URUKIKO RUKURU, URUGEREKO RWIHARIYE RUBURANISHA IBYAHA MPUZAMAHANGA N'IBYAMBUKA IMBIBI, RURI I NYANZA KU CYICARO CYARWO, KUWA 03/12/2021 RUCIYE URUBANZA Nº RP 00002/2020/HC/HCCIC, KU RWEGO RWA MBERE, MU BURYO BUKURIKIRA:

HABURANA

UREGA: UBUSHINJACYAHA buhagarariwe n'Umushinjacyaha ku rwego rw'Igihugu RUDATINYA N. Gaspard.

UREGWA: HAMIDU AHMED MOHAMED, mwene Mouhamed Ahmed na Zahara Mwanamkuu, yavutse tariki 27/6/1973 mu Karere ka Lamu ho mu Gihugu cya Kenya, atuye mu Gihugu cya South Africa 17 B Frank Land Man, Avenue Fair View, afite ubwenegihugu bwa Kenya, arubatse, yashakanye na Nasira Abdi, ni Religious Lecturer, atunze imodoka ebyiri (2), afite Passport nº CK 45867 na telephone igendanwa nº +27735465627, afungiwe muri Gereza ya Nyarugenge, yunganirwa na Me Mulinga Kadage Laban na Me Ilimubuhanga Jean de Dieu.

ICYAHA AREGWA: Icuruzwa ry'abantu. Icyaha gihanishwa ingingo ya 18 z'itegeko nº 51/2018 ryo ku wa 13/08/2018 ryerekeye kurwanya, guhana icuruzwa ry'abantu no gushakira inyungu ku bandi.

I. IMITERERE Y' URUBANZA

[1]. Hamidu Ahmed Mohamed yafatiwe ku Kibuga cy'indege Mpuzamahanga cya Kigali (KIA) kuwa 25/10/2019 ari kumwe n'abanyetiopiya batatu aribo: ABERASH ABRHAM yita ko ari umugore we, LAMBORE MELAKU ETEBO na ABIYO SIMEGN WOLDE yita ko ari abakozi be bo muri restaurant avuga ko yari aje gufungura mu Rwanda, maze akurikiranwaho kuba yari agiye kubacuruza mu Gihugu cya Afrika y'Epfo (South Africa), hashingiwe ku byavuzwe n'aba bantu bari

kumwe[1], no kuba yarafatanywe inzandiko z'inzira (Passports) z'abantu bane (4) barimo umu nya Yordani (Jordan) n'abanyetiopia batatu (3) yasize muri Kenya.

[2]. Mbere y'uko urubanza ruburanishwa mu mizi, Hamidu Ahmed Mohamed n'abunganizi be basaba ko afungurwa by'agateganyo akazaburana urubanza mu mizi adafunze, ubwo busabe bukaba bwarafashweho icyemezo kuwa 26/4/2021[2], no kuwa 10/6/2021 Urukiko rufata icyemezo ku busabe bwe bwo kutakira ikirego cy'Ubushinjacyaha[3], ndetse n'ikirego yari yatanze asaba gufungurwa by'agateganyo kikaba cyarafatiwe icyemezo kuwa 03/11/2021[4].

[3]. Hamidu Ahmed Mohamed n'abunganizi be bavuga ko uregwa adakwiye gukurikiranwaho iki cyaha, ko ibigize icyaha akurikiranyweho bituzuye, ko ibimenyetso byatanzwe n'Ubushinjacyaha bitamuhamya icyaha ku buryo budashidikanywaho, ko ndetse harimo n'ibyo Ubushinjacyaha bwashakishije mu buryo bunyuranyije n'amategeko, aho bavuga ko inyandikomvugo y'ibazwa ry'uregwa yakozwe mu buryo bunyuranyije n'amategeko hashingiwe ku ngingo ya 51 y'itegeko ryerekeye imiburanishirize y'imanza z'inshinjabyaha[5], kandi ko umusemuzi yakoze umurimo wo gusemura inyandikomvugo z'ibazwa ry'abitwa ko bahohotewe (les victimes) atabanje gukora indahiro iteganyijwe mu itegeko.

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[1] Mu buhamya batanze mu Bugenzacyaha, abari kumwe na Hamidu Ahmed Mohamed bavuze ko bavuye muri Ethiopia babwiwe ko bagiye muri Afrika y'epfo, ko bahujwe na Hamidu Ahmed Mohamed na bene wabo baba muri Afrika y'epfo, ko ndetse aribo bamwishyuye amafaranga yo kuva muri Ethiopia bakoresheje indege. Basobanuye ko Hamidu Ahmed Mohamed yababwiye ko mu ibazwa ryabo bavuga ko baje gukorera mu Rwanda muri restaurant ye yitwa Cooker, ariko ko byagezaho bavuga ko ari ibinyoma, ko ahubwo Hamidu Ahmed Mohamed yari abatwaye muri Afrika y'epfo gushaka ubuzima ariko ntibasobanura ubuzima ubwo aribwo. By'umwihariko, ABERASH ABRHAM yavuze ko atari umugore wa Hamidu Ahmed Mohamed, kandi ko batigeze baryamana;

[2] Reba icyemezo cyo ku wa 26/4/2021 muri dosiye;

[3] Reba icyemezo cyo ku wa 10/6/2021 muri dosiye;

[4] Reba urubanza nº RP 00006/2021/HC/HCCIC rwo ku wa 03/11/2021 muri dosiye.

[5] Ingingo ya 51 y'itegeko nº 027/2019 ryo kuwa 19/9/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha iteganya ko ''*Buri rupapuro rw'inyandikomvugo rushyirwaho umukono n'Umugenzacyaha cyangwa Umushinjacyaha n'uwabajijwe. Uwabajijwe asabwa gusoma imvugo ye uko yanditswe nyuma akayishyiraho umukono cyangwa igikumwe iyo ayemeye. Iyo atazi gusoma, baramusomera. Iyo yanze cyangwa adashobora gushyiraho umukono cyangwa igikumwe, byandikwa mu nyandikomvugo*''.

[4]. Ibibazo bigomba gusuzumwa muri uru rubanza ni ibi bikurikira:

- Kumenya niba HAMIDU AHMED adakwiye gukurikiranwaho icyaha cy’icuruzwa ry’abantu.

- Kumenya niba inyandikomvugo y’ibazwa ry’uregwa n’inyandiko zisemura imvugo z’abavugwa ko bahohotewe zarakozwe mu buryo bunyuranyije n’amategeko mu Bugenzacyaha ku buryo zitashingirwaho muri uru rubanza.

- Kumenya niba ibikorwa HAMIDU AHMED akurikiranyweho bigize ubwinjiracyaha mu cyaha cy’icuruzwa ry’abantu.

II. ISESENGURA RY’IBIBAZO BIGIZE URUBANZA

Ku bijyanye no kumenya niba HAMIDU AHMED adakwiye gukurikiranwaho icyaha cy’icuruzwa ry’abantu

A. Icyo ababuranyi bavuze

[5]. Me ILIMUBUHANGA Jean de Dieu na KADAGE Laban bavuga ko HAMIDU AHMED adakwiye gukurikiranwaho iki cyaha kuko ingingo ya 2 y’itegeko ryerekeye gukumira no guhana icuruzwa ry’abantu iteganya ko uryozwa icuruzwa ry’abantu mu Rwanda ari uwagikoze ari umunyarwanda cyangwa umunyamahanga wabaga mu Rwanda igihe icyaha cyakorwaga mu gihe uregwa ari umunyakenya utarabaga mu Rwanda wari uhageze aje mu bushakashatsi.

[6]. Ubushinjacyaha bwavuze ko ibivugwa n'umwunganizi w'uregwa ko ari umunyamahanga utakurikiranwa ku icuruzwa ry'abantu kuko atabaga mu Rwanda kandi icyaha kitarakorewe umunyarwanda nta shingiro bifite kuko itegeko rireba umuntu wese uri mu ifasi ya Repubulika y'u Rwanda gikozwe n'ufite ubwenegihugu nyarwanda, udafite ubwenegihugu cyangwa umunyamahanga wabaga mu Rwanda igihe icyaha cyakorwaga kandi Hamidu afatwa yavuze ko yarafite Restaurant mu Rwanda kandi ko yari afite n'abantu bamukoreraga. Bityo HAMIDU AHMED yakurikiranwa nk'umunyakenya wabaga mu Rwanda kandi ahakorera, yaba abihakanye agukurikiranwa nk'umunyamahanga wagikoreye ku ifasi y'u Rwanda.

B. *Uko Urukiko rubibona*

[7]. Ingingo ya 14 igika cya 3 y'itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange iteganya ko umuntu wese, yaba umunyarwanda cyangwa umunyamahanga, imiryango ya Leta cyangwa itari iya Leta yo mu Rwanda cyangwa mu mahanga, ukoreye ku ifasi y'Igihugu cy'u Rwanda cyangwa mu mahanga icyaha mpuzamahanga cyangwa icyaha cyambuka imbibi ashobora, iyo afatiwe ku ifasi y'Igihugu cy'u Rwanda, guhanwa hakurikijwe amategeko y'u Rwanda.

[8]. Ingingo ya 9 y'Iri tegeko iteganya ko icyaha cyitwa ko cyakorewe mu ifasi y'Igihugu cy'u Rwanda, iyo nibura kimwe mu bikorwa bihamya imwe mu ngingo z'ishingiro z'icyo cyaha, ari zo kuba cyagambiriwe, cyashyizwe mu bikorwa kandi gihanwa n'amategeko, cyakorewe mu Rwanda. Ingingo ya 10 yo iteganya ko icyaha cyose gikorewe mu ifasi y'Igihugu cy'u Rwanda, cyaba gikozwe n'Umunyarwanda cyangwa umunyamahanga, gihanishwa itegeko ry'u Rwanda.

[9]. Ingingo ya 2 igika cya 1 y'itegeko nº 51/2018 ryo ku wa 13/08/2018 ryerekeye gukumira, kurwanya no guhana icuruzwa ry'abantu no gushakira inyungu mu bandi iteganya ko iri tegeko rireba icuruzwa ry'abantu iryo ari ryo ryose kimwe n'ikindi cyaha cyose riteganya, byaba bikozwe mu rwego rw'ubugizi bwa nabi buteguye cyangwa mu bundi buryo, bikorewe umuntu wese mu ifasi ya Repubulika y'u Rwanda gikozwe n'umuntu ufite ubwenegihugu nyarwanda, umuntu udafite ubwenegihugu cyangwa umunyamahanga wabaga mu Rwanda igihe icyaha cyakorwaga.

[10]. Isesengura ry'izi ngingo rigaragaza ko hari ikibazo cy'itegeko rusange rigena ibyaha n'ibihano muri rusange n'itegeko ryihariye riteganya kandi rihana icyaha cy'icuruzwa ry'abantu aho irya mbere rihana umuntu we yaba umunyarwanda cyangwa umunyamahanga ukoreye icyaha mu ifasi ya Repubulika y'u Rwanda; bivuze ko umunyamahanga wese ukoreye icyaha icyo ari cyo cyose mu Rwanda ahanwa, yaba ahasanzwe cyangwa ari bwo ahageze. Naho irya kabiri rivuga ku cyaha cy'icuruzwa, umunyamahanga ugikurikiranywaho ari uwabaga mu Rwanda igihe icyaha cyakorwaga.

[11]. Rusanga, HAMIDU AHMED Mohamed w'umunyakenya, uba muri Afurika y'Epfo nk'uko umwirondoro we ubigaragaza, akurikiranyweho kuba yaravanye abantu muri Ethiopiya, abanyuza muri Kenya agamije ku bajyana muri Africa y'epfo; bivuze rero ko yafatiwe mu Rwanda mu gikorwa nyir'izina cyo gutwara abantu ku buryo icyaha cyakorewe no mu Rwanda. Bityo rero, kuba itegeko rihana icuruzwa ry'abantu rireba n'icuruzwa ry'abantu ryambukiranya imipaka, umushingamategeko atari agamije kudahana icuruzwa ry'abantu rikorewe mu Rwanda, rikozwe n'umunyamahanga, abikoreye undi munyamahanga.

Ku bijyanye no kumenya niba inyandikomvugo z'ibazwa ry'uregwa, iz'abavugwa ko bakoreweho icyaha n'iz'isemura mu Bugenzacyaha zarakozwe mu buryo bunyuranyije n'amategeko ku buryo zitashingirwaho muri uru rubanza

A. Icyo ababuranyi bavuze

[12]. Me ILIMUBUHANGA Jean de Dieu na Me KADAGE Laban, bashingiye ku ngingo ya 29 y'Itegeko Nshinga rya Repubulika y'u Rwanda n'iya 126 y'itegeko ryerekeye imiburanishirize y'imanza z'inshinjabyaha, bavuga ko inyandikomvugo z'uregwa n'iz'abavugwa ko bari bazanywe gucuruzwa zitahabwa agaciro kuko uburyo zakozwe bunyuranyije n'amategeko kuko bose babajijwe babanje gufunganwa hamwe n'uregwa mu gihe cy'iminsi cumi (10), kandi babazwa n'abantu batari abagenzacyaha ku buryo ntawakwizera ko ibyo banditse ari byo kuko babajijwe n'abatabifitiye ububasha, ndetse n'uwabasemuriraga akaba atari yarahiye kuko yarahiye nyuma.

[13]. Ubushinjacyaha buvuga ko nubwo umusemuzi atabanje kurahira ariko yarahiye, kandi hakaba hari urubanza rwo mu Rukiko rw'Ikirenga rwavuze ko kuba umuhanga atarabanje kurahira ariko bikaza gukorwa bitaba impamvu yo gutuma ibyo yavuze byamburwa agaciro; bukaba bubona ari ikibazo cya forme. Naho ku bijyanye n'uko abavugwa ko bahohotewe babanje gufungwa, buvuga ko byatangiye bakeka ko ari abanyabyaha ariko mu iperereza baza gusanga barakoreweho icyaha bararekurwa, basubizwa ibyangombwa bashyikirizwa ambassade boherezwa iwabo.

B. Uko Urukiko rubibona

[14]. Ingingo ya 126 agace ka 5 y'itegeko nº 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha iteganya ko bitemewe gushingira ku bimenyetso byabonetse mu buryo bunyuranyije n'amategeko. Ingingo ya 208 y'iri tegeko yo iteganya ko "Mbere yo gutangira imirimo ye, impuguke, umusemuzi, uhindura mu ndimi cyangwa umuganga, abanza kurahira muri aya magambo: «Jyewe…, ndahiriye ko nzakora umurimo nshinzwe ntacyo nirengagije, nkawukora uko ugomba gukorwa nta buhemu. Niba ntawukoze uko bikwiye nzabihanirwe n'amategeko.»

[15]. Rusanga inyandikomvugo zakorewe uregwa n'abantu yafatanywe zigaragaza ko uwababajije ari umugenzacyaha. Bityo, ibyo uregwa n'abunganizi be bavuga ko Umugenzacyaha atari afite ububasha nta shingiro bifite kuko batabigaragariza ibimenyetso.

[16]. Rusanga kandi, kuba umusemuzi yarakoze umurimo wo gusemura atabanje kurahira ntibitesha agaciro inyandikomvugo z'ababajijwe zisemuye, kuko iyi nenge yakosowe n'uko yarahiye nyuma; ibi ni nako Urukiko rw'Ikirenga rwabyemeje mu rubanza RPAA/10/CS[6] rwaciwe ku wa 18 Werurwe 2016, aho rwavuze ko inenge yo kutarahira k'umuhanga mbere yo gukora imirimo ye

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[6] "Ku byerekeye raporo ya muganga, uregwa anenga kuba itagaragaza indahiro y'uwayikoze nk'uko biteganywa n'ingingo ya 93 y'Itegeko No 15/2004 ryo ku wa 12/06/2004 ryerekeye Ibimenyetso mu manza n'itangwa ryabyo, Urukiko rurasanga n'ubwo iyo ndahiro koko iteganyijwe muri iyo ngingo isobanura ko ukutabaho kwayo kugira raporo impfabusa, nta kibuza ko iyo nenge ijyanye n'imyandikire (vice de forme) aho kuba ijyanye n'ireme ry'igikorwa (vice de fond) yabasha gukosorwa, nk'igihe uwakoze raporo yahamagazwa mu Rukiko akabanza kurahira mbere yo kuyisobanura, ari nako byagenze mu iburanisha ryo kuwa 15/02/2016, ubwo Muganga Rumanya Liliane yarahiraga mu Rukiko mbere yo gusobanura ibikubiye muri raporo ye". <u>Icyegeranyo cy'ibyemezo by'inkiko</u>, Vol. V1-2018, Mutarama 2018, p. 96, igika cya 22.

yakosowe n'uko umuhanga yahamagajwe mu Rukiko akarahira mbere yo gusobanura raporo ye.

Ku bijyanye no kumenya niba ibikorwa HAMIDU AHMED Mohamed akurikiranyweho bigize ubwinjiracyaha mu cyaha cy'icuruzwa ry'abantu

A. Icyo ababuranyi bavuze

[17]. Ubushinjacyaha burega Hamidu Ahmed Mohamed ubwinjiracyaha bw'icyaha cy'icuruzwa ry'abantu bushingiye ku kuba yarafatiwe ku kibuga cy'indege cya Kigali, afatanwa abitwa WOLDE ABERASH ABRHAM yita ko ari umugore we, n'abasore babiri (2) LAMBORE MELAKU ETEBO na ABIYO SIMEGN Wolde avuga ko ari abakozi be bo muri restaurant.

[18]. Busobanura ko harebwe ibigize icyaha cy'icuruzwa ry'abantu, igikorwa AHMED MOHAMED HAMIDU yakoze ari uko yashatse (recrutement) abahohotewe ababeshya ko abajyanye mu Gihugu cya South Africa kubashakira ubuzima; akoresha uburyo bwo kubizeza ibitangaza abafatiranyije n'intege nke zo kuba bari banyotewe no kubona akazi, bisanga bageze i Kigali kandi bari bazi ko bagiye South Africa, maze afashwe bumva yisobanura ko ari abakozi baje gukora muri resitora ye yitwa Cooker Shop; agamije kubacuruza ngo ababonemo inyungu kuko atabashije gusobanura aho Africa y'Epfo ihuriye na Resitora yitwa Cooker Shop avuga ko afite i Kigali.

[19]. Ibimenyetso bushingiraho bigizwe n' imvugo za Wolde ABERASH ABRHAM mu ibazwa rye mu Bugenzacyaha aho yavuze ko atari umugore wa AHMED M. HAMIDU kuko ari inkuru bombi bahimbye kugira ngo inzego z'abinjira n'abasohoka zitabakeka, ko ahubwo HAMIDU Ahmed Mohamed

yamuvanye iwabo muri Ethiopiya amujyanye muri Africa y'Epfo kumushakirayo akazi, bagera i Mombasa muri Kenya ari batanu (5), aho bashyizwe mu cyumba gito hari n'ushinzwe kubareba (supervisor), ahamara amezi ane (4) yiyorosa ishuka nta kiringiti; bigaragara ko atari umugore wa HAMIDU Ahmed Mohamed nk'uko uyu abivuga.

[20]. Bukomeza buvuga ko ikindi kimenyetso kigizwe n'imvugo ya LAMBORE MELAKU ETEBO mu ibazwa rye mu Bugenzacyaha wasobanuye ko uregwa yari abajyanye muri Afurika y'Epfo, ko gahunda yo kuza i Kigali ntayo yari azi, ko ibyo kuba ari abakozi ba HAMIDU Ahmed Mohamed atari byo. Yanavuze ko aho bari bari i Mbombasa bari kumwe n'abakobwa batandatu (6) bajyanywe mbere ye, we arahasigara, ndetse ko hari n'abandi bahungu babiri (2) bashatse kugenda n'amaguru muri Afurika y'Epfo barafatwa, barafungwa.

[21]. Ubushinjacyaha bunashingira ku mvugo za ABIYO SIMEGN WOLDE na we wavuze ko se umubyara uba Afurika y'Epfo yishyuye HAMIDU Ahmed Mohamed kugira ngo azamujyaneyo, ko rero yavuye Addis Abeba agera Mombasa aho babashyize mu cyumba kimwe ari kumwe n'abandi bantu batandatu (6) bacungwa buri munsi n'umuntu witwa Abraham, baba mu buzima butari bwiza, kandi ko ibyo kuza i Kigali ntabyo yari azi. Yemeza ko ibintu byose, haba amafaranga n'ibindi byakorwaga na HAMIDU MOHAMED Ahmed. Busaba ko hemezwa ko uregwa ahamwa n'ubwinjiracyaha bw'icuruzwa ry'abantu nk'uko byemejwe mu rubanza rwa MACCHARIA wafashwe icyaha kitaratsotsobwa.

[22]. AHMED MOHAMED HAMIDU n'abunganizi be bavuze ko ibigize ubwinjiracyaha bw'icuruzwa ry'abantu bituzuye kuko HAMIDU Ahmed Mohamed atigeze agira igitekerezo cyo gucuruza abantu bafatanywe, ko

nta n'impamvu yari gutuma abacuruza imiryango yabo ari yo yabasabiye akazi nyuma yo kumenya ko agiye gushinga business bamusaba kuzabahera abana akazi, bakavuga ko ibi bitagize icyaha harebwe ibiteganywa mu masezerano mpuzamahanga (United nations especially Palermo protocol) u Rwanda rwashyizeho umukono kuva mu mwaka wa 2003, akaba ari na byo biteganywa mu ngingo ya 3 n'iya 18 z'itegeko nº 51/2018 ryo kuwa 13/08/2018 ryerekeye gukumira, kurwanya no guhana icuruzwa ry'abantu no gushakira inyungu mu bandi.

[23]. Bavuga ko ku rwego mpuzamahanga hanonosowe uburyo abantu bacuruzwa, uko igikorwa gitangira, uburyo bukoreshwa n'uburyo birangira bikabona kugaragara ko umuntu yacurujwe. Uregwa agaragaza icyemezo cy'ishyingiranwa nk'ikimenyetso cy'uko Wolde ABERASH ABRHAM ari umugore we, inyandiko igaragaza uburyo yahawe Passeports Ubushinjacyaha bushingiraho bugaragaza ko yari afite umwuga wo gucuruza abantu.

[24]. Basoza bavuga ko kugira ngo umuntu ahamwe n'icyaha ari uko Ubushinjacyaha bugomba kuba bwatanze ibimenyetso bikimushinja mu buryo budashidikanywaho nk'uko bisobanurwa neza mu rurimi rw'igifaransa "*Etablir les preuves au délà de tout doute raisonable"*, kuko bavuga ko muri iyi dosiye nta kimenyetso na kimwe kigaragaza mu buryo budashidikanywaho ko HAMIDU AHMED MOHAMED yakoze icyaha aregwa, basanga nta kindi cyakorwa uretse kwemeza ko ari umwere agahita arekurwa.

B. Uko Urukiko rubibona

[25]. Ingingo ya 3, (6^0) (a) y'itegeko nº 51/2018 ryo kuwa 13/08/2018 ryerekeye gukumira, kurwanya no guhana icuruzwa ry'abantu no gushakira inyungu

mu bandi iteganya ko icuruzwa ry'abantu ari igikorwa cyose gikozwe n'umuntu, hagamijwe gushaka inyungu, uha cyangwa ushakira undi akazi, utwara, wimura, uhisha cyangwa wakira undi muntu; hakoreshejwe ibikangisho, imbaraga cyangwa ubundi buryo bwose bw'agahato, ishimuta, uburiganya, ubushukanyi, kumubonerana kubera ububasha umufiteho cyangwa kubera ko ari umunyantege nke, gutanga cyangwa kwakira ubwishyu cyangwa inyungu kugira ngo umuntu ufite ububasha ku wundi muntu yemere'.

[26]. Naho ingingo ya 21 y'itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange iteganya ko ubwinjiracyaha buhanirwa iyo umugambi wo gukora icyaha wagaragajwe n'igikorwa kimwe cyangwa byinshi biboneka, bidashidikanywa by'intangiriro y'icyaha biganisha ku ikorwa ryacyo, nyuma bigahagarikwa, bikabuzwa kugera ku cyifuzo cyangwa bikazitirwa n'impamvu zidakomoka ku bushake bwa nyir'ugukora icyaha.

[27]. Ingingo ya 119 y'itegeko n° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko mu manza nshinjabyaha, ibimenyetso bishingira ku mpamvu zose z'ibyabaye n'ibyemejwe n'amategeko, ababuranyi bapfa kuba barahawe uburyo bwo kuhaba ngo banyomozanye, Urukiko ruhamya ku buryo butavuguruzwa ko ibimenyetso byose birega cyangwa biregura ari byo kandi ko bishobora kwemerwa.

[28]. Isesengura ry'izi ngingo rigaragaza ko kugira ngo Ahmed MOHAMED HAMIDU ahamwe n'ubwinjiracyaha bw'icyaha cy'icuruzwa ry'abantu yafashwe ari kumwe na bo hagomba kuba hagaragajwe ko umugambi wo gukora icyaha wagaragajwe n'igikorwa kimwe cyangwa byinshi biboneka,

bidashidikanywa by'intangiriro y'icyaha biganisha ku ikorwa ryacyo, nyuma bigahagarikwa, bikabuzwa kugera ku cyifuzo cyangwa bikazitirwa n'impamvu zidakomoka ku bushake bwe.

[29]. Rusanga nta mpaka ziri ku kuba HAMIDU AHMED Mohamed ari we wavanye muri Etiyopiya abantu aregwa gucuruza, abanyuza muri Kenya abageza i Kigali Rwanda aho yafatiwe bari kumwe.

[30]. Rusanga, kugira ngo aba bantu bamenyane kandi bajyane na HAMIDU AHMED Mohamed byaragizwemo uruhare n'abantu bafitanye amasano nabo baba muri Afurika y'Epfo (umubyeyi, umuvandimwe, umubyara), ari naho HAMIDU Ahmed Mohamed atuye; bose bagahuriza kandi ku kuvuga ko bafatiwe i Kigali mu gihe bo bari bazi ko bajyanywe muri Afurika y'Epfo gushakirwa akazi, kandi ko bageze muri Kenya, uretse umukobwa wabaga mu cyumba cye wenyine, abasore bamara igihe babana mu cyumba gito n'abandi bantu bari bafite intumbero yo kujyanwa muri Afurika y'Epfo, baratswe ibyangombwa ndetse hari n'umuntu ubacungira hafi, kandi ko ibijyanye n'imibereho byari mu biganza bya HAMIDU Ahmed Mohamed.

[31]. Rusanga rero, nubwo bigaragara ko HAMIDU Ahmed Mohamed yanyuranyije imvugo n'umugore bari kumwe ku bijyanye no kuba umwe yaba ari umugabo cyagwa umugore w'undi no kuba anyuranya n'abasore babiri (2) bari kumwe ku kijyanye n'uko we avuga ko bari abakozi be bazanye kureba uko bakorera mu Rwanda, mu gihe bo bavuga ko nta gahunda yo kuza mu Rwanda bari bazi, ko ahubwo bari bajyanywe muri Afurika y'Epfo, nta kigaragaza ko ubu buryo bari bajyanywemo buhamya nta gushidikanya ko uregwa yari agamije kubacuruza.

[32]. Rusanga ahubwo, harebwe uburyo abitwa ko bari bagiye gucuruzwa bari batwawe, uburyo basobanura mu mvugo zabo ko ibyo gushakirwa akazi byaturutse kuri bene wabo baba mu gihugu cya Afurika y'Epfo, ari na bo babahuje na AHMED MOHAMED HAMIDU, ikigaragara ni uko uregwa yari afite ubutumwa bwo kubagezayo gusa.

[33]. Rusanga kandi, kuba HAMIDU Ahmed yarafatanywe inyandiko z'inzira z'abanyetiyopiya batatu (3) n'umunyajorudaniya umwe (1) nyamara atari kumwe na bene zo, no kuba yari atwaye aba batatu (3) bavugwa muri uru rubanza, ari ikimenyetso cy'uko yari mu gikorwa cyo gufasha abantu kuva mu Gihugu kimwe bajya mu kindi.

[34]. Harebwe imvugo za Lambore MELAKU ETEBO aho asobanura ko yavanywe muri Etiyopiya n'uwitwa TEMSEGEN w'umunyetiyopiya amugeza i Nairobi aho yamaze amezi atatu (3) abana n'abandi banyetiyopiya babiri (2), icyerekezo ari Afurika y'epfo, ko yageze aho avugana na nyirarume uba muri Afurika y'Epfo ndetse asaba uwamuzanye kumusubiza muri Etiyopiya cyangwa gukomeza muri Afurika y'Epfo, Hamidu Ahmed Mohamed yarahamagawe yohereza umukozi we aza kumufata amujyana i Mombasa, ari na ho bamusanze kandi bikaba byarashobotse nyuma y'uko nyirarume yishyuye TEMESGEN amafaranga ngo amurekure. Undi yamuhawe na se, undi amuhabwa n'umuvandimwe. Bityo, kuba aba bantu uregwa yari abajyanye muri Afurika y'Epfo bisabwe n'abavandimwe babo batuyeyo, nta mugambi ugaragara yari afite wo kubashakamo inyungu, byumvikana ko ibigize icyaha bituzuye.

[35]. Rusanga ibikorwa uregwa yakoze bihuye n'ibivugwa mu 'masezeramo Mpuzamahanga yiswe '*Protocole contre le trafic illicite de migrants par terre, air et mer, additionnel à la Convention des Nations Unies contre la criminalité*

transnationale organisée du 15 novembre 2000', aho ingingo yayo ya 3 isobanura ko *"Le trafic illicite de migrants est « le fait d'assurer, afin d'en tirer, directement ou indirectement, un avantage financier ou un autre avantage matériel, l'entrée irrégulière dans un État partie d'une personne qui n'est ni un ressortissant ni un résident permanent de cet État''.* Ikigaragara ni uko abantu HAMIDU Ahmed Mohamed aregwa gucuruza bashakaga kujya muri Afurika y'Epfo abibafashijemo, ari na yo mpamvu uregwa yabanyuzaga hirya no hino anabashakira ibyangombwa, ariko iki cyaha cya 'trafic des migrats' kikaba kidateganyijwe mu mategeko y'u Rwanda.

[36]. Rusanga, nk'uko ingingo ya 111 y'itegeko nº 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza nshinjabyaha, iteganya ko "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", HAMIDU AHMED MOHAMED atsinda urubanza kuko nta kimenyetso nyakuri kandi kidashidikanywaho cyemeza ko yari agiye gucuruza ABERASH Abrham, LAMBORE MELAKU Etebo na ABIYO SIMEGN Wolde.

[37]. Rusanga nanone HAMIDU AHMED MOHAMED agomba gusubizwa Pasiporo enye (4) zafatiriwe mu Bugenzacyaha ubwo yafatwaga.

III. ICYEMEZO CY'URUKIKO

[38]. Rwemeje ko ikirego cy'Ubushinjacyaha nta shingiro gifite;

[39]. Rwemeje ko HAMIDU AHMED MOHAMED adahamwa n'ubwinjiracyaha bw'icyaha cy'icuruzwa ry'abantu;

[40]. Rutegetse ko HAMIDU AHMED MOHAMED ahita arekurwa urubanza rukimara gusomwa;

[41]. Rutegetse ko HAMIDU AHMED MOHAMED asubizwa Pasiporo enye (4) zafatiriwe;

[42]. Ruregetse ko igarama ry'uru rubanza riherera ku isanduku ya Leta.

RUCIWE RUTYO KANDI RUSOMEWE MU RUHAME KU WA 03/12/2021.

INTEKO Y'URUKIKO:

Sé/	*Sé/*	*Sé/*
NGABIRE Blaise	KANYEGERI N.Timothée	NSANZIMANA Fidèle
Umucamanza	**Perezida**	**Umucamanza**

Sé/

NSENGIMANA Boniface

Umwanditsi