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UMURYANGO W'ABIBUMBYE

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

Urubanza N° MICT-18-116-PT

Itariki: 10 Mata 2019

Umwimerere: Icyongereza

PEREZIDA WA IRMCT

Umucamanza: **Carmel Agius, Perezida**

Gerefiye: **Olufemi Elias**

Itariki : **10 Mata 2019**

POROKIRERI

aburana na

MAXIMILIEN TURINABO
ANSELME NZABONIMPA
JEAN DE DIEU NDAGIJIMANA
MARIE ROSE FATUMA
DICK PRUDENCE MUNYESHULI

CONFIDENTIAL

INYANDIKO Y'IBANGA

ICYEMEZO KU CYIFUZO CY'ANSELME NZABONIMPA GISABA GUHINDURA URWEGO RW'UMUTEKANO ITEGEKO RYO KU ITARIKI YA 7 GASHYANTARE 2019, RIDAKUWEMO IBIGOMBA KUGIRWA IBANGA, RIBITSEMO

Ibiro bya Porokireri:

Serge Brammertz
Rashi S. Rashid

Abavoka bunganira Abaregwa:

Stéphane Bourgon **wunganira** Maximilien Turinabo
Geoffrey Roberts wunganira Anselme Nzabonimpa
Philippe Larochelle wunganira Jean de Dieu Ndagijima
Gatera Gashabana wunganira Marie Rose Fatuma
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JYEWE, CARMEL AGIUS, Perezida w'Urwego Mpuzamahanga Rwashyiriweho Gukora Imirimo y'Insigarira y'Inkiko Mpanabyaha ("Perezida" na "IRMCT", uko bikurikirana);

NIBUTSA "Itegeko" ry'ibanga rikomeye cyane kandi ritareba Ubwunganizi natanze ku itariki ya 7 Gashyantare 2019 ("Itegeko"), nkemera Icyifuzo cyatanzwe n'Ibiro bya Porokireri ("Porokireri") gisaba gusaka no gufatira byihutirwa ibimenyetso muri Gereza y'Umuryango w'Abibumbye ("UNDF"); nkaba mu byo nategetse harimo ko Gerefiye, mu bikorwa byose bigomba kuyoborwa n'Umuyobozi wa Serivisi ishinzwe umutekano ku Ishami rya IRMCT rikorera Arusha, asaka muri UNDF n'abafungwa bose bahari maze agafatira ibimenyetso bikurikira: (a) ibikoresho by'itumanaho ibyo ari byo byose abafungwa batemerewe nk'amaterefone ngendanwa, amasimatifone cyangwa ibindi bikoresho by'itumanaho, (b) ibikoresho byose bishobora gukoreshwa mu itumanaho, nk'amasimukadi, amafurashedisike cyangwa amaradiyo y'itumanaho; na (c) ibikoresho byose bishobora kubika amakuru aherererekanywa mu buryo bwa eregitoronike hifashishijwe ibikoresho by'itumanaho byinjijwe muri gereza mu buryo butemewe, birimo mudasobwa ngendanwa n'izindi mudasobwa, taburete, amahadidisike, amafurashedisike, CD na n'amadevede[1];

NIBUTSA "Icyemezo ku Cyifuzo cya Porokireri gisaba guhindura urwego rw'umutekano Itegeko ryo ku itariki ya 7 Gashyantare 2019 ribitsemo", icyemezo cy'ibanga cyatanzwe ku itariki ya 14 Gashyantare 2019, ("Icyemezo cyo ku itariki ya 14 Gashyantare 2019")", aho nsaba ko iryo Tegeko rikurwamo ibigomba kugirwa ibanga kandi ko hahindurwa urwego rw'umutekano iryo Tegeko ribitsemo[2];

MAZE KUBONA Icyifuzo cy'ibanga cyitwa "Icyifuzo cyihutirwa gisaba guhindura urwego rw'umutekano rw'Itegeko ryo ku itariki ya 7 Gashyantare 2019, ritakuwemo ibigomba kugirwa ibanga", cyatanzwe n'Anselme Nzabonimpa ("Icyifuzo cya Nzabonimpa") ku itariki ya 19 Gashyantare 2019; aho Nzabonimpa ansaba (i) guhindura urwego rw'umutekano iryo Tegeko ribitsemo maze ngaha Nzabonimpa inyandiko y'iryo Tegeko idakuwemo ibigomba kugirwa ibanga;

[1] Reba Itegeko, paje ya 3. Reba n'Icyifuzo cyihutitwa cya Porokireri gisaba gusaka no gufatira ibimenyetso, 5 Gashyantare 2019 (Ibanga rikomeye cyane ritareba abandi baburanyi) ("Icyifuzo cyihutirwa cya Porokireri"). Ku itariki ya 20 Gashyantare 2019, Porokireri yatanze inyandiko y'ibanga y'Icyifuzo cyihutirwa cya Porokireri, yakuwemo ibigomba kugirwa ibanga, (Icyifuzo cy'ibanga).
[2] Icyemezo cyo ku itariki ya 14 Gashyantare 2019, paje ya 2.

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no (ii) gutegeka Porokireri gutanga igisubizo ku Cyifuzo cya Nzabonimpa mu gihe kitarenze umunsi umwe w'akazi[3];

MAZE KUBONA KO, mu byo Nzabonimpa avuga mu Cyifuzo cye, harimo ko: (i) ari ngombwa gukorera mu mucyo mu buryo bwuzuye maze agahabwa amakuru yifuza kugira ngo ashobore kurwanya ishingiro ry'iryo Tegeko mu rwego rw'amategeko no guha Umucamanza umwe rukumbi, ushinzwe iburanisha ry'uru rubanza, imyanzuro ifite icyo ishingiyeho, ku byerekeranye n'ibyagenderwaho mu isuzuma ry'ibintu byafatiriwe n'ingingo z'ibanze zerekeranye n'uburenganzira bw'Abaregwa[4]; kandi (ii) mu gihe Perezida abona ko ari ngombwa kongera gusubira kuri iryo Tegeko kugira ngo urwego rw'umutekano rwaryo ruhindurwe, hari ibimenyetso bishya Perezida atari afite ubwo yaritangaga kandi bikaba ari impamvu zatuma arigarukaho kugira ngo hatabaho kuburanisha urubanza mu buryo butaboneye[5];

NIBUTSA Icyemezo cy'ibanga cyitwa "Icyemezo ku Byifuzo bya Nzabonimpa byerekeranye n'Itegeko ryo ku itariki ya 7 Gashyantare 2019" natanze ku itariki ya 22 Gashyantare, nemera icyo Cyifuzo, kuri bimwe, kandi ntegeka Porokireri gutanga igisubizo ku Cyifuzo cya Nzabonimpa mu gihe kitarenze umunsi umwe w'akazi[6];

MAZE KUBONA Igisubizo cy'ibanga cyitwa "Igisubizo cya Porokireri ku Cyifuzo cyihutirwa cyerekeranye no guhindura urwego rw'umutekano rw'Itegeko, ritakuwemo ibigomba kugirwa ibanga, ryo ku itariki ya 7 Gashyantare 2019", cyatanzwe ku itariki ya 25 Gashyantare 2019 ("Igisubizo"), aho Porokireri avuga ko: (i) Icyifuzo cya Nzabonimpa usaba guhabwa inyandiko y'Itegeko itakuwemo ibigomba kugirwa ibanga kitagombye kwakirwa kuko atashoboye kwerekana impamvu zituma urwego rw'umutekano ruhindurwa cyangwa ko habaho kuburanisha urubanza mu buryo butaboneye iryo tegeko riramutse ridatanzwe[7]; (ii) ibice bimwe gusa by'iryo Tegeko, byakuwemo nk'ibigomba kugirwa ibanga, bifite ishingiro kubera ko igizwe gusa n'irisite

[3] Reba Icyifuzo cya Nzabonimpa, igika cya 9.
[4] Reba Nzabonimpa, ibika 5, 7.
[5] Icyifuzo cya Nzabonimpa, ibika 6-7. Nzabonimpa avuga ko izo ngingo nshya zirimo Icyemezo cy'Umucamanza umwe rukumbi ushinzwe iburanisha ry'uru rubanza, hamwe n'imyanzuro Porokireri yahaye Umucamanza umwe rukumbi ku byerekeranye n'uburyo bwo gusuzuma ibyafatiriwe hashingiye kuri iryo Tegeko. Reba Icyifuzo cya Nzabonimpa, igika cya 7, kivuga ku Cyemezo cyerekeranye n'Icyifuzo cyihutirwa gisaba ko hatangwa itegeko ry'agateganyo ribuza Porokireri kugera ku bikoresho bibitseho amakuru y'ibanga ry'akazi hagati y'avoka n'umuntu yunganira.
[6] Icyemezo ku Byifuzo bya Nzabonimpa byerekeranye n'Itegeko ryo ku itariki ya 7 Gashyantare 2019, 22 Gashyantare 2019 (Inyandiko y'ibanga), paje 3-4.

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y'inyandiko z'ibanga, zitareba abandi baburanyi, zifitanye isano n'amaperereza Porokireri arimo gukora[8]. (iii) izo nyandiko z'ibanga, zitareba abandi baburanyi, ntizifite aho zihuriye n'amakuru agomba gufatwa nk'ibanga hagati y'avoka n'umuntu yunganira ndetse n'ibigenderwaho mu gusuzuma, kandi ntizibangamira ubushobozi bwa Nzabonimpa bwo kurwanya ishingiro ry'iryo Tegeko mu rwego rw'amategeko[9]; kandi (iv) Porokireri namara gusoza amaperereza akora ubu, azageza icyifuzo ku Mucamanza umwe rukumbi asaba ko inyandiko, zitareba abandi baburanyi, zerekeranye n'Uregwa, zihindurirwa urwego rw'umutekano maze zigashyirwa mu cyiciro cy'inyandiko z'ibanga Abaregwa bemerewe kubona[10];

NSHINGIYE KU Ngingo ya 13(1) y'Amabwiriza Ngengamikorere[11] akurikizwa iteganya ko urwego rw'umutekano inyandiko zibikwamo rushobora guhindurwa ari uko "gusa Urukiko rubitangiye uruhushya cyangwa hakurikijwe ibiteganywa ukundi n'amategeko akurikizwa";

NIBUTSA KANDI KO umuburanyi usaba ko icyifuzo cyangwa itegeko bigarukwaho agomba guha Urugereko, cyangwa Perezida ku byerekeranye n'ikibazo kivugwa hano, impamvu zituma yemera ko, mu cyemezo kirwanywa, habayemo ikosa rigaragara mu isesengura ry'ikibazo cyangwa ko hari impamvu zihariye, nk'ibindi bintu bishya, byatuma icyemezo cyangwa itegeko byatanzwe bigarukwaho kugira ngo hatababaho akarengane[12];

MAZE KUBONA KO Nzabonimpa atagaragaje impamvu zituma biba ngombwa ko icyo Cyemezo cyo ku itariki ya 14 Gashyantare 2019 kigarukwaho;

MAZE KUBONA KO, kubera ko amaperereza ya Porokireri agikomeza kandi igice cy'Itegeko cyakuwemo ibigomba kugirwa ibanga kikaba kigizwe gusa n'irisite y'inyandiko z'ibanga zitareba abandi baburanyi, zerekeranye n'ayo maperereza, bitaba bikwiye guhindura urwego rw'umutekano iryo Tegeko ribitsemo no guha, ubu, Uregwa inyandiko yaryo idakuwemo ibigomba kugirwa ibanga;

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[7] Igisubizo cya Porokireri, ibika 1, 4-5.
[8] Igisubizo cya Porokireri, igika cya 2.
[9] Igisubizo cya Porokireri, igika cya 3.
[10] Igisubizo cya Porokireri, igika cya 2.
[11] Amabwiriza Ngengamikorere ku itangwa ry'inyandiko mu Rwego Mpuzamahanga Rwashyiriweho Gukora Imirimo y'Insigarira y'Inkiko Mpanabyaha, MICT/7/Ihindurwa rya 3, 3, 4 Mutarama 2019.

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MAZE KUBONA KANDI KO Porokireri avuga ko, uko byagenda kose, azasaba ko urwego rw'ibanga ritareba abandi baburanyi izo nyandiko zashyizwemo ruvanwaho narangiza amapererezа ye;

MAZE KUBONA KO Nzabonimpa atagaragaje ibyo avuga ko azahagirira akarengane niba mu gice kimwe cy'iryo Tegeko, hakomeje kuburamo ibigomba kugirwa ibanga;

MAZE KUBONA KO biri mu nyungu z'ubutabera kugumishaho iryo Tegeko uko ryakuwemo ibigomba kugirwa ibanga no kudahindura urwego rw'umutekano ribitswemo;

KUBERA IMPAMVU ZIMAZE KUVUGWA,

SINEMEYE ibisigaye bivugwa mu Cyifuzo cya Nzabonimpa.

NTEGETSE Gerefiye ko, mu gihe habayeho guhindura urwego rw'umutekano ku makuru akubiye mu gice cy'Itegeko cyakuwemo ibigomba kugirwa ibanga maze bigahinduka amakuru y'ibanga kandi agahabwa Abaregwa, yanahindura urwego rw'umutekano iryo Tegeko ribitsemo maze rigahinduka Itegeko ry'ibanga ridakuwemo ibigomba kugirwa ibanga kandi akariha Abaregwa rimeze rityo.

Byanditswe mu cyongereza n'igifaransa ariko inyandiko y'icyongereza ni yo igenderwaho.

Bikozwe uyu munsi, tariki ya 10 Mata 2019
I Lahe
U Buholandi

[Umukono]
Carmel Agius
Perezida

[KASHE ya IRMCT]

[12] Reba *Porokireri aburana na Radovan Karadzić*, N° MICT-13-55-A, Icyemezo ku cyifuzo gisaba kugaruka ku Itegeko rishyiraho Umucamanza usimbura undi, 10 Ukwakira 2018, paje ya 1.

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TRANSMISSION SHEET FOR FILING OF TRANSLATIONS / *FICHE DE TRANSMISSION POUR LE DEPOT LES TRADUCTIONS*

I - FILING INFORMATION / *INFORMATIONS GÉNÉRALES*

To/ *À* :	IRMCT Registry/ *Greffe du MIFRTP*	☒ Arusha/ *Arusha*	☐ The Hague/ *La Haye*	
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☒ Decision/ *Décision*	☐ Submission from parties/ *Écritures déposées par des parties*	☐ Affidavit/ *Déclaration sous serment*	☐ Notice of Appeal/ *Acte d'appel*
☐ Order/ *Ordonnance*	☐ Submission from non-parties/ *Écritures déposées par des tiers*	☐ Indictment/ *Acte d'accusation*	