

RWANDA / JUDGMENT

ENTREPRISE D'ADDUCTION D'EAU ET DE CONSTRUCTION (EADECO) v. AKARERE KA GATSIBO

RCOMAA 00053/2024/CA

COURT

Court of Appeal

DECIDED

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ENTREPRISE D'ADDUCTION D'EAU ET DE CONSTRUCTION (EADECO) v. AKARERE KA GATSIBO

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Text

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ENTREPRISE D'ADDUCTION D'EAU ET DE CONSTRUCTION (EADECO) v. AKARERE KA GATSIBO [Rwanda URUKIKO RW'UBUJURIRE – RCOMAA 00053/2024/CA (Munyangeri, P.J., Kamere na Ngagi, J.) 28 Werurwe 2025] Amategeko agenga amasezerano – Kutubahiriza igihe cyo gukora ibiteganyijwe mu masezerano – Gusesa amasezerano – Uruhande rutubahirije igihe cyo gushyira mu bikorwa ibikubiye mu masezerano nta mpamvu yumvikana rufatwa nk'urwishe amasezerano, ku buryo urundi ruhande rushobora kuyasesa. Incamake y'ikibazo : Entreprise d'adduction d'eau et de construction (EADECO) yagiranye amasezerano n'Akarere ka Gatsibo yo gusana imiyoboro y'amazi ya Gahama-Ngarama na Karama-Ngarama ; nyuma ako karere gusesa amasezerano, bituma EADECO ikarega mu Rukiko rw'Ubucuruzi ivuga ko amasezerano yaseshwe nta mpamvu, isaba Urukiko gutegeka Akarere kuyishyura 183.908.368 Frw akomoka kuri iryo seswa ry'amasezerano nta mpamvu. Urwo Rukiko rwaciye urubanza rwemeza ko ikirego nta

shingiro gifite, ko Akarere ka Gatsibo kaseshe amasezerano kagiranye na EADECO ku mpamvu ziteganijwe n'ayo masezerano ndetse zinateganijwe n'amategeko. EADECO yajuririye mu Rukiko Rukuru rw'Ubucuruzi igaragaza impamvu zayo z'ubujurire zitandukanye; urwo Rukiko ruca urubanza rwemeza ko urubanza rwaciwe n'Urukiko rw'Ubucuruzi rudahindutse. EADECO yajuririye mu Rukiko rw'Ubujurire ivuga ko Urukiko Rukuru rw'Ubucuruzi rwakoze ikosa ryo kwemeza ko amasezerano yaseshwe mu buryo bukurikije amategeko, ko Akarere ka Gatsibo kakoze ikosa ryo gusesa amasezerano kandi ariko katinze kwemeza inyigo yatanze cyangwa gutanga andi mabwiriza y'ikigomba gukorwa (observations) nyuma yo kubona icyo nyigo, ko rero EADECO itari gutangira imirimo Akarere katemeje icyo nyigo cyangwa ngo gatange andi mabwiriza y'ikigomba gukorwa cyane ko ari nabyo impande zombi zari zarumvikanye mu masezerano no mu gitabo cy'ipiganwa (DAO). Ko rero Akarere ka Gatsibo ari ko katubahirije ibyo kasabwaga mu masezerano no mu gitabo cy'ipiganwa (DAO). Ku rundi ruhande Akarere ka Gatsibo kavuga ko ubujurire bwa EADECO nta shingiro bufite, ko amasezerano yaseshwe kubera ko EADECO yatinze kurangiza imirimo, kandi ko mu kuyasesa hashingiwe ku mategeko no ku byateganyijwe muri ayo masezerano. Kavuga kandi ko imirimo EADECO ivuga itaremejwe ari imirimo y'inyongera, ikaba itari no mu mirimo yashingiweho mu gusesa amasezerano. Incamake y'icyemezo: Iyo impande zagiranye amasezerano zahanye igihe ntarengwa ibisabwa gukorwa bikubiye muri ayo masezerano bigomba kuba byakozwe, kutubahiriza icyo gihe bifatwa nko kwica amasezerano. Uruhande rutubahirije igihe cyo gushyira mu bikorwa ibikubiye mu masezerano nta mpamvu yumvikana rufatwa nk'urwishe amasezerano, ku buryo urundi ruhande rushobora kuyasesa. Ubujurire nta shingiro bufite.

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Ingwate y'amagarama ihwanye n'ibyakozwe mu rubanza. Amategeko yashingiweho: Itegeko N°12/2007 ryo ku wa 27/03/2007 ryahinduwe n'Itegeko N°05/2013 ryo ku wa 13/02/2013 kandi rikaryuzuzwa rigenga Amasoko ya Leta, Ingingo ya 130. Itegeko N°45/2011 ryo ku wa 25/11/2011 rigenga amasezerano, Ingingo ya 70 n'ya 80. Nta manza zifashishijwe

Urubanza I. IMITERERE Y'URUBANZA [1] Ku wa 22/06/2010, EADECO yagiranye n'Akarere ka Gatsibo amasezerano yo gusana imiyoboro y'amazi ya Gahama-Ngarama na Karama-Ngarama, ayo masezerano akaba yari afite No 29/KONT/GAT/2010. Nyuma y'uko Akarere ka Gatsibo gasheshe ayo masezerano, EADECO yatanze ikirego mu Rukiko rw'Ubucuruzi ivuga ko kaseshe ayo masezerano nta mpamvu, isaba Urukiko kugategeka kuyishyura 183.908.368 Frw akomoka kuri iryo seswa ry'amasezerano nta mpamvu. [2] EADECO yasobanuye ko imirimo yari iteganyijwe kurangira mu mezi atandatu (6), ni ukuvuga ku wa 31/12/2010, ariko kubera ko ordre de service yatanze tariki 15/07/2010 ubwo itariki yo kurangiza imirimo yahindutse ku wa 15/01/2011. Yasobanuye kandi ko yahuye n'ibibazo byo mu rwego rwa tekini hashingiwe ko inyigo yari yahawe mu gitabo cyo gupiganirwa isoko (DAO) yari icyo muri 2003 hakaba hari byinshi byari bimaze guhinduka, bituma yandikira Akarere ka Gatsibo isaba kongerera igihe cy'amezi 3 ikagaragaza ko yazitiwe gukorera imirimo ku gihe n'uko nta mwanzuro wafashwe ku nyigo nshya yari yatanze; ko ku wa 21/01/2011, Umugenzuzi w'imirimo yayandikiye ayemerera igihe yasabye akanayihira ingengabihe yagenderwaho mu kurangiza imirimo. Yakomeje isobanura ko ikibazo

cyabaye ko nyuma y'iminsi ibiri gusa ihawe amabwiriza (ordre de service) yo gukora imwe mu mirimo ijyanye na ya nyigo nshya kandi bakanatanga n'ingengabihe yo kurangiza imirimo mu mpera z'ukwezi kwa 03/2011, Ubugenzuzi bw'imirimo bwandiiye Akarere buvuga ko EADECO yananiwe gukora imirimo kandi itarahwemye gusaba ko ihabwa amabwiriza yo gutuma ikora imirimo ishingiye ku nyigo nshyashya, ikaza guhabwa ayo mabwiriza kuri bimwe nabwo bitinze. [3] Akarere ka Gatsibo kabanje gutanga impamvu yo kutakira ikirego cya EADECO gasobanura ko uwareze muri uru rubanza ari Entreprise d'Adduction et de Construction itabaho mu rwego rw'amategeko ikaba nta bubasha ifite bwo kurega ; ko izina ry'wareze ntaho rigaragarizwa ikimenyetso cy'ububasha rifite. ENTREPRISE D'ADDUCTION D'EAU ET DE CONSTRUCTION (EADECO) yireguye ivuga ko iyo nzitizi yo kutakira ikirego yatanzwe n'Akarere ka Gatsibo nta shingiro ifite, kuko ijya gupiganira iri soko, yabikoze nka sosiyete yanditse mu bitabo by'Umwanditsi Mukuru ndetse ihabwa na Certificat d'enregistrement ; ko rero irega nka sosiyete yanditswe mu bitabo by'Umwanditsi Mukuru ibifitiye n'icyangombwa kiyiranga.

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[4] Mu rubanza rubanziriza urundi rwasomwe n'Urukiko rw'Ubucuruzi ku wa 11/03/2022, urwo Rukiko rwemeje ko iyo nzitizi yo kutakira ikirego nta shingiro ifite, kuko EADECO yagaragaje inyandiko zanditsweho ko ifite company code : 100136936 ; company registration date : 03-8-1993, ikaba yanditse mu gitabo cyandikwamo amasosiyete. Ko kuba mu gutanga ikirego, EADECO yaribagiwe kongera mu izina ryayo akajambo Ltd, urukiko rwasanze bitayambura kamere yayo yo kuba ari sosiyeti y'ubucuruzi. Rwanzura ko EADECO ifite ububasha bwo kurega. [5] Akarere ka Gatsibo kireguye mu rubanza mu mizi, kavuga ko gusesa amasezerano byaturutse ku makosa ya EADECO, ko amasezerano yagombaga gutangira ku wa 15/07/2010 akageza ku wa 15/01/2011, akaba yararangiye kuri iyo tariki. Gasobanura ko n'ubwo impande zombi zakomeje gukorana, zagiraga ngo zirebe ko byibura hari icyakorwa kugira ngo abaturage babone amazi, ariko bikaba ntacyo byatanze, kuko amezi atatu (3) nyuma y'igihe cyirangira ry'amasezerano yagaragaje ko imirimo yari iteganijwe mu masezerano yari ikigera ku rugero rwa 50% kandi no muri icyo gihe cyose EADECO ikaba yarahawe amabaruwa agera muri atatu (3) yo kuyiburira ko nikomeza kudindiza imirimo, amasezerano azaseswa, ko indishyi zisabwa na EADECO nta shingiro zifite nk'uko bigaragazwa n'impamvu zateye iseswa ry'amasezerano ziri mu ibaruwa yo ku wa 07/03/2011, kuko EADECO ari yo nyirabayazana wo gusesa amasezerano, ko rero kashingiye ku mpamvu zemewe n'amasezerano n'amategeko. [6] Mu rubanza RCOM 01670/2021/TC rwaciye ku wa 19/04/2022, Urukiko rw'Ubucuruzi rwemeje ko impamvu yo kutakira ikirego cya EADECO yatanzwe n'Akarere ka Gatsibo nta shingiro ifite, ko ikirego cyayo cyakiriwe, ariko nta shingiro gifite. Rwemeje ko Akarere ka Gatsibo kaseshe amasezerano No 29/KONT/GAT/2010 yo ku wa 22/6/2010 kagiranye na EADECO ku mpamvu ziteganijwe n'ayo masezerano ndetse zinateganijwe n'amategeko. Rutegeka EADECO guha n'Akarere ka Gatsibo amafaranga miliyoni imwe (1.000.000 Frw) y'igihembo cya Avoka. [7] EADECO yajuririye Urukiko Rukuru rw'Ubucuruzi isaba urwo Rukiko gusuzuma niba Urukiko rw'Ubucuruzi rwari rufite ububasha mu gihe impande zombi zari zarumvikanye mu

masezerano ko ikibazo kizavuka kizashyikirizwa Ubukemurampaka, gusuzuma niba Urukiko rwameje ko Akarere ka Gatsibo kaseshe amasezerano mu buryo bukurikije amategeko kandi atari byo, gusuzuma niba Urukiko rwari kwanga kugenera EADECO, 33.053.048 Frw y'agaciro k'imirimo yakozwe ntiyishyurwe, 11.400.000 Frw yaguzwe amatiyo arunze kuri chantier, 4.170.000 Frw yahembwe abakozi barinze ayo matiyo, 8,160,000 Frw y'ibirarane by'imisoro EADECO ifitiye RRA, 77.125.320 Frw y'inyungu EADECO yateganyaga kuzavana muri iryo soko, 50,000,000 Frw y'indishyi z'akababaro, no gusuzuma niba Urukiko rwari gutegeka EADECO guha Akarere ka Gatsibo igihembo cya Avoka. Isoza isaba gusuzuma niba Urukiko rudahwiye kugenera EADECO igihembo cya Avoka n'ikurukiranarubanza. Akarere ka Gatsibo kireguye kavuga ko ubujurire bwa EADECO nta shingiro bufite. [8] Mu rubanza RCOMA 00364/2022/HCC rwaciye ku wa 24/05/2024, Urukiko Rukuru rw'Ubucuruzi rwemeje ko ubujurire bwatanzwe na EADECO nta shingiro bufite, ko urubanza RCOM 01670/2021/TC rudahindutse, rutegeka EADECO kwishyura Akarere ka Gatsibo 500.000 Frw y'igihembo cya Avoka, ko amafaranga 40,000 y'amagarama EADECO yishyuye ijurira aherera ku Isanduku ya Leta.

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- [9] EADECO yajuririye uru Rukiko, ubujurire bwayo bwandikwa kuri RCOMAA 00053/2024/CA. Urubanza rwaburanishijwe mu ruhamwe ku wa 05/03/2025, ENTREPRISE D'ADDITION D'EAU ET DE CONSTRUCTION (EADECO) ihagarariwe na Me Nyangezi Bonane afatanyije na Me Mukarusanga Florence naho Akarere ka Gatsibo gahagarariwe na Me Ndahimana Jean Bosco ; haburanishwa inzitizi y'iburabubasha yatanze n'uhagarariye Akarere ka Gatsibo ishingiye ku kuba EADECO yaratsinzwe mu nkiko zabanje hashingiye ku mpamvu zimwe. Mu rubanza rubanziriza urundi rwaciye ku wa 14/03/2025, Urukiko rwemeje ko inzitizi y'iburabubasha bw'uru Rukiko yatanze n'Akarere ka Gatsibo nta shingiro ifite, ko ubujurire bwa EADECO buri mu bubasha bw'Urukiko rw'Ubujurire, ko iburanisha mu mizi rizaba ku wa 24/03/2025, saa tatu (9 :00). Kuri iyo tariki, urubanza rwaburanishijwe mu ruhamwe, ababuranyi bahagarariwe nka mbere. [10] Mu myanzuro yayo no mu iburanisha, EADECO ivuga ko Urukiko Rukuru rw'Ubucuruzi rwakozwe ikosa ryo kwemeza ko amasezerano yaseshwe mu buryo bukurikije amategeko, ko Akarere ka Gatsibo yakozwe ikosa ryo gusesa amasezerano kandi ariko katinze kwemeza inyigo yatanze na EADECO cyangwa gutanga andi mabwiriza y'ikigomba gukorwa (observations) nyuma yo kubona iyo nyigo, ko rero EADECO itari gutangira imirimo Akarere katemeje iyo nyingo cyangwa ngo gatange andi mabwiriza y'ikigomba gukorwa cyane ko ari nabyo impande zombi zari zarumvikanye mu masezerano no mu gitabo cy'ipiganwa (DAO). Ko rero Akarere Gatsibo ariko katubahirije ibyo kasabwaga mu masezerano no mu gitabo cy'ipiganwa (DAO). Ivuga kandi ko Urukiko rwakozwe ikosa ryo kutagenera EADECO 33.053.048 Frw y'agaciro k'imirimo yakozwe ntiyishyurwe, 11.400.000 Frw yaguzwe amatiyo, 4.170,000 Frw yahembwe abakozi barinze ayo matiyo, na 77.125.320 Frw y'inyungu yateganyaga kuzavanamo, ndetse n'indishyi z'akababaro zihwanye na 50.000.000 Frw, isaba uru Rukiko kwemeza ko igomba kuyahabwa. Isoza isaba amafaranga y'ikurukiranarubanza n'igihembo cya Avoka. [11] Akarere ka Gatsibo

kiregura kavuga ko ubujurire bwa EADECO nta shingiro bufite, kuko nk'uko Urukiko Rukuru rw'Ubucuruzi rwabisobanuye amasezerano yaseshwe kubera ko EADECO yatinze kurangiza imirimo, kandi ko mukuyasesa hashingiwe ku mategeko no ku byateganyijwe muri ayo masezerano. Kavuga kandi ko imirimo EADECO ivuga itaremejwe ari imirimo y'inyongera, ikaba itari no mu mirimo yashingiweho mu gusesa amasezerano. Gakomeza kavuga ko 33.053.048 Frw y'agaciro k'imirimo yakozwe, 11.400.000 Frw yaguzwe amatiyo, 4.170,000 Frw yahembwe abakozi barinze ayo matiyo, 77.125.320 Frw y'inyungu yateganyaga kuzavanamo, ndetse na 50.000.000 Frw y'indishyi z'akabaro EADECO isaba nta shingiro afite mu gihe ari yo itarubahije amasezerano bigatuma aseswa, gasoza gasaba amafaranga y'ikurikiranarubanza n'igihembo cya Avoka. [12] Urukiko, rushingiye kuri izo mpaka, rusanga hakwiye gusuzumwa ibibazo bikurikira : a. Kumenya niba Urukiko Rukuru rw'Ubucuruzi rwarakoze ikosa kwemeza ko amasezerano yaseshwe mu buryo bukurikije amategeko ; b. Kumenya niba EADECO yaragombaga guhabwa 33.053.048 Frw y'agaciro k'imirimo yakozwe, 11.400.000 Frw yaguzwe amatiyo, 4.170.000 Frw yahembwe abakozi barinze ayo matiyo, na 77.125.320 Frw y'inyungu yateganyaga kuzavanamo ; c. Kumenya niba EADECO yaragombaga guhabwa 50.000.000 Frw y'indishyi z'akababaro ;

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- d. Kumenya niba amafaranga y'ikurikiranarubanza n'igihembo cya Avoka asabwa muri uru rubanza afite ishingiro.

II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

1. Kumenya niba Urukiko Rukuru rw'Ubucuruzi rwarakoze ikosa ryo kwemeza ko amasezerano yaseshwe mu buryo bukurikije amategeko [13] Abahagarariye EADECO bavuga ko nk'uko babigaragaje mu ingingo ya 18.5 y'igitabo cy'ipiganwa (DAO) ku rupapuro rwa 49 kimwe n'ingingo ya 18.5 y'amasezerano k'urupapuro rwa 13 byose bihuriza ko inyigo ngenderwaho y'ikorwa ry'imirimo (plans d'exécution) byose byakozwe na Rwiyemezamirimo bihujwe n'igihe kugira ngo ashyire mu bikorwa imirimo y'agateganyo cyangwa ihoraho bigomba kuba byemejwe na biro ngenzuzi mbere y'uko imirimo itangira, bikaba bishingira ku biteganywa n'ingingo ya 16.1 na 17.1 y'amasezerano k'urupapuro rwa 12.19. Ko rero, ibi ari byo EADECO yakoze aho mu ibaruwa yo ku wa 21/08/2010, yanditse yohereza inyigo ivuguruye kandi ibyasabwaga bikaba byari bikubiye kuri note explicative ibanziriza inyigo nyirizina. [14] Bavuga kandi ko kuri iyo mirimo rero yari yagaragajwe, nyuma y'amezi atanu (5) bahawe inyigo, ni ukuvuga ku wa 26/01/2011, Umugenzuzi w'imirimo yatanze uruhushya ordre de service no 1&2 yemera bimwe gusa (ama tuyaux AG na tuyaux PVC bifite uburebure bwa 2504 ml). Ibi byose bikaba byari bigize 16% y'isoko ryose, ko aho kugira ngo Urukiko mu rubanza rujuririrwa rushishoze kuri iki kibazo aho rwavuze ko ngo ingingo ya 130 y'Itegeko n°12/2007 ryo ku wa 27/03/2007 nk'uko ryahinduwe n'itegeko N°05/2013 ryo ku wa 13/02/2013 kandi rikaryuzuzwa rigenga Amasoko ya Leta yateganyaga ko kuba igihe giteganyijwe mu masezerano cyari hafi kurangira kandi Akarere kakabona imirimo isigaye itazaba yasojwe mu gihe cyari gisigaye, ibyakozwe n'Akarere bikurikije amategeko, nyamara nk'uko Urukiko rwari rwabyeretswe har'imirimo EADECO itashoboraga

gukora itabiherewe uruhushya yewe nibyo Akarere kari katangiye uruhusa bikaba byarakozwe nyuma y'amezi atanu bahawe inyigo ni ukuvuga ku wa 26/01/2011, ubwo umugenzuzi w'imirimo yatanze uruhushya ordre de service no 1&2. [15] Bakomeza bavuga ko bitumvikana ukuntu Urukiko rwakwemeza ko EADECO itubahirije ibihe biri mu masezerano nti rwite no ku nshingano zarebaga Akarere ka Gatsibo nk'aho amasezerano atakarebaga. Basobanura ko mu bimenyetso Urukiko rweretswe harimo raporo yo ku wa 02/03/2011 yahuje EADECO n'Akarere ka Gatsibo bigira hamwe uko imirimo ishingiye kumasezerano yari ihagaze cyane cyane ku ingingo ya 5 mu byigwaga irebana no kwemeza imirimo y'inyongera (travaux supplémentaires), muri iyo nama Umugenzuzi w'imirimo akamenyesha abari mu nama ko iyi dosiye yayirangije akayishyikiriza Akarere (Maitre de l'ouvrage) mu ntangiriro y'ukwezi kwa cumi n'abiri (12), ni ukuvuga nyuma y'amezi atatu (3), EADECO ibahaye iyo nyigo kandi nyamara amasezerano yarateganyaga ko mu minsi irindwi bakwiye kuba bagize icyo bayivugaho haba kuyemeza cyangwa kuyitangira observations. [16] Basobanura kandi ko muri iyo nama, Umunyamabanga Nshingwabikorwa w'Akarere ka Gatsibo we yagaragaje ko iyo nyigo bayibonye ariko bakemeza ko imirimo iyikubiyemo igize irindi soko bakaba baranamaze kubishyikiriza ibiro bishinzwe gutanga amasoko kugira ngo bibisesengure. Aha rero bikaba bitumvikana impamvu EADECO yo itigeze imenyeshwa ko ibyo

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yari yatanze mu nyigo ngenderwaho bizakorwa mu rindi soko, kuko byari inshingano z'Akarere kuyemeza cyangwa kubitangiraho observations hanyuma ikamenya icyo igomba gukora kandi ku gihe. Bityo ko bigaragara ko byasabye amezi atanu (5) kugira ngo Akarere ka Gatsibo kavuge icyo gatekereza kuri iyo nyigo igihe byasabaga iminsi irindwi (7). Ko mu nama PEAMER nk'umuterankunga w'uyu mushinga yavuze ko inyigo yakozwe na EADECO ifite ishingiro kuko bikomoka ku gihe kirekire cy'imyaka irindwi (7) cyabaye hagati y'inyigo y'umushinga yakozwe muri 2003 itangwa ry'isoko rikaba muri 2010 biboneka ko hari byinshi byahindutse. [17] Bakomeza basobanura ko hashingiwe k'ubyzweho muri iyo nama, basanga bitumvikana impamvu Urukiko, mu rubanza rujuririrwa, rutabonye ko Akarere ka Gatsibo ari ko kabaye nyirabayaza wo gutuma imirimo idakorwa ngo irangirire igihe. Bityo ko bibaza uruhare EADECO yabigizemo mu gihe amasezerano n'igitabo cy'ipiganwa (DAO) byateganyaga ko inyigo itanzwe n'uwatsindiye isoko ari we EADECO ibizagaragazwa bizemezwa cyangwa bigatangirwa observation mu minsi irindwi (7) kandi ibyagaragajwe bikaba byaragombaga gushyirwa mu bikorwa ari uko byemejwe cyangwa hagatanzwe andi mabwiriza y'ikigomba gukorwa (observations), ko rero bibaza igituma bigera ku ruhare rw'Akarere, Urukiko ntirushake kumenya impamvu Akarere katubahirije ibyo kasabwaga mu masezerano no mu gitabo cy'ipiganwa (DAO), bityo basaba Urukiko rw'Ubujurire kuzabisuzuma. [18] Uhagarariye Akarere ka Gatsibo avuga ko ibyo EADECO ivuga ko Urukiko rwemeje ko amasezerano yaseshwe mu buryo bukurikije amategako hirengagijwe uruhare rw'Akarere rwo kudatanga icyemezo cyangwa amabwiriza y'ikigomba gukorwa ku nyingo nshya, nta shingiro bifite, kuko Akarere ka Gatsibo kasobanuye ko amasezerano yagombaga gutangira ku wa 15/07/2010, akageza ku wa 15/01/2011, ko kandi kasobanuye ko iyo tariki yo gutangira imirimo impande zombi zari zayumvikanyeho, ariko

EADECO ikaba itarigeze yubahiriza igihe cyo gutangirira imirimo ari nabwo tariki ya 28/07/2010 ubugenzuzi bw'imirimo bwayandikiye buyibutsa ko igihe cyo gutangira akazi cyarenzeho ibyumweru bibiri kandi ko ibikorwa biteganyijwe kurangira taliki 15/01/2010. [19] Avuga kandi ko Akarere ka Gatsibo kasobanuriye Urukiko Rukuru rw'Ubucuruzi ko ikigaragaza ko plan d'exécution iteganywa mu ngingo ya 17 na 18 y'amasezerano yemeranyijweho mbere ari uko yohereje iri updated hakurikijwe ibyari byarumvikanyeho kuri terrain, umunsi bemeza ko itariki yo gutangira akazi ari 15/07/2010. Muri icyo baruwa akaba ariho yanavuze devis des travaux supplémentaires, ndetse ku wa 11/09/2010, ubugenzuzi bwabaye EADECO gukora imirimo yumvikanywe mu gihe cyumvikanyweho. Ko ukuri guhari ari uko, nubwo impande zombi zakomeje gukorana, ariko zagiraga ngo zirebe ko byibura hari icyakorwa kugira ngo abaturage babone amazi, ariko nabyo bikarangira ntacyo bitanze kuko amezi atatu nyuma y'igihe cy'irangira ry'amasezerano, byagaraye ko imirimo y'ishyirwa mu bikorwa ry'amasezerano ari bwo yari ikigera ku rugero rwa 50% y'imirimo yagombaga gukorwa kandi na none muri icyo gihe cyose EADECO ikaba yarahawe amabaruwa agera kuri atatu yo kuyiburira ko nikomeza kudindiza imirimo amasezerano azaseswa; bityo ko Akarere ka Gatsibo kabonaga ko katakomeza kwihanganira kudindira kw'imirimo ari bwo kandikiye EADECO ko gaseshe amasezerano nk'uko ingingo ya 59, igika cya kabiri, mu gace ka (g), y'amasezerano impande zombi zagiranye ibiteganywa, aho ivuga ko igihe uruhande rwa rwiyekezamirimo rurengeje igihe cyagenwe cyo kurangiza akazi kandi indishyi z'icyo gihe cyarengejweho zikaba zirenga 10% y'igiciro cy'amasezerano yose, icyo gihe ubwo bucyerewe buba ari impamvu ikomeye yatuma urundi ruhande rusesa amasezerano.

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[20] Asobanura ko Akarere ka Gatsibo gasanga mu gika cya 58 n'icya 59 by'urubanza rujuririrwa, Urukiko Rukuru rw'Ubucuruzi rwarabisesenguye neza muri aya magambo: "Rusanga ibyo EADECO ivuga ko Akarere kagize uruhare mu itinda mu kwemeza ibyo yari yasabye nk'uko amategeko abiteganywa ibi ari urwitwazo kuko ubwayo bayongereye igihe gihagije ikindi kandi amasezerano yagombaga gutangira ku itariki ya 15/07/2010 akageza ku itariki ya 15/01/2011, ku itariki 21/08/2010, bigaragara ko yakomeje kutubahiriza amasezerano kugeza ubwo yahawe integuza ya nyuma taliki 14/09/2010 ndeste EADECO yaje no kongerera igihe ku wa 21/01/2011 ariko amasezerano aseswa nyuma y'amezi atandatu ibi bigaraza rero ko nta nakimwe yakwitwaza". Ku bijyanye n'imirimo y'inyongera EADECO ivuga ko itemejwe, avuga ko basanga nta shingiro ryabyo kuko iyi mirimo yari imirimo yindi itari mu masezerano, Akarere kari kuzasuzuma kabona ari ngombwa kakaba kayikorera andi masezerano, ko ayo masezerano yako rero ajyanye n'icyo mirimo y'inyongera atari kubuza EADECO kubahiriza inshingano yari isanganwe zo gukora imirimo yari muri scope y'amasezerano yari yarashyizeho umukono. Bityo akaba asanga EADECO idakwiye gukomeza kubwitwaza ivuga ko Akarere ka Gatsibo katigeze kemeza imirimo y'inyongera kuko n'imirimo yari isanzwe iteganyijwe mu masezerano itari yagakozwe. [21] Akomeza avuga ko EADECO binyuze mu Muyobozi Mukuru wayo yagiye yiyemerera ubwe ko hari imirimo yadindiye bitewe na EADECO, nko mu nama zagiye zibera kuri site y'imirimo no mu mabaruwa yo ku wa

04/10/2010 no ku wa 08/10/2010, ahandi ni nko mu nama yahuje abarebwa n'ikibazo bose ku itariki 02/03/2011, aho inyandikomvugo (Proces verbal) y'iyi nama mu gace kayo ka V igika cya karindwi ivuga ko Umuyobozi Mukuru wa EADECO company yasabye imbabazi ku mirimo itararangira bigaragaza ko byari ku mpamvu za EADECO kuba iyo mirimo itarangiye, aho akaba ari nyuma y'aho mu gace ka IV k'iyi nyandiko mvugo abayitabiriye bari babonye ko n'imirimo yari iri mu masezerano ya mbere yari itararangira kuri icyo gihe inama yabereyeho nk'uko bigaragara mu nyandikomvugo y'inama yo ku wa 02/03/2011 (procès verbal de la réunion de chantier no 8/2010 du 02/03/2011). [22] Avuga na none ko basobanuye ko EADECO yandikiye RPPA iyigaragariza ikibazo cyayo, ariko RPPA imaze gusuzuma neza iyo baruwa, imigereka yayo ndetse n'andi mabaruwa Akarere ka Gatsibo koherereje RPPA isanga koko EADECO itarubahirije ibikubiye mu masezerano yagiranye n'Akarere ka Gatsibo, nk'uko bigaragara mu ibaruwa n° 010/2012 -537 yo ku wa 23/07/2012, RPPA yanditse isubiza EADECO, akaba asanga ibi byose ari ibigaragaza neza ko Akarere ka Gatsibo katigeze gakora ikosa mu gusesa amasezerano kari gafitanye na EADECO. Bityo rero, asaba Urukiko rw'Ubujurire kwemeza ko icyemezo cyafashwe n'Urukiko Rukuru rw'Ubucuruza nta nenge irimo, maze rugashimangira ko amasezerano yaseshwe hakurikijwe amategeko, kandi hakurikijwe n'amasezerano impande zombi zagiranye. UKO URUKIKO RUBIBONA [23] Impaka kuri iyi ngingo zishingiye ku kumenya niba amasezerano EADECO yagiranye n'Akarere ka Gatsibo ku wa 22/6/2010, yaraseshwe n'Akarere ka Gatsibo mu buryo bukurikije amategeko. Mu yandi magambo ni ukumenya niba Akarere ka Gatsibo karaseshe amasezerano kagiranye na EADECO ku mpamvu zumvikana.

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[24] Ingingo ya 130 y'Itegeko N°12/2007 ryo ku wa 27/03/2007 nk'uko ryahinduwe n'Itegeko N°05/2013 ryo ku wa 13/02/2013 kandi rikaryuzuzwa rigenga Amasoko ya Leta ryakoreshwaga icyo gihe iteganya ibikurikira: "Uwegukanye isoko afatwa nk'uwananiwe kurangiza imirimo y'isoko yeguriwe: 1° iyo imirimo itararangira neza mu gihe giteganyijwe mu nyandiko ihamagarira abantu gupiganwa cyangwa ku bihe ibice runaka by'imirimo byagombaga kurangirira; 2° igihe imirimo idakomeje gukorwa ku buryo bugaragaza ko yaba yarangiye mu gihe giteganyijwe ; 3° iyo aciye ukubiri n'amabwiriza yanditse, yahawe n'Urwego rutanga isoko mu buryo bwemewe n'amategeko. Ukunanirwa k'uwegukanye isoko bigaragazwa muri raporo ikorwa n'Umugenzuzi w'imirimo nk'uko biteganywa n'iri tegeko. Uwegukanye isoko ahabwa iminsi cumi n'itanu (15) y'akazi uhareye igihe yabonye raporo igaragaza ko yananiwe kurangiza imirimo y'isoko yeguriwe kugira ngo yikosore cyangwa agaragaze, mu nyandiko impamvu yireguza. Iyo atagize icyo ayivugaho akarenza igihe yahawe, bifatwa nk'aho yemeye ibikubiye muri raporo. Igihe Uwegukanye isoko atagize icyo akora ku byo yasabwe, Urwego rutanga isoko rufata icyemezo rubona gikwiye." [25] Ingingo ya 70 y'Itegeko N°45/2011 ryo ku wa 25/11/2011 rigenga amasezerano iteganya ibikurikira : "Buri ruhande rufite inshingano yo kurangiza amasezerano nta buriganya kandi rukarangwa n'imikorere myiza yemerwa ku bagiranye amasezerano". Ingingo ya 80, igika cya 2, y'itegeko rivuzwe haruguru iteganya ko iyo igihe cyo gukora ibisabwa mu masezerano kigeze,

kutabikora bifatwa nko kwica amasezerano. [26] Izi ngingo zisesenguriwe hamwe zumvikanisha ko iyo impande zagiranye amasezerano zahanye igihe ntarengwa ibisabwa gukorwa bikubiye muri ayo masezerano bigomba kuba byakozwe, kutubahiriza icyo gihe bifatwa nko kwica amasezerano. Mu yandi magambo, uruhande rutubahirije igihe cyo gushyira mu bikorwa ibikubiye mu masezerano nta mpamvu yumvikana rufatwa nk'urwishe amasezerano, ku buryo urundi ruhande rushobora kuyasesa. [27] Ku bijyanye n'uru rubanza, dosiye igaragaramo ibimenyetso bitandukanye, arinabyo bisesengurwa hasuzumwa niba EADECO yarishe amasezerano, bigatuma Akarere ka Gatsibo kayasesa. [28] Muri ibyo bimenyetso harimo :

- Amasezerano yo ku wa 22/06/2010 hagati ya EADECO n'Akarere ka Gatsibo yagombaga kurangira ku wa 31/12/2010 ;
- Amabaruwa atandukanye EADECO yandikiye ubuyobozi bw'Akarere ka Gatsibo n'Ubugenzuzi bw'imirimo ;
- Amabaruwa yanditswe n'ubuyobozi bw'Akarere ka Gatsibo ; - Ibaruwa isesa amasezerano yo ku wa 07/03/2011. [29] Mu rwego rwo gusesengura ibimenyetso, haritabwa k'uburyo ibintu byagiye bikurikirana nk'uko bigaragazwa n'amabaruwa n'inyandiko zitandukanye ziri muri dosiye. Amasezerano yababaye ku wa 22/06/2010 hagati ya EADECO n'Akarere ka Gatsibo yagombaga kurangira ku wa 31/12/2010 ; ariko aza guseswa n'Akarere ka Gatsibo ku wa 07/03/2011, ni ukuvuga nyuma y'amezi arenga abiri uhereye igihe yagombaga kurangiriraho.

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- [30] Dosiye igaragaramo amasezerano yabaye hagati ya EADECO n'Akarere ka Gatsibo ku wa 22/06/2010. Ingingo ya 59, igika cya kabiri, y'ayo masezerano impande zombi zagiranye iteganya impamvu zishobora gutuma habaho iseswa ry'ayo masezerano mu gace ka (g) aho ivuga ko "igihe uruhande rwa rwiyezamirimo rurengeje igihe cyagenwe cyo kurangiza akazi kandi indishyi z'icyo gihe cyarengejweho zikaba zirenga 10% y'igiciro cy'amasezerano yose, icyo gihe ubwo bucyererwe buba ari impamvu ikomeye yatuma urundi ruhande rusesa amasezerano. [31] Dosiye igaragaza ko impande zombi zumvikanye ko nubwo amasezerano ari ayo ku wa 22/06/2010, ariko imirimo nyiri zina izatangira ku wa 15/07/2010. Ku wa 28/07/2010, ECET & HYCOGEC, Umugenzuzi w'imirimo, yandikiye EADECO iyisaba gahunda ivuguruye y'imirimo ihera ku wa 15/07/2010 kugeza 15/01/2011, ikabikora mu minsi itarenze itatu. Bivuze ko icyo gihe byumvikanaga ko amasezerano atakirangiye ku wa 31/12/2010, ahubwo azarangira ku wa 15/01/2011. Mu ibaruwa yo ku wa 16/08/2010, Umuyobozi wa EADECO yamenyesheje Umuyobozi w'Akarere ko kugira ngo basane ikigega cy'amazi cya 200 m3 hagomba uruhushya rwa MINADEF. Ku wa 21/08/2010, Umuyobozi wa EADECO yohereje uhagarariye ECET & HYCOGEC devis y'imirimo y'inyongera. Ku wa 11/09/2010, HYCOGEC, nk'umugenzuzi w'imirimo yandikiye EADECO iyibutsa ko mu nama zitandukanye zagiye zikorera kuri chantier abo bireba bese bayisabye kwihutisha imirimo, ikaba rero ibabajwe nuko urebye igihe gishize (hafi amezi 2), imirimo igenda gahoro cyane, ko abakozi bo kuri chantier bamaze igihe kirekire badahembwa, ko nta n'ibikoresho

biragera kuri chantier. [32] Mu ibaruwa yakiriwe na EADECO ku wa 14/09/2010, Akarere ka Gatsibo kayandikiye kayimenyesha ko nta mirimo irakorwa ko na site ubwayo itaratunganywa, ko n'umuntu umwe wari kuri site nawe yataye imirimo, ko amafaranga ya avansi EADECO yakiriye yayakoreshe nabi, ko kandi impamvu y'iyo baruwa ari ukuyihanangiriza, ko nibirenga impera z'ukwezi kwa cyenda nta mirimo ishimishije yakozwe, nta yindi nzira Akarere kazakoresha itari iyo gusesa amasezerano. Ko kandi kubera uburemere bw'ibibazo iyi baruwa ari ukwahanangirizwa kwa mbere n'ukwa nyuma. Ku wa 22/12/2010, Umuyobozi wa EADECO yandikiye Akarere ka Gatsibo asaba kongerwa igihe cy'amezi atatu avuga ko hari ibibazo by'ibigega bitaratungana n'ibya amapompe azazamura amazi, ko bategereje icyo umugenzuzi w'imirimo azabasubiza kugira ngo imirimo ikomeze. Ibi bigaragaza ko ko umwaka wa 2010 warangiye hakiri ibibazo by'imirimo yari itarakorwa. [33] Urukiko ruributsa ko imirimo yagombaga gutangira ku wa 15/07/2010 ikarangira ku wa 15/01/2011. Ku wa 21/01/2011, Umugenzuzi w'imirimo yandikiye EADECO ayibutsa ko amasezerano yarangiye ku wa 15/01/2011, ko kandi kuri iyo tariki, imirimo yari yarakozwe ku gipimo cya 34%, ko kandi impamvu nyamukuru yatumye imirimo idindira, ari imikoreshereze mibi y'amafaranga ya avansi yahawe, kuko EADECO yagiye iyakoresha ibindi bidafitanye isano n'isoko yatsindiye. Akomeza avuga ko ku wa 22/01/2011, abagenzuzi basanze nta bikoresho biri kuri site, nyamara hashize icyumweru hari fagitire yishyuwe yagombaga gutuma yihutisha imirimo, ko kandi n'abakozi bari kuri site ari bake, ko mu rwego rwo gufasha EADECO kurangiza imirimo isigaye ku masezerano y'iremezo, no mu gihe hategerejwe icyemezo cy'Akarere ka Gatsibo ku masezerano y'inyongera no ku busabe bwayo bwo kongererwa igihe, bamukoreye umushinga wa planning yo kurangiza imirimo mu mezi atatu, nk'uko yari yabisabye. Avuga na none ko muri icyo gihe, niharamuka hagaragaye ibindi bikorwa byo gutinza imirimo (irrégularités), bazasaba Akarere kuyifatira ibihano biremereye bishobora kugera no gusesa amasezerano. Ku wa 28/01/2011, Umugenzi w'imirimo yandikiye Umunyabanga

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Nshingwabikorwa w'Akarere ka Gatsibo amumenyesha ibibazo biri mu ishyirwa mu bikorwa ry'amasezerano ndetse n'impungenge bafite kuri uwo mushinga, amusaba ko yakwihutira kugira icyo akora ku hazaza h'uwo mushinga. [34] Ku wa 05/02/2011, Umuyobozi wa EADECO yandikiye Umunyabanga Nshingwabikorwa w'Akarere ka Gatsibo, ko atemera ko igipimo cy'imirimo yakozwe kiri kuri 34%, asobanura imbongamizi bafite zo kurangiza installation z'amavomo, ko bazakurikiza planning umugenzuzi w'imirimo yabahaye, ko mu mpera z'ukwezi kwa kabiri 2011 amatiyo azaba yageze mu butaka, ko ku wa 15/03/2011, abaturage bazaba bavoma. Ku wa 02/03/2011, habaye inama yahuje abantu bose barebwa n'uwo mushinga, isuzuma aho imirimo igeze, abari mu nama basanze hakiri ibibazo byinshi bitandukanye, ko igipimo cy'imirimo cyari kigeze kuri 50% ko kandi ku wa 14/01/2011 cyari kuri 34% kandi ari bwo amasezerano yagombaga kurangira. Inama yemeje ko EADECO yakereje imirimo ku buryo bukabije, ko kandi yihanangirijwe inshuro nyinshi, ikajya isezeranya Akarere ko igiye kwihutisha imirimo, ko ndetse n'imirimo idafitanye isano n'imirimo y'inyongera nayo itarangiye. Muri iyo nama

Umuyobozi wa EADECO yasabye imbabazi asezeranya Akarere ko azarangiza imirimo isigaye mu minsi 15 gusa. [35] Ku wa 07/03/2011, Umunyamabanga Nshingwabikorwa w'Akarere ka Gatsibo yandikiye EADECO ayimenyesha ko Akarere ka Gatsibo gaseshe amasezerano ku mpamvu nyamukuru y'ubukererwe mu gusohozza inshingano zari mu masezerano bagiranye, bikaba bigaragazwa n'inyandiko zikurikira :

- Ibaruwa yo ku wa 11/09/2010 yanditswe n'Umugenzuzi w'imirimo ;
- Ibaruwa ku wa 14/09/2010 yanditswe n'Akarere yihanangiriza EADECO ;
- Raporo z'inama zabereye kuri site, ndetse n'inzandiko EADECO yiyandikiye ku wa 04/10/2010 no ku wa 08/10/2010 ;
- Raporo z'Ubugenzuzi bw'imirimo zigaragaza ko nyuma y'amezi abiri n'igice, imirimo yari kuri 6.7%, kuri 19% nyuma y'amezi atatu, kuri 28% nyuma y'amezi ane, kuri 34% nyuma y'amezi atanu, ko kandi nyuma y'amezi atandatu ntacyiyongereye. [36] Urukiko rw'Ubujurire, rushingiye ku nyandiko zitandukanye zirimo ibaruwa yo ku wa 11/09/2010, Umugenzuzi w'imirimo yandikiye EADECO iyibutsa ko inama zitandukanye zagiye zikorera kuri chantier abo bireba bese bayisabye kwihutisha imirimo, ikaba rero ibabajwe nuko urebye igihe gishize (hafi amezi 2), imirimo igenda gahoro cyane, ko abakozi bo kuri chantier bamaze igihe kirekire badahembwa, ko nta n'ibikoresho biragera kuri chantier; rushingiye kandi ku ibaruwa Ubuyobozi bw'Akarere ka Gatsibo bwandikiye EADECO ku wa 14/09/2010, buyihanangiriza, bunayimenyesha ko nta mirimo irakorwa, ko na site ubwayo itaratunganywa, ko n'umuntu umwe wari kuri site nawe yataye imirimo, ko amafaranga ya avansi yakiriye yayakoreshe nabi, ko kandi impamvu y'iyi baruwa ari ukuyihanangiriza, ko ni birenga impera z'ukwezi kwa cyenda nta mirimo ishimishije yakozwe, nta yindi nzira Akarere kazakoresha itari iyo gusesa amasezerano; rushingiye na none kuri raporo y'inama yo ku wa 02/03/2011, yasuzumye aho imirimo igeze, abagize iyo nama bagasanga hakiri ibabazo byinshi bitandukanye, ko kuri iyo tariki igipimo cy'imirimo cyari kigeze kuri 50%, ko kandi ku wa 14/01/2011, cyari kuri 34% kandi amasezerano yaragombaga kurangira ku wa 15/01/2011; rushingiye ko iyo nama yemeje ko EADECO yakereje imirimo ku buryo bukabije, kandi ko EADECO yihanangirijwe inshuro nyinshi, ikajya isezeranya Akarere ko igiye kwihutisha imirimo, ko ndetse n'imirimo

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idafitanye isano n'imirimo y'inyongera nayo itarangiye; rushingiye ko muri iyo nama, Umuyobozi wa EADECO yasabye imbabazi asezeranya Akarere ko azarangiza imirimo isigaye mu minsi 15 gusa; rushingiye no ku ibaruwa yo ku wa 07/03/2011 isesa amasezerano aho Akarere kibutsa ko raporo z'Ubugenzuzi bw'imirimo zigaragaza ko nyuma y'amezi abiri n'igice, imirimo yari kuri 6.7%, kuri 19% nyuma y'amezi atatu, kuri 28% nyuma y'amezi ane, kuri 34% nyuma y'amezi atanu, ko kandi nyuma y'amezi atandatu ntacyiyongereye; Urukiko rurasanga EADECO yararatindije ikorwa ry'imirimo ku buryo nta cyizere Akarere kari gukomeza kuyigirira, nk'uko rero byateganywaga n'amasezerano impande zombi zagiranye, gutinda gusohozza imirimo byagombaga

gutuma amasezerano aseswa. Bityo nta kosa Akarere ka Gatsibo ka koze gasesa amasezerano kagiranye na EADECO. [37] Urukiko rurasanga impamvu EADECO ishingiraho ishaka kumvikanisha ko kuba itarubahirije igihe cyari giteganijwe mu masezerano ari uko hari imirimo imwe yasabaga kubiharerwa uburenganzira nta shingiro zahabwa, kuko haba mu mabarurwa atandukanye yagiye yandikirwa n'Ubugenzuzi bw'imirimo, haba ayanditswe n'Ubuyobozi bw'Akarere, cyangwa raporo z'inama zaberaga kuri site, ndetse no mu ibaruwa isesa amasezerano nta na hamwe EADECO yigeze isabwa cyangwa ngo ibazwe ishyingirwa mu bikorwa by'imirimo yasabaga kubanza kwemezwa n'inzego zibifitiye ububasha, ahubwo yabwirwaga ko n'imirimo idasaba uburenganzira mbere yo kuyikora nayo yadindiye, ahubwo nayo ubwayo ikavugaga ko igiye gushyiramo imbaraga, ariko bikarangira bigaragaye ko imirimo igenda gahoro cyane. Urugero, ku bijyanye n'imirimo y'inyongera, Ubuyobozi bw'Akarere bumaze kubona ko hari impungenge ko EADECO yatakarijwe icyezere cyo kuba yayikora, bwahisemo ko iba isoko ryihariye, bivuze ko Akarere ntacyo kigeze gasaba EADECO gushyira mu bikorwa kijyanye n'imirimo y'inyongera. [38] Ikindi gishimangira ibyo, ni uko amasezerano EADECO yagiranye n'Akarere ka Gatsibo yari afite igihe yagombaga kuba yarangiye, kandi muri ayo masezerano impande zombi zumvikanye ko kutacyubahiriza ari impamvu ituma amasezerano aseswa, Urukiko rurasanga rero ibi byumvikanisha ko EADECO yari ifite inshingano yo kwihutisha imirimo yagombaga gukora, ari nayo mpamvu nyuma y'amezi abiri imirimo itangiye, Akarere ka Gatsibo kayandikiye kayihanangiriza, kanayisaba kwihutisha imirimo. Kuba rero igihe amasezerano yagombaga kurangirira imirimo yari igeze ku gipimo cya 34%, na nyuma yaho hakaba harashize hafi amezi abiri, amasezerano akabona guseswa, ariko nabwo imirimo ikaba yari ku gipimo cya 50%, birumvikana ko EADECO itubahirije amasezerano ; bityo ibyo yitwaza ko byatewe n'uko hari imirimo imwe yasabaga kubiharerwa uburenganzira mbere yo kuyikora, nta shingiro bifite. [39] Urukiko rurasanga kuba igihe amasezerano yagombaga kurangirira, ni ukuvugaga ku wa 15/01/2011, nyuma y'amezi atandatu, EADECO yemerewe gutangira imirimo, iyo mirimo yari igeze kuri 34%; nta cyizere cyari kigisigaye ko EADECO izarangiza isoko; cyane cyane ko nk'uko byibukijwe haruguru, yagiye yihanangirizwa inshuro nyinshi ko ifite ubukererwe bukabije mu gusohozwa inshingano zayo, ko nta bakozi bahagije bari kuri chantier, ko nta bikorasho biri kuri chantier, igasezeranya ko igiye gushyiramo imbaraga ariko bikarangira nta mpinduka zigaragara mu kubahiriza amasezerano impande zombi zagiranye. [40] Hashingiwe ku bisobanuro bimaze gutangwa, Urukiko rurasanga nk'uko inkiko zabanje zabibonye, ibyo EADECO ivugaga ko Akarere ka Gatsibo kagize uruhare mu gutinda kwemeza ibyo yari yasabye nk'uko amategekako abiteganyaga ibi ari urwitwazo kuko gusesa amasezerano bitashingiye ku kuba EADECO itarakoze imirimo yagombaga kubanza guhererwa uburenganzira

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n'inzego zibishinze, ahubwo byashingiye ku kuba yarananiwe imirimo igihe cy'irangira ry'amasezerano kikagera imirimo yakozwe iri ku kigero cya 34%, bivuze ko itubahirije igihe cyari giteganyijwe mu masezerano, itanza imirimo, kuko nk'uko byibukijwe, amasezerano yagombaga gutangira ku itariki ya 15/07/2010 akarangira ku itariki ya 15/01/2011. Kuba rero yaragiye yandikirwa imenyeshwa ko imirimo itagenda neza, ku buryo ku wa 14/09/2010, nyuma y'amezi

abiri imirimo itangiye yahawe integuza ya nyuma, na nyuma yaho Akarere ka Gatsibo kagakomeza kuyihanganira kugeza mu kwezi kwa gatatu 2011, bikaza no kugaragarira abarebwaga n'ayo masezerano bese ko ikibazo nyamukuru kiri kuri EADECO, nayo ubwayo ikabyemera ikanabisabira imbabazi; Urukiko rurasanga rero nk'uko Urukiko Rukuru rw'Ubucuruzi rwabibonye, nta kosa Akarere ka Gatsibo kakoze gasesa amasezerano, bityo iyi mpamvu y'ubujurire nta shingiro ifite.

2. Kumenya niba EADECO yaragombaga guhabwa 33,053,048 Frw y'agaciro k'imirimo yakozwe, 11,400,000 Frw yaguzwe amatiyo, 4,170,000 Frw yahembwe abakozi barinze ayo matiyo, na 77,125,320 Frw y'inyungu yateganyaga kuzavanamo [41] Abahagarariye EADECO bavuga ko kubera ko Akarere ka Gatsibo kaseshe amasezerano m'uburyo bwikubagahu, bitashobotse ko décompte final ihuriweho n'impande zombi ikorwa ari yo mpamvu EADECO yari yagejeje ikibazo k'umukemurampaka wateganywaga n'amasezerano maze Akarere ka Gatsibo kakanga ubwo bukemurampaka ari yo mpamvu hitabajwe Urukiko rw'Ubucuruzi. Ko kuba rero iyi décompte final bitarashobotse ko ikorwa, EADECO yo yashyikirije Akarere ka Gatsibo inyemezabwishyu ya 33.053.048 Frw z'agaciro k'imirimo yari imaze gukora. Urukiko rw'Ubucuruzi ruvuga ko hagombaga gutangwa décompte final isinyweho n'impande zombi akaba ari byo Urukiko Rukuru rw'Ubucuruzi rweretswe ko ibyo Urukiko rw'Ubucuruzi rwasabaga bitashobokaga, EADECO ikaba yarasabye ko Urukiko rwatega ko hashyirwaho umugenagaciro wafasha kugira ngo iyo décompte final ikorwe hashingiwe ku ingingo ya 100 y'Itegeko rigenga ibimenyetso, ariko ntibyakorwa. [42] Basobanura ko bitumvikana ukuntu Urukiko Rukuru rw'Ubucuruzi rwari kugaruka rukavugako EADECO ari yo yagombaga gukora décompte final, kuko basanga n'ubundi iyikoze itaba isubije ikibazo kuko yaba ikozwe n'uruhande rumwe kandi ubundi bisaba ko iba ishyizweho umukono n'impande zombi. Ko rero ari yo mpamvu basaba ko Urukiko rw'Ubujurire rwafasha mu gutuma ibirebana n'iyi décompte final bihabwa umurongo, rugatega ko hashyirwaho impuguke (Expert) yafasha mukuyikora, kugira ngo EADECO ibashe gusubizwa amafaranga y'imirimo yakoze Akarere ka Gatsibo kaseshe amasezerano katishyuye. [43] Bavuga kandi ko kuva amatiyo yaraguzwe akagezwa no kuri chantier, Akarere ka Gatsibo gakwiye kuyishyura kuko nta kindi EADECO yayakoreshe cyane ko n'ingano yayo (diamètre) igenewe imishinga minini. Basobanura ko ikibazo cy'aya matiyo EADECO yari yarakigaragaje mu ibaruwa yo 07/03/2011 yandikiye Akarere ka Gatsibo. Ko kandi isaba kwishyurwa amafaranga y'abakozi barinze aya matiyo kuko Akarere kakoze nkaho katazi ko ahari kandi ariko katanze uburenganzira bwo kuyagura. Basobanura ko ikirego gitangwa mu mwaka wa 2021, amafaranga y'abakozi barinze ayo matiyo yari 4.170.000 Frw, ariko ko kubera ko aba bakozi bagikomeje kuyarinda kandi EADECO ikaba igikomeza kubishyura kugeza magingo aya, ayo mafaranga yiyongereye akaba ageze kuri 5.010.000 Frw ari yo mpamvu basaba Urukiko ko kuri uru rwego

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EADECO ari yo yahabwa kugira ngo ibashe kugaruza aya mafaranga yishyuye abakozi barinze ayo matiyo. [44] Bakomeza bavuga ko nk'uko babigaragaje EADECO atari yo yakoze amakosa, bityo ko ikwiye guhabwa inyungu zihwanye na 77.125.320 Frw yateganyaga kuzavana muri iryo soko nk'uko zabazwe ku kimenyetso cya 024 m'urubanza rujurirwa. [45] Uhagarariye Akarere ka Gatsibo avuga ko kubijyanye n'agaciro k'imirimo yakozwe, ko nk'uko babisobanuye kuva mbere basanga aya mafaranga asabwa na EADECO nta shingiro afite, kuko ahubwo ari yo ibereyemo Akarere ka Gatsibo umwenda ungana na 11.447.325 Frw yemejwe hashingiwe kuri raporo yakozwe ku wa 27/06/2011, ikozwe n'inzego zitandukanye. Ikindi kandi nk'uko n'inkiko zabanje zabisobanuye, raporo EADECO ubwayo yikoreye igaragaza imirimo ivuga ko yakoze, basanga itayibera ikimenyetso kuko ari yo yayikoreye igashyiramo ibyo ishaka ndetse iyo raporo ikaba itarigeze inemezwa n'Umugenzuzi w'imirimo ku buryo yafatwa nk'ivugisha ukuri. [46] Asobanura ko bashingiye ku Itegeko N° 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso cyane cyane mu ngingo yaryo ya 4 iteganya ko "Urega cyangwa utanze ikibazo agaragaza ikimenyetso cy'ibyo aregera cyangwa asaba [....].", ndetse n'ya 20 y'itegeko ryavuzwe, iteganya ko "Ibitabo n'inzandiko byo mu rugo bitabera uwabyanditse ikimenyetso kimufitiye akamaro.", ndetse n'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi cyane cyane ingingo ya 12, igika cya 1, iteganya ko, "Urega agomba kugaragaza ibimenyetso by'ibyo aregera yabibura uwarezwe agatsinda." basanga umwenda EADECO iregera ndetse n'ibimenyetso itanga nta shingiro bifite kuko bitagaragaza umwenda iregera uwo ari wo, ingano yawo n'ishingiro ryawo mu buryo budashidikanywaho. Bityo asaba Urukiko rwajuririwe kwemeza ko uyu mwenda nta shingiro ufite. [47] Avuga kandi ko ku bijyanye n'amafaranga y'amatiyo n'ayishyuwe abarinze ayo matiyo nta byinshi yavugaga kuko EADECO yari yarahawe amafaranga ya avansi yo kwihutisha ibikorwa nk'uko bigaragazwa n'inyandiko bureau de surveillance ECET & HYOGECE yandikiye EADECO ku wa 21/01/2011, kandi nk'uko bikubiye mu ngingo ya 51.2 y'amasezerano yo ku wa 22/06/2010, iteganya uburyo amafaranga ya avance akoresheho aho ivuga ko akoresheho hishyurwa ibikoresheho n'ibibigendaho byose kugira ngo amasezerano ashirwe mu bikorwa, bityo ko EADECO yagakwiye kuba ariyo yishyuyemo ayo matiyo n'abo bakozi bayarinze aho gushaka kubigereka ku Karere ka Gatsibo kubera ikoresheho nabi ry'amafaranga ya avance yahawe. [48] Asobanura ko bashingiye ku ibaruwa Akarere ka Gatsibo kandikiye EADECO ku wa 11/07/2011, iyisaba kuza gukura ibikoresheho byayo byose kuri chantier kuko imirimo yari igiye gutangira, EADECO yagakwiye kuba yarahise ibikuraho. Bityo ko amafaranga yishyuzwa y'igihembo cy'abakozi barinze amatiyo nta shingiro afite. [49] Akomeza avuga ko kubijyanye n'inyungu EADECO isaba, basanga EADECO ariyo nyirabayazana w'iseswa ry'amasezerano ku mpamvu zo kudindiza imirimo bikavamo kurenza igihe cyagenwe cyo kuba yarangiye imirimo, bityo rero ko igomba no kwirengera ibihombo n'ingaruka zaturutse ku iseswa ry'amasezerano nk'uko ingingo ya 140 y'itegeko n° 45/2011 ryo ku wa 25/11/2011 rigenga amasezerano ibiteganyaga ko "Nta ndishyi zishobora gutangwa mu gihe

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uwatewe igihombo yashoboraga kucyirinda nta zindi ngaruka, umutwaro cyangwa igisebo bimuteye. UKO URUKIKO RUBIBONA [50] Urukiko rurasanga, n'ubwo amafaranga EADECO isaba akubiye mu ngingo y'ubujurire imwe, ariko mu rwego rwo gusubiza iyi ngingo y'ubujurire, Urukiko rurasubiza kuri buri bwoko bw'amafaranga EADECO isaba.

- a. Ku birebana na 33.053.048 Frw y'agaciro k'imirimo yakozwe [51] Impaka kuri iyi ngingo y'ubujurire zishingiye ku kumenya niba hari ibimenyetso nyakuri Urukiko Rukuru rw'Ubucuruzi rwirengangije byari gutuma rugenera EADECO 33,053,048 Frw y'agaciro k'imirimo ivuga ko yakozwe. [52] Ingingo ya 12, igika cya 1, y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ibikurikira : “Urega agomba kugaragaza ibimenyetso by'ibyo aregera. Iyo abibuze, uwarezwe aratsinda.” [53] Nk'uko byagiye bisobanurwa mu manza zitandukanye zaciwe n'uru Rukiko¹, iyi ngingo yumvikanisha ko umuburanyi utanze ikirego mu Rukiko aba afite inshingano ikomeye yo kugaragaza ibimenyetso bihamya nta shiti ko ibyo aregera ari ukuri, iyo atabashije kubigaragaza, ikirego cye nta shingiro gihabwa. Mu yandi magambo, uwatangije urubanza agomba kuba afite ibimenyetso bidashidikanywaho bihamya neza ko ibyo avuga ari ukuri. [54] Ku birebana n'uru rubanza imikirize y'urubanza rujuririrwa igaragaza ko Urukiko Rukuru rw'Ubucuruzi rwasanze ikimenyetso EADECO ishingiraho isaba kwishyurwa 33.053.048 Frw y'agaciro k'imirimo yakozwe ari raporo yikoreye nyuma yo guseswa kw'amasezerano ariko ikaba nta wundi muntu wayemeje. Ku bijyanye n'ibyo EADECO isaba ko hashyirwaho impuguke yo gukora décompte final, uru Rukiko rurasanga atari ubujurire ku nenge yagaragaye mu rubanza rwaciwe n'Urukiko Rukuru rw'Ubucuruzi, kuko mu gika cya 68 cy'urubanza rujuririrwa, Urukiko rwasanze EADECO itarigeze isaba ko hashyirwaho iyo mpuguke, ngo Urukiko rw'Ubucuruzi rube rwarabyanze, runavuga ko no mu Rukiko Rukuru rw'Ubucuruzi EADECO itigeze isaba Urukiko niba rwamushyiraho ngo rubyange ngo keretse niba ivuga ko rwari kubyibwiriza kandi gushaka ibimenyetso nk'uko rwabigararaje ari ishingano z'ababuranyi atari iz'urukiko. [55] Urukiko rurasanga, nk'uko byasobanuwe haruguru, urega afite inshingano ikomeye yo kugaragaza ibimenyetso bihamya nta shiti ko ibyo aregera ari ukuri. Kuba rero Urukiko Rukuru rw'Ubucuruzi rwasanze nta bimenyetso bidashidikanywaho EADECO itanga bigaragaza aho ishingira isaba ko Akarere ka Gatsibo kayishyura 33.053.048 Frw y'agaciro k'imirimo yakozwe,

1 Reba urubanza N° RS/INJUST/RC 00007/2021/CA rwaciwe n'Urukiko rw'Ubujurire, ku wa 26/10/2023 haburana KARUMUHINZI Baudoux Claire na NYIRAKAZIGA Kabeja Anne Marie; urubanza No RS/INJUST/RC 00003/2023/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 29/06/2023 haburana, RWASABAHIZI Peter na RWAMPUNGA Emmanuel hamwe na BAMUREBE Fortunée, urubanza RS/INJUST/RC 00011/2023/CA rwaciwe ku wa 29/01/2024, haburana ISHIMWE Samuel na KABALISA Jacqueline

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mu gihe nta décompte final ihari cyangwa raporo y'impuguke/umugenagaciro yariguharwaho hemezwa ako gaciro, uru Rukiko rurasanga nta kosa Urukiko Rukuru rw'Ubucuruzi rwakoze; bityo kuri iki kibazo, nta gihindutse ku cyemezo cyafashwe n'Urukiko Rukuru rw'Ubucuruzi, kuko ntaho rwari guhera rugenera EADECO ariya mafaranga isaba.

- b. Ku birebana na 11.400.000 Frw yaguzwe amatiyo [56] Ingingo ya 150, agace ka 5 n'aka 6, y'Itegeko No 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". [57] 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. [58] Mu rubanza RADAA 00011/2022/CA rwaciwe ku wa 12/06/2023, haburana NZABARIMANA Abdallahaman n'Umujyi wa Kigali, uru Rukiko rwasobanuye ko rusomeye hamwe izi ngingo zombi rusanga 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. [59] Ku birebana n'uru rubanza, ikigaragara nuko mu nama yo ku wa 02/03/2011, Umuyobozi Mukuru wa EADECO yamenyesheje abari mu nama ko amatiyo yatumiye azagera kuri site ku wa 07/03/2011, kandi nk'uko byasobanuwe haruguru imirimo yagombaga kurangira ku wa 15/01/2011. [60] Urukiko rurasanga, nk'uko byasobanuwe haruguru, EADECO niyo itarubahije amasezerano bituma aseswa. Kuba rero amatiyo yarageze kuri chantier ku wa 07/03/2011, ndetse no ku wa 11/03/2011, EADECO ikandikira Umugenzuzi w'imirimo ko amatiyo yahageze, ku wa 07/03/2011, akaba ari yo tariki Akarere ka Gatsibo kandikiyeho EADECO ibaruwa yo gusesa amasezerano, kandi EADECO ikaba itabasha kugaragariza Urukiko ko byaba byaratewe n'Akarere ka Gatsibo, Urukiko rurasanga mu gihe Akarere katigeze kemera ayo matiyo, ntaho rwahera rutegeka ko kakwishyura igiciro cy'ayo matiyo. Rurasanga EADECO yagiye itinza imirimo, ari nayo igomba kwirengera igihombo kijyanye n'ayo matiyo mu gihe itashoboye kuyakoresha ku yindi chantier cyangwa kuyagurisha. Rurasanga rero atari Akarere kayiteje igihombo cy'ayo matiyo ku buryo kayarwozwa. Bityo, iyi mpamvu nayo nta shingiro ifite.

- c. Ku birebana na 4,170,000 Frw yahembwe abakozi barinze ayo matiyo

2 Reba igika cya 45.

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- [61] Kuri iki kibazo, mu gihe bigaragaye ko ayo matiyo atigeze yakirwa n'Akarere, bivuze ko yari umutungo wa EADECO, ikaba ari nayo yari ifite inshingano zo kuyatwara aho arindirwa umutekano. Ibi kandi binashimangirwa n'uko ku wa 11/07/2011, Akarere ka Gatsibo kandikiye EADECO kayisaba kuza gukura ibikoresho kuri chantier kuko imirimo igiye gutangira. Urukiko rurasanga rero, nk'uko Urukiko Rukuru rw'Ubucuruzi rwabibonye, EADECO igomba kwirengera ingaruka zo kuba itarubahirije amasezerano. Bityo amafaranga 4,170,000 isaba ngo yahembwe abakozi barinze ayo matiyo, nta shingiro afite.
- d. Ku birebana na 77.125.320 Frw EADECO isaba nk'inyungu yateganyaga [62] Ingingo ya 140 y'itegeko n° 45/2011 ryo kuwa 25/11/2011 rigenga amasezerano muri rusange ibiteganyako ko "Nta ndishyi zishobora gutangwa mu gihe uwatewe igihombo yashoboraga kucyirinda nta zindi ngaruka, umutwari cyangwa igisebo bimuteye." [63] Urukiko rurasanga, kuba EADECO ari yo yatumwe amasezerano aseswa, nk'uko byasobanuwe haruguru, igomba kwirengera ingaruka zabyo. Nk'uko rero Urukiko Rukuru rw'Ubucuruzi rwabibonye, kuba ari yo yatindije imirimo kugeza ubwo amasezerano aseswa ntabwo yabishingiraho ngo maze isabe ko ihabwa inyungu yari kubona mu gihe cyo kurangiza isoko. Uretse n'ibyo, kuba imirimo itarangiye, ngo yakirwe, noneho EADECO imenye icyo yungutse, birumvikana ko inyungu isaba ngo yari kuzabona ntaho zishingiye.
3. Kumenya niba EADECO yaragombaga guhabwa 50.000.000 Frw y'indishyi z'akababaro [64] Abahagarariye EADECO bavugaga kuwa EADECO atari yo yakoze amakosa, ko rero ikwiye guhabwa 50,000,000 Frw y'indishyi z'akababaro, kuko yashyizwe m'urwego rw'abambuzi yaba imbere ya Leta yewe n'imbere y'abafatanyabikorwa hatibagiranye abakozi ikoresha kandi muby'ukuri ibi biterwa n'imyitwarire y'Akarere ka Gatsibo yo gusesa amasezerano katitaye kubyo yateganyaga. Bityo ko ariyo mpamvu EADECO ibisabira indishyi z'akababaro. [65] Uhagarariye Akarere ka Gatsibo yiregura ku ndishyi z'akababaro EADECO isaba avuga ko nk'uko byavuzwe haruguru, EADECO ari yo nyirabayazana w'iseswa ry'amasezerano kandi Akarere ka Gatsibo kaseshe amasezerano mu buryo bwemewe n'amategako kandi bwateganyijwe mu masezerano impande zombi zagiranye bitewe n'uko EADECO yananiwe kurangiza imirimo mu gihe cyumvikanyweho, bityo ko indishyi z'akababaro urega asaba avuga ko amasezerano yasashwe mu buryo bunyuranije n'amategako, nta shingiro zifite nk'uko bigaragazwa n'impamvu zateye iseswa ry'amasezerano zikubiye mu ibaruwa yo kuwa 07/03/2011, imenyeshako EADECO iseswa ry'amasezerano. UKO URUKIKO RUBIBONA [66] Impaka kuri iyi ngingo zishingiye ku kumenya niba Urukiko Rukuru rw'Ubucuruzi rwari gutegeka Akarere ka Gatsibo kwishyura EADECO 50,000,000 Frw y'indishyi z'akababaro.

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[67] Urukiko rurasanga, kuba Urukiko Rukuru rw'Ubucuruzi rwarasanze EADECO ariyo yishe amasezerano yagiranye n'Akarere Gatsibo bigatuma aseswa, kuba n'uru Rukiko ariko rubibona, rurasanga nta kosa Urukiko Rukuru rw'Ubucuruzi rwakoze ryo kudaha EADECO 50,000,000 Frw y'indishyi z'akababaro ; bityo no kuri uru rwego izo ndishyi z'akabaro EADECO isaba nta shingiro zifite.

5.Kumenya niba amafaranga y'ikurikiranarubanza n'igihembo cya Avoka asabwa muri uru rubanza afite ishingiro [68] Abahagarariye EADECO bavuga ko kuba EADECO atariyo yakoze amakosa ikwiye guhabwa igihembo cya Avoka cya 3.000.000 Frw yari yasabye ku rwego rwa mbere na 1.000.000 Frw y'ikurikiranarubanza, kandi no ku rwego rw'ubujurire ikagenerwa 1.500.000 Frw y'igihembo cya Avoka na 500.000 Frw y'ikurikiranarubanza, naho kuri uru rwego ikagenerwa 1.000.000 Frw y'igihembo cya Avoka na 300.000 Frw y'ikurikiranarubanza. [69] Uhagarariye Akarere ka Gatsibo avuga ko bitari gushoboka ko EADECO igenerwa igihembo cya Avoka n'amafaranga y'ikurikiranarubanza kandi inkiko zombi zaremeje ko itsinzwe. Bityo ko ibyo isaba bidakwiye guhabwa ishingiro na cyane ko ariyo yishoye mu manza, ikaba ikwiye no kwirengera ingaruka zabyo. [70] Avuga kandi ko Akarere ka Gatsibo gashingiye ku ngingo ya 26 y'amabwiriza No 01/2014 akena ibihembo fatizo by'Abavoka, no ku ngingo ya 111 y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, gasaba Urukiko gutegeka EADECO kwishyura Akarere ka Gatsibo igihembo cya Avoka gihwanye na 3,000,000 Frw, ndetse rugatega ko Akarere ka Gatsibo gasubizwa amafaranga y'ikurikiranarubanza ahwanye na 1,000,000 Frw. UKO URUKIKO RUBIBONA [71] 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'ubutegetsi iteganya ibi bikurikira : "Ikirego cy'amafaranga y'ikurikiranarubanza ni ikirego gishamikira 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'iyi ikirego cy'iremezo cyaba kitakiriwe". [72] Urukiko rushingiye ku biteganywa n'ingingo ya 111 y'Itegeko n° 22/2018 yibukijwe haruguru, rurasanga amafaranga y'igihembo cya Avoka n'ay'ikurikiranarubanza Akarere ka Gatsibo gasaba kagomba kuyahabwa kubera ko ubu bujurire bwatumye gashaka Avoka wo kukaburanira kandi gatakaza n'amafaranga gakurikirana uru rubanza. Rurasanga ariko ayo gasaba ari menshi harebwe ibyakozwe ku rubanza ; bityo mu bushishozi bwatwemo, rukageneye amafaranga ibihumbi magana atanu (500.000 Frw) y'igihembo cya Avoka n'ibihumbi magana abiri (200.000 Frw) y'ikurikiranarubanza, kuri uru rwego, yiyongera ku mafaranga miliyoni imwe (1.000.000 Frw) kari kagenewe mu manza zabanje. Yose hamwe akaba amafaranga miliyoni imwe n'ibihumbi magana arindwi (1.700.000 Frw), agomba gutangwa na ENTREPRISE D'ADDUCTION D'EAU ET

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DE CONSTRUCTION (EADECO). Rurasanga ayo ENTREPRISE D'ADDUCTION D'EAU ET DE CONSTRUCTION (EADECO) isaba nta shingiro afite, kuko ubujurire bwayo nta shingiro bwahawe. III. ICYEMEZO CY'URUKIKO [73] Rwemeje ko ubujurire bwatanzwe na ENTREPRISE D'ADDUCTION D'EAU ET DE CONSTRUCTION (EADECO) nta shingiro bufite. [74] Rwemeje ko urubanza RCOMA 00364/2022/HCC rwaciwe n'Urukiko Rukuru rw'Ubucuruzi ku wa 24/05/2024, rudahindutse. [75] Rutegetse ENTREPRISE D'ADDUCTION D'EAU ET DE CONSTRUCTION (EADECO) kwishyura Akarere ka Gatsibo amafaranga ibihumbi magana atanu (500.000 Frw) y'igihembo cya Avoka n'ibihumbi magana abiri (200.000 Frw) y'ikurikiranarubanza, kuri uru rwego, yiyongera ku mafaranga miliyoni imwe (1.000.000 Frw) kari kagenewe mu manza zabanje. Yose hamwe akaba amafaranga miliyoni imwe n'ibihumbi magana arindwi (1.700.000 Frw). [76] Ruvuze ko ingwate y'amagarama yatanzwe ihwanye n'ibyakozwe mu rubanza.

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