

URUKIKO RWISUMBUYE RWA NYARUGENGE RURI I NYARUGENGE RUHABURANISHIRIZA MU RUHAME IMANZA Z'INSHINJACYAHA MU RWEGO RWA MBERE, RUKIJIJE URUBANZA N°RP 00993/2021/TGI/NYGE, NONE KU WA 16/02/2022 MU BURYO BUKURIKIRA:

HABURANA :

UBUSHINJACYAHA ku rwego Rwisumbuye rwa Nyarugenge

NA

HABARUGIRA Julias, mwene SENDEGEYA Epimague na na NIYONSENGA Francine, wavutse ku itariki ya 01/01/1994, avukira mu mudugudu w'Akajwiga, Akagari ka Rusagara, Umurenge wa Kigembe, Akaree ka Gisagara, Intara y'Amajyepfo, akaba ari naho atuye ; akoresha telefoni igendanwa+250788834774 na numero ya ID : 1199480212842059, yunganiwe na na Me NKOMO Abdo Blaise na MAGNOUT TCHONANG DANIEL PASCAL;

IBYAHA AREGWA: Ubujura bukoreshywe kiboko cyangwa ibikangisho no gukubita cyangwa gukomeretsa ku bushake, (ibyaha bitenywa kandi bigahanishwa ingingo ya 121 n'ya 168 z'itegeko N°68/2018 ryo ku wa 30/08/2018 riteganywa ibyaha n'ibihano muri rusange nk'uko ryahinduwe kandi ryujywe kugeza ubu).

I. IMITERERE Y'URUBANZA

1. Uru rubanza rukomoka ku kirego Ubushinjacyaha bwatanze muri uru Rukiko, burega HABARUGIRA Julias, ko ku itariki ya 19/06/2021, ari mu murenge wa Rwezamenyo, mu kagari ka Rwezamenyo I, mu mudugudu w'Indatwa, uwitwa UWAMAHARO Pascaline yakubiswe ingumi ku jisho, akamburwa ingufuri n'imfunguzo ayo, ndetse na telefoni ye yo mu bwoko bwa INFINIX, ifite agaciro ka 120,000 Frws, ubwo yariho ayigiraho mu muhanda, bukeye ukekwe yayimwambuye agaruka hafi y'aho asiga urufunguzo rwe, amutumaho ko azagaruka gutwara igice cy'ijisho cyasigaye, ndetse no ku munsu ukurikiyeho nabwo ahagaruka abaza UWAMAHARO Pascaline niba yaraye abonye urufunguzo rwe, akanamubwira ko agarutse kumutwara uruhande rwasigaye ku ijisho ryarokotse aribwo, ngo umuntu wamwumvaga yahise ahamagara ubuyobozi aribwo yafatwaga; ko bwashyirikije urukiko ku gihe kuba inyandiko yarashyizwe muri sisteme nyuma byaterwa n'ikibazo cy'ikoranabuhanga, kandi amatariko agaragra muri dosiye atavuguruzanya kuko urega yasobanuye neza igihe yakorewe icyaha;
2. Ubushinjacyaha buvuga ko ibimenyetso bimushinja icyaha uko n'ubwo HABARUGIRA Julias abazwa mu bugenzacyaha yahakanye ibyaha, ariko

UWAMAHORO Pascaline akimushinja, n'ubuhamya bwa MVUYEKURE Emmanuel na raporo y'ubuyobozi bw'Umudugudu w'Indatwa bivuga ko HABARUGIRA Julias ari ku rutonde rw'abasore batatu (3) bambura abantu, raporo ya muganga igaragaza ko uburyo UWAMAHORO Pascaline yakubiswe akazamara igihe cy'iminsi makumyabiri (20journs) atagira icyo yikorera, bugasaba ko HABARUGIRA Julias yahanishwa igifungo cy'imyaka icumi (10 ans) n'ihazabu ingana na milioni eshatu (3,000,000 frws);

3. HABARUGIRA Julias akaba yaburanye ahakana ibyaha aregwa, avuga ko bamubeshyera basaba ko ubushishozi ku mvugo z'umutangabuhamya umushinja;
4. Me NKOMO Abdo Blaise na MAGNOUT TCHONANG DANIEL PASCAL bunganira HABARUGIRA Julias biregura bavuga ko uwo bunganira yafunzwe mu buryo budakurikije amategeko ku mpamvu y'uko ubushinjacyaha bwamuregeye urukiko dosiye ye ituzuye kuko yaregwe kuwa 30/06/2021, bushyira muri sisiteme inyandiko yabwo itanga ikirego kuwa 17/10/2022 akaba yari amaze amezi cumi n'atandatu (16 mois) afunze, kandi binyuranyije n'ingingo ya 79 n'ya 92 z'Itegeko n° 027/2019 ryo ku wa 19/9/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha;
5. HABARUGIRA Julias n'abamwunganira Me NKOMO Abdo Blaise na MAGNOUT TCHONANG DANIEL PASCAL bagasaba ko yagirwa umwere ku mpamvu y'uko afatwa ntacyo yafatanywe, ndetse n'imvugo z'urega n'ibikubiye muri raporo y'ubuyobzi bw'umugududu w'Indatwa bikaba bivuguruzanya bitera ugushikanya kuvugwa mu ngingo ya 111 y'Itegeko n° 027/2019 ryo ku wa 19/9/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha;
6. Urubanza rwaburanishijwe mu ruhame ku wa 08/02/2023, HABARUGIRA Julias yitabye, yunganiwe na Me NKOMO Abdo Blaise na MAGNOUT TCHONANG DANIEL PASCAL, naho Ubushinjacyaha buhagarariwe na MUKARUKUNDO Agnes, Umushinjacyaha ku rwego Rwisumbuye ;

7. Ibibazo bigiye gusuzumwa muri uru rubanza :

-Kumenya niba HABARUGIRA Julias afunzwe mu buryo budakurikije amategeko?

-Kumenya agaciro kahabwa imvugo za UWAMAHORO Pascaline na raporo ya muganga mu guhamya HABARUGIRA Julias icyaha cy'ubujura bukoreshejwe kiboko cyangwa ibikangisho n'icyaha cyo gukubita cyangwa gukomeretsa ku bushake.

II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

➤ ***Kumenya niba HABARUGIRA Julias afunzwe mu buryo budakurikije amategeko.***

8. Me NKOMO Abdo Blaise na MAGNOUT TCHONANG DANIEL PASCAL bunganira HABARUGIRA Julias basobanura ko uwo bunganira yafunzwe mu buryo budakurikije amategeko ku mpamvu y'uko ubushinjacyaha bwamuregeye urukiko dosiye ye ituzuye kuko yaregewe kuwa 30/06/2021, bushyira muri sisiteme inyandiko yabwo itanga ikirego kuwa 17/10/2022, kandi binyuranyije n'ingingo ya 79 n'iya 92 z'Itegeko n° 027/2019 ryo kuwa 19/9/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha;
9. Ubushinjacyaha bwo bukirigira buvuga ko bwashyirikije urukiko ku gihe kuba inyandiko yarashyizwe muri sisiteme nyuma byaterwa n'ikibazo cy'ikoranabuhanga;

UKO URUKIKO RUBIBONA

10. Urukiko rusanga kuba Me NKOMO Abdo Blaise na MAGNOUT TCHONANG DANIEL PASCAL bunganira HABARUGIRA Julias buvuga ko uwo bunganira yafunzwe mu buryo budakurikije amategeko ku mpamvu y'uko ubushinjacyaha bwamuregeye urukiko dosiye ye itarimo inyandiko itanga ikirego bitahabwa ishingiro, kubera ko nk'uko ubushinjacyaha bubivuga, kuba inyandiko y'ubushinjacyaha itanga ikirego itagaragara muri dosiye bwaregeye urukiko, byaterwa n'impamvu zitandukanye zirimo n'iy'ikoranabuhanga, ariko na none ibyo bitavuze ko uregwa yari afunzwe budakurikije amategeko, kuko uretse no kuba batigeze bagaragariza urukiko inenge ziri mu cyemezo kigaragara muri dosiye ye kimufunze by'agateganyo kivugwa mu ngingo ya 79 y'itegeko rimaze kuvugwa bashigiraho, ngo ibe yasuzumwa ; ariko na none dosiye yuzuye iregerwa urukiko ivuga mu ngingo ya 92 y'iryo tegeko bashigiraho, n'ubwo inyandiko y'ubushinjacyaha itanga ikirego yaba itarashyirwa ahabugenewe muri sisiteme, ariko iba inagaragara ahabugenewe muri sisiteme ikoresheye mu nkiko, ku buryo ibiyigize byose biba bihagaragara, bikaba rero bitavuze buri gihe ko dosiye yashyirikijwe urukiko iba ituzuye; kuko ibaye ituzuye n'urukiko rutayakira, ngo ruyikorere ibisabwa byose.
11. Kubw'ibyo rero, urukiko rukaba rubona HABARUGIRA Julias afunze mu buryo bukurikije amategeko kuko biragaragarira muri dosiye ye ko icyemezo kimufunga by'agateganyo kitigeze kujuririrwa, ngo kibe cyahindurwa n'ikindi cyemezo kikivuguruzwa nk'uko ingingo ya 89 y'itegeko rimaze kuvugwa ibiteganywa¹.

¹ Iyo ngingo ivuga ko Mu gihe cyagenewe ubujurire no mu gihe urukiko rwamaze kujuririrwa rutaraca urubanza, icyemezo cy'urukiko cyafatiwe ukurikiranyweho icyaha kigumaho mu gihe cyose hatarafatwa ikindi cyemezo kikivuguruzwa ku rwego rw'ubujurire.

- ***Kumenya agaciro kahabwa imvugo za UWAMAHORO Pascaline, iz'abatangabuhamya, na raporo ya muganga mu guhamya HABARUGIRA Juliasicyaha cy'ubujura bukoreshwe kiboko cyangwa ibikangisho n'icyaha cyo gukubita cyangwa gukomeretsa ku bushake.***

- 12.** Ubushinjacyaha buvuga ko HABARUGIRA Julias ko ku itariki ya 19/06/2021, ari mu murenge wa Rwezamenyo, mu kagari ka Rwezamenyo I, mu mudugudu w'Indatwa, uwitwa UWAMAHORO Pascaline yakubiswe ingumi ku jisho, akamburwa ingufuri n'imfunguzo ayo, ndetse na telefoni ye yo mu bwoko bwa INFINIX, ifite agaciro ka 120,000 Frws, ubwo yariho ayigiraho mu muhanda, bukeye ukekwa yayimwambuye agaruka hafi y'aho asiga urufunguzo rwe, amutumaho ko azagaruka gutwara igice cy'ijisho cyasigaye, ndetse no ku munsu ukurikiyeho nabwo ahagaruka abaza UWAMAHORO Pascaline niba yaraye abonye urufunguzo rwe, akanamubwira ko agarutse kumutwara uruhande rwasigaye ku ijisho ryarokotse aribwo, ngo umuntu wamwumvaga yahise ahamagara ubuyobozi aribwo yafatwaga;
- 13.** Me NKOMO Abdo Blaise na MAGNOUT TCHONANG DANIEL PASCAL bunganira HABARUGIRA Julias basobanura ko kuba kuwa 21/06/2021 yarafatiwe ahazwi nko kuri 40, agiye gusura inshuti ye, ahuye n'uwitwa Mvuyekure Emmanuel wamujyanye kuri RIB avuga mu munsu (2) ishize yakubise ingumi ku jisho, anamwambura telefoni ye, byerekana ko icyaha gikorwa atari ahari akaba ntacyo yafatanywe n'ikibagaragaza nyiri telefoni ivugwa ko yibwe; busaba ko yagirwa umwere kuko harimo ugushidikanya ku cyaha kuko ibivugwa n'urega ko yibwe telefoni ye kuwa 19/06/2021 zitandukanye n'ibivugwa muri raporo y'umudugudu w'Indatwa ko kuwa 21/06/2021 yafashwe ateshwa kuyiba, yo n'ubuhamya bwa MVUYEKURE Emmanuel bitaragaza ihuriro riri hagati y'abandi bari mu itsinda ry'abajura ;
- 14.** Ubushinjacyaha buvuga ko ibimenyetso bimushinja icyaha ari uko HABARUGIRA Julias ngo n'ubwo yahakanye ibyaha, ariko UWAMAHORO Pascaline abimushinja, n'ubuhamya bwa MVUYEKURE Emmanuel na raporo y'ubuyobozi bw'umudugudu w'Indatwa bivuga ko HABARUGIRA Julias ari ku rutonde rw'abasore batatu (3) bambura abantu, raporo ya muganga igaragaza ko uburyo UWAMAHORO Pascaline yakubiswe akazamara igihe cy'iminsi makumyabiri (20journs) atagira icyo yikorera,;
- 15.** HABARUGIRA Julias yiregura avuga ko atemera ibyaha byavuzwe haruguru ashinjwa, akavuga ko ubwo yari avuye Nyabugogo agiye kureba inshuti ye, yahuye na MVUYEKURE Emmanuel avuga ko yamwibye, asaba ko yarenganurwa ;

16. Me NKOMO Abdo Blaise na MAGNOUT TCHONANG DANIEL PASCAL bamwunganira bagasaba ko yagirwa umwere ku mpamvu y'uko afatwa ntacyo yafatanywe, ndetse n'imvugo z'urega n'ibikubiye muri raporo y'ubuyobzi bw'umugududu w'Indatwa bikaba bivuguruzanya bitera ugushikanya kuvugwa mu ngingo ya 111 y'Itegeko n° 027/2019 ryo ku wa 19/9/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha;

UKO URUKIKO RUBIBONA

17. Ingingo ya 121, igika cya kabiri y'Itegeko N°68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryavugururwe kandi ryahinduwe kugeza ubu iteganya ko *iyi gukubita cyangwa gukomeretsa byateye indwara cyangwa **kudashobora kugira icyo umuntu yikorera ku buryo budahoraho***, igihano kiba igifungo kitari munsu y'imyaka icumi (10) ariko kitarenze imyaka cumi n'itanu (15) n'ihazabu y'amafaranga y'u Rwanda atari munsu ya miliyoni eshatu (3.000.000 FRW) ariko atarenze miliyoni eshanu (5.000.000 FRW). Naho ingingo 168, igika cya mbere y'Iryo tegeko igateganya ko *Kwiba hakoreshejwe kiboko cyangwa ibikangisho bihanishwa igifungo kitari munsu y'imyaka itanu (5) ariko kitarenze imyaka irindwi (7) n'ihazabu y'amafaranga y'u Rwanda atari munsu ya miliyoni eshatu (3.000.000 FRW) ariko atarenze miliyoni eshanu (5.000.000 FRW).*;
18. Ingingo ya 65 y'Itegeko n°15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, iteganya ko "Urukiko ni rwo rwonyine rupima ko imikirize y'abatangabuhamya ihuye n'ikiburanwa, ifite ingingo zikiranuye kandi ikaba ikwiye kwemerwa cyangwa guhakanwa. Ntirwitsitsa ku mubare w'abatangabuhamya. Rwita cyane cyane ku bumenyi bwabo bw'ibyabaye, no ku buryo babivuga uko byagenze nta cyo bihimbira".
19. Ingingo ya 111 y'Itegeko n° 027/2019 ryo ku wa 19/9/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha iteganya "Gushidikanya birengera ushinjwa. Iyo urubanza rwakurikiranywe mu buryo bwose, ntihagire ibimenyetso nyakuri biboneka byemeza nta shiti abacamanza ko ushinjwa yakoze icyaha koko, bagomba kwemeza ko atsinze".
20. Nk'uko bigaragara muri dosiye, ndetse no mu rukiko HABARUGIRA Julias ahakana ibyaha aregwa, akavuga ko bamubeshyera kuko yafashwe agiye kureba inshuti ye, we n'abunganizi be bavuzwe haruguru bagasaba ko yagirwa umwere kuko ibikubiye muri dosiye ye bitera ugushidikanya ;
21. Nk'uko bigaragara muri dosiye, imvugo za UWAMAHORO Pascaline uvuga ko HABARUGIRA Julias yamukubise ingumi ku jisho akamwambura ingufuri n'imfunguzo zayo, na telefoni ye ubwo bari bahuriye mu muhanda ayivugiraho, n'ubuhamya bwa MVUYEKURE Emmanuel, ndetse bivuga ko HABARUGIRA Julias ari ku rutonde

rw'abasore batatu (3) bambura abantu, nyamara imvugo z'uyu mutangabuhamya MVUYEKURE Emmanuel ariko ntaho zigaragara muri doosiye uretse gusa imyirondoro ye igaragara ku rupapuro rwa 1 rw;ibazwa rye, ndetse no mu iburanisha ryavuzwe haruguru umushinjacyaha akaba yarabajijwe impamvu zitagaragara, akivugira ko azazishyikiriza urukiko ariko ntabikore ;

- 22.** Dosiye y'uru rubanza igaragaza kandi ko hari raporo ya muganga yo ku wa 11/06/2021, aho umuganga yavuze ko yasuzumye UWAMAHORO Pascaline, ko yakubiswe akazamara igihe cy'iminsi ine (4jours) atagira icyo yikorera ;
- 23.** Urukiko rusanga mu buhamya bwa MVUYEKURE Emmanuel na raporo y'ubuyobozi bw'umudugudu w'Indatwa n'ubwo ubushinjacyaha bwaragaragaje, bivuga ko HABARUGIRA Julias ari ku rutonde rw'abasore batatu (3) bambura abantu, ariko butagaragaza ubwo buhamya muri dosiye, ngo bube kwasuzumwa harebwa niba ibibukubiyemo bihura neza n'ibivugwa na UWAMAHORO Pascaline umushinja ko yakubise, akanamwambura ibintu bye byavuzwe haruguru, ndetse n'isano riri hagati yabyo, uretse kuvuga gusa ko HABARUGIRA Julias ari kuri urwo rutonde, ariko batagaragaza urwo rutonde n'ikigaraza niba abaruriho aribo koko bamukubise, bakanamwambura telefoniye.
- 24.** Urukiko rushingiye ku bimaze gusobanurwa birebana n'ubuhamya bwatanzwe n'ibyavuye mu iperereza ryakozwe mu rwe rwa mbere, rurasanga harimo ugushidikanya, bikaba bitashingirwaho nk'ikimenyetso gishinja HABARUGIRA Julias icyaha cy'ubujura bukoreshajwe kiboko cyangwa ibikangisho n'icyaha cyo gukubita cyangwa gukomeretsa ku bushake, cyane ko kuva mu nzego z'iperereza kugeza ubu yagihakanye.
- 25.** Urukiko rurasanga raporo ya muganga yagaragajwe, ivuga ko raporo ya muganga yo ku wa 22/06/2021, aho umuganga yavuze ko yasuzumye UWAMAHORO Pascaline, ko yakubiswe akazamara igihe cy'iminsi makumyabiri (20jours) atagira icyo yikorera, ariko nta kigaragaza niba HABARUGIRA Julias ariwe wakubise muri ubwo buryo, hakaba hakwibazwa uko gukubitwa cyaratewe n'igikorwa HABARUGIRA Julias cyo kuba yrafatiwe hafi y'aho UWAMAHORO Pascaline yakubiiwe akanamburwa nk'uko nawe abyivugira, Urukiko rurasanga kuba raporo ya muganga igaragaza ko UWAMAHORA Pascaline yakubiswe, hagomba kugaragazwa ko ibyaha HABARUGIRA Julias aregwa aribyo byabimuteye.
- 26.** Urukiko rusuzumye ibimenyetso bishingiye ku buhamya na raporo ya muganga, rurasanga hari ugushidikanya ku kuba HABARUGIRA Julias yarakoze icyaha cy'ubujura bukoreshajwe kiboko cyangwa ibikangisho n'icyaha cyo gukubita cyangwa gukomeretsa ku bushake aregwa, kuko *“Nta muntu ugomba kwemezwa ko ahamwe n'icyaha nyuma y'urubanza atari uko Ubushinjacyaha bugaragaje ibimenyetso bidatera ugushidikanya uko*

ari ko kose, bityo Urukiko rurasanga nta bimenyetso bikiranuye kandi bidashidikanywaho rwashyikirijwe ku buryo rwabishingiraho mu guhamya uregwa icyaha”², nk’uko byemejwe mu rubanza n°RPAA 0001/14/CS rwo ku wa 17/11/2017, ndetse n’abahanga bakaba ariko babisobanura bavuga ko nta wahamywa icyaha mu gihe hatagaragajwe ibimenyetso bidashidikanywaho³.

- 27.** Hashingiwe kuri izo mpamvu zose zimaze kugaragazwa zerekana ko hari ugushidikanya ku kuba HABARUGIRA Julias yarakoze icyaha aregwa no ku biteganywa n’ingingo ya ya 111 y’Itegeko n° 027/2019 ryo ku wa 19/9/2019 ryavuzwe haruguru iteganya ko gushidikanya birengera ushinjwa, rurasanga icyaha cy’ubujura bukoreshejwe kiboko cyangwa ibikangisho n’icyaha cyo gukubita cyangwa gukomeretsa ku bushake kidahama UWIZEYIMANA Eric, akaba ari umwere.

III. ICYEMEZO CY’URUKIKO

- 28. RWEMEYE** kwakira ikirego cyatanzwe n’ubushinjacyaha, rugisuzumye rusanga kidafite ishngiro;
- 29.** RWEMEJE ko HABARUGIRA Julias adahamwa n’icyaha cy’ubujura bukoreshejwe kiboko cyangwa ibikangisho n’icyaha cyo gukubita cyangwa gukomeretsa ku bushake ;
- 30.** RWEMEJE ko HABARUGIRA Julias ari umwere ;
- 31.** RUTEGETSE ko HABARUGIRA Julias ahita arekurwa uru rubanza rukimara gusomwa ;
- 32.** RUTEGETSE ko amagarama y’uru rubanza aherera ku isanduku ya Leta;
- 33.** RWIBUKIJE ko igihe cyo kujurira ari iminsi mirongo itatu (30), ibarwa kuva urubanza rusomwe ;

NI UKO RUKIJIJWE KANDI RUSOMWE MU RUHAME NONE KU WA 16/02/2023, URUKIKO RUGIZWE NA :

UMUCAMANZA

**/Sé/
MUKABUREGA Marie Claire**

UMWANDITSI

**/Sé/
UWIZERA SEKIMONYO Charlotte**

² Reba urubanza RPAA 0001/14/CS rwaciwe n’Urukiko rw’Ikirenga ku wa 17/11/2017, haburana Ubushinjacyaha na DUSENGIMANA Ferdinand, RLR VOL.3-2020.

³ “Une personne ne peut être déclarée coupable au terme du procès que si l’accusation a apporté la preuve au-delà de tout doute raisonnable de la culpabilité de l’accusé” Henry et Damien Vandermeersch, Droit de la procédure penale, 4^{ème} edition, p. 1316, &5.