TANGMI vs. URUGAGA RW'ABAVOKA MU RWANDA

[Rwanda URUKIKO RUKURU – RAD00015/2024/HC/KIG (Habarurema, J.P., Mukakalisa na Mukamuhire, J.) 19 Nzeri 2024]

Amategeko agenga imiburanishirize y'imanza z'ubutegetsi – Iyakirwa ry'ikirego – Ikirego kihutirwa – Ingwate itangwa n'abanyamahanga – Umunyamahanga ntashobora gusabwa gutanga ingwate isabwa abanyamahanga baregeye inkiko zo mu Rwanda iyo ari ikirego kihutirwa, ahubwo itangwa mu birego by'iremezo by'imbonezamubano mu gihe cy'inama ntegurarubanza.

Incamake y'ikibazo: Tangmi yatanze ikirego muri uru Rukiko Rukuru arega Urugaga rw'Abavoka mu Rwanda, kubera icyemezo yafatiwe cyo kutakira dosiye ye isaba kuba umwavoka. Avuga ko yamenye ko hari ibizami bizakorwa kubashaka gukora umwuga w'ubwavoka maze ategura dosiye y'ibisabwa ayishyikiriza ushinzwe kwakira amadosiye mu Rugaga rw'abavoka ariko ahita ayimusubiza amubwira ko itujuje ibisabwa.

Ikirego cye cyarakiriwe gihabwa nimero ariko mu gihe kitaraburanishwa mu mizi, Urega yahise atanga ikirego kihutirwa asaba uru Rukiko gutegeka ko ikizami cy'abifuza kuba abavoka giteganyijwe kiba gihagaze kugeza ubwo urubanza rwe mu mizi ruzaba ruciwe, icyemezo cyo kutakira dosiye ye kigakurwaho, hakemezwa ko yemerewe gukora ibizami hamwe n'abandi.

Urugaga rw'Abavoka mu Rwanda rwabanje gutanga inzitizi ruvuga ko ikirego kihutirwa cy'Urega kitagomba kwakirwa kuko atabanje gutanga ingwate itangwa n'abanyamahanga, ndetse n'icyo cyemezo asabira gukorwaho kikaba kitarabayeho. Ruvuga ko iki kirego kitagomba kwakirwa kuko kitujuje ibisabwa n'amategeko, nta bwihutirwe gifite kuko n'iyo ikizami cyakorwa atarimo ntacyo yahomba kidasubirwaho, akaba yazagikora n'ikindi gihe kubera ko buri mwaka hakorwa ibizami.

Izo nzitizi Urukiko rwazisuzumiye hamwe n'ikirego cy'iremezo buri ruhande ruzisobanuraho, aho Uregwa avuga ko iki kirego cy'Urega kitagomba kwakirwa kuko nta ngwate isabwa abanyamahanga yigeze atanga kandi ari umunyamahanga uturuka mu gihugu cya Cameron, ndetse ikaba iteganywa n'itegeko rigenga imiburanishirize y'imanza z'ubutegetsi mu Rwanda.

Urega yisobanuye ku nzitizi ijyanye n'itangwa ry'ingwate ku banyamahanga, avuga ko kuba atarayitanze atari impamvu yo kutakira ikirego cye kuko abyemererwa n'ingingo ya 179 igika cya 3 n'iya 91, igika cya 1 z'itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi.

Ku kibazo cyo kumenya niba icyemezo cy'ubuyobozi bw'Urugaga rw'abavoka gisabirwa gukurwaho cyaba cyarabayeho cyangwa niba kitarabayeho n'ingaruka zabyo, Uregwa avuga ko icyemezo cy'ubuyobozi Urega aregera nta cyabayeho, ko ntacyo agaragariza urukiko kuko nta cyemezo kigeze gifatwa ku busabe bwe ngo agishingireho atanga ikirego kihutirwa. Avuga kandi ko Urega atavugisha ukuri kuko Umuhesha w'inkiko w'umwuga yagaragaje ko yajyanye dosiye y'Urega ku biro byabo nyuma y'iminsi itanu y'igihe cyo kwakira amadosiye kirangiye, bisobanuye ko dosiye ye itigeze igera ku biro ngo bange kuyakira nkuko abivuga.

Urega avuga ko icyemezo yafatiwe n'Uregwa cyo kutakira dosiye ye ubwo yayijyanaga ku biro byabo ariko uwamwanykiriye akayimusubiza amubwirako itakiriwe, ari icyemezo kitaziguye yafatiwe n'Uregwa akaba aricyo yaregeye muri uru Rukiko mu rubanza mu mizi.

Hasuzumwe kandi ikibazo kijyanye no kumenya niba ikirego kihutirwa cy'Urega cyujuje ibisabwa n'amategeko ku buryo cyakwakirwa kigasuzumwa mu mizi, aho Uregwa avuga ko kidakwiye kwakirwa kubera ko nta bwihutirwe gifite, kuba ikizami cyakorwa ntacyo yahomba dore ko atari no mu bagomba kugikora ndetse n'icyemezo asaba ko gikurwaho ntacyo agaragariza urukiko.

Urega we avuga ko ikirego cye gifite ubwihutirwe, agasaba uru Rukiko gutegeka Uregwa agahagarika ikorwa ry'ikizami kugira ngo urubanza mu mizi rubanze ruburanishwe kugira ngo asubizwe uburenganzira bwo gukora ikizami nk'abandi. Avuga ko kutinjira mu Rugaga rw'abavoka byamuteza igihombo, amafaranga menshi yatanze yiga ay'urugendo, ayo kubaho yaba abaye impfabusa bityo, akaba asaba Urukiko kwakira ikirego cye rukemeza ko gifite ishingiro.

Incamake y'icyemezo: 1. Umunyamahanga ntashobora gusabwa gutanga ingwate isabwa abanyamahanga baregeye inkiko zo mu Rwanda iyo ari ikirego kihutirwa, ahubwo itangwa mu birego by'iremezo by'imbonezamubano mu gihe cy'inama ntegurarubanza.

2. Ikirego kihutirwa cyakirwa iyo cyujuje ibintu bitatu by'ingenzi aribyo ubwihutirwe kugira ngo bigire icyo biramira ku buryo bitinze haba igihombo kitagira igaruriro, kuba icyemezo ari icy'agateganyo no kuba kitagomba kubangamira urubanza mu mizi.

Ikirego nticyakiriwe.

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 91, 92, 179 n'iya 186.

Itegeko N° 15/2004 ryo kuwa 12/6/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ingingo ya 3.

Imanza zifashishijwe:

RCA005/13/CS, Nyiramana Chantal na Nayino Patricie rwaciwe n'Urukiko rw'Ikirenga ku wa 10/02/2014.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Tangmi Jeuyim Alain Brice yatanze ikirego muri uru Rukiko, arega Urugaga rw'Abavoka mu Rwanda, mu izina ry'umuyobozi warwo, avuga ko yamenye ko Urugaga rw'Abavoka mu Rwanda rutegura gukoresha ibizami by'abashaka kuba abavoka mu Rwanda, nawe ategura ibisabwa byose, hanyuma kuwa 10/8/2024 ajya aho Urugaga rw'Abavoka mu Rwanda rukorera, ageze k'uwakiraga amadosiye, areba dosiye ye, ahita ayimusubiza, amubwira ko atujuje ibisabwa. Tangmi Jeuyim Alain Brice yahise agenda, asubiranayo na dosiye ye yose, hanyuma kuwa 19/8/2024 ashaka Umuhesha w'inkiko yandika inyandiko yemeza ko yajyanye dosiye ye ku Rugaga rw'Abavoka mu Rwanda hanyuma ntibayakira.

[2] Tangmi Jeuyim Alain Brice yatanze ikirego muri uru rukiko, asaba Urukiko Rukuru gukuraho icyemezo cyafashwe n'Urugaga rw'Abavoka mu Rwanda cyo kutakira dosiye ye isaba gukora ikizami cyo kuba umwavoka mu Rugaga rw'Abavoka mu Rwanda kandi yari yujuje ibisabwa byose, ikirego cye gihabwa nimero RAD00014/2024/HC/KIG.

[3] Mu gihe ikirego mu mizi cyari kitaraburanishwa, Tangmi Jeuyim Alain Brice yatanze ikirego kihutirwa, gihabwa nimero RAD00015/2024/HC/KIG, asaba urukiko gutegeka ko ikizami cy'abifuza kuba abavoka giteganyijwe ku wa 20/9/2024 kiba gihagaze kugeza ubwo urubanza rwe mu mizi ruzaba ruciwe, icyemezo cyo kutakira dosiye ye isaba kuba Avocat mu Rugaga rw'Abavoka mu Rwanda kigakurwaho, maze nawe akemererwa gukora ibizami hamwe n'abandi.

[4] Uru rubanza rwaburanishijwe mu ruhame kuwa 17/9/2024, Tangmi Jeuyim Alain Brice yiburanira, ariko asemurirwa n'umusemuzi witwa Haguma Venant, Urugaga rw'Abavoka mu Rwanda ruhagarariwe na Me Gakunzi Musore Valery na Me Muhirwa Audace.

[5] Mbere y'uko Tangmi Jeuyim Alain Brice asobanura ikirego cye cyihutirwa, abahagarariye Urugaga rw'Abavoka mu Rwanda babyukije inzitizi zikurikira basaba ko zabanza zigasuzumwa mbere yo kwinjira mu mu mizi y'urubanza:

- Tangmi Jeuyim Alain Brice ataratanze ingwate isabwa abanyamahanga mbere y'uko atanga ikirego cye cyihutirwa iteganywa n'ingingo ya 91 y'Itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, bityo ko kubera iyo mpamvu ikirego cye kidakwiye kwakirwa;
- Kuba icyemezo Tangmi Jeuyim Alain Brice asaba ko cyazakurwaho maze nawe agahabwa uburenganzira bwo gukora ikizami cyo kuba Avocat mu Rugaga rw'Abavoka mu Rwanda kitarigeze kibaho.

[6] Tangmi Jeuyim Alain Brice yavuze ko mbere y'uko atanga ikirego cyihutirwa yatanze ingwate y'amagarama gusa, ko atatanze ingwate isabwa abanyamahanga kandi ko ingingo ya 179 n'iya 91, igika cya 1, z'Itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi zimuha uburenganzira bwo gutanga ikirego atagombye gutanga ingwate isabwa abanyamahanga.

[7] Abahagarariye Urugaga rw'Abavoka mu Rwanda bavuze ko ibyo Tangmi Jeuyim Alain Brice avuga atari ukuri kuko iriya ngingo ya 179 idahuye n'ibivugwa muri uru rubanza kuko bigaragara ko asaba ko hakurwaho icyemezo cy'ubutegetsi kandi mu by'ukuri nta cyemezo urega yafatiwe n'Urugaga rw'Abavoka mu Rwanda. Ku byerekeye ingingo ya 91 y'itegeko ryavuzwe haruguru, bavuze ko iyo ngingo iteganya iriya ngwate itangwa n'abanyamahanga kandi bigaragara neza ko Tangmi Jeuyim Alain Brice ntayo yatanze, bityo ikirego cye kikaba kidakwiye kwakirwa.

[8] Nyuma yo kuburana ku nzitizi zabyukijwe n'abahagarariye Urugaga rw'Abavoka mu Rwanda, Tangmi Jeuyim Alain Brice yahawe ijambo ngo asobanure ikirego cye cyihutirwa, avuga ko icyo asaba mu kirego cyihutirwa ari uko ikizami giteganyijwe kuwa 20/9/2024 cyahagarikwa kugeza ubwo urubanza rwe rw'iremezo ruzacibwa, icyemezo yafatiwe n'Urugaga rw'abavoka mu Rwanda cyo kutakira dosiye ye isaba kwemererwa kuba Avoka mu Rugaga rw'abavoka mu Rwanda kigakurwaho maze nawe agahabwa uburenganzira bwo gukora ikizami hamwe n'abandi.

[9] Abahagarariye Urugaga rw'abavoka mu Rwanda bavuze ko ikirego cyihutirwa cyatanzwe na Tangmi Jeuyim Alain Brice kidakwiriye kwakirwa kubera ko kitujuje ibisabwa n'amategeko. Basobanura ko ikirego cye nta bwihutirwe gifite kuko n'iyo ikizami cyakorwa atarimo ngo ntacyo yahomba, ngo kuko yazagikora n'ikindi gihe kubera ko Urugaga rw'Abavoka mu Rwanda rukoresha ibizami buri mwaka. Bavuze kandi ko nta gihombo kidasubirwaho Tangmi Jeuyim Alain Brice yagaragaje yagira ikorwa rya kiriya kizamini ribaye ridahagaritswe. Bavuze kandi ko ikirego cya Tangmi Jeuyim Alain Brice nta shingiro gikwiye guhabwa kubera ko asaba guhagarika ikizami kitamureba kuko mu bazakora ikizami atarimo ikindi kandi n'icyemezo cy'Urugaga rw'Abavoka mu Rwanda avuga ko kigomba kuvanwaho kitigeze gifatwa kuko atigeze agaragariza urukiko. Basoje bavuga ko ikirego cya Tangmi Jeuyim Alain Brice nta shingiro gikwiye guhabwa kuko nta bwihutirwe gifite, nta n'igihombo kidasubirwaho agaragaza byamutera kiriya kizami kiramutse gikozwe urubanza rw'iremezo rutaracibwa. Bavuga kandi ko icyemezo cyafatwa muri uru rubanza cyabangamira urubanza mu mizi. Basoje bavuga ko ibyo bavuze biri mu mujyo umwe n'ibyemejwe n'Urukiko rw'Ikirenga mu rubanza RCA005/13/CS rwo ku wa 10/02/2014 haburana Nyiramana Chantal na Nayino Patricie aho rwemeje ko ''ibirego byihutirwa bigomba kuba byujuje ibintu bitatu by'ingenzi aribyo ubwihutirwe kugira ngo bigire icyo biramira ku buryo bitinze haba igihombo kitagira igaruriro, kuba icyemezo ari icy'agateganyo no kuba kitagomba kubangamira urubanza mu mizi.

[10] Urukiko rwabwiye ababuranyi ko inzitizi zabyukijwe n'abahagarariye Urugaga rw'Abavoka mu Rwanda hamwe n'ikirego cy'iremezo, byose bizasuzumirwa icyarimwe.

Urukiko rugiye gusuzuma ibibazo bikurikira:

- Kumenya niba kuba Tangmi Jeuyim Alain Brice ataratanze ingwate isabwa abanyamahanga ari impamvu yatuma ikirego cye kitakirwa;
- Kumenya niba icyemezo cy'ubuyobozi Tangmi Jeuyim Alain Brice asaba ko gikurwaho cyarabayeho cyangwa niba ntacyabayeho;
- Kumenya niba ikirego cihutirwa cyatanzwe na Tangmi Jeuyim Alain Brice cyujuje ibisabwa ku buryo cyakwakirwa kigasuzumwa.

II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

1. Kumenya niba kuba Tangmi Jeuyim Alain Brice ataratanze ingwate isabwa abanyamahanga ari impamvu yatuma ikirego cye kitakirwa

[11] Abahagarariye Urugaga rw'Abavoka mu Rwanda basabye Urukiko kutakira ikirego cyihutirwa cyatanzwe na Tangmi Jeuyim Alain Brice kubera ko atigeze atanga ingwate isabwa abanyamahanga iteganywa n'ingingo ya 91 y'Itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi.

[12] Tangmi Jeuyim Alain Brice yavuze ko koko atigeze atanga iriya ngwate isabwa abanyamahanga ariko ko bitaba impamvu yo kutakira ikirego cye kubera ko abyemererwa n'ingingo ya 179, igika cya 3 n'iya 91, igika cya 1 z'itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ko ikirego gisaba guhagarika gushyira mu bikorwa icyemezo cy'umuyobozi gitangwa mu kirego gitandukanye n'icy'iremezo ko kidatangirwa ingwate y'amagarama.

[13] Yavuze kandi ko n'ingingo ya 91 agace ka mbere, y'itegeko ryavuzwe haruguru, imusonera gutanga ingwate itangwa n'abanyamahanga, asobanura ko ari ukubera ko hari ibyo yavukijwe no kuba yaraje kwiga mu Rwanda agendereye kwiga ILPD yarangiza akazaba Avoka mu Rwanda, ko ibyo byatumye atakaza amafaranga menshi cyane, akaba ubu aregera kuzayasubizwa, ko kubera iyo mpamvu atagombaga kubazwa kuriha ingwate itangwa n'abanyamahanga.

[14] Abahagarariye Urugaga rw'Abavoka mu Rwanda bavuze ko ibyo urega avuga nta shingiro bikwiye guhabwa kuko iriya ngingo ya 179 yavuzwe haruguru ntaho ihuriye n'ibivugwa muri uru rubanza kuko we nta cyemezo cyafashwe agaragaza ko aregera, ko mu by'ukuri ntacyemezo cyafashwe n'Urugaga rw'Abavoka mu Rwanda ngo abe ari kukiregera. Bavuze kandi ko iriya ngingo ya 91, igaragaza neza ko umunyamahanga urega mu rukiko rw'u Rwanda agomba gutanga iriya ngwate, ko kuba Tangmi Jeuyim Alain Brice atayitanze rero, ikirego cye kidakwiriye kwakirwa.

UKO URUKIKO RUBIBONA

[15] Ababuranyi impande zombi bemeranya ko Tangmi Jeuyim Alain Brice ari umunyamahanga kuko akomoka mu gihugu cya Cameroun kandi ko mbere yo gutanga ikirego atigeze atanga ingwate itangwa n'abanyamahanga.

[16] Impaka zigibwa kuri iyi ngingo ni ukumenya niba kuba Tangmi Jeuyim Alain Brice ataratanze iriya ngwate ari impamvu yatuma ikirego cye kitakirwa.

[17] Ingingo ya 92 y'itegeko ryavuzwe haruguru iteganya ko umuburanyi wifuza kubyutsa inzitizi irebana n'ingwate itangwa n'abanyamahanga abikora mu myanzuro yo kwiregura. Umwanditsi uyoboye inama ntegurarubanza abaza ababuranyi icyo bayivugaho, akabifataho icyemezo. Icyemezo gitegetse ko ingwate itangwa kigaragaza uburyo itangwamo n'agaciro kayo.

Umuburanyi utishimiye icyemezo cy'umwanditsi ku ngwate itangwa n'abanyamahanga ashobora kukijuririra mu gihe kitarenze amasaha mirongo ine n'umunani (48) kwa perezida w'urukiko, akagifataho icyemezo mu rwego rw'ubuyobozi.

Ubwo bujurire butuma inama ntegurarubanza iba isubitswe kugeza igihe icyemezo gifatiwe. Icyemezo kuri ubwo bujurire gifatwa mu gihe kitarenze amasaha mirongo ine n'umunani (48). Icyo cyemezo gishyirwa muri dosiye kikamenyeshwa ababuranyi bose.

[18] Mu gusesengura ingingo ivuzwe mu gika kibanziriza iki, urukiko rusanga ingwate itangwa n'abanyamahanga ari inzitizi ibyutswa n'umuburanyi, akabikora mu myanzuro ye yo kwiregura, bigasuzumwa n'umwanditsi uyoboye inama ntegurarubanza, ababuranyi bombi bakumvikana ku mubare w'iriya ngwate no ku buryo izatangwamo, umwanditsi agafata icyemezo. Iyo hari umuburanyi utanyuzwe ajuririra icyemezo cyafashwe kwa Perezida w'urukiko, uyu nawe agafata icyemezo hanyuma inama ntegurarubanza ikabona gukomeza.

[19] Hashingiwe ku bimaze kuvugwa haruguru no ku biteganywa n'iriya ngingo ya 92 yavuzwe haruguru, urukiko rusanga ku birego byihutirwa nta ngwate itangwa n'umunyamahanga igomba

gutangwa ahubwo itangwa mu birego by'iremezo by'imbonezamubano mu gihe cy'inama ntegurarubanza, icyemezo kuri iyo ngwate kikaba gifatwa n'umwanditsi uyoboye inama ntegurarubanza. Kubera iyi mpamvu rero, urukiko rusanga kuba Tangmi Jeuyim Alain Brice ataratanze ingwate itangwa n'umunyamahanga atari impamvu yatuma ikirego cye kihutirwa kitakirwa.

2. **Kumenya niba icyemezo cy'ubuyobozi Tangmi Jeuyim Alain Brice asaba ko gikurwaho cyarabayeho cyangwa niba kitarabayeho n'ingaruka zabyo**

[20] Abahagarariye Urugaga rw'Abavoka mu Rwanda babyukije indi nzitizi bavuga ko ikirego cyihutirwa cyatanzwe na Tangmi Jeuyim Alain Brice kidakwiriye kwakirwa kubera ko icyemezo cy'ubuyobozi avuga ko aregera nta cyabayeho, ko ntacyo agaragariza urukiko. Basobanuye ko kwakira amadosiye y'abifuza gukora ibizami by'abavoka byagombaga kurangira kuwa 14/8/2024 hanyuma bikaba bigaragara ko Umuhesha w'inkiko yagaragaje ko yajyanye dosiye ya Tangmi Jeuyim Alain Brice ku Rugaga rw'Abavoka mu Rwanda kuwa 19/8/2024, bivuga ko hari ku munsi wa 5 kwakira amadosiye birangiye, bigaragara ko dosiye ya Tangmi Jeuyim Alain Brice itigeze igera ku Rugaga rw'Abavoka mu Rwanda ngo bayange nk'uko urega abivuga. Basoza bavuga ko ibi bisobanura ko nta n'icyemezo Urugaga rwigeze rufata ku busabe bwa Tangmi Jeuyim Alain Brice ngo abe yagishingiraho atanga ikirego kihutirwa.

[21] Tangmi Jeuyim Alain Brice yavuze ko Urugaga rw'Abavoka mu Rwanda rwafashe icyemezo cyo kutakira dosiye, asobanura ko kuwa 10/8/2024 yageze ku cyicaro cyarwo, hanyuma uwamwakiriye areba ibyari bigize dosiye ye byose, arangije arayimusubiza, amubwira ko itakiriwe. Yavuze ko ko kuwa 19/8/2024 aribwo yasabye Umuhesha w'inkiko kumujyanira dosiye nanone, nabwo ntiyakirwa hanyuma uwo muhesha w'Inkiko yemeza ko ageze aho Urugaga rw'Abavoka rukorera bakaba banze kwakira dosiye ya Tangmi Jeuyim Alain Brice yari ajyanye. Yakomeje avuga ko kuriya kutakira dosiye ye ari icyemezo kitaziguye cyafashwe n'Urugaga rw'Abavoka mu Rwanda, akaba aricyo yaregeye urukiko mu rubanza mu mizi.

UKO URUKIKO RUBIBONA

[22] Hashingiwe ku byavuzwe haruguru n'ababuranyi bombi, Urukiko rurasanga gusesengura iyi nzitizi yabyukijwe n'abahagarariye Urugaga rw'Abavoka mu Rwanda yo kumenya niba icyemezo cyo kutakira dosiye ya Tangmi jeuyim Alain Brice cyarabayeho cyangwa kitarabayeho, byabangamira icibwa ry'urubanza mu mizi, aho Tangmi Jeuyim Alain Brice asaba urukiko gutegeka ko kiriya cyemezo gikurwaho.

[23] Ingingo ya 186, 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 ko umucamanza uburanisha ikirego cyihutirwa afata icyemezo ku byo yaregewe ariko mu buryo butabangamiye urubanza rw'iremezo mu mizi yarwo.

[24] Hashingiwe ku byavuzwe mu bika bibanziriza iki no ku biteganywa n'iriya ngingo ya 186 yavuzwe haruguru, Urukiko rusanga gusesengura no gufata icyemezo ku nzitizi yabyukijwe n'abahagarariye Urugaga rw'Abavoka mu Rwanda y'uko ikirego cya Tangmi Jeuyim Alain Brice kitakwakirwa kuko icyemezo avuga ko yafatiwe n'Urugaga rw'Abavoka mu Rwanda ntacyabayeho, byabangamira urubanza rw'iremezo mu mizi yarwo, bityo rero iyi nzitizi ikaba

itakiriwe ngo isuzumwe kubera ko inyuranyije n'ibiteganywa n'iriya ngingo ya 186, igika cya 3, yavuzwe haruguru.

3. Kumenya niba ikirego kihutirwa cyatanzwe na Tangmi Jeuyim Alain Brice cyujuje ibisabwa n'amategeko ku buryo cyakwakirwa kigasuzumwa mu mizi

[25] Abahagarariye Urugaga rw'Abavoka mu Rwanda bavuze ko ikirego kihutirwa cyatanzwe na Tangmi Jeuyim Alain Brice kitujuje ibisabwa n'amategeko, bityo kikaba kidakwiye kwakirwa. Basobanuye ko ikirego cye nta bwihutirwe gifite kuko n'iyo ikizamini cyakorwa atarimo ngo ntacyo yahomba, ngo kuko yazagikora n'ikindi gihe kubera ko Urugaga rw'Abavoka mu Rwanda rukoresha ibizami buri mwaka. Bavuze kandi ko nta gihombo kidasubirwaho Tangmi Jeuyim Alain Brice yagaragaje yagira ikorwa rya kiriya kizamini ribaye ridahagaritswe. Bavuze na none ko ikirego cya Tangmi Jeuyim Alain Brice kidakwiriye kwakirwa kubera ko asaba guhagarika ikizami kitamureba kuko mu bazakora ikizami atarimo ikindi kandi ngo n'icyemezo cy'Urugaga rw'Abavoka mu Rwanda avuga ko kigomba kuvanwaho ntacyo yigeze agaragariza urukiko.

[26] Bashoje bavuga ko ibyo bavuze biri mu mujyo umwe n'ibyemejwe n'Urukiko rw'Ikirenga mu rubanza RCA005/13/CS rwo ku wa 10/02/2014 haburana Nyiramana Chantal na Nayino Patricie aho rwemeje ko ibirego byihutirwa bigomba kuba byujuje ibintu bitatu by'ingenzi aribyo ubwihutirwe kugira ngo bigireicyo biramira ku buryo bitinze haba igihombo kitagira igaruriro, kuba icyemezo ari icy'agateganyo no kuba kitagomba kubangamira urubanza mu mizi.

[27] Tangmi Jeuyim Alain Brice yavuze ko ikirego cye gifite ubwihutirwe kubera ko ikizamini cy'abashaka kwinjira mu Rugaga rw'abavoka mu Rwanda kizaba kuwa 20/9/2024 akaba asaba ko Urukiko rwategeka ko ikorwa rya kiriya kizamini ryaba rihagaze kugirango urubanza rwe mu mizi rubanze rucibwe nawe ahabwe uburenganzira bwo gukora kiriya kizami hamwe n'abandi. Yavuze ko biramutse bitagenze kuriya abisaba byamutera igihombo kubera ko hari amafaranga menshi yatanze yiga muri ILPD, ay'ingendo, ayo yakoresheje yitunga, ayo yose akaba yapfa ubusa aramutse atageze ku ntego yo kwinjira mu Rugaga rw'abavoka mu Rwanda nk'uko yabyifuzaga. Yasoje asaba urukiko kwakira ikirego cye maze rukemeza ko gifite ishingiro.

UKO URUKIKO RUBIBONA

[28] Impande zombi zemeranya ko Tangmi Jeuyim Alain Brice atigeze ashyikiriza dosiye ye isaba gukora ikizami Urugaga rw'Abavoka mu Rwanda ngo bamwandikire bamumenyesha ko dosiye ye itakiriwe, ahubwo avuga ko kuwa 10/8/2024 yayijyanye ku kicaro cy'urugaga maze uwamwakiriye akareba muri dosiye yarangiza akayimusubiza nawe akagenda hanyuma akayiha Umuhesha w'inkiko wayiteyeho cachet agaragaza ko Urugaga rwanze kwakira dosiye ye kuwa 19/8/2024.

[29] Hashingiwe ku bimaze kuvugwa haruguru, Urukiko rusanga Tangmi Jeuyim Alain Brice atarabashije kugaragariza Urukiko ko yagejeje dosiye ye ku Rugaga rw'Abavoka mu Rwanda ngo bange kuyakira nk'uko abivuga. Ibyo avuga rero bikaba bitafatwaho ukuri kuko nta kimenyetso abitangira nk'uko biteganywa n'ingingo ya 3 y'Itegeko N° 15/2004 ryo kuwa 12/6/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana.

[30] Hashingiwe ku bimaze kuvugwa mu gika kibanziriza iki, Urukiko rusanga ikirego cya Tangmi Jeuyim Alain Brice nta bwihutirwe gifite kuko atagaragaza igihombo kidasubirwaho yagira urukiko rubaye rudahagaritse kiriya kizami kizakorwa kuwa 20/9/2024 cyane ko nta dosiye yigeze ashyikiriza Urugaga rw’Abavoka mu Rwanda ngo rwange kuyisuzuma. Bityo rero ikirego cye kikaba atari ikirego kihutirwa nk’uko biteganywa n’amategeko.

[31] Ibimaze kuvugwa mu gika kibanziriza iki biri mu mujyo umwe n’ibyemejwe mu Rukiko rw’Ikirenga mu rubanza RCA005/13/CS rwo ku wa 10/02/2014 haburana Nyiramana Chantal na Nayino Patricie aho rwemeje ko ibirego byihutirwa bigomba kuba byujuje ibintu bitatu by’ingenzi aribyo ubwihutirwe kugira ngo bigire icyo biramira ku buryo bitinze haba igihombo kitagira igaruriro, kuba icyemezo ari icy’agateganyo no kuba kitagomba kubangamira urubanza mu mizi.

[32] Hashingiwe ku bimaze kuvugwa haruguru, Urukiko rusanga ikirego cya Tangmi Jeuyim Alain Brice kidashobora kwakirwa ngo gisuzumwe kuko kitubahirije ibisabwa n’itegeko ngo kitwe ikirego kihutirwa.

III. ICYEMEZO CY’URUKIKO

[33] Urukiko rwemeje ko ikirego cya Tangmi Jeuyim Alain Brice kitakiriwe.

[34] Urukiko rutegetse ko ingwate y’amagarama y’urubanza Tangmi Jeuyim Alain Brice yatanzwe ahwanye n’ibyakozwe muri uru rubanza.