



The Legal Aid Forum

**INYANDIKO IKUBIYEMO IBISOBANURO
KU ITEGEKO RIGENGA
ICUNGAMUTUNGO
W'ABASHYINGIRANYWE, IMPANO
N'IZUNGURA**

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INTANGIRIRO

Umuhungu n’umukobwa bagejeje imyaka y’ubukure bafite uburenganzira bwo gushinga urugo rwabo kandi bakubakana n’uwo bihitiyemo k’ubushake bwabo nt’agahato. Buri muntu wese rero aba afite umutungo uturuka mu nzira zinyuranye: akazi, impano y’ababyeyi cyangwa inshuti, umunani, irage. Iyo bamaze gushyingirwa, buri wese akomeza guhaha umutungo. Ari umutungo buri wese yari asanganywe, ari uwahashywe nyuma y’ishyingirwa, uwo mutungo ujya he? Uba uwa nde? Ucuungwa na nde? Ucuungwa ute? Abashakanye bawikenuza bate? Buri wese afite uruhare kuri uwo mutungo, haba kuwukoresha, kuwucunga cyangwa kuwugena? Ibi bibazo byose bibona ibisubizo mu mategeko agenga imicungire y’umutungo w’abashakanye.

Abashyingiranywe ni bo bagena, mu bwisanzure, imicungire y’umutungo ariko ubwo bwisanzure bushobora kugira umupaka: amategeko y’Igihugu ashobora guteganya uburyo bubaze, buzwi bw’imicungire abashyingiranywe bahitamo. Uwo mupaka ushyirwaho kugira ngo bigabanye akajagari no guhuzagurika mu micungire y’umutungo w’ingo kandi kugira ngo byoroherenze abashyingiranywe. Abashyingiranywe ntibahatirwa kugena imicungire y’umutungo wabo cyangwa guhitamo umwe mu micungire iteganyijwe n’itegeko ariko iyo badahisemo, itegeko ribahitiramo uburyo bumwe mu micungire riteganywa.

I. IMICUNGIRE Y’UMUTUNGO W’ABASHYINGIRANYWE

I.1. Ubwoko bw’imicungire n’ihitamo

Imicungire y’umutungo w’abashyingiranywe tuyisanga mu itegeko n°22/99 ryo ku wa 12/11/1999 ryerekeye imicungire y’umutungo w’abashyingiranywe, impano n’izungura. Imicungire y’umutungo w’abashyingiranywe. Iri tegeko riha abantu bagiye gushinga urugo urubuga n’ubwisanzure mu guhitamo imicungire y’umutungo wabo bugarukiye ku buryo butatu :

1. Ivangamutungo rusange;
2. Ivangamutungo w’umuhahano;
3. Ivanguramutungo risesuye.

Iyo abashakanye batahisemo imicungire, itegeko ribahitiramo « ivangamutungo rusange ».

I.1.1. Ivangamutungo rusange

Ni amasezerano abashyingiranywe bagirana bumvikana gushyira hamwe umutungo wabo wose, ibyimukanwa n'ibitimukanwa kimwe n'imyenda yabo yose; byose bigahinduka umutungo rusange.

Ubu buryo bw'imicungire tubusanga kuva ku ngingo ya 3 kugera ku ngingo ya 6 y'iryo tegeko.

Abashakanye iyo bahisemo ivangamutungo rusange baba biyemeje ibintu bikurikira:

- Gushyira hamwe umutungo wabo wose waba uwimukanwa n'utimukanwa;
- Guhurira kuri uwo mutungo bivuga ibiwureba byose yaba n'imyenda ifatiyeho igihe bashyingiranwa cyangwa yo mu gihe kizaza;
- Abashakanye bashobora guhindura imicungire y'umutungo wabo hakurikijwe ingingo ya 19 y'iri tegeko;
- Iyo abashyingiranywe bahinduye uburyo bw'ivangamutungo rusange, umutungo rusange n'imyenda babigabana ku buryo bungana¹;
- Imyenda yafashwe mbere y'ihinduka ry'imicungire y'umutungo ishobora gukurikiranwa n'ababerewemo imyenda nyuma y'iryo hindura;
- Iyo imyenda yafashwe n'umwe mu bashakanye ku nyungu z'urugo, iyo myenda yishyurwa hifashishijwe umutungo rusange;
- Iyo umwe mu bashakanye yishyuye uwo mwenda akoresheje umutungo we bwite, uwo mwenda awusubizwa hifashishijwe umutungo rusange²;
- Iyo abashyingiranywe bagabanye imyenda n'umutungo rusange igihe bahinduye imicungire y'umutungo ibikoresheje bwite nk'imyambaro n'imitako yambarwa ku mubiri bisigara ari umutungo bwite wa buri wese mu bashyingiranywe.

I.1.2. Ivangamutungo w'umuhahano

Ni amasezerano abashyingiranywe bagirana bumvikana gushyira hamwe ibyo buri wese yazanye igihe cy'ishyingirwa, kugira ngo bibe iremezo ry'ibihahano kimwe n'ibyo bungutse mu mibanire yabo, bakorera hamwe cyangwa buri wese ku giti cye, byaba impano cyangwa ibizungurwa.

¹ Ingingo ya 4y'itegeko N° 22/99 ryo ku wa 12/11/1999.

² Ingingo ya 23 yerekana uko imyenda yishyurwa ku bwoko bwose bw'ishyingiranwa uko ari butatu.

Ubu buryo bw'amicungire tubusanga kuva ku ngingo ya 7. Abashakanye iyo bahisemo ivangamutungo w'umuhahano baba biyemeje ibintu bikurikira:

- Gushyira hamwe ibyo buri wese yazanye igihe cy'ishyingirwa kugira ngo bibe iremezo ry'umutungo wabo;
- Gushyira hamwe ibyo bungutse mu mibanire yabo bakorera hamwe cyangwa buri wese ku giti cye byaba impano cyangwa ibizungurwa;
- Abagiye gushyingiranwa bandika kandi bagaha umwanditsi w'irangamimerere ibaruramutungo rishyizweho umukono wabo ryerekana umutungo n'imyenda buri wese ageneye iremezo ry'ibihahano.
- Ikintu cyose kitabaruwe ko ari rusange kiba ari icya nyiracyo;
- Iyo abashyingiranywe bifuje guhindura imicungire y'umutungo wabo hakurikijwe ingingo ya 19 y'iri tegeko, hagamijwe gukurikiza ivangamutungo w'umuhahano bagomba kwerekana urutonde rw'imyenda bagenera umuhahano;
- Iyo abashyingiranywe bahinduye bakiyemeza ivangamutungo w'umuhahano, kopi y'urwo rutonde yomekwa ku cyemezo cy'urukiko bikoze n'umukarani warwo akabyohereza umwanditsi w'irangamimerere;
- Imyenda yafashwe n'umwe mu bashyingiranywe mbere y'ishyingirwa yerekeye umutungo we yishyurwa n'uwayifashe ku mutungo we bwite.

I.1.3. Ivanguramutungo risesuye

Ni amasezerano abashyingiranywe bagirana bumvikana gufata neza urugo rwabo hakurikijwe ubushobozi bwa buri wese, bakagumana ukwikenuza; ugucunga no gukoresha uko bikwiye umutungo wabo bwite. Buri wese agira umutungo we bitandukanye, ndetse n'inyungu n'imyenda (amadeni). Bateranya gusa umutungo bakenera mu buzima bwabo bombi (gucumbika, kurya, kuryama, kwivuzza, kurera abana,...)

Ubu buryo bw'amicungire tubusanga kuva ku ngingo ya 11 kugera ku ngingo ya 13. Abashakanye iyo bahisemo ivanguramutungo risesuye baba biyemeje ibintu bikurikira:

- Gufatanya mu gukenura urugo;
- Gufata neza urugo rwabo hakurikijwe ubushobozi bwa buri wese;
- Kugumana ukwikenuza, ugucunga no gukoresha uko bikwiye umutungo wabo bwite;
- Igihe umwe mu bashyingiranywe abangamira inyungu z'urugo, atuma umutungo we ukendera cyangwa awutagaguzza yamburwa uburenganzira bw'icunga ry'umutungo we

n’ubwo kuwikenusa bisabwe n’uwo bashyingiranywe cyangwa n’undi wese ubifitemo inyungu;

- icyo kirego gitangwa mu buryo bw’ibirego byihutirwa kigashyikirizwa urukiko rw’ibanze³ rw’aho abashyingiranywe baba;
- Uretse iyo bibaye ngombwa ko hashyirwaho umucungamutungo ugenwe n’urukiko, ubundi urubanza ruha umwe mu bashyingiranywe wabisabye ububasha bwo gucunga iby’uwabwambuwe kimwe no kubibonaho urwunguko akoresha afata neza urugo rwabo ibisagutse akabishyingura;
- Uwambuwe ububasha nta kindi akoresha ibye uretse kumwitirirwa⁴;
- Nyuma y’aho ashobora gusaba urukiko kumusubiza uburenganzira bwe iyo agaragajeko impamvu zatumye abwakwa zitakiriho⁵.

I.2. Uburyo bw’imicungire

Abagiye gushyingiranwa bumvikana kuri umwe muri bo ushinzwe gucunga umutungo rusange hakurikijwe ihame ry’uburinganire bw’umugabo n’umugore. Buri wese mu bashyingiranywe acunga umutungo we bwite, ibyo bigaragara cyane mw’ivanguramutungo risesuye, no ku mutungo bwite mw’ivangamutungo w’umuhahano.

Umwe mu bashyingiranywe ashobora kwamburwa icunga ry’umutungo we bwite, bitewe n’isesagura cyangwa uburangare bubangamiye inyungu z’umuryango. Iyo bibaye bityo, icungamutungo ryegurirwa mugenzi we cyangwa bibaye ngombwa undi muntu.

Uko imicungire y’umutungo iteye kose, buri gihe ni ngombwa ko habaho ubwumvikane bw’abashyingiranywe bombi ku mpano y’ibintu bahuriyeho cyangwa ku mpano y’ikintu kitimukanwa, n’aho cyaba icy’umwe muri bo. Imyenda yafashwe mu gutunga urugo ihuriweho n’abashyingiranywe bombi ku buryo bungana ibarirwa mu myenda rusange. Iyo myenda irimo iyafashwe n’abashyingiranwe bombi, iyafashwe n’umwe mu bashyingiranwe kubera inyungu z’urugo, uburere bw’abana n’iz’umutungo rusange nk’inzu yo guturamo, ibikoresho byo mu rugo, ingendo, ibyo kurya no kwambara, kwivuza no kwidagadura.

³ Aha tuributsa ko itegeko rirebana n’icungwa ry’umutungo w’abashakanye ryagiyehe mugihe hari hagikoreshwa inyito y’inkiko za kera (urukiko rwa mbere rw’iremezo). Nyuma y’ivugurura ububasha bw’inkiko burebana n’umuryango bwahawe urukiko rw’ibanze.

⁴ Ingingo ya 12.

⁵ Ingingo ya 13.

Iyo habayeho iseswa ry'ishyingirwa, iyahukana (gutandukana by'agateganyo) cyangwa iseswa ry'ivangamutungo rusange, abashyingiranywe bagabana umutungo rusange (uriho n'imyenda) ku buryo bungana. Uko imicungire y'umutungo iteye kose, abashyingiranwe bagomba kubahiriza inshingano n'uburenganzira bwabo bikomoka ku ishyingirwa no kubahiriza amategeko arebana n'ububasha ndetse n'inshingano by'ababyeyi, icunga ry'umutungo w'abana n'ubwishingire.

II. IMPANO

Impano ni igikorwa cyo guha umuntu ikintu gifite agaciro nta kiguzi. Umuntu rero afite uburenganzira bwo kugena umutungo we uko ashaka ariko kugira ngo umutungo w'umuryango udasesagurwa, itegeko riteganywa ibishobora gutangwa ntarengwa (quotité disponible) n'ibibikirwa izungura (réserve successorale).

Uburyo bw'icungamutungo bwatoranywa ubwo ari bwo bwose, umugabane w'ibishobora gutangwa ntushobora kurenga $1/5$ cy'umutungo w'utanga iyo afite umwana; iyo nta mwana afite, uwo mugabane nturenza $1/3$ cy'umutungo.

Ibishobora gutangwa ntarengwa: ni igice cy'umutungo bwite umuntu ashobora kugena uko ashatse, agatanga uko ashatse, agaha uwo ashatse.

Ibibikirwa izungura: ni igice cy'umutungo umuntu wese ategetswe kuzigamira abazungura be bagenwe n'itegeko ($4/5$ iyo afite abana na $2/3$ iyo nta mwana afite). Abazungura bazigamirwa ni abana n'uwapfakaye gusa.

Itegeko rigena uburyo bune bw' impano:

1. Itangwa ry'ibintu hagati y'abazima;
2. Itangwa ry'umunani;
3. Itangwa ry'umurage;
4. Isezerano ry'impano.

II.1. Impano hagati y'abazima

Ni amasezerano y'ubugiraneza atuma umuntu aha undi ku mutungo we ku buryo budasubirwaho, kandi uhawe akabyemera. Impano ishobora guseswa kubera impamvu zikurikira:

- Igihe uwahawe atubahirije inshingano ziyiturutseho yari yarahawe;

- Kubera ubuhemu bw'uwahawe;
- Iyo uwahawe yishe abishaka cyangwa yashatse kwica uwamuhaye;
- Iyo uwahawe agiriye nabi cyangwa atutse bikabije uwamuhaye;
- Iyo uwahawe yanze gufasha uwamuhaye kandi abikeneye.

Iyo impano isheshwe, uwahawe ntategetswe gusubiza ibyo yayibyaje cyangwa inyungu izo ari zo zose yakuye kuri iyo mpano.

II.2. Itanga ry'umunani

Ni igikorwa ababyeyi bakora bakiriho kigamije kugabira umutungo abana babo cyangwa ababakomokaho, bagahita bawegukana bikitwa ko bashoje inshingano yo kubarera no kububakira. Abana bose, nta vanguragitsina, bahabwa umunani keretse abaciwe kubera imyitwarire mibi cyangwa ubuhemu.

II.3. Itangwa ry'umurage (legs)

Ni ikintu cyangwa ibintu bitanzwe na nyirabyo akiriho, ubihawe akabyegukana uwabimuhaye atakiriho. Hashobora kubaho umurage kuri byose, umurage ku bintu bimwe n'umurage ku bintu bizwi:

- Umurage kuri byose ugizwe n'umutungo wose w'uraga;
- Umurage kuri bimwe ugizwe n'igice kimwe cy'umutungo w'uraga;
- Umurage ku bintu bizwi ugizwe n'ibintu bizwi mu mutungo w'uraga

II.4. Isezerano ry'impano

Ni ubwumvikane abantu bagirana bagamije guhana ibintu mu gihe kizaza. Isezerano ry'impano ryemewe ni irikozwe:

- 1) hagati y'abantu bagamije gushyingiranwa;
- 2) hagati y'abashyingiranywe;
- 3) hagati y'ababyeyi n'abana babo cyangwa ababakomokaho haba abariho cyangwa abazavuka.

Ni ukuvuga ko isezerano rikozwe hagati y'abandi bantu batari abamaze kuvugwa nta gaciro rifite. Isezerano ry'impano rigira agaciro n'iyo uwasezeranye impano yapfa. Impano, iyo ariyo yose ita gaciro:

- 1) Iyo itanzwe ku buryo ishyirwa mu bikorwa ryayo rishingira ku gushaka k'uyitanze wenyine;
- 2) Iyo itegeka uwahawe kuriha imyenda y'umuhaye;

- 3) Iyo utanga yisigarizamo uburenganzira bwo gukoresha uko ashatse kimwe cyangwa bimwe mu bintu yatanze;
- 4) Iyo itubahirije amategeko n'imigenzo myiza;
- 5) Iyo ari impano y'iby'undi muntu.

III. IZUNGURA

III.1. Ubusobanuro rusange

Umuntu upfuye ntahambanwa n'umutungo afite. Uwo mutungo wegurirwa abakiriho. Ubegukira ute? Ugenwa ute? Ugenwa na nde? Wegurirwa ba nde? Ubagabanywa ute? Uwashakanye na nyakwigendera agenerwa iki? Abana bagenerwa iki? Ababyeyi, abavandimwe n'abandi bafitanye isano na Nyakwigendera bagenerwa iki? Ibi bibazo byose bikemurwa n'amategeko agenga izungura.

III.1.1. Izungura ni iki?

Kuzungura ni uguhabwa ububasha n'inshingano ku mutungo n'imyenda bya nyakwigendera. Ni ukuvuga ko iyo umuntu amaze gupfa inzira ikurikizwa mu kwegurira umutungo asize abamukomokaho cyangwa abandi bantu ni cyo twita izungura⁶. Izungura ritangira iyo umuntu amaze gupfa, rikabera ku gicumbi cya nyakwigendera cyangwa ku icumbi rye. Izungura rikorwa nta vangura gitsina hagati y'abana. Amategeko mbonezamubano y'u Rwanda ateganya uburyo bubiri bwo kuzungura nyakwigendera: hari izungura rishingiye ku itegeko n'izungura rikurikije irage.

III.1.2. Ni nde ushobora kuzungura umutungo wa nyakwigendera?

Ingingo ya 50 y'Itegeko n° 22/99 ryo ku wa 12/11/1999 ivuga ko abana amategeko mbonezamubano yemera ari aba nyakwigendera bazungura ku buryo bungana nta vangura hagati y'umwana w'umuhungu n'uw'umukobwa. Igihe cy'igabana ry'umutungo uzungurwa n'abana, inama y'umuryango igena umutungo wo kurera abana bakiri bato batari bagira imyaka 18 n'ugomba guhita ugabanywa abana bose ba nyakwigendera.

Iyo abana bose bamaze gukura, bagabana ku buryo bungana umutungo usigaye k'ubareraga abana bari bakiri bato. Ingingo ya 52 ivuga kandi ko uzungura wese, igihe yemeye kuzungura, agomba kwishyura imyenda ya nyakwigendera hakurikijwe umugabane we mu izungura.

⁶ Ingingo ya 49 y'Itegeko N° 22/99 ryo kuwa 12/11/1999.

III.1.3. Ese umuntu abyemererwa n'amategeko cyangwa yararazwe ashobora kutemererwa kuzungura?

Ntiyemerewe kuzungura, umuntu wese yaba abyemererwa n'amategeko cyangwa yararazwe:

1. Iyo yakatiwe igihano bitewe no kuba yarishe abishaka nyakwigendera cyangwa yarabigambiriye;
2. Iyo yakatiwe igihano bitewe no kuba yarareze nyakwigendera amubeshyera cyangwa bitewe n'ikinyoma yavuze yatanzweho umugabo, mu gihe icyo kinyoma cyari gutuma nyakwigendera ahanishwa nibura igifungo cy'amezi atandatu;
3. Iyo yaciye umubano abishaka na nyakwigendera igihe yari akiriho;
4. Iyo yanze kwita kuri nyakwigendera akiriho mu gihe yagombaga kumufata neza kubera indwara ye ya nyuma, kandi abitegekwa n'amategeko cyangwa umuco;
5. Iyo yitwaje intege nke z'umubiri cyangwa zo mu mutwe bya nyakwigendera akigarurira umutungo we uzungurwa cyangwa igice cyawo;
6. Iyo yarigishije, akangiza cyangwa akagira ibyo ahimba mu nyandiko abyitirira umurage wa nyuma wa nyakwigendera cyangwa agakoresha umurage wataye agaciro.

Ingingo ya 53 ivuga ko Urukiko rw'ibanze rw'aho nyakwigendera yari atuye cyangwa aho yabaga, nirwo rwemeza ko uwari kuzungura yambuwe ubwo burenganzira. Ikirego gitangwa mu buryo bw'ibirego byihutirwa.

III.2. Uburyo izungura rikorwa

III.2.1. Izungura rikurikije irage

Irage ni igikorwa umuntu akora agena amerekezo y'umutungo we mu gihe azaba atakiriho, akandika irage rifite agaciro ryitwa mu yandi magambo ibyifuzo bye bya nyuma. Ibintu nyakwigendera atatanze mu irage hakurikiza amategeko agenga izungura nta rage⁷. Ni yo mpamvu iyo umuntu apfuye atanditse irage rigaragaza uzamuzungura bavuga ko yapfuye adatanze irage. Nyamara ariko iyo apfuye yaragaragaje uzaragwa ibye bavuga ko apfuye avuze irage. Utanze irage yitwa nyir'ugutanga irage yaba umugore cyangwa umugabo.

⁷ Ingingo ya 56.

III.2.1.1. Ubwoko bw'irage

Irage rishobora gukorwa mu mvugo, mu nyandiko bwite cyangwa mu nyandiko mpamo⁸.

II.2.1.1.1. Irage mpamo

Nk'uko bigaragara mu ngingo ya 58 y'Itegeko n° 22/99 ryo ku wa 12/11/1999, irage mpamo ni irage rikorewe imbere y'umwanditsi w'inyandiko mpamo cyangwa imbere y'umwanditsi w'irangamimerere w'aho uraga atuye cyangwa aho aba. Iyo irage rikorewe imbere y'umwanditsi w'irangamimerere cyangwa w'inyandiko mpamo, basigarana inyandiko imwe y'umwimerere bakanandika mu gitabo cyagenewe irage itariki iryorange ryakoreweho, amazina y'uraze, aho atuye n'aho aba. Iyo nyandiko y'umwimerere kimwe n'igitabo cy'irage bicungwa mu ibanga bikaba byarebwamo gusa n'abo bireba uwaraze amaze gupfa.

II.2.1.1.2. Irage rikozwe mu nyandiko

Irage rikozwe mu nyandiko bwite ni irage ryanditswe rigashyirwaho itariki n'umukono by'uraga. Iyo uraga atazi kwandika, cyangwa abizi ariko adashobora ubwe kwandika cyangwa gushyira umukono ku irage rye, ahitamo ubimukorera. Irage ryanditswe muri ubwo buryo rigomba guhabwa agaciro n'umwanditsi w'irangamimerere cyangwa w'inyandiko mpamo w'aho ryandikiwe, uwaraze ahibereye. Ni yo mpamvu irage ryanditswe uraga atahibereye nta gaciro riba rifite.

II.2.1.1.3. Irage mvugo

Irage mvugo ni irage rikorerwa imbere y'abazungura b'ibanze bose cyangwa se bamwe muri bo n'abagabo byibuze babiri bafite imyaka y'ubukure. Igihe abazungura b'ibanze batabonetse, abagabo baba bane byibura. Ingingo ya 62 ikubiyemo ibiteganywa n'irage bishobora kuba mu mirage myinshi kandi ikubahirizwa icyarimwe mu buryo bwose bushobotse. Iyo ibiteganywa n'imirage ibiri cyangwa myinshi bibangamiranye, hubahirizwa ibikubiye mu irage riheruka gukorwa. Ibi bivuze ko niba nyakwigendera yarakoze irage muri Werurwe 2006, akongera agakora irindi muri Kamena 2007 noneho akongera agakora irindi mu kwezi k'Ukuboza 2007 mbere y'uko yitaba Imana kandi iyo mirage yose ikaba ivuga ibintu bitandukanye, irage rizitabwaho ni irage riheruka indi mirage ari ryo ryo mu kwezi k'Ukuboza 2007. Uraga ashobora gushyiraho umuntu umwe cyangwa benshi bashinzwe kwegeranya no kugabagabanya umutungo uzungurwa⁹.

⁸ Ingingo ya 57.

⁹ Ingingo ya 64.

III.2.1.2. Ibimenyetso biranga irage:

- Uruga abikora nta gahato;
- Agomba kuba abifitiye ubushobozi;
- Irage rigomba kuganisha ku kintu cyemewe n'amategeko (gutanga irage ku kintu cy'undi birabujijwe);
- Irage rigomba gushingira ku mpamvu yemewe n'amategeko.

III.2.1.3. Inshingano z'uwarazwe

Uwarazwe ashobora kugira inshingano nyinshi:

- Kubahiriza uburenganzira abandi bantu bafite ku cyarazwe;
- Kwishyura imyenda ya nyakwigendera;
- Kubahiriza indi mirage ibangikanye n'uwe.

II.2.1.4. Ivanwaho ry'irage

Irage rishobora kuvanwaho ryose cyangwa igice cyaryo n'uwaraze.

III.2.2. Izungura nta rage

Izungura nta rage ni izungura rikorwa hakurikijwe iri tegeko, iyo nta rage ryabayeho. Mu kugena abazungura, itegeko ryakurikije amasano ari hagati y'umuntu n'abandi bo mu muryango ni ukuvuga hagati y'abana n'ababyeyi, hagati y'abashakanye n'ari hagati y'abavandimwe. Uretse Leta igihe habuze umuzungura, abashobora kuzungura ni abo gusa mu muryango wa nyakwigendera.

III.2.2.1. Uburyo bw'izungura nta rage

Abazungura b'itegeko n'uburyo bazungura bitandukanye hakurikijwe ko umutungo uzungurwa ari umutungo bwite wa nyakwigendera cyangwa ari umutungo rusange w'abashyiranywe. Umutungo bwite ugaragara cyane mu ivanguramutungo no mu ivangamutungo w'umuhahano.

III.2.2.1.1. Izungura ry'abashakanye bafitanye amasezerano y'ivanguramutungo risesuye

Mu masezerano y'Ivanguramutungo, abazungura bakurikiza urutonde rukurikira:

1. Abana ba nyakwigendera;
2. Se na nyina ba nyakwigendera;
3. Abavandimwe ba nyakwigendera basangiye se na nyina;

4. Abavandimwe ba nyakwigendera basangiye umubyeyi umwe;
5. Ba se wabo, ba nyirasenge, ba nyirarume na ba nyina wabo ba nyakwigendera.

Muri iri zungura nta rage ry'umutungo bwite wa nyakwigendera hari izindi ngingo zigomba kwitabwaho. Muri izi ngingo twavuga:

1. Usibye se na nyina ba nyakwigendera, abazungura bapfuye mbere ya nyakwigendera bahagararirwa mu izungura n'ababakomokaho.
2. Buri rwego rw'abazungura ruzitira izindi mu rutonde rw'izungura¹⁰.
3. Buri wese upfuye mu bashyingiranywe bafitanye amasezerano y'ivanguramutungo risesuye, azungurwa n'abazungura be hakurikijwe urutonde ruvugwa muri iri tegeko.
4. Abavandimwe ba nyakwigendera bahuje umubyeyi umwe, ba se wabo, ba nyirasenge, ba nyina wabo, ba nyirarume, ba bamwana n'abaramu ntibazungura isambu ya nyakwigendera yahawe n'umuryango akomokaho iyo badahuriye ku gisekuru cyayimuhaye, keretse iyo bigaragaye ko abahuriye nawe ku gisekuru cyamugabiye iyo sambu batakiraho¹¹.

III.2.2.1.2. Izungurwa ry'abashakanye bafitanye amasezerano y'ivangamutungo rusange

Abashyingiranywe bafite amasezerano y'ivangamutungo rusange bazungurwa ku buryo bukurikira:

1. Iyo umwe apfuye, usigaye asigarana umutungo wose akubahiriza inshingano yo kurera abana no gufasha ababyeyi ba nyakwigendera iyo babikeneye;
2. Iyo bombi bapfuye bagasiga abana, umutungo wose uzungurwa n'abana bagafasha ba sekuru na ba nyirakuru. Iyo hari abana badahuriyeho, umutungo ugabanywa kabiri buri mwana akazungura umubyeyi we;
3. Iyo bombi bapfuye badasize abana, umutungo ugabanywamo kabiri, $\frac{1}{2}$ kigahabwa abazungura b'umugabo ikindi kigahabwa abazungura b'umugore;
4. Iyo uwapfakaye nta mwana afitanye na nyakwigendera akongera gushaka, asigarana $\frac{1}{2}$ cy'umutungo bafatanyije ikindi $\frac{1}{2}$ kigahabwa abazungura ba nyakwigendera;
5. Iyo uwapfakaye ataye inshingano yo gufasha ababyeyi ba nyakwigendera, inama y'umuryango igenera abo babyeyi icyo bazungura mu mutungo wa nyakwigendera;
6. Iyo uwapfakaye ataye inshingano yo kurera abana yasigiwe na nyakwigendera, yamburwa $\frac{3}{4}$ by'umutungo wose bigahabwa abana;

¹⁰ Ingingo ya 67.

¹¹ Ingingo ya 67.

7. Iyo nta mwana wa nyakwigendera uwapfakaye akirera, akongera gushaka, atwara 1/2 cy'umutungo wose, ikindi 1/2 gihabwa abazungura ba nyakwigendera;
8. Iyo uwapfakaye agiye kongera gushaka akagumana inshingano yo kurera abana yasigiwe na nyakwigendera, ahabwa 1/4 cy'umutungo wose, 3/4 agakomeza kubicingira abana ba nyakwigendera;
9. Iyo uwapfakaye atongeye gushaka, akabyara umwana cyangwa abana batari aba nyakwigendera, igihe cy'izungura ry'abana, 1/2 cy'umutungo wose kiba umwihariko w'abana ba nyakwigendera, 1/2 gisigaye abana bose b'uwapfakaye bakakigiramo uruhare ku buryo bungana hatarebwe aba nyakwigendera n'ab'uwapfakaye yabyaye ahandi.

III.2.2.1.3. Izungurwa ry'abashakanye bafitanye amasezerano y'ivangamutungo w'umuhahano

Ingingo ya 71 ivuga ko abashyingiranywe bafitanye amasezerano y'ivangamutungo w'umuhahano bazungurwa hakurikijwe ingingo z'itegeko rigenga izungura ry'ivangamutungo rusange ku mutungo w'umuhahano (twavuze haruguru) n'ingingo z'iri tegeko rigenga izungura ry'ivanguramutungo risesuye ku mutungo badahuriyeho.

III.3. Ese bigenda gute iyo ntawe uzungura cyangwa uragwa uhari?

Iyo nta wuzungura cyangwa uragwa uhari, izungura ryitwa ko ridafite nyiraryo bityo umutungo uzungurwa ugahita wegurirwa Leta. Umuhango w'izungura ritagira nyiraryo ukorwa ku buryo bukurikira:

1. Urukiko rw'ibanze rw'aho izungura rigomba kubera rwerekana ko izungura ridafite nyiraryo rubisabwe n'Umuyobozi w'Akarere cyangwa Ubushinjacyaha bw'aho izungura ribera cyangwa bw'aho umutungo uzungurwa uri.
2. Itangazo ritangwa na Perezida w'Urukiko rw'ibanze rw'aho izungura rigomba kubera mu bitangazamakuru bibiri byo mu gihugu ku buryo kimwe muri ibyo bitangazamakuru kigomba kuba ari icyo mu karere izungura riberamo cyangwa bigatangazwa ku bundi buryo burushijeho kuba bwiza;
3. Mu gihe cy'umwaka umwe uhereye ku munsu iryo zungura ryatangarijwe, Umuyobozi w'akarere ubishinzwe ageza ikibazo ku Rukiko rwaregewe kugira ngo rutangaze ko umutungo ubuze nyirawo by'agateganyo, iyo atabonetse bikorwa n'ubushinjacyaha;
4. Urukiko rw'ibanze, iyo ruregewe rugomba gufata icyemezo mu gihe cy'ukwezi uhereye umunsu rwaregewe;

5. Urukiko rugena umuntu ku giti cye cyangwa umuryango ufite ubuzimagatozi kuba acunga by'agateganyo uwo mutungo mu izina rya Leta. Uwo ubicunga atanga buri mwaka raporo y'imicungire y'umutungo, akayiha Minisiteri ifite imibereho myiza y'abaturage mu nshingano zayo, Umuyobozi w'akarere akagererwa kopi;
6. Nyuma y'imyaka itanu ku mutungo wimukanwa, n'imyaka cumi n'itanu ku mutungo utimukanwa, bisabwe n'Umuyobozi w'akarere¹² cyangwa Ubushinjacyaha, Urukiko rutangaza ko umutungo ubuze nyirawo burundu ukegurirwa Leta;
7. Iyo mbere y'icyo gihe abazungura babonetse, bahabwa umutungo uzungurwa uko umeze havuyemo ibyatanzwe na Leta mu kurinda, gutangaza no gucunga uwo mutungo kimwe n'ibindi Leta yaba yawukoreye kugira ngo utangirika.

II.4. Ingingo zerekeye umutungo uzungurwa

Kuva ku ngingo ya 74 kugeza ku ya 79 zikubiyemo bimwe mu bigomba gukorwa ku mutungo uzungurwa. Ibarura ry'umutungo rikorwa nyakwigendera akimara gupfa kugira ngo umutungo uzungurwa umenyekane. Iryo barura ntirikorwa ku mutungo abashyingiranywe bahuriyeho keretse iyo uwapfakaye agiye kongera gushyingirwa;

Uwapfakaye akomeza kuba mu nzu bwite ya nyakwigendera babanagamo hamwe n'ibikoresho byose biyirimo iyo aribyo byonyine bigize umutungo uzungurwa cyangwa ari bimwe mu biwugize. Iyo uwapfakaye agiye kongera gushyingirwa inama ishinzwe iby'izungura ishobora kwemeza ko aguma mu mutungo yasigaranye bishingiye ku nyungu z'abana;

Iyo uwapfakaye yifuje kugurisha, kugwaturiza cyangwa kugurana umutungo yasigaranye, inama ishinzwe iby'izungura igasanga bibangamiye inyungu z'urugo, ishobora gusaba urukiko mu kirego cy'ihutirwa ko rumwambura ubwo burenganzira;

Umutungo uzungurwa ugabanywa uko uri. Ariko, iyo bidashobotse ko umutungo uterwamo imirwi uko bimeze mu migabane ingana, inama ishinzwe izungura igena inshumbushyanyo abazungura babonye umugabane munini batahawe n'itegeko cyangwa irage, baha ababonye umuto;

¹² Tuributsa ko inshingano z'akarere kubirebana n'iranga mimerere byeguriwe ubuyobozi bw'imirengere.

Igice cy'impano kirenze ibishobora gutangwa gishobora kugaruzwa n'uwo ariwe wese mu bazungura bazigamirwa aribo uwafakaye n'abana; Ikintu cyatanzwe mbere y'imyaka itatu ibanziriza umunsi izungura ritangiriyeho ntigishobora kugaruzwa.

III.5. Iyegeeranya n'igabagabanya ry'ibizungurwa

Iyegeeranya n'igabagabanya by'umutungo uzungurwa bikorwa n'uwabirazwe na nyakwigendera. Iyo adahari bikorwa n'inama ishinzwe iby'izungura cyangwa uwabishinze n'Urukiko.

III.5.1. Ese ni bande bagize inama ishinzwe iby'izungura?

1. Uwafakaye;
2. Umwana uhagarariye abandi iyo hari abana bakuru yasize;
3. Uhagarariye umuryango wa nyakwigendera;
4. Uhagarariye umuryango w'uwapfakaye;
5. Inshuti nyangamugayo imwe itangwa n'umuryango w'uwapfakaye;
6. Inshuti nyangamugayo imwe itangwa n'umuryango wa nyakwigendera;
7. Umuyobozi w'inama ishinzwe iby'izungura atangwa n'umuryango wa nyakwigendera, umwanditsi wayo agatangwa n'umuryango w'uwapfakaye. Ibyemezo by'inama ishinzwe iby'izungura bifatwa abayigize bese bahari bakabishyiraho umukono;
8. Perezida w'Urukiko rw'ibanze, abisabwe n'Ubushinjacyaha cyangwa Umuyobozi w'akarere b'aho izungura ribera, cyangwa umwe mu bazungura, ashiraho ushinzwe iyegeeranya n'igabagabanya ry'ibizungurwa iyo abazungura bataramenyekana cyangwa baranze bese kuzungura cyangwa haravutse impaka zikabije ku buryo bw'igabagabanya.

III.5.2. Inshingano z'Ushinzwe iyegeeranya n'igabagabanya ry'ibizungurwa mu gucunga umutungo uzungurwa

1. Kwishyura imyenda yasizwe n'uzungurwa igejeje igihe;
2. Kugena burundu abagomba kuzungura;
3. Gufata icyemezo iyo habaye impaka no kutumvikana ku migabane;
4. Kugaragariza imicungire y'umutungo abagomba kuzungura cyangwa urukiko.

Mu kwishyura imyenda ikurwa ku mutungo uzungurwa, ushinzwe iyegeranya n'igabagabanya ry'umutungo agomba kubahiriza urutonde rukurikira:

1. Ibyatanzwe mu ishyingurwa rya nyakwigendera;
2. Imishahara nyakwigendera yagombaga guhamba;
3. Ibyatanzwe mu icunga, iyegeranya n'igabagabanya-mutungo;
4. Imyenda ya nyakwigendera;
5. Umurage ku bintu bizwi watanzwe na nyakwigendera.

III.5.3. Ese umuntu ashobora kwanga kuzungura?

Ingingo ya 86 ivuga ko ntawe uhatirwa kwemera kuzungura cyangwa gufata umurage. Kwemera kuzungura bigaragazwa n'uko uzungura yemeye ku mugaragaro ko ari umuzungura. Kwemera kuzungura ntibisubirwaho kandi bigira agaciro guhera umunsi w'urupfu rwa nyakwigendera:

III.5.4. Igihe cyo kugaragaza kwanga kuzungura

Ingingo ya 87 ivuga ko uwanga kuzungura agomba kubikora mu gihe cy'amezi atatu uhereye igihe ushinzwe iyegeranya n'igabagabanya ry'umutungo yamumenyeshereje ukuzungura kwe cyangwa igihe yagararijwe ko afite uburenganzira bwo kuzungura.

III.5.5. Ese kwanga kuzungura bikorwa gute?

Kwanga kuzungura bigomba gukorwa mu nyandiko kandi bikamenyeshwa ushinzwe iyegeranya n'igabagabanya ry'umutungo mu gihe kitarenze igiteganywa n'ingingo ya 87. Iyo uzungura atazi kwandika ashobora kubimenyasha mu mvugo muri icyo gihe cyavuzwe hari abagabo babiri. Iyo atagaragaje igitekerezo cye kandi yabimenyeshwe, bifatwa nk'aho yemeye kuzungura.

III.5.6. Igihe kwanga kuzungura bitangira kubahirizwa

Kwanga kuzungura bituma ubikoze afatwa nk'aho atigeze aba umuzungura. Ntibisubirwaho nyuma y'igihe giteganywa n'ingingo ya 87 keretse iyo byakozwe hakoreshejwe uburiganya, ingufu cyangwa iterabwoba, kandi bikaregerwa mu rukiko mu gihe cy'amezi atandatu uhereye igihe birangiriye. Icyo gihe gishobora kongerwa habonetse impamvu zigaragara kandi zifatika.

II.6. Ingingo rusange ku mpano n'izungura

Impano n'izungura tubisanga kuva ku ngingo ya 90 kugeza ku ngingo ya 93. Izo ngingo zivuga ibi bikurikira:

1. Kugabagabana isambu mu izungura no kuyitangaho impano bikurikiza amategeko agenga ubutaka.
2. Isambu itarengeje hegitari imwe n'icyaricyo cyose kidashobora kugabanyika ntibishobora gucibwamo imirwi, ahubwo ba nyirabyo bumvikana uburyo bwo kubigurisha cyangwa bwo kubibyaza umusaruro ibivuyemo akaba aribyo bagabana. Aha tuributsa ko itegeko ry'ubutaka ryo ryaje rivuga ko bibujijwe kugabanyamo ibice ubutaka bugenewe ubuhinzi n'ubworozi mu gihe ibice biva muri uko kugabanya bitanga ibice by'ubutaka bifite munsu ya hegitari imwe buri gice cyagabanijwe.
3. Amategeko yerekeye ububasha bw'abantu mu gukora amasezerano n'ayerekeye inzitizi zo gukora ibikorwa byemewe akurikizwa no mu bireba impano n'izungura.
4. Haseguriwe ingingo ya 19 y'iri tegeko, abashyingiranywe mbere yuko iri tegeko ritangira kubahirizwa (15/11/1999), bagengwa n'amasezerano y'icungamutungo basanganywe, keretse iyo mu gihe cy'imyaka ibiri kuva iri tegeko ritangiye kubahirizwa batangarije imbere y'umwanditsi w'irangamimerere ko bahisemo guhindura ubwo buryo bari basanganywe.

UMWANZURO

Itegeko No 22/99 ryo ku wa 12/11/1999 ryuzuzaga igitabo cya mbere cy'Urwunge rw'Amategeko Mbenezamubano kandi rishyiraho igice cya gatatu cyerekeye imicungire y'umutungo w'abashyingiranywe, impano n'izungura ryasubijwe byinshi mu bibazo bitari byarabonewe umuti mu mategeko mbenezamubano.

Muri ibyo bibazo byabonewe ibisubizo twavugaga:

- Uburinganire muguhitamo uburyo umutungo w'abashakanye ucungwa;
- Uburinganire muguhitamo hagati y'abashakanye uzacunga umutungo wabo;
- Uburinganire bw'abana bose ku kuzungura ntavangura iryo ariryo ryose;
- Kurinda gusesagura umutungo w'urugo mukuwutagaza;
- Ibibazo by'itangwa ry'umunani;
- Ikibazo cy'izungura haba k'umutungo rusange cyangwa umutungo bwite w'abashakanye.