

**UMURYANGO  
W'ABIBUMBYE**

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Urwego Mpuzamahanga Rwashyiriweho Gukora  
Imirimo y'Insigarira y'Inkiko Mpanabyaha

Urubanza N°: MICT-13-38-PT

Itariki: 14 Gashyantare 2022

Umwimerere: Icyongereza

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**URUGEREKO RWA MBERE RW'IREMEZO**

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Graciela Susana Gatti Santana  
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**Gerefiye:** Abubacarr Tambadou

**Itariki:** 14 Gashyantare 2022

**POROKIRERI**

aburana na

**FÉLICIEN KABUGA**

*INYANDIKO ITARI IBANGA*

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**ITEGEKO RYEREKERANYE N'IBIZAKURIKIZWA MU  
KUBURANISHA URUBANZA MU RW'IREMEZO**

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**Ibiro bya Porokireri**

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**Avoka wunganira Félicien Kabuga**

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**URUGEREKO RWA MBERE RW'IREMEZO** rw'Urwego Mpuzamahanga Rwashyiriweho Gukora Imirimo y'Insigarira y'Inkiko Mpanabyaha (“Urugereko rwa Mbere rw'Iremezo” na “IRMCT”, uko bikurikirana) ruburanisha uru rubanza<sup>1</sup>;

**RUMAZE KUBONA KO**, mu nyungu z'ubutabera kandi nk'uko biteganywa n'Ingingo ya 18(1) ya Sitati, Urugereko rwa Mbere rw'Iremezo rugomba gukora ibishoboka byose kugira ngo urubanza ruburanishwe mu buryo buboneye kandi vuba ndetse ruburanishwe hashingiwe ku Mategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso (“Amategeko”), hubahirizwa, mu buryo bwuzuye, uburenganzira bw'uregwa kandi harindwa, mu buryo bukwiye, umutekano w'abantu bakorewe ibyaha n'uw'abatangabuhamya;

**RUMAZE KUBONA KO**, hashingiwe ku Ngingo ya 55 y'Amategeko, Urugereko rwa Mbere rw'Iremezo rushobora gutanga amategeko aho bikenewe mu kuburanisha urubanza kandi ko hashingiwe ku Ngingo ya 106(F) y'Amategeko, Urugereko rwa Mbere rw'Iremezo rugenzura uburyo ibaza ry'abatangabuhamya n'itangwa ry'ibimenyetso bikorwa, kimwe n'uko bikurikirana kugira ngo: (i) ibaza n'itangwa ry'ibimenyetso bikorwe mu buryo buboneye kugira ngo bigaragaze ukuri; kandi (ii) ntibitware igihe kitari ngombwa;

**RUMAZE KUBONA** ibitekerezo ababuranyi ndetse n'Ibiro bya Gerefiye barugejejeho ku mushinga w'Amabwiriza yerekeranye n'ibizakurikizwa mu kuburanisha urubanza mu rw'iremezo<sup>2</sup>;

**RUMAZE KUBONA RERO KO** bikwiye ko rushyiraho amabwiriza amwe n'amwe yerekeranye n'ibizakurikizwa mu kuburanisha urubanza mu rw'iremezo, ayo mabwiriza rukaba rushobora kuzayahindura uko urubanza ruzagenda rwigira imbere;

**RUSHINGIYE KU** Ngingo ya 18 n'ya 19 za Sitati no ku Ngingo za 55, 105 na 106 z'Amategeko;

**RWEMEJE** Amabwiriza yerekeranye n'ibizakurikizwa mu kuburanisha uru rubanza mu rw'iremezo akubiye mu Mugereka w'iri Tegeko kandi **RUTEGETSE** ababuranyi kuyubahiriza

<sup>1</sup> Reba Itegeko rishyiraho Urugereko rwa Mbere rw'Iremezo, 1 Ukuboza 2020, paje ya 1.

<sup>2</sup> Imyanzuro Porokireri yatanze yubahiriza Itegeko ritegeka gutanga imyanzuro ku Mabwiriza yerekeranye n'ibizakurikizwa mu kuburanisha urubanza mu rw'iremezo, 24 Mutarama 2022; Imyanzuro y'Ubwunganizi irebana n'Itegeko ritegeka gutanga imyanzuro ku Mabwiriza yerekeranye n'ibizakurikizwa mu kuburanisha urubanza mu rw'iremezo” ryo ku itariki ya 14 Ukuboza 2021, 26 Mutarama 2022 (Inyandiko y'umwimerere iri mu gifaransa yatanze ku itariki ya 24 Mutarama 2022); Imyanzuro ya Gerefiye irebana n'Itegeko ritegeka gutanga imyanzuro ku Mabwiriza yerekeranye n'ibizakurikizwa mu kuburanisha urubanza mu rw'iremezo ryo ku itariki ya 14 Ukuboza 2021, 24 Mutarama 2022.

mu gihe cyose iburanisha ry'urubanza rizamara, haseguriwe impinduka iyo ari yo yose Urugereko rwa Mbere rw'Iremezo rwakora, rubinyujije mu Itegeko ryanditse cyangwa rutanze mu magambo uko urubanza ruzagenda rwigira imbere, kugira ngo iburanisha ry'urubanza rikorwe mu buryo buboneye kandi bwihuse.

Bikozwe mu cyongereza no mu gifaransa ariko inyandiko yo mu cyongereza ni yo igenderwaho.

Bikozwe uyu muni, tariki ya 14 Gashyantare 2022,  
Arusha, muri Tanzaniya.

**[Umukono]**

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Iain Bonomy  
Perezida

**[Kashe ya IRMCT]**

**UMUGEREKA**

**AMABWIRIZA YEREKERANYE N'IBIZAKURIKIZWA MU KUBURANISHA  
URUBANZA MU RW'IREMEZO**

**A. Itangwa ry'ibyifuzo**

1. Ababuranyi bashobora gutanga ibyifuzo, mu magambo cyangwa mu nyandiko. Iyo icyifuzo gitanzwe mu magambo, undi muburanyi ashobora gusabwa guhita asubiza mu magambo, cyangwa agahabwa igihe ntarengwa agomba kuzatangamo igisubizo cyanditse cyangwa ingingo ze mu magambo. Igihe icyifuzo gitanzwe mu nyandiko, undi muburanyi azaba afite iminsi 14 agomba gutangamo igisubizo icyo ari cyo cyose, uretse igihe Urugereko rwa Mbere rw'Iremezo rubitegetse ukundi.
2. Muri rusange, Urugereko rwa Mbere rw'Iremezo ntiruzemera imyanzuro isubiza ku gisubizo uretse igihe hatanzwe impamvu ifite ishingiro. Umuburanyi ushaka gutanga iyo myanzuro agomba kubisabira uruhushya Urugereko rwa Mbere rw'Iremezo, asobanura impamvu asanga bikwiye. Umuburanyi usaba guhabwa uruhushya rwo gutanga imyanzuro isubiza ku gisubizo, agomba gushyiramo n'ibikubiye muri iyo myanzuro isubiza, ibyo bikaba bigomba gukorwa mu minsi irindwi ikurikira itangwa ry'igisubizo ku cyifuzo. Cyakora, Urugereko rwa Mbere rw'Iremezo rushobora gufata icyemezo ku kibazo, rutabanje gutegereza igisubizo cyangwa imyanzuro isubiza, iyo hari impamvu zihutirwa cyangwa mu gihe nta muburanyi byatera akarengane.
3. Urugereko rwa Mbere rw'Iremezo rufite uburenganzira bwo guhindura ibi bihe igihe bibaye ngombwa hashingiwe ku biteganywa mu Ngingo ya 153(A) y'Amategeko n'ububasha rufite bwo gukora ibishoboka kugira ngo urubanza rukomeze mu buryo buboneye.
4. Igihe cyose bishoboka, inyandiko zitangwa n'ababuranyi zigomba kuba zitari ibanga. Igihe umuburanyi atanze icyifuzo mu ibanga cyangwa kitagomba kumenyeshwa undi muburanyi, agomba gusobanura muri icyo cyifuzo impamvu zituma akigira ibanga cyangwa kitagomba kumenyeshwa undi muburanyi, bitewe n'icyo asaba. Iyo atabikoze kandi, mu miterere yacyo, bidahita bigaragara ko gikwiye kuba ibanga, icyemezo kuri icyo cyifuzo gitangwa mu nyandiko itari ibanga kandi, byaba ngombwa, hakanatangwa itegeko ritegeka ko icyo cyifuzo gihindurirwa urwego rw'umutekano maze kikagirwa inyandiko itari ibanga.

5. Urugereko rwa Mbere rw'Iremezo, rubinyujije ku Munyamategeko Mukuru wo mu Biro byarwo, rushobora gusaba ababuranyi kwihutisha iyubahirizwa ry'ibihe byashyizweho byo gutanga imyanzuro, hazirikanwa ko icyo kibazo cyihutirwa n'uko urubanza rugomba kuburanishwa mu buryo buboneye. Biciye mu biganiro binyuze mu nzira zitari izisanzwe zikoreshwa, Urugereko rwa Mbere rw'Iremezo, rwifashishije Umunyamategeko Mukuru wo mu Biro byarwo, rushobora gufata ibyemezo ku bibazo byoroheje byerekeranye n'itangwa ry'ibyifuzo, maze nyuma bikazashyirwa muri dosiye mu cyemezo cyanditse cyangwa mu magambo mu iburanisha mu ruhame.

**B. Imitunganyirize y'imirimo y'Urugereko**

6. Mu iburanisha ry'uru rubanza, hazifashishwa uburyo bwa eregitoronike bukoreshwa mu manza ("Uburyo bwa eregitoronike bukoreshwa mu manza"), bityo ababuranyi baributswa ko inyandiko zose zigomba gukoreshwa binyuze muri ubwo Buryo. Umuburanyi ashobora gusa gukoresha kopi y'impapuro iyo, kubera impamvu zidasanzwe, atabashije kwinjiza inyandiko mu Buryo bwa eregitoronike bukoreshwa mu manza. Iyo gukoresha impapuro byemewe, umuburanyi urimo gutanga ibimenyetso agomba guha Urugereko rwa Mbere rw'Iremezo, Ibiro bya Gerefiye, abandi baburanyi, umutangabuhamya, abakozi bashinzwe kwandika inyandikomvugo z'ibivugirwa mu iburanisha n'abasemuzi amakopi y'izo nyandiko.
7. Umuburanyi wese wahamagaje umutangabuhamya agomba kwinjiza inyandiko zose mu Buryo bwa eregitoronike bukoreshwa mu manza, hasigaye nibura ukwezi kumwe ngo ikorehwe mu iburanisha cyangwa itangwe nk'ikimenyetso. Inyandiko yose iri mu kinyarwanda igomba gushyirwa mu Buryo bwa eregitoronike bukoreshwa mu manza hamwe n'inyandiko yayo yasemuwe mu cyongereza cyangwa mu gifaransa. Mu gihe umuburanyi ategereje ko ababifitiye ububasha basemura iyo nyandiko muri rumwe mu ndimi ebyiri zikoreshwa mu kazi muri IRMCT, agomba gutanga inyandiko isemuye itanonosoye ishobora, iyo bibaye ngombwa, guhabwa inomeru y'agateganyo iyiranga mu gihe hagitegerejwe ko hatangwa inyandiko yasemuwe n'ababifitiye ububasha.
8. Ibiro bya Gerefiye bigomba gushyiraho uburyo bwo gukurikirana imikoreshereze y'igihe kandi bifite inshingano yo kugenda byandika uko igihe gikoreshwa mu: (i) ibaza ry'ibanze rya buri mutangabuhamya; (ii) ibaza rinyomoza; (iii) ibaza ry'inyongera; (iv) gihe cy'ibibazo bibazwa n'Urugereko rwa Mbere rw'Iremezo; (v) no mu gihe cy'ibindi bibazo byose, harimo n'ibirebana n'imiburanishirize n'ibyo mu rwego rw'ubuyobozi. Amaraporo

atangwa buri gihe mu gihe cyagenwe ku mikoreshereze y'igihe agomba gukorwa n'Ibiro bya Gerefiye bifatanyije n'Urugereko rwa Mbere rw'Iremezo, akajya agezwa ku baburanyi, buri gihe, mu gihe cyagenwe. Urugereko rwa Mbere rw'Iremezo ruzakomeza gukurikirana imikoreshereze y'igihe kandi rushobora gutanga andi mategeko, rubona ari ngombwa, yerekeranye n'igihe ababuranyi bakoresha.

9. Ibiro bya Gerefiye bigomba gushyiraho uburyo bwo gutegura inyandikomvugo z'iburanisha, kandi bigomba gukorwa ku buryo ziba zitondetswe hakurikijwe amatariki n'amanomero y'amapaje. Amanomero y'amapaje ntagomba gukomereza ku y'inyandikomvugo y'iburanisha ry'umunsi uheruka, ahubwo agomba gutangira bundi bushya kuva kuri paje ya 1 mu ntangiriro ya buri munsi w'iburanisha.
10. Igihe cyose bishoboka, ababuranyi bagomba kubahiriza ihame ry'uko iburanisha ribera mu ruhamye nk'uko biteganywa n'Ingingo ya 92 y'Amategeko. Iyo umuburanyi yifuza ko iburanisha ribera mu muhezo hashingiwe ku Ngingo ya 93 y'Amategeko, agomba kuvugira muri make impamvu zishyigikira icyo cyifuzo noneho Urugereko rwa Mbere rw'Iremezo rukemeza niba ari ngombwa cyangwa atari ngombwa kuburanishiriza mu muhezo.

**C. Kugena igihe gikoreshwa mu itangwa ry'ibimenyetso**

11. Urugereko rwa Mbere rw'Iremezo rushobora kugena igihe ibaza ry'ibanze ry'umutangabuhamya rimara. Mu kubikora, Urugereko rwa Mbere rw'Iremezo ruzazirikana mu buryo bukwiye uko ibintu byifashe kose, harimo n'igihe cyatanzwe n'umuburanyi. Uretse igihe biteganyijwe ukundi muri aya Mabwiriza, umuburanyi ahabwa isaha imwe y'ibaza rinyomoza kuri buri saha y'ibaza ry'ibanze ry'umutangabuhamya wahamagajwe n'uwo baburana. Umuburanyi ubona ko igihe ntarengwa yagenewe n'Urugereko rwa Mbere rw'Iremezo cyamubujije, nta mpamvu, kurangiza ibaza ry'umutangabuhamya ku buryo bishobora kumuteza akarengane, ashobora gusaba igihe cy'inyongera kugira ngo arangize ibaza rye.

**D. Uko abatangabuhamya bagomba gukurikirana mu gutanga ubuhamya, amarisite y'ibimenyetso gihamya n'ibvanditswe mu itegurwa ry'umutangabuhamya**

12. Bitarenze saa kumi z'igicamunzi buri wa Kane, umuburanyi urimo gutanga ibimenyetso agomba kugeza ku Rugereko rwa Mbere rw'Iremezo, Ibiro bya Gerefiye no ku bandi baburanyi, irisite ya eregitoronike, y'abatangabuhamya ateganya guhamagaza mu byumweru bibiri bikurikira, agaragaza: (i) uko bazakurikirana mu gutanga ubuhamya bwabo mu

- Rukiko; (ii) igihe ateganya kuzakoresha mu ibazwa ry'ibanze rya buri mutangabuhamya; na (iii) ingamba zo kurinda umutekano w'abatangabuhamya, izo ari zo zose, zashyiriweho abo batangabuhamya. Umuburanyi wahamagaje umutangabuhamya afite inshingano zo kumenyesha Urugereko rwa Mbere rw'Iremezo, Ibiro bya Gerefiye n'abandi baburanyi, vuba bishoboka, impinduka zose zerekeranye n'uko abatangabuhamya bagomba gukurikirana mu gutanga ubuhamya bwabo.
13. Umuburanyi wahamagaje umutangabuhamya agomba gushyikiriza Urugereko rwa Mbere rw'Iremezo, Ibiro bya Gerefiye n'abandi baburanyi, nibura hasigaye iminsi irindwi ngo umutangabuhamya atange ubuhamya mu Rukiko, irisite ya eregitoronike y'inyandiko cyangwa ibimenyetso ateganya gukoresha mu ibaza ry'ibanze, kuri buri mutangabuhamya. Izo nyandiko zigomba gusemurwa muri rumwe mu ndimi zikoreshwa na IRMCT.
14. Iyo umuburanyi urimo gutanga ibimenyetso agize izindi nyandiko cyangwa ibimenyetso by'inyongera amenya mu gihe arimo gutegura umutangabuhamya kandi akaba yifuza kuzabikoresha mu ibazwa ry'ibanze ry'uwo mutangabuhamya, uwo muburanyi agomba kubimenyesha undi muburanyi, Umwanditsi w'iburanisha n'Urugereko rwa Mbere rw'Iremezo, hasigaye igihe kitari muni y'amasaha 48 ngo uwo mutangabuhamya atange ubuhamya mu Rukiko, kugira ngo: (i) undi muburanyi ashobore gutegura neza ibaza rinyomoza; (ii) bifashe Ibiro bya Gerefiye kuzigenera amanomero aranga ibimenyetso gihamya, kandi (iii) akore ibishoboka byose kugira ngo Urugereko rwa Mbere rw'Iremezo rushobore kugira amakuru yuzuye igihe cyo gufata ibyemezo ku bishobora kuvugwa n'undi muburanyi arwanya ibyo bimenyetso, biramutse bibayeho. Ibyanditswe mu itegurwa ry'umutangabuhamya bishyikirizwa kandi Urugereko rwa Mbere rw'Iremezo, Ibiro bya Gerefiye n'undi muburanyi amasaha 48 mbere y'uko uwo mutangabuhamya atanga ubuhamya mu Rukiko.
15. Iyo umutangabuhamya amaze kurahira ku mugaragaro nk'uko biteganywa n'Ingingo ya 106(A) y'Amategeko, umuburanyi wifuza kubaza ibibazo binyomoza agomba kumenyesha, mu buryo bwa eregitoronike, Urugereko rwa Mbere rw'Iremezo, Ibiro bya Gerefiye n'undi muburanyi, igihe ateganya ko ibaza rinyomoza rizamara, akabashyikiriza n'irisite y'inyandiko n'ibindi bimenyetso uwo muburanyi ashaka kuzifashisha mu ibaza rinyomoza. Umuburanyi ushaka gukoresha, mu gihe cy'ibaza rinyomoza, inyandiko cyangwa ibindi bintu bitari ku irisite kandi bitanamenyekanishijwe, abyemererwa gusa iyo abiherewe uruhushya n'Urugereko rwa Mbere rw'Iremezo. Uwo baburana, ashobora na we gusaba ko iburanisha risubikwa igihe gito kugira ngo asuzume ibyo bintu.

16. Iyo umutangabuhamy yatangiye gutanga ubuhamy imbere y'Urugereko rwa Mbere rw'Iremezo, umuburanyi ntiyemerewe kuvugana n'uwo mutangabuhamy atari kumwe n'uwo baburana igihe cyose uwo mutangabuhamy atararangiza gutanga ubuhamy bwe mu Rukiko, keretse Urugereko rwa Mbere rw'Iremezo rubibahereye uruhushya. Iyo Urugereko rwa Mbere rw'Iremezo rutanze urwo ruhushya rwo kuvugana n'umutangabuhamy, ibyo bavugana bigomba kuba bidafite aho bihuriye n'ibyo uwo mutangabuhamy avuga mu buhamy arimo gutangira mu Rukiko kandi bigomba gukorwa hubahirizwa ingamba zo kurinda umutekano w'abatangabuhamy zashyizweho.

**E. Ibigomba kubahirizwa ku batangabuhamy batanga ubuhamy hashingiwe ku Ngingo ya 111 y'Amategeko**

17. Ibyifuzo bisaba ko ubuhamy bwanditse buteganywa n'Ingingo ya 111 y'Amategeko bushyirwa muri dosiye bigomba gutangwa hasigaye nibura ibyumweru bitandatu mbere y'itariki biteganyijwe ko umutangabuhamy azatangiraho ubuhamy bwe mu Rukiko, keretse Urugereko rwa Mbere rw'Iremezo rubitegetse ukundi. Irisite y'ibimenyetso gihamy bifite aho bihuriye n'ubuhamy bwanditse buteganywa n'Ingingo ya 111 y'Amategeko igomba gutangirwa hamwe n'imyanzuro itanzwe hashingiwe ku Ngingo ya 111 y'Amategeko.
18. Iyo abona ari ngombwa kugira ngo ibyo avuga byumvikane neza, umuburanyi urimo gutanga ibimenyetso ashobora gusomera mu Rukiko incamake y'ubuhamy bwanditse bw'umutangabuhamy ateganya gutanga hashingiwe ku Ngingo ya 111 y'Amategeko, mu minota itarenze itanu. Nibura amasaha 24 mbere y'uko ubuhamy bw'umutangabuhamy bireba butangwa, Urugereko rwa Mbere rw'Iremezo rugomba guhabwa inyandiko itanonosoye y'incamake y'ubwo buhamy. Uretse gusa igihe hari impamvu zidasanzwe, ibazwa ry'ibanze ry'inyongera ry'umutangabuhamy watanze ubuhamy burimo gutangwa hashingiwe ku Ngingo ya 111 y'Amategeko, rigomba kumara iminota itarenze 30 kandi rikibanda ku gusobanura cyangwa gushimangira ibivugwa byihariye mu buhamy bw'uwo mutangabuhamy. Ababuranyi ntibemerewe guhamagaza abatangabuhamy b'impuguke banavuga no ku byabaye, kimwe n'uko batagomba guteganya gukoresha ibaza ry'ibanze mu gihe abatangabuhamy batanga ubuhamy hashingiwe ku Ngingo ya 111 y'Amategeko bagamije kongera ibikubiye mu buhamy bwanditse butatangiwe mu iburanisha cyangwa ubuhamy bwatangiwe mu Rukiko. Niba babona ari ngombwa, ababuranyi bagomba gusuzuma ubuhamy bwanditse bwatanzwe maze bakabwongera, iyo ubuhamy bwa mbere bwatangiwe mu Rukiko cyangwa bwanditse bwatanzwe mbere bwaba butuzuye. Igihe cyo



kubaza ibibazo binyomoza umutangabuhamya utanga ubuhamya hashingiwe ku Ngingo ya 111 y'Amategeko, ntikigomba kurenga amasaha abiri, muri rusange, kuri buri mutangabuhamya. Umuburanyi ashobora kongererwa igihe hakurikijwe uko ibintu byifashe, iyo atanze impamvu zumvikana.

**F. Ibigomba kubahirizwa ku batangabuhamya batanga ubuhamya hashingiwe ku Ngingo ya 116 y'Amategeko**

19. Igihe hakenewe ubuhamya bw'umutangabuhamya w'impuguke butangiwe mu iburanisha<sup>3</sup>, uwo mutangabuhamya agomba kwitaba Urukiko kugira ngo gusa abazwe ibibazo binyomoza no kugira ngo yongere kubazwa ku ngingo zihariye zavuzweho mu gihe cy'ibaza rinyomoza zaba zisaba gutangwaho ibisobanuro cyangwa kuvugwaho birambuye. Raporo y'impuguke igomba kuba ikubiyemo ibintu byose bikenewe birebana n'ibimenyetso bitangwa n'umuburanyi urimo gutanga ibimenyetso. N'iyi iyo mpuguke itabajijwe ibibazo binyomoza, undi muburanyi, mu myanzuro nsozarubanza yanditse ye, ashobora kuvuguruza no kugira ibyo arwanya byerekeranye n'iyi mpuguke n'ubuhamya bwayo. Bitewe n'uko ibintu byifashe kuri buri mutangabuhamya w'impuguke, Urugereko rwa Mbere rw'Iremezo, ruramutse rubyemeye, rutanga igihe kigufi cyo kubaza ibibazo by'ibanze kugira ngo hasabwe gushyira inyandiko muri dosiye zinyujijwe kuri uwo mutangabuhamya w'impuguke.
20. Ibivugwa mu maraporo z'abatangabuhamya b'impuguke hagomba kugaragazwa mu buryo bwuzuye aho byakomowe kugira ngo bifashe Urugereko rwa Mbere rw'Iremezo mu kugena agaciro ka byo nk'ibimenyetso n'uburemere bwabyo.

**G. Gusaba Urugereko kumva ubuhamya bw'umutangabuhamya hifashishijwe ikoranabuhanga ry'amajwi n'amashusho**

21. Ibyifuzo bitangwa hashingiwe ku Ngingo ya 96 y'Amategeko, bisaba kwemererwa ko umutangabuhamya atanga ubuhamya hifashishijwe ikoranabuhanga ry'amajwi n'amashusho, bigomba gutangwa vuba bishoboka, ariko hasigaye nibura ibyumweru bitandatu mbere y'uko atanga ubuhamya mu Rukiko kandi nyuma yo kubivuganaho n'Ibiro bya Gerefiye. Iyo Urugereko rwa Mbere rw'Iremezo rumaze gutanga icyemezo kuri icyo cyifuzo, umuburanyi

<sup>3</sup> Reba inama ntegururubanza, inyandikomvugo y'iburanisha, 6 Ukwakira 2021, paje ya 6 (Imenyeshya Porokireri ko Urugereko rwa Mbere rw'Iremezo ruri gukurikiranira hafi risite y'abatangabuhamya b'impuguke ateganya guhamagaza n'ubuhamya biteganyijwe ko bazatanga, kandi ko rwifuzaga cyane ko Porokireri yagabanyaga umubare

wahamagaje umutangabuhamya agomba kuvugana n'Ibiro bya Gerefiye ku byerekeranye no guteganya ibikoresho bikenewe kugira ngo ubwo buryo bushobore gukoreshwa.

**H. Kwibutsa u buhamya bwanditse cyangwa bwatangiye mu Rukiko mbere n'umutangabuhamya urimo gutanga ubuhamya**

22. Mu rwego rwo kwirinda impaka zitari ngombwa, ababuranyi ntibagomba gusobanura cyangwa kuvuga mu yandi magambo ibyo umutangabuhamya urimo gutanga ubuhamya mu Rukiko yavuze mu buhamya bwanditse cyangwa mu bwo yatangiye mu Rukiko mbere. Ahubwo bagomba gusoma ibyanditse mu buhamya bwanditse cyangwa mu nyandikomvugo y'iburanisha kandi bakagarukira gusa ku biri ngombwa bikenewe kugira ngo ikibazo cyabajijwe cyumvikane. Mu kwibutsa ubuhamya bwanditse bwatanzwe mbere cyangwa ubwatangiye mu Rukiko, ababuranyi bagomba kugaragaza paje ibyo bivugwa byanditseho, ndetse igihe bishoboka, n'umurongo ubonekaho ibyo bavuga muri ubwo buhamya bwanditse cyangwa muri iyo nyandikomvugo y'iburanisha.

**I. Aho ibaza rinyomoza n'iry'inyongera bigarukira**

23. Hubahirizwa ibiteganywa n'Ingingo ya 106(H)(ii) y'Amategeko, umuburanyi ubaza umutangabuhamya ibibazo binyomoza agomba kwifashisha muri rusange ibimenyetso bifatika afite bivuguruza ubuhamya bw'uwo mutangabuhamya, aho kuvuga kuri buri kantu kose atemera muri ubwo buhamya.

**J. Gushyira muri dosiye ibimenyetso bifite imiterere imwe n'imwe**

24. Uburyo bwiza bwo gutanga ibimenyetso ni ukubinyuza ku mutangabuhamya igihe arimo gutanga ubuhamya mu Rukiko. Umuburanyi urimo gutanga ibimenyetso agomba kugaragaza aho uwo mutangabuhamya ahuriye n'iyo nyandiko mbere yo kuyitanga asaba ko ishyirwa muri dosiye. Iyo inyandiko itanzwe kugira ngo ishyirwe muri dosiye, Urugereko rwa Mbere rw'Iremezo rufata icyemezo cyo kuyemera cyangwa kutayemera, cyangwa rukazagifata nyuma. Hanyuma, Urugereko rwa Mbere rw'Iremezo rutangaza icyemezo rwafashe kuri iyo nyandiko maze rugategeka Iburo bya Gerefiye kuyiha numero y'ikimenyetso gihamya no kugena urwego rw'umutekano ishyirwamo. Iyo Urugereko rwa Mbere rw'Iremezo ruhiseho kuzafata icyemezo kuri iyo nyandiko nyuma, ikomeza kurangwa na numero y'agateganyo yahawe. Icyo gihe iyo nyandiko umuburanyi yifuza

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w'abari kuri iyo risite, akibanda ku buhamya bwihariye bw'abatangabuhamya b'impuguke, niba buhari, bwa

gutanga ishyirwa muri dosiye ari uko Urugereko rwa Mbere rw'Iremezo rubanje gufata, mu magambo cyangwa mu nyandiko, icyemezo ku cyifuzo gisaba ko ishyirwa muri dosiye, ari na bwo ihabwa numero y'ikimenyetso gihamya. Iyo inyandiko zisabirwa gutangwa ngo zishyirwe muri dosiye zitari kuri risite y'ibimenyetso gihamya iteganywa n'Ingingo ya 70(E) cyangwa (M) y'Amategeko, umuburanyi urimo gutanga ibimenyetso agomba gusaba Urugereko rwa Mbere rw'Iremezo uruhushya rwo kongera izo nyandiko cyangwa ibyo bintu kuri risite y'ibimenyetso gihamya ye. Byongeye kandi, iyo izo nyandiko zitari muri rumwe mu ndimi zikoreshwa na IRMCT, zihabwa numero ziziranga z'agateganyo mu gihe hategerejwe ko zisemurwa n'uko Urugereko rwa Mbere rw'Iremezo rutanga irindi tegeko, cyangwa ko rutemera ko zishyirwa muri dosiye.

25. Igihe ikimenyetso gihamya kimaze gushyirwa muri dosiye, ababuranyi bahabwa iminsi ibiri y'akazi yo gusaba ko hagira igihinduka ku byerekeranye n'urwego rw'umutekano w'icyo kimenyetso. Iyo iki gihe kirangiye, Ibiro bya Gerefiye bishobora gushyira ahagaragara ibimenyetso bitari ibanga, bitiriwe bigisha inama Urugereko rwa Mbere rw'Iremezo cyangwa ababuranyi.
26. Ubuhamya bwanditse butatangiwe mu iburanisha Urugereko rwa Mbere rw'Iremezo rubona bufite aho buhuriye n'urubanza kandi bufite agaciro, bushobora kwakirwa hashingiwe ku Ngingo ya 105(C) y'Amategeko. Ubuhamya bwanditse bwatanzwe n'umuntu utarahamagajwe nk'umutangabuhamya mu Rukiko bushobora gukoreshwa mu ibaza rinyomoza kandi, byaba ngombwa, bugashyirwa muri dosiye, bupfa gusa kuba ari ngombwa kugira ngo Urugereko rwa Mbere rw'Iremezo rushobore gusuzuma niba uwo mutangabuhamya yakwizerwa kandi budakoreshejwe mu kugaragaza ukuri kw'ibibukubiyemo.
27. Iyo hari umuburanyi urwanya ubuhamya butatangiwe mu iburanisha avuga ko atari imvaho cyangwa butakwizerwa, inyandiko na videwo yafashwe cyangwa kimwe muri byo, bishobora gushyirwa muri dosiye kugira ngo Urugereko rwa Mbere rw'Iremezo ruzasuzume uburemere bw'ibyo bimenyetso gihamya mu gihe ruzaba rukora isesengura ryarwo rya nyuma mu rwego rwa dosiye y'urubanza yose. Nk'uko biteganywa n'Ingingo ya 105(E) y'Amategeko, umuburanyi urimo gutanga ibimenyetso ashobora gusabwa kugaragariza Urugereko rwa Mbere rw'Iremezo ko yagenzuye niba ubuhamya butatangiwe mu iburanisha ari imvaho. Byongeye kandi, iyo hari umuburanyi urwanya icyo kimenyetso avuga ko

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ngombwa muri uru rubanza).

kitakwizerwa, umuburanyi urimo gutanga ibimenyetso ashobora gusabwa kugaragaza ibimenyetso bihagije byatuma cyizerwa ku buryo, ukikibona, usanga gikwiye gushyirwa muri dosiye. Rubisabwe n'umwe mu baburanyi cyangwa rubyibwirije, Urugereko rwa Mbere rw'Iremezo rushobora gutegeka umuburanyi urimo gutanga amakopi y'ibimenyetso kurugezaho umwimerere cyangwa kopi isomeka, yumvikana cyangwa igaragara neza kurusha izindi by'icyo kimenyetso.

28. Buri muburanyi afite inshingano yo gutanga ibimenyetso bye mu buryo busobanutse neza kandi bw'incamake. Muri rusange, inyandiko nini cyane, nk'ibitabo, ajenda cyangwa amaraporo, ntibizashyirwa muri dosiye uko byakabaye, Urugereko rwa Mbere rw'Iremezo ruzashyira muri dosiye ibice rusanga bikwiye rukurikije ingingo zikubiye mu myanzuro y'ababuranyi. Muri rusange, ibyo bice bigomba kuba ari ibyavuzweho mu buhamya bwatangiwe mu Rukiko.
29. Inyandiko ababuranyi basaba ko zishyirwa muri dosiye zigomba kuba ari nke kugira ngo hirindwe gushyira muri dosiye y'urubanza inyandiko z'umurengera. Iyo umuburanyi ahiseho gutanga icyifuzo gisaba ko ibimenyetso bishyirwa muri dosiye, hatagombye kwifashishwa umutangabuhamya, ibimenyetso gihamya bisabirwa gushyirwa muri dosiye bigomba kugaragazwa mu mbonerahamwe ikubiyemo amakuru akurikira, mu makorone atandukanye: gusobanura iyo nyandiko, kugaragaza niba inyandiko ari imvaho no kwerekana ibika by'Inyandiko y'ibirego n'ibyo mu Myanzuro mbanzizarubanza bifite aho bihuriye n'ibivugwa muri izo nyandiko. Biteganyijwe ko, n'ubwo mu migereka iherekeza ibyifuzo hagomba kubamo ibintu bike<sup>4</sup>, muri iyo mbonerahamwe hashobora gushyirwamo ibyo umuburanyi avuga ku byerekeranye, nk'urugero, n'isano iri hagati ya buri kimenyetso gihamya gisabirwa gushyirwa muri dosiye y'urubanza n'agaciro kacyo no kugaragaza niba ari imvaho. Biteganyijwe kandi ko ingingo nk'izo zishobora gushyirwa mu mbonerahamwe zitangwa nk'imigereka y'ibisubizo by'ababuranyi bitabaye ngombwa gusaba kongererwa umubare w'amagambo ntarengwa<sup>5</sup>.

<sup>4</sup> Reba Amabwiriza ngengamikorere yerekeranye n'indeshyo y'imyanzuro n'iy'ibyifuzo, MICT/11/Ihindura rya 1, 20 Gashyantare 2019, igika cya 16.

<sup>5</sup> Amabwiriza yerekeranye n'amakuru agomba gutangwa mu cyifuzo (n'umugereka/imigereka ibishyigikira) gisaba ko inyandiko zishyirwa muri dosiye, hatagombye kwifashishwa umutangabuhamya, ashobora kuboneka mu *Rubanza Porokireri aburana na Jovica Stanišić na Franko Simatović*, N° MICT-15-96), icyemezo ku Cyifuzo cya Porokireri gisaba ko inyandiko zivugwa muri Raporo y'umutangabuhamya w'impuguke Christian Nielsen zishyirwa muri dosiye, 5 Werurwe 2018, ibika 12-14.

**K. Kutubahiriza aya mabwiriza**

30. Urugereko rwa Mbere rw'Iremezo ruzirikana ko, mu bihe bimwe na bimwe, kubahiriza, neza neza uko yanditse, aya mabwiriza yerekeranye n'ibizakurikizwa mu kuburanisha urubanza mu rw'iremezo bishobora kudashoboka. N'ubwo, buri gihe, Urugereko rwa Mbere rw'Iremezo rwagombye kumenyeshwa, vuba bishoboka, ko havutse ikibazo gishobora gutuma umuntu anyuranya n'aya mabwiriza, ruzaca inkoni izamba mu gihe hari ingingo yayo itubahirijwe bidaturutse ku muburanyi byabayeho no mu bindi bihe rusanga bikwiye.