MICT-12-25
02-02-2015
(10 - 1/546ter)

10/546ter
ZS

UMURYANGO
W'ABIBUMBYE

Urwego Rwashyiriweho Kurangiza Imirimo
y'Inkiko Mpanabyaha Mpuzamahanga

Urubanza No.: MICT-12-25

Itariki ya: 1 Ukwakira 2014

Umwimerere: Icyongereza

Imbere ya: Umucamanza Theodor Meron, Perezida wa MICT

Gerefiye: Bwana John Hocking

Umugenzuzi: Porofeseri Zbigniew Lasocik

Received by the Registry
Mechanism for International Criminal
Tribunals
02/02/2015 12:25

POROKIRERI

aburana

na

JEAN UWINKINDI

RAPORO Y'UBUGENZUZI
NZERI 2014

INYANDIKO ITARI IBANGA

INTANGIRIRO

1. Hakurikijwe Inyandiko nsobanuramiterere yagenewe Abagenzuzi, by'umwihariko mu gice « C » cy'Umugereka II wometse ku Masezerano y'Ubwumvikane hagati ya MICT na ISLP (ishami ryo mu Burayi), nshyikirije iyi Raporo Perezida wa MICT mbinyujije kuri Gerefiye.

2. Iyi Raporo y'Ubugenzuzi irebana n'ibyakozwe mu rubanza rwa Uwinkindi ruburanishirizwa mu nkiko zo muri Repuburika y'u Rwanda hamwe n'imishyikirano umugenzuzi washyizweho n'Urwego Rwashyiriweho Kurangiza Imirimo y'Inkiko Mpanabyaha Mpuzamahaga (MICT) yagiranye n'abafatanyabikorwa banyuranye muri Nzeri 2014.

KUJYA KURI GEREZA KU ITARIKI YA 16 NZERI (nifashishije umusemuzi)

3. Ku itariki ya 16 Nzeri, nagiye kuri Gereza Nkuru ya Kigali kugenzura uburyo Uregwa afunzwemo no kuganira na we uko byagendekeye inyandiko iri mu Kinyarwanda yangejejeho muri Nyakanga. Muri Raporo y'ubugenzuzi yo muri Kanama 2014, namenye ko inyandiko Uwinkindi yari aherutse kungezaho yari yarahinduwe mu ndimi ikenewemo. Uwinkindi avuga ko iyo nyandiko yayandikiye Perezida wa MICT kandi ko ikubiyemo ibintu binyuranye yinubira. Nasabye ibiro bya Loni by'i Kigali kohereza iyo baruwa abo igenewe.

4. Namenye ko Murenzi atakiri umuyobozi wa Gereza kubera ko yatangiye gukurikira amasomo ari muri gahunda yo mu rwego mpuzamahanga. Nabonanye umwanya muto n'umuyobozi mushya ndetse na Uwinkindi.

5. Muri Nyakanga, Uwinkindi na Munyagishari binubiye ko nta mazi yari muri robine ebyiri zegereye utwumba abantu bafungirwamo. Naragenzuye nsanga koko nta mazi arazamo. Ikindi cya kabiri abo Baregwa binubiraga ni ameza atameze neza ari mu cyumba bafatiramo amafunguro. Nagenzuye ayo meza binubiraga. Na none, banyeretse ko nta rumuri ruri mu musarane. Mu kurangiza, bambwiye ko, ahegereye

ku muryango, igisenge kidasakaye neza bihagije ku buryo mu gihe cy'imvura aho hantu hava maze amazi akinjira mu nzu.

IBURANISHA N'AMADOSIYE Y'URUKIKO

IBURANISHA RYO KU ITARIKI YA 17 NZERI (nifashishije umusemuzi)

6. Mu gihe kirebana n'iyi raporo, habaye iburanisha ku itariki ya 17 no ku ya 18 Nzeri imbere y'Urugereko rugizwe n'abacamanza batatu. Ariko ni ngombwa kumenya ko babiri muri bo bari bashya nk'uko byatangajwe n'Urukiko mu iburanisha rya nyuma ryo muri Kanama 2014.

7. Ubungubu Urugereko rugizwe n'abacamanza bakurikira: Alice NGENDAKURIYO (Perezida), n'abacamanza Timothy KANYEGERI na Fidel NSANZIMANA.

8. Uwinkindi yitabiriye iburanisha ryo kuri iyo minsi yombi. Yaburanirwaga na Gatera Gashabana (avoka we mukuru) na Jean Baptiste Niyibizi (avoka wungirije). Ubushinjacyaha bwari buhagaririwe na Jean Bosco Mutangana na Bonaventura Ruberwa.

9. Mu iburanisha ryo ku itariki ya 17 Nzeri, Perezida w'Urugereko yamenyesheje ko abacamanza babiri bari bagize inteko muri urwo rubanza bahawe imirimo mishya maze bagasimbuzwa abandi babiri bashya. Yamenyesheje kandi ko abacamanza bashya basobanuriwe ibyerekeye urwo rubanza kandi ko ruzakomeza kuburanishwa.

10. Perezida yamenyesheje ko Urukiko rwemeye ingamba zasabwe zo kurindira umutekano abatangabuhamya bashinja, bityo ko guhera icyo gihe hazajya hakoreshwa gusa amazina y'amahimbano kuri abo batangabuhamya.

11. Ubwunganizi bwavuze ko butewe impungenge cyane n'uko guhindura abacamanza no gukomeza iburanisha ry'urubanza binyuranyije nibura n'ingingo z'amategeko ebyiri: Ingingo ya 19 y'Itegeko Nshinga ry'u Rwanda n'Ingingo ya 14 y'Itegeko rigena kwimurira imanza mu Rwanda. Ubwunganizi buvuga ko hakurikijwe ibiteganywa n'Itegeko rigena kwimurira imanza mu Rwanda, iyo hari uhinduwe mu

bagize inteko y'abacamanza, urubanza rukomeza kuburanishwa ari uko Uregwa abyemeye. Ahangaha Uregwa akaba atarabajijwe icyo abitekerezaho.

12. Ubushinjacyaha bwavuze ko ahangaha Ingingo ya 19 y'Itegekonshinga ntaho irebwa n'ikivugwa kubera ko yerekeranye no gufata uregwa nk'umwere kugeza igihe icyaha kimuhamye. Na none, nta ngingo mu mategeko y'u Rwanda iteganya ko iyo bigenze gutyo urubanza rwongera rugatangira bushyashya, bisobanuye nta tegeko ryarenzweho. Ubushinjacyaha bwavuze na none ko Itegeko rigena kwimurira imanza mu Rwanda nta cyo rifasha ahangaha kandi ko ridashobora kwifashishwa ku buryo butaziguye kubera ko ibyo ntaho biteganywa mu mategeko yo mu gihugu.

13. J. Uwinkindi yagaragaje impungenge afite ko urubanza rutazaburanishwa ku buryo buboneye. Yavuze ko afitiye icyubahiro abo bacamanza ariko na none ko gusoma dosiye y'urubanza bidahagije. Yavuze ko umucamanza mushya atazigera yumva uko imiburanishirize yagiye igenda kugeza aho ayisangiye.

14. Mu gushyigikira ibivugwa na Uwinkindi, Ubwunganizi bwatsindagiye ko ababuranyi na rubanda batazi uburyo abacamanza bashya basobanuriwe ibyerekeye urwo rubanza. Bwabajije niba gusoma dosiye y'urubanza bifite agaciro kamwe no kuba umucamanza yari mu cyumba baburanishirizamo mu gihe cy'iburanisha.

15. Ubushinjacyaha bwasubiyemo ko nta mategeko yemerera gukoresha mu buryo butaziguye Itegeko rigena kwimurira imanza mu Rwanda, akaba ari yo mpamvu Urukiko rugomba kwifashisha amategeko y'u Rwanda.

16. Uwinkindi yavuze ko niba Urukiko na none rwemeye ibivugwa n'Ubushinjacyaha bugatera utwatsi ingingo zitangwa n'Ubwunganizi, ruzaba runyuranyije n'ibigenderwaho bisabwa kugira ngo habeho urubanza ruboneye.

17. Ubwunganizi bwarwanyije ibivugwa n'Ubushinjacyaha maze buvuga ko Itegeko rigena kwimurira imanza mu Rwanda rigomba gukoreshwa ku birebana n'urubanza nk'uru kandi rigasobanurwa mu buryo bwaguye uko bikenewe. Bwavuze kandi ko Amategeko y'u Rwanda avuga ihindurwa ry'umucamanza umwe mu gihe mu uru rubanza habayeho guhindura abacamanza babiri.

18. Perezida yavuze ako asubitse iburanisha rikazasubukurwa ku munsi ukurikiyeho saa mbiri za mu gitondo ari bwo Urukiko ruzatanga icyemezo cyarwo.

IBURANISHA RYO KU ITARIKI YA 18 NZERI (nifashishije umusemuzi)

19. Perezida w'Inteko yatangaje icyemezo cy'Urukiko kivuga ko urubanza ruzakomeza n'abacamanza bashya.

20. Perezida w'Inteko yamenyesheje ko Urukiko rutemeye ingingo zitangwa n'Ubwunganizi kandi atanga ingingo z'amatego zashingiweho mu gufata icyemezo. Icya mbere ni uko Urukiko rwemeje ko muri uru rubanza hakurikizwa amategeko y'u Rwanda, bityo akaba ari yo ashingirwaho mu gukomeza uru rubanza. Ikindi ni uko Urukiko rwavuze ko icyo cyemezo kitavutsa Uregwa uburenganzira bwe kubera ko ataratangira gutanga ibimenyetso ahubwo ko urubanza rukiri mu ntango (Imyanzuro yo mu ikubitiro mu magambo).

21. Uwinkindi yajuririye icyo cyemezo cy'Urukiko mu Rukiko rw'Ikirenga.

22. Perezida w'Inteko yafashe icyemezo kivuga ko urubanza rukomeza kandi asaba Ubushinjacyaha gutanga imyanzuro yabwo yo mu ikubitiro mu magambo.

23. Ubwunganizi bwarwanyije icyo cyemezo bushingiye ku Ngingo ya 18 y'Itegeko rigena kwimurira imanza mu Rwanda, bityo buvuga ko urubanza rukwiye gusubikwa kugeza igihe icyemezo cy'Urukiko rw'Ikirenga kizafatirwa ku bujurire bwatanzwe. Ubwunganizi bwasubiyemo ko Itegeko rigena kwimurira imanza mu Rwanda rigomba gufatwa nka rimwe mu mategeko y'igihugu. Ariko muri uru rubanza rwihariye ryagombye gufatwa nk'itegeko ryihariye (*lex specialis*) kandi, hashingiwe ku Ngingo ya 27 y'iryo Tegeko, ryagombye kuba ari ryo rikurikizwa aho kwifashisha Ingingo ya 163 y'Amategeko y'u Rwanda yerekeye imiburanishirize y'imanza z'insinjabyaha. Ubwunganizi bwabyukije kandi ibibazo birebana n'ibigenderwaho bisabwa kugira ngo habeho urubanza ruboneye: Uregwa afite uburenganzira bwo kumenya icyemezo cy'Urukiko rw'Ikirenga mbere y'uko hagira ikindi gikorwa cyose kibaho mu rwego rw'amategeko.

24. Ubwunganizi bwibukije ko ubwo Uwinkindi yimurirwaga mu Rwanda, yijejwe ko ibigenderwaho byose bisabwa kugira ngo habeho urubanza ruboneye bizubahirizwa. Aho urubanza rugeze, Uwinkindi aravutswa uburenganzira bwe bwo kumenya ikizava mu bujurire yatanze hakurikijwe amategeko. Ubwunganizi bwavuze ko ibyo binyuranye n'Ingingo ya 18 y'Itegeko Nshinga ry'u Rwanda kandi bikananyuranya bikomeye n'Ingingo ya 14 y'Amasezerano mpuzamahanga yerekeye uburenganzira mu by'imbonezamubano no mu bya politiki.

25. Perezida w'Inteko yasabye Ubwunganizi gutanga ubukemuramanza bwifashisha mu gushyikira ibyo buvuga.

26. Ubwunganizi bwifashishije ibivugwa mu Cyemezo no 0020/14/CS cy'Urukiko rw'Ikirenga cyo ku itariki ya 4 Mata 2014 bunongeraho n'Ingingo ya 180 y'Amategeko yerekeye imiburanishirize y'imanza z'inshinjabyaha iteganya ko urubanza ruba rusubitswe mu gihe hategerejwe ko ubujurire bufatwaho icyemezo.

27. Ubushinjacyaha bwavuze ko Ubwunganizi bwumva nabi ibiteganywa n'Itegeko rigena kwimurira imanza mu Rwanda, cyane cyane Ingingo ya 18 irondora impamvu zishobora gutuma ubujurire bubaho, ariko ikaba ntaho ihuriye n'ukuntu ibikorwa mu rwego rw'amategeko bigenda bikurikirana. Byongeye kandi, ririya tegeko ntirishobora gufatwa nk'itegeko ryihariye kandi bityo ntirishobora guhindura amategeko y'igihugu. Ubushinjacyaha buvuga ko nta kuvuguruzanya kuri hagati y'ibiteganywa n'Ingingo ya 27 y'Itegeko rigena kwimurira imanza mu Rwanda n'Ingingo ya 163 y'Amategeko yerekeye imiburanishirize y'imanza z'inshinjabyaha. Buvuga ko Ubwunganizi bwasabaga Urukiko kunyuranya n'Amategeko y'u Rwanda.

28. Ubushinjacyaha na none bwavuze ku birebana n'ibigenderwaho bisabwa kugira ngo habeho urubanza ruboneye aho buvuga ko gukomeza urubanza bitabangamira uburenganzira bw'Uregwa bwo kuburanishwa mu buryo buboneye. Ingingo ya 180 y'Amategeko yerekeye imiburanishirize y'imanza z'inshinjabyaha igomba gusomerwa hamwe n'iya 175 y'ayo Mategeko. Ubushinjacyaha buvuga ko icyo gice cyihariye cy'ayo Mategeko kigena imigendekere y'ubujurire. Ubushinjacyaha

bwasabye Urukiko gutera utwatsi ibyifuzo byose by'Ubwunganizi bukavuga ko impamvu nyakuri y'ibivugwa n'Ubwunganizi ari ugushaka gutinza urubanza.

29. Ubwunganizi bwatsindagiye buvuga ko muri uru rubanza Ingingo ya 18 y'Itegeko rigena kwimurira imanza mu Rwanda igomba gukurikizwa.

30. Perezida w'Inteko yasubitse iburanisha mu gihe cy'isaha imwe.

31. Nyuma y'ako karuhuko Perezida w'Inteko yategetse ko urubanza rukomeza kuburanishwa. Yagize ati: 1. Nta mpamvu ituma urubanza rusubikwa; 2. Ingingo ya 18 y'Itegeko rigena kwimurira imanza mu Rwanda ntivugwamo impamvu zituma urubanza rusubikwa; 3. Nta kunyuranya kuri hagati y'Ingingo ya 163 y'Amategeko yerekeye imiburansishirize y'imanza z'inshinjabyaha n'iya 27 y'Itegeko rigena kwimurira imanza mu Rwanda; 4. Ingingo ya 163 ijyanye cyane n'ibivugwa mu Cyemezo cy'Urukiko rw'Ikirenga cyo ku itariki ya 4 Mata 2014 cyifashishijwe n'Ubwunganizi.

32. Icyo gihe Umushinjacyaha wo mu rwego rw'igihugu J.B. Mutangana yakomeje imyanzuro ye yo mu ikubitiro mu magambo atanga ibimenyetso bishingiye ku buhamya bw'abatangabuhamya. Kubera abatangabuhamya bose bafatiwe ingamba zo kurindirwa umutekano, hakoreshejwe amazina y'amahimbano aho gukoresha ayabo bwite.

33. Nyuma y'imyanzuro yo mu ikubitiro mu magambo yatanzwe n'Ubushinjacyaha, Perezida w'Inteko yasabye Ubwunganizi gutanga igisubizo ku bivugwa mu Nyandiko y'ibirego no kumenyesha Urukiko ibirebana n'abatangabuhamya bashinjura bushobora kuzahamagaza.

34. Ubwunganizi bwamenyesheje Urukiko ko rufite ingorane zo kuvugana n'abatangabuhamya bitewe n'uko bamwe bari muri za gereza abandi bari mu mahanga. Ubwunganizi bwamenyesheje Urukiko ko abatangabuhamya 10 basabye kurindirwa umutekano kandi ko bwabahaye amazina y'amahimbano yihariye.

35. Perezida w'Inteko yategetse ko abo batangabuhamya bose bagomba kuzitaba Urukiko kandi ko uko bigenda ku batangabuhamya bashinja ari na ko bizagenda ku bashinjura (harimo no guhabwa amazina y'amahimbano). Perezida w'Inteko yasabye Umukuru w'Agashami kita ku batangabuhamya gukora ku buryo akusanya amakuru yose kandi ibikenewe byose bigakorwa kugira ngo abo batangabuhamya babashe kwitaba Urukiko.

36. Perezida y'inteko yategetse ko habanza kuvugwa ibyerekeye abatangabuhamya bashinjura mbere y'uko Ubwunganzizi busubiza ku bivugwa mu Nyandiko y'ibirego.

37. Perezida w'Inteko yamenyesheje ko urubanza ruzasubukurwa ku itariki ya 1 Ukwakira.

GUSUZUMA DOSIYE Y'URUBANZA, 19 NZERI (nifashishije umusemuzi)

38. Hari inyandiko nshya ziri muri dosiye y'urubanza:

- Icyemezo cya Perezida w'Urukiko Rukuru cyo ku itariki ya 1 Nzeri 2014 gishyiraho abacamanza bashya,
- Ibisabwa na Uwinkindi byo ku itariki ya 12 Nzeri 2014 ko yahabwa inyandikomvugo zose z'iburanisha mu rubanza rwe,
- Inyandikomvugo y'iburanisha ryo ku itariki ya 17 Nzeri 2014 (impapuro 4),
- Inyandikomvugo y'iburanisha ryo ku itariki ya 18 Nzeri 2014 (impapuro 7), harimo n'icyemezo cy'Urukiko, ku rupapuro rwa 3.

39. BYASIBWEMO.

KUBONANA NA PEREZIDA W'URUKIKO RUKURU, 17 NZERI

40. Ku itariki ya 7 Nzeri, nabonye akanya gato n'umucamamza Kaliwabo Munyantore, Perezida w'Urukiko Rukuru. Naboneyeho kumwibwira no kumushyikiriza ibyemezo bya Gerefiye wa MICT bingena nk'umugenzuzi washyizweho na ICTR/MICT mu rubanza rwa Uwinkindi no mu rwa Munyagishari hamwe n'urwandiko rwabugenewe (*Note Verbale)* rukubiyemo ubutumwa bugezwa ku bayobozi bireba.

KUJYA KURI GEREZA BWA KABIRI, 18 NZERI

KUBONA N'UMUBOZI MUSHYA WA GEREZA

41. Nabonanye na Mugisha umuyobozi mushya wa Gereza ngo wari washyizweho uwo munsi nyirizina. Naramwibwiye kandi mumenyesha mu magambo make ibyerekeye umurimo w'abagenzuzi bashyirwaho na ICTR/MICT n'inshingano zabo.

42. Umuyobozi mushya wa Gereza yamperekeje aho Uwinkindi afungiye mu gice cyihariye cya Gereza.

43. BYASIBWEMO.

KUBONANA NA UWINKINDI (nifashishije umusemuzi)

44. Uwinkindi avuga ko, ku birebana n'uburyo afunzemo, nta cyahindutse kuva muri Mata/Gicurasi 2014, n'ubwo anyuzamo akavuga ibintu binyuranye bibura.

45. Uwinkindi avuga ko nyuma y'iburanisha riheruka ubwo Urukiko rwateraga utwatsi ibyifuzo byose yatanze, nta mpamvu yatuma yizera ko azaburanishwa ku buryo buboneye mu Rwanda.

46. BYASIBWEMO

47. BYASIBWEMO

48. Uwinkindi avuga ko Amategeko yerekeye imiburanishirize y'imanza z'inshinjabyaha atagombye gukurikizwa muri uru rubanza, ko ahubwo Itegeko rigena kwimurira imanza mu Rwanda ari ryo ryagombye kugenderwaho.

IMYANZURO

49. BYASIBWEMO

50. Imyanzuro y'Ubushijnjacyaha yo mu ikubitiro mu magambo yararangiye kandi igisubizo cy'Ubwunganizi kuri iyo myanzuro kitezwe mu gihe kitarambiranye. Kubera iyo mpamvu, igikorwa cy'ubugenzuzi kizaba kigoranye kurushaho kubera ko iminsi y'iburanisha izaba ikurikiranye yegeranye kurusha mbere.

Murakoze.

[Umukono]

Porofeseri Zbigniew Lasocik.

Umugenzuzi mu rubanza rwa Uwinkindi

Bikozwe ku itariki ya 1 Ukwakira 2014

Warsaw, Polonye