REPUBULIKA Y'U RWANDA

URUKIKO RUKURU

URUGEREKO RWIHARIYE RUSHINZWE KUBURANISHA IBYAHA MPUZAMAHANGA N' IBYAMBUKA IMBIBI.

PV D'AUDIENCE DU 15/01/2015 a 8h35

RP 0002/12/HCCI : MP C/ UWINKINDI Jean

Urubanza ruhamagawe n'Urukiko rusanga UWINKINDI Jean yitabye yunganiwe na Me NIYIBIZI Jean Baptiste na Me GATERA GASHABANA, ariko mugenzi we akaba avuze ko Me GASHABANA ari munzira aza kugera hano, mu kanya, Ubushinjacyaha buhagarariwe na PN MUTANGANA Jean Bosco na PN RUBERWA Bonaventure

Urukiko

Nkuko twari twabivuganye uyu munsi dufite gahunda yuko mu iminota 30 Me Niyibizi aragira icyo yongera ku myanzuro yari yaratanzwe isubiza iy'ubushinjacyaha, nyuma twumve abatangabuhamya.

Hari ibaruwa twabonye ya Uwindinki yaje ejo. Ibikubiye muri iyi baruwa yagarutse ku ku bibazo bimwe byabaye muri uru rubanza, ikibazo cya ba enqueteurs ,amikoro yo gushaka abatangabuhamya, inteko ya bacamanza yagenywe kumuburanisha n'ikibazo cya bavoka yihitiyemo basezerewe mu buryo bunyuranyije na mategeko. Tumaze gusoma iyi baruwa turasanga asaba ko guhagarika urubanza kubera ibo bibazo, ariko tumaze kuyisoma twasanze ibibazo byose urukiko rwarabisuzumye, rugira icyemezo rubifataho nko kuba enqueteur hari icyemezo cyafashwe le 16/5/2013, ku mikoro yo gushaka abatangabuhamya tuziko hari lisiti yabo bamaze kudushyikiriza, kandi hafashwe na mesures ko baba proteges, anbandi nabo ko bazakomeza kumvikana na munijust, twe dufite abatangabuhamya 11, inteko ya bacamanza icyemezo cyabifashweho ariko ariko ikibazo cya bavoka yihitiyemo basezerewe mu buryo bunyuranyije na mategeko nyuma yo kumva mu masceances 2 ashize twasanze nta kigaragaza ko basezerewe koko, ko bakiri mu mishyikirano hafatwa icyemezo ko bakomeza kumwunganira kugeza aho bazagaragariza urukiko mu buryo budasubirwaho batagishoboye kumwunganira . turasanga ibibazo byose byarasubijwe ko nta n'impamvu yo guhagarika iburanisha ry'urubanza.

Tugiye guha Me Niyibizi ijambo agire icyo avuga niba asanga ari ngombwa, ku byavuzwe na Me GASHABANA ku myanzuro muherutse kudushyikiriza. Mwasanga ataringombwa tugatangira sceance kumva abatangabuhamya.

Me NIYIBIZI

Gahunda y'urukiko ntabwo tubasha kuyubahiriza ku bera impamvu2.

1. Uwo twunganira yagaragarije urukiko rukuru, ikibazo afite kijyanye nuko abamwunganira badatekanye abamwunganira bafite ibibazo bikomeye badashobora kumwunganira kandi ibyo bibazo bigihari
2. Ikindi nuko mugenzi wanjye Me Gatera gashabanaari nawe ukuriye itsinda ry'ubwunganizi adahari, nkaba mbona uwo tuwunganira ataba afite ubwunganizi bwuzuye nkuko amategeko abiteganya. Nkaba nsaba ko mwasuzuma ibyo bibazo byombi byingutu mukabifatira icyemezo.

Urukiko

Ubushize twafashe icyemezo, murabyibuka, twavuze iki ubushize?

Me niyibizi

Ubushize mwari mwatubwiye ko mubona urubanza rwakomeza mu nyungu z'uwo twunganira no mu nyungu z'ubutabera muri rusange.

Urukiko

Kubera iki?

Me niyibizi

Ngirango impamvu nuko urukiko rwo rubona ko abavoka bashobora gukomeza kunganira Uwinkindi.

Urukiko

Twavuze ko mu gihe mutaratuzanira icyemezo mu buryo budasubirwaho ko mutagishoboye kunganira Uwinkindi, urubanza rukomeze, niba mutakibishoboye mubitubwire, ntabwo twakomeza kugendera ku magambo cyangwa ku marangamutima yo kuvuga ngo abantu bumva badatekanye twarabibabajije dusubika iburanisha inshuro 2 ko ari icyo kintu kigiye gusuzumwa muragenda muragaruka, igihe mwatubwiye twarakibahaye nyuma yo kubumva , turababwira duti mu gihe mutatuzaniye document igaragaza ko mutacyunganiye Uwinkindi, ntabwo twebwe tubona ko Uwinkindi atunganiwe. Nonese mwaba mwahinduye mwatuzaniye icyemezo cyuko mutacyunganiye Uwinkindi

Me niyibizi

Icyemezo kigaragaza ko twahagaristwe, twarakibagaragarije

Urukiko

Ubu se niba mwarahagaristwe tukaba tubabona aha murimo kumwunganira cyangwa ntimuriko muramwunganira? Nimwe mwatwibwiriye ko uwabahagaritse nta bubasha afite bwo kubahagarika ko mu kiri mu retractation niba mubona ko nta bubasha afite musanga uwabaye akazi atarabahagaritse cyangwa hakiriho amaretractation icyatuma urubanza ruhagarara cyabaari igiki?

Me niyibizi

Nkuko natangiye mbivuga icyemezo urukiko rukuru rwafashe cyari uko urubanza rwakomeza mu nyungu zuwo twunganira no munyungu z'ubutabera Uwo twunganira igishya kirimo nuko noneho yabagejejeho ikibazo cye abasobanurira ko uru rubanza gukomeza bitaba biri mu nyungu ze, akaba yarabagaragarije noneho ku giti cye Atari twebwe uru rubanza rukomeje bitaba biri mu nyungu ze bwite ku bwibyo rero abavoka be ntitubona ukuntu twaburana urubanza mu buryo butari nyungu zuwo twunganira.

Ariko rero nanone kubijyanye n' Icyemezo cyo kuva mu rubanza, twakomeje kubabwira ko ihagarikwa ryacu nubwo rinyuze mu nzira zidakurikije amategeko ariko rirahari kuko kiriya cyemezo ni icyemezo administrative cyafashwe n'urwego rw'igihugu, tukaba tubona igisubizo aruko icyo cyemezo cyavaho, hari inzira 2 inzira z'imishyikirano zigikomeje n'inzira z'ubutabera. Ntabwo twajya mu nzira z'ubutabera mu gihe inzira z'imishyikirano zitararangira. Icyo cyemezo kidushyira mu gihirahiro, mwatubajije icyo twaje gukora , icyo dukora ni ibyihutirwa ni ukuza kumufasha kubasobanurira ibyo bibazo urukiko tukarusaba ko rwaba rusubitse iburanisha.ibindi twakora muri iki gihe haramutse havutse ikiazo kihutirwa akaba arwaye ashaka nko kwivuza ibyo twabikora nka bantu bari mu nteguza bagomba gukora ibintu byihutirwa..

Urukiko

Iyo debat ugiye kongera gutangira twarayirangije kandi twayifasheho icyemezo ntabwo tukigarukaho. Niba mwumva nta kindi mwongeraho kuriziriya 30min twari twarabahaye ngo mwongere ku myanzuro yanyu ubwo tugiye kumva abatangabuhamya.

Me gashabana

Twabagejejeho impungenge zishingiye kuri kiriya cyemezo cyari cyarafashwe na minisiteri simbigarukaho igitumye twintervena nuko hari uru rwandiko rwbagejejeho nuwo twunganira twe twarubonye nka coipe,ikaba ari ikibazo gishingiye ku mpungenge ze ndumva izacu twarazibagejejeho gusaarasaba ko urubanza rwaba ruhagaristwe kuburanishwa ashingiye ku bibazo twagaragaje ariko ikibazo avuga nuko hari ikibazo cya bavoka yihitiyemo bamuburana kuva uru rubanza rwatangira , aba bavoka bakaba basabwa kubura urubanza bari mu gihirahiro bashyizwemo n'integuza ya minister y'ubutabera. Agasaba rero ko atumva atekanye kugirango aburane uru rubanza mu gihe abshinzwe kumwunganira bari en securite, niwe nyiri urubanza, ntabwo ari twebwe ,aramutse avuze ngo nubu uko mu meze kose nimugwaneho ndumva twabyubahiriza, ariko arasaba ko

urubanza rwaba ruhagaritswe kuko abantu yizeye bamwunganira mu mategeko en tant que caractere privilegie de droit de la defense asanga badatekanye. Mubyo avuga avuga ko atiyumvisha ukuntu abantu we yihitiyemo kugirango bamuburanire ahubwo hari abandi bantu bashaka kubavanaho, ubushize ubushinjacyaha bwavuze bariya ntabwo ari kamara avec un ton d'allogance bashobora kuvaho igihe cyose, iyo ibintu nkibyo bivuzwe n'umuntu ushinzwe kunganira ubutabera devant un prevenu birushaho kugaragara ko abo yizeye yihitiyemo atakibafiteho ububasha hari abandi babafiteho ububasha akumva, mu gihe yumva adatekanye havuka kiriya kibazo cya process equitable. Process equitable iri muri condition zatumye bamutransfera mu Rwanda kubera yuko urwanda rwari rwarafashe icyemezo rwari rwarijeje ko azunganirwa mu mucyo,azunganirwa nababaifitiye ububasha batekanye bataburanira mu gihirahiro abo batabwira ngo ntabwo muri kamara dushatse twabavanaho. Umuntu yishyize mu mwanya wa uwinikindi aziko yoheerejwe mu Rwanda pour recevoir un process equitable akareba kuva yaza les traitements qui ont infliges a ses conseils muri defense ye mu gihe abasabye nimufashe kuko nsanga ntatekanye icyemezo cyanyohereje mu Rwanda kivuga ko nzabona un process equitable ndabona hari ibibazo byinshyi bitabonerwa une reponse. Iyi baruwa yakagombye kwitabwaho ikibazo cyuwo twunganira yumva adatekanye, il vit jour au jour les misères que subissent ses conseils , les menaces z'ubushinjacyaha aho buvuga ngo bariya bantu sikamara, dushatse twabavanaho ibyo bikanashimangirwa nibivugwa no muri minisiteri byose arabikurikirana noneho akibaza ese un process equitable nzayibona nkuko bayinyijije. Kubitwerekeye mwari mwafashe icyemezo, mu tubaza ko tukimwunganira, ntabwo twigeze tuvuga ko tutakimwunganira, ariko kunganira umuntu c'est une chose dans quelles condition noneho nyiri ukungnirwa agasanga hari des conditins qui ne lui permettent pas de continuer urubanza mu mizi ndumva ri muri urwo rwego iyi baruwa yanditswemo

Urukiko

Turashaka ko uwinkindi atubwira, ese abavoka bawe ntubizeye?

Uwinkindi

No mu ibarwa nanditse nagaragaje ko mbizeye ahubwo ntewe impungenge nababatakarije ikizere nta ni byaha babarega.

Urukiko

Niba ubizeye bo bakaba bemeye icyemezo cy'urukiko ko bakomeje kukunganira kugeza ubwo hazagaragara icyemezo ntakuka ko bitagishobotse ikibazo ufite nikihe?

Uwinkindi

Ikibazo mfite kiri no mu magambo avugwa n'ubushinjacyaha na magambo urkiko rusubiramo kenshi rusaba abanyunganira ko babaha icyemezo cyuko badashaka

kunyunganira kandi ntibigeze bavuga ko badashaka kunyunaganira , icyo kintu giteye impungenge

Urukiko

Twebwe impamvu tuvuga tuti dusanga bakunganira twe nta kibazo dufitanye nabo, nta cyo tubanenga mu mikorere yabo ari nayo mpamvu dusanga bagomba gukomeza kukunganira, iyo tuza gusanga hari ikibazo bateje, bakora mu buryo budakwiriye dufite icyo tunenga ntabwo twari gusaba ko urubanza rukomeza barimo , icya tumye dusaba ko rukomeza barimo nuko dusanga bakora ibyo bagomba gukora nkuko bigomba, barakunganira,bubahiriza amategeko, bunganira urukiko nkuko bigomba kandi bisabwa na mategeko, nta kibazo gihari.

Icyo kibazo kindi tuzi twese ko bakiri mu mishyikirano , bakiri kumvikana nizo nzego zindi, ntabwo biri muri ordre yo kukunganira, hano barimo barakunganira , mu gihe bo bemeye ko bashoboye kukunganira umutekano wabo cg guhungabana kwabo uvuga ni ukuhe ko bo biyemereye ko bagiye gukomeza nuyu munsi babyemeye ko icyemezo cy'urukiko bakemeye ko ari nayo mpamvu bahari. Impamvu turimo turasaba ko bakomeza kukunganira ni inyungu z'ubutabera ariko n'inyungu zawe, niba wumva badashobora gukomeza kukunganira waba uvuga ko utakibizeye hagomba gushakwa abandi. Ariko mu gihe bagihari kandi babishoboye, twese tukaba tubona neza ko babishoboye ntabwo twumva impamvu urubanza rwahagarara. Izo mpungenge urimo utubwira abakagombye kuzigira nibo, bo bemeye gukomeza, mu gihe bemeye gukomeza ibindi bikaba bitunganywa kuko barabizi ko bari mu mishyikirano, ikibazo ufite ni kihe? Kereka niba uvuga ko utakibizeye ariko mu gihe uvuga ko ukibizeye, urukiko tukaba tukibizeye, uru rubanza rukaba ruburanishwa n'urukiko, ntitwumva impamvu mwatubwira ko urubanza ruhagarara. Droit de la defense ikivuga niki nuko ugira abakunganira kandi urabafite, barahari amategeko barayazi bemeye gukomeza kukunganira, ibintu byahagara aruko aba bantu batagihari. Ariko mu buryo bwa mategeko barahari ibibazo by'ibihembo byabo ntabwo bisuzumwa hano bifite ahandi bisuzumirwa, ariko bo umurimo bakomeje kuwukomeza, keretse nibatubwira ko batagishaka gukomeza, nibatubwira ko batagishaka kubikomeza byo ni bindi bintu twabisuzuma ukundi .ariko mu gihe Me Gashabana na Me Niyibizi bakivuga ko bashaka gukomeza kubunganira, ko nta kibazo bafitanye namwe, ntabwo numva ko ibyo bibazo bindi byabuza iburanisha gukomeza

Uwinkindi

R ; urukiko runyemere ko ngira icyo mvuga, mbona uru rubanza rushobora kuzamo intandamizo ko urubanza rwanjye rudashobora kugenda neza. Nizo nifuza gusobanurra urukiko izo ntandamizo zishobora gutuma urubanza rwanjye rutagendaneza nizo abavoka nubwo muvuga ngo barahari ariko ntabwo bahari bari kumezi 3 nibwira ko kumwwe kurashize ubwo ni abiri asigaye bakirukanywa, ubwo se wajya mu mizi y'urubanza , bataza komeza kandi ruri kurangira urwo rubanza nkazarutarurira hehe, nizo mpungenge mfite, kereka niba munyizeza yuko mwamaze kuvugana na minisiteri igakuraho iki cyemezo

yafashe , urukiko munyemereye ko minisiteri mwavuganye tukabona icyemezo gikuraho ibi minisiteri yavuze isenda abantu nta cyaha bakoze byashoboka ariko mu gihe bitameze gutyo njye numva nasaba ko urubanza rusubikwa iki cyemezo cya minisitere y'ubutabera kikabanza kikavaho. Kuko no mu masezerano ubwabo bakoze , bayakorana n'urugaga na banyunganira yabaye mu kwezi 10/8/ 2012 basoza bavuga ko icyo basaba aba bavoka bazunganira Uwinkindi kugeza urubanza ruciwe rurangiye. None urubanza ruri mu mpera zo kurangira rugeze mu batangabuhamya mbona ruba rugiye kurangira ntabwo bigeze babirukana rutangiye ntibigeze babirukana rugezemo hagati, urubanza rurarangiye abakagombye kwegeranya imyanzuro kugirango dusubiremo uko urubanza rwagenze, rucibwe mu mucyo bari mu gateganyo bagiye kwirukanwa

Numva minisitere yabanje gukuraho iki cyemezo cyayo, abanyunaganira bagakomeza. Ikindi ngo tugiye kumva batangabuhamya ntabwo nigeze mpura na bavoka banjye ngo twige ukuntu abo batangabuhamya tuzabakira nukuntu tuzumva ibibazo byabo.

PN mutangana

Hari ibibazo byagiye bivuka bijyanye na minisiteri y'ubutabera na bunganira uwinkindi byagiye bikemuka kenshi. Iki kibazo uburyo cyageze ahangaha bakageza ubwo baresilia contrat yabo babahaye,babahaye preavis barababwira ngo mukomeze mwunganie Uwinkindi mu mezi 3 muzahemberwa ako kazi mwakoze. Twagaragaje posotion yacu ahangaha twerekanayuko urubanza rukwiriye gukomeza uretse ko niyo baruwa tutayibonye Uwinkindi yanditse ntabwo bayiduhaye copie cyangwa niba barayiduhaye ntabwo iratugeraho, bashobora kubabayitanze ni mugoroba cyangwa uyu munsi mu gitondo ntitubizi.

Ariko uko byaba bimeze ko ntabwo situation dusanga bavuga uwinkindi yaba arimo yatuma urubanza rudakomeza. Icya mbere ntabwo Me GASHABANA Na Me niyibizi bavuye muri runo rubanza, icyo ni kintu kiri remerquable bavuga ko bakirurimo ariko batameze neza badashobora gukomeza ngo nuwo bunganira atari stable, we akanavuga ko bagiye kuruvamo kandi rugeze ahakomeye. Urubanza batavuyemo badashobora ku rukomeza barashyira urukiko muri situation imeze gute ni ikibazo natwe kiduteye impungenge. Amasezerano bafite n'urukiko rufite, dufite ahanagaha avuga ko bari mu mezi 3 bakomeza urubanza bagahemba amafaranga basanzwe bahembwa nibahari ikibazo batumvikanyeho na Minijust muri ayo mezi 3 cyaba cyakemutse cg gifite aho cyaganye.ariko ntibaruvuyemo bunganiye urukiko kandi baritaba, ntibavuze ngo turarutse ntabwo twumvikanye na minisiteri ngo mushake abandi.

Ibyo kuvuga ngo turabentimida nk'ubushinjacyaha cyangwa turabashyiraho menace ntabwo ari byo nta menace, nibyo koko ntabwo aribo kamara ntabwo aribo bavoka bonyine wenda nibo Uwinkindi yahisemo ariko mu gihe bashoboye kutumvikana na babatera inkunga ya mafaranga, ntabwo Uwinkindi yareka kunganirwa kubera yuko badahari. Gusa icyo tuvuga bibaye byiza hatabonetse ikibazo hagati yabo na leta ibafasha bakomeza urubanza, twe

turababuranya muri runo rubanza. Ariko nibabwire urukiko bati tuvuye muri runo rubanza ntudushoboye kumvikana na minisiteri , ariko kuza mu rukiko bakunganira uwo bunganira abari hagati , bakavuga ko batari buburane kubera ko badatekanye, turasanga atariyo mikorere ikwiye. Tugasanga urubanza rukwiye gukomeza etape rugezeho rwo kumva batangabuhamya, ni etape urubanza rugikomeza ntabwo urubanza rurarangira, ndeste ni abatangabuhamya b'ubushinjacyaha , abadefense igihe cyabo kizagera baze barabafite.

Ariko Uwinkindi kuvuga ko adatekanye kubera ko abavoka be bari muri suspension , ntabwo ari suspesion bari muri preavis baresilie contrat, mu mezi 3 nibwo bashobora ku negocia na minisiteri y'ubutabera bagasubira muri bon terme byaba ari byiza kuri cote yabo urubanza rugakomeza. Ariko kuza bakavuga yuko batari buburane kubera ko Uwinkindi ariwe noneho wanditse ko batari bumwunganire ko atari muri etat psyshologique cyangwa physique yatuma aburana yiregura,yarireguye yatanze ibimenyetso bye, yashenye ibimenyetso by 'ubushinjacyaha aho igihe cyari kigeze cyari ukumva abatangabuhamya b'impande zombi.

iyi baruwa ya minijust bayisubije ngwiki? Bigeze banayisubiza bavuga bati ibyo minisiteri y'ubutabera itubwiye turabyemeye cyangwa ntitubyemeye. Kuki bashaka gushyira urukiko muri etat yo kutamenya aho bahagaze, Uwinikindi arunganiwe abamwunganira mu rubanza nibo bakirurimo, nta numwe urasiba usibye aba afite impamvu turumva rero nta mpamvu nimwe nimwe bafite yatuma batunganira Uwinkindi ngo urubanza rukomeze.

Icya kabiri bakwiriye gufata position kugirango natwe tumenye icyo tubwira urukiko kuri position yabo. Bafate position bavuge bati ibyo ministere yadusabye turabyemeye mu mezi 3 urubanza tuzaba turuvuyemo, cyangwa tuzaba twamenye etape turiho bakumvikana, hari umuntu ubatera inkunga, ariwe leta bagomba kumvikana nawe.ariko mu gihe bataramubwira leta, ibyo watubwiye ntitubyemeye, na details zabo zindi tutazi, dusanga Uwinkindi nta etat ye yahungabana yatuma ataburana uyu munsi. Ni ikibazo gikomeye kuko ubwunganizi butagaragaza position yabwo kugirango urubanza rukomeze, nta mpamvu nimwe ikwiye gutuma urubanza rudindira, rugahagarara, rugasubira inyuma kubera iyi baruwa gusa ya minisiteri y'ubutabera. Hari ikindi igihe habayeho amabaruwa mu myaka yashize ibibazo byarakemutse hagati yabo na minisiteri y'ubutabera.

Ntabwo rero uyu munsi iyi ngiyi yatuma Uwinkindi ibintu byose bihagarara kuko bananiwe kumvikana, nibangaje imishyikirano bakomeze. Nibo bafite umupira mu maboko yabo nibo bafite ibibazo bavuga ariko twe dusanga atari ni ibibazo kuko ntabwo dushaka kubyita izina ritari iryabyo ngo tuvuge yuko bashaka kudindiza urubanza ariko bikomeje gutya byagaragara ko ariho bigana hari ibindi byakemutse hagati yabo na ministere.byaba bigaragara ko bashaka kubidindiza badashaka kunganira uwo bunganira kandi bahari , ntabwo dushaka kubyita gutyo, ntabwo dushaka kubitwara mu nzira dutekereza ko badashaka ko tubitwaramo ni abavoka bari experiented, bafite batonnier kuri equipe ya Uwinkindi na Me Niyibizi urubanza rumaze igihe kinini cyane. Aho rugeze siho Uwinkindi yahungabanira ku buryo atashobora gukomeza kuburana ngo azasubize ibibazo byabatangabuhamya.

Turasaba ko defense igaragaza position yabo urubanza rugakomeza cyangwa rugahagara hari impamvu ifatika.

Uwinkindi

Ikintu kikintera impungenge niyi mvugo ya mezi 3 mugihe contrat basinye yemeza ko amasezerano yameza ko bagomba kuburana urubanza kugeza rurangiye. Kuki bashyira mu gateganyo kamezi 3 ko aricyo cyatumye mvuga nti barashaka kumfatiranya urubanza rurangiye abarukurikiranye bagombaga gufata imyanzuro bafatanyije n'ubushinjacyaha, bafatanyije n'ubucamanza birukanywe noneho hazemo umuntu utazi ibyo ari gukora ibyo aribyo.

Urukiko

Uwinkindi uburyo uri gutwara urubanza wanga kuburana, niho biganisha

Uwinkindi

Njye ntabwo nanga kuburana.

Urukiko

Uri kwanga kuburana. Nonese ko bahari ibyo bya mezi 3 bakaba barimo barabinegocia, kandi iyo contrat uri kuvuga ni hagati yabo na Minijust. Uko kwanga kuburana kandi bahari twese impungenge uri kudutera ahubwo biri kutugaragarira yuko mu byukuri ko utakibashaka kuko niba ubashaka ufite amezi 3, mu mezi 3 ibintu byose bishobora guhinduka. Twakomeza urubanza bikarangira

Ikindi iyo contrat uvuga ntabwo twe itureba, ntabwo bayituregeye, ntadushobora kuyiburana , wowe ntabwo uyirimo, iyo contrat iri hagati ya bavoka, na bareau na minijust na bakunganira. Ntabwo twebwe aba bose urimo ubwira turebwa niyo contrat nta nicyo dushobora kuyihinduraho, abashobora kugira icyo bayihinduraho ni abo batatu bari muri iyo contrat. Wumvishe twese icyo turi kukubaza, imbere yacu tubona abavoka babiri bunganira Uwinkindi ,ntibishoboka ko bakomeza kuza murukiko ngo ntibunganire Uwinkindi kandi batamwunganiye. Twarabasabye ngo mutubwire ibintu ni bibiri, soit barakunganira dukomeze urubanza, soit ntabwo bakunganira , tumenye ko ariko bimeze urubanza ruhagarare hashakwe abandi bavoka. Ariko byombi ntishobora gukorwa ngo batonde byitwako bakunganira kandi batakunganira, ntibishoboka

Niba wumva utakibashaka, utakibizera ku buryo wumva amarangamutima yabo ataguperimetta gukomeza kugufasha nyine ni ukuvuga ko utakibashaka, icyo gihe urubanza rurahagara, ariko mu gihe bakiri abunganizi bawe, bagishoboye akazi kabo ibyo bindi babikemurira ahandi ntabwo bikemurirwa muri audience. Urukiko rutanga injunction kubaburanyi cyangwa kuri minijust cyangwa kubandi bose mu gihe rwashyikirijwe ikirego,

hafatwa n'icyemezo cy'urukiko. Ntabwo dutanga injonction kuri minijust mu gihe tutaregewe ntabwo baturegeye. Ba maitres barabizi inzira bicamo, iyo batakishimiye hari inzira zo kubiregeramo, babiregere niba bashaka no kubiregera, ariko ntabwo bikorwa muri uru rubanza. muri uru rubanza tubona ibintu bibiri urunganiwe kuri twebwe, kugeza ubu nta kitugaragariza ko utunganiwe. Mu gihe waba usanga utunganiwe, cyangwa utizeye abavoka bawe, ni uburenganzira bwawe bivuge urubanza ruhagarare.

Q; ubu icyo tubakeneyeho murakomeza urubanza cyangwa ntabwo mukomeza urubanza, nta bindi twakumva byasuzumwa?

Uwinkindi

R; ntacyo mpfa na bavoka banjye nta nubwo nshaka ko bava mu rubanza rwanjye.ikintu kimbabaje nuko minisiteri iyo ibuze amafaranga yo kwishyura abavoka ngo bibe icyaha cyo kwirukana abavoka.

Urukiko

Sinzi niba Abavoka batunguwe nabo ni ibarwa yanditswe nuwo bunganira turabona hasa no kutavuga rumwe, ukurikije uko twarangije iburanisha ubushize twumvikanye ko dukomeza ko niba hakiri n'ibibazo muganira na minisiteri bishobora no kuzakemuka. Sinzi niba mwatunguwe ni ibarwa ku buryo twabaha umwanya mukavugana. Uwo mwunganira aravuga ko mudatekanye cyangwa mukavuga ko ariwe udatekanye, sinzi aho ikibazo kiri? Sinzi niba mutarabonye umwanya uhagije ngo muvugane ku bibazo byiyo barwa ye kuko ntacyo tubona cyatuma audience ihagarara? Niba urubanza rugeze ahangaha ntabwo bivuga ko ibibazo bitari bihari nu bundi mwavugaga ko ari ibibazo byo gushaka abatangabuhamya, byose ni ibibazo mu kigeza kuri minisiteri kandi ni ibibazo ishobora kuzasubiza. Kuki iburanisha rihagara muri kumwe na avoka, kudatekana kuri kuri inde, ni kuri mwe cyangwa kuwo mwunganira, biterwa niki? Wenda tubahe umwanya mutoya muvugane?

Me Niyibizi

Ngirango kubijyanye n'icyemezo cyari cyafashwe n'urukiko, nka bavoka birumvikana ko cyari cyafashwe n'urukiko. Ariko ntabwo bivuze ko abavoka bigeze bemera ko nta kibazo bafite mu kuburana uru rubanza, nyuma yuko twirukanywe na minisiteri y'ubutabera.

Ku bijyanye nuko umucamanza yabajije ati ese iki kibazo mwakinganiriyeho nuwo mwunganira.Rwose iki kibazo gisanzwe kizwi mavuze ko hari amaudiences abiri yose yabaye kuri iki kibazo, dusanzwe tukizi kandi tukivugaho rumwe nuwo twunganira, ntabwo rwose ubu turimo tuvuga ko dutekanye, tukaba nta kibazo dufite ahubwo ibyo yababwiye nibyo natwe twakomeje kubabwira. Ariko aranavuga ati niba urukiko rufashe icyemezo cyo kuburanisha uru urubanza, byumvikane ko bitari mu nyungu zanjye kuko njyewe numva mbangamiwe no kunganirwa na bavoka bafite ibibazo bingana kuriya.

Ndagirango mbabwire ko iki cyemezo gifatwa na minisiteri y'ubutabera urubanza twararuburanaga nta kibazo, bibereka yuko ari uwo twunganira ari twebwe dufite ubushake bwo kuburana uru rubanza. Mu gihe nari ndiho ntegura imyanzuro yinyongera nkuko mwari mwabidusabye ni nabwo ibaruwa yo kutwirukana yasohotse, batonnier arampamagara ngo uzi yuko batwirukanye nahise ncika integer, biranumvikana usibye n'umushinjacyaha numvishe avuga ko hari ikibazo ntabwo waba uri gukora bakubwire ngo barakwirukanye ngo ukomeze ugire moral, turi abantu twese Atari ni kibazo cya marangamutima

Abahagarariye ubushinjacyaha baramutse bagiye muri iyo situation byagenda gute? Mu mbabarire ntabwo mbifurije ngo bajye mu nteguza

Urukiko

Bo biroroshye murazi ko ari instutition ntabwo bashobora guhagarara, nta rimwe barahagarara kubera ko umwe muri bo yabuze, bazana abandi. ariko twe ntabwo aricyo twifuza ko Uwinkindi yakomeza kugira abavoka bahindagurika. Twe twizera ko dossier murayizi, mu maze igihe muyiburana, ibibazo nkuko babivuze si ubwa mbere muhuye nabyo, murabona ko dutakaje isaha yose turiho tudiscita ku bintu ttwamaze gufataho icyemezo, ubu rero tugiye gukomeza

Ubu tugiye gukomeza iburanisha niba mwumva mutiteguye kubera yuko mwahise mujya mugukemura ibyo bibazo, tuzabaha ikindi gihe musubize kuri ya 30min mwagomba kugira ariko ubu tugiye kumva abatangabuhamya. 30 min kugirango mu intervene kuri ibyo.

Me niyibizi

Twariho tuvuga ku kibazo umucamanza yabajije

Urukiko

Twabyumvishe.

Nsoze mvuga ko nubwo iki cyemezo cyafashwe na minisiteri cyabaye publié mu binyamakuru.

Urukiko

Turabizi, mwarabivuze kuri 2 sceances ntabwo turi butakaze umwanya w'uyu munsi. Ikindi dushaka kubamenyesha, izo sceance zose Leta ikomeza kwishyura les frais zo kuzana abatangabuhamya bo kuza kumvwa, ubwo muri kutubwira ko dukomeza kwangiza les ressources za Leta abatangabuhamya batumvwa. Ibyo ndumva mu byukuri nkaba professionnels bitari bikwiriye.

Twabasabye kutubwira, kugeza ubu icyo tumaze kumva nuko mu kiri mu rubanza nta kindi turi bwumve kiri contraire yicyo.muri mu rubanza murunganira Uwinkindi, Uwinkindi aracyabizeye, urukiko ruracyabizeye sinzi ikibazo mufite. Apres tout ntabwo muburana

imbere ya ministere de la justice, Ministre de la justice muracyafite imishyikirano mukora, ntabwo murimo murayikora muri aya masaha, mureke aya amasaha tuyabyaze umusaruro dukoreshe nkuko bigomba iburanisha rirakomeje. Izo discussion twabifasheho icyemezo ntabwo tubigarukaho. Icyemezo cy'urukiko ntabwo kiri buhinduke, uyu munsi turaburanisha.

Me Gashabana

Icyemezo wenda muragifashe ariko ntikidushimishije kuko dusanga gisa nk'icyemezo gihatira umuburanyi kuburana mu gihe ya bagejejeho impungenge afite, zikaba zishingiye yuko adatekanye adashobora kubona ubutabera mu mucyo, turasanga twabasaba mu bushishozi bwanyu yuko :

1. ko icyo cyemezo tutakemeye tukaba tunakijuririye sur le banc. Tukaba tunasaba ko iriya principe ya effet suspensif de l 'appel yakubahirizwa dushingiye ku ngingo ya 18 y'itegeko rya transfert ivuga ko ubushinjacyaha n'uregwa bafite bombi uburenganzira bwo kujuririra icyemezo icyo aricyo cyose cyafashwe n'urukiko mu gihe harimwe cyangwa zose mu mpamvu zikurikira kwibeshya ku ngingo y'itegeko, gutuma icyo cyemezo gita agaciro no kwibeshya gushingiye kubyabaye byatumye urubanza rucibwa nabi. Iyi ngingo ivuga icyemezo cyose kandi mwatubwiye ko mwafashe icyemezo mu rwego rwo kubahiriza uburenganzira bw'uregwa turabasaba ko effet suspensif iba d'application noneho bikazanadufasha ko mu kanya mwahoze mutubwira ngo hari negociations ndumva mubikura muri ya baruwa yandistwe na ministere avuga Minisitiri avuga ko yagiranye inama na batonnier, inama itabayeho, kugeza na nubu icyo tuzi niriya baruwa batwandikiye batubwira ko badusezereye au milieu de la procedure kandi contrat yaravugaga ko tuzakurikirana uru rubanza jusqu'à la fin de la procedure.

Ni muri urwo rwego tubasaba mu bushishozi bwanyu dushingiye ku bujurire tumaze gusaba ko buba acte hakoreshwa effet suspensif ya appel, nziko bashobora kutugarura muri art 163 ya Code de Procedure Civile ivuga ku byerekeranye na appel contre un jugement preparatoire, biramutse bibaye gutyo nous allons vous renvoyer a l'article 18 ivuga icyemezo cyose cyafashwe n'urukiko, ndanongera kuko ikibazo dufite aha ni ikibazo cy'amategeko nibutsa article 27 de la sur le transfert iravuga iri tegeko niryo rikurikizwa igihe hari aho rinyuranyije n'andi mategeko asanzwe. Iri tegeko ni loi organique , code de procedure ni loi ordinaire iyo habaye conflit hagati yizo lois zombi, je crois que c'est la loi organique qui prime. Ariko ku byumwihariko kuri iri tegeko baravuga ngo niryo rikurikizwa, byumvikane ko c'est une disposition legale imperative d'ordre public et districte interpretation

Nous sommes en matiere penale, muzareba article 180 de la loi no 30/2013 du 24/5/2013 portant sur Code de Procedure Penale iravuga il est sursi a l'execution du jugement jusqu'à l'expiration d'appel et en cas d'appel jusqu'à la decision d'appel, irangizwa ry'urubanza riba rihagaristwe kugeza ku munsi igihe cyo kujurira kirangiriraho cyangwa niba umuntu

yarajuriye kugeza igihe byafatiwe. vous avez pris une decision, vous voulez le mettre en execution murashaka ko tuburana, ariko turabagaragariza ko icyemezo mu maze gufata non seulement cyakagombye kuba l'objet ya effet suspensif de l'appel cyane cyane ko bavuga icyemezo icyari cyo cyose, on ne fait pas difference entre un jugement avant dire droit et un jugement definitif. Tous les jugements zose zirajuririrwa ariko na noneho tumaze kubagaragariza article 27 de la loi sur le transfert ko ariyo yubahirizwa kuri loi isanzwe.

Ariko na noneho nous avons la reponse, s'agissant d'une procedure penale pas une procedure civile ici iri muri art 180 ya Code de Procedure Penale aho tubasaba ko icyemezo mwari mwafashe twubashye, twabubashye en tant que une Institution mwafashe icyemezo, mudufashe rero mumaze kwacta ubujurire tumaze gutanga, turanabasa yuko iyi principe ya effet suspensif de l'appel yaba d'application dushingiye kuri ziriya ngingo ebyiri twavuze.

Nous n'allons pas plaider l'appel, twagirango dutange quelques explications, Uwinkindi yoherejwe n'icyemezo. Je voudrais solliciter votre comprehension.

Urukiko

Nous la comprenons

Me Gasahabana

Ni ukugirango ntange la petite explication, c'est juste une phrase

Urukiko

Tuziko nta cyemezo dushobora kubifataho, bizasuzumwa n'Urukiko rw'Ikirenga. L'appel ntabwo mwayikoze imbere yacu, iyo explication ntacyo turibuyifateho nk'icyemezo.

Me Gashabana

Ariko ni mubyumve

Urukiko

Twabyumvira iki kandi hari ubutabera no muri Cour Supreme hari ubutabera. Nta mpamvu ko twakomeza kumva ibintu tutari bubifateho icyemezo, muzabivuga imbere ya cour supreme ni uburenganzira bwanyu, nous avons acté l'appel. Turasaba ubushinjacyaha ko bagira icyo babivugaho niba bagifite. Icyo mwadusabye twebwe nuko habaho suspension y'urubanza kubera appel mwakoze, tugomba kubifataho icyemezo. Je vous

Pn Ruberwa

Twe nta na byinshi tuvuga kuko ni uburenganzira bw'uregwa kutishimira icyemezo urukiko rufashe akanakijuririra. Gusa ibyo tutemeranywaho ni interpretation aha amategeko itariyo ku bijyanye na effet suspensif. kandi Nawe yabyiyumviye azi yuko ingingo z'amategeko yavuze hari izimugonga cyane cyane ingingo ya 163 ya Code de Procedure Civile ivuga ku

bijyanye ni byemezo bifatwa mu manza zibanziriza izindi ni ukuvuga jugementa avant dire droit, azi neza ko ibyemezo biftwa bijuririrwa hamwe n'urubanza mu mizi. Ubujurire bugasuzumirwa hamwe n'urubanza mu mizi, ntibihagarike. Icya mbere tubanza gukosora nuko La loi sur le transfert , itegeko ryimurira abaregwa mu Rwanda bavuye muri TPIR cyangwa mu bindi bihugu atari loi organique, ni loi ordinaire, niba akinakoresha loi organique yaba yarasigaye inyuma.itegeko riri en cours une loi ordinaire, ni itegeko nk'irindi. Ikintu yashatse no kuvuga, avuga ngo asabye effet suspensif ashingiye kuri article 18 yayisomye kereka niba hari igice yaba yibagiwe kivuga ko ibyo byemezo, iyo bijuririwe, inkiko zifite inshingano yo guhita zihagarika iburanisha, niba atahageze, akaba muri iyo disposition ya article 18 abifitemo aze kubidusomera, tant que bitarimo ntibirimo ntabwo yabivugisha article 18 itarabivuze. Article 18 nibyo koko yemera ko uregwa n'ubushinjacyaha bafite uburenganzira bwo kujuririra ibyemezo byose bifatwa n'urukiko, bashobora kubijuririra nta kintu kiri special, ni nabyo bakoze kandi urukiko ntirwabyanze. Ariko ntabwo yigeze igira hepfo ngo ivuge icyemezo icyo aricyo cyose gifashwe, ngo urukiko rujye ruhagarika iburanisha rutegereze decision en appel, ntabyavuzwe. Ntabwo rero ashobora kuvugisha article 18 ibyo itavuze. Niba ariho yashingiye asaba effet suspensif, est bien kereka niba yaba afite disposition itandukanye niyo dufite akaza kuyidusomera ariko ntabwo byigeze biteganywa bityo. Ingingo ya 180 ngirango nu bushize twabiburanyeho imbere y'uru rukiko runabifataho icyemezo ya Code de Procedure Penale, effet suspensif iteganya ni jugement definitif ntabwo ari jugement avant dire droit kandi ibyo ntawugiye kurangiza urubanza definitif rwa Uwinkindi, ntaruracibwa. Ntabwo rero ashobora kuzana jugement avant dire droit noneho ngo ashimgire kuri article 180 iteganya effet suspensif za jugement definitif. Tukumva rero effet suspensif yasabye itari juridiquement motivé, idakwiriye guhabwa agaciro, ubujurire bwe bwaba acté ntibibuze ko urubanza rukomeza kuko nta motivation juridique yatanze igaragaza yuko urukiko rutegetswe guhagarika iburanisha. Kuri twe tukumva iburanisha ryakomeza ubujurire bwe bukaba acté yanashaka bugakomeza ntibibuze ko urubanza rukomeza.

Urukiko rugiye kubifataho icyemezo mu minota 10 turaza tubabwire icyemezo cy'urukiko.

ICYEMEZO CY'URUKIKO :

Kubisabwe na Uwinkindi na bamwunganira yuko batumenyesheje ko bajuriye bakaba bifuza ko urubanza rwahagarara kubera ubujurire bwabo.

Urukiko rwemeje ko nta mpamvu yo guhagarika iburanisha ko rikomeza.

Me Gashabana

Mbere yuko iburanisha ryakomeza hari ibyemezo tugeza ku rukiko :
1. Nuko tuzakomeza kunganira uwinkindi muri uru rubanza tukubahiriza inshingano twahawe.

2. turasanga mu rwego rwo kunganira Uwinkindi ubujurire bwatanzwe, aricyo kintu tugiye gukomeza kubahiriza mu gutegura imyanzuro y'ubujurire no kubigeza kuri greffe ya Urukiko rw'Ikirenga kuko dusanga aribyo byatuma ahabwa uburenganzira mu mucyo nkuko ingingo ya 19 ya Constutition. Ibisaba.

Tukaba tubasaba ko twaba turetiriye notre comparution mu urubanza rwa nonoe kugirango dukomeze gukurikirana ubujurire twatanze imbere y'urukiko rwanyu twizerako Urukiko rw'Ikirenga rwazasubiza. muri ibyo bihe rero turasanga ari byiza ko twaba twaba turetiriye notre comparution imbere yanyu.

Urukiko

Ni comparution ya bavoka cg ya Uwinkindi ?

Me Gashabana

R ; ndumva ari twese.

Urukiko

Ni ukuvuga yuko mutakiri mu rubanza kuko urubanza rwo rurakomeza.

Me Gashabana

Ntabwo twigeze tuvuga ko tutakiri mu rubanza.

Urukiko

Mu gihe twavuze yuko urubanza twavuze yuko urubanza rukomeza, mwebwe mukavuga yuko mutagishaka kuba mu rubanza, ubwo consequences juridiques directes turumva ari ukureka urubanza. Niba musanga ariko bikwiye mwabitumenyesha, kuko urukiko rwo rwavuze ko urubanza rukomeza. Mugihe musanga comparution yanyu, mutagihari, mutakiyifuza, tubifate gute ?

Me Gashabana

Mubifate que c'est juste un rertait de la comparution pour nous permettre gukurikirana iby 'ubujurire dushaka kugeza kuri Cour Supreme. ariko ko atari ukuva mu rubanza kuko nibyo dukora muri Cour Supreme ni urubanza.

Urukiko

Atari uru ariko ? ubwo hari urundi rubanza mu giye kujyamo twabyumvishe.

Me Gashabana

C'est la meme.

Urukiko

Ubushinjacyaha murabivugaho iki ?

Pn Ruberwa

Twe dusanga icyemezo cy'urukiko cyafashwe. Kandi basabye kuva murubanza kuko retrait de la comparution ntibaho, nawe arabizi, nasohoka ni ukuva mu rubanza, mukurugarukamo bifite izindi nzira binyuramo ari libre rwose ntekereza ko urukiko rutari bumutangire ariwe ari na Uwinkindi. Bavuze yuko bagiye gusohoka mu rubanza, gusohoka muri audience urubanza rurimo bivuga kuva mu rubanza, nta retrait de la comparution ibaho, nawe arabizi ko idateganyijwe mu mategeko. Nave mu rubanza rukomeze, rwose procedure za mategeko zirahari. Twe turumva ni icyemezo yafashe bakwiriye kucyubahiriza bakava mu rubanza rugakomeza, bazashaka kurugarukamo bagakurikiza procedures zo kurugarukamo, niba abavoka bavuye mu rubanza baruvemo, niba Uwinkindi nawe ashaka kuruvamo aruvemo, bifate umurongo ariko ho gukoreshwa amagambo atabaho, ho gukoreshwa inzira zidateganyije mu mategeko ngo retrait de la comparution niki se ? ziteganyijwe mu yihe procedure se ? ntayo nawe arabizi. Icyemezo cy'urukiko cyafashwe umuntu ashobora kutakishimira, ni ngombwa icyemezo cyose gifashwe kigira uruhande kibangamira kuko haba hari uburyo umuntu atakifuzaga. Na volonte yo kuva mu rubanza il faut gushikama ukavugisha ukuri ibintu uko biteye. Nta procedure ya retrait de la comparution ibaho, soit bari gusaba remise yo kwitegura ubujurire, urukiko rugasuzuma niba yashoboka bakaba bakiri muri uru rubanza ariko tant que urukiko rwafashe decision yuko urubanza rukomeza iburanisha rikomeza, nibasohoka muri iyi audience ni ukuruvamo kandi biraba acté, kuzarugarukamo inzira zabyo nazo zirahari, bakwiye no kubisobanurira uwo bunganira, nawe nafata iyo decision ntekereza n'urukiko bibaye byiza bamusaba usibye ko nanasohoka biraba byivugiye, nta nubwo ari ngombwa ko abivuga. Nafata decision yo gusohoka tant que iburanisha rikomeje ni burenganzira bwe, nafata decision yo kuguma hano akareka kuvuga nayo nindi droit afite. Icyemezo cy'urukiko turumva ko gikomeza gushyirwa mu bikorwa, iburanisha rikomeze, bo basohoke niba babishaka, nibanashaka bahagume kubera ko bavuze yuko biretiriye baraba ari public mu rubanza batakirimo kuko bafashe decision yo kuruvamo. Par ailleur turaza gusaba urukiko ko rwanabasaba kujya muri place ya public, ariko urubanza rugakomeza.

Me Gashabana

Ndagirango byumvikane ko un retrait de la comparution atari ukuva mu rubanza.nous n'avons refusé yo kunganira Uwinkindi.

Icyo twasabye ni uko twagaragaje impungenge dufite kuko Uwinkindi adashobora kubona un proces equitable, urukiko ntirwatwumvishe twajuriye, icyo dusaba ni muduhe akanya ko gukomeza ibibazo dufite mu rwego rw'ubujurire, igihe cyose bizaba byakemutse tuzagaruka. La confiance entre notre client et nous, est totale. Ariko turashaka ko un autre siege puisse

se saisir ce dossier kugirango tuyigaragarize ibibazo dufite. Ndumva mwabyandika uko nguko kuko kuva izi polemiques zatangira au niveau du ministere public c'était toujuors la meme langue, ntabwo ari bakamara, nibavuge bagende, namwe numvishe musa nkababivuga, ntabwo tuvuye murubanza, turashaka ngo dukomeze procedure yiki cyemezo mwafashe au niveau de la Haute Cour et en attendant nous retirons notre comparution a l'audience de ce jour

Urukiko

Turumva Uwinkindi icyo abivugaho.

Uwinkindi

Ndacyafite ibintu bintangaza kandi binambabaza kwicara ahangaha muri Gereza imyaka irenze 3 ntaramenya iyo ndi, ndi mu gihirahiro.

Urukiko

Turakwibutsa twebwe nk'urukiko twifuza gukomeza urubanza, sitwe turimo turabitinza. Ikindi tukwibutsa nuko ubushinjacyaha bwo burahari. Mwebwe ibyo mwatubwiye dushaka ko muvugaho mutubwiye ngo mushaka guhagarika comparution sinzi niba bakubwiye icyo bivuze, niba bagusobanuriye icyo bivuze ni ukuvuga ngo uru rubanza mwari mururimo, twabahamagaye muritaba, mugiye kurusohokamo ni mwebwe mwabifasheho icyemezo ntawubasohoye, ntawahagaritse iburanisha, nta wuri gutinza urubanza nimwebwe biri mu maboko yanyu, ikibazo tukubaza icyemezo abavoka bawe batumenyesheje ese niko ubyumva ? Niba ariko ubyumva ni uburenganzira bwanyu twebwe twafashe icyemezo cyuko urubanza rukomeza, rurakomeza.

Uwinkindi

Njye ndahera kubyo numva kandi mwambajije kugirango mbasubize

Urukiko

Twumvikane, ubu ni saa yine tumaze amasaha abiri turimo turavuga, icyemezo cyafashwe. Mutubwire ko mukomeza urubanza cyangwa mwahisemo kwigendera mugakomeza ibindi, cyangwa niba uri kumwe nabo cga ngwa mutarikumwe ni uburenganzira bwawe , twe turakomeza urubanza.

Uwinkindi

Njyewe icyanzanye ahangaha ni ukuburana, nicyo cyanzanye mu Rwanda kandi nkunganirwa nkuko amategeko abivuga. Icyo muri kuvuga ni ikintu cyatangiranye nuru rubanza ubushinjacyaha buhata abavoka banjye kwegura, none uyu munsi ndumva babahata kwegura, bivuye kubanyunganira nanjye barampata kwegura urubanza rwanjye,ndarwegura ruburanywe nande ?

Urukiko : Ninde waguhase kwegura ?

Uwinkindi : Ni ubushinjacyaha.

Urukiko : Rekada ni abavoka bawe niko bo babisabye.

Uwinkindi : Ntabwo bavuze ko beguye.

Urukiko : Bavuze iki ?

Uwinkindi : Bavuze ko bajya kujurira bakicara ku myanzuro no gutanga ubujurire.

Urukiko : Twavuze iki twebwe ?

Uwinkindi : Mwavuze ko mutuburanisha ku gahato.

Urukiko : Ubwo rero uraburanishwa.

Uwinkindi : Ntabwo nshobora kuburana nta mfite unyunganira niko itegeko rivuga. Niba mukurikiza amategeko Ntabwo nshobora kuburana nta mfite unyunganira mu mategeko ,kandi ntabwo mvuye mu rubanza.

Urukiko : Abavoka bawe bavuze ko bakunganira.

Uwinkindi : Bavuze ko banyunganira ?

Urukiko : cyane. Bavuze ngo twandike neza ko bakunganira.

Uwinkindi : Ntabwo mbizi ko twari hamwe mu rukiko.

Urukiko : Bavuze ibintu bibiri bagiye kumenyesha urukiko.icya mbere nuko bkomeje kukunganira. Icya kabiri nuko bo bashaka kwikomereza izindi procedures nubwo turi muri uru. Ntabwo dutegekwa na bavoka, urukiko nirwo rufata icyemezo kikubahirizwa.

Uwinkindi : Urukiko se rufata icyemezo gikuraho amategeko ?

Urukiko : Urimo uraharira n'urukiko ? Mu gihe mwiyemeje ko muvuye mu rubanza ni uburenganzira bwanyu, twumvishe position yawe icara-twe dukomeje urubanza.

Uwinkindi : Byaba bintangaje mushaste kumburanisha ntagira abanyunganira.

Urukiko. :Tugiye gufata pose yi min 30, hanyuma dukomeze twumva abatangabuhamya.

Tugiye gukomeza iburanisha twumva umutangabuhamya wa mbere ariwe BZI.

Uwinkindi

Hari ikibazo ntarasobanukirwa muravuga ko mugiye gukomeza kuburanisha kandi kuva kare nababwiye ko abavoka tutigeze twicarana ngo tugire icyo tuganira ku batangabuhamya. Icya kabiri nkurikije itegeko nshinga iriya ngingo ya 18 agaka ka gatatu ivuga ko kunganirwa ari

uburenganzira, umuntu agenerwa na mategeko igihe icyaricyo cyose, akaba ari uburenganzira budahungabana mu gihe cyose, ahantu hose mu nzego zose zaba iz'ubutegetsi, zaba iz'ubucamanza, njye nkabona ntunganiwe kandi bidakwiye kuko nkeneye abavoka, ese nubwo bariya bakwirukanywa nta bavoka naba nkeneye ? Ese uriya mutangabuhamya azagaruka ? Ntabwo ndibuburane ntafite unyunganira kuko ntazi amategeko kandi niseguye kare ko ntigeze mbona abavoka ngo tuganire ku kibazo cy'abatangabuhamya.

Urukiko

Ariko twakubajije mbere yuko abavoka bawe bagenda, abavoka bawe bavuze kare ngo bagiye kujurirra, twakubajije ngo ushyigikiye icyemezo cyabo, iyo basohotse mu rubanza badashaka kukunganira, haba hasigaye ibintu bibiri, wowe urakomeza ugashakirwa abandi bavoka kuko bo bavuye mu rubanza cyangwa ufatanyije nabo ubwo ntuhari, nubu nta ni jambo dukwiye kuguha kuko wiyemeje kutahaba kuko bo biyemeje ko badahari. Tubwire rero icyo uhisemo kuko niba uhisemo ko uhari, ubwo turumva ko utunganiwe ushakirwe abandi bavoka.

Uwinkindi : Njye ndahari ariko ntabwo nunganiwe.

Pn Ruberwa

Uwinkindi Kkuba avuga ko ahari ni ukuvuga ko ari mu rubanza, ahubwo bikagaragara ko yatengushywe na bamwunganira ,dusanga urukiko rukwiriye kubifataho icyemezo, ko Uwinkindi ri mu rubanza ,abavoka be bakaba bahisemo kuruvamo ariko we arurimo hanyuma iki cyemezo kimenyeshwe minisiteri y'ubutabera kinamenyeshwe urugaga kugirango, 1.harebwe niba koko imyitwarire ya bamwunganira yari ihwitse cyane cyane ku bijyanye ni icyemezo urukiko rwari rwafashe na comportement abunganira Uwinkindi bagize yo kumutererana muri audience, icyo kintu urukiko rubifateho icyemezo, inzego zibifite mu nshingano zibishyire mu bikorwa kuko bigaragara ko bateshutse ku nshingano zabo kandi bakabikora nkana basuzugura, tugasanga Uwinkindi adakwiriye kuba victim yo gutereranyw na bamwunganira mu rubanza, muri audience cyane cyane ko noneho ni itegeko rya transfert riteganya ko agomba kuburana yunganiwe. Tukumva icyo cyemezo urukiko rwagifata kikamenyeshwa inzego twagaragaje cyane cyane ahagaragazwa kwica amahame y'umwuga ugenga abunganira abandi mu nkiko, kuko icyambere gusuzugura icyemezo cy'urukiko uri umwavoka, icya kabiri gutererana umuntu wunganira mu rukiko dusanga binyuranyije n'imyitwarire igenga abunganira abandi mu nkiko.

Urukiko

Rugiye gufata icyemezo ku rubanza rukomeza cyangwa rusubikwa.

Icyemezo cy'urukiko

Urukiko rumaze kubona ko nyuma yuko rufashe icyemezo cyo gukomeza ibinfluenza mu rubanza RP 0002/12/HCCI, Me Gatera na Me niyibizi BUNGANIRA Uwinkindi Jean bakavuga ko bikuye mu iburanisha bikaba bigaragara ko basuzuguye icyemezo cy'urukiko bagamije gutinza gusa urubanza ,

rushingiye ku ngingo ya 15 y'itegeko n0 21/2012 du 14/6/2012 yerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ibucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ko gutinza urubanza ku bushake bikozwe n'umwavoka bituma acibwa ihazabu iva ku f 200.000 y'Urwanda kugeza ku f 500.000

Rusanze Me Gatera na Me Niyibizi buri wese agomba gucibwa ihazabu ya F 500.000.

rusanze uwinkindi atabura atunganiwe, bityo iburanisha ry'uru rubanza rikaba ryimuriwe ku itariki ya 21/01/2015.

Icyemezo cy'urukiko : urukiko

Rwemeje ko Me Gatera na Me Niyibizi baciwe ihazabu ya F 500.000 kuri buri wese.

Rutegetse ko iyi hazabu igomba gutangwa urubanza rukimara gusomwa.

Rutegetse ko iburanisha ry'uru rubanza rizakomeza ku itariki 21/01/2015 saa mbiri n'igice

Nuko rukijijwe kandi rusomwe mu ruhame none n'urukiko rukuru, urugereko ruburanisha imanza mpuzamahanga ruri ikigali.

UWINKINDI Jean

PN MUTANGANA Jean Bosco

PN RUBERWA Bonaventure

INTEKO

NSANZIMANA Fidele	**NGENDAKURIYO R. Alice**	**KANYEGERI Timothée**
Umucamanza	**Perezida**	**Umucamanza**

UWASE Zita

Umwanditsi

REPUBULIKA Y'U RWANDA

URUKIKO RUKURU

URUGEREKO RWIHARIYE RUSHINZWE KUBURANISHA IBYAHA

MPUZAMAHANGA N' IBYAMBUKA IMBIBI.

PV D'AUDIENCE DU 02/06/2015

RP 0002/12/HCCI : MP C/ UWINKINDI Jean

Urubanza ruhamagawe hitabye UWINKINDI Jean, Ubushinjacyaha nabwo bwitabye buhagarariwe na PN RUBERWA Bonaventure . Hari na Me HISHAMUNDA Isaacar na Me NGABONZIZA Joseph, bashyizweho n'Urugaga ngo bunganire UWINKINDI.

UWINKINDI : Nta mwunganizi mfite nkuko nabibabwiye kuva kera. Sinigeze mbasaba, simbazi, sinigeze ngirana nabo ikiganiro. Bononnye urubanza rwanjye kuva bamaze kurwinjiramo.

Icya kabiri, nasabaga ko iri buranisha risubikwa kubera impamvu zikurikira : Hari icyemezo mufite cya Perezida wa Mecanismes, urubanza rugategereza icyemezo kuri uru rubanza, kuko hashyizweho inteko yo kwiga iki kibazo. Naho aba bavocats si abanjye.

Q : Hari abavocats washatse tukabamenya?

R: Abo nari mfite nabambuwe mu maherere. Aho mariye kubamburwa rwatangiye kugenda nabi

Q: Ni iki bakoze ngo rugende nabi ? Abavocats bawe ba mbere bikuye mu rubanza, hanyuma ugenerwa bandi, bakoze iki ngo urubanza rugende nabi ?

R : Sinigeze nsaba aba bavocats, kandi n'aba mbere ntibikuye mu rubanza. Umuavocat aburanira umuntu ari uko uwo aburanira amufitiye ikizere, bakaganira, bakamenya ibibazo bye.

Q : Me murabivugaho iki ?

Me NGABONZIZA : Twitabiriye iburanisha rya none kubera ko twubahirizaga icyemezo RPA 0011/15/CS, cyane cyane mu gace ka 67, aho Urukiko rwavuze ko icyemezo cyafashwe n'Urukiko Rukuru ko twashyizweho mu buryo bukurikije amategeko. Hari n'ibaruwa y'Umukuru w'Urugaga, yongeraga kutwibutsa inshingano twahawe zo kunganira UWINKINDI Jean. Tukaba twumva rero tugomba kugaruka mu rubanza, tukunganira UWINKINDI. Dukomereje aho, hari ibyifuzo twashyikirije Urukiko twagira ngo Urukiko rufateho icyemezo :

Icyifuzo cya mbere, ni uko dusaba ko iburanisha ry'uru rubanza, risubikwa kugira ngo tubone dosiye tunayitegure. Ntidushobora gukomeza uru rubanza tutarwize. Mu gihe tuzaba turangije kwiga dosiye, ikazatangira bundi bushya, kuko ntabwo abavocats ba mbere bari banaduha iyo dosiye. Umwanya twayiteguramo waterwa n'uko dosiye ingana.

Q : Me gusaba igihe mutavuze icyo ari cyo, ntabwo byashoboka

Me NGABONZIZA: Ntabwo turamenya uko volume y'akazi ingana, mwaduha igihe mushingiye ku bunini bwa dosiye

Q: Me Isaacar?

Me Isaacar: icyemezo cy'Urukiko ni itegeko, niyo mpamvu turi aha. Icya kabiri ni uko Urugaga rudukuriye rwatwibukije inshingtano zo kuba muri uru rubanza. Ibyemezo by'Urugaga bisumba indi mirimo yose dufite. Imanza z'abatishoboye zihagarika izindi manza zacu. Aha nkaba navuga ko urubanza rutagenda nabi kubera twebwe. Iyi baruwa twayibonye ku wa gatanu, hahita haza week-end. Impungenge afite natwe twazishyize mu ibaruwa, kuko tugomba kubonana nawe. Ikindi ni uko interets de la justice nazo zigomba kubahirizwa. Turifuza ko urubanza rwazaba contradictoire, impande zose zihagarariwe.

Q : MP ?

PN RUBERWA : Hari ibyavuzwe na UWINKINDI ko hari icyemezo cya Perezida wa mecanismes, twe ntacyo dufite, ntacyo yaduhaye. Urukiko rugifite rwadufasha rukakiduha, tukagira icyo tubivugaho.

Q: Icyo cyemezo UWINKINDI yagitanga.

PN RUBERWA: Iki cyemezo dusomye turasanga ntaho cyahurira no gusaba isubikwa ry'urubanza, kuko ni UWINKINDI wasabye ko urubanza rwe rwasubizwa Mecanismes ikaba ariyo iruburanisha. Kuba yarabisabye, ntabwo mecanismes yigeze ivuga ngo urubanza ruhagarare. Si nabwo bwa mbere abisabye, nta kimugarantissant rero ko bizemerwa ko urubanza rwasubizwa mecanismes. N'izindi nshuro yabisabye ntibyemewe. Icyemezo nigifatwa bikemerwa, aho urubanza ruzaba rugeze hose, n'iyo yaba mu bujurire kizubahirizwa. Tukaba dusanga nta mpamvu yatuma urubanza rusubikwa.

Ahubwo ku kijyanye no kuba atemera abavocats yahawe, turasanga aricyo kibazo nyamukuru kigomba gusuzumwa ahangaha. Uregwa utishoboye wahawe abamwunganira, kuba uyu munsi abunganizi yagenewe atabemera, turasanga aricyo gikwiye gusuzumwa. Urukiko rwemeje ko umuntu utishoboye adafite uburenganzira bwo kwihitiramo umwunganira, ko amugenerwa, ni ko Urukiko rw'Ikirenga rwabyemeje. Uwihitiramo umwunganira ni ufite uburyo bwo kumwiyishyurira. Tugasanga rero ubu UWINKINDI kubanga, nta mpamvu zishingiye ku Itegeko afite. Urukiko rukaba rugomba gusuzuma niba akwiye kwanga abamwunganira. Ese yakwiburanira hashingiwe ku byaha aregwa?

Turasaba ko Urukiko rwafata icyemezo kibagumishamo, dans l'interet de la justice. Abavocats bakaba actifs mu rubanza n'ubwo UWINKINDI yaba atabemera. Hari imanza zabaye bigenda bityo, nk'urubanza rwa NORMAND waburaniye muri ICTY.

Ku bijyanye no gusubika urubanza kugira ngo abunganira UWINKINDI bategure dosiye, turasanga bifite ishingiro. Ariko kuvuga ko urubanza rutangira bundi bushya byo ntitubyumvikanaho. UWINKINDI yatangiye urubanza yunganiwe, hanyuma abavocats be baza kuva mu rubanza. Imihango yakozwe yunganiwe ntiyasubirwamo, ahubwo iyakozwe nyuma yaho, ubusabe bwabo bwahabwa agaciro, igasubirwamo. Urukiko rukaba rwagena mu bushishozi bwarwo igihe gikwiye cyo kuba bategura dosiye, ndetse UWINKINDI yabishaka bakabonana bagategura urubanza. *

Q: UWINKINDI?

R: Murakoze. Ku bimaze kuvugwa n'Ubushinjacyaha na Me HISHAMUNDA na Me NGABONZIZA. Icyemezo bavuga cyafashwe n'Urukiko rw'Ikirenga sinigeze nkibona, narandítse ntibansubiza. Icyo cyemezo ntikimbuza uburenganzira bwo kubwira Urukiko ko ntagomba guhambirwaho abavocats ntasabye. Ubushinjacyaha bwavuze ko ari urubanza rukomeye, abantu ntibaza ngo bakore ibyo bategetswe. Iby'iyo baruwa banditse bayimpaye nonaha, iya batonnier ntayo mfite. Bavuze ko kuwa gatanu aribwo babonye ibaruwa ibabwira kwipresentant hano. Sinzi niba barandikishijwe cg bariyandikiye. Njye ndabona ari abavocats b'Ubushinjacyaha.

Umuntu utishoboye biragaragara ko nta butabera utishoboye yabona, bivuze ko utishoboye agomba kunyongwa. Nkibaza no kuburana mu Rukiko icyo bimaze, niba utishoboye nta butabera yahabwa, bugomba guhabwa abakungu gusa. Ni ikintu gikomeje kumvuna kugeza n'ubu. Ndasaba ko aba bavocats mwabasubiza mu myanya yabo, mukampa umwanya wo gushaka unyunganira unyumva *

Q: Ese ufite ukunganira wundi ? Avocat wawe ari hehe ?

R : Nari mfite abavocats mbakwa ku maherere. Nasabye batonnier ko ampa urutonde, nkahitamo umuavocat mfitiye ikizere. Banze kumpa abavocats , ahubwo bampa abazumvira Ubushinjacyaha.

Q : Abo ushaka kwiyishyurira bari he?

R: Abari bafite amasezerano yo kunyunganira barahari, kandi ntabwo yigeze aseswa, kuko aho yakorewe niho aseserezwa. N'ubu bakagombye kuba bari hano.

Me NGABONZIZA: Twe icyo tuvuga ni uko uhagarariye Ubushinjacyaha yavuze ko atumva impamvu urubanza rwatangira bushya, ariko ibyakozwe mbere nta n'ibyo tuzi. Niba rero hari ibyabaye bikora kuri fond y'urubanza byasubirwamo, niba bitaravuzweho n'impande zombi.

Q: Ubushinjacyaha hari icyo mwongeraho?

PN RUBERWA: Ntabyo

Q: Nyuma yo kumva ibisabwa n'ababuranyi bose, Urukiko rugiye kwiherera rukazafata icyemezo ku byavuzwe. Icyemezo kizasomwa kuwa 05/06/2015 saa tanu.

UWINKINDI Jean

Me HISHAMUNDA Isaacar

Me NGABONZIZA Joseph

PN MUTANGANA Jean Bosco

PN RUBERWA Bonaventure

INTEKO

NSANZIMANA Fidele	**NGENDAKURIYO R. Alice**	**KANYEGERI Timothée**
Umucamanza	**Perezida**	**Umucamanza**

INGABIRE Solange

Umwanditsi

URUKIKO RUKURU, URUGEREKO RWIHARIYE RUBURANISHA IBYAHA BYO MU RWEGO MPUZAMAHANGA N'IBYAHA BYAMBUKA IMBIBI, RURI I KIGALI RUHABURANISHIRIZA URUBANZA RW'INSHINJABYAHA MU RWEGO RWA MBERE RUKIJIJE MU RUHAME URUBANZA RUBANZIRIZA URUNDI MU RUBANZA RP 0002/12/HCCI MU RUHAME KUWA 09/06/2015 MU BURYO BUKURIKIRA:

HABURANA

REPUBLIQUE DU RWANDA
Au nom du peuple Rwandais

UBUSHINJACYAHA

na

UREGWA:

UWINKINDI Jean mwene Subwanone na Ntizisigwa wavutse mu 1951 muri Rutsiro mu cyahoze ari perefegitura ya Kibuye, muri Repubulika y'u Rwanda, kugeza muri 1994 yari atuye mu cyahoze ari Kigali Ngali, muri komine Kanzeze, secteur Kayumba, selire Gatare; yashakanye na Kabagwira Rose, bafitanye abana umunani(8), umupasitori, umunyarwanda, ntacyo atunze, ubu akaba afungiye muri Gereza Nkuru ya Kigali nyuma yo koherezwa mu Rwanda n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda kugira ngo akurikiranwe ku byaha akekwaho yaba yarakoreye mu Rwanda. Yunganiwe na Me NGABONZIZA Joseph na Me HISHAMUNDA Issacar.

IBYAHA AREGWA:

- Icyaha cya jenoside giteganywa kandi kigahanishwa ingingo ya 114 na 115 z'igitabo cy'amategeko ahana ibyaha mu Rwanda, n'ingingo ya mbere ndetse n'iya 3(c) ya 'Convention on the Prevention and punishment of the Crime of Genocide[1];

- Icyaha cy'itsembatsemba nk'icyaha cyibasiye inyoko-muntu giteganywa kandi gihanishwa ingingo za 120 agace kayo ka 2 ndetse n'ingingo ya 121 z'igitabo cy'amategeko ahana ibyaha mu Rwanda.

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[1] Icyemezo cya General Assembly Numero 206(iii)cyo kuwa 9 december 1948 cyasinywe n'u Rwanda kandi kinjizwa mu mategeko y'u Rwanda n'Itegeko-teka numero 08/75 yo kuwa 12/02/1975, bishyirwa mu Igazeti ya Leta y'U Rwanda(1975), p 230.

ICyicyemezo Kingerezho le 16/06/2015 Saa 4 h 40 Zumyoroba
Hasigaye Itevugo nyandiko yibureni Ana Ryo kuwa 9/6/2015
Pastor Jean Uwinkindi

I. IMITERERE Y'IKIBAZO

1. Ku itariki ya 02/06/2015, muri uru rubanza hagaragajwe ibibazo bikurikira:

    - UWINKINDI Jean yasabye urukiko ko uru rubanza ruhagarara rutegereje icyemezo cy'urwego Mpanabyaha Mpuzamahanga rwashyiriweho kurangiza imirimo y'inkiko Mpanabyaha Mpuzamahanga ku kirego kijyanye no kurwohereza uru rubanza ngo ruruburanishe.

    - Me NGABONZIZA na Me HISHAMUNDA basabye guhabwa igihe cyo gutegura urubanza.

    - Ubushinjacyaha bwasabye ko hakwemezwa ko mu nyungu z'Ubutabera, abavoka bagenwe kunganira UWINKINDI Jean, bamwunganira n'ubwo yaba atabemera.

2. Hakaba hagomba gusuzumwa niba uru rubanza rwahagarikwa kugeza igihe icyemezo cy'Urwego Mpanabyaha Mpuzamahanga rwashiriweho kurangiza imirimo y'inkiko Mpanabyaha Mpuzamahanga gifatiwe; hagasuzumwa ibijyanye no kuba uregwa yakunganirwa n'abavoka atemera n'ibijyanye n'igihe cyo gutegura urubanza cyahabwa abunganira UWINKINDI Jean.

II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

➢ Ku bijyanye no guhagarika iburanisha ry'uru rubanza

3. UWINKINDI Jean yamenyesheje urukiko ko yatanze ikirego mu Rwego Mpanabyaha Mpuzamahanga rwashyiriweho kurangiza imirimo y'inkiko Mpanabyaha Mpuzamahanga asaba ko uru rubanza rwakoherezwayo ngo ruruburanishe, akaba asaba ko mu gihe inteko yashyizweho yo kwiga ikibazo cye itaragisuzuma, iburanisha ryahagarikwa.

4. Ubushinjacyaha buvuga ko busanga nta mpamvu yatuma urubanza ruhagarikwa kuko ntaho urwo rwego rwigeze ruvuga ko uru rubanza ruhagarara, cyane ko icyemezo ruzafata kizubahirizwa aho urubanza ruzaba rugeze hose n'iyo haba mu bujurire.

UKO URUKIKO RUBIBONA

5. Urukiko rusanga UWINKINDI Jean nta tegeko agaragaza ashingiraho riteganya ko mu gihe Urwego Mpanabyaha mpuzamahanga rwashiriweho kurangiza imirimo y'inkiko Mpanabyaha Mpuzamahanga ruregewe, iburanisha mu nkiko z'u Rwanda rigomba guhagarara, bityo icyifuzo cye kikaba nta shingiro gifite.

- **Ku bijyanye no kuba uregwa yakunganirwa n'abavoka atemera**

6. Ubushinjacyaha buvuga ko mu gihe UWINKINDI Jean akomeje kwanga abavoka yagenewe nk'utishoboye, busaba urukiko gufata icyemezo cyo kubagumishamo, bagahabwa ijambo mu rubanza, mu nyungu z'Ubutabera kubera ko urubanza rukomeye.

7. UWINKINDI Jean avuga ko nta mwunganizi afite, akaba atagomba guhambirwaho abavoka atasabye.

8. Me NGABONZIZA na Me HISHAMUNDA bavuga ko bitabiriye iburanisha mu rwego rwo kubahiriza icyemezo RPA 0011/15/CS cyafashwe kuwa 24/04/2015 n'Urukiko rw'Ikirenga aho rwashimangiye icyemezo cyafashwe n'Urukiko Rukuru ko bashizweho mu buryo bukurikije amategeko,n'ibaruwa y'Umukuru w'Urugaga rw'abavoka yongera kubibutsa inshingano bahawe zo kunganira UWINKINDI Jean.

UKO URUKIKO RUBIBONA

9. Ku itariki ya 21/01/2015, urukiko rumaze kubona ko UWINKINDI Jean atunganiwe kuko Me GATERA GASHABANA na Me NIYIBIZI Jean Baptiste bivanye mu rubanza, rwafashe icyemezo cyo gusaba inzego zibishinzwe kumufasha kubona ubwunganizi.

10. Ku itariki ya 05/02/2015, UWINKINDI Jean yitabye Urukiko hari na Me NGABONZIZA Joseph na Me HISHAMUNDA Issacar bagenwe n'Urugaga rw'abavoka kugira ngo basimbure Me GATERA GASHABANA na Me NIYIBIZI Jean Baptiste mu kunganira UWINKINDI Jean. UWINKINDI Jean yamenyesheje Urukiko ko Me NGABONZIZA Joseph na Me HISHAMUNDA Issacar atari abunganizi be kuko asanga baragenwe mu buryo bunyuranyije n'amategeko.

11. Ku itariki ya 06/02/2015, urukiko rwafashe icyemezo ko Me NGABONZIZA Joseph na Me HISHAMUNDA Issacar bagenwe n'Urugaga rw'abavoka nk'abunganizi b'UWINKINDI Jean mu buryo bukurikije amategeko.

12. UWINKINDI Jean yajuririye icyo cyemezo mu Rukiko Rw'Ikirenga. Ku itariki ya 24/04/2015 mu rubanza RPA 0011/15/CS, urwo rukiko rwemeje ko icyo cyemezo kigumyeho.

13. Urukiko rurasanga ari uburenganzira budahungabanywa bw'uregwa bwo kuburana yunganiwe mu bihe byose no guhabwa uburyo bwose bwagombwa bwo kwiregura, nk'uko biteganywa mu ngingo za 18 na 19 z'Itegeko Nshinga rya Repubulika y'u RWANDA.

14. Rusanga mu nyungu z'Ubutabera no mu rwego rwo kubahiriza ihame ry'uko ababuranyi bagomba guhabwa amahirwe angana ajyanye n'uburyo bw'imiburanire (égalite des armes), UWINKINDI Jean agomba kunganirwa n'abavoka yagenewe nubwo atabashaka kubera impamvu zikurikira:

- Kuba UWINKINDI Jean yagaragaje kuva urubanza rugitangira ko adashobora kuburana atunganiwe;
- kuba yarunganiwe kuva aho urubanza rwatangiriye kugeza igihe cyo kumva abatangabuhamya ubwo abavoka be Me GASHABANA na Me NIYIBIZI Jean Baptiste bivanye mu rubanza;
- kuba mu gihe cy'ibazwa ry'abatangabuhamya b'Ubushinjacyaha UWINKINDI Jean yaravuze ko azagira icyo avuga ari uko abonye abamwunganira, bigaragaza ko adafite ubushobozi bwo kwiregura atunganiwe;
- kuba icyemezo cy'Urukiko rw'Ikirenga gishimangira ko Me NGABONZIZA na Me HISHAMUNDA bagenwe nk'abunganizi mu buryo bukurikije amategeko;
- kuba nubwo UWINKINDI Jean avuga ko adashaka kunganirwa na Me NGABONZIZA na Me HISHAMUNDA, atagaragaza abandi bamwunganira kandi yarivugiye ko akeneye kunganirwa.
- kuba nubwo atemera abo bunganizi, ubumenyi bwabo nk'abanyamwuga buzatuma urukiko rurushaho kugera ku rubanza ruboneye.

15. Bityo rero, rusanga Me NGABONZIZA na Me HISHAMUNDA bagomba kunganira UWINKINDI Jean, iburanisha rigakomeza, urukiko rukongera kwumva abatangabuhamya b'impande zombi.

> **Kubijyanye no gusubika urubanza kugirango abunganira UWINKINDI Jean bategure dosiye**

16. Me NGABONZIZA na Me HISHAMUNDA basaba guhabwa igihe gikwiye cyo kuba bategura dosiye.

17. Ubushinjacyaha buvuga ko busanga icyifuzo cyabo gifite ishingiro, bityo ko igihe gikwiye cyagenwa n'urukiko.

18. Urukiko rusanga ari ngombwa guha abunganira UWINKINDI Jean igihe gihagije cyo gutegura dosiye, bakaba bahawe igihe cy'amezi atatu (3).

III. ICYEMEZO CY'URUKIKO

19. Urukiko rwemeje ko icyifuzo cya UWINKINDI Jean cyo guhagarika iburanisha nta shingiro gifite;

20. Rwemeje ko Me NGABONZIZA Joseph na Me HISHAMUNDA Isaacar bunganira UWINKINDI Jean;

21. Rwemeje ko bahawe igihe cy'amezi atatu(3) yo gutegura urubanza.

22. Rutegetse ko iburanisha rizasubukurwa ku itariki ya 10/09/2015 saa mbili n'igice.

RUKIJIJWE RUTYO KANDI RUSOMEWE MU RUHAME NONE TARIKI YA 09/06/2015.

Sé
NGENDAKURIYO R. Alice
Perezida

Sé
KANYEGERI Timothée
Umucamanza

Sé
NSANZIMANA Fidèle
Umucamanza

Sé
NYAMUTAMA Hippax
Greffier

Copie certifiée conforme à l'original
Fait à KIGALI, le 11/06/2015
Greffier...NYAMUTAMA HIPPAX

REPUBULIKA Y'U RWANDA
URUKIKO RW'IKIRENGA
BP 2197 KIGALI

INYANDIKO-MVUGO Y'IYIMURWA RY'URUBANZA YO KUWA 09/03/2015

None kuwa 09/03/2015 urukiko rw'ikirenga ruri i KIGALI ruhaburanishiriza imanza z'inshinja byaha ruhaburanishirije mu ruhame urubanza numero RPA 0011/15/CS mu buryo bukurikira :

INTEKO IGIZWE NA

Juge MUTASHYA J. Baptiste
Juge GAKWAYA Justin
Juge HITIYARAMYE Alphonse

UMWANDITSI : MUNYANDAMUTSA J. Pierre

HABURANA

UBUSHINJACYAHA

UWINKINDI Jean mwene SUBWANONE na NTIZISIGWA wavutse mu mwaka wa 1951 , avukira mu RUTSIRO, mu cyahoze ari Perefegitura ya KIBUYE , muri Repubulika y'u RWANDA, kugeza muri 1994 yari atuye mu cyahoze ari KIGALI NGALI, komini KANZENZE, secteur ya KAYUMBA , Serire GATARE , yashakanye na KABAGWIRA Rose bafitanye abana umunani, akaba akora umwuga w'ubu pasitori ntacyo atunze , ubu afungiye muri gereza nkuru ya KIGALI nyuma yokoherezwa n'urukiko mpuzamahanga rwashyiriweho u RWANDA kugira ngo akurikiranwe ku byaha akekwaho yaba yarakoreye mu RWANDA ,

IKIBURANWA MU RUKIKO RW'IKIRENGA: kujuriira icyemezo cyafashwe mu rukiko rukuru (HCCI) kuwa 06/02/2015 ryo kumburanisha ntunganiwe no kwirukana abavoka banjye ngahatirwa abandi;

URUKIKO: ruhamagaye urubanza rusanga UWINKINDI Jean yitabye yari kunganirwa na Me [illegible]TERA GASHABANA na Me NIYIBIZI J.Baptiste ; ubushinja cyaha buhagarariwe na [illegible]ANGANA J.Bosco na RUBENRWA Bonaventure ;

[illegible] eramaze kwishyura amende bacirizwe muri HC ?

[illegible]ATERA , icyo cyemezo cyajuririwe mu rukiko rw'ikirenga , ngo bakijuririwe bashingiwe kuri [illegible]ansfert n'ingingo ya 27 ,

[illegible]ngiye no ku ihame rivuga ko le speciale deroge la general , ngo yumva ko ariyo mpamvu [illegible] fixée ; ubundi twari twajuririye urukiko rw'ikirenga greffier icyemezo [illegible] [illegible]resident w'urukiko rw'ikirenga dutegereje iki cyemezo

[illegible]menyesheje ko rufite icyemezo cyafashwe na President w'urukiko rw'ikirenga [illegible] [illegible] nta shingiro rifite ;

Kubera izi mpamvu UWINKINDI ntafiye avoka umwunganira hano muri uru rukiko bityo akaba adashobora kuburana ;

UWINKINDI: kugira ngo mbahitemo ni uko bari kuri liste y'urugaga rw'abavoka niba ari ikibazo bafitanye na ministere y'ubutabera niba bibaye bityo rero remise mugiye kuduha ;

MP/ nta nukundi byakumvikana ni ukubahiriza ibiteganyijwe mu cyemezo cyabaye ndakuka , ibindi byose twabyinjiramo ari uko berekanye ko bishyuye cg se UWINKINDI yerekanye ko afite undi avoka wamwunganira , bityo rero niba batarayatanze nta ni izindi mpaka zagakwiye kuba zihari ,

Gusa twari dufite izindi mpamvu twagaragaza zituma batakagombye kuba bari muri uru rubanza ari uko bari en ordre ; cg se UWINKINDI akazaza afite abandi bamwunganira ;

Me GASHABANA : twaje tutazi icyemezo cyafashwe na President wa Cour Supreme ; twe twari tuziko ubujurire bwacu bufite effet suspenfif ; tukaba twasabaga ko twabasha kugera kuwo twunganira facilement kuko iyo tugiyeyo dusanga batubwira ko ngo hari instruction hierarchique zitatwemerera kumusura kugira ngo dutegure uru rubanza ;

Q/ wumva wafata igihe kingana iki kugira ngo uzaze ufite avoka ukunganira ?

R/ nyuma y'iminsi irindwi naba maze gu kontacta avoka ;

Iburanisha ryimiriwe kuwa 06/04/2015 UWINKINDI akagaruka afite avoka umwunganira

Hari : UWINKINDI Jean

Ubushinja cyaha buhagarariwe na: RUBERWA Bonaventure MUTANGANA J.Bosco

INTEKO

Juge MUTASHYA J. Baptiste
PEREZIDA

Juge GAKWAYA Justin
Umucamanza

Juge HITIYARAMYE Alphonse
Umucamanza

MUNYANDAMUTSA J. Pierre
Umwanditsi

REPUBULIKA Y'U RWANDA
URUKIKO RW'IKIRENGA
BP 2197 KIGALI

INYANDIKO-MVUGO Y'IYIMURWA RY'URUBANZA YO KUWA 06/04/2015

None kuwa 06/04/2015 urukiko rw'ikirenga ruri i KIGALI ruhaburanishiriza imanza z'inshinja byaha ruhaburanishirije mu ruhame urubanza numero RPA 0011/15/CS mu buryo bukurikira :

INTEKO IGIZWE NA

Juge MUTASHYA J. Baptiste ®
Juge GAKWAYA Justin
Juge HITIYARAMYE Alphonse

UMWANDITSI
MUNYANDAMUTSA J. Pierre

HABURANA

UBUSHINJACYAHA

UWINKINDI Jean mwene SUBWANONE na NTIZISIGWA wavutse mu mwaka wa 1951 , avukira mu RUTSIRO, mu ryahoze ari Perefegitura ya KIBUYE , muri Repubulika y'u RWANDA, kugeza muri 1994 yari atuye mu cyahoze ari KIGALI NGALI, komini KANZENZE, secteur ya KAYUMBA , Serire GATARE , yashakanye na KABAGWIRA Rose bafitanye abana umunani, akaba akora umwuga w'ubu pasitori ntacyo atunze , ubu afungiye muri gereza nkuru ya KIGALI nyuma yokoherezwa n'urukiko mpuzamahanga rwashyiriweho u RWANDA kugira ngo akurikiranwe ku byaha akekwaho yaba yarakoreye mu RWANDA ,

IKIBURANWA MU RUKIKO RW'IKIRENGA: kujuriira icyemezo cyafashwe mu rukiko rukuru (HCCI) kuwa 06/02/2015 ryo kumburanisha ntunganiwe no kwirukana abavoka banjye ngahatirwa abandi;

URUKIKO : ruhamagaye urubanza rusanga UWINKINDI yitabye yunganiwe na Me GATERA GASHABANA na Me NIYIBIZI J.Baptiste : ubushinja cyaha buhagarariwe na RUBERWA Bonaventure na MUTANGANA J.Bosco ;

Ubushize uru rubanza rwimuwe kubera ko abavoka bari baje kumweunganira Me GATERA GASHABANA na Me NIYIBIZI batasri bishyuye amende UWINKINDO avuga ko ubutaha azaza yifitiye abavoka aza yiyishyuriye ;

Q/ none se aba bavoka Me GATERA GASHABANA na Me NIYIBIZI dufate ko wabiyishyiriye ?

R/ UWNINKINDI : nasubije ko abavoka bashobora gufasha umuntu mu buryo bunyuranye ntago nemeje ko nzabiyishyurira

Abavoka duhagararanye hano ni abavoka bemera kumfasha muri kino kibazo kubera ko ikibazo njuririra ni ikibazo cy'uburenganzira bwanjye bwo kunyunganira , bakaba baje kumfasha kuburana iki kibazo cy'uko nambuwe uburenganzira bwa abavoka ;

Q/ ni pro deo ?

R/ UWINKINDI : hano mu rukiko rw'ikirenga kuri ubu bujurire ni pro deo ;

MP/ murabivugaho iki kuri ibingibi UWINKINDI avuga ?

R/ PN RUBERWA Bonaventure : kuba bahari ariko WUINKINDO abyemeza twumva twagira icyo tubivugaho na ba nyiri ubwite babyemeye , nibamara kwemeza ko bahari mu buryo bwa pro bono natwe turagira icyo tuvuga kubera ko ashobora kubivuga gutyo bakabihakana , nibasobanure niba bari hano ku buntu ku giti cyabo , kuko kunganir umuntu ku buntu hari uburyo bicamo ;

Q/ uyu mugabo UWINKINDI mumwunganira ku buntu ku giti cyanyu nkuko abivuga ?

R/ Me GATERA GASHABANA : kuba turi hano ni uko hari icyemezo cyafashwe na HCCI ;

Q/ ko we avuga ko mumuhagarariye hano ku buntu kandi ku giti cyanyu MP ishaka kumenya niba ariko mubibona ?

R/ Me GATERA GASHABANA : byarushaho kuba byiza mubonye ibisobanuro byimbitse bituma turi hano ni icyo gisubizo kiraba kirimo ;

Q/ turanga gukomeza kuzenguruka ku kibazo kimwe ese ibyo avuga ni byo cg se sibyo ?

R/ Me GATERA GASHABANA : ndabisubiza ariko ntago muzafatira icyemezo ku kibazo cy'ubushinja cyaha ;

Q/ ibyo avuga se byo cg ?

R/ Me GATERA GASHABANA : ndubya byakabaye byiza mubaye nkabumva imvo ni imvano yiki kibazo ;

Q/ ubundi tuzi ko iyo umuntu ufite urubanza niwe ugenda akishakir aumwunganira ahegendewe kubyo ubushize UWINKINDI yari yavuze , ubu tuje hano tubabonye twumva ko yabiyishyuriye , turamubajije ambwira ko bemeye kunyunganira ku buntu kubera ko ngo we nta bushobozi afite . ese koko ibyo avuze ni byo ?

R/ Me GATERA GASHABANA : niba turi hano ni uko hari ikibazo cyavutse mu gihe rero mudashaka kugira ngo tubasobonurire imvo ni imvano yabyo mwazafata icyemezo kitari cyo ;

UWINKINDI : navuze ko nta bushobozi nfite bwo kwishakira abavoka , ariko nityambaje aba bagabo bari hano nabiyambaje ngo banfashe kuri iki kibazo mu rukiko rw'ikirenga kugira ngo mburane urubanza ruri mu mucyo , bakaba rero baremeye kumburanira hano mu rukiko rw'ikirenga

Q/ ibyo avuga ni byo ntago ari byo ?

R/ Me GATERA GASHABANA : kuba turi hano ni uko havutse ibibazo muri uru rubanza mu rukiko rukuru .

Q/ tugomba kumenya uko debat zigomba kugenda ni twebwe tuburanisha ni ibibazo tubaza tuzi impamvu , ariko muri procedure dufite muremerewe gufata ijambo , nimwemere niba ari byo hanyuma musobanure ibindi nyuma ?

R/ Me GATERA GASHABANA : ntabwo nasuzugura urukiko , ndumva mutubabariye mwaduha nkiminota ibiri njyewe na mugenzi wanjye tukavuganaho mbere yo gusubiza iki gisubizo ;

Q/ hano mu rukiko rw'ikirenga mwagomba gukurikiza procedure yiburanisha , ikindi kandi mwakwiye gusubiza ibibazo mubazwa ? urukiko rurindire guhagarika iburanisha ngo mujye kuvugana hari aho mwabibonye ?

R/ Me GATERA GASHABANA : twemeye ko UWINKINDI yadusabye ko twamwinganira muri iyi instance ku kintu bien precis , cyerekeranye ni ikibazo yajuririye kerekeranye n'uburenganzira bwe bwo kuba yakunganirwa muri iyi nzitizi ;

Q/ ni pro deo ?

R/ ku bujurire yatanze mu rukiko rw'ikirenga kandi bwerekeranye n'uburenganzira bwe bwo kunganirwa na avoka we yihitiyemo ; yuraza kubaha n'ibisobanuro bihagije byatumye dufata kino cyemezo ;

<u>Me NIYIBIZI :</u> niko bimeze kandi ni mu rwego wo gufasha ubutabera .

PN RUBERWA Bonevanture : kuba abunganira UWINKINDI bemera yuko muri uru rubanza bamwunganira ku giti cyabo kandi ku buntu kandi bataregenwe n'urugaga ni uburenganzira bwabo twe twumva ikibazo cyarimo ni uburyo uruhande rumwe , urugagaga rwagennye abunganira UWINKINDI hashingiwe ku kuba ari uregwa utishoboye nyuma yuko Me NIYIBIZI na Me GASHABANA bavanwe kunganira UWINKINDI n'umukuru w'urugaga . mu ibaruwa yabandikiye buri muntu ku giti cye abamenyesha ko guhera ku itariki yayandikiye batakiri abunganizi ba UWINKINDI ndetse akanamugenera abandi bunganizi . kuba bemera ko bamwunganira ku giti cyabo deontologiquement twumva harimo akabazo mu buryo bwa

profession kuba bo ubwabo banyuranya n'icyemezo cya umukuru w'urugaga bakoreramo , tulaba tubibahaye a titre d'information ntacyo tubasaba ,

Kuko guhera kuwa 29/01/2015 umukuru w'urugaga yabamenyesheje ko abavanye mu rubanza ko kandi agennye abandi bunganizi yanabasabye gukora ihererekanya rya dossier ngo bazishyikirize abashyashya bagenwe , kuba baza mu rukiko rw'ikirenga bemera yuko bamwunganira ku giti cyabo kandi ku buntu deontologiquement iyo urebye icyemezo cyafashwe ma battonier harimo ikibazo , urukiko ruramutse hari ukundi rubibona rwabifataho icyemezo cg kikazafatwa nabashinzwe gukurikirana imyitwarire y'abunganira abandi , naho twebwe nta cyo dusaba kuko bitari mu nshingano zacu ariko twatangagaga informations gusa ;

Me GATERA GASHABANA : icya mbere ngira ngo menyeshe uruki ni uko mugenzi wanjye ababwiye ko turi hano mu nyungu z'ubutabera , ntago turio hano tugamije ikindi kintu ni ukugira ngo hubahirizwe ingingo ya 18 al3 ya constitution yemerera buri muntu wese uburenganzira busesuye mbere yiozindi nzego ;

Ikindi nagira nibutse ni ingingo ya 14.6 yitegeko rya transfert , ivuga ko uregwa muburenganzira ahabwa n'amategeko afite uburenganzira bwo kunganirwa n'avoka yihitiyemo mu ibazwa iryo ariryo ryose ; ahangaha muzanabisanga no mu ngingo ya 14 point 3, B . D .

MP siwe ushinzwe deontologie yabavoka ahubwo nka MP yakagonmbye gushyigikira iki cyemezo kuko twagifashe mu rwego rw'inyungu z'ubutabera , naho ibindi ntago bimureba kandi kugira ngo ikibazo kivuke niwe wakomeje kuvuga ngo ntago turi ba kampala , aho kureba uburenganzira bw'umuburanyi , aho kureba proces equitable arajya mu bireba conseil d'ordre , naho ibyo avoka yakoze ntibimreba ;

Me NIYIBIZI : ubushinja cyaha ntago bwakwiye kujya buvanga ama dossier ahari ni uko bumva badutera ubwoba ngo hari ikibazo cya deontologie ndi hamwe na battonier azi amategeko y'urugaga nanjye maze imyaka hafi makumyabiri ndi mu rugaga , rero twafashe iki cyemezo mu nyungu z'ubutabera , nkabavoka b'inararibonye tubona tutatererana umukiliya kubera ibibazo by'amafaranga , binyuranye ni ibyo avuga ko twishe amategeko agenga urugaga azandikire battonier amumanyesha iki kibazo naho iyintago ariyo nzira yabinyuzamo ;

<u>URUKIKO:</u> impamvu yatumye uru rubanza rwimurwa ubushize ni uko urukiko rwari rwabonye hari ihazabu Me GATERA GASHABANA na Me NIYIBIZI J.Baptiste bari baciwe amende ya 500 000 frws kuri buri muntu kandi batari bakayishyuye , urubanza rwimuriwe uyu munsi , muri uru rubanza harimo bordereau zaho bishyiriye ayo mafaranga , ubushize icyatumye urubanza rutaraburanishijwe harimo iyo mpamvu yuko batishyuye ayo mafaranga , ubushinja cyaha ibyo bwavuze ni amakuru bwahaga urukiko , urukiko ruhereye ku mpamvu yari yaratumye rwimurwa ubushize , kandi UWINKINDI avuga ko nta bundi bushobozi afite bwo kwishyura abamwunganira kandi abangaba bo bakaba baramwemereye kumwunganira muri iki kibazo muri iyi sceance ntacyabuza ko bamwunganira bagakomeza uru rubanza kuko nabo biyemereye ko bamwunganira Pro deo , ntacyo bamwishyuza nta nundi bazishyuza ;

D

Me GATERA GASHABANA : hari utuntu tubiri twagira ngo tubasabe ko muri iyi cadre yiyi procedure twasabaga ko twahabwa uburenganzira bwo kuvugana nuyu twunganira , kubera ko twagiye kumureba kuri prison directeur aratwangira ngo yabitegetswe n'urukiko ;

IBURANISHWA RIRAKOMEJE NYUMA YUKO GREFFIER AHAMAGAZA URUBANZA UMUCAMANZA WATEGUYE URUBANZA YIBUKIJE INSHAMAKE YARWO YATEGUYE :

Hari : UWINKINDI Jean

Ubushinja cyaha buhagarariwe na

RUBERWA Bonaventure MUTANGANGANA J.Bosco

MP yasobanura inzitizi yatanze mbere yo kumva ubujurire bwa UWINKINDI Jean ?

R/ PN RUBERWA : tumaze kubona impamvu z'ubujurire za UWINKINDI ku rubanza rubanziriza urundi rwaciwe n'urukiko rukuru twatanze inzitizi zigaragaza ko ubu bujurire dushingiye ku ngingo ya 162 CPCCSA , izi nzitizi zijuririrwa rimwe n'urubanza mu mizi , aho iteganya ko icyakora kujuririra imanza zibanziriza izindi bikorerwa rimwe ni urubanza mu mizi ;

Dushingiye na none ku ngingo ya mbere yitegeko tumaze kuvuga haruguru iteganya ko la procedure civile er procedure de droit commun mu gihe andi mategeko ya procedure ntacyo ateganya ,

Tunabishimangiza ingingo ya 34 akiciro ka cumi k'itegeko ngenga rigenga urukiko rw'ikirenga ;

Iteganya ko umwanditsi mukuru w'urukiko rw'ikirenga agomba kubanza gusuzuma iyandikwa ry'ubujurire aho bavuga ko abanza gusuzuma ko bikwiriye kwakirwa , akaba adashobora kwandika ngo yakire ibirego bijuririwe ku nzitizi ,

Iyo urebye izi ngingo z'amategeko dutanze uzifatiye hamwe dusanga mu buryo bw'amategeko bidashoboka ko ubujurire ku rubanza rubanziriza urundi rwakwakirwa ngo rusuzumwa mu gihe urubanza mu mizi rutaracibwa , ndetse ni ingingo ya 27 na 28 ya loi sur les transfert UWINKINDI yashingiyeho dusanga

iriya ngingo itarigeze igenza procedure ahubwo yemerera kujuririra ibyemezo byose ariko hakurikijwe amategeko ya procedure iteganyijwe mu miburanishirize y'imanza mu nkiko z'u RWANDA akaba ari cyo twasabaga ko urukiko rwasuzuma , niba ubujurire ku nzitizi yatanzwe bukwiye kwakirwa

Q/ mwagira icyo muvuga kuri iyi nzitizi yatanzwe n'ubushinja cyaha ?

R/ UWINKINDI : ni byo koko najuririye inzitizi nkuko ubushinja cyaha bubivuga kandi nagira nibutse ko aribo tuburana , nta kindi bavuga usibye ku ngusha mu mitego ;

Q/ hano turi mu rwego rw'amategeko bagaragaje ingingo bashingiraho uzivugaho iki ?

R/ UWINKINDI : ariya mategeko nashingiyeho njurira cyane cyane ayo yavuze ko adakwiriye cyane cyane mu ngingo ya 27 na 28 hamwe ni izindi musanga mu mwanzuro w'ubujurire zifite ishingiro ariko kandi nagira ngo nongereho ingingo ya 27 ivuga ko iri tegeko ariryo rikurikizwa mu gihe nta yandi mategeko anyuranyije naryo , ingingo ya 3 ivuga ko iri tegeko rireba imanza zose z'abantu bavanwa hanze y'igihugu , ntago rero ryavangwa n'amategeko mboneza mubano kandi njyewe ndegwa ibyaha bikomeye ,

Nongeraho ingingo ya 180 CPP , rivuga ko umuntu watanze ubujurire urubanza ruba ruhagaze kugeza igihe ubujurire buzarangirizwa gusuzuma icyo cyemezo , mu bintu najuririye harimo ikintu gikomeye cyabongamira urubanza mu mizi kubera ko urubanza rutakomeza ntafite ba avoka , mu gihe ntafite ba avoka nta nubwo naba nfite urubanza ;

Iyi nzitizi kandi ntago yitaye ku ngingo nashingiyeho njuririra harimo ingingo ya 18 na 27 loi sur les tranfert ivuga ko iyo hagonganye amategeko abiri hakurikizwa loi sur les transfert ,

Ikindi ni uko navuze ko mu gihe ndindiriye ko nazajuririra urubanza hamwe nurwo mu mizi , mu gihe ntafite avoka nta rubanza mba nfite sinabasha kuburana ese nazajurira gute kandi ntaburanye ;

Ikindi najuriye mvuga ko nambuwe uburenganzira bwo kunganirwa no kwiregura , igihe bankuraga mu rukiko mpuzamahanga rwa ARUSHA ibintu batanze ngenderwaho ntago byubahirizwe kubera ko dutangira urubanza nabonaga

bigenda neza ariko nyuma byaje kugenda nabi , bikaba binyyuranyije n'ibyo ministre w'ubutabera yemereye urukiko rwa ARUSHA ;

Me NIYIBIZI : uruhande rw'ubwunganizi tubona ko inzitizi yo kutakira inzitizi mu bujurire nta shingiro ifite , impamvu tubivuga ni uko ubujurire UWINKINDI yakoze yari ashingiye ku ngingo ya 18 y'itegeko rigenga transfert mu RWANDA , iyi ngingo iha uburenganzira ubushinja cyaha nuregwa bwo kujuririra icyemezo icyo ari cyo cyose gifashwe n'urukiko rukuru , amategeko agenga ububasha bw'urukiko ni urukiko rw'ikirenga yagombaga kujuririramo kandi yarabuikoze tukaba tugaragaza aho yashingiye kubera ko yambuwe uburenganzira bwo kunganirwa nkuko biteganywa n'ingingo ya 18 y'itegeko nshinga , ivuga ko ari uburenganzira ntayegayezwa ahantu hose no mu bihe byose ; nari mbivuze ngira ngo ngaragaze aho yashingiye ajurira nkuko ingingo ya 18 ya trensfer low ibiteganya , ahangaha nkaba ntari buvuge ibijyanye na ba avoka bamwunganira ,

Aho urubanza rwari rugeze hafi kurangiza , gukuraho ba avoka cg kubasimbura bifite ingaruka ku rubanza raburanwa , bityo urukiko rukaba rutarubahirije uburenganzira bwo kunganirwa kuko guhindura abavoka urubanza rugiye kurangira ni uguhangabanya uburenganzira bwo kwiregura , ntago ari uko ari Me NIYIBIZI cg Me GATERA GASHABANA bavanwaho ahubwo turareba uburenganzira bw'uwunganirwa .

Urukiko gushingira kuri CPCCSA mu ngingo ya 162 , iyi ngingo tubona itareba imanza z'inshinja cyaha ahubwo ireba imanza mboneza mubano ,

Ikindi kandi si uko ari urubanza rw'inshinja cyaha gusa ahubwo ni urubanza rwoherejwe n'urukiko mpuzamahanga mpanabyaha mu RWANDA , mu gihe hari itegeko speciale riteganya uburyo izi manza zigomba kuburanishwamo ; mu ngingoyaryo ya 18 transfer low iteganya ko UWINKINDI afite ubruenganzira bwo guhitamo abamwunganira kandi nta kintu kibuza ko yari kujuririra iki cyemezo ;

Kandi no muri iri tegeko rya CPCCSA hateganywa ko ryakurikizwa mu gihe andi mategeko ntacyo ateganya none twaberetse itegeko rya transfer low riteganya ko ashobora kujurira hakaba harimo kuvugururanya itegeko ryihariye niryo rikurikizwa kurusha irya general , kandi itegeko rya transfer low ryarabyiteganyirije , akaba ari nta mpamvu yatuma mutakira ubu bujurire ngo mu busuzume , na cyane cyane ko ari ikibazo gikomeye k8ireba uburenganzira ntayegayezwa bwo kunganira ; bityo tugasaba ko mwafata icyemezo uwo twunganira akba yafata icyemezo kugira ngo uwo twunganira agire proces equitable ;

Q/ muvuga iki ku ngingo ya 34 point ya cumi yitegeko rigenga urukiko rw'ikirenga ?

R, Me NIYIBIZI : iriya ngingo yubahirizwa n'umwanditsi mukuru mu rukiko rw'ikiernga , kubera ko ubu bujurire bwakiriwe buhabwa numero yanditse kuri uur rubanza . kandi ubwanditsi bukurikije amategeklo bwemeye kwakira ubu bujurire ;

Me GATERA GASHABANA : ubu bujurire bugomba kwakirwa hashingiwe ku ngingo ya 18 yitegeko rya Tresnfert ivuga ko uregwa afite uburenganzira bwo kujuririra icyemezo cyose ;

URUKIKO: ibyo nibyo byamaze kuvugwaho nabakubanjirije ;

Me GATERA : sindarangiza mureke mwumve igitekerezo cyose :

Reka ngaragaze ku byerekeranye ni icyemezo cyose , kandi ngaragaze ko iyi ngingo ya 162 ntago itandukanye jugement definitif na jugement provisoire , akaba ari nawo mutego ubushinja cyaha bwaguyemo ;

Kandi iki cyemezo ntago ari icyemezo privisoire ahubwo0 ni jugement definitif sur incident yerekeranye uburenganzira busesuye kuri defence bya viola le proces equitabloe bikaba birebana na qualite d'une personne ;

Iyo aricle 18 ivuga icyemezo , ivuga icyemezo icyo aricyo cyose ,

Incident rero ni iyihe : ni uburanganzira UWINKINDI atahawe bwo kunganirwa , kandi ariticle 18 ya constitution , article 14 y'itegeko rya transfert zimwemerera uburenganzira bwo kwihitiramo umwunganira ,

Muzasanga ingingo ya 14 ya pacte internation relative au droit civil et politique ybaye latifié na repubulike y'u RWANDA muri 1995 ,tuyishingiye dusanga iki cyemezo cyafashwe ari definitif sur l'incident ; nkaba ntagiye muri fond ahubwo ndi muri esprit ya article 18 ya loi sur les transfert , ni ubwo urukiko ruyita urubanza rubanziriza urundi sibyo ahubwo tukaba dusanga recevabilite yayo ikwiye kwemerwa ;

Hari ikindi kibazo cyavuzwe na mugenzi wanjye : iriya ngingo ya 34 y'itegeko ry'urukiko rw'ikirenga ivuga ku byerekeranye n'ububasha bw'urukiko ariko itegeko rimwe riha ubusha umwanditsi w'urukiko rw'ikirenga yo kutakira ibirego

asanga bitujuje ibisabwa , ahangaha greffier yakiriye ubujurire abuha numero afata ni icyemezo ko bwakiriwe ahangaha umuntu akaba yakwibaza ni itegeko cyarahaye umwanditsi mukuru ubwo burenganzira bwo kureba ububasha bw'urukiko , bukanamuha uburenganzira bwo kwakira no kutakira , MP ari gushyira en cause iki cyemezo , ese iyo afata icyemezo cyo kutayakira twakwiye kuba turi hano , akaba ari decision judiciare yagize force de l'autorite de la chose jugée , bityo ubujurire bwarakiriwe tukaba turi kuburana uru rubanza mu mizi ;

Ikindi ni ikibazo cyerekeranye ni iri tegeko rya transfert , kuko ari loi spciale , ikaba iha uburenganzira ku muntu wese gukora ubujurirre kuri buri cyemezo icyo ari cyo cyose ,

Ubushinja cyaha akavuga ngo ingingo ya 162, CPCSA , yirengagije icyo bita effet suspensif de l'appel ;

Q/ ubihuza ute ni iyi nzitizi yatanzwe ?

R/ ndagira ngo ngaragaze mu guhuza ni inzitizi ko ufata art 18 yemerera umuntu kujurira kandi kujurira hahita habaho effet suspensif hategerejwe ko habaho decision hierarchique superieure , kuvuga ngo tuzarindire igihe urubanza mu mizi ruzaciribwa uzaba ugiye kunyuranye ni iyi prencipe , bityo ibyo kuvuga ngo tuzategereze nta shingiro byaba bifite .

Ikindi ni uko dufite conflit de loi , itegeko rigenga UWINKINDI ni itegeko rya tranfert akaba ari ryo loi speciale , bityo ihame rya speciale deroge le general ryavuzwe , rikaba rero ariryo ryakurikizwa mbere yaya mategeko ubushinja cyaha bwavuze ;

Kandi tuzi ko amategeko ya competence ari amategeko d'ordre public, imperative , de strict interpretation bivuze ko mu gihe umuntu rimuha uburenganzira bwo kunganirwa bwo kwiregurwa , bwo kuba afite avoka yihitiyemo kandi ari d'ordre public ari ryo rigomba kubahirizwa , bityo tukabasaba ko iriya nzitizi nta shingiro ifite ;

URUKIKO NYUMA Y9O KWIHERERA RUFASHE ICYEMEZO MU BURYO **BUKURIKIRA** : RUSANZE iki kirego kiza muri uru rukiko cyaranyuze mu nzira zisanzwe zinyuzwamo ibirego , urukiko rusanga iki kirego hano muri uyu mwanya atariho hazamurwa inzitizi yuko iki kirego kitagomba kwakirwa , kandi na none itegeko ryo kohereza imanza ni itegeko risanzwe loi ordinaire ariko rifite umwihariko waryo andi mategeko adafite kubera ko mu ngingo ya 27 yaryo

usanga rivugwamo ko ari ryo rikurikizwa mu gihe hagaragaye ko ari ryo rikurikizwa mu gihe rinyuranyije n'andi mategeko asanzwe , ariko wanagaruka ku ngingo ya 18 havugwamo ko umushinja cyaha nuregwa bafite uburenganzira bwo kujuririra icyemezo icyo aricyo cyose . aha naho harimo umwihariko wa rino tegeko kuko ingingo zo mu mategeko amwe namwe mu mategeko asanzwe ziteganya ko ibyemezo ku nzitizi bijuririrwa hamwe n'urubanza mu mizi , ariko iri tegeko ryo rivuga ko buri cyemezo gishobora kujuririrwa ,

Ikindi kandi icyemezo cyafashwe mu rukiko rukuru si urubanza rutegurira urundi ruvugwa mu ngingo ya 162 , naho urubanza rwajuririwe hano si urubanza ruzagira ingaruka mu micire y'urubanza mu mizi rukaba rutahuzwa n'ingingo ya 162 CPCCSA , kukoa ri impaka zavukiye mu rukiko zifatwaho icyemezo gitandukanye n'uirubanza ruzacibwa iki cyemezo rero nticyafatwa nkigiteganywa mu ngingo ya 162 CPCCSA , kubera izi mpamvu zivuzwe iki kirego cy'ubujurire kigomba kwakirwa mu ngingo zatumye ajurira ;

Hakurikiyeho kumva ingingo zatumye UWINKINDI ajuririra uru rubanza :

Q/ UWINKINDI : sobanura impamvu zatumye ujuririra uru rubanza ?

R/ impamvu yatumye njurira ahanini ntagiye muri byinshi ni9 uburenganzira mpabwa n'amategeko nambuwe bwo kunganirwa mu mategeko ; uko biteye ni uko uru rubanza rwanjye rwari rugeze kure ndetse rwasaga nuregera ku mwisho kubera ko rwari rugeze aho kumva abatangabuhamya , ariko hakaba harimo ibibazo byagiye bipfundikwa bitashoboye gutuganywa , mugihe abavoka banjye nari nfite babaza urukiko icyo kibazo urukiko ntirubyumve kandi nanjye bikambangamira , kuburana ntafite abatangabuhamya bashinjura bagerageje gushakwa abatangabuhamya bo mu RWANDA bakeya ariko kandi hari abatangabuhamya benshi bari hanze y'igihugu bagombaga gushakwa mu gihe twari mur ibyo abavoka banjye barahagaritswe .

Byakozwe gihuti hategurwa guhamagara abatangabuhamya baza kunshinja , hategurwa kwirukana abavoka banjye , hategurwa abavoka bandi batazi dossier batazi na dossier , hakurikiraho gusa nko gushyirwaho icyokere cyo kuburana ku gahato ,

Hari aho ubushinja cyaha bwavuze ko abavoka banjye birukanwe n'urugaga rw'abavoka , ariko urebye ibaruwa yanditswe isaba urugaga rw'abavoka guha UWINKINDI ngo abandi bavoka kubera ko ngo ntabavoka afite , barreau nayo yanditse iyindi baruwa ikuraho abari basanzwe banyunganira .

Nabajije urukiko nti ese nimwe mubiyirukanira ko njyewe nta kibazo nfitanye nabo , kuko nta baruwa urukiko rufite isaba ko abavoka bananiye nta ni iyo abavoka banditse bavuga ko twananiranye no ku ruhande rwa Battonier nta baruwa afite ivuga ibintu nkibyongibyo , ni ibintu urukiko rwikoreye battonier yubaha urukiko akaba ari ibintu byateguriwe rimwe bimbuza uburyo bwo kunganirwa mu mategeko mwambwiye ko imyanzuro natanze muyifite kandi nkurikije ubushishozi mufite mufite byinshi mwatahuyemo :

Ikindi wenda navuga ni uko nkurwa mu rukiko rwa I rusha u RWANDA rwemereye urukiko ruzampa ubutabera buboneye kandi nanjye naje nfite icyo kizere ko bazampa ubutabera buboneye nkuko babyiyemeje , biri mu ibaruwa ministre KARUGARAMA yandikiye i ARUSHA asa nkaho atanga ubuhamya bwe , yavuze ko amafaranga ahari ko nta kibazo urubazna rwe ruzagira ;

Q/ erekana ikosa urukiko rwakoze ruvuga yuko wowe nta burenganzira ufite bwo kwihitiramo kubera ko wowe udafite ubushobozi bwo kwirihirira avoka ?

R/ ndavuga amakosa atatu :

- Iyo jusiprudence yafashwe iburanisha ryarangiye ntibigeze bampa umwanya wo kugira ngo nyivuguruzeho :
- Ikindi ni uko uwo AKAYEZU niba yaranze abavoka UWINKINDI we ntago yanze abavoka ahubwo yirukaniwe abavoka n'urukiko ;
- Urukiko rwirengangije ingingo ya 16 y'itegeko nshinga aho ivuga ko itegeko rirengere umuntu kimwe nta vangura iryo ariryo ryose ribayeho ; kubera ko nashakaga kuburana nasabaga ko bampa urutonde nkihitiramo abavoka banyunganira ntahawe abavoka gitunguro ; kuba ntashobora guhabwa urutonde ngo mpitemp abanyunganira mu gihe amategeko abiteganya ndetse hakaba harimo nabandi babikorewe barimo nanjye , ndetse no mu bandi harimo MUNYAGISHARI , MBARUSHIMANA yasabye urutonde ruriho abavoka kuko nawe bari bamugeneye umu avoka uwo bamugeneye ashobora kuba yaraganiriye nawe asanga adashobora kurengera inyungu ze urukiko rwibanze rwa NYARUGUNGA rwategetse battonier ko yamushyikiriza urutonde rw'abavoka ahitamo ndetse habonetsemo amakosa abimenyesha urukiko rukuru narwo rwategetse battonier ko yamuha urutonde rukoze neza akaba yahitamo , byabaye ejo bundi kuwa 25/03/2015

Q/ ese abo wahawe waragaye ?

R/ mubo urukiko rwampaye urukiko rwibanze rwa NYAGUNGA rwemeje ko adashobora gukurikirana imanza nkizingizi witwa HISHAMUNDA Isacaar , akaba ariwe banzaniye , uwa kabiri nasanze yaragiyeho muri 2010 ubwo naterurwaga ARUSHA nzanwa mu RWANDA uwo nawe akaba ari umuntu mushya utazanwa muri zino manza , mu gihe president w'urugaga yari yerekanye liste y'abavoka i ARUSHA bashobora kubura na urubanza rwa U WINKINDI yavuzemo abantu barindwi. harimo GATERA , NKURUNZIZA , NIYIBIZI,KABUREGE BUHURU , KAZUNGU , RWIHANDAGAZA na MUCYO amicus curie ye sinari nakayibona ariko nageze hano mu RWANDA ampa iyo lise nza kubonamo abangaba mbahitamo sinigeze ntera amahane ;

Q/ ko ubwowe wifuza iki ?

R/ nifuza ko nahabwa abangaba twari dusanganywe kuko urubanza rwenda kurangira kandi akaba ari nta makosa bakoze baramuka bayerekanye amakosa bakoze (GATERA GASHABANA na NIYIBIZI) , bitabaye ibyo nkifuza ko nahabwa urutonde nkihitiramo

Kandi nkaba nsaba ko biramutse bigenze gutyo mwanyemerera urubanza rugakomereza aho bari baragereje , bitagenda gutyo abavoka nahabwa bagahabwa umwanya uhagije wo kwiga urubanza bikaba nkaho ari ugutangira bushyashya , kuko ndegwa ibyaha bikomeye ;

Icyo nongeraho ni ukwibaza impamvu zatumye abavoka banjye birukanwa bakihutira guhamagara abatangabuhamya banshinja ndetse nabanshinjura banjye nkaba mbona barahamagawe kandi ntaricara naba avoka banjye ngo duhitemo abo tugomba guhamagaza ,

Ibi nkaba mbona ibi byarashyizwemo ingufu n'ubushinja cyaha kubera ko bwivugiye ko ikirego cyabo cyabuze ishingiro ; bakaba bashaka ko mbazwa natangabuhamya banshinja ntabonye uburyo mbabaza ibibazo ;

Me NIYIBIZI : uwo nunganira yabuze uburenganzira bwo kunganirwa kubera ko uregwa ahabwa urutonde rwabavoka noneho uregwa akihitiramo uwo ashaka , na hano nfite ibaruwa inshira mu rubanza rwa MUNYAGISHARI , nta mpamvu yari gutuma kubijyanye na UWINKINDI hamaze kwemezwa ko nta bavoka afite atamaze kwihitiramo ,

Iyi juriprudence ubushinja cyaha bwatanze ivuguruza uru rubanza kubera ko AKAYEZU yashatse guhindura ba avoka yihitiyemo naho UWINKINDI we

ashaka kubagumana none se ibyo bintu byahurira he urukiko ruvuga ko UWINKINDI yahindurirwa abavoka ;

Ni byo nasobanuye mu myanzuro yanjye ko habaho coutume internationale , kandi ni nayo ikurikizwa kuko ni iyo umuntu agiye i ARUSHA ahabwa urutonde rw'abavoka mpuzamahanga agahitamo abo yifuza , kandi si ngombwa ko choix ye ihura niiya ushinjwa ariko inshuro nyinshi greffier yihitiramo uwo ushinjwa yahisemo , nkuko nabyanditse mu myanzuro iyo coutume kandi naberetse urugaga rukurikiza iyo coutume international ,

Hakaniyongeraho ko jurisprudence zashingiweho kandi zaratanzwe urubanza rwaramaze gupfundikirwa kandi ntacyo uwo twunganira azivuzeho bikaba binyuranyije na ingingo ya 18 y'itegeko nshinga .

Kandi kuba baranze guhindurira avoka AKAYEZU kwari ukugira ngo habeho imigendekere myiza y'urubanza , kuko niba abavoka bamaze imyaka ibiri ni igice , twakoze imyanzuro ya 118 , twavuganye nabatangabuhamya noneho bakuyeho abavoka bashyizeho bashyashya , none se abo bantu baraza ku defenda imyanzuro ya 120 pages batakoze , bashobora no kuyiga birumvikana ariko se bwa butabera ecquitable buzaba bukibonetse , guhindura abavoka bifite ingaruka ku mugendekere myiza y'ubutabera , tugasanga abavoka bari basanzwe bunganira UWINKINDI barukomeza urubanza rugakomeza ;

Q/ ese mwebwe bariya bagenzi banyu urugaga rwahaye UWINKINDI mwebwe mubanenga iki ?

R/ uwo nunganira yabibasobasobanuriye , gusa dukurikije reglement international ntago bafite uburambe ku kazi baburana iyi dossier nkuko byemejwe nabavoka urutonde rwabo Battonier yatanze i ARUSHA , kuko iyi reglement ivuga ko aba bavoka bagomba kuburanira aba bantu bagomba nibura kuba bafite uburambe bw'imyaka cumi , kandi bagenzi banjye ntago babufite , ariko ntacyo duopfa nabo twashatse kubakorera remise et repprise tujya kuri gereza baramutwima ariko yatubwiraga ko tutam7utangira dossier ;

Me GATERA GASHABANA : byinshi byavuzwe , gusa nagira ngo nsubire mu ngingo ya 14 point 6 ndumva ariyo umucamanza wa mbere yegendeyeho avuga ko uburenganzira bw'uregwa agomba guhabwa avoka yihitiyemo akabwemera , iyo nkoze interpretation yiyi ngingo ntago ivanaho ko ushinjwa atishoboye agomba kugira defensuer independant ;

Byumvikane rero ko urukiko rwakoze ikosa ko umuntu utishoboye bimubuza uburenganzira bwi kwihitiramo umwunganira , ibi ndabishingira ku ngingo ya 14 ya pact internation relatyive eu droit civil et politique ndetse na charte africaine , u RWANDA rwashyizeho umukono, ahangaha bavuga principe ya Egalité...............

Iriya principe bongera kuvuga kuri point ya gatandatu bavuga defenseur de son choix iyo babivuze gutyo ni uko ari ikintu ndakuka , yaba afite ubushobozi bwo kumwishyyura cg yaba atabufite ; ntibavuga ko bamutegeka kugira umwunganira bamuhitiyemo ,

Tunashingiye ko iyi pacte internation relative au droits civile et politique ; iza imbere yitegeko , ndumva ahangaha umucamanza wa mbere asa nuwakoze agakosa mu gukora confusion muri iyi interpretaion y'iri tegeko ;

Q/ muraganisha raisonnement hehe , ese murashaka kuvuga ko babujije UWINKINDI uburenganzira afite bwo kwihitiramo ? cg murashaka kuvuga ngo baramutwambuye kandi ari twe twari dusanzwe tumuburanira ?

R/ ni byo nyakubahwa president ;
Icyo nari ngamije ni uko iriya interpretation yakozwe na Haute Cour atariyo bigendeye ku mategeko tuvuze haruguru , bityo tugasanga hariu ikosa ryakozwe kandi rikosorwa nurukiko rw'ubujurire ;

Ikindi nagira ngo mbagezeho ni principe de base du bareau : ivuga ko umuntu yemerewe kwishakira avoka yihitiyemo wo kumwunganira ; izi akaba ari principes zafashwe muri huitieme de la concetion des nation unis , bakanavuga ko administration ikora ibishoboka byose kugira ngo ubwo burenganzira bwose bwubakirizwe , tukaba dusanga iyi jugement yafashwe na HCCI inyuranyije ni ibi tumaze kuvuga , ubundi ni ubwo banze kubivuga twavanweho na Minijust, kuko yanditse ibaruwa tugeze muri ayudience tubajije ikibazo urukiko rutangiraq kujye mu murongo wa minijust bavuga ngo bariya bantu bigize kiampala noneho munijust itanga injoction muri pouvoir judiciaire kandi integeko nshinga riteganya independance du trois pouvoir , ariko byarenzweho urukiko rwanduikira battonier noneho badukuraho , tukaba dusanga tutiriwe dutinda icyo dusaba ni uku za sanctiona iyo injerance ya executif mu byerekeye ubutabera .

Noneho UWINKINDI arasaba ko yahabwa uburenganzira bwo kunganirwa na ba avoka yihitiyemo , numva ibyo asaba abyemererwa namategeko , cyane ko ibyasabwe yashyizwe ku ngufu mu kunganira nabo adashaka , iriya ya kabiri kandi yayivuze a titre principal et a titre subsidiaire kuko yavuze ko niba

bidashoboka ko dukomeza urubanza ariko nkaba numva atari byo kubera ko duhari kandi turo pret yo kuburana uru rubanza ;

PN RUBERWA : ku mpamvu z'ubujurire za UWINKINDI ku rubanza rubanziriza urundi rwafashwe n'urukiko rukuru ku bijyanye no kuba harasabwe ko hagenwa abandi bunganizi , ntago ari urukiko rwaduitse mu gitondo ngo rwibwirize rusabe ko UWINKINDI yashakirwa abunganizi .

Ubufasha bw'abantu baburanira mu nkiko batishoboye bufite uburyo bukorwamo cyane abantu boherezwa bavuye hanze , igikorwa ni uko barreau i disponibiliza abavoka ariko minijust nayo ika disiponibiliza les moyens ikibazo cyavutse ni uko minujust yagennye Lum sum , ku rubanza rumwe 15 000 000 frws , iyagena mu gihe bari bamaranye iminsi bafite contrat ya 1 000 000 frws , abangaba rero bananiranwa kumvikana , kuko bo bahembwaga miliyoni imwe ku kwezi buri umwe , ariko hariho logique ko abavoka bazajya bajya mu rubanza bazajya bahabwa 15 000 000 frws kuva urubanza rutangiye kugeza rurangiye , habayeho inama naba bavoka banairanwa kumvikana kuri contrat noneho habaho gushaka abavoka bemera aya mafaranga , bituma ihagarika aya masezerano kandi ministre yari partie muri aya masezerano ; kandi hari izindi manza izo contrat zasinywe kandi zitateje icyo kibazo ,

Hari inama yabaye kuwa 03/12/2014 yahuje urugaga rw'abavoka , minijust naba bavoka baburanira UWINKINDI icyari kigamijwe kwari ukurebera hamwe uburyo aya mafaranga yagabanywa kuko yari menshi ndetse minijust ivuga ko bishobora kurenga ubushobozi , battonier yarabisinyiye nkuko tubhaye inyandiko yiyo nama , aba rero banze gukorera ayo mafaranga noneho ministere isaba ko hashakwa abandi bavoka bashobora gukorera aya mafaranga , ni uko Me GATERA GASHABANA banze kujya mu murongo w'uburyo bahamba ababurana izi manza ntago birukanywe ahubwo bo bananiwe guhembwa aya mafaranga ;

Kuba rero UWINKINDI atarahawe urutonde rwo abavoka ngo ahitemo abo ashaka , twagaragaje ko nta tegeko ryishwe , kuko guhitamo bikorwa n'umuntu ufite ubushobozi bwo kirihira , barreau rero yahisemo kandi abavoka bafite ubushobozi , ariko ntiyahitamo ba avoka badashobora guca amafaranga ataboneka ;

Baravuze ngo mu rubanza rwa AKAYEZU ngo we yari yanze abo yahisemo ariko ikirebwa hano ni ukureba ngo ufite uburenganzira bwo guhitamo , urugaga rwamwereye bwa mbere guhitamo runamuhitiyemo kandi ntacyo byari byishe kuko byose bishoboka , kuko hakwiye kureba ukeneye ubufasha ndetse na fruchette yutanga ubushobozi , kuko niyo yahabwa liste ashobora kugira gutya

agahitamo udashobora gukorera aya mafaranga , ahubwo twebwe dusaba ko barreau yazakora urutonde rw'abavoka bashobora gukorera aya 15 000 000 frws kuri dossier ,

Ikindi kandi mu manza zose ntago ababuranyi bihitiramo kuko abakeneye ubufasha bw'abavoka bandikira urugaga , hanyuma rukabahitiramo ababunganira , uburenganzira afite ni ubwo kunganirwa naho kumwihitiramo bwo ntabwo ;

Ikindi kuvuga ko ngo abavoka nta bushobozi bafite kandi barashyizwe kuri tableau de l'odre byaba ari SAKIRIREGO

Ikindi kandi abangaba bemeye amafaranga minijust ibaha nta mpaka zaba ziri hano

PN MUTANGANA J.Bosco : icyo dushaka kongeraho ni ukugira ngo tuvuge yukouburenganzira bwo kunganirwa buteganywa n'amategeko ariko ntago ari ndakuka cyane iyo bije guhitamo , aha twavuga ko UWINKINDI nta burenganzira ndakuka afite bwo kwanga abavoka mu gihe abo yari asanganywe batumvikanye na Minijust , we ashaka kugumana abangaba kandi bidashoboka kubamwishyurira

Kugira uburenganzira bwa avoka wihitiyemo duhereye ku ngingo ya 14 agace ka gatandatu , nayo ubwayo isobanura ko mu gihe nta bushobozi afite bwo kumuhemba ahabwa umwunganira kandi biri u itegeko ari nako byagenze m.uri cas ya UWINKINDI ;

Dufite imanza nyinshi zaciwe muri stuation nkiyingiyi , kuko we nta burenganzira afite bwo kugihitamo avoka keretse we afite amafaranga yo kwioshyurira avoka ;

Mu rubanza rwaciwe murukiko rwashyiweho Yegovlaviya , mu gice cya 36 , ku kibazo cyo gusuzugura urukiko : (arabisomye mu cyongereza) muri make bavuga ko uregwa afitye uburenganzira bwo kwihitiramo umwunganira ariko kandi biokaba atari ndakuka mu gihe bishobora gutera ibindi bibazo , kandi iyo uregwa utishoboye yihitiyemo uwo ashaka abe yemeza ko afite ubushobozi bwo kumwiyishyurira , bityo rero [illegible] ye : ngo cyane cyane iyo amuhisemo urubanza rwaratangiye

Ku rukiko mpuzamahanga rwashyiriweho [illegible] twavuze urubanza rwa AKAYEZU gusa [illegible] rwa AKAYEZU na NDAHIMANA urukiko [illegible] bw'uregwa bwo kwihitiramo umwunganira [illegible] kumwiyishyurira .

UWINKINDI akaba ari nta burenganzira afite bwo ku imposa X cg Y ngo niwe uzamwunganira kandi nta bushobozi afite ,

Mu rubanza rwa NDAHIMANA nabwo urukiko rufite uburyo bwabivuzemo , rwaravuze ko kugira ngo umuntu ahabwe infashanyo yo kumushakira umwunganira yuzuza impapuro zo gusaba umwunganira ngo ariko umwanditsi w'urukiko mu nyungu z'ubutabera ashobora kumushyiraho atitaye ko atazujuje ;

Mu rubanza rwa AKAYEZU, NSENGIMANA na NAHIMANA ho urukiko rwagize ruti : niubwo uregwa utioshoboye ashobora guhitamo ku rutonde rwatanzwe numwanditsi w'urukiko , kubera ko i ARUSHA bikorwa nawe ariko hano ho bikorwa na Minijust n'urugaga rw'abavoka ; ariko bavuga ko bitabujije ko yakumva ikifuzo cy'uregwa , ariko adategetswe kuba yashyiraho uwo uregwa ashaka ahangaha mu RWANDA bikorwa na munijust , kandi minijust ifite uburenganzira bwo kuba yashyiraho uwo ishaka bitewe n'amafaranga ifite yo gufaasha abantu bakeneye ubu bufasha kubera ko ababukeneye ni benshi ntago ari UWINKINDI ,

Munijust ishobora kba yarashize inyungu zayo imbere kurusha iza UWINKINDI , tugasanga UWINKINDI agomba kwemera abavoka yagenewe , kuvuga ngo yongere ahabwe urutonde rw'abavoka byaba ari ikibazo yongeye guhitamo abadashobora guhembwa ariya mafaranga , tugasanga ba avoka bagenwe aribo Me HISHAMUNDA Isacaar na Me Joseph kubera ko bashyizweho bafite ubwo burambe bwa imyaka icumi ndetse banayirengeje , dukomeje mu rubanza na none rwa NAHIMANA n'ubushinja cyaha , hari icyo urukiko rwavuze mu gushyiraho abavoka bashyashya ndetse ni igihe bigiraho , rwavuze ko gushyiraho ba avoka bashya bidashoboka mu gihe abari bariho bataravamo kandi niko byagenze aba babanje kuvaho habona kujyaho abandi ;

Ikindi kuvuga ko izi jurisprudences bavuga ko twatanze nyuma batazisobanuyeho , twari twazivuzeho nyuma yaho amasaha abiri dukora umwanzuro wari wamaze kugera kuri UWINKINDI n'urukiko ;

Hari urubanza GATETE bavuze ko utanga inkunga afite inshingano zo kugena uburyo abunganira uregwa bishyurwa , ahangaha ntago inkunga igenwa nabayihabwa igenwa nabayitanga ,

Niba harabayeho gusesa amasezerano hagati yabavoka ba UWINKINDI bijyanye na gestion interne ya ministeri y'ubutabera twebwe twumva nta tegeko ryishwe ;

Nari navuze ingingo ya cumi na kane ya transfer low , kandi ibyo iteganya byarakozwe kuko yahawe abamwunganira aho yario ari hose ;

Ku bijyanye na experience ya ba avoka, hasi ingingo ya 20 agace ka D ; ivuga ko ushinjwa ahabwa umwunganira ubifitiye ububasha ubishoboye , kandi byitwa ko abishoboye iyo ari kuri liste y'urugaga rw'abavoka kandi rufite condition rugengeraho kugira ngo abantu rubashyire muri barreua rujya kubashyiraho rwaro rwamaze kubona ko buijuje ibisabwa ;

Tursoza tuvuga ko abavoka bashyizweho bamwunganira nta nenge bafite yatuma batamwunganira , mu gusoza turavuga ko ikintu cya mbere ni amahitamo , ariko kandi mu gihe cyose adashobora kwirihira umwunganira nta yandi mahitamo afite ; tukaba dukeneye igisubizokinoze kuri aya mahitamo :

PN RUBERWA : ku bijyanye nurubanza rwa MBARUSHIMANA bavuga ko ngo urukiko rwafashe icyemezo cy'uko ngo umwavoka adashobora kuburana uru rubanza nta cyemezo nkicyongicyo cyabayeho .

Kuri MUNYAGISHARI we yagenewe avoka wa mbere aramwanga agenerwa uwa kabiri barakorana , naho UWINKINDI we aravuga ngo impamvu atamwemera ngo urukiko rwemeje ko adafite capacity yo kuburana uru rubanza rwo muri uru rwego keraka niba arufite akarwerekana , ariko umuntu ashobora kwanga avoka urugaga rukagira clemence maze rukamushakira undi ni impuwe ruba rumugiriye ;

Twasobanuye ko atari ngombwa ko yihitiramo avoka kuko ashobora guhitamo uwo udashobora gukorera ariya mafaranga . ikindi ni uko hakwiye kujyaho liste yabavoka bashobora kwemera ariya mafaranga

Tugasoza dusaba urukiko ko rwazafata umurongo ku bantu bava mu mahanga baje kuburanira hano mu RWANDA rwatanga umurongo mu gihe uregwa yanze abamwunganira yagenewe ko baba mu rubanza ku nyungu z'ubutabera , cyane cyane mu gihe bigaragara ko uwanze abamwunganira yegenewe adafite ubushobozi bwo kwiburanira hagereranijwe n'urubanza , biotewe n'uburemere bwarwo , ibi tubivuga atari izi manza gusa kuko mu rwego mpuzamahanga byagiye bikorwa , hari urubanza tugiye kubashyikiriza aho urukiko rwemeje ko avoka washyizweho yaba actif murubanza mu nyungu z'ubutabera , ni mu rubanza rwaciwe na TPIY aho urukiko rwategetse ko avoka wagenwe ku muntu utari ufite ubushobozi bwo kumwiyishyurira avoka yategetswe kuba actif mu rubanza akaba ari ikifuzo hejuru yibinditwari twatanze ; (arayitanze)

Q/ muravuga iki musoza uru rubanza ?

R/ icyo mvuga nanjye sintinda ni ugushimangira ikifuzo nasabye urukiko ko rwakora mu bushishozi bwarwo abavoka natswe ku maherere bagasubira mu rubanza : ikibazo cya amafaranga si cyo cyane , mu byo ministre yemeye yavugaga ko amafaranga atabuze , tubaraha amicus currie ya ministre avuga ko amafaranga atabuze mu RWANDA ,

Ikindi cyatumye banga gusionya ariya masezerano ni uko hajemo gucecekesha abavoka abavoka ntibavuge , icyo kintu cyarambabaje : niko kwanga gusinya amasezerano mashya ;

Ikindi ni uhagarariye urugaga yavugaga ko guhitamo avoka biri mu burenganzira bw'uregwa , nkaba ntumva impamvu ntahabwa nkibyo abandi bahabwa .

Me NIYIBIZI : ni rapport ya monitoring twayishyize mu myanzuro yacu aho secretaire executif avuga ngo aboherejwe mu RWANDA bahabwa urutonde rw'abavoka akihitiramo ;

Umushinja cyaha avuga ko ngo ministetere yubutabera niyo itanga urutonde rw'abavoka ntago ari byo rwose ni urwego rwigenga .

Baragereranya umwanditsi w'urukiko rw'ikirenga ngo agena avoka ariko iyo abikoze icyo gihe ba ari mu mwanya wa battonier . dufite na amicus currie ya battonier avuga uburyo bizagenda izi manza niziza mu RWANDA ;

Ikindi hari tableau yatanzwe igaragaza za experiences zigomba kwitabwaho ku bavoka baburana izi mpamvu .

Hari akantu nshaka kugera ho ni kubera iki ubushinja cyaha bushaka byanaga bikunze ko bariya bavoka ko baza muri uru rubanza , kuko ubushinja cyaha bushaka abavoka buwo bareze akaba aribwo bumuhitiramo.

Ku bijyanye na jurisprudence bababwiye iya nyuma ni ijyanye ni iyo uko ngo kunganirwa ari itegeko ariko biteganyijwe mu rukiko rwikirenga gusa ahandi si itegeko , ariko kandi ntago UWINKINDI yifuza kuburana adafite avoka , akifuza abavoka yatoranyije basanganywe cg se agahabwa amahirwe yo guhitamo ntago bihuye nudashaka guhitamo :

Ku bijyanye na experience yari article 45 ya reglement des preuves , irasobanura ko ari imyaka cumi , nkaba nsoza mvuga ko amasezerano twagira nye nurugaga twanze kuyasinya ahubwo twasinye amasezerano abiri , tukaba twebwe twumva agihari ahubwo dusaba ko yakubahirizwa ;

Me GATERA : muzemera ko mbaha declaraqtion yakozwe na HAVANI , nyuma yiri buranisha ;

Kubera ko imvugo bavugaga mu rukiko rukuru bavugaga ko twasuzuguye urukiko tukanga kuburana none baje bavuga indi mvugo , naho kubijyanye namasezerano na Minijust dufite contrat twasinyanye n'urugaga rw'abavoka inshuro ebyiri , nta ni imwe twasinyanye na minijust kandi yaje kwiha kuvanaho amasezeranoitasinyeho ;

Uwo nunganira yavuze za amicus currie zitandukanye zakusanyijwe kugira ngo u RWANDA rube rwaburanisha imanza nkizingizi ;

Icyo ingenzi nagira ngo mbabwire ni uko mukoreza UWINKINDI ni uko urukiko rwafashe icyemezo ko u RWANDA rufite ingufu zihagije zo kubahiriza ibisabwa byose , iyo rero ubushinja cyaha buzanye iki cyemezo murebe icyo ubushinja cyaha bwavugaga murebe ni ibiri hano , kuko bashaka kwemera ko ubwunganizi atari impuzamahanga , kandi u RWANDA rwariyemereye ko ruzubahiriza le droit et proces eqitable .

Aho bakora comparaison des jurisprudence , kuki batagaragaza xondition abo bavoka bakoreragamo mpuzamahanga bakabihuza ni ibingibi turimo , akaba aribyo nagira ngo tubasubiriremo ;

Naba ndi avoka ki ndamutse nemeye ibikubiye muri contrat yateguwe na minijust imeze gutya koko , nkaba nsoza nsaba ko mwategeka ko UWINKINDI yakunganirwa na avoka yihitiyemo cyane ko Leta y'u RWANDA yiyemereye ko ifite amafaranga ahagije yo gufasha aba bantu ;

Iburanisha rirashojwe ruzasomwa kuwa 24/04/2015 saa tanu z'amanywa

HARI :

UWINKINDI Jean

Me GATERA GASHABANA Me NIYIBIZI Jean Baptiste

Ubushinja cyaha buhagarariwe

na RUBERWA Bonevanture MUTANGANA J.Bosco

INTEKO

Juge MUTASHYA J. Baptiste
PEREZIDA

Juge GAKWAYA Justin
Umucamanza

Juge HITIYARAMYE Alphonse®
Umucamanza

MUNYANDAMUTSA J. Pierre
Umwanditsi