

RWANDA / JUDGMENT

EDCL v. CP NIYONSABA N'UNDI

RADAA00004/2025/CA

COURT

Court of Appeal

DECIDED

15 December 2025

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EDCL v. CP NIYONSABA N'UNDI

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Text

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EDCL v. CP NIYONSABA N'UNDI [Rwanda URUKIKO RW'UBUJURIRE – RADAA00004/2025/CA (Ngagi, J. P.) 15 Ukuboza 2025] Amategeko agenga imanza z'ubutegetsi – Ubujurire – Impamvu z'ubujurire – Inshingano z'ujurira – Ujurira agomba kugaragaza ikosa ryakozwe mu rubanza rujuririrwa, akagaragaza amategeko ashingiraho n'ibimenyetso bihamya ko ibyo avuga ari ukuri. Incamake y'ikibazo: CP Niyonsaba na Mbanda bareze EDCL mu Rukiko Rwisumbuye rwa Nyarugenge, barusaba kuyitegeka ikabaha ingurane ikwiye ku mutungo wabo bimuwemo ku mpamvu z'inyungu rusange, kuko iyo bagenewe itabanyuze, no guhabwa indishyi zijyanye n'ibyakozwe mu rubanza. Bareze basaba ko bahabwa ingurane ikwiye ingana na 358.225.346Frw hashingiwe ku igenagaciro rivuguruwe uwo mutungo wakorewe, ufite ubuso bungana na 18,717sqm. EDCL yireguye ivuga ko icyo kirego nta shingiro gikwiye guhabwa, kuko bahawe ingurane ikwiye ingana na 213.313.475Frw, ku buso bushya bungana na 8904sqm, 5% y'ihungabana ndetse n'agaciro k'ibihingwa byangijwe, ku mushinga wa Leta wo kubaka ibigega i Rusororo. Urukiko Rwisumbuye rwaciye urubanza rwemeza ko ikirego cya CP Niyonsaba na Mbanda nta shingiro gifite, ko ingurane ikwiye baregera guhabwa ingana na 358.225.346Frw nta shingiro ryayo, ko ahubwo ayo bahawe angana na 213.313.475Frw ari yo akwiriye. Mbere y'uko

hatangwa ubujurire, impande zombi zari zarasabye Urugaga rw'abagenagaciro gushyiraho abagenagaciro batatu (3) bo kubakiranura bakagaragaza agaciro k'umutungo wabo bahabwa nk'ingurane ikwiye, abo bagenagaciro bakoze igenagaciro rihura n'iryo umugenagaciro wa CP Niyonsaba na Mbanda n'ubundi yari yagaragaje. CP Niyonsaba na Mbanda bajuririye mu Rukiko Rukuru basaba ko hashyirwaho abagenagaciro batatu bagena igiciro gikwiye cy'indishyi ku buso bungana na 8.904 sqm kikazashingirwaho hemezwa ko ibyo basabaga bifite ishingi, banenze urubanza rujuririrwa ko urukiko rwasobanuye uko ibintu bitari, rushingira ku biciro fatizo byataye agaciro mu kugena ingurane ikwiye. EDCL yireguye ivuga ko izo mpamvu z'ubujurire nta shingiro zifite kuko hakozwe amagenagaciro, akaba atari ngombwa gushyiraho abagenagaciro, ndetse urukiko rukaba nta kosa rwakoze mu kugena ingurane ikwiye, kuko rwashingiye ku biciro fatizo byatangajwe mu Igazeti ya Leta byashingiweho hakorwa igenagaciro ry'uwo mutungo wabo. Urukiko Rukuru rwasanze atari ngombwa gushyiraho abandi bagenagaciro batatu kuko impande zombi zari zarabisabye Urugaga birakorwa. Urukiko rwasanze mu gutanga ingurane ikwiye harashingiwe ku bipimo byo hagati na hagati (average), bikaba nta mpamvu ihari yatuma hatagenderwa ku biciro byo hejuru (maximum) byatangajwe mu Igazeti ya Leta mu mwaka wa 2021, cyane ko igenagaciro ryakozwe mu mwaka wa 2023, bikaba byumvikana ko ahubwo aka gaciro kitwaga "maximum" gashobora kuba ari ko kari kuba "average" iyo ibiciro biza kugenda bivugururwa nk'uko abatangaje ibyo biciro fatizo bari babyiyemeje. Bityo, rwemeza ko EDCL iha CP Niyonsaba na Mbanda 130.232.228Frw yiyongera kuri 213.313.475Frw bamaze guhabwa nk'ingurane ikwiye y'umutungo wabo, ikabaha n'indishyi zijyanye n'ibyakozwe mu rubanza. Icyo cyemezo EDCL yakijuririye muri uru Rukiko rw'Ubujurire ivuga ko Urukiko Rukuru rwakoze ikosa ryo kubarira indishyi ikwiye ku mafaranga 36.746 kuri metero kare, kandi ibiciro byari bikwiye kugenderwaho ari ibiciro mpuzandengo bya 21.460Frw kuri metero kare imwe byatangajwe mu Igazeti ya Leta yo ku wa 01/12/2021 igena ibiciro fatizo by'ubutaka. Ivuga kandi ko rwakoze ikosa ryo gushingira kuri raporo y'abagenagaciro batatu bashyizweho n'Urugaga rw'abagenagaciro bisabwe na CIP Niyonsaba na Mbanda, kuko iyo raporo itaburanweho ku rwego rwa mbere, ikaba itaragombaga gushingirwaho mu bujurire, ko kandi iyo raporo idakwiye gusimbura ibiciro bigaragara muri iyo gazeti ya Leta. Isoza isaba uru Rukiko rw'Ubujurire guhindura urubanza rujuririrwa, rukemeza ko ibiciro byari bikwiye kugenderwaho ari ibiciro mpuzandengo bya 21.460Frw kuri metero kare imwe.

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CP Niyonsaba na Mbanda basubije ubu bujurire bwa EDCL bavuga ko nta gaciro bufite, kuko nta kosa ryakozwe mu rubanza rujuririrwa ryo gushingira kuri raporo y'igenagaciro yakozwe n'abagenagaciro batatu bashyizweho n'Urugaga rw'abagenagaciro, kuko yakozwe mu buryo bukurikije amategeko. Bavuga kandi ko nta kosa ryakozwe, kuko muri 2023 nta biciro fatizo bigezweho byariho, hariho ibyo muri 2021 kandi ibiciro byaragombaga kugenda bihinduka nyuma y'amezi atandatu. Basoza basaba amafaranga y'ibyagiye ku rubanza. Incamake y'icyemezo: Ujurira agomba kugaragaza ikosa ryakozwe mu rubanza rujuririrwa, akagaragaza amategeko ashingiraho n'ibimenyetso bihamya ko ibyo avuga ari ukuri. Ubujurire nta shingiro bufite. Amagarama aherera ku isanduku ya Leta. Amategeko yashingiweho: Itegeko N° 062/2024

ryo ku wa 20/06/2024 rigenga ibimenyetso, ingingo ya 4. Itegeko N° 22/2018 ryo ku wa 29/04/2018, ryerekeye imiburanishirize y'ianza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 6, 111, 150 n'ya 152. Itegeko N° 32/2015 ryo ku wa 11/06/2015 ryerekeye kwimura abantu ku mpamvu z'inyungu rusange, ingingo ya 2 n'ya 34. Itegeko N°17/2010 ryo ku wa 12/05/2010 rishyiraho kandi rikagena imikorere y'umwuga w'igenagaciro ku mutungo utimukanwa mu Rwanda, ingingo ya 36. Imanza zifashishijwe: RCOMAA00053/2024/CA, Entreprise d'Adduction d'Eau et de Construction (EADECO) v. Akarere ka Gatsibo rwaciwe ku wa 28/03/2025. Urubanza I. IMITERERE Y'URUBANZA [1] CIP Niyonsaba Venuste na Mbanda Joselyne bavuga ko bari bafite umutungo utimukanwa, uherereye mu Mudugudu wa Cyanamo, Akagari ka Kabuga II, Umurenge wa Rusororo, Akarere ka Gasabo, mu kibanza gifite UPI: 1/02/14/04/164, kiri ku buso bungana na 18,717 sqm, hanyuma bakaza kwimurwa ku mpamvu z'inyungu rusange, uwo mutungo ugahabwa EDCL; ko hakozwe igenagaciro ku buso bungana na 8904 sqm, habariwe ku biciro fatizo byo hasi nk'uko byateganywaga n'Itegeko rigena ibiciro fatizo by'ubutaka, aho kubarira ku biciro byo hejuru, maze uwo mutungo uhabwa agaciro kangana na 213.313.475Frw, aho kuba 358.225.346Frw hashingiwe ku igenagaciro rivuguruwe uwo mutungo wakorewe. [2] Ibyo byatumye CIP Niyonsaba Venuste na Mbanda Joselyne barega EDCL mu Rukiko Rwisumbuye rwa Nyarugenge, barusaba kuyitegeka kubaha ingurane ikwiye y'umutungo wabo ubaruye kuri UPI: 1/02/14/04/164 bimuwemo ku mpamvu z'inyungu rusange, kuko iyo bagenewe itabanyuze, no kuyitegeka kubishyura amafaranga y'ikurikiranarubanza n'ay'igihembo cya Avoka. [3] EDCL yaburanye ivuga ko CIP Niyonsaba Venuste na Mbanda Joselyne bishyuwe 213.313.475Frw, ku buso bushya bungana na 8904 sqm, 5% y'ihungabana ndetse n'agaciro k'ibihingwa byangijwe, ko kandi ibyo byakozwe nyuma y'uko igenagaciro ku buso bwa 18.717sqm ryagaragaza ko bagombaga guhabwa 116.404.408Frw, ko ubuso bwari bukenewe bwagabanutseho hejuru ya 63%, ariko ko bishyuwe 213.313.475Frw. Ivuga kandi ko batanyuzwe n'ayo mafaranga bagasaba andi angana na

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5.647.866 Frw, na yo bakayahabwa, kuri uwo mushinga wa Leta wo kubaka ibigega i Rusororo, bakaba bamaze guhabwa 218.961.341Frw nk'ingurane ikwiye. Bityo ko ikirego cya CIP Niyonsaba Venuste na Mbanda Joselyne nta shingiro gikwiye guhabwa, ko ahubwo bakwiye gutegekwa kuyishyura amafaranga y'ikurikiranarubanza n'ay'igihembo cya Avoka kubera kuyishora mu rubanza nta mpamvu. [4] Mu rubanza RAD00031/2023/TGI/NYGE rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge ku wa 29/02/2024, urwo Rukiko rwemeje ko: - ikirego cya CIP Niyonsaba Vénuste na Mbanda Joselyne nta shingiro gifite; - ingurane CIP Niyonsaba Vénuste na Mbanda Joselyne baregera ingana 358.225.346Frw nta shingiro ryayo, ko ahubwo ayo bahawe angana na 213.313.475Frw ari yo akwiriye; - CIP Niyonsaba Vénuste na Mbanda Joselyne bafatanyaga mu buryo bungana kwishyura EDCL Energy Development Corporation Limited 800.000 Frw y'igihembo cya Avoka; - ingwate y'amagarama yatanze ihwanye n'ibyakozwe mu rubanza. [5] CIP Niyonsaba Vénuste na Mbanda Joselyne bajuririyeho Urukiko Rukuru, barusaba gusuzuma niba hashyirwaho abagenagaciro batatu (3) bagena igiciro gikwiye cy'indishyi ku buso bungana na 8.904 sqm ku butaka bubaruye kuri UPI: 1/02/14/04/164, kikazashingirwaho hemezwa ko ibyo

abarega basabaga bifite ishingiro, banenga kuba Urukiko Rwisumbuye rwa Nyarugenge rwarasobanuye ibintu uko bitari mu gusobanura indishyi zikwiye, hagenderwa ku biciro fatizo byataye agaciro ndetse bisobanurwa mu buryo budakurikije amategeko. Basabye kandi amafaranga y'ikurikiranarubanza n'igihembo cya Avoka. [6] Mbere yuko bajurira, CIP Niyonsaba Venuste na Mbanda Joselyne bari barasabye Urugaga rw'Abagenagaciro gushyiraho abagenagaciro batatu (3) bo kubakiranura na EDCL bakagaragaza agaciro k'umutungo wabo bahabwa nk'ingurane ikwiye, hanyuma Urugaga rubashyiraho bakora igenagaciro rihura n'iryo umugenagaciro wabo n'ubundi yari yagaragaje, bituma Urukiko rusanga bitakiri ngombwa gusuzuma niba hashyirwaho abagenagaciro, rusuzuma ahubwo ikibazo kijyanye no kumenya niba ibiciro byashingiweho mu kugena ingurane ikwiye ku butaka bwabo ari byo byari bikwiye. [7] Mu myanzuro yayo, EDCL yavuze ko atari ngombwa gushyiraho abagenagaciro kubera ko amagenagaciro yakozwe, kandi ko igenagaciro Urukiko Rwisumbuye rwa Nyarugenge rwashingiyeho ryubahirije ibiciro fatizo by'ubutaka, byatangajwe mu Igazeti ya Leta byariho igihe ryakorwaga. Bityo ko ubujurire bwa CIP Niyonsaba Venuste na Mbanda Joselyne nta shingiro bufite, kuko nta kosa rwakoze. [8] Urubanza rwaburanishijwe EDCL idahagarariwe, nyuma yo gupfundikira iburanisha, saa kumi n'ebiri n'iminota mirongo ine n'itandatu (18.46), uwari uyihagarariye yashyize muri systeme ikimenyetso kimuha ikiruhuko cy'uburwayi, asaba ko iburanisha ryapfundurwa. Urukiko rusanga nta mpamvu yatuma iburanisha risubukurwa kugira ngo hasuzumwe impamvu yatumye atitaba, kubera ko mu gihe urubanza rwaburanishwaga nta mpamvu yari yarugaragarije yatumye atitaba, ari na yo mpamvu rwaburanishijwe EDCL idahagarariwe. [9] Mu rubanza RADA00025/2024/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 14/03/2025, urwo Rukiko rwasanze nubwo Urukiko Rwisumbuye rwa Nyarugenge rwagendeye ku biciro byo hagati na hagati (average), nta impamvu ihari yatuma hatagenderwa ku biciro byo hejuru (maximum) byatangajwe mu Igazeti ya Leta mu mwaka wa 2021, cyane ko igenagaciro ryakozwe mu mwaka wa 2023, bikaba byumvikana ko ahubwo aka gaciro kitwaga "maximum" gashobora kuba ari ko kari kuba "average" iyo ibiciro biza kugenda bivugururwa nk'uko abatangaje ibyo biciro fatizo bari babyiyemeje, maze rwemeza ko:

- a. ubujurire bwa CIP Niyonsaba Venuste na Mbanda Joselyne bufite ishingiro;
- b. ubujurire bwuririye ku bundi bwa EDCL nta shingiro bufite;

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- c. imikirize y'urubanza rwajuririwe ihindutse kuri byose;
- d. EDCL iha CIP Niyonsaba Venuste na Mbanda Joselyne 130.232.228Frw, yiyongera kuri 213.313.475Frw bamaze guhabwa nk'ingurane ikwiye y'umutungo wabo, ikabaha na 1.500.000Frw y'ikurikiranarubanza n'igihembo cya Avoka yo kuri urwo rwego n'urwarubanjirije, ikabasubiza 60.000Frw) batanzeho ingwate y'amagarama kuri urwo rwego n'urwarubanjirije;
- e. 800.000Frw bari bategetswe guha EDCL nk'igihembo cya Avoka ntayo bagomba kuyiha;

- f. amafaranga yatanzweho ingwate y'amagarama ahwanye n'ibyakozwe mu rubanza. [10] Energy Development Corporation Ltd (EDCL) yajuririye uru Rukiko, ubujurire bwayo bwandikwa kuri RADAA00004/2025/CA. Urubanza rwaburanishijwe mu ruhame ku wa 03/12/2025, Energy Development Corporation Ltd (EDCL) ihagarariwe na Me Nyangezi Bonane, naho CIP Niyonsaba Venuste na Mbanda Joselyne bahagarariwe na Me Ndayisabye Alexis. [11] Mu myanzuro no mu miburanire yayo, EDCL ivuga ko Urukiko Rukuru rwakoze ikosa ryo kubarira indishyi ikwiye ku mafaranga 36.746 kuri metero kare, kandi ibiciro byari bikwiye kugenderwaho ari ibicuro mpuzandengo bya 21.460 Frw kuri metero kare imwe (1m2) nk'uko bigaragara mu Igazeti ya Leta yo ku wa 01/12/2021 igena ibiciro fatizo by'ubutaka, ko kandi rwakoze ikosa gushingira kuri raporo y'abagenagaciro batatu bashyizweho n'Urugaga rw'abagenagaciro bisabwe na CIP Niyonsaba Venuste na Mbanda Joselyne, kuko iyo raporo itaburanweho ku rwego rwa mbere, ikaba itaragombaga gushingirwaho mu bujurire, ko kandi iyo raporo idakwiye gusimbura ibiciro bigaragara mu Igazeti ya Leta yo ku wa 01/12/2021. Bityo ko Urukiko rw'Ubujurire rukwiye guhindura urubanza rujuririrwa, rukemeza ko ibiciro byari bikwiye kugenderwaho ari ibicuro mpuzandengo bya 21.460Frw kuri metero kare imwe (1m2), ko indishyi ikwiye CIP Niyonsaba Venuste na Mbanda Joselyne bagomba guhabwa ari 213.313.475Frw nk'uko yagenwe ku rwego rubanza; isoza isaba amafaranga y'ibyagiye ku rubanza. [12] CIP Niyonsaba Venuste na Mbanda Joselyne biregura bavuga ko ubujurire bwa EDCL nta shingiro bufite, ko mu gika cya 12 cy'urubanza rujuririrwa Urukiko Rukuru rwasobanuye impamvu rwashingiye kuri raporo y'igenagaciro yakozwe n'abagenagaciro batatu bashyizweho n'Urugaga rw'abagenagaciro, ko rero kuba rwarashingiye kuri iryo genagaciro nta kosa rwakoze kandi bikurikije amategeko, cyane ko muri 2023 nta biciro fatizo bigezweho byariho, kuko hariho ibyo muri 2021 kandi ibiciro byaragombaga kugenda bihinduka nyuma y'amezi atandatu. Basoza basaba amafaranga y'ibyagiye ku rubanza. [13] Hashingiwe ku mpaka zagaragajwe haruguru, Urukiko ruzasuzuma ibibazo bikurikira:
- 1) kumenya niba Urukiko Rukuru rwarakoze ikosa gushingira ku giciro cya 36.746 Frw kuri metero kare aho gushingira ku giciro mpuzandengo cya 21.460 Frw kuri metero kare;
 - 2) kumenya niba amafaranga y'ikurikiranarubanza n'igihembo cya Avoka asabwa muri uru rubanza afite ishingiro. II. IBIBAZO BIGIZE URUBANZA N'ISESENGURA RYABYO
1. Kumenya niba Urukiko Rukuru rwarakoze ikosa ryo gushingira ku giciro cya 36.746Frw kuri metero kare aho gushingira ku giciro mpuzandengo cya 21.460Frw kuri metero kare [14] Uhagarariye EDCL avuga Urukiko Rukuru rwagombaga gushingira ku giciro mpuzandengo cya 21.460 Frw kuri metero kare, aho gushingira ku giciro cyo hejuru cya 36.746Frw kuri metero kare. Asobanura ko mu rubanza RADA00025/2024/HC/KIG rujuririrwa nta mpamvu Urukiko Rukuru rwari kuvuga ko ubwo butaka bwari kubarirwa ku giciro cyo hejuru, mu gihe rwabonaga ko mu mwaka wa 2023 ubwo iryo genagaciro ryakorwaga, umurongo wariho wari uw'uko hakwiye kwita ku giciro fatizo cyiza kurusha ibindi, ari cyo kiri ahanditse "Weighted Average Value", kuko cyo kigaragaza ikigereranyo

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cy'igicro fatizo cy'amapariseri yose ari muri icyo cyicro, ko kandi ibyo rwavuze ko byumvikana ko ako gaciro kitwaga "maximum" gashobora kuba ari ko kari kuba "average" iyo ibicro biza kugenda bivugururwa nk'uko abatangaje ibyo bicro fatizo bari babyiyemeje, asanga rwarabyibajije ariko ntirugaragaze aho rubishingira, kuko nta bindi bicro byatangajwe bisimbura ibyariho, ko rutagombaga gusimbura urwego rushyiraho ibicro fatizo by'ubutaka, ngo rwemeze ko ibicro byari hejuru (maximum) mu gihe igenagaciro ryakorwaga ari byo byari kuba ibyo hagati (average) iyo ibicro fatizo bivugururwa. [15] Asobanura kandi ko Igazeti ya Leta yo ku wa 01/12/2021 igena ibicro fatizo by'ubutaka iteganya ko ibicro fatizo byo hasi cyangwa hejuru, atari byo bikwiye kwibandwaho, ko ahubwo ku rundi ruhande, igicro fatizo cyiza kurusha ibindi ari ikiri ahanditse "Weighted Average Value", kuko cyo cyerekana ikigereranyo cy'igicro fatizo cy'amapariseri yose ari muri icyo cyicro, ko rero ibyo EDCL yabyubahirije, ibarira CIP Niyonsaba Venuste na Mbanda Joselyne agaciro k'umutungo wabo, kandi ko yitaye ku byatuma imari ya Leta idasesagurwa. [16] Asobanura kandi ko niba Urugaga rw'abagenagaciro ari rwo rushinzwe gushyiraho ibicro fatizo by'ubutaka, rukaba rutarasimbura ibyariho mu mwaka wa 2021, ari rwo rwasobanura impamvu ibyo bicro bidasimburwa, rukagaragaza impamvu atari ngombwa ko bisimburwa, ko rero Urukiko mu guhitamo ko hakoreshwa ibicro bitemejwe n'Urugaga, asanga ari nko gutegeka ko ingurane y'ubwo butaka itangwa mu buryo bw'ubwumvikane cyangwa se guciririkanwa (speculation), ibyo bikaba atari byo, kuko EDCL nka sosiyete ya Leta itagomba kugendera kuri speculation igihe hari umurongo w'ubutaka fatizo wemewe igihugu kigenderaho. Bityo ko ntacyari kumenyesha Urukiko ko iyo ibicro fatizo bivugururwa byari kujya hejuru, kuko byashobokaga no kugabanuka bitewe n'ibihe bigezweho, ko rero uburyo bwashingiweho mu kubara ingurane nta gaciro bufite. [17] Avuga kandi ko raporo y'abagenagaciro batatu bashyizweho n'Urugaga rw'abagenagaciro bisabwe na CIP Niyonsaba Venuste na Mbanda Joselyne itagombaga gushingirwaho kuko itaburanweho ku rwego rwa mbere kandi ntaho iteganywa n'ingingo ya 34 y'Itegeko ryerekeye kwimura abantu ku mpamvu z'inyungu rusange. Asobanura ko raporo y'igenagaciro yakozwe n'abagenagaciro batatu (3) 11/06/2024 bashyizweho n'Urugaga rw'abagenagaciro Urukiko rwagendeyeho igaragaza ko ibicro by'ubutaka "average" bwo mu Mudugudu wa Cyunamo, ari 36.746Frw, EDCL itayigizemo uruhare kandi Niyonsaba Venuste yari yasabye ko mubagenagaciro hashyirwamo n'uwa EDCL, ko itigeze ishyikirizwa EDCL ngo igire icyo iyivugaho, ahubwo ishyikirizwa Urukiko Rukuru ku wa 30/08/2024, bityo ko idakwiye gufatwa nk'ikiranura ababuranyi nk'uko Urukiko rwabyemeje. Byongeye kandi ko n'ibyo bicro igaragaza bitafatwa nk'aho ari byo byo hagati, kuko bitandukanye n'ibicro byo hagati byari mu Igazeti ya Leta yo ku wa 01/12/2021, byakurikizwaga igihe igenagaciro ku mutungo uburanwa ryakorwaga. Bityo ko abo bagenagaciro batatu (3) badakwiye kuba basimbura Urugaga rw'abagenagaciro nk'urwego rwemerewe gushyiraho ibicro fatizo by'ubutaka, ngo bibe byafatwa ko ari byo bikwiye kuba bigenderwaho nk'ibicro byo hagati. [18] Asobanura kandi ko kuba raporo y'abagenagaciro batatu (3) itaraburwanweho ku rwego rwa mbere, bivuze ko ari ikirego gishya cyatanze ku rwego rw'ubujurire, ko rero ashingiye ku murongo watanze n'Urukiko rw'Ikirenga mu rubanza RS/INJUST/RCOM00001/2023/SC, aho mu gika cyarwo cya 22 rwasanze ibitaburanyweho mu rubanza rusabirwa gusubirishwamo ku mpamvu z'akarengane, ni ukuvuga

ko ibitaragaragarijwe Urukiko ku rwego rubanza nta muburanyi ukwiye kubigaragaza ku rwego rw'ubujurire nk'inenge ngo asabe ko cyasuzumwa, no ku biteganywa n'ingingo ya 6 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018, ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi ivuga ko ikiburanwa kidashobora guhindurwa mu rukiko rwajuririwe, asanga Urukiko Rukuru rutaragombaga guhindura icyaburanyweho ku rwego rubanza kirebana na raporo y'igenagaciro Urukiko Rwisumbuye rwa Nyarugenge rwashingiyeho, kuko iyo ruyisuzuma rwari kubona itandukanye n'iyakozwe n'abagenagaciro batatu (3).

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[19] Asoza avuga ko kuri uru rwego Urukiko rw'Ubugurire rukwiye kuzabona ko ibiciro byari bikwiye kugenderwaho ari ibicuro mpuzandengo bya 21.460Frw kuri metero kare imwe (1m2), bityo ko indishyi ikwiye CIP Niyonsaba Venuste na Mbanda Joselyne bagomba guhabwa ari 213.313.475Frw nk'uko yagenwe ku rwego rubanza. [20] Uhagarariye CIP Niyonsaba Venuste na Mbanda Joselyne avuga ko ubujurire bwa EDCL nta shingiro bufite, kuko mu gika cya 12 cy'urubanza rujuririrwa, Urukiko Rukuru rwabisobanuye neza, aho rwavuze ko n'ubwo Urukiko Rwisumbuye rwa Nyarugenge rwagendeye ku biciro byo hagati na hagati (average), ko nta mpamvu ihari yatuma hatagenderwa ku biciro byo hejuru (maximum) byatangajwe mu Igazeti ya Leta mu mwaka wa 2021, kuko ibiciro byatangajwe mu Igazeti ya Leta yo ku wa 01/12/2021, ari byo byagombaga kugenda bivugururwa ariko ko bitakozwe, ko rero nta mpamvu ubutaka bwa CIP Niyonsaba Venuste na Mbanda Joselyne butabarirwa ku gaciro k'ubutaka kari hejuru (maximum) mu mwaka wa 2021, mu gihe igenagaciro ryakozwe mu mwaka wa 2023, bikaba byumvikana ko ahubwo ako gaciro kitwaga "maximum" gashobora kuba ari ko kari kuba "average" iyo ibiciro biza kugenda bivugururwa nk'uko abatangaje ibyo biciro fatizo bari babyiyemeje. [21] Avuga kandi ko nk'uko CIP Niyonsaba Venuste na Mbanda Joselyne babivuze, bandikiye Urugaga rw'abagenagaciro barusaba gushyiraho abagenagaciro ngo bakore igenagaciro ryabakiranura na EDCL, bakaza kujurira rutarabashyiraho, nyuma y'aho rukabashyiraho, bagakora na raporo igaragaza ko ibiciro by'ubutaka "average" buherereye mu Mudugudu wa Cyunamo ari 36.746Frw kuri metero kare, ari na cyo giciro ubutaka bwabo bwari bwabariweho mu igenagaciro mvuguruza, ko rero nta kosa Urukiko Rukuru rwakoze gushingira kuri icyo giciro. [22] Akomeza avuga ko ibyo EDCL ivuga ko igiciro fatizo cyiza kurusha ibindi ari ikiri ahanditse "Weighted Average Value" ngo kuko cyo cyerekana ikigereranyo cy'igiciro fatizo cy'amapariseri yose ari muri icyo cyiciro, asanga iyo mvugo yayo nta kuri ifite, kuko nta tegeko bagaragaza ribyemeza rityo, uretse kubivuga gusa uko babyumva, kuko Itegeko ryumvikanisha ko harebwa igiciro gikwiye kiri ku isoko nk'uko biteganywa n'ingingo ya 2, agace ka 3, y'Itegeko N° 32/2015 ryo ku wa 11/06/2015 ryerekeye kwimura abantu ku mpamvu z'inyungu rusange, ko indishyi ikwiye bisobanura indishyi y'agaciro k'ubutaka n'ibyakoreweho ihabwa uwimurwa, kandi ibarwa hashingiwe ku biciro biri ku isoko n'indishyi y'ihungabana ritewe no kwimurwa. [23] Asobanura ko ibyo EDCL ivuga ko inenga ibisobanuro Urukiko Rukuru rwatanze mu gika cya 12, nta shingiro bifite, kuko kugira ngo Urukiko rwemeze ko agaciro k'umutungo wa CIP Niyonsaba Venuste

n'umugore we Mbanda Joselyne kazamutse, ndetse ko n'agaciro kiswe average kazamutse ku buryo icyo yita maximum igihe iyimurwa ryakorwaga ari cyo cyari kuba average, ko mu gika cya 12 cy'urubanza rujurirwa Urukiko rwasobanuye ko Urugaga rw'abagenagaciro rwagennye abagenagaciro batatu, bakora raporo igaragaza ibiciro by'ubutaka "average" bwo mu Mudugudu wa Cyunamo ari 36.746 Frw kuri metero kare imwe (1m²), ko ari na cyo giciro ubutaka bwa CIP Niyonsaba Venuste na Mbanda Joselyne bwari bwabariweho mu igenagaciro mvuguruza, ko rero ibiciro byo mu Igazete ya Leta bya 2021 bitagombaga kugenderwaho, kuko ibyo biciro byagombaga kugenda bivugururwa ariko ko bitakozwe nk'uko bikubiye muri iyo Gazeti, aho isobanura neza ko ibyo biciro fatizo bifite agaciro mu mezi atandatu (6 months), abarwa kuva igihe byatangarijwe mu Igazeti ya Leta. Bityo ko ibi byumvikanisha ko Urukiko Rukuru rutari kwemeza ko hakomeza kugenderwa ku biciro bitakigezweho. [24] Asobanura kandi ko ibiciro fatizo byashyizweho n'Urugaga rw'abagenagaciro bidasimbura umurimo w'abagenagaciro bemewe, ko ibyo byanashimangiwe n'ibyo Urugaga rw'abagenagaciro basobanuye ko abagenagaciro bagena agaciro ka buri mutungo ukwawo, bakoresheje uburyo bukwiye, ndetse ko ibiciro fatizo by'ubutaka ari igikoresho giha umugenagaciro ikigereranyo cy'ibiciro biri ku isoko mu igihe runaka, ahantu runaka, akaba asanga ibyo abagenagaciro bigenga bagennye bifite ishingiro, kuko nubwo nta biciro bishya byatangajwe, ntaho ayo mabwiriza yigeze ateganya ko nyuma y'amezi atandatu (6) ibiciro bidahinduwe, hakomeza gukurikizwa ibisanzwe, ko ahubwo yateganyije ko

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bidasimbura imikorere yihariye yemerera abagenagaciro kugena ibiciro bikwiye, kandi ko ari ko byagenze muri iyi dosiye, kuko abagenagaciro bakemuye impaka nk'uko bashyizweho n'Urwego rw'Abagenagaciro bemeza ko igiciro gikwiye kiri mu rugero (average) kitari maximum mu Mudugudu wa Cyunamo ari amafaranga 36.746 kuri metero kare imwe (1m²). [25] Akomeza asobanura ko ibiciro EDCL yita Weighted Average Value byo mu mwaka wa 2023, ari na cyo gihe kwimurwa byakorewe, kugeza ubu nta bihari, ahubwo "Weighted Average Value" avuga ari iyo mu mwaka wa 2021, ikaba itagenderwaho kuko bitaba ari ibiciro bikwiye kuko atari ibyo mu mwaka wa 2023, kuko ibiciro bigenda bihinduka, ko rero ibiciro EDCL yashyingiyeho mu kugena ingurane ari ibiciro byataye agaciro byashyizweho mu mwaka wa 2021, mu igihe iyimurwa ryakorwaga mu mwaka wa 2023 akaba nta biciro fatizo bigezweho byariho, ari na yo mpamvu byasabye ko hashyirwaho abagenagaciro badafite aho babogamiye, kugira ngo batange ibiciro bikwiye mu kugena ingurane ishingiyeye ku kwimura ku bw'inyungu rusange. [26] Asobanura kandi ko ibyo EDCL ivuga ko Urukiko rutari gusimbura urwego rushyiraho ibiciro fatizo by'ubutaka ngo rube rwakwemeza ko ibiciro byari hejuru (maximum) mu gihe igenagaciro ryakorwaga, ari byo byari kuba ibyo hagati (average) iyo ibiciro fatizo bivugururwa, asanga nta shingiro bifite, kuko Urukiko rutasimbura urwego rushyiraho ibiciro fatizo, kuko ibyo rwashyingiyeho ari ibyemejwe n'abagenagaciro bigenga bashyizweho n'Urwego rw'abagenagaciro, nk'uko biteganywa n'ingingo ya 36 y'Itegeko N°17/2010 ryo ku wa 12/05/2010 rishyiraho kandi rikagena imikorere y'umwuga w'igenagaciro ku mutungo utimukanwa mu Rwanda, iteganya ko

mu gihe habaye kutemeranya ku igenagaciro ry'umutungo utimukanwa, ukeka ko yarenganye ashyikiriza ikirego cye Urwego rw'abagenagaciro, rugashyiraho abandi bagenagaciro bemewe bagakoresha uburyo bushya bw'igenagaciro. Bityo ko ibyo Urukiko Rukuru rwemeje bifite ishingiro kandi bikurikije amategeko, cyane ko EDCL nta kimenyetso itanga kivuguruzwa ibyashyingiweho bimaze kuvugwa haruguru. [27] Asobanura na none ko ibyo EDCL ivuga ko Urugaga rw'abagengaciro ari rwo rwari gutanga ibisobanuro ku mpamvu rutavuguruye ibiciro, no kuba ngo Urukiko rwarashingiye kuri speculation, asanga ibi ntacyo byayifasha kubera ko Urukiko rwigenga rutagendera ku magambo y'ababuranyi, ahubwo rugendera ku mategeko. Bityo asaza asaba Urukiko rw'Ubujurire kwemeza ko ubujurire bwatanzwe na EDCL nta shingiro bufite, rushingiye ku bisobanuro n'ibimenyetso CIP Niyonsaba Vénuste na Mbanda Joselyne batanze birimo igenagaciro ryakozwe n'abahanga bashyizweho n'Urugaga rw'Abagenagaciro, ari na ryo Urukiko Rukuru rwashingiyeho mu gufata icyemezo. UKO URUKIKO RUBIBONA [28] Impaka kuri iki kibazo zishingiye ku kumenya niba mu rwego rwo kugena ingurane ikwiye ku mutungo wa CIP Niyonsaba Venuste na Mbanda Joselyne Urukiko Rukuru rutaragombaga gushingirwa ku giciro cyo hejuru cya 36.746Frw kuri metero kare kigaragara mu nyandiko igena ibiciro yasohotse mu Igazeti ya Leta yo mu mwaka wa 2021 cyashingiweho cyagenwe n'abagenagaciro, ko ahubwo rwagombaga gushingira ku giciro mpuzandengo cya 21.460Frw kuri metero kare kigaragara muri icyo Gazeti ya Leta yo mu mwaka wa 2021. [29] Ingingo ya 150, agace ka 5 n'aka 6, y'Itegeko N° 22/2018 ryo ku wa 29/04/2018, ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ibikurikira: ubujurire bukorwa mu buryo bw'umwanzuro utanga ikirego, ugaragaza 5° urutonde rw'inenge z'urubanza zisabirwa gukosorwa n'ibindi bibazo bigomba gusuzumwa; 6° ibisobanuro kuri buri nenge cyangwa kuri buri kibazo bigaragaza amakosa yakozwe n'uburyo agomba gukosorwa hashingiwe ku mategeko n'ibimenyetso n'igisabwa urukiko.

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[30] Ingingo ya 4 y'Itegeko N° 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso iteganya ko urega cyangwa utanze ikibazo agaragaza ikimenyetso cy'ibyo aregera cyangwa asaba. Uwiregura agaragaza ikimenyetso gishyigikira ukwiregura kwe. Icyakora, umucamanza cyangwa ukemura ikibazo ashobora gutegeka umuburanyi cyangwa umwe mu bafitanye ikibazo cyangwa undi muntu gutanga cyangwa kwerekana ikimenyetso afite. [31] Nk'uko byagiye bisobanurwa n'uru Rukiko mu manza zitandukanye zirimo urubanza RCOMAA00053/2024/CA, ingingo zivuzwe haruguru zumvikanisha ko ujurira afite inshingano yo kugaragaza ko hari inenge ziri mu rubanza rujuririrwa n'ibimenyetso bishimangira ko ibyo Urukiko rwemeje atari byo. Mu yandi magambo, ujurira agomba kugaragaza ikosa ryakozwe mu rubanza rujuririrwa, akagaragaza amategeko ashingiraho n'ibimenyetso bihamya ko ibyo avuga ari ukuri. [32] Ku birebana n'uru rubanza, dosiye igaragaza ko mu rubanza RAD00031/2023/TGI/NYGE rwaciwe ku wa 29/02/2024, Urukiko Rwisumbuye rwa Nyarugenge rwemeje ko ikirego cya CIP Niyonsaba Venuste na Mbanda Joselyne gisaba ingurane ya 358.225.346Frw nta shingiro gifite, rubagenera ingurane ikwiye ya 213.313.475Frw hagendewe ku biciro byo hagati (Weighted Average Value) hashingiwe ku

nyandiko yateguwe n'Urugaga rw'Abagenagaciro ku Mutungo utimukanwa mu Rwanda (IRPV)2 yatangajwe mu Igazeti ya Leta yo ku wa 01/12/2021. [33] Dosiye igaragaza ko CIP Niyonsaba Venuste na Mbanda Joselyne batishimiye imikirize y'urubanza bajuririra Urukiko Rukuru banenga kuba Urukiko Rwisumbuye rwa Nyarugenge rwagendeye ku biciro fatizo byataye agaciro ndetse bisobanurwa mu buryo budakurikije amategeko. Basabye Urwego rw'abagenagaciro gushyiraho abagenagaciro bigenga batatu bo kugaragaza agaciro nyako umutungo uburanwa ufite. [34] Dosiye igaragaza ko mu rubanza RADA00025/2024/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 14/03/2025, urwo Rukiko rwasanze nubwo Urukiko Rwisumbuye rwa Nyarugenge rwagendeye ku giciro fatizo cyiza kurusha ibindi (Weighted Average Value)), nta impamvu ihari yatuma hatagenderwa ku biciro byo hejuru (maximum) byatangajwe mu Igazeti ya Leta mu mwaka wa 2021,cyane ko igenagaciro ryakozwe mu mwaka wa 2023, bikaba byumvikana ko ahubwo aka gaciro kitwaga "maximum" gashobora kuba ari ko kari kuba "average" iyo ibiciro biza kugenda bivugururwa nk'uko abatangaje ibyo biciro fatizo bari babyiyemeje. [35] Dosiye igaragaramo igenagaciro ryakozwe na EDCL mu kwezi kwa Mata 2023, rigaragaza ko umutungo wa CIP Niyonsaba Vénuste na Mbanda Joselyne wari ufite agaciro ka 213.313.475Frw hagendewe ku biciro byo hagati (Weighted Average Value) hashingiwe ku nyandiko yateguwe n'Urugaga rw'Abagenagaciro ku Mutungo Utimukanwa mu Rwanda (IRPV) yo mu mwaka wa 2021. Igaragaramo kandi igenagaciro mvuguruza ryatanze na CIP Niyonsaba Venuste na Mbanda Joselyne ryo ku wa 08/04/2023 rigaragaza ko umutungo wabo ufite agaciro ka 339.262.234Frw, hiyongeraho 5% y'ihungabana akaba 356.225.346Frw. [36] Dosiye igaragaramo na none raporo yo ku wa 11/06/2024 y'igenagaciro ryakozwe n'abagenagaciro batatu (3) bashyizweho n'Urwego Rushinzwe Gutunganya Imikorere y'Abagenagaciro ku Mitungo Itimukanwa mu Rwanda, igaragaza ko umutungo wa CIP Niyonsaba Venuste na Mbanda Joselyne ufite agaciro ka 327.186.384Frw, hiyongeraho 5% y'ihungabana akaba 343.545.703Frw. Kubera ibiciro ku isoko bigenda bizamuka n'ifaranga rikagenda rita agaciro, iyo raporo ivuga ko igiciro cyo hejuru

1 Reba urubanza RCOMAA00053/2024/CA rwaciwe ku wa 28/03/2025, haburana Entreprise d'Adduction d'Eau et de Construction (EADECO) n'Akarere ka Gatsibo. 2 Urukiko rwise iyi nyandiko itegeko ariko ntabwo ari itegeko ahubwo n'inyandiko (document) yagombaga kwifashishwa n'abagenagaciro igaragaza Ibiciro fatizo by'ubutaka ikaba ari igikoresho giha umugenagaciro ikigereranyo cy'ibiciro biri ku isoko mu igihe runaka, n'ahantu runaka.

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(maximum) cyo mu nyandiko igaragaza ibiciro fatizo yo muri 2021 ari cyo cyafatwa nk'igiciro fatizo (average) mu mwaka wa 2024, ugereranyije n'agaciro k'ibindi bibanza byagurishijwe byegeranye nacyo. [37] Inyandiko yateguwe n'Urugaga rw'Abagenagaciro ku Mutungo utimukanwa mu Rwanda yatangajwe mu Igazeti ya Leta yo ku wa 01/12/2021, iteganya ko ibiciro fatizo by'ubutaka ari igikoresho giha umugenagaciro ikigereranyo cy'ibiciro biri ku isoko mu igihe runaka, ahantu runaka (reba urupauro rwa g). Ikomeza ivuga kandi ko kubera ihinduka ry'agaciro k'ifaranga, ibi biciro by'ubutaka byateguriwe gukoreshwa mu gihe gifite aho gitangiriye

kikagira aho kirangiriye (reba urupapuro rwa i). Inateganya ko ibiciro biri muri iyo nyandiko yo muri 2021 yavuzwe haruguru bifite agaciro mu mezi atandatu (6) kuva igihe byatangarijwe mu igazeti ya Leta ya Repubulika y'u Rwanda (reba urupapuro rwa f). Ibi byumvikanisha ko ibiciro bigaragara muri iyo nyandiko ari ikigereranyo cy'ibiciro biri ku isoko mu igihe runaka bifasha umugenagaciro mu kugena agaciro k'umutungo utimukanwa. Ikindi byumvikanisha ni uko ibyo biciro bishobora guhinduka bikajyana n'igihe hakurikijwe uko ifaranga rihagaze n'uko ibiciro bimeze ku isoko, ko kandi agaciro k'ibiciro byatangajwe ari ak'amezi atandatu uherye igihe byatangarijwe. [38] Nk'uko byasobanuwe haruguru, CIP Niyonsaba Vénuste na Mbanda Joselyne bimwe ku bw'inyungu rusange mu mwaka wa 2023, kandi inyandiko igaragaza ibiciro fatizo yatangajwe mu Igazeti ya Leta mu mwaka wa 2021, ivuga ko ibiciro bishobora guhinduka hakurikijwe ihinduka ry'agaciro k'ifaranga, kandi ko ibiciro by'ubutaka bivugwa muri iyo nyandiko byateguriwe gukoreshwa mu gihe cy'amezi atandatu (6 mois/6 months) uherye igihe yatangarijwe mu Gazeti ya Leta, Urukiko rukaba rusanga nta kosa Urukiko Rukuru rwakoze ryo kudashingira ku giciro mpuzandengo cya 21.460Frw kuri metero kare cyo mu mwaka 2021, kuko icyo giciro, usibye ko atari itegeko ko ari cyo gishyingirwaho byanze bikunze, nta nubwo cyari kikijyanye n'igihe ukurikije uko ubutaka bugenda bwongera agaciro. Byongeye kandi, hashingiwe kuri kamere y'iyi nyandiko, n'ibyo ubwayo iteganya, kuba Urukiko Rukuru rutarashingiye ku giciro fatizo cyiza kurusha ibindi (Weighted Average Value) cyo mu mwaka 2021, ahubwo rugashingira ku giciro cyo hejuru kigaragara muri iyo nyandiko, nta kosa rwakoze. [39] Urukiko rurasanga, kuba Urukiko Rukuru rwarashingiye ku giciro cya 36.746Frw kuri metero kare kigaragara mu igengaciro ryakozwe n'abagenagaciro batatu bashyizweho n'Urugaga rw'abagenagaciro, aho iryo genagaciro ryashingiye ku giciro cyo hejuru cyo mu mwaka wa 2021, abagenagaciro bakagaragaza ko ari cyo cyafatwa nk'igiciro mpuzandengo (average) ukurikije agaciro k'ibindi bibanza byagurishijwe byegeranye nacyo, nta kosa rwakoze, kuko ikigaragara rwagerageje kujyanisha ibiciro n'igihe, kuko gukomeza gushingira ku giciro mpuzandengo (average) cyo mu mwaka 2021 mu kubara ingurane igomba gutangwa mu mwaka wa 2023, kwaba ari ukwirengagiza ukuri ku ihindagurika ry'agaciro k'ifaranga n'ihindagurika ry'ibiciro ku isoko, ndetse n'uburyo umutungo utimukanwa ugenda uzamura agaciro mu Rwanda. [40] Urukiko rurasanga ibyo uhagarariye EDCL avuga ko nta mpamvu Urukiko Rukuru rwari kuvuga ko ubwo butaka bwari kubarirwa ku giciro cyo hejuru, mu gihe rwabonaga ko mu mwaka wa 2023 ubwo iryo genagaciro ryakorwaga, umurongo wariho wari uw'uko hakwiye kwitabwa ku giciro fatizo cyiza kurusha ibindi, ari cyo kiri ahanditse "Weighted Average Value", kuko cyo kigaragaza ikigereranyo cy'igiciro fatizo cy'amapariseri yose ari muri icyo cyiciro nta shingiro byahabwa, kuko bitumvikana uburyo mu mwaka wa 2023 hari gukomeza kwifashisha igiciro fatizo cyiza kurusha ibindi cyo mwaka wa 2021, kandi inyandiko ikubiyemo ibyo biciro iteganya ubwayo ko izajya ihinduka buri mezi atandatu, kuko ibiciro bigenda bihinduka, kandi ikaba itabuza ko hakorwa igenagaciro ryigenga rijyanye n'igihe. Kuba rero abagenagaciro batatu barasanze CIP Niyonsaba Venuste na Mbanda Joselyne bagomba kubarirwa ingurane ishingiyeye ku giciro cyo hejuru kigaragara muri iyo nyandiko yo muri 2021, kingana na 36.746Frw kuri metero kare, Urukiko rurasanga nta kosa Urukiko Rukuru rwakoze kuyishingiraho, kuko nta yindi nyandiko ivuguruye yari ihari rwirengangije.

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- [41] Urukiko rurasanga ibyo uhagarariye EDCL avuga ko Urukiko mu guhitamo ko hakoreshwa ibiciro bitemejwe n'Urugaga, asanga ari nko gutegeka ko ingurane y'ubwo butaka itangwa mu buryo bw'ubwumvikane cyangwa se guciririkanwa (speculation), nta shingiro bifite, kuko icyo Urukiko Rukuru rwakoze ni ukwemeza ko hashingirwa kw'igengaciro ryakozwe n'abagenagaciro batatu bashyizweho n'Urwego rw'abagenagaciro, aho bashingiye ku giciro cyo hejuru gitengwa mu mu nyandiko yo muri 2021, kuko rwasanze ari cyo cyakabaye igiciro mpuzandengo (average), iyo ibiciro bigenda bihinduka nyuma y'amezi atandatu. Urukiko rurasanga rero nta kosa Urukiko Rukuru rwakoze. [42] Ku byo uhagarariye EDCL avuga ko raporo y'abagenagaciro batatu (3) Urukiko Rukuru rwashingiyeho itaburanyweho ku rwego rubanza, bityo ko itaragombaga gushingirwaho, Urukiko rurasanga nta shingiro byababwa, kuko nk'uko biteganywa n'ingingo ya 154 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru, ntibibujijwe mu rwego rw'ubujurire gutanga ibisobanuro bishya cyangwa ibimenyetso bishya bigamije kumvikanisha kurushaho ibyari byaraburanishijwe mu rwego rwa mbere. Rurasanga urubanza RS/INJUST/RCOM00001/2023/SC, uhagarariye EDCL ashingiraho avuga ko igenagaciro ryatanzwe mu Rukiko Rukuru ritagombaga gushingirwaho, ntacyo rwamumarira muri uru rubanza, kuko imiterere y'ikibazo atari imwe, kuko mu rubanza atanga ikivugwa ni uko ntawavugaga ko Urukiko rwamurengeye ku kintu kitaburanyweho, naho muri urubanza ikibazo ni raporo y'igenagaciro yatanze bwa mbere mu bujuririre, kandi ntabwo bibujijwe gutanga ikimenyetso gishya mu bujurire. [43] Urukiko rurasanga ibyo uhagarariye EDCL avuga ko igenagaciro ryakozwe n'abagenagaciro bashyizweho n'Urugaga rw'abagenagaciro ntaho riteganywa mu ngingo ya 34 y'Itegeko ryerekeye kwimura abantu ku mpamvu z'inyungu rusange, nta shingiro bifite, kuko ingingo ya 36 y'Itegeko N°17/2010 ryo kuwa 12/05/2010 rishyiraho kandi rikagena imikorere y'umwuga w'igenagaciro ku mutungo utimukanwa mu Rwanda, iteganya ko mu gihe habaye kutemeranya ku igenagaciro ry'umutungo utimukanwa, ukeka ko yarenganye ashyikiriza ikirego cye Urwego, hanyuma Urwego rugashyiraho abandi bagenagaciro bemewe bagakoresha uburyo bushya bw'igenagaciro. [44] Hashingiwe ku bisobanuro bimaze gutangwa, Urukiko rurasanga nta kosa Urukiko Rukuru rwakoze, kuko nta tegeko rwirerengagije; bityo ibyo Urukiko Rukuru rwategetse ko EDCL igomba guha CIP Niyonsaba Venuste na Mbanda Joselyne 130.232.228Frw, yiyongera kuri 213.313.475Frw bamaze guhabwa nk'ingurane ikwiye y'umutungo wabo, bigumye.
2. Kumenya niba amafaranga y'ikurikiranarubanza n'igihembo cya Avoka asabwa muri uru rubanza afite ishingiro [45] Uhagarariye EDCL asaba Urukiko rw'Uburirire gutegeka CIP Niyonsaba Venuste na Mbanda Joselyne guha EDCL 1.000.000Frw y'ibyagiye ku rubanza yari yasabye mu rubanza rujurirwa hiyongeraho 1.000.000Frw yo kuri uru rwego. [46] Avuga kandi ko amafaranga y'ikurikiranarubanza n'igihembo cya Avoka CIP Niyonsaba Venuste na Mbanda Joselyne basaba EDCL ntayo bahabwa kubera ko mu kuyasaba birengagiza nkana ibiciro mpuzandengo byatanzweho umurongo mu igazeti ya Leta bagakomeza kuyishora mu manza kandi yarubahirije inshingano zayo zo kubishyura indishyi ikwiye nk'uko bari bayibariwe. [47] Uhagarariye CIP Niyonsaba Venuste na Mbanda Joselyne avuga ko

amafaranga EDCL isaba, nta shingiro afite, kuko kuba yaratsinzwe urubanza ntaho Urukiko rwari guhera ruyigenera amafaranga yasabye. Bityo ko igomba kwirengera amafaranga yatakaje muri uru rubanza, cyane ko kuri uru rwego ari yo yishoye mu rubanza. [48] Avuga kandi ko ashingiye ku ngingo ya 111 y'Itegeko N°22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru, no ku ngingo ya 26 y'Amabwiriza N° 01/2014 ashiraho ibihembo mbonera bya Abavoka Rwanda, asaba Urukiko rw'Ubujurire gutegeka EDCL kwishyura 800.000Frw y'ikurikiranarubanza na 1.000.000Frw y'igihembo cya Avoka.

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UKO URUKIKO RUBIBONA [49] Ku bijyanye n' amafaranga y'ibyagiye ku rubanza asabwa muri uru rubanza, ingingo ya 111 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu iteganya ibikurikira: ikirego cy'amafaranga y'ikurikiranarubanza ni ikirego gishamikirira ku kirego cy'iremezo kigamije kwishyura ibyakoreshejwe mu rubanza. Ikirego cy'amafaranga y'ikurikiranarubanza kiburanishirizwa rimwe n'ikirego cy'iremezo. Gishobora kandi kwakirwa kikanaburanishwa n'uyo ikirego cy'iremezo cyaba kitakiriwe. [50] Urukiko rurasanga amafaranga y'ibyagiye ku rubanza EDCL isaba ntayo ikwiye guhabwa kuko ubujurire bwayo nta shingiro bwahawe. Rurasanga ahubwo ayo CIP Niyonsaba Venuste na Mbanda Joselyne basaba bakwiye kuyahabwa kuko ubu bujurire bwatumye bashakira Avoka wo kubaburanira, banakurikirana urubanza, ariko ayo basaba ni menshi ugereranyije n'ibyakozwe mu rubanza, bityo mu bushishozi bw'Urukiko rubageneye ibihumbi magana atanu (500.000Frw) y'igihembo cya Avoka n'ibihumbi magana abiri (200.000Frw) y'ikurikiranarubanza, kuri uru rwego, yiyongera k'uyo bagenewe mu Rukiko Rukuru angana na miliyoni b'ibihumbi magana atanu na mirongo itandatu (1.560.000Frw), yose hamwe akaba miliyoni ebyeri n'ibihumbi magana abiri na mirongo itandatu (2.260.000Frw), agomba gutangwa na EDCL. III. ICYEMEZO CY'URUKIKO [51] Rwemeje ko ubujurire bwa Energy Development Corporation Limited (EDCL), nta shingiro bufite. [52] Rwemeje ko urubanza RADA00025/2024/HC/KIG rwaciye n'Urukiko Rukuru ku wa 14/03/2025, rudahindutse. [53] Rwemeje ko ibyategetswe mu rubanza rujuririrwa by'uko Energy Development Corporation Limited (EDCL) igomba guha CIP Niyonsaba Venuste na Mbanda Joselyne miliyoni ijana na mirongo itatu n'ibihumbi magana abiri mirongo itatu na bibiri na magana abiri na makumyabiri n'umunani (130.232.228Frw), yiyongera kuri 213.313.475Frw bamaze guhabwa nk'ingurane ikwiye y'umutungo wabo, bigumye. [54] Rutegetse Energy Development Corporation Limited (EDCL) kwishyura CIP Niyonsaba Venuste na Mbanda Joselyne ibihumbi magana atanu (500.000Frw) y'igihembo cya Avoka n'ibihumbi magana abiri (200.000Frw) y'ikurikiranarubanza, kuri uru rwego, yiyongera k'uyo bagenewe mu Rukiko Rukuru angana na miliyoni n'ibihumbi magana atanu na mirongo itandatu (1.560.000Frw), yose hamwe akaba miliyoni ebyeri n'ibihumbi magana abiri na mirongo itandatu (2.260.000Frw). [55] Ruvuze ko ingwate y'amagarama yatanze ihwanye n'ibyakozwe mu rubanza.

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