

RWANDA / JUDGMENT

EXCELLENT V AFRICABET

RCOMAA 00064/2022/CA,

COURT

Court of Appeal

DECIDED

21 October 2022

CASE / FILE NUMBER

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EXCELLENT V AFRICABET

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Text

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AFRICABET CO. Ltd, v. EXCELLENT INVESTMENT COMPANY Ltd (EIC Ltd) [Rwanda URUKIKO RW'UBUJURIRE – RCOMAA 00064/2022/CA, (Ngagi, P.J.,) 21 Ukwakira 2022] Amategeko agenga ububasha bw' inkiko – Ububasha bw' Inkiko – Urukiko rw' Ubujurire – Ubujurire ntibwakirwa mu Rukiko rw' Ubujurire iyi indishyi zagenwe mu nkiko zabanje zitagera nibura kuri 75.000.000Frw ateganywa n' itegeko – Itegeko N 30/2018 ryo ku wa 02/06/2018⁰ rigena ububasha bw'inkiko, ingingo ya 52. Incamake y ikibazo: Sosiyete EXCELLENT INVESTMENT COMPANY Ltd ivuga ko yagiranye amasezerano y'uburinzi na sosiyete AFRICABET CO. Ltd. Muri ayo masezerano, impande zombi zemeranyijwe ko hazajya hiyambazwa abarinzi mirongo itatu, buri umwe akazajya yishyurwa 65.000 Frw ku kwezi, yose hamwe akaba 1.950.000 Frw ku kwezi. Ayo masezerano yagombaga kumara imyaka ibiri ishobora kongerwa impande zombi zibanje kubishyiraho umukono. AFRICABET CO. Ltd ntiyagiye yishyura bituma EXCELLENT INVESTMENT COMPANY Ltd itanga ikirego mu Rukiko rw'Ubucuruzi ivuga ko yirengagije inshingano zayo zo kwishyura ku gihe, irusaba kuyitegeka kwishyura amafaranga akomoka ku mirimo yo kurinda ibikorwa byayo by'ubucuruzi. Urukiko rw'Ubucuruzi rwayitegetse kwishyura. AFRICABET CO. Ltd ntiyishimiye imikirize y'urwo rubanza, iyijuririra mu Rukiko Rukuru

rw'Ubucuruzi, ivuga ko amasezerano yasheshwe mu buryo bunyuranyije n'ubwo bumvikanyeho, ikaba igomba kubitangira indishyi. Urukiko Rukuru rw'Ubucuruzi rwemeje ko ubujurire bwatanzwe na AFRICABET CO. Ltd nta shingiro bufite, rutegeka ko hagumyeho imikirize y'urubanza rwaciwe n'Urukiko rw'Ubucuruzi. AFRICABET CO. Ltd yajuririye na none Urukiko rw'Ubujurire ivuga ko mu kugena umwenda ibereyemo EIC Ltd, Urukiko Rukuru rw'Ubucuruzi rwayitegetse kwishyura umwenda utari wo. Mbere yo kwiregura ku mpamvu z'ubujurire EXCELLENT INVESTMENT COMPANY Ltd yatanze inzitizi yo kutakira ubujurire kuko butari mu bubasha bw'uru Rukiko, kandi ko ingano y'umwenda uregerwa muri uru rubanza utageze kuri 75.000.000Frw ziteganywa n'itegeko. Incamake y icyemezo: Ubujurire ntibwakirwa mu Rukiko rw'Ubujurire iyi indishyi zagenwe mu nkiko zabanje zitagera nibura kuri 75.000.000Frw ateganywa n'itegeko. Inzitizi ifite ishingiro. Amagarama ahwanye n'ibyakozwe mu rubanza. Amategeko yashyigirweho: Itegeko N 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko ⁰, ingingo ya 52.

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Nta manza zifashishijwe. Urubanza I. IMITERERE Y'URUBANZA [1] Ku wa 01/08/2019, EXCELLENT INVESTMENT COMPANY Ltd (EIC Ltd) yagiranye amasezerano y'uburinzi na AFRICABET CO. Ltd, afite N 04/06/2019. Muri ayo masezerano, ⁰ impande zombi zemeranyijwe ko hazajya hiyambazwa abarinzi mirongo itatu, buri umwe akazajya yishyurwa 65.000 Frw ku kwezi, yose hamwe akaba 1.950.000 Frw ku kwezi. Ayo masezerano yagombaga kumara imyaka ibiri ishobora kongerwa impande zombi zibanje kubishyiraho umukono. [2] AFRICABET CO. Ltd ntiyagiye yishyura bituma EXCELLENT INVESTMENT COMPANY Ltd itanga ikirego mu Rukiko rw'Ubucuruzi ivuga ko AFRICABET Ltd yirengagije inshingano zayo zo kwishyura ku gihe, irusaba kuyitegeka kwishyura 29.250.000 Frw akomoka ku mirimo yo kurinda ibikorwa byayo by'ubucuruzi, indishyi z'ubukererwe zingana na 5%, n'indishyi z'akababaro zingana na 5.000.000 Frw. Isobanura ko umwenda wa 29.250.000 Frw wabazwe kugeza ubwo ikirego cyatangwaga hashize igihe gisaga amezi 15 itishyurwa. [3] Mu rubanza RCOM 00585/2021/TC rwaciwe n'Urukiko rw'Ubucuruzi ku wa 30/09/2021, urwo Rukiko rwemeje ko AFRICABET CO. Ltd ibereyemo EXCELLENT INVESTMENT COMPANY Ltd umwenda wa 29.250.000 Frw, hiyongereyeho 717.226 Frw y'ibihano by'ubukererwe, yose hamwe akaba 29.967.226 Frw. Rutegeka AFRICABET CO. Ltd kwishyura EXCELLENT INVESTMENT COMPANY Ltd 29.967.226 Frw, 100.000 Frw y'ikurikiranarubanza na 500.000 Frw y'igihembo cya Avoka, no kuyisubiza 20.000 Frw y'ingwatey'amagarama yishyuye ubwo yatangaga ikirego. [4] AFRICABET CO. Ltd ntiyishimiye imikirize y'urwo rubanza, iyijuririra mu Rukiko Rukuru rw'Ubucuruzi, ivuga ko ingano y'umwenda uhwanye na 29.250.000 Frw w'ibirarane by'amezi 15 wemejwe ku rwego rubanza atari uw'ukuri kuko wabazwe nabi, kuko hari amwe mu mazu yakoreragamo yarindwaga na EIC Ltd yagiye asubizwa bene yo mu bihe bitandukanye ariko na yo agakomeza kubarirwa mu yo yakomeje kurinda, bigatuma habaho kwibeshya mu kugena umwenda yari ifitiye EIC Ltd, atabanje gukurwamo, ko hari andi mafaranga yagombaga gukurwa mu mwenda wishyuzwa ahwanye na 1.127.489 Frw yibwe AFRICABET CO. Ltd bikozwe n'umukozi wa EIC Ltd witwa Maniraguha Severin, ko itagombaga gucibwa ibihano by'ubukererwe bya 5% bibarwa kuri fagitire

ya buri kwezi, kuko uregwa yazanye fagitire imwe y'amezi 15, ko amasezerano yasheshwe mu buryo bunyuranyije n'ubwo bumvikanyeho, ikaba igomba kubitangira indishyi, isaba kwishyura mu byiciro umwenda uzemezwa, inasaba ko amafaranga y'ibyagiye ku rubanza yaciwe avaho, ahubwo akaba ari yo igenerwa ibyo yatakaje mu rubanza. [5] Ku wa 25/03/2022, Urukiko Rukuru rw'Ubucuruzi rwaciye urubanza RCOMA 00674/2021/HCC rwemeza ko ubujurire bwatanzwe na AFRICABET CO. Ltd nta shingiro bufite, rutegeka ko hagumye imikiriye y'urubanza rwaciwe n'Urukiko rw'Ubucuruzi ku wa

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30/09/2021, ko 40.000 Frw AFRICABET CO. Ltd yatanze ingwate y'amagarama ijurira ahwanye n'ibyakozwe mu rubanza. [6] AFRICABET CO. Ltd yajuririyeye uru Rukiko ivuga ko mu kugena umwenda ibereyemo EIC Ltd, Urukiko Rukuru rw'Ubucuruzi rwayitegetse kwishyura umwenda utari wo, kuko rutahaye agaciro ibisobanuro yatanze bigaragaza ko hari amafaranga yagombaga kubanza kuvanwa ku mwenda mbere y'uko wemezwa, ajyanye n'amazu yari itagikorera mu buryo bitari ngombwa ko arindwa, amafaranga yibwe n'umukozi wa EIC Ltd, n'amafaranga yandi yabazwe amasezerano yaramaze guseswa, ko kandi ibihano yaciwe byabazwe mu buryo bunyuranyije n'ibyateganywaga n'amasezerano impande zombi zagiranye. Ivuga kandi ko rutagombaga kwemeza ko amafaranga y'igihembo cya Avoka n'ay'ikurikiranarubanza yategetswe kwishyura ku rwego rubanza agumaho, isaba gusubizwa amafaranga y'ikurikiranarubanza n'igihembo cya Avoka. Mbere yo kwiregura ku mpamvu z'ubujurire EIC Ltd yatanze inzitizi yo kutakira ubujurire bwa AFRICABET CO. Ltd kuko butari mu bubasha bw'uru Rukiko. [7] Iburanisha mu ruhamye ryabaye ku wa 07/10/2022, AFRICABET CO. Ltd ihagarariye n'Umuyobozi wayo Mukongori Moses, naho EXCELLENT INVESTMENT COMPANY Ltd ihagarariye na Me Ntaganda Christian, uwo munsu iburanisha ry'urubanza ririmurwa kubera ko Umuyobozi wa AFRICABET CO. Ltd atunganiye, maze AFRICABET CO. Ltd icibwa ihazabu mbonezamubano kubera gutinza urubanza ihwanye na 100.000 Frw, ku wa 12/10/2022, irayishyura nk'uko bigaragazwa n'inyemezabwishyu no 881012121359. Ku wa 13/10/2022, urubanza ruburanishwa mu ruhamye AFRICABET CO. Ltd ihagarariye na Me MUNYENTWALI Jean Maurice, naho EXCELLENT INVESTMENT COMPANY Ltd ihagarariye na Me Ntaganda Christian. Hasuzumwa niba ubujurire bwa kabiri bwatanzwe na AFRICABET CO. Ltd butari mu bubasha bw'uru Rukiko. II. IBIBAZO BIGIZE URUBANZA N'ISESENGURA RYABYO

1. Kumenya niba ubujurire bwa AFRICABET CO. Ltd butari mu bubasha bw'Urukiko rw'Ubujurire [8] Uhagarariye EXCELLENT INVESTMENT COMPANY Ltd avuga ko Urukiko rw'Ubujurire rwakiriye ikirego cy'ubujurire cya AFRICABET CO. Ltd rushingiye ku ngingo ya 52, igika cya 2, agace ka 4, y'Itegeko N 30/2018 ryo ku wa 02/06/2018 rigena ububasha⁰ bw'inkiko kandi bitari bikwiye kuko Note de plaidoirie yashizwe mu rubanza RCOMA 00674/2021/HCC iburanisha ryapfundikiwe nta cyemezo cyafashwe kubera ibiyikubiyemo, ko na statement igaragaza indishyi z'ubukererwe yatanze nyuma yo gupfundikira iburanisha, basanga nayo itarashingiraho kuko ntakiyikubiyemo Urukiko rwemeje. [9] Avuga kandi ko indi mpamvu bashingiraho basaba kutakira ubujurire bwa kabiri bwa AFRICABET CO. Ltd ari uko ingano y'umwenda uregerwa muri uru rubanza utageze kuri 75.

000.000 Frw ziteganywa mu ngingo ya 52, igika cya 2, agace ka 8, y'Itegeko rigena ububasha bw'inkiko ryavuzwe haruguru. [10] Avuga na none ko EXCELLENT INVESTMENT COMPANY Ltd yatanze imyanzuro yo kwiregura mu Rukiko Rukuru rw'Ubucuruzi, ndetse yitabira n'inama ntegururubanza, ko rero

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ibivugwa n'uhagarariye AFRICABET CO. Ltd ko yaba imyanzuro yaba note de plaidoirie byatanzwe nyuma y'ipfundikirwa ry'urubanza nta shingiro bifite. [11] Uhagarariye AFRICABET CO. Ltd avuga ko bajuriye bashingiye ku ngingo ya 52, igika cya 2, agace 4, y'Itegeko N 30/2018 ryo ku wa 02/06/2018 ryavuzwe haruguru ivuga ko ⁰ "Urukiko rw'Ubujurire rufite kandi ububasha bwo kuburanisha mu rwego rw'ubujurire bwa kabiri imanza zaciwe n'Urukiko Rukuru, Urukiko Rukuru rw'Ubucuruzi n'Urukiko Rukuru rwa Gisirikare, iyo izo manza zaciwe hashingiwe ku kimenyetso, inyandiko cyangwa imyanzuro byatanzwe nyuma yo gupfundikira urubanza kandi hatabayeho gusubukura iburanisha. [12] Asobanura ko urubanza rwaburanishijwe ku wa 17/01/2022 saa tanu (11:00), EIC Ltd idahari. Kuri uwo munsu, Urukiko rwemeza ko urubanza ruzasomwa ku wa 11/02/2022, maze rukomeza kuburanisha izindi manza zagombaga kuburanishwa uwo munsu. Nyuma urubanza rwamaze gupfundikirwa ndetse n'uhagarariye AFRICABET CO. Ltd yamaze kuva mu cyumba cy'iburanisha yatashye, uburanira EIC Ltd agera mu cyumba cy'iburanisha, Urukiko rumwemerera gukora note de plaidoirie, aza kuyishyira mu rubanza ku wa 19/02/2022 saa sita na mirongo itatu n'irindwi (12:37), ashyiramo n'ibimenyetso birimo icyiswe "Penalties EIC Ltd yaciwe na RRA kubera kutishyura umwenda kwa AFRICABET CO. Ltd" n'icyiswe "Statement ishimangira umwenda wose AFRICABET CO. Ltd ibereyemo EIC Ltd" byashyizwe muri IECMS ku wa 17/01/2022 saa tanu n'iminota mirongo itatu n'itatu (11:33), nyuma y'ipfundikirwa ry'urubanza, mu gufata icyemezo Urukiko rukaba rwarashingiye kuri note de plaidoirie nk'uko bigaragara mu gika cya 51 cy'urubanza rujuririrwa kandi AFRICABET CO. Ltd idahawe umwanya wo kugira icyo ibivugaho. Bityo ko kuba yaravukijwe uburenganzira ihabwa n'amategeko bwo kugira icyo ivuga ku myanzuro n'ibimenyetso byatanzwe na EIC Ltd iburanisha ryamaze gupfundikirwa, bituma ubujurire bwayo bwa kabiri bwakirwa. [13] Avuga kandi ko urubanza rwaburanishijwe EIC Ltd itariregura ku mpamvu z'ubujurire za AFRICABET CO. Ltd, iza kwiregura urubanza rwamaze gupfundikirwa, hanyuma Urukiko rushingira kuri iyo myanzuro yatanze nyuma y'ipfundikirwa ry'urubanza kandi hatabayeho gusubukura iburanisha, ko rero yaba note de plaidoirie, yaba imyanzuro byose byatanzwe nyuma y'ipfundikirwa ry'urubanza, bityo ko uru rubanza ruri mu basha bw'uru Rukiko. UKO URUKIKO RUBIBONA [14] Impaka kuri iyi ngingo zishingiye ku kumenya niba hari ibimenyetso, inyandiko cyangwa imyanzuro byatanzwe nyuma y'uko urubanza rujuririrwa rupfundikiwe, hanyuma Urukiko Rukuru rw'Ubucuruzi rukabishingiraho hatabayeho gusubukura iburanisha. [15] Ingingo ya 52, igika cya 2, agace ka 4, y'Itegeko N 30/2018 ryo ku wa 02/06/2018 ⁰ rigena ububasha bw'inkiko, iteganya ibikurikira: "Urukiko rw'Ubujurire rufite kandi ububasha bwo kuburanisha mu rwego rw'ubujurire bwa kabiri imanza zaciwe n'Urukiko Rukuru, Urukiko Rukuru rw'Ubucuruzi n'Urukiko Rukuru rwa Gisirikare, iyo izo manza: 4^o zaciwe hashingiwe ku kimenyetso, inyandiko cyangwa imyanzuro byatanzwe nyuma yo gupfundikira urubanza kandi hatabayeho gusubukura

iburanisha". [16] Ingingo ya 12 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:

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"Urega agomba kugaragaza ibimenyetso by'ibyo aregera. Iyo abibuze, uwarezwe aratsinda". Ingingo ya 3 y'Itegeko N° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo nayo iteganya ko "Buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana" [17] Urukiko rw'Ubujurire rusesenguye ingingo ya Ingingo ya 52, igika cya 2, agace ka 4, y'Itegeko N 30/2018 imaze kuvugwa rusanga yumvikanisha ko mu gihe Urukiko Rukuru, ^o cyangwa Urukiko Rukuru rw'Ubucuruzi cyangwa se Urukiko Rukuru rwa Gisirikare rwaciye urubanza rushingiye ku kimenyetso, ku nyandiko cyangwa ku myanzuro byatanzwe nyuma yo gupfundikira urubanza kandi rutashyirwa iburanisha ari impamvu ituma urwo rubanza rwemerwa kujuririrwa bwa kabiri mu Rukiko rw'Ubujurire. Mu yandi magambo kugira ngo bene ubu bujurire bwakirwe bugomba kuba bwujuje ibintu bibiri ari byo: kuba hari ikimenyetso, inyandiko cyangwa imyanzuro byatanzwe nyuma yo gupfundikira urubanza, no kuba icyo kimenyetso, inyandiko cyangwa imyanzuro byarashyirwaho n'Urukiko mu guca urubanza; bivuze ko haterebwa gusa ko hari ibimenyetso cyangwa imyanzuro byatanzwe nyuma yo gupfundikira urubanza, ahubwo hanabwo ko ibyo bimenyetso cyangwa imyanzuro byashyirwaho n'Urukiko mu guca urubanza bikaba byaratumye urundi ruhande rubirenganiramo kuko rutahawe umwanya wo kubivugurura. [18] Urukiko rurasanga, kuba Umushingamategeko yarateganyije ko urubanza rwashyirwaho ku kimenyetso, ku nyandiko cyangwa ku myanzuro byatanzwe nyuma yo gupfundikira urubanza hatabayeho gusubukura iburanisha rushobora kujuririrwa bwa kabiri mu Rukiko rw'Ubujurire, yari agamije kurengera umuburanyi watsinzwe kubera icyo kimenyetso, inyandiko cyangwa imyanzuro byatanzwe nyuma yo gupfundikira urubanza, akaba yaravukijwe uburenganzira bwo kubivugurura yemererwa n'amategeko ndetse n'ihame ryo kuvuguruzanya (principe du contradictoire), ari nayo mpamvu mu gusuzuma ko uru Rukiko rufite ububasha bwo kuburanisha ubujurire bwa kabiri bwatanzwe na AFRICABET CO. Ltd, rutagarukira gusa ku kureba ko mu rubanza rujuririrwa hari aho Urukiko rwavuze ku nyandiko ikubiyemo imiburanire (note de plaidoirie) cyangwa ku myanzuro byatanzwe na EIC Ltd, ahubwo runasuzuma ko iyo nyandiko ikubiyemo imiburanire (note de plaidoirie) cyangwa iyo myanzuro yaba yarashyirwaho n'Urukiko bigatuma AFRICABET Co Ltd itsindwa, byaba atari ko biri, ubu bujurire ntibube buri mu bubasha bw'uru Rukiko. [19] Dosiye y'urubanza igaragaza ko urubanza rujuririrwa RCOMA 00674/2021/HCC rwakorowe inama ntegurarubanza ku wa 07/12/2021, AFRICABET CO. Ltd ititabye, naho EIC Ltd ihagarariwe na Me Ntaganda Justin, maze yiregura ku ngingo zose z'ubujurire zatanzwe na AFRICABET CO. Ltd nk'uko bigaragazwa na raporo y'inama ntegurarubanza yo ku wa 07/12/2021, ndetse ashyira no muri dosiye incamake y'imiterere y'urubanza nk'uko bigaragara muri "case summary" igaragara muri "Parties submissions". Dosiye igaragaza kandi ko urubanza rujuririrwa rwaburanishijwe ku wa 17/01/2022, AFRICABET CO. Ltd ihagarariwe na Me Munyentwali Jean Maurice, naho EXCELLENT INVESTMENT COMPANY Ltd ititabye, maze Urukiko Rukuru rw'Ubucuruzi rufata icyemezo cyo kuburanisha urubanza EIC Ltd idahari, hakazashyirwa ku myanzuro yayo kuko itari yagaragaje impamvu yatumye ititaba, isomwa ry'urubanza rishyirwa ku wa 11/02/2022, ariko ntirwasomwa ruza gusomwa ku wa 25/03/2022. [20]

Dosiye y'urubanza igaragaza kandi ko ku wa 17/01/2022 saa tanu n'iminota cumi n'itatu (11:13), Me Ntaganda Justin wari uhagarariye EIC Ltd yashyize muri dosiye inyandiko yise

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Statement ishimangira umwenda wose AFRICABET CO. Ltd ibereyemo EIC Ltd (integuza ya nyuma yatanzwe na EIC Ltd), kuri uwo munsu saa tanu n'iminota mirongo itatu n'itatu (11:33) ashyiramo inyandiko yise "Penalties EIC Ltd yaciwe na RRA kubera kutishyura umwenda kwa AFRICABET CO. Ltd" (ifite umutwe ugira uti: account statement), hanyuma ku wa 19/01/2022, ashyiramo note de plaidoirie. Imikirize y'urubanza igaragaza ko mu gika cya 12 cy'urubanza rujuririrwa Urukiko rwavuze ko mu nyandiko ikubiyemo imiburanire (note de plaidoirie) ya EIC Ltd isaba ko inyungu z'ubukererwe zabarwa neza hashingiwe kuri statement yashyize muri dosiye kuko ngo ku rwego rw'ibanze habayeho kwibeshya mu kubara, hanyuma mu gika cya 26, Urukiko rwemeza ko inyungu uregwa asaba kongera kubarirwa zitagize ingingo zajuririwe, ku buryo yakuririra ku bujuriye bwa AFRICABET CO. Ltd agasaba ko zibarwa, kandi ubujuriye buburanishwa gusa mu mbibi z'icyajuririye cyangwa uwabwuriyeho nawe akajurira nk'uko biteganywa n'ingingo ya 156 y'Itegeko no 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru; ko kongera kubara inyungu bisabwa n'uregwa muri uru rubanza, nta shingiro bifite. Mu gika cya 47 cy'urubanza rujuririrwa, Urukiko rwagaragaje ko EIC Ltd, mu nyandiko ikubiyemo imiburanire yayo (note de plaidoirie) isaba guhabwa indishyi z'igihembo cya Avoka zingana 500.000 Frw, hanyuma mu gika cya 51 cy'urwo rubanza, Urukiko rwemeza ko kuba uregwa yaraburanishijwe adahari, byumvikanisha ko ntaho yahera asaba indishyi z'igihembo cya Avoka muri note de plaidoirie ze kandi ataraburanye; ko rero izo ndishyi isaba nta shingiro zifite. (21) Dosiye y'urubanza igaragaza na none ko ku bijyanye n'imyiregurire ya EIC Ltd. [21] Dosiye y'urubanza igaragaza na none ko ku bijyanye n'imyiregurire ya EIC Ltd, Urukiko Rukuru rw'Ubucuruzi rwagiye ruvuga ibikubiye mu myanzuro yayo nk'uko bigaragara mu gika cya 11, icya 29, icya 38, icya 39 n'icya 46 by'urubanza rujuririrwa. Inagaragaza ko EIC Ltd yashyize muri dosiye imyanzuro yo kwiregura ku wa 17/01/2022, umunsi w'iburanisha, nk'uko bigaragara muri dosiye mu gicye cyiswe: "Parties submissions". [22] Ku bijyanye n'imyanzuro yo kwiregura ya EIC Ltd, Urukiko rurasanga mu iburanisha ry'urubanza ryo ku wa 17/01/2022, Urukiko Rukuru rw'Ubucuruzi rwarafashe icyemezo ko ruzayishingiraho, kuko EIC Ltd itari yitabiriye iburanisha, bivuze ko Urukiko rwapfundikiye urubanza ruyifite kuko bitumvikana uburyo rwakwemeza ko ruzashingira ku myanzuro rudafite, cyane cyane ko binagaragara ko iyo myanzuro yari yashyizwe muri IECMS, ndetse n'uhagarariye AFRICABET CO. Ltd akaba atarigeze abihakana, bivuze ko nawe ubwe yari yayibonye muri IECMS, bityo ibyo uhagarariye AFRICABET CO. Ltd avuga ko imyanzuro yo kwiregura yashingiweho n'Urukiko Rukuru rw'Ubucuruzi yatanzwe nyuma y'uko urwo Rukiko rupfundikiye iburanisha, nta shingiro bifite. [23] Urukiko rurasanga kuba mu gika cya 12, icya 26, icya 47 n'icya 51 by'urubanza rujuririrwa, Urukiko Rukuru rw'Ubucuruzi rwaravuze ku bikubiye mu nyandiko ikubiyemo imiburanire (note de plaidoirie) yatanzwe na EIC Ltd nyuma yo gupfundikira urubanza, ariko AFRICABET CO. Ltd ikaba itagaragaza ko Urukiko rwayishingiyeho bigatuma itsindwa; kuba kandi EIC Ltd yatanze imyanzuro yo kwiregura ndetse mu iburanisha ry'urubanza, Urukiko Rukuru rw'Ubucuruzi rukemeza ko ruzayishingiraho, Avoka wari

uyihagarariye akaba yaranitabiriye inama ntegurarubanza akiregura ku mpamvu zose z'ubujurire za AFRICABET CO. Ltd, no kuba mu icibwa ry'urubanza urwo Rukiko rwaravuze ku bikubiye muri iyo note de plaidoirie, ariko akaba atari yo rwashingiyeho rufata icyemezo; Urukiko rurasanga ibyo AFRICABET ivuga ko Urukiko Urukiko Rukuru rw'Ubucuruzi rwashingiye ku nyandiko cyangwa ku myanzuro yatanze nyuma y'ipfundikirwa ry'urubanza bivugwa mu ngingo ya 52,

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igika cya 2, agace ka 4, y'Itegeko N 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko⁰ yibukijwe haruguru, bityo ubujurire bwayo bukaba bugomba kwakirwa, nta shingiro byahabwa, kuko usibye kubivuga gusa nta nubwo ibitangira ibimenyetso nk'uko biteganywa n'ingingo ya 12 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 n'ya 3 y'Itegeko N° 15/2004 ryo ku wa 12/06/2004 yibukijwe haruguru. [24] Ku byo uhagarariye AFRICABET CO.Ltd avuga ko hari ibimenyetso EIC Ltd yashyikirije Urukiko nyuma yo gupfundikira iburanisha bigizwe n'inyandiko yiswe "Penalties EIC Ltd yaciwe na RRA kubera kutishyura umwenda kwa AFRICABET CO. Ltd n'yiswe "Statement ishimangira umwenda wose AFRICABET CO. Ltd ibereyemo EIC Ltd", Urukiko rurasanga usibye kuvuga gusa ko byatanze nyuma y'ipfundikirwa ry'urubanza ariko nta garagaza aho Urukiko Rukuru rw'Ubucuruzi rwashingiye kuri ibyo bimenyetso, bityo nk'uko byibukijwe haruguru, kubura ibimenyetso by'ibyo avuga biramutsindisha. Urukiko ruributsa na none ko niyo EIC Ltd yaba yarabishyizemo nyuma y'ipfundikirwa ry'urubanza ubwabyo atari impamvu ituma urubanza rwakirwa muri uru Rukiko, ahubwo nk'uko byagaragajwe haruguru ibyo bimenyetso bigomba kuba byashingiweho n'Urukiko, rukagira ibyo rutegeka umuburanyi; kuba rero AFRICABET CO Ltd idashobora kubigaragaza, birumvikana ko iyi atari impamvu ituma ubu bujurire bwa kabiri bwakirwa muri uru Rukiko. [25] Urukiko rushingiye kuri izo mpamvu zose zasobanuwe haruguru, rurasanga ubujurire bwa AFRICABET CO. Ltd butagomba kwakirwa ngo busuzumwe kuko impamvu yashingiyeho itanga ubujurire bwa kabiri nta shingiro ifite; kandi akaba n'indishyi zagenwe mu nkiko zabanje zitagera nibura kuri 75.000.000 Frw ateganywa n'ingingo ya 52, igika cya 2, agace 8, y'Itegeko N 30/2018 ryo ku wa 02/06/2018 ryibukijwe haruguru, ngo abe ari byo AFRICABET CO Ltd⁰ ishingiraho isaba ko ubujurire bwayo bwakirwa muri uru Rukiko.

2. Kumenya niba amafaranga y'ikurikiranarubanza n'igihembo cya Avoka asabwa muri uru rubanza afite ishingiro [26] Uhagarariye EIC Ltd asaba ko AFRICABET CO Ltd yishyura uwo uhagarariye 500.000 Frw y'igihembo cya Avoka. [27] Uhagarariye AFRICABET CO Ltd avuga ko amafaranga IEC Ltd isaba itagomba kuyagenerwa kuko ari yo yayishoye mu manza. [28] Ingingo ya 111 y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru, iteganya ibikurikira: "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". [29] Urukiko rurasanga amafaranga y'igihembo cya Avoka EXCELLENT INVESTMENT COMPANY Ltd isaba ikwiye kuyahabwa, kuko byabaye ngombwa ko ishaka Avoka wo kuyiburanira, bityo

AFRICABET CO. Ltd ikaba igomba kuyishyura 500.000 Frw y'igihembo cya Avoka kuri uru rwego. Rurasanga AFRICABET CO Ltd itagomba gusubizwa amafaranga y'ikurikiranarubanza n'igihembo cya Avoka ndetse n'amagarama yatanze kuri uru rubanza kuko ubujurire bwayo butakiriwe.

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III. ICYEMEZO CY'URUKIKO [30] Rwemeje ko inzitizi y'iburabubasha bw'Urukiko yatanzwe na EXCELLENT INVESTMENT COMPANY Ltd ifite ishingiro. [31] Rwemeje ko ubujurire bwatanzwe na AFRICABET CO. Ltd butakiriwe kuko butari mu bubasha bw'Urukiko rw'Ubujurire. [32] Rutegetse AFRICABET CO. Ltd kwishyura EXCELLENT INVESTMENT COMPANY Ltd 500.000 Frw y'igihembo cya Avoka kuri uru rwego. [33] Ruvuze ko amafaranga y'amagarama yatanzwe ahwanye n'ibyakoze mu rubanza.

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