamahanga n'ibyambuka imbibi mu cyemezo cyarwo, rwarahamije NSABIMANA Jean Damascène alias Motard icyaha cyo kugambana n'icyo gushishikariza abandi gukora igikorwa cy'iterabwoba, nyamara nk'uko bigaragara mu gika cya 679 rwari rwasanze atari mubo gihama. Uru Rukiko rukaba rusanga rero, nk'uko NSABIMANA Jean Damascène alias Motard abivuga ndetse akaba abyemeranyaho n'Ubushinjacyaha, Urukiko Rukuru rwaramuhamije icyo cyaha rwibeshye. Bityo, kikaba kitamuhama.

4. IMPAMVU Z'UBUJURIRE ZIREBANA N'IBIHANO

[105] Bimwe mu bihano abaregwa bahawe n'Urukiko rubanza, Ubushinjacyaha ntibwabyishimiye, ariko hari n'ibyo abaregwa batishimiye. Muri uru rubanza harabanza gusuzumwa ubujurire bw'Ubushinjacyaha mu gice cya mbere cy'uyu mutwe, hanyuma rusuzume mu gice cyawo cya akabiri ibyo abaregwa bajuririye.

A. IMPAMVU Z'UBUJURIRE BW'UBUSHINJACYAHA

[106] Ubushinjacyaha bwanenze icyemezo cy'Urukiko Rukuru ku bijyanye no kuba rwaremeje ko abaregwa bamwe bemeye ku buryo bwuzuye icyaha maze rukabishingiraho rubagabanyiriza igihano. Ntibwanyuzwe kandi no kuba urwo Rukiko hari abaregwa rwagabanyirije igihano rushingiye ku kuba ari ubwa mbere bakoze icyaha. Ndetse bunanenga kuba Urukiko Rukuru rwaragabanyirije ibihano abaregwa kugeza n'ubwo rujya munsi y'igihano gito giteganywa n'itegeko. Muri iki cyiciro uru rubanza rurasazuma mu gice cya mbere ibyerekeranye no kumenya niba uburyo abaregwa bemeyemo icyaha ari ukwemera guhagije kwashingirwaho bagabanyirizwa igihano. Mu gice cya kabiri, Urukiko rurasuzuma niba bwari ubwa mbere abaregwa bakoze icyaha ndetse niba ibyo byaba impamvu ituma bagabanyirizwa ibihano. Mu gusoza, Urukiko rurasuzuma niba Urukiko Rukuru rwarakoze ikosa mu kugabanya igihano rukajya munsi y'igihano gito giteganywa n'Itegeko.

a. Kumenya niba uburyo abaregwa bemeye icyaha ari ukwemera guhagije kwashingirwaho bagabanyirizwa igihano

[107] Kuri iyi ngingo, Ubushinjacyaha bunenga icyemezo cy'Urukiko Rukuru, urugereko rwihariye ruburanisha ibyaha mpuzamahanga n'ibyaha byambuka imbibi, kuba rwaragabanyirije ibihano abaregwa barimo RUSESABAGINA Paul, NIZEYIMANA Marc, NSANZUBUKIRE Félicien, MUNYANEZA Anastase, NSENGIMANA Herman, KWITONDA André, NSHIMIYIMANA Emmanuel, NDAGIJIMANA Jean Chrétien, HAKIZIMANA Théogène na MUKANDUTIYE Angelina, rushingiye ku kwirega no kwemera icyaha, kandi abaregwa bataremeye icyaha ku buryo budashidikanywaho.

- **Ku bireba RUSESABAGINA Paul**

[108] Ubushinjacyaha buvuga ko icyo bunenga Urubanza rwaciwe n'Urukiko rubanza ari uko rwashingiye ku kuba hari ibyo yemeye abazwa mu Bugenzacyaha, mu Bushinjacyaha no mu iburanisha ku ifunga n'ifungura ry'agateganyo, rumugabanyiriza ibihano; nyamara rwirengagiza ko guhera mu gihe yaburanaga ku cyemezo cyongera igihe cy'ifunga ry'agateganyo kugeza atangira kuburanishwa mu mizi y'urubanza, yahinduye imvugo bigera n'ubwo atemera ububasha bw'Urukiko, ndetse yikura mu iburanisha atarisobanura ku byaha aregwa.

[109] Ubushinjacyaha bukomeza buvuga ko hakurikijwe ibiteganywa n'ingingo ya 59 y'Itegeko nº 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange, busanga ugabanyirizwa ibihano ari uwemeye ibyo aregwa kuva mu ntangiriro, kandi akabikora ku buryo budashidikanywaho, ko kandi ibyo atariko biri kuri RUSESABAGINA Paul, ndetse imyitwarire yagaragaje ikaba idakwiye kumubera impamvu nyoroshyacyaha ku buryo yanabiboneramo inyungu agabanyirizwa igihano ku byaha yahamijwe, birimo icyo kuba mu mutwe w'iterabwoba n'icyo kugira uruhare mu bikorwa by'iterabwoba. Ko rero busanga RUSESABAGINA Paul ataragombaga kugabanyirizwa igihano kuko atigeze yemera icyaha mu buryo budashidikanywaho imbere y'Urukiko.

[110] RUSESABAGINA Paul ntacyo yavuze kuri iyi ngingo y'ubujurire bw'Ubushinjacyaha, haba mu myanzuro cyangwa mu gihe cy'iburanisha kuko atigeze aryitabira.

- **Ku bireba NIZEYIMANA Marc**

[111] Ubushinjacyaha buvuga ko icyo bunenga urubanza rujuririrwa, ari uko Urukiko mu guhamya NIZEYIMANA Marc icyaha cyo kuba mu mutwe w'iterabwoba n'icyo gukora no kugira uruhare mu bikorwa by'iterabwoba byateye urupfu, ubusanzwe bihanishwa igihano cy'igifungo cya burundu, rwamugabanyirije igihano rumuhanisha igifungo cy'imyaka makumyabiri (20) gusa, rushingiye ku kuba hari ibyo yemeye abazwa mu iperereza, aburana ifunga n'ifungura ry'agateganyo n'igihe yaburanaga urubanza mu mizi. Nyamara, nk'uko bigaragara mu mwanzuro we no mu myiregurire ye mu iburanisha ryo ku wa 29/4/2019 n'iryo ku wa 6/5/2021, yahakanye ibyaha hafi ya byose aregwa kuko mu byaha icyenda (9) yarezwe yemeyemo kimwe gusa cyo kuba mu mutwe w'ingabo bitemewe, kandi nacyo, Urukiko rubanza rukaba rwarakimugizeho umwere. ibindi byaha yahamijwe yakabaye yemera akabisabira imbabazi arabihakana.

[112] Ubushinjacyaha bukomeza buvuga ko na none Urukiko rubanza rwavuze ko hari ibyo NIZEYIMANA Marc yemeye mu iperereza, kandi nabyo yarageze mu gihe cy'iburanisha, akabihakana agamije guhunga icyaha. Bukaba busaba Urukiko rw'Ubujurire, kuzahuza imyiregurire ya NIZEYIMANA Marc n'ibiteganywa n'ingingo ya 59 y'Itegeko nº 68/2018 ryo ku wa 30/8/2018 riteganya

ibyaha n'ibihano muri rusange, iteganya ko ukwemera icyaha gushingirwaho uwakoze icyaha agabanyirizwa ibihano, ari ugukozwe kuva mu ntangiriro kandi kugakorwa ku buryo budashidikanywaho. Busanga nta kwemera icyaha kwigeze kubaho kuri NIZEYIMANA Marc, ku buryo byamubera impamvu nyoroshyacyaha ituma agabanyirizwa ibihano.

[113] NIZEYIMANA Marc avuga ko yemeye icyaha cyo kuba mu mutwe w'ingabo utemewe ku buryo busesuye kandi agisabira imbabazi, ko ibindi byaha Ubushinjacyaha bumurega atabyemera kuko ntabyo yakoze. Ibyo kuvuga ko yivuguruje ahakana ibyaha yari yemeye mu iperereza avuga ko atari byo, ko ahubwo ibyo bavuga ko yavuze mu ibazwa rye mu Bugenzacyaha, batabimwandikiye uko yabivuze bigatuma abihakana mu gihe yabazwaga mu Bushinjacyaha no mu gihe cy'iburanisha.

[114] Me MUREKATETE Henriette, wunganira NIZEYIMANA Marc, avuga ko NIZEYIMANA Marc atemera ibyaha yahamijwe, ariko ko nta kosa Urukiko rubanza rwakoze rumugabanyiriza igihano kuko kuva mu ntangiriro yasobanuye uko ibintu byagenze, nk'uko bigaragara mu bika bya 376 na 377 by'urubanza rujuririrwa.

- **Ku bireba NSANZUBUKIRE Félicien na MUNYANEZA Anastase**

[115] Ubushinjacyaha buvuga ko Urukiko rubanza rwabahamije icyaha kimwe cyo kuba mu ishyirahamwe ry'iterabwoba rya FDLR-FOCA, rubagabanyiriza igihano rushingiye ku kuba hari ibyo bemeye babazwa mu iperereza, mu kuburana urubanza ku ifunga n'ifungura ry'agateganyo n'igihe baburanaga urubanza mu mizi. Ubushinjacyaha busanga nyamara icyaha bemeye cyo kwinjira mu mutwe w'ingabo utemewe, Urukiko rubanza rwarakibagizeho abere. Byongeye kandi mu myanzuro yabo no mu myiregurire yabo mu iburanisha bavuze ko batemera icyaha cyo kuba mu ishyirahamwe ry'iterabwoba, kuko igihe bafatwaga bari baramaze kuva muri FDLR-FOCA, baragiye muri CNRD-Ubwiyunge. Ndetse ko kuva bahunga igihugu muri 1994 batigeze bongera kugaruka mu Rwanda, bakaba nta gitero na kimwe cyagabwe na FDLR-FOCA bigeze bazamo mu Rwanda, nta n'icyemezo bafataga muri iyo mitwe kuko batari abayobozi bayo. Ubushinjacyaha bukavuga ko iyi myiregurire yabo igaragaza ko NSANZUBUKIRE Félicien na MUNYANEZA Anastase bataburanye bemera ibyaha baregwa ku buryo byababera impamvu nyoroshyacyaha yatuma bagabanyirizwa ibihano.

[116] NSANZUBUKIRE Félicien avuga ko kuva mu ntangiriro yemeye icyaha cyo kuba yarabaye muri FDLR-FOCA yaje kwitwa umutwe w'iterabwoba, ko ariko igihe yari awurimo, nta gikorwa cy'iterabwoba we ku giti cye yakoze, ko n'Ubushinjacyaha ntacyo bugaragaza, akaba asanga kuba Urukiko rubanza rwarashingiye kuri uko kwemera icyaha kwe, rukamugabanyiriza ibihano, nta kosa rwakoze kuko rubyemererwa n'amategeko.

[117] MUNYANEZA Anastase avuga ko yemeye kuba yarabaye mu mutwe wa FDLR-FOCA, ko kuba muri iyo myiregurire ye Urukiko rubanza rwarasanze hari impamvu nyoroshyacyaha zituma agabanyirizwa ibihano, nta nenge abibonamo.

[118] Me TWAJAMAHORO Herman, wunganira NSANZUBUKIRE Félicien na MUNYANEZA Anastase, avuga ko abo yunganira basobanuriye neza Urukiko rubanza ibikorwa bakoze kandi bemera, narwo rubihuza n'inyito y'icyaha rwabahamije, rusanga ibyo bemeye bigize impamvu nyoroshyacyaha zikwiye gutuma bagabanyirizwa ibihano.

- **Ku bireba NSENGIMANA Herman, KWITONDA André, NSHIMIYIMANA Emmanuel, NDAGIJIMANA Jean Chrétien na HAKIZIMANA Théogène**

[119] Ubushinjacyaha buvuga ko Urukiko rubanza rwababagabanyirije ibihano hashingiwe ku kuba baremeye ibyaha, kandi nk'uko bigaragara mu myanzuro yabo no mu nyandikomvugo z'iburanisha, ntabyo bemeye. Buvuga ko barezwe ibyaha bibiri ariko bakaba bemera gusa kuba mu mutwe w'ingabo utemewe, bagahakana kuba uwo mutwe wari uw'iterabwoba nk'uko bigaragara mu gace ka 434 k'urubanza rujuririrwa. Kubera izo mpamvu, bukaba busanga kuvuga ko bemeye icyaha ku buryo budashidikanywaho bikaba byababera impamvu zituma bagabanyirizwa ibihano, ari ikosa Urukiko rubanza rwakoze.

[120] Ubushinjacyaha busoza buvuga ko by'umwihariko kuri KWITONDA André mu myanzuro ye yivugira ko yemera icyaha, nyamara akongeraho ko nta bushake bwo kugikora yari afite, ko rero ibyo bigaragaza ko atigeze yemera icyaha; bityo ko Urukiko rutari rukwiye kubishingiraho rumugabanyiriza igihano.

[121] NSENGIMANA Herman avuga ko yaburanye ku byaha bibiri mu Rukiko rubanza, birimo icyo kuba mu mutwe w'ingabo utemewe n'icyo kuba mu mutwe w'iterabwoba, ko yemeye ibikorwa byo kuba yarabaye muri iyo mitwe, hanyuma Urukiko rubanza rusanga uwo mutwe yemeye ko yabayemo ari uw'iterabwoba, ko asanga rero hagendewe ku bikorwa yemeye bivuze ko yemeye icyaha kuva mu ntangiriro.

[122] Me RUGEYO Jean, wunganira NSENGIMANA Herman, avuga ko nta kosa Urukiko rubanza rwakoze ryo gushingira ku kuba uwo yunganira yaremeye ibikorwa akurikiranweho, kuko rwabisesenguye rugasanga bigize icyaha cyo kuba mu mutwe w'iterabwoba.

[123] NDAGIJIMANA Jean Chrétien we avuga ko yemeye ko yabaye muri FLN, ariko ko kuba wari umutwe w'iterabwoba, atari abizi kandi akaba yaragiyemo kuko ise yari umwe mu bayobozi b'uwo mutwe. Akavuga ko rero we icyo yemeye ari ibikorwa, ibisigaye bikaba ari iby'Urukiko.

[124] KWITONDA André avuga ko kuva urubanza rwatangira, yemeye ko yabaye mu mitwe y'iterabwoba, ko ariko yasobanuye n'impamvu zatumye ayijyamo, zirimo igitutu n'iterabwoba yashyizweho n'abayobozi bayo bamuteraga ubwoba ko natajyamo bazamugirira nabi, Bityo ko kuba yaragabanyirijwe ibihano, nta kosa Urukiko rubanza rwakoze.

[125] HAKIZIMANA Théogène avuga ko kuba Ubushinjacyaha buvuga ko adakwiye kugabanyirizwa ibihano kuko atemeye icyaha ku buryo budashidikanywaho, nta shingiro bikwiye guhabwa, kuko kuva mu mabazwa yose, yemeye ko yabaye muri MRCD-FLN, Urukiko rubanza rwemeza ko iyi mitwe ari iy'iterabwoba, ko kandi nawe atabihakana, bityo rero kuba rwaragendeye ku bikorwa yemeye, rukamugabanyiriza ibihano, nta kosa rwakoze.

[126] Me MUGABO Sharif Yussuf, wunganira NDAGIJIMANA Jean Chrétien, KWITONDA André na HAKIZIMANA Théogène, avuga ko mu mwanzuro w'Ubushinjacyaha, nabwo bwemeye ko KWITONDA André yemeye icyaha, ko rero ashingiye ku ngingo ya 59, agace ka gatatu (3˚), y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange, kubwe asanga Ubushinjacyaha cyangwa uregwa atari bo bagomba kunenga ukwemera icyaha kwe. Akavuga ko niba Umucamanza yarafashe imvugo za KWITONDA André wiyemerera nta gushidikanya ko yabaye muri MRCD-FLN, akabihuza n'Itegeko agasanga agomba kugabanyirizwa, nta kosa Urukiko rubanza rwakoze. Kimwe no kuri NDAGIJIMANA Jean Chrétien na HAKIZIMANA Théogène, avuga ko nabo bemeye ibikorwa bakoze mu buryo budashidikanywaho.

[127] NSHIMIYIMANA Emmanuel we avuga ko kuva mu Bugenzacyaha mu mabazwa ye atigeze ahakana ko yabaye mu mitwe aregwa, kandi ko yasobanuye uburyo yayijyanwemo ku gahato. Ibi abihurizaho n'umwunganira mu mategeko Me URAMIJE James.

- **Ku bireba MUKANDUTIYE Angelina**

[128] Ubushinjacyaha buvuga ko MUKANDUTIYE Angelina yahamijwe icyaha kimwe cyo kuba mu mutwe w'iterabwoba, rumugabanyiriza ibihano rushingiye ku kuba hari ibyo yemeye haba mu iperereza n'igihe cy'iburanisha, nyamara mu Rukiko rubanza yavuze ko yashishikarije abana b'abakobwa kujya muri FLN mbere y'uko CNRD yihuza na PDR-Ihumure bikabyara MRCD. Ibi akaba yarabivuze mu rwego rwo guhunga icyaha cyo kuba mu mutwe w'iterabwoba wa MRCD-FLN. Nyamara kandi abatangabuhamya banyuranye barimo abo yashishikarije kujya muri uwo mutwe, bemeje ko yabakanguriye kujya muri FLN, CNRD yaramaze kwihuza na PDR-Ihumure bigashinga MRCD, ko rero kwemera icyaha kwe kutakozwe mu buryo budashidikanywaho nk'uko biteganywa n'ingingo ya 59 y'Itegeko nº 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange.

[129] MUKANDUTIYE Angelina avuga ko kuva mu ntangiriro yemeye ko yabaye muri MRCD na CNRD-Ubwiyunge aho yari komiseri ushinzwe iterambere ry'umugore, ko bamaze kubona ko baterwa na ba Maï-Maï yakanguriye abana b'abakobwa kujya mu gisirikare muri iyo mitwe kugira ngo bajye babasha kwirwanaho, ko iyo aza kumenya ko bazatera u Rwanda atari kubikora, ko kandi ibyo bikorwa bye yabyemeye, akabisabira imbabazi.

[130] Me MUKARUZAGIRIZA Chantal, wunganira MUKANDUTIYE Angelina, avuga ko asanga impamvu y'ubujurire bw'Ubushinjacyaha y'uko MUKANDUTIYE Angelina atagombaga kugabanyirizwa ibihano kuko atemeye icyaha mu buryo budashidikanywaho, nta shingiro ikwiye guhabwa kuko yemeye icyaha ku buryo bwuzuye, ntacyo ahisha kuva mu nzego z'iperereza kugera ubwo yaburanaga urubanza mu mizi. Avuga kandi ko MUKANDUTIYE Angelina yasobanuriye Urukiko rubanza ko we nka Komiseri wari ushinzwe umuryango n'iterambere ry'umugore, inshingano ze zarangiriraga mu gukangurira urubyiruko rw'abakobwa kwinjira mu gisirikare, agakora urutonde rwabo yakanguriye bemeye, akarushyikiriza Umuyobozi w'abasirikare witwa IRATEGEKA Wilson bitaga Antoine JEVA, ariko ko ibyakurikiragaho byo kujya mu myitozo no kugaba ibitero atabimenyaga kuko we yari umusiviri.

[131] Me MUKARUZAGIRIZA Chantal akomeza avuga ko MUKANDUTIYE Angelina yemereye Urukiko rubanza ko yari Komiseri muri CNRD-Ubwiyunge yaje kwihuza n'indi mitwe bikaba MRCD-FLN ari wo mutwe w'iterabwoba, ibyo bikaba bimugira umwe mu bagize umutwe w'iterabwoba, ari nacyo yahamijwe, akaba ari nabyo byatumye agabanyirizwa igihano. Avuga kandi ko kuba Urukiko rubanza rwarakiriye ukwemera icyaha kwa MUKANDUTIYE Angelina, rukagusuzuma rugasanga ukwemera kwe kudashidikanywaho, ndetse kukamubera impamvu nyoroshyacyaha, nta kosa rwakoze, kuko ingingo ya 58 y'Itegeko n° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu, ivuga ko umucamanza ubwe ariwe ugena niba impamvu nyoroshyacyaha zahabwa agaciro.

UKO URUKIKO RUBIBONA

[132] Urukiko rw'Ubujurire rurasanga impaka kuri iyi ngingo zishingiye ku kumenya niba abaregwa bavugwa muri iki gice bataremeye ibyaha bahamijwe mu buryo budashidikanywaho ku buryo bitari kubabera impamvu yo kugabanyirizwa ibihano.

[133] Izo mpaka zikemurwa n'ingingo ya 59, agace ka mbere (1˚), y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru isobanura ibiranga ukwemera icyaha gutuma uregwa agabanyirizwa ibihano no ku gace kayo ka gatatu (3˚) kagaragaza igihe uko kwemera icyaha kugomba gukorerwa kugirango kugirire akamaro uregwa. Mu gace kayo ka mbere (1˚), iyo ngingo iteganya ibi bikurikira: "*Umucamanza ashobora kugabanya ibihano nk'iyo ushinjwa, mbere yo gukurikiranwa, yemeye icyaha akagisabira imbabazi uwo yakoreye icyaha n'umuryango nyarwanda mu buryo budashidikanywa, akicuza kandi akishyura ibyo yangije nk'uko bari babimutegerejeho''.* Agace kayo ka gatatu (3˚) kakavuga ko: "*Umucamanza ashobora kugabanya ibihano nk'iyo ushinjwa, mu ntangiriro z'iburanisha ku rwego rwa mbere, ushinjwa yireze akemera icyaha mu buryo budashidikanywa'"*.

[134] Iyi ngingo yaje isimbura iyari iya 77 mu Itegeko Ngenga n° 01/2012/OL ryo ku wa 02/5/2012 rishyiraho Igitabo cy'amategeko ahana, ivuga ko *"Umucamanza ashobora kugabanya ibihano nk'iyo: 1° ushinjwa, mbere yo gukurikiranwa, yemeye icyaha akagisabira imbabazi uwo yakoreye icyaha n'umuryango nyarwanda mu buryo budashidikanywa, akicuza kandi akishyura ibyo yangije nk'uko bari babimutegerejeho; ..., 3° mu ntangiriro z'iburanisha ku rwego rwa mbere, ushinjwa yireze akemera icyaha mu buryo budashidikanywa".*

[135] Mu gusobanura ibijyanye no kwemera icyaha, Urukiko rw'Ikirenga rwabitanzeho umurongo mu rubanza nº RPA 0343/10/CS rwaciwe ku wa 27/02/2015 haburana Ubushinjacyaha na MPIRANYA Boniface, ruvuga ko ukwemera icyaha gushobora kugirira inyungu uwagukoze ku buryo ashobora kugabanyirizwa igihano yari guhabwa, ari ugukozwe ku buryo budashidikanywaho, ntacyo ashaka gukinga Urukiko cyangwa ngo agire icyo agoreka ku bwende[25]. Urukiko rw'Ubujurire narwo mu rubanza n˚ RPAA 00381/2020/CA rwaciwe ku wa 18/3/2022, haburana Ubushinjacyaha na MUSANGAMFURA Damien, rwemeje ko ukwemera icyaha kwe kurimo kugabanya uburemere bwacyo, bityo bikaba bigutesha agaciro[26].

[136] Nk'uko byumvikana mu ngingo yavuzwe no mu manza zaciwe zivuzwe mu gika kibanziriza iki, ukwemera icyaha kugira agaciro gashobora gutuma uregwa agabanyirizwa igihano iyo nibura kujuje ibi bikurikira:

- Kuba kudashidikanywaho, ni ukuvuga kutarimo kugoreka amakuru arebana n'uburyo icyaha cyakozwe, kuva gitegurwa kugeza gishyirwa mu bikorwa; hagaragazwa abakigizemo uruhare n'uruhare rwa nyiri ukwemera, ndetse n'inzira zose zakoreshejwe n'uburyo bwakoreshejwe kugirango kigerweho,
- Kuba uwemera agaragaza ko yumva uburemere bw'ibikorwa yemera n'ingaruka zabyo,
- Kuba abyicuza, ni ukuvuga agaragaza ko ababajwe n'ibyabaye kandi akaba yumva bitari bikwiye kuba, ndetse ko atazabisubira.
- kuba abisabira imbabazi

[25] Reba Urubanza n° RPA 0343/10/CS haburana Ubushinjacyaha na MPIRANYA Boniface rwaciwe n'Urukiko rw'Ikirenga ku wa 27/02/2015, igika cya 13.

[26] Reba igika cya 21 n'icya 26 cy'urubanza n˚ RPAA 00381/2020/CA rwaciwe ku wa 18/03/2022, haburana Ubushinjacyaha na MUSANGAMFURA Damien.

- No kuba yiteguye gusubiza ibyo yangije uko abitegerejweho

Ibyo bigakorwa bitarenze, byibuza mu iburanisha ku rwego rwa mbere.

[137] Hashingiwe kuri ibi bisobanuro, uru Rukiko rurasuzuma niba Urukiko rubanza rwaba rwarakoze amakosa mu kwemeza ko RUSESABAGINA Paul, NIZEYIMANA Marc, NSANZUBUKIRE Félicien, MUNYANEZA Anastase, NSENGIMANA Herman, KWITONDA André, NSHIMIYIMANA Emmanuel, NDAGIJIMANA Jean Chrétien, HAKIZIMANA Théogène na MUKANDUTIYE Angelina bemeye icyaha ku buryo bibabera impamvu yo kugabanyirizwa igihano.

- **Ku bireba RUSESABAGINA Paul**

[138] Mu gika cya 675 k'urubanza rujuririrwa, Urukiko Rukuru, urugereko rwihariye ruburanisha ibyaha mpuzamahanga n'ibyaha byambuka imbibi, rwasobanuye ko kuba RUSESABAGINA Paul abazwa mu iperereza, anaburana ibirebana n'ifungwa n'ifungurwa ry'agateganyo hari ibyo yemeye, agasobanura uburyo byakozwe, akabisabira imbabazi, bityo akaba akwiye kugabanyirizwa ibihano.

[139] Nk'uko bigaragara mu bika bya 12, 13 na 68 by'urubanza rujuririrwa, nyuma yo gutanga inzitizi ebyiri zijyanye n'ububasha bw'Urukiko Rukuru, urugereko rwihariye ruburanisha ibyaha mpuzamahanga n'ibyaha byambuka imbibi bwo kumuburanisha no gusaba gukuraho icyemezo kimufunga by'agateganyo, Urukiko Rukuru rukemeza ko nta shingiro zifite, RUSESABAGINA Paul yikuye mu rubanza, yanga kuburana mu mizi.

[140] Nk'uko byasobanuwe haruguru, Urukiko rw'Ubujurire rurasanga kugira ngo hemezwe ko ukurikiranweho icyaha yemeye icyaha aregwa, agomba kuba yarabikoze mu buryo budashidikanywaho igihe cy'iperereza cyangwa mu Rukiko ruburanisha mu mizi.

[141] Ibivugwa mu gace kabanziriza aka, byumvikanisha ko ibyavuzwe n'ukurikiranyweho icyaha mu Bugenzacyaha no mu Bushinjacyaha, yemera icyaha aregwa, agomba kubishimangira imbere y'umucamanza uburanisha mu mizi, agaragaza ko agiye kuburana yemera icyaha aregwa, agasobanura mu buryo budashidikanywaho uko icyo cyaha cyakozwe. Ibi ariko ntibibuza Umucamanza kubishingiraho mu gihe uregwa yisubiyeho, akaburana mu mizi ahakana icyo cyaha noneho [27].

~~[142]~~ Icyo Ubushinjacyaha bunenga ni uko Urukiko rubanza rwamugabanyirije igihano rushingiye ku kuba yarireze akemera icyaha mu iperereza kandi nyamara ataritabye Urukiko ngo ashimangire ukwemera kwe mu iburanisha ry'urubanza mu mizi. Urukiko rw'Ubujurire rurasanga ibyo ubwabyo atari ikosa kuko Umucamanza yemerewe kugenzura ukwirega kwakorewe mu iperereza akaguha agaciro akurikije ireme ryako nk'uko byasobanuwe haruguru[28]. Rusanga ikibazo ahubwo ari uko Urukiko rubanza rushiningiye ku byo rwavuze mu bika bya 87-91 no mu bika bya 112-118, bigaragaza ahanini uburyo RUSESABAGINA Paul yasobanuye uko bashinze MRCD-FLN, inshingano bayihaye n'uko bigabanyije

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[27] '' *Le juge du 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*'' Cass. 29 octobre 1956, 31 octobre 1961, 19 mars 1962, Michel Franchimont, Ann Jacobs et Adrien Masset, Manuel de procédure pénale, 2e édition, Larcier, Bruxelles, 2006, P.1042. '' *Cette règle vaut tant pour l'aveu judiciaire que pour l'aveu extrajudiciaire''*, Michel Franchimont, Ann Jacobs et Adrien Masset, idem.

[28] *"Tout en consacrant le principe de l'individualisation de la peine par le mécanisme des circonstances atténuantes dont il précise le régime, le législateur a abandonné au juge le soin de rechercher ce qui, dans le cas d'espèce, pourrait à ses yeux constituer une circonstance atténuante",* Christiane Hennau et Jacques Verhaegen, Droit pénal général, 3e édition, Bruylant, Bruxelles, 2003, P. 455, n° 510.

inshingano ndetse akanemera ko hari amafaranga yayoherereje, rwemeje ko yemeye icyaha rumugabanyiriza igihano, nyamara atemera ko FLN yakoze ibikorwa by'iterabwoba. Avuga ko nk'umuyobozi niba ngo hari ibikorwa by'iterabwoba uwo mutwe wa FLN wakoze abyicuza akanabisabira imbabazi. Ibyo uru Rukiko rukaba rusanga ari ukwiyerurutsa kuko n'ubwo avuga ko yicuza kandi ababajwe n'ibyabaye atemera ko ariwe ari na FLN babifitemo uruhare. Kubera izo mpamvu, Urukiko rw'Ubujurire rurasanga ukwemera kwe kutarigushingirwaho agabanyirizwa ibihano.

- **Ku bireba NIZEYIMANA Marc**

[143] Imikirize y'urubanza rujuririrwa igaragaza, mu gika cyarwo cya 678, ko Urukiko Rukuru, urugereko rwihariye ruburanisha ibyaha mpuzamahanga n'ibyaha byambuka imbibi, rwasobanuye ko rurebye imikorere y'ibyaha bihama NIZEYIMANA Marc, rukareba ko hari ibyo yemeye aburana urubanza mu mizi, abazwa mu iperereza ndetse anaburana ibirebana n'ifungwa n'ifungurwa ry'agateganyo, nawe akwiriye kugabanyirizwa ibihano.

[144] Mu gika cya 676 cy'urubanza rujuririrwa, urwo Rukiko rwasobanuye ko nyuma yo gusesengura ibikorwa NIZEYIMANA Marc aregwa, ahamwa n'icyaha cyo kuba mu mutwe w'iterabwoba n'icyo gukora no kugira uruhare mu bikorwa by'iterabwoba, ariko adahamwa n'icyaha cy'irema ry'umutwe w'ingabo utemewe n'icyaha cyo kugirana umubano na Leta y'amahanga bigiriwe gushoza intambara.

[145] Imikirize y'urubanza rujuririrwa, mu gace kayo ka 216 n'aka 218, igaragaza ko NIZEYIMANA Marc yaburanye mu Rukiko rubanza avuga ko yemera icyaha cyo kuba mu mutwe w'ingabo utemewe wa FDLR-FOCA n'uwa FLN, ko yafashwe ari koloneli mu ngabo za FLN, akaba na *commandant* wungirije (second) wa segiteri ya kabiri. Yaburanye avuga kandi ko nta bikorwa by'iterabwoba yakoze ku butaka bw'u Rwanda kuko kuva yahunga, atigeze ahagaruka. Avuga kandi ko atanabaye mu mutwe w'iterabwoba wa MRCD-FLN, akaba nta n'amabwiriza yatanze yo gukora ibikorwa by'iterabwoba. Yongeraho ko Ubushinjacyaha butagaragaza ko amahame shingiro y'iyo mitwe harimo ingingo zivuga ko izajya ikora ibikorwa by'iterabwoba ngo abe yarayibayemo abizi kandi abyemera. Yanavuze ko ibyo kuba umutwe wa FLN warakoze ibikorwa by'iterabwoba yabimenye agejejwe imbere y'Ubugenzacyaha, arimo kubazwa.

[146] Mu bice bya 225, 226 na 227 by'urubanza rujuririrwa, Urukiko rubanza rwasobanuye ko rwasanze aburana urubanza mu mizi no ku bijyanye n'ifungwa n'ifungurwa by'agateganyo, ndetse abazwa mu Bugenzacyaha no mu Bushinjacyaha, NIZEYIMANA Marc yaremeye ko yabaye mu mutwe w'ingabo wa FDLR-FOCA na FLN, ariko atari imitwe y'iterabobwa kuko icyo bari bagamije ari ukuvanaho ubutegetsi, atari iterabwoba. Imikirize y'urubanza rujuririrwa, mu gace kayo ka 641, igaragaza ko asubiza ku birebana n'ibihano Ubushinjacyaha bwamusabiraga, NIZEYIMANA Marc yavuze ko asaba Urukiko kumugira umwere ku byaha umunani (8) aregwa kubera ko Ubushinjacyaha butagaragaje ibimenyetso bushingiraho bubimurega. Naho ku cyaha cyo kuba mu mutwe w'ingabo utemewe cyo, avuga ko acyemera akanacyicuza, ko ku bw'ibyo yagabanyirizwa ibihano, agahanishwa igifungo cy'umwaka umwe (1); rwasanga ibyo avuga bifite ishingiro, rukanagisubika kubera ko ari ubwa mbere akurikiranwe n'ubutabera.

[147] Nk'uko bigaragara mu mwanzuro wo kwiregura wa NIZEYIMANA Marc mu bujurire, yakomeje guhakana ko atari mu mutwe w'iterabwoba, ari nabyo yavuze mu iburanisha, asobanura ko atemera icyaha cyo kuba mu mutwe w'iterabwoba n'icyo kugira uruhare mu bikorwa by'iterabwoba.

[148] Hashingiwe ku byagaragajwe haruguru, Urukiko rw'Ubujurire rurasanga icyaha NIZEYIMANA Marc yemeye mu Rukiko rubanza no muri uru Rukiko, ari icyaha cyo kurema umutwe w'ingabo

bitemewe, nyamara yaranagihanaguweho ku rwego rwa mbere. Koko rero, nk'uko bigaragara mu gika cya 228 cy'urubanza rujuririrwa, Urukiko rubanza rwanzuye ko ibikorwa byakozwe na NIZEYIMANA Marc bijyanye no kuba yarinjiye muri FDLR-FOCA, akaninjira mu mutwe wa FLN, bitagize icyaha cy'irema ry'umutwe w'ingabo utemewe kubera ko ibi bikorwa yakoze bitari mu rwego rw'ibyaha bihungabanya umudendezo wa Leta n'ibindi bihugu kandi ko atabikoze agamije gushyigikira igitero cy'intambara cy'ingabo zindi zitari izemewe z'igihugu.

[149] Urukiko rw'Ubujurire rurasanga rero, kuba ukwemera icyaha ari ukwemera ibikorwa bigize icyo cyaha mu buryo budashidikanywaho nk'uko biteganywa n'ingingo ya 59 y'Itegeko riteganya ibyaha n'ibihano muri rusange ryavuzwe haruguru, kandi NIZEYIMANA Marc akaba yarahakanye mu buryo budasubirwaho ibyaha yahamijwe, Urukiko rubanza rwaribeshye mu kumugabanyiriza igihano rushingiye ku mpamvu y'uko hari ibyo yemeye aburana urubanza mu mizi n'ibirebana n'ifungwa n'ifungurwa ry'agateganyo, cyangwa ngo abazwa mu iperereza.

[150] Kubera izo mpamvu, Urukiko rw'Ubujurire rurasanga iyi ngingo y'ubujurire bw'Ubushinjacyaha ifite ishingiro.

- **Ku bireba NSANZUBUKIRE Félicien na MUNYANEZA Anastase**

[151] Imikirize y'urubanza rujuririrwa igaragaza, mu gace kayo ka 684, ko Urukiko Rukuru, urugereko rwihariye ruburanisha ibyaha mpuzamahanga n'ibyaha byambuka imbibi, rwasobanuye ko rurebye imikorere y'ibyaha bihama NSANZUBUKIRE Félicien na MUNYANEZA Anastase, rukanareba ko hari ibyo bemeye baburana urubanza mu mizi, babazwa mu iperereza cyangwa baburana ibirebana n'ifungwa n'ifungurwa ry'agateganyo ndetse ngo akaba ari n'ubwa mbere bakurikiranweho ibyaha mu nkiko, bakwiriye kugabanyirizwa ibihano.

[152] Nk'uko bigaragara mu gika cya 683 cy'urubanza rujuririrwa, Urukiko rubanza rwasobanuye ko hashingiwe ku biteganywa n'ingingo ya 503 y'Itegeko Ngenga n˚ 01/2012/OL ryo ku wa 2/5/2012 rishyiraho Igitabo cy'amategeko ahana, ryakurikizwaga ubwo bakoraga ibyaha baregwa, NSANZUBUKIRE Félicien na MUNYANEZA Anastase bahamwa n'icyaha cyo kuba mu ishyirahamwe ry'iterabwoba, ariko badahamwa n'icyaha cy'irema ry'umutwe w'ingabo bitemewe, cyateganywaga n'ingingo ya 459 y'iryo Tegeko Ngenga.

[153] Imyiregurire ya NSANZUBUKIRE Félicien mu Rukiko rubanza, nk'uko bigaragara mu bika bya 399, 400 na 401 by'urubanza rujuririrwa, igaragaza ko yaburanye avuga ko yemera icyaha cyo kwinjira mu mutwe w'ingabo zitemewe kuko yinjiye muri FDLR mu mwaka wa 2002 atabigambiriye, ko ku itariki ya 31/5/2016, yavuye muri FDLR ajya muri CNRD, ko yayibayemo kugeza afashwe n'ingabo za Congo FARDC ku wa 9/2/2017, akaba yarafunzwe FLN itarashingwa. Yavuze kandi ko atemera icyaha cyo kuba mu ishyirahamwe ry'iterabwoba kuko yafashwe atakiba muri FDLR kuko yari yarinjiye muri CNRD ari we ubyibwirije, ko kuba yarayivuyemo ku bushake, ibyayo atabiryozwa kuko ingingo ya 503 y'Itegeko Ngenga n˚ 01/2012/OL ryo ku wa 2/5/2012 ryavuzwe haruguru ihana umuntu uri cyangwa wemera kuba mu ishyirahamwe ry'iterabwoba, kandi nta ruhare yagize mu bitero byagabwe ku butaka bw'u Rwanda.

[154] Nk'uko biragaraga na none mu bika bya 402, 403, 404 na 405 by'urubanza rujuririrwa, MUNYANEZA Anastase nawe yireguye mu Rukiko rubanza, avuga ko yemera icyaha cyo kwinjira mu mutwe w'ingabo zitemewe kuko yinjiye muri FDLR mu mwaka wa 2002 kugeza mu mwaka wa 2016, akinjira muri CNDR-Ubwiyunge, ayibamo kugeza afashwe n'ingabo za Congo ku wa 10/2/2017. Yavuze kandi ko atemera ko yabaye mu ishyirahamwe ry'iterabwoba kuko atari azi raporo ya *Département* y'Amerika ishyira FDLR mu mitwe y'iterabwoba, ko yayinjiyemo ku bw'amaburakindi, akora akazi

k'uburwanyi, ko atari umunyamuryango wayo, nta n'ibyemezo yafataga, kandi atari mu rutonde rw'abagize umutwe w'iterabwoba uwo ariwo wose ugaragazwa na ONU.

[155] Nk'uko bigaragara mu bika bya 432 na 433 by'urubanza rujuririrwa, nyuma yo gusuzuma imyiregurire ya NSANZUBUKIRE Félicien na MUNYANEZA Anastase, Urukiko rubanza rwanzuye ko kuba bemera ko babaye muri FDLR kuva mu mwaka wa 2002 kugera bawuvuyemo mu mwaka wa 2016, bagomba guhamwa n'icyaha cyo kuba mu ishyirahamwe ry'iterabwoba, ko kuvuga ko batahamwa n'icyo cyaha kubera ko bafashwe batakiri muri FDLR, nta gaciro byahabwa kuko ingingo ya 503 y'Itegeko Ngenga n˚ 01/2012/OL ryo ku wa 2/5/2012 ryavuzwe haruguru idahana gusa kuba cyangwa kwemera kuba mu ishyirahamwe ry'iterabwoba, ahubwo ihana n'uwaba yararibayemo mu gihe kuribamo byafatwaga nk'icyaha.

[156] Urukiko rw'Ubujurire rurasanga mu miburanire ya NSANZUBUKIRE Félicien yemera ko yinjiye muri FDLR mu mwaka 2002 ariko atabigambiriye, akavuga ko abyibwirije yaje kuva muri uwo mutwe akajya muri CNRD mu 2016, akaba yarafashwe atakiba muri FDLR, ko bityo, adakwiye kuryozwa icyaha cyo kuba mu ishyirahamwe ry'iterabwoba kuko yafashwe yaramaze kurivamo. MUNYANEZA Anastase we agaragaza ko atemera icyaha cyo kuba mu ishyirahamwe ry'iterabwoba kuko n'ubwo yabaye muri FDRL atari aziko yashyizwe ku rutonde rw'imitwe y'iterabwoba kandi ko yayigiyemo kubera amaburakindi akora akazi k'uburwanyi, ariko ko atari umunyamuryango w'iryo shyirahamwe cyangwa ngo abe hari icyemezo icyaricyo cyose yafataga. Ibi bigaragaza ko NSANZUBUKIRE Félicien na MUNYANEZA Anastase n'ubwo bemera ko babaye muri FDRL-FOCA, bahakana ko bari baziko bari mu ishyirahamwe ry'iterabwoba. Bityo, bakaba bagaragaza ko badashaka kwemera uburemere n'ingaruka z'ibyo bakurikiranweho, ko muri macye ntacyo bicuza.

[157] Hashingiwe ku byasobanuwe mu gace kabanziriza aka, Urukiko rw'Ubujurire rurasanga ukwemera kwa NSANZUBUKIRE Félicien na MUNYANEZA Anastase kutari kujuje ibiteganywa n'amategeko[29] ku buryo kwari kuba imwe mu mpamvu ituma bagabanyirizwa ibihano. Bityo, iyi ngingo y'ubujurire bw'Ubushinjacyaha ikaba ifite ishingiro.

- **Ku bireba NSENGIMANA Herman, KWITONDA André, NDAGIJIMANA Jean Chrétien, NSHIMIYIMANA Emmanuel na HAKIZIMANA Théogène**

[158] Urukiko Rukuru, urugereko rwihariye ruburanisha ibyaha mpuzamahanga n'ibyaha byambuka imbibi, mu gika cya 684 cy'urubanza rujuririrwa, rwasobanuye ko rurebye imikorere y'icyaha gihama HAKIZIMANA Théogène, rukanareba ko hari ibyo yemeye aburana urubanza mu mizi, abazwa mu iperereza cyangwa aburana ibirebana n'ifungwa n'ifungurwa ry'agateganyo ndetse akaba ari ubwa mbere akurikiranweho ibyaha mu nkiko, akwiriye kugabanyirizwa igihano. Mu gika cya 685 cy'urubanza rujuririrwa, Urukiko rwa mbere rwasobanuye ko kuba NSENGIMANA Herman na KWITONDA André baremeye icyaha cyo kuba mu mutwe w'iterabwoba bahamijwe, bagomba kugabanyirizwa igihano.

[159] Mu gika 687 k'urubanza rujuririrwa, urwo Rukiko rwasobanuye ko kuba NSHIMIYIMANA Emmanuel na NDAGIJIMANA Jean Chrétien baremeye ko babaye mu mitwe y'iterabwoba bagomba kugabanyirizwa igihano.

[160] Mu gika cya 199 cy'urubanza rujuririrwa, Urukiko rubanza rwagaragaje ko NSENGIMANA Herman, nk'uko yari yabivuze mu Bugenzacyaha, mu Bushinjacyaha n'igihe yari mu Rukiko rwamuburanishije ibyerekeranye n'ifungwa n'ifungurwa ry'agateganyo, yaraburanye urubanza mu mizi

[29] Ingingo ya 59 y'itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange

yemera ko yabaye mu mutwe w'ingabo wa FLN, abikanguriwe na NSABIMANA Callixte alias Sankara, ariko atari azi ko ari umutwe w'ingabo utemeye cyangwa uw'iterabwoba, kuko intego bari bafite ari iyo kurwana bakazakorana imishyikirano na Leta y'u Rwanda. Rwagaragaje kandi ko NSENGIMANA Herman yasobanuye ko adahamwa n'icyaha cyo kuba mu mutwe w'iterabwoba wa MRCD-FLN kubera ko atari umunyamuryango wa MRCD cyangwa umwe mu bayishinze, ko Ubushinjacyaha bukimurega kubera gusa ko ari muri FLN, umutwe wa gisirikare, utandukanye na MRCD umutwe wa politiki.

[161] Mu gika cya 437 cy'urubanza rujuririrwa, Urukiko rubanza rwasanze NSHIMIYIMANA Emmanuel yaremeye ko yari muri FDLR-FOCA, akavuga ko yayigiyemo ku ngufu ayinjijwemo n'abasirikare bayo bamukuye ku ishuri, afite imyaka cumi n'irindwi (17), ko yanabaye mu mutwe w'ingabo wa FLN, ko ari nabyo yasobanuye abazwa mu iperereza no mu Rukiko aburana ibirebana n'ifungwa n'ifungurwa ry'agateganyo; ariko atabaye muri MRCD-FLN kuko yari itandukanye na CNRD. Naho mu gace ka 438 k'urwo rubanza, Urukiko rubanza rwasanze KWITONDA André, aburana mu mizi, yaremeye ko yanabaye muri FDLR-FOCA, anaba muri CNRD no muri FLN, ko ayijyamo atari azi ko ari imitwe y'iterabwoba, akaba ari nabyo yari yavuze abazwa mu Bugenzacyaha no mu Bushinjacyaha, ndetse n'igihe yaburanaga ibijyanye n'ifungwa n'ifungurwa ry'agateganyo.

[162] Mu gika cya 440 cy'urubanza rujuririrwa, Urukiko rubanza rwasobanuye ko nk'uko yari yabivuze mu Bugenzacyaha, mu Bushinjacyaha no mu gihe yaburanaga ibijyanye n'infugwa n'ifungurwa ry'agateganyo, HAKIZIMANA Théogène, aburana urubanza mu mizi, yemeye ko yabaye muri FDLR-FOCA, anaba muri CNRD-Ubwiyunge, ariko atamenye ko ari imitwe y'iterabwoba; ko yakomeje kuyibamo kubera igitutu no gutinya ibihano bya kinyamaswa, birimo no kwica byahabwaga abashakaga kuvamo n'inyigisho zo kubangisha Leta y'u Rwanda, ariko atigeze aba muri MRCD-FLN.

[163] Nk'uko biragaraga mu gika cya 449 cy'urubanza rujuririrwa, Urukiko rubanza rwasobanuye ko, NDAGIJIMANA Jean Chrétien, nk'uko yari yabivuze mu Bugenzacyaha, mu Bushinjacyaha n'igihe yaburanaga ibijyanye n'ifungwa n'ifungurwa ry'agateganyo, yaraburanye urubanza mu mizi yemera ko yabaye mu mutwe w'ingabo wa FLN, ko atayigiyemo ku bushake bwe, ko yakomeje kuyibamo kubera gutinya ibihano no kubera inyigisho bahabwaga, ko ataryozwa ibyaha yakoreshejwe ku ngufu n'agahato.

[164] Hashingiwe ku byagaragajwe haruguru, Urukiko rw'Ubujurire rurasanga n'ubwo NSENGIMANA Herman yaburanye, mu Rukiko rubanza, yemera ko yari mu mutwe wa FLN, ariko atemeraga ko uwo mutwe ari umutwe w'iterabwabo kuko yavuze ko ari umutwe wa gisirikare, utandukanye na MRCD umutwe wa politiki, kandi ko nta kimenyetso Ubushinjacyaha bwagaragaje cyemeza ko ari umunyamuryango cyangwa umwe mu bantu bashinze umutwe wa MRCD-FLN. Bityo, Urukiko rubanza ntirwagombaga kumugabanyiriza igihano rushingiye ku kuba yaremeye icyaha yahamijwe cyo kuba mu mutwe w'iterabwoba kuko atacyemeye mu buryo budashidikanywaho, cyane cyane ko imvugo ze zigaragaza ko atumva uburemere n'ingaruka z'ibikorwa akurikiranweho; ibyo bikaba byerekana ko atakicuza.

[165] Ku bireba KWITONDA André, Urukiko rw'Ubujurire rurasanga n'ubwo yaburanye yemera ko yabaye mu mitwe ya FDRL-FOCA na MRCD-FLN, ariko avuga ko atari azi ko iyo mitwe ari iy'iterabwoba, kandi ko yayigumyemo kubera agahato n'iterabwoba. Ntibyabujije Urukiko rubanza kumuhamya icyaha cyo kuba mu mitwe y'iterabwoba. Mu gihe rwari rwemeje ko icyaha kimuhama, ntirwashoboraga kwemera kumugabanyiriza igihano rushingiye ku kwemera icyaha kandi nyamara mu miburanire ye agaragaza ko atigeze yumva ko ibyo arimo ari amakosa ngo abyicuze kandi abisabire

imbabazi. Kubera izo mpamvu rero, Ubujurire bw'Ubushinjacyaha kuri iyi ngingo bukaba bufite ishingiro.

[166] Ku bireba NSHIMIYIMANA Emmanuel na NDAGIJIMANA Jean Chrétien, Urukiko rw'Ubujurire rurasanga kimwe n'abandi bavuzwe haruguru NSHIMIYIMANA Emmanuel na NDAGIJIMANA Jean Chrétien, baburanye bemera ko babaye muri FDLR-FOCA na FLN, ariko bagahakana ko babayemo ku bushake kandi ko bari bazi ko ari imitwe y'iterabwoba kuko bavuga ko FLN itandukanye na MRCD. Uru Rukiko rukaba rusanga ibyo ari urwitwazo rutesha agaciro ireme ry'ukwemera gutuma bashobora kugabanyirizwa ibihano. Bityo, impamvu y'ubujurire bw'Ubushinjacyaha kuri iyi ngingo ikaba ifite ishingiro.

[167] Ku bireba HAKIZIMANA Théogène, Urukiko rw'Ubujurire rusanga n'ubwo yaburanye yemera ko yabaye muri FLN, ariko ko yinjiye muri iyo mitwe, akomeza kuyibamo kubera igitutu no gitinya ibihano, ko atari azi ko ari iy'iterabwoba, ko abayobozi babo batigeze bababwira ko iyo mitwe ari iy'iterabwoba, ndeste ko nta bikorwa by'iterabwoba yigeze akora ku giti cye. Uru Rukiko rukaba rusanga kuvuga ko atari aziko FLN ari umutwe w'iterabwoba, bigaragaza ko atemera ko ibyo yarimo ari amakosa bikaba binumvikanisha ko atumva uburemere n'ingaruka zabyo, bikaba ahubwo ari urwitwazo rugabanya ireme ry'ukwemera kwe. Bityo, ukwemera kwe kukaba kutaragombaga gushingirwaho mu byatumye agabanyirizwa ibihano.

- **Ku bireba MUKANDUTIYE Angelina**

[168] Mu gika cya 685 cy'urubanza rujuririrwa, Urukiko Rukuru, urugereko rwihariye ruburanisha ibyaha mpuzamahanga n'ibyaha byambuka imbibi, rwasobanuye ko harebwe ko MUKANDUTIYE Angelina nawe yemeye icyaha, agafasha inzego z'ubutabera, akaba ari ubwa mbere akurikiranwe mu nkiko, agomba kugabanyirizwa igihano.

[169] Nk'uko bigaragara mu gika cya 455 cy'urubanza rujuririrwa, nyuma yo gusuzuma imyiregure ya MUKANDUTIYE Angelina, Urukiko rubanza rwanzuye ko aburana urubanza mu mizi, yemeye ko yabaye muri MRCD-FLN ari komiseri ushinzwe umuryango n'iterambere ry'umwari n'umutegarugori n'uko yashishikarizaga abakobwa kujya mu gisirikare, ariko atari azi ko ari umutwe w'iterabwoba, ko ibyo yanabyemeye abazwa haba mu Bugenzacyaha, mu Bushinjacyaha, no mu Rukiko aburana ibijyanye n'ifungwa n'ifungurwa ry'agateganyo.

[170] Nk'uko bigaragara mu gika cya 424 cy'urubanza rujuririrwa, mu iburanisha mu Rukiko rubanza, MUKANDUTIYE Angelina yavuze ko ubukangurambaga yabukoze bakiri muri CNRD, batari biyunga n'andi mashyaka, ko yabikoraga kubera ishyaka yari afite ashaka kwerekana ko n'abakobwa bashoboye.

[171] Urukiko rw'Ubujurire rurasanga MUKANDUTIYE Angelina yarahamijwe icyaha cyo kuba mu mutwe w'iterabwoba, kandi nk'uko bigaragara mu gika cya 424 cy'urubanza rujuririrwa, yaburanye mu Rukiko rubanza avuga ko yinjiye mu mutwe wa FDLR, aza no kwinjira mu mutwe wa CNRD mu mwaka wa 2016, ufite umutwe w'ingabo wa FLN, anagirwa Komiseri ushinzwe umuryango n'iterambere ry'umwari n'umutegarugori. Mu gika cya 426 cy'urwo rubanza, MUKANDUTIYE Angelina yasoje imyiregure ye, avuga ko yemera ko yabaye muri MRCD-FLN, ariko ko atari azi ko ari umutwe w'iterabwoba.

[172] Urukiko rw'Ubujurire rurasanga kandi nk'uko bigaragara ku rupapuro rwa gatandatu (6) rw'inyandiko-mvugo y'iburanisha yo ku wa 22/7/2021 mu Rukiko rubanza, MUKANDUTIYE Anglina

yaremeye ko yashishikarije abakobwa kujya mu ngabo za MRCD-FLN, kandi hari abakobwa babiri babajijwe barabisobanura.

[173] Hashingiwe ku byagaragajwe haruguru, Urukiko rw'Ubujurire rurasanga nk'uko byasobanuwe ku bandi, kuvuga ko yabaye muri MRCD-FLN atazi ko ari umutwe w'iterabwoba, bigaragaza ko atemera ko ibyo yarimo ari amakosa, ahubwo bikaba ari urwitwazo rwo guhunga icyaha akurikiranweho. Bityo, Uru Rukiko rukaba rusanga impamvu y'ubujurire bw'Ubushinjacyaha ku bimureba kuri iyi ngingo bifite ishingiro.

b. Kumenya niba Urukiko rubanza rwarakoze ikosa mu kugabanyiriza igihano bamwe mu baregwa rushingiye ku kuba ari ubwa mbere bakoze icyaha

[174] Iyi ngingo y'ubujurire bw'Ubushinjacyaha ireba abaregwa barimo RUSESABAGINA Paul, NIZEYIMANA Marc, NSANZUBUKIRE Félicien, MUNYANEZA Anastase na MUKANDUTIYE Angelina.

- **Ku bireba RUSESABAGINA Paul**

[175] Ku bijyanye no kuba RUSESABAGINA Paul yaragabanyirijwe ibihano hashingiwe ku kuba ari ubwa mbere akoze icyaha, Ubushinjacyaha buvuga ko busanga bitamubera ubwabyo impamvu nyoroshyacyaha byonyine, dore ko mu kugabanya ibihano hashingiwe kuri iyi mpamvu, Urukiko rubanza rwirengagije ibiteganywa n'ingingo ya 49[30] y'Itegeko riteganya ibyaha n'ibihano muri rusange, runirengagiza ndetse uburemere bw'ibyaha yakoze kandi byagize ingaruka ku buzima bw'abantu harimo abapfuye, abakomeretse n'abangirijwe imitungo yabo. Bukomeza buvuga ko kutagabanya ibihano kubera uburemere bw'icyaha ari nako byemejwe mu rubanza n˚ RPA 0298/10/CS[31] rwaciwe n'Urukiko rw'Ikirenga ku wa 24/2/2012, haburana MUSHAYIDI Déogratias n'Ubushinjacyaha, mu gika cyarwo cya 40. Ubushinjacyaha bukaba busaba ko RUSESABAGINA Paul nawe yahabwa igihano cy'igifungo cya burundu.

[176] RUSESABAGINA Paul ntacyo yavuze kuri iyi ngingo haba mu myanzuro cyangwa imbere y'Urukiko mu gihe cy'iburanisha kuko atigeze aryitabira.

- **Ku bireba NIZEYIMANA Marc**

[177] Ku kijyanye no kuba NIZEYIMANA Marc ari ubwa mbere akoze icyaha, nabyo bikaba biri mu byo Urukiko rwashingiyeho rumugabanyiriza igihano, Ubushinjacyaha buvuga ko hirengagijwe uburemere bw'ibyaha yakoze kandi byagize ingaruka ku bantu batandukanye n'imitungo yabo; ko nk'uko bwabigaragaje kuri RUSESABAGINA Paul, kutagabanya ibihano kubera uburemere bw'icyaha kabone n'ubwo uregwa yaba ari bwo bwa mbere akoze icyaha ari ko byemejwe mu rubanza n˚ RPA 0298/10/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 24/2/2012, haburana Ubushinjacyaha na MUSHAYIDI Déogratias.

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[30] Ingingo ya 49 y'iryo tegeko 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.''*

[31] Urukiko rwasobanuye ko: *"Mu byo MUSHAYIDI Déogratias akurikiranweho, harimo icyaha cyo kugambanira igihugu cye ashaka guhirika ubutegetsi buriho, ibyo akabikora abanje kubiba urwikekwe n'umwiryane mu bagituye akoresheje inyandiko ze. Urukiko rukaba rusanga uwo waba uriwe wese, byonyine kugambanira igihugu cyawe ugitezamo intambara utitaye ku* mubare w'abantu bazayigwamo, ibizangirika, n'igihugu ubwacyo kigasenyuka, ari *icyaha ndengakamere, ku buryo Urukiko rusanga MUSHAYIDI Déogratias nta mbabazi akwiye guhabwa kubera uburemere bw'ibyaha aregwa."*

[178] NIZEYIMANA Marc ntacyo yavuze ku bijyanye n'iyi ngingo y'ubujurire bw'Ubushinjacyaha.

- **Ku bireba NSANZUBUKIRE Félicien na MUNYANEZA Anastase**

[179] Ku bijyanye no kuba Urukiko rubanza rwarabagabanyirije ibihano hashingiwe ku kuba ari ubwa mbere bakoze icyaha, no kuba icyaha bakoze nta ngaruka cyagize kuko batigeze bagaba ibitero by'iterabwoba mu Rwanda, Ubushinjacyaha buvuga ko NSANZUBUKIRE Félicien na MUNYANEZA Anastase nka bamwe mu ba ofisiye bakuru bari bagize FLDR-FOCA, iyi mitwe ikaba mu bihe bitandukanye yaragiye igaba ibitero mu Rwanda, kuba baramaze imyaka cumi n'ine (14) yose mu mutwe w'iterabwoba nk'uko biri mu gika cya 432 cy'urubanza rujuririrwa (babaye muri FDLR-FOCA kuva 2002 kugera 2016), ko bagize igihe kinini cyo kwigarura, ariko ntibagikoresha kugeza bafashwe, kuko batavuye muri iyo mitwe ku bushake bwabo. Buvuga kandi ko kuvuga ko kuba ari ubwa mbere bakurikiranwe atari byo, kuko NSANZUBUKIRE Félicien ari ku rutonde rwa ONU nk'uwafataga ibyemezo muri iyo mitwe y'iterabwoba. Bityo, kuba Urukiko rubanza rwarabishingiyeho rubagabanyiriza ibihano ni ikosa ryakozwe.

[180] NSANZUBUKIRE Félicien na MUNYANEZA Anastase, ntacyo basubije ku bijyanye n'iyi ngingo y'Ubushinjacyaha.

- **Ku bireba MUKANDUTIYE Angelina**

[181] Ku kijyanye no kuba Urukiko rubanza rwaragabanyirije MUKANDUTIYE Angelina ibihano hashingiwe ku kuba ari ubwa mbere akoze icyaha, Ubushinjacyaha buvuga ko busanga ibyo atari ukuri kuko asanzwe akatiwe igihano cy'igifungo cya burundu yahawe n'Inkiko Gacaca.

[182] MUKANDUTIYE Angelina avuga ko ibyo kuba yarakatiwe yabimenyeshejwe mu mwaka wa 2006, ko kandi kugeza ubu ntacyo arabivugaho. Bityo, ko n'Ubushinjacyaha budakwiye kubishingiraho buvuga ko adakwiye kugabanyirizwa ibihano ku bindi byaha akurikiranyweho.

[183] Me MUKARUZAGIRIZA Chantal, wunganira MUKANDUTIYE Angelina, avuga ko impamvu y'ubujurire bw'Ubushinjacyaha ijyanye no kuba MUKANDUTIYE Angelina ataragombaga kugabanyirizwa ibihano, hashingiwe ku kuba ari ubwa mbere akoze icyaha kuko yakatiwe n'Inkiko Gacaca nta shingiro ikwiye guhabwa, kuko iyo mpamvu atariyo yonyine Urukiko rubanza rwashingiyeho rumugabanyiriza ibihano, ko ahubwo hazarebwa impamvu zose Urukiko rwa mbere rwashingiyeho mu gika cya 685 cy'urubanza rujuririrwa.

UKO URUKIKO RUBIBONA

[184] Impaka kuri iyi ngingo zishingiye ku kumenya niba uburemere bw'icyaha uregwa akurikiranyweho bumubera inzitizi yo kuba yagabanyirizwa igihano mu gihe ari ubwa mbere akurikiranyweho icyaha.

[185] Hari impamvu nyoroshya cyaha ziteganywa n'itegeko, zikanatuma mu gihe zigaragaye, umucamanza agomba kugabanya ibihano. Izo ziteganyijwe mu ngingo ya 54 (impamvu y'ubutoya) n'iya 55 (impamvu y'ubusembure) z'Itegeko n° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange. Itegeko riteganya ariko ko Umucamanza ashobora kwemeza izindi mpamvu zituma uregwa agabanyirizwa ibihano zirimo iziteganyijwe mu ngingo ya 59, ariko nk'uko bigaragara sizo zonyine ategetswe gushingiraho kuko iyo ingingo izigaragaza nk'ingero z'ibishobora gushingirwaho hagabanywa

igihano. Bivuze ko ashobora gushingira no ku zindi mpamvu zirimo n'iyo kuba uregwa ari ubwa mbere akoze icyaha. Ibyo abyemererwa n'ingingo ya 49 n'iya 58 z'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange. Iya 49, igika cya mbere, 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''.* Naho iya 58, ikavuga ko "*Umucamanza ubwe [ari] we ugena niba impamvu nyoroshyacyaha zemezwa n'Umucamanza zahabwa agaciro. Kwemeza impamvu nyoroshyacyaha abisobanura mu cyemezo cy'Urukiko*".

[186] Izi ngingo zombi zishimangira ihame ry'ametegeko ryemerera Umucamanza, mu gutanga igihano, kureba imibereho y'uwakoze icyaha mbere yo kugikora, igihe yagikoraga na nyuma yo kugikora, akazihuza n'uko icyaha cyakozwe, uburemere bwacyo n'ingaruka cyateye muri sosiyete. Izo ngingo zombi zumvikanisha kandi ko Umucamanza afite uburenganzira bwo kugenera ukurikiranywe impamvu nyoroshyacyaha n'ubwo icyaha aregwa cyaba ari icyaha cy'ubugome *(crime)* cyangwa icyaha gikomeye *(délit),* kuko nta mwihariko iryo tegeko ryashyize ku cyaha runaka.

[187] Hashingiwe ku bivugwa mu gace kabanziriza aka, kwemeza impamvu nyoroshyacyaha ntibikuraho uburemere bw'icyaha, bivuze ko kugabanyiriza igihano uwahamwe n'icyaha bitagabanya na gato uburemere bw'icyaha yakoze[32]. Ibyo byumvikanisha ko uburemere bw'icyaha n'impamvu nkomezacyaha zigize icyaha, bitabangamira Umucamanza kwemeza mu nyungu z'uwahamwe n'icyaha impamvu nyoroshyacyaha zagaragaye, agamije kumugenera mu bushishozi bwe igihano gishingiye k'uburyo icyaha cyakozwemo n'imibereho ye bwite *(individualisation de la peine),* ari yo mpamvu Umushingamateko yateganyije mu Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru ko Umucamanza, mu kugena igihano, agomba kwita ku mpamvu nkomezacyaha no ku mpamvu nyoroshyacyaha[33].

[188] Mu bika bikurikiyeho, harasuzumwa niba hari amakosa yakozwe n'Urukiko mu kugabanyiriza ibihano abaregwa barimo RUSESABAGINA Paul, NIZEYIMANA Marc, NSANZUBUKIRE Félicien, MUNYANEZA Anastase na MUKANDUTIYE Angelina, hagendewe ku kuba aribwo bwa mbere bakoze icyaha.

- **Ku bireba RUSESABAGINA Paul na NIZEYIMANA Marc**

[189] Ku birebana na RUSESABAGINA Paul na NIZEYIMANA Marc, nk'uko byagaragajwe haruguru, mu mpamvu nyoroshyacyaha Urukiko rubanza rwemeje, harimo no kuba ari ubwa mbere bakurikiranyweho ibyaha[34].

[190] Hashingiwe ku ngingo no ku mahame y'amategeko yavuzwe haruguru, Urukiko rw'Ubujurire rurasanga ibivugwa n'Ubushinjacyaha ko hakurikijwe ibiteganywa n'ingingo ya 49 y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru, kuba ari ubwa mbere RUSESABAGINA Paul na NIZEYIMANA Marc bakoze icyaha bitababera ubwabyo impamvu nyoroshyacyaha, kuko ibyaha bakoze ari ibyaha biremereye, bitahabwa agaciro kuko ahubwo iyo ngingo iha Umucamanza uburenganzira bwo kuyigishingiraho agasuzuma uburemere bw'icyaha, ingaruka icyaha cyateye, impamvu zatumye agikora,

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[32] *"Un constat de circonstances atténuantes se réfère à l'évaluation de la sentence et n'ôte rien à la gravité de l'infraction. Il atténue la peine et non le crime. On n'observera toutefois que l'atténuation de la peine ne réduit en aucune façon le degré de gravité du crime, la question relève davantage du pardon que du moyen justificatif'',* affaire n˚ ICTR-97-23-S, Procureur contre Jean KAMBANDA, Jugement portant condamnation, P.27, n˚56.

[33] Ingingo ya 49, igika cya kabiri, y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange.

[34] Igika cya 675 n'icya 678 by'urubanza rujuririrwa.

uko uwagikoze yari asanzwe yitwara, imibereho ye bwite n'uburyo icyaha cyakozwemo, maze akanashingira ku ngingo ya 58 y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru, akagena igihano gikwiriye.

[191] Ku birebana n'ibivugwa n'Ubushinjacyaha ko mu rubanza n˚ RPA 0298/10/CS rwa MUSHAYIDI Déogratias, Urukiko rw'Ikirenga rwasobanuye ko kuba icyaha aregwa ari ndengakamere, nta mbabazi akwiye guhabwa kubera uburemere bw'ibyaha aregwa, bushaka kumvikanisha ko ari nako byagombaga kugenda ku birebana na RUSESABAGINA Paul na NIZEYIMANA Marc muri uru rubanza. Muri uru rubanza Urukiko rw'Ubujurire rurasanga ibyo Ubushinjacyaha buvuga ari ukumva nabi imikoreshereze y'ingingo ya 49 n'iya 58 z'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru, kuko izo ngingo ziha ubwisanzure Umucamanza bwo guhuza imiterere y'icyaha n'uburyo cyakozwe ndetse n'uwagikoze, hakurikijwe umwihariko wa buri rubanza. Ibyo binashimangirwa n'uko Urukiko rw'Ikirenga mu rubanza n˚ RPA 0255/12/CS rwa INGABIRE UMUHOZA Victoire na bagenzi be, rwaciwe ku wa 13/12/2013, INGABIRE UMUHOZA Victoire nawe waregwaga ubugambanyi nka MUSHAYIDI Déogratias, kandi akaba ari narwo rwaciwe nyuma[35], rwamugabanyirije igihano rushingiye ku kuba ari ubwa mbere akurikiranywe.

[192] Kubera izo mpamvu, Urukiko rw'Ubujurire rurasanga iyi ngingo y'ubujurire bw'Ubushinjacyaha nta shingiro ifite.

- **Ku bireba NSANZUBUKIRE Félicien na MUNYANEZA Anastase**

[193] Nk'uko bigaragara mu gika cya 684 cy'urubanza rujuririrwa, Urukiko rubanza rwemeje ko kuba ari ubwa mbere bakurikiranwe n'inkiko, ari imwe mu mpamvu nyoroshyacyaha yatuma NSANZUBUKIRE Félicien na MUNYANEZA Anastase bagabanyirizwa igihano, ku cyaha bakoze cyo kuba mu ishyirahamwe ry'iterabwoba.

[194] Hashingiwe ku ngingo no ku mahame y'amategeko yavuzwe haruguru, Urukiko rw'Ubujurire rurasanga ibivugwa n'Ubushinjacyaha ko kuba NSANZUBUKIRE Félicien na MUNYANEZA Anastase bari mu ba *officiers* bakuru ba FDLR-FOCA, kuba baramaze imyaka cumi n'ine (14) yose mu mutwe w'iterabwoba wa FDLR-FOCA, kandi harebwe uburemere bw'icyaha bahamijwe n'ingaruka z'ibitero by'iterabwoba FDLR-FOCA yagabye ku butaka bw'u Rwanda, batari kugabanyirizwa igihano, hashingiwe gusa ku kuba ari ubwa mbere bakoze icyaha cyangwa se nta ngaruka icyaha bakoze cyagize kubera ko ubwabo batigeze bagaba ibitero by'iterabwoba mu Rwanda, bitahabwa agaciro kuko nk'uko byasobanuwe, Uburemere bw'icyaha cyangwa impamvu nkomezacyaha bitabangamira Umucamanza kwemeza mu bushishozi bwe ko hari impamvu nyoroshyacyaha mu nyungu z'uwahamwe n'icyaha ku buryo agomba kugabanyirizwa igihano giteganywa n'itegeko, agahabwa igihano gikwiye gishingiye k'uburyo icyaha cyakozwemo no ku mibereho bwite y'uwahamwe n'icyaha.

[195] Kubera izo mpamvu zose, Urukiko rw'Ubujurire rurasanga iyi ngingo y'ubujurire bw'Ubushinjacyaha nta shingiro ifite.

- **Ku bireba MUKANDUTIYE Angelina**

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[35] Urwa Mushaidi Déogratias rwaciwe ku wa 24-02-2012 naho rwa Ingabire Umuhoza Victoire rucibwa ku wa 13-12-2013

[196] Nk'uko byagaragajwe haruguru, imwe mu mpamvu nyoroshyacyaha, yemejwe n'Urukiko rubanza, yatumye MUKANDUTIYE Angelina agabanyirizwa igihano giteganywa n'itegeko ku cyaha yahamijwe, ni ukuba ari ubwa mbere akurikiranywe mu nkiko[36].

[197] Isesengura ry'urubanza rujuririrwa rigaragaza ko ku rwego rwa mbere, Ubushinjacyaha butazamuye ikibazo kirebana no kuba MUKANDUTIYE Angelina yaba yarakatiwe n'Inkiko Gacaca, ko ahubwo inyandiko-mvugo y'iburanisha mu Rukiko rubanza yo ku wa 22/7/2021 igaragaza ko ari MUKANDUTIYE Angelina wamenyesheje Urukiko ko Inkiko Gacaca zamukatiye igihano cyo gufungwa burundu y'umwihariko.

[198] Urukiko rw'Ubujurire rurasanga nta kimenyetso Ubushinjacyaha bwagaragarije Urukiko rubanza gishimangira koko ibyavuzwe na MUKANDUTIYE Angelina, ndetse ko n'Urukiko rubanza nta kintu rwabivuzeho.

[199] Urukiko rw'Ubujurire rurasanga Ubushinjacyaha budakwiye kunenga urubanza rujuririrwa ku mpamvu y'uko Urukiko rubanza rwemeje ko ari ubwa mbere MUKANDUTIYE Angelina akurikiranyweho icyaha, mu gihe butazamuye icyo kibazo, ndetse butatanze ikimenyetso gikwiye kibigaragaza nyuma y'uko MUKANDUTIYE Angelina yemeye mu Rukiko ko yakatiwe igihano n'Inkiko Gacaca.

[200] Urukiko rw'Ubujurire rurasanga ariko mu bujurire, Ubushinjacyaha bwaratanze ku wa 21/2/2022, inyandiko y'urubanza rw'ibyaha byo mu rwego rwa kabiri yakozwe n'Urwego rw'Igihugu rushinzwe Inkiko Gacaca igaragaza ko ku wa 23/11/2008, Urukiko Gacaca rw'Umurenge wa Rugenge, Akarere ka Nyarugenge rwakatiye MUKANDUTIYE Angelina igihano cy'igifungo cya burundu y'umwihariko.

[201] Hashingiwe ku byagaragajwe haruguru, Urukiko rw'Ubujurire rurasanga iyo Urukiko rubanza ruza kubona icyemezo cy'Urukiko Gacaca rw'Umurenge wa Rugenge, rutari kwemeza ko ari ubwa mbere MUKANDUTIYE Angelina akurikiranyweho icyaha, bityo uru Rukiko rukaba rugomba kubikosora. Bityo, impamvu yo kuba ari ubwa mbere akoze icyaha ikaba itagomba gushingirwaho agabanyirizwa igihano.

c. Kumenya niba Urukiko rubanza rwarakoze amakosa mu kugabanyiriza abaregwa igihano, rukajya munsi y'igihano gito giteganyijwe n'Itegeko

[202] Ubushinjacyaha bunenga Urukiko rubanza kuba rwaragabanyirije igihano abaregwa barimo RUSESABAGINA Paul, NSABIMANA Callixte alias Sankara, NIZEYIMANA Marc, NIKUZWE Siméon, NTABANGANYIMANA Joseph, NIYIRORA Marcel, IYAMUREMYE Emmanuel, NSENGIMANA Herman, KWITONDA André, NSHIMIYIMANA Emmanuel, NDAGIJIMANA Jean Chrétien, HAKIZIMANA Théogène na MUKANDUTIYE Angelina, rukajya munsi y'igihano gito giteganyijwe n'itegeko ku byaha baregwaga.

[203] Bukomeza buvuga ko mu kugabanyiriza abaregwa ibihano, Urukiko rubanza rwakoresheje nabi ingingo ya 60 y'Itegeko nº 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange, iteganya uburyo ibihano bigabanywa iyo hari impamvu nyoroshyacyaha, aho igihano cyo gufungwa burundu gishobora kugabanywa ariko ntikijye munsi y'imyaka makumyabiri n'itanu (25). Igihano

[36] Igika cya 685 cy'urubanza rujuririrwa.

cy'igifungo kimara igihe kizwi cyangwa ihazabu bikaba bishobora kugabanywa ariko ntibijye munsi y'igihano gito ntarengwa giteganyirijwe icyaha cyakozwe.

[204] Ubushinjacyaha buvuga kandi ko mu kugabanya ibihano, Urukiko rubanza rwirengagije na none ingingo ya 47 n'iya 48 z'Itegeko ryavuzwe haruguru, aho Umucamanza abujijwe guca urubanza yirengagije ibyo itegeko riteganya ndetse hakaba nta cyaha gishobora kugabanyirizwa igihano atari mu bihe no mu buryo buteganywa n'itegeko. Bityo, bukaba busanga kuba Urukiko rubanza rwaragabanyije igihano kikajya munsi y'igihano gito, rwirengagije icyo amategeko ateganya.

[205] Ubushinjacyaha bunenga kandi ko Urukiko rubanza, mu kugabanya ibihano, rwashingiye ku manza zaciwe n'Urukiko rw'lkirenga n'Urukiko rw'Ubujurire, kandi hakurikijwe ibiteganywa n'ltegeko Nshinga mu ngingo yayo ya 95 iteganya uburyo amategeko asumbana, busanga ibyemezo by'inkiko bidasumba itegeko. Bityo, ko kuba itegeko ryari rihari kandi ryumvikana, ko ari ryo ryagombaga gukoreshwa, keretse hari icyemezo cy'Urukiko rw'Ikirenga cyemeje ko iryo tegeko rinyuranyije n'Itegeko Nshinga, ko uretse n'ibyo ariko, uwo murongo utashingirwaho mu gihe unyuranyije n'itegeko. Ubushinjacyaha busanga kandi izo manza zifashishijwe n'Urukiko rubanza, nazo ubwazo zaravugishijwe ibyo zitavuze, kuko habayeho gusobanura nabi icyemezo cy'Urukiko rw'Ikirenga ku ikoreshwa ry'ingingo ya 60, itarigeze ikurwaho n'Urukiko rw'lkirenga.

[206] RUSESABAGINA Paul, ntacyo yasubije kuri iyi ngingo y'ubujurire haba mu myanzuro cyangwa mu gihe cy'iburanisha kuko atigeze aryitabira.

[207] NSABIMANA Callixte alias Sankara, NSENGIMANA Herman na Me RUGEYO Jean ubunganira, bavuga ko Urukiko rubanza rwasanze impamvu nyoroshyacyaha zituma bagabanyirizwa ibihano zuzuye, kandi rusanga kutajya munsi y'igihano gito byaba ari ukunyuranya n'ihame ry'ubutabera buboneye nk'uko riteganywa mu ngingo ya 29 y'Itegeko Nshinga rya Repubulika y'u Rwanda. By'umwihariko kuri NSABIMANA Callixte alias Sankara, Ubushinjacyaha mu gihe bwamusabiraga ibihano bwasabye ko agabanyirizwa kuko yaburanye yemera ibyaha akurikiranyweho, naho ku birebana na NSENGIMANA Herman, Urukiko rubanza, rushingiye ku mpamvu nyoroshyacyaha, rwasanze agomba guhanishwa igihano cy'igifungo cy'imyaka itanu (5), kubwe akaba asanga kuba rwarabagabanyirije ibihano, nta kosa rwakoze.

[208] Me MUREKATETE Henriette, wunganira NIZEYIMANA Marc, avuga ko kuba Urukiko rubanza rwaragiye munsi y'igihano gito giteganywa n'itegeko, ari mu rwego rwo gutanga ubutabera buboneye, nk'uko biteganywa mu ngingo ya 29 y'Itegeko Nshinga rya Repubulika y'u Rwanda; bityo ko asanga nta kosa rwakoze.

[209] Me TWAJAMAHORO Herman, wunganira NIKUZWE Siméon, avuga ko kuba Urukiko rubanza rwaramuhamije icyaha cyo kuba mu mutwe w'iterabwoba, rukamuhanisha igihano cy'igifungo cy'imyaka icumi (10), kiri munsi y'igiteganwa n'itegeko, nta kibazo kirimo. Avuga ko nk'uko byemejwe n'Urukiko rw'lkirenga mu manza rwaciye zerekeranye n'ubwigenge bw'Umucamanza mu guha agaciro impamvu nyoroshyacyaha no gutanga igihano, no kuba akamaro k'igihano katareberwa gusa k'uburemere bw'icyaha cyakozwe, ahubwo hakwiye no kwitabwa ku nyungu z'uregwa. Avuga ko rero abihuje n'ibiteganywa n'ingingo ya 151 y'Itegeko Nshinga rya Repubulika y'u Rwanda, iteganya ubwigenge n'ubwisanzure bw'Umucamanza mu gufata ibyemezo, asanga kuba Urukiko rubanza rwaragabanyirije NIKUZWE Siméon ibihano rukajya munsi y'igihano gito cyateganyijwe, nta kosa rwakoze.

[210] Me NGAMIJE KIRABO Guido, wunganira NTABANGANYIMANA Joseph, avuga ko mu rwego rwo gutanga ubutabera buboneye, Umucamanza mu guca urubanza adashingira ku mategeko gusa, ko n'ibyemezo by'inkiko ari ngombwa ko bishingirwaho, ari nayo mpamvu umurongo watanzwe n'Urukiko rw'Ikirenga mu rubanza n˚ RS/INCOST/SPEC/00003/2019/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 4/12/2019, haburana KABASINGA Florida na Leta y'u Rwanda, urubanza n˚ RPAA 00032/2019/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 28/2/2020, haburana Ubushinjacyaha na NZAFASHWANIMANA Jean de Dieu, n'urubanza n˚ RPA 00031/2021/CA rwaciwe ku wa 28/10/2021, zerekeranye n'uburyo kubuza Umucamanza kugabanya igihano ari ukubangamira ihame ry'ubutabera buboneye, ku bwe akaba asanga kuba Urukiko rubanza rwaragabanyirije abo yunganira igihano, nta kosa rwakoze.

[211] Me URAMIJE James, wunganira IYAMUREMYE Emmanuel, NIYIRORA Marcel na NSHIMIYIMANA Emmanuel, avuga ko ingingo ya 60 y'Itegeko n˚ 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange itagomba kubuza Umucamanza gutanga ubutabera buboneye mu bwisanzure bwe, mu gihe agaragaza impamvu yashingiyeho atanga ibihano. Ku bwe rero asanga kuba Urukiko rubanza rwaragabanyirije abo yunganira ibihano, bifite ishingiro.

[212] Me MUGABO Sharif Yussuf, wunganira KWITONDA André, NDAGIJIMANA Jean Chrétien na HAKIZIMANA Théogène, avuga ko ku ruhande rumwe ingingo ya 60 y'Itegeko nº 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange igaragara nk'aho nta kibazo iteje, ari nayo mpamvu Urukiko rw'Ikirenga mu gihe rwacaga urubanza nº RS/INCONST/SPEC/00003/2019/SC rutihutiye kuyivanaho, ariko ko ku rundi ruhande iyo ngingo iteza ikibazo mu gihe Umucamanza asanze ari ngombwa kugabanya igihano kugera munsi y'icyateganyijwe n'itegeko. Avuga ko ibyo ubigereranije n'ibiteganywa n'ingingo ya 151, agace kayo ka 5, y'Itegeko Nshinga rya Repubulika y'u Rwanda, iteganya ubwigenge bw'Umucamanza, iyo ngingo imubuza ubwisanzure, kandi agomba gutanga ubutabera buboneye nk'uko biteganywa mu ngingo ya 29 y'Itegeko Nshinga.

[213] Akomeza avuga ko ibivugwa mu gace kabanziriza aka, byatumye muri uru rubanza, Urukiko rubanza rwifashisha ingingo ya 49 y'Itegeko nº 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange, iteganya ibishingirwaho mu gutanga ibihano, n'ingingo ya 9 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 iyo nta tegeko rihari rijyanye n'ikiburanwa, Umucamanza ashobora gushingira ku byemezo by'inkiko, rukaba rwarabikoze mu rwego rwo gushaka igisubizo kuri icyo kibazo kiri mu ngingo ya 60 yavuzwe haruguru. Avuga ko Urukiko rwifashishije imanza nº RS/INCOST/SPEC/00003/2019/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 4/12/2019, haburana KABASINGA Florida na Leta y'u Rwanda n' urubanza nº RPAA 00032/2019/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 28/2/2020, haburana Ubushinjacyaha na NZAFASHWANIMANA Jean de Dieu, mu rwego rwo kugaragaza ko ubwisanzure bw'Umucanza butazitirwa no gutanga igihano gito giteganywa n'itegeko, ko ahubwo ubwo bwisanzure bukwiye gutanga uburenganzira bwo kujya munsi y'igihano gito giteganyijwe. Avuga ko ndetse Urukiko rw'Ubujurire narwo rwahuye n'icyo kibazo mu guca urubanza nº RPAA 00025/2019/CA mu gika cya 12[37] rukifashisha iyo mirongo yavuzwe haruguru mu gushaka igisubizo. Kubwe rero akaba asanga no muri uru rubanza, kuba abo yunganira baragabanyirijwe ibihano kugera no munsi y'igihano gito cyateganyijwe n'itegeko, nta kosa Urukiko rwakoze.

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[37] "Umuntu wese uri cyangwa wemera kuba mu ishyirahamwe rikora iterabwoba, ahanishwa igifungo kuva ku myaka cumi Nitanu (15) kugeza ku myaka makumyabiri (20)".

[214] Me MUKARUZAGIRIZA Chantal, wunganira MUKANDUTIYE Angelina, avuga ko kuba Urukiko rubanza rwaramugabanyirije igihano kugeza munsi y'igihano gito giteganywa n'itegeko, nta kosa rwakoze, kuko igihano ntayegayezwa gisanzwe kinyuranye n'ihame ry'ubutabera buboneye, ndetse kibangamiye ubwigenge bw'Umucamanza, ko kandi kuba Urukiko rubanza rwaragendeye ku murongo watazwe n'Urukiko rw'Ikirenga mu rubanza nº RS/INCONST/SPEC/00003/2019/SC mu rwego rwo kugaragaza ko kutagabanya igihano kugeza munsi y'igito cyateganyijwe n'itegeko, ari ukubangamira ubwisanzure bw'Umucamanza, nabwo nta kosa rwakoze kuko Urukiko rwo hasi rutanyuranya n'umurongo watanzwe n'Urukiko ruri hejuru. Avuga ko ubwisanzure bw'Umucamanza bwo gutanga igihano kikajya munsi y'igihano gito giteganywa n'itegeko ari nako byemejwe mu rubanza n˚ RPAA 00031/2021/CA rwaciwe ku wa 28/10/2021, haburana Ubushinjacyaha na BAHATI Françoise, mu gika cya 43[38].

UKO URUKIKO RUBIBONA

[215] Impaka kuri iki kibazo zishingiye ku kumenya niba hari ikosa Urukiko rubanza rwakoze mu kugendera mu murongo watanzwe n'Urukiko rw'Ubujurire rukagabanya igihano kugeza munsi y'igihano gito giteganywa n'itegeko mu gihe hari itegeko ribibuza.

[216] Mu mahame agenga imicire y'imanza ishingiye ku kubahiriza ibyemezo by'inkiko mu manza zaciwe ku bibazo bisa *(stare decis)*, inshingano z'Umucamanza ni uguhuza itegeko n'ibibazo bisuzumwa, akabifataho umurongo. Iyo uwo murongo ufashwe ugasobanura itegeko, ushobora gutanga igisobanuro kigari cyangwa ukakigira gito ku cyari gisanzwe mu itegeko, ku bijyanye n'ikibazo gisuzumwa n'ibindi bisa nacyo byose. Nk'uko byasobanuwe mu gika 54 cy'uru rubanza, iyo hari utishimiye umurongo runaka watanzwe n'Urukiko urwari rwo rwose hakurikijwe aya mahame, aho gushakisha uburyo Urukiko rutawugenderaho agomba ahubwo kuwuregera mu Rukiko rw'Ikirenga kugirango uvanweho nk'uko biteganywa n'ingingo za 65 na 73 z'Itegeko rigena ububasha bw'inkiko.

[217] Mu rubanza rujuririrwa mu bika bitandukanye, Urukiko rubanza rwashingiye ku rubanza n˚ RPAA 00032/2019/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 28/2/2020, maze rugabanyiriza ibihano RUSESABAGINA Paul, NSABIMANA Callixte alias Sankara, NIZEYIMANA Marc, NIKUZWE Siméon, NTABANGANYIMANA Joseph, NIYIRORA Marcel, IYAMUREMYE Emmanuel, NSENGIMANA Herman, KWITONDA André, NSHIMIYIMANA Emmanuel, NDAGIJIMANA Jean Chrétien, HAKIZIMANA Théogène na MUKANDUTIYE Angelina, rujya munsi y'ibihano bito biteganywa n'itegeko.

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[38] Muri icyo gika urukiko rwagize ruti ''Urukiko rw'Ubujurire rurasanga ibiteganywa n'ingingo ya 60, agace ka mbere (1), y'Itegeko n° 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru, bibuza Umucamanza kugabanya igihano cyo gufungwa burundu munsi y'igihano cy'igifungo cy'imyaka makumabyiri n'itanu (25), mu gihe hari impamvu nyoroshyacyaha, bidakwiye gukoreshwa kuko binyuranye n'amahame y'ubutabera buboneye, ubwisanzure n'ubwigenge bw'Umucamanza''.

[218] Mu urwo rubanza, Urukiko rubanza rwagabanyije ibihano kugeza munsi y'igihano gito giteganywa n'itegeko rwifashishije urubanza rwaciwe n'Urukiko rw'Ubujurire[39] narwo rwifashishije isesengura rwakoze ku rubanza n° RS/INCONST/SPEC 00003/2019/SC rwaciwe ku wa 4/12/2019[40].

[219] Hakurikijwe ihame ryasobanuwe mu gika cya 216 cy'uru rubanza, uru Rukiko rurasanga urubanza rwa NZAFASHWANIMANA Jean de Dieu rwaraguye imbago z'ingingo ya 60 y'Itegeko n°68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange[41]; bityo, rufungurira inzira Urukiko rw'Ubujurire mu manza ruca ndetse ruzifungurira n'inkiko zo hasi, ku buryo nazo zishingiye ku miterere y'icyaha, uburyo cyakozwemo, uburemere bwacyo n'imibereho y'uwagikoze zishobora kugabanya igihano zikajya munsi y'igihano gito giteganywa n'itegeko. Naho, ibyo Ubushinjacyaha buvuga ko Urukiko Rukuru rwirengagije itegeko ribuza kugabanya igihano kugera munsi y'igihano gito giteganywa n'itegeko nk'uko biteganywa n'ingingo ya 60 y'Itegeko ryavuzwe, bikaba nta shingiro bifite kuko mu gihe uwo murongo uriho nta cyari kubuza Urukiko rubanza kuwifashisha.

[220] Kubera izo mpamvu, uru Rukiko rurasanga, nta makosa Urukiko rubanza rwakoze mu kugabanyiriza ibihano RUSESABAGINA Paul, NSABIMANA Callixte alias Sankara, NIZEYIMANA Marc, NIKUZWE Siméon, NTABANGANYIMANA Joseph, NIYIRORA Marcel, IYAMUREMYE Emmanuel, NSENGIMANA Herman, KWITONDA André, NSHIMIYIMANA Emmanuel, NDAGIJIMANA Jean Chrétien, HAKIZIMANA Théogène na MUKANDUTIYE Angelina, rukajya munsi y'ibihano bito biteganywa n'itegeko. Bityo, ubujurire bw'Ubushinjacyaha kuri iyi ngingo bukaba nta shingiro bufite.

B. IMPAMVU Z'UBUJURIRE BW'ABAREGWA

[39] Reba igika cya 19 cy'urubanza nº RPAA 00032/2019/CA rwaciwe n'Urukiko rw'Ubujurire, haburana Ubushinjacyaha na NZAFASHWANIMANA Jean de Dieu. Urukiko rw'Ubujurire rwagabanyirije igihano NZAFASHWANIMANA Jean de Dieu, waregwaga gusambanya umwana muri urwo rubanza, maze rumuha igihano kiri munsi y'igihano gito giteganywa n'itegeko. Mu gihe igihano gito yashoboraga guhanishwa cyari igifungo cy'imyaka makumyabiri n'itanu (25), nk'uko biteganywa n'ingingo ya 78, igika cya mbere, agace ka 2, y'Itegeko Ngenga n° 01/2012/OL ryo ku wa 02/05/2012 rishyiraho Igitabo cy'amategeko ahana ryakoreshwaga ubwo yakoraga icyaha, Urukiko rwamuhanishije igihano cy'igifungo cy'imyaka icumi (10).

[40] Muri urwo rubanza, Urukiko rw'Ikirenga rwasobanuye ko Umucamanza agomba kwita ku mpamvu nkomezacyaha no ku mpamvu nyoroshyacyaha zaba ari izirebana n'uregwa cyangwa izirebana n'icyaha, maze rukavuga ko Itegeko ryanga ko izo mpamvu zisuzumwa ngo Urukiko rwemeze ishingiro ryo kugabanya igihano rikwiye gufatwa nk'irinyuranye n'ingingo ya 29 y'Itegeko Nshinga ivuga ko buri muntu afite uburenganzira ku butabera buboneye, ndetse rikaba ribangamiye ubwigenge bw'Umucamanza kuko nta mahitamo rimuha, rikamwambura inshingano yo gutanga igihano kigendanye n'icyaha cyakozwe, ashingiye ku mikorere yacyo, uko cyakozwe, imyitwarire y'uwagikoze n'ingaruka zacyo k'uwagikorewe no ku muryango nyarwanda muri rusange, rwanzura ko nta wavuga ko Umucamanza yigenga mu gutanga igihano mu gihe agomba gutanga igihano ntayegayezwa kitajyanye n'uburemere bw'icyaha, uburyo cyakozwemo, n'igihe hari impamvu nyoroshyacyaha zikomeye zari gutuma uregwa agabanyirizwa igihano. Reba igika cya 17 cy'urubanza nº RPAA 00032/2019/CA rwaciwe n'Urukiko rw'Ubujurire haburana Ubushinjacyaha na NZAFASHWANIMANA Jean de Dieu. Urukiko rw'Ikirenga rwarasanze kutagabanya ibihano bito biteganyijwe n'Itegeko byagira ishingiro gusa iyo intera iri hagati y'igihano gito n'ikiri hejuri ari ndende, naho mu gihe iyo intera ari nto, ubwabyo bibuza Umucamanza guhuza igihano n'icyaha cyakozwe, inyungu z'uwahohotewe, iza rubanda n'iz'uregwa.

[41] Iyo ngingo iteganya ko: "Iyo hari impamvu zigabanya ububi bw'icyaha, ibihano bishobora kugabanywa ku buryo bukurikira: 1° haseguriwe ibiteganywa mu ngingo ya 107 igihano cyo gufungwa burundu gishobora kugabanywa ariko ntikijye munsi y'imyaka makumyabiri n'itanu (25); 2° **igihano cy'igifungo kimara igihe kizwi cyangwa ihazabu bishobora kugabanywa ariko ntibijye munsi y'igihano gito ntarengwa giteganyirijwe icyaha cyakozwe.**

[221] Bamwe mu baregwa batanze ubujurire mu bihe biteganywa n'amategeko abandi batanga ubujuririre bwuririye ku bw'Ubushinjacyaha. Muri iki igice, Urukiko rurabanza gusuzuma ibyerekeye iyakirwa ry'ubujurire bwuririye k'Ubushinjacyaha mu gice cya mbere hanyuma busuzume ibyerekeranye n'ubujurire bw'abaregwa bwatanzwe ku gihe.

- **Ibyerekeye iyakirwa ry'ubujurire bwuririye ku bundi mu manza nshinjabyaha**

[222] Ku bijyanye n'ubujurire bwuririye ku bundi bamwe mu baregwa batanze, Ubushinjacyaha bwazamuye inzitizi yo kutabwakira, buvuga ko mu myanzuro bashyikirije Urukiko, bavugaga ko ari iyo kwiregura ku bujurire bw'Ubushinjacyaha gusa. Bukomeza buvuga ko ingingo ya mbere (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 iryo tegeko ari ryo rikoreshwa mu miburanishirize y'izindi manza mu gihe nta yandi mategeko yihariye agenga iyo miburanishirize, ko ariko busanga Urukiko rukwiye kuzasuzuma niba ubujurire bwuririye ku bundi mu manza nshinjabyaha bwemewe, rurebe niba ubujurire bwa KWITONDA André, NDAGIJIMANA Jean Chrétien, HAKIZIMANA Théogène na NIKUZWE Siméon bwakwakirwa.

[223] Ubushinjacyaha busoza buvuga ko ubu buryo bwo gutanga ubujurire bwuririye ku bw'Ubushinjacyaha ari ugushaka kwihisha inyuma ya *procédure civile*, kandi nyamara ibyo bajuririra bakagombye kubikora bashingiye kuri *procédure pénale*, mu bihe no mu buryo yateganyije. Busanga abaregwa, bamaze kubona ko ibihe byo kujurira byabarenganye, aribwo bakoresheje ubwo buryo. Ubushinjacyaha buvuga ko nta mpamvu yo gushakira uburyo bwo kujuririra imanza nshinjabyaha mu manza mbonezamubano, kandi byarateganyijwe mu itegeko ribigenga.

[224] Me MUGABO Shariff Yussuf, wunganira KWITONDA André, HAKIZIMANA Théogène na NDAGIJIMANA Jean Chrétien, avuga ko ashingiye ku ngingo ya 264 y'Itegeko nº 027/2019 ryo ku wa 19/9/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, iteganya ko ku bindi bidateganyijwe muri iri tegeko bijyanye n'imiburanishirize, hakurikizwa Itegeko rigenga imiburanishirize y'imanza z'imbonezamubano, ko ubujurire bwabo bwuririye ku bw'Ubushinjacyaha bakagira ibyo basaba, bashingiye ku ngingo ya 152 y'iryo Tegeko.

[225] Me TWAJAMAHORO Herman, wunganira NIKUZWE Siméon, avuga ko ubujurire bwe bushingiye ku ngingo ya 264[42] y'Itegeko nº 027/2019 ryo ku wa 19/9/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ko n'ubwo ari mu bari banyuzwe n'ibihano bahawe ku rwego rwa mbere, ariko Ubushinjacyaha bukaba bwajuriye, ko nawe atakwitesha ayo mahirwe yo kujurira kandi abyemererwa n'amategeko.

UKO URUKIKO RUBIBONA

[226] Urukiko rw'Ubujurire rurasanga impaka kuri iki kibazo zishingiye ku kumenya niba ubujurire bwuririye ku bundi mu manza nshinjabyaha bushoboka, nk'uko byemewe mu manza mbonezamubano.

[227] Ingingo ya 181 y'Itegeko n˚ 027/2019 ryo ku wa 19/9/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha iteganya ko "Kujurira bikorwa mu gihe kitarenga iminsi mirongo itatu (30) uhereye ku

[42] ''Ku bindi bidateganyijwe muri iri tegeko bijyanye n'imiburanishirize, hakurikizwa itegeko rigenga imiburanishirize y'imanza z'imbonezamubano (…)''

itariki urubanza rwaciriweho ku muburanyi wari uhari cyangwa ahagarariwe igihe urubanza rwacibwaga. Icyo gihe gikurikizwa kandi ku muburanyi wamenyeshejwe mu buryo bwemewe n'amategeko, umunsi urubanza ruzacibwaho ntaze cyangwa ngo yohereze umuhagararira".

[228] Ingingo ya 181 ivugwa haruguru yumvikanisha ko ku birebana n'imanza nshinjabyaha, uwahamwe n'icyaha n'Ubushinjacyaha, mu gihe batishimiye urubanza rwaciwe ku rwego rwa mbere, bagomba byanze bikunze kurujurira bitarenze iminsi mirongo itatu, uherereye ku itariki urubanza rwaciriweho ku muburanyi wari uhari cyangwa ahagarariwe igihe urubanza rwacibwaga. Bivuze ko kujurira nyuma y'iminsi mirongo itatu cyangwa gutanga nyuma y'iminsi mirongo itatu ubujurire bwuririye ku bundi bwatanzwe ku gihe n'undi muburanyi, bituma ubwo bujurire butakirwa[43], kuko ubujurire bwose burebana n'ikurikiranacyaha *(action pénale)* bugomba kuba ubujurire bw'ibanze *(appel principal).*

[229] Naho ku byerekeye ibyo bamwe mu baburanyi bavuga ko, amahame asanzwe akoreshwa mu miburanishirize y'imanza mbonezamubano ariyo akurikizwa iyo ntacyo itegeko rigenga imiburanishirize y'imanza nshinjabyaha ryateganyije, uru Rukiko rurasanga, ku byerekeye ubujurire mu manza nshinjabyaha, Umushingamategeko yarashatse ko hakurikizwa gusa amategeko agenga imiburanishirize y'imanza nshinjabyaha; kuko aho yashatse ko bigenda ukundi nko ku birego by'indishyi muri izo manza, yabivuze mu buryo bweruye ko hakurikizwa amategeko agenga imiburanishirize y'imanza mbonezamubano[44]. Ibyo bivuze ko ku byerekeranye n'ubujurire bwuririye ku bundi ku birego nshinjabyaha atashatse kugira icyo abuvugaho, kuko yazirikanaga ko hari ihame risanzwe mu mategeko ko ubujurire mu manza nshinjabyaha bushobora gukorwa gusa nk'ikirego cy'ibanze nk'uko byasobanuwe haruguru.

[230] Hashingiwe kuri ibyo bisobanuro, uregwa mu bujurire, yemerewe gusa gusubiza mu mbibi z'icyo uwajuriye yajuririye. Ibindi ibirego yashyikiriza Urukiko hanze y'izo mbibi ntibyakirwa iyo bikozwe nyuma y'igihe cy'ubujurire giteganywa n'amategeko.

[231] NIKUZWE Siméon yatanze umwanzuro wo kwiregura ku bujurire bw'Ubushinjacyaha ku wa 28/11/2021. Muri uwo mwanzuro, nyuma yo gusubiza ku mpamvu z'ubujurire bw'Ubushinjacyaha, yatanze ubujurire bwuririye ku bw'Ubushinjacyaha ku birebana n'ibigize icyaha bituzuye ku bimureba n'impamvu zimukuraho uburyozwacyaha.

[232] KWITONDA André, HAKIZIMANA Théogène na NDAGIJIMANA Jean Chrétien bo batanze umwanzuro wo kwiregura ku bujurire bw'Ubushinjacyaha ku wa 29/11/2021. Muri uwo mwanzuro, nyuma yo gusubiza ku mpamvu z'ubujurire bw'Ubushinjacyaha, batanze ubujurire bwuririye ku bw'Ubushinjacyaha ku byerekeye ibihano bahawe ku cyaha bahamijwe n'Urukiko rubanza no ku mpamvu zibakuraho uburyozwacyaha, bakaba baranatanze ubujurire bwuririye ku bw'abaregera indishyi.

[233] Urukiko rw'Ubujurire rurasanga kuba urubanza rujuririrwa rwaraciwe ku wa 20/9/2021 no kuba NIKUZWE Siméon yaratanze ubujurire bwuririye ku bw'Ubushinjacyaha ku wa 28/11/2021,

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[43] ''*L'appel intéressant l'action publique ne peut être qu'un appel* ***principal****. L'appel portant sur l'action civile peut se faire en forme d'appel principal ou incident'',* Antoine Rubbens, L'instruction criminelle et la procédure pénale, Tome III, Larcier, Bruxelles, 1965, P. 265, n° 259.

[44] Reba ingingo ya 113 y'itegeko nº 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha "Ikiregо cy'indishyi gitanzwe mu rukiko ruburanisha imanza z'inshinjabyaha gitangwa kandi kikaburanishwa hakurikijwe amategeko agenga imiburanishirize y'imanza z'imbonezamubano ziburanishwa mu mizi."

KWITONDA André, HAKIZIMANA Théogène na NDAGIJIMANA Jean Chrétien bakaba nabo baratanze ubujurire bwuririye ku bw'Ubushinjacyaha ku wa 29/11/2021, nyuma y'iminsi mirongo itatu, uhereye ku itariki urubanza rujuririrwa rwaciriwe, ubujurire bwabo butakwakirwa kuko butari ubujurire bw'ibanze, kandi ubujurire bwuririye ku bundi butabaho mu manza nshinjabyaha ku birebana n'ikirego cy'ikurikiranacyaha.

a) Abajuririye kongera kugabanyirizwa ibihano

[234] NSABIMANA Callixte alias Sankara, NSENGIMANA Herman na MATAKAMBA Jean Berchmas, bari bagabanyirijwe igihano ku rwego rwa mbere, bajurira basaba kongera kugabanyirizwa igihano.

- **NSABIMANA Callixte alias Sankara**

[235] Mu myanzuro NSABIMANA Callixte alias Sankara yashyikirije Urukiko rw'Ubujurire, avuga ko kuba Urukiko rubanza rwaramukatiye igifungo cy'imyaka makumyabiri (20), byamuvukije amahirwe yo gusubira mu muryango nyarwanda, kuko azava muri gereza ari mu zabukuru ntacyo akikoreye. Asaba Urukiko kwita ku mibereho ye bwite yo kuba ari umurwayi w'igifu n'umuvuduko w'amaraso, kuba yaragizwe impfubyi na jenoside yakorewe Abatutsi mu mwaka wa 1994, agasigarana gusa umuvandimwe umwe nawe wamugaye kandi batagira naho bacumbika. Asaba ko hagashingirwa ku manza z'abari abayobozi ba FDLR barimo Dr. Ignace MURWANASHYAKA na MUSONI Straton bahawe ibihano bito, ndetse n'abasirikare ba FLN bajyanwe i Mutobo, n'abandi bakoze jenoside yakorewe Abatutsi bakaba barireze bemera ibyaha bahabwa ibihano bito birimo na TIG (*Travaux d'Intérêt Général*).

[236] Akomeza avuga ko asaba Urukiko kwita ku kuba yaritandukanyije ku mugaragaro n'ishyaka rye RRM, FLN ndetse na MRCD-FLN, akanashinja ku mugaragaro ibihugu byateraga inkunga FLN birimo Uburundi, Uganda n'uwahoze ari Perezida wa Zambiya Edgar LUNGU, abo bose bakaba barahindutse abanzi ku buryo bashobora kumugirira nabi. Bityo, akaba asanga nta yandi mahitamo afite uretse gukorera Leta y'u Rwanda kuko ariyo yamuha umutekano. Asaba rero Urukiko rw'Ubujurire kuzita kuri izo ngingo zose yarushyikirije, maze akagabanyirizwa igihano kugeza ku gifungo cy'imyaka itanu (5), ko kandi akomeza gusaba imbabazi ku byabaye.

[237] Ku birebana n'ibivugwa n'Ubushinjacyaha ku bijyanye n'umurongo watanzwe n'Urukiko rw'Ikirenga mu rubanza n° RPA 283/10/CS rwaciwe ku wa 19/12/2014, haburana Ubushinjacyaha na GAHONGAYIRE Jeanne ku bijyanye no kutongera kugabanyiriza ibihano k'uregwa wari wabihawe mu Rukiko rubanza, NSABIMANA Callixte alias Sankara avuga ko urwo rubanza rutandukanye n'urwe, kuko uwarurezwemo yahanishijwe igihano cy'igifungo cy'imyaka icumi (10) n'Urukiko Rukuru, mu gihe we yahanishijwe igifungo cy'imyaka makumyabiri (20).

[238] Me RUGEYO Jean, wunganira NSABIMANA Callixte alias Sankara, avuga ko icyo banenga urubanza rwaciwe n'Urukiko rubanza ari uko rutamugabanyirije igihano kugeza kucyo yifuza cy'igifungo cy'imyaka itanu (5), kandi yaraburanye yemera icyaha, agatanga amakuru menshi yafashije Ubushinjacyaha, ko rero rutari rukwiye gushingira gusa ku buremere bw'ibyaha yarezwe, ahubwo rwagombaga no kureba mibereho ye bwite. Asaba Urukiko rw'Ubujurire kuzita ku nyungu bwite z'uwo yunganira n'inyungu z'ubutabera muri rusange, rugashingira ku murongo watanzwe mu rubanza n° RS/INCONST/SPEC 00003/2019/SC rwaciwe n'Urukiko rw'Ikirenga, igika cya 45[45], n'urubanza n°

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[45] Muri icyo gika Urukiko rw'ikirenga rwavuze ko "Kuba Umushingamategeko yarahisemo ko mu gihe hari impamvu nyoroshyacyaha, ibihano bitangwa bishobora kugabanywa ariko ntibijye munsi y'igihano gito ntarengwa giteganyirijwe icyaha

RPAA 00031/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 28/10/2021, rukongera kumugabanyiriza igihano.

[239] Ubushinjacyaha buvuga ko impamvu y'ubujurire bwe nta shingiro ikwiye guhabwa, kuko uretse no kuba ibyo asaba byo kugabanyirizwa ibihano yarabihawe, ahubwo Urukiko Rukuru rwanakoze ibinyuranyije n'ingingo ya 60 y'Itegeko riteganya ibyaha n'ibihano muri rusange, igaragaza uburyo ibihano bitangwa, aho mu gika cya 665 kugeza ku cya 667 by'urubanza rujuririrwa, rwamugabanyirije kuva ku gihano cy'igifungo cya burundu, kugeza ku gifungo cy'imyaka makumyabiri (20), mu gihe igihano yari akwiye guhabwa kitagombaga kujya munsi y'igifungo cy'imyaka makumyabiri n'itanu (25) habaye hari impamvu nyoroshyacyaha, ukurikije iby'iyo ngingo iteganya. Buvuga ko imbere y'Urukiko rw'Ubujurire icyo NSABIMANA Callixte alias Sankara yagombye kugaragaza ari icyo anenga urubanza rujuririrwa, nk'uko ingingo ya 88 y'itegeko rivuzwe haruguru ibiteganya.

[240] Ku bijyanye n'impamvu nshya asabisha kongera kugabanyirizwa ibihano, nazo Ubushinjacyaha buvuga ko nta shingiro zifite, kuko kuba yaragizweho ingaruka na jenoside, ari we wakagombye kuba arwanya ibibi by'intambara. Naho ibyo kuba hari abasirikare ba FLN bakoze ibyaha batarakurikiranwa bajyanwe i Mutobo, atabishingiraho yisabira kugabanyirizwa, kuko atabasha guhuza uruhare rwabo n'ibikorwa bye bwite yakoze, ndetse ntakigaragaza ko nabo batazakurikiranwa. Naho ku kijyanye n'imanza za Dr. Ignace MURWANASHYAKA na MUSONI Straton baburanishijwe mu gihugu cy'Ubudage, bagahabwa ibihano bito ku bw'impamvu nyoroshyacyaha, buvuga ko muri icyo gihugu baburanishirijwemo bafite uburyo bwabo basesengura impamvu nyoroshyacyaha.

[241] Kubera izo mpamvu, Ubushinjacyaha busaba Urukiko rw'Ubujurire kuzashingira ku murongo wafashwe mu rubanza n° RPAA 66/08/SC, rwaciwe n'Urukiko rw'Ikirenga ku wa 6/2/2009, haburana Ubushinjacyaha na KABAHIZI Jean, n'urubanza bijyanye n'uwajuriye usaba kugabanyirizwa ibihano kandi yari yabikorewe, n'urubanza n° RPA 283/10/CS rwaciwe ku wa 19/12/2014, haburana Ubushinjacyaha na GAHONGAYIRE Jeanne, mu gace karwo ka cumi na kimwe (11), maze uru Rukiko ruzemeze ko impamvu y'ubujurire ya NSABIMANA Callixte alias Sankara, nta shingiro ifite.

- **NSENGIMANA Herman**

[242] NSENGIMANA Herman na Me RUGEYO Jean umwumunganira, bavuga ko ku cyaha NSENGIMANA Herman yahamijwe cyo kuba mu mutwe w'iterabwoba, basanga hari icyo Urukiko rubanza rwirengagije. Bavuga ko rutamugabanyirije ibihano ku buryo bukwiye, kandi yaraburanye yemera icyaha, bakaba basaba Urukiko rw'Ubujurire kongera kumugabanyiriza. Basaba ko yavanwa ku gihano cy'igifungo cy'imyaka itanu (5) yakatiwe, agahanishwa igihano cy'igifungo cy'imyaka ibiri (2), kuko rubifitiye ububasha. Basoza bavuga ko Ubushinjacyaha nta burenganzira bufite bwo gusaba Urukiko guhanika igihano.

[243] Ubushinjacyaha buvuga ko kuba NSENGIMANA Herman asaba kongera kugabanyirizwa, kuva ku gifungo cy'imyaka itanu (5) yakatiwe, kugera ku gifungo cy'imyaka ibiri (2), nta shingiro bikwiye guhabwa, kuko ibyo asaba yabihawe mu Rukiko rubanza, kandi rukaba nta nshingano rufite zo kugabanya

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cyakozwe, Urukiko rusanga byaba biri mu gaciro, mu gihe intera hagati y'igihano gito (minimum) n'igihano kinini (maximum) ibaye nini, hibandwa ku kugabanya igihano gito. Ibi nibyo byatuma ibiteganywa n'Ingingo ya 49, igika cya mbere y'itegeko nº 68/2018 ryo ku wa 30/08/2018 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, bishyirwa mu bikorwa mu buryo nyabwo. Gushingira ku mpamvu nyoroshyacyaha hagatangwa igihano gito ntarengwa giteganyirijwe icyaha (minimum) kandi kiri hejuru, ntacyo bimarira uregwa n'ubutabera muri rusange".

ibihano kugeza ku gihe uregwa yifuza. Buvuga ko hashingiwe ku biteganywa n'ingingo ya 18 y'Itegeko n° 46/2018 ryo ku wa 13/8/2018 ryerekeye kurwanya iterabwoba, ubundi yakabaye yarahanishijwe igihano kitari munsi y'imyaka cumi n'itanu (15) ariko kitarenze imyaka makumyabiri (20), ko ahubwo urebye ibyo amategeko ateganya[46], Urukiko Rukuru rwagiye hasi cyane y'igihano giteganyirijwe iki cyaha.

- **MATAKAMBA Jean Berchmas**

[244] MATAKAMABA Jean Berchmas avuga ko icyo anenga Urukiko Rukuru, ari uko rutahaye agaciro ukwemera icyaha kwe, rukamuhamya ibyaha byakorewe mu Karangiro kandi atari ahari, yari yarakoze impanuka ari mu bitaro, ndetse ababikoze babyiyemerera, ariko akaba yarahawe ibihano biri hejuru hagendewe kubyo yakoreye Rusizi, kandi yarafashije ubutabera kubona amakuru, akaba asaba Urukiko rw'Ubujurire ko rwazaha agaciro iyo myiregurire ye, rugasuzuma neza izo impamvu zamuteye gukora ibyaha, rukongera kumugabanyiriza ibihano.

[245] MATAKAMBA Jean Berchmas avuga ko ubusanzwe ari umuturage mwiza w'inyangamugayo, ko ariko yaje kugwa mu cyaha bidaturutse ku bushake, abitewe n'uko yigeze gutanga amakuru ku barwanyi batandukanye b'umutwe wa FDLR bituma bamwe bafatwa. Avuga ko mu mwaka wa 2017 yatanze amakuru y'uwitwa BIZIMANA Cassien alias Passy na Mongali, baje bamusaba akazi ko gucukura amabuye, nyamara ari amayeri bari bafite bagamije gukora ibikorwa bibi, abimenyesha Ubuyobozi bw'inzego z'ibanze, Mongali arafatwa, naho BIZIMNANA Cassien ahungira muri Congo. Avuga ko byo byamugizeho ingaruka, kuko abo mutwe wa FDLR baje kwica umuvandimwe we, mu rwego rwo kumwihimuraho, ko nawe ubwe, nyuma yaje guhurira na BIZIMANA Cassien alias Passy n'uwitwa BUGINGO Justin muri Congo i Bukavu, aho yakoraga ikinyobwa cyitwa Sadiki Soft Drink, bamutera ubwoba bamubwira ko natemera kwifatanya nabo bazamugirira nabi, yemera gukorana nabo; ko ariko bwari uburyo bwo kwigura.

[246] Me MUKARUZAGIRIZA Chantal, wunganira MATAKAMBA Jean Berchmas, avuga ko ashingiye ku ngingo ya 49 y'Itegeko nº 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange, iteganya ibyo Umucamanza ashingiraho mu gutanga ibihano, asanga Urukiko rubanza rutarahaye agaciro uko yari asanzwe yitwara mbere yo gukora icyaha, no kuba yaremeye icyaha kuva agifatwa. Avuga ko ahubwo rwahaye agaciro impamvu nkomezacyaha, aho rwavuze ko n'ubwo yemeye icyaha, ariko rushingiye ku bikorwa yakoze, yinjiza intwaro mu Rwanda, imikoranire ye n'imitwe y'iterabwoba n'ingaruka byagize ku baturage, rumuhana rushingiye ku cyaha gifite igihano kirusha ibindi gukomera. Avuga ko iyo ariyo mpamvu asaba Urukiko rw'Ubujurire kureba impamvu nyoroshyacyaha zikaringanizwa n'impamvu nkomeza cyaha, akongera kugabanyirizwa igihano ku buryo bukwiye.

[247] Ubushinjacyaha buvuga ko busanga ibisobanuro byose MATAKAMBA Jean Berchmas ashingiraho avuga ko Urukiko rwirengagije ibijyanye n'imyiregurire ye nta shingiro bifite, kuko yaburanye yemera icyaha cyo kugambana no gushishikariza abantu gukora iterabwoba, anasobanura ko we na NTIBIRAMIRA Innocent na BYUKUSENGE Jean-Claude bemeye umugambi mubisha bari bamaze gusobanurirwa na BUGINGO Justin na BIZIMANA Cassien alias Passy wo kuzagira uruhare mu bikorwa by'iterabwoba. Avuga ko n'ubwo yongeyeho ko nta mugambi yari afite wo gukora icyo cyaha, ko yaguye mu mutego wa BIZIMANA Cassien alias Passy na BUGINGO Justin, babimushoyemo, ariko Urukiko rubanza rwasobanuye ko MATAKAMBA Jean Berchmas afatanije n'abo bagambanye bagize ubushake mu bikorwa bakoze, rwemeza ko yagize uruhare mu bitero bitandukanye byagabwe mu Mirenge

[46] Reba ibiteganywa n'ingingo ya 60 y'Itegeko n° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange.

itandukanye, birimo n'igitero cyagabwe mu Karangiro kuko intwaro zirimo imbunda, amasasu na *grenades* byakoreshejwe muri ibyo bitero byaturukaga muri RDC byagera mu Rwanda bimwe bikabikwa kwa MATAKAMBA Jean Berchmas mbere y'uko bikoreshwa; Urukiko rubanza rukaba rwarashingiye kuri ibyo byose, rugaragaza uruhare rwe mu bikorwa by'iterabwoba.

[248] Ku bijyanye no kuba asaba kugabanyirizwa igihano kuko yemera icyaha mu buryo budashindikanywaho, Ubushinjacyaha buvuga ko busanga nta shingiro bifite kuko mu mabazwa ye atandukanye no mu miburanire ye yagaragaje ko yemera uruhare rwe mu bitero by'iterabwoba byakorewe i Rusizi, ariko yarangiza akivuguruza agaragaza ko ibyo yakoze hari ababimushoyemo. Avuga ko we nta bushake yari afite bwo kubikora kandi nyamara atarigeze agira ubushake bwo kwitandukanya nabyo. Ubushinjacyaha buvuga ko uko kwivuguruza kwe kutamubera impamvu nyoroshyacyaha kuko ukwemera kwe gushidikanywaho, ndetse ibyaha yakoze bikaba biremereye kuko byagize ingaruka ku bantu bakomeretse no ku mitungo yabo. Busoza buvuga ko ibyo kutagabanya ibihano kubera uburemere bw'icyaha byemejwe mu rubanza n˚ RPA 0298/10/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 24/02/2012 haburana MUSHAYIDI Déogratias n'Ubushinjacyaha mu gika cyarwo cya 40 nk'uko rwagarutsweho haruguru.

UKO URUKIKO RUBIBONA

[249] Urukiko rw'Ubujurire rurasanga kuri iyi ingingo ikigomba gusuzumwa ari ukumenya niba Urukiko rushobora kongera kugabanya igihano, iyo abaregwa nta kindi banenga urukiko Rubanza kuri iyo ngingo, uretse kuvuga gusa ko batagabanyirijwe bihagije.

[250] Ingingo ya 49 y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 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''.

[251] Ingingo ya 58, igika cya mbere, y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru igira iti: "*Umucamanza ubwe ni we ugena niba impamvu nyoroshyacyaha zemezwa n'umucamanza zahabwa agaciro''*. Igika cya kabiri cy'iyo ngingo giteganya ko "*Kwemeza impamvu nyoroshyacyaha bigomba gusobanurwa mu cyemezo cy'urukiko*''.

[252] Isesengura ry'ingingo ya 58 n'iya 49 z'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru ryumvikanisha ko Umucamanza mu bushishozi bwe asuzuma impamvu nyoroshyacyaha *(circonstances atténuantes judiciaires ou causes judiciaires d'atténuation),* akazisobanura, akemeza ko koko zoroshya uburemere bw'icyaha kandi ko zikwiye gushingirwaho. Iyo amaze kwemeza ko zashingirwaho atanga igihano kijyanye n'uburemere bw'icyaha ndetse n'ingaruka zacyo. Ubwo burenganzira bufitwe na buri mucamanza usuzuma urubanza yashyikirijwe harimo n'Umucamanza uburanisha urubanza rujuririrwa. Gusa, Umucamanza wo mu bujurire agomba kuzirikana ko yemerewe guhindura igihano cyatanzwe n'Umucamanza wo mu Rukiko rubanza, igihe amaze kugaragaza amakosa Umucamanza wo muri urwo Rukiko yaba yarakoze mu gutanga icyo gihano[47]. Ibyo bivuze ko

[47] Niyo mpamvu itegeko rigenga imiburanishirize y'imanza nshinjabyaha mu ngingo yaryo 183, agace ka 6, iteganya ko ujurira agomba kugaragaza ibisobanuro kuri buri nenge cyangwa kuri buri kibazo bigaragaza amakosa yakozwe n'uburyo agomba gukosorwa hashingiwe ku mategeko n'ibimenyetso n'igisabwa urukiko.

Umucamanza wo mu bujurire aba ashinzwe kugenzura niba, Umucamanza mu Rukiko rubanza yarubahirije neza igenwa ry'igihano hakurikijwe ingingo za 49 na 58 zavuzwe haruguru.

[253] Ku kibazo nk'iki, Urugereko rw'Ubujurire rw'Urukiko mpanabyaha mpuzamahanga rwashyiriweho Yougoslavie mu rubanza rwa VOjISLA V SESELJ narwo rwasobanuye ko Umucamanza wo mu rwego rubanza afite ububasha busesuye bwo kugena igihano gikwiye mu bushishozi bwe, ruvuga ko Umucamanza wo mu Rukiko rw'Ubujurire atemerewe guhindura icyo gihano, uretse igihe agaragaje ko Urukiko rubanza rwakoresheje nabi ubushishozi bwarwo cyangwa se ko rwakoresheje nabi itegeko.[48]

[254] Ibyerekeye igenzurwa ry'ubushishozi bwakoreshejwe mu rubanza rubanza byashimangiwe mu nº RPAA 00406/2020/CA rwaciwe ku wa 22/10/2021, haburana Ubushinjacyaha na NAHAYO Ignace, aho Urukiko rwavuze ko n'ubwo NAHAYO Ignace yari yagabanyirijwe igihano ku mpamvu y'uko yemeye icyaha, nta cyabuza ko mu bujurire yongera gusaba ko yagabanyirizwa birushijeho mu gihe asanga igihano yahawe kiremereye harebwe icyaha yahamijwe, maze mu bushishozi bw'Urukiko rugasuzuma niba ibyo asaba bikwiye kandi bikurikije amategeko.[49]

[255] Hashingiwe kuri ibyo bisobanuro, uru Rukiko rurasuzuma mu bika bikurikiyeho, kuri buri muburanyi mu bajuriye, niba hari ukwibeshya kugaragarira buri wese kwabaye, cyangwa gukoresha nabi ubushishozi cyangwa itegeko mu kugena ibihano kugaragara mu rubanza rujuririrwa.

- **Ku bireba NSABIMANA Callixte alias Sankara**

[256] NSABIMANA Callixte alias Sankara, mu bujurire bwe, ntanenga ko Urukiko rubanza rwaba rwarakoresheje nabi itegeko mu kumugenera igihano, agaragaza gusa ko akurikije impamvu nyoroshyacyaha yagaragaje atagabanyirijwe igihano bihagije, akaba asaba Urukiko rw'Ubujurire kongera kukigabanya.

[257] Nk'uko bigaragara mu bice bya 664, 665 na 671 by'urubanza rujuririrwa, Urukiko rubanza rwasobanuye ko n'ubwo NSABIMANA Callixte alias Sankara yakoze ibikorwa byateye urupfu, ariko akaba yaremeye ibyaha aregwa kuva mu iperereza kugeza aburana urubanza mu mizi, akanafasha ubutabera, atanga amakuru yafashije mu iperereza n'uko ari ubwa mbere akurikiranweho icyaha, akwiye kugabanyirizwa igihano, agahanishwa igifungo cy'imyaka makumyabiri (20), aho kuba igihano cy'igifungo cya burundu, hashingiwe ku ingingo ya 60, igika cya mbere, agace ka mbere (1˚), y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru no ku bisobanuro byatanzwe mu manza n˚ RS/INCONST/SPEC/00003/2019/SC rwaciwe n'Urukiko rw'Ikirenga na urubanza n˚ RPAA 00032/2019/CA rwaciwe n'Urukiko rw'Ubujurire.

[258] NSABIMANA Callixte alias Sankara asaba kongera kugabanyirizwa igihano kuko igihano cy'igifungo cy'imyaka makumyabiri (20) yahawe kimuvutsa amahirwe yo gusubira mu muryango nyarwanda, nyamara yaricujije ibyaha yakoze yemeye mu buryo budashidikanywaho, akanabisabira

[48] Reba Case nº. IT-03-67-R77.2-A, 19 May 2010, VOJISLAV V SESELJ par 37: "The *Appeals Chamber recalls that Trial Chambers are vested with broad discretion in determining an appropriate sentence. In general, the Appeals Chamber will not revise a sentence unless the appellant demonstrates that the Trial Chamber has committed a discernible error in exercising its discretion or has failed to follow the applicable law"*. Available at: file:///C:/Users/l.ucyeye/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/PPHD5LL8/VOjISLA%20V%20SESELJ%20%20in%20ICTR%20APPELATE%20CHAMBER.pdf

[49] Nyuma yo kongera kubisuzuma ariko urukiko rwasanze igihano yari yahawe kijyanye n'uburemere bw'icyaha yahamijwe, ntirwongera kumugabanyiriza.

imbabazi kubo byagizeho ingaruka no ku muryango nyarwanda muri rusange. Avuga ko yafashije ubutabera atanga amakuru kuri we n'abandi bafatanyije, Avuga ko yitandukanyije kumugaragaro n'imitwe ya RRM, MRCD na FLN, ko yashinje kumugaragaro ibihugu byateraga inkunga FLN, ko afite uburwayi budakira akaba ariyo mpamvu asaba uru Rukiko kongera kumugabanyiriza igihano, agahabwa igihano cy'igifungo cy'imyaka itanu (5)[50]. Avuga ko Urukiko rubanza, mu gutanga igihano, rutari kureba gusa uburemere bw'icyaha yahamijwe, ko rwagombaga no kureba inyungu ze n'inyungu z'ubutabera.

[259] Ubushinjacyaha bwo buvuga ko kuba NSABIMANA Callixte alias Sankara yaragabanyirijwe ku rwego rwa mbere, atakongera kugabanyirizwa ubwa kabiri, nk'uko byatanzweho umurongo n'Urukiko rw'Ikirenga mu manza zitandukanye zirimo, urubanza n˚ RPA 0066/08/CS rwo ku wa 6/2/2009, urubanza n˚ RPA 0085/09/CS rwo ku wa 17/6/2011[51] n'urubanza n˚ RPA 0283/10/CS rwo ku wa 19/1/2014[52].

[260] Nk'uko byasobanuwe haruguru, Umucamanza, mu gutanga igihano, areba imibereho y'uwakoze icyaha mbere yo kugikora, igihe yagikoraga na nyuma yo kugikora, akabihuza n'uko icyaha cyakozwe, uburemere bwacyo n'ingaruka cyateye muri sosiyete, bivuze ko atanga igihano akigereranyije n'icyaha cyakozwe *(principe de la proportionnalité de la peine à l'infraction),* ibyo akabikora agamije kurengera sosiyete, guhana koko uwakatiwe, kurengera inyungu z'uwahohotewe, anabihuza n'inyungu yo gusubiza mu buzima busanzwe uwakatiwe no gukumira ibyaha bishya[53].

[261] Nk'uko byagaragajwe haruguru, Urukiko rw'Ubujurire rurasanga Urukiko rubanza rwarabyubahirije kuko rwahaye NSABIMANA Callixte alias Sankara igihano, hashingiwe ku buremere no ku ngaruka z'ibyaha yahamijwe, runabigereranya n'uko yari asanzwe yitwara mbere yo gukora ibyo byaha, uko yemeye ibyaha aregwa kuva mu iperereza kugeza aburana urubanza mu mizi n'uko yafashije ubutabera, atanga amakuru arebana n'ibyaha aregwa, rukaba rwaramuhanishije mu bushishozi bwarwo igifungo cy'imyaka makumyabiri (20). Rurasanga kandi Urukiko rubanza rutari gushingira ku bindi bintu bigize imibereho ye bwite mu gihe bitaragaragajwe muri dosiye y'urubanza cyangwa bitaburanishijwe mu buryo bw'ivuguruzanya[54].

[262] Urukiko rw'Ubujurire rurasanga impamvu nyoroshyacyaha zagaragajwe na NSABIMANA Callixte alias Sankara ubwa mbere muri uru Rukiko, nko kuba yaracitse ku icumu rya jenoside cyangwa ari impfubyi, kuba afite umu *fiancée*, kuba ubu afite imyaka mirongo itatu n'icyenda (39) y'amavuko, kuvuga ko yitandukanije na RRM, MRCD na FLN, kuba afite indwara y'umuvuduko w'amaraso n'ikibazo

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[50] NSABIMANA Callixte alias Sankara avuga ko Urukiko rwo mu Budage rwakatiye abayobozi bakuru ba FDLR, Dr. Ignace MURWANASHYAKA, wari Perezida wa FDLR na MUSONI Straton, wari Visi Perezida wayo, igifungo cy'imyaka cumi n'itatu (13) n'icy'imyaka umunani (8), ko abasirikare bakuru ba FLN, aribo *Colonel* GATABAZI Joseph, wari ushinzwe gutegura ibitero, *Lieutenant Colonel* HAKIZIMANA wari umujyanama wa *Général* Wilson mu bijyanye n'ubutasi na *Général de Brigade* MBERABAHIZI David, *Colonel* NIYONZIMA Arthémon na *Colonel* NAMUHANGA Anthère bajyanwe mu ngando i MUTOBO.

[51] Ubushinjacyaha buvuga ko mu manza ebyiri za mbere, Urukiko rw'Ikirenga rwaragaragaje ko nta mpamvu yo kongera kugabanyiriza abaregwa (KABAHIZI Jean na HAVUGIMANA Innocent) ibihano, hashingiwe ku kuba mu manza zijuririrwa baragabanyirijwe ibihano hakurikijwe amategeko.

[52] Ubushinjacyaha buvuga ko mu rubanza rwa gatatu, Urukiko rw'Ikirenga rwasobanuye ko ibyo uregwa GAHONGAYIRE Jeanne asaba, yararangije kubihabwa kuko icyaha yakoze, ubundi gihanishwa igifungo cya burundu, ariko we akaba yarahawe igihano cy'igifungo cy'imyaka icumi (10), akaba adakwiye kongera kugabanyirizwa harebwe uburemere bw'icyaha yakoze.

[53] *''Le choix de la peine par le juge doit donc obéir à cinq considérations: la protection de la société, la punition du condamné, la prise en compte des intérêts de la victime, la réinsertion du condamné et la lutte contre la récidive.''*, Harald Renoult, Droit pénal général, 19e édition, Bruylant-Paradigme, Bruxelles, 2020, P. 291.

[54] ''*Le juge prononce la ou les peines qu'il considère être adaptées au condamné et prend en compte pour cela tous les éléments le concernant figurant à la procédure et soumis aux débats contradictoires''*, Harald Renoult, op.cit, P. 285.

cy'igifu no kuba hari abasirikare bakuru ba FLN banjyanwe mu ngando i Mutobo, atari impamvu zatuma yakongera kugabanyirizwa igihano yakatiwe, harebwe akamaro k'igihano n'ingaruka z'ibyaha yahamijwe.

[263] Urukiko rw'Ubujurire rurasanga icyakora, Urukiko rubanza rutarahaye agaciro gakwiye hakurikijwe guhuza igihano n'uburemere bw'icyaha, kuba ari ubwa mbere yakurikiranweho icyaha, kuba yaremeye mu buryo budashidikanywaho ibyaha yahamijwe kuva yafatwa, abisabira imbabazi kubo byagizeho ingaruka n'umuryango nyarwanda muri rusange, afasha ubutabera atanga amakuru akenewe ku birebana n'iyo mitwe y'iterabwoba, ku bantu bayigize, uko ibihugu n'abantu bayitera inkunga, kuba aburana mu mizi yarakomeje kwemera ibyo byaha yahamijwe, ibi bikaba byarafashije ubutabera kubona amakuru ahagije yerekeranye n'imikorere y'umutwe w'iterabwoba wa MRCD-FLN, atuma hafatwa ingamba zikwiye mu rwego rwo gukumira no guhana ibyaha bikorwa n'uwo mutwe. Kubera izo mpamvu, uru Rukiko rukaba rusanga ibyo asaba ko yakongera kugabanyirizwa igihano bifite ishingiro.

[264] Naho Ku birebana n'ibivugwa n'Ubushinjacyaha ko hashingiwe ku manza eshatu zavuzwe haruguru, zaciwe n'Urukiko rw'Ikirenga, NSABIMANA Callixte alias Sankara adakwiye kongera kugabanyirizwa igihano kuko izo manza zemeje ko nta mpamvu yo kongera kugabanyiriza abaregwa igihano kubera ko bagabanyirijwe ibihano ku rwego rwa mbere, hakurikijwe amategeko, Urukiko rw'Ubujurire rurasanga bitahabwa agaciro, kuko ahubwo Urukiko rw'Ikirenga rwasobanuye ko abaregwa badakwiye kongera kugabanyirizwa igihano ku mpamvu y'uko bagabanyirijwe igihano **bihagije** ku rwego rwa mbere[55]. Naho ku birebana n'urubanza rwa GAHONGAYIRE Jeanne, Urukiko rw'Ikirenga rukaba rwasobanuye ko adakwiye kongera kugabanyirizwa, harebwe uburemere bw'icyaha yakoze[56].

- **Ku bireba NSENGIMANA Herman**

[265] Uru Rukiko ruributsa ko nk'uko byasobanuwe mu gika cya 164 cy'uru rubanza, rwasanze ukwemera kwa NSENGIMANA Herman kwashingiweho agabanyirizwa igihano kutuzuye, bityo kukaba kutaragomba gushingirwaho mu bituma agabanyirizwa igihano. Muri iki gice rero, harasuzumwa izindi mpamvu NSENGIMANA Herman atanga asaba kugabanyirizwa igihano, hazirikanwa ihame ryagaragajwe haruguru ry'uko igihano gishobora guhinduka gusa mu rwego rw'ubujurire iyo Urukiko rubanza rwibeshye bigaragarira buri wese mu gukoresha ubushishozi bwarwo cyangwa se rwakoresheje nabi itegeko mu kugena igihano.

[266] Muri uru rubanza, Ubujurire bwa NSENGIMANA Herman ntibushingiye ku kuba Urukiko rubanza rwarakoreshe nabi itegeko, ahubwo bushingiye ku kuba Urukiko rubanza rutaramugabanyirije igihano bihagije mu bushishozi bwarwo, agasaba kongera kugabanyirizwa.

[267] Mu gika cya 685 cy'urubanza rujuririrwa, Urukiko rubanza rwagabanyirije NSENGIMANA Herman igihano ku mpamvu y'uko yemeye icyaha yahamijwe cyo kuba mu mutwe w'iterabwoba, kuba yarafashije inzego z'ubutabera no kuba ari ubwa mbere akurikiranwe mu nkiko, aho guhanishwa igifungo cy'imyaka cumi n'itanu (15), agahanishwa igifungo cy'imyaka itanu (5).

[268] Hashingiwe ku byagaragajwe ku ngingo irebana no kumenya niba NSENGIMANA Herman yaraburanye yemera icyaha yahamijwe mu buryo budashidikanywaho, Urukiko rw'Ubujurire rurasanga

[55] Reba ku rupapuro rwa gatatu, igika cya 7 cy'urubanza rwa KABAHIZI Jean no ku rupapuro rwa kabiri, igika cya 6 cy' urubanza rwa HAVUGIMANA Innocent.
[56] Reba igika cya 12 cy'urubanza rujuririrwa.

ibisabwa na NSENGIMANA Herman bitahabwa agaciro, ko ahubwo yagabanyirijwe igihano n'Urukiko rubanza ku buryo burenze, kuko kumugabanyiriza igihano kugeza ku gifungo cy'imyaka itanu (5), rwanashingiye ku mpamvu nyoroshyacyaha y'uko yemeye icyaha yahamijwe mu buryo budashidikanywaho, nyamara yaraburanye ahakana ko FLN atari mutwe w'iterabwoba, ko ari umutwe w'igisirikare, bivuze ko atemera kuba mu mutwe w'iterabwoba nk'uko Urukiko rubanza rwabyemeje.

[269] Kubera izo mpamvu zose, Urukiko rw'Ubujurire rurasanga NSENGIMANA Herman adakwiye kongera kugabanyirizwa igihano yahawe ku rwego rwa mbere. Bityo, iyi ngingo ye y'ubujurire ikaba nta shingiro ifite.

- **Ku bireba MATAKAMBA Jean Berchmas**

[270] Nk'uko bigaragara mu gika cya 679 cy'urubanza rujuririrwa, Urukiko rubanza rwasobanuye ko MATAKAMBA Jean Berchmas ahamwa n'icyaha cyo kuba mu mutwe w'iterabwoba, icyo gukora no kugira uruhare mu bikorwa by'iterabwoba, icyo gukoresha binyuranije n'amategeko ikintu giturika ahantu hakoreshwa na rubanda n'icyo kugambana no gushishikariza abandi gukora igikorwa cy'iterabwoba. Mu gika cya 681 cy'urubanza rujuririrwa, Urukiko rubanza rwanzuye ko n'ubwo MATAKAMBA Jean Berchmas n'abagenzi be bemeye ibyaha bakurikiranweho, ariko rurebye uburyo bakozemo ibitero ahantu hatandukanye mu Karere ka Rusizi, uko bambutsaga intwaro bazizana mu Rwanda bakazibika n'imikoranire yabo n'abayobozi b'ingabo za FLN, ndetse n'ingaruka ibyo bitero byagize bikomeretsa abantu, binangiza imitungo, bagomba guhanishwa igihano giteganyirijwe icyaha kirusha ibindi gukomera mu bibahama, bagahanishwa igifungo cy'imyaka makumyabiri (20).

[271] Nk'uko bigaragara mu mikirize y'urubanza rujuririrwa, mu gika cya 637 na 643, Ubushinjacyaha bwasabaga ko MATAKAMBA Jean Berchmas ahanishwa igihano kirusha ibindi gukomera cy'imyaka makumyabiri n'itanu (25) ko atagabanyirizwa igihano kubera ukwemera icyaha kwe kutuzuye no kuba ibyaha aregwa ari ibyaha by'ubugome; MATAKAMBA Jean Berchmas we yavuze ko igihano yasabiwe ari kinini, ko yemera uruhare mu byaha aregwa, ariko asaba Urukiko gushishoza, rukareba icyamuteye kubikora, anasaba isubikagihano kubera impanuka yagize ikamutera ibibazo mu mutwe.

[272] Mu myanzuro ye mu bujurire, MATAKAMBA Jean Berchmas asaba Urukiko gusuzuma ukwemera icyaha kwe kudashidikanywaho, rukamugabanyiriza igihano, kuko Urukiko rubanza rutaguhaye agaciro, ahubwo rwashingiye ku mpamvu nkomezacyaha zidateganyijwe n'itegeko, rwanga kumugabanyiriza igihano, rwirengagiza ibiteganywa n'ingingo ya 59 y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru, ko impamvu nkomezacyaha ziteganywa gusa n'itegeko. Mu iburanisha muri uru Rukiko, MATAKAMBA Jean Berchmas avuga ko asaba kongera kugabanyirizwa igihano yakatiwe ku rwego rwa mbere, ku mpamvu y'uko mbere y'uko akora ibyaha yahamijwe, yari umuturage w'inyangamugayo, wafashaga abashinzwe umutekano.

[273] Ubushinjacyaha buvuga ko hashingiwe ku ngingo ya 47 n'iya 49 z'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru, Urukiko rubanza rutirengagije ukwemera icyaha kwa MUTAKAMBA Jean Berchmas kuko rwemeje ko yemeye ibyaha aregwa, ariko adakwiye kugabanyirizwa igihano kubera uburyo we n'abandi bakozemo ibitero ahantu hatandukanye mu Karere ka Rusizi. Bunavuga ko n'iyo Urukiko ruza guha agaciro ukwemera icyaha kwe nk'impamvu nyoroshyacyaha, igihano yari guhabwa, kitari kujya munsi y'imyaka makumyabiri yahawe n'Urukiko rubanza, hashingiwe ku biteganywa n'ingingo ya 60, agace ka kabiri (2˚), y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru.

[274] Nk'uko byasobanuwe haruguru, Urukiko ntirutegetswe kwemeza impamvu nyoroshyacyaha igihe cyose zigaragajwe, ngo rugabanyirize uregwa igihano, ahubwo ruzemeza mu bushishozi, kandi rushobora kwanga kuzemeza nk'impamvu ngabanya gihano, rurebye imikorere y'icyaha uregwa akurikiranweho cyangwa uburyo cyakozwemo, ari nabyo Urukiko rubanza rwakoze. Ku bireba MATAKAMBA Jean Berchmas, n'ubwo yemeye ibyaha aregwa, rwanze kumugabanyiriza igihano cy'igifungo kugeza munsi y'imyaka makumyabiri (20), igihano ntarengwa cyo hasi (gito) giteganyirijwe icyaha kirusha ibindi gukomera *(l'infraction la plus grave)* yahamijwe, harebwe impamvu zasobanuwe mu gika cya 681 cy'urubanza rujuririrwa. Bivuze ko urwo Rukiko rutirengagije ukwemera icyaha kwe, ahubwo rwasanze mu bushishozi bwarwo uko kwemera icyaha kwe kutamubera impamvu nyoroshyacyaha cyangwa ngabanya gihano, rurebye uburemere bw'ibyaha yahamijwe.

[275] Ku bivugwa na MATAKAMBA Jean Berchmas ko Urukiko rubanza rwanze kumugabanyiriza igihano rushingiye ku mpamvu nkomezacyaha zidateganyijwe n'itegeko, Urukiko rw'Ubujurire rurasanga bitahabwa agaciro kuko ibyo uregwa yita impamvu nkomezacyaha zitateganyijwe n'itegeko ari ibikorwa bigize ibyaha yahamijwe, bigaragaza uburemere n'ubugome bwabyo, bikaba atari impamvu nkomezacyaha nk'uko zisobanurwa n'amategeko nshinjabyaha.

[276] MATAKAMBA Jean Berchmas avuga kandi ko Urukiko rubanza, rwirengagije indi mpamvu nyoroshyacyaha irebana n'uko mbere yo gukora ibyaha yahamijwe yari umuturage w'inyangamugayo. Urukiko rw'Ubujurire rurasanga, ibyo nta shingiro bifite, mu gihe atabivuze ku rwego rwa mbere ngo anabitangire ibimenyetso. Rurasanga kandi no mu bujurire, MATAKAMBA Jean Berchmas, uretse kubivuga, atagaragariza Urukiko ibimenyetso bibishimangira.

[277] N'ubwo MATAKAMBA Jean Berchmas avuga ko atagabanyirijwe igihano ku rwego rwa mbere, Urukiko rw'Ubujurire rurasanga Urukiko rubanza rwaramuhanishije igihano cy'igifungo cy'imyaka makumyabiri (20), igihano ntarengwa cyo hasi giteganyirijwe icyaha kirusha ibindi gukomera yahamijwe, aho kumuhanisha igihano cy'imyaka makumyabiri n'itanu (25), igihano ntarengwa cyo hejuru, giteganyirijwe icyo cyaha. Ibi byumvikanisha ko kuba atarahawe igihano cyo hejuru, yagabanyirijwe igihano. Rurasanga kandi Urukiko rwa mbere rwaramuhaye igihano gikwiye kandi gihagije, akaba adashobora kugaragaza ikosa rwakoze mu kumugenera icyo gihano, ku buryo byaba ngombwa ko cyongera kugabanywa.

***a.* Kumenya niba Urukiko rubanza rwarirengagije impamvu nyoroshyacyaha zatanzwe na bamwe mu baregwa**

[278] NTIBIRAMIRA Innocent, BYUKUSENGE Jean-Claude, NSABIMANA Jean Damascène alias Motard, SHABANI Emmanuel na BIZIMANA Cassien alias Passy bajuriye banenga Urukiko rubanza ko rutahaye agaciro impamvu nyoroshyacyaha barugaragarije ngo ruzishingireho rubagabanyiriza ibihano.

[279] NTIBIRAMIRA Innocent avuga ko anenga Urukiko rubanza, kuba rwarirengagije amakuru yatanze kuva yatangira kubazwa mu nzego z'iperereza, yemera icyaha ku buryo budashidikanywaho, kugera imbere y'Urukiko, akaba atarigeze ahindura imvugo, ariko akaba atarahawe igihano gito gishoboka, ahubwo agakatirwa igifungo cy'imyaka makumyabiri (20).

[280] Me NGAMIJE KIRABO Guido, umwunganira, avuga ko Urukiko rubanza mu guha NTIBIRAMIRA Innocent igihano rwashingiye ku cyaha gifite igihano kirusha ibindi gukomera, byatumye atagabanyirizwa ibihano ku buryo bukwiye, akaba asaba Urukiko rw'Ubujurire kuzashingira ku murongo watanzwe mu rubanza n˚ RS/INCONST/SPEC 00003/2019/CS rwaciwe n'Urukiko

rw’Ikirenga ku wa 4/12/2019, mu gika cya 49, no ku rubanza n˚ RPAA 00031/2021/CA rwaciwe n’Urukiko rw’Ubujurire ku wa 28/11/2021, zose zijyanye n’ubwigenge bw’Umucamanza mu guha agaciro impamvu nyoroshyacyaha.

[281] BYUKUSENGE Jean-Claude we avuga ko anenga Urukiko rubanza kuba rwarirengagije ukwemera icyaha kwe kuva afashwe kugeza aburana imbere y’Urukiko, ntirwamugabanyiriza igihano ku cyaha yahamijwe cyo gukora no kugira uruhare mu bikorwa by’iterabwoba, giteganywa kandi kigahanishwa ingingo ya 19 y’Itegeko ryerekeye kurwanya iterabwoba, aho igihano giteganyirijwe ari imyaka makumyabiri (20), kandi nawe akaba ariyo yahanishijwe. Bityo, akaba asanga nta kugabanyirizwa igihano kwigeze kubaho, ariyo mpamvu asaba Urukiko rw’Ubujurire kumugabanyiriza igihano.

[282] SHABANI Emmanuel we avuga ko Urukiko rubanza rwirengagije ko yemeye ibyaha kuva mu nzego z’iperereza kugera mu Rukiko, birimo gukora no kugira uruhare mu bikorwa by’iterabwoba, icyaha cyo gushishikariza abandi gukora iterabwoba, icyo gukoresha ikintu giturika ahari rubanda n’icyo kuba mu mutwe w’iterabwoba. Avuga ko yemeye n’ibindi byaha yakoze abishowemo n’uwitwa BUGINGO Justin, ko ariko Urukiko rubanza rwamushyize mu gikundi cy’abandi baregwa ibindi byaha, nk’icy’ubwinjiracyaha bw’ubwicanyi, abihanirwa atarabikoze.

[283] Me UWIMANA Channy, wunganira SHABANI Emmanuel, avuga ko mu kumuhana, Urukiko rubanza rwirengagije ingingo ya 49 y’Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n’ibihano muri rusange, iteganya ibyo umucamanza ashingiraho mu gutanga igihano, ndetse rumushyira mu itsinda ry’abantu benshi, aregwa ibyaha atakoze, bituma atagabanyirizwa ibihano, kandi afite impamvu nyoroshyacyaha. Avuga ko rutagize icyo ruzivugaho ngo ruzisobanure nk’uko biteganywa n’ingingo ya 58, agace kayo ka 2, y’Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru, rwemeza gusa ko ahanishijwe igihano cy’igifungo cy’imyaka makumyabiri (20), rudasobanuye impamvu z’icyo gihano.

[284] Me UWIMANA Channy avuga ko asanga rero SHABANI Emmanuel ataragabanyirijwe ibihano, ariyo mpamvu basaba Urukiko rw’Ubujurire kubimugabanyiriza. Ku bijyanye no kugabanya igihano hagendewe ku mpamvu nyoroshyacyaha, asaba Urukiko kuzifashisha urubanza n˚ ICTR 05-86-S rwo ku wa 17/12/2019, haburana Ubushinjacyaha na Michel BAGARAGAZA, aho Urukiko rwemeje ko yaburanye yemera icyaha, kandi akaba ari ubwa mbere akurikiranwe, rumukatira igifungo cy’imyaka irindwi (7), kandi yari guhanishwa igifungo cya burundu.

[285] NSABlMANA Jean Damascène avuga ko icyatumye ajurira asaba kugabanyirizwa ibihano, ari uko kuva mu ntangiriro yemeye ibyaha akurikiranweho, abisabira imbabazi, kandi asubiza intwaro yari abitse, ariko Urukiko rubanza ntirwabiha agaciro ahubwo rumuhanisha igifungo cy’imyaka makumyabiri (20), ko rero asaba uru Rukiko kumugabanyiriza igihano.

[286] Me UWIMANA Channy, wunganira NSABlMANA Jean Damascène, avuga ko yajuriye kuko Urukiko rutahaye agaciro impamvu nyoroshyacyaha yo kwemera icyaha kwe, kuba yaratanze amakuru yaho yari yarabitse intwaro mbere y’uko afatwa no kuba ari ubwa mbere akurikiranwe, ahubwo akaba yarashyizwe mu gatebo kamwe n’abandi benshi byatumye ahanishwa igihano cy’igifungo cy’imyaka makumyabiri (20), ku cyaha atarezwe cyo kugambana no gushishikariza abandi gukora iterabwoba, ngo akisobanureho. Avuga ko ariyo mpamvu asaba uru Rukiko gushingira ku ngingo ya 38[57] y’Itegeko nº

[57] ‘‘Haseguriwe ibiteganywa n’andi mategeko, ibihano biteganyijwe ku byaha bivugwa muri iri tegeko bishobora kugabanywa iyo ukurikiranweho icyaha atanze amakuru atashoboraga kuboneka ku bundi buryo, afasha gukumira cyangwa kugabanya

46/2018 ryo ku wa 13/8/2018 ryerekeye kurwanya iterabwoba, NSABlMANA Jean Damascène akagabanyirizwa igihano, kuko kuri we asanga ntabyo yakorewe hashingiwe ku kuba yarahanishijwe igihano kinini giteganyirijwe icyaha cyo kuba mu mutwe w'iterabwoba, nacyo yahamijwe, ubusanzwe gihanishwa igihano cy'igifungo cy'imyaka makumyabiri (20), kandi nawe akaba ariyo yahawe.

[287] BIZIMANA Cassien alias Passy avuga ko kuva yafatwa yagaragaje guhinduka mu myitwarire ye, yemera icyaha arakicuza kandi agisabira imbabazi, ko ndetse yasubije ibikoresho byose yari afite, akaba asaba Urukiko rw'Ubujurire kumugabanyiriza ibihano.

[288] Me MUREKATETE Henriette, wunganira BIZIMANA Cassien alias Passy, avuga ko Urukiko rubanza rwirengagije ingingo ya 59, agace kayo ka mbere (1), y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange, kuko rutasobanuye ibijyanye n'impamvu nyoshyacyaha kuri we. Avuga ko ibyo byatumye atagabanyirizwa igihano nk'abandi, kandi yaremeye icyaha ku buryo budashidikanywaho, ariyo mpamvu basaba uru Rukiko kumugabanyiriza, kandi rukazashingira ku rubanza n˚ RPAA 00064/2019/CA[58] rwaciwe n'Urukiko rw'Ubujurire ku wa 30/7/2021, haburana Ubushinjacyaha na HABIMANA Pascal, mu gika cyarwo cya 39.

[289] Ubushinjacyaha buvuga ko abaregwa barimo NTIBIRAMIRA Innocent, BYUKUSENGE Jean-Claude, SHABANI Emmanuel, NSABIMANA Jean Damascène na BIZIMANA Cassien alias Passy, bavuga ko icyo bahuriyeho ari uko bagabye ibitero i Rusizi. Buvuga Urukiko rubanza mu gika cya 681 cy'urubanza rujuririrwa, rwasanze bakwiye guhanishwa igihano kiremeyeye kuruta ibindi mu byaha, harebwe ku ngaruka ibyo bitero byagize ku bantu. Buvuga ko rero ibyo basaba byo kugabanyirizwa ibihano, nta shingiro bikwiye guhabwa, kuko atari itegeko kugabanya ibihano, kabone n'ubwo baba bafite impamvu nyoroshyacyaha. Buvuga ko Urukiko rubanza rwabahaye igihano gito cy'imyaka makumyabiri (20) kiri munsi y'icyo itegeko riteganya.

[290] Ku bijyanye no kuba abaregwa bari muri iri tsinda, bakunze kugaruka cyane ku kintu cyo kuba Urukiko rubanza rwaritaye ku mpamvu nkomezacyaha, Ubushinjacyaha buvuga ko atari ukuri, kuko izo mpamvu ziteganywa n'itegeko, kandi ingingo ya 19, agace kayo ka 3, y'Itegeko n˚ 46/2018 ryo ku wa 13/8/2018 ryerekeye kurwanya iterabwoba, iteganya impamvu imwe nkomezacyaha, ku cyaha cyo kugira uruhare mu bikorwa by'iterabwoba, bikozwe n'umuyobozi, n'impamvu nkomezacyaha iteganyijwe mu

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ingaruka z'icyaha, kumenya cyangwa gushyikiriza inkiko uwakoze icyaha, kubona ibimenyetso cyangwa kuburizamo ibikorwa by'iterabwoba biteganywa n'iri tegeko''.

[58] ''Urukiko rw'Ubujurire rurasanga n'ubwo ingingo ya 60, agace ka kabiri (2), y'ltegeko nº 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru, iteganya ko iyo hari impamvu zigabanya ububi bw'icyaha, igihano cy'igifungo kimara igihe kizwi cyangwa ihazabu bishobora kugabanywa ariko ntibijye munsi y'igihano gito ntarengwa giteganyirijwe icyaha cyakozwe, hashingiwe ku murongo watanzwe n'Urukiko rw'lkirenga mu rubanza n˚ RS/INCONST/SPEC 00003/2019/SC rwo ku wa 4/12/2019, Umucamanza afite inshingano yo guhanisha uwahamwe n'icyaha igihano gikwiye, akurikije uburemere bw'icyaha, ingaruka icyaha cyateye, impamvu zatumye agikora, uko uwagikoze yari asanzwe yitwara, imibereho ye bwite n'uburyo icyaha cyakozwemo nk'uko biteganywa n'ingingo ya 49 y'ltegeko nº 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru, kumubuza kugabanya igihano giteganyijwe n'itegeko, kandi hari impamvu nyoroshyacyaha, cyangwa kubimwemerera, mu gihe izo mpamvu nyoroshyacyaha zihari, ariko kugabanya igihano ntibijye munsi y'igihano gito ntarengwa giteganyirijwe icyaha cyakozwe, bikaba byaba ari ukumwabura ubwisanzure n'ibwigenge bwo gutanga igihano kigendanye n'icyaha cyakozwe, bituma adaha umuburanyi uburenganzira ku butabera buboneye. Rurasanga kandi ibi byaba binyuranyije n'ingingo ya 29 n'iya 151 z'ltegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, kuko mu kwemeza ibyo byose, Urukiko rw'lkirenga rwashatse kugaragaza ko nta cyabuza Umucamanza kugabanyiriza mu buryo bukwiye uwahamwe n'icyaha igihano giteganywa n'itegeko, hakurikijwe ibiteganywa n'ingino ya 49 y'ltegeko nº 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru''.

ngingo ya 34 y'iryo Tegeko, igihe ibyo bikorwa by'iterabwoba byateje urupfu, ko kandi muri abo baregwa nta na hamwe Urukiko rubanza rwashingiye kuri izo mpamvu zivugwa muri iryo Tegeko.

UKO URUKIKO RUBIBONA

- **Ku bireba NTIBIRAMIRA Innocent na BYUKUSENGE Jean-Claude**

[291] Ku bireba NTIBIRAMIRA Innocent na BYUKUSENGE Jean-Claude, ubujurire bwabo kuri iyi ngingo bushingiye ku kuba Urukiko rubanza rutarahaye agaciro ukwemera kwabo ngo rugushingireho rubagabanyiriza igihano. Mu gukemura izi mpaka, uru Rukiko rurifashisha ibiteganywa n'ingingo ya 49 n'iya 58 z'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange.

[292] Ingingo ya 49 y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 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''. Naho iya 58, igika cya mbere, y'iryo Tegeko yo ikagira iti: "Umucamanza ubwe ni we ugena niba impamvu nyoroshyacyaha zemezwa n'umucamanza zahabwa agaciro''. Igika cya kabiri cy'iyo ngingo giteganya ko "Kwemeza impamvu nyoroshyacyaha bigomba gusobanurwa mu cyemezo cy'urukiko''.

[293] Izi ngingo zombi zishimangira ihame ry'amategeko ryemerera Umucamanza, mu gutanga igihano, kureba imibereho y'uwakoze icyaha mbere yo kugikora, igihe yagikoraga na nyuma yo kugikora, akazihuza n'uko icyaha cyakozwe, uburemere bwacyo n'ingaruka cyateye muri sosiyete, akemeza niba hari impamvu nyoroshyacyaha ndetse akanemeza niba zishobora gushingirwaho cyangwa kudashingirwaho mu kugabanya igihano.

[294] Mu gika cya 679 cy'urubanza rujuririrwa, Urukiko rubanza rwasobanuye ko NTIBIRAMIRA Innocent na BYUKUSENGE Jean-Claude bahamwa n'icyaha cyo kuba mu mutwe w'iterabwoba, icyo gukora no kugira uruhare mu bikorwa by'iterabwoba n'icyo gukoresha binyuranije n'amategeko ikintu giturika ahantu hakoreshwa na rubanda. NTIBIRAMIRA Innocent akaba ahamwa n'icyaha cyo kugambana no gushishikariza abandi gukora igikorwa cy'iterabwoba. Mu gika cya 681 cy'urubanza rujuririrwa, Urukiko rubanza rwanzuye ko n'ubwo NTIBIRAMIRA Innocent na BYUKUSENGE Jean-Claude bemeye ibyaha bakurikiranyweho, ariko rurebye uburyo bakozemo ibitero ahantu hatandukanye mu Karere ka Rusizi, uko bambutsaga intwaro bazizana mu Rwanda bakazibika n'imikoranire yabo n'abayobozi b'ingabo za FLN, ndetse n'ingaruka ibyo bitero byagize bikomeretsa abantu, binangiza imitungo, bagomba guhanishwa igihano giteganyirijwe icyaha kirusha ibindi gukomera mu bibahama, bagahanishwa igifungo cy'imyaka makumyabiri (20).

[295] Mu myanzuro bahuriyemo mu bujurire, NTIBIRAMIRA Innocent na BYUKUSENGE Jean-Claude banenga Urukiko rubanza ko rwanze kubagabanyiza igihano kandi bemera ibyaha. Kuri ibyo Ubushinjacyaha busubiza ko Urukiko rubanza rutirengagije ukwemera icyaha kwa NTIBIRAMIRA Innocent na BYUKUSENGE Jean-Claude kuko rwemeje ko bemeye ibyaha baregwa, ariko bakaba badakwiye kugabanyirizwa igihano kubera uburyo bakozemo ibitero ahantu hatandukanye mu Karere ka Rusizi. Bunavuga ko n'iyo Urukiko ruza guha agaciro ukwemera icyaha kwabo nk'impamvu nyoroshyacyaha, igihano bari guhabwa, kitari kujya munsi y'imyaka makumyabiri (20) bahawe n'Urukiko rubanza, hashingiwe ku biteganywa n'ingingo ya 60, agace ka kabiri (2˚), y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru.

[296] Uru Rukiko rusanga nk'uko byasobanuwe haruguru, Urukiko rudategetswe kwemeza impamvu nyoroshyacyaha igihe cyose zigaragajwe, ngo rugabanyirize uregwa igihano. Ahubwo ruzemeza mu bushishozi bwarwo, kandi rushobora kwanga kuzemeza nk'impamvu ngabanya gihano, rurebye imikorere y'icyaha uregwa akurikiranyweho cyangwa uburyo cyakozwemo, ari nabyo Urukiko rubanza rwakoze. Ku birebana na NTIBIRAMIRA Innocent na BYUKUSENGE Jean-Claude, Urukiko rubanza rwanze kubagabanyiriza igihano cy'igifungo kugeza munsi y'imyaka makumyabiri (20), igihano ntarengwa cyo hasi (gito) giteganyirijwe icyaha kirusha ibindi gukomera *(l'infraction la plus grave)* bahamijwe, harebwe impamvu zasobanuwe mu gika cya 681 cy'urubanza rujuririrwa. Ibyo bivuze ko urwo Rukiko rutirengagije ukwemera icyaha kwabo, ahubwo rwasanze mu bushishozi bwarwo uko kwemera icyaha kwabo kutababera impamvu nyoroshyacyaha cyangwa ngabanya gihano, rurebye uburemere bw'ibyaha bahamijwe.

[297] N'ubwo NTIBIRAMIRA Innocent na BYUKUSENGE Jean-Claude bavuga ko batagabanyirijwe igihano ku rwego rwa mbere, Urukiko rw'Ubujurire rurasanga Urukiko rubanza rwarabahanishije igihano cy'igifungo cy'imyaka makumyabiri (20), igihano ntarengwa cyo hasi giteganyirijwe icyaha kirusha ibindi gukomera bahamijwe, aho kubahanisha igihano cy'igifungo cy'imyaka makumyabiri n'itanu (25), igihano ntarengwa cyo hejuru, giteganyirijwe icyo cyaha. Ibi byumvikanisha ko kuba batarahawe igihano cyo hejuru, bagabanyirijwe igihano. Uru Rukiko rurasanga kandi Urukiko rwa mbere rwarabahaye igihano gikwiye kandi gihagije, harebwe ibyaha bakoze mu buryo butaziguye.

[298] Kubera izo mpamvu zose, Urukiko rw'Ubujurire rurasanga NTIBIRAMIRA Innocent na BYUKUSENGE Jean-Claude badakwiye kongera kugabanyirizwa igihano bahawe ku rwego rwa mbere. Bityo, iyi ngingo y'ubujurire bwabo ikaba nta shingiro ifite.

- **Ku bireba SHABANI Emmanuel na NSABIMANA Jean Damascène alias Motard**

[299] SHABANI Emmanuel na NSABIMANA Jean Damascène alias Motard bavuga ko Urukiko rubanza rutahaye agaciro ukwemera icyaha kwabo no kuba ari ubwa mbere bakoze icyaha, nk'impamvu nyoroshyacyaha, rubahanisha igifungo cy'imyaka makumyabiri (20), ko n'ubwo baregwa icyaha by'ubugome, nta cyari gutuma batagabanyirizwa igihano. Bavuga kandi ko batagabanyirijwe igihano, kuko bahanishijwe igifungo cy'imyaka makumyabiri (20), igihano kinini giteganyijwe n'itegeko ku byaha bahamijwe. Banenga na none Urukiko rubanza kuko rutasobanuye impamvu rwabahaye igifungo cy'imyaka makumyabiri (20).

[300] By'umwihariko, NSABIMANA Jean Damascène alias Motard avuga ko kuba mbere yo gufatwa yararangiye Ubuyobozi aho yari yahishe intwaro kugira ngo zitazabonwa n'abandi, byamubera impamvu nyoroshyacyaha, hashingiwe ku ngingo ya 38 y'Itegeko n˚ 46/2018 ryo ku wa 13/8/2018 ryerekeye kurwanya iterabwoba.

[301] Ubushinjacyaha buvuga ko hashingiwe ku ngingo ya 47 y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru, bidakwiye gufatwa nk'aho Urukiko rubanza rwirengagije ukwemera kwa SHABANI Emmanuel na NSABIMANA Jean Damascène alias Motard, kuko nk'uko bigaragara mu gika cya 681 cy'urubanza rujuririrwa, rwemeje ko bemeye icyaha, ariko badakwiye kugabanyirizwa ibihano kubera uburyo bakozemo ibitero ahantu hatandukanye mu Karere ka Rusizi. Bunavuga ko hashingiwe ku biteganywa n'ingingo ya 60, agace ka kabiri (2˚), y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru, n'iyo Urukiko ruza guha agaciro ukwemera icyaha kwabo nk'impamvu nyoroshyacyaha, igihano bari guhabwa, kitari kujya munsi y'imyaka makumyabiri (20) bahawe n'Urukiko rubanza, kubera ko icyaha kirusha ibindi gukomera bahamijwe, ari cyo gukoresha binyuranyije n'amategeko ikintu

giturika ahantu hakoreshwa na rubanda, gihanishwa igifungo kitari munsi y'imyaka makumyabiri (20), ariko kitarenze imyaka makumyabiri n'itanu (25).

[302] Mu gika cya 679 cy'urubanza rujuririrwa, Urukiko rubanza rwasobanuye ko SHABANI Emmanuel na NSABIMANA Jean Damascène alias Motard bahamwa n'icyaha cyo kuba mu mutwe w'iterabwoba, icyo gukora no kugira uruhare mu bikorwa by'iterabwoba n'icyo gukoresha binyuranyije n'amategeko ikintu giturika ahantu hakoreshwa na rubanda. SHABANI Emmanuel akaba anahamwa n'icyaha cyo kugambana no gushishikariza abandi gukora igikorwa cy'iterabwoba. Mu gika cya 681 cy'urubanza rujuririrwa, Urukiko rubanza rwanzuye ko n'ubwo SHABANI Emmanuel na NSABIMANA Jean Damascène alias Motard bemeye ibyaha bakurikiranyweho, ariko rurebye uburyo bakozemo ibitero ahantu hatandukanye mu Karere ka Rusizi, bagomba guhanishwa igihano giteganyirijwe icyaha kirusha ibindi gukomera mu bibahama, bagahanishwa igifungo cy'imyaka makumyabiri (20).

[303] Urukiko rw'Ubujurire rurasanga usibye ko Urukiko rudategetswe kwemeza impamvu nyoroshyacyaha igihe cyose zigaragajwe, ngo rugabanyirize uregwa igihano, ahubwo mu gihe ruzemeza, rubikora mu bushishozi bwarwo, bivuze ko rushobora kwanga kuzemeza nk'impamvu ngabanya gihano, rurebye imikorere y'icyaha uregwa akurikiranyweho cyangwa uburyo cyakozwemo, ari nabyo Urukiko rubanza rwakoze ku birebana na SHABANI Emmanuel na NSABIMANA Jean Damascène alias Motard.

[304] Hashingiwe ku byasobanuwe mu gace kabanziriza aka, Urukiko rw'Ubujurire rurasanga nk'uko byagaragajwe haruguru, ihame ry'amategeko ku birebana n'impamvu nyoroshyacyaha, ari uko ubugome bw'icyaha butabuza Urukiko kwemeza impamvu nyoroshyacyaha no kugabanya igihano, ariko mu bushishozi bwarwo, n'ubwo hari impamvu nyoroshyacyaha, rushobora kwanga kugabanyiriza uregwa igihano mu gihe rusanga uburemere bw'icyaha yakoze n'ubugome cyakoranywe buruta kure impamvu nyoroshyacyaha ziri mu nyungu ze.

[305] Urukiko rw'Ubujurire rurasanga Urukiko rubanza rutarasobanuye ko SHABANI Emmanuel na NSABIMANA Jean Damascène alias Motard batagabanyirizwa igihano kubera ubugome ibyaha bahamijwe byakoranywe, ahubwo mu gika cya 681 cy'urubanza rujuririrwa, ibisobanuro byatanzwe n'urwo Rukiko byumvikanisha ko rwasanze n'ubwo bemeye ibyaha bakurikiranyweho, badakwiye kugabanyirizwa cyane igihano, harebwe uburyo bakozemo ibitero ahantu hatandukanye mu Karere ka Rusizi. Iyo akaba ariyo mpamvu rwabahanishije igihano cy'igifungo cy'imyaka makumyabiri (20), igihano gito ntarengwa giteganyirijwe icyaha kirusha ibindi gukomera bahamijwe, aho kubahanisha igihano cy'igifungo cy'imyaka makumyabiri n'itanu (25), igihano kinini ntarengwa giteganyirijwe icyo cyaha.

[306] Urukiko rw'Ubujurire rurasanga rero ibivugwa na SHABANI Emmanuel na NSABIMANA Jean Damascène alias Motard ko batagabanyirijwe igihano, ndetse nta mpamvu yatanzwe n'Urukiko rubanza isobanura igihano cy'igifungo cy'imyaka makumyabiri (20) bakatiwe, nta shingiro bifite.

[307] Ku birebana n'ibivugwa na NSABIMANA Jean Damascène alias Motard ko hashingiwe ku ngingo ya 38 y'Itegeko n˚ 46/2018 ryo ku wa 13/8/2018 ryerekeye kurwanya iterabwoba, akwiye kugabanyirizwa igihano kuko mbere yo gufatwa yarangiye Ubuyobozi aho yari yahishe intwaro kugira ngo zitazabonwa n'abandi, Urukiko rw'Ubujurire rurasanga bitahabwa agaciro kuko kumenyesha abayobozi aho yahishe imbunda *(pistolet)* na gerenade *(grenade)*, akoresheje umugore we kuko we yari yaragiye Congo[59], n'ubwo yaba ari amakuru atashoboraga kuboneka ku bundi buryo, adafasha gukumira, kugabanya

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[59] Reba gika cya 321 cy'urubanza rujuririrwa aho yabivuze.

ingaruka z'icyaha cyangwa kuburizamo ibikorwa by'iterabwoba, nk'uko bisabwa n'iyo ngingo ya 38. Rurasanga kandi n'ubwo yari kuba amakuru afite kamere ivugwa muri iyo ngingo, Urukiko rudategetswe kugabanyariza byanze bikunze uregwa igihano.

[308] Kubera izo mpamvu zose, Urukiko rw'Ubujurire rurasanga iyi ngingo y'ubujurire bwa SHABANI Emmanuel na NSABIMANA Jean Damascène alias Motard nta shingiro ifite.

- **Ku bireba BIZIMANA Cassien alias Passy**

[309] BIZIMANA Cassien alias Passy anenga Urukiko rubanza kuba rwaramuhanishije igihano cy'igifungo cy'imyaka makumyabiri (20), nyamara ari ubwa mbere akurikiranwe n'inzego z'ubutabera, ko yaburanye yemera icyaha ku buryo budashidikanywaho, ko yafashije inzego z'iperereza, atanga amakuru yatumye bamwe mubo bakoranye ibyaha bafatwa, ariyo mpamvu asaba uru Rukiko kumugabanyiriza ibihano kuko Urukiko rubanza rwirengagije ibiteganywa n'ingingo ya 59, agace ka mbere, y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru. Asobanura ko atagabanyirijwe igihano kuko Urukiko rwa mbere rwamuhaye igihano kiri mu mbibi *(fourchette)* y'ibihano biteganyirijwe icyaha kirusha ibindi gukomera yahamijwe, kandi rutanasobanuye impamvu y'icyo gihano. Avuga kandi ko kuva yafatwa yagaragaje guhinduka muri we kuko yatanze ibikoresho byose yari afite, ko yicuza kandi asaba imbabazi.

[310] Mu gika cya 679 cy'urubanza rujuririrwa, Urukiko rubanza rwasobanuye ko BIZIMANA Cassien alias Passy ahamwa n'icyaha cyo kuba mu mutwe w'iterabwoba, icyo gukora no kugira uruhare mu bikorwa by'iterabwoba, icyo gukoresha binyuranije n'amategeko ikintu giturika ahantu hakoreshwa na rubanda n'icyo kugambana no gushishikariza abandi gukora igikorwa cy'iterabwoba. Mu gika cya 681 cy'urubanza rujuririrwa, Urukiko rubanza rwanzuye ko n'ubwo BIZIMANA Cassien alias Passy n'abagenzi be bemeye ibyaha bakurikiranyweho, ariko rurebye uburyo bakozemo ibitero ahantu hatandukanye mu Karere ka Rusizi, bagomba guhanishwa igihano giteganyirijwe icyaha kirusha ibindi gukomera mu bibahama, bagahanishwa igifungo cy'imyaka makumyabiri (20).

[311] Urukiko rw'Ubujurire rurasanga isesengura ry'ibisobanuro byatanzwe n'Urukiko rubanza mu gika cya 681 cy'urubanza rujuririrwa, byumvikanisha ko rwasanze n'ubwo BIZIMANA Cassien alias Passy yemeye ibyaha akurikiranyweho, adakwiye kugabanyirizwa cyane igihano, harebwe uburyo we n'abagenzi be bakozemo ibitero ahantu hatandukanye mu Karere ka Rusizi, ariyo mpamvu rwamuhanishije kimwe n'abagenzi be igihano cy'igifungo cy'imyaka makumyabiri (20), igihano gito ntarengwa giteganyirijwe icyaha kirusha ibindi gukomera bahamijwe, aho kubahanisha igihano cy'igifungo cy'imyaka makumyabiri n'itanu (25), igihano kinini ntarengwa giteganyirijwe icyo cyaha.

[312] Urukiko rw'Ubujurire rurasanga n'ubwo uregwa yemeye ibyaha aregwa kuva yafatwa, ko ari ubwa mbere akurikiranywe n'inzego z'ubutabera, akaba yarafashije izo nzego, Urukiko rudategestwe byanze bikunze kwemeza izo mpamvu nyoroshyacyaha nk'impamvu ngabanya gihano ku kigero abyifuzaho, kuko rubikora mu bushishozi bwarwo, rushingiye muri rusange k'uburyo icyaha cyakozwemo no ku mibereho y'uwagikoze. Rusanga inenge igaragazwa na BIZIMANA Cassien alias Passy ko Urukiko rubanza rwirengagije ibiteganywa n'ingingo ya 59, agace ka mbere, y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru itahabwa agaciro.

[313] Urukiko rw'Ubujurire rurasanga nk'uko byagaragajwe haruguru, Urukiko rubanza rwaratanze ibisobanuro ku mpamvu zatumye BIZIMANA Cassien alias Passy ahanishwa igifungo cy'imyaka

makumyabiri (20) rushingiye k'uburyo ibyaha yahamijwe byakozwemo no ku buryo yaburanye yemera ibyaha aregwa. Bityo, ibyo avuga akaba atari ukuri.

[314] Kubera izo mpamvu zose, Urukiko rw'Ubujurire rurasanga iyi ngingo y'ubujurire bwa BIZIMANA Cassien alias Passy nta shingiro ifite.

b. Kumenya niba abaregwa basaba isubikagihano barikwiye

[315] Abaregwa bajuriye basaba isubikagihano ni NSHIMIYIMANA Emmanuel, NIYIRORA Marcel, IYAMUREMYE Emmanuel, NSABIMANA Jean Damascène alias Motard na SHABANI Emmanuel.

- **NSHIMIYIMANA Emmanuel**

[316] NSHIMIYIMANA Emmanuel avuga ko kuva mu Rukiko rubanza yasabye gusubikirwa ibihano nk'uko biteganywa mu ngingo ya 85[60] y'Itegeko Ngenga n° 01/2012/OL ryo ku wa 2/5/2012 rishyiraho Igitabo cy'amategeko ahana, ariko ntiyabihabwa. Avuga ko aramutse adahawe amahirwe yo gusubizwa mu buzima busanzwe, Urukiko rukabibona ukundi, rwamuha igihano gisubitse kugira ngo ajye kureba umuryango we, ndetse abashe gukurikirana ubuzima bwe kuko afite uburwayi bw'umuvuduko w'amaraso.

[317] Ubushinjacyaha buvuga ko busanga ibisabwa na NSHIMYIMANA Emmanuel byo kuba yasubikirwa ibihano nta shingiro bifite kuko atigeze yinjizwa mu mitwe y'iterabwoba ku gahato nk'uko abivuga, ko kandi yayigiyemo atakiri umwana.

- **IYAMUREMYE Emmanuel**

[318] IYAMUREMYE Emmanuel avuga ko yemeranya n'Ubushinjacyaha kuba ibyaha akurikiranyweho bwarabimureze bushingiye ku Itegeko Ngenga n˚ 01/2012/OL ryo ku wa 2/5/2012 rishyiraho Igitabo cy'amategeko ahana, ko asaba uru Rukiko narwo kuzashingira ku ngingo ya 85 y'iryo Tegeko Ngenga iteganya ibijyanye n'isubikagihano nawe agasubikirwa igihano cy'igifungo cy'imyaka itanu (5) yahanishijwe ku rwego rwa mbere.

[319] Ubushinjacyaha busanga ku bijyanye no kuba igihano yahawe cy'imyaka itanu (5) cyasubikwa hashingiwe ku ngingo ya 85 y'Itegeko Ngenga n˚ 01/2012/OL ryo ku wa 2/5/2012 rishyiraho Igitabo cy'amategeko ahana, ko uretse no kuba adasobanura impamvu akwiye gusubikirwa ibihano ku cyaha kiremereye nk'icyo kuba mu mutwe w'iterabwoba, nta n'ubwo ingingo y'itegeko akoresha kuri icyo cyaha ariyo ikwiye, kuko kuba mu mutwe w'iterabwoba ari cyaha cy'imaragihe, gihanwa hakurikijwe itegeko ririho, igihe igikorwa cya nyuma kigize icyaha gihagarikiwe. Bukomeza buvuga ko kuba yarabaye mu mutwe w'iterabwoba wa FDLR-FOCA kugera muri Gicuransi 2016, akimukira mu mutwe w'iterabwoba wa MRCD-FLN akaba ari nawo yari akirimo kugeza afashwe mu mwaka wa 2019, igikorwa yakoze gihanwa hakurikijwe ingingo ya 18 y'Itegeko n˚ 46/2018 ryo ku wa 13/8/2018 ryerekeye kurwanya iterabwoba, riteganya igihano kitari munsi y'imyaka cumi n'itanu (15) ariko kitarenze imyaka

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[60] Ingingo ya 85 y'Itegeko Ngenga n° 01/2012/OL ryo ku wa 2/5/2012 rishyiraho Igitabo cy'amategeko ahana ''Isubikagihano ni icyemezo cy''umucamanza gihagarika irangizarubanza ku gihano cy'igifungo kitarengeje imyaka itanu (5) iyo uwagikatiwe atigeze ahanishwa mbere mu rubanza rwabaye ndakuka igihano cy'igifungo cyangwa igihano nsimburagifungo cy''imirimo ifitiye igihugu akamaro kirenze amezi atandatu (6)''.

makumyabiri (20); icyo gihano kikaba kitasubikwa hakurikijwe ibiteganywa n'ingingo ya 64[61] y'Itegeko nº 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu.

- **Kuri NIYIRORA Marcel**

[320] NIYIRORA Marcel avuga ko hashingiwe ku kwemera ibyaha kwe nk'impamvu nyoroshyacyaha asaba Urukiko ko mu kumuhana rwashingira ku ngingo ya 38[62] y'Itegeko nº 46/2018 ryo ku wa 13/8/2018 ryerekeye kurwanya iterabwoba iteganya ko ibihano biteganyijwe muri iryo tegeko bishobora kugabanywa, ndetse rukanashingira ku ngingo ya 85 y'Itegeko Ngenga n˚ 01/2012/OL ryo ku wa 2/5/2012 rishyiraho Igitabo cy'amategeko ahana iteganya isubikagihano, nawe akaba yasubikirwa igihano yahabwa, akajya gushaka umuryango we kuko yafashwe atazi aho uherereye.

[321] Me URAMIJE James, wunganira NSHIMIYIMANA Emmanuel, IYAMUREMYE Emmanuel na NIYIRORA Marcel, avuga ko Urukiko rubanza rushingiye ku kwemera icyaha kwabo, rwababagabanyirije igihano bahanishwa igifungo cy'imyaka itanu (5), ko rero ashingiye kuri icyo gihano bahawe, asaba ko basubizwa mu buzima busanzwe, ariko urukiko rwabibona ukundi, na none hagendewe kuri icyo gihano bahawe, bakaba bahabwa isubikagihano.

[322] Ubushinjacyaha buvuga ko kuba NIYIRORA Marcel asaba isubikagihano, busanga nta shingiro bifite kuko icyaha yahamijwe ari icyaha cy'ubugome gifite igihano kirengeje igifungo cy'imyaka itanu (5). Bityo, busanga ibyo asaba binyuranyije n'ingingo ya 64-y'Itegeko nº 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange igira iti: "*Isubikagihano ni icyemezo cy'Urukiko gihagarika irangizarubanza ku gihano itegeko riteganyiriza igifungo kitarengeje imyaka itanu (5)*".

- **NSABIMANA Jean Damascène na SHABANI Emmanuel**

[323] NSABIMANA Jean Damascène avuga ko Urukiko rubanza rwanze kumusubikira igihano ruvuga ko aho atuye hatazwi, kandi umwirondoro we ugaragara muri dosiye, ko ibyo byamuteye impungenge ko bishobora kumugiraho n'izindi ngaruka. Naho SHABANI Emmanuel asaba imbabazi kuko yemeye ibyaha akaba amaze gukosoka, agasaba kugabanyirizwa ibihano yasabiwe no kubisubikirwa.

[324] Me UWIMANA Channy, wunganira NSABIMANA Jean Damascène, avuga ko, Urukiko rubanza rwasobanuye ko adahawe isubikagihano kuko adafite umwirondoro uzwi, nyamara, ko mu rubanza rujuririrwa rwagiye rugaragaza ko yasabye kujya gufungirwa Rusizi aho mushiki we aherereye, ko kandi muri dosiye umwirondoro we urimo, aho atuye n'umugore bashakanye, akaba asaba Urukiko ko yasubikirwa igihano, hagendewe ku gihano cy'igifungo cy'imyaka itanu (5) yahanishwa, akavanwa mu gatebo kamwe na bandi yashyizwemo mu rukiko rubanza, byatumye ahanirwa n'icyaha atakoze, aho yahanishijwe igifungo cy'imyaka 20 mu buryo budakwiye.

[325] Ubushinjacyaha buvuga ko ikijyanye no kuba urukiko rwaranze gusubikira NSABIMANA Jean Damascène alias Motard igihano rushingiye ku kuba umwirondoro we utazwi, ko icyo atari cyo cyashingiweho cyonyine, kuko nk'uko bigaragara mu gika cya 688 cy'urubanza rujuririrwa mu mpamvu

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[61] ''Isubikagihano ni icyemezo cy'urukiko gihagarika irangizarubanza ku gihano itegeko riteganyiriza igifungo kitarengeje imyaka itanu (5). Isubikagihano ritangwa hashingiwe ku buremere bw'icyaha''

[62] Ingingo ya 38 y'Itegeko nº 46/2018 ryo ku wa 13/8/2018 ryerekeye kurwanya iterabwoba ''Haseguriwe ibiteganywa n'andi mategeko, ibihano biteganyijwe ku byaha bivugwa muri iri tegeko bishobora kugabanywa iyo ukurikiranweho icyaha atanze amakuru atashoboraga kuboneka ku bundi buryo, afasha gukumira cyangwa kugabanya ingaruka z'icyaha, kumenya cyangwa gushyikiriza inkiko uwakoze icyaha, kubona ibimenyetso cyangwa kuburizamo ibikorwa by'iterabwoba biteganywa n'iri tegeko''

we na bagenzi be bimwe isubikagihano harimo n'imikorere n'uburemera bw'ibyaha bibahama. Buvuga ko rero isubikagihano asaba hagendewe ku bihano ibyaha yahamijwe by'ubugome bihanishwa biri hejuru y'igifungo cy'imyaka itanu (5), ritashoboka, hashingiwe ku biteganywa mu ngingo ya 64 y'Itegeko nº 68/2018 ryavuzwe iteganya ko isubikagihano ritangwa ku gihano itegeko riteganyiriza igifungo kitarengeje imyaka itanu (5), ndetse hakanarebwa uburemere bw'icyaha.

UKO URUKIKO RUBIBONA

[326] Ingingo ya 64, igika cya mbere, y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange iteganya ibi bikurikira:"*Isubikagihano ni icyemezo cy'urukiko gihagarika irangizarubanza ku gihano itegeko riteganyiriza igifungo kitarengeje imyaka itanu (5). Isubikagihano ritangwa hashingiwe ku buremere bw'icyaha*".

[327] Imyandikire y'ingingo ya 64, igika cya mbere, igaragara nk'irimo ikosa, kuko ivuga ko isubikagihano rishoboka ku gihano itegeko riteganyiriza igifungo cy'imyaka itanu kandi nyamara; igihano ntigiteganyirizwa igifungo ahubwo icyaha nicyo giteganyirizwa igihano cy'igifungo. Ibyo bitera urujijo ku kumenya icyo Umushingamategeko yashatse kuvuga: niba isubikagihano rikoreshwa ku gihano giteganyirijwe icyaha gihanisha igifungo kitarengeje imyaka itanu (5) cyangwa se niba gikoreshwa ku cyaha cyahanishijwe igifungo kitarengeje imyaka itanu (5).

[328] Mu ingingo ya 85 y'Itegeko Ngenga n°01/2012/OL ryo ku wa 2/5/2012 rishyiraho Igitabo cy'amategeko ahana, yatangaga ibisobanuro ku isubikagihano muri aya magambo: "*Isubikagihano ni icyemezo cy'umucamanza gihagarika irangizarubanza ku gihano cy'igifungo kitarengeje imyaka 5, (...)*" Ibyo bihura n'ibisobanuro bitangwa mu itegeko rishya mu rurimi rw'icyongereza[63] n'igifaransa[64]. Akaba ari byo bituma Urukiko rutekereza ko Umushingamategeko w'u Rwanda wanditse iyo ngingo mu kinyarwanda yibeshye ku myandikire yayo. Aho kuvuga ko isubakagihano ari icyemezo cy'Urukiko gihagarika irangizarubanza ku gihano itegeko riteganyiriza igifungo kitarengeje imyaka itanu (5), yagombaga kuvuga ko isubikagihano ari icyemezo cy'Urukiko gihagarika irangizarubanza ku gihano cy'igifungo kitarengeje imyaka itanu (5). Ibyo bikumvikanisha ko isubikagihano rishingira ku gihano cy'igifungo kitarengeje imyaka itanu (5) cyemejwe n'Urukiko aho kuba ku cyaha itegeko ryateganyirije igihano cy'igifungo kitarengeje imyaka itanu (5).

[329] Ibi ni nabyo bihura n'ihame ry'amategeko nshinjabyaha ryemeza ko isubikagihano rishoboka ku byaha byose iyo igihano cyatanzwe kuri icyo cyaha gituma rishoboka[65], hanitawe buremere bw'icyaha nk'uko biteganywa mu ngingo ya 64 y'itegeko riteganya ibyaha n'ibihano muri rusange. Rurasanga rero haseguriwe ibivugwa mu ngingo ya 333[66] y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru, hagomba kwemezwa ko isubikagihano ritangwa hashingiwe ku gihano kitarengeje imyaka itanu (5), Umucamanza yahaye uwahamwe n'icyaha, kandi rigatangwa ku byaha byose, nk'uko ingingo ya 64 mu

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[63] Ingingo ya 64, igika cya mbere, mu rurimi rw'icyongereza ivuga iti "*Suspension of sentence is a court decision which orders the stay of execution of a penalty of imprisonment not exceeding five (5) years. Suspension of a penalty is ordered on the basis of the gravity of the offence"*

[64] Mu rurimi rw'igifaransa igira iti: '*' Le sursis est la décision judiciaire ordonnant de surseoir à l'exécution d'une peine d'emprisonnement n'excédant pas cinq (5) ans. Le sursis est ordonné en considération de la gravité de l'infraction''*.

[65] ''Le *sursis simple peut être accordé quelle que soit l'infraction commise, du moment que la peine choisie est susceptible de sursis''*, Bernard Bouloc, Droit pénal général, 26e édition, Dalloz, Paris, 2019, P. 591, n˚ 791.

[66] Ingingo ya 333-y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange ivuga iti: ''Iri tegeko ryateguwe, risuzumwa kandi ritorwa mu rurimi rw'Ikinyarwanda''.

rurimi rw'icyongereza n'urw'igifaransa ibyumvikanisha. Ibi akaba ari nako byavugwaga mu Bitabo by'amategeko ahana atandukanye yakoreshwaga mbere, nk'ingingo ya 97[67] y'Igitabo cy'amategeko ahana n° 21/1977, ryo ku wa 18/8/1977 ku bijyanye n'isubikagihano n'ingingo ya 85[68] y'Itegeko Ngenga n° 01/2012/OL ryo ku wa 2/5/2012 rishyiraho Igitabo cy'amategeko ahana.

[330] Urukiko rw'Ubujurire rurasanga harebwe kamere yaryo, isubikagihano ari uburyo igihano cy'igifungo cyategetswe n'Umucamanza gikwiye kurangizwa[69], ko ashobora kuritanga no mu gihe uwahamwe n'icyaha atarisabye, bivuze ko aritanga mu bushishozi bwe[70], hitawe ku gihano yahaye uregwa, imibereho ye bwite no ku buremere bw'icyaha yakoze. Rurasanga rero harebwe kamere y'isubikagihano no kuba ritangwa mu bushishozi bw'Umucamanza, nta cyabuza uwahamwe n'icyaha ku rwego rwa mbere, kubisaba ubwa mbere mu bujurire.

- **Ku bireba NSHIMIYIMANA Emmanuel**

[331] Mu iburanisha ryo ku wa 31/1/2022, NSHIMIYIMANA Emmanuel yavuze ko Urukiko nirusanga agomba kuryozwa icyaha yahamijwe, asaba ko igihano cy'igifungo cy'imyaka itatu (3) yahawe ku rwego rwa mbere, cyasubikwa.

[332] Ubushinjacyaha buvuga ko kuba NSHIMIYIMANA Emmanuel asaba isubikagihano ubwa mbere mu bujurire, iyi ngingo idakwiye gusuzumwa. Busobanura ko yagombaga kugaragaza ko yari yabisabye mu Rukiko rubanza, ntabihabwe, maze akagaragaza amakosa yaba yarakozwe, agakosorwa. Buvuga kandi ko n'iyo uru Rukiko rwabisuzuma, bitashoboka ko yabihabwa kuko icyaha yahamijwe cyo kuba mu mutwe w'iterabwoba, gihanishwa igifungo cy'imyaka makumyabiri (20), nyamara isubikagihano riteganyijwe ku gihano cy'igifungo cy'imyaka itanu (5). Buvuga na none ko bitumvikana ko asaba isubikagihano mu gihe avuga ko nta cyaha yakoze.

[333] Imikirize y'urubanza rujuririrwa igaragaza ko ku birebana n'igihano Ubushinjacyaha bwamusabiye ku rwego rwa mbere, NSHIMIYIMANA Emmanuel yasubije ko adakwiye kuryozwa ibyaha aregwa, kubera ko yabigiyemo ku gahato, ko ahubwo aho guhanwa yakwigishwa amateka y'igihugu agafatwa nk'abandi bari kumwe mu mashyamba ya Congo, bahabwa inyigisho zo kubasubiza mu buzima busanzwe.

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[67] ‘‘ Iyo uwakatiwe nta bindi bihano yaciwe mbere hose by'igifungo kirenga amezi abili, muli urwo rubanza, inkiko zikoresheje icyemezo gisobanuliwe impamvu, ***zishobora gutegeka guhagalika irangiza-rubanza ku bihano byose*** ***<u>biciwe</u>*** ***by'iremezo cyangwa by'umugereka***, cyangwa kuli bimwe muli byo; aliko kandi ni ngombwa kw'igihano cy'iremezo cy'igifungo kitarenga imyaka itanu''.

[68] ‘‘Isubikagihano ni icyemezo cy'umucamanza gihagarika irangizarubanza ku gihano cy'igifungo kitarengeje imyaka itanu (5) ***iyo uwagikatiwe*** atigeze ahanishwa mbere mu rubanza rwabaye ndakuka igihano cy'igifungo cyangwa igihano nsimburagifungo cy'imirimo ifitiye igihugu akamaro kirenze amezi atandatu (6)''.

[69] ‘‘*Le juge a la possibilité, grâce aux sursis,* ***de conditionner l'exécution d'une ou de plusieurs peines qu'il prononce au comportement ultérieur du condamné****. S'il prononce une peine, le juge ne décide pas seulement de sa nature et de son taux* ***mais est également habilité à préciser, dans certaines limites, ses modalités d'exécution*** *(…….)*'', Harald Renout, <u>op.cit</u>., P. 321.

[70] *‘‘Lorsque toutes les conditions légales sont remplies, il n'est jamais tenu de faire bénéficier le condamné du sursis simple. Le sursis n'est jamais un droit, ce n'est même pas une mesure naturelle lorsque l'indulgence paraît s'imposer. Le juge apprécie s'il ya lieu d'ordonner le sursis en fonction de la personnalité du délinquant et de son milieu social* ; (…..), Bernard Bouloc, <u>op.cit.</u> P. 592, n° 792.

‘‘*La condamnation conditionnelle est facultative. Elle est une faveur que le juge accorde discrétionnairement au condamné. Donc, même lorsque les conditions légales sont réalisées, le juge peut refuser d'accorder le sursis, (…). Par contre, si la condamnation conditionnelle est accordée, elle doit être motivée''*, Nyabirungu mwene Songa, <u>Droit pénal général zaïrois</u>, DES, Kinshasa, 1989, P. 340.

[334] Urukiko rw'Ubujurire rurasanga NSHIMIYIMANA Emmanuel adahakana mu by'ukuri ko yabaye mu mitwe y'iterabwoba, ahubwo yemera ko yinjiyemo ku ngufu, akiri umwana, ibi bituma avuga ko ataryozwa ibyaha yarezwe, ariko mu bujurire akongeraho ko mu gihe Urukiko rwasanga agomba kuryozwa icyaha yahamijwe, yasubikirwa igihano cy'igifungo cy'imyaka itatu (3) yahawe ku rwego rwa mbere.

[335] Hashingiwe ku byasobanuwe haruguru ku birebana n'ingingo ya 64, kuba isubikagihano ari uburyo igihano cy'igifungo cyategetswe n'Umucamanza kirangizwa (*une modalité d'exécution de la peine*) no kuba isubikagihano ritangwa mu bushishozi bw'Umucamanza, Urukiko rw'Ubujurire rurasanga nta cyabuza NSHIMIYIMANA Emmanuel gusaba ubwa mbere mu bujurire isubika ry'irangiza ry'igihano yakatiwe ku rwego rwa mbere, ibi byumvikanisha ko ibivugwa n'Ubushinjacyaha ko isubikagihano risabwe ubwa mbere mu bujurire na NSHIMIYIMANA Emmanuel ku gihano cy'igifungo kitari munsi y'imyaka cumi n'itanu (15), ariko kitarenze imyaka makumyabiri (20) giteganyirijwe icyaha yahamijwe cyo kuba mu mutwe w'iterabwabo, bitahabwa agaciro.

[336] Urukiko rw'Ubujurire rurasanga nk'uko byagaragajwe n'Urukiko rubanza, n'ubwo NSHIMIYIMANA Emmanuel yinjiye akiri muto mu mitwe y'iterabwoba, akiga mu mashuli yisumbuye, akaba yaraburanye yemera icyaha aregwa, atanga amakuru yafashije ubutabera. N'ubwo kandi ari ubwa mbere akurikiranyweho ibyaha mu nkiko, ariko harebwe ko NSHIMIYIMANA Emmanuel yabaye mu mutwe wa FDLR n'uwa FLN kugeza afashwe ku wa 22/2/2020, kuba yaremeye ko ku wa 31/5/2016, yagiye muri CNRD kubera ko ari bo bari bafite umurongo yiyumvagamo, ko yagiye no kwiga amashuri yisumbuye n'ishuri rikuru rya gisirikare (ESM) muri nzeri 2017, akarangiza kwiga ku wa 25/3/2018, afite ipete rya *Sous-Lieutenant*, ibi bigaragaza ubushake bwe bwo kuguma mu mutwe w'iterabwoba, akaba adakwiye guhabwa isubika ry'irangiza ry'igihano yakatiwe cy'imyaka itatu (3), kuko igihano cy'igifungo kidasubitswe yahawe ari cyo gikwiranye n'imiterere y'icyaha yahamijwe.

[337] Kubera izo mpamvu zose, Urukiko rw'Ubujurire rurasanga iyi ngingo y'ubujurire bwa NSHIMIYIMANA Emmanuel nta shingiro ifite.

- **Ku bireba NIYIRORA Marcel**

[338] Ku birebana n'igihano cy'igifungo cy'imyaka cumi n'itanu (15), Ubushinjacyaha bwamusabiye ku rwego rwa mbere, NIYIRORA Marcel yasubije ko atahabwa igihano yasabiwe, ahubwo ko yasubizwa mu buzima busanzwe nawe akigishwa amateka y'igihugu nk'abandi, Urukiko rubanza rukaba rwaramuhanishije igifungo cy'imyaka itanu (5). Mu bujurire, NIYIRORA Marcel asaba uru Rukiko kwemeza ko igihano yakatiwe ku rwego rwa mbere yasubikwa.

[339] Ubushinjacyaha buvuga ko isubikagihano NIYIRORA Marcel asaba, atarihabwa kuko icyaha yahamijwe giteranyirijwe igihano cy'igifungo kirengeje imyaka itanu (5), nk'uko biteganywa n'ingingo ya 64 y'Itegeko n° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange.

[340] Nk'uko byasobanuwe haruguru, Urukiko rw'Ubujurire rurasanga ibivugwa n'Ubushinjacyaha ko gusubikirwa igihano bisabwa na NIYIRORA Marcel bidashoboka kuko icyaha cyo kuba mu mutwe w'iterabwoba yahamijwe, giteganyirijwe igifungo kitari munsi y'imyaka cumi n'itanu (15), ariko kitarenze imyaka makumyabiri (20), kirengeje igifungo cy'imyaka itanu (5) yakatiwe, bitahabwa agaciro kuko mu kugena isubikagihano hatarebwa igihano cyateganyirijwe icyaha uregwa akurikiranyweho, ahubwo harebwa igihano yahawe n'Umucamanza.

[341] Urukiko rw'Ubujurire rurasanga ariko n'ubwo NIYIRORA Marcel yahawe igihano cy'igifungo cy'imyaka itanu (5), adakwiye gusubikirwa irangiza ry'icyo gihano, harebwe imiterere y'icyaha yakoze, aho bigaragara ko yinjiye muri FDLR-FOCA kuva mu mwaka wa 2003 kugeza mu mwaka wa 2016, aza kujya muri CNRD afite ipeti rya kapiteni, nyuma yinjira muri MRCD-FLN kugeza afashwe ku wa 16/7/2020, afite ipeti ya *Lieutenant-Colonnel*, aho yayoboye abarwanyi ba FDLR-FOCA mu Ntara ya Kivu y'amajyaruguru muri za Rusizi n'ahandi muri Congo (RDC), anakora mu buyobozi bwa CNRD.

[342] Kubera izo mpamvu, Urukiko rw'Ubujurire rurasanga iyi ngingo y'ubujurire bwa NIYIRORA Marcel nta shingiro ifite.

- **Ku bireba IYAMUREMYE Emmanuel**

[343] IYAMURENYE Emmanuel yakatiwe n'Urukiko rubanza igihano cy'igifungo cy'imyaka itanu (5), akaba asaba uru Rukiko gusubika irangiza ry'icyo gihano, nk'uko yari yarabisabye mu Rukiko rubanza.

[344] Ubushinjacyaha buvuga ko kuba IYAMURENYE Emmanuel yarabaye mu mutwe w'iterabwoba wa FDLR-FOCA kugera muri Gicurasi 2016, akimukira mu mutwe w'iterabwoba wa MRCD-FLN, akaba ari nawo yari akirimo ubwo yafatwaga mu mwaka wa 2019, akaba yarahamijwe ku rwego rwa mbere icyaha cyo kuba mu mutwe w'iterabwoba, gihanishwa igihano cy'igifungo kitari munsi y'imyaka cumi n'itanu (15), ariko kitarenze imyaka makumyabiri (20), ko rero hashingiwe ku ngingo ya 64 y'Itegeko n° 68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru, icyo gihano kitasubikwa.

[345] Urukiko rw'Ubujurire rurasanga ibivugwa n'Ubushinjacyaha ko gusubikirwa igihano bisabwa na IYAMUREMYE Emmanuel bidashoboka kuko icyaha cyo kuba mu mutwe w'iterabwoba yahamijwe, giteganyirijwe igifungo kitari munsi y'imyaka cumi n'itanu (15), ariko kitarenze imyaka makumyabiri (20), kirengeje igifungo cy'imyaka itanu (5) yakatiwe, kuko ingingo ya 64 yavuzwe haruguru iteganya ko ryemezwa gusa ku gihano itegeko riteganyiriza igifungo kitarengeje imyaka itanu (5), bitahabwa agaciro kuko nk'uko byasobanuwe haruguru, mu kugena isubikagihano hatarebwa igihano cyateganyirijwe icyaha uregwa akurikiranyweho, ahubwo harebwa igihano yahawe n'Umucamanza.

[346] Urukiko rw'Ubujurire rurasanga ariko harebwe ko IYAMUREMYE Emmanuel yabaye muri FDLR kuva mu mwaka wa 2000, ayivamo mu mwaka wa 2016, ajya muri CNRD kugera mu mwaka wa 2019 ubwo yafatwaga, ko ari mu barwanyi muri FDLR na FLN, ko yagize uruhare mu bikorwa by'imitwe y'iterabwoba ya FDLR-FOCA na MRCD-FLN, ko muri FDLR–FOCA yabaye *Chef de peloton* na *Commandant de compagnie* kugeza mu mwaka wa 2016, ko igihe yafatwaga yari afite ipeti rya *Colonnel*, akaba rero ugereranyije n'umwanya yari afite mu bikorwa by'uwo mutwe, yari afite uruhare rukomeye mu bikorwa byawo. Bityo, isubikagihano asaba akaba atarihabwa.

[347] Kubera izo mpamvu, Urukiko rw'Ubujurire rurasanga iyi ngingo y'ubujurire bwe nta shingiro ifite.

- **Ku bireba NSABIMANA Jean Damascène alias Motard na SHABANI Emmanuel**

[348] Mu gika cya 688 cy'urubanza rujuririrwa, Urukiko rubanza rwasobanuye ko harebwe imikorere y'ibyaha bihama NSABIMANA Jean Damascène alias Motard na SHABANI Emmanuel, kuba badafite aho batuye hazwi ndetse n'uburemere bw'ibyaha by'iterabwoba bahamijwe, batagomba guhabwa isubikagihano.

[349] NSABIMANA Jean Damascène alias Motard na SHABANI Emmanuel bavuga ko banenga Urukiko rubanza kuba rwaranze kubaha isubikagihano ku mpamvu y'uko badafite aho batuye hazwi, nyamara nk'uko bivugwa na NSABIMANA Jean Damascène alias Motard, inyandiko itanga ikirego y'Ubushinjachaya igaragaza umwirondoro we wuzuye, w'aho atuye kandi abarizwa. NSABIMANA Jean Damascène alias Motard avuga kandi ko n'ubwo afite aho atuye hazwi, Itegeko ritavuga ko kugira ngo uwahamwe n'icyaha asubikirwe igihano agomba kuba afite aho atuye hazwi. Avuga na none ko yasabye Urukiko rubanza, ko mu gihe rutamuha isubikagihano, yafungirwa muri gereza ya Rusizi, hafi yaho umuryango we utuye, ariko ntacyo Urukiko rwabivuzeho.

[350] Ubushinjacyaha buvuga ko bwemeranywa na NSABIMANA Jean Damascène alias Motard ko aho atuye hazwi, ko ariko mu kumwangira isubikagihano, Urukiko rubanza rutashingiye gusa kuri iyo mpamvu, rwashingiye no ku zindi zirimo imikorere n'uburemere bw'ibyaha yahamijwe, nk'uko bigaragara mu gika cya 688 cy'urubanza rujuririrwa. Buvuga kandi ko uretse n'ibyo, isubikagihano ritarashobokaga ku byaha yahamijwe, hashingiwe ku biteganywa n'ingingo ya 64 y'Itegeko n˚68/2018 ryo ku wa 30/8/2018 ryavuzwe haruguru.

[351] Urukiko rw'Ubujurire rurasanga n'ubwo impamvu y'uko aho atuye hatazwi, atariyo yonyine yashingiweho mu kwangira NSABIMANA Jean Damascène alias Motard na SHABANI Emmanuel isubikagihano, Urukiko rubanza rwaribeshye mu kwemeza ko badafite aho batuye hazwi kuko muri dosiye y'urubanza, hagaragaramo aho batuye.

[352] Urukiko rw'Ubujurire rurasanga hashingiwe ku bisobanuro rwatanze ku byerekeye ingingo ya 64 y'Itegeko n˚68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange, harebwe igihano cy'igifungo cy'imyaka makumyabiri (20) Urukiko rubanza rwabahaye ku byaha bahamijwe, isubikagihano ritari gushoboka kuko ritangwa iyo uwahamwe n'icyaha yakatiwe n'Urukiko igihano cy'igifungo kitarengeje imyaka itanu (5).

[353] Kubera izo mpamvu zose, Urukiko rw'Ubujurire rurasanga iyi ngingo y'ubujurire bwa NSABIMANA Jean Damascène alias Motard na SHABANI Emmanuel irebana n'isubikagihano batahawe ku rwego rwa mbere nta shingiro ifite.

[354] Ku birebana n'icyo NSABIMANA Jean Damascène alias Motard asaba ko afungirwa muri gereza ya Rusizi, hafi y'umuryango we, Urukiko rw'Ubujurire rurasanga ibijyanye no gutegeka aho igihano kirangirizwa bitari mu nshingano z'inkiko .

c. Kumenya niba ibyo abaregwa basaba kujyanwa mu kigo gishinzwe gusubiza mu buzima busanzwe abahoze mu mitwe yitwaje intwaro babyemererwa

[355] Ibijyanye no kujyanywa mu kigo gishinzwe gusubiza mu buzima busanzwe abahoze mu mitwe yitwaje intwaro byasabwe na NSANZUBUKIRE Félicien, MUNYANEZA Anastase, NSHIMIYIMANA Emmanuel na NIYIRORA Marcel.

[356] NSANZUBUKIRE Félicien na MUNYANEZA Anastase bavuga ko ku rwego rwa mbere basabye ko batakurikiranwa bakajyanwa mu ngando i Mutobo, bagasubizwa mu buzima busanzwe nk'uko byakorewe bagenzi babo, hashingiwe ku masezerano ya Lusaka yo ku wa 10/7/1999, ku itangazo ryo ku wa 9/11/2007 ryashyizweho umukono n'u Rwanda na RDC ryakorewe i Nairobi/ Kenya n^{o} ku Iteka rya Minisitiri n° 066 ryo ku wa 13/9/2002. Bavuga ko Urukiko Rukuru rutahaye agaciro ihame igihugu cy'u Rwanda kigenderaho ryo gushaka buri gihe umuti w'ibibazo binyuze mu nzira y'ibiganiro

n’ubwumvikane busesuye, nk’uko biteganyijwe mu mahame remezo mu ngingo ya 10, igika cya cumi na kimwe (11), y’Itegeko Nshinga rya Repubulika y’u Rwanda, ariyo mpamvu babijuririye basaba Urukiko rw’Ubujurire ko byakwitabwaho.

[357] NSANZUBUKIRE Félicien, MUNYANEZA Anastase, kimwe na Me TWAJAMAHORO Herman ubunganira, bavuga ko mu rubanza rujurirrwa, mu gika cya 463, Urukiko rubanza rwavuze ko impamvu batasubizwa mu buzima busanzwe, ari uko ibiteganywa muri ariya masezerano bitabuza ko n’uwakoze ibindi byaha atabikurikiranwaho, ntirwagaragaza ibyo byaha ibyo aribyo, mu gihe bo icyo bahamijwe ari uko babaye mu mitwe y’iterabwoba gusa, kandi bakaba batarigeze bagihakana, bakaba basaba uru Rukiko kubyitaho, bagasubizwa mu buzima busanzwe kuko ari uburenganzira bwabo bahabwa n’ibikubiye muri ayo masezerano, ko kandi ibisabwa byose babyujuje, ndetse bakaba baritandukanyije n’imitwe yitwaje intwaro.

[358] NSHIMIYIMANA Emmanuel we, avuga ko Urukiko rubanza rwavugishije amasezerano ya Lusaka yo ku wa 10/7/1999 ibyo atavuze, kuko ateganya ko abarwanyi babaga muri iriya mitwe muri Congo, bemerewe gusubizwa mu buzima busanzwe banyuze i Mutobo, uretse abari bakurikiranyweho ibyaha byibasiye inyokomuntu, ibyaha by’intambara na jenoside. Avuga ko Ubushinjacyaha bumukurikirana bwirengagije ko muri ibyo byaha byose byavuzwe haruguru, nta na kimwe akurikiranyweho, akaba asaba ko nawe yasubizwa mu buzima busanzwe nk’abandi.

[359] NIYIRORA Marcel avuga ko mu miburanire ye yasabye Urukiko rubanza gusubizwa mu buzima busanzwe, nk’uko n’abandi bitandukanije n’iyo mitwe kandi bafashwe nyuma ye babikorewe, bakajyanwa i Mutobo, ariko ko rutabimuhaye, ariyo mpamvu asaba uru Rukiko kubyitaho, nawe akajyanwa mu kigo cyigisha uburere mboneragihugu, rugashingira ku ngingo ya 15 y’Itegeko Nshinga, iteganya ko abantu bareshya imbere y’amategeko, ko ndetse amasezerano ya Lusaka n’itangazo rya Nairobi, avuga gutatanya, kwambura intwaro no gusubiza mu buzima busanzwe, kandi ibyo Ubushinjacyaha bukaba bubizi, ariko ko bwarirenzeho bukamukurikirana, ko asaba uru Rukiko kubisuzuma rukabiha agaciro.

UKO URUKIKO RUBIBONA

[360] Ingingo ya 183, agace ka gatandatu (6), y’Itegeko n° 027/2019 ryo ku wa 19/9/2019 ryerekeye imiburanishirize y’imanza z’inshinjabyaha iteganya ko "*Ubujurire bukorwa mu buryo bw’umwanzuro utanga ikirego, ugaragaza ibisobanuro kuri buri nenge cyangwa kuri buri kibazo bigaragaza amakosa yakozwe n’uburyo agomba gukosorwa hashingiwe ku mategeko n’ibimenyetso n’igisabwa urukiko*".

[361] Iyi ngingo ya 183, agace ka gatandatu (6) yumvikanisha ko iyo urega mu bujurire atagaragaza ibisobanuro kuri buri nenge bigaragaza amakosa yakozwe mu rubanza rujuririrwa n’uburyo agomba gukosorwa mu mategeko, ubujurire bwe buba nta shingiro bufite.

[362] Nk’uko bigaragara mu bice bya 463 na 464 by’urubanza rujuririrwa, ku birebana n’ikibazo cyo gusubizwa mu buzima busanzwe, Urukiko rubanza rwasobanuye ko haba mu masezerano ya Lusaka yo ku wa 10/7/1999, haba mu itangazo rihuriweho n’igihugu cya Repubulika iharanira Demokarasi ya Congo (RDC) na Leta y’u Rwanda ryakorewe i Nairobi ku wa 9/11/2007, ndetse no mu Iteka rya Minisitiri n° 066 ryo ku wa 13/9/2002 rigena ingingo zigenderwaho mu myakirire n’ishyirwa muri gahunda yagenewe abavuye mu bucengezi, ntaho biteganyijwe ko abakekwaho ibindi byaha bari muri iyo mitwe batabikurikiranwaho kuko ikigarukwaho ari uko abakurikiranweho ibyaha byerekeranye na jenoside, ibyaha byibasiye inyoko muntu n’iby’intambara bagomba gushyikirizwa ubutabera, ko ari nabyo

byemejwe n'Urukiko rw'Ikirenga mu rubanza n° RPA 0255/12/CS rwa INGABIRE UMUHOZA Victoire na bagenzi be, rwaciwe ku wa 13/12/2013.

[363] Abaregwa bavugwa haruguru bavuga ko banenga Urukiko rubanza kuko basabye ko hashingiwe ku masezerano ya Lusaka yo ku wa 10/7/1999 agamije guhagarika imirwano, ku itangazo ryo ku wa 9/11/2007 ryashyizweho umukono na Leta y'u Rwanda na Repubulika iharanira Demokarasi ya Congo (RDC), ryakorewe Naïrobi-Kenya n'Iteka rya Minisitiri n° 066 ryo ku wa 13/9/2002 rigena ingingo zigenderwaho mu myakirire n'ishyirwa muri gahunda yagenewe abavuye mu bucengezi, batakurikiranwa, bagashyirwa mu buzima busanzwe kuko uretse kuregwa icyaha cyo kuba mu mutwe w'iterabwoba, bataregwa icyaha cya jenoside, ibyaha by'intambara cyangwa ibyaha byibasiye inyoko muntu, ariko rwanzura ko n'ubwo batashinjwa ibyo byaha bitatu, izo nyandiko zitabuza ko bakurikiranywa ku bindi byaha bitavuzwemo. Bavuga ko ariyo mpamvu basaba uru Rukiko kwemeza ko aho gukurikiranywa, bajyanwa mu ngando i Mutobo kimwe n'abandi.

[364] Ubushinjacyaha buvuga ko iyi mpamvu y'ubujurire bw'abaregwa bavugwa haruguru, nta shingiro ifite kuko batagaragaza icyo banenga ku bisobanuro byatanzwe n'Urukiko rubanza, byatumye rwanga icyifuzo cyabo cyo kujyanwa mu kigo gisubiza mu buzima busanzwe abahoze mu mitwe yitwaje intwaro.

[365] Urukiko rw'Ubujurire rurasanga, iyi ngingo y'ubujurire bw'abagerwa itahabwa agaciro kuko uretse kuvuga ko Urukiko rubanza rutasuzumye neza ibivugwa cyane cyane mu masezerano ya Lusaka, ntacyo banenga ku bisobanuro Urukiko rubanza rwagaragaje rushingiraho icyemezo rwafashe ko nta cyabuza ko abakoze ibyaha bitari ibya jenoside, ibyaha byibasiye inyoko muntu n'ibyaha by'intambara, batakurikiranwaho ibindi byaha bisanzwe nk'iterabwoba.

[366] Usibye n'ibyo, Urukiko rw'Ubujurire rurasanga ibyasobanuwe n'Urukiko rubanza rushingiye ku murongo watanzwe n'Urukiko rw'Ikirenga mu rubanza rwa INGABIRE UMUHOZA Victoire, bishimangirwa n'ibivugwa cyane cyane mu gace ka makumyabiri na kabiri (22) k'amasezerano ya Lusaka yo ku wa 10/7/1999 agamije guhagarika imirwano, aho asobanura ko uretse abakekwaho icyaha cya jenoside, ibihugu bikomokamo abarwanyi b'imitwe yitwaje intwaro, mu ngamba zose zikenewe bifata kugira ngo byorohereze gutaha kwabo ku bushake, bishobora no kwemeza imbabazi zitangwa n'Itegeko[71] zisibanganya *(rétroactivement)* ibindi byaha baba bakoze[72]; ni ukuvuga ibyaha bisanzwe *(infractions de droit commun).* Ibyo ari ko sibyo Leta y'u Rwanda yakoze. Bityo, n'ubwo batakoze ibyaha bitatu byavuzwe haruguru, nta cyabuza ko bakurikiranwaho ibyaha baregwa kandi bahamijwe muri uru rubanza.

[367] Ku birebana n'ibivugwa n'abaregwa ko hari abandi bari kumwe nabo, basubijwe mu buzima busanzwe, Urukiko rw'Ubujurire rurasanga nta shingiro bifite kuko Ubushinjacyaha ari bwo bufite inshingano yo kumenya niba ari ngombwa gukurikirana umuntu *(opportunité de poursuite).*

[368] Kubera izo mpamvu zose, Urukiko rw'Ubujurire rurasanga iyi ngingo y'ubujurire bwa NSANZUBUKIRE Félicien, MUNYANEZA Anastase, NSHIMIYIMANA Emmanuel na NIYIRORA Marcel, nta shingiro ifite.

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[71] *Amnistie : Acte du législateur qui efface rétroactivement le caractère punissable des faits auxquels il s'applique. Selon le cas, l'amnistie empêche ou éteint l'action publique, annule la condamnation déjà prononcée ou met un terme à l'exécution de la peine*.

[72] '' (…….). *Les pays d'origine des membres des groupes armés s'engagent à prendre toutes les mesures nécessaires pour faciliter leur rapatriement. Ces mesures pourraient inclure l'amnistie, au cas où certains pays jugeraient cette mesure avantageuse. Toutefois, cette mesure ne s'appliquera pas dans le cas des suspects du crime de génocide. (…..)''.*

d. Kumenya igihe igihano gitangira kubarirwa

[369] NSANZUBUKIRE Félicien, MUNYANEZA Anastase, NTIBIRAMIRA Innocent na BYUKUSENGE Jean-Claude basabye Urukiko gusobanura igihe giherwaho habarwa igihano cy'igifungo bakatiwe.

[370] NSANZUBUKIRE Félicien na MUNYANEZA Anastase bavuga ko banenga Urukiko rubanza kuba rutasuzumye ikibazo barushyikirije cyo kwemeza ko igihano cy'igifungo bazakatirwa kigomba kubarwa kuva umunsi bafatiweho muri Congo. Basobanura ko bafungiwe i Goma mu kwezi kwa kabiri mu mwaka wa 2017 (9/2/2017), nyuma bajyanwa i Kinshasa muri gereza ya Makala, nyuma y'amezi atandatu mu kwezi kwa cyenda, bagarurwa mu Rwanda, ko nta nyandiko bigeze bahabwa mu gihe cy'ifatwa n'iyinjizwa mu Rwanda ngo zibe zakwifashishwa mu kubara igihe bazamara mu gifungo. Basaba rero uru Rukiko gukosora amakosa yakozwe n'Urukiko rubanza.

[371] NTIBIRAMIRA Innocent na BYUKUSENGE Jean-Claude bavuga nabo ko basabye ko amatariki bafatiweho muri Congo yazashingirwaho kugira ngo habarwe igihe igihano bahabwa gitangirira, ariko Urukiko rubanza rukaba ntacyo rwabivuzeho, nyamara bararugaragarije ko NTIBIRAMIRA Innocent yafashwe ku wa 31/7/2019, naho BYUKUSENGE Jean-Claude we yafashwe ku wa 24/10/2019. NTIBIRAMIRA Innocent avuga ko ikimenyetso ashingiraho yemeza ko icyo aricyo gihe yafatiwe, ari uko ku wa 26/10/2019 yajyanywe imbere y'itangazamakuru n'imbere y'abaturage mu Murenge wa Kamembe, mu Karere ka Rusizi, gusobanura ibyaha yakoze. BYUKUSENGE Jean-Claude we avuga ko ikimenyetso gihamya ko ari icyo gihe yafatiwe, ari uko nawe ku wa 26/10/2019 yajyanywe Rusizi imbere y'abaturage, gusobanura ibyo yakoze, akaba asaba ko amezi icyenda (9) yamaze afunzwe yabarirwa mu gihano yakatiwe.

[372] Ubushinjacyaha buvuga ko kuba amatariki abaregwa bavuga ko ariyo bafatiweho muri Congo, nta kimenyetso bayagaragariza, ko iyi ngingo yabo y'ubujurire nta gaciro yahabwa kuko igihe giherwaho mu kubara igihano cy'igifungo Urukiko rwategetse ari igihe umuntu amaze afunzwe n'inzego zabiherewe ububasha n'itegeko. Buvuga ko ikimenyetso kigaragaza igihe abaregwa bamaze bafunzwe n'inzengo zabiherewe ububasha n'itegeko ari inyandikomvugo z'ifunga (PVA) zakorewe mu Bugenzacyaha (RIB), ko rero kuba batagaragariza Urukiko ikimenyetso kivuguruza ibikubiye muri izo nyandikomvugo z'ifunga bo ubwabo bishyiriyeho umukono, ibyo bavuga ku birebana n'amatariki bafatiweho nta shingiro bifite.

UKO URUKIKO RUBIBONA

[373] Ingingo ya 28, igika cya mbere n'icya kabiri, y'Itegeko n˚ 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange iteganya ko *"Igihe cy'igifungo gitangira kubarwa kuva ku munsi urubanza ruhana umuntu rwabaye ndakuka. Igihe umuntu amaze afunzwe n'inzego zabiherewe ububasha n'itegeko kivanwa mu gihe cy'igifungo urukiko rwategetse"*. Naho ingingo ya 16, igika cya kabiri n'icya gatatu, y'Itegeko n˚ 027/2019 ryo ku wa 19/9/2019 ryerekeye imiburanishirize y'imanza nshinjabyaha iteganya ko *"Iyo akora iperereza, umugenzacyaha ashobora gufata no gufunga ukurikiranyweho icyaha mu buryo buteganywa n'iri tegeko. Umugenzacyaha yandika inyandikomvugo yo gufata no gufunga akagenera kopi ucyekwaho icyaha*".

[374] Ingingo ya 3, igika cya mbere, y'Itegeko nº 15/2004 ryo ku wa 12/6/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko *''Buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana*".

[375] Kuba Umushingamategeko yaravuze mu buryo butaziguye ko inyandiko-mvugo ivugwa mu ngingo ya 16, igika cya gatatu, y'Itegeko n˚ 027/2019 ryo ku wa 19/9/2019 ryavuzwe haruguru, ikemura impaka mu byerekeye ibiyivugwamo, keretse yaregewe mu rukiko ko ari impimbano, hagomba kumvikana ko ibivugwamo ari ukuri kugeza aho bivuguruzwa n'ibindi bimenyetso.

[376] Urukiko rw'Ubujurire rurasanga ikimenyetso kigaragaza itariki ukekwaho icyaha yafungiweho by'agateganyo igihe cy'iperereza cyangwa mbere yo gukurikiranwa mu Rukiko ari inyandikomvugo y'ifunga *(procès-verbal d'arrestation)* yakozwe n'Umugenzacyaha ubifitiye ububasha cyangwa urwandiko rufunga by'agateganyo rwakozwe n'Umushinjacyaha ubifitiye ububasha.

[377] Dosiye y'urubanza igaragaza ko harimo inyandikomvugo z'ifunga za *Général Major* NSANZUBUKIRE Félicien alias IRAKIZA Fred na *Général Major* MUNYANEZA Anastase alias RUKUNDO Job Kuramba zakozwe ku wa 15/7/2020 n'Ubugenzacyaha (RIB), ko harimo kandi inyandikomvugo z'ifunga za NTIBIRAMIRA Innocent na BYUKUSENGE Jean-Claude zakozwe ku wa 16/7/2020 n'Ubugenzacyaha.

[378] Urukiko rw'Ubujurire rurasanga uretse ibyo bavuga ko bafatiwe muri Congo, bagafungwa kubera ibyaha baregwa muri uru rubanza bakoreye sosiyete nyarwanda, nta bimenyetso byanditse cyangwa byunganiwe n'ibimenyetso byanditse bituzuye bagaragarije Urukiko bishimangira ibyo bavuga. Ku bw'ibyo rukaba rusanga hagomba kwemezwa ko bafashwe ku matariki avugwa mu nyandikomvugo zibafunga zavuzwe haruguru, ni ukuvuga ku wa 15/7/2020 no ku wa 16/7/2020.

[379] Urukiko rw'Ubujurire rurasanga kandi izo nyandikomvugo z'ifunga zigize ibimenyetso bigaragaza umunsi bafungiweho kuko bazishyizeho umukono nta ngufu, nta n'agahato.

[380] Hashingiwe ku bisobanuro byatanzwe haruguru, Urukiko rw'Ubujurire rurasanga igihano cy'igifungo bakatiwe kigomba gutangira kubarwa, ku bireba NSANZUBUKIRE Félicien na MUNYANEZA Anastase ku wa 15/7/2020, naho ku bireba NTIBIRAMIRA Innocent na BYUKUSENGE Jean-Claude ku wa 16/7/2020. Ibi akaba ari nako bigomba kugenda ku baregwa bose, harebwe ibigaragara mu nyandikomvugo z'ifunga bakorewe mu Bugenzacyaha, n'ubwo uru Rukiko rutasuzumye ibyo abandi baregwa bavuze kuri icyo kibazo, kubera ko bakizamuye ubwa mbere mu iburanisha mu Rukiko rw'Ubujurire.

[381] Kubera izo mpamvu zose, Urukiko rw'Ubujurire rurasanga iyi ngingo y'Ubujurire bwa NSANZUBUKIRE Félicien, MUNYANEZA Anastase, NTIBIRAMIRA Innocent na BYUKUSENGE Jean-Claude nta shingiro ifite.

C. IBYEREKEYE IBIHANO UBUSHINJACYAHA BUSABIRA ABAREGWA MU BUJURIRE

[382] Ubushinjacyaha buvuga ko haseguriwe ibyaha abaregwa bahamijwe ku rwego rwa mbere, bushingiye kandi ku bisobanuro byose byatanzwe ku mpamvu z'ubujurire bwawo, busaba Urukiko rw'Ubujurire kwemeza ko:

1. RUSESABAGINA Paul ahanishwa igihano cy'igifungo cya burundu,
2. NIZEYIMANA Marc igihano cy'igifungo cya burundu,

3. NSABIMANA Callixte alias Sankara igihano cy'igifungo cy'imyaka makumyabiri n'itanu (25),
4. NSENGIMANA Herman igihano cy'igifungo cy'imyaka makumyabiri (20),
5. IYAMUREMYE Emmanuel igihano cy'igifungo cy'imyaka makumyabiri (20),
6. KWITONDA André igihano cy'igifungo cy'imyaka makumyabiri (20),
7. NSHIMIYIMANA Emmanuel igihano cy'igifungo cy'imyaka makumyabiri (20),
8. HAKIZIMANA Théogène igihano cy'igifungo cy'imyaka makumyabiri (20),
9. NDAGIJIMANA Jean Chrétien igihano cy'igifungo cy'imyaka makumyabiri (20),
10. NSANZUBUKIRE Félicien igihano cy'igifungo cy'imyaka makumyabiri (20),
11. MUNYANEZA Anastase igihano cy'igifungo cy'imyaka makumyabiri (20),
12. NIKUZWE Siméon igihano cy'igifungo cy'imyaka makumyabiri (20),
13. NTABANGANYIMANA Joseph igihano cy'igifungo cy'imyaka makumyabiri (20),
14. MUKANDUTIYE Angelina igihano cy'igifungo cy'imyaka makumyabiri (20) na
15. NIYIRORA Marcel igihano cy'igifungo cy'imyaka cumi n'itanu (15).

[383] Ubushinjacyaha busaba kandi uru Rukiko kwemeza ko nta gihindutse ku bihano byahawe:

1. BIZIMANA Cassien alias Passy,
2. MATAKAMBA Jean Berchmas,
3. SHABANI Emmanuel,
4. NTIBIRAMIRA Innocent,
5. BYUKUSENGE Jean-Claude na
6. NSABIMANA Jean Damascène alias Motard.

[384] NSABIMANA Callixte alias Sankara asaba Urukiko kudaha agaciro icyifuzo cy'Ubushinjacyaha, kuko harebwe uko yitandukanyije na MRCD, agafasha ubutabera, akaba akomeza gusaba imbabazi Abanyarwanda bagizweho ingaruka n'ibitero byakozwe na FLN yari abereye umuvugizi, igihano asabirwa kidahwanye n'imyitwarire ye imbere y'ubutabera kuva yafatwa. Asoza asaba Urukiko kongera kumugabanyiriza igihano yakatiwe kuko yiteguye kuzaba Umunyarwanda wubahiriza amategeko y'igihugu, kandi ko akamaro k'igihano katareberwa mu buremere bw'icyaha gusa.

[385] NIZEYIMANA Marc avuga ko asaba kugirwa umwere ku cyaha yahamijwe cyo kuba mu mutwe w'iterabwoba n'icyo gukora no kugira uruhare mu bikorwa by'iterabwoba.

[386] NSENGIMANA Herman avuga ko igihano cy'igifungo cy'imyaka makumyabiri (20) asabirwa kidakwiye kuko kuva yatangira kuburana yemeye icyaha yahamijwe, ariyo mpamvu, ku rwego rwa mbere, Urukiko rubanza rwamugabanyirije igihano kugeza ku gifungo cy'imyaka itanu (5), ko rero asaba Urukiko kureba ubwirege bwe, rukongera kumugabanyiriza igihano, agasubira mu buzima busanzwe nk'abandi.

[387] IYAMUREMYE Emmanuel avuga ko icyifuzo cy'Ubushinjacyaha cy'uko yahamwa n'icyaha cyo kurema umutwe w'ingabo utemewe kigomba guteshwa agaciro kuko atakirezwe. Asaba Urukiko guha agaciro imiburanire ye, rukemeza ko asubizwa mu buzima busanzwe, anyuze mu Kigo mboneragihugu.

[388] KWITONDA André avuga ko asaba Urukiko kutamuhamya icyaha cy'irema ry'umutwe bitemewe kuko atakirezwe, ko yahamijwe icyaha cyo kuba mu mutwe w'iterabwoba, ariko yinjijwemo bamuteye ubwoba, akaba asaba Urukiko kwemeza ko ataryozwa icyo cyaha.

[389] NSHIMIYIMANA Emmanuel avuga ko asaba Urukiko gukuraho igihano yahawe kubera ko Ubushinjacyaha butabashije kuvuguruza ibimenyetso yatanze by'uko yinjijwe ku ngufu mu mitwe y'iterabwoba, akayigumishwamo ku ngufu, ko asaba kandi kujyanywa mu Kigo ngororamuco, bitaba ibyo akaba yahabwa isubikagihano.

[390] HAKIZIMANA Théogène avuga ko yinjiye mu ishyirahamwe ry'iterabwoba ku gahato n'igitutu, bituma arigumamo, ko kandi yari afite ubumuga, ntacyo ashoboye, bituma aguma muri iyo mitwe. Asaba Urukiko gusuzuma izo mpamvu, rukamuha ubutabera.

[391] NDAGIJIMANA Jean Chrétien avuga ko yinjijwe mu ishyamba akiri umwana, akaba asaba kutaryozwa icyaha yahamijwe, agasubizwa mu buzima busanzwe kugira ngo bitume urundi rubyiruko ruri mu mashyamba rwitandukanya n'iyo mitwe.

[392] NSANZUBUKIRE Félicien avuga ko adahamwa n'icyaha cyo kurema umutwe w'ingabo bitemewe kuko atigeze akiregwa mu Rukiko rubanza, akaba asaba Urukiko kunyura muri *programme national de mobilisation et de réintegration*, ko mu gihe Urukiko rwaba rubibonye ukundi, rwakwemeza igihano cy'imyaka itanu (5) yahawe ku rwego rwa mbere, kandi kigatangira kubarwa tariki ya 9/2/2017.

[393] MUNYANEZA Anastase avuga ko adahamwa n'icyaha cyo kurema umutwe w'ingabo bitemewe kuko atigeze akiregwa mu Rukiko rubanza, akaba asaba Urukiko kumuha amahirwe yo gusubizwa mu buzima busanzwe, akajya gufatanya n'abandi kubaka igihugu, ariko mu gihe rwabibona ukundi, rwategeka ko icyemezo cy'Urukiko rubanza kidahindutse ku gihano cy'imyaka itanu (5) yakatiwe, kandi kigatangira kubarwa guhera tariki ya 10/2/2017.

[394] NIKUZWE Siméon avuga ko Ubushinjacyaha bumusabira igihano kirenze ku byo yari yahawe, ariko butagaragaza ibikorwa yaba yarakoze biteganywa n'ingingo ya 18 y'Itegeko n°46/2018 ryo ku wa 13/8/2018 ryerekeye kurwanya iterabwoba, akaba rero asaba kugirwa umwere kuri icyo cyaha.

[395] NTABANGANYIMANA Joseph avuga ko asaba Urukiko kwemeza ko ari umwere ku cyaha yahamijwe, kuko atabaye mu mutwe w'iterabwoba.

[396] MUKANDUTIYE Angelina avuga ko asaba imbabazi, akajya gufatanya n'abandi kubaka igihugu.

[397] NIYIRORA Marcel avuga ko Ubushinjacyaha butagaragaje ibimenyetso bimuhamya icyaha gishya aregwa mu bujurire cyo kurema umutwe w'ingabo bitemewe, akaba asaba gusubizwa mu buzima busanzwe nk'uko bikorwa ku bantu bitandukanyije n'imitwe y'iterabwoba, bitaba ibyo agasubikirwa igihano yakatiwe ku rwego rwa mbere.

[398] BIZIMANA Cassien alias Passy avuga ko atigeze aregwa icyaha cy'irema ry'umutwe w'ingabo bitemewe, ko asaba Urukiko kumugabanyiriza igihano yakatiwe kuko yemeye icyaha kuva mu iperereza

kugera mu iburanisha mu Rukiko, kandi ko amakuru yatanze atari kumenyekana iyo adafatanya n'ubutabera.

[399] MATAKAMBA Jean Berchmas avuga ko yafashije ubutabera gufata abandi bakoze icyaha, ko asaba Urukiko imbabazi, agasubizwa mu buzima busanzwe kuko ari umurwayi, n'ubu akaba ari mu kato.

[400] SHABANI Emmanuel avuga ko asaba Urukiko kumuha igihano gito gishoboka, kigasubikwa kugira ngo ajye kwifatanya n'abandi kubaka igihugu.

[401] NTIBIRAMIRA Innocent asaba Urukiko kwemera imbabazi asaba, kugabanya igihano yakatiwe no kwemeza ko icyo gihano gitangira kubarwa guhera ku wa 24/10/2019.

[402] BYUKUSENGE Jean-Claude avuga ko asaba Urukiko kwemera imbabazi asaba, kugabanya igihano yakatiwe no kwemeza ko icyo gihano gitangira kubarwa guhera ku wa 24/10/2019.

[403] NSABIMANA Jean Damascène alias Motard avuga ko akomeza gutakambira Urukiko, rukamugabanyiriza kuko yagororotse cyane, ko asubijwe mu muryango nyarwanda, yazashishikariza abandi kutagwa mu mutego, agafatanya n'abandi kubaka igihugu, ariko mu gihe rwabibona ukundi, asaba Urukiko gutegeka ko afungirwa muri gereza ya Rusizi, hafi y'umuryango we kuko afite ikibazo cy'uburwayi bw'igifu, ukabasha kumwitaho.

UKO URUKIKO RUBIBONA

- **Ku bireba RUSESABAGINA Paul**

[404] Uru Rukiko rwasanze, ibyo Urukiko rubanza rwemeje ko RUSESABAGINA Paul yemeye icyaha bidashidikanywaho ku buryo byamubera impamvu yo kugabanyirizwa igihano, nta shingiro bifite. Rusanga ariko kuba ari ubwa mbere akurikiranyweho icyaha nk'uko n'Urukiko rubanza rwabyemeje, nta mpamvu uru Rukiko rubona yatuma yongererwa igihano, kuko igihano yahawe cy'igifungo cy'imyaka makumyabiri n'itanu (25) kijyanye n'uburemere bw'icyaha yakoze, rukaba rukigumishijeho.

- **Ku bireba NSABIMANA Callixte alias Sankara**

[405] Nk'uko byasobanuye haruguru, Urukiko rw'Ubujurire rurasanga harebwe ko ari ubwa mbere NSABIMANA Callixte alias Sankara yakurikiranyweho icyaha, ko yemeye mu buryo budashidikanywaho ibyaha yahamijwe kuva yafatwa, akaba abisabira imbabazi kubo byagizeho ingaruka n'umuryango nyarwanda muri rusange, yafashije ubutabera atanga amakuru akenewe ku birebana n'iyo mitwe y'iterabwoba, ku bantu bayigize, uko ibihugu n'abantu bayitera inkunga, kandi aburana mu mizi yakomeje kwemera ibyo byaha yahamijwe, ibi bikaba bigize impamvu nyoroshyacyaha zemejwe mu bushishozi bw'Urukiko rubanza,kandi bikaba bitarajuririwe. Kubera izo mpamvu uru Rukiko rurasanga Urukiko rubanza rutaramugabanyirije igihano mu buryo buhagije ugereranyije imyitwarire ye n'uruhare yagize mu gutahura ukuri ku mikorere y'iki cyaha akurikiranyweho. Bityo, mu bushishozi bwarwo akaba akwiye kongera kugabanyirizwa igihano yahawe kikava ku myaka makumyabiri (20) y'igifungo kikaba igihano cy'igifungo cy'imyaka cumi n'itanu (15).

- **Ku bireba NIZEYIMANA Marc**

[406] Urukiko rw'Ubujurire rurasanga harebwe ibyasobanuwe haruguru, kuba NIZEYIMANA Marc yarahakanye mu buryo budasubirwaho ibyaha yahamijwe, atari akwiye kugabanyirizwa igihano ku

mpamvu y'uko hari ibyo yemeye aburana urubanza mu mizi. Ariko harebwe imikorere y'ibyaha yahamijwe no kuba ari ubwa mbere akurikiranwe n'inkiko, uru Rukiko rukaba rusanga mu bushishozi bwarwo, igihano yakatiwe ku rwego rwa mbere cy'igifungo cy'imyaka makumyabiri (20) gikwiranye n'imiterere n'uburemere bw'icyaha yakoze. Bityo, icyo gihano yahawe n'Urukiko rubanza kikaba kigomba kugumaho.

- **Ku bireba NSENGIMANA Herman**

[407] Nk'uko byasobanuwe haruguru, NSENGIMANA Herman yaburanye mu Rukiko rubanza ahakana ko yari mu mutwe w'iterabwoba, anasaba ko atahamwa n'icyo cyaha, ahubwo yemera ko yabaye mu mutwe w'igisirikare utemewe, nyamara yagabanyirijwe igihano ku mpamvu nyoroshyacyaha eshatu, harimo no kuba yaraburanye yemera icyaha yahamijwe cyo kuba mu mutwe w'iterabwoba, ibi byatumye agabanyirizwa igihano kugeza ku gifungo cy'imyaka itanu (5). Urukiko rw'Ubujurire rurasanga n'ubwo Urukiko rubanza rwanzuye ko ibyo yasobanuye bigize icyo cyaha yahamijwe, ariko rusanga atacyemera kuko avuga ko ibikorwa yakoze yabikoze atagamije iterabwoba. Bityo, rukaba rusanga yaragabanyirijwe cyane igihano giteganyijwe n'Itegeko cy'igifungo kitari munsi y'imyaka cumi n'itanu ariko kitarenze imyaka makumyabiri (20), ku buryo bigomba gukosorwa, akaba ahanishijwe, mu bushishozi bw'Urukiko, igihano cy'igifungo cy'imyaka irindwi (7), aho kuba igihano cy'igifungo cy'imyaka itanu (5) yahawe ku rwego rwa mbere.

- **Kuri IYAMUREMYE Emmanuel**

[408] Nk'uko byasobanuwe haruguru, Urukiko rw'Ubujurire rurasanga IYAMUREMYE Emmanuel yaragabanyirijwe igihano ku buryo bwemewe n'amategeko, hashingiwe ku kuba ari n'ubwa mbere akurikiranywe mu nkiko, rukaba rusanga igihano cy'igifungo cy'imyaka itanu (5) yakatiwe ku rwego rwa mbere kigomba kugumaho kuko gikwiranye n'imiterere y'icyaha yakoze, ndetse n'imibereho ye bwite.

- **Kuri KWITONDA André**

[409] Nk'uko byagaragajwe haruguru, Urukiko rw'Ubujurire rurasanga KWITONDA André yaragabanyirijwe igihano ku buryo bwemewe n'amategeko, hashingiwe ku kuba ari ubwa mbere akurikiranywe mu nkiko. Bityo, rukaba rusanga igihano cy'igifungo cy'imyaka itanu (5) yakatiwe ku rwego rwa mbere kigomba kugumaho kuko gikwiranye n'imiterere y'icyaha yakoze, harebwe n'imibereho ye bwite.

- **Kuri NSHIMIYIMANA Emmanuel**

[410] Urukiko rw'Ubujurire rurasanga nk'uko byagaragajwe haruguru, NSHIMIYIMANA Emmanuel yaragabanyirijwe igihano ku buryo bwemewe n'amategeko, hashingiwe ku buryo yinjiye mu mitwe aregwa kubamo akiri muto, akaba ari nabwo bwa mbere akurikiranyweho ibyaha mu nkiko. Bityo, rukaba rusanga igihano cy'igifungo cy'imyaka itatu (3) yakatiwe ku rwego rwa mbere, kigomba kugumaho kuko gikwiranye n'imiterere y'icyaha yahamijwe n'imibereho ye bwite.

- **Kuri HAKIZIMANA Théogène**

[411] Nk'uko byagaragajwe haruguru, kuba HAKIZIMANA Théogène yaragabanyirijwe igihano ku buryo bwemewe n'amategeko, hashingiwe ku kuba hari ibyo yemeye aburana urubanza mu mizi, abazwa mu iperereza, ndetse anaburana ibirebana n'ifungwa n'ifungurwa ry'agateganyo no kuba ari ubwa mbere akurikiranwe mu nkiko, Urukiko rw'Ubujurire rurasanga igihano cy'igifungo cy'imyaka itanu (5) yakatiwe ku cyaha cyo kuba mu ishyirahamwe ry'iterabwoba, gikwiranye n'imiterere y'icyo cyaha

yakoze, imibereho ye bwite n'imyitwarire ye kuva afatwa. Bityo, icyo gihano yakatiwe kikaba kigomba kugumaho.

- **Kuri NDAGIJIMANA Jean Chrétien**

[412] Urukiko rw'Ubujurire rurasanga nk'uko byagaragajwe haruguru, NDAGIJIMANA Jean Chrétien yaragabanyirijwe igihano ku buryo bwemewe n'amategeko, hashingiwe ku buryo yinjiye mu mitwe aregwa kubamo akiri muto, awubamo kubera ko se yari umwe mu bayobozi ba MRCD-FLN, kuba yaremeye ko yabaye muri iyo mitwe, atanga amakuru yafashije ubutabera, akaba ari nabwo bwa mbere akurikiranyweho ibyaha mu nkiko, Bityo, rukaba rusanga igihano cy'igifungo cy'imyaka itatu (3) yakatiwe ku rwego rwa mbere, kigomba kugumaho kubera ko gikwiranye n'imiterere y'icyaha yahamijwe, imibereho ye bwite n'imyitwarire ye kuva afatwa.

- **Kuri NSANZUBUKIRE Félicien**

[413] Nk'uko byasobanuwe haruguru, kuba NSANZUBUKIRE Félicien yaragabanyirijwe igihano ku buryo bwemewe n'amategeko, hashingiwe ku kuba hari ibyo yemeye aburana urubanza mu mizi, abazwa mu iperereza, ndetse anaburana ibirebana n'ifungwa n'ifungurwa ry'agateganyo no kuba ari ubwa mbere akurikiranwe mu nkiko, Urukiko rw'Ubujurire rurasanga igihano cy'igifungo cy'imyaka itanu (5) yakatiwe ku cyaha cyo kuba mu ishyirahamwe ry'iterabwoba, gikwiranye n'imiterere y'icyo cyaha yakoze, imibereho ye bwite n'imyitwarire ye kuva afatwa. Bityo, icyo gihano kikaba kigomba kugumaho.

- **Kuri MUNYANEZA Anastase**

[414] Urukiko rw'Ubujurire rwagaragaje haruguru ko MUNYANEZA Anastase yagabanyirijwe igihano ku buryo bwemewe n'amategeko, hashingiwe ku kuba kuba ari ubwa mbere akurikiranwe mu nkiko, ku bw'ibyo rukaba rusanga igihano cy'igifungo cy'imyaka itanu (5) yakatiwe ku cyaha cyo kuba mu ishyirahamwe ry'iterabwoba, gikwiranye n'imiterere y'icyo cyaha yakoze, imibereho ye bwite n'imyitwarire ye kuva afatwa. Bityo, icyo gihano kikaba kigomba kugumaho.

- **Kuri NIKUZWE Siméon**

[415] Nk'uko byagaragajwe haruguru, Urukiko rw'Ubujurire rwasanze NIKUZWE Siméon yaragabanyirijwe igihano mu buryo bwemewe n'amategeko, harebwe imikorere y'icyaha yahamijwe, ko nta ngaruka zikomeye ibikorwa yakoze byagize kuko nta bitero yagiyemo na *grenade* yari yarabitse ikaba yarafashwe itarakoreshwa, akaba ari ubwa mbere akurikiranyweho icyaha. Bityo, rukaba rusanga igihano cy'igifungo cy'imyaka icumi (10) yakatiwe ku rwego rwa mbere, ku cyaha cyo kuba mu mutwe w'iterabwoba kigomba kugumaho kuko kijyanye n'ibikorwa yakoze, imyitwarire ye n'imibereho ye bwite muri rusange.

- **Kuri NTABANGANYIMANA Joseph**

[416] Urukiko rw'Ubujurire rurasanga nk'uko byasobanuwe haruguru, NTABANGANYIMANA Joseph yaragabanyirijwe igihano mu buryo bwemewe n'amategeko, harebwe ko uruhare rwe rwagarukiye ku kuba yarashakishije ubwato n'icyambu, ariko ntiyajya mu bitero, akaba ari ubwa mbere akurikiranyweho icyaha mu nkiko, ku bw'ibyo igihano cy'igifungo cy'imyaka itatu (3) yakatiwe ku cyaha cyo kuba mu mutwe w'iterabwoba, kikaba kigomba kugumaho kuko kijyanye n'imikorere y'icyaha, imyitwarire ye n'imibereho ye bwite muri rusange.

- **Kuri MUKANDUTIYE Angelina**

[417] Nk'uko byagaragajwe haruguru, imwe mu mpamvu nyoroshyacyaha, yemejwe n'Urukiko rubanza, yatumye MUKANDUTIYE Angelina agabanyirizwa igihano giteganywa n'itegeko ku cyaha yahamijwe, ni ukuba ari ubwa mbere akurikiranywe mu nkiko, nyamara byagaragaye ko ku wa 23/11/2008, Urukiko Gacaca rw'Umurenge wa Rugenge, Akarere ka Nyarugenge rwakatiye MUKANDUTIYE Angelina igihano cy'igifungo cya burundu y'umwihariko.

[418] Urukiko rw'Ubujurire rurasanga hashingiwe ku ngingo ya 52, igika cya mbere n'icya gatatu[73], y'Itegeko n° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange, MUKANDUTIYE Angelina agomba guhanishwa igihano ntarengwa cyateganyijwe n'itegeko ku cyaha yahamijwe kuko iki cyaha ari n'isubiracyaha, ni ukuvuga igifungo cy'imyaka makumyabiri (20).

- **Kuri NIYIRORA Marcel**

[419] Nk'uko byagaragajwe haruguru, Urukiko rw'Ubujurire rurasanga NIYIRORA Marcel yaragabanyirijwe igihano ku buryo bwemewe n'amategeko, hashingiwe ku kuba ari n'ubwa mbere akurikiranywe mu nkiko. Bityo, uru Rukiko rukaba rusanga igihano cy'igifungo cy'imyaka itanu (5) yakatiwe ku rwego rwa mbere kigomba kugumaho kuko gikwiranye n'imiterere y'icyaha yakoze, n'imyitwarire ye kuva afatwa, ndetse n'imibereho ye bwite.

- **Kuri BIZIMANA Cassien alias Passy, MATAKAMBA Jean Berchmas, SHABANI Emmanuel, NTIBIRAMIRA Innocent, BYUKUSENGE Jean-Claude na NSABIMANA Jean Damascène alias Motard**

[420] Urukiko rw'Ubujurire rurasanga nk'uko byasobanuwe haruguru, nta mpamvu yatuma BIZIMANA Cassien **alias Passy**, MATAKAMBA Jean Berchmas, SHABANI Emmanuel, NTIBIRAMIRA Innocent, BYUKUSENGE Jean-Claude na NSABIMANA Jean Damascène bakongera kugabanyirizwa igihano bahawe ku rwego rwa mbere. Bityo, igihano cy'igifungo cy'imyaka makumyabiri (20) bakatiwe kikaba kigomba kugumaho kuko gikwiranye n'imiterere y'icyaha bakoze, n'imyitwarire yabo kuva bafatwa, ndetse n'imibereho yabo bwite.

5. IMPAMVU Z'UBUJURIRE ZIREBANA N'INDISHYI

[421] Hari abaregwa batishimiye icyemezo cy'Urukiko Rukuru, Urugereko rwihariye ruburanisha ibyaha mpuzamahanga n'ibyaha byambuka imbibi, cyo kwakira ikirego cy'indishyi hatubahirijwe amategeko arebana n'itangwa ry'ingwate y'igarama, kubera ko bamwe mu baziregeye batanze ingwate y'igarama imwe, abandi bayitanga cyangwa se batanga ibyemezo byo kutishobora batinze **(A).** Hari abaregwa banenga kuba mu rubanza rujuririrwa barategetswe kwishyura indishyi kandi nta ruhare bagize mu bikorwa byangiririje abaziregeye **(B).** Hakaba n'abaregera indishyi bajuriye banenga ingano nto y'indishyi bagenewe **(C)** cyangwa se kuba nta ndishyi bigeze bagenerwa na gato **(D)**. Abaregwa nabo bireguriye rimwe ku bujurire bw'abaregera indishyi banenze kuba baragenewe indishyi nkeya cyangwa se kuba nta na nkeya bagenewe **(E).**

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[73] Igika cya mbere cy'ingingo ya 52 yavuzwe haruguru giteganya ko ''Ku byaha by'ubugome, isubiracyaha ribaho igihe cyose umuntu yongeye gukora icyaha nyuma yo gukatirwa mu rubanza rwabaye ndakuka''. Igika cyayo cya gatatu giteganya ko ''Umuntu wese ugaragaweho isubiracyaha ahanishwa igihano ntarengwa cyateganyijwe n'itegeko kandi icyo gihano gishobora kongerwa kugeza ku nshuro ebyiri zacyo''.

A. Ku birebana n'iyakirwa ry'ibirego by'indishyi byatangiwe igarama rimwe cyangwa ibyemezo byo kutishobora ariko bigakorwa bikererewe

[422] Ku birebana n'iyi ngingo, abaregwa barimo NSABIMANA Callixte alias Sankara, NIZEYIMANA Marc, BIZIMANA Cassien alias Passy, NTABANGANYIMANA Joseph, NTIBIRAMIRA Innocent, BYUKUSENGE Jean-Claude, NSABIMANA Jean Damascène alias Motard na SHABANI Emmanuel kimwe n'ababunganira bagaragaza ko batemeranya n'ibyo Urukiko rubanza rwemeje byo kwakira ikirego cy'indishyi, mu gihe abaregera indishyi batatanze ingwate y'igarama mbere y'uko cyandikwa. Bavuga ko ibirego by'abaregera indishyi bahagarariwe na Me MUKASHEMA Marie Louise na Me MUNYAMAHORO René, byabanje gutangwa ku igarama rimwe ryanditse kuri HAVUGIMANA Jean-Marie Vianney, hanyuma hazamuwe inzitizi y'uko ikirego cyabo kitakwakirwa kuko batagaragaza impamvu batanga igarama rimwe kandi badahuje inyungu, babona kuba aribwo bashyira muri dosiye ibyemezo by'uko batishoboye. Bavuga ko Urukiko rubanza rwabirenzeho rwakira icyo kirego rushingiye ku kuba ikirego cy'indishyi gishobora kwakirwa igihe cyose urubanza rutarapfundikirwa. Abunganira abaregwa bavuga ko iki kirego cyabo kitagombaga kwakirwa kuko ibyo bakoze binyuranyije n'amategeko.

[423] Me RUGEYO Jean, wunganira NSABIMANA Callixte alias Sankara, avuga ko ihame ari uko ku birego by'indishyi mu manza nshinjabyaha hakurikizwa imiburanishirize y'imanza mbonezamubano, ko kugira ngo ikirego cy'indishyi cyakirwe hari ibisabwa mbere y'uko cyandikwa mu bitabo by'Urukiko birimo nk'ingwate y'igarama cyangwa icyemezo cyo kutishobora kandi bikaba bigomba gutangwa mbere. Avuga ko ibyo abaregera indishyi bakoze muri ubwo buryo bazana ibyemezo byo kutishobora kandi urubanza rugeze hagati ruburanishwa, ari ukuzuza ibyo batari barakoze neza mu itangwa ry'ikirego kuko ikirego cyo cyari cyaramaze gutangwa.

[424] Me MUREKATETE Henriette, wunganira NIZEYIMANA Marc na BIZIMANA Cassien alias Passy, avuga ko asanga ikirego cyakirwa kitari cyujuje ibisabwa, kuko gutanga igarama cyangwa icyemezo cyo kutishobora ari yo *ticke*t iha urega ijambo imbere y'urukiko hakurikijwe ibiteganywa n'ingingo ya 7, agace ka mbere y'Itegeko n° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ko iyo ngwate y'igarama ari yari gutuma abaregera indishyi baza imbere y'urukiko kuvuga ko bahuje inyungu, ko ariko nyuma Urukiko rwaje gusanga badahuje inyungu. Akongeraho ariko ko ibi bitareba abatanze amagarama mu gihe batangaga ibirego byabo by'indishyi kuko bo bujuje ibisabwa n'amategeko.

[425] NTABANGANYIMANA Joseph, NTIBIRAMIRA Innocent na BYUKUSENGE Jean-Claude bunganirwa na Me NGAMIJE KIRABO Guido bavuga ko hashingiwe ku ngingo ya 7 (1°) y'Itegeko n°22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, urega afite inshingano yo gutanga ingwate y'amagarama, ko hanashingiwe ku ngingo ya 21, agace ka mbere (1°), y'iryo Tegeko, umwanditsi w'Urukiko adashobora kwandika ikirego mu gihe urega atabanje gutanga ingwate y'amagarama y'urubanza keretse igihe abisonewe, ko mu gihe urubanza n° RP 00031/2019/HC/HCCIC rujurirwa rwari rwaratangiye kuburanishwa, basabye Urukiko ko ku baregera indishyi batatanze ingwate y'igarama ibirego byabo by'indishyi bitakwakirwa.

[426] Me NGAMIJE KIRABO Guido, avuga ko bamwe mu baregera indishyi bamaze kumva mu iburanisha hanengwa ko batanze ikirego batatanze ingwate y'igarama, ari bwo bashyize muri *système* [IECMS] ibyemezo by'uko batishoboye, mu gihe nyamara hashingiwe ku biteganywa mu ngingo ya 7

n'iya 21 z' Itegeko nº 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru ku birebana no gutanga ingwate y'igarama, bari guhabwa ijambo mu rubanza ari uko babanje kuzuza ibyo basabwa.

[427] NSABIMANA Jean Damascène na SHABANI Emmanuel bunganiwe na Me UWIMANA Channy kimwe n'abo baregwa hamwe bavuzwe haruguru, bavuga ko hashingiwe ku ngingo ya 7, agace ka mbere (1°) y'Itegeko n°22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru, urega afite inshingano yo gutanga ingwate y'amagarama, ko hanashingiwe ku ngingo ya 21m gace ka mbere, (1°) y'iryo Tegeko, umwanditsi w'urukiko adashobora kwandika ikirego mu gihe urega atatanze ingwate y'amagarama y'urubanza keretse igihe abisonewe.

[428] Me MUGABO Sharif Yussuf, wunganira KWITONDA André, HAKIZIMANA Théogène na NDAGIJIMANA Jean Chrétien, avuga ko kuri iki kibazo kirebana n'iyakirwa ry'ibirego by'indishyi ntaho itegeko riteganya ibihe ntarengwa byo gutanga ingwate y'igarama, ko iyo abihuje n'igihe ntarengwa cyo gutanga ikirego cy'indishyi by'akarusho asanga igarama rishobora gutangwa igihe cyose urubanza nshinjabyaha rukirimo kuburanishwa, ko yumva hatashakirwa igisubizo mu itegeko. Bityo, ko ku ruhande rw'abo yunganira abihariye ubushishozi bw'Urukiko kugira ngo ruzabisuzume rubihuje n'icyemezo Urukiko rubanza rwabifasheho.

[429] Abaregera indishyi bavuga ko ku kibazo kirebana n'uko bamwe mu baregera indishyi batanze igarama batinze ku buryo Urukiko rubanza rutari kwakira ibirego byabo, ingingo ya 116 y'Itegeko n° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, igaragaza ko uregera indishyi ashobora gutanga ikirego kuva urubanza rutangiye kugeza igihe iburanisha rirangiriye ku rwego rwa mbere. Basobanura ko ibivugwa muri iyi ngingo bisobanuye ko igihe cyose iburanisha mu manza nshinjabyaha ritararangira, uwifuza kuregera indishyi ashobora gutanga ikirego cye cy'indishyi, kandi ko ari ko byagenze mu rubanza rujuririrwa kuko abaregera indishyi batari baratanze ingwate y'igarama batanze nyuma ibyemezo by'uko batishoboye, maze Urukiko rwemeza ko ibirego byabo byakirwa. Bakaba rero basanga ibyo abaregwa bajuriye basaba cyangwa bireguza ku bijyanye no kuba ikirego kitaragombaga kwakirwa bitahabwa ishingiro.

UKO URUKIKO RUBIBONA

[430] Urukiko rw'Ubujurire rurasanga ikibazo kigomba gusuzumwa aha, atari icyo kuba haba hari uwaregeye indishyi mu rubanza nº RP 00031/2019/HC/HCCIC rujuririrwa utarigeze atanga ingwate y'igarama cyangwa se icyemezo cyo kutishobora kimusonera iyo nshingano. Rurasanga ahubwo ikibazo uru Rukiko rugomba gusuzuma kandi cyari cyarasuzumwe ndetse kigafatwaho icyemezo n'Urukiko ku rwego rwa mbere, ari ikirebana n'inkurikizi ku iyakirwa ry'ibirego by'indishyi zaterwa n'igihe ingwate y'igarama cyangwa se icyemezo cy'ukutishobora byatangiwe mu rubanza rujuririrwa. Aha abaregwa indishyi bakaba bavuga ko byagombaga kuba byaratangiwe rimwe muri dosiye n'inyandiko z'umwanzuro w'ikirego cy'indishyi, mu gihe abaregera indishyi bo bavuga ko nta kibazo cy'iyakirwa ry'ikirego cy'indishyi kiba gihari igihe cyose ingwate y'igarama cyangwa se icyemezo gisonera itangwa ryayo biba byagejejwe mu rubanza mbere y'ipfundikirwa ryarwo. Ibi bivugwa n'abaregera indishyi bikaba ari nabyo byahawe ishingiro n'Urukiko rubanza.

[431] Ku birebana n'igihe ushaka kuregera indishyi yisunze Ubushinjacyaha yemerewe gutangira ikirego gisaba indishyi, ingingo ya 116 y'Itegeko nº 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha iteganya ibikurikira : « *Uwangirijwe n'icyaha ashobora kuregera urukiko rubifitiye ububasha kugira ngo arihwe ibye byononekaye*, ***kuva igihe urukiko***

rushyikirijwe ikirego nshinjabyaha kugeza igihe iburanisha rirangiriye ku rwego rwa mbere*. Urukiko rubimenyesha abarebwa n'urubanza*".

[432] Ibikubiye muri iyi ngingo, byumvikanisha neza nta rujijo ko nta muntu wangiririjwe n'icyaha wemerewe kuregera indishyi yisunze Ubushinjacyaha, mbere y'uko butanga ikirego nshinjabyaha, cyangwa se nyuma y'uko urukiko rwaregewe urubanza nshinjabyaha rushoje iburanisha ry'urubanza ku rwego rwa mbere. Ibi bikaba nta kindi bivuze uretse kuvuga ko uwifuza kuregera indishyi asabwa kuba yujuje ibisabwa byose kugira ngo ikirego cye gisaba indishyi cyakirwe mbere y'uko Urukiko rwaregewe rusoza iburanisha mu mizi ry'urubanza rwose.

[433] Ibi bisobanuye na none ko ushaka kuregera indishyi muri ubu buryo ashobora kuzuza ibisabwa mu bihe bitandukanye apfa gusa kwirinda ko isozwa ry'iburanisha ry'urubanza ku rwego rwa mbere rimugereraho hari ibisabwa kw'iyakirwa ry'ikirego mbonezamubano atari yarangiza kuzuza. Bivuze kandi ko iyo hasuzumwa niba ikirego cy'indishyi cyatanzwe hisunzwe ikirego nshinjabyaha cyujuje cyangwa se kitujuje ibisabwa n'amategeko kugira ngo cyakirwe, Umucamanza ubisuzuma agomba kubisuzuma arebye ibyari bimaze kugikorwaho ku gihe cy'isozwa ry'iburanisha ry'urubanza ku rwego rwa mbere. Umuburanyi utanze inzitizi yo kutakira bene iki kirego kiregera indishyi avuga ko hari ibisabwa kugira ngo cyakirwe bitakorewe igihe, aba agomba kugaragaza igihe uwaregeye indishyi yarangirije kuzuza ibyo asabwa n'igihe iburanisha ry'urubanza ku rwego rwa mbere rwasorejwe. Uregera indishyi yaba yararangije kubyuzuza mbere y'igihe iburanisha ryasorejweho ikirego cye kiregera indishyi kikaba kigomba kwakirwa kuko cyatanzwe mu buryo bukurikije amategeko.

[434] Muri uru rubanza, nk'uko ababuranyi bose barurimo babyemeranwaho kandi bikaba binagarukwaho mu gika cya 469 cy'urubanza rujuririrwa, abaregera indishyi barebwa n'iki kibazo batangiye gutanga ibirego byabo by'indishyi ku wa 15/02/2021, ariko ku birego icyo gihe bitari byatangiwe ingwate y'amagarama cyangwa se ibyemezo bibasonera kuyatanga babitanga nyuma ku wa 14/07/2021 hatarasozwa iburanisha ku rwego rwa mbere ry'urwo rubanza, kuko nk'uko na none bigaragazwa n'inyandiko-mvugo y'iburanisha bwa nyuma ry'urubanza rujuririrwa, iryo buranisha ryasojwe ku wa 20/07/2021, Urukiko rutangaza ko urubanza ruzasomwa ku wa 20/08/2021.

[435] Hashingiwe ku bisobanuro bimaze gutangwa ku miterere y'ikibazo kirimo gusuzumwa n'icyo itegeko rigiteganyaho, uru Rukiko ruremeranwa n'ibisobanuro byatanzwe n'Urukiko Rukuru, Urugereko rwihariye ruburanisha ibyaha mpuzamahanga n'ibyaha byambuka imbibi, mu gika cya 474 cy'urubanza rujuririrwa, ko kuba abaregera indishyi batari baratanze mbere inyemezabwishyu z'ingwate y'amagarama cyangwa se ibyemezo by'isonerwa ryayo barageze nyuma iburanisha ritarasozwa bagatanga ibyemezo by'ubuyobozi bubifitiye ububasha bigaragaza ko basonewe kwishyura amagarama y'urubanza kubera ko batishoboye, ibirego byabo byagomba kwakirwa hashingiwe ku kuba barisunze ikirego cy'Ubushinjacyaha bagatanga ikirego cy'indishyi hakurikijwe ibiteganywa n'ingingo ya 116 y'Itegeko n^{o} 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha yibukijwe haruguru. Bityo, ibivugwa na bamwe mu baregwa kuri iyi ngingo ko hari ibirego by'abaregera indishyi bitagombaga kwakirwa, bikaba nta shingiro bigomba guhabwa.

B. Ku bireba abaregwa banenga kuba mu rubanza rujuririrwa barategetswe kwishyura indishyi kandi nta ruhare bagize mu bikorwa byangiririje abaziregeye

[436] NIZEYIMANA Marc na Me MUREKATETE Henriette umwunganira, bavuga ko ku bimureba nta kirego cy'indishyi na kimwe gifite ishingiro kuko nta gikorwa na kimwe cyangiririza abaziregeye yigeze akora cyangwa se ngo agiremo uruhare kandi uburyozwacyaha akaba ari gatozi.

[437] NSENGIMANA Herman na Me RUGEYO Jean umwunganira, bavuga ko kuba yari mu mutwe wa FLN byonyine nta sano ya hafi bifitanye n'ibikorwa byakozwe n'abarwanyi b'uyu mutwe ku buryo yaryozwa indishyi, ko nta ruhare ku giti cye yabigizemo, ko rero nta ndishyi akwiye kuryozwa. Me RUGEYO Jean agasaba Urukiko kwemeza ko nta ruhare rutaziguye « *direct* » rwa NSENGIMANA Herman mu bitero byagize ingaruka ku baregera indishyi. NSENGIMANA Herman avuga ko aregwa icyaha cyo kuba mu mutwe w'iterabwoba, ariko ko nta gikorwa cy'iterabwoba yagiyemo, nta n'umuntu yahaye amabwiriza yo kujya gukora ibikorwa byangije.

[438] NSENGIMANA Herman avuga kandi ko ibyo abaregera indishyi bemeza ko umuntu wese wagize uruhare muri FLN yakwishyura kandi akishyura ibyangijwe byose na MRCD-FLN, asanga yaba arenganye kwishyuzwa indishyi yarambukanye n'abarwanyi ba FLN barenga magana ane (400), akaba yibaza niba kumuhitamo byaba ari *échantillonage*.

[439] Ku kibazo kijyanye n'uko ingingo ya 33 y'Itegeko n°68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange iteganya ko abasangiye icyaha bose baryozwa indishyi zigikomokaho, avuga ko icyo gihe abo bazanye bose mu gihugu bava muri Congo, bari kumwe mu mutwe w'iterabwoba, bakwiye kwishyura ntawe uvanywemo ngo kuko byatuma nibura buri wese ashyiraho macye macye abaregera indishyi bakabona ubwishyu.

[440] Me RUGEYO Jean, wunganira NSENGIMANA Herman, avuga ko Urukiko rubanza rwakoresheje nabi ingingo ya 11 y'Itegeko nº 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, abaregera indishyi bashingiraho bavuga ko indishyi zishobora kuregwa uwakoze icyaha, uwamufashije, icyitso cye cyangwa n'utegetswe kuriha indishyi *(le civilement responsable*). Asobanura ko ibivugwa muri iyo ngingo bihura na *théories* ebyiri zirebana n'itangwa ry'indishyi, Urukiko rubanza rutakoresheje, arizo *théorie de la proximité de cause* na *théorie de la causalité adequate*. Avuga ko Urukiko rwahisemo gukoresha *théorie de l' équivalence de conditions*, aho rwemera ko hashingirwa ku mpamvu iyo ari yo yose yaba ari iya hafi cyangwa se iya kure nyamara iyo *théorie* idateganyijwe mu mategeko yo mu Rwanda ku buryo yakoreshwa ku ndishyi ziregerwa hano kuko yo ikusanya byinshi. Asoza avuga ko *théorie de la proximité de cause* ariyo yagombaga gushingirwaho kuko yita ku mpamvu ya hafi yateye igihombo gisabirwa indishyi, kandi ko yari isanzwe iteganyijwe muri Igitabo cya gatatu cy'urwunge rw'amategeko mbonezamubano, mu ngingo zayo za 258, 260 na 261, ko gukoresha *théorie de l'équivalence de conditions* byasaba ko abagize uruhare bose mu bikorwa byangirije abaregera indishyi kugeza no kuri ba nyir'inganda bakoze imbunda na za gerenade byakoreshejwe mu bitero, kuriha ibyangiritse.

[441] Me MUGABO Sharif Yussuf n'abo yunganira aribo KWITONDA André, HAKIZIMANA Théogène na NDAGIJIMANA Jean Chrétien, bavuga ko uko ari batatu batafatanya n'abandi baregwa kwishyura indishyi kubera ko ibyo baregwa bakoze, babikoreshejwe ku gahato, iterabwoba n'igitutu batashoboraga kwigobotora, kandi bakaba batarigeze bagira uruhare mu bikorwa byangiririje abaregera indishyi. Bavuga ko izo ndishyi zikwiye kwishyurwa n'abagize ubuyobozi bukuru bw'iyo mitwe baregwa, bafatanyije ndetse n'abagize uruhare « *direct* » mu bikorwa byangiririje abaregeye indishyi.

[442] Bavuga kandi ko nk'uko bigaraga muri *footnotes* ku rupapuro rwa 230 rw'urubanza rwajuririwe, Urukiko rubanza, mu gutegeka abaregwa kwishyura indishyi, rwashingiye kuri *théorie de l'équivalence de conditions*, nyuma yo kugaragaza *théories* ziriho rwahitamo[74]. Basobanura ko abaregwa batategetswe

[74] Arizo *théorie de l'équivalence de conditions, théorie de la proximité de cause na théorie de la causalité adéquate*.

gufatanya kwishyura indishyi kuko hari icyaha bahuriyeho, ahubwo bo babitegetswe, Urukiko rubanza rugendeye kuri *théorie de l'équivalence de conditions* kuko uwo mutwe w'iterabwoba iyo utaza kubaho, nta n'ibitero byangiririza abaregera indishyi byari kubaho. Avuga ariko ko Urukiko rutitaye ku kuba iyo *théorie* ifite imbibi itagomba kurenga, ari nabyo biyitandukanya na *théorie* abahanga bise *théorie de causalité de l'univers.* Bishatse kuvuga mu yandi magambo ko ikintu cyose kibaye kiba gifite impamvu gikomokaho; muri *théorie de l'équivalence de conditions* hakaba hitabwa ku gutandukanya ibyabaye by'ingenzi byagize uruhare mu guteza ingaruka, mu gihe muri *théorie de causalité de l'univers* harebwa uruhererekane rw'ibyabaye byose igihombo gikomokaho. Ko kuba rero urukiko rutaravanguye ibyo byabaye, uburyo rwafashemo iyi *théorie* bwirengagije imbibi zayo, akaba asanga ariho inenge ya mbere iri.

[443] Me MUGABO Sharif Yussuf avuga ko agarutse kubo yunganira baregwa kuba muri iyi mitwe y'iterabewoba, Urukiko rwazasuzuma ko uburyo bayibayemo ari ku gitutu, ku gahato n'iterabwoba, kandi Urukiko rubanza rwabyirengagije, ndetse ko hashingiwe ku ngingo ya 33 y'Itegeko n°68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano, igaragaza ko abafatanya kwishyura ari abahamijwe icyaha kimwe, asanga ibyari bikwiye ari uko Urukiko Rukuru rwari kwita cyangwa gukoresha *théorie de la causalité adéquate* ku mpamvu y'uko iyi *théorie* yo ifata ibyo bikorwa byose ikabiha agaciro, ariko mu kugena uburyozwe hakabaho gusanisha buri gikorwa n'ingaruka cyateje, aha akaba asanga bitari bikwiye gufata abaregwa bose ibyaha bitandukanye bakoze mu buryo butandukanye, Urukiko ngo rubishyire ku rwego rumwe, ko ahubwo icyari gikwiye ari uko Urukiko rubanza rwari kwita ku ruhare rwa buri gikorwa ku gihombo cyabaye.

[444] IYAMUREMYE Emmanuel, NIYIRORA Marcel na NSHIMIYIMANA Emmanuel, bunganirwa na Me URAMIJE James, bavuga ko nk'uko byagaragajwe mu iburanisha ryose, nta gikorwa na kimwe bigeze bakora ngo babe baricanye cyangwa se barasahuye. Bityo, ko abakoze ibyo bikorwa byo kwangiririza abandi ari bo babiryozwa ku giti cyabo. Bagasaba Urukiko kwemeza ko abagomba kuryozwa indishyi ku giti cyabo ari abagiye mu bitero cyangwa abakoze ibikorwa byo kwangiza iby'abandi.

[445] By'umwihariko, NIYIRORA Marcel avuga ko Urukiko rubanza rwavuze ko atari akiri muri uriya mutwe, akaba rero yumva ko atari no kuryozwa indishyi zikomoka ku ngaruka z'ibikorwa byawo. Naho, Me URAMIJE James, umwunganira, avuga ko Ubushinjacyaha bwagaragaje ko bwemera ko NIYIRORA Marcel atagiye mu bitero, ko bityo, nta ngaruka z'igikorwa yaryozwa kuko ntacyo yagigizemo uruhare.

[446] NIYIRORA Marcel avuga ko atemera ibyo abahagarariye abaregera indishyi bavuze ko yagiraga uruhare mu gutoranya abantu bagiye i Nyamasheke, kuko nta hantu hagaragara ko yigeze agira uruhare rwa hafi cyangwa rwa kure mu gutoranya abantu bagiye mu bitero runaka. Bityo, ko gushingira kuri *théorie de l'équivalence de conditions* byaba bibaye nk'icyaha cy'inkomoko, kandi icyaha ari gatozi.

[447] IYAMUREMYE Emmanuel avuga ko icyaha ari gatozi, ko umuntu yagombye kuryozwa ibyo yakoze. Asobanura ko ntawe yatumye kujya mu bitero, ndetse nta n'ubwo yigeze agera aho byabereye, ko rero asaba Urukiko ko mu gihe ruzaba rwiherereye rwazemeza ko nk'uko icyaha n'uburyozwacyaha ari gatozi, ataryozwa indishyi.

[448] NSHIMIYIMANA Emmanuel na Me URAMIJE James umwunganira bavuga ko adakwiye kuryozwa indishyi kuko yinjijwe muri FLN ku ngufu kandi ari umunyeshuli. Naho ku kijyanye n'icyo mu rwego rw'amategeko banenga « *theorie de l'équivalence des condititons* » Urukiko rubanza rwashingiyeho rutegeka bamwe mu baregwa kwishyura indishyi, Me URAMIJE James yasobanuye ko

banenga kuba dosiye irimo abantu baregwa bagera kuri makumyabiri (20) kandi bose bataregwa ibikorwa bimwe by'umwihariko abo we yunganira bakaba batarageze ahabereye ibikorwa byangiririje abaregera indishyi, haba muri NYUNGWE cyangwa se muri NYARUGURU, ariko bakaba barategetswe kuriha indishyi. Ko rero nta ruhare rwabo yunganira rwagaragajwe ku gikorwa iki n'iki abaregera indishyi bashingiraho bazisaba, akaba aribyo basaba Urukiko kuzasuzuma.

[449] NSABIMANA Jean Damascène, SHABANI Emmanuel bunganiwe na Me UWIMANA Channy ubunganira bo bavuga ko bataryozwa indishyi ku bwo kuba gusa mu mutwe wa MRCD-FLN, kuko n'iyo batayibamo nk'umutwe w'iterabwoba n'ubundi bitari kuwubuza gukora ibikorwa byangiririje abaregera indishyi, bagasanga ahubwo abayobozi b'uwo mutwe aribo bagakwiye kuryozwa izo ndishyi.

[450] NSABIMANA Jean Damascène avuga ko yemera kuryozwa indishyi ku byabereye mu Karere ka Rusizi ariko ko ataryozwa indishyi z'ibyabereye muri Nyungwe, naho izindi zikaryozwa uriya mutwe.

[451] SHABANI Emmanuel avuga ko ataryozwa indishyi z'ibyabaye mu mwaka 2018 mu gihe yari ataramenya FLN, ko ataryozwa ibyabereye Rusizi kuko icyaha ari gatozi. Naho kuba yarisanze mu mutwe wa FLN, bikaba byaremejwe ko ari icyaha, we yumva byabazwa abashinze uwo mutwe.

[452] Me UWIMANA Channy, wunganira NSABIMANA Jean Damascène na SHABANI Emmanuel, avuga ko Urukiko rwashingiye kuri *théorie de l'équivalence de condititons* ariko ko iyo ruza gushingira kuri *théorie de la causalité adéquate* nayo rwari rwagaragaje, aba baregwa bari gusabwa indishyi gusa ku byo bazi kandi bemera. Agasaba rero ko Urukiko rwashingira ku ruhare rwa buri muntu kugira ngo aryozwe ibyo yagizemo uruhare, ibyo atagizemo uruhare ntabiryozwe.

[453] MATAKAMBA Jean Berchmas na Me MUKARUZAGIRIZA Chantal umwunganira, bavuga ko ataryozwa indishyi z'ibyabereye mu Karere ka Nyaruguru no mu Karere ka Nyamagabe mu ishyamba rya Nyungwe atarahageze kandi ko atanaryozwa indishyi z'ibyabaye atarinjira mu mutwe w'iterabwoba wa MRCD-FLN. Yemera ko ahubwo yaryozwa indishyi z'abagizweho ingaruka n'ibitero by'iterabwoba byakorewe mu Karere ka Rusizi babigaragarije ibimenyetso.

[454] BIZIMANA Cassien Alias Passy na Me MUREKATETE Henriette umwunganira, bavuga ko ku birebana n'indishyi, basaba ko harebwa ibyangirikiye mu bitero yemera ko yagizemo uruhare byabereye mu Karere ka Rusizi gusa, naho ibyabereye mu Mirenge ya Nyabimata na Nyamagabe n'ahandi akaba atabyemera.

[455] Mu kwiregura, abaregera indishyi mirongo cyenda na batatu (93), bahagarariwe na Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise, bavuga ko ibivugwa n'abaregwa ko batagombaga gutegekwa kwishyura indishyi kandi nta ruhare bagize mu bikorwa byangiririje abaziregeye, byazahuzwa n'ibiteganywa n'ingingo ya 2, agace ka 5 y' Itegeko nº68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange igaragaza neza ko kuryozwa ibyabaye bidasaba ko nyir'ukwangiza ubwe nka gatozi ariwe wabiryozwa wenyine, ahubwo ko n'uwamufashije mu buryo bumwe cyangwa se ubundi nawe yaryozwa ibyangijwe, ndetse ko n'ingingo ya 33 y'iryo Tegeko nayo ishimangira ko abantu bose bahaniwe icyaha kimwe, bafatanya kwishyura ibisubizwa, indishyi z'akababaro n'amagarama y'urubanza.

[456] Bakomeza bavuga ko mu Rukiko Rukuru, Urugereko rwihariye ruburanisha ibyaha mpuzamahanga n'ibyaha byambuka imbibi bagaragaje *thérories* eshatu zishingirwaho mu kugena indishyi, iya mbere akaba ari *théorie de l'équivalence de conditions* ivuga ko hashingirwa ku mpamvu iyo

ari yo yose ijyanye n'igikorwa, iya kabiri ikaba *théorie de la causalité adéquate ivuga* impamvu ijyanye n'icyangijwe naho iya gatatu ikaba *théorie de la proximité de cause* ivuga impamvu y'igikorwa cyegereye.

[457] Basobanura ko basabye urwo Rukiko gushingira kuri *théorie d'équivalence de conditions*, aho mu ruhererekane rw'ibyakozwe hagaragazwa amakosa yabaye ayo ari yo, maze abakoze ibyo bikorwa bakaryozwa bafatanyije. Bavuga ko abaregwa bari muri uriya mutwe [wa CNRD-FLN] bari mu byiciro bitandukanye birimo abari abayobozi batandukanye nka RUSESABAGINA Paul wari umuyobozi mukuru, NSABIMANA Callixte alias Sankara wari umuvugizi wa FLN, abayobozi basanzwe nka ba *commissaires* n'abandi bari abasirikare. Hakaba harimo abatanze ibikoresho n'abagiye ku rugamba kugira ngo ibitero bibe; aba bose bakaba aribo baryozwa indishyi z'ibyo bangije kandi bakaba ntaho bahungira ibyo kuziryozwa.

[458] Bavuga ko nko kuri NSENGIMANA Herman wari umuvugizi w'uwo mutwe w'iterabwoba, mu gika cya 195 cy'urubanza rujuririrwa hagaragaramo ko ari we watangaje neza ibyabaye mu Murenge wa Ruheru, ko rero yari azi ibyabaye. Naho nko kuri NIZEYIMANA Marc wari *colonel* muri FLN, mu gika cya 221 cy'urubanza rujuririrwa hakagaraga ko yivugira uburyo yahisemo abasirikare bagiye mu bitero. Kuri NSHIMIYIMANA Emmanuel bavuga ko n'ubwo yari umunyeshuri ariko yari umunyamuryango [wa MRCD-FLN], kandi yagize uruhare mu gutegura ibitero; naho NIYIRORA Marcel wari Lt *Colone*l akaba yarateguye abagiye gutera. Bavuga ko abandi bemera ibikorwa byabereye muri Rusizi, bakaba batagaragaza igihe umutwe w'iterabwoba washingiwe, ko ariko ibitero byose biba abaregwa bari bawurimo.

[459] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bakomeza basobanura ko bahuza iyi *théorie d'équivalence de conditions* n'ingingo ya 2 y'Itegeko n° 46/2018 ryo ku wa 13/8/2018 ryerekeye kurwanya iterabwoba, aho umushingamategeko yasobanuye ko umutwe w'iterabwoba ari itsinda ry'abantu rikorera kuri gahunda. Bakabihuza n'uburyo uyu mutwe wari wubatse, kuko mu mabazwa y'abaregwa, mu myiregurire yabo mu kwerekana ko FLN yari ihari bagaragaje uburyo umugambi wabo wari uteye, aho bagabanaga imirimo/ *tâches*, bamwe bakaba bari i Rusizi, abandi i Nyabimata mu duce dukikije ishyamba rya Nyungwe. Basobanura ko kandi mu miburanire y'abaregwa cyane cyane nka NSABIMANA Callixte alias Sankara yabigarutseho avuga ko iyo bajyaga gutangaza ibyabaye babaga bafite n'amafoto, ko nka Rusizi haterwa bari bafite amafoto y'ibyabaye, abapfuye, abasahuwe n'ibyangijwe, ko ibyo byerekana ko uwo mutwe bari bahuriyemo wakoreraga kuri gahunda. Bavuga ko SANKARA nk'umuvugizi atari gukora wenyine hatari umuntu wa Rusizi wafashe ayo amafoto akayamwoherereza kugira ngo abitangaze agaragaze ko FLN iri mu Rwanda kandi ko yafashe Nyungwe cyangwa se yafashe Nyabimata. Ibi bakaba basanga ibi aribyo umushingamategeko yashatse kuvuga mu itegeko ko uwo mutwe w'iterabwoba ukorera kuri gahunda, ukagira *schéma* n'uburyo abawurimo bagabana imirimo (*taches).*

[460] Bakomeza bavuga ko mu gika cya 391 cy'urubanza rujuririrwa NIYIRORA Marcel alias Bama wari colonel ubwe avuga ko yari afite inshingano zikomeye zitandukanye, zirimo no kwakira abantu babaga binjiye mu mutwe. Bavuga ko rero ibyo bihujwe n'imvugo zagiye zivugwa na NSABIMANA Callixte alias Sankara wasobanuye uburyo binjizaga abantu mu mutwe bakava muri Uganda bakajya muri Congo, bivuze ko NIYIRORA nk'umusirikare yabakiraga, akabaha imyitozo ya gisirikari, akababwira uko ibintu byose bigenda, bityo ko adakwiye kuza imbere y'Urukiko avuga ko atabazwa ibyabereye mu bitero byishe, bikangiriza ndetse bikamugaza abantu batandukanye ubuzima bwabo bwose, ndetse arutakambira asaba gusubizwa mu buzima busanzwe no gusubikirwa igihano (*sursis).* Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bakaba basaba Urukiko ko mu gihe

ruzaba rwiherereye rwazareba ukwemera ibyaha (*aveux)* kw'aba baregwa n'ugutakambira Urukiko basaba kugabanyirizwa ibihano, rubihuze n'ibyo baburana bavuga ku bijyanye n'ibirego by'indishyi.

[461] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bavuga ko badahakana ko uburyozwacyaha ari gatozi ko ariko ibivugwa n'abaregwa ko batakurikiranwa nka gatozi nta shingiro byahabwa kuko kugeza ubu bafite ibyo bahamijwe n'Urukiko, kandi bakaba baterekana ko bagizwe abere; ko rero ibyo baryozwa ari ibikorwa byabo bakoze. Naho kuvuga ko batagize uruhare mu gushinga umutwe wa MRCD-FLN ku buryo batagomba gukurikiranwa, nyamara bakaba bemera ko bawubayemo kandi ukaba hari ibyo wangiririje abantu, bakwiye kuba bumva ko ibyo bagomba kubiryozwa nk'uko amategeko abiteganya.

[462] Ku kibazo kijyanye n'uko abaregwa bavuga ko *théorie de l'équivalence de conditions* itakoreshwa mu rubanza bakurikiranweho, kuko ari benshi kandi ataribo bonyine bakagombye gukurikiranwa, Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bavuga ko icyo bashingiraho ari ihame ry'uko uwangirije undi agira inshingano zo kumwishyura indishyi zikomoka ku buryozwacyaha, ko kuvuga ko hari abandi bagombye gukurikiranwa bitavuze ko bazakurikiranwa cyangwa se batazakurikiranwa, ko rero abaregwa indishyi ubu ari abagejejwe imbere y'Urukiko kandi bakaba bemera uruhare bagize muri MRCD-FLN. Kubera izo mpamvu, hashingiwe ku ihame ry'uko abahamirijwe hamwe icyaha kimwe baryozwa indishyi hamwe, bakaba basanga abaregwa muri uru rubanza nabo bagomba kuryozwa indishyi abaziregeye basaba, zose uko zakabaye.

[463] Ku birebana n'ibyavuzwe na NSENGIMANA Herman ko mu kuryozwa indishyi habaho kuzigabagabana hashingiwe ku ruhare buri wese wazirezwe yagize mu kwangiza, Me MUNYAMAHORO Réné na Me MUKASHEMA Marie Louise bavuga ibyo atari ibyo kuko atari ryo hame ry'amategeko, ko itegeko ari uko abahamirijwe hamwe icyaha kimwe baryozwa indishyi hamwe, ndetse uregera indishyi akaba yabaza umwe muri bo kuba yazishyura zose kuko itegeko ribimwemerera. Ko aba baregwa uyu munsi baramutse banditse bashaka kwishyura izo ndishyi zose ntacyo byaba bitwaye kuko icyo bashaka ari uko ababuze ababo, ababuze ibyabo byangijwe muri biriya bitero basubizwa ibyabo byangijwe mu buryo bukwiye.

[464] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise basoza bavuga ko ku bijyanye n'inenge bamwe mu baregwa bavuga irebana n'uko uruhare rwabo mu bikorwa byangirije abaregera indishyi ari rutoya cyangwa se ko ntarwo bagize, ko ingano y'ikosa atari yo ishingirwaho hagenwa ingano y'indishyi ari byo byitwa *principe de différence de fautes*, ko harebwa gusa uwo ariwe wese wakoze ikosa akaba yaryozwa ibyo yangije hatitawe ku kuba ikosa ari rinini cyangwa se ritoya; ko ndetse muri bo ufite ubushobozi buruta ubw'abandi ashobora kwishyuzwa zose uko zakabaye kuko itegeko ribyemera.

[465] Me MURANGWA Faustin, uhagarariye abaregera indishyi bane (4), avuga ko yemeranwa n'ibyavuzwe na bagenzi be, Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise kuri iyi ngingo, kandi ko abaregwa bishyuzwa indishyi batajuririye ibyaha bahamijwe byo kuba mu mutwe wa MRCD-FLN, ko mu guca urubanza rujuririrwa Urukiko Rukuru rutagiye kure y'ingingo ya 11 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange ivuga abagomba kuryozwa indishyi, aho mu baregwa bari mu mutwe wa FLN harimo abakoze icyaha, abo bafatanyije gukora icyaha, ibyitso byabo, ibi bakaba batarabijuririye, ko baciwe indishyi nk'abantu bari mu bagize (membres) uyu mutwe w'iterabwoba kuko ibikorwa wakoze byateye ingaruka abaregera indishyi ahagarariye.

[466] Me MURANGWA Faustin asobanura ko ku kibazo kijyanye n'uko hatakoreshwa *théorie de l'équivalence de conditions* muri uru rubanza ruburanishwamo abaregwa benshi, kandi hashobora kuba hari abandi badashobora kuburanishirizwa rimwe, avuga ko Me RUGEYO Jean uburanira bamwe mu baregwa yirengagiza ko hari ibyaha abaregwa bahamijwe bose birimo kuba mu mutwe w'iterabwoba batajuririye muri uru Rukiko, kandi iki cyaha cyo kuba mu mutwe w'iterabwoba wa MRCD-FLN akaba aricyo cyagize ingaruka ku baregera indishyi. Bityo, hakaba harimo ihuriro (*lien de causalité)* rituma ntaho abaregwa bahungira kuryorezwa hamwe indishyi z'ibyo bangije (*solidairement)*. Naho ku bijyanye n'uburyo indishyi zazishyurwa, avuga ko ibyo ari ibintu bijyanye n'irangiza ry'urubanza, ko bitajyanye n'uburyo indishyi zigenwa, kandi ko abaregera indishyi badashaka kwinjira mu byo kuvuga ku ruhare rwa buri wese mu baregwa nka gatozi (*auteur)* umufatanyacyaha *(coauteur) cyangwa* se nk'icyitso *(complice)* muri uyu mutwe cyangwa muri ibi bitero bahamijwe n'Urukiko ko babayemo kandi bakaba batarabijuririye. Bityo, ko asanga kuba abaregwa bavuga ko bataryozwa indishyi ziregerwa ari ukwivuguruza.

[467] KARERANGABO Antoine nawe uregera indishyi avuga ko iyi mvugo ya bamwe mu baregwa y'uko nta ndishyi bategekwa kwishyura kuko batagiye mu bitero itahabwa agaciro kuko ari mu bagiye mu bitaro bya Munini akamaramo iminsi ibiri kubera inkoni yakubiswe n'abashinjwa cyangwa se abo bari bayoboye.

[468] Me HAKIZIMANA Joseph umwunganiye avuga ko mu rwego rwo gushimangira ibyavuzwe na bagenzi be baburanira abandi baregera indishyi, asanga muri uru rubanza mu baregwa ntawajuriye asaba kugirwa umwere. Ko kubireba KARERANGABO Antoine yunganira, utarahawe indishyi, abyuzurisha ingingo ya 33 y'Itegeko n$^{\underline{o}}$ 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange ivuga ko abantu bose bahaniwe icyaha kimwe bafatanya kwishyura ibisubizwa, indishyi z'akababaro n'amagarama y'urubanza. Ashingiye kuri iyo ngingo, avuga ko abaregwa uko ari 21 bahuriye mu mutwe w'iterabwoba wagiye ukora ibikorwa byo guhungabanya ituze ry'abanyarwanda n'ibikorwa by'iterabwoba bivanzemo n'ubwicanyi, bityo agasanga Urukiko rukwiye guha ishingiro indishyi zisabwa abaregwa no kuzibaryoza bafatanyije.

UKO URUKIKO RUBIBONA

[469] Urukiko rw'Ubujurire rurasanga impaka rugomba gukemura hagati y'abaregwa n'abaregera indishyi zishingiye ku kuba, ku ruhande rumwe, uretse RUSESABAGINA Paul utarigeze ajurira akaba ataranitabiriye urubanza mu bujurire, ndetse na NSANZUBUKIRE Félicien na MUNYANEZA Anastase batahamwe n'icyaha cyo kuba mu mutwe w'iterabwoba wa MRCD-FLN, abandi baregwa bose muri rusange bavuga ko bataryozwa indishyi basabwa kuko batari mu bitero byangiririje abaziregera, ko kuba bari mu mutwe wa FLN ubwabyo bitaba impamvu ituma baziryozwa, ko ahubwo abaziregera bagombye kuzihabwa n'uwo mutwe wa FLN, abayobozi bawo cyangwa abarwanyi bari mu bitero byakorewemo ibikorwa byo kubangiririza. Ku rundi ruhande, abaregera indishyi muri rusange bo bavuga ko abaregwa bose bagomba gufatanya kwishyura indishyi zose baregera kuko bose bagize uruhare mu bikorwa by'umutwe w'iterabwoba wa MRCD-FLN wagabye ibitero byabagizeho ingaruka zinyuranye, izo ngaruka zikaba zirimo nko kubicira abantu, kubakomeretsa no kubangiririza imitungo; izo ndishyi bakaziryozwa gusa kuko bahuriye ku cyaha cyo kuba muri uwo mutwe cyangwa se icyo kuwukoreramo ibikorwa cyangwa se kugira uruhare mu bikorwa by'iterabwoba, kabone n'iyo baba batarigeze bagera ahakorewe ibitero byateje ingaruka zatumye baregera indishyi.

[470] Ku birebana n'ushobora kuregwa indishyi zikomoka ku byangijwe n'ikorwa ry'icyaha, ingingo ya 11 y'Itegeko Nº 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha iteganya ibikurikira: "*Indishyi zishobora kuregwa uwakoze icyaha, uwo bafatanyije gukora icyaha, icyitso cye kimwe n'utegetswe kuriha indishyi. Indishyi zishobora kandi gusabwa abazungura b'uwakoze icyaha*". Ibi binashimangirwa mu ihame rusange ry'uko ku birebana no gutanga indishyi *"igikorwa cyose cy'umuntu cyangiririje undi gitegeka nyir'ugukora ikosa rigikomokaho kuriha ibyangijwe"*. Ku birebana n'ubufatanye bw'abahamwe n'icyaha mu kugira ibyo bishyura bifitanye isano n'icyaha cyabahamye, ingingo ya 33-y'Itegeko Nº68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange iteganya ibikurikira: « *Abantu bose bahaniwe icyaha kimwe bafatanya kwishyura ibisubizwa, indishyi z'akababaro n'amagarama y'urubanza*". Ibi bivuze ko iyo ikorwa ry'icyaha hari ibyo ryangije bikemezwa n'Urukiko, bituma abahamwe n'icyo cyaha bose bagomba kubisubiza, kwishyura indishyi z'akababaro n'amagarama y'urubanza bafatanyije.

[471] Mu gihe iyo uwakoze icyaha ari umwe bihagije ko ibirebana n'indishyi zihabwa uwagikorewe bigenwa hakurikijwe ihame rusange rimaze gusobanurwa, icyo ingingo ya 33 y'Itegeko nº68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange yibukijwe haruguru yongeraho, ni uko iyo noneho abakoze icyaha ari benshi bagomba gufatanya *(in solidum)* kwishyura indishyi hatabayeho kubanza gusaranganya ubwishyu ku baregwa hagendewe ku ngano y'uruhare rwa buri wese mu ikorwa ry'icyaha ngo harebwe ababigizemo uruhare ruto, ururinganiye cyangwa se urunini. Mu yandi magambo, ntibiba bikiri ngombwa gushakishiriza ahandi ikosa ry'ugomba kwishyura indishyi rigomba gushingirwaho, kuko Umushingamategeko yagaragaje muri iyi ngingo ya 33 ko uryozwa indishyi ari uwahamwe n'icyaha kandi ko iyo ari benshi baryozwa izo ndishyi bafatanyije mu buryo nabwo bumaze gusobanurwa haruguru.

[472] Muri uru rubanza, mu gusuzuma niba abaregwa bagomba kwishyura indishyi abaziregera, ikibazo nti kikiri icyo kureba ikosa cyangwa se igikorwa iki n'iki kihariye buri wese yaba yarakoreye uregera indishyi kikamwangiriza, ahubwo ikibazo ni ukumenya niba ibyangijwe bisabirwa indishyi byarangijwe n'ikorwa ry'icyaha cyo kurema umutwe w'iterabwoba wa MRCD-FLN byiyongeraho kuri bamwe ikorwa ry'icyaha cyo gukora no kugira uruhare mu bikorwa by'iterabwoba, kandi niba abaregwa kwishyura indishyi baramaze guhamwa n'ibyo byaha.

[473] Urukiko Rukuru, Urugereko rwihariye ruburanisha ibyaha mpuzamahanga n'ibyaha byambuka imbibi, mu gika cya 632 cy'urubanza rujuririrwa, rushingiye ku kuba impamvu yose yatumye habaho igikorwa cyangiririza undi igomba gushingirwaho mu kugena indishyi, rwasanze ibitero byagabwe ku butaka bw'u Rwanda byarakozwe mu mugambi wa MRCD-FLN wo gukora iterabwoba, no kuba iyo uwo mutwe utaza kuba warabayeho bitari gushoboka ko ibyo bikorwa byagize ingaruka ku baregera indishyi biba kandi n'ababikoze bakaba barabikoze muri uwo mugambi wa MRCD-FLN, abahamwa n'icyaha cyo kuba muri uwo mutwe no gukora no kugira uruhare mu bikorwa by'iterabwoba bagomba gufatanya kwishyura indishyi.

[474] Muri uru rubanza rw'ubujurire abaregwa bamwe bavuga ko batari bakwiye kuryozwa indishyi kuko n'ubwo bemera kuba bari mu bagize umutwe wa MRCD-FLN batari mu bitero byangiririje abaziregera. Mu gihe abaregwa biyemerera ko bagize uruhare mu bitero byabereye mu Karere ka Rusizi, bo bemera kuryozwa gusa indishyi ku byabereye muri ako Karere gusa kuko batari mu bitero byahabereye ahandi, kandi n'igihe byahabereye bakaba bari bataratangira gukorana n'umutwe wa FLN. Abaregera indishyi bose bo basaba ko icyemezo cy'Urukiko rubanza cyo kubategeka gufatanya kwishyura indishyi kigumaho.

[475] Uru Rukiko rurasanga, n'ubwo Urukiko rubanza hari aho rwatinze rusesengura ibyanditswe n'abahanga mu mategeko ku bijyanye n'impamvu zitandukanye zishingirwaho mu kumenya ugomba kuryozwa indishyi[75], iryo sesengura rikaba ryaranuririweho n'abunganira abaregwa rigakurura impaka ndende kuri uru rwego rw'ubujurire hagati yabo n'abaregera ndishyi, bitari ngombwa kwinjira no gutinda kuri izo nyandiko z'abahanga kuko ingingo ya 33 y'Itegeko nº68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange yibukijwe haruguru isobanura neza uko izi mpaka zikemurwa bitiriwe biba ngombwa kubanza gushakisha mu nyandiko z'abahanga ibindi byakwisungwa.

[476] Uru Rukiko rurasanga rero kuba NSABIMANA Callixte alias Sankara,NSENGIMANA Herman, RUSESABAGINA Paul, NIZEYIMANA Marc, BIZIMANA Cassien alias Passy, MATAKAMBA Jean Berchmas, SHABANI Emmanuel, NTIBIRAMIRA Innocent, BYUKUSENGE Jean Claude, NIKUZWE Siméon, NTABANGANYIMANA Joseph, IYAMUREMYE Emmanuel, NIYIRORA Marcel, NSHIMIYIMANA Emmanuel, KWITONDA André, HAKIZIMANA Théogène, NDAGIJIMANA Jean Chrétien, MUKANDUTIYE Angelina na NSABIMANA Jean Damascène, NSABIMANA Callixte alias Sankara, RUSESABAGINA Paul, NIZEYIMANA Marc, BIZIMANA Cassien alias Passy, MATAKAMBA Jean Berchmas, SHABANI Emmanuel, NTIBIRAMIRA Innocent, BYUKUSENGE Jean Claude, na NSABIMANA Jean Damascène no muri ubu bujurire bakomeje guhamwa n'ibyaha bifitanye isano n'ibikorwa by'iterabwoba byakozwe n'abarwanyi ba MRCD-FLN nk'uko byasobanuwe, ibyo byaha bikaba ari byo byangiririje abaregeye indishyi muri uru rubanza, bagomba gufatanya kwishyura indishyi zikomoka ku ikorwa ry'ibyo byaha nk'uko byemejwe n'Urukiko rubanza. Bityo, ubujurire bw'abaregwa kuri iyi ngingo bukaba nta shingiro bufite.

C. Ku birebana n'abaregera indishyi bajuriye banenga ingano y'izo bagenewe

[477] Abaregera indishyi 46 bakurikira bavuga ko baregeye indishyi, Urukiko rubanza ntirwazibaha zose nk'uko bari bazisabye, ahubwo ruzibagenera mu bushisozi bwarwo. Abo ni:

1. HAVUGIMANA Jean Marie Vianney,
2. BAPFAKURERA Vénuste,
3. RUGERINYANGE Dominique,
4. NTABARESHYA Dative,
5. HABYARIMANA Jean Marie Vianney,
6. INGABIRE Marie Chantal,
7. SHUMBUSHA Damascène,
8. NSABIMANA Anastase,
9. MUKASHYAKA Joséphine,
10. SIBORUREMA Vénuste,
11. NGENDAKUMANA David,
12. RUDAHUNGA Ladislas,

[75] Reba ku rupapuro rwa 230-231, mu gika cya 631 cy'urubanza rujuririrwa cyane cyane mu bisobanuro nº 54, 55,56 na 57 by'ahahera ku rupapuro, aho Urukiko rwasobanuye "*théorie de l'équivalence des conditions*", "théorie *causa proxima",* "*théorie de la causalité adéquate*" na "*théorie de l'empreinte continue du mal*".

13. KIRENGA Darius, uhagarariwe na RUDAHUNGA Ladislas,
14. UMURIZA Adéline, uhagarariwe na RUDAHUNGA Ladislas,
15. SHUMBUSHO David, ahagarariwe na RUDAHUNGA Ladislas,
16. RUDAHUNGA Dieudonné ahagarariwe na RUDAHUNGA Ladislas,
17. KAREGESA Phénias,
18. NYIRAYUMVE Eliane,
19. NGIRABABYEYI Désiré,
20. HABIMANA Zerothe,
21. NIYONTEGEREJE Azèle,
22. KAYITESI Alice,
23. YAMBABARIYE Vedaste
24. NYIRANDIBWAMI Mariane,
25. UWAMBAJE Françoise,

abana batanu ba MUKABAHIZI Hilarie bahagarariwe na MBONIGABA Richard aribo

26. MUKESHIMANA Diane,
27. NDIKUMANA Isaac,
28. MUKANKUNDIYE Alphonsine,
29. UZAYISENGA Liliane na
30. HABAKUBAHO Adéline,
31. MBONIGABA Richard,
32. VUGABAGABO Jean Marie Vianey,
33. MURENGERANTWALI Donat,
34. HAKIZIMANA Denis,
35. RWAMIHIGO Alexis,
36. NYIRANGABIRE Valérie
37. SEMIGABO Déo,
38. NKURUNZIZA Jean Népomuscène,
39. NSABIMANA Joseph,
40. RUTAYISIRE Félix,
41. MAHORO Jean Damascène,
42. NZEYIMANA Paulin,
43. NSENGIYUMVA Vincent,
44. NDUTIYE Yussuf

45. OMEGA Express Ltd,

46. ALPHA Express Company Ltd

[478] Abaregera indishyi bari muri iki cyiciro ni abavuga ko bagizweho ingaruka n'ibitero bya MRCD-FLN byagabwe mu Murenge wa Nyabimata mu Karere ka Nyaruguru (a), muri Nyungwe mu Murenge wa Kitabi mu Karere ka Nyamagabe (b) no mu Karere ka Rusizi mu Murenge wa Kamembe n'uwa Nyakarenzo (c).

a) Ku birebana n'abajuririye ingano y'indishyi zifitanye isano n'ibitero byagabwe mu Murenge wa Nyabimata mu Karere ka Nyaruguru

[479] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bavuga ko abo bahagarariye n'abo bunganira bagizweho ingaruka n'ibitero byo mu Murenge wa Nyabimata ariko bakaba batarishimiye indishyi bagenewe. Abo ni: HAVUGIMANA Jean Marie Vianney na BAPFAKURERA Venuste bangiririjwe za *moto*, HABYARIMANA Jean Marie Vianney, NSABIMANA Anastase, SIBORUREMA Venuste, NGENDAKUMANA David na SHUMBUSHA Damascène basahuwe imitungo itandukanye bakanikorezwa ibyasahuwe, RUGERINYANGE Dominique na NTABARESHYA Dative biciwe umwana, hakaba na INGABIRE Marie Chantal na MUKASHYAKA Joséphine biciwe abagabo. Kuri aba haniyongeraho kandi NSENGIYUMVA Vincent uhagarariwe na Me MURANGWA Faustin.

- **Ku bireba HAVUGIMANA Jean Marie Vianney na BAPFAKURERA Venuste**

[480] Me MUNYAMAHARO René na Me MUKASEHAMA Marie Louise, bunganira aba babiri bahuriye ku kuba baratwikiwe *moto*, bavuga ko HAVUGIMANA Jean Marie Vianney Urukiko rwamugeneye ibihumbi magana atandatu (600.000 Frw) y'indishyi z'agaciro ka *moto* ye yatwitswe, nyamara yari yarugaragarije n'ibindi yatakaje birimo amafaranga ahwanye na 360.000Frw yari amaze kwishyura *moto* ariko itaramwandikwaho kuko yayishyuraga mu byiciro; amafaranga 120.000Frw yakoresheje akurikirana ikibazo cy'ibyangombwa bye byatwikanwe na *moto*; amafaranga 120.000 Frw yatakaje akurikirana ikibazo cya *moto* kuko uwo yari yanditseho yamuregaga mu buyobozi; indishyi z'akababaro zihwanye na 500.000Frw. Agasaba Urukiko kumugenera indishyi zose hamwe zingana na 1.100.000 Frw bikosora 1,500,000Frw zari mu mwanzuro.

[481] Bavuga kandi ko *moto* ye yatwitswe n'abarwanyi ba MRCD-FLN mu gitero cyabereye mu Murenge wa Nyabimata mu Karere ka Nyaruguru, yari yarayipatanye kuri 1.400.000 Frw agomba kuzayishyura mu gihe cy'umwaka umwe n'igice ariko akaba yari ayimaranye amezi atatu (3) kandi itari yamwandikwaho nka nyirayo kuko atari yakarangije kuyishyura ngo akorane *mutation* n'uwo bari barayipatanye.

[482] Ku bireba BAPFAKURERA Venuste**,** bavuga ko we Urukiko rwamugeneye indishyi zingana na 600.000 Frw z'agaciro ka *moto* yangijwe, nyamara yari yarugaragarije raporo y'Ubuyobozi ivuga neza ibyabaye kandi bikaba byarateye akababaro abantu bose byagizeho ingaruka. Agasaba uru Rukiko kumugenera indishyi zingana na 5.044.500 Frw zikubiyemo indishyi z'akababaro n'agaciro k'ibye byangijwe.

[483] Bavuga ko banenga Urukiko rubanza kuba rwarabaze indishyi zijyanye n'agaciro k'izo *moto* gusa, mu buryo bugenekereje (*forfaitaire)* kuri buri wese rukamugenera 600.000 Frw. Kubera ko mu Rwanda nta tegeko rihari ritanga ibisobanuro birambuye (details) ku ibarwa ry'indishyi zirebana n'ibintu bimwe

na bimwe, muri ubu bujurire bashyize muri *système* inyandiko zigaragaza uburyo mu bindi bihugu bagerageje gukemura iki kibazo cyo kubara indishyi. Bavuga ko nko mu rubanza rw'uwitwa Germain KATANGA, hari ibyo abavoka bari bahagarariye abaregera indishyi bagaragaje babishyikiriza urukiko nk'ibijyanye n'uko umuntu wabuze ikintu cye, rutamusubiza agaciro kacyo gusa, ko hari n'ibindi bintu aba yatakaje bijyanye n'akababaro yagize mu kubura icyo kintu *(manque à gagner),* harimo ndetse n'uko imibereho ye ihinduka kubera icyo kintu cye yabuze. Bakaba basaba Uru Rukiko ko narwo mu bushishozi bwarwo rwakwita kuri ibyo byose. Bavuga kandi ko n'ubwo aba batari bigeze bagaragariza urukiko ku buryo budasubirwaho amafaranga binjizaga umunsi ku wundi, ko ibyo bagerageje gushakisha bagendeye k'uko ibiciro bimeze ku isoko basanze *moto* yinjiza hagati ya 5.000 Frw na 8.000 Frw ku munsi.

[484] HABYARIMANA Jean Marie Vianney, NSABIMANA Anastase, SIBORUREMA Venutse, NGENDAKUMANA David na SHUMBUSHA Damascene nabo bahagarariwe na Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise. Uko ari batanu (5) bahuriye ku kuba hejuru yo kwamburwa bimwe mu byo bari batunze, baranashimuswe bakikorezwa ibintu byari byibwe. Bavuga ko urukiko rubanza rwashingiye kuri raporo y'Umurenge wa Nyabimata igaragaza amazina yabo y'uko bashimuswe, maze mu bushishozi bwarwo rubagenera buri wese amafaranga ibihumbi magana atatu (300.000 Frw) gusa. Ibyo akaba aribyo barabijuririye. Ku buryo bw'umwihariko ariko, buri wese agira ibyo asaba.

- **Ku bireba HABYARIMANA Jean Marie Vianney**

[485] Avuga ko Urukiko rwamuhaye indishyi z' akababaro zingana na 300.000 Frw kubera ko yikorejwe ibintu ariko ko atagaragaje ibimenyetso by'ibindi bintu bye byibwe bikanangizwa, ko rwirengagije ko abagizi ba nabi baje biba ibintu by'abaturage n'ibindi. Ubu arasaba indishyi zingana na 1.560.000 Frw n'ubundi yari yasabye ku rwego rubanza zikubiyemo 560.000 Frw y'agaciro k'ibintu bye bitandukanye yambuwe (telefone, ipantaro, ishati, ibishyimbo n' igitenge) na 1.000.000 Frw y'indishyi z'akababaro.

- **Ku bireba NSABIMANA Anastase**

[486] Avuga we ko yasabye indishyi zose hamwe zihwanye n'amafaranga miliyoni imwe n'ibihumbi magana abiri na cumi na bitatu (1.213.000 Frw), ariko Urukiko rubanza mu gufata icyemezo rumugenera gusa indishyi z'akababaro zingana na 300.000 Frw, rwirengagiza ibijyanye n'izindi ndishyi yari yasabye. Ubu arasaba indishyi zingana na 1.213.000 Frw n'ubundi yari yasabye ku rwego rubanza zikubiyemo 150.000 Frw yari yagurishije inka akayaha abamuteye kugira ngo batamwicira umugore, 63.000 Frw y'agaciro k'ibintu bye bitandukanye yasahuwe (imyaka, telephone n'imyambaro) na 1.000.000 Frw y'indishyi z'akababaro kubera ko abagabye ibitero bamwikoreje ibyo bari basahuye, bakamutwara bugwate akagaruka mu rukerera.

- **Ku bireba SIBORUREMA Venuste**

[487] Avuga ko yasabye indishyi zose hamwe zingana na 570.500 Frw zikubiyemo indishyi z' akababaro n'ibye yibwe, ariko Urukiko rumugenera indishyi z'akababaro zingana na 300.000 Frw z'uko yashimuswe, rwirengagiza kumugenera izijyanye n'ibintu bye byibwe. Ubu arasaba indishyi zingana na 570.500 Frw n'ubundi yari yasabye ku rwego rubanza zikubiyemo 70.500 y'agaciro k'ibintu bye bitandukanye yasahuwe (imyaka, amata, telephone n'imyambaro) na 500.000 Frw y'indishyi z'akababaro.

- **Ku bireba NGENDAKUMANA David**

[488] Avuga ko yasabye indishyi zingana na 528.400 Frw z'uko yashimuswe akanibwa ibyo yari afite, maze urukiko rubanza rumugenera gusa indishyi z'akababaro zingana na 300.000 Frw z'uko yashimuswe, ariko rwirengagiza kumugenera indishyi z'ibintu bye byibwe. Ubu arasaba indishyi zingana na 528.400 Frw n'ubundi yari yasabye ku rwego rubanza zikubiyemo 28.400 Frw y'agaciro k'ibintu bye bitandukanye yasahuwe (ibiribwa, telephone n'imyambaro) na 500.000 Frw y'indishyi z'akababaro kubera ko bamwikoreje ibyo bibye kugera mu ishyamba rya Nyungwe.

- **Ku bireba SHUMBUSHA Damascène**

[489] Avuga ko yasabye indishyi zose hamwe zingana n'amafaranga ibihumbi magana atandatu na mirongo itanu na bine (654.000 Frw) maze Urukiko rubanza rumugenera gusa indishyi z'akababaro zingana na 300.000 Frw ariko ntirwamugenera indishyi z'ibye byibwe. Ubu arasaba indishyi zingana na 654.000 Frw n'ubundi yari yasabye ku rwego rubanza zikubiyemo 600.000 Frw z'akababaro, 50.000 Frw ibintu bye bitandukanye bibye birimo imyaka, imyambaro, telefoni n'amafaranga ibihumbi bine (4.000 Frw) bamwambuye.

[490] Kuri aba bose, Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise banenga icyemezo cy'Urukiko kuko rwavuze ko nta bimenyetso bigaragaza ibyo bavuga ko batakaje, bagasaba uru Rukiko ko rushingiye kuri raporo y'Ubuyobozi igaragaza ko aba bantu bashimuswe, no ku buhamya butandukanye bw'abatangabuhamya bari muri *video* bagaragarije urukiko mu iburanisha, rwabiha agaciro mu bushishozi bwarwo, bakabiherwa indishyi kuko bigoye kubona ibimenyetso nka *factures* z'imyenda, telefoni n'ibindi byibwe. Naho ku birebana n'indishyi z'akababaro basabye, basobanura ko zishingiye ku kababaro bagize kubera ko bashimuswe mu ijoro, bikabatera guhungabana no guhangayika byiyongera ku magambo akomeretsa ndetse abaca intege babwiwe. Kubera izo mpamvu. Basaba Urukiko ko rwazashingira kuri ibi byose, maze rukagenera aba baregera indishyi izo bari basabye ku rwego rwa mbere.

[491] Hari kandi icyiciro cy'abantu bapfushije ababo mu gitero cyo mu Murenge wa Nyabimata nabo bunganiwe na Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise, bakaba baragenewe indishyi ku rwego rubanza ariko ntibazishimira barazijuririra. Abo ni RUGERINYANGE Dominique na NTABARESHYA Dative biciwe umwana, na INGABIRE Marie Chantal na MUKASHYAKA Joséphine biciwe abagabo.

- **Ku bireba RUGERINYANGE Dominique na NTABARESHYA Dative**

[492] Aba bavuga ko Urukiko rwabageneye buri wese 5.000.000 Frw y'indishyi z'akababaro kubera iyicwa ry'umwana wabo HABARUREMA Joseph, nyamara muri raporo y'Ubuyobozi yashingiweho n'Urukiko igaragaza neza ko yari afite na Boutique yasahuwe. Basaba indishyi zingana na 17.000.000 Frw zikubiyemo indishyi z'akababaro zingana na 10.000.000 Frw n'indishyi z'ibyangijwe zingana na 7.000.000 Frw.

[493] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise basobanura ko impamvu aba bajuriye ari uko mu cyemezo cy'urukiko rwabageneye gusa 5.000.000 Frw y'indishyi z'akababaro zo kubura umwana wabo, ariko ntirwaha agaciro ibindi bintu umwana wabo yari afite birimo telefoni ya gaciro ka 19.000 Frw, butike yakoraga nk'akabari aho imwe muri *moto* zavuzwe haruguru yatwikiwe, harimo na *télévision* ya *flat* y'agaciro ka 200.000 Frw. Mu kutishimira icyemezo cy'urukiko bakaba bavuga ko babahaye indishyi z'akababaro za 5.000.000 Frw gusa mu gihe bombi bari bifuje indishyi

z'akababaro zingana na 45.000.000 Frw kubera ko yabafashaga nk'uko umwana afasha ababyeyi be bikaba byarabasigiye akababaro bitewe n'akamaro umwana wabo yari abafitiye.

- **Ku bireba INGABIRE Marie Chantal**

[494] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamwunganira bavuga ko yari yasabye indishyi z'akababaro zingana na 30.000.000 Frw, iz'imbonezamusaruro zingana na 70.000.000 Frw n'iz'uko abana be bagizwe imfubyi zingana na 50.000.000 Frw kubera kwicirwa umugabo MANIRAHO Anatole wari ushinzwe amasomo mu rwunge rw'amashuri rwa Nyabimata, agasigirwa imfubyi azirera wenyine. Akaba anenga kuba Urukiko rwaramugeneye gusa indishyi z'akababaro zingana na 10.000.000 Frw, naho ku zindi ndishyi zari zasabwe rukavuga ko nta bimenyetso yazigaragarije.

[495] Basobanura ko uyu, ku rwego rubanza yari yasabye indishyi zavuzwe haruguru zitandukanye,ku birebana n'iz'imbonezamusaruro bakaba bari bagaragarije urukiko amafaranga yinjiraga muri uyu muryango ariko nta kimenyetso bari batanze kigaragaza umushahara nyakwigendera yahembwaga, ko ariko ubu yabashije kubona ikimenyetso kiri ku mugereka wa 111 muri *système* kigaragaza ko umushahara mbumbe wa nyakwigendera utaravamo ibintu byose wari 207.335 Frw ariko ko ayo yafataga mu ntoki yari amafaranga 130.650 Frw. Bavuga na none ko mu kumugenera indishyi z' akababaro zingana na 10.000.000 Frw gusa Urukiko rutitaye ku bijyanye n'ibyo yatakaje mu gushyingura ngo rubimuhere indishyi kuko nta bimenyetso yabitangiye.

[496] Bavuga ko iki cyiciro cy'abaregera indishyi bapfushije ababo mu bitero byo mu Murenge wa Nyabimata bahuriye ku kuba mu gushyingura nta nyandiko (*documents)* cyangwa inyemezabwishyu (*factures)* bafite zigaragaza ibyo batakaje bashyingura, kubera ko mu gushyingura hari ibyo umuntu atakaza bijyanye no kwakira abantu, kujyana umurambo, kubibonera *factures* bikaba bitarashobotse bitewe n'igihunga bari barimo cyo kubura ababo batigeze babasha kuzaka. Bityo, ibyo bakaba barabikubiye hamwe mu ndishyi z'akababaro, ko nko kuri uyu INGABIRE Marie Chantal ku ndishyi mbonezamusaruro asaba harimo n'amafaranga yari afite yari kuzabyazamo umusaruro kugira ngo abashe gukomeza kwita ku muryango ariko yose akaba yaragiye muri ibyo bikorwa byo gushyingura bikaba byaramuhungabanyije.

[497] Basobanura kandi ko mu Rukiko rubanza batigeze basaba amafaranga y'ibyo batakaje mu gushyingura mu buryo burambuye/details nk'uko babisobanura mu bujurire, ko ahubwo bari bayasabye mu buryo mbumbe hamwe n'indishyi z'akababaro. Bagasaba ko mu gihe Urukiko ruzaba rwiherereye, nk'uko bagiye babigaragaza ko hari ibindi rwagenderaho kugira ngo ruzamure ibyo bari bagenewe n'Urukiko rubanza harimo nk'akababaro bagize muri iyo mihango yo gushyingura, harimo ibyo batakaje, bakifuza ko kuba umuntu yabuze abe bitarangirira aho ngaho gusa.

- **Ku bireba MUKASHYAKA Joséphine**

[498] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bavuga ko MUKASHYAKA Joséphine ko yiciwe umugabo witwa MUNYANEZA Fidèle, akaba yari yasabye indishyi z'akababaro n'iz'imbonezamusaruro zose hamwe zingana na 100.000.000 z'uko yapfakajwe kandi asigarana abana babiri b'impfubyi bakiri bato, kandi umugabo we yahembwaga ibihumbi ijana ku kwezi (100.000 Frw) ariwe wari ubatunze, atunze n'ababyeyi be, ariko bakanenga ko Urukiko rwamugeneye 10.000.000 Frw y'indishyi z'akababaro gusa, naho ku ndishyi mbonezamusaruro ntirwagira icyo rumuha ku mpamvu

y'uko nta kimenyetso yari yatanze kigaragaza umushahara nyakwigendera yahembwaga uretse kubivuga gusa.

[499] Bavuga ko banenga kuba izi ndishyi z'akababaro yahawe ari nkeya, naho ku birebana n'indishyi mbonezamusaruro bakaba nyuma baraje kubona ikimenyetso kigaragaza ko nyakwigendera yahembwaga 100.000 Frw ku kwezi nk'uko bigaragara ku mugereka wa 112 muri *système*. Bakaba basaba uru Rukiko ko nirwiherera rwazaha agaciro iyi nyandiko maze rukamuha indishyi z'akababaro n'indishyi mbonezamusaruro yari yaregeye zose hamwe zingana na 100.000.000 Frw hanagendewe ku mushahara umugabo yahembwaga.

- **Ku bireba NSENGIYUMVA Vincent**

[500] NSENGIYUMVA Vincent uhagarariwe na Me MURANGWA Faustin avuga ko ku wa 19/06/2018 umutwe witwaje intwaro wa FLN wagabye igitero iwe mu rugo utwika imodoka ye yo mu bwoko bwa RAV 4 ifite *plaque* RAD 802 K yari ifite agaciro ka 25.000.000 Frw, ibikoresho byo mu nzu bifite agaciro ka 30.000.000 Frw, nawe arakomeretswa bikomeye mu mutwe bituma akoresha amafaranga mu kwivuza angana na 1.500.000 Frw, n'ayamutunze kwa muganga angana na 4.000.000 Frw. Avuga ko mu kuregera indishyi yasabye izingana n'aya mafaranga yose, hakiyongeraho 21.600.000 Frw abariwe kuri 20.000 Frw ku munsi kuva igihe imodoka ye yatwikiwe kugeza urubanza ruciwe kubera kuvutswa uburenganzira bwo gukoresha imodoka ye yamufashaga mu buzima bwa buri munsi, indishyi z'impozamarira zingana na 20.000.000 Frw ndetse na 540.000 Frw y'ikurikiranarubanza. Avuga ko ibimenyetso yashingiyeho arega ari inyandiko zitandukanye zigaragaza ukuri kw'ibyo aregera ariko ko muri ubu bujurire anongeraho imvugo z'abatangabuhamya bamutabaye akimara guterwa, ko izi mvugo zigamije gufasha Urukiko rw'Ubujurire kumva ko hari ibimenyetso bitashoboraga kuboneka kubera imiterere y'ibitero ndetse n'ihungabana ku mubiri no mu mutwe byasigiye ababigabweho.

[501] Avuga ko icyo anenga urubanza rujuririrwa ari ukuba Urukiko rwarasesenguye ibimenyetso rugasanga bigaragaza ko yakomerekejwe n'icyo gitero, binagaragaza ko yivuje mu bitaro byitiriwe Umwami Faisal aho yoherejwe n'ibitaro bya Kaminuza bya Butare ariko rukavuga ko atagenerwa amafaranga asaba angana na 5.500.000 Frw yakoresheje yivuza n'ayamutunze mu gihe yari mu bitaro, kubera ko ngo nta bimenyetso yabitangiye, nta n'ikigaragaza ko yabaye mu bitaro n'igihe yaba yarahamaze. Asobanura ko aha Urukiko rwivuguruje kuko rwemeye ko rwahawe ibimemyetso bigaragaza ko NSENGIYUMVA Vincent yoherejwe n'ibitaro bya Kaminuza bya Butare no mu bitaro byitiriwe Umwami Faisal ariko rugasoza ruvuga ko ntacyo rwaheraho rwemeza ko yabaye muri ibyo bitaro. Akaba asaba mu bujurire indishyi zimaze kuvugwa harugu yari yabisabiye ku rwego rwa mbere.

[502] Avuga ko ku birebana n'indishyi z'agaciro k'imodoka ye yatwitswe, Urukiko rwavuze ko kuba yari ayitunze bishimangirwa n'ibimenyetso byagaragajwe, mu bushishozi bwarwo rumugenera miliyoni cumi n'eshanu (15.000.000 Frw) kubera ko ngo ibimenyetso yatanze bitagaragaza ko yari ifite agaciro ka miliyoni makumyabiri n'eshanu (25.000.000 Frw) yari yasabye, akaba anenga kuba Urukiko rwarivuguruje kuko rwagaragaje ko rwahawe kandi runyurwa n'ibimenyetso ku gaciro k'imodoka ariko rumugenera indishyi mu bushishozi bwarwo, ko asanga harabayeho kugenekereza kuko ntaho rwashingiye rugena indishyi rwamuhaye.

[503] Avuga ko ku bijyanye n'indishyi z'ibikoresho byo mu nzu, Urukiko rwemeje ko buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana, NSENGIYUMVA Vincent ataragaragaje ibikoresho byo mu nzu bifite agaciro ka miliyoni mirongo itatu (30.000.000 Frw) avuga ko yari atunze, indishyi abisabira atagomba kuzigenerwa cyane cyane ko ngo na raporo yakozwe n'umuyobozi bw'Umurenge wa

Nyabimata itavuga ko hari ibintu yasahuwe. Akaba asanga aha naho Urukiko rwaramwumvise nabi kuko ngo raporo yakozwe ivuga ko byatwitswe bitasahuwe. Asaba ko hanashingirwa ku buhamya bw'abamutabaye nk'uwitwa Antoine, ariko ntiyimwe uburenganzira bwe.

[504] Avuga ko ku bijyanye n'indishyi z'ibyo yatanze ku ngendo kubera kuvutswa imodoka yari asanzwe yiyambaza, Urukiko rwamugeneye mu bushishozi bwarwo indishyi z'akababaro zingana na miliyoni eshashatu (6.000.000 Frw) kubera ko ngo ayo yasabye ari menshi, ko asanga aho naho harabayeho kugenekereza mu gihe yari yagaragaje ko akenera imodoka mu buzima bwe bwa buri munsi kandi ko ku munsi iyo ukodesheje imodoka yo kugendamo bifata hagati ya 15.000 Frw na 20.0000 Frw ko ari nabyo yari yagendeyeho abara ayo yari yasabye, ko rero atumva icyo Urukiko rwagendeyeho rumugenera 6.000.000 Frw.

[505] Akomeza avuga kandi ko Urukiko rwamugeneye 500.000 Frw y'ikurikiranarubanza, ariko ko ari make ukurikije ingendo yakoreye i Nyanza iburanisha ritarimurirwa i Kigali ndetse n'ayo yakoresheje nyuma y'uko ryimurwa. Asaba muri rusange ko aho mu gika cya 708 Urukiko rwategetse ko yishyurwa indishyi zingana na miliyoni makumyabiri n'imwe n'ibihumbi magana atanu (21.500.000 Frw) byasubirwamo hagashingirwa ku bimenyetso byari byatanzwe n'ibindi byatangiwe mu bujurire birimo n'abatangabuhamya.

[506] Me MURANGWA Faustin uhagarariye NSENGIYUMVA Vincent avuga ko hagaragajwe *factures* uwo ahagarariye yivurijeho n'iz'ibyo yakoreshaga ari mu bitaro, ko *carte jaune* y'imodoka yatwitswe igaragaza ko yaguzwe mu mwaka wa 2016 kandi nk'umukozi wa Leta iyo modoka yagombaga kuba itarengeje 40.000 Km, ikaba yari inafite ubwishingizi. Avuga ko yari yarayiguze 25.000.000 Frw, mu kumugenera indishyi zingana na 15.000.000 Frw gusa nyuma y'imyaka 2 ayiguze bikaba bitumvikana ukuntu yaba itakaje hafi kimwe cya kabiri cy'agaciro yari ifite.

[507] Akomeza avuga ko ku bijyanye n'ibikoresho byo mu nzu byari byasabiwe indishyi, umutangabuhamya witwa Callixte wabanaga na NSENGIYUMVA Vincent asobanura ukuntu abateye batwitse imodoka, bakangiza bagatwika no mu nzu ibintu byarimo bigahiramo, bikaba bigoye kubona za *factures* zabyo. Naho ku birebana n'indishyi z'akababaro, izo yasabaga ari 20.000.000 Frw akurikije ingaruka byamugizeho kuko kugeza uyu munsi agifite ibikomere bituma atabasha gukora akazi ke neza no kwita ku muryango we, ariko Urukiko rukaba rwaramugeneye 6.000.000 Frw gusa, mu gihe we ayo yasabaga atari menshi.

b) Ku birebana n'abajuririye ingano y'indishyi zifitanye isano n'ibitero byagabwe mu ishyamba rya Nyungwe, mu Murenge wa Kitabi, Akarere ka Nyamagabe

[508] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bavuga ko ibitero byabereye muri Nyungwe byagize ingaruka ku bantu 26, bakaba barahawe indishyi ariko ntibazishimire kuko ari nkeya. Abo ni aba bakurikira :

1. UWAMBAJE Françoise na
2. NGIRABABYEYI Désiré,
3. RUDAHUNGA Ladislas,
4. RUDAHUNGA Dieudonné,
5. SHUMBUSHO David,

6. KIRENGA Darius,
7. MARIZA Adéline,
8. MBONIGABA Richard,
9. MUKESHIMANA Diane,
10. NDIKUMANA Isaac,
11. MUKANDUTIYE Alphonsine,
12. UZAYISENGA Liliane,
13. HABAKUBAHO Adéline,
14. VUGABAGABO Jean Marie Vianney,
15. MURENGERANTWARI Donat,
16. HAKIZIMANA Denys,
17. RWAMIHIGO Alexis,
18. NYIRANGABIRE Valérie,
19. SEMIGABO Déo,
20. NYIRAYUMVE Eliane,
21. NYIRANDIBWAMI Mariane,
22. KAREGESA Phénias,
23. HABIMANA Zerothe,
24. NIYONTEGEREJE Azèle,
25. KAYITESI Alice na
26. YAMBABARIYE Védaste.

- **Ku bireba UWAMBAJE Françoise**

[509] UWAMBAJE Françoise yunganiwe na Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise avuga ko umugabo we HABYARIMANA Dominique yaguye mu gitero cyabereye muri Nyungwe, bikaba byaramugizeho ingaruka zikomeye kuko byamuteye agahinda gakomeye, ko yanamusigiye abana bo kurera wenyine, aho bimusaba gukoresha imbaraga nyinshi kugira ngo abashe gukorera urugo, ariko ko bitashoboka ko yarukorera nk'umugabo we, ko ndetse no mu kumushyingura hari ibyo yatakaje.

[510] Avuga ko umugabo we yari rwiyemezamirimo wari ufite amasoko menshyi, kuko yahakoreshaga imodoka 2, aho yakoranaga n'Akarere, ibigo by'amashuli, mu by'imidugudu ya *reserve force* n'ibindi byinshi. Avuga ko iyo umugabo we yabaga yakoze neza ku kwezi yinjizaga miliyoni enye (4.000.000 Frw) amaze gukuramo ibindi byose, kandi ko ashingiye ku gihe umugabo we yari asigaje ngo agere mu gihe cy'izabukuru, yari yasabye miliyoni ijana (100.000.000 Frw) zikubiyemo indishyi z'akababaro, iz'imbonezamusaruro n'iz'ibyo yatakaje, kuko nawe yayaheraho akagira icyo akora cyateza urugo imbere. Ko ayo mafaranga yinjizaga yayatangiye ibimenyetso mu Rukiko rw'Ubujurire birimo historiques za

konti zo ku mabanki zigaragaza uburyo umugabo we yakoraga, akaba asaba ko rwazazishingiraho rukamugenera indishyi.

[511] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bunganira UWAMBAJE Françoise, bavuga ko ku bijyanye n'indishyi asaba ari byiza kuba Urukiko rwaravuze ko izo rutanze ari indishyi z'akababaro. Ko iyo barebye ibiteganywa n'amategeko n'uko indishyi ubwazo zigomba kuba zigabanyije mu bice bitandukanye, kuba indishyi z'akababaro yahawe atazemera kuko ari nkeya ni uko ari umugore ufite n'abana, Urukiko rwakabaye rwaramugeneye indishyi runashingiye kuri abo bantu batandukanye.

[512] Naho ku bijyanye n'indishyi mbonezamusaruro, bavuga ko n'ubwo uyu munsi atabasha kugaragaza amafaranga umugabo we yinjizaga mu kwezi, akaba nta tegeko rihari rikoreshwa mu kubara indishyi ku bijyanye n'abantu bagiye bapfa mu buryo bundi butandukanye uretse gusa irigena uburyo babara indishyi ku bantu biciwe mu mpanuka y'imodoka n'irirebana n'abishwe n'inyamaswa zo muri parike cyangwa inyamaswa ziri ahantu hakomye. Bavuga ko mu Rwanda iyo umuntu afite imirimo akora hashingirwa ku mafaranga yinjizaga ku mwaka cyangwa ku kwezi, yaba adafite umurimo akora hagashingirwa ku mushahara muto umuntu ashobora kuba yatahana. Bityo, ko mu rubanza rujuririrwa banenga aho Urukiko rwavuze gusa ko indishyi nta shingiro zifite kuko umugabo we nta murimo yari afite, nyamara nk'umuntu wari uriho wakoraga rwakabaye nibura ruvuga ko nta kimenyetso yagaragaje cy'imirimo yakoraga ariko rukaba rwashingira kuri *SMIG [Salaire Minimum Garanti]* rukamuha indishyi zicirirtse.

[513] Bavuga ko ku bijyanye n'ibyakoreshejwe mu gushyingura, Urukiko rwavuze ko batahabwa izo ndishyi, nyamara zari zikubiye muri miliyoni ijana basabaga,ko uyu munsi bigoye kuba bagaragaza ibimenyetso by'ibyo bakoresheje byose nk'uko babisobanuye, kuko abantu bakimara gupfa habayeho ibibazo bikomeye, impanuka zikomeye, abantu bapfiriye muri ibyo bitero, abandi barahungabana ubwabo ku buryo bumvaga ko batabona ubutabera ndetse batanabyizeye, ko ariyo mpamvu mu gutanga ikirego hari ibimenyetso bitabonetse harimo nk'ibigaragaza amafaranga yatakaje igihe yashyinguraga umugabo we.

[514] Bavuga ariko ko bashingiye ku ngingo ya 154 y'Itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, hari izindi nyandiko zitandukanye z'ibimenyetso bashyikirije uru Rukiko mu bujurire zigaragaza imirimo itandukanye umugabo we yakoraga aho bigaragara muri *système* ku mugereka wa 104, amafoto nayo yashyizwe muri dosiye ku mugereka 106 na 107 agaragaza imva y'umugabo we, ndetse na *facture* yakoresheje mu kumushyingura iri ku mugereka 103, *cyokora hari factures* atabashije kubona z'ibyo yatakaje mu gushyingura nk'iz'amazi yakirije abamuherekeje, *iz'ingendo.*

[515] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise basobanura ko bumva indishyi z'akababaro arizo *Dommage moraux* zonyine, Urukiko rwamugeneye miliyoni icumi (10.000.000 Frw), hakaba ariko na *dommages economiques* nk'uko byasobanuwe ko umugabo we yakoraga ku buryo uyu munsi hagombye gushingirwa nibura ku minsi yari asigaje yo gukora akaba yagenerwa indishyi, n'ibindi bitandukanye yatakaje nk'uko byasobanuwe, ko Urukiko rubanza rwakabaye rwaramugeneye izo ndishyi, ariko ko rwazimwimye ruvuga ko nta bimenyetso bifatika afite, ubu bagasaba ko mu bushishozi bw'uru Rukiko yazihabwa. Naho ku bijyanye n'indishyi z'impozamarira za miliyoni icumi uwo bunganira yagenewe ariko akaba atazemera kuko ari nkeya, basaba Urukiko ko rwakongera

rukabisuzuma, rukamugenera mu bushishozi bwarwo nibura miliyoni mirongo itanu (50.000.000 Frw) y’indishyi z’akababaro.

- **Ku bireba NGIRABABYEYI Désiré**

[516] Bavuga ko yari yasabye indishyi z’akababaro zose hamwe zingana na 137.600.000 Frw zikubiyemo 50.000.000 Frw z’ubumuga yagize, 20.000.000 Frw y’indishyi z’akababaro, 66.600.000 Frw na 1.000.000 Frw y’ikurikirana rubanza ariko Urukiko Rukuru rumugenera indishyi z’akababaro gusa zingana na 2.000.000 Frw n’amafaranga y’ikurikirana rubanza.

[517] Basobanura ko NGIRABABYEYI Désiré yari umushoferi w’imodoka ya ALPHA Express Company Ltd, ku wa 15/12/2018 akaba yaravuye i Rusizi atwaye abagenzi, ageze mu ishyamba rya Nyungwe asanga abarwanyi ba FLN babateze, bica bamwe mubo yari atwaye, abandi barabakomeretsa nawe akomerekeramo. Avuga ko muri icyo gitero yarashwe ku murundi ndetse no mu bworo bw’ikirenge, bikaba byaramuviriyemo ubumuga buhoraho kuko adashobora gutwara imodoka ngo ave i Kigali agere i Rusizi yongere agaruke kandi mbere yarabikoraga. Ubwo bumuga bukaba bwaremejwe na muganga ku Bitaro bya Kibagabaga bugana na 22% ndetse ko adashobora no kubagwa. Ubu umwuga w’ubushoferi yakoraga wari umutunze akaba atakiwukora uretse gusa kuba yakora imirimo y’amaboko.

[518] Anavuga ko iyo raporo ya muganga atigeze ayigaragaza mu Rukiko Rukuru, ko yayibonye urubanza rugeze mu bujurire, ubu akaba yarayishyize muri *système* ku umugereka wa 093. Avuga kandi ko akiri umushoferi yakoreraga 250.000 Frw ku kwezi ariko akaba nta kimenyetso abitangira. Agasaba ko hashingiwe kuri iyo raporo ya muganga no ku mushahara yahembwaga ku kwezi, anahereye ku gihe yari asigaje ngo ajye mu zabukuru, Urukiko rwamugenera indishyi yari yasabye zingana na 137.600.000 Frw, rukazigena mu bushishozi bwarwo kuko ubu yabaye ikimuga atakibasha gukora akazi ke k’ubushoferi. Abamwungunira bongeraho ko ku bijyanye n’indishyi z’uburibwe yari yahawe zingana na 2.000.000 Frw nazo mu bushishozi bw’uru rukiko zakongerwa kuko izo yahawe ari nkeya.

- **Ku bireba RUDAHUNGA Ladislas hamwe n’abana be RUDAHUNGA Dieudonné, SHUMBUSHO David, KIRENGA Darius na UMULIZA Adéline**

[519] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise babahagarariye bavuga ko aba bose batanze ikirego basaba indishyi zitandukanye zikubiye hamwe zingana na 33.620.000 Frw, ariko ko RUDAHUNGA Ladislas, se w’umwana wishwe witwa MUTESI Jacqueline, Urukiko rwari rwamugeneye indishyi z’akababaro zingana na 5.000.000 Frw, rwongeraho n’amafaranga yakoreshejwe mu gushyingura angana na 2.190.200 Frw, naho ku bavandimwe ba nyakwigendera aribo RUDAHUNGA Dieudonné, SHUMBUSHO David, KIRENGA Darius na UMULIZA Adéline buri wese rumugenera 2.000.000 Frw. Bavuga ko bitewe n’uko aya amafaranga Urukiko rwayagennye mu bushishozi bwarwo, basaba ko uru Rukiko rwakongera rukayasuzuma kuko bayanenga kuba ari makeya.

- **Ku bireba MBONIGABA Richard, MUKESHIMANA Diane, NDIKUMANA Isaac, MUKANDUTIYE Alphonsine, UZAYISENGA Liliane, HABAKUBAHO Adéline, VUGABAGABO Jean Marie Vianney, MURENGERANTWARI Donat, HAKIZIMANA Denis, RWAMIHIGO Alex, NYIRAGABIRE Valerie na SEMIGABO Déo**

[520] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise babahagarariye bavuga ko aba bose bari baregeye indishyi kubera urupfu rwa MUKABAHIZI Hilarie. Mu kirego bari basabye indishyi z’impozamarira, abana ba nyakwigendera bakaba bari basabye 10.000.000 Frw y’indishyi z’akababaro, abavandimwe be basaba 5.000.000 Frw, ariko Urukiko rutanga indishyi za 2.000.000 Frw

ku bavandimwe naho abana rubagenera 5.000.000 Frw. Bakaba basaba ko Urukiko rwakongera gusuzuma mu bushishozi bwarwo rukabona ko indishyi bari basabye bazikwiye.

- **Ku bireba NYIRANDIBWAMI Mariane**

[521] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bavuga ko uyu yaregeye indishyi kubera urupfu rw' umwana we NIYOBUHUNGIRO Jeanine wari ufite imyaka 23, wari uvuye i Butare ku ishuri agana i Rusizi, akaba yari yasabye indishyi zingana na 15.000.000 Frw z'akababaro na 5.000.000 Frw z'ibyo yatakaje, zose hamwe zikaba 20.000.000 Frw ariko Urukiko rumugenera 5.000.000 Frw zonyine nazo zigenwe mu bushishozi bwarwo. Bakaba bazinenga ko ari nkeya, bagasaba uru Rukiko ko rwakongera kuzisuzuma mu bushishozi bwarwo.

- **Ku bireba NYIRAYUMVE Eliane**

[522] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko yapfushije umugabo we NTEZIRYAYO Samuel mu gitero cyabereye muri Nyungwe. Akaba yari yasabye Urukiko rubanza indishyi zingana na 23.500.000 Frw ariko rumugenera 10.500.000 Frw y'indishyi z'akababaro gusa, zikomatanyirije hamwe rudatandukanyije impozamarira n'izi imbonezamusaruro. Ruvuga ko ari indishyi z'akababaro 10.000.000 Frw n'amafaranga 500.000 Frw y'ikurikiranarubanza. Ibindi yakoresheje bitandukanye mu gushyingura avuga ko nta ndishyi yabiherewe. Bavuga ko muri ubu bujurire bashyize muri *système* ibimenyetso bijyanye n'ibyakoreshejwe mu gushyingura umugabo we, biri ku *umugereka* wa 071. Bakaba bongera gusaba indishyi bari basabye, uru rukiko rukazigena mu bushishozi bwarwo. Ku bijyanye n'indishyi mbonezamusaruro kuko nyakwigendera atakoraga umirimo uhemberwa uzwi, basaba urukiko ko zabarwa hashingiwe ku mushahara muto ntarengwa/ *SMIG*.

- **Ku bireba KAREGESA Phenias**

[523] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko kubera urupfu rw'umwana we NIYONSHUTI Isaac wari umunyeshuri ugeze mu mwaka wa gatatu w'amashuri yisumbuye, yari yasabye indishyi zose hamwe zingana na 67.000.000 Frw, zikubiyemo 63.000.000 Frw y'indishyi z'akababaro, 3.000.000 Frw zo gushyingura na 1.000.000 Frw y'ikurikiranarubanza ariko ko Urukiko rwamugeneye 5.500.000 Frw. Bagasaba urukiko ko mu bushishozi bwarwo rwakongera rukazisuzuma.

[524] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bavuga kandi ko uretse NGIRABABYEYI Désiré bunganiye wavuzwe haruguru hari n'abandi bakurikira nabo bakomerekeye mu gitero cyo muri NYUNGWE bakaba nabo basaba indishyi ku bwabo ariko bakaburana babahagarariye : HABIMANA Zerothe, NIYONTEGEREJE Azèle, KAYITESI Alice na YAMBABARIYE Védatse.

- **Ku bireba HABIMANA Zerothe**

[525] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko yari yasabye indishyi zingana na 139.400.000 Frw ariko agenerwa 2.500.000 Frw mu bushishozi bw'Urukiko. Zikaba ari nke ugereranyije n'izo bari basabye kuko harimo ikinyuranyo gikabije. Bavuga ko baragaragaje muri système ku mugereka wa 090 raporo ya muganga w'ibitaro bya Kigeme igaragaza ko HABIMANA Zerothe afite ubumuga buhoraho, kandi akeneye kwivuza. Bakaba basaba uru Rukiko ko rwakongera rugasuzuma ko aya mafaranga yahawe ari makeya rukaba rwamugenera ayandi.

- **Ku bireba NIYONTEGEREJE Azèle**

[526] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko yari yasabye indishyi zingana na 5.500.000 Frw ariko Urukiko rumugenera gusa indishyi z'akababaro zingana na 2.000.000 Frw, rukavuga ko atagenerwa indishyi zijyanye n'ubumuga kuko raporo ya muganga itagaragaza ko hari ubumuga yatewe no gukomeretswa n'igitero. Bavuga ko hari raporo ya muganga bashyize muri *système* iri ku mugereka wa 094 igaragaza ko agifite ubumuga cyane cyane bushingiye ku buranga. Bakaba basaba Urukiko kongera rukabisuzuma kuko indishyi za 2.000.000 Frw yahawe ari nke.

- **Ku bireba KAYITESI Alice**

[527] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko hari raporo ya muganga bashyize muri système igaragaza ko kugeza ubu agifite ubumuga bungana na 20%. Ko indishyi yari yasabye zari 50.000.000 Frw ariko Urukiko rukamugenera 2.000.000 Frw. Bakaba basaba Urukiko kongera kubisuzuma.

- **Ku bireba YAMBABARIYE Vedaste**

[528] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko yari yasabye indishyi za 20.000.000 Frw kubera ubumuga yatewe, bugaragazwa na raporo ya muganga bashyize muri *système* ku mugereka wa 099, ariko ibye Urukiko rukaba rutarabisobanuye neza kuko iyo urebye ibiri mu gika cya 618 cy'urubanza rujuririrwa, Urukiko rwagaragaje ko rwabonye ibimenyetso bye kandi rwabishimye rusanga yagenerwa indishyi za 2.000.000 Frw, ariko mu mwanzuro wa rwo mu gika cya 711 rumushyira mu cyiciro cy'abataragenewe indishyi. Basaba uru Rukiko ko rwakosora iryo kosa ariko na none indishyi yahawe zikongerwa kuko ari nkeya ugerenyije na 20.000.000 Frw yari yasabye.

- **Ku bireba NDUTIYE Yussuf, OMEGA Express Ltd na ALPHA Express Company Ltd**

[529] Aba bahagarariwe na Me MURANGWA Faustin nabo bavuga ko batishimiye indishyi bahawe n'Urukiko rubanza kuko ari nkeya.

[530] Ku bireba NDUTIYE Yussuf, Me MURANGWA Faustin avuga ko, nk'uko biboneka mu gika cya 533 cy'urubanza rujuririrwa, ubwo yari mu modoka ye ava i Rusizi, ageze mu ishyamba rya Nyungwe yahuye n'abantu bitwaje intwaro baramuhagarika, ava mu modoka yari atwaye yo mu bwoko bwa Golf VW ifite *plaque* RAC 547 A yihisha mu ishyamba, nyuma agarutse asanga bayitwitse, aza kumenya ko abayitwitse ari abarwanyi ba FLN, akaba ariyo mpamvu yareze asaba abaregwa, gufatanya kumwishyura indishyi zihwanye n'aamafaranga miliyoni umunani (8.000.000 Frw) y'agaciro k'iyo modoka, indishyi z'akababaro zingana n'amafaranga miliyoni ebyiri (2.000.000 Frw) n'amafaranga y'ikurikiranarubanza angana na miliyoni imwe (1.000.000 Frw) no kugenerwa amafaranga ibihumbi makumyabiri (20.000 Frw) ku munsi kuva igihe yatwikiwe kugeza urubanza ruciwe.

[531] Avuga ko ibimenyetso yashingiyeho asaba izo ndishyi bigaragara mu gika cya 534 cy'urubanza rujuririrwa, birimo *facture proforma* yakozwe na KAMECAR Motors Ltd ku wa 24/01/2020 igaragaza ko iyo modoka yari ifite agaciro ka 8.000.000 Frw, icyemezo cy'ubwishingizi bw'imodoka cyo ku wa 23/12/2019, ifoto y'iyo modoka itaratwikwa, amafoto ari muri dosiye agaragaza imodoka zatwitswe ndetse na raporo y'Ubuyobozi bw'ibanze ivuga ko ku italiki ya 15/12/2018 muri iryo shyamba rya Nyungwe abarwanyi bitwaje intwaro batwitse imodoka zitandukanye.

[532] Asobanura ko Urukiko rwasuzumye ibyo bimenyetso yatanze rugasanga bigaragaza ko yari atunze imodoka asabira indishyi yo mu bwoko bwa Golf VW ifite *plaque* RAC 547A yakozwe mu mwaka wa

2001 kandi ko yatwikiwe mu ishyamba rya Nyungwe ariko rukaba rwaravuze ko harebwe ko *facture proforma* ashingiraho yakozwe ku wa 24/01/2020 nyuma y'uko imodoka ye itwitswe, rusanga itashingirwaho kuko itagaragaza agaciro yari ifite ayigura n'igihe yari ayimaranye. Bityo, ko atagomba kugenerwa amafaranga asaba hashingiwe gusa kuri iyo *facture proforma*, ahubwo ko mu bushishozi bwarwo agomba kugenerwa amafaranga angana na 4.000.000 Frw. Anenga kuba izi ndishyi zagenwe n'Urukiko nazo ntacyo zagendeyeho kuko aya mafaranga nta modoka yagura. Akaba asaba uru Rukiko ko yagenerwa ayo yari yasabye cyangwa Urukiko rukaba rwahamagaza abahanga mu kugena agaciro k'ibinyabiziga hagendewe ku myaka biba bimaze bikora n'igihe biba byarakorewe kuko abakoze igenagaciro ryashingiweho mu gusaba indishyi nabo ari ibyo bari bagendeyeho.

[533] Avuga ko ku birebana n'izindi ndishyi asaba, Urukiko rubanza rwasanze kuba yaratwikiwe imodoka, agaterwa ubwoba n'icyo gitero no kuba yaravukijwe uburenganzira bwo gukoresha imodoka ye mu buzima bwa buri munsi yabiherwa indishyi z'akababaro zingana na 2.500.000 Frw zigenwe mu bushishozi bwarwo kuko izo yasabye ari nyinshi kandi akaba ataranagaragaje icyo ashingiraho asaba ko imodoka ye ibarirwa amafaranga ibihumbi makumyabiri (20.000 Frw) ku munsi. Aha akaba asanga Urukiko rubanza rwarirengagije ko kugira ngo abone indi yifashisha mu kazi ka buri munsi kandi bitewe n'imiterere yayo (jeep cyangwa ivatiri) kuyikodesha bitwara hagati ya 15.000 Frw na 20.000 Frw ku munsi.

[534] Akomeza avuga ko amafaranga ibihumbi magana atanu (500.000 Frw) y'ikurikiranarubanza, urukiko rwamugeneye nayo ari make hashingiwe ku gihe cyose yitabiriye iburanisha i Nyanza urubanza rutarimurirwa i Kigali na nyuma yaho, no ku kazi ke yabaga yataye nk'uwikorera. Bityo, akaba asaba ko izi ndishyi zakongera zigasuzumwa agahabwa 1.000.000 Frw hakurikijwe ibimenyetso byatanzwe ndetse n'ibindi byagejejwe ku Rukiko mu bujurire birimo no kumva abatangabuhamya.

[535] Ku bireba OMEGA EXPRESS Ltd, Me MURANGWA Faustin avuga ko nk'uko bigaragara mu gika cya 535 cy'urubanza rujuririrwa sosiyete OMEGA EXPRESS Ltd itwara abagenzi yasabye indishyi z'imodoka zayo ebyiri zitwara abagenzi zo mu bwoko bwa coaster zifite *plaque* RAC 357 J na RAD 201 N zatwikiwe mu ishyamba rya Nyungwe.

[536] Asobanura ko ibimenyetso byashingiweho hasabwa izo ndishyi birimo ibyangombwa by'izo modoka na fagitire zatanzwe n'aho zaguriwe mu "Akagera Business Group" bigaragaza ko imodoka Coaster ifite *chassis n^o* JTFGFB 51820-1053253 na *plaque* RAC 357 J yaguzwe 51.809.000 Frw, ikaba yaratwitswe imaze imyaka itanu ikora. Naho imodoka ifite *Chassis n^o* GFB518901981521 na *plaque* RAD 201 N ikaba yaraguzwe 52.079.986 Frw, igatwikwa imaze umwaka umwe ikora. Izi zikaba zari zasabiwe kwishyurwa hakanatangwa indishyi mbonezamusaruruoro zingana na 662.000.000 Frw kuri zombi hashingiwe ku mafaranga zinjizaga n'ayo zari zisigaje gukorera kubera ko imodoka zitwara abagenzi zimara imyaka makumyabiri (20) zikora.

[537] Avuga kandi ko bari basabye amafaranga y'ikurikiranarubanza n'ay'igarama angana na 1.240.000 Frw ndetse n'indishyi za 20.000.000 Frw kubera ko sosiyete ya OMEGA Express Ltd yatakarijwe icyizere bigatuma igira igihombo, indishyi zose hamwe isaba zikaba zingana na 737.128.986 Fw.

[538] Akomeza avuga ko mu gusobanura icyemezo cyarwo Urukiko rwagaragaje ko rwashingiye ku bimenyetso byatanzwe na OMEGA Express Ltd, rugasanga hari imodoka ebyiri (2) za Coaster zitwara abagenzi zatwikiwe mu ishyamba rya Nyungwe n'abarwanyi ba MRCD-FLN, ko icyo gihombo kigomba gutangirwa indishyi z'agaciro k'imodoka, iz'igihombo OMEGA Express Ltd yagize bitewe no

kutazikoresha n’amafaranga yatakaje kubera gukurikirana urubanza. Mu gika cya 602 cy’urubanza rujuririrwa, ururkiko rubanza ruvuga ko harebwe ko imodoka isabirwa kwishyurwa agaciro kangana na 51.809.000 Frw yari imaze imyaka itanu (5) ikora rusanga mu bushishozi bw’urukiko yakwishyurwa amafaranga miliyoni mirongo ine (40.000.000 Frw), naho isabirwa kwishyurwa 52.079.986 Frw yari imaze umwaka umwe ikora ikishyurwa miliyoni mirongo ine n’eshanu (45.000.000 Frw).

[539] Me MURANGWA Faustin akomeza avuga ko Urukiko rubanza rwasanze OMEGA Express Ltd itagaragaza ku buryo bwumvikana icyo ishingiraho isaba indishyi mbonezamusaruro, kuko gushingira ku gihe cy’imyaka makumyabiri (20) ivuga no ku mafaranga zinjizaga ku munsi bidahagije kugira ngo izo ndishyi zigenwe. Mu gika cya 603 cy’urubanza rujuririrwa rukaba rwaravuze ko rugendeye ku kuba imodoka itwara abagenzi idakora buri munsi, no kuba amafaranga ikorera ku munsi OMEGA Express Ltd yarayatanze igereranyije, kuva OMEGA Express Ltd yagenewe amafaranga y’agaciro k’imodoka, yagenerwa gusa indishyi mbonezamusaruro z’amezi mirongo itatu n’atatu (33) abazwe kuva ku wa 15/12/2018 igihe imodoka yatwikiwe kugeza urubanza ruciwe, kuko Urukiko rusanga imodoka yakora iminsi makumyabiri n’ine (24) mu kwezi, ikorera ibihumbi mirongo itanu (50.000 Frw) ku munsi.

[540] Me MURANGWA Faustin akaba avuga ko Urukiko ntaho rwahera ruvuga ko *bus* ikora iminsi 24 ku kwezi kuko n’iyo umushoferi yaruhutse *bus* yo bitayibuza gukomeza gukora. Avuga kandi ko ntacyo Urukiko rwavuze ku kuba ibyabaye byaratumye OMEGA EXPRESS Ltd itakarizwa icyizere ku bayigana, ibi bikaba bikomeje kuyihombya. Urukiko rukaba rwaremeje ko yahabwa indishyi zingana: n’amafaranga miliyoni mirongo irindwi n’icyenda n’ibihumbi magana abiri (79.200.000 Frw) ku modoka zayo ebyiri zatwitswe, ikanagenerwa ibihumbi magana atanu (500.000 Frw) y’ikurikiranarubanza n’igarama, izo indishyi zose hamwe zikaba zingana n’amafaranga miliyoni ijana na mirongo itandatu n’enye n’ibihumbi magana arindwi (164.700.000 Frw).

[541] Avuga ko batanyuzwe n’ibyemejwe n’Urukiko mu gika cya 600 n’icya 603 by’urubanza rujuririrwa kuko rwari kugena indishyi mbonezamusaruro zibariwe ku mafaranga ibihumbi mirongo itanu (50.000 Frw) ku munsi kugeza igihe urubanza ruzasomerwa; kandi ko izo ndishyi zikabaririwa ku minsi 30 y’ukwezi, kuko imodoka zikora buri munsi nk’uko umutangabuhamya RURANGWA wari umushoferi yabisobanuye. Asobanura kandi ko amafaranga y’ikurikiranarubanza asaba ari miliyoni imwe n’ibihumbi Magana abiri na mirongo ine (1.240.000 Frw) akubiyemo amafaranga ibihumbi makumyabiri 20.000 Frw na miliyoni imwe n’ibihumbi magana abiri na makumyabiri (1.220.000 Frw) abazwe mu buryo bugenekereje kuko ibyo bakoreshaga mu gukurikirana urubanza batabisabiraga *factures*.

[542] Ku bireba ALPHA Express Company Ltd, Me MURANGWA Faustin uyiburanira avuga nk’uko bigaragara mu gika cya 536 cy’urubanza rujuririrwa Sosiyete itwara abagenzi ya ALPHA Express Company Ltd yasabye indishyi z’imodoka yayo yo mu bwoko bwa TOYOTA Coaster ifite pulaki RAC 341U yatwikiwe mu ishyamba rya Nyungwe zihwanye na 341.000.000 Frw zikubiyemo 52.000.000 Frw y’ikiguzi cyayo; indishyi z’imbonezamusaruro zingana na 288.000.000 Frw na 1.000.000 Frw y’ikurikirana rubanza. Akavuga ko izo ndishyi zari zagaragarijwe ibimenyetso bigizwe n’ibyangombwa by’iyo modoka, inyemezabwishyu yaguriweho yo ku wa 09/01/2015 na raporo y’Ubuyobozi bw’inzego z’ibanze igaragaza ko hari imodoka zitwara abagenzi zatwikiwe mu ishyamba rya Nyungwe.

[543] Avuga kandi ko Urukiko rubanza rushingiye ku bimenyetso byatanzwe na ALPHA Express Company Ltd, rwemeje ko hari imodoka yayo ya Coaster itwara abagenzi yatwikiwe mu ishyamba rya Nyungwe mu gitero cyo ku wa 15/12/2018. Bityo, ko igomba kugenerwa indishyi kubera igihombo yagize kijyanye no kubura imodoka yayo n’amafaranga yari kuzakorera iyo idatwikwa, ikanagenerwa

amafaranga yatakaje kubera gushorwa mu manza, ariko ko harebwe ko iyo modoka yari imaze imyaka ine (4) ikora rwasanze itagenerwa agaciro yari ifite igurwa, ahubwo k'ubw'ubushishozi bwarwo ikaba yagenerwa amafaranga miliyoni mirongo ine 40.000.000 Frw.

[544] Avuga na none ko ku birebana n'indishyi mbonezamusaruro zisabwa na ALPHA Express Ltd, Urukiko rubanza rwasobanuye ko hashingiwe ku myaka cumi n'itandatu (16) imodoka yari isigaje gukora no ku mafaranga ibihumbi mirongo itanu (50.000 Frw) ivuga ko ikorera buri munsi, rusanga ntayo yagenerwa kuko yagenewe agaciro k'imodoka, ahubwo ko yagenerwa indishyi mbonezamusaruro z'amezi mirongo itatu n'atatu (33) abazwe kuva ku wa 15/12/2018 igihe imodoka yatwikiwe kugeza urubanza ruciwe, ko rero hashingiwe ku kuba urukiko rusanga imodoka itwara abagenzi yakora iminsi makumyabiri n'ine (24) mu kwezi ikorera amafaranga ibihumbi mirongo itanu (50.000 Frw) ku munsi, yagenerwa indishyi zingana na 39.600.000 Frw, ikanagenerwa amafaranga ibihumbi magana atanu (500.000Frw) y'ikurikiranarubanza, yose hamwe akaba amafaranga miliyoni mirongo inani n'ibihumbi ijana (80.100.000 Frw).

[545] Ku bw'ibyo Me MURANGWA Faustin avuga ko banenga uburyo Urukiko Rukuru rwabaze izo ndishyi, kuko imodoka nk'iyi ya *coaster* agaciro kayo katagenda kagabanuka kubera igihe imaze ikora, ko ahubwo kiyongera binatewe n'ita gaciro ry'ifaranga (inflation), ibi Urukiko rubanza rukaba rutarabyitayeho mu kugena indishyi z'agaciro k'iyi modoka rugendeye ku gihe yari imaze ikora aho gushingira ku gaciro k'imodoka nk'iyi ku washaka kuyigura uyu munsi. Aha atanga urugero ko sosiyeti OMEGA Express Ltd yaguze imodoka mu myaka itatu ishize kuri 51.000.000 Frw ariko nyuma isubiye kuyigura isanga ku isoko igeze kuri 57.000.000 Frw. Ku birebana n'indishyi mbonezamusaruro, asaba uru Rukiko ko zibarirwa ku minsi 30 y'ukwezi kuko imodoka zikora buri munsi, akanasaba 1.000.000 Frw y'ikurikiranarubanza kuko kuva urubanza rutangiye i Nyanza kugeza ubu, nta kuntu ALPHA Express Company Ltd yaba yaratakaje 500.000 Frw gusa Urukiko rwayigeneye.

[546] Ku kibazo Urukiko rwamubajije cyo kumenya icyaba cyarakozwe na sosiyeti aburanira kugira ngo zibe zakwishyurwa n'ubwishingizi, Me MURANGWA Faustin yasobanuye ko iyi nzira bayigerageje ariko ntibigire icyo bitanga kuko abishingizi babasubije ko bitashoboka bashingiye kuri *"principe de prévisibilité*", ndetse ko banagerageje kujya mu Kigega Cyihariye cy'Ingoboka ariko naho barabahakanira.

c) Ku birebana n'abajuririye ingano y'indishyi zifitanye isano n'ibitero byagabwe mu Murenge wa Kamembe n'uwa Nyakarenzo mu Karere ka Rusizi

[547] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bavuga ko hari ibitero byabereye mu Karere ka Rusizi, ahantu habiri hatandukanye ariho mu Murenge wa Kamembe ku kabari kitwa Stella ndetse no mu Murenge wa Nyakarenzo ku ruganda hanatwikiwe imodoka. Bavuga ko bane (4) mu bo bahagarariye aribo bajuririye kuba baragenewe indishyi nkeya zirebana n'igitero cyagabwe mu Murenge wa Kamembe, aribo :

1. NKURUNZIZA Jean Népomuscène,
2. RUTAYISIRE Félix,
3. NSABIMANA Joseph na
4. NZEYIMANA Paulin,

Naho umwe (1) ari we MAHORO Jean Damascène akaba yarajuririye izo yagenewe zirebana n'igitero cyo ku ruganda mu Murenge wa Nyakarenzo.

- **Ku bireba NKURUNZIZA Jean Népomuscène**

[548] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko yari yasabye indishyi za 30.000.000 Frw kubera ubumuga yatewe n'igitero ndetse akaba yaranabigaragarije raporo ya muganga yo ku wa 22/10/2020, igaragaza ubumuga afite bwa 6%, ko yagiye anivuza, ariko Urukiko rubanza mu bushishozi bwarwo rumugenera 3.000.000 Frw. Bavuga ko yajuririye izo ndishyi kuko ari nkeya. Bagasaba Urukiko rw'Ubujurire ko rwakongera rukazisuzuma maze rukazongera.

- **Ku bireba RUTAYISIRE Félix**

[549] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko yari yasabye indishyi za 5.000.000 Frw kubera ubumuga yatewe n'igitero cyagabwe mu murenge wa Kamembe ariko Urukiko rubanza mu bushishozi bwarwo rumugenera indishyi za 4.000.000 Frw. Bavuga ko izo ndishyi yahawe ari nkebakaba basaba Urukiko rw'Ubujurire ko rwakongera rukazisuzuma maze rukamuha indishyi yari yasabye zingana na 5.000.000 Frw.

- **Ku bireba NSABIMANA Joseph**

[550] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko NSABIMANA Joseph yakomerekeye muri kiriya gitero, akaba yari yasabye indishyi z'akababaro zingana na 9.000.000 Frw n'indishyi zingana na 6.000.000 Frw kubera ubumuga yagize bungana na 8% anabitangira ibimenyetso ariko mu bushishozi bwarwo Urukiko rumugenera 3.000.000 Frw gusa kuri byombi. Kubera ko indishyi yagenewe ari nkeya barasaba mu bujurire Urukiko ko rwakongera rukabisuzuma rukamugenera indishyi yari yasabye mbere.

- **Ku bireba NZEYIMANA Paulin**

[551] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko yakomerekeye muri kiriya gitero ubwo éclats za gerenade zamugwaga ku mubiri ahantu hatandukanye, akaba yari yasabye indishyi zingana na 5.000.000 Frw ariko Urukiko mu bushishozi bwarwo rumugenera indishyi zingana na 2.000.000 Frw. Bakaba bavuga ko ari nkeya, bagasaba Urukiko ko rushingiye kuri raporo ya muganga yari yatanze n'ubwo igaragaza gusa ko yakomeretse, rwakongera rukabisuzuma rukamugenera indishyi yari yasabye mbere zingana na 5.000.000 Frw.

- **Ku bireba MAHORO Jean Damascène**

[552] MAHORO Jean Damascène, yunganiwe na Me Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise avuga ko ariwe nyir'imodoka yo mu bwoko bwa Daihatsu Dyna ifite pulaki RAC 943 B yatwitse mu ijoro ryo ku wa 18/07/2019 ku ruganda mu Karangiro mu Murenge wa Nyakarenzo. Avuga ko Urukiko rwamugeneye indishyi za 5.500.000 Frw ariko ko abona zidakwiriye kubera ko imodoka ubwayo yari yayiguze 11.000.000 Frw, ikaba yarajyaga ikora akazi ko gutwara amafu yerekeza mu gihugu cya Congo, igakora inshuro ebyiri (2) ku munsi ikorera amafaranga ibihumbi mirongo itandatu (60.000 Frw) kuko inshuro imwe yabaga ari 30.000 Frw, amafaranga yari yayiguze akaba yari yarayagujije muri banki, bityo bikaba byaramuteje ubukene n'uyu mwanya adashobora kwivanamo. Akaba asaba Urukiko rw'Ubujurire ko rwarebana ubushishozi izo ndishyi bamugeneye niba zikwiye.

[553] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamwunganiye bavuga ko uretse indishyi z'agaciro k'imodoka ye, MAHORO Jean Damscène yari yanasabye 29.000.000 Frw z'umusaruro yakabaye yinjiza kuko yari imodoka y'ubucuruzi akaba yari yayizanye kuri urwo ruganda kugira ngo izajye ijyana amafu muri Congo n'ahandi hatandukanye, ndetse anasaba indishyi z'akababaro zingana na 10.000.000 Frw, ariko ko Urukiko rubanza mu bushishozi bwarwo rwamugeneye indishyi zihwanye n'amafaranga yose hamwe 5.000.000 Frw y'agaciro k'imodoka babona ari nke, ko izirebana n'umusaruro w'imodoka ntazo ururkiko rubanza rwamugenera ku mpamvu y'uko nta bimeneyetso yagaragaje. Bavuga ko kuba uwo bunganira atarabashije kugaragaza ibimenyetso by'uko imodoka yakoraga kandi yinjizaga amafaranga byatewe n'uko ibyangombwa byayo byose byahiriye muri iyo modoka. Bavuga ariko ko afite abantu batanga ubuhamya ko yari atunze iyo modoka nk'uwitwa Damascène wamuherekeje ajya kuyigura, uwari umushoferi we, uwo bayiguze, ko bibaye ngombwa Urukiko rwabatumaho rukabumva.

[554] Bakomeza bavuga ko kuba Ubuyobozi bwamutabaye, bubizi ko yari ayitunze, no kuba Ubushinjacyaha bwaragaragaje ko mu gitero cyabaye i Nyakarenzo hari imodoka yahiriyemo. Avuga kandi ko kuba yari imodoka ya Dyna camionnette nta kindi kintu yakoraga kitari ubucuruzi, bitewe n'uko yayiguze ari occasion kandi akaba yari ayimaranye umwaka umwe (1) ayikoresha, ugereranyije ibiciro biri ku isoko yaba yarinjizaga 60.000 Frw ku munsi, agereranyije ikaba yari kuzinjiza 29.000.000 Frw. Basoza basaba ko Urukiko rw'Ubujurire mu bushishozi bwarwo rwakongera rugasuzuma izo mpamvu zose arugaragarije maze rukamugenera indishyi yari yasabye ku rwego rwa mbere.

D. Ku birebana n'abaregera indishyi bajuririye ko nta ndishyi bagenewe na gato

[555] Hari abaregera indishyi batazihawe ku rwego rwa mbere bagera kuri (51), bavuga ko bagaragarije urukiko rubanza ibimenyetso by'indishyi basaba birimo raporo z'Ubuyobozi, raporo za muganga, imvugo z'abatangabuhamya n'abakurikiranweho icyaha n'ibimenyetso bitandukanye bishingirwaho biri muri dosiye y'Ubushinjacyaha, ariko urwo Rukiko rwanzura ko badakwiye kuzihabwa kuko nta bimenyetso babitangira. Abo ni:

1. HABIMANA Viateur,
2. NGIRUWONSANGA Venuste,
3. BENINKA Marceline,
4. NYIRAMINANI Mélanie,
5. NYIRAHORA Godelive,
6. RUHIGISHA Emmanuel,
7. MUNYENTWALI Cassien,
8. BANGAYANDUSHA Jean Marie Vianney,
9. NSABIMANA Straton,
10. SEBAGEMA Simon,
11. BARAYANDEMA Viateur,
12. KARERANGABO Antoine,
13. NYIRAGEMA Joséphine,

14. NSAGUYE Jean,
15. NYIRAZIBERA Dative,
16. NDIKUMANA Viateur,
17. NDIKUMANA Callixte,
18. NYIRASHYIRAKERA Théophila,
19. KANGABE Christine,
20. NANGWAHAFI Callixte,
21. NYIRAHABIMANA Vestine,
22. NYIRAMANA Bellancille
23. HABYARIMANA Damascène,
24. NYAMINANI Daniel,
25. MUGISHA GASHUMBA Yves,
26. BWIMBA Vianney,
27. NTIBAZIYAREMYE Samuel,
28. MANARIYO Théogène,
29. GASHONGORE Samuel,
30. NZABIRINDA Viateur,
31. NIYOMUGABA,
32. NDAYISENGA Edouard,
33. BIGIRIMANA Fanuel,
34. BARAGAMBA,
35. RUTIHUNZA Enos,
36. BARIRWANDA Innocent,
37. NSABIYAREMYE Pascal,
38. HABIMANA Innocent,
39. SEBARINDA Emmanuel,
40. NZAJYIBWAMI Yoramu,
41. NKUNDIZERA Damascène,
42. HABAKURAMA Gratien na
43. HARERIMANA Emmanuel,
44. NGAYABERURA Emmanuel,
45. DUSENGIMANA Solange,
46. KANYANDEKWE Vénant,

47. NYIRAMYASIRO Verediana,
48. HAGENIMANA Patrice,
49. NSANGIYEZE Emmanuel,
50. NYIRAKOMEZA Claudine na
51. GAKWAYA Gérard.

[556] Abaregera indishyi bari muri iki cyiciro ni bamwe mu bavuga ko bagizweho ingaruka n'ibitero bya MRCD-FLN byagabwe mu Murenge wa Nyabimata (a), muri Nyungwe mu Murenge wa Kitabi (b) no mu Karere ka Rusizi mu Murenge wa Kamembe n'uwa Nyakarenzo (c) n'abaregera indishyi bose bavuga ko bagizweho ingaruka n'ibitero byagabwe mu Murenge wa Kivu (d) n'uwa Ruheru (e).

a) Ku birebana n'abajuririye kutagira indishyi na nkeya bagenewe zifitanye isano n'ibitero byagabwe mu Murenge wa Nyabimata

[557] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bavuga ko abo bahagarariye n'abo bunganira bagizweho ingaruka n'ibitero byo mu Murenge wa Nyabimata ariko bakaba batarigeze bagenerwa indishyi na gato bagera kuri makumyabiri na babiri (22), ari bo:

1. HABIMANA Viateur,
2. NGIRUWONSANGA Venuste,
3. BENINKA Marcelline,
4. NYIRAMINANI Melanie,
5. NYIRAHORA Godelive,
6. RUHIGISHA Emmanuel,
7. MUNYENTWARI Cassien,
8. BANGAYANDUSHA Jean Marie Vianney,
9. NSABIMANA Straton,
10. SEBAGEMA Simon,
11. BARAYANDEMA Viateur,
12. NYIRAGEMA Joséphine,
13. NSAGUYE Jean,
14. NYIRAZIBERA Dative,
15. NDIKUMANA Viateur,
16. NDIKUMANA Callixte,
17. NYIRASHYIRAKERA Théophila,
18. KANGABE Christine,
19. NANGWAHAFI Callixte,
20. NYIRAHABIMANA Vestine,

21. NYIRAMANA Bellancille na

22. HABYARIMANA Damascène.

[558] Muri rusange bavuga ko aba bose bahuriye ku kuba Urukiko rubanza rwaremeje ko nta ndishyi bahawe kubera ko nta kimenyetso na kimwe barugaragarije kandi ko muri raporo y'Ubuyobozi bw'Umurenge wa Nyabimata nta hantu bababavuga. Bakaba barajuriye banenga icyemezo cy'urukiko, basaba uru Rukiko rw'Ubujurire kongera gusuzuma raporo y'Umurenge wa Nyabimata kuko igaragaza ko hari ibintu by'abaturage byangiritse harimo imyaka n'ibindi, ndetse ko n' abatangabuhamya batandukanye bagiye bagaruka ku kuvuga ko hari ibintu byabo byibwe. Banavuga kandi ko iyo urebye mu gika cya 47 cy'urubanza rujuririrwa usanga Urukiko rubanza rwaragarutse ku buhamya bwa bamwe mu baregera indishyi nk'ubwa HABYARIMANA Damascène nawe uri muri abangaba batagenewe indishyi, aho bagaragazaga uko ibintu byagenze harimo n'ibyo kwangiza cyangwa se kwiba imitungo y'aba bantu baregeye indishyi ariko bakaba ntazo bagenewe.

- **Ku bireba HABIMANA Viateur**

[559] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko HABIMANA Viateur ari mu bantu basanzwe mu kabari ka HABARUREMA Joseph wishwe. Abagabye igitero bakaba baramukubise ku buryo budashobora gutera ibikomere byagaragazwa na muganga, ibyo akaba yari yabisabiye indishyi z'akababaro zingana na 5.000.000 Frw. Bavuga kandi ko yaciriweho imyenda, ibintu bye bikangirika, inkweto yari yambaye zigatakara, nabyo akaba yarabisabiye indishyi zihwanye na 30.000 Frw. Bavuga kandi ko ibyo bintu byamuhungabanyije nk'uko babigaragaje ku rwego rwa mbere ko yamaze igihe kinini kingana n'amezi abiri (2) adakora, akaba yarabisabiye indishyi zingana na 180.000 Frw, yose hamwe akaba yari 5.210.000 Frw ariko Urukiko rubanza rwo rukavuga ko nta kimenyetso na kimwe yarugaragarije.

[560] Bakomeza bavuga ko kubera ko nta kimenyetso HABIMANA Viateur yabona kigaragaza uko yakubiswe cyangwa yibwe ibintu bye, basaba uru Rukiko ko rwakongera gusuzuma icyo kibazo, rukagendera kuri raporo y'Ubuyobozi bw'Umurenge wa Nyabimata n'ubwo idatanga *détails* y'ibyabaye ku matariki ya 3/06/ 2018, iya 19/06/2018 n'iya 01/07/2018, ku mvugo z'abatangabuhamya batandukanye bagiye bagaruka ku byabaye bavugwa mu gace ka 47 k'urubanza rujuririrwa, ku kuba HABIMANA Viateur nawe ari mu batangabuhamya bemeje iby'urupfu rwa HABARUREMA Joseph waguye muri ako kabari yakubitiwemo kubera ibyo bitero, rukanagendera no ku kuba ibyabaye byarabaye abantu bose babibona maze HABIMANA Viateur nawe akagenerwa indishyi zavuzwe haruguru nk'uko yari yazisabye ku rwego rubanza.

- **Ku bireba NGIRUWONSANGA Venuste**

[561] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko NGIRUWONSANGA Venuste ari mubo igitero cyo ku itariki ya 01/07/2018 cyasanze iwe, bakamutwara ibintu bye bitandukanye birimo ibiribwa, bakagenda bamwikoreje ibintu bari bibye kugera mu ishyamba rya Nyungwe. Bavuga ko yari yasabye ko yasubizwa agaciro k'ingano 70 Kg, kangana na 28.000 Frw abariwe kuri 400Frw ku kilo, ibishyimbo bifite agaciro ka 35.000 Frw, bingana na 50 Kg, ikilo kimwe kikaba kigurishwa 700 Frw (50 kg x 700 Frw= 35.000 Frw), ibigori bifite agaciro ka 16.000 Frw, bingana na 40 Kg, ikilo kimwe kigurishwa 400 Frw (40 kg x 400 Frw = 16.000 Frw), imyenda irimo imipira 3 yo kwifubika ifite agaciro ka 60.000 Frw, inkweto zo mu bwoko bwa bote zifite agaciro ka 5.000 Frw, amafaranga y'ibyibwe ahwanye na 140.000 Frw, indishyi z'akababaro zihwanye na 1.856.000 Frw kubera ko yashimuswe akagenda yikorejwe ibyibwe kugera mu ishyamba rya Nyungwe, yose hamwe akaba ari

2.140.000 Frw, ariko urukiko rubanza rushingiye kuri raporo y'Umurenge wa Nyabimata rukaba nta indishyi rwamugeneye, kuko atavugwa muri iyo raporo mu bantu bibwe ibintu byabo.

[562] Bakomeza bavuga ko basaba uru Rukiko ko rwaha agaciro raporo y'Ubuyobozi bw'Umurenge wa Nyabimata ivuga ko hari abaturage batwariwe imyaka, ariko ikaba itavuga amazina yabo n'ingano y'iyo myaka, rukanagendera kuri *video* zigaragaramo imvugo zimwe z'abatangabuhamya batandukanye aho bavuga uburyo aba bantu babateye, basahuraga imyaka y'abaturage, ndetse no mu mvugo za bamwe mu baregwa bavuga ko batwaraga imyaka, rukanashingira kuho iyo raporo y'Ubuyobozi igaruka ku cy'uko aba abantu bashimuswe, bagiye bikorejwe ibyo bintu byibwe, rukabihuza n'ingingo ya 104 y'Itegeko n° 15/2004 ryo ku wa 12/6/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo ivuga ko umucamanza ashobora gushingira ku kintu kizwi kugira ngo amenye ikintu kitazwi. Ikizwe akaba ari uko aba baregera indishyi basahuriwe imyaka ndetse n'abatangabuhamya bakabivuga.

[563] Banasobanura ko hari impungenge z'uko nko kuri uyu NGIRUWONSANGA Venuste atashobora kubona ibimenyetso bigaragaza ko yari afite ibiro 70 by'ingano. Bityo, ko Urukiko mu ubushishozi bwarwo rwashingira kuri iyo ngingo ya 104 y'Itegeko n° 15/2004 ryo ku wa 12/6/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, rugashingira ku bizwi mu buhamya bwatanzwe ko abaturage basahuriwe imyaka, bigafatwa nka *présomption*, ishyigikiwe na raporo y'Umurenge wa Nyabimata nk'intangiriro y'ibimenyetso bigaragaza ukuri kw'ibintu *(commencement de preuve par écrit*).

- **Ku bireba BENINKA Marceline**

[564] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko we mu gitero cyabaye yatwawe telephone, anagira ihungabana kubera ko abakigabye baraye bamugendesha ijoro, akaba abisabira indishyi zingana n'amafaranga miliyoni ebyiri n'ibihumbi mirongo itanu na bine (2.054.000 Frw) zikubiyemo iz'akababaro n'iza telefone ye yibwe.

- **Ku bireba NYIRAMINANI Mélanie**

[565] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko igitero cyo mu Murenge wa Nyabimata cyashimuse umugabo we wari ku irondo, kimwikoreza ibyo bari bibye agaruka hashize nk'ibyumweru bibiri (2), bikaba byaramuhungabanyije akabisabira indishyi z'akababaro zihwanye n'amafaranga ibihumbi magana atanu (500.000 Frw) ariko ko nawe nta ndishyi Urukiko rubanza rwamugeneye kubera ko atagaragaje ko umugabo we ari mu bashimuswe ndetse atanagaragaje ibye byibwe.

- **Ku bireba NYIRAHORA Godelive**

[566] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko NYIRAHORA Godelive ari umubyeyi w'imyaka mirongo itandatu (60), ko igihe igitero cyabaga ari mu rugo iwe yumvise abantu bamennye urugi rw'inzu yari aryamyemo bakamusangamo, bagatangira kwiba imyenda ndetse n'imyaka yari yejeje. Bavuga ko yaregeye indishyi z'ibye yibwe byari bibaze ku buryo bukurikira : Igitenge cy'ibipande 3 gifite agaciro ka 9000 Frw, umupira wo kwifubika ufite agaciro ka 3.500 Frw, umpanga/umuhoro ufite agaciro ka 1200 Frw, imbuto y'ibishyimbo ifite agaciro ka 3.000 Frw (5 kg x 600 Frw), n'indishyi z'akababaro zingana na 483.300 Frw, zose hamwe zigahwana na 500.000 Frw, ariko ko nta ndishyi Urukiko rubanza rwamugeneye rushingiye ko nta bimenyetso yagaragaje.

- **Ku bireba RUHIGISHA Emmanuel**

[567] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko, RUHIGISHA Emmanuel yari umuhinzi ariko anakorana n'ikigo cya RAB mu gutubura imbuto, akaba yari afite ibigega ahunikamo imyaka byari bigizwe n'inzu eshanu (5). Bavuga ko hari mu gitondo ubwo bamubwiye ko abantu bitwaje intwaro baje bakiba imyaka ye yari ihunitse. Basobanura ko yari yasabye Urukiko rubanza indishyi z'ibye byibwe, ndetse n'indishyi z'akababaro zari zibaze ku buryo bukurikira : Imbuto y'ibirayi ingana na 5.000 kg x 400 Frw= 2.000.000 Frw, imbuto y'ibishyimbo 350 kg x 700 Frw = 245.000 Frw, imbuto y'amashaza 250 Kg x 800 Frw = 200.000 Frw, inkoko 5 za kizungu x 5.000 Frw = 25.000 Frw, ibigori 500 Kg x 300 Frw = 180.000 Frw, imyenda ifite agaciro ka 40.000 Frw n'indishyi z'akababaro zihwanye na 5.000.000 Frw, yose hamwe akaba ahwanye na 7.690.000 Frw, ariko rwanzuye ko nta ndishyi akwiye kuko atigeze agaragaza ikimenyetso kirebana n'ibyo yasahuwe, ndetse ko na raporo y'Umunyamabanga Nshingwabikorwa w'Umurenge itagaragaje ko ari mu bakorewe ibyo bikorwa asabira indishyi. Kubera izo mpamvu, basaba uru Rukiko gushingira kuri raporo y'Ubuyobozi, iri muri *système* ku mugereka n° 114, rukamugenera izo ndishyi yari yasabye ku rwego rwa mbere.

- **Ku bireba MUNYENTWARI Cassien**

[568] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye, bavuga ko igihe abagizi ba nabi bateraga, baje ari ni joro nka saa tatu bica urugi rw'inzu ye, bamwaka 10.000 Frw yari afite batangira no gusahura ibintu mu nzu babihereza abo hanze, nyuma baza kumusaba gusohoka, agenda, bamushoreye bamwikoreje ibyo bibye.

[569] Bakomeza bavuga ko MUNYENTWARI Cassien yari yararegeye indishyi zijyanye n'ibyo bamwibye n'amafaranga ye batwaye bibazwe ku buryo bukurikira: indishyi z'ibyangijwe zigizwe n'umupira wo kwifubika ufite agaciro ka 5.000 Frw, ibitenge bibiri (2) bifite agaciro ka 18.000 Frw, ibiro makumyabiri (20kg) by'amashaza bifite agaciro ka 30.000 Frw kuko ikilo kimwe kigura 1.500 Frw (20Kg x 1500 Frw = 30.000 Frw), ibiro mirongo itatu (30) by'ibishyimbo bifite agaciro ka 18.000 Frw, ikilo kimwe kikaba kigurishwa amafaranga magana atandatu (30Kg x 600 Frw = 18.000 Frw) n'indishyi z'akababaro zingana na 500.000 Frw. Indishyi zose hamwe zikaba zinga na 571.000 Frw. Bavuga ariko ko Urukiko rubanza nta ndishyi rwamugeneye ku mpamvu y'uko nta kimenyetso yarugaragarije gushimangira ibyo asaba, ndetse ko na raporo y'Umunyamabanga Nshingwabikorwa w'Umurenge itagaragaje ko ari mu bakorewe ibyo bikorwa asabira indishyi. Basanga rero harirengagijwe ukuri kw'ibyabaye nk'uko byagarutsweho n'imvugo z'abazi ibyabaye, bagasaba uru Rukiko kongera kubisuzuma.

- **Ku bireba BANGAYANDUSHA Jean Marie Vianney**

[570] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye, bavuga ko BANGAYANDUSHA Jean-Marie Vianney yari ari ku irondo kubera ko ari umu DASSO, bigeze nko mu ma saa tanu z'ijoro haza abantu bitwaje intwaro baramufata baramuzirika bamubaza aho Umunyamabanga Nshingwabikorwa (Gitifu) ndetse na *comptable* wa SACCO baba, ko nyuma baje kumwaka ikoti rya DASSO yari afite, telefone ebyiri (2) zo mu bwoko bwa Tecno, ko bamaze kumwambura ibyo yari afite, bamwikoreza imizigo y'ibintu bari bibye banamutoteza, bakomeza kumubwira amagambo akomeretsa umutima kubera ko bari bamaze kumenya ko ari we ukuriye irondo ryo ku Murenge, bamugendana ijoro ryose, baza kumurekura mu rukerera nka saa kumi za mu gitondo.

[571] Bavuga ko kubera ibyo byose, BANGAYANDUSHA Jean Marie Vianney yari yasabye Urukiko rubanza indishyi z'akababaro n'indishyi z'ibye byibwe ku buryo bukurikira : Telefone ebyiri (2) zo mu bwoko bwa Tecno zifite agaciro ka 113.000 Frw, 28.000 Frw yari afite bamutwaye n'indishyi z'akababaro

zingana na 500.000 Frw. Yose hamwe akaba angana na 641.000 Frw. Bavuga ariko ko Urukiko rubanza ntazo rwamugeneye kubera ko nta kimenyetso barugaragarije kirebana n'ibyo basahuwe, n'ibindi avuga byamuteye ako kababaro, ndetse ko na raporo y'Umunyamabanga Nshingwabikorwa itagaragaje ko ari mu bakorewe ibyo bikorwa asabira indishyi.

- **Ku bireba NSABIMANA Straton**

[572] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko NSABIMANA Straton yari afite akabari gacuruza inzoga ariko ari naho aba, ko igihe abagizi ba nabi bateraga baje iwe bagafata inzoga ze bakanywa izindi bakazitwara. Bavuga ko yaje kubacika asiga umugore we n'umwana w'imyaka 2 mu nzu maze barasa mu rukuta rw'inzu bamukanga kugira ngo agaruke gutabara umugore we n'umwana, ariko ko ku bw'amahirwe ntacyo babaye. Akavuga ko bamaze ijoro ryose bihishe abo bagizi ba nabi. Ku bw'iyo mpamvu akaba yari yasabye indishyi zibaze ku buryo bukurikira : *Caisses* 5 za Mutsingi x 11.000 Frw = 22.000 Frw, *Caisses* 2 za Primus x 8.300 Frw = 16.600 Frw, *Caisse* 1 ya Turbo x 11.000 Frw = 11.000 Frw, *Caisses vides* 5 x 10000 Frw = 50.000 Frw, telefoni ya Tecno ifite agaciro ka 50.000 Frw, n'indishyi z'akababaro zingana na 1.000.000 Frw, yose hamwe akaba angana na 1.149.000 Frw. Nyamara Urukiko rwemeje ko nta ndishyi agenewe kuko nta kimenyetso yarugaragarije, rwirengagije ko uretse no gusahurwa ibye, yaba yaranagize ihungabana ry'ibyabaye.

- **Ku bireba SEBAGEMA Simon**

[573] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko SEBAGEMA Simon yari umucuruzi ufite Tin number 10466687, ko igihe abantu bitwaje intwaro bateraga, bamwibye ibintu bye yacuruzaga ndetse n'amafaranga yari yacuruje, ko ibyo byamuteye igihombo kubera ko yari yaragurijwe na SACCO amafaranga yashoye mu bucuruzi, bigatuma agurisha imitungo ye yose kugira ngo abashe kwishyura iyo nguzanyo. Bakomeza bavuga ko SEBAGAMA Simon yaregeye Urukiko rubanza asaba indishyi zibazwe ku buryo bukurikira: Amafaranga angana na 110.000 bibye, ibiro ijana (100) y'ifarini bifite agaciro ka 80.000 Frw kuko ikilo kigura 800 Frw (100 Kg x 800 Frw), *Carton* ya pakimaya 12 *pièces* x 1.800 Frw = 21.6000 Frw, ibiro mirongo itanu (50) by'isukari bifite agaciro ka 45.000 Frw (50Kg x 900 Frw), ibiro mirongo itanu (50) by'umuceri bifite agaciro ka 35.000 Frw kuko ikilo kigura 700 Frw (50 Kg x 700 Frw), amandazi atetse 150 x 100 Frw = 15.000 Frw, imipira yo kwambara 12 x 1.500 Frw = 18.000 Frw, ikarito 1 ya *biscuits* ya 7.200 Frw, amakariso 12 x 800 Frw = 9600 Frw, kawunga 100 Kg x 600 Frw = 60.000 Frw, telefone ifite agaciro ka 12.000 Frw.

[574] Bavuga ko ibyo byatumye SEBAGEMA Simon agurisha isambu ye kugira ngo yishyure ideni rya SACCO ringana na 300.000 Frw, anakoresha 45.000 Frw y'urugendo yiruka muri ibyo bibazo, ari yo mpamvu yasabye Urukiko rubanza kumugenera indishyi zose hamwe zingana na 3.500.000 Frw, ariko ko Urukiko rwemeje ko nta ndishyi rwamugeneye kubera ko nta kimenyetso yagaragaje kirebana n'ibyo yasahuwe ndetse na raporo y'Umunyamabanga Nshingwabikorwa ikaba itagaragaza ko ari mu bakorewe ibyo bikorwa. Bavuga ko Urukiko rwa mbere rwarirengagije ko ibyabaye byamuteje igihombo.

- **Ku bireba BARAYANDEMA Viateur**

[575] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko BARAYANDEMA Viateur ari umucuruzi wari ufite inzu yacururizagamo ku gasantere. Bavuga ko ku wa 19/06/2018 ubwo abantu bitwaje intwaro bateraga nijoro bamuhamagaye bamubwira ko imodoka y'Umunyamabanga Nshingwabikorwa bayitwitse, agasohoka agiye kureba ibyabaye ngo anarebe niba batamwibye, ar ibwo yahuye n'abagizi ba nabi akabihisha yumvise amasasu arimo kuvuga bamena inzugi z'amazu y'abantu. Bavuga ko abo bagizi ba nabi bamaze kugenda bagiye kureba ibyabaye nawe asanga

iduka rye barisahuye. Akaba yari yabisabiye indishyi z'ibye byangijwe ku buryo bukurikira: Amafaranga 15.000 batwaye, amandazi atetse 60 afite agaciro ka mafaranga ibihumbi bitandatu, kuko rimwe ryaguraga amafaranga ijana, isukari ibiro 300 bifite agaciro ka mafaranga ibihumbi 300.000, kuko ikiro cyaguraga amafaranga 1000 Frw, umuceri ibiro 500 ufite agaciro ka 450.000 Frw, kuko ikiro cyaguraga 900 Frw (500 Kg x 900 Frw = 450.000 Frw), ifarini ibiro 475 ifite agaciro ka 380.000 Frw, ikilo kikaba cyaguraga 800 Frw (475 Kg x 800 Frw = 380.000 Frw), indagara ibiro 50 bifite agaciro ka 100.000 Frw, ikilo kikaba cyaguraga 2.000 Frw (50 Kg x 2.000 Frw = 100.000 Frw), ubunyobwa ibiro 100 bufite agaciro ka 150.000 Frw. Ikilo kikaba cyaraguraga 1.500 Frw (100 Kg x 1.500 Frw = 150.000 Frw), inkweto zo mu bwoko bwa *botte* imiguru 30 zifite agaciro ka 150.000 Frw kuko muguru umwe waguraga 5.000 Frw (30 x 5.000 Frw = 150.000 Frw), amata litiro 42 afite agaciro ka 42.000 Frw, litiro imwe yaguraga 1.000 Frw (42 L x 1.000 Frw = 42.000 Frw), amapatalo 20 afite agaciro ka 200.000 Frw, kuko imwe yaguraga 10.000 Frw (20 x 10.000 Frw = 200.000 Frw), amashati 12 afite agaciro ka 72.000 Frw, imwe yaguraga 6.000 Frw (12 x 6.000 Frw = 72.000 Frw), ibitenge 60 bifite agaciro ka 540.000 Frw, kimwe cyaguraga 9.000 Frw (60 x 9.000 Frw = 540.000 Frw), amashati y'abana 25 afite agaciro ka 75.000 Frw, imwe yaguraga 3.0000 Frw (25 x 3.000 Frw = 75.000 Frw), amakariso y'abagabo 180 afite agaciro ka 180.000 Frw, imwe yaguraga 1.000 Frw (180 x 1.000 Frw= 180.000 Frw), urugi rwa metalike rufite agaciro ka 70.000 Frw n'ibirayi tonne imwe yari mu murima barwaniyemo ifita agaciro ka 350.000 Frw. Indishyi zose hamwe yasabaga zingana na 1.500.000 Frw.

[576] Bavuga ko mu gufata icyemezo Urukiko rubanza rwemeje ko nta ndishyi akwiye kubera ko nta kimenyetso yarugaragarije kirebana n'ibyo yasahuwe no kuba raporo y'Umunyamabanga Nshingwabikorwa itaragaragaje ko ari mu bakorewe ibyo bikorwa, bakaba basaba uru Rukiko kumugenera indishyi yasabye rushingiye ku nyandiko igaragaza ko BARAYANDEMA Viateur yishyuraga umusoro, kuko Urukiko rwa mbere rwirengagije ibyabaye n'igihombo ibyo bitero byamuteje

- **Ku bireba NYIRAGEMA Joséphine**

[577] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko mu ijoro ryo ku wa 01/07/2018 abantu bitwaje intwaro baje iwe, bica urugi barinjira batangira kubakubita, bamwaka 5.200 Frw yari afite, batwara imyenda y'abana ifite agaciro kangana na 22.000 Frw, ibigori ibilo icumi 10 bifite agaciro ka 9.500 Frw, banamwangiriza urugi rufite agaciro ka 25.000 Frw. Bavuga ko yasabye Urukiko rubanza indishyi z'ibyangijwe zingana na 61.700 Frw, hakwiyongeraho iz'akababaro yose hamwe akaba 2.000.000 Frw, ariko urukiko mwemeza ko nta ndishyi akwiye kuko nta kimenyetso yarugaragarije kirebana n'ibye byangirijwe no kuba raporo y'Umunyamabanga Nshingwabikorwa itaragaragaje ko ari mubakorewe ibyo bikorwa. Bakavuga ko Urukiko rubanza rwirengagije ko ibyabaye mu Murenge wa Nyabimata byagize ingaruka ku baturage b'uyu Murenge, ndetse ko n'ababikoze babyiyigambye. Bagasaba uru Rukiko kubikosora.

- **Ku bireba NSAGUYE Jean**

[578] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko abacengezi baje mu gihe cya ni joro bajya ku muturanyi abumvise agirango ni abajura asohoka agiye gutabara umuturanyi. Bavuga ko yageze mu nzira ahura nabo agirango ni abasirikare ariko bahita bamwicaza hasi batangira kumukubita. Mu gihe bamukubitaga haje umugabo witwa NYANGEZI ari kuri *moto* baramuhagarika aranga, bagenda bamukurikiye maze nawe aboneraho ahita yiruka arabacika. Ibyo yahuye nabyo muri iryo joro bikaba byaramuhungabanyije akabisabira indishyi z'akababaro zingana na 1.000.000 Frw, ko ariko Urukiko mu gufata icyemezo rwemeje ko nta ndishyi agenewe kuko nta kimenyetso yarugaragarije ndetse ko na raporo y'Umunyamabanga nshingwabikorwa ikaba itagaragaza

ko ari mu bagizweho ingaruka n'ibikorwa by'abagizi ba nabi. Bakavuga ko aha Urukiko rwirengagije ko ibyabaye mu Murenge wa Nyabimata byagize ingaruka ku baturage b'uyu Murenge ndetse ko n'ababikoze babyigambye.

- **Ku bireba NYIRAZIBERA Dative**

[579] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko mu kwezi kwa Nyakanga 2018, abantu bitwaje intwaro baje kwa NYIRAZIBERA Dative basaba amafaranga, ndetse basahura imyaka yari afite irimo ibiro bitanu by'ibishyimbo 5 n'imyenda irimo umupira w'imbeho yari amaze kugura 4.000 Frw. Bavuga ko ibyo yabisabiye indishyi z'ibye batwaye n'iz'akababaro mu Rukiko rubanza zose hamwe zingana na 1.000.000 Frw, ariko Urukiko mu gufata icyemezo, rwemeza ko nta ndishyi agenewe kuko nta kimenyetso yarugaragarije, rwirengagije ko ibyabaye mu Murenge wa Nyabimata byagize ingaruka ku baturage b'uyu Murenge ndetse ko n'ababikoze babyigambye.

- **Ku bireba NDIKUMANA Viateur**

[580] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko hari mu ma saa moya z'ijoro, NDIKUMANA Viateur n'abandi bumvise amasasu menshi avuga, biba ngombwa ko bihisha, ko mu gitondo ingabo z'u Rwanda zageze iwe, ziri kumwe n'umwana we witwa MUNYENTWARI yahahamutse kuko yari yabonye murumuna we witwa NYANDWI Vital bamwica**.** Basobanuro ko kubera akababaro yagize, yatanze ikirego mu Rukiko rwabanje, asaba indishyi zingana na 50.000.000 Frw, ariko mu gufata icyemezo, rwemeza ko nta ndishyi agenewe kuko nta kimenyetso yarugaragarije na raporo y'Umunyamabanga Nshingwabikorwa ikaba itagaragaza ko ari mu bagizweho ingaruka n'ibikorwa by'abagizi ba nabi.

- **Ku bireba NDIKUMANA Callixte**

[581] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko abantu bitwaje intwaro baje iwe mu rugo barabafata we n'umugore, barabazirika, babambura ibintu bitandukanye babimwikoreza ku ngufu kugera mu ishyamba rya Nyungwe. Akaba yarasabye indishyi z'ibyo yibwe n'iz'akababaro bihwanye n'ibihumbi magana atanu na mirongo inani na kimwe (581.000 Frw) ariko Urukiko rukazimwima kuko atigeze agaragaza ibimenyetso by'ibyo aregera.

- **Ku bireba NYIRASHYIRAKERA Théophila**

[582] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko abantu bitwaje intwaro bateye NYIRASHYIRAKERA Théophila iwe mu rugo, bamena urugi, barinjira, batwara umugabo we, baranamukubita bimuviramo ubumuga, ko ibi yabisabiye indishyi z'akababaro, iz'imbonezamusaruro n'amafaranga yakoresheje yivuza, byose hamwe bikaba ari amafaranga ibihumbi magana arindwi na mirongo irindwi n'umunani n'ijana (778.100 Frw), ariko mu gufata icyemezo nta ndishyi Urukiko rubanza rwamugeneye rushingiye ko nta bimenyetso yarugaragarije by'ibyo aregera. Agasaba uru Rukiko kubikosora

- **Ku bireba KANGABE Christine**

[583] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko abantu bitwaje intwaro basanze KANGABE Christine mu rugo rwe, baramubyutsa we n'abana babasahura ibintu bitandukanye, akaba yarasabye mu Rukiko rubanza indishyi z'ibyo batwaye n'iz'akababaro zose hamwe zingana n'ibihumbi magana atanu na mirongo ine na magana atanu (540.500 Frw) ariko Urukiko

mu gufata icyemezo rukaba nta ndishyi rwamugeneye rushingiye ko nta bimenyetso yarugaragarije by'ibyo aregera.

- **Ku bireba NANGWAHAFI Callixte**

[584] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko abantu bitwaje intwaro bateye NANGWAHAFI Callixte iwe, bamena urugi n'idirishya, batwara ibintu bitandukanye ndetse bamutegeka kubyikorera, akaba yarabisabiye mu Rukiko rubanza indishyi z'ibyo bamutwaye n'iz'akababaro zose zingana n'amafaranga ibihumbi magana atandatu na mirongo itanu (650.000 Frw) ariko Urukiko mu gufata icyemezo rukaba nta ndishyi rwamugeneye rushingiye ko nta bimenyetso yarugaragarije by'ibyo aregera.

- **Kuri NYIRAHABIMANA Vestine**

[585] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko abantu bitwaje intwaro bateye NYIRAHABIMANA Vestine, bamusahura ibintu bitandukanye, akaba mu Rukiko rubanza yarabisabiye indishyi zingana n'amafaranga ibihumbi magana atanu na mirongo itatu na bine (534.000 Fw), ariko Urukiko mu gufata icyemezo rukaba nta ndishyi rwamugeneye rushingiye ko nta bimenyetso yarugaragarije by'ibyo aregera.

- **Ku bireba NYIRAMANA Bellancilla**

[586] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko NYIRAMANA Bellancilla yatewe n'abantu bitwaje intwaro, bamusahura ibintu bitandukanye, akaba yarasabye Urukiko rubanza kumugenera indishyi z'ibintu bye byibwe n'iz'akababaro zingana n'amafaranga ibihumbi magana atanu na mirongo itatu na bitandatu na magana ane (536.400 Frw), ariko Urukiko mu gufata icyemezo, rukaba nta ndishyi rwamugeneye rushingiye ko nta bimenyetso yarugaragarije by'ibyo aregera.

- **Ku bireba HABYARIMANA Damascène**

[587] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko abantu bitwaje intwaro basanze HABYARIMANA Damascène iwe mu rugo ari nijoro, baramukubita, bamutegeka kujya kubereka aho umucungamutungo wa SACCO ya Nyabimata atuye, yanga kuhabajyana, bamwambura telefoni banamwikoreza ibyo bibye, arabitwara kugera mu ishyamba rya Nyungwe, bamurekura bukeye. Bakomeza bavuga ko ibyo yabisabiye indishyi, mu Rukiko rubanza, zirimo izo kwishyurwa telefoni ye n'iz'akababaro zose hamwe zingana n'amafaranga ibihumbi magana atanu na makumyabiri (520.000 Frw), ariko Urukiko rukaba nta ndishyi rwamugeneye kuko atigeze agaragaza ibimenyetso by'ibyo aregera.

- **Ku bireba KARERANGABO Antoine**

~~[588]~~ Me MUNDERERE Léopold na Me HAKIZIMANA Joseph bahagarariye KARERANGABO Antoine bavuga ko mu ijoro ryo ku wa 19/06/2018, KARERANGABO Antoine yakomerekejwe n'igitero cyagabwe n'abaregwa, ajyanwa kuvurizwa mu kigo nderabuzima cya Nyabimata, nacyo kimwohereza mu bitaro by'Akarere bya Munini, nk'uko bigaragara mu nyandiko ibyo bitaro byamuhaye. Bakomeza bavuga ko bashingiye ku ngingo ya 10 n'iya 11 z'Itegeko n° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, basaba uru Rukiko gutegeka abaregwa gufatanya (*in solidum)* guha KARERANGABO Antoine, indishyi z'akababaro zingana na 1.500.000 Frw, 11.000 Frw yishyuye

raporo ya muganga, 11.500 Frw yatanze kuri *contre expertise* n'amafaranga y'igihembo cya Avoka n'ikurikiranarubanza angana na 1.500.000 Frw.

[589] Me MUNDERERE Léopold asobanura ko icyo anenga Urukiko Rukuru ari uko mu gika cya 594 cy'urubanza rujuririrwa, rwavuze ko KARERANGABO Antoine atagaragaje ko yakubiswe mu gihe nyamara mu gika cya 47 hagaragaramo ko yavuze ko yakubiswe n'abaregwa akajyanwa mu bitaro bya Nyabimata, babona arembye, bakamujyana mu bitaro bya Munini. Avuga kandi ko MUHIRWA Médard mu buhamya bwe bwo ku wa 20/07/2018, yavuze ko mu bantu bajyanwe mu bitaro na KARERANGABO Antoine yari arimo. Asaba Urukiko kuzanareba ikimenyetso cyatanzwe n'ibitaro bya Munini byemeza ko yaharwariye avurwa mu mutwe kuko yari yakubiswe, ibyo bikanemezwa na Dr. BYAMUNGU Jean de Dieu wamuvuye.

[590] Me MUNDERERE Léopold asobanura kandi ko nta gitangaza kiri mu kuba KARERANGABO Antoine atagaragara kuri raporo y'Ubuyobozi bw'Umurenge wa Nyabimata kuko iyo urebye uko iyi raporo iteye usanga ari raporo ntoya cyane igizwe na paji imwe n'igice, aho ibijyanye n'igitero cya Nyabimata bivugwa mu mirongo 13 gusa, akaba yibwira ko kutagaragaramo kwe byatewe no kumwibagirwa, ariko ko nta ngaruka byakagombye kumugiraho kuko hari n'abatangabuhamya bavuga ko yakubiswe akanajyanwa mu bitaro kandi ko nawe yabyivugiye mu buhamya yatangiye mu Rukiko mu buryo bwa *video*.

b) Ku birebana n'abajuririye kutagira indishyi na nkeya bagenerwa zifitanye isano n'ibitero byagabwe muri Nyungwe mu Murenge wa Kitabi

[591] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bavuga ko mu bo baburanira hari abandi 4 bagizweho ingaruka n'ibitero byabereye muri Nyungwe, baregeye indishyi ariko nabo ntibagira na nke bagenerwa. Abo ni :

1. NYAMINANI Daniel
2. MUGISHA GASHUMBA Yves
3. BWIMBA Vianney
4. NTIBAZIYAREMYE Samuel

- **Ku bireba NYAMINANI Daniel**

[592] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko yari yasabye indishyi zingana na 45.000.000 Frw, zikubiyemo indishyi z'uburibwe n'iz'ibyo yatakaje ariko ko Urukiko rwavuze ko nta ndishyi agenewe kuko nta bimenyetso yazitangiye. Bakaba barashyize muri système ku mugereka wa 0100 raporo ya muganga nshya igaragaza ko uyu munsi uwo baburanira afite ubumuga bugera kuri 50%, ndetse hakaba hari ubumuga mbangamiraburanga bubarirwa hagati ya kane na gatandatu, ni ukuvuga 4/6. Ubu bakaba basaba Urukiko kumugenera mu bushishozi bwarwo indishyi yari yasabye.

- **Ku bireba MUGISHA GASHUMBA Yves**

[593] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko ku rwego rwa mbere MUGISHA GASHUMBA Yves yari yasabye indishyi zingana na 50.000.000 Frw, ariko ko atazihawe. Bavuga ko hashingiwe kuri raporo ya muganga, iri muri *système* ku mugereka wa 116, igaragaza ko afite ubumuga bugera kuri 25% kandi ko agifite n'ikibazo cy'imitsi, basaba Urukiko

rw'Ubujurire ko mu bushishozi bwarwo yagenerwa indishyi kuko azikwiye, bitewe n'ubumuga yatewe na kiriya gitero cyabereye mu ishyamba rya Nyungwe.

- **Ku bireba BWIMBA Vianney**

[594] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bahagarariye BWIMBA Vianney bavuga ko yari yasabye indishyi zingana na 209.500.000 Frw ariko ntiyazihabwa kuko nta bimenyetso yari yagaragaje. Bavuga ko raporo ya muganga bashyize muri *système* ku mugereka wa *087 na 088* igaragaza ko afite ubumuga bugera kuri 65%, ko rero basaba urukiko ko rwakongera rugasuzuma ikirego cye hanyuma akaba yahabwa indishyi yaregeye.

- **Ku bireba NTIBAZIYAREMYE Samuel**

[595] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko NTIBAZIYAREMYE Samuel yari yasabye indishyi zingana na 50.000.000 Frw ariko akaba ntazo yagenewe. Bavuga ko hashingiwe ku raporo ya muganga, iri muri *système* ku mugereka wa 095, igaragaza ko afite ubumuga bugera kuri 25%, basaba Urukiko rw'Ubujurire ko rwamugenera indishyi yaregeye.

c) Ku birebana n'uwajuririye kutagira indishyi na nkeya agenerwa zifitanye isano n'ibitero byagabwe mu Murenge wa Nyakarenzo mu Karere ka Rusizi

[596] Ku birebana n'igitero cyagabwe mu Karere ka Rusizi, mu Murenge wa Nyakarenzo, Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bavuga ko hari umuntu umwe (1) wajuririye ko atanyuzwe no kuba Urukiko rubanza nta ndishyi na nkeya rwamugeneye. Uwo akaba ari GAKWAYA Gérard.

- **Ku bireba GAKWAYA Gérard**

~~[597]~~ Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye, bavuga ko GAKWAYA Gérad yari yasabye indishyi z'akababaro zingana na 11.000.000 Frw kubera ko yakomeretse mu mugongo, ariko ko Urukiko rubanza rutamugeneye indishyi, ruvuga ko ibimenyetso yatanze ari ibimenyetso bigaragaza ko afite ikibazo cyo mu mutwe gihoraho (*chronique)*, ariko kitatewe n'igitero avuga cyo mu Karangiro mu Murenge wa Nyakarenzo, nk'uko bigaragazwa na raporo ya muganga rwashingiyeho. Bakomeza bavuga ko n'ubwo raporo ya muganga igaragaza ko GAKWAYA Gérad afite ikibazo cyo mu mutwe kitatewe n'igitero kivugwa, ariko kuba we yemeza ko yabitewe n'icyo gitero, igihe yari ku kazi arinda uruganda rwa MAHORO Jean Damascène, basaba uru Rukiko ko mu bushishozi bwarwo rwasuzuma ishingiro ry'ibyo avuga, maze rukamugenere indishyi z'akababaro asaba.

d) Ku birebana n'abajuririye kutagira indishyi na nkeya bagenewe zifitanye isano n'ibitero byagabwe mu Murenge wa Kivu

[598] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bavuga ko hari abantu bagera kuri 7 bo mu murenge wa Kivu baregeye indishyi, Urukiko rukaba rwaremeje ko nta ndishyi bahawe kubera ko nta bimenyetso bagaragaje. Abo ni:

1. NGAYABERURA Emmanuel,
2. DUSENGIMANA Solange,
3. KANYANDEKWE Venant,
4. NYIRAMYASIRO Verediana,

5. HAGENIMANA Patrice,

6. SANGIYEZE Emmanuel na

7. NYIRAKOMEZA Claudine.

~~[599]~~ Banenga ko mu gika cya 149 cy'urubanza rujuririrwa, bakomoje ku bitero byabereye mu Murenge wa Kivu ariko Urukiko ntirwaha indishyi abagizweho ingaruka n'ibyo bitero kubera ko nta bimenyetso bagaragaje. Basobanura ko muri uru Rukiko rw'Ubujurire bazanye noneho ikimenyetso gishya cya raporo y'Ubuyobozi bw'Umurenge wa Kivu igaragara ku mugereka wa 11. Muri rusange ivuga iby'igitero cyabaye tariki 12 Kanama 2018, naho ku birebana n'igitero cyo ku itariki ya 14/8/2018, hakaba ariho hagaragara *détails* kuri buri muntu n'ibyo bagiye bamutwara, aho igaragaza amazina ya bamwe muri aba barindwi baregera indishyi n'ibyabo byangiritse.

- **Ku bireba NGAYABERURA Emmanuel**

[600] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bavuga ko ku birebana na NGAYABERURA Emmanuel igihe cy'igitero cyabaya mu Murenge wa Kivu, abantu bitwaje intwaro bafashe abantu batanu bari ku irondo ry'abaturage, barimo umwana we w'umuhungu witwa NSENGIMANA Claude, barabatwara, bakomeza kwiba ibintu by'abaturage, ko muri abo bafashwe barekuyemo 3, abandi babiri barimo n'uwo muhungu we barabatwara. Basobanura ko iryo shimutwa ry'umwana we kugeza ubu utaraboneka, ari ryo yari yasabiye indishyi zingana na 6.000.000 Frw, n'ubwo zitamuvura agahinda yatewe no kubura umwana we.

- **Ku bireba DUSENGIMANA Solange**

[601] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bavuga ko DUSENGIMANA Solange yashakanye mu buryo bwemewe n'amategeko na BIZUMUREMYI Damien w'imyaka 35, babyarana abana babiri. Mu ijoro ryo ku wa 16/8/2018 umugabo we yavuye mu rugo saa kumi n'ebyiri z'umugoroba agiye ku irondo ry'abaturage, muri iryo joro DUSENGIMANA Solange yarumvise amasasu menshi, ahamagara umugabo we kuri telephone kugira ngo aze amufashe umwana kubera ko yari atwite. Avuga ko icyo gihe telephone y'umugabo yari yavuyeho, mu gitondo bamubwira ko umugabo we ari umwe mu bo abagizi ba nabi baraye batwaye.

[602] Bakomeza bavuga ko Umugabo we bataramushimuta bari abahinzi bagurisha ibyo bahinze, ku kwezi bakaba barinjizaga nibura 400.000 Frw. Ariko kuva icyo gihe bakaba barasubiye inyuma ndetse n'abana bakaba barakuze batazi se kuko kugeza ubu batazi niba ataritabye Imana. Basoza bvuga ko DUSENGIMANA Solange yari yasabye indishyi z'ibyo bari kuba barinjije kuva umugabo we yashimutwa bifite agaciro ka 11.200.000 Frw, indishyi z'akababaro zo kuba yarabuze umugabo we ndetse n'abana babyaranye bakaba barabuze se ubabyara zihwanye na 10.000.000 Frw yose hamwe akaba ahwanye na 21.200.000 Frw.

- **Ku bireba KANYANDEKWE Venant**

[603] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bavuga ko ku itariki ya 16/07/2018 mu masaha ya saa tatu za nijoro, aribwo KANYANDEKWE Venant n'umuryango we bumvise abantu bishe urugi rw'inzu bari baryamyemo, agiye kureba akubitana n'abantu bitwaje intwaro muri *salon*; bamubwira kwicara hasi, batwara umufuka w'ibirayi w'ibiro 40 wari mu nzu, barangije bajya mu kiraro ahari ihene ze zigera kuri 5 barazitwara zose. Bavuga ko ibi byose bangije KANYANDEKWE

Venant yabisabiye indishyi, mu Rukiko rubanza, zingana na 500.000 Frw n'indishyi z'akababaro zingana na 500.000 Frw, yose hamwe akaba angana na 1.000.000 Frw.

- **Ku bireba NYIRAMYASIRO Verediana**

[604] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bavuga ko hari mu ijoro ubwo NYIRAMYASIRO Verediana yari ahishije agiye kurya hamwe n'abana be, yumva abantu bari gukomanga, afunguye abona abantu bagera ku 8 bari imbere y'umuryango bahita binjira mu nzu bamusaba ibiryo arabibaha bararya, barangije binjira mu cyumba bamutwara ibitenge 4 na 15.000 Frw. Basobanura ko mu Rukiko rubanza, ibi byose NYIRAMYASIRO Verediana yari yabisabiye indishyi z'ibye byibwe zingana na 30.000 Frw n'indishyi z'akababaro zingana na 500.000 Frw, yose hamwe akaba angana na 530.000 Frw.

- **Ku bireba HAGENIMANA Patrice**

[605] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bavuga ko HAGENIMANA Patrice we mu ijoro ryo ku itariki 16/08/2019 abantu bitwaje intwaro bamuteye iwe mu rugo, bamusahura ibyo kurya n'imyambaro bifite agaciro k'amafaranga ibihumbi mirongo itatu na bitatu (33.000 Frw), banamwikoreza ibyo bibye, akaba yari yasabye Urukiko rubanza gusubizwa agaciro k'ibintu bye yatwawe, akanahabwa n'indishyi z'akababaro zingana na miliyoni imwe (1.000.000 Frw), ariko ko nta ndishyi urwo Rukiko rwamugeneye.

- **Ku bireba NSANGIYEZE Emmanuel**

[606] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bavuga ko ku wa 16/08/2019 abantu bitwaje intwaro binjiye mu rugo rwa NSANGIYEZE Emmanuel, bamusahura ibintu bitandukanye birimo imyaka ifite agaciro k'amafaranga ibihumbi ijana na makumyabiri na magana ane (120.400 Frw), ku rwego rwa mbere asaba ko yasubizwa agaciro k'ibintu bye byibwe, akanahabwa n'indishyi z'akababaro zingana n'amafaranga ibihumbi magana atandatu (600.000 Frw), ariko urukiko rubanza nta ndishyi rwamugeneye.

- **Ku bireba NYIRAKOMEZA Claudine**

[607] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bavuga ko abantu bitwaje intwaro bateye NYIRAKOMEZA Claudine iwe mu rugo, bamusahura ibintu bitandukanye birimo ibyo kurya n'imyambaro bifite agaciro k'amafaranga ibihumbi mirongo ine na birindwi na magana atanu (47.500 Frw), akaba yari yasabye Urukiko rubanza gusubizwa agaciro k'ibintu bye no guhabwa indishyi z'akababaro zingana n'amafaranga ibihumbi magana atanu (500.000 Frw), ariko ntiyazihabwa.

e) Ku birebana n'abajuririye kutagira indishyi na nkeya bagenewe zifitanye isano n'ibitero byagabwe mu Murenge wa Ruheru mu Karere ka Nyaruguru

[608] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bavuga ko abantu bagera kuri 16 bo mu Murenge wa Ruheru bari baregeye indishyi ariko ko nta n'umwe wazihawe, ahubwo Urukiko rubanza rwavuze ko nta bimenyetso bagaragaje by'ibyabo byangijwe mu bitero, birimo imyaka, amatungo ndetse n'amazu yasenyutse nk'uko bari babisobanuye mu kirego gisaba indishyi ndetse bakanongera kubisobanura mu mwanzuro w'ubujurire. Abo ni ni aba bakurikira:

1. MANIRIHO Théogène,
2. GASHONGORE Samuel,

3. NZABIRINDA Viateur,
4. NIYOMUGABA,
5. NDAYISENGA Edouard,
6. BIGIRIMANA Samuel,
7. BARAGAMBA,
8. RUTIHUNZA Enos,
9. BARIRWANDA Innocent,
10. NSABIYAREMYE Pascal,
11. HABIMANA Innocent,
12. HARERIMANA Emmanuel,
13. NZAJYIBWAMI Yoramu,
14. SEBARINDA Emmanuel,
15. NKUNDIZERA Damascène na
16. HABAKURAMA Gratien.

[609] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bavuga ko muri ubu bujurire bashingiye ku biteganywa n'ingingo ya 154 y'Itegeko nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo, n'iz'ubutegetsi yemerera umuburanyi kuba yazana ibimenyetso bishya no mu bujurire, bashyize muri *système* ku mugereka wa 086 raporo y'Umurenge wa Ruheru yo ku itariki 13/01/2021, ishimangira neza ko aba bantu bagize ibibazo mu gitero cyabereye muri uwo Murenge. Bakavuga ko icyo kimenyetso cyiyongera ku bindi bimenyetso bari baratanze birimo abatangabuhamya batandukanye bagiye babazwa, raporo zindi zisanzwe zagiye zikorwa, n'ibyo Ubushinjacyaha bwagiye bushingiraho mu gutanga ikirego aho bwabajije abantu batandukanye uko ibyo bitero byagiye bikorwa.

[610] Basobanura ko mu gika cya 596 cy'urubanza rujuririrwa, NSENGIMANA Herman yatangaje neza ko icyo gitero cyabereye mu Murenge wa Ruheru, ibi bikaba bigaragaza ko ibyo abo bantu baregera indishyi basaba ari ibyabaye kuko n'abaregwa babyigambye. Bavuga ko basaba Urukiko rw'Ubujurire ko rwakongera rugasuzuma ikirego cyabo cy'indishyi, rukabagenera indishyi bari basabye ku rwego rwa mbere, nk'uko amategeko abiteganya. Bavuga ko indishyi bari basabye zisobanuwe kuri buri wese mu buryo buti mu bika bikurikira.

- **Ku bireba MANARIYO Théogène**

[611] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko mu ijoro ryo ku wa 17/7/2020, MANARIYO Théogène n'umuryango we bumvise amasasu menshi bagira ubwoba ariko ntibasohoka mu nzu, ko bukeye basanze amasasu yagiye atobora inzu yabo, kugeza ubu bakaba bahorana ubwoba. Bavuga ko n'amategura yabo yamenetse ndetse we n'umugore bagahahamurwa n'ibyo bumvise. Ibi byose akaba abisabira indishyi z'ibyangiritse n'iz'akababaro zigera ku 1.500.000 Frw, atahawe ku rwego rwa mbere.

- **GASHONGORE Samuel**

[612] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko ku wa 17/7/2020 mu masaha ya saa sita z'ijoro, GASHONGORE Samuel kubera ko aturiye ikigo cya gisirikare yumvise amasasu menshi, bimutera ubwoba ndetse agerageza kwihisha adasohotse mu nzu kugira ngo amasasu atamugeraho. Bavuga ko muri iyo mirwano yatewe n'abantu bitwaje intwaro, hangirikiye ibiti bya GASHONGORE Samuel n'amategura y'inzu ye. Bakomeza bavuga ko kuba Urukiko rubanza rutamugeneye indishyi yari yasabye, GASHONGORE Samuel asaba uru Rukiko kumugenera indishyi zose hamwe zingana na 1.200.000 Frw zikubiyemo iz'amategura yangiritse (40 x 70 Frw= 2800 Frw), 150.000 Frw y'ibiti bye (150 x 1.000 Frw= 150.000 Frw), amafaranga yakoresheje asana inzu ye ahwanye na 47.200 Frw n'indishyi z'akababaro zingana na 1.000.000 Frw.

- **Ku bireba NZABIRINDA Viateur**

[613] Me MUNYAMAHORO René na Me MUKASHEMA Marie Louise bamuhagarariye bavuga ko NZABIRINDA Viateur atuye mu birometero icumi (10 km) uvuye aho ikigo cya gisirikare kiri, ko mu ijoro ryo ku wa 17/7/2020, haje abantu bitwaje intwaro batera ikigo cya gisirikare bararwana, hagati aho bangiza inzu ye, umurima w'ingano n'amashaza byari biteye hafi y'urugo rwe n'inkoko ze zirapfa. Bavuga ko ku bw'ibyo basaba uru Rukiko kugenera NZABIRINDA Viateur indishyi atahawe ku rwego rwa mbere, zose hamwe zingana na 1.000.000 Frw, akubiyemo 250.000 Frw y'ibiro 500 by'ingano, ikilo kibariwe ku mafaranga 500, 60.000 Frw y'ibiro ijana by'amashaza, ikiro kibariwe ku mafaranga 600, 400.000 Frw y'amabati mirongo ine (40), rimwe rigura 10.000 Frw, 30.000 Frw yasanishije igikuta cy'inzu ye cyangirijwe n'amasasu, 30.000 Frw y'amategura 300 yari asakaje inzu ye, rimwe rigura 100 Frw, 35.000 Frw y'inkoko zirindwi za kijyambere zapfuye, imwe igura 5.000 Frw na 500.000 Frw y'indishyi z'akababaro.

- **Ku bireba NIYOMUGABA**

[614] Me MUNYAMAHORO René na Me MUKASHEMA Marie-Louise bamuhagarariye bavuga ko hari nijoro ubwo humvikanaga urusaku rw'amasasu, NIYOMUGABA n'abo bari kumwe bagira ubwoba ntibasohoka mu nzu, ko mu gitondo yasanze bishe inka ye bayirashe kandi yarahakaga igejeje amezi umunani, inzu ye ikaba nayo yarangiritse. Bavuga ibi aribyo NIYOMUGABA ashingiraho asaba uru Rukiko kumugenera indishyi yari yasabye ku rwego rwa mbere ntazihabwe, zingana na 1.290.000 Frw, zigizwe na 50.000 Frw yakoresheje avuza inka ye, 700.000 Frw yari kuzagurisha inyana yapfuye, 40.000 Frw y'amabati y'inzu yangiritse na 500.000 Frw y'indishyi z'akababaro.

- **Ku bireba NDAYISENGA Edouard**

[615] Me MUNYAMAHORO René na Me MUKASHEMA Marie-Louise bamuhagarariye bavuga ko mu Murenge NDAYISENGA Edouard atuyemo, hateye abantu bitwaje intwaro bararasa hangirika amazu y'abantu, bakaba baranasenye urugo rwe igihe barwanaga bahunga kugira ngo basubire aho baturutse, ko muri ibyo bitero harangirikiyemo n'amategura y'inzu ye. Bavuga ko ku bw'ibyo, NDAYISENGA Edouard asaba uru Rukiko kumugenera indishyi atabonye ku rwego rwa mbere, zigizwe na 100.000 Frw yakoresheje yubaka urugo rwe basenye, 47.000 Frw y'amategura y'inzu (1.000 Frw x 47) na 500.000 Frw y'indishyi z'akababaro.

- **Ku bireba BIGIRIMANA Fanuel**

[616] Me MUNYAMAHORO René na Me MUKASHEMA Marie-Louise bamuhagarariye bavuga ko, aho BIGIRIMANA Fanuel atuye haturanye n'igikumba cy'inka z'abaturage, ko bumvise amasasu avuga hafi y'icyo gikumba, bagira ubwoba bwo gusohoka mu nzu, inka ye yahakaga amezi 7 isenya ikiraro

iriruka kubera ubwoba mu gitondo bayisanga yaramburuye. Bavuga kandi ko muri iryo joro amategura asakaje inzu ye nayo yamenetse. Kubera iyo mpamvu, BIGIRIMANA Fanuel asaba uru Rukiko kumugenera indishyi atabonye ku rwego rwa mbere, zigizwe na 1.150.000 Frw, akubiyemo 50.000 Frw y'indishyi z'ibyangijwe, 600.000 Frw yateganyaga kuzagurisha inyana ye yapfuye na 500.000 Frw y'indishyi z'akababaro.

- **Ku bireba BARAGAMBA**

[617] Me MUNYAMAHORO René na Me MUKASHEMA Marie-Louise bamuhagarariye, bavuga ko mu ijoro ryo ku wa 17/7/2020 mu gihe cya saa sita za ni joro, BARAGAMBA ari kumwe n'umuryango we bumvise amasasu avuga cyane, apfumura n'amabati y'inzu ye, ndetse bumva n'ifirimbi, bagira ubwoba ntibasohoka mu nzu, ariko bihisha munsi y'igitanda. Bavuga kandi ko mu gitondo cyo ku wa 18/7/2020, basanze imbere y'urugo rwa BARAGAMBA hapfiriye abacengezi 3, ko ibi byamuteye ubwoba ku buryo n'ubu butarashira, kandi ko n'ubu yabuze amikoro yo gusana inzu ye iva iyo imvura iguye. Basoza bavuga ko mu rwego rwo gusibizwa ibyo yangirijwe, BARAGAMBA asaba uru Rukiko kumugenera indishyi atahawe n'Urukiko rubanza, zingana na 2.000.000 Frw.

- **Ku bireba RUTIHUNZA Enos**

~~[618]~~ Me MUNYAMAHORO René na Me MUKASHEMA Marie-Louise bamuhagarariye bavuga ko, hari ku wa 17/7/2020 mu masaha ya ni joro, ubwo RUTIHUNZA Enos n'umuryango we bumvise amasasu bakagira ubwoba, bagiye kumva bumva umuntu ari gukomanga ababwira ngo nibafungure ntibafungura, arasa amasasu menshi hejuru y'inzu ku buryo amategura y'inzu ye yapfumaguritse. Bakomeza bavuga ko mu gitondo basanze umuntu ufite imbuda yapfiriye imbere y'iwe, babimenyesha Ubuyobozi burahamukura. Basoza bavuga ko ibyo byose byabaye byatumye RUTIHUNZA Enos agira ihungabana, ndetse n'amategura asakaje inzu ye arahangirikira, ko ariyo mpamvu imbere y'uru Rukiko, yifuza kubona indishyi atabonye ku rwego rwa mbere zingana na 1.000.000 Frw, akubiyemo 500.000 Frw y'indishyi z'ibyangijwe (agaciro k'inka ye yaramburuye ndetse n'agaciro k'amategura y'inzu ye yangiritse) na 500.000 Frw y'indishyi z'akababaro.

- **Ku bireba BARIRWANDA Innocent**

[619] Me MUNYAMAHORO René na Me MUKASHEMA Marie-Louise bamuhagarariye, bavuga ko mu gihe cya saa tatu z'ijoro ariho humvikanye amasasu ndetse amwe akajya apfumura amategura y'inzu ya BARIRWANDA Innocent, mu gitondo yasanze amategura asakaje inzu ze 2 yangiritse. Ku bw'ibyo, basoza bavuga ko kuba ibi byose byarangiritse, BARIRWANDA Innocent abisabira muri uru Rukiko, indishyi atahawe ku rwego rwa mbere zirimo n'iz'akababaro zingana na 1.000.000 Frw.

- **Ku bireba NSABIYAREMYE Pascal**

[620] Me MUNYAMAHORO René na Me MUKASHEMA Marie-Louise bamuhagarariye bavuga ko igihe NSABIYAREMYE Pascal yari ku irondo n'abagenzi be mu masaha ya nijoro, ku wa 17/7/2020, bumvise amasasu, baza kumenya ko ari abantu bitwaje intwaro bari bateye. Mu gitondo ageze iwe yasanze amategura asakaje inzu ye yatobaguritse, ndetse n'umurima w'ibigori bye babinyukanyutse kuko babirwaniyemo. Basoza bavuga ko ibi byose NSABIYAREMYE Pascal abisabira muri uru Rukiko, indishyi zigera kuri 800.000 Frw, atabonye ku rwego rubanza.

- **Ku bireba HABIMANA Innocent**

[621] Me MUNYAMAHORO René na Me MUKASHEMA Marie-Louise bamuhagarariye bavuga ko ku wa 17/7/2012 mu masaha ya nijoro ari bwo HABIMANA Innocent yumvise urusaku rwinshi rw'amasasu, ndetse akajya agwa ku gisenge ku buryo inzu ye yari isakaje amategura yangiritse cyane. Bavuga kandi ko kugira ngo abashe kongera kubaka igisenge cy'inzu ye byababaye ngombwa ko agurisha inka ze 2, ko kubera igihombo byamuteye HABIMANA Innocent abisabira indishyi mbumbe zingana na 1.000.000 Frw, atahawe ku rwego rubanza.

- **Ku bireba HARERIMANA Emmanuel**

[622] Me MUNYAMAHORO René na Me MUKASHEMA Marie-Louise bamuhagarariye bavuga ko abantu bitwaje intwaro bateye ikigo cya gisirikare kiri Wimbogo, haba imirwano yahungabanyirije umutungo wa HARERIMANA Emmanuel, ariyo mpamvu asaba indishyi zingana n'amafaranga ibihumbi magana atanu na cumi n'icyenda na magana atanu (519.500 Frw) z'ibye byangiritse n'iz'akababaro, kuko atazihawe ku rwego rwa mbere.

- **Ku bireba NZAJYIBWAMI Yoramu**

[623] Me MUNYAMAHORO René na Me MUKASHEMA Marie-Louise bamuhagarariye bavuga ko mu ijoro ryo ku wa 17/07/2020, mu gace NZAJYIBWAMI Yoramu atuyemo, habaye imirwano yangiza imitungo ye, akaba abisabira indishyi z'akababaro n'agaciro k'iyo mitungo ye yangijwe bihwanye n'ibihumbi magana inani (800.000 Frw), kuko ku rwego rwa mbere nta kintu Urukiko rubanza rwamugeneye.

- **Ku bireba SEBARINDA Emmanuel**

[624] Me MUNYAMAHORO René na Me MUKASHEMA Marie-Louise bamuhagarariye bavuga ko mu ijoro ryo ku wa 17/07/2020 abantu bitwaje intwaro bateye ku kigo cya gisirikare, haraswa amasasu menshi, bimwangiriza inzu. Ibi byatumye SEBARINDA Emmanuel atanga ikirego ariko Urukiko rubanza ntirwamugenera indishyi yaregeye, akaba asaba, uru Rukiko kumugenera indishyi z'ibye byangijwe, hamwe n'indishyi z'akababaro zingana n'amafaranga ibihumbi magana atatu na mirongo itanu na magana atanu (350.500 Frw).

- **Ku bireba NKUNDIREMA Damascène**

[625] Me MUNYAMAHORO René na Me MUKASHEMA Marie-Louise bamuhagarariye bavuga ko mu ijoro ryo ku wa 17/07/2020, mu gace NKUNDIREMA Damascène atuyemo, abantu bitwaje intwaro bateye ikigo cya gisirikare kiri mu Murenge wa Ruheru, haba imirwano ikomeye yangiza imitungo ye, akaba abisabira indishyi zingana n'amafaranga miliyoni imwe n'ibihumbi ijana (1.100.000 Frw), harimo iz'ibyangijwe n'iz'akababaro kuko Urukiko rubanza rutazimugeneye.

- **Ku bireba HABAKURAMA Gratien**

[626] Me MUNYAMAHORO René na Me MUKASHEMA Marie-Louise bamuhagarariye bavuga ko HABAKURAMA Gratien aturanye n'ikigo cya gisirikare cyatewe n'abantu bitwaje intwaro, ko muri iyo mirwano hangirikiyemo inzu ye, akaba abisabira indishyi zingana n'amafaranga miliyoni imwe n'ibihumbi mirongo itandatu na bibiri na magana atanu (1.062.500 Frw), kuko ku rwego rwa mbere ntayo yabonye.

[627] Muri rusange, mu gusoza ku birebana no kujuririra indishyi, Me MUNYAMAHORO René na Me MUKASHEMA Marie-Louise bavuga ko ibyo abaregwa bavuga ko icyaha ari gatozi, ko nta cyaha bakoze,

nta n’uruhare bagize mu bikorwa byabaye ku buryo babiryorezwa indishyi, nta shingiro bifite kubera ko umutwe w’iterabwoba wa FLN bari barimo wakoreraga kuri gahunda n’umugambi umwe wo kugaba ibitero ahantu hatandukanye, ku buryo iyo mikoranire y’abagize uwo mutwe ari yo ikwiye gushingirwaho mu kubaryoza indishyi z’ibyo bangije nk’uko babikoze i Nyabitama, muri Nyungwe ndetse n’ahandi. Bityo ko basaba Urukiko kuazashingira ku rubanza ruri muri *système* ku mugereka wa 150 rwaciwe n’urukiko rwa mbere rw’Iremezo rwa ICTR rufite nº ICTR /96/3/T rwabaye hagati y’Ubushinjacyaha na NDIRUBUMWE RUTAGANDA, aho mu gika cyarwo cya 62 n’icya 72 rwasobanuye ibirebana n’umugambi uhuriweho, rugategeka abaregwa bose muri uru rubanza bari bafite umugambi umwe wo gukora ibikorwa by’iterabwoba aho baba barabikoreye hose hatandukanye, gufatanya kwishyura indishyi.

[628] Banavuga ko imvugo ya BIZIMANA Cassien alias Passy y’uko ariwe wayoboye ibitero byabereye muri Rusizi, abitumwe n’abayobozi ba FLN, igaragaza ko umugambi abagize umutwe wa FLN bari bafite wari umwe. Naho, ku bavuga ko abaregera indishyi batazihabwa kuko nta bimenyetso babitangiye, basaba ko bitahabwa ishingiro kuko nko mu gika cya 269 cy’urubanza rujuririrwa imvugo za BYUKUSENGE Jean-Claude zigaragaza uko bateye gerenade, igakomeretsa abantu n’ibijyanye n’imodoka batwikiye mu Karere ka Rusizi, ibi bikaba nabyo bigaragaza ko abaregwa nabo ubwabo bitangira ibimenyetso, ndetse ko basanga imvugo ya MATAKAMBA Jean Berchmas yo kuba imodoka ya MAHORO Jean Damascène igihari kandi ikora, ari ugushinyagurira ba nyir’imitungo kuko bamwe mubo bafatanyije kuyangiza barimo BYUKUSENGE Jean-Claude babyemera.

[629] Me MUNYAMAHORO René na Me MUKASHEMA Marie-Louise bavuga kandi ko hari imitungo basabira indishyi ariko batashoboye gutangira ibimenyetso kubera imiterere yayo, ibimenyetso bikaba ari nta bindi byaboneka uretse kuba nyirayo ayitunze (*en fait de meuble, possession vaut titre*). Basobanura ko bigoye gutanga ikimenyetso kigaragaza ko kanaka yasahuwe ibiro 6 by’ibishyimbo cyangwa by’amasaka, ko iyo abaregera indishyi baba babeshya bari gukabya mu byo basaba. Bityo ko, ku mitungo nk’iyo, ibimenyetso bihari ari imvugo za ba nyir’imitungo na raporo z’Ubuyobozi zigaragaza ko hari imitungo yangijwe cyangwa yasahuwe.

[630] Me MURANGWA Faustin mu gusoza, muri rusange na none avuga ko abaregwa bavuga ko bataryozwa indishyi zikomoka ku byangijwe n’ibitero bitandukanye batagiyemo, birengagiza ko icyaha bahamijwe cyo kuba mu mutwe w’iterabwoba nabo biyemerera ko babayemo gifitanye isano n’indishyi baryozwa. Naho, ku baregwa bavuga ko bakurikiranwa gusa ku ndishyi z’ibyabereye mu bitero bagizemo uruhare, Me MURANGWA Faustin avuga ko nabyo atari byo, ko ahubwo baryozwa indishyi zituruka ku bitero byose byakozwe n’uwo mutwe w’iterabwoba bari barimo.

[631] Me MUNDERERE Léopold we asoza asaba ko, mu guca urubanza, Urukiko rwazabona ko umugambi abaregwa bari bafite utari uwo kugirira neza igihugu n’abaturage muri rusange, maze abagize uruhare mu bikorwa byangije bafatanye kuryozwa indishyi. Naho, ku bavuga ko kuryozwa indishyi byaba ari nko guhanirwa icyaha cy’inkomoko, kuri bo avuga ko byaba atari byo bitewe n’uko ubwo buryozwe ari ingaruka z’umugambi umwe wari uhuriweho n’abari mu mutwe umwe w’iterabwoba wakorewemo ibitero byangiririje abaregera indishyi.

[632] Muri rusange kandi, abaregera indishyi bose bavuga ko mu gusuzuma ibivugwa na MUKANDUTIYE Angelina ko nta mitungo agira yavamo indishyi, Urukiko rw’Ubujurire rwazashingira ku ihame mu mategeko rivuga ko "*Les biens présents et à venir du débiteur constituent le gage commun de ses créanciers"*, ugenekereje mu Kinyarwanda bishatse kuvuga ko umutungo w’ubereyemo umwenda abandi atunze ubu n’uwo azatunga mu gihe kizaza, uba ari ingwate y’abo abereyemo umwenda. Bityo ko

mu guca urubanza atari ngombwa ko Urukiko rubanza gusuzuma niba uregwa indishyi afite ubushobozi bwo kuzishyura kugira ngo rubone kwemeza ko agomba kuzicibwa.

UKO ABAREGWA BIREGURA KU BUJURIRE BW'ABAREGERA INDISHYI BANENZE KUBA NTAZO BAGENEWE CYANGWA SE KUBA BARAGENEWE NKEYA

[633] Muri rusange, abaregwa bavuga ko abaregera indishyi batagombaga kuzihabwa kuko nta bimenyetso bazitangiye, ariko by'umwihariko, MATAKAMABA Jean Berchmas, BIZIMANA Cassien alias Passy na NSABIMANA Jean Damascène, bemera kuba baragize uruhare mu bitero byabereye mu Karere ka Rusizi, ndetse na MUKANDUTIYE Angelina bongera ibisobanuro bikurikira ku myiregurire imaze kuvugwa haruguru.

[634] MATAKAMBA Jean Berchmas avuga ko abagizweho ingaruka n'ibitero byabereye muri Rusizi, bakaba baratanze ingwate y'igarama mu buryo bukurikije amategeko ndetse bakagaragaza ibimenyetso by'indishyi baregera, bazishyurwa. Ahamya ariko ko, nko kuri MAHORO Jean Damascène uvuga ko yatwikiwe imodoka, nk'umuntu baturanye, azi neza ko kugeza uyu munsi iyo modoka igikora kandi ikaba igenda mu muhanda. Asobanura ko iyo modoka yari yarayiguze i Gitarama ku mafaranga 6.500.000 Frw, ariko ko atigeze yerekana amafoto yayo hamwe n'izindi modoka zerekanwe ko zatwitswe, ikaba yaratwitswe *cabine* gusa, ubu ikaba yarakozwe kandi isigaye ijyana ifu muri Congo.

[635] MATAKAMBA Jean Berchmas avuga kandi ko ku birebana na gerenade yatewe i Kamembe, yemera ko yakomerekeje abagore batatu b'Abayisilamu atazi amazina, ibipande byayo bigwa ku modoka. Naho, iby'akabari kitwa Stella, bivugwa ko kateweho iyo gerenade, avuga ko bitari gushoboka kuko ako kabari gafite igipangu kirekire cya metero 3, kakaba kari hejuru y'umuhanda kuri metero 2, ko kandi Urukiko ruramutse ruhigereye rwabibona. Asoza avuga ko yakabaye aryozwa iby'igitero cyabereye i Nyakarenzo muri Rusizi, ariko ko ho nta kintu cyahangijwe kuko bari basabwe n'abayobozi babo kutagira ibyo bahangiza, atanga urugero rw'ikamyo bahuye nayo ipakiye, ariko ntibagira ikintu bakuramo. Bityo ko, ibyo gusahura no kwiba abaregera indishyi bavuga, ari ukubabeshyera.

[636] BIZIMANA Cassien alias Passy avuga ko adahakana ibitero byabereye i Rusizi kuko ariwe wari ubiyoboye, ko ibyo yakoze yakurikizaga amabwiriza ya FLN nk'uko yayahabwaga, ko akurikiza amabwiraza yahawe n'umuyobozi we Geva, yatwitse imodoka irimo imyenda ya gisirikare n'iya gipolisi, akaba yarayimennye ikirahure, ayisukaho *essence*, ayirasaho isasu, irashya. Asoza avuga ko ibyo yakoraga kwari ukubahiriza amategeko y'Ubuyobozi, ko ibitero byabereye ahandi ntacyo yabibazwaho.

[637] NSABIMANA Jean Damascène avuga ko yatangiye gukorana na MATAKAMBA Jean Berchmas mu kwezi kwa 9, mu mwaka wa 2019, akemera ko mu bitero byabereye i Rusizi yahawe na MATAKAMBA Jean Berchmas gerenade amusaba kuyishyira uwitwa Claude wari uzi icyo azayikoresha, ikaba ari yo yatewe mu Mujyi wa Kamembe. Asaba Urukiko kuzareba niba koko ibimenyetso abaregera indishyi batanga ari iby'ukuri kuko hari raporo ya muganga yo ku wa 02/07/2019 yatanzweho ikimenyetso ivugwamo abantu bakomerekejwe n'iyo gerenade, nyamara yo yaratewe ku wa 19/10/2019. Asoza avuga ko ntacyo yaryozwa ku bitero byabereye mu Karangiro, mu Murenge wa Nyakarenzo kuko yari ataratangira gukorera MATAKAMBA Jean Berchmas.

[638] MUKANDUTIYE Angelina avuga ko nta muntu ibyabaye bitababaza, ku buryo abo byagizeho ingaruka bakwiye kubihererwa indishyi, ariko ko we ibyo yari atunze byose, byamaze gutezwa cyamunara, akaba nta mutungo n'umwe agifite. Bityo, akaba asaba ko abo baregwa hamwe indishyi, bafite ubushobozi n'imitungo ari bo bazitanga.

UKO URUKIKO RUBIBONA

a) ku birebana n'abaregera indishyi bajuririye kuba mu bushishozi bw'Urukiko baragenewe indishyi nkeya

[639] Ku birebana n'impamvu y'ubujurire ishingiye ku kuba abaregeye indishyi baragenewe nkeya, bakaba bifuza ko izo bari baregeye ku rwego rwa mbere zakongera gusuzumwa ku rwego rw'ubujurire. Urukiko rw'Ubujurire rurasuzuma ishingiro ry'ibyo abajuriye banenga ku bushishozi bw'Urukiko rwaciye urubanza rujuririrwa, ku buryo ubwo bushishozi bwasimbuzwa ubw'uru Rukiko rujuririrwa mu kubagenera indishyi baregera. N'ubwo abaregera indishyi bavuga ko mu Rukiko rubanza bari batanze ibimenyetso bihagije by'indishyi baregeye kandi bakaba banazitangiye ibindi bimenyetso muri uru Rukiko rujuririrwa, bashingiye ku ngingo ya 154, igika cya 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[76], bavuga ko nta kundi rwabagenera indishyi, uretse kubikora narwo mu bushishozi bwarwo.

[640] Mu gusuzuma ikibazo cy'ishingiro ry'inenge ku bushishozi bw'Urukiko rubanza, uru Rukiko rugomba kuzirikana ko nk'uko bigaragara mu gika cya 578, cy'urubanza rujuririrwa, ubwo bushishozi aribwo Urukiko rubanza rwakoresheje mu gusuzuma niba abaregera indishyi baratanze ibimenyetso bashingiraho indishyi basaba, birimo ibigaragaza ko hari abishwe n'ibitero, abakomeretse, abashimuswe, abasahuwe n'abangirijwe imitungo, ibigaragaza ko iyo mitungo bari bayifite koko, ndetse n'ibigaragaza ko agaciro gahabwa iyo mitungo kangana n'indishyi baregera; runazirikana ko nk'uko biteganywa mu ngingo ya 150, 5^{o} na 6^{o,} y'Itegeko n^{o} 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru ababuranyi bagomba kubasha kugaragaza icyo banenga urubanza rujuririrwa.

[641] Bikwiye kumvikana kandi ko mu gihe ibimenyetso byaba byari bihari koko ku rwego rwa mbere, ariko Urukiko rubanza ntirugene indishyi ziregerwa, cyangwa se niba bitari bihari kuri urwo rwego ariko noneho ubu bikaba byabonetse kuri uru rwego rw'ubujurire, izo ndishyi zigomba gutangwa. Ariko na none mu gihe ibimenyetso byaba bikomeje kutaboneka izo ndishyi zikaba zitagomba gutangwa hashingiwe ku biteganywa n'ingingo ya 12 y'Itegeko n˚ 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru ivuga ko urega agomba kugaragaza ibimenyetso by'ibyo aregera n'ingingo ya 3 y'Itegeko n˚ 15/2004 ryo ku wa 12/6/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ivuga ko buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana, yabibura agatsindwa.

- **Ku birebana n'abajuririye ingano y'indishyi zifitanye isano n'ibitero byagabwe mu Murenge wa Nyabimata, mu Karere ka Nyaruguru**

[76] Ingingo ya 154, igika cya 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 ibikurikira:'' *Ntibibujijwe ariko mu rwego rw'ubujurire gutanga ibisobanuro bishya cyangwa ibimenyetso bishya bigamije kumvikanisha kurushaho ibyari byaraburanishijwe mu rwego rwa mbere*".

[642] Kuri HAVUGIMANA Jean-Marie Vianney, Urukiko rurasanga, mu gika cya 584 cy'urubanza rujuririrwa, Urukiko rubanza rwarasanze ntaho rwahera rumugenera indishyi zijyanye n'amafaranga avuga ko yibwe n'indishyi z'akababaro asaba kubera gushimutwa akikorezwa ibintu, kubera ko nta bimenyetso yabitangiye, ahubwo rukaba rwaramugeneye gusa indishyi zijyanye n'agaciro ka *moto* ye yatwitswe, rushingiye kuri raporo y'Umunyamabanga Nshingwabikorwa w'Umurenge wa Nyabimata no ku mafoto agaragaza ko iyo *moto* yahiye. Bityo, rukaba rwaramugeneye mu bushishozi bwarwo indishyi zingana n'amafaranga ibihumbi magana atandatu (600.000 Frw) kuko nta kindi kimenyetso yari yarugaragarije cy'agaciro nyako iyo *moto* yari ifite igihe yatwikwaga.

[643] Muri uru rubanza rw'ubujurire, HAVUGIMANA Jean-Marie Vianney n'abavoka bamwunganiye basaba ko Urukiko rwamugenera indishyi zingana na 1.100.000 Frw, arimo na y'indishyi z'akababaro angana na 500.000 Frw n'ibyo yatakaje akurikirana *moto* ye yatwitswe. Urukiko rurasanga muri 1.100.000 Frw y'indishyi HAVUGIMANA Jean-Marie Vianney yari yaregeye mu Rukiko rubanza kandi akomeje kuregera no muri uru Rukiko, ayo yagenewe ari 600.000 Frw gusa y'agaciro ka *moto* yatwitswe, ay'ibindi avuga ko yatakaje akaba atarayagenewe kubera ko Urukiko rwasanze nta bimenyetso yayatangiye, naho ay'indishyi z'akababaro, Urukiko rubanza rukaba nta kigaragara rwayavuzeho.

[644] Uru Rukiko narwo rurasanga ntaho rwashingira rumugenera indishyi zijyanye n'amafaranga avuga ko yambuwe ndetse n'izijyanye n'ibyo avuga ko yavukijwe no gukurikirana ibirebana na *moto* yari imaze gutwikwa, kuko nta bimenyetso yabigaragarije, ariko ku birebana n'indishyi z'akababaro asaba, rurasanga azikwiye kubera ingaruka yagizweho n'icyaha abaregwa bahamijwe cyo kuba mu mutwe w'iterabwoba wakorewemo ibikorwa byo kumutwikira *moto*. Bityo, mu bushishozi bw'Urukiko, indishyi z'akababaro HAVUGIMANA Jean-Marie Vianney agomba guhabwa n'abaregwa bahamijwe icyaha cyo kuba mu mutwe w'iterabwoba zikaba zingana n'amafaranga ibihumbi magana atatu (300.000 Frw), yiyongera ku zo yari yagenewe n'Urukiko mu rubanza rujuririrwa.

[645] Kuri BAPFAKURERA Vénuste, Urukiko rurasanga, mu gika cya 586 cy'urubanza rujuririrwa, Urukiko rubanza rwarasanze ntaho rwahera rumugenera indishyi zijyanye n'agaciro ka telefone, amafaranga avuga ko yatwawe kubera ko nta kimenyetso yabitangiye, ndetse nta n'aho rwahera rumugenera amafaranga avuga ko *moto* ye yari kuzakorera kuko nta kimenyetso yagaragaje cy'ayo yinjizaga ku munsi mbere y'uko itwikwa n'igihe yari imaze ikora. Ahubwo, rushingiye ku kimenyetso cya raporo y'Umunyamabanga Nshingwabikorwa w'Umurenge wa Nyabimata no ku mafoto agaragaza ko iyo *moto* yahiye, Urukiko rubanza rwamugeneye mu bushishozi bwarwo indishyi zijyanye n'agaciro ka *moto* ye yatwitswe kuko ayo yasabaga yari menshi. Bityo, rukaba rwaramugeneye indishyi zingana n'amafaranga ibihumbi magana atandatu (600.000 Frw) kuko nta kindi ikimenyetso yari yarugaragarije cy'agaciro nyako iyo *moto* yari ifite igihe yatwikwaga.

[646] Mu bujurire, BAPFAKURERA Vénuste n'abavoka bamuhagarariye basaba ko Urukiko rwamugenera indishyi zingana na 5.044.500 Frw n'ubundi yari yaregeye ku rwego rubanza, zikubiyemo indishyi z'akababaro n'agaciro k'ibye byangijwe. Mu kongera gusaba izi ndishyi bakaba banenga ko Urukiko rubanza rwamugeneye indishyi z'agaciro ka *moto* gusa, mu gihe yari yararugaragarije raporo y'Ubuyobozi igaragaramo ibyabaye byateye akababaro abo byagizeho ingaruka.

[647] Uru Rukiko rurasanga muri ubu bujurire nta kibazo BAPFAKURERA Vénuste agaragaza ko afite ku ngano y'indishyi yagenewe mu bushishozi bw'Urukiko zihwanye n'agaciro ka *moto* ye yatwitswe. Ahubwo, ikibazo agaragaza ko afite kikaba ari icyo kuba mu ndishyi yagenewe ataragenewe iz'akababaro. Rurasanga rero indishyi z'akababaro BAPFAKURERA Vénuste asaba azikwiye kubera ingaruka

yagizweho n'icyaha cyahamye abaregwa cyo kuba mu mutwe w'iterabwoba wakorewemo ibikorwa byo kumutwikira *moto*. Bityo, mu bushishozi bw'Urukiko, BAPFAKURERA Vénuste agomba guhabwa n'abaregwa bahamijwe icyaha cyo kuba mu mutwe w'iterabwoba, indishyi z'akababaro zingana n'amafaranga ibihumbi magana atatu (300.000 Frw), yiyongera kuzo yari yagenewe n'Urukiko mu rubanza rujuririrwa.

[648] Kuri HABYARIMANA Jean-Marie Vianney, Urukiko rw'Ubujurire rurasanga mu gika cya 587 cy'urubanza rujuririrwa, Urukiko rubanza rwarasanze yagenerwa indishyi z'akababaro zingana n'ibihumbi magana atatu (300.000 Frw) kubera gushimutwa,–akanikorezwa ibyibano hashingiwe kuri raporo y'Umunyamabanga Nshingwabikorwa w'Umurenge wa Nyabimata, igaragaza abaturage bashimuswe bakajyanwa mu ishyamba rya Nyungwe babikoreje ibyo basahuye, ariko akaba atagomba guhabwa indishyi z'ibintu bye avuga ko byibwe kubera ko atabitangiye ibimenyetso.

[649] Mu bujurire HABYARIMANA Jean-Marie Vianney n'abavoka bamuhagarariye basaba ko Urukiko rwamugenera indishyi zingana na 1.560.000 Frw n'ubundi yari yasabye ku rwego rubanza, zikubiyemo 560.000 Frw y'agaciro k'ibintu bye bitandukanye yambuwe (telefone, ipantaro, ishati, ibishyimbo n'igitenge) na 1.000.000 Frw y'indishyi z'akababaro. Mu kongera gusaba izi ndishyi, bakaba banenga Urukiko rubanza kuba rwarirengagije ko abagizi ba nabi baje biba ibintu by'abaturage n'ibindi.

~~[650]~~ Uru Rukiko rurasanga HABYARIMANA Jean-Marie Vianney agaragaza ko yagaye indishyi z'akababaro zingana na 300.000 Frw yagenewe n'Urukiko rubanza mu bushishozi bwarwo, agasaba izingana na 1.000.000 Frw ariko akaba atagaragaza icyo anenga ku bushishozi bw'Urukiko rubanza bwakoreshejwe mu kuzimugenera. Bityo, uru Rukiko rukaba rusanga ntaho rwahera ruhindura indishyi z'akababaro yagenewe ku rwego rwa mbere. Urukiko rurasanga kandi uretse kongera kuvuga ko asaba indishyi zingana na 560.000 Frw z'agaciro k'ibintu bye bitandukanye yambuwe (telefone, ipantaro, ishati, ibishyimbo n'igitenge) nk'uko n'ubundi yari yabivuze ku rwego rwa mbere, nta kimenyetso gishya agaragaza abitangira kuri uru rwego cyangwa se icyo yari yabitangiye ku rwego rubanza kirengagijwe. Bityo, izi ndishyi nazo zikaba nta shingiro zifite. Kubera izo mpamvu zose, HABYARIMANA Jean-Marie Vianney akaba akwiye gusa 300.000 Frw y'indishyi z'akababaro nk'uko yazigenewe ku rwego rwa mbere.

[651] Kuri NSABIMANA Anastase, Urukiko rurasanga, mu gika cya 590 cy'urubanza rujuririrwa, Urukiko rubanza rwarasanze raporo y'Umunyamabanga Nshingwabikorwa w'Umurenge wa Nyabimata igaragaza ko NSABIMANA Anastase nawe ari mu baturage bashimuswe n'abagizi ba nabi babajyana mu ishyamba rya Nyungwe babikoreje ibyo basahuye. Bityo, rushingiye kuri iyo raporo, rukaba rwaramugeneye indishyi z'akababaro zingana n'amafaranga ibihumbi magana atatu (300.000 Frw) kubera uko gushimutwa no kwikorezwa ibyibano, ariko rusanga atagomba guhabwa indishyi z'ibintu bye avuga byasahuwe, birimo imyaka, imyambaro, telefone n'amafaranga kuko atabitangiye ibimenyetso.

[652] NSABIMANA Anastase n'abavoka bamuhagarariye basaba ko Urukiko rw'Ubujurire rumugenera indishyi zingana na 1.213.000 Frw n'ubundi yari yasabye ku rwego rubanza, zikubiyemo 150.000 Frw yari yagurishije inka akayaha abamuteye kugira ngo batamwicira umugore, 63.000 Frw y'agaciro k'ibintu bye bitandukanye yasahuwe (imyaka, telefone n'imyambaro) na 1.000.000 Frw y'indishyi z'akababaro kubera ko abagabye ibitero bamwikoreje ibyo bari basahuye, bakamutwara bugwate, akagaruka mu rukerera.

[653] Uru Rukiko rurasanga NSABIMANA Anastase agaragaza ko yagaye indishyi z'akababaro zingana na 300.000 Frw yagenewe n'Urukiko rubanza mu bushishozi bwarwo, agasaba izingana na 1.000.000 Frw

nk'uko yabisabye ku rwego rwa mbere, ariko akaba atagaragaza icyo anenga ku bushishozi bw'Urukiko rubanza bwakoreshejwe mu kuzimugenera, ko rero ntaho rwahera ruhindura indishyi z'akababaro yagenewe ku rwego rwa mbere. Rurasanga kandi ku bindi NSABIMANA Anastase asaba, nta kimenyetso agaragaza gishya abitangira kuri uru rwego cyangwa se icyo yari yabitangiye ku rwego rubanza kibe cyarirengagijwe n'Urukiko rubanza. Bityo, izi ndishyi nazo zikaba nta shingiro zifite, indishyi z'akababaro zingana na 300.000 Frw yagenewe ku rwego rwa mbere, zikaba ari zo zigomba kugumaho.

[654] Kuri SIBORUREMA Venuste, Urukiko rurasanga, mu gika cya 592 cy'urubanza rujuririrwa, Urukiko rubanza rushingiye kuri raporo y'Umunyamabanga Nshingwabikorwa w'Umurenge wa Nyabimata igaragaza ko SIBORUREMA Venuste ari mu baturage bashimuswe n'abagizi ba nabi bakabajyana mu ishyamba rya Nyungwe babikoreje ibyo basahuye, rwamugeneye indishyi z'akababaro zingana n'amafaranga ibihumbi magana atatu (300.000 Frw) kubera uko gushimutwa no kwikorezwa ibyibano. Ariko ruvuga ko atagomba guhabwa indishyi z'ibintu bye avuga ko bamutwaye, birimo imyaka, imyambaro, telefone n'ibindi kuko atabitangiye ibimenyetso.

[655] Mu bujurire, SIBORUREMA Venuste n'abavoka bamuhagarariye basaba ko uru Rukiko rumugenera indishyi zingana na 570.500 Frw n'ubundi yari yasabye ku rwego rubanza, zikubiyemo 70.500 y'agaciro k'ibintu bye bitandukanye yasahuwe (imyaka, amata, telefone n'imyambaro) na 500.000 Frw y'indishyi z'akababaro, kuko Urukiko rubanza rwirengagije kumugenera indishyi zijyanye n'ibintu bye byibwe.

[656] Urukiko rw'Ubujurire rurasanga SIBORUREMA Venuste anenga Urukiko rubanza kuba rwaramugeneye mu bushishozi bwarwo 300.000 Frw y'indishyi z'akababaro, agasaba mu bujurire izingana na 500.000 Frw, nk'uko yari yabisabye ku rwego rubanza, ariko ntagaragaza icyo anenga ubushishozi bw'Urukiko rubanza bwakoreshejwe mu kuzimugenera, rukaba ntaho rwahera ruhindura izo yagenewe ku rwego rwa mbere. Rurasanga ku bindi asaba atahawe ku rwego rwa mbere, nta kimenyetso gishya abitangira kigaragaza ikirengagijwe n'Urukiko rubanza. Ku bw'ibyo, izi ndishyi nazo nta shingiro zifite. Kubera izo mpamvu, indishyi z'akababaro zingana na 300.000 Frw, SIBORUREMA Venuste yagenewe ku rwego rwa mbere ni zo zigomba kugumaho.

[657] Kuri NGENDAKUMANA David, Urukiko rurasanga, mu gika cya 593 cy'urubanza rujuririrwa, Urukiko rubanza rushingiye kuri raporo y'Umunyamabanga Nshingwabikorwa w'Umurenge wa Nyabimata, igaragaza ko NGENDAKUMANA David ari mu baturage bashimuswe n'abagizi ba nabi bakajyanwa mu ishyamba rya Nyungwe bikorejwe ibyasahuwe, rwamugeneye indishyi z'akababaro zingana n'ibihumbi magana atatu (300.000 Frw) kubera uko gushimutwa no kwikorezwa ibyiban. Ariko ruvuga ko atagomba guhabwa indishyi z'ibintu bye avuga ko bamutwaye birimo imyaka, imyambaro, telefone n'ibindi kuko atabitangiye ibimenyetso.

[658] Mu bujurire, NGENDAKUMANA David n'abavoka bamuhagarariye basaba ko Urukiko rwamugenera indishyi zingana na 528.400 Frw yari yasabye ku rwego rubanza, zikubiyemo 28.400 Frw y'agaciro k'ibintu bye bitandukanye yasahuwe (ibiribwa, telefone n'imyambaro) na 500.000 Frw y'indishyi z'akababaro kubera ko bamwikoreje ibyo bibye kugera mu ishyamba rya Nyungwe, kuko Urukiko rubanza rwirengagije kumugenera indishyi z'ibintu bye byibwe.

[659] Urukiko rw'Ubujurire rurasanga kuba NGENDAKUMANA David atarishimiye indishyi z'akababaro zingana na 300.000 Frw yagenewe n'Urukiko rubanza mu bushishozi bwarwo, agasaba izingana na 500.000 Frw yari yasabye ku rwego rwa mbere, ariko ntagaragaza icyo anenga ubushishozi

bw'Urukiko rubanza bwakoreshejwe mu kuzimugenera. Bityo, uru Rukiko rukaba rusanga ntaho rwahera ruhindura izo yagenewe ku rwego rwa mbere. Rurasanga ku bindi avuga ko atahawe n'Urukiko rubanza, nta kimenyetso gishya atanga kuri uru rwego kigaragaza ikirengagijwe n'Urukiko rubanza. Bityo, izi ndishyi nazo zikaba nta shingiro zifite. Rurasanga indishyi z'akababaro zingana na 300.000 Frw, NGENDAKUMANA David yagenewe ku rwego rwa mbere ari zo zigomba kugumaho.

[660] Kuri SHUMBUSHA Damascène, Urukiko rw'Ubujurire rurasanga, mu gika cya 589 cy'urubanza rujuririrwa, Urukiko rubanza rurebye ibigaragara muri raporo y'Umunyamabanga Nshingwabikorwa w'Umurenge wa Nyabimata ko SHUMBUSHA Damascène ari mu baturage bashimuswe n'abagizi ba nabi, babajyana mu ishyamba rya Nyungwe babikoreje ibyo basahuye, rwamugeneye indishyi z'akababaro zingana n'amafaranga ibihumbi magana atatu (300.000 Frw), kubera uko gushimutwa no kwikorezwa ibyibano, ariko rwemeza ko atagomba guhabwa indishyi z'ibintu bye avuga ko bamutwaye, birimo imyaka, imyambaro, telefone n'amafaranga kuko atabitangiye ibimenyetso.

[661] Kuri uru rwego, SHUMBUSHA Damascène n'abavoka bamuhagarariye basaba ko Urukiko rwamugenera indishyi zingana na 654.000 Frw n'ubundi yari yasabye ku rwego rubanza, zikubiyemo 600.000 Frw iz'akababaro na 50.000 Frw z'ibintu bye bitandukanye bibye birimo imyaka, imyambaro, telefoni n'amafaranga ibihumbi bine (4.000 Frw) bamwambuye, kubera ko Urukiko rwabanje rwirengagije kumugenera indishyi z'ibintu bye byibwe.

~~[662]~~ Urukiko rw'Ubujurire rurasanga kuba SHUMBUSHA Damascène atagaragaza icyo anenga ubushishozi bw'Urukiko rubanza bwakoreshejwe mu kumugenera indishyi z'akababaro zingana na 300.000 Frw ntaho rwahera rumugenera 600.000 Frw y'indishyi z'akababaro asaba ubu. Rurasanga kandi ku birebana n'indishyi z'ibye byibwe, kuba nta kimenyetso gishya atanga kigaragaza icyirengagijwe n'Urukiko rubanza mu kutazimugenera, nta shingiro zifite. Kubera izo mpamvu, SHUMBUSHA Damascène akwiye guhabwa 300.000 Frw y'indishyi z'akababaro yagenewe ku rwego rwa mbere.

~~[663]~~ Kuri RUGERINYANGE Dominique na NTABARESHYA Dative, Urukiko rw'Ubujurire rurasanga, mu gika cya 585 cy'urubanza rujuririrwa, Urukiko rubanza rwasobanuye ko kuba bataratanze ibimenyetso bigaragaza ko hari ibintu byasahuwe aho umwana wabo HABARUREMA Joseph yacururizaga n'agaciro kabyo, ntaho rwari guhera rubagenera indishyi basaba zirebana n'ibyo bintu. Rwasobanuye kandi ko kuba hari raporo y'Umunyamabanga Nshingwabikorwa w'Umurenge wa Nyabimata igaragaza ko HABARURIMA Joseph yishwe mu gitero cyo ku wa 19/06/2018, icyemezo cy'uko yapfuye cyo ku wa 06/11/2018 n'ikimenyetso kigaragaza ko RUGERINYANYE Dominique na NTABARESHYA Dative ari ababyeyi be, bakwiye guhabwa indishyi z'akababaro kubera kubura umwana wabo, rukaba rwabageneye mu bushishozi bwarwo 5.000.000 Frw kuri buri wese kuko izo basaba ari ikirenga.

[664] Mu bujurire, RUGERINYANGE Dominique na NTABARESHYA Dative n'abavoka babahagarariye basaba ko uru Rukiko rwabagenera indishyi zingana na 17.000.000 Frw, nk'uko babisabye ku rwego rubanza, zikubiyemo indishyi z'akababaro zingana na 10.000.000 Frw n'indishyi z'ibyangijwe zingana na 7.000.000 Frw, kuko Urukiko rubanza rwirengagije ko muri raporo y'Ubuyobozi rwashingiyeho rubagenera indishyi z'akababaro, hanagaragaramo ko hari za butiki zasahuwe kandi ko n'iy'umwana wabo iri mu zasahuwe.

[665] Urukiko rw'Ubujurire rurasanga indishyi z'akababaro zisabwa na RUGERINYANGE Dominique na NTABARESHYA Dative zingana n'izo n'ubundi bagenewe n'Urukiko rubanza mu rubanza rujuririrwa

kuko basaba izingana na 10.000.000 Frw kandi buri wese muri bo yaragenewe izingana na 5.000.000 Frw, hakaba nta mpamvu yatuma rwongera gusuzuma iki kibazo cy'indishyi z'akababaro.

[666] Urukiko rw'Ubujurire rurasanga kandi n'indishyi z'ibyasahuwe basaba, nta kimenyetso gishya bazitangira kuri uru rwego cyangwa se icyo bagaragaza krirengagijwe n'Urukiko rubanza. Bityo, izi ndishyi nazo zikaba nta shingiro zifite. Indishyi z'akababaro zingana na 5.000.000 Frw buri wese muri bo yagenewe ku rwego rwa mbere zikaba ari zo zigomba kugumaho.

[667] Kuri INGABIRE Marie Chantal, Urukiko rw'Ubujurire rurasanga mu gika cya 588 cy'urubanza rujuririrwa, Urukiko rubanza rwarasanze raporo y'Umunyamabanga Nshingwabikorwa w'Umurenge wa Nyabimata igaragaza ko MANIRAHO Anatole wari umugabo wa INGABIRE Marie Chantal yishwe n'igitero cyagabwe ku wa 19/06/2018. ku bw'ibyo mu bushishozi bwarwo, rumugenera indishyi z'akababaro zingana n'amafaranga miliyoni icumi (10.000.000 Frw) kubera kwicirwa umugabo, akanamusigira abana agomba kurera wenyine. Rurasanga kandi Urukiko rubanza rwasobanuye ko INGABIRE Marie Chantal atagenerwa indishyi mbonezamusaruro kuko nta kimenyetso yatanze kigaragaza ibyo umugabo we yinjizaga.

[668] Mu bujurire, INGABIRE Marie Chantal n'abavoka bamuhagarariye bavuga ko ku birebana n'indishyi mbonezamusaruro, ku rwego rwa mbere bari bagaragarije Urukiko rwabanje amafaranga yinjiraga mu muryango wa MANIRAHO Anatole, ariko ko nta kimenyetso bari batanze kigaragaza umushahara nyakwigendera yahembwaga, ko ubu INGABIRE Marie Chantal yabashije kubona ikimenyetso, kiri ku mugereka wa 111 muri *système*, kigaragaza ko umushahara mbumbe wa nyakwigendera utaravamo ibintu byose wari 207.335 Frw, ayo yafataga mu ntoki ari 130.650 Frw. Bavuga na none ko mu kumugenera indishyi z'akababaro zingana na 10.000.000 Frw gusa, Urukiko rubanza rutitaye ku mafaranga yatakaje mu gushyingura, kuko nta bimenyetso yabitangiye, kandi ko ku rwego rwa mbere batigeze bayasaba mu buryo burambuye (*en détails*), nk'uko babisobanura ubu mu bujurire,. Bagasaba ko uru Rukiko rwazazamura indishyi z'akababaro bari bagenewe n'Urukiko rubanza harimo nk'izirebana n'akababaro bagize muri iyo mihango yo gushyingura n'ibyo bahatakarije.

[669] Urukiko rw'Ubujurire rurasanga indishyi INGABIRE Marie Chantal yari yasabye ku rwego rwa mbere, kandi yifuza ko n'uru Rukiko rwongera gusuzuma, zigizwe n'indishyi z'akababaro zingana na 30.000.000 Frw, indishyi mbonezamusaruro zingana na 70.000.000 Frw n'iz'uko abana be bagizwe imfubyi zingana na 50.000.000 Frw kubera kwicirwa umugabo MANIRAHO Anatole, wari ushinzwe amasomo mu rwunge rw'amashuri rwa Nyabimata.

[670] Urukiko rw'Ubujurire rurasanga nk'uko ababuranira INGABIRE Marie Chantal babyivugira, batarigeze batandukanyije indishyi z'ibyakoreshejwe mu gushyingura n'indishyi z'akababaro baregeye. Bityo, uru Rukiko rukaba rusanga n'Urukiko rwaciye urubanza rujuririrwa, ntaho rwari guhera ruzigena mu buryo bwihariye, ko ahubwo bikwiye kumvikana ko mu kugena indishyi z'akababaro mbumbe zingana na 10.000.000 Frw, hakubiwemo n'izo zirebana n'ibyakoreshejwe mu ishyingura, rusanga kandi akababaro izo ndishyi zatangiwe atari aka INGABIRE Marie Chantal wenyine nk'umupfakazi wasizwe na nyakwigendera, ahubwo harimo n'ak'abana yasize ari imfubyi.

[671] Urukiko rw'Ubujurire rurasanga ariko ku birebana n'indishyi mbonezamusaruro zijyanye n'ibyo MANIRIHO Anatole yashoboraga kuzinjiriza umuryango iyo aba atarishwe, Urukiko rubanza rutaragennye kuko nta kimenyetso rwari rwagaragarijwe cy'ingano y'amafaranga yari asanzwe yinjiza, rukwiye gushingira ku kimenyetso gishya cy'icyemezo cy'umushahara yahembwaga cyagaragajwe, maze

rukagenera izo ndishyi INGABIRE Marie Chantal. Rurasanga icyo kimenyetso kigaragaza ko umushahara mbumbe wa nyakwigendera, utaravamo ibintu byose, wari 207.335 Frw, ayo yafataga mu ntoki akaba 130.650 Frw, mu by'ukuri kikaba kitashingirwaho mu guhamya ko uyu ari wo mushahara yari kuzahora yinjiza kugeza igihe yari kuzapfira iyo aticirwa mu gitero cya FLN, ahubwo ni ikimenyetso kigaragaza ko nyakwigendera yari umuntu ufite icyo yinjiza mu muryango cyiwutunga ndetse kigaragaza n'urwego yabarizwagamo ku buryo ibi byafasha mu kuyobora ubushishozi bw'Urukiko mu kugena indishyi zikwiye. Uru Rukiko rukaba rusanga indishyi mbonezamusaruro zikwiye ari miliyoni cumi n'eshanu n'ibihumbi magana atandatu mirongo irindwi n'umunani (15.678.000 Frw) zibariwe ku mushahara wa 130.650 Frw nyakwigendera yafataga mu ntoki buri kwezi no ku gihe kigenwe mu bushishozi bw'Urukiko cy'imyaka icumi (10), kuko indishyi mbumbe zingana na 70.000.000 Frw zasabwe zikabije kuba nyinshi kandi zikaba zitagaragarizwa aho zihuriye n'umushahara watangiwe ikimenyetso.

[672] Urukiko rw'Ubujurire rurasanga kandi nta handi rwashingira ruhindura indishyi z'akababaro zingana na 10.000.000 Frw Urukiko rubanza rwagennye mu bushishozi bwarwo, kuko INGABIRE Marie Chantal atagaragaza icyo anenga ubwo bushishozi, uretse gusa kuvuga ko nawe mu bushishozi bwe abona ari nkeya. Rurasanga rero muri rusange, INGABIRE Marie Chantal nta zindi ndishyi yagenerwa muri ubu bujurire, uretse indishyi mbonezamusaruro zingana na 15.678.000 Frw zasobanuwe haruguru, ziyongera ku zagenwe mu rubanza rujuririrwa, zose hamwe zikaba amafaranga miliyoni makumyabiri n'eshanu n'ibihumbi magana atandatu na mirongo irindwi n'umunani (25.678.000 Frw).

[673] kuri MUKASHYAKA Joséphine, we n'abavoka bamuhagarariye banenga ko Urukiko rubanza rwamugeneye 10.000.000 Frw y'indishyi z'akababaro gusa, naho ku ndishyi mbonezamusaruro ntirwagira icyo rumuha kuko nta kimenyetso yari yatanze kigaragaza umushahara nyakwigendera yahembwaga, uretse kubivuga gusa. Bavuga ko banenga kandi kuba izi ndishyi z'akababaro yahawe ari nkeya, naho ku birebana n'indishyi mbonezamusaruro bakavuga ko nyuma baje kubona ikimenyetso kigaragaza ko nyakwigendera yahembwaga 100.000 Frw ku kwezi, bakaba baragishyize ku mugereka wa 112 muri dosiye, ubu bakaba basaba uru Rukiko ko rwazaha agaciro iki kimenyetso, maze rukamuha indishyi z'akababaro n'indishyi mbonezamusaruro yari yaregeye, zose hamwe zingana na 100.000.000 Frw.

[674] Urukiko rw'Ubujurire rurasanga ku birebana n'indishyi z'akababaro zingana na 10.000.000 Frw, MUKASHYAKA Joséphine yagenewe n'Urukiko rubanza mu bushishozi bwarwo, ntaho rwahera ruzihindura kuko MUKASHYAKA Joséphine n'abamuhagarariye, nta kimenyetso batanze kigaragaza icyo baba banenga ubushishozi bw'Urukiko rubanza, uretse gusa kuba nabo mu bushishozi bwabo basanga ngo ari nkeya.

[675] Urukiko rw'Ubujurire rurasanga ku birebana n'indishyi mbonezamusaruro zijyanye n'ibyo MUNYANEZA Fidèle yashoboraga kuzinjiriza umuryango iyo aba atarishwe, Urukiko rubanza rutagennye kuko nta kimenyetso rwari rwagaragarijwe cy'ingano y'amafaranga yari asanzwe yinjiza mu muryango we, rukwiye gushingira ku kimenyetso gishya cy'icyemezo cy'umushahara yahembwaga cyagaragajwe mu bujurire, maze rukagenera izo ndishyi MUKASHYAKA Joséphine. Rurasanga icyemezo cy'umushahara kigaragaza ko umushahara nyakwigendera MUNYANEZA Fidèle yafataga mu ntoki yari amafaranga 86.222 Frw, kikaba mu by'ukuri kitashingirwaho mu guhamya ko uyu ari wo mushahara yari kuzahora yinjiza kugeza igihe yari kuzapfira iyo aticirwa mu gitero cya FLN, ahubwo ni ikimenyetso kigaragaza ko hari icyo nyakwigendera yinjiza mu muryango, cyiwutunga ndetse n'urwego yabarizwagamo ku buryo byafasha mu kuyobora ubushishozi bw'uru Rukiko mu kugena indishyi zikwiye. Mu bushishozi bw'Urukiko rukaba rusanga indishyi mbonezamusaruro zikwiye ari amafaranga miliyoni

icumi n’ibihumbi magana atatu na mirongo ine na bitandatu na magana atandatu mirongo ine (10.346.640 Frw) zibariwe ku mushahara wa 86.222 Frw nyakwigendera yafataga mu ntoki buri kwezi no mku gihe kigenwe mu bushishozi bw’Urukiko cy’imyaka icumi (10).

[676] Urukiko rw’Ubujurire rurasanga rero MUKASHYAKA Joséphine nta zindi ndishyi yagenerwa mu bujurire, uretse indishyi mbonezamusaruro zingana na 10.346.640 Frw zasobanuwe haruguru, kandi ziyongera ku zagenwe ku rwego rwa mbere, zose hamwe zikaba amafaranga miliyoni makumyabiri n’ibihumbi magana atatu na mirongo ine na bitandatu na magana atandatu na mirongo ine (20.346.640 Frw).

[677] Kuri NSENGIYUMVA Vincent, Urukiko rw’Ubujurire rurasanga mu bika bya 579-583 by’urubanza rujuririrwa, Urukiko rubanza rwarasobanuye impamvu rwamugeneye indishyi zose hamwe zingana n’amafaranga miliyoni makumyabiri n’imwe n’ibihumbi magana atanu (21.500.000 Frw), zigizwe na 15.000.000 Frw y’agaciro k’imodoka yatwitswe, aho kuba 25.000.000 Frw yasabaga, 6.000.000 Frw y’indishyi z’akababaro kubera kuraswa agakomeretswa, akanavutswa kwiyambaza imodoka ye kuko yatwitswe, aho kuba 20.000.000 Frw y’indishyi z’impozamarira na 21.600.000 Frw y’indishyi zihwanye n’ubukode bw’imodoka yiyambaje mu buzima bwa buri munsi isimbura iyatwitswe yasabaga, na 500.000 Frw y’ikurikirarubanza, aho kuba 540.000 Frw yasabaga. Rurasanga kandi muri ibyo bika by’urubanza rujuririrwa, Urukiko rubanza rwarasobanuye ko NSENGIYUMVA Vincent atagenewe indishyi zingana na 30.000.000 Frw z’ibikoresho bye byo mu nzu byatwitswe, izingana na 1.500.000 Frw yishyuye mu kwivuza n’izingana na 4.000.000 Frw yakoreshejwe mu kumutunga kwa muganga ku mpamvu y’uko atazigaragarije ibimenyetso, hashingiwe ku biteganywa n’ingingo ya 12 y’Itegeko n° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y’imanza z’imbonezamubano, iz’ubucuruzi, iz’umurimo n’iz’ubutegetsi.

[678] Urukiko rw’Ubujurire rurasanga NSENGIYUMVA Vincent n’abavoka bamuhagarariye bavuga ko ibimenyetso yashingiyeho arega, ari inyandiko zitandukanye zigaragaza ukuri kw’ibyo aregera, mu bujurire anongeraho imvugo z’abatangabuhamya bamutabaye akimara guterwa. Rurasanga izi mvugo zigaragariza uru Rukiko ko hari ibimenyetso bitashoboraga kuboneka kubera imiterere y’ibitero, ndetse n’ihungabana ku mubiri no mu mutwe byasigiye ababigabweho. Rurasanga kandi banenga Urukiko rubanza kuba rwarasesenguye ibimenyetso rugasanga bigaragaza ko yakomerekejwe n’icyo gitero, binagaragaza ko yivuje mu bitaro byitiriwe Umwami Faisal, aho yoherejwe n’ibitaro bya Kaminuza bya Butare, ariko rwemeza ko atagenerwa amafaranga asaba angana na 5.500.000 Frw avuga ko yakoresheje yivuza n’ayamutunze mu gihe yari mu bitaro kubera ko nta bimenyetso yabitangiye, hakaba nta n’ikigaragaza ko yabaye mu bitaro n’igihe yaba yarahamaze. Bakavuga ko Urukiko rubanza rukaba rwivuguruje kuko rwagaragaje ko rwahawe kandi rukanyurwa n’ibimenyetso ku gaciro k’imodoka, ariko rukamugenera indishyi mu bushishozi bwarwo aho gushingira ku bimenyetso rwahawe.

[679] Urukiko rw’Ubujurire rurasanga bavuga ko 500.000 Frw y’ikurikiranarubanza Urukiko rubanza rwamugeneye ari make ukurikije ingendo yakoreye i Nyanza iburanisha ritarimurirwa i Kigali, ndetse n’ayo yakoresheje nyuma y’uko ryimurwa, ko ku bijyanye n’indishyi z’ibyo yatanze ku ngendo kubera kuvutswa imodoka yari asanzwe yiyambaza, rwazimugeneye mu bushishozi bwarwo habayeho ukugenekereza, mu gihe NSENGIYUMVA Vincent yari yagaragaje ko akenera imodoka mu buzima bwe bwa buri munsi, kandi ko ku munsi iyo ukodesheje imodoka yo kugendamo, bifata hagati ya 15.000 Frw na 20.000 Frw, ko ari nabyo yari yagendeyeho abara ayo yari yasabye. Naho, ku birebana n’indishyi z’ibikoresho bye byo mu nzu byatwitswe, uru Rukiko rurasanga bavuga ko Urukiko mu kuvuga ko bitigeze bigaragazwa kuri raporo yatanzwe n’Ubuyobozi bw’Umurenge wa Nyabimata, rutumvise ibintu

neza, kuko ibikoresho bye byatwitswe, bitasahuwe kandi iyo raporo nayo ikaba ivuga ko hari ibikoresho byatwitswe. Rurasanga na none muri rusange, basaba ko aho Urukiko rwategetse ko NSENGIYUMVA Vincent yishyurwa indishyi zingana n'amafaranga miliyoni makumyabiri n'imwe n'ibihumbi magana atanu (21.500.000 Frw), byasubirwamo hagashingirwa ku bimenyetso byari byatanzwe n'ibindi byatangiwe mu bujurire, birimo n'abatangabuhamya, maze agahabwa indishyi zose yaregeye.

[680] Urukiko rw'Ubujurire rurasanga ku birebana n'indishyi zingana na 30.000.000 Frw zihwanye n'agaciro k'ibikoresho bye byo mu nzu byatwitswe, Urukiko rubanza rutazimugeneye kuko nta kimenyetso yabigaragarije, no muri ubu bujurire ntazo agomba kugenerwa kuko naho atabashije kubitangira ibimenyetso.

[681] Urukiko rw'Ubujurire rurasanga ku birebana n'indishyi zingana na 1.500.000 Frw NSENGIYUMVA Vincent avuga yakoresheje mu kwivuza, ariko ataherewe indishyi ku rwego rwa mbere kubera kutabitangira ibimenyetso, ibimenyetso yatanze ari ibigaragazwa na *facture* ya 2.000 Frw iri ku mugereka wa 077, *facture* ya 77.242 Frw iri ku mugereka wa 078 na *facture* ya 11.378 Frw iri ku mugereka wa 079, bikaba bigaragaza ko yakoresheje yose hamwe 90.620 Frw mu kwivuza , akaba ari nazo akwiye kugenerwa, hashingiwe ku ngingo ya 154 y'Itegeko n˚ 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru kuko izo asaba zingana na 1.500.000 Frw atazitangira ibimenyetso no mu bujurire. Rurasanga indishyi zingana na 4.000.000 Frw z'ibyamutunze kwa muganaga, NSENGIYUMVA Vincent asaba, ntaho rwahera ruzimugenera kuko no mu bujurire atigeze abasha kuzitangira ibimenyetso.

[682] Ku birebana n'indishyi z'agaciro k'imodoka yatwitswe zagenwe n'Urukiko rubanza mu bushishozi bwarwo, Urukiko rw'Ubujurire rurasanga NSENGIYUMVA Vincent atahabwa izo yaregeye ku rwego rwa mbere kuko atazishingira ku mafaranga nyayo yayiguriyeho, ndetse atanagaragaza ko indishyi abisabira zingana n'amafaranga yasabwa uyu munsi ku isoko ry'imodoka mu gihe yaba agiye kugura imodoka imeze nk'iye yatwitswe, kandi imaze igihe ikozwe kingana n'icyo iye yatwitswe yari imaze, bityo rukaba rusanga nta kimenyetso NSENGIYUMVA Vincent agaragaza cy'inenge yaba iri mu bushishozi bw'Urukiko rubanza kugira ngo rube rwabona aho rushingira ruhindura indishyi zingana na 15.000.000 Frw zagenwe mu bushishozi bw'Urukiko rubanza.

[683] Urukiko rw'Ubujurire rurasanga ku birebana n'indishyi zingana na 6.000.000 Frw zagenwe n'Urukiko rubanza rwarasobanuye ko ari indishyi z'akababaro kubera kuraswa agakomeretswa akanavutswa kwiyambaza imodoka ye kuko yatwitswe, mu gihe nyamara NSENGIYUMVA Vincent we mu kuregera indishyi yari yazitandukanyije agasaba indishyi z'impozamarira zingana na 20.000.000 Frw n'indishyi zihwanye n'ubukode bw'imodoka yiyambajwe mu buzima bwa buri munsi, isimbura iyatwitswe zingana na 21.600.000 Frw, zibariwe kuri 20.000 Frw buri munsi, uhereye ku munsi imodoka yatwikiweho (tariki 19/06/2018) kugeza ku munsi w'isomwa ry'urubanza.

[684] Urukiko rw'Ubujurire rurasanga rero Urukiko rubanza rwaribeshye mu gukomatanyiriza hamwe indishyi z'akababaro n'indishyi zo kuba NSENGIYUMVA Vincent yaravukijwe uburenganzira bwo gukoresha imodoka ye mu buzima bwa buri munsi, kuko izi ndishyi zidahuje kamere, kandi zikaba zitabarwa kimwe. Rurasanga mu gihe indishyi z'akababaro (indishyi mpozamarira) zitangwa mu buryo bw'ubushishozi kuko akenshi biba bigoye ko haboneka ibipimo bifatika zishingiraho kuko zishyura ibifitanye isano n'amarangamutima, indishyi z'ivutswamahirwe (mbangamirabukungu) zo zigira ibipimo zishingiraho n'iyo byaba bigenekereje kuko uwavukijwe uburenganzira bwo gukoresha ikinyabiziga cye, ashaka ukundi abigenza kugira ngo abeho uko bisanzwe, ibyo akaba aribyo bihabwa agaciro mu mafaranga.

[685] Urukiko rw'Ubujurire rurasanga nk'uko rwabigenje ku bandi rwageneye indishyi z'akababaro kuko bagizweho ingaruka n'ibi bitero by'iterabwoba, rubikoze mu bushishozi bwarwo, rukabagenera 300.000 Frw, NSENGIYUMVA Vincent nawe yaragombaga kugenerwa indishyi z'akababaro zihariye hanitawe cyane cyane ku mwihariko we wo kuba yarababajwe bikomeye ku mubiri, akarokoka amasasu yarashwe hagambiriwe kumuhitana. Rurasanga mu bushishozi bwarwo NSENGIYUMVA Vincent agomba kubiherwa indishyi z'akababaro zingana n'amafaranga miliyoni eshanu (5.000.000 Frw). Naho, ku bijyanye n'indishyi zo kuba yaravukijwe uburenganzira bwo gukoresha imodoka ye mu buzima bwa buri munsi, rurasanga rutakwirengagiza ko kugira ngo NSENGIYUMVA Vincent abashe gukomeza imirimo ye ya buri munsi, hari ikiguzi cy'ingendo yakoresheje, ariko kuba nta kimenyetso gishyigikira indishyi asaba, zingana na 21.600.000 Frw, zibariwe kuri 20.000 Frw ku munsi, mu bushishozi bwarwo rukaba rumugeneye 5.000 Frw ku munsi, uhereye igihe imodoka yatwikiwe ku wa 19/06/2018 kugeza ku wa 04/04/2022, ni ukuvuga iminsi 1369 x 5.000 Frw bihwanye na 6.845.000 Frw.

[686] Ku birebana n'amafaranga ibihumbi magana atanu (500.000 Frw) y'ikurikiranarubanza, Urukiko rubanza rwageneye NSENGIYUMVA Vincent akajurira avuga ko ari make hashingiwe ku gihe cyose yitabiriye iburanisha i Nyanza urubanza rukiberayo n'ayo yitabiriye kuva aho rwimuriwe i Kigali, agasaba ko izi ndishyi zakongerwa zikaba 1.000.000 Frw yari yasabye mbere, uru Rukiko rurasanga ayagenwe n'Urukiko rubanza rwarayagennye kuko nta kimenyetso kigaragaza ingano y'ukuri y'amafaranga NSENGIYUMVA Vincent yakoresheje mu gukurikirana urubanza, kandi n'ubu akaba akomeje gusaba ayo urwo Rukiko rwamwimye, atagaragaza icyo kimenyetso cyangwa se ngo agaragaze icyo anenga ubwo bushishozi bw'Urukiko rubanza. Bityo, uru Rukiko rukaba ntacyo rufite rwashingiraho ruhindura iki cyemezo cy'Urukiko rubanza.

[687] Muri rusange, indishyi NSENGIYUMVA Vincent agenewe mu rubanza rujuririrwa zikaba zidahindutse ku bijyanye n'indishyi z'agaciro k'imodoka (ni 15.000.000 Frw) n'amafaranga y'ikurikiranarubanza (ni 500.000 Frw), naho indishyi z'ibyishyuwe mu kwivuza zagaragarijwe ibimenyetso zikaba zihindutse 90.620 Frw, indishyi zo kuvutswa uburenganzira bwo gukoresha imodoka zikaba zihindutse 6.845.000 Frw, indishyi z'akababaro zo zigahinduka 5.000.000 Frw, yose hamwe akaba abaye amafaranga miliyoni makumyabiri na zirindwi n'ibihumbi magana ane na mirongo itatu na bitanu na magana atandatu na makumyabiri (27.435.620 Frw).

- **Ku birebana n'abajuririye ingano y'indishyi zifitanye isano n'ibitero byagabwe mu ishyamba rya Nyungwe, mu Murenge wa Kitabi, mu Karere ka Nyamagabe**

[688] Kuri UWAMBAJE Françoise, Urukiko rurasanga mu gika cya 616 cy'urubanza rujuririrwa, Urukiko rubanza rushingiye ku cyemezo cya muganga w'ibitaro bya kaminuza ya Butare cyo ku wa 18/12/2018 kigaragaza ko HABYARIMANA Dominique yapfuye ku wa 16/12/2018 no kuri raporo ya muganga igaragaza ko yari afite ibikomere ku mubiri yatewe no kuraswa, rwageneye umugore we UWAMBAJE Françoise indishyi z'akababaro zingana n'amafaranga miliyoni icumi (10.000.000 Frw), zigenwe mu bushishozi bw'Urukiko kubera akababaro yagize gaturutse ku iyicwa ry'umugabo we wamusigiye abana batatu; ariko rwasobanuye ko atagomba kugenerwa izindi ndishyi asaba z'imbonezamusaruro n'agaciro k'ibyo yatakaje kuko atabigaragarije ibimenyetso.

~~[689]~~ Muri uru rubanza rw'ubujurire, UWAMBAJE Françoise n'abavoka bamwunganiye bavuga ko bashingiye ku ngingo ya 154 y'Itegeko nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, hari izindi nyandiko zitandukanye z'ibimenyetso bishya bashyikirije uru Rukiko mu bujurire, harimo icyemezo kizigaragaza ko umugabo wa UWAMBAJE Françoise yari rwiyemezamirimo wakoranaga n'Akarere, cyatanzwe

n'Umurenge wa Gashonga aho nyakwigendera HABYARIMANA Dominique yajyaga akora amasoko kikaba kiri muri dosiye ku mugereka wa 104. Hari kandi amafoto yashyizwe muri dosiye ku migereka ya 106 na 107 agaragaza imiterere y'imva yashyinguwemo, ndetse na *facture* yakoresheje mu kumushyingura iri ku mugereka wa 103, ariko bakavuga ko hari n'izindi *factures* atabashije kubona z'ibindi yakoresheje mu gushyingura nk'izijyanye no kuba yaraguriye abantu amazi na *transport*. Basaba ko mu kugena indishyi ku rwego rw'ubujurire hashingirwa nibura ku minsi nyakwigendera HABYARIMANA Dominique yari asigaje yo gukora, ndetse n'ibyo UWAMBAJE Françoise yatakaje bijyanye no kumushyingura, n'amafaranga yagenze mu gukura ikiriyo. Ariko kubera ko nta bimenyetso bikomeye cyangwa se bifatika afite, bagasaba ko mu bushishozi bw'Urukiko yagenerwa izo ndishyi kuko mu by'ukuri izo *dépenses* ashingiraho asaba indishyi koko zabayeho. Naho, ku bijyanye n'indishyi z'impozamarira za miliyoni icumi (10.000.000 Frw) yagenewe ariko akaba atazemera kuko ari nkeya, basaba Urukiko ko rwakongera rukabisuzuma, rukamugenera mu bushishozi bwarwo nibura miliyoni mirongo itanu (50.000.000 Frw).

[690] Urukiko rw'Ubujurire rurasanga UWAMBAJE Françoise agaragaza ko yagaye indishyi z'akababaro zingana na 10.000.000 Frw yagenewe n'Urukiko rubanza mu bushishozi bwarwo, agasaba izingana na 50.000.000 Frw, mu gihe ku rwego rwa mbere yasabaga izingana na miliyoni ijana (100.000.000 Frw) zikomatanyirije hamwe indishyi z'akababaro, iz'imbonezamusaruro n'iz'ibyo yatakaje mu gushyingura. Rurasanga ariko kuba atagaragaza icyo anenga ku bushishozi bw'Urukiko rubanza bwakoreshejwe mu kumugenera indishyi z'akababaro, uretse kuvuga gusa ko abona ari nkeya, ntaho rwahera ruhindura indishyi z'akababaro yagenewe ku rwego rwa mbere, ari nayo mpamvu izingana na 10.000.000 Frw yagenewe n'Urukiko rubanza arizo zigomba kwemezwa ko zigumyeho.

[691] Ku birebana n'indishyi mbonezamusaruro asaba kubera ko nyakwigendera HABYARIMANA Dominique yari afite imirimo akora igira ibyo yinjiza mu muryango we, Urukiko rw'Ubujurire rurasanga uretse no kuba UWAMBAJE Françoise n'abamwuganira batagaragaza uko zingana mu ndishyi mbumbe zingana na 100.000.000 Frw baregeye, icyemezo cyo ku wa 15/02/2021 cyanditswe n'Umunyamabanga Nshingwabikorwa w'Umurenge wa Gashonga, batanze bashimangira ingano y'amafaranga basaba, cyemeza ahubwo ko "HABYARIMANA Dominique, wari rwiyemezamirimo ugemura ibikoresho by'ubwubatsi bw'ibyumba by'amashuri, yarangije imirimo ye neza, kandi yakoranye n'Umurenge wa Gashonga neza ku bwubatsi bw'amashuri kuri *site* ya EP. Buhokoro, GS Murehe, GS Gashonga Catholique kuva 2017 kugeza 2018''. Bityo, indishyi mbonezamusaruro/mbangamirabukungu UWAMBAJE Françoise asaba, akaba ntazo yagenerwa, kuko ikimenyetso azitangira kitagaragaza ingano yashingirwaho zibarwa.

[692] Ku birebana n'indishyi z'ibyakoreshejwe mu gushyingura nyakwigendera HABYARIMANA Dominique, Urukiko rw'Ubujurire rushingiye ku ngingo ya 154 y'Itegeko nº 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru yemererera umuburanyi gutanga bwa mbere ku rwego rw'ubujurire ibimenyetso bishya, rurasanga UWAMBAJE Françoise agomba kugenerwa indishyi zingana n'amafaranga ibihumbi magana abiri na mirongo itanu (250.000 Frw) yaguzwe isanduku yo gushyingura, nk'uko bigaragazwa n'ikimenyetso cy'inyemezabwishyu nº 264 n'amafaranga ibihumbi magana abiri (200.000 Frw) yishyuwe imodoka yatwaye umurambo nk'uko bigaragazwa n'ikimenyetso cy'inyemezabwishyu nº 265, naho amafoto abiri y'imva ishyinguwemo nyakwigendera agaragara nk'ibimenyetso uru Rukiko rukaba rusanga ntaho rwahera ruyashingiraho mu kugira indishyi rugena. Bityo, kuri uru rwego rw'ubujurire, indishyi Urukiko rugeneye UWAMBAJE Françoise zikaba zingana n'amafaranga ibihumbi magana ane na mirongo itanu (450.000 Frw) kuko ari zo yabashije gutangira

ibimenyetso, zikiyongera kuri 10.000.000 Frw y'indishyi z'akababaro yari yagenewe n'Urukiko mu rubanza rujuririrwa.

[693] Kuri NGIRABABYEYI Désiré, Urukiko rw'Ubujurire rurasanga mu gika cya 611 cy'urubanza rujuririrwa, Urukiko rubanza rwarasanze nta bimenyetso bigaragaza ubumuga yagize ku buryo rwamugenera amafaranga miliyoni mirongo itandatu n'esheshatu n'ibihumbi magana atandatu (66.600.000 Frw), yaregeye avuga ko atagishoboye gukora, ko nta bimenyetso bigaragaza ko ubuvuzi akeneye busaba amafaranga miliyoni mirongo itanu (50.000.000 Frw) yasabye. Urukiko rubanza rukaba rwarasanze ibimenyetso yatanze bigaragaza gusa ko yivuje igikomere ku kaguru k'ibumoso yatewe no gukomeretswa na gerenade. Bityo, kubera ububabare ibyo byamuteye no kuba yararaye agenda mu ishyamba rya Nyungwe nyuma yo gutwika imodoka yari atwaye, Urukiko rumugenera mu bushishozi bwarwo indishyi z'akababaro zihwanye n'amafaranga miliyoni ebyiri (2.000.000 Frw) n'amafaranga ibihumbi magana atanu (500.000Frw) y'ikurikiranarubanza, yose hamwe aba amafaranga miliyoni ebyiri n'ibihumbi magana atanu (2.500.000 Frw).

~~[694]~~ Ku rwego rw'ubujurire, NGIRABABYEYI Désiré n'abavoka bamwunganiye bavuga ko hashingiwe kuri raporo ya muganga wo mu Bitaro bya Kibagabaga yashyizwe muri dosiye, igaragaza ko NGIRABABYEYI Désiré agifite ubumuga buhoraho bungana na 22%, ko uru Rukiko rwamugenera indishyi mbangamirabukungu*(dommages économiques),* rugahuza ibivugwa muri iyo raporo n'umushahara wa 250.000 Frw yahembwaga ku kwezi, rukamugenera n'indishyi z'impozamarira mu bushishozi bwarwo, naho indishyi z'uburibwe yari yahawe ku rwego rwa mbere zingana na 2.000.000 Frw kuko ari nkeya, nazo rukazongera mu bushishozi bwarwo. Bagaragaza ko icyo banenga imikirize y'urubanza rujuririrwa ari ukuba indishyi NGIRABABYEYI Désiré yagenewe ari izijyanye gusa n'uburibwe, mu gihe iyo barebye itegeko rishingirwaho habarwa indishyi ku mpanuka zatewe n'imodoka, basanga iyo umuntu yakomerekeye mu mpanuka hari ibindi bice bitandukanye bagenda babarira indishyi.

[695] Urukiko rw'Ubujurire rurasanga NGIRABABYEYI Désiré ntacyo agaragaza anenga ku mafaranga y'ikurikiranarubanza angana n'ibihumbi magana atanu (500.000 Frw) yagenewe n'Urukiko rubanza, ko ahubwo agaya indishyi yagenewe mu bushishozi bwarwo zingana n'amafaranga miliyoni ebyiri (2.000.000 Frw) rwise iz'akababaro muri rusange ariko we akazita izigendanye n'uburibwe bwatewe n'igikomere yagize ku kaguru. Agasaba ko uru Rukiko narwo rwashishoza rukongera izo ndishyi, ndetse akanagenerwa indishyi mbangamirabukungu n'ubwo atagaragaza ingano y'izo asaba uretse kuvuga gusa ko Urukiko rwazigena mu bushishozi bwarwo, rushingiye ku mushahara we ku kwezi wa 250.000 Frw nawo akaba atawugaragariza ibimenyetso. Avuga kandi ko Urukiko rwashingira no ku bumuga bwa 22% buvugwa muri raporo ya muganga yatanzeho ikimenyetso gishya yagaragaje haruguru.

[696] Urukiko rw'Ubujurire rurasanga indishyi zingana na 2.000.000 Frw Urukiko rubanza rwageneye NGIRABABYEYI Désiré rwarasobanuye, mu gika cya 611 cy'urubanza rujuririrwa, ko ari iz'akababaro kubera ibikomere yatewe no kuba yararaye agenda ijoro mu ishyamba rya Nyungwe ibyo avuga rero ko ari iz'uburibwe gusa bikaba nta shingiro bifite. Naho, ku birebana n'izindi ndishyi asaba kubera ko atagikora kandi yarahembwaga 250.000 Frw ku kwezi, Urukiko rw'Ubujurire rurasanga kuba raporo ya muganga yatanzeho ikimenyetso ivuga ko ubumuga bw'ikirenge cye cy'ibumoso buri ku kigero cya 22%, ariko ko ari ubw'agateganyo kuko acyivuza, ntaho rwahera rumugenera indishyi asaba, atagaragaza aho zihuriye n'ikigero cy'ubwo bumuga bw'agateganyo, ndetse n'umushahara avuga yahembwaga atagaragariza ibimenyetso, ngo anagaragaze ko uyu munsi atashobora kugira akazi akora gahemberwa. Bityo, uru Rukiko rukaba rusanga nta handi rwashingira ruhindura indishyi z'akababaro zingana na

2.000.000 Frw na 500.000 Frw y'ikurikiranarubanza NGIRABABYEYI Désiré yagenewe n'Urukiko rubanza.

[697] Kuri RUDAHUNGA Ladislas hamwe n'abana be RUDAHUNGA Dieudonné, SHUMBUSHO David, KIRENGA Darius na UMULIZA Adéline, Urukiko rw'Ubujurire rurasanga mu gika cya 608 cy'urubanza rujuririrwa, Urukiko rubanza rwarasanze rushingiye ku bimenyetso RUDAHUNGA Ladislas yatanze, yagenerwa indishyi z'akababaro zingana n'amafaranga miliyoni eshanu (5.000.000 Frw), naho abavandimwe ba MUTESI Jacqueline buri wese akagenerwa amafaranga miliyoni ebyiri (2.000.000 Frw) zibazwe mu bushishozi bw'Urukiko kuko ayo basabye ari ikirenga. Rurasanga kandi Urukiko rubanza rwarasobanuye ko RUDAHUNGA Ladislas agomba gusubizwa amafaranga angana na miliyoni ebyiri n'ibihumbi ijana na mirongo cyenda na magana abiri (2.190.200 Frw) yakoreshejwe mu gushyingura no kugura ibyangombwa nk'uko agaragazwa n'inyemezabwishyu yatanze, akanahabwa amafaranga ibihumbi magana atanu (500.000Frw) y'ikurikiranarubanza.

[698] Mu bujurire, RUDAHUNGA Ladislas hamwe n'abana be RUDAHUNGA Dieudonné, SHUMBUSHO David, KIRENGA Darius na UMULIZA Adéline n'aba Avoka babahagarariye basaba ko uru Rukiko rwakongera rugasuzuma indishyi zavuzwe haruguru bari basabye, kuko amafaranga yazo bagenewe n'Urukiko rubanza bayanenga kuba ari makeya, maze Urukiko rukayongera kuko ayo bari basabye yari agereranyije ku buryo atari amafaranga menshi cyane.

[699] Urukiko rw'Ubujurire rurasanga RUDAHUNGA Ladislas hamwe n'abana be RUDAHUNGA Dieudonné, SHUMBUSHO David, KIRENGA Darius na UMULIZA Adéline bagaragaza ko bagaye indishyi z'akababaro bagenewe n'Urukiko rubanza mu bushishozi bwarwo, bagasaba izingana n'izo n'ubundi basabaga ku rwego rwa mbere, ariko bakaba batagaragaza icyo banenga ku bushishozi bw'Urukiko rubanza bwakoreshejwe mu kuzibagenera. Bityo, uru Rukiko rukaba rusanga ntaho rwahera ruhindura indishyi z'akababaro bagenewe ku rwego rwa mbere.

[700] Kuri MBONIGABA Richard, MUKESHIMANA Diane, NDIKUMANA Isaac, MUKANDUTIYE Alphonsine, UZAYISENGA Liliane, HABAKUBAHO Adéline, VUGABAGABO Jean-Marie Vianney, MURENGERANTWARI Donat, HAKIZIMANA Denis, RWAMIHIGO Alex, NYIRAGABIRE Valérie na SEMIGABO Déo, Urukiko rw'Ubujurire rurasanga mu gika cya 617 cy'urubanza rujuririrwa, Urukiko rubanza rushingiye kuri raporo ya muganga wo mu bitaro bya Kigeme yo ku wa 16/12/2018, igaragaza ko MUKABAHIZI Hilarie yitabye Imana bitewe no kuraswa, rwemeje ko abana be nk'uko bagaragazwa ku rutonde rw'abatishoboye rwakozwe n'Umurenge wa Giheke ku wa 21/06/2021 aribo MUKESHIMANA Diane, NDIKUMANA Isaac, MUKANDUTIYE Alphonsine, UZAYISENGA Lilliane, HABAKUBAHO Adéline, bahagarariwe na MBONIGABA Richard, bagomba kugenerwa indishyi z'akababaro kubera umubyeyi wabo wapfuye arashwe n'igitero cyagabwe mu ishyamba rya Nyungwe, buri wese akagenerwa indishyi zingana n'amafaranga miliyoni eshanu (5.000.000 Frw). Naho, abavandimwe be ari bo MBONIGABA Richard, VUGABAGABO Jean-Marie Vianney, MURENGERANTWALI Donat, HAKIZIMANA Denis, RWAMIHIGO Alex, NYIRAGABIRE Valérie, SEMIGABO Déo buri wese akagenerwa amafaranga miliyoni ebyiri (2.000.000 Frw). Rurasanga kandi Urukiko rubanza rwasobanuye ko batagomba kugenerwa indishyi z'ibyo bavuga ko bakoresheje n'indishyi z'amafaranga angana na miliyoni (1.000.000 Frw), nyakwigendera yari kuzinjiza kuko nta bimenyetso byatangiwe.

[701] Ku rwego rw'Ubujurire, MBONIGABA Richard, MUKESHIMANA Diane, NDIKUMANA Isaac, MUKANDUTIYE Alphonsine, UZAYISENGA Liliane, HABAKUBAHO Adéline,

VUGABAGABO Jean-Marie Vianney, MURENGERANTWARI Donat, HAKIZIMANA Denis, RWAMIHIGO Alex, NYIRAGABIRE Valérie na SEMIGABO Déo n'aba Avoka babahagarariye basaba ko uru Rukiko rwakongera gusuzuma mu bushishozi bwarwo, rukareba ko indishyi bari basabye bazikwiye rukazibagenera.

[702] Urukiko rw'Ubujurire rurasanga MBONIGABA Richard, MUKESHIMANA Diane, NDIKUMANA Isaac, MUKANDUTIYE Alphonsine, UZAYISENGA Liliane, HABAKUBAHO Adéline, VUGABAGABO Jean-Marie Vianney, MURENGERANTWARI Donat, HAKIZIMANA Denis, RWAMIHIGO Alex, NYIRAGABIRE Valérie na SEMIGABO Déo bagaragaza ko bagaye indishyi z'akababaro bagenewe n'Urukiko rubanza mu bushishozi bwarwo, bagasaba izingana n'izo n'ubundi basabaga ku rwego rwa mbere, ariko kuba batagaragaza icyo banenga ku bushishozi bw'Urukiko rubanza bwakoreshejwe mu kuzibagenera, rukaba rusanga ntaho rwahera ruhindura indishyi z'akababaro bagenewe ku rwego rwa mbere.

[703] Kuri NYIRANDIBWAMI Marianne, Urukiko rw'Ubujurire rurasanga mu gika cya 615 cy'urubanza rujuririrwa, Urukiko rubanza rwarasanze agomba kugenerwa indishyi z'akababaro zingana n'amafaranga miliyoni eshanu (5.000.000 Frw) zigenwe mu bushishozi bwarwo kubera ko umwana we NIYOBUHUNGIRO Jeanine yishwe mu gitero cyagabwe mu ishyamba rya Nyungwe nk'uko bigaragazwa na raporo ya muganga yo ku wa 16/12/2018, ruvuga ariko ko atagomba guhabwa indishyi z'ibyo avuga ko yatakaje kubera urwo rupfu rw'umwana we kuko atasobanuye ibyo ari byo, akaba nta n'ibimenyetso yabitangiye.

[704] Ku rwego rw'Ubujurire, NYIRANDIBWAMI Marianne n'aba Avoka bamuhagarariye basaba Urukiko ko rwakongera kuzisuzuma mu bushishozi bwarwo, kuko nta tegeko rihari rigena uburyo izo ndishyi zabarwa.

[705] Urukiko rw'Ubujurire rurasanga NYIRANDIBWAMI Marianne agaragaza ko yagaye indishyi z'akababaro yagenewe n'Urukiko rubanza mu bushishozi bwarwo, agasaba izingana n'izo n'ubundi yasabaga ku rwego rwa mbere, ariko kuba atagaragaza icyo anenga ku bushishozi bw'Urukiko rubanza bwakoreshejwe mu kuzibagenera, rukaba rusanga ntaho rwahera ruhindura indishyi z'akababaro yagenewe ku rwego rwa mbere.

[706] Kuri NYIRAYUMVE Eliane, Urukiko rw'Ubujurire rurasanga mu gika cya 610 cy'urubanza rujuririrwa, Urukiko rubanza rushingiye ku bimenyetso yatanze birimo icyemezo cyo gushyingirwa n'icyemezo cya muganga cyo ku wa 16/12/2018 kigaragaza ko umugabo we NTEZIRYAYO Samuel yishwe n'igitero cyagabwe mu ishyamba rya Nyungwe, mu bushishozi bwarwo rwamugeneye indishyi z'abakabaro zihwanye n'amafaranga miliyoni icumi (10.000.000 Frw) kubera kubura uwo bashakanye no kuba yarasigaranye abana bakiri bato, n'amafaranga y'ikurikiranarubanza angana n'ibihumbi magana atanu (500.000Frw). Rurasanga kandi Urukiko rubanza rwasobanuye ko kuba nta bimenyetso rwashyikirijwe byerekana umusaruro NTEZIRYAYO Samuel yinjizaga, adakwiye kugenerwa indishyi zingana n'amafaranga miliyoni icumi (10.000.000 Frw) z'imbonezamusaruro, kimwe n'amafaranga miliyoni ebyiri na magana atanu (2.500.000 Frw) NYIRAYUMVE Eliane avuga ko yakoresheje mu gushyingura, kuko nayo nta kimenyetso yayatangiye.

[707] Mu bujurire, NYIRAYUMVE Eliane n'abavoka bamuhagarariye bavuga ko bashingiye ku ngingo ya 154 y'Itegeko n° 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru, hari ibimenyetso bishya bashyikirije uru Rukiko bijyanye n'ibyakoreshejwe mu gushyingura umugabo we, ko nk'uko yari

yaziregeye mu Rukiko rubanza, NYIRAYUMVE Eliane asaba indishyi zingana na 23.500.000 Frw, zikubiyemo indishyi z'akababaro za 10.000.000 Frw kubera ko yasigaye ari umupfakazi, 10.000.000 Frw z'imbonezamusaruro, 2.500.000 Frw zo gushyingura na 1.000.000 Frw y'ikurikiranarubanza bagasaba Urukiko kuzongera rukazisuzuma mu bushishozi bwarwo. Ku bijyanye n'indishyi z'imbonezamusaruro, bavuga ko kuko nyakwigendera atakoraga imirimo ihemberwa ku buryo yagaragaza impapuro z'ibyo yakoraga, kandi nta tegeko rihari ryashingirwaho mu kubara izo ndishyi, ko ariyo mpamvu basaba Urukiko kuzashingira ku bushishozi bwarwo, nazo akaba yazihabwa, kuko amategeko ashingirwaho mu kuzibara ari areba abantu baguye mu mpanuka z'ibinyabiziga, aho umuntu udafite umushahara ahembwa uzwi, Urukiko rumugenera indishyi hashingiwe ku mushahara muto umuntu akorera (*SMIG)*.

[708] Urukiko rw'Ubujurire rurasanga kuba NYIRAYUMVE Eliane asaba guhabwa 10.000.000 Frw y'indishyi z'akababaro yari yasabye ku rwego rwa mbere, kandi ko arizo yaragenewe, ibyo asaba nta shingiro byahabwa. Rurasanga kandi 1.000.000 Frw y'ikurikiranarubanza asaba, atayahabwa kuko ntacyo anenga ku bushishozi bw'Urukiko rubanza rwamugeneye 500.000 Frw.

[709] Ku birebana n'indishyi mbonezamusaruro zingana na 10.000.000 Frw zisabwa kubera ko nyakwigendera NTEZIRYAYO Samuel yari afite imirimo akora igira ibyo yinjiza mu muryango we, Urukiko rw'Ubujurire rurasanga kuba atazitangira ikimenyetso, ntacyo rwashingiraho ruhindura icyemezo cy'Urukiko rubanza.

~~[710]~~ Naho, ku birebana n'indishyi z'ibyakoreshejwe mu gushyingura nyakwigendera NTEZIRYAYO Samuel, uru Rukiko rurasanga ikimenyetso cyatanzwe na NYIRAYUMVE Eliane kizishimangira kitahabwa agaciro kuko n'ubwo uwagitanze yacyise « *facture yo gushyingura* » mu by'ukuri si inyemezabwishyu y'ibyakoreshejwe mu gushyingura, kuko ari inyandiko NYIRAYUMVE Eliane ubwe yandikishije intoki ku wa 24/01/2022, agaragaza ko ayisabisha indishyi zingana na 2.777.800 Frw zikubiyemo 1.299.800 Frw yishyuwe ku bintu binyuranye byakoreshejwe mu gushyingura, 278.000 Frw y'agaciro k'ibikoresho binyuranye umugabo we yishwe afite avuye kubigura, na 1.200.000 Frw nayo yari afite amaze kuyishyurwa ku mbaho yagurishije. Rurasanga rero kuba iyi nyandiko iturutse ku muburanyi ubwe, ari ntaho itandukaniye n'imvugo ye, itafatwaho ikimenyetso ku biyivugirwamo, zi ndishyi nazo NYIRAYUMVE Eliane asaba, ntazo agomba kugenerwa kuko atabasha kuzigaragariza ibimenyetso.

[711] Kuri KAREGESA Phénias, Urukiko rw'Ubujurire rurasanga mu gika cya 609 cy'urubanza rujuririrwa, Urukiko rubanza rushingiye ku bimenyetso byatanzwe na KAREGESA Phénias, birimo raporo ya muganga wo ku bitaro bya Kigeme yo ku wa 16/12/2018 igaragaza ko umurambo w'umwana we NIWENSHUTI Isaac wasuzumwe, bikagaragara ko yishwe n'ubushye; rumugenera indishyi z'akababaro yatewe n'urwo rupfu rw'umwana we zingana n'amafaranga miliyoni eshanu (5.000.000 Frw), runamugenera amafaranga ibihumbi magana atanu (500.000 Frw) y'ikurikiranarubanza, abazwe mu bushishozi bw'Urukiko, yose hamwe akaba miliyoni eshanu n'ibihumbi magana atanu (5.500.000 Frw). Rurasanga kandi Urukiko rubanza rwarasobanuye ko KAREGESA Phénias atahabwa amafaranga avuga ko yakoresheje mu gushyingura no gukura ikiriyo kubera ko nta kimenyetso yayatangiye.

[712] Mu bujurire, KAREGESA Phénias n'aba Avoka bamuhagarariye basaba uru Rukiko ko mu bushishozi bwarwo rwongera gusuzuma ikirego cye cy'indishyi, zose hamwe zingana na 67.000.000 Frw, zikubiyemo 63.000.000 Frw y'indishyi z'akababaro, 3.000.000 Frw zo gushyingura na 1.000.000 Frw y'ikurikiranarubanza nk'uko yari yazisabye ku rwego rwa mbere, ariko bakaba batagaragaza icyo banenga ku bushishozi bw'Urukiko rubanza bwakoreshejwe mu kuzimugenera uretse kuvuga gusa ko izagenwe

mbere ari nkeya. Bityo, uru Rukiko rukaba rusanga ntaho rwahera ruhindura indishyi z'akababaro KAREGESA Phénias yagenewe ku rwego rwa mbere.

[713] Kuri HABIMANA Zerothe, Urukiko rw'Ubujurire rurasanga mu gika cya 612 cy'urubanza rujuririrwa, Urukiko rubanza rwarasanze ibimenyetso yatanze bitagaragaza ubumuga yagize butuma atabasha gukora akazi nk'uko byari bisanzwe ku buryo Urukiko rwamugenera amafaranga miliyoni mirongo itandatu n'umunani n'ibihumbi magana ane (68.400.000 Frw) abisabira, bikaba bitanagaragaza ko akeneye ubundi buvuzi busumbye ubwo yahawe ku buryo Urukiko rwamugenera amafaranga miliyoni mirongo itanu (50.000.000 Frw) asaba. Rurasanga kandi Urukiko rubanza rwaravuze ariko ko kubera ikimenyetso yatanze kigaragaza ko yivuje ibikomere yatewe no gukomeretswa na gerenade, rumugenera mu bushishozi bwarwo indishyi z'akababaro zihwanye n'amafaranga miliyoni ebyiri (2.000.000 Frw) kuko ayo asaba ari menshi, kubera gukubitwa, kwikorezwa imizigo n'abarwanyi, bakamujyana mu ishyamba rya Nyungwe ku gahato, Rurasanga na none Urukiko rwabanje rwaramugeneye amafaranga ibihumbi magana atanu (500.000 Frw) y'ikurikiranarubanza, yose hamwe akaba amafaranga miliyoni ebyiri n'ibihumbi magana atanu (2.500.000 Frw).

[714] Mu bujurire, HABIMANA Zerothe n'aba Avoka bamuhagarariye basaba uru Rukiko kongera gusuzuma indishyi zari zasabwe ku rwego rubanza, rukamugenera izindi kuko izo Urukiko rwabanje rwamugeneye ari nkeya.

[715] Urukiko rw'Ubujurire rurasanga HABIMANA Zerothe agaragaza ko yagaye indishyi z'akababaro zingana na 2.000.000 Frw na 500.000 Frw y'ikurikiranarubanza yagenewe mu bushishozi bw'Urukiko, agasaba izingana n'izo n'ubundi yasabaga ku rwego rwa mbere. Rurasanga ariko kuba atagaragaza icyo anenga ku bushishozi bw'Urukiko rubanza bwakoreshejwe mu kuzimugenera, ntaho rwahera ruhindura indishyi z'akababaro yagenewe ku rwego rwa mbere, cyane cyane ko nta bumuga buhoraho buvugwa n'ababuranira HABIMANA Zerothe, bugaragara mu raporo ya muganga, batanze nk'ikimenyetso.

~~[716]~~ Kuri NIYONTEGEREJE Azèle, Urukiko rw'Ubujurire rurasanga mu gika cya 613 cy'urubanza rujuririrwa, Urukiko rubanza rushingiye ku cyemezo cya muganga kigaragaza ko ku wa 16/12/2018 yasuzumwe n'umuganga wo ku bitaro bya Kigeme muri Nyamagabe, nyuma y'uko bisabwe n'Umugenzajyaha kuri iyo tariki ko afite igisebe ku rutugu rw'iburyo, rwasobanuye ko kuba yarakomerekejwe n'abarwanyi ba FLN mu gitero cyagabwe mu ishyamba rya Nyungwe ku wa 15/12/2018, akwiye amafaranga miliyoni ebyiri (2.000.000 Frw) y'indishyi z'akababaro, aho kuba 5.500.000 Frw, akubiyemo 5.000.000 Frw z'indishyi z'akababaro na 500.000 Frw z'ubumuga, yasabaga. Rurasanga kandi Urukiko rubanza rwasobanuye ko atagenerwa indishyi zijyanye n'ubumuga kuko raporo ya muganga itagaragazaga ko hari ubumuga yatewe no gukomeretswa n'icyo gitero.

[717] Mu bujurire, NIYONTEGEREJE Azèle n'aba Avoka bamuhagarariye bavuga ko yari yasabye indishyi zingana na 5.500.000 Frw, ariko ko hari raporo ya muganga bashyize muri *système* igaragaza ko agifite ubumuga cyane cyane bushingiye ku buranga, bakaba basaba Urukiko kongera rukabisuzuma kuko indishyi yahawe ari nkeya

[718] Urukiko rw'Ubujurire rurasanga ikimenyetso gishya cya raporo ya muganga kigaragara muri dosiye ntacyo cyahindura ku byemejwe n'Urukiko rubanza ko NIYONTEGEREJE Azèle nta ndishyi yahabwa zijyanye n'ubumuga yaba yaratewe no gukomeretswa n'igitero, kuko uretse no kuba abamuhagarariye batagaraza uko icyo kimenyetso gisobanura ingano y'indishyi za 500.000 Frw bagisabisha, iyo raporo inagaragaza ko ubumuga buhoraho bukomoka kuri uko gukomereka ari ntabwo

(0%). Uru Rukiko rurasanga rero ntaho rwahera ruhindura indishyi z'akababaro zingana na 2.000.000 Frw, Urukiko rubanza rwamugeneye.

[719] Kuri KAYITESI Alice, Urukiko rw'Ubujurire rurasanga mu gika cya 614 cy'urubanza rujuririrwa, Urukiko rubanza rwarashingiye ku bimenyetso biri muri dosiye, birimo icyemezo cya mugaga kigaragaza ko ku wa 16/12/2018, KAYITESI Alice yasuzumwe n'umuganga wo ku bitaro bya Kigeme muri Nyamagabe, kikanagaragaza ko afite igisebe ku kuguru kw'iburyo, rwemeza ko kuba yarakomerekejwe n'abarwanyi ba FLN mu gitero cyagwabwe mu ishyamba rya Nyungwe ku wa 15/12/2018, agomba kugenerwa indishyi z'akababaro zihwanye n'amafaranga miliyoni ebyiri (2.000.000 Frw). Rurasanga urwo Rukiko rwaremeje ariko ko atagenerwa indishyi zijyanye no gutakaza uburanga kuko nta kimenyetso yatanze kigaragaza ikigero cy'uburanga yatakaje n'amafaranga yo kwivuza yakoresheje kuko atayatangiye ibimenyetso, kimwe n'indishyi z'ibintu yavuze ko yatwawe n'icyo gitero kuko nabyo nta kimenyetso yabitangiye.

[720] Mu bujurire, KAYITESI Alice n'aba Avoka bamuhagarariye bavuga ko hari raporo ya muganga bashyize muri dosiye igaragaza ko uyu munsi agifite ubumuga bungana na 20%, bityo ko aho yari yasabye indishyi zingana na 50.000.000 Frw, ariko Urukiko rukamugenera 2.000.000 Frw, uru Rukiko rwakongera rukabisuzuma, akaba yagenerwa indishyi zijyanye n'ubumuga yatewe n'igitero cyo muri Nyungwe.

[721] Urukiko rw'Ubujurire rurasanga ikimenyetso gishya cya raporo ya muganga cyatanzwe kuri uru rwego, ntacyo cyahindura ku byemejwe n'Urukiko rubanza ko KAYITESI Alice nta ndishyi yahabwa zijyanye n'ubumuga yaba yaratewe no gukomeretswa n'igitero, kuko iyo raporo igaragaza igipimo cy'ubumuga bw'agateganyo bwa 20% (*temporary disability),* kitagaragaza ubumuga bwa burundu, kuko umuganga wayikoze anatanga inama yo gutegereza hakazapimwa uko ubumuga bwa burundu buzaba buhagaze nyuma yo gusoza imirimo y'ubuvuzi agomba gukorerwa. Rurasanga kandi abamuhagarariye mu rubanza, bataranasobanuye aho bahera basabisha icyo kimenyetso ingano y'indishyi babaregera, rukaba rusanga ntaho rubona rwahera ruhindura indishyi z'akababaro zingana na 2.000.000 Frw, Urukiko rubanza rwageneye KAYITESI Alice.

[722] Kuri YAMBABARIYE Védaste, Urukiko rw'Ubujurire rurasanga mu gika cya 618 cy'urubanza rujuririrwa, Urukiko rubanza rushingiye kuri raporo y'Akagari ka Ngugu yo ku wa 06/11/2020 igaragaza ko YAMBABARIYE Védaste yarasiwe mu gitero cyagabwe mu ishyamba rya Nyungwe ku wa 15/12/2018, kuva icyo gihe akaba acyivuza ibikomere, rwamugeneye mu bushishozi bwarwo indishyi z'akababaro zingana n'amafaranga miliyoni ebyiri (2.000.000 Frw) kuko izindi asaba atagaragaza icyo azishingiraho.

~~[723]~~ Ku rwego rw'ubujurire, YAMBABARIYE Védaste n'aba Avoka bamuhagarariye bavuga ko yari yasabye indishyi zingana na 20.000.000 Frw kubera ubumuga yatewe no kurasirwa mu gitero, ubu bakaba barongeye muri dosiye ikimenyetso cya raporo ya muganga. Bavuga kandi ko ibya YAMBABARIYE Védaste, Urukiko rubanza rutabisobanuye neza kuko nk'uko bigaragara mu gika cya 618 cy'urubanza rujuririrwa, urwo rukiko rwabonye kandi runashima ibimenyetso yatanze, bituma rumugenera indishyi zingana na 2.000.000 Frw, ariko mu cyemezo cyarwo mu gika cya 711, rukaba rwaramushyize mu cyiciro cy'abataragenewe indishyi. Basoza basaba uru Rukiko ko rwakosora iryo kosa kandi rugasuzuma ishingiro ry'amafaranga 20.000.000 yasabaga ku rwego rwa mbere, rukayamugenera, kuko 2.000.000 Frw yagenewe ari makeya.

~~[724]~~ Ku birebana no kuba Urukiko rubanza rwarasobanuye ko YAMBABARIYE Védaste akwiye kugenerwa indishyi zingana na 2.000.000 Frw, ariko ntibigaragare mu icyemezo nyirizina, ahubwo agashyirwa mu cyiciro cy'abataragenewe indishyi, uru Rukiko rurasanga rushingiye ku biteganywa n'ingingo ya 141 y'Itegeko nº 22/2018 ryavuzwe haruguru[77], iri ari ikosa ryo kwibeshya mu myandikire y'icyemezo rishobora gukosorwa mu bujurire. Bityo, rukaba rusanga akwiye indishyi zingana na 2.000.000 Frw yagenewe n'Urukiko rubanza.

[725] Ku birebana no kuba YAMBABARIYE Védaste n'abamuhagarariye basaba ko uru Rukiko rwashingira ku kimenyetso gishya cya raporo ya muganga, rukongera indishyi yagenewe zikaba 20.000.000 Frw yari yaregeye ku rwego rwa mbere, uru Rukiko rurasanga iki kimenyetso cyatanzwe na muganga wo mu bitaro bya Kigeme, ku wa 13/01/2022, yise *"Attestation de maladie chronique''*, ntacyo cyahindura ku byemejwe n'Urukiko rubanza ; rwemeje ko YAMBABARIYE Védaste atahabwa indishyi zose asaba nk'izikomoka ku bumuga yagize, kuko akiri kwivuza, ahubwo rumugenera indishyi z'ububabare yatewe no gukomeretswa n'igitero, kuko uretse no kuba abamuhagarariye batagaraza uko icyo kimenyetso gisobanura ingano y'indishyi za 20.000.000 Frw bagisabisha nta n'ubwo kigaragaza ubumuga buhoraho bukomoka kuri uko gukomereka, ahubwo gishimangira ibyemejwe n'Urukiko rubanza ko YAMBABARIYE Védaste agifite uburwayi, akomeje kwivuza. Rurasanga rero ntaho rwahera ruhindura indishyi z'akababaro zingana na 2.000.000 Frw Urukiko rubanza rwageneye YAMBABARIYE Védaste.

[726] Kuri NDUTIYE Yussuf, Urukiko rw'Ubujurire rurasanga mu bika bya 599-600 by'urubanza rujuririrwa, Urukiko rubanza rwarasanze atagomba kugenerwa 8.000.000 Frw yasabye y'agaciro k'imodoka ye yatwitswe ku wa 15/12/2018, hashingiwe gusa kuri *facture proforma* yakozwe ku wa 24/01/2020 nyuma y'uko itwikwa, kuko iyo *facture* itagaragaza agaciro yari ifite ayigura n'igihe yari ayimaranye. Ahubwo mu bushishozi bwarwo rukaba rwaramugeneye amafaranga angana na miliyoni enye (4.000.000 Frw).

[727] Urukiko rw'Ubujurire rurasanga kandi muri ibyo bika by'urubanza rujuririrwa, Urukiko rubanza rwarasanze ku birebana n'izindi ndishyi NDUTIYE Yussuf yasabye, kuba yaratwikiwe imodoka, agaterwa ubwoba n'igitero no kuba yaravukijwe uburenganzira bwo gukoresha imodoka ye mu buzima bwa buri munsi, yabiherwa indishyi z'akababaro zingana n'amafaranga miliyoni ebyiri n'ibihumbi magana atanu (2.500.000 Frw) zigenwe mu bushishozi bw'Urukiko, kubera ko rwasanze indishyi yabisabiye ari nyinshi, kandi akaba ataranagaragaje icyo ashingiraho asaba ko imodoka ye ibarirwa ibihumbi makumyabiri (20.000 Frw) ku munsi. Rurasanga na none Urukiko rubanza rwaramugeneye amafaranga ibihumbi magana atanu (500.000 Frw) y'ikurikiranarubanza, amafaranga yose hamwe yagenewe akaba miliyoni zirindwi (7.000.000 Frw).

[728] Mu bujurire, NDUTIYE Yussuf n'aba Avoka bamuhagarariye bavuga ko banenga kuba indishyi z'agaciro k'imodoka zingana na 4.000.000 Frw zagenwe n'Urukiko rubanza, ntacyo rugendeyeho kuko aya mafaranga nta modoka yagura, bagasaba ko yagenerwa 8.000.000 Frw yari yasabye cyangwa Urukiko rugahamagaza abahanga mu kugena agaciro k'ibinyabiziga hagendewe ku myaka biba bimaze bikora n'igihe biba byarakorewe. Bavuga ko banenga kandi kuba NDUTIYE Yussuf yaratwikiwe imodoka,

[77] Iyi ngingo iteganya ibikurikira: "Uwifuza ko urubanza rukosorwa cyangwa rusobanurwa kandi rwarajuririwe, abigaragaza mu mwanzuro, Urukiko rwajuririwe rukabisuzumira hamwe n'izindi ngingo z'ubujurire. Muri icyo gihe Urukiko rwo hasi ntiruba rugifite ububasha bwo gukosora ayo makosa".

agaterwa ubwoba n'igitero no kuba yaravukijwe uburenganzira bwo gukoresha imodoka ye mu buzima bwa buri munsi, ariko akabiherwa indishyi mbumbe z'akababaro zingana na 2.500.000 Frw zigenwe mu bushishozi bw'Urukiko. Basaba uru Rukiko ko imodoka ibarirwa amafaranga ibihumbi makumyabiri (20.000 Frw) ku munsi kubera ko ariyo modoka yakoreshaga mu mirimo ye ya buri munsi, ku buryo mu gihe cyose atakiyifite byamusabye gukodesha indi yifashisha iyisimbura. Banavuga ko amafaranga ibihumbi magana atanu (500.000 Frw) y'ikurikiranarubanza Urukiko rubanza rwamugeneye nayo ari make, hashingiwe ku gihe cyose NDUTIYE Yussuf yitabiriye iburanisha i Nyanza urubanza rukiberayo, nayo yakoresheje arwitabira kuva aho rwimuriwe i Kigali, bagasaba ko izi ndishyi zakongera zigasuzumwa akagenerwa izingana na 1.000.000 Frw yari yasabye mbere.

[729] Urukiko rw'Ubujurire rurasanga ku birebana n'indishyi z'agaciro k'imodoka ya NDUTIYE Yussuf yatwitswe, uretse ibisobanuro byatanzwe n'Urukiko rubanza ku byagaragajwe haruguru, akamaro ka *facture proforma* atari ukugaragaza agaciro imodoka yari ifite igurwa cyangwa se itwikwa, ahubwo akamaro kayo ni ukugaragaza igiciro uwajya kugura imodoka nk'iyo yayibonaho, umunsi iyo *facture proforma* ikoreweho (ikiguzi cy'imodoka y'ubwoko bumwe nayo kandi byakorewe rimwe). Uru Rukiko rurasanga na none akamaro ko kwaka indishyi z'agaciro k'icyangijwe ari ukugira ngo uzihawe abashe gusimbuza icye cyangiritse kibashe kumufasha nk'uko icyangijwe cyamufashaga (réparation intégrale), akishyurwa hakurikijwe agaciro kari ku isoko mu gihe nta bundi buryo buhari bwo kumenya agaciro kayo nyakuri.

[730] Urukiko rw'Ubujurire rurasanga rero rushingiye ku kuba NDUTIYE Yussuf yaragaragarije uru Rukiko ibimenyetso ko koko yatunze iyo modoka, birimo icy'uko yajyaga ayifatira ubwishingizi muri SONARWA, akaba kandi yaragaragaje igiciro kiri ku isoko cy'imodoka yo mu bwoko bumwe nayo kandi zakorewe rimwe. Mu baregwa ntihagire ukivuguruza ngo agaragaze ko hari aho imodoka nk'iyo NDUTIYE Yussuf yahoranye yaboneka ku giciro gito, Urukiko rubanza rwaragombaga gushingira kuri iyo *facture proforma* mu gihe nta kindi kiyivuguruza kigaragaza uko imodoka nk'iyo yayibona, aramutse agiye kuyigura uyu munsi.

[731] Urukiko rw'Ubujurire rurasanga ku birebana n'indishyi zingana na 2.500.000 Frw zagenwe n'Urukiko rubanza, rwarasobanuye ko ari indishyi z'akababaro zikomatanyirije hamwe izikomoka ku kuba NDUTIYE Yussuf yaratwikiwe imodoka, agaterwa ubwoba n'igitero no ku kuba yaravukijwe uburenganzira bwo gukoresha imodoka ye mu buzima bwa buri munsi, mu gihe nyamara NDUTIYE Yussuf we mu kuregera indishyi yari yatandukanyije indishyi z'akababaro yasabaga zingana na 2.000.000 Frw naho izirebana n'ibyo yatakaje ashaka ubundi buryo yabona indi modoka imufasha mu ngendo ze za buri munsi nyuma yo gutwikirwa imodoka, agasaba ko zibarirwa kuri 20.000 Frw buri munsi, uhereye ku munsi imodoka yatwikiweho (tariki yo ku wa 15/12/2018) kugeza ku munsi w'isomwa ry'urubanza.

[732] Urukiko rw'Ubujurire rurasanga rero Urukiko rubanza rwaribeshye mu gukomatanyiriza hamwe indishyi z'akababaro n'indishyi zo kuba yaravukijwe uburenganzira bwo gukoresha imodoka ye mu buzima bwa buri munsi, kuko izi ndishyi zidahuje kamere kandi zikaba zitabarwa kimwe. Rurasanga mu gihe indishyi z'akababaro (indishyi mpozamarira) zitangwa mu buryo bw'ubushishozi kuko akenshi biba bigoye ko haboneka ibipimo bifatika zishingiraho kuko zishyura ibifitanye isano n'amarangamutima, indishyi z'ivutswamahirwe (mbangamirabukungu) zo zigira ibipimo zishingiraho n'iyo byaba bigenekereje kuko uwavukijwe uburenganzira bwo gukoresha ikinyabiziga cye, ashaka ukundi abigenza kugira ngo abeho uko bisanzwe, ibyo akaba aribyo bihabwa agaciro mu mafaranga.

[733] Urukiko rw'Ubujurire rurasanga nk'uko rwabigenje ku bandi rwageneye indishyi z'akababaro kuko bagizweho ingaruka n'ibi bitero by'iterabwoba, rubikoze mu bushishozi bwarwo, rukabagenera 300.000 Frw, NDUTIYE Yussuf nawe yaragombaga kugenerwa indishyi z'akababaro zihwanye n'ibihumbi 300.000 Frw. Naho ku bijyanye n'indishyi zo kuba yaravukijwe uburenganzira bwo gukoresha imodoka ye mu buzima bwa buri munsi, rukaba rusanga rutakwirengagiza ko kugira ngo abashe gukomeza imirimo ye ya buri munsi, hari ikiguzi cy'ingendo yakoresheje.

[734] Muri urwo rwego, uru Rukiko rurasanga nta kimenyetso gishyigikira amafaranga ibihumbi (20.000 Frw) asaba ku munsi ku buryo rwayashingiraho. Bityo, mu bushishozi bwarwo, rukaba rumugeneye 5.000 Frw ku munsi, uhereye igihe imodoka yangirikiye ku wa 15/12/2018 kugeza ku wa 04/04/2022, ni ukuvuga iminsi 1.190x5.000Frw bihwanye na 5.950.000 Frw.

[735] Ku birebana n'amafaranga ibihumbi magana atanu (500.000Frw) y'ikurikiranarubanza Urukiko rubanza rwageneye NDUTIYE Yussuf anenga kuba ari make, hashingiwe ku gihe cyose yitabiriye iburanisha i Nyanza urubanza rukiberayo n'ayo yitabiriye kuva aho rwimuriwe i Kigali, agasaba ko izi ndishyi zakongerwa zikaba 1.000.000 Frw yari yasabye mbere, uru Rukiko rurasanga ayagenwe n'Urukiko rubanza rwarayagennye kuko nta kimenyetso kigaragaza ingano y'ukuri y'amafaranga NDUTIYE Yussuf yakoresheje mu gukurikirana urubanza, kandi n'ubu akaba akomeje gusaba ayo urwo Rukiko rwamwimye, atagaragaza ikimenyetso zashingiraho cyangwa se ngo agaragaze icyo anenga ubwo bushishozi bw'Urukiko rubanza. Bityo, uru Rukiko rukaba ntaho rwashingira ruhindura icyemezo cy'Urukiko rubanza. Muri rusange, indishyi NDUTIYE Yussuf yagenewe ku rwego rwa mbere zikaba zihindutse ku bijyanye n'indishyi z'agaciro k'imodoka (zibaye 8.000.000 Frw) n'indishyi zo kuvutswa uburenganzira bwo gukoresha imodoka zibaye 5.950.000 Frw, iz'akababaro zibaye 300.000 Frw, akongeraho 500.000 Frw y'ikurikiranarubanza yari yahawe ku rwego rubanza, yose hamwe akaba abaye 14.750.000 Frw.

[736] Kuri OMEGA Express Ltd, Urukiko rw'Ubujurire rurasanga mu bika bya 601-603 by'urubanza rujuririrwa, Urukiko rubanza rwarasanze hari imodoka zayo ebyiri (2) za Coaster zitwara abagenzi zatwikiwe mu ishyamba rya Nyungwe n'abarwanyi ba MRCD-FLN, kandi ko icyo gihombo bagize kubera icyo gitero kigomba gutangirwa indishyi zirimo iz'igaciro k'imodoka n'iz'igihombo OMEGA Express Ltd yagize bitewe no kutazikoresha n'amafaranga yatakaje kubera gukurikirana urubanza.

[737] Urukiko rw'Ubujurire rurasanga ku birebana n'agaciro k'imodoka zatwitswe, Urukiko rubanza, mu bika byavuzwe haruguru by'urubanza rujuririrwa, rwarasanze imodoka isabirwa kwishyurwa agaciro kangana na 51.809.000 Frw yari imaze imyaka itanu (5) ikora, maze mu bushishozi bwarwo rugena ko yakwishyurwa amafaranga miliyoni mirongo ine (40.000.000 Frw) naho kuba indi modoka isabirwa kwishyurwa 52.079.986 Frw yari imaze umwaka umwe ikora, mu bushishozi bwarwo rukaba rwaragennye indishyi zingana n'amafaranga miliyoni mirongo ine n'eshanu (45.000.000 Frw).

[738] Urukiko rw'Ubujurire rurasanga ku birebana n'indishyi mbonezamusaruro z'igihombo OMEGA Express Ltd yagize bitewe n'igihe imaze idakoresha imodoka zayo kuko zatwitswe, Urukiko rubanza rwarasobanuye ko OMEGA Express Ltd itarugaragarije ku buryo bwumvikana icyo ishingiraho isaba izo ndishyi mbonezamusaruro, ko gushingira ku gihe cy'imyaka makumyabiri (20) ivuga ko buri modoka yatwitswe yari kuzamara ikora no ku mafaranga zinjizaga ku munsi, bidahagije kugira ngo izo ndishyi zisabwa zigenwe. Rurasanga mu bushishozi bwarwo, Urukiko rubanza rushingiye ku kuba imodoka itwara abagenzi idashobora gukora buri munsi itaruhutse, kuba OMEGA Express Ltd nayo isaba indishyi yaragennye mu buryo bwo kugenekereza amafaranga ikorera ku munsi no ku kuba OMEGA Express Ltd

yaragenewe izindi ndishyi z'agaciro k'imodoka, ruyigenera gusa indishyi mbonezamusaruro z'amezi mirongo itatu n'atatu (33), abazwe kuva ku wa 15/12/2018 igihe imodoka yatwikiwe kugeza urubanza ruciwe, kandi zibariwe ku minsi 24 ku kwezi, ku mafaranga ibihumbi mirongo itanu (50.000 Frw) kuri buri munsi. Bityo, ku modoka zombi rugena indishyi mbonezamusaruro zingana n'amafaranga miliyoni mirongo irindwi n'icyenda n'ibihumbi magana abiri (79.200.000 Frw). Urukiko rukaba rwaragennye n'amafaranga ibihumbi magana atanu (500.000 Frw) y'ikurikiranarubanza.

[739] Ku rwego rw'Ubujurire, uburanira OMEGA Express Ltd avuga ko Urukiko rubanza ntaho rwahera ruvuga ko *bus* ikora iminsi 24 mu kwezi, kuko n'iyo umushoferi yaruhutse imodoka yo bitayibuza gukomeza gukora, ko Urukiko ntacyo rwavuze ku kuba ibyabaye byaratumye OMEGA Express Ltd itakarizwa icyizere ku bayigana, kandi ibi bikaba bikomeje kuyihombya, ko asaba Urukiko kugena indishyi mbonezamusaruro zibariwe kuri 50.000 Frw ku munsi kugeza igihe urubanza ruzasomerwa, kandi ko izo ndishyi zigomba kubarirwa ku minsi 30 y'ukwezi kuko imodoka zikora buri munsi nk'uko umutangabuhamya RURANGWA wari umushoferi yabisobanuye. Avuga kandi ko amafaranga y'ikurikiranarubanza asaba ari 1.240.000 Frw, akubiyemo 20.000 Frwna 1.220.000 Frw abazwe mu buryo bw'imbumbe *(forfait)* kuko ibyo babaga bakoresheje mu gukurikirana urubanza batabisabiraga fagitiri.

[740] Urukiko rw'Ubujurire rurasanga ku birebana n'indishyi zijyanye n'agaciro k'imodoka ebyiri zatwitswe, uburanira OMEGA Express Ltd anenga kuba izagenwe n'Urukiko rubanza, ziri munsi y'agaciro kagaragazwa n'ibimenyetso bya fagitiri zaguriweho, hashize imyaka itanu kuri imwe n'umwaka umwe ku yindi, aho yumvikanisha ko agaciro kazo kakabaye kariyongereye mu buryo bw'amafaranga, ukurikije uko imodoka nk'izo zagurwa ubu ku isoko, naho Urukiko rubanza rwo rukaba rwarafashe ibintu mu murongo w'uko imodoka igenda igabanuka agaciro uko igenda nayo imara igihe.

[741] Kuri iyi ngingo irebana n'indishyi zijyanye n'agaciro k'imodoka ebyiri zatwitswe, Urukiko rw'Ubujurire rurasanga bishoboka koko ko agaciro mu mafaranga k'imodoka kiyongera uko imyaka igenda yicuma aho kugabanuka, ariko ko ibi iyo bibaye, biba bidasanzwe kuko ibisanzwe ari uko mu gihe uburanira OMEGA Express Ltd asanga imodoka zayo zarashaje ziyongera agaciro aho kugata, ari nawe wari kugira inshingano zo gutanga ibimenyetso bibihamya, nyamara kugeza ubu atigeze atanga kuko ibyo yatanze ari inyemezabwishyu izo modoka zaguriweho mu myaka itanu kuri imwe no ku mwaka umwe ku yindi, uhereye igihe zaguriweho. Rurasanga rero Urukiko rubanza nta kundi rwari gukemura iki kibazo rutiyambaje ubushishozi bwarwo no kugenekereza agaciro k'izo modoka rugendeye ku kureba amafaranga zaguzwe, igihe zimaze ziguzwe kandi rwitaye ku buryo busanzwe bwo kuba igikoresho cyose kigenda gitakaza agaciro uko kigenda gisaza (amortissement/dépréciation). Ku bw'ibyo, rukaba rusanga ntaho rwashingira ruhindura uyu murongo wakurikijwe n'Urukiko rubanza mu kugena indishyi zirebana n'agaciro k'imodoka za OMEGA Express Ltd zatwitswe mu gitero cy'umutwe w'iterabwoba wa MRCD-FLN.

[742] Urukiko rw'Ubujurire rurasanga ku birebana n'indishyi mbonezamusaruro z'amafaranga imodoka ebyiri zatwitswe zari kwinjiza iyo zidatwikwa, kuba ibyo uburanira OMEGA Express Ltd avuga ko zigomba kubarirwa ku minsi 30 y'ukwezi, abishingiye ku buhamya bw'umushoferi wa bene izo modoka, icyari kumara impaka mu buryo bwizewe na bose ni uko aba yaragaragaje ingengabihe umunsi ku wundi w'imikoreshereze y'izo modoka zatwitswe kuva zatangira gutungwa na OMEGA Express Ltd kugira ngo bigaragazwe ko koko zikoreshwa buri munsi ubutaruhuka. Naho ubundi, uburyo bwo kugena iminsi y'akazi k'imodoka mu bushishozi bw'Urukiko ni yo nzira yonyine yashoboka mu kugena izi ndishyi, kandi ko nta gukabya cyangwa se gupfobya akazi k'izi modoka mu kugena ko zakabaye zarakoraga iminsi

24 mu kwezi mu bw'impuzandengo. Bityo indishyi mbonezamusaruro zagenwe muri ubu buryo n'Urukiko rubanza zikaba zigomba kuba ari zo zigumaho.

[743] Ku birebana n'amafaranga ibihumbi magana atanu (500.000 Frw) y'ikurikiranarubanza, Urukiko rubanza rwageneye OMEGA Express Ltd ikajurira ivuga ko ari make, igasaba ayo n'ubundi yari yaregeye ku rwego rwa mbere angana na 1.240.000 Frw, akubiyemo 20.000 Frw na 1.220.000 Frw, abazwe mu buryo bw'imbumbe *(forfait)* kuko ibyo babaga bakoresheje mu gukurikirana urubanza batabisabiraga fagitiri, uru Rukiko rurasanga nabyo nta shingiro byahabwa kuko n'uburanira OMEGA Express Ltd yivugira ubwe ko amafaranga asaba gusubizwa, adafite inyemezabwishyu yasohokeyeho. Rurasanga ariko nk'uko Urukiko rubanza rwabigenje, rushingiye ku kuba muri rusange nta rubanza rubaho rutagira icyo rutwara nyirarwo mu kurukurikirana, rukaba rwariyambaje ubushishozi bwarwo rukagena izingana na 500.000 Frw kuko nta bimenyetso bigaragaza ingano nyakuri y'izisabwa byigeze bigaragazwa, bityo rukaba rusanga nta gihinduka ku ndishyi zose OMEGA Express Ltd yagenewe n'Urukiko rubanza.

[744] Kuri ALPHA Express Company Ltd, Urukiko rurasanga mu bika bya 604-605 by'urubanza rujuririrwa, Urukiko rubanza rwasanze hari imodoka yayo ya Coaster itwara abagenzi yatwikiwe mu ishyamba rya Nyungwe mu gitero cyo ku wa 15/12/2018, kandi ko kubera iyo mpamvu igomba kugenerwa indishyi kubera igihombo yagize kijyanye no kubura imodoka yayo n'amafaranga yari kuzakorera iyo idatwikwa, ikanagenerwa amafaranga yatakaje kubera gushorwa mu manza. Rurasanga Urukiko rubanza rushingiye ku kuba iyo modoka yari imaze imyaka ine (4) ikora, ALPHA Express Company Ltd itaragenewe agaciro yaguzwe nk'uko ALPHA Express Company Ltd yabisabye, ahubwo mu bushishozi bw'Urukiko rugena amafaranga miliyoni mirongo ine (40.000.000 Frw).

[745] Urukiko rw'Ubujurire rurasanga ku birebana n'indishyi mbonezamusaruro, Urukiko rubanza rushingiye ku kuba imodoka itwara abagenzi idashobora gukora buri munsi itaruhutse no ku kuba ALPHA Express Company Ltd yaragenewe izindi ndishyi z'agaciro k'imodoka, rwarayigeneye gusa indishyi mbonezamusaruro z'amezi mirongo itatu n'atatu (33), zingana na 39.600.000 Frw, abazwe kuva ku wa 15/12/2018, igihe imodoka yatwikiwe kugeza urubanza ruciwe, kandi zibariwe ku minsi 24 ku kwezi, ku mafaranga ibihumbi mirongo itanu (50.000 Frw) kuri buri munsi. Rurasanga kandi Urukiko rubanza rwarayigeneye amafaranga ibihumbi magana atanu (500.000 Frw) y'ikurikiranarubanza.

[746] Ku rwego rw'Ubujurire, uhagarariye ALPHA Express Company Ltd anenga uburyo Urukiko rubanza rwagennye agaciro k'imodoka n'uko rwabaze indishyi mbonezamusaruro, bavuga ko imodoka nk'iyi ya Coaster, agaciro kayo katagenda kagabanuka kubera igihe imaze ikora, ko ahubwo kiyongera binatewe n'itagaciro ry'ifaranga (inflation), ibi Urukiko rubanza nirwabyitabyitayeho mu kugena indishyi z'agaciro k'iyi modoka, rugendera ku gihe yari imaze ikora, aho gushingira ku gaciro k'imodoka nk'iyi ku washaka kuyigura uyu munsi. Avuga ko indishyi mbonezamusaruro zigomba kubarirwa ku minsi 30 y'ukwezi kuko imodoka zikora buri munsi. Avuga kandi ko ALPHA Express Company Ltd isaba 1.000.000 Frw y'ikurikiranarubanza kuko kuva urubanza rutangiye i Nyanza kugeza ubu, nta kuntu yari kuba yaratakaje 500.000 Frw gusa, Urukiko rwayigeneye.

[747] Urukiko rw'Ubujurire rurasanga ku birebana n'indishyi zijyanye n'agaciro k'imodoka yatwitswe, icyo uburanira ALPHA Express Company Ltd anenga ku zagenwe n'Urukiko rubanza, ari ukuba ziri munsi y'agaciro kagaragazwa n'ibimenyetso bya fagitiri yaguriwehomu myaka ine (4) yari ishize, aho yumvikanisha ko agaciro kayo kakabaye kariyongereye mu buryo bw'amafaranga ukurikije uko imodoka nk'iyo yagurwa ubu ku isoko, naho Urukiko rubanza rwo rukaba rwarafashe ibintu mu murongo w'uko imodoka igenda igabanuka agaciro uko igenda nayo imara igihe. Rurasanga nk'uko bimaze gusobanurwa

haruguru ku birebana n'imodoka za OMEGA Express Ltd nazo zatwitswe, bishoboka koko ko agaciro mu mafaranga k'imodoka kiyongera uko imyaka igenda yicuma, aho kugabanuka, ariko ko ibi iyo bibaye, biba bidasanzwe kuko ibisanzwe ari uko buri kintu uko gisaza ari nako kigenda kigabanya agaciro kacyo. Rurasanga ariko mu gihe uburanira ALPHA Express Company Ltd asanga imodoka yayo yarashaje yiyongera agaciro aho kugata, ari nawe wari kugira inshingano zo gutanga ibimenyetso bibihamya, nyamara kugeza ubu atigeze atanga kuko ibyo yatanze ari inyemezabwishyu iyo modoka yaguriweho mu myaka ine (4) ishize. Rurasanga rero Urukiko rubanza nta kundi rwari gukemura iki kibazo rutiyambaje ubushishozi bwarwo no kugenekereza agaciro k'iyo modoka, rugendeye ku kureba amafaranga yaguzwe, igihe imaze iguzwe, kandi rwitaye ku buryo busanzwe bwo kuba igikoresho cyose kigenda gitakaza agaciro uko kigenda gisaza *(amortissement/dépréciation).* Bityo, uru Rukiko rukaba rusanga ntaho rwashingira ruhindura uyu murongo wakurikijwe n'Urukiko rubanza mu kugena indishyi zirebana n'agaciro k'imodoka ya ALPHA Express Company Ltd yatwitswe mu gitero cy'umutwe w'iterabwoba wa MRCD-FLN.

[748] Urukiko rw'Ubujurire rurasanga ku birebana n'indishyi mbonezamusaruro z'amafaranga imodoka yatwitswe yari kwinjiza iyo idatwikwa, icyo uburanira ALPHA Express Company Ltd anenga ku cyemezo cy'Urukiko rubanza, ni ukuba amafaranga yakabaye yarinjije guhera igihe yatwikiwe kugeza igihe urubanza rwasomeweho yabariwe ku minsi 24 y'ukwezi, aho kubariwa ku minzi 30 yose y'ukwezi. Ibyo, uburanira ALPHA Express Company Ltd akabishingira ku buhamya bw'umushoferi wa bene izo modoka. Naho ibyo Urukiko rubanza rwo rwemeje, rukaba rwarabishingiye ku kuba, mu buryo busanzwe imodoka yose iba igomba kugira igihe isiba gukora kugira ngo nayo ibashe kwitabwaho. Icyari kumara impaka mu buryo bwizewe na bose, ni uko uburanira ALPHA Express Company Ltd aba yaragaragaje ingengabihe umunsi ku wundi y'imikoreshereze y'iyo modoka yatwitswe, kuva yatangira gutungwa na ALPHA Express Company Ltd, kugira ngo bigaragazwe ko koko ikoreshwa buri munsi ubutaruhuka. Rurasanga rero ubundi uburyo bwo kugena iminsi y'akazi k'imodoka mu bushishozi bw'Urukiko, ari yo nzira yonyine yashoboka mu kugena izi ndishyi kandi ko nta gukabya cyangwa se gupfobya akazi k'iyi modoka mu kugena ko yakabaye yarakoraga iminsi 24 mu kwezi mu buryo bw'impuzandengo. Bityo, indishyi mbonezamusaruro zagenwe muri ubu buryo n'Urukiko rubanza zikaba zigomba kuba ari zo zigumaho.

[749] Ku birebana n'amafaranga ibihumbi magana atanu (500.000Frw) y'ikurikiranarubanza Urukiko rubanza rwageneye ALPHA Express Company Ltd, ikavuga ko ari make, hashingiwe ku gihe cyose yitabiriye iburanisha i Nyanza urubanza rukiberayo, na nyuma aho rwimuriwe i Kigali, Urukiko rw'Ubujurire rurasanga ayagenwe n'Urukiko rubanza rwarayagennye kuko nta kimenyetso kigaragaza ingano y'ukuri y'amafaranga ALPHA Express Company Ltd yakoresheje mu gukurikirana urubanza, kandi n'ubu ikaba ikomeje gusaba ayo urwo Rukiko rwayimye itagaragaza icyo kimenyetso cyangwa se ngo igaragaze icyo inenga ubwo bushishozi bw'Urukiko rubanza. Bityo, rukaba rusanga ntaho rwashingira ruyigenera 1.000.000 Frw isaba. Muri rusange indishyi zose ALPHA Express Company Ltd yagenewe mu rubanza rujuririrwa zikaba ntacyo zigomba guhindukaho muri ubu bujurire.

- **Ku birebana n'abajuririye ingano y'indishyi zifitanye isano n'ibitero byagabwe mu Murenge wa Kamembe n'uwa Nyakarenzo mu Karere ka Rusizi**

[750] Kuri NKURUNZIZA Jean Népomuscène**,** mu gika cya 620 cy'urubanza rujuririrwa, Urukiko rubanza rushingiye kuri raporo ya muganga yo ku wa 07/10/2020, igaragaza ko afite ubumuga buhoraho bungana na 6% n'ubusembwa bwo ku kigero cya 2/6 no kuri raporo y'Umurenge wa Kamembe yo ku wa 22/10/2020, igaragaza ko ari mu bakomerekejwe na gerenade, rwemeje ko agomba kugenerwa 3.000.000

Frw y'indishyi kubera akababaro yagize ko gukomeretswa, agasigarana ubumuga n'ubusembwa, zigenwe ku bushishozi bw'Urukiko.

[751] Ku rwego rw'Ubujurire, NKURUNZIZA Jean Népomuscène n'aba Avoka bamuhagarariye bavuga ko yajuririye izo ndishyi kuko ari nkeya, bagasaba uru Rukiko ko rwakongera rukazisuzuma, maze rukazongera.

[752] Urukiko rw'Ubujurire rurasanga indishyi NKURUNZIZA Jean Népomuscène asaba ko rwongera mu bujurire rukazigena mu bushishozi bwarwo, mu gihe n'izo atishimiye zari zaragenwe mu bushishozi bw'Urukiko rubanza, ntaho rwashingira rusimbuza ubushishozi bwarwo ubw'Urukiko rubanza mu gihe nta na kimwe NKURUNZIZA Jean Népomuscène n'aba Avoka bamuhagarariye bavuga ko banenga ubwo bushishozi bwa mbere, ngo banagitangire ibimenyetso. Bityo, rukaba rusanga indishyi zose NKURUNZIZA Jean Népomuscène yagenewe n'Urukiko rubanza, zikaba ntacyo zigomba guhindukaho.

[753] Kuri RUTAYISIRE Félix, Urukiko rw'Ubujurire rurasanga mu gika cya 622 cy'urubanza rujuririrwa, Urukiko rubanza rushingiye kuri raporo ya muganga yo ku wa 06/10/2020, igaragaza ko yagize ubumuga buhoraho bungana na 24% n'ubusembwa bwo ku kigero cya 2/6 no kuri raporo y'Umurenge wa Kamembe yo ku wa 22/10/2020, rwemeje ko agomba kugenerwa indishyi kubera akababaro yagize n'ubwo bumuga yatewe no gukomeretswa na gerenade zigana n'amafaranga miliyoni enye (4.000.000 Frw), zigenwe mu bushishozi bw'Urukiko, ariko akaba atagomba kugenerwa indishyi z'ubusembwa kuko nta kimenyetso yabutangiye.

[754] Mu bujurire, RUTAYISIRE Félix n'aba Avoka bamuhagarariye bavuga ko izi ndishyi ari nkeya, bakaba basaba uru Rukiko ko rwakongera rukazisuzuma, maze rukamuha indishyi yari yasabye zingana na 5.000.000 Frw.

[755] Urukiko rw'Ubujurire rurasanga indishyi RUTAYISIRE Félix asaba ko rwongera mu bujurire rukazigena mu bushishozi bwarwo, mu gihe n'izo atishimiye akazijurira zari zaragenwe mu bushishozi bw'Urukiko rubanza, ntaho rwashingira rusimbuza ubushishozi bwarwo ubw'Urukiko rubanza mu gihe nta na kimwe RUTAYISIRE Félix n'aba Avoka bamuhagarariye bavuga ko banenga ubwo bushishozi bwa mbere, ngo banagitangire ibimenyetso. Bityo rukaba rusanga indishyi zose RUTAYISIRE Félix yagenewe n'Urukiko rubanza ntacyo zigomba guhindukaho.

[756] Kuri NSABIMANA Joseph, Urukiko rw'Ubujurire rurasanga mu gika cya 621 cy'urubanza rujuririrwa, Urukiko rubanza rushingiye kuri raporo ya muganga yo ku wa 06/10/2020, igaragaza ko yagize ubumuga buhoraho bungana na 8% no kuri raporo y'Umurenge wa Kamembe yo ku wa 22/10/2020, mu bushishozi bwarwo, rwaramugeneye indishyi zingana n'amafaranga miliyoni eshatu (3.000.000 Frw) kubera akababaro yagize n'ubwo bumuga yatewe no gukomeretswa na gerenade.

[757] Ku rwego rw'Ubujurire, NSABIMANA Joseph n'aba Avoka bamuhagarariye bavuga ko izi ndishyi ari nkeya, bakaba basaba uru Rukiko ko rwakongera gusuzuma indishyi yari yasabye mbere zigizwe n'indishyi z'akababaro zingana na 9.000.000 Frw n'indishyi zingana na 6.000.000 Frw kubera ubumuga yagize bungana na 8% n'ubundi yari yasabye ku rwego rwa mbere.

[758] Urukiko rw'Ubujurire rurasanga indishyi NSABIMANA Joseph asaba ko rwongera mu bujurire rukazigena mu bushishozi bwarwo mu gihe n'izo atishimiye akazijurira zari zaragenwe mu bushishozi bw'Urukiko rubanza, ntaho rwashingira rusimbuza ubushishozi bwarwo ubw'Urukiko rubanza, mu gihe nta na kimwe NSABIMANA Joseph n'aba Avoka bamuhagarariye bavuga ko banenga ubwo bushishozi

bwa mbere ngo banagitangire ibimenyetso. Bityo, rukaba rusanga indishyi zose NSABIMANA Joseph yagenewe n'Urukiko rubanza ntacyo zigomba guhindukaho.

[759] Kuri NZEYIMANA Paulin, Urukiko rw'Ubujurire rurasanga mu gika cya 624 cy'urubanza rujuririrwa, Urukiko rubanza rushingiye ku raporo ya muganga yo ku wa 19/10/2019, igaragaza ko NZEYIMANA Paulin yakomerekejwe na gerenade n'uko yoherejwe ku muganga w'inzobere mu kubaga kugira ngo bamukurikirane, rwamugeneye indishyi z'akababaro zigenwe mu bushishozi bw'Urukiko kuko izo asaba ari ikirenga, zingana na miliyoni ebyiri (2.000.000 Frw), ariko rusobanura ko atagomba guhabwa amafaranga y'agaciro k'ibirahure by'imodoka ye avuga ko byamenetse n'ayo yishyuye uwabisubijemo kubera ko nta bimenyetso yabitangiye.

[760] Mu bujurire, NZEYIMANA Paulin n'aba Avoka bamuhagarariye bavuga ko indishyi yagenewe ari nkeya, bagasaba uru Rukiko ko rushingiye kuri raporo ya muganga yari yatanze n'ubwo igaragaza gusa ko yakomeretse, rwakongera rukabisuzuma, rukamugenera indishyi yari yasabye mbere zingana na 5.000.000 Frw.

[761] Urukiko rw'Ubujurire rurasanga indishyi NZEYIMANA Paulin asaba ko rwongera mu bujurire rukazigena mu bushishozi bwarwo, mu gihe n'izo atishimiye akazijurira zari zaragenwe mu bushishozi bw'Urukiko rubanza, ntaho rwashingira rusimbuza ubushishozi bwarwo ubw'Urukiko rubanza, mu gihe nta na kimwe NZEYIMANA Paulin n'aba Avoka bamuhagarariye bavuga ko banenga ubwo bushishozi bwa mbere ngo banagitangire ibimenyetso. Bityo, rukaba rusanga indishyi zose NZEYIMANA Paulin yagenewe n'Urukiko rubanza, ntacyo zigomba guhindukaho.

[762] Kuri MAHORO Jean Damascène, Urukiko rw'Ubujurire rurasanga mu gika cya 623 cy'urubanza rujuririrwa, Urukiko rubanza rushingiye kuri raporo y'Akagari ka Karangiro, mu Murenge wa Nyakarenzo yo ku wa 21/10/2020, igaragaza ko mu ijoro ryo ku wa 08/07/2019, imodoka ye y'ikamyoneti Dyna yatwitswe n'igitero cyagabwe ku ruganda rw'ifu mu Karangiro aho yari ihagaze, rwemeje ko agomba kugenerwa indishyi kubera ko bigaragara ko yari atunze iyo modoka ariko kuba ataragaragaje ikimenyetso cy'agaciro kayo akagenerwa indishyi mu bushishozi bw'Urukiko zihwanye n'amafaranga miliyoni eshanu (5.000.000 Frw), akanagenerwa indishyi z'akababaro yatewe n'uko yatwikiwe imodoka zingana n'ibihumbi magana atanu (500.000 Frw), ariko akaba atagenerwa indishyi z'igihombo kubera ko atagaragaje aho agishingira.

[763] Urukiko rw'Ubujurire rurasanga MAHORO Jean Damascène n'aba Avoka bamwunganira bavuga ko Urukiko rubanza rwamugeneye indishyi zose hamwe zingana na 5.500.000 Frw, ariko ko babona zidakwiriye kubera ko imodoka ubwayo yari yayiguze 11.000.000 Frw, ikaba yarajyaga ikora akazi ko gutwara ifu yerekeza mu gihugu cya Congo, igakora inshuro 2 ku munsi, ikorera 60.000 Frw kuko inshuro imwe yishyurwaga 30.000 Frw, ndetse ko amafaranga yari yarayiguze yayagujije muri banki, ko ibyo byose byamuteje ubukene n'uyu mwanya adashobora kwivanamo. Basaba uru Rukiko ko rwarebana ubushishozi izo ndishyi, rukamugenera izo yari yasabye zingana na 11.000.000 Frw z'agaciro k'imodoka ye, 29.000.000 Frw z'umusaruro yakabaye yinjiza kuko yari imodoka y'ubucuruzi, akaba yari yayizanye kuri urwo ruganda kugira ngo izajye ijyana ifu muri Congo n'ahandi hatandukanye, ndetse n'indishyi z'akababaro zingana na 10.000.000 Frw. Rurasanga banavuga kandi ko kuba batarabashije kugaragaza ibimenyetso by'uko imodoka yakoraga kandi yinjizaga n'amafaranga byatewe n'uko ibyangombwa byayo byose byahiriye muri iyo modoka.

[764] Urukiko rw'Ubujurire rurasanga uregwa MATAKAMBA Jean Berchmas wemera kuba yaragize uruhare mu bitero byabereye muri Rusizi, harimo n'ibyabereye mu Karangiro, mu Murenge wa Nyakarenzo aho MAHORO Jean Damascène avuga ko imodoka ye yatwikiwe, yiregura ku bivugwa na MAHORO Jean Damascène, yemeza ko amuzi neza kuko baturanye, akaba azi neza n'imodoka ye avuga ko yatwitswe kuko avuga ko azi n'aho yayiguze, igihe yayiguriye, ndetse n'amafaranga yayiguze, ariko ko mu gitero yemera ko cyagabwe ku ruganda mu Karangiro, iyo modoka ya MAHORO Jean Damascène itatwitswe ngo ikongoke ku buryo yahagarara burundu kongera gusubira mu muhanda no gukora. Rurasanga avuga ko ahubwo ngo yatwitswe ku gice cy'imbere (cabine), ikaba ubu iri mu muhanda ikomeje gukora nyuma y'uko isanwe. Rurasanga kandi avuga ko MAHORO Jean Damascène atakabaye asaba indishyi zihwanye n'agaciro kayo kandi ikiriho inakora, kandi akanenga kuba we ataratanze ibimenyetso by'amafoto agaragaza ko imodoka ye yatwitswe nk'uko n'abandi baregeye indishyi muri uru rubanza kuko batwikiwe imodoka babitangiye ibimenyetso by'amafoto.

[765] Urukiko rw'Ubujurire rurasanga kuri iyi myiregurire ya MATAKAMBA Jean Berchmas, MAHORO Jean Damascène n'aba Avoka bamwunganira nta kindi bagaragaje kimunyomoza, uretse gusa kongera kuvuga ko imodoka yatwitse, bakavuga ko ibyo avuga ari ugushinyagurira ba nyir'imitungo kuko bamwe mubo bafatanyije kuyangiza, barimo BYUKUSENGE Jean-Claude bo babyemera.

[766] Urukiko rw'Ubujurire rurasanga ikibazo ku bijyanye n'indishyi zishyuzwa kubera itwikwa ry'imodoka ya MAHORO Jean Damascène atari icyo kumenya niba yaratwitswe cyangwa se itaratwitswe, ahubwo ikibazo kikaba ari ukumenya ikigero yatwitsweho (niba yaratwitswe yose ku buryo itasanwa cyangwa se niba yaratwitswe igice ku buryo yasanwa, igakomeza gukora) kugira ngo uru Rukiko rubashe kumenya ikigero rugeneraho indishyi zikomoka kuri iryo twikwa.

[767] Urukiko rw'Ubujurire rurasanga mu gihe MAHORO Jean Damascène avuga ko imodoka ye asabira indishyi yatwitswe yose ikaba itabasha kongera gusubira mu muhanda, naho MATAKAMBA Jean Berchmas uri mu baregwa izo ndishyi akavuga ko imodoka itatwitswe kuri urwo rwego, ko yatwitsweho igice igasanwa igasubira mu kazi, hagomba gukurikizwa ibyo Itegeko n° 15/2004 ryo ku wa 12/6/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo , aho ingingo ya 12 y'Itegeko nº 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru[78] iteganya ibihura n'ihame rusange mu mategeko rivuga ko urega ari we ufite inshingano zo kubanza kugaragaza ibimenyetso by'ibyo avuga, noneho mu kwiregura uregwa akagira inshingano zo gutanga ibimenyetso binyomoza ibyabanje kugaragazwa n'urega, ihame rikunze kuvugwa mu magambo akurikira y'ururimi w'ikilatini: "*Actori incumbit probatio, reus in excipiendo fit actor*".

[768] Hashingiwe ku bimaze kuvugwa aha hejuru, Urukiko rw'Ubujurire rurasanga kuba haba ku rwego rubanza ndetse no kuri uru rwego rw'ubujurire MAHORO Jean Damascène nta kimenyetso yigeze abasha gutanga mu Rukiko kigaragaza ko imodoka ye asabira indishyi zingana n'agaciro kayo kose, yaba koko yaratwitswe ku buryo itongeye kubasha gukora ngo isubire mu muhanda, indishyi zibariwe ku gaciro kayo zingana n'amafaranga miliyoni eshanu (5.000.000 Frw) yagenewe n'Urukiko rubanza zikaba nta shingiro zifite zigomba kuvanwaho. Rurasanga bitakiri na ngombwa gusuzuma ishingiro ry'indishyi mbonezamusaruro zijyanye n'ibyo iyo modoka yari kuba yarinjirije nyirayo iyo itaza gutwikwa kuko nyine, nta kigaragaza ko iryo twikwa ryayibuza kongera gukoreshwa ryabayeho.

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[78] Iyi ngingo iragira iti: "Urega agomba kugaragaza ibimenyetso by'ibyo aregera. Iyo abibuze, uwarezwe aratsinda. Naho uvuga ko atagitegetswe gukora icyo yategekwaga gukora cyagaragajwe n'ibimenyetso agomba kugaragaza impamvu zakimukuyeho. Iyo abiburiye ibimenyetso, uwo baburana aramutsinda"

[769] Urukiko rw'Ubujurire rurasanga ariko indishyi z'akababaro zingana n'amafaranga ibihumbi magana atanu (500.000 Frw) MAHORO Jean Damascène yagenewe n'Urukiko rubanza kubera gutwikirwa imodoka zigomba kugumaho, kuko ababuranyi bombi bahuriza ku kwemeza ko hari itwikwa ry'iyo modoka ryabayeho, gusa bagatandukanira ku kigero bavuga ko yatwitsweho.

[770] Urukiko rw'Ubujurire rurasanga rero indishyi MAHORO Jean Damascène yagenewe n'Urukiko rubanza zihinduka gusa ku kuba zigomba kuvanwamo izingana na 5.000.000 Frw yari yagenewe nk'agaciro k'imodoka ye yose yatwitswe yose hamwe akaba abaye amafaranga ibihumbi magana atanu (500.000 Frw).

b) Ku birebana n'abaregera indishyi bajuririye ko nta ndishyi bagenewe na gato

[771] Ku birebana n'impamvu y'ubujurire ishingiye ku kuba abaregeye indishyi bataragenewe indishyi na gato kandi bari barazigaragarije ibimenyetso, bakaba bifuza ko izo bari baregeye ku rwego rwa mbere zongera gusuzumwa ku rwego rw'ubujurire, Urukiko rw'Ubujurire rurasuzuma niba hari ibimenyetso byari byatanzwe ku buryo bazihabwa kuri uru rwego rw'ubujurire. N'ubwo abaregera indishyi bavuga ko mu Rukiko rubanza bari batanze ibimenyetso bihagije by'indishyi baregeye kandi bakaba banazitangiye ibindi bimenyetso muri uru Rukiko rujuririrwa bashingiye ku ngingo ya 154, igika cya 3, y'Itegeko nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi[79], basanga nta kundi uru Rukiko rwabagenera indishyi, uretse kubikora mu bushishozi bwarwo.

[772] Mu gusuzuma ikibazo kimaze kuvugwa haruguru cy'uko hari ibimenyetso byari byagaragarijwe Urukiko rubanza, uru Rukiko rugomba kuzirikana ko, nk'uko bigaragara mu gika cya 594 (abatarahawe indishyi na nkeya kubera ibitero byo mu Murenge wa Nyabimata), igika cya 595- 596 (abatarahawe indishyi na nkeya kubera ibitero byo mu Murenge wa Ruheru), igika cya 597- 598 (abatarahawe indishyi na nkeya kubera ibitero byo mu Murenge wa Kivu) igika cya 619 (abatarahawe indishyi na nkeya kubera ibitero byo mu Murenge wa Kitabi-Nyungwe) n'igika cya 625 (utarahawe indishyi na nkeya kubera ibitero byo mu Murenge wa Nyakarenzo) by'urubanza rujuririrwa, Urukiko rubanza rwari rwashingiye ku kuba nta bimenyetso abaregera indishyi batanze bigaragaza ko, bakubiswe, hari imitungo yabo yasahuwe, bashimuswe bikabaviramo igihe kinini cyo kudakora, hari n'abantu babo bashimuswe bataragaruka kugeza na n'ubu. Bikaba bikwiye kumvikana ko mu gihe ibyo bimenyetso byaba byari bihari koko ku rwego rwa mbere, kandi bifite ishingiro ariko Urukiko rubanza ntirugene indishyi ziregerwa cyangwa se niba bitari bihari kuri urwo rwego ariko noneho ubu bikaba byarabonetse kuri uru rwego rw'ubujurire, izo ndishyi zigomba gutangwa. Ariko na none mu gihe ibimenyetso byaba bikomeje kutaboneka izo ndishyi zikaba zitagomba gutangwa hashingiwe ku biteganywa n'ingingo ya 12 y'Itegeko nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi ivuga ko urega agomba kugaragaza ibimenyetso by'ibyo aregera n'ingingo ya 3 y'Itegeko n° 15/2004 ryo ku wa 12/6/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo ivuga ko buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana, yabibura agatsindwa.

[79] Ingingo ya 154, igika cya 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 ibikurikira : « Ntibibujijwe ariko mu rwego rw'ubujurire gutanga ibisobanuro bishya cyangwa ibimenyetso bishya bigamije kumvikanisha kurushaho ibyari byaraburanishijwe mu rwego rwa mbere".

- **Ku birebana n'abajuririye kutagira indishyi na nkeya bagenewe zifitanye isano n'ibitero byagabwe mu Murenge wa Nyabimata**

[773] Kuri HABIMANA Viateur, NGIRUWONSANGA Venuste, BENINKA Marcelline, NYIRAMINANI Mélanie, NYIRAHORA Godelive, RUHIGISHA Emmanuel, MUNYENTWARI Cassien, BANGAYANDUSHA Jean-Marie Vianney, NSABIMANA Straton, SEBAGEMA Simon, BARAYANDEMA Viateur, NYIRAGEMA Joséphine, NSAGUYE Jean, NYIRAZIBERA Dative, NDIKUMANA Viateur, NDIKUMANA Callixte, NYIRASHYIRAKERA Théophila, KANGABE Christine, NANGWAHAFI Callixte, NYIRAHABIMANA Vestine, NYIRAMANA Bellancille, HABYARIMANA Damascène na KARERANGABO Antoine, Urukiko rw'Ubujurire rurasanga mu gika cya 594 cy'urubanza rujuririrwa, Urukiko rubanza rwarasanze ntaho rwahera rubagenera indishyi basaba zijyanye n'imitungo yabo yasahuwe, n'uko bakubiswe, bashimuswe bikorezwa ibyasahuwe kugera mu ishyamba rya Nyungwe, bigatuma bamara igihe badakora nk'uko babivuga, kubera ko nta bimenyetso bagaragaje ndetse na raporo y'Umunyamabanga Nshingwabikorwa batanze nk'ikimenyetso, Urukiko rubanza rwashingiyeho, itabagaragaza mu bakorewe ibyo bikorwa kandi itanavuga na ba nyir'imitungo yasahuwe.

[774] Ku rwego rw'Ubujurire, uretse KARERANGABO Antoine, SEBAGEMA Simon na BARAYANDEMA Viateur, abandi 20 bose basigaye bamaze kuvugwa haruguru ko bajuririye kuba nta ndishyi na nkeya bagenewe, nta n'umwe wagaragarije kuri uru rwego rw'ubujurire ikimenyetso gishya cyaba kigamije kumuhesha indishyi yimwe n'Urukiko rubanza ku mpamvu imaze gusobanurwa mu gika kibanziriza iki. Bongera gusa kugaruka kuri raporo y'Umurenge wa Nyabimata itagira na hamwe ivuga amazina yabo nk'abagizweho ingaruka n'ibitero, bakayishingiraho nk'ikimenyetso cyabahesha indishyi basaba kubera gusa ko mu biyikubiyemo, harimo no kuvuga ko hari imitungo y'abaturage yangiritse. Banashingira ku kuvuga ko mu byaha abaregwa muri uru rubanza bakurikiranyweho, harimo icyaha cyo kwiba hakoreshejwe intwaro nk'igikorwa cy'iterabwoba. Bityo, basaba uru Rukiko mu bujurire kubagenera indishyi zingana kuri buri wese muri bo n'izo n'ubundi bari basabye ku rwego rwa mbere. Abavoka babahagarariye basaba ko mu rwego rw'amategeko, uru Rukiko rwazahuza ibi bisobanuro n'ibiteganywa mu ngingo ya 104 y'Itegeko n°15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ivuga ko umucamanza ashobora gushingira ku kintu kizwi kugira ngo amenye ikintu kitazwi, ko muri uru rubanza ikizwi ari uko aba baregera indishyi, ariko batazigenewe ku rwego rwa mbere, ari abaturage bo muri Nyabimata, kandi hakaba harabaye ibikorwa byo kwiba no gusahura mu gihe cy'ibitero byahagabwe na MRCD-FLN.

[775] Muri uru Rukiko rw'Ubujurire, basobanura ko iyi ngingo ya 104 y'Itegeko n° 15/2004 ryo ku wa 12/06/2004 ryavuzwe haruguru, rirebana n'ibimenyetso bicukumbuwe ifasha ku bintu bigoye kubonera ibimenyetso. Bavuga ko basaba uru Rukiko ko mu gusesengura, n'ubwo raporo y'Ubuyobozi bw'Umurenge wa Nyabimata itagaragaza umubare (ingano) w'ibyibwe n'ubwoko bwabyo, rwabifata nka *présomption* aho rushobora guhera ku kintu kizwi kugira ngo rumenye ikitazwi, ikitazwi kikaba arizo *détails* z'ingano za buri kintu zagaragajwe na ba nyirubwite bibwe, zigashyigikirwa n'ibimenyetso bavuze ko byafatwa nka *commencement de prevue par écrit* cyangwa se intangiriro y'ibimenyetso bigaragaza ukuri kw'ibintu. Bakomeza bavuga ko hari ibintu byabaye byo kwibwa ibintu bitandukanye, aribyo iyo raporo y'Umurenge wa Nyabimata yagaragaje, imvugo z'abatangabuhamya, *video* zeretswe Urukiko zigaragaza ko iyo bateraga abaturage babibibaga amafaranga, imyaka, n'imvugo za NSABIMANA Callixte alias Sankara, aho asobanura ibibazo bya *logistics* bari bafite byatumaga abo barwanyi babo badashobora kubaho, ku buryo aho bageraga bateye ibyo bitero bashoboraga kwirwanaho bakiba imyaka batagambiriye kuyigurisha ahubwo kugira ngo ibatunge mu mashyamba aho babaga; hakaba n'abaregwa bahamijwe

ibyaha ku rwego rwa mbere birimo n'icyo no kwiba hakoreshejwe intwaro nk'igikorwa cy'iterabwoba. Bityo, bakaba bumva ingingo ya 104 yavuzwe haruguru ari *présomption* naho ibyo bimenyetso bindi bivuzwe bigafatwa ko ari *commencement de preuve par écrit* yashingirwaho n'Urukiko kugira ngo aba baregera indishyi bazihabwe.

[776] Kuri SEBAGEMA Simon, Urukiko rw'Ubujurire rurasanga we n'abavoka bamuhagarariye basaba by'umwihariko ko uru Rukiko runashingira ku nyandiko y'Ikigo cy'igihugu gishinzwe imisoro n'amahôro yashyize muri *système* ku rwego rw'ubujurire, igaragaza ko muri ibyo bihe, yatangaga umusoro wa 20.000 Frw uri mu cyiciro cy' ubucuruzi bwe buciriritse n'ubwo uyu musoro utagaragaza ingano y'ibyibwe n'ubwoko bw'ibintu byasorerwaga.

[777] Kuri BARAYANDEMA Viateur, Urukiko rw'Ubujurire rurasanga we n'abavoka bamuhagarariye basaba by'umwihariko ko uru Rukiko runashingira ku nyandiko y'Ikigo cy'igihugu gishinzwe imisoro n'amahôro yashyize muri *système* mu bujurire, igaragaza ko BARAYANDEMA Viateur yari umucuruzi wishyuraga umusoro, maze rukazamugenera indishyi yari yasabye ku rwego rwa mbere.

[778] By'umwihariko na none kuri KARERANGABO Antoine, Urukiko rw'Ubujurire rurasanga Me MUNDERERE Léopold na Me HAKIZIMANA Joseph basaba ko uru Rukiko rumugenera indishyi zingana na 1.500.000 Frw n'amafaranga y'ikurikiranarubanza n'igihembo cya Avoka angana na 1.500.000 Frw, kandi izi ndishyi zigatangwa n'abaregwa bose bafatanyije. Banenga ko Urukiko rubanza rwavuze ko nta ndishyi yahabwa kubera ko nta kimenyetso yagaragaje cy'uko yakubiswe akajyanwa mu bitaro, nyamara mu gika cya 47 cy'urubanza rujuririrwa, rwaravuze ko yakubiswe n'abaregwa, akajyanwa mu bitaro bya Nyabimata, babona arembye, bakamujyana mu bitaro bya Munini, nk'uko bigaragazwa na raporo ya muganga Dr. BYAMUNGU Jean de Dieu wamuvuye mu mutwe aho yari yakubiswe n'umutangabuhamya witwa MUHIRWA Médard wamuvuze mu bantu bakomerekeye muri icyo gitero. Bavuga ko kuba KARERANGABO Antoine atavugwa muri raporo y'Ubuyobozi bw'Umurenge wa Nyabimata igaragaza abagizweho n'ingaruka z'ibitero byahabereye, nta gitangaza kirimo kuko ari raporo ngufi igizwe n'imirongo mikeya, kutayigaragaramo kwe bikaba bishobora kuba byaretewe no kumwibagirwa.

[779] Urukiko rw'Ubujurire rurasanga, uretse kuri KARENGABO Antoine, muri rusange, HABIMANA Viateur, NGIRUWONSANGA Venuste, BENINKA Marcelline, NYIRAMINANI Mélanie, NYIRAHORA Godelive, RUHIGISHA Emmanuel, MUNYENTWARI Cassien, BANGAYANDUSHA Jean-Marie Vianney, NSABIMANA Straton, NYIRAGEMA Joséphine, NSAGUYE Jean, NYIRAZIBERA Dative, NDIKUMANA Viateur, NDIKUMANA Callixte, NYIRASHYIRAKERA Théophila, KANGABE Christine, NANGWAHAFI Callixte, NYIRAHABIMANA Vestine, NYIRAMANA Bellancille na HABYARIMANA Damascène, SEBAGEMA Simon na BARAYANDEMA Viateur, nta kimenyetso gishya bashyikirije uru Rukiko mu bujurire cyatuma rukuraho icyemezo bajuririye cy'Urukiko rubanza cyo kutabagenera indishyi ku mitungo bakomeje kuvuga ko bibwe cyangwa se bangiririjwe, kuko nta bimenyetso bari babitangiye. Ibi kandi uru Rukiko ruranabishingira ku kuba aba bajuriye nabo ubwabo bivugira ko ibimenyetso bagaragaza bitabavuga amazina mu buryo bweruye nk'abagizweho ingaruka n'iki gitero cyangwa ingano z'ibyabo byangijwe. Bityo, ku birebana n'izo ndishyi zerekeye iby'imitungo bakaba bakomeje gutsindwa no kutabasha kuzitangira ibimenyetso no kuri uru rwego rw'ubujurire.

[780] Urukiko rw'Ubujurire rurasanga ariko n'ubwo abajuriye bamaze kuvugwa haruguru, batarabashije gutanga ibimenyetso by'imitungo bibwe cyangwa se bangirijwe, ingano yabyo kimwe n'agaciro kabyo

ku buryo byafasha Urukiko kugena indishyi mu bushishozi bwarwo, mu bisobanuro bagiye batanga, harimo ibidashidikanywaho byo kuba ari abaturage bo mu Murenge wa Nyabimata kandi bagizweho muri rusange ingaruka n'ibitero by'umutwe w'iterabwoba wa MRCD-FLN, hakurikijwe ibisobanuro byatanzwe by'imiterere y'ibyo bitero n'imikorere y'abarwanyi b'uwo mutwe ku buryo indishyi z'akababaro basaba zo bakwiye kuzihabwa, ariko zikagenwa mu bushishozi bw'Urukiko.

[781] Muri urwo rwego, Urukiko rw'Ubujurire rurasanga, nk'uko byasobanuwe haruguru ku birebana n'indishyi z'akababaro zagenewe abandi nka HAVUGIMANA Jean-Marie Vianney, indishyi z'akababaro HABIMANA Viateur, NGIRUWONSANGA Venuste, BENINKA Marcelline, NYIRAMINANI Mélanie, NYIRAHORA Godelive, RUHIGISHA Emmanuel, MUNYENTWARI Cassien, BANGAYANDUSHA Jean-Marie Vianney, NSABIMANA Straton, NYIRAGEMA Joséphine, NSAGUYE Jean, NYIRAZIBERA Dative, NDIKUMANA Viateur, NDIKUMANA Callixte, NYIRASHYIRAKERA Théophila, KANGABE Christine, NANGWAHAFI Callixte, NYIRAHABIMANA Vestine, NYIRAMANA Bellancille na HABYARIMANA Damascène, SEBAGEMA Simon na BARAYANDEMA Viateur basaba nabo, barazikwiye kubera ingaruka bagizweho n'icyaha cyahamye abaregwa cyo kuba mu mutwe w'iterabwoba byahungabanyije ituze n'umudendezo byabo. Bityo, mu bushishozi bwarwo, uru Rukiko rukaba rusanga indishyi z'akababaro aba bajuririye indishyi bagomba guhabwa n'abaregwa bahamijwe icyaha cyo kuba mu mutwe w'iterabwoba zikaba zingana n'amafaranga ibihumbi magana atatu (300.000 Frw) kuri buri wese.

[782] By'umwihariko, kuri KARERANGABO Antoine, Urukiko rw'Ubujurire rurasanga ikimenyetso cya raporo ya muganga Dr. BYAMUNGU Jean de Dieu, igaragaza ko yivurije mu bitaro bya Munini kubera gukubitwa mu mutwe, ndetse n'ubuhamya bwo ku wa 20/07/2018 bwa MUHIRWA Médard bigaragaza urwego rusumba urw'abandi bamaze kuvugwa haruguru yagizweho ingaruka n'ibitero bya FLN, aho bigaragara ko KARERANGABO Antoine ari mu bakomeretse, akajyanwa kwa muganga. Ibi bikaba bikwiye gushingirwaho mu kumugenera indishyi yasabye, bityo, mu bushishozi bwarwo, rukaba rumugeneye indishyi z'akababaro zingana na 1.000.000 Frw na 1.000.000 Frw y'igihembo cya Avoka n'ikurikiranarubanza.

- **Ku birebana n'abajuririye kutagira indishyi na nkeya bagenewe zifitanye isano n'ibitero byagabwe muri Nyungwe mu Murenge wa Kitabi**

[783] Kuri NYAMINANI Daniel, MUGISHA GASHUMBA Yves, BWIMBA Vianney na NTIBAZIYAREMYE Samuel**,** Urukiko rw'Ubujurire rurasanga mu gika cya 619 cy'urubanza rujuririrwa, Urukiko rubanza rwarasanze ntaho rwahera rubagenera indishyi basaba zijyanye no kuba barakomerekejwe n'igitero cyagabwe mu ishyamba rya Nyungwe, kuba hari ibintu byabo byatwawe cyangwa byangirikiye muri icyo gitero kubera ko nta kimenyetso na kimwe babigaragarije.

[784] Muri uri rwego, NYAMINANI Daniel, MUGISHA GASHUMBA Yves, BWIMBA Vianney na NTIBAZIYAREMYE Samuel n'abavoka babahagarariye basaba ko, uru Rukiko mu bushishozi bwarwo rubagenera indishyi rushingiye ku bimenyetso bishya bagaragaje bigizwe na za raporo zo kwa muganga. Kuri NYAMINANI Daniel, basaba indishyi zingana na 45.000.000 Frw, zikubiyemo indishyi z'uburibwe n'iz'ibyo yatakaje nk'uko bigaragazwa na raporo ya muganga iri muri *système,* aho ivuga ko uyu munsi NYAMINANI Daniel afite ubumuga buri ku kigero cya 50% n'ubumuga ndangamiraburanga bungana na 4/6. Kuri MUGISHA GASHUMBA Yves, indishyi zingana na 50.000.000 Frw, kubera ubumuga afite bugera kuri 25%, bikaba bigaragazwa na raporo ya muganga bashyize muri *système*. Kuri BWIMBA Vianney, indishyi zingana na 209.500.000 Frw kubera ubumuga afite bwa 65%, nk'uko bigaragazwa na

raporo ya muganga iri muri système. Naho kuri NTIBAZIYAREMYE Samuel, indishyi zingana na 50.000.000 Frw kubera ubumuga bwa 25% afite, bigashimangirwa na raporo ya muganga iri muri *système*.

[785] Urukiko rw'Ubujurire rurasanga aba bose bagaragaza raporo zo kwa muganga z'uko bagizweho ingaruka n'iki gitero cyabereye mu ishyamba rya Nyungwe, kuko cyabasigiye ubumuga butandukanye kuri buri wese. Bityo, bakaba bagomba kubihererwa indishyi zibazwe mu bushishozi bw'Urukiko zingana na 2.000.000 Frw kuri NYAMINANI Daniel, 1.000.000 Frw kuri MUGISHA GASHUMBA Yves, izingana na 1.500.000 Frw kuri BWIMBA Vianney na 1.000.000 Frw kuri NTIBAZIYAREMYE Samuel.

- **Ku birebana n'uwajuririye kutagira indishyi na nkeya yagenewe zifitanye isano n'ibitero byagabwe mu Murenge Nyakarenzo mu Karere ka Rusizi**

[786] Urukiko rw'Ubujurire rurasanga mu gika cya 625 cy'urubanza rujuririrwa, Urukiko rubanza rwarasanze GAKWAYA Gérard atagenerwa indishyi asaba kuko raporo ya muganga yo ku wa 07/10/2020, igaragaza ko afite ibibazo byo mu mutwe bihoraho, bitatewe n'ingaruka z'icyo gitero nk'uko abivuga, ndetse no kuba raporo y'Akagari ka Karangiro yo ku wa 21/10/2020, itamuvuga mu bagiriye ibibazo mu bitero byahagabwe.

[787] Mu bujurire, GAKWAYA Gérard n'abavoka bamuhagarariye basaba ko uru Rukiko, mu bushishozi bwarwo, rumugenera indishyi z'akababaro zingana na 11.000.000 Frw kubera gukomereka mu mugongo n'ihungabana yagize bitewe n'igitero cyateye ku ruganda rwa MAHORO Jean Damascène yari abereye umuzamu, cyanatwitse imodoka ye.

[788] Urukiko rw'Ubujurire narwo rurasanga mu gusesengura iyi raporo ya muganga yo ku wa 07/10/2020, igaragaza neza ko GAKWAYA Gérard afite ibibazo byo mu mutwe bihoraho, nk'uko rwabivuze muri aya magambo y'igifaransa "*après l'examen psychologique de son état mental, nous concluons qu'il a des problèmes psychologiques chroniques compliqués d'une affection mentale nécessitant une prise en charge psychosomatique pendant plus de six mois",* iyi raporo ikaba ntaho igaragaza ko byaba byaratewe n'ingaruka z'igitero cyateye ku ruganda yari abereye umuzamu, nk'uko abivuga, ku buryo yabihererwa indishyi. Bityo, izi ndishyi nazo zikaba nta shingiro zifite kuko ikimenyetso GAKWAYA Gérard azitangira gishidikanywaho, ubujurire bwe bukaba nta shingiro bufite.

[789] Urukiko rw'Ubujurire rurasanga ariko nk'uko byasobanuwe ku bandi ku byerekeranye n'indishyi z'akababaro, nawe azikwiye kubera ingaruka yagizweho n'icyaha cyahamye abaregwa cyo kuba mu mutwe w'iterabwoba wakorewemo ibikorwa byo kumuhungabanya. Bityo, mu bushishozi bw'Urukiko indishyi z'akababaro agomba guhabwa n'abaregwa bahamijwe icyaha cyo kuba mu mutwe w'iterabwoba, zikaba zingana n'amafaranga ibihumbi magana atatu (300.000 Frw).

- **Ku birebana n'abajuririye kutagira indishyi na nkeya bagenewe zifitanye isano n'ibitero byagabwe mu Murenge wa Kivu**

[790] Urukiko rw'Ubujurire rurasanga kuri NGAYABERURA Emmanuel, DUSENGIMANA Solange, KANYANDEKWE Venant, NYIRAMYASIRO Verediana, HAGENIMANA Patrice, SANGIYEZE Emmanuel na NYIRAKOMEZA Claudine, mu gika cya 597 cy'urubanza rujuririrwa, Urukiko rubanza rwarasanze rushingiye ku biteganywa n'ingingo ya 12 y'Itegeko nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi n'iya 3 y'Itegeko n° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ziteganya ko umuburanyi agomba kugaragaza ukuri kw'ibyo aburana, nta ndishyi bagomba kugenerwa

kubera ko nta bimenyetso bigaragaza ko bari batunze ibintu baregera ndetse n'agaciro kabyo, rukaba nta n'aho rwashingira rugena indishyi z'akababaro kubera abantu bavuga ko baburiwe irengero kubera ko nta kigaragaza ko bari mu bashimuswe.

[791] Mu bujurire, muri rusange aba bose n'abavoka babahagarariye banenga Urukiko rubanza ko mu gika cya 149 cy'urubanza rujuririrwa, rwakomoje ku bitero byabereye mu Murenge wa Kivu ariko ntirwaha indishyi abagizweho ingaruka n'ibyo bitero kubera ko nta bimenyetso bagaragaje. Bavuga ko muri uru Rukiko rw'Ubujurire bazanye noneho ikimenyetso gishya kigizwe na raporo y'Ubuyobozi bw'Umurenge wa Kivu, igaragara muri *système*. Basobanura ko iyi raporo ivuga iby'igitero cyabaye tariki 12 Kanama 2018, naho mu gitero cyo ku itariki ya 14/8/2018, hakaba ariho hagaragara ibisobanuro birambuye kuri buri muntu n'ibyo bagiye bamutwara, aho igaragaza amazina ya bamwe muri aba barindwi baregera indishyi, ndetse n'ibyabo byangiritse. Basobanura ko abo iyo raporo ivuga ari NYIRAMYASIRO Verediana, ugaragara kuri *liste* y'abasahuwe imitungo yabo ku itariki 14 Kanama, ko batwaye ibishyimbo ibiro 10, bamurira n'ibiryo bitetse, HAGENIMANA Patrice batwaye ibishyimbo mironko 6, amashaza mironko 4, imyenda amapantalo 4 n'amakoti 3, ndetse nawe baramutwara, bagenda bamwikoreje ibyibwe, bamurekura bucyeye bwaho, hari kandi na NYIRAKOMEZA Claudine batwaye ibishyimbo ibilo 5, amashaza 4 Kg, ibigori 6 Kg, bamurira n'ibiryo bitetse na SANGIYEZE Emmanuel batwaye ibishyimbo 10 Kg, ibigori 7 Kg, imyenda harimo ikoti n'ipantalo, bahita banamushimuta.

[792] Muri uru Rukiko, basaba kandi ko rwashingira kuri iyo raporo nshya y'Ubuyobzi bw'Umurenge wa Kivu rukabagenera indishyi mu buryo bukurikira: kuri NGAYABERURA Emmanuel, indishyi zingana na 6.000.000 Frw z'agahinda yatewe no kubura umwana we washimuswe, kugeza n'uyu munsi akaba ataraboneka ; kuri DUSENGIMANA Solange indishyi zingana na 21.200.000 Frw, zigizwe n'indishyi za 11.200.000 Frw z'ibyo bari kuba barinjije kuva umugabo we yashimutwa na 10.000.000 Frw y'indishyi z'akababaro zo kuba yarabuze umugabo we, ndetse n'abana babyaranye bakaba barabuze se ubabyara; kuri KANYANDEKWE Venant, indishyi za 1.000.000 Frw, zikubiyemo indishyi za 500.000 Frw z'ibye byangijwe na 500.000 Frw y'indishyi z'akababaro; kuri NYIRAMYASIRO Verediana, indishyi zingana na 530.000 Frw, zikubiyemo 30.000 Frw y' indishyi z'ibye byibwe na 500.000 Frw y'indishyi z'akababaro ; kuri HAGENIMANA Patrice, 33.000 Frw y'indishyi z'ibye bibye na 1.000.000 Frw y'indishyi z'akababaro; kuri NSANGIYEZE Emmanuel, 120.000 Frw y'indishyi z'ibye byibwe na 600.000 Frw y'indishyi z'akababaro, naho kuri NYIRAKOMEZA Claudine, 47.500 Frw y'indishyi z'ibye yibwe na 500.000 Frw y'indishyi z'akababaro.

[793] Urukiko rw'Ubujurire rurasanga iyi raporo y'Umurenge wa Kivu itagaragaramo amazina yose y'abaregera indishyi bavuga ko bagizweho ingaruka n'iki gitero, uretse abitwa NYIRAMYASIRO Verediana, HAGENIMANA Patrice, NYIRAKOMEZA Claudine na SANGIYEZE Emmanuel, igaragariza ingano y'ibyabo byibwe, ariko nabwo ntigaragaze agaciro kabyo. Rurasanga abandi barimo NGAYABERURA Emmanuel, DUSENGIMANA Solange na KANYANDEKWE Venant bo ntibayivugwamo, nta n'ubwo havugwamo ibyabo byibwe cyangwa ababo bashimuswe. Rurasanga rero kuba batayivugwamo mu bagizweho ingaruka n'ibitero, nta ndishyi bagenerwa kuko batabigaragariza ibimenyetso uretse kubivuga mu magambo gusa. Rurasanga na none n'ubwo NYIRAMYASIRO Verediana, HAGENIMANA Patrice, NYIRAKOMEZA Claudine na SANGIYEZE Emmanuel bagaragaza ingano y'ibyabo byibwe, ntaho rwahera rubaha amafaranga y'indishyi zibyo basaba mu gihe batagaragaza aho bazishingira. Bityo, ubujurire bwabo bukaba nta shingiro bufite.

~~[794]~~ Urukiko rw'Ubujurire rurasanga ariko, nk'uko byasobanuwe ku bandi ku byerekeranye n'indishyi z'akababaro, nabo bazikwiye kubera ingaruka bagizweho n'icyaha cyahamye abaregwa cyo kuba mu

mutwe w'iterabwoba, bakaba bakwiye, mu bushishozi bw'uru Rukiko, indishyi z'akababaro zingana n'amafaranga ibihumbi magana atatu (300.000 Frw) kuri buri wese.

- **Ku birebana n'abajuririye kutagira indishyi na nkeya bagenewe zifitanye isano n'ibitero byagabwe mu Murenge wa Ruheru mu Karere ka Nyaruguru**

[795] Urukiko rw'Ubujurire rurasanga kuri MANIRIHO Théogene, GASHONGORE Samuel, NZABIRINDA Viateur, NIYOMUGABA, NDAYISENGA Edouard, BIGIRIMANA Samuel, BARAGAMBA, RUTIHUNZA Enos, BARIRWANDA Innocent, NSABIYAREMYE Pascal, HABIMANA Innocent, HARERIMANA Emmanuel, NZAJYIBWAMI Yoramu, SEBARINDA Emmanuel, NKUNDIZERA Damascène na HABAKURAMA Gratien, Urukiko rubanza mu gika cya 595 cy'urubanza rujuririrwa rushingiye nanone ku biteganywa n'ingingo ya 12 y'Itegeko n˚ 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru n'iya 3 y'Itegeko n˚ 15/2004 ryo ku wa 12/06/2004 ryavuzwe haruguru, rwemeje ko nta ndishyi bagenerwa kuko uretse kuvuga ko icyo gitero cyabagizeho ingaruka, ariko nta n'umwe mu baregeye indishyi bo mu murenge wa Ruheru watanze ikimenyetso kigaragaza ibye byangijwe n'icyo gitero, nta na raporo y'inzego z'ibanze iri muri dosiye, igaragaza ibintu cyangije na ba nyir'imitungo yangijwe.

[796] Mu bujurire, abo baregera indishyi bavuga ko bashingiye ku biteganywa n'ingingo ya 154 y'Itegeko n˚ 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru, yemerera umuburanyi kuba yazana ibimenyetso bishya no mu bujurire, bashyize muri *système* raporo y'Umurenge wa Ruheru yo ku wa 13/01/2001, ishimangira ko bagize ibibazo mu gitero cyabereye muri uwo Murenge wa Ruheru. Bavuga kandi ko iki kimenyetso cyiyongera ku bindi bimenyetso bari baratanze, birimo abatangabuhamya batandukanye bagiye babazwa, raporo zindi zisanzwe zagiye zikorwa, inyandiko z'abantu batandukanye babajijwe n'Ubushinjacyaha, bagaragara mu kirego cyabwo, bagiye basobanura uko ibyo bitero byagiye biba, ndetse n'imyiregurire ya NSENGIMANA Herman igaragara mu gika cya 596 cy'urubanza rujuririrwa, aho yigambye ko icyo gitero cyabereye mu Murenge wa Ruheru. Basoza basaba uru Rukiko gusuzuma ibyo bimenyetso, rukabagenera indishyi zavuzwe haruguru, zingana n'izo n'ubundi bari baregeye ku rwego rwa mbere.

[797] Urukiko rw'Ubujurire rurasanga abaregera indishyi bo muri iki cyiciro batanga raporo y'Umurenge wa Ruheru yo ku wa 13/01/2021, igaragaza urutonde rw'amazina ya bamwe muri bo bagera kuri barindwi (7) bagizweho ingaruka n'ibitero by'abacengezi bateye muri uwo Murenge wa Ruheru, aribo SEBARINDA Emmanuel, NIYOMUGABA, BIGIRIMANA Fanuel, RUTIHUNZA Enosi, NDAYISENGA Edouard, BARAGAMBA, BARIRWANDA Innocent na HARERIMANA Emmanuel, ikanagaragaza ibyabo byangijwe nk'amategura y'inzu, inka yaramburuye, amabati y'inzu, inkuta z'inzu, n'urugo rw'inzu, ariko itagaragaza amazina y'abandi basigaye nabo baregera indishyi muri iki kiciro.

[798] Mu gusesengura iyi raporo kubo yagaragarije amazina n'ibyabo byangijwe, Urukiko rw'Ubujurire rurasanga itagaragaza ingano y'ibyabo n'agaciro kabyo, uretse ba nyir'ubwite babyivugira gusa. Bityo, ikaba itashingirwaho ngo bagenerwe indishyi na cyane ko n'ibimenyetso bavuga ko bayishyigikiza, nabyo bidatanga amakuru arambuye ku bagizweho ingaruka n'iki gitero. Ku bandi basigaye batavugwa muri iyi raporo, uru Rukiko rurasanga nabo batagomba kugira icyo bahabwa nk'indishyi kubera ibyabo byangijwe, kuko nta bimenyetso babitangira. Bityo, Urukiko rukaba rusanga ntaho rwahera ruzibagenera, ubujurire bwabo bukaba nta shingiro bufite.

[799] Urukiko rw'Ubujurire rurasanga ariko nk'uko byasobanuwe ku bandi ku byerekeranye n'indishyi z'akababaro, nabo bazikwiye kubera ingaruka bagizweho n'icyaha cyahamye abaregwa cyo kuba mu

mutwe w'iterabwoba wakorewemo ibikorwa byo kubahungabanya. Bityo, mu bushishozi bw'uru Rukiko bakaba bakwiye indishyi z'akababaro zingana n'amafaranga ibihumbi magana atatu (300.000 Frw) kuri buri wese, bagomba guhabwa n'abaregwa bahamijwe icyaha cyo kuba mu mutwe w'iterabwoba.

II. ICYEMEZO CY'URUKIKO

[800] Rwemeje ko ubujurire bw'Ubushinjacyaha bufite ishingiro kuri bimwe.

[801] Rwemeje ko ubujurire bwuririye ku bw'Ubushinjacyaha bwatanzwe na KWITONDA André, NDAGIJIMANA Jean Chrétien, HAKIZIMANA Théogène na NIKUZWE Siméon butakiriwe.

[802] Rwemeje ko ubujurire bwa NSABIMANA Callixte alias Sankara bufite ishingiro.

[803] Rwemeje ko ubujurire bwa NSABIMANA Jean Damascène alias Motard bufite ishingiro kuri bimwe.

[804] Rwemeje ko ubujurire bwa NIZEYIMANA Marc, NSENGIMANA Herman, NSHIMIYIMANA Emmanuel, MATAKAMBA Jean Berchmas, NTIBIRAMIRA Innocent, BYUKUSENGE Jean-Claude, SHABANI Emmanuel, BIZIMANA Cassien alias Passy, NIYIRORA Marcel, IYAMUREMYE Emmanuel, MUKANDUTIYE Angelina, NSANZUBUKIRE Félicien na MUNYANEZA Anastase, nta shingiro bufite.

[805] Rwemeje ko NSABIMANA Callixte alias Sankara, RUSESABAGINA Paul na NIZEYIMANA Marc bahamwa no gukora ibikorwa by'iterabwoba byabaye intandaro y'ibitero by'iterabwoba byakozwe n'abarwanyi b'umutwe wa MRCD-FLN mu Turere dutandukanye twa Rusizi, Nyamashake, Nyaruguru na Nyamagabe, aho kuba kugira uruhare mu bikorwa by'iterabwoba byakozwe n'abo barwanyi.

[806] Rwemeje ko RUSESABAGINA Paul, NSABIMANA Callixte alias Sankara, NIZEYIMANA Marc, BIZIMANA Cassien alias Passy, NSENGIMANA Herman, IYAMUREMYE Emmanuel, NIYIRORA Marcel, KWITONDA André, NSHIMIYIMANA Emmanuel, NDAGIJIMANA Jean Chrétien, NSANZUBUKIRE Félicien, MUNYANEZA Anastase na HAKIZIMANA Théogène badahamwa n'icyaha cyo kurema umutwe w'ingabo bitemewe.

[807] Rwemeje ko RUSESABAGINA Paul adahamwa n'icyaha cyo gutera inkunga iterabwoba giteganywa n'Itegeko nº 69/2018 ryo ku wa 31/8/2018 rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba.

[808] Rwemeje ko NSABIMANA Jean Damascène alias Motard adahamwa n'icyaha cyo kugambana n'icyo gushishikariza abandi gukora igikorwa cy'iterabwoba.

[809] Rwemeje ko NSABIMANA Callixte alias Sankara ahanishwa igihano cy'igifungo cy'imyaka cumi n'itanu (15), aho kuba igihano cy'igifungo cy'imyaka makumyabiri (20) yakatiwe ku rwego rwa mbere.

[810] Rwemeje ko NSENGIMANA Herman ahanishwa igihano cy'igifungo cy'imyaka irindwi (7), aho kuba igihano cy'igifungo cy'imyaka itanu (5) yahawe ku rwego rwa mbere.

[811] Rwemeje ko MUKANDUTIYE Angelina ahanishwa igihano cy'igifungo cy'imyaka makumyabiri (20), aho kuba igihano cy'igifungo cy'imyaka itanu (5) yahawe ku rwego rwa mbere.

[812] Rwemeje ko nta gihindutse ku bihano RUSESABAGINA Paul, NIZEYIMANA Marc, NSHIMIYIMANA Emmanuel, MATAKAMBA Jean Berchmas, NTIBIRAMIRA Innocent, BYUKUSENGE Jean-Claude, SHABANI Emmanuel, NTABANGANYIMANA Joseph, BIZIMANA Cassien alias Passy, NIYIRORA Marcel, IYAMUREMYE Emmanuel, NSABIMANA Jean Damascène alias Motard, KWITONDA André, NDAGIJIMANA Jean Chrétien, HAKIZIMANA Théogène, NIKUZWE Siméon, NSANZUBUKIRE Félicien na MUNYANEZA Anastase.

[813] Rwemeje ko ubujurire bwa ALPHA Express Company Ltd, HABAKUBAHO Adéline, HABIMANA Zerothe, HABYARIMANA Jean-Marie Vianney, HAKIZIMANA Denis, KAREGESA Phénias, KAYITESI Alice, KIRENGA Darius, MBONIGABA Richard, MUKANKUNDIYE Alphonsine, MUKESHIMANA Diane, MURENGERANTWALI Donat, RUDAHUNGA Dieudonné, RUDAHUNGA Ladislas, NDIKUMANA Isaac, NGENDAKUMANA David, NGIRABABYEYI Désiré, NIYONTEGEREJE Azèle, NKURUNZIZA Jean Népomuscène, NSABIMANA Anastase , NSABIMANA Joseph , NYIRANDIBWAMI Mariane, NYIRANGABIRE Valérie, NYIRAYUMVE Eliane, NZEYIMANA Paulin, OMEGA Express Ltd, RUDAHUNGA Ladislas, RUTAYISIRE Félix , RWAMIHIGO Alexis, SEMIGABO Déo, SHUMBUSHA Damascène, SHUMBUSHO David, SIBORUREMA Vénuste, RUGERINYANGE Dominique, NTABARESHYA Dative, UMURIZA Adéline, UZAYISENGA Liliane na VUGABAGABO Jean-Marie Vianney, nta shingiro bufite, ko ku bibareba hagumyeho imikirize y'urubanza rwa mbere.

[814] Rwemeje ko Ubujurire bwa MAHORO Jean Damascène nta shingiro bufite, ko indishyi yari yahawe mu rubanza rujuririrwa zihindutse, akaba agomba guhabwa ibihumbi magana atanu (500.000Frw) aho kuba 5.000.000 Frw yari yagenewe ku rwego rubanza.

[815] Rwemeje ko ubujurire bwa BAPFAKURERA Vénuste, HAVUGIMANA Jean-Marie Vianney, INGABIRE Marie Chantal, MUKASHYAKA Joséphine, NDUTIYE Yussuf, NSENGIYUMVA Vincent, UWAMBAJE Françoise , BANGAYANDUSHA Jean-Marie Vianney, BARAGAMBA, BARAYANDEMA Viateur, BARIRWANDA Innocent, BENINKA Marceline, BIGIRIMANA Fanuel, BWIMBA Vianney, DUSENGIMANA Solange, GAKWAYA Gérard, GASHONGORE Samuel, HABAKURAMA Gratien, HABIMANA Innocent, HABIMANA Viateur, HABYARIMANA Damascène, HAGENIMANA Patrice, HARERIMANA Emmanuel, KANGABE Christine, KANYANDEKWE Vénant, MANARIYO Théogène, MUGISHA GASHUMBA Yves, MUYENTWALI Cassien, NANGWAHAFI Callixte, NDAYISENGA Edouard, NDIKUMANA Callixte, NDIKUMANA Viateur, NGAYABERURA Emmanuel, NGIRUWONSANGA Venuste, NIYOMUGABA, NKUNDIZERA Damascène, NSABIMANA Straton, NSABIYAREMYE Pascal, NSAGUYE Jean, NSANGIYEZE Emmanuel, NTIBAZIYAREMYE Samuel, NYAMINANI Daniel, NYIRAGEMA Joséphine, NYIRAHABIMANA Vestine, NYIRAHORA Godelive, NYIRAKOMEZA Claudine, NYIRAMANA Bellancille, NYIRAMINANI Mélanie, NYIRAMYASIRO Verediana, NYIRASHYIRAKERA Théophila, NYIRAZIBERA Dative, NZABIRINDA Viateur, NZAJYIBWAMI Yoramu, RUHIGISHA Emmanuel, RUTIHUNZA Enos, SEBAGEMA Simon, SEBARINDA Emmanuel, YAMBABARIYE Védaste, KARERANGABO Antoine, bufite ishingiro kuri bimwe.

[816] Rutegetse abaregwa bose uretse NSANZUBUKIRE Félicien na MUNYANEZA Anastase gufatanya kwishyura indishyi zigenewe abaregera indishyi bavugwa mu gika kibanziriza iki, zisimbura izatanzwe ku rwego rwa mbere, ku buryo bukurikira:

BAPFAKURERA Vénuste	900.000 Frw
HAVUGIMANA Jean-Marie Vianney	900.000 Frw
INGABIRE Marie Chantal	25.678.000 Frw
MUKASHYAKA Joséphine	20.346.640 Frw
NDUTIYE Yussuf	14.75.000 Frw
NSENGIYUMVA Vincent	27.435.620 Frw
UWAMBAJE Françoise	10.45.000 Frw
BANGAYANDUSHA Jean-Marie Vianney	300.000 Frw
BARAGAMBA	300.000 Frw
BARAYANDEMA Viateur	300.000 Frw
BARIRWANDA Innocent	300.000 Frw
BENINKA Marceline	300.000 Frw
BIGIRIMANA Fanuel	300.000 Frw
BWIMBA Vianney	1.500.000 Frw
DUSENGIMANA Solange	300.000 Frw
GAKWAYA Gérard	300.000 Frw
GASHONGORE Samuel	300.000 Frw
HABAKURAMA Gratien	300.000 Frw
HABIMANA Innocent	300.000 Frw
HABIMANA Viateur	300.000 Frw
HABYARIMANA Damascène	300.000 Frw
HAGENIMANA Patrice	300,000 Frw
HARERIMANA Emmanuel	300.000 Frw
KANGABE Christine	300.000 Frw
KANYANDEKWE Vénant	300.000 Frw
MANARIYO Théogène	300.000 Frw
MUGISHA GASHUMBA Yves	1.000.000 Frw
MUYENTWALI Cassien	300.000 Frw
NANGWAHAFI Callixte	300.000 Frw

NDAYISENGA Edouard	300.000 Frw
NDIKUMANA Callixte	300.000 Frw
NDIKUMANA Viateur	300.000 Frw
NGAYABERURA Emmanuel	300.000 Frw
NGIRUWONSANGA Venuste	300.000 Frw
NIYOMUGABA	300.000 Frw
NKUNDIZERA Damascène	300.000 Frw
NSABIMANA Straton	300.000 Frw
NSABIYAREMYE Pascal	300.000 Frw
NSAGUYE Jean	300.000 Frw
NSANGIYEZE Emmanuel	300.000 Frw
NTIBAZIYAREMYE Samuel	1.000.000 Frw
NYAMINANI Daniel	2.000.000 Frw
NYIRAGEMA Joséphine	300.000 Frw
NYIRAHABIMANA Vestine	300.000 Frw
NYIRAHORA Godelive	300.000 Frw
NYIRAKOMEZA Claudine	300.000 Frw
NYIRAMANA Bellancille	300.000 Frw
NYIRAMINANI Mélanie	300.000 Frw
NYIRAMYASIRO Verediana	300.000 Frw
NYIRASHYIRAKERA Théophila	300. 000 Frw
NYIRAZIBERA Dative	300.000 Frw
NZABIRINDA Viateur	300.000 Frw
NZAJYIBWAMI Yoramu	300.000 Frw
RUHIGISHA Emmanuel	300.000 Frw
RUTIHUNZA Enos	300.000 Frw
SEBAGEMA Simon	300.000 Frw
SEBARINDA Emmanuel	300.000 Frw
YAMBABARIYE Védaste	2.000.000 Frw

[817] Ruvuze ko amagarama y’urubanza ahwanye n’ibyakozwe muri uru rubanza.