DIYOSEZE GATOLIKA YA CYANGUGU vs. INGABIRE

[Rwanda URUKIKO RW'UBUJURIRE – RS/INJUST/RSOC00006/2023/CA (Munyangeri, J.P., Ngagi na Kamere, J.) 19 Nyakanga 2024]

Amategeko agenga imanza z'umurimo – Ubutumwa bw'akazi – Umukozi wa Leta wagiye mu butumwa bw'akazi – Umukozi wa Leta afatwa nk'uwagiye mu butumwa bw'akazi, iyo yoherejwe gukorera ahandi hantu adasanzwe akorera, mu ntera irenze ibilometero mirongo itatu, akahamara nibura amasaha atanu mbere y'uko asubira aho yakoreraga, icyo gihe agenerwa indamunite z'ubutumwa – N'ubwo yakorera ahantu hatagejeje ku bilometero mirongo itatu, umukozi wa Leta woherejwe mu butumwa bw'akazi mu bihe bidasanzwe agenerwa indamunite z'ubutumwa z'iteganywa n'amategeko.

Incamake y'ikibazo: Ingabire wari umukozi w'ibitaro bya Mibilizi, yareze umukoresha we Diyoseze Gatolika ya Cyangugu mu Rukiko Rwisumbuye rwa Rusizi asaba ko itegekwa kumwishyura amafaranga akomoka ku butumwa bw'akazi yakoze mu gihe cy'iminsi magana abiri na mirongo itatu n'itatu (233), ay'ingendo, icumbi, amafunguro n'indishyi z'akababaro. Avuga ko ubwo butumwa yabukoreye mu bitaro bya Gihundwe yoherejwe n'umukoresha we, na we abisabwe na MINISANTE ko yohereza muri ibyo bitaro umukozi ufasha mu gupima icyorezo cya Covid-19.

Diyoseze Gatolika ya Cyangugu, nyiribitaro bya Mibilizi, yireguye ivuga ko ayo mafaranga asaba atemerewe kuyahabwa, ngo kuko Urega atujuje ibisabwa biteganyijwe mu Iteka rya Perezida N° 109/01 ryo ku wa 15/10/2015 rigena ubutumwa bw'akazi imbere mu gihugu, birimo intera ya 30km hagati yaho yoherejwe gukorera n'aho yari asanzwe akorera.

Mu rubanza RSOC00003/2021/TGI/RSZ, Urukiko Rwisumbuye rwemeje ko ikirego cye nta shingiro gifite, bituma ajuririra Urukiko Rukuru, urugereko rwa Rusizi asaba ko hasuzumwa niba hakurikijwe imiterere y'ubutumwa bw'akazi n'ibihe bidasanzwe byakozwemo adafite uburenganzira ku ndishyi yaregeye. Muri ubu bujurire, Diyoseze Gatolika ya Cyangugu yireguye ivuga ko ubwo bujurire nta shingiro bufite, mu gihe atashoboye kuvuguruza itegeko ryashingiweho ahabwa ubutumwa cyangwa ngo agaragaze izindi ngingo z'Iteka rya Perezida zigena ibyubahirizwa mu bihe bidasanzwe.

Urukiko Rukuru rwaciye urubanza rwemeza ko ubujurire bufite ishingiro, ko urubanza rwaciwe ku rwego rwa mbere ruhindutse mu ngingo zarwo zose, maze rutegeka ko ayo mafaranga atangwa kuko umukozi yoherejwe mu butumwa bw'akazi mu bihe bidasanzwe. Uru urubanza rwasabiwe gusubirwamo ku bw'impamvu z'akarengane na Diyosezi Gatolika ya Cyangugu, maze ruburanishwa n'uru Rukiko rw'Ubujurire, aho ivuga ko muri urwo rubanza rusubirwamo, Urukiko Rukuru rwaciye urubanza rwifashishije itegeko ritariho igihe impaka zavukaga, bityo ikaba isaba gusubizwa amafaranga yahaye uwo baburana harangizwa urwo rubanza.

Muri uru Rukiko rw'Ubujurire hasuzumwe icyo kibazo cy'ayo mafaranga yagenewe Uregwa dore ko Urega avuga ko Urukiko Rukuru rwayamugeneye rwifashishije Iteka rya Perezida N° 062/01 ryo ku wa 19/10/2022 rigenga ubutumwa bw'akazi, itangwa ry'ububasha n'iminsi y'ikiruhuko rusange, nyamara impaka zaravutse hakoreshwa Iteka rya Perezida N° 109/01 ryo ku wa 15/10/2015 rigenga ubutumwa bw'akazi imbere mu gihugu, bivuze ko rwakoresheje itegeko ritariho.

Mu myanzuro y'ubwiregure bwe, Uregwa avuga ko kuba mu rubanza rusubirwamo ku mpamvu z'akarengane, urukiko rwaragaragaje inenge zari mu rubanza rujuririrwa rukazikosora rushingiye ku Iteka rishyashya, nta mategeko yirengagijwe.

Incamake y'icyemezo: Umukozi wa Leta afatwa nk'uwagiye mu butumwa bw'akazi, iyo yoherejwe gukorera ahandi hantu adasanzwe akorera, mu ntera irenze ibilometero mirongo itatu, akahamara nibura amasaha atanu mbere y'uko asubira aho yakoreraga, icyo gihe agenerwa indamunite z'ubutumwa –

N’ubwo yakorera ahantu hatagejeje ku bilometero mirongo itatu, umukozi wa Leta woherejwe mu butumwa bw’akazi mu bihe bidasanzwe agenerwa indamunite z’ubutumwa z’iteganywa n’amategeko.

Ikirego cyo gusubirishamo urubanza ku mpamvu z’akarengane, nta shingiro gifite.

Amategeko yashingiweho:

Itegeko Ngenga Nº 12/2013/OL ryo ku wa 12/09/2013 ryerekeye imari n’umutungo bya Leta, ingingo ya 19.

Itegeko Nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y’imanza z’imbonezamubano, iz’ubucuruzi, iz’umurimo n’iz’ubutegetsi, ingingo ya 111.

Iteka rya Perezida Nº 062/01 ryo ku wa 19/10/2022 ryerekeye ubutumwa bw’akazi, itangwa ry’ububasha n’iminsi y’ikiruhuko rusange, ingingo ya 5.

Iteka rya Perezida Nº 109/01 ryo ku wa 15/10/2015 rigena ubutumwa bw’akazi imbere mu gihugu, ingingo ya 3, 5 n’iya 6.

Iteka rya Minisitiri No 001/16/10/TC ryo ku wa 26/01/2016 rishyiraho amabwiriza yerekeye imari, ingingo ya 6.

Imanza zifashishijwe:

RPAA 00322-00323/2022/CA, Ubushinjacyaha na Renzaho Alexis n’undi rwaciwe n’Urukiko rw’Ubujurire ku wa 26/04/2023.

Urubanza

I. IMITERERE Y’URUBANZA

[1] Ingabire Vincent ni umukozi w’ibitaro bya Mibilizi bya Diyoseze Gatolika ya cyangugu. Mu gihe cy’icyorezo cya Covid-19, Minisiteri y’Ubuzima (MINISANTE) yasabye ibitaro kuyiha abakozi bo kuyifasha gupima ubwandu bw’icyo cyorezo, maze kuva ku wa 02/10/2020 kugeza ku wa 09/05/2021 ahabwa ubutumwa bwo kujya gukorera mu bitaro bya Gihundwe, ariko ntiyishyurwa amafaranga y’ubwo butumwa, ay’ingendo, ay’icumbi n’amafunguro yakoresheje mu gihe kingana n’iminsi magana abiri na mirongo itatu n’itatu (233).

[2] Ingabire Vincent yashyikirije Umugenzuzi w’Umurimo mu Karere ka Rusizi ikibazo, impande zombi zinanirwa kumvikana, biba ngombwa ko arega Diyoseze Gatolika ya Cyangugu mu Rukiko Rwisumbuye rwa Rusizi, asaba guhabwa amafaranga miliyoni cumi n’ebyiri, ibihumbi magana atatu na cumi na bitanu na magana inani (12,315,800Frw) akomoka ku butumwa bw’akazi yakoze mu gihe cy’iminsi magana abiri na mirongo itatu n’itatu (233), ay’ingendo, icumbi, amafunguro n’indishyi z’akababaro.

[3] Diyoseze Gatolika ya Cyangugu yireguye ivuga ko Ingabire Vincent atagombaga guhabwa amafaranga asaba kubera ko hagati y’aho yari yaragiye gukorera n’aho yari asanzwe akorera harimo intera y’ibilometero makumyabiri na bitanu (25), ikaba itagejeje ku bilometero mirongo itatu (30) biteganywa n’ingingo ya 3 y’Iteka rya Perezida Nº 109/01 ryo ku wa 15/10/2015 rigena ubutumwa bw’akazi imbere mu gihugu.

[4] Mu rubanza RSOC00003/2021/TGI/RSZ rwaciwe n’Urukiko Rwisumbuye rwa Rusizi ku wa 28/04/2022, urwo Rukiko rushingiye ku ngingo ya 3 y’Iteka rya Perezida Nº 109/01 ryo ku wa 15/10/2015 rigenga ubutumwa bw’akazi imbere mu gihugu, rwemeje ko:

- ikirego cya Ingabire Vincent nta shingiro gifite;

- amafaranga akomoka ku butumwa bw'akazi asabwa na Ingabire Vincent nta shingiro afite;
- Ingabire Vincent asubiza Diyoseze Gatolika ya Cyangugu amafaranga ibihumbi magana atanu (500,000Frw) y'igihembo cya Avoka;
- amafaranga y'ingwate y'amagarama Ingabire Vincent yatanze arega aguma mu Isanduku ya Leta.

[5] Ingabire Vincent yajuririye urwo rubanza mu Rukiko Rukuru, Urugereko rwa Rusizi, asaba ko hasuzumwa niba hakurikijwe imiterere y'ubutumwa bw'akazi n'ibihe bidasanzwe byakozwemo adafite uburenganzira ku ndishyi yaregeye.

[6] Diyoseze Gatolika ya Cyangugu yireguye ivuga ko impamvu y'ubujurire Ingabire Vincent atanga nta shingiro ifite, kuko atashoboye kuvuguruza itegeko ryashingiweho ahabwa ubutumwa cyangwa ngo agaragaze izindi ngingo z'Iteka rya Perezida zigena ibyubahirizwa mu bihe bidasanzwe.

[7] Mu rubanza RSOCA00001/2022/HC/RSZ rwaciwe n'Urukiko Rukuru, Urugereko rwa Rusizi, ku wa 10/02/2023, urwo Rukiko rushingiye ku ngingo ya 3, iya 5 n'iya 6 z'Iteka rya Perezida N^{o} 109/01 ryo ku wa 15/10/2015 rigenga ubutumwa bw'akazi imbere mu gihugu, ku ngingo ya 5 y'Iteka rya Perezida N^{o} 062/01 ryo ku wa 19/10/2022 ryerekeye ubutumwa bw'akazi, itangwa ry'ububasha n'iminsi y'ikiruhuko rusange, rwemeje ko:

- ikirego cy'ubujurire cya Ingabire Vincent gifite ishingiro kuri bimwe;
- imikirize y'urubanza RSOC00003/2021/TGI/RSZ rwaciwe n'Urukiko Rwisumbuye rwa Rusizi ku wa 28/04/2022 ihindutse mu ngingo zayo zose;
- Diyoseze Gatolika ya Cyangugu yishyura Ingabire Vincent amafaranga y'ubutumwa bw'akazi angana na miliyoni imwe, ibihumbi ijana na cumi n'umunani na magana ane (1,118,400Frw);
- Diyoseze Gatolika ya Cyangugu yishyura Ingabire vincent amafaranga y'icumbi n'amafunguro angana na miliyoni enye, ibihumbi ijana na mirongo ine na birindwi na magana ane (4,147,400Frw);
- Diyoseze Gatolika ya Cyangugu yishyura Ingabire Vincent amafaranga ibihumbi magana arindwi na mirongo itanu (750,000Frw) y'igihembo cya Avoka;
- Diyoseze Gatolika ya Cyangugu isubiza Ingabire Vincent amafaranga ibihumbi mirongo itandatu (60,000Frw) yatanzeho ingwate y'amagarama arega ku rwego rwa mbere no ku rwego rw'ubujurire.

[8] Diyoseze Gatolika ya Cyangugu yasabye ko urubanza RSOCA00001/2022/HC/RSZ rwaciwe n'Urukiko Rukuru, Urugereko rwa Rusizi, ku wa 10/02/2023, rusubirishwamo ku mpamvu z'akarengane, maze mu cyemezo nimero 057/CJ/2023 cyo ku wa 04/05/2023, Perezida w'Urukiko rw'Ikirenga yemeza ko rusubirwamo ku mpamvu z'akarengane, rukazaburanishwa n'Urukiko rw'Ubujurire. Urwo rubanza rwahawe RS/INJUST/RSOC00005//2023/CA, nyuma y'imihango ntegurarubanza yose, hemezwa ko ruzaburanishwa ku wa 03/06/2024.

[9] Uwo munsi Diyoseze Gatolika ya Cyangugu yaritabye ihagarariwe na Me Habimana Alphonse, Ingabire Vincent ntiyitaba ndetse ntiyohereza na Avoka wo kumuhagararira, mu nyungu z'ubutabera iburanisha ryimurirwa ku wa 18/06/2024 kugira ngo ahabwe umwanya wo gushaka undi Avoka kuko dosiye y'urubanza yagaragazaga ko ku wa 24/04/2024, Me Nsengiyumva Venuste yanditse avuga ko atakimuhagarariye, akaba yarabivuze mu magambo akurikira: maze kuvugana na Ingabire Vincent kuri whatsapp ya telefoni ye ngendanwa 0788701239 akanyihanangiriza ansaba ko mumenyekanishiriza ko

ashaka kwiburanira urubanza rwe kandi nanjye nkaba ntamubangamira mu rubanza rwe, nsanze ntagomba kuguma muri uru rubanza kubera umutimanama wanjye. Murakoze.

[10] Uwo munsi Diyoseze Gatolika ya Cyangugu yaritabye ihagarariwe nka mbere, Ingabire Vincent ntiyitaba ntiyohereza na Avoka, ntiyanamenyesha Urukiko impamvu yamubujije kwitaba, hemezwa ko urubanza ruburanishwa adahari imyiregurire ye igashingirwa ku myanzuro yo kwiregura yashyize muri dosiye.

[11] Mu myanzuro no mu miburanire, uhagarariye Diyoseze Gatolika ya Cyangugu anenga Urukiko Rukuru, Urugereko rwa Rusizi, kuba rwaraciye urubanza rwifashishije itegeko ritariho igihe impaka zavukaga, kandi ko rwirengagije ibiteganywa n'ingingo ya 5 y'Iteka rya Perezida N° 062/01 ryo ku wa 19/10/2022 ryerekeye ubutumwa bw'akazi, itangwa ry'ububasha n'iminsi y'ikiruhuko rusange. Asoza asaba ko Ingabire Vincent asubiza amafaranga yahawe harangizwa urubanza RSOCA00001/2022/HC/RSZ rusubirishwamo ku mpamvu z'akarengane n'amafaranga y'ibyagiye ku rubanza.

[12] Mu myanzuro yo kwiregura, Me Nsengiyumva Venuste wari uhagarariye Ingabire Vincent yavuze ko Urukiko Rukuru, Urugereko rwa Rusizi nta tegeko rwirengagije, ko ahubwo rwagaragaje inenge zari mu rubanza rwari rwarajuririwe, hanyuma ruzikosora rwifashishije ingingo z'Iteka rya Perezida n˚ 062/01 ryo ku wa 19/10/2022 ryari rigezweho. Yasoje asaba ko urega aha uwo ahagarariye amafaranga y'ikurikiranarubanza n'igihembo cya Avoka.

[13] Harebwe impaka ziri muri uru rubanza, harasuzumwa ibibazo bikurikira:

- kumenya niba Urukiko Rukuru, Urugereko rwa Rusizi, rutaragombaga kugenera Ingabire Vincent amafaranga yaregeye;
- kumenya niba Ingabire Vincent akwiye gusubiza Diyoseze Gatolika ya Cyangugu amafaranga yatanze harangizwa urubanza RSOCA 00001/2022/HC/RSZ.
- ibyerekeye amafaranga y'ikurikiranarubanza n'igihembo cya Avoka asabwa.

II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

1. Kumenya niba Urukiko Rukuru, Urugereko rwa Rusizi, rutaragombaga kugenera Ingabire Vincent amafaranga yaregeye

[14] Uhagarariye Diyoseze Gatolika ya Cyangugu asaba uru Rukiko guhindura imikirize y'urubanza RSOCA00001/2022/HC/RSZ rusubirishwamo ku mpamvu z'akarengane. Asobanura ko kuba Urukiko Rukuru, Urugereko rwa Rusizi, rwaraciye urubanza rwifashishije Iteka rya Perezida N° 062/01 ryo ku wa 19/10/2022 rigenga ubutumwa bw'akazi, itangwa ry'ububasha n'iminsi y'ikiruhuko rusange ryatangajwe mu Igazeti ya Leta ku wa 21/10/2022, asanga harabayeho gushingira ku itegeko ritariho kubera ko mu gihe impaka zavukaga hagati y'impande zombi, hakoreshwaga Iteka rya Perezida N° 109/01 ryo ku wa 15/10/2015 rigenga ubutumwa bw'akazi imbere mu gihugu kandi ko mu gihe Urukiko Rwisumbuye rwa Rusizi rwacaga urubanza, iryo Teka rya Perezida ryo mu mwaka wa 2015 ari ryo ryakoreshwaga.

[15] Akomeza avuga ko n'iyo hagenderwa ku Iteka rya Perezida rishyashya nk'uko Urukiko Rukuru, Urugereko rwa Rusizi, rwabikoze, haba harabayeho kwirengagiza ibiteganywa n'ingingo ya 5 yaryo kubera ko:

- nta tegeko ryigeze ritangaza ibihe bidasanzwe (*force majeure ou fait du prince*) ngo amategeko asanzwe areke gukurikizwa ku buryo umukozi ugiye mu butumwa bw'akazi

ahantu hatagejeje ku bilometero mirongo itatu (30) yishyurwa amafaranga yo kurara, ay'ifunguro n'ibindi bidateganywa n'itegeko;

- rwashingiye ku ngingo ya 5 y'Iteka rya Perezida Nº 062/01 ryo ku wa 19/10/2022 ryavuzwe haruguru ivuga ku mpamvu zidasanzwe zasobanuwe mu nyandiko bikemezwa n'umukoresha ufite ububasha bwo gutanga uruhushya, nyamara rukaba rutarashyikirijwe izo mpamvu zidasanzwe zemejwe n'umukoresha ubifitiye ububasha kandi ari zo zari guherwaho Ingabire Vincent ahabwa indamunite rwamugeneye;
- ibaruwa Minisiteri y'Ubuzima (MINISANTE) yanditse ku wa 02/10/2020, yasobanuraga neza ko umukozi uzahabwa ubutumwa azishyurwa hakurikijwe amategeko asanzwe agenga ibijyanye n'ubutumwa bw'imbere mu gihugu;
- ubutumwa bw'akazi Ingabire Vincent yoherejwemo butagejeje ku minsi mirongo itatu (30) yikurikiranye kuko yagiye ahabwa igihe kizwi, yazongera gukenerwa agahabwa ubundi butumwa kandi ko inyandiko z'ubutumwa (*ordres de mission*) yishyiriye muri dosiye y'urubanza zibigaragaza.

[16] Me Nsengiyumva Venuste wari uhagarariye Ingabire Vincent yatanze imyanzuro yo kwiregura avuga ko Urukiko Rukuru, Urugereko rwa Rusizi, rwagaragaje inenge zari mu rubanza rwajuririwe, mu kuzikosora rushingira ku Iteka rya Perezida Nº 062/01 ryo ku wa 19/10/2022 ryakoreshwaga mu gihe urubanza rwaburanishwaga mu rwego rw'ubujurire, bityo ko nta mategeko yirengagijwe.

UKO URUKIKO RUBIBONA

[17] Impaka kuri iyi ngingo zishingiye ku kumenya niba kuba Ingabire Vincent yaroherejwe mu butumwa bw'akazi imbere mu gihugu butari mu ntera irengeje ibilometero mirongo itatu (30) uvuye aho yari asanzwe akorera n'aho yoherejwe, Urukiko Rukuru, Urugereko rwa Rusizi, rutaragombbaga gushingira ku itegeko ritariho ngo rumugenere amafaranga yaregeye ajyanye na indamunite y'ubutumwa bw'akazi yari yaroherejwemo.

[18] Ingingo ya 3 y'Iteka rya Perezida Nº 109/01 ryo ku wa 15/10/2015 rigenga ubutumwa bw'akazi imbere mu gihugu, ryakoreshwaga ubwo Ingabire Vincent yoherewaga mu butumwa iteganya ko umukozi wa Leta afatwa ko agiye mu butumwa bw'akazi igihe agiye gukorera akazi ahandi hantu hatari aho asanzwe akorera, mu bilometero birenze mirongo itatu (30) uturutse aho asanzwe akorera, kandi akamara nibura amasaha atanu (5) mbere yo kugaruka.

[19] Ingingo ya 6 y'Iteka rimaze kuvugwa iteganya ko urwego rwohereje umukozi mu butumwa imbere mu gihugu rumugenera indamunite za buri munsi zigizwe n'amafaranga y'ingoboka, ay'ifunguro n'ay'icumbi igihe araye mu butumwa. Rumworohereza kandi mu buryo bw'urugendo rujyanye n'ubutumwa.

[20] Izi ngingo z'Iteka zifatiwe hamwe zumvikanisha ko kugira ngo byitwe ko umukozi wa Leta yagiye mu butumwa bw'akazi, agomba kuba yoherejwe gukorera akazi ahandi hantu adasanzwe akorera, mu bilometero birenze mirongo itatu (30) kandi akahamara nibura amasaha atanu (5) mbere y'uko asubira aho asanzwe akorera. Muri icyo gihe urwego rwamwohereje muri ubwo butumwa rumugenera amafaranga y'ingoboka, ay'amafunguro, ay'ingendo ndetse n'ay'icumbi mu gihe bibaye ngombwa ko arara mu butumwa. Ibi bivuze ko mu bihe bisanzwe, nta mukozi wa Leta wahabwa indamunite z'ubutumwa mu gihe yagiye gukorera mu ntera itageze ku bilometero mirongo itatu (30).

[21] Icyakora ihame rivuzwe haruguru, rishobora kugira irengayobora nk'iyo umukozi yoherejwe mu butumwa bw'akazi mu bihe bidasanzwe, icyo gihe agomba kugenerwa ibiteganywa n'itegeko n'ubwo

yakorera ahantu hatagejeje ku bilometero mirongo itatu.Ibi ninabyo umushingamategeko yashatse kwemeza ashyiraho ingingo ya 5 y'Iteka rya Perezida Nº 062/01 ryo ku wa 19/10/2022 ryerekeye ubutumwa bw'akazi, itangwa ry'ububasha n'iminsi y'ikiruhuko rusange iteganya ko" Ubutumwa bw'imbere mu gihugu budashobora kurenza iminsi mirongo itatu (30) yikurikirana. Icyakora, ubutumwa bw'akazi bushobora kurenza igihe kivugwa mu gika cya mbere cy'iyi ngingo, ku mpamvu zidasanzwe zasobanuwe mu nyandiko bikemezwa n'umuyobozi ufite ububasha bwo gutanga uruhushya.

[22] Dosiye y'urubanza irimo ibaruwa y'Umunyamabanga wa Leta Ushinzwe Ubuvuzi bw'Ibanze muri Minisiteri y'Ubuzima yandikiye Abayobozi Bakuru b'Ibitaro bya Gihundwe, Kibogora, Mibilizi na Mugonero, abasaba kohereza mu Bitaro bya Gihundwe umukozi umwe ukora muri laboratwari z'ibitaro bayobora, kugira ngo bafatanye n'itsinda ripima ubwandu bwa Covid-19 mu Ntara y'Iburengerazuba.

[23] Harimo kandi inyandiko zohereza Ingabire Vincent mu butumwa bw'akazi (*ordres de mission*) mu bihe bitandukanye bikurikira:

- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent gukorera mu Bitaro bya Gihundwe kuva ku wa 02/10/2020 kugeza ku wa 09/10/2020 (iminsi irindwi (7);
- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent gukorera mu Bitaro bya Gihundwe kuva ku wa 10/10/2020 kugeza ku wa 16/10/2020 (iminsi irindwi);
- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent gukorera mu Bitaro bya Guhundwe kuva ku wa 17/10/2020 kugeza ku wa 23/10/2020 (iminsi irindwi);
- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent guorera mu Bitaro bya Gihundwe kuva ku wa 24/10/2020 kugeza ku wa 30/10/2020 (iminsi irindwi);
- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent gukorera mu Bitaro bya Gihundwe kuva ku wa 01/11/2020 kugeza ku wa 07/11/2020 (iminsi irindwi);
- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent gukorera mu Bitaro bya Gihundwe kuva ku wa 08/11/2020 kugeza ku wa 14/11/2020 (iminsi irindwi);
- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent gukorera mu Bitaro bya Gihundwe kuva ku wa 15/11/2020 kugeza ku wa 21/11/2020 (iminsi irindwi);
- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent gukorera mu Bitaro bya Gihundwe kuva ku wa 28/11/2020 kugeza ku wa 04/12/2020 (iminsi irindwi);
- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent gukorera mu Bitaro bya Gihundwe kuva ku wa 12/12/2020 kugeza ku wa 25/12/2020 (iminsi cumi n'ine);
- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincnebt gukorera mu Bitaro bya Gihundwe kuva ku wa 26/12/2020 kugeza ku wa 10/01/2021 (iminsi cumi n'ine);
- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent gukorera mu Bitaro bya Gihundwe kuva ku wa 11/01/2021 kugeza ku wa 24/01/2021 (iminsi cumi n'ine);
- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent gukorera mu Bitaro bya Gihundwe kuva ku wa 08/02/2021 kugeza ku wa 14/02/2021 (iminsi cumi n'ine);
- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent gukorera mu Bitaro bya Gihundwe kuva ku wa 15/02/2021 kugeza ku wa 21/02/2021 (iminsi cumi n'ine);
- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent gukorera mu Bitaro bya Gihundwe kuva ku wa 22/02/2021 kugeza ku wa 28/02/2021 (iminsi cumi n'ine);

- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent gukorera mu Bitaro bya Gihundwe kuva ku wa 01/03/2021 kugeza ku wa 07/03/2021 (iminsi irindwi);
- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent gukorera mu Bitaro bya Gihundwe kuva ku wa 08/03/2021 kugeza ku wa 15/03/2021 (iminsi irindwi);
- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent gukorera mu Bitaro bya Gihundwe kuva ku wa 15/03/2021 kugeza ku wa 21/03/2021 (iminsi irindwi);
- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent gukorera mu Bitaro bya Gihundwe kuva ku wa 22/03/2021 kugeza ku wa 28/03/2021 (iminsi irindwi);
- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent gukorera mu Bitaro bya Gihundwe kuva ku wa 29/03/2021 kugeza ku wa 04/04/2021 (iminsi irindwi);
- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent gukorera mu Bitaro bya Gihundwe kuva ku wa 05/04/2021 kugeza ku wa 11/04/2021 (iminsi irindwi);
- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent gukorera mu Bitaro bya Gihundwe kuva ku wa 12/04/2021 kugeza ku wa 18/04/2021 (iminsi irindwi);
- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent gukorera mu Bitaro bya Gihundwe kuva ku wa 21/04/2021 kugeza ku wa 25/04/2021 (iminsi itanu);
- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent gukorera mu Bitaro bya Gihundwe kuva ku wa 26/04/2021 kugeza ku wa 02/05/2021 (iminsi irindwi);
- inyandiko y'ubutumwa bw'akazi yohereza Ingabire Vincent gukorera mu Bitaro bya Gihundwe kuva ku wa 03/05/2021 kugeza ku wa 09/05/2021 (iminsi irindwi).

[24] Hari na none ibaruwa yo ku wa 25/03/2021, Umuyobozi w'Akarere ka Rusizi yandikiye Umuyobozi Mukuru w'Ibitaro bya Mibilizi, amusaba kwishyura Ingabire Vincent amafaranga y'ubutumwa bw'akazi yakoreye mu Bitaro bya Gihundwe. Muri iyo baruwa, uwo Muyobozi asobanura ko mu ibaruwa Ingabire Vincent yamwandikiye ku wa 18/03/2021 amusaba kumurenganura yavuze ko ibyo Bitaro byamwishyuye amafaranga ibihumbi magana ane na mirongo icyenda (490,000Frw) aho kuba amafaranga miliyoni ebyiri, ibihumbi magana abiri na cumi na bine na magana inani (2,214,800Frw) nyamara amafaranga amugenewe yarasabwe muri RBC. Asoza ibaruwa asaba Umuyobozi Mukuru w'ibyo Bitaro kwishyura Ingabire Vincent ayo mafaranga kubera ko akazi yakoreye mu Bitaro bya Gihundwe yagakoze mu bihe bidasanzwe kandi ko nk'uko ibaruwa ya RBC ibigaragaza, akaba agomba kwishyurwa ibyo agenewe byose habariwemo icumbi, ifunguro na ticket, cyane ko na bagenzi be baturutse mu bindi bitaro bishyuwe amafaranga basabiwe.

[25] Indi nyandiko n'ibaruwa yo ku wa 26/03/2021, Umuyobozi Mukuru w'Ibitaro bya Mibilizi yanditse asubiza Umuyobozi w'Akarere ka Rusizi, avuga ko ashingiye ku ngingo ya 19 y'Itegeko Ngenga N° 12/2013/OL ryo ku wa 12/09/2013 ryerekeye imari n'umutungo bya Leta, ku ngingo ya 6 y'Iteka rya Minisitiri N° 001/16/10/TC ryo ku wa 26/01/2016 rishyiraho amabwiriza yerekeye imari, ku ngingo ya 3 y'Iteka rya Perezida N° 109/01 ryo ku wa 15/10/2015 rigenga ubutumwa bw'akazi imbere mu gihugu, ku byavuzwe mu ibaruwa y'Umunyamabanga wa Leta Ushinzwe Ubuvuzi bw'Ibanze muri Minisiteri y'Ubuzima ko amafaranga y'ubutumwa bw'umukozi uzoherezwa gukorera mu Bitaro bya Gihundwe azishyurwa n'Ibitaro byamwohereje hakurikijwe uburyo busanzwe mu kwishyura amafaranga y'ubutumwa. Umuyobozi Mukuru w'Ibitaro bya Mibilizi yasobanuye ko uko asanzwe abigenza, nta mukozi w'Ibitaro ayobora yari yishyura amafaranga yo kurya no kuryama yagiye i Gihundwe, ko rero aramutse ahaye Ingabire Vincent amafaranga yifuza yaba akoze ibinyuranye n'ibyo yasabwe n'uwo Munyamabanga wa Leta na RBC.

[26] Umuyobozi Mukuru w'Ibitaro bya Mibilizi yasoje iyo baruwa agisha inama Umuyobozi w'Akarere ka Rusizi ku ishyirwa mu bikorwa ry'ibaruwa yamwandikiye imusaba kwishyura Ingabire Vincent amafaranga miliyoni ebyiri, ibihumbi magana abiri na cumi na bine na magana inani (2,214,800Frw) agizwe na ticket, icumbi n'ifunguro mu gihe RBC imaze kumugezaho amafaranga miliyoni imwe n'ibihumbi magana acyenda na mirongo itatu na bitanu (1,935,000Frw) agenewe Ingabire Vincent batitaye ku mafaranga y'urugendo, kurya no kuryama, himakazwa ihame ryo gucunga neza ibya rubanda, hasegurirwa ku biteganywa n'Iteka rya Perezida, ibaruwa ya RBC/MINISANTE, nta vangura iryo ari ryo ryose mu bakozi bashinzwe.

[27] Dosiye y'urubanza irimo kandi inyandiko igaragaza ko ku wa 17/04/2021, Ibitaro bya Mibilizi byashyize kuri konte nimero 0026660042845945 ya Ingabire Vincent ifunguye muri Bank of Kigali, amafaranga ibihumbi magana ane na mirongo icyenda (490,000Frw) yise "*transport fees*", ku wa 09/04/2021, ibyo bitaro byashyize kuri iyo konti ya Ingabire Vincent amafaranga ibihumbi magana ane na makumyabiri (420,000Frw) yiswe" *transport fees*" naho ku wa 03/06/2021 bishyiraho amafaranga ibihumbi ijana na mirongo itanu (150,000Frw) nayo yiswe"*transport fees*".

[28] Ku bivugwa n'uhagarariye Diyoseze Gatolika ya Cyangugu ko Urukiko Rukuru, Urugereko rwa Rusizi rwaciye urubanza rushingiye ku itegeko ritariho, uru Rukiko rurasanga Ikibazo nk'iki cyarakemuwe mu rubanza RPAA 00322-00323/2022/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 26/04/2023 haburana Ubushinjacyaha na Renzaho Alexis n'undi. Muri urwo rubanza abajuriye bavugaga ko ububasha bw'uru Rukiko bwo kuburanisha ubujurire bwa kabiri babushingira ku kuba Urukiko Rukuru rwaraciye urubanza rushingiye ku itegeko ritariho, maze Urukiko rusobanura ko itegeko ritariho rigomba kumvikana mu buryo bw'itegeko ritagikoreshwa (*loi abrogée/repealed law), cyangwa itegeko ritaratangira gukoreshwa (loi non encore en vigueur/ a law not yet in force*), cyangwa se itegeko ritigeze ribaho (*loi qui n'a jamais existé/ a law that never existed*)[1].

[29] Ikigaragara n'uko mu gika cya 10 cy'urubanza rusubirishwamo ku mpamvu z'akarengane, urwo Rukiko rwavuze ko umucamanza w'Urukiko rubanza atagombaga kugarukiriza isesengura rye ku ngingo ya 3 y'Iteka rya Perezida N°109/01 ryo ku wa 15/10/2015 ryavuzwe, ko ahubwo yagombaga kuyisesengurira hamwe n'ingingo ya 5 n'iya 6 z'iryo Teka, akabona gukemura ikibazo impande zombi zifitanye, maze mu gika cya 11 ruzihuza n'ingingo ya 5[2] y'Iteka rya Perezida N° 062/01 ryo ku wa 19/10/2022 ryerekeye ubutumwa bw'akazi, itangwa ry'ububasha n'iminsi y'ikiruhuko rusange, rwanzura ko Ingabire Vincent yagombaga kugenerwa indamunite za buri munsi zigizwe n'amafaranga y'icumbi, ay'ifunguro n'ay'ingoboka iyo agomba kurara kuko yoherejwe mu butumwa bw'akazi mu bihe bidasanzwe.

[30] Urukiko rurasanga rero, kuba Urukiko Rukuru, Urugereko rwa Rusizi, rwaravuze ku Iteka rya Perezida wa Repubulika ryo mu mwaka wa 2015 nk'uko ryavuzwe haruguru ryakoreshwaga igihe Ingabire Vincent yoherezwaga mu butumwa bw'akazi, rukarigereranya n'iryo mu mwaka wa 2022 ryariho igihe rwacaga urubanza, hatafatwa ko rwaciye urubanza rushingiye ku itegeko ritariho kuko igihe Urukiko Rwisumbuye rwa Rusizi rwacaga urubanza, Iteka rya Perezida ryo mu mwaka wa 2015 ryariho, n'igihe Urukiko Rukuru, Urugereko rwa Rusizi rwacaga urubanza, Iteka rya Perezida ryo mu mwaka wa 2022 ryariho, ahubwo kuko Iteka rya Perezida rishya ritari ryagasohotse igihe Ingabire Vincent yoherezwaga mu butumwa bw'akazi, ibyo riteganya ntibyarigushingirwaho n'Urukiko Rukuru, rwarikwibutsa gusa ko iryo Teka ryaje kuzuza (*combler le vide juridique*) ibitariho mu iteka ryasimbuye.

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[1] Urubanza RPAA00322/2022/CA CMB RPAA00323/2022/CA hagati y'Ubushinjacyaha na Renzaho Alexis n'undi, igika cya 27.

[2] Ingingo ya 5 y'Iteka rya Perezida N° 062/01 ryo ku wa 19/10/2022 ryerekeye ubutumwa bw'akazi, itangwa ry'ububasha n'iminsi y'ikiruhuko rusange iteganya ko ubutumwa bw'imbere mu gihugu budashobora kurenza iminsi mirongo itatu (30) yikurikirana. Icyakora, ubutumwa bw'akazi bushobora kurenza igihe kivugwa mu gika cya mbere cy'iyi ngingo, ku mpamvu zidasanzwe zasobanuwe mu nyandiko bikemezwa n'umuyobozi ufite ububasha bwo gutanga uruhushya.

[31] Urukiko rw'Ubujurire rurasanga imiterere y'akazi n'inshingano Ingabire Vincent yari afite zo gufata ibipimo by'ubwandu bw'icyorezo cya Covid-19 byaratumye azikora mu buryo budasanzwe kuko n'icyo cyorezo cyateje ibihe bidasanzwe byagiye bituma imirimo imwe n'imwe ikorwa mu buryo budasanzwe buteganywa n'amategeko[3].

[32] Uru Rukiko rurasanga Umuyobozi Mukuru w'Ibitaro bya Mibilizi yarohereje Ingabire Vincent mu butumwa bw'akazi mu Bitaro bya Gihundwe abona neza ko gufatira amafunguro no gutaha aho asanzwe abikorera bitashobokaga kuko iyo abona ko bishoboka, aba yaragiye amusinyira inyandiko z'ubutumwa bw'akazi (*ordre de mission*) bwa buri munsi ariko siko yabigenje, ahubwo nk'uko bigaragazwa n'inyandiko z'ubutumwa bw'akazi yagiye ahabwa zagaragajwe mu bika bibanza, yahabwaga igihe kiri hagati y'iminsi itanu (5) n'iminsi cumi n'ine (14). Kuba rero yaramwohereje mu butumwa bw'akazi burenze umunsi umwe, akaba atarigeze agaragaza ko butazishyurwa, byumvikanisha ko yatumwe mu kazi kadasanzwe no mu bihe bidasanzwe, akaba yaranagombaga kugira ibyo agenerwa bidasanzwe biteganywa n'Iteka rya Perezida ryavuzwe haruguru.

[3] Urugero ni nk'aho inkiko zagiye ziburanisha imanza ababuranyi batari mu byumba bisanzwe by'iburanisha ahubwo hakifashishwa ikoranabuhanga rya "*skype*" cyangwa "*video conference*" cyangwa se aho abagize Inteko Ishinga Amategeko Imitwe yombi bagiye baterana hifashishijwe ikoranabuhanga aho guhurira mu Ngoro zayo nk'uko bisanzwe biteganywa n'Itegeko.

[33] Urukiko rurasanga na none kuba Diyoseze Gatolika ya Cyangugu ikwiye guha Ingabire Vincent indamunite z'umukozi wagiye mu butumwa bw'akazi n'ubwo intera iri hagati y'aho asanzwe akorera n'aho yari yatumwe itageze ku bilometero mirongo itatu (30) bishimangirwa no kuba ubuyobozi bw'Ibitaro bya Mibilizi butagaragaza ko mu minsi magana abiri na mirongo itatu n'itatu (233) yoherejwe mu butumwa, ibitaro yoherejwe gukoramo byaba byaramuhaga amafunguro cyangwa ngo bimucumbikire, cyangwa ngo hagaragazwe ko hari uburyo bwo kumworohereza ingendo za Mibilizi-Gihundwe yari yarateganyirijwe, cyane ko Umuyobozi w'ibyo Bitaro yemera ko RBC yohereje amafaranga agenewe Ingabire Vincent kandi afitanye isano n'ubutumwa yari yaroherejwemo ndetse hakaba hari n'amafaranga y'ingendo byagiye bimwishyura ajyanye n'ubwo butumwa nk'uko byagaragajwe haruguru.

[34] Kubera izo mpamvu, uru Rukiko rurasanga Ingabire Vincent yaragombaga guhabwa ibigenerwa umukozi wahawe ubutumwa bw'akazi imbere mu Gihugu kuko bigaragara ko umukoresha wamuhaye ubutumwa yamusinyiraga kurara aho yatumwe, bikaba byumvikanisha ko yari azi neza ko adashobora gukora ataha kandi akaba atarigeze yandika kuri izo nyandiko z'ubutumwa ko zitazishyurwa ngo abimenye mbere y'igihe banavugane ku buryo agomba kubaho mu gihe yoherejwe gukora akazi mu buryo budasanzwe no kugakorera aho adasanzwe akorera. Bityo, Urukiko Rukuru, Urugereko rwa Rusizi rwategetse Diyoseze Gatolika ya Cyangugu guha Ingabire Vincent amafaranga agenerwa umukozi woherejwe mu butumwa bw'akazi hatitawe ku ntera iri hagati y'ibitaro bya Mibilizi yari asanzwe akoreramo n'ibya Gihundwe yoherejwemo, rukaba rutarayirenganyije.

[35] Ku kibazo cyo kumenya niba Ingabire Vincent yasubiza Diyoseze Gatolika ya Cyangugu amafaranga miliyoni esheshatu, ibihumbi magana atatu na mirongo itatu n'icyenda na magana atanu na mirongo icyenda (6,339,590Frw) yishyuye harangizwa urubanza rusubirishwamo ku mpamvu z'akarengane, Urukiko rurasanga atagomba kuyasubiza; kuko nkuko byagaragajwe nta karengane kabaye muri urwo rubanza.

2. Ibyerekeye amafaranga y'ikurikiranarubanza n'igihembo cya Avoka asabwa

[36] Uhagarariye Diyoseze Gatolika ya Cyangugu asaba uru Rukiko gutegeka Ingabire Vincent guha iyo Diyoseze amafaranga miliyoni imwe (1,000,000Frw) y'ikurikiranarubanza n'amafaranga miliyoni ebyiri n'ibihumbi magana arindwi na mirongo itanu (2,750,000Frw) y'igihembo cya Avoka mu nzego zose. Ku mafaranga Ingabire Vincent asaba ko Diyoseze Gatolika ya Cyangugu imuha, avuga ko idakwiye gutegekwa kuyatanga kubera ko ari we nyirabayazana w'imanza.

[37] Mu myanzuro yo kwiregura, uwari uhagarariye Ingabire Vincent avuga ko amafaranga Diyoseze Gatolika ya Cyangugu isaba nta shingiro afite kubera ko itubahirije inshingano zo kumuha ibigenerwa umukozi woherejwe mu butumwa bw'akazi. Asaba ahubwo uru Rukiko kuyitegeka guha uwo ahagarariye amafaranga miliyoni imwe (1,000,000Frw) y'ikurikiranarubanza n'igihembo cya Avoka.

UKO URUKIKO RUBIBONA

[38] Ingingo ya 111 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 ikirego cy'amafaranga y'ikurikiranarubanza ni ikirego gishamikiye ku kirego cy'iremezo kigamije kwishyuza ibyakoreshejwe mu rubanza. Ikirego cy'amafaranga y'ikurikiranarubanza kiburanishwa rimwe n'ikirego cy'iremezo. Gishobora kandi kwakirwa kikaburanishwa n'iyo ikirego cy'iremezo cyaba kitakiriwe.

[39] Urukiko rurasanga amafaranga miliyoni imwe (1,000,000Frw) y'ikurikiranarubanza n'igihembo cya Avoka Ingabire Vincent asaba atagomba kuyahabwa kubera ko Me Nsengiyumva Venuste wari umuhagarariye yikuye mu rubanza mu gihe nta muburanyi wemerewe kwiburanira atunganiwe cyangwa ngo ahagararirwe mu Rukiko rw'Ubujurire.

III. ICYEMEZO CY'URUKIKO

[40] Rwemeje ko ikirego cyatanzwe na Diyoseze Gatolika ya Cyangugu cyo gusubirishamo ku mpamvu z'akarengane urubanza RSOCA00001/2022/HC/RSZ rwaciwe n'Urukiko Rukuru, Urugereko rwa Rusizi ku wa 10/02/2023, nta shingiro gifite.

[41] Rutegetse Diyoseze Gatolika ya Cyangugu kwishyura Ingabire Vincent amafaranga yose hamwe ateye atya:

- ay'ubutumwa bw'akazi angana na miliyoni imwe, ibihumbi ijana na cumi n'umunani na magana ane (1,118,400Frw);
- ay'icumbi n'amafunguro angana na miliyoni enye, ibihumbi ijana na mirongo ine na birindwi na magana ane (4,147,400Frw);
- ay'igihembo cya Avoka ibihumbi magana arindwi na mirongo itanu (750,000Frw);
- ayatanzweho ingwate y'amagarama ku rwego rwa mbere n'urw'ubujurire bwa mbere ibihumbi mirongo itandatu (60,000Frw).