

UMURYANGO  
W'ABIBUMBYE



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

Urubanza N°: MICT-13-38-T

Itariki: 29 Ukwakira 2024

Umwimerere: Icyongereza

**PEREZIDA WA IRMCT**

Umucamanza: Graciela Gatti Santana, Perezida

Gerefiye: Abubacarr M. Tambadou

Itariki: 29 Ukwakira 2024

**POROKIRERI**

aburana na

**FÉLICIEN KABUGA**

***INYANDIKO ITARI IBANGA***

**ICYEMEZO KU CYIFUZO CYA FÉLICIEN KABUGA GISABA  
KO UBURYO AFUNZWEMO BUHINDURWA**

**Ibiro bya Porokireri**

Serge Brammertz  
Rashid S. Rashid  
Rupert Elderkin

**Avoka wunganira Félicien Kabuga**

Emmanuel Altit

**Reta y'u Buholandi**

**NJYEWE, GRACIELA GATTI SANTANA**, Perezida w’Urwego Mpuzamahanga Rwashyiriweho Gukora Imirimo y’Insigarira y’Inkiko Mpanabyaha (“Perezida” na “IRMCT”, uko bikurikirana);

**MAZE KUBONA KO** Félicien Kabuga (“Kabuga”) aregwa jenocide, guhamagarira abantu, mu buryo butaziguye kandi mu ruhame, gukora jenocide, ubwumvikane bugamiye gukora jenocide, hamwe n’itoteza, itsembatsemba n’ubuhotozi nk’ibyaha byibasiye inyokomuntu<sup>1</sup>;

**MAZE KUBONA KO**, ku itariki ya 8 Nzeri 2023, urubanza rwa Félicien Kabuga rwasubitswe mu gihe kitazwi hashingiwe ku Cyemezo kigumishaho icy’Urugereko rwa Mbere rw’Iremezo kivuga ko ubuzima bwe butatuma akomeza kuburanishwa kandi bishoboka cyane ko atazongera kugira ubwo bushobozi<sup>2</sup>;

**MAZE KUBONA KO**, mu gihe hagitegerejwe ko ikibazo cyerekeranye no kumufungura by’agateganyo gikemuka, Kabuga yakomeje gufungirwa muri Gereza y’Umuryango w’Abibumbye (“UNDU”) i Lahe, mu Buholandi (“U Buholandi”)<sup>3</sup>;

**MAZE KUBONA KANDI KO**, guhera icyo gihe, Urugereko rwa Mbere rw’Iremezo rwakomeje kujya rugezwaho amaraporo y’Ubwunganizi yerekeranye n’iby bwagezeho ku bijyanye no gushaka igihugu azajyamo nafungurwa by’agateganyo<sup>4</sup>, kandi ko rwatanze amategeko n’ibyemezo, by’ibanga, byerekeranye n’ubusabe Kabuga yagejeje ku bihugu binyuranye ariko ko, kugera ubu, nta gihugu cyemeye kumwakira nk’umuntu uregwa wafunguwe by’agateganyo<sup>5</sup>;

**MAZE KUBONA** icyifuzo Kabuga yatanze mu nyandiko y’ibanga ku itariki ya 25 Nyakanga 2024<sup>6</sup>, aho, ashingiye ku Ngingo ya 67 y’Amategeko Agenga Imiburanishirize n’Itangwa ry’Ibimenyetso ya

<sup>1</sup> Inyandiko y’ibirego yahinduwe bwa kabiri yatanzwe na Porokireri, 1 Werurwe 2021 (Inyandiko itari ibanga ifite Umugereka utari ibanga n’undi w’ibanga).

<sup>2</sup> Icyemezo gisubika urubanza mu gihe kitazwi, 8 Nzeri 2023 (“Icyemezo cyo ku itariki ya 8 Nzeri 2023”), page 2, 5. Reba *Urubanza Porokireri aburana na Félicien Kabuga*, N° MICT-13-38-AR80.3, Icyemezo ku bujirire ku Kindi Cyemezo cyerekeranye no kumenya niba ubuzima bwa Félicien Kabuga bwatuma akomeza kuburanishwa, 7 Kanama 2023 (“Icyemezo cyo ku itariki ya 7 Kanama 2023”), ibika 48, 74-75, 79; Ikindi Cyemezo cyerekeranye no kumenya niba ubuzima bwa Félicien Kabuga bwatuma akomeza kuburanishwa, 6 Kamena 2023, ibika 39,59.

<sup>3</sup> Icyemezo cyo ku itariki ya 8 Nzeri 2023, page 2, 5. Reba Icyemezo cyo ku itariki ya 7 Kanama 2023, ibika 75-76, 79.

<sup>4</sup> Nk’urugero, reba Raporo ya 28 yerekeranye n’ifungurwa ry’agateganyo rya Félicien Kabuga, hashingiwe ku Itegeko ry’Urugereko rwa Mbere rw’Iremezo ryo ku itariki ya 25 Nzeri 2023, 28 Ukwakira 2024 (Inyandiko y’ibanga).

<sup>5</sup> Reba Itegeko ryo gutanga imyanzuro, 22 Nyakanga 2024 (Inyandiko y’ibanga), page 1-2; Icyemezo ku Cyifuzo cy’Ubwunganizi gisaba ubufasha, 27 Gicurasi 2024 (Inyandiko y’ibanga), page 1-3; Icyemezo ku Cyifuzo cy’Ubwunganizi gisaba ko, hashingiwe ku Ngingo ya 28 ya Sitati, hatangwa itegeko ryo gufungura by’agateganyo uregwa, 29 Gashyantare 2024 (Inyandiko y’ibanga; inyandiko itari ibanga yakwemo ibigomba kugirwa ibanga yatanzwe ku itariki ya 3 Kamena 2024), page 1-6; Itegeko ryo gutanga imyanzuro, 18 Mutarama 2024 (Inyandiko y’ibanga), page 1-3; Itegeko ryo gutanga amaraporo agaragaza ibimaze gukorwa ku byerekeranye n’ifungurwa ry’agateganyo, 25 Nzeri 2023, page 1- 2. Reba n’inama ntegururubanza, inyandikomvugo yo ku itariki ya 24 Nyakanga 2024, page ya 9.

<sup>6</sup> Icyifuzo gisaba ko uburyo Félicien Kabuga afunzwe buhindurwa, gitanzwe hashingiwe ku Ngingo ya 67 y’Amategeko Agenga Imiburanishirize n’Itangwa ry’Ibimenyetso, 25 Nyakanga 2024 (Inyandiko y’ibanga) (Inyandiko

IRMCT (“Amategeko”), asaba ko uburyo afunzwemo buhindurwa kandi agasaba ko afungirwa mu “nzu irinzwe na IRMCT” i Lahe, mu gihe ategereje ko hari igihugu cyakwemera kumwakira mu rwego rw’ifungurwa ry’agateganyo rye, kandi hagashyirwaho uburyo bushya afungwamo<sup>7</sup>;

**MAZE KUBONA** ibyo Kabuga avuga ko iyo nzu yafatwa nk’iyiyongereye mu nyubako za IRMCT<sup>8</sup> kandi ko guhindurirwa uburyo afunzwemo bifite ishingiro kubera ko: (i) byamugirira akamaro ku buzima bw’umubiri n’ubwo mu mutwe kubera ko yaba abayeho nk’uri mu muryango<sup>9</sup>; (ii) byatuma Ibyemezo by’Urugereko rwa Mbere rw’Iremezo n’iby’Urugereko rw’Ubujurire byerekeranye n’ifungurwa ry’agateganyo rye byubahirizwa mu buryo bwuzuye<sup>10</sup>; kandi ko (iii) gukomeza kumufungira muri UNDU binyuranyije n’uburenganzira bwe bwo kwishyira akizana, guhabwa agaciro no kuba mu buzima busanzwe bwo mu muryango<sup>11</sup>;

**MAZE KUBONA** Igisubizo Porokireri wa IRMCT yatanze mu nyandiko y’ibanga, ku itariki ya 5 Kanama 24, aho avuga ko icyo Cyifuzo kidakwiye kwemerwa kubera ko Kabuga: (i) akoresha uburyo butari bwo kugira ngo akomeze kuba mu Buholandi aho gukoresha inzira zishoboka kugira ngo afungurwe by’agateganyo<sup>12</sup>; (ii) ashingira ku byemezo bidafitanye isano n’ibyo asaba byatanzwe n’Urukiko Mpanabyaha Mpuzamahanga (“ICC”) maze akavuga ko inzu irinzwe na IRMCT yafatwa nk’iyiyongereye mu nyubako zayo<sup>13</sup>; kandi (iii) atagaragaza impamvu zidasanzwe zatuma biba ngombwa ko, byanze bikunze, afungirwa ahandi hantu hatari muri UNDU<sup>14</sup>;

**NIBUTSA** Itegeko natanze ku itariki ya 7 Kanama 2024, aho nasabye Reta y’u Buholandi gutanga, mu minsi 21 ibarwa uherye ku itariki iboneyeho iryo Tegeko, imyanzuro yanditse yerekeranye no kuba hahindurwa uburyo Kabuga afunzwemo nk’uko abisaba<sup>15</sup>;

**MAZE KUBONA** Imyanzuro Reta y’u Buholandi yatanze mu nyandiko y’ibanga, ku itariki ya 27 Kanama 2024, aho ivuga ko: (i) UNDU ari yo gereza yagenwe ya IRMCT, nta yindi gereza icyo gihugu ifitemo icyicaro cyayihaye kandi, kubera iyo mpamvu, Kabuga nta handi hantu yafungirwa

---

isemuye mu cyongereza yatanzwe ku itariki ya 7 Kanama 2024) (“Icyifuzo”). I bivugwa muri iki Cyemezo byose byakuwe mu Cyifuzo ni ibiri mu nyandiko yacyo isemuye mu cyongereza.

<sup>7</sup> Icyifuzo, ibika 48, 50, 57, 64.

<sup>8</sup> Icyifuzo, ibika 20, 58.

<sup>9</sup> Icyifuzo, ibika 40-41, 54, 61.

<sup>10</sup> Icyifuzo, ibika 32-34, 52.

<sup>11</sup> Icyifuzo, ibika 35-36, 43-44, 48, 51, 53.

<sup>12</sup> Igisubizo cya Porokireri ku Cyifuzo cya Kabuga gisaba ko uburyo afunzwemo buhindurwa, 5 Kanama 2024 (Inyandiko y’ibanga) (“Igisubizo”), ibika 1-3, 9.

<sup>13</sup> Igisubizo, ibika 8-9.

<sup>14</sup> Igisubizo, ibika 1-3, 9.

<sup>15</sup> Itegeko ryo gutanga imyanzuro, 7 Kanama 2024, page ya 2.

mu Buholandi<sup>16</sup>; (ii) Reta y'u Buholandi nta nshingano yo mu rwego rw'amategeko ifite yo gutanga izindi gereza izo ari zo zose kandi idashobora gushyigikira icyo Cyifuzo<sup>17</sup>; kandi ko (iii) Kabuga adashobora gufungurwa ngo agume mu Buholandi ndetse ko ntawukwiye gutekereza ko azemererwa kuhinjira cyangwa kuhaba kubera ko, uko byagenda kose, nta burenganzira ahabwa n'amategeko bwo kuba mu Buholandi<sup>18</sup>;

**MAZE KUBONA** icyifuzo Kabuga yatanze mu nyandiko y'ibanga, ku itariki ya 10 Nzeri 2024, asaba uruhushya rwo kugira icyo avuga kuri iyo Myanzuro<sup>19</sup>, aho: (i) asubiramo ingingo yatanze mu Cyifuzo gisuzumwa<sup>20</sup>; kandi (ii) avuga ko, mu kumwangira gufungirwa i Lahe mu nzu irinzwe na IRMCT, Reta y'u Buholandi imuvutsa uburenganzira bw'ibanze kandi ikabangamira imikorere myiza ya IRMCT<sup>21</sup> ;

**NIBUTSA KO**, nka Perezida, ngenzura uburyo abantu bafunzwe ku itegeko rya IRMCT bafunzwemo muri UNDU<sup>22</sup> ;

**NSHINGIYE KU** Ngingo ya 67 y'Amategeko iteganya, mu gice bireba, ko iyo uregwa amaze kugezwa ku ishami rya IRMCT bireba, afungirwa mu mazu yatanzwe n'igihugu iryo shami rya IRMCT rifitemo icyicaro cyangwa n'ikindi gihugu icyo ari cyo cyose, kandi ko Perezida, abisabwe n'umwe mu baburanyi, ashobora gusaba ko uburyo uregwa afunzwemo buhindurwa;

**MAZE KUBONA KO** (i) Ingingo ya 67 y'Amategeko – bitandukanye n'Ingingo ya 68 y'Amategeko iteganya ibyerekeranye no gufungurwa by'agateganyo – “idakoresha [...] mu nyungu zo kubungabunga ukwishyira ukizana k'uregwa”, ahubwo “yemerera Perezida guhindura uburyo

<sup>16</sup> Ibaruwa yo mu rwego rwa diporomasi yoherejwe na Minisiteri y'Ububanyi n'Amahanga y'u Buholandi, Ibiro bishinzwe ubutwererane no kwakira abashyitsi, DPG-BZ2405048, 27 Kanama 2024 (Inyandiko y'ibanga) (“Imyanzuro”), paje 6654-6653: amanomero yashyizweho n'Ibiro bya Gerefiye. Reba Amasezerano Umuryango w'Abibumbye wagiranye n'u Buholandi, yerekeranye n'icyicaro cy'Urwego Mpuzamahanga Rwashyirirweho Gukora Imirimo y'Insigarira y'Inkiko Mpanabyaha, 23 Gashyantare 2015 (“Amasezerano yerekeranye n'icyicaro”).

<sup>17</sup> Imyanzuro, paje 6654-6653: amanomero yashyizweho n'Ibiro bya Gerefiye.

<sup>18</sup> Imyanzuro, paje ya 6653: nomero yashyizweho n'Ibiro bya Gerefiye.

<sup>19</sup> Kubera ko ntawukirwanya, nemeye icyo Cyifuzo cya Kabuga gisaba uruhushya rwo gutanga imyanzuro kandi nemeye ko itanzwe mu buryo bwemewe n'amategeko. Reba icyifuzo gisaba uruhushya rwo gutanga imyanzuro nyuma y'itangwa, ku itariki ya 27 Kanama 2024, ry'ibaruwa yo mu rwego rwa diporomasi yoherejwe na Minisiteri y'Ububanyi n'Amahanga y'u Buholandi yerekeranye n'icyifuzo cy'Ubwunganizi gisaba ko uburyo Félicien Kabuga afunzwemo buhindurwa, 10 Nzeri 2024 (Inyandiko y'ibanga) (Inyandiko isemuye mu cyongereza yatanzwe ku itariki ya 3 Ukwakira 2024) (“Icyifuzo”). I bivugwa muri iki Cyemezo byose byakuwe mu Cyifuzo ni ibiri mu nyandiko yacyo isemuye mu cyongereza.

<sup>20</sup> icyifuzo, Umugereka, ibika 11-17.

<sup>21</sup> icyifuzo, Umugereka, ibika 18-42.

<sup>22</sup> Nk'urugero, reba *Urubanza Porokireri aburana na Augustin Ngirabatware*, N° MICT-12-29-R, icyemezo ku Cyifuzo gisaba ko Inama Ishinzwe Amahoro ku Isi y'Umuryango w'Abibumbye imenyeshwa ko Reta ya Turukiya itubahirije inshingano zayo kandi kigasaba ko uburyo Uregwa afunzwemo buhindurwa, 22 Werurwe 2017, (“icyemezo cyo ku itariki ya 22 Werurwe 2017”), paje ya 3; *Urubanza Porokireri aburana na Radovan Karadžić*, N° MICT-13-55, icyemezo ku Cyifuzo gisaba ko habaho inama ntegururubanza, 1 Mata 2016, paje ya 1.

uregwa afunzwemo kugira ngo hubahirizwe ibintu byihariye uregwa akeneye”<sup>23</sup>; (ii) “hashingiwe ku mafaranga byasaba Urukiko Mpuzamahanga, amafaranga byasaba u Buholandi, umutekano w’Uregwa, no gushaka kubahiriza ibigenderwaho mu gufunga abaregwa, byumvikana ko abafungwa bakwiye gufungirwa muri [UNDU]”<sup>24</sup>; kandi ko (iii) ibyo “bihinduka gusa iyo hari impamvu zidasanzwe”<sup>25</sup>, nko kuba hari impungenge z’umutekano<sup>26</sup> cyangwa impamvu z’uburwayi<sup>27</sup>, zituma byanze bikunze umuntu agomba gufungirwa ahandi hantu hatari muri UNDU;

**NSHINGIYE KU** Ngingo ya 37(1) y’Amasezerano yerekeranye n’icyicaro, iteganya ko igihugu IRMCT ifitemo icyicaro gifatanyana na yo mu koroshya ifungwa ry’abantu no mu kuyemerera kurangiza inshingano zayo muri gereza yayo;

**MAZE KUBONA KO** UNDU ari yo gereza ya IRMCT yagenwe muri urwo rwego;

**MAZE KUBONA KO** bidakwiye ko Kabuga ashingira ku byemezo byatanzwe na ICC maze ngo avuge ko inzu irinzwe na IRMCT yafatwa nk’iyiyongereye mu nyubako za IRMCT, kubera ko Amasezerano yerekeranye n’icyicaro adateganya ko uregwa acumbikirwa cyangwa afungirwa ahandi hantu hatari muri UNDU kandi Reta y’u Buholandi ikaba yarasobanuye neza ko nta yandi mazu yo gufungiramo abantu icyo gihugu IRMCT ifitemo icyicaro kiyiha kandi ko Kabuga adashobora gufungirwa ahandi hantu hatari muri UNDU<sup>28</sup>;

**MAZE KUBONA KO** Kabuga yigeze kuvuga ko yishimira ibyo akorerwa mu rwego rw’ubuvuzi n’ibindi akorerwa mu rwego rwo kumwitaho muri UNDU no mu ivuriro rya gereza, ibintu impuguke mu by’ubuvuzi zemeza ko bikorwa “ku gipimo cyo hejuru”<sup>29</sup>;

<sup>23</sup> *Urubanza Porokireri aburana na Sefer Halilović*, N° IT-01-48-PT, Itegeko rya Perezida ku Cyifuzo cy’Ubwunganizi gitanzwe bundi bushya cyerekeranye n’uburyo Uregwa afunzwemo mu gihe cy’urubanza, 24 Mutarama 2005 (“Itegeko ryo ku itariki ya 24 Mutarama 2005”), igika cya 17.

<sup>24</sup> Itegeko ryo ku itariki ya 24 Mutarama 2005, igika cya 17.

<sup>25</sup> Icyemezo cyo ku itariki ya 22 Werurwe 2017, paje ya 3; Itegeko ryo ku itariki ya 24 Mutarama 2005, igika cya 17.

<sup>26</sup> Nk’urugero, reba *Urubanza Porokireri aburana na Matthieu Ngirumpatse*, N° ICTR-98-44-T, Icyemezo ku Cyifuzo cya Matthieu Ngirumpatse gisaba ko uburyo afunzwemo buhindurwa, 24 Kamena 2010 (“Icyemezo cyo ku itariki ya 24 Kamena 2010”), igika cya 2; *Urubanza Porokireri aburana na Édouard Karemera na bagenzi be*, N° ICTR-98-44-T, Icyemezo ku Cyifuzo cya Matthieu Ngirumpatse gisaba ko uburyo afunzwemo buhindurwa, 3 Werurwe 2009 (“Icyemezo cyo ku itariki ya 3 Werurwe 2009”), igika cya 9; *Urubanza Porokireri aburana na Michel Bagaragaza*, N° ICTR-05-86-I, Itegeko rishyiraho ingamba zo gufunga zihariye, 13 Kanama 2005, igika cya 3.

<sup>27</sup> Nk’urugero, reba Icyemezo cyo ku itariki ya 24 Kamena 2010, igika cya 2; Icyemezo cyo ku itariki ya 3 Werurwe 2009, igika cya 9.

<sup>28</sup> Imyanzuro, paje 6654-6653: amanomero yashyizweho n’Iburo bya Gerefiye.

<sup>29</sup> Reba inama ntegarurubanza, inyandikomvugo y’iburanisha, 13 Ukuboza 2023, paje ya 19; inama ntegarurubanza, inyandikomvugo y’iburanisha, 6 Nzeri 2023, paje ya 2; inyandikomvugo y’iburanisha, 17 Werurwe 2023, paje 24-25 (Henry Kennedy). Reba n’inyandikomvugo y’iburanisha, 23 Werurwe 2023, paje ya 40 (Gillian Mezey); inyandikomvugo y’iburanisha, 17 Werurwe 2023, paje 30-31.

**MAZE KUBONA KO**, ku birebana n'ibikorwa byose byerekeranye n'imibereho ye ya buri muni, Kabuga akeneye kwitabwaho ku rwego rudasanzwe<sup>30</sup> kandi ko atagaragaza ko guhindura uburyo afunzwemo hari icyo byahindura ku buryo abayeho cyangwa ko ibikorwa byo kumwitaho akeneye byashoboka koko aramutse yimuriwe mu nzu irinzwe na IRMCT;

**MAZE KUBONA KO** gufashwa n'umuryango, byaba ku byerekeranye n'ubuzima bwo ku mubiri cyangwa bwo mu mutwe, nk'uko Kabuga abivuga, ubwabyo, bitagize impamvu zidasanzwe zatuma biba ngombwa ko, uko byagenda kose, afungirwa ahandi hantu hatari muri UNDU;

**MAZE KUBONA KANDI KO** ibindi Kabuga avuga byererekeranye n'ikibazo cyo kumufungura by'agateganyo, kitarafatwaho icyemezo n'Urugereko rwa Mbere rw'Iremezo, kandi nkaba nta bubasha mfite bwo kubisuzuma;

**MAZE KUBONA RERO KO**, Kabuga atagaragaza ko, hakurikijwe uko ibintu bimeze ubu, uburyo afunzwemo bukwiye, byanze bikunze, guhindurwa maze agafungirwa ahandi hantu hatari muri UNDU kandi ko, kubera iyo mpamvu, bikwiye ko ntemera icyo Cyifuzo;

**KUBERA IMPAMVU ZIMAZE KUVUGWA,**

**SINEMEYE** icyo Cyifuzo.

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

Bikozwe uyu muni, tariki ya 29 Ukwakira 2024,  
Arusha, muri Tanzaniya.

[Umukono]

---

Graciela Gatti Santana

Perezida

[Kashe ya IRMCT]

---

<sup>30</sup> Reba Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020 n'"Itegeko rihindura gahunda y'itangwa ry'amaraporo y'uko ubuzima bwa Kabuga bwifashe" ryo ku itariki ya 25 Nzeri 2023, 17 Ukwakira 2024 (Inyandiko itari ibanga ifite Umugereka w'ibanga), Umugereka, paje ya 6745: numero yashyizweho n'Iburo bya Gerefiye.