# SOMEX S.A v CHAPA KAZI LTD

[Rwanda URUKIKO RW'UBUJURIRE – RCOMAA 00041/2020/CA – (Karimunda, P.J., Gakwaya na Tugireyezu, J.) 15 Mutarama 2021]

*Amategeko agenga imanza z'ubucuruzi – Amasezerano – Amasezerano y'imikoranire mu bucuruzi – Koherezanya ibicuruzwa – Mu gihe impande zishingiye ku masezerno y'ubucuruzi agena igiciro cy'ibicuruzwa, ntawakwitwaza ko igiciro kiyarimo cyumvikanyweho n'impande zombi kitari ukuri kandi atagaragaza amasezerano asimbura aya mbere kandi n'uwohereje ibicuruzwa yemera ko ariwe wabyoherereje atanahakana fagitire yatanze – Ayo masezerano afatwa nk'akurikije amategeko kandi akubahirizwa nta buriganya.*

*Amategeko agenga imanza z'ubucuruzi – Amasezerano y'imikoranire mu bucuruzi – Kurenza igiciro cyagombaga kwishyurwa – Iyo bigaragaye ko uwishyuwe hagendewe ku masezerano y'ubufatanye mu bucuruzi yishyuwe amafaranga arenze asubiza ikinyuranyo cyayo – Iyo ayo agomba gusubizwa arutwa n'ikinyuranyo cyabonetse, ugomba kuyasubizwa, asubizwa agaciro k'amafaranga yemera kandi yaregeye.*

**Incamake y'ikibazo** Mu 2013, SOMEX S.A yagiranye amasezerano y'imikoranire mu bucuruzi na CHAPA KAZI Ltd yo kuyigemurira amabalo 5.000 y'ibitenge mu gihe cy'imyaka ibiri (2), ibalo imwe ikaba yari kujya yishyurwa USD 450. Imikoranire yaje kugenda nabi bituma SOMEX S.A iregera Urukiko rw'Ubucuruzi isaba kwishyurwa USD 438.269.

CHAPA KAZI Ltd yireguye ivuga ko ko ariyo igomba gusubizwa 76.188,73 Usd hakurikijwe uburyo yagiye yishyura.

Urukiko rw'Ubucuruzi rwemeje ko ikirego cya SOMEX S.A ko gifite ishingiro; CHAPA KAZI Ltd igomba kwishyura SOMEX S.A 424.357,45.

CHAPA KAZI Ltd yajuririye Urukiko Rukuru rw'Ubucuruzi ivuga ko rwashingiye ku makuru atariyo bituma rwemeza ko hari amadolari igomba kwishyura kandi ataribyo, ko rutahaye agaciro ibimenyetso yatanze; ko kandi urukiko rwemeje umwenda ntacyo rushingiyeho kandi CHAPA KAZI Ltd yaratanze fagitire zishyuriweho.

Urukiko Rukuru rwemeje ko ubujurire bwa CHAPA KAZI Ltd bufite ishingiro, ko urubanza rwajuririwe ruhindutse, ko CHAPA KAZI Ltd yishyuye SOMEX S.A. umwenda wose ku bucuruzi bagiranye, ikanarenza, rutegeka SOMEX S.A. kugarurira CHAPA KAZI Ltd 102.472,06 Usd yarengeje ku bwishyu yagombaga kuyiha.

SOMEX S.A yajuririye Urukiko rw'Ubujurire ivuga ko Urukiko Rukuru rw'Ubucuruzi rutahaye agaciro ibimenyetso n'ibisobanuro batanze bigaragaza ko CHAPA KAZI Ltd yari ibafitiye umwenda, aribyo e-mails zitandukanye na factures bagaragaje, ko n'igiciro cya balo imwe cyagombaga gushingirwaho atari icyavuzwe mu masezerano, ahubwo ko ari ikigaragara mu nyemezabuguzi (factures). Yongeye kandi isaba ko CHAPA KAZI Ltd yategekwa kubishyura inyungu kuko itishyuriwe igihe kandi ibyo yishyuzaga byari ibyayo.

CHAPA KAZI Ltd yireguye ivuga ko ibiciro e-mail SOMEX S.A ishingiraho itazemera kuko zitazwe n'umukozi wabo, ko kandi zidasimbura amasezeranyo y'imikoranire y'ubucuruzi impande zombi zagiranye.

Ku ngingo ya kabiri y'ubujurire bwa SOMEX S.A, CHAPA KAZI Ltd yireguye ivuga ntacyo igomba SOMEX S.A, ko ahubwo ko ariyo yasubizwa amadolari kuko yishyuye irarenza kandi ko yabitangiye ibimenyetso.

CHAPA KAZI Ltd yatanze ubujurire bwuririye ku bundi ivuga ko kuba SOMEX S.A. yarajijishije CHAPA KAZI Ltd, ikayishyuza amafaranga arenga kuyo yagombaga kwishyura, isaba Urukiko kuyitegeka kwishyura indishyi zingana na 15.000 Usd.

SOMEX S.A yireguye ivuga ko indishyi zisabwa na CHAPA KAZI Ltd zitahabwa agaciro kuko itagaragaza aho zishingiye mu rwego rw'amategeko.

**Incamake y'icyemezo:** 1. Uwohereje ibicuruzwa wemera ko ariwe wohereje ibicuruzwa kandi nta nahakane fagitire bishingiyeho, ntahakana amasezerano ibyo bicuruzwa n'ibiciro bishingiyeho mu gihe atagaragaza amasezerano asimbura ayashingiweho hagenwa ibucuruzwa n'ibiciro byumvikanyweho. Bityo, nta makosa Urukiko Rukuru rw'Ubucuruzi rwakoze rwemeza ko igiciro cy'ibalo cyakurikizwa ari 450 Usd kiri mu masezerano yo ku wa 12/12/2013, bityo iyi ngingo y'ubujurire ya SOMEX SA ikaba nta shingiro ifite.

2. Uwishyuwe hagendewe ku masezerano y'ubufatanye mu bucuruzi yishyuwe amafaranga arenze asubiza ikinyuranyo cyayo keretse ugomba kuyasubizwa hari amafaranga yemeye kandi yaregeye arutwa n'ikinyuranyo cyishyuwe. Bityo, SOMEX S.A igomba gusubiza CHAPA KAZI Ltd 102.472,06 Usd.

**Ubujurire nta shingiro bufite.**
**Imikirize y'urubanza RCOMA 00022/2019/HCC rwaciwe n'Urukiko Rukuru rw'Ubucuruzi kuwa 21 Gashyantare 2020 ntihindutse.**
**Amagarama ahwanye n'ibyakozwe mu rubanza.**

**Amategeko yashingiweho:**
Itegeko n° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 111.
Itegeko n° 45/2011 ryo ku wa 25/11/2011 rigenga amasezerano, ingingo ya 64.
Itegeko n° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ingingo ya 3.

**Nta manza zifashishijwe.**

# Urubanza

# I. IMITERERE Y'URUBANZA

[1] Uru rubanza rukomoka ku masezerano y'imikoranire mu bucuruzi bw'ibitenge bizwi nka ''Real Wax'', SOMEX S.A. yagiranye na CHAPA KAZI Ltd ku wa 12/12/2013, bumvikana ko SOMEX S.A. izohererereza CHAPA KAZI Ltd amabalo ibihumbi bitanu (5.000) mu gihe cy'imyaka ibiri (2), ni ukuvuga umwaka wa 2014 n'uwa 2015, ko buri mwaka izajya yohereza amabalo ibihumbi bibiri na magana atanu (2.500), kandi ko ibaro imwe izajya yishyurwa 450 Usd.

[2] SOMEX S.A. yaje kuregera Urukiko rw'Ubucuruzi rwa Nyarugenge ivuga ko yohereje CHAPA KAZI Ltd amabalo afite agaciro ka 843.265.56 Usd, ariko ko CHAPA KAZI Ltd yabasigayemo umwenda ungana na 438.269 Usd, kuko ibicuruzwa bifite reference za AFY 8370, AFY 8371, AFY 8372, bitishyuwe, akaba ariyo yishyuza hamwe n'inyungu zayo zihwanye na 60.000 Usd n'indishyi zo gukurikirana urubanza, ariko CHAPA KAZI Ltd yo ikavuga ko SOMEX S.A. ariyo yishe amasezerano kuko yabagemuriye amabalo 1.565 aho kugemura 2.500, ko kuri ayo mabaro hishyuwe 704.250 Usd, nyuma yishyura 780.000 Usd kuri konti BE 8764309249431 ya SOMEX S.A. iri muri Banca Monte PASCHI Belgique, ko amabalo yose SOMEX S.A. yohereje yishyuwe, ahubwo ko yarengejeho 76.188,73 Usd kuko nta décompte bakoraga.

[3] Mu rubanza n° RCOM 00247/2018/TC rwaciwe ku wa 10/12/2018, Urukiko rw'Ubucuruzi rwemeje ko CHAPA KAZI Ltd igomba kwishyura SOMEX S.A. 424.357,45 Usd, akubiyemo 364.357,45. Usd y'umwenda remezo na 60.000 Usd y'inyungu, ikanayishyura 1000.000 Frw y'igihembo cya Avoka, 300.000 Frw y'ikurikiranarubanza na 50.000 Frw y'ingwate y'amagarama yatanze.

[4] CHAPA KAZI Ltd ntiyishimiye icyo cyemezo, ijuririra Urukiko Rukuru rw'Ubucuruzi, ivuga ko Urukiko rw'Ubucuruzi rwashingiye icyemezo cyarwo ku makuru atariyo, ko Urukiko rwatanze indishyi zidafite aho zishingiye, zibarirwa ku rwunguko rutasabwe, ko rwasuzumye ingingo zitaregewe, bituma rwemeza umwenda utariho. Yavuze kandi ko Urukiko, mu guca urubanza, rwemeje ko hari 364.357,57 Usd, CHAPA KAZI Ltd itishyuye, ko nta bimenyetso bigaragaza ko ubwishyu bwayo bwabayeho, nyamara yari yasobanuye mbere ko yasanze kuri konti ya SOMEX S.A., harishyuwe 806. 519,58 Usd kuva ku wa 15/05/2015 kugeza ku wa 3/4/2018, nk'uko bigaragazwa na bordereaux de versements zagaragajwe na CHAPA KAZI Ltd, ariko rukabirengaho, rwemeza ko nta bimenyetso CHAPA KAZI Ltd yagaragaje byerekana ko yishyuye, ko ibyo bimenyetso ndetse n'ubwishyu bwakozwe rutigeze rugira icyo rubivugaho cyangwa ngo runavuge impamvu rutabihaye agaciro. Yavuze nanone ko Umucamanza yagaragaje ingano y'umwenda ntacyo ashingiyeho, mu gihe yo yari yarugaragarije inyemezabuguzi (factures) yahawe na SOMEX S.A. kandi nayo ikaba itarigeze izihakana.

[5] Mu rubanza n° RCOMA 00022/2019/HCC rwaciwe ku wa 21/02/2020, Urukiko Rukuru rw'Ubucuruzi rwemeje ko ubujurire bwa CHAPA KAZI Ltd bufite ishingiro, ko urubanza rujuririrwa ruhindutse, ko CHAPA KAZI Ltd yishyuye SOMEX S.A. umwenda wose ku bucuruzi bagiranye, ikanarenza, rutegeka SOMEX S.A. kugarurira CHAPA KAZI Ltd 102.472,06 Usd yarengeje ku bwishyu yagombaga kuyiha, ikanayiha 1.500.000 Frw y'indishyi z'ibyagiye ku rubanza.

[6] SOMEX S.A. ntiyishimiye icyo cyemezo, ijuririra Urukiko rw'Ubujurire, ivuga ko Urukiko Rukuru rw'Ubucuruzi rutahaye agaciro ibimenyetso n'ibisobanuro batanze bigaragaza ko CHAPA KAZI Ltd yari ibafitiye umwenda, aribyo e-mails zitandukanye na factures bagaragaje, ko n'igiciro cya balo imwe cyagombaga gushingirwaho atari icyavuzwe mu masezerano, ahubwo ko ari ikigaragara mu nyemezabuguzi (factures) kuko amasezerano yo ku wa 12/12/2013, yakozwe na SOMEX S.A. ku busabe bwa CHAPA KAZI Ltd mu rwego rwo kuzayakoresha muri gasutamo (customs) gusa, ikabyemera nko kuyifasha. Mu bujurire bwayo kandi, SOMEX S.A. isaba ko CHAPA KAZI Ltd yategekwa kubishyura inyungu kuko itishyuriwe igihe kandi ibyo yishyuzaga byari ibyayo.

[7] Urubanza rwaburanishijwe mu ruhame ku wa 23/02/2020, SOMEX S.A. ihagarariwe na Me Rutembesa Phocas, CHAPA KAZI Ltd ihagarariwe na Me Nsengiyumva François na Me MUKAKABANDA Athanasie.

# II. IBIBAZO BIRI MU RUBANZA N'ISESENGURWA RYABYO

### A. Kumenya niba igiciro cy'ibalo imwe kigomba gushingira ku nyemezabuguzi zatanzwe na SOMEX S.A. aho gushingira ku masezerano yo ku wa 12/12/2013

[8] Me Rutembesa Phocas, uburanira SOMEX S.A., avuga ko Urukiko Rukuru rw'Ubucuruzi rwahaye agaciro amasezerano yo ku wa 12/12/2013, aho avuga ko agaciro k'ibalo imwe ari 450 Usd, rwirengagije ibisobanuro byatanzwe bigaragaza ko ibyo atari ukuri, ko rutahaye agaciro ubutumwa bukubiye muri e-mails bwatanzwe na CHAPA KAZI Ltd ubwayo, busobanura iby'ayo masezerano, ko rwirengagije nanone ko icyagombaga gushingirwaho ari igiciro cyagiye kigaragazwa na SOMEX S.A. muri factures yagiye itanga, aho gushingira kuri ayo masezeramo kuko yakozwe na SOMEX S.A. ku busabe bwa CHAPA KAZI Ltd, aho yasabye gukoresha igiciro cya 450 Usd ku ibalo imwe, bitandukanye n'igiciro kiri muri invoice nyakuri yoherezwagaho ibintu kuva mu mwaka wa 2014 kugeza m'uwa 2015, mu rwego rwo kuzayakoresha muri gasutamo gusa, ko ari ubufasha yasabye SOMEX S.A., nayo ikemera kubimukorera nk'umukiriya bari basanzwe bakorana.

[9] Me Rutembesa Phocas avuga kandi ko SOMEX S.A. yagaragaje ko ubucuruzi bwose (transactions) bwakozwe mu myaka ya 2014 na 2015 hagati yabo, buhwanye na 2.910.606,78 Usd, ko mbere y'uko irega, yari yarakiriye ubwishyu bungana na 2.505.573,82 Usd ku mwenda wari warasigaye, nyuma yo gutanga ikirego CHAPA KAZI Ltd yishyura 39.675,51Usd, hasigara 364.357,45 Usd, ko ariyo SOMEX S.A. yasabaga kwishyurwa, hiyongereyeho inyungu n'indishyi zitandukanye. Akomeza avuga ko hari hasigaye kwishyurwa factures eshatu (3), ariko CHAPA KAZI Ltd yo ikavuga ko byose yabyishyuye, ikanarenza kuko yashingiye ku masezerano yo ku wa 12/12/2013, nyamara atari amasezerano y'ukuri, kandi haragombaga gushingirwa kuri e-mails y'umukozi wabo, ko icyo aricyo banenze Urukiko Rukuru rw'Ubucuruzi kuko ntacyo rwazivuzeho, ko rwavuze gusa ko zitasimbura amasezerano nyamara arizo zatumye ayo masezerano abaho, anavuga ko nta bon de commande CHAPA KAZI Ltd yatangaga kugira ngo bamuhe factures, ahubwo ko yatumizaga ibicuruzwa ikabihabwa.

[10] Me Rutembesa Phocas avuga nanone ko nta giciro gihamye cya balo imwe (fixe) cyari kiriho, ko batangiye gukorana nta masezerano ariho, uko umucuruzi yashimye ibicuruzwa, bakagenda babimuha nawe yishyura ibiciro bitandukanye bitewe n'igihe, ko n'ubwo facture ivugwa na CHAPA KAZI Ltd igaragaza ko balo imwe yishyurwaga 450 Usd ari iya SOMEX S.A. n'amafaranga ariho bakaba bayemera, itahabwa agaciro kuko ibyo biciro atari byo byakomeje kugenderwaho, ko byagendaga bihinduka, ko 450 Usd atari igiciro cya buri livraison kuko nyuma yo gukora amasezerano basubiye inyuma bahuza factures n'ayo masezerano, ko mu kwishyura hagiye habaho koroherezanya (arrangement), kandi ko factures za 450 Usd zagaragajwe atarizo kamara mu kugaragaza uko ibintu byagenze.

[11] Me Rutembesa Phocas anavuga ko Mugemanyi Lucie, uvugwa muri e-mail yo ku wa 21/08/2015, yari umukozi wa CHAPA KAZI Ltd ushinzwe ibaruramari (comptabilité), ko CHAPA KAZI Ltd ihakana e-mail ye kubera inyungu ibifitemo, ko byagorana kugaragaza ko yakoraga

ikintu mu izina rya CHAPA KAZI Ltd, uretse igihe Urukiko rwakora iperereza rukabyibonera, ko baburana mbere CHAPA KAZI Ltd itigeze imuhakana nk'umukozi wayo, ko icyo yavuze ari uko batazi impamvu yasabye ariya masezerano.

[12] Me Nsengiyumva François, uburanira CHAPA KAZI Ltd, asobanura ko e-mail SOMEX S.A. iburanisha, CHAPA KAZI Ltd yayimenyeye mu iburanisha mu Rukiko rw'Ubucuruzi kandi ko itabona impamvu yayo, kuko igaragaza ko yoherejwe ku wa 21/08/2015, kandi nyuma y'iyo taliki ibicuruzwa byaje ari kontineri ebyiri (2) gusa, ko amasezerano bagiranye, SOMEX S.A. yari isanzwe iyafite kandi ko yavugaga ko ibalo imwe ari 450 Usd, ko ibyo SOMEX S.A. ivuga ko yakozwe nyuma bagashyiraho itariki ya kera (antidater) ataribyo, anavuga ko iyo e-mail bita amasezerano (agreement), SOMEX S.A. itayandikiye CHAPA KAZI Ltd, ahubwo ko yayandikiye undi muntu utari umukozi wayo, ko rero itabareba. Avuga ko uwitwa MUGEMANYI Lucie, uvugwa muri e-mail yo ku wa 21/08/2015, atari umukozi wa CHAPA KAZI Ltd, ko ibyo yagiye yandikirana (correspondances) na SOMEX S.A. batabyemera, ko byakozwe mu rwego rwo kujijisha kandi ko mbere y'iyo tariki imikoranire yari ishingiye kuri 450 Usd ku ibalo imwe, nk'uko babigaragaje berekana urugero rwa facture yo ku wa 15/10/2014, ko factures 23 zose zibariye kuri 450 Usd, ko rero amasezerano bahaye MUGEMANYI Lucie ari ibinyoma, ko nta shingiro yahabwa, ko icyo bemera ari amasezerano yabaye hagati yabo ubwabo ya 450 Usd ku ibalo imwe, ko batangiye gukora ku wa 3/02/2014 kuko ariho batangiye kohereza ibicuruzwa kandi ko uwari uhagarariye CHAPA KAZI Ltd ari Manager KARANGWA Japhari, aho kuba MUGEMANYI Lucie.

[13] Me Nsengiyumva François avuga kandi ko ibyo SOMEX S.A. ivuga ko amasezerano bayakoze bisabwe na CHAPA KAZI Ltd kugira ngo azabafashe muri gasutamo ataribyo, ko iyo biba bimeze bityo atari gushyirwa mu bikorwa n'impande zombi, ngo na SOMEX S.A. ikore factures zishyuza ku giciro cya 450 Usd ku ibalo imwe, ko itari no kwemera ko ku wa 30/10/2019, ubwo bahuraga, CHAPA KAZI Ltd ibarura amabalo yohererejwe n'amafaranga ngo bihwane. Avuga ko ibyo SOMEX S.A. ivuga atari byo nanone kuko inyandiko (documents) ziherekeza ibicuruzwa ari factures, bakaba baragaragaje pièces zimwe zagiye zica muri gasutamo (douanes) zigaragaza ko ibyo SOMEX S.A. ivuga atari ukuri, ko ahereye ku iyoherezwa ry'ibicuruzwa (livraison) 8085, ryakozwe ku wa 15/04/2014, rivuga ko bohereje amabalo 450 ku giciro cya 450 Usd, iyo facture akaba ariyo yajyanywe muri gasutamo (douanes) kandi ko byabaye mu mwaka wa 2014, ko ntaho byari bihuriye na e-mail yo mu mwaka wa 2015. Avuga ko bo bagaragaje muri iecms déclaration en douanes igaragaza ibiciro na déclarations zose, ko ari nabyo baheraho bavuga ko SOMEX S.A. itavugisha ukuri, naho livraison ifite reference 7670, bashyize muri dosiye y'urubanza (iecms), ikaba itarigeze igera kuri CHAPA KAZI Ltd.

[14] Me Nsengiyumva François avuga nanone ko SOMEX S.A. yibanda kuri email yo ku wa 21/08/2015, kandi bo baragaragarije Urukiko ko iyo batayizi, ko uretse n'ibyo Urukiko rwasanze itasimbura amasezerano y'ubucuruzi impande zombi zagiranye, SOMEX S.A. ikaba itagaragariza Urukiko ko mbere y'ayo masezerano yo ku wa 12/12/2013, hari indi mikoranire y'ubucuruzi impande zombi zari zifitanye.

## UKO URUKIKO RUBIBONA

[15] Ingingo ya 3 y'Itegeko n° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko '' Buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana''.

[16] Ingingo ya 64 y'Itegeko n° 45/2011 ryo ku wa 25/11/2011 rigenga amasezerano iteganya ko '' Amasezerano akozwe ku buryo bukurikije amategeko aba itegeko ku bayagiranye. Ashobora guseswa ari uko babyumvikanyeho cyangwa ku mpamvu zemewe n'amategeko. Agomba kubahirizwa nta buriganya''.

[17] Dosiye y'uru rubanza igaragaza ko, mu gika cya makumyabiri (20), cy'urubanza rujuririrwa, Urukiko Rukuru rw'Ubucuruzi rwasobanuye ko ibivugwa na SOMEX S.A. ko igiciro kiri mu masezerano cya 450 Usd ku ibalo imwe atari icy'ukuri, nta shingiro bifite, ko ibyo ivuga nta bimenyetso ibigaragariza kuko ayo masezerano yasinywe n'impande zombi kandi ko nta yandi yaba yarayasimbuye yagaragajwe, ko kandi ibyo ivuga ko ayo masezerano yakozwe bisabwe na CHAPA KAZI Ltd ko na factures zakozwe mu rwego rwo kuyifasha ngo ibikoreshe mu misoro, nta gaciro byahabwa kuko ari amagambo gusa, ko bitanumvikana uburyo impande zombi zakoranye ubucuruzi bushingiye ku masezerano, hakajya hatangwa factures ku bicuruzwa byose, nyuma SOMEX S.A. ikavuga ko atari iby'ukuri kandi yemera ko ariyo yabitanze, ko n'ibindi yishyuza usanga nta factures yita iz'ukuri bifite, ko bitumvikana uburyo yemera izo factures zose ariko igahakana agaciro kazo.

[18] Dosiye y'uru rubanza igaragaza kandi ko mu gika cya makumyabiri na kabiri (22), cy'urubanza rujuririrwa, Urukiko Rukuru rw'Ubucuruzi rwasobanuye ko emails zigaragazwa na SOMEX S.A. zitashingirwaho kuko ivuga ko zigaragaza ubundi bwumvikane yagiranye na CHAPA KAZI Ltd nyuma y'amasezerano, ariko ko zidasimbura amasezerano bagiranye na factures zatanzwe n'uwagurishaga, ko CHAPA KAZI Ltd itazemera, hakaba hatanagaragazwa icyo uwazanditse yari ashinzwe cyatuma zigira agaciro, bityo ko CHAPA KAZI Ltd igomba kugarurirwa 102.472,06 Usd yarengeje ku bwishyu.

[19] Muri dosiye y'uru rubanza hagaragaramo kandi e-mails zitandukanye, iyo ku wa 20/08/2015, aho uwitwa MUGEMANYI Lucia yandikiye PIYUSH Vora, amusaba kohereza amasezerano arimo igiciro kigabanyijje cya 450 Usd mu gihe cy'imyaka ibiri, 2014 na 2015, azaba agenewe gusa ibirebana na gasutamo[1], ku wa 21/08/2015, PIYUSH Vora amusubiza amwohererereza ayo masezerano nk'uko babivuganye, aya masezerano akaba ari '' agreement of sales contract'' yo ku wa 12/12/2013.

[20] Urukiko rw'Ubujurire rurasanga amasezerano (Agreement of sales contract) yo ku wa 12/12/2013, SOMEX S.A. yagiranye na CHAPA KAZI Ltd, yanditswe akanasinywa n'umuyobozi wa SOMEX S.A. wenyine (acte d'engagement unilatéral), aho yiyemerera ko kuva muri Mutarama 2014 kugeza m'Ukuboza 2015, sosiyete ye izohererereza CHAPA KAZI Ltd amabalo ibihumbi bitanu (5.000) ku giciro cya 450 Usd ku ibalo imwe, kandi ko buri mwaka izajya yohereza amabalo ibihumbi bibiri na magana atanu (2.500). Rurasanga ayo masezerano SOMEX S.A. yemera ko iyazi, ikaba iyemeranywaho na CHAPA KAZI Ltd, gusa ikavuga ko atari amasezerano y'ukuri kuko yakozwe kubera izindi mpamvu zitari ubwumvikane ku birebana n'uko ubufatanye bwabo mu bucuruzi buzagenda, ahubwo ko bari bumvikanye ko ibiciro bizagenda bihinduka hakurikijwe

[1]As per our teletalk, please send an agreement of undervalue invoice of fixed Usd450 of 2 years 2014 &2015 which will be only for custom purpose''.

uko isoko rimeze, ariko nk'uko n'Urukiko Rukuru rw'Ubucuruzi rwabibonye SOMEX S.A. ntibitangira ibimenyetso, bityo ibivugwa na SOMEX S.A. bikaba nta shingiro bifite.

[21] Urukiko rw'Ubujurire rurasanga kandi inyemezabuguzi zifite agaciro k'ibalo imwe karenze 450 Usd, SOMEX S.A. ivuga ko zashingirwaho, zitahabwa agaciro kuko zidafite kashe n'umukono w'uyihagarariye, kandi akaba atari zo zahawe CHAPA KAZI Ltd ngo izishyure, ahubwo izo yayihaye zigaragaraho ikashi ya sosiyete, umukono w'uyihagarariye n'agaciro k'ibalo imwe kangana na 450 Usd kandi ikaba itazihakana kuko yiyemerera ko ariyo yazitanze.

[22] Ku birebana n'ibivugwa na SOMEX S.A. ko Urukiko Rukuru rw'Ubucuruzi rwirengagije ko e-mail yo ku wa 20/08/2015, ariyo igaragaza ko agaciro ka 450 Usd atari ko kagomba gukurikizwa kuko kashyizwe mu masezerano kugira ngo ifashe CHAPA KAZI Ltd mu birebana no kwishyura imisoro ya gasutamo (taxes et frais douaniers), ko ahubwo bari bumvikanye ko ibiciro bizagenda bihinduka hakurikijwe uko isoko rimeze, Urukiko rw'Ubujurire rurasanga ibyo ivuga nta shingiro bikwiye guhabwa, kuko itagaragaza uburyo ibyo biciro byagiye bihindagurika, ngo yerekane uburyo CHAPA KAZI Ltd yaba yaramenye cyangwa yaramenyeshejwe izo e-mail ku buryo yaryozwa ibyo zivuga, itange ikimenyetso cy'uko MUGEMANYI Lucie yari umukozi wa CHAPA KAZI Ltd uri mu rwego rwo kuyifatira ibyemezo mu bucuruzi bwayo.

[23] Hashingiwe ku bimaze gusobanurwa, Urukiko rw'Ubujurire rurasanga Urukiko Rukuru rw'Ubucuruzi nta makosa rwakoze rwemeza ko igiciro cy'ibalo cyakurikizwa ari 450 Usd kiri mu masezerano yo ku wa 12/12/2013, bityo iyi ngingo y'ubujurire ya SOMEX SA ikaba nta shingiro ifite.

**B. Kumenya niba mu kwishyura SOMEX S.A., CHAPA KAZI Ltd itarigeze irenza igiciro yagombaga kwishyura**

[24] Me Rutembesa Phocas, uburanira SOMEX S.A., avuga ko Urukiko Rukuru rw'Ubucuruzi rutari rukwiye kwemeza ko CHAPA KAZI Ltd yishyuye ikarenza ubwishyu yagombaga kwishyura, kuko uretse n'ubutumwa (e-mails) buvuguruza ibikubiye mu masezerano CHAPA KAZI Ltd iburanisha, ku wa 27/11/2017, bandikiye CHAPA KAZI Ltd bayiha integuza yo kuyirega kubera umwenda ibafitiye, ku wa 04/12/2017, CHAPA KAZI Ltd isubiza yemera umwenda, inagaragaza uburyo yumva yazawishyura, ko mu mwanya wa SOMEX S.A. yasubije (Me RUTEMBESA Phocas) urwo rwandiko ku wa 6/12/2017, ayigaragariza ko uburyo ivuga izishyuramo umwenda batabwemeye. Avuga ko indi mpamvu igaragaza ko CHAPA KAZI Ltd itishyuye ngo irenze ubwishyu yagombaga kwishyura, ari uko kuva aho batangiye integuza ku wa 27/11/2017, ku wa 01/04/2018, 02/06/2018 no ku wa 03/06/2018, CHAPA KAZI Ltd yishyuye 10.000 Usd, kuri buri bwishyu, yose aba 30.000 Usd, ku wa 04/05/2018, yongera kwishyura 6.224,75 Usd na 3.773,25 Usd, ko rero hakwibazwa impamvu CHAPA KAZI Ltd yayishyuye ayo, niba yari yararangije kwishyura, kandi ko mu buryo bwumvikana kandi bugaragarira buri wese, utakwishyura ngo urenze 490.683,17 Usd yose avugwa na CHAPA KAZI Ltd cyangwa 102.472,06 Usd yavuzwe n'Urukiko.

[25] Me Nsengiyumva François avuga ko ibirebana n'ibyo uburanira SOMEX S.A. avuga ko SOMEX S.A. yandikiye CHAPA KAZI Ltd ibaruwa y'integuza ku wa 27/11/2017, iyisaba kwishyura umwenda ungana na 438.269,90 Usd, CHAPA KAZI Ltd igasubiza iyo baruwa ku wa 04/12/2017, yemera uwo mwenda, atari ukuri kuko CHAPA KAZI Ltd itigeze yemera uwo mwenda, ko ibyo kuvuga ko yatangiye kwishyura kubera iyo nteguza nabyo atari byo kuko kuva

amasezerano yashyirwaho umukono n'impande zombi, yahise itangira gushyira mu bikorwa inshingano yari yiyemeje, ko ibyo bavuze mbere ko CHAPA KAZI Ltd yishyuye ikarenza aribyo igihagazeho kandi ko babitangiye ibimenyetso, ko byose byatewe n'uko bo bakomezaga kwishyura kugira ngo SOMEX S.A. nayo ikomeze kohereza ibicuruzwa, kuko iyo CHAPA KAZI Ltd yabonaga amafaranga yayoherezaga igategereza ibicuruzwa, ariko yo ikaza kubatenguha.

## UKO URUKIKO RUBIBONA

[26] Ingingo ya 3 y'Itegeko n° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko ‘' Buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana''.

[27] Dosiye y'uru rubanza igaragaza ko Urukiko Rukuru rw'Ubucuruzi, mu gika cya makumyabiri na rimwe (21) cy'urubanza rujuririrwa, rwasobanuye ko Urukiko rwaciye urubanza ku rwego rwa mbere rwavuze ko CHAPA KAZI Ltd itagaragaje ko yishyuye amafaranga arenze ayagombaga kwishyurwa, nyamara ibimenyetso byose bigaragaza umubare w'amabalo yatanzwe n'ingano y'ubwishyu bwakiriwe, amasezerano ndetse na factures byose byarashyizwe muri dosiye, ariko ko hatasobanuwe impamvu rutabishingiyeho. Mu gika cya makumyabiri na gatatu (23), urwo Rukiko rwanzuye ko CHAPA KAZI Ltd yishyuye ibicuruzwa byose yahawe ndetse ikanarenza, ko igomba kugarurirwa 102.472,06 Usd kuyo yarengeje ku bwishyu kuko ariyo yaregeye.

[28] Muri dosiye y'urubanza kandi, hari e-mail yo ku wa 27/11/2017, yanditswe na Me RUTEMBESA Phocas, mu izina rya SOMEX S.A., yibutsa CHAPA KAZI Ltd ko SOMEX S.A. yayisabye kwishyura ibyo iyigomba ariko ko itigeze yishyura amafaranga yasigaye, ko yashatse ko babikemura mu bwumvikane ariko ko yo itigeze igaragaza ubushake bwo kugira ngo bikemuke, bityo ko SOMEX S.A. itakomeza kwihangana, bakaba babahaye integuza ya nyuma, y'uko niba itishyuye 438.269,90 Usd mu gihe cy'iminsi itanu (5), uhereye igihe baboneye iyo nteguza, nta kindi kizakorwa uretse gukora ibyatuma arengera inyungu za SOMEX S.A, kandi ko kutubahiriza ibyo bumvikanye, byanatuma hishyurwa inyungu n'igihombo ku ruhande rwabo kuko binyuranyije n'ibiteganywa n'ingingo 64 y'Itegeko rigenga amasezerano[2]. Ku wa 04/12/2017, Me NSENGIYUMVA François, uhagarariye CHAPA KAZI Ltd, yasubije iyo e-mail avuga ko CHAPA KAZI Ltd yakiriye ibicuruzwa byoherejwe na SOMEX SA, ko byagombaga kwishyurwa ari uko bimaze kugurishwa ariko ko kwishyura byatinze bitewe n'ubwoko bubi bw'ibicuruzwa byoherejwe, ko mu rwego rwo gukemura icyo kibazo impande zombi zumvikanye ko CHAPA KAZI Ltd yajya yishyura 10.000 Usd buri kwezi kandi ko ibyo bumvikanyeho byatangiye gushyirwa mu bikorwa kuva mu kwezi kwa munani k'umwaka wa 2016, ko kugeza ubwo yandikaga ayo 10.000 Usd yishyuwe nk'uko babyumvikanyeho, ahubwo ko yifuza gusaba

---

[2] ‘'We wish to let you know that our client has requested you to settle all your account, but to date you have adamantly refused to pay outstanding balances. Mindful of the fact, our client is making this claim in good faith and with genuine attempt to resolve this matter amicably but since then you don't not show any concern to have this claim settled. Our client has been patient since then and he cannot stretch his patience any further. This is the final reminder. Unless you honor the payment of 438.269.90 Usd, within five days upon receiving this Notice, we shall have no alternative but to proceed in whatever action is considered to protect our client's interests. Also be reminded that noncompliance to that matter violated the stipulations of article 64 of the law of contract of Rwanda and culminates into heavy interests and damages on your institution''.

SOMEX S.A. kuza gutwara ibicuruzwa bidafite ubuziranenge byari bisigaye mu bubiko aho kwihutira kurega[3].

[29] Dosiye y'uru rubanza igaragaza nanone ko harimo inyandikomvugo y'inama yo ku wa 02/01/2020, SOMEX S.A. yagiranye na CHAPA KAZI Ltd, hagamijwe kumvikana ku buryo bakoranye mu bucuruzi, bakaba barumvikanye ko ubwishyu bwakozwe na CHAPA KAZI Ltd buhwanye na 2.514.783 Usd, ndetse ko harimo inyemezabuguzi zitandukanye, zigaragaza ko amabalo yose hamwe SOMEX S.A. yohereje CHAPA KAZI Ltd ari 4.906.

[30] Urukiko rw'Ubujurire rurasanga, rugendeye ku kuba, nk'uko byasobanuwe haruguru, amasezerano yo ku wa 12/12/2013 agaragaza ko ibalo imwe yagombaga kwishyurwa 450 Usd no kuba CHAPA KAZI Ltd yarohererejwe amabalo 4.906, yagombaga kwishyura 2.207.700 Usd, ni ukuvuga umubare w'amabalo yose yoherejwe gukuba igiciro 450 Usd ku ibalo imwe, bityo rero kuba CHAPA KAZI Ltd yarishyuye 2.514.783,82 Usd nk'uko impande zombi zibyemeranyaho, akaba ari nako zabyumvikanyeho mu nama bagiranye ku wa 02/01/2020, bigaragaza ko yarengeje igiciro yagombaga kwishyura, ayarenzeho akaba ari ikinyuranyo cy'ayagombaga kwishyurwa n'ayishyuwe, aribyo bihwanye na 307.083 Usd.

[31] Urukiko rw'Ubujurire rurasanga ariko kandi mu Rukiko Rukuru rw'Ubucuruzi ubwo yaburanaga, CHAPA KAZI Ltd yaravuze ko arenga kubwishyu yahabwa ari 102.472,06 Usd, kuko ariyo yaregeye, ayandi ikazashaka ubundi buryo iyakurikirana, ari nayo mpamvu urwo Rukiko ariyo rwamugeneye mu rubanza nk'arenga ku bwishyu, bityo rukaba rusanga nta makosa Urukiko Rukuru rw'Ubucuruzi rwakoze mu gutegeka ko CHAPA KAZI Ltd yishyurwa 102.472,06 Usd y'ikinyuranyo cy'ibyo yarengeje ku bwishyu yagombaga gutanga.

[32] Ku birebana n'ibivugwa na SOMEX S.A. ko CHAPA KAZI Ltd itishyuye amafaranga arenze kuko mu ibaruwa yo ku wa 04/12/2017, isubiza iyanditswe na SOMEX S.A. ku wa 27/11/2017, yemeye umwenda ungana na 438.269,90 Usd, Urukiko rw'Ubujurire rurasanga bitahabwa agaciro kubera ko nta na hamwe muri iyo baruwa, CHAPA KAZI Ltd yawemeye, ahubwo yagaragaje ko gutinda kwishyura byatewe n'ubwoko bubi bw'ibicuruzwa boherererejwe, bitishimiwe n'abakiriya, kandi ko mu gukemura icyo kibazo bari bumvikanye na SOMEX S.A. kujya bishyura mu byiciro 10.000 Usd buri kwezi kandi ko byakozwe, inabasaba kuza gufata ibicuruzwa bisigaye mu bubiko aho kurega, bityo rero hakaba nta mpamvu yatuma CHAPA KAZI Ltd itishyurwa 102.472,06 Usd yagenwe n'Urukiko Rukuru, kuko nk'uko byagaragajwe haruguru yishyuye ikarenza.

[33] Ku birebana n'ibyo SOMEX S.A. ivuga ko bitumvikana uburyo CHAPA KAZI Ltd yishyuye ikarenza 102.472,06 Usd yose ku giciro yagombaga kwishyura, Urukiko rw'Ubujurire rurasanga ibyo ivuga bitahabwa agaciro kuko atari ikimenyetso kigaragaza ko CHAPA KAZI Ltd

---

[3]'….. However, chapa kazi has given the goods from somex which were supposed to be paid after their selling. The selling delayed due to bad quality of goods, in the way of solving that issue, both parties agreed that CHAPA KAZI should repay usd 10.000 per month, therefore this repayment agreement started to be implemented since august 2016 and all verbally agreed points were met when due so far 10,000 has been repaid as agreed. Despite to the circumstance happened, our client would like to suggest to somex to come and pick the remaining products which remain in the store instead of per sue eachother as even those funds used to pay are not generated by those goods as the market is not interested to consume those goods as expected''.

itishyuye amafaranga arenze, ahubwo nyuma y'uko Urukiko Rukuru rw'Ubucuruzi rugaragaje ko CHAPA KAZI Ltd yishyuye amafaranga arenze, byari inshingano zayo gutanga ibimenyetso bifatika (preuve matérielle) bishimangira ibyo ivuga.

[34] Hashingiwe ku bimaze gusobanurwa, Urukiko rw'Ubujurire rurasanga iyi ngingo y'ubujurire ya SOMEX S.A. nta shingiro ifite.

**C. Kumenya niba inyungu z'ubukererwe zo gutinda kwishyurwa SOMEX S.A. isaba ikwiye kuzihabwa**

[35] Me Rutembesa Phocas, uhagarariye SOMEX S.A., avuga ko basabye inyungu zikomoka ku mwenda utarishyuwe kuko ari sosiyete y'ubucuruzi, ko mu gihe Urukiko rwasanga hari amafaranga atarishyuwe rwategeka inyungu zayo, ariko ko batigeze bazumvikanaho mbere, ko hashingiwe ku gipimo cya 18%, CHAPA KAZI Ltd yategekwa kwishyura inyungu za 368.132,7 Usd x 18/100 x imyaka 2 (uhereye igihe yaherewe integuza ku wa 30/11/2017), bingana na 132.527,77 Usd. Avuga ko icyo kirego atari gishya kuko mu rwego rwa mbere bazisabye ariko ko ho bavuze indishyi gusa za 60.000 Usd, Urukiko rufata icyemezo cyo kubaha inyungu, ubu bakaba bazivuga mu buryo burambuye. Avuga kandi ko n'iyo baba bataraziregeye mbere, nta cyabuza ko ubu bazisaba kuko bafite uburenganzira bwo kuziregera.

[36] Me Nsengiyumva François avuga ko icyo kibazo ari ubwa mbere gitanzwe, ko mu Rukiko rw'Ubucuruzi basabaga inyungu mbonezamusaruro, uhereye ku wa 09/06/2017 kuko bavugaga ko nta kwishyura kwabayeho, ko bo bagaragaje ko muri icyo gihe CHAPA KAZI Ltd yishyuraga, ko rero ari ikirego gishya gitanzwe mu bujurire kikaba kidakwiye kwakirwa. Avuga ko ubu SOMEX S.A. isaba 18% ya 438.629 Usd, ariko ko iryo janisha (taux) mu madolari ritabaho kuko bakoresha ibice. Avuga nanone ko uretse n'ibyo byose nta gihe ntarengwa bari bafite cyo kwishyura.

# UKO URUKIKO RUBIBONA

[37] Ingingo ya 3 y'Itegeko n° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko ‘’ Buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana’’.

[38] Dosiye y'uru rubanza igaragaza ko mu gika cya makumyabiri na gatandatu (26) cy'urubanza rujuririrwa, Urukiko Rukuru rw'Ubucuruzi rwasobanuye ko ikibazo kijyanye n'inyungu zari zahawe SOMEX S.A. ku rwego rwa mbere, rutazitindaho kuko nta mpamvu y'icyo kibazo mu gihe byagaragajwe ko ntacyo igomba kwishyurwa, ko gusuzuma izari zatanzwe ku rwego rwa mbere nta shingiro bigifite kuko zakuweho kimwe n'ubwishyu zari zishingiyeho.

[39] Dosiye y'urubanza igaragaza ko mu gika cya gatandatu (6) n'icya karindwi (7) by'urubanza rwaciwe n'Urukiko rw'Ubucuruzi, urwo Rukiko, nyuma yo gusobanura ko SOMEX S.A. yaregeye inyungu za 60.000 Usd zikomoka ku mwenda remezo utarishyuwe, rwemeje ko CHAPA KAZI Ltd itujuje inshingano zayo neza, ikaba igomba kwishyura SOMEX S.A. 364.357,45 Usd y'umwenda n'inyungu zayo zingana na 60.000 Usd, zibariwe kuri 18% mu gihe cy'umwaka, bityo ko ikirego cyayo kiregera kwiregura nta shingiro gifite.

[40] Ku birebana n'ibivugwa na CHAPA KAZI Ltd ko ikibazo cy'inyungu zisabwa na SOMEX S.A. ari ubwa mbere gitanzwe, kuko zitaburanishijweho mu nkiko zabanje, Urukiko rw'Ubujurire

rurasanga ibyo CHAPA KAZI Ltd ivuga nta shingiro bifite, kuko haba mu Rukiko rw'Ubucuruzi ndetse no mu Rukiko Rukuru rw'Ubucuruzi icyo kibazo cyasuzumwe, aho Urukiko rw'Ubucuruzi rwategetse CHAPA KAZI Ltd gutanga inyungu zingana na 60.000 Usd, naho Urukiko Rukuru rw'Ubucuruzi rukemeza ko ikirego cy'inyungu nta shingiro gifite kuko itabashije gutsindira umwenda zishingiyeho, bityo hakaba nta mpamvu yatuma ubujurire bw'icyo cyemezo ku bijyanye n'inyungu butakirwa muri uru Rukiko.

[41] Urukiko rw'Ubujurire rurasanga ariko kuba, nk'uko byagaragajwe haruguru, nta mwenda CHAPA KAZI Ltd ifitiye SOMEX S.A., nta kindi uru Rukiko rwaheraho rugena izo nyungu, bityo iyi ngingo y'ubujurire irebana n'inyungu SOMEX S.A. isaba guhabwa, ikaba nta shingiro ifite kuko n'umwenda wajuririwe, zishingiyeho, nawo nta shingiro ufite.

[42] Hashingiwe ku bimaze gusobanurwa, Urukiko rw'Ubujurire rurasanga iyi ngingo y'ubujurire ya SOMEX SA nta shingiro ifite.

**D. Kumenya niba indishyi CHAPA KAZI Ltd isaba mu bujurire bwuririye ku bundi ikwiye kuzihabwa**

[43] Me NSENGIYUMVA FranÇois avuga ko kuba SOMEX S.A. yarajijishije CHAPA KAZI Ltd, ikayishyuza amafaranga arenga kuyo yagombaga kwishyura, isaba Urukiko kuyitegeka kwishyura indishyi zingana na 15.000 Usd.

[44] Me RUTEMBESA Phocas avuga ko indishyi zisabwa na CHAPA KAZI Ltd zitahabwa agaciro kuko batagaragaza mu rwego rw'amategeko, aho zishingiye.

## UKO URUKIKO RUBIBONA

[45] Ingingo ya 3 y'Itegeko n° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko ‘' Buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana''.

[46] Urukiko rw'Ubujurire rurasanga kuba CHAPA KAZI Ltd itagaragaza amakosa yaba yakozwe na SOMEX S.A. yatumye yishyura ikarenza ubwishyu yagombaga gutanga, ikaba kandi itagaragaza ubwoko bw'indishyi isaba, itanagaragaza aho 15.000 Usd y'indishyi isaba akomoka, ibyo ivuga nta shingiro bifite, ikaba idakwiye guhabwa indishyi isaba, bityo iyi ngingo y'ubujurire yatanze ikaba nta shingiro ifite.

**E. Kumenya niba ababuranyi bakwiye amafaranga y'ikurikiranarubanza n'igihembo cya Avoka basaba**

[47] Me RUTEMBESA Phocas avuga ko SOMEX S.A. yagenerwa 1.000.000 Frw y'ikurikiranarubanza n'igihembo cya Avoka kuko yashowe mu manza nta mpamvu.

[48] Me NSENGIYUMVA François avuga ko ibyo SOMEX S.A. isaba nta shingiro bifite kuko aribo babashoye mu manza, ko ahubwo yategekwa kubasubiza 2.500.000 Frw y'ibyagendeye kuri uru rubanza. UKO URUKIKO RUBIBONA

[49] Ingingo ya 111 y'Itegeko nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, iteganya ko ‘' Ikirego

cy’amafaranga y’ikurikiranarubanza ni ikirego gishamikira ku kirego cy’iremezo kigamije kwishyuza ibyakoreshejwe mu rubanza. Ikirego cy’amafaranga y’ikurikiranarubanza kiburanishirizwa rimwe n’ikirego cy’iremezo. Gishobora kandi kwakirwa kikanaburanishwa n’iyo ikirego cy’iremezo cyaba kitakiriwe’’.

[50] Urukiko rw’Ubujurire rurasanga amafaranga y’igihembo cya Avoka n’ay’ikurikiranarubanza SOMEX S.A. isaba nta shingiro afite kuko itsinzwe n’urubanza.

[51] Urukiko rw’Ubujurire rurasanga kandi ku ruhande rwa CHAPA KAZI Ltd, itsinze urubanza kandi hakaba hari ibyo yarutakajeho, bityo ikaba yagenerwa amafaranga y’igihembo cya Avoka n’ay’ikurikiranarubanza, ariko nanone ikaba itagenerwa umubare w’ayo isaba kuko nta kigaragaza ko ariyo koko yagiye kuri uru rubanza, rukaba rusanga ikwiye guhabwa amafaranga ibihumbi magana arindwi (700.000 Frw) y’igihembo cya Avoka n’amafaranga ibihumbi magana atatu (300.000 Frw) y’ikurikiranarubanza.

# III. ICYEMEZO CY’URUKIKO

[52] Rwemeje ko Ubujurire bwa SOMEX S.A. nta shingiro bufite;

[53] Rwemeje ko imikirize y’urubanza n° RCOMA 00022/2019/HCC rwaciwe n’Urukiko Rukuru rw’Ubucuruzi ku wa 21/2/2020, idahindutse;

[54] Rutegetse SOMEX S.A. kwishyura CHAPA KAZI Ltd amafaranga ibihumbi magana arindwi (700.000 Frw) y’igihembo cya Avoka n’ibihumbi magana atatu (300.000 Frw) y’ikurikiranarubanza kuri uru rwego;

[55] Rwemeje ko amafaranga y‘ingwate y’amagarama yatanzwe ahwanye n’ibyakozwe mu rubanza.