UMURYANGO W'ABIBUMBYE

Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda

Umwimerere: Icyongereza

URUGEREKO RWA MBERE RW'IREMEZO III

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	Lee Gacuiga Muthoga
	Aydin Sefa Akay
Gerefiye:	Adama Dieng
Itariki:	7 Nyakanga 2009

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POROKIRERI

Aburana na

Léonidas NSHOGOZA

Urubanza N° ICTR-07-91-T

INYANDIKO Y'URUBANZA

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Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

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Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

UMUTWE WA I: INTANGIRIRO

1. URUKIKO N'UBUBASHA BWARWO

1. Urugereko rwa Mbere rw'Iremezo III rw'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda, rugizwe n'Abacamanza Khalida Rachid Khan (Perezida w'Inteko), Lee Gacuiga Muthoga na Aydin Sefa Akay, rwashyikirijwe urubanza Léonidas Nshogoza aregwamo gusuzugura Urukiko, hashingiwe ku ngingo ya 77 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso[1].

2. N'ubwo Sitati itabiteganya mu buryo bweruye, ububasha kamere bw'Urukiko, nk'urukiko mpuzamahanga, bwo kuburanisha icyaha cyo gusuzugura urukiko, bwemejwe mu buryo budasubirwaho n'ubukemuramanza bw'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho Icyahoze Cyitwa Yugosilaviya (« TPIY »)[2].

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[1] Keretse biramutse bivuzwe ukundi, muri uru rubanza ahantu hose hakoreshwa ijambo Amategeko biba bishaka kuvuga Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso.

[2] *Urubanza Porokireri aburana na Duško Tadić*, N° IT-94-1-A-R77, Inyandiko y'urubanza ku cyaha cyo gusuzugura urukiko kiregwa uwahoze ari avoka wunganira uregwa, Milan Vujin' (Urugereko rw'Ubujurire), 31 Mutarama 2000 (« Inyandiko y'urubanza rwa Milan Vujin ku cyaha cyo gusuzugura Urukiko »), ibika 13-28; *Urubanza Porokireri aburana na Blagoje Simić na bagenzi be*, N° IT-95-9-R77, Urubanza rw'Uregwa hamwe n'avoka umwunganira ku cyaha cyo gusuzugura urukiko (Urugereko rwa Mbere rw'Iremezo), 30 Kamena 2000, (« Urubanza rwa Simić ku cyaha cyo gusuzugura urukiko »), igika 91; *Urubanza Porokireri aburana na Zlato Aleksovski*, N° IT-95-14/1-AR77, Urubanza ku bujurire bwa Anto Nobilo wajuririye icyemezo cyamuhamije icyaha cyo gusuzugura urukiko (Urugereko rw'Ubujurire), 30 Gicurasi 2001 (« Inyandiko y'urubanza rwa Nobilo mu bujurire »), igika 30; Inyandiko y'urubanza rwa Ivica Marijačić na Markica Rebić mu bujurire, N° IT-95-14-R77.2-A, 27 Nzeri 2006, ibika 23-24; Inyandiko y'urubanza rwa Ivica Marijačić na Markica Rebić mu rw'iremezo, N° IT-95-14-R77.2, 10 Werurwe 2006, igika 13; *Urubanza Porokireri aburana na Beqa Beqaj*, N° IT-03-66-T-R77, Inyandiko y'urubanza ku cyaha cyo gusuzugura urukiko (Urugereko rwa Mbere rw'Iremezo), 27 Gicurasi 2005 (Inyandiko y'urubanza rwa Beqaj ku cyaha cyo gusuzugura urukiko), igika 9; *Urubanza Porokireri aburana na Slobodan Milosevic*, N° IT-02-54-R77.4, Icyemezo ku bujurire bwajuririye icyemezo cyafashwe ku ngoboka irebana n'icyaha cyo gusuzugura urukiko gishinjwa Kosta Bulatović (Urugereko rw'Ubujurire), 29 Kanama 2005 («Inyandiko y'urubanza rwa Bulatović mu rw'Ubujurire ku gasuzuguro yagiriye urukiko »), igika 21.

2. INCAMAKE Y'IBIREGO

3. Porokireri avuga ko Uregwa, mu gihe kiri nko hagati y'itariki ya 1 Werurwe 2004 n'iya 31 Gicurasi 2005, yabonanye inshuro nyinshi n'umutangabuhamya wiswe GAA, ushinja mu rubanza rwa Kamuhanda, ndetse n'umutangabuhamya ushinjura wiswe A7/GEX, washoboraga kuzahamagazwa na Porokireri mu rubanza rwa Kamuhanda, maze arabashukashuka, aboshya, abaha ruswa kandi abumvisha ko bagomba gusinya inyandiko mpimbano yiyandikiye ubwe no gutanga ubuhamya bw'ikinyoma mu Rugereko rw'Ubujurire[3]. Porokireri avuga ko Uregwa yakoze ibyo bintu nkana, cyangwa nta cyo yitayeho na gato, kandi azi neza ko ibikorwa bye binyuranyije n'ingamba zo kurinda umutekano w'abatangabuhamya zafashwe n'Urugereko rwa Mbere rw'Iremezo mu rubanza rwa Kamuhanda[4]. Ikindi kandi, Porokireri avuga ko Uregwa yagerageje gusaba abatangabuhamya bashinja biswe BUC, GAF, SP003 na SP004 kumuha ubuhamya bwanditse bw'ikinyoma. Kubera ibyo bikorwa, Porokireri ashinja Nshogoza ibyaha bikubiye mu birego bibiri byo gusuzugura Urukiko, no mu bindi birego bibiri by'ubwinjiracyaha bugamije gukora ibikorwa bihanwa nko gusuzugura Urukiko.

3. UREGWA

4. Léonidas Nshogoza yari umupererezi ku ruhande rw'Ubwunganizi mu rubanza Porokireri aburana na Jean de Dieu Kamuhanda, N° ICTR-99-54A-T. Yavukiye i Rukeri, Kyumba, Muhanga, Akarere k'Amajyepfo, mu Rwanda, mu wa 1961. Nshogoza yize muri Kaminuza y'u Rwanda ari naho yaherewe impamyabumenyi mu by'amategeko mu wa 1986[5]. Mu mpera z'umwaka wa 2001 ni bwo yatangiye gukora mu ikipe

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[3]Kugira ngo habe itandukanyirizo hagati y'uru rubanza n'urwa Kamuhanda, muri uru rubanza Urugereko ruzajya rukoresha inyuguti ndende ya mbere mu magambo « Porokireri », n'« Ubwunganizi», noneho rukoresha inyuguti nto ya mbere mu magambo« porokireri » n'« ubwunganizi » iyo ruvuga ibirebana n'urubanza rwa Kamuhanda.

[4] Inyandiko y'ibirego ivuga «kutita ku bintu ku buryo bukabije» (« *reckless disregard* »), Reba igika 8. Urugereko rwa Mbere rw'Iremezo rusanga aya magambo ahwanye no « gusuzugura ibintu ku buryo bukabije » (« *reckless indifference* »), aya magambo ya nyuma ni yo akunze gukoreshwa mu mikirize y'imanza.

[5] Urubanza rwa Nshogoza mu rw'iremezo, inyandikomvugo y'iburanisha, 30 Werurwe 2009, imp. 2-3.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

y'Ubwunganizi mu rubanza rwa Kamuhanda[6]. Uregwa avuga ko yinjiye ku mugaragaro mu Rugaga rw'abavoka rw'i Kigali muri Mata 2005 akaba ari na bwo yatangiye gukora nk'avoka[7].

4. INCAMAKE Y'IMIBURANISHIRIZE

5. Iburanisha ry'uru rubanza ryatangiye ku itariki ya 9 Gashyantare 2009 risozwa ku ya 30 Werurwe 2009, ariko haciyemo ibyumweru bitatu by'ikiruhuko hagati y'itangwa ry'ibimenyetso bishinja n'itangwa ry'ibimenyetso bishinjura. Urugereko rwumvise abatangabuhamya batanu bashinja, n'abatangabuhamya 11 bashinjura barimo na Nshogoza ubwe. Uko imiburanishirize yagenze mu buryo burambuye bikubiye mu Mugereka wa I w'iyi Nyandiko y'urubanza.

UMUTWE WA II: IBIBAZO BY'IBANZE

1. AMAKOSA BIVUGWA KO YAKOZWE MU MIBURANISHIRIZE

6. Mu myanzuro nsozarubanza y'Ubwunganizi, buvuga ku habayeho « amakosa mu miburanishirize » ku buryo busanga byarahungabanyije uburenganzira bw'Uregwa, ndetse bikaba byashingirwaho kugira ngo agenerwe indihano[8]. Mu makosa avugwa hakubiyemo ibirebana n'imenyekanisha ry'ibimenyetso, ubuzarire mu gufata ibyemezo, inzitizi mu myiregurire y'Ubwunganizi, kwivanga mu buhamya bw'abatangabuhamya bashinjura no mu myiregurire y'Ubwunganizi.

1.1 Ibivugwa ko hatubahirijwe ibirebana n'imenyekanisha ry'ibimenyetso, harimo no kubimenyekanisha bitinze

7. Ubwunganizi buvuga ko hari inyandiko butahawe na Porokireri, bityo akaba atarubahirije inshingano ze zo kumenyekanisha ibimenyetso nk'uko bisabwa n'Amategeko[9].

[6] Urubanza rwa Nshogoza mu rw'iremezo, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 3.

[7] Urubanza rwa Nshogoza mu rw'iremezo, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 28.

[8] Imyanzuro nsozarubanza y'Ubwunganizi, ibika 106-7.

[9] Izo nyandiko ni izi zikurikira : (i) Inyandikomvugo y'ubuhamya GAA yagejeje ku Ishami rya polisi rishinzwe iperereza mu Rwanda mu wa 2005: Imyanzuro nsozarubanza y'Ubwunganizi, igika 16; (ii) Inyandukuro y'ikiganiro cyafashwe mu majwi Porokireri yagiranye na GAA ku wa 23 Kanama 2003: Imyanzuro nsozarubanza

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

Ubwunganizi buvuga kandi ko ibirebana n'imiburanishirize iboneye byazambijwe n'uko bwamenyeshejwe inyandiko ebyiri bitinze, bikaba byaratumye Uregwa aharenganira bikomeye[10].

8. Urugereko rusanga buri kibazo uko cyagiye kibyutswa n'Ubwunganizi buvuga ko butamenyeshejwe ibimenyetso cyaragiye gikemurwa mu gihe cy'iburanisha[11]. Bityo rero, Ubwunganizi bukaba busabwe kutongera kubyutsa bundi bushya bene ibyo bibazo.

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y'Ubwunganizi, igika 16; (iii) Inyandukuro zose z'ibiganiro byafashwe mu majwi na Loretta Lynch mu rwego rw'iperereza rirebana n'urubanza rwa Kamuhanda: Imyanzuro nsozarubanza y'Ubwunganizi, igika 16; (iv) Inyandikomvugo y'ubuhamya Augustin Nyagatare yagejeje kuri Porokireri: Imyanzuro nsozarubanza y'Ubwunganizi, igika 20; na (v) Inyandiko zo mu bucamanza bwo mu Rwanda zirebana n'Uregwa ndetse na GAA: Imyanzuro nsozarubanza y'Ubwunganizi, ibika 24-28.

[10] Imyanzuro nsozarubanza y'Ubwunganizi, igika 16. Izo nyandiko ebyiri ni izi zikurikira: (i) Inyandikomvugo y'ubuhamya Straton Nyarwaya yagejeje kuri Porokireri yatanzwe ku wa 25 Werurwe 2009: Imyanzuro nsozarubanza y'Ubwunganizi, ibika 17-19; na (ii) Inyandiko ya Léonidas Nshogoza igaragaza amafaranga yishyuza, yo ku wa 12 Nzeri 2003, yatanzwe ku wa 25 Gashyantare 2004, kandi imenyeshwa abo yari igenewe ku wa 11 Werurwe 2009: Imyanzuro nsozarubanza y'Ubwunganizi, igika 21.

[11] Porokireri yatanze inyandiko ahamya ko yakoze uko ashoboye kose kugira ngo abone inyandikomvugo y'ubuhamya GAA yagejeje ku Ishami rya polisi rishinzwe iperereza mu Rwanda mu wa 2005 (Reba inyandiko Porokireri yakoze ku birebana n'ibimenyetso byo mu bucamanza bwo mu Rwanda yatanzwe ku wa 23 Gashyantare 2009); Ku birebana n'ikiganiro cyafashwe mu majwi GAA yagiranye na Porokireri mu wa 2003, Urugereko ruzirikana icyemezo rwafashe ku wa 10 Gashyantare 2009, rwanga kwakira ibyifuzo by'Ubwunganizi kubera ko Porokireri yari yaratanze icyemezo kigaragaza ko atari afite icyo kiganiro cyafashwe mu majwi Ubwunganizi bwasabaga. (Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka Porokireri kubahiriza inshingano ze zo kumenyekanisha ibimenyetso no ku cyifuzo cyo guhagarika imiburanishirize kubera ko Porokireri akomeza kurenga ku nshingano ze zo kumenyekanisha ibimenyetso (Urugereko rwa Mbere rw'Iremezo), 10 Gashyantare 2009, igika 12). Urugereko ruzirikana icyemezo rwafashe ruvuga ko ibiganiro Loretta Lynch yagiranye n'abantu bitarimo ingingo zirengera Uregwa, bityo rero ko atari ngombwa ko zimenyekanishwa (Icyemezo ku byifuzo by'Ubwunganizi bijyanye no kumenyekanisha ibimenyetso hashingiwe ku ngingo ya 66 n'iya 68 z'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso (Urugereko rwa Mbere rw'Iremezo), 22 Ukuboza 2008, igika 38). Ku birebana n'inyandikomvugo y'ubuhamya Augustin Nyagatare yagejeje kuri Porokireri, Urugereko rusanga Porokireri yaratanze inyandiko ahamya ko yashatse iyo nyandikomvugo agasanga atayifite (Inyandikomvugo y'iburanisha, 23 Werurwe 2009, imp. 18-19). Urugereko ruzirikana icyemezo rwafashe ku birebana n'inyandiko zo mu bucamanza bwo mu Rwanda (Inyandikomvugo y'iburanisha, 19 Gashyantare 2009, urup. 17), n'inyandiko ya Porokireri ahamya ko yashakishije izo nyandiko ndetse ko yanagerageje kuzisaba (Inyandiko ya Porokireri ahamya ibirebana n'inyandiko zo mu bucamanza bwo mu Rwanda, yatanzwe ku wa 23 Gashyantare 2009).

Byongeye kandi, kubera ko Ubwunganizi butagaragaje ibintu bishya byabaye cyangwa ibimenyetso bishya bishobora gutuma ibyemezo byari byarafashwe bisubirwamo, nta kintu nta kimwe cyatuma byongera gusuzumwa.

9. Ku birebana n'inyandiko ya mbere muri ebyiri Ubwunganizi buvuga ko bwazibonye bitinze noneho bigatera Uregwa akarengane gakomeye, Urugereko ruributsa icyemezo cyarwo kijyanye n'ubuhamya bwanditse bwa Straton Nyarwaya, ruvugamo ko kuri icyo kibazo rwasanze n'ubwo Porokireri atarubahirije nshingano ye yo gutanga inyandiko mu buryo buteganywa n'ingingo ya 62 (B) y'Amategeko, nta karengane gakomeye byateye Uregwa[12].

10. Ku byerekeye inyandiko ya kabiri muri ebyiri zivugwa – inyandiko yo ku itariki ya 12 Nzeri 2003 yatanzwe ku itariki ya 25 Gashyantare 2004 iriho amafaranga Léonidas Nshogoza yasabye kwishyurwa kubera umurimo runaka yakoze -, Urugereko rusanga iyo nyandiko yaramenyeshejwe Ubwunganizi ku itariki ya 11 Werurwe 2009[13]. Ikindi kandi, Urugereko rusanga Ubwunganizi butarashoboye kugaragaza akarengane Uregwa yaba yaragize.

11. Ku birebana n'ibivugwa n'Ubwunganizi ko kuba Porokireri atarujuje inshingano ze zo kubumenyesha ibimenyetso no kuba Urugereko rutarakoze ibishoboka byose ngo iyo nshingano yubahirizwe, byavukije Uregwa uburenganzira bwo gutegura neza ibaza rinyomoza no kumenya imiterere n'impamvu z'ibirego ashinjwa[14], Urugereko rusanga iyi ngingo idasobanutse neza kandi nta kintu kigaragaza koko akarengane byateye Uregwa, bityo rero si ngombwa ko hari ikindi rwakwirirwa rubisuzumaho. Kubera impamvu zimwe n'izimaze kuvugwa, Urugereko ntirwemera ingingo y'Ubwunganizi ivuga ko, mu rubanza, Porokireri yatanze ibisobanuro bitari byo bijyanye n'uko atabashije guha urundi ruhande ibimenyetso, bityo akaba yaratatiye icyizere umuntu wese agirirwa cyo gufatwa

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[12] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko kwakira nk'ikimenyetso inyandikomvugo y'ubuhamya bwa Straton Nyarwaya; no gufata ibindi byemezo byo kuburenganura (Urugereko rwa Mbere rw'iremezo), 1 Nyakanga 2009.

[13] Kumenyekanisha ibimenyetso hakurikijwe ingingo ya 66 (B) y'Amategeko/Ibaruwa yo mu kazi, Ern-K045-8604-8609, yatanzwe ku wa 11 Werurwe 2009, .

[14] Imyanzuro y'Ubwunganizi ibanziriza itangwa ry'ibimenyetso bishinjura, igika 10.

nk'uwakoze ibintu nta buryarya[15]. Hanyuma, ku bijyanye n'ingingo z'Ubwunganizi zivuga Urugereko rutemeye ibyifuzo byabwo byo gusubika urubanza kubera ko Porokireri atubahirije inshingano ze zo kubumenyesha ibimenyetso[16], Urugereko rusanga Ubwunganizi butarabashije kugaragaza amakosa rwaba rwarakoze rwanga gusubika urubanza kandi ntibwagaragaje icyo byabwangirijeho. Bityo rero izi ngingo ntizemewe.

1.2 Ubuzarire mu gufata ibyemezo

12. Ubwunganizi buvuga ko Urugereko rutafashe ibyemezo mu gihe gikwiriye, bikaba byaratumye Uregwa aharenganira[17]. Imyanzuro nsozarubanza y'Ubwunganizi igaragaza ko kugeza ku munsi iyo myanzuro yatangiweho hari hagitegerejwe ibyemezo bitanu[18]. Urugereko rusanga hagati aho ibyo byemezo byarafashwe[19]. Ubwunganizi buvuga kandi

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[15] Imyanzuro nsozarubanza y'Ubwunganizi, igika 16; Imyanzuro nsozarubanza y'inyongera ya Léonidas Nshogoza, yatanzwe ku wa 18 Kamena 2009, (« Imyanzuro nsozarubanza y'inyongera y'Ubwunganizi »), igika 21.

[16] Imyanzuro nsozarubanza y'inyongera y'Ubwunganizi, igika 22.

[17] Imyanzuro nsozarubanza y'inyongera y'Ubwunganizi, igika 31; Imyanzuro y'Ubwunganizi ibanziriza itangwa ry'ibimenyetso bishinjura, ibika 12-13.

[18] Imyanzuro nsozarubanza y'Ubwunganizi, igika 30: Ibyifuzo bivugwa ni ibi : (i) Icyifuzo cyihutirwa cy'Ubwunganizi gisaba guhagarika iburanisha kubera ukwivanga mu buhamya bw'abatangabuhamya bashinjura, cyatanzwe ku wa 4 Werurwe 2009; (ii) Icyifuzo cy'Ubwunganizi gisaba Urugereko kwakira nk'ibimenyetso ubuhamya bwanditse bwatanzwe mbere n'abatangabuhamya biswe A1, A13, A14, A15, A17, A18, A20, A22, A23, A26 na A30 mu mwanya w'ubuhamya bagombaga gutangira mu rukiko, cyatanzwe ku wa 16 Werurwe 2009; (iii) Icyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka Gerefiye guha Ubwunganizi bwa Nshogoza amakuru arebana n'ukuntu Porokireri yagiye kubonana na GAA muri gereza y'Urukiko mu wa 2007, cyatanzwe ku wa 20 Werurwe 2009; (iv) Icyifuzo cy'Ubwunganizi gisaba Urugereko kwakira nk'ibimenyetso inyandikomvugo zatanzwe hashingiwe ku ngingo ya 92 y'Amategeko, cyatanzwe ku wa 3 Mata 2009; (v) Icyifuzo cy'Ubwunganizi gisaba Urugereko kwakira nk'ikimenyetso inyandikomvugo y'ubuhamya bw'umutangabuhamya ushinjura witwa Straton Nyarwaya yakozwe n'Ibiro bya Porokireri ku wa 15 Werurwe, [n'ibindi busaba kurenganurwaho], cyatanzwe ku wa 7 Gicurasi 2009.

[19] Ibyemezo bivugwa ni ibi: (i) Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko kwakira nk'ibimenyetso inyandikomvugo z'ubuhamya zatanzwe hashingiwe ku ngingo ya 92 *bis* y'Amategeko, Urugereko rwa Mbere rw'Iremezo, 23 Mata 2009; (ii) Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka Gerefiye guha Ubwunganizi amakuru arebana n'ukuntu Porokireri yagiye kubonana na GAA muri gereza y'Urukiko (Urugereko rwa Mbere rw'Iremezo), 28 Mata 2009; (iii) Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko kwakira nk'ibimenyetso ubuhamya bwanditse bwatanzwe mbere n'abatangabuhamya biswe A1, A13, A14, A15, A17, A18, A20, A22, A23, A26 na A30 mu mwanya w'ubuhamya bagombaga gutangira mu rukiko (Urugereko rwa Mbere

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ko kubera igihe Urugereko rwafatiyeho kimwe mu byemezo bivugwa, butashoboye mu itegura ry'urubanza gushingira ku makuru arebana n'ukuntu Porokireri yagiye kubonana n'umutangabuhamya wiswe GAA muri Gereza y'Urukiko[20].

13. Urugereko rusanga hariho « ibintu byinshi bituma ibyemezo bifatwa igihe iki n'iki »[21]. Urugereko rusanze ibivugwa n'Ubwunganizi ko bufite uburenganzira bwo gusaba ko ibyemezo bisubirwamo nta shingiro bifite. Urugereko rusanga kandi rwaremereye Ubwunganizi gutanga inyongera ku myanzuro nsozarubanza yabwo, kandi bwarabikoze.[22] Hanyuma, Urugereko rusanga ibivugwa n'Ubwunganizi ko bwasabwe gutegura urubanza kandi icyifuzo cyabwo cyo gusubika iburanisha cyari kitarafatirwa icyemezo, bidasobanura neza ukuntu byateye akarengane Uregwa. Kubera ibyo, Urugereko rusanze Ubwunganizi butarashoboye kwerekana akarengane katewe n'igihe Urugereko rwagiye rufataho ibyemezo.

1.3 Inzitizi zidashyize mu gaciro zashyizwe ku Bwunganizi mu myiregurire yabwo

14. Ubwunganizi buvuga ko, mu myiregurireyabwo, Urugerko rwabushyizeho inzitizi zidashyize mu gaciro.[23].

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rw'Iremezo), 29 Mata 2009; (iv) Icyemezo kiri mu nyandiko y'ibanga ku cyifuzo cy'Ubwunganizi gisaba Urugereko guhagarika iburanisha (Urugereko rwa Mbere rw'Iremezo), 22 Gicurasi 2009; (v) Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko kwakira nk'ikimenyetso ubuhamya bwanditse bwatanzwe mbere n'umutangabuhamya w'Ubwunganizi witwa Straton Nyarwaya; no ku bindi busaba kurenganurwaho (Urugereko rwa Mbere rw'Iremezo), 1 Nyakanga 2009.

[20] Imyanzuro nsozarubanza y'inyongera y'Ubwunganizi, igika 20.

[21] *Urubanza Porokireri aburana na Karemera na bagenzi be*, N° ICTR-98-44-T, Icyemezo ku cyifuzo cya Nzirorera cyihana abacamanza b'Urugereko rwa Mbere rw'Iremezo, 17 Gicurasi 2004, igika 27.

[22] Inyandikomvugo y'iburanisha, 29 Mata 2008, urup. 2; Imyanzuro nsozarubanza y'inyongera y'Ubwunganizi, igika 21.

[23] Imyanzuro nsozarubanza y'Ubwunganizi, ibika 34-47. Izo nzitizi ni izi : (i) kuba bwarahatiwe kugabanya umubare w'abatangabuhamya bashinjura bagasigara ari 10 hiyongereyeho Uregwa; (ii) kuba Ubwunganizi butaremerewe ko Madamu Loretta Lynch ahatirwa kuza gutanga ubuhamya; no (iii) kuba Ubwunganizi butaremerewe guhindura urutonde rw'abatangabuhamya nyuma y'uko umutangabuhamya umwe ushinjura atangiye kurwanya inyungu z'Uregwa ubwo bwamubazaga ibibazo mu iburanisha.

15. Urugereko rusanze rwararangije gukemura ibyo bibazo byose mu byemezo rwafashe mbere, kandi rwagiye rutanga impamvu rwashingiyeho uko buri kibazo cyabyutswaga[24]. Ubwunganizi nta ngingo nshya bwatanze kandi ntibwashoboye kugaragaza ko byabuteye akarengane. Bityo rero, Urugereko rusanze atari ngombwa gusubira muri ibyo byemezo.

16. Ubwunganizi bwavuze kandi ko kuba Urugereko rwarabutegetse gutanga incamake y'ubuhamya bushinjura mbere y'uko Porokireri arangiza gutanga ibimenyetso bye, binyuranyije n'ingingo ya 73 *ter* (B)(iii)(b) kandi bibangamiye uburenganzira bw'Uregwa bwo kugira igihe gihagije n'uburyo bwo gutegura imyiregurire ye[25].

17. Urugereko rusanze itegeko rwatanze ku birebana no gutanga incamake z'ubuhamya ryarakurikije ingingo ya 54 y'Amategeko, iha Urugereko ububasha bwo gutanga amategeko ya ngombwa « mu itegurwa ry'urubanza cyangwa mu iburanisha ryarwo»[26]. Urugereko rusanga Ubwunganizi butarashoboye kugaragaza ko rwarengereye ububasha bwarwo mu gutanga iryo tegeko. Ikindi kandi, Urugereko rusanga Amategeko ateganya ko urutonde rw'abatangabuhamya rushobora guhindurwa[27].

1.4 Iby'uko Ibiro bya Gerefiye byivanze mu buhamya bw'abatangabuhamya bashinjura no kuba byaratangaje imyirondoro yabo

18. Ubwunganizi buvuga ko Uregwa yarenganyijwe kubera ko abategetsi bo mu Rwanda bagiye babonana n'abatangabuhamya bashinjura, no kubera ko Ishami rishinzwe kwita ku batangabuhamya (*WVSS*) ryahaye abo bategetsi bo mu Rwanda amakuru[28]. Ubwunganizi buvuga kandi ko iryo Shami ryanyuranyije n'ingamba zashyiriweho

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[24] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gusubira mu itegeko rwabuhaye ryo kugabanya umubare w'abatangabuhamya bwashyize ku rutonde (Urugereko rwa Mbere rw'Iremezo), 26 Gashyantare 2009; Icyemezo ku cyifuzo cy'Ubwunganizi cyihutirwa gisaba Urugereko guhatira Ms. Loletta Lynch kuza gutanga ubuhamya (Urugereko rwa Mbere rw'Iremezo), 10 Gashyantare 2009; n'inyandikomvugo y'iburanisha, 25 Werurwe 2009, imp. 24-26 (Itegeko Urugereko rwatanze mu magambo).

[25] Imyanzuro y'Ubwunganizi ibanziriza itangwa ry'ibimenyetso bishinjura, igika 16.

[26] Ingingo ya 54 y'Amategeko.

[27] Ingingo ya 73 *ter* (E) y'Amategeko

[28] Imyanzuro nsozarubanza y'Ubwunganizi, ibika 48-53.

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kurinda umutekano w'abatangabuhamya muri uru rubanza, n'ingingo ya 77(A) y'Amategeko[29].

19. Urugereko rusanga mu cyemezo rwafashe mbere kuri ibyo bibazo rwarasanze nta burenganzira bwahungabanyijwe, kandi rwarasabye Ibiro bya Gerefiye kongera kunononsora ingamba zo kurinda abatangabuhamya no gutanga amakuru aberekeye[30]. Kubera icyo cyemezo, Urugereko rusanze Ubwunganizi butarabashije kugaragaza ko hari akarengane uru Rugereko rutitayeho.

1.5 Igihe cy'imyiregurire cyagenewe Ubwunganizi

20. Ubwunganizi busobanura ibyemezo bimwe byafashwe n'Urugereko byatumye Ubwunganizi budategura neza imyiregurire yabwo, kubera kugabanya igihe kiri hagati y'icyo Porokireri yarangirijeho gutanga ibimenyetso n'icyo bwagombaga gutangiriraho kwiregura, gutegura no gutanga ibimenyetso bishinjura[31].

21. Urugereko rusanze rwaramaze gufata icyemezo ku gihe kigomba kuba hagati y'icyo Porokireri yarangirijeho gutanga ibimenyetso n'icyo Ubwunganizi bwatangiriyeho kwiregura, kandi rwafashe umwanzuro ku cyifuzo cyasabaga gusubira kuri icyo cyemezo[32]. Ubwunganizi nta ngingo nshya bwatanze zatuma icyo cyemezo gisubirwamo. Bityo rero, izo ngingo nta shingiro zifite.

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[29] Imyanzuro nsozarubanza y'Ubwunganizi, ibika 51, 66-69.

[30] Icyemezo kiri mu nyandiko y'ibanga ku cyifuzo cy'Ubwunganizi gisaba Urugereko guhagarika imiburanishirize (Urugereko rwa Mbere rw'Iremezo), 22 Gicurasi 2009, ibika 20-22.

[31] Ibyo byemezo ni ibi: (i) Urugereko rwagabanyije igihe kiri hagati y'igihe Porokireri yarangirijeho gutanga ibimenyetso n'icyo Ubwunganizi bugomba gutangiriraho gutanga ibimenyetso bishinjura: Imyanzuro nsozarubanza y'Ubwunganizi, ibika 54-55; (ii) Urugereko rwanze kuburanisha ku wa gatanu wa buri cyumweru: Imyanzuro nsozarubanza y'Ubwunganizi, igika 56; (iii) Kuba icyifuzo cy'Ubwunganizi cyasabaga ko iburanisha risubikwa icyumweru kimwe kitarakiriwe: Imyanzuro nsozarubanza y'Ubwunganizi, igika 59; na (iv) Urugereko rwahaye Ubwunganizi iminsi icyenda n'igice gusa yo gutanga ibimenyetso byabwo: Imyanzuro nsozarubanza y'Ubwunganizi, igika 60.

[32] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba kwigizayo itariki Ubwunganizi buzatangiriraho gutanga ibimenyetso (Urugereko rwa Mbere rw'Iremezo), 26 Gashyantare 2009, igika 4, aho Urugereko rwasanze mu kugena igihe Ubwunganizi bugomba gutangiriraho gutanga ibimenyetso byabwo hatitabwaho umubare w'ibyumweru biba biri

22. Urugereko rusanga kandi imyanzuro nsozarubanza y'Ubwunganizi igoreka ibyavuzwe n'Urugereko, aho buvuga ko rwafashe icyemezo cyo kutaburanisha ku wa gatanu no kudasubikaho icyumweru kimwe igihe Ubwunganizi bwagombaga gutangiriraho gutanga ibimenyetso, hashingiwe gusa ku gushaka guha Ubwunganizi igihe kingana n'icya Porokireri[33]. Nyamara ariko kuri icyo kibazo, Urugereko ntirwageneye Ubwunganizi igihe cyo gutanga ibimenyetso hashingiwe ku kukiringaniza n'icyagenewe Porokireri, ahubwo rwashingiye ku gihe rwasanze gikwiriye kugira ngo Ubwunganizi bubashe gutanga ibimenyetso byabwo.

23. Urugereko rusanga Ubwunganizi butarashoboye kugaragaza ukuntu icyemezo cyarwo icyo ari cyo cyose kijyanye n'ingengabihe y'iburanisha cyaba cyarabujije Uregwa « kubona igihe gihagije n'uburyo buhagije byo gutegura imyiregurire ye », cyangwa ko cyaba cyarabujije Uregwa kubaza abatangabuhamya bamushinjura « mu buryo bumwe n'ubw'abatangabuhamya bamushinja babajijwemo »[34]. Ubwunganizi ntibwagaragaje kandi ukuntu igihe bwahawe cyateye Uregwa akarengane.

24. Bityo rero, Urugereko rusanze izi ngingo zidafite ishingiro kandi ntiruzemeye.

1.6 Ukwivanga mu myiregurire y'Ubwunganizi

1.6.1 Ukwivanga mu buhamya bw'abatangabuhamya bashinjura barindiwe umutekano

1.6.1.1 Uruhare rw'Ibiro bya Gerefiye mu kwivanga kwa Leta y'u Rwan*da*

25. Ubwunganizi butsindagira ingingo zabwo zivuga ko Ibiro bya Gerefiye byahaye abategetsi bo mu Rwanda amakuru yerekeranye n'abatangabuhamya bagomba kurindirwa umutekano, maze bukavuga ko ibyo binyuranyije n'ingingo ya 77 (A).

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hagati y'igihe Porokireri aba yarangirijeho gutanga ibimenyetso bishinja n'icyo Ubwungaizi butangiriraho gutanga ibimenyetso bishinjura; n'icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gusubira ku cyemezo rwafashe ku cyifuzo cyarusabaga kwigizayo igihe Ubwunganizi buzatangiriraho gutanga ibimenyetso (Urugereko rwa Mbere rw'Iremezo), 4 Werurwe 2009.

[33] Imyanzuro nsozarubanza y'Ubwunganizi, ibika 56-57.

[34] Imyanzuro nsozarubanza y'Ubwunganizi, igika 54.

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1.6.1.2 Kuba Ishami rishinzwe kwita ku batangabuhamya ryaragiye ryivanga mu buhamya bw'abatangabuhamya bashinjura

26. Ubwunganizi buvuga ko Ishami rishinzwe kwita ku batangabuhamya ryagiranye ibiganiro n'abatangabuhamya bashinjura batanu kandi ryari ryarahawe amabwiriza aribuza kuvugana na bo[35]. Ubwunganizi buvuga kandi ko kubera ibyo biganiro, umwe muri abo batangabuhamya yabigendeyeho, n'ubwo we atabishakaga, maze bituma mu ibazwa rye abwigarika[36]. Ubwunganizi buvuga ko imyitwarire y'iryo Shami inyuranyije n'ingingo ya 77 (A)[37] kandi busaba ko hashyirwaho Inshuti y'Urukiko (*amicus curiae)* yo gukora iperereza kuri ibyo bintu[38].

27. Urugereko rusanga Ishami rishinzwe kwita ku batangabuhamya rifite inshingano zo kubungabunga umutekano w'abatangabuhamya n'uw'abakorewe ibyaha no kubafasha mu gihe bari muri uru Rukiko[39]. Urugereko rusanga kugira ngo iryo Shami rishobore kurangiza inshingano zaryo ari ngombwa ko abakozi baryo babonana n'abatangabuhamya kugira ngo bababafashe mu byo bakenera byose kandi bite ku mutekano wabo. Kuri icyo kibazo, Urugereko rusanga iryo Shami ryarakurikije inzira zisanzwe kugira ngo rishobore kumenya niba ntawivanze mu buhamya bw'abatangabuhamya no kumenya niba hari inkunga y'abakozi baryo bakeneye iyo ari yo yose. Byongeye kandi, Urugereko rusanga Ubwunganizi budatanga ikimenyetso na kimwe kigaragaza ko iryo Shami ryivanze mu buhamya bw'abatangabuhamya bashinjura cyangwa ko ryakoze ikintu icyo ari cyo cyose kidakwiriye cyangwa kitari mu nshingano zaryo. Urugereko rusanga ubuhamya bw'umutangabuhamya wiswe A10 budasobanutse neza ku birebana n'uwo bavuganye mu Rwanda, cyangwa niba hari ingaruka iyo ari yo yose uko kuvugana byaba byaragize ku buhamya bwe[40]. Kubera izo mpamvu, Urugereko rusanze ibyo Ubwunganizi burega Ishami rishinzwe kwita ku batangabuhamya ko

[35] Imyanzuro nsozarubanza y'Ubwunganizi, ibika 72-74.

[36] Imyanzuro nsozarubanza y'Ubwunganizi, igika 76.

[37] Imyanzuro nsozarubanza y'Ubwunganizi, ibika 77-78.

[38] Imyanzuro nsozarubanza y'Ubwunganizi, igika 78.

[39] Ingingo ya 34 (A) y'Amategeko.

[40] Inyandikomvugo y'iburanisha, 23 Werurwe 2009, imp. 65-69.

« ryivanze ku buryo bukomeye mu buhamya bw'abatangabuhamya bashinjura»[41] bidafite ishingiro, kandi bitajyanye n'Amategeko agenga umwuga w'abavoka n'imyitwarire yabo imbere y'uru Rukiko.

28. Hakurikijwe imyanzuro y'Urugereko ku birebana n'iki kibazo, ntibikwiye kandi byaba ari impitagihe gushyiraho Inshuti y'Urukiko (*amicus curiae*) yo gukora iperereza ku myifatire y'Ishami rishinzwe kwita ku batangabuhamya n'abakorewe ibyaha cyangwa y'Ibiro bya Gerefiye. Urugereko ruribwira ko itegeko ryarwo risaba iryo Shami kwisuzuma mu rwego rw'akazi ku birebana n'imikorere yaryo rihagije kugira ngo iryo Shami ribashe kuzuza neza inshingano zaryo zo kubungabunga umutekano w'abatangabuhamya no kubafasha, hatabayeho gukwirakwiza nta mpamvu amakuru ajyanye n'abatangabuhamya barindiwe umutekano[42].

1.6.2 Ukwivanga mu itegurwa ry'imyiregurire y'Ubwunganizi

1.6.2.1 Ukwivanga kw'Ibiro bya Gerefiye

29. Ubwunganizi buvuga ibintu bimwe na bimwe ngo bigaragaza ukuntu Ibiro bya Gerefiye byivanze mu itegurwa ry'imyiregurire yabwo[43].

30. Imyanzuro nsozarubanza y'Ubwunganizi ntitanga ingero runaka zigaragaza ukubogama kw'Ibiro bya Gerefiye, uretse igihe kimwe gusa bitashoboye gutanga inyandiko yari yasabwe[44], ahubwo usanga Ubwunganizi buvuga gusa ibintu muri rusange, bidasobanutse

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[41] Imyanzuro nsozarubanza y'Ubwunganizi, igika 76.

[42] Icyemezo kiri mu nyandiko y'ibanga ku cyifuzo cy'Ubwunganizi gisaba Urugereko guhagarika imiburanishirize (Urugereko rwa Mbere rw'Iremezo), 22 Gicurasi 2009. Urugereko, mu cyemezo cyarwo cyo ku wa 26 Kamena 2009, rwategetse ko inyandiko y'iki cyemezo isibwemo ibice bimwe ishyirwa ku rubuga rubanda rushobora kubona.

[43] Imyanzuro nsozarubanza y'Ubwunganizi, ibika 79-87. Ubwunganizi bugira buti: (i) Ibiro bya Gerefiye ntibifata impande zombi ku buryo bumwe mu kuziha inyandiko; (ii) Ibiro bya Gerefiye byahaye Ibiro bya Porokireri inyandiko z'ibanga zirebana n'umurimo Uregwa yakoraga bitabiherewe uruhushya ; (iii) Ibiro bya Gerefiye ntibyashyizeho umukozi wo kwemeza agaciro gahabwa inyandiko mu ifatwa ry'ubuhamya rishingiye ku ngingo ya 92 *bis* y'Amategeko; kandi (iv) Ibiro bya Gerefiye ntibyahaye Ubwunganizi amakuru ajyanye n'ukuntu Porokireri yagiye kubonana na GAA amusanze muri gereza y'Urukiko.

[44] Imyanzuro nsozarubanza y'Ubwunganizi, ibika a 21-23.

kandi bidatangiwe ibimenyetso. Urugereko ntirwemera ibyo bivugwa n'Ubwunganizi kubera ko bidasobanutse neza kandi bukaba butaragaraje ko byabateye akarengane ako ari ko kose.

31. Ku birebana n'inyandiko zikubiyemo ibirebana n'imirimo Uregwa yakoraga, Urugereko rusanga na none ibivugwa n'Ubwunganizi kuri icyo kibazo bidafite ireme. Urugereko rusanze rutafata icyemezo kuri icyo kibazo Ibiro bya Gerefiye hamwe na Porokireri batagize icyo bakivugaho. Byongeye kandi, kubera ko Ubwunganizi butigeze bugeza ku Rugereko ibyifuzo by'ingoboka ku birebana n'icyo kibazo, ingingo za bwo na zo nta shingiro zifite.

32. Urugereko rusanga ibivugwa n'Ubwunganizi ko Gerefiye atashyizeho umukozi wo guhagararira itangwa ry'ibimenyetso mu bundi buryo butari ubuhamya butangiwe mu Rukiko, hakurikijwe ingingo ya 92 *bis* y'Amategeko, nta kamaro bigifite urebye aho iburanisha ry'uru rubanza rigeze. Urugereko rusanze Ubwunganizi bwaragombaga kumenyesha Urugereko icyo kibazo hakiri kare bubitanze mu cyifuzo kugira gifatweho icyemezo mu gihe gikwiriye.

33. Hanyuma, ku bijyanye n'ibivugwa n'Ubwunganizi ko Ibiro bya Gerefiye bitabuhaye amakuru arebana n'ukuntu Porokireri yagiye kubonana na GAA ubwo yari muri Gereza y'Urukiko, Urugereko rusanze rwarategetse ko ayo makuru yashyirwa ahagaragara[45]. Kuri icyo kibazo, nta bwo Urugereko rubona ko imyitwarire y'Ibiro bya Gerefiye yari igamije kubangamira urubanza, ahubwo byabanje kujijinganya ku birebana no kumenya niba byari mu nshingano zabyo noneho bisaba Urugereko ko rusobanura icyagombaga gukorwa. Bityo rero, Urugereko rusanze izo ngingo nta shingiro zifite.

[45] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka Gerefiye guha Ubwunganizi amakuru ajyanye n'ukuntu Porokireri yagiye kubonana na GAA amusanze muri gereza y'Urukiko, Urugereko rwa Mbere rw'Iremezo, 28 Mata 2009.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

1.6.2.2 Ukwivanga kw'Ibiro bya Porokireri mu itegura ry'imyiregurire y'Ubwunganizi

34. Ubwunganizi buvuga ko kuba Porokireri ataremereye Ubwunganizi kubonana n'abakozi bo mu biro bye byabubujije kugera ku bimenyetso byari bikenewe mu itegura ry'urubanza[46]. Ubwunganizi buvuga kandi ko kuba Porokireri ataremereye Ubwunganizi kubaza umutangabuhamya wiswe BUC ko yemera guhura n'abagize ikipe y'Ubwunganizi, ari igikorwa cyo kububangamira no kwivanga mu mirimo yabwo[47]. Ubwunganizi buvuga ko ibyo ari impamvu yatuma hakorwa iperereza ryigenga hakurikijwe ingingo ya 77 y'Amategeko[48].

35. Urugereko rusanga izi ngingo z'Ubwunganizi zaragombaga ubundi gutangwa mu cyifuzo cy'ingoboka bwari kurushyikiriza mbere, kandi kuba Ubwunganizi butarabyukije izo ngingo iburanisha ritaragera kure bituma bifatwa ko bwivukije uburenganzira bwo kuzibyutsa. Bityo rero, Urugereko ntirwemeye izo ngingo kubera ko zatanzwe impitagihe.

36. Byongeye kandi, Urugereko rwabonye ingingo y'Ubwunganizi ivuga ko Madamu Moenback yakoze poropagande igamije gukusanya ubuhamya bw'ikinyoma [49]. Na none, iyi ngingo yagombaga ubundi gutangwa mu cyifuzo cy'ingoboka Ubwunganizi bwari kurushyikiriza mbere, iherekejwe n'ibimenyetso kugira ngo rushobore kuyifataho icyemezo rushingiye ku bisobanuro by'impande zombi. Kuba Ubwunganizi butarabikoze bitumye iyi ngingo iba impitagihe. Bityo rero nta shingiro ifite.

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[46] Imyanzuro nsozarubanza y'Ubwunganizi, igika 88.

[47] Imyanzuro nsozarubanza y'Ubwunganizi, ibika 91-95.

[48] Imyanzuro nsozarubanza y'Ubwunganizi, igika 95.

[49] Imyanzuro nsozarubanza y'Ubwunganizi, igika 95.

1.6.3 Kuba abakozi bo mu Biro bya Porokireri barabonanye, mu buryo butemewe, n'abatangabuhamya bashinjura barindiwe umutekano

37. Ubwunganizi buvuga ko abakozi bo mu Biro bya Porokireri, barenze ku mategeko yatanzwe mu rubanza rwa Kamuhanda cyangwa urwa Rwamakuba, barabonanye inshuro esheshatu n'abatangabuhamya bashinjura barindiwe umutekano[50].

1.6.3.1 Umutangabuhamya wiswe GAA

38. Umutangabuhamya wiswe GAA yemeye ko Bwana Musonda na Madamu Moenback, bombi bakora mu Biro bya Porokireri, babonanye na we mu wa 2005, iminsi mike mbere y'uko aza gutanga ubuhamya bushinjura mu rubanza rwa Kamuhanda[51]. GAA yavuze ko Madamu Moenback yamumenyesheje ko ari umutangabuhamya urindiwe umutekano[52]. Ikindi kandi, Ubwunganizi bwatanze, nk'ibimenyetso gihamya byashyizweho ubujeni, ibice by'ikiganiro GAA yagiranye na Madamu Lynch ku itariki ya 29 Nzeri 2005[53].

1.6.3.2 Umutangabuhamya wiswe A7/GEX

39. Umutangabuhamya wiswe A7/GEX yasobanuye ko yabonanye na Madamu Moenback ari kumwe n'undi mugabo maze akabagezaho ubuhamya bakoreye inyandikomvugo[54]. Ubwunganizi bwatanze inyandikomvugo y'ubuhamya A7/GEX yagejeje ku Biro bya Porokireri ku itariki ya 4 Kanama 2008, kandi iyo nyandikomvugo yashyizweho ubujeni[55].

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50 Imyanzuro nsozarubanza y'Ubwunganizi, ibika 95-104.

51 Inyandikomvugo y'iburanisha, 18 Gashyantare 2009, urup. 2.

52 Inyandikomvugo y'iburanisha, 18 Gashyantare 2009, urup. 9.

53 Inyandikomvugo y'iburanisha, 18 Gashyantare 2009, imp. 49-52.

54 Inyandikomvugo y'iburanisha, 18 Werurwe 2009, urup. 48.

55 Inyandikomvugo y'iburanisha, 18 Werurwe 2009, imp. 49-50; Ikimenyetso gihamya cyahawe nº D. 48.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

1.6.3.3 Umutangabuhamya witwa Fulgence Seminega

40. Fulgence Seminega, wavuze ko yari umutangabuhamya ushinjura urindiwe umutekano mu rubanza rwa Kamuhanda[56], yasobanuye ko abakozi b'Urukiko bamurebye ku itariki ya 3 Kanama 2008 kugira ngo bategure uko bazabonana[57]. Ubwo Seminega yageraga aho imishyikirano yagombaga kubera ku i ku itariki ya 4 Kanama 2008, ni bwo gusa yamenyeshejwe ko agiye kubonana n'abakozi bo mu Biro bya Porokireri[58]. Bwana Seminega yavuze ko umudamu wamuhamagaye yitwa Colette, kandi ko umugabo witwa Pierre, na Madamu Moenback, na bo bari kumwe na we mu modoka igihe babonanaga.

1.6.3.4 Umutangabuhamya witwa Augustin Nyagatare

41. Augustin Nyagatare yemeye ko mu rubanza rwa Rwamakuba yari umutangabuhamya urindiwe umutekano[59], hanyuma avuga ko yabonanye n'abakozi bo mu Biro bya Porokireri mu rugo iwe muri Kanama 2008 kugira ngo bavugane ibirebana n'Uregwa[60].

1.6.3.5 Straton Nyarwaya

42. Straton Nyarwaya yavuze ko yatanze ubuhamya bushinjura mu rubanza rwa Rwamakuba akoresheje izina ry'irihimbano, ko ariko yari acumbitse mu ihoteli[61]; kandi ko nyuma yo gutanga ubuhamya mu rubanza rwa Rwamakuba, abakozi bo mu Biro bya Porokireri bamurebye ku byerekeranye n'urubanza rwa Kamuhanda[62], binyuze ku Ishami rishinzwe kwita ku mutekano w'abatangabuhamya n'abakorewe ibyaha[63], kandi ko yabagejejeho ubuhamya bakabukorera inyandikomvugo[64].

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[56] Inyandikomvugo y'iburanisha, 19 Werurwe 2009, urup. 53.

[57] Inyandikomvugo y'iburanisha, 19 Werurwe 2009, urup. 57

[58] Inyandikomvugo y'iburanisha, 19 Werurwe 2009, urup. 57.

[59] Inyandikomvugo y'iburanisha, 23 Werurwe 2009, urup. 19.

[60] Inyandikomvugo y'iburanisha, 23 Werurwe 2009, urup. 19.

[61] Inyandikomvugo y'iburanisha, 20 Werurwe 2009, urup. 4.

[62] Inyandikomvugo y'iburanisha, 20 Werurwe 2009, urup. 23.

[63] Inyandikomvugo y'iburanisha, 20 Werurwe 2009, urup. 23.

1.6.4 Ibivugwa ko Ibiro byaPorokireri byarenze ku mategeko arinda umutekano w'abatangabuhamya

43. Ku birebana n'abatangabuhamya biswe GAA na A7/GEX, Urugereko rusanga baratanze ubuhamya bwabo barindiwe umutekano mu rubanza rwa mbere rwa Kamuhanda, kandi kubera ko Ubwunganizi butakurikiye neza inzira zateganyijwe, rusanga ubwo abakozi bo mu Biro bya Porokireri byabonanaga na bo bari bakiri abatangabuhamya bashinja barindiwe umutekano. Bityo rero, ingingo z'Ubwunganizi ku birebana n'abo batangabuhamya bombi nta shingiro zifite.

44. Nyamara ariko, ku byerekeye abatangabuhamya bitwa Fulgence Seminega, Augustin Nyagatare na Straton Nyarwaya, Urugereko rusanga nk'uko babyivugiye mu buhamya bwabo, bari bakirindiwe umutekano nk'abatangabuhamya bashinjuye mu rubanza rwa Rwamakuba cyangwa urwa Kamuhanda, hakurikijwe amategeko yari yaratanzwe n'abacamanza muri izo manza zombi. Zimwe mu ngamba zari zikubiye muri ayo mategeko zabuzaga Porokireri kubonana n'abo batangabuhamya atabanje kubimenyesha Ubwunganizi no kubureka ngo bubitegure uko bikwiye[65]. Urugereko rusanga ubuhamya bw'abo batangabuhamya ukibwumva bugaragaza ko Porokireri ashobora kuba yararenze ku mategeko yashyizeho ingamba zo kurinda umutekano w'abatangabuhamya.

45. Bityo, Urugereko rusanga ibyo byashingirwaho kugira ngo hakorwe iperereza ku myitwarire y'abakozi bo mu Biro bya Porokireri nk'uko Ubwunganizi bwabisabye[66]. Nyamara ariko, mbere yo gusuzuma niba icyo cyifuzo gifite ireme, Urugereko rusanga ari ngombwa kubanza kumva ingingo z'impande zombi kuri icyo kibazo. Impande zombi zikaba zizasabwa kugira icyo zibivugaho mu nyandiko hakurikijwe icyemezo ruzafata gitandukanye n'iyi nyandiko y'urubanza.

1.7 Indihano yasabwe kubera amakosa yakozwe mu miburanishirize

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[64] Inyandikomvugo y'iburanisha, 20 Werurwe 2009, urup. 23.

[65] Ikimenyetso gihamya cyahawe nº D.26; *Urubanza Porokireri aburana na Rwamakuba*, Nº ICTR-98-44C-T, Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gushyiraho ingamba zo kurinda umutekano w'abatangabuhamya, Urugereko rwa Mbere rw'Iremezo, 21 Nzeri 2005, igika 12.

[66] Imyanzuro nsozarubanza y'Ubwunganizi, igika 104.

46. Nk'indihano kubera amakosa yaba yarakozwe yerekeranye n'imiburanishirize, Ubwunganizi busaba ko igihano cyagabanywa mu gihe Uregwa yaramuka ahamwe n'icyaha, cyangwa se yaba agizwe umwere agahabwa indishyi y'amafaranga[67].

47. Kubera ko Urugereko rusanga nta cyo Uregwa yangirijwe, si ngombwa ko rusuzuma indihano ikwiye gutangwa.

2. AMAKOSA YABA YARAKOZWE MU NYANDIKO Y'IBIREGO

48. Mu ngingo nsozarubanza Ubwunganizi bwatanze mu magambo mu iburanisha, bwavuze ko mu Nyandiko y'ibirego hashobora kuba harimo inenge, kubera ko ikirego cya 1 n'icya 2 bihuriye ku « kintu kimwe » ari cyo « guhimba ibimenyetso » kandi buvuga ko « hari ikibazo gikomeye kirebana n'ukuntu ibyo birego byanditswe, ku buryo mbere ya byose bitera urujijo»[68].

49. Urugereko ruremera ko mu Nyandiko y'ibirego hari ukuntu ikirego cya 1 n'icya 2 bisobekeranye, by'umwihariko ku bijyanye n'ikibazo cya ruswa no gushakisha ubuhamya bwanditse bw'ubuhimbano n'ubuhamya bw'ikinyoma mu Rukiko. Mu kirego cya 1, ibika bya 6, 10, 11, na 15 by'Inyandiko y'ibirego bivuga ko mu bindi bintu ashinjwa, Uregwa yakoze ibintu « agambiriye guhimba ibimenyetso »; ko yashukashutse, ashishikaza, yoshya, atera akanyabugabo, kandi asezeranya ruswa cyangwa ibihembo ndetse yumvisha GAA na GEX ko basinya inyandiko zuzuyemo ibinyoma yiyandikiye ubwe, maze atuma bemera gutanga ubuhamya bw'ikinyoma mu Rukiko… »; ko « yafindafinze ubuhamya bwo kwisubiraho »; kandi ko « kubera ibiganiro bagiranye n'Uregwa, n'ibikorwa byo kubashishikaza, kuboshya, kubatera akanyabugabo ndetse no kubasezeranya ruswa cyangwa ibihembo by'amafaranga atubutse, GAA na GEX batanze ubuhamya bw'ikinyoma mu Rukiko… ». Igika cya 16 cy'Inyandiko y'ibirego gitanga incamake y'imyitwarire mibisha y'Uregwa ivugwa mu kirego cya 1 muri aya magambo:

> Uregwa yakoze icyaha cyo gusuzugura Urukiko kuko, ku bushake bwe yabonanye n'abatangabuhamya bashinja barindiwe umutekano, aganira na bo inshuro nyinshi, azi

[67] Imyanzuro nsozarubanza y'Ubwunganizi, igika 107.

[68] Inyandikomvugo y'iburanisha, 29 Mata 2009, urup. 18.

> neza ko arimo kurenga ku Cyemezo cyo kurinda umutekano w'abatangabuhamya cyafashwe n'Urugereko rwa Mbere rw'Iremezo II ku itariki ya 7 Nyakanga 2000. Yabikoze ashaka ko bamuha ubuhamya bw'ikinyoma kandi nyuma arabubasinyisha. Yakoze kandi icyo cyaha kuko, abizi neza kandi abishaka, yatumye abo batangabuhamya batanga ubuhamya bw'ikinyoma mu Rugereko rw'Ubujurire mu rwego rwo gushyigikira ubujurire bwa Jean de Dieu Kamuhanda ku birebana n'icyemezo cyamuhamije icyaha hamwe n'igihano yari yarakatiwe.

50. Ku birebana n'ikirego cya 2, ibika bya 18, 20, 22, na 23 by'Inyandiko y'ibirego bivuga ko mu bindi bintu yakoze, « Uregwa yakoze icyo cyaha mu rwego rwa gahunda ndende yari igamije kubona ubuhamya… », ko « Uregwa yashukashutse GAA, amushishikariza gukora ibyo yamusabaga, aramwoshya, amutera akanyabugabo kandi amuha ruswa y'amafaranga atubutse kugira ngo akore icyaha cyo gutanga ubuhamya bw'ikinyoma, yirengagije indahiro yagiriye mu ruhame, n'icyo gusuzugura Urukiko »; ko « Uregwa, abizi neza kandi abishaka, yafindafinze ibimenyetso, ndetse asinyisha abatangabuhamya bashinja barindiwe umutekano biswe GAA na GEX, ubuhamya bw'ikinyoma bwanditse … », kandi ko « Uregwa, abizi kandi abishaka, yokeje igitutu abatangabuhamya bashinja kandi barindiwe umutekano ari bo GAA na GEX, ndetse abumvisha ko bagomba gutanga ubuhamya bw'ikinyoma ku itariki ya 18 Gicurasi 2005… ». Igika cya 27 cy'Inyandiko y'ibirego gitanga incamake y'imyitwarire mibisha y'Uregwa ijyanye n'ikirego cya 2 muri aya magambo:

> Uregwa yakoze icyaha cyo gusuzugura Urukiko kuko, abizi neza kandi abishaka, yabangamiye icibwa ry'urubanza, akagerageza kuburizamo imirimo yabwo mu bujurire bwa Jean de Dieu Kamuhanda, agafindafinda ubuhamya bw'ikinyoma kandi agashishikariza abatangabuhamya bashinja barindiwe umutekano gukora icyaha cyo gutanga ubuhamya bw'ikinyoma barenze ku ndahiro bagiriye mu ruhame, n'icyo gusuzugura Urukiko.

51. Urugereko rusanze Inyandiko y'ibirego idatandukanya neza ibirego biri mu kirego cya 1 n'ibiri mu kirego cya 2, bityo ikaba ifite inenge.

52. Ibyaha Uregwa ashinjwa n'ibikorwa bifatika ibyo byaha bishingiyeho bigomba kuvugwa mu buryo busobanutse neza mu Nyandiko y'ibirego kugira ngo Uregwa amenye neza

ibyo ashinjwa[69]. Inyandiko z'ibirego zidasobanuye neza ziba zifite inenge. Inenge zigaragaye mu nyandiko y'ibirego zishobora « gukosorwa » iyo Porokireri ashyikirije uregwa « mu gihe gikwiye, amakuru asobanutse neza kandi ahamye asobanura bihagije ibyabaye ibirego bishingiyeho»[70]. « Ikibazo cyo kumenya niba Porokireri yarakosoye inenge iri mu nyandiko y'ibirego ni kimwe n'icyo kumenya niba iyo nenge hari icyo yabangamiyeho Ubwunganizi cyangwa […] niba yaratumye urubanza rutaburanishwa mu buryo buboneye»[71].

53. Urugereko rusanga kandi hashingiwe ku ngingo ya 72 (A) y'Amategeko, ingoboka zinenga imiterere y'Inyandiko y'ibirego « zigomba gutangwa mu nyandiko kandi mu gihe kitarenze iminsi mirongo itatu uhereye ku munsi Porokireri yagerejeho Ubwunganizi inyandiko zose n'ibimenyetso nk'uko biteganywa n'ingingo 66 (A)(i) y'Amategeko ... ».

54. Muri uru rubanza, Urugereko rusanga Ubwunganizi bwarabyukije ingoboka mbanzirizarubanza ku itariki ya 24 Kamena 2008, kandi mu byo bwavugaga harimo ko ikirego cya 3 n'icya 4 by'Inyandiko y'ibirego byari bifite inenge[72]. Icyo gihe, Ubwunganizi nta cyo bwanenzeho imiterere y'ikirego cya 1 n'icya 2. Urugereko rusanga Ubwunganizi butarasobanuye impamvu bwategereje igihe cyo gutanga imyanzuro

[69] Ingingo ya 17 (4), n'iya 20 (2), 20 (4)(a) na 20 (4)(b) za Sitati, hamwe n'ingingo ya 47 (C) y'Amategeko; Inyandiko y'urubanza rwa Tharcisse Muvunyi mu bujurire, N° ICTR-20050-55A-A, 29 Kanama 2008, igika 18; Inyandiko y'urubanza rwa Athanase Seromba mu bujurire, N° ICTR-2001-66-A, 12 Werurwe 2008, igika 27; Inyandiko y'urubanza rwa Aloys Simba mu bujurire N° ICTR-01-76-A, 27 Ugushyingo 2007, igika 63.

[70] Inyandiko y'urubanza rwa Muvunyi mu bujurire, igika 20 (Inyandiko zifashishijwe ntizashyizwemo); Inyandiko y'urubanza rwa Zoran Kupreškić na bagenzi be mu bujurire, N° IT-95-16-A, 23 Ukwakira 2001, igika 114; Inyandiko y'urubanza rwa Mladen Naletilić na Vinko Martinović mu bujurire, N° IT-98-34-A, 3 Gicurasi 2006, igika 26.

[71] Inyandiko y'urubanza rwa Elizaphan Ntakirutimana na Gérard Ntakirutimana mu bujurire, N° ICTR-96-10-A na N° ICTR-96-17-A, 13 Ukuboza 2004, igika 27 (hasubirwamo ibyavuzwe mu Nyandiko y'urubanza rwa Kupreškić na bagenzi be mu bujurire, igika 122).

[72] Ingoboka mbanzirizarubanza hakurikijwe ingingo ya 72 y'Amategeko, iramutse itakiriwe, Icyifuzo cy'ingoboka hashingiwe ku ngingo ya 73 y'Amategeko gisaba Urugeko kutakira Inyandiko y'ibirego, byatanzwe ku wa 24 Kamena 2008, ibika 18-20.

nsozarubana mu magambo ngo rubone kubyutsa ikibazo cy'uko ikirego cya 1 n'icya 2 bisobekeranye, kandi ntibwavuze n'akarengane iyo nenge yaba yarabuteye[73].

55. Ibyo ari byo byose, Urugereko nta karengane ako ari ko kose rubona Uregwa yaba yaragize kubera icyo kibazo. Urugereko rusanga bitafatwa nk'aho Porokireri yaba ataramenyesheje Uregwa ibikorwa by'ingenzi cyangwa ibyaha ashinjwa. Ibikorwa byose by'ingenzi n'ibyaha Porokireri yashingiyeho ibimenyetso bye bikubiye mu Nyandiko y'ibirego, uretse ko mu kirego cya 1 n'icya 2 atabitandukanyije neza.

56. Byongeye kandi, mu myanzuro mbanzirizarubanza Porokireri yatanze ku itariki ya 25 Ugushyingo 2008, yasobanuye neza ko ikirego cya 1 cyari gishingiye ku bikorwa binyuranyije n'ingamba zo kurinda umutekano w'abatangabuhamya, naho ikirego cya 2 kikaba cyari gishingiye ku bikorwa bijyanye na ruswa, gufindafinda ubuhamya bwanditse n'ubuhamya bw'ikinyoma, n'ibindi bikorwa byo kwivanga mu buhamya bw'abatangabuhamya biswe GAA na A7/GEX[74]. Urugereko rusanga ibyo bisobanuro byatanzwe mu gihe gikwiye byarakosoye inenge yari mu Nyandiko y'ibirego.

3. UKO UBUHAMYA BW'UMUTANGABUHAMYA USHINJA WISWE GAA BWITAWEHO

57. Umutangabuhamya wiswe GAA ni umutangabuhamya w'ingenzi Porokireri ashingiraho ahanini mu gutanga ibimenyetso bishinja. Ku itariki ya 3 Ukuboza 2007, GAA yemeye icyaha kimwe cyo gutanga ubuhamya bw'ikinyoma hejuru y'indahiro n'ikindi cyaha

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[73] Gereranya, *Urubanza Porokireri aburana na Théoneste Bagosora na bagenzi be*, N° ICTR-98-41-AR73, Icyemezo ku bujurire bwa Aloys Ntabakuze ajuririra icyemezo cyafashwe ku cyifuzo cy'ingoboka gisaba Urugereko kutakira ubuhamya runaka, ku birebana n'ibibazo by'amategeko byabyukijwe n'Urugereko rwa Mbere rw'Iremezo I mu cyemezo cyarwo cyo ku wa 29 Kamena 2006 (Urugereko rw'Ubujurire), 18 Nzeri 2006, igika 45. Muri iki cyemezo, Urugereko rw'Ubujurire, rumaze kubona ko ingoboka zirebana no kwakira ibimenyetso hashingiwe ku kibazo cy'imenyekanisha ryabyo kigomba muri rusange kubyutswa igihe cy'itangwa ry'ibimenyetso, rwemeje ko mu gihe ingoboka nk'izo zidatangiwe igihe gikwiye Urugereko rushobora gusuzuma niba inshingano yo gutanga ibimenyetso ishobora kugerekwa ku Bwunganizi maze bugasabwa kugaragaza ko kuba ntacyo bwamenyeshejwe hari icyo byabwangirijeho. Urugereko rw'Ubujurire rwavuze kandi ko iyo Ingereko zisanze Ubwunganizi ari bwo bugomba kugerekwaho inshingano yo gutanga ibyo bimenyetso, zigomba gusuzuma impamvu iyo ari yo yose yatumye ikibazo kibyutswa bitinze.

[74] Imyanzuro mbanzirizarubanza ya Porokireri, ibika 32-50.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

kimwe cyo gusuzugura Urukiko[75]. Nk'uko byanditse mu Nyandiko y'ibirego, Porokireri arashaka ko Uregwa muri uru rubanza aryozwa na we ibyaha GAA yemeye. By'umwihariko, Porokireri avuga ko Uregwa yasabye GAA kumugezaho ubuhamya bw'ikinyoma. Kubera ibyo, Urugereko rufata GAA nk'umuntu ushobora gufatwa nk'icyitso cy'Uregwa[76].

58. Porokireri yemera ko GAA hari aho nibura usanga ari icyitso cy'Uregwa, ariko akemeza ko ubuhamya bwe bukwiye kwizerwa, ko atari ngombwa ko bwitonderwa cyane kubera ko ubwo yabutangaga, yari umuntu wishyira akizana yaramaze kwemera ibyaha bye kandi yararangije igihano cye cy'igifungo cy'amezi icyenda[77]. Kubera ibyo, Porokireri avuga ko GAA nta mpamvu cyangwa inyungu yijejwe zatuma ashinja Uregwa[78].

59. Ubwunganizi buvuga ko GAA atari umutangabuhamya wo kwizerwa maze bugatanga ingingo nyinshi zishyigikira ibyo buvuga. Uretse kuvuga ko GAA ari icyitso, Ubwunganizi bwongeraho ko byagaragaye ko GAA ari umuntu « ushaka kandi ushobora kubeshya hejuru y'indahiro ». Ubwunganizi buvuga kandi ko ubwo yatangaga ubuhamya mu rukiko imyifatire ye yagaragazaga ko ahunga ibibazo, kandi ko yatambamiraga ibibazo binyomoza by'Ubwunganizi. Ubwunganizi buvuga ko ubuhamya bwa GAA bwari bwuzuyemo ibintu bivuguruzanya, kandi ko iyo ubwo buhamya bwe buza kunyuranya n'amasezerano yagiranye na Porokireri yo kwirega no kwemera icyaha byari kumukoraho [79].

60. Mbere yo kugira icyo ruvuga ku byerekeye GAA, by'umwihariko, Urugereko rusanga muri rusange rwaragiye rwita ku bintu binyuranye mu isesengura ry'ubuhamya mu magambo bwatangiwe imbere yarwo, harimo imyitwarire y'umutangabuhamya imbere

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[75] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, imp. 11-12. Reba kandi, Inyandiko y'urubanza rwa GAA mu rw'iremezo, 4 Ukuboza 2007.

[76] Urugereko rw'Ubujurire rwavuze ko igisobanuro gisanzwe cy'ijambo « icyitso » ari «umuntu usangiye n'undi uburyozwacyaha, uwo bafatanyije gukora icyaha». Inyandiko y'urubanza rwa Eliézer Niyitegeka mu bujurire, N° ICTR-96-14-A, 9 Nyakanga 2004, igika 98.

[77] Imyanzuro nsozarubanza ya Porokireri, ibika 35-38.

[78] Imyanzuro nsozarubanza ya Porokireri, igika 37.

[79] Imyanzuro mbanzirizarubanza y'Ubwunganizi, ibika 76-85; Imyanzuro nsozarubanza y'Ubwunganizi, igika 117.

y'abacamanza, kureba ko ubuhamya bwe busobanutse neza kandi ko ibyo avuga ari ibintu bishoboka, kureba niba ubuhamya bwe mu rukiko burimo ibintu bivuguruzanya cyangwa bitajyanye cyangwa se niba hagati y'ubwo buhamya n'ubwanditse yatanze mbere bwakoreshejwe mu rukiko cyangwa bwakiriwe nk'ibimenyetso gihamya harimo ibintu bivuguruzanya cyangwa bitajyanye, kimwe n'ibisobanuro birebana n'ibyo bintu bivuguruzanya cyangwa bitajyanye. Urugereko rwarebye niba ubuhamya bw'umutangabuhamya bufite ubundi bubushyigikira, ndetse n'urugero ubwo buhamya bunonosoyemo kimwe n'ibintu byihariye biburi mo. Urugereko rwazirikanye ko ikimenyetso kidafatwa cyonyine ukwacyo, ko ahubwo gifatwa muri rusange hitaweho n'ibindi, kandi ko Urugereko rushobora kwakira igice kimwe cy'ubuhamya bwatanzwe n'umutangabuhamya umwe no kwanga ikindi gice cyabwo.

61. Nta kibuza Ingereko gushingira ku buhamya bwatanzwe n'abantu bahamwe n'ibyaha cyangwa se n'ibyitso by'Uregwa, cyangwa, muri rusange, ku buhamya bw'abantu bashobora kuba bafite impamvu cyangwa inyungu bijejwe zatuma bashinja Uregwa, cyane cyane iyo abo batangabuhamya bashobora kubazwa ibibazo binyomoza mu buryo burambuye[80]. Nyamara ariko, Urugereko rwa Mbere rw'Iremezo rugomba kureba niba abatangabuhamya b'ibyitso badafite impamvu cyangwa inyungu yihariye bijejwe yo gushinja Uregwa[81], no kureba ibindi bintu byose bijyanye na bene ibyo bimenyetso[82].

62. Rugarutse ku mutangabuhamya wiswe GAA, Urugereko rusanga igihe yatangaga ubuhamya muri uru rubanza yari yararangije igihano cye, kandi ntakirwemeza ko yabutanze agamije ko igihano cye kigabanywa. Nyamara ariko, Urugereko ntirwahakana byimazeyo ko GAA atari afite izindi mpamvu zidahwitse cyangwa inyungu yijejwe zatuma ashinja Uregwa.

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[80] Inyandiko y'urubanza rwa Momčilo Krajišnik mu bujurire, N° IT-00-39-A, 17 Werurwe 2009, igika 146 (Hifashishijwe Inyandiko y'urubanza rwa Ferdinand Nahimana na bagenzi be mu bujurire, N°. ICTR-99-52-A, 28 Ugushyingo 2007, igika 439); Inyandiko y'urubanza rwa Vidoje Blagojević na Dragan Jokić mu bujurire, N° IT-02-60-A, 9 Gicurasi 2007, igika 82; Inyandiko y'urubanza rwa André Ntagerura na bagenzi be mu bujurire, N° ICTR-99-46-A, 7 Nyakanga 2006, igika 204; Inyandiko y'urubanza rwa Niyitegeka mu bujurire, igika 98.

[81] Inyandiko y'urubanza rwa Ntagerura mu bujurire, igika 206; Inyandiko y'urubanza rwa Nahimana mu bujurire, igika 439.

[82] Inyandiko y'urubanza rwa Niyitegeka mu bujurire, igika 98.

63. Urugereko rwatewe impungenge n'uko GAA yiyemereye ko yigeze gutanga ubuhamya bw'ikinyoma. Kuba ibyaha umutangabuhamya yigeze gukora byakwitabwaho mu gusuzuma niba ari uwo kwizerwa nta we ubirwanya. Ibi kandi ni byo, cyane cyane iyo ibyaha yakoze mbere birimo uburiganya. GAA yemeye ko yabeshye hejuru y'indahiro imbere y'Urugereko rw'Ubujurire rw'uru Rukiko.

64. Ku birebana n'ubuhamya bwanditse GAA yatanze mbere, yavuze ko ubuhamya yatanze mu wa 2001 bwari ukuri, ko ariko ubwo yatanze kandi agasinyira kuva mu wa 2005 kugeza ubwo yemeraga ibyaha mu wa 2007, ahanini nta kuri kwarimo cyangwa se bwarimo ibinyoma[83]. Ntabwo Urugereko rwashatse kwemera icyo gisobanuro cya rusange ku birebana n'ibintu byose biterekeranye biri mu nyandikomvugo z'ubuhamya bwatanzwe mbere na GAA. Urugereko rwasuzumye ibyo bintu biterekeranye n'ibisobanuro GAA yabitanzeho, ikintu ku kindi.

65. Kubera izo mpungenge, Urugereko rwasuzumye ubuhamya bwa GAA rubyitondeye cyane, by'umwihariko aho yabaga ari we mutangabuhamya wenyine ushinja ku gikorwa runaka.

[83] GAA, inyandikomvugo y'iburanisha, 17 Gashyantare 2009, urup. 52.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

UMUTWE WA III : IMYANZURO ISHINGIYE KU BYABAYE

1 AMAVU N'AMAVUKO

66. Mu Cyemezo cyarwo cyo ku itariki ya 7 Nyakanga 2000, Urugereko rwa Mbere rw'Iremezo rwaburanishije urubanza rwa Kamuhanda rwategetse ko hafatwa ingamba zo kurinda umutekano w'abakorewe ibyaha n'uw'abantu bashoboraga kuzahamagazwa kuba abatangabuhamya muri urwo rubanza[84]. Izo ngamba zarimo:

> (d) Kubuza ko ibintu bikurikira byatangarizwa rubanda cyangwa itangazamakuru, kandi ko bigomba gukomeza kuba bityo na nyuma urubanza rwaramaze gucibwa: amazina y'abo bantu, aho babarizwa, aho bari, n'andi makuru yose ari mu nyandiko zikubiyemo ibisobanuro yatuma abantu babamenya cyangwa andi makuru yose abitswe mu Biro bya Gerefiye cyangwa andi makuru ashobora gutuma umwirondoro wabo umenyekana;
>
> (e) Kubuza Ubwunganizi n'Uregwa kumenyesha cyangwa gutangariza abandi bantu cyangwa amashyirahamwe, cyangwa kuganira na bo, mu buryo butaziguye cyangwa buziguye, ibirebana n'inyandiko izo ari zo zose cyangwa amakuru ayo ari yo yose yahishura umwirondoro w'abo bantu cyangwa yatuma bamenyekana, uretse gusa Uregwa, avoka we cyangwa se abandi bantu bakora mu ikipe y'Ubwunganizi;
>
> (...)
>
> (i) Uregwa cyangwa Ubwunganizi, baramutse bashatse kuvugana n'umuntu wahohotewe cyangwa abantu bashobora kuzaza gushinja mu rubanza cyangwa

[84] Urubanza Porokireri aburana na Jean de Dieu Kamuhanda, N° ICTR-99-50-I, Icyemezo ku cyifuzo cya Porokireri gisaba Urukiko gushyiraho ingamba zo kurinda umutekano w'abatangabuhamya (Urugereko rwa Mbere rw'Iremezo), 7 Nyakanga 2000 (« Ingamba zo kurinda umutekano », cyangwa « Ingamba z'umutekano »). Mu cyemezo cyarwo cyo ku wa 26 Kamena 2009, uru Rugereko rwakiriye nk'ikimenyetso muri uru rubanza izo ngamba z'umutekano. Reba itegeko ry'Urugereko ryakira nk'ikimenyetso ingamba zo kurinda umutekano w'abatangabuhamya bashinja zashyizweho mu rubanza rwa Kamuhanda (Urugereko rwa Mbere rw'Iremezo), 26 Kamena 2009.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

umuntu wo mu muryango w'umwe muri abo bantu, bagomba kubisabira uruhushya mu nyandiko Urugereko cyangwa umucamanza warwo bakabimenyesha kandi Porokireri mu gihe gikwiriye; Urugereko cyangwa umucamanza warwo iyo baramutse batanze urwo ruhushya, kandi umuntu ucungiwe umutekano akabyemera cyangwa bikemerwa n'umubyeyi we cyangwa undi wese umurera iyo ataruzuza imyaka 18 y'amavuko, Porokireri akora ibishoboka byose kugira ngo iyo mishyikirano ishobore kuba.

67. GAA yatanze ubuhamya mu Rugereko rwa Mbere rw'Iremezo mu rubanza rwa Kamuhanda mu wa 2001 no mu Rugereko rw'Ubujurire muri urwo rubanza mu wa 2005[85]. Muri urwo rubanza yari yahamagajwemo na Porokireri, yavuze ko yahungiye kuri Paruwasi ya Gikomero noneho akabona Jean de Dieu Kamuhanda ayoboye abantu bari bagabye igitero bahiciye Abatutsi ku itariki ya 12 Mata 1994. Ubwo yatangaga ubuhamya mu Rugereko rw'Ubujurire, GAA yari yarwitabye nk'umutangabuhamya wahamagajwe n'Ubwunganizi maze ahindura ubuhamya yari yaratanze mbere, yemeza ko atigeze ajya kuri Paruwasi ya Gikomero kuri iyo tariki[86].

68. A7/GEX yasinye inyandikomvugo y'ubuhamya bwe yakozwe n'Ibiro bya Porokireri bwavugaga ko yagiye kuri Paruwasi ya Gikomero ku itariki ya 12 Mata 1994, kandi ko yumvise abantu bavuga icyo gihe ko Kamuhanda ari we wari uyuboye igitero. Mu buhamya yatanze mu Rugereko rw'Ubujurire ku itariki ya 18 Gicurasi 2005 yisubiyeho, avuga ko n'ubwo yagiye kuri Paruwasi ya Gikomero kuri iyo tariki, atigeze yumva hari umuntu uvuga izina rya Kamuhanda[87].

69. Ubwo Urugereko rw'Ubujurire rwari rumaze kumva GAA na A7/GEX bahindura ubuhamya batanze mbere, kimwe n'ubundi buhamya bwerekanaga ko bishoboka ko hari

[85] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 21; Inyandikomvugo y'iburanisha, 18 Gashyantare 2009, urup. 2.

[86] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 21; Ibimenyetso gihamya byahawe nº D. 15 na nº D. 46 (Ibi bimenyetso byombi ni ibice by'inyandikomvugo y'iburanisha mu rubanza rwa Kamuhanda, ubwo humvwaga ibimenyetso byatanzwe hashingiwe ku ngingo ya 115 y'Amategeko, 18 Gicurasi 2005).

[87] Reba A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, imp. 41-42; Ikimenyetso gihamya cyahawe nº D. 46 (Igice cy'inyandikomvugo y'iburanisha mu rubanza rwa Kamuhanda, ubwo humvwaga ibimenyetso by'inyongero hashingiwe ku ngingo ya 115 y'Amategeko, 18 Gicurasi 2005).

abantu baba baragerageje gushaka ubuhamya bw'ikinyoma mu birebana n'urubanza rwa Kamuhanda mu bujurire, rwategetse Porokireri gukora iperereza rigamije kumenya niba hari abakozi b'Urukiko baba baragerageje kwivanga mu buhamya bwatanzwe n'abatangabuhamya mu manza zaburanishijwe n'Urukiko, no gukora iperereza rijyanye n'ibintu bivuguruzanya biri mu buhamya bwatanzwe hashingiwe ku ngingo ya 115 y'Amategeko kugira ngo umuntu abe yamenya niba haratanzwe ubuhamya bw'ikinyoma[88].

70. Ku itariki ya 11 Kamena 2007, Urukiko rwareze GAA icyaha cyo gutanga ubuhamya bw'ikinyoma hejuru y'indahiro, icyaha cyo gusuzugura Urukiko hamwe n'ibyaha bine byo kugerageza gukora ibintu bihanirwa nk'icyaha cyo gusuzugura Urukiko. GAA yaje nyuma gufatirwa i Kigali mu Rwanda, hanyuma ku itariki ya 1 Kanama 2007 yoherezwa ku Rukiko. Igihe yitabaga Urukiko bwa mbere ku itariki ya 10 Kanama 2007, GAA yemeye icyaha cyo gutanga ubuhamya bw'ikinyoma, ariko yahakanye ibindi byaha bisigaye. Ku itariki ya 27 Ugushyingo 2007, Porokireri yatanze inyandiko y'amasezerano y'ubwemeracyaha yagiranye na GAA, inyandiko irimo indahiro yemeza ko ubuhamya bwatanzwe ari ukuri, hamwe n'inyandiko ikubiyemo ibikorwa GAA yemeye kandi zose zashyizweho umukono na GAA; icyo gihe Porokireri yanatanze Icyifuzo gisaba uruhushya rwo guhindura Inyandiko y'ibirego yakorewe GAA kugira ngo hongerwemo ikirego kimwe cyo gutanga ubuhamya bw'ikinyoma hejuru y'indahiro n'ikirego cyo gusuzugura Urukiko[89]. Icyifuzo cyo guhindura inyandiko y'ibirego cyarakiriwe, hanyuma ku itariki ya 3 Ukuboza 2007, GAA arongera yitaba Urukiko bwa mbere kandi yemera icyaha cyo gutanga ubuhamya bw'ikinyoma n'icyo gusuzugura Urukiko[90]. Yaje

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[88] Ikimenyetso gihamya cyahawe nº D. 31 (Igice cy'inyandikomvugo y'iburanisha mu rubanza rwa Kamuhanda mu bujurire, 19 Gicurasi 2005).

[89] Reba ikimenyetso gihamya cyahawe nº P. 7 (Indahiro ku mugaragaro ya GAA), n'urup. 8 (Amasezerano y'ubwemeracyaha hagati ya GAA n'Ibiro bya Porokireri).

[90] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, imp. 11-12. Reba kandi Inyandiko y'urubanza rwa GAA mu rw'Iremezo, 4 Ukuboza 2007.

gukatirwa igihano cy'igifungo cy'amezi icyenda hanyuma arekurwa ku itariki ya 14 Werurwe 2008[91]..

2 UKUBONANA KWA NSHOGOZA N'ABATANGABUHAMYA BISWE GAA NA A7/GEX

71. Porokireri avuga ko, mu rwego rwa poropagande yo kuyobya ubucamanza mu rubanza rwa Kamuhanda mu bujurire, Uregwa yashatse ukuntu yabonana n'umutangabuhamya ushinja wiswe GAA n'undi washoboraga kuzaba umutangabuhamya wiswe A7/GEX[92], azi neza ko ari ukunyura cyangwa « kutita bikabije » ku itegeko ry'Urugereko rwa Mbere rw'Iremezo ryo ku itariki ya 7 Nyakanga 2000 rishyiraho ingamba zo kurinda umutekano w'abatangabuhamya mu rubanza rwa Kamuhanda. Uregwa yaba yarabonaniye n'abo bantu ahantu rubanda idahejwe kandi hari n'abandi bantu. Bivugwa ko yashukashutse abo batangabuhamya, akoresheje ruswa, kubashishikaza cyangwa kuboshya, kugira ngo basinye ubuhamya yari yafindafinze kandi azi ko ari ubw'ikinyoma. Porokireri avuga ko Nshogoza yumvishije GAA na A7/GEX ko bagomba kuza gutanga ubuhamya mu Rugereko rw'Ubujurire[93].

72. Uregwa yemera ko yabonanye na GAA na A7/GEX, ariko akavuga ko ari abo bafashe iya mbere. Yemera ko GAA yari umutangabuhamya ushinja urindiwe umutekano mu rubanza rwa Kamuhanda, ariko ntiyemera ko ingamba zo kurinda umutekano w'abatangabuhamya zashyizweho n'Urugereko rwa Mbere rw'Iremezo mu rubanza rwa Kamuhanda hari icyo zarebagaho A7/GEX ubwo yabonanaga na we. N'ubwo yemera ko yabonaniye n'abo batangabuhamya ahantu rubanda idahejwe, ntiyemera ariko ko yavuganye na bo ibyerekeye ubuhamya bwabo hari abandi bantu. Uregwa yemera ko yabateguriye ubuhamya bagombaga gusinya, ariko akemeza ko ubwo buhamya bwafashwe nk'uko bisanzwe bigenda kandi ko atari ubw'ikinyoma. Na none, Ubwunganizi buvuga ko GAA na A7/GEX babwiye Nshogoza ko bari barashinje Kamuhanda ibinyoma, kandi ko basinye ubuhamya bwo kwisubiraho nta gahato

[91] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, imp. 20-21.

[92] Uyu mutangabuhamya yatanze ubuhamya nk'umutangabuhamya ushinjura wiswe A7 muri uru rubanza. Kugira ngo ibintu bisobanuke neza, Urugereko rumwita A7/GEX muri iyi Nyandiko yose y'urubanza.

[93] Inyandiko y'ibirego, ibika 5-27.

bashyizweho. Nshogoza yemera ko yahaye abo batangabuhamya amafaranga yo kuriha ingendo zabo no kubishyura iminsi babaga batakoze baje kubonana na we, ariko akavuga ko atabahaye ruswa cyangwa ngo yivange mu buhamya bwabo mu bundi buryo ubwo ari bwo bwose.

2.1 Ibyabaye bifite akamaro byerekeranye n'ibiganiro Uregwa yagiranye na GAA na A7/GEX

73. Ibyinshi mu bimenyetso byatanzwe n'impande zombi ku bijyanye n'ibiganiro Nshogoza yagiranye na GAA na A7/GEX birahura cyangwa nta we ubijyaho impaka[94]. Mu wa 2001, GAA yatanze ubuhamya muri uru Rukiko nk'umutangabuhamya ushinja urindiwe umutekano mu rubanza rwa Kamuhanda[95]. A7/GEX yasinye ku nyandikomvugo y'ubuhamya bwe yakozwe n'abapererezi bo mu Biro bya Porokireri ku birebana n'urubanza rwa Kamuhanda, kandi ubwo buhamya bwashyikirijwe Ubwunganizi buriho izina ry'uwo mutangabuhamaya, ariko ntiyigeze atanga ubuhamya muri urwo rubanza[96]. Mu gihe ibi byabaga, GAA na A7/GEX bari abaturanyi kandi basengeraga muri kiriziya imwe[97]. GAA yabwiye A7/GEX ibyerekeranye n'ubuhamya yatanze mu rubanza rwa Kamuhanda, amumenyesha ko ku itariki ya 12 Mata 1994 atagiye kuri Paruwasi ya Gikomero[98]. A7/GEX yahurije GAA na Nshogoza mu kabari kitwa *Stella* hafi y'ibiro bya TPIR Kigali[99]. A7/GEX yabaga ari mu biganiro byose GAA yagiranye na Nshogoza[100].

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[94] Ubuhamya bujyanye n'ibiganiro byabaye ntibwari busobanutse neza ku buryo Urugereko rwakwemeza ku buryo budashidikanywaho umubare nyawo w'ibyo biganiro cyangwa amatariki n'amasaha byabereyeho. Urugereko ntirubona ko kumenya ibyo byose byari ngombwa.

[95] GAA, inyandikomvugo y'iburanisha, 18 Gashyantare 2009, urup. 2; Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, imp. 48-49; Umutangabuhamya witwa Condé, inyandikomvugo y'iburanisha, 16 Werurwe 2009, imp. 41, 53.

[96] A7/GEX, inyandikomvugo y'iburanisha 17 Werurwe 2009, urup. 86; Ikimenyetso gihamya cyahawe nº P. 24.

[97] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 25; Inyandikomvugo y'iburanisha, 18 Gashyantare 2009, urup. 35; A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, urup. 5.

[98] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 14; 18 Gashyantare 2009, imp. 35-36; A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, urup. 7.

[99] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 26; Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, imp. 46-47; A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, urup. 28.

Nyuma ya buri kiganiro, Nshogoza yabahaga amafaranga ababwira ko ari ayo kwishyura urugendo[101]. Nyuma y'ikiganiro cya nyuma bagiranye mbere y'uko baza Arusha gutanga ubuhamya mu Rugereko rw'Ubujurire, Nshogoza yabahaye amafaranga menshi[102].

74. Mu kiganiro cya mbere bagiranye, GAA yabwiye Nshogoza ko atagiye kuri Paruwasi ya Gikomero ku itariki ya 12 Mata 1994, kandi ko atigeze abona Kamuhanda akora ibikorwa bya jenoside[103]. Mu kiganiro cya kabiri, na cyo cyabereye mu kabari kitwa *Stella*, Nshogoza yeretse GAA inyandikomvugo y'ubuhamya yari yateguye kugira ngo ayisinyeho[104]. Nshogoza yasomeye GAA ibyari bikubiye muri iyo nyandikomvugo hanyuma GAA arayisinya[105]. Muri Werurwe 2004, Nshogoza yajyanye GAA, A7/GEX na Augustin Nyagatare ku biro bya noteri i Kigali kugira ngo bemeze inyandikomvugo z'ubuhamya bwabo no kugira ngo noteri abusinyeho[106]. Izo nyandikomvugo z'ubuhamya zashyikirijwe Urugereko rw'Ubujurire nka bimwe mu byari bikubiye mu Cyifuzo cyatanzwe hashingiwe ku ngingo ya 115 cyarusabaga kwemera ko hatangwa ibimenyetso by'inyongera bijyanye n'ubujurire bwa Kamuhanda ku birebana n'icyemezo

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[100] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, imp. 41-42; A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, imp. 23, 28, 33-35.

[101] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, imp. 26-27, 46; Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, imp. 31-32, 46-47; A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, imp. 30, 33, 38-39.

[102] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 41; A7/GEX, inyandikomvugo y'iburanisha, 19 Werurwe 2009, imp. 14-16.

[103] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, imp. 14, 29-30; Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 46; A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, urup. 30.

[104] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 28; Urubanza rwa Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 53.

[105] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 28; Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 53.

[106] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, imp. 33-39; Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 53; A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, imp. 34-37; umutangabuhamya witwa Nyagatare, inyandikomvugo y'iburanisha, 23 Werurwe, 2009, imp. 14-15, 33-34. Urugereko rusanga inyandikomvugo y'ubuhamya bwa GAA ari yo yonyine yaje gushyirwaho umukono na noteri.

mpamyacyaha cy'Urugereko rwa Mbere rw'Iremezo, kandi GAA na A7/GEX batanze ubuhamya mu Rugereko rw'Ubujurire bashinjura Kamuhanda[107].

75. Urugereko rwemeye ko ibyo byabaye byatangiwe ibimenyetso ku buryo budashidikanywaho.

2.2 Ibibazo birebana n'ibyabaye bigibwaho impaka

76. Uretse ibimaze kuvugwa impande zombi zemeranywaho muri rusange n'ibimenyetso bijyanye na byo, hari ibindi bibazo binyuranye byerekeranye n'ibyabaye bivugwa mu Nyandiko y'ibirego no mu bimenyetso bijyanye n'ibiganiro Uregwa yagiranye n'abo batangabuhamya. Ibyo bibazo ni ibi: (i) ni iki Uregwa yari azi ku byerekeranye n'ingamba zo kurinda umutekano w'abatangabuhamya zashyizweho n'Urugereko rwa Mbere rw'Iremezo mu rubanza rwa Kamuhanda; (ii) ese Uregwa ni we wafashe iya mbere asaba bariya batangabuhamya kubonana na we; (iii) ese Uregwa yaba yaramenyesheje rubanda cyangwa abandi bantu bari aho yaganiriraga n'abo batangabuhamya amakuru y'ibanga; (iv) ese Uregwa yafindafinze inyandikomvugo z'ubuhamya cyangwa se yari azi ko ubuhamya buzikubiyemo bwari ikinyoma; hanyuma (v) ese GAA na A7/GEX baba baratanze ubuhamya bakanasinya inyandikomvugo zabwo ari uko babanje guhabwa ruswa cyangwa hakoreshejwe ukundi kwivanga. Urugereko rugiye gusuzuma mu bika bikurikira ibimenyetso birebana n'ibyo bibazo impande zombi zitavugaho rumwe.

2.2.1 Ibyo Uregwa yari azi ku ngamba zo kurinda umutekano w'abatangabuhamya

77. Mu iburanisha, Ubwunganizi bwateye utwatsi ibivugwa na Porokireri ko A7/GEX yari umutangabuhamya ushinja urindiwe umutekano mu rubanza rwa Kamuhanda, noneho butanga ibimenyetso bigamije kwerekana ko Nshogoza ashobora kuba atari azi ko: (i) hariho ingamba zo kurinda umutekano; (ii) GAA yari arindiwe umutekano nk'umutangabuhamya ushinja; cyangwa ko (iii) ibyo yakoze byari binyuranyije n'ingamba zo kurinda umutekano zashyizweho n'Urugereko rwa Mbere rw'Iremezo mu

[107] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 21; A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, imp. 41-42; Ikimenyetso gihamya cyahawe nº D. 30.

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rubanza rwa Kamuhanda. Urugereko rusanga ibi bivugwa bibyutsa ibibazo birebana n'ibyabaye ndetse n'ibyo mu rwego rw'amategeko. Muri iki Cyiciro, rurasuzuma ibibazo bijyanye n'ibyabaye, naho ibyo mu rwego rw'amategeko rurabisuzuma nyuma mu Cyiciro cyahariwe imyanzuro yarwo yo mu rwego rw'amategeko.

78. Mu buhamya bwe, Nshogoza yavuze ko igihe yari afungiye Arusha ari bwo yabonye bwa mbere Itegeko ry'Urugereko rishyiraho ingamba zo kurinda umutekano w'abatangabuhamya bashinja mu rubanza rwa Kamuhanda[108]. Nyamara ariko, Nshogoza yanavuze ko yibwiraga ko iyo izina ry'umutangabuhamya ushinja ryashyizwe ahagaragara Ubwunganizi butashoboraga kubonana na we[109]. Kubera ko mu gihe ibi byabaga Uregwa yari umunyamategeko wabyigiye kandi akaba yari amaze imyaka igera kuri ibiri akora nk'umupererezi w'Ubwunganizi mu rubanza rwa Kamuhanda, Urugereko ntirwemera ubuhamya bwe buvuga ko atari azi ko hariho ingamba zo kurinda umutekano cyangwa ibyari bizikubiyemo.

2.2.1.1 Umutangabuhamya wiswe A7/GEX

79. Ku birebana no kumenya niba ingamba zo kurinda umutekano hari icyo zarebagaho A7/GEX, ibimenyetso byerekana ko A7/GEX yabwiye Nshogoza ko hariho inyandikomvugo y'ubuhamya bwe yakozwe n'abapererezi bo mu Biro bya Porokireri, muri ubwo buhamya akaba yaravugaga ko Kamuhanda yari i Gikomero[110]. Itegeko rishyiraho ingamba zo kurinda umutekano w'abatangabuhamya risobanura ku buryo bweruye ko izo ngamba zinareba abantu bashobora kuzatanga ubuhamya[111]. Mu buhamya bwe, Nshogoza yavuze ko umutangabuhamya umushinjura witwa Condé, wari avoka mukuru mu rubanza rwa Kamuhanda, yamubwiye ko A7/GEX atari umutangabuhamya ushinja urindiwe umutekano muri urwo rubanza[112]. Uregwa yavuze kandi ko niba amakuru agaragaza umwirondoro wa A7/GEX yaragejejwe ku Bwunganizi

[108] Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 62.

[109] Nshogoza, inyandikomvugo y'iburanisha, 31 Werurwe 2009, imp. 44-45; Ikimenyetso gihamya cyahawe nº P. 20.

[110] Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, imp. 43-44.

[111] Itegeko ry'Urugereko rishyiraho ingamba zo kurinda umutekano, ibika 2, 6, 9.

[112] Nshogoza, inyandikomvugo y'iburanisha, 31 Werurwe 2009, urup. 45.

bwa Kamuhanda muri Werurwe 2001, nta kuntu yari kuyamenya kubera ko yari atarinjira mu ikipe y'Ubwunganizi bwa Kamuhanda[113].

80. Mu cyifuzo cyagejejwe ku Rugereko rw'Ubujurire hashingiwe ku ngingo ya 115 y'Amategeko mu rubanza rwa Kamuhanda, Condé yavuze ko A7/GEX yari umutangabuhamya ushinja urindiwe umutekano[114]. Mu buhamya yatangiye imbere y'uru Rugereko, Condé yavuze ko A7/GEX atari umutangabuhamya urindiwe umutekano, asobanura ko niba mu cyifuzo cye yaravuze ko A7/GEX yari umutangabuhamya urindiwe umutekano, atari byo byatuma aba we[115].

81. Urugereko rwemera ubuhamya bw'Uregwa bw'uko Condé yamubwiye ko umutangabuhamya wiswe A7/GEX atari umutangabuhamya urindiwe umutekano. Cyakora, Urugereko rusanga ibimenyetso by'Ubwunganizi na none byerekana ko : (i) nibura bahura bwa mbere, Uregwa yari azi ko A7/GEX yabonaye n'abakozi bo mu Biro bya Porokireri mu rubanza rwa Kamuhanda bagakora inyandikomvugo y'ubuhamya bwe, kandi (ii) mu kugendera ku ngingo ya 115 y'Amategeko, Ubwunganizi bwa Kamuhanda bwarenguriye kuri A7/GEX nk'umutangabuhamya ushinja urindiwe umutekano.

2.2.1.2 Umutangabuhamya wiswe GAA

82. Ku birebana na GAA, Nshogoza yavuze ko nk'umupererezi w'Ubwunganizi mu rubanza rwa Kamuhanda, atari yemerewe kujya mu cyumba cy'iburanisha, bityo rero akaba nta mutangabuhamya ushinja n'umwe yigeze abona atanga ubuhamya[116]. Byongeye kandi, ubwo A7/GEX yabwiraga Nshogoza ko GAA yifuza ko babonana, yakoresheje izina ry'ukuri rya GAA, Nshogoza akaba ari bwo bwa mbere yari aryumvise. Nshogoza yavuze ko yari atarinjira mu ikipe y'Ubwunganizi bwa Kamuhanda ubwo GAA yatangaga ubuhamya mu Rugereko rwa Mbere rw'Iremezo[117]. Bityo rero, Nshogoza avuga ko ubwo yahuraga na GAA bwa mbere atari azi ko yatanze ubuhamya nk'umutangabuhamya ushinja mu rubanza rwa Kamuhanda[118].

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[113] Nshogoza, inyandikomvugo y'iburanisha, 31 Werurwe 2009, urup. 45.

[114] Condé, inyandikomvugo y'iburanisha, 17 Werurwe 2009, urup. 44; Ikimenyetso gihamya cyahawe nº D. 30.

[115] Condé, inyandikomvugo y'iburanisha, 17 Werurwe 2009, imp. 45-49.

[116] Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 27.

[117] Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 44.

[118] Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 34.

83. Nyamara ariko, hari ibindi bimenyetso byatanzwe mu iburanisha byerekana ko mbere y'uko bahura bwa mbere, Uregwa hari ukuntu yagombye kuba yari azi ko GAA yari umutangabuhamya ushinja. Mu buhamya bwe mu rukiko, A7/GEX yavuze ko yabwiye Nshogoza ko GAA yifuzaga ko babonana, anongeraho ko GAA yavuze ko yumvaga afite umutwaro umuremereye kubera ko yari yarashinje Kamuhanda ibinyoma mu iburanisha[119].

84. Nk'uko bigaragazwa n'ubuhamya yitangiye ubwe, Nshogoza yabwiye Condé ibyerekeye ikiganiro yagiranye bwa mbere na GAA, maze Condé amubwira ko GAA ari umutangabuhamya urindiwe umutekano, kandi ko adakwiye kongera kubonana na we[120]. Bafashe icyemezo cyo guhagarika iperereza, kandi Nshogoza ntiyongeyeye kubonana na GAA uretse nyuma ya Mutarama 2004, urubanza rwa Kamuhanda mu Rugereko rwa Mbere rw'Iremezo rwaramaze gucibwa[121]. Kamuhanda amaze guhamwa n'icyaha, ikipe ye y'Ubwunganizi yasubiye kuri icyo kibazo maze yemeza ko Nshogoza agomba kubonana na GAA na A7/GEX kugira ngo afate ubuhamya bwabo mu nyandiko[122].

85. Ibimenyetso byatanzwe mu iburanisha byerekana ku buryo budashidikanywaho ko nibura Nshogoza yamenye ko GAA yari umutangabuhamya ushinja urindiwe umutekano, mbere y'uko bahurira i Kigali ku biro bya noteri muri Werurwe 2004. Ubwo buhamya na none bwerekana ko, mbere y'uko babonana ku nshuro ya mbere, Nshogoza yari azi ko GAA yashakaga guhindura ubuhamya bwe bwari bukubiye mu nyandikomvugo zakozwe n'abapererezi cyangwa ubwo yari yaratangiye mu rukiko, mu rubanza rwa Kamuhanda.

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[119] A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, urup. 5.

[120] Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, imp. 48- 49.

[121] Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 50.

[122] Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 50 ; Condé, inyandikomvugo y'iburanisha, 16 Werurwe 2009, imp. 54-55.

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2.2.2 Uwafashe iya mbere kugira ngo Uregwa abonane n'abatangabuhamya

86. Urugereko ruributsa ko ibimenyetso bitagibwaho impaka muri uru rubanza byerekana ko A7/GEX ari we wahuje bwa mbere Nshogoza na GAA[123]. Uregwa yemera ko yasabye A7/GEX kumuhuza na GAA[124]. Ikibazo gisigaye ni ukumenya ukuntu Nshogoza yahuye na A7/GEX. Ubwunganizi bwatanze ibimenyetso bishaka kwerekana ko A7/GEX ari we wafashe iya mbere mu kubonana n'Uregwa, ari bwo yamubwiraga ko GAA yifuzaga kwisubiraho[125]. Nta kimenyetso na kimwe Porokireri yatanze kuri icyo kibazo.

87. Hari ibintu bimwe na bimwe Urugereko rutashize amakenga ku bimenyetso byatanzwe n'Ubwunganizi kandi igisobanuro cyabwo kirebana n'ukuntu Uregwa yahuye na A7/GEX ku nshuro ya mbere ntirwacyemeye uko cyakabaye. Nyamara ariko, kuba Urugereko rutemeye ibimenyetso by'Ubwunganizi byerekeranye n'uwafashe iya mbere ngo iyo mishyikirano ibeho ntibivuga ko rwemera nta gushidikanya ko Uregwa ari we wafashe iya mbere mu kubonana na A7/GEX, bityo na GAA[126]. Urugereko ntirubona ko umwanzuro umwe rukumbi ushyize mu gaciro wafatwa hashingiwe kuri ibyo bimenyetso no ku kuntu ibintu byagenze, ari uko Uregwa ari we wafashe iya mbere mu kubonana na A7/GEX. Bityo rero, kubera ko Porokireri nta bimenyetso yatanze byerekeye uburyo Nshogoza yabonanyemo na A7/GEX, Urugereko nta wundi mwanzuro uhamye rushobora kubifataho.

2.2.3 Kumenya niba Uregwa yarashyize hanze amakuru y'ibanga

88. Uregwa ntahakana ko yabonanye na GAA na A7/GEX ahantu rubanda rudahejwe, ariko ntiyemera ko hari undi muntu n'umwe yatangarije imyirondoro yabo.

89. Ku birebana n'uko muri ibyo biganiro hari n'abandi bantu, Urugereko ruributsa ibimenyetso byatanzwe na Porokireri n'Ubwunganizi byerekana ko GAA na A7/GEX babonanye na Nshogoza bari kumwe ; ko GAA na A7/GEX bari ukwabo baganiriye ku birebana n'ubuhamya batangiye mu rukiko no ku bukubiye mu nyandikomvugo zakozwe n'abapererezi bo mu Biro bya

[123] Reba hejuru, igika 73.

[124] Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 44.

[125] A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, imp. 2-3, 5 ; Reba kandi Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, imp. 35, 43-44.

[126] Reba Inyandiko y'urubanza rwa Nobilo mu bujurire, igika 47.

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Porokireri, mu rubanza rwa Kamuhanda ; ko GAA, A7/GEX n'umutangabuhamya witwa Nyagatare bose bahuriye mu biro bya noteri i Kigali, ari na bwo ubuhamya bwa GAA bukubiye mu nyandikomvugo yakozwe n'umupererezi bwamenyeshejwe noteri[127].

90. GAA yavuze ko hari ibiganiro yagiranye na Nshogoza inshuro ebyiri kandi ko umutangabuhamya ushinjura wiswe A3 na we yari abirimo. Nta bindi bisobanuro yatanze. Urugereko rwemera ko kimwe muri ibyo biganiro ari icyo Nshogoza yagiranye n'umutangabuhamya wiswe BUC[128], ariko rusanga ubuhamya bwa GAA bw'uko A3 yitabiriye ikindi kiganiro kitazwi nta gisobanuro na kimwe kibukubiyemo. GAA ntiyasobanuye igihe n'ahantu icyo kiganiro cyabereye, niba hari undi muntu wacyitabiriye, ibyavugiwemo, cyangwa ikindi gisobanuro icyo ari cyo cyose. Kubera ko nta bisobanuro birambuye byatanzwe, Urugereko ntirwemera ubuhamya bwa GAA butashyigikiwe n'ubundi, bwemeza ko A3 yitabiriye ikiganiro cya kabiri kitazwi neza yagiranye n'Uregwa.

91. Nshogoza yavuze ko yagiranaga ibiganiro byihariye n'abantu yakeneraga ko baganira, ko kandi yitaruraga abandi bantu bashoboraga kuba bari mu kabari kitwa *Stella*[129]. Yavuze ko nta muntu wumvise ibiganiro bye atabitumiwemo cyangwa wabyumvirije, ko imyitwarire nk'iyo itemewe mu muco nyarwanda[130]. Uregwa yavuze ko ibiganiro byihariye yagiranye na A7/GEX na GAA byabaye nta wundi muntu uhari cyangwa ngo hagire undi muntu ubyumva bitamureba, ariko yemeye rwose ko ari kumwe n'abo batangabuhamya bombi baganiriye mu gihe kimwe ku bintu bya rusange[131].

92. GAA yavuze ko A7/GEX yari ahari ubwo Nshogoza yasomeraga GAA inyandikomvugo y'ubuhamya bwe yasubiyeho, naho A7/GEX yavuze ko yumvise ikiganiro kitamurebaga cyabaye hagati ya Nshogoza na GAA ubwo babonanaga ku nshuro ya mbere[132]. BUC yavuze ko ubwo yabonanaga n'Uregwa, hari GAA, A7/GEX ndetse na A3[133], kandi ko Uregwa atamujyanye mu

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[127] Reba hejuru, ibika 73-74.

[128] Reba hasi, ibika 128-140.

[129] Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 16.

[130] Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, imp. 31, 33.

[131] Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 33.

[132] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 32 ; A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, urup. 29.

[133] BUC, inyandikomvugo y'iburanisha, 12 Gashyantare 2009, imp. 21-24 ; GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, imp. 51-52 (Ubwo GAA yatangaga ubuhamya mu rukiko, yavuze ko umutangabuhamya

gice cyihariye cy'icyumba ngo bitarure abandi[134]. GAA yavuze ko atumvise ikiganiro Nshogoza yagiranye na BUC[135]. A7/GEX yavuze ko BUC yashyigikiye ibyo GAA yari yarabwiye Nshogoza mbere[136].

93. Inyandiko y'ibirego ishimangira ko Nshogoza yagiriye ibyo biganiro ahantu rubanda idahezwa cyane cyane mu kabari kitwa *Stella,* kandi n'ibimenyetso byatanzwe ni ko bibyerekana. Urugereko rusanga ibi bimenyetso ubwa byo byonyine bitagenderwaho. Nta kimenyetso cyerekana ko hari amakuru y'ibanga ayo ari yo yose yatangarijwe abakiriya b'akabari kitwa *Stella* cyangwa undi muntu wese utararebwaga n'ibyo biganiro.

94. Hakurikijwe ubuhamya bw'abatangabuhamya bashinja biswe GAA na BUC n'ubw'umutangabuhamya ushinjura wiswe A7/GEX, Urugereko ntirwemera ko Nshogoza yitwararitse uko bikwiye muri ibyo biganiro yagiranye na bo. Urugereko rusanze rero ibimenyetso byerekana ku buryo budashidikanywaho ko Uregwa yaganiriye na GAA mu buryo burambuye ku buhamya bwe kandi A7/GEX ahari.

2.2.4 Ese Uregwa yafindafinze inyandikomvugo z'ubuhamya cyangwa se yari azi ko ubuhamya buzikubiyemo ari ikinyoma?

95. Urugereko ruributsa ko ibimenyetso bitagibwaho impaka muri uru rubanza byerekana ko Uregwa yateguye inyandikomvugo z'ubuhamya bwo kwisubiraho bw'umutangabuhamya ushinja wiswe GAA n'ubw'umutangabuhamya ushinjura wiswe A7/GEX kugira ngo bazisinye, ko kandi GAA yasinye inyandikomvugo y'ubwo buhamya Uregwa amaze kuyimusomera[137].

96. Ubwo Nshogoza yatangaga ubuhamya mu iburanisha, yashatse kongera gusobanura uburyo yakoze inyandikomvugo z'ubuhamya buvugwa. Yavuze ko yateguye inyandikomvugo y'ubuhamya bwa GAA agendeye ku byo yari yanditse igihe babonanaga ku nshuro ya mbere[138].

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ushinjura witwa Augustin Nyagatare na we yitabiriye icyo kiganiro, ariko ubu buhamya butandukanye n'ubwatanzwe na BUC, Augustin Nyagatare, A3 cyangwa A7/GEX ; A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, imp. 31-33 ; Inyandikomvugo y'iburanisha, 19 Werurwe 2009, imp. 6-8 ; A3, inyandikomvugo y'iburanisha, 19 Werurwe 2009, imp. 42-47.

[134] BUC, inyandikomvugo y'iburanisha, 12 Gashyantare 2009, urup. 28.

[135] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 52.

[136] A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, urup. 33.

[137] Reba hejuru, igika 74.

[138] Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 53.

GAA yemeye iyo nyandikomvugo, ndetse avuga ko yashakaga kandi yiteguye kujya kwa noteri kuyisinyira imbere ye[139]. Nshogoza yumvaga iyo mikorere ihuye n'uburyo abakozi bo mu Biro bya Porokireri n'ab'Ubwunganizi muri uru Rukiko bari basanzwe bakoramo inyandikomvugo z'ubuhamya[140].

97. Porokireri nta kimenyetso na kimwe yashoboye gutanga cyerekana ko uburyo Uregwa yakozemo iyo nyandikomvugo y'ubuhamya butari busanzwe, bityo Urugereko rukaba rusanze kuba Nshogoza yarateguye inyandikomvugo z'ubuhamya kugira ngo GAA na A7/GEX bazisinye, ubwabyo atari icyaha.

98. Ibimenyetso bitagibwaho impaka byerekana kandi ko GAA yamenyesheje A7/GEX n'Uregwa ko atageze i Gikomero, ko ndetse n'ubuhamya yatanze mbere mu iburanisha ry'urubanza rwa Kamuhanda mu Rugereko rwa Mbere rw'Iremezo bwari ikinyoma. Mu buhamya yatanze muri uru Rugereko, GAA yavuze ko yabeshye A7/GEX na Nshogoza ubwo yababwiraga ko atageze i Gikomero[141]. GAA cyakora ntiyamenyesheje Nshogoza ko yari yaramubeshye. Ahubwo yavuze gusa ko Nshogoza yari azi ko ubwo buhamya bushya butari buhuye n'ubwo yari yaratanze mbere mu iburanisha ry'urubanza rwa Kamuhanda[142]. Ibi Urugereko rurabyemera, ariko rusanga nta gaciro bifite ku bijyanye n'ikibazo cyo kumenya niba Uregwa yari azi ko ukwisubiraho kwa GAA kwari gushingiye ku binyoma. Porokireri nta kindi kimenyetso na kimwe yatanze ku birebana n'uko Uregwa yari azi ubwo buhamya.

99. Mu iburanisha, Nshogoza yavuze ko nta mutangabuhamya n'umwe yasabye gutanga ubuhamya bw'ikinyoma, ko kandi nta we yigeze asaba gusinya inyandikomvugo azi ko ishingiye ku kinyoma[143]. Yavuze ko yumva ubuhamya GAA na A7/GEX batanze bisubiraho n'ubwo batanze imbere y'Urugereko rw'Ubujurire ari ukuri[144]. Yavuze ko yumva GAA yaratanze ubuhamya bw'ikinyoma mu rubanza rwa Kamuhanda mu Rugereko rwa Mbere rw'iremezo mu mwaka wa

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139 Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 53.

140 Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, imp. 33-34 ; Reba kandi umutangabuhamya witwa Seminega, inyandikomvugo y'iburanisha, 19 Werurwe 2009, imp. 80-81 (Havugwaga uburyo abahagarariye Porokireri bamubajije bagakora inyandikomvugo y'ubuhamya bwe).

141 Reba urugero GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, imp. 14, 18, 29, 31; Inyandikomvugo y'iburanisha, 18 Gashyantare 2009, imp. 35-36.

142 GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 29.

143 Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 34.

144 Nshogoza, inyandikomvugo y'iburanisha, 31 Werurwe 2009, urup. 57.

2001, ko kandi yumva ko Kamuhanda atari i Gikomero ku itariki ya 12 Mata 1994[145]. Yavuze ko imanza zo mu nkiko Gacaca ku byabereye i Gikomero zishyigikira ibyo yiyumvisha[146].

100. Ubwunganizi bwatanze ibindi bimenyetso bigaragaza ko nta mpamvu n'imwe yari gutuma Uregwa yibwira ko ubuhamya bwo kwisubiraho kwa GAA butari bushingiye ku kuri. Umutangabuhamya ushinjura witwa Augustin Nyagatare wakoze ubwicanyi i Gikomero mu mwaka wa 1994 yavuze ko yamenyesheje Uregwa ko Kamuhanda atari aho hantu mu gihe hagabwaga ibitero[147]. Umutangabuhamya ushinjura witwa Cyprien Hakizimana, akaba ari Perezida w'urukiko Gacaca rw'ubujurire rwa Segiteri ya Gikomero, yavuze ko urwo rukiko rwakusanyije ibimenyetso byinshi bijyanye n'ubwicanyi bwakorewe kuri Paruwasi ya Gikomero ku itariki ya 12 Mata 1994[148]. Yavuze ko yasuzumye ibyo bimenyetso, kandi ko Kamuhanda atari ku rutonde rw'abantu urwo rukiko Gacaca rwashinje kugira uruhare muri ubwo bwicanyi[149].

101. Porokireri nta kimenyetso na kimwe yigeze atanga kigaragaza ko ubuhamya bwo kwisubiraho bwa A7/GEX bwari ibinyoma, cyangwa se ko Uregwa hari impamvu iyo ari yo yose yari gutuma yibwira ko ari ibinyoma. Mu iburanisha, A7/GEX we yavuze ko yamenyesheje Nshogoza ko yabeshye abapererezi bo mu Biro bya Porokireri ubwo yababwiraga ko Kamuhanda yari i Gikomero[150].

102. Urugereko rusanga rero Porokireri atarashoboye kwerekana ku buryo budashidikanywaho ko Uregwa yafindafinze inyandikomvugo z'ubuhamya bwa GAA na A7/GEX. Nta n'ubwo yerekanye ku buryo budashidikanywaho ko Uregwa yari azi ko ubuhamya bwo kwisubiraho ari ibinyoma, cyangwa se nibura ko hariho impamvu iyo ari yo yose yari gutuma yibwira ko ubwo buhamya bushya bwari ibinyoma. Kubera uyu mwanzuro, Urugereko rukeneye gusuzuma ibimenyetso bindi byatanzwe mu rwego rwo kwerekana ko ubuhamya bwo kwisubiraho bwa GAA bwari ukuri[151].

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145 Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, imp. 62-63.

146 Nshogoza, inyandikomvugo y'iburanisha, 31 Werurwe 2009, urup. 58.

147 Nyagatare, inyandikomvugo y'iburanisha, 23 Werurwe 2009, imp. 10-11.

148 Umutangabuhamya witwa Hakizimana, inyandikomvugo y'iburanisha, 24 Werurwe 2009, imp. 6-7.

149 Hakizimana, inyandikomvugo y'iburanisha, 24 Werurwe 2009, imp. 19, 24-26.

150 Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, imp. 43-44.

151 Abatangabuhamya bashinjura ari bo uwiswe A7/GEX, Augustin Nyagatare, Straton Nyarwaya, Cyprien Hakizimana, abiswe A25 na A29 bavuze ku byabereye kuri Paruwasi ya Gikomero muri Mata 1994, na/cyangwa ku

2.2.5 Ruswa cyangwa ukundi kwivanga

103. Hari ibimenyetso byatanzwe ku bintu bitatu bivugwa byabaye birebana na ruswa no gushukashuka abantu. Icya mbere, ibimenyetso by'impande zombi byerekana ko Uregwa yahaye amafaranga GAA na A7/GEX kandi ko yabahaye n'ibyo kurya n'ibyo kunywa. Icya kabiri, GAA yavuze ko Nshogoza yamusezeranyije miriyoni imwe y'amafaranga y'u Rwanda yo kuriha ubuhamya bwe. Icya gatatu, GAA yavuze ko Nshogoza yamubeshye ku bijyanye n'icyo ubuhamya bwe bwari bugamije n'ingaruka yabwo, agira ngo yemere ko bagirana ubufatanye.

2.2.5.1 Ibivugwa ko Uregwa yatanze amafaranga hamwe n'ibindi yasezeranyije abantu

104. Ibimenyetso byerekana ko Nshogoza yahaga GAA na A7/GEX amafaranga y'amanyarwanda uko yabaga amaze kubonana na bo[152]. Nshogoza yavuze ko ayo mafaranga yari ayo kwishyura ingendo n'imirimo bari kuba bikoreye, kandi ubuhamya muri uru rubanza bwerekana ko, nibura ubwo babonanaga bwa mbere, yabwiye GAA na A7/GEX ko ayo mafaranga yari ayo kubishyurira ingendo[153]. Nta mutangabuhamya wavuze ko yabwiwe ko ayo mafaranga yari ayo kwishyura imirimo bari kuba bikoreye.

105. Umubare w'ayo mafaranga ntuvugwaho rumwe. GAA yavuze ko Uregwa yamuhaye 10.000 Frw buri gihe uko bahuraga, uretse ku nshuro ya nyuma yamuhaye 20.000 Frw[154]. GAA yavuze ko urugendo rwo kujya ku kabari kitwa *Stella* no gusubira iwe rwamutwaraga 300 Frw gusa[155].

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bivugwa n'Ubwunganizi ko Jean de Dieu Kamuhanda yahimbiwe ibyaha. Umutangabuhamya ushinjura wiswe A10 yatanze kandi ubuhamya bujyanye n'ibi byabaye ; Ubwunganizi bwahawe uruhushya rwo kumufata nk'uwabwigaritse. Uretse ubuhamya bwatanzwe n'abatangabuhamya bari mu rukiko, Urugereko rwanakiriye ubuhamya bwanditse bw'abatangabuhamya barindwi hashingiwe ku ngingo ya 92 *bis* (B) y'Amategeko, ubuhamya bwabo bukaba bwari bwerekeranye n'ibyabereye kuri Paruwasi ya Gikomero. Reba kandi ibimenyetso gihamya byahawe nº D.84 - D.90 (Inyandikomvugo z'abatangabuhamya bashinjura biswe A13, A15, A17, A18, A23, A28 na A30) ; Reba kandi icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko kwakira nk'ibimenyetso, mu mwanya w'ubuhamya butangiwe mu rukiko, ubuhamya bwanditse bwatanzwe mbere n'abatangabuhamya biswe A1, A13, A14, A15, A17, A18, A20, A22, A23, A26, A28, na A30, 29 Mata 2009.

[152] Reba hejuru, igika 74.

[153] Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 31 ; GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 26 ; A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, urup. 30.

[154] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 41.

[155] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 26.

Nshogoza yavuze ko yahaye GAA na A7/GEX 5.000 Frw[156]. Yasobanuye ko yahaga abatangabuhamya bavuye i Gikomero hagati ya 5.000 Frw na 7.000 Frw kuko urugendo rwo kujyayo no kuvayo na we ari yo rwamutwaraga[157]. A7/GEX yavuze ko Nshogoza yamuhaga 5.000 Frw buri gihe uko bahuraga, uretse (i) mu kiganiro kimwe bagiranye yamuhaye we na GAA 5.000 Frw ngo bayagabane; (ii) no mu kiganiro bagiranye nyuma yamuhaye 10.000 Frw[158]. A7/GEX yasobanuye ko mu kiganiro bagiranye nyuma, Nshogoza yamuhaye we na GAA 20.000 Frw ngo bayagabane[159].

106. Har abandi batangabuhamya na bo bavuze ku bijyanye n'amafaranga bagiye bahabwa bamaze kubazwa n'abahagarariye Ibiro bya Porokireri cyangwa amakipe y'Ubwunganizi akorera abaregwa, ndetse na nyuma yo kubonana n'abahagarariye Ishami rishinzwe kurinda umutekano w'abatangabuhamya n'uw'abakorewe ibyaha i Kigali. Umutangabuhamya ushinja wiswe GAF yavuze ko nyuma y'ibazwa n'abari bahagarariye Ibiro bya Porokireri I Kigali mu wa 2007, yahawe 4.000 Frw n'umusemuzi wo muri ibyo Biro[160]. Yumvaga ko yahawe ayo mafaranga kugira ngo yiyishyure ingendo, hamwe n'umubyizi w'uwo munsi[161]. Umutangabuhamya wiswe BUC yavuze ko Nshogoza yamuhaye 5.000 Frw y'urugendo bamaze kubonana. Urugendo rwo kujya i Remera rwari rwatwaye BUC 600 Frw[162]. Ntiyigeze amubaza umubare w'amafaranga yakoresheje mu rugendo, kandi ntiyamenye niba hari undi muntu wari muri icyo kiganiro wahawe amafaranga[163].

107. Umutangauhamya ushinjura witwa Condé yavuze ko iyo yabaga ari mu butumwa bw'akazi mu Rwanda, Nshogoza yamuzaniraga abatangabuhamya bakabonanira muri hoteri, kandi ko abo batangabuhamya bahabwaga amafaranga y'urugendo[164]. Ntiyari azi umubare w'amafaranga abatangabuhamya bahabwaga[165]. Umutangabuhamya ushinjura witwa Nyagatare yavuze ko

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[156] Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, imp. 46-47.

[157] Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 32.

[158] A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, imp. 30, 33, 38-39 ; Inyandikomvugo y'iburanisha, 19 Werurwe 2009, imp. 13-16.

[159] A7/GEX, inyandikomvugo y'iburanisha, 19 Werurwe 2009, urup. 16.

[160] GAF, inyandikomvugo y'iburanisha, 10 Gashyantare 2009, urup. 23.

[161] GAF, inyandikomvugo y'iburanisha, 10 Gashyantare 2009, urup. 23.

[162] BUC, inyandikomvugo y'iburanisha, 12 Gashyantare 2009, urup. 26.

[163] BUC, inyandikomvugo y'iburanisha, 12 Gashyantare 2009, urup. 27.

[164] Condé, inyandikomvugo y'iburanisha, 17 Werurwe 2009, urup. 12.

[165] Condé, inyandikomvugo y'iburanisha, 17 Werurwe 2009, urup. 12.

nyuma yo kubonanira mu biro bya noteri, bose basubiye ku kabari kitwa *Stella*, maze Nshogoza agaha buri wese 5.000 Frw y'urugendo[166]. Yakomeje avuga ko mbere yo kuza Arusha gutanga ubuhamya muri uru rubanza, yabonanye n'umukozi wo mu Ishami rishinzwe kurinda umutekano w'abatangabuhamya n'uw'abakorewe ibyaha i Kigali, maze nyuma y'icyo kiganiro uwo mukozi akamuha 15.000 Frw y'urugendo[167].

108. Umutangabuhamya ushinjura wiswe A3 yavuze ko nyuma y'ikiganiro yagiranye na Nshogoza cyarimo n'abatangabuhamya bashinja biswe GAA na BUC, n'umutangabuhamya ushinjura wiswe A7/GEX, yahawe 3000 Frw, ariko ko ko atashoboye kumenya umubare w'amafaranga Nshogoza yahaye abandi[168]. Umutangabuhamya ushinjura witwa Hakizimana yavuze ko amaze kubonana n'abahagarariye Ishami rishinzwe kwita ku batangabuhamya no ku bakorewe ibyaha, yahawe 10.500 Frw y'urugendo rwo kujya no kuva ku biro bya TPIR i Kigali[169]. Umutangabuhamya ushinjura wiswe A25 yavuze ko yagiye ku biro bya TPIR i Kigali mbere gato yo gutanga ubuhamya, agasabwa gusinya inyandiko kandi agahabwa 5.500 Frw y'urugendo rw'uwo munsi[170]. Umutangabuhamya ushinjura wiswe A29 yavuze ko mbere yo kuza gutanga ubuhamya Arusha, yagiye ku biro by'Urukiko i Kigali akabazwa ibibazo byerekeye umutekano we. Nyuma yaho yahawe 8.000 Frw y'urugendo[171]. Yavuze kandi ko Ikipe y'Ubwunganizi ya Nshogoza yamusubije amafaranga y'urugendo ubwo yajyaga kubonana n'abayigize[172]. Byongeye kandi, bisabwe n'Ubwunganizi, Urugereko rwemeye igice cy'ubuhamya bw'umutangabuhamya ushinja wiswe AMN bwatanzwe mu rubanza rwa Karera na bagenzi be, hashingiwe ku ngingo ya 92 *bis* (D) y'Amategeko[173]. Mu gice cy'ubwo buhamya cyemewe, AMN yavuze ko yabonanye n'abahagarariye Ibiro bya Porokireri maze agahabwa 10.000 Frw y'urugendo[174].

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166 Nyagatare, inyandikomvugo y'iburanisha, 23 Werurwe 2009, imp. 15-16.

167 Nyagatare, inyandikomvugo y'iburanisha, 23 Werurwe 2009, urup. 22.

168 A3, inyandikomvugo y'iburanisha, 19 Werurwe 2009, urup. 47.

169 Hakizimana, inyandikomvugo y'iburanisha, 24 Werurwe 2009, urup. 37.

170 A25, inyandikomvugo y'iburanisha, 25 Werurwe 2009, imp. 4-5.

171 A29, inyandikomvugo y'iburanisha, 25 Werurwe 2009, imp. 52-53.

172 A29, inyandikomvugo y'iburanisha, 25 Werurwe 2009, urup. 59.

173 Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko kwakira inyandikomvugo z'iburanisha zo mu zindi manza, hashingiwe ku ngingo ya 92 *bis* y'Amategeko (Urugereko rwa Mbere rw'Iremezo), 23 Mata 2009.

174 Ikimenyetso gihamya cyahawe nº D.83 (*Urubanza Porokireri aburana na Karemera na bagenzi be*, inyandikomvugo y'iburanisha, 1 Ukwakira 2007, imp. 49-56).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

109. Urugereko ntirwemera ubuhamya bwa GAA, budafite ubundi bubushimangira, ku birebana n'umubare w'amafaranga yatanzwe. Ubuhamya bwa GAA mu rukiko butandukanye n'ubuhamya bwe bukubiye mu nyandikimvugo yakozwe na Loretta Lynch, nk'avoka washyizweho na Porokireri kugira ngo akore iperereza ku byavugwaga ko habayeho ubuhamya bw'ikinyoma na ruswa yahawe abatangabuhamya byabyukijwe mu rubanza rwa Kamuhanda mu bujurire. GAA yabwiye Loretta Lynch ko Nshogoza yamuhaye 3.000 Frw yo kwishyura urugendo n'ibyo kurya, ko atamuhaye amafaranga agenewe umuryango we[175]. Mu iburanisha, yavuze ko yabeshye Loretta Lynch[176]. Urugereko rwemera ko GAA ashobora kuba yarabeshye Loretta Lynch ku bijyanye n'ayo mafaranga, ariko rusanga GAA atarasobanuye impamvu yavuze ko hari amafaranga yahawe, niba yarageragezaga gukora ibishoboka ngo ntibizamenyekane ko yahawe amafaranga.

110. Hari kandi n'impamvu yatuma umuntu akeka ko GAA atibukaga neza umubare w'amafaranga yatanzwe. Mu iburanisha, yavuze ko amafaranga yahawe yari agizwe n'inoti za 2.000 Frw[177]. Ku rundi ruhande, A7/GEX yavuze ko buri gihe Nshogoza yatangaga inoti za 5.000 Frw[178]. Mu cyemezo cyarwo cyo ku itariki ya 16 Mata 2009 ku bintu bitagibwaho impaka n'ababuranyi, Urugereko rwavuze ko inoti za 2.000 Frw zatangiye gukoreshwa mu Rwanda mu mwaka wa 2007[179].

111. Hatitawe ku mubare w'amafaranga yatanzwe, ibimenyetso bisa n'ibigaragaza ko, uretse amafaranga ya nyuma yahawe GAA na A7/GEX, ubundi amafaranga yatangwaga mu rwego rwo kwishyura ingendo, kandi byerekana ko Nshogoza atari we wenyine wayatangaga. Ahubwo, ibimenyetso byerekana ko bene ayo mafaranga yanatanzwe nibura inshuro imwe n'abahagarariye Ibiro bya Porokireri n'Ishami rishinzwe kurinda umutekano w'abatangabuhamya n'uw'abakorewe ibyaha, nyuma yo kubonana n'abatangabuhamya. Ibimenyetso kandi byerekana ko Nshogoza yahaye bene ayo mafaranga abatangabuhamya bandi batari GAA na A7/GEX. Umwanzuro w'uko ayo mafaranga yatanzwe mu rwego rwo kwishyura ingendo ushyigikirwa

[175] Ikimenyetso gihamya cyahawe nº D.14 (Ibice byavanywe mu nyandikomvugo yakozwe na Loretta Lynch ubwo yabazaga GAA).

[176] GAA, inyandikomvugo y'iburanisha, 18 Gashyantare 2009, urup. 46.

[177] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 46.

[178] A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, urup. 39.

[179] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko kwemeza ibintu ababuranyi batagomba kujyaho impaka (Urugereko rwa Mbere rw'Iremezo), 16 Mata 2009.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

n'ubuhamya busa n'ubugaragaza ko ayo mafaranga atatangwaga iyo abatangabuhamya babaga bahawe uburyo bwo kubatwara bajya banava ahantu bagomba kubarizwa[180]. Ibyo bimenyetso byerekana ko amafaranga ya nyuma yatanzwe mu rwego rwo kwishyura ibyari gukenerwa mu gihe GAA na A7/GEX bari kuba batanga ubuhamya mu Rugereko rw'Ubujurire.

112. Hariho kandi ibimenyetso byerekana ko Nshogoza yaguriraga abatangabuhamya ibiryo n'ibinyobwa iyo babonanaga[181]. Urugereko rusanga kuba Uregwa yaraguraga ibiryo n'ibinyobwa mu gihe cy'ibyo biganiro atari ikintu kibi. Nta bimenyetso bitaziguye byatanzwe byerekana ko Uregwa yasengereraga abo bantu abatezeho ko hari icyo bazamwitura. N'ubwo Urugereko rubona ko umugambi Uregwa yari afite asengerera abo bantu ari wo w'ingenzi, rusanga ariko nta n'umwe mu baguriwe ibyo biryo n'ibyo binyobwa wigeze avuga ko yakekaga ko yabiguriwe kugira ngo atange ubuhamya.

113. Kubera ibi bimenyetso, Urugereko rusanze Porokireri ataratanze ibimenyetso bihamya ku buryo budashidikanywaho ko Nshogoza yatanze ayo mafaranga cyangwa yaguze ibyo biryo n'ibyo binyobwa afite umugambi wo gutanga ruswa, cyangwa se wo kwivanga mu buhamya bwa GAA cyangwa ubwa A7/GEX.

2.2.5.2 Ibivugwa birebana no gusezeranya igihembo cya 1.000.000 Frw

114. GAA yavuze ko Nshogoza yamusezeranyije kuzamuhemba 1.000.000 Frw, aramutse asinye inyandikomvugo y'ubuhamya bwe kandi agatanga ubuhamya mu Rugereko rw'Ubujurire[182]. Ntiyigeze ahabwa ayo mafaranga[183].

115. Uregwa yavuze ko nta muntu n'umwe yasezeranyije cyangwa yahaye amafaranga kugira ngo amugezeho ubuhamya[184]. A7/GEX yavuze ko Nshogoza nta mafaranga yigeze amuha[185]. Yavuze

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[180] A7/GEX, inyandikomvugo y'iburanisha, 19 Werurwe 2009, imp. 14-15 (Abahagarariye Porokireri bamuhaga ibiribwa n'ibinyobwa, ariko ntiyahabwaga amafaranga y'urugendo iyo babaga bamutwaye ajya anava aho yabarizwaga).

[181] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, imp. 26, 43, 51-52 ; BUC, inyandikomvugo y'iburanisha, 12 Gashyantare 2009, imp. 21, 26 ; Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, imp. 13-16 ; A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, imp. 3, 30, 39, 72, 84 ; A3, inyandikomvugo y'iburanisha, 19 Werurwe 2009, urup. 47 ; Nyagatare, inyandikomvugo y'iburanisha, 23 Werurwe 2009, urup. 6.

[182] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 41.

[183] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 44.

[184] Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 34.

ko atigeze yumva Nshogoza asezeranya GAA amafaranga ayo ari yo yose, ko niba byarabayeho, byabaye adahari[186].

116. Urugereko rusanga ubuhamya bwa GAA buvuga ko yasezeranyijwe 1.000.000 Frw budafite ubundi bubushyigikira ntawabushira amakenga. Ubwo buhamya nta bisobanuro birambuye butanga. GAA yavuze gusa ko mu « biganiro bya mbere », Nshogoza yamusezeranyije amafaranga ariko nta bindi bisobanuro yabitanzeho. Ntiyigeze amenyeshwa umubare w'ayo mafaranga kugera ubwo babonanaga ku nshuro ya gatandatu[187]. Urugereko rusanga ubu buhamya bwatanzwe mu buryo bwa rusange butandukanye n'ibisobanuro birambuye GAA yatanze mu buhamya bwerekeranye n'ibiganiro yagiranye na Nshogoza, by'umwihariko ikiganiro cya mbere bagiriye mu kabari kitwa *Stella* n'icyo bagiriye mu biro bya noteri i Kigali.

117. GAA ntiyavuze umubare wa 1.000.000 Frw mu buhamya bwe bwo ku itariki ya 14 Kamena 2007 yagejeje ku bategetsi bo mu Rwanda[188]. Ubwo abo bategetsi bamubazaga impamvu atavuga umubare w'amafaranga Nshogoza yamusezeranyije, GAA yasubije atya :

> Mvugishije ukuri, ntiyigeze ampishurira umubare w'ayo mafaranga. Nemeye gusa gutanga ubuhamya bushinjura Kamuhanda, kubera ko nshingiye ku mubare w'amafaranga y'urugendo Nshogoza yampaga, nakekaga ko azampa amafaranga atubutse. Nyuma tumuhamagaye kuri terefoni, ntitwashoboye kumubona, ariko sinari kwemera amafaranga ari hasi ya 500.000 Frw[189].

118. N'ubwo GAA yigurutsa ubu buhamya yagejeje ku bategetsi bo mu Rwanda[190], Urugereko ntirwemera igisobanuro yatanze ku birebana n'impamvu yatumye abeshya muri ubwo buhamya. GAA yavuze ko, kugeza aza Arusha akemera icyaha muri Kanama 2007, ubwinshi mu buhamya bwe bwarimo ibinyoma[191]. Ukuri umuntu yashakira mu gisobanuro GAA atanga ni uko yageragezaga guhisha ibikorwa bye bibi. Mu bice by'ubuhamya byandukuwe uko biri hano hejuru, kandi byasomwe mu iburanisha, GAA ntiyageragezaga guhisha abategetsi b'u Rwanda ko yabonanye na Nshogoza. Nta n'ubwo yageragezaga guhisha ko yari ategereje guhabwa

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[185] A7/GEX, inyandikomvugo y'iburanisha, 19 Werurwe 2009, imp. 19-20.

[186] A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, imp. 47-48.

[187] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 41.

[188] GAA, inyandikomvugo y'iburanisha, 19 Gashyantare 2009, urup. 26.

[189] GAA, inyandikomvugo y'iburanisha, 19 Gashyantare 2009, imp. 26-27.

[190] GAA, inyandikomvugo y'iburanisha, 19 Gashyantare 2009, urup. 27.

[191] GAA, inyandikomvugo y'iburanisha, 17 Gashyantare 2009, urup. 52.

amafaranga kugira ngo avuguruze ubuhamya bwe bwa mbere. Byongeye kandi, mu buhamya yatangiye muri uru Rugereko, GAA yemeje bimwe na bimwe bikubiye mu buhamya yagejeje ku bategetsi b'u Rwanda, aho yagize ati Nshogoza « yansezeranyije kuzampa amafaranga ariko ntiyavuze umubare wayo. Ariko urebye ayo yampaga ku munsi, byampaga icyizere ko azampa amafaranga menshi kurushaho[192]».

119. Rumaze gusuzuma ubuhamya GAA yatanze muri uru Rugereko n'ubwo yagejeje ku bategetsi bo mu Rwanda ku itariki ya 14 Kamena 2007 ndetse n'ubuhamya bw'abandi batangabuhamya bashinja, rusanga ugushidikanya kurushaho kwiyongera ku birebana n'ubuhamya GAA yatanze muri uru Rugereko aho yavuze ko yasezeranyijwe igihembo cy'amafaranga. Umutangabuhamya ushinja wiswe GAF, akaba ari inshuti n'umuturanyi wa GAA, yavuze ko GAA yamurebye akamubwira ko ashobora kuzahindura ubuhamya yatanze mu rubanza rwa Kamuhanda[193], ko GAA atigeze amubwira umubare w'amafaranga, cyangwa ko yari yizeye neza ko icyo yasezeranyijwe cyari amafaranga ; ahubwo « yaketse gusa ko ari amafaranga. Kubera ko bizwi ko mu bintu nk'ibyo icyo abantu bakoresha ari amafaranga[194]». Umutangabuhamya ushinja wiswe SP004, indi nshuti n'umuturanyi wa GAA, yavuze ko GAA yavuze ko azaka 1.000.000 Frw kugira ngo batange ubuhamya bushinjura Kamuhanda. GAA yamubwiye kandi ko, n'ubwo bakwaka miriyoni y'amafaranga y'u Rwanda, uwo muntu yari yiteguye kuyatanga[195].

120. N'ubwo GAF na SP004 barenguriraga ku mafaranga bashoboraga kwishyurwa buri wese ku giti cye, cyangwa bose hamwe baramutse bemeye gutanga ubuhamya, Urugereko rusanga ubuhamya bwabo bushobora kugira icyo bufashaho mu kumenya icyo GAA yatekerezaga. Byongeye kandi, ntawakwirengagiza ko GAA atababwiye ko yasezeranyijwe amafaranga kugira ngo atange ubuhamya. Ubu buhamya busuzumiwe hamwe n'ubwo yagejeje ku bategetsi bo mu Rwanda ku itariki ya 14 Kamena 2007, ndetse n'ubwo yatanze muri uru Rugereko, busa n'ubugaragaza ko ashobora rwose kuba yari yiteze amafaranga cyangwa yari afite umugambi wo kwaka Nshogoza 500.000 Frw cyangwa 1.000.000 Frw, bigatuma umuntu ashidikanya ku byo avuga ko Nshogoza yari yarabasezeranyije amafaranga.

121. Bitewe n'uko nta buhamya buriho bushyigikira ubwa GAA buvuga ko habayeho gusezeranywa amafaranga, nta bisobanuro birambuye biri mu buhamya bwe bigaragaza igihe ayo masezerano

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[192] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 45.

[193] Reba hasi, ibika 141-153.

[194] GAF, inyandikomvugo y'iburanisha, 9 Gashyantare 2009, urup. 31.

[195] SP004, inyandikomvugo y'iburanisha, 11 Gashyantare 2009, imp. 70-71.

yabereye n'uburyo yabayemo, nta bisobanuro bigaragaza neza icyo Nshogoza yavuze mu by'ukuri, bitewe kandi n'uko ubuhamya bwa GAA mu rukiko buvuguruzanya n'ubwo yagejeje mbere ku bategetsi bo mu Rwanda, no kubera gushidikanya kw'inyongera kwabyukijwe n'ubuhamya bw'abandi batangabuhamya bashinja muri uru rubanza, n'impungenge z'Urugereko zerekeye ubuhamya bwa GAA bwagaragajwe hejuru[196], Urugereko rusanga Porokireri atarashoboye kwerekana ku buryo budashidikanywaho ko Nshogoza yasezeranyije GAA 1.000.000 Frw, cyangwa undi mubare w'amafaranga uwo ari wo wose, amugurira ngo akunde atange ubuhamya imbere y'abapererezi no muri uru Rugereko.

2.2.5.3 Ibimenyetso ku birebana n'uko Uregwa yavuze ibintu uko bitari

122. GAA yavuze ko mu kiganiro yagiranye bwa mbere n'Uregwa, Uregwa yamubwiye ko yarimo kwandika igitabo kuri Kamuhanda, ko yifuza ko amufasha[197]. GAA yibwiye ko inyandikomvugo y'ubuhamya bwe yashyizeho umukono yari kuzakoreshwa n'Uregwa mu gitabo yavuze ko yandikaga kuri Kamuhanda[198].

123. GAA yavuze ko yamenye bwa mbere ko ubuhamya bwe bukubiye mu nyandikomvugo yakozwe n'umupererezi buzakoreshwa mu Rukiko ubwo yari ku biro bya noteri, kubera ko muri icyo gihe ari bwo Nshogoza « yashyikirije Urukiko ubwo buhamya ». GAA yarabirwanyije maze Nshogoza amusobanurira ko ari avoka ukorera Urukiko, ko kandi ikizaba guhera icyo gihe ari we wenyine uzakibazwa mu rwego rw'akazi ke[199]. Ni bwo rero GAA yemeye ko ubuhamya bwe bwahabwa Urukiko[200].

124. A7/GEX yavuze ko ubwo yateguraga uko yahuza Nshogoza na GAA, yabwiye GAA ko Nshogoza ari umwe mu bagize ikipe y'Ubwunganizi bwa Kamuhanda[201]. Mu kiganiro bagiranye, nta na rimwe yigeze yumva Nshogoza arengurira ku kwandika igitabo[202].

[196] Reba hejuru, ibika 57-65.

[197] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, imp. 24-26.

[198] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 31.

[199] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 34.

[200] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 34.

[201] A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, urup. 6.

[202] A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, urup. 29.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

125. Urugereko ntirwemera ubuhamya bwa GAA budafite ubundi bubushyigikira bw'uko Nshogoza yavuze ko yandikaga igitabo kuri Kamuhanda. Urugereko rusanga ubu buhamya bwa GAA mu by'ukuri butandukanye n'ibindi bikubiye mu bundi buhamya bwe. GAA ntiyavuze ko Nshogoza yasobanuye ko icyo gitabo cyari kigamije kwerekana ko Kamuhanda ari umwere. Bityo, n'iyo Nshogoza yaba yarabwiye GAA ko yarimo kwandika igitabo, Urugereko nta mpamvu n'imwe yumvikana rubona yari gutuma GAA amubeshya ku birebana n'ibyabereye i Gikomero, kandi na GAA nta gisobanuro yabitanzeho. GAA ntiyasobanuye impamvu yari gutuma Nshogoza yari kumukenera mu kwandika igitabo kuri Kamuhanda kandi yari amaze kumenyeshwa ko GAA atari i Gikomero, akaba rero nta cyo yari azi kuri Kamuhanda. Byongeye kandi, ubuhamya bwa A7/GEX butuma ubwa GAA bushidikanywaho kurushaho.

126. Bitewe n'impungenge rufite ku birebana n'ukwemerwa kwa GAA[203], Urugereko ntirwemera ubuhamya bwe budafite ubundi bubushyigikira bw'uko Nshogoza yabwiye GAA ko kuvuguruza ubuhamya bwe bwa mbere nta ngaruka bizamukururira.

127. Bityo rero, Urugereko rusanze Porokireri atarashoboye kwerekana ku buryo budashidikanywaho ko Nshogoza yabwiye GAA ko yandikaga igitabo kuri Kamuhanda, cyangwa ko yamubwiye ko kuvuguruza ubuhamya bwe bwa mbere nta ngaruka bizamukururira.

3. IKIGANIRO NSHOGOZA YAGIRANYE N'UMUTANGABUHAMYA WISWE BUC

128. Porokireri avuga ko hagati y'itariki ya mbere Werurwe 2004 n'iya 20 Nzeri 2004, cyangwa hafi y'ayo matariki, Uregwa yasabye GAA kureba uko yamuhuriza i Kigali n'umutangabuhamya ushinja wiswe BUC. GAA yarabiteguye maze bahurira mu kabari i Kigali, kandi uretse Uregwa na BUC, GAA na A7/GEX na bo bari muri icyo kiganiro. Porokireri avuga ko Uregwa yagerageje gusaba BUC ko yamugezaho ubuhamya bw'ikinyoma, kuko yabimuhamagariye kandi akamusezeranya ruswa cyangwa ibihembo kugira ngo asinye inyandikomvugo y'ubuhamya bw'ikinyoma kandi azatange n'ubuhamya bushinjura Kamuhanda mu bujurire, ariko BUC yarabyanze. Porokireri avuga ko n'ubwo BUC yabyanze, avoka mukuru wa Kamuhanda yagejeje ku Rugereko rw'Ubujurire inyandikomvugo y'ubuhamya itagira itariki[204].

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[203] Reba hejuru, ibika 57-65.

[204] Inyandiko y'ibirego, ibika 28-32.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

129. Uregwa ntahakana ko yabonanye na BUC, ariko ntiyemera ko yagerageje kumusaba gutanga ubuhamya bw'ikinyoma.

Ibyabaye birebana n'ikiganiro Uregwa yagiranye na BUC

130. Kimwe no ku birebana n'ibiganiro Uregwa yagiranye na GAA na A7/GEX, ibyinshi mu bimenyetso by'impande zombi byerekeranye n'ikiganiro Nshogoza yagiranye na BUC babihuriraho cyangwa ntibabijyaho impaka mu rubanza. Nshogoza yasabye GAA kumurebera BUC[205]. GAA na BUC bari baturanye kandi baziranye[206]. GAA yabwiye BUC ko Nshogoza yashakaga ko babonana kubera ko yarokotse ubwicanyi bwakorewe i Gikomero mu mwaka wa 1994, Nshogoza akaba yarashakaga kumenya kurushaho ibyabereye i Gikomero[207].

131. BUC yaje kwemera kubonana n'Uregwa[208]. Bahuriye mu kabari kitwa *Stella*[209]. GAA, A7/GEX na A3 na bo bari muri icyo kiganiro[210]. Nshogoza yarabibwiye avuga ko ari umwe mu bagize ikipe y'Ubwunganizi bwa Kamuhanda[211]. Nshogoza yabajije BUC ibibazo byerekeranye n'ubwicanyi bwakorewe i Gikomero mu mwaka wa 1994, by'umwihariko ku birebana na

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[205] A7/GEX, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 50 ; Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 61 (Avoka mukuru Condé yamusabye kureba BUC, kandi ntahakana amakuru yatanzwe na GAA) ; Condé, inyandikomvugo y'iburanisha, 16 Werurwe 2009, imp. 57-58 (Yavuze ko yasabye Nshogoza kureba BUC).

[206] BUC, inyandikomvugo y'iburanisha, 12 Gashyantare 2009, urup. 16.

[207] BUC, inyandikomvugo y'iburanisha, 12 Gashyantare 2009, imp. 19-20.

[208] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 51 ; BUC, inyandikomvugo y'iburanisha, 12 Gashyantare 2009, urup. 21.

[209] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 51 ; A3, inyandikomvugo y'iburanisha, 19 Werurwe 2009, urup. 46 ; Reba kandi BUC, inyandikomvugo y'iburanisha, 12 Gashyantare 2009, imp. 21-22 (BUC ntiyari azi izina ry'ahantu bahuriye, yavuze ko ari mu « cyumba » i Kigali mu gace ka Remera) ; A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, urup. 31 (A7/GEX yavuze ko ibyo biganiro byabereye ahantu Nshogoza yari yarabonaniye mbere na GAA).

[210] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, imp. 51 na 52 ; A3, inyandikomvugo y'iburanisha, 19 Werurwe 2009, imp. 44 na 45 ; Reba kandi BUC, inyandikomvugo y'iburanisha, 12 Gashyantare 2009, urup. 24 (BUC ntiyari azi A3, ariko yavuze ko, uretse GAA na A7/GEX, hari umugabo atari azi wari witabiriye icyo kiganiro); A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, imp. 31,33 ; inyandikomvugo y'iburanisha, 19 Werurwe 2009, imp. 6-8 (A7/GEX yavuze ko atari azi A3 icyo gihe, ariko nyuma yaje kumenya umwirondoro we kandi ko yawemeje ubwo bazanaga Arusha gutanga ubuhamya muri uru rubanza).

[211] BUC, inyandikomvugo y'iburanisha, 12 Gashyantare 2009, urup. 26.

Kamuhanda[212]. Uwo mutangabuhamya yamubwiye ko atari azi Kamuhanda[213]. Muri icyo kiganiro, Uregwa yandikaga ibivugirwamo[214]. Ikiganiro gishoje, Nshogoza yabajije BUC niba yakwemera kujya gutanga ubuhamya mu Rukiko aramutse abisabwe[215]. BUC yamubwiye ko yabyemera[216]. Yasobanuye ko yemeye ko yajya gutanga ubuhamya kubera ko Nshogoza yamubajije ibibazo ku byabereye i Gikomero kandi akaba yari ahari[217].

132. Ikiganiro kirangiye, Nshogoza yahaye BUC 5.000 Frw y'urugendo[218]. Muri icyo kiganiro, Nshogoza ni we warishye ibiryo n'ibinyobwa[219]. Ubwunganizi bwashyikirije Urugereko rw'Ubujurire inyandikomvugo ikubiyemo ubuhamya bwa BUC yakozwe n'umupererezi, nka kimwe mu byari bigize Icyifuzo bwatanze bushingiye ku ngingo ya 115 y'Amategeko[220].

133. Urugereko rwemera ko ibi byabaye byatangiwe gihamya ku buryo budashidikanywaho.

Ibindi bimenyetso bifite aho bihuriye n'urubanza

134. Uretse ibimenyetso bitagibwaho impaka byavuzwe hejuru, Urugereko rusanga ibimenyetso bikurikira bifite aho bihuriye n'urubanza ku buryo byarufasha kumenya ibyabereye muri ibyo biganiro :

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212 BUC, inyandikomvugo y'iburanisha, 12 Gashyantare 2009, urup. 22.

213 BUC, inyandikomvugo y'iburanisha, 12 Gashyantare 2009, urup. 22.

214 GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 52 ; Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 60 (Hifashishwa ubuhamya yandikishije intoki) ; A7/GEX, inyandikomvugo y'iburanisha, 18 Werurwe 2009, urup. 31.

215 BUC, inyandikomvugo y'iburanisha, 12 Gashyantare 2009, urup. 23.

216 BUC, inyandikomvugo y'iburanisha, 12 Gashyantare 2009, imp. 23-24.

217 BUC, inyandikomvugo y'iburanisha, 12 Gashyantare 2009, urup. 27.

218 GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 52 ; BUC, inyandikomvugo y'iburanisha, 12 Gashyantare 2009, urup. 26 ; Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 61.

219 GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 52 ; BUC, inyandikomvugo y'iburanisha, 12 Gashyantare 2009, urup. 26 ; A3, inyandikomvugo y'iburanisha, 19 Werurwe 2009, urup. 47.

220 Ikimenyetso gihamya cyahawe nº D. 30 ; Reba kandi Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 59 (Yemera imvugo ya BUC yometse ku cyifuzo cyatanzwe hashingiwe ku ngingo ya 115 y'Amategeko).

a. BUC yavuze ko urugendo rwo kujya no kuva i Remera rwamutwaye 600 Frw kandi ko atigeze abazwa amafaranga rwamutwaye[221].

b. GAA yavuze ko Nshogoza yeretse BUC inyandiko zo gusinya. GAA ntiyamenye ibyari bikubiye muri izo nyandiko[222].

c. Nshogoza yavuze ko BUC yamugejejeho ubuhamya bwe ku bushake, kandi ko yabwandikishije intoki maze akabuha BUC wabusinye[223].

d. Nshogoza yavuze ko isinya ya BUC yari ku nyandikomvugo yandikishijwe intoki, yometswe ku Cyifuzo cyatanzwe hashingiwe ku ngingo ya 115 y'Amategeko cyatanzwe n'avoka mukuru Condé[224].

e. Nshogoza yavuze ko yishyuye BUC 5.000 Frw y'urugendo n'akazi ke yari yataye, ariko ko atagerageje kumuha ruswa[225].

Ibibazo birebana n'ibyabaye bigibwaho impaka

135. Porokireri avuga ko umwanzuro rukumbi ushyize mu gaciro umuntu ashobora gufata ashingiye ku bimenyetso bimaze kuvugwa ari uko « Uregwa yagerageje gushaka no gushyikiriza Urugereko rw'Ubujurire ubuhamya byitwa ko bwatanzwe na BUC, bwo gushinjura Jean de Dieu Kamuhanda[226] ». Urugereko rusanga gushaka ibimenyetso ubwabyo atari igikorwa gihanirwa cyafatwa nko gusuzugura Urukiko, bityo muri rusange, kugerageza gushaka ibimenyetso ntibyahanirwa nko kugerageza gukora igikorwa gifatwa nko gusuzugura Urukiko kandi gihanirwa. Urugereko rurasuzuma rero gusa niba ibimenyetso byerekana ko Uregwa yagerageje gushakira ubuhamya bw'ikinyoma kuri BUC.

221 BUC, inyandikomvugo y'iburanisha, 12 Gashyantare 2009, imp. 26-27.

222 GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 51.

223 Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, imp. 60-61.

224 Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, imp. 59-60 ; Ikimenyetso gihamya cyahawe nº D. 30.

225 Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 61.

226 Imyanzuro nsozarubanza ya Porokireri, igika 170.

136. Porokireri ntiyatanze ibimenyetso bigaragaza ko Uregwa yasabye BUC gutanga ubuhamya bw'ikinyoma cyangwa gusinya inyandikomvugo y'ubuhamya bw'ikinyoma. Ahubwo, ibimenyetso bigaragaza ko Uregwa yabajije BUC icyo azi ku bwicanyi bwabereye i Gikomero, undi na we amubwira icyo abiziho, noneho amusaba gusinya inyandikomvugo y'ubwo buhamya bwe, anamubaza niba yakwemera kuzabitangaho ubuhamya mu Rukiko .

137. Porokireri ntiyigeze abaza BUC ikibazo icyo ari cyo cyose kirebana n'inyandikomvugo y'ubuhamya bwe yashyikirijwe Urugereko rw'Ubujurire, kandi yari afite igihe cyo kubimubaza. Kubera iyo nenge, umwanzuro wose wavuga ko iyo nyandikomvugo ikubiyemo ubuhamya butandukanye n'ubwo BUC yabwiye Uregwa igihe babonanaga, ntaho waba ushingiye kandi waba unyuranyije n'amahame y'ibanze arebana no guca urubanza mu buryo buboneye kandi bukurikije amategeko. Kubera izo mpamvu, Porokireri ntiyashoboye kugaragaza ku buryo budashidikanywaho ko inyandikomvugo y'ubuhamya bwa BUC yari ikinyoma, ko kandi hari impamvu iyo ari yo yose yari gutuma Uregwa atekereza ko ibyari biyikubiyemo atari ukuri.

138. Urugereko rusanze hari ibimenyetso bigaragaza nta gushidikanya ko BUC yemeye kuzatanga ubuhamya mu Rugereko rw'Ubujurire. Ikindi kandi, BUC ntiyigeze avuga ko yabyemeye kubera ko Uregwa yamwoheje cyangwa yamuhaye ruswa. Kandi koko, BUC yavuze ko yemeye gutanga ubuhamya kuko Uregwa yamubajije ibibazo ku byabereye i Gikomero kandi yari ahari[227]. Urugereko rw'Ubujurire ntirwakiriye inyandikomvugo y'ubuhamya bwa BUC nk'ikimenyetso cy'inyongera mu bujurire.

139. Ubuhamya bwa GAA buvuga ko Uregwa yashyikirije BUC inyandiko zo gusinya –ngo zaba zari zirengurira ku bindi bintu bidahuye n'inyandikomvugo y'ubuhamya yandikishijwe intoki cyangwa ibyo yari yanose, ntibyari bisobanutse neza mu buhamya yatangiye mu rukiko kandi ntibyavuzweho mu buryo burambuye- ntibwashyigikiwe na BUC. Kandi koko, Porokireri ntiyigeze agira ikibazo na kimwe amubazaho. Byongeye kandi, ubwo buhamya bwarimo kwivuguruza, nibura kuri bimwe, aho GAA yanavuze ko Nshogoza hari byo yagiye yandika ubwo yari mu kiganiro. Ubu buhamya bwa GAA bwavugurujwe kandi n'ubwa A7/GEX n'ubw'Uregwa. Kubera ko ubuhamya bwa GAA butavuga ibintu ku buryo burambuye kandi bufututse, kuba BUC atarabushyigikiye, no kubera ko bukubiyemo ibintu bidahuza kandi bivuguruzanya nk'uko byavuzwe haruguru, Urugereko ntirwemera ko Uregwa hari izindi

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[227] BUC, inyandikomvugo y'iburanisha, 12 Gashyantare 2009, urup.27

nyandiko yashyikirije BUC zitandukanye n'inyandikomvugo y'ubuhamya bwe yari yandikishije intoke cyangwa n'ibyo yari yanditse.

140. Urugereko rusanze ibimenyetso bigaragaza ku buryo budashidikanywaho ko Nshogoza yahaye BUC 5.000 Frw avuga ko yari ay'urugendo. Urugereko rwemera ko aya mafaranga arenze ayo BUC yishyuye mu by'ukuri kuri urwo rugendo angana na 600 Frw cyangwa 1.200 Frw, kandi rwemera ko Uregwa atabajije BUC umubare w'amafaranga urwo rugendo rumutwara. Ibimenyetso bigaragaza kandi ko Uregwa yaguriye BUC ibiryo n'ibinyobwa. Cyakora, ku birebana n'amafaranga n'ibiribwa n'ibinyobwa byaguriwe GAA na A7/GEX, Urugereko rusanga ibimenyetso bitagaragaza ko ayo mafaranga, ibiryo n'ibinyobwa byari bigamije koshya cyangwa guha ruswa BUC kugira ngo asinye inyandikomvugo y'ubuhamya bwe yakozwe n'umupererezi cyangwa se azatange ubuhamya mu Rukiko.

4. Uko umutangabuhamya wiswe GAA yabonanye n'abiswe GAF, SP003 na SP004

141. Porokireri avuga ko, hagati y'itariki ya 1 Werurwe 2004 na 31 Gicurasi 2005, Uregwa, afatanyije na bene wabo wa Kamuhanda cyangwa se abandi bantu b'inshuti magara ba Kamuhanda, yasabye GAA kuzamurebera abatangabuhamya bashinja biswe GAF, SP003 na SP04 akabamusabira kuzabonana na we agamije gusaba buri wese muri bo kumugezaho ubuhamya bw'ikinyoma, na we akabibahera amafaranga atubutse ya ruswa cyangwa ibindi bihembo[228].

142. Uregwa avuga ko atigeze asaba GAA kubonana n'uwo ari we wese muri abo batangabuhamya.

Ibyabaye bigibwaho impaka

143. Ku byabaye bivugwa aha, nta bintu birimo bitagibwaho impaka kandi n'ibimenyetso bitangwa n'ababuranyi nta ho bihurira, ibyo bikaba binyuranye n'ibindi byabaye bivugwa muri uru rubanza. Urugereko rusanga ibibazo bibiri by'ingenzi bigaragara mu Nyandiko y'ibirego ari ukumenya (i) niba Uregwa yarasabye GAA gushaka abandi batangabuhamya kugira ngo batange ubuhamya bw'ikinyoma bushinjura Kamuhanda; no kumenya (ii) niba Uregwa hari igihembo icyo ari cyo cyose yasezeranyije abandi batangabuhamya.

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[228] Inyandiko y'ibirego, ibika 35, 41,49.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

Ibimenyetso birebana n'ibivugwa

144. GAA yavuze ko Nshogoza yamubwiye ngo nashobora kumubonera abandi bantu bashobora kuzatanga ubuhamya azamuhuze na bo[229]. GAA yavuze ko abo bantu ari abagombaga kuzatanga ubuhamya buvuga ko batabonye Kamuhanda i Gikomero mu gihe cy'ubwicanyi[230]. GAA yarebye abatangabuhamya bashinja biswe GAF, SP003 na SP004, ariko nta n'umwe muri bo wahuye cyangwa wavuganye na Nshogoza[231]. GAA yasobanuye ko ubwo yahuriraga na Nshogoza mu biro bya noteri, aho yemereje inyandikomvugo y'ubuhamya bwe buvuguruza ubwo yari yaratanze mbere, Nshogoza yamusabye kutongera kubonana na GAF, SP003 na SP004 kubera ko ngo « abatangabuhamya yari amaze kubonana na bo bari bahagije »[232]. GAA yanavuze ko amaze kubwira Nshogoza amazina y'abo bantu, Nshogoza yamubwiye ko atagikeneye kubonana na bo[233].

145. GAF, SP003 na SP004 bose baturanye na GAA[234]. GAA yamenyesheje buri wese muri bo ko hari umuntu ushaka kuvugana na bo ku birebana na Kamuhanda n'ibyabereye i Gikomero kandi ko uwo muntu, atababwiye izina rye, yiteguye kubahemba amafaranga kuri ubwo buhamya[235]. Bose bamenye ko Nshogoza ari we muntu wari wasezeranye kuzabaha amafaranga ubwo GAA yari avuye Arusha gutanga ubuhamya buvuguruza ubwo yari yaratanze mbere[236].

146. By'umwihariko, GAA yasabye GAF, wari watanze ubuhamya bushinja mu rubanza rwa Kamuhanda mu Rugereko rwa Mbere rw'Iremezo, gutanga ubuhamya buvuguruza ubwo yari

[229] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 48.

[230] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 49.

[231] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, imp. 49, 53.

[232] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 55.

[233] GAA, inyandikomvugo y'iburanisha, 19 Gashyantare 2009, urup. 27.

[234] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, imp. 53, 55; GAF, inyandikomvugo y'iburanisha, 9 Gashyantare 2009, urup. 21; SP003, inyandikomvugo y'iburanisha, 10 Gashyantare 2009, urup. 46; SP004, inyandikomvugo y'iburanisha, 11 Gashyantare 2009, imp. 64-65 (Iburanisha mu muhezo).

[235] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, imp. 53-55; GAF, inyandikomvugo y'iburanisha, 9 Gashyantare 2009, imp. 23, 28; SP003, inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 50-53; SP004, inyandikomvugo y'iburanisha, 11 Gashyantare 2009, imp. 68-71.

[236] GAF, inyandikomvugo y'iburanisha, 9 Gashyantare 2009, imp. 24-28; SP003, inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 48, 51, 54-55; SP004, inyandikomvugo y'iburanisha, 11 Gashyantare 2009, urup. 69.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

yaratanze mbere[237]. GAA yabwiye SP003 ko agiye kumuhuza n'umuntu « kugira ngo tuzajye gutanga ubuhamya mu rubanza rwa Kamuhanda buvuga ko Kamuhanda atageze aho abantu biciwe i Gikomero »[238]. GAA yasabye SP004 gushinjura Kamuhanda anamubwira ko kubera ko atigeze atanga ubuhamya bushinja Kamuhanda, ashobora gutanga ubumushinjura kandi ko nta ngaruka mbi byazamugiraho[239].

147. Ku birebana no gusezeranywa kuzahabwa amafaranga, GAA ntiyigeze asobanurira neza GAF ko Nshogoza azamuha amafaranga kugeza ubwo GAA yajyaga Arusha gutanga ubuhamya buvuguruza ubwo yari yaratanze mbere[240]. GAA yabwiye SP003 ko yazahabwa amafaranga arenga 1.000.000 Frw[241]. GAA yabwiye SP004 ko azasaba [Nshogoza] kubaha amafaranga 1.000.000 Frw kugira ngo bazashinjure Kamuhanda. GAA yavuze ko, n'iyo basaba 1.000.000 Frw, uwo muntu, atababwiye izina, azayibaha[242].

148. Mu rukiko, GAF yavuze ko yanze gutanga ubuhamya buvuguruza ubwo yari yaratanze mbere kubero ko atashakaga kubeshya cyangwa gutanga ubuhamya ku bintu atiboneye ubwe[243]. Cyakora, yanavuze ko yaje kugera aho akemera kuzabonana na Nshogoza, ko ariko batigeze babonana[244]. SP003 yavuze ko yemeye kubonana n'Uregwa ariko agamije gusa kuzamenyesha abayobozi uwo muntu ngo wari kuzabaha amafaranga[245]. GAA yateguye uko SP003 yazabonana na mushiki wa Kamuhanda, ariko SP003 ntiyabishakaga[246]. Nta gahunda yo kubonana yigeze ibaho hagati ya SP003 n'Uregwa. SP004 ntiyemeye ibyo GAA yamusabaga[247].

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237 GAF, inyandikomvugo y'iburanisha, 9 Gashyantare 2009, imp. 21, 23.

238 SP003, inyandikomvugo y'iburanisha, 10 Gashyantare 2009, urup. 50.

239 SP004, inyandikomvugo y'iburanisha, 11 Gashyantare 2009, imp. 68-69.

240 GAF, 9 Gashyantare 2009, imp. 29-31 (Aho avuga ko yumvise ko azahabwa amafaranga kuko ari yo yakoreshwaga mu bintu nk'ibyo).

241 SP003, inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 51-53.

242 SP004, inyandikomvugo y'iburanisha, 11 Gashyantare 2009, imp. 70-71.

243 GAF, inyandikomvugo y'iburanisha, 9 Gashyantare 2009, imp. 23, 28-29.

244 GAF, inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 25, 35.

245 SP003, inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 55, 57.

246 SP003, inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 55-56.

247 SP004, inyandikomvugo y'iburanisha, 11 Gashyantare 2009, urup. 70.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

149. Mu buhamya bwe, Nshogoza yavuze ko atari azi GAF, SP003 cyangwa SP004, kandi ko atari yarigeze ababona mbere y'uko baza gutanga ubuhamya muri uru rubanza[248]. Nta muntu n'umwe yigeze asaba kumuhuza n'abo batangabuhamya[249]. Uregwa avuga ko GAA atigeze amubwira ko ashaka kumuhuza na GAF, SP003 na SP004 kandi ko atigeze amuha amazina yabo[250].

Ese Uregwa yigeze asaba GAA gushaka abandi batangabuhamya?

150. Urugereko rusanga ibivugwa na Porokireri kuri iki kibazo bishingiye ku buhamya bwa GAA, akaba ari we mutangabuhamya ushinja wenyine watanze ubuhamya butaziguye ku birebana n'uko ngo Uregwa yamusabye gushaka abandi batangabuhamya.

151. Ubuhamya GAA yatangiye mu rukiko avuga ko Nshogoza yamusabye gushaka abandi batangabuhamya burahuzagurika kandi buvuguruzanya n'ubwo yagejeje ku bategetsi bo mu Rwanda. GAA yabanje kuvuga ko Uregwa yamusabye gushaka abandi bantu bashoboraga kuzatanga ubuhamya no kumuhuza na bo[251]. Nyuma yavuze ko Uregwa yamusabye gusa kumushakira umutangabuhamya wiswe BUC, noneho ku giti cye abyibwirije akaba yarashatse abandi bantu bashoboraga kuzatanga ubuhamya[252]. GAA yaje kuvuga na none ko Uregwa yamuhaye amazina y'abantu bamwe noneho akajya kubareba[253]. Yanavuze ko Uregwa yamusabye kumushakira abantu bamwe, ko ariko nyuma ari bwo yahishuriye Uregwa amazina y'abo bantu[254]. Byongeye kandi, mu nyandikomvugo y'ubuhamya bwe bwo ku itariki ya 14 ukwakira 2007 yakozwe n'abategetsi bo mu Rwanda, GAA yemeje ko Uregwa atigeze amusaba gushaka abatangabuhamya bo gushinjura Kamuhanda. GAA yahakanye iyi nyandikomvugo y'ubuhamya bwe, atsindagira ko Uregwa yamuhaye amazina y'abantu yagombaga kumushakira[255].

152. N'iyo Urugereko rwakwirengagiza uku guhuzagurika mu magambo no kwivuguruza, rukemera ubuhamya bwa GAA, budafite ubundi bubushyigikira, buvuga ko Uregwa yamusabye gushaka

[248] Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 61.

[249] Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 62.

[250] Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, urup. 62.

[251] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 48.

[252] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 49.

[253] GAA, inyandikomvugo y'iburanisha, 19 Gashyantare 2009, urup. 27.

[254] GAA, inyandikomvugo y'iburanisha, 19 Gashyantare 2009, urup. 27.

[255] GAA, inyandikomvugo y'iburanisha, 19 Gashyantare 2009, urup. 27.

abandi batangabuhamya, ntibyaba bigaragaza ku buryo budashidikanywaho ko Uregwa yifuzaga gushaka ubuhamya bw'ikinyoma. GAA ntiyigeze avuga ko Uregwa yamusabye gushaka abantu bazabeshya cyangwa bazatanga ubuhamya bw'ikinyoma. Urugereko ruributsa ko GAA yamenyesheje Uregwa ko atigeza ajya i Gikomero kandi ko ubuhamya yatanze ashinja Kamuhanda mbere bwari ibinyoma[256]. Niba Uregwa, amaze kumva ibi, yarasabye GAA gushaka abandi batangabuhamya bashoboraga kwemeza ko Kamuhanda atari i Gikomero, umwanzuro ushyize mu gaciro umuntu yafata ni uw'uko Uregwa yashakishaga gusa ubuhamya bwashyigikira ubwa GAA bwavuguruzaga ubwo yari yaratanze mbere. Kubera izo mpamvu, Urugereko rusanga Porokireri atarashoboye kugaragaza ku buryo budashidikanywaho ko Uregwa yasabye GAA gushaka abandi batangabuhamya bo kuzatanga ubuhamya bw'ikinyoma.

Ese Uregwa yasezeranyije ibihembo abandi batangabuhamya?

153. Ku birebana n'amasezerano yo guhemba abazatanga ubuhamya bw'ikinyoma, Urugereko rusanga ubuhamya bwa GAA budatanga amakuru arambuye kandi afututse yatuma umuntu amenya niba Uregwa hari amafaranga yasezeranyije abatangabuhamya biswe GAF, SP003 cyangwa SP004, cyangwa muri rusange abandi batangabuhamya. Ubwo GAA yatangaga ubuhamya bwa mbere ku birebana n'uko ngo Nshogoza yamusabye gushaka abandi batangabuhamya, ntiyigeze avuga ko yasezeranyijwe amafaranga. Ubwo nyuma yatangaga ubuhamya ku birebana n'uko hariho amasezerano y'ibihembo by'amafaranga, ntibyari bisobanutse neza niba yaravugaga amafaranga Nshogoza yamusezeranyije, cyangwa se niba ari andi masezerano yihariye Nshogoza yagiranye n'abandi batangabuhamya y'uko azabaha igihembo cy'amafaranga[257]. Byongeye kandi, Urugereko ruributsa isesengura rwamaze gukora ku birebana n'ubuhamya GAA buvuga ko Uregwa yamwijeje igihembo kubera ubuhamya bwe[258]. Urugereko rusanga ugushidikanya guterwa n'ubuhamya GAA yatangiye mu rukiko n'ubwe bukubiye mu nyandikomvugo zakozwe mbere ndetse n'ubuhamya bw'abatangabuhamya biswe GAF na SP004 ku birebana no kumenya niba Uregwa yaramwijeje igihembo cy'amafaranga, gutuma na none umuntu ashidikanya ku birebana no kumenya niba Uregwa yarasezeranye kuzaha igihembo cy'amafaranga abandi

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[256] Reba hejuru, ibika 95-102.

[257] GAA, inyandikomvugo y'iburanisha, 16 Gashyantare 2009, urup. 54 (« Nabwiye [GAF] ibyo Uregwa yari yambwiye ko niyemera -guhindura ubuhamya yatanze mbere, Nshogoza azamuha amafaranga- »). Ukurikije ubu buhamya, ntibigaragara niba GAA yaravugaga ibyo Nshogoza yaba yaramwijeje ku giti cye ku birebana no kumuha igihembo, cyangwa se niba Nshogoza yari yavuze ko n'abandi bantu azabaha igihembo.

[258] Reba hejuru, ibika 114-121.

batangabuhamya. Kubera izo mpamvu, Urugereko rusanga Porokireri atarashoboye kugaragaza ku buryo budashidikanywaho ko Uregwa yasezeranye kuzaha igihembo cy'amafaranga abandi batangabuhamya kubera ubuhamya bwabo.

UMUTWE WA IV: IMYANZURO YO MU RWEGO RW'AMATEGEKO

1. IBY'INGENZI BITEGANYWA N'AMATEGEKO Y'URUKIKO KU BIREBANA NO GUSUZUGURA URUKIKO

154. Gusuzugura Urukiko bisobanurwa mu ngingo ya 77 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, iteganya ibikurikira, mu bice byayo birebana n'ibivugwa muri uru rubanza:

A) Rushingiye ku bubasha rufite, Urukiko rushobora guhamya icyaha cy'agasuzuguro, abantu badindiza imirimo y'ubutabera ku bushake kandi babizi, cyane cyane nk'umuntu:

…

iii) utangaza amakuru ajyanye n'imiburanishirize, yica nkana itegeko ryafashwe n'Urugereko;

…

iv) utera ubwoba umutangabuhamya, umubangamira cyangwa ugerageza kumuha ruswa, haba mu gihe atanga ubuhamya, yabutanze cyangwa ari hafi yo kubutanga imbere y'Urugereko, cyangwa akamwotsa igitutu ku bundi buryo ubwo ari bwo bwose; cyangwa se ukorera ibyo byose umuntu ushobora kuzaba umutangabuhamya ; cyangwa

….

B) Kugerageza gukora kimwe mu bikorwa bivugwa mu gika A), cyangwa gushishikariza kugikora bifatwa nk'icyaha cyo gusuzugura Urukiko kandi bihanwa kimwe.

155. Ingingo ya 77 (A) y'Amategeko iteganya mu buryo bwa rusange igikorwa kigize icyaha cyo gusuzugura Urukiko (*actus reus)* n'igitekerezo cyo gukora icyo cyaha (*mens rea)*. Igikorwa kigize icyaha (*actus reus)* ni ukwivanga mu mirimo y'iburanisha, naho igitekerezo cyo gukora icyaha (*mens rea)* ni ukuba uzi neza ko wivanga kandi ukabikora ubishaka[259].

156. Urutonde rw'ibikorwa bihanirwa bivugwa si byo byonyine, kandi ntibikoma imbere Urukiko mu bubasha rufite rwo guhana ibyaha by'agasuzuguro[260].

157. Hakurikijwe ibivugwa mu ngingo ya 77 (A)(ii) y'Amategeko, igikorwa kigize icyaha (*actus reus)* cyo gusuzugura Urukiko ni icyo gushyira hanze amakuru y'ibanga arebana n'imirimo y'Urukiko hagamijwe kurenga ku mategeko rwatanze[261]. Igitekerezo cyo gukora icyaha cyo gusuzugura Urukiko *(mens rea)* umuntu atanga amakuru anyuranyije n'ibiteganywa n'ingingo ya 77 (A) (ii) y'Amategeko kigaragazwa n'uko aba yayatanze azi neza ko binyuranyije n'amategeko yatanzwe n'Urukiko[262]. Biba bihagije iyo hagaragajwe ko igikorwa kinyuranyije n'amategeko yatanzwe n'Urukiko cyakozwe n'umuntu ku bushake kandi atari ibimugwiririye[263]. Kutumva neza amategeko kubirebana no kumenya niba gutanga amakuru binyuranyije n'amategeko cyangwa bitanyuranyije na yo, ntibibuza ko uwabikoze aryozwa icyaha[264].

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[259] *Urubanza Porokireri aburana na Domagoj Margetić*, Nº IT-95-14-R77.6, Inyandiko y'urubanza ku cyaha cyo gusuzugura urukiko (Urugereko rwa Mbere rw'Iremezo), 7 Gashyantare 2007, igika 77.

[260] Inyandiko y'urubanza rwa Margetić ku cyaha cyo gusuzugura urukiko, ibika 13, 14 (Hasubirwamo ibyavuzwe mu Nyandiko y'urubanza rwa Nobilo mu bujurire, igika 39 no mu *rubanza Porokireri aburana na Josip Jović*, Nº IT-95-14 & 14/2-R77, Icyemezo cyanga ingoboka mbanzirizarubanza yatanzwe n'Uregwa ari we Josip Jović asaba Urugereko kutakira Inyandiko y'ibirego ku mpamvu y'uko rudafite ububasha bwo kuburanisha n'iy'uko Inyandiko y'ibirego ifite inenge mu myandikire (Urugereko rwa Mbere rw'Iremezo), 21 Ukuboza 2005, igika 28).

[261] Inyandiko y'urubanza rwa Marijačić mu rw'iremezo, igika 17; Margetić, Inyandiko y'urubanza ku cyaha cyo gusuzugura urukiko, igika 36.

[262] Inyandiko y'urubanza rwa Josip Jović mu bujurire, Nº IT-95-14 & 14/2-R77-A,15 Werurwe 2007, ibika 27, 30; Inyandiko y'urubanza rwa Marijačić mu rw'iremezo, igika 18; *Urubanza Porokireri aburana na Baton Haxiu*, Nº IT-04-84-R77.5, Inyandiko y'urubanza ku kirego cyo gusuzugura urukiko (Urugereko rwa Mbere rw'Iremezo) 24 July 2008), igika 11.

[263] Inyandiko y'urubanza rwa Nobilo mu bujurire, igika 54.

[264] Inyandiko y'urubanza rwa Jović mu bujurire, igika 27; Inyandiko y'urubanza rwa Bulatović mu bujurire ku cyaha cyo gusuzugura urukiko, igika 11; Inyandiko y'urubanza rwa Haxiu ku cyaha cyo gusuzugura urukiko, igika 29.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

158. Imyitwarire ihanirwa hakurikijwe ibiteganywa n'ingingo ya 77 (A)(iv) y'Amategeko ikubiyemo gutera ubwoba umutangabuhamya, kumwuka igitutu, kumukomeretsq, kumuha ruswa cyangwa kwivanga mu buhamya bwe. Interuro « Cyangwa se mu bundi buryo wivanga mu buhamya » iraguye cyane ku buryo ikubiyemo ibintu birimo « imyitwarire iyo ari yo yose igamije kubangamira imikirize y'urubanza hakoreshejwe guca intege umutangabuhamya cyangwa umuntu ushobora kuzaba umutangabuhamya kugira ngo adatanga ubuhamya bwuzuye kandi bw'ukuri, cyangwa se mu buryo ubwo ari bwo bwose gutuma imiterere y'ubwo buhamya ihinduka »[265]. Uretse igitekerezo cyo gukora icyaha (*mens rea)* gisabwa muri rusange kugira ngo icyaha cyo gusuzugura Urukiko kibeho, Porokireri agomba no kugaragaza ko uregwa yabikoze abizi neza kandi abishaka. Ingingo ya 77 (A) (iv) y'Amategeko inasaba ko iyo myitwarire yashyizwe mu bikorwa hagamijwe kwivanga mu buhamya bw'umutangabuhamya cyangwa uwabikoze akaba yari azi neza ko iyo myitwarire ye yashoboraga guca intege umutangabuhamya cyangwa gutuma ahindura ubuhamya bwe[266].

159. Ingingo ya 77 (B) y'Amategeko igira iti « Kugerageza gukora kimwe mu bikorwa bivugwa mu gika (A), cyangwa gushishikariza kugikora bifatwa nk'icyaha cyo gusuzugura Urukiko kandi bihanwa kimwe ».

2 IKIREGO CYA MBERE: GUSUZUGURA URUKIKO

160. Mu kirego cya mbere cy'Inyandiko y'ibirego, Porokireri ashinja Nshogoza ko yakoze icyaha cyo gusuzugura Urukiko nk'uko biteganywa n'ingingo ya 77 (A) na (A)(ii) y'Amategeko, kubera ko yabonanye inshuro zinyuranye n'abatangabuhamya biswe GAA na A7/GEX kandi ko yamenyekanishije amakuru y'ibanga arebana na bo, azi neza ko arenga ku Itegeko ryo ku itariki ya 7 Nyakanga 2000 rikubiyemo ingamba zo kurinda umutekano w'abo batangabuhamya ryatanzwe n'Urugerko rwa Mbere rw'Iremezo rwaburanishije urubanza rwa Kamuhanda, cyangwa se kubera kutabyitaho na gato[267].

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[265] Inyandiko y'urubanza rwa Beqaj ku cyaha cyo gusuzugura urukiko, igika 21; Inyandiko y'urubanza rwa Margetić ku cyaha cyo gusuzugura urukiko, igika 64; *Urubanza Porokireri aburana na Astrit Haraqija na Bajrush Morina*, Nº IT-04-84-R77.4, Inyandiko y'urubanza ku cyaha cyo gusuzugura urukiko (Urugereko rwa Mbere rw'Iremezo), 17 Ukuboza 2008, igika 18.

[266] Inyandiko y'urubanza rwa Margetić ku cyaha cyo gusuzugura urukiko, igika 66; Inyandiko y'urubanza rwa Haraqija & Morina ku cyaha cyo gusuzugura urukiko, igika 19.

[267]Inyandiko y'ibirego, ibika 5-16; Reba kandi hejuru ibika 48-56.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

2.1 Ese Abatangabuhamya biswe GAA na A7/GEX bari Abatangabuhamya bashinja barindiwe umutekano ?

161. Ubwunganizi buvuga ko yaba GAA cyangwa se A7/GEX nta n'umwe muri bo wari umutangabuhamya ushinja urindiwe umutekano mu rubanza rwa Kamuhanda, igihe Uregwa yabonanaga na bo. Ubwunganizi buvuga ko A7/GEX hari ukuntu yashoboraga kuba yari kurebwa n'ingamba zo kumurindira umutekano nk'umuntu ushobora kuzaba umutangabuhamya ushinja, ko ariko izo ngamba zose zahagaze kubimureba ku itariki ya 14 Gicurasi 2002 ubwo Porokireri yari amaze gusoza itangwa rw'ibimenyetso bye muri urwo rubanza[268]. Ku birebana na GAA, Ubwunganizi buvuga ko yivukije izo ngamba zo kumurindira umutekano ubwo yiyemezaga cyangwa yemeraga kubonana n'Uregwa[269].

162. Hakurikijwe ibivugwa mu ngingo ya 75 (G) y'Amategeko, iyo hemejwe ingamba zo kurinda umutekano, zikomeza kugira agaciro kugera igihe zivaniweho, zihinduwe cyangwa se zongerewe hakurikijwe ibiteganywa mu duce tuva kuri (G) kugeza kuri (I) tw'iyo ngingo. N'ubwo ingingo ya 75 (G) y'Amategeko ivuga gusa ibirebana n'ingamba zo kurinda umutekano « w'uwakorewe icyaha cyangwa w'umutangabuhamya », Urugereko rusanga ibyo bitavuga ko hari hagamijwe mu buryo butaziguye kwerekana ko abashobora kuzaba abatangabuhamya bo batarebwa n'izo ngamba zo kubarindira umutekano ku buryo buhoraho. Ingingo ya 69 y'Amategeko yemera ishyirwaho ry'ingamba zo kurinda umutekano w'abatangabuhamya n'uw'abakorewe ibyaha muri rusange na yo nta cyo ivuga ku bantu bashobora kuzaba abatangabuhamya. Nyamara ariko, muri uru Rukiko, abantu bashobora kuzaba abatangabuhamya bagiye buri gihe bashyirirwaho ingamba zo kubarindira umutekano[270]. Mu Byemezo bibiri ziherutse gufata, Ingereko za Mbere z'Iremezo

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[268] Imyanzuro nsozarubanza y'Ubwunganizi, igika 289.

[269] Inyandikomvugo y'iburanisha, 29 Mata 2009, imp. 19-20 (Imyanzuro nsozarubanza y'Ubwunganizi mu magambo).

[270] Reba nk'urugero : Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gushyiraho ingamba zo kurinda umutekano w'abakorewe ibyaha n'uw'abatangabuhamya (Urugereko rwa Mbere rw'Iremezo), 22 Mutarama 2009; *Urubanza Porokireri aburana na Ngirabatware*, ICTR-99-54-T, Icyemezo ku cyifuzo cya Porokireri gisaba Urugereko gushyiraho ingamba zihariye zo kurinda umutekano w'abatangabuhamya bashinja n'uw'abandi (Urugereko rwa Mbere rw'Iremezo), 6 Gicurasi 2009, (« Icyemezo mu rubanza rwa Ngirabatware ») ; *Urubanza Porokireri aburana na Kalimanzira*, ICTR-2005-88-I, Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gushyiraho ingamba zo kurinda umutekano (Urugereko rwa Mbere rw'Iremezo), 14 Ukuboza 2007; *Urubanza Porokireri aburana na Karemera na bagenzi be*, ICTR-98-44-R75, Itegeko ry'Urugereko rishyiraho ingamba zo kurinda umutekano w'abatangabuhamya bashinja (Urugereko rwa Mbere rw'Iremezo), 10 Ukuboza 2004.

ntizemeye imiburanire yavugaga ko abantu bashobora kuzaba abatangabuhamya badashobora kurindirwa umutekano ngo kuko batavugwa mu buryo bweruye mu Mategeko[271].

163. Mu rubanza Porokireri aburana na Nahimana na bagenzi be, Urugereko rwasuzumye ikibazo kirebana n'ingamba zo kurindira umutekano abantu bashobora kuzaba abatangabuhamya mu Cyemezo rwafashe ku Cyifuzo cy'ingoboka :

> Urugereko rusanga ingingo ya 69 y'Amategeko iteganya ko itegeko ry'Urugereko rishyiraho ingamba zo kurinda umutekano rigumaho « kugeza igihe rwabigena ukundi ». Bitewe n'uko Urugereko rutavanyeho itegeko rishyiraho ingamba zo kurinda umutekano cyangwa ngo rufate ikindi cyemezo kinyuranye ku birebana no kurinda umutekano w'abatangabuhamya bashinja, iryo tegeko rigomba gukomeza kubahirizwa. *Ibi ni na ko bigomba kugenda ku birebana n'abatangabuhamya Porokireri cyangwa Ubwunganizi batahamagaje.* Ikiba kigenderewe mu gushyiraho ingamba zo kurinda umutekano ni ukurengera abatangabuhamya bashobora kugwirwa « n'akaga », nk'uko biteganywa n'ingingo ya 69 y'Amategeko, kandi, ku buryo bwa rusange ni ukurengera « imibereho bwite n'umutekano byabo », nk'uko bivugwa mu ngingo ya 75 y'Amategeko. Iyo Urugereko rushyizeho itegeko ryo kurinda umutekano w'abatangabuhamya, ingamba zirikubiyemo zihita zitangira kubahirizwa. *Umutangabuhamya utarigeze atumizwa igihe umuburanyi runaka yatangaga ibimenyetso bye ashobora kuzahamagazwa ikindi gihe mu rubanza, urugero nk'igihe cy'itangwa ry'ibimenyetso binyomoza, igihe cy'ubujurire cyangwa igihe cy'isubirishamo ry'urubanza. Umuntu ushobora kuzaba umutangabuhamya urebwa n'itegeko rigena ingamba zo kurinda umutekano ariko atarigeze atanga ubuhamya mu rubanza na we ashobora gukenera ko umutekano we urindwa. Kuba umutangabuhamya ari we wafashe iya mbere kugira ngo abonane n'avoka*

[271] Reba icyemezo mu rubanza rwa Ngirabatware, igika 21; *Urubanza Porokireri aburana na Karemera na bagenzi be,* ICTR-98-44-T, Icyemezo ku cyifuzo cyihutirwa cya Joseph Nzirorera gisaba Urugereko gushyiraho itegeko ribuza kubonana na « Icyifuzo cyihutirwa cyane cyatanzwe na Matthieu Ngirumpatse asaba Urugereko kubuza Porokireri kubonana n'umuntu uwo ariwe wese uri ku rutonde rw'abatangabuhamya atabanje kubyemererwa n'abavoka bamwunganira », (Urugereko rwa Mbere rw'Iremezo), 21 Kanama 2008 (Urugereko rwirinze kwemeza niba ingingo ya 75 y'Amategeko inarebana n'ingamba zo kurinda umutekano w'abantu bashobora kuzaba abatangabuhamya, ariko rwashyizeho ingamba zo kurinda umutekano w'abatangabuhamya nk'abo hashingiwe ku ngingo ya 54 y'Amategeko).

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hagamijwe kuvugana ku birebana n'ubuhamya, nk'uko bivugwa na Bwana Floyd [avoka wunganira Hassan Ngeze] muri uru rubanza, ntibivanaho inshingano avoka afite zo kubahiriza itegeko rishyiraho ingamba zo kurinda umutekano n'izo kubimenyesha Porokireri, kandi ntibikuraho ingamba zashyiriweho kurinda umutekano w'umutangabuhamya. Urugereko rwita bikomeye ku nshingano rufite zo kurengera abatangabuhamya kandi ruzirikana ko itegeko ryo kurinda umutekano w'umutangabuhamya rimuha icyizere ko umwirondoro we uzagirirwa ibanga n'umutekano we ukarindwa[272].

164. Urugereko rusanga ku birebana n'iki kibazo, imitekerereze y'Urugereko rwa Mbere rw'Iremezo mu rubanza rwa Nahimana na bagenzi be ifite ireme.

165. Ibivugwa n'Ubwunganizi ko umwanzuro wakwemeza ko bantu bashobora kuzaba abatangabuhamya bakomeza kurindirwa umutekano wakurura ingaruka mbi nta shingiro bifite. Ubwunganizi nta gisobanuro butanga kigaragaza ukuntu itegeko rishyiraho ingamba zo kurinda umutekano w'abantu bashobora kuzaba abatangabuhamya ariko nyuma ntibatange ubuhamya mu rukiko rishobora « gutesha agaciro akamaro k'izo ngamba »[273] ku birebana n'abantu batanze ubuhamya koko, kandi Urugereko ntirubona ko kugenera umutangabuhamya umwe ingamba zo kumurindira umutekano bibangamira cyangwa bigabanya ububasha bw'Urukiko bwo kugena ingamba zo kurinda umutekano w'abandi batangabuhamya. Byongeye kandi, ibivugwa ko habaho « ingaruka zikomeye zakoma imbere »[274] iperereza ry'Ubwunganizi nta shingiro bifite. Mu kugena ingamba zo kurinda umutekano, imikorere rusange ikurikizwa muri uru Rukiko ni uko Urugereko rwa mbere rw'Iremezo ruteganya uburyo undi muburanyi yahabwa uburenganzira bwo kubonana n'umutangabuhamya wahamagajwe n'uwo bahanganye[275]. N'ubwo kubonana

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[272] *Urubanza Porokireri aburana na Nahimana na bagenzi be*, Nº ICTR-99-52-T, Icyemezo ku cyifuzo cyihutirwa cya Porokireri gisaba Urugereko gushyiraho itegeko ribuza Ubwunganizi kongera kubonana n'umutangabuhamya wiswe RM-10, kinarusaba gufata ibindi byemezo ku birebana n'uko Ubwunganizi bwa Ngeze butubahirije ibyemezo by'Urukiko n'Amategeko (Urugereko rwa Mbere rw'Iremezo), 17 Mutarama 2003, igika 14 (« Icyemezo mu rubanza rwa Nahimana » (Ibisobanuro byo hasi ku rupapuro byavanwemo).

[273] Imyanzuro nsozarubanza y'Ubwunganizi, igika 290.

[274] Imyanzuro nsozarubanza y'Ubwunganizi, igika 291.

[275] Itegeko ry'Urugereko ryashyizeho ingamba zo kurinda umutekano mu rubanza rwa Kamuhanda ryavugaga ko mu gihe Ubwunganizi bwakwifuza « kubonana n'uwakorewe icyaha uwo ari we wese urindiwe umutekano cyangwa umuntu ushobora kuzaba umutangabuhamya ushinja cyangwa undi muntu wes ugira icyo apfana n'uwo mutangabuhamya », bugomba kubimenyesha Porokireri mbere kandi bugasaba Urugereko Uruhushya mu cyifuzo

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n'umutangabuhamya urindiwe umutekano bishobora gufata igihe bikanasaba ko hari ibibanza gukorwa mu rwego rw'ubuyobozi kuruta uko bigenda mu kubonana n'umutangabuhamya utarashyiriweho ingamba zo kumurindira umutekano, ibi ntibyakwitwa ko « ari ingaruka zikomeye zikoma imbere » Ubwunganizi kandi nta cyo bibangamiraho uburenganzira bw'uregwa.

166. Icya nyuma, ibivugwa n'Ubwunganizi ko Porokireri atatambamiye iyitaba ry'umutangabuhamya wiswe A7/GEX's mu rukiko wahamagajwe hashingiwe ku ngingo ya 115 y'Amategeko nta shingiro bifite[276]. Kurenga ku ngamba zo kurinda umutekano si ikintu gishobora gushyigikirwa n'umuburanyi uhanganye n'undi mu rubanza, byaba mu buryo butaziguye cyangwa se atabyitayeho.

167. Tugarutse ku byabaye byatangiwe gihamya muri uru rubanza, ibimenyetso bigaragaza ko abakozi bo mu Biro bya Porokireri bakoze inyandikomvugo y'ubuhamya bagejejweho n'umutangabuhamya wiswe A7/GEX ku birebana n'urubanza rwa Kamuhanda, kandi ko ikipe y'Ubwunganizi bwa Kamuanda yamenyeshejwe ko uwo A7/GEX ashobora kuzaba umutangauhamya ushinja muri urwo rubanza ku itariki ya 26 Werurwe 2001[277]. Ingamba zo kurinda umutekano zireba ku buryo bweruye abantu abashobora kuzaba abatangabuhamya bashinja, kandi ntizivuga igihe bizahagararira gufata abo bantu nk'abashobora kuzaba abatangabuhamya[278]. Urugereko rwa Mbere rw'Iremezo rwaburanishije urubanza rwa Kamuhanda ntirwigeze rukuraho ingamba zo kurinda umutekano w'abatangabuhamya bashinja, baba bashobora kuzahamagazwa cyangwa se abandi abo ari bo bose.

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cyanditse. Iryo tegeko ryateganyaga ko iyo Ubwunganizi bumaze kubona urwo ruhushya, Porokireri agomba «gukora ibishoboka byose kugira ngo abufashe kubonana n'abo bantu ». Icyemezo gishyiraho ingamba zo kurinda umutekano, igika 2 (i). Urugereko rwavuze ku buryo bweruye ko rwasanze izo ngamba zitabangamira uburenganzira bw'Uregwa. Icyemezo ku ngamba zo kurinda umutekano, igika 9.

[276] Imyanzuro nsozarubanza y'Ubwunganizi, igika 295. Ibyo ari byo byose, ibimenyetso byatanzwe muri uru rubanza bigaragaza ko Porokireri yabyukije ikibazo cyo kutubahiriza ingamba zo kurinda umutekano mu gihe cy'iburana mu bujurire. Ikimenyetso gihamya cyahawe nº P. 14 (Igice cyavanwe mu nyandiko y'iburanisha mu rubanza rwa Kamuhanda mu bujurire, *Urubanza Porokireri aburana na Kamuhanda*, inyandikomvugo y'iburanisha, 19 Gicurasi 2005, urup. 41 (Hifashishijwe inyandiko z'iburanisha ziri mu gifaransa)).

[277] Reba hejuru, ibika 68, 73, 79-81.

[278] Icyemezo ku ngamba zo kurinda umutekano, igika 2.

168. Kubera izo mpamvu, Urugereko rusanze umutangabuhamya ushinjura wiswe A7/GEX yari umuntu washoboraga kuzaba umutangabuhamya ushinja wari urindiwe umutekano ubwo yajyaga mu biganiro bivugwa muri uru rubanza.

169. Ku birebana n'umutangabuhamya wiswe GAA, Urugereko ntirwemeye ibimenyetso byatanzwe n'Ubwunganizi bivuga ko ari we wafashe iya mbere mu kujya kureba Uregwa kandi, n'iyo GAA yaba ari we washogosheye akajya kureba Uregwa, Urugereko ntirwemera ko byafatwa ko yivukije ingamba yari yashyiriweho zo kumurindira umutekano. Ingingo ya 69 (A) y'Amategeko ivuga ko ingamba zo kurinda umutekano zigumaho «kugeza igihe Urugereko rubitegetse ukundi », naho iya 75 (F)(i) y'Amategeko ivuga ko izo ngamba « zikomeza kubahirizwa, na none ariko hahindutse ibigomba guhinduka, mu zindi manza izo ari zo zose Urukiko rwaregewe …, kugeza igihe zivaniweho, zihinduriwe cyangwa zongerewe mu buryo buteganywa n'iyi ngingo ». Byongeye kandi, Urugereko rusanga imitekerereze yagendeweho mu rubanza rwa Nahimana na bagenzi be ifite ireme, kandi rusanze, hatitawe ku kumenya uwafashe iya mbere mu kujya kureba undi, ababuranyi, habariwemo n'abagize ikipe y'Ubwunganizi bose, bagomba kubahiriza ingamba zo kurinda umutekano zashyizweho[279].

170. Ikindi kandi, Urugereko rusanga mu gikorwa cyose cyo kwivutsa ingamba zo kurindirwa umutekano, nyir'ubwite agomba kuba azi neza icyo akora kandi akabikora ku bushake. Mu mikorere y'uru Rukiko ku birebana n'abatangabuhmya bashyiriweho ingamba zo kurindirwa umutekano, rwita ku kumenya neza niba basaba kwivutsa ingamba zo kubarindira umutekano[280]. Koko rero, kwemera ko umuntu yakwivutsa mu buryo buteruye ingamba zo kumurindira umutekano byaba biciye ukubiri n'impungenge z'umutekano zituma izo ngamba zishyirwaho.

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[279] Icyemezo mu rubanza rwa Nahimana, igika 14.

[280] Reba nk'urugero, *Urubanza Porokireri aburana na Pauline Niyramasuhuko na bagenzi be*, Nº ICTR-97-29-T, Icyemezo ku cyifuzo cya Nteziryayo gisaba Urugereko guhindura ingamba zo kurinda umutekano w'abatangabuhamya biswe AND-36, AND-38, na AND-50 (Urugereko rwa Mbere rw'Iremezo), 20 Mata 2007, igika 11 (Urugereko rwa Mbere rw'Iremezo rwasanze amabaruwa y'abatangabuhamya banditse bakoresheje email bavuga ko bashaka kuzaba muri hoteli aho kuba mu nzu irindiwe umutekano atari ahagije kugira ngo hemezwe ko abo batangabuhamya bivukije ingamba zo kurindirwa umutekano zari zabashyiriweho); *Urubanza Porokireri aburana na Casimir Bizimungu na bagenzi be*, Nº ICTR-99-50-T, Icyemezo ku cyifuzo cy'Ubwunganizi bwa Bicamumpaka gisaba Urugereko guhindura ingamba zo kurinda umutekano w'abatangabuhamya bamwe bashinjura (Urugereko rwa Mbere rw'Iremezo), 18 Ukwakira 2007, ibika 5-6 (Icyemezo cyafashwe n'Urugereko rwa Mbere rw'Iremezo cyo guhindura ingamba zo kurinda umutekano cyashingiye ku nyandiko zasinywe n'abatangabuhamya kandi cyakurikije iperereza ryakozwe n'Ishami rishinzwe kwita ku batangabuhamya no ku bakorewe ibyaha).

Muri uru rubanza, hari abatangabuhamya bane bashinjura bivukije ingamba zo kubarindira umutekano zari zarabashyiriweho. Hakurikijwe imikorere twavuze haruguru, abo batangabuhamya baje imbere y'Urugereko noneho rugenzura niba bifuza kwivutsa ingamba zo kubarindira umutekano bari barashyiriweho, ni uko rutegeka ko izo ngamba zivanyweho[281]. Kubera izo mpamvu rero, Urugereko rusanze GAA atarigeze yivutsa ingamba zo kumurindira umutekano yari yarashyiriweho, kandi zari zikiriho igihe yajyaga mu biganiro bivugwa.

2.2 Kuba uregwa yaragiranye ibiganiro n'abatangabuhamya bashinja inshuro zinyuranye

171. Porokireri avuga ko, hatitawe ku kumenya niba Uregwa yaramenyesheje abandi bantu cyangwa rubanda amakuru y'ibanga areba abatangabuhamya biswe GAA na A7/GEX, Urugereko rugomba kumuhamya icyaha cyo gusuzugura Urukiko kubera kubonana inshuro zinyuranye n'abatangabuhamya arenze ku ngamba zo kubarindiria umutekano zategetswe n'Urugereko rwa Mbere rw'Iremezo mu rubanza rwa Kamuhanda ku itariki ya 7 Nyakanga 2000[282].

172. Ubwunganizi buvuga ko, n'ubwo GAA na A7/GEX bari abatangabuhamya bashinja barindiwe umutekano mu rubanza rwa Kamuhanda, kuba Nshogoza yarabonanye na bo, n'ubwo byari binyuranije n'ingamba zo kubarindira umutekano, bitafatwa nk'icyaha cyo gusuzugura Urukiko kuko kubonana na bo atari imyitwarire mibi ku buryo bukomeye.[283] Ubwunganizi buvuga ko n'ubwo iyi myitwarire ihanirwa nk'icyaha cyo gusuzugura Urukiko, Porokireri yananiwe kugaragaza ko Uregwa yari afite igitekerezo cya ngombwa cyo gukora icyaha (M*ens rea)*.[284] Urugereko ruraza gusuzuma izi ngingo imwe ku yindi.

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[281] Reba inyandikomvugo y'iburanisha, 16 Werurwe 2009, imp. 22, 33 (Ku birebana n'umutangabuhamya wiswe A8-Fulgence Seminega); Inyandikomvugo y'iburanisha, 16 Werurwe 2009, urup. 34 (Ku birebana n'umutangabuhamya wiswe A11-Straton Nyarwaya); Inyandikomvugo y'iburanisha, 16 Werurwe 2009, imp. 35-36 (Ku birebana n'umutangabuhamya wiswe A21-Cyprien Hakizimana), n'inyandikomvugo y'iburanisha, 20 Werurwe 2009, urup. 46 (Ku birebana n'umutangabuhamya wiswe A9-Augustin Nyagatare).

[282] Inyandikomvugo y'iburanisha, 29 Mata 2009, imp. 10-11 (Imyanzuro isoza ya Porokireri mu magambo); Reba na none hejuru, ibika 48-56.

[283] Imyanzuro nsozarubanza y'Ubwunganizi, ibika 278-280, 285, 304-306.

[284] Imyanzuro nsozarubanza y'Ubwunganizi, ibika 296-303.

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2.2.1 Imyitwarire ikabije kuba mibi

173. Ubwunganizi buvuga ko « iyo umuntu asomye amadosiye y'imanza uko zakabaye [zirebana n'icyaha cyo gusuzugura Urukiko] asanga imyitwarire ivugwa igomba kuba ari mibi cyane kugira ngo igere ku ntera yo kwitwa ko ari icyaha cyo gusuzugura Urukiko »[285]. Mu gushyigikira ibyo buvuga, Ubwunganizi bwiyambaza Ibyemezo bibiri byafashwe n'Urugereko rwa Mbere rw'Iremezo ku Byifuzo by'ingoboka aho Ingereko zasanze igikorwa cyo kurenga ku mategeko y'Urukiko kitari gikomeye cyane ku buryo cyakwitwa icyaha cyo gusuzugura Urukiko[286]. Ubwunganizi buvuga kandi ko « mu by'ukuri, ku madosiye avugwamo ingamba zo kurinda umutekano w'abatangabuhamya, bigaragara ko izo ngamba zitubahirizwa rimwe na rimwe », kandi ko « bikunda kugaragara mu Ngereko za Mbere z'Iremezo ko imyirondoro y'Abatangabuhamya yashyizwe ahagaragara kubera gucikwa, noneho Urugereko rugategeka nyuma ko igirirwa ibanga aho rumenyesherejwe ko byabaye ». Ubwunganizi buvuga na none ko « ari ikintu kitagibwaho impaka, kandi kibabaje, kuba muri uru Rukiko Porokireri akunda kubonana n'abatangabuhamya bashinjura barindiwe umutekano kandi atabiherewe uruhushya, kandi buvuga ko ibya byabaye inshuro zigera kuri indwi bwamenyesheje Urugereko muri uru rubanza[287].

174. Urugereko rusanga mu ngingo ya 77 y'Amategeko nta hantu na hamwe handitse « intera y'uburemere [bw'igikorwa]» cyangwa « imyitwarire ikabije kuba mibi ». Iyo ngingo ivuga ahubwo ko Urukiko « rushobora guhamya icyaha cy'agasuzuguro abantu babangamira imirimo y'ubutabera ku bushake kandi babizi neza»[288]. Urugereko rusanga imiterere y'iyo ngingo igaragaza ko icyo ishaka kuvuga ari uko imyitwarire nkana iyo ari yo yose (ni ukuvuga ibyo

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[285] Imyanzuro nsozarubanza y'Ubwunganizi, igika 278.

[286] Ni kimwe no haruguru (hasubirwamo ibyavuzwe mu *Rubanza Porokireri aburana na Ntakirutimana*, Nº ICTR-96-10-T, Icyemezo ku cyifuzo cya Prokireri cyerekeranye n'icyaha cyo gusuzugura urukiko no ku byifuzo bibiri by'Ubwunganizi bisaba kumenyeshwa ibimenyetso (Urugereko rwa Mbere rw'Iremezo), 16 Nyakanga 2001, ibika 10-12; n*'Urubanza Porokireri aburana na Furundzija*, Nº IT-95-17/1-T, Inyandiko Urugereko rwa Mbere rw'Iremezo rwandikiye Porokireri ku mugaragaro rwinubira imyitwarire ya Porokireri (Urugereko rwa Mbere rw'Iremezo), 5 Kamena 1998, igika 11).

[287] Imyanzuro nsozarubanza y'Ubwunganizi, igika 305; Inyandikomvugo y'iburanisha, 29 Mata 2009, urup. 39 (mu myanzuro nsozarubanza yabwo mu magambo, Ubwunganizi bwavuze ko inshuro ingamba zarenzweho ari indwi aho kuba esheshatu zivugwa mu myanzuro nsozarubanza).

[288] Ingingo ya 77 (A) y'Amategeko.

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umuntu akoze abizi neza kandi abishaka) ibangamira ubutabera, ifatwa nk'igikorwa gikomeye kigomba guhanwa nk'icyaha cyo gusuzugura Urukiko.

175. Mu rwego rw'ikibazo kirebana n'ingingo ya 77 (A) (ii) y'Amategeko, iyo ngingo haba mu Mategeko y'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho Icyahoze Cyitwa Yugosilaviya (TPIY) ndetse n'ay'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda (TPIR), iteganya ko Urugereko rushobora guhamya icyaha cyo gusuzugura Urukiko « umuntu uwo ari we wese utanze amakuru … azi neza ko yishe itegeko ry'Urugereko », Urugereko rw'Ubujurire rwemeje ko « byonyine kurenga ku itegeko ry'Urugereko ari igikorwa kibangamiye ubutabera bw'Urukiko Mpuzamahanga »[289]. Urugereko rw'Ubujurire rwasanze kandi « igikorwa icyo ari cyo cyose kirenga ku itegeko ry'Urugereko kiba kibangamiye ubutabera ku buryo uwagikoze ahamwa n'icyaha cyo gusuzugura Urukiko»[290]. Urugereko rusanga ibyo Urugereko rw'Ubujurire rwavuze mu buryo bwa rusange, bitareba gusa itegeko ry'Urugereko ribuza abantu gutangaza amakuru y'ibanga, runasanga igikorwa icyo ari cyo cyose cyica itegeko ry'Urugereko gifatwa rwose nk'ikigize icyaha cyo gusuzugura Urukiko[291].

176. Ku birebana n'ibivugwa n'Ubwunganizi ko ibyo kurenga ku ngamba zo kurinda umutekano w'abatangabuhamya ari ibintu bijya bibaho rimwe na rimwe, Urugereko rusanga bigoye kugira ngo igikorwa umuntu akora acitswe cyo gutangaza amakuru yerekeye umutangabuhamya urindiwe umutekano cyuzuze ibisabwa bigize icyaha cyo gusuzugura Urukiko, kuko bisaba ko nyir'ukugikora aba yagikoze abizi neza kandi abishaka. Urugereko rusanze kandi ingingo ya 77 y'Amategeko iruha ububasha busesuye bwo gufata icyemezo gikwiye. Urugereko rushobora guhamya icyaha cyo guzugura Urukiko abantu babangamiye ubutabera babizi neza kandi babishaka, ariko ibyo ntibivuga ko iyo Urugereko rwa Mbere rw'Iremezo rufite impamvu zituma rukeka ko umuntu runaka yasuzuguye rugomba byanze bikunze gutegeka ko hakorwa iperereza cyangwa ko uwo muntu akurikiranwa. Urugereko rusanze atari ngombwa kwirirwa rurondora impamvu zinyuranye zishobora gutuma rufata icyemezo cyo gutegeka ko umuntu wasuzuguye Urukiko akorwaho iperereza cyangwa akurikiranwa, kuko rufite ububasha busesuye bwo gufata

289 Inyandiko y'urubanza rwa Jovic mu bujurire, igika 30 (Hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Marijavic mu bujurire, igika 44) (Urugereko rw'Ubujurire mu rubanza rwa Jovic hari ibyo rwashimangiye bitari mu mwimerere).

290 Inyandiko y'urubanza rwa Jovic mu bujurire, igika 30 (Ibyasubiwemo byarakuwe ahandi byavanwemo).

291 Hashingiwe ku bivugwa mu ngingo ya 77 y'Amategeko no ku bukemuramanza bwerekeranye n'icyaha cyo gusuzugura urukiko, biragaragara neza ko ibikorwa bivugwa muri iyo ngingo ya 77(A) kuva ku gace (i) kugeza kuri (v) atari byo byonyine bigenderwaho.

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icyo cyemezo. Icy'ingenzi ni ukumenya ko ibyemezo Urugereko rufata rushingiye ku ngingo ya 77 y'Amategeko rubifata mu bwisanzure.

177. Urugereko rwamaze gusuzuma ibyavuzwe muri uru rubanza ko Porokireri yarenze ku ngamba zo kurinda umutekano w'abatangabuhamya[292]. Byongeye kandi, kuburana uvuga ko hari abandi bantu bashobora kuba barakoze ibikorwa bimeze kimwe n'ibivugwa mu Nyandiko y'ibirego nta gaciro byahabwa muri uru rubanza, kuko bitagamije kwemeza cyangwa guhakana ibyo Uregwa akurikiranyweho mu Nyandiko y'ibirego.

178. Bityo rero, Urugereko ntirwemeye ibivugwa n'Ubwunganizi ko ubukemuramanza ku birebana n'icyaha cyo gusuzugura Urukiko busaba Urugereko gukora iperereza ku birebana no kumenya ububi bw'imyitwarire ivugwa, ridafite aho rihuriye n'ibikubiye mu ngingo ya 77 (A) y'Amategeko. Urugereko rusanze kurenga ku ngamba zo kurinda umutekano zafashwe n'Urugereka rwa Mbere rw'Iremezo ubizi neza kandi ubishaka bihanirwa nk'icyaha cyo gusuzugura Urukiko.

2.2.2 Ingingo z'Ubwunganizi ku birebana n'igitekere cyo gukora icyaha (*Mens rea*)

179. Ubwunganizi buvuga ko kugira ngo Urugereko ruhamye Uregwa icyaha kivugwa mu kirego cya mbere, « Porokireri agomba kuba yaragaragaje ko igihe Nshogoza yabonanaga n'abatangabuhamya biswe GAA na GEX yari azi ko arimo kurenga ku itegeko ryashyizeho ingamba zo kubarindira umutekano, kandi ko yabikoze agamije kubangamira ubutabera »[293]. Urugereko rusanga Ubwunganizi bufata uko bitari igitekerezo cyo gukora icyaha gisabwa(*Mens rea)* kugira ngo igikorwa cyo kurenga ku itegeko ry'Urugereko gifatwe nk'icyaha cyo gusuzugura urukiko. Nk'uko byemejwe n'Urugereko rw'Ubujurire, igikorwa cyose kirenga ku itegeko ryatanzwe n'Urugereko kiba kibangamiye icibwa ry'urubanza, bityo imyitwarire yose yo kurenga ku itegeko ry'Urugereko ikozwe n'umuntu abizi neza kandi abishaka ifatwa nk'umugambi uwo muntu aba afite wo gukora icyaha cyo gusuzugura Urukiko. Mu yandi magambo, ni ukuvuga ko icyo gikorwa kiba cyakozwe hagamijwe kubangamira icibwa ry'urubanza. Nk'uko Urugereko rw'Ubujurire rwa TPIY rwabivuze, « ntabwo umwe mu baburanyi cyangwa se undi muntu utagize aho ahuriye n'urubanza ari we ugomba kwemeza niba

[292] Ni kimwe no haruguru, ibika 37-45.

[293] Imyanzuro nsozarubanza y'Ubwunganizi, igika 296.

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itegeko runaka ry'Urugereko rifite icyo rifashaho icibwa ry'urubanza mu Rukiko Mpuzamahanga»[294].

180. Nk'uko byavuzwe haruguru,[295] Ubwunganizi butanga izindi ngingo zinyuranye ku birebana n'igitekerezo cyo gukora icyaha(*Mens rea*), Urugereko rukaba ariko nta n'imwe muri zo rwemera. Ubwunganizi buragira buti : (1) nibura igihe Uregwa yahuraga na GAA bwa mbere ntiyari azi ko ari umutangabuhamya ushinja urindiwe umutekano; (2) nyuma yaho Nshogoza yahawe amabwiriza na avoka mukuru ari we Condé yo kubonana na GAA, bityo rero icyo gihe Nshogoza yakoraga akazi ke nta kindi; (iii) Uregwa ntiyari azi ibirebana n'uko umupererezi ashobora kubonana n'umutangabuhamya urindiwe umutekano, akaba yaragendeye ku mabwiriza yahawe na Condé wari avoka mukuru yo kubinyuza kuri noteri[296].

181. Ku birebana n'uko Uregwa yari azi imimerere ya GAA ubwo babonanaga bwa mbere, Urugereko ruributsa umwanzuro rwarangije gufata wemeje ko Uregwa yari azi ko GAA yashakaga kuvuguruza ubuhamya bwanditse yari yaratanze mbere cyangwa ubuhamya yari yaratangiye mu rukiko[297]. Urugereko ruributsa kandi ko rutemeye imyiregurire y'Uregwa y'uko atari azi ibyari bikubiye mu ngamba zo kurinda umutekano w'uwo mutangabuhamya, kubera ko itegeko ryashyizeho izo ngamba ryasobanuraga neza ibyo umuntu uwo ari we wese wo ku ruhande rw'Ubwunganizi bwa Kamuhanda yasabwaga mbere yo kuba yabonana n'umutangabuhamya ushinja urindiwe umutekano ; muri izo ngamba hakaba nta hantu na hamwe havugwa irengayobora ryo kunyura kuri noteri[298]. Ku birebana n'ibivugwa n'Ubwunganizi ko Uregwa atari asobanukiwe neza n'abarebwa n'izo ngamba zo kurinda umutekano ndetse no ku birebana n'akamaro ko kunyura kuri noteri, Urugereko ruributsa ubukemuramanza bwa TPIY ku byerekeye icyaha cyo gusuzugura urukiko, aho buvuga ko kwireguza ko wibeshye ku itegeko nta

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[294] Inyandiko y'urubanza rwa Marijacic mu bujurire, igika 44 (Ibyasubiwemo byarakuwe ahandi byavanwemo).

[295] Ni kimwe no haruguru, igika 77.

[296] Imyanzuro nsozarubanza y'Ubwunganizi, ibika 297-301.

[297] Ni kimwe no haruguru, igika 85.

[298] Ni kimwe no haruguru, igika 78. Mu myanzuro nsozarubanza y'Ubwunganizi mu magambo, buvuga ko nk'umuntu ukora iperereza, Uregwa byanze bikunze yagombaga kunyura kuri avoka mukuru ari we Condé kugira ngo abone uruhushya rwo kubonana n'abatangabuhamya bashinja, kubera ko ingamba zo kubarindira umutekano zitemereraga Nshogoza mu buryo bweruye urwo ruhushya, ahubwo zavugaga gusa Kamuhanda na avoka umwunganira. Nyamara ariko, ibimenyetso bigaragaza neza ko Condé yamenyesheje Nshogoza ko kwiyambaza noteri byari bigamije gusimbura uruhushya rwagombaga gutangwa hashingiwe ku ngamba zo kurengera umutekano.

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gaciro bihabwa[299]. Kubera izo mpamvu, Urugereko ntirwemeye ingingo z'Ubwungamizi zivuga ko Uregwa yabonanye na GAA atazi ko ari umutangabuhamya ushinja urindiwe umutekano kandi ko nta n'uburangare yagize.

182. Ku birebana noneho na A7/GEX, Ubwunganizi buvuga ko n'ubwo Urugereko rwasanga mu by'ukuri A7/GEX yari umutangabuhamya urindiwe umutekano, avoka mukuru Condé ari we wabwiye Uregwa ko A7/GEX atari umutangabuhamya ushinja urindiwe umutekano, bityo rero ngo Uregwa akaba atararenze ku ngamba zirinda umutekano w'uwo mutangabuhamya abizi neza kandi abishaka. Iyi ngingo ntigomba kwemerwa kubera impamvu zimaze kuvugwa mu bika bibiri bibanziriza iki. Ingamba zafashwe zarebaga ku buryo bweruye abantu bashoboraga kuzaba abatangabuhamya, kandi kwireguza ko wibeshye ku itegeko nta gaciro bihabwa ku birebana n'icyaha cyo gusuzugura Urukiko. Urugereko rusanga kandi kuba Uregwa yarakurikije amabwiriza yahawe na Condé mu bintu nka biriya yaragaragaje uburangare bukabije ku bijyanye no kumenya niba ibikorwa bye byari binyuranyije n'itegeko rishyiraho ingamba zo kurinda umutekano w'abatangabuhamya.

183. Ku birebana n'ibiganiro bya mbere na mbere Uregwa yagiranye na GAA na A7/GEX, Ubwunganizi buvuga ko icyo gihe A7/GEX ari we wafashe iya mbere kugira ngo babonane, bityo bikaba bidashoboka ko Uregwa yari kuba afite umugambi wa ngombwa wo gukora icyaha aregwa. Urugereko rusanga yenda iyi ngingo yari gushobora kwemerwa iyo ibintu biba byarabaye mu buryo butandukanye n'ubuvugwa hano[300]. Nk'urugero, iyo Uregwa aza kubonana n'abo batangabuhamya atazi ko barindiwe umutekano, yamara kumenya ko bawurindiwe agahita ahagarika kongera kubonana na bo[301]. Urugereko rukaba rusanze rero iyo ngingo hano nta cyo yamarira Uregwa. Hano, ubuhamya bwatanzwe kandi bukemerwa nta gushidikanya bugaragaza ko mbere yo kubonana bwa mbere na A7/GEX na GAA, Uregwa yari azi ko bombi bahaye Porokireri ubuhamya bwanditse mu rubanza rwa Kamuhanda. Urugereko rusanga ayo makuru yari ahagije ku buryo yari gutuma Uregwa amenya ko abo bantu bashoboraga kuba ari abatangabuhamya bashinja barindiwe umutekano. Bityo rero, Urugereko rusanze icyemezo Uregwa yafashe cyo kubonana n'abo batangabuhamya, asa nk'aho atitaye kureba niba barindiwe

[299] Nk'urugero, reba Inyandiko y'urubanza rwa Jovic mu bujurire, igika 27.

[300] Ni kimwe no haruguru, igika 87.

[301] Reba Inyandiko y'urubanza rwa Beqaj ku cyaha cyo gusuzugura urukiko, igika 40.

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umutekano cyangwa batawurindiwe, yaragifashe atitaye na gato ku kumenya niba bikorwa bye bitanyuranyije n'ingamba zafashwe zo kubarindira umutekano[302].

2.3 Kumenyesha abandi bantu bitareba cyangwa rubanda amakuru y'ibanga

184. Porokireri avuga kandi ko Uregwa yakoze icyaha cyo gusuzugura Urukiko hakurikijwe ingingo ya 77 (A) (ii) y'Amategeko ubwo « yatangaga amakuru…azi neza ko ari kurenga » ku itegeko ryo kurinda umutekano w'abatangabuhamya.

185. Urugereko rw'Ubujurire rwemeje ko kumenyekanisha amakuru uzi neza ko uri kurenga ku itegeko ry'Urugereko bihagije kugira ngo ukurikiranweho icyaha cyo gusuzugura Urukiko hakurikijwe ingingo ya 77(A) (ii) y'Amategeko[303]. Si ngombwa kugaragaza ko imenyekanisha ry'ayo makuru ryabangamiye Urukiko mu guca urubanza[304].

186. Urugereko rwasanze kuba Uregwa yarajyanye abatangabuhamya biswe GAA na A7/GEX ndetse na Nyagatare ku biro bya noteri byaratumye Nyagatare na noteri bamenya umwirondoro wa GAA nk'umutangabuhamya ushinja urindiwe umutekano mu rubanza rwa Kamuhanda, banamenya umwirondoro wa A7/GEX nk'umuntu wahaye Porokireri ubuhamya bwanditse cyangwa washoboraga kuzaba umutangabuhamya.

187. Ibimenyetso byatangiwe gihamya byerekana ko A7/GEX yari ahari ubwo Uregwa yaganiraga na GAA ku birebana n'imiterere y'ubuhamya bwe. Binagaragaza ko GAA na A7/GEX babanje kuganira ku buhamya bwabo mbere yo kubonana n'Uregwa. Nyamara ariko, hakurikijwe ubukemuramanza bwa TPIY bwerekeranye n'icyaha cyo gusuzugura Urukiko, Urugereko rusanga kuba ayo makuru yerekeye umwirondoro w'abo batangabuhamya yari yaramenyekanishijwe bidaha undi muntu uburenganzira bwo kuba yayamenyekanisha nyuma cyangwa ngo igihe yabikoze abe atabikurikiranwaho[305]. Rukurikije ubu bukemuramanza, rusanze rero kuba GAA nk'umutangabuhamya ushinja, na A7/GEX nk'umuntu washoboraga kuzaba

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302 Reba Inyandiko y'urubanza rwa Nobilo mu bujurire, igika 54 (Gukora ibintu utitaye ku kureba niba ibikorwa byawe bitanyuranyije n'ibyemezo by'Urukiko birahagije ngo iyo myitwarire ihanwe nk'icyaha cyo gusuzugura urukiko).

303 Nk'urugero, reba Inyandiko y'urubanza rwa Jović mu bujurire, igika 30; Inyandiko y'urubanza rwa Marijačić mu bujurire, igika 44.

304 Nk'urugero, reba Inyandiko y'urubanza rwa Marijačić mu rw'iremezo, igika 19.

305 Nk'urugero, reba Inyandiko y'urubanza rwa Jović mu bujurire, igika 30.

umutangabuhamya ushinja bari baramenyekanishije amakuru yerekeye umwirondoro wabo, bidaha Uregwa uburenganzira bwo kurenga ku ngamba zafashwe zo kubarindira umutekano.

2.4 Umwanzuro

188. Urugereko ruributsa imyanzuro ishingiye ku byabaye ku birebana n'uko Uregwa yari azi ko GAA na A7/GEX ari abatangabuhamya barindiwe umutekano, maze rukaba rusanga ubwo Uregwa yabonanaga bwa mbere na GAA n'inshuro zose yabonanye na A7/GEX ataritaye ku kumenya niba ibikorwa bye binyuranije n'ingamba zafashwe zo kurinda umutekano w'abo batangabuhamya. Ku zindi shuro zose zakurikiyeho ubwo yabonanaga na GAA, harimo n'igihe babonaniraga mu biro bya noteri, Uregwa yarenze abizi neza kandi abishaka ku ngamba zafashwe zo kurinda umutekano w'uwo mutangabuhamya, by'umwihariko izikubiye mu gika cya 2 (i) cy'Itegeko ry'Urugereko ryazishyizeho, ahavugwa ko mbere yo kubonana n'umutangabuhamya uwo ari we wese urindiwe umutekano, Ubwunganizi bwa Kamuhanda bugomba kubanza kubimenyesha Porokireri no guhabwa uruhushya n'Urugereko ruburanisha urwo rubanza. Urugereko ruributsa kandi ko rwasanze Uregwa yarahaye abantu batagize aho bahuriye n'urubanza amakuru y'ibanga yerekeye abo batangabuhamya nk'uko byavuzwe haruguru, arenze ku bivugwa mu gika cya 2(e) cy'Itegeko rishyiraho ingamba zo kurinda umutekano w'abo batangabuhamya, ahavugwa ko Ubwunganizi bwa Kamuhanda butemerewe kugira umuntu n'umwe utari muri iryo tsinda bumenyesha amakuru ashobora gutuma umwirondoro w'abatangabuhamya barindiwe umutekano umenyekana.

189. Kubera rero ibyo bikorwa, Uregwa yakoze icyaha cyo gusuzugura Urukiko. Bityo, Urugereko rukaba rusanze Nshogoza ahamwa n'icyaha kivugwa mu kirego cya mbere cy'Inyandiko y'ibirego.

3. IKIREGO CYA KABIRI: GUSUZUGURA URUKIKO

190. Mu kirego cya kabiri cyo mu Nyandiko y'ibirego, Porokireri ashinja Nshogoza kuba yarasuzuguye Urukiko, hashingiwe ku ngingo ya 77(A), (A) (ii), (A) (iv) na (B) y'Amategeko, kubera ko yashatse inyandikomvugo z'ubuhamya bw'ikinyoma abizi neza kandi abishaka, ndetse akaba yarahamagariye abatangabuhamya bashinja biswe GAA na A7/GEX gushyira umukono ku nyandikomvugo y'ubuhamya bw'ikinyoma ndetse no gutanga ubuhamya nk'ubwo mu Rugereko,

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abashukashuka, abibashishikariza, aboshya cyangwa abizeza kubaha ruswa, cyangwa se yivanga mu buhamya bwabo mu bundi buryo ubwo ari bwo bwose[306].

191. Hakurikijwe ingingo ya 77 (A) (iv) y'Amategeko, umuntu uwo ari we wese ubangamira icibwa ry'urubanza abizi neza kandi abishaka « atera ubwoba umutangabuhamya, amwotsa igitutu, amubangamira, cyangwa ageregeza kumuha ruswa, haba mu gihe atanga ubuhamya, yabutanze cyangwa ari hafi yo kubutanga imbere y'Urugereko, cyangwa akamwotsa igitutu ku bundi buryo ubwo ari bwo bwose, cyangwa se abikorera umuntu ushobora kuzaba umutangabuhamya …», ashobora guhanirwa icyaha cyo gusuzugura Urukiko.

192. Ku bijyanye no « gusezeranya ruswa », Urugereko ruragendera ku gisobanuro rusange cy'ijambo « ruswa » cyatanzwe n'Urugereko rwa Mbere rw'Iremezo rwa TPIY mu rubanza rwa Beqaj washinjwaga icyaha cyo gusuzugura Urukiko :

> Ijambo « ruswa » muri rusange risobanura koshya umuntu kugukorera ikintu kitemewe n'amategeko cyangwa kinyuze mu butiriganya, cyangwa gufata icyemezo kikubogamiyeho. Iryo jambo risobanura kandi guha umuntu wagiriwe icyizere ikiguzi, igihembo, impano cyangwa kumutonesha cyangwa kumusezeranya ibimaze kuvugwa, hagamijwe guhindura imyumvire ye cyangwa kumuvugiramo ngo afate icyemezo runaka[307].

193. Ku birebana n'igice cy'interuro kigira kiti, « cyangwa mu buryo ubwo ari bwo bwose uwivanga mu buhamya bw'umutangabuhamya cyangwa bw'umuntu ushobora kuzaba umutangabuhamya », Urugereko rusanga na none igisobanuro Urugereko rwa Mbere rw'Iremezo rwatanze mu rubanza rwa Beqaj kuri icyo gice cy'interuro gifite ireme :

> Imvugo « cyangwa mu buryo ubwo ari bwo bwose uwivanga mu buhamya bw'umutangabuhamya cyangwa bw'umuntu ushobora kuzaba umutangabuhamya » igaragaza ko ingingo ya 77 y'Amategeko itarondora uburyo bwose bwo gukora icyaha cyo gusuzugura Urukiko. Rushingiye ku mugambi wo gukora icyaha uvugwa mu ngingo ya 77 (A) y'Amategeko, Urugereko rusanga imvugo « cyangwa mu buryo ubwo ari bwo bwose kwivanga mu buhamya

[306] Inyandiko y'ibirego, ibika 17-27; Reba kandi hejuru, ibika 48-56.

[307] Inyandiko y'urubanza rwa Beqaj ku cyaha cyo gusuzugura urukiko, igika 18 (Ibyasubiwemo byaravanwe ahandi byakuwemo).

bw'abatangabuhamya » ikubiyemo imyitwarire iyo ari yo yose igamije kubangamira icibwa ry'urubanza ubuza umutangabuhamya cyangwa ushobora kuzaba we gutanga ubuhamya bwuzuye kandi bw'ukuri, cyangwa mu bundi buryo ubwo ari bwo bwose utuma umutangabuhamya cyangwa ushobora kuzaba we ahindura imiterere y'ubuhamya bwe. Nta na hamwe bivugwa ko ari ngombwa kugaragaza ko iyo myitwaririre igamije gutuma umutangabuhamya ahindura imiterere y'ubuhamya bwe igomba kuba hari icyo yagezeho[308].

194. Urugereko ruragendera kuri ayo mahame mu gusuzuma ibivugwa na Porokireri ko Uregwa yasabye GAA na A7/GEX kumuha ubuhamya bw'ikinyoma, ndetse akaba yarabashukashutse cyangwa akaboshya ngo basinye ku nyandikomvugo z'ubwo buhamya bw'ikinyoma kandi babutange no mu rukiko.

195. Ingingo ya 77 (B) y'Amategeko iteganya ko « guhamagarira umuntu mu buryo ubwo ari bwo bwose […] gukora igikorwa icyo ari cyose gihanwa hashingiwe ku gika (A) bihanishwa igihano kimwe n'icyateganyirijwe icyaha cyo gusuzugura Urukiko». Mu rubanza Porokireri aburana na Akayesu, Urugereko rwa Mbere rw'Iremezo rwavuze ko, « mu muryango w'amategeko akomoka ku Bongereza witwa « *Common Law », «* guhamagarira umuntu gukora icyaha ari ukumushishikariza cyangwa kumwumvisha ko agomba kugikora», naho mu muryango w'amategeko akomoka ku Baromani witwa « *Civil Law »,* hahanwa « igikorwa cyangwa ibikorwa bigamije gutuma undi muntu akora icyaha cy'ubugome cyangwa icyaha gikomeye»[309]. Kugira ngo guhamagarira umuntu gukora igikorwa runaka bihanwe nk'icyaha cyo gusuzugura

[308] Inyandiko y'urubanza rwa Beqaj ku cyaha cyo gusuzugura urukiko, igika 21 (Ibyasubiwemo byaravanwe ahandi byakuwemo). Urugereko rusanze interuro « cyangwa mu bundi buryo ubwo ari bwo bwose uwivanze mu buhamya bw'umutangabuhamya cyangwa bw'ushobora kuzaba we » itavaniraho Porokireri inshingano afite yo kugaragaza imyitwarire yihariye y'Uregwa ashingiraho asaba ko ahanwa. Reba Inyandiko y'urubanza rwa Beqaj ku cyaha cyo gusuzugura urukiko, igika 19. Porokireri ntashobora kuvuga gusa ko Uregwa « hari uburyo yivanze mu buhamya bw'umutangabuhamya cyangwa bw'ushobora kuzaba we » maze ngo yuririre kuri iyo nteruro ya rusange agoragoze ibyo avuga kugira ngo abihuze n'ubuhamya agenda atanga. Reba Inyandiko y'urubanza rwa Nobilo mu bujurire, igika 41. Muri uru rubanza, Urugereko rusanga ibivugwa by'uko Uregwa yasabye abantu gutanga ubuhamya bw'ikinyoma ndetse akaba yarababeshyabeshye akanaboshya kugira ngo basinye inyandikomvugo z'ubuhamya bw'ikinyoma kandi bazabutange mu rukiko, biri mu rwego rwa kiriya gice cy'interuro kigira kiti «cyangwa mu bundi buryo ubwo ari bwo bwose uwivanze mu buhamya bw'umutangabuhamya cyangwa bw'ushobora kuzaba we».

[309] Inyandiko y'urubanza rwa Jean-Paul Akayesu mu rw'iremezo, Nº ICTR-96-4-T, 2 Nzeri 1998, igika 555.

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Urukiko, nyir'ukubikora agomba na none kuba yari abizi neza kandi abishaka nk'uko biteganywa n'ingingo ya 77 (A) y'Amategeko.

3.1 Gushukashuka no koshya abatangabuhamya

196. Porokireri ntiyashoboye gutanga ibimenyetso bihamya nta gushidikanya ko kuba Uregwa yarakoze inyandikomvugo y'ubuhamya bwa GAA na A7/GEX hari ikintu kidasanzwe kirimo, cyangwa ko yari azi ko ubwo buhamya bwari ibinyoma, cyangwa ko yari azi ko ubuhamya GAA cyangwa A7/GEX batanze mu Rugereko rw'Ubujurire bwari ibinyoma. Bityo rero, Urugereko rusanze Porokireri ataratanze ibimenyetso bihamya nta gushidikanya ko Uregwa yakoze inyandikomvugo z'ubuhamya bw'ikinyoma abizi neza, cyangwa ko abizi neza yashukashutse GAA cyangwa A7/GEX ngo bazatange ubuhamya bw'ikinyoma mu Rukiko, ko yabibahamagariye cyangwa ko yabibashishikarije.

3.2 Gutanga ruswa

197. Urugereko rusanga igisobanuro cy'ijambo ruswa rwafashe cyagutse bihagije ku buryo gikubiyemo n'ibintu by'amareshyamugeni, bityo rukaba rutirirwa rusuzuma by'umwihariko ikirego cya Porokireri gishinja Uregwa ko yatanze ibintu by'amareshyamugeni.

198. Urugereko ruributsa ko Porokireri atashoboye gutanga ibimenyetso bihamya nta gushidikanya ko Uregwa yemereye GAA cyangwa A7/GEX igihembo baramutse basinye inyandikomvugo z'ubuhamya bwabo cyangwa batanze ubuhamya mu Rukiko.

199. Ibimenyetso byatanzwe muri uru rubanza byerekana ko (i) Uregwa yahaga GAA na A7/GEX amafaranga, ibiryo ndetse n'ibinyobwa iyo yabonanaga na bo; (ii) ko mbere y'uko abo batangabuhamya bamubwira ko ubuhamya bwanditse batanze ari ibinyoma atari yarigeze abaha amafaranga, kandi ko ku birebana na GAA nta yo yari yakamuha kugeza ubwo yamubwiraga ko ubuhamya yatanze mu Rukiko mu rubanza rwa Kamuhanda bwari ibinyoma; (iii) ko Uregwa yabwiraga abo batangabuhamya ko ayo mafaranga abahaye ari ay'urugendo cyangwa ayo gusigira abo mu rugo ngo bazakoreshe mu gihe bo bazaba bari Arusha batanga ubuhamya; (iv) kandi ko abakozi bo mu Biro bya Porokireri ndetse n'abo mu Ishami rishinzwe kwita ku batangabuhamya na bo batanze, nibura inshuro imwe, amafaranga nk'ayo. Kubera izo mpamvu, Urugereko rusanze Porokireri atarashoboye gutanga ibimenyetso bihamya nta gushidikanya ko ayo mafaranga, ibyo biryo ndetse n'ibinyobwa byatanzwe hagamijwe gutuma GAA cyangwa A7/GEX bahindura ubuhamya bwabo.

3.3 Gushukashuka umutangabuhamya wiswe GAA

200. Urugereko ruributsa ko Porokireri atashoboye gutanga ibimenyetso bihamya nta gushidikanya ko Uregwa yabwiye GAA ko ari kwandika igitabo kuri Kamuhanda, cyangwa ko naramuka atanze ubuhamya bwanditse cyangwa akabutanga mu Rugereko rw'Ubujurire nta nkurikizi bizamugiraho.

3.4 Guhamagarira abatangabuhamya gusinya inyandikomvugo z'ubuhamya bw'ikinyoma cyangwa gutanga ubuhamya nk'ubwo mu Rukiko

201. Nk'uko byavuzwe haruguru, Porokireri ntiyashoboye gutanga ibimenyetso bihamya nta gushidikanya ko Uregwa yari azi ko ubuhamya GAA na A7/GEX buvuguruza ubwanditse batanze mbere cyangwa ubwo batangiye mu Rukiko bwari ibinyoma. Bityo, Porokireri ntiyashoboye gutanga ibimenyetso bihamya nta gushidikanya ko Uregwa yahamagariye abo batangabuhamya gukora ibyo bikorwa bihanirwa abizi neza.

3.5 Umwanzuro

202. Kubera izo mpamvu, Urugereko rusanze Uregwa adahamwa n'icyaha cyo gusuzugura Urukiko ashinjwa mu kirego cya kabiri cy'Inyandiko y'Ibirego.

4. IKIREGO CYA GATATU: UBWINJIRACYAHA MU BIKORWA BIFATWA NKO GUSUZUGURA URUKIKO

203. Mu kirego cya gatatu cy'Inyandiko y'ibirego, Porokireri ashinja Nshogoza ubwinjiracyaha mu bikorwa bihanwa nko gusuzugura Urukiko, kuko yagerageje kugurira umutangabuhamya wiswe BUC agira ngo atange ubuhamya bw'ikinyoma[310].

204. Urugereko ruributsa ko ingingo ya 77 (B) y'Amategeko ivuga ko « kugerageza gukora kimwe mu bikorwa bivugwa mu gika (A) bifatwa nk'icyaha cyo gusuzugura Urukiko kandi ko bihanwa kimwe ».

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[310] Inyandiko y'ibirego, ibika 28-32. Urugereko ruributsa ko Inyandiko y'ibirego ishinja kandi Uregwa kuba yarahaye ruswa BUC cyangwa ko yivanze mu buhamya bwe mu bundi buryo. Biramutse bitangiwe ibimenyetso, ibyo bikorwa byahanwa nk'icyaha cyo gusuzugura urukiko, nta bwo byafatwa nk'ubwinjiracyaha. Nyamara ariko, Urugereko rusanga rudashobora guhamya Uregwa icyaha adashinjwa, uretse ko n'ubundi Porokireri atatanze ibimenyetso bidashidikanywaho by'ibyo avuga.

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205. Urugereko rwa Mbere rw'Iremezo mu rubanza rwa Beqaj rwasuzumye inshoza y'ijambo « ubwinjiracyaha » rushingiye ku mategeko mpuzamahanga:

> Ingingo ya 25(3)(f) ya Sitati y'Urukiko Mpanabyaha Mpuzamahanga itanga igisobanuro kigezweho cy'inshoza « ubwinjiracyaha ». Iyo ngingo ikusanya igisobanuro cy'inshoza « ubwinjiracyaha » kigaragara muri menshi mu mategeko y'ibihugu bigendera ku muryango w'amategeko wa « *Civil Law* » cyangwa w'uwa « *Common Law* », kikaba kivuga ko umuntu aryozwa icyaha iyo « igerageza ryo gukora icyaha rigaragajwe n'ibikorwa bihamye by'intangiriro y'icyaha, ariko gutsotsoba icyo cyaha ntibigerweho kubera impamvu zidakomoka ku bushake bw'uwo muntu ». Igisabwa kugira ngo ubwinjiracyaha buhanirwe ni (i) : imyitwarire irangwa n'ibikorwa bihamye by'intangiriro y'icyaha, (ii) umugambi wo gukora icyaha, (iii) iburiramo ry'uwo mugambi bitewe n'impamvu zidaturutse kuri nyirawo[311].

206. Urugereko ruributsa ko Porokireri atashoboye gutanga ibimenyetso bihamya nta gushidikanya ko Uregwa yasabye BUC gutanga ubuhamya bw'ikinyoma, cyangwa ko amafaranga n'ibinyobwa yamuhaye byari amareshyamugeni cyangwa ruswa ngo akunde atange ubuhamya.

207. Bityo, Urugereko rusanze Uregwa adahamwa n'icyaha kivugwa mu kirego cya gatatu.

5. IKIREGO CYA KANE : UBWINJIRACYAHA MU BIKORWA BIFATWA NKO GUSUZUGURA URUKIKO

208. Mu kirego cya kane cy'Inyandiko y'Ibirego, Porokireri ashinja Nshogoza ubwinjiracyaha mu bikorwa bifatwa nko gusuzugura Urukiko kuko yagerageje gusaba abatangabuhamya biswe GAF, SP003 na SP004 kumugezaho ubuhamya bwanditse bw'ikinyoma cyangwa gutanga ubuhamya nk'ubwo mu Rukiko[312].

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311 Inyandiko y'urubanza rwa Beqaj ku cyaha cyo gusuzugura urukiko, igika 25.

312 Inyandiko y'ibirego, ibika 33-50. Urugereko rusanga, nk'uko bimeze mu kirego cya gatatu, Inyandiko y'ibirego ishinja na none Uregwa ko yahaye ruswa GAF, SP003 na SP004, cyangwa ko yivanze mu buhamya bwabo mu bundi buryo. Urugereko ntirwigeze rusuzuma ibyo birego, ariko uko biri kose rusanga Porokireri nta bimenyetso bihagije yatanze bishimangira ibyo avuga.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

209. Urugereko ruributsa ko Porokireri atashoboye gutanga ibimenyetso bihamya nta gushidikanya ko Uregwa yatumye GAA gusaba GAF, SPOO3 na SPOO4 kumugezaho ubuhamya bwanditse bw'ikinyoma cyangwa gutanga ubuhamya nk'ubwo mu Rukiko, cyangwa ko yabahaye ruswa cyangwa ko yatumye GAA ngo abahe ruswa.

210. Urugereko rusanga n'iyo Porokireri aza kugaragaza nta gushidikanya ko ibikorwa nk'ibyo byabayeho, Uregwa n'ubundi atari guhamwa n'ubwinjiracyaha mu bikorwa bihanwa nko gusuzugura Urukiko. Ibimenyetso byatanzwe na Porokireri bigaragaza ko Uregwa amaze kubonanira na GAA mu biro bya noteri, yamubwiye ko adakeneye kubonana na GAF, SP003, na SP004. Bityo, n'ubwo Uregwa yaba yaratumye mbere GAA kumuhagararira muri ibyo bikorwa, yaje ariko kumusaba kubireka. Mu yandi magambo, kuba biriya bikorwa bishobora guhanwa nk'icyaha cyo gusuzugura Urukiko bitarashoboye kubaho, byaturutse ku bushake bw'Uregwa.

211. Kubera izo mpamvu, Urugereko rusanze Uregwa adahamwa n'ubwinjiracyaha mu bikorwa bihanwa nk'icyaha cyo gusuzugura Urukiko.

UMUTWE WA V : IGENAGIHANO

1. INTANGIRIRO

212. Urugereko rumaze kubona ko Nshogoza ahamwa n'icyaha cyo gusuzugura Urukiko kivugwa mu kirego cya mbere cy'Inyandiko y'Ibirego, rugiye noneho kumugenera igihano gikwiye.

213. Ingingo ya 77 (G) y'Amategeko iteganya ko igihano ntarengwa cyo hejuru uwahamwe n'icyaha cyo gusuzugura Urukiko ashobora gukatirwa ari igifungo cy'imyaka 5 n'ihazabu y'amadolari y'amanyamerika 10.000, cyangwa kimwe gusa muri ibyo bihano.

214. Ingingo ya 101 (B) y'Amategeko iteganya ko mu kugena igihano, Urugereko ruzirikana ibintu binyuranye, nk'uburemere bw'icyaha n'ibindi byihariye birebana n'uwahamwe n'icyaha, nk'uko bivugwa mu ngingo ya 23 (2) ya Sitati[313]. Byongeye kandi, ingingo ya 101 (B) y'Amategeko yerekana ibintu bimwe mu byo Urugereko rugomba kwitaho mu kugena igihano, harimo n'impamvu nyongeragihano n'impamvu nyoroshyagihano[314]. Ingingo ya 101 (C) y'Amategeko

[313] Ingingo ya 23 (2) ya Sitati igira iti « Mu kugena igihano icyo ari cyo cyose, Urugereko rwa Mbere rw'Iremezo ruzirikana ibintu binyuranye, nk'uburemere bw'icyaha n'ibindi byihariye birebana n'uwahamwe n'icyaha ».

[314] Ingingo ya 101 (B) y'Amategeko igira iti « Mu kugena ibihano, Urugereko rwa Mbere rw'Iremezo ruzirikana ibiteganywa n'ingingo ya 23 2) y'Amategeko, hamwe n'ibi bikurikira: (i) Impamvu nyongeragihano; (ii)Impamvu

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iteganya ko igihe uwahamwe n'icyaha yamaze afunze ategereje gushyikirizwa Urukiko, gucirwa urubanza n'Urugereko rwa Mbere rw'Iremezo cyangwa n'Urugereko rw'Ubujurire, niba kiriho, gikurwa mu gihe cy'igifungo cyose.

2. INGANO Y'IGIHANO

215. Porokireri asaba ko Nshogoza yakatirwa igihano cy'igifungo cy'imyaka ine ku kirego cya mbere cyo mu Nyandiko y'Ibirego[315]. Ubwunganizi busaba ko Uregwa ahanagurwaho ibyaha byose ashinjwa, kandi buvuga ko igihe amaze afungiye muri gereza y'Urukiko kirenze kure ibindi bihano byagiye bigenwa na TPIR cyangwa TPIY ku cyaha cyo gusuzugura Urukiko kabone n'iyo ababikoze baba barahamwe n'ibikorwa biremereye cyane[316].

216. Urugereko ruributsa ko, ku birebana n'icyaha cyo gusuzugura Urukiko, ibintu by'ingenzi bigomba kwitabwaho mu kugena igihano gikwiye ari uburemere bw'icyo cyaha no guca intege Uregwa ngo atazongera gukora ibikorwa nk'ibyo kimwe n'abandi bashobora kugira imyitwarire nk'iyo[317].

2.1 Uburemere bw'icyaha

217. Urugereko ruributsa ko kugeza ubu uru Rukiko rwahamije umuntu umwe gusa icyaha cyo gusuzugura Urukiko, ari we GAA mu rubanza yaburanaga na Porokireri. Muri urwo rubanza, umutangabuhamya wiswe GAA yemeye icyaha maze akatirwa igihano cy'igifungo cy'amezi icyenda[318]. Mu gufata umwanzuro, Urugereko rurifashisha ibihano byatanzwe mu manza

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nyoroshyagihano harimo n'uburyo uregwa yafashije Porokireri mbere cyangwa nyuma y'uko icyaha kimuhama; (iii) Urutonde rusange rw'ibihano by'igifungo rukurikizwa n'inkiko zo mu Rwanda; (iv) Igihe uwahamwe n'icyaha yamaze muri gereza y'Urukiko afungiwe icyo cyaha ku cyemezo cy'urukiko rw'igihugu runaka, hakurikijwe ingingo ya 9 (3) ya Sitati ».

[315] Imyanzuro nsozarubanza ya Porokireri, imp. 67-68.

[316] Imyanzuro nsozarubanza y'Ubwunganizi, urup. 148, igika 366.

[317] Inyandiko y'urubanza rwa Marijačić mu rw'iremezo, igika 46; Inyandiko y'urubanza rwa Dragan Jokić ku kirego cyo gusuzugura urukiko, Nº IT-05-88-R771 (Urugereko rwa Mbere rw'Iremezo), 27 Werurwe 2009, igika 26.

[318] Inyandiko y'urubanza rwa GAA mu rw'iremezo, Nº ICTR-07-90-R77-I, 4 Ukuboza 2007 (« Inyandiko y'urubanza rwa GAA »).

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zaburanishijwe na TPIY aho abaregwaga bahamwe n'icyaha cyo gusuzugura Urukiko, ariko rutirengagije ibyabaye byihariye birebana n'uru rubanza[319].

218. Urugereko ruributsa ko icyaha cyo gusuzugura Urukiko ari icyaha gikomeye cyane kubera ko gituma « mu buryo butaziguye, abantu batizera ko imanza zicibwa mu mucyo »[320]. Gukora ku buryo imikirize y'imanza ihora ari nta makemwa ni ikintu cy'ingenzi cyane cyane mu manza zirebana n'ibyaha by'ubugome bukabije. Koko rero, Urugereko ruzirikana ko,

> «Ari ngombwa kwiyambaza ibimenyetso bishingiye ku buhamya mu magambo kubera imiterere y'ibyaha uru Rukiko rufite ububasha bwo kuburanisha n'uko

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[319] Nk'urugero reba Inyandiko y'urubanza rwa Marijačić mu rw'iremezo, aho abaregwaga uko ari babiri bahanishijwe ihazabu y'amayero (*euros*) 15.000 kubera ko bahamwe n'icyaha cyo gushyira ku karubanda amakuru itegeko ry'Urugereko ryasabaga ko agomba kugirirwa ibanga (Urugereko rw'Ubujurire rwagumishijeho icyo gihano, ariko rubyibwirije rwavuze ko ayo mafaranga azagenda yishyurwa mu byiciro. Reba Inyandiko y'urubanza rwa Marijačić mu bujurire); Inyandiko y'urubanza rwa Jović mu rw'iremezo, aho Uregwa yahanishijwe ihazabu y'amayero 20.000 kubera ko yahamwe n'icyaha cyo gutangaza mu kinyamakuru ibice by'inyandikomvugo y'ubuhamya bwatanzwe n'umutangabuhamya mu iburanisha mu muhezo (Urugereko rw'Ubujurire rwagumishijeho icyo gihano, ariko rubyibwirije rwavuze ko ayo mafaranga azagenda yishyurwa mu byiciro. Reba Inyandiko y'urubanza rwa Jović mu bujurire); Inyandiko y'urubanza rwa Haxhiu ku cyaha cyo gusuzugura urukiko, aho Uregwa yahanishijwe ihazabu y'amayero 7.000 kubera ko yahamwe n'icyaha cyo gutangaza mu kinyamakuru umwirondoro w'umutangabuhamya urindiwe umutekano; Inyandiko y'urubanza rwa Beqaj ku cyaha cyo gusuzugura urukiko, aho Uregwa yakatiwe igihano cy'igifungo cy'amezi ane kubera ko yahamwe n'icyaha cyokwivanga mu buhamya bw'umuntu washoboraga kuzaba umutangabuhamya warebwaga na gahunda igamije kurinda umutekano w'abatangabuhamya; Inyandiko y'urubanza rwa Margetić ku cyaha cyo gusuzugura urukiko, aho Uregwa yakatiwe igihano cyo gufungwa amezi atatu no gutanga ihazabu y'amayero 10.000 kubera ko yari yatangaje ku rubuga rwa interineti urutonde rw'abatangabuhamya rwari ibanga bigatuma imyirondoro yabo imenyekana; Inyandiko y'urubanza rwa Haraqija na Morina ku cyaha cyo gusuzugura urukiko, aho abaregwa bombi bahamwe n'icyaha cyo kwivanga mu buhamya bw'abatangabuhamya. Urugereko rwasanze imyitwarire ya Morina ari « ugutera ubwoba » abatangabuhamya, icyo cyaha kikaba giteganywa n'ingingo ya 77 (A) (iv) y'Amategeko, na ho Haraqija rwasanze yarategetse Morina kumvisha abatangabuhamya ko batagomba gutanga ubuhamya muri TPIY' ibyo bikaba binyuranije n'ingingo ya 77 (A) (iv) y'Amategeko. Morina yakatiwe igihano cy'igifungo cy'amezi atatu, na ho Haraqija yakatiwe igifungo cy'amezi atanu.

[320] Inyandiko y'urubanza rwa GAA, igika 10.

> byakozwe. Ibyo bikaba bisobanura ko hagomba gufatwa ingamba ziboneye zo kurinda abatangabuhamya ndetse n'ubuhamya bwabo… »[321].

Nk'uko Urukiko rwa TPIY rwabivuze, « imyitwarire yose y'umuntu wabigambiriye ihungabanya icyizere Urukiko rufitiwe ko rufite ubushobozi bwo gushyiraho ingamba zihamye zo kurinda umutekano w'abatangabuhamya n'ubuhamya bwabo, ifatwa nko kubangamira bikabije icibwa ry'urubanza»[322]. Kugira ngo Urukiko rushobore kurangiza inshingano zarwo, ni ngombwa rwose ko abantu baza gutanga ubuhamya mu manza, akenshi baba bavuga ku bintu bitera guhahamuka cyangwa bikomeye baba baranyuzemo, babikora barindiwe umutekano hakurikijwe ingamba ziba zarafashwe kuri icyo kibazo[323]. Bityo rero, ni ngombwa ko mu gutanga ibihano hakwitabwaho cyane guca abantu intege no kubamagana kugira ngo hatazagira uwongera gukora ibyaha byo muri urwo rwego[324].

219. Ukurikije imyitwarire y'Uregwa ivugwa muri uru rubanza, bigaragara ko yari yiyemeje kubonana n'abatangabuhamya barindiwe umutekano uko yishakiye, mbega akaba ari we ugena uko agomba kubonana na bo. Bityo, yakerensheje ububasha bw'Urukiko arenga ku ngamba zo kurinda umutekano w'abatangabuhamya rwari rwarashyizeho. Urugereko rusanze kurenga ku itegeko rishyiraho ingamba zo kurinda umutekano w'abatangabuhamya byarabangamiye cyane ububasha bw'Urugereko rwa Mbere rw'Iremezo rwaburanishije urubanza rwa Kamuhanda, ndetse byanatumye icyizere abantu bagomba kugirira ingamba zo kurinda umutekano n'icibwa ry'imanza kiyoyoka[325]. Iyo myifatire ntikerensa ububasha bw'Urukiko gusa, ahubwo ishobora no guca abantu intege zo gutanga ubuhamya mu Rukiko. Kugira ngo imyitwarire nk'iyo itazongera kubaho no kugira ngo Urugereko rwerekane ko ruyamaganye, ni ngombwa ko hagenwa igihano cy'igifungo.

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321 Inyandiko y'urubanza rwa Beqaj ku cyaha cyo gusuzugura urukiko, igika 60.

322 Inyandiko y'urubanza rwa Marijačić mu rw'iremezo, igika 50 (urwo rubanza rwagumishijweho n'Urugereko rw'Ubujurire) ; Inyandiko y'urubanza rwa Margetić ku cyaha cyo gusuzugura urukiko, igika 87 (Urwo rubanza rwagumishijweho n'Urugereko rw'Ubujurire).

323 Inyandiko y'urubanza rwa Haxhiu ku cyaha cyo gusuzugura urukiko, igika 34.

324 Inyandiko y'urubanza rwa GAA, igika 10.

325 Reba kandi Urubanza Porokireri aburana na Slobodan Milošević, iburanisha ry'urubanza rwa Kosta Bulatovic ku cyaha cyo gusuzugur urukiko, Nº IT-02-54-R77.4, Icyemezo ku cyaha cyo gusuzugura urukiko, 13 Gicurasi, igika 17.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

2.2 Ibintu byihariye birebana n'Uregwa

220. Urugereko rufite ububasha busesuye bwo kwemeza impamvu nyoroshyagihano n'impamvu nyongeragihano, ndetse n'uburemere izo mpamvu zigomba guhabwa. N'ubwo impamvu nyongeragihano zigomba gutangirwa ibimenyetso bidashidikanywaho, impamvu nyoroshyagihano zo zipfa gusa kuba zaragaragajwe hashingiwe ku « kugereranya ibishoboka n'ibidashoboka »[326].

2.2.1 Impamvu nyongeragihano

221. Urugereko rwasuzumye impamvu nyongeraguhano zavuzwe na Porokireri mu myanzuro nsozarubanza ye[327]. Ubwungnizi nta cyo bwigize buvuga ku birebana n'impamvu nyongeragihano.

222. Urugereko rusanze kuba Nshogoza yarabonanye n'abatangabuhamya barindiwe umutekano inshuro zirenze imwe bigaragaza ko yakomeje kugenda arenga ku ngamba zafashwe zo kurinda

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[326] Nk'urugero, reba Inyandiko y'urubanza rwa Aloys Simba mu bujurire, Nº ICTR-01-76-A, igika 328; Inyandiko y'urubanza rwa Ferdinand Nahimana na bagenzi be mu bujurire, Nº ICTR-99-52-A, igika 1038.

[327] Imyanzuro nsozarubanza ya Porokireri, ibika 211-212. Porokireri avuga ko mu mpamvu nyongeragihano muri uru rubanza harimo ko ibyo Uregwa ashinjwa yabikoze yabitekereje kandi ko atitaye na mba ku itegeko ry'Urugereko ryashyiragaho ingamba zo kurinda abatangabuhamya no ku mutekano wa GAA na A7/GEX, ubwo bagiye bahura umusubizo, mu ruhame, hari abandi bantu, barimo n'abo mu muryango wa Kamuhanda. Porokireri avuga ko ibi bikurikira ari impamvu nyongeragihano : i) Nshogoza yari afitanye amasano na Kamuhanda, kandi ibyo yari yarabihishe Urukiko ubwo yahabwaga akazi na nyuma yaho ; ii) Uregwa ni umuntu wize iby'amategeko kandi ahugukiwe kazi k'abavoka; iii) Ubwo yakoraga icyaha, yari amaze imyaka ibiri ari umupererezi mu ikipe y'Ubwunganizi bwa Kamuhanda, akaba rero yari azi amategeko y'Urukiko n'imikorere yarwo ; iv) Ubwo icyaha cyakorwaga, nta masezerano y'akazi yari agifite mu birebana n'urubanza rwa Kamuhanda; v) Ubwo icyaha cyakorwaga, yari umupererezi kandi ahembwa mu rwego rwa gahunda y'Urukiko yo gufasha abaregwa mu birebana no kunganirwa, mu zindi manza; vi) Yashyikirije Urukiko inyandiko z'amanyanga zisaba kwishyurwa amafaranga no gusubizwa ayo yatanze; vii) Mu rubanza rwa Rukundo, Urugereko rwemeje ko yakoze ibikorwa bimeze nk'ibyo aregwa ubu byo kurenga ku ngamba zo kurinda umutekano w'abatangabuhamya zashyizweho n'Urugereko kandi ko yagaragaje ko asuzugura byimazeyo amategeko y'Urugereko ashyiraho izo ngamba ; viii) Yibanze ku batangabuhamya runaka, nyuma y'uko Urugereko rwa Mbere rw'Iremezo rufatiye umwanzuro ku birebana n'ukwemerwa kw'abatangabuhamya bo mu rubanza rwa Kamuhanda ; Yahimbahimbye inyandikomvugo z'ubuhamya bw'ibinyoma zinyuranye. Ibyo bikorwa byose bishyizwe hamwe, bigaragaza ko Uregwa yabangamiye nkana imikirize myiza y'imanza.

umutekano w'abo batangabuhamya, iyo ikaba ari impamvu nyongeragihano. Urugereko ruributsa kandi ko rwamaze gufata umwanzuro wemeza ko Uregwa yabonanye n'abatangabuhamya barindiwe umutekano hari n'abandi bantu batarebwa n'urubanza. Urugereko rusanga Uregwa yarakoze icyo cyaha mu rwego rwo kubahiriza amabwiriza yari yahawe na avoka mukuru wari umukuriye mu kazi, ari we Aicha Condé, watanze n'ubuhamya muri uru rubanza, kandi yari agamije no gukorera amafaranga kubera ako kazi.

223. Byongeye kandi, Urugereko rusanga Nshogoza ari umugabo wize, wasohotse mu ishami ryigisha amategeko rya Kaminuza y'u Rwanda[328]. Yatangiye gukora mu itsinda ry'Ubwunganizi bwa Kamuhanda mu mpera z'umwaka wa 2001, kandi yinjiye mu Rugaga rw'Abavoka bo mu Rwanda mu mwaka wa 2005[329]. Urugereko ruributsa ko Nshogoza yanakoraga mu rubanza rwa Rukundo nk'umupererezi w'Ubwunganizi [330] ubwo biriya byo guhura n'abatangabuhamya barindiwe umutekano nta ruhushya abifitiye byababaga[331]. Urugereko rusanga kuba Nshogoza yarize amategeko, akaba yarakoraga mu rubanza rwa Kamuhanda no mu rwa Rukundo ashinzwe iperereza, byari gutuma amenya ndetse anazirikana akamaro ko kubahirirza amategeko y'Urukiko, by'umwihariko akamaro k'amategeko agamije kurinda umutekano w'abatangabuhamya ndetse n'ingaruka ibikorwa bye byo kurenga kuri ayo mategeko byashoboraga kugira. Bityo rero, Urugereko rusanze kuba Nshogoza ari umuntu w'impuguke mu by'amategeko ukubitiyeho no kuba yarakoze akazi k'ubupererezi ku ruhande rw'Ubwunganizi ari impamvu nyongeragihano.

224. Na none, Urugereko rusanga kuba Nshogoza yari umupererezi w'Ubwunganizi mu kazi k'Urukiko byaratumaga hagati ye na rwo habaho umwuka w'ubwizerane, ibyo Urugereko rukaba rwarabizirikanye nk'impamvu nyongeragihano. Inkiko nkuru n'intoya zigomba byanze bikunze kugendera ku budahemuka no ku bunyangamugayo bw'abapererezi. Nk'abantu bari mu itsinda ry'abanyamategeko, hari uburenganzira bwihariye kandi bukomeye bahabwa n'amategeko, nko kumenya imyirondoro y'abatangabuhamya barindiwe umutekano, bakaba babuhabwa gusa kubera ko baba bafitiwe icyizere cy'uko iyo myirondoro batazayikoresha uko bidakwiye[332].

[328] Umutangabuhamya Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, imp. 2-3.

[329] Umutangabuhamya Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe 2009, imp. 3, 28-29.

[330] *Urubanza Porokireri aburana na Rukundo*, Nº ICTR-01-70-T.

[331] Umutangabuhamya Nshogoza, inyandikomvugo y'iburanisha, 31 Werurwe 2009, urup. 38.

[332] Nk'urugero, reba Inyandiko y'urubanza rwa Tadic na Vujin mu bujurire, Nº IT-94-1-A-R77, igika 166.

225. Urugereko ruributsa kandi ko Nshogoza yiyemereye ko mu rubanza rwa Kamuhanda yashyikirije Urukiko impapuro zirwishyuza amafaranga ataragombaga kwishyurwa[333]. Igisobanuro Nshogoza yatanze avuga ko impamvu yamuteye kwishyuza ayo mafaranga kandi ataragombaga kuyishyurwa ngo ni uko muri Kanama 2003 ari bwo akazi ke ko gukora iperereza ku ruhande rw'Ubwunganizi mu rubanza rwa Kamuhanda kagombaga kurangira, nta cyo kigabanyaho ububi bw'iyo myitwarire ye. Urugereko rusanze mu gutanga izo mpapuro yishyuza amafaranga ataragombaga kwishyurwa Nshogoza yaratesheje agaciro umurimo we nk'umuntu ushinzwe gukora iperereza ku ruhande rw'Ubwunganizi, rukaba rusanze rero ari impamvu nyongeragihano.

226. Icya nyuma ni uko Porokireri mu myanzuro nsozarubanza ye, yaba iyanditse yaba n'iyo mo magambo, yasabye Urugereko kuzirikana umwanzuro w'Urugereko rwa Mbere rw'Iremezo mu rubanza rwa Rukundo aho rwasanze Nshogoza yararenze ku ngamba zo kurinda umutekano w'abatangabuhamya mu buryo budatandukanye n'ubwo yabikozemo muri uru rubanza[334]. Uwo mwanzuro w'Urugereko rwa Mbere rw'Iremezo mu rubanza rwa Rukundo ariko ukaba utarigeze utangwa nk'ikimenyetso muri uru rubanza, n'Ubwunganizi bukaba butarigeze bubona urubuga rwo kwisobanura kuri icyo kibazo[335]. Byongeye kandi, Urugereko rusanga mu rubanza rwa Rukundo uwo mwanzuro ku bijyanye n'imyitwarire ya Nshogoza utari ushingiye ku bimenyetso bidashidikanywaho. Ahubwo, ni umwanzuro washingiye kuri raporo yakozwe n'umuntu w'inshuti y'Urukiko *[Amicus curiae]* wigenga mu rwego rwo gusuzuma niba umutangabuhamya runaka yari uwo kwemerwa[336]. Kubera izo mpamvu, Urugereko rusanze byaba atari byo ndetse kwaba ari ukurenganya Uregwa ruramutse rubifashe nk'impamvu nyongeragihano.

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[333] Mu nyandiko Nshogoza yishyurijeho amafaranga, yari yavuze ko yabonanye n'umutangabuhamya wiswe GAA ku wa 9 n'iya 12 Kanama 2003, ariko mu buhamya bwe mu rukiko yemeje ko yahuye n'uwo mutangabuhamya inshuro imwe gusa muri uko kwezi kwa Kanama 2003. Reba, Nshogoza, inyandikomvugo y'iburanisha, 31 Werurwe 2009, imp. 31-32. Reba n'ikimenyetso gihamya cyahawe nº P. 15.

[334] Imyanzuro nsozarubanza ya Porokireri, igika 211; Inyandikomvugo y'iburanisha, 29 Mata 2009, urup. 37 (Imyanzuro nsozarubanza ya Porokireri mu magambo).

[335] Reba, Nshogoza, icyemezo ku cyifuzo cya Porokireri gisaba Urugereko kwakira nk'ikimenyetso ibirebana n'imyitwarire Uregwa asanganywe, 20 Gashyantare 2009, aho Urugereko rwasanze kwakira nk'ikimenyetso ibirebana n'imyitwarire Uregwa yagaragaje mu rubanza rwa Rukundo bitaba biri mu nyungu z'ubutabera, maze rukanga icyo cyifuzo Porokireri yari yatanze ashingiye ku ngingo ya 93 y'Amategeko.

[336]Inyandiko y'urubanza rwa Rukundo mu rw'iremezo, Nº ICTR-01-10-T, ibika 141-142. Urugereko rwa Mbere rw'Iremezo mu rubanza rwa Rukundo rwemeye raporo yakozwe n'inshuti y'Urukiko *(Amicus curiae)* yigenga

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

2.2.2 Impamvu nyoroshyagihano

227. Ubwunganizi buvuga ko mu kugenera Nshogoza igihano, Urugereko rukwiye kuzirikana impamvu nyoroshyagihano zikurikira: (i) Nshogoza afite umugore ndetse n'abana bakiri bato, akaba ari we wenyine ubatunze; (ii) yorohereje Porokireri n'Urukiko akazi mu buryo « busesuye kandi nta guhuzagurika », uhereye ku kuba yarishyikirije Urukiko ku itariki ya 8 Gashyantare 2008; (iii) abatangabuhamya b'Ubwunganizi ari bo Aicha Condé na Fulgence Seminega bemeje ko ari umuntu w'imico myiza kandi bombi ni abantu bamuzi neza; na (iv) kuba nta kindi cyaha yigeze ahanirwa mu buzima bwe[337].

228. Porokireri nta cyo yigeze avuga ku byerekeye izo mpamvu nyoroshyagihano.

229. Urugereko rwa Mbere rw'Iremezo rwazirikanye ibirebana n'umuryango w'Uregwa ufite abana batatu, umwe akaba afite imyaka 14, undi 15, naho undi 17[338]. Rwanazirikanye kandi ko Uregwa nta kindi cyaha yigeze ahanirwa mu buzima bwe. Na none kandi, Urugereko rusanga kuba Uregwa yarishyikirije Urukiko ku bushake bwe ku itariki ya 8 Gashyantare 2008, ari impamvu nyoroshyagihano.

230. Ku bijyanye no kuba Uregwa ari umuntu w'imico myiza, Urugereko rusanze hari ibintu bibiri byagaragaye mu gihe cy'iburanisha ry'uru rubanza rutareka gushingiraho mu kugena uburemere bukwiye guhabwa ubuhamya bwa Aicha Condé ku mico myiza y'Uregwa[339]. Icya mbere ni uko Uregwa yari akuriwe na Condé mu kazi, bityo ubuhamya Condé amutangaho bukaba bugomba gufatwa muri urwo rwego. Mu by'ukuri, Condé nk'avoka wunganira abaregwa muri uru Rukiko, yumva nta kibi kiri mu kuba Uregwa yarabonanye n'abatangabuhamya barindiwe umutekano mu gihe byakozwe hagamijwe kurengera inyungu z'uwo yunganiraga wari warahamijwe icyaha ari we Kamuhanda. Icya kabiri ni uko Condé, kimwe n'Uregwa, ngo abona nta kibi kiri mu kuba Uregwa, abifashijwemo na we, yaratanze inyandiko zo kwishyuza amafaranga atagombaga

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yasanze kuba umutangabuhamya wiswe BLP yaravuguruje ubuhamya yari yaratanze yarabitewe n'igitutu yokejwe na Nshogoza na Padiri Ndagijimana, kandi iyo raporo yemeje ko Nshogoza yakomeje kubonana n'uwo mutangabuhamya arenze ku ngamba zari zarashyizweho zo kumurindira umutekano.

337 Imyanzuro nsozarubanza y'Ubwunganizi, igika 360.

338 Umutangabuhamya Nshogoza, inyandikomvugo y'iburanisha, 30 Werurwe, 2009, urup. 5.

339 Umutangabuhamya Condé, inyandikomvugo y'iburanisha, 16 Werurwe 2009, urup. 40, aho Condé yavuze ko « yemera rwose Nshogoza » ko « ari umupererezi w'agahebuzo ; ko ari umuntu mwiza; ko ari umuhanga; ko ahorana ibakwe ».

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

kwishyurwa. Urugereko rurazirikana ibi bintu uko ari bibiri mu kugena uburemere bukwiye guhabwa ubuhamya bwa Condé ku mico myiza y'Uregwa.

231. Urugereko rusanze kandi ubuhamya bwa Fulgence Seminega buvuga ko Uregwa arangwa n'imico myiza nta bisobanuro bigaragara bibukubiyemo. Koko rero, yavuze gusa ko hari hashize nk'imyaka icumi amenye Uregwa[340]. Bityo rero, Urugereko nta buremere ruhaye ubuhamya bwa Condé n'ubwa Seminega ku bijyanye no kuba Nshogoza arangwa n'imico myiza.

2.3 Gukura mu gihano kigenwe igihe Uregwa amaze afunze by'agateganyo

232. Nshogoza afungiye muri Gereza y'Urukiko kuva ku itariki ya 8 Gashyantare 2008. Nk'uko ingingo ya 101(C) y'Amategeko ibiteganya, Nshogoza afite uburenganzira bw'uko igihe amaze afunze kuva ku itariki ya 8 Gashyantare 2008 kivanwa mu gihano akatiwe.

3. UMWANZURO

233. Rushingiye ku bintu byose birebana n'uru rubanza nk'uko byavuzwe haruguru, rumaze kubigenzura rukabona ko Uregwa ataba ahaniwe icyaha kimwe inshuro ebyiri, kandi rumaze kubona ko ingingo ya 77 (G) y'Amategeko iteganya ko icyaha nk'iki gihanishwa igifungo kitarenze imyaka itanu n'ihazabu itarenze amadorari y'amanyamerika 10.000 cyangwa kimwe muri ibyo bihano, ruhanishije Léonidas Nshogoza:

Igifungo cy'amezi icumi (10)

234. Kubera ko mu gihano Uregwa akatiwe hagomba kuvanwamo igihe kingana n'icyo yari amaze afunze by'agateganyo, Urugereko rutegetse ko Nshogoza ahita afungurwa akava muri gereza y'Urukiko, keretse aramutse afungiye ikindi cyaha ku buryo bwemewe n'amategeko.

Bikorewe Arusha, ku wa 7 Nyakanga 2009

Khalida Rachid Khan	Lee Gacuiga Muthoga	Aydin Sefa Akay
(Perezida)	(Umucamanza)	(Umucamanza)

[340] Reba kandi Seminega, inyandikomvugo y'iburanisha, 19 Werurwe 2009, urup. 53. Fulgence Seminega hari hashize nk'imyaka icumi azi Nshogoza.

UMUGEREKA : UKO IMIBURANISHIRIZE Y'URUBANZA YAGENZE

1. Inyandiko y'ibirego ishinja Léonidas Nshogoza («Inyandiko y'ibirego») yemejwe n'umucamanza Dennis C.M. Byron ku itariki ya 4 Mutarama 2008 kandi ishyirwaho ubujeni[341]. Ku itariki ya 28 Mutarama 2008, umucamanza Byron amaze kumva icyifuzo cy'uruhande rumwe gusa, yatanze urupapuro rwo gufata, n'itegeko ryo kwimura no gufunga, kandi byagombaga kugirirwa ibanga[342].

2. Inyandiko y'ibirego ishinja Uregwa ibyaha bikubiye mu birego bine bikurikira :

   IKIREGO CYA 1 : Gusuzugura Urukiko, icyaha gihanwa hashingiwe ku bubasha bwite bw'Urukiko no ku ngingo ya 77(A), A(ii) na (G) y'Amategeko y'Urukiko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso ;

   IKIREGO CYA 2 : Gusuzugura Urukiko, icyaha gihanwa hashingiwe ku bubasha bwite bw'Urukiko no ku ngingo ya 77(A), A(ii), A(iv), B) na (G) y'Amategeko y'Urukiko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso ;

   IKIREGO CYA 3 : Ubwinjiracyaha mu bikorwa bihanirwa nk'icyaha cyo gusuzugura Urukiko, icyaha gihanwa hashingiwe ku bubasha bwite bw'Urukiko no ku ngingo ya 77 (A), A(iv), (B), na (G) y'Amategeko y'Urukiko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso ;

   IKIREGO CYA 4 : Ubwinjiracyaha mu bikorwa bihanirwa nk'icyaha cyo gusuzugura Urukiko, icyaha gihanwa hashingiwe ku bubasha bwite bw'Urukiko no ku ngingo ya 77 (A), A(iv), B) na (G) y'Amategeko y'Urukiko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso.

3. Ku itariki ya 4 Gashyantare 2008, umucamanza Byron yemeye icyifuzo cya Porokireri gisaba gukuraho ingamba zari zarafashwe zo kugira ibanga urupapuro rwo gufata

[341] Kwemeza Inyandiko y'ibirego n'amategeko y'Urugereko ashyiraho ingamba zo kurinda umutekano, 4 Mutarama 2008.

[342] Urwandiko rwo gufata n'itegeko ry'Urugereko ryo kwimura no gufunga byoherererejwe ibihugu byose, 28 Mutarama 2008.

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n'itegeko ryo kwimura no gufunga byemejwe mbere[343]. Ku itariki ya 19 Gashyantare 2008, umucamanza Byron yategetse kandi ko ingamba zo kugira ibanga Inyandiko y'ibirego na zo zivanwaho.[344]

1. Abacamanza bagize Urugereko

4. Ku itariki ya 2 Gicurasi 2008, Urugereko rwa Mbere rw'Iremezo III rugizwe n'Abacamanza Khalida Khan (Perezida), Lee Gacuica Muthoga na Emile Francis Short ni rwo rwashinzwe kuburanisha urubanza[345].

2. Abagize ikipe y'Ubwunganizi

5. Ku itariki ya 8 Gashyantare 2008, Uregwa yahaye Allison Turner ububasha bwo kumuhagararira mu rubanza[346]. Ku itariki ya 16 Gicurasi 2008, Ubwunganizi bwatanze icyifuzo cyihutirwa gisaba Urugereko gutegeka Gerefiye kugenera Uregwa avoka[347].

6. Ku itariki ya 15 Gicurasi 2008, Ishami Rishinzwe Ubwunganizi n'Imicungire ya Gereza (*DCDMS*) ryoherereje Turner ibarwa imushyiraho nk'avoka wunganira Uregwa («Ibaruwa ishyiraho avoka yo ku wa 15 Gicurasi 2008 »)[348]. Nyamara ariko haje kuba kutumvikana hagati ya Turner na Gerefiye ku birebana n'igihembo.

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343 Itegeko ry'urugereko rivanaho ibyo kugirira ibanga urupapuro rwo gufata, n'itegeko ryarwo ryo kwimura no gufunga byahawe ibihugu byose, 4 Gashyantare 2008.

344 Itegeko ry'Urugereko rivanaho ibyo kugirira ibanga Inyandiko y'ibirego yasibwemo ibice bimwe na bimwe, 19 Gashyantare 2008.

345 Itegeko [rya Perezida] rigena ko uru rubanza ruzaburanishwa n'Urugereko III, 2 Gicurasi 2008.

346 «Icyifuzo cyihutirwa gisaba ko hashyirwaho avoka », cyatanzwe ku wa 16 Gicurasi 2008 (« Icyifuzo gisaba ko hashyirwaho avoka »), Umugereka A « Inyandiko itanga ububasha yasinywe na Léonidas Nshogoza », 8 Gashyantare 2008.

347 « Icyifuzo cyihutirwa gisaba ko hashyirwaho avoka », cyatanzwe ku itariki ya 16 Gicurasi 2008.

348 Imyanzuro y'inyongera y'Ubwunganizi ku cyifuzo cya Léonidas Nshogoza cyitwa ; « Icyifuzo gisaba ko hashyirwaho avoka wunganira uregwa », cyatanzwe ku wa 19 Kanama 2008 (« Imyanzuro yo ku wa 19 Kanama 2008 »), Umugereka C « Ibaruwa yemerera akazi avoka wunganira Uregwa ari we Léonidas Nshogoza », 15 Gicurasi 2008 (« Ibaruwa yo ku wa 15 Gicurasi 2008 »). Ibaruwa yo ku wa 15 Gicurasi 2008 yavugaga ko avoka

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7. Ku itariki ya 2 Kamena 2008, Ubwunganizi bwatanze inyandiko y'inyongera ku cyifuzo cyabwo cyasabaga ko Uregwa yagenerwa avoka. Bwavuze ko inyandiko zoherejwe na Gerefiye zabugezeho, busaba ariko Urugereko gutegeka Gerefiye gushyikiriza Uregwa bidatinze amabaruwa yose n'inyandiko zose zirebana n'ibyifuzo byatanzwe[349]. Ku itariki ya 9 Kamena 2009, Ubwunganizi bwohereje indi nyandiko y'inyongera, ikubiyemo izindi nyandiko ebyiri, inamenyesha Urugereko ko avoka agiye guhagarika imirimo kugeza igihe ibikubiye mu ibaruwa imushyiraho nk'avoka wunganira Uregwa yo ku itariki ya 15 Gicurasi 2008 bizaba byubahirijwe[350].

8. Turner yakomeje guhagararira Uregwa nta gihembo akorera kugeza ku itariki ya 9 Kamena 2008, ari naho yamenyesheje Gerefiye ko agiye guhagarika akazi muri urwo rubanza kugeza igihe bazamuhera akazi ka avoka wunganira Uregwa ku buryo bwemewe n'amategeko[351].

9. Ku itariki ya 10 Kamena 2008, Gerefiye yandikiye Uregwa amumenyesha ko atazashyiraho Turner nk'avoka umwunganira[352]. Ku itariki ya 12 Kamena 2008, Ubwunganizi bwatanze ibaruwa imenyesha ko buhagaritse icyifuzo cyabwo cyihuta

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Turner agenewe igihembo cy'amadolari 50.000 kubera imirimo ye y'ubwunganizi kandi ko Gerefiye azamwishyura n'andi mafaranga azaba yatanzwe ku mpamvu z'urubanza ».

349 « Inyongera – Icyifuzo cyihutirwa cyane gisaba ko hashyirwaho avoka », cyatanzwe ku wa 2 Kamena 2008 ; « Kohereza na none Imigereka F, G na H - Icyifuzo cyihutirwa cyane gisaba ko hashyirwaho avoka», cyatanzwe ku wa 2 Kamena 2008.

350 « Inyongera 2 – Icyifuzo cyihutirwa cyane gisaba ko hashyirwaho avoka», cyatanzwe ku wa 9 Kamena 2008.

351 « Icyifuzo gisaba Urugereko kwemeza ko ubutabera bwabangamiwe, ingingo ya 77 y'Amategeko ya TPIR», cyatanzwe ku wa 13 Kanama 2008 (« Icyifuzo cy'Uregwa cyo ku wa 13 Kanama 2008 »), ibaruwa yometse ku cyifuzo yo ku wa 9 Kamena 2008 Turner yohererejе Ishami rishinzwe abavoka b'Ubwunganizi hamwe na gereza y'Urukiko avuga ko «n'ubwo acyemeza ko kontaro ye ifite agaciro ari na yo mpamvu akomeza gukora nk'avoka wagenewe Nshogoza, kubera amakosa yavuzwe yo kubangamira ubutabera, afashe icyemezo cyo guhagarika akazi kose muri uru rubanza kugeza igihe azaherwa inshingano zo kuba avoka w'Uregwa mu buryo buteganywa n'amategeko nk'uko bivugwa muri kontaro y'akazi».

352 « Icyifuzo gisaba Gerefiye guhindura icyemezo yafashe ku wa 10 Kamena 2008 hashingiwe ku ngingo ya 19 n'iya 33 z'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso ya TPIR », cyatanzwe ku wa 13 Kamena 2008, hometseho ibaruwa Mwaungulu ukora mu Ishami rishinzwe abavoka na gereza y'Urukiko yandikiye Uregwa ».

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cyane cyasabaga igenwa ry'avoka, bwongeraho ko bujuririye icyemezo cya Gerefiye[353]. Mu gihe kimwe, Ubwunganizi bwandikiye kandi Perezida w'Urukiko ibaruwa busaba ko icyemezo Gerefiye yafashe cyo kwima Turner akazi ko kuba avoka w'Uregwa cyahindurwa[354].

10. Ku itariki ya 1 Nyakanga 2008, Gerefiye yatanze inyandiko isubiza icyifuzo gisaba Urugereko gushyiraho avoka wunganira Uregwa[355]. Gerefiye yasabye Urugereko kutemera icyifuzo cy'Ubwunganizi, avuga ko uwo avoka nta bushobozi afite kandi ko Urugereko nta bubasha rufite bwo gukemura icyo kibazo.

11. Ubwunganizi bwasubije inyandiko ya Gerefiye ku itariki ya 7 Nyakanga 2008[356] buvuga ko yarengereye ububasha bwe busesuye kandi ko ibyo byatumye Uregwa avutswa uburenganzira bwe bwo gucirwa urubanza mu buryo buboneye. Gerefiye yatanze igisubizo kuri iyo myanzuro y'Ubwunganizi ku itariki ya 23 Nyakanga 2008[357], atsindagira ko Urugereko nta bubasha rufite bwo gukemura icyo kibazo, asobanura kandi impamvu atahaye Turner akazi ko kuba avoka.

12. Ku itariki ya 24 Nyakanga 2008, Urugereko rwategetse Gerefiye gushyiraho bidatinze Turner nk'avoka wunganira Uregwa[358]. Ku itariki ya 25 Nyakanga 2008, DCDMS

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[353] «Integuza yo guhagarika akazi – Icyifuzo cyihutirwa cyane gisaba ko hashyirwaho avoka wunganira Uregwa », cyatanzwe ku wa 12 Kamena 2008.

[354] « Icyifuzo gisaba Gerefiye guhindura icyemezo yafashe ku wa 10 Kamena 2008 hashingiwe ku ngingo ya 19 n'iya 33 z'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso ya TPIR », cyatanzwe ku wa 13 Kamena 2008.

[355] « Inyandiko ya Gerefiye ishingiye ku ngingo ya 33 (B) y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso ku birebana n'inyandiko ya Léonidas Nshogoza ikubiyemo INYONGERA YA 2 – ICYIFUZO CYIHUTIRWA CYANE KIREBANA NO GUSHYIRAHO AVOKA », yatanzwe ku wa 1 Nyakanga 2008.

[356] «Igisubizo cy'Ubwunganizi ku nyandiko ya Gerefiye yo ku wa 1 Nyakanga 2008 », cyatanzwe ku wa 7 Nyakanga 2008.

[357] « Inyandiko ya Gerefiye ishingiye ku ngingo ya 33 (B) y'Amategeko, ivuga ku gisubizo cyatanzwe n'Ubwunganizi ku nyandiko ye yo ku wa 1 Nyakanga 2008 », yatanzwe ku wa 23 Nyakanga 2008.

[358] Itegeko ritegeka ko avoka ashyirwaho, ryatanzwe ku wa 24 Nyakanga 2008.

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yandikiye Turner imumenyesha ko yashyizweho nk'avoka w'Uregwa[359]. Nyamara ariko, Turner ntiyaje guhabwa ako kazi ku buryo bwemewe kubera ko atumvikanye na Gerefiye ku kibazo cy'igihembo[360].

13. Ku itariki ya 5 Kanama 2008, Uregwa yatanze icyifuzo cy'ibanga gisaba ko hashyirwaho Turner nk'avoka umwunganira, kandi yinubira ibyo Gerefiye amukorera[361].

14. Ku itariki ya 13 Kanama 2008, Ishami rya DCDMS ryatanze itangazo rishakisha avoka wo kunganira Uregwa[362]. Uwo munsi nyirizina, Ubwunganizi bwatanze icyifuzo gisaba Urugereko kwemeza ko ibyo Gerefiye abukorera bibangamira imigendekere y'ubutabera, kandi ko birenganya bikomeye Uregwa[363]. Ku itariki ya 18 Kanama 2008, Urugereko, rumaze kubona ko Gerefiye atageneye Uregwa avoka wo kumwunganira, rwamutegetse gushyira mu bikorwa mu minsi itarenga 10 ibikubiye mu cyemezo cyarwo cyo ku itariki

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[359] « Icyifuzo gisaba ko hashyirwaho avoka wunganira Uregwa », 5 Kanama 2008 («Icyifuzo cy'Uregwa cyo ku wa 5 Kanama 2008 »), cyometseho ibaruwa yanditswe n'Ishami rishinzwe abavoka na gereza y'Urukiko yo ku wa 25 Nyakanga 2008.

[360] Reba « Imyanzuro y'inyongera y'Ubwunganizi ku cyifuzo cya Léonidas Nshogoza « gisaba ko hashyirwaho avoka », cyatanzwe ku wa 19 Kanama 2008. Ku itariki ya 29 Nyakanga 2008, Turner yandikiye Ishami rishinzwe abavoka na gereza y'Urukiko avuga ko yemera ingingo zikubiye mu ibaruwa imuha akazi yo ku wa 15 Gicurasi 2008. Ku itariki ya 30 Nyakanga 2008, Ishami rishinzwe abavoka na gereza y'Urukiko ryamusubije muri aya magambo « Nta bwo twumva neza niba gushingira ku ibaruwa y'akazi yo ku wa 15 Gicurasi 2008 bisonura ko utemeye ibaruwa y'akazi yo ku wa 25 Nyakanga 2008 n'ibiyikubiyemo ». Bityo, iryo Shami ryasabye Turner ibisobanuro kuri icyo kibazo. Ku itariki ya 1 Kanama 2008, Turner yasubije ashimangira ko yemeye akazi ko kunganira Uregwa ashingiye ku ngingo zikubiye mu ibaruwa y'ikubitiro imuha akazi yo ku wa 15 Gicurasi 2008. Ayo mabaruwa yometse ku « Myanzuro y'inyongera » ku cyifuzo cyihutirwa cyane cy'Ubwunganizi (…) » no ku « Cyifuzo cyihutirwa cyane cy'Ubwunganizi (…) » byatanzwe ku wa 20 n'iya 26 Kanama 2008 », yatanzwe ku itariki ya 1 Nzeri 2008, Umugereka wahawe Nº D.

[361] « Icyifuzo gisaba ko hashyirwaho avoka wunganira Uregwa», cyatanzwe ku wa 5 Kanama 2008.

[362] « Icyifuzo gisaba Urugereko kwemeza ko habayeho ibikorwa byo kuyobya Urukiko », cyatanzwe ku wa 13 Kanama 2008, cyometseho.

[363] Icyifuzo gisaba Urugereko kwemeza ko habayeho ibikorwa byo kuyobya Urukiko », cyatanzwe ku wa 13 Kanama 2008.

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ya 24 Nyakanga 2008[364]. Ku itariki ya 20 Kanama 2008, Gerefiye yashyizeho Philippe Greciano nk' avoka mukuru w'Uregwa[365].

15. Ku itariki ya 21 Kanama 2008, Ubwunganizi bwoherereje Urugereko icyifuzo cyihutirwa cyane, burusaba gutegeka Gerefiye gushyiraho avoka Uregwa yihitiyemo[366]. Ku itariki ya 26 Kanama 2008, Ubwunganizi bwoherereje Urugereko icyifuzo cyihutirwa cyane busaba ko haba iburanisha ku birebana n'icyifuzo cyabwo gisaba ko Turner yagirwa avoka w'Uregwa[367].

16. Ku itariki ya 1 Nzeri 2008, Porokireri yatanze igisubizo ku cyifuzo cyihutirwa cyane cy'Ubwunganizi[368], arwanya icyo cyifuzo ngo kuko Turner atari akiri avoka w'agateganyo w'Uregwa, bityo akaba nta bushobozi na buke yari agifite bwo kuvugira Uregwa ; Porokireri yavuze kandi ko uburenganzira umuntu udashobora kwirihira avoka afite bwo kunganirwa mu buryo bukwiye butavuga ko agomba kwihitiramo avoka yishakiye.

17. Ku itariki ya 13 Ukwakira 2008, Urugereko rwategetse Gerefiye guhindura ibaruwa ishyiraho Greciano nk'avoka wunganira Uregwa, maze rumutegeka gushyira Turner muri

[364] Itegeko risaba ko avoka ashyirwaho bidatinze, 18 Kanama 2008.

[365] « Urwandiko rushyiraho ku bw'itegeko no ku bw'inyungu z'ubutabera Philippe Greciano nka avoka wunganira Léonidas Nshogoza, Uregwa mu Rukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda », 20 Kanama 2008 (« Urwandiko rwa Gerefiye rumenyesha ishyirwaho rya Greciano »).

[366] «Icyifuzo cyihutirwa cyane gisaba Urugereko gutegeka Gerefiye gushyiraho avoka wihitiwemo n'Uregwa hashingiwe ku ngingo ya 20 (4) (d) ya Sitati ya TPIR», cyatanzwe ku wa 21 Kanama 2008.

[367]« Icyifuzo cyihutirwa cyane cy'Ubwunganizi gisaba Urugereko ko habaho iburanisha ryo kumva icyifuzo gisaba ko hashyirwaho avoka Allison Turner wihitiwemo n'Uregwa no kumva ibisabwa by'umwihariko byahinduwe », cyatanzwe ku wa 26 Kanama 2008 ; « Imyanzuro y'inyongera » ku cyifuzo cyihutirwa cyane cy'Ubwunganizi (…) » no ku « Cyifuzo cyihutirwa cyane cy'Ubwunganizi (…) » byatanzwe ku wa 20 n'iya 26 Kanama 2008 », yatanzwe ku itariki ya 1 Nzeri 2008 ikubiyemo inyandiko z'inyongera.

[368] « Igisubizo cya Porokireri ku « Cyifuzo cyihutirwa cyane cy'Ubwunganizi gisaba Urugereko ko habaho iburanisha ryo kumva icyifuzo gisaba ko hashyirwaho avoka Allison Turner wihitiwemo n'Uregwa no kumva ibisabwa by'umwihariko byahinduwe », cyatanzwe ku wa 1 Nzeri 2008 ;

uwo mwanya[369]. Ku itariki ya 13 Ukwakira 2008, Gerefiye yakuyeho icyemezo cye cyashyiragaho Greciano nk'avoka wunganira Uregwa[370]**.**

3. Kwitaba Urukiko bwa mbere

18. Ku itariki ya 11 Gashyantare 2008, Uregwa yitabye Urukiko bwa mbere maze ahakana ibyaha byose bikubiye mu Nyandiko y'ibirego[371].

4. Ifungwa

19. Uregwa yishyize ku bwende mu maboko y'Urukiko ku itariki ya 8 Gashyantare 2008.

20. Ku itariki ya 14 Mata 2008, Ubwunganizi bwatanze icyifuzo gisaba ko amategeko yatanzwe ku itariki ya 28 Mutarama 2008 yo gufunga yavanwaho, bitaba ibyo, Uregwa agafungurwa by'agatekanyo[372]. Porokireri yatanze igisubizo cye ku itariki ya 21 Mata 2008, avuga ko Ubwunganizi butujuje ibisabwa kugira ngo ayo mategeko abe yavanwaho, kandi ko butujuje n'ibisabwa kugira ngo habeho ifungurwa ry'agateganyo[373]. Ubwunganizi bwatanze igisubizo cyabwo ku itariki ya 28 Mata 2008, buvuga ko mu byo butemera harimo inyito Porokireri aha abyabaye bijyanye n'ibirego ndetse n'ibishingirwaho kugira ngo icyemezo cyo gufunga kibe cyasubirwamo[374].

21. Ku itariki ya 2 Nzeri 2008 no ku ya 20 Ukwakira 2008, Ubwunganizi bwatanze imyanzuro y'inyongera ku cyifuzo cyabwo, buvuga ko nyuma yo kurekurwa Uregwa

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[369]« Icyemezo ku byifuzo bisaba ko hashyirwaho avoka wihitiwemo n'Uregwa, 13 Ukwakira 2008.

[370] Icyemezo kivanaho Philippe Greciano, avoka w' Uregwa Léonidas Nshogoza, 13 Ukwakira 2008

[371] Inyandikomvugo y'iburanisha, 11 Gashyantare 2008, imp. 5-6.

[372] « Icyifuzo gisaba Urugereko gusubiramo ingamba z'agateganyo zashyizweho, bitaba ibyo Uregwa akarekurwa by'agateganyo », cyatanzwe ku wa 14 Mata 2008.

[373] « Igisubizo cya Porokireri ku « Cyifuzo cy'Ubwunganizi gisaba Urugereko gusubiramo ingamba z'agateganyo zashyizweho, bitaba ibyo Uregwa akarekurwa by'agateganyo », cyatanzwe ku wa 21 Mata 2008.

[374] « Imyanzuro y'Ubwunganizi ku gisubizo Porokireri yatanze ku cyifuzo cyabwo gisaba Urugereko gusubiramo ingamba z'agateganyo zashyizweho, bitaba ibyo Uregwa agafungurwa by'agateganyo » , cyatanzwe ku wa 28 Mata 2008.

ashobora kuba mu gihugu cya Tanzaniya, Kenya cyangwa u Bugande, ibyo bihugu bikaba byiyongera ku cya Canada cyavuzwe rugikubita[375].

22. ku itariki ya 29 Nzeri 2008, Ubwunganizi bwarongeye butanga icyifuzo gisaba ibintu binyuranye birimo ifungurwa ry'agateganyo ry'Uregwa[376]. Porokireri yatanze igisubizo cye kuri icyo cyifuzo ku itariki ya 3 Ugushyingo 2008, ashimangira imyanzuro yatanze mbere ku birebana n'ifungurwa ry'agateganyo[377]. Ubwunganizi bwatanze igisubizo ku itariki ya 10 Ugushyingo 2008, buvuga ko Porokireri atigeze agaragaza impamvu n'imwe yatuma Uregwa akomeza gufungwa, kandi ko bwujuje ibisabwa kugira ngo habeho ifungurwa ry'agateganyo[378].

23. Ku itariki ya 17 Ugushyingo 2008, Urugereko ntirwemeye icyifuzo cy'Ubwunganizi cyarusabaga kuvanaho icyemezo rwafashe ku ifungwa ry'Uregwa. Rwasabye ibihugu bya Kanada, Kenya, Tanzaniya n'u Bugande kurumenyesha niba byemera kwakira Uregwa mu gihe agitegereje gucirwa urubanza[379]. Ku itariki ya 11 Ukuboza 2008, Leta ya Kanada

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[375] Imyanzuro y'inyongera y'Ubwunganizi ku « Cyifuzo cyabwo gisaba Urugereko gusubiramo ingamba z'agateganyo zashyizweho, bitaba ibyo Uregwa akarekurwa by'agateganyo », yatanzwe ku wa 20 Ukwakira 2008 ; « INYANDIKO IGOMBA KUGIRWA IBANGA RIKOMEYE (YASHYIZEHO UBUJENI) hamwe n'imyanzuro y'inyongera yatanzwe n'uruhande rumwe rutiriwe ruyimenyesha urundi – ku « Cyifuzo gisaba Urugereko gusubiramo ingamba z'agateganyo cyangwa se bitaba ibyo, Uregwa akarekurwa by'agateganyo, cyatanzwe ku wa 2 Nzeri 2008.

[376] « Icyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka Porokireri kubahiriza ingingo ya 66 (A) (ii) y'Amategeko abushyikiriza ibimenyetso byose bishyigikira ibirego bye, Icyifuzo gisaba kandi igihe cy'inyongera cyo gukora anketi mbere y'uko urubanza rutangira kuburanishwa , n'Icyifuzo gisaba Urugereko gufungura Léonidas Nshogoza by'agateganyo », inyandiko yatanzwe ku wa 29 Ukwakira 2008.

[377]«Igisubizo cya Porokireri ku « Cyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka Porokireri kubahiriza Ingingo ya 66 (A) (ii) y'Amategeko abushyikiriza ibimenyetso byose bishyigikira ibirego bye, Icyifuzo gisaba kandi igihe cy'inyongera cyo gukora anketi mbere y'uko urubanza rutangira kuburanishwa, n'Icyifuzo gisaba Urugereko gufungura Léonidas Nshogoza by'agateganyo», cyatanzwe ku wa 3 Ugushyingo 2008.

[378] « Imyanzuro y'Ubwunganizi ku gisubizo Porokireri yatanze ku cyifuzo cyabwo cyo ku wa 29 Ukwakira 2008 kirebana no kutubahiriza ingingo zerekeranye no kumenyekanisha ibimenyetso bizashingirwaho mu rubanza, kinasaba ko Uregwa yafungurwa by'agateganyo », 10 Ugushyingo 2008.

[379] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba ko ingamba z'agateganyo zasubirwamo cyangwa bitaba ibyo, ko Uregwa yafungurwa by'agateganyo , 17 Ugushyingo 2008.

yasubije yerekana inzira Uregwa agomba kunyuramo kugira ngo Kanada ibe yamwakira, kandi imenyesha Urukiko ko Kanada idashobora kurwizeza ko Uregwa azaburanishwa[380].

24. Ku itariki ya 17 Ukuboza 2008, Urugereko rwanze icyifuzo cy'Ubwunganizi cyasabaga ko Uregwa yarekurwa by'agateganyo, kubera ko butujuje ibisabwa kugira ngo habeho ifungurwa ry'agateganyo[381].

25. Ku itariki ya 3 Gashyantare 2009, Ubwunganizi bwatanze icyifuzo busaba ko icyemezo cyo kwanga kurekura Uregwa by'agateganyo cyasubirwaho. Mu ngingo bwatanze harimo ko Uregwa noneho yifuza kwimurirwa mu nzu irinzwe na LONI ariko atari gereza, kandi bwavuze ko icyemezo Urugereko rwafashe mbere rwagishingiye ku rubanza rwa *Haixu* mu buryo butari bwo[382]. Icyo cyifuzo nticyakiriwe n'Urugereko ku itariki ya 12 Gashyantare 2009, hashingiwe ku mpamvu y'uko kuba Uregwa ashaka kwimurirwa mu nzu irinzwe na LONI ariko atari gereza atari ingingo nshya yiyongera ku zari zisanzwe mu cyifuzo cyatanzwe mbere yatuma hasubirwamo icyemezo rwafashe mbere kuri icyo kibazo, kandi ko kuba Urugereko rwarashingiye ku rubanza rwa *Haixu* ntaho rwibeshye[383].

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[380]« Inyandiko ya Guverinoma ya Kanada ku kibazo cyo kwemerera Léonidas Nshogoza kubayo mu gihe urubanza rutaracibwa », yatanzwe ku wa 11 Ugushyingo 2008.

[381]Icyemezo ku cyifuzo cy'Ubwunganizi gisaba ko Uregwa yafungurwa by'agateganyo, 17 Ukuboza 2008.

[382] « Icyifuzo gisaba Urugereko rwa Mbere rw'Iremezo gusubira mu « Cyemezo ku cyifuzo gisaba irekurwa ry'agateganyo » cyo ku wa 17 Ukuboza 2008, cyatanzwe ku wa 3 Gashyantare 2009.

[383] Icyemezo ku « Cyifuzo gisaba Urugereko rwa Mbere rw'Iremezo gusubira mu cyemezo cyarwo kirebana n'irekurwa ry'agateganyo » , 12 Gashyantare 2009.

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5. Ibimenyetso

a. Abatangabuhamya

26. Ku itariki ya 26 Kanama 2008, Porokireri yatanze inyandikomvugo z'ubuhamya bw'abatangabuhamya batanu zigomba kugirirwa ibanga[384].

27. Ku itariki ya 22 Ukwakira 2008, Urugereko rwafashe icyemezo mu magambo rutegeka Porokireri gutanga urutonde rw'abatangabuhamya yateganyaga guhamagaza, bitarenze ku wa mbere ku itariki ya 27 Ukwakira 2008[385]. Porokireri yubahirije iryo tegeko atanga urutonde rw'abatangabuhamya n'ibimenyetso gihamya ku itariki ya 27 Ukwakira 2008[386]. Porokireri yateganyaga guhamagaza abatangabuhamya barindwi.

28. Ku itariki ya 29 Ukwakira 2008, Ubwunganizi bwatanze icyifuzo busaba ko umutangabuhamya wiswe BLP yakurwa ku rutonde rw'abatangabuhamya bashinja[387], buvuga ko Porokireri ntaho ashingira, haba mu rwego rw'amategeko cyangwa rw'ibyabaye, ahamagaza uwo mutangabuhamya.

29. Ku itariki ya 10 Ugushyingo 2008, Urugereko rwavuze ko icyifuzo cyo kuvana BLP ku rutonde rw'abatangabuhamya nta gaciro kigifite kuko na Porokireri yamaze kwerekana ko atakimuhamagaje[388].

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[384] « Inyandiko imenyekanisha ubuhamya bwanditse bw'inyongera burimo ibice bimwe bisibasibye », yatanzwe ku wa 26 Kanama 2008.

[385] Inyandikomvugo y'iburanisha, 22 Ukwakira 2008, urup.15.

[386] « Inyandiko ya Porokireri ikubiyemo urutonde rw'abatangabuhamya hamwe n'ibimenyetso gihamya », yatanzwe ku wa 27 Ukwakira 2008.

[387] « Icyifuzo cy'Ubwunganizi gisaba ko BLP akurwa ku rutonde rw'abatangabuhamya bashinja, gisaba kandi ko Porokireri yatanga imyanzuro mbanzirizarubanza », cyatanzwe ku wa 29 Ukwakira 2008.

[388] Icyemezo ku « Cyifuzo cy'Ubwunganizi gisaba ko BLP avanwa ku rutonde rw'abatangabuhamya bashinja, gisaba kandi ko Porokireri yatanga imyanzuro mbanzirizarubanza », 10 Ugushyingo 2008.

30. Ku itariki ya 27 Ugushyingo 2008, Ubwunganizi bwatanze ikindi cyifuzo gisaba ko Urugereko rwategeka Porokireri kuvana BLP ku rutonde rw'abatangabuhamya, bunasaba ko iburanisha ry'urubanza ryakwigizwayo[389]. Muri icyo cyifuzo, Ubwunganizi bwavugaga ko Porokireri atigeze atanga icyifuzo gisaba uruhushya rwo kuvana BLP ku rutonde rwe rw'abatangabuhamya kandi ko imyanzuro ye yo mu ikubitiro hari icyo ivuga kuri uwo mutangabuhamya.

31. Porokireri yasubije icyifuzo cy'Ubwunganizi ku itariki ya 28 Ugushyingo 2008[390], avuga ko adateganya guhamagaza BLP kandi asaba Urugereko kumuha uruhushya mu buryo bwemewe bwo kuvana BLP ku rutonde rwe rw'abatangabuhamya. Igisubizo cya Porokireri cyasobanuraga kandi ko Porokireri afite uburenganzira bwo gukoresha ibimenyetso bigaragaza imyitwarire BLP yari asanganywe, birimo no gukoresha inyandiko zifite aho zihuriye na BLP mu manza zabanjirije uru. Kuri icyo kibazo, Ubwunganizi bwavuze ko butemera ibivugwa na Porokireri ko ashobora gushingira ku byo BLP yakoze byo kuvuguruza ubuhamya bwe bwa mbere mu kugaragaza imyitwarire uwo mutangabuhamya yari asanganywe hakurikijwe ingingo ya 93 y'Amategeko[391].

32. Ku itariki ya 2 Mutarama 2009, Urugereko ntirwemeye icyifuzo cy'Ubwunganizi kuko rwemeje ko ingingo ya 93 y'Amategeko ikurikizwa ku birebana n'icyaha cyo gusuzugura Urukiko kandi ko atari ngombwa gusubika urubanza[392]. Ku itariki ya 9 Mutarama 2009, Ubwunganizi bwasabye Urugereko uruhushya rwo kujurira icyemezo cyarwo[393], mu byo bwavugaga hakaba harimo ko Urugereko rwibeshye mu mwanzuro warwo urebana

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[389] « Ikindi Cyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka Porokireri kuvana BLP ku rutonde rw'abatangabuhmaya bashinja », cyatanzwe ku wa 27 Ugushyingo 2008.

[390] « Igisubizo cya Porokireri ku « kindi Cyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka Porokireri kuvana BLP ku rutonde rw'abatangabuhmaya bashinja », cyatanzwe ku wa 28 Ugushyingo 2008.

[391] « Imyanzuro y'Ubwunganizi ku gisubizo cya Porokireri ku « kindi Cyifuzo (….) », cyatanzwe ku wa 4 Ukuboza 2008.

[392] Icyemezo ku « Cyifuzo cy'inyongera cy'Ubwunganizi gisaba Urugereko gutegeka Porokireri kuvana BLP ku rutonde rw'abatangabuhamya bashinja », 2 Mutarama 2009.

[393]« Icyifuzo cy'Ubwunganizi gisaba Urugereko uruhushya rwo kujuririra Icyemezo rwafashe ku kindi cyifuzo cyabwo cyarusabaga gutegeka Porokireri kuvana BLP ku rutonde rw'abatangabuhamya bashinja hashingiwe ku ngingo ya 93 y'Amategeko», cyatanzwe ku wa 9 Mutarama 2009.

n'ingingo ya 93 y'Amategeko. Porokireri yasubije ku itariki ya 14 Mutarama 2009[394], avuga ko Ubwunganizi butatanze ibisabwa kugira ngo buhabwe uruhushya rwo kujurira, hakurikijwe ingingo ya 73 (B) y'Amategeko. Ku itariki ya 3 Gashyantare 2009[395], Urugereko ntirwemeye icyo cyifuzo cy'Ubwunganizi kuko rwasanze ibisabwa kugira ngo hatangwe uruhushya rwo kujurira bitari byuzuye.

33. Ku itariki ya 31 Ukuboza 2008, Urugereko rwategetse Ubwunganizi gutanga urutonde rw'abatangabuhamya barwo bitarenze ku itariki ya 9 Mutarana 2009[396]. Ku itariki ya 9 no ku ya 16 Mutarama 2009, Ubwunganizi bwatanze urutonde rw'amazina arenga 40 y'abatangabuhamya[397]. Ku itariki ya 28 Mutarama 2009, Urugereko rwategetse Ubwunganizi gutanga incamake y'ubuhamya buri mutangabuhamya ateganya kuzatanga[398]. Ku itariki ya 2 Gashyantare 2009, Ubwunganizi bwatanze icyifuzo busaba Urugereko kubusobanurira neza itegeko ryarwo cyangwa kongererwa igihe[399]. Urugereko ntirwemeye icyo cyifuzo kuko rwasanze nta shingiro gifite[400].

34. Ku itariki ya 4 Gashyantare 2009, Ubwunganizi bwatanze ilisiti y'ikubitiro ikubiyemo incamake z'ubuhamya abatangabuhamya bashinjura bateganyaga kuzatanga[401].

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[394]« Igisubizo cya Porokireri ku « Cyifuzo cy'Ubwunganizi gisaba Urugereko uruhushya rwo kujuririra Icyemezo rwafashe ku kindi cyifuzo cyabwo cyarusabaga gutegeka Porokireri kuvana BLP ku rutonde rw'abatangabuhamya bashinja hashingiwe ku ngingo ya 93 y'Amategeko», cyatanzwe ku wa 14 Mutarama 2009.

[395]Icyemezo ku Cyifuzo cy'Ubwunganizi gisaba Urugereko uruhushya rwo kujuririra Icyemezo cyarwo cyo ku wa 2 Mutarama 2009, 3 Gashyantare 2009.

[396]Itegeko ry'Urugereko risaba Ubwunganizi gutanga urutonde rw'abatangabuhamya, 31 Ukuboza 2008.

[397]« Inyandiko y'Ubwunganizi y'ibanga rikomeye, itaramenyeshejwe undi muburanyi kandi ishyizweho ubujeni», yatanzwe ku wa 9 Mutarama 2009; Inyandiko y'inyongera y'Ubwunganizi « y'ibanga rikomeye, itaramenyeshejwe undi muburanyi kandi ishyizweho ubujeni », yatanzwe ku wa 16 Mutarama 2009.

[398]Itegeko ry'Urugereko risaba Ubwunganizi gutanga inyandiko zikubiyemo incamake z'ubuhamya buzatangwa n'abatangabuhamya bashinjura, 28 Mutarama 2009.

[399]«Icyifuzo gisaba Urugereko ibisobanuro no kongererwa igihe», cyatanzwe ku wa 2 Gashyantare 2009.

[400]«Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko ibisobanuro no kongererwa igihe », 3 Gashyantare 2009.

[401]« Inyandiko ikubiyemo lisiti y'ikubitiro y'incamake z'ubuhamya buzatangwa n'abatangabuhamya bashinjura, itaramenyeshejwe undi muburanyi, yatanzwe hashingiwe ku itegeko ry'Urugereko ryo ku wa 28 Mutarama 2009 », 4 Gashyantare 2009».

35. Ku itariki ya 12 Gashyantare 2009, Urugereko rwafashe icyemezo rumaze kumva uruhande rumwe gusa gitegeka Ubwunganizi kugabanya umubare w'abatangabuhamya bari ku rutonde rwabwo bitarenze ku itariki 16 Gashyantare 2009[402]. Ku itariki ya 16 Gashyantare 2009, Ubwunganizi bwatanze urutonde rw'abatangabuhamya bwakuyeho amazina atatu[403]. Ku itariki ya 17 Gashyantare 2009, Urugereko rwafashe ikindi cyemezo gitegeka Ubwunganizi « kugabanya ku buryo bugaragara » umubare w'abatangabuhamya bari ku rutonde rwabwo bitarenze ku itariki ya 18 Gashyantare 2009[404]. Ku itariki ya 18 Gashyantare, Ubwunganizi bwatanze inyandiko isobanura ko bitabushobokeye kubahiriza itegeko ry'Urugereko[405].

36. Ku itariki ya 19 Gashyandare 2009, Urugereko wafashe icyemezo mu magambo rutegeka Ubwunganizi gutanga urutonde rw'abatangabuhamya rusubiwemo bitarenze tariki ya 20 Gashyantare 2009[406]. Ku itariki ya 20 Gashyantare 2009, Ubwunganizi bwatanze urwo rutonde rusubiwemo rugizwe n'icyiciro kirimo abatangabuhamya 20 cyiswe « Ubuhamya mu magambo », ikindi cyiciro kirimo abatangabuhamya 12 cyiswe « Ubuhamya hakurikijwe ingingo ya 92 *bis* y'Amategeko», n'ikindi kirimo abatangabuhamya 10 cyiswe « ibindi byiciro binyuranye »[407]. Ku itariki ya 23 Gashyantare 2009, Urugereko rwafashe icyemezo gitegeka Ubwunganizi kugabanya

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[402]Itegeko ryatanzwe hatumviswe undi muburanyi, risaba Ubwunganizi kugabanya umubare w'abatangabuhamya buzahamagaza, 12 Gashyantare 2009.

[403]« Inyandiko ivuguruye ikubiyemo lisiti y'ikubitiro y'incamake z'ubuhamya buzatangwa n'abatangabuhamya bashinjura, itaramenyeshejwe undi muburanyi, yatanzwe hashingiwe ku itegeko ry'Urukiko ryo ku wa 12 Gashyantare 2009 », yatanzwe ku wa 16 Gashyantare 2009.

[404] Itegeko ryatanzwe hatumviswe undi muburanyi, ryongera gusaba Ubwunganizi kugabanya umubare w'abatangabuhamya buzahamagaza, 17 Gashyantare 2009.

[405] « Inyandiko yatanzwe itamenyeshejwe undi muburanyi, hashingiwe ku itegeko ry'Urugereko ryo ku wa 17 Gashyantare 2009 », yatanzwe ku wa 18 Gashyantare 2009.

[406] Inyandikomvugo y'iburanisha, 19 Gashyantare 2009, urup. 105.

[407] « Inyandiko ikubiyemo Urutonde rw'ikubitiro rw'abatangabuhamya bashinjura n'Icyifuzo cy'Ubwunganizi gisaba ko igihe bugomba gutangirira gutangaho ibimenyetso bishinjura kigizwayo icyumweru kimwe [NI IBANGA] », yatanzwe ku wa 20 Gashyantare 2009.

abatangabuhamya babwo, bugasigaza 10 gusa bazatanga ubuhamya mu magambo[408]. Ku itariki ya 25 Gashyantare 2009, Ubwunganizi bwasabye Urugereko gusubira ku cyemezo cyarwo, buvuga ko kibangamiye uburenganzira bw'Uregwa bwo gucirwa urubanza mu buryo buboneye, ko kidashyize mu gaciro na mba, kandi ko nta kamaro gifite mu kwihutisha urubanza[409]. Ku itariki ya 26 Gashyantare 2009, Urugereko ntirwemeye icyifuzo cy'Ubwunganizi ariko rwemereye Uregwa gutanga ubuhamya yiyongera kuri abo batangabuhamya 10[410].

37. Ku itariki ya 2 Werurwe 2009, Ubwunganizi bwoherereje Urugereko rw'Ubujurire icyifuzo cyihutirwa kirusaba guhindura icyemezo cy'Urugereko rwa Mbere rw'Iremezo cyamutegetse kugabanya umubare w'abatangabuhamya agasiga 10 gusa bazatanga ubuhamya mu magambo[411]. Mu ngingo Ubwunganizi bwatanze harimo ko icyo cyemezo kidashyize mu gaciro na mba, ko Urugereko rwarengereye ububasha bwarwo, ko Uregwa yavukijwe uburenganzira bwe bwo gucirwa urubanza mu buryo buboneye, kandi ko icyo cyemezo nta cyo kimaze ku birebana no kwihutisha urubanza. Ku itariki ya 5 Werurwe 2009[412], Porokireri yatanze igisubizo avuga ko Ubwunganizi butari bufite uburenganzira bwo gusaba Urugereko rw'Ubujurire gusubira mu cyemezo cyafashwe n'Urugereko rwa Mbere rw'Iremezo cyo kubwima uruhushya rwo kujurira. Porokireri yasabye Urugereko

[408] Irindi tegeko ry'Urugereko risaba Ubwunganizi kugabanya umubare w'abatangabuhamya buzahamagaza, 23 Gashyantare 2009.

[409]« Icyifuzo cy'Ubwunganizi gisaba Urugereko gusubiramo Irindi tegeko ryarwo ribusaba kugabanya umubare w'abatangabuhamya buzahamagaza », cyatanzwe ku wa 25 Gashyantare 2009.

[410]Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gusubiramo irindi tegeko ryarwo ribusaba kugabanya umubare w'abatangabuhamya buzahamagaza, 26 Gashyantare 2009.

[411] « Icyifuzo cy'Ubwunganizi cyihutirwa gisaba Urugereko rw'Ubujurire guhindura icyemezo cy'Urugereko rwa Mbere rw'Iremezo cyima Uregwa uburenganzira bwo gucirwa urubanza ruboneye », cyatanzwe ku wa 2 Werurwe 2009.

[412]« Igisubizo cya Porokireri ku « Cyifuzo cy'Ubwunganizi cyihutirwa cyo ku wa 2 Werurwe 2009 gisaba Urugereko rw'Ubujurire guhindura icyemezo cy'Urugereko rwa Mbere rw'Iremezo cyima Uregwa uburenganzira bwo gucirwa urubanza ruboneye », cyatanzwe ku wa 5 Werurwe 2009; « Inyandiko ikosoye y'igisubizo cya Porokireri ku Cyifuzo cy'Ubwunganizi cyihutirwa cyo ku wa 2 Werurwe 2009 gisaba Urugereko rw'Ubujurire guhindura icyemezo cy'Urugereko rwa Mbere rw'Iremezo cyima Uregwa uburenganzira bwo gucirwa urubanza ruboneye », cyatanzwe ku wa 9 Werurwe 2009.

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kutemera icyifuzo nk'icyo kuko ntaho gishingiye kandi ko ari icyo gutesha igihe gusa. Ku itariki ya 6 Werurwe 2009[413], Urugereko rw'Ubujurire rwagennye abacamanza bo gusuzuma icyo cyifuzo. Ku itariki ya 17 Werurwe 2009, Ubwunganizi bwasabye uruhushya rwo gutanga ingingo z'inyongera ku cyifuzo cyabwo[414]. Muri izo ngingo zatanzwe harimo iby'inyandiko ya Gerefiye yerekeranye n'uko abategetsi bo mu Rwanda bahabwa amakuru ku batangabuhamya kugira ngo bashobore kubaha impapuro z'inzira, n'ibihano byahawe avoka wunganira Uregwa. Urugereko rw'Ubujurire ntirwemeye ibyo Ubwunganizi bwasabaga ndetse n'icyifuzo cyabwo cyo gutanga indi myanzuro, kuko rwasanze rutarakigejejweho mu buryo bukwiye[415].

38. Ku itariki ya 2 Weruwe 2009, Ubwunganizi bwatanze urutonde rw'abatangabuhamya 22 bagombaga gutanga ubuhamya mu magambo[416]. Ku itariki ya 3 Werurwe 2009, Ubwunganizi bwakosoye urwo rutonde rwabwo ku birebana n'incamake y'ubuhamya abatangabuhamya bateganya gutanga mu rukiko[417]. Uwo munsi, Urugereko rwategetse Ubwunganizi kubahiriza icyemezo cyarwo cyo ku itariki ya 23 Gashyantare 2009 n'icyo ku ya 26 Gashyantare 2009, bitarenze ku itariki ya 4 Werurwe 2009 [418].

39. Ku itariki ya 4 Werurwe 2009, Ubwunganizi bwatanze icyifuzo cyihutirwa busaba ko imiburanishirize yasubikwa kubera ikibazo cyo kwivanga mu buhamya bw'abatangabuhamya bashinjura[419]. Muri icyo cyifuzo havugwagamo ko abategetsi b'u

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[413] Itegeko rigena abacamanza bazaca urubanza mu Rugereko rw'Ubujurire, 6 Werurwe 2009.

[414] « Icyifuzo cy'Ubwunganizi gisaba Urugereko uruhushya rwo gutanga indi myanzuro», cyatanzwe ku wa 17 Werurwe 2009.

[415] Icyemezo ku cyifuzo cya Léonidas Nshogoza gisaba Urugereko rw'Ubujurire guhindura icyemezo cy'Urugereko rwa Mbere rw'Iremezo cyima Uregwa uburenganzira bwo gucirwa urubanza ruboneye (Urugereko rw'Ubujurire), 25 Werurwe 2009.

[416] «Inyandiko y'ibanga rikomeye ikubiyemo urutonde rw'abatangabuhamya », yatanzwe ku wa 2 Werurwe 2009.

[417] « Inyandiko y'ibanga rikomeye ikubiyemo urutonde rw'abatangabuhamya (ikosoye)», yatanzwe ku wa 3 Werurwe 2009.

[418] Itegeko ry'Urugereko risaba Ubwunganizi kubahiriza itegeko ryarwo ryo ku wa 23 Gashyantare 2009 hamwe n'icyemezo cyarwo cyo ku wa 26 Gashyantare 2009 gisaba Ubwunganizi kugabanya umubare w'abatangabuhamya buzahamagaza, 3 Werurwe 2009.

[419] « Icyifuzo cyihutirwa gisaba Urugereko guhagarika imiburanishirize kubera kwivanga mu buhamya bw'abatangabuhamya bashinjura», cyatanzwe ku wa 4 Werurwe 2009.

Rwanda babonana n'abatangabuhamya bashinjura, ko kandi uko kubonana bibangamira uburenganzira bw'Uregwa bwo gucirwa urubanza mu buryo buboneye, nk'uko biteganywa n'ingingo ya 20 (4) (e) ya Sitati. Ku itariki ya 6 Werurwe 2009, Urugereko rwategetse Ibiro bya Gerefiye gutanga imyanzuro kuri icyo cyifuzo cy'Ubwunganizi[420].

40. Ku itariki ya 6 Werurwe 2009, Porokireri yatanze igisubizo kuri icyo cyifuzo cyo gusubika iburanisha[421], avuga ko icyo cyifuzo cyatanzwe mu buryo butemewe. Mu byo Porokireri yasabye harimo no gusaba ko Urugereko rwategeka ko ibyo bivugwa ko byabaye byagenzurwa, rukanategeka ko avoka w'Uregwa ahanwa kuko yanze kubahiriza icyemezo cy'Urugereko kimutegeka kugabanya umubare w'abatangabuhamya bari ku rutonde rwe.

41. Ku itariki ya 6 Werurwe 2009, Ubwunganizi bwatanze icyifuzo cyihutirwa busobanura impamvu rutubahirije itegeko ry'Urugereko[422].

42. Uwo munsi, Gerefiye yatanze inyandiko isubiza icyifuzo cy'Ubwunganizi cyamusabaga kuvanaho ubudahangarwa bwa bamwe mu bakozi ba LONI Ubwunganizi bwifuzaga kuzahamagaza nk'abatangabuhamya mu Rukiko[423].

43. Ku itariki ya 9 Weururwe 2009, Ubwunganizi bwatanze imyanzuro igira icyo ivuga ku gisubizo cya Porokireri ku birebana no gusubika iburanisha[424], bwomekaho ubuhamya

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[420] Itegeko ry'Urugereko risaba Gerefiye gutanga inyandiko hakurikijwe nngingo ya 33 (B) y'Amategeko isubiza icyifuzo cy'Ubwunganizi kirusaba guhagarika imiburanishirize kubera ukwivanga mu buhamya bw'abatangabuhamya bashinjura, 6 Werurwe 2009.

[421] « Igisubizo cya Porokireri ku « Cyifuzo cyihutirwa cy'Ubwunganizi cyo ku wa 4 Werurwe 2009 gisaba Urugereko guhagarika imiburanishirize kubera ukwivanga mu buhamya bw'abatangabuhamya bashinjura», cyatanzwe ku wa 6 Werurwe 2009.

[422] «Imyanzuro yihutirwa y'Ubwunganizi ku birebana n'itegeko ry'Urugereko ryo ku wa 3 Werurwe 2009, n'aho imyiteguro yabwo igeze », yatanzwe ku wa 6 Werurwe 2009.

[423] «Inyandiko ya Gerefiye ishingiye ku ngingo ya 33 (B) y'Amategeko ku birebana n'icyifuzo cy'avoka kimusaba kuvanaho ubudahangarwa bwa bamwe mu bakozi ba Loni », yatanzwe ku wa 6 Werurwe 2009.

[424] « Imyanzuro y'Ubwunganizi ku « Gisubizo Porokireri yatanze' ku « Cyifuzo cy'ingoboka cyihutirwa cyabwo gisaba Urugereko guhagarika imiburanishirize kubera ukwivanga mu buhamya bw'abatangabuhamya bashinjura», yatanzwe ku wa 9 Werurwe 2009.

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bw'umwe mu batangabuhamya wari warabonanye n'abategetsi bo mu Rwanda. Uwo munsi, Ubwunganizi bwongeye izindi ngingo mu cyifuzo bwari bwaratanze mbere[425]. Izo ngingo zari zerekeranye n'amakuru yatanzwe n'uhagarariye Ishami rishinzwe kurinda abatangabuhamya n'abahohoteye (WVSS) mu iburanisha ryo ku itariki ya 9 Werurwe 2009, ku bijyanye n'itegurwa ry'ingendo z'abatangabuhamya baturuka mu Rwanda[426].

44. Uwo munsi, Gerefiye yanatanze inyandiko y'ibanga ivuga ku birebana n'icyifuzo cy'Ubwunganizi gisaba guhagarika iburanisha[427]. Iyo nyandiko yanasobanuraga ku buryo burambuye uko urugendo rw'abatangabuhamya baturuka mu Rwanda rutegurwa, kandi yari ikubiyemo n'inyandikomvugo z'abatangabuhamya babiri bari baragiranye ibiganiro n'abategetsi bo mu Rwanda.

45. Uwo munsi, Ubwunganizi bwatanze kandi inyandiko ivuga ku birebana n'ibyemezo by'Urugereko bibutegeka kugabanya umubare w'abatangabuhamya babwo, busobanura impamvu buri mutangabuhamya yari akenewe mu rubanza, kandi busaba Urugereko kugabanya umubare w'abo batangabuhamya ubwarwo niba rubyifuza[428]. Uwo munsi, Urugereko rwafashe icyemezo mu magambo rutegeka Ubwunganizi kugabanya umubare w'abatangabuhamya bari ku rutonde rwabwo[429]. Nyuma y'ibyo, Ubwunganizi bwatanze inyandiko ku birebana n'icyo cyemezo Urugereko rwafashe mu magambo, mu byo bwavugagamo hakaba harimo ko kuba Ishami ryita ku batangabuhamya n'abakorewe ibyaha riha Leta y'u Rwanda urutonde rw'abatangabuhamya barindiwe umutekano

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[425] « Imyanzuro y'inyongera y'Ubwunganizi ko cyifuzo cyihutirwa cyabwo gisaba Urugeko guhagarika imiburanishirize kubera kwivanga mu buhamya bw'abatangabuhamya bashinjura», yatanzwe ku wa 9 Werurwe 2009.

[426] Inyandikomvugo y'iburanisha, 9 Werurwe 2009, imp.5-7.

[427] « [NI IBANGA] Inyandiko ya Gerefiye ku birebana n'Icyifuzo cyihutirwa cy'Ubwunganizi gisaba Urugereko guhagarika imiburanishirize kubera kwivanga mu buhamya bw'abatangabuhamya bashinjura», yatanzwe ku wa 9 Werurwe 2009.

[428] « Indi myanzuro y'Ubwunganizi ku birebana n'itegeko ryatanzwe n'Urugereko rwa Mbere rw'Iremezo ku wa 3 Werurwe 2009», yatanzwe ku wa 9 Werurwe 2009.

[429] Inyandikomvugo y'iburanisha, 9 Werurwe 2009, urup.10.

n'imyirondoro yabo, nk'uko iryo Shami ryabyemeje, byababangamiye cyane Ubwunganizi mu gutegura imyiregurire yabwo[430].

46. Ku itariki ya 11 Werurwe 2009, Ubwunganizi bwatanze igisubizo cyabwo ku nyandiko ya Gerefiye yagiraga icyo ivuga ku cyifuzo cyabwo cyasabaga guhagarika iburanisha[431]. Muri icyo gisubizo Ubwunganizi bwabajije Gerefiye ibibazo kandi rwasabye Urugereko gutegeka Gerefiye kubisubiza no kwerekana ingamba zashyizweho zo kurinda umutekano w'abatangabuhamya bamaze gutanga ubuhamya bakaba barasubiye mu Rwanda. Ku itariki ya 12 Werurwe 2009[432], Gerefiye yatanze indi nyandiko y'ibanga ikubiyemo inyandikomvugo z'abatangabuhamya bamwe na bamwe bashinjura, kandi mu byo yasobanuye hakaba harimo ko nta mutegetsi wo mu Rwanda n'umwe washatse abo batangabuhamya ngo bagirane ibiganiro, ko nta kibazo cy'ubwoba bigize bahura na cyo, ko nta bikangisho cyangwa inkeke bigize bashyirwaho, ndetse ko bemeraga kuzaza Arusha gutanga ubuhamya.

47. Ku itariki ya 11 Werurwe 2009, Urugereko rwafashe icyemezo cyo guhanisha avoka wugangira Uregwa ihazabu y'amadolari y'amanyamerika 5.000 kubera ko Ubwunganizi butubahirije itegeko ryarwo. Rwategetse kandi Gerefiye gusaba Perezida uruhushya rwo kubimenyesha Urugaga rw'abavoka uwo avoka arimo rugenzura imyifatire y'abavoka mu gihugu urwo Rugaga rwanditsemo[433].

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430 « Indi myanzuro y'Ubwunganizi ku birebana n'itegeko ryatanzwe n'Urugereko rwa Mbere rw'Iremezo ku wa 9 Werurwe 2009», yatanzwe ku wa 9 Werurwe 2009.

431 « Igisubizo cy'Ubwunganizi ku « Nyandiko ya Gerefiye irebana n'icyifuzo cyabwo gisaba Urugereko guhagarika imiburanishirize kubera kwivanga mu buhamya bw'abatangabuhamya bashinjura » hamwe n'icyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka Gerefiye gusubiza ibibazo bwamubajije », byatanzwe ku wa 11 Werurwe 2009; « Igisubizo cy'Ubwunganizi ku « Nyandiko ya Gerefiye irebana n'icyifuzo cyabwo gisaba Urugereko guhagarika imiburanishirize kubera kwivanga mu buhamya bw'abatangabuhamya bashinjura » hamwe n'icyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka Gerefiye gusubiza ibibazo bwamubajije », NI IBANGA RIKOMEYE Umugereka A », cyatanzwe ku wa 11 Werurwe 2009.

432 « Inyandiko ya Gerefiye y'inyongera kandi y'ibanga rikomeye ku birebana n'icyifuzo cy'Ubwunganizi gisaba Urugereko guhagarika imiburanishirize kubera ukwivanga mu buhamya bw'abatangabuhamya bashinjura», yatanzwe ku wa 12 Werurwe 2009.

433 Icyemezo gifatira Ubwunganizi ibihano kubera kutubahiriza amategeko y'Urugereko, 11 Werurwe 2009.

48. Ku itariki ya 12 Werurwe 2009, Urugereko rwongeye gutegeka Ubwunganizi kubahiriza itegeko ryarwo ribusaba kugabanya umubare w'abatangabuhamya bari ku rutonde rwabwo bitarenze ku itariki 13 Werurwe 2009[434]. Ku itariki ya 13 Werurwe 2009, Ubwunganizi bwatanze urutonde rw'abatangabuhamya 10 bazitaba Urukiko hiyongeraho n'Uregwa[435].

49. Ku itariki ya 16 Werurwe 2009, Urugereko rwafashe icyemezo mu magambo gihana avoka wunganira Uregwa, rumusaba kwandika ibaruwa isaba imbabazi kubera imyifatire ye[436].

50. Ku itariki ya 23 Werurwe 2009, Gerefiye yatanze indi nyandiko ku birebana n'icyifuzo cy'Ubwunganizi cyasabaga ko iburanisha rihagarikwa[437], asobanura kandi uko abonera abatangabuhamya impapuro z'inzira, ndetse anatanga izindi nyandikomvugo zakorewe abatangabuhamya.

51. Ku itariki ya 24 Werurwe 2009, Ubwunganizi bwatanze icyifuzo gisaba uruhushya rwo guhindura urutonde rw'abatangabuhamya kubera ko hari umutangabuhamya wari watanze amakuru mu Rukiko mu gihe cy'ibaza ry'ibanze anyuranye n'ari mu buhamya bwanditse yari yaratanze mbere[438]. Porokireri yatanze igisubizo cye ku itariki ya 24

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[434] Andi mategeko y'Urugereko asaba Ubwunganizi kubahiriza amategeko yarwo no kugabanya umubare w'abatangabuhamya buteganya guhamagaza, 12 Werurwe 2009.

[435] « Imyanzuro y'Ubwunganizi ku birebana n'andi mategeko y'Urugereko abusaba kubahiriza amategeko yarwo no kugabanya umubare w'abatangabuhamya buteganya guhamagaza », yatanzwe ku wa 13 Werurwe 2009.

[436] Inyandikomvugo y'iburanisha, 16 Werurwe 2009, imp.1-2.

[437] « Indi nyandiko ya Gerefiye y'ibanga rikomeye yerekeranye n'icyifuzo cy'Ubwunganizi gisaba Urugereko guhagarika imiburanishirize kubera kwivanga mu buhamya bw'abatangabuhamya bashinjura », yatanzwe ku wa 24 Werurwe 2009; Nshogoza, « Inyandiko y'Ubwunganizi ikubiyemo imigereka y'ibanga bwatanze butayimenyesheje undi muburanyi, ku birebana n'indi nyandiko ya Gerefiye y'ibanga rikomeye yerekeranye n'icyifuzo cy'Ubwunganizi gisaba Urugereko guhagarika imiburanishirize kubera kwivanga mu buhamya bw'abatangabuhamya bashinjura », yatanzwe ku wa 24 Werurwe 2009.

[438] « Icyifuzo cyihutirwa cyane cy'Ubwunganizi gisaba uruhushya rwo guhindura urutonde rw'abatangabuhamya bashinjura », cyatanzwe ku wa 24 Werurwe 2009.

Werurwe 2009, Ubwunganizi na bwo burongera buramusubiza[439]. Mu cyemezo Urugereko rwafashe mu magambo ku itariki ya 25 Werurwe 2009, rwanze kwakira icyifuzo cy'Ubwunganizi[440].

52. Ku itariki ya 3 Gashyantare 2009, Ubwunganizi bwatanze icyifuzo cyihutirwa cyane busaba Urugereko gufata icyemezo cyo guhatira Loretta Lunch kwitaba Urukiko[441]. Ku itariki ya 6 Gashyantare 2009[442], Porokireri yasubije arwanya icyo cyifuzo. Mu bisobanuro Porokireri yatanze harimo ko Ubwunganizi butashoboye gutanga impamvu zigaragaza aho bushingira busaba ko hafatwa iryo tegeko kandi ko nta nyandiko iyo ari yo yose yatanzwe na Lynch yigeze amenyeshwa nk'uko biteganywa n'ingingo ya 70 y'Amategeko. Ubwunganizi bwatanze imyanzuro yabwo kuri icyo gisubizo cya Porokireri ku itariki ya 9 Gashyantare 2009[443]. Mu ngingo bwatanze harimo iy'uko Porokireri asubiza yavuze ibintu uko bitari, ko inyandiko za Lynch ari izishinjura, bityo ingingo ya 70 y'Amategeko ikaba ntaho ihuriye n'icyo kibazo.

53. Ku itariki ya 10 Gashyantare 2009, Urugereko ntirwemeye icyifuzo cy'Ubwunganizi cyarusabaga gufata icyemezo gihatira Lynch kwitaba Urukiko[444]. Rwasanze Ubwunganizi butaratanze ikimenyetso gihamya ko amakuru uwo mutangabuhamya yari kurugezaho hari icyo yari gufashaho cyane ku kibazo cyo kumenya niba koko Uregwa yarahaye abatangabuhamya ruswa. Ku itariki ya 16 Gashyantare 2009, Ubwunganizi

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[439] « Igisubizo cya Porokireri ku cyifuzo cyihutirwa cyane cy'Ubwunganizi gisaba uruhushya rwo guhindura urutonde rw'abatangabuhamya bashinjura », cyatanzwe ku wa 24 Werurwe 2009 ; « Imyanzuro y'Ubwunganizi ku gisubizo Porokireri yatanze ku cyifuzo cyihutirwa cyane cy'Ubwunganizi gisaba uruhushya rwo guhindura urutonde rw'abatangabuhamya bashinjura », yatanzwe ku wa 24 Werurwe 2009.

[440] Inyandikomvugo y'iburanisha, 25 Werurwe 2009, imp. 24-26.

[441] « Icyifuzo cyihutirwa cy'Ubwunganizi gisaba Urugereko guhatira Loretta E. Lynch kwitaba Urukiko », cyatanzwe ku wa 3 Gashyantare 2009.

[442] « Igisubizo cya Porokireri ku cyifuzo cyihutirwa cy'Ubwunganizi gisaba Urugereko guhatira Loretta E. Lynch kwitaba Urukiko», cyatanzwe ku wa 6 Gashyantare 2009.

[443] «Imyanzuro y'Ubwunganizi ku « gisubizo Porokireri yatanze ku cyifuzo cyihutirwa cyabwo gisaba Urugereko guhatira Loretta E. Lynch kwitaba Urukiko' », yatanzwe ku wa 9 Gashyantare 2009.

[444] Icyemezo ku cyifuzo cyihutirwa cy'Ubwunganizi gisaba Urugereko guhatira Loretta E. Lynch kwitaba Urukiko, 10 Gashyantare 2009.

bwasabye Urugereko uruhushya rwo kujuririra icyemezo cyarwo[445]. Ku itariki ya 19 Gashyantare 2009, Urugereko rwanze kwakira icyifuzo cy'Ubwunganizi[446] kuko rwasanze icyo cyemezo kitabyutsa ibibazo bibangamira imyihutishirize y'iburansiha.

b. Ibimenyetso gihamya

54. Ku itariki ya 27 Ukwakira 2008. Porokireri yatanze urutonde ruriho ibimenyetso gihamya 27[447]. Ku itariki ya 3 Werurwe 2009, Ubwunganizi bwatanze urutonde ruriho ibimenyetso gihamya 21 rushobora kuzatanga[448]. Ku itariki ya 16 Werurwe 2009, Ubwunganizi bwongereye kuri urwo rutonde ibimenyetso gihamya bitatu[449]. Mu iburanisha, Porokireri yatanze ibimenyetso gihamya 28 naho Ubwunganizi butanga 96.

55. Ku itariki ya 16 Kamena 2009, Urugereko rwategetse ko rugezwaho icyemezo cyashyizeho ingamba zo kurinda umutekano w'abatangabuhamya mu rubanza rwa Kamuhanda kandi rwasabye ababuranyi bombi kurugezaho imyanzuro yabo kuri icyo kibazo ku birebana niba icyo cyemezo cyakwakirwa nk'ikimenyetso muri uru rubanza[450]. Porokireri yubahirije iryo tegeko ku itariki ya 18 Kamena 2009[451]. Ubwunganizi

[445] « Icyifuzo cy'Ubwunganizi gisaba Urugereko rwa Mbere rw'Iremezo uruhushya rwo kujurira icyemezo rwafashe ku cyifuzo cyabwo cyihutirwa cyarusabaga guhatira Loretta E. Lynch kwitaba Urukiko », cyatanzwe ku wa 16 Gashyantare 2009.

[446] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko rwa Mbere rw'Iremezo uruhushya rwo kujurira icyemezo rwafashe ku cyifuzo cyabwo cyihutirwa cyarusabaga guhatira Loretta E. Lynch kwitaba Urukiko, cyatanzwe ku wa 19 Gashyantare 2009.

[447] « Inyandiko ya Porokireri ikubiyemo urutonde rw'abatangabuhamya n'ibimenyetso gihamya », yatanzwe ku wa 27 Ukwakira 2008.

[448] « Inyandiko y'ibanga rikomeye y'Ubwunganizi ikubiyemo urutonde rw'ibimenyetso gihamya bushobora kuzatanga», yatanzwe ku wa 3 Werurwe 2009.

[449] « Inyandiko y'ibanga rikomeye y'Ubwunganizi ikubiyemo urutonde rw'ibimenyetso gihamya bushobora kuzatanga (Inyongera) », yatanzwe ku wa 16 Werurwe 2009.

[450] Itegeko ry'Urugereko risaba kugezwaho icyemezo cyashyizeho ingamba zo kurinda umutekano w'abatangabuhamya mu rubanza rwa Kamuhanda, 16 Kamena 2009.

[451] « Inyandiko ya Porokireri mu rwego rwo kubahiriza « Itegeko ry'Urugereko risaba kugezwaho icyemezo cyashyizeho ingamba zo kurinda umutekano w'abatangabuhamya mu rubanza rwa Kamuhanda », hashingiwe ku ngingo ya 98 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso », yatanzwe ku wa 18 Kamena 2009.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

bwatanze igisubizo cyabwo ku itariki ya 19 Kamena 2009[452]. Ku itariki ya 26 Kamena 2009, Urugereko rwemeye kwakira icyo cyemezo nk'ikimenyetso muri uru rubanza[453].

c. Ubuhamya bwanditse n'inyandikomvugo z'iburanisha byatanzwe nk'ibimenyetso hashingiwe ku ngingo ya 92*bis* y'Amategeko

56. Ku itariki ya 16 Werurwe 2009, Ubwunganizi bwatanze icyifuzo busaba Urugereko kwakira inyandiko z'ubuhamya 12 mu mwanya w'ubuhamya bwari gutangirwa mu iburanisha n'abatangabuhamya bwangiwe kuzana mu Rukiko[454]. Ku itariki ya 30 Werurwe 2009, Ubwunganizi bwatanze izindi ngingo zishyigikira icyifuzo cyabwo[455]. Ku itariki ya 29 Mata 2009, Urugereko rwemeye kuri bimwe icyifuzo cyarusabaga kwakira ubuhamya bwanditse mu mwanya w'ubutangiwe mu Rukiko, bityo rukaba rwaremeye gusa ubuhamya bwanditswe bw' abatangabuhamya biswe A13, A15, A17, A18, A23, A28 na A30[456]. Ubwunganizi bwasabye uruhushya rwo kujuririra icyo cyemezo cyangaga kwakira inyandiko zimwe na zimwe z'ubuhamya[457]. Ku itariki ya 8 Kamena 2008 Urugereko rwanze gutanga urwo ruhushya[458].

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452 « Igisubizo cy'Ubwunganizi ku itegeko ry'Urugereko risaba Porokireri kurugezaho icyemezo cyashyizeho ingamba zo kurinda umutekano w'abatangabuhamya mu rubanza rwa Kamuhanda no ku nyandiko ya Porokireri yubahiriza iryo tegeko», cyatanzwe ku wa 19 Kamena 2009.

453 Icyemezo cy'Urugereko cyakira nk'ikimenyetso muri uru rubanza ingamba zo kurinda umutekano w'abatangabuhamya bashinja zashyizweho mu rubanza rwa Kamuhanda, 26 Kamena 2009.

454 « [NI IBANGA] Icyifuzo cy'Ubwunganizi gisaba Urugereko kwakira inyandikomvugo z'ubuhamya bwanditse bwa A1, A13, A14, A15, A18, A20, A22, A23, A26, A28, na A30 mu mwanya w'ubuhamya abo batangabuhamya bagombaga gutangira mu rukiko », cyatanzwe ku wa 16 Werurwe 2009.

455 « Inyandiko y'inyongera y'Ubwunganizi ku cyifuzo cyabwo gisaba Urugereko kwakira ubuhamya bwanditse bw'abatangabuhamya hashingiwe ku ngingo ya 92 *bis* y'Amategeko, yatanzwe ku wa 30 Werurwe 2009.

456 Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko kwakira ubuhamya bwanditse bwa A1, A13, A14, A15, A17, A18, A20, A22, A23, A26, A28 na A30, mu mwanya w'ubwo abo batangabuhamya bagombaga gutangira mu rukiko, 29 Mata 2009.

457 « Icyifuzo cy'Ubwunganizi gisaba Urugereko rwa Mbere rw'Iremezo uruhushya rwo kujuririra icyemezo cyarwo cyanze kwakira ubuhamya bwanditse bwa A1, A14, A20, A22 na A26 », cyatanzwe ku wa 6 Gicurasi 2009.

458 Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko rwa Mbere rw'Iremezo uruhushya rwo kujuririra icyemezo cyarwo cyanze kwakira ibimenyetso byatanzwe hashingiwe ku ngingo ya 92 *bis* y'Amategeko, 8 Kamena 2009.

57. Ku itariki ya 3 Mata 2009, Ubwunganizi bwatanze icyifuzo busaba urugereko kwakira nk'ikimenyetso muri uru rubanza inyandikomvugo z'iburanisha zo mu rubanza Porokireri aburana na Karemera na bagenzi be (ICTR-98-44-T)[459]. Ku itariki ya 23 Mata 2009, Urugereko rwemeye icyo cyifuzo[460].

6. Kumenyesha undi muburanyi ibimenyetso

58. Ku itariki ya 22 Werurwe, Ubwunganizi bwatanze icyifuzo cyihutirwa busaba Urugereko gutegeka Porokireri kubushyikiriza kopi z'ibimenyetso byose bishyigikira ikirego cye hakurikijwe ingingo ya 66 (A) y'Amategeko no gutegeka ko igihe cy'iminsi 30 giteganywa n'ingingo ya 72 y'Amategeko gitangira kubarwa uhereye ku itariki Ubwunganizi buzaba bwagerejweho kopi zivugwa mu ngingo ya 66 y'Amategeko, cyangwa se, Urugereko ruramutse rutabyemeye, uhereye ku itariki ruzaba rwafatiyeho icyemezo ku cyifuzo cyihutirwa[461].

59. Ku itariki ya 28 Werurwe 2008, Porokireri yatanze inyandiko isobanura neza ibirebana n'ibimenyetso yamenyesheje Ubwunganizi, mu rwego rwo gusubiza icyifuzo cyihutirwa cyatanzwe n'Ubwunganizi ku itariki ya 22 Werurwe 2008[462]. Yavuze ko yashyikirije Ubwunganizi ibimenyetso byose byari mu ifaride imwe ku itariki ya 12 Werurwe 2008, kandi ko ibindi bimenyetso Ubwunganizi buvuga ko biburamo ari ibiboneka ku rubuga rubanda rwose rushobora kubona. Ku itariki ya 2 Mata 2008, Ubwunganizi bwasubije inyandiko ya Porokireri ikubiyemo ibisobanuro bimaze kuvugwa, busaba Urugereko

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[459] « Icyifuzo gisaba ko inyandikomvugo z'iburanisha mu rundi rubanza zakirwa nk'ikimenyetso muri uru rubanza hashingiwe ku ngingo ya 92 *bis* y'Amategeko», cyatanzwe ku wa 3 Mata 2009.

[460] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba ko inyandikomvugo z'iburanisha mu rundi rubanza zakirwa nk'ikimenyetso muri uru rubanza hashingiwe ku ngingo ya 92 *bis* y'Amategeko, 23 Mata 2009.

[461] « Icyifuzo cyihutirwa cy'Ubwunganizi gisaba Urugereko rwa Mbere rw'Iremezo gutegeka Porokireri kubushyikiriza ibimenyetso byose bishyigikira ikirego hakurikijwe ingingo ya 66 (A) y'Amategeko», cyatanzwe ku wa 26 Werurwe 2008.

[462]« Inyandiko ya Porokireri isobanura neza ibimenyetso yamenyesheje Ubwunganizi ku wa 12 Werurwe 2008 », yatanzwe ku tariki ya 28 Werurwe 2008.

kutita kuri iyo nyandiko ngo kuko itatangiwe igihe kandi ntibe yarasobanuye neza ikibazo cyabyukijwe[463].

60. Ku itariki ya 3 Mata 2008, Ubwunganizi bwatanze inyandiko y'inyongera ku gisubizo bwari bwatanze mbere ikubiyemo imbonerahamwe y'inyandiko, kandi yerekana muri izo nyandiko iziboneka ku rubuga rubanda ishobora kubona cyangwa izitarubonekaho[464].

61. Ku itariki ya 8 Mata 2008, Porokireri yahaye Ubwunganizi inyandikomvugo y'ubuhamya bwatanzwe na GAA hejuru y'indahiro ariko irimo ibice bimwe yasibye, anasaba imbabazi zo kuba yaracitswe no kuba ayitanze atinze[465]. Uwo munsi kandi Porokireri yatanze igisubizo ku nyandiko y'inyongera yatanzwe n'Ubwunganizi ku itariki ya 3 Mata 2008[466], yongera kuvuga ko usibye inyandiko imwe gusa yatanze irimo ibice bisibye, izindi nyandiko yasabwaga gutanga zitafatwa nk'ibimenyetso bishyigikira ikirego bivugwa mu ngingo ya 66(A)(1) y'Amategeko. Porokireri yongeyeho kandi ko uretse inyandiko ebyiri gusa, izindi zose yasabwe gutanga ziri ku rubuga rubanda ishobora kubona kandi ko Ubwunganizi bufite uburenganzira bwo gusaba gushyikirizwa ikimenyetso cyose cya ngombwa bushobora gukenera mu itegurwa ry'urubanza, kugira ngo rugisuzume.

62. Ku itariki ya 10 Mata 2008, Ubwunganizi bwatanze icyifuzo cyihutirwa busaba Urugereko kwemeza ko igihe cy'iminsi 30 kivugwa mu ngingo ya 72 y'Amategeko cyatangira kubarwa uhereye ku itariki hazafatirwaho icyemezo ku cyifuzo gisaba Porokireri kumenyekanisha ibimenyetso cyangwa se uhereye ku itariki Porokireri azaba yamenyekanishirijeho ibimenyetso bisigaye bishyigikira ikirego[467].

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[463]« Igisubizo cy'Ubwunganizi ku nyandiko ya Porokireri isobanura neza ibimenyetso yabumenyesheje ku wa 12 Werurwe 2008 », cyatanzwe ku wa 2 Mata 2008.

[464]« Inyongera - Igisubizo cy'Ubwunganizi ku nyandiko ya Porokireri isobanura neza ibimenyetso yabumenyesheje ku wa 12 Werurwe 2008-», yatanzwe itariki ya 3 Mata 2008.

[465]«Inyandiko imenyekanisha ubuhamya bwanditse bwa GAA n'indahiro ye», yatanzwe ku wa 8 Mata 2008.

[466]« Imyanzuro ya Porokireri ku Inyongera - Igisubizo cy'Ubwunganizi ku nyandiko ya Porokireri isobanura neza ibimenyetso yabumenyesheje ku wa 12 Werurwe 2008-», yatanzwe ku wa 8 Mata 2008.

[467]« Icyifuzo cyihutirwa cy'Ubwunganizi gisaba Urugereko kwemeza itariki igihe cy'iminsi 30 giteganywa n'ingingo ya 72 y'Amategeko kizatangira kubarirwaho », cyatanzwe ku wa 11 Mata 2008.

63. Ku wa 16 Mata 2008, Porokireri yarwanyije icyifuzo cyihutirwa cy'Ubwunganizi kirebana n'umunsi w'ifatizo ugomba guherwaho mu kubara igihe cy'iminsi 30 kivugwa mu ngingo ya 72 y'Amategeko[468]. Porokireri yasabye ko igihe ntarengwa cyo gutanga ibyifuzo by'ingoboka bishingiye ku ngingo ya 72 y'Amategeko cyaba iminsi 30 uhereye ku munsi yarangirijeho kumenyekanisha ibimenyetso bivugwa mu ngingo ya 66 (A)(i) y'Amategeko.

64. Ku itariki ya 22 Mata 2008, Ubwunganizi bwatanze inyandiko y'inyongera bunagira icyo buvuga ko gisubizo cya Porokireri, busobanura ko Porokireri yibeshye ku birebana n'inyandiko zimwe rubanda rushobora kubona kandi ko atabashije gutanga ibisobanuro bikuraho ugushidikanya guhari ku bijyanye no kumenya niba ibimenyetso byose bishyigikira ikirego bivugwa mu ngingo ya 66(A) y'Amategeko yarabimenyekanishije[469]. Ubwunganizi bwanavuze ko Porokireri yabonanye mu buryo butemewe n'Uregwa ubwo yamwiheraga mu buryo butaziguye inyandikomvugo y'ubuhamya bwatanzwe na GAA hejuru y'indahiro aho kuyiha avoka wunganira Uregwa. Ubwunganizi bwongeyeho ko inyandiko y'ihererekanyamakuru mu kazi *(inter-office memo)* yahawe Uregwa itafatwa nk'aho yatanzwe mu bijyanye no kubara igihe kivugwa mu ngingo ya 72 y'Amategeko, kandi ko kugeza butanga iyi nyandiko y'inyongera bwari butaragezwaho iyo nyandiko y'iherekanyamakuru mu kazi. Ubwunganizi bwasabye Urugereko kutemera ibisabwa na Porokireri, ahubwo rukamutegeka gutanga inyandiko y'ihererakanyamakuru mu kazi ayinyujije mu nzira zateganyijwe n'amategeko, ndetse bwanasabye Urugereko gusubika gutangira kubara igihe giteganyijwe n'ingingo ya 72.

65. Ku itariki ya 5 Nzeri 2008, Porokireri yamenyekanishije inyandikomvugo eshanu z'inyongera ariko zirimo ibice bimwe na bimwe bisibye[470]. Ibyo byakurikiwe ku itariki

[468]« Igisubizo cya Porokireri ku cyifuzo cyihutirwa cy'Ubwunganizi gisaba Urugereko kwemeza itariki igihe cy'iminsi 30 giteganywa n'ingingo ya 72 y'Amategeko kizatangira kubarirwaho », cyatanzwe ku wa 16 Mata 2008.

[469] « Inyongera n'igisubizo ku gisubizo cya Porokireri ku cyifuzo cyihutirwa cy'Ubwunganizi gisaba Urugereko kwemeza itariki igihe cy'iminsi 30 giteganywa n'ingingo ya 72 y'Amategeko kizatangira kubarirwaho», byatanzwe ku wa 21 Mata 2008.

[470]«Inyandiko ya Porokireri imenyekanisha izindi nyandikomvugo z'ubuhamya eshanu zirimo ibice bimwe bisibye zahinduwe mu ndimi zikoreshwa n'Urukiko», yatanzwe ku wa 5 Nzeri 2008.

ya 15 Nzeri 2008 no gutanga kopi ya dosiye y'Uregwa yo mu Rukiko rwisumbuye rwa Gasabo mu Rwanda, ihinduye mu ndimi zikoreshwa n'uru Rukiko. Ku itariki ya 17 no ku ya 25 Nzeri 2008, Porokireri yatanze kopi z'izindi nyandiko zahinduwe mu ndimi zikoreshwa n'uru Rukiko[471].

66. Ku itariki ya 1 Ukwakira 2008, Urugereko rwafashe icyemezo ku cyifuzo cy'Ubwunganizi cyo ku itariki ya 22 Werurwe 2008 gisaba kugezwaho ibimenyetso bishyigikira ikirego hamwe n'icyo ku itariki ya 10 Mata 2008 kirebana n'umunsi w'ifatizo batangiriraho kubara igihe cy'iminsi 30 kivugwa mu ngingo ya 72 y'Amategeko[472]. Urugereko rwategetse Porokireri gukora inyandiko yemeza ko yujuje inshingano ze zo kumenyekanisha ibimenyetso bivugwa mu ngingo ya 66 (A)(i) y'Amategeko no kwerekana imiterere ya buri kimenyetso yavuze ko kitarebwa n'iyo ngingo. Urugereko rwasabye kandi Porokireri gufata ingamba za ngombwa kugira ngo Ubwunganizi bushobore kubona ibimenyetso byose bishyigikira ikirego avuga ko biri ku rubuga rubanda rushobora kubona. Urugereko rwemeje ko igihe cy'iminsi 30 giteganywa n'ingingo ya 72(A) y'Amategeko kizatangira kubarwa uhereye ku munsi Porokireri azatangiraho inyandiko yemeza ko yujuje inshingano ze cyangwa se ku munsi Ubwunganizi buzamenyesherezwaho bwa nyuma ibimenyetso bishyigikira ikirego, bitewe n'ikizaba nyuma. Urugereko rwasubitse gufata icyemezo icyo ari cyo cyose ku birebana no kumenya niba icyifuzo cya mbere n'icya kabiri by'Ubwunganizi bishingiye ku ngingo ya 72 y'Amategeko bifite ishingiro kugeza igihe cy'iminsi 30 kirangiye, kandi rwahaye Ubwunganizi uburenganzira bwo guhindura ibyifuzo bwatanze mbere

[471] « Inyandiko irimo ibice bimwe bisibye bya dosiye RP 0531/07/TGI/GASABO ya Nshogoza yo mu rukiko rwisumbuye rwa Gasabo mu Rwanda yahinduwe mu ndimi zikoreshwa n'Urukiko », yatanzwe ku wa 15 Nzeri 2008; « Inyandiko irimo ibice bimwe bisibye bya dosiye RP 0531/07/TGI/GASABO ya Nshogoza yo mu rukiko rwisumbuye rwa Gasabo mu Rwanda yahinduwe mu gifaransa », yatanzwe ku wa 17 Nzeri 2008 ; « Indi nyandiko irimo ibice bimwe bisibye bya dosiye RP 0531/07/TGI/GASABO ya Nshogoza yo mu rukiko rwisumbuye rwa Gasabo mu Rwanda yahinduwe mu ndimi zikoreshwa n'Urukiko », yatanzwe ku wa 25 Nzeri 2008.

[472] Icyemezo ku byifuzo by'Ubwunganizi bisaba kumenyeshwa ibimenyetso bishyigikiye ibirego ; n'ibisobanuro binonosoye ku birebana n'igihe cy'iminsi 30 kivugwa mu gingo ya 72 y'Amategeko, 1 Ukwakira 2008.

bishingiye ku ngingo ya 72 y'Amategeko bitarafatirwa umwanzuro, cyangwa se gutanga ibindi byifuzo bishya mu gihe kitarenze iminsi 30.

67. Ku itariki ya 6 Ukwakira 2008, Ubwunganizi bwatanze icyifuzo gisaba Urugereko gutegeka Porokireri kubushyikiriza inyandiko zinyuranye z'ibimenyetso bishyigikira ikirego[473].

68. Ku itariki ya 9 Ukwakira 2008, Porokireri yatanze inyandiko y'ibanga imenyekanisha ko yujuje inshingano ze, kandi yamenyekanishije ibimenyetso hakurikijwe ibyo yasabwaga mu cyemezo cy'Urugereko cyo ku itariki ya 1 Ukwakira 2008[474].

69. Ku itariki ya 20 Ukwakira 2008, Ubwunganizi bwatanze igisubizo cyabwo ku nyandiko zatanzwe na Porokireri buvuga ko zitagaragaramo inyandiko yerekana ko Porokireri yujuje inshingano ziteganywa n'ingingo ya 66 (A)(i) y'Amategeko, buvuga kandi ko butemera ko inyandiko zatanzwe ari zo z'ukuri[475].

70. Uwo munsi, Ubwunganizi bwatanze kandi icyifuzo busaba ko Porokireri yatanga kasete y'amajwi n'amashusho yafashwe mu kiganiro yagiranye n'umutangabuhamya wiswe BUC[476]. Ku itariki ya 31 Ukuboza 2008, Urugereko rwanze icyo cyifuzo

[473] « Icyifuzo cy'Ubwunganizi gishingiye ku ngingo ya 66 (A) na (B) y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso », cyatanzwe ku wa 6 Ukwakira 2008.

[474] «Inyandiko ya Porokireri [Y'IBANGA] imenyekanisha ko yujuje inshingano ze kandi imenyekanisha ibimenyetso hashingiwe ku ngingo ya 66 n'iya 75 z'Amategeko, hakurikijwe icyemezo cy'Urugereko rwa Mbere rw'Iremezo III cyo ku wa 1 Ukwakira 2008 », yatanzwe ku wa 9 Ukwakira 2008.

[475] « Icyifuzo cy'Ubwunganizi gisaba Urugereko iminsi itanu yo gutanga igisubizo ku nyandiko ya Porokireri yo mu Ukwakira 2008, uhereye ku munsi bwayiboneyeho », cyatanzwe ku wa 14 Ukwakira 2008; « Icyifuzo cy'Ubwunganizi gisaba Urugereko iminsi itanu yo gutanga igisubizo ku nyandiko ya Porokireri yo ku wa 9 Ukwakira 2008, uhereye ku munsi bwayiboneyeho », cyatanzwe ku wa 15 Ukwakira 2008; Igisubizo cy'Ubwunganizi ku nyandiko ya Porokireri itangaza ko yubahirije inshingano yo kumenyekanisha ibimenyetso hashingiwe ku ngingo ya 66 (A)(i) y'Amategeko », cyatanzwe ku wa 20 Ukwakira 2008.

[476] « Inyandiko ikubiyemo igisubizo cy'Ubwunganizi ku cyifuzo cyihutirwa cyane cya Porokireri gisaba Urugereko gushyiraho ingamba zo kurinda umutekano, n'icyifuzo cyabwo gisaba ko Porokireri yatanga kasete y'amajwi n'amashusho yafashwe mu kiganiro yagiranye na BUC », yatanzwe ku wa 20 Ukwakira 2008.

cy'Ubwunganizi kuko rwasanze Ubwunganizi butaratanze ibimenyetso bihamya ko Porokireri yari afite iyo kasete koko[477].

71. Ku itariki ya 24 Ukwakira 2008, Porokireri yatanze inyandiko y'ibanga ikubiyemo ibisobanuro binonosoye ku birebana n'ibimenyetso yari yaramenyekanishije kugeza icyo gihe bishyigikira ikirego, mu rwego rwo gufasha Urugereko n'Ubwunganizi kumenya neza ibyo ari byo[478].

72. Ku itariki ya 3 Ugushyingo 2008, Porokireri yatanze inyandiko y'ibanga imenyekanisha ubuhamya bwanditse bw'abatangabuhamya babiri[479]. Uwo munsi, Ubwunganizi bwatanze icyifuzo, buvuga ko igihe ntarengwa cyo kubyutsa ingoboka mbanzirizarubanza kigomba kubarwa uhereye ku itariki ya 13 cyangwa iya 14 Ugushyingo 2008[480].

73. Ku itariki ya 7 Ugushyingo 2008, Urugereko rwafashe icyemezo ku cyifuzo cy'Ubwunganizi kirebana n'igihe ntarengwa kivugwa mu ngingo ya 72 y'Amategeko, rutegeka ko igihe cy'iminsi 30 kivugwa kigomba gutangira kubarwa uhereye ku itariki ya 14 Ukwakira 2008[481].

74. Ku itariki ya 10 Ugushyingo 2008, Porokireri yatanze inyandiko y'ibanga imenyekanisha inyandikomvugo y'ubuhamya bwa BUC (SP-018) yahinduwe mu gifaransa[482]. Ku itariki

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[477] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba ko Porokireri yatanga kasete y'amajwi n'amashusho yafashwe mu kiganiro yagiranye na BUC, 30 Ukuboza 2008.

[478]«Inyandiko y'ibanga ya Porokireri ikubiyemo ibisobanuro binonosoye ku birebana n'ibimenyetso yari yaramenyekanishije kugeza icyo gihe bishyigikira ikirego, hashingiwe ku ngingo ya 66 n'iya 75 z'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso », yatanzwe ku wa 24 Ukwakira 2008.

[479] [Ni IBANGA] « Inyandiko ya Porokireri imenyekanisha inyandikomvugo z'ubuhamya bwatanzwe mbere na BUC (SP-018), nta gice na kimwe gisibye », yatanzwe ku wa 3 Ugushyingo 2008.

[480]«Icyifuzo cy'Ubwunganizi kirebana n'igihe ntarengwa cyo kubyutsa ingoboka mbanzirizarubanza kivugwa mu ngingo ya 72 y'Amategeko », cyatanzwe ku wa 3 Ugushyingo 2008.

[481]«Icyemezo ku cyifuzo cy'Ubwunganizi kirebana n'igihe ntarengwa cyo kubyutsa ingoboka mbanzirizarubanza kivugwa mu ngingo ya 72 y'Amategeko », cyafashwe ku wa 7 Ugushyingo 2008.

[482]Inyandiko imenyekanisha ubuhamya bwanditse bwa BUC (SP-018) bwo ku wa 11 Ukwakira 1995, bwahinduwe mu gifaransa », yatanzwe ku wa 10 Ugushyingo 2008.

ya 13 Ugushyingo 2008, Porokireri yatanze inyandiko y'ibanga imenyekanisha inyandikomvugo y'ubuhamya bwa BUC (SP-018) yahinduwe mu cyongereza[483].

75. Ku itariki ya 27 Ugushyingo 2008, Gerefiye, abyibwirije, yatanze mu ibanga zimwe mu nyandiko yari abitse zirebana n'Uregwa maze asaba Urugereko kwemeza niba izo nyandiko agomba no kuzimenyesha Porokireri[484]. Gerefiye yasobanuye ko Ubwunganizi butashakaga ko izo nyandiko zimenyeshwa Porokireri ngo kuko byari gutuma amenya imiterere y'iperereza bwakoze.

76. Ku itariki ya 2 Ukuboza 2008, Porokireri yatanze inyandiko irebana n'ibyanditswe na Gerefiye, avuga ko hashingiwe ku ihame ry'uko nta muburanyi ugomba kuryamira undi kandi ko ababuranyi bagomba guhabwa urubuga rwo kuvuguruzanya, asanga agomba guhabwa izo nyandiko[485]. Ku itariki ya 11 Ukuboza 2008, Ubwunganizi na bwo bwatanze inyandiko igira icyo ivuga kuri icyo kibazo[486], busobanura ko nta tegeko ririho rihatira Gerefiye guha Porokireri inyandiko zavuzwe n'ubwo yashoboraga kubikora ku bushake bwe. Uwo munsi, Porokireri yatanze inyandiko y'ibanga y'inyongera imenyekanisha izindi nyandikomvugo z'ubuhamya[487].

77. Ku itariki ya 10 Ukuboza 2008, Urugereko rwategetse Ubwunganizi gutanga mu nyandiko ibisobanuro birambuye bigaragaza ukuntu kumenyesha Porokireri inyandiko

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[483]Inyandiko imenyekanisha inyandikomvugo z'ubuhamya bwa BUC (SP-018) zahinduwe mu cyongereza, yatanzwe ku wa 13 Ugushyingo 2008.

[484]« Inyandiko yatanzwe na Gerefiye ashingiye ngingo ya 33(B) y'Amategeko ku birebana no kumenyekanisha inyandiko zifitwe n'Ibiro bye», yatanzwe ku wa 28 Ugushyingo 2008 ; Inyandiko [Y'IBANGA KANDI YATANZWE NA GEREFIYE ABYIBWIRIJE] ikubiyemo umugereka ku cyifuzo cya Gerefiye gishingiye ku ngingo ya 33 (B) y'Amategeko irebana no kumenyekanisha inyandiko zifitwe n'Ibiro bye », yatanzwe ku wa 28 Ugushyingo 2008; « Indi nyandiko ya Gerefiye ishingiye ku ngingo ya 33 (B) y'Amategeko irebana no kumenyekanisha inyandiko zifitwe n'Ibiro bye », yatanzwe ku wa 8 Mutarama 2009.

[485]«Imyanzuro ya Porokireri ku nyandiko Gerefiye yatanze ashingiye ku ngingo ya 33 (B) y'Amategeko irebana n'imenyekanisha ry'inyandiko zibitswe n'Ibiro bye », yatanzwe ku wa 2 Ukuboza 2008.

[486] « Imyanzuro y'Ubwunganizi ku nyandiko Gerefiye yatanze ku wa 28 Ugushyingo 2008, ikubiyemo n'igisubizo ku myanzuro ya Porokireri yo ku wa 2 Ukuboza 2008 », yatanzwe ku wa 11 Ukuboza 2008.

[487] « Inyandiko imenyekanisha inyandiko zifite aho zihuriye n'urubanza, hashingiwe ku ngingo ya 66 (B) n'iya 75 (F)(ii) » z'Amategeko, yatanzwe ku wa 5 Ukuboza 2008.

zirebana n'Uregwa zifitwe na Gerefiye bizahishura imiterere y'iperereza ryabwo[488]. Hakurikijwe iryo tegeko ry'Urugereko, Ubwunganizi bwatanze inyandiko ikubiyemo ibyo bisobanuro ku itariki ya 12 Ukuboza 2008[489], bwibutsa inyandiko yabwo yo ku itariki ya 5 Ukuboza 2008 kandi bwongera kwemeza ko nta kibazo bufite ku birebana n'uko Gerefiye yamenyekanisha izo nyandiko zivugwa.

78. Ku itariki ya 17 Ukuboza 2008, Urugereko rwategetse Gerefiye gusuzuma icyifuzo cya Porokireri gisaba kopi z'inyandiko zivugwa no kugifatira umwanzuro abona ukwiye[490].

79. Ku itariki ya 22 Ukwakira 2008, Ubwunganizi bwatanze icyifuzo busaba Urugereko gutegeka Porokireri kubumenyesha inyandiko runaka zishyigikira ikirego[491]. Ku itariki ya 29 Ukwakira 2008, Ubwunganizi bwasabye kugenerwa igihe cyo gukora iperereza, ndetse bunasaba ko Uregwa yafungurwa by'agateganyo[492].

80. Ku itariki ya 22 Ukuboza 2008, Urugereko rwemeye kuri bimwe ibyo byifuzo byo kumenyeshwa inyandiko, maze rutegeka Porokireri gushyikiriza Ubwunganizi inyandiko zimwe yifuzaga[493]. Ku itariki ya 29 Ukuboza 2008, Ubwunganizi bwasabye Urugereko uruhushya bwo kujuririra icyo cyemezo, burusaba kandi kugisubiramo mu gihe

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[488] « Itegeko ryatanzwe n'Urugereko bisabwe n'Ubwunganizi ku birebana n'ibyo Gerefiye asabwa kumenyekanisha hashingiwe ku ngingo ya 33 (B) y'Amategeko », 10 Ukuboza 2008.

[489] «Imyanzuro y'inyongera y'Ubwunganizi hakurikijwe itegeko ry'Urugereko ryo ku wa 10 Ukuboza 2008 », yatanzwe ku wa 12 Ukuboza 2008.

[490] « Itegeko ry'Urugereko ku birebana n'ibyo Gerefiye asabwa kumenyekanisha hashingiwe ku ngingo ya 33 (B) y'Amategeko», 17 Ukuboza 2008.

[491] « Icyifuzo cy'Ubwunganizi gisaba kumenyeshwa ibimenyetso hashingiwe ku ngingo ya 66 n'iya 68 z'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso ya TPIR », cyatanzwe ku wa 22 Ukwakira 2008.

[492] «Inyandiko ikubiyemo icyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka Porokireri kubumenyesha ibimenyetso byose afite hashingiwe ku ngingo ya 66 (A)(ii) y'Amategeko, icyifuzo gisaba igihe cyo gukora iperereza mbere y'uko urubanza rutangira kuburanishwa, n'icyifuzo gisaba Urugereko gufungura Léonidas Nshogoza by'agateganyo», yatanzwe ku wa 29 Ukwakira 2008.

[493] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba kumenyeshwa ibimenyetso hashingiwe ku ngingo ya 66 n'iya 68 z'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, 22 Ukuboza 2008.

rwaramuka butemeye icyifuzo cye[494]. Ku itariki ya 5 Mutarama 2009, Porokireri yatanze inyandiko ikubiyemo igisubizo ku cyifuzo cy'Ubwunganizi gisaba kwemererwa kujurira avuga ko butubahirije ibisabwa n'amategeko kugira ngo bwemererwe kujurira cyangwa se habeho isubirwamo ry'icyemezo cyafashwe[495]. Ku itariki ya 14 Mutarama 2009, Ubwunganizi bwatanze inyandiko ikubiyemo igisubizo cyabwo ku bivugwa na Porokireri, buvuga ko Porokireri atashoboye kugaragaza impamvu aheraho avuga ko butubahirije ibyo bushinzwe kugaragaza kugira ngo bwemererwe kujurira cyangwa se gusaba ko icyemezo cyafashwe gisubirwaho[496]. Muri icyo gisubizo kandi, Ubwunganizi bwatanzemo ibimenyetso buheraho buvuga ko hari inyandiko Porokireri afite agomba kubumenyesha. Bwakomeje busaba Urugereko gutegeka Porokireri kubumenyesha inyandikomvugo z'ubuhamya abatangabuhamya banyuranye bamugejejeho no kubushyikiriza inyandikomvugo zose z'ubuhamya bushinja afite ziri mu kinyarwanda. Ku itariki ya 19 Gashyantare 2009, Urugereko rwemeye icyifuzo cy'Ubwunganizi gisaba gutegeka Porokireri kubwemerera kureba inyandikomvugo z'ubuhamya zikomoka ku iperereza ryakozwe na Madamu Lynch ariko rwanga ibindi bwari bwasabye muri icyo cyifuzo[497].

[494]« Icyifuzo cy'Ubwunganizi gisaba Urugereko uruhushya rwo kujuririra icyemezo cyarwo cyo ku wa 22 Ukuboza 2008, butakwemererwa ibyo bugasaba Urugereko gusubira mu cyemezo cyarwo », cyatanzwe ku wa 29 Ukuboza 2008.

[495]«Igisubizo cya Porokireri ku cyifuzo cy'Ubwunganizi gisaba Urugereko uruhushya rwo kujuririra icyemezo cyarwo cyo ku wa 22 Ukuboza 2008, butakwemererwa ibyo bugasaba Urugereko gusubira mu cyemezo cyarwo », cyatanzwe ku wa 5 Mutarama 2009; « Integuza y'Ubwunganizi ko buteganya gutanga imyanzuro ku gisubizo cya Porokireri cyo ku wa 5 Mutarama 2009 ubwo yasubizaga icyifuzo cyabwo gisaba Urugereko uruhushya rwo kujuririra icyemezo cyarwo », yatanzwe ku wa 12 Mutarama 2009.

[496] «Imyanzuro y'Ubwunganizi ku gisubizo cya Porokireri ubwo yasubizaga icyifuzo cy'Ubwunganizi gisaba Urugereko uruhushya rwo kujuririra icyemezo cyarwo cyo ku wa 22 Ukuboza 2008 (…) », yatanzwe ku wa 14 Mutarama 2009.

[497]Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gusubira mu cyemezo cyarwo cyo ku wa 22 Ukuboza 2008 rwafashe ku cyifuzo cyabwo gisaba kumenyeshwa ibimenyetso cyangwa kubuha uruhushya rwo kujuririra icyo cyemezo, 19 Gashyantare 2009.

81. Ku matariki ya 5, 13, 19, 20 na 21 Mutarama 2009, Porokireri yatanze inyandiko y'ibanga imenyekanisha ibindi bimenyetso ku birebana n'umutangabuhamya wiswe GAA, n'izindi nyandiko n'ibimenyetso bigomba kugirirwa ibanga[498].

82. Ku itariki ya 21 Mutarama 2009, Ubwunganizi bwatanze icyifuzo gisaba kubona icyifuzo cyatanzwe mu ibanga n'Ubwunganizi mu rubanza rwa Kamuhanda, ari na cyo nyandiko ya mbere ivuga ku kwisubiraho k'umutangabuhamya wiswe GAA[499]. Porokireri yasubije ku itariki ya 22 Mutarama 2009[500], atanga inyandiko yasabwaga. Ku itariki ya 14 Gicurasi 2009, Urugereko rwasanze bitakiri ngombwa gusuzuma icyo cyifuzo kubera ko imenyekanisha ryasabwaga ryari ryakozwe[501].

83. Ku itariki ya 26 Mutarama 2009, Porokireri yatanze inyandiko y'ibanga imenyekanisha ibizavugwa na GAA, inyandikomvugo y'ubuhamya yagejejweho na GAA iri mu kinyarwanda n'inyandukuro ya kaseti yafatiweho amajwi y'ibyo GAA yavuze[502]. Ku

[498] « [NI IBANGA] Inyandiko zimenyekanisha ibimenyetso hashingiwe ku ngingo ya 66 (B) y'Amategeko », zatanzwe ku wa 5 Mutarama 2009; «[NI IBANGA] Inyandiko y'inyongera imenyekanisha ubuhamya bwanditse bw'abatangabuhamya bwahinduwe mu zindi ndimi », yatanzwe ku wa 13 Mutarama 2009; «[NI IBANGA] Inyandiko imenyekanisha kasete y'amajwi yafashwe mu ibazwa rya GAA », yatanzwe ku wa 19 Mutarama 2009; « [NI IBANGA] Inyandiko imenyekanisha inyandukuro ya kasete y'amajwi yafashwe mu ibazwa rya GAA ku wa 11 Gicurasi 2005, yatanzwe ku wa 20 Mutarama 2009; « [NI IBANGA] Inyandiko imenyekanisha inyandukuro ya kasete y'amajwi yafashwe mu ibazwa rya GAA ku wa 11 Gicurasi 2005 - yahinduwe mu cyongereza », yatanzwe ku wa 21 Mutarama 2009.

[499] « Icyifuzo cy'Ubwunganizi gisaba kubona icyifuzo cyatanzwe mu ibanga n'Ubwunganizi mu rubanza rwa Kamuhanda kugira ngo kibe cyakwakirwa nk'ikimenyetso cy'inyongera », cyatanzwe ku wa 21 Mutarama 2009.

[500] « [NI IBANGA] Igisubizo cya Porokireri ku cyifuzo cy'Ubwunganizi gisaba kubona icyifuzo cyatanzwe mu ibanga n'Ubwunganizi mu rubanza rwa Kamuhanda kugira ngo kibe cyakwakirwa nk'ikimenyetso cy'inyongera », cyatanzwe ku wa 22 Mutarama 2009.

[501] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba kubona icyifuzo cyatanzwe mu ibanga n'Ubwunganizi mu rubanza rwa Kamuhanda, 14 Gicurasi 2009.

[502] « [NI IBANGA] Inyandiko y'inyongera imenyekanisha ibyo GAA azavuga mu buhamya bwe, inyandikomvugo iri mu kinyarwanda Ern K045-7554-7557 n'inyandukuro ya kasete y'amajwi yafashwe mu ibazwa rya GAA zahinduwe mu zindi ndimi », yatanzwe ku wa 26 Mutarama 2009.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

itariki ya 28 Mutarama, Porokireri yamenyekanishije na none ubundi buhamya buri kuri za kaseti zifata amajwi zinyuranye bwatanzwe na GAA[503].

84. Ku itariki ya 29 Mutarama 2009, Ubwunganizi bwatanze icyifuzo cyihutirwa cyane busaba Urugereko gutegeka Porokireri guhita yubahiriza uko ryakabaye itegeko ryatanzwe n'Urugereko ku itariki ya 22 Ukuboza 2008 ryo kumenyekanisha ibimenyetso, no kuzuza izindi nshingano zirebana no kumenyekanisha ibimenyetso[504].

85. Ku itariki ya 3 Gashyantare 2009, Porokireri yatanze inyandiko y'ibanga imenyekanisha inyandikomvugo y'ubuhamya yagejejweho na GAA yahinduwe mu gifaransa[505].

86. Ku itariki ya 4 Gashyantare 2009, Porokireri yasubije icyifuzo cyihutirwa cyane cy'Ubwunganizi cyasabaga ko yategekwa kubahiriza uko ryakabaye itegeko ryashyizweho n'Urugereko ku itariki ya 22 Ukuboza 2008 rimusaba kumenyekanisha ibimenyetso[506], asaba Urugereko kutemera icyo cyifuzo ngo kuko Ubwunganizi bwavuze ibintu mu rwego rwa rusange kandi ko butashoboye kwerekana ko kutamenyeshwa ibimenyetso hari icyo byabwangirijeho ku buryo bukomeye. Ku itariki ya 9 Gashyantare 2009, Ubwunganizi bwatanze inyandiko isubiza ibyavuzwe na Porokireri ku cyifuzo cyabwo cyo ku itariki ya 29 Mutarama 2009 kirebana no kumenyekanisha amakuru. Bwavuze ko Porokireri yasubije gusa kuri bimwe bitubahirijwe bivugwa mu cyifuzo

503 « Inyandiko imenyekanisha ibiganiro byafashwe mu majwi mu ibazwa rya GAA biri kuri KT00-1679, KT00-1680, KT00-1681 na KT00-1682 », yatanzwe ku wa 28 Mutarama 2009.

504 « Icyifuzo cyihutirwa cyane cy'Ubwunganizi busaba Urugereko gutegeka Porokireri guhita yubahiriza uko ryakabaye itegeko ryatanzwe n'Urugereko ku wa 22 Ukuboza 2008 ryo kumenyekanisha ibimenyetso, no kuzuza izindi nshingano zirebana no kumenyekanisha ibimenyetso », cyatanzwe ku wa 29 Mutarama 2009.

505 « [NI IBANGA] Inyandikomvugo y'ubuhamya bwa GAA yahinduwe mu gifaransa / ERN K-045-7803-7808 », yatanzwe ku wa 3 Gashyantare 2009.

506 «Igisubizo cya Porokireri ku cyifuzo cyihutirwa cyane cy'Ubwunganizi busaba Urugereko gutegeka Porokireri guhita yubahiriza uko ryakabaye itegeko ryatanzwe n'Urugereko ku wa 22 Ukuboza 2008 ryo kumenyekanisha ibimenyetso, no kuzuza izindi nshingano zirebana no kumenyekanisha ibimenyetso hashingiwe ku ngingo za 41, 54, 66, 68 na 73 z'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso ya TPIR», cyatanzwe ku wa 4 Gashyantare 2009.

cyabwo kandi ko ntaho biteganyijwe ko agomba kugaragaza ko hari icyo byabwangirijeho ku buryo bukomeye[507].

87. Ku itariki ya 5 Gashyantare 2009, Porokireri yamenyekanishije mu ibanga inyandiko Uregwa yandikishije intoki ku birebana na GAA[508].

88. Uwo munsi na none, Urugereko rwategetse Porokireri gusuzuma neza ibimenyetso afite kugira ngo akore ibishoboka byose yubahirize inshingano ze zirebana n'imenyekanisha ryabyo kandi rwamutegetse kuzahamya mu nyandiko ko yakoze iryo genzura koko bitarenze ku itariki ya 9 Gashyantare 2009[509].

89. Nyuma y'itegeko ryatanzwe n'Urugereko, Porokireri yatanze inyandiko z'ibanga ebyiri ku itariki ya 6 Gashyantare 2009 zigizwe n'inyandikomvugo z'ubuhamya GAA yatanze n'inyandukuro z'ibiganiro GAA yagiranye n'abandi bantu byafashwe mu majwi n'uwabumvirije[510].

90. Ku itariki ya 6 Gashyantare 2009, Gerefiye yatanze kandi inyandiko y'ibanga abyibwirije imenyekanisha agace k'inyandikonvugo y'iburanishwa rya GAA ubwo yitabaga Urukiko bwa mbere, n'agace k'inyandikomvugo y'iryo buranisha kari mu ndimi z'icyongereza

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[507]« Imyanzuro y'Ubwunganizi ku gisubizo cya Porokireri ku cyifuzo cyihutirwa cyane cy'Ubwunganizi busaba Urugereko gutegeka Porokireri guhita yubahiriza uko ryakabaye itegeko ryatanzwe n'Urugereko ku wa 22 Ukuboza 2008 ryo kumenyekanisha ibimenyetso, no kuzuza izindi nshingano zirebana no kumenyekanisha ibimenyetso», cyatanzwe ku wa 9 Gashyantare 2009.

[508]« Inyandiko imenyekanisha inyandiko yandikishije intoki/ Ern K045-7888 », yatanzwe ku wa 5 Gashyantare 2009.

[509]Itegeko risaba Porokireri gusuzuma neza no kwemeza mu nyandiko ko yubahirije inshingano ze zo kumenyekanisha ibimenyetso, 5 Gashyantare 2009.

[510]«[NI IBANGA] Inyandiko imenyekanisha inyandikomvugo y'ubuhamya bwafashwe mu ibazwa rya GAA ryo ku wa 29 Nzeri 2005 – ziri kuri KT00-1679, KT00-1680, KT00-1681 na KT00-1682 », yatanzwe ku wa 6 Gashyantare 2009; « NI IBANGA] Inyandiko imenyekanisha 'ikiganiro GAA yagiranye na Emmanuel Bajenza ku wa 23 Kanama 2005 cyafashwe mu majwi n'uwabumvirije' – kiri kuri KT00-1676 Igice cya I no kuri KT-1677 Igice cya I », yatanzwe ku wa 6 Gashyantare 2009.

n'igifaransa nk'uko kahinduwe kavanwe mu kinyarwanda[511]. Gerefiye yasabye kandi Urugereko kumubwira niba agomba guha na Porokireri izo nyandiko.

91. Ku itariki ya 5 Gashyantare 2009, Ubwunganizi bwatanze icyifuzo cyihutirwa gisaba guhagarika iburanisha ngo kubera ko Porokireri yari akomeje kutubahiriza inshingano ze zo kumenyakanisha amakuru[512]. Ku itariki ya 9 Gashyantare 2009 Porokireri yatanze inyandiko ikubiyemo igisubizo,[513] avuga ko Ubwunganizi butagaragaje ko hari icyo bwangirijweho ku buryo bukomeye kandi ko buterekanye inyandiko izi n'izi yaba atarabushyikirije. Uwo munsi kandi, Porokireri yatanze inyandiko ihamya ko yubahirije itegeko ry'Urukiko ryo ku itariki ya 5 Gashyantare 2009 rirebana n'inshingano ze zo kumenyekanisha amakuru.[514]

92. Ku itariki ya 10 Gashyantare 2009, Urugereko rwafashe icyemezo ku cyifuzo cy'Ubwunganizi cyo ku itariki ya 29 Mutarama 2009 cyavugaga ko Porokireri atubahiriza inshingano ze zo kumenyakanisha amakuru no ku cyifuzo cyabwo cyo ku itariki ya 5 Gashyantare 2009 cyasabaga guhagarika iburanisha kubera iyo myitwarire ya Porokireri[515]. Urugereko rwanze ibyo byifuzo byombi kuko rwasanze Porokireri yaramenyekanishije ibindi bimenyetso kuva aho icyo cyifuzo cyatangiwe kandi Ubwunganizi butarashoboye kugaragaza ko Uregwa yangirijwe bikomeye no kumenyeshwa ibimenyetso akererewe.

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[511]« [NI IBANGA] Inyandiko yatanzwe na Gerefiye hashingiwe ku ngingo ya 33 (B) y'Amategeko isaba Gerefiye kumenyekanisha inyandiko zo mu Biro bye zifite aho zihuriye n'urubanza », yatanzwe ku wa 6 Gashyantare 2009.

[512]«Icyifuzo cyihutirwa gisaba Urugereko guhagarika imiburanishirize kubera ko Porokireri yari akomeje kutubahiriza inshingano ze zo kumenyekanisha ibimenyetso », cyatanzwe ku wa 5 Gashyantare 2009.

[513]« Igisubizo cya Porokireri ku cyifuzo cyihutirwa gisaba Urugereko guhagarika imiburanishirize kubera ko Porokireri yari akomeje kutubahiriza inshingano ze zo kumenyekanisha ibimenyetso », cyatanzwe ku wa 9 Gashyantare 2009.

[514]« Inyandiko ya Porokireri ihamya ko yubahirije itegeko ry'Urugereko rwa Mbere rw'Iremezo ryo ku wa 5 Gashyantare 2009 rirebana n'inshingano zo kumenyekanisha ibimenyetso », yatanzwe ku wa 9 Gashyantare 2009.

[515] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka Porokireri kubahiriza inshingano ze zo kumenyekanisha ibimenyetso no ku cyifuzo gisaba Urugereko guhagarika imiburanishirize kubera ko Porokireri akomeje kutubahiriza inshingano ze zo kumenyekanisha ibimenyetso, 10 Gashyantare 2009.

93. Ku itariki ya 12 Gashyantare 2009, Ubwunganizi bwatanze icyifuzo gisaba Urugereko gusubiramo icyemezo rwafashe mu magambo ku itariki ya 9 Gashyantare 2009 aho rwanze gusubika iburanisha rukemerera Porokireri gutangira gutanga ibimenyetso bishinja, gisaba kandi uruhushya rwo kujuririra icyo cyemezo Urugereko ruramutse rutemeye icyifuzo cyabwo[516]. Muri icyo cyifuzo, Ubwunganizi bwavugaga ko hari izindi nyandikomvugo z'ubuhamya bwa GAA butagejejweho kandi ko butabonye uko bwitegura ku birebana n'itangwa ry'ubuhamya bwa GAA mu rukiko. Kimwe mu byo Ubwunganizi bwasabaga, harimo kwigizayo igihe GAA azatangiraho ubuhamya mu rukiko, kigashyirwa nyuma y'iminsi 15 uhereye ku munsi Porokireri azaba yamenyekanishijeho inyandiko asabwa.

94. Porokireri yasubije ku itariki ya 16 Gashyantare 2009[517], avuga ko Ubwunganizi butashobye kubahiriza ibisabwa kugira ngo icyemezo gisubirwemo. Urugereko rwanze icyifuzo cy'Ubwunganizi ku itariki ya 18 Gashyantare 2009[518], kuko rwasanze nta mpamvu nshya zifatika zatuma icyemezo gisubirwamo kandi rwavuze ko icyo cyemezo kitujuje ibisabwa kugira ngo hatangwe uruhushya rwo kukijuririra.

95. Ku itariki ya 13 Gashyantare 2009, Porokireri yatanze inyandiko y'ibanga amenyekanisha kaseti zafatiweho amajwi ya GAA ubwo yatangaga ubuhamya mu iperereza[519].

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[516]Inyandikomvugo y'iburanisha, 9 Gashyantare 2009, imp.3-8; « Icyifuzo cy'Ubwunganizi gisaba Urugereko gusubiramo icyemezo rwafashe mu magambo ku wa 9 Gashyantare 2009 aho rwanze gusubika iburanisha kubera ko inshingano zo kumenyekanisha ibimenyetso zitubahirijwe, cyangwa bitaba ibyo gisaba uruhushya rwo kujuririra icyo cyemezo », cyatanzwe ku wa 12 Gashyantare 2009.

[517]« Igisubizo cya Porokireri ku cyifuzo cy'Ubwunganizi gisaba Urugereko gusubiramo icyemezo rwafashe mu magambo ku wa 9 Gashyantare aho rwanze gusubika iburanisha kubera ko inshingano zo kumenyekanisha ibimenyetso zitubahirijwe, cyangwa se bitaba ibyo gisaba uruhushya rwo kujuririra icyo cyemezo», cyafashwe ku wa 16 Gashyantare 2009.

[518] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba uruhushya rwo kujuririra icyemezo cyafashwe mu magambo n'Urugereko ku wa 9 Gashyantare 2009 aho rwanze gusubika iburanisha, 18 Gashyantare 2009.

[519] « Inyandiko ikubiyemo ibirebana n'igenzurwa rya kaseti zafatiweho amajwi mu ibazwa rya GAA / Ifishi yemeza ko hari ibintu bimwe umuntu yivukije n'ifishi y'iyakirwa ry'ibimenyetso », yatanzwe ku wa 13 Gashyantare 2009.

96. Ku itariki ya 2 Werurwe 2009, Porokireri yatanze inyandiko imenyekanisha ko avoka wunganira Uregwa yagenzuye inyandikomvugo z'ubuhamya bwatanzwe mu iperereza ryakozwe na Madamu Lynch, kandi ko uwo avoka yahawe CD-ROM iriho inyandikomvugo z'ubuhamya bwatanzwe n'abatangabuhamya bwatoranyijwe n'Ubwunganizi[520].

97. Ku itariki ya 11 Werurwe 2009, Porokireri yatanze inyandiko y'ibanga imenyekanisha umubare w'amafaranga y'ibihembo n'andi yatanzwe mu rwego rw'urubanza rwa Kamuhanda[521].

98. Ku itariki ya 16 Werurwe 2009, Gerefiye yanditse avuga ku birebana n'inyandiko yamenyesheje Ubwunganizi gusa[522]. Gerefiye yabazaga Urugereko niba byari ngombwa ko anamenyesha Porokireri izo nyandiko. Porokireri yatanze igisubizo cye uwo munsi[523]. Ku itariki ya 14 Gicurasi 2009[524], Urugereko rwasabye Gerefiye gufata umwanzuro ukwiye kuri icyo kibazo.

99. Ku itariki ya 18 Werurwe 2009, Porokireri yatanze inyandiko y'ibanga imenyekanisha inyandiko zavuye mu bucamanza bwo mu Rwanda yari aherutse guhabwa n'abategetsi bo mu Rwanda, anatanga ndetse kopi zazo zahinduwe mu cyongereza[525]. Ku itariki ya 25

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[520]«Inyandiko ikubiyemo ibirebana n'igenzurwa rya dosiye na sede *[CD-ROM]* bya Loretta Lynch hashingiwe ku bivugwa mu ngingo ya 66 (B) y'Amategeko», 3 Werurwe 2009.

[521]« Inyandiko imenyekanisha ibimenyetso hashingiwe ku ngingo ya 66 (B) y'Amategeko/Inyandiko y'ihererekanyamakuru mu kazi / Ern-K045-8604-8609 », yatanzwe ku wa 11 Werurwe 2009.

[522]«Inyandiko yatanzwe na Gerefiye hashingiwe ku ngingo ya 33 (B) y'Amategeko imusaba kumenyekanisha inyandiko ziri mu Biro bye zifite aho zihuriye n'urubanza », yatanzwe ku wa 16 Werurwe 2009.

[523] «Imyanzuro ya Porokireri ku nyandiko yatanzwe na Gerefiye hashingiwe ku ngingo ya 33 (B) y'Amategeko imusaba kumenyekanisha inyandiko ziri mu Biro bye zifite aho zihuriye n'urubanza », yatanzwe ku wa16 Werurwe 2009.

[524] Itegeko ry'Urugereko ku birebana n'inyandiko Gerefiye agomba kumenyekanisha hashingiwe ku ngingo ya 33 (B) y'Amategeko, 14 Gicurasi 2009.

[525]« Inyandiko imenyekanisha inyandiko zo mu bucamanza bwo mu Rwanda hashingiwe ku gingo ya 66 (B) y'Amategeko (Ern K051-2274-2277) na kopi zazo zahinduwe mu cyongereza (Ern K051-2278-2282) », 18 Werurwe 2009.

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Werurwe 2009, Porokireri yatanze inyandiko y'ibanga imenyekanisha agace k'inyandiko katanzwe ku itariki ya 26 Werurwe 2001 mu rubanza rwa Kamuhanda[526].

100. Ku itariki ya 27 Werurwe 2009, Porokireri yatanze inyandiko y'ibanga ivuga ko hariho inyandikomvugo y'ubuhamya bwatanzwe n'umutangabuhamya ushinjura witwa Straton Nyarwaya ndetse aranayimenyekanisha, kandi yari yaravuze mbere ko iyo nyandikomvugo nta yo afite[527]. Porokireri yavuze kandi ko kuba ataramenyekanishije iyo nyandikomvugo nta cyo byangirijeho Uregwa ku buryo bukomeye. Ubwunganizi bwasubije ku itariki ya 1 Mata 2009[528], buvuga ko bwabangamiwe ku buryo bukomeye kandi mu byo bwasabye Urugereko harimo kwemeza ko Porokireri yanyuranyije n'ingingo ya 68 y'Amategeko, kwakira iyo inyandikomvugo y'ubuhamya, kwihaniza Porokireri no kumutegeka kwemerera Ubwunganizi kugenzura inyandiko zose ziri mu ikarito yabonetsemo iyo nyandikomvugo y'ubuhamya.

101. Ku itariki ya 7 Gicurasi 2009 Ubwunganizi bwatanze icyifuzo, mu byo bwasabaga Urugereko hakaba harimo kwemeza ko inyandikomvugo y'ubuhamya bwa Straton Nyarwaya yakirwa mu rubanza, gutegeka Porokireri kubwemerera kugenzura ikarito yabonetsemo iyo nyandikomvugo y'ubuhamya, no kumufatira ibihano kuko yanyuranyije n'ingingo z'amategeko zigenga imenyekanisha[529]. Urugereko rwemeye bimwe mu byasabwe n'Ubwunganizi kuko rwasanze Porokireri atarujuje inshingano ze zirebana

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[526]« Igice cy'inyandiko yamenyekanishijwe ku wa 26 Werurwe 2001 mu rubanza rwa Kamuhanda ku birebana n'uwahoze ari umutangabuhamya ushinja kandi urindiwe umutekano wiswe GEX (A7)», cyatanzwe ku wa 25 Werurwe 2009.

[527]« Imyanzuro ya Porokireri ku nyandikomvugo z'ubuhamya umutangabuhamya ushinjura witwa Stratton Nyarwaya yagejeje ku Biro bya Porokireri ku wa 15 Werurwe 2006 », yatanzwe ku wa 27 Werurwe 2009.

[528]«Igisubizo cy'Ubwunganizi ku myanzuro ya Porokireri ku nyandikomvugo z'ubuhamya umutangabuhamya ushinjura witwa Stratton Nyarwaya yagejeje ku Biro bye ku wa 15 Werurwe 2006 », yatanzwe ku wa 1 Mata 2009.

[529]« Icyifuzo cy'Ubwunganizi gisaba Urugereko kwakira nk'ikimenyetso ubuhamya bwanditse umutangabuhamya w'Ubwunganizi Starton Nyarwaya yagejeje ku Biro bya Porokireri ku wa 15 Werurwe 2009, kubwemerera kugenzura « ikarito » yabonetsemo ubwo buhamya i Kigali, gufatira ibihano Porokireri kuko yimanye ubuhamya bushinjura no gutegeka Porokireri gutanga raporo ku iperereza rirebana n'ibimenyetso bitakoreshejwe byabonetse i Kigali », cyatanzwe ku wa 7 Gicurasi 2009.

n'imenyekanisha ry'ibimenyetso kandi rwamwibukije uburemere bw'izo nshingano nk'uko ziteganywa n'Amategeko[530].

7. Ingamba zo kurinda umutekano w'abatangabuhamya

102. Ubwo Urugereko rwemezaga Inyandiko y'ibirego, rwavuze ko ingamba zo kurinda umutekano w'abatangabuhamya zafashwe mu rubanza rwa Kamuhanda zigomba kugumaho, kandi ko rubanda itabujijwe kumenya imyirondoro y'abavuzwe gusa ko ahubwo inabujijwe kumenya iy'abandi batangabuhamya bose bari bafite aho bahuriye n'urwo rubanza[531].

103. Ku itariki ya 9 Ukwakira 2008, Porokireri yatanze icyifuzo cyihutirwa cyane asaba Urugereko gushyiraho ingamba zo kurinda umutekano w'abatangabuhamya bashinja[532]. Ku itariki ya 20 Ukwakira 2009, Ubwunganizi bwatanze igisubizo kuri icyo cyifuzo, burwanya ko izo ngamba zafatwa ku mutangabuhamya umwe buvuga ko ari uwabwo[533]. Ku itariki ya 24 Ugushyingo 2008, Urugereko rwemeye icyifuzo cya Porokireri[534].

104. Ku itariki ya 27 Ukwakira 2008, Ubwunganizi bwatanze icyifuzo busaba Urugereko gusuzuma inyandiko ikozwe hejuru y'indahiro Porokireri yashingiyeho asaba ko hashyirwaho ingamba zo kurinda umutekano w'abatangabuhamya[535]. Urugereko rwanze icyo cyifuzo ku itariki ya 20 Ugushyingo 2008 kandi rutegeka Gerefiye kutariha avoka

[530] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko kwakira nk'ikimenyetso ubuhamya bwanditse bw'umutangabuhamya ushinjura witwa Straton Nyarwaya ; no ku bindi busaba kurenganurwaho, 1 Nyakanga 2009.

[531] Iyemezwa ry'Inyandiko y'ibirego n'ibyemezo bishyiraho ingamba zo kurinda umutekano w'abatangabuhamya, 4 Mutarama 2008, igika 7.

[532] « Icyifuzo cya Porokireri cyihutirwa cyane gisaba Urugereko gushyiraho ingamba zo kurinda umutekano w'abatangabuhamya n'abakorewe icyaha », cyatanzwe ku wa 9 Ukwakira 2008, igika 3.

[533] «Igisubizo cy'Ubwunganizi ku cyifuzo cya Porokireri cyihutirwa cyane gisaba Urugereko gushyiraho ingamba zo kurinda umutekano w'abatangabuhamya n'abakorewe icyaha, n'Icyifuzo gisaba ko Porokireri yatanga kaseti y'amajwi n'amashusho yafashwe mu ibazwa rya BUC », cyatanzwe ku wa 20 Ukwakira 2008.

[534] Icyemezo ku cyifuzo cya Porokireri cyihutirwa cyane gisaba Urugereko gushyiraho ingamba zo kurinda umutekano w'abatangabuhamya n'abakorewe ibyaha, 24 Ugushyingo 2008.

[535] « Icyifuzo cy'Ubwunganizi gisaba gusuzuma inyandiko yakozwe hejuru y'indahiro », 27 Ukwakira 2008.

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wunganira Uregwa amafaranga y'ibyo yakoze birebana n'itangwa ry'icyo cyifuzo[536]. Ubwunganizi bwatanze na none icyifuzo mu magambo kuri icyo kibazo ku itariki ya 12 Gashyantare 2009[537], maze Urugereko ruracyanga ku itariki ya 17 Gashyantare 2009[538].

105. Ku itariki ya 27 Ugushyingo 2008, Ubwunganizi bwatanze icyifuzo gisaba Urugereko gushyiraho ingamba zo kurinda umutekano w'abatabuhamya bashinjura[539]. Porokireri yasubije icyo cyifuzo ku itariki ya 2 Ukuboza 2008[540]. Ubwunganizi bwatanze imyanzuro kuri icyo gisubizo ku itariki ya 10 Ukuboza 2008[541]. Ku itariki ya 22 Mutarama 2009, Urugereko rwemeye bimwe mu bisabwa n'Ubwunganizi, maze rushyiraho ingamba zimeze kimwe n'izashyiriweho abatangabuhamya bashinja[542].

106. Ku itariki ya 12 Ukuboza 2008, Ubwunganizi bwatanze icyifuzo cyihutirwa butiriwe bumenyesha Porokireri, busaba Urugereko gusobanura neza itegeko ryarwo ryo ku itariki ya 24 Ugushyingo 2008 ryashyizeho ingamba zo kurinda umutekano w'abatangabuhamya no guhinduramo bimwe, kugira ngo amagambo « abagize umuryango » yo kujya akoreshwa mu buryo bwaguye ahubwo ajye yumvikana ko ari abantu bafitanye amasano ya hafi cyane, no kugira ngo hahindurwe icyemezo cyafashwe ku birebana n'umuntu wo mu muryango w'umwe mu batangabuhamya[543]. Ku itariki ya

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[536] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba gusuzuma inyandiko yakozwe hejuru y'indahiro, 20 Ugushyingo 2008.

[537] Inyandikomvugo y'iburanisha, 12 Gashyantare 2009, urup. 6.

[538] Inyandikomvugo y'iburanisha, 17 Gashyantare 2009, urup. 28.

[539] « Icyifuzo cy'Ubwunganizi gisaba Urugereko gushyiraho ingamba zo kurinda umutekano w'abatangabuhamya n'abakorewe ibyaha », cyatanzwe ku wa 27 Ugushyingo 2008.

[540] « Igisubizo cya Porokireri ku cyifuzo cy'Ubwunganizi gisaba Urugereko gushyiraho ingamba zo kurinda umutekano w'abatangabuhamya n'abakorewe ibyaha », cyatanzwe ku wa 2 Ukuboza 2008.

[541] « Imyanzuro y'Ubwunganizi ku gisubizo cya Porokireri ku cyifuzo cyabwo gisaba Urugereko gushyiraho ingamba zo kurinda umutekano w'abatangabuhamya n'abakorewe ibyaha », yatanzwe ku wa 10 Ukuboza 2008.

[542] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gushyiraho ingamba zo kurinda umutekano w'abatangabuhamya n'abakorewe ibyaha, 22 Mutarama 2009.

[543] « [NI IBANGA] Icyifuzo cyihutirwa umuburanyi yatanze atakimenyesheje undi gisaba Urugereko ibisobanuro no guhindura itegeko ryarwo ryo ku wa 24 Ugushyingo 2008 rishyiraho ingamba zo kurinda umutekano w'abatangabuhamya », cyatanzwe ku wa 12 Ukuboza 2008.

18 Ukuboza 2008, hakurikiyeho ikindi cyifuzo gisaba na none ibyo bintu[544]. Uwo munsi, Ubwunganizi bwatanze ikindi cyifuzo gisaba Urugereko guhindura itegeko ryarwo rishyiraho ingamba zo kurinda umutekanao w'abatangabuhamya ku birebana n'umuntu bwavuze wo mu muryango w'umutangubuhamya urindiwe umutekano[545]. Porokireri yatambamiye icyo cyifuzo ku itariki ya 22 Ukuboza 2008, avuga ko uwo muntu ashobora kuzaba umutangabuhamya ushinja[546]. Porokireri na none yasubije icyifuzo cyihutirwa cyo ku itariki ya 18 Ukuboza 2008 gisaba Urugereko gusobanura neza itegeko ryarwo ryo ku itariki ya 24 Ugushyingo 2008 rigena ingamba zo kurinda umutekano w'abatangabuhamya, arwanya ibisabwa ko amagambo « abagize umuryango » yakumvikna mu buryo butaguye[547]. Ku itariki ya 26 Mutarama 2009, Urugereko rwanze icyifuzo cy'Ubwunganizi gisaba ko « abagize umuryango » baba aba hafi cyane gusa[548].

107. Ku itariki ya 23 Mutarama 2009, Urugereko rwafashe umwanzuro ku cyifuzo cy'Ubwunganizi cyo ku itariki ya 18 Ukuboza 2008 gisaba guhindura ingamba zo kurinda umutekano w'umwe mu bagize umuryango w'umwe mu batangabuhamya bashinja, maze rusaba Ubwunganizi gushyikiriza Urugereko inyandiko isinywe n'uwo muntu yemeza ko yemereye Ubwunganizi kuzaba umutangabuhamya ushinjura[549]. Ku

[544]«Icyifuzo cyihutirwa gisaba Urugereko ibisobanuro ku itegeko ryarwo ryo ku wa 24 Ugushyingo 2008 rishyiraho ingamba zo kurinda umutekano w'abatangabuhamya », cyatanzwe ku wa 18 Ukuboza 2008.

[545] « Icyifuzo cyihutirwa kandi cy'ibanga gisaba Urugereko guhindura itegeko ryarwo ryo ku wa 24 Ugushyingo 2008 rishyiraho ingamba zo kurinda umutekano w'abatangabuhamya », cyatanzwe ku wa 18 Ukuboza 2008.

[546]«Igisubizo cya Porokireri ku cyifuzo cyihutirwa kandi cy'ibanga cy'Ubwunganizi gisaba Urugereko guhindura itegeko ryarwo ryo ku wa 24 Ugushyingo 2008 rishyiraho ingamba zo kurinda umutekano w'abatangabuhamya », cyatanzwe ku wa 22 Ukuboza 2008.

[547]« Igisubizo cya Porokireri ku cyifuzo cyihutirwa cy'Ubwunganizi gisaba Urugereko ibisobanuro ku itegeko ryarwo ryo ku wa 24 Ugushyingo 2008 rishyiraho ingamba zo kurinda umutekano w'abatangabuhamya», cyatanzwe ku wa 22 Ukuboza 2008.

[548]Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko ibisobanuro ku cyemezo cyarwo cyo ku wa 24 Ugushyingo 2008 gishyiraho ingamba zo kurinda umutekano w'abatangabuhamya, 26 Mutarama 2009.

[549]Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko guhindura itegeko ryarwo ryo ku wa 24 Ugushyingo 2008 rishyiraho ingamba zo kurinda umutekano w'abatangabuhamya, 23 Mutarama 2009.

itariki ya 5 Gashyantare 2009, Ubwunganizi bwatanze inyandiko bwasabwe[550]. Ku itariki ya 6 Gashyantare 2009, Urugereko rwemeye icyifuzo cy'Ubwunganizi gisaba guhindura icyemezo kigena ingamba zo kurinda umutekano w'abatangabuhamya, kubera ko uwo mutangabuhamya yemeye kuzatanga ubuhamya bushinjura[551].

8. Icyiciro mbanzirizarubanza

108. Ku itariki ya 11 Werurwe 2008, Porokireri yamenyekanishije inyandiko zishyigikira ibirego bye, hashingiwe ku ngingo ya 66 (A) y'Amategeko[552].

109. Ku itariki ya 19 Werurwe 2008, Ubwunganizi bwatanze icyifuzo gisaba Urugereko gushyira ahagaragara inyandikomvugo y'inama ntegurarubanza yo ku itariki ya 11 Gashyantare 2008 no gutegeka Ibiro bya Gerefiye gutangaza urubanza bishyira inyandiko zose zirebana na rwo zitari ibanga ku rubuga rwa interineti rwa TPIR no mu bubikoshingiro bw'imanza z'Urukiko («TRIM »)[553]. Ku itariki ya 16 Mata 2009, Urugereko rwemeye igice kimwe cy'ibisabwa muri icyo cyifuzo[554], maze rutegeka ko inyandikomvugo y'inama ntegurarubanza yo ku itariki ya 11 Gashyantare ireka kuba ibanga igashyirwa ahagaragara, ariko ruvuga ko icyifuzo gisaba ko urubanza rushyirwa ku rubuga rwa interineti rw'Urukiko no mu bubikoshingiro bw'imanza z'Urukiko bitakiri ngombwa kugisuzuma kubera ko byamaze gukorwa.

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[550]« Inyandiko y'umutangabuhamya yemera kuzatanga ubuhamya bushinjura yatanzwe n'Ubwunganizi hakurikijwe itegeko ry'Urugereko ryo ku wa 23 Mutarama 2009 », ku wa 5 Gashyantare 2009.

[551]Itegeko rihindura irindi rishyiraho ingamba zo kurinda umutekano w'abatangabuhamya, 6 Gashyantare 2009.

[552]«Inyandiko imenyekanisha inyandiko zishyigikira ibirego zisibyemo ibice bimwe hashingiwe ku ngingo ya (A) y'Amategeko, yatanzwe ku wa 11 Werurwe 2008.

[553]«Icyifuzo gisaba Urugereko gushyira ahagaragara inyandikomvugo y'inama ntegurarubanza yo ku wa 11 Gashyantare 2008 no gutegeka Ibiro bya Gerefiye gutangaza urubanza bishyira inyandiko zose zirebana na rwo zitari ibanga ku rubuga rubanda ishobora kubona » cyatanzwe ku wa 19 Werurwe 2008, hamwe « n'inyandiko ikosoye y'icyifuzo cy'Ubwunganizi gisaba ko hashyirwa ahagaragara inyandikomvugo y'inama ntegurarubanza yo ku wa 11 Gashyantare 2008 (…) cyatanzwe ku wa 19 Werurwe 2008' », yatanzwe ku wa 26 Werurwe 2008.

[554]Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gushyira ahagaragara inyandikomvugo y'inama ntegurarubanza yo ku wa 11Gashyantare 2008 na dosiye y'urubanza muri rusange, 16 Mata 2009.

110. Ku itariki ya 26 Werurwe 2008, Ubwunganizi bwatanze icyifuzo cyihutirwa busaba ko urubanza Uregwa aburana mu Rwanda rwakohererezwa TPIR kandi busaba Urugereko gutegeka Gerefiye kumenyesha ku mugaragaro Leta y'u Rwanda ko Uregwa afite ubudahangarwa bujyanye n'umurimo akora, ko rero ibirego nshinjabyaha aregwa mu Rwanda bivanwaho maze dosiye ikegurirwa TPIR[555]. Ku itariki ya 2 Mata 2008, Porokireri yasubije icyo cyifuzo asaba ko kitakwakirwa ngo kuko nta shingiro gifite na mba, ko ari nk'ikintu cy'urwenya gusa kandi atari ngombwa, bityo ko Ubwunganizi bwarengereye ibiteganywa n'Amategeko y'Imiburanishirize[556]. Ku itariki ya 7 Mata 2008, Ubwunganizi bwatanze imyanzuro kuri icyo gisubizo cya Porokireri[557].

111. Ku itariki ya 5 Ugushyingo 2008, Urugereko rwanze icyifuzo cy'Ubwunganizi uko cyakabaye cyasabaga ko urubanza Uregwa ashinjwamo mu Rwanda rwoherezwa TPIR, kandi rwategetse Gerefiye kutishyura avoka amafaranga ku mirimo iyo ari yo yose yakoze irebana n'icyo cyifuzo[558].

112. Ku itariki ya 11 Mata 2008, Ubwunganizi bwatanze imyanzuro mbanzirizarubanza y'agateganyo yo gushyigikira ibyifuzo by'ingoboka bwatanze hakurikijwe ingingo ya 72 y'Amategeko, mu gihe Urugereko rwaramuka rutakiriye ibyifuzo bya mbere byabwo bisaba ko ibihe ntarengwa biteganywa n'ingingo ya 72 y'Amategeko byongerwa[559]. Ubwunganizi bwavuze ko nta bubasha Porokireri afite bwo kurega Léonidas Nshogoza; ko uru rubanza Porokireri arufitemo inyungu zitabangikanywa bitewe n'uko

[555] « Icyifuzo cyihutirwa cy'Ubwunganizi cyo mu rwego rw'ubucamanza n'ubutegetsi gisaba ko urubanza rwegurirwa TPIR », cyatanzwe ku wa 28 Werurwe 2008.

[556] « NI IBANGA] Igisubizo cya Porokireri ku cyifuzo cyihutirwa cy'Ubwunganizi cyo mu rwego rw'ubucamanza n'ubutegetsi gisaba ko urubanza rwegurirwa TPIR », cyatanzwe ku wa 2 Mata 2008.

[557] « Imyanzuro y'Ubwunganizi ku gisubizo cya Porokireri ku cyifuzo cyihutirwa cyabwo gisaba ko urubanza rwegurirwa TPIR », yatanzwe 7 Mata 2008.

[558] Icyemezo ku cyifuzo cy'Ubwunganizi cyo mu rwego rw'ubucamanza n'ubutegetsi gisaba ko urubanza rwegurirwa TPIR, 5 Ugushyingo 2008.

[559] « Imyanzuro mbanzirizarubanza y'agateganyo ya Nshogoza yo gushyigikira ibyifuzo bye by'ingoboka bishingiye ku ngingo ya 72 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso ya TPIR», yatanzwe ku wa 11 Mata 2008.

umutangabuhamya wiswe GAA yari uwa Porokireri mbere y'uko yisubiraho; ko Inyandiko y'ibirego ifite inenge kubera ko ibirego birebana n'ubwinjiracyaha bwo gusuzugura Urukiko bidateganywa na Sitati ya TPIR cyangwa Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso; kandi ko Uregwa yafunzwe iminsi mirongo irindwi ataragenerwa avoka umwunganira. Ubwunganizi bwavuze kandi ko bushobora kuzatanga imyanzuro y'inyongera cyangwa indi mishya, bitewe n'icyemezo Urugereko ruzafata kuri bimwe mu byifuzo byabwo bitarafatirwa umwanzuro.

113. Porokireri yatanze igisubizo ku myanzuro mbanzirinzarubanza y'agateganyo y'Ubwunganizi yo ku itarikiki ya 16 Mata 2008, avuga ko ingingo ya 71 (A)(i) na (D) y'Amategeko idakurikizwa ku manza ziburanisha icyaha cyo gusuzugura Urukiko; ko ingingo ya 17 ya Sitati iha Porokireri ububasha rusange bwo gupererereza no gukora inyandiko y'ibirego; ko ingingo ya 77 (C) na (D) y'Amategeko by'umwihariko iha Porokireri ububasha bwo gupererereza, gukorera inyandiko y'ibirego no kuregera urukiko abantu bakekwaho icyaha cyo gusuzugura Urukiko, apfa gusa gukurikiza amabwiriza yahawe n'Urugereko; kandi ko ibyo Porokireri yakoze yabisabwe mu cyemezo cyafashwe n'Urugereko rw'Ubujurire mu rubanza rwa Kamuhanda[560]. Ku byerekeye inenge zivugwa mu Nyandiko y'ibirego, Porokireri yasubije ko ingingo ya 77 (A) y'Amategeko itarondora uburyo bwose icyaha cyo gusuzugura Urukiko gikorwamo kandi ko ingingo ya 77 (B) y'Amategeko iteganya ibihano bigenerwa icyaha cy'ubwinjiracyaha bw'ibikorwa biteganywa n'ingingo ya 77 (A) y'Amategeko. Porokireri ashingiye kuri iyo myanzuro ye, yasabye ko icyifuzo cy'Ubwunganizi kitakwakirwa kubera ko nta shingiro gifite.

114. Ku itariki ya 22 Mata 2008, Ubwunganizi bwatanze inyandiko ivuga ko bwiyemeje gusubika imyanzuro yabwo ku byavuzwe na Porokireri mu gisubizo cye kugeza igihe buzatangira icyifuzo cyabwo kirebana n'ingingo ya 72 y'Amategeko, bumaze kumva

[560]«Igisubizo cya Porokireri ku myanzuro mbanzirizarubanza y'agateganyo Nshogoza yatanze ku wa 14 Mata 2008 ashyigikira ibyifuzo bye by'ingoboka bishingiye ku ngingo ya 72 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso ya TPIR», cyatanzwe ku wa 16 Mata 2008.

icyemezo cy'Urugereko kigena umunsi bazatangiriraho kubara igihe ntarengwa giteganywa n'ingingo ya 72[561].

115. Ku itariki ya 24 Kamena 2008, Ubwunganizi bwatanze ibyifuzo mbanzirizarubanza hashingiwe ku ngingo ya 72 y'Amategeko, ndetse bwanatanze icyifuzo gishingiye ku ngingo ya 73 y'Amategeko busaba Urugereko kuvanaho Inyandiko y'ibirego, mu gihe rwaramuka rutemeye ibyo byifuzo[562]. Ibyo byifuzo byasimbuye iby'agateganyo Ubwunganizi bwari bwaratanze mbere. Ubwunganizi bwakemanze ububasha bwa Porokireri bwo gukurikirana Uregwa muri uru rubanza, buvuga ko Porokireri nta mabwiriza yahawe n'Urugereko urwo ari rwo rwose yo gupererereza k'Uregwa cyangwa kumukurikirana. Ubwunganizi na none bwasabye ko ikirego cya 3 n'icya 4 bivanwa mu Nyandiko y'ibirego, buvuga ko ubwinjiracyaha bw'ibikorwa bihanwa nk'ibyo gusuzugura Urukiko ntaho biteganywa muri Sitati cyangwa mu Mategeko kandi ko bigomba kuvanwamo kuko birimo ihuzagurika. Mu kurangiza, Ubwunganizi na none bwibukije Urugereko ko Uregwa atagenewe avoka umwunganira kandi amaze iminsi 120 afunze, hanyuma buvuga ko Ubwunganizi bushobora kuzasaba Urugereko guhindura icyemezo cya Gerefiye cyo kutagenera Uregwa avoka umwunganira yihitiyemo mu rubanza rwe.

116. Ku itariki ya 14 Ugushyingo 2008, Ubwunganizi bwatanze icyifuzo gikemanga ububasha bwa Porokireri n'icyifuzo cy'inyongera gisaba ko inyandiko y'ibirego itakwakirwa, buvuga ko nta Rugereko urwo ari rwo rwose rwahaye Porokireri amabwiriza yo gukurikirana Uregwa ku cyaha cyo gusuzugura Urukiko[563].

117. Ku itariki ya 17 Ugushyingo 2008, Porokireri yatanze icyifuzo cyihutirwa asaba Uregwa kwemera bimwe mu byabaye kugira ngo ibibazo bimwe na bimwe bikeneye

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[561] « Imyanzuro y'Ubwunganizi ku gisubizo cya Porokireri ku myanzuro mbanzirizarubanza yabwo ishingiye ku ngingo ya 72 », yatanzwe ku wa 22 Mata 2008.

[562] « Ingoboka mbanzirizarubanza hakurikijwe ingingo ya 72 y'Amategeko, n'Icyifuzo gishingiye ku ngingo ya 73 y'Amategeko gisaba Urugereko kutakira Inyandiko y'ibirego mu gihe biriya byifuzo bindi byaba byanzwe », byatanzwe ku wa 25 Kamena 2008.

[563] « Ingoboka mbanzirizarubanza y'Ubwunganizi ikemanga ububasha bwa Porokireri n'Icyifuzo gisaba Urugereko kutakira Inyandiko y'ibirego mu gihe iyo ngoboka yaba yanzwe », byatanzwe ku wa 14 Ugushyingo 2008.

kuzasuzumwa mu iburanisha bisobanuke neza[564]. Ubwunganizi bwasubije ku itariki ya 19 Ugushyingo 2008, buvuga ko bushobora gusa kuzatanga igisubizo nyuma y'itariki ya 24 Ugushyingo 2008, kandi bwibutsa ko icyo cyifuzo cyari kitarahindurwa mu rurimi rw'igifaransa[565]. Ku itariki ya 17 Ukuboza 2008, Ubwunganizi bwatanze igisubizo ku cyifuzo cya Porokireri[566].

118. Ku itariki ya 19 Ugushyingo 2008 Porokireri yasubije inyandiko y'Ubwunganizi ikemanga ububasha bwe[567]. Yavuze ko Urugereko rw'Ubujurire rwafashe icyemezo cyihariye gitegeka Porokireri gukora iperereza, kandi ko ubwo umucamanza yemezaga Inyandiko y'ibirego yemeye ko urubanza rukomeza, bityo akaba yaremereye Porokireri gukurikirana Uregwa.

119. Ku itariki ya 24 Ugushyingo 2008, Ubwunganizi bwatanze inyandiko isubiza ibyavuzwe na Porokireri mu gisubizo cye[568] buvuga ko butemera ibyo Porokireri yavuze ko Urugereko rw'Ubujurire rwamutegetse gupererereza k'Uregwa no kumukorera Inyandiko y'ibirego ku cyaha cyo gusuzugura Urukiko.

120. Ku itariki ya 17 Ukuboza 2008, Urugereko rwanze icyifuzo cy'Ubwunganizi gikemanga ububasha bwa Porokireri kuko rwasanze Urugereko rw'Ubujurire rwarahaye Porokireri

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[564]« Icyifuzo cyihutirwa cya Porokireri gisaba ko ibintu bimwe na bimwe byemerwa nta mpaka », cyatanzwe ku wa 17 Ugushyingo 2008.

[565]«Igisubizo mbanzirizarubanza cy'Ubwunganizi ku cyifuzo cya Porokireri gisaba ko ibintu bimwe na bimwe byemerwa nta mpaka », cyatanzwe ku wa19 Ugushyingo 2008.

[566]« Igisubizo cya Nshogoza ku cyifuzo cyihutirwa cya Porokireri gisaba ko ibintu bimwe na bimwe byemerwa nta mpaka », 17 Nzeri 2008.

[567]« Igisubizo cya Porokireri ku ngoboka mbanzirizarubanza y'Ubwunganizi ikemanga ububasha bwa Porokireri n'Icyifuzo gisaba Urugereko kutakira Inyandiko y'ibirego mu gihe iyo ngoboka yaba yanzwe' », byatanzwe ku wa 19 Ugushyingo 2008.

[568] Imyanzuro y'Ubwunganizi ku gisubizo cya Porokireri ku cyifuzo cyabwo gishingiye ku ngingo ya 72 cyangwa ku ya 73 z'Amategeko, mu gihe icyo kindi cyaba cyanzwe », yatanzwe ku wa 24 Ugushyingo 2008.

uruhushya rwo gukora iperereza no gufata ingamba zose azabona ko ari ngombwa kandi zikwiye bitewe n'uko ibintu bimeze[569].

121. Ku itariki ya 25 Ugushyingo 2008, Porokireri yatanze imyanzuro mbanzirizarubanza ye[570].

122. Ku itariki ya 11 Ukuboza 2008, Urugereko rwashyizeho itegeko rigena ingengabihe y'iburanisha rivuga ko urubanza ruzatangira kuburanishwa ku itariki ya 9 Gashyantare 2009, ko Porokireri azatanga ibimenyetso bye kugeza ku itariki ya 13 Gashyantare 2009, ko Ubwunganizi buzatanga ibimenyetso byabwo guhera ku itariki ya 9 Werurwe kugeza ku ya 13 Werurwe 2009, kandi ko Porokireri namara gutanga ibimenyetso bye, hazahita hakorwa inama itegura itangwa ry'ibimenyetso bishinjura[571].

123. Ku itariki ya 24 Ukuboza 2008, Ubwunganizi bwasabye uruhushya rwo kujuririra icyemezo cy'Urugereko ku cyifuzo cyabwo gikemanga ububasha bwa Porokireri no ku cyifuzo cyabwo gisaba Urugereko kuvanaho inyandiko y'ibirego, icya mbere kiramutse kitemewe[572]. Ku itariki ya 4 Gashyantare 2009, Urugereko rwanze icyo cyifuzo[573] kuko rwasanze Ubwunganizi butujuje ibisabwa kugira ngo buhabwe urushya rwo kujurira.

124. Ku itariki ya 6 Gashyantare 2009, Ubwunganizi bwatanze icyifuzo gisaba ko inyandiko zose zitangwa mu rubanza zihindurwa mu gifaransa[574], buvuga ko habaye kandi ko hakomeje kubaho kubangamira bikomeye uburenganzira bw'Uregwa kuko ibyemezo byinshi by'Urugereko kimwe n'inyandiko zitangwa na Porokireri zitahinduwe mu

[569]Icyemezo ku ngoboka mbanzirizarubanza y'Ubwunganizi ikemanga ububasha bwa Porokireri no ku cyifuzo gisaba Urugereko kutakira Inyandiko y'ibirego, mu gihe iyo ngoboka yaba yanzwe, 17 Nzeri 2008.

[570]«Imyanzuro mbanzirizarubanza ya Porokireri », yatanzwe ku wa 25 Ugushyingo 2008.

[571]Itegeko ry'Urugereko rishyiraho ingengabihe y'iburanisha, 11Nzeri 2008.

[572]« Icyifuzo cy'Ubwunganizi gisaba Urugereko uruhushya rwo kujuririra icyemezo cyarwo ku ngoboka mbanzirizarubanza yabwo ikemanga ububasha bwa Porokireri no ku cyifuzo kirusaba kutakira Inyandiko y'ibirego, mu gihe iyo ngoboka yaba yanzwe », cyatanzwe ku wa 24 Nzeri 2008.

[573]Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko uruhushya rwo kujuririra icyemezo cyarwo cyo ku wa 17 Nzeri 2008 ku ngoboka mbanzirizarubanza zabwo zifite ibyo zikemanga, 4 Gashyantare 2009.

[574]«Icyifuzo cy'Ubwunganizi gisaba ko inyandiko zitangwa mu buryo bwemewe mu rubanza zihindurwa mu gifaransa », cyatanzwe ku wa 6 Gashyantare 2009.

kinyarwanda cyangwa mu gifaransa. Urugereko rwanze icyo cyifuzo ku itariki ya 12 Gashyantare 2009[575] kuko rwasanze Ubwunganizi bushobora gukemura icyo kibazo ruvuganye na Gerefiye mu buryo butaziguye, kandi butaragaragaje ukuntu ukutaboneka kw'izo nyandiko zihinduwe muri izo ndimi byabangamiyeho iburanisha cyangwa uburenganzira bw'Uregwa.

9. Iburanisha

125. Mu nama ntegurarubanza yo ku itariki ya 28 Kanama 2008, Urugereko rwavanyeho itariki yo gutangira iburanisha yari yagenwe, maze rumenyesha impande zombi ko hazagenwa indi itariki[576].

126. Iburanisha ryatangiye ku itariki ya 9 Gashyantare 2009 ari na bwo Porokireri yatanze imyanzuro yo mu ikubitiro[577]. Porokireri yahamagaje abatangabuhamya batandatu naho Ubwunganizi buhamagaza cumi n'umwe.

127. Ku itariki ya 9 Gashyantare 2009, Urugereko rwafashe icyemezo mu magambo gitegeka Ubwunganizi guhita butanga imyanzuro ivugwa mu ngingo ya 98 *bis* Porokireri akimara gutanga ibimenyetso bye[578]. Ku munsi ukurikiyeho, Ubwunganizi bwatanze icyifuzo gisaba ko icyo cyemezo cyasubirwamo buvuga ko gikosamye[579]. Mu cyemezo Urugereko rwafashe mu magambo, rwongeye gutegeka ko imyanzuro yose ivugwa mu ngingo ya 98 *bis* y'Amategeko izatangwa mu magambo nyuma y'iminsi itatu Porokireri arangije gutanga ibimenyetso bye[580].

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[575]Icyemezo ku cyifuzo cy'Ubwunganizi gisaba ko inyandiko zitangwa mu buryo bwemewe mu rubanza zihindurwa bidatinze mu gifaransa, 12 Gashyantare 2009.

[576]Inyandikomvugo y'iburanisha, 28 Kanama 2008, urup. 11 (iburanisha mu muhezo).

[577]Inyandikomvugo y'iburanisha, 9 Gashyantare 2009, imp. 9-15.

[578]Inyandikomvugo y'iburanisha, 9 Gashyantare 2009, urup. 2.

[579]«Icyifuzo cy'Ubwunganizi gisaba Urugereko gusubiramo icyemezo rwafashe mu magambo ku birebana n'igihe icyifuzo gisaba ko Uregwa agirwa umwere kigomba gutangirwa hashingiwe ku ngingo ya 98 *bis* y'Amategeko», cyatanzwe ku wa 10 Gashyantare 2009.

[580]Inyandikomvugo y'iburanisha, 11Gashyantare 2009, imp. 48-49.

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128. Ku itariki ya 12 Gashyantare 2009, Porokireri yatanze icyifuzo cyihutirwa kandi cy'ibanga asaba Urugereko kwakira ibimenyetso byerekana imyitwarire Uregwa asanganywe, hashingiwe ku ngingo ya 54, iya 77, iya 89 (C) n'iya 93 z'Amategeko[581]. Ubwunganizi bwasubije ku itariki ya 17 Gashyantare 2009[582]. Mu byo Ubwunganizi bwavuze harimo ko ingingo ya 93 y'Amategeko ikurikizwa gusa ku bimenyetso by'ibikorwa binyuranyije bikomeye n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara kandi ko ibimenyetso bisabirwa kwakirwa bitagaragaza imyitwarire umuntu asanganywe.

129. Ku itariki ya 20 Gashyantare 2009, Urugereko rwanze icyifuzo cya Porokireri kirusaba kwakira ibimenyetso bigaragaza imyitwarire Uregwa asanganywe[583] kuko rwasanze ibimenyetso atanga bitafatwa nk'imyitwarire umuntu asanganywe, kandi rwasanze agaciro ako ari ko kose k'ibyo bimenyetso karutwa kure n'ingaruka mbi bishobora kugira.

130. Ku itariki ya 18 Gashyantare 2009, Urugereko rwafashe icyemezo mu magambo rwanga icyifuzo cya Porokireri kirwanya umurongo Ubwunganizi bugenderaho mu kubaza ibibazo umutangabuhamya wiswe GAA[584]. Urugereko rwasanze Ubwunganizi bufite uburenganzira bwo kubaza ibibazo GAA ku buhamya bwanditse yatanze mbere no ku byerekeye kuba yari kuri Paruwasi ya Gikomero.

131. Ku itariki ya 19 Gashyantare 2009, Urugereko rwategetse Porokireri gutanga inyandiko ihamya ko yakoze ibishoboka byose kugira ngo abategetsi bo mu Rwanda bamuhe

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[581] « [NI IBANGA] Icyifuzo cya Porokireri cyihutirwa cyane gisaba Urugereko kwakira ibimenyetso bigaragaza imyitwarire Uregwa asanganywe », cyatanzwe ku wa 12 Gashyantare 2009.

[582] « Igisubizo cy'Ubwunganizi ku cyifuzo cya Porokireri cyihutirwa cyane gisaba Urugereko kwakira ibimenyetso bigaragaza imyitwarire Uregwa asanganywe », cyatanzwe ku wa 17Gashyantare 2009; « Inyandiko y'integuza y'Ubwunganizi imenyekanisha ko iteganya gutanga igisubizo ku cyifuzo cya Porokireri cyihutirwa cyane gisaba Urugereko kwakira ibimenyetso bigaragaza imyitwarire uregwa asanganywe », yatanzwe ku wa 16 Gashyantare 2009.

[583] Icyemezo ku cyifuzo cya Porokireri gisaba Urugereko kwakira ibimenyetso bigaragaza imyitwarire Uregwa asanganywe, 20 Gashyantare 2009.

[584] Inyandikomvugo y'iburanisha, 18 Gashyantare 2009, imp. 26-27.

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inyandiko zo mu bucamanza cyangwa se azibone azikuye ahandi aho ariho hose[585]. Ku itariki ya 23 Gashyantare 2009, Porokireri yatanze inyandiko ihamya ko yamenyekanishije ibimenyetso byose kandi yongeye kuvuga ko nta nshingano afite yo gushaka inyandiko zo mu bucamanza zirebana n'abatangabuhamya bashinja bavuye mu Rwanda[586].

132. Ku itariki ya 20 Gashyantare 2009, Ubwunganizi bwatanze icyifuzo busaba ko igihe bwateganyirijwe cyo gutangira gutangaho ibimenyetso cyakongerewaho icyumweru kubera ko itanga ry'ibimenyetso bishinja ryatwaye igihe kirenze icyari cyateganyijwe[587]. Urugereko rwanze icyo cyifuzo ku itariki ya 26 Gashyantare 2009[588] kuko rwasanze itariki Ubwunganizi butangiriraho gutanga ibimenyetso idashingira ku minsi iri hagati yayo n'iyo ibimenyetso bishinja byarangirijweho gutangwa.

133. Ku itariki ya 2 Werurwe 2009, Ubwunganizi bwatanze icyifuzo busaba Urugereko gusubiramo icyemezo cyarwo cyo ku itariki ya 26 Gashyantare 2009 no kwigizayo itariki rwasabiweho gutanga imyanzuro ibanziriza itanga ry'ibimenyetso bishinjura[589]. Bimwe mu bivugwa muri icyo cyifuzo ni uko Ubwunganizi bwari buherutse kumenyeshwa n'Ishami rishinzwe abavoka n'imicungire ya gereza y'Urukiko ko ryemeye gahunda yabwo y'akazi k'iminsi itandatu mu Rwanda, ko rero icyo ari ikintu gishya cyatuma icyemezo gisubirwamo, kandi bwavuze ko gutegura urubanza bizafata nibura iminsi itandatu. Urugereko rwanze icyo cyifuzo cyo gusubiramo icyemezo cyarwo cyo ku itariki

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585 Inyandikomvugo y'iburanisha, 19 Gashyantare 2009, urup.17.

586 « Inyandiko ya Porokireri ihamya ko yamenyekanishije inyandiko afite zirebana n'amadosiye yo mu bucamanza bwo mu Rwanda », yatanzwe ku wa 23 Gashyantare 2009.

587 « [NI IBANGA] Urutonde rw'ikubitiro rw'abatangabuhamya bashinjura n'Icyifuzo cy'Ubwunganizi gisaba Urugereko kwigiza inyuma ho icyumweru kimwe itariki buzatangiriraho gutanga ibimenyetso bishinjura », byatanzwe ku wa 20 Gashyantare 2009.

588 Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko kwigiza inyuma ho icyumweru kimwe itariki buzatangiriraho gutanga ibimenyetso bishinjura, 26 Gashyantare 2009.

589 « Icyifuzo cy'Ubwunganizi gisaba Urugereko gusubiramo « Icyemezo cyarwo ku cyifuzo cyabwo kirusaba kwigiza inyuma itariki buzatangiriraho gutanga ibimenyetso bishinjura , n' Icyifuzo cy'Ubwunganizi gisaba Urugereko kwigiza inyuma itariki bugomba gutangiraho imyanzuro ibanziriza itangwa ry'ibimenyetso bishinjura », byatanzwe ku wa 2 Werurwe 2009.

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ya 4 Werurwe 2009[590], ruvuga ko kuba Ubwunganizi bwaremerewe gahunda y'akazi atari ingingo nshya yatuma icyemezo gisubirwamo kandi ko butagaragaje ko amategeko yarengerewe cyangwa ko Urugereko rwakoresheje nabi ububasha bwarwo busesuye. Urugereko rwemeye icyifuzo cy'Ubwunganizi cyo kongererwa igihe cyo gutanga imyanzuro ibanziriza itangwa ry'ibimenyetso bishinjura[591].

134. Ku itariki ya 6 Werurwe 2009, Ubwunganizi bwatanze icyifuzo busaba Urugereko uruhushya rwo kujuririra icyemezo cyarwo cyanga gusubira mu cyo rwafashe mbere[592], bimwe mu bivugwa muri icyo cyifuzo ni uko Urugereko rwakoze ikosa rwemeza ko kuba Ubwunganizi bwaremerewe gahunda y'akazi atari ikintu gishya cyatuma icyemezo gisubirwamo, kandi ko kwanga kwigizayo itariki bibangamiye uburenganzira bw'Uregwa. Urugereko rwanze icyo cyifuzo ku itariki ya 11 Werurwe 2009[593], ruvuga ko Ubwunganizi butaragaragaje ko ibisabwa kugira ngo hatangwe uruhushya rwo kujuririra icyo cyemezo byujujwe.

135. Ku itariki ya 23 Gashyantare 2009, Ubwunganizi bwatanze icyifuzo gisaba Urugereko kwemeza ko kuba u Rwanda rwarasohoye inoti y'amafaranga ibihumbi bibiri mu wa 2007 ari ikintu ababuranyi batagomba kujyaho impaka[594]. Ku itariki ya 16 Mata 2009, Urugereko rwemeye icyo cyifuzo[595].

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[590]Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gusubiramo icyemezo cyarwo ku cyifuzo gisaba kwigiza inyuma itariki bugomba gutangiriraho gutanga ibimenyetso bishinjura, 4 Werurwe 2009.

[591]Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko kwigizayo itariki bugomba gutangiraho imyanzuro ibanziriza itangwa ry'ibimenyetso bishinjura, 4 Werurwe 2009.

[592]« Icyifuzo cy'Ubwunganizi gisaba Urugereko uruhushya rwo kujuririra icyemezo cyarwo ku cyifuzo cyabwo kirusaba gusubiramo icyemezo rwafashe ku birebana no kwigizayo itariki bugomba gutangiriraho gutanga ibimenyetso bishinjura », cyatanzwe ku wa 6 Werurwe 2009.

[593]Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko uruhushya rwo kujuririra icyemezo cyarwo kibwangira kwigizayo inyuma ho icyumweru kimwe itariki bugomba gutangiriraho gutanga ibimenyetso bishinjura, 11 Werurwe 2009.

[594]« Icyifuzo cy'Ubwunganizi gisaba Urugereko kwemeza ibintu ababuranyi batagomba kujyaho impaka », cyatanzwe ku wa 23 Gashyantare 2009.

[595]Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko kwemeza ibintu ababuranyi batagomba kujyaho impaka, 16 Mata 2009.

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136. Ku itariki ya 25 Gashyantare 2009, ababuranyi batanze imyanzuro yabo mu magambo ku cyifuzo cy'ingoboka cy'Ubwunganizi gisaba ko Uregwa ahanagurwaho icyaha hakurikijwe ingingo ya 98 *bis* y'Amategeko. Ku itariki ya 25 Gashyantare 2009, Ubwunganizi bwatanze imyanzuro yanditse y'inyongera ikubiyemo ubukemuramanza bwashingiyeho ubwo bwatangaga imyanzuro mu magambo busaba ko Uregwa ahanagurwaho icyaha[596]. Ku itariki ya 27 Gashyantare 2009, Urugereko rwanze icyo cyifuzo ku birebana n'ibirego byose biri mu Nyandiko y'ibirego[597].

137. Ku itariki ya 9 Werurwe 2009, Ubwunganizi bwatanze mu nyandiko y'ibanga imyanzuro ibanziriza itangwa ry'ibimenyetso bishinjura[598].

138. Ku itariki ya 12 Werurwe 2009, Ubwunganizi bwatanze inyandiko yerekeranye n'igihe buzatangirira gutanga ibimenyetso[599], buvuga ko bwiteguye gutangira kubitanga ku itariki ya 16 Werurwe 2009.

139. Ubwo Ubwunganizi bwatangaga imyanzuro yabwo yo mu ikubitiro ku itariki ya 16 Werurwe 2009, avoka wunganira Uregwa yasabye Urugereko mu magambo gusubiramo ibyemezo byarwo byamufatiye ibihano[600]. Ku itariki ya 23 Mata 2009, Urugereko rwanze icyo cyifuzo. Rwasanze Ubwunganizi nta mpamvu nshya zifatika bwatanze, butaragaragaje ko icyemezo cyafashwe gikosamye cyangwa ko Urugereko rwarengereye ububasha bwarwo busesuye, n'ukuntu icyo cyemezo cyangirije Uregwa cyangwa cyamurenganyije[601].

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[596] « Imyanzuro y'inyongera y'Ubwunganizi hashingiwe ku ngingo ya 98 *bis* y'Amategeko», yatanzwe ku wa 25 Gashyantare 2009.

[597] Inyandikomvugo y'iburanisha, 27 Gashyantare 2009, imp. 1-7.

[598] « [NI IBANGA] Imyanzuro ya Léonidas Nshogoza ibanziriza itangwa ry'ibimenyetso bishinjura », yatanzwe ku wa 9 Werurwe 2009.

[599] « Imyanzuro y'Ubwunganizi ku birebana n'itariki bugomba gutangiriraho gutanga ibimenyetso bishinjura », yatanzwe ku wa 12 Werurwe 2009.

[600] Inyandikomvugo y'iburanisha, 16 Werurwe 2009, urup. 3.

[601] Icyemezo ku cyifuzo cy'Ubwunganizi mu magambo busaba Urugereko gusubiramo ibihano bwafatiye avoka wunganira Uregwa, 23 Mata 2009.

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140. Ku itariki ya 17 Werurwe 2009, Urugereko rwatanze inyandiko igenderwaho ikubiyemo icyemezo rwari rwarafashe mu magambo ku itariki ya 16 Werurwe 2009[602], aho rwafatiye ibihano Ubwunganizi kubera imyitwarire mibi[603]. Urugereko rwasanze imyitwarire y'avoka wunganira uregwa yaratindije urubanza ku maherere, yarabangamiye inyungu z'ubutabera kandi iciye ukubiri n'amategeko yerekeranye n'imyitwarire mu kazi y'abavoka bunganira abaregwa. Rwasanze kandi iyo myitwarire nta nyungu Uregwa ayifitemo, ndetse inabangamiye uburenganzira bwe bwo gucirwa urubanza mu buryo buboneye kandi nta kuzarira. Urugereko rwaciye ihazabu avoka wunganira Uregwa kandi rutegeka Gerefiye gusaba uruhushya Perezida rwo kumenyesha iyo myitwarire mibi urwego rushinzwe imyitwarire y'abavoka mu gihugu uyu avoka yemerewemo gukora imirimo ye.

141. Kubera ko Gerefiye yimye Ubwunganizi amakuru bwamusabye yerekeranye n'ukuntu abakozi bo mu Biro bya Porokireri bagiye kubonana na GAA mu wa 2007, ku itariki ya 20 Werurwe 2009 Ubwunganizi bwatanze icyifuzo gisaba Urugereko gutegeka Gerefiye kuruha ayo makuru[604]. Ku itariki ya 23 Werurwe 2009, Gerefiye yatanze inyandiko irimo ibisobanuro kuri icyo cyifuzo[605], avuga ko yabonaga atatanga inyandiko yasabwe nta cyemezo cy'Urugereko kibimutegeka. Ku itariki ya 28 Mata 2009, Urugereko rwemeye

[602]Inyandikomvugo y'iburanisha, 16 Werurwe 2009, imp. 1-2.

[603]Ikindi cyemezo gifatira ibihano avoka wunganira Uregwa kubera imyitwarire ye mibi, 17 Werurwe 2009.

[604]«Icyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka Gerefiye kubugezaho amakuru yerekeranye n'ukuntu abakozi bo mu Biro bya Porokireri bagiye bajya kuri gereza y'Urukiko kubonana na GAA mu wa 2007 », cyatanzwe ku wa 20 Werurwe 2009.

[605]«Inyandiko ya Gerefiye hashingiwe ku ngingo ya 33 (B) y'Amategeko ku birebana n'icyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka Gerefiye kubugezaho amakuru yerekeranye n'ukuntu abakozi bo mu Biro ya Porokireri bagiye bajya kuri gereza y'Urukiko kubonana na GAA mu wa 2007 », yatanzwe ku wa 23 Werurwe 2009.

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icyifuzo cy'Ubwunganizi, maze rutegeka Gerefiye gutanga amakuru yasabwaga[606]. Ku itariki ya 29 Mata 2009, Gerefiye yatanze ayo makuru[607].

142. Ku itariki ya 8 Gicurasi 2009, Ubwunganizi bwatanze ikindi cyifuzo busaba ko Gerefiye yabuha n'amakuru yerekeranye n'ukuntu abakozi bo mu Biro bya Porokireri bagiye kubonana na GAA muri Gereza y'Urukiko[608]. Ubwunganizi bwavuze ko ibyo Gerefiye yabumenyesheje bitari byuzuye kandi ko birimo amakosa, bityo busaba Urugereko gutegeka Gerefiye gutanga amakuru yose no gutegeka Porokireri kumenyekanisha icyo ibiganiro agirana na GAA biba bigamije. Icyo cyifuzo cyasabaga na none Urugereko gufatira ibihano Porokireri kubera kutubahiriza inshingano ze zo kumenyekanisha ibimenyetso. Ku itariki ya 8 Kamena 2009, Urugereko rwanze icyo cyifuzo[609].

143. Ku itariki ya 25 Werurwe 2009, avoka wunganira Uregwa yajuririye Urugereko rw'Ubujurire anenga icyemezo cy'Urugereko rwa Mbere rw'Iremezo cyamufatiye ibihano, asaba Urugereko rw'Ubujurire guhagarika icyemezo kimutegeka gutanga ihazabu yaciwe[610]. Bimwe mu byo yavuze ajurira ni uko ngo igihano cy'ihazabu yagenewe ari nk'igihano cyo mu rwego rw'amategeko ahana, ko icyo gihano nta

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[606]Icyemezo ku cyifuzo cy'Uwunganizi gisaba Urugereko gutegeka Gerefiye kubugezaho amakuru yerekeranye n'ukuntu abakozi bo mu Biro bya Porokireri bagiye bajya kuri gereza y'Urukiko kubonana na GAA mu wa 2007, 28 Mata 2009.

[607]« Inyandiko ya Gerefiye hashingiwe ku ngingo ya 33 (B) y'Amategeko kandi hakurikijwe icyemezo cy'Urugereko ku cyifuzo cy'Ubwunganizi kirusaba gutegeka Gerefiye kubuha amakuru yerekeranye n'ukuntu abakozi bo mu Biro bya Porokireri bagiye bajya kuri gereza y'Urukikoy'urukiko kubonana na GAA », yatanzwe ku wa 29 Mata 2009.

[608]«Ikindi Cyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka Gerefiye gutanga amakuru yose yerekeranye n'ukuntu abakozi bo mu Biro bya Porokireri bagiye bajya kubonana na GAA, n'Icyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka Porokireri gutanga amakuru no kubahiriza inshingano ze zo kumenyekanisha ibimenyetso hashingiwe ku ngingo ya 66 n'iya 68 z'Amategeko », byatanzwe ku wa 8 Gicurasi 2009.

[609]Icyemezo ku kindi cyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka Gerefiye kubuha amakuru yerekeranye n'ukuntu abakozi bo mu Biro bya Porokireri bagiye bajya kuri gereza y'Urukiko kubonana na GAA, 8 Kamena 2009.

[610]« Ubujurire budasabirwa uruhushya bw'avoka wunganira Uregwa ku cyemezo cyamufatiye ibihano » yatanze ku wa 25 Werurwe 2009.

mategeko gishingiyeho, ko Urugereko rwarengereye ububasha bwarwo busesuye bukigena kandi ko amafaranga y'ihazabu yaciwe akabije kuba menshi.

144. Porokireri yasubije ku itariki ya 6 Mata 2009[611], avuga ko avoka wunganira Uregwa nta cyo yashingiyeho ajurira, bityo ko ubujurire yagejeje ku Rugereko rw'Ubujurire butari bukwiye kubaho. Ku itariki ya 16 Mata 2009, Ubwunganizi bwatanze inyandiko isubiza icyo gisubizo[612], bimwe mu byo bwavuze ni uko ngo Porokireri ntaho yashingiye asubiza icyifuzo cye kandi bwamaganye ibivugwa na Porokireri ko avoka nta bubasha yari afite bwo gutanga icyifuzo cye.

145. Ku itariki ya 23 Mata 2009, Urugereko rw'Ubujurire rwashyizeho abacamanza bo gusuzuma icyo cyifuzo[613]. Ku itariki ya 8 Kamena 2009, abavoka bunganira uwajuriye batanze inyandiko imenyesha Urugereko rw'Ubujurire ko bemeye kumuhagararira kandi basabaye kongererwa igihe cyo gutanga imyanzuro yabo n'ibindi bimenyetso[614]. Mu cyemezo Urugereko rw'Ubujurire rwafashe ku itariki ya 26 Kamena 2009, rwanze kongera igihe, ruvanaho ibihano by'ihazabu byafatiwe avoka wunganira Uregwa kandi butegeka Gerefiye kumusubiza amafaranga yari yakaswe ubwo aheruka guhembwa[615].

146. Ku itariki ya 8 Mata 2009, Ubwunganizi bwatanze icyifuzo busaba Urugereko rwa Mbere rw'Iremezo kwemeza ko uko idolari y'abanyamerika yavunjwaga mu manyarwanda igihe ibivugwa mu nyandiko y'ibirego byabaga n'uko ivunjwa ubungubu ari ibintu ababuranyi

[611]« Igisubizo cya Porokireri ku bujurire budasabirwa uruhushya bw'avoka wunganira Uregwa ku cyemezo cyamufatiye ibihano », cyatanwe ku wa 6 Mata 2009.

[612]« Imyanzuro y'avoka wunganira Uregwa ku gisubizo cya Porokireri cyerekeranye n'ubujurire budasabirwa uruhushya avoka yatanze ku cyemezo cyamufatiye ibihano », yatanzwe ku wa 16 Mata 2009.

[613]Itegeko ry'Urugereko rishyiraho abacamanza bazaburanisha urubanza mu Rugereko rw'Ubujurire (Urugereko rw'Ubujurire), 23 Mata 2009.

[614]« Inyandiko y'abavoka bunganira uwajuriye yo ku wa 25 Werurwe 2009 imenyesha Urugereko rw'Ubujurire ko bemeye kumuhagararira kandi isaba kongererwa igihe cyo gutanga imyanzuro yabo n'ibindi bimenyetso », yatanzwe ku wa 8 Kamena 2009.

[615]Icyemezo ku bujurire bwerekeranye n'ibihano (Urugereko rw'Ubujurire), 26 Kamena 2009.

batagomba kujyaho impaka[616]. Ku itariki ya 14 Mata 2009, Urugereko rwanze icyo cyifuzo[617].

147. Ku itariki ya 18 Kamena 2009, Ubwunganizi bwatanze icyifuzo mu nyandiko y'ibanga busaba Urugereko gushyira ahagaragara icyemezo cyarwo cy'ibanga rwafashe ku cyifuzo cyabwo cyasabaga guhagarika iburanisha[618]. Ku itariki ya 26 Kamena 2009[619], Urugereko rwemeye icyo cyifuzo.

148. Ku itariki ya 17 Mata 2009, Porokireri yatanze imyanzuro nsozarubanza ye mu nyandiko y'ibanga[620]. Uwo munsi, Ubwunganizi na bwo bwatanze imyanzuro yabwo mu nyandiko y'ibanga[621]. Ku itariki ya 18 Kamena 2009, Ubwunganizi bwatanze imyanzuro yanditse y'inyongera[622].

149. Ku itariki ya 12 Kamena 2009, Urugereko rwafashe icyemezo kivuga ko ruzasoma urubanza mu ruhame ku itariki ya 2 Nyakanga 2009[623].

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[616]«Icyifuzo cy'Ubwunganizi gisaba Urugereko rwa Mbere rw'Iremezo kwemeza ko uko ifaranga ry'u Rwanda ryavunjwaga igihe ibivugwa byababaga ari ikintu ababuranyi batagomba kujyaho impaka », cyatanzwe ku wa 8 Mata 2009.

[617]Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko rwa Mbere rw'Iremezo kwemeza ko uko ifaranga ry'u Rwanda ryavunjwaga igihe ibivugwa byababaga ari ikintu ababuranyi batagomba kujyaho impaka, 16 Mata 2009.

[618]«Icyifuzo cy'Ubwunganizi gisaba Urugereko gushyira ahagaragara icyemezo cyarwo cy'ibanga rwafashe ku cyifuzo cy'Ubwunganizi gisaba guhagarika imiburanishirize », cyatanzwe ku wa 18 Kamena 2009.

[619]Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gushyira ahagaragara icyemezo cyarwo cy'ibanga rwafashe ku cyifuzo cy'Ubwunganizi gisaba guhagarika imiburanishirize ; n'Umugereka rubanda rushobora kubona ugizwe n'icyo cyemezo ariko gisibyemo ibice bimwe na bimwe, 26 Kamena 2009.

[620] « [NI IBANGA] Imyanzuro nsozarubanza ya Porokireri », yatanzwe ku wa 17 Mata 2009.

[621] « [NI IBANGA] Imyanzuro nsozarubanza ya Léonidas Nshogoza », yatanzwe ku wa 17 Mata 2009; « Umugereka C ku myanzuro nsozarubanza ya Léonidas Nshogoza yatanzwe ku wa 17 Mata 2009», watanzwe ku wa 20 Mata 2009; « Inyandiko ikosoye y'imyanzuro nsozarubanza ya Léonidas Nshogoza », yatanzwe ku wa 28 Mata 2009.

[622] « Imyanzuro nsozarubanza y'inyongera ya Léonidas Nshogoza », yatanzwe ku wa 19 Kamena 2009.

[623] Icyemezo gishyiraho ingengabihe y'iburanisha, 12 Kamena 2009.

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