

GATARE v GASANA N'ABANDI

[Rwanda URUKIKO RUKURU - RS/INJUST/RC 00004/2023/HC/NYZ (Ndagijimana, P.J, Badara, Udahemuka, J.) 24 Mata 2024]

Amategeko agenga imiburansihirize y'imanza – Ubujurire – Ikoranabuhanga ridakora - Mu gihe habayeho kurenza ibihe byo kujurira biturutse ku buryo bw'ikoranabuhanga butangirwamo ibirego butari gukora kandi bikaba byaramenyeshwe Urukiko, ni impamvu idasanzwe ituma ikirego cyakirwa kigasuzumwa.

Incamake y'ikibazo: uru rubanza rwatangiye Gatare arega atisunze ubushinjacyaha abitwa Gasana, Nyiransabimana, Minani, Mukamana na Munderere icyaha cyo kuba baratanze ubuhamya bw'ibinyoma mu rubanza rwamuhamije icyaha cyo gukora no gukoresha inyandiko mpimbano asaba ko nabo bahamwa n'icyo cyaha ariko Urukiko ruza gusanga ikirego cye kidafite ishingiro rumutegeka kwishyura indishyi zingana 1.250.000 FRW. Urubanza rwaje ku ibirego maze Gasana na bagenzi be bashakira umuhesha w'inkiko witwa Niyonzima atangira inzira zo kururungiza agurisha mu cyamunara umutungo (ishyamba) wa Gatare. Uyu yaje kuregera Urukiko rw'Ibanze rwa Kibeho asaba guteshya agaciro icyamunara ngo kuko cyakozwe mu buryo bunyuranije n'amategeko ariko Urukiko rusanga icyo kirego nta shingiro gifite.

Ku wa 13/07/2022 urega yajuririye mu Rukiko Rwisumbuye rwa Nyamagabe ariko abaregwa batanga inzitizi bavuga ko yatanze ubujurire bwe nyuma y'igihe giteganywa n'amategeko bityo ko budakwiye kwakirwa, uregwa we akavugaga ko yatanze ubujurire ku gihe ariko bitewe n'uko uburyo bw'ikoranabuhanga butakoraga ntibyashoboka ko ikirego gitangwa kandi ko yabimenyeshwe Urukiko. Urukiko rwasanze ubujurire bwe nta shingiro bufite.

Urega yagiye mu nzira z'akarengane hanyuma urubanza rwe rwongera kuburanishwa n'Urukiko Rukuru Urugereko rwa Nyanza, hasuzumwa ikibazo cyo kumenya niba ubujurire bwa Gatare bwaragombaga kwakirwa kubera ko hari impamvu zitunguranye kandi zidaturutse ku bushake bwe zatumye ajurira akerewe no kumenya niba cyamunara yakozwe kuwa 15/06/2022 yateshwa agaciro kuko itubahirije amategeko.

Gatere asobanura ko yatanze ikirego mu bihe biteganywa n'amategeko ndetse ikoranabuhanga rimutengushye ku kubasha kwishyura ingwate y'amagarama abimenyeshya urukiko nk'uko amategeko abiteganyaga nabo ngo bamubwira ko ategereza system ikongera igakora. Akomeza avugaga ko cyamunara ikwiye guteshwa agaciro kuko yakozwe ku mataliki atandukanye n'ayari yatangajwe kandi igatangwa ku giciro gito cyane ndetse akaba atarigeze amenyeshwa imihango yose ya cyamunara. Abaregwa bavugaga ko urega yatanze ubujurire impitagihe kandi ko iyo uburyo bw'ikoranabuhanga butari gukora urega ashobora gushyikiriza imyanzuro ye urukiko kandi ibyo akaba atarabikoze. Bakomeza bavugaga ko bamumenyeshwe imihango ya cyamunara akanga kwikira no gusinya ku nyandiko ndetse ko yanimanye e-mail ye ngo ahuzwe na system bito aje abona amakuru. Urukiko rwasanze ikirego kigomba kwakirwa ariko rusanga cyamunara yarakozwe mu buryo bukurikije amategeko.

Incamake y'icyemezo: 1. Mu gihe habayeho kurenza ibihe byo kujurira biturutse ku buryo bw'ikoranabuhanga butangirwamo ibirego butari gukora kandi bikaba byaramenyeshwe Urukiko, ni impamvu idasanzwe ituma ikirego cyakirwa kigasuzumwa.

2. Kuba umuburanyi yaranze gutanga email ngo ahuzwe na cyamunara, ntiyavuga ko umutungo we wagurishijwe ku giciro gito kandi ari we wivukije uburenganzira bwo kwanga igiciro gito yanga guhuzwa na system.

Ikirego cyo gusubirishamo urubanza ku mpamvu z'akarengane nta shingiro gifite.

Amategeko yashingiweho:

Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegets, ingingo ya 20, 111, 253, 255, 275, 278.

Nta manza zifashishijwe

Urubanza

IMITERERE Y'URUBANZA

[1] Gatare Faustin yatanze ikirego mu rukiko rwisumbuye rwa Nyamagabe atisunze ubushinjacyaha arega Nyiransabimana Gaudence, Minani Védaste, Mukamana Louise, Gasana Gilbert na Munderere Alphonsine icyaha cyo kuba baratanze ubuhamya bw'ibinyoma mu rubanza rwamuhamije icyaha cyo gukora no gukoresha inyandiko mpimbano arirwo RP 0109/16/TGI/NYBE akaba yarasabaga ko nabo bahamwa n'icyo cyaha kandi bakagihanirwa imyaka itandatu ihwanye n'iyi yahanishijwe mu rubanza batanzemo ubuhamya bw'ibinyoma. Urubanza rwaje kurangira abaregwa babaye abere ndetse urukiko rutegeka Gatare Faustin kubaha indishyi za miliyoni imwe n'ibihumbi magana abiri na mirongo itanu (1.250.000 FRW).

[2] Urubanza rubaye ndakuka, Nyiransabimana Gaudence, Minani Védaste, Mukamana Louise, Gasana Gilbert na Munderere Alphonsine basabye Me Niyonzima Jean Felix ko yarangiza urwo rubanza bagahabwa indishyi batsindiye muri urwo rubanza. Niyonzima Jean Felix yatangiye kurangiza urwo rubanza, cyamunara ikaba yarabaye kuwa 14/06/2022.

[3] Tariki ya 22/6/2022, Gatare Faustin yatanze ikirego mu rukiko rw'ibanze rwa Kibeho, asaba gutesha agaciro cyamunara yakozwe kuwa 14/06/2022 kuko hari amategeko atarubahirijwe arimo ateganya ifatira n'amatangazo ya cyamunara, akavuga kandi ko yasojwe nabi ndetse yandikiye umuhesha w'inkiko Me Niyonzima Jean Félix amusaba guhagarika imihango ya cyamunara kuko yashakaga kwishyura ku neza, umuhesha arabimwemerera ariko nyuma abona azanye amatangazo ya cyamunara.

[4] Me Niyonzima Jean Felix n'umwunganira bavuga ko nta tegeko na rimwe ritubahirijwe. Ibijyanye n'ifatira, inyandiko ikorerwa mu ikoranabuhanga bakayisohoramo bakajya aho umutungo uherereye na nyirawo ahari ndetse n'ubuyobozi bw'akagali buhagarariwe, ibyo kandi akaba yarabikoze nk'uko bigaragazwa n'inyandiko y'ifatira yo kuwa 13/05/2022 yasinnye n'umuyobozi w'akagali ka Mpanda, akandikaho ko Gatare Faustin yanze gusinya kandi ahari. Ibyo avuga ngo yafatiriye umutungo udahari nabyo sibyo kuko ishyamba yafatiriye rirahari kandi rimubaruyeho nk'uko bigaragazwa n'igenagaciro ryakozwe. Ikijyanye n'amatangazo ya

cyamunara, itangazo rya mbere ryakozwe kuwa 25/05/2022, abo bireba barimo na Gatare Faustin ndetse n'akagali baryakira kuwa 26/05/2022, iri tangazo rikaba ryaravugwagamo cyamunara eshatu koko, itangazo rya kabiri naryo baribonye ku itariki ya 06/06/2022 kandi rivugwamo cyamunara ebyiri, ntabwo hari kugarukamo eshatu kandi imwe yaramaze gutambuka, kuba rero hasi handitseho ko yombi akozwe kuri 25/05/2022 Gatare Faustin ntakwiye kubigira urwitwazo kuko ni agakosa kabayemo ko kudahindura itariki, kandi ayo matangazo aruzuzanya.

[5] Minani Védaste, Mukamana Louise, Gasana Gilbert, Nyiransabimana Gaudence na Munderere Alphonsine bavuga ko nta murimo numwe wa cyamunara bigeze bakora, bakaba batumva impamvu yatumye Gatare Faustin abazana muri uru rubanza.

[6] Mu rubanza RC 00099/2022/TB/KIB rwaciwe kuwa 05/07/2022 n'Urukiko rw'Ibanze rwa Kibeho rwemeje ko cyamunara yabaye kuwa 15/06/2022 hatezwa umutungo wa Gatare Faustin ufite UPI 2/03/03/04/3635 idateshejwe agaciro. Rutegeka Gatare Faustin kwishyura Nyiransabimana Gaudence indishyi z'amafaranga ibihumbi ijana (100.000), akishyura Minani Védaste indishyi zingana n'ibihumbi magana atanu na cumi (510.000), akishyura Mukamana Louise indishyi zingana n'ibihumbi magana atanu na cumi (510.000) na Gasana Gilbert akamwishyura indishyi zingana n'ibihumbi Magana atanu na cumi (510.000), Munderere Alphonsine akamwishyura indishyi zingana n'ibihumbi ijana (100.000) na Me Niyonzima Jean Felix akamwishyura indishyi zingana n'ibihumbi Magana atanu na cumi (510.000).

[7] Mu gufata icyo cyemezo, ku bijyanye n'ifatira ritubahirije amategeko, urukiko rwasanze hari inyandiko mvugo y'ifatira yakozwe kuwa 11/05/2022, bari aho umutungo washinganishijwe, ikaba igaragaza ko umuhesha w'inkiko yari aho umutungo wagombaga gutezwa cyamunara, hari umunyamabanga nshingwabikorwa w'akagali ka Mpanda Munyaneza Ildephonse nk'uko bigaragazwa ko yarisinyeho agateraho na kashi y'urwego ahagarariye akanandikaho ko Gatare Faustin yanze gusinya. Ku bijyanye n'itangazwa rya cyamunara, urukiko rwasanze amatangazo ya cyamunara yari abiri, rimwe abo bireba baryakiriye kuri 26/05/2022, irindi baryakira kuri 06/06/2022, ko kandi irya mbere ryagaragazaga igihe cyamunara izatangirira n'igihe hazatangirizwa igisubozo, haba hatagize uwegukana umutungo cyamunara ikongera kugera ku nshuro ya gatatu, naho itangazo rya kabiri rikagaraza ko cyamunara yagombaga gukorwa inshuro 2 kuko iya mbere yari yaramaze gutambuka.

[8] Ku bijyanye n'uko cyamunara yasojwe nabi, urukiko rwasanze raporo yarakozwe, ikagaragaza uburyo cyamunara yarangiye, uwegukanye umutungo n'uburyo abo yari abereyemo umwenda bishyuwe ndetse nawe agasabwa konti ye ngo hashyirweho amafaranga ye yari yasigaye. Ku bijyanye nuko yasabye umuhesha w'inkiko guhagarika cyamunara kugira ngo yishyure ku bushake, urukiko rwasobanuye ko Gatare Faustin nawe nta bushake yagize bwo kwishyura kuko mu itangazo rya cyamunara yahawe hari harimo numero ya konti ya Me Niyonzima Jean Félix yari yamenyesheje ko uzegukana uwo mutungo agomba kwishyura kuri konti n° 4004100232354 iri muri EQUIT BANK.

[9] Tariki ya 13/07/2022, Gatare Faustin yajuririye Urukiko Rwisumbuye rwa Nyamagabe abaregwa batanga inzitizi yo kutakira ikirego bavuga ko urukiko rutakwakira ubujurire bwa Gatare Faustin kuko yajuriye igihe cyo kujurira giteganywa n'amategeko cyararenze, asobanura ko urubanza yajuririye rwamaze guterwa kashempuruza kuko igihe cyo kujurira cyari cyarangiye

ndetse ko ikimenyetso Gatare atanga kiri kuri attachment ari icyo ku itariki ya 13/7/2022, binagaragaza ko n'igarama byamunaniye kuryishyura kuwa 13/7/2022.

[10] Gatare Faustin yasobanuye ko yatangiye kujurira kuwa 08/7/2022, ikibihama ni uko urubanza rwahawe N0 PST RCA 00021/2022/TGI NYBE ariko akomeje kugerageza biranga kuko igarama ryari ryanze, ko yashyizemo igarama kuwa 13/7/2022 ari nabwo ikirego cyanditswe bigaragazwa n'ifoto yafashe uwo muni ndetse asanga aba bantu baburana ari bo babigizemo uruhare kuko bamaze guteza kashe mpuruza bihita byemera, asaba ko ikirego cye cyakwakirwa kuko impamvu yatinze kujurira ntabwo zamuturutseho kandi izi mpamvu zarangiriye kuwa 13/7/2022.

[11] Mu rubanza RCA 00023/2022/TGI/NYBE rwaciwe n'Urukiko Rwisumbuye rwa Nyamagabe kuwa 26/7/2022 rwemeje kutakira ubujurire bwa Gatare Faustin. Rwemeje ko urubanza RC 00099/2022/TB/KIB rwaciwe n'Urukiko rw'ibanze rwa Kibeho kuwa 05/7/2022 rugumanye agaciro karwo. Rwemeje ko Gatare Faustin yishyura Niyonzimana Jean Felix, Mukamana Louise, Gasana Gilbert na Minani Vedaste igihembo cy'avoka kingana na 500.000 FRW uko ari bane buri umwe agatwara Frw 125.000, akishyura Niyonzimana Jean Felix amafaranga 50.000 y'ikurikiranarubanza, akishyura Niyonzimana Jean Felix, Mukamana Louise, Gasana Gilbert na Minani Vedaste buri umwe amafaranga 10.000 FRW y'indishyi z'akababaro ku bwo kubashora mu manza z'amaherere, akishyura Munderere Alphonsine na Nyiransabimana Gaudence buri umwe Frw 50.000 y'ikurikiranarubanza, igiteranyo ni Frw 790.000.

[12] Mu gufata icyo cyemezo, urukiko rwashingiye ku kuba Gatare Faustin yaratangiye kujurira kuwa 08/7/2022, agahabwa numero ya PST RCA 00021/2022/TGI NYBE ariko ko yakomeje kugerageza bikanga kuko igarama ryari ryanze, ko yashyizemo igarama kuwa 13/7/2022 ari nabwo ikirego cyanditswe bigaragazwa n'ifoto yafashe uwo muni, byumvikana ko ubujurire bwe ku cyemezo cyafashwe ku kirego cyihutirwa bwakiriwe nyuma y'igihe giteganywa n'itegeko, byumvikana ko kuwa 05/7/2022 kugeza kuwa 13/7/2022 iminsi itatu y'akazi yari yararenze. Kuba Gatare Faustin yarajuriye impitagihe nyamara iki gikorwa yari yagitangiye kuwa 08/7/2022 ariko imbogamizi ikaba kuba kwishyura ingwate y'amagarama bitarakundaga, ibi nabyo bikorwa mu buryo bw'ikoranabuhanga, akaba yaragombaga kubimenyesha Umwanditsi mukuru w'urukiko, nyamara Gatare Faustin yabimenyesheje Umwanditsi wakira abagana urukiko atitaye na gato ku biteganywa n'iyi ngingo ya 20 CPCCSA kugeza ubwo kujurira kwe bikozwe impitagihe kuwa 13/7/2022 ari nabwo yandikiye Perezida w'Urukiko amumenyesha ko kwishyura igarama byabanye kwanga. Ubujurire bwatanzwe impitagihe nta mpamvu zikomeye zitunguranye kandi zidaturutse ku bushake bwe yagaragaje, nk'uko biteganywa n'itegeko bityo bukaba butakiriwe.

[13] Nyuma y'icibwa ry'urwo rubanza, Perezida w'Urukiko rw'Ikirenga yemeje ko urubanza RCA 00023/2022/TGI/NYBE rwaciwe n'urukiko rwisumbuye rwa Nyamagabe rurimo akarengane, rwoherezwa mu Rukiko Rukuru, urugereko rwa Nyanza kugira ngo abe ari rwo ruruburanisha, rwandikwa kuri N0 RS/INJUST/RC 00004/2023/HC/NYZ, ruburanishwa mu ruhame kuwa 15/5/2024, abaturanyi bose bitabye urukiko, Gatare Faustin yunganirwa na Me Twagiramungu Vincent, Niyonzima Jean Felix yiburanira naho abandi baregwa bunganirwa na Me Nshimiyimana Celestin.

[14] Mu myanzuro no mu miburanire ye, Gatare Faustin n'umwunganira bavuga ko yatanze ikirego mu bihe biteganywa n'amategeko ndetse ikoranabuhanga rimutengushye ku kubasha

kwishyura ingwate y'amagarama abimenyesha urukiko nk'uko amategeko abiteganyanya nyamara Urukiko rubirengaho rufata icyemezo. Bigaragara ko urukiko rutasesenguye ingingo ya 275 CPCCSA ivuga uko babara ibihe bibarwa mu minsi cyangwa mu masaha, umunsi igikorwa cyabereyeho ntubarwa. Urukiko ruzemeze ko iby'ingingo ya 20 CPCCSA iteganyanya Gatare Faustin yarabikoze system ntiyamuha billing number yishyuriraho ajya mu Rukiko narwo ruragerageza bikanga yabaha umwanzuro bakamubwira ko ategereza system ikongera ikajyaho agatanga ubujurire bwe kuko ntaho babishyira.

[15] Gatare Faustin n'umwunganira bavuga ko cyamunara yakozwe mu buryo budakurikije amategeko kubera ko itangazo rya cyamunara ryatanzwe n'umuhesha w'inkiko w'umwuga Me Niyonzima Jean Felix rigaragaza umutungo wa Gatare Faustin ugomba kugurishwa muri cyamunara, ubuso bwawo, agaciro kawo n'amatariki ya cyamunara, iyo cyamunara igakorwa mbere y'amatariki yavuzwe nyamara umutungo ukagurishwa ku giciro kiri muni cyane ya 75% by'agaciro kagaragajwe n'umugenagaciro kari mu itangazo, kuba cyamunara ku nshuro ya gatatu itarabaye nyamara ariko amategeko abiteganyanya ndetse akaba ari nabyo byari biteganyijwe mu itangazo rya cyamunara yavuzeho haruguru asanga ibi bihagije kugirango cyamunara yo ku itariki batazi kuko n'ubarangije urubanza ntayo yemeza yakoreyeho ku buryo budashidikanywaho dore ko mu nyandiko yemeza ubugure muri cyamunara avuga ko cyamunara yabaye kuwa 14/06/2022 naho mu nyandiko yerekeranye y'igabana ry'amafaranga yavuye muri cyamunara hakagaragazwa ko cyamunara yakozwe kuwa 15/06/2022 ubwabyo bikaba bigaragaza ko ibyakozwe byarimo guhuzagurika kuko hari ikindi kitari ugushyira mu bikorwa icyemezo cy'urukiko cyarimo gukorwa bityo n'amatariki bakayibeshyaho.

[16] Gatare Faustin n'umwunganira bavuga ko Urukiko rw'Ibanze rwirengagije nkana amategeko mu rubanza RC 00099/2022/TB/KIB kuko rwavuze ko amategeko y'ishinganisha n'itangaza rya cyamunara yubahirijwe kandi Umuhesha w'Inkiko yarayishe kuko atakurikije imihango igomba kubahirizwa mu kugurisha muri cyamunara. Umuhesha w'Inkiko ntiyamenyesheje nyir'umutungo Gatare imihango ya cyamunara muri ubu buryo, Umuhesha w'inkiko ntiyamenyesheje nyir'umutuno igenagaciro ry'umutungo we n'iryo yakoresheje bigaragara ko ririmo amakosa agaragarira buri wese kuko umutungo ufite ubuso bwa 19,478Sqm igiciro cy'ubutaka akaba ari 2700/Sqm byumvikane ko ubutaka ubwabwo udashyizemo agaciro k'ibiburiho bufite agaciro ka 52,590,600Rwf ariko babariye ku gaciro ka 10,700,000Rwf ntazi aho bakuye bityo bituma n'ingwate yacibwaga abapiganwa igabanuka n'igiciro cy'umutungo muri rusange gitashyirwa agaciro. Umuhesha w'Inkiko ntiyamenyesheje nyir'umutungo Gatare imihango ya cyamunara uko izagenda ku ikoranabuhanga rikoresheya mu kurangiza imanza (IECMS) kuko agomba guhuzwa n'iryo system mbere y'uko cyamunara itangira ariko nk'uko bigaragarazwa n'ibaruwa yo kuwa 02/06/2022, Umuhesha w'Inkiko ubwe yamenyesheje Gatare bigaragara ko yamusabye email ye akoresha muri system kuwa 06/06/2022 bigaragara ko cyamunara ku nshuro ya mbere (round 1) yari yararangiyeye ndetse na round ya 2 yaratangiyeye kuko cyamunara 1 yatangiye kuwa 27/05/2022 irangira kuwa 03/06/2022 saa 14h00 naho cyamunara round ya 2 itangira kuwa 05/06/2022.

[17] Gatare Faustin n'umwunganira bavuga ko imihango ya cyamunara atayimenyeshejwe kugira ngo ashobore gukoresha uburenganzira bwe yemererwa n'amategeko bwo kuba yashakaga umuguzi cyangwa kuba yahakana igiciro kuri round ya 1 n'ya 2. nk'uko biteganywa n'ingingo ya 4 y'Iteka rya Minisitiri ryerekeye irangizwa ry'inyandikomipesha N° 005/MOJ/AG/21 ryo kuwa 07/06/2021. Umuhesha w'Inkiko ntiyubahirije ingengabihe yitangiye ubwe mu itangazo rya

cyamunara mu buryo bukurikira : Cyamunara round ya 1 yatangiye kuwa 27/05/2022 yagombaga kurangira kuwa 03/06/2022 system igatangaza uwatsinze naho cyamunara ya 2 (round 2) igatangira kuwa 05/06/2022 ikarangira kuwa 12/06/2022 izi cyamunara ebyiri zibanza nyir'umutungo utezwa cyamunara n'uwishyurizwa bafite uburenganzira bwo kwanga igiciro cyatanzwe mu gihe kitagejeje kuri 75% by'agaciro k'umutungo nk'uko biteganywa n'iteka ryavuzwe haruguru ndetse n'ingingo ya 255 al.2 ya CPCCSA.

[18] Gatere Faustin n'umwunganira bavugaga ko Umuhesha w'Inkiko avugaga ko uwatsindiye cyamunara yayitsindiye ku nshuro ya 2 tariki ya 14/06/2022 kandi bigaragara ku ngengabihe ye ko ahubwo ariho cyamunara round ya 3 ari nayo ya nyuma ariho izaba itangiye yagombaga gusozwa tariki ya 21/06/2022 bigatera kwibaza niba cyamunara yarakoreshejwe uburyo bw'ikoranabuhanga cyangwa niba yarakoreshejwe uburyo busanzwe kuko uburyo system yubatswe ntishobora gutangaza uwatsinze n'imyirondoro ye ku munsu wa mbere wa cyamunara wa round ya 3 nk'uko amatangazo abigaragaza. Ikindi icyo urebye inyandiko yemeza ubugure muri cyamunara ubona yarakozwe n'umuhesha w'Inkiko ubwe kandi ubundi ikorwa na system icyo Huissier akora ni ukuyisinyira gusa. Ubwe Me Niyonzima Jean Felix mu magambo ye yivugira ko cyamunara yabaye tariki ya 14/06/2022 ku nshuro ya 3 aho yagize ati ".....inyandiko yemeza ubugure n'itangazo rya cyamunara bigaragara ko cyamunara ku nshuro ya gatatu yabaye kuwa 14/06/2022 bivuguruzwa ibivugwa na Gatere Faustin. System irangirizwamo imanza nayo igaragazako cyamunara ku nshuro ya gatatu yabaye kuwa 14/06/2022"..... nyamara ibi avugaga ubwe bitandukanye n'itangazo rya cyamunara yatanze kuko harimo ko cyamunara ku nshuro ya 3 ari nayo ya nyuma izatangira tariki ya 14/06/2022 ikarangira tariki ya 21/06/2022 ari nabyo byagombye kuba ari ukuri kuko aribwo buryo system iteganywa.

[19] Niyonzima Jean Felix avugaga ko nta karengane kabaye mu mikurikira y'urubanza RCA 00023/2022/TGI/NYBE kubera ko urubanza Gatere Faustin yajuriraga muri TGI Nyamagabe arirwo RC 00099/2022/TB/KIB rwaraciye kuwa 05/07/2022 mu gihe Gatere Faustin ajurira kuwa 13/07/2022 hashingiwe ku ngingo ya 188 al.2 na 260 al.5 z'itegeko N° 22/2018 ryo kuwa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbenezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi ndetse hakanashyirwa ku mirongo yatanzwe mu manza zaciye n'Urukiko rw'Ubujurire mu kwezi kwa 9/2022 kuwa kuri page 27 kugeza 29 ishyizwe kuri attachment aha, aho Urukiko rw'Ubujurire(CA) rwasobanuyeko mu kubara iminsi itatu (3jrs) yo kujurira ikirego cyihutirwa, umunsu igikora cyakoreweho ntukurwamo, ahubwo uwo munsu nawo ubarirwamo, bigaragara ko itariki yo kuwa 05/07/2022 urubanza RC 00099/2022/TB/KIB rwaciriweho hari kuwa mbere nayo ibarwa ukaba umunsu wa mbere, kuwa 06/07/2022 hari kuwa kabiri ukaba umunsu wa kabiri, kuwa 07/07/2022 hari kuwa gatatu ukaba umunsu wa gatatu, ibi bivuze ko Gatere Faustin yagombaga kujurira bitarenze kuwa 07/07/2022 bityo rero hashingiwe ku mvugo ze n'ibimenyetso ubwe yitangiye byagarutsewe mu gika kibanziriza iki ko yatangiye kujurira kuwa 08/07/2022 bigaragara ko nta karengane kari mu rubanza RCA 00023/2022/TGI/NYBE kuko ubujurire bwa Gatere Faustin yabukozwe impitagihe nk'uko Urukiko Rwisumbuye rwa Nyamagabe rwabyemeje muri uru rubanza RCA 00023/2022/TGI/NYBE dore ko impamvu Gatere Faustin yavugaga ko system itamuhaga Billing Number yo kwishyuriraho ingwate y'amagarama kuwa 08/07/2022 ubwo we yatangiye gutegura ubujurire mu rwego rwo gusobanura impamvu ubujurire bwe yabutanze kuwa 13/07/2022 nk'uko system y'uru rubanza RCA 00023/2022/TGI/NYBE ibigaragaza ariko ibi nabyo ntibikuraho ko n'itariki nawe ubwe yivugira yo kuwa 08/07/2022 yatangiye guteguraho ubujurire bwe nabwo yabikoraga igihe cyo kujurira cyaramurangiranye.

[20] Niyonzima Jean Felix avuga ko cyamunara yakozwe mu buryo bukurikije amategeko kuko itariki yo kuwa 15/06/2022 yavuzwe mu nyandiko y'igabana ry'amafaranga yavuye muri cyamunara ni ukwibeshya kwabayeho kw'imyandikire dore ko inyandiko yemeza ubugure n'itangazo rya cyamunara bigaragaza ko cyamunara ku nshuro ya gatatu yabaye kuwa 14/06/2022 bivuguruzwa ibivugwa na Gatare Faustin. System irangirizwamo imanza nayo igaragazako cyamunara ku nshuro ya gatatu yabaye kuwa 14/06/2022. Ikindi ni uko iby'iyi tariki ya 15/06/2022 ntabwo byigeze biburanishwaho muri TB Kibeho no muri TGI/Nyamagabe, bisobanuyeko bidakwiye kuvugwa muri uru rubanza ruri HC Nyanza n'ubwo nta n'ishingiro bifite nk'uko bimaze kugaragazwa.

[21] Mukamana Louise, Munderere Alphonse, Minani Vedaste, Nyiransabimana Gaudence na Gasana Gilbert biregura bavuga ko Gatare Faustin yashobora gukoreshya uburyo buteganywa n'ingingo ya 20 ya CPCCSA ivuga ko ikirego gishobora gutangwa urega ashidikirije urukiko imyanzuro iregera urukiko bitangiwe uburenganzira mu nyandiko n'umwanditsi mukuru w'urukiko ruregerwa. icyo gihe, urega ategetswe koherereza urukiko kopi y'iyi myanzuro akoresheje umurongo wa interneti usanzwe, ikibazo cy'ikoranabuhanga cyakemuka, akabyuzuzwa nk'uko biteganywa mu gika cya mbere cy'iyi ngingo. Barasaba ko inyandiko zigaragazwa na Gatare Faustin zitafatwa nk'imenyetso kuko nta kigaragaza ko zavuye muri system ya iecms kuko iyo umuntu azirebye asanga zanditswe muri Microsoft word bishatse kuvuga ko yaziyandikiye ashaka kugirango atagongwa n'ibihe byo kujurira impamvu bashingiraho bavuga ko izi nyandiko zitavuye muri system ya IECMS nuko na link cyangwa source du document yaba hajuru cyangwa hasi bityo rero bagasaba ko zitashingirwaho.

[22] Muri uru rubanza, ibibazo bigiye gusuzumwa ni ibi bikurikira:

- Kumenya niba ubujurire bwa Gatare Faustin bwaragombaga kwakirwa kubera ko hari impamvu zitunguranye kandi zidaturutse ku bushake bwe zatumye ajurira akerewe.
- Kumenya niba cyamunara yakozwe kuwa 15/06/2022 yateshwa agaciro kuko itubahirije amategeko.
- Kumenya niba hari indishyi zatangwa muri uru rubanza.

II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

- **Kumenya niba ubujurire bwa Gatare Faustin bwaragombaga kwakirwa kubera ko hari impamvu zitunguranye kandi zidaturutse ku bushake bwe zatumye ajurira akerewe.**

[23] Gatare Faustin n'umwunganira bavuga ko yatanze ikirego mu bihe biteganywa n'amategeko ndetse ikoranabuhanga rimutengushye ku kubasha kwishyura ingwate y'amagarama abimenyeshya urukiko nk'uko amategeko abiteganywa nyamara Urukiko rubirengaho rufata icyemezo. Bigaragara ko urukiko rutasesenguye ingingo ya 275 CPCCSA ivuga uko babara ibihe bibarwa mu minsi cyangwa mu masaha, umunsi igikorwa cyabereyeho ntubarwa. Urukiko ruzemeze ko iby'ingingo ya 20 CPCCSA iteganywa Gatare Faustin yarabikoze system ntiyamuha billing number yishyuriraho ajya mu Rukiko narwo ruragerageza bikanga yabaha umwanzuro bakamubwira ko ategereza system ikongera ikajyaho agatanga ubujurire bwe kuko ntaho babishyira.

[24] Niyonzima Jean Felix avuga ko nta karengane kabaye mu mikirize y'urubanza RCA 00023/2022/TGI/NYBE kubera ko urubanza Gatare Faustin yajuriraga muri TGI Nyamagabe arirwo RC 00099/2022/TB/KIB rwaraciwe kuwa 05/07/2022 mu gihe Gatare Faustin ajurira kuwa 13/07/2022 hashingiwe ku ngingo ya 188 al.2 na 260 al.5 z'itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu ndetse hakanashingirwa ku mirongo yatanzwe mu manza zaciwe n'Urukiko rw'Ubujurire mu kwezi kwa 9/2022 kuva kuri page 27 kugeza 29 ishyizwe kuri attachment aha, aho Urukiko rw'Ubujurire(CA) rwasobanuyeko mu kubara iminsi itatu (3jrs) yo kujurira ikirego cyihutirwa, umunsi igikorwa cyakoreweho ntukurwamo, ahubwo uwo munsi nawo ubarirwamo, bigaragara ko itariki yo kuwa 05/07/2022 urubanza RC 00099/2022/TB/KIB rwaciriweho hari kuwa mbere nayo ibarwa ukaba umunsi wa mbere, kuwa 06/07/2022 hari kuwa kabiri ukaba umunsi wa kabiri, kuwa 07/07/2022 hari kuwa gatatu ukaba umunsi wa gatatu, ibi bivuze ko Gatare Faustin yagombaga kujurira bitarenze kuwa 07/07/2022 bityo rero hashingiwe ku mvugo ze n'ibimenyetso ubwe yitangiye byagarutseweho mu gika kibanziriza iki ko yatangiye kujurira kuwa 08/07/2022 bigaragara ko nta karengane kari mu rubanza RCA 00023/2022/TGI/NYBE kuko ubujurire bwa Gatare Faustin yabukoze impitagihe nk'uko Urukiko Rwisumbuye rwa Nyamagabe rwabyemeje muri uru rubanza RCA 00023/2022/TGI/NYBE dore ko impamvu Gatare Faustin yavugaga ko system itamuhaga Billing Number yo kwishyuriraho ingwate y'amagarama kuwa 08/07/2022 ubwo we yatangiraga gutegura ubujurire mu rwego rwo gusobanura impamvu ubujurire bwe yabutanze kuwa 13/07/2022 nk'uko system y'uru rubanza RCA 00023/2022/TGI/NYBE ibigaragaza ariko ibi nabyo ntibikuraho ko n'itariki nawe ubwe yivugira yo kuwa 08/07/2022 yatangiye guteguraho ubujurire bwe nabwo yabikoraga igihe cyo kujurira cyaramurangiranye.

[25] Mukamana Louise, Munderere Alphonse, Minani Vedaste, Nyiransabimana Gaudence na Gasana Gilbert biregura bavuga ko Gatare Faustin yashoboraga gukoresha uburyo buteganywa n'ingingo ya 20 ya CPCSA ivuga ko ikirego gishobora gutangwa urega ashidikirije urukiko imyanzuro iregera urukiko bitangiwe uburenganzira mu nyandiko n'umwanditsi mukuru w'urukiko ruregerwa. icyo gihe, urega ategetswe koherereza urukiko kopi y'iyi myanzuro akoresheje umurongo wa interneti usanzwe, ikibazo cy'ikoranabuhanga cyakemuka, akabyuzuzwa nk'uko biteganywa mu gika cya mbere cy'iyi ngingo. Barasaba ko inyandiko zigaragazwa na Gatare Faustin zitafatwa nk'imenyetso kuko nta kigaragaza ko zavuye muri system ya iecms kuko iyo umuntu azirebye asanga zanditswe muri Microsoft word bishatse kuvuga ko yaziyandikiye ashaka kugirango atagongwa n'ibihe byo kujurira impamvu bashingiraho bavuga ko izi nyandiko zitavuye muri system ya IECMS nuko na link cyangwa source du document yaba hajuru cyangwa hasi bityo rero bagasaba ko zitashingirwaho.

UKO URUKIKO RUBIBONA

[26] Impaka ziri muri uru rubanza zishingiye kumenya niba ubujurire bwa Gatare Faustin bwagombaga kwakirwa kubera ko hari impamvu zitunguranye kandi zidaturutse ku bushake bwe zatumye ajurira akerewe bigaragara ko system ya iecms itakoraga.

[27] Kuri iki kibazo, ingingo ya 20 y'itegeko N° 22/2018 ryo ku wa 29/04/2018 Itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu ivuga ko Urukiko ruregerwa hakoreshejwe imyanzuro iregera urukiko

hifashishijwe uburyo bw'ikoranabuhanga bwabigenewe bikozwe n'urega ubwe, umwunganira cyangwa umuhagarariye. icyakora, iyo bidashoboka, ikirego gishobora gutangwa urega ashidikirije urukiko imyanzuro iregera urukiko bitangiwe uburenganzira mu nyandiko n'umwanditsi mukuru w'urukiko ruregerwa. icyo gihe, urega ategetswe koherereza urukiko kopi y'iyi myanzuro akoresheje umurongo wa interineti usanzwe, ikibazo cy'ikoranabuhanga cyakemuka, akabyuzuzwa nk'uko biteganywa mu gika cya mbere cy'iyi ngingo.

[28] Ingingo ya 275 y'itegeko rimaze kuvugwa haruguru iteganya ko ku bihe bibarwa mu minsi cyangwa mu masaha, bibarwa umunsi ku munsi, n'isaha ku isaha hakurikijwe igihe bimara kandi umunsi igikorwa cyakoreweho ntubarwamo, ahubwo habarwa umunsi wa nyuma kigomba kurangiriraho.

[29] Ingingo ya 278 y'itegeko rimaze kuvugwa haruguru ivuga ko igihe umuburanyi yakererewe kwiyambaza inzira z'ubujurire bitewe n'impamvu zikomeye zitunguranye kandi zidaturutse ku bushake bwe, igihe cyo kujurira kirongerwa kugeza igihe izo mpamvu zirangiriyeye.

[30] Izi ngingo zimaze kuvugwa haruguru zikemura ibibazo bitandukanye bijyanye no gutanga ikirego, igihe umuburanyi yakerewe kujurira no kubara ibihe bibarwa mu minsi.

[31] Urukiko rurasanga Gatare Faustin yajuriye akereye kubera ko system ya iecms itakoraga akaba yaratangiyeye kujurira tariki ya 08/07/2022 ariko system ya iecms yongera gukora kuwa 13/07/2022 aribwo yatanze ubwo bujurire akaba yarajuriraga urubanza rwaciye n'urukiko rw'ibanze rwa Kibeho tariki ya 05/07/2022.

[32] Urukiko rurasanga hari ibimenyetso bigaragaza ko system itakoraga hari ibaruwa yandikiye Perezida w'urukiko rwisumbuye rwa Nyamagabe amusaba ko ikirego cye cyakwakirwa yo kuwa 13/7/2023, hari inyandiko yakozwe na Ndizeye M. Patrick ufasha abantu gutanga ibirego igaragaza ko ubwo yafashaga Gatare Faustin gutanga ikirego ageze aho bashyira igarama system ya iecms yarangaga. Ikirego yagitanze tariki ya 8/7/2022 yahise yandikira urukiko muri help desk bigaragara muri system. Ikindi hari ifoto yafashwe igaragaza ko system itakoraga.

[33] Urukiko rurasanga kuba Gatare Faustin yararengeje ibihe byo kujurira kubera ko system ya iecms itarimo gukora kandi akabimenyeshya urukiko ni impamvu idasanzwe kandi itamuturutseho yari gutuma ikirego cye cyakirwa kigasuzumwa.

• **Kumenya niba cyamunara yakozwe kuwa 15/06/2022 yateshwa agaciro kuko itubahirije amategeko.**

[34] Gatare Faustin n'umwunganira bavugaga ko cyamunara yakozwe mu buryo budakurikije amategeko kubera ko itangazo rya cyamunara ryatanze n'umuhesha w'inkiko w'umwuga Me Niyonzima Jean Felix rigaragaza umutungo wa Gatare Faustin ugomba kugurishwa muri cyamunara, ubuso bwawo, agaciro kawo n'amatariki ya cyamunara, iyo cyamunara igakorwa mbere y'amatariki yavuzwe nyamara umutungo ukagurishwa ku giciro kiri munsi cyane ya 75% by'agaciro kagaragajwe n'umugenagaciro kari mu itangazo, kuba cyamunara ku nshuro ya gatatu itarabaye nyamara ariko amategeko abiteganyaga ndetse akaba ari nabyo byari biteganyijwe mu itangazo rya cyamunara yavuzeho haruguru asanga ibi bihagije kugirango cyamunara yo ku itariki batazi kuko n'ubarangije urubanza ntayo yemeza yakoreyeho ku buryo budashidikanywaho dore ko mu nyandiko yemeza ubugure muri cyamunara avuga ko cyamunara yabaye kuwa 14/06/2022

naho mu nyandiko yerekeranye y'igabana ry'amafaranga yavuye muri cyamunara hakagaragazwa ko cyamunara yakozwe kuwa 15/06/2022 ubwabyo bikaba bigaragaza ko ibyakozwe byarimo guhuzagurika kuko hari ikindi kitari ugushyira mu bikorwa icyemezo cy'urukiko cyarimo gukorwa bityo n'amatariki bakayibeshyaho.

[35] Gatare Faustin n'umwunganira bavuga ko Urukiko rw'Ibanze rwirengagije nkana amategeko mu rubanza RC 00099/2022/TB/KIB kuko rwavuze ko amategeko y'ishinganisha n'itangaza rya cyamunara yubahirijwe kandi Umuhesha w'Inkiko yarayishe kuko atakurikije imihango igomba kubahirizwa mu kugurisha muri cyamunara. Umuhesha w'Inkiko ntiyamenyesheje nyir'umutungo Gatare imihango ya cyamunara muri ubu buryo, Umuhesha w'inkiko ntiyamenyesheje nyir'umutuno igenagaciro ry'umutungo we n'iryo yakoresheje bigaragara ko ririmo amakosa agaragarira buri wese kuko umutungo ufite ubuso bwa 19,478Sqm igiciro cy'ubutaka akaba ari 2700/Sqm byumvikane ko ubutaka ubwabwo udashyizemo agaciro k'ibiburiho bufite agaciro ka 52,590,600Rwf ariko babariye ku gaciro ka 10,700,000Rwf ntazi aho bakuye bityo bituma n'ingwate yacibwaga abapiganwa igabanuka n'igiciro cy'umutungo muri rusange giteshwa agaciro. Umuhesha w'Inkiko ntiyamenyesheje nyir'umutungo Gatare imihango ya cyamunara uko izagenda ku ikoranabuhanga rikoreshe mu kurangiza imanza (IECMS) kuko agomba guhuzwa n'iy system mbere y'uko cyamanara itangira ariko nk'uko bigaragarazwa n'ibaruwa yo kuwa 02/06/2022, Umuhesha w'Inkiko ubwe yamenyesheje Gatare bigaragara ko yamusabye email ye akoresha muri system kuwa 06/06/2022 bigaragara ko cyamunara ku nshuro ya mbere (round 1) yari yararangiyeye ndetse na round ya 2 yaratangiyeye kuko cyamunara 1 yatangiye kuwa 27/05/2022 irangira kuwa 03/06/2022 saa 14h00 naho cyamunara round ya 2 itangira kuwa 05/06/2022.

[36] Gatare Faustin n'umwunganira bavuga ko imihango ya cyamunara atayimenyeshejwe kugira ngo ashobore gukoresha uburenganzira bwe yemererwa n'amategeko bwo kuba yashaka umuguzi cyangwa kuba yahakana igiciro kuri round ya 1 n'ya 2. nk'uko biteganywa n'ingingo ya 4 y'Iteka rya Minisitiri ryerekeye irangizwa ry'inyandikompesha N° 005/MOJ/AG/21 ryo kuwa 07/06/2021. Umuhesha w'Inkiko ntiyubahirije ingengabihe yitangiye ubwe mu itangazo rya cyamunara mu buryo bukurikira : Cyamunara round ya 1 yatangiye kuwa 27/05/2022 yagombaga kurangira kuwa 03/06/2022 system igatangaza uwatsinze naho cyamunara ya 2 (round 2) igatangira kuwa 05/06/2022 ikarangira kuwa 12/06/2022 izi cyamunara ebyiri zibanza nyir'umutungo utezwa cyamunara n'uwishyurizwa bafite uburenganzira bwo kwanga igiciro cyatanzwe mu gihe kitagejeje kuri 75% by'agaciro k'umutungo nk'uko biteganywa n'iteka ryavuzwe haruguru ndetse n'ingingo ya 255 al.2 ya CPCCSA.

[37] Gatare Faustin n'umwunganira bavuga ko Umuhesha w'Inkiko avuga ko uwatsindiye cyamunara yayitsindiye ku nshuro ya 2 tariki ya 14/06/2022 kandi bigaragara ku ngengabihe ye ko ahubwo ariho cyamunara round ya 3 ari nayo ya nyuma ariho izaba itangiye yagombaga gusozwa tariki ya 21/06/2022 bigatera kwibaza niba cyamunara yarakoreshejwe uburyo bw'ikoranabuhanga cyangwa niba yarakoreshejwe uburyo busanzwe kuko uburyo system yubatse ntishobora gutangaza uwatsinze n'imyirondoro ye ku muni wa mbere wa cyamunara wa round ya 3 nk'uko amatangazo abigaragaza. Ikindi iyo urebye inyandiko yemeza ubugure muri cyamunara ubona yarakozwe n'umuhesha w'Inkiko ubwe kandi ubundi ikorwa na system icyo Huissier akora ni ukuyisinyaza gusa. Ubwe Me Niyonzima Jean Felix mu magambo ye yivugira ko cyamunara yabaye tariki ya 14/06/2022 ku nshuro ya 3 aho yagize ati ".....inyandiko yemeza ubugure n'itangazo rya cyamunara bigaragaza ko cyamunara ku nshuro ya gatatu yabaye kuwa 14/06/2022

bivuguruza ibivugwa na Gatare Faustin. System irangirizwamo imanza nayo igaragazako cyamunara ku ncuro ya gatatu yabaye kuwa 14/06/2022"..... nyamara ibi avuga ubwe bitandukanye n'itangazo rya cyamunara yatanze kuko harimo ko cyamunara ku nshuro ya 3 ari nayo ya nyuma izatangira tariki ya 14/06/2022 ikakarangira tariki ya 21/06/2022 ari nabyo byagombye kuba ari ukuri kuko aribwo buryo system iteganya.

[38] Niyonzima Jean Felix avuga ko cyamunara yakozwe mu buryo bukurikije amategeko kuko itariki yo kuwa 15/06/2022 yavuzwe mu nyandiko y'igabana ry'amafaranga yavuye muri cyamunara ni ukwibeshya kwabayeho kw'imyandikire dore ko inyandiko yemeza ubugure n'itangazo rya cyamunara bigaragaza ko cyamunara ku nshuro ya gatatu yabaye kuwa 14/06/2022 bivuguruza ibivugwa na Gatare Faustin. System irangirizwamo imanza nayo igaragazako cyamunara ku ncuro ya gatatu yabaye kuwa 14/06/2022. Ikindi ni uko iby'iyi tariki ya 15/06/2022 ntabwo byigeze biburanishwaho muri TB Kibeho no muri TGI/Nyamagabe, bisobanuye ko bidakwiye kuvugwa muri uru rubanza ruri HC Nyanza n'ubwo nta n'ishingiro bifite nk'uko bimaze kugaragazwa.

UKO URUKIKO RUBIBONA

[39] Impaka ziri muri uru rubanza zishingiye kumenya niba cyamunara yakozwe kuwa 15/06/2022 yateshwa agaciro kuko itubahirije amategeko.

[40] Kuri iki kibazo, ingingo ya 253 y'itegeko N0 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu ivuga ko Mu gihe cy'amasaha mirongo ine n'umunani (48) kuva Umuhesha w'Inkiko yemeje igiciro cy'umutungo ugomba kugurishwa, akora itangazo rya cyamunara rigaragaza umutungo ugomba gutezwa cyamunara, umwirondoro wa nyirawo, umwirondoro w'ugomba kwishyurwa, impamvu ya cyamunara, aho umutungo uherereye, itariki cyamunara izaberaho n'isaha izatangiriraho. Itangazo rya cyamunara rishyirwa ku rubuga rw'imanza zirangizwa, hariho ifoto y'umutungo ugurishwa n'icyemezo gihamya ko nyir'umutungo. Rigomba kandi gushyikirizwa nyir'umutungo ugurishwa, ugomba kwishyurwa, umunyamabanga nshingwabikorwa w'Akagari k'aho umutungo uherereye, rikanatangazwa kuri Radio cyangwa Televiziyo n'ikinyamakuru cyandika bikorera mu Rwanda. Iyo ari umutungo utimukanwa itangazo rya cyamunara rimanikwa ku Biro by'Akagali k'aho uwo mutungo uherereye. Ibintu byafatiriwe ntibishobora kugurishwa muri cyamunara mbere y'iminsi itanu (5) cyamunara itangajwe.

[41] Ingingo ya 255 al. 2 y'itegeko rimaze kuvugwa haruguru ivuga ko Uwafatiriye cyangwa uwafatiriwe bafite uburenganzira bwo kwanga ibiciro byatanze bitarenze inshuro ebyiri (2), mu gihe muri ibyo biciro nta na kimwe kigejeje ku gaciro k'ijanisha rya mirongo irindwi na gatanu ku ijana (75%) by'agaciro fatizo kagenwe. Ku nshuro ya gatatu (3), umutungo utezwa cyamunara wegukanwa n'uwatanze igiciro kinini.

[42] Urukiko rurasanga muri uru rubanza umuhesha w'inkiko yatanze itangazo rya cyamunara rigaragaza ko gupiganwa mu buryo bw'ikoranabuhanga bizatangira tariki ya 27/05/2022 saa 14h00. Ikoranabuhanga rizatangaza ku nshuro ya mbere igiciro gisumba ibindi kuwa 03/06/2022 saa 14h00. Nihatagira uwegukana umutungo ugurishwa ipiganwa mu cyamunara ku nshuro ya kabiri rizasubukurwa kuwa 05/06/2022 ikoranabuhanga rizatangaza igiciro gisumba ibindi kuwa 12/06/2022 saa 14h00. Nihatagira uwegukana umutungo ugurishwa ipiganwa mu cyamunara ku

nshuro ya gatatu ari nayo ya nyuma rizasubukurwa kuwa 14/06/2022 ikoranabuhanga rizatangaza igiciro gisumba ibindi amazina y'abapiganwe n'ibiciro byabo kuwa 21/06/2022 saa 14h00. Maze umutungo ugurishwa wegukanwe n'uwatanze igiciro kinini.

[43] Urukiko rurasanga cyamanara yakozwe n'umuhesha w'inkiko yarakurikije amategeko uretse ko hari aho umuhesha w'inkiko yajyaga yibeshya kwandika amatariki ariko wareba mu zindi nyandiko ukabona bikoze neza. Urugero ni igihe cyamunara yabereye hamwe yanditse ko yabaye tariki 15/6/2022 ariko inyandiko y'ukuri wareberaho igihe cyamunara yabereye ni inyandiko yemeza ubugure muri cyamunara yakozwe kuwa 15/6/2022 igaragaza ko cyamunara yabaye kuwa 14/6/2022, uwo mutungo ukegukanwa na UWIZEYIMANA Celestin ku mafaranga 2.502.000 FRW. Kuba hari aho umuhesha w'inkiko yagiye yibeshya akandika ko cyamunara yabaye kuwa 15/6/2022 bigaragara ko ari ukwibeshya kandi ibi ntabwo ari impamvu yatuma cyamunara iteshwa agaciro.

[44] Urukiko rurasanga ibijyanye no kuba Gatare Faustin ataramenyeshyewe ibijyanye na cyamunara, bigaragara ko Gatare Faustin yagiye amenyeshwa cyamunara mu buryo bukurikije amategeko ariko akanga gusinya kuri izo nyandiko nk'uko bigaragazwa n'inyandiko zatanzwe muri system ndetse yasabwe Email akoresha muri IECM kugirango ashobore guhuzwa na system ya cyamunara ariko ntiyabikora.

[45] Ku bijyanye n'uko umutungo wagurishijwe agaciro gato, urukiko rurasanga Gatare Faustin yari afite inshingano yo kwanga ibiciro byatanzwe, nyamara kuba yaranze guhuzwa na system ya cyamunara byatumye atamenya amukuru ajyanye na cyamunara yivutsa uburenganzira yari afite bwo kwanga ibiciro.

[46] Urukiko rurasanga hashingiwe ku mpamvu zimaze kuvugwa haruguru, cyamunara yabaye kuwa 14/6/2022 yakurikije amategeko.

- **Kumenya niba hari indishyi zatangwa muri uru rubanza.**

[47] Niyonzima Jean Felix asaba Urukiko Rukuru Urugereko rwa Nyanza gutegeka Gatare Faustin kumusubiza igihembo cy'avoka kingana na 1.000.000frw yishyuwe uwateguye imyanzuro yo kwiregura uzaburana na runo rubanza n'amafaranga y'ikurikirana rubanza angana na 500.000frw akubiyemo gusikana, gufotoza, ku imprima, itumanaho n'ingendo n'indishyi z'akababaro zingana na 2.000.000frw.

[48] Mukamana Louise arasaba urukiko gutegeka ko Gatare Faustin yabasubiza amafaranga y'ikurikirarubanza angana na 1.100.000 FRW bakoresheje muri uru rubanza ni ukuvuga igihembo cy'avoka kuri buri umwe kingana 500,000 Frw hamwe n'amafaranga angana n'ibihumbi ijana 100,000 kuri buri umwe hakiyongeraho indishyi z'akababaro no gushorwa mu manza mu buryo bw'amaherere zingana na 500,000 nukuvuga ibihumbi magana atanu kuri buri wese byose bakabisaba hashingiwe ku ngingo ya 111 CPCCSA.

[49] Minani Vedaste arasaba urukiko gutegeka ko Gatare Faustin yabasubiza amafaranga y'ikurikirarubanza angana na 1.100.000 Frw bakoresheje muri uru rubanza nukuvuga igihembo cy'avoka kuri buri umwe kingana 500,000 Frws hamwe n'amafaranga angana n'ibihumbi ijana 100,000 kuri buri umwe hakiyongeraho indishyi z'akababaro no gushorwa mu manza mu buryo

bw'amaherere zingana na 500,000 nukuvuga ibihumbi magana atanu kuri buri wese byose bakabisaba hashingiwe ku ngingo ya 111 CPCCSA.

[50] Gaudence Nyiransabimana arasaba urukiko gutegeka ko Gatare Faustin yabasubiza amafaranga y'ikurikirubanza angana na 1.100,000 Frw bakoresheje muri uru rubanza nukuvuga igihembo cy'avoka kuri buri umwe kingana 500,000 Frw hamwe n'amafaranga angana n'ibihumbi ijana 100,000 kuri buri umwe hakiyongeraho indishyi z'akababaro no gushorwa mu manza mu buryo bw'amaherere zingana na 500,000 nukuvuga ibihumbi magana atanu kuri buri wese byose bakabisaba hashingiwe ku ngingo ya 111 CPCCSA.

[51] Munderere Aphonsine arasaba urukiko gutegeka ko Gatare Faustin yabasubiza amafaranga y'ikurikirubanza angana na 1.100,000 Frw bakoresheje muri uru rubanza nukuvuga igihembo cy'avoka kuri buri umwe kingana 500,000 Frws hamwe n'amafaranga angana n'ibihumbi ijana 100,000 kuri buri umwe hakiyongeraho indishyi zakababaro no gushorwa mu manza mu buryo bw'amaherere zingana na 500,000 nukuvuga ibihumbi Magana atanu kuri buri wese byose bakabisaba hashingiwe ku ngingo ya 111 CPCCSA.

[52] Gasana Gilbert arasaba urukiko gutegeka ko Gatare Faustin yabasubiza amafaranga y'ikurikirubanza angana na 1.100,000 Frw bakoresheje muri uru rubanza nukuvuga igihembo cy'avoka kuri buri umwe kingana 500,000 Frw hamwe n'amafaranga angana n'ibihumbi ijana 100,000 kuri buri umwe hakiyongeraho indishyi zakababaro no gushorwa mu manza mu buryo bw'amaherere zingana na 500,000 nukuvuga ibihumbi magana atanu kuri buri wese byose bakabisaba hashingiwe ku ngingo ya 111 CPCCSA.

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[53] Ingingo ya 111 y'itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezambano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi ivuga ko ikirego cy'amafaranga y'ikurikiranarubanza ni ikirego gishamikira ku kirego cy'iremezo kigamije kwishyuza ibyakoreshejwe mu rubanza. Ikirego cy'amafaranga y'ikurikiranarubanza kiburanishirizwa rimwe n'ikirego cy'iremezo. Gishobora kandi kwakirwa kikanaburanishwa n'iyo ikirego cy'iremezo cyaba kitakiriwe.

[54] Ingingo ya 26 y'amabwiriza no 01/2014 agenga ibihembo mbonera by'abavoka iteganya ko mu kwishyuza imyenda irimo impaka, avoka w'urega wateguye dosiye n'inyandiko ashobora gusaba igihembo fatizo kiri hagati y'amafaranga 500.000 frw n'amafaranga 5.000.000, cyongerwaho iyo hari imyenda yagarujwe na we ubwe cyangwa n'intumwa ye, igihembo cy'inyongera cyo kwishyuza, bikabarwa hakurikijwe ijanisha riteganywa mu gace ka II k'ingingo ya 23.

[55] Urukiko rurasanga Nyiransabimana Gaudence, Minani Védaste, Mukamana Louise, Gasana Gilbert na Munderere Alphonsine baburanye uru urubanza bunganiwe bityo Gatare Faustin akaba agomba kubaha igihembo cy'avoka kingana n'ibihumbi magana atanu (500 000 FRW) kuri bose.

[56] Kubijyanye n'indishyi zisabwa na Niyonzima Jean Felix, urukiko rurasanga mu bushishozi bw'urukiko yahabwa amafaranga y'ikurikiranarubanza angana n'ibihumbi ijana (100 000 FRW) kuko izindi ndishyi asaba atazitangira ibimenyetso.

III.ICYEMEZO CY'URUKIKO

[57] Rwemeje ko ikirego cyo gusubirishamo urubanza RCA 00023/2022/TGI/NYBE ku mpamvu z'akarengane cyatanzwe na Gatare Faustin nta shingiro gifite;

[58] Rwemeje ko imikirize y'urubanza RCA 00023/2022/TGI/NYBE rwaciwe n'Urukiko Rwisumbuye rwa Nyamagabe idahindutse kuri byose.

[59] Rutegetse Gatare Faustin guha Nyiransabimana Gaudence, Minani Védaste, Mukamana Louise, Gasana Gilbert na Munderere Alphonsine igihembo cy'avoka kingana n'ibihumbi magana atanu (500.000 FRW) kuri bose no guha Niyonzima Jean Felix amafaranga y'ikurikiranarubanza angana n'ibihumbi ijana (100.000 FRW).

[60]. Rutegetse ko amagarama y'urubanza aherera ku isanduku ya Leta.