

**UMURYANGO
W'ABIBUMBYE**



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

Urubanza N°: MICT-13-38-AR80.1

Itariki: 12 Kanama 2022

Umwimerere: icyongereza

URUGEREKO RW'UBUJURIRE

Abacamanza: Carmel Agius, Perezida
Burton Hall
Liu Daqun
Aminatta Lois Runeni N'gum
José Ricardo de Prada Solaesa

Gerefiye: Abubacarr Tambadou

Itariki: 12 Kanama 2022

PORORERI

aburana na

FÉLICIEN KABUGA

INYANDIKO ITARI IBANGA

**ICYEMEZO KU BUJURIRE KU CYEMEZO CYEREKERANYE
NO KUMENYA NIBA FÉLICIEN KABUGA ASHOBORA
KUBURANISHWA**

Ibiro bya Prokireri

Serge Brammertz
Rashid S. Rashid
Rupert Elderkin

Avoka wunganira Félicien Kabuga

Emmanuel Altit

1. Urugereko rw'Ubujurire rw'Urwego Mpuzamahanga Rwashyiriweho Gukora Imirimo y'Insigarira y'Inkiko Mpanabyaha ("Urugereko rw'Ubujurire" na "IRMCT", uko bikurikirana)¹ rwashyikirijwe ubujurire bwa Félicien Kabuga ("Kabuga") yatanze ku itariki ya 30 Kamena 2022², ajuririra icyemezo cy'Urugereko rwa Mbere rw'Iremezo rwa IRMCT ("Urugereko rwa Mbere rw'Iremezo") cyo ku itariki ya 13 Kamena 2022, rwemeza ko Ubwunganizi butagaragaje ko Kabuga atashobora kuburanishwa ubu³. Porokireri yatanze Igisubizo ku itariki ya 8 Nyakanga 2022⁴. Nta myanzuro isubiza Kabuga yatanze kuri icyo Gisubizo.

I. UKO IBINTU BYAKURIKIRANYE

2. Félicien Kabuga, yarezwe mu Rukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda mu Ugushyingo 1997⁵ ariko yakomeje guhunga ubutabera kugera ubwo yaje gufatirwa mu Bufaransa ku itariki ya 16 Gicurasi 2020⁶. Ku itariki ya 26 Ukwakira 2020, yimuriwe, by'agateganyo, ku ishami rya IRMCT ry'i Lahe kugira ngo akorerwe isuzumabuzima rirambuye⁷. Urubanza rwa Kabuga ubu ruri mu cyiciro kibanziriza iburanisha⁸.
3. Ku itariki ya 22 Mutarama 2021, Ubwunganizi bwagejeje ku Rugereko rwa Mbere rw'Iremezo icyifuzo gisaba, hashingiwe ku Ngingo ya 84(A) y'Amategeko Agenga Imiburanishirize

¹ Reba Itegeko risaba Inteko y'Urugereko rw'Ubujurire gusuzuma ubujurire, 30 Kamena 2022, paje ya 1.

² Inyandiko ishyigikira ubujurire bwerekeranye n'"Icyemezo cyerekeranye no kumenya niba Félicien Kabuga ashobora kuburanishwa, kwimurirwa Arusha no kuhafungirwa", cyatanzwe n'Urugereko rwa Mbere rw'Iremezo ku itariki ya 13 Kamena 2022, 30 Kamena 2022 (yabanje gutangwa mu gifaransa. Inyandiko isemuye mu cyongereza yatanze ku itariki ya 18 Nyakanga 2022) ("Ubujurire"). Reba *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, icyemezo ku Cyifuzo cya Félicien Kabuga gisaba uruhushya rwo kujuririra icyemezo cyo ku itariki ya 13 Kamena 2022 ("Icyemezo cyo ku itariki ya 13 Kamena 2022"), paje ya 2.

³ *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, icyemezo cyerekeranye no kumenya niba Félicien Kabuga ashobora kuburanishwa, kwimurirwa Arusha no kuhafungirwa, 13 Kamena 2022 ("Icyemezo kijuririrwa"), igika cya 62.

⁴ Igisubizo cya Porokireri ku bujurire ku Cyemezo ku cyerekeranye no kumenya niba Kabuga ashobora kuburanishwa, 8 Nyakanga 2022 (Inyandiko itari ibanga, ifite Umugereka w'ibanga) ("Igisubizo").

⁵ Reba *Urubanza Porokireri aburana na Félicien Kabuga*, N° ICTR-97-22-I, icyemezo cyemeza Inyandiko y'ibirego, 26 Ugushyingo 1997 (Inyandiko y'ibanga). Reba n' *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, Inyandiko y'ibirego yahinduwe bwa kabiri, 1 Werurwe 2021 (Inyandiko itari ibanga ifite Umugereka utari ibanga n'undi w'ibanga); *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, icyemezo ku Cyifuzo cya Porokireri gisaba uruhushya rwo guhindura Inyandiko y'ibirego, 24 Gashyantare 2021, igika cya 22.

⁶ *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-I, icyemezo ku Cyifuzo cya Félicien Kabuga gisaba ko Urwandiko rwo kumufata n'Itegeko ryo kumwimura bihindurwa, 21 Ukwakira 2020 ("Icyemezo cyo ku itariki ya 21 Ukwakira 2020"), igika cya 2.

⁷ *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-I, Itegeko rishyiraho itariki y'umuhango wo kwitaba Urukiko bwa mbere, 8 Ugushyingo 2020, paje 1, 2, mu bihavugwa harimo n'ibiri mu Cyemezo cyo ku itariki ya 21 Ukwakira 2020, ibika 11-18.

⁸ Reba *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, Itegeko rishyiraho itariki y'inama mbanzirizarubanza, 7 Nyakanga 2022.

n'Itangwa ry'Ibimenyetso ya IRMCT, ko hashyirwaho impuguke mu by'ubuvuzi zigenga kugira ngo zikorere Kabuga isuzumabuzima, rigamije ibintu birimo no kumenya niba ashobora kuburanishwa⁹. Ku itariki ya 15 Mata 2021, Urugereko rwa Mbere rw'Iremezo rwemeye, kuri bimwe, icyo Cyifuzo maze rutegeka Gerefiye wa IRMCT ("Gerefiye") gushyiraho Impuguke mu mibereho y'abageze mu za bukuru yigenga kugira ngo ikorere Kabuga isuzumabuzima maze irufashe mu kwemeza niba ashobora kuburanishirizwa Arusha¹⁰. Ku itariki ya 19 Gicurasi 2021, Gerefiye yashyizeho Francesco Mattace-Raso nk'impuguke mu mibereho y'abageze mu za bukuru yigenga¹¹. Muri raporo, yatanze ku wa 18 Kamena 2021, Porofeseri Mattace-Raso yavuze ko Kabuga afite indwara zituma imikorere y'ubwonko bwe n'imitekerereze ye bigabanuka ariko ko ibyo bidafite ingaruka zigaragara ku mikorere ye na/cyangwa imyitwarire ye, ibyo bikaba bisobanuye ko adafite uburwayi bwo mu mutwe" kandi ko "aramutse asemuriwe akanasobanurirwa neza, Kabuga ashobora gusobanukirwa iby'ingenzi mu iburanisha"¹². Muri raporo y'inyongera ye, yatanze ku itariki ya 26 Ugushyingo 2021, Porofeseri Mattace-Raso yavuze ko Kabuga afite "uburwayi butuma imikorere y'ubwonko bwe igenda icogora" ariko ko, hazirikanywe ibintu bitandukanye, ntawavuga ko Kabuga afite uburwayi bwo mu mutwe¹³. Cyakora, kubera ibintu biherutse kumubaho no kuba imikorere y'ubwonko bwe ishobora kuba igenda igabanuka, Porofeseri Mattace-Raso yatanze inama y'uko hakwifashishwa inzobere mu by'indwara zo mu mutwe kugira ngo isuzume niba Kabuga

⁹ *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, icyifuzo cy'Ubwunganizi gisaba ko hatangwa itegeko ryo gukora isuzumabuzima rikozwe n'umuganga w'impuguke hashingiwe ku Ngingo ya 84 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, 22 Mutarama 2021 (Inyandiko y'ibanga) (Inyandiko y'umwimerere yatanze mu gifaransa; inyandiko isemuye mu cyongereza yatanze ku itariki ya 2 Gashyantare 2021), ibika 23, 47-49, paje ya 17. Reba *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT; Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ryo gutanga imyanzuro yerekeranye n'ubuzima" ryo ku itariki ya 29 Mutarama 2021, 10 Gashyantare 2021 (Inyandiko y'ibanga rikomeye cyane kandi ifite abo itagomba kumenyeshwa; yahawe Avoka washyizweho ngo yunganire Kabuga hashingiwe ku Cyemezo cy'Umucamanza utegura urubanza cyo ku itariki ya 24 Gashyantare 2021); *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, Igisubizo cyo mu ikubitiro cya Porokireri ku Cyifuzo cy'Ubwunganizi gisaba ko hatangwa itegeko ryo gukora isuzumabuzima rikozwe n'impuguke mu by'ubuvuzi hashingiwe ku Ngingo ya 84 y'Amategeko, 15 Gashyantare 2021 (Inyandiko y'ibanga).

¹⁰ *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, icyemezo ku Cyifuzo cy'Ubwunganizi gisaba ko hatangwa itegeko ryo gukora isuzumabuzima rikozwe n'impuguke mu by'ubuvuzi hashingiwe ku Ngingo ya 84 y'Amategeko, 15 Mata 2021 (Inyandiko y'ibanga), ibika 15-17, 19.

¹¹ *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, Inyandiko ya Gerefiye imenyekanisha ishagirwaho ry'Impuguke mu by'ubuvuzi, 21 Gicurasi 2021 (Inyandiko y'ibanga ifite Umugereka na wo w'ibanga), igika cya 2.

¹² *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, Imyanzuro ya Gerefiye yerekeranye n'"icyemezo ku Cyifuzo cy'Ubwunganizi gisaba ko hatangwa itegeko ryo gukora isuzumabuzima rikozwe n'impuguke mu by'ubuvuzi hashingiwe ku Ngingo ya 84 y'Amategeko, 15 Mata 2021, 18 Kamena 2021 (Inyandiko y'ibanga ifite Umugereka na wo w'ibanga), paje 1495, 1494: amanomero yashyizweho n'Iburo bya Gerefiye.

¹³ *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, Imyanzuro ya Gerefiye yerekeranye n'"itegeko ritegeka ko impuguke yigenga ikora irindi suzumabuzima n'Iburo bya Gerefiye bigatanga amakuru y'inyongera" yo ku itariki ya 13 Kanama 2021, 26 Ugushyingo 2021 (Inyandiko y'ibanga ifite Umugereka na wo w'ibanga) ("Raporo ya Porofeseri Mattace-Raso yo ku itariki ya 26 Ugushyingo 2021"), paje 2716-2714: amanomero yashyizweho n'Iburo bya Gerefiye.

yashobora kwitabira iburanisha ry’urubanza rwe no gukoresha uko bikwiye uburenganzira bwe bwo kuburanishwa mu buryo buboneye¹⁴. Ku itariki ya 1 Ukuboza 2021, rushingiye ku nama ya Porofeseri Mattace-Raso, Urugereko rwa Mbere rw’Iremezo rwategetse ko Kabuga akorerwa isuzumabuzima n’inzobere mu by’indwara zo mu mutwe yigenga¹⁵.

4. Ku itariki ya 14 Ukuboza 2021, Gerefiye yashyizeho Porofeseri Gillian Mezey, Impuguke mu by’indwara zo mu mutwe, watanze raporo ku itariki ya 28 Mutarama 2022¹⁶. Muri raporo ye, Porofeseri Mezey yemeje ko Kabuga agaragaraho ibimenyetso ko “afite ikibazo cy’igabanuka ry’imitekerereze n’imikorere y’ubwonko rigenda riyongera” kandi ko “ishusho rusange y’ubuzima bwe” ari iy’umuntu “ufite uburwayi bwo mu mutwe bw’uruhurirane” ni ukuvuga “uburwayi bwo mu mutwe hamwe n’indwara yitiriwe Alzheimer”¹⁷. Porofeseri Mezey yavuze ko uburwayi bwo mu mutwe bwa Kabuga “buri ku rugero ruri hagati y’urworoheje n’urukomeye kandi ko bigaragara ko bugenda bwiyongera” maze afata umwanzuro uvuga ko “urebye muri rusange” usanga Kabuga atashobora kuburanishwa¹⁸. Ku byerekeranye n’ibyo Porofeseri Mattace-Raso yavuze ko Kabuga adafite uburwayi bwo mu mutwe, Porofeseri Mezey yatanze inama ko Porofeseri Mattace-Raso yakongera gusuzuma Kabuga, kubera amakuru mashya yabonetse, harimo n’ibisubizo by’ikizamini cyakoreshejwe imashini isuzuma hifashishijwe rukuruzi (“MRI”)¹⁹.
5. Ku itariki ya 16 Gashyantare 2022, Porofeseri Mattace-Raso yatanze raporo y’inyongera, avuga ko raporo ya Porofeseri Mezey yo ku itariki ya 28 Mutarama 2022 yuzuye kandi yuzuzura raporo ye yo mu Ugushyingo 2021²⁰. Porofeseri Mattace-Raso yavuze kandi ko ibyagaragajwe no

¹⁴ Raporo ya Porofeseri Mattace-Raso yo ku itariki ya 26 Ugushyingo 2021, paje 2714, 2713: amanomero yashyizweho n’Iburo bya Gerefiye.

¹⁵ *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, Itegeko ritegeka ko Impuguke mu by’ubuvuzi yigenga ikora irindi suzumabuzima, 1 Ukuboza 2021 (Inyandiko y’ibanga), paje 2, 3.

¹⁶ *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, Imyanzuro ya Gerefiye yerekeranye n’“Itegeko ritegeka ko Impuguke mu by’ubuvuzi yigenga ikora irindi suzumabuzima” ryo ku itariki ya 1 Ukuboza 2021, 15 Ukuboza 2021 (Inyandiko y’ibanga ifite Umugereka na wo w’ibanga), igika cya 2; *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, Imyanzuro ya Gerefiye yerekeranye n’“Itegeko ry’inyongera ku Itegeko ritegeka ko Impuguke mu by’ubuvuzi yigenga ikora irindi suzumabuzima” ryo ku itariki ya 14 Mutarama 2022, 31 Mutarama 2022 (Inyandiko y’ibanga ifite Umugereka na wo w’ibanga), Umugereka (“Raporo ya Porofeseri Mezey yo ku itariki ya 28 Mutarama 2022”).

¹⁷ Raporo ya Porofeseri Mezey yo ku itariki ya 28 Mutarama 2022, ibika 55, 57. Reba *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, Itegeko ry’inyongera ku Itegeko ritegeka ko Impuguke mu by’ubuvuzi yigenga ikora irindi suzumabuzima, 14 Mutarama 2022, paje ya 2.

¹⁸ Raporo ya Porofeseri Mezey yo ku itariki ya 28 Mutarama 2022, ibika 58, 87; inyandikomvugo y’iburanisha, 1 Kamena 2022, paje ya 53 (Iburanisha mu muhezo). Reba n’Icyemezo kijuririrwa, igisobanuro N° 49 cyo hasi kuri paje.

¹⁹ Raporo ya Porofeseri Mezey yo ku itariki ya 28 Mutarama 2022, ibika 64, 65.

²⁰ *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, Imyanzuro ya Gerefiye irebana n’“Itegeko ryerekeranye n’indi Myanzuro y’Impuguke yigenga ya mbere” yo ku itariki ya 8 Gashyantare 2022, 16 Gashyantare 2022, (Inyandiko y’ibanga ifite Umugereka na wo w’ibanga) (“Raporo y’inyongera ya Porofeseri Mattace-Raso”), igika cya 3,

guca mu cyuma bitanga amakuru “ku miterere y’ikibazo cy’uburwayi bwo mu mutwe”, kandi ko “ibibazo byerekeranye n’imikorere y’ubwonko n’imitekerereze bigenda byiyongera” kandi ko ku bantu bafite intege nke n’indwara z’uruhurirane, biba byitezwe ibyo bibazo bigenda birushaho kugira ubukana uko igihe gihita”²¹.

6. Ruzirikana ko umwanzuro wa Porofeseri Mezey uvuga ko Kabuga adashobora kuburanishwa ushobora kuba impamvu yo guhagarika urubanza burundu, Urugereko rwa Mbere rw’Iremezo rwasanze ari ngombwa ko rubona inama y’indi mpuguke mu by’ indwara zo mu mutwe kugira ngo itange igitekerezo cya kabiri maze, ku itariki ya 15 Werurwe 2022, rutegeka Gerefiye kumushyiraho²². Muri raporo yayo yo ku itariki ya 19 Mata 2022, iyo mpuguke mu by’ubuzima bwo mu mutwe ya kabiri yashyizweho na Gerefiye, Porofeseri Henry Gerard Kennedy²³, yavuze ko Kabuga “yujuje bimwe mu bishingirwaho mu kwemeza ko umuntu ashobora kuba afite ikibazo cyoroheje cy’imikorere y’ubwonko n’imitekerereze bitewe n’uko ashaje kandi afite intege nke”, agasobanura ko ibyo bidakwiye gufatwa nk’indwara yitiriwe Alzheimer, kwangirika k’ubwonko ku gice cy’imbere n’icyo mu mpande, indwara yo kwangirika kw’ingirabuzima fatizo z’imitsi yo mu bwonko cyangwa uburwayi bw’imyakura” ahubwo ko bishobora kuba biterwa n’“ubusaza n’indwara z’umutima zijyana na bwo”²⁴. Porofeseri Kennedy yavuze ko Kabuga yagaragaje ko “ashobora gusobanukirwa icyo kwemera cyangwa guhakana ibyaha aregwa bivuga no [...] imiterere y’ibyaha aregwa”²⁵. Yavuze kandi ko ubushobozi bwa Kabuga bwo gusobanukirwa n’imigendekere y’iburanisha n’ibimenyetso mu buryo burambuye “bwaba buhagije aramutse ahawe ubufasha bukwiye” kandi ko ibyo byafashwa cyane no “kugabanya ibimenyetso bizatangwa mu Rukiko, gutanga incamake zabyo

paje ya 3131: numero yashyizweho n’Iburo bya Gerefiye. Reba *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, Itegeko ryerekeranye n’indi Myanzuro y’Impuguke yigenga ya mbere, 8 Gashyantare 2022 (Inyandiko y’ibanga).

²¹ Raporo y’inyongera ya Porofeseri Mattace-Raso, paje ya 3131: numero yashyizweho n’Iburo bya Gerefiye.

²² *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, icyemezo ku Cyifuzo cya Porokireri gisaba ko hakorwa irindi suzumabuzima rigamije kumenya niba Uregwa ashobora kuburanishwa n’Itegeko ry’uko haba irindi suzumabuzima rikozwe n’impuguke yigenga, 15 Werurwe 2022 (Inyandiko y’ibanga) (“icyemezo cyo ku itariki ya 15 Werurwe 2022,”), ibika 25, 28.

²³ *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, Imyanzuro ya Gerefiye yerekeranye n’“icyemezo ku Cyifuzo cya Porokireri gisaba ko hakorwa irindi suzumabuzima rigamije kumenya niba Uregwa ashobora kuburanishwa n’Itegeko ry’uko haba irindi suzumabuzima rikozwe n’impuguke yigenga” yo ku itariki ya 15 Werurwe 2022, 22 Werurwe 2022 (Inyandiko y’ibanga ifite Umugereka na wo w’ibanga).

²⁴ *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, Imyanzuro ya Gerefiye yerekeranye n’“icyemezo ku Cyifuzo cya Porokireri gisaba ko hakorwa irindi suzumabuzima rigamije kumenya niba Uregwa ashobora kuburanishwa n’Itegeko ry’uko haba irindi suzumabuzima rikozwe n’impuguke yigenga” yo ku itariki ya 15 Werurwe 2022, 21 Mata 2022 (Inyandiko y’ibanga ifite Umugereka w’ibanga), Umugereka (“Raporo ya Porofeseri Kennedy yo ku itariki ya 19 Mata 2022”), paje 49, 50.

²⁵ Raporo ya Porofeseri Kennedy yo ku itariki ya 19 Mata 2022, paje 50, 51.

ndetse, igihe bishoboka, hakaba kubyemeranyaho²⁶. Porofeseri Kennedy yavuze kandi ko Kabuga: (i) yagaragaje ko yumva ko ibyaha aregwa biremereye kandi ko asobanukiwe n'ingaruka urubanza rushobora kumugiraho; (ii) ku byerekeranye n'ubushobozi bwe bwo guha amabwiriza umwavoka umwunganira, yaragaragaje ubushobozi bwo gutanga ingingo zifite aho zihuriye n'ukwiregura kwe; kandi ko (iii) mu ibaza ry'ibanze, aramutse ahawe umwanya n'ubufasha bihagije, ashobora gutanga ubuhamya mu Rukiko²⁷.

7. Ku itariki ya 15 Werurwe 2022, Urugereko rwa Mbere rw'Iremezo rwemeye icyifuzo cya Porokireri gisaba ko hashyirwaho impuguke mu by'ubuvuzi, ivuga ikinyarwanda, yihitiyemo kugira ngo ikorere Kabuga isuzumabuzima ryerekeranye n'indwara zo mu mutwe²⁸. Muri raporo ye yo ku itariki ya 5 Gicurasi 2022, Dogiteri Rutakayile Bizozza, Impuguke mu by'ubuvuzi yashyizweho itanzwe na Porokireri,²⁹ yemeje ko Kabuga ashobora kuburanishwa kubera ko afite ubushobozi bwo: (i) kuburana; (ii) gusobanukirwa n'imiterere y'ibyaha aregwa, imigendekere n'ingaruka by'urubanza; (iii) guha amabwiriza umwavoka umwunganira; no (iv) gutanga ubuhamya mu Rukiko, aramutse yifashishije ibikoresho byifashishwa mu kumva³⁰.
8. Ku itariki ya 13 Gicurasi 2022, Urugereko rwa Mbere rw'Iremezo rwemeye icyifuzo cy'Ubwunganizi gisaba ko hashyirwaho impuguke mu by'ubuvuzi bwihitiyemo, Dogiteri An Chuc³¹. Muri raporo ye yo ku itariki ya 31 Gicurasi 2022, Dogiteri Chuc yavuze ko, mu rwego rw'ubuvuzi, bidashoboka kwemeza ko Kabuga afite ubushobozi bwo: (i) kwemera cyangwa guhakana icyaha; (ii) gusobanukirwa n'imiterere y'ibyaha aregwa, imigendekere n'ingaruka by'urubanza, n'ibimenyetso mu buryo burambuye; (iii) guha amabwiriza umwavoka umwunganira; no (iv) gutanga ubuhamya mu Rukiko hejuru y'indahiro no gusobanukirwa n'ingaruka z'ubuhamya bwe³².

²⁶ Raporo ya Porofeseri Kennedy yo ku itariki ya 19 Mata 1994, paje ya 51.

²⁷ Raporo ya Porofeseri Kennedy yo ku itariki ya 19 Mata 1994, paje ya 52.

²⁸ Reba icyemezo cyo ku itariki ya 15 Werurwe 2022, ibika 1, 21-23, 28. Reba *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, icyifuzo cya Porokireri gisaba ko hakorwa irindi suzumabuzima rigamije kumenya niba uregwa ashobora kuburanishwa kikanasaba guhabwa inyandiko, 9 Gashyantare 2022 (Inyandiko y'ibanga).

²⁹ *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, Inyandiko imenyekanisha ishyirwaho ry'Impuguke mu by'ubuvuzi yatanzwe n'Ibiro bya Porokireri, 22 Werurwe 2022 (Inyandiko y'ibanga), igika cya 2.

³⁰ *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, Inyandiko imenyekanisha itangwa rya Raporo y'Impuguke mu by'ubuvuzi yatanzwe n'Ibiro bya Porokireri, 6 Gicurasi 2022 (Inyandiko y'ibanga ifite Umugereka A, na wo w'ibanga), Umugereka, paje 6, 7.

³¹ *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, icyifuzo cy'Ubwunganizi gisaba ko hashyirwaho impuguke mu by'ubuvuzi yatanzwe n'Ubwunganizi, 13 Gicurasi 2022 (Inyandiko y'ibanga), paje ya 2.

³² *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, Inyandiko y'Ubwunganizi bwa Félicien Kabuga imenyekanisha itangwa rya Raporo y'impuguke yabwo, 3 Kamena 2022 (Inyandiko y'ibanga ifite Umugereka w'ibanga) (Inyandiko y'umwimerere yatanzwe mu gifaransa; inyandiko isemuye mu cyongereza yatanzwe ku itariki ya 13 Kamena, 2022), Umugereka, paje 31, 32.

9. Ku itariki ya 25 Gicurasi 2022, hashingiwe ku Itegeko ry'Umucamanza utegura urubanza, impuguke mu by'ubuzima bwo mu mutwe zigenga, Dogiteri Mezey na Dogiteri Kennedy zatanze raporo zihuriyeho ikubiyemo ingingo zemeranyaho n'izo zitemeranyaho, isobanura n'impamvu buri wese abitangaho³³. Urugereko rwa Mbere rw'Iremezo rwumvise ubuhamya bwa Porofeseri Kennedy, Dogiteri Bizoza na Porofeseri Mezey ku itariki ya 31 Gicurasi 2022 no ku ya 1 Kamena 2022³⁴.
10. Mu Cyemezo kijuririrwa, Urugereko rwa Mbere rw'Iremezo rwemeje ko Ubwunganizi butagaragaje ko Kabuga adashobora kuburanishwa ubu³⁵. Urugereko rwa Mbere rw'Iremezo rwemeje ko Kabuga akomeza gufungirwa ku ishami rya IRMCT ry'i Lahe kandi ko ari ho urubanza rwe ruzatangira kuburanishirizwa kugera igihe bizemezwa ukundi³⁶. Ku itariki ya 23 Kamena 2022, Urugereko rwa Mbere rw'Iremezo rwemeye icyifuzo cy'Ubwunganizi gisaba uruhushya rwo kujuririra ikibazo cyo kumenya niba Kabuga ashobora kuburanishwa³⁷.

II. ISESENGURA

11. Urugereko rw'Ubujurire ruributsa ko Urugereko rwa Mbere rw'Iremezo rufite ububasha busesuye mu gufata icyemezo ku byerekeranye n'isuzuma ry'ubuhamya bw'impuguke³⁸. Kugira ngo umuburanyi yemererwe ko havanwaho icyemezo urwo Rugereko rushingiye ku bubasha busesuye rufite, agomba kugaragaza ko rwakoze ikosa rigaragara ryamuteje akarengane³⁹. Urugereko rw'Ubujurire ruvanaho icyemezo Urugereko rwa Mbere rw'Iremezo rwafashe rushingiye ku bubasha busesuye rufite ari uko rusanze rwaragifashe bitewe no

³³ Reba *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT; Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritegeka impuguke mu by'ubuvuzi zigenga gukora raporo ihuriweho", 16 Gicurasi 2022, 25 Gicurasi 2022 (Inyandiko y'ibanga ifite Umugereka na wo w'ibanga); *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, Itegeko ritegeka impuguke mu by'ubuvuzi zigenga gukora raporo ihuriweho, 16 Gicurasi 2022, (Inyandiko y'ibanga).

³⁴ *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, inyandikomvugo y'iburanisha, 11 Gicurasi 2022, paje 6, 10, inyandikomvugo y'iburanisha, 31 Gicurasi 2022, paje 4-114 (Iburanisha mu muhezo), inyandikomvugo y'iburanisha, 1 Kamena 2022, paje 3-97.

³⁵ Icyemezo kijuririrwa, igika cya 62.

³⁶ Icyemezo kijuririrwa, igika cya 62.

³⁷ Icyemezo cyo ku itariki ya 13 Kamena 2022, paje ya 2.

³⁸ *Urubanza Porokireri aburana na Jadranko Prlić na bagenzi be*, N° IT-04-74-A, Inyandiko y'urubanza mu bujurire, 29 Ugushyungu 2017 (Inyandiko itari ibanga ifite Umugereka C, w'ibanga) ("Inyandiko y'urubanza rwa Prlić na bagenzi be mu bujurire"), igika cya 286; *Urubanza Tharcisse Renzaho aburana na Porokireri*, N° ICTR-97-31-A, Inyandiko y'urubanza, 1 Mata 2011 ("Inyandiko y'urubanza rwa Renzaho mu bujurire"), igika cya 289; *Urubanza Porokireri aburana na Pavle Strugar*, N° IT-01-42-A, Inyandiko y'urubanza, 17 Nyakanga 2008 ("Inyandiko y'urubanza rwa Strugar mu bujurire"), igika cya 58.

³⁹ *Urubanza Porokireri aburana na Ratko Mladić*, N° MICT-13-56-A, Inyandiko y'urubanza, 8 Kamena 2021 (Inyandiko, itari ibanga, yakuwemo ibigomba kugirwa ibanga), igika cya 63; *Urubanza Porokireri aburana na Goran Hadžić*, N° IT-04-75-AR73.1, Icyemezo ku bujurire bwa Porokireri bwihutirwa ku Cyemezo gikomatananyije cyerekeranye no gukomeza iburanisha ry'urubanza, 4 Werurwe 2016 ("Icyemezo mu rubanza rwa Hadžić, 4 Werurwe 2016"), igika cya 6.

gusobanura nabi amategeko agenderwaho, rwarashingiye ku myanzuro ku byabaye ikosamye mu buryo bugaragara cyangwa iyo giteza ujurira akarengane cyangwa kidashyize mu gaciro ku buryo bigaragara ko Urugereko rwa Mbere rw'Iremezo rwakoresheje nabi ububasha busesuye rufite⁴⁰. Urugereko rw'Ubujurire ruributsa kandi ko igipimo ngenderwaho mu gusuzuma niba Uregwa ashobora kuburanishwa ari "ukuba ashobora kugira uruhare rufatika rutuma akoresha uburenganzira bwe bwo kuburanishwa mu buryo buboneye, akagira uruhare rufatika mu rubanza rwe kandi agashobora gusobanukirwa iby'ingenzi ku iburanisha"⁴¹. Uregwa uvuga ko adashobora kuburanishwa ni we ufite inshingano zo kubigaragaza atanga ibimenyetso bihagije⁴².

12. Bumwe mu bushobozi bugomba kugenzurwa mu gusuzuma niba Uregwa ashobora kuburanishwa ni ubwo: (i) kwemera cyangwa guhakana icyaha; (ii) gusobanukirwa imiterere y'ibyaha aregwa; (iii) gusobanukirwa imigendekere y'iburanisha; (iv) gusobanukirwa ibimenyetso mu buryo burambuye; (v) guha amabwiriza umwavoka umwunganira; (vi) gusobanukirwa ingaruka z'urubanza; no (vii) gutanga ubuhamya mu Rukiko⁴³. Igisabwa kugira ngo uregwa afatwe nk'ushobora kuburanishwa ni ukuba yujuje igipimo ngenderwaho cy'ubushobozi muri rusange, bwatuma agira uruhare rufatika mu iburanisha, mu gihe afite umwavoka umwunganira uko bikwiye⁴⁴.
13. Kabuga avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze amakosa yo mu rwego rw'amategeko n'ashingiye ku byabaye, akanasaba Urugereko rw'Ubujurire kuvanaho icyo Cyemezo kijuririrwa, maze rukemeza ko adashobora kuburanishwa cyangwa rukagarurira Urugereko rwa Mbere rw'Iremezo icyo kibazo ariko rugahabwa amabwiriza yihariye⁴⁵. By'umwihariko, Kabuga avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa ryo kuba rutarasobanuye impamvu rwashingiyeho kubera ko: (i) rutavuze impamvu rutemeye

⁴⁰ Urubanza rwa François-Xavier Nzuwonemeye na bagenzi be, N° MICT-22-124, icyemezo ku Byifuzo bisaba uruhushya rwo kujuririra icyemezo cyo ku itariki ya 8 Werurwe 2022 bisaba ko hasubirwa mu Cyemezo cyo ku itariki ya 15 Werurwe 2022, no kwemererwa kuza mu Rukiko nk'Incuti y'Urukiko, 27 Gicurasi 2022, igika cya 17. Reba icyemezo mu rubanza rwa Hadžić cyo ku itariki ya 4 Werurwe 2016, igika cya 6.

⁴¹ icyemezo mu rubanza rwa Hadžić, 4 Werurwe 2016, igika cya 7, havugwa ku biri mu Nyandiko y'urubanza rwa Strugar mu bujurire, igika cya 55.

⁴² Inyandiko y'urubanza rwa Strugar mu bujurire, igika cya 56.

⁴³ Inyandiko y'urubanza rwa Strugar mu bujurire, ibika 41, 55.

⁴⁴ Inyandiko y'urubanza rwa Strugar mu bujurire, igika cya 60.

⁴⁵ Ubujurire, ibika 34, 88, paje ya 22 (Asaba ko Urugereko rwa Mbere rw'Iremezo rutegekwa: (i) "kugaragaza, mu buryo busobanutse kandi burambuye, igipimo ngenderwaho gikwiye kugenderwaho mu gusuzuma niba umuntu ashobora kuburanishwa"; (ii) gukora ku buryo Kabuga "asuzumwa, mu buryo bwuzuye, n'impuguke mu by'imikorere y'imyakura n'ubwonko"; no (iii) kugaragaza impamvu rwashingiyeho mu gufata icyemezo").

umwanzuro wa Porofeseri Mezey uvuga ko Kabuga adashobora kuburanishwa⁴⁶; (ii) nta mwanzuro rwafashe ku byo Kabuga avuga arwanya uburyo Porofeseri Kennedy yakoresheje, imyanzuro ye n'inama atanga ku byakorwa byafasha Kabuga mu iburanisha cyangwa ngo rugene ibyamufasha rubona bikwiye⁴⁷; kandi (iii) rudasobanura ibimenyetso rwashingiyeho mu gufata umwanzuro uvuga ko afite ubushobozi bwo gusobanukirwa n'imigendekere y'iburanisha n'ibimenyetso, guha amabwiriza umwavoka umwunganira no gutanga ubuhamya mu Rukiko⁴⁸. Kabuga avuga ko Urugereko rwa Mbere rw'Iremezo rwanakoze ikosa kubera ko rwakabije gushingira ku kuba yarashoboye kugira ibyo asubiza mu nama ntegurarubanza⁴⁹ no kubera ko rwafashe icyemezo rwirengagiza akamaro raporo y'impuguke mu by'imikorere y'imyakura n'ubwonko yari kugira mu gukemura ikibazo cy'isuzumabuzima yakorewe⁵⁰. Mu gusoza kuri iyi ngingo, Kabuga avuga ko Urugereko rwa Mbere rw'Iremezo: (i) rwavuze gusa igipimo ngenderwaho mu gusuzuma ibimenyetso nta gusobanura ibigikubiyemo⁵¹; (ii) nta mwanzuro usobanutse rwafashe ku byerekeranye no kumenya niba ashobora cyangwa adashobora kuburanishwa, bityo rukaba, n'ubwo rwafashe umwanzuro hariho ugushidikanya, rwaramuvukije "uburenganzira bwo kuba uko gushidikanya kuriho ari we kugomba kugirira akamaro"⁵²; kandi ko (iii) rutasuzumye neza niba koko afite ubwo bushobozi bukwiye buvugwa n'Urugereko rwa Mbere rw'Iremezo, bwashingirwaho kugira ngo hemezwe ko ashobora kuburanishwa⁵³.

14. Mu gusubiza, Porokireri avuga ko ubwo bujirire budakwiye kwemerwa kubera ko Urugereko rwa Mbere rw'Iremezo rwasobanuye mu buryo bwumvikana impamvu rwashingiyeho mu gufata imyanzuro yarwo kandi rukaba rwaranasuzumye igitekerezo cya Porofeseri Mezey rushingiye ku bindi bimenyetso byatanzwe n'izindi mpuguke biri muri dosiye, no ku buryo Kabuga yitwaye mu manama ntegurarubanza abiri⁵⁴. Porokireri avuga kandi ko Urugereko rwa Mbere rw'Iremezo rwasuzumye uko bikwiye ibyo Kabuga avuga kandi rwasobanuye rukanakurikiza uko bikwiye amategeko akurikizwa mu gusuzuma niba Kabuga ashobora kuburanishwa, ndetse ko mu gufata icyemezo cyarwo rwashingiye uko bikwiye ku makuru rwagejejweho, rwibanda ku isuzuma ry'ubushobozi bwa Kabuga bukenewe aho kwibanda ku

⁴⁶ Ubujurire, ibika 89-91, 108.

⁴⁷ Ubujurire, ibika 92-97.

⁴⁸ Ubujurire, igika cya 98.

⁴⁹ Ubujurire, igika cya 99.

⁵⁰ Ubujurire, ibika 100-104.

⁵¹ Ubujurire, igika cya 107.

⁵² Ubujurire, ibika 109, 110.

⁵³ Ubujurire, igika cya 111.

⁵⁴ Igisubizo, ibika 4, 5, 13.

isuzuma ry'uburwayi bwe⁵⁵. Mu gusoza, Porokireri avuga ko ibikenewe gukorwa byose byafasha Kabuga mu iburanisha bivugwa na Porofeseri Kennedy bitaremezwa⁵⁶.

15. Urugereko rw'Ubujurire rusanga ibyo Kabuga avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa ryo kudasobanura impamvu icyemezo cyarwo gishingiyeho nta shingiro bifite. Mu Cyemezo kijuririrwa, Urugereko rwa Mbere rw'Iremezo rwavuze, mu buryo burambuye, ku myanzuro ya Porofeseri Mezey, hamwe n'imyanzuro ya Porofeseri Kennedy, Dogiteri Bizoza, Porofeseri Mattace-Raso na Dogiteri Chuc, ndetse runazirikana amaraporo yatanzwe na Muganga ukuriye Serivise y'ubuvuzi ya Gereza y'Umuryango w'Abibumbye ("UNDU") n'ukuntu ubwarwo rwiboneye Kabuga mu manama ntegarubanza anyuranye⁵⁷. By'umwihariko, Urugereko rwa Mbere rw'Iremezo rwemeje ko Porofeseri Mezey na Porofeseri Kennedy "bombi bashingiye ku makuru anyuranye y'ingenzi mu kwemeza uburwayi bwagaragajwe n'isuzumabuzima bakoze" kandi ko ibiri muri dosiye bitagaragaza neza ko "uburyo bwo gusuzuma bwakoreshejwe na buri wese muri abo bombi cyangwa ko uburwayi umwe muri bo yemeje ari byo bikwiye kwemerwa kurusha iby'undi"⁵⁸. Urugereko rwa Mbere rw'Iremezo rwafashe kandi umwanzuro uvuga ko "nta bimenyetso birunyuze bihari byatuma rutesha agaciro" imyanzuro ya Porofeseri Mezey cyangwa iya Porofeseri Kennedy, yose uko yakabaye, ku byerekeranye n'ubushobozi bwa Kabuga bwo gusobanukirwa imigendekere y'iburanisha n'ibimenyetso, guha amabwiriza umwavoka umwunganira no gutanga ubuhamya mu Rukiko⁵⁹.
16. Urugereko rw'Ubujurire ruributsa ko Urugereko rwa Mbere rw'Iremezo ari rwo rufite ububasha bwo kwemera cyangwa kwanga igitekerezo cy'umutangabuhamya w'impuguke, cyose uko cyakabaye cyangwa igice cyacyo⁶⁰. Nk'uko bigenda ku bindi bimenyetso byose, Urugereko rwa Mbere rw'Iremezo ni rwo rufite ububasha bwo gusuzuma ukwizerwa n'agaciro bya raporo n'ubuhamya by'impuguke⁶¹. Nyuma yo gusuzuma ibimenyetso byose uko

⁵⁵ Reba Igisubizo, ibika 6-8, 10-19.

⁵⁶ Igisubizo, igika cya 9.

⁵⁷ Reba icyemezo kijuririrwa, ibika 44-55.

⁵⁸ icyemezo kijuririrwa, igika cya 50.

⁵⁹ icyemezo kijuririrwa, igika cya 54.

⁶⁰ Inyandiko y'urubanza rwa Prlić na bagenzi be mu bujurire, igika cya 286; Inyandiko y'urubanza rwa Renzaho mu bujurire, igika cya 289; Inyandiko y'urubanza rwa Strugar mu bujurire, igika cya 58.

⁶¹ *Urubanza Porokireri aburana na Nikola Šainović na bagenzi be*, N° IT-05-87-A, Inyandiko y'urubanza, 23 Mutarama 2014, igika cya 1295; *Urubanza Porokireri aburana na Milan Martić*, N° IT-95-11-A, Inyandiko y'urubanza, 8 Ukwakira 2008 ("Inyandiko y'urubanza rwa Martić mu bujurire"), igika cya 249; *Urubanza Aloys Simba aburana na Porokireri*, N° ICTR-01-76-A, Inyandiko y'urubanza, 27 Ugushyamba 2007, igika cya 174.

byakabaye⁶², kandi by'umwihariko, rumaze no kuzirikana ubushobozi bwo kwitabira iburanisha mu buryo bufatika Kabuga yagaragaje, ndetse n'amaraporo Muganga ukuriye Serivise y'ubuvuzi ya UNDU aherutse gutanga, Urugereko rwa Mbere rw'Iremezo rwemeje ko Ubwunganizi butatanze ibimenyetso bihagije bigaragaza ko Kabuga atashobora kuburanishwa⁶³. Kubera ko Urugereko rwa Mbere rw'Iremezo rwavuze birambuye ku bimenyetso rwashyikirijwe, Kabuga ntagaragaza ko rwakoze ikosa rigaragara ryo kutagaragaza impamvu rutemeye imyanzuro ya Porofeseri Mezey.

17. Byongeye kandi, Urugereko rw'Ubujurire ntirunyuzwe n'ibyo Kabuga avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa ryo kudasobanura impamvu rwashingiyeho kubera ko rudasuzumye ibyo yavuze arwanya ubuhamya bwa Porofeseri Kennedy. Urugereko rw'Ubujurire ruributsa ko Urugereko rwa Mbere rw'Iremezo rugomba gusobanura impamvu rwashingiyeho mu gufata imyanzuro yerekeranye n'ingingo z'ingenzi mu gufata icyemezo, ko rudasabwa gusobanura uko rwagiye rugera kuri buri mwanzuro, cyangwa gusesengura buri ingingo yatanzwe n'umuburanyi⁶⁴. Mu Cyemezo kijuririrwa, Urugereko rwa Mbere rw'Iremezo rwavuze, mu buryo bweruye, ku myanzuro Ubwunganizi bwatanze mu magambo, rugaragaza inenge mu buhamya bwa Porofeseri Kennedy n'isuzumabuzima yakoreye Kabuga, hamwe n'ibyo Ubwunganizi buvuga ko ibikwiye gukorwa bivugwa n'iyi mpuguke nta cyo bishobora gufasha Uregwa bigaragara ko atashobora kuburanishwa⁶⁵. Urugereko rwa Mbere rw'Iremezo rwavuze, mu buryo bweruye, ko nyuma yo gusuzuma, rubyitondeye, uburyo Porofeseri Kennedy yakoresheje mu isuzuma yakoreye Kabuga, rwanyuzwe n'uko ubwo buryo bwari bwimbitse, bushingiye ku bumenyi bwagutse afite mu buvuzi no kuba adafite aho abogamiye⁶⁶. Nyuma yo kuvuga iby'ingenzi mu myanzuro ya Porofeseri Kennedy n'iya Porofeseri Mezey⁶⁷, Urugereko rwa Mbere rw'Iremezo ntirwasabwaga kuvuga kuri buri kantu kose k'ubuhamya abo batangabuhamya b'impuguke batanze. Bityo rero, Urugereko rw'Ubujurire rusanze Urugereko rwa Mbere rw'Iremezo rwarazirikanye kandi runasuzuma ingingo za Kabuga

⁶² Reba icyemezo kijuririrwa, ibika 44-54.

⁶³ icyemezo kijuririrwa, ibika 55, 56.

⁶⁴ Inyandiko y'urubanza rwa Prlić na bagenzi be mu bujurire, igika cya 135; *Urubanza Porokireri aburana na Ratko Mladić*, N° IT-09-92-AR73.6, icyemezo ku bujurire ku Cyemezo ku Cyifuzo cy'Ubwunganizi gisaba ko urubanza ruburanishwa mu buryo buboneye n'uko Uregwa afatwa nk'umwera igihe cyose icyaha kitaramuhama, 27 Gashyantare 2017, igika cya 25; *Urubanza Porokireri aburana na Pauline Nyiramasuhuko na bagenzi be*, N° ICTR-98-42-A, Inyandiko y'urubanza, 14 Ukuboza 2015, igika cya 105. Reba n' *Urubanza Porokireri aburana na Marie Rose Fatuma na bagenzi be*, N° MICT-18-116-A, Inyandiko y'urubanza, 29 Kamena 2022, igika cya 53.

⁶⁵ icyemezo kijuririrwa, igika cya 38, havugwa ku *Rubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, inyandikomvugo y'iburanisha, 7 Kamena 2022, paje 21-25, 27-29.

⁶⁶ icyemezo kijuririrwa, igika cya 50 (havugwa ko ibivugwa bireba Porofeseri Kennedy na Porofeseri Mezey).

⁶⁷ Reba icyemezo kijuririrwa, ibika 15, 16, 19, 20, 25-32, 47-53.

zirwanya ubuhamy bwa Porofeseri Kennedy rugasanga zitarunyuze. Kabuga ntagaragaza ko Urugereko rwa Mbere rw'Iremezo rwirengagije ibimenyetso bigaragara ko byari ingenzi mu gufata imyanzuro ku byerekeranye no kumenya niba Ubwunganizi bwarujuje inshingano zabwo zo gutanga ibimenyetso.

18. Ku byerekeranye n'ibintu Porofeseri Kennedy yavuze byakorwa maze bigafasha Kabuga gusobanukirwa imigendekere y'iburanisha n'ibimenyetso, guha amabwiriza avoka umwunganira no gutanga ubuhamy⁶⁸, Urugereko rwa Mbere rw'Iremezo ntirwemeye ibivugwa n'Ubwunganizi ko “mbere na mbere, ibyo Porofeseri Kennedy avuga ko bikwiye gukorwa bidashoboka”, maze rwemeza ko hari ibishobora gushyirwaho byamufasha⁶⁹. Nk'urugero, mbere Urugereko rwa Mbere rw'Iremezo rwavuze ko Porokireri yari yiteguye kureka ibaza rinyomoza kugira ngo Kabuga abashe gutanga ubuhamy mu Rukiko⁷⁰. Urugereko rwa Mbere rw'Iremezo rwavuze ko “rutemeye ko Kabuga adashobora kugira uruhare rufatika mu iburanisha, cyane ko hari ibishobora gushyirwaho byo kumworohereza kandi Porokireri akaba yaremeye ko bikwiye muri ururubanza, kandi hashingiwe no ku buhamy bunyuzwe Urugereko bwa Porofeseri Kennedy⁷¹. Byongeye kandi, Urugereko rwa Mbere rw'Iremezo rwasabye Ubwunganizi kuzirikana inama yatanzwe y'uko mu ikipe yabwo hashyirwaho umwavoka cyangwa umufasha mu by'amategeko uvuga ikinyarwanda⁷². Urugereko rw'Ubujurire rusanga Urugereko rwa Mbere rw'Iremezo rwaragaragaje impamvu zihagije rwashingiyeho mu gufata icyemezo cyarwo kandi bitari ngombwa ko ruvuga mu buryo burambuye ibindi bintu byashoboraga gushyirwaho ngo bifashe Uregwa mu iburanisha ry'urubanza. Ni ngombwa kuvuga ko, nyuma yo kwemera ko “ubushobozi bw'umuntu ari ikintu gihora guhinduka”, Urugereko rwa Mbere rw'Iremezo rwashyizeho uburyo impuguke zigenga zizajya zikurikirana uko ubushobozi bwa Kabuga bwo kugira uruhare rufatika mu iburanisha bwifashe⁷³.
19. Byongeye kandi, Urugereko rw'Ubujurire ntirwemeye ibyo Kabuga avuga, adatanga ibimenyetso bibishyigikira, ko Urugereko rwa Mbere rw'Iremezo rutavuze ibimenyetso rwashingiyeho mu gufata umwanzuro uvuga ko Kabuga afite ubushobozi bwo gusobanukirwa

⁶⁸ Reba icyemezo kijuririrwa, igika cya 51.

⁶⁹ icyemezo kijuririrwa, ibika 51, 56.

⁷⁰ icyemezo kijuririrwa, igika cya 39, havugwa ku biri mu *Rubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-PT, inyandikomvugo y'iburanisha, 7 Kamena 2022, page 44, 45.

⁷¹ icyemezo kijuririrwa, igika cya 56.

⁷² icyemezo kijuririrwa, igika cya 62.

⁷³ icyemezo kijuririrwa, igika cya 57.

n'imigendekere y'iburanisha n'ubuhamya, guha amabwiriza umwavoka umwunganira no gutanga ubuhamya mu Rukiko. Mu Cyemezo kijuririrwa, Urugereko rwa Mbere rw'Iremezo rwavuze, mu buryo bweruye, ko ubushobozi bugibwaho impaka bufite aho buhuriye n'uyu mwanzuro ari ubwerekeranye no kumenya niba Kabuga ashobora gusobanukirwa n'imigendekere y'iburanisha, gusobanukirwa ibimenyetso, guha amabwiriza umwavoka umwunganira no gutanga ubuhamya mu Rukiko⁷⁴. Ku byerekeranye n'ubwo bushobozi, Urugereko rwa Mbere rw'Iremezo rwasobanuye, mu buryo burambuye, ubuhamya bwa Porofeseri Kennedy n'ubwa Porofeseri Mezey⁷⁵, rufata umwanzuro uvuga ko nta bimenyetso birunyuze bihari byatuma rutesha agaciro imyanzuro y'izo mpuguke yose uko yakabaye⁷⁶. Hanyuma, Urugereko rwa Mbere rw'Iremezo rwavuze ku myitwarire yaranze Kabuga mu nama ntegururubanza yo muri Gashyantare 2022, yagaragaje ko ashobora gukurikira ibibera mu Rukiko, kwakira no gusesengura amakuru atanzwe no kuvuga ibitekerezo bye binyuranye ku ngingo z'ingenzi mu kwiregura kwe⁷⁷. Urugereko rwa Mbere rw'Iremezo rwanashingiye ku maraporo aherutse gutangwa na Muganga ukuriye Serivise y'ubuvuzi ya UNDU, yagaragaje ko ubuzima bwa Kabuga bumaze igihe busa n'ubudahindagurika⁷⁸. Kubera isesengura rirambuye riri mu Cyemezo kijuririrwa, Urugereko rw'Ubujurire rusanga Urugereko rwa Mbere rw'Iremezo rwaragaragaje bihagije ibimenyetso rwashingiyeho mu gusuzuma ubushobozi bwa Kabuga bwo gusobanukirwa n'imigendekere y'iburanisha n'ibimenyetso, guha amabwiriza umwavoka umwunganira no gutanga ubuhamya mu Rukiko.

20. Ku byerekeranye n'ibyo Kabuga avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa kubera ko rwashingiye ku kuba yarashoboye gutanga ibitekerezo bye mu nama ntegururubanza yabaye muri Gashyantare 2022, Urugereko rw'Ubujurire rusanga arwanya gusa isesengura ryakozwe n'Urugereko rwa Mbere rw'Iremezo, atagaragaza ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa rigaragara muri urwo rwego. Urugereko rw'Ubujurire, uretse Umucamanza N'gum watanze igitekerezo kinyuranye n'icya bagenzi be, rusanga kandi nta bimenyetso Kabuga yatanze bishyigikira ibyo avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa kubera ko rwafashe umwanzuro rutabanje gushyiraho impuguke mu by'imikorere y'imyakura n'ubwonko kugira ngo ikemure ikibazo cy'uburwayi byavuzwe ko afite. Urugereko rwa Mbere rw'Iremezo rwafashe umwanzuro uboneye uvuga ko kumenya

⁷⁴ icyemezo kijuririrwa, igika cya 51.

⁷⁵ icyemezo kijuririrwa, ibika 52, 53.

⁷⁶ icyemezo kijuririrwa, igika cya 54.

⁷⁷ icyemezo kijuririrwa, igika cya 55.

⁷⁸ icyemezo kijuririrwa, igika cya 55.

neza indwara Kabuga arwaye atari ingenzi mu isuzuma Urugereko rwa Mbere rw'Iremezo rwakoze⁷⁹, ibyo bikaba bijyanye n'ubukemuramanza bwerekanye ko amasuzumabuzima ubwayo yonyine, uko yaba ari menshi kose, adahagije mu gusuzuma ubushobozi bw'uregwa bwo kuburanishwa⁸⁰.

21. Mu gusoza kuri iyi ngingo, Urugereko rw'Ubujurire ntirwemera ibyo Kabuga avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa ku byerekeranye n'igipimo ngenderwaho rwakoresheje mu gusuzuma ibimenyetso⁸¹. Urugereko rwa Mbere rw'Iremezo rwafashe umwanzuro uboneye uvuga ko uregwa uvuga ko adashobora kuburanishwa ari we ufite inshingano zo kubigaragaza atanga ibimenyetso bihagije⁸². Urugereko rwa Mbere rw'Iremezo rwatanze ibisobanuro kuri iki gipimo, ruvuga ko gihuye n'igikoreshwa mu nkiko zigendera ku Mategeko ashingiye ku muco w'Abongereza, aho, bifatwa ko umuburanyi aba yujuje inshingano yo gutanga ibimenyetso iyo yagaragaje ibyo avuga hagendewe ku bishoboka kuruta ibindi⁸³. Urugereko rw'Ubujurire ntirwemera ibyo Kabuga avuga ko Urugereko rwa Mbere rw'Iremezo rwakoresheje nabi igipimo ngenderwaho mu gusuzuma ibimenyetso. N'ubwo Urugereko rwa Mbere rw'Iremezo rwafashe umwanzuro uvuga “dosiye igaragaza ko hari ugushidikanya ku byerekeranye n'ingano nyayo y'ubushobozi bivugwa ko Kabuga adafite”, rwemeje ko, kugera ubu, Ubwunganizi butaruzuzwa icyo gipimo cy'ibimenyetso gisabwa ngo habe hafatwa umwanzuro uvuga ko Kabuga adashobora kuburanishwa⁸⁴. Mu kuvuga ko ibyo Urugereko rwa Mbere rw'Iremezo rwavuze ku byerekeranye n'ugushidikanya kugaragara muri dosiye byagombye kuba byaratumye rufata umwanzuro uvuga ko adashobora kuburanishwa, Kabuga yitiranye ihame ry'“ubwinshi bw'ibimenyetso” rikurikizwa ku kibazo kirimo gusuzumwa, n'ihame ryo “kugaragaza ibintu mu buryo budashidikanywaho” rikurikizwa ku bintu by'ingenzi mu kugaragaza ko uregwa ahamwa n'icyaha⁸⁵. Kubera iyo mpamvu, Kabuga ntagaragaza ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa rigaragara muri urwo rwego.

⁷⁹ icyemezo kijuririrwa, igika cya 51.

⁸⁰ Inyandiko y'urubanza rwa Strugar mu bujurire, igika cya 61.

⁸¹ Reba ubujurire, ibika 105-111.

⁸² icyemezo kijuririrwa, igika cya 43.

⁸³ icyemezo kijuririrwa, igisobanuro N° 149 cyo hasi kuri paje, havugwa ku biri mu Nyandiko y'urubanza rwa Strugar mu bujurire, igika cya 56.

⁸⁴ icyemezo kijuririrwa, igika cya 56.

⁸⁵ Nk'urugero, reba *Urubanza Porokireri aburana na Dragomir Milošević*, N° IT-98-29/1-A, Inyandiko y'urubanza, 12 Ugushyirye 2009, igika cya 20; Inyandiko y'urubanza rwa Martić mu bujurire, igika cya 55.

III. ICYEMEZO

22. Kubera impamvu zimaze kuvugwa, Urugereko rw'Ubujurire, uretse Umucamanza N'gum watanze igitekerezo kinyuranye, kuri bimwe, n'icya bagenzi be, **NTIRWEMEYE** ubwo bujurire, bwose uko bwakabaye.

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

Umucamanza Aminatta Lois Runeni N'gum yometse kuri iki Cyemezo igitekerezo kinyuranye, kuri bimwe, n'icya bagenzi be.

Bikozwe uyu muni, tariki ya 12 Kanama 2022,
Arusha, muri Tanzaniya.

[Umukono]

Carmel Agius, Perezida

[Kashe ya IRMCT]

**IGITEKEREZO KINYURANYE, KURI BIMWE, N'ICYA BAGENZI BE
CY'UMUCAMANZA AMINATTA LOIS RUNENI N'GUM**

1. Ndemeranya na bagenzi banjye banze, ku bwiganze bw'amajwi, impamvu z'ubujurire za 1, 2, 3 na 5, uko zikurikirana. Cyakora, sinemeranya na bagenzi banjye banze impamvu y'ubujurire ya 4 ya Kabuga, ivuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa kubera ko rutashyizeho impuguke mu by'imikorere y'imyakura n'ubwonko kugira ngo ikureho ugushidikanya, uko ari ko kose, ku byerekeranye no kumenya niba Kabuga ashobora kuburanishwa⁸⁶. Kabuga avuga ko, by'umwihariko, Urugereko rwa Mbere rw'Iremezo rwagombye kuba rwarashyizeho impuguke mu by'imikorere y'imyakura n'ubwonko kugira ngo ikemure, mu buryo budasubirwaho, ikibazo cyerekeranye no kumenya uburwayi afite, nk'uko Ubwunganizi bwe bwabisabye kuva mu mwaka wa 2020, hanakurikijwe inama Porofeseri Mezey na Dogiteri Chuc batanze⁸⁷. Muri urwo rwego, ndibutsa ko Urugereko rwa Mbere rw'Iremezo rwemeje ko "kumenya neza indwara Kabuga arwaye cyangwa impamvu nyayo yatumye agira ikibazo cy'igabanuka ry'imikorere y'ubwonko bwe atari ingenzi" mu gusuzuma niba ashobora kuburanishwa kandi ko "icy'ingenzi ari ukumenya niba ibimenyetso, by'umwihariko, ubuhamya bw'impuguke mu by'ubuzima bwo mu mutwe, zigenga, zashyizweho n'Urukiko, bigaragaza cyane ko Kabuga adashobora kugira uruhare rufatika mu iburanisha ry'uru rubanza"⁸⁸.
2. N'ubwo nzirikana ibyemejwe n'Urugereko rw'Ubujujire mu rubanza rwa Strugar, nsanga bitandukanye n'uko ibintu byifashe muri uru rubanza kubera ko ikemurwa ry'ikibazo cyerekeranye, mu buryo butaziguye, n'indwara Kabuga afite zituma imikorere y'ubwonko bwe n'imitekerereze ye bigabanuka, icyo kintu impuguke zigenga zashyizweho na Gerefiye hubahirizwa Amategeko y'Urugereko zose zikaba zisa n'izicyemeranyaho, n'ubwo buri wese muri bo abyemera ku rugero runyuranye n'urwa bagenzi be⁸⁹. Kubera ko numva uburwayi bwo mu mutwe butatuma umuntu uregwa agira uruhare rufatika mu iburanisha, nsanga mu gihe hatanzwe ikibazo cy'uko ashobora kuba afite uburwayi bwo mu mutwe kandi kigibwaho impaka, biba ari ngombwa ko asuzumwa n'impuguke mu by'imikorere y'imyakura n'ubwonko kugira ngo hasuzumwe, mu buryo bukwiye, niba ashobora kuburanishwa. Nsanga kandi Urugereko rwa Mbere rw'Iremezo na rwo ari uko rwabibonye kandi ko ari yo mpamvu, nyuma

⁸⁶ Reba Ubujujire, ibika 100-104.

⁸⁷ Ubujujire, igika cya 102.

⁸⁸ icyemezo kijuririrwa, igika cya 51.

⁸⁹ Reba *Urubanza Porokireri aburana na Pavle Strugar*, N° IT-01-42-A, Inyandiko y'urubanza mu bujujire, 17 Nyakanga 2008 ("Inyandiko y'urubanza rwa Strugar mu bujujire"), igika cya 61.

yo kwemeza ko Ubwunganizi butagaragaje ko Kabuga adashobora kuburanishwa ubu, rwashyizeho gahunda y'ubugenzuzi irimo n'impuguke mu by'imikorere y'imyakura n'ubwonko, yigenga kandi itigeze igira uruhare muri uru rubanza, kugira ngo abagize iyo gahunda bajye batanga raporo ihuriweho ku byerekeranye no kumenya niba Kabuga ashobora kuburanishwa⁹⁰.

3. Ubu bujurire bwerekeranye n'icyemezo Urugereko rwa Mbere rw'Iremezo rwafashe rushingiye ku bubasha busesuye rufite. Cyakora, njyewe nsanga Urugereko rw'Ubujurire rushobora kuvanaho iki gice cy'icyo cyemezo, kubera ko, kuba, mbere yo kumuburanisha, rutarasabye ko hakorwa raporo y'impuguke mu by'imikorere y'imyakura n'ubwonko byatumye rufata icyemezo mu buryo butaboneye cyangwa budashyize mu gaciro, bityo rukaba rwarakoresheje nabi ububasha busesuye rufite⁹¹.
4. Nshingiye ku bimaze kuvugwa, njyewe nakwemera ubwo bujurire, kuri bimwe, maze ngasubiza Urugereko rwa Mbere rw'Iremezo icyo kibazo, ndusaba kongera gusuzuma niba Kabuga ashobora kuburanishwa ariko rukabikora rubanje kubona raporo y'impuguke mu by'imikorere y'imyakura n'ubwonko.

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

Bikozwe uyu muni, tariki ya 12 Kanama 2022,

[Umukono]

Arusha, muri Tanzaniya.

Umucamanza Aminatta Lois Runeni N'gum

[Kashe ya IRMCT]

⁹⁰ Icyemezo kijuririrwa, igika cya 57.

⁹¹ Reba icyemezo cyafashwe ku bwiganze bw'amajwi, igika cya 11.