

BLUE1 LTD v GAHUNGA

[Rwanda URUKIKO RW'UBUJURIRE – RCOMAA 00028/2022/CA (Kamere, P.J.), 27 Mutarama 2023]

Amategeko agenga imiburanishirize y imanza z ubucuruzi – Kurega utaragombaga kuregwa – Kwakira ikirego – Iyo Urukiko ku rwego rw'ubujurire rusanze Urega yareze utaragombaga kurega rutegeka ko imanza zose zabanje zitashyura agaciro zikavanwaho rutagarukiye gusa ku rubanza rwajuririwe.

Incamake y ikibazo: Gahunga Onesme avuga ko mu mwaka wa 2018, sosiyete STARTIMES RWANDA Ltd ubwo yari mu bikorwa byo kwamamaza ubucuruzi, bageze ku nzu ye y'ubucuruzi ye bakayisiga amarange y'ibirango byamamaza ibikorwa bya STARTIMES RWANDA Ltd, avuga ko abakozi bayo bamubwiye ko baza kuvugana bakanamwishyura amafaranga ajyanye n'ibyo bikorwa byakorewe ku nyubako ye, ariko ko atigeze yishyurwa kugeza ubwo yayandikiye ayisaba indishyi zikomoka kuri ibyo bikorwa yakoreye ku nyubako ye ariko ntiyamusubiza, bituma ayirega mu Rukiko rw'Ubucuruzi, asaba Urukiko kuyitegeka kuyishyura indishyi zikomoka ku bikorwa byamamaza ubucuruzi bwayo byakorewe ku nyubako ye.

STARTIMES RWANDA Ltd yireguye ivuga ko STAR AFRICA MEDIA CO Ltd yagiranye amasezerano na sosiyete BLUE1 Ltd yo kuyikorera ibikorwa byo kwamamaza ibikorwa byayo birimo gusiga amarange y'ikirango cyayo, bityo ko Gahunga Onesme yagombaga kurega BLUE1 Ltd, ivuga kandi ko indishyi zisabwa ari nyinshi.

Urukiko rw'Ubucuruzi rwakijije urwo rubanza rwemeza ko ikirego cya Gahunga Onesme gifite ishingiro, rutegeka STARTIMES RWANDA Ltd kwishyura Gahunga Onesme indishyi zo kuvogera umutungo we zingana na 18.500 Frw, indishyi z'akababaro zingana na 100.000 Frw, igihembo cya Avoka kingana na 500.000 Frw, amafaranga y'ikurikiranarubanza 60.000 Frw, no kumusubiza ingwate y'igarama ingana na 20.000 Frw.

Gahunga Onesme ntiyishimiye iyo mikirize y'urubanza maze ayijuririra mu Rukiko Rukuru rw'Ubucuruzi, arusaba gusuzuma niba indishyi zatanze ku rwego rubanza zihwanye n'agaciro k'igihe kingana n'imyaka 12 STARTIMES RWANDA Ltd yamaze ibyaza umusaruro umutungo we mu buryo bunyuranyije n'amategeko.

STARTIMES RWANDA Ltd yireguye ivuga ko ibyo kuvuga ko amarange amaze imyaka 12 asizwe ku nyubako ya Gahunga Onesme atari byo, kuko yasizwe nyuma y'uko STAR AFRICA MEDIA CO Ltd igiranye amasezerano na BLUE1 Ltd, ku wa 01/05/2018.

Mu Rukiko Rukuru rw'Ubucuruzi, BLUE1 Ltd yagobokeshejwe ku gahato mu rubanza, iburana ivuga ko hari ibyo yumvikanye na Gahunga Onesme mbere yo gusiga amarangi ku nzu ye.

Urukiko rwasanze STARTIMES RWANDA Ltd yaragombaga kuregwa kuko ibikorwa byayo ari byo bigaragara ku mutungo wa Gahunga Onesme, rwanasanze kandi BLUE1 Ltd ari yo igomba gutanga indishyi iziha Gahunga Onesme.

Urukiko Rukuru rw'Ubucuruzi rwakijije urwo rubanza rwemeza ko ubujurire bwa Gahunga Onesme bufite ishingiro kuri bimwe, ko BLUE1 Ltd yagombaga kumvikana na Gahunga Onesme nka nyir'umutungo mbere yo gusiga amarangi yamamaza ibikorwa bya STARTIMES RWANDA Ltd ku mutungo we nta burenganzira abihereye, bityo ko igomba kumuha indishyi zingana na 1.500.000Frw kandi ko urubanza rwaciwe na TC ruhindutse mu ngingo zarwo zose.

Sosiyete BLUE1 Ltd nayo yajuririye mu Rukiko rw'Ubujurire, inenga kuba Urukiko Rukuru rw'Ubucuruzi rwarahinduye ikirego kandi bitemewe n'Itegeko, bigatuma icibwa indishyi zikomoka ku bikorwa byo kwamamaza, asaba uru Rukiko gufata icyemezo kivanaho icy'Urukiko Rukuru rw'Ubucuruzi kiyitegeka kuyishyura indishyi.

Gahunga Onesme yemeranwa na sosiyete BLUE1 Ltd ko atari yo koko yari ikwiye gutegekwa kwishyura indishyi zijyanye no kuba yarasize amarangi yamamaza ku nzu ye, avuga ariko ko mu gutangiza uru rubanza ku rwego rwa mbere mu Rukiko rw'Ubucuruzi ariyo yareze STARTIMES RWANDA Ltd, bityo ko ariyo yishyura izi ndishyi ariko atazi ko itagira ubuzima gatozi, bityo akaba asaba ko mu cyemezo uru Rukiko rwazafata kuri ubu bujurire rwazemeza ko ku ikubitiro habayeho kurega utagomba kuregwa akaba adafite ububasha bwo kuregwa, bityo ibyemezo byose byafashwe kuri icyo kirego bikavanwaho.

Incamate y icyemezo : Kuba sosiyete yarezwe kuva mu nkiko zibanza kugeza mu bujurire bwa kabiri itari ifite ubuzima gatozi ndetse nta mwirondoro wuzuye yagaragarije urukiko, bivuze ko nta bubasha yari ifite yo kuburana mu nkiko, bityo imanza zabanje ziteshwa agaciro zikavanwaho ibintu bigasubira uko byari bimeze mbere.

**Ubujurire bufite ishingiro.
Amagarama y urubanza ahwanye n ibyarukozwemo.**

Amategeko yashingiweho:

Itegeko N°22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegets, ingingo ya 7.

Imanza zifashishijwe:

Urubanza RCOMAA 00009/2019/CA; GLOBAL SERVICES ENTERPRISE (GSE) v Akarere ka Ngororero. rwaciwe n'Urukiko rw'Ikirenga ku wa 03/07/2022

Urubanza

I. IMITERERE Y'URUBANZA

[1] Gahunga Onesme avuga ko mu mwaka wa 2018, STARTIMES RWANDA Ltd ubwo yari mu bikorwa byo kwamamaza ubucuruzi bwayo mu Ntara y'Iburengerazuba, Akarere ka Nyamasheke, Umurenge wa Kirimbi, Akagari ka Muhororo, Umudugudu wa Giseke, muri centre ya Duwani, bageze ku nzu y'ubucuruzi ye bakayisiga amarange y'ibirango byamamaza ibikorwa bya STARTIMES RWANDA Ltd. Avuga ko abakozi ba STARTIMES RWANDA Ltd bamubwiye ko baza kuvugana bakanamwishyura amafaranga ajyanye n'ibyo bikorwa byakorewe

ku nyubako ye, ariko ko atigeze yishyurwa kugeza ubwo ku wa 02/12/2019 yandikiye STARTIMES RWANDA Ltd ayisaba indishyi zikomoka kuri ibyo bikorwa yakoreye ku nyubako ye ariko ntiyamusubiza, ndetse ko ku wa 11/02/2020, Me Gabiro David mu izina rya Gahunga Onesme na we yandikiye STARTIMES RWANDA Ltd ayisaba indishyi ariko na we ntiyamusubiza.

[2] Gahunga Onesme avuga kandi ko nyuma yo kubona STARTIMES RWANDA Ltd itamusubije yayireze mu Rukiko rw'Ubucuruzi, ikirego cye gihabwa RCOM 00597/2020/TC, asaba Urukiko gutegeka STARTIMES RWANDA Ltd kuyishyura indishyi zikomoka ku bikorwa byamamaza ubucuruzi bwayo byakorewe ku nyubako ye. STARTIMES RWANDA Ltd yireguye ivuga ko STAR AFRICA MEDIA CO Ltd yagiranye amasezerano na BLUE1 Ltd yo kuyikorera ibikorwa byo kwamamaza ibikorwa bya STARTIMES RWANDA Ltd birimo gusiga amarange y'ikirango cyayo, muri ayo masezerano impande zombi zikumvikana aho zizajya zishyira ibyo birango, BLUE1 Ltd ikajya ibanza gusinyana amasezerano na nyir'umutungo ugiye gukorerwaho ibyo bikorwa byo kwamamaza, ko rero Gahunga Onesme yagombaga kurega BLUE1 Ltd. STARTIMES RWANDA Ltd yavuze kandi ko indishyi zisabwa ari nyinshi kuko mu masezerano yavuzwe haruguru BLUE1 Ltd yagombaga gusigira amarangi metero kare imwe ku mafaranga 3.700 Frw (3.700 Frw/1 m²).

[3] Urukiko rw'Ubucuruzi rwasuzumye ibibazo bigizwe no kumenya niba STARTIMES RWANDA Ltd yategekwe kwishyura Gahunga Onesme indishyi zingana na 10.000.000 Frw zikomoka ku bikorwa STARTIMES RWANDA Ltd yakoreye ku nyubako ya GAHUNGA Onesme, maze rusanga ibivugwa na STARTIMES RWANDA Ltd ko atari yo yagombaga kuregwa nta shingiro bifite, kuko ku nyubako hashyirwagaho ikirango cya STARTIMES RWANDA Ltd, bityo ko igomba kwishyura Gahunga Onesme indishyi z'ibikorwa yakoreye ku nyubako ye.

[4] Ku wa 21/09/2020, Urukiko rw'Ubucuruzi rwakijije urwo rubanza rwemeza ko ikirego cya Gahunga Onesme gifite ishingiro, rutegeka STARTIMES RWANDA Ltd ishami rya STAR MEDIA RWANDA CO Ltd kwishyura Gahunga Onesme indishyi zo kuvogera umutungo we zingana na 18.500 Frw, indishyi z'akababaro zingana na 100.000 Frw, igihembo cya Avoka kingana na 500.000 Frw, amafaranga y'ikurikiranarubanza 60.000 Frw, no kumusubiza ingwate y'igarama ingana na 20.000 Frw.

[5] GAHUNGA Onesme ntiyishimiye iyo mikirize y'urubanza RCOM 00597/2020/TC, ayijuririra mu Rukiko Rukuru rw'Ubucuruzi, ubujurire bwe buhabwa RCOMA 00642/2020/HCC, arusaba gusuzuma niba indishyi zatanzwe ku rwego rubanza zihwanye n'agaciro k'igihe kingana n'imyaka 12 STARTIMES RWANDA Ltd yamaze ibyaza umusaruro umutungo we mu buryo bunyuranyije n'amategeko. STARTIMES RWANDA Ltd yireguye ivuga ko ibyo kuvuga ko amarange amaze imyaka 12 asizwe ku nyubako ya Gahunga Onesme atari byo, kuko yasizwe nyuma y'uko STAR AFRICA MEDIA CO Ltd igiranye amasezerano na BLUE1 Ltd, ku wa 01/05/2018. Mu Rukiko Rukuru rw'Ubucuruzi, BLUE1 Ltd yagobokeshejwe ku gahato mu rubanza, iburana ivuga ko hari ibyo yumvikanye na Gahunga Onesme mbere yo gusiga amarangi ku nzu ye, ngo uretse ko nta nyandiko ihari ibigaragaza, kandi ko buri m² imwe bayisigiraga irange ku mafaranga 3.700 Frw, bakumvikana na nyir'inzu kubera inyungu bari bafitemo, kandi ko amasezerano bari bafite yari ay'umwaka umwe (1an).

[6] Urukiko Rukuru rw'Ubucuruzi rwasesenguye ibibazo birimo kumenya niba STARTIMES RWANDA Ltd itaragombaga kuregwa, niba umutungo wa GAHUNGA Onesme umaze imyaka 12 ukorerwaho ibikorwa byo kwamamaza, no kuba byaragombaga kongera ingano y'indishyi no kumenya uwazishyura n'indishyi z'ibyatakajwe mu rubanza. Urukiko rwasanze STARTIMES RWANDA Ltd yaragombaga kuregwa kuko ibikorwa byayo ari byo bigaragara ku mutungo wa Gahunga Onesme, rwanasanze kandi BLUE1 Ltd ari yo igomba gutanga indishyi iziha Gahunga Onesme.

[7] Ku wa 13/01/2022, Urukiko Rukuru rw'Ubucuruzi rwakijije urwo rubanza rwemeza ko ubujurire bwa Gahunga Onesme bufite ishingiro kuri bimwe, ko BLUE1 Ltd yagombaga kumvikana na Gahunga Onesme nka nyir'umutungo mbere yo gusiga amarangi yamamaza ibikorwa bya STARTIMES RWANDA Ltd ku mutungo we, ko yanagombaga kwirengera ibijyanye n'ibirego bikomoka ku kazi yahawe nk'uko bikubiye mu masezerano yo ku wa 01/05/2018 ayo masosiyete yagiranye, ko BLUE1 Ltd itigeze yumvikana na Gahunga Onesme mbere yo gusigaho amarangi ku mutungo we, ikaba igomba kumuha indishyi zingana na 1.500.000 Frw zijyanye no kuba yarasize amarangi yamamaza ku mutungo we nta burenganzira abiyihereye, ko BLUE1 Ltd igomba guha STARTIMES RWANDA Ltd indishyi z'ibyatakajwe mu rubanza zingana na 500.000 Frw y'igihembo cya Avoka, 100.000 Frw y'ikurikiranarubanza. Rutegeka ko urubanza RCOM 00597/2020/TC rwaciwe n'Urukiko rw'Ubucuruzi ku wa 21/09/2020 ruhindutse mu ngingo zarwo zose, ko BLUE1 Ltd igomba guha Gahunga Onesme 60.000 Frw yatanzeho ingwate y'amagarama ku rwego rwa mbere no ku rwego rw'ubujurire.

[8] Ku wa 10/02/2022, BLUE1 Ltd yajuririye urubanza RCOMA 00642/2020/HCC mu Rukiko rw'Ubujurire, ubujurire bwayo buhabwa RCOMAA 00028/2022/CA, inenga kuba Urukiko Rukuru rw'Ubucuruzi rwarahinduye ikirego kandi bitemewe n'Itegeko, bigatuma icibwa indishyi zikomoka ku bikorwa byo kwamamaza STARTIMES RWANDA Ltd byakorewe ku nyubako ya Gahunga Onesme, no kuba yaraciwe igihembo cya Avoka n'amafaranga y'ikurikiranarubanza STARTIMES RWANDA Ltd yakoresheje mu gukurikira urubanza.

[9] Gahunga Onesme mu myanzuro ye yo kwiregura yari yatangiye avuga ko indishyi yagenewe zifite ishingiro, ariko ko STARTIMES RWANDA Ltd ari yo igomba kuzitanga kuko ibirango byashyizwe ku nyubako ye biyamamaza ikaba ari yo yungukira muri ibyo bikorwa aho kuba BLUE1 Ltd, akanasaba ko indishyi yagenewe zakongerwa kuko ari nkeya, kandi muri ubu bujurire bwa kabiri akagenerwa amafaranga y'ikurikiranarubanza n'igihembo cya Avoka. Ariko mu iburanisha muri uru Rukiko rw'Ubujurire, iyo miburanire yaje guhinduka nk'uko biri busobanurwe mu bindi bika by'uru rubanza.

[10] Mu iburanisha muri uru Rukiko ryatangiye ku wa 02/11/2022, BLUE1 Ltd mu izina ry'Umuyobozi wayo yitabye uwo munsu ihagarariwe na Me Manirafasha Jean Paul, STAR AFRICA MEDIA Ltd mu izina ry'umuyobozi wayo yitaba ihagarariwe na Me Gahamanyi Justin, naho Gahunga Onesme ahagarariwe na Me GABIRO David, habanza gusuzumwa ikibazo cya qualité (ububasha) y'uregwa muri ubu bujurire witwa STAR AFRICA MEDIA Co Ltd uvuga ko atigeze aba umuburanyi muri uru rubanza ku rwego rubanza mu Rukiko rw'Ubucuruzi no ku rwego rw'ubujurire bwa mbere mu Rukiko Rukuru rw'Ubucuruzi, ngo akaba adakwiye gutangirira kuba umuburanyi muri uru rubanza kuri uru rwego rw'ubujurire bwa kabiri. Urukiko rwashyize isomwa ry'icyemezo cyarwo kuri iki kibazo ku wa 25/11/2022.

[11] Ku wa 25/11/2022, Urukiko rwafashe icyemezo kuri iyo nzitizi imaze kuvugwa haruguru, rwemeza ko inzitizi yatanze na STAR AFRICA MEDIA CO Ltd ifite ishingiro kuri bimwe, rwemeza ko STAR AFRICA MEDIA CO Ltd itagomba kuba umuburanyi muri uru rubanza kuko yarurezwemo bwa mbere kuri uru rwego rw'ubujurire bwa kabiri, rwemeza kwakira ubujurire bwatanze na BLUE1 Ltd ku bireba ababuranyi basigaye barubayemo ababuranyi mu rubanza rwajuririwe, rutegeka ko iburanisha ry'uru rubanza hagati y'ababuranyi barusigayemo rizakomereza ku wa 11/01/2023 guhera i saa tatu n'igice za mu gitondo.

[12] Mu gusobanura impamvu z'iki cyemezo ku nzitizi, muri urwo rubanza rubanziriza urundi Urukiko rwasobanuye ko ku birebana n'ibyari byasabwe n'ababuranyi BLUE1 Ltd na GAHUNGA Onesme ko mu gihe STAR AFRICA MEDIA CO Ltd izaba itakiri mu rubanza Urukiko rwazazanamo STARTIMES RWANDA Ltd wagaragayemo mbere nk'uregwa, rusanga ibyo bari basabye bifite ishingiro hashingiwe ku biteganywa n'ingingo ya 153, igika cya mbere y'Itegeko n°22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu iha Urukiko iyo nshingano yo kuzana mu rubanza rw'ubujurire, ku bw'itegeko n'iyi byaba bitasabwe n'uwajuriye, umuntu wese wabayemo umuburanyi mu rubanza rwajuririwe. Urukiko rwasobanuye ariko ko rusanga kugira ngo iyi nshingano ruhabwa n'itegeko ishobore gushyirwa mu bikorwa ababuranyi BLUE1 Ltd na Gahunga Onesme basigaye muri uru rubanza kandi bagaragaje mu myanzuro yabo ko hari ibyo baregaga STARTIMES RWANDA Ltd ari bo bafite inshingano zo kuzagaragaza niba uwo bifuzaga kugira ibyo baryoza abaho koko mu rwego rw'amategeko kandi bakaba aribo bagaragaza umwirondoro we wuzuye Urukiko rwazabasha kumuhamagazaho nk'uko babisabwaga n'ingingo ya 7 y'itegeko n°22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu, byabananiraga urubanza rukazakomeza ku baburanyi babasha kuboneka bazaba basigaye mu rubanza no ku ngingo z'ubujurire zibareba zizaba zisigaye.

[13] Ku wa 11/01/2023, iburanisha ryarakomeje BLUE1 Ltd mu izina ry'Umuyobozi wayo ihagarariye na Me Manirafasha Jean Paul, naho Gahunga Onesme ahagarariye na Me GABIRO David, naho STARTIMES RWANDA Ltd idahari kandi nta muburanyi n'umwe mu bitabye ubasha kugaragaza ko yaba ibaho mu buryo bwemewe n'amategeko ndetse n'aho yaba ibarizwa. Nyuma yo kumva ababuranyi bitabye bivugira mu iburanisha ko ntawe ufite icyo yifuza gutsindira undi hagati yabo, Urukiko rwasuzumye gusa ikibazo gisigaye muri uru rubanza cyerekeranye no kumenya agaciro kahabwa ibyemezo byafashwe n'inkiko ku rubanza rwatangijwe haregwa STARTIMES RWANDA Ltd uwayireze atigeze abasha kugaragariza Urukiko ko ifite ubuzima gatozi. Urukiko rwashyize isomwa ry'urubanza ku wa 27/01/2023, ari nacyo gihe rusomeweho mu ruhamwe.

II. ISESENGURA RY'IKIBAZO KIGIZE URUBANZA

Kumenya agaciro kahabwa ibyemezo byafashwe n'inkiko ku rubanza rwatangijwe haregwa STARTIMES RWANDA Ltd mu gihe Gahunga Onesme wayireze atigeze abasha kugaragariza Urukiko ko ifite ubuzima gatozi

[14] Me Manirafasha Jean Paul, uhagarariye BLUE1 Ltd, asaba uru Rukiko gufata icyemezo kivanaho icy'Urukiko Rukuru rw'Ubucuruzi gitegeka BLUE1 Ltd kwishyura Gahunga Onesme

amafaranga y'ikurikiranarubanza n'ay'indishyi zijyanye no kuba yarasize amarangi yamamaza ku nzu ye batabanje kubyumvikanaho nka nyir'umutungo, no gukuraho amafaranga y'ikurikiranarubanza n'igihembo cya Avoka BLUE1 Ltd yategetswe guha STARTIMES RWANDA Ltd.

[15] Me Gabiro David uhagarariye Gahunga Onesme yemeranwa na Me Manirafasha Jean Paul uhagarariye BLUE1 Ltd ko BLUE1 Ltd atari yo koko yari ikwiye gutegekwa kwishyura Gahunga Onesme amafaranga y'ikurikiranarubanza n'ay'indishyi zijyanye no kuba yarasize amarangi yamamaza ku nzu ye. Avuga ariko ko mu gutangiza uru rubanza ku rwego rwa mbere mu Rukiko rw'Ubucuruzi Gahunga Onesme yareze STARTIMES RWANDA Ltd ariyo yishyura izi ndishyi ariko atazi ko itagira ubuzima gatozi, agasaba ko mu cyemezo uru Rukiko rwazafata kuri ubu bujurire rwazemeza ko ku ikubitiro habayeho kurega utagomba kuregwa/udafite ububasha bwo kuregwa, ibyemezo byose bafashwe kuri icyo kirego bikavanwaho, Gahunga Onesme akazashaka uko yongera kurega neza uwo azaba ashaka kurega.

[16] Nta muburanyi n'umwe wigeze agaragaza ko hari icyamubangamira uru Rukiko ruramutse ruhaye ishingiro ibyifuzo byombi by'ababuranyi bimaze kugaragazwa harugu. Byongeye kandi, ku kibazo cy'uburyozwe bw'iby ababuranyi batanze kuri uru rubanza, ababuranyi bombi bavuga ko ari ntawe ufite icyo asaba ko Urukiko rwategeka kwishyura undi.

UKO URUKIKO RUBIBONA

[17] Ingingo ya 7 agace ka 3^o y'Itegeko N°22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi (CPCCSA), iteganya ko imwe mu nshingano z'ibanze z'urega ari ukugaragariza Urukiko aregeye umwirondoro wuzuye w'uwo arega n'aho abarizwa, harimo e-mail na nimeru ya telefoni yabarizwaho iyo bishoboka. Naho ingingo ya 2, agace ka 7^o, y'iryo Tegeko igateganya ko ububasha bw'umuburanyi ari uburenganzira umuntu ahabwa n'amategeko akabukoresha arengera inyungu iyi n'iyi mu Rukiko cyangwa yumvikanisha ibyo asaba cyangwa arwanya ibisabwa n'undi.

[18] Ku birebana no kuba ababuranyi BLUE1 Ltd na Gahunga Onesme basigaye mu rubanza ntacyo umwe yifuzaga gutsindira undi muri uru rubanza kandi ku ngingo n'ibyifuzo bya buri wese muri uru rubanza bombi bakaba bavuga rumwe, Urukiko rurasanga hagati yabo nta rubanza rufite rwo kubacira kuko ntacyo bafitanyeho impaka.

[19] Muri uru rubanza ikibazo gisigaye ni icyo kumenya niba mu gihe urega watangije urubanza ku rwego rwa mbere yiyemerera ko yareze STARTIMES RWANDA Ltd atabasha kugaragariza ikimenyetso cy'uko yaba ifite ubuzima gatozi ndetse n'umwirondoro wuzuye hari agaciro gakwiye guhabwa ibyemezo inkiko zabanje zafashe kuri icyo kirego ku nzego zombi zabanjirije urw'ubu bujurire bwa kabiri, cyane cyane ko na Gahunga Onesme wari watangije uru rubanza yisabira ubwe koi zo manza zitashyirwa agaciro zikavanwaho, ibintu bigasubira nk'uko byari bimeze mbere y'uko atangiza ikirego mu Rukiko rw'Ubucuruzi.

[20] Dosiye y'urubanza igaragaza ko ikirego cyatanze ku rwego rwa mbere kuri RCOM 00597/2020/TC rwaciye n'Urukiko rw'Ubucuruzi ku wa 21/09/2020 cyatangijwe na Gahunga Onesme arega STARTIMES RWANDA Ltd mu izina ry'umuyobozi wayo, urubanza rukomeza

gutyo kugeza mu Rukiko Rukuru rw'Ubucuruzi ahagobokeshejwe BLUE1 Ltd mu rubanza RCOMA 00642/2020/HCC rwaciwe n'Urukiko Rukuru rw'Ubucuruzi ku wa 13/01/2022, BLUE1 Ltd yajuririra mu Rukiko rw'Ubujurire ikarega STAR AFRICA MEDIA Co Ltd ngo kuko ari yo bagiranye amasezerano yabaye intandaro y'igobokeshwa ryayo muri rubanza, ariko Urukiko rw'Ubujurire mu rubanza rubanziriza urundi rwaciwe ku wa 25/11/2022, rwemeza ko STAR AFRICA MEDIA Co Ltd itagomba kuba umuburanyi muri uru rubanza kuko yaruzwemo bwa mbere kuri uru rwego rw'ubujurire bwa kabiri.

[21] Urukiko rw'ubujurire rurasanga mu miburanire y'urubanza ababuranyi BLUE1 Ltd na Gahunga Onesme barusigayemo bemerawa ko umwe ntacyo agomba undi kandi ko imanza zaciwe kuri icyo kibazo ku nzego zabanje zakurwaho, Urukiko rukaba rugomba kubiha ishingiro, rukemeza ko izo manza zivuyeho.

[22] Urukiko rw'ubujurire rushingiye ku bimaze gusobanurwa no ku biteganywa n'amategeko yavuzwe haruguru ku birebana n'inshingano y'urega ku kugaragaza uwo arega n'umwirondoro we ndetse n'ububasha bwo kuburanishwa mu nkiko, rurasanga ikirego cya Gahunga Onesme arega STARTIMES RWANDA Ltd cyaratanzwe mu Rukiko rw'Ubucuruzi mu buryo bunyuranije n'ibiteganywa n'izo ngingo z'Itegeko zibukijwe haruguru, kikaba kitaragombaga kwakirwa ngo gisuzumwe kuko nta bubasha bwo kuburana mu Nkiko STARTIMES RWANDA Ltd ifite, Gahunga Onesme na we akaba yemera ko yareze udashobora guhabwa inshingano mu mategeko, dore ko uwo wari warezwe atanigeze ashobora kuboneka cyangwa se guhagararirwa mu Rukiko mu buryo bwemewe n'amategeko. Bityo ru Rukiko rukaba rusanga n'imanza zaciwe ku kirego GAHUNGA Onesme yatangiye zikaba zigomba guteshwa agaciro zikavanwaho nk'uko no mu bihe bitandukanye byashize uru Rukiko rwagiye rufata ibyemezo ku manza nk'izi¹, rukemeza ko imanza zose zabanje zitashyirwa agaciro zikavanwaho rutagarukiye gusa ku rubanza rwajuririwe.

III. ICYEMEZO CY'URUKIKO

[23] Rwemeje ko ubujurire bwa BLUE1 Ltd bufite ishingiro ku kuba ibyo yategetswe kwishyura byose mu rubanza rwajuririwe bivanwaho;

[24] Rwemeje ko ikirego Gahunga Onesme yareze STARTIMES RWANDA Ltd kitagombaga kwakirwa ngo gisuzumwe n'Urukiko rw'Ubucuruzi, kuko yareze udafite ububasha bwo kuburana;

[25] Rwemeje ko urubanza RCOM 00597/2020/TC rwaciwe ku rwego rwa mbere n'Urukiko rw'Ubucuruzi ku wa 21/09/2020, hamwe n'urubanza RCOMA 00642/2020/HCC rwaciwe mu bujurire n'Urukiko Rukuru rw'Ubucuruzi ku wa 13/01/2022, ziteshejwe agaciro kandi zivanyweho;

¹ Reba urubanza RCOMAA 00009/2019/CA rwaciwe ku wa 03/07/2022 hagati ya GLOBAL SERVICES ENTERPRISE (GSE) n'Akarere ka Ngororero mu izina ry'Umuyobozi wako, mu bika [48-50]. Reba kandi urubanza RCOMAA 00105/2020/CA rwaciwe ku wa 18/6/2021, hagati ya Enteprese EMUJABO, Akarere ka Muhanga, Radiant Insurance Company Ltd na Banque Populaire du Rwanda (BPR) Ltd (ubu yahindutse BPR Plc), mu bika [22-24].

[26] Ruvuze ko amafaranga y'amagarama y'uru rubanza yatanzwe na BLUE1 Ltd ahwanye n ibyarukozwemo.