AMABWIRIZA NGENDERWAHO MU GUSABA UBUFASHA IBIRO BYA GEREFIYE NO/CYANGWA KUBUSABA BINYUZE KURI IBYO BIRO

I. Intangiriro

1. Mu bice byayo byerekeranye n'ibuvugwa muri aya Mabwiriza ngenderwaho, Ingingo ya 28 (3) ya Sitati y'Urwego Mpuzamahanga Rwashyiriweho Gukora Imirimo y'Insigarira y'Inkiko Mpanabyaha ("Sitati" na "IRMCT", uko bikurikirana) iteganya ko "IRMCT itanga ibisubizo ku nyandiko z'ibihugu zisaba ubufasha mu byerekeranye n'iperereza, gukurikirana no gucira imanza abantu baregwa kuba barakoze ibikorwa binyuranyije bikomeye n'Amategeko mpuzamahanga arengera abantu mu gihe cy'intambara, mu Cyahoze ari Yugosilaviya no mu Rwanda […]".

2. Ibiro bya Gerefiye bifite inshingano yo gukora no kubika neza dosiye yuzuye y'ibyabereye mu rubanza byose uko byakabaye hamwe n'ibimenyetso byose bitanzwe, nk'uko biteganywa n'Ingingo ya 95 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso ("Amategeko")[1], ndetse no kwemerera abantu kugera ku makuru yose, atari ibanga, yerekeranye na buri rubanza kandi akubiye mu gitabo cy'imanza nk'uko biteganywa n'Ingingo ya 34 y'Amategeko.

3. Nk'uko biteganywa na Sitati n'Amategeko, amadosiye y'ibyabereye mu manza hamwe n'ibimenyetso ("Inyandiko zerekeranye n'imanza") akubiyemo inyandiko zerekeranye n'imanza, zemejwe kandi zerekeranye n'imanza zo muri IRMCT, Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda ("TPIR") n'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho Icyahoze ari Yugosilaviya ("TPIY"). Mu bintu bikubiye mu Nyandiko zerekeranye n'imanza harimo nk'izatanzwe mu manza, inyandikomvugo z'amaburanisha, amajwi n'amashusho byafashwe mu iburanisha n'ibimenyetso gihamya.

4. Ibiro bya Gerefiye, binyuze mu Gashami gashinzwe inyandiko zerekeranye n'imanza ("JRU") kabyo, bicunga inyandiko zerekeranye n'imanza za IRMCT, TPIR na TPIY kandi bigafasha abantu kuzigeraho, hakurikijwe ibiteganywa na Sitati[2] n'Amategeko bya IRMCT,

[1] Aboneka ku rubuga: https://www.irmct.org/en/documents

[2] Ni kimwe no haruguru.

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itegeko ryatanzwe n'Urukiko, iryo ari ryo ryose, rikurikizwa, n'Amabwiriza y'Umunyamabanga Mukuru yiswe: "Inkiko Mpanabyaha Mpuzamahanga: ibanga ry'amakuru, kugena urwego rw'umutekano wayo, kuyacunga no kuyageraho" (ST/SGB/2012/3)[3].

5. Aya Mabwiriza ngenderwaho atanga, muri make, ibisobanuro byerekeranye n'inyandiko zisaba ubufasha ("RFA") zitanzwe n'abayobozi bo mu bihugu, inzego z'ubutabera na/cyangwa abantu babiherewe uburenganzira by'umwihariko, zigenewe Ibiro bya Gerefiye na/cyangwa zinyujijwe kuri ibyo Biro. Asobanura uko ubwo busabe butangwa ndetse n'ingingo z'amategeko na/cyangwa iz'amabwiriza utanga ubusabe agomba kubahiriza. Muri aya Mabwiriza harimo n'amakuru yerekeranye n'uburyo ubwo bufasha butangwa.

6. Aya Mabwiriza ateganya ubwoko bukurikira bw'ubufasha busabwa:

(1) Gusaba guhabwa amakopi, byemejwe ko ahuye n'umwimerere, y'inyandiko zerekeranye n'imanza, zitari ibanga, na/cyangwa amakuru yerekeranye na zo;

(2) Ubusabe bushingiye ku Ngingo ya 86 y'Amategeko; na

(3) Ubusabe bushingiye ku Ngingo ya 87 y'Amategeko.

II. Gusaba guhabwa amakopi, byemejwe ko ahuye n'umwimerere, y'inyandiko zerekeranye n'imanza, zitari ibanga, na/cyangwa amakuru yerekeranye na zo

7. Gusaba guhabwa amakopi, byemejwe ko ahuye n'umwimerere, y'inyandiko zerekeranye n'imanza, zitari ibanga, bishobora gukorwa n'abayobozi bo mu gihugu cyangwa urwego rw'ubutabera ("Usaba"). Mu bishobora gusabwa harimo amakopi, byemejwe ko ahuye n'umwimerere, y'inyandiko zatanzwe mu manza, ibimenyetso gihamya, inyandikomvugo z'amaburanisha, na/cyangwa amajwi n'amashusho byafashwe mu manza zo muri TPIR, TPIY cyangwa IRMCT. Ubusabe ku makuru yo muri urwo rwego bushobora kuba bwerekeranye n'imibare cyangwa amakuru yihariye ku rubanza.

[3] Aboneka ku rubuga: https://undocs.org/Home/Mobile?FinalSymbol=ST%2FSGB%2F2012%2F3&Language=E&DeviceType=Desktop&LangRequested=False

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8. Iyo bishoboka, gusaba amakopi, byemejwe ko ahuye n'umwimerere, y'inyandiko zerekeranye n'imanza, zitari ibanga, na/cyangwa amakuru yerekeranye na zo bigomba gukorwa hifashishijwe imeyiri za IRMCT, zabigenewe, zikurikira:

Ishami rya IRMCT ry'Arusha: RegistryRequestsArusha@un.org

Ishami rya IRMCT ry'i Lahe: RegistryRequestsHague@un.org

Umutwe w'iyo imeyiri ugomba kuba urimo ijambo "Ubusabe".

9. Iyo hari impamvu idasanzwe, usaba amakopi, byemejwe ko ahuye n'umwimerere, y'inyandiko zerekeranye n'imanza, zitari ibanga, na/cyangwa amakuru yerekeranye na zo ashobora kwijyanira ubusabe bwe kuri rimwe mu mashami ya IRMCT cyangwa akabunyuza mu iposita.

10. Mu gusaba amakopi, byemejwe ko ahuye n'umwimerere, y'inyandiko zerekeranye n'imanza, zitari ibanga, na/cyangwa amakuru yerekeranye na zo, hagomba gutangwa amakuru akurikira:

(a) amazina y'usaba urimo gukora iperereza cyangwa uburanisha urubanza;

(b) impamvu nyayo yo gusaba ubwo bufasha;

(c) ibisobanuro byihariye kuri izo nyandiko cyangwa kuri ayo makuru asabwa, birimo izina na nomero by'urubanza, itariki ubuhamya bwatangiweho mu Rukiko, izina nyaryo cyangwa ry'iritizanyo ry'umutangabuhamya, nomero y'ikimenyetso gihamya, umuburanyi wagitanze, itariki cyashyiriwe muri dosiye n'izina ry'inyandiko;

(d) ibisobanuro ku gihe ntarengwa ubufasha bukwiye kuba bwatanzwe, iyo bishoboka; na

(e) andi makuru yose yakenerwa ngo ubufasha butangwe.

11. JRU imenyesha usaba ko yakiriye inyandiko ye isaba amakopi, byemejwe ko ahuye n'umwimerere, y'inyandiko zerekeranye n'imanza, zitari ibanga, na/cyangwa amakuru yerekeranye na zo, kandi ikabikora mu gihe kitarenze iminsi ibiri y'akazi ibarwa haherewe ku itariki iyakiriyeho.

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12. JRU isuzuma ubwo busabe mu gihe kitarenze ibyumweru bibiri maze igakora kimwe mu bintu bikurikira:

(a) Guha usaba amakopi, byemejwe ko ahuye n'umwimerere, y'inyandiko zerekeranye n'imanza, zitari ibanga, na/cyangwa amakuru yerekeranye na zo;

(b) kumenyesha usaba igihe amakopi, byemejwe ko ahuye n'umwimerere, y'inyandiko zerekeranye n'imanza, zitari ibanga, na/cyangwa amakuru yerekeranye na zo azatangirwa, iyo hasabwe umubare munini w'inyandiko na/cyangwa amakuru;

(c) gusaba amakuru y'inyongera akenewe ngo hatangwe ayo makopi, byemejwe ko ahuye n'umwimerere, y'inyandiko zerekeranye n'imanza, zitari ibanga, na/cyangwa amakuru yerekeranye na zo; cyangwa

(d) kwanga gutanga ayo makopi, byemejwe ko ahuye n'umwimerere, y'inyandiko zerekeranye n'imanza, zitari ibanga, na/cyangwa amakuru yerekeranye na zo, iyo ubusabe butubahirije ibiteganywa na Sitati cyangwa n'Amategeko.

13. Iyo hakenewe igihe kirenze ibyumweru bibiri ngo usaba ahabwe amakopi, byemejwe ko ahuye n'umwimerere, y'inyandiko zerekeranye n'imanza, zitari ibanga, na/cyangwa amakuru yerekeranye na zo, JRU irabimumenyesha kandi ikamubwira igihe gicishirije yayamuheraho. Icyo gihe cyemezwa hakurikijwe imiterere ya buri busabe, ibirebwa n'ubwo busabe, kuba usaba agaragaza ko bwihutirwa n'andi makuru yose ya ngombwa.

14. Uretse igihe byumvikanyweho ukundi, IRMCT ni yo yishyura amafaranga akenerwa mu gutanga ubufasha bwerekeranye n'amakopi, byemejwe ko ahuye n'umwimerere, y'inyandiko zerekeranye n'imanza na/cyangwa amakuru yerekeranye na zo. Iyo amafaranga agomba gutangwa ari menshi cyangwa adasanzwe, usaba ni we uyishyura. Nyuma yo kwakira ubusabe, JRU imenyesha, vuba bishoboka, usaba ko amafaranga azabutangwaho ari menshi cyangwa adasanzwe.

III. Ubusabe bushingiye ku Ngingo ya 86 y'Amategeko

15. Umucamanza cyangwa inteko y'abacamanza mu rundi rukiko cyangwa umuburanyi mu rundi rukiko wabiherewe uruhushya n'urwego rw'ubutabera rubifitiye ububasha, ndetse n'umuntu wakorewe icyaha cyangwa umutangabuhamya TPIR, TPIY cyangwa IRMCT

byashyiriyeho ingamba zo kumurindira umutekano, bashobora gusaba ibintu bikurikira, hashingiwe ku Ngingo ya 86 y'Amategeko ("Utanze ubusabe bushingiye ku Ngingo ya 86 y'Amategeko" n' "Ubusabe bushingiye ku Ngingo ya 86 y'Amategeko", uko bikurikirana):

- Kumenyeshwa ingamba zo kurinda umutekano TPIR, TPIY cyangwa IRMCT zashyiriyeho umuntu wakorewe icyaha cyangwa umutangabuhamya cyangwa kubaza niba izo ngamba ziriho koko. Ubwo busabe bugezwa kuri Perezida wa IRMCT hashingiwe ku Ngingo ya 86 (F) y'Amategeko; no/cyangwa

- Gusaba ko havanwaho, hahindurwa cyangwa hongerwa ingamba zo kurinda umutekano zashyizweho na TPIY, TPIR cyangwa IRMCT mu manza zaburanishije. Ubwo busabe bugezwa Perezida wa IRMCT nk'uko biteganywa n'Ingingo ya 86 (H) y'Amategeko.

16. Ubusabe bushingiye ku Ngingo ya 86 y'Amategeko bugezwa kuri Perezida maze bugasuzumwa n'Umucamanza umwe rukumbi cyangwa Urugereko Perezida yashyizeho. Amakuru y'ingenzi yerekeranye no gutanga no gucunga ubusabe bushingiye ku Ngingo ya 86 y'Amategeko akubiye mu *Mabwiriza ngengamikorere yerekeranye n'ibikurikizwa mu guhindura ingamba zo kurinda umutekano w'abatangabuhamya n'abantu bakorewe ibyaha, hubahirizwa ibiteganywa n'Ingingo ya 86 (H) y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso ya IRMCT, kugira ngo inyandiko z'ibanga zo mu manza za TPIY, TPIR na IRMCT zigerweho.* Ayo Mabwiriza yemejwe ku itariki ya 23 Mata 2013 (MICT/8) ("Amabwiriza ngengamikorere yerekeranye n'Ingingo ya 86 y'Amategeko")[4].

> Amabwiriza ngengamikorere yerekeranye n'Ingingo ya 86 y'Amategeko aboneka ku rubuga: https://www.irmct.org/sites/default/files/documents/130423-practice-direction-procedure-variation-protective-measures-mict-8.pdf

17. Ubusabe bushingiye ku Ngingo ya 86 y'Amategeko bugezwa kuri Perezida, bunyujijwe kuri JRU, nk'uko biteganywa n'*Amabwiriza ngengamikorere ku nyandiko zerekeranye*

[4] Amabwiriza ngengamikorere MICT/8 yerekeranye n'Ingingo ya 86 (H) y'Amategeko yonyine ariko ibyo ateganya bigomba kubahirizwa no ku Ngingo ya 86 (F) y'Amategeko, hahindutse ibigomba guhinduka.

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n'imanza, yemejwe ku itariki ya 25 Gicurasi 2023 (MICT/42) ("Amabwiriza ngengamikorere ku nyandiko zerekeranye n'imanza").

> Amabwiriza ngengamikorere ku nyandiko zerekeranye n'imanza aboneka ku rubuga:
> https://www.irmct.org/sites/default/files/documents/MICT-42-Practice-Direction-on-Judicial-Records.pdf

> *Amabwiriza ngenderwaho magufi mu gutanga inyandiko muri IRMCT* aboneka ku rubuga:
> https://www.irmct.org/sites/default/files/documents/public-guide-for-unmict-filings_en.pdf

18. Ubusabe bushingiye ku Ngingo ya 86 y'Amategeko bugomba kuba buherekejwe n'ifishe iherekeza inyandiko itanzwe. Iyo fishe yuzuzwa hakurikijwe amabwiriza yerekeranye n'uburyo bikorwa.

> *Ifishe iherekeza inyandiko itanzwe* n'*Amabwiriza yerekeranye no kuzuza ifishe iherekeza inyandiko itanzwe* biboneka ku rubuga:
> https://www.irmct.org/en/documents

19. Iyo Perezida ashyizeho Umucamanza umwe rukumbi cyangwa Urugereko kugira ngo basuzume ubusabe bushingiye ku Ngingo ya 86 y'Amategeko, JRU yohereza uwabutanze itegeko rishyiraho uwo Mucamanza umwe rukumbi cyangwa urwo Rugereko, ikanaha uwo Mucamanza umwe rukumbi cyangwa urwo Rugereko ubwo busabe bushingiye ku Ngingo ya 86 y'Amategeko n'izindi nyandiko zose zerekeranye na bwo, uretse igihe Perezida yabitegetse ukundi.

20. Iyo Umucamanza umwe rukumbi cyangwa Urugereko bemeye ubusabe bushingiye ku Ngingo ya 86 y'Amategeko, bwose uko bwakabaye cyangwa babwemeye kuri bimwe, JRU iha uwabutanze icyemezo kibwemera bwose uko bwakabaye cyangwa kibwemera kuri bimwe, uretse igihe uwo Mucamanza umwe rukumbi cyangwa urwo Rugereko babitegetse ukundi. Byongeye kandi, mu rwego rwo kubahiriza icyo cyemezo cy'Umucamanza umwe rukumbi cyangwa Urugereko kandi ikoranye n'andi mashami bireba yo mu Biro bya Gerefiye, JRU iha uwatanze ubusabe bushingiye ku Ngingo ya 86 y'Amategeko amakopi, byemejwe ko ahuye n'umwimerere, y'inyandiko na/cyangwa amakuru by'ibanga yasabye

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kandi bigakorwa hubahirizwa itegeko, iryo ari ryo ryose, ryatanzwe n'Urukiko kuri izo nyandiko na/cyangwa amakuru by'ibanga.

21. Iyo uwatanze ubusabe bushingiye ku Ngingo ya 86 y'Amategeko yemeje ko yakiriye amakopi, byemejwe ko ahuye n'umwimerere y'izo nyandiko na/cyangwa ayo makuru by'ibanga, JRU ishyira muri dosiye y'urubanza inyandiko imenyekanisha ko yubahirije icyemezo cy'Umucamanza umwe rukumbi cyangwa Urugereko. Inashyiramo inyandiko yemeza ko uwatanze ubusabe bushingiye ku Ngingo ya 86 y'Amategeko yahawe ibyo yasabye.

22. Iyo ubusabe bushingiye ku Ngingo ya 86 y'Amategeko bwanzwe, JRU iha uwabutanze icyemezo kibwanga, uretse igihe Umucamanza umwe rukumbi cyangwa Urugereko babitegetse ukundi.

IV. Ubusabe bushingiye ku Ngingo ya 87 y'Amategeko

23. Bashingiye ku Ngingo ya 87 y'Amategeko, umucamanza cyangwa inteko y'abacamanza mu rundi rukiko cyangwa umuburanyi wo mu rundi rukiko wabiherewe uruhushya n'urwego rw'ubutabera rubifitiye ububasha, bashobora gusaba IRMCT ubuhamya bwatanzwe mu Rukiko n'umuntu uri mu maboko yayo kugira ngo babwifashishe mu rwego rw'iperereza ririmo gukorwa cyangwa rw'ikurikiranacyaha ku bantu baregwa kuba barakoze ibikorwa binyuranyije bikomeye n'Amategeko mpuzamahanga arengera abantu mu gihe cy'intambara, mu Cyahoze ari Yugosilaviya no mu Rwanda ("Utanze ubusabe bushingiye ku Ngingo ya 87 y'Amategeko" n' "Ubusabe bushingiye ku Ngingo ya 87 y'Amategeko", uko bikurikirana).

24. Ubusabe bushingiye ku Ngingo ya 87 y'Amategeko bugezwa kuri Perezida maze bugasuzumwa n'Umucamanza umwe rukumbi cyangwa Urugereko Perezida yashyizeho. Ubwo busabe bugezwa kuri Perezida bunyuze kuri JRU hashingiwe ku Mabwiriza ngengamikorere ku nyandiko zerekeranye n'imanza[5].

[5] Reba haruguru, ibika 16-18.

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25. Ubusabe bushingiye ku Ngingo ya 87 y'Amategeko bugomba kuba burimo amakuru akurikira:

- Kuvuga ko butanzwe hashingiwe ku Ngingo ya 87 y'Amategeko. Ibi bigomba kwandikwa kuri paje ibanziriza andi mapaje y'inyandiko y'ubwo busabe;
- amazina y'utanze ubusabe bushingiye ku Ngingo ya 87 y'Amategeko kandi, iyo ari ngombwa, hakagaragazwa urwego rubifitiye ububasha rurimo gukora iperereza cyangwa urukiko rurimo kuburanisha urubanza;
- amazina y'umuntu uri mu maboko ya IRMCT watanze ubuhamya mu Rukiko busabwa;
- icyo ubuhamya bwatanzwe mu Rukiko busabwa buhuriyeho n'iperereza utanze ubusabe bushingiye ku Ngingo ya 87 y'Amategeko arimo gukora cyangwa n'urubanza arimo kuburanisha;
- impamvu nyayo yo gusaba ubwo buhamya bwatanzwe mu Rukiko;
- ingingo y'amategeko yo mu gihugu ishingirwaho mu gusaba ubwo buhamya bwatanzwe mu Rukiko;
- itariki cyangwa igihe usaba yifuza kuboneraho ubwo buhamya bwatanzwe mu Rukiko; na
- andi makuru, ayo ari yo yose, ya ngombwa ngo ubufasha butangwe, harimo gihamya yuko usaba afite uruhushya rwatanzwe n'urwego rw'ubutabera rubifitiye ububasha, iyo ari ngombwa.

26. Iyo Perezida ashyizeho Umucamanza umwe rukumbi cyangwa Urugereko kugira ngo basuzume ubusabe bushingiye ku Ngingo ya 87 y'Amategeko, JRU yohereza uwabutanze itegeko rishyiraho uwo Mucamanza umwe rukumbi cyangwa urwo Rugereko, ikanaha uwo Mucamanza umwe rukumbi cyangwa urwo Rugereko ubwo busabe bushingiye ku Ngingo ya 87 y'Amategeko n'izindi nyandiko zose zerekeranye na bwo, uretse igihe Perezida yabitegetse ukundi.

27. Iyo ubusabe bushingiye ku Ngingo ya 87 y'Amategeko bwemewe, JRU iha uwabutanze icyemezo kibwemera, uretse igihe Umucamanza umwe rukumbi cyangwa Urugereko

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babitegetse ukundi. Byongeye kandi, mu rwego rwo kubahiriza icyo cyemezo gitanzwe n'Umucamanza umwe rukumbi cyangwa Urugereko kandi ifatanyije n'andi mashami bireba y'Ibiro bya Gerefiye, JRU ikora ibikenewe ngo uwatanze ubusabe bushingiye ku Ngingo ya 87 y'Amategeko abone ubuhamya bwatanzwe mu Rukiko yasabye, nk'uko biteganywa n'Ingingo ya 87 y'Amategeko.

28. Iyo ubusabe bushingiye ku Ngingo ya 87 y'Amategeko bwanzwe, JRU iha uwabutanze icyemezo kibwanga, uretse igihe Umucamanza umwe rukumbi cyangwa Urugereko babitegetse ukundi.

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