

## MURASHI N’UNDI v. COGEAR Ltd

[Rwanda URUKIKO RW’IKIRENGA – RCAA 0064/12/CS (Mukanyundo M., P.J., Rugabirwa na Gakwaya, J.) 24 Ukwakira 2014]

*Amategeko agenga imiburanishirize y’imanza z’imbenezamubano – Inzitizi y’iburabubasha – Ububasha bushingiye ku kiburanwa – Ikigenderwaho mu kugena agaciro k’ikiburanwa – mu kugena agaciro k’ikiburanwa ntiharebwa gusa ibyavuzwe mu nyandiko itanga ikirego, ahubwo hanitabwa ku bimenyetso bisobanura ikiregerwa – Itegeko n° 21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y’imanza z’imbenezamubano, iz’ubucuruzi, iz’umurimo n’iz’ubutegetsu, ingingo ya 4(1°), 19( 4°) n’iya 30 – Itegeko Ngenga n° 01/2004 ryo kuwa 29/1/2004 rigena imiterere, imikorere n’ububasha by’Urukiko rw’Ikirenga, ingingo ya 43( 3°, 7°).*

**Incamake y’ikibazo:** Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Nyarugege, Murashi Isaïe na Rusanganwa Sylvain barega COGEAR S.A ko bakodesheje inzu yayo, nyuma ikaza kwibasirwa n’inkongi y’umuriro biturutse ku makosa yayo yo kuba yaranze kuyisana aho yavaga. Murashi Isaïe yasabye indishyi zijyanye n’igihombo yatejwe n’uko ibikoresho yakoresheye mu mirimo y’ikinyamakuru INGANZO byahiriye n’izijyanye n’uko COGEAR SA yasheshe amasezerano nta nteguza. Rusanganwa Sylvain nawe asaba indishyi zijyanye n’igihombo yatejwe no kuba COGEAR SA yarirengagije gusana inzu yayo bituma atabasha gukora imirimo ye ya “informatique” ndetse no kuba yarasheshe amasezerano nta nteguza. Muri urwo rubanza COGEAR SA yatanze ikirego cyuririye ku cyabo isaba Urukiko kubategeka kwishyura amafaranga y’ubukode batishyuye.

Urwo Rukiko rwaciye urubanza rwemeza ko ikirego cya Murashi Isaïe na Rusanganwa Sylvain gifite ishingiro, rutegeka COGEAR SA kuriha ibikoresho byangiritse Murashi Isaïe yakoresheye mu Kinyamakuru INGANZO, ikamuha n’indishyi z’akababaro. Rwategetse kandi COGEAR SA guha Rusanganwa Sylvain indishyi z’akababaro kwishyura igihombo cya Avoka n’umusogongerwa wa Leta wa 4%.

Ababuranyi bose bajuririye urwo rubanza mu Rukiko Rukuru, COGEAR SA ivuga ko yatanze integuza (préavis) mbere yo gusesa amasezerano y’ubukode yagiranye na Murashi Isaïe na Rusanganwa Sylvain, ariko Urukiko rukaba rwariyegagije ibimenyetso n’ibisobanuro yatanze. Murashi Isaïe na Rusanganwa Sylvain bo bavugaga ko indishyi Urukiko rwatanze zidashingiye ku kuba zidafite ikigaragaza ingaruka z’isesa ry’amasezerano mu gihe rwari rwemeye ko COGEAR SA yasheshe ayo masezerano binyuranyije n’amategeko.

Urwo Rukiko rwaciye urubanza rwemeza ko ubujurire bwa Murashi Isaïe n’ubwa Rusanganwa Sylvain nta shingiro bufite, ariko ko ubwa COGEAR Ltd bufite ishingiro maze rutegeka Murashi Isaïe kwishyura COGEAR SA 1.018.333 Frw y’ideni ry’ubukode bw’inzu atishyuye hamwe na 300.000 Frw y’igihombo cya Avoka. Rutegeka kandi Rusanganwa Sylvain kwishyura COGEAR SA 1.006.250 Frw y’ideni ry’ubukode hamwe na 300.000Frw y’igihombo cya avoka.

Murashi Isaïe na Rusanganwa Sylvain bajuririye Urukiko rw’Ikirenga, bavugaga ko mu manza eshatu zajuririye, umucamanza aho gusuzuma ubwo bujurire bwose, yasuzumye ubujurire bwa COGEAR Ltd gusa, ko Umucamanza yanzwe no kwivuguruzwa mu ngingo yashingiyeho, ko yavuze ko nta gaciro “expertise” yakozwe na Electrogaz ifite, kandi yaragombaga kugumana agaciro kayo mu gihe nta yindi “expertise” yayivugurujwe, no kuba Umucamanza avugaga ko “expert” yashingiye kuri “hypothèse” kandi ataribyoye. Iburanisha ritangiye, uburanira COGEAR Ltd yatanze inzitizi

y'iburabubasha avuga ko uru rubanza rutari mu bubasha bw'Urukiko rw'Ikirenga kubera ko ikiburanwa kitageze kuri 20.000.000 Frw nk'uko biteganywa n'ingingo ya 43 y'Itegeko Ngenga n° 01/2004 ryo kuwa 29/1/2004 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga, ryakurikizwaga mu gihe cy'itangwa ry'ubujurire.

**Incamake y'icyemezo:** 1. Ikiburanwa kigenwa n'ibisabwa na buri muburanyi bigaragazwa n'inyandiko itangiza ikirego n'imyanzuro yo kwiregura kandi ibyo Umushingamategeko ashaka ko bigaragara muri izo nyandiko ni ibyo urega asaba urukiko cyangwa ikiregerwa (objet de la prétention) mu magambo avunaguye (sommairement), bityo mu kugena agaciro k'ikiburanwa bigomba kumvikana ko hatarebwa gusa ibyavuzwe mu nyandiko itanga ikirego, ahubwo hanarebwa imyanzuro ishimangira ikiregerwa n'ibyo ababuranyi bavuze igihe cy'iburanisha.

**Inzitizi y'iburabubasha nta shingiro ifite.  
Ubujurire buri mu bubasha bw'Urukiko rw'ikirenga.  
Amagarama y'urubanza arasubitswe.**

**Amategeko yashingiweho:**

Itegeko n° 21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegets, ingingo ya 4(1°), 19(4°) n'ya 30.

Itegeko Ngenga n° 01/2004 ryo kuwa 29/1/2004 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga, ingingo ya 43(3°, 7°).

**Nta manza zifashishijwe.**

## Urubanza

### I. IMITERERE Y'URUBANZA

[1] Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Nyarugege, Murashi Isaïe na Rusanganwa Sylvain barega COGEAR S.A ko bakodesheje inzu yayo, nyuma ikaza kwibasirwa n'inkongi y'umurimo biturutse ku makosa yayo yo kuba yaranze gusana iyo nzu yavaga. Murashi Isaïe yasabye indishyi zijyanye n'igihombo yatejwe n'uko ibikoresho yakoresheye mu mirimo y'ikinyamakuru INGANZO byahiriyemo n'izijyanye nuko COGEAR SA yasheshe amasezerano nta nteguza. Rusanganwa Sylvain nawe asaba indishyi zijyanye n'igihombo yatejwe no kuba COGEAR SA yarirengagije gusana inzu yayo bituma atabasha gukora imirimo ye ya «informatique» ndetse no kuba yarasheshe amasezerano nta nteguza. Muri urwo rubanza COGEAR SA yatanze ikirego cyuririye ku cyabo isaba Urukiko kubategeka kwishyura amafaranga y'ubukode batishyuye.

[2] Urwo Rukiko rwaciye urubanza RC 43034/05/TGI/NYGE-RC0392/05/TP/KIG, kuwa 21/01/2011, rwemeza ko ikirego cya Murashi Isaïe na Rusanganwa Sylvain gifite ishingiro, rutegeka COGEAR SA gutanga 165.000 Frw yo kuriha ibikoresho bya Murashi Isaïe byangiritse yakoresheye mu Kinyamakuru INGANZO, ikamuha n'indishyi z'akababaro zingana na 3.500.000 Frw. Rutegeka kandi COGEAR SA guha Rusanganwa Sylvain indishyi z'akababaro zingana na 1.000.000 Frw. Rutegeka nanone COGEAR SA kwishyura 300.000 Frw y'igihembo cya Avoka, igatanga n'umusogongerwa wa Leta wa 4% ungana na 186.600 Frw.

[3] Ababuranyi bose bajuririye urwo rubanza mu Rukiko Rukuru, COGEAR SA ivuga ko yatanze integuza (préavis) mbere yo gusesa amasezerano y'ubukode yo kuwa 20/5/2003 yagiranye na Murashi Isaïe na Rusanganwa Sylvain, ariko Urukiko rukaba rwariyegagije ibimenyetso n'ibisobanuro yatanze. Naho Murashi Isaïe na Rusanganwa Sylvain bavuga ko Urukiko rutatanze indishyi rushingiye ko nta kigaragaza ingaruka z'isesa ry'amasezerano ku migendekere myiza y'imirimo yabo mu gihe rwari rwemeye ko COGEAR SA yasheshe ayo masezerano binyuranyije n'amategeko.

[4] Urwo Rukiko rwaciye urubanza RCA 0050-53-54/11/HC/KIG, kuwa 16/05/2012, rwemeza ko ubujurire bwa Murashi Isaïe n'ubwa Rusanganwa Sylvain nta shingiro bufite, ariko ko ubwa COGEAR Ltd bufite ishingiro. Rutegeka Murashi Isaïe kwishyura COGEAR SA 1.018.333 Frw y'ideni ry'ubukode bw'inzu atishyuye hamwe na 300.000 Frw y'igihembo cya Avoka. Rutegeka kandi Rusanganwa Sylvain kwishyura COGEAR SA 1.006.250 Frw y'ideni ry'ubukode hamwe na 300.000 Frw y'igihembo cya avoka.

[5] Kuwa 15/06/2012, Murashi Isaïe na Rusanganwa Sylvain bajuririye Urukiko rw'Ikirenga, ubujurire bwabo buhabwa nomero RCAA 0064/12/CS, bavuga ko mu manza eshatu zajuririwe, umucamanza aho gusuzuma ubwo bujurire bwose, yasuzumye ubujurire bwa COGEAR Ltd gusa, ko Umucamanza yanzwe no kwivuguruzwa mu ngingo yashingiyeho, ko yavuze ko nta gaciro "expertise" yakozwe na Electrogaz ifite, kandi yaragombaga kugumana agaciro kayo mu gihe nta yindi "expertise" yayivugurujwe, no kuba Umucamanza avuga ko "expert" yashingiyeye kuri "hypothèse" kandi ataribyoye.

[6] Urubanza rwaburanishijwe mu ruhamwe kuwa 22/07/2014, Me Nkubana Milton na Me Muhawenayo Casimir baburanira Murashi Isaïe na Rusanganwa Sylvain, naho COGEAR Ltd ihagarariye na Me Kazungu Jean-Bosco. Iburanisha ritangiye, uburanira COGEAR Ltd yatanze inzitizi y'iburabubasha avuga ko uru rubanza rutari mu bubasha bw'Urukiko rw'Ikirenga kubera ko ikiburanwa kitageze kuri 20.000.000 Frw nk'uko biteganywa n'ingingo ya 43 y'Itegeko Ngenga n° 01/2004 ryo kuwa 29/1/2004 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga, ryakurikizwaga mu gihe cy'itangwa ry'ubujurire.

## **II. IBIBAZO BIGIZE URUBANZA N'ISESENGURWA RYABYO**

### **Kumenya niba ubujurire bwa Murashi Isaïe na Rusanganwa Sylvain buri mu bubasha bw'Urukiko rw'Ikirenga**

[7] Me Kazungu Jean-Bosco avuga ko COGEAR Ltd itanze inzitizi ishingiye ku ingingo ya 43 y'Itegeko Ngenga n° 01/2004 ryo kuwa 29/1/2004 ryavuzwe haruguru ryariho ikirego gitangwa kuko yateganyaga ko Urukiko rw'Ikirenga rufite ububasha bwo kuburanishwa ku rwego rwa kabiri rw'ubujurire iyo ikiburanwa gifite agaciro kangana cyangwa kari hejuru ya 20.000.000 Frw, nyamara muri uru rubanza akaba nta mafaranga arenga 20.000.000 yigeze avugwamo.

[8] Asobanura ko ikiregerwa uko cyanditse mu nyandiko itanga ikirego nta 20.000.000Frw zirimo, ko nta naho uyu mubare ugaragara muri dosiye, ko abo baburana batavugaga ko baburana ibirenze 20.000.000 Frw ndetse ko imibare y'amafaranga bayitanze nyuma yo gutanga ikirego nta n'icyo ishingiyeho gifatika (des chiffres fictifs et surréalistes), bityo mu gihe mu mwanzuro utanga ikirego cyabo ku rwego rwa mbere batabyanditse, ndetse ko kuba no mu manza zose zaciye ntaho

Inkiko zigeze zigena amafaranga agera kuri 20.000.000Frw, bityo ubujurire bwabo bukaba butari mu bubasha bw'Urukiko rw'Ikirenga .

[9] Asoza avuga ko urubanza rwatangiriye mu Rukiko rw'Umujyi wa Kigali mu mwanzuro wa mbere watanze mu mwaka wa 2005 na Me Munyankindi Joseph washyikirijwe COGEAR Ltd kuwa 18/1/2006, urimo iyo mibare y'amafaranga bavuga. Ko ikirego kikiri uko cyantanzwe kandi ko amafaranga bavuga atarimo, kandi ko umwanzuro bavuga ari uwo mu mwaka wa 2010, atari umwanzuro wo gutanga ikirego, n'imibare batanga ikaba atariyo, kuko n'ubwo baburanye ku bubasha bw'Urukiko, ikirego cyari cyakindi. Naho kubyerekeye indishyi, avuga ko mu mwanzuro wa 2010, izo ndishyi baziburanyeho ariko ko kitari ikirego gishyashya kuko nta garama rya 2010 bafite, ko ahubwo ari urubanza rwa 2005 rwakomeje.

[10] Me Nkubana Milton avuga ko iyo nzitizi nta shingiro ifite kuko Murashi Isaië na Rusanganwa Sylvain mu gusobanura ikirego cyabo bagaragaje ingano y'ikiregerwa, bagaragaza n'ingano y'agaciro k'ikiburanwa mu myanzuro itanga ikirego, COGEAR Ltd nayo ikaba ibigarukaho mu mwanzuro wo kwiregura ivuga ko imibare yaje nyuma, atari ukuvuga ko yaje iburanisha ryarapfundikiwe, ahubwo ari ukuvuga ko yaje mu mpapuro z'inyuma ndetse ikanavuga ko ntacyo ishingiraho gifatika, bivuze ko iyo mibare yari ihari.

[11] Avuga kandi ko Urukiko Rwisumbuye rwa Nyarugenge mu gutanga indishyi, rwavuze ko rutagaruka ku zasabwe na Murashi Isaië na Rusanganwa Sylvain, ahubwo rukavuga ko bahabwa izo bagaragarije ibimenyetso, bivuze ko n'izindi zagiweho impaka. Avuga kandi ko mu Rukiko Rukuru n'ubwo hatabayeho kuvuga iyo mibare, Murashi Isaië na Rusanganwa Sylvain bavugaga ibyo bajuririra kandi muri byo harimo ko urukiko rutabahaye indishyi zose uko bazisabaga.

[12] Me Muhawenayo Casimir avuga ko ingingo ya 4 y'Itegeko n° 21/2012 ryo kuwa 14/6/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu iteganya ko ikiburanwa kigenwa n'ikirego n'imyanzuro ababuranyi batanga, ko muri uru rubanza icyaregawe ari indishyi z'akababaro (dommages et intérêts y relatifs) zingana na 506.893.500 Frw kuri Murashi Isaië na 62.000.000Frw kuri Rusanganwa Sylvain, ibyo bikaba biri muri nyandiko itanga ikirego (acte introductif d'instance).

Asoza avuga ko inyandiko itanga ikirego n'imyanzuro aribyo bigaragaza ikirego Kandi ko imyanzuro yatanze mu mwaka wa 2010 ariyo bashingiraho ndetse ko impande zombi zayigiyeho impaka.

## **UKO URUKIKO RUBIBONA**

[13] Ingingo ya 43, agace ka 3, 7° y'Itegeko Ngenga n° 01/2004 ryo kuwa 29/1/2004 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga ryakurikizwaga igihe ubu bujurire bwatangagwa iteganya ko "Urukiko rw'Ikirenga rufite kandi ububasha bwo kuburanisha mu rwego rw'ubujurire imanza zaciwe n'Urukiko Rukuru, Urukiko Rukuru rw'Ubucuruzi cyangwa Urukiko Rukuru rwa Gisirikare mu rwego rwa kabiri, iyo izo manza zagenwemo n'Urukiko indishyi zingana cyangwa zirenze amafaranga miliyoni makumyabiri (20.000.000Frw) hatitawe ku bwoko bwazo cyangwa se zifite agaciro kagenwe n'urega mu nyandiko itanga ikirego cyangwa kemejwe n'umucamanza igihe habaye impaka kangana cyangwa karenze amafaranga miliyoni makumyabiri (20.000.000Frw).

[14] Ingingo ya 4, agace ka mbere, y'Itegeko n° 21/2012 ryo kuwa 14/6/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ko "Ikiburanwa kigenwa n'ibisabwa na buri muburanyi. Ibisabwa bigaragazwa n'inyandiko itangiza ikirego n'imyanzuro yo kwiregura".

[15] Ingingo ya 19, 4° y'Itegeko n° 21/2012 ryo kuwa 14/6/2012 ryavuzwe haruguru iteganya ko "ikirego kigaragaza ikiburanwa n'impamvu zihinye zisobanuro ikirego"

[16] Ingingo ya 30 y'Itegeko n° 21/2012 ryo kuwa 14/6/2012 ryavuzwe iteganya ko "urwandiko ruhamagara rwandikwa n'umwanditsi w'urukiko. Ruba rwanditseho nimeru y'urubanza, amazina, umwunga, aho urega n'uregwa babarizwa. Runavuga mu magambo ahinnye ikiregerwa, urukiko rwaregwe kimwe n'ahantu, umunsi n'isaha ababuranyi bazitabiraho"

[17] Urukiko rw'Ikirenga rurasanga nk'uko bigaragara mu rwandiko ruhamagara umuburanyi mu rwego rwa mbere no mu nyandiko itanga ikirego cya Murashi Isaïe na Rusanganwa Sylvain hagaragaramo ko ikiburanwa ari:

- Inexécution des conventions contractuelles;
- Résiliation abusive des contrats de bail;
- Frais d'instance et honoraires d'avocat.

[18] Urukiko rw'Ikirenga rurasanga mu nyandiko itangiza ikirego cya Murashi Isaïe na Rusanganwa Sylvain mu mwaka wa 2005 bigaragara ko bamenyesheje Urukiko Rwisumbuye rwa Nyarugenge ko mu gihe cya vuba bazatanga imyanzuro isobanura neza ikirego cyabo ndetse ko nyuma yaho, batanze iyo myanzuro igaragaza ko indishyi Murashi Isaïe asaba zingana na 46.493.500 Frw, hiyongeraho indishyi z'akababaro zingana na 15% ya 46.493.500 Frw naho indishyi zisabwa na Rusanganwa Sylvain zingana na 15.620.620 Frw, hiyongeraho indishyi z'akababaro zingana na 15% ya 15.620.620 Frw.

[19] Urukiko rw'Ikirenga rurasanga kuwa kuwa 24/7/2007, umunsi wa mbere washizweho nk'itariki y'iburanisha kugeza kuwa 24/4/2009, Urukiko Rwisumbuye rwa Nyarugenge rwarakomeje gushyiraho iburanisha ry'uru rubanza, ariko kuwa 11/5/2009, rusuzuma inzitizi y'iburabubasha yatanze na COGEAR Ltd, rwemeza ko ikirego cya Murashi Isaïe na Rusanganwa Sylvain kiri mu bubasha bw'ibanza, bivugwa ko rwari rwasuzumye ingano y'amafaranga y'indishyi basabaga.

[20] Urukiko rw'Ikirenga rurasanga bigaragara na none muri dosiye ko mu kwezi kwa cumi (octobre) k'umwaka wa 2007, bari batanze imyanzuro ishyira ku gihe (conclusions actualisées) indishyi basaba, aho bigaragara ko Murashi Isaïe asaba COGEAR Ltd indishyi zingana na 506.893.500 Frw, naho Rusanganwa Sylvain ayisaba zingana na 62.254.000Frw, bityo rukaba rusanga ko ibivugwa n'abareba by'uko bari bamenyesheje Urukiko Rwisumbuye rwa Nyarugenge muri iyo myanzuro yabo umubare w'amafaranga basaba mu rwego rw'indishyi, ni ukuvuga yose hamwe 569.147.500Frw, bikwiye guhabwa agaciro .

[21] Ku birebana n'ibivugwa na COGEAR Ltd y'uko iyo mibare yagombaga kugaragara mu nyandiko itangiza ikirego no mu rwandiko ruhamagara umuburanyi, Urukiko rw'Ikirenga rurasanga bidakwiye guhabwa agaciro kuko ibyo Umushingamategeko ashaka ko bigaragara muri izo nyandiko

ari ibyo urega asaba urukiko cyangwa ikiregerwa<sup>1</sup> (objet de la prétention) mu magambo avunaguye (sommairement), bityo hakurikijwe ibiteganywa n'ingingo ya 4, agace ka mbere, iya 19, agace ka 4° n'ya 30 z'Itegeko n° 21/2012 ryo kuwa 14/6/2012 ryavuzwe haruguru, akaba atari ngombwa ko Murashi Isaïe na Rusanganwa Sylvain bagaragaza muri izo nyandiko umubare w'amafaranga y'indishyi bifuzaga ko COGEAR Ltd itegekwa kubaha.

[22] Urukiko rw'Ikirenga rurasanga rero n'ubwo mu ngingo ya 43 y'Itegeko Ngenga n° 01/2004 ryo kuwa 29/1/2004 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga ryakoreshwaga igihe ubu bujurire bwatangagwa, Umushingamategeko yavuze "inyandiko itanga ikirego", hakurikijwe ibyavuzwe haruguru, bigomba kumvikana ko hatarebwa gusa ibyavuzwe muri iyo nyandiko, ahubwo hanarebwa imyanzuro ishimangira ikiregerwa n'ibyo ababuranyi bavuze igihe cy'iburanisha, bityo mu gihe bigaragara ko Murashi Isaïe na Rusanganwa Sylvain bavuze neza mu nyandiko itangiza ikirego ko bazasobanuro neza ikirego cyabo mu myanzuro bazashyikiriza urukiko mu maguru mashya ndetse muri iyo myanzuro bagaragaza umubare w'amafaranga y'indishyi basaba, urenga 20.000.000Frw, kandi bageze imbere y'Urukiko bakabigarutseho, ubujurire bwabo bukaba rero buri mu bubasha bw'uru Rukiko.

[23] Kubera izo mpamvu zose, Urukiko rw'Ikirenga rurasanga inzitizi ya COGEAR Ltd, nta shingiro ikwiye guhabwa kuko ubujurire bwa Murashi Isaïe na Rusanganwa Sylvain buri mu bubasha bwarwo.

### **III. ICYEMEZO CY'URUKIKO**

[24] Rwemeje ko inzitizi yatanze na COGEAR Ltd y'iburabubasha bw'Urukiko rw'Ikirenga nta shingiro ifite.

[25] Rwemeje ko ubujurire bwa Murashi Isaïe na Rusanganwa Sylvain buri mu bubasha bw'Urukiko rw'Ikirenga.

[26] Rwemeje ko iburanisha ry'uru rubanza mu mizi rizakomeza kuwa.16/12/2014.

[27] Rutegetse ko amagarama ry'urubanza abaye asubitswe.

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<sup>1</sup> L'objet de la prétention est la chose demandée c'est-à-dire la reconnaissance d'un droit subjectif substantiel", Loïc Cadet, droit judiciaire privé, deuxième édition, Litec, Paris, 1998, P. 456. " La notion d'objet de la demande: La demande en justice tend vers une certaine fin, le plaideur réclame des dommages et intérêts, l'exécution d'une clause contractuelle, l'annulation d'un mariage, l'établissement d'une filiation", Jean Vincent et Serge Guinchard, procédure civile, 26e édition, Dalloz, Paris, 2001, P. 438.