UMURYANGO W'ABIBUMBYE

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

Urubanza N°: MICT-12-23-R14.1

Itariki: 4 Nyakanga 2025

Umwimerere: Icyongereza

PEREZIDA WA IRMCT

Umucamanza: **Graciela Gatti Santana, Perezida**

Gerefiye **Abubacarr M. Tambadou**

Itariki: **4 Nyakanga 2025**

POROKIRERI

aburana na

FULGENCE KAYISHEMA

INYANDIKO ITARI IBANGA

ICYEMEZO KU CYIFUZO CYA FULGENCE KAYISHEMA GISABA KO HASHYIRWAHO URUGEREKO RWA MBERE RW'IREMEZO

Ibiro bya Porokireri

Serge Brammertz
Laurel Baig

Abavoka bunganira Fulgence Kayishema

Philippe Larochelle
Kate Gibson

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

MAZE KUBONA KO, ku itariki ya 22 Gashyantare 2012, Urugereko rwa Mbere rw'Iremezo rw'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda ("TPIR") rwimuriye urubanza rwa Fulgence Kayishema ("Kayishema") muri Repubulika y'u Rwanda ("U Rwanda") kugira ngo ruburanishwe n'Urukiko Rukuru rw'u Rwanda[1];

MAZE KUBONA KO, ku itariki ya 26 Nzeri 2019, Urugereko rwa Mbere rw'Iremezo rwa IRMCT rwanze Icyifuzo cy'Ibiro bya Porokireri wa IRMCT ("Porokireri") cyasabaga ko Icyemezo cyimurira urubanza mu Rwanda kivanwaho, bitabujije ko cyakongera gutangwa nyuma[2];

MAZE KUBONA KO, ku itariki ya 24 Gicurasi 2023, Kayishema yafatiwe muri Repubulika y'Afurika y'Epfo, akaba ari ho akiri mu gihe agitegereje kohererezwa IRMCT hagamijwe ko ahita yoherezwa mu Rwanda[3];

MAZE KUBONA KO, ku itariki ya 11 Ukwakira 2024, Kayishema, abifashijwemo n'Abavoka bamwunganira ku buntu bemewe na IRMCT, yatanze inyandiko imenyekanisha ko ateganya gusaba ko Icyemezo cyimurira urubanza rwe mu Rwanda kivanwaho[4];

NIBUTSA KO, ku itariki ya 16 Ukuboza 2024, nanze Icyifuzo cya Kayishema gisaba ko Icyemezo cyo mu rwego rw'ubuyobozi cyatanzwe na Gerefiye wa IRMCT, kimwangira guhabwa avoka, gisubirwamo, aho navuze ko Kayishema afite Abavoka bamwunganira ku buntu kandi ko nta cyamubuza, mu gihe gikwiye, gusaba ubufasha mu by'amategeko hashingiwe ku Ngingo ya 46 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso ya IRMCT ("Amategeko")[5];

MAZE KUBONA Icyifuzo cyatanzwe ku itariki ya 5 Kamena 2025, aho mu byo Kayishema ansaba harimo ko, nshingiye ku Ngingo ya 14(C) y'Amategeko, nshyiraho Urugereko rwa Mbere

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[1] *Urubanza Porokireri aburana na Fulgence Kayishema*, Nº ICTR-01-67-R11*bis*, Icyemezo ku Cyifuzo cya Porokireri gisaba ko urubanza rwimurirwa muri Repubulika y'u Rwanda, 22 Gashyantare 2012 ("Icyemezo cyimurira urubanza mu Rwanda"), igika cya 162, paje ya 44.

[2] Reba *Urubanza Porokireri aburana na Fulgence Kayishema*, Nº MICT-12-23-PT, Icyemezo ku Cyifuzo cyihutirwa gisaba ko itegeko ryimurira urubanza mu Rwanda rivanwaho kikanasaba ko Urwandiko rwo gufata ruhindurwa, 26 Nzeri 2019, ibika 9, 12.

[3] *Urubanza Porokireri aburana na Fulgence Kayishema*, Nº MICT-12-23-PT, Icyemezo ku Cyifuzo cya Fulgence Kayishema gisaba ko inyandiko zimenyekanishwa kikanasaba ko izindi zihindurirwa urwego rw'umutekano, 28 Kamena 2024, paje 2, 4.

[4] *Urubanza Porokireri aburana na Fulgence Kayishema*, Nº MICT-12-23-PT, inyandiko itari ibanga, yakuwemo ibigomba kugirwa ibanga, y'Inyandiko y'Ubwunganizi imenyekanisha ko buteganya gusaba ko Icyemezo cyimurira urubanza mu Rwanda kivanwaho, n'Icyifuzo gisaba ko hatumizwa inama ntegurarubanza, 11 Ukwakira 2024, ibika 1-2, 20. Inyandiko yayo y'ibanga kandi ifite abo itagomba kumenyeshwa na yo yatanzwe uwo munsi.

[5] *Urubanza Porokireri aburana na Fulgence Kayishema*, Nº MICT-12-23-PT, Icyemezo ku Cyifuzo cy'Ubwunganizi gisaba ko Icyemezo ku Cyifuzo gisaba guhabwa avoka gisubirwamo, 16 Ukuboza 2024, paje ya 4.

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rw'Iremezo maze nkarutegeka gusuzuma ibyo asaba bikurikira: (i) guhabwa avoka mu rwego rwa gahunda y'ubufasha mu by'amategeko, ya IRMCT, kugira ngo amwunganire mu gutegura icyifuzo gisaba ko Icyemezo cyimurira urubanza rwe mu Rwanda kivanwaho no gukurikirana ibyerekeranye n'icyo cyifuzo; (ii) ko hashyirwaho ibihe byo gutanga imyanzuro yanditse irebana n'urwo rubanza rwerekeranye no kuvanaho Icyemezo cyimurira urubanza mu Rwanda[6];

MAZE KUBONA ibyo Kayishema avuga ko, aho ibintu bigeze, ari ngombwa kandi bikwiye ko ahabwa avoka ndetse ko bihuje n'ibiteganywa na Sitati ya IRMCT ("Sitati"), Amategeko n'imikorere yabayeho mbere kandi byubahiriza uburenganzira bwo kuburanishwa mu buryo buboneye[7];

MAZE KUBONA Igisubizo cya Porokireri cyatanzwe ku itariki ya 19 Kamena 2025, aho avuga ko icyo Cyifuzo kidakwiye kwemerwa kubera ibintu birimo kuba Kayishema ataroherezwa muri IRMCT, bityo ko kumuha avoka uhembwa na IRMCT ubu byaba atari ugukoresha neza umutungo w'Urukiko ndetse bitari no mu nyungu z'ubutabera[8];

MAZE KUBONA Icyifuzo cya Kayishema gisaba uruhushya rwo gutanga imyanzuro isubiza cyatanzwe ku itariki ya 26 Kamena 2025[9], n'Icyifuzo cya Porokireri gisaba uruhushya rwo gutanga igisubizo cy'inyongera, cyatanzwe ku itariki ya 1 Nyakanga 2025[10];

MAZE KUBONA KO Icyifuzo gisaba uruhushya rwo gutanga imyanzuro isubiza n'igisaba uruhushya rwo gutanga igisubizo cy'inyongera bitangaragariza ko imyanzuro y'inyongera ari ngombwa mu ifatwa ry'icyemezo kuri icyo Cyifuzo kandi, kubera iyo mpamvu, nkaba ntabyemeye;

NSHINGIYE KU Ngingo ya 14(C) y'Amategeko iteganya ko, igihe icyo ari cyo cyose, nyuma y'uko hatanzwe itegeko ry'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho Icyahoze ari Yugosilaviya, TPIR cyangwa IRMCT ryimurira urubanza mu gihugu runaka ariko mbere y'uko

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[6] Icyifuzo gisaba ko hashyirwaho Urugereko rwa Mbere rw'Iremezo kugira ngo rusuzume icyifuzo gisaba ko Icyemezo cyimurira urubanza mu Rwanda kivanwaho, n'ibindi bisabwa byerekeranye na cyo, 5 Kamena 2025 (Inyandiko y'ibanga) ("Icyifuzo"), ibika 1-2, 56. Reba Icyifuzo, ibika 41, 51-52, 57. Inyandiko yacyo itari ibanga, yakuwemo ibigomba kugirwa ibanga, na yo yatanzwe uwo munsi. Icyo Cyifuzo kirengeje umubare w'amagambo ntarengwa uteganywa kandi Kayishema ntiyabanje kubisabira uruhushya ndetse ntiyasobanuye impamvu zidasanzwe zatumye biba ngombwa gutanga inyandiko irengeje umubare w'amagambo uteganywa. Cyakora, nsanga biri mu nyungu z'ubutabera kwakira icyo cyifuzo, mu buryo bw'irengayobora, nk'icyatanzwe mu buryo bukurikije amategeko. Reba Amabwiriza ngengamikorere yerekeranye n'indeshyo y'imyanzuro n'iy'ibyifuzo, MICT/11/Ihindurwa rya 1, 20 Gashyantare 2019, Ingingo 15, 17.

[7] Icyifuzo, ibika 2, 28-38, 40. Reba Icyifuzo, ibika 39, 42-50.

[8] Igisubizo cya Porokireri ku Cyifuzo cya Kayishema gisaba ko hashyirwaho Urugereko rwa Mbere rw'Iremezo kugira ngo rusuzume icyifuzo gisaba ko Icyemezo cyimurira urubanza mu Rwanda kivanwaho n'ibindi bisabwa byerekeranye na cyo, 19 Kamena 2025 (Inyandiko y'ibanga) ("Igisubizo"), ibika 1, 12-20. Reba Igisubizo, igika cya 3.

[9] Icyifuzo gisaba uruhushya rwo gutanga imyanzuro isubiza, n'Imyanzuro isubiza ku Gisubizo cya Porokireri ku Cyifuzo cy'Ubwunganizi gisaba ko hashyirwaho Urugereko rwa Mbere rw'Iremezo, n'ibindi bisabwa byerekeranye na cyo, 26 Kamena 2025 (Inyandiko y'ibanga) ("Icyifuzo gisaba uruhushya rwo gutanga imyanzuro isubiza").

[10] Icyifuzo cya Porokireri gisaba uruhushya, n'Igisubizo cy'inyongera ku Cyifuzo cya Kayishema gisaba ko hashyirwaho Urugereko rwa Mbere rw'Iremezo, 1 Nyakanga 2025 ("Icyifuzo gisaba uruhushya rwo gutanga igisubizo cy'inyongera").

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urukiko rw'icyo gihugu rucira uregwa urubanza rumuhamya icyaha cyangwa rwemeza ko ari umwere, Perezida, abyibwirije cyangwa abisabwe na Porokireri, ashobora gushyiraho Urugereko rwa Mbere rw'Iremezo kugira ngo rusuzume niba ari ngombwa kuvanaho itegeko ryimurira urwo rubanza muri icyo gihugu maze, anyuze mu nzira ziteganywa, agisabe kurwikura.[11];

MAZE KUBONA KO gushyiraho Urugereko rwa Mbere rw'Iremezo ari igikorwa cyerekeranye n'imiburanishirize kibaho iyo hari urubanza rwerekeranye no kuvanaho icyemezo cyimurira urubanza mu gihugu runaka[12], kikaba kidakwiye gukorwa nta kintu gishingiyeho cyangwa hatekerezwa urwo rubanza, rushobora kubaho cyangwa ntirubeho;

MAZE KUBONA KO Kayishema, ukomeje kunganirwa ku buntu, yemeje ko icyo Cyifuzo cye kidasaba ko Icyemezo cyimurira urubanza rwe mu Rwanda kivanwaho[13];

MAZE KUBONA KANDI KO Kayishema ashobora gusaba icyo yifuza cyose gikwiye, harimo no guhabwa avoka hashingiwe ku Ngingo ya 46 y'Amategeko, abisabiye hamwe n'icyifuzo gisaba ko Icyemezo cyimurira urubanza rwe mu Rwanda kivanwaho cyangwa nyuma yo gutanga icyo icyifuzo, aramutse agitanze, gishobora gushyirirwaho Urugereko rwa Mbere rw'Iremezo rwo kugisuzuma, hashingiwe ku Ngingo ya 14(C) y'Amategeko;

MAZE KUBONA KO, hakurikijwe uko ibintu bimeze muri uru rubanza, Kayishema atagaragaza ko hakwiye gushyirwaho Urugereko rwa Mbere rw'Iremezo hashingiwe ku Ngingo ya 14(C) y'Amategeko;

KUBERA IMPAMVU ZIMAZE KUVUGWA,

SINEMEYE icyo Cyifuzo.

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

Bikozwe uyu munsi, tariki ya 4 Nyakanga 2025, Arusha, muri Tanzaniya.	[Umukono] Graciela Gatti Santana Perezida

[Kashe ya IRMCT]

[11] Reba n'Ingingo ya 6(6) ya Sitati.

[12] Reba *Urubanza Porokireri aburana na Jean Uwinkindi*, Nº MICT-12-25-R14.1, Icyemezo ku Cyifuzo gisaba ko itegeko ryimurira urubanza muri Repubulika y'u Rwanda rivanwaho kikanashyiraho Urugereko rwa Mbere rw'Iremezo, 13 Gicurasi 2015 (Cyashyizeho Urugereko rwa Mbere rw'Iremezo rwo gusuzuma Icyifuzo cya Jean Uwinkindi gisaba ko itegeko rivanwaho).

[13] Icyifuzo, ibika 18-19, 41-42.

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