

LETA Y'U RWANDA V. Dr KAREMANGINGO

[Rwanda URUKIKO RW'IKIRENGA – N° RADA 0003/14/CS (Mutashya, P.J., Karimunda na Gakwaya,J.) 17 Gashyantare 2016]

Amategeko y'ubutegetsi – Kwirukanwa binyuranyije n'amategeko – Itegeko rikoreshwa igihe uwirukanye ari umukozi wo ku rwego rwo hejuru kandi yarashyizweho hakurikijwe amasezerano y'akazi – Abakozi bo ku rwego rwo hejuru b'ibigo bya Leta bashyizwe mu myanya hakurikijwe amasezerano y'akazi bafatwa nk'abakozi ba leta bagengwa na Sitati rusange.

Amategeko y'ubutegetsi – Kwirukanwa ku kazi – Ikosa rikomeye – Umukoresha niwe ugaragaza ikosa rikomeye iyo atabishoboye ikirego cye ntigihabwa ishingiro – Itegeko N° 15/2004 ryo ku wa 12/6/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ingingo ya 3.

Amategeko y'ubutegetsi – Kwirukanwa binyuranyije n'amategeko – Amafaranga agenerwa umukozi igihe yirukanwe – Mu gihe bigaragara ko umukozi yasezerewe ku kazi mu buryo bunyuranyije n'amategeko agenerwa amafaranga angana n'umushahara we ndetse n'andi mashimwe yagombaga kubona iyo adasezererwa ku kazi, usibye amashimwe yihariye ajyanye no kurangiza akazi ke

Amategeko y'ubutegetsi – Kwirukanwa binyuranyije n'amategeko – Integuza – Indishyi zo kudahabwa icyemezo cy'umukoresha wa nyuma – Umukozi ugengwa na sitati rusange y'abakozi ba Leta ntahabwa integuza cyangwa indishyi zo kudahabwa icyemezo cy'umukoresha wa nyuma igihe asezerewe ku kazi kuko itegeko ritabiteganyaga

Amategeko y'ubutegetsi – Ikiruhuko cy'akazi – Amafaranga ahabwa umukozi ugiye mu kiruhuko – Nta mafaranga nsiburakiruhuko atangwa cyangwa uburenganzira bwo gufata ikiruhuko mu igihe umukozi atagiye mu kiruhuko cy'umwaka kereka iyo atashoboye kugifata kubera impamvu z'akazi cyangwa uburwayi

Incamake y'ikibazo: Karemangingo yagiranye na MINEDUC amasezerano y'akazi ayo yararangiye yongererwa undi mwaka umwe. Mu gihe haburaga amezi ane ngo ayo masezerano arangire Minisitiri w'uburezi yandikiye Karemangingo ibaruwa imuhagarika by'agateganyo ku kazi kubera impamvu z'imiyoborere mibi no gusuzugura ubuyobozi bwa ISAE; ikindi kandi yahagaritswe by'agateganyo guhera uwo munsu yabimenyeshejwe mu gihe yaragitegereje icyemezo cya burundu kigomba gufatwa n'inzego zibifitiye ububasha.

Dr Karemangingo yareze Minisitiri y'Uburezi ku bugenzuzi bw'umurimo maze bumuha icyemezo cyo kwitabaza inkiko n'ibwo yahise atanga ikirego mu Rukiko Rukuru avuga ko atamenyeshejwe ibirego biri mu rwandiko rumahagarika bya gateganyo kugirango atange ibisobanuro mbere yogufatirwa ibihano.

Urukiko Rukuru rwemeje ko akwiye guhabwa indishyi zinyuranye harimo izo kwirukanywa nta mpamvu, amafaranga ahwanye n'iminsi atahembwe, ay'integuza, ay'imperekeza, ay'akababaro yatewe no kudahabwa icyemezo cy'umukoresha wa nyuma ndetse nay'ikurikirana rubanza n'igihembo cy'Avoka; yose hamwe akaba yaragenewe 23.810.239Frw.

Leta y'urwanda ntiyishimiye iyo mikirize ijuririra Urukiko rw'Ikirenga ivuga ko Urukiko Rukuru rwanze guha agaciro ibimenyetso bigaragaza ko Dr Karemangingo yakoze amakosa

akomeye; rwemeje ko afite ububasha bwo kuzamura abakozi mu ntera hashingiwe ku ngingo ya 34,35 na 37 za sitati rusange igenga abakozi ba leta nyamara ntabwo zimuha ndetse rwanibeshye mu kugena indishyi kuko rwashingiye ku mushahara ugaragara mu masezerano yarangiye.

Dr Karemangingo nawe yatanze ubujurire bwuririye k'ubundi asaba ko uru rukiko ko rwamugera indishyi zose yari yasabye mu rukiko rukuru kuko izo rwamugeneye ari nke, none akaba asaba ko uru rukiko rwamugenera indishyi zijyanye n'amafaranga y'ikiruhuko atafashe, ay'igihombo angana na 18% y'amafaranga yagenewe n'Urukiko Rukuru, igihembo cy'avoka hamwe ni gihano gihatira Leta y'u Rwanda kurangiza urubanza kuva rukimara kuba itegeko.

Incamake y'icyemezo: 1. Abakozi bo ku rwego rwo hejuru b'ibigo bya Leta bashyizwe mu myanya hakurikijwe amasezerano y'akazi bafatwa nk'abakozi ba leta bagengwa na Sitati rusange.

2. Kuba leta y'u Rwanda nta kosa rikomeye ibasha kugaragaza ryakozwe na Dr Karemangingo bituma ubujurire bwayo budahabwa ishingiro.

3. Buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana kuba rero Leta y'U Rwanda itarabashije kugaragaza umubare w'amafaranga y'umushahara Dr Karemangingo yatanze mu rwego rubanza atariwo itagaruka kubisaba mu rwego rw'ubujurire kuko ariyo yarifite inshingano yo kugaragaza ko umubare yatanze atariwo bituma umubare w'amafaranga y'umushahara urukiko rukuru rwemeje ariyo ahabwa agaciro.

4. Mu gihe bigaragara ko umukozi yasezerewe ku kazi mu buryo bunyuranyije n'amategeko agenerwa amafaranga angana n'umushahara we ndetse n'andi mashimwe yagombaga kubona iyo adasezererwa ku kazi, usibye amashimwe yihariye ajyanye no kurangiza akazi ke.

5. Umukozi ugengwa na sitati rusange y'abakozi ba Leta ntahabwa integuza igihe asezerewe ku kazi kuko itegeko ritayiteganyanya bityo rero ayagenwe n'urukiko rukuru akaba adakwiye kuyahabwa.

6. Umukozi ugengwa na sitati rusange y'abakozi ba Leta ntahabwa icyemezo cy'uko yayikoreye cyangwa indishyi z'akababaro igihe kitatanzwe bityo rero ayagenwe n'urukiko rukuru akaba adakwiye kuyahabwa.

7. Nta mafaranga nsiburakiruhuko atangwa cyangwa uburenganzira bwo gufata ikiruhuko mu igihe umukozi atagiye mu kiruhuko cy'umwaka kereka iyo atashoboye kugifata kubera impamvu z'akazi cyangwa uburwayi.

8. Indishyi umuburanyi yagenewe n'urukiko ntayafata nk'umwenda udashidikanywaho igihe undi muburanyi agifite uburenganzira bwo kujuririra icyemezo cyizigena cyane cyane ko icyo cyemezo kiba kitaraba ndakuka.

9. Amafaranga y'igihembo agenwa mu bushishozi bw'urukiko

10. Igihano cyo guhatirwa kurangiza urubanza ntigitangwa igihe ugisaba atagaragaza impamvu cyategekwa .

**Ubujurire bufite ishingiro kuri bimwe.
Ubujurire bwuririye ku bundi bufite ishingiro kuri bimwe.
Amagarama y'urubanza ahererye ku isanduku ya leta.**

Amategeko yashingiweho:

Itegeko N° 22/2002 ryo ku wa 9/7/2002 rishyiraho Sitati rusange igenga abakozi ba Leta, ingingo 34,35,36, 37,42,43,71,72, 90,91,92,93 na 94

Iteka rya Perezida N° 46/01 ryo ku wa 29/7/2011 rigena uburyo bwo gushaka no gushyira mu myanya abakozi bakora mu Nzego za Leta, ingingo ya 31.

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

Nta manza zifashishijwe

Inyandiko z'abahanga

Yves Gaudemet, Droit administratif, 18e édition, LGDJ, Paris, 2005, P. 367

Urubanza

I. IMITERERE Y'URUBANZA

[1] Ku wa 16/11/2007, Dr. KAREMANGINGO Charles yagiranye na Minisitiri y'Uburezi (MINEDUC) amasezerano y'akazi y'igihe cy'imyaka ine (4) ashobora kongerwa; akaba yarahawe umwanya wo kuba Umuyobozi Mukuru w'Ishuri Rikuru ry'Ubuhinzi n'Ubworozi (ISAE). Ku itariki ya 07/11/2011, bagiranye andi masezerano y'umwaka umwe (1) nk'uko bigaragazwa n'inyandiko yiswe "*modification of the service contract signed between the Ministry of Education and Dr. Charles KAREMANGINGO on November 16, 2007*", yagombaga kurangira ku wa 06/11/2012.

[2] Tariki ya 06/07/2012, Minisitiri w'Uburezi yandikiye ibaruwa Dr. KAREMANGINGO Charles imuhagarika by'agateganyo ku mirimo yari ashinzwe (*temporary suspension from your responsibilities as the Rector of ISAE*), amenyeshwa ko ahagaritswe by'agateganyo ku mpamvu z'imiyoborere mibi (*mismanagement*) no gusuzugura Inama y'Ubuyobozi bwa ISAE (*insubordination to the ISAE Board of Directors*). Yamenyeshejwe kandi ko ahagaritswe by'agateganyo guhera uwo munsu mu gihe hagitegerejwe icyemezo cya burundu kigomba gufatwa n'Inzego zibifitiye ububasha. Nk'uko bigaragara mu ngingo ya mbere y'Iteka rya Perezida n° 53/01 ryo ku wa 03/10/2013, Dr. KAREMANGINGO Charles yaje gukurwa ku mirimo y'Umuyobozi w'Ishuri Rikuru ry'Ubuhinzi n'Ubworozi, ISAE; iryo Teka rikaba rigaragaza ko ibyo byasuzumwe kandi binemezwa n'Inama y'Abaminisitiri yateranye ku wa 24/04/2013.

[3] Dr. KAREMANGINGO Charles yareze Minisitiri y'Uburezi (MINEDUC) ku Bugenzuzi bw'Umurimo bw'Akarere ka Gasabo, bumuha icyemezo cyo kwitabaza mu Rukiko; nibwo yatanze ikirego mu Rukiko Rukuru agamije kugaragaza ko atamenyeshejwe ibirego bivugwa mu ibaruwa yo ku wa 06/07/2012 yanditswe na Minisitiri w'Uburezi ngo asabwe ibisobanuro mbere yo gufatirwa ibihano biremereye; no kuba nta mpamvu zihari kandi zifatika ziteganywa n'amategeko zatumye ahagarikwa ku kazi by'agateganyo.

[4] Urwo Rukiko rwaciye urubanza RAD 0019/13/HC/KIG ku wa 13/01/2014, rutegeka Leta y'u Rwanda guha Dr. KAREMANGINGO Charles 14.714.993 Frw y'indishyi zo kwirukanwa nta mpamvu, 735.750 Frw ahwanye n'iminsi itandatu atahembwe, 3.678.748 Frw y'integuza, 3.678.748 Frw y'imperekeza, 500.000 Frw y'indishyi z'akababaro zo kudahabwa icyemezo cy'umukoresha wa nyuma na 500.000 Frw y'ikurikiranarubanza n'igihembo cya Avoka; yose hamwe akaba ari 23.810.239 Frw.

[5] Leta y'u Rwanda ntiyishimiye imikirize y'uru rubanza, irujuririra mu Rukiko rw'Ikirenga, ivuga ko Urukiko Rukuru rwanze guha agaciro ibimenyetso bigaragaza ko Dr. KAREMANGINGO Charles yakoze amakosa akomeye yatumye yirukanwa, ko Urukiko Rukuru rwemeje ko Dr. KAREMANGINGO Charles yari afite ububasha bwo kuzamura mu ntera umukozi yifuzashyingiwe ku ngingo ya 34, 35 na 37 z'Itegeko n° 22/2002 rishyiraho Sitati rusange igenga abakozi ba Leta, nyamara zitamuha ubwo bubasha, ko Urukiko Rukuru rwibeshye mu kugenera Dr. KAREMANGINGO Charles indishyi kuko rwashingiye ku mushahara ugaragara mu masezerano yarangiye.

[6] Dr. KAREMANGINGO Charles yatanze ubujurire bwuririye ku bwa Leta y'u Rwanda asaba uru Rukiko kumugenera indishyi zose yari yasabye mu Rukiko Rukuru kuko izo rwamugeneye ari nke, agasaba n'indishyi zijyanye n'amafaranga y'ikiruhuko atafashe mu mwaka wa 2011 na 2012, indishyi z'igihombo zingana na 18% y'amafaranga yagenewe n'Urukiko Rukuru, igihembo cya avoka kingana na 1.500.000 Frw no gutegeka Leta y'u Rwanda kwishyura "astreinte" ya 10.000 Frw ku muni kuva urubanza rukimara kuba itegeko.

[7] Iburanisha mu ruhame ryabaye ku wa 15/12/2015, Leta y'u Rwanda iburanirwa na Me NTAGANDA Félix, Intumwa ya Leta naho Dr. KAREMANGINGO Charles ahagarariwe na Me NKURUNZIZA Jean-Pierre. Igihe cy'iburanisha, Urukiko rwazamuye ikibazo kirebana no kumenya amategeko agomba gukurikizwa mu gusuzuma uru rubanza.

II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

Kumenya niba Dr. KAREMANGINGO Charles agengwa n'Itegeko rigenga umurimo mu Rwanda cyangwa n'Itegeko rishyiraho Sitati igenga abakozi ba Leta n'inzego z'imirimo ya Leta hashyingiwe ku mirimo yari yashinzwe muri ISAE

[8] Me NKURUNZIZA Jean-Pierre avuga ko muri uru rubanza hagomba gukurikizwa amategeko agenga umurimo mu Rwanda, Dr. KAREMANGINGO Charles we avuga ko Minisitiri w'uburezi yamuhagaritse ku kazi ashingiye ku masezerano bagiranye na Leta yirengagiza ko agomba guca muri "gouvernement" kugirango ahagarikwe ku kazi, ni ukuvuga ko ihagarikwa rye rigomba gushingira ku Itegeko rishyiraho Sitati igenga abakozi ba Leta.

[9] Leta y'u Rwanda ivuga ko hagomba gukurikizwa Sitati y'Abakozi ba Leta.

UKO URUKIKO RUBIBONA

[10] Urukiko rw'Ikirenga rurasanga Dr. KAREMANGINGO Charles yaragiranye amasezerano y'akazi na Minisitiri y'Uburezi ku wa 16/11/2007, ashirwa mu mwanya wa

“Rector of the Higher Institute of Agriculture and Animal Husbandry (ISAE)“, ni ukuvuga ko yari Umuyobozi Mukuru wayo.

[11] Urukiko rw’Ikirenga rurasanga nubwo Dr. KAREMANGINGO Charles yagiranye amasezerano y’akazi na Minisiteri y’Uburezi, kuba yari ashinzwe kuyobora Ikigo cya Leta, agashyira mu bikorwa gahunda zacyo, agakora kandi imirimo ijyanye n’ihuzabikorwa, igenamigambi, isuzuma ndetse n’ikurikiranabikorwa n’imitungo yacyo, agomba nta shiti kubarirwa mu bakozi bagengwa na Sitati rusange y’abakozi ba Leta aho kugengwa n’amasezerano y’akazi yagiranye na Minisiteri y’Uburezi, hashingiwe ku ihame rivuga ko abakozi bo ku rwego rwo hejuru b’ibigo bya Leta bashyizwe mu myanya hakurikijwe amasezerano y’akazi bafatwa nk’abakozi ba Leta bagengwa na Sitati¹(qualité).

[12] Urukiko rw’Ikirenga rurasanga gufata Dr. KAREMANGINGO Charles nk’umukozi wa Leta ugengwa na Sitati rusange y’abakozi ba Leta byaje no kugaragazwa n’Iteka rya Perezida n° 53/01 ryo ku wa 3/10/2013 rikura ku mirimo Umuyobozi w’Ishuri Rikuru aho Perezida wa Repubulika, ashingiye ku Itegeko n° 22/2002 ryo ku wa 9/7/2002 rishyiraho Sitati Rusange igenga abakozi ba Leta n’inzego z’imirimo ya Leta, cyane cyane mu ngingo yaryo ya 17, yategetse ko Dr. KAREMANGINGO Charles akuwe ku mirimo y’Umuyobozi w’Ishuri Rikuru ry’Ubuhinzi n’Ubworozi, ISAE.

[13] Hashingiwe ku bisobanuro byatanzwe haruguru, Urukiko rw’Ikirenga rurasanga mu gusuzuma uru rubanza, hagomba gukurikizwa ibiteganywa na Sitati Rusange igenga abakozi ba Leta n’inzego z’imirimo ya Leta kuko Dr. KAREMANGINGO Charles agengwa n’iyo Sitati aho kuba Itegeko rigenga umurimo mu Rwanda.

Kumenya niba Dr. KAREMANGINGO Charles yaba yarakoze amakosa akomeye ku buryo atagombaga kugenerwa n’Urukiko Rukuru umushahara w’amezi n’iminsi atakoze kubera guhagarikwa ku kazi by’agateganyo

[14] Leta y’u Rwanda ivuga ko Urukiko Rukuru rwanze guha agaciro ibimenyetso bigaragaza ko Dr. KAREMANGINGO Charles yakoze amakosa akomeye yatumye yirukanwa ku kazi, nyamara Dr. KAREMANGINGO Charles nawe yiyemerera ko yasinyishije abakozi babiri (2) b’abanyamahanga amasezerano y’akazi (*contrats*) mu gihe andi ya mbere yari atararangira, ndetse amasezerano ya kabiri atavugaga ko akuyeho aya mbere. Avuga kandi ko ayo masezerano ya kabiri yatumye Leta y’u Rwanda yishyura abo bakozi babiri amafaranga y’ikirenga, bityo akaba asanga ibyo Dr. KAREMANGINGO Charles yakoze ari ikosa rikomeye ku buryo atagomba kubona umushahara w’amezi atakoze, Urukiko Rukuru rwamugeneye.

[15] Leta y’u Rwanda ivuga kandi ko ikosa rikomeye Dr. KAREMANGINGO Charles yakoze rigaragazwa n’uko yasuzuguye Inzego za Leta zimukuriye. Asobanura ko ku itariki ya 6/6/2012, nyuma y’amezi ane (4) Inama y’Ubutegetsi yemeje ko hagomba kuba ipiganwa ku myanya

¹“Certains agents non-fonctionnaires ont une situation définie par des lois et règlements. D’autres sont au contraire liés par contrat à l’administration; mais il peut s’agir soit des contrats administratifs qui font de l’agent <<un agent public>> relevant du droit public, soit de contrats de droit privé qui placent l’agent dans une situation juridique de pur droit privé. La jurisprudence a longtemps considéré qu’il y avait contrat administratif et <<agent public>> lorsque le contrat fait participer directement l’agent intéressé au fonctionnement même du service public (CE, 20 mars 1959, Lauthier, D., 1960, p. 280, note de Laubadère) et contrat de droit privé dans le cas contraire (...)”, in Yves Gaudemet, Droit administratif, 18e édition, LGDJ, Paris, 2005, P. 367.

y'Ubuyobozi, Dr. KAREMANGINGO Charles yarandikiye Inama y'Ubutegetsi avuga ko ibyo Komisiyo y'Abakozi ba Leta yakoze ataribyo kandi ko atakwemera gushyira mu bikorwa imyanzuro y'Inama y'Ubutegetsi ku bijyanye no kwongera gupiganishwa imyanya y'Umuyobozi w'Imari (*Director of finance*), Umuyobozi w'Umutungo (*Director of assets*), n'Umuyobozi wa serivisi z'abanyeshuri (*Director of student services*).

[16] Leta y'u Rwanda ivuga nanone ko Dr. KAREMANGINGO Charles yakoze ikosa rikomeye ryo kuzamura mu ntera abakozi kandi atabifitiye ububasha. Ikomeza ivuga ko niyo aza kuba afite ubwo bubasha, atari gufata umuntu udafite ibisabwa n'uwo mwanya uteganijwe ngo awumushyiremo. Ikomeza isobanura ko Dr. KAREMANGINGO Charles yazamuye abakozi mu ngazi mpagarike (promotion horizontale), yirengagije ibiteganywa n'ingingo ya 72 y'Itegeko n° 22/2002 ryo ku wa 9/7/2002 ryavuzwe haruguru kandi atabinyujije mu ipiganwa nk'uko biteganywa n'Iteka rya Perezida n° 46/01 ryo ku wa 27/7/2011 rigena uburyo bwo gushyirira mu myanya abakozi bakora mu Nzego za Leta, bityo ikaba isanga Urukiko Rukuru rwarakoze amakosa mu kwemeza ko Dr. KAREMANGINGO Charles yari afite ubwo bubasha hashingiwe ku ngingo ya 34, 35 na 37 z'Itegeko n° 22/2002 ryo ku wa 9/7/2002 ryavuzwe haruguru no kwemeza ko abakozi bazamuwe mu ntera batarebwaga n'Iteka rya Perezida n° 46/01 ryo ku wa 27/7/2011 ryavuzwe haruguru.

[17] Ku birebana n'amasezerano y'akazi ya kabiri avugwa na Leta y'u Rwanda, Dr. KAREMANGINGO Charles avuga ko mu gace ka cumi na gatatu (13) k'urubanza rwajuririwe, Urukiko Rukuru rugaragaza ko ibaruwa yanditse ku wa 26/6/2009 ariyo yakuyeho amasezerano ya mbere, bityo akaba asanga nta bindi bimenyetso bishya bizanywe mu bujurire byerekana nta gushidikanya icyo Leta y'u Rwanda inenga ku cyemezo cy'Umucamanza wa mbere.

[18] Ku birebana n'ibaruwa yo ku wa 6/6/2012 Dr. KAREMANGINGO Charles yandikiye Inama y'Ubutegetsi ya ISAE, uyu avuga ko mu kwandika iyo baruwa, nta kosa rikomeye ryakozwe ryari gutuma yirukanwa by'igitaraganya, atamenyeshwe amakosa azize ngo ayisobanureho, cyane cyane ko hari hasigaye amezi ane (4) gusa kugira ngo amasezerano y'akazi yagiranye na MINEDUC arangire, bityo akaba asanga Leta y'u Rwanda itagaragaza mu buryo bufatika icyo inenga icyemezo cy'Urukiko Rukuru.

[19] Ku birebana n'abakozi bavuga ko yazamuye mu ntera kandi atabifitiye ububasha, Dr. KAREMANGINGO Charles avuga ko yari afite ububasha bwo kuzamura mu ntera umukozi wari ubikwiye igihe cyose hari umwanya kandi hari na "budget" ibigenewe, hashingiwe ku biteganywa n'ingingo ya 34, 35 na 37 z'Itegeko n° 22/2002 ryo ku wa 9/7/2002 ryavuzwe haruguru. Avuga kandi ko ingingo ya 72 y'iryo Tegeko itareba izamurwa ry'umukozi mu ngazi mpagarike kandi ko itari gukoreshwa icyo gihe kuko igika cyayo cya gatatu cyashyizweho n'Iteka rya Minisitiri w'Intebe n° 121/03 ryo ku wa 8/9/2010 rishyiraho uburyo bukoreshwa mu isuzumabushobozi n'izamurwa mu ntera ry'abakozi ba Leta. Yongeyeho ko ibyakozwe iyo biza kuba ari amakosa kandi akomeye, Minisitiri atari kumara amezi atandatu yose mbere yo gufata umwanzuro wo kumwirukana by'igitaraganya ku mirimo yari yarashinzwe na Leta.

UKO URUKIKO RUBIBONA

[20] Ingingo ya 90 y'Itegeko n° 22/2002 ryo ku wa 9/7/2002 rishyiraho Sitati rusange igenga abakozi ba Leta n'inzego z'imirimo ya Leta ryakoreshwaga igihe Dr. KAREMANGINGO

Charles yahagaritswe by'agateganyo ku kazi iteganya ko "Nta kosa na rimwe umukozi wa Leta ashobora guhanirwa atabanje guhabwa umwanya wo kuryisobanuraho mu nyandiko. Nta gihano na kimwe gishobora gushyirwa mu bikorwa ikosa ritarahama nyir'ubwite".

[21] Ingingo ya 91, igika cya kabiri y'Itegeko n° 22/2002 ryo ku wa 9/7/2002 ryavuzwe haruguru iteganya ko "Ibihano byo mu rwego rwa mbere byerekeye amakosa yoroheje, naho ibyo mu rwa kabiri byerekeye amakosa akomeye".

[22] Ingingo ya 92, igika cya kabiri y'Itegeko n° 22/2002 ryo ku wa 9/7/2002 ryavuzwe haruguru iteganya ko "Ibihano byo mu rwego rwa kabiri ni : guhagarikwa by'agateganyo mu gihe kitarenze amezi atatu, gukererwa kuzamurwa mu ntera cyangwa kwirukanwa burundu".

[23] Ingingo ya 93, igika cya kabiri y'Itegeko n° 22/2002 ryo ku wa 9/7/2002 ryavuzwe haruguru iteganya ko "Ibihano byo mu rwego rwa kabiri bitangwa n'umutegetsi ubifitiye ububasha amaze kumva icyemezo cya Komisiyo".

[24] Ingingo ya 94, igika cya mbere y'Itegeko n° 22/2002 ryo ku wa 9/7/2002 ryavuzwe haruguru iteganya ko "Igihano cyose cyo mu rwego rwa kabiri, mbere y'uko cyemezwa, kigomba kugezwa ku mukozi nk'umushinga, kugira ngo atange ibindi bisobanuro".

[25] Urukiko rw'Ikirenga rurasanga nk'uko bigaragara mu ibaruwa yo ku wa 6/7/2012, Dr. KAREMANGINGO Charles yarahagaritswe by'agateganyo ku kazi kubera imiyoborere mibi (mismanagement) no gusuzugura Inama y'Ubuyobozi bwa ISAE (insubordination to the ISAE Board of Directors) ariko iyo baruwa ntigaragaza imiyoborere mibi cyangwa agasuzuguro yaba yarakoreye abagize Inama y'Ubuyobozi bwa ISAE.

[26] Urukiko rw'Ikirenga rurasanga kuba Dr. KAREMANGINGO Charles, mbere y'uko afatirwa icyemezo cyo kumuhagarika ku kazi, atarabanje guhabwa umwanya wo kwisobanura no kwiregura mu nyandiko ku makosa yashinjwaga, iryo hagarikwa rye ku kazi rikaba ryarakozwe mu buryo bunyuranije n'ingingo ya 90 n'ya 94 z'Itegeko n° 22/2002 ryo ku wa 9/7/2002 ryavuzwe haruguru.

[27] Urukiko rw'Ikirenga rurasanga kandi kuba igihano cyo guhagarika ku kazi by'agateganyo Dr. KAREMANGINGO Charles cyarafashwe hatabanje kumvwa icyemezo cya Komisiyo y'abakozi, nanone ihagarikwa rye ku kazi rikaba ryarakozwe mu buryo bunyuranije n'ingingo ya 93, igika cya kabiri y'Itegeko n° 22/2002 ryo ku wa 9/7/2002 ryavuzwe haruguru.

[28] Usibye n'ibyo, Urukiko rw'Ikirenga rurasanga ibivugwa na Leta by'uko Dr. KAREMANGINGO Charles yakoze amakosa akomeye yatumye yirukanwa ku kazi kuko yemera nawe ko yasinyishije abakozi babiri (2) b'abanyamahanga amasezerano y'akazi (*contrats*) mu gihe aya mbere yari atararangira, ndetse amasezerano ya kabiri akaba atavuga ko akuyeho aya mbere, bitagomba guhabwa agaciro kuko nk'uko Urukiko Rukuru rwabigaragaje mu gace ka 13 k'urubanza rwajuririwe, ibaruwa yo ku wa 26/6/2009 yari yanditswe na Dr. KAREMANGINGO Charles yamenyeshaga umwe mu bakozi b'abanyamahanga ko hashingiwe kubyavuye mu nama ya "Executive Council" ya ISAE yo ku wa 12/6/2009, bagiye gusinya andi masezerano ya kabiri ku wa 1/7/2009 ashobora kuba amasezerano yiyongera kuya mbere (addendum) cyangwa amasezerano mashya, hakurikijwe ibyo bashaka kuko iyo nama yari yafashe icyemezo cyo kubagenera za "avantages" zitandukanye ndetse na "gratifications".

[29] Urukiko rw'Ikirenga rurasanga hashingiwe ku masezerano ISAE yagiranye n'abo bakozi babiri ku wa 1/7/2009, amasezerano ya mbere yari yakuweho n'amasezerano mashya ya kabiri ku buryo aya kabiri yonyine ariyo yagombaga gukurikizwa kuva ku itariki ya 1/7/2009 kugeza ku wa 30/6/2012.

[30] Ku birebana n'ibivugwa ko yakoze amakosa akomeye yo gusuzugura Inama y'Ubuyobozi bwa ISAE nk'uko bigaragara mu ibaruwa yo ku wa 6/6/2012 Dr. KAREMANGINGO Charles yari yandikiye Prof. KIMONYO Anastase, Chairman, Board of Directors ya ISAE, Urukiko rw'Ikirenga rurasanga isuzuma ry'iyonyine nyandiko ritagaragaza ko yanze gushyira mu bikorwa imyanzuro y'Inama y'Ubutegetsi ku bijyanye no kongera gupiganisha imyanya y'umuyobozi w'Imari, Umuyobozi w'Umutungo n'Umuyobozi wa Serivisi z'abanyeshuri, ahubwo igaragaza ko nyuma yo gusaba inzego zibishinzwe za ISAE gushyira mu bikorwa imyanzuro yafashwe na Komisiyo ishinzwe abakozi ba Leta (Public Service Commission) ijyanye no gutangaza no gupiganisha imyanya y'abayobozi, ikaza no kwemezwa n'inama ya Board ku wa 8/2/2012, yakomeje gusaba Board ya ISAE kongera guterana kugira ngo isuzume mu buryo burambuye ibyemezo birebana n'imyanya ya Directors of Students, Director of Finance n'iya Director of Estate kuko hashingiwe ku ngingo ya 34, iya 35 n'iya 37 z'Itegeko n° 22/2002 ryo ku wa 9/7/2002 ryavuzwe haruguru, mu mwaka wa 2009 yari afite ububasha bwo kuzamura mu ntera abakozi bari babikwiye mu gihe imyanya yabonetse ndetse n'amafaranga yarateguwe muri "budget" ya Leta.

[31] Urukiko rw'Ikirenga rurasanga kandi ingingo ya 72 y'Itegeko n° 22/2002 ryo ku wa 9/7/2002 ryavuzwe haruguru iburanishwa na Leta y'u Rwanda itagaragaza ko Dr. KAREMANGINGO Charles yaba yarakoze amakosa akomeye mu kuzamura mu ntera abo bayobozi kuko iyo ngingo irebana n'isuzumabushobozi rikorerwa umukozi wa Leta uwo ariwe wese buri mwaka kandi rigaragaza imiterere ye, ubushobozi bwe n'imikorere ye ku kazi ndetse ikanasobanura ko iryo suzumabushobozi ari ryo rishingirwaho, buri myaka ibiri, kugira ngo umukozi wa Leta agire uburenganzira bwo kuva mu cyiciro cy'ingazintambike ajya mu kindi (avancement d'échelon) no kuzamurirwa umushahara, bityo rukaba rusanga kuba Leta y'u Rwanda ivuga gusa ko ibyo Dr. KAREMANGINGO Charles yari yakoze, ari ukuzamura mu ngazi mpariye mu gihe ingingo ya 72 yavuzwe haruguru irebana n'izamura mu ngazi ntambike, igaragaza ukwivuguraza kwayo no kutagaragaza mu rwego rw'amategeko ibisobanuro bishimangira ibyo ivuga.

[32] Byongeye kandi Iteka rya Perezida n° 46/01 ryo ku wa 29/7/2011 rigena uburyo bwo gushaka no gushyira mu myanya abakozi bakora mu Nzego za Leta, Leta ivuga ko Urukiko Rukuru rutubahirije kandi rigaragaza amakosa akomeye yaba yarakozwe na Dr. KAREMANGINGO Charles, Urukiko rw'Ikirenga rurasanga ritari gukurikizwa muri uru rubanza kuko ritarebana n'uburyo bwo kuzamura abakozi ba Leta mu myanya ahubwo rigena gusa uburyo abakozi ba Leta bashakwa n'uburyo bashyirwa mu myanya.

[33] Usibye n'ibyo, ibyasabwaga muri raporo ya Komisiyo ishinzwe abakozi ba Leta (PSC: Public Service Commission) yo ku wa 4/1/2012 byo gusubiza ku isoko imyanya y'imirimu itarapiganirwa hubahirizwa Iteka rya Perezida n° 46/01 ryo ku wa 29/7/2011 ryavuzwe haruguru, hashingiwe ku ngingo yayo ya 31 iteganya ko "Iri teka ritangira gukurikizwa ku munsu ritangirijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda", Urukiko rw'Ikirenga rurasanga kuba iryo Teka rya Perezida ryatangajwe mu Igazeti ya Leta ku wa 31/7/2011,

ritashingirwaho havugwa ko Dr. KAREMANGINGO Charles yakoze amakosa akomeye mu kuzamura mu ntera abo bakozi atari byo mu gihe bigaragara ko ukuzamura mu ntera abo bakozi byabaye mu mwaka wa 2009.

[34] Byongeye kandi Iteka rya Minisitiri w'Intebe n° 121/03 ryo ku wa 8/9/2010 rishyiraho uburyo bukoreshwa mu isuzumabushobozi n'izamurwa mu ntera ry'abakozi ba Leta rivugwa na Dr. KAREMANGINGO Charles, ryaje gushyira mu bikorwa ibiteganywa n'ingingo ya 71 n'iyi 72 z'Itegeko n° 22/2002 ryo ku wa 9/7/2002, mu ngingo yaryo ya kabiri, igika cya mbere, iteganya ko "Iri teka rikoresha ku bakozi bose bo mu butegetsi bwa Leta bakiri mu mirimo bashinzwe (....)", ariko hashingiwe ku ngingo yaryo ya 36, rikaba ritakoreshwa muri uru rubanza kuko ryatangajwe mu Igazeti ya Leta ku wa 11/10/2010 mu gihe ukuzamura mu ntera abo bakozi byabaye mu mwaka wa 2009 nk'uko byavuzwe haruguru.

[35] Hashingiwe kuri ibyo byose byavuzwe mu bika bibanziriza iki, Urukiko rw'Ikirenga rurasanga nta kosa rikomeye Leta y'u Rwanda igaragaza ryari gutuma Dr. KAREMANGINGO Charles asezererwa ku kazi, bityo iyi ngingo y'ubujurire bwa Leta y'u Rwanda ikaba nta shingiro ifite.

Kumenya niba Dr. KAREMANGINGO Charles ataragombaga kugenerwa n'Urukiko Rukuru amafaranga ya "Lumpsum", aya "communication" n'ay'integuza n'indishyi zo kudahabwa icyemezo cy'umukoresha wa nyuma kandi zishingiwe ku mushahara ugaragara mu masezerano y'akazi yarangiye

[36] Leta y'u Rwanda ivuga ko n'ubwo itemera ko Dr. KAREMANGINGO Charles yahabwa indishyi izo ari zo zose, isanga Urukiko Rukuru rwaribeshye no mu mibare kuko rwashingiye ku mushahara ugaragara mu masezerano y'akazi yarangiye, bityo ikaba isaba uru Rukiko ko Dr. KAREMANGINGO Charles yarushyikiriza inyandiko igaragaza amafaranga yahembwe bwa nyuma kugira ngo rumenye umushahara nyawo.

[37] Leta y'u Rwanda ikomeza ivuga ko mu kugena indishyi, Urukiko Rukuru rwageneye Dr. KAREMANGINGO Charles amafaranga ya "lumpsum" ndetse n'aya "communication" kandi ibi bihabwa umukozi kugira ngo bimufashe mu kazi ka Leta, bityo ikaba isanga kuyamugenera uno muni byaba ari "enrichissement sans cause", cyane cyane ko atagiye gusubira mu kazi kugira ngo iyo "lumpsum" na "communication" abikoreshe. Ivuga kandi ko Urukiko Rukuru rwamugeneye amafaranga y'integuza nyamara atabikwiye hashingiwe ku ngingo ya 28 y'Itegeko n° 13/2009 ryo ku wa 27/5/2009 rigenga umurimo mu Rwanda kuko yasezerewe burundu ku kazi kubera ko yari yakoze amakosa akomeye. Isoza ivuga ko Urukiko Rukuru rwamugeneye kandi indishyi zo kudahabwa icyemezo cy'umukoresha wa nyuma nyamara rwari rwemeje ko ibikubiye mu ibaruwa ya "recommandation" yahawe na Prof. KIMONYO, ariwe wari Chairman wa "board" iyobora ISAE aribyo bivugwa mu ngingo ya 38 y'Itegeko n° 13/2009 ryo ku wa 27/5/2009 ryavuzwe haruguru, bityo ikaba isanga Urukiko Rukuru rwarivugurije.

[38] Ku birebana n'ibivugwa na Leta y'u Rwanda by'uko Urukiko Rukuru rwibeshye ku mafaranga (umushahara) yagombaga gushingirwaho mu kubara indishyi yagenewe kuko rwashingiye ku mushahara ugaragara mu masezerano yarangiye, Dr. KAREMANGINGO Charles avuga ko mu rwego rwa mbere, Leta y'u Rwanda yahawe umwanya wo kuburana iyi ngingo ariko ikaba itarabikoze haba mu myanzuro yayo haba no mu gihe cy'iburanisha ry'uru

rubanza, bityo akaba asanga bigomba kumvikana ko yemeraga aya mafaranga uko yari yatanzwe.

[39] Ku birebana n'ibivugwa na Leta y'u Rwanda by'uko atagombaga kugenerwa amafaranga ya "lumpsum" n'aya "communication", Dr. KAREMANGINGO Charles avuga ko Leta y'u Rwanda itaburanye iyi ngingo mu Rukiko Rukuru ngo rwange kuyiha agaciro, nta mpamvu rero yo kubijuririra muri uru Rukiko kuko kuba itarabikoze mu rwego rwa mbere bigomba kumvikana ko yabonaga ko ibyo asaba bikurikije amategeko.

[40] Ku birebana n'amafaranga y'integuza Leta y'u Rwanda ivuga ko Urukiko Rukuru rutagombaga kuyamugenera, Dr. KAREMANGINGO Charles avuga ko nta makosa yakozwe yaba ayoroshye cyangwa akomeye yatuma atabona aya mafaranga kandi amasezerano bagiranye avuga ko no mu gihe habaye ikosa rikomeye gutanga integuza ari ngombwa.

[41] Ku birebana n'icyemezo cy'umukoresha, Dr. KAREMANGINGO Charles avuga ko Urukiko Rukuru rwemeje ko inyandiko yahawe na Chairman wa Board wa ISAE, itafatwa nk'iy'umukoresha we wari Minisiteri y'Uburezi, ariyo bagiranye amasezerano. Akomeza avuga ko inyandiko yahawe ari isanzwe kuko ari "recommendation letter", ntabwo ari "Work Certificate" yagombaga kuba ifite kashi ya Minisiteri y'uburezi, bityo akaba asanga indishyi zo kudahabwa icyemezo cy'umukoresha wa nyuma azikwiye.

UKO URUKIKO RUBIBONA

[42] Ingingo ya 3, igika cya mbere y'Itegeko n° 15/2004 ryo ku wa 12/6/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko "Buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana".

[43] Ku birebana n'umushahara Dr. KAREMANGINGO Charles yahembwaga buri kwezi, Urukiko rw'Ikirenga rurasanga mu rwego rwa mbere, Dr. KAREMANGINGO Charles yaragararije Urukiko Rukuru ko yahembwaga 2.067.811 Frw y'umushahara mbumbe, 840.594 Frw ya lumpsum, 150.000 Frw ya communication na 620.343 Frw y'agahimbazamuyi, amafaranga yose hamwe y'umushahara y'ukwezi akaba ari 3.678.748 Frw.

[44] Urukiko rw'Ikirenga rurasanga mu rwego rwa mbere, uretse kwemeza ko Dr. KAREMANGINGO Charles akwiye guhabwa umushahara w'imperekeza w'ukwezi kumwe, nta na hamwe Leta y'u Rwanda yanenze umubare w'amafaranga w'umushahara Dr. KAREMANGINGO Charles yasabaga. Rurasanga kuba iwunenga ubu mu rwego rw'ubujurire kandi ariyo yamuhembaga, ari inshingano yayo yo kugaragaza ko umubare watanzwe na Dr. KAREMANGINGO Charles atariwo, bityo rukaba rusanga mu gihe itawugaragaza, umubare w'amafaranga w'umushahara Urukiko Rukuru rwemeje ariwo ugomba guhabwa agaciro.

[45] Ku birebana n'ibivugwa na Leta y'u Rwanda y'uko Dr. KAREMANGINGO Charles atagombaga kugenerwa amafaranga ya "lumpsum" n'aya "communication", Urukiko rw'Ikirenga rurasanga mu gihe bigaragara ko umukozi wa Leta yasezerewe ku kazi mu buryo bunyuranije n'amategeko, agomba kugenerwa amafaranga angana n'umushahara we n'andi

mashimwe (avantages) yagombaga kubona iyo adasezererwa ku kazi mu buryo bunyuranije n'amategeko, usibye amashimwe afitanye isano yihariye no kurangiza akazi ke².

[46] Hashingiwe ku byavuzwe mu gika kibanziriza iki, Urukiko rw'Ikirenga rurasanga amafaranga ya "Lumpsum" n'aya "communication" Dr. KAREMANGINGO Charles yabonaga arebana n'amashimwe y'urwego rw'akazi yakoraga (poste, position ou fonction occupée), atari amashimwe agamije gusimbura ibyatanzwe mu rwego rw'akazi nyir'izina yakoraga, bityo rukaba rusanga agomba kubarirwa mu ndishyi akwiye.

[47] Ku birebana n'ibivugwa na Leta y'u Rwanda by'uko Dr. KAREMANGINGO Charles atagombaga kugenerwa amafaranga y'integuza kuko yasezerewe burundu ku kazi kubera amakosa akomeye yari yakoze, Urukiko rw'Ikirenga rurasanga ahubwo kuba Dr. KAREMANGINGO Charles yari umukozi wa Leta ugengwa na Sitati rusange y'abakozi ba Leta atayakwiye kuko Itegeko n° 22/2002 ryo ku wa 9/7/2002 rishyiraho Sitati rusanga igenga abakozi ba Leta ritayateganya, bityo rukaba rusanga adakwiye guhabwa 3.678.748 Frw y'integuza yari yagenwe n'Urukiko Rukuru.

[48] Ku birebana n'indishyi zo kudahabwa icyemezo cy'umukoresha wa nyuma, Urukiko rw'Ikirenga rurasanga Itegeko n° 22/2002 ryo ku wa 9/7/2002 rishyiraho Sitati rusanga igenga abakozi ba Leta kandi ariryo rigenga Dr. KAREMANGINGO Charles, ridadeganya ko Leta y'u Rwanda igomba, igihe akazi karangiye, guha umukozi wayo ugengwa na Sitati icyemezo cy'uko yayikoreye cyangwa ishobora gusabwa indishyi z'akababaro mu gihe itagitanze, bityo Dr. KAREMANGINGO Charles adakwiye guhabwa 500.000 Frw yari yagenewe n'Urukiko Rukuru kubera kudahabwa icyemezo cy'umukoresha.

[49] Hashingiwe kuri ibyo byose byavuzwe haruguru, Urukiko rw'Ikirenga rurasanga iyi ngingo y'ubujurire bwa Leta y'u Rwanda ifite ishingiro kuri bimwe.

Kumenya niba Dr. KAREMANGINGO Charles akwiye guhabwa indishyi asaba

[50] Dr. KAREMANGINGO Charles avuga ko asaba uru Rukiko kumugenera indishyi zose yari yasabye mu rwego rwa mbere kuko izo yabonye ari nke kandi Urukiko Rukuru rutarasobanuye ku buryo bufatika impavu yatumye adahabwa indishyi zose zasabwe. Asobanura ko izitaratanzwe ari izijyanye n'amafaranga y'ikiruhuko atafashe ku mwaka wa 2011 n'uwa 2012 angana na 6.224.326 Frw, ni ukuvuga 3.782.673 Frw ya "pécule de congé" angana n'umushahara we mpuzandengo ubarwa mu mezi cumi n'abiri (12) ashize n'ibindi afitiye uburenganzira (Pécule de congé) na 2.000.000 Frw y'igihembo cya avoka mu rwego rwa mbere.

² CE, n° 365155 du 6/12/2013, "Considérant qu'en vertu des principaux généraux qui régissent la responsabilité de la puissance publique, un agent public irrégulièrement évincé a droit à la réparation intégrale du préjudice qu'il a effectivement subi du fait de la mesure illégalement prise en son contre ; que sont ainsi indemnisables les préjudices de toute nature avec lesquels l'illégalité commise présente, compte tenu de l'importance respective de cette illégalité et des fautes relevées à l'encontre de l'intéressé, un lien direct de causalité; que, pour l'évaluation du montant de l'indemnité due, doit être prise en compte la perte du traitement ainsi que celle des primes et indemnités dont l'intéressé avait, pour la période en cause, une chance sérieuse de bénéficier, à l'exception de celles qui, eu égard à leur nature, à leur objet et aux conditions dans lesquelles elles sont versées, sont seulement destinées à compenser des frais, charges ou contraintes liés à l'exercice effectif des fonctions (...)". Dans le même sens, CE n° 369898 du 25/2/2015.

[51] Dr. KAREMANGINGO Charles avuga kandi ko asaba mu rwego rw'ubujurire ko yagenerwa indishyi z'igihombo zibarwa guhera ku wa 12/2/2014 zingana na 18% ya 23.810.239 Frw yagenewe n'Urukiko Rukuru kuko Leta y'u Rwanda yakomeje kumukurura mu Nkiko nta mpamvu kugira ngo ikomeze itinze kumwishyura, igihembo cya avoka kingana na 1.500.000 Frw, asaba kandi ko itegekwakumuha "astreinte" ya 10.000 Frw kuri buri muni w'ubukererwe uhereye igihe urubanza rubereye itegeko.

[52] Ku byerekeye "pécule de congé", Leta y'u Rwanda ivuga ko itazwi mu mategeko agenga abakozi bayo (fonction publique), keretse iyo Dr KAREMANGINGO Charles agaragaza ko iteganyijwe mu masezerano bagiranye. Isobanura ko umukozi ariwe usaba ikiruhuko (congé), umukoresha akaba yakimuha cyangwa akakimwima, bityo ikaba isanga Dr KAREMANGINGO Charles ariwe ugomba kugaragaza ko yagisabye ariko ntagihabwe. Isobanura kandi ko umushahara Dr KAREMANGINGO Charles agenderaho asaba indishyi udasobanutse kuko imibare akoresha ashiramo n'imishahara irebana n'amasezerano yari yarangiye.

[53] Ku byerekeye indishyi z'igihombo Dr KAREMANGINGO Charles asaba zingana na 18% ya 23.810.239 Frw yari yagenewe n'Urukiko Rukuru, Leta y'u Rwanda ivuga ko ayo mafaranga atayahabwa kuko yari kuyasaba iyo aza kuba yarayatsindiye mu buryo budasubirwaho (*autorité de la chose jugée*). Naho ku byerekeye amafaranga y'igihembo cya avoka asaba, isaba Urukiko kuyasuzuma mu bushishozi bwarwo.

UKO URUKIKO RUBIBONA

[54] Ingingo ya 42, igika cya mbere y'Itegeko n° 22/2002 ryo ku wa 9/7/2002 rishyiraho Sitati rusanga igenga abakozi ba Leta iteganya ko "Nyuma y'amezi cumi n'abiri (12) y'akazi, umukozi wa Leta agomba kujya mu kiruhuko cya buri mwaka giteganywa n'amategeko gihwanye n'iminsi mirongo itatu (30) y'ukwezi".

[55] Ingingo ya 43, igika cya mbere y'Itegeko n° 22/2002 ryo ku wa 9/7/2002 ryavuzwe haruguru iteganya ko "Iyo umukozi wa Leta atashoboye gufata ikiruhuko cy'umwaka kubera impamvu z'akazi, kandi yaracyatse mu nyandiko, abona ikiruhuko cy'imyaka ibiri ikurikirana".

[56] Urukiko rw'Ikirenga rurasanga nk'uko ihame rusange rigenga amategeko ribivuga, isuzumwa ry'ingingo z'amategeko zivugwa haruguru ryumvikanisha ko umukozi wa Leta agomba gufata ikiruhuko buri mwaka nyuma y'amezi cumi n'abiri y'akazi ku buryo mu gihe atashoboye kugifata ku mpamvu zitari z'akazi cyangwa z'uburwayi abura uburenganzira bwo kugifata kandi adafite uburenganzira bwo gusaba Urukiko amafaranga y'insimburakiruhuko.

[57] Urukiko rw'Ikirenga rurasanga Dr. KAREMANGINGO Charles avuga ko atahawe ikiruhuko cy'umwaka mu mwaka wa 2011 n'uwa 2012 ariko akaba atagaragaza ko Umuyobozi we yaba yarabonye ibaruwa ye igisaba cyangwa se ko Umuyobozi we atamwemereye kukibona kubera impamvu z'akazi cyangwa se ko atakibonye ku mpamvu z'uburwayi.

[58] Hashingiwe ku byavuzwe mu bika bibanziriza iki, Urukiko rw'Ikirenga rurasanga Dr. KAREMANGINGO Charles adakwiye guhabwa amafaranga y'insimburakiruhuko asaba.

[59] Ku birebana n'indishyi zingana na 18% Dr. KAREMANGINGO Charles asaba kuri 23.810.239 Frw yari yagenewe n'Urukiko Rukuru, Urukiko rw'Ikirenga rurasanga atayakwiriye kubera ko ayo mafaranga atari umwenda udashidikanywaho (dette certaine et exigible) kandi Leta y'u Rwanda ikaba yari ifite uburenganzira bwo kujuririra izo ndishyi mu gihe itishimiye icyemezo kiyitegeka kuzitanga, cyane ko icyo cyemezo kitari ndakuka.

[60] Ku birebana na 2.000.000 Frw y'igihembo cya avoka mu rwego rwa mbere Dr. KAREMANGINGO Charles asaba, Urukiko rw'Ikirenga rurasanga ayo mafaranga asaba ari ikirenga ku buryo ayo yari yagenewe n'Urukiko Rukuru mu bushishozi bwarwo ariyo akwiye, ni ukuvuga 500.000 Frw.

[61] Ku birebana na 1.500.000 Frw y'igihembo cya avoka mu rwego rwa kabiri Dr. KAREMANGINGO Charles asaba, Urukiko rw'Ikirenga rurasanga akwiye kuyahabwa ariko kubera ayo asaba ari ikirenga, mu bushishozi bwarwo rukaba rumugeneye 800.000 Frw.

[62] Ku birebana no gutegeka Leta y'u Rwanda "astreinte" ya 10.000 Frw kuri buri muni w'ubukererwe uhereye igihe urubanza rubereyeho itegeko, Urukiko rw'Ikirenga rurasanga nta mpamvu n'imwe Dr. KAREMANGINGO Charles agaragaza yatuma ko Leta itegekwa icyo gihano gihatira kurangiza urubanza "astreinte".

[63] Hashingiwe kuri ibyo byose byavuze haruguru, Urukiko rw'Ikirenga rurasanga Dr. KAREMANGINGO Charles akwiye guhabwa indishyi zihwanye n'umushahara w'amezi ane yarasigaye kugirango amasezerano y'akazi arangire yari yagenewe n'Urukiko Rukuru, ni ukuvuga 14.714.993 Frw, amafaranga 735.750 yagenewe n'Urukiko Rukuru ahwanye n'iminsi itandatu atahembwe kuko yahagaritse by'agateganyo ku mirimo ye ku wa 6/7/2012 amaze iminsi itandatu akora muri uko kwezi, 500.000 Frw yagenewe n'Urukiko Rukuru y'ikurikiranarubanza n'igihembo cya avoka na 800.000 Frw y'igihembo cya avoka mu rwego rw'ubujurire, yose hamwe akaba 16.750.743 Frw.

III. ICYEMEZO CY'URUKIKO

[64] Rwemeje ko ubujurire bwa Leta y'u Rwanda bufite ishingiro kuri bimwe;

[65] Rwemeje ko ubujurire bwuririye ku bundi bwa Dr. KAREMANGINGO Charles bufite ishingiro kuri bimwe;

[66] Rwemeje ko urubanza RAD 0019/13/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 13/1/2014 ruhindutse ku birebana n'indishyi Dr. KAREMANGINGO Charles yari yagenewe mu rwego rwa mbere;

[67] Rutegetse Leta y'u Rwanda guha Dr. KAREMANGINGO Charles 14.714.993 Frw ahwanye n'umushahara w'amezi ane yarasigaye kugirango amasezerano y'akazi arangire, 735.750 Frw ahwanye n'iminsi itandatu atahembwe, 500.000 Frw y'ikurikiranarubanza n'igihembo cya avoka mu rwego rwa mbere na 800.000 Frw y'igihembo cya avoka mu rwego rw'ubujurire, yose hamwe akaba 16.750.743 Frw;

[68] Rutegetse ko amagarama y'uru rubanza aherera kw'Isanduku ya Leta.

