URUBANZA N° RP 00001/2017/HC/HCCIC

UBUSHINJACYAHA Vs IYAMUREMYE Jean Claude Alias NZINGA

30 Kamena 2021
HCCIC

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URUKIKO RUKURU, URUGEREKO RWIHARIYE RUBURANISHA IBYAHA MPUZAMAHANGA N'IBYAMBUKA IMBIBI, RURI I NYANZA KU CYICARO CYARWO, RUKIJIJE NONE TARIKI YA 30/06/2021 URUBANZA № RP 00001/2017/HC/HCCIC KU RWEGO RWA MBERE MU BURYO BUKURIKIRA:

HABURANA:

UBUSHINJACYAHA buhagarariwe na NKUSI Faustin na DUSHIMIMANA Claudine, Abashinjacyaha ku rwego rw'Igihugu.

NA

IYAMUREMYE Jean Claude Alias Nzinga, mwene Biziyaremye François na Mukangarambe Stéphanie, wavutse ku itariki ya 14 Ukuboza 1975, avukira muri Serire Gatare, Segiteri Kicukiro, Komini Kanombe, Perefegitura ya Kigali, ubu akaba ari mu Murenge wa Niboyi, Akarere ka Kicukiro, Umujyi wa Kigali muri Repubulika y'u Rwanda. Yunganirwa na Me Karake Canisius na Me Semanza Jean Damascène.

ICYAHA AREGWA:

Icyaha cya jenoside giteganywa kandi gihanishwa ingingo ya 114, 115 na 762 z'Itegeko-Ngenga n° 01/2012/OL ryo kuwa 02/05/2012 rishyiraho igitabo cy'amategeko ahana ibyaha mu Rwanda, n'ingingo ya mbere (1) n'iya kabiri (2) (c) z'Amasezerano mpuzamahanga yo ku wa 09 Ukuboza 1948 agamije gukumira no guhana icyaha cya jenoside.

I. IMITERERE Y'URUBANZA

[1]. Ubushinjacyaha bwareze IYAMUREMYE Jean Claude Alias Nzinga icyaha cya jenoside yakorewe Abatutsi muri Mata 1994, icyaha buvuga ko yakoze afatanyije n'abandi bagaba ibitero byishe Abatutsi ahantu hatandukanye mu Karere ka Kicikuro, mu Mujyi wa Kigali. Bwavuze ko kuva mu nkubiri y'amashyaka yo mu myaka ya 1990, IYAMUREMYE Jean Claude yabaye icyamamare mu nsoresore za MRND zatojwe kurwanirira iri shyaka harimo no gutera ubwoba abataravugaga rumwe n'Ubutegetsi bwariho muri icyo gihe.

[2]. Bwakomeje buvuga ko muri Mata 1994 ubwo indege y'uwari umukuru w'Igihugu yari imaze kugwa, IYAMUREMYE Jean Claude hamwe n'interahamwe, abajandarume n'abasirikare, bagabye ibitero byo guhiga Abatutsi, kubegeranya no kubica. Bwavuze ko ubwicanyi IYAMUREMYE Jean Claude ashinjwa kugiramo uruhare ari ubwabereye i Gahanga, muri ETO Kicukiro, ku Kigo Nderabuzima cya Kicukiro, i Nyanza ya Kicukiro no mu Rubirizi aho bise 'CND' hiciwe Abatutsi bari bavanywe aho bari bahungiye kwa Konseye Biziyaremye François ari na we se w'uregwa.

[3]. Bwavuze kandi ko muri ibi bitero byahitanye Abatutsi benshi bari batuye muri aka gace, ahenshi IYAMUREMYE Jean Claude yabaga yitwaje intwaro zirimo imbunda na gerenade, atwaye interahamwe n'abasirikare mu modoka, atwawe mu modoka cyangwa agenza amaguru, yambaye imyenda y'interahamwe, adatinya kujya aho ashaka, afite n'imbaraga zo kwica cyangwa kurengera uwo ashaka.

[4]. IYAMUREMYE Jean Claude n'abunganizi be bavuze ko ibikorwa by'ubwicanyi akurikiranyweho atigeze abibamo cyangwa ngo abigiremo uruhare kuko jenoside yakorewe Abatutsi mu mwaka wa 1994 yabaye akiri umusore w'umunyeshuri utari kwishora mu bwicanyi kubera ko yari yaratojwe n'ababyeyi be kubana n'abantu bose neza, ko ndetse yize n'umwuga w'ubutabazi ku buryo ahenshi yagaragaye mu gihe cya jenoside yakorewe Abatutsi yabaga atabara abari mu kaga ko kwicwa.

[5]. Bakomeje bavuga ko muri jenoside yakorewe Abatutsi bamwe bo mu muryango wa IYAMUREMYE Jean Claude barimo nyina na bashiki be hamwe n'abandi batutsi bahungiye ku isambu yabo i Gahanga, baza kuhagirira umutekano muke bituma tariki ya 09 Mata 1994 IYAMUREMYE Jean Claude ari kumwe n'umujandarume w'inshuti ye afata imodoka ajya kubagarura mu rugo Kicukiro, hari n'abandi batutsi benshi bahahungiye; ko ari bwo bwonyine IYAMUREMYE Jean Claude yageze i Gahanga ubwo jenoside yakorewe Abatutsi yakorwaga.

[6]. Bavuze kandi ko IYAMUREMYE Jean Claude yakomeje kuba mu rugo iwabo ubwo jenoside yakorewe Abatutsi yakorwaga, yongera kuhava tariki ya 11/04/1994 ubwo yasabwaga n'uwitwa Bazatsinda Jean Pierre gufasha umuryango wa Kaningu Claudien washakaga guhungira mu Kigo cya ETO Kicukiro aho impunzi z'Abatutsi zavaga hirya no hino zari zirindiwe umutekano na MINUAR[1], awutwarayo mu modoka y'Ijipe ya Nissan Patrol y'umutuku abagejejeyo agaruka mu rugo.

[7]. Bavuze na none ko uretse i Gahanga no kuri ETO Kicukiro IYAMUREMYE Jean Claude yashoboye kugera mu rwego rwo gutabara abashakaga kwicwa, nta handi yigeze ajya mu bitero by'ubwicanyi cyangwa bigamije kwegeranya Abatutsi kugira ngo bicwe kuko na DCB yamwiyambaje kugira ngo amufashe kuvura inkomere zari mu rugo iwabo. Bavuze ko nta ntwaro iyo ari yo yose IYAMUREMYE Jean Claude yigeze atwara, ko atigeze aba mu mutwe w'interahamwe kuko atari kwemera cyangwa gutekereza gufatanya n'abica Abatutsi kandi mama we abavukamo, cyane ko iyo ajya kuba umwe mu bicanyi Abatutsi batari guhungira iwabo.

[8]. Mbere yo kuburanisha uru rubanza mu mizi, hasuzumwe inzitizi zitandukanye zirimo izijyanye n'ubwunganizi n'uburenganzira bw'uregwa, gukuraho icyemezo cya Gacaca, guha abunganizi b'uregwa ubushobozi bwo gukora iperereza ry'inyongera, kumva no kurindira abatangabuhamya umutekano, izi nzitizi zafatiwe ibyemezo.

[1] Mission des Nations Unies pour l'Assistance au Rwanda, créee par la resolution 872 du 5 Octobre 1993.

[9]. Muri uru rubanza hasuzumwe ibibazo bikurikira:

- Ku bijyanye no kumenya niba inyandiko za Gacaca n'inyandikomvugo z'abatangabuhamya zakorewe imbere ya polisi y'Igihugu cy'Ubuholandi zakoreshwa nk'ibimenyetso muri uru rubanza

- Ku bijyanye no kumenya niba IYAMUREMYE Jean Claude yaragize uruhare mu bikorwa by'ubwicanyi bw'Abatutsi yarezwe.

- Ku bijyanye no kumenya niba ibikorwa by'ubwicanyi IYAMUREMYE Jean Claude yaba yaragizemo uruhare bigize icyaha cya jenoside

- Ku bijyanye no kumenya igihano IYAMUREMYE Jean Claude yahanishwa

II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

II.1. **KU BIJYANYE NO KUMENYA NIBA INYANDIKO ZA GACACA N'INYANDIKOMVUGO Z'ABATANGABUHAMYA ZAKOREWE IMBERE YA POLISI Y'IGIHUGU CY'UBUHOLANDI ZAKORESHWA NK'IBIMENYETSO MURI URU RUBANZA**

II.1.1. Icyo IYAMUREMYE Jean Claude n'abunganizi be babivuzeho

[10]. IYAMUREMYE Jean Claude n'abunganizi be, mu iburana ryabo ndetse no mu myanzuro batanze mu Rukiko, bagiye bashingira ku nyandiko za Gacaca no ku nyandikomvugo z'abatangabuhamya babajijwe n'Ubugenzacyaha bw'Ubuholandi nk'ibimenyetso bishinjura IYAMUREMYE Jean Claude ku cyaha cya jenoside aregwa.

II.1.2. Icyo Ubushinjacyaha bwabivuzeho

[11]. Ubushinjacyaha bwavuzwe ko ibijyanye n'inyandiko za Gacaca bitagomba kugarukwaho kuko Urukiko rwabifashe icyemezo, naho ku bijyanye n'inyandikomvugo z'abatangabuhamya babajijwe n'Ubugenzacyaha bw'Ubuholandi, buvuga ko ntacyo ziburebaho kuko bwo bugendera kuri dosiye bwaregeye itandukanye na dosiye y'Ubugenzacyaha bw'Ubuholandi, cyane ko butanemera uburyo dosiye yari yateguwe mu rurimo rw'igiholandi yaba yarahinduwe mu kinyarwanda.

II.1.3. Uko Urukiko rubibona

[12]. Urukiko rusanga, nubwo ikibazo cy'inyandiko za Gacaca kigarukwaho na IYAMUREMYE Jean Claude n'ubwunganizi bwe, icyemezo cya Gacaca IYAMUREMYE Jean Claude yari yarafatiwe cyateshejwe agaciro n'uru Rukiko tariki ya 24/10/2017 hashingiwe ku ngingo ya 8 yItegeko Ngenga n° 04/2012/0L ryo ku wa 15/06/2012 rikuraho Inkiko Gacaca rikanagena uburyo bwo gukemura ibibazo byari mu bubasha bwazo iteganya ko «Umuntu wohererejwe u Rwanda n'Igihugu cy'amahanga kugira ngo aburanishwe, yari yarakatiwe n'Inkiko Gacaca, aburanishwa n'Urukiko rubifitiye ububasha nk'uko biteganywa n'iri tegeko ngenga. Icyakora, icyemezo cyari cyaramufatiwe n'Inkiko Gacaca kibanza guteshwa agaciro n'urwo Rukiko». Bityo, ibyari bigize dosiye ya Gacaca ya IYAMUREMYE Jean Claude bikaba bitagomba kwongera kugarukwaho muri uru rubanza.

[13]. Ku bijyanye n'inyandikomvugo z'abatangabuhamya babajijwe n'Ubugenzacyaha bw'Ubuholandi IYAMUREMYE Jean Claude n'abunganizi be bashingiraho nk'ibimenyetso bimushinjura, rusanga zarakiriwe nk'uko ingingo ya 110 y'itegeko nº 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha iteganya ko «Igihe cyose, Umucamanza agomba kwakira no gusuzuma ibimenyetso byose ababuranyi batanze bashinja cyangwa biregura, byo guhamya imvugo yabo». Rusanga ariko, kuba abatangabuhamya babajijwe na polisi y'Ubuholandi bose barababajijwe bahawe andi mazina (pseudonyme) mu rwego

rwo kubarindira umutekano bitarushobokera kumenya niba imyirondoro n'imvugo byabo ari iby'abatangabuhamya anenga ko bivuguruje mu nzego z'iperereza z'u Rwanda no mu Rukiko ku buryo rutazishingiraho nk'ibimenyetso muri uru rubanza.

II.2. KU BIJYANYE NO KUMENYA NIBA IYAMUREMYE JEAN CLAUDE YARAGIZE URUHARE MU BIKORWA BY'UBWICANYI BW'ABATUTSI AREGWA

[14]. Muri iki gice, Urukiko rwasuzumye niba IYAMUREMYE Jean Claude yaragize uruhare mu bikorwa by'ubwicanyi aregwa i Gahanga, kuri ETO Kicukiro, ku Kigo Nderabuzima cya Kicukiro, i Nyanza ya Kicukiro, kwa Biziyaremye Francois no mu bitero byagabwe kwa Bayingana Dismas, kwa Kageyo Evariste Evariste, kwa Gatarasi Thadée n'iwabo wa DCA.

II.2.1.Ku bijyanye n'iyicwa ry'Abatutsi ku mashuri no ku Kiliziya by'i Gahanga

II.2.1.1. Icyo Ubushinjacyaha burega IYAMUREMYE Jean Claude

[15]. Ubushinjacyaha bwareze IYAMUREMYE Jean Claude kuba kuwa 08/04/1994 yari mu gitero cyagabwe i Gahanga aho Abatutsi bari bahungiye, ari mu modoka ya Hiace Taxi y'umutuku hamwe n'interahamwe zitwa Kibwa, Turatsinze, Bazatsinda, Kabagabo n'abandi batabashije kumenyekana amazina, bijujuta ko Abatutsi bishe Habyarimana na bo bazabereka. Bumurega kandi kuba kuwa 10/04/1994 yari mu bahagabye igitero cyatwikiye Abatutsi mu mashuri no kuri Kiliziya ya Gahanga. Ibimenyetso Ubushinjacyaha bushingiraho akaba ari ubuhamya bwa Rutagengwa Francois[2] wavuze ko ubwo yari yahungiye i Gahanga yabonye IYAMUREMYE Jean Claude mu gitero cyo ku wa 08/04/1994.

[2] Inyandikomvugo y'ibazwa mu Bushinjacyaha ku wa 12/04/2007.

II.2.1.2. Imyiregurire ya IYAMUREMYE Jean Claude

[16]. IYAMUREMYE Jean Claude n'abunganizi be bavuga ko ibi aregwa atari ukuri. Basobanura ko kuwa 08/04/1994 nta modoka yari yagatwara, ko ahubwo yari iwabo mu rugo Kicukiro kuko uwo munsi ari bwo umuryango we wahungiye ku isambu yabo y'i Gahanga/Rwabutenge, bagenda n'amaguru bari hamwe na Rutagengwa Francois n'umugore we n'abandi; bigeze kuwa 10/04/1994 IYAMUREMYE Jean Claude ajyana imodoka ajya kuzana umuryango we, awugarura Kicukiro nanone bari kumwe na Rutagengwa François.

[17]. IYAMUREMYE Jean Claude n'abunganizi be bavuga kandi ko ubuhamya bwa Rutagengwa Francois wabajijwe mu Bugenzacyaha bw'u Rwanda, muri Polisi y'u Buholandi[3], n'ubwo yatanze imbere y'Urukiko[4], nta reme bufite nk'ikimenyetso gishinja kubera ko arangwa no kwivuguruza no guhisha ukuri, kandi ko nta bumenyi afite ku byo yatangiye ubuhamya.

[18]. Basobanura ko mu Bugenzacyaha Rutagengwa Francois yavuze ko yari yarahungiye i Gahanga maze kuwa 08/04/1994 abona IYAMUREMYE Jean Claude aje aho i Gahanga mu mudoka ari kumwe n'izindi nterahamwe bagenda bijujuta, maze ahita agaruka iwabo ku Kicukiro; naho ageze mu Rukiko ahindura imvugo avuga ko ubwo yari amaze kubona IYAMUREMYE Jean Claude aje aho i Gahanga mu modoka ari kumwe n'izindi nterahamwe yahise ahungira ku isambu ya se wa IYAMUREMYE Jean Claude ahitwa i Murinja, nyamara yanga kwerura ngo avuge uko yaje kuhava, yanga gusobanura ko yahavanywe na IYAMUREMYE Jean Claude nk'uko atigeze avugisha ukuri uko yageze kuri iyo sambu, kuko atari kumenya aho iyo sambu iherereye atari kumwe na ba nyirayo.

[19]. Bakomeza bavuga ko ibyo Rutagengwa Francois avuga ko yabonye IYAMUREMYE Jean Claude atwaye imodoka ku itariki ya 08/04/1994 atari byo, ko ahubwo itariki

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[3] Inyandikomvugo y'ibazwa yo kuwa 29/05/2013.

[4] Inyandikomvugo y'iburanisha yo kuwa 30/05/2018.

Rutagengwa Francois yamubonyeho atwaye imodoka ari iyo ku wa 10/04/1994 ubwo yari avanye umuryango we na Rutagengwa Francois i Gahanga/Rwabutenge aho bari bahungiye abagaruye Kicukiro.

[20]. Basoza bavuga ko hari n'ibimenyatso bimushinjura bigizwe n'ubuhamya bwa DIA[5], ubwa Gasana Laurent[6], bombi bavuga ko kuwa 08/04/1994 bahungiye i Gahanga mu kagari ka Rwabutenge bari kumwe n'abantu benshi, harimo na Rutagengwa Francois n'umuryango we.

II.2.1.3. Uko Urukiko rubibona

[21]. Urukiko rusanga Rutagengwa Francois abazwa mu Bugenzacyaha yaravuze ko ubwo yari yahungiye i Gahanga kuwa 08/04/1994 yabonye IYAMUREMYE Jean Claude ari kumwe n'izindi nterahamwe mu modoka itukura ya Taxi Hiace Urvan, zivuga ko Abatutsi bishe Habyarimana bakaza kwihisha i Gahanga zizabereka, we ahava kuwa 10/04/1994 batangiye kwica aho i Gahanga.

[22]. Rusanga ariko, atanga ubuhamya mu Rukiko, Rutagengwa Francois yaravuze ko tariki ya 08/04/1994 amaze kubona IYAMUREMYE Jean Claude ari kumwe n'interahamwe za Kicukiro n'iz'ahandi zivuga ko zizica Abatutsi bishe Habyarimana, ko ku mugoroba nka saa kumi n'ebyiri (18hoo) ari bwo abantu b'i Gahanga bishwe, we ahungira ku isambu ya se wa IYAMUREMYE Jean Claude i Mulinja, araharara, bukeye abonye bikomeye asubira Kicukiro.

[23]. Rusanga undi mutangabuhamya Mugorewera Madeleine wavuze kuri ubu bwicanyi bw'i Gahanga, mu ibazwa rye mu Bugenzacyaha[7] yaravuze ko kuwa 08/04/1994 yahungiye muri ETO Kicukiro ahava tariki ya 11/4/1994 MINUAR igiye. Abajijwe ibindi bitero yaba azi IYAMUREMYE Jean Claude yagiyemo avuga ko ari igitero cy'i Gahanga aho batwikiye Abatutsi mu mashuri no muri Kiliziya tariki ya 10/04/1994.

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[5] Inyandikomvugo y'iburanisha yo kuwa 17/06/2019.
[6] Inyandikomvugo y'iburanisha yo kuwa 27/06/2019.
[7] Inyandikomvugo y'ibazwa yo kuwa 13/12/2011.

[24]. Rusanga ibimenyetso IYAMUREMYE Jean Claude n'abunganizi be batanga bigizwe n'ubuhamya bwa DIA wavuze ko tariki ya 08 Mata 1994 bahungiye i Gahanga ari imiryango itandukanye harimo na Rutagengwa Francois n'umuryango we, ko bahiriwe baranaharara, bageze aho baza kubona ko nta mutekano bahafite kuko abantu bazaga kubashungera, haza n'inkuru z'abantu babuze ubuzima, abakuru mu bo bari kumwe bemeza ko basubira Kicukiro, ari bwo IYAMUREMYE Jean Claude wari kumwe n'umujandarume baje kubatwara, babatwara mu byiciro bibiri (2).

[25]. Rusanga undi mutangabuhamya Gasana Laurent watanzwe n'uregwa yaravuze mu buhamya bwe ko we n'umuryango we bari mu bantu bari bahungiye i Gahanga ku isambu ya se wa IYAMUREMYE Jean Claude, ko babonye nta mutekano bahafite batuma abahungu batatu (3) kujya gusaba abari Kicukiro kuza kubasubizayo, ari bwo IYAMUREMYE Jean Claude n'undi mujandarume witwaga Charles baje kubafata bari muri Minubus y'umutuku, kandi ko atigeze amenya igihe ubwicanyi bw'i Gahanga bwabereye.

[26]. Rusanga isesengura ry'ibi bimenyetso rigaragaza ko Rutagengwa Francois avuga iby'ubwicanyi bwabereye i Gahanga ariko atarabihagazeho kuko avuga ko yabonye IYAMUREMYE Jean Claude i Gahanga ubwicanyi butaratangira, akagenda ahindagura amatariki y'igihe yaviriye i Gahanga n'igihe ubwicanyi bwabereye, kuko hamwe avuga ko ubwicanyi bwabaye kuwa 08/04/1994 saa kumi n'ebyiri (18hoo) z'umugoroba agahungira ku isambu ya Biziyaremye Francois, se w'uregwa, ubundi akavuga ko bwabaye ku itariki ya 10/04/1994, ari cyo gihe yahaviriye asubira Kicukiro.

[27]. Rusanga Mugorewera Madeleine avuga iby'ubwicanyi bw'i Gahanga nyamara nawe atarabihagazeho kandi ataravuze uwabimubwiye kuko avuga ko uregwa yari mu gitero cyishe Abatutsi i Gahanga kuwa 10/04/1994, mu gihe avuga ko kuva ku itariki ya 08/04/1194 kugeza kuwa 11/04/1994 yari muri ETO Kicukiro aho yari yahungiye.

[28]. Rusanga na none ukutagira ubumenyi ku byo batangira ubuhamya kwa Rutagengwa Francois na Mugorewera Madeleine bishimangirwa n'ubuhamya bwatanzwe mu Rukiko na DIA na Gasana Laurent bavuze ko bari kumwe na Rutagengwa Francois ku isambu ya se wa IYAMUREMYE Jean Claude i Gahanga/Rwabutenge kuva tariki ya 08/04/1994 kugeza ku ya 10/04/1994 ubwo IYAMUREMYE Jean Claude yabavanyeyo abasubiza Kicukiro.

[29]. Ingingo ya 65 y'itegeko n° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko Urukiko ari rwo rwonyine rupima ko imikirize y'abatangabuhamya ihuye n'ikiburanwa, ifite ingingo zikiranuye kandi ikaba ikwiye kwemerwa cyangwa guhakanwa […] Rwita cyane cyane ku bumenyi bwabo bw'ibyabaye, no ku buryo babivuga uko byagenze nta cyo bihimbira. Hashingiwe kur'iyi ngingo, Urukiko rusanga ubuhamya bwa Rutagengwa Francois na Mugorewera Madeleine budakwiye kwemerwa nk'ikimenyetso gihamya IYAMUREMYE Jean Claude kugira uruhare mu bwicanyi bw'Abatutsi bwabereye i Gahanga.

[30]. Rusanga kutemera ubuhamya bwatanzwe n'abatabifitiye ubumenyi ari na byo Urukiko rw'Ikirenga rw'u Rwanda rwemeje aho rwavuze ko ukwivuguruza k'umutangabuhamya gutuma haba ugushidikanya ku kuri kw'ibyo avuga[8]. Rwanemeje kandi ko uregwa atahamwa n'icyaha hashingiwe ku buhamya bw'umuntu uvuga ibyo atabonye, atanavuga uwo yabyumvanye[9].

[31]. Rusanga kandi abahanga mu mategeko yerekeye y'imanza nshinjabyaha nabo bavuga ko nta muntu ugomba kwemezwa ko ahamwe n'icyaha nyuma y'urubanza

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[8] Urubanza RPA 0014/14/CS rwaciwe kuwa 28 Kamena 2019, Sibomana Jean Damascene c/ Ubushinjacyaha, igika cya 28.
[9] Urubanza RPAA 0034/10/CS rwaciwe kuwa 08 Ugushyingo 2013, Nshimiyimana Samuel c/ Ubushinjacyaha, igika cya 15.

atari uko Ubushinjacyaha bugaragaje ibimenyetso bidatera ugushidikanya uko ari ko kose[10].

[32]. Urukiko rusanga rero nta kigaragaza ku buryo budashidikanywaho ko IYAMUREMYE Jean Claude yagize uruhare mu bikorwa by'ubwicanyi bwakorewe Abatutsi ku mashuri no kuri Kiliziya by'i Gahanga.

II.2.2. Ku bijyanye n'iyicwa ry'Abatutsi muri ETO Kicukiro

II.2.2.1. Icyo Ubushinjacyaha burega IYAMUREMYE Jean Claude

[33]. Ubushinjacyaha burega IYAMUREMYE Jean Claude kugira uruhare mu gitero cyishe Abatutsi bari bahungiye muri ETO Kicukiro guhera ku itariki ya 07/04/1994, aho kuwa 11/04/1994, nyuma ya saa sita, abasirikare ba MINUAR bamaze kuva mu Kigo cya ETO Kicukiro, iki kigo cyagoswe n'interahamwe n'abasirikare batangira kubica bakoresheje gerenade, imbunda, imyambi n'ibindi, hagwa abanyantege nke nk'abana, ababyeyi, abasaza, n'abakecuru, harimo Mukaberwa Catherine, Kabahizi Jean, Mukakarangwa Ancille n'abandi batibukwa amazina.

[34]. Ibimenyetso Ubushinjacyaha bushingiraho bigizwe n'ubuhamya bwa Mugorewera Madeleine mu Bugenzacyaha[11], ubwa Benimana Ignace mu Bugenzacyaha[12] no mu Rukiko[13], ubwa DCA mu ibazwa mu Bushinjacyaha[14] no Rukiko[15] n'ubwa Mukayiranga Speciose mu Bugenzacyaha[16] no mu Rukiko[17].

[35]. Ubushinjacyaha busobanura ko mu mvugo ze, Mugorewera Madeleine, yavuze ko yabonye IYAMUREMYE Jean Claude kuwa 11/04/1994 afite imbunda muri ETO

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[10] Henry Bosly et Damien Vandermeersch, <u>Droit de la procedure penale</u>, 4e ed. p.1316, 5.
[11] Inyandikomvugo y'ibazwa yo kuwa 13/12/2011.
[12] Inyandikomvugo y'ibazwa yo kuwa 13/12/2011.
[13] Inyandikomvugo y'iburanisha yo kuwa 01/06/2018.
[14] Inyandikomvugo y'ibazwa yo kuwa 23/04/2007.
[15] Inyandiko mvugo y'iburanisha yo kuwa 17/05/2018.
[16] Inyandikomvugo y'ibazwa yo kuwa 14/12/2011.
[17] Inyandikomvugo y'iburanisha yo kuwa 30/05/2018.

Kicukiro azunguruka ikibuga cyaho. Benimana Ignace avuga ko kuwa 11/04/1994, ubwo MINUAR yari imaze kugenda, Nzinga na Col. Rusatira bahise baza muri ETO Kicukiro nka saa tatu (09h) Nzinga afite imodoka iriho ibendera ry'umweru kugira ngo agaragaze ko ataje kurwana; DCA we akaba yaravuze ko Nzinga yaje muri ETO Kicukiro atwaye imodoka y'ikamyoneti (camionnette) iriho ihema n'idarapo rya MINUAR azanye umuryango wa Kaningu Claudien. Mukayiranga Speciose nawe avuga ko ku itariki ya 11/04/1994, igihe MINUAR yari isigaje nk'isaha imwe ngo igende, Nzinga yaje muri ETO Kicukiro mu modoka y'ikamyoneti (camionnette) ari hejuru afite akadarapo k'umweru n'ubururu azanyemo imiryango ibiri (2), uwa Kaningu Claudien n'uwa murumuna we witwa Kabanda Damien, kandi ko aba batutsi yari abazanye azi ko MINUAR igiye kugenda kugira ngo bicirwe hamwe n'abandi.

II.2.2.2. Imyiregurire ya IYAMUREMYE Jean Claude

[36]. IYAMUREMYE Jean Claude n'abunganizi be bavuga ko yageze muri ETO mu gitondo cyo kuwa 11/04/1994, ari na yo nshuro imwe rukumbi yageze aho hantu mu muri Mata 1994 mu gikorwa cy'ubutabazi azanye umuryango wa Kaningu Claudien.

[37]. Bavuze ko kuwa 11/04/1994, nka saa yine n'igice (10h30), IYAMUREMYE Jean Claude yavuye iwabo ari kumwe n'abagabo bagiye kubaza amakuru, maze bageze ku kabari k'umuntu witwa Celestin baganira ku bijyanye n'ikibazo cy'inzara, ari bwo haje umuntu witwa Ndayambaje Charles wari umuturanyi wa Kaningu Claudien ababwira ko Kaningu afite ikibazo cyo kujya muri ETO Kicukiro kubera ko afite imodoka nto. Bakomeza bavuga ko aho hari imodoka ya Nissan Patrol iparitse, maze mu gihe abantu bibazaga uko byagenda, umusirikare wari aho avuye za Mukamira aje kureba umuryango we ababwira ko iyo modoka yakwifashishwa, abandi baratinya, ariko we azirikanye uko yari yaraye atabaye abantu kandi abantu bamushimira ubwo bwitange no kubera amatsiko yo gutwara iyo modoka atari yarigeze agendamo, arayifata ajya kwa Kaningu Claudien nko muri metero magana atatu (300 m), agezeyo afata umuryango wa Kaningu n'uwa murumuna we

arabatwara, abageza muri ETO Kicukiro yinjiriye mu biti aho kunyura mu irembo risanzwe kubera gutinya ko we n'abo atwaye bakwicwa.

[38]. Bavuga ko bacyinjira MINUAR yabatunze imbunda, Kaningu Claudien asohoka azunguza umupira w'umweru, avugana n'umusirikare wa MINUAR amwemerera ko imodoka ibegera, bavanamo ibikapu byabo, arakata asubira kwa Celestin aparika imodoka aho yari yayikuye. IYAMUREMYE Jean Claude avuga ko yamenye ubwicanyi bwabereye muri ETO Kicukiro nyuma, ndetse ko Kaningu Claudien n'umuryango we n'izindi mpunzi bamaze kurokoka muri ETO bahungiye iwabo.

[39]. Bakomeza bavuga ko abatangabuhamya b'Ubushanjacyaha badafite ubumenyi bw'ibyo bavuga kuko bavuga ibintu byabereye ahantu hamwe, bose bemeza ko babibonye n'amaso yabo ariko imvugo zabo zikagaragaramo kunyuranya mu buryo bukabije, bagasaba Urukiko kuzitesha agaciro, kuko uretse no kuba batavuga ibintu kimwe, buri wese agenda yivuguruza mu buhamya bwe.

[40]. Basobanura ko umutangabuhamya Benimana Ignace abazwa mu Bugenzacyaha yavuze ko ku itariki ya 08/04/1994 yabonye IYAMUREMYE Jean Claude ari kumwe na Colonnel Rusatira n'uwitwa Gisimba baje kujonjora abantu mu mpunzi zari muri ETO Kicukiro bazibwira ko nta mpamvu yo guhungana n'Abatutsi, nyamara yarabwiye Polisi y'Ubuholandi ko ubwo yari yahungiye muri ETO, yabonye Nzinga aje n'imodoka irimo n'umuryango wa Kaningu Claudien, Nzinga yicaye iruhande rwa shoferi afite ibendera ry'umweru mu ntoki, ariko akaba atarigeze avuga ku itariki ya 11/04/1994; ndetse n'igihe yabazwaga mu Bugenzacyaha[18] akaba atarigeze avuga iyi tariki ya 11/04/1994. Bagasanga rero kuba atazi imodoka Nzinga yazanyemo umuryango wa Kaningu Claudien, kuba avuga ko atibuka itariki yabazaniyeho, no kuba avuga ko IYAMUREMYE Jean Claude yazanye uriya muryango yicaye iruhande rwa shoferi afite ibendera ry'umweru mu ntoki bigaragaza ko ibyo avuga byose atabizi cyangwa atabibonye.

[18] Inyandikomvugo y'ibazwa yo ku wa 13/01/2017.

[41]. Bakomeza bavuga ko umutangabuhamya DCA na we yivuguruza kuko mu buhamya yatanze muri Polisi y'Ubuholandi yavuze ko yari yarahungiye muri ETO Kicukiro, ko kuwa 11/04/1994 yabonye Nzinga nko mu massa cyenda (15h00) ingabo za MINUAR zagiye ari kumwe n'izindi interahamwe, nyamara ubwo yabazwaga mu Rukiko tariki ya 17/05/2018 yahinduye imvugo avuga ko ari inshuro imwe gusa yabonye Nzinga azanye umuryango wa Kaningu Claudien muri ETO Kicukiro MINUAR itaragenda.

[42]. Bavuga kandi ko Mukayiranga Spéciose na we yivuguruza kuko abazwa mu Bugenzacyaha yavuze ko ku itari ya 11/04/1994 yabonye Nzinga aje muri ETO Kicukiro mu modoka y'ikamyoneti (camionnette) ari hejuru afite akadarapo k'umweru n'ubururu azanyemo imiryango ibiri, uwa Kaningu Claudien n'uwa murumuna we witwa Kabanda Damien; nyamara abazwa na Polisi y'Ubuholandi yaravuze ko yamubonye MINUAR yavuye muri ETO ari mu modoka y'umutuku n'idarapo ry'umweru azanye umuryango wa Kabanda Damien, ndetse no mu Rukiko akaba yaravuze ko nyuma y'isaha MINUAR ihavuye ari bwo yabonye ikamyoneti (camionnette) ijemo Nzinga afite idarapo ry'umweru n'ubururu izanye umuryango wa Kaningu Claudien.

II.2.2.3. Uko Urukiko rubibona

[43]. Urukiko rusanga mu ibazwa rye mu Bugenzacyaha kuwa 13/2/2011, Mugorewera Madeleine yaravuze ko yabanje guhungira muri ETO Kicukiro ku itariki ya 08/04/1994, ahava MINUAR igiye kuwa 11/04/1994 saa saba n'igice (13h30), ari bwo interahamwe zahise zinjiramo zitangira gutera amagerenade, imyambi, amacumu no kurashisha imbunda, ko hishwe Abatutsi batari bafite intege nk'abakecuru, abagore batwite cyangwa babyaye mu ijoro, kandi ko icyo gihe ari bwo yabonye Nzinga wari waje mu modoka y'ikamyoneti ari kumwe na Kibwa, arimo azenguruka aho mu kibuga cya ETO afite imbunda ndende.

[44]. Rusanga Benimana Ignace abazwa mu bugenzacyaha yaravuze ko yahungiye muri ETO Kicukiro kuwa 08/04/1994 aho yabonye Nzinga, Gisimba na Colonel Rusatira bajonjora abantu bamwe bababwira ko nta mpamvu yo guhungana n'Abatutsi. Anavuga ko bigeze kuwa 11/04/1994 ubwo MINUAR yari ibasize Nzinga na Colonel Rusatira bahageze nka saa tatu (9h00), Nzinga afite imodoka iriho ibendera ry'umweru rigaragaza ko ataje kurwana kugira ngo MINUAR ibone ko bataje kubarwanya.

[45]. Rusanga, mu Rukiko, kuwa 1/6/2018 Benimana Ignace yaratanze ubuhamya avuga ko kuwa 08/04/1994 yahunze ajya muri ETO, ahura na Nzinga ari kumwe n'izindi nterahamwe akizwa na Kayirangwa Gérard wari interahamwe ariko utarajyaga mu bitero, ageze imbere akomezanya n'igihiriri cy'abandi bahungaga bagerana muri ETO, Nzinga aza kuhabasanga ari kumwe na Gisimba azanye umuryango wa Kaningu Claudien. Akomeza avuga ko bigeze kuwa 11/4/1994, MINUAR ibataye, babonye interahamwe zibagose barahunga, bagera mu Nyakabanda bagarurwa muri ETO, Nzinga abaza Kanyabugoyi uzongera kwandika ibinyamakuru.

[46]. Rusanga DCA abazwa mu Bushinjacyaha kuwa 24/2/2017 yaravuze ko yabonye IYAMUREMYE Jean Claude ubwo yari abasanze aho bari bahungiye muri ETO Kicukiro ahazanye umuryango wa Kaningu Claudien mu modoka, ariko ko atarabashije kubona ko afite intwaro cyangwa ntazo kubera ko atari hafi y'aho imodoka yari ihagaze. Yongeye kubazwa kuwa 23/04/2017 DCA yavuze ko tariki ya 11/4/1994 yabonye IYAMUREMUMYE Jean Claude ubwo yabasangaga aho bari bahungiye muri ETO Kicukiro, ari mu modoka ya Jeep Nissan yagendagamo iriho ibendera rya MINUAR mu rwego rwo kwiyoberanya no kugira ngo agere muri Zones za MINUAR bimworoheye.

[47]. Rusanga DCA atanga ubuhamya mu Rukiko kuwa 17/5/2018 yaravuze ko mu ma saa cyenda (15Hoo), kuwa 11/04/1994, mbere gato y'uko ingabo za MINUAR zari zibarindiye muri ETO Kicukiro zigenda, yabonye IYAMUREMYE Jean Claude atwaye imodoka ya kamyoneti (camionnette) itukura yo mu bwoko bwa Nissan

azanye umuryango wa Kaningu Claudien, iriho ihema n'ibendera rya MINUAR kugira ngo abashe kwinjira kuko nta yindi modoka yabonye yari yahinjiye; ko nta bandi bantu yabonye bazanye, ariko ko agitsimbura aho na MINUAR igiye interahamwe zinjiye.

[48]. Rusanga Mukayiranga Speciose, abazwa mu Bugenzacyaha kuwa 14/12/2011 yaravuze ko mu gitondo cyo ku wa 11/04/1994, Colonel Rusatira Leonidas yageze aho bari bahungiye muri ETO Kicukiro ashaka gukuramo bene wabo bari bahahungiye kugira ngo abahungishe ubwicanyi bateguraga kuhakorera MINUAR imaze kugenda. Akomeza avuga ko kuri iyi tariki, MINUAR isigaje nk'isaha imwe ngo igende, Nzinga yaje muri ETO Kicukiro mu modoka ya kamyoneti ari hejuru afite akadapo k'umweru n'ubururu azanyemo imiryango ibiri, uwa Kaningu Claudien n'uwa murumuna we Kabanda Damien, azi ko MINUAR igiye kugenda kugira ngo bicirwe hamwe n'abandi Asoza avuga nyuma y'uko Rusatira atwaye abo bantu na MINUAR imaze kugenda abasirikare bari bagose ikigo cya ETO Kicukiro bahise babiraramo barabica […].

[49]. Rusanga Mukayiranga Speciose atanga ubuhamya mu rukiko kuwa 30/5/2018 yaravuze ko we n'umugabo we bageze muri ETO kuwa 10/04/1994, bukeye kuwa 11/04/1994 babona abasirikare barimo Colonel Rusatira n'abafaransa baje kujonjora abantu bakuramo ababo, nyuma bumva hatewe amagerenade. Akomeza avuga ko abantu bababwiye ko MINUAR igiye kugenda, bagira ubwoba, umugabo we Kanyabugoyi na Karasira bajya kubonana n'abazungu, aba bazungu bababwira ko nibamara kugenda abasirikare baza kubarinda. Avuga kandi ko nyuma y'isaha babonye ikamyoneti y'umutuku ya double cabine ijemo Nzinga wari hejuru afite idarapo y'umweru n'ubururu, azanye umuryango wa Kaningu Claudien, ariko bibaza ukuntu ahageze kuko haba mu nzira haba n'aho uwo muryango wari utuye harimo interahamwe; agasanga Nzinga azana uriya muryango yari azi ko MINUAR iri bugende.

[50]. Rusanga Kaningu Claudien yarabajijwe mu Bushinjacyaha kuwa 8/6/2017 aho yasobanuye ko jenoside itangiye we n'umuryango we bahungiye ku muturanyi witwa Ndangurura Jean Baptiste, bigeze kuwa 11/04/1994 bashaka guhungira muri ETO Kicukiro ariko babura uko bagenda kuko babonaga bari bwicirwe mu nzira. Akomeza avuga ko Ndangurura yabasabye kumuha amafaranga kugira ngo abashakire ubajyana, ko bamuhaye amafaranga atazi umubare neza agera nko ku bihumbi mirongo itatu (30.000 Frw), nyuma abona haje imodoka baragenda, ariko akaba ataramenye uwari uyitwaye iyo modoka uretse ko nyuma yaje kumva abantu bavuga ko yari Nzinga. Avuga ko bageze kuri ETO uwari ubatwaye yabagejeje ku muryango bavamo basanga izindi mpunzi aho zari ziri ku kibuga, nyuma binjira mu mashuri, imodoka ihita ikata isubirayo. Anavuga ko bigeze mu ma saa sitaim MINUAR yabasize, interahamwe n'abasirikare bagose ikigo, impunzi zikwira imishwaro, we n'umuryango we basubira kwa Ndangurura Jean Baptiste, nyuma y'iminsi mike abashakira umujandarume atazi uko yitwa, arabaherekeza abajyana Mille Collines, ari naho barokokeye.

[51]. Isesengura ry'ubu buhamya bwose bwagaragarajwe hejuru rigaragaza ko ikitagibwaho impaka ari uko IYAMUREMYE Jean Claude yazanye umuryango wa Kaningu Claudien muri ETO Kicukiro kuwa 11/04/1994. Rusanga ariko icyo abatangabuhamya badahurizaho ari uburyo uregwa yawuhazanye kuko Mukayiranga Speciose avuga ko IYAMUREMYE Jean Claude yazanye uwo muryango ari inyuma mu ikamyoneti, bivuga ko atari we wari uyitwaye, mu gihe DCA we avuga ko IYAMUREMYE Jean Claude ari we wari utwaye imodoka ariko agahinduranya imvugo ku byerekeye ubwoko bw'imodoka aho mu bugenzanjacyaha yari yavuze ko yari ikamyoneti yagera mu rukiko akavuga ko yari ijipe.

[52]. Rusanga nanone ubuhamya buvuguruzanya ku bijyanye n'igihe IYAMURMYE Jean Claude yagejeje umuryango wa Kaningu Claudien muri ETO /Kicukiro kuko Mugorewera Madeleine, mu bugenzacyaha, yavuze ko yabonye IYAMUREMYE Jean Claude MINUAR ikimara kugenda, arimo azenguruka ikibuga cy'aho afite

imbunda ndende, mu gihe abandi batangabuhamya bavuga ko Nzinga yaje MINUAR igihari nk'uko na Kaningu Claudien abivuga. Bityo, ubuhamya bwa Mugorewera Madeleine bukaba budakwiye kwemerwa kuko budashimangiwe n'ibindi bimenyetso nk'uko biteganywa n'ingingo ya 8 y'itegeko nº 47/2013 ryo kuwa 16/06/2013 rigena kwimurira imanza muri Repubulika y'u Rwanda iteganya ko «Urukiko Rukuru rudashobora guhamya umuntu icyaha rushingiye gusa ku buhamya bwanditse bwatanzwe mbere n'abatangabuhamya batigeze batanga ubuhamya mu iburanisha. Icyakora, Urukiko Rukuru rushobora guhamya umuntu icyaha rushingiye ku gaciro k'ubwo buhamya bwanditse iyo ubwo buhamya bufite ubundi bubushyigikira».

[53]. Rusanga rero uku kutabara kimwe inkuru zijyanye n'igihe IYAMUREMYE Jean Claude yazaniye umuryango wa Kaningu Claudien muri ETO Kicukiro, uburyo yahaje nk'utwaye imodoka cyangwa utwawe, kuba yari kumwe na Gisimba cyangwa batari kumwe bigaragaza neza ko nta cyemeza ku buryo budashidikanywa ko hejuru yo kuzana uwo muryango muri ETO /Kicukiro bisabwe na Kaningu Claudien ubwe yagarutse akifatanya n'interahamwe zatangiye kwica Abatutsi MINUAR imaze kugenda. Bityo, nta kimenyetso nyakuri cyemeza ko IYAMUREMYE Jean Claude yagize uruhare mu bwicanyi aregwa bwakorewe Abatutsi muri ETO/Kicukiro.

[54]. Rusanga uku kudaha agaciro ubuhamya bw'abantu babara inkuru ku buryo butandukanye ku byo bavuga baboneye igihe kimwe ari na ko Urukiko rw'Ikirenga rwabibonye aho rwasanze ibyatangajwe n'abatangabuhamya bavuga mu buryo butandukanye ibintu bemeza ko baboneye igihe kimwe rutabishingiraho ngo rwemeze ko uregwa ahamwa n'icyaha[19].

[19] Urubanza RPAA 0034/10/CS, igika cya 15.

II.2.3. Ku bijyanye n'iyicwa ry'Abatutsi ku Kigo Nderabuzima (Centre de santé) cya Kicukiro

II.2.3.1. Icyo Ubushinjacyaha burega IYAMUREMYE Jean Claude

[55]. Ubushinjacyaha buvuga ko nyuma yo kwica Abatutsi i Nyanza ya Kicukiro, interahamwe zirimo IYAMUREMYE Jean Claude, Ruhumuriza Eric, Idadi, Ndaruhebeye Vianney, Ruhubanya Eric, Rutaremara bakundaga kwita Mandazi n'abandi zakomeje kugenda zihishura Abatutsi aho babaga bihishe, haba mu ngo zabo ndetse n'ahandi, zikabica; ko ari muri urwo rwego ku munsi utibukwa neza wo mu kwezi kwa Gicurasi 1994 hahishuwe abo mu muryango wa Muzungu Thomas n'abandi barimo uwitwa Kayibanda Innocent na barumuna be, Karekezi François na Manyoni, bajya kurindirwa ku Kigo Nderabuzima cya Kicukiro kuko icyo gihe hagwaga imvura, ihise babajyana ku cyobo cyari haruguru y'icyo Kigo Nderabuzima, barabica, bakibajugunyamo.

[56]. Ubushinjacyaha bushinja IYAMUREMYE Jean Claude kugira uruhare mu iyicwa ry'Abatutsi ku Kigo Nderabuzima cya Kicukiro bushingiye ku buhamya bwatangiwe mu Rukiko na Rutagengwa François[20] aho yavuze ko mu bitero yabonyemo IYAMUREMYE Jean Claude ari kumwe n'izindi nterahamwe bafite intwaro harimo n'icyo ku Kigo Nderabuzima cya Kicukiro nubwo atibuka itariki cyabereyeho; anavuga ko amakuru arambuye y'iki gitero yayabwiwe na Kalinijabo Jean Damascene wari uhari abantu bicwa kuko we yagiye kugama imvura kwa Gerard Bugingo, nk'uko yanabimushinje mu Bugenzacyaha[21], kandi ko IYAMUREMYE Jean Claude yabaga yitwaje imbunda yo mu bwoko bwa Karchinikov.

[57]. Bushingira no ku buhamya Kalinijabo Jean Damascène yatanze mu Bugenzacyaha[22] no mu Bushinjacyaha[23] aho yavuze ko ku itariki atibuka neza mu

[20] Inyandikomvugo y'iburanisha yo kuwa 30/05/2018.
[21] Inyandikomvugo y'ibazwa yo kuwa 12/04/2007.
[22] Inyandikomvugo y'ibazwa yo kuwa 13/04/2007.
[23] Inyandikomvugo y'ibazwa yo kuwa 25/4/2017.

ntangiriro y'ukwezi kwa Gicurasi 1994, interahamwe zirimo Ndaruhebeye Vianney, Ndangurura Jean Baptiste, Nzinga, Idadi, Karangwa Gregoire, Rutaremara bakundaga kwita Mandazi, Ruhubanya Eric n'abandi bakozi benshi ba Ndaruhebeye Vianney babatwaye mu muganda nyamara ari ukujya guhishura Abatutsi babaga bihishe ibitero, ko bahishuye abana bo kwa Muzungu Thomas, Kayibanda Innocent, Karekezi, Manyoni n'abandi, maze bicirwa haruguru y'Ikigo Nderabuzima cya Kicukiro, babajugunya mu cyobo cyari gihari.

II.2.3.2. Imyiregurire ya IYAMUREMYE Jean Claude

[58]. IYAMUREMYE Jean Claude n'abunganizi be bavuga ko ibyo Ubushinjacyaha bumurega ku bwicanyi bwabereye ku Kigo Nderabuzima cya Kicukiro atari byo, bashingiye ku kuba igihe abatangabuhamya bavuga ubwo bwicanyi bwabereye gishidikanywaho kuko batagaragaza itariki bwabereyeho no kuba mu buhamya bwabo bivuguruza bakanavuguruzanya.

[59]. Basobanura ko ukwivuguruza mu mvugo kwa Rutagengwa Francois kugaragarira mu byo yavuze mu Bugenzacyaha bw' u Rwanda no muri Polisi y'ubuholandi kuko ahambere yavuze ko ubwicanyi bw'Abatutsi ku Kigo Nderabuzima cya Kicukiro yabubwiwe na Kalinijabo Jean Damascene wari uhahagaze bicwa kandi ko yabonye IYAMUREMYE Jean Claude afite imbunda yo mu bwoko bwa Karachinikov ku Kigo Nderabuzima cya Kicukiro ubwo hicwaga abana ba Muzungu Thomas; aha kabiri akavuga ko yiboneye Abatutsi bicwa ari aho yihishe kandi ko yabonye IYAMUREMYE Jean Claude mu gitondo yambaye Pistolet na gerenade ari umuyobozi, anatanga amabwiriza. Mu Rukiko, Rutagengwa Francois akaba yarabajijwe ku byerekeye ubwoko bw'intwaro yabonanye uregwa akaba asubiza ko zose ari intwaro zicira umuriro.

[60]. Ku byerekeranye n'ivuguruzanya hagati y'abatangabumya bamushinja, IYAMUREMYE Jean Claude n'abunganizi be bavuze ko Kalinijabo Jean Damascene, mu Bugenzacyaha no mu Bushinjacyaha, yavuze ko abari bafite

intwaro banazikoresha mu kwica Abatutsi ku Kigo Nderabuzima cya Kicukiro ari Ruhubanya Eric na Idadi, mu gihe Rutagengwa Francois we yavuze ko IYAMUREMYE Jean Claude na we yari afite intwaro.

[61]. Bakomeza bavuga ko IYAMUREMYE Jean Claude yamenye ubwicanyi bwabereye ku Kigo Nderabuzima cya Kicukiro ari uko baje kubimenyesha se mu rugo nyuma ya saa sita abantu bamaze kwicwa, ko bahise bazamuka bajyayo basanga abantu bishwe n'ababishe bagiye, kandi ko kuva mu gitondo cy'uwo munsi IYAMUREMYE Jean Claude atigeze asohoka iwabo mu rugo, ko ahubwo yasohokanye na se na bamwe mu mpunzi zari iwabo ubwo bari bahurujwe.

[62]. Nanone, IYAMUREMYE Jean Claude yasobanuriye Urukiko ko ibyerekeye umuganda uvugwa na Rutagengwa François na Kalinijabo Jean Damascène ntabyo yamenye, ko ahubwo Rutagengwa François n'abo bari baturanye mu bice bigana ahitwa "Sahara" aribo bari bazi iby'uwo muganda kuko yerekana amazina y'abari bagize akanama gashinzwe umutekano ntavugemo izina rya Konseye Biziyaremye François; akanenga kandi ubuhamya yatanze muri polisi y'Ubuholandi tariki 29/05/2013 kuko ho yavuze izina rya se mu bantu yise ko bari bagize akanama gashinzwe umutekano.

[63]. IYAMUREMYE Jean Claude n'abunganizi be bashingira kandi ku buhamya bushinjura bwatanzwe na Nyirahabimana Béatrice wasobanuriye Urukiko ko atigeze abona IYAMUREMYE Jean Claude mu bikorwa bya jenoside muri Mata 1994[24], bagasaba ko ubuhamya bwe bwemerwa kuko burimo amakuru y'ingirakamaro bitewe n'uko yakusanyaga amakuru muri jenoside; mu gihe Ubushinjacyaha bwo buvuga ko ibivugwa n'uyu mutangabuhamya nta shingiro bifite kuko nta bumenyi abifitiye bitewe n'uko atabihagazeho.

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[24]Inyandikomvugo y'iburanisha yo ku wa 17/06/2019.

II.2.3.3. Uko Urukiko rubibona

[64]. Urukiko rurasanga mu mvugo ze, Kalinijabo Jean Damascene yaravuze ko interahamwe zaje zirabatwara zivuga ko zibajyanye mu muganda, bageze ku Kinunga bahura n'abavuye guhishura umuryango wa Muzungu Thomas, barabazamukana babageza ku Kigo Nderabuzima cya Kicukiro, aho bahuriye na IYAMUREMYE Jean Claude n'izindi nterahamwe zirimo Ruhumuriza Eric, Idadi, Ndaruhebeye Vianney, Ruhubanya Eric, Rutaremara bakundaga kwita Mandazi n'abandi zivuye guhishura Abatutsi bari bihishe mu ngo n'ahandi, maze babashyira hamwe babajyana kubarindira ku Kigo Nderabuzima cya Kicukiro, baza kubica babajugunya mu cyobo cyari gihari, nk'uko na Rutagengwa Francois na we wari witabiriye 'icyiswe umuganda' yemeje ko yabonye IYAMUREMYE Jean Claude mu nterahamwe zari muri uwo muganda, nubwo mu iyicwa ry'aba batutsi atari ahari.

[65]. Rusanga ubu buhamya bwa Kalinijabo Jean Damascene na Rutagengwa Francois buhuriza ku kuba bariboneye IYAMUREMYE Jean Claude mu gitero cyiciye Abatutsi ku Kigo Nderabuzima cya Kicukiro bukwiye gufatwa nk'ikimenyetso cyemeza nta shiti ko IYAMUREMYE Jean Claude yari mu bari bagize iki gitero, hashingiwe ku ngingo ya 65 y'itegeko n° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko urukiko ari rwo rwonyine rupima ko imikirize y'abatangabuhamya ihuye n'ikiburanwa, ifite ingingo zikiranuye kandi ikaba ikwiye kwemerwa cyangwa guhakanwa, rutitsitsa ku mubare w'abatangabuhamya, ahubwo rwita cyane cyane ku bumenyi bwabo bw'ibyabaye, no ku buryo babivuga uko byagenze nta cyo bihimbira.

[66]. Rusanga, nubwo IYAMUREMYE Jean Claude n'abunganizi be banenga ubuhamya bwatanzwe na Rutagengwa François na Kalinijabo Jean Damascène kubera ko butagaragaza itariki ubwicanyi bwabereyeho ku Kigo Nderabuzima cya Kicukiro, ari naho bahera bavuga ko ubuhamya bwabo bushidikanywaho, nta shingiro bifite kuko kuba abatangabuhamya batazi itariki nyayo ubwicanyi bwo ku Kigo Nderabuzima cya Kicukiro bwabereyeho atari inenge ikabije yatuma ubuhamya bwabo buteshwa

agaciro kuko kwibuka neza itariki ibikorwa byakoreweho mu bihe bw'ubwicanyi bitoroshye igihe ubuhamya butanzwe nyuma y'igihe kirekire ubwicanyi bukozwe, ko icy'ingenzi ari uko ibyo batangiye ubuhamya babyiboneye kandi bakaba bari basanzwe bazi IYAMUREMYE Jean Claude ku buryo batari kumwibeshyaho, cyane ko Kalinijabo Jean Damascene uretse kubona IYAMUREMYE Jean Claude muri iki gitero, yaniboneye aho abantu bicwa.

[67]. Rusanga ibivuzwe mu gika kibanziriza iki ku bijyanye no kuba bitoroshye kwibuka neza itariki ubwicanyi bwabereyeho nyuma y'igihe kirekire ubwicanyi bukozwe bitatesha agaciro ireme ry'ubuhamya, ari nako byemejwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda mu rubanza rwa Karera Francois n'Ubushinjacyaha[25], mu rwa Gatete Jean Baptiste[26], no mu rwa Seromba Athanase[27].

[68]. Rusanga na none IYAMUREMYE Jean Claude yiregura avuga ko abatangabuhamya Rutagengwa François na Kalinijabo Jean Damascène bivuguruza bakanavuguruzanya ko batamubonye ku Kigo Nderabuzima cya Kicukiro, nyamara rwo rurasanga buri wese yemeza igihe n'ahantu yamuboneye mu gitero kandi ubuhamya bwabo bwuzuzanya nk'uko bigiye kugaragazwa mu bika bikurikiyeho.

[69]. Mu buhamya yatanze mu Rukiko mu iburanisha ryo kuwa 30/5/2018, Rutagengwa François yavuze ko IYAMUREMYE Jean Claude yari interahamwe kuva mbere y'umwaka w'1994, ko muri jenoside yamubonye mu bitero bitandukanye harimo n'icyo ku Kigo Nderabuzima cya Kicukiro ubwo yari yitabiriye icyiswe ‘‘umuganda’’

[25] ”Compte tenu du temps considérable qui s'est écoulé et des des défaillances possibles de la mémoire des témoins, la chambre n'attache pas d'importance aux divergences concernant les militaires présents”, ICTR-01- 74. Urup. rwa 73, igika cya 248.

[26] ‘’Bitewe …. .n'ahantu abatangabuhamya bari bari ndetse n'ibihe bikomeye barimo, Urugereko rusanga kutavuga ibintu bimwe kuri iki kibazo ntacyo bivuze”, ICTR -2000-61-T. Urup. rwa 210, Igika cya 390.

[27] “Hari ukunyuranya kudakabije hagati y'ubuhamya yatangiye mu Rukiko n'ubuhamya bwanditse yatanze mbere ku birebana n'aho Seromba Athanase yari ubwo yangaga gusoma Misa, n'amagambo yavuze icyo gihe … Urugereko rusanga uku kunyuranya nta ngaruka kwagira uzirikanye igihe gihise ibyo bintu bibaye….”, ICTR-2001-66-I, Urup. rwa 44, Igika cya 103.

wari wateguwe na Ndangurura Jean Baptiste nyuma y'inama yari yabereye kwa Ruhumuriza Celestin, aho yasobanuye ko IYAMUREMYE Jean Claude yaje muri uwo muganda ari kumwe n'interahamwe zirimo Kabagabo, Turatsinze, Safari na Nyiridandi bitwaje intwaro (Gerenade n'imbunda), ko haje kugwa akavura maze bamwe bajya kugama ku Kigo Nderabuzima cya Kicukiro, abandi bajya kuri Etat Major y'interahamwe (kwa Ruhumuriza Celestin), we ajya kugama hepfo gato kwa Bugingo Gerard, imvura ihise ahura n'umuntu amubwira ko abagiye kugama ku Kigo Nderabuzima cya Kicukiro bose bishwe. Ibi Rutagengwa François yasobanuye mu Rukiko akaba ari na byo yasobanuye mu ibazwa rye mu Bugenzacyaha kuwa 12/4/2007 aho yavuze ko Kalinijabo Jean Damascene we yari ahari ubwo Abatutsi bicwaga ku Kigo Nderabuzima cya Kicukiro.

[70]. Urukiko rurasanga Kalinijabo Jean Damascene na we yarasobanuye ko babatwaye mu muganda nyamara ari ukujya guhishura Abatutsi babaga bihishe, ndetse ko kuri uwo munsi IYAMUREMYE Jean Claude yari mu nterahamwe zagiye guhishura abagize umuryango wa Muzungu Thomas bagera kuri barindwi (7) n'abandi barimo Kayibanda Innocent, Karekezi, Manyoni ahantu bari bihishe mu ishyamba zibajyana zibakikije kubarindira kuri Centre de Santé ya Kicukiro kugira ngo batabacika maze bicirwa haruguru y'iki kigo bajugunywa mu cyobo cyari gihari, abibona.

[71]. Rusanga Nyirahabimana Beatrice watanzwe n'uregwa nk'umutangabuhamya ushinjura yaravuze ko[28] mbere ya 1994 yari azi IYAMUREMYE Jean Claude ari umunyeshuri uri hejuru y'icyiciro rusange (Tronc commun) ko atamuzi yitwara nabi, ko mu gihe cya jenoside yagabweho igitero kubera isura kuko atari mu bahigwaga, ko umwe mu bari bagize igitero yasanze ari we baramureka, nyuma y'aho ahungira kwa Kalinijabo Jean Damascene ari kumwe n'abana be n'abo yareraga. Akomeza avuga ko ubwo bari aho kwa Kalinijabo Jean Damascene bumvise igihiriri cy'abantu basakuza ari kumwe n'umugore wa Kalinijabo Jean Damascene mu gikari, umwana yurira urwego ababwira ko abonye abantu benshi bazamuka bari kumwe na Ndayambaje Charles, nawe aramubona, abona harimo na Kalinijabo Jean

[28] Inyandikomvugo y'iburanisha yo kuwa 17/6/2019.

Damascene, Rutagengwa François, Idadi, Emmanuel bitaga Maso, Ndaruhebeye Vianney, Kayibanda Innocent na bene nyina n'abo kwa se wabo harimo n'abantu benshi bavumbuye. Akomeza avuga ko ibi yabibonye ari mu kumba yari yihishemo kwa Kalinijabo Jean Damascene, hagati ya metero 20 na 50 uvuye ku cyobo cyiciwemo Abatutsi ku Kigo Nderabuzima cya Kicukiro, arebera mu kadirishya, ariko ko atarengeje iminota itanu (5) areba abicanyi bashoreye abari bagiye kwicwa. Anavuga ko IYAMUREMYE Jean Claude yavuzwe rimwe muri Gacaca ku bijyanye n'uko yajyanye umuryango wa Kaningu Claudien muri ETO Kicukiro.

[72]. Rusanga rero ubu buhamya budashinjura IYAMUREMYE Jean Claude ku ruhare rwe mu bwicanyi bwakorewe Abatutsi ku Kigo Nderabuzima cya Kicukiro kuko yivugira we ubwe ko ubwo Abatutsi bari bashorewe n'interahamwe bajyanywe kwicirwa kuri iki kigo yabireberaga mu kadirishya k'akumba yari yihishemo kwa Kalinijabo Jean Damascene ku buryo atashoboraga kumenya abantu bose bari mu gitero bitewe n'ubwinshi bwabo n'intera ya metero hagati ya (20) na mirongo itanu (50) yari hagati y'aho yari ari n'aho Abatutsi bicirwaga, byumvikana ko Nyirahabimana Beatrice adafite ubumenyi buhagije kuri ubu bwicanyi kuko avuga ibyo atahagazeho, dore ko anivugira ko atarengeje iminota itanu (5) areba abicanyi bashoreye abari bagiye kwicwa.

[73]. Rusanga kandi indi mpamvu ituma ubuhamya bwa Nyiransabimana Beatrice butahabwa agaciro ari uko yivuguruza avuga ko IYAMUREMYE Jean Claude atari mu bantu bashoreye Abatutsi bajya kubicira ku Kigo nderabuzima cya Kicukiro, ariko kandi akavuga ko atashoboye kumenya abantu bose bari mu gitero bitewe n'ubwinshi bwabo n'ahantu yari yihishe.

[74]. Rusanga n'ibyo avuga ko mu ikusanyamakuru IYAMUREMYE Jean Claude atigeze avugwa usibye gusa aho yavuzwe ko yahungishije umuryango wa Kaningu Claudien muri ETO Kicukiro, ubwabyo bidashinjura IYAMUREMYE Jean Claude ku ruhare aregwa mu bwicanyi bwakorewe Abatutsi ku Kigo Nderabuzima cya Kicukiro

cyane ko ikusanyamakuru atari ryo ryonyine rishingirwaho mu kwemeza ko uregwa yakoze cyangwa atakoze icyaha.

[75]. Rusanga ibivuzwe mu gika kibanziriza iki bishimangirwa n'urubanza rwa Gatete Jean Baptiste aho yireguye avuga ko abatangabuhamya batigeze bamuvuga mu Nkiko Gacaca, kandi ko nta na hamwe agaragara ku rutonde rw'ikusanyamakuru rya Gacaca, ariko Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda rukaba rwaranzuye ko kuba Gatete Jean Baptiste atavugwa mu manza zaciwe n'Inkiko Gacaca ntacyo bimarira Urukiko rwamuburanishije kuko kuba Urukiko rumwe ntacyo ruvuga ku muntu mu manza rukurikirana bitavuze ko nta ruhare yagize mu byaha aregwa kuko ikirebwa ari ibikorwa bye ku giti cye n'ibimenyetso[29].

[76]. Rusanga rero hashingiwe ku ngingo ya 119 y'itegeko ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko "Urukiko ruhamya ku buryo butavuguruzwa ko ibimenyetso byose birega cyangwa biregura ari byo kandi ko bishobora kwemerwa'', IYAMUREMYE Jean Claude yaragize uruhare mu iyicwa ry'Abatutsi ku Kigo Nderabuzima cya Kicukiro nk'uko ibimenyetso byagaragajwe hejuru bibigaragaza.

II.2.4. Ku bijyanye n'iyicwa ry'Abatutsi i Nyanza ya Kicukiro.

II.2.4.1. Icyo Ubushinjacyaha burega IYAMUREMYE Jean Claude

[77]. Ubushinjacyaha burega IYAMUREMYE Jean Claude kuba kuwa 11/04/1994 yaragiye mu gitero cyise Abatutsi i Nyanza ya Kicukiro ari kumwe na Idadi, Kabagabo, Kibwa, Bazatsinda bitwaje intwaro zirimo gerenade, imbunda n'intwaro

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[29] ''*The defence further argue that Gatete's name was absent from any Rwankuba Gacaca proceeding which ran from 2003, and that witnesses BBR and AIZ failed to mention Gatete in their testimonies during Gacaca proceedings concening events in Rwankuba in April 1994. However, the Chamber considers that, the absence of Gatete's name from such proceedings is not significant. Indeed, it is highly speculative to suggest that the general absence of information about an accused in other judicial proceedings necessarily suggest that he was not involved".* ICTR-2000-61-T, igika cya 130, urup. rwa 30.

gakondo. Busobanura ko benshi mu biciwe i Nyanza ya Kicukiro ari abari barokotse igitero cyo muri ETO Kicukiro ubwo bahungaga bagana kuri Stade Amahoro maze bageze Sonatubes basanga interahamwe zirimo IYAMUREMYE Jean Claude n'abasirikare babatangiriye, babashorera babajyana i Nyanza ya Kicukiro aho babiciye muri uwo mugoroba.

[78]. Buvuga kandi ko iki gitero cyahitanye abantu benshi barimo Kananga Francois, n'abana be batanu (5), Bayingana Dismas, umugore we Mukazuzi M. Goretti n'abana be umunani (8), Kayiranga Raphael, umugore we Mukarugagi n'abana babo batandatu (6), Murangira Jean Marie n'umugore we Kayirebwa Speciose n'abana babo babiri (2), Kanyabugoyi, Kayumba Claver n'umugore we Mukabadege Alivera n'abana babo batatu (3), Mukangamije Ancille n'abana be batatu (3), Kiyonga Cassien n'umugore we Mukamusoni Beatrice n'abana babo icumi (10), Mukamugema Marie n'abana be babiri (2), Karibwende Esaie n'umugore we Immaculee, Kabera Charles n'abana be bagera ku icumi (10), Mukangango Consolee n'abandi benshi.

[79]. Ibimenyetso Ubushinjacyaha bushingiraho burega IYAMUREMYE Jean Claude kuba muri iki gitero ni imvugo z'abatangabuhamya Benimana Ignace, Mukayiranga Speciose na Mugorewera Madeleine. Umutangabuhamya Benimana yavuze ko ubwo bari bamaze kurokoka ubwicanyi muri ETO Kicukiro, bahunze bageze Sonatubes bahasanga interahamwe zirimo IYAMUREMYE Jean Claude n'abasirikare, barabatangira babashorera baberekeza Nyanza ya Kicukiro, bageze Kicukiro Centre abona IYAMUREMYE Jean Claude ari kumwe na Georges Rutaganda mu modoka itukura, bageze i Nyanza abona na none IYAMUREMYE Jean Claude ari kumwe na Rutaganda Georges babwira interahamwe uko zihagarara kugira ngo abantu batabacika, nyuma abasirikare bamaze kugenda babiraramo barabica[30], nk'uko yanabitanzeho ubuhamya mu Rukiko[31].

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[30] Inyandikomvugo y'ibazwa yo kuwa 13/01/2017.
[31] Inyandikomvugo y'ibazwa yo kuwa 14/12/2017.

[80]. Umutangabuhamya Mukayiranga Speciose, mu ibazwa rye mu Bugenzacyaha[32] no mu buhamya bwe mu Rukiko[33] yavuze ko na we yabonye IYAMUREMYE Jean Claude Kicukiro Centre ari mu modoka y'ijipe ya gisirikare, afite imbunda kandi ayibatunze, ari mu gitero cyari kibashoreye kibavanye Sonatubes kibajyanye i Nyanza ya Kicukiro aho n'umugabo we Kanyabugoyi Fidele yiciwe. Undi mutangabuhamya Mugorewera Madeleine mu ibazwa rye mu Bugenzacyaha[34] yavuze ko yabonye IYAMUREMYE Jean Claude mu gitero cy'i Nyanza ya Kicukiro.

II.2.4.2. Imyiregurire ya IYAMUREMYE Jean Claude

[81]. IYAMUREMYE Jean Claude n'abunganizi be bavuga ko kuwa 11/04/1994 atigeze agera Sonatubes, Kicukiro Centre n' i Nyanza ya Kicukiro kuko atashoboraga guca mu muhanda wa Sonatubes-Nyanza kuko na we yahigwaga ; ko rero ibivugwa n'abatangabuhamya ko yari kumwe na Georges Rutaganda atari ukuri kuko no mu gitabo cyanditswe ku byabereye i Nyanza ya Kicukiro cyitwa "Left to die at ETO and Nyanza" ntaho bamuvuga, ko ahubwo, iby'ubu bwicanyi yabyumvise kuri Radio Rwanda bivugwa n'abarokokeye i Nyanza ya Kicukiro.

[82]. Bavuga kandi ko umutangabuhamya Benimana Ignace umushinja adafite ubumenyi ku byabereye i Nyanza ya Kicukiro kuko iyo abugira, aba yaravuze Nzinga ubwo yatangaga ubuhamya mu rubanza rwa Rutaganda Georges kuko yavuze abantu benshi muri uru rubanza ntayagira icyo amuvugaho. Bakomeza bavuga ko Benimana Ignace yivuguruza kuko hamwe avuga ko yabonye IYAMUREMYE Jean Claude ari mu modoka ari kumwe na Rutaganda Georges ku Kicukiro centre, ahandi mu bugenzacyaha bw'Ubuholandi avuga ko yamubonye Kicukiro Centre afite imbunda, ahandi avuga ko yamubonye Kicukiro Centre abaza Kanyabugoyi Fidele uzongera kwandikwa ibinyamakuru. Bavuga na none ko uyu mutangabuhamya yivuguruza ku bijyanye n'imbunda aho rimwe avuga ko IYAMUREMYE Jean Claude yabashoreye nta mbunda afite, ubundi akavuga ko

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[32] Inyandikomvugo y'ibazwa yo ku wa 14/12/2011.

[33] Inyandikomvugo y'iburanisha yo kuwa 30/05/2018.

[34] Inyandikomvugo y'ibazwa yo kuwa 13/12/2011.

yamubonye Kicukiro Centre afite imbunda. Bavuga ko Mukayiranga we yemeza ko Nzinga yari mu bantu babashoreye afite imbunda kandi ari mu modoka ya Gisirikare.

[83]. Bavuga rero ko aba batangabuhamya bavuze imvugo zitandukanye kandi bari kumwe, bityo akaba ari imvugo zateguwe kumushinja ibinyoma kuko ubuhamya bwabo buvuguruzanya ku ruhare rwe mu gitero cyashoreye kikanica abatutsi i Nyanza ya Kicukiro kandi ko usibye kuba bavuga ko bamubonye ahantu hatandukanye ntawe uvuga igikorwa cy'ubwicanyi yakoze.

[84]. IYAMUREMYE Jean Claude yatanze abatangabuhamya batatu (3) bamushinjura aribo DIB, DIC na DID. Umutangabuhamya DIC avuga ko kuwa 11/04/1994 abantu bavuye muri ETO Kicukiro berekeza Sonatubes, bahageze babasubiza mu muhanda ugana Bugesera bashorewe n'interahamwe n'abasirikare benshi ariko ko mu bari babashoreye atabonyemo IYAMUREMYE Jean Claude. Avuga kandi ko ibi yabibonye ari iwabo ku muhanda ugana Brasserie kandi ko hagati y'iwabo n'aho yabonye abantu bashorewe bari bari hari metero enye (4), naho hagati y'iwabo na Nyanza ya Kicukiro hari ibirometero bibiri (2). Asoza avuga ko kuri uwo munsi tariki ya 11/04/1994 atigeze abona IYAMUREMYE Jean Claude, ko atari azi gahunda ye kandi ko na we ubwe atigeze agera i Nyanza ya Kicukiro kuko yiriwe mu rugo iwabo.[35]

[85]. Umutangabuhamya DID yavuze ko kuwa 11/04/1994 yabonye abantu bari bahungiye muri ETO bahava, nyuma ababona bashorewe n'interahamwe, abasirikare n'abajandarume benshi babajyanye i Nyanza ya Kicukiro ariko ko mu bantu yashoboye kubona IYAMUREMYE Jean Claude atarimo. Asobanura ko ibi yabibonye ari iwabo ku muhanda wa Kicukiro Centre aho yamaze nk'isaha nyuma aza kuhava kandi ko kuva iwabo kugera kuri ETO Kicukiro hari metero mirongo itandatu (60 m), naho kuva ETO Kicukiro ujya i Nyanza ya Kicukiro hari ikilometero

[35] Inyandikomvugo y'iburanisha yo kuwa 05/11/2020.

kimwe (1km) cyangwa metero magana inani (800 m). Asoza avuga ko atigeze agera i Nyanza ya Kicukiro ahicirwaga abatutsi.[36]

[86]. Undi mutangabuhamya DIB we yavuze ko ubwo yari ahagaze iwabo ku itariki 11/04/1994, yumvise abantu bavuza induru, asohotse abona abantu benshi bava Sonatubes bazamuka, bashorewe n'interahamwe n'abajandarume ariko ko atigeze abona IYAMUREMYE Jean Claude[37].

II.2.4. 3. Uko Urukiko rubibona

[87]. Urukiko rusanga umutangabuhamya Benimana Ignace, mu Bugenzacyaha, yaravuze ko yabonye IYAMUREMYE Jean Claude mu modoka ya Peugeot itukura ku Kicukiro Centre ari kumwe na Rutaganda Georges, yongera kubasanga i Nyanza ya Kicukiro bahababatanze barimo bereka interahamwe zari zaje zibashoreye uko zihagarara kugira ngo zibone uko zibica batazicitse, ko aho hiciwe Abatutsi benshi bagera nko ku bihumbi bitanu (5.000) barimo umugore we witwa Uzamuranga n'abana be babiri (2). Abazwa mu Bushinjacyaha yavuze ko ubwo bari bamaze kurokoka ubwicanyi muri ETO Kicukiro, bahunze, bageze Sonatubes bahasanga interahamwe zirimo IYAMUREMYE Jean Claude n'abasirikare, barabatangira babashorera baberekeza i Nyanza ya Kicukiro, bageze Kicukiro Centre bahasanga IYAMUREMYE Jean Claude wigambye kuri Kanyabugoyi Fidele amubwira ko atazongera kwandika ibinyamakuru; bageze i Nyanza ya Kicukiro mu mugoroba yabonye IYAMUREMYE Jean Claude ari kumwe na Georges Rutaganda, arimo yereka interahamwe uko zihagarara kugira ngo abantu batabacika, nyuma abasirikare bamaze kugenda interahamwe zitangira kubica. Akomeza avuga ko bukeye interahamwe zagarutse, ko ariko atibuka niba IYAMUREMYE Jean Claude yari ahari.

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[36] Inyandikomvugo y'iburanisha yo kuwa 05/11/2020.
[37] Inyandikomvugo y'iburanisha yo kuwa 05/11/2020.

[88]. Rusanga ubwo yatangaga ubuhamya mu Rukiko, Benimana Ignace yaravuze ko bageze i Nyanza ya Kicukiro yabonye IYAMUREMYE Jean Claude afite imbunda ari kumwe na Rutaganda Georges bereka interahamwe uko zihagarara, nyuma batangira kubica. Bukeye yongeye kubona Nzinga yagarukanye n'izindi nterahamwe basaka mu mirambo abatapfuye, maze IYAMUREMYE Jean Claude yaka interahamwe inkota yica Kanyabugoyi Fidele.

[89]. Rusanga umutangabuhamya Mukayiranga Speciose, abazwa mu Bugenzacyaha, yaravuze ko yabonye IYAMUREMYE Jean Claude Kicukiro Centre ari mu modoka y'ijipe ya gisirikare, afite imbunda kandi ayibatunze, ari mu gitero cyari kibashoreye kibavanye Sonatubes kiberekeza i Nyanza ya Kicukiro, aho babagejeje abasirikare n'interahamwe bari aho babateramo gerenade, bajonjoramo abahutu, nyuma bakomeza kubica. Mu buhamya yatanze mu Rukiko, yavuze ko ubwo bari bageze Kicukiro Centre bashorewe n'interahamwe n'abasirikare yabonye IYAMUREMYE Jean Claude ari mu ikamyoneti hejuru, abatunzeho imbunda, ababaza niba biteguye gupfa, ko ariko atigeze abona IYAMUREMYE Jean Claude i Nyanza ya Kicukiro aho Abatutsi benshi biciwe hakoreshejwe gerenade, imbunda n'intwaro za gakondo, ko ndetse bukeye mu gitondo interahamwe zagarutse zitangira gusaka imirambo zireba abakiri bazima ariko mu kanya gato bavuga ko Inkontanyi zije, biruka bazisanga.

[90]. Rusanga umutangabuhamya Mugorewera Madeleine mu ibazwa rye mu Bugenzacyaha yaravuze ko ubwo interahamwe zabagezaga i Nyanza ya Kicukiro yabonye IYAMUREMYE Jean Claude mu gitero.

[91]. Rusanga isesengura ry'ubu buhamya bumaze kuvugwa hejuru rigaragaza ko abatangabuhamya Benimana Ignace na Mukayiranga Speciose bahuriza ku kuba barabonye IYAMUREMYE Jean Claude ari mu modoka mu gitero cy'interahamwe, abasirikare n'abajandarume cyatangiriye Abatutsi bari barokotse ubwicanyi bwo muri ETO Kicukiro, kikabashorera kibanyujije Kicukiro Centre. Naho Benimana

Ignace na Mugorewera Madeleine bahuruza ku kuba barabonye IYAMUREMYE Jean Claude ari mu gitero cy'interahamwe ziciye Abatutsi i Nyanza ya Kicukiro.

[92]. Rusanga ariko ubuhamya bwa Benimana Ignace na Mukayiranga Speciose bunyuranya ku byerekeye ubwoko bw'imodoka IYAMUREMYE Jean Claude yarimo, aho Benimana Ignace avuga ko yamubonye mu modoka ya Peugeot itukura, naho Mukayiranga Speciose rimwe avuga ko yamubonye mu ikamyoneti itukura, ubundi akavuga ijipe itukura zose zirimo imbunda. Rusanga nanone Benimana Ignace uretse kuba ahuza na Mugorewera Madeleine kuba barabonye IYAMUREMYE Jean Claude i Nyanza ya Kicukiro, mu buhamya bwe yongeraho ko tariki ya 11 Mata 1994 yabonye Nzinga i Nyanza ya Kicukiro abwira interahamwe uko zihagarara kugira ngo hatagira uzicika mu bicwaga, naho tariki ya 12 Mata 1994 abona Nzinga yica Kanyabugoyi Fidele.

[93]. Rusanga koko hari ibyo abatangabuhamya batavugaho kimwe, nk'ibijyanye n'uko IYAMUREMYE Jean Claude yabonywe Kicukiro Centre afite imbunda cyangwa atayifite, ari mu ijipe ya gisirikare cyangwa mu ikamyoneti isanzwe, ari kumwe na Rutaganda Georges cyangwa batari kumwe. Rusanga ariko uku kutabara inkuru kimwe bidatesha ireme ubuhamya bwabo ku kuba IYAMUREMYE Jean Claude yari mu gitero cy'i Nyanza ya Kicukiro kuko icy'ingenzi ari uko bahuriza ku kuba barahamubonye. Rusanga uyu ari na wo murongo Inkiko Mpanabyaha Mpuzamahanga zashyiriweho u Rwanda n'icyahoze ari Yugoslavia zafashe aho zasobanuye ko kwivuguruza kudakabije (minor inconsistencies) gusanzwe kubaho mu buhamya kandi ntibitume budashingirwaho[38].

[94]. Rusanga ariko ibyo Benimana Ignace avuga ko yabonye IYAMUREMYE Jean Claude atanga amabwiriza ku nterahamwe ku buryo bwo guhagarara kugira ngo hatagira uzicika mu bicwaga, ubundi akavuga ko ayo mabwiriza yayatanze afatanyije na Rutaganda Georges wari umuyobozi w'interahamwe ku rwego rw'igihugu bitafatwaho nk'ukuri kuko nta kimenyetso gihamya nta shiti ko

[38] ICTY-98-32/1-A, igika cya 135.

IYAMUREMYE Jean Claude yashoboraga gufatanya n'umuyobozi wo kuri ruriya rwego mu kuyobora interahamwe icyo zikora, cyane ko mu rubanza rwa Rutaganda Georges rwaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda hemejwe ko Rutaganda Georges yari mu gitero cyishe abatutsi bari bakusanyirijwe i Nyanza ya Kicukiro, kandi ko mbere y'uko ubwicanyi butangira yabwiye interahamwe uko zihagarara, zitangira gutera gerenade no kwica abo batutsi[39] IYAMUREMYE Jean Claude ataruvugwamo nk'uwo bafatanyije.

[95]. Rusanga nanone ubuhamya bwa Benimana Ignace bujyanye no kuba yarabonye IYAMUREMYE Jean Claude yica Kanyabugoyi Fidele kuwa 12 Mata 1994 nabwo budakwiye kwemerwa kuko mu mvugo ze yavuze mu bihe bibiri bitandukanye, aho yabanje kuvuga ko atibuka niba IYAMUREMYE Jean Claude yaragarutse mu nterahamwe zaje kwica i Nyanza kuwa 12 Mata 1994, nyuma avuga ko yagarutse akaba ari na bwo yishe Kanyabugoyi Fidele akoresheje inkota; ubu buhamya bukaba bugaragaza ukwivuguruza gukabije gutuma ubuhamya bwe butemerwa kuri iyi ngingo, cyane ko mu mwanzuro w'Ubushinjacyaha ntaho bugaragaza ko hari umuntu IYAMUREMYE Jean Claude yishe ku giti cye.

[96]. Rusanga abatangabuhamya ba IYAMUREMYE Jean Claude ari bo DIB, DIC na DID nta bumenyi bafite ku bwicanyi bwabereye i Nyanza ya Kicukiro kuko nta n'umwe muri bo wageze ahabereye ubu bwicanyi, kandi n'ibyo bavuga ko batigeze babona IYAMUREMYE Jean Claude kuri Sonatubes na Kicukiro Centre mu nterahamwe zari zishoreye Abatutsi zibajyanye i Nyanza ya Kicukiro nta reme bifite, kuko bivugira ko hari abantu benshi ku buryo nk'ababireberaga ku ruhande batashoboraga kumenya ko IYAMUREMYE Jean Claude arimo cyangwa atarimo. Bityo, ubuhamya bwabo bukaba butavuguruza ubuhamya bw'abemeje uruhare rwe mu bwicanyi bwabereye i Nyanza ya Kicukiro.

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[39] ICTR-96-3-T, igika 391.

[97]. Rusanga rero IYAMUREMYE Jean Claude yaragize uruhare mu iyicwa ry'Abatutsi ryabereye i Nyanza ya Kicukiro.

II.2.5. Ku bijyanye n'iyicwa ry'Abatutsi bari bahungiye kwa BIZIYAREMYE Francois n'ibitero byagabwe kwa Bayingana Dismas, Kageyo Evariste, Gatarasi Thadée n'iwabo wa DCA.

II.2.5.1. Icyo Ubushinjacyaha burega IYAMUREMYE Jean Claude

[98]. Ubushinjacyaha burega kandi IYAMUREMYE Jean Claude ubwicanyi bw'Abatutsi bari bahungiye kwa se Biziyaremye Francois, buvuga ko yagiye kuzana abasirikare bagota iwabo, batangira kuvangura abantu bari bahari, bashyira abo mu muryango wa Biziyaremye Francois ukwabo n'Abatutsi babashyira ku ruhande, nyuma Abatutsi benshi barimo abakobwa bitwa Chantal, Divine na Lisette babapakira imodoka bajya kubicira mu Rubirizi aho bitaga 'CND'; bukaba busanga iyicwa ry'aba batutsi IYAMUREMYE Jean Claude yararigizemo uruhare rutaziguye kuko ari we wazanye abasirikare. Bwavuze kandi ko IYAMUREMYE Jean Claude yabaye mu bitero byagabwe kwa Bayingana Dismas, kwa Kageyo Evariste Evariste, kwa Gatarasi Thadée no kwa DCA, bisahura imitungo binahishura bamwe mu batutsi bari bihishe.

[99]. Ibimenyetso Ubushinjacyaha bushingiraho ni imvugo z'abatangabuhamya batandukanye barimo Benimana Ignace[40] wavuze ko IYAMUREMYE Jean Claude yari mu gitero cyagabwe kwa Bayingana Dismas na Kageyo Evariste kirahasahura, kinahatera gerenade yahitanye umuhungu wakoraga mu kabari ko kwa Ruhumuriza Celestin tariki ya 07/04/1994. Undi mutangabuhamya DCB[41] we yavuze ko Nzinga wari kumwe na Twahirwa n'undi musore atibuka, baje aho yari yihishe kwa Gatarasi Thadée bamujyana iwabo, bagezeyo Nzinga n'abasirikare bari bahari bapakira mu mudoka impuzi z'Abatutsi zari zahahungiye, bazijyana mu Rubirizi aho baziciye.

[40] Inyandikomvugo y'ibazwa mu bugenzacyaha kuwa 13/12/2011, no mu bushinjacyaha ku wa 13/01/2017, ndetse n'ubuhamya bwe mu Rukiko ku wa 01/06/2018.
[41] Inyandikomvugo y'ibazwa mu bushinjacyaha kuwa 17/04/2007; n'ubuhamya mu Rukiko kuwa 01/06/2018.

[100]. Bwavuze kandi ko umutangabuhamya DCA[42] yavuze ko Nzinga yari mu nterahamwe zabateye iwabo zishaka kubica, aziha sheki y'amafaranga ibihumbi ijana (100.000) ziragenda. Rutagengwa Francois[43] we yavuze ko ubwo yarimo ahunga ageze hafi yo kwa Biziyaremye Francois yabonye IYAMUREMYE Jean Claude ari kumwe n'abasirikare mu modoka ya Hilux bajya iwabo, uwitwa Rukimbira amubwira ko Abatutsi bari bahungiye kwa Biziyaremye Francois barimo bafatwa bakajyanwa kwicwa, ko rero yajya kwihisha.

II.2.5.2. Imyiregurire ya IYAMUREMYE Jean Claude

[101]. IYAMUREMYE Jean Claude n'abamwunganira bavuga ko nta ruhare yagize mu iyicwa ry'Abatutsi bari bahungiye iwabo, ko ubwo abasirikare bazaga kureba impunzi zari zahungiye iwabo mu rugo muri jenoside yakorewe Abatutsi batahamusanze kuko yari yagiye ahitwa Byimana kuvoma amazi. Bavuga ko abasirikare bashakishije mu nzu hose ko babonamo ingabo za RPF kuko bakekaga ko zihishemo, bazibuze bategeka ko impunzi zijya ukwazo n'abagize umuryango wa BIZIYAREMYE Francois bakajya ukwabo, impunzi zurizwa imodoka zijyanwa mu Rubirizi aho bamwe muri zo biciwe.

[102]. Bavuze ko nta bushobozi IYAMUREMYE Jean Claude yari afite bwo kuzana abasirikare cyangwa kubabwiriza icyo bakora, ko ahubwo yabatinyaga bitewe n'uko buri gihe yabwirwaga ko asa n'Abatutsi, kandi ko ibyo abatangabuhamya bavuga ko yabaye mu bitero mu ngo zitandukanye nta kuri kurimo kuko atigeze akorana n'interahamwe.

[42] Inyandikomvugo y'ibazwa mu Bushinjacyaha tariki ya 23/04/2007, n'ubuhamya mu Rukiko kuwa 17/05/2018.
[43] Inyandikomvugo y'ibazwa mu Bushinjacyaha tariki ya 12/04/2007, n'ubuhamye mu Rukiko kuwa 30/05/2018.

[103]. Mu bimenyetso bishunjura batanze harimo ubuhamya bwa Nizeyimana Samson[44] wavuze ko yageze iwabo wa IYAMUREMYE Jean Claude, babatuma kuvoma we na IYAMUREMYE Jean Claude n'izindi mpunzi zari zihari, bagarutse basanga abasirikare bahagose bashakisha ko hari Abatutsi bahihishe. Yavuze kandi ko tariki ya 06/04/1994 ubwo ibisambo byateye ibisasu kwa Bayingana Dismas, na we yahuruye ariko ko mu bo yahabonye IYAMUREMYE Jean Claude atarimo. Bashingira kandi ku mvugo z'uwitwa Rubayiza Innocent[45] wavuze ko muri jenoside atigeze abona Nzinga ndetse n'iz'uwitwa Ntambabazi Donata[46] na we wavuze ko mu nterahamwe zicaga Abatutsi mu Rubirizi atabonyemo Nzinga.

[104]. Banenga ubuhamya bwa DCB bavuga ko butarimo ukuri, ko ndetse busebya uregwa kuko atigeze aba umwana w'ikirara wananiwe ishuri nk'uko abivuga, ko atigeze ajya mu gitero icyo ari cyo cyose kuko atari gutinyuka kujya mu bitero kandi iwabo baritwaga ibyitso by'Inkotanyi. Bakomeza bavuga ko DCB atazanywe iwabo w'uregwa n'igitero kuko yari azwi nk'umuhutukazi utarahigwaga, ko ahubwo yaje iwabo abisabwe n'uregwa kugira ngo afashe kuvura bamwe mu mpunzi bari bakomeretse. Bavuze ko ibyo DCB yavuze ko yabonye uregwa ajyanye n'imodoka yatwaye impunzi mu Rubirizi ari ikinyoma. Bavuze kandi ko ibyavuzwe na DCA ko IYAMUREMYE Jean Claude yamamaye mu bwicanyi no kuba yari mu gitero cyateye iwabo bitabayeho kandi ko n'ibivugwa na Rutagengwa Francois wavuze ko yabonye uregwa ajy'iwabo n'imodoka y'abasirikare bapakiza Abatutsi bari bahahungiye bajya kubicira mu Rubirizi bitafatwaho ukuri kuko abazwa mu Bushinjacyaha yavuze ko yabibwiwe na Rukimbira.

II.2.5.3. Uko Urukiko rubibona

[105]. Urukiko rusanga ibimenyetso bitangwa n'Ubushinjacyaha ku iyicwa ry'Abatutsi bari bahungiye iwabo wa IYAMUREMYE Jean Claude ndetse n'ibitero byagabwe kwa

[44] Inyandikomvugo y'ibazwa yo kuwa 26/06/2019.
[45] Inyandikomvugo y'ibazwa mu bushinjacyaha kuwa 24/01/2007.
[46] Inyandikomvugo y'ibazwa mu bushinjacyaha kuwa 23/02/2007.

Bayingana Dismas, kwa Kageyo Evariste, kwa Gatarasi Thadée no kwa DCA bigizwe n'imvugo z'abatangabuhamya Benimana Ignace, DCB, Rutagengwa Francois na DCA; mu kwiregura IYAMUREMYE Jean Claude ashingira ku mvugo avuga ko zimushinjura z'abatangabuhamya bitwa Nizeyimana Samson, Rubayiza Innocent na Ntambabazi Donata.

[106]. Rusanga Benimana Ignace atanga ubuhamya bwe yaravuze ko mbere y'uko jenoside yakorewe Abatutsi itangira IYAMUREMYE Jean Claude yamenyekanye nk'imwe mu nterahamwe zikaze hamwe n'abitwa Ruhumuriza Benjamin, Sentama Thierry na Ruzindaza, anavuga n'uburyo kuwa 07/04/1994 interahamwe yitwa Munyankumburwa Felicien yaje kubaburira ko bari bugabweho igitero na Nzinga, maze bigeze mu ijoro haza igitero kigota abaturanyi bo kwa Bayingana Dismas na Kageyo Evariste, kirahasahura, kinahatera gerenade yahitanye umuhungu wakoraga mu kabari ko kwa Ruhumuriza Celestin, bukeye ku wa 08/04/1994 IYAMUREMYE Jean Claude agarukana n'umusirikare witwa Safari bareba umurambo w'uwaraye ahitanywe n'iyo gerenade, atora itoroshi yari aho ku murambo arayijyana.

[107]. Rusanga mu buhamya bwe DCB yaravuze ku bwicanyi bw'Abatutsi bari bahungiye kwa Biziyaremye Francois no mu zindi ngo zo hafi y'aho, asobanura ko ubwo yari yahungiye kwa Gatarasi Thadée interahamwe yitwa Safari yaje irabashinganisha ivuga ko nta we uzabakoraho, nyuma IYAMUREMYE Jean Claude atuma abitwa Sekamana na Gacandaga kumuvana aho bakamuzana iwabo wa IYAMUREMYE Jean Claude ariko abitwa Habimana na Banana babanza kwanga ko agenda kugeza ubwo IYAMUREMYE Jean Claude ari kumwe na Twahirwa n'undi musore atibuka izina baje kuhamuvana bo ubwabo bamubwira ko bagiye kumwereka bene wabo bamushaka kandi icyo gihe IYAMUREMYE Jean Claude akaba yari yitwaje imbunda yo bu bwoko bwa pistolet. Akomeza asobanura ko bageze iwabo wa Nzinga bahasanze abasirikare benshi, bamwinjiza mu nzu aho yasanze abitwa Chantal, Lisette na Livine wari watemwe ku gikanu, atangira kumwomara ariko nyuma y'akanya gato Nzinga n'abasirikare bahita baza, babasohora hanze,

abasirikare basaba ko impunzi za Nzinga zijya ukwazo n'izavuye ahandi zikajya ukwazo, maze impunzi zari aho zurizwa imodoka ya Hilux iruzura, ubona nta mpuhwe bazifitiye, bababwira ko bagaruka gufata izisigaye. Anavugako IYAMUREMYE Jean Claude n'abandi basore bari kumwe bajyanye n'iyo modoka, maze Konseye Biziyaremye Francois asaba ko impunzi zisigaye mu rugo zigenda kuko zateje akavuyo iwe. DCB asoza avuga ko asohotse yumvise amasasu avuze ubwo bicaga abo bajyanye.

[108]. Rusanga Rutagengwa Francois yaratanze ubuhamya mu Bugenzacyaha no mu Bushinjacyaha ku iyicwa ry'Abatutsi bari bahungiye kwa Biziyaremye Francois ahera ku kuvuga ko mbere yo 1994 IYAMUREMYE Jean Claude yari azwi nk'interahamwe, agakomeza asobanura ko ubwo yari yihishe kwa Bugingo Gerard uwitwa Rukimbira mwene se wabo wa IYAMUREMYE Jean Claude yamugemuriye, amubwira ko Nzinga yahamagaye abasirikare ababwira ko iwabo hari inyenzi, ko abo abasilikare bazanye imodoka ya Daihatsu apakira Abatutsi bari aho mu rugo babajyana mu Rubirizi kubicira ku cyobo cyitwaga 'CND', kandi ko abazi neza ko IYAMUREMYE Jean Claude yagiye kwica abantu mu Rubirizi ari Ntagorama baturanye muri Niboye na Mutanguha Celestin. Ariko, mu buhamya yatanze mu Rukiko, Rutagengwa Francois yavuze ko yiboneye IYAMUREMYE Jean Claude mu modoka yatwaye Abatutsi kwicwa mu Rubirizi.

[109]. DCA atanga ubuhamya, mu Bugenzacyaha no mu Bushinjacyaha, na we yahereye ku kuvuga ko mbere ya jenoside yakorewe Abatutsi IYAMUREMYE Jean Claude yagaragaraga nk'umukuru w'interahamwe kuko yitwazaga imbunda ya Pistolet akayikangisha abantu ku buryo hari n'Abatutsi bahunze ingo zabo. Akomeza avuga ko amaze kurokoka ubwicanyi bwo muri ETO Kicukiro yasubiye mu rugo maze IYAMUREMYE Jean Claude wari witwaje imbunda nini na gerenade ari kumwe n'izindi nterahamwe zirimo Idadi, Ruhubanya, Karangwa Gregoire, Ndaruhebeye Marie Vianney na Ndangurura Jean Baptiste baza kubatera, babasohora mu nzu, babicaza ku muhanda, bababaza ibibazo byinshi harimo n'ibijyanye n'ingendo aherutsemo kuko bavugaga ko ari ibyitso by'Inkotanyi, bituma ashyira sheki

y'amafaranga ibihumbi ijana (100.000 Frw) muri pasiporo (passport) ye arayibaha, bashatse kubica abwira Ruhubanya ko yahaye murumuna we Roger sheki y'amafaranga ibihumbi magana atanu (500.000); ko ariko hagati aho izo nterahamwe zabonye na mushiki we witwa Mukantabana Christine wari inshuti y'umukobwa Ruhubanya yari akoye ntibabica nubwo Nzinga yashakaga ko babica, ahubwo Ruhubanya ababwira ko bazongera kubipanga bushya. Ku bijyanye n'aya mafaranga, mu Rukiko, DCA yasobanuye ko ayo yatanze ari ibihumbi ijana (100.000), ko icyatumye abwira Ruhubanya ko yahaye murumuna we Roger amafaranga ibihumbi magana atanu (500.000) kwari ukugira ngo amwumvishe gusa ko yatanze menshi kugira ngo batabica.

[110]. Rusanga umutangabuhamya Nizeyimana Samson[47], IYAMUREMYE Jean Claude ashingiraho nk'umushinjura, yaravuze ko ku itariki atibuka neza mu kwezi kwa 04/1994 yari iwabo wa IYAMUREMYE Jean Claude, baza kujyana na we kuvoma amazi bari hamwe na zimwe mu mpunzi zari zihari, bavuyeyo basanga urugo rwagoswe n'abasirikare, baparitse n'imodoka yo mu bwoko bwa Hilux, na se wa Nzinga ahari, abasirikare bahita batangira kujagajaga inzu bareba ko hari abandi batutsi barimo, nyuma abo abasirikare bapakira Abatutsi bari bahungiye aho babajyana mu Rubirizi, ariko we akaba yarahavuye IYAMUREMYE Jean Claude akiri mu rugo. Naho ku gitero cyagabwe kwa Bayingana Dismas mu ijoro ryo ku ya 07/04/1994 indege y'uwari Perezida Habyarimana yaraye iguye, yavuze ko yahageze abona amabati yasakambuwe hari n'umurambo w'umuntu, ko ariko IYAMUREMYE Jean Claude atari mu bantu yahabonye.

[111]. Rusanga undi mutangabuhamya uregwa ashingiraho imyiregurire ye witwa Rubayiza Innocent yarabwiye Ubushinjacyaha ko muri jenoside atigeze abona Nzinga, ariko ko ku munsi atibuka yabonye imodoka y'ikamyoneti irimo Konseye Biziyaremye Francois ipakira abantu bari iwe ibajyana mu Rubirizi, ko mbere y'uko iyi modoka igenda yahuye na DCB avuye kwa Biziyaremye Francois ababaye.

[47] Inyandikomvugo y'iburanisha yo ku wa 26/06/2019.

[112]. Rusanga Ntambabazi Donata na we uregwa ashingiraho nk'ikimenyetso kimushinjura, mu ibazwa rye mu Bushinjacyaha, yaravuze ko asanzwe azi Nzinga kuko bari baturanye, ko ubwo bagendaga bahunga muri jenoside we n'abana be babiri (2) baje guhungira kwa Konseye se wa IYAMUREMYE Jean Claude bahasanga abandi bantu baje kuhihisha, harimo abakobwa bo kwa Karibwende, ko bahamaze iminsi ibiri (2) ariko muri iyi minsi akaba atarabonye IYAMUREMYE Jean Claude, ariko ko yakomezaga kumva abantu bavuga ko ba IYAMUREMYE Jean Claude ari bo bayoboye ibitero. Akomeza anavuga uko haje kuza imodoka yarimo abasirikare batatu (3) basaba umuryango wa Biziyaremye Francois n'abaturanyi be kujya ukwabo n'abandi bakajya ukwabo, nyuma abatari abo kwa Biziyaremye, na we arimo, bapakirwa mu modoka bajyanwa mu Rubirizi aho basanze interahamwe zirimo Papias, Habimana, Kibwa wo kwa Kanyabigega, Cyitatire wo mu Rubirizi n'abandi atibuka, babashyira ku murongo imbere y'icyobo, batangira kubica, ariko we n'abana be babiri (2) n'abandi bantu barimo Nyiranziza bakizwa n'umwe mu basirikare bari aho wababwiye kuzamuka bakajya mu ngo. Asoza avuga ko mu Rubirizi hari abantu benshi, abicwaga n'abicaga, ariko ko mu bo yibuka yabonye Nzinga atarimo.

[113]. Rusanga isesengura ry'ubuhamya bwa Benimana Ignace, Rutagengwa Francois, DCB na DCA rigaragaza ko buhuriza ku kuba IYAMUREMYE Jean Claude yari azwi nk'interahamwe kuva mbere ya 1994, ku kuba yarajyaga mu bitero yitwaje mu bitero yitwaje imbunda. Nubwo DCA avuga ko yabonye uregwa yaje mu gitero cyagabwe iwabo yitwaje imbunda nini na gerenade naho DCB amubonana imbunda nto ya pistolet nta kuvuguruyzanya kurimo ku bijyanye n'ubwoko bw'imbunda kuko bamuboinye mu bihe bitandukanye n'ahantu hatandukanye yitwaje intwaro z'ubwoko butandukanye, byemeza ahubwo ko byari bimworoheye kubona no kwitwaza intwaro iyo ari yo yose.

[114]. Rusanga kandi ubuhamya bwa DCB bwemeza ko IYAMUREMYE Jean Claude yabaye mu gitero cyamuvanye kwa Gatarasi Thadée kimujyana kwa se Biziyaremye Francois bukwiye kwemerwa kuko uregwa mu myiregurire ye

adahakana ko ari we wamuzanye iwabo, ahubwo ashaka guhunga uburyo bw'igitero yamuzanyemo nyamara atabasha kuvuguruza imvugo za DCB z'uburyo yazanywe iwabo.

[115]. Rusanga nanone, hashingiwe ku buhamya bwa DCA, IYAMUREMYE Jean Claude yari mu gitero cyateye iwabo, kiza kuhava batabishe nyuma y'uko DCA ahaye uwitwa Roger murumuna wa Ruhubanya amafaranga ibihumbi ijana (100.000 Frw) no kubera ubushuti bwa mushiki we n'umukobwa Ruhubanya yari akoye. Bityo, DCA akaba avuga ibyo azi kandi yabonye, dore ko yari asanzwe azi uregwa bize ku Kigo cy'ishuri kimwe ku buryo atari kumwibeshyaho kandi IYAMUREMYE Jean Claude akaba atarashoboye kubivuguruza.

[116]. Rusanga ibyo IYAMUREMYE Jean Claude yireguza avuga ko atari gutera kwa Gatarasi Thadée no mu tundi duce twa Kicukiro bitewe n'uko iwabo babitaga ibyitso by'Inkotanyi nta shingiro byahabwa kuko iyo ajya gutinya kugirirwa nabi kubera ko iwabo bafatwa nk'ibyitso by'inkotanyi, atari no gutinyuka kujya i Gahanga gukurayo umuryango we cyangwa ngo ajyane umuryango wa Kaningu Claudien muri ETO Kicukiro ; ndetse n'ibyo avuga ko DCB atari guhungira kwa Gatarasi Thadée kuko yari azwi nk'umuhutukazi utarahigwaga muri jenoside bikaba nta shingiro bifite kuko nubwo DCB yaba atarahigwaga bitari gutuma adahungira aho yumva atekanye.

[117]. Rusanga ku bijyanye n'igitero cyagabwe kwa Bayingana Dismas na Kageyo Evariste cyatewemo gerenade yahitanye umuhungu wakoraga kwa Ruhumuriza Celestin tariki ya 07/04/1994, imvugo y'umutangabuhamya Benimana Ignace itafatwa nk'ikimenyetso cyemeza ko IYAMUREMYE Jean Claude yari akirimo kuko nubwo avuga ko bari baburiwe na Munyankumburwa Felicien wari interahamwe ko baza guterwa n'igitero cya IYAMUREMYE Jean Claude, igihe kibereye atiboneye abari bakigize nk'uko abivuga mu buhamya bwe. Rusanga kandi nubwo nyuma y'iki gitero, bukeye, IYAMUREMYE Jean Claude na Safari baba baraje kureba uwahitanywe na gerenade, IYAMUREMYE Jean Claude akajyana itoroshi yari ku

murambo, bitafatwa nk'ikimenyetso kidashidikanywaho ko uregwa yari muri iki gitero.

[118]. Rusanga kandi isesengura ry'ubuhamya bushinja n'ubushinjura ku bijyanye n'uko IYAMUREMYE Jean Claude yaba ari we wazanye abasirikare baje kugota iwabo bakanapakira mu modoka Abatutsi bari bahihishe rigaragaza ukuvuguruzanya ku ruhare rwa IYAMUREMYE Jean Claude mu izanwa ry'aba basirikari kuko Rutagengwa Francois yivuguruza mu mvugo ze aho avuga ko ukuza kw'aba basirikare kwa Biziyaremye Francois yakumenye abibwiwe na Rukimbira wari uje amugemuriye aho yari yihishe kwa Bugingo ariko mu rukiko avuga ko yiboneye imodoka ya Hilux irimo Nzinga n'abasirikare yinjira iwabo. Ubu buhamya bwe bukavuguruzwa n'ubwa DCB wavuze ko ubwo IYAMUREMYE Jean Claude n'izindi nterahamwe bamugezaga iwabo bamuvanye kwa Gatarasi Thadee basanze hagoswe n'abasirikare ndetse n'ubwa Nizeyimana Samson wavugiye mu rukiko ko ubwo bavuga kuvoma bari hamwe na IYAMUREMYE Jean Claude basanze abasanze abasirikare bahageze bahagose. Bityo, akaba nta kimenyetso nyakuri gihari cyemeza nta shiti ko IYAMUREMYE Jean Claude ari we wazanye abasirikare iwabo.

[119]. Rusanga nanone ku bijyanye n'igitero cyatwaye Abatutsi bari bahungiye kwa Biziyaremye Francois kubicira mu Rubirizi, isesengura ry'ubuhamya bwatanzwe rigaragaza ko harimo ubukomoza ku ngingo y'uko uregwa yaba yaragiye cyangwa ataragiye mu modoka yari imaze gupakirwamo Abatutsi bajyanywe. Rusanga rero ubuhamya bwa DCB, ubwa Ntambabazi Donata n'ubwa Rubayiza Innocent bisuzumiwe hamwe bugaragara ko ibyo DCB avuga ko IYAMUREMYE Jean Claude yajyanye n'imodoka abasirikare bapakiyemo impunzi z'Abatutsi zijyanywe mu Rubirizi kwicwa bivuguruzwa n'ubuhamya bwa Ntambabazi Donata we wari mu Batutsi bari bahungiye kwa Konseye Biziyaremye Francois bakanajyanwa kwicirwa mu Rubirizi ariko akaza kuharokokera, wavuze ko mu minsi ibiri (2) yamaze iwabo wa Nzinga atigeze amubona, atanamubonye mu Rubirizi aho babiciraga, n'ubwa Rubayiza Innocent wavuze mu Bushinjacyaha ko mbere y'uko imodoka ijyana izi

mpunzi yahuye na DCB avuye aho kwa Biziyaremye Francois. Bityo, ibyo DCB avuga ko uregwa yajyanye n'iyi modoka mu Rubirizi atabihagazeho mu gihe yahavuye iyi modoka itaragenda.

[120]. Rusanga ibyo kudahuza imvugo kw'abatangabuhamya ku byabaye cyangwa babonye Urukiko rw'Ikirenga rwarabisuzumye rwemeza ko kuba abatangabuhamya bemeza mu buryo butandukanye ibintu bemeza ko baboneye igihe kimwe, bitashingirwaho ngo byemezwe nta shiti ko uregwa ahamwa n'icyaha aregwa[48].

[121]. Rusanga nyuma y'isuzuma ry'ibikorwa by'ubwicanyi bwakorewe Abatutsi IYAMUREMYE Jean Claude yarezwe, ibyo yagizemo uruhare ari ibikorwa by'ubwicanyi bwakorewe i Nyanza ya Kicukiro, ku Kigo Nderabuzima cya Kicukiro n'ibitero byagabwe iwabo wa DCA no kwa Gatarasi Thadee kubera ko ari byo byagaragarijwe ibimenyetso bidashidikanywaho.

II.3. KU BIJYANYE NO KUMENYA NIBA IBITERO BY'UBWICANYI IYAMUREMYE JEAN CLAUDE YAGIZEMO URUHARE BIGIZE ICYAHA CYA JENOSIDE

[122]. Muri iki gice, Urukiko rwagaragaje uburyo ibitero by'ubwicanyi IYAMUREMYE Jean Claude yagizemo uruhare, nk'uko byagaragajwe mu gice kibanziriza iki, bigize icyaha cya jenoside yarezwe.

II.3.1. Icyo Ubushinjacyaha bwabivuzeho

[123]. Ubushinjacyaha bwavuze ko ibitero by'ubwicanyi IYAMUREMYE Jean Claude yagizemo uruhare bigize icyaha cya jenoside nk'uko giteganywa n'ingingo ya 114 y'itegeko Ngenga nº 01/2012 ryo ku wa 02/05/2012 rishyiraho igitabo cy'amategeko ahana, n'ingingo ya 2 y'Amasezerano Mpuzamahanga agamije gukumira ibyaha bya Jenoside u Rwanda rwashyizeho umukono runayashyira mu mategeko yarwo

[48] RPAA 0034/10/CS, icyegeranyo cy'ibyemezo by'inkiko, Vol.I. Mutarama 2015.igika cya139.

mu mwaka wa 1975. Busobanura ko jenoside igizwe n'ibikorwa bitandukanye birimo kwica abantu bahuriye ku bwoko bumwe ugamije kubarimbura bose cyangwa igice cyabo, cyangwa kubashyira, ubigambiriye, mu mibereho yatuma barimbuka bose cyangwa se igice cyabo, kubutera ubumuga bw'umubiri cyangwa bw'imitekerereze cyangwa se kubabuza urubyaro, cyangwa ugafata igice cy'abana babo ukabajyana mu rindi tsinda ugamije kubarimbura.

[124]. Bwavuze kandi ko nk'uko bwabigaragaje mu bimenyetso bwatanze kuri iki cyaha cya jenoside, IYAMUREMYE Jean Claude yagiye mu bitero by'ubwicanyi agamije kwica Abatutsi 'Element materiel', abikora agambiriye kubarimbura bose cyangwa se igice cyabo, bukavuga ko ibikorwa byakozwe na IYAMUREMYE Jean Claude bihura neza n'ibiteganywa n'ingingo zigaragajwe haruguru, ari nayo 'Element legal' bigize nk'imwe mu ngingo y'icyaha cya jenoside. Bwavuze na none ko indi ngingo igize iki cyaha ijyanye n'igikorwa cyo kwica cyangwa kurimbura ubwoko bw'Abatutsi ugamije kubarimbura bose cyangwa igice kimwe cyabo, ibi bikaba bihura n'ibikorwa IYAMUREMYE Jean Claude yakoze ajya mu bitero byo kwica yitwaje intwaro nk'uko byagaragajwe n'abatangabuhamya, bukavuga ibi bivugwa no mu manza zaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda, nko mu rubanza rwa Gacumbitsi aho rwavuze ko kugira ngo uregwa ahamwe n'icyaha cya jenoside Ubushinjacyaha bugomba kugaragaza ko habayeho gutegura, gukangurira no gutanga amabwiriza, hicwa abantu bo mu bwoko runaka hagambiriwe kubarimbura bose cyangwa se igice kimwe cyabo.

[125]. Na none bwavuze ko indi ngingo igize iki cyaha ari ubushake bwo gukora icyaha "élément moral" bugaragazwa n'umwihariko w'umugambi wihariye "dol special" nk'uko ingingo z'amategeko zagaragajwe haruguru ziteganya ko ikigamijwe mu gukora jenoside ari ukurimbura abantu bose bahuriye ku bwenegihugu, ubwoko, idini…, bazira icyo bari cyo haba mu bihe bisanzwe cyangwa mu bihe by'intambara. Ubushinjacyaha busobanura ko imanza zaciwe zigaragaza ko ubushake bwo gukora icyaha cya Jenoside bugaragazwa n'umugambi wihariye wo kwica, bivuze ko kwica gusa bidahagije, ko hagomba kuba umugambi wo kurimbura ubwoko

bw’abantu bose cyangwa igice cyabo nk’uko imanza za Akayezu Jean Paul, Barayagwiza, Hassan Ngeze n’urwa Gacumbitsi zibisobanura.

[126]. Ku bireba IYAMUREMYE Jean Claude, bwavuze ko ubushake bwo gukora Jenoside bwari bugamije kurimbura ubwoko bw’Abatutsi, bikagaragazwa n’ibikorwa yakoze nk’uko abatangabuhamya basobanuye ko uregwa n’interahamwe babaga bari kumwe basanze Abatutsi aho bari bihishe barabica kandi umugambi ukaba wari uwo kubarimbura. Bwavuze ko kuba IYAMUREMYE Jean Claude yaragiye mu bitero binyuranye byishe Abatutsi, afasha abicanyi kugera muri ibyo bitero abatwara mu modoka, ahishura Abatutsi aho bihishe, akabikora azi neza ko mu Gihugu hose Abatutsi bari bibasiwe, bigaragaza umugambi yari afite wo kurimbura Abatutsi bose cyangwa igice cyabo, bukaba busanga ibigize iki cyaha byuzuye kugira ngo uregwa agihanirwe.

II.3.2. Imyiregurire ya IYAMUREMYE Jean Claude

[127]. IYAMUREMYE Jean Claude n’abunganizi be bavuze ko icyaha cya jenoside gishingiye ku gikorwa cyo ‘kwica’, nyamara ibimenyetso byose byatanzwe nta kigaragaza ko IYAMUREMYE Jean Claude yishe, bakavuga ko yarezwe igikorwa cyo kwica abantu atagombye kukiregwa bagasaba ko ikirego cy’Ubushinjacyaha kidahabwa ishingiro. Bavuze ko iki cyaha kugira ngo iki cyaha hagomba kubaho ubushake bwo kugikora, ubu bushake bukaba butarabayeho kuko IYAMUREMYE Jean Claude atari kugira ubushake bwo kurimbura Abatutsi bitewe n’uburere yahawe n’ababyeyi be barimo nyina w’umututsikazi. Ikindi bavuga kibura mu bigize icyaha ni igikorwa cyo kwica, bakavuga ko Ubushinjacyaha bwagakwiye kwerekana umuntu cyangwa abantu uregwa yishe n’uburyo yabishe, ko ahubwo bushyira IYAMUREMYE Jean Claude mu bitero muri rusange. Bakaba basanga ibigize icyaha bituzuye.

[128]. Bavuze kandi ko Ubushinjacyaha butagaragaje uburyo IYAMUREMYE Jean Claude yakozemo icyaha cya jenoside, niba yaragikoze nka gatozi, umufatanyacyaha cyangwa icyitso, kuko utarakoze icyaha, utarafatanyije n'abagikoze cyangwa ngo ababere icyitso adashobora guhanwa. Basobanura ko uwakoze icyaha nka gatozi agaragazwa n'igikorwa yakoze cyo kwica, uwafatanyije n'abicanyi akagaragazwa n'uruhare rwe ruto cyangwa runini, rutaziguye cyangwa ruziguye mu bwicanyi, rwaba rwarabaye imbarutso y'iyicwa ry'umuntu umwe (1) cyangwa benshi. Banavuga ko nubwo Ubushinjacyaha buvuga IYAMUREMYE Jean Claude mu bitero hamwe n'abandi bantu benshi, bamwe bariho, abandi bapfuye ndetse n'abafunzwe, ntibugaragaza ubufasha yaba yaratanze kugira ngo Abatutsi bicwe.

[129]. Bakomeje bavuga uruhare rw'ibyitso by'abicanyi na rwo rwagombye kugaragazwa niba rwarabaye simusiga mu iyicwa ry'abantu. Bakomeje bavuga ko ibyo Ubushinjacyaha buvuga ko IYAMUREMYE Jean Claude yamamaye mu bwicanyi atari byo kuko butagaragaje uruhare rwe nk'isano rimuhuza n'icyaha yakoze. Bityo kuba uru ruhare mu cyaha rutagarazwa, IYAMUREMYE Jean Claude akaba adakwiye guhanirwa iki cyaha.

[130]. Bavuze na none ko ibimenyetso byatangiwe iki cyaha bivuguruzanya kandi bishidikanywaho, uregwa akaba yagirwa umwere nk'uko urubanza RPA 0084/10/CS rwaciwe n'Urukiko rw'Ikirenga rwemeje ko uwitwa Gatera Celestin agizwe umwere kubera ko abatangabuhamya bamushinjaga bavuguruzanyaga mu mvugo zabo. Basaba ko ibyo Ubushinjacyaha busaba ko hashingirwa ku manza zaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda bitagombye gukurikizwa kuri IYAMUREMYE Jean Claude kuko izo manza zaciriwe abayobozi ku buryo ibyemejwe kuri bo nta sano bifitanye n'uru rubanza.

II.3.3. Uko Urukiko rubibona

[131]. Ingingo ya 114 y'itegeko Ngenga № 01/2012/OL ryo kuwa 02/05/2012 rishyiraho igitabo cy'amategeko ahana Ubushinjacyaha bwashingiyeho burega IYAMUREMYE

Jean Claude isobanura ko icyaha cya jenoside ari “kimwe mu bikorwa bikurikira, cyakozwe mu buryo bwateguwe, kigamije kurimbura abantu bose cyangwa bamwe muri bo, bahuriye ku bwenegihugu, ku bwoko, ku ibara ry’uruhu cyangwa kw’idini, bazira icyo bari cyo, haba mu bihe bisanzwe cyangwa mu bihe by’intambara:1° kwica abo abantu; 2° kubatera ubumuga bw’umubiri cyangwa bwo mu mutwe; 3°kubashyira, ubigambiriye, mu mibereho ishobora gutuma barimbuka bose cyangwa harimbuka igice cyabo; 4° gufata ibyemezo bibabuza kubyara; 5° kubambura ku ngufu urubyaro rwabo ukaruha abandi bantu badahuje”.

[132]. Ingingo ya kabiri (2) y’Amasezerano mpuzamahanga yo ku wa 09 Ukuboza 1948 agamije gukumira no guhana icyaha cya jenoside iteganya ko Jenoside isobanura kimwe muri ibi bikorwa bikurikira bikoranywe umugambi wo kurimbura abantu bose cyangwa igice cyabo bahuriye ku bwenegihugu, ubwoko, ibara ry’uruhu: (a) kwica abantu bagize iryo tsinda; (b) gutera ubumuga bw’umubiri cyangwa bwo mu mutwe abagize iryo tsinda; (c) gushyira ubigambiriye abantu bagize iryo tsinda mu mibereho ishobora gutuma barimbuka bose cyangwa harimbuka igice cyabo; (d) gushyiraho ingamba zituma abagize iryo tsinda batabyara (e) kwambura ku ngufu abantu bagize icyo gice urubyaro rwabo ukaruha abantu b’irindi tsinda.

[133]. Urukiko rusanga IYAMUREMYE Jean Claude aregwa icyaha cya jenoside gishingiye ku gikorwa cyo kwica Abatutsi kigamije kubarimbura bazira icyo bari cyo.

[134]. Rusanga nk’uko byagaragajwe mu gice cy’urubanza kijyanye n’isuzumwa ry’uruhare rwa IYAMUREMYE Jean Claude mu bikorwa bigize icyaha akurikiranyweho yarabaye mu bitero by’ubwicanyi byishe Abatutsi ku Kigo Nderabuzima cya Kicukiro, aho yari mu gatsiko k’interahamwe nyinshi zirimo Ruhumuriza Eric, Idadi, Ndaruhebeye Vianney, Ruhubanya Eric na Rutaremara bakundaga kwita Mandazi, zahishuye Abatutsi aho bari bihishe hafi y’icyo kigo nderabuzima, zibegeranyiriza kuri iki Kigo, zirahabarindira, nyuma zibica zikoresheje imbunda na gerenade, hagwa abarimo abagize umuryango wa

Thomas Muzungu, Kayibanda Innocent na barumuna be, Karekezi François na Manyoni.

[135]. Rusanga kandi IYAMUREMYE Jean Claude yarabaye mu gitero cyashoreye Abatutsi kibavanye Sonatubes, kibakomezanya Kicukiro Centre, kibageza i Nyanza ya Kicukiro aho cyabiciye. Abatutsi biciwe i Nyanza barimo Kananga Francois n'abana be batanu (5), Bayingana Dismas, umugore we Mukazuzi M. Goretti ndetse n'abana be umunani (8), Kayiranga Raphael, umugore we Mukarugagi n'abana babo batandatu (6), Murangira Jean Marie, n'umugore we Kayirebwa Speciose n'abana babo babiri (2), Kanyabugoyi, Kayumba Claver n'umugore we Mukabadege Alivera n'abana babo batatu (3), Mukangamije Ancille n'abana be batatu (3), Kiyonga Cassien n'umugore we Mukamusoni Beatrice n'abana babo icumi (10), Mukamugema Marie n'abana be babiri (2), Karibwende Esaie n'umugore we Immaculee, Kabera Charles n'abana be bagera ku icumi (10) na Mukangango Consolee.

[136]. Rusanga rero kuba IYAMUREMYE Jean Claude yari mu gatsiko k'interahamwe kahigaga Abatutsi bahuriye ku bwoko kandi ari bwo bazira, katarobanura abana, abagore, abagabo, abakuze, kabakusanyiza hamwe, kitwaje intwaro zinyuranye harimo imbunda n'izindi za gakondo, gafashijwe n'abasirikare n'abajandarume, kabica mu kivunge, bigaragaza neza ko iyi myitwarire IYAMUREMYE Jean Claude yagize igize igikorwa cyo kwica nk'icyaha cya jenoside, kuko nubwo nta muntu ugaragazwa we yishe ku giti cye, ibikorwa byo gushorera Abatutsi no kubageza aho biciwe i Nyanza ya Kicukiro, guhishura no gushorera Abatutsi kugeza aho biciwe ku cyobo cyo ku Kigo Nderabuzima cya Kicukiro, ari imyitwarire yo gutsotsoba icyaha kuko igize uruhare rukomeye nk'urwo bagenzi be bari kumwe bagize mu kubica.

[137]. Rusanga Urugereko rw'Ubujurire rw'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda, mu rubanza rwa Munyakazi Yusuf[49] n'urwa Kalimanzira

[49] ICTR-97-36-A-A, igika cya 135.

Callixte[50], rwarasanze "gukora [icyaha] », mu buryo buteganywa n'ingingo ya 6(1) ya Sitati[51] iteganya itsotsobwa ry'icyaha, bitavuga gusa igikorwa ubwacyo cyo kwica, ko hashobora kuba n'ibindi bikorwa byo kwitabira ku buryo butaziguye itsotsoba ry'igikorwa gifatika kigize icyaha.

[138]. Rusanga ku bijyanye n'umugambi wihariye wo gukora icyaha cya jenoside, mu manza zaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda nk'urwa Munyakazi Yussuf[52], urwa Akayesu Jean Paul[53] n'urwa Kamuhanda Jean de Dieu[54] rwarasobanuye ko aho icyaha cya jenoside gitandukanira n'ibindi byaha ari uko gisaba ubushake bwihariye budashidikanywaho bwo kugikora, bugaragarira mu gushaka kurimbura abantu bose cyangwa bamwe muri bo bahuriye ku bwenegihugu, ku bwoko, ku ibara ry'uruhu cyangwa ku idini bazira icyo bari cyo.

[139]. Rusanga ku bijyanye n'uburyo umugambi wihariye ugaragara, mu rubanza rwa Akayesu rwarasobanuye ko "Ku birebana n'ikibazo cyo kugena umugambi wihariye wa nyirugukora icyaha, […] bikomeye ndetse bitanashoboka kuwumenya kubera ko ari ibintu bijyana n'imiterere bwite y'uwabikoze. Niyo mpamvu, iyo ushinjwa atemeye icyaha, umugambi mubisha ushobora kugaragarira mu bikorwa bye bimwe na bimwe. Naho mu rubanza rwa Kalimanzira Callixte, urukiko rwasobanuye ko "kugira ngo hagaragazwe igitekerezo cyo gukora icyaha cya jenoside, ni ngombwa kwerekana ko uwakoze icyo cyaha yari agambiriye kurimbura nibura igice kinini cy'abantu bagize iryo tsinda[55]. "Ubusanzwe, kubera imiterere yacyo, igitekerezo ntigikunze kugaragazwa n'ibimenyetso bitaziguye. Kubera iyo mpamvu, ubukemuramanza bwemera ko igihe nta bimenyetso bitaziguye bihari, igitekerezo umuntu wakoze icyaha yari afite gishobora kugaragarira mu byabaye n'uko ibintu byari byifashe bishobora kugaragaza, nta gushidikanya, ko icyo gitekerezo cyariho.

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[50] ICTR-05-88-A, ibika bya 60 na 219.
[51] Iyi ngingo ihura n'iya 114 CP.
[52] ICTR-97-36A-A, igika cya 141.
[53] ICTR-96-4-T, igika cya 498.
[54] ICTR-99-54A- T, igika cya 622.
[55] ICTR – 05 -88 – T, igika cya 730.

Icyakora, ni ngombwa ko aba ari wo mwanzuro rukumbi ucukumbuye ushyize mu gaciro ushobora kugerwaho hashingiwe ku bimenyetso byose byatanzwe[56].

[140]. Rusanga, mu ngero zitangwa n'uru Rukiko, kimwe mu bigize icyaha cya jenoside umugambi wihariye wo kurimbura ugaragariramo harimo: ibikorwa n'imvugo zose z'ushinjwa bishobora kugaragaza umugambi we w'itsembabwoko warangaga icyaha igihe cyakorwaga; umwuka wariho mu ikorwa ry'ibindi byaha byakorewe kuri gahunda igice cy'abo bantu, ibyaha byarakozwe na nyirubwite cyangwa se n'abandi bantu, ingano y'ibikorwa bya kinyamaswa, uko byasakaye mu karere cyangwa mu gihugu cyangwa se guhitamo byagambiriwe kandi biri kuri gahunda abakorerwa icyaha kubera ko bari mu bagize igice runaka cy'abantu, havanywemo abantu bagize ibindi bice[57], intera y'amarorerwa yakozwe, kuba byarabaye mu rwego rusange,kuba abagize andi matsinda bataribasiwe muri icyo gihe, amatwara ya politiki yatumye habaho ibyo bikorwa bivugwa, kuba ibyo bikorwa by'irimbura bishingiye ku ivangura byarakozwe kenshi no kuba ibyo bikorwa bibangamira imizi y'iryo tsinda cyangwa bifatwa gutyo n'ababikoze[58].

[141]. Rusanga rero ku bijyanye n'ubushake bwo gukora icyaha ndetse n'umugambi wihariye wo kurimbura Abatutsi bose cyangwa igice cyabo bazira abo aribo, IYAMUREMYE Jean Claude yarabaye mu bitero byishe Abatutsi ku Kigo Nderabuzima cya Kicukiro n'i Nyanza ya Kicukiro bitamugwiririye cyangwa atabihatiwe, ahubwo yarabigiyemo ku bushake bwe kandi azi neza ko bigamije kurimbura ubwoko bw'Abatutsi. Ubu bushake bwo kwica Abatutsi bagamije kubarimbura bugaragazwa kandi n'uko yari mu gatsiko k'interahamwe, zishakisha Abatutsi aho bihishe hirya no hino mu ngo n'ahandi, bitwaje intwaro z'ubwoko bwose, hagamijwe ko hatagira urokoka.

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[56] ICTR – 05 -88 – T, igika cya 731.
[57] ICTR-96-4-T, igika cya 253.
[58] ICTR – 05 -88 – T, igika cya 731.

[142]. Rusanga kandi uburyo IYAMUREMYE Jean Claude n'interahamwe babaga bari kumwe bateye mu ngo zinyuranye z'Abatutsi nko kwa Gatarasi Thadée n'iwabo wa DCA bagamije kugenda bareba abakiri mu ngo ndetse na mbere y'uko bicira Abatutsi ku Kigo Nderabuzima cya Kicukiro n'i Nyanza ya Kicukiro babanje kubagota no kubajonjora babatandukanya n'abataribo bigaragaza ko batashakaga ko hagira urokoka. Bityo, bikaba bigaragara ko ibikorwa IYAMUREMYE Jean Claude yakoze yabikoranye umugambi wo kurimbura Abatutsi muri Kicukiro.

[143]. Rusanga ingingo ya 97 y'itegeko Ngenga № 01/2012/OL ryo kuwa 02/05/2012 rishyiraho igitabo cy'amategeko ahana iteganya ko 'Icyaha kiryozwa uwagikoze, uwafatanyije na we ku gikora n'icyitso cye'. Bityo, IYAMUREMYE Jean Claude akaba agomba kuryozwa icyaha cya jenoside yakoze afatanyije n'abandi.

II.4. **KU BIJYANYE N'IBIHANO IYAMUREMYE JEAN CLAUDE AKWIYE GUHANISHWA**

[144]. Muri iki gice Urukiko rwasuzumye ibigomba gushingirwaho mu kugenera IYAMUREMYE Jean Claude igihano n'itegeko rikwiye gukoreshwa.

II.4. 1. Icyifuzo cy'Ubushinjacyaha

[145]. Ubushinjacyaha bwavuze ko itangwa ry'igihano rikwiye gushingira k'uburemere bw'icyaha n'ingaruka zacyo hashingiwe ku ngingo ya 49 y'itegeko № 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange kuko busanga icyaha IYAMUREMYE Jean Claude yakoze kiremereye bitewe n'uburyo yagikoze n'ingufu yagikoranye, aboneka ahantu hatandukanye kandi atwaye imodoka, byatumye hicwa Abatutsi benshi. Bwasabye kandi ko mu kugena igihano urukiko rwashingira no ku manza zaciwe n'inkiko mpuzamahanga, nk'urubanza IT-95-13/1-A rwa Canini rwaciwe kuwa 05/05/2009 na ICTY, aho zisobanura imihanirwe y'umuntu wagaragaye ahantu hatandukanye, uburyo yahitwaye n'ibikorwa yahakoze icyo gihe. Bwasabye na none ko ibihano byatangwa hashingiwe ku itegeko rihana

rikurikizwa ubu riteganya ibihano bito ugereranyije n'Itegeko Ngenga nº 01/2012 ryo ku wa 02/05/2012 ryakurikizwaga ubwo iki kirego cyatangwaga. Bityo, IYAMUREMYE Jean Claude akaba akwiye guhanishwa igifungo cya burundu.

II.4. 2. Imyiregurire ya IYAMUREMYE Jean Claude

[**146**]. IYAMUREMYE Jean Claude n'abunganizi be bavuze ko Ubushinjacyaha butari gusaba ko hakurikizwa itegeko ritanga ibihano bito ariko ngo bwongere busabire IYAMUREMYE Jean Claude igifungo cya burundu ku kirego kidafitiwe ibimenyetso. Basaba ko hemezwa ko IYAMUREMYE Jean Claude ari umwere, ko ahita arekurwa agasubira mu buzima busanzwe.

II.4.3. Uko Urukiko rubibona

[147]. Mbere y'uko hasuzumwa ibigomba gushingirwaho mu kugenera IYAMUREMYE Jean Claude ibihano, habanje gusuzumwa ibijyanye n'itegeko rikwiye gukoreshwa.

II.4.3. 1. Itegeko rikwiye gukoreshwa mu itangwa ry'ibihano

[148]. Ingingo ya 6 y'itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange iteganya ko mu gihe hari amategeko ahana, rimwe ryariho mu gihe icyaha cyakorwaga, irindi ryaratangajwe nyuma y'uko icyaha gikorwa, ariko urubanza rutaracibwa burundu, itegeko rishya ni ryo rikurikizwa iyo riteganya igihano cyoroheje. Naho iya 334 yo igateganya ko "Ingingo zose z'amategeko abanziriza iri kandi zinyuranyije na ryo zivanyweho. Icyakora, icyaha cyakozwe mbere y'uko iri tegeko ritangazwa mu Igazeti ya Leta ya Repubulika y'u Rwanda gihanwa hakurikijwe itegeko ryakigengaga keretse mu gihe iri tegeko riteganya ibihano byoroheje".

[149]. Rusanga ku rundi ruhande ingingo ya 335 y'itegeko rivuze haruguru iteganya ko "Iri tegeko ritangira gukurikizwa ku munsi ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda. Icyakora, ibyaha bya Jenoside yakorewe Abatutsi n'ibindi byaha byibasiye inyokomuntu byakozwe hagati y'itariki ya mbere Ukwakira 1990 n'iya 31 Ukuboza 1994 bihanwa hakurikijwe ibihano biteganyijwe muri iri tegeko uretse ibiteganyijwe ukundi n'itegeko".

[150]. Rusanga rero isesengura ry'izi ngingo rigaragaza ko mu kugenera ibihano IYAMUREMYE Jean Claude ukurikiranyweho icyaha cya Jenoside yakorewe Abatutsi mu 1994 hagomba gushingirwa ku bihano biteganywa n'itegeko n^{o} 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange.

II.4.3.2. Ibigomba gushingirwaho mu kugenera IYAMUREMYE Jean Claude ibihano

[151]. Urukiko rusanga Ubushinjacyaha busabira IYAMUREMYE Jean Claude igihano cy'igifungo cya burundu bushingiye ku ngingo ya 91 y'itegeko № 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange iteganya ko "Icyaha cya Jenoside ni kimwe mu bikorwa bikurikira, gikozwe kigambiriwe, kigamije kurimbura abantu bose cyangwa bamwe muri bo, bahuriye ku bwenegihugu, ku bwoko, ku ibara ry'uruhu cyangwa ku idini, bazira icyo bari cyo, haba mu bihe bisanzwe cyangwa mu bihe by'intambara: 1º kwica abo bantu; 2º kubatera ubumuga bw'umubiri cyangwa bwo mu mutwe; 3º kubashyira, ubigambiriye, mu mibereho ishobora gutuma barimbuka bose cyangwa harimbuka igice cyabo; 4º gufata ibyemezo bibabuza kubyara; 5^{0} kubambura ku ngufu urubyaro wabo ukaruha abandi bantu badahuje"; no ku ngingo ya 92 y'iri tegeko iteganya ko "Umuntu wese ukoze kimwe mu bikorwa bivugwa mu ngingo ya 91 y'iri tegeko aba akoze icyaha. Iyo abihamijwe n'urukiko ahanishwa igifungo cya burundu kidashobora kugabanywa kubera impamvu nyoroshyacyaha".

[152]. Rusanga itegeko nº 69/2019 ryo ku wa 08/11/2019 rihindura itegeko nº68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, mu ngingo yaryo ya 3 ivuga ku ihanwa ry'icyaha cya Jenoside iteganya ko "Ingingo ya 92 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange ihinduwe ku buryo bukurikira: "Umuntu wese ukoze kimwe mu bikorwa bivugwa mu ngingo ya 91 y'iri tegeko abaakoze icyaha. Iyo abihamijwe n'urukiko ahanishwa igifungo cya burundu kidashobora kugabanywa kubera impamvu nyoroshyacyaha.

Icyakora iyo uwahamijwe icyaha yari umwana mu gihe icyaha cyakorwaga, ahanwa hakurikijwe ibiteganywa mu ngingo ya 54 y'iri tegeko."

[153]. Rusanga ariko kuri iki gihano cy'igifungo cya burundu kidashobora kugabanywa kubera impamvu nyoroshyacyaha ku cyaha cya jenoside Urukiko rw'Ikirenga rwaremeje mu rubanza RS/INCONST/SPEC/00003/2019/SC[59], ko igika cya gatanu (5) cy'ingingo ya 133 y'itegeko № 68/2018 ryo ku wa 30/08/2018 ryagaragajwe haruguru kinyuranyije n'ingingo ya 29 y'itegeko Nshinga kuko kutemera igabanya bihano bibangamiye ubutabera buboneye.

[154]. Rusanga nk'uko urukiko rw'Ikirenga rwabibonye, uku kubangamirwa k'ubutabera buboneye gushingiye ku kubuza umucamanza ubwinyagamburiro azitirwa mu kubahiriza ingingo ya 49 y'itegeko № 68/2018 ryo ku wa 30/08/2018 iteganya ko umucamanza atanga igihano akurikije uburemere bw'icyaha, ingaruka icyaha cyateye, impamvu zatumye agikora, uko uwagikoze yari asanzwe yitwara, imibereho ye bwite n'uburyo icyaha cyakozwemo. Akaba ari muri uwo murongo rusanga harebwe ibikorwa bigize icyaha cya jenoside IYAMUREMYE Jean Claude yarezwe n'ibyo yahamijwe, kutagabanya ibihano kuri iki cyaha byaba ari ugutanga igihano kitajyanye n'uruhare rwe ku cyaha cyakozwe.

[155]. Rusanga rero nubwo IYAMUREMYE Jean Claude agomba guhanirwa icyaha cya jenoside hitawe ku buremere bwacyo, ku buryo yabaye mu bitero byishe imbaga

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[59] Urubanza rwaciwe ku wa 04/12/2019, Kabasinga Florida arega Leta y'u Rwanda asaba kwemeza ko ingingo ya 133 y'itegeko № 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, inyuranyije n'itegeko Nshinga rya Repubulika y'u Rwanda, mu ngingo zaryo za 29 na 151.

y'Abatutsi ahantu hatandukanye n'umubare munini w'ababiguyemo, hari impamvu nyoroshyacyaha zishingiye ku kuba iki cyaha yaragikoze akiri umusore muto w'imyaka cumi n'icyenda (19) ku buryo byari byoroshye kugwa mu bishuko by'icyaha. Rusanga kandi nubwo IYAMUREMYE Jean Claude yari mu nterahamwe, yarashoboye kugira abo afasha bararokoka cyangwa babona uburyo bahunga, nk'Abatutsi bari bahunganye n'umuryango we ku isambu yabo i Murinja/Gahanga akajyana i modoka akabakurayo ndetse n'umuryango wa Kaningu Claudien yafashije guhungira mu Kigo cya ETO Kicukiro ndetse byinshi mu bikorwa bigize iki cyaha yarezwe birimo gutanga amabwiriza y'uburyo ubwicanyi bukorwa no gutwara interahamwe mu modoka zijya mu bitero, kuzana abasirikare kwica Abatutsi bari bahunguye iwabo bitamuhamye.

[156]. Bityo, rushingiye ku ngingo ya 60, agace ka 1^0 y'itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange iteganya ko iyo hari impamvu zigabanya ububi bw'icyaha, ibihano bishobora kugabanywa ku buryo igihano cyo gufungwa burundu gishobora kugabanya ariko ntikijye munsi y'imyaka makumyabiri n'itanu (25), rusanga IYAMUREMYE Jean Claude akwiye guhanishwa igihano cy'igifungo cy'imyaka makumyabiri n'itanu (25).

III. ICYEMEZO CY'URUKIKO

[157]. RWEMEJE ko ikirego cy'Ubushinjacyaha gifite ishingiro.

[158]. RWEMEJE ko IYAMUREMYE Jean Claude alias Nzinga ahamwa n'icyaha cya jenoside.

[159]. RUKIJIJE ko atsinzwe.

[160]. RUMUHANISHIJE igifungo cy'imyaka makumyabiri n'itanu (25).

[161]. RUTEGETSE ko asonerwa gutanga igarama y'urubanza kuko afunzwe.

NI UKO RUKIJIJWE KANDI RUSOMEWE MU RUHAME NONE KU WA 30/06/2021.

INTEKO Y'URUKIKO:

Sé/	Sé/	Sé/
NGABIRE Blaise	KANYEGERI N.Timothée	NSANZIMANA Fidele
Umucamanza	Perezida	Umucamanza

Sé/

NSENGIMANA Boniface

Umwanditsi