NIYIGABA v NYIRARUKUNDO NA NYIRAMANA

[Rwanda URUKIKO RW'IKIRENGA – RS/REV/INJUST/RC 00009/2017/CS – (Kayitesi, P.J., Nyirinkwaya, Cyanzayire, Hitiyaremye na Rukundakuvuga, J.) 24 Ukwakira 2019]

Amategeko agenga imiburanishirije y'imanza zasabiwe gusubirishwamo ku mpamvu z'akarengane – Impamvu yateye akarengane – Urubanza rudashobora kurangizwa – Kuba hari kopi ebyiri zirimo ibyemezo bivuguruzanya mu rubanza rumwe ni impamvu y'akarengane gashingiye ku kuba urubanza rudashobora kurangizwa.

Amategeko agenga imiburanishirije y'imanza zasabiwe gusubirishwamo ku mpamvu z'akarengane – Gusuzuma ikirego mu mizi – Gusuzuma amakozsa urukiko rwaba rwarakoze mu kutakira ubujurire bwa kabiri, niko gusuzuma ikirego mu mizi – Urukiko ntirushobora gusuzuma akaregane kavugwa mu rubanza rubanziriza urutarakiriwe mu bujurire bwa kabiri igihe nta karengane kari mu kutakira ubwo bujurire.

Incamake y'ikibazo: Nyirarukundo yareze Serugendo muri komite y'Abunzi b'umurenge wa Kabatwa kuba yarigabije isambu ye yari yaguze na Nyiramana maze iyi komite itegeka ko Serugendo asubiza iyo sambu hamwe n'amafaranga ajyanye n'ibyari muri iyo sambu.

Niyigaba wari uhagarariye abavandimwe be ndetse no mw'izina rye yatambamiye uwo mwanzuro arega nyina Nyiramana, asaba Komite y'Abunzi kubasubiza iyo sambu basigiwe n'umubyeyi wabo Nsengiyumva. Mu iburanisha uyu Nyiramana avuga ko yayigurishije Nsaguye Jean Baptiste umugabo wa Nyirarukundo Odette, kubera umwenda yari amubereyemo yananiwe kwishyura. Komite y'Abunzi yemeje ko ikirego cye gifite ishingiro, Nyiramana akaba agomba gusubiza abana be isambu Se yabasigiye ndetse agasubiza uwo yari yayigurishije amafaranga ye hamwe n'ay'indishyi.

Nyirarukundo yatanze ikirego mu Rukiko rw'Ibanze rwa Mukamira arega Nyiramana, Niyigaba na Serugendo asaba gutesha agaciro umwanzuro w'Abunzi bituma Abaregwa batanga inzitizi ko nta uburenganzira afite bwo gutanga iki kirego. Urukiko rwemeje ko ikirego cye kitakiriwe kuko cyaje mu nzira zitadakurikije amategeko ndetse akaba ajuririra umwanzuro atabayemo umuburanyi ariko ukaba uteshejwe agaciro ku nyungu z'itegeko kubera ko Urega atahamagawe kugira ngo abe umuburanyi.

Icyakora muri dosiye ye haje kugaragaramo kopi y'urubanza rwaciwe n'Urukiko rw'Ibanze rwa Mukamira, igaragaza ko urwo rukiko rwafashe icyemezo gitandukanye n'icya mbere aho rwemeje kutakira ikirego kuko cyaje mu buryo budakurikije amategeko ariko rwemeza ko imyanzuro y'Abunzi igumana agaciro kayo mu ngingo zayo zose kuko nta bubasha afite bwo kuyitesha mu gihe atabayemo umuburanyi, ko ahubwo yagombaga kuyitambamira cyangwa kuyisubirishamo nk'uko biteganywa n'amategeko.

Niyigaba yasubirishijemo urwo rubanza ingingo nshya ariko mu gihe cy'iburanisha avuga ko aretse ikirego. Nyuma yaho yandikiye Urwego rw'Umuvunyi asaba ko urwo rubanza rwaciwe n'Urukiko rw'Ibanze rusubirishwamo ku mpamvu z'akarengane bigasuzumwa nkuko amategeko abiteganya Perezida w'Urukiko rw'Ikirenga, rusaba ko urubanza nº RC 0847/06/TB/MUK rusubirwamo ku mpamvu z'akarengane kuko urwo rukiko rwatesheje agaciro umwanzuro w'abunzi, kandi rutarakiriye ikirego cya Nyirarukundo, no kuba Umucamanza yaribeshye agatanga kopi 2 z'urubanza rumwe zivuguruzanya ku buryo nta rundi rwego Uwareze ashobora kwitabaza kugira ngo ayo makosa akosorwe.

Urubanza rwaburanishijwe mu ruhame habanza gusuzumwa ikibazo kijyanye no kumenya niba kuba hari kopi ebyiri zirimo ibyemezo bivuguruzanya mu rubanza rumwe ari impamvu

y'akarengane gashingiye ku kuba rudashobora kurangizwa. Aha, Niyigaba avuga ko urwo rubanza rudashobora kurangizwa kuko rufite ibyemezo bibiri bivuguruzanya, bityo agasaba urukiko kwemeza ko kopi afite igumanye agaciro kayo. Naho Nyirarukkundo we agasobanura ko nta karengane Niyigaba afite, ariko ko urubanza rufite ibyemezo bibiri bivuguruzanya, kandi ko irangizwa ryabyo ridashoboka kuko bitarangizwa byombi icyarimwe bityo ko yumva ibyo byemezo byombi.

Ku kibazo kijyanye no kumenya ingaruka zo gusubirishamo urubanza kuko rudashobora kurangizwa, Urega asaba ko hemezwa ko kopi y'urubanza afite igumana agaciro kawo, naho Uregwa akabasanga ibyo byemezo byombi byavanwaho.

Incamake y'icyemezo: 1. Ivuguruzanya ry'imanza ni igihe hari ibyemezo bibiri bivuguruzanya mu rubanza rumwe, ababuranyi ari bamwe, hakaba haratanzwe ikirego kimwe, kikandikwa kuri nomero imwe, urubanza rukaba mu iburanisha rimwe, rukaburanishwa n'umucamanza umwe, ku munsi umwe kandi rugacirirwa rimwe.

2. Kuba hari kopi ebyiri zirimo ibyemezo bivuguruzanya mu rubanza rumwe ni impamvu y'akarengane gashingiye ku kuba urubanza rudashobora kurangizwa

3. Ikirego ku rubanza rw'Abunzi kitakiriwe ku mpamvu zishingiye ku mategeko mu Rukiko rw'Ibanze ntikiburanishwa ku mpamvu z'akarengane mu mizi.

Ikirego cyo gusubirishamo ku mpamvu z'akarengane urubanza rwaciwe n'Urukiko rw'Ibanze rwa Mukamira, gifite ishingiro.
Urubanza rwaciwe n'Urukiko rw'Ibanze rwa Mukamira ruvanyweho.

Amategeko yashingiweho:

Itegeko ngenga N° 17/2004 ryo ku wa 20/6/2004 rigena imiterere, ububasha n'imikorere bya komite y'abunzi, ingingo ya 20.

Itegeko Ngenga Nº 03/2012 ryo ku wa 13/06/2012 rigena imiterere, imikorere n'ububasha bw'Urukiko rw'Ikirenga, ingingo ya 81.

Itegeko N°30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko, ingingo ya 63.

Itegeko Nº 22/2018 ryo kuwa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 243.

Itegeko Nº 37/2016 ryo ku wa 08/09/2016 rigena imitunganyirize, ifasi, ububasha n'imikorere bya komite y'abunzi, ingingo 29.

Itegeko Nº 18/2004 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 26, 94 n'iya 175.

Nta manza zifashishijwe.

I. IMITERERE Y'URUBANZA

[1] Nyiramana Elina yagurishije isambu na Nsaguye Jean Baptiste, umugabo wa Nyirarukundo Odette, nyuma uwitwa Serugendo Thomas arayigabiza bituma Nyirarukundo Odette amurega muri komite y'abunzi avuga ko yayiciyemo ibiti akabyubakisha, agahingira ku bireti (kubitaba), akanasarura ibirayi bye.

[2] Ku wa 24/03/2006, Komite y'Abunzi b'Umurenge wa Kabatwa, yategetse Serugendo Thomas ibi bikurikira:

- gusubiza Nyirarukundo Odette umurima we, yawushaka akamugurira undi ungana nawo.
- akanamuha 15.000frw y'igiti, imifuka 2 y'ibirayi ihwanye n'ibiro 200, 8.000frw y'inzoga, 25.000frw y'insimburamubyizi, 2.000frw y'ingendo akanatanga 5.000frw y'inzoga y'abagabo, yose hamwe akaba 55.000frw.
- akazashyikiriza ikibazo cy'ibireti abagishinzwe.

[3] Niyigaba Angelique mu izina rye bwite n'iry'abavandimwe be ahagarariye yatambamiye uwo mwanzuro, arega nyina Nyiramana Elina, asaba ko yasubizwa iyo sambu kuko yabaririye umutungo basigiwe na se Nsengiyumva Jacques. Mu iburanisha ry'urubanza, Nyiramana Elina yavuze ko yayigurishije Nsaguye Jean Baptiste umugabo wa Nyirarukundo Odette, kubera umwenda yari amubereyemo yananiwe kwishyura. Ku wa 10/04/2006, Komite y'Abunzi yemeje ko:

- ikirego cya Niyigaba Angelique gifite ishingiro.
- Nyiramana Elina agomba gusubiza abana ba Nsengiyumva Jacques isambu basigiwe na se.
- Nyiramana Elina agomba guha umuryango wa Nsaguye Jean Baptiste alias Mawo 100.000 Frw yamuhaye igihe baguraga iyo sambu akanawuha 50.000 Frw y'indishyi z'akababaro, yose hamwe akaba 150.000 Frw.

[4] Nyirarukundo Odette yatanze ikirego mu Rukiko rw'Ibanze rwa Mukamira arega Nyiramana Elina, Niyigaba Angelique na Serugendo Thomas asaba gutesha agaciro umwanzuro w'Abunzi wo ku wa 10/04/2006. Iburanisha ry'urubanza ritangiye Me Mugabushaka waburaniraga abaregwa yatanze inzitizi yo kutakira ikirego cya Nyirarukundo Odette kubera ko atasaba gutesha agaciro umwanzuro w'Abunzi wo ku wa 10/04/2006 atabayemo umuburanyi kuko abawubayemo ababuranyi ari Niyigaba Angelique na Nyiramana Elina.

[5] Urwo Rukiko rwaciye urubanza RC 0847/06/TB/MUK ku wa 28/06/2007, rufata icyemezo mu buryo bukurikira:

- Rwemeje kutakira ikirego cya Nyirarukundo Odette kuko cyaje mu buryo budakurikije amategeko.
- Rwibutsa ko imyanzuro y'abunzi yo ku wa 10/04/2006, haburana Niyigaba Angelique na Nyiramana Elina, iteshejwe agaciro ku nyungu z'Itegeko kuko yafashwe mu buryo bunyuranyije n'amategeko kubera ko Nyirarukundo Odette atahamagawe kugira ngo abe umuburanyi muri urwo rubanza nk'uko biteganywa n'ingingo ya 175 y'Itegeko Nº 18/2004 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, iteganya ko iyo urubanza rutambamiwe hatumizwa ababuranyi bari barurimo mbere;
- Rwemeza kandi ko hashingiwe ku ngingo ya 94 y'iryo Tegeko, ikirego cye kitakwakirwa kubera ko adafite ububasha bwo kujuririra umwanzuro w'Abunzi atabayemo umuburanyi.

[6] Icyakora nk'uko bigaragara muri dosiye, hari n'indi kopi y'uru rubanza RC 0847/06/TB/MUK rwaciwe n'Urukiko rw'Ibanze rwa Mukamira ku wa 28/06/2007, igaragaza ko urwo rukiko rwafashe icyemezo gitandukanye n'icya mbere kuko muri iyo kopi y'urubanza bigaragara ko rwafashe ibyemezo bikurikira:

- rwemeje kutakira ikirego cya Nyirarukundo Odette kubera ko cyaje mu buryo budakurikije amategeko;

- rwibukije ko imyanzuro y'Abunzi bo mu murenge wa Kabatwa yo ku wa 10/04/2006, haburana Niyigaba na Nyiramana, igumana agaciro kayo mu ngingo zayo zose kuko nta bubasha bwo gutesha agaciro imyanzuro y'Abunzi atabayemo umuburanyi, ko ahubwo yagombaga kuyitambamira cyangwa kuyisubirishamo nk'uko biteganywa n'amategeko.

[7] Niyigaba Angelique yasubirishijemo ingingo nshya urubanza RC 0847/06/TB/MUK rwaciwe n'Urukiko rw'Ibanze rwa Mukamira ku wa 28/06/2007, ikirego cye cyandikwa kuri RC 0381/012/TB/MUK, ariko igihe cy'iburanisha ry'urubanza, avuga ko aretse icyo kirego hashingiwe ku ngingo ya 26 y'Itegeko Nº 18/2004 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi. Urwo rukiko rwaciye urubanza RC 0381/012/TB/MUK ku wa 14/02/2013, rwemeza ko Niyigaba Angelique yemerewe kureka ikirego kuko ari uburenganzira bwe ahabwa n'amategeko.

[8] Nyuma y'aho Niyigaba Angelique yandikiye Urwego rw'Umuvunyi asaba ko urubanza RC 0847/06/TB/MUK rwaciwe n'Urukiko rw'Ibanze rwa Mukamira ku wa 28/06/2007 rusubirishwamo ku mpamvu z'akarengane. Urwego rw'Umuvunyi rwandikiye Perezida w'Urukiko rw'Ikirenga, rusaba ko urubanza RC 0847/06/TB/MUK rusubirwamo ku mpamvu z'akarengane kuko urwo rukiko rwatesheje agaciro umwanzuro w'abunzi wo ku wa 10/04/2006, kandi rutarakiriye ikirego cya Nyirarukundo Odette, no kuba Umucamanza yaribeshye agatanga kopi 2 z'urubanza rumwe zivuguruzanya ku buryo nta rundi rwego Niyigaba Angelique ashobora kwitabaza kugira ngo ayo makosa akosorwe.

[9] Perezida w'Urukiko rw'Ikirenga ashingiye kuri raporo y'Ubugenzuzi Bukuru bw'Inkiko nawe yemeje ko urubanza rusubirwamo ku mpamvu z'akarengane, hashingiwe ku ngingo ya 81, 3º y'Itegeko Ngenga Nº 03/2012 ryo ku wa 13/06/2012 rigena imiterere, imikorere n'ububasha bw'Urukiko rw'Ikirenga, kuko hakurikijwe uburyo rwaciwe rudashobora kurangizwa, maze rwandikwa kuri RS/REV/INJUST/CIV 00009/2017/SC.

[10] Urubanza rwaburanishijwe mu ruhame ku wa 23/01/2018, Me Uwimana Channy yunganiye Niyigaba Angelique kandi anahagarariye Nyiramana Elina, naho Nyirarukundo Odette ahagarariwe na Me Nsabimana Jean Damascène. Serugendo Thomas we, mu nama ntegurarubanza yabaye ku wa 13/09/2017, ababuranyi bavuze ko ntacyo bamurega nawe yivugira ko nta nyungu afite muri uru rubanza ko nta cyatuma aruzamo, bityo avanwa mu baburanyi.

[11] Nyirarukundo Odette yatanze inzitizi yo kutakira ikirego gisubirishamo urubanza RC 0847/06/TB/MUK ku mpamvu z'akaregane kuko yiyambuye ububasha ubwo yarekaga ikirego cyo gusubirishamo urubanza RC 0847/06/TB/MUK ingingo nshya, mu rubanza RC 0381/012/TB/MUK no kuba Nyiramana Elina atari umuburanyi urega muri uru rubanza, maze ku wa 02/03/2018 Urukiko ruca urubanza rubanziriza urundi rwemeza ko iyo nzitizi nta shingiro ifite.

[12] Iburanisha ry'uru rubanza mu mizi ryashyizwe ku wa 08/05/2018, ruraburanishwa, ruranapfundikirwa, isomwa ry'urubanza rishyirwa ku wa 19/06/2018, ariko uwo munsi ntirwasomwa kuko Urukiko rwasanze ari ngombwa kongera gufungura iburanisha ry'uru rubanza kugira ngo Ubuyobozi bwa HORIZON SOPYRWA Ltd buzatumizwe busobanure ibyerekeranye n'imiterere y'amasezerano bwagiranye na nyakwigendera Nsengiyumva Jacques arebana n'isambu nimero 6469 iri mu Mudugudu wa Ruhango, Akagari ka Ngando, Umurenge wa Kabatwa no kugaragaza uburenganzira umugore we cyangwa abana be bayifiteho.

[13] Urubanza rwasubukuwe ku wa 10/10/2019, ababuranyi bose bitabye, HORIZON SOPYRWA Ltd ititabye ariko iburanisha rirakomeza kuko Urukiko rwasanze bitakiri na

ngombwa ko ihamagazwa, ahubwo impaka zishingira ku kumenya niba koko kuba hari kopi ebyiri zivuguruzanya ku rubanza rumwe ari impamvu y'akarengane ishingiye ku kuba urubanza rudashobora kurangizwa, hamwe n'ingaruka zabyo.

II. IBIBAZO BIGIZE URUBANZA N'ISESENGURA RYABYO

1. Kumenya niba kuba hari kopi ebyiri zirimo ibyemezo bivuguruzanya mu rubanza rumwe ari impamvu y'akarengane gashingiye ku kuba urubanza rudashobora kurangizwa

[14] Me Uwimana Channy avuga ko Niyigaba yasabye ko urubanza RC 0847/06/TB/MUK rwaciwe ku wa 28/06/2007 rusubirwamo ku mpamvu z'akarengane kuko muri urwo rubanza urukiko rwafashe ibyemezo bibiri bivuguruzanya:

- mu cyemezo kimwe rukavuga ko ikirego kitakiriwe kandi ko umwanzuro w'abunzi wo ku wa 10/04/2006 ukuweho mu ngingo zawo zose.
- mu kindi rukavuga ko ikirego kitakiriwe ariko umwanzuro w'abunzi ugumanye agaciro kawo.

[15] Me Uwimana Channy avuga ko urwo rubanza rudashobora kurangizwa kandi rufite ibyemezo bibiri bivuguruzanya, bityo agasaba urukiko kwemeza ko kopi ifitwe na Niyigaba Angelique igumanye agaciro kayo.

[16] Me Nsabimana Jean Damascène avuga ko ku ruhande rwa Nyirarukundo basanga urubanza RC 0847/06/TB/MUK nta karengane Niyigaba afite, ariko ko urubanza rufite ibyemezo bibiri bivuguruzanya, kandi ko irangizwa ryabyo ridashoboka kuko bitarangizwa byombi icyarimwe bityo ko yumva ibyo byemezo byombi byo mu rubanza RC 0847/06/TB/MUK rwaciwe ku wa 28/06/2007, byavanwaho.

UKO URUKIKO RUBIBONA

[17] Ingingo ya 81 agace ka gatatu y'Itegeko Ngenga N° 03/2012/OL ryo ku wa 13/06/2012 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga, ryakurikizwaga igihe ikirego cyashyikirizwaga urwego rw'Umuvunyi, iteganya ko urubanza rwaciwe ku rwego rwa nyuma rushobora gusubirwamo ku mpamvu z'akarengane iyo urwo rubanza rudashobora kurangizwa[1].

[18] Urukiko rw'Ikirenga rusanga igiteye urujijo ari uko iyo usomye buri kopi mu zivugwa nta cyabuza ko irangizwa nk'urubanza, bityo hakaba hakwibazwa niba ikibazo rwashyikirijwe ari ikibazo cy'akarengane gashingiye ku kuba urubanza rudashobora kurangizwa cyangwa niba ari ikibazo cy'ivuguruzanya ry'imanza.

[19] Urukiko rusanga itegeko rishya rigena ububasha bw'inkiko[2] ntacyo ryavuze ku byerekeye ivuguruzanya ry'imanza, mu gihe iryo ryasimbuye[3] ku byerekeye iki kibazo nta gisobanuro ritanga ku gikwiye kumvikana nk'ivuguruzanya ry'imanza. Icyakora, abandi banyamategeko bagerageje gusobanura icyo bita ivuguruzanya ry'imanza, usanga bibanda ku kugaragaza ko ibyo

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[1] Ingingo ya 81 agace ka 3 yateganyaga ko urubanza rwaciwe ku rwego rwa nyuma rushobora gusubirwamo ku mpamvu z'akarengane kubera impamvu zikurikira: … 3° iyo urubanza rudashobora kurangizwa ukurikije imikirize yarwo.

[2] Itegeko N°30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko.

[3] Reba ingingo ya 29,12º y' Itegeko Ngenga N° 03/2012/OL ryo kuwa 13/06/2012 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga.

bibaho iyo hari imanza ebyiri zidashobora guhuzwa zaciwe ku kiregerwa kimwe, bakanavuga ko ibyo bikemurwa no gusaba Urukiko Rusesa imanza ko urubanza rwaciwe nyuma rukurwaho[4]. Ibyo bikaba byumvikanisha ko kugira ngo habe ukuvuguruzanya kw'imanza bisaba ko haba hari imanza ebyiri.

[20] Urukiko rw'Ikirenga rusanga rero muri uru rubanza, iyo usomye ikirego rwashyikirijwe, ikibazo gihari atari uko hari imanza ebyiri ku kibazo kimwe, ahubwo ari uko hari ibyemezo bibiri bivuguruzanya mu rubanza rumwe; kuko ababuranyi ari bamwe, hakaba haratanzwe ikirego kimwe, kikandikwa kuri nomero imwe, urubanza rukaba mu iburanisha rimwe, rukaburanishwa n'umucamanza umwe, ku munsi umwe kandi rugacirirwa rimwe. Kubera izo mpamvu, urukiko rukaba rusanga ikibazo gihari ari uko urwo rubanza rudashobora kurangizwa akaba ari nayo mpamvu rugomba gusubirwamo hashingiwe ku ngingo ya 81, 3º y'Itegeko ngenga rigena imiterere, imikorere n'ububasha bw'Urukiko rw'Ikirenga ryakoreshwaga ubwo ikirego cyatangwaga.

2. Kumenya ingaruka zo gusubirishamo urubanza RC 0847/06/TB/MUK kuko rudashobora kurangizwa

[21] Me Uwimana Channy asaba urukiko kwemeza ko kopi ifitwe na Niyigaba Angelique igumanye agaciro kawo, naho Me Nsabimana Jean Damascène akavuga ko ku ruhande rwa Nyirarukundo, basanga ibyo byemezo byombi byavanwaho.

UKO URUKIKO RUBIBONA

[22] Ingingo ya 63 y'Itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko ivuga ko iyo Urukiko rw'Ikirenga cyangwa urundi rukiko Perezida w'Urukiko rw'Ikirenga agena, rushyikirijwe urubanza rusabirwa gusubirwamo ku mpamvu z'akarengane rurusuzuma mu mizi bundi bushya abarubayemo ababuranyi bose bahamagajwe.

[23] Urukiko rw'Ikirenga rusanga ariko mu rubanza RC 0847/06/TB/MUK rwaciwe n'Urukiko rw'Ibanze rwa Mukamira ku wa 28/06/2007, urukiko rwaranze kwakira ikirego rushingiye ku kuba uwari watanze ikirego atarabaye umuburanyi mu mwanzuro w'abunzi yasabiraga ko uvanwaho, bityo rukaba rutaraciwe mu mizi kandi mu kwanga kurwakira akaba nta kosa rwakoze kuko rwashingiye ku biteganywa n'ingingo ya 20 y'itegeko rigena ububasha n'imikorere bya komite z'abunzi[5] ryakoreshwaga icyo gihe.

[24] Kubera izo mpamvu, Urukiko rw'Ikirenga rusanga urubanza RC 0847/06/TB/MUK rwaciwe n'Urukiko rw'Ibanze rwa Mukamira ku wa 28/06/2007 rudashobora kongera kuburanishwa bundi bushya hashingiwe ku ngingo ya 63 y'Itegeko N° 30/2018 ryo ku wa 02/06/2018 yavuzwe haruguru kuko nta cyemezo rwafashe mu mizi, kandi mu kutakira ikirego rukaba nta kosa rwakoze ku buryo rwakongera kuburanishwa.

[25] Urukiko rw'Ikirenga rusanga ahubwo ikosa urwo rukiko rwakoze ari ukuba nyuma yo kuvuga ko ikirego kitakiriwe, rwarashatse kugaragaza ingaruka bifite ku mwanzuro w'abunzi

[4] La Contrariété de jugements est une situation résultant de l'opposition de deux décisions inconciliables intervenues sur le même objet, entre les mêmes parties, s'appuyant sur les mêmes moyens. La contrariété de jugements ouvre droit à un pourvoi en cassation contre la décision seconde en date (Civ. 2e, 19 mars 2015, F-P+B, n° 14-16.275 accessible à https://www.dalloz-actualite.fr/flash/pourvoi-fonde-sur-une-contrariete-de-decisions-necessite-de-jugements-inconciliables-dans-leur#.XZzIPEYzbIU). Voir aussi les articles 617-618 du code de_procedure civil français.

[5] Ingingo ya 20 y'Itegeko ngenga n° 17/2004 ryo ku wa 20/6/2004 rigena imiterere, ububasha n'imikorere bya komite y'abunzi, iteganya ko iyo umwe mu bafitanye ikibazo atemeye umwanzuro wafashwe n'Abunzi, ashobora, mu gihe kitarenze iminsi mirongo itatu (30) uhereye ku munsi icyemezo cyafatiweho, kuregera Urukiko rufite ububasha bwo kuburanisha icyo kibazo mu rwego rwa mbere.

wari waregewe, rukabisobanura mu byemezo bibiri bivuguruzanya, aho kimwe kivuga ko umwanzuro w'abunzi uvuyeho, ikindi kikavuga ko umwanzuro w'abunzi ugumanye agaciro kawo.

[26] Urukiko rw'Ikirenga rusanga mu gihe Urukiko rwari rumaze kubona ko urubanza rudashobora kwakirwa, nta kindi rwari rwemerewe kongeraho gifite aho gihuriye n'imizi y'urubanza, bityo uretse no kuba harasohotse urubanza rufite kopi ebyiri zivuguruzanya bigatuma urubanza rudashobora kurangizwa, no gufata icyemezo mu mizi nyuma yo kutakira ikirego ubwabyo bitera ukwivuguruza ku cyemezo cy'urukiko.

[27] Kubera izo mpamvu Urukiko rw'Ikirenga rusanga urubanza RC 0847/06/TB/MUK rwaciwe n'Urukiko rw'Ibanze rwa Mukamira ku wa 28/06/2007 rugomba kuvaho n'ibyemezo byarwo byombi bigaragara muri kopi zivuguruzanya zahawe ababuranyi bikaba biteshejwe agaciro. Naho ku byerekeye ko haba hasigaye umwanzuro w'abunzi wafashwe mu buryo budakurikije amategeko[6], Urukiko rw'Ikirenga rusanga ibyo byakemurwa no kutawuteraho kashe-mpuruza ngo urangizwe, hashingiwe ku biteganywa n'ingingo ya 29 igika cya 5 y'itegeko no 37/2016 ryo ku wa 08/09/2016 rigena imitunganyirize, ifasi, ububasha n'imikorere bya komite y'abunzi[7] cyangwa gusaba ko yatesha agaciro inyandikompuruza (kashempuruza) igihe yaba yaratewe ku mwanzuro wafashwe mu buryo bunyuranyije n'amategeko hakurikijwe ibiteganyijwe n'ingingo ya 243 y'itegeko Nº 22/2018 ryo kuwa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi.

III. ICYEMEZO CY'URUKIKO

[28] Rwemeje ko ikirego cyo gusubirishamo ku mpamvu z'akarengane urubanza RC 0847/06/TB/MUK rwaciwe n'Urukiko rw'Ibanze rwa Mukamira ku wa 28/06/2007, gifite ishingiro.

[29] Rutegetse ko urubanza RC 0847/06/TB/MUK rwaciwe n'Urukiko rw'Ibanze rwa Mukamira ku wa 28/06/2007 ruvanyweho.

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[6] Ni ukuvuga umwanzuro w'abunzi wari waregewe Urukiko rw'Ibanze mu rubanza RC 0847/06/TB/MUK.

[7] Iyo ingingo igira iti: Perezida w'Urukiko rw'Ibanze ntashobora kwanga gushyira kashempuruza ku mwanzuro wa Komite y'Abunzi keretse gusa mu gihe ibikubiye mu mwanzuro cyangwa ishyirwa mu bikorwa ryawo binyuranyije n'amategeko ndemyagihugu. Icyo gihe, amenyesha mu nyandiko Komite y'Abunzi icyemezo cye kugira ngo Inteko y'Abunzi yafashe umwanzuro ikosore ibyerekeranye n'ayo mategeko ndemyagihugu atubahirijwe.