

MICT-12-20
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UMURYANGO
W'ABIBUMBYE



Urwego Rwashyiriweho Kurangiza Imirimo
y'Inkiko Mpanabyaha Mpuzamahanga

Urubanza N°: MICT-12-20
Itariki: 26 Kamena 2014
Umwimerere: icyongereza

PEREZIDA WA MICT

Umucamanza: Theodor Meron, Perezida
Gerefiye: John Hocking
Itariki: 26 Kamena 2014

POROKIRERI

Aburana na:

BERNARD MUNYAGISHARI

INYANDIKO ITARI IBANGA

**ICYEMEZO KU CYIFUZO CYA KABIRI GISABA KUVANAHO
ICYEMEZO CYO KOHEREZA URUBANZA MURI REPUBULIKA
Y'U RWANDA**

Ibiro bya Porokireri:

Hassan Bubacar Jallow
James J. Arguin
Inneke Onsea

Bernard Munyagishari:

Natacha Fauveau Ivanovic

**Received by the Registry
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Anamara F.

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Byahinduwe mu Kinyarwanda kandi byemezwa na SSL/TPIR

Jyewe, Theodor Meron, Perezida w'Urwego Mpuzamahanga Rwashyiriweho Kurangiza Imirimo y'Inkiko Mpanabyaha Mpuzamahanga (MICT);

Maze kubona ko Urugereko rw'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda (TPIR) rwoherereje abayobozi ba Repubulika y'u Rwanda urubanza rwa Bernard Munyagishari kugira ngo ruburanishirizweyo mu Rukiko Rukuru¹, kandi ko mu myanzuro yafashwe n'Urugereko rw'Ubujurire rwa TPR harimo n'uwo kwemeza ko urubanza rwa Munyagishari rwohererwa mu Rwanda² ;

Maze kubona ko icyifuzo cya mbere gisaba kvanaho icyemezo cyo kohereza urubanza rwa Munyagishari mu Rwanda cyatanzwe na Munyagishari ubwe ku itariki ya 30 Kanama 2013³, kikaba cyaranzwe ku ya 13 Werurwe 2014, ariko bitabujije ko yazatanga icyifuzo gishya gisaba

¹ Urubanza N° ICTR-05-89-R11bis Porokireri aburana na Bernard Munyagishari, icyemezo ku cyifuzo cya Porokireri gisaba kwimurira urubanza muri Repubulika y'u Rwanda, 6 Kamena 2012 (« Icyemezo cyo kohereza urubanza ahandi »), imp. 54-56. Urugereko rwagenwe hashingiwe ku Ngingo ya 11bis y'Amategeko ya TPIR Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso kugira ngo rusuzume icyo cyifuzo (« Urugereko rusuzuma icyifuzo gisaba kohereza urubanza ahandi ») ni rwo rwafashe icyo cyemezo.

² Urubanza N° ICTR-05-89-R11bis Porokireri aburana na Bernard Munyagishari, icyemezo ku cyifuzo cya Munyagishari cya gatatu n'icya kane bisaba ko hakirwa ibimenyetso by'inyongera ndetse no ku bujurire bwe ku cyemezo cyo kwimura urubanza rwe hashingiwe ku Ngingo ya 11bis, 3 Gicurasi 2013 (« Icyemezo ku bujurire »), urup. 44. Reba na none Urubanza N° ICTR-05-89-R11bis Porokireri aburana na Bernard Munyagishari, icyemezo ku Cyifuzo cya Bernard Munyagishari gisaba gusuzuma bushya icyemezo ku bujurire ku cyemezo cyo kohereza urubanza mu Rwanda, 8 Nyakanga 2013; Urubanza N° ICTR-05-89-R11bis Porokireri aburana na Bernard Munyagishari, icyemezo ku cyifuzo cya Bernard Munyagishari gisaba gusubiramo icyemezo cyo ku itariki ya 8 Nyakanga 2013 no gusimbura avoka umwunganira ndetse no ku cyifuzo cya Porokireri gisaba kuvana inyandiko muri dosiye, 19 Nyakanga 2013; Urubanza N°. ICTR-05-89-R11bis Porokireri aburana na Bernard Munyagishari, icyemezo ku cyifuzo cya Bernard Munyagishari gisaba gusubiramo ibyemezo byafashwe mbere, 24 Nyakanga 2013.

³ Icyifuzo gisaba kvanaho icyemezo cyo kohereza urubanza rwa B. Munyagishari mu Rwanda kubera impamvu zo kutubahiriza bikomeye uburenganzira bw'ibanze, cyatanzwe ku wa 30 Kanama 2013, inyandiko yacyo yahinduwe mu cyongereza igatangwa ku wa 26 Nzeri 2013 (« Icyifuzo cya mbere gisaba Urugereko kwisubiza urubanza »).

kuvanaho icyemezo cyo kohereza urubanza rwe mu Rwanda, harimo n'icyashingira ku ngingo zivugwa muri icyo cyifuzo cya mbere⁴ ;

Maze kubona icyifuzo cya kabiri gisaba kuvanaho icyemezo cyo kohereza urubanza rwa Munyagishari mu Rwanda, cyatanzwe na avoka wahoze amuburanira muri TPIR, akaba yaragiteguye nta gihembo akorera ku itariki ya 21 Gicurasi 2014⁵, akaba avuga ko icyo cyemezo gikwiye kuvanwaho kubera impamvu zikurikira : (i) Abavoka bunganira Munyagishari mu Rwanda ntibahembwe amafaranga bakoreye⁶; (ii) amafaranga yateganyijwe n'abategetsu bo mu Rwanda yo guhamba abavoka bunganira Munyagishari mu Rwanda kubera gutegura imyiregurire ye mu rubanza ntahagije⁷; (iii) Urugaga rw'Abavoka rw'i Kigali (« KBA » mu magambo ahinnye y'icyongereza) rwanze inshingano yo guhamba abavoka baburanira Munyagishari mu Rwanda maze ruyigereka kuri Minisiteri y'Ubutabera y'u Rwanda kandi iyo minisiteri ifite aho ibogamiye kuko ifite inyungu muri urwo rubanza⁸; kandi (iv) ihame rivuga ko impande zombi ziburana zigomba guhabwa uburyo bungana ntirubahirijwe kubera ko uburyo

⁴ Icyemezo ku cyifuzo gisaba kuvanaho icyemezo cyo kohereza urubanza muri Repubulika y'u Rwanda, 13 Werurwe 2014, urup. 3.

⁵ Icyifuzo cya Bernard Munyagishari gisaba kuvanaho icyemezo cyo kohereza urubanza mu Rwanda, cyatanzwe ku wa 21 Gicurasi 2014, inyandiko yacyo mu cyongereza igatangwa ku wa 4 Kamena 2014 (inyandiko itari ibanga iherekejwe n'imigereka y'ibanga) (« icyifuzo cya kabiri gisaba gukuraho icyemezo cyo kohereza urubanza ahandi »). Ibivugwa hano byose ku byerekeye icyo cyifuzo biri mu nyandiko yacyo yahinduwe mu cyongereza.

⁶ Icyifuzo cya kabiri gisaba kuvanaho icyemezo cyo kohereza urubanza ahandi, ibika 9, 13, 18, 27. Reba na none icyifuzo cya kabiri gisaba kuvanaho icyemezo cyo kohereza urubanza ahandi, ibika 10-12, 14.

⁷ Icyifuzo cya kabiri gisaba kuvanaho icyemezo cyo kohereza urubanza ahandi, igika 15. Reba na none icyifuzo cya kabiri gisaba kuvanaho icyemezo cyo kohereza urubanza ahandi, igika 16.

⁸ Icyifuzo cya kabiri gisaba kuvanaho icyemezo cyo kohereza urubanza ahandi, ibika 19-23, by'umwihariko, Munyagishari avuga ko Minisiteri y'Ubutabera y'u Rwanda imukangisha kuzamwambura abavoka bamwunganira, ibyo bikaba ari uburyo bumwe bwo kumutera ubwoba nta mpamvu ndetse no kwivanga mu myiregurire ye mu rubanza. Reba na none icyifuzo cya kabiri gisaba kuvanaho icyemezo cyo kohereza urubanza ahandi, igika 22. Munyagishari avuga kandi ko Urugaga rw'Abavoka rw'i Kigali rutagize icyo rukora ku ibaruwa yoherejwe n'ikipe y'Ubwunganzi yahoze imuburanira muri TPIR isaba andi makuru ku birebana no kuba Munyagishari ashobora kuzagira abamuburanira mu rubanza. Urwo rugaga kandi ngo ntirwashyikirije iyo baruwa ikipe ye nshya y'Ubwunganizi. Reba na none icyifuzo cya kabiri gisaba kuvanaho icyemezo cyo kohereza urubanza ahandi, igika 27.

buhabwa ubushinjacyaha bwo mu Rwanda burenze ubuhabwa abavoka bunganira abaregwa, bityo bikaba bidashoboka guca urubanza ku buryo buboneye mu Rwanda⁹ ;

Maze kubona ko ibiro bya Porokireri (« Porokireri ») byatanze imyanzuro ku itariki ya 2 Kamena 2014¹⁰, birwanya icyifuzo cya kabiri gisaba kvanaho icyemezo cyo kohereza urubanza mu Rwanda, kubera impamvu zikurikira: (i) nticyatanzwe mu buryo bukwiye kubera ko avoka wahoze aburanira Munyagishari muri TPIR adafite ububasha bwo gutanga icyifuzo nk'icyo¹¹; (ii) cyatanzwe imburagihe kubera ko ibibazo kibyutsa bikiganirwaho n'abategetsi bo mu Rwanda, kandi biramutse bidakemutse Munyagishari ashobora gushaka izindi nzira zo kubikemura atari yiyambaza imbere y'inkiko zo mu Rwanda¹²; (iii) ihame rivuga ko impande zombi zigomba guhabwa uburyo bungana mu kwisobanura mu rubanza ntiryigeze rihungabanywa kandi, uko biri kose, icyo cyifuzo ntikigaragaza ko riramutse rihungabanyijwe byaba ari ikibazo kidashobora kubonerwa umuti mu nkiko zo Rwanda¹³;

Maze kubona ko nta yindi myanzuro Munyagishari yatanze ku birebana n'icyo cyifuzo cya kabiri gisaba gukuraho icyemezo cyo kwimura urubanza rwe;

Maze kubona raporo z'ubugenzuzi zatanzwe hagati ya Mutarama 2014 na Gicurasi 2014 ku birebana n'urubanza rwa Munyagishari¹⁴ ;

Nibutsa ko Urugereko rwafashe icyemezo cyo kohereza urubanza rwa Munyagishari mu Rwanda rwavuze ko afite uburenganzira bwo gusaba ko icyemezo cyo kohereza urubanza rwe mu Rwanda kivanwaho¹⁵;

⁹ Icyifuzo cya kabiri gisaba kvanaho icyemezo cyo kohereza urubanza ahandi, ibika 25-28.

¹⁰ Inyandiko ya Porokireri irwanya icyifuzo cya kabiri cya Bernard Munyagishari gisaba kvanaho icyemezo cyo kwimura urubanza rwe, 2 Kamena 2014 (« Igisubizo »).

¹¹ Igisubizo, ibika 1-3.

¹² Igisubizo, ibika 1, 4-6.

¹³ Igisubizo, ibika 7-8.

¹⁴ Raporo y'ubugenzuzi mu rubanza rwa Munyagishari (Mata 2014), 31 Gicurasi 2014 (« Raporo y'ubugenzuzi yo muri Mata 2014 »); Raporo y'ubugenzuzi mu rubanza rwa Munyagishari (Werurwe 2014), 27 Werurwe 2014 (« Raporo y'ubugenzuzi yo muri Werurwe 2014 »); Raporo y'ubugenzuzi mu rubanza rwa Munyagishari (Mutarama na Gashyantare 2014), 11 Werurwe 2014 (« Raporo y'ubugenzuzi yo muri Mutarama na Gashyantare 2014 »).

Maze kubona ko Ingingo ya 14 (C) y'Amategeko ya MICT Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso iha Perezida wa MICT ububasha busesuye bwo kugena Urugereko rwa Mbere rw'Iremezo rwo kureba, hashingiwe Ngingo ya 6 (6) ya Sitati (« Sitati », niba ari ngombwa kuvanaho icyemezo cyo kohereza urwo rubanza ahandi no gusaba ku mugaragaro kurwisubiza ;

Maze kubona ko Porokireri avuga ko uwahoze ari avoka wa Munyagishari muri TPIR adafite ububasha bwo gutanga iki cyifuzo cya kabiri gisaba ko icyemezo cyo kohereza urubanza rwa Munyagishari ahandi kivanwaho, ko ariko nta mpamvu n'imwe yatanze yerekana ko Munyagishari atemerewe kunganirwa n'avoka yihitiyemo mu birebana no gusaba ko icyemezo cyo kohereza urubanza rwe mu Rwanda kivanwaho¹⁶;

Maze kubona ko iki cyifuzo cya kabiri gisaba kuvanaho icyemezo cyo kohereza urubanza ahandi ingingo y'ingenzi gishingiyeho ari ikibazo cy'amafaranga akenewe mu guhamba abagize ikipe y'Ubwunganizi ya Munyagishari n'ayo gukoresha mu maperereza bagomba gukora, hamwe n'ibibazo bimwe na bimwe bijyanye n'ibyo bimaze kuvugwa¹⁷ ;

Maze kubona ko mu ngaruka ikibazo cy'amafaranga kivugwa na Munyagishari gishobora kugira harimo izirebana n'igihe n'uburyo bikwiye agomba guhabwa kugira ngo ashobore gutegura imyiregurire ye cyangwa n'ubushobozi bwe bwo guhamagaza no kubaza abatangabuhamya bamushinjura, mu buryo bumeze kimwe n'ubwo abatangabuhamya bamushinja babajijwemo, ibyo bikaba ari ibintu biteye impungenge MICT¹⁸ ;

¹⁵ Icyemezo cyo kohereza urubanza mu Rwanda, urup. 56.

¹⁶ Reba igisubizo, ibika 1-3. Mu byo Porokireri avuga, harimo ko inshingano z'uwohoze ari avoka wa Munyagishari imbere ya TPIR zagarakiraga gusa ku kumuburanira imbere ya TPIR muri urwo rubanza rwerekeye iyoherezwa ry'urubanza rwe mu Rwanda, ibyo ngo bikaba byararangiranye n'isozwa ry'ubujurire bwa Munyagishari n'iyoherezwa rye mu Rwanda. Reba igisubizo, igika 3. Aho inshingano z'uwohoze ari avoka wa Munyagishari muri TPIR zaba zigarakirira hose, nsanga ibyo bitagaragaza ko Munyagishari atemerewe kunganirwa ku buntu n'uwo avoka imbere ya MICT.

¹⁷ Icyifuzo cya kabiri gisaba kuvanaho icyemezo cyo kohereza urubanza mu Rwanda, ibika 9-31.

¹⁸ Reba, nk'urugereko, Urubanza N° MICT-12-25 Porokireri aburana na Jean Uwinkindi, icyemezo ku cyifuzo gisaba kuvanaho icyemezo cyo kohereza urubanza muri Repubulika y'u Rwanda, 12 Werurwe 2014, urup. 3; Icyemezo ku bujurire, igika 84; Urubanza N° ICTR-01-75-AR11bis, Porokireri aburana na Jean Uwinkindi, icyemezo ku bujurire

Maze kubona ariko ko urebye ibibazo Munyagishari avuga mu cyifuzo cya kabiri gisaba kivanaho icyemezo cyo kohereza urubanza rwe mu Rwanda usanga bikigibwaho impaka kandi bishobora no gushyikirizwa inkiko zo mu Rwanda kugira ngo zongere zibisuzume¹⁹, bityo bikaba bitarageza igihe cyo kuba byasuzumwa nk'impamvu yatuma icyemezo cyo kohereza urubanza mu Rwanda kivanwaho hashingiwe ku Ngingo ya 6(6) ya Sitati;

bwa Jean Uwinkindi ku cyemezo cyo kohereza urubanza rwe mu Rwanda ndetse no ku bindi byifuzo birebana n'ikiburanwa, 16 Ukuboza 2011, igika 52. Reba muri rusange Ingingo ya 6(6) ya Sitati.

¹⁹ Reba icyifuzo cya kabiri gisaba kivanaho icyemezo cyo kohereza urubanza mu Rwanda, igika 14; Raporo y'ubugenzuzi yo muri Mata 2014, igika 11. Reba na none Raporo y'ubugenzuzi yo muri Werurwe 2014, ibika 10-11, 27-31; Raporo y'ubugenzuzi yo muri Mutarama na Gashyantare 2014, ibika 13, 25-26, 48, 52, 56, 59, 90.

KUBERA IMPAMVU ZIMAZE KUVUGWA,

Nsanze icyifuzo cya kabiri gisaba kvanaho icyemezo cyo kohereza urubanza mu Rwanda nta shingiro gifite, ariko ntibubujije ko, mu gihe bibaye ngombwa, hazatangwa icyifuzo nk'iki bundi bushya gisaba kvanaho icyemezo cyo kohereza urwo rubanza mu Rwanda, harimo n'icyaba gishingiye ku bibazo byabyukijwe muri iki cyifuzo cya kabiri;

Bikozwe mu cyongereza no mu gifaransa, ariko inyandiko y'icyongereza ni yo yagenderwaho haramutse havutse impaka zerekeranye n'imyumvire y'iki cyemezo.

(Umukono)

Bikozwe none ku itariki ya 26 Kamena 2014

Umucamanza Theodor Meron

I La Haye

Perezida

Mu Buholandi

[Kashe ya MICT]

