

NIRAGIRE N'UNDI v NTAGANZWA

[Rwanda URUKIKO RW'UBUJURIRE – RS/INJUST/RC 00001/2022/CA (Rukundakuvuga, P.J., Nyirandabaruta na Ngagi J.) 24 Kamena 2022]

Amategeko agenga imanza z'imbonezamubano – Amasezerano – Amasezerano akozwe ku buryo bukurikije amategeko aba itegeko ku bayagiranye kandi akaba agomba kubahirizwa nta buriganya

Incamake y'ikibazo: Uru rubanza rwatangiyeye Ntaganzwa arega Niragire na Ndahimana mu Rukiko Rwisumbuye rwa Ngoma asaba ko amasezerano yabereye imbere y'Inteko y'Abunzi agamije kugabana amafaranga yatanzwe nk'ingurane ku gice cy'isambu yasizwe na se Kayinamura ndetse no kugabanya abazungura be isambu yasigaye, yashyirwa mu bikorwa (yubahirizwa uko yakabaye).

Urukiko Rwisumbuye rwa Ngoma, nyuma yo gusesengura amasezerano aregerwa aha Ntaganzwa kimwe cya kabiri (½) ku isambu ya Kayinamura. rwaciye Urubanza RC 00263/2018/TGI/NGOMA rwemeza ko ikirego cye nta shingiro gifite, rumutegeka guha Niragire amafaranga y'ikurikiranarubanza na y'igihembo cya Avoka.

Ntaganzwa ntiyishimiye imikirize yurwo rubanza, ayijuririra mu Rukiko Rukuru, Urugereko rwa Rwamagana, avuga ko atemeranywa n'icyemezo cyafashwe mu rubanza rujuririrwa aho rwemeje ko abazungura ba Kayinamura badashobora kuzungura isambu yabasigiye nk'umubyeyi wabo, kuko mu masezerano yaregewe hatavuzwe igihe bazayigabanira, no kuba mu gihe Niragire yaba akiriho iyo sambu itagomba kugabanwa hashingiwe ku rubanza RC51/R1/97 rwaciye n'Urukiko rwa Kanto ya Gatonde, no kuba rwaramutegetse guha Niragire indishyi kandi yarareze asaba guhabwa uburenganzira bwe ku mutungo wasizwe na se.

Urukiko Rukuru, rwaciye urubanza RCA00004/2019/HC/RWG rwemeza ko ubujurire bwa Ntaganzwa bufite ishingiro, rutegeka ko amasezerano aregerwa yabaye hagati ya Ntaganzwa, Ndahimana na Niragire agomba gushyirwa mu bikorwa uko yakabaye, Ntaganzwa na Ndahimana bakagabana isambu yasizwe na se Kayinamura.

Niragire yandikiye Perezida w'Urukiko rw'Ubujujire amusaba ko urubanza RCA00004/2019/HC/RWG rwaciye n'Urukiko Rukuru, Urugereko rwa Rwamagana rwasubirishwamo ku mpamvu z'akarengane. Nyuma yo gusesengura ikibazo cye, Perezida w'Urukiko rw'Ubujujire yandikiye Perezida w'Urukiko rw'Ikirenga amusaba kwemeza ko urwo rubanza rwasubirwamo ku mpamvu z' akarengane. Perezida w'Urukiko rw'Ikirenga yemeje ko urwo rubanza rusubirwamo, arwohereza mu Rukiko rw'Ubujujire kugira ngo abe ari rwo ruruburanisha,

Niragire avuga ko Urukiko rwagategetse ko habaho izungura, ndetse runemeza ko Ndahimana azungura kandi atabisabye rwirengagije imanza zabaye itegeko, zirimo urubanza RC51/R1/97 rwaciye n'Urukiko rwa Kanto ya Rutonde, n'urubanza RC0018/16/TB/KGBRO rwaciye n'Urukiko rw'Ibanze rwa Kigabiro, zamuhesheje umutungo uburanwa; akaba asaba ko umwandikwaho, akanahabwa amafaranga yakoresheje mu rubanza. Ntaganzwa na Ndahimana basubiza ko imanza Niragire ashingiraho zitemeje ko iyo sambu ari iye, ko ahubwo yagomba kuyibareramo bakura akayibaha. Avuga kandi ko mu masezerano yaregewe bemeranyijwe ko isambu isigaye izagabana abana ba Kayinamura, aribo Ntaganzwa na Ndahimana, ko n'ibyo asaba byo kwandikwaho uwo mutungo nta shingiro bifite kuko atakwandikwaho umutungo utari uwe.

Urukiko rw'Ubujujire rwemeje mu rubanza RS/INJUST/RC 00001/2022/CA Ko ibyo Niragire avuga ko Urukiko Rukuru, rwirengagije urubanza RC51/R1/97, n'urubanza RC0018/16/TB/KGBRO zabaye itegeko, maze rugategeka ko akurwa mu isambu iburanwa kugira ngo izungurwe na Ntaganzwa hamwe na Ndahimana, nta shingiro byahabwa, kuko Urukiko Rukuru, rutirengagije ibikubiye mu manza

zavuzwe haruguru ahubwo rwabisobanuye runagaragaza ko bitanyuranyije n'ibyo Niragire na Ntaganzwa hamwe na Ndahimana bemeranyijwe mu masezerano bagiranye imbere y'inteko y'Abunzi.

Urukiko rw'Ubujurire rwemeje kandi ko ibyo Niragire avuga ko Urukiko Rukuru, rwemeje ko Ndahimana azungura kandi atarabisabye nta shingiro byahabwa, kuko icyo Ntaganzwa yaregeye mu rubanza rusubirishwamo ku mpamvu z'akarengane ari uko amasezero yo ku bagiranye yubahirizwa uko yakabaye, ntabwo haregawe kuzungura.

Urukiko rw'Ubujurire rwemeje kandi ko ibivugwa na Niragire ko akarengane yagiriwe gashingiye ku kuba Urukiko Rukuru, rwararenze ku manza zabaye itegeko, rwemeza ko isambu yahawe Niragire izungurwa na Ntaganzwa na Ndahimana nta shingiro byahabwa, kuko nubwo izo manza zabaye itegeko ariko ntabwo izo manza zigeze ziha Niragire Mélanie isambu yasizwe na Kayinamura ngo abe nyirayo (propriétaire/owner), kandi ababuranyi baburanye muri izo manza batandukanye n'ababurana mu rubanza rusubirishwamo ku mpamvu z'akarengane, ndetse n'ibyaregawe muri izo manza bitandukanye n'ikiburanwa muri uwo rubanza.

Incamake y'icyemezo: 1. Ntabwo umuburanyi yavuga ko Urukiko rwahaye undi muburanyi ibyo atasabye kandi ibyo rwamuhaye rwarashingiye ku masezerano ababuranyi bombi bagiranye, Bityo ntabwo byakwitwaga ko Urukiko rwemeje ko kanaka azungura kandi atarabisabye nyamara rwarashingiye ku masezerano ababuranyi bagiranye yemerera umwe mubaburanyi guhabwa igice cy'umutungo uburanwa.

2. Ntabwo urubanza rwabaye itegeko rureba abatararubayemo ababuranyi kandi n'icyaburanywemo Atari kimwe n'ikiburanwa mu rubanza umuburanyi ashaka kurukoreshamo.

Gusubirishamo urubanza ku mpamvu z'akarengane nta shingiro bifite.

Amategeko yashingiweho:

Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, Ingingo ya 12, 111

Itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko, Ingingo ya 63

Itegeko N° 45/2011 ryo ku wa 25/11/2011 rigenga amasezerano, Ingingo ya 64

Itegeko N° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, Ingingo ya 3

Nta manza zifashishijwe.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Kayinamura Pierre yabanye na Niragire Mélanie nk'umugabo n'umugore ariko batarasezeranye mu buryo bukurikije amategeko babyarana umwana umwe. Niragire Mélanie yagiranye amakimbirane n'umugabo we bituma ahunga, bigeze mu mwaka wa 1994, Kayinamura Pierre yaje gupfa, asiga abana babiri ari bo Ntaganzwa Eric na Ndahimana Dieudonné, anasiga umutungo ugizwe n'isambu. Aho NIRAGIRE Mélanie atahukiye, yasanze umugabo we Kayinamura Pierre yarapfuye, isambu ye ituyemo umuvandimwe wa nyakwigendera witwaga Rwabunyamanza.

[2] Niragire Mélanie yashatse gusubira mu mutungo w'umugabo we ntiyabyemererwa, atanga ikirego mu Rukiko rwa Kanto ya Gatonde asaba ko yasubizwa isambu yahugujwe na Rwabunyamanza hamwe na Ntaganzwa Eric umuhungu wa Kayinamura Pierre. Ku wa 18/12/1997, Urukiko rwa Kanto ya Gatonde rwaciye urubanza RC51/R1/97, rwemeza ko Kayinamura Pierre yasize isambu yubatsemo

inzu, ko iyo nzu ari iya Niragire Mélanie, akayibanamo n'abana ba Kayinamura Pierre kuko bose ari ingaragu, ko mu gihe hagize ushaka kubaka, yahabwa umunani muri iyo sambu akubakamo. Uru rubanza rukaba rwarabaye itegeko kuko rutajuririwe.

[3] Igice cy'iyi sambu yasizwe na Kayinamura Pierre cyaje gutangirwa ingurane n'icyahoze ari Caisse Sociale du Rwanda, yahindutse RSSB kuri ubu, kuri 3.700.000Frw, ayo mafaranga ashirirwa kuri konti ya Niragire Mélanie ariko ntiyagira ubushake bwo kuyagabana n'abana ba Kayinamura Pierre ari bo Ntaganzwa Eric na Ndahimana Dieudonné. Ibyo byatumye bashyikiriza ikibazo Inteko y'Abunzi bayisaba ko bagabana ayo mafaranga, maze ku wa 14/08/2007 iyo Nteko itegeka ko Niragire Mélanie, Ntaganzwa Eric na Ndahimana Dieudonné bayagabana, buri mwana agafata 1.500.000Frw, naho Niragire Mélanie agafata 700.000Frw, inategeka ko isambu isigaye izagabanwa n'abo bana bombi.

[4] Mu mwaka wa 2016, Ndahimana Dieudonné yatanze ikirego mu Rukiko rw'Ibanze rwa Kigabiro arega Niragire Mélanie asaba kuzungura umubyeyi we Kayinamura Pierre. Ku wa 17/06/2016, Urukiko rw'Ibanze rwa Kigabiro rwaciye urubanza RC0018/16/TB/KGBRO, rwemeza ko Ndahimana Dieudonné adakwiye kuzungura umutungo wa Kayinamura Pierre mu gihe Niragire Mélanie akiwufite nk'umupfakazi we kandi yarawuhawe n'Urukiko, ndetse runategeka ko inzu Ndahimana Dieudonné abanamo na nyina Niragire Mélanie bose bayifatanyije.

[5] Mu mwaka wa 2018, Ntaganzwa Eric nawe yareze Niragire Mélanie na Ndahimana Dieudonné mu Rukiko Rwisumbuye rwa Ngoma asaba ko amasezerano yo ku wa 14/08/2007 yabereye imbere y'Inteko y'Abunzi yashyirwa mu bikorwa (yubahirizwa uko yakabaye), abazungura ba Kayinamura Pierre bakagabana isambu yasigaye.

[6] Mu rubanza RC00263/2018/TGI/NGOMA rwaciye n'Urukiko Rwisumbuye rwa Ngoma, urwo Rukiko rwasesenguye ikibazo kijyanye no kumenya niba amasezerano yo ku wa 14/08/2007 yabaye hagati ya Ntaganzwa Eric, Ndahimana Dieudonné na Niragire Mélanie yashyirwa mu bikorwa maze Ntaganzwa Eric akabona uruhare rwe rungana na kimwe cya kabiri ($\frac{1}{2}$) ku isambu ya Kayinamura Pierre. Ku wa 20/12/2018, Urukiko Rwisumbuye rwa Ngoma rwaciye urwo rubanza rwemeza ko ikirego cya Ntaganzwa Eric nta shingiro gifite, rumutegeka guha Niragire Mélanie 100.000 Frw y'ikurikiranarubanza na 500.000Frw y'igihembo cya Avoka, rutegeka kandi ko 20.000 Frw, Ntaganzwa Eric yatanze ingwate y'amagarama ahwanyeye n'ibyakozwe mu rubanza.

[7] Ntaganzwa Eric ntiyishimiye iyo mikirize y'urubanza, ayijuririra mu Rukiko Rukuru, Urugereko rwa Rwamagana, avuga ko atemeranywa n'icyemezo cy'Urukiko Rwisumbuye rwa Ngoma aho rwemeje ko abazungura ba Kayinamura Pierre badashobora kuzungura isambu yabasigiye nk'umubyeyi wabo, kuko mu masezerano yo ku wa 14/08/2007 hatavuzwe igihe bazayigabanira, no kuba mu gihe Niragire Mélanie yaba akiriho iyo sambu itagomba kugabanwa hashingiwe ku rubanza RC51/R1/97 rwaciye n'Urukiko rwa Kanto ya Gatonde, ko Urukiko rwemeje ugomba kwishyura imisoro y'ubutaka ariko ntiwabishyira mu cyemezo cyarwo, no kuba rwaramutegetse guha Niragire Mélanie indishyi kandi yarareze asaba guhabwa uburenganzira bwe ku mutungo wasizwe na se Kayinamura Pierre ku bw'ibyo akaba ataragombaga kuziryoza.

[8] Ku wa 15/07/2019, Urukiko Rukuru, Urugereko rwa Rwamagana, rwaciye urubanza RCA00004/2019/HC/RWG rwemeza ko ubujurire bwa Ntaganzwa Eric bufite ishingiro, rutegeka ko amasezerano yo ku wa 14/8/2007 yabaye hagati ya Ntaganzwa Eric, Ndahimana Dieudonné na Niragire Mélanie agomba gushyirwa mu bikorwa uko yakabaye, Ntaganzwa Eric na Ndahimana Dieudonné bakagabana isambu yasizwe na se Kayinamura Pierre, ko Niragire Mélanie agomba kwishyura ibirarane by'imisoro isambu iburanwa izaba igezemo kugeza igihe urubanza ruzarangirizwa, ko imikirize y'urubanza RC00263/2018/TGI/NGOMA rwaciye n'Urukiko Rwisumbuye rwa Ngoma ku wa 20/12/2018 ihindutse, ko Niragire Mélanie agomba kwishyura Ntaganzwa Eric 20.000Frw y'ingwate y'amagarama yatanze arega ku rwego rwa mbere na 40.000 frw y'ingwate y'amagarama yatanze ajurira.

[9] Ku wa 28/07/2019, Niragire Mélanie yandikiye Perezida w'Urukiko rw'Ubujurire amusaba ko urubanza RCA00004/2019/HC/RWG rwaciwe n'Urukiko Rukuru, Urugereko rwa Rwamagana ku wa 15/07/2018 rwasubirishwamo ku mpamvu z'akarengane. Nyuma yo gusesengura ikibazo cye, Perezida w'Urukiko rw'Ubujurire yandikiye Perezida w'Urukiko rw'Ikirenga amusaba kwemeza ko urwo rubanza rwasubirwamo ku mpamvu z' akarengane. Mu cyemezo N° 030/CJ/2022, Perezida w'Urukiko rw'Ikirenga yemeje ko urwo rubanza rusubirwamo, arwohereza mu Rukiko rw'Ubujurire kugira ngo abe ari rwo ruruburanisha, maze ruhabwa RS/INJUST/RC 00001/2022/CA.

[10] Urubanza rwaburanishijwe mu ruhame ku wa 01/06/2022, Niragire Mélanie yunganiwe na Me Ntabwoba Blandine afatanyije na Me Nyankiko Alphonse, Ntaganzwa Eric yunganiwe na Me Gatarayiha Simon Pierre, naho Ndahimana Dieudonné yunganiwe na Me Zimulinda Jackson.

[11] Muri rusange Niragire Mélanie avuga ko Urukiko Rukuru Urugereko rwa Rwamagana rwagategese ko habaho izungura, ndetse runemeza ko Ndahimana Dieudonné azungura kandi atabisabye rwirengagije imanza zabaye itegeko, zirimo urubanza RC 51/R1/97 rwaciwe n'Urukiko rwa Kanto ya Rutonde ku wa 26/12/1997 n'urubanza RC0018/16/TB/KGBRO rwaciwe n'Urukiko rw'Ibanze rwa Kigabiro rwaciwe ku wa 17/06/2006, zamuhesheje umutungo uburanwa ; akaba asaba ko umwandikwaho, akanahabwa amafaranga yakoresheje mu rubanza. Kuri ibyo Ntaganzwa Eric na Ndahimana Dieudonné asubiza ko imanza Niragire Mélanie ashingiraho zitemeje ko iyo sambu ari iye, ko ahubwo yagomba kuyibareramo bakura akayibaha. Avuga kandi ko mu masezerano yo ku wa 14/08/2007 bemeranyijwe ko isambu isigaye izagabana abana ba Kayinamura Pierre, ari bo ntaganzwa Eric na Ndahimana Dieudonné, ko n'ibyo asaba byo kwandikwaho uwo mutungo nta shingiro bifite kuko atakwandikwaho umutungo utari uwe. Ntaganzwa Eric asaba gusubizwa amafaranga yakoresheje mu rubanza n'indishyi z'akababaro.

[12] Hashingiwe kuri izo mpaka, Urukiko rusanga hakwiye gusuzumwa ibibazo bikurkira:

Kumenya niba mu rubanza RCA00004/2019/HC/RWG Urukiko rwarirengagije ibyemezo by' inkiko maze rugategeka ko habaho izungura;

Kumenya niba ubutaka bubaruye kuri Ntaganzwa Eric na Mujawayezu Pelagie ndetse n'ububaruye kuri Ndahimana Dieudonné na Abuwera MarieGoreth bugomba kwandikwa kuri Niragire;

Ibyerekeye amafaranga y'ikurikiranarubanza n'igihembo cya Avoka ndetse n'indishyi bisabwa n'impende zombi.

II. IBIBAZO BIGIZE URUBANZA N'ISESENGURA RYABYO

1. Kumenya niba mu rubanza RCA00004/2019/HC/RWG, Urukiko rwarirengagije ibyemezo by' inkiko maze rugategeka ko habaho izungura

[13] Niragire Mélanie n'abamwunganira bavuga ko kuba urubanza RCA00004/2019/HC/RWG rwarirengagije imanza zabaye itegeko, zirimo urubanza RC51/R1/97 rwaciwe n'Urukiko rwa Kanto ya Rutonde ku wa 26/12/1997, n'urubanza RC0018/16/TB/KGBRO rwaciwe n'Urukiko rw'Ibanze rwa Kigabiro ku wa 17/06/2016, maze rugategeka ko Niragire Mélanie akurwa mu isambu iburanwa kugira ngo izungurwe na Ntaganzwa Eric hamwe na Ndahimana Dieudonné, binyuranye n'ibiteganywa n'ingingo ya 151, agace ka 6, y'Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu mwaka wa 2003 ryavuguruwe muri 2015, iteganya ko: "ibyemezo by'ubucamanza bigomba kubahirizwa n'abo bireba bose, zaba inzego z' ubutegetsu bwa Leta cyangwa abantu ku giti cyabo ntibishobora kuvuguruzwa keretse binyuze mu nzira no mu buryo buteganywa n'amategeko".

[14] Basobanura ko mu rubanza RC51/R1/97 rwaciwe n'Urukiko rwa Kanto ya Rutonde ku wa 26/12/1997, Urukiko rwemeje ko inzu irimo ari iy'umupfakazi Niragire Mélanie wasizwe na Kayinamura Pierre akayibanamo n'abana ba Kayinamura Pierre kuko bose ari ingaragu, hagira ushaka kubaka agahabwa umunani muri iyo sambu akiyubakiramo, rutegeka ko Niragire Mélanie agaruka mu nzu n'isambu bya Kayinamura Pierre. Bityo rero, bakavuga ko urwo rubanza rwabayeho itegeko kuko rutigeze rujuririrwa ndetse rukaba rwaranashyizwe mu bikorwa ku wa 19/05/2003 nk'uko bigaragazwa n'inyandikomvugo y'irangizwa ry'urubanza, kandi ko nta rundi rubanza rwabayeho ruruvuguruzwa.

[15] Bavuga kandi ko hari urubanza RC0018/16/TB/KGRO rwaciwe n'Urukiko rw'Ibanze rwa Kigabiro ku wa 17/06/2016, aho Ndahimana Dieudonné yareze umubyeyi we Niragire Mélanie, asaba kuzungura umutungo wasizwe n'umubyeyi we Kayinamura Pierre ugizwe n'isambu, hanyuma Urukiko rukemeza ko Ndahimana Dieudonné adakwiye kuzungura umutungo wa Kayinamura Pierre mu gihe Niragire Mélanie akiwufite nk'umupfakazi we kandi yarawuhawe n'Urukiko, ko inzu Ndahimana Dieudonné abanamo na nyina Niragire Mélanie bose bayifatanyije. Bavuga ko ndetse uru rubanza rwategetse ko nta zungura rishobora kubaho igihe cyose Niragire Mélanie akiriho, kuko umutungo yawuheshejwe n'urubanza rwamaze kuba ndakuka.

[16] Banavuga ko hari inyandiko yiswe amasezerano yo ku wa 14/08/2007 yasinyiwe imbere y'inteko y'abunzi, yiswe ay'itangwa ry'amafaranga n'itangwa ry'imigabane y'abana ba Kayinamura Pierre, iyo nyandiko ikaba igaragaza ko bagabanye amafaranga, ko kandi isambu isigaye izagabanywa abana. Bakaba basanga ibijyanye no kugabana isambu isigaye ntaho bihuriye n'umutwe w'iyo nyandiko, ko ahubwo icyari kigamijwe nk'uko ingingo ya 66 y'Itegeko rigenga amasezerano ivuga ari ukugabana amafaranga yari yatanze na Caisse Sociale du Rwanda, kuko bahise banayagabana ndetse no kugabana isambu bakaba barabishyize mu nzagihe. Bavuga ko ibyo babihuje n'ibiteganywa n'ingingo ya 104 y'Itegeko ry'ibimenyetso n'itangwa ryabyo mu manza basanga kuba batarahise bagabana isambu ari uko bari bazi ko badashobora kugira uburenganzira bwo kugabana iyo sambu Niragire Mélanie akiriho. Banzura kuri iyi ngingo basaba Urukiko rw'Ubujurire gutesha agaciro urubanza RCA00004/2019/HC/RWG kuko rwarenganyije Niragire Mélanie, maze rugategeka ko asubizwa umutungo we.

[17] Ntaganzwa Eric n'umwunganira bavuga ko Urukiko Rukuru, Urugereko rwa Rwamagana, rutirengagije ibyemezo by'inkiko byavuzwe kuko nta cyemezo na kimwe cyigeze cyemeza ko Niragire Mélanie ari nyiri isambu iburanwa. Basobanura ko Niragire Mélanie yahungutse afite umwana yabyaranye na Kayinamura Pierre agasanga uyu yarahitanywe na Jenocide yakorewe Abatutsi mu mwaka wa 1994, kuko atari afite aho amurerera, agatizwa isambu ya Kayinamura Pierre, kugira ngo ayireremo abana be. Ko abo bana bamaze gukura, ku wa 14/08/2007, bagiranye na we amasezerano imbere y'Inteko y'Abunzi aho bumvikanye ku neza ko ubutaka busigaye buzagabanwa n'abana ba Kayinamura Pierre. Bavuga ko Niragire Mélanie yanze kuyirekura kandi nyamara yari azi neza ko nta burenganzira ayifiteho; akaba ari yo mpamvu batanze ikirego, hanyuma Urukiko Rukuru, Urugereko rwa Rwamagana, rugafata icyemezo kiri mu mujyo umwe n'ayo masezerano bagiranye, bakaba basanga rwarafashe icyemezo gikwiye kandi gikurikije amategeko.

[18] Bavuga kandi ko igice cy'uwo mutungo RSSB (yahoze ari Caisse Sociale du Rwanda) yatanzeho ingurane ya 3.700.000Frw ari ho hari hubatse inzu Kayinamura Pierre yasizemo Ntaganzwa Eric, Niragire Mélanie yagaruka i Rwamagana mu mwaka wa 1997 akayihashyirako, ariko irimo umuhungu w'umuvandimwe wa Kayinamura Pierre witwaga Uwimana John, ayimusabye ku neza arayimwima bituma aregera Urukiko ngo ruyimuheshe, mu rubanza RC 51/R1/97, Urukiko rwa Kanto ya Rutonde rutegeka ko ayibamo akayirereramo abana ba Kayinamura Pierre, hagira ushaka kubaka agahabwa umunani muri iyo sambu akiyubakiramo, ko rero yahabaga nta burenganzira ahafite kuko atari yarasezeranye na Kayinamura Pierre.

[19] Bakomeza bavuga ko mu kugabana Ndahimana Dieudonné yaherereye mu gice bubatsemo inzu n'ibiraro, ko rero urwo Rukiko nta kosa rwakoze kuko icyemezo rwafashe gihura neza n'ibiteganywa n'Itegeko rigenga iby'imicungire y'umutungo w'abashyiranywe, impano n'izungura, bityo ko kigomba kugumana agaciro kacyo, Ntaganzwa Eric agahamana uruhare rwe, na Ndahimana Dieudonné agahamana uruhare rwe, agakomeza kurereramo umubyeyi we Niragire Mélanie. Babajijwe icyo bavuga ku kuba Urukiko Rukuru, Urugereko rwa Rwamagana rwaremeje ko Ndahimana Dieudonné azungura kandi atabisabye, basubiza ko urwo Rukiko rwagarutse kubikubiye mu masezerano Niragire Mélanie yagiranye n'abo imbere y'Inteko y'Abunzi, ko kandi ayo masezerano yabahaga uburenganzira bwo kugabana, ko rero nta kuntu Ntaganzwa Eric yari guhabwa ubwo burenganzira wenyine kandi ayo masezerano abaha uburenganzira bombi.

[20] Bavuga na none ko mu rubanza RC51/R1/97, Niragire Mélanie yahawe inshingano zo kurera abana mu isambu ya Kayinamura Pierre, bivuze ko ari bo bagombaga kuyizungura, ko rero yagombaga kubacungira ibyabo, bakura akabibaha, ngo keretse niba ashobora kugaragaza ko batarakura, naho mu rubanza RC0018/16/TBKGRO atigeze arubamo nk'umuburanyi. Bityo ko gutegereza urupfu rwa Niragire Mélanie kugira ngo abana babone ibyabo atari byo, kuko atari we uzungurwa, ahubwo hazungurwa Kayinamura Pierre wapfuye. Babajijwe niba urubanza RC51/R1/97 rwaravuze izungura cyangwa iminani, basubiza ko rwavuze iminani ariko ko iminani itangwa n'umubyeyi akiriho kandi Kayinamura Pierre yari yarapfuye, ko rero yagombaga kuzungurwa n'abana be, ko Niragire Mélanie atatanga iminani ku isambu itari iye.

[21] Ndahimana Dieudonné n'umwunganira bavuga ko bakoze amasezerano bose bayumvikanyeho, ko nta karengane kari mu rubanza RCA00004/2019/HC/ RWG rwaciwe n'Urukiko Rukuru, Urugereko rwa Rwamagana, ko icyemezo cyafashwe n'urwo Rukiko bacyemera. Basobanura ko isambu iburanwa atari iya Niragire Mélanie ahubwo ari iya se Kayinamura Pierre wazize Jenocide yakorewe Abatutsi mu mwaka wa 1994, ko Niragire Mélanie atari gutanga umunani ku mutungo utari uwe, ko rero we na Ntaganzwa Eric bifuzaga kumuzungura, kuko Niragire Mélanie adakwiye gukomeza kubatungira mu mutungo se yasize kandi bafite ubushobozi ndetse n'ububasha bwo kuwacungira, ko kandi babyemeranyijweho mu masezerano yo ku wa 14/08/2007 yabereye imbere y'Inteko y'Abunzi. Bavuga kandi ko yaba Niragire Mélanie cyangwa nyina wa Ntaganzwa Eric nta n'umwe wari warashyiranywe na Kayinamura Pierre mu buryo bukurikije amategeko, ko Niragire Mélanie yifuzaga ko uwo mutungo uguma kuri succession agamije kuwubavutsa, ko n'Urukiko rwamuciye imisoro akanga kuyishyura kugira ngo Leta izahatwara, bakaza kuyishyura.

[22] Bavuga kandi ko urubanza RC51/R1/97 rutakuye umutungo kuri Kayinamura Pierre ngo ruwuhwe Niragire Mélanie, ahubwo urwo rubanza rwamuhaye gucunga uwo mutungo, kuko rwemeje ko Niragire Mélanie agaruka mu isambu akayitungiramo abana ba Kayinamura ari nabyo byagarutseweho n'Urukiko Rukuru, Urugereko rwa Rwamagana, aho rwemeje ko Niragire Mélanie nta burenganzira afite kuri uwo mutungo.

[23] Bakomeza bavuga ko masezerano yo ku wa 14/08/2007 yabereye imbere y'Inteko y'Abunzi agaragaza ko bagabanye amafaranga yatanzwe na Caisse Sociale du Rwanda kandi bemeranywe ko isambu isigaye izagabanwa n'abana bombi ba Kayinamura Pierre ari bo Ntaganzwa Eric na Ndahimana Dieudonné. Muri ayo masezerano akaba ari ntaho havugwa ko bagombaga kurindira ko Niragire Mélanie apfa ahubwo agaragaza ko bashoboraga kugabana bukeye bwaho cyangwa undi muni bihitiyemo. Babajijwe icyo bavuga ku kuba Urukiko Rukuru, Urugereko rwa Rwamagana rwaremeje ko Ndahimana Dieudonné azungura kandi atabisabye, basubiza ko Urukiko Rukuru, Urugereko rwa Rwamagana, rwemeje ibiri mu masezerano kandi ayo masezerano agenera Ndahimana Dieudonné uburenganzira kuri uwo mutungo, ko rero ntaho urwo Rukiko rwigeze rumugenera ibyo atasabye.

[24] Impaka kuri iyi ngingo zishingiye ku kumenya niba hari ikosa Urukiko Rukuru, Urugereko rwa Rwamagana, rwakoze rwemeza ko ziriya manza Niragire Mélanie avuga ko zabaye itegeko ko kandi zamuhaye isambu iburanwa, zitigeze zimuha iyo iyo sambu.

[25] Ingingo ya 63 y'Itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko iteganya ibikurikira: "Iyo Urukiko rw'Ikirenga cyangwa urundi rukiko Perezida w'Urukiko rw'Ikirenga akena rushyikirijwe urubanza rusabirwa gusubirwamo ku mpamvu z'akarengane, rurusuzuma mu mizi bundi bushya abarubayemo ababuranyi bese bahamagajwe".

[26] Ingingo ya 64 y'Itegeko N° 45/2011 ryo ku wa 25/11/2011 rigenga amasezerano iteganya ibikurikira: "Amasezerano akozwe ku buryo bukurikije amategeko aba itegeko ku bayagiranye. Ashobora guseswa ari uko babyumvikanyeho cyangwa ku mpamvu zemewe n'amategeko. Agomba kubahirizwa nta buriganya".

[27] Dosiye y'urubanza igaragaramo urubanza RC51/R1/97 rwabaye hagati ya Niragire Mélanie na Rwabunyamanza hamwe na Ntaganzwa Eric, urega ari Niragire Melanie, ikiregerwa ari inzu n'isambu byasizwe na Kayinamura Pierre bakaba banga ko ayisubiramo. Muri urwo rubanza, Urukiko rwa Kanto ya Rutonde rwemeje ko Kayinamura Pierre yasize isambu yubatsemo inzu, ko iyo nzu ari iy'umupfakazi Niragire Mélanie wasizwe na Kayinamura, akayibanamo n'abana ba Kayinamura Pierre kuko bese ari ingaragu, hagira ushaka kubaka, agahabwa umunani muri iyo sambu, akiyubakiramo. Uru rubanza rwaciye ku wa 18/12/1997, kandi ntirwigeze rujuririrwa.

[28] Dosiye igaragaramo urubanza RC0018/16/TB/KGRO rwaciye n'Urukiko rw'Ibanze rwa Kigabiro ku wa 17/06/2016, aho Ndahimana Dieudonné yareze umubyeyi we Niragire Mélanie, asaba kuzungura umutungo wasizwe n'umubyeyi we Kayinamura Pierre ugizwe n'isambu, hanyuma urwo Rukiko rwemeza ko Ndahimana Dieudonné adakwiye kuzungura umutungo wa se Kayinamura Pierre ugifitwe n'umupfakazi wa Kayinamura Pierre, Niragire Mélanie wawuhawe n'Urukiko, rwemeza ko inzu Ndahimana Dieudonné abanamo na nyina Niragire Mélanie bese bayifatanyije, ko ntawe ugomba kuyisohorwamo.

[29] Dosiye igaragaramo inyandiko yo ku wa 14/08/2007 yiswe : Amasezerano y'itangwa ry'amafaranga n'imigabane y'abana ba Kayinamura Pierre, akaba yarabereye imbere y'Inteko y'Abunzi, hagati ya Ntaganzwa Eric, Ndahimana Dieudonné na Niragire Mélanie. Muri ayo masezerano hemejwe ko Kayinamura Pierre yasize abana babiri ari bo Ntaganzwa Eric na Ndahimana Dieudonné, ko isambu ya Kayinamura Pierre yabazwe na Caisse Sociale du Rwanda (RSSB) ifite agaciro 3.700.000Frw, ko imbere y'Inteko y'Abunzi uko ari batatu bemeye ko Niragire Mélanie ari we mugore wa kabiri ahabwa 700.000Frw y'inzu ye, Ntaganzwa Eric na Ndahimana Dieudonné, buri wese agahabwa 1.500.000Frw. Abagiranye amasezerano bari imbere y'Inteko y'Abunzi bemeranyije kandi ko isambu isigaye itarabazwe izagabanwa n'abana bombi ba Kayinamura Pierre, ni ukuvuga Ntaganzwa Eric na Ndahimana Dieudonné, nabo bakabyemera.

[30] Dosiye y'urubanza igaragaza ko ababuranyi bese muri uru rubanza bemeranya ko abazungura ba Kayinamura Pierre ari Ntaganzwa Eric na Ndahimana Dieudonné, bemeranya kandi ko Niragire Mélanie atigeze ashyingiranywa na Kayinamura Pierre n'ubwo babanye nk'umugabo n'umugore, bakabyarana umwana umwe ari we Ndahimana Dieudonné.

[31] Imikirize y'urubanza RCA00004/2019/HC/RWG igaragaza ko Urukiko Rukuru, Urugereko rwa Rwamagana, rwasobanuye ko urubanza RC51 /R1/97 rwaciye n'Urukiko rwa Kanto ya Rutonde ku wa 18/12/1997 rutigeze rwegurira Niragire Mélanie isambu nka nyirayo (propriétaire/owner), ahubwo rwamuhaye uburenganzira bwo kuyibyaza umusaruro no kuyitungiramo imfubyi zasizwe na Kayinamura Pierre, hanyuma igihe zazakura, zigahabwa iminani mu isambu yasizwe na se. Igaragaza kandi ko amasezerano yo ku wa 14/8/2007 avuga ko abana ba Kayinamura Pierre bazagabana isambu

itarabazwe atanyuranyije n'ibyemejwe n'Urukiko rwa Kanto ya Rutonde, kuko igihe Niragire Mélanie yagombaga gutunga abazungura ba Kayinamura Pierre mu mutungo wasizwe na se cyarangiye, abana bamaze kugira imyaka y'ubukure aho bafite ubushobozi bwo kwicungira umutungo basigiwe na se. Ikindi nuko Urukiko rwasobanuye neza ko inzu yonyine ari yo ya Niragire Mélanie, iyi nzu n'aho yari yubatswe hakaba harabazwe (exproprié) na Caisse Sociale du Rwanda (RSSB), kandi akaba yarahawe ingurane ingana na 700.000Frw.

[32] Urukiko rurasanga nk'uko byemejwe n'Urukiko Rukuru, Urugereko rwa Rwamagana, urubanza RC51 /R1/97 rwaciwe n'Urukiko rwa Kanto ya Rutonde ku wa 18/12/1997 nti rwigeze rwegurira Niragire Mélanie isambu yasizwe na Kayinamura Pierre ngo abe nyirayo, ngo ibe iye bwite, ahubwo rwemeje ko Kayinamura Pierre yasize isambu yubatsemo inzu, ko iyo nzu ari iy'umupfakazi Niragire Mélanie wasizwe na Kayinamura Pierre, akayibanamo n'abana kuko bose ari ingaragu, hagira ushaka kubaka, agahabwa umunani muri iyo sambu, akiyubakiramo, kuba rero urwo Rukiko rwaremeje ko iyo sambu ayibanamo n'abana ba Kayinamura Pierre kandi hagira ushaka kubaka, agahabwa umunani muri iyo sambu, akiyubakiramo, bivuze ko icyo Urukiko rwamuhaye ari ukubyaza umusaruro iyo sambu, akayitungiramo abana basizwe na Kayinamura Pierre bakura bagahabwa umutungo wasizwe n'umubyeyi wabo, cyane ko nawe atigeze arega avuga ko iyo sambu ari iye ahubwo yasabaga kugaruka mu isambu yasinze n'umugabo we Kayinamura Pierre.

[33] Urukiko rurasanga ibikubiye mu rubanza RC51/R1/97, NIRAGIRE Mélanie avuga ko rwabaye itegeko kandi rwamuhaye iyo sambu, bitanyuranyije n'ibikubiye mu rubanza RCA00004/2019/HC/RWG rwemeje ko amasezerano yo ku wa 14/8/2007 yabereye imbere y'Inteko y'Abunzi yubahirizwa, kuko nk'uko byasobanuwe haruguru ntabwo urubanza RC51/R1/97 rwahaye Niragire Mélanie isambu ngo ibe iye bwite kandi n'inzu yari yahawe muri urwo rubanza n'aho yari yubatswe habazwe (exproprié) na Caisse Sociale du Rwanda (RSSB), Niragire Mélanie ahwabwa ingurane y'iyi nzu ihwanye na 700.000Frw, arayemera abisinyira imbere y'Inteko y'Abunzi mu masezerano yo ku wa 14/8/2007, bikaba rero byumvikana ko nta kosa Urukiko Rukuru, Urugereko rwa Rwamagana, rwakoze kwemeza ko amasezerano Niragire Mélanie yagiranye na Ntaganzwa Eric hamwe na Ndahimana Dieudonné yubahirizwa uko yakabaye, cyane ko nta gahato Niragire Mélanie yashyizweho ngo ayasinye.

[34] Urukiko rurasanga urundi rubanza Niragire Mélanie ashingiraho avuga ko rwabaye itegeko kandi rwamuhaye iyo sambu ni urubanza RC0018/16/TB/KGRO rwaciwe n'Urukiko rw'Ibanze rwa Kigabiro ku wa 17/06/2016, nk'uko rero byagaragajwe haruguru muri urwo rubanza Ndahimana Dieudonné yareze umubyeyi we Niragire Mélanie, asaba kuzungura umutungo wasizwe n'umubyeyi we Kayinamura Pierre ugizwe n'isambu, hanyuma urwo Rukiko rwemeza ko Ndahimana Dieudonné adakwiye kuzungura umutungo wa se Kayinamura Pierre ugifitwe n'umupfakazi wa Kayinamura Pierre, bikaba rero byumvikana ko urwo rubanza rutahaye Niragire Mélanie iyo sambu ngo abe nyirayo, nk'uko ashaka kubyumvikanisha, ahubwo rwemeje ko Ndahimana Dieudonné atazungura isambu ya Kayinamura Pierre igifitwe n'umupfakazi we, kuba rero Ntaganzwa Eric yaratanze ikirego asaba ko amasezerano bagiranye na Niragire Mélanie yubahirizwa uko yakabaye, hanyuma Urukiko Rukuru, Urugereko rwa Rwamagana, rukabimwemerera, ntaho rwanyuranyije n'amategeko kuko ingingo ya 64 y'Itegeko N° 45/2011 ryo ku wa 25/11/2011 rigenga amasezerano iteganywa ko amasezerano akozwe ku buryo bukurikije amategeko aba itegeko ku bayagiranye kandi akaba agomba kubahirizwa nta buriganya.

[35] Ku byo Niragire Mélanie n'abamwunganira bavuga ko Urukiko Rukuru, Urugereko rwa Rwamagana, rwirengagije urubanza RC51/R1/97, n'urubanza RC 0018/16/TB/KGBRO zabaye itegeko, maze rugategeka ko akurwa mu isambu iburanwa kugira ngo izungurwe na Ntaganzwa Eric hamwe na Ndahimana Dieudonné, Urukiko rurasanga nta shingiro byahabwa, kuko nk'uko byasobanuwe haruguru, ntabwo Urukiko Rukuru, Urugereko rwa Rwamagana, rwirengagije ibikubiye mu rubanza N° RC51/R1/97, ahubwo rwarabisobanuye runagaragaza ko bitanyuranyije n'ibyo Niragire Mélanie na

Ntaganzwa Eric hamwe na Ndahimana Dieudonné bemeranyijwe mu masezerano bagiranye imbere y'inteko y'Abunzi ku wa 14/08/2007. Rurasanga kandi urwo Rukiko rutarirengagije urubanza RC0018/16/TB/KGBRO kuko usibye ko Ntaganzwa Eric atigeze arubamo umuburanyi, nk'uko byagaragajwe haruguru nta n'ubwo urwo rubanza rwahaye Niragire Mélanie iyo sambu ngo abe nyirayo.

[36] Urukiko rurasanga kandi ibivugwa na Niragire Mélanie n'abamwunganira ko Urukiko Rukuru, Urugereko rwa Rwamagana, rwemeje ko Ndahimana Dieudonné azungura kandi atarabisabye nta shingiro byahabwa, kuko icyo Ntaganzwa Eric yaregeye mu rubanza RCA00004/2019/HC/RWG rusubirishwamo ku mpamvu z'akarengane ari uko amasezero yo ku wa 14/08/2007 yubahizwa uko yakabaye, ntabwo haregawe kuzungura. Kuba rero muri ayo masezerano impanze zose ziri muri uru rubanza zaremeranyijwe ko isambu isigaye izagabanywa abana ba Kayinamura Pierre, ari bo Ntaganzwa Eric na Ndahimana Dieudonné, hanyuma urwo Rukiko rukemeza ko yubahirizwa, uru Rukiko rurasanga nta kosa Urukiko Rukuru, Urugereko rwa Rwamagana rwakoze, kandi nta n'icyo rwageneye Ndahimana Dieudonné atasabye.

[37] Urukiko rurasanga na none ibyo Niragire Mélanie n'abamwunganira bavuga ko inyandiko yo ku wa 14/08/2007 atari amasezerano, ko kandi icyo yari igamije kwari ukugabana amafaranga gusa, nta shingiro byahabwa kuko nk'uko byagaragajwe haruguru, ayo masezerano yabereye imbere y'Inteko y'Abunzi kandi Niragire Mélanie na Ntaganzwa Eric hamwe na Ndahimana Dieudonné bemeranyijwe uburyo bagabana amafaranga y'ingurane y'igicye cy'iyi sambu cyari cyabazwe na Caisse Sociale du Rwanda ari nacyo cyarimo inzu Kayinamura Pierre yari yarahaye Niragire Mélanie, uyu ahabwa ingurane yayo ihwanye na 700.000Frw, arayemera aranayisinyira, banemeranya ko isambu isigaye itarabazwe izagabanwa n'abana bombi ba Kayinamura Pierre, ni ukuvuga Ntaganzwa Eric na Ndahimana Dieudonné, nabo barabyemera, bityo rero nta nenge iri muri ayo masezerano.

[38] Ku byo Niragire Mélanie n'abamwunganira na none bavuga ko kuba mu masezerano yo ku wa 14/08/2007 batarahise bagabana isambu ahubwo bakabishyira mu nzagihe ari uko bari bazi ko badashobora kugira uburenganzira bwo kugabana iyo sambu Niragire Mélanie akiriho, Urukiko rurasanga nta shingiro byahabwa, kuko ntaho byanditse muri ayo masezerano yo ku wa 14/08/2007 yabereye imbere y'inteko y'Abunzi ko iyo sambu Ntaganzwa Eric na Ndahimana Dieudonné bazayigabana ari uko Niragire Mélanie atakiriho.

[39] Urukiko rurasanga kandi ibivugwa na Niragire Mélanie n'abamwunganira ko akarengane yagiriwe gashingiye ku kuba Urukiko Rukuru, Urugereko rwa Rwamagana, rwararenze ku manza zabaye itegeko, hanyuma ruca urubanza RCA00004/2019/HC/RWG rwemeza ko isambu yahawe Niragire Mélanie izungurwa na Ntaganzwa Eric na Ndahimana Dieudonné nta shingiro byahabwa, kuko n'ubwo izo manza zabaye itegeko kuko zitajuririwe, ariko nk'uko byasobanuwe haruguru, ntabwo izo manza zigeze ziha Niragire Mélanie isambu yasizwe na Kayinamura Pierre ngo abe nyirayo (propriétaire/owner), kandi ababuranyi baburanye muri izo manza batandukanye n'ababurana muri uru, ndetse n'ibyaregawe muri izo manza bitandukanye n'ikiburanwa muri uru rubanza. Koko rero mu rubanza RC51/R1/97 hareze Niragire Mélanie arega Rwabunyamanza hamwe na Ntaganzwa Eric, ikiregerwa ari inzu n'isambu byasizwe na Kayinamura Pierre bakaba banga ko ayisubiramo, naho mu rubanza RC0018/16/TB/KGBRO hareze Ndahimana Dieudonné arega Niragire Mélanie, asaba kuzungura umutungo wasizwe n'umubyeyi we Kayinamura Pierre ugizwe n'isambu, mu gihe mu rubanza RCA00004/2019/HC/RWG, hareze Ntaganzwa Eric arega Niragire Mélanie hamwe na Ndahimana Dieudonné, asaba ko amasezero yo ku wa 14/08/2007 yubahizwa uko yakabaye. Rurasanga rero ingingo ya 14 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza

z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegets¹, itakoreshwa muri uru rubanza mu gihe ababuranyi atari bamwe n'ikiburanwa atari kimwe.

2. Kumenya niba ubutaka bufite UPI:5/01/05/03/4018, UPI:5/01/05/03/4019, UPI:5/01/05/03/3978 bubaruye kuri Ntaganzwa Eric na Mujawayezu Pelagie na UPI:5/01/05/03/3792 bubaruye kuri Ndahimana Dieudonné na Abuwera Marie Goreth bugomba kwandikwa kuri Niragire Mélanie

[40] Niragire Mélanie n'abamwunganira bavuga ko isambu iburanwa yari ibaruwe kuri UPI: 5/01/05/03/2880, iherereye mu Mudugudu wa Ramba, Akagari ka Nyagasenyi, Umurenge wa Kigabiro, Akarerere ka Rwamagana, Intara y'Iburasirazuba, ko mu kurangiza urubanza N° RCA00004/2019/HC/RWG, isambu yagabanywe na Ntaganzwa Eric na Ndahimana Dieudonné, maze ihabwa UPI: 5/01/05/03/4018, UPI:5/01/05/03/4019, UPI:5/01/05/03/3978 na UPI: 5/01/05/03/3792, ko basaba Urukiko ko mu gihe Niragire Mélanie yasubizwa uburenganzira ku isambu ye yakwandikwa kuri UPI zavuzwe haruguru.

[41] Ntaganzwa Eric n'umwunganira bavuga ko ibyo Niragire Mélanie asaba byo kwandikwa kuri uwo mutungo nta shingiro bifite, kuko na mbere yuko wandikwa ku bana ba Kayinamura Pierre, uwo mutungo wari wanditse kuri succession Kayinamura Pierre, kandi n'ubu akaba atagaragaza uburenganzira afite bwo kwandikwaho uwo mutungo. Basobanura ko isambu ari iya Kayinamura Pierre, akaba ari gakondo ye, akaba yarapfuye nta mugore babana nawe, kandi nta n'umwe bigeze basezerana mu buryo bwemewe n'amategeko, bityo rero ko abanditse ku mpapuro z'ubutaka ari bo bana bakaba n'abazungura be n'abagore babo bashakanye byemewe n'amategeko, ari bo bagomba gukomeza kubwandikwaho, ko kandi izo mpapuro z'ubutaka bazibonye nyuma yo kurangiza urubanza RCA00004/2019/HC/RWG rwaciwe n'Urukiko Rukuru, Urugereko rwa Rwamagana, rumaze kuba itegeko.

[42] Ndahimana Dieudonné n'umwunganira bavuga ko ibyo Niragire Mélanie asaba byo kwandikwa kuri uwo mutungo nta shingiro bifite, kuko no mu gihe Urukiko rwakwemeza imyanzuro iri mu rubanza RC51/R1/97 bitamuhesha ububasha bwo kwiyandikishaho umutungo utari uwe. Basobanura ko isambu ari iya Kayinamura Pierre, akaba yarapfuye nta mugore babana nawe, kandi nta numwe bigeze basezerana mu buryo bwemewe n'amategeko, bityo rero ko abanditse ku mpapuro z'ubutaka ari bo bana ba Kayinamura Pierre bakaba bagomba gukomeza kubwandikwaho kuko ari bo bazungura be.

UKO URUKIKO RUBIBONA

[43] Ingingo ya 3, igika cya mbere y'Itegeko N° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ibikurikira: “Buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana.” 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'ubutegets¹ iteganya ko urega agomba kugaragaza ibimenyetso by'ibyo aregera. Iyo abibuze, uwarezwe aratsinda.

[44] Urukiko rurasanga Niragire Mélanie atabasha kugaragaza aho ahurira n'ubutaka bubaruye kuri UPI: 5/01/05/03/4018, UPI:5/01/05/03/4019, UPI:5/01/05/03/3978 na UPI:5/01/05/03/3792 asaba kwandikwaho, bityo ibyo asaba nta shingiro bifite. Rurasanga kandi kuba byagaragaye ko nta karengane yagize mu rubanza mu rusubirishwamo, ntaho uru Rukiko rwahera rutegeka ko ibibanza bivugwa haruguru byamwandikwaho ; bityo ibyo asaba nta shingiro bifite.

¹ Urubanza rwaciwe ku rwego rwa nyuma ntirushobora kongera kuburanishwa bundi bushya ku mpamvu zimwe no ku kiburanwa kimwe hagati y'ababuranyi bamwe baburana ikirego kimwe.

3. Kumenya niba amafaranga y'ikurikiranarubanza n'igihembo cya Avoka ndetse n'indishyi bisabwa muri uru rubanza bifite ishingiro

[45] Niragire Mélanie n'abamwunganira bavuga ko kubera ko abaregwa bakomeje kumusiragiza mu manza nta mpamvu, byatumye yiyambaza Abavoka, bityo asaba Urukiko rw'Ubujurire kubatega kumuha igihembo cy'Abavoka kingana na 2.000.000Frw, na 500.000Frw y'ikurikiranarubanza.

[46] Ntaganzwa Eric n'umwunganira bavuga ko amafaranga Niragire Mélanie asabanta shingiro afite, ko ari we wishora mu manza aburana ibyo adafitiye uburenganzira kuko nawe abizi ko atari umuzungura wa Kayinamura Pierre, ko ahubwo ari we ukwiye gucibwa amafaranga asabwa na Ntaganzwa Eric ahwanye na 1.500.000Frw yishyuye Avoka na 1.000.000Frw y'indishyi z'akababaro kubera kumushora mu manza n'agahinda yatewe no kudahabwa uruhare rwe ku mutungo yasigiwe na Se kugeza ubwo ageza ku myaka mirongo itanu (50) akiri ku gasozi kandi afite gakondo.

[47] Ndahimana Dieudonné n'umwunganira biregura ku mafaranga Niragire Mélanie asaba bavuga ko nta shingiro afite, na cyane ko mu manza zabanje yemeye imikirizey'urubanza, akaba atumva impamvu akomeza kumushora mu manza.

[48] Niragire Mélanie n'abamwunganira biregura kuri 1.500.000Frw y'igihembo cya Avoka n'indishyi z'akababaro, Ntaganzwa Eric asaba bavuga ko nta shingiro afitekuko ari we wishoye mu manza, ko nta kababaro yigeze agira, kuko yahawe umunanink'uko byari byaremejwe mu rubanza RC51/R1/97 rwaciwe n'Urukiko rwa Kanto ya Rutonde ku wa 26/12/1997 akawanga.

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[49] Ku berabana n'amafaranga y'igihembo cya Avoka n'ay'ikurikiranarubanza asabwa muri uru rubanza, ingingo ya 111 y'Itegeko N° 22/2018 ryo ku wa 28/04/2018 ryerekeye imiburanishirize y'imanza mbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ibikurikira: “Ikirego cy'amafaranga y'ikurikiranarubanza ni ikirego gishamikira ku kirego cy'iremezo kigamije kwishyura ibyakoreshejwe mu rubanza. Ikirego cy'amafaranga y'ikurikiranarubanza kiburanishirizwa rimwe n'ikirego cy'iremezo. Gishobora kandi kwakirwa kikanaburanishwa n'iyo ikirego cy'iremezo cyaba kitakiriwe”.

[50] Urukiko rurasanga amafaranga y'igihembo cya Avoka Ntaganzwa Eric asaba afite ishingiro, ariko ayo asaba ni menshi, bityo mu bushishozi bwawo rumugeneye 500.000Frw y'igihembo cya Avoka na 200.000Frw y'ikurikiranarubanza agombagutangwa na Niragire Mélanie.

[51] Ku birebana na 1.000.000Frw y'indishyi z'akababaro Ntaganzwa Eric asaba kubera kumushora mu manza n'agahinda yatewe no kudahabwa uruhare rwe ku mutungo yasigiwe na Se, Urukiko rurasanga atagomba kuzihabwa kuko nk'uko nawe abyemeza urubanza RCA00004/2019/HC/RWG rwarangijwe, ahabwa uruhare rwe mu mutungo wasizwe na se Kayinamura Pierre, bityo nta mpamvu y'indishyi asaba.

[52] Urukiko rurasanga amafaranga y'igihembo cya Avoka n'ay'ikurikiranarubanza Niragire Mélanie asaba nta shingiro afite, kuko byagaragaye ko nta karengane yagize mu rubanza yasabye ko rusubirishwamo.

III. ICYEMEZO CY'URUKIKO

[53] Rwemeje ko ikirego cyatanzwe na Niragire Mélanie asaba gusubirishamo ku mpamvu z'akarengane urubanza RCA00004/2019/HC/RWG rwaciwe n'Urukiko Rukuru, Urugereko rwa Rwamagana, ku wa 15/07/2019, nta shingiro gifite.

[54] Rwemeje ko imikirize y'urubanza RCA00004/2019/HC/RWG rwaciwe n'Urukiko Rukuru Urugereko rwa Rwamagana ku wa 15/07/2019, idahindutse mu ngingo zayo zose.

[55] Rutegetse Niragire Mélanie guha Ntaganzwa Eric 500.000Frw y'igihembo cya Avoka na 200.000Frw y'ikurikitarubanza.

[56] Ruvuze ko amagarama y'urubanza aherera ku Isanduku ya Leta.