

RWANDA / JUDGMENT

CSC and EC Proprietary vs Net Environment Consult

RCOMA 00009/2022/CA

COURT

Court of Appeal

DECIDED

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CSC and EC Proprietary vs Net Environment Consult

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Text

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CSC AND EC PROPRIETARY v. NET ENVIRONMENT CONSULT (NEC) LTD [Rwanda URUKIKO RW'UBUJURIRE – RCOMA 00009/2022/CA (Mukandamage, P.J.) 14 Ukuboza 2022] Amategeko agenga imiburanishirize y'imanza z'ubucuruzi – Gusubirishamo urubanza ingingo nshya – Irangizarubanza – Umuburanyi watanze ikirego cyo gusubirishamo urubanza ingingo nshya, ashobora gutanga ikirego asaba ko irangizarubanza rihagarara. Incamake y'ikibazo: Net Environment Consult (NEC) na CSC and EC Proprietary Ltd bagiranye amasezerano y'akazi bumvikana ko NEC Ltd igomba gutegura ibitabo, amasezerano, kumvikana ku biciro n'ibindi byose byari bikenewe kugirango CSC and Proprietary Ltd ipiganirwe kandi itsindire isoko. CSC and EC Proprietary Ltd ntiyubahirije inshingano zayo mu kwishyura NEC ku kazi yayikoreye, bituma NEC Ltd itanga ikirego mu Rukiko rw'Ubucuruzi iyirega kutayishyura umwenda ungana na 796.012.073 Frw n'inyungu zayo. Urukiko rw'ubucuruzi mu icibwa ry'urubanza rwemeje ko CSC and EC Proprietary Ltd igomba kwishyura Net Environment Consult Ltd umwenda ungana na 787.162.082 Frw, n'inyungu zingana na 50 259.759 Frw. CSC and EC Proprietary Ltd nyuma yo

kutishimira imikirize y'urubanza yarujuririye mu Rukiko Rukuru rw'Ubucuruzi, mu icibwa ry'urubanza rwemeza ko ubujurire bwayo nta shingiro bufite ndetse rwemeza ko nta gihindutse ku rubanza rwaciwe n'Urukiko rw'Ubucuruzi. CSC and EC Proprietary Ltd yajuririye icyo cyemezo mu Rukiko rw'Ubujurire narwo rwemeza ko Ubujurire bwayo butakiriwe kuko butari mu bubasha bw'Urukiko rw'Ubujurire. CSC and EC Proprietary Ltd yatanze ikirego mu Rukiko Rukuru rw'Ubucuruzi isubirishamo ingingo nshya urubanza RCOMA 00799/2022/HCC hanyuma itanga ikirego cyihutirwa isaba ko irangizwa ry'urwo rubanza rusabirwa gusubirishwamo ingingo nshya rihagarara mu gihe rutaracibwa burundu. Urukiko Rukuru rw'Ubucuruzi mu guca urubanza rwemeje ko irangizwa ry'urubanza ridaharitswe. CSC and EC Proprietary Ltd nyuma yo kutishimira icyo cyemezo yakijuririye mu Rukiko rw'ubujurire ivuga ko Urukiko Rukuru rw'Ubucuruzi rwavuze ko nta bimenyetso yatanze by'uko Net Environment and Consult Ltd nta mutungo ifite wazavamo ubwishyu mu gihe urubanza rwasabiwe gusubirwamo rwahinduka kandi ibyo bimenyetso byaragombaga gutangwa na Net Environment and Consult Ltd, ivuga kandi ko urukiko rutahaye agaciro ibyo yasobanuye byatumye ruvuga ko hatagaragajwe ko hari ibigomba kuramirwa mu buryo bwihuse. Net Environment and EC proprietary Ltd ku bijyanye n'inzitizi yatanze yuko ikirego cyatanzwe na CSC and Proprietary Ltd kitakwagirwa ivuga ko urubanza rw'iremezo, ari narwo rushamikiyeho ikirego cyihutirwa gisaba ihagarara ry'irangizarubanza ikavugako kubera ko ikirego cy'iremezo kidashobora kujuririrwa, bisobanuye ko n'ikigishamikiyeho kidashobora gukoresha icyo nzira.

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CS and EC Proprietary Ltd kuri icyo nzitizi yiregura ivugako idakwiye guhabwa ishingiro kubera ko ibiregerwa mu manza zombi bitandukanye kimwe ari ugusubirishamo urubanza ingingo nshya ikindi ari uguhagarika irangizarubanza; bityo icyemezo yajuririwe akaba ari atari ugusubirishamo urubanza ingingo nshya. Incamake y'icyemezo: Umuburanyi watanze ikirego cyo gusubirishamo urubanza ingingo nshya, ashobora gutanga ikirego asaba ko irangizarubanza rihagarara. Ubujurire nta shingiro bufite. Amagarama y'urubanza ahwanye n'ibyakozwe mu rubanza. Amategeko yifashishijwe: Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 173. Imanza zifashishijwe: Nta manza zifashishijwe Urubanza I. IMITERERE Y'URUBANZA [1] Net Environment Consult (NEC) Ltd yareze CSC and EC Proprietary na Joint venture CSC and EC Proprietary and Fair Construction Ltd mu Rukiko rw'Ubucuruzi iregera umwenda ungana na 796.012.073 Frw n'inyungu zayo, ukomoka ku kazi yakoze itishyuriwe gashingiye ku masezerano yabaye ku itariki 01/05/2018 hagati ya CSC and EC Proprietary na Net Environment Consult Ltd, aho bumvikanye ko Net Environment Consult Ltd yagombaga gutegura ibitabo, amasezerano, kumvikana ku biciro n'ibindi byose byari bikenewe kugirango CSC and EC Proprietary ipiganirwe kandi itsindire isoko ryiswe Multinational road project Rwanda - Urundi, lot n° 7: Additional works under Rubavu - Gisiza road project, Tender n° 006/W/2017-2018- ICB/SPIU/RTDA-AFDB ryatanzwe na RTDA - AFDB, gutanga ubujyanama mu bijyanye no gupiganirwa isoko, no kuba hafi yayo kugeza ikiciro cyo gusesengura inyandiko z'abapiganiwe isoko kirangiye. [2] Mu rubanza RCOM 00918/2020/TC rwaciwe ku wa 10/11/2020 n'Urukiko rw'Ubucuruzi, rwemeje ko CSC and EC

Proprietary igomba kwishyura Net Environment Consult Ltd umwenda ungana na 787.162.082 Frw, inyungu zingana na 50.259.759 Frw, 100.000 Frw y'ikurikiranarubanza, 700.000 Frw y'igihembo cya Avoka na 20 000 Frw y'igarama yatanze irega. [3] CSC and EC Proprietary yajuririye urwo rubanza mu Rukiko Rukuru rw'Ubucuruzi, ruca urubanza RCOMA 00799/2021/HCC ku wa 16/12/2021, rwemeza ko ubujurire bwa CSC and EC Proprietary nta shingiro bufite, ko nta gihindutse ku mikirize y'urubanza rwajuririwe, ko CSC and EC proprietary igomba guha Net Environment Consult Ltd, ku rwego rw'ubujurire, 500.000 Frw y'igihembo cy'Avoka na 100.000 Frw y'ikurikiranarubanza.

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- [4] CSC and EC Proprietary yajuririye na none mu Rukiko rw'Ubujurire, mu rubanza RCOMAA 00019/2022/CA rwaciwe ku wa 17/06/2022, rwemeza ko ubujurire bwayo butakiriwe kuko butari mu bubasha bwarwo, rutegeka CSC and EC Proprietary kwishyura Net Environment Consult Ltd 500.000 Frw y'igihembo cya Avoka na 200.000 Frw y'ikurikiranarubanza. [5] CSC and EC Proprietary yatanze ikirego mu Rukiko Rukuru rw'Ubucuruzi isubirishamo ingingo nshya urubanza RCOMA 00799/2022/HCC, hanyuma itanga ikirego cyihutirwa isaba ko irangizwa ry'urwo rubanza ryaba rihagaritswe mu gihe urubanza rusaba gusubirishamo ingingo nshya rutaracibwa burundu. Muri uru rubanza hagobotsemo Gategeko Aimable, Umuhesha w'inkiko w'umwuga wahawe akazi ko kurangiza imanza zavuzwe haruguru, ariko Urukiko Rukuru rw'Ubucuruzi ntirwakira ukugobokwa kwe, kuko rwasanze nta nyungu arufitemo. [6] Mu rubanza RCOM 00040/2022/HCC rwaciwe ku wa 12/10/2022, Urukiko Rukuru rw'Ubucuruzi rwemeje ko rudahagaritse irangizwa ry'imanza zavuzwe haruguru, ruvuga ko amagarama yatanzwe na CSC and EC Proprietary ahwanye n'ibyakozwe mu rubanza. [7] CSC and EC Proprietary yajuririye Urukiko rw'Ubujurire, uyihagarariye avuga ko Urukiko Rukuru rw'Ubucuruzi rwavuze ko nta bimenyetso yatanze by'uko Net Environment Consult Ltd nta mutungo ifite wazavamo ubwishyu mu gihe urubanza rwasabiwe gusubirwamo rwahinduka, kandi ibyo bimenyetso byaragombaga gutangwa na Net Environment Consult Ltd, ko rutarahaye agaciro ibyo yasobanuye byatumye ruvuga ko hatagaragajwe ko hari ibigomba kuramirwa mu buryo bwihuse, ko rutanasanubaniye impamvu 10.000.000 Frw yishyurwe na CSC and EC Proprietary. [8] Urubanza rwaburanishijwe mu ruhamye ku wa 08/12/2022, CSC and EC Proprietary ihagarariye na Me Rutabingwa Athanase, naho Net Environment Consult Ltd ihagarariye na Me Mukaruzagiriza Chantal afatanyije na Me Rusengo Tharcisse, iburanisha rirangiye bamenyeshwa ko urubanza ruzasomwa ku wa 14/12/2022, akaba ari wo munsu rusomwe. II. IBIBAZO BIGIZE URUBANZA N'ISESENGURA RYABYO
- a. Kumenya niba ubujurire bwatanzwe na CSC and EC Proprietary butagomba kwakirwa [9] Abahagarariye Net Environment Consult Ltd bavuga ko urubanza RCOM 00040/2022/HCC rujuririrwa rwari rushingiye ku rubanza rw'iremezo rufite RS/REV/RCOM 00010/2022/HCC rusubirishamo ingingo nshya urubanza RCOMA 00799/2020/HCC rwaciwe n'Urukiko Rukuru rw'Ubucuruzi ku wa 16/12/2021, urwo rubanza rukaba rwarakorewe inama ntegururubanza ku wa 18/10/2022, rukazaburanishwa mu mizi ku wa 23/03/2023. [10] Bakomeza bavuga ko

urubanza rw'iremezo, ari narwo rushamikiyeho ikirego cyihutirwa RCOM 00040/2022/HCC kijuririrwa, ari ikirego cyo mu bujurire budasanzwe, bityo bikaba bidakwiye gufatwa nk'aho rwari buburanishijwe ku rwego rwa mbere, ahubwo bihuye n'ibiteganywa mu ngingo ya 172 CPCCSA ivuga ko: Ikirego cy'iremezo cyo gusaba ko urubanza rwaciwe burundu rusubirishwamo ingingo nshya kijyanwa mu rukiko rwaciye urwo

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rubanza mu mizi ariko rugizwe n'undi cyangwa abandi bacamanza bataruburanishije, bikaba rero byumvikanisha ko icyo kirego kihutirwa cyajuririwe mu Rukiko rw'Ubujurire, nacyo cyagombye gufatwa nk'ikirego cyo mu bujurire budasanzwe hashingiwe ku rubanza rw'iremezo RS/REV/RCOM 00010/2022/HCC gishamikiyeho, hanyuma byahuzwa n'ingingo ya 176 CPCCSA ivuga ko: Urubanza ruciwe ku kirego cyo gusubirishamo urubanza ingingo nshya, ntirwemera inzira z'ubujurire izo ari zo zose uretse gutambamira urubanza cyangwa kurusubirishamo ku mpamvu z'akarengane, bagasanga ubujurire bwa CSC and EC Proprietary budakwiye kwakirwa, kubera ko ikirego cy'iremezo kidashobora kujuririrwa, bisobanuye ko n'igishamikiyeho kidashobora gukoresha iyo nzira. [11] Me Rutabingwa Athanase, uhagarariye CSC and EC Proprietary, avuga ko yatanze ikirego gisubirishamo urubanza ingingo nshya, itanga n'ikirego cyihutirwa mu Rukiko Rukuru rw'Ubucuruzi, ntiyishimira urubanza rwaciwe kuri icyo kirego cyihutirwa, akaba asanga inzitizi yo kutakira ubujurire yatanzwe na Net Environment Consult Ltd nta shingiro ifite, kubera impamvu zikurikira :

- Ikirego cyihutirwa RCOM 00040/2022/HCC cyatanzwe mu Rukiko Rukuru rw'Ubucuruzi cyajuririwe gitandukanye n'urubanza RS/REV/RCOM 00010/2022/HCC, kuko ibiregerwa cyangwa ibuburanwa muri izo manza zombi bitandukanye (gusubirishamo urubanza ingingo nshya no guhagarikisha irangizarubanza).
- Ingingo ya 172 CPCCSA Net Environment Consult Ltd ishingiraho inzitizi yatanze, irebana n'ububasha bw'urukiko mu gusubirishamo urubanza ingingo nshya, bityo ibivugwa muri iyi ngingo bikaba ntaho bihurira n'uru rubanza, kuko ruterekeranye no gusubirishamo urubanza ingingo nshya.
- Ingingo ya 176 CPCCSA nayo ivuga ko icyemezo cyafashwe ku rubanza rusubirishwamo ingingo nshya kitajurirwa, akaba asanga nayo ntaho ihurira n'uru rubanza, kuko icyemezo cyajuririwe na CSC and EC Proprietary kiterekeye gusubirishamo urubanza ingingo nshya. [12] Akomeza avuga ko ingingo ya 52 y'Itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko iteganya ko "Urukiko rw'Ubujurire rufite ububasha bwo kuburanisha mu rwego rw'ubujurire bwa mbere, imanza zaciwe mu rwego rwa mbere n'Urukiko Rukuru, Urukiko Rukuru rw'Ubucuruzi n'Urukiko Rukuru rwa Gisirikare", bityo uru rubanza rwaburanishijwe bwa mbere n'Urukiko Rukuru rw'Ubucuruzi, ko rero ari uburenganzira bwa CSC and EC Proprietary kujurira urubanza RCOM 00040/2022/HCC, hashingiwe ku biteganywa n'ingingo yavuzwe haruguru, cyane cyane ko Net Environment Consult Ltd itagaragaza ingingo ibibuza, mu gihe icyemezo cyafashwe kiterekeye gusubirishamo urubanza ingingo nshya nk'uko biteganywa mu ngingo ya 176 ya CPCCSA. UKO URUKIKO

RUBIBONA [13] Ingingo ya 173 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu nk'uko ryahinduwe kugeza ubu iteganya ibikurikira : Gusubirishamo urubanza ntibubuza ko rurangizwa, keretse iyo iryo rangizwa ryahagaritswe n'urukiko rwaregewe gusubirishamo urubanza ingingo nshya.

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Iyi ngingo yumvikanisha ko umuburanyi watanze ikirego cyo gusubirishamo urubanza ingingo nshya, ashobora no gutanga ikirego asaba ko irangizarubanza rihagarara, kubera ko gusubirishamo urubanza ritabuza ko rurangizwa. [14] Nk'uko bigaragara muri dosiye y'uru rubanza, mu Rukiko Rukuru rw'Ubucuruzi, CSC and EC Proprietary yatanze ikirego cyo gusubirishamo urubanza RCOMA 00799/2022/HCC rwaciwe n'urwo Rukiko, itanga n'ikindi kirego muri urwo Rukiko cyahawe RCOM 00040/2022/HCC, uru rubanza akaba ari rwo rwajurirwe. [15] Urukiko rurasanga ibyo ababuranira Net Environment Consult Ltd bavugako ikirego cyo guhagarikisha irangizarubanza cyagombye kuba kitajuririrwa kubera ko n'ikirego cy'iremezo cyo gusubirishamo urubanza ingingo nshya gishingiyeho kitajuririrwa nta shingiro bifite, kubera ko muri kamere y'ibyo birego byombi biratandukanye, kuko kimwe ari icyo gusubirishamo urubanza ingingo nshya, ikindi kikaba kigamije guhagarikisha irangizwa ry'urubanza rwasubirishijwemo ingingo nshya. Ntabwo rero Net Environment Consult Ltd igaragaza ingingo y'itegeko ishingiraho ibuza ko ikirego cyatangiriye mu Rukiko Rukuru rw'Ubucuruzi kijuririrwa mu Rukiko rw'Ubujurire. [16] Urukiko rurasanga rero inzitizi yo kutakira ubujurire bwa CSC and EC Proprietary nta shingiro ifite.

- b. Kumenya niba Urukiko Rukuru rw'Ubucuruzi rutarashoboye kumva ubwihutirwe CSC AND EC Proprietary yagaragaje bwo guhagarika irangizwa ry'urubanza rwasubirishijwemo ingingo nshya [17] Uhagarariye CSC and EC Proprietary avugako, mu gika cya 16 cy'urubanza rujurirwa, urukiko rwavuze ko CSC and EC Proprietary itigeze igaragaza ibimenyetso by'uko Net Environment Consult Ltd itabona ubwishyu mu gihe yaba itsinze urubanza RS/REV/RCOM 00010/2022/HCC ngo kuko nta mutungo ifite, ko ibyo bimenyetso bivugwa bitagakwiye gusabwa CSC and EC Proprietary, ahubwo byari bikwiye kugaragazwa n'uregwa ko afite umutungo uhagije cyangwa se ubushobozi ku buryo yazasubiza amafaranga yishyuzwa aramutse atsinzwe, maze icyemezo cyafashwe kigahinduka. [18] Ashingira ku biteganywa n'ingingo ya 3 y'Itegeko N°15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko : Umucamanza ashobora nyamara gutegeka umuburanyi wese gutanga gihamba y'ibimenyetso afite., ko rero umucamanza yari akwiriye gutegeka ko Net Environment Consult Ltd igaragaza umutungo ifite ku buryo mu gihe yaba yishyurwe 839.541.841 Frw hanyuma igatsindwa urubanza rw'iremezo, yabasha kwishyura CSC and EC Proprietary. [19] Uhagarariye CSC and EC Proprietary avugako na none ko yagaragarije urukiko ko yategetswe n'urukiko kwishyura Net Environment Consult Ltd 5% y'isoko ryose, nyamara bigaragara ko yari ifite uruhare rungana na 60% y'amasezerano y'ubufatane yagiranye na Fair Construction kuko urundi ruhare rwa 40% rwari rufitwe na Fair Construction, ndetse Urukiko rukaba rwagaragaje ko nta masezerano

yagiranye na Net Environment Consult. Akomeza avuga ko urwo rubanza rwatangiye kurangizwa rufite aho rugeze, aho umuhesha w'inkiko yafatiriye umutungo wa Joint Venture CSC and EC Proprietary & Fair Construction, bikaba

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bigaragara ko hari ubwihutire, kuko urwo rubanza ruramutse rurangijwe Net Environment Consult Ltd ikishyurwa amafaranga CSC and EC Proprietary nta buryo yazabona bwo kuyagaruza mu gihe Urukiko rwakwemeza ko ikirego cyayo cyo gusubirishamo ingingo nshya gifite ishingiro, bityo bikaba byaba ari ubutabera iryo rangizarubanza rihagaritswe kugeza igihe urubanza ku kirego cyo gusubirishamo ingingo nshya kirangiye burundu. [20] Avuga kandi ko Urukiko rwavuze ko nta mpungenge CSC and EC Proprietary ifite mu irangiza ry'imanza zavuzwe haruguru, kuko yemeye kurangiza urubanza ku bushake maze rushingira kuri email yandikiwe Net Environment Consult, CSC and EC Proprietary yemera igice cy'umwenda, bityo ko kuba yakwishyura make ku yo yemera bidakwiye gufatwa nk'aho yemera kwishyura amafaranga yose yategetswe n'urukiko mu manza yasubirishijemo. [21] Abahagarariye Net Environment Consult Ltd bavuga ko nta kosa ryakozwe ku rwego rwa mbere, kubera ko mu rubanza rujuririrwa, kuva ku gika cya 13 kugeza ku gika cya 18, Urukiko rwabisobanuye mu magambo arambuye kandi yumvikana, ko n'ujurira atagaragaza icyo anenga mu buryo butomoye, uretse gushaka guhunga inshingano ahabwa n'itegeko yo gutanga ibimenyetso by'ibyo aregera. Bakomeza bavuga ko niba CSC and EC Proprietary yari yahisemo kuburanisha imvugo zitagira ikimenyetso gishyigikira ibyo ivuga, itari ikwiye gusaba uwo irega gutanga ibimenyetso bigaragaza ishingiro ry'ibyo isaba, kuko byaba bibaye gucurika amategeko. [22] Bavuga na none ko kuba Urukiko Rukuru rw'Ubucuruzi rutarashingiye ku ngingo ya 3 y'Itegeko N° 15/2004 ryo ku wa 19/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ari uko mu gihe CSC and EC Proprietary yavugaga ko nta mutungo Net Environment Consult Ltd igira, ariyo yagombaga kugaragaza ikimenyetso gihamya koko ko nta mutungo ifite, noneho nayo ikiregura kuri icyo kimenyetso igaragaza urutonde rw'imitungo ifite, kuko umuburanyi atatanga ikirego, ngo noneho ahatire Urukiko gutegeka uregwa gutanga ibimenyetso bigirira akamaro umurega. [23] Ku byerekeye umwenda waregwe, abahagarariye Net Environment Consult Ltd bavuga ko ubujurire bwa CSC and EC Proprietary nta shingiro bufite, kuko igamije guca ku ruhande ibyemezo by'inkiko byamaze kuba ndakuka, ko ibisobanuro itanga n'ubundi byaburanishijwe mu manza zisabirwa guhagarikwa irangizwa ryazo, cyane cyane ko amasezerano ikirego ku manza zirangizwa cyari gishingiyeho ari amasezerano CSC and EC Proprietary yakoranye na Net Environment Consult Ltd ku wa 01/05/2018, kandi muri ayo masezerano impande zombi zari zumvikanye ko igihembo ari 5% by'agaciro k'isoko ryose, ko rero CSC and EC Proprietary idakwiye kugaruka ngo ivuge ko igomba kwishyura 5% ya 60%, kuko byaba ari ukuvugisha amasezerano icyo atavugaga, ndetse ari n'uburyo bwo gushaka ko inkiko zivuguruzwa cyangwa zikisubiraho ku byemezo zafashe kuri iki kibazo. [24] Bavuga kandi ko 10.000.000 Frw yishyurwe na CSC and EC Proprietary ku wa 03/10/2022 nta kindi gisobanuro afite kitari ukwishyura ibyo yategetswe n'inkiko mu manza zavuzwe haruguru, ko nta n'ikindi yari agamije, kuko kuri uwo munsu CSC and EC Proprietary yandikiye Net Environment Consult Ltd email ivuga ko andi mafaranga yose asigaye izayishyura mu minsi 14 nk'uko bigaragazwa na

bordereau na email. Basanga rero byari kuba ari ikosa iyo Urukiko rwumva ubwishyu bwa 10.000.000 Frw mu buryo butandukanye n'icyari kigamijwe cyo kwishyura ibyategetswe n'Urukiko.

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UKO URUKIKO RUBIBONA [25] Ingingo ya 173 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 yavuzwe haruguru isobanura neza ko gusubirishamo urubanza ingingo nshya bitabuza ko rurangizwa, keretse irangizwa ryarwo rihagaritswe n'urukiko rwaregewe gusubirishamo urubanza ingingo nshya, bikaba rero byumvikana ko kugirango urukiko rubikore ari uko usaba ko irangizarubanza rihagarara agomba kugaragaza impamvu yumvikana yatuma rihagarikwa. [26] Mu rubanza rwajuririwe, Urukiko Rukuru rw'Ubucuruzi rwasuzumye ikibazo cyo kumenya niba irangizwa ryatangiyeye ku manza RCOM 00918/2020/TC, RCOMA 00799/2020/HCC na RCOMAA 00019/2022/CA ryahagarara mu gihe urubanza rusubirishamo urubanza RCOMA 00799/2020/HCC ingingo nshya rutaracibwa, rusanga ibyo CSC and EC Proprietary ivuga ko irangizarubanza rikomeje Net Environment Consult Ltd itazabona ubwishyu mu gihe urubanza yasabye ko rusubirwamo rwaba ruhindutse ngo kuko nta mutungo ifite mu Rwanda, kandi ikaba ari sosiyete igizwe n'umuntu umwe udatuye mu Rwanda, nta kimenyetso yarushyikirije kibigaragaza, ko rero itagaragaje impungenge zituma isaba urukiko guhagarika irangizarubanza, bivuze ko itagaragaje ko hari ibigomba kuramirwa mu buryo bwihuse. [27] Urukiko Rukuru rw'Ubucuruzi rwasanze kandi n'uburyo ibintu bihagaze mu irangiza ry'imanza, bigaragara ko impungenge CSC and EC Proprietary ivuga ntazihari, kuko yemereye umuhesha w'inkiko kurangiza urubanza ku bushake yishyura 10.000.000 Frw, ikamubwira ko asigaye izayishyura mu minsi 14 uhereye ku wa 03/10/2022, ko rero kuba isaba guhagarika irangizarubanza ari ukwivuguruza, bituma rutakwizera ibyo ivuga. [28] Urukiko rurasanga impamvu nyamukuru CSC and EC Proprietary ishingiraho isaba guhagarika irangizwa ry'urubanza RCOMA 00799/2020/HCC yasabye ko rusubirishwamo ingingo nshya mu Rukiko Rukuru rw'Ubucuruzi ari uko urwo rubanza iramutse irutsinze, Net Environment Consult Ltd itazabasha kuyisubiza amafaranga yatsindiye muri urwo rubanza yaba yamaze kubona. [29] Urukiko rurasanga, koko hari ubwihutire bwo guhagarikisha urubanza, kuko bigaragara ko rwatangiyeye kurangizwa n'Umuhesha w'inkiko Gategeko Aimable, ariko ibyo CSC and EC Proprietary ivuga ko Net Environment Consult Ltd itazabasha kuyisubiza amafaranga yishyurwe mu gihe yaramuka itsinze urubanza yasubirishijemo ingingo nshya, niyo igomba kubigaragariza ibimenyetso nk'uko urukiko Rukuru rw'Ubucuruzi rwabisobanuye, kubera ko ihame ari uko gusubirishamo urubanza bidahagarika irangizwa ryarwo, bikaba rero byumvikana ko Net Environment Consult Ltd yatsinze urubanza nta kindi igomba gusabwa kugira ngo ibone ibyo yatsindiye. [30] Ku byerekeye 10.000.000 Frw CSC and EC Proprietary yishyuye, Urukiko rurasanga itabasha kugaragaza indi mpamvu yaba yaratumye iyishyura itari ijyanye no kurangiza urubanza bafitanye, bityo nk'uko byasobanuwe mu rubanza rwajuririwe, kuba yaratangiyeye kurangiza urubanza bikaba bigaragaza ko nta mpungenge ifite ko rwarangizwa. [31] Urukiko rurasanga rero ku rwego rwa mbere no ku rwego rw'ubujurire, CSC and EC Proprietary nta mpamvu igaragara yatanze yatuma ibyo isaba ko irangizarubanza ryaba rihagaze

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mu gihe urubanza yasubirishijemo ingingo nshya rutaracibwa, bityo ubujurire bwayo nta shingiro bufite. III. ICYEMEZO CY'URUKIKO [32] Rwemeje ko ubujurire bwatanzwe na CSC and EC Proprietary nta shingiro bufite ; [33] Rwemeje ko nta gihindutse ku rubanza rwajuririwe RCOM 00040/2022/HCC rwaciwe n'Urukiko Rukuru rw'Ubucuruzi ku wa 12/10/2022 ; [34] Rutegetse ko irangizwa ry'imanza RCOM 00918/2020/TC, RCOMA 00799/2020/HCC na RCOMAA 00019/2022/CA ridahagaritswe ; [35] Ruvuze ko amafaranga y'amagarama y'urubanza yatanzwe na CSC and EC Proprietary ahwanye n'ibyakoze mu rubanza.

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