UBUSHINJACYAHA vs RUTUNGA

[Rwanda URUKIKO RUKURU/HCCIC – RP/GEN 00011/2021/HC/HCCIC (Muhima P.J. Karangwa na Nshimiyimana J.) 31 Nyakanga 2024]

Amategeko yerekeye imiburanishirize y'imanza nshinjabyaha – Ikurikiranacyaha – Icyaha cya jenoside – Kuba uregwa ataravuzwe mu zindi manza atabayemo umuburanyi (imanza zaciwe n'Inkiko Gacaca n'izindi manza zaciwe n'inkiko zisanzwe) ntibivuzeko atakurikiranwa ku cyaha cya jenoside kubera ko ataregwaga muri izo manza kandi ko iyo hasuzumwa uruhare rw'uregwa ikirebwa ni ibikorwa yakoze ku giti cye ndetse n'ibimenyetso byatanzwe.

Amategeko yerekeye imiburanishirize y'imanza nshinjabyaha – Ikurikiranacyaha – Icyaha cya jenoside – Nta cyabuza ko umuntu akurikiranwaho icyaha cya Jenoside hashingiwe ku mategeko yagiyeho nyuma kubera ko icyo cyaha cyafatwaga nk'icyaha mu muco mpuzamahanga ibihugu byose bigomba kubahiriza (jus cogens) kikaba kibangamiye uburenganzira bw'ibanze bwa muntu.

Amategeko yerekeye imanza nshinjabyaha – Kuba umuntu yahamwa n'icyaha cyo kuba icyitso muri Jenoside si ngombwa ko aba afite umugambi (mens rea) umwe na gatozi, ariko agomba kuba azi nibura umugambi we.

Amategeko yerekeye imanza nshinjabyaha – Imirongo mu manza – Umurongo wari uriho ntushobora gukurikizwa mu gihe itegeko wari ushingiyeho ryavuyeho cyangwa ryahinduwe, icyo gihe hashingirwa ku ngingo y'itegeko ryayihinduye.

Incamake y'ikibazo: Uru rubanza rwaciwe n' Urukiko Rukuru, Urugereko Rwihariye ruburanisha ibyaha mpuzamahanga n'ibyambuka imbibi, Ubushinjacyaha bukurikiranye Dr. Rutunga waje mu Rwanda yoherejwe n'Igihugu cy'Ubuholandi kugira ngo akurikiranweho ibyaha akekwaho. Nyuma y'iperereza, Ubushinjacyaha bwamureze ibyaha bitandukanye birimo icyaha cya Jenoside, Ubufatanyacyaha mu gukora Jenoside ndetse n'icyaha cyo Kurimbura nk'icyaha cyibasiye inyoko muntu. Ubushinjacyaha buvuga ko ibyaha Dr. Rutunga aregwa bishingiye ku kuba ariwe wasabye abajandarume uwari Perefe wa Perefegitura ya Butare bageze muri ISAR-Rubona bica Abatutsi bari hagati y'igihumbi n'ibihumbi bibiri (1,000 - 2,000) bari bahungiye muri ISAR-Rubona ku musozi wa Gakera no kuba yaragize uruhare mu bwicanyi bwakorewe abakozi b'Abatutsi bakoraga muri icyo kigo. Bukanavuga ko ibindi bikorwa yagizemo uruhare birimo gutanga ibikoresho byakoreshejwe mu bwicanyi, gutegera no guhemba interahamwe zakoze ubwicanyi.

Ku cyaha cya Jenoside, Ubushinjacyaha buvuga ko Dr. Rutunga yagize uruhare mu iyicwa ry'Abatutsi bari abakozi ba ISAR-Rubona no mu iyicwa ry'impunzi z'Abatutsi zari zarahungiye muri ISAR-Rubona mu cyahoze ari Segiteri ya Gikirambwa, ubu akaba ari mu Murenge wa Ruhashya. Busobanura ko ibikorwa bigize icyo cyaha yakoze ari ukuzana abajandarume bishe Abatutsi bari abakozi ba ISAR-Rubona banica impunzi z'Abatutsi zari zahungiye mu Gakera. Bukomeza buvuga ko abo batutsi bamaze kwicirwa aho muri ISAR-Rubona, Dr. Rutunga yatumije inama asaba abaturage kubakiza imyanda bakayijugunya mu byobo byari muri ISAR-Rubona kugira ngo itanduza inka zaho, kandi ko iyo myanda yavugaga ari imibiri y'Abatutsi bari bishwe, ndetse ko n'abajugunye iyo mibiri mu byobo yabahembye ibiribwa birimo ibishyimbo. Bukavuga ko kuba yarahamagaje abaturage bakamwitaba bigaragaza ububasha, ubushobozi n'ijambo yari afite kuko icyo yasabaga abaturage ndetse n'ubuyobozi bwariho icyo gihe bacyumviraga; bityo ngo ibi bigaragaza ko ari we watanze uburenganzira ku bwicanyi bwakorewe mu kigo yayoboraga bukozwe n'abajandarume yazanye ndetse n'abaturage.

Ku birebana n'icyaha cy'ubufatanyacyaha mu gukora Jenoside(complicity in genocide), Ubushinjacyaha bumurega bwifashishije imvugo z'ababajijwe mu iperereza n'ababajijwe mu Rukiko, buvuga ko icyo bushingiraho bumurega iki cyaha ari ibikorwa bya Dr. Rutunga byo kuba yaratanze ibikoresho byifashishijwe mu kwica Abatutsi, kuba yarasabye akanazana abajandarume bishe abatutsi muri

ISAR-Rubona no kuba yarategeye anahemba interahamwe zishe Abatutsi. Ko uregwa yatanze amabwiriza yo gutanga ibikoresho birimo imihoro, inyundo, amasuka na kupakupa byari bisanzwe bikoreshwa muri icyo kigo bihabwa bamwe mu bakozi b'Abahutu bahakoreraga bafatanyije n'interahamwe zaturukaga Maraba na Musasu. Bukomeza buvuga kandi ko Dr. Rutunga afatanyije n'abitwa Mugemana na Murindangabo bashishikarije abaturage guhiga Abatutsi bakoraga muri ISAR-Rubona bari bataricwa banabashyiriraho ibihembo, bugaragaza ko hari uwahembwe ikimasa, ko banaguriraga interahamwe inzoga, bamara gusinda bakiruka imisozi bashakisha abatutsi aho babaga bihishe bakabica.

Ku birebana n'icyaha cyo kurimbura nk'icyaha cyibasiye inyokomuntu, Ubushinjacyaha burega Dr. Rutunga iki cyaha bushingiye ku kuba yaragiye gusaba abajandurume i Butare akabazana mu kigo cya ISAR-Rubona bahagera bakagaba ibitero bitarobanura ku basiviri b'Abatutsi bari bahungiye mu Gakera bakoresheje amagerenade, banabarasamo amasasu bagamije kubarimbura nk'uko byemezwa n'abatangabuhamya batandukanye n'imvugo z'ababajijwe mu iperereza. Bukavuga ko ibi byo kuzana abo bajandarume yabikoze ari uko amaze kubona ko abo baturage b'abasiviri b'Abatutsi bari bahungiye mu Gakera barimo kwirwanaho bakanesha ibitero by'interahamwe byabagabwagaho, ko rero yagize uruhare mu kurimbura abo basiviri. Bwongeraho ko iyo uregwa aba adafite ubushake bwo kwica abo batutsi yari gukoresha ububasha yari afite akabakiza cyangwa se agasabira ibihano abo bajandarume kubera ibikorwa bw'ubwicanyi bakoze, bityo kuba ataranenze ibikorwa bakoze, bigaragara ko yari abishyigikiye akaba akwiye kubiryozwa.

Dr. Rutunga we yiregura ahakana ibyo aregwa n'ubushinjacyaha. **Ku cyaha cya Jenoside**, avuga ko nta bimenyetso bidashidikanywaho byatanzwe n'Ubushinjacyaha bigaragaza uruhare rwaba uruziguye cyangwa urutaziguye yagize mu ikorwa ry'iki cyaha, ko nta n'uruhare yagize mu iyicwa ry'Abatutsi bakoraga muri ISAR-Rubona no mu iyicwa ry'impunzi z'Abatutsi bari mu Gakera. Avuga kandi ko atakurikiranwaho icyaha cya Jenoside kubera ko kitateganywaga ntikinahanwe mu Itegeko-Teka Nº 21/77 ryo ku wa 18/08/1977 ryashyiragaho igitabo cy'amategeko ahana mu Rwanda ryakurikizwaga ubwo Jenoside yakorewe Abatutsi yakorwaga, ko n'u Rwanda rwari rwarifashe ku ngingo ya cyenda (9) y'amasezerano yo ku wa 09/12/1948 arebana no guhana icyaha cya Jenoside.

Ku birebana n'icyaha cy'ubufatanyacyaha mu gukora Jenoside, yiregura avuga nta bikoresho byifashishijwe mu kwica Abatutsi yatanze, ko atigeze ategera ngo anahembe interahamwe zakoze ubwicanyi, ndetse ko kuba yarasabye akanazana abajandarume bishe Abatutsi muri ISAR-Rubona yabikoze mu rwego rwo gutabariza ikigo cyari cyugarijwe n'ibitero by'interahamwe, bityo ko atafatwa nk'umufatanyacyaha muri Jenoside kubera ko nawe mbere y'uko hagira umuntu upfa muri ISAR-Rubona cyangwa ugira ikintu kibi icyo ari cyo cyose akorerwa, iwe hagabweyo igitero kiramusenyera ndetse kinasahura inzu ye. Naho kubijyanye no gutegera no guhemba interahamwe zakoze ubwicanyi, Dr. Rutunga avuga ko nta bimenyetso bigaragaza ko hari inzoga yahembye interahamwe zakoze ubwicanyi kuko bitari gushoboka kuko nta rwengero rw'inzoga rwabaga muri ISAR-Rubona, ko nta n'inka yigeze atanga mu rwego rwo guhemba abakoraga ubwicanyi, ko n'imanza zaciwe haba Urukiko rwa Mbere rw'Iremezo rwa Butare n'Urukiko rw'Ubujurire rwa Nyabisindu zagaragaje ko uwatanze ikimasa ari uwitwa Mugemana wari ukuriye sitasiyo ya Rubona. Akomeza yiregura ku bijyanye no gusaba no kuzana abajandarume bishe Abatutsi muri ISAR-Rubona avuga ko yagiye gutabaza Perefe wa Perefegitura ya Butare agezeyo amwemerera abajandarume mu rwego rwo kurinda ikigo cya ISAR-Rubona kubera ko cyari cyugarijwe n'ibitero byaturukaga mu makomini acyegereye.

Kubirebana n'icyaha cyo kurimbura nk'icyaha cyibasiye inyokomuntu, Dr. Rutunga avuga ko nta bimenyetso byatanzwe n'Ubushinjacyaha bigaragaza ko hari aho ahuriye n'icyaha cyo kurimbura nk'icyaha cyibasiye inyokomuntu bumurega bushingiye gusa ku kuba yaragiye kuzana abajandarume bagera muri ISAR-Rubona bakica impunzi z'Abatutsi zari mu Gakera bakanica bamwe bakozi bicyo kigo kubera ko ajya kuzana abajandarume atari agambiriye ko bica abo batutsi. Akomeza avuga ko Ubushinjacyaha butagaragaza igihe ibikorwa akurikiranweho byakorewe, ko no mu mibanire ye n'Abatutsi bakoranaga kimwe n'abandi nta rwango yigeze abagirira, kuko abatarishwe bo muri ISAR-Rubona bose bageranye na we i Butare kuri arboretum bakiriho, ko hari n'inkomere zo mu bitero byo ku wa 25/04/1994-

26/4/1994 yahaye imodoka ngo ibajyane ku ivuriro i Butare kandi bamwe bakiriho, ko kuba hari abishwe n'interahamwe n'abajandarume nta bubasha yari abafiteho ku buryo yari kuburizamo ubwicanyi bakoze.

Mu gusoza kwiregura kwe, Dr. Rutunga anavuga ko kuba atarigeze anashyirwa ku rutonde rw'abakekwaho icyaha cya Jenoside yakorewe Abatutsi rwoherezwaga mu bihugu byose bashakisha abagikoze ari uko nta cyaha yakekwagaho, ntanavugwe mu zindi manza, zaba izaciwe n'Inkiko Gacaca n'izaciwe n'inkiko zisanzwe, ku bwicanyi bwakorewe muri ISAR-Rubona bigaragaza ko nta ruhare yagize mu bikorwa bigize ibyaha aregwa.

Incamake y'icyemezo: 1. Kuba uregwa ataravuzwe mu zindi manza atabayemo umuburanyi (imanza zaciwe n'Inkiko Gacaca n'izindi manza zaciwe n'inkiko zisanzwe) ntibivuzeko atakurikiranwa ku cyaha cya jenoside kubera ko ataregwaga muri izo manza kandi ko iyo hasuzumwa uruhare rw'uregwa ikirebwa ni ibikorwa yakoze ku giti cye ndetse n'ibimenyetso byatanzwe

2. Nta cyabuza ko umuntu akurikiranwaho icyaha cya Jenoside hashingiwe ku mategeko yagiyeho nyuma kubera ko icyo cyaha cyafatwaga nk'icyaha mu muco mpuzamahanga ibihugu byose bigomba kubahiriza (jus cogens) kikaba kibangamiye uburenganzira bw'ibanze bwa muntu. Bityo ibyo uregwa avuga by'uko atakurikiranwaho icyaha cya Jenoside kuko kitari giteganyijwe mu mategeko y'u Rwanda ndetse kinateganyirizwe ibihano nta shingiro byahabwa.

3. Umuntu afatwa nk'uwakoze icyaha iyo yakoze ku buryo bufatika bimwe mu bikorwa bigize icyaha. igikorwa Dr. Rutunga yakoze cyo gusaba abajandarume bagize uruhare mu iyicwa ry'Abatutsi bari muri ISAR-Rubona bafatanyije n'interahamwe, ntibyamugira gatozi muri iki cyaha kubera ko nta gikorwa cyo kwica yakoze ubwe.

4. Kuba umuntu yahamwa n'icyaha cyo kuba icyitso muri Jenoside si ngombwa ko aba afite umugambi (mens rea) umwe na gatozi, ariko agomba kuba azi nibura umugambi we. Bityo kuba Dr. Rutunga yarasabye abajandarume azi neza ko baje kwica Abatutsi bari muri ISAR-Rubona, bahagera bakica Abatutsi bari barahahungiye, icyo gikorwa yakoze cyo gusaba abajandarume kikaba ari inkunga ya ngombwa yatanze kubishe abo Batutsi; kubw'ibyo akaba agomba guhamwa n'icyaha cyo kuba icyitso muri Jenoside.

5. Mu bitero byagabwe ku baturage b'abasiviri b'Abatutsi bari mu kigo cya ISAR-Rubona, nta gikorwa gifatika nko kwica Dr. Rutunga ubwe yabikozemo ahubwo uruhare rwe rukaba rugaragarira mu kuba yarasabye abajandarume bagabye ibitero bafatanyije n'interahamwe kuri abo baturage, iyi ni inkunga ya ngombwa yatanze kuri abo bajandarume bishe abo baturage b'abasiviri. Iyo nkunga yatanze ikaba imugira icyitso mu kurimbura nk'icyaha cyibasiye inyokomuntu aho kuba gatozi muri icyo cyaha.

6. Umurongo wari uriho ntushobora gukurikizwa mu gihe itegeko wari ushingiyeho ryavuyeho cyangwa ryahinduwe, icyo gihe hashingirwa ku ngingo y'itegeko ryayihinduye.

Amategeko yashingiweho:

Itegeko N° 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso, ingingo ya 24 n'iya 53.
Itegeko Nº68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza, Ingingo ya 2,83,91, 93 n'iya 94.
Itegeko Nº 47/2013 ryo ku wa 16/06/2013 rigena kwimurira imanza muri Repubulika y'u Rwanda, ingingo ya 8.
Amasezerano mpuzamahanga ku ikumira n'ihanwa ry'icyaha cya Jenoside yo ku wa 09/12/1948 u Rwanda rwashyizeho umukono ku wa 12/02/1975, ingingo ya 2, 3 n'iya 4.
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The Statute of the International Criminal Tribunal for the former Yugoslavia, Article 4 (2o) et 5.
Sitati ya Roma yo ku wa 17 Nyakanga 1998 yatangiye gukurikizwa ku wa 1 Nyakanga 2002 ishyiraho Urukiko Mpanabyaha Mpuzamahanga, Ingingo ya 6, 7(2) n'iya 25.

Igitabo cy’amategeko ahana cyo mu Bufaransa (Code Penal), Dernière modification: 2021-08-07, Edition: 2021-08-07, Article 121-7
La Loi de base n° 65-60 du 21 Juillet 1965 portant Code Penal du Sénegal, Article 46

Imanza zifashishijwe:

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Ubushinjacyaha v. Bimenyimana Jean Paul, RPAA 00048/2020/CA rwaciwe rwaciwe n’Urukiko rw’Ubujurire ku wa ku wa 26/05/2022.
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Prosecution v. Kalimanzira Callixte, ICTR-05-88-T, ICTR, Trial Chamber (22 June 2009).
Le Procureur c/ Gacumbitsi Syvestre, TPIR- 2001- 64 –T, TPIR, Chambre de Première Instance III (June 17, 2004).
Prosecution v. Hategekimana Ildephonse, ICTR-00-55B-T, ICTR, Trial Chamber (6 December 2010).
Prosecution v. Jelisic, IT -95 -10-T, ICTY, Trial Chamber (December 14, 1999).
Prosecutor v. Kajelijeli Juvénal, ICTR - 98-44A-T, ICTR, Trial Chamber (December 1, 2003).
Le Procureur c/ Semanza Laurent, ICTR-97-20-T, TPIR, Chambre de Première Instance (15 Mai 2003).
The Prosecutor v. Mikaeli Muhimana, Case N° ICTR-95-1B-T, Trial Chamber (28/04/2005).
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Prosecutor v. Goran Jelisic, IT-95-10-A, ICTY, Appeals Chamber (July 5, 2001).
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The Prosecutor v. Nahimana Ferdinand, ICTR-99-52-A, (ICTR, Appeals Chamber, 28 November 2007).
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Prosecutor v. Du [Ko tadi] a/k/a "Dule, IT- 94-T, (ICTY Trial Chamber, 7 May 1997), p.256, para 689;
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Le Procureur c. Elizaphan Ntakirutimana et Gerard Ntakirutimana, ICTR-96-I0-A et ICTR-96-17-A du 13/09/2004.
Le Procureur c/ Radoslav Brdanin, Affaire n°: ICTY- IT-99-36-T, Trial Chamber (1er septembre 2004).
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Uregwa ahamwa no kuba icyitso mu cyaha cya Jenoside n'icyitso mu kurimbura nk'icyaha cyibasiye inyokomuntu;
Uregwa ahanishijwe igihano cy'igifungo cy'imyaka 20.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Dr. Rutunga Venant uregwa muri uru rubanza mu mwaka wa 1994 yari yungirije umuyobozi mukuru w'Ikigo cy'Igihugu gishinzwe Ubushakashatsi mu by'Ubuhinzi (ISAR)[1] akuriye Centre du Plateau

[1] Institut des Sciences Agronomiques du Rwanda.

yari igizwe na sitasiyo ya Rubona, Songa na Ruhande. Ubushinjacyaha bw'u Rwanda bumaze kumenya ko ari mu gihugu cy'Ubuholandi, bwasabye icyo gihugu mu nyandiko mpuzamahanga zo gufata zo ku wa 09/03/2010 no ku wa 01/08/2018 kumwohereza kuburanira mu Rwanda kubera ibyaha bya Jenoside, kuba icyitso muri Jenoside n'icyaha cyibasiye inyokomuntu akekwaho byabereye muri ISAR-Rubona mu mwaka wa 1994.

[2] Ku wa 26/07/2021, igihugu cy'Ubuholandi cyamwohereje kuburanira mu Rwanda kugira ngo akurikiranweho ibyo byaha akekwaho. Ahageze hakozwe iperereza, rirangiye Ubushinjacyaha bumurega muri uru rukiko kugira ngo akurikiranweho ibyo byaha, ikirego gihabwa no RP/GEN 00011/2021/HC/HCCIC, Ubushinjacyaha busaba ko ahamwa n'ibyo byaha, agahanishwa igihano cy'igifungo cya burundu.

[3] Urubanza rwatangiye kuburanishwa ku wa 22/03/2022, Dr. Rutunga Venant yunganiwe na ba Me Sebaziga Maseruka Sophonie na Me Ntazika Nehemie, Ubushinjacyaha buhagarariwe n'abashinjacyaha ku rwego rw'Igihugu Niyibizi Tite na Mukunzi Faustin. Urukiko, rushingiwe ku biteganywa n'ingingo ya 8 y'Itegeko Ngenga n°04/2012/OL ryo ku wa 15/06/2012 rikuraho Inkiko Gacaca, rikanagena uburyo bwo gukemura ibibazo byari mu bubasha bwazo,[2] mbere y'uko rutangira kuburanisha urubanza mu mizi, rwabanje gutesha agaciro icyemezo cyafashwe n'Urukiko Gacaca rw'Umurenge wa Gikirambwa cyo ku wa 05/11/2008 cyari cyarahanishije Dr. Rutunga Venant igihano cy'igifungo cya burundu y'umwihariko kubera ibyaha urwo rukiko Gacaca rwamuhamije birimo icyaha cyo gutegura Jenoside, gushishikariza gukora Jenoside no gukora ibikorwa bya Jenoside.

[4] Kubera impamvu zitandukanye, urubanza rwagiye rusubikwa, ariko mbere y'uko iburanisha risozwa ku wa 30/05/2024, Urukiko ruri kumwe n'ababuranyi ku wa 29/04/2024 rwasuye ahantu hatandukanye muri ISAR-Rubona harimo ahakoreraga Ubuyobozi Bukuru bivugwa ko hari umwe mu bakozi b'icyo kigo wahashinyaguriririwe, ku cyumba cy'inama bivugwa ko cyaberagamo inama zitegura Jenoside, ku musozi wa Gakera ahiciwe Abatutsi bari barahahungiye n'ahandi havugwa ko hakorewe ibindi bikorwa birebana n'uru rubanza.

[5] Mu nyandiko itanga ikirego no mu miburanire, Ubushinjacyaha buvuga ko ibyaha Dr. Rutunga Venant aregwa bishingiye ku kuba ariwe wasabye abajandarume uwari Perefe wa Perefegitura ya Butare bageze muri ISAR-Rubona bica Abatutsi bari hagati y'igihumbi n'ibihumbi bibiri (1,000 - 2,000) bari bahungiye muri ISAR-Rubona ku musozi wa Gakera no kuba yaragize uruhare mu bwicanyi bwakorewe abakozi b'Abatutsi bakoraga muri icyo kigo aribo Kalisa Epaphrodite, Munyengango Jean Claude, Ndamage Georges na Sebahutu André. Bukanavuga ko ibindi bikorwa yagizemo uruhare birimo gutanga ibikoresho byakoreshejwe mu bwicanyi, gutegera no guhemba interahamwe zakoze ubwicanyi.

[6] Dr. Rutunga Venant ahakana ibyaha aregwa akavuga ko bishingiye gusa ku mwanya w'ubuyobozi yari afite muri ISAR-Rubona, ko n'Ubushinjacyaha bubisobanura muri rusange butagaragaza ibikorwa byihariye yakoze kuri buri cyaha, ko nta bajandarume yasabye bo kwica Abatutsi ahubwo ko abo yasabye Perefe wa Butare yabikoze mu rwego rwo kurinda umutekano wa ISAR-Rubona nyuma y'uko byemejwe n'inama y'abakozi bose b'icyo kigo.

[7] Anavuga ko nta n'uruhare urwo arirwo rwose yagize mu bikorwa by'ubwicanyi bwakorewe Kalisa Epaphrodite, Munyengango Jean Claude, Sebahutu André na Ndamage Georges, ko nta n'umutwe w'interahamwe wabaga muri ISAR-Rubona ku buryo yawuha inkunga yo kwica Abatutsi cyangwa ngo abe yakorana na wo mu buryo ubwo aribwo bwose, ko nta bihembo yahaye abicanyi, akaba nta

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[2] Ingingo ya 8 y'itegeko Ngenga N°04/2012/OL ryo ku wa 15/06/2012 rikuraho Inkiko Gacaca, rikanagena uburyo bwo gukemura ibibazo byari mu bubasha bwazo iteganya ko umuntu wohererejwe u Rwanda n'Igihugu cy'amahanga kugira ngo aburanishwe, yari yarakatiwe n'Inkiko Gacaca, aburanishwa n'urukiko rubifitiye ububasha nk'uko biteganywa n'iri Tegeko Ngenga. Icyakora, icyemezo cyari cyaramufatiwe n'Inkiko Gacaca kibanza guteshwa agaciro n'urwo rukiko.

n'ibikoresho byifashishijwe mu kwica Abatutsi yatanze kuko buri rugo rw'Abanyarwanda rwagiraga ibikoresho gakondo bifashishaga mu mirimo ya buri munsi, ko rero abaje mu bitero byayogoje ISAR-Rubona baje bitwaje ibikoresho byabo.

[8] Muri uru rubanza hasuzumwe ibirebana no kumenya niba hari uruhare Dr. Rutunga Venant yagize mu bikorwa byo kwica Abatutsi muri ISAR-Rubona, ibyo gutegera no gutanga ibihembo byahawe abicanyi no gutanga ibikoresho byakoreshejwe mu bwicanyi.

ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

2.1. Kumenya niba hari uruhare Dr. Rutunga Venant yagize mu bikorwa byo kwica Abatutsi muri ISAR-Rubona, ibyo gutegera no gutanga ibihembo byahawe abicanyi no gutanga ibikoresho byakoreshejwe mu bwicanyi

A. Imiburanire y'Ubushinjacyaha

- **Icyaha cya Jenoside**

[9] Mu mwanzuro no mu miburanire yabwo, Ubushinjacyaha buvuga ko icyaha cya Jenoside burega Dr. Rutunga Venant bugishingira ku kuba hagati yo ku wa 07/04/1994 na Nyakanga 1994, yaragize uruhare mu iyicwa ry'Abatutsi bari abakozi ba ISAR-Rubona no mu iyicwa ry'impunzi z'Abatutsi zari zarahungiye muri ISAR-Rubona mu cyahoze ari Segiteri ya Gikirambwa, ubu akaba ari mu Murenge wa Ruhashya. Buvuga ko ibikorwa bigize icyo cyaha yakoze ari ukuzana abajandarume bishe Abatutsi bari abakozi ba ISAR-Rubona banica impunzi z'Abatutsi zari zahungiye mu Gakera.

- **Ku birebana n'ubwicanyi bwakorewe abakozi b'Abatutsi ba ISAR-Rubona**

[10] Ubushinjacyaha buvuga ko Dr. Rutunga Venant ari muri ISAR-Rubona yagize uruhare mu iyicwa ry'abakozi b'Abatutsi bakoraga muri icyo kigo aribo Kalisa Epaphrodite, Munyengango Jean Claude, Ndamage Georges na Sebahutu André.

- Iyicwa rya Kalisa Epaphrodite

[11] Ubushinjacyaha buvuga ko bushingiye ku mvugo z'ababajijwe mu iperereza n'iz'abatangabuhamya babajijwe mu rukiko, busanga Dr. Rutunga Venant yagize uruhare mu iyicwa rya Kalisa Epaphrodite wari caissier muri ISAR-Rubona, kubera ko abajandarume yazanye ari bo bamwishe kandi bakamwica bari kumwe, ko amaze kuvumburwa aho yari yihishe n'abo bajandarume bamujyanye hirya y'aho yafatiwe baramurasa ariko isasu ntiryamufata, hashize umwanya agaruka aho bari bari hafi y'icyumba cyakorerwagamo inama (Salle Pirlot), baramufata bamuraza mu muferege w'amazi nyuma ahicirwa bukeye.

- Iyicwa rya Munyengango Jean Claude

[12] Ubushinjacyaha buvuga ko Munyengango Jean Claude wari umukozi ushinzwe iby'ubuhinzi (agronome) muri ISAR - Rubona yishwe atewe icyuma hafi y'akabari kitwaga Polygone n'abajandarume bari kumwe na Dr. Rutunga Venant kandi akaba ari nawe wari warazanye abo bajandarume, bityo ko agomba kuryozwa uruhare yagize muri iryo yicwa rye nk'uko bigaragazwa n'ibimenyetso bitandukanye birimo imvugo z'ababajijwe mu iperereza n'ubuhamya bwatangiwe mu rukiko.

- Iyicwa rya Ndamage Georges

[13] Ubushinjacyaha bushingiye ku mvugo z'abatangabuhamya n'iz'ababajijwe mu iperereza, buvuga kandi ko Dr. Rutunga Venant yagize uruhare mu iyicwa rya Ndamage Georges wari umuhuzabikorwa w'ubushakashatsi ku bihingwa by'ibinyabijumba muri ISAR-RUBONA, kubera ko ariwe wahaye Mugemana Didace na Murindangabo Joseph amabwiriza yo kujyana n'igitero kumuhiga ariko ko mbere yuko igitero kijyayo, Dr. Rutunga Venant na Ndereyehe Ntahontuye Charles bari babanje gukora inama igamije kumenya Abatutsi bari bamaze kwicwa n'abataricwa akaba ariyo yavugiwemo ko Ndamage Georges ajya gushakishwa banemerera inka umuntu uzerekana aho ari. Busobanura ko ku wa 09/05/1994 aribwo Ndamage Georges yavumbuwe n'igitero cy'interahamwe aho yari yihishe kwa Murengezi ariko abahungu be bamwangira gukomeza kuhihisha aba ari bwo icyo gitero kimubona kimuzana muri ISAR-Rubona aho yiciwe, ko mu rwego rwo guhemba abamwishe Dr. Rutunga Venant na Ndereyehe Ntahontuye Charles bahembye izo nterahamwe inka yo muri ISAR-Rubona ifite ibiro biri hagati ya magana ane (400kg) na magana atandatu (600kg) ndetse banazigurira inzoga mu rwego rwo kuzishimira.

- Iyicwa rya Sebahutu André

[14] Ubushinjacyaha buvuga ko Dr. Rutunga Venant yagize uruhare mu iyicwa rya Sebahutu André wari umukozi wa ISAR-Rubona ari naho yari atuye kubera ko, nk'uko byavuzwe mu iperereza no mu rukiko, mbere yo ku wa 06/04/1994 yagiye mu butumwa bw'akazi i Ntendezi mu cyahoze ari Perefegitura ya Cyangugu ari kumwe n'abakozi bakoranaga barimo Dr. Rutunga Venant azi neza ko ari umututsi uri guhigwa, nyuma umushoferi bari bajyanye azanira umugore we amashuka ye yuzuyeho ibitaka amubwira ko we ari umwere ku maraso y'umugabo we kuko atize.

- **Iyicwa ry'impunzi z'Abatutsi bari bahungiye mu Gakera**

[15] Ubushinjacyaha buvuga ko hagati yo ku wa 26-30/04/1994 Abatutsi bahungiye hafi y'urwuri rw'ikigo cya ISAR-Rubona ahitwa mu Gakera batangira kugabwaho ibitero n'interahamwe ariko bageragaza kwirwanaho babisubiza inyuma. Dr. Rutunga Venant abonye ko abo batutsi bari kwirwanaho yagiye kuri Perefegitura ya Butare ari kumwe na Mugemana Didace mu modoka ya Toyota Hilux yari iya ISAR-Rubona gusaba no kuzana abajandarume, agezeyo ahabwa abari hagati y'icumi na cumi na batanu (10-15), abashyira mu modoka abazana mu kigo cya ISAR-Rubona abageza kuri bariyeri winjira mu kigo ku muhanda wa kaburimbo, bahita batangira kwica Abatutsi bari bahungiye mu Gakera, abandi muri abo bajandarume bari kumwe n'interahamwe zabaga zifite amacumu n'imihoro babatangirira ahari ivuriro rya Rubona.

[16] Bukavuga ko kubera ko yazanye abajandarume bishe izo mpunzi yaryozwa uruhare yagize mu iyicwa ryazo rugaragazwa n'imvugo ze aho yemeye ko yagiye i Butare gusaba abajandarume, agezeyo Perefe Nsabimana Sylvain amuha abari hagati y'icumi na cumi na batanu (10-15), anemera ko bageze mu kigo nyuma ya saa sita kandi ko bakihagera ari we wabakiriye nyuma bajya kureba aho bazakorera (reconnaissance des lieux) kimwe n'imvugo z'ababajijwe mu iperereza n'iz'abatangabuhamya batandukanye bemeje ko yagize uruhare mu iyicwa ry'Abatutsi bari bahungiye mu Gakera.

[17] Bunavuga ko muri icyo gitero cyo mu Gakera abo bajandarume bifatanyije n'interahamwe zirimo abitwa Mugemana Didace wari ukuriye abakozi muri ISAR-Rubona hamwe n'abandi bakozi barimo Kabera Venant, Bayituriki Chrisologue, Mbabajende Eugène, Fidèle, Matabaro, Marcel na Joseph, bica impunzi z'Abatutsi bari hagati y'igihumbi n'ibihumbi bibiri (1000-2000) barimo Edouard Mucumbitsi n'abana be bane (4) aribo Mucumbitsi Serge, Kayitesi Blandine, Ishimwe na Benimana; Tabaruka Stanislas, Furani, Nyirandekwe Valena, Gasarasi Antoine, Yajecumbika Gérard, umugore we Mukamusoni Rosette n'abana babo batanu (5), ari bo Gatari, Gatera, Kayiganwa, Habineza na Umuganwa, Cicina Karekezi, umugore we Suzanne Nyirabazungu n'abana babo b'abahungu babiri (2) Rumashana na Rubayizi, Emmanuel Kayire, Léonard Nzarubara, Charles Kayibanda, Jean Ruzindana, Gasana Télésphore, Nkurunziza alias Rukara, Stephanie Nyirabununuri, Venutse Gasangwa, Jean Mugemana, Patrice, Fils, Polycarpe, Butamo mwene Kajuga kimwe n'abandi batutsi bari baturutse ahantu hatandukanye, harimo Maraba, Rusatira na Ruhashya.

[18] Buvuga kandi ko abo batutsi bamaze kwicirwa muri ISAR-Rubona, Dr. Rutunga Venant yatumije inama asaba abaturage kubakiza imyanda bakayijugunya mu byobo byari muri ISAR-Rubona kugira ngo itanduza inka zaho, kandi ko iyo myanda yavugaga ari imibiri y'Abatutsi bari bishwe, ndetse ko n'abajugunye iyo mibiri mu byobo yabahembye ibiribwa birimo ibishyimbo.

[19] Bukavuga ko kuba yarahamagaje abaturage bakamwitaba bigaragaza ububasha, ubushobozi n'ijambo yari afite kuko icyo yasabaga abaturage ndetse n'ubuyobozi bwariho icyo gihe bacyumviraga; bityo ibi bigaragaza ko ari we watanze uburenganzira ku bwicanyi bwakorewe mu kigo yayoboraga bukozwe n'abajandarume yazanye ndetse n'abaturage.

- **Ku birebana n'icyaha cy'ubufatanyacyaha mu gukora Jenoside (complicity in genocide)**

[20] Ibikorwa Ubushinjacyaha bushingiraho mu nyandiko itanga ikirego, mu mwanzuro wabwo no mu iburanisha burega Dr. Rutunga Venant iki cyaha ni ukuba yaratanze ibikoresho byifashishijwe mu kwica Abatutsi, kuba yarasabye akanazana abajandarume bishe abatutsi muri ISAR-Rubona no kuba yarategeye anahemba interahamwe zishe Abatutsi.

- **Ku birebana no gutanga ibikoresho byifashishijwe mu kwica Abatutsi**

[21] Ubushinjacyaha buvuga ko hagati yo ku wa 25 no ku wa 28/04/1994 Dr. Rutunga Venant ariwe wahaye amabwiriza Mukurarinda Aloys alias Nyampeta wari ushinzwe ububiko bw'ibikoresho muri ISAR-Rubona yo gutanga ibikoresho birimo imihoro, inyundo, amasuka na kupakupa byari bisanzwe bikoreshwa muri icyo kigo abiha bamwe mu bakozi b'Abahutu bahakoreraga barimo Marcel, Joseph, Fidèle, Kabera Venant, Bayituriki Chrisologue, Mbabajende Eugène, Matabaro n'abandi baturage b'Abahutu batamenyekanye, abibaha yitwaje ko interahamwe ziturutse i Maraba na Musasu zishobora kubatera zikiba inka z'ikigo. Bunavuga ko ibyo bikoresho yabitanze nyuma yo kwitabira inama yabereye mu cyumba cy'inama cya ISAR-Rubona, ikoreshejwe na Ndereyehe Ntahontuye Charles wari Umuyobozi Mukuru wa ISAR.

[22] Buvuga kandi ko abo bakozi bahawe ibyo bikoresho ku mabwiriza ye bafatanyije n'interahamwe zaturukaga Maraba na Musasu kwica abaturage b'Abatutsi bakoreraga muri ISAR-Rubona barimo Spéciose hatibukwa irindi zina rye, Murekezi Emmanuel, Rwaya ndetse n'umuryango wa Kalisa Epaphrodite wari caissier wakoraga muri ISAR-Rubona ugizwe n'umugore we witwaga Murebwayire Epiphanie n'abana babo, Nsengayire Jean Claude, Munyaneza Philibert, Kabazayire Delphine, Sebahutu Télésphore, Murekezi Emmanuel, Cyuzuzo, Rwaya, Gatari, hamwe n'abandi baturage b'Abatutsi amazina yabo atamenyekanye, ko urwo ruhare rwe rugaragazwa n'imvugo z'ababajijwe mu iperereza n'ababajijwe mu Rukiko.

- **Ku birebana no gusaba no kuzana muri ISAR-Rubona abajandarume bishe Abatutsi**

[23] Ibyo Ubushinjacyaha busobanura kuri iki gikorwa bisa n'ibyo bwasobanuye ku birebana n'iyicwa ry'impunzi z'Abatutsi bari bahungiye mu Gakera.

- **Ku birebana no gutegera no guhemba interahamwe zakoze ubwicanyi**

[24] Ubushinjacyaha, bushingiye ku mvugo z'abatangangabuhamya n'iz'ababijwe mu iperereza, buvuga ko Dr. Rutunga Venant afatanyije na Mugemana Didace na Murindangabo Joseph bashishikarije abaturage guhiga Abatutsi bakoraga muri ISAR-Rubona bari bataricwa banashyiriraho ibihembo abakozi bo muri ISAR-Rubona barimo Jean Marie Vianney na Bertheremy Ntabareshya murumuna wa Didace, umurundi witwaga Sinzinkayo Isaïe n'abandi bari abashoferi n'abazamu bakoraga mu mirima byo kubashakisha, maze bamaze kubica bagabirwa ikimasa cyarutaga ibindi byose nk'uko Dr.RUTUNGA Venant yari yabibemereye. Bunavuga ko nk'uko bwabisobanuye ku iyicwa rya Ndamage Georges, Dr.

Rutunga Venant ari kumwe n'abandi bayobozi ba ISAR-Rubona yahembye abamwishe ikimasa, ko kandi mu gihe cya Jenoside baguriraga interahamwe inzoga, bamara gusinda bakiruka imisozi bashakisha abatutsi aho babaga bihishe bakabica.

- **Ku birebana n'icyaha cyo kurimbura nk'icyaha cyibasiye inyokomuntu**

[25] Ubushinjacyaha burega Dr. Rutunga Venant iki cyaha bushingiye ku kuba yaragiye gusaba abajandurume i Butare akabazana mu kigo cya ISAR-Rubona bahagera bakagaba ibitero bitarobanura ku basiviri b'Abatutsi bari bahungiye mu Gakera bakoresheje amagerenade banabarasamo amasasu bagamije kubarimbura nk'uko byemezwa n'abatangabuhamya batandukanye n'imvugo z'ababajijwe mu iperereza. Bukavuga ko ibi byo kuzana abo bajandarume yabikoze ari uko amaze kubona ko abo baturage b'abasiviri b'Abatutsi bari bahungiye mu Gakera barimo kwirwanaho bakanesha ibitero by'interahamwe byabagabwagaho, ko rero yagize uruhare mu kurimbura abo basiviri bari hagati y'igihumbi n'ibihumbi bibiri (1,000-2,000). Busobanura kandi ko abo bajandarume banagize uruhare mu iyicwa ry'abari abakozi b'Abatutsi ba ISAR-Rubona aribo Kalisa Epaphrodite, Ndamage Georges na Munyengango Jean Claude.

[26] Buvuga ko uretse ubuhamya n'imvugo z'ababajijwe mu iperereza n'iz'abatangabuhamya hari n'imvugo za Dr. Rutunga Venant wemera ko mu gihe cya Jenoside mu kigo cya ISAR-Rubona hari hahungiye Abatutsi benshi bari baturutse mu bice bitandukanye, akanemera ko muri icyo kigo hari imirambo myinshi y'Abatutsi bishwe, ko yanatanze ibihembo birimo ibishyimbo, ibijumba, amasaka kugira ngo batoragure iyo mibiri y'Abatutsi ishyirwe mu byobo byari mu kigo cya ISAR-Rubona byari byaragenewe kubika ubwatsi bw'inka. Busoza buvuga ko ibyo bikorwa bigize kurimbura nk'icyaha cyibasiye inyokomuntu nk'uko biteganywa n'amategeko y'u Rwanda n'amategeko mpuzamahanga ndetse bikaba byaremejwe mu manza zitandukanye zaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda.

[27] Buvuga kandi ko iyo Dr. Rutunga Venant atajya kuzana abajandarume i Butare, ntatange intwaro gakondo aziha abari abakozi ba ISAR-Rubona ngo anemerere ibihembo interahamwe zicaga Abatutsi ndetse ngo anahigure ibyo yari yemereye abamaze kwica Ndamage Georges, Jenoside yakorewe Abatutsi muri ISAR-Rubona itari guhitana umubare munini w'Abatutsi; bityo ko busanga ibyo bikorwa ari inkunga ya ngombwa yatanze kugira ngo uwo mubare wicwe ko rero bimugira gatozi muri iki cyaha, ko kuba yarabonye abo batutsi bamaze kwicwa akaza aho biciwe agahambisha imirambo bigaragaza ko yari azi neza ko icyazanye abajandarume ari ukubica. Bukavuga ko iyo Dr. Rutunga Venant aba adafite ubushake bwo kwica abo batutsi yari gukoresha ububasha yari afite akababakiza cyangwa se agasabira ibihano abo bajandarume kubera ibikorwa bw'ubwicanyi bakoze, bityo kuba ataranenze ibikorwa bakoze, bigaragara ko yari abishyigikiye akaba akwiye kubiryozwa.

B. Imyiregurire ya Dr. Rutunga Venant

- **Kubijyanye n'icyaha cya Jenoside**

[28] Kuri iki cyaha, Dr. Rutunga Venant avuga ko nta bimenyetso bidashidikanywaho byatanzwe n'Ubushinjacyaha bigaragaza uruhare rwaba uruziguye cyangwa urutaziguye yagize mu ikorwa ry'iki cyaha, ko nta n'uruhare yagize mu iyicwa ry'Abatutsi bakoraga muri ISAR-Rubona no mu iyicwa ry'impunzi z'Abatutsi bari mu Gakera.

- **Ku bijyanye n'iyicwa ry'abakozi b'Abatutsi bakoraga muri ISAR- Rubona**

[29] Dr. Rutunga Venant avuga ko nta ruhare yagize mu iyicwa ry'abakozi b'Abatutsi bakoraga muri ISAR-Rubona biciwe muri icyo kigo aribo Kalisa Epaphrodite, Munyengango Jean Claude, Ndamage Georges, na Sebahutu André wiciwe mu cyahoze ari Perefegitura ya Cyangugu aho yari yoherejwe mu butumwa bw'akazi.

- Ku birebana n'iyicwa rya Kalisa Epaphrodite

[30] Dr. Rutunga Venant n'abamwunganira bavuga ko nta bimenyetso byatanzwe bigararaza uruhare rwe mu iyicwa rya Kalisa Epaphrodite kuko aho yafatiwe, aho yatoterejwe n'aho yiciwe atari ahari, ko nta n'ubufatanye yari afitanye n'abamwishe, ahubwo ko hari urubanza[3] rwaciwe n'Urukiko rwa mbere rw'iremezo rwa Butare rugaragaza ko mu rwego rwo kwitabara Kalisa Epaphrodite yatemye umwe mubari bateye umuryango we bituma bakomeza kumuhiga kugeza bamufashe bakamwica.

[31] Banavuga ko urupfu rwa Kalisa Epaphrodite yarumenye arubwiye n'abantu atashoboye kumenya, bamubwiye ko Kalisa Epaphrodite bamujyanye ariko ko atamenye aho yiciwe, ko atashoboye gukurikirana iby'iryo yicwa rye kubera ko nawe atari afite aho abarizwa kuko inzu ye yari yarasenywe, ko ibivugwa n'Ubushinjacyaha ko yiciwe hafi y'umuferege w'amazi Dr. Rutunga Venant ari kumwe n'abandi bayobozi ba ISAR-Rubona bari kurya inyama z'inka bari kumushinyagurira bitigeze bibaho.

- Ku birebana n'iyicwa rya Munyengango Jean Claude

[32] Dr. Rutunga Venant n'abamwunganira bavuga ko nta bimenyetso bidashidikanywaho byatanzwe n'ubushinjacyaha bigaragaza uruhare rwe muri iryo yicwa rya Munyengango Jean Claude, ko atanamenye ibirebana n'iyicwa rye kuko n'ubuhamya bwatanzwe n'umutangabuhamya umwe umushinja ko yagize uruhare muri iryo yicwa burimo kwivuguruza ndetse bukaba bunavuguruzanya n'ubuhamya bw'abandi batangabuhamya.

- Ku birebana n'iyicwa rya Ndamage Georges

[33] Dr. Rutunga Venant n'abamwunganira bavuga ko mu gihe cya Jenoside Ndamage Georges yabanje kwihisha abaturage bamubona ageze i Musasu, asohotse aho yari yarihishe muri ISAR-Rubona, ko amakuru y'urupfu rwe yayamenye ayabwiwe n'abantu bagendagendaga muri ISAR-Rubona, bakaba baramubwiye ko atishwe n'abajandarume ahubwo ko yishwe n'interahamwe ku wa 09/05/1994, bagasobanura ko inzu ye n'iya Ndamage Georges zasahuwe mu gitero kimwe, ko imanza zaciwe mbere zagaragaje ko mubamukuye aho yari yihishe bakamwica harimo umukozi wa ISAR-Rubona witwa Mugemana Didace, Nyangezi n'umusore witwaga Ruhoryongo, kandi ko ibivugwa n'Ubushinjacyaha ko hari ikimasa yahaye abamwishe atari ukuri kuko nta burenganzira yari afite bwo gutanga umutungo wa ISAR-Rubona muri ubwo buryo; bityo rero ko nta bimenyetso bigaragaza uruhare rwe muri ubwo bwicanyi.

- Ku birebana n'iyicwa rya Sebahutu André

[34] Dr. Rutunga Venant n'abamwunganira bavuga ko nta bimenyetso byatanzwe n'Ubushinjacyaha bigaragaza uruhare yagize mu iyicwa rya Sebahutu André kubera ko mu cyumweru cyo ku wa 04/04/1994 kugeza ku wa 09/04/1994, Sebahutu André yari yagiye mu butumwa bw'akazi i Ntendezi mu cyahoze ari Perefegitura ya Cyangugu ari kumwe na Ndayizigiye François n'umushoferi kandi ko Dr. Rutunga Venant atajyanye nabo mu butumwa. Bavuga ko ibirebana n'iyicwa rya Sebahutu André nawe yabimenye mu kwezi kwa gatanu (5) abibwiwe n'abo bari barajyanye muri ubwo butumwa, nyuma umugore we abonye ko atagarutse yaje kumusaba ko yamuha imodoka akajya kureba umugabo we, ariko kubera impamvu z'umutekano we amubwira ko ibyo bitashoboka amusaba kwihangana bagategereza.

[35] Banavuga ko ku wa 25/04/1994 ISAR-Rubona yatewe, kwa Sebahutu André havayo umusore wafatanyije n'abandi gusahura ikigo bituma abajandarume bajya mu rugo kwa Sebahutu André kureba ibyibwe, ko mbere yo kujyayo abajandarume bamuhamagaye bamusaba kujyana nabo bahageze bahasanga

[3] Urubanza RP 76/2/2000/RMP 41.640/S8 rwaciwe n'urukiko rwa mbere rw'iremezo rwa Butare ku wa 05/03/2001, p 26-28; p 36, & 6.

uwo umusore n'ibintu bimwe byavuye mu mazu yasahuwe, bijyanwa mu cyumba cy'inama (Salle Pirlot) aho benebyo babisangaga.

- **Kubijyanye n'iyicwa ry'impunzi z'Abatutsi bari mu Gakera**

[36] Dr. Rutunga Venant n'abamwunganira bavuga ko yemera ko yagiye gusaba abajandarume kuri Perefegitura i Butare nyuma y'uko hakozwe inama muri ISAR-Rubona irimo Abahutu n'Abatutsi hakemezwa ko hakwitabazwa ubuyobozi bwa Perefegitura bukabafasha guhangana n'ibyo bitero byabagabwagaho muri icyo kigo, ko ibyo Ubushinjacyaha buvuga ko hagati yo ku wa 26/04/1994 no ku wa 30/04/1994 yabonye Abatutsi bahungiye mu Gakera bari kwirwanaho basubiza inyuma ibitero byabagabwagaho, ajya kuzana abajandarume bo kubica atari ukuri kubera ko nta bimenyetso bidashidikanywaho bibigaragaza byatanzwe n'Ubushinjacyaha kuko iyo aza kuba ari muri uwo mugambi iwe haba hatarasenywe ngo hanasahurwe n'interahamwe ubwo yari yagiye gusaba bajandarume kuri Perefegitura i Butare.

- **Kubijyanye n'icyaha cy'ubufatanyacyaha muri Jenoside**

[37] Dr. Rutunga Venant n'abamwunganira bavuga ko nta bikoresho byifashishijwe mu kwica Abatutsi yatanze, ko atigeze ategera ngo anahembe interahamwe zakoze ubwicanyi, ndetse ko kuba yarasabye akanazana abajandarume bishe Abatutsi muri ISAR-Rubona yabikoze mu rwego rwo gutabariza ikigo cyari cyugarijwe n'ibitero by'interahamwe, bityo ko atafatwa nk'umufatanyacyaha muri Jenoside kubera ko nawe mbere y'uko hagira umuntu upfa muri ISAR-Rubona cyangwa ugira ikintu kibi icyo ari cyo cyose akorerwa, iwe hagabweyo igitero kiramusenyera ndetse kinasahura inzu ye.

- **Ibirebana no gutanga ibikoresho byifashishijwe mu kwica Abatutsi**

[38] Dr. Rutunga Venant n'abamwunganira bavuga ko nta bikoresho byari mu bubiko bwa ISAR-Rubona yahaye interahamwe zari muri icyo kigo kugira ngo zifatanye n'izaturutse mu makomini akikije ikigo no muri Komini Maraba zifashishije mu kwica Abatutsi kubera ko nta nterahamwe zabaga mu kigo ndetse ko n'ibikoresho gakondo ISAR-Rubona yari ifite ari amasuka, imihoro, kupakupa n'amashoka nk'uko byavuzwe n'ababajijwe mu iperereza no mu rubanza rwaciwe n'Urukiko rwa mbere rw'Iremezo rwa Butare ko abateye ikigo bari bifitiye ibyabo bikoresho ariko ko nta mpiri, ibibando, amacumu, imiheto n'imyambi byabaga mu bubiko bwacyo. Banavuga ko nta nama yemerejwemo gutanga ibikoresho yigeze abamo kuko nta bimenyetso bidashidikanywaho byatanzwe n'Ubushinjacyaha bibigaragaza.

- **Kubijyanye no gutegera no guhemba interahamwe zakoze ubwicanyi**

[39] Dr. Rutunga Venant n'abamwunganira bavuga ko nta bimenyetso bigaragaza ko hari inzoga yahembye interahamwe zakoze ubwicanyi kuko bitari gushoboka kuko nta rwengero rw'inzoga rwabaga muri ISAR-Rubona, ko nta n'inka yigeze atanga mu rwego rwo guhemba abakoraga ubwicanyi kubera ko inka zari muri ISAR-Rubona zari izo gukoreshwa mu bushakashatsi akaba nta muyobozi wari wemerewe gutanga muri izo nka kuko kuyitanga byagombaga gukurikiza imihango yateganyijwe, ko n'imanza zaciwe haba Urukiko rwa Mbere rw'Iremezo rwa Butare n'Urukiko rw'Ubujurire rwa Nyabisindu zagaragaje ko uwatanze ikimasa ari Mugemana Didace wari ukuriye sitasiyo ya Rubona.

- **Ibijyanye no gusaba no kuzana abajandarume bishe Abatutsi muri ISAR-Rubona**

[40] Dr. Rutunga Venant n'abamwunganira bavuga ko yagiye gutabaza Perefe wa Perefegitura ya Butare agezeyo amwemerera abajandarume mu rwego rwo kurinda ikigo cya ISAR-Rubona kubera ko cyari cyugarijwe n'ibitero byaturukaga mu makomini acyegereye.

[41] Banavuga ko abari barahungiye muri ISAR-Rubona bamaze kwicwa, imibiri yabo bayibitse uko bashoboye kugira ngo amahoro naboneka izashyingurwe mu cyubahiro kandi ko abagize uruhare muri icyo gikorwa bahembwe imyaka; bityo rero basanga ataryozwa ubwicanyi bwakozwe n'abo bajandarume kuko nk'umusiviri atari afite ububasha bwo kubaha amabwiriza y'uburyo bazakoramo akazi kabo cyane ko na Perefe Sylvain Nsabimana wamuhaye abo bajadarume yaburanye icyo gikorwa akigirwaho umwere, ahubwo basanga ibyo byabazwa inzego zabohereje.

[42] Bavuga kandi ko basanga Dr. Rutunga Venant atakurikiranwa nka gatozi ku cyaha cya Jenoside ngo anakurikiranwe nk'umufatanyacyaha muri icyo cyaha hashingiwe ku bikorwa bimwe, cyane ko mu kirego cyabwo no mu miburanire y'Ubushinjacyaha buvuga ko Dr. Rutunga Venant yabaye icyitso mu cyaha cya Jenoside bakaba badasobanukiwe neza niba aregwa kuba umufatanyacyaha cyangwa kuba icyitso.

- **Kubirebana n'icyaha cyo kurimbura nk'icyaha cyibasiye inyokomuntu**

[43] Dr. Rutunga Venant n'abamwunganira bavuga ko nta bimenyetso byatanzwe n'Ubushinjacyaha bigaragaza ko hari aho ahuriye n'icyaha cyo kurimbura nk'icyaha cyibasiye inyokomuntu bumurega bushingiye gusa ku kuba yaragiye kuzana abajandarume bagera muri ISAR-Rubona bakica impunzi z'Abatutsi zari mu Gakera bakanica umukozi w'icyo kigo witwa Kalisa Epaphrodite n'undi witwa Ndamage Georges kubera ko ajya kuzana abajandarume atari agambiriye ko bica abo batutsi.

[44] Ku byaha byose aregwa basaba ko Dr. Rutunga Venant yagirwa umwere, kubera ko ibimenyetso byatanzwe bigizwe n'ibyo yemeye, imvugo z'ababajijwe mu iperereza n'ubuhamya bwatanzwe bitagaragaza ku buryo budashidikanywaho uruhare rwe mu bikorwa bigize ibyaha aregwa cyane cyane ko butagaragaza igihe ibikorwa akurikiranweho byakorewe, ko no mu mibanire ye n'Abatutsi bakoranaga kimwe n'abandi nta rwango yigeze abagirira, kuko abatarishwe bo muri ISAR-Rubona bose bageranye na we i Butare kuri arboretum bakiriho, ko hari n'inkomere zo mu bitero byo ku wa 25/04/1994-26/4/1994 yahaye imodoka ngo ibajyane ku ivuriro i Butare kandi bamwe bakiriho, ko kuba hari abishwe n'interahamwe n'abajandarume nta bubasha yari abafiteho ku buryo yari kuburizamo ubwicanyi bakoze.

[45] Bavuga kandi ko Dr. Rutunga Venant atakurikiranwaho icyaha cya Jenoside kubera ko kitateganywaga ntikinahanwe mu Itegeko-Teka no 21/77 ryo ku wa 18/08/1977 ryashyiragaho igitabo cy'amategeko ahana mu Rwanda ryakurikizwaga ubwo Jenoside yakorewe Abatutsi yakorwaga, ko n'u Rwanda rwari rwarifashe ku ngingo ya cyenda (9) y'amasezerano yo ku wa 09/12/1948 arebana no guhana icyaha cya Jenoside rwemeje mu itegeko-teka no 08/75 ryo ku wa 12/02/1975; bityo ko hakubahirizwa ihame ry'uko itegeko rihana rireba ibyabaye rimaze kujyaho ritareba ibyabaye mbere y'uko rijyaho nk'uko byateganywaga n'ingingo ya 12 igika cya 3 y'Itegeko Nshinga ryo ku wa 20/12/1978 u Rwanda rwagenderagaho icyo gihe.

[46] Basoza bavuga ko kuba Dr. Rutunga Venant atarigeze anashyirwa ku rutonde rw'abakekwaho icyaha cya Jenoside yakorewe Abatutsi rwoherezwaga mu bihugu byose bashakisha abagikoze ari uko nta cyaha yakekwagaho, ntanavugwe mu zindi manza, zaba izaciwe n'Inkiko Gacaca n'izaciwe n'inkiko zisanzwe, ku bwicanyi bwakorewe muri ISAR-Rubona bigaragaza ko nta ruhare yagize mu bikorwa bigize ibyaha aregwa.

C. Ubuhamya bwatangiwe mu rukiko n'icyo ababuranyi babuvugaho

- **Ubuhamya bwatangiwe mu rukiko**

[47] Muri iki gice habajijwe abatangabuhamya n'abatangamakuru batandukanye batanzwe n'impande zombi ziri muri uru rubanza bamwe babazwa bahawe andi mazina n'amajwi yabo yahinduwe mu rwego rwo kubarindira umutekano. Mu bikorwa batanzeho ubuhamya n'amakuru harimo ibijyanye n'iyicwa

ry’abakozi b’Abatutsi ba ISAR-Rubona, iyicwa ry’impunzi zari mu Gakera no kuzana abajandarume bishe Abatutsi bari muri ISAR-Rubona, gutanga ibikoresho byakoreshejwe mu kwica Abatutsi no gutega no guhemba interahamwe zakoze ubwicanyi.

- Ku bijyanye n’iyicwa ry’abakozi b’Abatutsi ba ISAR-Rubona

[48] Abatangabuhamya D.R.V.A, D.R.V.B, Sebarame Jean Baptiste, Kayibanda Ildephonse, Byukusenge Alphonse, Burimwinyundo Edouard, R.V 002, R.V 001, Habimana Charles, R.V.004, Mukandori Didacienne, R.V. 005, Kanyeperu Augustin, R.U.T.01, R.U.T.03, Rutiyomba Arsène, R.U.T.10, R.V 006 n’abatangamakuru Ntunda Jacques, Bunani Emmanuel na Ruzigaminturo Innocent, nibo bagize icyo bavuga ku birebana n’iyicwa ry’abakozi ba ISAR-Rubona bari Abatutsi.

[49] Umutangabuhamya D.R.V.A avuga ko Dr. Rutunga Venant nta muntu yatemye ku giti cye, ko yashishikarizaga Abahutu kwica Abatutsi, ko yagendaga abaza amakuru yabo ku ma bariyeri abo bafashe bakabica ahari ntihagire icyo abikoraho kandi ariwe muyobozi wari usigaye muri ISAR-rubona, ko mu iyicwa rya Ndamage Georges, ubuyobozi bwa ISAR-Rubona bwemereye abantu inka kugira ngo bamushakishe yicwe kandi bikaba byarakozwe n’inka iratangwa, agasobanura ko ayo makuru yayabwiwe n’uwitwa Vianney wari mu bajyaga mu nama za ‟comité de crise” akanajya kuri za bariyeri agafata abantu bakabashyikiriza Dr. Rutunga Venant.

[50] D.R.V.B we yemeza ko uruhare rwa Dr. Rutunga Venant mu iyicwa rya Kalisa Epaphrodite, Munyengango Jean Claude, Ndamage Georges na Sebahutu André ari uko yagendanaga n’abasirikare bakica areba ariko ntihagire icyo akora nyamara yari umuyobozi afite ububasha bwo kubarengera, ko ku iyicwa rya Kalisa Epaphrodite na Munyengango Jean Claude, ku wa 25 cyangwa ku wa 26/04/1994 ari hafi saa moya z’ijoro, yabonye Dr. Rutunga Venant ari kumwe n’uwitwa Murindangabo Joseph n’abasirikari batatu (3) bamusanze mu rugo iwe aho yari atuye muri ISAR-Rubona, bamubaza aho umugabo we ari ababwira ko ari mu kazi ariko banga kubyemera, bahita bamushorera berekeza ku biro by’ubuyobozi bukuru bwa ISAR-Rubona bageze hepfo y’akabari kitwa Polygone bahahurira na Munyengango Jean Claude, umusirikari umwe amutera icyuma ahita apfa.

[51] Anavuga ko bageze haruguru gato bahuye na Kalisa Epaphrodite bamuha umusirikari umwe amumanukana hafi y’inzu z’abitwaga Kayitani na Tadeyo aramurasa ariko isasu ntiryamufata, bageze haruguru y’icyumba cyari imbere y’ubuyobozi bukuru, Kalisa Epaphrodite yazamutse ahabasanga umusirikare wari wamutwaye aravuga ngo dore wa mugabo aragarutse, bahita bamuryamisha mu muvu w’amazi mu mvura nyinshi, bukeye aba aribwo yumva ko yishwe. Avuga kandi ko ku bijyanye n’iyicwa rya Ndamage Georges atabonye yicwa ariko ko yumvise ko Murindangabo Joseph na Dr. Rutunga Venant bahembye abantu bamwishe inka akaba yarabyumviye muri Gacaca bivugwa na Nyangezi na Ruhoryongo bari mubahembwe iyo nka, na ho ku birebana n’iyicwa rya Sebahutu André avuga ko yajyanye mu butumwa bw’akazi i Ntendezi mu cyahoze ari Perefegitura ya Cyangugu n’abandi bakozi bo muri ISAR-Rubona barimo Dr. Rutunga Venant abandi baragaruka ariko we ntiyagaruka, ko nyuma umushoferi wari wabatwaye yazaniye umugore we igikapu cye kirimo imyenda ye iriho ibitaka amubwira ko we nta ruhare yagize mu iyicwa rye kubera ko atize.

[52] Avuga na none ko Dr. Rutunga Venant, Murindangabo Joseph n’abasirikare bashatse kumwica we n’abana inshuro ebyiri (2) ariko birangira batabigezeho, ko ubwa mbere abasirikare bemereye Dr. Rutunga Venant na Murindangabo Joseph ko bagiye kumwica ariko bavuga ko batari bwice abana be ntibumvikana ku muntu wagombaga kubica, ko ku nshuro ya kabiri, Dr. Rutunga Venant na Murindangabo Joseph bohereje umupuranto kumubwira ko bamenye amakuru ko umugabo we arwariye i Cyangungu ahitwa Kuwinka anamubwira ko bagiye kumwoherereza imodoka imujyanayo kumurwaza ariko nyuma uwitwa Vianney aza kumubwira ko bari kumushuka kugira ngo bazamwicireyo we n’abana.

[53] R.V 001 nawe avuga ko yumvise ko Kalisa Epaphrodite yishwe n'igitero cy'abantu baturutse i Musasu bamutsinda mu rugano nyuma y'igitero cyo ku wa 26/04/1994 naho ko Ndamage Georges yavanwe i Musasu aho yari yihishe, ko bamufashe yabasabye ko bareka akabanza akagera iwe mu rugo bamugejeje yo asanga iwe barahasenye bahita bajya kumwica, ko ababigizemo uruhare ari abitwa Nyangezi na Ruhoryongo, ko nta ruhare rwa Dr. Rutunga Venant azi muri iryo yicwa rye.

[54] R.V 002 avuga ko abakozi ba ISAR-Rubona bishwe muri Jenoside yakorewe Abatutsi yibuka ari Grégoire, Ubutama, Sejojo, Gakumba Joseph n'abagore n'abana babo, Kalisa Epaphrodite, Ndamage Georges n'abandi atibuka amazina. Asobanura ko Kalisa Epaphrodite yamubonye yamaze kwicwa ariko atazi uko yishwe, ko yabonye umurambo we bawuzengurukana mu kigo muri Tingatinga, ko Ndamage Georges we bamukuye aho yari yihishe kwa Jean bahimbaga Kaguru, barangije baramwica, ko abamwishe bahembwe ikimasa n'abayobozi ba ISAR-Rubona barimo Dr. Rutunga Venant, Murindangabo Joseph, Mugemana Didace na Barthélémy, kandi ko mu bakozi ba ISAR bagize uruhare mu rupfu rwa Ndamage Georges harimo Yohani bahimbaga Ruhoryongo na Dominiko, ndetse ko ari nabo baje gutwara ikimasa bari bahawe n'ubuyobozi bamaze kumwica.

[55] R.V.004 we avuga ko yumvise ko muri ISAR-Rubona habaye ibitero bibiri bitandukanye, ko icya mbere cyavuye i Maraba na Ruhashya ari cyo cyishe Gatari Alphonse na Munyengango Jean Claude hamwe n'umugore wa Kalisa Epaphrodite witwaga Epiphanie na murumuna we witwaga Spéciose n'abana babo, ko iyo miryango ibiri bayisanze mu nzu iwe nyuma barayisohora, we azamukana n'umujandarume umwe amubaza niba afite amafaranga, amuha ibihumbi bitatu (3000Frw) abandi barabajyana kandi ko atamenye uko bishwe, ko bigeze nijoro aribwo yabonye umuhungu umwe wa Kalisa agarutse mu rugo iwe bamukomerekeje ashaka uko yamwomora. Avuga kandi ko icyo gitero ari cyo cyasahuye kinasenya amazu harimo n'iya Dr. Rutunga Venant, ko igitero cyaje umunsi ukurikiyeho ntacyo cyakoze, ko cyageze mu kigo abasirikare baje bakacyirukana. Akavuga ko atazi uko Kalisa Epaphrodite yishwe, ko ariko mbere y'uko yicwa yamutumyeho ajya kumureba aho bari babajyanye mu cyumba barinzwe n'abajandarume, bavuganira hanze amubaza niba umuryango we ukiriho amubwira ko ukiriho kandi uri iwe, nawe amubwira ko bazabana neza, ko atongeye kumubona kugeza yishwe. Anavuga ko yumvise ko abantu barimo uwitwa Nyangezi bakuye Ndamage Georges i Musasu baza kumwicira mu kigo cya ISAR-Rubona, ko bamaze kumwica Mugemana Didace wari ushinzwe abakozi yabahaye ikimasa.

[56] R.V. 005 nawe avuga ko hari ubwo bari ku irondo ku biro bikuru bya ISAR-Rubona hafi ya kantine, Kalisa Epaphrodite ahanyuze umujandarume aramutwara bavuga ko ari inyenzi ndetse ko n'izindi ziri mu kigo bazizi, hashize akanya bumva amasasu aravuze nyuma babona Kalisa Epaphrodite aragarutse, mu gitondo bagarutse imvura yamunyagiye barimo bamusaba gukora ihererekanya bubasha, nyuma umujandarume aramujyana baza kumva ko yapfuye ariko ko atazi uwamwishe, ko mu ifatwa rye ntacyo yabonye Dr. Rutunga Venant akora. Anavuga ko abandi batutsi azi bishwe ari Ndamage Georges, Sebahutu, Gatari, Kabahizi n'abandi; agasobanura ko Ndamage Georges yishwe yaragiye gushyingura mubyara we agarutse aba aribwo amenya amakuru ko yishwe, ariko ko nta gihembo azi cyahawe abamwishe, ko Sebahutu André wari utuye hafi ya Murindangabo Joseph yumvise ko yaguye i Ntendezi ari mu butumwa bw'akazi ariko ko atazi uburyo yapfuyemo n'icyamwishe. Akavuga ko mu rupfu rwa Kalisa Epaphrodite n'urwa Ndamage Georges nta ruhare rwa Dr. Rutunga Venant azi kimwe no muri Jenoside yakorewe Abatutsi kuko yabanaga neza n'abandi bakozi ba ISAR-Rubona, ko yari umuntu witonze wibera mu bushakashatsi, batumva uko bavuga ko yaba yaragize uruhare muri Jenoside yakorewe Abatutsi, ko ibi we yabimenye ari uko Dr. Rutunga Venant azanywe mu Rwanda.

[57] R.V 006 yemeza ko amaze kuva aho yari yihishe yageze aho Perefe wa Butare yakoresherezaga inama batangira kumukurubana, Perefe abibonye abwira Dr. Rutunga Venant ko amumuragije, Dr. Rutunga Venant ahita amutungira urutoki amwereka kwa Yozefa wari umuyobozi w'ikigo Nderabuzima cya Rubona, amusaba kujyayo agafasha umwana wa mukuru we yari afiye wari wakomeretse ariko ahageze bamubwira ko ntacyo bamufasha kubera umwana yari yavuye amaraso menshi bakomeza gutegereza imodoka Dr. Rutunga Venant yari amaze kubashakira, ihageze bayijyanamo we n'umwana bari kumwe na

Christine bageze hafi y'aho inama yaberaga bagiye kureba niba na Kalisa Epaphrodite ahari na we ngo bamutware basanga umwishi amuri hejuru n'umuhoro amaze kumwicira. Avuga kandi ko hari videwo yakozwe hibukwa Abatutsi bazize Jenoside muri ISAR-Rubona yavuzemo ko Dr. Rutunga Venant yamushakiye imodoka n'umushoferi imujyana kwivuza hamwe n'umwana wa mukuru we n'umugore wa Kabahizi witwa Christine.

[58] Anavuga ko aho yasanze Kalisa Epaphrodite amaze kwicirwa ari kuri bariyeri iri aho urugano rwo muri ISAR-Rubona rutangirira umuntu asohoka mu kigo nko muri metero zitarenga ijana (100), ko mu bandi bakozi ba ISAR-Rubona bishwe muri Jenoside yakorewe Abatutsi, ko uretse Kalisa Epaphrodite hari na Rwaya n'abandi benshi barimo mukuru we.

[59] Sebarame Jean Baptiste we yemeza ko amakuru yumvise ari uko igitero cyabaye ku wa 26/04/1994 giturutse i Maraba muri Segiteri ya Ruhashya ari cyo cyishe abantu benshi barimo Kalisa Epaphrodite, Rwaya Déo n'abandi benshi, kandi ko nyuma Abatutsi bakomeje gushakishwa, ko abafashwe barimo Seromba Yozefu na Ndamage Georges babanje gushyikirizwa ubuyobozi mbere y'uko bicwa, mu babatwaye hakaba havugwamo Nyangezi na Ruhoryongo, ko uruhare rwa Dr. Rutunga Venant mu bwicanyi bwabereye muri ISAR-Rubona ari uko aho yayoboraga hishwe abantu ariko akaba ntacyo yakoze mu rwego rwo kubarengera.

[60] Mu buhamya bwe kandi avuga ko yari umukozi wa ISAR-Rubona ariko ko ku wa 21/04/1994 yahavuye ubwicanyi butaratangira ahagaruka ku wa 09/05/1994 aje gufatanya n'abandi gushyingura imibiri y'Abatutsi bari bamaze kwicwa, ndetse ko hari ubwo yabonye Dr. Rutunga Venant n'abandi bayobozi barimo abitwa Mugimba na Kabirigi burira imodoka bafite ibikoresho by'intambara birimo imitarimba bagiye kwakira Cardinal Etchegaray ubwo yazaga i Butare.

[61] Kayibanda Ildephonse we avuga ko yabonye abasirikari baje gufasha interahamwe kwica Abatutsi bari muri ISAR-Rubona bahagera ariko atazi uwabazanye n'igihe bahagereye, ko uruhare rwa Dr. Rutunga Venant ari uko abo basirikare baryaga ibiryo bitekewe iwe, ku birebana n'iyicwa rya Ndamage Georges na Kalisa Epaphrodite avuga ko yabonye Dr. Rutunga Venant aho biciwe, agasobanura ko yamubonye azamuka ubwo abasirikare bari bajyanye Kalisa Epaphrodite kumwica; naho ku iyicwa rya Ndamage Georges akavuga ko amaze gufatwa n'abaturage barimo bamukubita bakanamwambura isaha bakanaca impamyabumenyi z'abana be, yabonye Dr. Rutunga Venant azamura urutoki rw'igikumwe yishimira ibyo bikorwa by'urugomo barimo bamukorera.

[62] Byukusenge Alphonse avuga ko mu bakozi ba ISAR-Rubona uwo yumvise wishwe muri Jenoside yakorewe Abatutsi ari uwitwa Kalisa Epaphrodite ariko ko nta ruhare rwa Dr. Rutunga Venant azi muri ubwo bwicanyi, akaba ari nabwo bwa mbere amubonye.

[63] Burimwinyundo Edouard avuga ko abakozi ba ISAR-Rubona biciwe muri icyo kigo yibuka harimo Kalisa Epaphrodite, Ndamage Georges na Sebahutu, ko Kalisa Epaphrodite abajandarume bamufashe bakamurambika hasi mu muvu w'amazi barara bamukubita, ko baje no kumuha akanyama kamwe kubera ko bari bamaze kubaga inka z'abaturage, bakajya bamurasira amasasu hejuru ariko ntibamurase, bamusaba kuririmba indirimbo z'inkotanyi ziramunanira, ko bucyeye yajyanywe kwicirwa mu rugano hamwe n'abandi batutsi basaga makumyabiri na bane (24) ariko ko Dr. Rutunga Venant atamubonye aho Kalisa Epaphrodite yiciwe uretse ko uwitwa Makaratasi yamubwiye ko Dr. Rutunga Venant nawe yahageze.

[64] Anavuga ko atazi uko Ndamage Georges yishwe kuko atari ahari yicwa ariko ko yumvishe ko mu bamwishe harimo uwitwa Ruhoryongo wamubwiye ko atamwicisha amasasu ko yaba ayapfushije ubusa, ko abayobozi barimo Dr. Rutunga Venant bahembye abamwishe ikimasa cy'ibiro magana ane (400kg), ko igituma avuga ko Dr. Rutunga Venant yarimo ari uko nta muntu wari wemerewe gufata ikintu na kimwe cya ISAR-Rubona yewe n'ikigori atagihawe n'ubuyobozi.

[65] Habimana Charles we avuga ko abakozi ba ISAR-Rubona yibuka ari Kalisa Epaphrodite, Ndamage Georges, Butabu Faustin na Sebahutu Télésphore; agasobanura ko ubwo yari avuye gukama yahuye n'abafite umurambo wa Kalisa Epaphrodite bawushyize muri Torotoro, ko yumvise ko Ndamage Georges yishwe n'abantu barimo uwitwa Ruhoryongo, ko ndetse bamaze kumwica Murindangabo Joseph yabahembye ikimasa kinini kandi ko ubwe yanakibonye bakijyanye. Anavuga ko atazi uko Sebahutu Télésphore yishwe ariko ko hari undi mututsi witwaga Rubayiza wishwe, ko ubwo yari aje ku kazi yahuye n'umusirikare ari kumwe n'umuntu ufite igare ry'uwo muhungu bamutwara gutyo.

[66] Mukandori Didacienne avuga ko yabwiwe na Ntaganda Sylvestre n'umugore wa Musonera Silas na Yohani alias Kaguru ko Ndamage Georges yishwe ku wa 09/05/1994 mbere ya saa sita, ko abayobozi ba ISAR-Rubona barimo Mugemana Didace bakoze inama bavuga ko umuntu uzamubona bazamuha ikimasa cy'ibiro magana atanu (500 Kg), ko kubera iyo ntego aho yari yihishe kwa Kaguru bahise bamwirukana ahungira hakurya ya ISAR-Rubona ari naho interahamwe zamukuye ziza kumwicira muri ISAR-Rubona. Anavuga kandi ko yumvise ko mbere y'uko Kalisa Epaphrodite yicwa yajombaguwe n'abajandarume ibintu atazi, ko icyo gihe yari imbere y'ibiro ku mucanga n'imvura iri kugwa kandi ko hari abantu bashungereye harimo Dr. Rutunga Venant na Murindangabo Joseph.

[67] Kanyeperu Augustin avuga ko uwo yabonye yicwa ari Sebahutu Télésphore wishwe na Ntezimana bahimbaga Ruhoryongo abitegetswe n'abasirikare, ko amubona hari nka saa tatu z'ijoro (21h00) aho abasirikare bari bari kumwe n'uwitwaga Ntezimana bahimbaga Ruhoryongo bamwicaje mu kigo cya ISAR-Rubona ubwo yari aje gufata inkwi zo gucana aho yararaga, ko aribwo umwe muri abo basirikare yamusabye gushyira izo nkwi hasi bahita bamushorera bageze kuri kaburimbo Ntezimana amukubita ubuhiri, abo basirikare bamutegeka kumuhamba mbere ya saa kumi za mu gitondo. Anavuga ko atazi iyicwa rya Ndamage Georges uretse ko nyuma y'iyicwa rye yasanze Ntezimana bita Ruhoryongo yicaye mu modoka yagendagamo anafite carte jaune yayo n'imfunguzo zayo amubwira ko Ndamage Georges yabimuhaye kugira ngo amwice neza, ko kandi no muri Gacaca yumvise bavuga ko abamwishe Murindangabo Joseph yabahaye inka. Avuga kandi ko atazi uko Kalisa Epaphrodite yishwe ariko ko yabonye amaraso menshi imbere ya laboratwari bamubwira ko bahatemeye Kalisa Epaphrodite.

[68] Bunani Emmanuel, mu makuru yahaye urukiko avuga ko abo yumvise bishwe ari Ndamage Georges, Sebahutu André n'abandi bashoferi bakoranaga ariko ko atamenye uko bishwe kuko baguye inyuma y'ikigo. Agasobanura ko urupfu rwa Ndamage Georges yarubwiwe n'uwitwaga Fidèle naho urwa Sebahutu André arubwirwa na Munyarubuga wamubwiye ko yiciwe i Cyangugu ariko ko atamubwiye uwamwishe.

[69] R.U.T.01 mu buhamya bwe, avuga ko mu mwaka wa 1995 uwitwa Kubwimana Xaverina yamubwiye ko hari Abatutsi bakoranye bishwe muri Jenoside barimo Ndamage Georges na Sebahutu André anamubwira ko uyu yiciwe i Cyangugu ari mu butumwa bw'akazi kandi ko ari Dr. Rutunga Venant wari warabumwoherejemo kugira ngo bamwicireyo, ko hari n'abandi bavugaga ko ibyo atari byo kubera ko ntawari uzi ibizaba. Anavuga ko atumvise iby'abasirikare cyangwa abajandarume baje mu kigo cya ISAR-Rubona kuko nawe aho yari ari icyo gihe nta mahoro yari afite, ndetse ko icyo gihe atari agikorera muri ISAR-Rubona akaba atarigeze anahagera, ariko ko mbere akihakorera Dr. Rutunga Venant waje muri icyo kigo mu mwaka wa 1980 ahamusanga yabanaga neza n'abandi ndetse ko bamwitaga Padiri kubera ubwitonzi yagaragazaga.

[70] R.U.T.03 nawe avuga ko yumvise ko Ruhoryongo ari we wishe Kalisa Epaphrodite n'umuryango we, Ndamage Georges na Seromba Joseph ariko ko atazi uko bishwe, ko yanabonye abitwa Tabaruka Stany na Rwaya Déo bicishwa ubuhiri n'uwitwaga Yohani bahimbaga Ruhoryongo, bakuwe mu kigo cya ISAR-Rubona bicirwa ku muhanda wa kaburimbo inyuma ya kiyosike, ko hafi saa moya za nimugoroba (19h00) yanabonye abasirikare batatu (3) bari kumwe n'uwitwa Barthélémy bahimbaga Muyoboro wakoraga muri ISAR-Rubona wari no mu bari bagize comité de crise, bashoreye uwitwa Rujabuka Jacques murumuna wa

Shyaka Jean Bosco wakoraga muri ISAR-Rubona, bajya kumwicisha ubuhiri imbere y'ahahoze ari kwa Murekezi Cyprien.

[71] R.U.T.10 wemeza ko mu gihe cya Jenoside yari yarahungiye ahitwa muri ISAR-Rubona avuga ko ku iyicwa rya Ndamage Georges yumvise bavuga ko abana be bishwe bituma nawe ava mu bwihisho baramwica naho ku iyicwa rya Kalisa Epaphrodite avuga ko yaryumvanye abashumba atibuka amazina bavuga ko urupfu rwe rwagizwemo uruhare n'abicanyi b'i Musasu havugwamo cyane cyane uwitwa Murindangabo Joseph afatanyije n'abayobozi ba ISAR-Rubona.

[72] Rutiyomba Arsène avuga ko hari Abatutsi biciwe muri ISAR-Rubona mu gihe cya Jenoside, ko abo azi barimo Ndamage Georges n'umuryango we, Kalisa Epaphrodite na Sebahutu André. Agasobanura ko nyuma y'iyicwa rya Ndamage Georges n'umuryango we yamenye ko imodoka ye n'imfunguzo zayo hari umucuruzi Mugemana Didace yabihaye, ko ariko atamenye iby'iyicwa rya Kalisa Epaphrodite, agasobanura ku iyicwa rya Sebahutu André yamenye ko ari mu bagiye mu butumwa bw'akazi i Cyangugu ntiyagaruka abibwiwe na Ndayizigiye bari bajyanye muri ubwo butumwa wamubwiye ko hari umuntu wamuvanye muri bisi aramwica. Anavuga ko atazi niba koko Dr. Rutunga Venant yari afite ububasha bwo gusinyira Sebahutu André inyandiko imwohereza mu butumwa bw'akazi.

[73] Umutangamakuru Ruzigaminturo Innocent avuga ko nta cyo azi ku iyicwa ry'Abatutsi muri ISAR-Rubona kubera ko byabaye atakihakora, ko icyo azi kuri ubwo bwicanyi ari uko hiciwe abantu benshi barimo n'umuhungu we ariko atazi uko bishwe, anumva ko hari umwana w'umututsi witwaga Kalisa wakinaga umupira wahiciwe, akanasobanura ko ibitero byahagabwe yahavuye bitarahagera ariko bitangiye gututumba kuko byagabwaga muri Komini yabo ya Ruhashya bigakumirwa. Asoza avuga ko igihe yahakoraga ari bwo yamenye Dr. Rutunga Venant nk'umuyobozi mwiza wari ushinzwe ibyinjira n'ibisohoka akaba nta kintu kibi yigeze amwumvaho mu gihe cya Jenoside.

[74] Umutangamakuru Ntunda Jacques avuga ku birebana n'iyicwa ry'abakozi b'Abatutsi bakoraga muri ISAR-Rubona ntabyo yabonye kuko atahabaga, ariko ko aburana yumviye mu rukiko ko mu bishwe harimo Munyengango Claude, Sebahutu Télésphore n'umuryango we, Georges na Kalisa Epaphrodite n'umuryango we.

- Ku bijyanye n'iyicwa ry'impunzi z'Abatutsi bari mu Gakera no gusaba no kuzana abajandarume bishe Abatutsi muri ISAR-Rubona

[75] Mu babajijwe ku iyicwa ry'impunzi z'Abatutsi zari zarahungiye mu Gakera zishwe n'abajandarume bafatanyije n'interahamwe harimo abatangabuhamya D.R.V.A, D.R.V.B, R.V. 001, R.V. 002, R.V.003, R.V.004, R.V.005, R.V 006, R.U.T.03, R.U.T.10, Kayibanda Ildephonse, Habimana Jean, Nzeyimana Jean de Dieu, Mwitende Vianney, Mweretsende Damascène, Byukusenge Alphonse, Burimwinyundo Edouard, Habimana Charles, Mukandori Didacienne, Kanyeperu Augustin, Rutiyomba Arsène, Niyonsaba François alias Tayzon, n'abatangamakuru Bunani Emmanuel na Ntunda Jacques.

[76] Mu buhamya bwe mu rukiko, D.R.V.A avuga ko Dr. Rutunga Venant ari we wagiye kuzana abajandarume bishe abantu bari bahungiye hepfo y'ivuriro ryari i Rubona n'abandi bashakaga guhunga bakabagarura. Avuga ko ubwe ubwo yari yihishe mu ishyamba ahitwa Potager yiboneye Dr. Rutunga Venant avuye kuzana abo bajandarume abavanye i Butare mu modoka Camionnette Toyota Hilux ya ISAR-Rubona, akanavuga ko kuva mu mwaka wa 1991 kugeza ku wa 26/04/1994 ubwicanyi butangiye muri ISAR-Rubona yari umukozi wayo, ko mbere ya Jenoside nta mibanire mibi yari hagati ya Dr. Rutunga Venant n'abakozi b'Abatutsi bakoraga muri ISAR-Rubona ariko ko mu gihe cya Jenoside aribwo hatangiye kugaragara imyitwarire mibi ye nko kurobanura abantu no gutumira bamwe mu nama zimwe na zimwe zigatumirwamo abakozi b'Abahutu gusa kandi atari inama zemewe.

[77] D.R.V.B we avuga ko yumvise ko Dr. Rutunga Venant ari we wagiye i Butare kuzana abasirikare bishe impunzi z'Abatutsi zari zarahungiye muri ISAR-Rubona.

[78] R.V 001 avuga ko nta ruhare azi cyangwa yumvise rwa Dr. Rutunga Venant mu bwicanyi bwabereye muri ISAR-Rubona. Agasobanura ko yumvise ko abajandarume bavuye i Butare barashe ku baturage, ariko ko nta gitero kirimo abajandarume n'abaturage azi cyangwa yumvise cyagabwe kuri izo mpunzi, ko bageze mu kigo cya ISAR-Rubona igitero cyavuzwe cyari cyaturutse Mara, Maraba na Gikongoro cyagiye, ko we yagarutse mu kigo ku wa 27/04/1994 abajandarume benshi batashye hasigaye babiri (2) ariko ko udutero shuma twakomeje gutera impunzi zari zihasigaye.

[79] Asobanura ko kuva ku wa 20/04/1994 ibitero byatangiye kuza biva i Mara n'i Musasu bishaka kwinjira mu kigo cya ISAR-Rubona, abahatuye batangira kugerageza kwirwanaho ariko biza kugera ubwo ibitero bibarushije ingufu; asobanura ko ku wa 25/04/1994 kuri Komini Ruhashya hatewe n'igitero kirimo abajandarume n'abaturage baturutse i Mwogo ku Gikongoro n'i Maraba cyica abantu bituma abaturage baho bahungira mu mashyamba ya ISAR-Rubona, ko ku wa 26/04/1994 muri ISAR-Rubona naho hatewe n'abajandarume n'abaturage baturutse i Mara, i Maraba no ku Gikongoro, cyica abantu benshi kinasenya n'amazu cyane cyane ay'Abatutsi ndetse n'inzu ya Dr. Rutunga Venant kirayisenya n'ubwo we yari umuhutu, ko icyo gihe yari yagiye i Butare kuri Perefegitura gutabaza abajandarume.

[80] Anasobanura ko uretse iya Dr. Rutunga Venant izindi nzu zose zasenywe zari iz'Abatutsi gusa, ko gusenya inzu ya Dr. Rutunga Venant nabo byababereye urujijo kubera ko batamenye ko byaba byaratewe no kuyibeshyaho batekereza ko ari iy'umututsi wahunze cyangwa se ko byaba byaratewe n'uko basanze nta muntu uhari, ko ibyo kuba barayisenye kubera ko atari ashyigikiye ubwicanyi adatekereza ko ari byo, kubera ko nawe atari abushyigikiye ariko atasenyewe. Akomeza asobanura ko ibyo icyo gitero cyakoze atabibonye ari ibyo yumvise kubera ko cyageze muri ISAR-Rubona yahavuye, ko yahavuye ku wa 26/04/1994 mu ma saa munani abajandarume batarahagera.

[81] Avuga na none ko yabwiwe n'abaturanyi be barimo uwitwaga Kavamahanga ko ari Dr. Rutunga Venant wagiye gusaba ubuyobozi bwa Perefegitura ya Buture ubufasha bwo gucungira umutekano ISAR-Rubona, ko yemerewe abajandarume ariko ntiyazana nabo mu modoka ye, ko icyabashenguye ari uko abo bajandarume bageze mu kigo bakoze ibinyuranye n'ibyo bari babategerejeho, ko bo bari bazi ko baje gutabara ahubwo basanga baje kwica abaturage. Avuga ko kandi batamenye ko ari Dr. Rutunga Venant wabahaye ayo mabwiriza yo kwica cyangwa ari bo ku giti cyabo bafashe umwanzuro wo gukora ibinyuranye n'ibyo yari yabasabiye ndetse ko we atamenye ko abo basirikare bafatanyije n'abaturage mu kwica Abatutsi.

[82] Mu buhamya bwe R.V 002 avuga ko impunzi zaje ziva i Maraba, i Mbazi, i Mugusa, i Rusatira n'i Ruhashya, ko zatewe n'ibitero bibiri (2). Agasobanura ko ku wa 24/04/1994 batewe n'igitero bagerageza kwirwanaho baracyirukana bifashishije amabuye bashiki babo babaherezaga ariko ko hari abishwe barimo Poloniya, Narcisse n'abandi; igitero cya kabiri cyaje bucece ku wa 26/04/1994 giherekejwe n'abajandarume bitwaje intwaro, ko izo mpunzi zagerageje kwirwanaho ariko bakaneshwa, ko hishwe abantu benshi barimo Yohani, Martini, Rwamugabo Augustin, Minani Vincent n'abandi, ko amaze kubona abo bapfuye yahise ahunga. Anavuga ko abakozi ba ISAR bagiye mu bwicanyi yabonye ari Mugemana Didace, Barthélémy bahimbaga Muyoboro, Marcel n'abandi. Avuga kandi ko ku birebana n'abajandarume bavuye i Butare, ko yababonye bageze mu kigo kuko yari ku kiraro cy'inka.

[83] R.V.003 uvuga ko mu gihe cya Jenoside yahungiye muri ISAR-Rubona mu nzu y'umukozi wayo witwa Gasana Gaspard, yemeza ko ku wa 25/04/1994 habanje kuza imodoka ihagarara mu ka Ront point mu kigo, abarimo bavugana n'abantu bo mu kigo atashoboye kumenya amazina kubera ko atari abazi ariko ko yumvise umwe muri bo avuga ko babareka bakica abantu babo bahungiye mu kigo, ko uwo munsi hishwe abantu benshi ku Kagugu no mu mashyamba ya Rubona, ko uwo yibuka ari Venansiya.

[84] Anavuga ko ku wa 26/04/1994 we n'abana be bahungiye mu Gakera kubera ko muri ISAR-Rubona haje igitero gikomeye kigizwe n'abasirikare bafite imbunda n'abaturage gitangira kumena inzu z'Abatutsi harimo n'iyo yari yahungiyemo, ko ubwo yari agiye gushakira abana icyo kurya yageze i Muhororo yumva amasasu atangiye kuvugira mu kigo cya ISAR-Rubona ahita akomeza yerekeza i Butare, ariko ko bukeye ku wa 27/04/1994 yagaruwe muri icyo kigo n'abajandarume ari nabwo abayobozi b'icyo kigo atazi amazina bahise babategeka gucukura ibyobo bazakoresha nk'imisarani kugira ngo batazarwara korera, ko ariko ibyo byobo bitigeze bikoreshwa nk'imisarani ahubwo baje kubishyinguramo imirambo y'Abatutsi bishwe. Avuga na none ko hiciwe abantu benshi, ko abo yibuka ari Polycarpe, Kigenza, Bernadette wari umugore wa se wabo n'abana be, Vincent n'abandi benshi atibuka, ko kandi na nyuma y'icyo gitero abafite imbunda n'intwaro gakondo bakomeje guhiga no kwica Abatutsi. Anasobanura ko atibuka umwaka ariko ko mu gihe cyo kwibuka Jenoside yakorewe Abatutsi muri ISAR-Rubona aribwo yumvise Burimwinyundo avuga ko Ndereyehe Ntahontuye Charles ariwe, nyuma y'inama yakoresheje, wategetse ko bajya kuzana abajandarume i Butare kandi ko ari Dr. Rutunga Venant wagiye kubazana.

[85] R.V.004 we avuga ko yumvise ko impunzi z'Abatutsi zari zahungiye mu Gakera zakuwe aho zari ziri zijyanwa ku musozi wa Rubona zigezeyo abasirikari barazirasa, ko atazi igihe abo bajandarume baziye n'uwabazanye. Anavuga ko ibyo kuzana abajandarume byari byemejwe n'inama y'abatuye mu kigo cya ISAR-Rubona. Akavuga ko abo bajadarume bahageze nyuma y'umunsi umwe iyo nama ibaye, kandi ko mbere y'uko Dr. Rutunga Venant ajya kubazana nta gitero azi cyari cyakagera mu kigo cya ISAR-Rubona uretse ko bari bazi gusa ko mu tundi turere batangiye kwica Abatutsi. Avuga kandi ko abo bajandarume batakoze icyo bari bahamagariwe kuko nabo bishe Abatutsi barimo n'abo we yari yarahishe. Avuga na none ko uretse kuba Dr. Rutunga Venant yaragiye i Butare guhuruza abajandarume nta rundi ruhare azi yagize mu bwicanyi bwabereye muri ISAR-Rubona.

[86] R.V. 005 nawe avuga ko atamenye umubare w'abajandarume bazanywe mu kigo na Dr. Rutunga Venant, ko we yababonye bageze mu kigo imbere y'ibiro by'Ubuyobozi Bukuru bari hafi ya kantine Dr. Rutunga Venant aje abatwaye mu modoka ya ISAR, anavuga ko bahamaze nk'ibyumweru bibiri (2) haje abasirikare nabo bavuye i Butare bakaba barahageze impunzi nyinshi zaramaze kwicwa hasigaye bake, ko abo basirikari bafatanyije n'abaturage b'i Maraba kwica abatutsi bari basigaye. Anavuga ko ibyo yiboneye ku bwicanyi bwo muri ISAR-Rubona ari iby'itwarwa rya Kalisa Epaphrodite, ishyingurwa ry'imirambo y'impunzi z'Abatutsi biciwe mu Gakera n'abasirikari barenga makumyabiri (20) bazamukanaga n'abaturage bambaye amashara bafite n'intwaro gakondo bagiye kwica izo mpunzi zari mu rwuri. Avuga kandi ko ubwo Dr. Rutunga Venant yari yagiye i Butare kuzana abajandarume iwe hasahuwe firigo n'ibindi byinshi nyuma yo kumena amadirishya n'inzugi kandi ko icyo gihe Abahutu n'Abatutsi batari bahari basahuwe.

[87] R.V 006 avuga ko impunzi zahungiye mu Gakera zari nk'ibihumbi nka bitatu (3.000) zikaba zaragabweho ibitero inshuro ebyiri (2) ariko ko atazi abantu bose bahiciwe kuko hari hahungiye abantu bo mu makomini ane harimo na mukuru we, Sofiya, Selina n'abandi, ko izo mpunzi zishwe n'abasirikari, abajandarume n'abaturage bari bafite imihoro n'impiri. Anavuga ko yumvise ko ari ubuyobozi bwa ISAR-Rubona bwazanye abajandarume ariko ko uko baje atakuzi, ko abajandarume n'abasirikari bose bageraga nko kuri mirongo itandatu (60). By'umwihariko ku gitero cya kabiri (2) asobanura ko nyuma y'uko abantu bavuye mu bihuru basubira mu Gakera babwiwe ko abajandarume bagiye kubarinda, basabwa gucukura ubwiherero kugira ngo batazarwara indwara z'isuku nke, bigeze ku wa 03/05/1994 abajandarume barabarasa hapfamo abantu benshi barimo Masabo na Polycarpe.

[88] Avuga kandi ko iki gitero yakimenye ari i Rubona, ubwo bari baje gutwara abantu mu modoka ariko we akanga kuyijyamo, nyuma aza gushaka urupapuro rw'inzira kugira ngo asubire iwabo ku muturanyi wari kumuhisha ariko Superefe Rutayisire amubwira ko yagenda akajya gupfa ko n'abandi babishe. Avuga kandi ko atari asanzwe azi Dr. Rutunga Venant, ko yumviye izina rye ubwo yamuhaga imodoka yo kujya kwivuriza i Butare kandi ko nta bikorwa byaba ibibi cyangwa ibyiza yaba yaramwumviseho yaba yarakoreye Abatutsi.

[89] Kayibanda Ildephonse avuga ko we n'umuryango we bari mu bari barahungiye mu Gakera, agasobanura ko baterwa bwa mbere bahanganye n'interahamwe ariko ko nyuma abayobozi ba ISAR-Rubona babonye bari kwirwanaho bagasubiza ibitero inyuma, bahise bajya kuzana abajandarume bafite imbunda na za gerenade barabica. Avuga kandi ko mu bayobozi yabonye bari kumwe n'abicanyi harimo Murindangabo Joseph, Mugemana Didace n'umugabo w'umurundi, naho abo yibuka bahiciwe harimo uwitwa Gerard, uwitwa Mutesi, Kayitesi, Murihano, Yohani, Mugemana n'abana be n'abandi benshi atibuka.

[90] Habimana Jean avuga ko ubwo yari ku isoko hafi ya ISAR-Rubona, yabonye abapolisi n'abasirikare bagota ishyamba riri muri icyo kigo aho impunzi zari zicumbitse, bazivana muri iryo shyamba bazijyana mu kabande bazicirayo bakoresheje imbunda na za gerenade, ko icyo gitero cyahitanye impunzi nyinshi n'ubwo umubare w'abishwe atabashije kuwumenya. Anavuga ko mu bitero byabanje bikozwe n'abaturage bagendanaga amahiri izo mpunzi zirwanagaho zifashishije amabuye zikabanesha. Anavuga na none ko ku byerekeye uruhare Dr. Rutunga Venant yaba yaragize muri ubwo bwicanyi, avuga ko nta gikorwa azi yakoze kuko atari ahari ngo abone ibyo yabaga ari gukora.

[91] Nzeyimana Jean de Dieu avuga ko n'ubwo atinjiye mu kigo cya ISAR-Rubona ariko abarashe izo mpunzi yamenye ko ari abasirakare kuko we n'abo bari kumwe bumvaga imbunda zivuga. Asobanura ko we n'abandi bagera mu ijana na mirongo itanu (150) bitwaje ibikoresho bya gakondo bari basanganywe birimo imihoro, impiri n'ibindi, bavuye mu tugari dutatu (3) dutandukanye bahamagawe n'abayobozi ba segiteri barimo Konseye witwaga Maritini kugira ngo bajye kugota izo mpunzi bazibuze kwinjira mu tugari twabo, ko izo mpunzi zibabonye zatangiye kwiruka abafashwe bakicwa, ko yagiye hamaze kwicwa Abatutsi batatu (3) ariko ko haguye Abatutsi benshi barimo n'abari abaturanyi be nka Uwitonze Alphonsine n'umugabo we Kayonga Théoneste n'umugabo witwaga Pascal Hitimana.

[92] Anavuga ko atazi uruhare ubuyobozi bwa ISAR-Rubona bwagize muri ubwo bwicanyi, ko atazi Dr. Rutunga Venant kandi ko n'abakozi ba ISAR-Rubona bahitanywe n'icyo gitero nabo atabazi uretse uwitwa Seromba Joseph ariko ko na we aticiwe muri icyo kigo. Avuga na none ko mbere y'igitero yagiyemo yumvise ko hari ikindi cyakibanjirije cyarimo abapolisi n'abaturage ariko impunzi zirabarwanya bariruka, ko ayo makuru yayahawe n'abaturage bari bakigiyemo bavugaga ko Abatutsi babarashe bakoresheje imyambi, babatera n'amabuye, ko we yagiye mu bitero bitatu (3), bibiri (2) by'iwabo mu giturage na kimwe cyo muri ISAR-Rubona.

[93] Mwitende Vianney, wari mubagiye mu bitero muri ISAR-Rubona avuga ko mbere y'uko ibitero bihagera ubuyobozi bwa Komini bwari bwarahaye impunzi abapolisi babarinda bakajya banabaherekeza guhaha ariko ko nyuma abapolisi ba Komini barimo uwitwa Panuel baje kuzigabaho ibitero bafatanyije n'abaturage ariko zirwanaho zirabanesha. Anavuga ko igitero cya kabiri, ari na cyo we yagiyemo, cyarimo abaturage benshi basaga magana atanu (500) bavuye mu tugari dutatu (3) bitwaje imihoro, imipanga n'ibindi bikoresho bya gakondo bari basanganywe mu ngo zabo n'abasirikare bafite imbunda na gerenade, uretse ko bo batababonye ahubwo bumvaga gusa amasasu avugira imbere mu kigo. Avuga na none ko icyo gitero cyahitanye Abatutsi benshi bari bahungiye muri icyo kigo barimo Théodosie n'umukazana we Uwitonze Alphonsine n'umwana yari ahetse hamwe n'uwitwa Nyiramandwa.

[94] Anavuga ko abaturage bari bahamagawe n'abayobozi b'inzego z'ibanze barimo Maritini Ntabomvura wari Konseye, Ntihabose Emmanuel wari resiponsabule w'Akagari ka Mugogwe na Karabudiyani wari resiponsabule w'Akagari ka Gacaca bababwira ko bagomba kujya gukumira Abatutsi ngo batinjira mu tukagari twabo, ko abo bayobozi bababwiye ko abasirikare bazanye ari bo baza kwinjira mu kigo cya ISAR-Rubona bakarasa kuri izo mpunzi naho abaturage bagategerereza hanze y'ikigo kugira ngo batabarasa, ko kubera iyo mpamvu batabashije kubabona kandi atazi n'aho abo bayobozi bari babavanye. Avuga na none ko atazi Dr. Rutunga Venant, ko kuba mu Bushinjacyaha yari yaremeye ko amuzi kwari ukubera ko yari azi iryo zina gusa ariko atari yaramubonye, ko n'iby'uko mu Bushinjacyaha yaba yaravuze ko kugira ngo Abatutsi bicwe byatewe n'abayobozi ba ISAR-Rubona bagiye gutabaza

Komini bibananiye bitabaza igisirikari atari ko yabivuze. Avuga kandi ko atazi uruhare rw'ubuyobozi bwa ISAR cyangwa urw'abakozi bayo baba baragize muri iryo yicwa ry'impunzi z'Abatutsi kandi nta mikoranire yamenye yari hagati ya Burugumesitiri n'abayobozi ba ISAR-Rubona mu bikorwa bya Jenoside.

[95] Avuga kandi ko atazi abakozi ba ISAR bahitanywe n'ubwo bwicanyi uretse uwitwaga Seromba kandi na we aticiwe muri icyo kigo kuko yiciwe i Mugogwe, ko n'ibyavuzwe ko ubuyobozi bwa ISAR-Rubona bwari bwaremeye inka k'umuntu uzica Seromba hamwe n'ibihembo ku bahambye imibiri y'Abatutsi yabyumvise ariko atazi ko byabaye.

[96] Ntunda Jacques avuga ko nta ruhare rwa Dr. Rutunga Venant azi mu iyicwa ry'abakozi ba ISAR-Rubona uretse ko aburana urubanza rwe yumvise ko Dr. Rutunga Venant ari we wazanye abasirikare bishe Abatutsi bari muri icyo kigo. Asobanura ko atabonye izo mpunzi zicwa kuko atari akiri mu kigo ariko ko aho yari atuye hari ku musozi hejuru yashoboraga kureba igice gito cyo muri ISAR-Rubona, ko ari muri ubwo buryo yabonye abasirikari batembera muri icyo kigo ariko ko atamenye igihe bahagereye n'uwabazanye.

[97] Mweretsende Damascène avuga ko abapolisi Panuel na Laurent ba Komini Ruhashya bamusanze aho yacururizaga ari kumwe n'izindi nsoresore, babasaba kujyana gutangatanga impunzi z'Abatutsi bari muri ISAR-Rubona, bazirasheho ariko zirabarwanya zirabatatanya barataha, ko nyuma y'iminsi itatu (3) ba bapolisi baragarutse babawira ko noneho haje n'abasirikari kandi ko ari bo bararasa ku mpunzi naho bo bagategerereza ku nkengero z'ikigo cya ISAR-Rubona kugira ngo amasasu atabafata. Agasobanura ko abasirikari bahise batangira kurasa Abatutsi, bamwe barapfa abandi barahunga, ko bukeye bwaho abo basore nawe arimo, bagiye gushaka Abatutsi basigaye barabica, ko mubo yibuka bahaguye harimo umukazana wa Mbanda n'abana be, uwitwaga Kabudensiya, Ponsiyani, Manweri, Kayigamba, umuryango wa Muvunandinda, hamwe n'abana babiri aribo Lambert na Munyarugamba. Asoza avuga ko iyo abasirikari bataza Abatutsi batari kwicwa uko bishwe ngo kuko bari bafite imbaraga kandi bazi no kwirwanaho bakoresheje ibirwanisho gakondo, ko kandi muri ubwo bwicanyi nta ruhare rwa Dr. Rutunga Venant azi kuko atari asanzwe amuzi.

[98] Byukusenge Alphonse wemeza ko yari atuye kuri kaburimbo hafi ya ISAR-Rubona avuga ko yabonye izo mpunzi zigabwaho ibitero bitatu (3); agasobanura ko interahamwe ziri kumwe na Burugumesitiri wa Komini Maraba na burigadiye we bazigabyeho ibitero bibiri (2) ariko zirwanaho ziranesha, ko icya 3 aricyo cyabishe kuko cyarimo abasirikare benshi bafite imbunda, ko iyo abo basirikare bataza impunzi zari zahungiye muri ISAR-Rubona zitari kwicwa kubera ko zari nyinshi kurusha abaziteraga kandi zari zifite imbaraga. Avuga kandi ko ibyo bitero byo muri ISAR we atabigiyemo, ko ibyo yagiyemo ari ibyakozwe nyuma igihe abasirikare bari bashoreye Abatutsi basigaye batishwe bababeshya ko bababungishije umutekano muke, ko icyo gihe abasirikari babwiye abo batutsi ko babajyanye i Songa ariko ko bageze mu Ryamariba interahamwe zari zibaherekeje zabonye ba basirikare babanyuraho babatanga imbere batangira kurasa za mpunzi noneho abashaka gucika izo nterahamwe nazo zikabica.

[99] Burimwinyundo Edouard avuga ko muri ISAR-Rubona haje ibitero biva i Mara n'i Maraba bikurikirwa n'igitero kirimo abajandarume Dr. Rutunga Venant yavanye i Butare, anavuga ko byose byaziye umunsi umwe bigizwe n'abantu benshi barimo n'abakozi bo muri ISAR-Rubona bari baratoranyijwe bigishwa imbunda, ko izo mbunda yaziboneye kuko zari zibitswe mu isanduku yari mu cyumba cy'inama cyitwa salle Pirlot ariko ko atamenye uwazihazanye. Avuga kandi ko abakozi ba ISAR-Rubona bigishijwe imbunda bari benshi ariko ko bose batazihawe mu gihe cy'ubwicanyi, ko mu bazihawe harimo uwita Pierre na Ntunda Jacques, ko uyu we yirirwaga anayibungana, ko abatarazihawe bajyanye n'abandi muri icyo gitero bitwaje ibikoresho gakondo nk'imihoro na za kupakupa, ko abakozi ba ISAR-Rubona bafatanyije n'ibyo bitero kwica Abatutsi muri bo yibuka Aloys wakoraga mu bubiko (magasin), Didace, Barthelemy, Tadeyo Musabyimana wakoraga mu rutoki rwa ISAR-Rubona n'abandi benshi bakoraga ku manywa atibuka amazina.

[100] Anavuga ko icyo gitero cyishe Abatutsi benshi basaga ibihumbi cumi (10.000) barimo abakozi ba ISAR-Rubona n'impunzi zari zimaze iby'umweru bibiri zarahahungiye kinasenya amazu harimo n'iya Dr. Rutunga Venant bamenaguye ibirahure by'amadirishya n'inzugi bakinjiramo, baranasahura, ariko ko inzu zasenywaga zikanasahurwa ari izabaga nta muntu uzirimo, ko n'iya Dr. Rutunga Venant nta muntu wari uyirimo kubera ko uyu yari yagiye i Butare kuzana abajandarume, ko bagezeyo bibeshye ko ari umututsi, anavuga ko hari amapikipiki yari yasahuwe yaje kugaruzwa n'abakozi b'icyo kigo barimo na Murindangabo Joseph. Akanavuga ko Dr. Rutunga Venant ari we watanze amafaranga yahembwe abashyinguye imirambo y'Abatutsi, ko atatanzwe n'uwari ushinzwe imari kuko uyu ariho yari agitangira akazi nta mafaranga afite; asoza avuga ko ibyo yari yaravuze mu rubanza rwa Murindangabo Joseph rwaburanishirijwe i Butare by'uko ari uwari ushinzwe imari wayatanze, atari byo.

[101] Avuga na none ko ku itariki atibuka, Dr. Rutunga Venant yazanye mu modoka ye y'akazi y'ikamyoneti double cabine y'umweru abajandarume bafashije kwica Abatutsi muri icyo kigo. Asobanura ko abo bajandarume baje bicaye inyuma muri iyo modoka naho Dr. Rutunga Venant we yicaye imbere, ko yababonye ubwo bari bageze mu kigo cya ISAR-Rubona mu ma saa munani z'amanywa, ko icyo gihe yari yaje mu kazi mbere y'isaha yari asanzwe agerera ku kazi ya saa cyenda (15h00) kubera ko uwitwa Damascène yari yamubwiye ko ibikoresho byo mu kigo birimo na za moto bari kubyiba bituma aza kare. Anavuga ko mbere y'uko abajandarume baza muri ISAR-Rubona habaga abasirikari barindaga Musema wari warahahungiye wari umukwe wa Purukeriya, ko aba basirikari bari bacumbitse kuri salle Pirlot ndetse ko mbere y'uko aba bajandarume baza nta bantu bari bakahiciwe. Anavuga kandi ko icyemezo cyo kuzana abo bajandarume cyafatiwe mu nama zaberaga mu muhezo Abatutsi batajyagamo.

[102] Habimana Charles avuga ko Abatutsi bahunze ubwicanyi bwababakorerwaga i Maraba kimwe n'abari baturutse mu duce dutandukanye turimo Rusatira na Mugusa bahungiye mu kigo cya ISAR-Rubona, ko igitero cy'i Maraba cyahabasanze birwanaho bagisubiza inyuma. Anavuga ko nyuma y'iminsi ibiri (2) hagati ya saa munani na saa cyenda z'amanywa ageze ku kazi, yabonye igitero gikomeye kirimo abasirikare bafite imbunda bambaye imyenda ya simoko bari kumwe n'abaturage, kizamuka cyerekeza mu Gakera ahari izo mpunzi, nyuma y'akanya gato yumva amasasu atangiye kuvuga maze Abatutsi bari mu kigo bahita biruka bakwira imishwaro umwe ukwe n'undi ukwe, ko icyo gitero cyishe abantu benshi ariko ko abo yibuka ari Butamu Faustin na Rubayiza Grégoire bakoranaga kubera ko aribo yari asanzwe azi, ko ariko atazi niba hari abakozi ba ISAR bagize uruhare muri ubwo bwicanyi.

[103] Anavuga ko Burimwinyundo Edouard yamubwiye ko ari Dr. Rutunga Venant wagiye kuzana abajandarume baje kwica Abatutsi, ko kuba abazwa mu mwaka wa 2021 yarabwiye Ubushinjacyaha ko Dr. Rutunga Venant ariwe wabazanye kandi yari mu gitero cya kabiri ariko mu ibazwa rye mu mwaka wa 2009 ho akaba yari yabwiye Ubugenzacyaha ko atazi niba Dr. Rutunga Venant yari ari muri icyo gitero, asobanura ko byatewe n'uko ayo makuru yari atarayabona, ko yaje kubibwirwa nyuma na Burimwinyundo Edouard.

[104] Mukandori Didacienne avuga ko ibyo kuba Dr. Rutunga Venant yarahuruje abajandarume yabibwiwe na Makaratasi, Ntaganda na Burimwinyundo, bamubwiye ko yabazanye kubera ko Abatutsi bari bahungiye mu Gakera bari batangiye kwirwanaho batera amabuye interahamwe zikananirwa kubica, ko yanumvise ko Abatutsi bamaze kwicwa, Dr. Rutunga Venant yatanze itangazo abwira abantu ko babakiza imyanda kugira ngo itanduza amatungo, ko iyo myanda yavugaga ari imibiri y'Abatutsi bishwe kandi ko iyo imibiri bayitwaye muri za Tracteurs, ko iryo tangazo yaribonye mu bubiko bw'inyandiko mu mwaka wa 1995 ubwo bari bagarutse ku kazi.

[105] Kanyeperu Augustin wakoraga akazi k'izamu muri ISAR-Rubona ataha mu rugo iwe i Huye avuga ko ntacyo azi ku iyicwa ry'impunzi z'Abatutsi zari zarahungiye mu Gakera kubera ko umunsi impunzi ziterwa yari yageze iwe mu rugo kandi ko atongeye kugaruka muri icyo kigo kugeza hasohotse itangazo ribahamagarira gusubira mu kazi. Akavuga ko ibyo yumvise ari uko habaye ibitero bibiri, icyo mu mpera z'ukwezi kwa kane 1994 cyirukanwe n'impunzi kinakomerekeramo umuntu w'iwabo witwaga Karekezi

n'icyagabwe mu kwezi kwa gatanu 1994 cyaje giturutse i Maraba cyasenye n'amazu y'abakozi bamwe ba ISAR-Rubona harimo n'iya Dr. Rutunga Venant.

[106] Umutangamakuru Bunani Emmanuel wari umushoferi muri ISAR-Rubona mu gihe cya Jenoside ari naho atuye, mu makuru yahaye urukiko avuga ko ibitero byagabwe kuri izo mpunzi yabashije kubona ari bibiri (2) byombi byabaye mu kwezi kwa kane 1994 ku matariki atibuka, ko icya mbere cyaje adahari yagiye iwe mu rugo i Nyanza cyaturutse i Maraba aricyo cyari gikomeye akaba ari cyo cyishe abantu bari bahungiye ku musozi wa Rubona (Gakera), gisenya n'amazu harimo n'iya Dr. Rutunga Venant, ko icya kabiri cyakumiriwe n'abasirikare bagera kuri cumi na babiri (12) bari bahanyuze berekeza i Butare babonye igitero gisatiriye icyo kigo bava mu modoka Toyota Hilux barimo baragitatanya, ko barangije bagakomeza bakagenda.

[107] Avuga kandi ko abajandarume bivugwa ko bazanywe na Dr. Rutunga Venant bahagera atababonye kuko yaje ahabasanga, ko baje bamaze kumva ko ikigo cyatewe kandi babashije guhosha ubwicanyi bafatanyije n'abazamu. Anavuga ko igitero kimaze kugenda hari abajandarume bakeya bagumye mu kigo bahamara igihe kingana n'ukwezi bacunze umutekano ariko ko nta nama azi yafashe umwanzuro wo kujya kubasaba i Butare. Avuga kandi ko nta myitwarire mibi yari azi kuri Dr. Rutunga Venant mbere no mu gihe cya Jenoside, ko icyo amuziho ari uko yabanaga neza n'abandi ndetse ko mu gihe cya Jenoside abicanyi batamurebaga neza kubera ko bamubaraga mu byitso by'Inkotanyi kuko yanze gutanga imitungo ya ISAR-Rubona.

[108] R.U.T.03 avuga ko Dr. Rutunga Venant yari asanzwe abana neza n'abandi kandi ko nta gikorwa kibi yigeze amwumvaho mu gihe cya Jenoside. Akemeza ko yabonye abajandarume batatu (3) bari barinze uwitwa Musema wari umuyobozi w'uruganda rw'icyayi rwo mu Gisovu bafatanya n'abandi bajandarume bari baturutse i Musasu bagaba igitero cyishe Abatutsi bari barahungiye muri ISAR-Rubona. Agasobanura ko ubwo bwicanyi bwatangiye umunsi umwe nyuma y'inama yabereye i Butare iyobowe na Sindikubwabo Théodore wari Perezida, bitangira bumva induru, ingoma n'amafirimbi, nyuma babona ku musozi wa Mara ibitero birimo byiyegeranya, bituma impunzi nazo zitangira kurunda amabuye yo kurwana mu gukumira icyo gitero, ko mbere y'uko kihagera Murindangabo Joseph wari ukuriye Sitasiyo yazengurutse muri ISAR-Rubona ari mu modoka abwira Abahutu kwambara ibishara avuga ko ibintu byakomeye, ko nyuma yo gusahura, icyo gitero cyagabwe ku mpunzi z'Abatutsi zari zikambitse mu rwuri rw'inka za ISAR-Rubona ariko ko izo mpunzi zirwanyeho zirakinesha gisubira inyuma.

[109] Anavuga ko bukeye icyo gitero cyagarutse ari simusiga kigizwe n'abasirikare n'abandi bantu benshi bitwaje imbunda, gerenade, imihoro, amacumu n'ibindi bikoresho gakondo, abagore n'abana bo bitwaje imifuka yo gutwaramo ibyasahuwe, icyo gitero cyari giturutse i Musasu kigamburuza izo mpunzi kandi nacyo mbere y'uko kigabwa Murindangabo Joseph yabanje kuzenguruka utwo duce abwira Abahutu gushyira imigozi y'ibijumba ku mazu yabo kandi ntibanazihishemo, ko icyo gitero cyageze mu kigo cya ISAR-Rubona hafi ya saa sita z'amanywa, abasirikare bamwe bagenda imbere abandi bagenda inyuma yacyo bagana aho impunzi zari zikambitse yumva abasirikare babwira abaturage bari muri icyo gitero ko bo barasa bagatatanya izo mpunzi naho bo bakabicisha intwaro zabo, ko nyuma bumvise amasasu menshi yamaze nk'isaha, ko mugutaha abo bicanyi batahanye iminyago irimo inka, abasirikare nabo batahana n'abayobozi b'ikigo cya ISAR-Rubona basa n'abagiye kwiyakira banyuze ku kabare bitaga Polygone, ariko ko atamenye abo bayobozi abo aribo kuko yari yihishe.

[110] Avuga kandi ko nyuma y'ayo masasu yabonye imirambo myinshi y'Abatutsi basaga magana abiri (200) yari inyanyagiye mu rwuri rw'inka za ISAR-Rubona aho bari biciwe, ko yashyizwe mu cyobo kimwe kinini cyari inyuma y'ibiraro by'inka mu rwego rwo gukora isuku mu rwuri nk'uko byari byemejwe mu nama rusange y'ikigo yabaye nyuma y'ubwo bwicanyi, ko imodoka (Tracteur) ya ISAR-Rubona ariyo yazanaga iyo imibiri kuri icyo cyobo biyobowe n'abasirikare babaga muri ISAR-Rubona. Anavuga ko ikindi yumvise ari uko Mugemana Didace nyuma yo guhabwa n'umuyobozi mukuru Ndereyehe Ntahontuye Charles ububasha bwo kumusimbura yakoze urutonde rw'Abatutsi bagombaga kwicwa

ruhabwa Yohani Alias Ruhoryongo, ko amaze kuruhabwa yagiye asaba amafaranga abaruriho kugira ngo baticwa, ko na we ubwe n'umuryango we bari baruriho kandi ko nawe yatanze amafaranga ibihumbi makumyabiri (20.000Frw).

[111] R.U.T.10 avuga ko ibikorwa yiboneye ubwe ari umuntu yasanze batemeye kuri Kiyosike avuye mu ishyamba ry'icyo kigo ariko ko atabonye abamutemye, imirambo myinshi y'abantu biciwe mu Rugano n'ibitero byaje muri ISAR-Rubona biturutse kuri labolatwari bigiye ahari impunzi. Anavuga ko icyababwiye ko abajandarume bari muri icyo kigo baje bazi abo bagiye kwica muri ISAR-Rubona ari uko bazaga basaka impunzi kandi nyuma yaho zikicwa. Avuga kandi ko ibyo yumvise igihe yari yarahungiye muri ISAR-Rubona abyumvanye Bizimungu ari uko Dr. Rutunga Venant azanye abapolisi bakaba bageze kuri Kiyosike, ko icyo gihe hari nka saa moya cyangwa saa mbiri z'ijoro, bituma ababwira kujya kwihisha ariko ko we atabonye abazana, ko ikindi yumvise ari uko Dr. Rutunga Venant yazanye abajandarume muri ISAR-Rubona abakuye i Butare ariko ko mbere musaza we wakoraga muri icyo kigo yababwiraga ko Dr. Rutunga Venant ari umuntu uvuga make. Anavuga ko nta yandi makuru yari azi kuri Dr. Rutunga Venant, gusa ko yumvise ko mu mpera z'ukwezi kwa gatanu 1994 cyangwa mu ntangiriro z'ukwezi kwa gatandatu 1994 abashumba b'intama bavuga ko we na Murindangabo Joseph bavuze ko bagiye gutema ibihuru byose.

[112] Rutiyomba Arsène avuga ko hari ubwo yabonye igitero kirimo abantu benshi batera muri ISAR-Rubona, ariko ko icyo gitero nta muntu cyishe, ahubwo cyasahuye kinasenya amazu batasangagamo abantu arimo iya Ndamage Georges n'iya Ndayizigiye ariko ko atibuka niba n'iya Dr. Rutunga Venant yarasenywe. Akanavuga ko abasirikari bari muri ISAR-Rubona bajyanye n'icyo gitero kwica abantu bari mu ishyamba ry'icyo kigo ahitwa mu Gakera ariko ko atibuka uwagiye kubazana n'igihe baziye, ko muri izo mpunzi yabonyemo uwitwa Semanyenzi. Avuga kandi ko atamenye amakuru y'iyicwa ry'impunzi zari zahungiye muri iryo shyamba kuko batarigeragamo, gusa ko hari imirambo myinshi yashyinguwe mu byobo byari bigenewe gushyirwamo ibiryo byo kugaburira inka.

[113] Avuga kandi ko nta ruhare rwaba uruziguye cyangwa urutaziguye rwa Dr. Rutunga Venant azi yaba yaragize muri Jenoside yakorewe Abatutsi, kandi ko iyo aza kurumenya aba yaramuvuze mu nyandiko ye yandikiye Umushinjacyaha mukuru mu mwaka wa 1997, kandi ko mu gihe cyose cy'umwaka yamaze muri ISAR-Rubona nta kintu na kimwe yabonye Dr. Rutunga Venant yigeze akora cyo kubangamira Abatutsi.

[114] Niyonsaba François alias Tayzon avuga ko nta ruhare rwa Dr. Rutunga Venant yamenye mu iyicwa ry'impunzi zari zahungiye mu Gakera, nyamara we ubwe ari mubishe umugenda impunzi zari zarahungiye muri ISAR-Rubona mu gihe zabaga zigeze iwabo, ko yanagize uruhare mu iyicwa rya Twagirumutara wari umuvuzi w'amatungo n'umuryango we, akavuga ko igitero cyishe izo mpunzi cyarimo n'abasirikare atamenye aho baturutse.

- Ku birebana no gutanga ibikoresho byifashishijwe mu kwica Abatutsi

[115] Mu buhamya n'amakuru byatangiwe mu rukiko bivuga ku gutanga ibikoresho byari mu bubiko bwa ISAR-Rubona bivugwa ko byifashishijwe mu kwica Abatutsi harimo imvugo za Burimwinyundo Edouard, iza R.V 002, iza R.V. 005, iza Habimana Charles, iza Kanyeperu Augustin n'iz'umutangamakuru Bunani Emmanuel.

[116] Mu buhamya bwe, Burimwinyundo Edouard avuga ko Murindangabo Joseph ari we watanze amabwiriza ko ibikoresho bya ISAR-Rubona birimo imihoro bitangwa ndetse ko byahawe Abahutu n'Abatutsi bababwira ko ari ibyo kurinda ikigo ariko ko abajyaga mu nama zitegura ubwicanyi bari bazi ko ari ibyo kwica Abatutsi, kubera ko bumvaga bavuga ngo "buretse Maraba izaza", anavuga ko Murindangabo Joseph yabitanze avuye mu nama hamwe na Dr. Rutunga Venant.

[117] R.V 002 avuga ko yumvise ko ubuyobozi bwa ISAR-Rubona aribwo bwahaye abazamu ba n'ijoro ibikoresho gakondo icyo kigo cyari gisanzwe gikoresha kandi ko ari bwo bwari kw'isonga mu kwica Abatutsi ariko ko atabonye uwabibahaye, ko hari n'abaturage babyizaniye babikuye mu ngo zabo.

[118] R.V. 005 avuga ko nta bikoresho bya ISAR-Rubona byahawe abicanyi kugira ngo babyifashishe mu kwica Abatutsi, ahubwo ko abaje gutera muri ISAR-Rubona baturutse i Kinyamakara n'i Maraba baje bitwaje intwaro gakondo zabo zirimo imihoro, amahiri n'inkoni.

[119] Habimana Charles avuga ko nta bikoresho ISAR-Rubona yahaye abakozi bayo kugira ngo babyifashishe mu kwica Abatutsi, ko abicanyi bari bafite ibikoresho birimo amacumu, imihoro n'ubuhiri bavanye mu ngo zabo.

[120] Kanyeperu Augustin avuga ko nta bikoresho byifashishijwe mu kwica Abatutsi ISAR-Rubona yatanze, ko ubuhiri yakoreshaga bwari ubwe kandi ko nta n'undi mukozi w'icyo kigo azi wahawe igikoresho.

[121] Bunani Emmanuel, mu makuru yahaye urukiko avuga ko nta bikoresho byahawe abakozi ba ISAR-Rubona kugira ngo babikoreshe mu kwica Abatutsi, ko abicanyi baje bafite ibyabo bikoresho.

- Ibirebana no gutegera no guhemba interahamwe zishe Abatutsi

[122] Mu babajijwe mu rukiko bavuga ku birebana no gutegera no guhemba interahamwe zishe Abatutsi muri ISAR-Rubona ni abatangabuhamya Kayibanda Ildephonse, Habimana Jean, R.V 001, R.U.T.03, R.U.T.10, Rutiyomba Arsène n'umutangamakuru Ntunda Jacques.

[123] Mu buhamya bwe mu rukiko, Kayibanda Ildephonse avuga ko Dr. Rutunga Venant yaje ku kiraro ari kumwe na Mugemana Didace babaza aho ibimasa birisha biri, bamaze kuhabereka abona Dr. Rutunga Venant yandika yemeza ko bajya kuzana ikimasa bahita batuma uwitwa Uzarama muri urwo rwuri kukizana. Anavuga ko ari mu bapimye ibiro by'icyo kimasa basanga gipima ibiro magana atatu (300kg), ko kandi ari we wanatanze umugozi bakiboheseje bagitwaye kubagirwa i Musasu.

[124] Habimana Jean, avuga ko yumvise ko abishe Ndamage Georges bahembwe inka ariko ko atazi abari batanze iyo ntego, agasobanura ko ubwicanyi butangira muri ISAR-Rubona Ndamage Georges yaje kumubwira ingorane afite anamusaba kumuhisha kubera ko yari afite amakuru ko ubuyobozi bw'icyo kigo bwemereye guhemba inka umuntu uzamufata, ko icyo gihe yemeye kumuhisha amara iwe icyumweru nyuma ahungira kwa Murengezi i Musasu, nyuma y'iminsi itatu yumva abantu atibuka amazina bavuga ko Ndamage Georges yavumbuwe kwa Murengezi bamugarukana kumwicira muri ISAR-Rubona ariko ko atazi abamwishe. Anavuga ko kuba mu Bushinjacyaha yaravuze ko ari Dr. Rutunga Venant watanze iyo nka ari ibitekerezo bye gusa kuko ariwe muyobozi wari wahasigaye.

[125] R.V 001 avuga ko igihembo cy'inka ya ISAR-Rubona cyatanzwe na Murindangabo Joseph, Ndamage Georges yaraye yishwe ari nabwo bari bahambye abantu bari bishwe banyanyagiye hirya no hino ariko ko atamenye urwego iyo nka yatanzwemo niba ari ukubera ko bari bavuye gushyingura cyangwa niba ari uko bari bishe abantu, ko icyo gihe yumvise insoresore zivuga ngo babahembe kuko zirangije gushyingura.

[126] R.U.T.03 avuga ko ubwo yari agiye mu biro bya Mugemana Didace kumusaba icyemezo cy'irangamimerere yamubonye ahemba abantu batatu (3) bamaze kwica Ndamage Georges barimo Yohana Alias Ruhoryongo wari wambaye ikote rya Ndamage, agasobanura ko icyo gihe yabahaye urupapuro rwo kujyana ku biraro kugira ngo babahe ikimasa cyo kubahemba. Anavuga ko nta ruhare azi Dr. Rutunga Venant yagize muri ubwo bwicanyi kandi ko atamenye niba icyo gihe yari mu kigo kuko atigeze amubona

akaba ari yo mpamvu mu buhamya bwe bwanditse bwo ku wa 04/04/2005 yahaye Inkiko Gacaca atanamuvuze.

[127] R.U.T.10 avuga ko yumvise ko Ndamage Georges amaze kwicwa abayobozi ba ISAR-Rubona bagororeye abicanyi ikimasa cy'icyo kigo ariko ko atamenye abo bayobozi bavuzwe, ko uwo yumvise wagize uruhare mu iyicwa rye ari Murindangabo Joseph.

[128] Rutiyomba Arsène avuga ko atazi iby'inka bivugwa ko yahembwe abicanyi, ko atanazi neza ibyo yavuze mu nyandiko ye yo ku wa 17/10/1997 yandikiye umushinjacyaha mukuru by'uko ari Mugemana Didace wahaye inka abantu bari bamaze gukora Jenoside.

[129] Ntunda Jacques avuga ko ubwo abakozi bari bahamagawe ngo baze gushyingura imibiri y'Abatutsi bari biciwe muri ISAR-Rubona binyujijwe mu itangazo ryari ryasomwe mu misa, yagezeyo abona hari imirambo myinshi, ko iby'ibihembo bivugwa byahawe abishe Ndamage Georges yabyumviye mu rukiko aburana urubanza rwe yari yarezwemo.

- **Icyo aburanyi bavuga ku buhamya bwatangiwe mu rukiko**

[130] Dr. Rutunga Venant muri rusange ku bikorwa byose bigize ibyaha aregwa avuga ko abatangabuhamya batanzwe n'Ubushinjacyaha batagaragaza uruhare rwe kandi ko ubuhamya bwabo bwuzuyemo kuvuguruzanya hagati yabo no kwivuguruza ubwabo.

[131] Ku birebana n'iyicwa ry'abakozi b'Abatutsi bakoraga muri ISAR-Rubona barimo Kalisa Epaphrodite na Munyengango Jean Claude avuga ko abatangabuhamya bavuguruzunya bikabije kubera ko batavuga kimwe ku birebana n'aho biciwe, igihe n'ababishe abandi ntibagire icyo bavuga kuri ubwo bwicanyi ndetse abandi bakivuguruza mu buhamya bwabo, ko kubirebana n'iyicwa Kalisa Epaphrodite D.R.V.B avuga ko yafashwe na Dr. Rutunga Venant, Murindangabo n'abasirikari batatu (3), naho Sebarame Jean Baptiste akavuga ko yafashwe n'abajandarume gusa, kandi akaba yivuguruza kuko ahandi avuga ko yishwe n'ibitero simusiga byaturutse i Maraba, naho ku iyicwa rya Munyengango Jean Claude abatangabuhamya D.R.V.A, D.R.V.B na RV. 004 bavuguruzanya aho yiciwe n'abamwishe.

[132] Anavuga ko n'abatangabuhamya babajijwe ku iyicwa Ndamage Georges nabo bavuguruzanya ku birebana n'impamvu yamuvanye aho yari yihishe n'aho yafatiwe bakaba batanagaragaza uruhare rwe rudashidikanywaho mu iyicwa rye aba ni nka Habimana Jean Kaguru na Mukandori Didacienne, kandi ko bamwe mu batangabuhamya n'abatangamakuru nka Ntunda Jaques, Burimwinyundo Edouard na Kanyeperu Augustin ntacyo bavuga ku ruhare rwe mu iyicwa rya Sebahutu André, ahubwo akeka ko abandi batangabuhamya uwo batanzeho ubuhamya ari undi witwa Sebahutu.

[133] Anavuga ko abatangabuhamya nka D.R.V.A, D.R.V.B, Sebarame Jean Baptiste, Kayibanda Ildephonse, Burimwinyundo Edouard n'abandi babajijwe ku iyicwa ry'Abatutsi bari bahungiye mu Gakera bose nta ruhare rwe bagaragaza kubera ko bamwe bavuga ibyo batahagazeho, abandi bakavuga ibyo batazi ndetse abandi bakaba bivuguruza mu buhamya bwabo. Avuga kandi ko abatangabuhamya babajijwe mu birebana no kuzana abajandarume bamwe bivuguruza, abandi batazi igihe abo bajandarume baziye, abandi bavuga ibyo babwiwe, abandi batazi impamvu abo bajandarume baje muri ISAR-Rubona ndetse hakaba n'abemeza ko abo bajandarume baje byemejwe n'inama kandi ko hari n'abemeza ko icyazanye abo bajandarume ari ukurinda umutekano w'icyo kigo.

[134] Anavuga nanone ko abatanze ubuhamya mu rukiko nka Nzeyimana Jean de Dieu, Byukusenge Alphonse, Burimwinyundo Edouard, RV.002, Kanyeperu Augustin n'abandi ku birebana n'itangwa ry'ibikoresho bya ISAR byifashishwe mu bwicanyi nabo batagaragaza uruhare rwe muri icyo gikorwa kuko bamwe bavuga ko nta bikoresho byatanzwe abandi bakaba bivuguruza ubwabo ndetse bamwe imvugo zabo

zikaba zivuguruzanya kuko bavuga ko abaje kwica muri ISAR-Rubona bari bitwaje ibyabo bikoreresho nyamara abandi bavuga ko byavuye muri icyo kigo.

[135] Avuga kandi ko abatangabuhamya D.R.V.A, D.R.V.B, Kayibanda Ildephonse, R.U.T.003, Burimwinyundo Edouard, Habimana Charles, R.V.001 Mukandori Didacienne, Kanyeperu Augustin na Rutiyomba Arsene babajijwe ku birebana no gutegera no guhemba inka abicanyi bamwe ntibagaragaza uruhare rwe, abandi mu buhamya bwabo bakivuguruza, abandi bavuga ibyo bumvanye abandi, hakaba n'abemeza ibintu bitarimo ukuri, hakaba n'abashinja icyo gikorwa abandi bantu batari we ndetse abandi bakaba bemeza ko batazi icyo iyo nka yatangiwe.

[136] Asoza avuga ko harebwe ibimaze kunengwa ku buhamya n'amakuru byatangiwe mu rukiko abona bidakwiriye gushingirwaho nk'ibimenyetso bidashidikanywaho bigaragaza uruhare rwe mu byaha aregwa.

[137] Ubushinjacyaha bwo buvuga ko abatangabuhamya babwo bose bemeje ibyo bari baravugiye mu iperereza bagaragaza uruhare Dr. Rutunga Venant yagize mu bikorwa bitandukanye bigize ibyaha aregwa, ko busanga abatangabuhamya bashinjura batanzwe na Dr. Rutunga Venant nta bumenyi bafite ku bikorwa batanzeho ubuhamya. Bunavuga ko n'ibyo avuga ko abatangabuhamya bivuguruzaho cyangwa bavuguruzanyaho nta shingiro byahabwa kubera ko ari utuntu duto bitatesha ireme ubuhamya bwabo.

[138] Busoza buvuga ko ibimenyetso byatanzwe mu zindi manza nk'urwaciwe n'Urukiko rwa mbere rw'Iremezo rwa Butare, rwaregwagamo Murindangabo Joseph nabyo bigaragaza ko Dr. Rutunga Venant ari we wazanye abajandarume abakuye i Butare kandi ko kuba atavugwa mu zindi manza ziregwamo abandi bantu bidasobanuye ko nta ruhare yagize mu bikorwa bigize ibyaha aregwa kuko uruhare rw'uwakoze icyaha rureberwa mu bikorwa bye ku giti cye n'ibimenyetso bibigaragaza.

D. Uko urukiko rubibona ku birebana n'ibikorwa bigize ibyaha Dr. Rutunga Venant aregwa

[139] Ibikorwa bigize ibyaha Ubushinjacyaha burega Dr. Rutunga Venant ku cyaha cya Jenoside ni iyicwa ry'impunzi z'Abatutsi bari bahungiye mu Gakera, iyicwa ry'akakozi b'Abatutsi ba ISAR-Rubona; ku cyaha cy'ubufatanyacyaha ku cyaha cya Jenoside akaba ari ugusaba no kuzana muri ISAR-Rubona abajandarume bishe Abatutsi, gutegera no guhemba interahamwe zakoze ubwicanyi no gutanga ibikoresho byakoreshejwe mu bwicanyi naho ku cyaha cyo kurimbura nk'icyaha cyibasiye inyokomuntu hari ugusaba abajandarume akabazana mu kigo bahagera bakagaba ibitero bitarobanura ku basiviri b'Abatutsi bari bahungiye mu Gakera.

[140] Harebwe igikorwa cyo kwica impunzi z'Abatutsi bari bahungiye mu Gakera Ubushinjacyaha bushingiraho bumurega icyaha cya Jenoside n'igikorwa cyo gusaba no kuzana muri ISAR-Rubona abajandarume bishe Abatutsi n'icyo gusaba abajandarume akabazana mu kigo bahagera bakagaba ibitero bitarobanura ku basiviri b'Abatutsi bari bahungiye mu Gakera bushingiraho bumurega ibyaha by'ubufatanyacyaha muri Jenoside n'icyo kurimbura nk'icyaha cyibasiye inyokomuntu, Urukiko rurasanga ari ibikorwa bimwe bigomba gusuzumirwa hamwe nk'igikorwa kirebana no gusaba abajandarume bishe Abatutsi bari bahungiye mu Gakera; bityo rero ku birebana n'ibikorwa bigize ibyaha Dr. Rutunga Venant aregwa hararebwa niba hari ibimenyetso bigaragaza ko yagize uruhare mu bikorwa byo gusaba abajandarume bishe Abatutsi bari bahungiye mu Gakera, gutegera no guhemba interahamwe, iyicwa ry'abakozi b'Abatutsi ba ISAR-Rubona no gutanga ibikoresho byakoreshejwe mu bwicanyi.

- **Ku bijyanye no gusaba abajandarume bishe Abatutsi bari bahungiye mu Gakera**

[141] Ubushinjacyaha burega Dr. Rutunga Venant kuba yaragiye kuri Perefegitura ya Butare gusaba no kuzana abajandarume, abo bajandarume bakaba barafatanyije n'interahamwe kwica Abatutsi bari hagati y'igihumbi n'ibihumbi bibiri (1,000-2,000) bari barahungiye mu kigo cya ISAR-Rubona ahitwa mu Gakera, ko kubera ububasha yari afite, ubwo bwicanyi butari kuba mu kigo yari ayoboye bukozwe

n'abajandarume yazanye ndetse n'abaturage atabibahereye uburenganzira kuko na nyuma y’ubwo bwicanyi yatumije inama asaba abaturage kubakiza imirambo y’Abatutsi bishwe bayijugunya mu byobo byari muri ISAR-Rubona avuga ko ari ukugira ngo itanduza inka z’icyo kigo anahemba ababikoze.

[142] Mu bimenyetso byatanzwe birebana no gusaba abajandarume bishe Abatutsi bari bahungiye mu Gakera ni ubuhamya bwatangiwe mu rukiko, imvugo zo mu iperereza n’imvugo za Dr. Rutunga Venant yemera ko yagiye gusaba abajandarume.

[143] Mu buhamya n’amakuru byatangiwe mu Rukiko bivuga ku iyicwa ry’Abatutsi bari bahungiye mu Gakera bishwe n’abajandarume ni ubwa D.R.V.A, D.R.V.B, R.V 002, R.V 001, R.V.003, R.V.004, R.V. 005, R.U.T.03, R.U.T.10, R.V 006, Kayibanda Ildephonse, Habimana Jean, Nzeyimana Jean de Dieu, Mwitende Vianney, Mweretsende Damascène, Byukusenge Alphonse, Burimwinyundo Edouard, Habimana Charles, Mukandori Didacienne, Kanyeperu Augustin, Rutiyomba Arsène, Niyonsaba François alias Tayzon, Sebarame Jean Baptiste, Bunani Emmanuel na Ntunda Jacques.

[144] Mu buhamya n’amakuru batanze, bamwe muri bo bemeza ko abajandarume basabwe na Dr. Rutunga Venant bafatanyije n’interahamwe bagize uruhare mu iyicwa ry’Abatutsi biciwe mu Gakera, abandi bakavuga ko nta ruhare rwe bazi mu isabwa ry’abajandarume bishe abo batutsi. Mu bemeza ko babonye Dr. Rutunga Venant azana abajandarume bishe Abatutsi bari bahungiye mu Gakera harimo D.R.V.A uvuga ko ubwo yari yihishe mu ishyamba ry’ahitwa Potager yabonye Dr. Rutunga Venant avuye kuzana abajandarume abavanye i Butare abatwaye mu modoka y’ikamyoneti ya ISAR-Rubona. Ubu buhamya bwe bwo mu Rukiko buhuye n’imvugo ze zo mu Bugenzacyaha zo ku wa 18/07/2018 n’izo mu Bushinjacyaha zo ku wa 07/09/2021 aho naho yemeje ko abajandarume bazanywe na Dr. Rutunga Venant bageze muri ISAR-Rubona bishe Abatutsi bari bahungiye ku musozi wa Rubona ahitwa mu Gakera.

[145] R.V.004 na we yemeza ko Abatutsi bari bahungiye mu Gakera bishwe n’abajandarume bazanywe na Dr. Rutunga Venant ariko ko kujya kubazana byari byemejwe n’inama zabaga zirimo Abahutu n’Abatutsi zigaga k’umutekano w’ikigo. Ubu buhamya bwe buhura n’ibyo yavugiye mu Bugenzacyaha ku wa 16/07/2018 no ku wa 05/3/2009 aho avuga ko icyatumye Dr. Rutunga Venant ajya kuzana abajandarume ari uko yavugaga ko umutekano ari muke kubera ko hari abaturage bazaga mu kigo ariko ko bahageze bishe Abatutsi, bunahura n’izo mu Bushinjacyaha zo ku wa 24/09/2021 aho avuga ko abajandarume bishe Abatutsi benshi bari bahungiye mu Gakera nyuma y’icyumweru bahageze. Anavuga ko mbere y’uko Dr. Rutunga Venant ajya kuzana abajandarume habaye inama zitandukanye harimo n’iyo na we yarimo yafatiwemo icyemezo cyo kujya gusaba abajandarume bo kurinda umutekano w’ikigo.

[146] Hari kandi na R.V.005 wemeza ko yabonye abajandarume bazanywe na Dr. Rutunga Venant mu modoka ya ISAR-Rubona akanavuga ko habaye inama yavugiwemo ko abaturage bari kwisuganya kugira ngo bazatere icyo kigo, ko aribwo hashatswe uburyo hazabaho guhamagaza abajandarume mu rwego rwo kukirindira umutekano ariko ko ibyo kubasaba bitavuye mu nama kuko Dr. Rutunga Venant yabifasheho icyemezo nk’umuyobozi. Uyu mutangabuhamya utari warabajijwe mu Bugenzacyaha, mu Bushinjacyaha ku wa 14/10/2021 yavuze ko igitero cya kabiri cy’abajandarume cyagabwe mu rwuri rwa ISAR-Rubona gishyigikiwe n’abajandarume bavuye i Butare cyarimbuye Abatutsi bari bagerageje kwirwanaho kuko haterwa yanumvise amasasu ahavugira. Anavuga ko yumvise ko habaye inama irimo Abatutsi yo gufata ingamba zo kurinda ikigo.

[147] Burimwinyundo Edouard nawe ari mubemeza ko Dr. Rutunga Venant yazanye abajandarume mu modoka y’ikamyoneti ya ISAR-Rubona abavanye i Butare bagira uruhare mu iyicwa ry’Abatutsi bari barahungiye mu Gakera, akanemeza ko yababonye ubwo bari bageze muri ISAR-Rubona, ko icyemezo cyo kubazana cyafatiwe mu nama zaberaga mu muhezo Abatutsi batajyagamo. Ubu buhamya bwe buhura n’imvugo ze zo mu Bugenzacyaha zo ku wa 05/03/2009 no ku wa 17/07/2018 aho yavuze ko Dr. Rutunga Venant na Mugemana Didace bamaze kubona ko Abatutsi bari bahungiye mu Gakera bari kwirwanaho, bagiye kuzana abajandarume bishe abo batutsi n’izo mu Bushinjacyaha zo ku wa 07/09/2021 aho yavuze

ko abajandarume bageze kuri bariyeri yari kuri kaburimbo mu kigo cya ISAR-Rubona bahise bajya kwica Abatutsi mu Gakera abandi babatangirira ku ivuriro rya Rubona babica umusubizo. Anavuga ko mbere yo kujya kuzana abajandarume habaye inama ariko ko atayigiyemo ngo amenye ibyayivugiwemo ndetse ko bababeshyaga ko ari iz'umutekano kandi ko na Dr. Rutunga Venant yabaga azirimo.

[148] Uretse abavuga ko babonye Dr. Rutunga Venant azana abajandarume bagize uruhare mu iyicwa ry'Abatutsi bari barahungiye mu Gakera, hari n'abatangabuhamya n'abatanze amakuru bemeza ko bumvise ko Dr. Rutunga Venant ariwe wagiye kuzana abajandarume i Butare, abo akaba ari R.V.003 watanze ubuhamya mu rukiko avuga ko yumvise Burimwinyundo Edouard avuga ko Ndereyehe Ntahontuye Charles, nyuma y'inama yakoresheje, yategetse ko bajya kuzana abajandarume i Butare kandi ko ari Dr. Rutunga Venant wagiye kubazana. Ibi ni nabyo uyu mutangabuhamya utarabajijwe mu Bushinjacyaha yavuze mu mvugo ze zo mu Bugenzacyaha ku wa 16/07/2018 ko yumvise ko Dr. Rutunga Venant yagize uruhare rukomeye mu bwicanyi bwabereye muri ISAR-Rubona abyumvanye Burimwinyundo atanga ubuhamya kubyabereye muri icyo kigo no kuba mu Gakera hararashwe hagati yo ku wa 27/04/1994 na 02/05/1994.

[149] Hari na Habimana Charles watanze ubuhamya mu Rukiko avuga ko Burimwinyundo Edouard yamubwiye ko Dr. Rutunga Venant yagiye kuzana abajandarume baje kwica Abatutsi. Ibi bihura n'ibyo yavuze mu Bushinjacyaha ku wa 21/09/2021 ko yabwiwe na bagenzi be bakoranaga ko Dr. Rutunga Venant nawe yari muri icyo gitero kandi ko yamenye ko abo basirikare ariwe wabazanye ariko ko icyo we yabonye ari uko abasirikare bagiye mu Gakera nyuma yumva imbunda ziravuze aho bo bari bari ku kiraro kimwe n'Abatutsi bari bahahungiye bakwira imishwaro naho mu Bugenzacyaha ku wa 04/03/2009 ho yavuze ko abasirikare bishe Abatutsi yababonye ubwo yari ku kiraro bazamuka bagana aho bari bari ku musozi wa Rubona.

[150] Hari na none Mukandori Didacienne watanze ubuhamya mu Rukiko avuga ko ibyo kuba Dr. Rutunga Venant yarahuruje abajandarume yabibwiwe na Makaratasi, Ntaganda na Burimwinyundo, ubuhamya bwe bukaba bwuzuzanya n'imvugo yavugiye mu Bugenzacyaha zo ku wa 06/03/2009 aho yavuze ko Dr. Rutunga Venant yavugwagaho ko ari we wagiye i Butare kuzana abajandarume bafatanyije n'interahamwe zishe Abatutsi bari barahungiye muri ISAR-Rubona anahamagara abaturage kuza gushyingura imirambo abo bantu bamaze kwicwa n'izo mu Bushinjacyaha zo ku wa 22/09/2021 aho yavuze ko nyuma ya Jenoside yumvise ko Abatutsi bari bahungiye muri ISAR-Rubona birwanyeho, ibitero binanirwa kubameneramo aba aribwo Dr. Rutunga Venant ajya kuzana abajandarume. Hari kandi R.U.T.10 wari mu Gakera n'umutangamakuru Bunani Emmanuel, batabajijwe mu iperereza, bemeje ko bumvise ko ari Dr. Rutunga Venant wazanye abajandarume muri ISAR-Rubona abakuye i Butare.

[151] Ibyo kuba hari abumvise ko ari Dr. Rutunga Venant wazanye abajandarume bishe Abatutsi bari bahungiye mu Gakera binemezwa na D.R.V.B utari warabajijwe mu Bugenzacyaha naho mu Bushinjacyaha ku wa 23/09/2021 avuga ko yumvise ko abajandarume bazanywe na Dr. Rutunga Venant bishe abantu mu Gakera kandi ko abishwe bari babanje kwirwanaho, kandi ko yumvise ko ari Dr. Rutunga Venant wazanye abajandarume muri ISAR-Rubona abakuye i Butare. Ibi ni nabyo byemejwe na R.V 001 nawe wavuze ko yumvise ko Dr. Rutunga Venant yahawe abajandarume kandi ko bahageze bishe abantu ariko ko atazi ko ari we wabahaye ayo mabwiriza; akaba ari nabyo biri mu mvugo ze zo mu Bushinjacyaha zo ku wa 09/09/2021 aho yavuze ko ku wa 26/04/1994 na nyuma yaho abajandarume barashe Abatutsi bari bahungiye mu mashyamba ya ISAR ariko ko Dr. Rutunga Venant ubwe nta muhoro cyangwa impiri yafashe ndetse na Ntunda Jacques watanze amakuru mu rukiko avuga ko nta ruhare rwa Dr. Rutunga Venant azi ariko ko yumvise ko ari we wazanye abasirikare bishe Abatutsi bari mu kigo cya ISAR-Rubona, akaba ari nabyo yavuze mu Bugenzacyaha ku wa 17/07/2018 no mu Bushinjacyaha ku wa 08/09/2021 ko inama yafatiwemo icyemezo cyo gutumiza abajandarume bo kurinda ikigo yari ayirimo, iyobowe na Dr. Rutunga Venant, ariko ko abo bajandarume batakoze icyo bazaniwe ahubwo bishe Abatutsi.

[152] Ibi binemezwa na Kayibanda Ildephonse, uvuga ko ari mu bahungiye mu Gakera wemeza ko uruhare rwa Dr. Rutunga Venant ari uko ari we wazanye abasirikare bishe Abatutsi bari bahungiye mu Gakera bafatanyije n'interahamwe n'ubwo atamubonye abazana. Ubuhamya bwe bukaba bwuzuzanya n'imvugo ze zo mu Bugenzacyaha ku wa 18/07/2021 no mu Bushinjacyaha ku wa 21/09/2021 aho yavuze ko byavugwaga ko Dr. Rutunga Venant ari we wazanye abajandarume abavanye i Butare kandi ko yababonye bashorewe na Murindangabo Joseph, ubwo bari babasanze mu kigo babarasaho, Abatutsi benshi bari hagati y'igihumbi n'ibihumbi bibiri (1,000-2,000) bari bahahungiye baricwa harokoka bake.

[153] Uretse ubuhamya bwatangiwe mu rukiko bw'abavuga ko Dr. Rutunga Venant ariwe wazanye abajandarume bishe Abatutsi bari bahungiye mu Gakera bwavuzwe, hari n'abatangabuhamya bemeje ko nta ruhare rwa Dr. Rutunga Venant bazi mu izanwa ry'abo bajandarume bagize uruhare mu iyicwa ry'Abatutsi bari bahungiye mu Gakera. Abo barimo R.V. 006 utarabajijwe mu iperereza, mu buhamya bwe mu rukiko yemeza ko Abatutsi bari bahungiye mu Gakera bishwe n'abasirikari, abajandarume n'abaturage ariko ko atazi uko abajandarume baje kandi ko nta bikorwa azi cyangwa yumvise Dr. Rutunga Venant yaba yarakoreye Abatutsi; Habimana Jean alias Kaguru utarabajijwe mu Bugenzacyaha, nawe mu buhamya bwe yemeza ko nta gikorwa azi Dr. Rutunga Venant yakoze mu iyicwa ry'Abatutsi bari barahungiye mu Gakera, akaba mu Bushinjacyaha ku wa 23/09/2021 yari yaravuze ko atazi aho abo basirikare bishe Abatutsi bari bahungiye mu Gakera bavuye uretse gusa ko yabonye bazamuka muri ISAR-Rubona n'uko Abatutsi bari bahungiye mu mashyamba yaho bagoswe banatangirwa n'abasirikari n'abapolisi ba Komini babamanura mu Gakera aba ariho babicira.

[154] Nzeyimana Jean de Dieu utarabajijwe mu Bugenzacyaha nawe mu buhamya bwe mu rukiko ntagaragaza uruhare rwa Dr. Rutunga Venant mu izanwa ry'abajandarume bishe Abatutsi mu Gakera kuko avuga ko atamuzi, mu Bushinjacyaha ku wa 08/09/2021 yavuze ko nko mu mataliki ya 25/04/1994 abasirikari barashe ku Batutsi bari barahungiye ku musozi wa Rubona muri ISAR-Rubona bamwe barapfa abandi barahunga ariko ko mbere interahamwe zajyaga zibatera bakirwanaho, kimwe na Mwitende Vianney wari mu gitero cy'interahamwe, utarabajijwe mu Bugenzacyaha watanze ubuhamya mu rukiko yemeza ko atazi Dr. Rutunga Venant, atanazi n'uruhare rw'ubuyobozi bwa ISAR cyangwa urw'abakozi bayo mu iyicwa ry'Abatutsi bari bahungiye muri ISAR-Rubona ariko ku wa 08/09/2021 mu Bushinjacyaha akaba yaravuze ko yari azi Dr. Rutunga Venant ariko ko atamubonye mu gitero yagiyemo cyishe Abatutsi bari muri ISAR-Rubona cyarimo abasirikare, ko bo bagumye ku mupaka wa Mugogwe na ISAR, bumvise batangiye kurasa, nabo batangira ku bica no gusahura ibyo bari bafite.

[155] Mweretsende Damascène utarabajijwe mu Bugenzacyaha, mu rukiko nawe yavuze ko nta ruhare rwa Dr. Rutunga Venant azi mu bwicanyi bwakorewe Abatutsi bahungiye mu Gakera kuko atari asanzwe amuzi, mu Bushinjacyaha ku wa 08/09/2021 akaba yari yaravuze ko yabonye muri ISAR-Rubona hahungira Abatutsi benshi nyuma yumva ko haje imodoka ebyiri (2) z'abasirikari zivuye i Butare, ko aribwo bumvise amasasu bakajya kureba akabona ari abasirikari bari bambaye ingofero z'umutuku bari kurasa kuri abo Batutsi akanavuga ko yumvise ko abasirikare baturutse i Butare iyo bataza ubwicanyi bw'abo Batutsi butari gushoboka.

[156] R.U.T.03 mu buhamya bwe avuga ko nta gikorwa kibi yigeze yumva kuri Dr. Rutunga Venant muri Jenoside, ko iyicwa ry'Abatutsi bari bahungiye muri ISAR-Rubona yabonye rigirwamo uruhare n'abajandarume batatu (3) bari barinze uwitwa Musema bafatanyije n'abandi bajandarume bari baturutse i Musasu, kandi ko ubwo bwicanyi bwatangiye nyuma y'umunsi umwe habaye inama iyobowe na Sindikubwabo Théodore wari perezida yabereye i Butare. Ubuhamya bwe yatangiye mu rukiko busa n'ibikubiye mu nyandiko ye yo ku wa 04/04/2005 iri muri dosiye yise "ubuhamya ku bwicanyi bwabereye muri ISAR-Rubona mu 1994".

[157] Mu bandi bavuga ko nta ruhare Dr. Rutunga Venant yagize mu kuzana abajandarume bishe Abatutsi bari bahungiye mu Gakera harimo Niyonsaba François alias Tayzon utari warabajijwe mu iperereza, uvuga ko ari mubishe Abatutsi bari bahungiye muri ISAR-Rubona, mu buhamya bwe mu rukiko avuga ko nta

ruhare rwa Dr. Rutunga Venant azi mu iyicwa ry'abo batutsi kandi ko igitero cyabishe cyarimo n'abasirikare atamenye aho baturutse na Sebarame Jean Baptiste uvuga ko atazi igihe abajandarume bari muri ISAR bahagereye kuko ku wa 09/05/1994 ahagera yasanze barahageze, akanavuga ko uruhare rwa Dr. Rutunga Venant mu bwicanyi bwabereye muri ISAR-Rubona ari uko aho yayoboraga hishwe abantu ariko akaba ntacyo yakoze mu rwego rwo kubarengera ariko ko we ubwe nta gikorwa azi yakoze. Mu mvugo ze zo mu Bugenzacyaha zo ku wa 05/03/2009 n'izo mu Bushinjacyaha zo ku wa 08/09/2021 ho yavuze ko ibitero byagabwe ku batutsi bari bahungiye mu Gakera byaneshwaga ariko ko abajandarume bazanywe na Dr. Rutunga Venant babarasheho bituma baneshwa.

[158] Hari kandi R.V 002 uvuga ko ku wa 26/04/1994 Abatutsi bari bahungiye mu Gakera bari bagerageje kwirwanaho ariko bagabweho igitero n'abajandarume baraneshwa hicwa abantu benshi, ko we abo bajandarume yababonye bageze mu kigo ariko ko atazi ko ari Dr. Rutunga Venant wabazanye. Mu mvugo ze zo mu iperereza yavuze ko ku wa 26/04/1994 igitero kirimo abajandarume benshi n'interahamwe cyagabwe ku batutsi bari bahungiye mu Gakera cyica abantu benshi kandi ko Dr. Rutunga Venant ariwe wari ubuyoboye ubwo bwicanyi, ko abo bajandarume bavuye i Butare byavuzwe ko inama zakozwe arizo zafatiwemo umwanzuro wo kubazana, Byukusenge Alphonse utarabajijwe mu Bugenzacyaha, nawe mu buhamya bwe mu Rukiko yemeza ko Abatutsi bari bahungiye mu Gakera bagabweho ibitero, ko icya gatatu (3) cyajemo abasirikari aricyo cyabishe kandi ko iyo bataza, abo batutsi batari kwicwa kuko bari benshi kuruta ababateraga, ubu buhamya bwe bushimangira imvugo ze zo mu Bushinjacyaha zo ku wa 08/09/2021 aho yemeza ko yumvise ko Abatutsi bari bahungiye muri ISAR-Rubona bishwe n'abasirikare bari bahurujwe bavuye i Butare kubera ko Abatutsi bari mu Gakera birwanagaho bagasubiza inyuma ibitero by'interahamwe, Rutiyomba Arsène wari umujyanama mu by'amategeko muri ISAR-Rubona na we avuga ko abasirikari bari muri ISAR-Rubona bajyanye n'igitero kwica Abatutsi bari bahungiye mu Gakera ariko ko atibuka uwagiye kubazana n'igihe baziye ndetse ko atamenye amakuru y'iyicwa ryabo kuko ishyamba biciwemo batarigeragamo ariko akaba ntacyo yabivuzeho mu ibaruwa ye yo ku wa 17/10/1997 iri muri dosiye yanditse atanga ubuhamya ku bwicanyi bwabereye muri ISAR-Rubona na Kanyeperu Augustin utarabajijwe mu iperereza, uvuga mu buhamya bwe mu rukiko ko ntacyo azi kubazanye abajandarume bishe abantu mu Gakera.

[159] Uretse abatanze ubuhamya mu rukiko bamwe bakabazwa mu iperereza hari n'ababajijwe mu iperereza gusa bagize icyo bavuga ku bwicanyi bwakorewe Abatutsi bari bahungiye mu Gakera bigizwemo uruhare n'abajandarume bivugwa ko basabwe na Dr. Rutunga Venant ari bo Mukabagorora Béatrice, Kubwimana Xavérine, Ntaganda Sylvestre na Karasira Félix Eugène. Mu mvugo ze zo mu Bugenzacyaha zo ku wa 11/07/2018 no mu Bushinjacyaha ku wa 04/10/2021 Mukabagorora Béatrice yemeza ko Dr. Rutunga Venant nta mututsi yishe, ko nta n'igitero yayoboye ahubwo uruhare rwe ari ukuzana abasirikari n'abajandarume bafatanyije n'interahamwe kwica Abatutsi bari bahungiye muri ISAR-Rubona ahitwa mu Gakera, naho ibyo kuba ari we wazanye abajandarume yabyumvanye Bineza Emmanuel, kandi ko abasirikare baje yabiboneye, Kubwimana Xavérine we mu mvugo ze zo mu Bugenzacyaha zo ku wa 20/07/2018 no mu Bushinjacyaha ku wa 21/09/2021 yavuze ko Dr. Rutunga Venant nta myitwarire idasanzwe iganisha kuri Jenoside yamubonyeho mu gihe cya Jenoside, ko nta bikorwa bye bya Jenoside azi ndetse ko nta n'icyo yigeze amwumvaho, ko Abatutsi bari bahungiye mu Gakera bishwe bigizwemo uruhare n'abasirikare kandi ko yaba abajandarume cyangwa abasirikari bose babitaga abasirikari, ko aba bafatanyije n'interahamwe ariko ko atazi uko abo bajandarume bazanywe, uretse ko yumvise kuri Radiyo Dr. Rutunga Venant yiyemerera ko ariwe wabazanye, Karasira Félix Eugène wakoraga muri ISAR mu gihe cya Jenoside akaba atarabajijwe mu Bushinjacyaha, mu mvugo ze zo mu Bugenzacyaha zo ku wa 05/03/2009 avuga ko yumvise ko Dr. Rutunga Venant ariwe wagiye kuzana abajandarume i Butare afatanyije na Mugemana Didace kandi ko abo bajandarume aribo bafatanyije n'abaturage mu kwica abantu, naho Ntaganda Sylvestre utarabajijwe mu Bushinjacyaha, mu mvugo ze zo Bugenzacyaha ku wa 06/03/2009 yavuze ko byavuzwe ko Dr. Rutunga Venant yagiye kuzana abajandarume akoresheje imodoka ya ISAR-Rubona.

[160] Uretse ibimenyetso bishingiye ku buhamya, amakuru n'imvugo zo mu iperereza z'abatangabuhamya hari n'imiburanire mu rukiko mu rubanza mu mizi, imvugo zo mu iperereza n'imiburanire ku ifunga n'ifungurwa ry'agateganyo bya Dr. Rutunga Venant aho yemera ko ariwe wasabye abajandarume kuri Perefegitura ya Butare bari hagati y'icumi na cumi na batanu (10-15) bageze mu kigo bica Abatutsi bari bahahungiye nyamara bari bazanywe no kurinda umutekano w'ikigo.

[161] Mu miburanire ye mu rukiko no mu myanzuro ye Dr. Rutunga Venant ubwe yiyemerera ko ariwe wagiye gusaba abajandarume bageze mu kigo bica Abatutsi bari bahungiye mu Gakera kuko aburana yemeje ko igikorwa cyo kujya kuzana abajandarume atagihakana ariko akavuga ko byari mu rwego rwo kurinda umutekano w'abaturage bari muri ISAR-Rubona, ko bahageze bagakora ibikorwa by'ubwicanyi atari yabahamagariye kandi ko mbere y'uko ajya kubasaba habanje gukorwa inama abayirimo bemeza ko kwitabaza abajandarume ari ngombwa kubera ko icyo gihe hari umwuka w'ubwoba babona ibitero byugarije ikigo.

[162] Mu Bushinjacyaha ku wa 02/08/2021 naho yemeye ko yagiye i Butare kuzana abajandarume kandi ko Perefe Nsabimana Syvlain yamuhaye abarenga icumi (10) bageze muri ISAR-Rubona aba ariwe ubakira ariko ko iyicwa ry'Abatutsi ntaryo yamenye, anemera ko nyuma y'uko abonye ko abajandarume yasabye batari gukora icyo yabasabiye ntacyo yakoze kuko habayeho kubakira no kubereka aho baba kandi ko na Perefe yahise aza mu Kigo, akanavuga ko abo bajandarume bageze mu kigo hagati yo ku wa 24/04/1994 no ku wa 25/04/1994 bakahava ku wa 05/05/1994.

[163] Anaburana ku ifunga n'ifungurwa ry'agateganyo, Dr. Rutunga Venant yemera ko yagiye i Butare gusaba abajandarume kuko yabonaga ikigo kigiye guterwa n'abagizi ba nabi bari bavuye za Maraba, ko ageze kwa Perefe bamuhaye abajandaruwe ariko ageze mu kigo n'ubundi asanga abo bagizi ba nabi binjiye mu kigo barica, baratwika baranasenya ndetse n'inzu ye barayisenya, ko kuba yaragiye guhuruza ari uko yabonaga we ntacyo yabikoraho abishyikiriza ababishinzwe kandi ko icyo yasabiye abajandarume atari cyo bakoze.

[164] Urukiko rurebye ubuhamya bwa D.R.V.A, ubwa R.V.004, ubwa R.V.005 n'ubwa Burimwinyundo Edouard batangiye mu rukiko bavuga ko Dr. Rutunga Venant ariwe wazanye abajandarume bishe Abatutsi bari mu Gakera rukabihuza n'ibyo bari baravuze mu iperereza, ibyo buri mutangabuhamya yemeza ku birebana no kuba ari Dr. Rutunga Venant wazanye abajandarume bishe Abatutsi bari bahungiye mu Gakera rukanareba kandi ko bihura n'ibyo buri mutangabuhamya yasobanuye by'uko Dr. Rutunga Venant yagiye kuri Perefegitura ya Butare gusaba abajandarume, abo bajandarume bageze muri ISAR-Rubona bakajya mu Gakera ahari hahungiye Abatutsi bagabwagaho ibitero n'interahamwe ariko bakirwanaho n'uko babarasheho bakabica, rurasanga ubu buhamya n'izi mvugo zabo bikwiye gushingirwaho nk'ikimenyetso gihamya nta gushidikanya ko Dr. Rutunga Venant ariwe wazanye abajandarume bishe Abatutsi bari bahungiye mu Gakera kuko abo batangabuhamya bavuga ibyo biboneye.

[165] Rurasanga n'ubuhamya n'imvugo bya R.V.003, Habimana Charles, Mukandori Didacienne, Kayibanda Ildephonse, R.U.T.10 wahungiye mu mashyamba ya ISAR-Rubona, D.R.V.B, R.V 001, Bunani Emmanuel na Ntunda Jacques nabyo bikwiye gushingirwaho mu kwemeza ko Dr. Rutunga Venant ari we wasabye abajandarume bishe Abatutsi kuko nabo bemeza ko bumvise ko ari Dr. Rutunga Venant wazanye abajandarume bagize uruhare mu iyicwa ry'Abatutsi bari bahungiye mu Gakera.

[166] Runasanga n'ubuhamya bwatanzwe na R.V006, Habimana Jean alias Kaguru, Mweretsende Damascène, R.U.T.03, Niyonsaba François alias Tayzon umwe mu bishe impunzi, Nzeyimana Jean de Dieu, Mwitende Vianney wari mu gitero cy'interahamwe, R.V 002, Byukusenge Alphonse, Rutiyomba Arsène na Kanyeperu Augustin butavuguruza ubuhamya bw'abemeza ko Dr. Rutunga Venant ariwe wasabye abajandarume bishe Abatutsi bari bahungiye mu Gakera kuko icyo bamwe bavuga ari uko batamuzi abandi ko batazi uruhare rwe mu iyicwa ry'abo Batutsi ariko abenshi bagahuriza ku kuba

abajandarume aribo bishe Abatutsi bari mu Gakera hakaba n'abavuga ko batazi uruhare rw' abajandarume mu iyicwa ry'abo batutsi.

[167] Runasanga na none ubuhamya bw'ababajijwe mu rukiko bari baranabajijwe mu iperereza bavuzwe haruguru bemeje ko ari Dr. Rutunga Venant wasabye abajandarume bishe Abatutsi bari bahungiye mu Gakera bushimangira imvugo zo mu iperereza za Mukabagorora Béatrice kuko n'ubwo avuga ko Dr. Rutunga Venant nta Mututsi yishe nta n'igitero yayoboye ariko avuga ko ari we wagiye gusaba abajandarume bafatanyije n'interahamwe kwica Abatutsi bari bahungiye mu Gakera, iza Kubwimana Xavérine wavuze ko Abatutsi bari bahungiye mu Gakera bishwe bigizwemo uruhare n'abasirikare kandi ko yaba abajandarume cyangwa abasirikari bose babitaga abasirikari, iza Karasira Félix Eugène na Ntaganda Sylvestre bavuze ko bumvise ko Dr. Rutunga Venant ariwe wagiye kuzana abajandarume i Butare. Bityo, izi mvugo na zo zikaba zikwiye gushingirwaho nk'ikimenyetso nk'uko biteganywa n'ingingo ya 8 y'itegeko nº 47/2013 ryo ku wa 16/06/2013 rigena kwimurira imanza muri Repubulika y'u Rwanda iteganya ko urukiko rushobora guhamya umuntu icyaha rushingiye ku gaciro k'ubuhamya bwanditse iyo ubwo buhamya bufite ubundi bubushyigikira bwatangiwe mu rukiko.

[168] Hashingiwe rero ku biteganywa n'ingingo ya 2[4] n'iya 53[5] z'itegeko n° 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso zirebana n'icyo ubuhamya ari cyo kwemerwa no guha agaciro ibimenyetso bishingiye ku buhamya, rusanga ubuhamya bwatanzwe n'abatangabuhamya n'imvugo zo mu iperereza z'abemeza ko abajandarume bazanywe na Dr. Rutunga Venant ari bo bagize uruhare mu iyicwa ry'Abatutsi bari muri ISAR-Rubona byashingirwaho nk'ibimenyetso kuko ubuhamya bwabo bufite ubudakemwa kandi bavuga ibyo bafitiye ubumenyi, bityo rugasanga Dr. Rutunga Venant yaragize uruhare mu kuzana abajandarume bafatanyije n'interahamwe mu kwica Abatutsi bari muri icyo kigo.

[169] Ruranasanga kandi ibyo Dr. Rutunga Venant yiyemereye aburana urubanza mu mizi, aburana ku ifunga n'ifungurwa ry'agateganyo no mu iperereza nabyo ari ibimenyetso bigaragaza ku buryo budashidikanywaho ko ariwe wagiye gusaba abajandarume bishe Abatutsi bari barahungiye mu Gakera.

[170] Urukiko rurasanga n'ubwo Dr. Rutunga Venant ariwe wasabye abajandarume bishe Abatutsi bari bahungiye mu Gakera, ubwe nta gikorwa gifatika nko kwica cyangwa gufata ubuhiri ubwe yakoze mu bwicanyi bwababakorewe, akaba ataranabaye mu gitero cyabagabweho cyangwa ngo abe yarakiyoboye nk'uko byemezwa mu mvugo zo mu iperereza za R.V.002 wavuze ko ari Dr. Rutunga Venant wari uyoboye ubwicanyi n'iza Habimana Charles wemeje ko yabwiwe na bagenzi be ko Dr. Rutunga Venant yari mu gitero kubera ko izo mvugo zabo zivuguruzanya n'ubuhamya n'imvugo bya Sebarame, Mwitende Vianney, Ntunda Jacques, RV001, RV006, RUT003, Kubwimana Xaverina na Mukabagorora Béatrice bavuze ko nta gikorwa kindi Dr. Rutunga Venant yakoze ubwe nko gufata ubuhiri cyangwa umuhoro ngo yice abantu, ko uruhare rwe ari uko yazanye abajandarume bishe Abatutsi bari bahungiye mu Gakera.

[171] Rurasanga rero hakurikijwe ubuhamya n'amakuru byatanzwe mu rukiko, imvugo zo mu iperereza z'abatangabuhamya babajijwe mu rukiko n'imvugo zababajijwe mu iperereza gusa bemeza ko ari Dr. Rutunga Venant wazanye abajandarume bishe Abatutsi bari mu Gakera n'abemeza ko bumvise ko ariwe wabazanye ndetse n'imvugo za Dr. Rutunga Venant, bigaragaza ko ariwe wasabye abajandarume uwari Perefe wa Perefegitura ya Butare bagize uruhare mu bwicanyi bwakorewe Abatutsi bari bahungiye muri ISAR-Rubona ahitwa mu Gakera.

[4] Ingingo ya 2 y'Itegeko n° 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso iteganya ko "ikimenyetso gishingiye ku buhamya" bivuga: (i) amagambo avugiwe imbere y'urwego rufite ububasha cyangwa yarushyikirijwe mu nyandiko n'umuntu wabonye cyangwa wumvise ibyerekeranye n'ikibazo kiri mu mpaka, (…);

[5] Ingingo ya 53 y'Itegeko n° 062/2024 ryo ku wa 20/06/2024 rivuzwe haruguru iteganya ko "Urwego rufite ububasha rusuzuma ukwemerwa cyangwa ukutemerwa n'agaciro by'ikimenyetso gishingiye ku buhamya. Ntirwita ku mubare w'abatangabuhamya, ahubwo rwita cyane ku bumenyi bw'ibyabaye no ku budakemwa bw'ubuhamya batanga".

[172] Harebwe rero ko Dr. Rutunga Venant yasabye abajandarume bagera mu ISAR-Rubona uwo munsi bagahita batangira gushakisha no kwica Abatutsi bari bahungiye muri icyo kigo, nyuma y'ubwo bwicanyi abo bajandarume bagasubira aho bari baraturutse i Butare, hakarebwa na none uko Abatutsi barimo bicwa mu nkengero z'ikigo, muri Perefegitura ya Butare no mu gihugu hose, uko nyuma y'ubwo bwicanyi Dr. Rutunga Venant nk'umuyobozi w'ikigo cya ISAR-Rubona atigeze abwamagana nyamara ariwe wagiye kubasaba n'uko bivugwa n'umutangabuhamya R.V 004 ko nta kibazo cy'umutekano muke wari mu kigo n'uko bari bazi ko mu tundi turere bari baratangiye kwica Abatutsi, rusanga ibyo Dr. Rutunga Venant avuga ko yasabye abajandarume Perefe wa Perefegitura ya Butare kubera impamvu zo kurinda umutekano w'ikigo byemerejwe mu nama z'umutekano nta shingiro byahabwa.

- **Ku bijyanye no gutegera no guhemba interahamwe**

[173] Dr. Rutunga Venant aregwa kuba yaremereye guhemba ikimasa abishe Abatutsi muri ISAR-Rubona, kuba yarahembye abishe Ndamage Georges ikimasa cya ISAR-Rubona no kuba we n'abandi bayobozi ba ISAR-Rubona baraguriraga interahamwe inzoga bigatuma bashishikarira gushakisha Abatutsi aho babaga bihishe bakabica.

[174] Mu bimenyetso byatanzwe ku birebana no gutegera no guhemba abishe Abatutsi muri ISAR-Rubona birimo ubuhamya n'amakuru byatangiwe mu rukiko n'imvugo z'ababajijwe mu Bugenzacyana no mu Bushinjacyaha.

[175] Mu buhamya n'amakuru byatangiwe mu rukiko, rurasanga bigaruka ku birebana no gutegera no guhemba abishe Ndamage Georges ariko bikaba ntacyo bigaragaza ku birebana no kuba Dr. Rutunga Venant yaremeye guhemba ikimasa abishe abandi Batutsi muri ISAR-Rubona no kuba we n'abandi bayobozi b'icyo kigo baraguriraga interahamwe inzoga bigatuma bashishikarira gushakisha Abatutsi aho babaga bihishe bakabica.

[176] Rusesenguye ubuhamya n'amakuru byatangiwe mu rukiko rurasanga abatangabuhamya bavuga ko babonye uwahembye inka abishe Ndamage Georges bavuguruzanya kuko Kayibanda Ildephonse yemeza ko ari Dr. Rutunga Venant wemeje mu buryo bw'inyandiko ko ikimasa kizanwa kigahabwa abishe Ndamage Georges, mu gihe R.V 001 we yemeza ko igihembo cy'inka cyatanzwe na Murindangabo Joseph ariko ko atamenye urwego cyatanzwemo niba byaratewe n'uko bahembaga abari bavuye gushyingura imirambo y'abari biciwe mu Gakera cyangwa niba ari uko bari bishe abantu naho R.U.T.03 we akemeza ko ubwo yari mu biro bya Mugemana Didace yabonye uyu aha abantu babatu (3) urupapuro rwo kujyana ku biraro kugira ngo babahe ikimasa cyo guhemba abari bamaze kwica Ndamage Georges.

[177] Urukiko rurasanga ibyo aba batangabuhamya bavuze mu rukiko binahura n'ibyo bari baravuze mu iperereza birebana no guhemba abicanyi, Kayibanda Ildephonse yabivuze abazwa mu Bushinjacyaha ku wa 21/09/2021 naho mu Bugenzacyaha ku wa 18/07/2018 akaba ntacyo yabivuzeho, R.U.T.03 na we ibyo yavuze mu rukiko bikaba bihura n'ibyo yari yaranditse mu ibaruwa ye yo ku wa 04/04/2005 iri muri dosiye yanditse atanga ubuhamya ku bwicanyi bwakorewe muri ISAR-Rubona naho R.V 001 akaba mu mvugo ze zo mu Bushinjacyaha ku wa 09/09/2021 yaravuze gusa ku kuba yarumvise ko abayobozi ba ISAR-Rubona bahembye ikimasa abahambye imirambo y'abari bishwe n'igitero giturutse i Ruhashya; bityo rero harebwe ubuhamya bwa Kayibanda Ildephonse, ubwa R.U.T.03 n'ubwa R.V 001 n'imvugo zabo zo mu iperereza rurasanga bitagaragaza ku buryo budashidikanywaho uruhare rwa Dr. Rutunga Venant mu itangwa ry'ikimasa cyahembwe abishe Ndamage Georges kuko bigaragaramo kuvuguruzanya.

[178] Rurasanga na none ibyo kuba nta ruhare Dr. Rutunga Venant yagize mu itangwa ry'ikimasa cyahembwe abishe Ndamage Georges bishimangirwa n'ubuhamya bw'abandi babajijwe mu rukiko aribo Habimana Jean wemeza ko yumvise ko abishe Ndamage Georges bahembwe inka ariko ko atazi abari batanze iyo ntego, R.U.T.10 uvuga ko yumvise ko abayobozi ba ISAR-Rubona bagororeye abicanyi ikimasa bamaze kwica Ndamage Georges ariko ko atamenye abo bayobozi abo ari bo, Rutiyomba Arsène

wavuze ko atazi iby'inka ivugwa ko yahembwe abicanyi, Burimwinyundo Edouard uvuga ko yumvise ko abayobozi barimo Dr. Rutunga Venant bahembye ikimasa cy'ibiro magana ane (400kg) abishe Ndamage Georges n'uko nta kintu cya ISAR-Rubona cyasohokaga bitemewe n'ubuyobozi; ariko rusanga ibi avuga atagaragaza uruhare bwite rwa Dr. Rutunga Venant mu itangwa ry'icyo kimasa. Ibi bavuga binemezwa n'umutangamakuru Ntunda Jacques uvuga ko iby'ibihembo byahawe abishe Ndamage Georges yabyumviye mu rukiko aburana urubanza yari yarezwemo.

[179] Rurasanga kandi ubuhamya bwa Habimana Jean bwuzuzanya n'imvugo ze zo mu iperereza kuko ibyo yavuze mu rukiko bihura n'ibyo yari yaravuze mu Bushinjacyaha ku wa 23/09/2021 naho Ntunda Jacques mu ibazwa rye ryo ku wa 17/07/2018 mu Bugenzacyaha no mu Bushinjacyaha ku wa 08/09/2021 akaba ntacyo avuga ku birebana no gutega no guhemba abicanyi. Rutiyomba Arsène we n'ubwo mu rukiko yavuze ko atazi ibirebana n'ibihembo byahawe abicanyi ariko mu ibaruwa ye yo ku wa 17/10/1997 iri muri dosiye yanditse atanga ubuhamya ku bwicanyi bwabereye muri ISAR-Rubona yagaragaje ko Ndereyehe Ntahontuye Charles wari umuyobozi wa ISAR akoresheje Mugemana Didace yahaye inka abashyize mu bikorwa uwo mugambi mubisha. Runasanga kuba Burimwinyundo Edouard ashingira uruhare rwa Dr. Rutunga Venant ku kuba yari umuyobozi gusa atagaragaza uruhare rwe bwite rukanasanga n'imvugo ze mu Bugenzacyaha zo ku wa 17/07/2018 no ku wa 05/03/2009, aho avuga ko Ndamage Georges amaze kwicwa, Dr. Rutunga Venant n'abandi bayobozi ba ISAR batanze inka zo kurya bashimira Interahamwe zari zimaze kumwica nta shingiro byahabwa nk'uko byasobanuwe ku buhamya bwatangiwe mu rukiko naho mu Bushinjacyaha ku wa 07/09/2021 akaba ataragize icyo avuga ku birebana n'ibihembo byahawe abamwishe.

[180] Urukiko rurasanga mu batangabuhamya babajijwe mu rukiko hari n'abataragize icyo bavuga ku birebana n'ibihembo byahawe abishe Ndamage Georges ariko mu iperereza barabivuzeho aba akaba ari D.R.V.B, Mukandori Didacienne, R.V.004 na D.R.V.A, hakaba na D.R.V.A, Sebarame Jean Baptiste na R.V.002 bavuga ku bihembo byahawe abishe abandi batutsi n'abahambye imirambo y'Abatutsi biciwe mu Gakera.

[181] Rurasanga mu mvugo ze zo mu Bushinjacyaha ku wa 23/09/2021 D.R.V.B utari warabajijwe mu Bugenzacyaha, avuga ko Dr. Rutunga Venant ari mu batanze ikimasa cyo guhemba abazica Ndamage Georges kandi ko bamaze kumwica bagihawe. Rusesenguye izi mvugo ze rurasanga, uretse kuba atarabivuze mu buhamya bwe mu rukiko atanasobanura neza niba yariboneye ubwe icyo kimasa gitangwa cyangwa cyemererwa abicanyi ku buryo byashingirwaho nk'ikimenyetso kidashidikanywaho kigaragaza ko koko ari Dr. Rutunga Venant watanze ikimasa ku bishe Ndamage Georges cyane cyane ko mu buhamya bwatangiwe mu rukiko hari abatangabuhamya bavuga ko icyo kimasa cyatanzwe n'abandi.

[182] Rurasanga na none n'imvugo za Mukandori Didacienne na zo zitagaragaza ku buryo budashidikanywaho ko ari Dr. Rutunga Venant watanze ikimasa cyahembwe abishe Ndamage Georges, kuko ibyo avuga abishingira gusa ku kuba ari we wari uyoboye ISAR-Rubona nk'uko abivuga mu mvugo ze zo ku wa 22/09/2021 mu Bushinjacyaha aho avuga ko ubuyobozi bwa ISAR-Rubona buyobowe na Dr. Rutunga Venant bwemereye inka umuntu uzerekana Ndamage Georges, nyuma abaturage baramuhiga aricwa, abamwishe bahembwa inka yari yarashyizweho nk'intego, izo mvugo zikaba zinatandukanye n'imvugo ze zo mu Bugenzacyaha zo ku wa 06/03/2009 kuko ho yavuze ko ari Ndereyehe Ntahontuye Charles waguriye inzoga abishe Ndamage Georges anaha Mugemana Didace itegeko ryo guha abamwishe inka y'ibiro hafi magana atandatu (600kgs).

[183] Rurasanga kandi R.V.004 na D.R.V.A nabo mu mvugo zabo zo mu iperereza batagaraza uruhare rwa Dr. Rutunga Venant mu itangwa ry'ikimasa cyahembwe abishe Ndamage Georges kubera ko R.V.004 utaragize icyo abivugaho mu ibazwa rye ryo mu Bugenzacyaha ku wa 19/07/2018 no ku wa 05/03/2009, mu Bushinjacyaha ku wa 24/09/2021 avuga ko yumvise ko abanyamusasu, aho Ndamage Georges yari yarabanje guhungira, ari bo bamugaruye muri ISAR-Rubona ahageze Mugemana Didace ababwira ko bamwica, ko bamaze kumwica yabaye inka abagororera, D.R.V.A we wabibajijweho gusa mu

Bugenzacyaha mu mvugo ze zo ku wa 18/07/2018 avuga ko Ndamage Georges ari mu bishwe nyuma yo ku wa 26/04/1994 kandi ko hari harashyizweho inka kugira ngo bamuhige yicwe ariko akaba atagaragaza ko ari Dr. Rutunga Venant wari warashyizeho icyo gihembo.

[184] Ruranasanga D.R.V.A, uretse kuba yaravuze ku bihembo byahawe abishe Ndamage Georges, anavuga no ku bihembo byari byarashyiriweho abaturage bazakomeza guhiga Abatutsi bakoraga muri ISAR-Rubona bari bataricwa agaragaza ko byakozwe na Dr. Rutunga Venant afatanyije na Mugemana Didace na Murindangabo Joseph nk'uko bigaragara mu mvugo ze mu Bushinjacyaha zo ku wa 08/09/2021. Rusanga izi mvugo ze zonyine zidashyigikiwe n'ubundi buhamya bwatangiwe mu rukiko ku birebana n'ibihembo byahawe abishe abandi Batutsi batari Ndamage Georges bitashingirwaho mu kugaragaza ko Dr. Rutunga Venant hari ibihembo yari yarashyiriyeho abaturage mu guhiga Abatutsi bakoraga muri ISAR-Rubona bari bataricwa. Ruranasanga na none n'imvugo za Burimwinyundo Edouard zo mu Bushinjacyaha zo ku wa 07/09/2021 aho avuga ko Dr. Rutunga Venant yashishikarije abicanyi kwica Abatutsi, ababishe bakabahemba ibihumbi cumi na bitatu (Frw 13,000) buri muntu kuko uretse kuba zidashyigikiwe n'ubuhamya bwatangiwe mu rukiko zitanahura n'imvugo ze zo mu Bugenzacyaha kubera ko ho avuga ko ayo mafaranga yahawe abashyinguye imirambo yari muri ISAR-Rubona.

[185] Rurasanga n'imvugo za Sebarame Jean Baptiste zo mu Bugenzacyaha zo ku wa 05/03/2009 no mu Bushinjacyaha ku wa 08/09/2021 uvuga ko hari ubwo batumweho kuza guhamba imirambo y'abantu bari bariciwe muri ISAR-Rubona bageze mu kigo basanga hari imirambo myinshi ariko ko mbere bafataga abaturage bakabaha inka kugira ngo bahambe iyo mirambo, iza R.V.002 utarabajijwe mu Bugenzacyaha, mu ibazwa rye ryo ku wa 23/09/2021 mu Bushinjacyaha uvuga ko abatoraguye imirambo y'abishwe yari mu Gakera bahembwe inyama banabahaha ikimasa, imvugo zabo zitashingirwaho mu kugaragaza uruhare rwa Dr. Rutunga Venant mu itangwa ry'ikimasa cyahawe abishe Ndamage Georges kuko bavuga gusa ku birebana n'ibihembo byahawe abashyinguye imirambo y'abiciwe mu Gakera. Rurasanga na none imvugo za Burimwinyundo Edouard zo mu Bugenzacyaha zo ku wa 05/03/2009 wemeza ko ari Dr. Rutunga Venant na Murindangabo Joseph bahambishije imirambo yari mu kigo cya ISAR-Rubona banaha abaturage inka n'amafaranga ibihumbi cumi na bitatu (Frw 13,000) nabyo nta reme bifite kuko bitagaragaza uruhare bwite rwa Dr. Rutunga Venant mu birebana no gutegera no guhemba abishe Ndamage Georges.

[186] Ruranasanga n'imvugo z'ababajijwe mu iperereza gusa batatanze ubuhamya mu rukiko na zo zigaragaza ko Dr. Rutunga Venant atagize uruhare mu itangwa ry'ikimasa cyahembwe abishe Ndamage Georges kubera ko icyo bose bahurizaho ari uko ari Mugemana Didace watanze icyo kimasa, kuko Karasira Félix Eugène utarabajijwe mu Bushinjacyaha, mu Bugenzacyaha ku wa 05/03/2009 avuga ko Mugemana Didace yatanze inka kubishe Ndamage Georges akora n'ibindi bikorwa bibi abamuyoboraga barimo Dr. Rutunga Venant babireba ntibamuvuguruze ariko ko atabonye bamuha amabwiriza, Kubwimana Xavérine na we mu ibazwa rye ryo mu Bugenzacyaha ku wa 20/07/2018 avuga ko abishe Ndamage Georges bishyuwe inka ariko akaba atavugamo Dr. Rutunga Venant naho mu Bushinjacyaha ku wa 21/09/2021 avuga ko yabonye abishe Ndamage Georges batitirije Mugamana Didace bamubwira ko abaha inka ariko ko atazi uwari warayibemereye naho Ntaganda Sylvestre mu ibazwa rye ryo mu Bugenzacyaha ku wa 06/03/2009 ntacyo avuga ku birebana no guhemba abishe Ndamage Georges uretse kuvuga gusa ko ari Mugemana Didace wamutanze amuzaniwe n'igitero giturutse i Musasu akanatwara n'imodoka ye.

[187] Rusanga n'imvugo za Mukabagorora Béatrice zo mu Bugenzacyaha zo ku wa 11/07/2018 avuga ko yumvise ko Dr. Rutunga Venant yahembye abishe Ndamage Georges, ko n'ubwo bivugwa ko inka yatanzwe na Mugemana Didace ariko nta kuntu yagombaga gutangwa atabizi, n'izo mu Bushinjacyaha zo ku wa 04/10/2021 avuga ko ubwo yari avuye aho yari yarahungiye i Musasu agarutse mu kigo cya ISAR-Rubona Ndamage Georges yaraye yishwe byavugwaga ko abamwishe bahembwe ikimasa, ko nazo rero zitagaragaza uruhare rwa Dr. Rutunga Venant mu iyicwa rya Ndamage Georges kubera ko abishingira gusa ku kuba Mugemana Didace atari gutanga icyo kimasa Dr. Rutunga Venant atabizi.

[188] Ku birebana n'inka bivugwa ko yahawe abishe abandi Batutsi bakoraga muri ISAR-Rubona rusanga nta buhamya bwatangiwe mu rukiko bubigaragaza, naho imvugo za D.R.V.A zo mu Bushinjacyaha zo ku wa 08/09/2021 ubyemeza nk'uko byasobanuwe, rwasanze zitashingirwaho kuko zidashyigikiwe n'ubundi buhamya bwatangiwe mu rukiko, rukanasanga n'imvugo za Mukandori Didacienne zo mu Bugenzacyaha zo ku wa 06/03/2009 zirebana no kuba abayobozi ba ISAR- Rubona baraguriraga inzoga interahamwe bigatuma zishishikarira gushakisha Abatutsi aho babaga bihishe bakabica, nazo zitagaragaza uruhare rwa Dr. Rutunga Venant kubera ko zirebana n'ibihembo byahawe abishe Ndamage Georges kandi akaba avuga ko ari Ndereyehe Ntahontuye Charles waziguriye abamwishe anaha Mugemana Didace itegeko ryo guha abamwishe inka y'ibiro hafi magana atandatu (600 kgs).

- **Ku bijyanye n'iyicwa ry'abakozi b'Abatutsi bakoraga muri ISAR- Rubona**

[189] Ku bijyanye n'ubwicanyi bwakorewe abakozi b'Abatutsi bakoraga muri ISAR-Rubona, Dr. Rutunga Venant aregwa kuba ariwe wazanye abajandarume bishe Kalisa Epaphrodite, Munyengango Jean Claude, Ndamage Georges na Sebahutu André bari abakozi bo muri ISAR-Rubona.

- Ku birebana n'iyicwa rya Kalisa Epaphrodite

[190] Dr. Rutunga Venant aregwa kuba ari kumwe n'abajandarume yazanye muri ISAR-Rubona barakuye Kalisa Epaphrodite aho yari yihishe, nyuma bamujyana hirya gato baramurasa ariko isasu ntiryamufata, aza kugaruka aho bari bari hafi y'aho bita Salle Pirlot bamuraza mu muferege w'amazi wari uhari aba ari ho yicirwa bukeye.

[191] Mu batangabuhamya babajijwe mu rukiko harimo abavuga ko babonye Kalisa Epaphrodite afatwa anatotezwa ariko batabonye yicwa, abavuga ko babonye yicwa hakaba n'abavuga ko bumvise gusa ko yishwe ariko batazi uburyo yishwemo n'abamwishe. Muri aba bose bamwe bemeza ko Dr. Rutunga Venant yagize uruhare mu iyicwa rya Kalisa Epaphrodite abandi bakavuga ko nta ruhare yabigizemo.

[192] Mu bavuga ko yagize uruhare mu iyicwa rya Kalisa Epaphrodite ni D.R.V.B Burimwinyundo Edouard, Kayibanda Ildephonse na Mukandori Didacienne. D.R.V.B avuga ko ku wa 25 cyangwa 26/04/1994 nka saa moya z'ijoro Dr. Rutunga Venant ari kumwe n'uwitwa Murindangabo Joseph n'abasirikari batatu (3) bavuye iwe mu rugo bageze haruguru gato bahura na Kalisa Epaphrodite bamuha umusirikari umwe amumanukana hafi y'inzu y'abitwa Kayitani na Tadeyo aramurasa ariko isasu ntiryamufata, bageze hafi ya Salle Pirlot Kalisa Epaphrodite arahabasanga baramufata bamuryamisha mu muvu w'amazi imbere y'ahakorera Ubuyobozi Bukuru, bukeye aba aribwo yumva ko yishwe. Ibi avuga bihura n'imvugo ze zo ku wa 23/09/2021 zo mu Bushinjacyaha.

[193] Burimwinyundo Edouard atanga ubuhamya mu Rukiko yemeza ko Kalisa Epaphrodite yafashwe n'abajandarume arazwa mu muvu w'amazi anarasirwa amasasu hejuru, yicirwa mu rugano rwo muri ISAR-Rubona bukeye ariko ko atabonye Dr. Rutunga Venant aho yiciwe, uretse ko uwitwa Makaratasi yamubwiye ko aho Kalisa Epaphrodite yiciwe yahabonye Dr. Rutunga Venant kuko bahahuriye. Mu Bugenzacyaha abazwa ku wa 05/03/2009 no ku wa 17/07/2018 yemeza ko abo yibuka biciwe muri ISAR-Rubona harimo Kalisa Epaphrodite wazanwe na Murindangabo Joseph n'abajandarume batatu (3) bari mu basabwe na Dr. Rutunga Venant na Mugamana Didace bamugeza ahari icyumba cy'inama n'akazu k'umuzamu aho bari bicaye bamuryamisha mu muvu w'amazi wari uhari baramutoteza, bukeye bamuha igitero giturutse i Maraba kimutemagurira aho. Ibi ni nabyo yavuze mu Bushinjacyaha abazwa ku wa 07/09/2021 ariko ho yongeraho ko igihe Kalisa Epaphrodite yararaga atotezwa Dr. Rutunga Venant yari ahari.

[194] Kayibanda Ildephonse we yemeza ko yabonye Dr. Rutunga Venant azamuka ubwo abasirikare bari bajyanye Kalisa Epaphrodite aho yiciwe. Mu mvugo ze zo mu Bugenzacyaha zo ku wa 18/07/2018 n'izo mu Bushinjacyaha zo ku wa 21/09/2021 ntacyo yavuze ku birebana n'iyicwa rya Kalisa Epaphrodite.

Mukandori Didacienne na we yemeza ko yumvise ko Kalisa Epaphrodite atoterezwa imbere y'Ibiro Bikuru Dr. Rutunga Venant ari mu bashungeraga, naho mu Bugenzacyaha ku wa 06/03/2009 no mu Bushinjacyaha ku wa 22/09/2021 akaba yaravuze ko Kalisa Epaphrodite ari mu biciwe ku biro bya Dr. Rutunga Venant.

[195] Mu bavuga ko nta ruhare Dr. Rutunga Venant yagize cyangwa batazi uruhare rwe hari R.V 001, R.V 002, R.V.004, R.V. 005, R.V 006, Sebarame Jean Baptiste, Byukusenge Alphonse, Habimana Charles, Kanyeperu Augustin, R.U.T.03, R.U.T.10, Rutiyomba Arsène, Ruzigaminturo Innocent na Ntunda Jacques. R.V 001 mu buhamya bwe avuga ko yumvise ko Kalisa Epaphrodite yishwe nyuma y'igitero cyo ku wa 26/04/1994 n'abantu baturutse i Musasu bamwicira mu Rugano. Mu Bugenzacyaha ntiyabajijwe, mu Bushinjacyaha ku wa 09/09/2021 avuga ko Dr. Rutunga Venant yagiye gusaba abajandarume kuri Perefegitura ya Butare agarutse asanga ISAR-Rubona yatewe yanasahuwe ndetse hishwe Abatutsi barimo Kalisa Epaphrodite, naho R.V 002 avuga ko yabonye Kalisa Epaphrodite yamaze kwicwa.

[196] R.V.004 avuga ko atazi uko Kalisa Epaphrodite yishwe. Mu Bugenzacyaha abazwa ku wa 05/03/2009 no ku wa 16/07/2018 ndetse no mu Bushinjacyaha ku wa 24/09/2021 avuga ko yumvise ko Kalisa Epaphrodite yishwe arashwe n'abajandarme bamuraranye, mu Bugenzacyaha akaba yarasobanuye ko Kalisa Epaphrodite yamutumyeho amusaba kuzakora uko ashoboye abana be bakaroka agiye ku mugeraho abajandarume baramwirukana kandi ko icyo gihe bari bamushyize muri Salle Pirlot. R.V. 005 yemeza ko ubwo bari ku irondo umujandarumye yahaye Kalisa Epaphrodite mugenzi we kugira ngo ajye kumwica, aramutwara nyuma bumva amasasu aravuze ariko mu kanya aragaruka, mu gitondo bagarutse basanga Kalisa Epaphrodite agihari abajandarume barongera baramutwara nyuma bumva ko yishwe ariko ko nta ruhare rwa Dr. Rutunga Venant azi kuri iryo yicwa rye. Mu Bugenzacyaha ntiyabajijwe naho mu Bushinjacyaha abazwa ku wa 14/10/2021 ntacyo yavuze ku birebana n'iyicwa rya Kalisa Epaphrodite.

[197] Uretse aba batangabuhamya hari kandi n'abemeza ko nta ruhare Dr. Rutunga Venant yagize mu iyicwa rya Kalisa Epaphrodite, aribo R.V 006 utarabajijwe mu iperereza, mu rukiko yemeza ko ubwo Dr. Rutunga Venant yabahaga imodoka yo kujya kwivuza bagiye kureba Kalisa Epaphrodite kugira ngo na we bamujyane basanga yiciwe kuri bariyeri yari aho urugano rwo muri ISAR-Rubona rutangirira umuntu asohoka mu kigo, Sebarame Jean Baptiste we avuga ko yumvise ko Kalisa Epaphrodite yishwe n'igitero giturutse i Maraba, akaba mu Bugenzacyaha ku wa 05/03/2009 yaravuze gusa ko Kalisa Epaphrodite ari mu Batutsi biciwe muri ISAR-Rubona naho mu Bushinjacyaha abazwa ku wa 08/09/2021 akaba ntacyo yabivuzeho na Byukusenge Alphonse uvuga ko nta ruhare rwa Dr. Rutunga Venant azi muri ubwo bwicanyi, naho mu Bushinjacyaha mu ibazwa rye ryo ku wa 08/09/2021 akaba ntacyo avuga ku iyicwa rya Kalisa Epaphrodite.

[198] Habimana Charles avuga ko icyo yabonye ari umurambo wa Kalisa Epaphrodite bawushyize mu modoka bita Torotoro. Mu Bugenzacyaha ku wa 04/03/2009 no mu Bushinjacyaha ku wa 21/09/2021 ho ntacyo yavuze ku iyicwa rya Kalisa Epaphrodite. Kanyeperu Augustin avuga ko atazi uko Kalisa Epaphrodite yishwe ariko ko hari ubwo yaje ku kazi ageze imbere ya laboratwari asanga hari amaraso menshi abajije bamubwira ko ari aho bamutemeye; mu Bugenzacyaha no mu Bushinjacyaha ntiyabajijwe.

[199] R.U.T.03 avuga ko yumvise ko Ruhoryongo John n'abandi bari bafatanyije baturukaga mu nkengero za ISAR-Rubona ari bo bishe Kalisa Epaphrodite, naho R.U.T.10 nawe avuga ko yumvise abashumba bavuga ko iyicwa rya Kalisa Epaphrodite ryagizwemo uruhare n'abicanyi b'i Musasu. Rutiyomba Arsène akavuga ko atamenye ibijyanye n'iyicwa rya Kalisa Epaphrodite. Aba bose bakaba batarabajijwe mu Bugenzacyaha no mu Bushinjacyaha.

[200] Umutangamakuru Ruzigaminturo Innocent na we utarabajijwe mu iperereza, mu rukiko avuga ko yumvise ko Kalisa Epaphrodite ari mu Batutsi biciwe muri ISAR-Rubona ariko ko atazi uko yishwe, ibi akaba ari na byo byavuzwe na Ntunda Jacques mu makuru yahaye urukiko wari wavuze mu Bugenzacyaha ku wa 17/07/2018 ko uwari umukozi wa ISAR-Rubona witwa Kalisa Epaphrodite yishwe n'abasirikari

cyangwa abajandarume bazanywe na Dr. Rutunga Venant akaba ari na byo yavuze abazwa mu Bushinjacyaha ku wa 08/09/2021.

[201] Uretse ababajijwe mu rukiko no mu iperereza hari kandi ababajijwe mu iperereza gusa aribo Mukabagorora Béatrice, Karasira Félix Eugène na Kubwimana Xavérine. Mu mvugo ze zo mu Bugenzacyaha zo ku wa 11/07/2018 no mu Bushinjacyaha ku wa 04/10/2021, Mukabagorora Béatrice avuga ko mu batutsi yibuka bari abakozi ba ISAR-Rubona bahiciwe harimo Kalisa Epaphrodite, ko mu gitondo cyo ku wa 27/04/1994 mu rukerera ari mu gihuru yumvise Bineza abwira Shyirambere kuza gufata urufunguzo rw'umutamenwa kuko bagiye kwica Kalisa Epaphrodite, nyuma yumva ko uyu yarajwe mu muferege hafi y'aho Ubuyobozi Bukuru bw'icyo kigo bukorera.

[202] Karasira Félix Eugène wari ushinzwe abakozi, mu mvugo zo mu Bugenzacyaha zo ku wa 05/03/2009 avuga ko hari amabaruwa yabonye yashyizweho umukono na Ndereyehe Ntahontuye Charles na Mugemana Didace banditse birukana Abatutsi bari barahunze n'abapfuye barimo Kalisa Epaphrodite.

[203] Kubwimana Xavérine mu mvugo ze zo mu Bugenzacyaha zo ku wa 20/07/2018 n'izo mu Bushinjacyaha ku wa 21/09/2021 avuga ko mu bo bakoranaga biciwe mu kigo cya ISAR-Rubona barimo Kalisa Epaphrodite n'umugore we Epiphanie n'abana be ariko ko atazi uko Abatutsi bari muri icyo kigo bishwe kuko atahahabaga.

[204] Dr. Rutunga Venant nawe mu Bushinjacyaha ku wa 02/08/2021 yavuze ko izanwa ry'abajandarume muri ISAR-Rubona ritagenze uko yabyifuzaga kubera ko nk'umututsi witwa Kalisa Epaphrodite ari abo bajandarume bagize uruhare mu kumwica kubera ko akimara kwicwa yabibwiwe n'umuntu atibuka neza mu bari abakozi ba ISAR-Rubona.

[205] Urukiko rusesenguriye hamwe ubuhamya n'imvugo zo mu iperereza z'abemeza ko Dr. Rutunga Venant yagize uruhare mu iyicwa rya Kalisa Epaphrodite, rurasanga abatangabuhamya D.R.V.B na Burimwinyundo Edouard aribo bavuga ko babonye ibirebana n'uburyo Kalisa Epaphrodite yafashwemo mbere y'uko yicwa, bakaba icyo bahurizaho ari uko babonye abajandarume bafata Kalisa Epaphrodite bakarara bamutotereza imbere y'ahakorera Ubuyobozi Bukuru bwa ISAR-Rubona, uko Dr. Rutunga Venant yari aho Kalisa Epaphrodite yatoterezwaga n'uko yiciwe mu Rugano rwa ISAR-Rubona bukeye bwaho. D.R.V.B anavuga ko Kalisa Epaphrodite afatwa Dr. Rutunga Venant yari kumwe n'abo bajandarume ndetse ko ari mu bamuhaye umwe muribo aramurasa ariko ntiyapfa nyuma agarutse arafatwa arara atotezwa, Burimwinyundo Edouard anavuga ko yumvise ko aho Kalisa Epaphrodite yiciwe Dr. Rutunga Venant yari ahari, n'uko ari Murindangabo Joseph n'abajandarume bamufashe baranamutoteza.

[206] Urukiko rurasanga aba batangabuhamya batagaragaza ko babonye abishe Kalisa Epaphrodite n'uburyo yishwemo, ntibanahuriza ku kuba Dr. Rutunga Venant ari mubahaye Kalisa Epaphrodite abajandarume bamutoteje no kuba Dr. Rutunga Venant yari ari aho yatoterejwe kubera ko D.R.V.B haba mu rukiko no mu iperereza yemeza ko Dr. Rutunga Venant yari ahari akaba avuguruzanya na Burimwinyundo Edouard wavuze mu rukiko no mu Bugenzacyaha ko Dr. Rutunga Venant atari aho Kalisa Epaphrodite yiciwe nyamara mu Bushinjacyaha yari yarabivuze ariko adasobanura uburyo yamubonyemo; bityo izo mvugo zikaba zitashingirwaho nk'ikimenyetso kidashidikanywaho kigaragaza ko hari igikorwa gifatika Dr. Rutunga Venant yakoze ku giti cye mu iyicwa rya Kalisa Epaphrodite.

[207] Runasesenguye ubuhamya n'imvugo zo mu iperereza bya Kayibanda Ildephonse na Mukandori Didacienne rurasanga nabyo bitagaragaza igikorwa gifatika Dr. Rutunga Venant yakoze ubwe kuko abo batangabuhamya batagaragaza abishe Kalisa Epaphrodite, aho yiciwe n'uburyo yishwemo. Rusanga n'ibyo bavuga birebana n'itotezwa yakorewe nta gikorwa gifatika bavuga Dr. Rutunga Venant yakoze kuko Kayibanda Ildephonse avuga gusa ko yamubonye azamuka ubwo abasirikare bari bajyanye Kalisa Epaphrodite aho yiciwe ariko adasobanura niba na we yari afatanyije nabo naho ibyo Mukandori

Didacienne avuga akaba ari amabwire atagomba gushingirwaho nk'ikimenyetso kubera ibyo avuga ari uko yumvise ko yiciwe hafi y'ibiro bya Dr. Rutunga Venant uyu na we ashungereye.

[208] Urukiko rurasanga ibyo kuba nta gikorwa gifatika cyakozwe na Dr. Rutunga Venant ubwe mu iyicwa rya Kalisa Epaphrodite bishimangirwa n'ubuhamya n'imvugo zo mu iperereza ndetse n'amakuru by'abandi babajijwe aribo R.V 001, Sebarame Jean Baptiste, R.U.T.03, R.U.T.10, Ruzigaminturo Innocent bemeza ko bumvise ko Kalisa Epaphrodite yishwe n'igitero cyaturutse i Musasu-Maraba no mu nkengero za ISAR-Rubona.

[209] Runasanga iby'uko nta gikorwa gifatika Dr. Rutunga Venant yakoze binashimangirwa n'ubuhamya, imvugo n'amakuru by'abavuga ko batazi iby'uko Kalisa Epaphrodite yishwe aribo R.V 002 wemeza ko yamubonye amaze kwicwa, Byukusenge Alphonse uvuga ko nta ruhare rwa Dr. Rutunga azi muri iryo yicwa, Habimana Charles uvuga ko icyo yabonye ari umurambo we, Kanyeperu Augustin uvuga ko atazi uko Kalisa Epaphrodite yishwe ko icyo yabonye ari amaraso menshi imbere ya laboratwari bamubwira ko ari aho bamutemeye, R.V.004, Rutiyomba Arsène na Ntunda Jacques bavuga ko batamenye ibijyanye n'iyicwa rya Kalisa Epaphrodite, R.V. 005 wemeza ko yabonye atotezwa ariko akaba atavuga ko yahabonye Dr. Rutunga Venant akanavuga ko nta ruhare rwe azi muri iryo yicwa, kimwe n'ubuhamya bwa R.V 006 wemeza ko Dr. Rutunga Venant yamuhaye imodoka yo kujya kuvuza umwana yari afite wari wakomerekejwe n'interahamwe bigeye imbere umushoferi ajya kureba Kalisa Epaphrodite kugira ngo bajyane kwa muganga ariko bamugezeho basanga amaze kwicwa.

[210] Rurasanga kandi n'imvugo zo mu iperereza za Mukabagorora Béatrice, Karasira Félix Eugène na Kubwimana Xavérine nazo zitagaragaza igikorwa Dr. Rutunga Venant yakoze ubwe mu iyicwa rya Kalisa Epaphrodite kuko icyo Mukabagorora Béatrice na Karasira Félix Eugène bahurizaho gusa ari uko ari mu bakozi ba ISAR-Rubona bishwe ariko bakaba batazi uburyo yishwemo nta n'uruhare rwa Dr. Rutunga Venant bagaragaza naho Kubwimana Xavérine we akaba avuga gusa ibirebana n'amabaruwa yabonye yirukanaga abakozi b'Abatutsi bakoraga muri ISAR-Rubona harimo n'abishwe barimo Kalisa Epaphrodite.

[211] Hashingiwe ku bimenyetso byasesenguwe rurasanga abajandarume basabwe na Dr. Rutunga Venant kuri Perefegitura ya Butare aribo bafashe Kalisa Epaphrodite, barara bamutoteza banamuha interahamwe zamwiciye mu rugano ruri muri ISAR-Rubona; bityo uruhare rwe rukaba rugaragarira mu gikorwa cyo gusaba abajandarume bagize uruhare mu iyicwa rye.

- Ku birebana n'iyicwa rya Munyengango Jean Claude

[212] Dr. Rutunga Venant aregwa kuba abajandarume yazanye muri ISAR-Rubona aribo bishe Munyengango Jean Claude wiciwe muri icyo kigo kandi ko yicwa nawe yari ahari.

[213] Abatangabuhamya D.R.V.B na R.V.004 n'umutangamakuru Ntunda Jacques nibo bavuga ku iyicwa rya Munyengango Jean Claude. Mu mvugo zabo nta wemeza ko hari igikorwa yabonye Dr. Rutunga Venant akora muri ubwo bwicanyi kuko R.V.004 ibyo avuga ari ibyo yumvise ko Munyengango Jean Claude yishwe n'igitero kivuye i Maraba ariko akaba atagaragaza igikorwa cyakozwe na Dr. Rutunga Venant cyangwa niba nawe yari muri icyo gitero, Ntunda Jacques we ibyo avuga akaba ari ibyo yumviye mu rukiko aburana mu zindi manza, naho D.R.V.B akaba avuga ko umujandarume yateye Munyengango Jean Claude icyuma Dr. Rutunga Venant ahari akaba nawe atagaragaza icyo yakoze ubwe muri ubwo bwicanyi.

[214] Ibyo kuba nta gikorwa Dr. Rutunga Venant yakoze mu iyicwa rya Munyengango Jean Claude bishimangirwa n'imvugo z'aba batangabuhamya zo mu iperereza kubera ko D.R.V.B abazwa mu Bushinjacyaha ku wa 23/09/2021 icyo yavuze gusa ari uko bahuye na Munyengango Jean Claude abona Dr. Rutunga Venant, Murindangabo Joseph n'abajandarume bajya ku ruhande barongorerana bagarutse umujandarume ahita amutera icyuma arapfa ariko akaba atemeza ko yumvise Dr. Rutunga Venant abwira

uwo mujandarume ko amwica, naho RV 004 mu mvugo ze mu Bugenzacyaha ku wa 05/03/2009 akaba yemeza ko Munyengango Jean Claude yishwe n'igitero cyo ku wa 26/4/1994 cyari giturutse i Maraba nawe akaba atagaraza icyo Dr. Rutunga Venant yakoze muri ubwo bwicanyi, kimwe n'imvugo za Ntunda Jacques zo mu Bushinjacyaha zo ku wa 09/09/2021 uvuga ko atazi uko Munyengango Jean Claude yishwe.

[215] Rurasanga n'imvugo z'ababajijwe mu iperereza gusa batatanze ubuhamya mu rukiko nazo zitagaragaza igikorwa Dr. Rutunga Venant yakoze mu iyicwa rya Munyengango Jean Claude kuko Kubwimana Xavérine mu mvugo ze zo mu Bugenzacyaha ku wa 20/07/2018 icyo avuga gusa ari uko Munyengango Jean Claude ari mu bakozi baguye muri ISAR-Rubona kandi nawe akaba atagaragaza igikorwa Dr. Rutunga Venant yakoze muri ubwo bwicanyi, naho abandi batabajijwe mu rukiko barimo Mukabagorora Béatrice, Karasira Félix Eugène na Ntaganda Sylvestre nta cyo bavuze ku birebana n'iyicwa rya Munyengango Jean Claude.

[216] Hashingiwe ku buhamya n'imvugo zo mu iperereza bya D.R.V.B wemeza ko umwe mu bajandarume yateye Munyengango Jean Claude icyuma na Dr. Rutunga Venant ahari, rusanga uruhare rwa Dr. Rutunga Venant rugaragarira mu gikorwa cyo gusaba abajandarume bishe Munyengango Jean Claude kuko ahamya ibyo yiboneye ubwe. Rusanga ariko ibyo R.V.004 avuga mu rukiko no mu iperereza by'uko yumvise ko Munyengango Jean Claude yishwe n'igitero kivuye i Maraba bitashingirwaho nk'ikimenyetso cyemeza ko Munyengango Jean Claude yishwe n'icyo gitero kubera ko ibyo avuga ari amabwire adashyigikiwe n'ikindi kimenyetso.

- Ku birebana n'iyicwa rya Sebahutu André

[217] Dr. Rutunga Venant aregwa kuba mbere yo ku wa 06/04/1994 yarajyanye na Sebahutu André n'abandi bakozi bakoranaga mu butumwa bw'akazi mu cyahoze ari Perefegitura ya Cyangugu ariko Sebahutu André ntiyagaruka.

[218] Mu batangabuhamya babajijwe mu rukiko ni D.R.V.B na R.V. 005 bari barabajijwe no mu iperereza. Mu buhamya bwa D.R.V.B yemeza ko Sebahutu André yajyanye mu butumwa bw'akazi na Dr. Rutunga Venant n'abandi bakozi nyuma umushoferi wabatwaye amuzanira igikapu kirimo imyenda ya Sebahutu André iriho ibitaka amubwira ko we nta ruhare yagize mu iyicwa rye; ibi yavuze mu rukiko ni na byo yari yaravuze mu Bushinjacyaha mu ibazwa rye ryo ku wa 23/09/2021, naho mu Bugenzacyaha ntiyabajijwe. R.V. 005 we yemeza ko yumvise ko Sebahutu André yaguye i Ntendezi ari mu butumwa bw'akazi ariko ko atazi uburyo yapfuyemo n'icyamwishe. Ibi avuga yumvise ni nabyo yari yaravuze mu Bushinjacyaha ku wa 14/10/2021, naho mu Bugenzacyaha ntiyabajijwe.

[219] Mu babajijwe mu rukiko ariko batabajijwe mu iperereza ni R.U.T.01, Rutiyomba Arsène na Bunani Emmanuel. Umutangabuhamya R.U.T.01 yemeza ko amakuru y'iyicwa rya Sebahutu André yayamenye mu mwaka wa 1995 ayabwiwe na Kubwimana Xavérine, wamubwiye ko yiciwe i Cyangugu ari mu butumwa bw'akazi yari yoherejwemo na Dr. Rutunga Venant kugira ngo bamwicireyo, ariko akanavuga ko hari n'abandi bavugaga ko ayo makuru atariyo kubera ko amwohereza mu butumwa nta muntu wari uzi ibizaba. Rutiyomba Arsène we yemeza ko yumvise Ndayizigiye wari wajyanye na Sebahutu André mu butumwa bw'akazi i Ntendezi mu cyahoze ari Perefegitura ya Cyangugu avuga ko hari umuntu wamuvanye mu modoka aramwica. Bunani Emmanuel nawe mu makuru yahaye urukiko avuga ko yabwiwe n'uwitwa Munyarubuga ko Sebahutu André yiciwe i Cyangugu ariko ko atamubwiye uwamwishe.

[220] Urukiko rusesenguriye hamwe ubuhamya n'amakuru byatanzwe ndetse n'imvugo zo mu iperereza byavuzwe rusanga bitaragaza igikorwa gifatika Dr. Rutunga Venant yakoze mu iyicwa rya Sebahutu André cyangwa uruhare yaba yaragize muri ubwo bwicanyi, kubera ko bose icyo bavuga ari uko bumvise ko Sebahutu André yiciwe i Ntendezi mu cyahoze ari Perefegitura ya Cyangugu aho yari mu butumwa bw'akazi; bityo ubwo buhamya n'amakuru byatanzwe akaba ari amabwire atashingirwaho kubera ko bidashyigikiwe n'ikindi kimenyetso kigaragaza uruhare rwa Dr. Rutunga Venant muri ubwo bwicanyi.

[221] Urukiko rurasanga kandi ibyo D.R.V.B avuga ko Dr. Rutunga Venant yajyanye na Sebahutu André mu butumwa bw'akazi na byo bitashingirwaho nk'ikimenyetso kigaragaza ko Dr. Rutunga Venant yagize uruhare muri ubwo bwicanyi kuko abandi batangabuhamya nka R.U.T.01 bavuga ko icyo yakoze ari ukumwohereza mu butumwa ariko ko batajyanye. Rukanasanga kumwohereza mu butumwa na byo ubwabyo bitagaragaza uruhare rwe muri ubwo bwicanyi kubera ko ubwo butumwa bwabaye mbere y'uko indege y'uwahoze ari Perezida wa Repubulika ihanuka ku wa 06 Mata 1994 ku buryo Dr. Rutunga Venant yari kumenya ibizaba nyuma.

[222] Rusanga n'ababajijwe mu iperereza ariko batatanze ubuhamya mu rukiko aribo Kubwimana Xavérine, Mukabagorora Béatrice, Karasira Félix Eugène na Ntaganda Sylvestre nta cyo bavuze ku birebana n'iyicwa rya Sebahutu André.

[223] Kubw'ibyo harebwe isesengura ry'ibimenyetso rimaze gukorwa, rurasanga nta kigaragaza uruhare rwa Dr. Rutunga Venant mu iyicwa rya Sebahutu André wiciwe mu cyahoze ari Perefegitura ya Cyangugu ari mu butumwa bw'akazi.

- Ku bijyanye n'iyicwa rya Ndamage Georges

[224] Ubushinjacyaha bushingira iki kirego ku kuba Ndamage Georges yarishwe ku mabwiriza ya Dr. Rutunga Venant hamwe na Ndereyehe Ntahontuye Charles no kuba mbere y'uko yicwa harakozwe inama yasuzumye uko abari abakozi b'Abatutsi ba ISAR-Rubona bishwe n'abataricwa aba aribwo bigaragara ko Ndamage Georges ari mu batari bicwa baha amabwiriza Mugemana Didace na Murindangabo Joseph yo kumuhiga, ku wa 09/05/1994 akurwa n'interahamwe aho yari yihishe aricwa.

[225] Mu bimenyetso byatanzwe birebana n'iyicwa rya Ndamage Georges ni ubuhamya n'amakuru byatangiwe mu rukiko n'imvugo zo mu Bugenzacyaha no mu Bushinjacyaha zirimo iz'ababajijwe mu rukiko z'iz'abatarabajijwe mu rukiko.

[226] Mu batangabuhamya n'abatangamakuru babajijwe mu rukiko nta wemeza ko yabonye igikorwa gifatika Dr. Rutunga Venant yakoze cyangwa amabwiriza yatanze mu iyicwa rya Ndamage Georges wari warabanje kwihisha akaza kwicwa ku wa 09/05/1994. Bamwe muri bo bavuga ko Dr. Rutunga Venant yari aho Ndamage Georges yiciwe, abandi bakemeza ko nta ruhare Dr. Rutunga Venant yagize muri iryo yicwa, abandi bakavuga ko nta ruhare rwe bazi n'aho abandi bakaba ari ntacyo bamuvugaho ahubwo bakavuga ko Ndamage Georges yishwe n'abandi bantu.

[227] Urukiko rurasanga umutangabuhamya uvuga ko Dr. Rutunga Venant yari aho Ndamage Georges yiciwe ari Kayibanda Ildephonse wemeza ko yabonye Dr. Rutunga Venant azamura urutoki rw'igikumwe yishimira ibikorwa by'urugomo yarimo akorerwa aho yiciwe kuri kiyosike iri mu marembo ya ISAR-Rubona. Mu mvugo ze zo mu Bushinjacyaha zo ku wa 21/09/2021 yemeza ko igihe Ndamage Georges yicwaga Dr. Rutunga Venant yari kuri kiyosike iri mu marembo ya ISAR-Rubona, ko icyo gihe interahamwe zamubajije aho yabaga Dr. Rutunga Venant aramwirengagiza nk'utamuzi ahubwo ashimira interahamwe zari zimaze kumuzana azibwira ko zakoze kubazanira umwanzi, anabwira Marcel ko agenda akabaha ikimasa cyari mu nka za ISAR-Rubona; mu Bugenzacyaha ku wa 18/07/2018 ho ntacyo yavuze ku birebana n'iyicwa Ndamage Georges.

[228] Rusesenguye ubuhamya bwa Kayibanda Ildephonse rukabuhuza n'imvugo ze zo mu Bushinjacyaha rurasanga ubwo buhamya bwe buvuguruzanya n'ibyo yavuze mu Bushinjacyaha, mu rukiko avuga ko ubwo yari kuri kiyosike aho Ndamage Georges yiciwe yabonye Dr. Rutunga Venant azamura urutoki rw'igikumwe yishimira ibikorwa by'urugomo yarimo akorerwa, nyamara abazwa mu Bushinjacyaha akaba yari yaravuze ko icyo Dr. Rutunga Venant yakoze ari ugushimira interahamwe zari zimaze kuzana Ndamage Georges azibwira ko zakoze kubazanira umwanzi. Rurasanga na none mu rukiko yaravuze ko ikimasa cyahembwe abishe Ndamage Georges cyatangiwe ku kiraro cy'inka Dr. Rutunga Venant na

Mugemana Didace bahari, ari nabwo Dr. Rutunga Venant yanditse abyemeza bahita batuma Uzarama mu rwuri ku kizana ariko mu Bushinjacyaha akaba yaravuze ko icyo kimasa Dr. Rutunga Venant yagitangiye kuri kiyosike abwira Marcel ko agenda agaha interahamwe ikimasa cyari mu nka za ISAR-Rubona; bityo rugasanga kubera uko kuvuguruzanya n'ibyo yari yaravuze mu iperereza, ubuhamya bwe butashingirwaho nk'ikimenyetso kidashidikanywaho kigaragaza ko Dr. Rutunga Venant yagize uruhare mu iyicwa rya Ndamage Georges.

[229] Runasesenguye ubundi buhamya n'amakuru byatangiwe mu rukiko rusanga nabyo bitagaragaza uruhare rwa Dr. Rutunga Venant cyangwa amabwiriza yatanze mu iyicwa rya Ndamage Georges kuko umutangabuhamya D.R.V.B, R.V 001, R.V. 005, R.U.T.01, R.U.T.10 n'abatangamakuru Ntunda Jacques na Bunani Emmanuel bose bemeza ko ntacyo bazi ku iyicwa rya Ndamage Georges.

[230] Rurasanga n'ubundi buhamya bwatangiwe mu rukiko nabwo butagaragaza uruhare rwa Dr. Rutunga Venant mu iyicwa rya Ndamage Georges kubera ko buhuriza ko yishwe n'abandi batari Dr. Rutunga Venant. Muri ubwo buhamya hari ubwatanzwe na R.V 002 uvuga ko abagize uruhare mu iyicwa rwa Ndamage Georges harimo Yohani bahimbaga Ruhoryongo na Dominiko, R.V.004 uvuga ko abantu barimo Nyangezi aribo bakuye Ndamage Georges i Musasu baza kumwicira mu kigo cya ISAR-Rubona, Sebarame Jean Baptiste wemeza ko yumvise havugwa ko abatwaye Ndamage Georges barimo Nyangezi na Ruhoryongo bakaba baramuhawe n'ubuyobozi ariko akaba atavuga abagize ubwo buyobozi abo ari bo.

[231] Ruranasanga n'abatangabuhamya Burimwinyundo Edouard, Habimana Charles na R.U.T.03 nabo batagaragaza uruhare rwa Dr. Rutunga Venant cyangwa amabwiriza yatanze mu iyicwa rya Ndamage Georges kubera ko ibyo bavuga ari uko bumvise ko mu bishe Ndamage Georges harimo uwitwa Ruhoryongo. Rurasanga na none umutangabuhamya Mukandori Didacienne umugore wa Nyakwigendera Ndamage Georges na we yemeza ko umugabo we yishwe ku wa 09/05/1994 ari uko abayobozi ba ISAR-Rubona barimo Mugemana Didace bakoze inama bakavuga ko umuntu uzamubona bazamuha ikimasa ariko akaba atagaragaza uruhare rwa Dr. Rutunga Venant muri iryo yicwa, n'ubuhamya bwa Kanyeperu Augustin n'ubwa Rutiyomba Arsène nabwo butagaragaza uruhare rwa Dr. Rutunga Venant mu iyicwa rya Ndamage Georges kuko Kanyeperu Augustin icyo yemeza ari uko nyuma y'iryo yicwa yasanze Ntezimana bita Ruhoryongo yicaye mu modoka yagendagamo anafite carte jaune yayo n'imfunguzo zayo, naho Rutiyomba Arsène akemeza ko yamenye ko Mugemana Didace yahaye umucuruzi imodoka ye n'imfunguzo zayo nyuma y'iyicwa rya Ndamage Georges n'umuryango we.

[232] Rurasanga n'imvugo zo mu iperereza z'abatanze ubuhamya mu rukiko bamaze kuvugwa nazo zishimangira ko nta ruhare Dr. Rutunga Venant yagize mu iyicwa rya Ndamage Georges kubera ko bavuga ko iyicwa rye ryagizwemo uruhare n'abandi bantu naho abandi bakarushingira ku itangwa ry'igihembo ku bishe Ndamage Georges. Mu bavuga abandi bantu bagize uruhare mu iyicwa rya Ndamage Georges harimo imvugo z'uwahawe izina rya R.V 002 utarabajijwe mu Bugenzacyaha, uvuga mu mvugo ze zo mu Bushinjacyaha zo ku wa 23/09/2021 ko mu bishe Ndamage Georges bakanahembwa ikimasa harimo Jean bitaga Ruhoryongo mwene Sengabo, imvugo za R.V.004 wavuze mu Bugenzacyaha mu ibazwa ryo ku wa 05/03/2009 no mu mvugo zo mu Bushinjacyaha zo ku wa 24/09/2021 ko Ndamage Georges yishwe n'abavuye i Musasu bamuzanira Mugemana Didace aramubaha bajya kumwica.

[233] Mu bavuga ko iyicwa rye ko ryagizwemo uruhare n'abandi bantu hari kandi R.V. 005 utarabajijwe mu Bugenzacyaha ariko mu mvugo ze zo mu Bushinjacyaha zo ku wa 14/10/2021 avuga ko yumvise ko Ndamage Georges yishwe na John Ruhoryongo, Mukandori Didacienne mu mvugo ze zo mu Bugenzacyaha ku wa 06/03/2009 wemeza ko iyicwa ry'umugabo we ryagizwemo uruhare n'abategeye abazamwica inka ari bo Murindangabo Joseph na Mugamana Didace, ko bamaze kumubona bamuhaye abamwishe bababwira kumukorera ibyo bakoreye abandi naho mu mvugo ze zo mu Bushinjacyaha ku wa 22/09/2021 akaba avuga gusa ku bamubwiye aho umugabo we yashyinguwe na Habimana Charles utarabajijwe mu Bugenzacyaha, uvuga mu mvugo ze zo mu Bushinjacyaha zo ku wa 23/09/2021 ko

yumvise ko Ndamage Georges yishwe bamuvanye i Musasu aho yari agiye kwihisha kwa Murengezi Yohani ariko ko atazi abamwishe.

[234] Rurasanga izindi mvugo z'ababajijwe mu rukiko bari baranabajijwe mu iperereza nazo zitagaragaza uruhare rwa Dr. Rutunga Venant cyangwa amabwiriza yatanze mu iyicwa rya Ndamage Georges zirimo iza D.R.V.B utarabajijwe mu Bugenzacyaha ariko mu mvugo ze mu Bushinjacyaha ku wa 23/09/2021 agashingira gusa uruhare rwa Dr. Rutunga Venant ku kuba yaratanze ikimasa kizahembwa abazamwica urukiko rwasanze bidafite ishingiro, iza Sebarame Jean Baptiste zo mu Bugenzacyaha zo ku wa 05/03/2009 no mu Bushinjacyaha ku wa 08/09/2021 uvuga gusa ko Ndamage Georges yishwe igihe Sindikubwabo Théodore na ba Musema Alphred bari baje gutanga ihumure, iza Burimwinyundo Edouard zo mu Bugenzacyaha zo ku wa 17/07/2018 no ku wa 05/03/2009, wemeza ko atazi niba Dr. Rutunga Venant hari uruhare yagize mu rupfu rwa Ndamage Georges naho mu mvugo ze zo mu Bushinjacyaha ku wa 07/09/2021 akaba avuga ibirebana no kuba Dr. Rutunga Venant yaragenzuraga za bariyeri ziciweho Abatutsi barimo Ndamage Georges ariko akaba atagaragaza uburyo yazigenzuragamo ku buryo urukiko rwabiheraho mu kugaragaza uruhare rwa Dr. Rutunga Venant muri ubwo bwicanyi, n'iza Ntunda Jacques utaragize icyo abivugaho mu mvugo ze zo mu Bugenzacyaha zo ku wa 17/07/2018 naho mu Bushinjacyaha ku wa 08/09/2021 akavuga ko atazi uko Ndamage Georges yishwe kuko ubwicanyi bwatangiye atakiba mu kigo.

[235] Rukanasanga na none hari n'izindi n'imvugo z'abatanze ubuhamya n'amakuru mu rukiko ariko batagize icyo bavuga mu iperereza ku birebana n'iyicwa rya Ndamage Georges zirimo iza Kanyeperu Augustin, Bunani Emmanuel, R.U.T.01, R.U.T.03 na R.U.T.10 ku buryo nta kigaragaza uruhare rwa Dr. Rutunga Venant cyangwa amabwiriza yatanze mu iyicwa rya Ndamage Georges ndetse n'inyandiko ya Rutiyomba Arsène ikaba itaba ikimenyetso kuko itagaragaza uruhare rwa Dr. Rutunga Venant kuko arushyira kuri Ruhoryongo yabonye yambaye ikote rye akamenya ko ariwe wamwishe.

[236] Runasanga n'imvugo zo mu iperereza za D.R.V.A utaragize icyo avuga mu buhamya bwe mu rukiko ku birebana n'iyicwa rya Ndamage Georges nazo zitagaragaza ku buryo budashidikanywaho uruhare rwa Dr. Rutunga Venant muri ubwo bwicanyi kuko mu mvugo ze zo mu Bugenzacyaha zo ku wa 18/07/2018 avuga gusa ku birebana n'ibihembo atavuga uwabishyizeho, naho izo mu Bushinjacyaha zo ku wa 07/09/2021 akaba avuga ko yiyumviye Dr. Rutunga Venant abwira Murindangabo Joseph na Mugemana Didace ko bagomba gushyira mu bikorwa ibyemezo byavuye mu nama, harimo no kureba abaturage badakora uko bikwiye, urukiko rugasanga ariko atagaragaza ko yumvise Dr. Rutunga Venant ababwira ibyemezo bagomba gufata ibyo aribyo niba n'icyo kuvuga ko abaturage badakora uko bikwiye birimo no kwica Ndamage Georges.

[237] Ruranasanga kandi n'imvugo z'ababajijwe mu iperereza batari barabajijwe mu rukiko nazo zitagaragaza uruhare rwa Dr. Rutunga Venant cyangwa amabwiriza yatanze mu iyicwa rya Ndamage Georges kuko Karasira Félix Eugène utarabajijwe mu Bushinjacyaha, mu mvugo ze zo mu Bugenzacyaha zo ku wa 05/03/2009 agaruka ku kimasa Mugemena Didace yatanze nk'igihembo ku bantu bari bamaze kwica Ndamage Georges ariko akaba nta cyo avuga kuri ubwo bwicanyi, Kubwimana Xavérine we mu mvugo ze zo mu Bugenzacyaha zo ku wa 20/07/2018 akaba avuga ko Ndamage Georges yishwe ubwo bari barahagaritse akazi ariko akaba atavuga abagize uruhare muri ubwo bwicanyi, naho mu mvugo ze zo mu Bushinjacyaha zo ku wa 21/09/2021 icyo avuga gusa ari uko yabonye abishe Ndamage Georges baje gusaba Mugemana Didace inka bamubwira ko bamwishe no kuba yarabonye Nyangezi yambaye ikoti rya Nyakwigendera naho Mukabagorora Béatrice mu Bugenzacyaha ku wa 11/07/2018 no mu Bushinjacyaha ku wa 04/10/2021 uruhare rwa Dr. Rutunga Venant akaba arushingira gusa ku kuba yarumvise ko yahembye inka abari bamaze kwica Ndamage Georges ariko ibyo urukiko rukaba rwasanze nta shingiro bifite cyane cyane ko nawe ubwe muri izo mvugo avuga ko ari Mugemana Didace watanze iyo nka akanavuga ko atari kuyitanga Dr. Rutunga Venant atabizi ariko muri izo mvugo ze akaba atagaragaza ko Dr. Rutunga Venant yari yamenye itangwa ryayo, cyane ko anavuga ko ku wa 10/05/1994 yageze muri

ISAR-Rubona ahasanga inkuru ko Ndamage Georges yaraye yishwe ndetse ko n'abamwishe bahembwe ikimasa.

[238] Urukiko rero rusuzumye ibimenyetso byose byatanzwe haba ubuhamya bwatangiwe mu rukiko, haba n'imvugo zo mu iperereza rurasanga bitagaragaza ku buryo budashidikanywaho ko hari uruhare Dr. Rutunga Venant yagize mu iyicwa rya Ndamage Georges.

- **Ku bijyanye no gutanga ibikoresho byifashishijwe mu kwica Abatutsi**

[239] Dr. Rutunga Venant aregwa kuba yarahaye amabwiriza uwari ushinzwe ububiko bw'ibikoresho bya ISAR-Rubona birimo imihoro, inyundo, amasuka na kupakupa yo kubiha bamwe mu bakozi b'Abahutu bakoreraga muri icyo kigo n'abandi baturage b'Abahutu babikoresha mu kwica Abatutsi bakoreraga muri icyo kigo barimo Spéciose hatibukwa irindi zina rye, Rwaya ndetse n'umuryango wa Kalisa Epaphrodite ugizwe n'umugore we witwaga Murebwayire Epiphanie n'abana babo, Nsengayire Jean Claude, Munyaneza Philibert, Kabazayire Delphine, Sebahutu Télésphore, Murekezi Emmanuel, Cyuzuzo, Gatari n'abandi baturage b'Abatutsi batamenyekanye.

[240] Mu bimenyetso byatanzwe harimo ubuhamya n'amakuru by'ababajijwe mu rukiko aribo Burimwinyundo Edouard na R.V 002 bemeza ko hari ibikoresho bya ISAR-Rubona byatanzwe bigakoreshwa mu iyicwa ry'Abatutsi ndetse na R.V. 005, Habimana Charles, Kanyeperu Augustin na Bunani Emmanuel bo bavuga ko nta bikoresho bya ISAR-Rubona byahawe abicanyi, ko bari bafite ibikoresho gakondo byabo.

[241] Urukiko rusuzumye ubuhamya bwa Burimwinyundo Edouard rurasanga butashingirwaho nk'ikimenyetso kidashidikanywaho kigaragaza ko hari amabwiriza Dr. Rutunga Venant yatanze yo gutanga ibikoresho bya ISAR-Rubona ku bishe Abatutsi muri icyo kigo kuko mu buhamya bwe yemeza ko ayo mabwiriza yatanzwe na Murindangabo Joseph avuga ko ibyo bikoresho ari ibyo kurinda ikigo. Rurasanga na none ikindi gituma ubwo buhamya bwe butashingirwaho ari uko buvuguruzanya n'imvugo ze zo mu Bugenzacyaha zo ku wa 17/07/2018 aho yemeza ko ari Dr. Rutunga Venant watanze ayo mabwiriza binyuranye n'ibyo yavuze mu rukiko ndetse mu Bugenzacyaha mu mvugo ze zo ku wa 05/03/2009 ho akaba ataravuze kw'itangwa ry'ayo mabwiriza uretse kuvuga gusa ko ibikoresho byatanzwe kugira ngo harindwe ikigo igitero kizava i Maraba gishobora kurya inka za ISAR-Rubona.

[242] Urukiko rurasanga n'ibyo Burimwinyundo Edouard avuga mu buhamya bwe ko Murindangabo Joseph yatanze amabwiriza yo gutanga ibikoresho avuye mu nama hamwe na Dr. Rutunga Venant nabyo bitashingirwaho nk'ikimenyetso kidashidikanywaho kigaragaza uruhare rwa Dr. Rutunga Venant mu itangwa ry'ayo mabwiriza, kubera ko uretse kuba atari muri iyo nama ngo amenye ibyayivugiwemo ntaho rwahera rwemeza ko byanze bikunze Murindangabo Joseph yatanze ayo mabwiriza abyumvikanyeho na Dr. Rutunga Venant.

[243] Rusanga ubuhamya bwa R.V 002 n'imvugo ze zo mu Bushinjacyaha zo ku wa 23/09/2021 nabyo bitashingirwaho nk'ikimenyetso kigaragaza ko hari amabwiriza yo gutanga ibikoresho Dr. Rutunga Venant yatanze kuko ibyo avuga ari ibyo yumvise ko ubuyobozi bwa ISAR-Rubona aribwo bwatanze ibyo bikoresho nyamara akaba atagaragaza abagize ubwo buyobozi batanze ibikoresho.

[244] Rusanga na none ubuhamya n'imvugo by'abandi batangabuhamya babajijwe nabyo bishimangira ko nta mabwiriza yo gutanga ibikoresho Dr. Rutunga Venant yatanze, kubera ko yaba R.V. 005 na Habimana Charles mu buhamya bwabo bemeza ko nta bikoresho bya ISAR-Rubona byifashishijwe mu kwica Abatutsi byahawe abicanyi kuko baturutse iwabo babyifitiye, no mu mvugo zabo zo mu iperereza bakaba nta birebana no gutanga ibikoresho bavuga nk'uko bigaragara mu mvugo zo mu Bushinjacyaha ku wa 14/10/2021 za R.V. 005 n'izo mu Bugenzacyaha zo ku wa 04/03/2009 no Bushinjacyaha zo ku wa 21/09/2021 za Habimana Charles.

[245] Rusanga ibyo kuba nta mabwiriza yo gutanga ibikoresho bya ISAR-Rubona yatanzwe na Dr. Rutunga Venant binagaragazwa n'umutangabuhamya Kanyeperu Augustin utarabajijwe mu iperereza wagize uruhare muri Jenoside, wemeza ko ubuhiri yakoreshaga mu bwicanyi bwari ubwe kandi ko nta n'undi mukozi w'icyo kigo azi wahawe igikoresho ndetse ko nta bikoresho byifashishijwe mu kwica Abatutsi ISAR-Rubona yatanze, n'umutangamakuru Bunani Emmanuel nawe utarabajijwe mu iperereza wemeza ko abicanyi baje bafite ibyabo bikoresho kandi ko nta bikoresho bya ISAR-Rubona byahawe abakozi kugira ngo babikoreshe mu kwica Abatutsi.

[246] Rusanga n'ababajijwe mu iperereza ariko batatanze ubuhamya mu rukiko aribo Kubwimana Xaverina, Mukabagorora Béatrice, Karasira Félix Eugène na Ntaganda Sylvestre nabo nta cyo bavuze ku birebana n'itangwa ry'amabwiriza yo gutanga ibikoresho bya ISAR-Rubona byahawe abakozi kugira ngo babikoreshe mu kwica Abatutsi.

[247] Harebwe rero ibimenyetso byose byatanzwe, rurasanga nta mabwiriza Dr. Rutunga Venant yatanze kugira ngo hatangwe ibikoresho gakondo bya ISAR-Rubona birimo imihoro, inyundo, amasuka na kupakupa kugira ngo bikoreshwe mu iyicwa ry'abaturage b'Abatutsi bakoraga muri icyo kigo n'abandi baturage b'Abatutsi batamenyekanye.

2.2. Icyo amategeko ateganya ku cyaha cya Jenoside, icyo kuba icyitso mu cyaha cya Jenoside n'icyo kurimbura nk'icyaha cyibasiye inyokomuntu.

A. Icyo amategeko ateganya ku birebana n'icyaha cya Jenoside

[248] Urukiko rusanga icyaha cya Jenoside giteganywa n'ingingo ya 91 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu, isobanura ko Jenoside ari kimwe mu bikorwa byo kwica abantu, kubatera ubumuga bw'umubiri cyangwa bwo mu mutwe, kubashyira, ubigambiriye, mu mibereho ishobora gutuma barimbuka bose cyangwa harimbuka igice cyabo, gufata ibyemezo bibabuza kubyara, kubambura ku ngufu urubyaro rwabo ukaruha abandi bantu badahuje, gikozwe kigambiriwe, kigamije kurimbura abantu bose cyangwa bamwe muri bo, bahuriye ku bwenegihugu, ku bwoko, ku ibara ry'uruhu cyangwa ku idini, bazira icyo bari cyo, haba mu bihe bisanzwe cyangwa mu bihe by'intambara.[6]

[249] Ibi bikorwa ni na byo bihanwa nk'icyaha cya Jenoside mu Masezerano mpuzamahanga ku ikumira n'ihanwa ry'icyaha cya Jenoside yo ku wa 09/12/1948 u Rwanda rwashyizeho umukono ku wa 12/02/1975 mu ngingo yayo ya kabiri[7] no mu mategeko ashyiraho Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda,[8] ashyiraho Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho icyahoze ari Yugosilaviya[9] n'ashyiraho Urukiko Mpanabyaha Mpuzamahanga.[10]

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[6] Ingingo ya 91 y'Itegeko Nº68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu iteganya ko: "Icyaha cya Jenoside ni kimwe mu bikorwa bikurikira, gikozwe kigambiriwe, kigamije kurimbura abantu bose cyangwa bamwe muri bo, bahuriye ku bwenegihugu, ku bwoko, ku ibara ry'uruhu cyangwa ku idini, bazira icyo bari cyo, haba mu bihe bisanzwe cyangwa mu bihe by'intambara: (1º) kwica abo bantu; (2º) kubatera ubumuga bw'umubiri cyangwa bwo mu mutwe; (3º) kubashyira, ubigambiriye, mu mibereho ishobora gutuma barimbuka bose cyangwa harimbuka igice cyabo; (4º) gufata ibyemezo bibabuza kubyara; (5º) kubambura ku ngufu urubyaro rwabo ukaruha abandi bantu badahuje."

[7] Article 2 de la Convention pour la prévention et la repression du crime de génocide: "Dans la présente Convention, le génocide s'entend de l'un quelconque des actes ci-après, commis dans l'intention de détruire, en tout ou en partie, un groupe national, ethnique, racial ou religieux comme tel : (a) Meurtre de membres du groupe; (b) Atteinte grave à l'intégrité physique ou mentale de membres du groupe; (c) Soumission intentionnelle du groupe à des conditions d'existence devant entraîner sa destruction physique totale ou partielle; (d) Mesures visant à entraver les naissances au sein du groupe; (e) Transfert forcé d'enfants du groupe à un autre groupe".

[8] Article 2 du Statut du Tribunal Pénal International pour le Rwanda.

[9] Article 4 (2o) of the Statute of the International Criminal Tribunal for the former Yugoslavia.

[10] Article 6 du Statut de Rome de la Cour Pénale Internationale.

[250] Rusanga na none mu manza zitandukanye zaciwe n'inkiko mpanabyaha mpuzamahanga nk'urwa Kalimanzira Callixte, Gacumbitsi Sylvestre, Hategekimana Ildephonse, Jelisic, Muvunyi Tharcisse n'urwa Kamuhanda Jean de Dieu[11], harasesenguwe ibigize icyaha cya Jenoside, zigaragaza ko kugira ngo kibeho hagomba kubaho kimwe mu bikorwa biteganywa n'izo ngingo, harimo kwica, bikozwe hagamijwe kurimbura abantu bose cyangwa bamwe muri bo, bahuriye ku bwenegihugu, ku bwoko, ku ibara ry'uruhu cyangwa ku idini, bazira icyo bari cyo haba mu bihe bisanzwe cyangwa mu bihe by'intambara.

[251] Runasanga, igikorwa cyo kwica nka kimwe mu bikorwa bigize icyaha cya Jenoside gisaba ko ugikoze yica umuntu umwe cyangwa benshi, ko uwo muntu cyangwa abo bantu bagomba kuba bahuriye ku bwenegihugu, ku bwoko, ku ibara ry'uruhu cyangwa ku idini, bazira icyo bari cyo, kandi uwakoze icyaha akaba afite ubushake bwo kurimbura abantu bose cyangwa bamwe muri bo bahuriye muri rimwe mu matsinda yavuzwe ndetse imyitwarire ye ikaba igaragaza ko yibasiye rimwe muri ayo matsinda.[12] Ibi bikaba bihura n'ibyemejwe mu manza zitandukanye zaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda nk'urwa Kajelijeli Juvénal rwasobanuye ko kugira ngo umuntu ahamwe n'icyaha cya Jenoside kubera kwica bisaba ko umushinjacyaha aterekana gusa ko uregwa yari afite ubushake bwo kurimbura abantu bose cyangwa bamwe muri bo bazira icyo bari cyo, ko agomba no kugaragaza ko uregwa yari afite ubushake bwo kwica umwe cyangwa benshi bagize itsinda n'uko uwishwe cyangwa abishwe bazize ko bari bamwe mu bagize itsinda rishingiye ku bwenegihugu, ku bwoko, ku ibara ry'uruhu cyangwa ku idini ryari rigenderewe.[13]

[252] Ruranasanga kandi uretse ibyo bikorwa ukora icyaha agomba kuba afite n'ubushake bwo kugikora, ubwo bushake bwo gukora icyaha cya Jenoside busobanurwa nk'umugambi wihariye (dolus specialis) wo kurimbura abantu bose cyangwa bamwe muri bo, bahuriye ku matsinda anyuranye yavuzwe hejuru. Ubushake bwo gukora icyaha cya Jenoside bushobora kugaragarira mu bikorwa no mu magambo by'uregwa cyangwa se harebwe muri rusange uko ibikorwa bibujijwe byakozwe[14]. Ibi ni byo byasobanuwe mu manza zaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda nk'urwa Gacumbitsi

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[11] Imanza za: Kalimanzira Callixte (Prosecution v. Kalimanzira Callixte, ICTR-05-88-T, ICTR, Trial Chamber (22 June 2009), p.188, para. 730), Gacumbitsi Sylvestre (Le Procureur c/ Gacumbitsi Syvestre, TPIR- 2001- 64 –T, TPIR, Chambre de Première Instance III (June 17, 2004), pp. 63 - 64, paras. 249 -251), Hategekimana Ildephonse (Prosecution v. Hategekimana Ildephonse, ICTR-00-55B-T, ICTR, Trial Chamber (6 December 2010), p. 187, para. 679.), Jelisic (Prosecution v. Jelisic, IT -95 -10-T, ICTY, Trial Chamber (December 14, 1999), p.19, para. 62.), Muvunyi Tharcisse (Le Procureur c/ Tharcisse Muvunyi, ICTR-00-55A-T, (12 Septembre 2006), pp.132 -133, paras. 477- 478.), Kamuhanda Jean de Dieu (Procureur c/ Kamuhanda Jean de Dieu, ICTR -99-54-A-T, TPIR, Chambre de Première Instance II (22 Janvier 2004), p.141, para. 622) n'izindi.

[12] La Cour Pénale Internationale, éléments des crimes, Genocide par meurtre: 1. L'auteur a tué une ou plusieurs personnes. 2. Cette personne ou ces personnes appartenaient à un groupe national, ethnique, racial ou religieux particulier. 3. L'auteur avait l'intention de détruire, en tout ou en partie, ce groupe national, ethnique, racial ou religieux, comme tel. 4. Le comportement s'est inscrit dans le cadre d'une série manifeste de comportements analogues dirigés contre ce groupe, ou pouvait en lui-même produire une telle destruction. Published by the International Criminal Court, 2013, The Hague | The Netherlands |. Available online at: https://www.icc-cpi.int/sites/default/files/Publications/Elements-des-crimes.pdf, [accessed on 06/08/2024].

[13] Prosecutor v. Kajelijeli Juvénal, ICTR - 98-44A-T, ICTR, Trial Chamber (December 1, 2003), p.179, para. 813. Reba na none Le Procureur c/ Semanza Laurent, ICTR-97-20-T, TPIR, Chambre de Première Instance (15 Mai 2003), p. 95, para. 319 : "Pour faire déclarer l'accusé pénalement responsable de génocide à raison du meurtre de membres d'un groupe, le Procureur doit établir non seulement que l'accusé était animé de l'intention de détruire, en tout ou en partie, le groupe visé, mais également que les éléments suivants sont réunis : 1) l'accusé a intentionnellement donné la mort à un ou plusieurs membres du groupe, la préméditation n'étant pas requise ; et 2) la victime ou les victimes appartenaient au groupe ethnique, racial, national ou religieux visé."

[14] The Prosecutor v. Mikaeli Muhimana, Case N° ICTR-95-1B-T, Trial Chamber (28/04/2005), p.91, para 496. "The perpetrator's specific genocidal intent may be inferred from deeds and utterances. It may also be inferred from the general context of the perpetration, in consideration of factors such as: the systematic manner of killing; the methodical way of planning; the general nature of the atrocities, including their scale and geographical location, weapons employed in an attack, and the extent of bodily injuries; the targeting of property belonging to members of the group; the use of derogatory language towards members of the group; and other culpable acts systematically directed against the same group, whether committed by the perpetrator or others". See The Prosecutor v. Ntagerura André and Others, Case No ICTR-99-46-T, Trial Chamber (25/02/2004), p. 177, para 663.

Sylvestre n'urwa Munyakazi Yussuf,[15] urwa Rutaganda Georges,[16] urwa Bagosora Théoneste,[17] urwa Simba Aloys[18] n'izaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho icyahoze ari Yugosilaviya nk'urwa Stakic[19] n'urwa Jelisic[20]. Uyu umugambi wihariye akaba ari wo utandukanya icyaha cya Jenoside n'ibindi byaha nk'uko byavuzwe mu rubanza rwa Akayesu Jean Paul rwaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda.[21]

[253] Rusanga mu mategeko mpanabyaha mpuzamahanga n'amategeko mpanabyaha y'u Rwanda ateganya uburyo bunyuranye uwakoze icyaha cya Jenoside akiryozwamo. Mu mategeko mpuzamahanga, sitati ishyiraho Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda n'ishyiraho Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho icyahoze ari Yugosilaviya[22] ziteganya uburyo bunyuranye icyaha cya Jenoside gikorwamo harimo gutegura icyaha, gukora icyaha, gutegeka gukora icyaha, gusemburira undi gukora icyaha, gutera undi akanyabugabo ko gukora icyaha, gutanga ubufasha n'inkunga byo gukora icyaha, kuryozwa icyaha nk'umuyobozi iyo hari icyaha cyakozwe n'abo ayobora. Ubu buryo butandukanye ni bwo bwagiye bushingirwaho mu guhana abakurikiranyweho icyaha cya Jenoside nk'uko bigaragara mu manza zitandukanye zaciwe n'izo nkiko nk'urwa Nahimana Férdinand na bagenzi be[23], urwa

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[15] Prosecution v. Gacumbitsi Sylvestre, ICTR-2001-64-T, ICTR, Trial Chamber (June 17, 2004), p.61, para. 250: "The mens rea of genocide is the specific intent (dolus specialis) described in Article 2(2) of the Statute as the "intent to destroy, in whole or in part, a national, ethnical, racial or religious group". See also Le Procureur c/ Munyakazi Yussuf, ICTR –94-36A– A, TPIR, Chambre d'Appel (28 septembre 2011), p.53, para. 141.

[16] Le Procureur c/ Georges Anderson Nderubumwe Rutaganda, ICTR96-3-A, TPIR, Chambre d'Appel (26 Mai 2003), p.202, para. 525, "… Les manifestations explicites de l'intention criminelle sont […] rares en matière pénale. En l'absence de preuves explicites directes, le dolus specialis peut donc se déduire d'un ensemble de faits et de circonstances pertinentes. Une telle approche permet d'éviter qu'une personne accusée de génocide soit soustraite à la condamnation, du seul fait que son intention n'était pas manifeste".

[17] Le Procureur c. Théoneste Bagosora et autres, ICTR-98-41-T, TPIR, Chambre de Première Instance (18 Décembre 2008), p.757, para 2116: "La Chambre fait observer qu'en l'absence de preuve directe, l'intention de commettre le genocide qui habite l'auteur peut être déduite de certains faits et indices qui sont de nature à établir, au-delà de tout doute raisonnable, l'existence de l'intention. Au nombre des éléments propres à établir l' intention spécifique du génocide figurent notamment le contexte général de perpétration d'autres actes répréhensibles systématiquement dirigés contre le même groupe, l'échelle des atrocités commises, le fait que les victimes ont été délibérements et systématiquement choisies en raison de leur appartenance à un groupe particulier, ou la répétition d'actes de destruction discriminatoires".

[18] Aloys Simba c/ Le Procureur, ICTR-01-76-A, Appeal Chamber (27 November 2007), p. 78, para 264: "(….) La chambre d'appel a déjà indique que la preuve de l'intention génocide peut se déduire des faits et des circonstances de la cause, ce qui l'a amenée à considérer qu'il suffit à cet égard d'exposer dans l'acte d'accusation les faitsd'ou l'état d'esprit de l'accusé doit être déduit. (…).

[19] Milomir Stakic, IT-97-24-T, Trial Chamber (July 31, 2003), p. 149, para. 526: "It is generally accepted, particularly in the jurisprudence of both this Tribunal and the Rwanda Tribunal, that genocidal dolus specialis can be inferred either from the facts, the concrete circumstances, or a pattern of purposeful action".

[20] Prosecutor v. Goran Jelisic, IT-95-10-A, ICTY, Appeals Chamber (July 5, 2001), p.18, para 47:"As to proof of specific intent, it may, in the absence of direct explicit evidence, be inferred… from a number of facts and circumstances, such as the general context, the perpetration of other culpable acts systematically directed against the same group, the scale of atrocities committed, the systematic targeting of victims on account of their membership of a particular group, or the repetition of destructive and discriminatory acts".

[21] Procureur v. Akayesu Jean Paul, ICTR - 96 - 4-T, ICTR, Trial Chamber (2 September 1998), para. 498: "Genocide is distinct from other crimes inasmuch as it embodies a special intent or dolus specialis. Special intent of a crime is the specific intention, required as a constitutive element of the crime which demands that the perpetrator clearly seeks to produce the act charged. Thus, the special intent in the crime of genocide lies in "the intent to destroy, in whole or in part, a national, ethnical, racial or a religious group as such". Reba n'urubanza Ubushinjacyaha v. Kamuhanda Jean de Dieu, ICTR-99-54A- T, Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda, Urugereko rw'Iremezo (22/01/2004), urupapuro rwa 142, igika cya 622.

[22] Article 6(1) of Statute of the International Criminal Tribunal for Rwanda and article 7 (1) of Statute of the International Criminal Tribunal for the former Yugoslavia: "A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime […] shall be individually responsible for the crime" and Article 6 and 7(3) reads :" The fact that any of the acts […] was committed by a subordinate does not relieve his or her superior of criminal responsibility if he or she knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof".

[23] Nahimana Ferdinand v. The Prosecutor, ICTR-99-52-A, (ICTR, Appeals Chamber, 28 November 2007), p. 155, para 492.

Semanza Laurent[24], urwa Muvunyi Tharcisse[25] zaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda n'iza Tadic[26], Vasiljevic[27], Krnojelac[28] na Blagojevic[29] zaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriwe icyahoze ari Yugosilaviya.

[254] Ingingo ya 25 ya Sitati ya Roma yo ku wa 17 Nyakanga 1998 yatangiye gukurikizwa ku wa 1 Nyakanga 2002 ishyiraho Urukiko Mpanabyaha Mpuzamahanga na yo iteganya ko, ku byaha byose uru rukiko rufitiye ububasha bwo kuburanisha harimo n'icyaha cya Jenoside, ko mu buryo bunyuranye gikorwamo burimo nko gukora icyaha, gutegeka gukora icyaha, guhamagarira undi gukora icyaha, gutera akanyabugabo n'ubundi buryo[30]. Ibi akaba ari na byo byasobanuwe n'abahanga mu mategeko, Gerhard Werle na Boris Burghardt.[31] Mu manza zaciwe n'Urukiko Mpanabyaha Mpuzamahanga na zo zagiye zisobanura ubwo buryo butandukanye icyaha gikorwamo nk'urwa Lubanga Thomas[32] n'urwa Katanga Germain.[33]

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[24] The Prosecutor v. Semanza Laurent, ICTR-97-20-T, (ICTR, Trial Chamber, 15 May 2003), p. 117, para. 379 – 384.

[25] The Prosecutor v. Muvunyi Tharcisse, ICTR-00-55A-T, (ICTR, Trial Chamber, 12 September 2006), pp. 115- 120, paras. 460 – 475.

[26] Prosecutor v. Du [Ko tadi] a/k/a "Dule, IT- 94-T, (ICTY Trial Chamber, 7 May 1997), p.249, para. 674 see also Prosecutor v. Du [ko tadi], IT-94-1-A, Appeal Chamber, 15 July 1999) p.80, para 186.

[27] Prosecutor v. Mitar Vasiljevic IT- 98-32-T, ICTY Trial chamber, (29 November 2002), pp. 24-25, para 67. "A person participates in a joint criminal enterprise by personnally committing the agreed crime as a principal offender, or by assisting the principal offender in committing the agreed crime as a co-perpetrator by undertaking acts that facilitate the commission of the offence by the principal offender, or by acting in furtherance of a particular system in which the crime is committed by reason of the accused's position of authority of function, and with knowledge of the that sysme and intent to further that system. If the agreed crime is committed, all or other of the participants in a joint criminal enterprise such as has already been discussed, all of the participants in that enterprise are equally guilty of the crime regadless of the part played by each in its commission."

[28] Prosecutor v. Milorad Krnojelac, IT-97-25, ICTY, Trial Chamber (15 March 2002), p. 34, para 82. See also Procecutor v. Anto Furundja, IT -95-17/1-T, ICTY, Trial Chamber (10 December 1998), p. 74, para 187.

[29] Prosecutor v. Vidoje Blagovedic, IT- 02 - 60, ICTY, Trial chamber (17January 2010), p. 256, para 702

[30] Article 25 of the Rome Statute of the International Criminal Court : (1) The Court shall have jurisdiction over natural persons pursuant to this Statute; (2) a person who commits a crime within the jurisdiction of the Court shall be individually responsible and liable for punishment in accordance with this Statute; (3) in accordance with this Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person: (a) Commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible; (b) Orders, solicits or induces the commission of such a crime which in fact occurs or is attempted; (c) For the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission; (d) In any other way contributes to the commission or attempted commission of such a crime by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either: (i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the Court; or (ii) Be made in the knowledge of the intention of the group to commit the crime; (e) In respect of the crime of genocide, directly and publicly incites others to commit genocide; (f) Attempts to commit such a crime by taking action that commences its execution by means of a substantial step, but the crime does not occur because of circumstances independent of the person's intentions. However, a person who abandons the effort to commit the crime or otherwise prevents the completion of the crime shall not be liable for punishment under this Statute for the attempt to commit that crime if that person completely and voluntarily gave up the criminal purpose.

[31] G. Werle et B. Burghardt, Les formes de participation en Droit International Pénal, Dalloz Revue de Science criminelle et de droit pénal comparé, 2012/1, (no 1), pages 47 à 67, p.50. "L'art. 25 (3) al. a) prévoit trois formes de commission en tant qu'auteur: la commission directe (« commet un tel crime [...] individuellement »), la coaction ou commission conjointe (« conjointement avec une autre personne ») et la commission indirecte (« par l'intermédiaire d'une autre personne »). Dans un modèle de participation criminelle différenciée, la commission en tant qu'auteur équivaut à attribuer la plus grande part de responsabilité individuelle. Par conséquent, les conditions de détermination de la qualité d'auteur et la portée de la notion de commission doivent être cernées et faire l'objet d'une interprétation stricte, étant donné la conclusion qu'on a affaire à la forme la plus grave de participation criminelle, biboneka kuri https://www.cairn.info/revue-de-science-criminelle-et-de-droit-penal-compare-2012-1-page-47.htm, [accessed on 07/08/2024].

[32] The Prosecutor v. Thomas Lubanga Dyilo, ICC-01/04 – 01/06 (14/03/2012), p.423, para 977.

[33] Le Procureur c/ Germain Katanga, ICC-01/04 – 01/07 (07/03/2014), p. 565, para 1381. "L'approche objective met l'accent sur la réalisation d'un ou de plusieurs des éléments matériels du crime. Selon cette approche, une personne ne peut être considérée comme auteur d'un crime que si elle en exécute physiquement certains des éléments".

[255] Amategeko y'u Rwanda na yo ateganya uburyo butandukanye icyaha gikorwamo. Ingingo ya 83 y'itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu, iteganya ko icyaha kiryozwa uwagikoze ubwe, uwafatanyije na we kugikora cyangwa icyitso cye[34] naho ingingo ya 2[35] yaryo yo igasobanura ko uwakoze icyaha ari uwakoze igikorwa gihanwa n'itegeko cyangwa uwanze gukora igikorwa gitegetswe n'itegeko, ko umufatanyacyaha ari uwafatanyije ku buryo butaziguye n'uwakoze icyaha naho icyitso akaba ari umuntu wafashije uwakoze icyaha.

[256] Rusanga ingingo zimaze kuvugwa mu gika kibanziriza iki zitanga ibisobanuro by'uwakoze icyaha n'umufatanyacyaha ariko ibyo bisobanuro bikaba bitagaragaza ku buryo bwumvikana igikorwa uwakoze icyaha agomba kuba yakoze uretse kuvuga gusa ko aba yakoze igikorwa gihanwa n'itegeko zikaba zitanasobanura igikorwa umufatanyacyaha agomba kuba yakoze uretse kuvuga gusa ko agomba kuba yafatanyije ku buryo butaziguye n'uwakoze icyaha.

[257] Rurasanga abahanga mu mategeko basobanura ko uwakoze icyaha ari uwakoze igikorwa gifatika gitsotsoba icyaha kandi anafite ubushake bwo kugikora, ko nko ku cyaha cyo kwica, uwakoze icyaha ari uwakubise cyangwa uwakoze ikindi gikorwa cyahise gitera urupfu[36]. Banavuga ko undi ufatwa nk'uwakoze icyaha, ari utakoze igikorwa nyirizina gitsotsoba icyaha ariko yakigizemo uruhare rutaziguye, nk'uwaziritse amaboko y'umuntu ugiye kwicwa cyangwa uwamufunze umunwa kugirango adataka[37]. Ibi ni nabyo kandi byasobanuwe mu rubanza rwa Germain Katanga rwaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwavuze ko umuntu afatwa nk'uwakoze icyaha iyo yakoze ku buryo bufatika bimwe mu bikorwa bigize icyaha.[38] Naho ku bijyanye n'umufatanyacyaha bagasobanura ko, kimwe n'uwakoze icyaha w'ibanze wakoze igikorwa gifatika gitsotsoba icyaha, ari uwakoze ku giti cye ibigize icyaha ariko kubera ko aba yabikoranye n'abandi nabo ba gatozi muri icyo cyaha, bamwita umufatanyacyaha[39]; ibi ni na byo bisobanurwa n'abandi bahanga barimo nka Bernard Bouloc na R. Merle et A. Vitu[40] na bo bemeza ko abafatanyacyaha ari abakoze ibikorwa byose bigize icyaha.

[258] Hahujwe ibisobanuro byatanzwe mu mategeko n'imanza zaciwe ku cyaha cya Jenoside rukabihuza n'igikorwa Dr. Rutunga Venant yakoze cyo gusaba abajandarume bagize uruhare mu iyicwa ry'Abatutsi bari muri ISAR-Rubona bafatanyije n'interahamwe, rusanga ataba gatozi muri iki cyaha kubera ko nta gikorwa cyo kwica yakoze ubwe, ahubwo hakaba harebwa ko ibyo yakoze bitamugira icyitso muri icyo cyaha.

B. Icyo amategeko ateganya ku cyitso muri Jenoside

[259] Urukiko rurasanga ingingo ya 93 agace ka 5 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu, iteganya ko ubufatanyacyaha muri Jenoside ari kimwe mu bikorwa bihanwa nk'icyaha cya Jenoside, ingingo ya 2 agace ka 4 y'iri tegeko igasobanura ko umufatanyacyaha ari uwafatanyije ku buryo butaziguye n'uwakoze icyaha naho aka 5 kagasobanura ibikorwa bigize icyitso birimo gufasha uwakoze icyaha mu byagiteguye, mu byoroheje imikorere yacyo cyangwa mu byakinonosoye kandi yarabikoze abizi, cyangwa uwashishikaje uwakoze icyaha. Hasuzumiwe hamwe ibiteganywa n'izi ngingo hakanarebwa ibikorwa bivugwa mu ngingo ya 2 agace ka 5

[34] Ingingo ya 83 igika cya mbere y'Itegeko nº68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryavuguruwe kugeza ubu.
[35] Ingingo ya 2 agace ka 3, aka 4 n'aka 5 y'Itegeko nº68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryavuguruwe kugeza ubu.
[36] J. Fortin et L. Viau, Traité de Droit Pénal général, Les Edition Thémis Inc. 2011, p 531, para. 346.
[37] C. Hennau et J. Verhaegen, Droit Pénal Général, 3e éd. (Bruylant Bruxelles, 2003), P.268, Para. 289.
[38] Le Procureur c/ Germain Katanga, ICC-01/04 – 01/07 du 07/03/2014, p. 571, para 1391.
[39] D. Becheraoul, Les formes de participation criminelle en droit libanais, Revue Internationale de droit comparé, 2012, 64-1, pp. 245-281.
[40] B. Bouloc, Droit pénal général, Dalloz, coll. Précis, 22ème éd., 2011, n° 307 et s.; R. Merle et A. Vitu, Traité de droit criminel, Problèmes généraux de la science criminelle - Droit pénal général, préc., n° 523. "les coauteurs sont les individus qui réunissent en leur personne tous les éléments constitutifs de l'infraction commise en participation".

umufatanyacyaha uvugwa mu ngingo ya 93 agace ka 5 y'Itegeko nº 68/2018 rivuzwe haruguru mu rurimi rw'ikinyarwanda ari icyitso nk'uko bigaragara mu zindi ndimi (complicity in genocide – complicité de génocide). Rusanga kandi kuba icyitso muri Jenoside binateganywa n'ingingo ya 3.e y'Amasezerano Mpuzamahanga yo ku wa 09/12/1948 arebana no gukumira no guhana icyaha cya Jenoside.[41]

[260] Ruranasanga imanza zitandukanye zaciwe n'Inkiko z'u Rwanda[42] n'izaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda zarasobanuye ko kuba icyitso ari bumwe mu buryo bwo kugira uruhare mu ikorwa ry'icyaha buteganyijwe mu mategeko y'ibihugu byose yaba akomoka ku Bongereza (Common Law) haba n'akomoka ku Baromani (Civil Law), zinasobanura ko icyitso ari uwifatanyije n'icyaha cyakozwe n'undi, kandi ko kuba icyitso bisaba ko habaho icyaha cy'ibanze,[43] bityo ku cyaha cya Jenoside, kugira ngo icyitso gihanwe hagomba kugaragazwa ko icyo cyaha cyakozwe. Rurasanga imanza zitandukanye zaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda[44] zaragaragaje ku buryo budasubirwaho ko mu Rwanda habaye Jenoside imwe yakorewe Abatutsi.

[261] Urukiko rurasanga kandi mu manza zaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda zarasobanuye ko kuba icyitso bigomba gukorwa uko byateganywaga n' igitabo cy' amategeko ahana cy'u Rwanda hafatwa uburyo butatu (3) bwo kukigiramo uruhare buteganywa n'ingingo ya 91 y'Itegeko-Teka n° 21/77 ryo ku wa 18 Kanama 1977 ryerekeye Igitabo cy'Amategeko ahana nk'ubugize ibikorwa byo kuba icyitso mu cyaha cya Jenoside, ko ibyo bikorwa ari ugutanga ibikoresho nk'intwaro cyangwa ubundi buryo bwose bufasha gukora Jenoside, gutanga inkunga cyangwa kuba hafi y'uwakoze icyaha cya Jenoside mu byagiteguye cyangwa byatumye gikorwa no koshya uwakoze icyaha amuha amabwiriza, ibihembo, amutera ubwoba, agira ibyo amusezeranya n'ibindi[45]. Rurasanga iyo uburyo bwakoreshejwe ari ugutanga inkunga cyangwa kuba hafi y'uwakoze icyaha cya Jenoside mu byagiteguye cyangwa byatumye gikorwa, iyo nkunga igomba kuba ari iya ngombwa kugira ngo icyaha cya Jenoside gikorwe.[46] Ibyo kuba iyo nkunga itangwa igomba kuba iya ngombwa kugira ngo icyitso gihanwe

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[41] Article 3 de la convention pour la prévention et la repression du crime de génocide: "Seront punis les actes suivants: a) le génocide; b) l'entente en vue de commettre le génocide; c) l'incitation directe et publique à commettre le génocide; d) la tentative de génocide; e) la complicité de genocide".

[42]Urubanza no RP/GEN 00002/2017/HC/HCCIC rw' Ubushinjacyaha na Mugimba Jean Baptiste rwaciwe ku wa 17/03/2022 n'Urukiko Rukuru, Urugereko Rwihariye Ruburanisha Ibyaha Mpuzamahanga n'ibyaha Byambuka Imbibi, igika cya 174.

[43] La Chambre constate que la complicité est une forme de participation criminelle prevue par tous les systèmes juridiques de droit criminel, notamment le systèmes Anglo-saxon (ou La "Common Law") et par le système de tradition romano-continentale (ou La "CiviL Law "). Le complice d' une infraction pouvant être défini comme celui qui s'unit à une infraction commise par un autre. La complicité suppose nécessairement l' existence d'une infraction principale": Le Procureur c/ Alfred Musema, Affaire n° ICTR-96-13-T, Trial Chamber, (27 January 2000), p. 59, para 169-170; the Prosecutor V. Akayesu, ICTR-96-4 T of 2nd September 1998, par. 527.

[44] Kalimanzira Callixte v. Prosecutor ICTR-05-88-A of 20/10/2010, para.229, "There is only one genocide that was committed in Rwanda between 6 April 1994 and 17 July 1994 and that resulted in the killings of hundreds of thousands of Tutsi." See also Nyiramasuhuko et al. ICTR-98-42-T of 24/06/2011, para 206; Emmanuel Ndindabahizi v. Prosecutor, Case No. ICTR-01-71-A of 16 January 2007, para 138.

[45] "The Chamber is of the opinion that it is necessary to define complicity as per the Rwandan Penal Code, and to consider the first three forms of criminal participation referred to in Article 91 of said Code, which defines the elements of complicity in genocide, thus: (a) Complicity by procuring means, such as weapons, instruments or any other means, used to commit genocide, with the accomplice knowing that such means would be used for such a purpose;(b) Complicity by knowingly aiding or abetting a perpetrator of a genocide in the planning or enabling acts thereof; (c) Complicity by instigation, for which a person is liable who, though not directly participating in the crime of genocide, gave instructions to commit genocide, through gifts, promises, threats, abuse of authority or power, machinations or culpable artifice, or who directly incited the commission of genocide: The Prosecutor v. Alfred Musema, ICTR-96-13-A of 27 January 2000, par.179., See also Prosecutor v. Akayesu, ICTR-96-4-T of 2nd September 1998, par. 537.

[46] Prosecutor v. Ignace Bagilishema, Case No. ICTR-95-1A-T, Trial Chamber (07/06/2001), p.18, para 33; Prosecutor v. Du [Ko tadi] a/k/a "Dule, IT- 94-T, (ICTY Trial Chamber, 7 May 1997), p.256, para 689; Procecutor v. Anto Furund@Ija, IT -95-17/1-T, ICTY, Trial Chamber (10 December 1998), pp.80-81, para 209, Mitar Vasiljevic IT- 98-32-T, ICTY Trial chamber, (29 November 2002), p.25, par 70;

byanemejwe mu manza zitandukanye zaciwe n'urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda[47] kimwe n' Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho icyahoze ari Yugosilaviya.[48]

[262] Urukiko rurasanga kandi kuba icyitso binateganywa n'amategeko ahana yo mu bindi bihungu aho ingingo ya 121-7 y'igitabo cy'amategeko ahana cyo mu Bufaransa iteganya ko icyitso ari uwafashije uwakoze icyaha, uworohereje abishaka imikorere y'icyaha ari mubyagiteguye cyangwa mubyagitsotsobye[49], igitabo cy'amategeko ahana cya Senegale[50] mu ngingo yacyo ya 46 nayo isobanura ko icyitso ari uwatanze inkunga, uwasezeranyije, uwakangishije igitinyiro cy'ubuyobozi, uwatanze ibikoresho, intwaro n'ibindi azi ko bizifashishwa mu ikorwa ry'icyaha n'ibindi kandi ko ahanwa nk'icyitso muri icyo cyaha.

[263] Uretse ibikorwa bifatika bigomba gukorwa n'icyitso muri Jenoside nko gutanga ibikoresho bifasha gukora Jenoside, gutanga inkunga no koshya uwakoze icyaha, ufatwa nk'icyitso agomba kuba anazi neza ko ari gufasha ukora icyaha cya Jenoside, icyakora akaba atari ngombwa ko ubwe aba afite ubushake bwo kugikora. Ibi ni nabyo byasobanuwe mu manza zinyuranye zaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda nko mu rwa Alfred Musema[51], Jévenal Kajelijeli[52], Elisaphan Ntakirutimana na Gérard Ntakirutimana[53], n'urwa Emanuel Ndindabahizi[54] n'izaciwe Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho icyahoze ari Yugosilaviya nk'urwa Radoslav Brdanin[55] ku birebana n'ubushake icyitso muri Jenoside kigomba kuba gifite.

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[47] Le Procureur c. Elizaphan Ntakirutimana et Gerard Ntakirutimana, ICTR-96-I0-A et ICTR-96-17-A du 13/09/2004, p.164, para 509. "(…) La Chambre d'Appel considère que la seule conclusion que I'on puisse raisonnablement tirer des circonstances décrites par la Chambre de première instance pour étayer les conclusions dégagées ci-dessus est que Gérard Ntakirutimana avait connaissance du fait que ses actes et son comportement concouraient de manière substantielle la commission du génocide par d'autres. Par conséquent, la Chambre d'appel conclut qu'il résulte des autres actes d'assistance posés par Gérard Ntakirutimana tels qu'identifiés par la Chambre de premiere instance, que sa responsabilité est engagdée pour avoir aidé et encouragé à commettre le génocide".

[48] Le Procureur c/ Radoslav Brdanin, Affaire n°: ICTY- IT-99-36-T, Trial Chamber (1er septembre 2004), para 729 "La complicité de génocide s'entend de tous les actes d'aide ou d'encouragement qui ont grandement contribué à la consommation du crime de génocide ou qui ont eu un effet substantiel sur celle-ci".

[49] Article 121-7 Code Penal, Dernière modification: 2021-08-07, Edition: 2021-08-07: "Est complice d'un crime ou d'un délit la personne qui sciemment, par aide ou assistance, en a facilité la préparation ou la consommation, […]"

[50] Article 46 de la Loi de base n° 65-60 du 21 Juillet 1965 portant Code Penal du Sénegal: "Seront punis comme complices d'une action qualifiée crime ou délit ceux qui, par dons, promesses, menaces, abus d'autorité ou de pouvoir, machinations ou artifices coupables, auront provoqué à cette action ou donné des instructions pour la commettre. Ceux qui auront procure des armes, des instruments, ou tout autre moyen qui aura servi à l'action sachant qu'ils devraient y servir. Ceux qui auront, avec connaissance, aidé ou assisté l'auteur ou les auteurs de l'action, dans les faits qui l'auront préparée ou facilitée, ou dans ceux qui l'auront consommée, sans prejudice des peines qui seront spécialement portées par le présent Code contre les auteurs de complots ou de provocations attentatoires à la sûreté de l'Etat, même dans le cas où le crime qui était l'objet des conspirateurs ou des provocateurs.

[51] The Prosecutor v. Alfred Musema, ICTR-96-13-A of 27 January 2000, para.180 "S'agissant de l'élément moral ou intentionnel de la complicité en général, la Chambre estime qu'il suppose la conscience chez l'agent, au moment où il agit, du concours qu'il apporte dans la réalisation de l'infraction principale. Autrement dit, l'agent doit avoir agi en connaissance de cause".

[52] Le procureur C/ Juvénal Kagelijeli, ICTR-98-44A-T du 1er Décembre 2003, Para. 768: "Dans les cas de complicité, la volonté criminelle requise existe dès lors que l'agent agit sachant qu'il aide l'auteur principal ou les auteurs principaux à commettre le crime matériel. Il n'est pas nécessaire que l'accusé connaisse l'infraction précise qui est en train d'être commise par l'auteur principal ou les auteurs principaux, mais il doit avoir connaissance des éléments essentiels du crime matériel et doit avoir agi en ayant conscience qu'il soutenait de la sorte la commission du crime materiel".

[53] La mens rea requise pour I'aide et I'encouragement à commettre le génocide est la connaissance que le complice avait de l' intention génocidaire qui animait les auteurs principaux: ICTR-96-I 0-A et ICTR-96-17-A, Le Procureur C/ Elisaphan Ntakirutimana et Gérard Ntakirutimana, para. 364

[54] Le Procureur C/ Emamnuel Ndindabahizi, ICTR-2001-71-T du 15/07/2004 Para. 457. Cfr aussi Jugement Prosecutor v. Laurent Semanza, Nº ICTR-97-20-T, of 15/05/2003, para.338; Krstic v. Prosecutor, IT- 98-33-A, ICTY, (19/04/2004), para.140; Le Procureur c. Krnojelac, affaire n° IT-97-25-A, arrêt, 17 septembre 2003, para 51 et Le Procureur c. Aleksovski, affaire n° IT-95-14-A, arrêt, 24 Mars 2001, para 162.

[55] Le Procureur c/ Radoslav Brdanin, Affaire n°: ICTY- IT-99-36-T, 1er Septembre 2004, para 730: La complicité de génocide, lorsqu'elle consiste à aider et encourager (aiding and abetting) le génocide, n'exige pas la preuve que le complice était animé de l'intention spécifique de détruire, en tout ou en partie, un groupe protégé. Dans ce cas, l'Accusation doit prouver au-delà de tout

[264] Ibyo kuba umuntu yahamwa n'icyaha cyo kuba icyitso muri Jenoside adahuje umugambi na gatozi cyangwa ba gatozi muri icyo cyaha byanasobanuwe mu manza zaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda (ICTR) nko mu rubanza rwa Akayesu[56] n'urwa Musema Alfred[57] ndetse no mu manza zaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho icyahoze ari Yugosilaviya nko mu rubanza rwa "Kristic, urwa Krnojelac, Aleksovsk n'urwa Vasiljevic"[58] aho zasobanuye ko atari ngombwa ko uregwa kuba icyitso cy'abakoze Jenoside aba afite umugambi (mens rea) umwe na gatozi, ariko ko agomba kuba azi nibura umugambi we[59].

[265] Uretse igikorwa Dr. Rutunga Venant yakoze cyo gusaba abajandarume, rusanga yari anafite n'ubushake bwo gikora icyo cyaha kubera ko harebwe uko mu kwezi kwa Mata mu mwaka wa 1994 Abatutsi barimo bicwa mu gihugu hose, uko muri Perefegitura ya Butare no mu nkengero z'Ikigo cya ISAR-Rubona Abatutsi barimo bicwa mbere y'uko Dr. Rutunga Venant asaba abajandarume uwari Perefe wa Butare, uko abo bajandarume bageze mu kigo uwo munsi akabereka aho bacumbika, uko baje bazi amwe mu mazina y'Abatutsi bakoraga muri ISAR-Rubona bashakaga kwica nk'uko bivugwa na bamwe mu batangabuhamya barimo R.V 005, uko bamaze kuhagera bafashe Kalisa Epaphrodite wari umukozi muri icyo kigo bakarara bamutoteza akicwa bukeye, uko abo bajandarume bajyanye n'igitero cy'interahamwe kirimo na bamwe mu bakozi ba ISAR-Rubona barimo Mugemana Didace bakica Abatutsi benshi bari bari muri ISAR-Rubona, uko nyuma y'ubwo bwicanyi atigeze abwamagana nyamara nk'umuyobozi w'ikigo ariwe wagiye kubasaba, uko nawe yemera ko yasabye abajandarume bagera mu kigo bagakora ubwicanyi, n'uko ibyo byose byakozwe nyuma y'ijambo rya Sindikubwabo Théodore ryakanguriraga abataratangira gukora Jenoside kuyikora bigaragaza ko ajya gusaba abajandarume bishe Abatutsi muri icyo kigo yari azi ko ikibazanye ari ukwica abo Batutsi barimo abari mu Gakera bari bamaze iminsi birwanaho basubiza inyuma ibitero by'interahamwe byababagabwagaho.

[266] Rurasanga rero hashingiwe ku bimaze gusobanurwa birebana n'amategeko n'imanza zaciwe, rukabihuza no kuba Dr. Rutunga Venant yarasabye abajandarume azi neza ko baje kwica Abatutsi bari muri ISAR-Rubona, bahagera bakica Abatutsi bari barahahungiye barimo Edouard Mucumbitsi n'abana be bane (4) aribo Mucumbitsi Serge, Kayitesi Blandine, Ishimwe na Benimana; Tabaruka Stanislas, Furani, Nyirandekwe Valena, Gasarasi Antoine, Yajecumbika Gerard, umugore we Mukamusoni Rosette n'abana babo batanu (5), ari bo Gatari, Gatera, Kayiganwa, Habineza na Umuganwa, Cicina Karekezi, umugore we Suzanne Nyirabazungu n'abana babo b'abahungu babiri (2) Rumashana na Rubayizi, Emmanuel Kayire, Léonard Nzarubara, Charles Kayibanda, Jean Ruzindana, Gasana Télésphore, Nkurunziza alias Rukara, Stephanie Nyirabununuri, Venutse Gasangwa, Jean Mugemana, Patrice, Fils, Polycarpe, Butamo mwene Kajuga kimwe n'abandi Batutsi bari baturutse ahantu hatandukanye, harimo Maraba, Rusatira na Ruhashya, bakanagira uruhare mu iyicwa rya bamwe mu bakozi b'Abatutsi bakoraga muri icyo kigo barimo Kalisa Epaphrodite na Munyengango Jean Claude; bityo icyo gikorwa yakoze cyo gusaba abajandarume kikaba ari inkunga ya ngombwa yatanze kubishe abo Batutsi; kubw'ibyo akaba agomba guhamwa n'icyaha cyo kuba icyitso muri Jenoside giteganywa n'ingingo ya 93 agace ka 5 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk' uko ryahinduwe kugeza ubu.

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doute raisonnable "que [l'accusé] savait que par ses propres actions, il aidait l'auteur principal à commettre le génocide et était conscient de l'état d'esprit de ce dernier; il n'est pas nécessaire qu'elle démontre que l'accusé partageait l'intention spécifique de l'auteur principal."

[56] Reba para 19 footnote 47.

[57] The Prosecutor v. Alfred Musema, ICTR-96-13-T, of 27/01/2000, para 183 "[I]n conclusion, the Chamber is of the opinion that an accused is liable for complicity in genocide if he knowingly and voluntarily aided or abetted or instigated one or more persons in the commission of genocide, while knowing that such a person or persons were committing genocide, even though the accused himself did not have the specific intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such".

[58] Krstic v. Prosecutor, IT- 98-33-A, ICTY, (19/04/2004), para.140; Le Procureur c. Krnojelac, affaire n° IT-97-25-A, arrêt, 17 septembre 2003, para 51 et Le Procureur c. Aleksovski, affaire n° IT-95-14-A, arrêt, 24 Mars 2001, para 162; Prosecutor v. Mitar Vasiljevic IT- 98-32-A, ICTY Appeal Chamber, (24 February 2004), para 102.

[59] Reba Urubanza Prosecutor v. Ndindabahizi Emmanuel, ICTR-2001-71-I of 17/07/2004, para 457.

C. Icyo amategeko ateganya ku cyaha cyo kurimbura nk'icyaha cyibasiye inyokomuntu

[267] Icyaha cyibasiye inyokomuntu giteganywa n'ingingo ya 94 y'Itegeko Nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu iteganya icyo cyaha ari kimwe mu bikorwa bikozwe mu bitero rusange cyangwa bya simusiga byibasiye abaturage batari abasirikare birimo kwica, kurimbura n'ibindi[60]. Runasanga ibiteganywa n'iyo ngingo bihura bihura n'ibiteganywa mu mategeko mpuzamahanga nk'ingingo ya 5 ya Sitati ishyiraho Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho icyahose ari Yugosilaviya[61], iya 3 y'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda n'iya 6 ya Sitati ya Nuremberg.[62] Ibyo bisobanuro bihura n'ibiteganywa n'ingingo ya 7 ya Sitati y'i Roma ishyiraho Urukiko Mpanabyaha Mpuzamahanga uretse ko iyi ngingo itavuga ko abakorewe icyo cyaha bagomba kuba bazira ubwenegihugu bwabo, ibitekerezo bya politiki, ubwoko cyangwa idini uretse ku birebana n'itotezwa nk'icyaha cyibasiye inyokomuntu.

[268] Urukiko rusanga mu manza zaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda hagaragazwa ko muri rusange icyaha cyibasiye inyokomuntu kigizwe n'ibikorwa bine (4) by'ingenzi ari byo kuba gikozwe mu bitero rusange cyangwa simusiga, byibasiye abasiviri bazira ubwenegihugu bwabo, ibitekerezo bya politiki, ubwoko, cyangwa idini no kuba bigamije kubabaza cyangwa kwangiza bikabije umubiri cyangwa ubwenge[63].

[269] Rusanga mu by'umwihariko mu mategeko mpuzamahanga igikorwa cyo kurimbura nk'icyaha cyibasiye inyokomuntu gikorwa hicwa umubare munini w'abantu cyangwa kubashyira, ubigambiriye, mu mibereho ishobora gutuma harimbuka igice cyabo, nko kubicisha inzara cyangwa kutabavuza[64]. Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho icyahoze ari Yugosilaviya mu rubanza rwa Krstic n'urwa Vasiljevic zasobanuye ko kurimbura ari icyaha gitegurwa kigambiriye kurimbura abantu benshi, runavuga ko icyo cyaha gishobora no gukorwa kidakorewe umubare munini w'abantu iyo ugikoze azi neza ko ibikorwa bye biri muri gahunda yo kurimbura imbaga[65]. Ibi bisobanuro ni nabyo biri mu manza zaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda nko mu rubanza rwa Clément Kayishema na Obed Ruzindana aho rwemeje ko ushinjwa ashobora guhamwa n'icyaha cyo kurimbura imbaga hashingiwe ku kuba yarishe umuntu umwe gusa, apfa kuba yarabikoze azi neza ko ibikorwa bye

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[60] Ingingo ya 94 y'Itegeko Nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk' uko ryahinduwe kugeza ubu, iteganya ko "icyaha cyibasiye inyokomuntu ni kimwe mu bikorwa bikurikira gikozwe mu bitero rusange cyangwa bya simusiga byibasiye abaturage batari abasirikare: (1º) kwica; (2º) kurimbura; (3º) gushyira mu bucakara; (4º) gutwara bunyago cyangwa kubimura ku ngufu aho bari batuye; (5º) gufunga umuntu cyangwa kumwambura uburenganzira bwe bwo kujya aho ashaka mu buryo bunyuranyije n'amategeko; (6º) kwica urubozo; (7º) gusambanya ku gahato, ubucakara bushingiye ku gitsina, gukoresha uburaya ku gahato, guhagarika urubyaro ku gahato cyangwa ikindi gikorwa icyo ari cyo cyose cy'ihohotera rishingiye ku gitsina risa n'ibimaze kuvugwa; (8º) gutoteza umuntu umuziza ibitekerezo bye bya politiki, ubwoko, idini cyangwa se ushingiye ku rindi vangura iryo ari ryo ryose; (9º) kurigisa abantu; (10º) ivangura rishingiye ku ibara ry'uruhu; (11º) ibindi bikorwa birenze kamere-muntu bisa n'ibimaze kuvugwa bikozwe ku bushake bigamije kubabaza cyangwa kwangiza bikabije umubiri cyangwa ubwenge.

[61] Article 5 of ICTY Statute states that "[T]he International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population: (a) murder; (b) extermination; (c) enslavement; (d) deportation; (e) imprisonment; (f) torture; (g) rape; (h) persecutions on political, racial and religious grounds; (i) other inhumane acts".

[62] Article 3 of ICTR Staute states that: "[T]he International Tribunal for Rwanda shall have the power to prosecute persons responsible for the following crimes when committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds: (a) Murder; (b) Extermination; (c) Enslavement; (d) Deportation; (e) Imprisonment; (f) Torture; (g) Rape; (h) Persecutions on political, racial and religious grounds; (i) Other inhumane acts".

[63] ICTR-96-4-T, Le Procureur c/ Akayesu Jean Paul du 2/09/1998, para. 578; ICTR-2000-55A-T, Le Procureur c/ Muvunyi Tharcisse Muvunyi, para 511; Prosecutor v. Laurent Semanza, Nº ICTR-97-20-T, of 15/05/2003, para 326.

[64] Cfr Statut de Rome art 7(2),b. "Par extermination on entend, notamment le fait d'imposer intentionnellement des conditions de vie, telles que la privation d'accès à la nourriture et aux médicaments, calculées pour entraîner la destruction d'une partie de la population".

[65] Prosecutor v. Radslav Krstic, IT-98-33-T, Trial Chamber (02/08/2001), para. 501; Prosecutor v. Mitar Vasiljevic IT- 98-32-T, ICTY, Trial chamber, (29 November 2002), para 229.

biri muri gahunda yo kurimbura imbaga[66]. Bihura kandi n'ibyanditswe n'abahanga mu mategeko aho bemeza ko icyaha cyo kurimbura imbaga kigaragarira mu kuba ushinjwa yarishe muri gahunda yo kwica umubare munini w'abantu ndetse ko atari ngombwa ko ushinjwa ku giti cye aba yarishe umubare munini w'abantu ahubwo icya ngomba ari uko aba yari azi ko hariho gahunda yo kwica imbaga y'abantu[67].

[270] Hakurikijwe ibisobanuro byatanzwe haruguru, urukiko rusanga kurimbura nk'icyaha cyibasiye inyokomuntu ari icyaha gikorwa hicwa umuntu umwe, hicwa umubare muto w'abantu cyangwa hicwa abantu benshi ahantu hamwe bikozwe mu bitero rusange cyangwa simusiga byibasira abasiviri ariko ikigamijwe ari ukurimbura umubare munini. Rusanga kandi ukora icyo gikorwa nk'icyaha cyibasiye inyokomuntu agomba kuba afite ubushake bwo kurimbura umubare munini w'abaturage batari abasirikare. Ibi ni nabyo byasobanuwe mu manza zinyuranye zaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda nk'urwa Laurent Semanza, urwa Kayishema Clément na Ruzindana Obed, urwa Eliezer Niyitegeka kimwe n'urwa Nahimana Ferdinad, Barayagwiza Jean Bosco & Ngeze Hassan.[68]

[271] Hashingiwe ku bimaze gusobanurwa birebana n'amategeko n'imanza zaciwe, rukabihuza n'ibitero byagabwe ku baturage b'abasiviri b'Abatutsi bari mu kigo cya ISAR-Rubona[69] bakabica babasanze aho bari bihishe, abandi bakabakurikirana mu ngo zabo bakabica, rusanga ibyo bitero byabagabweho ari ibitero rusange kandi bya simusiga kubera ko byishe umubare w'abaturage b'Abatutsi benshi muri icyo kigo kandi ko byari byateguwe kuko mbere yo kwica abo baturage b'abasiviri b'Abatutsi nk'uko bigaragazwa n'abatangabuhamya, ba konseye n'abaresiponsabule babanje gutanga amabwiriza ku bicanyi ko nta muturage w'Umututsi wari muri ISAR-Rubona ugomba gusohoka muri icyo kigo kugira ngo badahungira mu maserire yabo n'uko abafite imbunda n'amagerenade aribo babanza kurasa kuri abo baturage b'abasiviri b'Abatutsi naho interahamwe zikabicisha intwaro gakondo ku buryo babica ntihagire ubacika. Ibi bikorwa byakozwe muri ibyo bitero bihura n'ibigenderwaho kugira ngo harebwe niba ibitero byari rusange kandi bya simusiga byemejwe mu manza zitandukanye zaciwe n'inkiko mpuzamahanga nk'urwa Radoslav Brdanin n'urwa Dragoljub Kunarac.[70]

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[66] Prosecutor v. Clément Kayishema and Obed Ruzindana, ICTR-95-1-T, Trial Chamber (21/05/1999) par.147.

[67] R. Cryer et al., An Introduction to International Criminal Law and Procedure, Second Edition, Cambridge University Press, 2010, p.247.

[68] Le procureur c/Laurent Semanza, ICTR du 15 /05/2003. Para 341 „ ....En l'espèce, la Chambre de première instance est d'avis qu'en l'absence d'une disposition expresse dans le Statut ou en droit international coutumier relative à cette question, la responsabilité pénale internationale doit être retenue uniquement à raison d'actes ou omissions intentionnels. En conséquence, la Chambre estime que l'élément moral du crime d'extermination réside dans l'intention de commettre un massacre ou d'y participer" ; Le Procureur c/ Kayishema Clement & Ruzindana Obed du 21/05/1999 , Para 144 „ L'élément psychologique constitutif de l'extermination exige que l'accusé participe dans l'intention de donner la mort, ou en faisant preuve d'une insouscience grave, peu lui important que la mort resulte ou non d'un tel acte ou d'une telle omission ou de telles actes ou omission; en étant conscient du fait que ledit acte ou ladite omission ou lesdits actes ou omissions s'inscrivent dans le cadre d'une tuerie à grande échelle"; voir aussi Le Procureur c/ Eliezer Niyitegeka, Para 454 et Nahimana Ferdinad , Barayagwiza Jean Bosco & Ngeze Hassan du 03/12/2003, Para. 1062.

[69] Mu baturage b'abasiviri b'Abatutsi biciwe mu kigo cya ISAR-Rubona barimo Edouard Mucumbitsi n'abana be bane (4) aribo Mucumbitsi Serge, Kayitesi Blandine, Ishimwe na Benimana; Tabaruka Stanislas, Furani, Nyirandekwe Valena, Gasarasi Antoine, Yajecumbika Gerard, umugore we Mukamusoni Rosette n'abana babo batanu (5), ari bo Gatari, Gatera, Kayiganwa, Habineza na Umuganwa, Cicina Karekezi, umugore we Suzanne Nyirabazungu n'abana babo b'abahungu babiri (2) Rumashana na Rubayizi, Emmanuel Kayire, Léonard Nzarubara, Charles Kayibanda, Jean Ruzindana, Gasana Telesphore, Nkurunziza alias Rukara, Stephanie Nyirabununuri, Venutse Gasangwa, Jean Mugemana, Patrice, Fils, Polycarpe, Butamo mwene Kajuga kimwe n'abandi batutsi bari baturutse ahantu hatandukanye, harimo Maraba, Rusatira na Ruhashya, Kalisa Epaphrodite, Munyengango Jean Claude, Speciose hatibukwa irindi zina rye, Murekezi Emmanuel, Rwaya, umuryango wa Kalisa Epahrodite ugizwe n'umugore we witwaga Murebwayire Epiphanie n'abana babo, Nsengayire Jean Claude, Munyaneza Philibert, Kabazayire Delphine, Sebahutu Telesphore, Murekezi Emmanuel, Cyuzuzo, Rwaya, Gatari n'abandi.

[70] Le Procureur C/ Radoslav Brdanin, Affaire n°: ICTY- IT-99-36-T, 1er septembre 2004, para 136; Le Procureur c/ Dragoljub Kunarac, Radomir Kovač et Zoran Vuković, affaire n° IT-96-23-A & IT-96-23/1-A, Arrêt, 12 juin 2002 (« Arrêt Kunarac »), para. 95. "La jurisprudence du Tribunal a mis en évidence certains facteurs à prendre en compte pour déterminer si une attaque est généralisée ou systématique: i) les conséquences de l'attaque pour la population visée, ii) le nombre des victimes, iii) la nature des actes, et iv) l'éventuelle participation de responsables ou d'autorités, ou tout scénario criminel identifiable".

[272] Rurasanga muri ibyo bitero nta gikorwa gifatika nko kwica Dr. Rutunga Venant ubwe yabikozemo ahubwo uruhare rwe rukaba rugaragarira mu kuba yarasabye abajandarume bagabye ibitero bafatanyije n'interahamwe kuri abo baturage b'abasiviri b'Abatutsi bari muri ISAR-Rubona bakica benshi muri bo. Rusanga iyi ari inkunga ya ngombwa yatanze kuri abo bajandarume bishe abo baturage b'abasiviri bamwe bari barahungiye mu Gakera bari bamaze iminsi birwanaho basubiza inyuma ibitero by'interahamwe byabagabwagaho n'abandi bakoraga muri icyo kigo. Iyo nkunga yatanze ikaba imugira icyitso mu kurimbura nk'icyaha cyibasiye inyokomuntu aho kuba gatozi muri icyo cyaha hashingiwe ku ngingo ya 94 n'iya 2 agace ka 5o z'Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu, kubera ko asaba abajandarume kuri Perefegitura ya Butare, nk'uko byasobanuwe ku birebana no kuba icyitso mu cyaha cya Jenoside, yari azi neza ko abo bajandarume baje kugaba ibitero rusange kandi bya simusiga ku baturage b'abasiri b'Abatutsi bari mu kigo cya ISAR-Rubona. Ubushake icyitso kigomba kuba gifite nabyo byasobanuwe mu manza zavuzwe haruguru zaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda nk'urwa Laurent Semanza, urwa Kayishema Clément na Ruzindana Obed, urwa Eliezer Niyitegeka kimwe n'urwa Nahimana Ferdinad, Barayagwiza Jean Bosco & Ngeze Hassan aho zemeje ko ibyo akora bisaba kuba azi ko biri mu murongo w'ibitero rusange cyangwa simusiga byibasiye abaturage b'abasiviri.

[273] Rurasanga kuba icyitso bisaba ko habaho icyaha cy'ibanze,[71] bityo ku cyaha cya cyibasiye inyokomuntu, kugira ngo icyitso gihanwe hagomba kugaragazwa ko icyo cyaha cyakozwe. Rurasanga imanza zitandukanye zaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda[72] zaragaragaje ku buryo budasubirwaho ko mu Rwanda hakozwe icyaha cyibasiye inyoko muntu aho zasobanuye ko hagati y'ukwezi kwa Mata n'ukwa Nyakanga 1994 habaye ibitero rusange cyangwa byasimusiga byibasiye abaturage b'abasiviri kubera ko ari Abatutsi kandi ko muri ibyo bitero h'ishwe abaturage b'Abatutsi benshi.

[274] Urukiko rurasanga kuba umuntu yaryozwa kuba icyitso mu cyaha cyo kurimbura nk'icyaha cyibasiye inyokomuntu byarasobanuwe n'Urukiko rw'Ikirenga mu rubanza rwa Bandora Charles[73] aho rwamuhamije kuba icyitso mu cyaha cyo kurimbura nk'icyaha cyibasiye inyokomuntu rushingiye ku bufasha bwa ngombwa yatanze kugira ngo ba gatozi bakore icyaha cyo kurimbura nk'icyaha cyibasiye inyokomuntu. Ibi ni nabyo byasobanuwe mu manza zitandukanye zaciwe n'inkiko mpanabyaha mpuzamahanga nko mu rubanza Katanga Germain rwaciwe n'Urukiko Mpanabyaha Mpuzahanga[74] no mu manza zaciwe n'inkiko zo mu bindi bihugu nk'urwa Lafarge[75] rwaciwe n'Urukiko Rusesa imanza rw'igihugu cy'Ubufaransa.

[275] Rurasanga ibyo Dr. Rutunga Venant avuga ko atahanirwa ibyo abajandarume bakoze nta shingiro bifite kuko nk'uko byasobanuwe icyo aryozwa atari ibyakozwe n'abajandarume ahubwo ari uruhare yagize mu gusaba abo bajandarume bishe Abatutsi muri ISAR-Rubona rwasanze ari inkunga ya ngombwa yatanze yatumye ubwo bwicanyi bushoboka. Rurasanga na none n'ibyo avuga ko atahanirwa gusaba abajandarume kubera ko n'uwari Perefe wa Perefegitura wa Butare witwa Nsabimana Sylvain atabihaniwe mu Rukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda, nabyo nta shingiro bifite kuko kuba uwamuhaye

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[71] Le Procureur c/ Alfred Musema, Affaire n° ICTR-96-13-T, Trial Chamber, (27 January 2000), p. 59, para 169-170 "(…) La complicité suppose nécessairement l' existence d'une infraction principale "; the Prosecutor V. Akayesu, ICTR-96-4 T of 2nd September 1998, par. 527.

[72] Nyiramasuhuko et al. ICTR-98-42-T of 24/06/2011, para 206 "Entre avril et juillet 1994, des attaques généralisées ou systématiques ont été dirigées contre une population civile en raison de son appartenance au groupe ethnique tutsi; Au cours de ces attaques, des citoyens rwandais ont tué des personnes considérées comme étant des Tutsis ou porté des atteintes graves à leur intégrité physique ou mentale. Ces attaques ont coûté la vie à de nombreuses personnes appartenant à l'ethnie tutsie"; Le Procureur c/ Alfred Musema, Affaire n° ICTR-96-13-T, Trial Chamber, (27 January 2000), p. 59, para 169-170.

[73] Urubanza RPA/GEN 0001/15/CS rw'Ubushinjacyaha na Bandora Charles, rwaciwe n'Urukiko rw'Ikirenga ku wa 22/03/2019, para 23-26.

[74] Le Procureur c/ Germain Katanga, ICC-01/04 – 01/07 (07/03/2014), para 1691.

[75] Affaire Lafarge, Cour de Cassation, Chambre criminelle (7/09/2021), 19-87.367, para 81.

abajandarume yabihanirwa cyangwa ntabihanirwe bitamukuraho uruhare rwo kuba ariwe wabasabye azi ko nibagera muri ISAR-Rubona bazica Abatutsi bari muri icyo kigo nk'uko byasobanuwe hashingiwe ku bimenyetso byasuzumwe birimo no kuba yemera ko ariwe wabasabye kandi ko bahageze bakica Abatutsi.

[276] Rurasanga kandi ibyo Dr. Rutunga Venant avuga by'uko atavuzwe mu manza zaciwe n'Inkiko Gacaca zo mu cyahoze ari Umurenge wa Gikirambwa n'izindi manza zaciwe n'inkiko zisanzwe[76] ku birebana na Jenoside yakorewe Abatutsi muri ISAR-Rubona, nabyo nta shingiro byahabwa kubera ko ataregwaga muri izo manza kandi ko iyo hasuzumwa uruhare rw'uregwa ikirebwa ari ibikorwa yakoze ku giti cye ndetse n'ibimenyetso byatanzwe kandi nk'uko byagaragajwe akaba ariwe wagiye gusaba abajandarume bagize uruhare mu bwicanyi bwabereye muri ISAR-Rubona. Ibyo kuba uregwa atavugwa mu manza atabayemo umuburanyi bihura n'ibyemejwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda nko mu rubanza rwa Gatete Jean Baptiste n'izindi aho urukiko rwagaragaje ko kuba abatangabuhamya bataravuze Gatete mu manza za Gacaca nta kamaro bimufitiye, ko kuba ataravuzwe bitavuze ko ntacyo yakoze ndetse ko bishobora kuba byaratewe n'uko batamubabajijeho[77].

[277] Ruranasanga hashingiwe ku ngingo ya 106 y'Itegeko Nº68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu, iteganya ko ikurikirana ry'icyaha cya Jenoside, ibyaha byibasiye inyokomuntu n'ibihano byatanzwe kuri ibyo byaha bidasaza, ibyo Dr. Rutunga Venant avuga ko atakurikiranwaho ibyaha aregwa kubera ko izina rye ritasohotse ku rutonde rw'abakekwagaho gukora Jenoside rwasohokaga buri mwaka nabyo nta shingiro byahabwa kuko bitabuza ko akurikiranwa igihe cyose habonetse ibimenyetso bituma akekwaho ibyaha.

[278] Ruranasanga n'ibyo Dr. Rutunga Venant avuga by'uko adakwiye kuregwa no guhamwa n' icyaha cya Jenoside n'icyo kuba icyitso muri icyo cyaha hashingiwe ku bikorwa bimwe, kuba yabiregwa ntibibujijwe kuko mu rwego rw'amategeko nta kibuza ko umuntu abiregwa byombi. Ibi byemejwe mu manza zitandukanye zirimo urwa Mbarushimana Emmanuel rwaciwe n'uru rukiko[78] ariko kuba yabihamywa byo birabujijwe nk'uko abivuga mu gihe ibyo byaha byombi bishingiye kubikorwa bimwe. Ibi ni nabyo byemejwe mu manza zitandukanye zaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda nk'urwa Nahimana Ferdinand na Barayagwiza Jean Bosco[79] n'izindi[80] aho urukiko rwemeje ko umuntu umwe adashobora guhamwa n'ibyo byaha byombi hashingiwe ku bikorwa bimwe.

[279] Rurasanga kandi ibyo avuga by'uko atakurikiranwaho icyaha cya Jenoside kuko kitari giteganyijwe mu mategeko y'u Rwanda ndetse kinateganyirizwe ibihano nabyo nta shingiro byahabwa kubera ko iki

[76] Urubanza RP 76/2/2000 rwaciwe n'Urukiko rwa mbere rw'iremezo rwa Butare ku wa 05/03/2001 n'urubanza RPA 145/I/001/NZA rwo ku wa 27/07/2002.

[77] "La Défense soutient également que le nom de Gatete n'a pas été cité lors des procès Gacaca tenus à Rwankuba à partir de 2003, et que BBR et AIZ n'ont pas parlé de l'accusé lorsqu'ils ont relaté pendant ces procès les faits survenus à Rwankuba en avril 1994. La Chambre estime cependant que le fait que le nom de Gatete n'ait pas été cité lors de ces procès est sans importance. C'est en effet pure hypothèse que d'affirmer que la non-mention d'un accusé dans d'autres procédures judicaires signifie nécessairement qu'il est hors de cause. La Chambre rappelle par ailleurs que BBR et AIZ ont témoigné dans des procès gacaca concernant des personnes distinctes. Il est donc plausible qu'ils n'auraient pas nécessairement fourni de manière spontanée des informations concernant Gatete et qu'on ne leur aurait pas nécessairement posé des questions à son sujet", ICTR-2000-61-T, Le Procureur c/ Jean Baptiste Gatete, 31 Mars 2011, p.43, par.130.

[78] Ubushinjacyaha na Mbarushimana Emmanuel, urubanza RP 0001/15/HC/HCCIC rwaciwe ku wa 29/12/2017 Urukiko Rukuru, Urugereko Rwihariye Ruburanisha Ibyaha Mpuzamahanga n'ibyaha Byambuka Imbibi, igika cya 127.

[79] Case No. ICTR-99-52-T Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza and Hassan Ngeze of 3 December 2003: "(…) The Chamber considers that the crime of complicity in genocide and the crime of genocide are mutually exclusive, as one cannot be guilty as a principal perpetrator and as an accomplice with respect to the same offence…"

[80] Cfr ICTR-96-4-T of 02/Sept/1998, para 532, Akayesu v. the Prosecutor: The Chamber notes that the logical inference from the foregoing is that an individual cannot thus be both the principal perpetrator of a particular act and the accomplice thereto. An act with which an accused is being charged cannot, therefore, be characterized both as an act of genocide and an act of complicity in genocide as pertains to this accused. Consequently, since the two are mutually exclusive, the same individual cannot be convicted of both crimes for the same act.

kibazo cyatanzweho umurongo n'imanza zitandukanye zaciwe n'inkiko z'u Rwanda nko mu rubanza rwa Mugimba Jean Baptiste[81] n'urwa Mbarushimana Emmanuel[82] n'izaciwe n'Inkiko Mpanabyaha Mpuzamahanga zemeje ko nta cyabuza ko umuntu akurikiranwaho icyaha cya Jenoside hashingiwe ku mategeko yagiyeho nyuma kubera ko icyo cyaha cyafatwaga nk'icyaha mu muco mpuzamahanga ibihugu byose bigomba kubahiriza (jus cogens)[83] kikaba kibangamiye uburenganzira bw'ibanze bwa muntu.[84]

2.3. Ku birebana n'ibihano

[280] Ubushinjacyaha burasaba Urukiko kwemera kwakira ikirego cyabwo kuko cyaje mu nzira no mu buryo bukurikije amategeko no kwemeza ko gifite ishingiro bugashingira ku bimenyetso bwatanze bikubiye muri dosiye rukemeza ko icyaha cya Jenoside, kuba icyitso mu gukora Jenoside n'icyo kurimbura nk'icyaha cy'ibasiye inyokomuntu bihama Dr. Rutunga Venant akaba agomba kubihanirwa.

[281] Bukanasaba ko Dr. Rutunga Venant ahanishwa igifungo cya burundu ku cyaha cya Jenoside, icyo kuba icyitso mu gukora Jenoside n'icyo kurimbura nk'icyaha cyibasiye inyokomuntu biteganywa n'ingingo za 92, 93(5), 91, 94 (2) n'iya 95 z'itegeko no 68/2018 ryo ku wa 30/08/2018 rigena ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu, ariko ko kubera ko ibyaha aregwa binganya uburemere bikaba bihanishwa igifungo cya burundu kuri buri cyaha kandi bikaba bigize impurirane mbonezamugambi, Dr. Rutunga Venant akaba yahanishwa igihano kimwe cya burundu nk'uko biteganywa n'ingingo ya 61 n'iya 62 z'Itegeko no 68/2018 ryo ku wa 30/08/2018 rigena ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu.

[282] Dr. Rutunga Venant we asaba Urukiko kumugira umwere kubera ko nta bimenyetso Ubushinjacyaha bwatanze bigaragaza ku buryo budashidikanywaho ko hari igikorwa gifatika cy'ubwicanyi yakoze, ndetse ko n'ubuhamya bwatanzwe n'abatangabuhamya babwo buvuguruzanya ku buryo bukomeye bikaba bitashingirwaho hemezwa ko ahamwa n'icyaha cya Jenoside, icyaha cyo kuba icyitso mu gukora Jenoside n'icyaha cyo kurimbura nk'icyaha cyibasiye inyokomuntu.

- **Uko urukiko rubibona**

[283] Nk'uko byasobanuwe kubirebana n'ibikorwa bigize ibyaha Dr. Rutunga Venant aregwa no kubirebana n'amategeko, Urukiko rusanga ibyaha bimuhama ari icyo kuba icyitso muri Jenoside (complicity in jenocide) no kuba icyitso mu kurimbura nk'icyaha cyibasiye inyoko muntu kubera gusaba abajandarume bishe Abatutsi muri ISAR-Rubona, harimo abari bahungiye mu Gakera n'abari abakozi muri icyo kigo. Rugasanga icyaha cyo kuba icyitso muri Jenoside giteganywa n'ingingo ya 93(5) y'Itegeko no 68/2018 ryo ku wa 30/08/2018 y'itegeko rigena ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu ziteganya ko icyo cyaha gihanwa nk'icyaha cya Jenoside naho icyaha cyo kuba icyitso mu kurimbura nk'icyaha cyibasiye inyokomuntu kigateganywa n'ingingo ya 94 (2) n'iya 2 agace ka 5 z'Itegeko no 68/2018 ryo ku wa 30/08/2018 ryavuzwe.

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[81] Urubanza no RP/GEN 00002/2017/HC/HCCIC rw' Ubushinjacyaha na Mugimba Jean Baptiste rwaciwe ku wa 17/03/2022 Urukiko Rukuru, Urugereko Rwihariye Ruburanisha Ibyaha Mpuzamahanga n'ibyaha Byambuka Imbibi, igika cya 83-85.

[82] Urubanza RP0001/15/ HC/HCCIC rwaciwe ku wa 29/12/2017 Ubushinjacyaha na Mbarushimana Emmanuel, Urukiko Rukuru, Urugereko Rwihariye Ruburanisha Ibyaha Mpuzamahanga n'ibyaha Byambuka Imbibi, igika cya 128-130.

[83] Blagojevic and Jokic, (Trial Chamber), January 17, 2005, para. 639:" … It is widely recognized that the law set out in the convention reflect customary international law and that the norm prohibiting genocide constitutes jus cogens".

[84] ICTR-95-1-T Kayishema Clément na Ruzindana Obed, 21 mai 1999, p. 29, para 88: "Le crime de génocide est considéré comme faisant partie intégrante du droit international coutumier qui, de surcroît, est une norme impérative du droit"; 500-10-004416-093 (500-73-002500-052) Munyaneza C.R du 7/05/2014, para. 26. "Quand aux crimes de génocide, le droit international coutumier reconnait ce crime depuis bien avant 1994, ….". 33 ICTR-96-4- T Le Procureur c/Akayesu Jean Paul, du 2 septembre 1998, p. 204, para. 495: "La Convention sur le génocide est incontestablement considérée comme faisant partie du droit international coutumier, comme en témoigne l'avis consultatif rendu en 1951 par la Cour internationale de Justice sur les réserves à la Convention sur le génocide et comme l'a d'ailleurs rappelé le Secrétaire général des Nations Unies dans son rapport sur la création du Tribunal pénal international pour l'ex-Yougoslavie ».

[284] Urukiko rusanga ingingo ya 5 y'Itegeko Nº 059/2023 ryo ku wa 04/12/2023 ihindura ingingo ya 92 y'itegeko nº68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange iteganya ko icyaha cya Jenoside gihanishwa igifungo cya burundu; bityo hahujwe ibiteganywa n'ingingo ya 93(5) n'iya 91 z'itegeko nº68/2018 ryo ku wa 30/08/2018 ryavuzwe uhamwe no kuba icyitso cy'icyo cyaha ahanwa kimwe n'uwakoze icyaha cya Jenoside agahanishwa igihano cy'igifungo cya burundu. Rukanasanga igihano cya burundu ari nacyo giteganyirizwa uwakoze igikorwa cyo kurimbura nk'icyaha cyibasiye inyokomuntu nk'uko biteganywa n'ingingo ya 95 y'Itegeko no 68/2018 ryo ku wa 30/08/2018 ryavuzwe naho iya 4 y'Itegeko nº 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nayo akaba aricyo gihano iteganyiriza uwahamwe n'igikorwa cyo kurimbura nk'icyaha cyibasiye inyoko muntu kuko iyo ngingo iteganya ko icyitso gihanwa hakurikijwe ibihano itegeko riteganyiriza gatozi.

[285] Urukiko rurasanga nk'uko biteganywa n'ingingo ya 61 isobanura impurirane y'ibyaha icyo aricyo n'iya 62 iteganya ibihano mu gihe habaye impurirane y'ibyaha z'Itegeko no 68/2018 ryo ku wa 30/08/2018 rigena ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu, ibyaha bihama Dr. Rutunga Venant bigize impurirane mbonezamugambi kandi byombi bikaba bihanishwa igihano cy'igifungo cya burundu; bityo hakurikijwe ibiteganywa n'izo ngingo Dr. Rutunga Venant yahanishwa igihano kimwe cy'igifungo cya burundu kubera ko ibyo byaha binganya uburemere.

[286] Rurasanga ariko ingingo ya 60 y'Itegeko no 68/2018 ryo ku wa 30/08/2018 rigena ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu iteganya ko iyo hari impamvu nyoroshyacyaha igifungo cya burundu gishobora kugabanywa ariko ntikijye munsi y'igifungo cy'imyaka cumi n'itanu (15). Imanza zitandukanye zaciwe n'Urukiko rw'Ubujurire[85] zirimo urubanza nº RPAA 00119/2023/CA[86] nazo zagaragaje ko umurongo uriho udashobora gukurikizwa mu gihe itegeko wari ushingiyeho ryavuyeho cyangwa ryahinduwe; bityo umurongo wari usanzweho wavugaga ko iyo hari impamvu nyoroshyacyaha umucamanza ashobora gutanga igihano kiri munsi y'igihano gito giteganyirijwe icyaha ukaba muri uru rubanza atariwo ugomba gukurikizwa ahubwo hagomba gukurizwa umurongo mushya ushingiye kuri iri tegeko ryahinduye iryakurikizwaga hafatwa umurongo wari usanzweho.

[287] Harebwe rero ko mu miburanire y'urubanza mu mizi Dr. Rutunga Venant atagoye urukiko kandi akaba aribwo bwa mbere ahamwe n'icyaha ari impamvu nyoroshyacyaha yashingirwaho agabanyirizwa igihano; bityo aho guhanishwa igifungo cya burundu akaba agomba guhanishwa igifungo cy'imyaka makumyabiri (20).

III. ICYEMEZO CY'URUKIKO

[288] Rwemeje ko Dr. Rutunga Venant ahamwa no kuba icyitso mu cyaha cya Jenoside n'icyitso mu kurimbura nk'icyaha cyibasiye inyokomuntu.

[289] Ruhanishije Dr. Rutunga Venant igifungo cy'imyaka makumyabiri (20).

[290] Rutegetse ko asonerwa amagarama y'urubanza kubera ko aburana afunze.

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[85] Urubanza nº RPAA 00026/2023/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 28/02/2024, haburana Ubushinjacyaha na Gatorakura Théoneste, urubanza Nº RPAA 00048/2020/CA rwaciwe ku wa 26/05/2022 haburana Ubushinjacyaha na Bimenyimana Jean Paul.

[86] Urubanza Nº RPAA 00119/2023/CA rwaciwe n'urukiko rw'Ubujurire ku wa 29/04/2024 haburana Ubushinjcyaha na Nteziryayo Déogratias.