

GOVERNMENT OF RWANDA (MINECOFIN) v. VUZIMPUNDU

[Rwanda SUPREME COURT – RADA0037/13/CS (Mukanyundo, P.J., Rugabirwa and Ngagi, J.) March 11, 2016]

Administrative procedure – Administrative appeal – In the examination of the admissibility of an administrative claim, the court does not consider the grounds based on during the administrative appeal rather verifies whether that procedure was carried out – Law N°18/2004 of 20/06/2004 relating to the civil, commercial, labour and administrative procedure, article 339.

Administrative procedure – Administrative decision – The competent authority to make an administrative decision is the one to revoke it and the procedure followed in making a decision remains the same for its revocation – Law N°22/2002 of 09/07/2002 on general statutes for Rwanda public service, article 119.

Administrative law – Delegation of power – The authority can delegate the power to make a decision and that of signature, but this has to be clear in the authorising text.

Administrative law – The taking of the oath by the public servant – A public servant's religious beliefs cannot be a pretext of noncompliance with the laws and regulations of the Republic of Rwanda relating to the taking of the oath by the public servants, because Rwanda is a secular state – Constitution of the Republic of Rwanda of 2003 revised in 2015, article 4.

Fact: Vuzimpundu was an employee of MINECOFIN but she was dismissed because she refused to take an oath by holding the national flag. Subsequently, she filed a case against the government of Rwanda (MINECOFIN) stating that she was unfairly dismissed because she did not refuse to take the oath rather she expressed that she should take it by holding the Bible. Therefore she finds her dismissal contrary to the human rights, her religious belief and her conscience. In addition to that she states that she was dismissed by an incompetent authority. That Court found the dismissal decision unlawful and ordered the government of Rwanda to pay her salary arrears and various damages.

The Government of Rwanda appealed to the Supreme Court arguing that the previous Court refused to examine the objection of the inadmissibility of a claim on the ground that the irregularity relating to the competence of the authority which dismissed Vuzimpundu was not raised in the administrative appeal.

In her defence, Vuzimpundu states that in examining the admissibility of the claim the Court does not consider the grounds based on in administrative appeal rather it verifies whether that procedure was carried out.

Vuzimpundu raised a cross appeal stating that her freedom of religion as provided for by the Constitution and International Human Right Conventions is inviolable, therefore a decision which is contrary to those principles cannot be made against a person. She finds that an employer should have not dismissed her on the ground of refusing to take the oath because she was already in service. Thus, she prays the Court to award her various damages.

Government of Rwanda rebuts that Vuzimpundu was not dismissed because of her belief, rather she omitted to comply with laws, yet, human rights are enjoyed in accordance with the law, and therefore she cannot rely on other provisions and as a pretext for non-compliance with the national law.

Held: 1. In the examination of the admissibility of an administrative claim, the court does not consider the grounds based on during the administrative appeal rather it verifies whether that procedure was carried out, thus the fact that the applicant of the administrative appeal did not raise the irregularity relating to the competence of the authority which dismissed her, is not a ground for inadmissibility of her claim.

2. The competent authority to make an administrative decision is the one to revoke it and the procedure followed in making a decision remains the same for its revocation; therefore the fact that an employee was dismissed by the permanent secretary of MINECOFIN while she was appointed by the cabinet meeting, implies that she was unlawful dismissed.

3. The respondent's religious beliefs cannot be a pretext of non-compliance with the laws and regulations of the Republic of Rwanda relating to the taking of the oath by the public servants, because Rwanda is a secular State, therefore, the fact that she did not perform it, constitutes a fault sanctioned by dismissal by the competent authority.

4. In accordance with the provisions of the law, the Government of Rwanda must pay the respondent damages for the counsel fees equivalent to a half of the fees that were awarded on the first instance.

**Appeal has no merit;
Cross appeal has merit in part;
With the the court fees to the public treasury.**

Statutes and statutory instruments referred to:

Constitution of the Republic of Rwanda of 2003 revised in 2015, articles 4 and 37.

Law N°18/2004 of 20/06/2004 relating to the civil, commercial, labour and administrative procedure, article 339.

Decree Law of 30/07/1888 relating to Contracts or obligations, article 258.

Law N°22/2002 of 09/07/2002 on general statutes for Rwanda public service, articles 29 and 119.

Law N°06/2013 of 27/02/2013 modifying and complementing Law N°34/2008 of 08/08/2008 on characteristics, description, ceremonial and respect of the National Flag, article 13.

Cases referred to:

Nyirasafari v. Public Service Commission, RADA0065/12/CS rendered by the Supreme Court, on 12/12/2014

Niyonsaba v. Caisse Sociale du Rwanda- CSR (RSSB), RADA0067/12/CS rendered by the Supreme Court on 22/07/2014

Semali v. EWSA Ltd, RADA0006/13/CS rendered by the Supreme Court on 15/05/2015.

Authors cited:

J. RIVERO et J.WALINE, Droit administratif, 20ème édition, Dalloz, Paris, 2004.

Judgment

I. BACKGROUND OF THE CASE

[1] This case begun in the High Court whereby Vuzimpundu Clarisse sued the Government of Rwanda through the General State Attorney claiming that she was dismissed

from MINECOFIN where she worked on the ground that she refused to take the oath while she did not refuse, but she indicated that she has to take the oath on the bible. She finds the dismissal unfair because it is against the human rights, freedom of belief. She further states that she was dismissed by the authority without such competence (Permanent Secretary in Ministry of Finance and Economic planning “MINECOFIN”) while she was appointed to that post by the Cabinet meeting.

[2] On 19 April 2013, that Court rendered judgment RAD0125/11/HC/KIG, and held that the decision dismissing Vuzimpundu is repealed; it ordered the Government of Rwanda to pay her 3,222,274Frw of salary arrears, 500,000Frw for moral damages and 300,000Frw for counsel fees.

[3] In its ruling, the Court found that since Vuzimpundu refused to take the oath was a ground for her dismissal and it was lawful. However, the Court held that it was done by incompetent authority because she was dismissed by the Permanent Secretary and Secretary to the Treasury in MINECOFIN while her appointment to and dismissal from the post of Administrative Assistant to the Director General of National Budget should have followed the principle of parallelism of procedures, therefore, her ground to have been dismissed by incompetent authority has merit.

[4] Through the General State Attorney, the Government of Rwanda appealed in the Supreme Court on the following grounds:

The High Court did not examine the preliminary objection of inadmissibility while it had merit, whereby it was demonstrated that the irregularity regarding the competence of the authority which dismissed Vuzimpundu Clarisse was not raised during the administrative appeal; therefore raising it in the course of hearing constitutes a ground for its rejection.

Alternatively, the fact that the Minister of Public Service and Labour delegated to Vuzimpundu Clarisse’s employer the power to receive her oath and to dismiss her in case she refuses to do so as indicated by the letter N^o029/19.23 of 06/01/2011 of the Minister of Public Service and Labour; demonstrates that she was not dismissed by incompetent authority.

[5] Vuzimpundu Clarisse raised a cross appeal stating that the High Court disregarded that her freedom of religion as provided for by the Constitution and International Human Right Conventions is inviolable, therefore she was unlawfully dismissed.

[6] The hearing was conducted in public on 09 February 2016, the Government of Rwanda represented by the State Attorney Rubango Epimaque, whereas Vuzimpundu Clarisse was represented by Counsel Nkurunziza François-Xavier.

II. ANALYSIS OF THE LEGAL ISSUES

A. Concerning the appeal of the government of Rwanda

1. Whether the fact that the incompetence of the authority which dismissed the employee was not raised in the course of administrative appeal is a ground of inadmissibility of the claim.

[7] The State Attorney Rubango Epimaque argues that at the first instance the Court did not rule on the preliminary objection of inadmissibility which was raised, while it was demonstrated to the Court that during the administrative appeal Vuzimpundu Clarisse requested for annulment of the decision which prejudiced her religious beliefs, that she has

never raised the irregularity concerning the competency of the authority which dismissed her, therefore raising it during the hearing was a ground for inadmissibility.

[8] Nkurunziza François-Xavier, the Counsel for Vuzimpundu Clarisse states that in examining the admissibility of the claim, the Court does not consider the grounds of administrative appeal, rather it verifies whether the procedure was followed especially that the appellant does not demonstrate the law which provides for the content of administrative appeal

OPINION OF THE COURT

[9] Article 339 of Law N°18/2004 of 20/06/2004 relating to the civil, commercial, labour and administrative procedure which was in force at the time administrative appeal was lodged, provides for that the action for annulment shall be accepted only if it relates to an explicit or implicit decision of an administrative authority. Before filing a claim, the aggrieved party who is against the administrative decision shall be required to first lodge an administrative appeal with the immediate superior authority vis-à-vis the one who took the concerned decision. The authority shall be required to respond in a period of two (2) months which runs from the date he/she received the administrative appeal. If he / she does not respond, the request shall be considered as if it is rejected. In case the applicant is not satisfied with the decision, he/she has a period of six (6) months to file a claim which runs from the date when he/she received the response, and if there is no response, such a period shall start running after two (2) months mentioned in previous paragraph of this

[10] The case file indicate that on 31 May 2011 the Permanent Secretary of MINECOFIN¹ wrote a letter No 2999/11/10/HR to Vuzimpundu Clarisse informing her that she was discharged of her duties due to non-compliance with law of Republic of Rwanda relating to taking the oath by the public civil servant. On 07 June 2011, Vuzimpundu Clarisse lodged an administrative appeal before the Permanent Secretary requesting to repeal the decision taken against her of being dismissed, explaining that during 16 years she spent working for MINECOFIN; no disciplinary sanction was ever taken against her, the fact that she follows her conscience which was embedded to her by the Bible as a Jehovah witness should not be a ground for her dismissal.

[11] The Court finds the fact that Vuzimpundu Clarisse did not raise the irregularity regarding incompetence of the authority that dismissed her cannot lead to the rejection of her claim because the purpose of the administrative appeal is for the authority who made the decision to reconsider it, without considering whether the authority was competent or not, especially that article 339 mentioned above does not specify the essential elements or grounds which have to be contained in the administrative appeal, that whoever does not respected it, his or her claim is rejected.

[12] Pursuant to the motivations given above, the Court overrules the preliminary objection of inadmissibility of the claim raised by the State Attorney Rubango Epimaque

2. Whether the Permanent Secretary of MINECOFIN is competent to dismiss Vuzimpundu Clarisse.

¹ Ministry of Finance and Economic Planning

[13] Rubango Epimaque, the State attorney argues that in paragraph 18 of the judgment rendered on the first instance, the Court motivated that even though the refusal of Vuzimpundu Clarisse to take the oath was a reasonable ground for her dismissal, she was dismissed by an incompetent authority; the State Attorney states that he differs on that rationale of the court because she was dismissed by the Permanent Secretary of MINECOFIN who was delegated that power by the Minister of Public Servant and Labour in the letter N°029/19.23 of 06/01/2011 by the Minister, stating that those who refused to take the oath for any reason have to be sanctioned.

[14] Nkurunziza François-Xavier, the counsel for Vuzimpundu Clarisse argues that the Permanent Secretary of MINECOFIN was not delegated the power to dismiss Vuzimpundu Clarisse because no one can delegate the power he/she does not possess, Vuzimpundu Clarisse was appointed by the cabinet meeting and the Minister of Public Servant and Labour implement the cabinet appointment, therefore it should have been referred back to the Cabinet meeting in order to comply with the principle of parallelism of procedures. He further argues that the content of the letter indicates that there is no delegation of power and even though it was the contrary, the delegate acts on behalf of the delegator which was not the case because the Permanent Secretary, personally dismissed Vuzimpundu Clarisse.

OPINION OF THE COURT

[15] Article 119 of the law N°22/2002 of 09/07/2002 on general statutes for Rwanda public service which was in force at the time Vuzimpundu Clarisse was dismissed provides that automatic resignation is a deed by which the Public Service competent authority decides to expel definitely an employee from the Government staff.

[16] Law scholars Jean Rivero and Jean Waline also explained that the principle is that the authority with the competency to make a decision should be the one to revoke it. This implies that the procedure followed to make the first decision is the one to be applied to revoke it². They further explained that the authority can delegate the power to make a decision and that of signature, but this has to be clear in the authorising text³.

[17] The case file demonstrates that Vuzimpundu Clarisse was appointed on the post of Administrative Assistant to the Director General of National Budget in MINECOFIN, and this was implemented by the Minister of Public Service and Labour as indicated by the letter N° 282/19.23 of 15/09/2009. Furthermore the letter 029/19.23 of 06/01/2011 issued by the Minister of Public Service and Labour to the ministers and permanent secretaries aimed at requesting them to receive the oaths of the public servants who previously failed to do so for different reasons and to sanction those who refuse to comply with it for whatever reason as

² Il existe, en droit administratif, un principe de parallélisme des compétences (ou encore dit de l'acte contraire) qui veut que lorsqu'une autorité a compétence pour faire un acte, elle a également compétence pour faire l'acte contraire (par exemple celui qui nomme a compétence pour révoquer). Le plus souvent (mais il y a des exceptions) cela implique également le parallélisme des formes, c'est-à-dire l'obligation de suivre la même procédure que celle de l'acte initial pour accomplir l'acte contraire (J. RIVERO et J.WALINE, Droit administratif, 20ème édition, Dalloz, Paris, 2004, p. 341, n° 404 in fine).

³ Il serait matériellement impossible à certaines autorités administratives – par exemple le Ministre – d'exercer elles-mêmes effectivement l'ensemble de leurs compétences. Pour que le système puisse fonctionner, il est donc indispensable de recourir au système de délégations, qui distingue la délégation de compétence et la délégation de signature. Les délégations sont indispensables mais doivent être limitées à ce qui est nécessaire, ce qui explique leur régime juridique: il n'y a pas de délégation sans texte l'autorisant [...] (J. RIVERO et J.WALINE, op.cit., p. 342, n° 405).

follows: a) an employee who refuses to take the oath will be given by her/his employer a written notice of 15 days, and be informed that he/she is going to be dismissed because of not respecting the laws and regulations governing him or her; and serve a copy to the Public Service Commission and the Ministry of Public Service and Labour, b) within that period of 15 days, the concerned employee must submit his/her defence to his/her employer in writing and inform his/her decision, c) if an employee replies accepting to take the oath, his or her employer receives his or her oath and keeps his or her work, d) if an employee replies refusing to take the oath for any reason, he/she must be automatically dismissed from his or her service by the competent authority.

[18] Pursuant to the provisions of article 119 of Law N^o22/2002 of 09/07/2002 mentioned above and the explanations of the law scholars also mentioned above, the Court finds that the competent authority to dismiss Vuzimpundu Clarisse was the Minister of the Public Service and Labour basing on the resolutions of the cabinet meeting as it was done at the time she was appointed on that post. (Principle of parallelism of forms and competences)

[19] The arguments of the State Attorney Rubango Epimaque that the Minister of the Public Service and Labour delegated the power to dismiss Vuzimpundu Clarisse, are not grounded because the letter which was addressed to the Ministers and Permanent Secretaries (mentioned in paragraph 17) indicates that the delegated power was to write to the employee who had refused to take the oath informing him/her that he/she is to be dismissed because of noncompliance with the laws and regulations. Regarding the dismissal of that employee, the Minister of the Public Service and Labour stated that an employee who will reply that she/he has refused to take the oath or exceeds 15 days without replying, he/she will be immediately dismissed by the competent authority. This implies that the power to dismiss an employee was not delegated to the recipients of the letter mentioned above, rather to the competent authority and as far as Vuzimpundu Clarisse was concerned, that authority is the one mentioned in the previous paragraph.

[20] Therefore the Court finds that the fact for Vuzimpundu Clarisse to have been dismissed by an incompetent authority, who is the Permanent Secretary of MINECOFIN, implies that she was unlawfully dismissed, thus the appeal of the Government of Rwanda has no merit.

B. Concerning the cross appeal of Vuzimpundu Clarisse.

1. Whether requesting Vuzimpundu Clarisse, as the public servant to take the oath before the national flag is unconstitutional and in violation of international conventions.

[21] Nkurunziza François-Xavier, the counsel for Vuzimpundu Clarisse states that in the previous court, he demonstrated in his defense that the religious freedom is inviolable, and it is provided for by the Constitution in its article 33 and 45, and also in the International Conventions, especially article 18 of International Covenant on Civil and Political Rights of 16/12/1966⁴, article 14, 15 and 19 of the African Charter on Human and Peoples' Rights, that no decision may be taken for a person which is contrary to those principles, therefore the issue is to determine whether such decision against a person can be taken in contradiction of the Constitutional and those International Conventions and to assess whether the principle of

⁴ In the submission he stated that they are “Déclaration Universelle des Droits Civils et Politiques”, but that convention of 19/12/1966 is called “Pacte international relatif aux droits civils et politique or “Déclaration universelle des droits de l’homme”, which are of 10/12/ 1948.

inviolability of religious freedom is violated if such decision is made. He states further that the Judge did not rule on that issue. He further argues that article 29 of the General Statute of the Civil Servant stipulates that before taking office, every government employee shall take the oath; consequently the employer should not have dismissed Vuzimpundu Clarisse on the ground that she refused to take oath because she was already employed.

[22] Rubango Epimaque, the State Attorney argues that Vuzimpundu Clarisse was not dismissed because of her religious belief, rather she was dismissed because of non-compliance with the law, he states in addition that human's rights are enjoyed in accordance with the law, therefore Vuzimpundu Clarisse cannot rely on other provisions and not comply with the national law.

OPINION OF THE COURT

[23] Article 33 of the Constitution of 04 June 2003 (which is article 37 of the Constitution of the Republic of Rwanda revised in 2015), provides: "freedom of thought, conscience, religion, worship and public manifestation thereof is guaranteed by the State in accordance with the law. [...]. Whereas article 45 of that Constitution provides that "[...] All citizens have the right to participate in the government of the country, whether directly or through freely chosen representatives in accordance with the law".

[24] Article 29 of the Law N°22/2002 of 09/07/2002 on General Statutes for Rwanda Public Service, provided that: "Before taking office, every Government employee takes the following oath: "«I,, in the name of God Almighty, solemnly do swear before the Nation to loyally carry out my duties, to remain faithful to the Republic of Rwanda, to respect the Head of State and Government institutions and to promote the Rwandese people's interests, in abiding by the Fundamental Law and other laws»".

[25] Article 13 of the Law N°06/2013 of 27/02/2013 modifying and complementing the Law N° 34/2008 of 08/08/2008 on characteristics, description, ceremonial and respect of the National Flag, provides: "any person taking the oath of office before the National Flag holds the National Flag with his/her left hand and raises the right hand. In case a person with disability obliged to take oath of office before the National Flag cannot comply with the provisions of paragraph one of this article, he/she shall be caused to wear it".

[26] The case file of this case contains a letter N°029/19.23 of 06 January 2011(mentioned above) in which the Minister of Public Service and Labour addressed to the Ministers and Permanent Secretaries instructing them to receive the oath of public servants who had not took the oath for various reasons and also informed them that the employee who will not take the oath for any reason shall be dismissed by the competent authority after the notice of 15 days requesting them to take the oath on the ground of non-compliance with the laws and regulations governing them. In October 2010, pursuant to those regulations of the Minister of Public Service and Labour, the Permanent Secretary in the Ministry of Finance and Economic Planning wrote a letter N°6155/10/10/HR to Vuzimpundu Clarisse, requesting her to take the oath. On January 06, 2011, Vuzimpundu Clarisse replied that she cannot take the oath by holding the National Flag because it contradicts her conscience, instead she can take it by holding the Bible.

[27] The Court finds that Vuzimpundu Clarisse as a civil servant should have taken the above mentioned oath as it is provided for by article 13 of the aforementioned law N°34/2008

of 08/08/2008. The fact that she did not take it, constitutes a fault sanctioned with dismissal by the competent authority. Indeed, she cannot pretend to have been already employed and allege that her right to refuse taking the oath by holding the National Flag was jeopardised given that the act of receiving the oath for the civil servants who had not taken it intended to regularize those which were not timely accomplished, especially that she was supposed to take the oath before she could be appointed in the public service as it is provided for by article 29 of the Law N°22/2002 of 09/07/2002 mentioned above.

[28] The Court finds that Vuzimpundu Clarisse shouldn't have relied on her religious beliefs as a pretext of not complying with the laws and regulations of the Republic of Rwanda relating to taking of the oath of the public servants, because Rwanda is secular state as provided for by article 1, paragraph 1 of the Constitution of the Republic of Rwanda of 04 June 2003 (which became article 4 of the Constitution of the Republic of Rwanda as amended in 2015). This was also the precedent set in various judgments rendered by this Court, such as; Nyirasafari v. Public Service Commission, RADA0065/12/CS rendered on 12 December 2014, Niyonsaba v. Caisse Sociale du Rwanda- CSR, RADA0067/12/CS rendered on 22 July 2014 and Semali v. EWSA Ltd currently known as Rwanda Energy Group Ltd RADA0006/13/CS rendered on 15 May 2015. Moreover, in the Communication submitted to Human Rights Committee by Paul Westerman against his country Netherlands, whereby he was recruited in military service against his will and subsequently he refused to put on military uniform. That committee observed that the right to freedom of conscience does not as such imply the right to refuse all obligations imposed by law nor does it provide immunity from criminal liability⁵. Therefore where the law does not provide for alternative of taking the oath before being admitted in the service other than holding the National Flag, whoever refuses to take the oath as prescribed by the law must bear the consequences of his/her decision. Therefore Vuzimpundu Clarisse should bear the consequences of not complying with the law.

[29] The Court also finds that taking the oath by holding the National flag does not violate article 33 (currently article 37) and the former article 45 of the Constitution, nor article 18⁶ of International Covenant on Civil and Political Rights of 16/12/1966, article 14⁷, 15⁸ and 19⁹ of the African Charter on Human and Peoples' Rights, which Counsel Nkurunziza François-Xavier relies on, because the common aim of all those provisions is that every person has freedom of belief and religion and also that all people are equal before the law, either in getting employment or ownership of property, while those beliefs should not jeopardise the national laws and none should rely on them to withdraw from legal obligations.

⁵ Dans une affaire où l'intéressé s'étant vu refusé le statut d'objecteur, a été incorporé dans l'armée et condamné pour refus d'obéissance (port de l'uniforme), le Comité a fait observer que le droit à la liberté de conscience en tant que tel ne peut être interprété comme donnant le droit de refuser de s'acquitter de toutes les obligations imposées par la loi ou comme déchargeant une personne de sa responsabilité pénale à l'égard de chaque refus ainsi opposé. (Communication N° 682/1996: Paul WESTERMAN c. Pays-Bas, CCPR/C67/D/682/1996, §9.3, Cité par Jean-Bernard MARIE et Patrice MEYER-BISCH, in La liberté de conscience dans le champ de la religion, p.25 <https://www.unifr.ch/iiedh/assets/files/.../publicdt04.pdf>)

⁶ Everyone has the right to freedom of thought, conscience and religion; This right implies the freedom to have or to adopt a religion or belief of one's choice, as well as the freedom to manifest one's religion or belief, individually or in common, both in public and private, through worship and The performance of rites, practices and teaching.

⁷ The right to property is guaranteed. It may be infringed only by public necessity or in the general interest of the community, in accordance with the provisions of the appropriate laws.

⁸ Everyone has the right to work under fair and satisfactory conditions and to receive equal pay for equal work.

⁹ All peoples are equal; They enjoy the same dignity and have the same rights. Nothing can justify the domination of one people by another.

[30] Pursuant to the motivations above, the court finds that the dismissal of Vuzimpundu Clarisse on the ground of her refusal to take the oath by holding the National flag doesn't constitute a violation of the Constitution and International Conventions.

2. Whether damages claimed by Vuzimpundu Clarisse should be awarded.

[31] Nkurunziza François-Xavier, the counsel for Vuzimpundu Clarisse argues that the Government of Rwanda should pay her 1,500,000Frw for the counsel fees, in addition to the awarded damages.

[32] Rubango Epimaque, the State Attorney argues that the claimed damages are groundless because the Government of Rwanda can exercise the procedures of appeal provided by the law, but in case the Court opines it otherwise, it will assess whether the amount she claims for is equivalent to the counsel fees.

OPINION OF THE COURT

[33] Article 258 of the civil code book III provides that “any act of man which causes damage to another obliges the person by whose fault it happened to repair it”. And article 33 of the Rwanda Bar Association regulations N°01/2014 of 18/07/2014 fixing the scale of fees for advocates provides that: “In case of appeal, the Advocate for the Applicant and the Advocate for the defendant are entitled to half of the fees agreed in the first instance”.

[34] The case file indicates that the submission for instituting a case in the High Court is on pages 1-5, whereby vuzimpundu Clarisse prayed that the Government of Rwanda be ordered to pay her 600,000Frw of the counsel fees, which is the amount agreed upon on the first instance.

[35] According to the provision of article 33 of the Regulation N°01/2014 mentioned above, the Government of Rwanda must pay Vuzimpundu Clarisse the counsel fees equivalent to a half (½) of 600,000Frw that is to say 300,000Frw.

III. DECISION OF THE COURT

[36] It holds that the appeal submitted by the Government of Rwanda (MINECOFIN) lacks merit.

[37] It holds that the cross appeal filed by Vuzimpundu Clarisse has merit in part.

[38] It holds that the judgment RAD0125/11/HC/KIG rendered by the High Court on 19 April 2013 is reversed only in regards to the counsel fees which must be increased.

[39] It orders the Government of Rwanda (MINECOFIN) to pay Vuzimpundu Clarisse three hundred thousand Rwandan francs (300,000Frw) of the Counsel fees at this level.

[40] It orders that the court fees are borne by the public treasury.