UBUSHINJACYAHA v. NDAHUMBA N'ABANDI

[Rwanda URUKIKO RWISUMBUYE - RP 00372/2020/TGI/GSBO (Uwera, P.J., Gaju, Mukayiza, J.) 14 Mutarama 2022]

Amategeko agenga imanza z'inshinjabyaha – Kunyereza umutungo – Koperative – Iyakirwa ry'imirimo yarangije gukorwa na rwiyemezamirimo – Iyo abayobozi ba koperative bemeje ko ba rwiyemezamirimo barangije imirimo yabo bigatuma begukana amafaranga yose y'imirimo yari iteganyijwe gukorwa kandi mubyukuri yose itarakozwe ndetse n'imirimo itarakozwe ntigaragazwe n'amafaranga ba rwiyemezamirimo bari barimo koperative ntagaragazwe, bifatwa nko kurigisa umutungo wa koperative.

Amategeko agenga imanza z'inshinjabyaha – Gukoresha nabi umutungo ufitiye rubanda akamaro – Gukora no gukoresha inyandiko mpimbano – Amategeko agenga amakoperative – Amasezerano yahimbwe hagati y'abayobozi ba koperative na rwiyemezamirimo – Iyo bigaragaye ko amasezerano y'inyongera hagati ya rwiyemezamirimo n'abayobozi ba koperative yahimbwe agamije kugaragaza imirimo ya baringa itarakozwe, bifatwa nk'uburyo bwifashishijwe mukunyereza amafaranga ya koperative.

Amategeko agenga imiburanishirize y'imanza z'inshinjabyaha – Amategeko agenga amakoperative - Agaciro k'inyandiko itavugisha ukuri - Kugira ngo bigaragare ko inyandiko itavugisha ukuri ntibigombera kuba yarapimwe n'abahanga mu gihe bigaragarira urukiko ko ibiyikubiyemo bihabanye n'ukuri.

Incamake y'icyibazo: Urubanza rwashikirijwe Urukiko Rwisumbuye rwa Gasabo, Ubushinjacyaha buvuga ko Koperative COPCOM yateguye umushinga wo kubaka amazu y'ubucuruzi agezweho mu Gakiriro ka Gisozi, mu Mujyi wa Kigali, Umushinga wagombaga gushyirwa mu bikorwa n'abari ku buyobozi bwa Komite Nyobozi ya Koperative. Ubushinjacyaha bukomeza buvuga ko mu byemezo byafashwe hashyirwa mu bikorwa umushinga wo kubaka, harimo amasezerano anyuranye yagiye asinywa na Perezida, ayabimburiye ayandi akaba ari ayo gukora inyigo yakozwe hagati ya COPCOM na Mubiru Godefrey, uyu nawe akaba yaraje kugirana andi masezerano na COPCOM yo gukurikirana imirimo y'inyubako ariko noneho atari ku giti cye ahubwo ahagarariye ikigo cyitwa HISENSE ENGINEERS AND CONSULTANTS, hanyuma kugira ngo bitazatahurwa, Mubiru yagarutse ariwe ushinzwe ubugenzuzi bw'imirimo akoresheje ikigo cye cyitwa HI-SENSE ENGINEERS AND CONSULTANTS, bituma imikorere yo kwishyura imirimo ya baringa ndetse no kugaragaza ingano y'ibikoresho byakoreshejwe kuri izo nyubako yoroha mu gutsotsoba ibyaha byo gukoresha nabi no kunyereza umutungo wa COPCOM. Mu nyigo yakozwe yo kubaka amagorofa ya COPCOM, Ubushinjacyaha buvuga ko hateguwe uburyo bwo kunyereza amafaranga ya COPCOM bikozwe n'abari abayobozi bayo bifashishije Mubiru washyizemo imirimo irenga kuyateganywaga mu gishushanyo cy'ibyagombaga kubakwa kugira ngo n'amafaranga y'iyo mirimo irengaho yishyurwe nyamara bidahura n'ingano z'ahagombaga kubakwa, bakaba barabikoze kugira ngo bizabafashe kurigisa amafaranga ajyanye n'ibyo bikorwa bya baringa.

Ubushinjacyaha busobanura ko raporo y'igenzura yakozwe na ONCG Ltd igaragaza ko muri rusange COPCOM yishyuye 706.173.049 Frw ku mirimo itarakozwe, naho raporo y'igenzura ya ABBA Ltd igasobanura ko ETECO Ltd yatanze fagitire zose hamwe zifite agaciro ka 573.917.371 Frw ariko yishyurwa 938.298.327 Frw harimo 309.996.193 Frw y'imirimo itarakozwe (non-existing works) na 317.069.334 Frw y'imirimo yakozwe nabi cyangwa itararangiye, TECOM Ltd itanga fagitire zifite agaciro ka 445.683.552 Frw, yishyurwa 745.164.302 Frw harimo 218.057.296 Frw y'imirimo itarakozwe na 192.721.304 Frw y'imirimo yakozwe nabi cyangwa itararangiye, naho ECOBARUS Ltd itanga fagitire zifite agaciro ka 370.639.568 Frw ariko yishyurwa 680.698.910 Frw harimo 255.762.622 Frw y'imirimo yakozwe ntirangire cyangwa igakorwa nabi na 178.119.560 Frw

y'imirimo itarakozwe na mba. Naho raporo y'igenzura ya ABBA Ltd ikaba itanga ingero z'imirimo itandukanye yagombaga gukorwa itarakozwe ariko ikaba yarishyuwe, muriyo hakaba harimo n'inzira y'ababana n'ubumuga. Ubushinjacyaha bukomeza buvuga ko Mubiru na sosiyete ye HI-SENSE Ltd, n'abandi bafatanyije, bahimbye inyandiko, bakora amasezeano y'inyongera ku bikorwa byari bisanzwe biteganyijwe, bongera amafaranga yari agenewe kubaka za paves cyangwa amakaro nyamara nta buso bw'ahazubakwa hahari, ibyo byose bikaba bigaragaza ko bafatanyije gukoresha nabi umutungo wa COPCOM.

Mubiru yireguye avuga ko ibyo ubushinjacyaha bumurega atariwe wabibazwa ko byabazwa bari bashinzwe akanama k'amasoko naho Habakurama Venuste wari mubari bashinzwe akanama k'amasoko akavuga ko mu kuzamura ibiciro bagandeye ku mategeko y'ipiganwa yari yateguwe na Mubiru, byongeye kandi ba rwiyemezamirimo Nteziryayo Eric na sosiyete ye ETECO Ltd, Ahinkuye Bertin na sosiyete ye TECOM Ltd ndetse na Safari Fidèle na sosiyete ye ECOBARUS Ltd nabo bemera ko ibiciro batanze mu gihe cy'ipiganwa byahinduwe bikazamurwa, ariko na mbere y'uko bizamurwa, ibiciro bari baratanze kuri unit price ntibyahura n'ibiri kuri bills of quantities bari gushingiraho bishyuza. Mumyiregurire ye, Mubiru yakome avuga ko iby'Ubushinjacyaha buvuga ko hari imirimo ya baringa yemejwe ko yakozwe itarakozwe ataribyo kubera ko batari guhabwa uburenganzira bwo gukorera mu nyubako imirimo itararangira, akavuga ko igenzura ryakozwe na ABBA Ltd ridakwiye guhabwa agaciro kubera ko atarihamagawemo, naho ibijyanye n'nyandiko z'akanama k'amasoko zikaba zidakwiye kubazwa HI-SENSE Ltd kubera ko yari itaratangira imirimo, naho bons de commandes zikaba zitakwitwa inyandiko mpimbano kandi zitarapimwe n'abahanga ndetse HI-SENSE Ltd ikaba itabibazwa kuko itari ishinzwe kwishyura, naho iby'imirimo y'inyongera hakaba nta kibazo kirimo kuba yarakozwe havuguruwe amasezerano bitewe n'uko ariko bigenda mu bwubatsi kuko hagenda haboneka indi mirimo ikenewe bitewe n'aho inyubako igeze.

Incamake y'icyemezo: 1. Iyo abayobozi ba koperative bemeje ko ba rwiyemezamirimo barangije imirimo yabo bigatuma begukana amafaranga yose y'imirimo yari iteganyijwe gukorwa kandi mubyukuri yose itarakozwe ndetse n'imirimo itarakozwe ntigaragazwe n'amafaranga ba rwiyemezamirimo bari barimo koperative ntagaragazwe, bifatwa nko kurigisa umutungo wa koperative. Bityo ibyo abaregwa bireguza nta shingiro bifite mu gihe batagaragaza icyatumye bajya kwakira by'agateganyo izo nyubako igitaraganya, nta raporo tekiniki yakozwe, imirimo itarakozwe ntigaragazwe n'amafaranga ba rwiyemezamirimo bari barimo koperative ntagaragazwe.

2. Iyo bigaragaye ko amasezerano y'inyongera hagati ya rwiyemezamirimo n'abayobozi ba koperative yahimbwe agamije kugaragaza imirimo ya baringa itarakozwe, bifatwa nk'uburyo bwifashishijwe mukunyereza amafaranga ya koperative. Bityo abaregwa bakaba barahimbye inyandiko bagamije kunyereza no gukoresha nabi umutungo wa Koperative.

3. Kugira ngo bigaragare ko inyandiko itavugisha ukuri ntibigombera kuba yarapimwe n'abahanga mu gihe bigaragarira urukiko ko ibiyikubiyemo bihabanye n'ukuri. Bityo ibyo ibyo Mubiru avuga ngo bons de commandes zitapimwe n'abahanga ntizashingirwa ho nta shingiro bifite.

Ikirego cyatanzwe n'ubushinjacyaha gifite ishingiro.

Amategeko yakoreshejwe:

Itegeko-Ngenga n° 01/2012/OL ryo ku wa 02/05/2012 rishyiraho Igitabo cy'amategeko ahana, ingingo za 325, 614, na 627,

Itegeko N° 024/2021 ryo ku wa 27/04/2021 rigenga amakoperative mu Rwanda, ingingo ya 148,

Itegeko nº 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ingingo ya 3 na 108,

Itegeko Nº68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri Rusange, ingingo ya 276,

Itegeko N°54/2018 ryo kuwa 13/08/2018 ryerekeye kurwanya ruswa, ingingo ya 10 na 12,

Itegeko n° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ingingo ya 119

Ntamanza zashingiweho.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Ubushinjacyaha buvuga ko Koperative COPCOM yateguye umushinga wo kubaka amazu y'ubucuruzi agezweho mu Gakiriro ka Gisozi, mu Mujyi wa Kigali, mu Karere ka Gasa bo, Umurenge wa Gisozi, Akagali ka Musezero, Umudugudu wa Gasave, Umushinga wagombaga gushyirwa mu bikorwa n'abari ku buyobozi bwa Komite Nyobozi ya Koperative ari bo: Ndahumba Emile wari Perezida; Mbagizente Edouard wari Visi perezida; Uwitonze Joachim wari Umwanditsi; na Uwicyeza Consolée hamwe na Nyirurugo Aimable bari Abajyanama. Mu mikorere ya Koperative ibyemezo bya Komite Nyobozi bifatwa ku bwiganze bwa 2/3 by'abayigize bigasinywa na Perezida.

[2] Ubushinjacyaha bukomeza buvuga ko mu byemezo byafashwe hashyirwa mu bikorwa umushinga wo kubaka, harimo amasezerano anyuranye yagiye asinywa na Perezida, ko ayabimburiye ayandi ari ayo gukora inyigo yakozwe hagati ya COPCOM na Mubiru Godefrey, uyu nawe akaba yaraje kugirana andi masezerano na COPCOM yo gukurikirana imirimo y'inyubako (surveillance), ariko noneho atari ku giti cye ahubwo ahagarariye ikigo cyitwa HI- SENSE ENGINEERS AND CONSULTANTS. Buvuga ko kugira ngo bitazatahurwa, Mubiru Godfrey yagarutse ariwe ushinzwe ubugenzuzi bw'imirimo (Mission de surveillance) akoresheje ikigo cye cyitwa HI-SENSE ENGINEERS AND CONSULTANTS, bituma imikorere yo kwishyura imirimo ya baringa ndetse no kugaragaza ingano y'ibikoresho byakoreshejwe kuri izo nyubako yoroha mu gutsotsoba ibyaha byo gukoresha nabi no kunyereza umutungo wa COPCOM.

[3] Muri iyo nyigo yo kubaka amagorofa ya COPCOM, Ubushinjacyaha buvuga ko hateguwe uburyo bwo kunyereza amafaranga ya COPCOM bikozwe n'abari abayobozi bayo bifashishije Mubiru Godfrey kuko muri iyo nyigo yakoze yashyizemo imirimo irenga kuyateganywaga mu gishushanyo (plan) cy'ibyagombaga kubakwa kugira ngo n'amafaranga y'iyo mirimo irengaho yishyurwe nyamara bidahura n'ingano (dimension) z'ahagombaga kubakwa, ko rero ibyo babikoze kugira ngo bizababafashe kurigisa amafaranga ya COPCOM ajyanye n'ibyo bikorwa bya baringa, kuko hakurikijwe ibyari mu masezerano baje gusanga, bitazaborohera kunyereza, kubera ko mu masezerano harimo ingingo ziteganya ko hazajya hishyurwa inyemezabuguzi z'imirimo yakozwe, kandi ikagaragazwa mbere y'uko Rwiyemezamirimo yishyurwa.

[4] Mu nshingano z'ubugenzuzi (mission de surveillance) za HI-SENSE ENGINEERS & CONSULTANTS Ltd byari biteganyijwe ko inyemezabuguzi yose ya Rwiyemezamirimo igomba kwishyurwa ari uko yagenzuye ko iyo mirimo yishyuzwa yakozwe koko (relevés contradictoires des quantités réellement exécutés) ariko ibyo bikaba byarirengangijwe kugira ngo umugambi wabo ugerweho maze bashyiraho uburyo bwabo bwo guhimba inyandiko zivuga ko hagemuwe ibikoresho byo kubaka ku nyubako za COPCOM, ndetse n'abayobozi ba COPCOM bijandika mu gutanga za Bon de commande kandi ataribyo biteganyijwe mu masezerano bituma hishyurwa amafaranga atagira ingano yiswe ko yishyuwe abagemuye ibikoresho, nyamara nta bordereau d'expédition cyangwa note de livraison. Ko rero mu mugambi wabo hari ibikorwa bya baringa byishyuwe, imirimo yishyuwe itarakozwe, imirimo yishyuwe inshuro ebyiri ku gikorwa kimwe, akaba ariyo mpamvu bakoze inyandiko bise reception provisoire zigamije kwerekana ko imirimo yose yakozwe kandi nta genzura (contrôle physique) ry'imirimo ryakozwe.

[5] Nyuma yo kunyereza amafaranga ya COPCOM no gukora inyandiko zigaragaza ko imirimo yarangiye, abari abayobozi ba COPCOM batagize uruhare muri ibyo bikorwa, basabye ko habaho décompte final ariko abari bafite inshingano yo kuyikora barabyanga kubera ko byari kuzagaragaza ko ibyo bemeje mu nyandiko ko bakoze batabikoze, aho akaba ariho Ubushiinjacyaha buhera buvuga ko inyandiko banditse bavuga ko imirimo yarangiye ari impimbano kuko zirimo ibinyoma, kuko kuva mu ntangiriro z'umushinga wo kubaka inyubako za COPCOM kugeza ubu hagiye hakoreshwa amayeri n'uburiganya hagamijwe kurigisa umutungo wayo hakaba harimo ibi bikurikira:

i. gusinya amasezerano na ba Rwiyemezamirimo barenze umwe ku gikorwa kimwe,

ii. kwemeza imirimo y'inyongera ya baringa ikishyurwa,

iii. kwemeza ko hari imirimo yarangiye kandi itarakozwe,

iv. kwirengagiza ibikubiye mu masezerano bagiranye na ba Rwiyemezamirimo,

v. kwishyiriraho uburyo bwo gusohora amafaranga biciye muri Bon de commandes kandi ataribyo byemeranyijweho mu masezerano.

[6] Ubushinjacyaha buvuga ko umugambi wo gukora ibikorwa bigize ibyaha washyizwe mu bikorwa na Ndahumba Emile, Mbagizente Edouard, Uwitonze Joachim, Nyirurugo Aimable Uwicyeza Consolée, Mutware Bienvenu, Mwiza Ernest, Nteziryayo Eric, Mubiru Godfrey, Safari Fidèle, Ahinkuye Bertin, Uwizeyimana Alphonsine, Mutabazi Allan, Habakurama Venuste, Nubuhoro Janvière, ECOBARUS, HI-SENSE, TECOM na ETECO; ko na nyuma yo gusinya amasezerano, byagaragaye ko hari n'andi mafaranga yarigishijwe adafite ibisobanuro kandi bari bemeje mu ngingo ya 10 y'amasezerano yo kuwa 02/08/2012 ko ibiciro bikubiye mu masezerano bidahinduka.

[7] Ubushinjacyaha bumaze gutanga ibimenyetso, bwasabye uru Rukiko kwemeza ko:

i. Ndahumba Emile, Nteziryayo Eric, Ahinkuye Bertin, Safari Fidèle, Uwitonze Joachim, Nubuhoro Janviere, Mbagizente Edouard, Mubiru Godfrey, Mutware Bienvenue, Uwizeyimana Alphonsine na Mutabazi Allan bahamwa n'ubufatanyacyaha mu kunyereza umutungo wa koperative COPCOM ungana na 510.488.219 Frw bubasabira;

ii. Mubiru Godfrey (HI-SENSE), Mutware Bienvenu, Ndahumba Emile, Uwizeyimana Alphonsine na Mutabazi Allan bahamwa n'ubufatanyacyaha mu guhimba, guhindura inyandiko cyangwa gukoresha inyandiko mpimbano; bubasabira gufungwa imyaka 10 kuri buri wese no gutanga ihazabu ya 510.488.219 Frw × 2 = 1.020.976.438 Frw;

iii. Mubiru Godfrey, Mutware Bienvenu, Ndahumba Emile, Uwizeyimana Alphonsine na Mutabazi Allan bahamwa n'ubufatanyacyaha mu guhimba, guhindura inyandiko cyangwa gukoresha inyandiko mpimbano;

iv. Ndahumba Emile, Nteziryayo Eric, Ahinkuye Bertin, Safari Fidèle, Uwitonze Joachim, Nubuhoro Janvière, Mbagizente Edouard, Mubiru Godfrey, Mutware Bienvenue, Uwizeyimana Alphonsine na Mutabazi Allan bahamwa n'ubufatanyacyaha mu kunyereza umutungo wa COPCOM ungana na 510.488.219 Frw no guhanisha buri wese igifungo cy'imyaka irindwi (7) n'ihazabu y'amafaranga yikubye inshuro ebyiri (2) z'agaciro k'umutungo warigishijwe (ungana na 510.488.219 Frw × 2 = 1.020.976.438 Frw);

v. HI-SENSE, ETECO Ltd, TECOM Ltd, na ECOBARUS Ltd bahanishwa ihazabu ingana n'amafaranga y'u Rwanda yikubye inshuro ebyiri z'agaciro k'amafaranga zagizemo uruhare mu kunyereza, HI SENSE Ltd ikazatanga 467.552.829 Frw;

ETECO Ltd ikazatanga 576.222.918 Frw; TECOM ikazatanga: 550.132.818 Frw na ECOBARUS ikazatanga: 445.792.538 Frw;

vi. Abaregwa bafatanya gusubiza umutungo wa COPCOM ugizwe n'amafaranga angana na 510.488.219 Frw banyereje ndetse urukiko rugahera ku mitungo y'abaregwa yatambamiwe n'Ubushinjacyaha kugira ngo hagaruzwe umutungo wa COPCOM wanyerejwe.

[8] COPCOM iregera indishyi yasabye ko abaregwa batanga indishyi zingana na 1.709.575.648 Frw y'umutungo wose wanyerejwe; amafaranga y'ikurikiranarubanza angana na 30.000.000 Frw, akubiyemo 3.500.000 Frw ya audit financier, 3.500.000 Frw audit technique, 20.000 Frw y'ingwate y'amagarama, 12.980.000 ya transports, diligence, communications na photocopies na 10.000.000 Frw y'igihembo cy'abavoka.

[9] Ndahumba Emile ntiyitabye Urukiko, ariko yaburanishijwe adahari kuko yarezwe ndetse anahamagazwa nk'uwatorotse ubutabera; naho Mbagizente Edouard, Uwitonze Joachim, Uwicyeza Consolée, Nyirurugo Aimable, Mutware Bienvenu, Mubiru Godfrey, HI- SENSE ENGINEERS AND CONSULTANTS Ltd, Nteziryayo Eric, Entreprise ETECO Ltd, Ahinkuye Bertin, Entreprise TECOM Ltd, Safari Fidèle, Entreprise ECOBARUS Ltd, Nubuhoro Janvière, Uwizeyimana Alphonsine, Mutabazi Allan, Habakurama Venuste, Mwiza Ernest bose bahakanye ibyaha baregwa, bagasaba kugirwa abere, bityo ko nta n'indishyi bakwiye gutanga.

[10] Urubanza rwaburanishijwe Mbagizente Edouard na Uwizeyimana Alphonsine bunganiwe na Me Bayingana Janvier na Me Ngendakuriyo Célestin; Uwitonze Joachim; Mubiru Godfrey, Mwiza Ernest; Habakurama Venuste na Uwicyeza Consolée bunganiwe na Me Nsabimana Jean-Baptiste, Mutabazi Allan; Nyirurugo Aimable na Nubuhoro Janvier bunganiwe na Me Nshuti Salim, Uwicyeza Consolée yunganiwe na Me Ntabwoba Francois Xavier; Mutware Bienvenu yunganiwe na Me Nshimirwa Munyura Xavier, HI- SENSE ihagarariwe na Mubiru Godfrey, yunganiwe na Me Nsabimana Jean-Baptiste, Me Nsengiyumva Collette na Me Ntaganda Felix; TECOM LTD ihagarariwe na Ahinkuye Bertin, ECOBARUS Ltd ihagarariwe na Safari Fidèle, ETECO Ltd ihagarariwe na Nteziryayo Eric, bose bunganiwe na Me Ndahimana Jean Bosco; naho COPCOM iregera indishyi urubanza rwatangiye ihagarariwe na Me Musore Gakunzi Valery na Me Muhodari Jean de Dieu, baza kugurwa mu rubanza na COPCOM, rukomezwa na Me Murekatete Herniette na Me Akimana Elisabeth.

II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

1. **Kumenya niba ibikorwa byari bikubiye mu masezerano COPCOM yagiranye na ba rwiyemezamirimo byarubahirijwe nabo byarebaga cyangwa niba haribindi byongewemo bitari ngombwa.**

a. Ubufatanyacyaha ku cyaha cyo kurigisa umutungo wa COPCOM

[11] Ubushinjacyaha buvuga ko Koperative COPCOM yateguye umushinga wo kubaka amazu y'ubucuruzi agezweho mu Gakiriro ka Gisozi, mu Mujyi wa Kigali, mu Karere ka Gasabo, Umurenge wa Gisozi, Akagali ka Musezero, Umudugudu wa Gasave. Busobanura ko umushinga wari gushyirwa mu bikorwa na Komite Nyobozi ya Koperative igizwe na Ndahumba Emile, Perezida; Mbagizente Edouard, Visi Perezida; Uwitonze Joachim, Umwanditsi, Uwicyeza Consolée na Nyirurugo Aimable, bari Abajyanama. Buvuga ko mugutangira Ndahumba Emile yakoranye amasezerano anyuranye na Mubiru Godfrey, habanza gukorwa inyigo yo kubaka amagorofa ya COPCOM, hakurikiraho amasezerano y'igenzura (surveillance), aya akaba yarasinywe na Mubiru Godfrey mu izina rya sosiyete ye yitwa HI-SENSE ENGINEERS AND CONSULTANTS Ltd.

[12] Ubushinjacyaha buvuga ko umugambi wo kunyereza umutungo wa Koperative ugaragarira muri ibi bikurikira:

i. Kuba mu masezerano yo gukora inyigo atarubahirijwe ahubwo hakongerwamo imirimo ya baringa irenga kuyateganywijwe ku gishushanyo cyemeranyijweho;

ii. Kuba Mubiru Godfrey wari warahawe inshingano zo gukora inyigo, ari nawe wahawe inshingano z'ubugenzuzi (surveillance) abinyujije muri sosiyete ye bigakorwa hagamijwe guhishira inyereza ry'umutungo wa Koperative kandi ko koko ibi byatumye hahimbwa inyandiko zemeza ko hari ibikoresho by'ubwubatsi byagemuwe kandi ntabyagemuwe,

iii. Kuba abayobozi ba Koperative batarubahirije amategeko agenga amasoko ya Leta nyamara hari hemejwe ko ariyo azakurikizwa, bakijandika muri za bons de commandes bitari mu nshingano zabo bagamije kubona uburyo bwo gusohora amafaranga batemerewe, bagatanga umurimo umwe kuri ba rwiyemezamirimo babiri cyangwa batatu, bakemeza ko hari imirimo yarangiye kandi itarakozwe, bakemeza ko hishyurwa imirimo y'inyongera kandi ari iya baringa;

iv. Kuba ku biciro byari byatanzwe na ba rwiyemezamirimo batatu (ETECO, TECOM na ECOBARUS), hararenzeho amafaranga angana na 209,360,309 Frw. Aya mafaranga Abayobozi ba Koperative bakaba baravuze ko yakomotse mu ikosora ry'imibare ba rwiyemezamirimo batanze, nyamara kandi ntibagaragaze imibare yakosowe iyo ariyo cyangwa ngo berekane raporo yaba yarabyemeje;

[13] Ubushinjacyaha buvuga ko habaye ubufatanyacyaha hagati ya Mubiru Godfrey, HI-SENSE Ltd, Mutware Bienvenu, Ndahumba Emile, Mbagizente Edouard, Uwitonze Joachim, Uwicyeza Consolée, mu kugaragaza uruhare rwa buri wese bukavuga ko:

i. Mubiru Godfrey (HI-SENSE), Uwitonze Joachim Uwicyeza Consolée bari mu kanama gatanga amasoko, bafatanya kwemeza raporo ya évaluation y'amasoko yakozwe hagati yo ku wa 14-16/07/2012, ku biciro ba rwiyemezamirimo bitangiye babeshya ko bikwiye gukosorwa, bituma bongeraho 209,360,309 Frw, aho ETECO Ltd yahawe 82,171,910 Frw, TECOM Ltd ihabwa 65,185,300 Frw naho ECOBARUS Ltd ihabwa 62,003,099 Frw, babikora bagamije kurigisa umutungo wa Koperative;

ii. Mubiru Godfrey afatanyije na Ndahumba Emile, Mbagizente Edouard na Mutware Bienvenu wahoze ari manager, bemeje ko ETECO Ltd yubatse inzira y'abafite ubumuga ihwanye na 13,775,000 Frw nyamara itarubatswe, ko ayo mafaranga yishyuwe na Nteziryayo Eric (ETECO Ltd) ku mirimo itarigeze ikorwa;

iii. Ndahumba Emile, Mubiru Godfrey, Mbagizente Edouard, Mutware Bienvenue na Uwitonze Joachim bemeje ko imirimo yose yari iteganyijwe mu masezerano bagirane na Nteziryayo Eric (ETECO Ltd) yakozwe ndetse bahita bayishyura nyamara kuri 2,022,88 m 2 z'akamaro yagombaga kubaka kuri buri niveau hubatswe 1,517,68 m 2 gusa kuri buri niveau, bivuze ko hari 500,2 m2 zitubatswe kuri buri niveau bihwanye na 1,500,6m2, zifite agaciro ka 34,858,800 Frw, naho kuri 2,071 m2 za pavés zagombaga kubakwa harubatswe 1,647 m2 ahwanye n'imbuga ihari, bivuze ko yishyuwe kuba yarubatse andi ma pavés ku buso bwa 424 m2 afite agaciro ka 9,753,150 Frw nyamara ntabyakozwe;

[14] Ubushinjacyaha busobanura ko Mubiru Godfrey, nk'umuyobozi wa HI-SENSE Ltd, yagombaga kugenzura gusa imirimo yakozwe na ba rwiyemezamirimo (ETECO, TECOM na ECOBARUS) no kwemeza ko bishyurwa, ariko abonye ko bitazatuma arigisa amafaranga kuko buri fagitire yagaragaza ibyakozwe n'agaciro kabyo, afatanya na Ndahumba Emile na Mutware Bienvenu

(aba bari bahagarariye maitre de l'ouvrage) gucura umugambi wo gutanga bons de commande z'ibikoresho ba rweyemezamirimo batasabye, zigahabwa abo batakoranye amasezerano, bakajya bavuga ko ibyo bikoresho byagemuwe kandi bitaragemuwe, hanyuma bikagaragazwa muri fagitire zatangwaga na ba rwiyemezamirimo. By'umwihariko Mubiru Godfrey akaba yarateguye bon de commande ebyiri (2) zifite nomero imwe (No 57/2013-2014) kuwa 8/1/2014; imwe iriho 58,265,500 Frw indi iriho 6,150,000 Frw, zombi zitangwa na COPCOM, mu izina rya Bankozemunda Eric badafitanye amasezerano. Bon de commande ya 6,150,000 Frw yagenzuwe na Mutware Bienvenu, yemezwa na Ndahumba Emile kuwa 31/3/2014 ariko bordereaux d'expedition ikozwe mu izina rya Bankozemunda Eric ikaba yarakozwe ku wa 18/2/2014, mbere y'uko asabwa ibicuruzwa ndetse ikaba itariho umukono we.

[15] Ubushinjacyaha buvuga ko 6,150,000 Frw y'iyo bon de commande yishyuwe Uwizeyimana Alphonsine, umugore wa Mbagizente Edouard kuri ordre de paiement N° 12100676 ya BRD, mu gihe kuri grand livre des comptes bavuze ko yahawe Bankozemunda Eric, ko ari nako byagenze kuri bon de commande ya 58,265,500 Frw, nayo yishyuwe Uwizeyimana Alphonsine ku wa 21/3/2014 kuri Konti ye No 2040061370120 iri muri BRD bashingiye ku nyandiko iriho umukono witiriwe Bankozemunda Eric, ko uwo mukono ntaho uhuriye n'uri kuri za fagitire Bankozemunda Eric yikoreye.

[16] Buvuga ko fagitire zategurwaga na Bankozemunda Eric, zigashyikirizwa Uwizeyimana Alphonsine, umugore wa Mbagizente Edouard wari Visi Perezida wa COPCOM, bigaragaza ko bari baziranye kuri uwo mugambi. Busobanura ko bon de commande ya 58,265,500 Frw yemejwe na Ndahumba Emile, ayitirira ETECO Ltd, kandi umugenzuzi ABBA Ltd yarasanze bimwe mu bikoresho byasabwe kugemurwa na Bankozemunda Eric byari bisanzwe biri mu masezerano hagati ya ETECO Ltd na COPCOM, ibindi bikaba ntaho byagaragaraga muri ayo masezerano, urugero akaba ari 4650 interrupteurs (plate switch) zihwanye na 5,580,000 Frw kandi mu masezerano hari hateganyijwe 68, na 1,052 lampe, tube luminescent 40W PHILIPS zifite agaciro ka 10,520,000 Frw zitagira aho zivugwa mu masezerano hagati ya ETECO na COPCOM, ibi bikoresho bikaba byarashyizwe kuri bon de commande kugira ngo amafaranga yabyo anyerezwe.

[17] Ubushinjacyaha buvuga ko mu masezerano yo kuwa 02/8/2012 ETECO Ltd ihagariwe na Nteziryayo Eric, TECOM Ltd ihagarariwe na Ahinkuye Bertin na ECOBARUS Ltd ihagarariwe na Safari Fidel basinyiye gushyira fire extingushers ku nyubako, ETECO Ltd yishyurwa 28,589,200 Frw, TECOM Ltd yishyurwa 35,364,200 Frw naho ECOBARUS Ltd yishyurwa 12,887,500 Frw, ayo mafaranga yose barayanyereza ntibagira fire extinguisher nimwe igurwa, ahubwo Ndahumba Emile wari perezida, Mbagizente Edouard wahoze ari visi perezida, Mutware Bienvenu wari manager batanga irindi soko, izo fire extinguisher zigemurwa na COTIS Ltd ku itariki 22/11/2014. Buvuga kandi ko ETECO Ltd na ECOBARUS Ltd bagombaga kubaka plafond, buri wese ku nyubako yatsindiye kubaka, ariko mu rwego rwo kurigisa amafaranga yabyo, ku wa 31/10/2014, iryo soko ryo kubaka plafond Ndahumba Emile ariha OCB Ltd ku giciro cya 4,464,960 Frw,

[18] Ubushinjacyaha buvuga ko:

- ku wa 07/05/2014 hakozwe bon de commande No 74/2013-2014 y'ibikoresho bifite agaciro ka 3,366,200 frw, ikorwa na Mubiru Godfrey, yemezwa na Ndahumba Emile, ihabwa Nubuhoro Janvière (umugore wa Uwitonze Joachim, umwanditsi mu kanama ka masoko ka COPCOM n'umunyamabanga w'iyo koperative), ku wa 12/05/2014, Uwitonze Joachim yandika fagitire n°1 yiganye umukono (signature) y'umugore we, yishyuza ETECO Ltd ibicuruzwa bifite agaciro ka 3,308,200 frw, naho ku wa 14/05/2014, COPCOM ikora cheque ya 3,308,200 frw mu mazina ya Nubuhoro Janvière kandi uyu ntacyo yayigemuriye, itarahawe fagitire yishyuza kandi idashinzwe kwishyurira rwiyemezamirimo, na Nubuhoro Janviere abikuza iyo

cheque kandi azi neza ko nta bikoresho yagemuye ndetse nta n'inyandiko n'imwe yanditse kugira ngo ahabwe ayo mafaranga, mu guhimba izo nyandiko ngo haje no kugaragara ikinyuranyo hagati y'umubare w'amafaranga ari kuri bon de commande 3,366,200 frws, n'amafaranga ari kuri facture yakorewe ETECO (3,308,000 frw);

- kuwa 12/05/2014 handitswe fagitire n°2 mu izina rya Nubuhoro Janvière yishyuza ETECO 2,673,500 frw y'ibikoresho by'ubwubatsi yavuze ko yayigemuriye, na none yandikwa na Uwitonze Joachim ahimba umukono wa Nubuhoro Janvière, ko iyi fagitire yari iherekejwe na bordereau d'expedition n° 2 yanditswe kuwa 09/05/2014 yitirirwa Nubuhoro Janvière nubwo atigeze ayishyiraho umukono (Signature) kuko iriho gusa umukono (signature) wa Cécile (magasinier); kuwa 12/05/2014 COPCOM ibinyujije kuri manager wa COPCOM witwa Mutware Bienvenu yishyuye Nubuhoro Janvière iyo facture NO 2 ariko amafaranga yakirwa na Uwitonze Joachim nkuko bigaragazwa na reçu yanditse kuwa 12/05/2014, ariko nabwo yakira 3,141,600 frw y'ubwishyu bwa Factures No 1 na No 2 za Nubuhoro Janviere kandi ntacyo yagemuye;
- kuwa 12/05/2014 handitswe fagitire n°3 mu izina rya Nubuhoro Janvière yishyuza TECOM Ltd 468,100 Frw y'ibikoresho by'ubwubatsi yayigemuriye ariko atariwe uyanditse kuko yanditswe na Uwitonze Joachim, iyi fagitire yari iherekejwe na bordereau d'expedition No 3 yanditswe kuwa 09/05/2014, Nubuhoro Janvière yishyuwe na COPCOM mu ntoki nyamara ntacyo yayigemuriye;
- kuwa 12/05/2014, handitswe bon de commande ifite n° 77/2013-2014 ifite agaciro ka 6,295,300 Frw yandikwa na Uwitonze Joachim mu izina rya ETECO isaba Nubuhoro Janvière kugemura ibikoresho bitandukanye by'ubwubatsi, iyo bon de commande yemejwe n'abiyise aboyobozi ba ETECO Ltd, banateraho kashi ya ETECO ndetse yongera kwemezwa na Mubiru Godfrey na Ndahumba Emile, kuwa 12/05/2014 hakorwa bordereau d'expedition yitiriwe Nubuhoro Janvière ifite agaciro ka 6,234,700 Frw, kuwa 15/05/2014 hakorwa facture mu izina rye ariko yanditswe na Uwitonze Joachin, yishyuza ETECO ibikoresho by'ubwubatsi bifite agaciro ka 6,234,700 Frw, iyo facture ntiyigeze yakirwa na ETECO Ltd, kuwa 09/06/2014 COPCOM ikorera Chèque Nubuhoro Janvière y'amafaranga 6,234,000 Frw kandi atari yo yahawe Facture, bikaba bigaragara ko amafaranga yishyuzwaga n'ayishyuwe anyuranye kuko habayeho guhimba inyandiko;
- kuwa 10/07/2014 handitswe bon de commande ya ETECO Ltd ifite n° 009/2013-2014 yadikiwe Nubuhoro Janviere ku bikoresho by'ubwubatsi bifite agaciro ka 3,500,000 Frw, yemejwe na Mubiru Godfrey na Ndahumba Emile, kuwa 20/07/2014 hakorwa bordereau d'expedition itagaragaza uwayikoze, igaragaza gusa ko yakorewe ETECO isinywa na Storekeeper Ndayisaba Emmanuel; kuwa 08/08/2014 COPCOM ikorera Nubuhoro Janvière Cheque ya 3,500,000 Frw, yishyurwa ntacyo yagemuye nta n'amasezerano afitanye na COPCOM.

[19] Ubushinjacyaha busobanura ko ku bireba ECOBARUS Ltd, Safari Fidèle umuyobozi wayo na Mubiru Godfrey bakoze amasezerano y'inyongera (avenant) ya 9,071,000 Frw yiswe: "Raft Foundation for water treatment plant (amendment N° 3)" nyamara iyi mirimo yari isanzwe iteganyijwe mu masezerano y'iremezo, ko ku wa 8/1/2014, Mubiru Godfrey yateguye Bon de commande No 53/2013-2014 y'agaciro ka 20,826,800 Frw, Mutware Bienvenu wahoze ari manager na Ndahumba Emile bemeza ko iyo bon de commande itanzwe na COPCOM nka rwiyemezamirimo nyamara Koperative ari maitre de l'ouvrage. Buvuga ko ayo mafaranga yishyuwe hashingiwe kuri bordereau d'expédition yakozwe na Mutabazi Allan, uyu ayahabwa kuri konti ye N° 00256060493603 muri Bank of Kigali kandi nta bikoresho byagemuwe.

[20] Buvuga ko mu masezerano ECOBARUS Ltd yakoranye na COPCOM ku wa 2/8/2012, iyi sosiyete yari kubaka dalle en béton armé kuri 166.82 m 3 ku mazu abiri atandukanye, ariko hakorwa 136.18 m 3, bivuze ko hari 30.64 m 3 zitubatswe kuri buri nzu, bihwanye na 61,28 m3 z'agaciro ka 14,707,200 Frw, ariko Ndahumba Emile, Mubiru Godfrey, Mbagizente Edouard, Mutware Bienvenue na Uwitonze Joachim bemeza ko zubatswe, bishyura amafaranga ku mirimo itarakozwe. Buvuga ko ku bireba TECOM Ltd, mu masezerano yo ku wa 20/8/2012 byari biteganyijwe ko izubaka poutres za 89.61 m 3 kuri buri niveau ku mazu abiri ariko hakorwa 68.91 m 3, bivuze hatakozwe poutres zingana na 41,4m 3 zifite agaciro ka 9,522,000 Frw, Ndahumba Emile, Mubiru Godfrey, Mbagizente Edouard, Mutware Bienvenue na Uwitonze Joachim bakaba baremeje ko zubatswe kandi ntazubatswe bituma basohora amafaranga ku mirimo itarakozwe.

[21] Buvuga ko ku wa 22/01/2014, Mubiru Godfrey yongeye gutegurira Mutabazi Allan bon de commande N° 180/2014 ya 3,190,500 Frw, mu izina rya COPCOM yemezwa na Mutware Bienvenu na Ndahumba Emile kuwa 31/3/2014, yishyurwa Mutabazi Allan nta bordereaux d'expedition akoze nta n'ibikoresho yagemuye, amafaranga anyuzwa kuri Konti N° 00256060493603 iri muri BK.

[22] Mbagizente Edouard na Me Bayingana Janvier, umwunganira, biregura bavuga ko igenzura (audit) ryakozwe na Rwanda Cooperative Agency (RCA) ryasanze Mbagizente Edouard nta mafaranga ya COPCOM yanyereje. Bavuga ko ABBA Ltd itagombaga gukora igenzura kandi ari umujyanama mubya technique wa COPCOM, ndetse ko ubwo ABBA Ltd na ONCG Ltd byakoraga igenzura (audit) mandat ye yari yararangiye ndetse yarasimbuwe, rikorwa Mbagizente Edouard adahari batanamuhamagaje nk'uko amategeko abiteganya, bakaba basaba uru Rukiko gushingira ku murongo watanzwe n'Urukiko Rukuru, Urugereko rwa Nyanza mu rubanza RPA 0396/14/HC/NYANZA, rukemeza ko igenzura ryakozwe uregwa adahari zikwiye guteshwa agaciro. Bavuga ko igenzura ritagombaga gukorwa na ABBA kandi ari umujyanama wa COPCOM mu bya technique.

[23] Bavuga ko kubijyanye n'ibikorwa aregwa, bitakwitwa inyerezwa kubera impamvu zikurikira:

i. 28,489,030 Frw yahawe Entreprise ETECO Ltd, bitakwitwa inyereza kuko ku wa 22/09/2012 ETECO Ltd ariyo yandikiye COPCOM, irongera yibutsa ku wa 20/06/2014, ivuga ko hari imirimo yasimbutswe mu gihe cyo gupiganira isoko, ku wa 17/07/2014, COPCOM yandikira Perezida wa Komite ishinzwe gutanga amasoko muri COPCOM imusaba ubufasha mu gukemura ikibazo cyayo mafaranga, ku wa 31/07/2014, iyo Komite isubiza COPCOM yemeza ko 28.498.030 Frws ETECO Ltd isaba ikwiye kuyahabwa kubera ko afite ishingiro, nyuma yaho ikibazo kigezwa kuri Comité de surveillance, ku wa 07/08/2014 umuyobozi wa HI SENSE amenyesha COPCOM ko 28.498.030 Frws ETECO Ltd isaba guhabwa iyafitiye uburanganzira, bityo ibyo Ubushinjacyaha buvuga ko amakosa yakozwe mu mibare yatanzwe mu masoko adakwiye gukosorwa bikaba nta shingiro bifite kuko ingingo ya 10 n'iya 30 y'amasezerano zateganyaga ko ubunini bw'amasezerano bushobora guhinduka, ndetse ibyakozwe bikaba byaremejwe n'inzego zibifitiye ububasha, na raporo yatanzwe ikemezwa n'Inama Rusange, bivuze ko haramutse hari n'amakosa yakozwe atabazwa Mbagizente Edoaurd;

ii. Kuba yarasinyiye 13,775,000 Frw arebana n'iyubakwa ry'inzira y'abafite ubumuga (flight ramp) bitavuze ko yayarigishije kuko yasinyiye reception provisoire byemejwe n'Imana Rusange yo ku wa 06/04/2014, hakaba nta kindi gikorwa Ubushinjacyaha bugaragaza yaba yarakoze cyo kwishyura ayo mafaranga kuko bitari mu nshingano ze;

iii. Naho kuri za fire extinguishers zitaguzwe kandi zaratangiwe amafaranga, abanyamuryango bemeje ko ibitarakorwa byazakorwa abanyamuryango baratangiye gukorera muri ayo mazu mu rwego rwo kwirinda igihombo cyaterwa no gutinda

kwishyura inguzanyo ya banki, kandi ko Nzamwita Samson, uhagarariye Komité Ngenzuzi ya COPCOM, ari nawe watanze ikirego nawe yari ari mu nama rusange yo ku wa 16/04/2014, ibyemeza; bakomeza bavuga ko nta cyaha kiri mu bijyanye n'amasezerano y'inyongera nta n'ikiri mu kuba yaremeje imirimo cyangwa akemeza ko yishyurwa, naho ibya bons de commandes akaba adakwiye kubiregwa kuko atari we wazikoraga, ko inama zitandukanye za Komite Nyobozi, Komite Ngenzuzi na Bureau de Surveillance zibigiriwemo inama na BRD, bemereye ba Rwiyemezamirimo kujya bakoresha bons de commandes mu rwego rwo kwihutisha akazi no gukumira ibibazo byaterwa na bamwe mu banyamuryango batifuzaga ko umushinga wo kubaka amazu ushyirwa mu bikorwa, bikaba rero byarakozwe mu nyungu za koperative.

[24] Uwizeyimana Alphonsine (umugore wa Mbagizente Edouard), yunganiwe na Me Bayingana Janvier, yireguye avuga ko asanzwe acuruza Quincaillairie, mu gihe cyo kubaka COPCOM, Bankozemunda Eric wari sous-traitant wa ETECO Ltd, aza gufata ibikoresho yitwaje bon de commandes N° 057/2013- 2014 yo ku wa 08/01/2014 ya ETECO Ltd, ifite agaciro ka 58.265.500 Frw, iwe ahafata ibikoresho ibifite agaciro ka 27.265.500 Frw, ku wa 29/01/2014, ETECO Ltd yandikira COPCOM iyisaba kwishyura Bankozemunda Eric ibyo bikoresho, aribwo ETECO Ltd yasabye ko 58.265.500 Frw yari kuri fagitire ashyirwa kuri konti ya Bankozemunda Eric, uyu nawe asaba COPCOM ko ayo mafaranga anyuzwa kuri konti ya Uwizeyimana Alphonsine muri BRD, COPCOM ibikora ku wa 21/03/2014, nyuma yaho haba kwishyurana hagati ye na Bankozemunda Eric, uyu asubizwa 31.000.000 Frw nyuma yo gukuraho 27.265.500 Frw y'ibikoresho yahawe. Naho ku bijyanye na 6.150.000 Frw yishyuwe kuri ordre de paiement numero 12100676 ya BRD, Uwizeyimana Alphonsine avuga ko ikibazo cy'ayo mafaranga ntacyo azi.

[25] Mubiru Godfrey, mu izina rye no mu mwanya wa company ye HI SENS, yunganiwe na Me Nsabimana Jean-Baptiste, Me Nsengiyumva Collette na Me Ntaganda Felix, bavuga ko nta bufatanyacyaha mu kunyereza umutungo wa COPCOM we cyangwa sosiyete ye bakoze. Kuko inzira y'ababana n'ubumuga aregwa kuba yaremeje ko yubatswe kandi itarubatswe, yubatswe hanyuma basanga ibangamye bitewe n'uburyo inyubako yari iteye, hemezwa ko isenywa kugira ngo hajyeho umuhanda uzenguruka inyubako, ikibazo kikaba ari u ko ibyo bitakorewe raporo, naho kubijyanye na kizimyamoto, ko nta zari zarateganyijwe mu masezerano, zongerwamo hashingiwe ku mabwiriza y'Umujyi wa Kigali. Arongera akavuga ko fire extinguishers zari zihari, ari nacyo cyatumye One Stop Centre itanga uburenganzira bwo gukoresha inyubako, ariko ubuyobozi bwa COPCOM burarangara ziribwa. Mu iburanisha ryabaye ku wa 19/10/2021, bavuze ko fire extinguishers zari zarateganyijwe mu masezerano ariko Umujyi wa Kigali usanga hakenewe izindi hakurikijwe uburyo inyubako imeze n'umutekano wayo kuko izari zarateganyijwe zari nke.

[26] Bavuga ko Mubiru Godfrey na HI-SENSE bahawe akazi ku wa 20/08/2012, bityo bakaba batababazwa amasoko yakozwe kuwa 14 no ku wa 16/07/2012 kuko bari batarahabwa akazi. Basobanura na none ko 28.489.030 Frw yahawe ETECO Ltd atatanzwe mu rwego rwo kunyereza kuko bagenzuye ibiteganyijwe muri DAO no muri raporo bari bakoze kuwa 16/07/2012 basanga baribeshye mu mibare, birakosorwa, naho ku mirimo y'inyongera yahawe ECOBARUS, bavuga ko yatewe n'imbogamizi zagaragaye mu gihe cyo kubaka kuko basanze ubutaka bworoshye ndetse burimo n'amazi, biba ngombwa ko hakorwa foundation ijyanye naho hantu, ibyo bikaba byarakorewe inyandiko. Naho ibya bons de commandes akaba atabibazwa muri uru rubanza kuko yabyisobanuyeho mu rubanza n° RCOM 00542/2018/TC – RCOMA 0056/2018/CHC Nubuhoro Janvière aburana na COPCOM; urubanza n° RCOM 00399/2016/TC – RCOMA 00592/2016/HCC hagati ya Ndahumba Emile, Mbagizente Edouard, Uwitonze Joachim, Nyirurugo Aimable na Uwicyeza Consolee kandi ko batsinze COPCOM yabaregaga igihombo bayiteje gituruka ku ma "Bons de commande". Bavuga ko uretse kuba izi manza zarabaye Itegeko, hari n'amasezerano y'inyongera yakozwe hagati ya COPCOM na ba Rwiyemezamirimo, kuwa 13/08/2013, bumvikana

ko COPCOM izajya ibagurira ibikoresho hifashishijwe "bons de commande" kubw'inyungu z'impande zose mu rwego rwo kwihutisha imirimo hagamijwe gukumira igihombo cyaterwa no kutishyura inguzanyo ya banki. Basobanura ko nta handi HI-SENSE ihurira nizo bons de comande kuko atariyo yaziteguraga cyangwa ngo izisinye, inshingano zayo zikaba zari gusuzuma niba koko ibikoresho biri kuri "Bons de Commandes" aribyo bikenewe kuri site, ubundi bikemezwa, naho ibijyanye no kwishyura bikaba bitarayirebaga kuko byari bifite uko byateganyijwe mu masezerano.

[27] Uwitonze Joachim, yunganiwe na Me Nsabimana Jean-Baptiste, avuga ko iby'Ubushinjacyaha buvuga ko hubatswe amakaro make kuyemejwe mu masezerano adakwiye kubibazwa kubera ko iby'ubwubatsi bitari mu nshingano ze, ko umushinga w'ubwubatsi wari ufite umunyamabanga wawo, ufite abashinzwe ubwubatsi, hari Bureau de Surveillance yagenzuraga inyubako, hari na Equipe Technique yatoranyijwe n'Inama Rusange kugira ngo ijye ikurikirana imirimo y'ubwubatsi n'imirimo y'inyongera, we akaba yaragarukiraga ku kuba umwanditsi wa COPCOM gusa, bityo akaba adakwiye kubazwa iby'icungamutungo cyangwa iby'ubwubatsi.

[28] Nubuhoro Janvière (umugore wa Uwitonze Joachim) yunganiwe na Me Nsabimana Jean-Baptitse, avuga ko bons de commandes aregwa atari we wazihawe wenyine, ko icyatumye aregwa ari amatiku ya bamwe mu banyamuryango ba COPCOM. Avuga ko icyemezo cyo gukoresha bons de commandes cyafashwe na Komite Nyobozi na Bureau de surveillance bagamije gukemura ikibazo cya fagitire zadindizaga imirimo, kuko bishyuraga ba rwiyemezamirimo, amafaranga bakayajyana ku zindi chantiers. Bavuga ko bon de commande n° 74/2013-2014 yo ku wa 07/10/12014 itariho umukono we kubera ko bitari ngombwa, ko yatangaga bordereau d'expédition, uwakiriye ibikoresho mu izina rya rwiyemezamirimo akabisinyira, hanyuma rwiyemezamirimo agasaba COPCOM kumwishyura, bamara kwishyura bakazayakata kuyo yari kuzahembwa. Bavuga ko ku bijyanye na bon de commande n° 74/2013- 2014 yo ku wa 07/10/2014, ETECO Ltd yakiriye ibikoresho, ariko magasinnier wayo witwa Cécile abara ibiciro nabi, avuga ko hagomba kwishyurwa 3 372 600frw, nyamara ari 3 308 200frw ari nayo yishujwe, fagitire yishyuza ikorwa n'umugabo we Uwitonze Joachim kuko yari yamuhaye procuration, ndetse bafatanyije umutungo, akaba asanga icyo Ubushinjacyaha butari bukwiye kukibonamo icyaha. Uku kandi ngo niko binameze kuri Fagitire n° 1 yo kuwa I2/05/2014 yasinywe n'umugabo we kuko yari yamuhaye ububasha.

[29] Basobanura kandi ko bon de commande yo kuwa 06/05/20l4 nayo yatanzwe mu buryo bukurikije amategeko, icyakora mu kuyigemura ntibabashije gutanga ibikoreshe bifite agaciro ka 3.500.000frw ahubwo batanze ibifite agaciro ka 2 673 500frw, nabyo byakirwa na magasinnier wa ETECO Ltd, COPCOM imwishyura ishingiye ku masezerano yagiranye na ETECO; naho bon de commande n° 07012013-2014 yo ku wa 05/05/2014 yariho 1.968.100 Frw, yari iriho ibikoresho bitandukanye, ariko sima yari ifite agaciro ka 1.500.000frw ntiyagemurwa ariyo mpamvu hishyuwe 468.100 frws y'ibindi bikoresho byakiriwe n'umukozi wa TECOM Ltd, witwa KABIBI Faith, TECOM yandikira COPCOM ibasaba kumwishyura. Bavuga ko fagitire ya 6.295.300 Frw yo ku wa 12/05/2014 ubushinjacyaha bwitirira umugabo we ataribyo kuko nta mukono we uyiriho kandi icyateye ikinyuranyo cy'amafaranga ari uko rwiyemezamirimo yasanze yari yasabye fil de fer nyinshi, hanyuma barazigabanya, bituma fagitire iba iya 6 234 700frw, icya ngombwa akaba ari uko bishyuwe amafaranga make kuyari ateganyijwe. Bavuga ko bon de commande yo ku wa l0/07/20l4 ifite n° 009/20l3-2014 yakozwe na ETECO Ltd nta kibazo kiyirimo kuko yagemuye ibikoresho hakishyurwa 9.500.000frw ahwanye n'ibikoresho byagemuwe, yishyurwa na COPCOM ibisabwe na ETECO Ltd.

[30] Uwicyeza Consolée yunganiwe na Me Ntabwoba Francois Xavier, na Me Nsabimana Jean Baptiste avuga ko atari umucungamutungo wa COPCOM ku buryo yabazwa iby'inyereza by'umutungo wayo, ko ku giti cye nta n'icyo yemezaga, ko ahubwo izo zari inshingano za Mutware Bienvenu na comptable Kayitesi Yvette. Asobanura ko hari abantu bize iby'ubwubatsi bari bashinzwe gukurikirana imirim o, mbere yo kwishyura RDB ikabanza gusuzuma imirimo yakozwe,

bityo akaba asanga ibijyanye na plafond, kizimyamoto, inzira z'ababana n'ubumuga cyangwa inkuta zitubatswe byabazwa abari bashinzwe ubugenzuzi.

[31] Mutabazi Allan (umuhungu wa Uwicyeza Consolée) yunganiwe na Me Nshuti Salim, avuga ko mu bihe bitandukanye yagemuriye COPCOM ibikoresho bifite agaciro ka 12.829.000frw, ibifite agaciro ka 20.826.800frw n'ibifite agaciro ka 3.190.500frw, ko iby'Ubushinjcayaha buvuga ko hari bon de commande yo kuwa 08/01/2014, aho Mutabazi Allan yishyuwe kuwa 21/03/2013 kandi ntacyo yagemuye ataribyo kuko na rwiyemezamirimo yemeje ko yabyakiriye, naho iby'uko yaba yarishyuwe 3.190.500frw na COPCOM kandi atariyo yari ishinzwe kwishyura, avuga ko nabyo ataribyo kubera ko uburyo bwo kwishyura bwari bwumvikanweho hagati ya rwiyemezamirimo na COPCOM yari nyir'ibikorwa, akaba asaba ko raporo y'igenzura ya ABBA Ltd idakwiye gushingirwaho kubera ko itakozwe mu mucyo.

[32] Nyirurugo Aimable avuga ko ibikorwa bigize icyaha aregwa nk'uko bikubiye mu ngingo ya 325 y'igitabo cy'amategeko ahana nta na kimwe yakoze ku bimureba ubushinjacyaha bwagaragarije ibimenyetso. Asobanura ko yari ashinzwe kugira inama Komite Nyobozi igihe yateranye, hakaba nta nama n'imwe ubushinjacyaha bugaragaza yaba ya ragiriye Komite Nyobozi igashyira Koperative mu gihombo. Avuga ko itegeko rihana uwahawe amafaranga kubw'imirimo akora hanyuma akayanyereza, nyamara we ngo ntaho yahuriraga n'amafaranga kubera ko COPCOM yari ifite umucungamutungo ubihemberwa, ndetse umushinga ukagenzurwa na BRD yatanze inguzanyo, team technique na bureau de surveillance.

[33] Avuga ko ikibazo cya OCB Ltd kitamureba kubera ko Komite Nyabozi yateranye igasanga plafond yashyizweho na rwiyemezamirimo idashobora guhangana n'imvura n'umuyaga mwinshi, ifata umwanzuro wo gutanga irindi soko kugira ngo irengere igisenge cy'inyubako cyari kimaze kuguruka inshuro eshatu. Avuga ko ikigaragaza ko icyo gisenge cyagurutse ari urwandiko ETECO yandikiye ubuyobozi bwa COPCOM yo ku wa 21/10/2014 isaba kwishyurwa abasanye i gisenge cyangijwe n'umuyaga kandi ko Perezida wa COPCOM yari yabibwiye Inama y'Inteko Rusange yo ku wa 26/10/2014 ko plafond ya triplex ariyo yahangana n'umuyaga. Asobanura ko ikibazo cya COTIS Ltd kiri technique, we nk'umujyanama akaba adakwiye kugira icyo akibazwaho bitewe n'uko igenzura rya technique ryakorwaga na HI-SENSE Ltd; ko amasezerano yahawe COTIS Ltd yashingiwe kuri raporo yari yatanzwe na HI-SENSE, Komite Nyobozi yateranye ku wa 03/12/2013 ifata umwanzuro wo gutanga isoko rya fire management and security system bitewe n'uko bitari byarateganyijwe muri DAO nyamara biri mu bisabwa n'Umujyi wa Kigali mbere y'uko inyubako itangirwa uruhushya rwo gukoreshwa. Avuga ko iyo nama yari yitabiriwe na team technique n'umuyobozi wa HI SENS nk'abashinzwe gukurikirana inyubako mu buryo buri technique no guhuza ibikubiye muri DAO n'amasezerano COPCOM yagiranye n'abubatsi. Ku bijyanye n'igenzura (audit), avuga ko yemera gusa iyakozwe na RCA kandi ko yasanze we ku giti cye nta makosa yakoze.

[34] Mutware Bienvenue avuga ko icyaha cyo kunyereza umutungo aregwa atacyemera kuko ubushinjacyaha buvuga ko inyerezwa rya 209,360,309 Frw yongerewe ba Rwiyemezamirimo ryabaye kuwa na 14-16/07/2012, icyo gihe akaba yari ataraba umukozi wa COPCOM kuko yatangiye akazi kuwa 10/12/2013 nk'uko bigaragazwa n'amasezerano ye y'akazi. Avuga ko ibindi bimenyetso bigaragaza ko ari umwere ari ukuba atarasinye kuri Bon de commande ya Bankozemunda ERIC ya 58,265,500 Frw n'iya Mutabazi Allan ya 20,826,800 Frw ndetse n'izindi zose, ko icyemezo cyo kugura ibikoresho biciye muri bon de commande cyafashwe na nyobozi ku wa 11/10/2013 kandi nta ruhare yabigizemo, Ibaruwa yandikiye BRD ku wa 15/10/2020 asaba inyandiko na bonds de commande bitandukanye kubera ko izari zihari umuyobozi wa COPCOM yazihishe agamije kubabeshyera, ibaruwa we na Kayitesi Yvette bandikiye umuyobozi wabo Nzamwita Samson bamwereka ko yagambanye na Ntawuyirushintege Olivier bakajyana inyandiko z'icungamutungo bazishimuse nyuma y'uko audit irangiye; Audit financier ya RSK ASSOCIATE Ltd igaragaza ku rupapuro rwa 7 ko imikoreshereze y'amafaranga ya COPCOM iteguye neza, Ibaruwa yo ku wa 19

Kamena 2015 yandikiye Nzamwita Samson akamenyesha RCA n'ibindi bigo bya Leta amurega gutoteza abakozi abaziza kudahuza n'abayobozi yasimbuye, urubanza rw'umurimo yatsinze COPCOM ihagarariwe na Nzamwita Samson, Inyandiko ya reception provisoire yasinyeho ariko abayisinyeho bose akaba atariko bakurikiranwe n'Ubushinjacyaha.

[35] Nteziryayo Eric mu izina rye no mu izina rya ETECO Ltd avuga ko icyaha cyo kunyereza umutungo wa COPCOM binyuze mu kanama k'amasoko atacyemera kuko we icyo yakoze ari ugupiganira isoko ariko uburyo bwo gusesengura ibitabo mu buryo bw'amafaranga n'uburyo bwa Technique byari bifite ababishinzwe bashyizweho na cooperative bityo we akaba atanyereza amafaranga binyuze mu kanama k'amasoko kuko atakabagamo; ikindi aregwa ni 13.000.000frw yishyuwe ajyanye n'inzira y'ababana n'ubumuga kandi atarayubatse ariko ngo kuwa 21/09/2012 haje equipe technique na bureau de surveillance bamusaba guhagarika iyo nzira kuko babonaga nayikomeza hari inzu yabo batazabona uko bageraho, ndetse bamutegeka no gusenya iyo yaramaze kubaka, yishyuza gusa ibyo yaramaze kubaka nibyo yasenye; kubijyanye n'amafaranga arenga 20.000.000frw bamurega ajyanye n'urukuta, ariko urwo rukuta ngo rurahari ruri ku nzu yubatswe na ETECO rugomba guhuzwa n'inzu yubatswe na TECOM kuko urwo bari bubatse rwabaye rugufi bongeraho urundi; ku bijyanye na bon des comande zakozwe na ETECO ngo si impimbano kandi bakoze izirenga 200, bahitamo kuregera zimwe izindi barazireka, kizimyamoto ngo ntago bazishyuwe, ngo decompte finale ntiyakozwe kandi niyo yari kugaragaza ibyakozwe n'ibitarakozwe; ibijyanye na plafond ngo barayikoze iraguruka, bayisubiyemo irongera iraguruka, COPCOM ifata icyemezo cyo gushyiraho indi company ihindura plafond.

[36] Asobanura ko ikijyanye na audit ngo harimo urujijo kuko harimo ebyiri, akibaza izashingirwaho, iyakozwe na ABBA ngo nyirayo yari umujyanama muri COPCOM akaba atakora audit ngo abure kubogama, ubushinjacyaha ngo bwasabye ko hakorwa indi audit ikorwa na ONCG nayo irabyica kuko itigeze ibatumaho ngo bayisobanureho arinayo mpamvu basaba ko itashingirwaho, umutangabuhamya Ndikumana Charles ngo mu bugenzacyaha yavuze ko Audite itigeze imenyeshwa abaregwa, umukozi wa BRD nawe ngo yavuze ko audite zakozwe atari ukuri, kandi iyo audit ngo ntigaragaza ibyagiye bihinduka aribyo mirimo y'inyongera kandi BRD izi iyo mirimo y'inyongera, audit ngo yagaragaje ko harimo ikinyuranyo cy'amafaranga mu mirimo yakorewe munsi y'ubutaka, akibaza niba yaragiye munsi y'ubutaka ngo abirebe; asoza avuga ko ibi byose byari kugaragazwa na décompte final ariko ngo ntiyakozwe, asaba ko hazasuzumwa imvugo z'abatangabuhamya Iragena Anaclet na Nzatumukuze Jean Paul, no gushingira ku ngingo ya 31 na 42 z'itegeko ry'amasoko ryo muri 2017.

[37] Ahinkuye Bertin mu izina rye no mu izina rya TECOM Ltd avuga ko apiganira isoko ariko ntaho ahurira n'akanama k'amasoko, ko plafond yagurutse bamaze kuyubaka, bituma hatangwa irindi soko, ko kizimyamoto ntazo yashyizeho kandi nta nizo yishyuje. Avuga kandi ko raporo yakozwe na ABBA ndetse na ONCG atazemera kuko atigeze azitumirwamo kandi ABBA ngo ntigaragara ku rutonde rw'aba auditeurs; ku mafaranga ubushinjacyaha buvuga ko yahawe kandi nta mirimo yakozwe ngo sibyo kuko habayeho kwibeshya mu biciro bakandika imibare itariyo basaba ko byakosorwa birakosorwa. Avuga ko umucuruzi uhabwa bon de commande y'ibikoresho by'amashanyarazi, kandi wajya ku nyubako ukabihasanga, biba bivuze ko nta kunyereza kwabayeho, ko bitari gushoboka ko hanyerezwa 700.000.000 Frw ngo umushinga ukomeze, ko ibitabo by'ipiganwa bigaragaza ko inzu izubakwa, ko kizimyamoto TECOM Ltd yarezwe kudashyira ku nzu ntaho yigeze izishyuza, kandi ko ubu ari uko iteye, ko kuba harabayeho reception provisoire ndetse Umujyi wa Kigali ugatanga permis d'occupation ari ibimenyetso by'uko ibyo bagombaga gukora babikoze uko bikwiye, kandi ko ubugenzuzi bwagaragaje ko inzu yubatswe uko plan yatanzwe hakoreshejwe ibiresho biramba, ko ku wa 03/06/2015 hatumijwe inama yo gukora décompte final ariyo yari kugaragaza imirimo yakozwe, iyishyuwe, itarishyuwe n'itarakozwe ariko ko COPCOM yatinye gutumiza iyo nama.

[38] Safari Fidèle mu izina rye n'irya ECOBARUS Ltd, avuga ko icyaha cyo kunyereza umutungo atacyemera kuko ibyo bamurega byo kuba yaratanze ibiciro bibiri mu ipiganwa si ukunyereza kuko mu gitabo cyatanzwe na ECOBARUS kirimo ibika bibiri nkuko amategeko n'amabwiriza abigenga abiteganya. Ikindi ngo nuko ntaho ahurira na team ya evaluation. Asobanura ko icyaha aregwa gishingiye kuri audit ya ABBA yakozwe n'umuntu utari umunyamwuga kandi ntiyigeze ayibazwaho nkuko amategeko abiteganya. Avuga ko mu gitabo cy'amabwiriza (DAO) harimo igishushanyo ngenderwaho ndetse n'amabwiriza bagenderagaho, kandi ngo bahawe abagenzuzi batandukanye harimo HI-SENS, TEAM TECHNIQUE bavuye mu banyamuryango ba COPCOM, one stop center na team ya BRD, aba bose ngo barabagenzuye basanga nta kibazo bafite, ahubwo umushyitsi nka ABBA yinjira mu nyubako yashojwe yatangiye no gukorerwamo atesha agaciro ibyemejwe n'abari bahari inzu yubakwa, ngo quantite zose zakozwe ndetse n'izitarakozwe zari kugaragazwa na decompte finale kandi nta yindi companie yari kubigaragaza itifashishije HI-SENS yarishinzwe kubagenzura kuva inyubako zitangiye kugeza zikorewemo. Avuga ko ibyo bamureze ko yishyuje amafaranga ya kizimyamoto kandi zitaratanzwe ataribyo kuko ECOBARUS itigeze izishyuza, ngo hari raporo bagaragaje ivuga ku mirimo itarakozwe na kizimyamoto yagaragayemo, ko nta facture bagaragaza yaba yarishyuriweho ayo mafaranga ya kizimyamoto, kubijyanye na plafond ngo yarayishyuwe kandi yarakozwe ahubwo mu nyigo yayo ngo birengagije ikirere inzu iteretsemo plafond iza gusenywa n'umuyaga, barayisana yongera gusenyuka, nyuma COPCOM iza kuyikoreshereza kandi ngo ni uburenganzira bwabo.

[39] Avuga ko ikijyanye na bond de commande zatanzwe ngo byari mu nyungu rusange za cooperative, ko bari basabye ko cooperative ibagurira ibikoresho, inama rusange irabyemeza ndetse babaha n'amasezerano, ibi babikora kugira ngo akazi kihute; imirimo y'inyongera yahawe ECOBARUS ubushinjacyaha buvuga ko ari ukunyereza kandi ngo iyo mirimo yaragombaga gukorerwa hamwe ngo sibyo kuko nyuma yo gucukura ahari guterekwa inzu bahasanze ikizenga cy'amazi, hemezwa ko hamenwa beton kugira ngo bahagarike amazi kandi ko ibyo byakorewe raporo na avenant. Avuga ko ibi byose byari kugaragazwa na décompte final, ko COPCOM yabonye agomba kwishyurwa 229.000.000 Frw noneho imuhimbira ibirego.

[40] Akomeza avuga ko kubijyanye na raporo ya ABBA ishingiye ku masezerano yagiran ye na COPCOM kuwa 16/04/2015 (attachment 203), kuri page yayo ya 3 ivuga ko nta rwiyemezamirimo wemerewe guhura na ABBA, ibi bigaragaza ko yakozwe ishingiye ku ruhande rumwe, itegeko rigenga ababaruramari mu ngingo yayo ya 4 ivuga ko umubaruramari agomba kuba ari inyangamugayo, kuba ABBA yarabujijwe guhura na ba rwiyemezamirimo ngo byamwambuye ubunyangamugayo, ikindi abari bagize team techinique ngo ntibari bazi ABBA, bakaba bibaza icyo audit yayo yashingiyeho, nanone ngo mu gihe bari bafite assurance yagombaga gukora ibitarakozwe cyangwa ibyakozwe nabi, ngo yumva nta kibazo bakagombye kugira, ngo ubushinjacyaha bumaze kubona ko dosiye yabo ntakirimo ngo bitabaje ONCG, iyi nayo yibanze mu kureba amasano y'abantu ntacyo ishingiyeho kandi ntanicyo byaje kumara muri raporo ya finance kuko amasano atari ikimenyetso kigaragaza icyaha cyane ko urukiko mu guca urubanza rutagomba kugenekereza, asoza avuga ko ubushinjacyaha butavuga ko habaye kunyereza kandi hatarakozwe décompte final.

[41] Habakurama Venuste avuga ko yari mubagize akanama k'amasoko, ibyo ubushinjacyaha buvuga ko hakoreshejwe inyandikomvugo y'abagize akanama k'amasoko ku isesengura ry'ibiciro byatanzwe na ba rwiyemezamirimo mu ipiganwa hakozwe icyiswe corrections des erreurs arthmetique, ibi ngo babishingiye ku igenzura rya ABBA ihagarariwe na Nsabimana Christophe, hamwe na audite ya ONCG ihagarariwe na Ntawuyirushintege Olivier ariko ngo izi raporo ntazemera kuko atatumijwe ngo agire icyo azivugaho kandi uyu Ntawuyirushintege Olivier wa ONCG hari indi audit yari yarabakoreye mbere ari muri companie ya IST avuga ko nta kibazo abonye, kandi ngo ibaruwa Kayitesi Yvette yanditse yagaragaje ko Ntawuyirushintege Olivier yari

umuyobozi wa ONCG akaba n'umukozi wa IST, ibi bikaba binyuranyije n'amategeko, asaba ko audite zakozwe na ABBA na ONCG zateshwa agaciro.

[42] Avuga ko 13.219.780 Frw yahawe ETECO Ltd, 997.403.752frw yahawe TECOM Ltd na 800.053.111frw yahawe ECOBARUS atatanzwe ahagamijwe kunyereza umutungo ahubwo byatewe n'ikosora ry'imibare (correction des erreurs arthimétiques), ko iryo kosora rishingiye ku ngingo ya 27; 29 na 30 z'igitabo cy'ipiganwa no ku iteka n° 001/08/min ryo kuwa 16/01/2008 rishyiraho amabwiriza agenga amasoko ya Leta mu ngingo yaryo ya 22 iteganya ko iyo habayeho kwibeshya ku giciro cyatanzwe mu mibare no mu nyuguti hashingirwa ku giciro kiri mu nyuguti ngo ni nabyo byakozwe kandi ngo hari byinshi byashingiweho mu gukosora ibyo biciro no kuba hari ba rwiyemezamirimo bagiye bateranya imibare nabi cyangwa gukuba imibare n'ibiciro fatizo bakabikora nabi cyangwa bakibeshya no ku ngano, kandi ngo byose byaragenzuwe, inteko rusange nk'urwego rukuru rufata ibyemezo mu bikorwa bya koperative rurabyemeza kandi ngo niyo yafashe ibyo byemezo nyuma yuko babisesenguye bakabigaragariza ibimenyetso, ko iyo inama rusange itemera ibyo bisobanuro iba yarabyanze cyangwa igashyiraho akandi kanama kabigenzura. Avuga ko audit ya RCA yemeje ko nta kibazo kirimo kandi no muri hand over Nzamwita Samson yakiriye ibikorwa hemezwa ko byagenze neza 100%, ibyo bamurega ngo sibyo kuko amafaranga yose yasohotse afite inkomoko izwi, kandi ngo inzu yaruzuye inakorerwamo na Nzamwita Samson ubarega akaba ariyo akoreramo.

[43] Mwiza Ernest yisobanura avuga ko yari umwe mu bagize komisiyo y'isesengura ry'amasoko ya COPCOM kandi yagiraga akanama gahoraho. Avuga ko isesengura ryakozwe ryakurikije amategeko, ko mu nyandiko z'ipiganwa buri rwiyemezamirimo atanga ibiciro fatizo akabyandika mu magambo no mu mibare, mu itegeko No 12/2007 ryo kuwa 27/03/2007 rigenga amasoko ya Leta mu ngingo yayo ya 39 havuga ko isesengura rigenga gusa n'ibikubiye mu masezerano y'ipiganwa kandi ngo nibyo bakurikije, ikosora rikaba ryarakozwe ahabaye kwibeshya mu mibare nk'uko biteganywa n'ingingo ya 42 y'iryo Tegeko.

[44] Me Nsabimana Jean Baptiste wunganira Habakurama Venuste na Mwiza Ernest avuga ko ku bijyanye n'icyaha cyo kunyereza umutungo, ubushinjacyaha bwavuze ko abagize akanama k'amasoko basesengura inyandiko za ba Rwiyemezamirimo hagati ya 14 na 16/07/2012, barangije bakora raporo bavuga ko bongererwa 209.360.309 frw arenga kuyo bari bitangiye ubwabo mu ipiganwa, ariko ngo akanama kagize amasoko mu gusesengura kasanze ayo mafaranga agomba kongererwa ba rwiyemezamirimo kandi ngo yarafite inkomoko yumvikana kandi abanyamuryango ngo banyuzwe n'ibisobanuro bahawe; kubijyanye na 28.489.030frw ubushinjacyaha buvuga ko nayo yanyerejwe bushingiye kuri raporo bakoze ku italiki ya 01/08/2014 nabyo ngo sibyo kuko ETECO Ltd yandikiye Koperative COPCOM ibaruwa iyimenyesha ko hari imibare yibagiranye mu kubara mu gihe cy'ipiganwa, ngo kuko hari imirimo basimbutse batayibaze, COPCOM yandikiye Perezida wa Komite ishinzwe gutanga amasoko muri COPCOM amusaba ubufasha mu gukemura ikibazo cya ETECO Ltd, akanama k'amasoko gasubira kugenzura ibiteganyijwe muri DAO, inyandiko y'ipiganwa yatanzwe na Rwiyemezamirimo no muri raporo bakoze ku wa 16/07/2012 basanga harabayeho kwibeshya mu mibare bemeza ko ayo mafaranga ahabwa ETECO.

[45] Avuga ko ku bijyanye na 13.775.000 Frw, 6.887.500 Frw na 153.902.736 Frw yari agenewe kubaka inzira y'abafite ubumuga itarubatswe no kubijyanye n'amafaranga yari agenewe kizimyamoto ubushinjacyaha buvuga ko zitashyizwemo, ndetse na Bons de commandes zo ku wa 08/01/2014 ziri ku mazina ya Bankozemunda Eric zishyuwe Uwizeyimana Alphonsine; 4.464.960frw yishyuwe OCB Ltd yo kubaka Plafond; amafaranga yahawe COTIS asanga atabazwa Habakurama Venuste na Mwiza Ernest kuko kuko batari bashinzwe inyubako kugenzura ko ibikorwa biri kuri factures biri mu masezerano cyangwa bitateganyijwemo, bityo hakaba nta muntu ushobora gukora icyaha mu nshingano zitari ize, ariyo mpamvu ari abere.

UKO URUKIKO RUBIBONA

[46] Ingingo ya 325 y'Itegeko-Ngenga n° 01/2012/OL ryo ku wa 02/05/2012 rishyiraho Igitabo cy'amategeko ahana ryakoreshwaga ubwo ibikorwa abaregwa bakurikiranyweho byako rwaga iteganya ko "Umukozi wese: 1° urigisa umutungo, amafaranga, impapuro zivunjwa amafaranga, ibyemezo by'imari n'inyandiko bya Leta cyangwa bitari ibya Leta cyangwa ibintu byimukanwa by'undi yabikijwe ku bw'umurimo ashinzwe; 2° wonona cyangwa urigisa, akoresheje uburiganya, impapuro zifite agaciro k'imari, yabikijwe cyangwa yahawe ku bw'umurimo ashinzwe; ahanishwa igifungo kuva ku myaka irindwi (7) kugeza ku myaka icumi (10) n'ihazabu y'amafaranga yikubye inshuro kuva kuri ebyiri (2) kugeza kuri eshanu (5) z'agaciro k'umutungo warigishijwe cyangwa wononwe."

[47] Ingingo ya 10 y'Itegeko N°54/2018 ryo kuwa 13/08/2018 ryerekeye kurwanya ruswa iteganya ko "Umuntu wese, yaba umukozi wa Leta cyangwa undi ukora umurimo wa Leta cyangwa ukora mu nzego zayo, umuyobozi cyangwa umukozi mu kigo cy'ubucuruzi cyangwa isosiyete y'ubucuruzi cyangwa koperative cyangwa ukorera undi muntu, umuryango ushingiye ku idini cyangwa undi muryango uwo ari wo wose, ukoresha mu nyungu ze cyangwa iz'undi, umutungo, amafaranga cyangwa inyandiko z'agaciro, yahawe cyangwa yashyikirijwe kubera imirimo akora cyangwa ukoresha mu nyungu ze abakozi ashinzwe ku bw'umurimo aba akoze icyaha. Iyo abihamijwe n'urukiko, ahanishwa igifungo kitari munsi y'imyaka irindwi (7) ariko kitarenze imyaka icumi (10) n'ihazabu y'amafaranga y'u Rwanda yikubye inshuro kuva kuri eshatu (3) kugeza kuri eshanu (5) z'agaciro k'umutungo yanyereje."

[48] Ingingo ya 148 y'itegeko N° 024/2021 ryo ku wa 27/04/2021 rigenga amakoperative mu Rwanda ivuga ko bitabangamiye ibiteganywa n'itegeko riteganya ibyaha n'ibihano muri rusange, umwe mu bagize inama y'ubuyobozi ya koperative cyangwa bose hamwe, umukozi cyangwa umunyamuryango: 1° ukoresha mu buriganya umutungo wa koperative mu nyungu ze bwite cyangwa akawukoresha ku zindi mpamvu zinyuranyije n'izo wari ugenewe; 2° ugurisha cyangwa uwonona mu buryo bw'uburiganya umutungo wa koperative aba akoze icyaha. Iyo abihamijwe n'urukiko, ahanishwa igifungo kitari munsi y'imyaka ibiri (2) ariko kitarenze imyaka (5) n'ihazabu y'amafaranga y'u Rwanda atari munsi y'ibihumbi magana atanu (500.000 FRW) ariko atarenze miliyoni eshanu (5.000.000 FRW).

[49] Ku bijyanye n'amakosa ari mu nyandiko z'ipiganwa, ingingo ya 42 y'Itegeko N° 12/2007 ryo kuwa 27/03/2007 ryakoreshwaga ubwo amasoko yatangwaga iteganya ko "Urwego rutanga isoko rugomba gukosora ikosa ry'imibare rigaragaye mu nyandiko y'ipiganwa. Urwego rutanga isoko rugomba kumenyesha uwapiganwe ikosa ryakosowe. Igiteranyo cyose n'ibiciro by'ikintu kimwe biri mu nyandiko z'ipiganwa bigomba kwandikwa mu mibare no mu nyuguti. Iyo igiciro mu mibare no mu nyuguti bitandukanye, hitabwaho ibyanditse mu nyuguti. Iyo upiganwa yanze ibyakosowe, inyandiko y'ipiganwa ikurwa mu ipiganwa n'ingwate y'inyandiko y'ipiganwa igafatirwa igihe yatanzwe."

[50] Ingingo ya 17, igika cya 2 y'inyandiko yitwa Tender Document n° 03 TB/COP/GiS/ 2012 Construction of COPCOM Commercial Building, Lot I (ETECO Ltd), Lot II (TECOM Ltd) na Lot III (ECOBARUS Ltd) iteganya ko ibiciro kuri buri gikoresho n'igiteranyo cy'ibiciro byose byemejwe ku isoko ryatanzwe bishobora kuvugururwa gusa mu gihe amasezerano yatangiye gushyirwa mu bikorwa kandi bigakorwa mu buryo bwateganyijwe (The unit prices and total prices established by the tender will make the object of revisions of price only during the execution of the contract if it has been foreseen in the Particular Administrative Terms).

[51] Naho ingingo ya 29 y'inyandiko yitwa Tender Document n° 03 TB/COP/GiS/ 2012 Construction of COPCOM Commercial Building iteganya ko amakosa yagaragaye mu nyandiko

yatanzwe na rwiyemezamirimo ashobora gukosorwa gusa mu buryo bukurikira: a) iyo hari itandukaniro hagati y'umubare mu mibare no mu nyuguti ku biciro bya buri gikoresho, icyo gihe hazakoreshwa ibiciro birimu nyuguti; b) iyo igiciro cya buri gikoresho gukuba ku ngano y'ibikoresho bikenewe bidahura, icyo gihe hazafatwa igiciro cyatanzwe kuri buri gikoresho, icyakora COPCOM isanze ikosa ridakabije, hazakoreshwa igiteranyo cy'ibiciro byose byatanzwe, c) ibyibagiranye mu biciro byatanzwe ntibizitabwaho, d) ikosora ryakozwe na COPCOM hakurikijwe ibyavuzwe muri a), b) na c) bizagaragarizwa rwiyemezamirimo, nabyemera nibyo bizagenderwaho, nabyanga isoko rizaseswa, ingwate yatanze ifatirwe (the tender which were essentially recognized to be in conformity with the Tender Document and having been received technically will be checked and the possible errors will be corrected in the following ways: a) when there is a difference between the amount in figures and the amount in letters of the unit prices, the amount in letters will be considered; b) when there is abnormality on the total amount obtained by the multiplying the unit price by the quqntity, the quoted unit price will be considered, unless the Employer does not estimate that it is a coarse error in the unit price, in which case the quoted total amount will be considered and the unit price will be corrected; c) omissions of bills of quantities or unit pricing will be in danger of being rejected; d) the amount appearing in Tender and rectified by the Employer in accordance with the procedure described above and with the assent of the tender, will be recognized as engaging the tenderer. If the tenderer does not accept the correct amount, his tender will be rejected and his bid guarantee be forfeited as stipulated in article 14.5 of ITB)

[52] Dosiye y'urubanza irimo raporo yitwa Forensic Audit in Koperative COPCOM yakozwe na On Consulting Group (ONCG) Ltd igaragaza ko ku wa 31/12/2014, COPCOM yari imaze kwishyura ba rweyemezamirimo (ETECO Ltd, TECOM Ltd na ECOBARUS Ltd) 3,449,900,028 Frw, ariko ko igenzura ryagaragaje ko abo barwiyemezamirimo, mu rwego rwo kunyereza amafaranga ya koperative, burije ibiciro by'ibyo bari barahawe mu ipiganwa ku buryo bishyuwe bose hamwe 209,360,309 Frw arenga kuyo bari bemerewe (ETECO Ltd yishyuwe 82,171,310 Frw y'ikirenga, TECOM Ltd yishyuwe 65,185,300 Frw y'ikirenga na ECOBARUS yishyuwe 62,003,099 Frw y'ikirenga). Ibi bigaragara mu mbonerahamwe ikurikira:

No.	LOT	SOSIYETE	IBICIRO BY'IPIGANWA	IBICIRO MU MASEZERANO	IKINYURANYO
1	I	ETECO Ltd	1,239,732,870	1,321,904,780	82,171,910
2	II	TECOM Ltd	932,218,452	997,403,752	65,185,300
3	III	ECOBARUS Ltd	738,500,012	800,503,111	62,003,099
			2,910,451,334	3,119,811,643	209,360,309

Iyi raporo igaragaza kandi ku wa 01/08/2014, abayobozi ba Koperative bahaye ETECO Ltd 28,489,030 Frw mu buryo budafututse kuko bayise gukosora amakosa y'imibare yari mu nyandiko z'ipiganwa kandi ayo makosa atabanje kugaragazwa ndetse ngo na rwiyemezamirimo ayemeze.

[53] Kuri ETECO Ltd, iyo raporo igaragaza ko iyo sosiyete yagiye itanga ibiciro bibiri bitandukanye ku mirimo imwe, ibiciro biri muri unit price bikaba bitandukanye n'ibiri muri bill of quantities for the estimation, ibyo bikaba ari ukudahuza bikabije (major divergence) byari gutuma rwiyemezamirimo adahabwa isoko, ko iryo atari ikosa rikosorwa kuko ikosa rikosorwa ribaho iyo igiciro mu mibare kidahuye n'igiciro mu nyuguti, icy'inyuguti akaba aricyo kigenderwaho nkuko biteganywa n'ingingo ya 29 y'inyandiko yitwa Tender Document n° 03 TB/COP/GiS/ 2012 Construction of COPCOM Commercial Building, ariko ko COPCOM yabonye ko mu nyandiko zombi ibiciro bidahura, aho gusesa isoko nkuko yabisabwaga, iribwiriza ihuza ibiciro byari muri unit price n'ibyari muri bill of quantities for the estimation bituma ku biciro byari byatanzwe na rwiyemezamirimo hiyongeraho 110,660,940 Frw, nyamara iyo harebwe buri nyandiko ukwayo nta

kosa ry'imibare ririmo, bityo ibyakozwe bikaba bititwa gukosora amakosa y'imibare (correction of arithmetic errors) ahubwo ko ari ugukora inyandiko mpimbano ku nyandiko ya bill of quantities for the estimation rwiyemezamirimo yari yakoze kandi yasinye ibyo bikaba byarakozwe hagamijwe kunyereza amafaranga ya COPCOM .

[54] Raporo ivuga ko ibyo COPCOM yakoze ku nyandiko z'ipiganwa za ETECO Ltd ari nako yabigenje ku nyandiko z'ipiganwa za TECOM n'izatanzwe na ECOBARUS Ltd ku buryo ku biciro rwiyemezamirimo yatanze, bitarimo amakosa y'imibare na mba harebwe buri nyandiko ukwayo, COPCOM yaribwirije ihuza ibiciro ubundi rwiyemezamirimo yakagombye kuba yarahuje kugira ngo ahabwe isoko. Raporo ivuga ko uko guhimba ibiciro mu nyandiko ya bill of quantities for the estimation byatumye TECOM Ltd yishyurwa 32,960,000 Frw y'ikirenga naho ECOBARUS yishyurwa 30,002,000 Frw y'ikirenga. Raporo igaragaza ko ECOBARUS yari gusiza 2900 m3 ikishyurwa 8,620 Frw/m3, ahwanye na 24,998,000 Frw, ariko ko muri bill of quantity rwiyemezamirimo yanditse ko azishyurwa 25.000.000 Frw/m 3, ahwanye na 72,500,000,000 Frw, mu rwego rwo kuyobya uburari, COPCOM igumishaho igiciro cya 25.000.000 Frw/m 3 ahubwo 2900 m3 irayisiba, ihinduramo 1 m ^{3}.

[55] Dosiye irimo na none raporo yakozwe n'Ikigo cy'Igihugu gishinzwe guteza imbere amakoperative (RCA) muri Werurwe 2013, iyo raporo yasuzumye ibikorwa bya Koperative guhera mu mwaka wa 2010 kugeza mu Kuboza 2012, bikorwa ku busabe bwa Minisiteri y'Ubucuruzi n'Inganda. Ku bijyanye n'amasosiyete yatsindiye kubaka inyubako za COPCOM, ku rupapuro rwa 13 rw'iyo raporo, ivuga ko "isesengura ryasanze amasosiyete yari yatanze ibiciro byayo, ariko hakaba hari ibyiyongereye ku biciro bari bagaragaje mu ipiganwa" ku buryo ibiciro byavuye kuri 2.710.541.334 Frw biba 3.119.361.643 Frw, bivuze ko ku biciro byatanzwe na barwiyemezamirimo hiyongereyeho 408.820.309 Frw. Na none dosiye irimo indi raporo yakozwe n'icyo kigo mu Kuboza 2014, ariko noneho ku busabe bwa COPCOM yari yacyandikiye ku wa 17/09/2014 ivuga ko ishaka kumenya uko umutungo wayo ucunzwe n'ibitagenda neza. Mu byasuzumwe harimo n'ikibazo cy'ubwishyu buruta imirimo yakozwe, ku rupapuro rwa 6, raporo ikaba igira iti: "twasanze ibirebana n'ubwishyu buruta imirimo yakozwe bigoranye (kubigenzura) kuko imirimo yari yararangiye."

[56] Dosiye y'urubanza irimo na none raporo yakozwe na ABBA Ltd muri Gicurasi 2016 ibisabwe na COPCOM, igaragaza ko ku isoko ryari ryumvikanyweho, COPCOM yahinduye imibare yari yatanzwe na ba rwiyemezamirimo hanyuma igenda ivugurura amasezerano ku buryo ibiciro byazamutse nkuko bigaragazwa n'imbonerahamwe iri ku rupapuro rwa 77 rw'iyo raporo:

N°	CONTRACTOR	Max duration	Max Delay (days)	Max penalities		Initial Global Amount	Erata	Global amendments	Total Global Amount
				ceiling	Provision by Law				
1	ETECO	18	270	66,095,239	358,914,291	1,321,904,780	28,489,030	99,478,750	1,449,872,560
2	TECOM	18	270	49,870,188	269,299,013	997,403,752		11,179,300	1,008,583,052
3	ECOBARUS	18	201	40,024,156	160,901,125	800,503,111	39,362,040	113,200,265	953,065,416
	TOTAL			155,990,582	787,114,429	3,119,811,643	67,851,070	223,858,315	3,411,521,028
	DELAY BALANCE			-631,123,847					

[57] Raporo ya ABBA kandi igaragaza ku rupapuro rwayo rwa 28 ko ETECO Ltd yishyuwe 309.996.193 Frw y'imirimo itarakozwe (non-existing works) na 317.069.334 Frw y'imirimo yakozwe nabi cyangwa itararangiye, naho ku rupapuro rwa 36, igaragaza ko TECOM Ltd yishyuwe 178.119.560 Frw y'imirimo itarakozwe na 255.762.622 Frw y'imirimo yakozwe ntirangire cyangwa igakorwa nabi. Ku rupapuro rwa 79, 80 na 81 by'iyo raporo, bigaragara ko ETECO Ltd yatanze fagitire zose hamwe zifite agaciro ka 573.917.371 Frw ariko yishyurwa 938.298.327 Frw, TECOM Ltd itanga fagitire zifite agaciro ka 445.683.552 Frw ariko yishyurwa 745.164.302 Frw, naho ECOBARUS itanga fagitire zifite agaciro ka 370.639.568 Frw ariko yishyurwa 680.698.910 Frw.

[58] Ku bireba Mutware Bienvenue ku bijyanye n’amafaranga angana na 209.360.309 Frw yongerewe ba rwiyemezamirimo, Urukiko rurasanga dosiye y’urubanza irimo amasezerano y’umurimo hagati ya COPCOM na Mutware Bienvenu agaragaza ko yatangiye imirimo ye ku wa 10/12/2013, iyi tariki kandi ni nayo yemejwe mu rubanza n° RSOC 00093/2017/TGI/GSBO rwaciwe n’Urukiko Rwisumbuye ku wa 20/06/2018, COPCOM ndetse n’Ubushinjacyaha ntibwigeze bugaragaza ko Mutware Bienvenu yari yaratangiye akazi mbere yo ku wa 10/12/2013, bityo akaba atabazwa ibyerekeranye n’amafaranga yongerewe n’abashinzwe amasoko mu nyandiko z’ipiganwa mbere y’uko atangira imirimo ye. Icyakora, ku bireba 28.489.030 Frw yasabwe na ETECO Ltd, akanama k’amasoko kakemeza ku wa 31/07/2014 (Mutware Bienvenu ari mu kazi) ko ETECO Ltd igomba kuyahabwa, nabyo Mutware Bienvenu ntiyabibazwa kuko nk’umukozi wari ushinzwe abakozi n’imari muri COPCOM (directeur administrative et financier) atari kuvuguruza icyemezo cy’Akanama k’Amasoko, icy’Ikigo gishinzwe ubugenzuzi n’icya Perezida wa Koperative byari byemeje ko ayo mafaranga ahabwa ETECO Ltd, bityo amafaranga kuri ibyo bikorwa Mutware Bienvenu akaba atayabazwa.

[59] Ku bireba Ndahumba Emile na Mbagizente Edouard, Urukiko rurasanga nubwo bari abayobozi ba Koperative ndetse bafite inshingano zo gukurikirana inzego za Koperative harimo n’Akanama ka masoko, ntaho Ubushijacyaha bugaragaza mu buryo buziguye uruhare rwa buri umwe muribo mu kuzamura ibiciro byari mu nyandiko z’ipiganwa zatanzwe na ba rwiyemezamirimo, ahubwo ibiciro byazamuwe n’abari bagize akanama k’amasoko, hanyuma ba rwiyemezamirimo barabibona ntibagira icyo bakora. By’umwihariko, ku bijyanye na 28.489.030 Frw yahawe ETECO Ltd nta ruhare rwa Ndahumba Emile cyangwa Mbagizente Edouard rwigeze rugaragazwa mu itangwa ryayo kuko Ubuyobozi bwa COPCOM bwasabwe na ETECO Ltd gutanga ayo mafaranga ku wa 22/09/2012, ariko bubanza kugisha inama Akanama k’amasoko, gasubiza ku wa 31/07/2014 kemeza ko ayo mafaranga agomba gutangwa, burongera bugisha inama Komite Ngenzuzi (Mubiru Godfrey na HI-Sense), nayo isubiza ku wa 07/08/2014 yemeza ko ayo mafaranga agomba guhabwa ETECO Ltd, bityo ku bijyanye n’amafaranga yongerewe mu nyandiko z’ipiganwa Ndahumba Emile na Mbagizente Edouard bakaba batayabazwa.

[60] Urukiko rurasanga ibyo Mubiru Godfrey, Habakurama Venuste, Uwitonze Joachim, Nyirurugo Aimable, Mwiza Ernest na Uwicyeza Consolée bari ku kanama k’amasoko, na ba rwiyemezamirimo Nteziryayo Eric na sosiyete ye ETECO Ltd, Ahinkuye Bertin na sosiyete ye TECOM Ltd ndetse na Safari Fidèle na sosiyete ye ECOBARUS Ltd bavuga ko raporo y’ubugenzuzi yakozwe na ABBA Ltd idakwiye guhabwa agaciro kuko yakozwe badahari ngo bagire icyo bayivugaho, naho iyakozwe na ONCG Ltd ikaba idakwiye kwizerwa kuko yakozwe na Ntawurushintege Olivier kandi uyu yari asanzwe afitanye amasezerano y’imikoranire na COPCOM nta shingiro bikwiye guhabwa kubera ko uretse kuba nabo ubwabo badahakana iby’uko ibiciro byari mu nyandiko z’ipiganwa byongerewe, ariko na none bemera raporo y’ubugenzuzi yakozwe n’Ikigo cy’Igihugu gishinzwe guteza imbere amakoperative (RCA), kandi nkuko byagaragajwe haruguru, raporo za RCA nazo zigaragaza ko ibiciro byatanzwe na ba rwiyemezamirimo batsindiye isoko byongerewe n’Akanama ka masoko.

[61] Urukiko rurasanga kandi ubwo yari imbere y’Ubushinjacyaha ku wa 06/02/2018, Mubiru Godfrey yasobanuye ko Habakurema Venuste, Mwiza Ernest, Uwitonze Joachim na Uwicyeza Consolée aribo bazamuriye ibiciro ba rwiyemezamirimo, ko aribo bakosoraga raporo bakayishikiriza ubuyobozi ba COPCOM, bityo ko aribo bakwiye kubibazwa, we akaba yarasinye nk’umwe mu bagize akanama k’amasoko gusa. Naho Habakurama Venuste, wari Perezida w’Akanama k’amasoko, yavugiye mu Bushinjacyaha ku wa 01/03/2018, ko bongereye ibiciro mu isoko ryahawe ba rwiyemezamirimo mu rwego rwo kubikosora, bikorwa hakurikijwe amabwiriza y’ipiganwa yari yarateguwe na Mubiru Godfrey, ko nubwo atabifitiye ibimenyetso, yibuka ko byakorewe muri excel mu mashini ya Mubiru Godfrey hanyuma bishikirizwa abayobozi mbere yo gusinya amasezerano.

[62] Urukiko rurasanga mu gihe Mubiru Godfrey, Habakurama Venuste, Uwitonze Joachim, Nyirurugo Aimable, Mwiza Ernest na Uwicyeza Consolée bari ku kanama k'amasoko, na ba rwiyemezamirimo Nteziryayo Eric na sosiyete ye ETECO Ltd, Ahinkuye Bertin na sosiyete ye TECOM Ltd ndetse na Safari Fidèle na sosiyete ye ECOBARUS Ltd badahakana ko ibiciro byemejwe mu gihe cy'ipiganwa byahinduwe, ahubwo bavuga ko hari amakosa y'imibare ba rwiyemezamirimo bakoze mu nyandiko z'ipiganwa batanze, bityo ko ibiciro byazamuwe n'uko ayo makosa yakosowe. Icyakora nk'uko raporo z'igenzura zakozwe n'ibigo bitandukanye zagaragajwe haruguru zibyerekana, ba rwiyemezamirimo Nteziryayo Eric na sosiyete ye ETECO Ltd, Ahinkuye Bertin na sosiyete ye TECOM Ltd na Safari Fidèle na sosiyete ye ECOBARUS Ltd ntibagaragaza uburyo mu nyandiko z'ipiganwa ibiciro batanze kuri Unit Price ari nabyo bigaragaza uko bari kuzajya bagura ibikoresho byari bitanduka nye n'ibyatanzwe kuri bills of quantities bari gushingiraho bishyuza, kudahura kw'izo nyandiko z'abarwiyemezamirimo bikaba bitafatwa nk'amakosa yo guteranya cyangwa gukuba imibare gusa nkuko ONCG Ltd yabisanze ahubwo bigaragaza ko kuva batangira gutekereza gupiganira isoko banateguye umugambi wo kunyereza amafaranga ya COPCOM.

[63] Urukiko rurasanga na none bitumvikana uburyo akanama k'amasoko kagizwe na Mubiru Godfrey, Habakurama Venuste, Mwiza Ernest, Nyirurugo Aimable,Uwitonze Joachim Uwicyeza Consolée kasanze ibiciro biri muri unit price bidahura n'ibya bills of quantities, aho gusesa isoko bagasimbura ba rwiyemezamirimo, bakongera ibiciro mu nyandiko ba rwiyemezamirimo bari batanze kandi basinyiye, kugeza ubwo ku isoko ryose harenzeho 237.849.339 Frw (ETECO Ltd = 82.171.310 Frw + 28.489.030 Frw, TECOM Ltd yongerewe 65.185.300 Frw na ECOBARUS yongerwa 62.003.099 Frw). Rurasanga kandi bitumvikana uburyo ku isoko ryatangiye rifite agaciro ka 2.910.451.334 Frw, ba rwiyemezamirimo bari gukora amakosa yo kubara, guteranya cyangwa gukuba afite agaciro kari hafi 10% y'isoko ryose, ibyo ubwabyo niyo biramuka aribyo ntibyari gutuma COPCOM ikosora ayo makosa ngo isoko rikomeze ahubwo yari kurisesa nk'uko biteganywa n'ingingo ya 42 y'Itegeko N° 12/2007 ryo kuwa 27/03/2007 ryakoreshwaga ubwo amasoko yatangwaga, ingingo ya 17, igika cya 2, n'iya 29 z'inyandiko yitwa Tender Document n° 03 TB/COP/GiS/ 2012 Construction of COPCOM Commercial Building, Lot I (ETECO Ltd), Lot II (TECOM Ltd) na Lot III (ECOBARUS Ltd) zibukijwe haruguru, cyane cyane ko rwiyemezamirimo ukoze amakosa angana atyo nta n'icyizere aba atanga ko no mu gushyira mu bikorwa isoko yahawe atakora andi makosa nkayo.

[64] Urukiko rurasanga ibyo guhindura ibiciro byatanzwe na ba rwiyemezamirimo bitakwitwa gukosora amakosa y'igiteranyo cyangwa gukuba mu gihe nk'uko byagaragajwe haruguru, hari naho abari bashinzwe akanama k'amasoko bahimbye za m 3 z'ahagombaga gusizwa na ECOBARUS Ltd, ku buryo 2.900 m 3 yari mu inyandiko z'ipiganwa yahinduwemo 1 m3, n'igiciro cya 8.620 Frw /m3 kigahindurwamo 25.000.000 Frw /m^3.

[65] Hashingiwe ku bimaze gusobanurwa haruguru no ku biteganywa n'ingingo ya 325, igika cya mbere y'Itegeko-Ngenga n° 01/2012/OL ryo ku wa 02/05/2012 rishyiraho Igitabo cy'amategeko ahana iteganya ko umukozi wabikijwe amafaranga yaba aya Leta cyangwa ay'abikorera kubw'umurimo ashinzwe akayarigisa aba akoze icyaha cyo kurigisa, Urukiko rurasanga ba rwiyemezamirimo Nteziryayo Eric na sosiyete ye ETECO Ltd, Ahinkuye Bertin na sosiyete ye TECOM Ltd ndetse na Safari Fidèle na sosiyete ye ECOBARUS Ltd baracuze umugambi wo kuzamura ibiciro byari mu nyandiko z'ipiganwa, banyuranya ibyari muri unit prices n'ibyari muri bill of quantities bagamije kurigisa umutungo wa COPCOM. Byongeye kandi hejuru y'ibyo biciro byari byahanitswe bum vikana na Mubiru Godfrey, Habakurama Venuste, Nyirurugo Aimable, Mwiza Ernest, Uwitonze Joachim, na Uwicyeza Consolée nk'abari mu kanama k'amasoko, bihisha inyuma y'icyo bise ikosora ry'imibare, barongera bazamura ibiciro byari byatanzwe na ba rwiyemezamirimo bagamije kujya bungukira mu mirimo itarakozwe.

[66] Naho ku bijyanye n'amafaranga yishyuwe imirimo itarakozwe, raporo y'igenzura yakozwe na ONCG Ltd igaragaza ko muri rusange COPCOM yishyuye 706.173.049 Frw ku mirimo itarakozwe, naho raporo y'igenzura ya ABBA Ltd igasobanura ko ETECO Ltd yatanze fagitire zose hamwe zifite agaciro ka 573.917.371 Frw ariko yishyurwa 938.298.327 Frw harimo 309.996.193 Frw y'imirimo itarakozwe (non-existing works) na 317.069.334 Frw y'imirimo yakozwe nabi cyangwa itararangiye, TECOM Ltd itanga fagitire zifite agaciro ka 445.683.552 Frw, yishyurwa 745.164.302 Frw harimo 218.057.296 Frw y'imirimo itarakozwe na 192.721.304 Frw y'imirimo yakozwe nabi cyangwa itararangiye, naho ECOBARUS Ltd itanga fagitire zifite agaciro ka 370.639.568 Frw ariko yishyurwa 680.698.910 Frw harimo 255.762.622 Frw y'imirimo yakozwe ntirangire cyangwa igakorwa nabi na 178.119.560 Frw y'imirimo itarakozwe na mba.

[67] Na none raporo y'igenzura ya ABBA Ltd itanga ingero z'imirimo itandukanye yagombaga gukorwa na ETECO Ltd itarakozwe ariko ikaba yarishyuwe, muriyo hakaba harimo inzira y'ababana n'ubumuga, plain concrete interlocking pavers, beams, steel and balustrades and handrails, fire extinguishers, thick vibrated reinforced concrete columns, MK boxes, junction boxes, saddles plastic conduits. Naho kuri TECOM Ltd, iyo raporo igaragaza ko mu mirimo yishyuwe itarayikoze harimo structural steel trusses, urinals, thick vibrated reinforced columns, fire extinguishers, high reinforced concrete water gutter channels and parapet wall enchoered, thick rough paving finishing with wood float, thick ciment hollow block walls, etc. Kuri Hi-Sense Engeneers Consulting Ltd yari ishinzwe igenzura, yatanze raporo y'igenzura 11 yakoreye ECOBARUS mu mwanya wa raporo 18 yagombaga gutanga.

[68] Urukiko rurasanga iby'uko hari imirimo itarakozwe ariko ikishyurwa, Mubiru Godfrey wari mu kanama k'amasoko ndetse akaba n'umuyobozi wa HI-Sense Ltd yari ishinzwe igenzura yaravugiye mu Bugenzacyaha ku wa 25/07/2016, ko yemera ko kizimyamoto zari mu isoko ryahawe ETECO Ltd, TECOM Ltd na ECOBARUS Ltd kandi ko bagombaga kubigura bakabishyiraho, ariko ko "ikibazo cyabayeho, habaye kwibeshya", naho ku wa 06/02/2018 yavugiye mu Bushinjacyaha ko hari 16.214.200 Frw ba rwiyemezamirimo basaguye ku mafaranga yo kugura sima bahawe, inama rusange yo ku wa 17/03/2013 yemeza ko asubizwa COPCOM ariko ntiyigeze asubizwa, ko ibyo byabazwa Mutware Bienvenu wari ushinzwe kuyagaruza. Yasobanuye kandi ko yemera ko hari 1.500,6 m2 z'amakaro afite agaciro ka 34.858.800 Frw yemeje ko yubatswe ndetse rwiyemezamirimo akishyurwa nyamara atarubatswe, ko yabikoze "kugira ngo inyubako irangire", ku bijyanye n'imbuga ifite ubuso bwa 2.071 m2 yari kubakwaho pavés zifite agaciro ka 9.753.150 Frw, akemeza ko izubatswe kandi iyo mbuga itarigeze ibaho, agira ati: "ndumva nta gisubizo nagitangaho kano kanya.", naho ku bijyanye no kuba ECOBARUS Ltd yarishyuwe 61,26 m 3 za dalles en béton itubatse, avuga ko habaye amakosa yo kwishyura batabanje gukora isuzuma rya tekiniki.

[69] Urukiko rurasanga kandi Mubiru Godfrey yarabwiye na none Ubushinjacyaha ko hari 9.522.000 Frw yishyuwe TECOM Ltd kuri poutres zihwanye na 41,4 m3 zavuzwe ko zubatswe nyamara zitarubatswe, "mukubishyura amafaranga y'umurengera bakurikizaga ibyari biteganyijwe mu gitabo cy'ipiganwa", naho ku bijyanye na fondation yari kubakwa na ECOBARUS Ltd ku giciro cya 9.071.000 Frw ikubakwa ku giciro cya 102.000.000 Frw, avuga ko nubwo byatangiwe raporo uburyo byakozwemo ataribyo kuko igiciro cyatanzwe na rwiyemezamirimo cyari forfait kandi bene ibyo biciro bikaba bidahindurwa.

[70] Urukiko rurasanga Mubiru Godfrey, mu nyandiko yo ku wa 03/11/2014, itsinda ryagiye kwakira by'agateganyo inzu zubatswe na ETECO Ltd na ECOBARUS Ltd ryaravuze ko imirimo yose y'ubwubatsi yarangiye kandi ko izo nzu zuzuye ko hasigaye amakosa make azakosorwa mbere y'uko yakirwa burundu (the construction …is almost completed with all work done except the defects that are to be rectified until final hand over …), naho ku mirimo yakozwe na TECOM Ltd, iryo tsinda rivuga ko amasezerano yubahirijwe kandi ko yarangiye, TECOM Ltd ikaba ikwiye kwishyurwa amafaranga asigaye angana na 113.200.265 Frw y'imirimo y'inyongera (Contract status:the contract

has been completed, Amount of extraworks: 113.200.265 Frw), ku bijyanye n'imirimo yo gushyira za kizimyamoto muri izo nyubako yari yahawe COTIS Ltd, iryo tsinda ryavuze ko ibikoresho by'umutekano harimo na kizimyamoto byatanzwe, bigashyirwa mu nyubako, bityo ko amasezerano yarangiye, ibitaratunganye bikaba bizakosorwa nyuma (contract status: the contract has been completed. Supply, installation and commissioning of security equipment is completed)

[71] Urukiko rurasanga mu itsinda ryakiriye izo nyubako by'agateganyo harimo Mubiru Godfrey, wemereye imbere y'inzego z'ubutabera ko hari imirimo yishyuwe itarakozwe, ibyo kandi bikaba byari byarabaye mbere yo kwakira by'agateganyo izo nyubako, harimo kandi Nteziryayo Eric, uhagarariye ETECO Ltd, Ahinkuye Bertin ahagarariye TECOM Ltd na Safari Fidèle ahagarariye ECOBARUS Ltd bari bazi ko imirimo yose basinyiye mu masezerano batayikoze, ko hari amafaranga y'ikirenga bakiriye batasubije ndetse ko hari n'imirimo yakozwe igice cyangwa igakorwa nabi, hari kandi Ndahumba Emile, Mbagizente Edouard, Habakurama Venuste, Uwitonze Joachim, Uwicyeza Consolée na Mutware Bienvenu basinyiye ko imirimo yarangiye, babikora nta raporo tekinike yakozwe kandi nabo ubwabo hari ibyo bibonera ko bitakozwe, nk'ahagombaga gushyirwa inzira y'ababana n'ubumuga itari yarakozwe, kizimyamoto zari zarishyuwe ariko zitarashyizweho, n'ibindi bitagomberaga ubuhanga buhambaye kugira ngo babone ko bidahari kandi amasezerano abiteganya.

[72] Urukiko rurasanga hashingwe ku bimaze gusobanurwa haruguru, Ndahumba Emile, Mbagizente Edouard, Habakurama Venuste, Uwitonze Joachim, Uwicyeza Consolée na Mutware Bienvenu, Mubiru Godfrey na sosiyete ye HI-SENSE, Nteziryayo Eric na sosiyete ye ETECO Ltd, Ahinkuye Bertin na sosiyete ye TECOM Ltd na Safari Fidèle na sosiyete ye ECOBARUS Ltd baragize uruhare mu gutuma COPCOM yakira inyubako kandi hari imirimo itarakozwe, babikora bagamije gufasha ba rwiyemezamirimo aribo Nteziryayo Eric na sosiyete ye ETECO Ltd, Ahinkuye Bertin na sosiyete ye TECOM Ltd na Safari Fidèle na sosiyete ye ECOBARUS Ltd kurigisa umutungo wa koperative, bityo ibyo bitwaza ko ibibazo byari gukemukira muri décompte final bikaba nta shingiro bifite mu gihe batagaragaza icyatumye bajya kwakira by'agateganyo izo nyubako igitaraganya, nta raporo tekiniki yakozwe, imirimo itarakozwe ntigaragazwe n'amafaranga ba rwiyemezamirimo bari barimo koperative ntagaragazwe.

[73] Urukiko rurasanga kandi mu nyandiko yiswe iy'ikosora ry'imibare yakorewe ETECO Ltd ku wa 12/07/2012, bigaragara ko imirimo ya "retaining walls" yari isanzwe iteganyijwe mu masezerano y'ibanze ndetse yaragenewe ibiciro byaje kongerwa mu nyandiko yiswe ikosora imibare, bikaba bitumvikana uburyo nyuma yaho hakozwe amasezerano atatu y'inyongera, ayo ku wa 30/08/2012 asaba amafaranga yo kubaka "retaining wall at the entrance" ifite agaciro ka 41.039.000 Frw, ayo mu mwaka wa 2014 atarasinywe na COPCOM asaba kubaka "retaining wall at the end of the parking" afite agaciro ka 24.128.500 Frw n'ayo ku wa 28/05/2014 nayo asaba kubaka "additional retaining wall, water channel and strengthening of intermediate slab" afite agaciro ka 20.040.000 Frw, bikaba bigaragarira Urukiko ko ayo mafaranga yatanzwe ku mirimo n'ubundi yari isanzwe iteganyirijwe amafaranga mu masezerano y'ibanze.

[74] Urukiko rurasanga na none ku bireba TECOM Ltd, amasezerano y'ibanze yari yarateganyije "retaining walls" ku giciro cya 19.384.940 Frw, mu ikosora ryabaye ku wa 13/07/2012 igiciro kirazamurwa kugeza kuri 21.826.040 Frw, bikaba bitumvikana uburyo na none ku wa 10/05/2014, TECOM yakoze amasezerano y'inyongera ivuga ko igiye kubaka "retaining wall" na none, ayo masezerano y'inyongera akaba yari afite agaciro ka 11.179.300 Frw; naho ECOBARUS Ltd yakorewe amasezerano y'inyongera n° 03/TB/COP/Gis/Lot III/2012 -2014 yo gukora "raft foundation for water treatment plant" ihabwa agaciro ka 9.071.000 Frw nyamara iyi mirimo yari isanzwe iteganyijwe mu masezerano remezo, byose bigaragaza ko uburyo bwo gukora amasezerano y'inyongera bwari bugamije kubona uburyo bwo kunyereza amafaranga ya koperative.

[75] Ku bijyanye na bons de commandes zatanzwe mu buryo bunyuranyije n'amasezerano ba rwiyemezamirimo bagiranye na COPCOM, Urukiko rurasanga ingingo ya 12 y'amasezerano y'imikoranire hagati ya ECOBARUS Ltd na COPCOM, hagati ya ETECO Ltd na COPCOM, no hagati ya TECOM Ltd na COPCOM yabaye ku wa 02/08/2012 iteganya ko kwishyura bizajya bikorwa mu buryo bukurikira:

i. Kubanza kugaragaza imirimo yakozwe kandi yemejwe na Bureau de surveillance na COPCOM mbere yo kwishyura, kandi ubwishyu bugashingira kuri fagitire yaragarajwe mbere kandi yemejwe,

ii. Kwishyura hakoreshejwe uburyo bwa virement bancaire, amafaranga akanyuzwa kuri konti ya ECOBARUS muri KCB (4400659690), ku bireba ETECO Ltd amafaranga akanyuzwa kuri 011111102993 muri Fina Bank naho kuri TECOM Ltd akanyuzwa kuri konti 00041/0424917/28 muri Banki ya Kigali,

iii. Gushingira fagitire ku biciro byatanzwe kuri buri gikoresho ndetse na dévis estimatif et quantitatif byometswe ku masezerano kandi byemejwe na COPCOM na rwiyemezamirimo;

[76] Urukiko rurasanga ku wa 24/04/2013 harabaye inama yari iyobowe na Ndahumba Emile, yitabiriwe na Mbagizente Edouard, Miburu Godfrey, Ahinkuye Bertin, Nyirurugo Aimable, Uwicyeza Consolée, Nkeramiheto Emmanuel, Iragena Anaclet, Nsabimana Jean Claude na Twagirayezu Theo. Muri iyo nama, Ndahumba Emile yasabye ko ibiteganyijwe mu nyandiko z'ipiganwa byubahirizwa, ko "kuba ba rwiyemezamirimo barimo baka inguzanyo y'amafaranga Koperative, asanga atari ngombwa kuko bahawe avance de démarrage". Ariko ETECO Ltd yakomeje isaba kugurizwa, inama yemeza ko "abo bantu bagurizwa ariko Bureau de Surveillance ikaba iba ariyo ibategeka pourcentage bazajya bishyura hashingiwe kuri état d'avancement y'imirimo n'ubwishyu bumaze gukorwa. Inama yasabye ikomeje ko rwiyemezamirimo iyo crédit ayikoresha icyo yakiwe…" Iyi nguzanyo niyo yiswe facilitation.

[77] Urukiko rurasanga ku wa 25/04/2013 harakozwe na none indi nama iyobowe na Ndahumba Emile na none yitabiriwe na Mbagizente Edouard, Uwitonze Joachim, Mutware Bienvenu na Nkeramiheto Emmanuel, iyo nama ikaba yaremeje ko ba rwiyemezamirimo bagurizwa amafaranga yo kugura ibikoresho kugira ngo imirimo irangire nta gihombo biteje koperative. Naho ku wa 24/07/2013, hateranye indi nama irimo Ndahumba Emile, Uwicyeza Consolée, Mbagizente Edouard, Uwitonze Joachim, Mubiru Godfrey, Nyirurugo Aimable, Sibomana Joseph, Iragena Anaclet na Twagirayezu Thadée, iyo nama yize ku busabe bwa ba rwiyemezamirimo basabaga kugurirwa ibikoresho, inyandiko-mvugo y'iyo nama isoza igira iti: " Bwana Mubiru Godfrey asanga ari igitekerezo cyiza (kugurirwa ibikoresho) kuko bizihutisha akazi, birumvikana bikazamura factures zabo, bigatuma n'amafaranga COPCOM ibakata bikorwa neza…" Ku wa 19/08/2013, hateranye indi nama yari yatumijwemo ba rwiyemezamirimo, Mubiru Godfrey avuga ko "urebye amafaranga izi companies zubaka zahawe (ni) menshi ku kazi kakozwe kuko factures bishuje iri munsi cyane y'inguzanyo bahawe…"

[78] Urukiko rurasanga hari indi nama yabaye ku wa 11/10/2013, iyobowe na none na Ndahumba Emile, yitabiriwe na Mbagizente Edouard, Mutware Bienvenu, Mubiru Godfrey, Nyirurugo Aimable, Uwitonze Joachim, Nteziryayo Eric, Ahinkuye Bertin, Twagirayezu Thaddée na Iragena Anaclet, muri iyo nama ETECO Ltd yasabye kugurirwa ibyuma byo gufunga kuri étage ya gatatu n'amabati ya PETROCOM yo gusakara igice cyo hagati, ibajijwe icyo yakoresheje avance de démarrage yahawe, ntiyagira icyo avuga ahubwo asobanura ko ahawe ibyo bikoresho imirimo noneho yakwihuta, inama yasanze nta garantie de bonne execution ETECO Ltd iratanga. Inama yemeje ko ba rwiyemezamirimo bashaka ba fournisseurs, COPCOM ikajya ibishyura.

[79] Urukiko rurasanga ETECO Ltd, TECOM Ltd na ECOBARUS Ltd baratangiye bahabwa avance de démarrage kugira ngo batangire imirimo, ariko imirimo ntiyihuta, bigera naho ihagarara, Mubiru Godfrey na HI-SENSE bari bashinzwe igenzura aho kugaragaza ko ba rwiyemezamirimo batarimo kubahiriza amasezerano n'ibyemejwe mu ipiganwa kugira ngo bafatirwe ibihano, basunikira ubuyobozi bwa Koperative mu kubaha inguzanyo yaje yiyongera kuri avance de démarrage batari bagaragaje icyo bayikoresheje. Bigaragaririra Urukiko ko uko kunyuranya n'amasezerano ndetse n'inyandiko z'ipiganwa byabaye inzira yo kunyereza umutungo wa COPCOM kuko koperative yatangiye kujya isohora amafaranga iyaha ba rwiyemezamirimo nta fagitire zitanzwe, rimwe na rimwe itazi n'icyo agiye gukoreshwa. Urugero akaba ari nka 100.000.000 Frw yasabwe na TECOM Ltd ku wa 15/04/2013, ikayahabwa ku wa 26/04/2013, 12.000.000 Frw yahawe ECOBARUS Ltd ku wa 14/09/2013.

[80] Urukiko rurasanga urundi rugero rw'amafaranga y'inguzanyo yasohowe uko ubuyobozi bwa COPCOM bwishakiye ari 3.000.000 Frw yahawe ETECO Ltd ku wa 22/11/2013 ivuga ko ari ayo kuyifasha gusiza, bikaba bitumvikana uburyo yari kuba yasinye amasezerano ku wa 02/08/2012 igakeza ku wa 22/11/2013 itarasiza, ikindi giteye urujijo akaba ari uko kuri iyo tariki ya 22/11/2013, ETECO Ltd yongeye gusaba andi 3.000.000 Frw, noneho ntibitangire impamvu, iyahabwa ku wa 12/12/2013, uku kandi ni nako byari bimeze no kuri ECOBARUS Ltd kuko nko ku wa 18/12/2013 yasabye 2.000.000 Frw ntiyabitangira n'impamvu irara iyahawe, amafaranga yose yahawe ba rwiyemezamirimo nk'inguzanyo mu buryo bunyuranyije n'inyandiko z'ipiganwa ndetse n'amasezerano hakaba nta kigaragaza ko yishyuwe.

[81] Byongeye kandi Urukiko rurasanga icyemezo cya Komite Nyobozi ya COPCOM cyo ku wa 11/10/2013 cyemerera Koperative kujya cyishyura ba fournisseurs cyafashwe mu buryo bunyuranyije n'amategeko, kuba byarageze aho Koperative igashyira icyo cyemezo mu masezerano y'inyongera yakoranye n'aba rwiyemezamirimo, nk'amasezerano yakoranye na ECOBARUS Ltd ku wa 13/08/2013, ayo yakoranye na TECOM Ltd ku wa 14/08/2013, sibyo byatuma gifatwa nk'icyubahirije amategeko kuko ayo masezerano anyuranyije n'ibyemejwe mu nyandiko z'ipiganwa ndetse n'amasezerano y'iremezo impande zombi zari zaragiranye, bikaba bigaragara ko ayo masezerano y'inyongera yakozwe hagamijwe guha ishingiro (legitimité) ibyemezo binyuranyije n'amategeko byari byarafashwe mu nama zabanjirije ayo masezerano nk'uko byasobanuwe haruguru.

[82] Urukiko rurasanga icyemezo cyo kwiyambaza ba fournisseurs cyaratumye abayobozi ba COPCOM haba abemeje amasoko ndetse n'abari bashinzwe gukurikirana ishyirwa mu bikorwa ryayo baboneraho guha abana n'abagore babo imirimo yo kugemurira ba rwiyemezamirimo ibikoresho, bikorwa mu rwego rwo gushyira mu bikorwa umugambi wo kunyereza umutungo wa COPCOM. Urugero akaba ari Uwizeyimana Alphonsine, umugore wa Mbagizente Edouard, ukirikiranyweho kunyereza 58.265.500 Frw na 6.150.000 Frw, Nubuhoro Janvière, umugore wa Uwitonze Joachim, uregwa kunyereza 6.234.000 Frw na 3.500.000 Frw na 468.100 Frw na Mutabazi Allan, umuhungu wa Uwicyeza Consolée uregwa kunyereza 12.829.000 Frw na 20.826.1800 Frw na 3.190.500 Frw.

[83] Urukiko rurasanga mu nyandiko z'ipiganwa COPCOM yaravuze ko isoko ryayo rizagengwa n'Itegeko N° 12/2007 ryo kuwa 27/03/2007 rigenga Amasoko ya Leta, ingingo yaryo ya 16, ibika bya 5 na 6 ikaba ivuga ko umukozi w'urwego rutanga isoko cyangwa ugize Inama y'Ubutegetsi cyangwa ugize Akanama gashinzwe gutanga amasoko ufite inyungu muri iryo soko abujijwe gufata ibyemezo bijyanye n'ishyirwa mu bikorwa ry'amasezerano, icyo iyi ngingo ivuze akaba ari uko Mbagizente Edouard, wari Visi Perezida wa COPCOM, Uwitonze Joachim, Umwanditsi w'Inama y'Ubutegetsi ya COPCOM na Uwicyeza Consolée wari umujyanama wa COPCOM, byongeye kandi Uwitonze Joachim na Uwicyeza Consolée bakaba bari mu bagize akanama k'amasoko, ntibari kwemera ko muri iryo soko abagemura ibikoresho baba abana cyangwa abagore babo kuko binyuranyije n'ingingo ya 4, agace ka mbere n'aka 6, y'iryo Tegeko ivuga ko mu gushyira mu bikorwa isoko hagomba kugenderwa ku gukorera mu mucyo no gutanga amahirwe angana.

[84] Ku bijyanye na bons de commande, Urukiko rurasanga ibyo Uwizeyimana Alphonsine avuga ko atabazwa iby'inyerezwa ry'umutungo wa COPCOM kuko atari umukozi wayo nta shingiro byahawa, bitewe n'uko yafatanyije n'umugabo we Mbagizente Edouard ndetse n'abandi bakozi ba COPCOM gutuma amafaranga ya Koperative anyerezwa bigaragazwa n'uko ku wa 08/01/2014, Mubiru Godfrey, Mutware Bienvenu na Ndahumba Emile bakoze Bon de commande y'ibikoresho by'amashanyarazi mu izina rya Bankozemunda Eric ifite agaciro ka 58.265.500 Frw, ku wa 21/01/2014, Bankozemunda Eric yohereza Bordereau d'Expédition ifite agaciro ka 27.998.000 Frw, ku wa 20/03/2014, yandikira COPCOM ayisaba kumwishyura ibinyujije kuri konti n° 2040061370120 ya Uwizeyimana Alphonsine muri BRD, ku wa 21/03/2014 COPCOM yishyuye Uwizeyimana Alphonsine 58.265.500 Frw nyamara atariyo ari kuri Bordereau d'Expédition.

[85] Urukiko rurasanga ibyo Uwizeyimana Alphonsine aburanisha by'uko muri 58.265.500 Frw yahawe yafashemo 27.998.000 Frw y'ibikoresho yari yagurishije Bankozemunda Eric hanyuma asagutse (30.267.500 Frw) ayaha Bankozemunda Eric kugira ngo ajye kwishyura ibikoresho yafashe ahandi nta gaciro byahabwa kuko bivuguruzwa no kuba Bordereau d'Expédition yari kubishingiraho ari iyatanzwe ku wa 13/01/2014 iriho gusa 6.037.000 Frw na Bordereau d'Expédition yatanzwe ku wa 25/01/2013 iriho 10.031.500 Frw, igiteranyo kiri kuri izo bordereaux zombi kikaba kitagera kuri 30.267.500 Frw yasigaye nyuma y'uko yiyishyura.

[86] Ikindi nanone ntibyumvikana uburyo amafaranga arenga kuri 27.998.000 Frw yanyujijwe kuri compte ya Uwizeyimana Alphonsine aho guhabwa Bankozemunda Eric, inyandiko igaragara muri system Bankozemunda Eric yanditse asaba ko ayo mafaranga yanyuzwa kuri compte ya Uwizeyimana Alphonsine impamvu yatanze ngo ni uko afite urugendo rutunguranye kandi akaba ashaka guhita yishyura abo abereyemo umwenda, ariko urugendo ntirwarikubuza COPCOM gushyira amafaranga kuri compte ya Bankozemunda Eric na cyane ko atari Uwizeyimana Alphonsine warikumwishyurira ayo madeni avuga, ahubwo Uwizeyimana Alphonsine avuga ko arengaho yayasubije Bankozemunda Eric, aha ukibaza niba Bankozemunda Eric yari yafashe ibyo bikoresho bihwanye na 58.265.500 Frw impamvu atariwe wishyuwe ngo yishyure Uwizeyimana Alphonsine 27.998.000 Frw, na cyane ko nta nikigaragaza ko Uwizeyimana Alphonsine ayasubije ayo mafaranga.

[87] Urukiko rurasanga ku bijyanye na 6.150.000 Frw na none Uwizeyimana Alphonse aregwa kunyereza, Ubushinjacyaha bubishingira ku kuba ari we ayo mafaranga yohererejwe, nyamara bon de commande, bordereau d'expédition, facture na ordre de paiement ya BRD n° 12100676 yatanzwe ku wa 14/05/2014, bigaragaza ko ibikoresho byasabwe, bitangwa kandi hishyurwa Bankozemunda Eric, bityo kuri ayo mafaranga Uwizeyimana Alphonsine akaba atayabazwa.

[88] Ku bireba Nubuhoro Janvière na Uwitonze Joachim ku bijyanye na bons de comande, Urukiko rurasanga hari bon de commande n° 93/COP/2014 yo ku wa 19/09/2014 yakozwe na Ndahumba Emile, Safari Fidèle (ECOBARUS Ltd) na Mubiru Godfrey ikorerwa Nubuhoro Janvière, mubyo yasabaga harimo imifuka 87 ya sima, 3 tours de sable Kayumbu, goudrons 11 pots hamwe n'ibindi bikoresho ku giciro cya 2.848.000 Frw, kuri iyo tariki hakozwe indi bon de commande ifite n° 93/COP/2014 barongera basaba imifuka 15 ya sima, 1 tour ya sable Kayumbu, 16 serrures Kale, 75 hose pipe na 2 pots Weatherguard bifite agaciro ka 561.000 Frw ariko handikwa ko bifite agaciro ka 615.000 Frw, kuri iyo tariki hakozwe na none bon de commande n° 93/COP/2014 mubyo yasabaga harimo 10m3 za concassé, 36 treillis, 40 litres za petrol hamwe n'ibindi ku giciro cya 1.110.900 Frw, nanone kuri iyo tariki hakozwe indi bon de commande ifite nimero n° 93/COP/2014 isaba ibikoresho by'amashanyarazi bifite agaciro ka 240.100 Frw, na none kuri iyo tariki bakoze bon de commande ifite iyo nimero n° 93/COP/2014, basaba guhabwa rail métallique, coffret divisionnaire na cable ebyiri byose hamwe bifite agaciro ka 28.000 Frw, ariko bandika ko grand total y'iyo bon de commande ari 4.227.000 Frw.

[89] Urukiko rurasanga ibikoresho bivugwa haruguru ko byagemuwe ku itariki imwe ya 20/09/2014, bordereaux d'expéditions zose zisinywa n'umuntu umwe ari we Uwitonze Joachim, Umwandisti wa COPCOM, bikaba bitumvikana impamvu ku munsi umwe COPCOM yari ikeneye imicanga cyangwa sima izi ko byari kugemurwa n'umuntu umwe, igakora bon de commandes ebyiri zitandukanye ndetse n'ubigemura agakora bordereaux d'expéditions ebyri zitandukanye , nyamara akavuga ko kuri uwo munsi byagemuwe n'imodoka imwe RAC 214 G, yavanze tours 4 z'imicanga ya Kayumbu n'imifuka 102 ya sima, 10m3 za concassés, utugunguru 10 twa goudrons ndetse n'ibindi bikoresho by'amashanyarazi n'amarangi, ahubwo bigaragaza ko izo nyandiko zakozwe hagamijwe gutubura umubare w'amafaranga ya COPCOM yari agiye kunyerezwa ari nacyo cyatumye hamwe ibikoresho bifite agaciro ka 561.000 Frw haranditswe 615.000 Frw, ndetse n'ibifite agaciro ka 28.000 Frw hakandikwa 4.227.000 Frw. Ikindi kigaragaza ko inyandiko za bordereau d'expéditions zakozwe hagamijwe kunyereza umutungo wa Koperative ni uko zose zasinywe na Uwitonze Joachim, umukozi wa COPCOM, bikaba bitumvikana uburyo uwasabye ibikoresho (COPCOM) ari nawe ubitanga. dore ko ibyo Uwitonze Joachim yireguje avuga ko yabikoze kuko ubwo bucuruzi bwari ubwo umugore we bavanze umutungo, nta shingiro byahabwa kuko gushyingiranwa n'umuntu mu buryo bwemewe n'amategeko ubwabyo bitamuhesha uburenganzira bwo kumuhagararira mu bikorwa (kumusinyira), kuko hari aho Uwitonze Joachim yahawe procuration naho yagiye asinyira umugore we atayihawe, na cyane ko nkuko byasobanuwe mu gika cya 81 na 82 cy'uru rubanza, bitari binemewe ko umugore we aza gushyira mu bikorwa ibijyanye n'amasoko.

[90] Urukiko rurasanga dosiye y'urubanza igaragazako ku wa 07/05/2014 hakozwe bon de commande N° 74/2013-2014 y'ibikoresho bifite agaciro ka 3.366.200 Frw, ikorwa na Mubiru Godfrey, yemezwa na Ndahumba Emile, ihabwa Nubuhoro Janvière, bikaba bigaragara ko nk'uko byemejwe na raporo ya Forensic Laboratory yo ku wa 02/06/2019, Uwitonze Joachim yanditse fagitire n°1 ku wa 12/05/2014 yigana umukono w'umugore we, yishyuza 3.308.200 Frw, COPCOM iyishyura ku wa 14/05/2014, hakaba harishyuwe amafaranga anyuranye nay'ibikoresho byasabwe kandi nta n'ikigaragaza ko byagemuwe. Na none ku wa 12/05/2014 handitswe fagitire n°2 mu izina rya Nubuhoro Janvière yomekwaho bordereau d'expédition n° 2 yo kuwa 09/05/2014 igenewe ETECO Ltd, hishyuzwa 2.673.500 frw, ku wa 12/05/2014, Mutware Bienvenu ushinzwe umutungo muri COPCOM yishyuye Uwitonze Joachim 3.141.600 Frw, avuga ko ari ubwishyu bwa fagitire n° 1 na n° 2 za Nubuhoro Janvière nyamara ntacyo uyu yagemuye ndetse na fagitire n° 1 yari yarishyuwe. Kuri iyo tariki, Uwitonze Joachim yishyuje na none 468.100 Frw y'ibikoresho bivugwa ko byagemuriwe TECOM Ltd, Nubuhoro Janvière ayahabwa mu ntoki, uwo munsi Uwitonze Joachim yishyuje na none 6.295.300 Frw y'ibikoresho bivugwa ko byagemuriwe TECOM Ltd, ku wa 09/06/2014, Nubuhoro Janvière yishyurwa 6.234.000 Frw hakoreshejwe sheki ya COPCOM, ku wa 08/08/2014 COPCOM yongeye kwishyura Nubuhoro Janvière 3.500.000 Frw ku bikoresho bivugwa ko byahawe ETECO Ltd, ariko nabwo yishyurwa ntacyagumuwe.

[91] Urukiko rurasanga ibimaze kugaragazwa haruguru bihamya nta gushidikanya ko ba rwiyemezamirimo Safari Fidèle, Nteziryayo Eric, Ahinkuye Bertin, Mubiru Godfrey n'abayobozi ba COPCOM Ndahumba Emile, Mutware Bienvenu bafashije Uwitonze Joachim n'umugore we Nubuhoro Janvière kunyereza amafaranga ya koperative hakorwa za bon de commandes zigamije gusaba ibikoresho, za bordereaux d'expédition zivuga ko byagemuwe ndetse na za fagitire zibyishyuza nyamara nta byagemuwe.

[92] Kuri Mutabazi Allan, Ubushinjacyaha buvuga ko ku wa 22/01/2014, Mubiru Godfrey yateguriye Mutabazi Allan bon de commande N° 180/2014 ya 3.190.500 Frw, mu izina rya COPCOM yemezwa na Mutware Bienvenu na Ndahumba Emile kuwa 31/3/2014, Mutabazi Allan yishyurwa nta bordereaux d'expedition akoze nta n'ibikoresho yagemuye, amafaranga anyuzwa kuri Konti N° 00256060493603 iri muri BK, Urukiko rurasanga Mutabazi Allan atagaragaza ikimenyetso cy'uko koko ibyo bikoresho yabigemuye nyuma yuko asabwe kubigemura kuko bordereau

d’expedition ariyo kuwa 10/03/2014 mu gihe bon de comande nubwo yateguwe kuwa 22/01/2014 ariko yemejwe kuwa 31/03/2014, bityo Mutabazi Allan akaba atarikugemura ibyo atasabwe. ku bijyanye na bon de commande n° 53/2013-2014 yo ku wa 08/01/2014 yasabaga ibikoresho bya 20.826.800 Frw. Hatanzwe fagitire n° 006/ETEC/2014 y’ayo mafaranga, hakorwa virement ku wa 21/03/2014, ashyirwa kuri konti ya Mutabazi Allan muri Banki ya Kigali nta bordereau d’expédition yatanzwe ku buryo bigaragara ko yishyuwe ibikoresho atagemuye. Naho ku wa 24/01/2014 Mutabazi Allan akora bordereau d’expédition ifite agaciro ka 3.958.800 Frw yemejwe na COPCOM na Mubiru Godfrey na HI-SENSE, iyo bordereau d’expédition nta bon de commande ifite nta na fagitire yakorewe, bityo bikaba bigaragara ko izo nyandiko zakozwe hagamijwe kunyereza umutungo wa COPCOM.

[93] Urukiko rurasanga ibyo Mutabazi Allan yireguje avuga ko hari bordereau d’expedition z’ibikoresho yagemuye muri COPCOM; note de livraison na reception z’ibicuruzwa by’ubwubatsi yagemuye muri COPCOM bifitwe na BRD, akagaragaza ko yabisabye BRD mu nyandiko yo kuwa 11/12/2020, yakiriwe kuri 18/12/2020, ndetse iyo tariki imaze kuvugwa akaba ariyo yamenyesherejweho COPCOM, akavuga ko kugeza ubu atarabihabwa, urukiko rurasanga ib i nta shingiro byahabwa kuko nta kigaragaza ko ibyo bimenyetso avuga yabijyanye muri BRD, nta n’ikigaragaza ko BRD ibifite kuko atigeze ashyikiriza urukiko inyandiko isubiza ibaruwa yanditse, bisobanuye ko nta n’ikigaragaza ko yarabifite.

[94] Ku byerekeranye nibyo abaregwa bavuze ko raporo za audite bakorewe (ABBA na ONCG) batazemera kuko batazireguyeho; urukiko rurasanga nta shingiro byahabwa kuko nubwo bahakana ko batabonye umwanya wo kuzireguraho ariko raporo ya ONCG barayimenyeshejwe ndetse baranatumizwa banayitangaho ibisobanuro kuko kuwa 24/11/2020, ONCG yandikiye Ndahumba Emile, Mbagizente Edouard, UwitonzeJoachim, Nyirurugo Aimable, Uwicyeza Consolee, Mutware Bienvenue, Mubiru Godfrey (HI SENS) Ahinkuye Bertin (TECOM), Safari Fidele (ECOBARUS) na Nteziryayo Eric (ETECO), ibasaba kugira icyo bavuga kuri audit yabakorewe bisabwe n’ubushinjacyaha, maze Nyirurugo Aimable atanga ibisobanuro mu nyandiko yandikiye ONCG kuwa 26/11/2020; naho kuwa 30/11/2020, Mbagizente Edouard, UwitonzeJoachim, Uwicyeza Consolee, Mutware Bienvenue, Mubiru Godfrey (HI SENS) Ahinkuye Bertin (TECOM), Safari Fidele (ECOBARUS) na Nteziryayo Eric (ETECO), basubiza ko ntacyo bayivugaho kuko yakozwe badahari kandi kandi ko iyo ngingo y’imikoreshereze y’amafaranga mu mushinga w’ubwubatsi yakozweho ubugenzuzi buhagije bwaba ubwakozwe n’inzego za Leta ndetse n’izabikorera; ikindi ngo ni uko ONCG ivuga ko yakoze ubugenzuzi ibisabwe n’ubushinjacyaha ariko ko itabagaragarije aho ubushinjacyaha bwabisabiye, bityo rero kuba bamwe mu baburanyi baranze ku bushake bwabo kugira icyo bavuga kuri audit yabagaragarijwe, ntabwo babyitwaza bavuga batayire guyeho mu gihe babisabwe bakanga kugira icyo bayivugaho. Naho raporo ya ABBA ababuranyi bakaba barayibajijweho haba mu bugenzacyaha ndetse no mu bushinjacyaha, ndetse bakabazwa buringingo yose raporo yagaragaje na cyane ko izi raporo zagiye zishimangirwa n’ibindi bimenyetso.

a. UBUFATANYACYAHA MU GUKORESHA NABI UMUTUNGO UFITIYE RUBANDA AKAMARO

[95] Ubushinjacyaha buvuga ko Mubiru Godfrey na sosiyete ye HI-SENSE Ltd, Ndahumba Emile, Mutware Bienvenu, Safari Fidele na ECOBARUS Ltd, Nteziryayo Eric na ETECO Ltd na Ahinkuye Bertin na TECOM Ltd bahimbye inyandiko, bakora amasezeano y’inyongera ku bikorwa byari bisanzwe biteganyijwe, bongera amafaranga yari agenewe kubaka za pavés cyangwa amakaro nyamara nta buso bw’ahazubakwa hahari, ibyo byose bikaba bigaragaza ko bafatanyije gukoresha nabi umutungo wa COPCOM. By’umwihariko kuri Ndahumba Emile (wari Umuyobozi wa COPCOM), buvuga ko ku wa 31/10/2014 yakoranye na OCB Ltd, ihagarariwe Ndahayo Anselme,

amasezerano afite agaciro ka 4.464.960 Frw yo kubaka plafond nyamara icyo gikorwa cyari gisanzwe giteganyijwe mu masezerano COPCOM yari ifitanye n'abandi ba rwiyemezamirimo kuko bagombaga kurangiza imirimo bamuritse inzu yuzuye, ndetse bakaba bari baranafatiye ubwishingizi ku byashoboraga kwangirika cyangwa gusenyuka. Buvuga ko gukorana na OCB Ltd andi masezerano byari bigamije kurigisa amafaranga yahawe ba rwiyemezamirimo kuri icyo gikorwa.

[96] Ubushinjacyaha buvuga ko urundi rugero rugaragaza ubufatanyacyaha mu gukoresha nabi umutungo wa COPCOM rugaragarira mu kuba ku wa 05/06/2014 Ndahumba Emile yarakoranye na none na COTIS Ltd amasezerano yo gukora isoko rya security system harimo na fire alarams na fire extinguishers, ibi bikoresho bikaba byari bikubiye mu masezerano ya ba rwiyemezamirimo (ETECO Ltd, TECOM Ltd na ECOBARUS Ltd) yasinywe ku wa 2/8/2012, gutanga isoko rimwe inshuro ebyiri bikaba ari ugukoresha nabi umutungo wa koperative hagamijwe kuwurigisa bitewe n'uko ba rwiyemezamirimo bari batsindiye iryo soko mbere batigeze bagarura amafaranga yari agenewe ibyo bikoresho. Buvuga ko iki cyaha bukirega Ndahumba Emile, Mbagizente Edouard, Nyirurugo Aimable, Mutware Bienvenu, Uwitonze Jaochim, Uwicyeza Consolée, Mubiru Godfrey na sosiyete ye HI-SENSE Ltd, Ahinkuye Bertin na sosiyete ye TECOM Ltd, Nteziryayo Eric na sosiyete ye ETECO Ltd, na Safari Fidèle na sosiyete ye ECOBARUS Ltd kuko aribo bafatanyije gukoresha nabi umutungo wa COPCOM. Buvuga kandi ko abari bagize akanama k'amasoko barimo Habakurama Venuste, Mwiza Ernest, Mubiru Godfrey, Uwicyeza Connsolee, na Uwitonze Joachim bongereye ibiciro ba rwiyemezamirimo ku giciro bari bitangiye bituma bongererwa amafaranga angana na 209.360.309frw ndetse na ETECO Ltd yongera kongererwa amafaranga angana na 28.489.030frw.

[97] Mubiru Godfrey na HI-SENSE Ltd n'abamwunganira, bavuga ko batakoresheje nabi umutungo ufitiye rubanda akamaro, ko ETECO Ltd, TECOM Ltd na ECOBARUS Ltd bari bahawe isoko ryo kubaka plafond ya gypsum, imaze kuguruka kubera umuyaga hafatwa icyemezo cyo gutanga isoko ryo kuyubaka hakoreshejwe triplex. Asobanura ko yemera ko amafaranga yishyuwe COTIS Ltd kuri kizimyamoto yishyuwe bidakwiye kuko byari inshingano za ba rwiyemezamirimo, ariko ko décompte final ariyo yari kugaragaza imibare nyakuri y'ibyakozwe n'ibitarakozwe kugira ngo harebwe niba hari rwiyemezamirimo wahawe amafaranga make cyangwa menshi.

[98] Mbagizente Edouard yunganiwe na Me Bayingana Janvier, avuga ko guha OCB Ltd isoko ryari risanzwe riri mu masoko yahawe abandi ba rwiyemezamirimo byatewe n'uko umuyaga wasenye plafond yari yubatswe, inama rusange yemeza ko iyo plafond yubakishwa triplex kandi ko kuva byakorwa itongeye gusenyuka. Avuga ko reception provisoire yakozwe hakurikijwe ibyari mu masezerano, mu kuyitegura byumvikanwaho n'abanyamuryango na bene igikorwa bose harimo na Nzamwita Samson watanze ikirego. Inama yo ku wa 16/04/2014 ariyo yemeje ko ayo mazu atangira gukoreshwa, ibitaranoga bizanozwa nyuma kugira ngo hirindwe igihombo gituruka kukutishyurira igihe inguzanyo ya banki. Asobanura ko atari guhinyuza ibyemezo by'inzego za koperative (Komite Nyobozi n'Inama Rusange). Avuga ko isoko ryahawe COTIS Ltd ryakozwe mu mucyo kuko ba rwiyemezamirimo batigeze bahemberwa imirimo yakozwe na COTIS Ltd, ndetse ko ibyo byari kugaragazwa na décompte final itarakozwe, ar iyo mpamvu asaba uru Rukiko kubona ko Ubushinjacyaha nta bimenyetso butangira ibyo bumurega, rukemeza ko ari umwere.

[99] Nyirurugo Aimable n'umwunganira bavuga ko ingingo ya 627 y'Itegeko-Ngenga ryo ku wa 02/05/2012 riteganya ibyaha n'ibihano ryakoreshwaga icyo gihe ihana "Umuntu wese ufite ububasha ku bw'umurimo akora bwo gucunga umutungo ufitiye rubanda inyungu rusange w'ikigo, amasosiyete, amashyirahamwe cyangwa imiryango byigenga, akawukoresha nabi mu byo utateganyirijwe cyangwa mu buryo bunyuranyije n''inyungu z''ibyo bigo cyangwa iz'abanyamuryango n'ababerewemo umwenda". Bavuga ko Nyirurugo Aimable yari umunyamigabane usanzwe n'umujyanama wa Komite Nyobozi ya COPCOM, ko atari ashinzwe gucunga umutungo wa Koperative, ko inama rusange ya koperative, irimo na Komite Ngenzuzi yayo,

yasanze inshingano yahawe zo gukosora imibare mu masoko yari yatanzwe zarakozwe neza, birongera byemezwa mu gihe cy'ihererekanyabubasha, akaba yibaza impamvu abarega bamukurikiranyeho ibyo nabo ubwabo bemera.

[100] Basobanura ko 28.489.030 Frw yahawe ETECO nyuma yo gusinya amasezerano adakwiye gufatwa nko gukoresha nabi umutungo wa koperative kuko bari bibagiwe kuyateranya mu gihe cy'ikosora, ETECO Ltd yandika iyasaba, bimaze gusuzumwa na Komite Nyobozi, Akanama k'Amasoko na Bureau de Surveillance, hemezwa ko ayo mafaranga afite ishingiro kuko hari imirimo yakozwe itarabariwe muri soumission ya ETECO Ltd, bituma ayongererwa. Bavuga ko ayo mafaranga adakwiye kubazwa Nyirurugo Aimable kandi yaremejwe n'Akanama gashinzwe amasoko. Avuga ko ikigaragaza ko ari umwere kuri iki cyaha ari imvugo za Komite Nyobozi mu Bugenzacyaha ku wa 03/12/2O13, raporo y'ubugenzuzi (audit) yakozwe na RSK Associates Ltd yo ku wa 02/06/2016 ivuga ko hagati ya 2012 na 2014 nta koreshwa ry'umutungo nabi ryabayeho, raporo z'inama za Komite Nyobozi n'amasezerano y'inyongera byemeje ko hakoreshwa uburyo bwa bons de commandes n'ibindi bimenyetso bijyanye nazo, inyandiko- mvugo y'inama zitandukanye harimo n'iyo ku wa 26/10/2014 yemeje ko hatangwa isoko rishya rya fire extinguishers.

[101] Mutware Bienvenue avuga ko atemera ko yakoresheje nabi umutungo ufitiye rubanda akamaro kuko ubushinjacyaha buvuga ko ari Ndahumba Emile na Mubiru Gogfrey bagiye bahimba amasezerano atari ngombwa mu rwego rwo kugira ngo ayo mafaranga asohoke, akaba ntaho bigeze bagaragaza ubufatanye bwe mu ikorwa ry'icyaha, ariyo mpamvu asaba kurenganurwa akakigirwaho umwere.

[102] Uwitonze Joachim n'umwunganira bavuga ko nta bubasha yari afite bwo gukora iki cyaha kuko itegeko riteganya ko ugikora ari umuntu ufite ububasha ku bw'umurimo akora bwo gucunga umutungo kandi we ngo ntiyacungaga umutungo.

[103] Uwicyeza Consolée n'umwunganira bavuga ko yari umujyanama gusa, igenzura ryakozwe na RCA mu mwaka wa 2013 ndetse n'iryakozwe na NERI mu mwaka wa 2016 bikaba bigaragaza ko inshingano ze yazikoze neza. Avuga ko raporo y'igenzura yakozwe na ABBA Ltd idakwiye guhabwa agaciro kuko itumvikanweho, bityo hashingiwe ku biteganywa n'ingingo ya 129 n'iya 132 z'Itegeko rigenga amasezerano y'ubucuruzi; ingingo ya 131 y'Itegeko rigenga amaso siyete; n'umurongo watanzwe n'Urukiko rw'Ikirenga mu rubanza n° RS/INJUST/RP 00007/2018/CS, bakaba basaba ko iyo raporo yakozwe mu buryo bunyuranyije n'amategeko iteshwa agaciro. Basobanura ko na raporo yakozwe na RSK ndetse n'iyakozwe na ONCG Ltd zidahuza nyamara zombi zarakozwe na Ntawuyirushintege Olivier, ariyo mpamvu basaba uru Rukiko gusaba amakuru muri BRD no gushingira ku mvugo za Kayitesi Yvette wari secretaire comptable wa COPCOM, rukemeza ko Uwicyeza Consolée ari umwere.

[104] Bavuga ko 29.810.340 Frw yaba yarahawe COTIS Ltd ku mirimo itarakozwe, 13.775.000 Frw y'inzira y'abafite ubumuga ETECO itubatse, 218.057.296 Frw y'imirimo yaba itarakozwe na busa, 178.119.560 Frw yahawe ECOBARUS kandi nta mirimo yakoze ijyanye n'ayo, byagaragajwe na ABBA Ltd kandi ko raporo yayo atayemera kuko atayihamagawemo byongeye kandi HI-SENSE ikaba ariyo yari ishinzwe igenzura. Bavuga kandi ko bon de comande yahawe Mutabazi Allan kuwa 08/01/2014 nta kibazo kiyirimo kuko yishyuwe na ETECO ku bikoresho yari yagemuriwe binyuze muri BRD kandi nayo ikaba yarabanje kugenzura. Bavuga ko iby'Ubushinjacyaha buvuga ko hari 209.360.309 Frw yahawe ba rwiyemezamirimo adafitiwe ibisobanuro ataribyo kuko akomoka ku ikosora nk'uko byateganywaga n'ingingo ya 27,28,29,30 za DAO, naho 28.489.030frw yahawe ETECO Ltd akaba akomoka kukuba barasanze yaribeshye mu mibare yatanze, icyemezo gifatwa n'inama y'urwego rubishinzwe, nk'umujyanama atanga inama zashoboraga kwemerwa cyangwa ntizemerwe.

[105] Bavuga ko ku bijyanye na reception provisoire yakozwe kuwa 03/11/2014 yemeje iyakirwa ry'inyubako, ko yakurikije amategeko kuko raporo ubwayo yagaragaje ko inyubako yari hafi kurangira, ko ibyari bisigaye byagombaga gukorwa mu gihe cya garantie de bonne exécution ibindi bikazarebwa muri décompte finale, ko ibi bigaragazwa n'ibaruwa yo kuwa 14/08/2014 Umuyobozi wa COPCOM yandikiye ba rwiyemezamirimo abamenyesha ko amakosa yagaragajwe n'itsinda ryari ryasuye inyubako kuwa 13/08/2014 yakosorwa mbere yo gukora reception provisoire kandi ko hari na raporo y'ihererekanyabubasha hagati ya Ndahumba Emile na Nzamwita Samson ihamya ko ibikorwa byakozwe neza 100% ari nacyo cyatumye inzu bayitaha.

[106] Ahinkuye Bertin mu izina rye no mu izina rya TECOM Ltd avuga ko atanyereje umutungo wa COPCOM kuko ntaho ahuriye n'akanama k'amasoko, ko kubijyanye na plafond Ubushinjacyaha bumurega bayubatse ariko umuyaga urayitwara bituma hafatwa icyemezo ko isenywa hubakishwa triplex, ko kizimyamoto aregwa ntazo yishuje. Asobanura ko bons de commandes zemejwe n'ubuyobozi bwa koperative ibigiriwemo inama na BRD kugira ngo imirimo yihute kuko yari mu mihigo y'Akarere ka Gasabo, ndetse ko inyinshi nta kibazo zifite ahubwo haregewe iz'abantu bafitanye ibibazo n'ubuyobozi bushya bwa koperative, nazo ariko akaba asanga nta nenge zifite kuko iyo ziyigira bari kuziregera kuba ari inyandiko mpimbano. Akibaza impamvu haregewe bons de commandes zatanzwe na Nubuhoro Janvière wenyine. Avuga ko ABBA Ltd itagaraga ku rutonde rw'aba auditeurs, ko raporo iyo sosiyete yakoze hamwe n'iyakozwe na ONCG Ltd atazitum iwemo, bityo akaba atazemera. Avuga ko nta mafaranga yahawe atakoreye, ahubwo ko habayeho kwibeshya mu biciro handikwa imibare itariyo kandi ko byakosowe.

[107] Nteziryayo Eric na sosiyete ye ETECO Ltd yunganiwe na Me Ndahimana Jean Bosco nawe avuga ko nta mutungo wa COPCOM yakoresheje nabi kuko inzira y'ababana n'ubumuga aregwa kuba yarishyuriwe 13.000.000 Frw kandi atarayubatse ataribyo, ahubwo ko ku wa 21/09/2012 Komite tekiniki yasanze inzira yari yarubatse izatuma abantu batagera ku nyubako zose, imutegeka kuyisenya, yishyurwa ibyo yari amaze gukora. Asobanura ko nubwo kizimyamoto ziri ma masezerano kandi bakaba batarazishyize ku nyubako, ariko na none ntazo bishyuje, ndetse ko ibyo byose byari kugaragzwa na décompte final itarakozwe. Avuga ko plafond nayo yubatswe ariko umuyaga ukayihuha, hagategekwa ko hatangwa irindi soko kugira ngo hubakishwe triplex, naho urukuta aregwa kuba yarishyuwe kandi atararwubatse ataribyo kuko nubu ruhari. Ku bijyanye na bons de commandes, asobanura ko hakozwe izirenga 200, bikaba bitumvikana uburyo haregewe nke, ko hari iya 90.000.000 Frw n'iya 30.000.000 Frw zitaregewe kuko Ubushijacyaha bushaka kujijisha.

[108] Safari Fidèle na societe ye ECOBARUS Ltd avuga ko yibaza aho ABBA Ltd ihera ivuga ko yishyuje kizimyamoto nyamara hari raporo igaragaza ko izo kizimyamoto zitakozwe, bityo ko batashoboraga no kuzishyuza. Avuga ko Ubushinjacyaha bwakagombye kugaragaza fagitire yazishurijeho. Naho ibya plafond, avuga ko yubatswe, bityo nyir'ibikorwa akaba yari afite inshingano zo kuyishyura, kuba COPCOM yaratanze irindi soko igahindura plafond ari uburenganzira bwayo, bityo akaba atabibazwa. Avuga ko hari igitutu cy'uko imirimo irangira vuba, inteko rusange yemeza ko hakoreshwa uburyo bwa bons de commande kandi ko izatanzwe na ECOBARUS Ltd zose zishyuwe, naho ibijyanye n'imirimo y'inyongera bikaba byaratewe nuko mu gucukura fondation bahuye n'ikizenga cy'amazi, hemezwa ko hubakwa béton kugira ngo bahagarike ayo mazi, kandi ko byose byakorewe raporo ariyo mpamvu asaba uru Rukiko kwemeza ko ari umwere ku cyaha cyo gukoresha nabi umutungo wa rubanda kuko ari ibirego byahimbwe na ABBA Ltd na COPCOM mu rwego rwo kuburizamo ubwishyu bwa 200.000.000 Frw yamusigayemo.

[109] Mwiza Ernest yiregura avuga ko Ingingo ya 627 y'Itgeko-Ngenga no 07/2012 ryo kuwa 02/05/2012 rishyiraho Igitabo cy'amategeko ahana mu Rwanda iteganya ko Gukoresha nabi umutungo ufitiye rubanda inyungu umuntu wese ufite ububasha ku bw'umurimo akora bwo gucunga umutungo ufitiye rubanda inyungu rusange w''ikigo, amasosiyete, amashyirahamwe cyangwa imiryango byigenga, akawukoresha nabi mu byo utateganyirijwe cyangwa mu buryo bunyuranyije

n"inyungu z"ibyo bigo cyangwa iz"abanyamuryango n"ababerewemo umwenda, kandi ngo muri ibi bikorwa byose nta na kimwe Mwiza Ernest yakoze nkuko yagiye abigaragaza kandi ibikorwa byose bakoze bakurikije ibiteganywa n’amategeko kandi hari n’inyandiko zibiherekeza.

[110] Habakurama Venuste yiregura avuga ko hari amategeko shingiro agenga COPCOM muri rusange n’amategeko agenga amakoperative kandi inteko rusange niyo rwego rukuru rufata ibyemezo mu bikorwa bya koperative, ibyo bakoze bijyanye n’ikosora ngo byashingiye ku mategeko kandi ngo byashyizwe mu nteko rusange ya COPCOM nayo irabyemeza, ngo iyo haza kubamo ikibazo ngo bari bafite uburenganzira bwo kubyanga cyangwa guhindura abagize akanama k’amasoko.

UKO URUKIKO RUBIBONA

[111] Ingingo ya 627 y’Itegeko-Ngenga n° 01/2012/OL ryo ku wa 02/05/2012 rishyiraho Igitabo cy’amategeko ahana iteganya ko “Umuntu wese ufite ububasha ku bw’umurimo akora bwo gucunga umutungo ufitiye rubanda inyungu rusange w’ikigo, amasosiyete, amashyirahamwe cyangwa imiryango byigenga, akawukoresha nabi mu byo utateganyirijwe cyangwa mu buryo bunyuranyije n’inyungu z’ibyo bigo cyangwa iz’abanyamuryango n’ababerewemo umwenda, ahanishwa igifungo kuva ku mezi atandatu (6) kugeza ku myaka ibiri (2) n’ihazabu y’amafaranga y’u Rwanda yikubye inshuro kuva kuri ebyiri (2) kugeza kuri eshanu (5) z’amafaranga yakoreshejwe nabi cyangwa kimwe gusa muri ibyo bihano.”

[112] Ingingo ya 108 y’Itegeko nº 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y’imanza z’inshinjabyaha iteganya ko “Ibimenyetso bishobora gushingira ku mpamvu zose z’ibyabaye n’ibyemejwe n’amategeko, ababuranyi bapfa kuba barabigiyeho impaka. Urukiko ruhamya ku buryo butavuguruzwa ko ibimenyetso byose bishinja cyangwa bishinjura ari byo kandi bishobora kwemerwa.”

[113] Ingingo ya 119 y’Itegeko n° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n’itangwa ryabyo igira iti: “Mu manza nshinjabyaha, ibimenyetso bishingira ku mpamvu zose z’ibyabaye n’ibyemejwe n’amategeko, ababuranyi bapfa kuba barahawe uburyo bwo kuhaba ngo banyomozanye. Urukiko ruhamya ku buryo butavuguruzwa ko ibimenyetso byose birega cyangwa biregura ari byo kandi ko bishobora kwemerwa.”

[114] Ubugenzuzi bwakozwe na ONCG Ltd bugaragaza ko ETECO Ltd, TECOM Ltd na ECOBARUS Ltd bagiye batanga ibiciro bibiri bitandukanye ku mirimo imwe, ibiciro biri muri unit price bikaba bitandukanye n’ibiri muri bill of quantities for the estimation, hejuru y’ibyo COPCOM nayo izamura ibyo biciro ku buryo mu gihe cyo kwishyura hari 209,360,309 Frw yarenze kuyo ba rwiyemezamirimo bari bemerewe (ETECO Ltd yishyuwe 82,171,310 Frw y’ikirenga, TECOM Ltd yishyuwe 65,185,300 Frw y’ikirenga na ECOBARUS yishyuwe 62,003,099 Frw y’ikirenga) ndetse ko ku wa 01/08/2014, abayobozi ba Koperative bahaye ETECO Ltd 28,489,030 Frw mu buryo budafututse kuko bayise gukosora amakosa y’imibare yari mu nyandiko z’ipiganwa kandi ayo makosa atabanje kugaragazwa ndetse ngo na rwiyemezamirimo ayemeze. Raporo igaragaza kandi ko ba rwiyemezamirimo bishyuwe amafaranga arenga ku mirimo bakoze. Ibi kandi ni nako raporo yakozwe n’Ikigo cy’Igihugu gishyinzwe guteza imbere amakoperative (RCA) cyabigaragaje muri raporo yo muri Werurwe 2013, aho cyavuze ko “isesengura ryasanze amasosiyete yari yatanze ibiciro byayo, ariko hakaba hari ibyiyongereye ku biciro bari bagaragaje mu ipiganwa” ku buryo ibiciro byavuye kuri 2.710.541.334 Frw biba 3.119.361.643 Frw, bivuze ko ku biciro byatanzwe na barwiyemezamirimo hiyongereyeho 408.820.309 Frw.

[115] Na none ku rupapuro rwa 6 rw’indi raporo yakozwe na RCA mu Kuboza 2014, havugwa ko hari ubwishyu bwatanzwe ariko buruta imirimo yakozwe ariko bigoranye kubigenzura kubera ko

imirimo yarangiye. Iby'uko hishyuwe imirimo itarakozwe bivugwa na none muri raporo ya ABBA Ltd, ku rupapuro rwayo rwa 28 ikaba ivuga ko ETECO Ltd yishyuwe 309.996.193 Frw y'imirimo itarakozwe (non-existing works) na 317.069.334 Frw y'imirimo yakozwe nabi cyangwa itararangiye, naho ku rupapuro rwa 36, igaragaza ko TECOM Ltd yishyuwe 178.119 .560 Frw y'imirimo itarakozwe na 255.762.622 Frw y'imirimo yakozwe ntirangire cyangwa igakorwa nabi. Ku rupapuro rwa 79, 80 na 81 by'iyo raporo, bigaragara ko ETECO Ltd yatanze fagitire zose hamwe zifite agaciro ka 573.917.371 Frw ariko yishyurwa 938.298.327 Frw, TECOM Ltd itanga fagitire zifite agaciro ka 445.683.552 Frw ariko yishyurwa 745.164.302 Frw, naho ECOBARUS itanga fagitire zifite agaciro ka 370.639.568 Frw ariko yishyurwa 680.698.910 Frw.

[116] Urukiko rurasanga nk'uko byagaragajwe haruguru, imbere y'Ubugenzacyaha ku wa 06/02/2018, n'imbere y'Ubushinjacyaha ku wa 01/03/2018, Mubiru Godfrey na Habakurama Venuste baremeje ko ibiciro byari byatanzwe na ba rwiyemezamirimo byazamuwe, Mubiru Godfrey avuga ko Habakurema Venuste, Mwiza Ernest, Uwitonze Joachim na Uwicyeza Consolé aribo bakwiye kubibazwa kuko bari bashinzwe akanama k'amasoko, naho Habakurama Venuste akavuga ko mu kuzamura ibiciro bagandeye ku mategeko y'ipiganwa yari yateguwe na Mubiru Godfrey. Byongeye kandi ba rwiyemezamirimo Nteziryayo Eric na sosiyete ye ETECO Ltd, Ahinkuye Bertin na sosiyete ye TECOM Ltd ndetse na Safari Fidèle na sosiyete ye ECOBARUS Ltd nabo bemera ko ibiciro batanze mu gihe cy'ipiganwa byahinduwe bikazamurwa, ariko na mbere y'uko bizamurwa, ibiciro bari baratanze kuri unit price ntibyahura n'ibiri kuri bills of quantities bari gushingiraho bishyuza.

[117] Urukiko rurasanga na none dosiye y'urubanza igaragaza ko hari imirimo ETECO Ltd ya Nteziryayo Eric yagombaga gukora, ntiyayikora, ariko irishyurwa, muriyo hakaba harimo inzira y'ababana n'ubumuga, plain concrete interlocking pavers, beams, steel and balustrades and handrails, fire extinguishers, thick vibrated reinforced concrete columns, MK boxes, junction boxes, saddles plastic conduits. Naho TECOM Ltd ya Ahinkuye Bertin yishyuwe kuba yarakoze structural steel trusses, urinals, thick vibrated reinforced columns, fire extinguishers, high reinforced concrete water gutter channels and parapet wall enchoered, thick rough paving finishing with wood float, thick ciment hollow block walls nyamara ntabyo yakoze, Hi-Sense Engeneers and Consulting Ltd yishyuwe kuba yarakoze raporo 18 kandi yarakoze 11

[118] Urukiko rurasanga na none Mubiru Godfrey yarasobanuye ko kuba baratanze isoko rya kizimyamoto inshuro ebyiri habayeho kwibeshya, naho ku bijyanye na 16.214.200 Frw ba rwiyemezamirimo basaguye ku mafaranga bahawe yo kugura sima kandi batagaruye, avuga ko nawe yibaza impamvu Mutware Bienvenue atayakurikiranye kandi ari we ushinzwe kwishyuza (recouvrement), yavuze kandi ko yemera ko hari 1.500,6 m^2 z'amakaro afite agaciro ka 34.858.800 Frw yemeje ko yubatswe ndetse rwiyemezamirimo arishyurwa nyamara atarubatswe, ko yabikoze "kugira ngo inyubako irangire", ku bijyanye n'imbuga ifite ubuso bwa 2.071 m^2 yari kubakwaho pavés zifite agaciro ka 9.753.150 Frw, akemeza ko zubatswe kandi iyo mbuga itarigeze ibaho, agira ati: "ndumva nta gisubizo nagitangaho kano kanya.", naho ku bijyanye no kuba ECOBARUS Ltd yarishyuwe 61,26 m^3 za dalles en béton itubatse, avuga ko habaye amakosa yo kwishyura batabanje gukora isuzuma rya tekiniki, ko hari kandi 9.522.000 Frw yishyuwe TECOM Ltd kuri poutres zihwanye na 41,4 m^3 zavuzwe ko zubatswe nyamara zitarubatswe, asobanura ko "mukubishyura amafaranga y'umurengera bakurikizaga ibyari biteganyijwe mu gitabo cy'ipiganwa", naho ku bijyanye na fondation yari kubakwa na ECOBARUS Ltd ku giciro cya 9.071.000 Frw ikubakwa ku giciro cya 102.000.000 Frw, avuga ko nubwo byatangiwe raporo uburyo byakozwemo ataribyo kuko igiciro cyatanzwe na rwiyemezamirimo cyari forfait kandi bene ibyo biciro bikaba bidahindurwa.

[119] Urukiko rurasanga mu nyandiko yo ku wa 03/11/2014, itsinda ryakiriye by'agateganyo inzu zubatswe na ETECO Ltd na ECOBARUS Ltd ryaravuze ko imirimo yose y'ubwubatsi yarangiye kandi ko izo nzu zuzuye ko hasigaye amakosa make azakosorwa mbere y'uko yakirwa burundu (the construction …is almost completed with all work done except the defects that are to be rectified until

final hand over …), naho ku mirimo yakozwe na TECOM Ltd, iryo tsinda rivuga ko amasezerano yubahirijwe kandi ko yarangiye, TECOM Ltd ikaba ikwiye kwishyurwa amafaranga asigaye angana na 113.200.265 Frw y'imirimo y'inyongera (Contract status:the contract has been completed, Amount of extraworks: 113.200.265 Frw), ku bijyanye n'imirimo yo gushyira za kizimyamoto muri izo nyubako yari yahawe COTIS Ltd, iryo tsinda ryavuze ko ibikoresho by'umutekano harimo na kizimyamoto byatanzwe, bigashyirwa mu nyubako, bityo ko amasezerano yarangiye, ibitaratunganye bikaba bizakosorwa nyuma (contract status: the contract has been completed. Supply, installation and commissioning of security equipment is completed).

[120] Urukiko rurasanga nk'uko byagaragajwe haruguru, mu itsinda ryakiriye izo nyubako by'agateganyo harimo abaregwa bakurikira: Mubiru Godfrey, Nteziryayo Eric, uhagarariye ETECO Ltd, Ahinkuye Bertin ahagarariye TECOM Ltd na Safari Fidèle uhagarariye ECOBARUS Ltd, Ndahumba Emile, Mbagizente Edouard, Habakurama Venuste, Uwitonze Joachim, Uwicyeza Consolée, Mutware Bienvenue. Mubiru Godfrey yemereye imbere y'inzego z'ubutabera ko hari imirimo yishyuwe itarakozwe, ibyo kandi bikaba byari byarabaye mbere yo kwakira by'agateganyo izo nyubako. Ba rwiyemezamirimo basinyiye ko barangije inyubako nyamara bazi ko imirimo yose bapiganiye itakozwe cyangwa iyo bari bazi ko yakozwe nabi cyangwa igice ndetse hari n'amafaranga y'ikirenga bahawe batarasubiza. Ubuyobozi bwa COPCOM na ba rwiyemezamirimo ndetse na Bureau de Surveillance bihutiye kandi kwakira inyubako nta raporo ya Komite tekiniki irakorwa, ari nayo yari kugaragaza ibyakozwe, ibyakozwe nabi, ibyakozwe igice n'ibitarakorwa.

[121] Urukiko rurasanga kandi inyandiko yitwa Termes de référence pour la mission de surveillance yometswe ku masezerano yo ku wa 20/08/2012, HI-SENSE ya Mubiru Godfrey yakoranye na COPCOM ivuga ko HI-SENSE yagombaga gusuzuma ko imirimo yose yakozwe neza mbere y'uko inyubako zakirwa by'agateganyo (controler la bonne execution des travaux avant la reception provisoire). Yagombaga kandi kuba yaratanze raporo zigaragaza uko imirimo yagiye ikorwa, niba yarubahirije ibihe yasinyiye ndetse niba ibikoresho byakoreshejwe bifite ireme. Izo raporo zose nizo zari gushingirwaho hakorwa reception provisoire nk'uko biteganywa n'ingingo ya 27 y'amasezerano ba rwiyemezamirimo bakoranye na COPCOM. Inyandiko-mvugo ya reception provisoire yari kugaragaza ibisigaye gukorwa cyangwa ibigomba gukosorwa kugira ngo bikorwe na rwiyemezamirimo kandi yirengere agaciro kabyo nk'uko biteganywa n'ingingo ya 28 y'amasezerano. Naho ibijyanye na décompte final (reception définitive), ingingo ya 29 y'amasezerano yateganyaga ko izakorwa ari uko nta mirimo cyangwa ibyo gukosora bisigaye (la reception definitive ne pourra etre prononcée que s'il n'y a aucune réserve exprimée).

[122] Urukiko rurasanga rero ibyo Mubiru Godfrey uhagarariye na HI SENS, Nteziryayo Eric uhagarariye ETECO Ltd, Ahinkuye Bertin uhagarariye TECOM Ltd na Safari Fidèle uhagarariye ECOBARUS Ltd, Ndahumba Emile, Mbagizente Edouard, Habakurama Venuste, Uwitonze Joachim, Uwicyeza Consolée na Mutware Bienvenu bavuga ko badakwiye kubazwa ibyo gukoresha nabi umutungo wa Koperative kubera ko byari kugaragazwa na décompte final nta shingiro bikwiye guhabwa kubera ko nk'uko babyivugira décompte final yari gukorwa hagamijwe kugaragaza imyenda impande zombi zifitanye nk'uburyo bwo gusoza amasezerano mu rwego rw'amategeko no kwishyuza amafaranga asigaye habanje kuvanwamo ibihano n'inyungu z'ubukererwe, nyamara kandi muri raporo ya reception provisoire bavuze ko nko ku bireba ECOBARUS na COTIS Ltd imirimo yarangiye nk'uko amasezerano yabiteganyaga ahubwo igomba kwishyurwa 113.200.265 Frw y'imirimo y'inyongera (extra work), ni nako byemejwe kuri COTIS Ltd, bika bitumvikana uburyo bari kuvuga ko amasezerano yashojwe neza bakongera bagategereza ko bizerekanwa na décompte final.

[123] Ku bijyanye n'amasezerano y'inyongera, bigaragarira Urukiko ko ibijyanye na "retaining walls" byari mu masezerano COPCOM yakoranye na ba rwiyemezamirimo, ariko nyuma yaho ETECO Ltd ikorana na COPCOM amasezerano y'inyongera yose hamwe afite agaciro ka 85.207.500

Frw yo kubaka na none ibijyanye na “retaining walls”, TECOM ikorana na COPCOM amasezerano y’inyongera nayo yo kubaka “retaining wall” ifite agaciro ka 11.179.300 Frw, naho ECOBARUS Ltd ihabwa 9.071.000 Frw yo kubaka “raft foundation for water treatment plant” nyamara yari isanzwe mu masezerano y’iremezo, ibi bikaba bigaragaza ko ubuyobozi wa COPCOM bufatanyije na ba rwiyemezamirimo basesaguye umutungo wa koperative, bituma ukoreshwa nabi ndetse amwe mu mafaranga yawo ararigiswa.

[124] Urukiko rurasanga ikoreshwa rya za bons de commandes ryaremejwe na Miburu Godfrey, Ndahumba Emile, Mbagizente Edouard, Nyirurugo Aimable, Uwitonze Joachim, Mutware Bienvenu, Uwicyeza Consolée, Nkeramiheto Emmanuel, Iragena Anaclet, Nsabimana Jean Claude, Twagirayezu Theo, Sibomana Joseph, Twagirayezu Thaddée, Nteziryayo Eric, Ahinkuye Bertin na Safari Fidèle bikaba bigaragara ko ubu buryo bwemejwe mu nama yo ku wa 11/10/2013 bwatumye hatangwa za bons de commandes ku bikoresho bitagemuwe nkaho Uwizeyimana Alphonsine, umugore wa Mbagizente Edouard, yishyuwe 58.265.500 Frw kandi yaragemuye ibikoresho bifite agaciro ka 27.998.000 Frw.

[125] Urukiko rurasanga na none hakoreshejwe bons de commandes, COPCOM yaragiye isaba ibikoresho bimwe nk’umucanga, sima cyangwa concassé ikoresheje bons de commandes zitandukanye kandi zakorewe umunsi umwe kandi zohererejwe fournisseur umwe, ndetse hamwe na hamwe agaciro k’ibikoresho kagatuburwa mu buryo budasobanutse cyangwa umubare w’amafaranga yishyuwe ntahure n’ay’ibikoresho byasabwe. Urugero ni nk’aho Nubuhoro Janvière, umugore wa Uwitonze Joachim, yasabwe ibikoresho byari bifite agaciro ka 561.000 Frw hakandikwa 615.000 Frw cyangwa ibifite agaciro ka 28.000 Frw bigahabwa agaciro 4.227.000 Frw. Ahandi hagasabwa ibikoresho bya 3.366.200 Frw hakishyurwa 3.308.200 Frw, naho ku bikoresho by’agaciro ka 2.673.500 frw hakishyurwa 3.141.600 Frw, ndetse bikanagaragara ko hari 468.100 Frw Nubuhoro Janvière yishyuwe mu ntoki, 6.295.300 Frw yishyuwe umugabo we Uwitonze Joachim na 3.500.000 Frw yishyuwe Nubuhoro Janvière mu bihe bitandukanye nyamara nta bikoresho byagemuwe

[126] Urukiko rurasanga kandi mu izina rya COPCOM, Mubiru Godfrey yarateguriye Mutabazi Allan bon de commande N° 180/2014 ya 3.190.500 Frw yemezwa na Mutware Bienvenue na Ndahumba Emile kuwa 31/3/2014, Mutabazi Allan yishyurwa nta bordereaux d’expedition akoze nta n’ibikoresho yagemuye, amafaranga anyuzwa kuri Konti N° 00256060493603 iri muri BK, ni nako byagenze ku bireba bon de commande n° 53/2013-2014 yo ku wa 08/01/2014 yasabaga ibikoresho bya 20.826.800 Frw. Hatanzwe fagitire n° 006/ETEC/2014 y’ayo mafaranga, hakorwa virement ku wa 21/03/2014, ashyirwa kuri konti ya Mutabazi Allan muri Banki ya Kigali nta bordereau d’expédition yatanzwe ku buryo bigaragara ko yishyuwe ibikoresho atagemuye. Naho ku wa 24/01/2014 Mutabazi Allan akora bordereau d’expédition ifite agaciro ka 3.958.800 Frw yemejwe na COPCOM na Mubiru Godfrey na HI-SENSE, iyo bordereau d’expédition nta bon de commande ifite nta na fagitire yakorewe, bityo bikaba bigaragara ko izo nyandiko zakozwe hagamijwe gukoresha nabi umutungo wa COPCOM.

[127] Urukiko rurasanga ibyo Safari Fidèle na ECOBARUS Ltd bavuga ko hemejwe gukoresha bons de commandes kuko hari igitutu cyo kurangiza inyubako nta shingiro byahabwa kuko icyo gitutu ataricyo cyasobanura uburyo amafaranga yagiye ahabwa ba fournisseurs kandi ntacyo bagemuye, ndetse n’ibyo Ahinkuye Bertin na TECOM Ltd na Nteziryayo Eric na ETECO Ltd bavuga ko nta kibazo kiri muri bons de commandes kuko iyo kihaba izatanzwe zose baba baraziregeye, ibi bavuga nta shingiro byahabwa kuko izaregewe n’izigaragaza ko hari amafaranga yakoreshejwe nabi hatangwa ubwishyu ku bikoresho bitagemuwe cyangwa izigaragaza ko COPCOM yagiye yishyura uko yishakiye ititaye ku ngano y’amafaranga yanditswe kuri bon d’expédition nk’uko yabigenje kuri Uwizeyimana Alphonsine, iyo mikorere yo gusesegura umutungo wa koperative hishyurwa ibitagemuwe cyangwa ibirenze ibyagemuwe akaba aribyo bigize icyaha cyo gukoresha nabi umutungo wa Koperative.

[128] Ku bivugwa na Uwicyeza Consolée by'uko raporo z'igenzura ryakozwe na RCA na NERI zagaragaje ko nta makosa yakozwe, ndetse ko hashingiwe ku biteganywa n'Itegeko rigenga amasosiyete y'ubucuruzi adakwiye kubazwa ibyagaragajwe n'igenzura rya ABBA Ltd, Urukiko rurasanga uretse kuba raporo ya RCA yishingikirizaho yaragaragaje ko habayeho gucunga nabi umutungo wa Koperative nk'uko byagaragajwe haruguru, ingingo ya 108 y'Itegeko nº 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha n'ingingo ya 119 y'Itegeko n° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo ziteganya ko mu manza nshinjabyaha ibimenyetso bishobora gushingira ku mpamvu zose z'ibyabaye n'ibyemejwe n'amategeko, ababuranyi bapfa kuba barabigiyeho impaka, bityo hakaba nta kibuza ko hashingirwa kuri raporo za ABBA Ltd mu gihe ishimangiwe n'ibindi bimenyetso.

[129] Urukiko rurasanga na none ibyo Mutware Bienvenu avuga ko adakwiye kubazwa ibyo gukoresha nabi umutungo wa Koperative ahubwo ko byabazwa Ndahumba Emile na Mubiru Godfrey bakoze amasezerano y'inyongera, nabyo nta gaciro bikwiye guhabwa kubera ko bigaragara ko ari mu itsinda ryakiriye by'agateganyo inyubako, akaba yarasinyiye ko amasezerano y'ubwubatsi yarangiye uko byari biteganyijwe nyamara ataribyo, ahandi akaba yari mu nama yemeje ko Koperative itangira kujya iha ba fournisseurs bons de commandes, abyemera yirengagije ibiteganywa n'inyandiko z'ipiganwa ndetse n'amasezerano ba rwiyemezamirimo bakoranye na Koperative, yirengagije ko bahawe avance de démarrage bakagombye kuba baragaragaje uburyo yakoreshejwe, ndetse yirengagije ko ba rwiyemezamirimo hari amafaranga bari baragurijwe na Koperative batari bakishyuye. Byongeye kandi nk'umucungamutungo wa koperative niwe wagiye usohora amafaranga ya koperative atitaye ku gusuzuma niba icyo atangiwe gihari, bikaba bigaragara ko yagize uruhare runini mu gufatanya na Uwicyeza Consolée, Ndahumba Emile, Mbagizente Edouard, Nyirurugo Aimable, Uwitonze Joachim, Nteziryayo Eric, Ahinkuye Bertin na Safari Fidèle gukoresha nabi umutungo wa Koperative.

[130] Urukiko rurasanga kandi nubwo ingingo ya 627 y'Itegeko-Ngenga N° 01/2012/OL ryo ku wa 02/05/2012 rishyiraho Igitabo cy'Amategeko ahana iteganya ko: "umuntu wese ufite ububasha ku bw'umurimo akora bwo gucunga umutungo ufitiye rubanda inyungu rusange" aribyo Uwitonze Joachim ashingiraho ko adakwiye gukurikiranwa kuko nta bubasha yari afite bwo gukora icyaha cyo gukoresha nabi umutungo wa Koperative kuko atari umucangamutungo wayo, Urukiko rurasanga iyo ngingo iteganya ko uruhare rwa mbere rw'abagomba kuryozwa gucunga nabi umutungo ufitiye inyungu rubanda ari abafite inshingano zo kuwucunga, ariko na none ingingo ya 97 y'iryo Tegeko-Ngenga iteganya ko "Icyaha kiryozwa uwagikoze n'uwafatanyije na we kugikora n'icyitso cye.".

[131] Urukiko rurasanga ibimenyetso bikurikira bigaragaza ko Nyirurugo Aimable, Habakurama Aimable, Mwiza Ernest, Uwitonze Joachim na Uwicyeza Consolée, buri wese ku bimureba, yafatanyije n'abandi bayobozi ba Koperative ndetse na ba rwiyemezamirimo gukoresha nabi umutungo wa Koperative:

i. Kuba nk'umwe mu bagize akanama k'amasoko yarabonye ko ibiciro byatanzwe na ba rwiyemezamirimo muri unit price na bill of quantities yari gushingirwaho bishyuza bihabanye, akabyemeza ndetse akagira n'uruhare rwo kuzamura ibiciro mu buryo bunyuranyije n'ibyo ba rwiyemezamirimo bari bitangiye ubwabo kandi nabyo byari bitandukanye;

ii. Kuba na none ku wa 31/07/2014, nk'umwe mu bagize akanama k'amasoko yaremeje mu buryo bunyuranyije n'amategeko ko ETECO Ltd ihabwa 28.489.030 Frw y'inyongera;

iii. Kuba bamwe muri bo baremeje reception provisoire, bigakorwa nta raporo tekiniki ihari kandi bigaragara ko hari imirimo ba rwiyemezamirimo bagombaga gukora

batakoze, hari iyo bakoze igice n'iyakozwe nabi, bigatuma bahemberwa n'ibyo batakoze

iv. Kuba yari mu nama yo ku wa 11/10/2013 ari kumwe na Ndahumba Emile, Mbagizente Edouard, Mutware Binevenu, Mubiru Godfrey, Nyirurugo Aimable, Nteziryayo Eric, Ahinkuye Bertin, Twagirayezu Thaddée na Iragena Anaclet baremeje ikoreshwa rya bons de commandes ku ba fournisseurs COPCOM ikajya yishyura, ibi bikaba byarakozwe mu buryo bunyuranyije n'amasezrano koperative yari ifitanye na ba rwiyemezamirimo, inyandiko z'ipiganwa ndetse n'amategeko agenga amasoko ya Leta Koperative yari yiyemeje kubahiriza;

v. Kuba Uwitonze Joachim by'umwihariko, yarafatanyije n'umugore we Nubuhoro Janvière kwishyuza amafaranga yari kuri za bons de commandes kandi ntabikoresho umugore we yagemuye.

b. ICYAHA CYO GUHIMBA, GUHINDURA CYANGWA GUKORESHA INYANDIKO MPIMBANO

[132] Ubushinjacyaha buvuga ko ku wa 08/01/2014, Mubiru Godfrey na HI-SENSE Ltd, Mutware Bienvenu, Ndahumba Emile, Uwizeyimana Alphonsine na Mutabazi Allan, bahimbye bons de commande ebyiri zifite n° 57/2013-2014, iya 58.265.500 Frw yitirirwa ETECO Ltd yandikwa ku mazina ya Bankozemunda Eric, uyu atanga fagitire nta bikoresho yagemuye, no mu gihe cyo kwishyura amafaranga ahabwa Uwizeyimana Alphonsine hakoreshejwe inyandiko zitiriwe Bankozemunda Eric. Buvuga ko kuri iyo tariki ya 08/01/2014, Mubiru Godfrey yakoze indi bon de commande N° 53/2013-2014 yakorewe Mutabazi Allan isaba ibikoresho bifite agaciro ka 20.826.800 Frw, ishyirwaho umukono na Mutware Bienvenu, yemezwa na Ndahumba Emile, ko nyuma yaho hahimbwe fagirire N° 006/ETEC/2014 yitiriwe Mutabazi Allan kugira ngo amafaranga asohoke, ariko imikono enye yitiriwe Mutabazi Allan kuri izo nyandiko ikaba idahura, Mutabazi Allan yishyurwa ayo mafaranga ku wa 22/03/2014.

[133] Ubushinjacyaha buvuga ko ku wa 22/01/2014 Mubiru Godfrey, Mutware Bienvenu na Ndahumba Emile bakoze indi bon de commande n° 180/2014, basaba Mutabazi Allan kugemura ibikoresho bifite agaciro ka 3.190.500 Frw, kuwa 24/01/2014 hahimbwa bordereau d'expedition yitiriwe Mutabazi Allan kuko umukono uyiriho udahura n'uwe, yemezwa na Mubiru Godfrey na Ndahumba Emile bavuze ko ibyo bikoresho byagemuwe nyamara bitaragemuwe, ku wa 10/03/2014 hahimbwa fagitire n° 088/COPCOM na none yitiriwe Mutabazi Allan, na none Mubiru Godfrey na Ndahumba Emile barayemeza, bituma COPCOM yishyura Mutabazi Allan ayo mafaranga nyamara nta bikoresho yagemuriwe. Buvuga ko kuwa 18/12/2014, Nteziryayo Eric, Umuyobozi wa ETECO Ltd yasabye COPCOM kwishyura Mutabazi Allan 332.500 Frw, hahimbwa icyemezo cy'uko Mutabazi Allan yishyuwe ariko gisinywaho na Mutware Bienvenu Umuyobozi w'icungamutungo wa COPCOM, ndetse icyo cyemezo kiza kivuga ko amafaranga yatanzwe ku wa 10/11/2014 nyamara icyo gihe ibikoresho byari bitarasabwa. Buvuga kandi ko Uwitonze Joachim, afatanyije n'umugore we Nubuhoro Janvière bakoze inyandiko z'impimbano zivuga ko hari ibikoresho byagemuwe nyarama ntabyabaye, bikorwa hagamijwe kunyereza amafaranga ya Koperative. Busobanura ko Uwitonze Joachim yagiye yigana imikono ya Nubuhoro Janvière bigatuma COPCOM isohora amafaranga y'ibikoresho itigeze yakira.

[134] Ubushinjacyaha buvuga na none ko Nteziryayo Eric nk'umuyobozi wa ETECO Ltd, afatanyije na Ndahumba Emile hamwe na Mubiru Godfrey, bahimbye imirimo y'inyongera bituma hakorwa andi masezerano hagamijwe gusa gusohora amafaranga ya coperative nta mpamvu. Urugero akaba ari Amasezerano y'inyongera N° 4 y'agaciro ka 20.040.000 Frw yateganyaga kubaka "retaining wall", nyamara uru rukuta ntaho rwateganyirijwe kubakwa.

[135] Ubushinjacyaha buvuga kandi ko abagize akanama k'amasoko aribo Habakurama Venuste, Mwiza Ernest, Umwitonze Joachim, Uwicyeza Consolee, Nyirurugo Aimable na Mubiru Godfrey bahinduye inyandiko z'ipiganwa zari zatanzwe na ba rwiyemezamirimo bahindura ibiciro ntacyo bashingiyeho.

[136] Mbagizente Edouard n'umwunganira bavuga ko nta cyaha co gukora cyangwa gukoresha inyandiko mpimbano yakoze, ko inyandiko aregwa ari iya reception provisoire yemeje ko ECOBARUS Ltd, TECOM Ltd na ETECO Ltd zarangije imirimo yari ikubiye mu masezerano yo kuwa 2/8/2012, amasezerano y'inyongera, inyandikomvugo z'akanama k'amasoko zo kuwa 14 na 16/07/2012, bons de commandes na accusés de réception z'ibikoresho, nyamara izo nyandiko zose nta n'imwe yahimbwe kubera ko reception provisoire yateganywaga n'amategeko kandi raporo yatanzwe ikaba yari iy'agateganyo mu gihe hagitegerejwe raporo ya Komite Tekinki. Avuga ko aramutse ayirezwe nk'inyandiko mpimbano yayireganwa n'Umujyi wa Kigali, inzobere eshanu z'abanyamuryango ba COPCOM ndetse n'Inteko Rusange yemeje kwakira inyubako by'agateganyo. Naho ku bijyanye n'amasezerano y'inyongera yo ku wa 13/08/2013 n'inyandikomvugo z'akanama k'amasoko yo kuwa 14-16/07/2012 hakaba nta ruhare rwe rwagaragajwe n'Ubushinjacyaha kuko atabaga mu kanama k'amasoko, ntabe muri Komite Tekiniki, muri Commission d'Evaluation cyangwa muri Komite Ngenzuzi, bityo kuba yari Visi Perezida wa Koperative akaba ataribyo byatuma agerekwaho ibyaha atakoze.

[137] Avuga ko raporo za audits zakozwe na ABBA Ltd na ONCG Ltd Ubushinjacyaha bushingiraho bumurega gukora cyangwa gukoresha inyandikompimbano atazemera kuko atahawe umwanya wo kuzisobanuraho zikorwa, ibijyanye na kizamyoto akaba adakwiye kubibazwa kuko atari we wasinye kuri sheki zazishyuye, uretse ko kuri we kuba zarishyuwe nta cyaha abibonamo. Asobanura ko ibya bons de commandes nabyo asanga nta cyaha kirimo kuko byakozwe babigiriwemo inama na BRD kugira ngo imirimo yihute bitewe n'uko yigeze guhagarara amezi ane. Abitwa Jean Paul na Charles ba BRD babasabye kujya bafata bon de commandes yateguwe na rwiyemezamirimo bagakora "copy and paste" ikitirirwa COPCOM kuko ariyo yari ifitanye amasezerano na BRD, noneho abo bakozi ba BRD bakazemeza kugira ngo zishyurwe amafaranga akavanwa kuri konti ya COPCOM akohererezwa ba rwiyemezamirimo, ko haramutse hagaragajwe bon de commandes COPCOM yibwirije gukora hanyuma ikishyurwa, abari babishinzwe bakwiye kubisobanura.

[138] Avuga ko uretse izo nyandiko nta yindi Ubushinjacyaha bugaragaza yaba yarasinye uretse kuba yaritabiriye inama zitandukanye nk'umwe mu bayobozi babitorewe na Koperative, kandi ko inzego zitandukanye za Leta zagaragaje ko ahubwo Komite Nyobozi yari arimo yakoze inshingano zayo neza, urugero akaba ari ishimwe bahawe na RPF ku wa 07/12/2012, iryo bahawe na Minisiteri y'Abakozi ku wa 01/05/2012, iryo bahawe na RCA ku wa 08/07/2012 ndetse n'iryo bahawe n'Akarere ka Gasabo ku wa 27/09/2013 no ku wa 04/08/2014 , akaba asaba uru Rukiko gushingira kuri ibyo bimenyetso rukemeza ko ari umwere ku cyaha cyo gukora no guhimba inyandiko zitavugisha ukuri.

[139] Mubiru Godfrey yireguye avuga ko iby'Ubushinjacyaha buvuga ko hari imirimo ya baringa yemejwe muri reception provisoire kandi ifite agaciro ka 706.173.049 Frw ataribyo kubera ko batari guhabwa uburenganzira bwo gukorera mu nyubako imirimo itararangira. Avuga ko igenzura ryakozwe na ABBA Ltd ridakwiye guhabwa agaciro kubera ko atarihamagawemo, naho ibijyanye n'nyandiko z'akanama k'amasoko zikaba zidakwiye kubazwa HI-SENSE Ltd kubera ko yari itaratangira imirimo, naho bons de commandes zikaba zitakwitwa inyandiko mpimbano kandi zitarapimwe n'abahanga ndetse HI-SENSE Ltd ikaba itabibazwa kuko itari ishinzwe kwishyura, naho iby'imirimo y'inyongera hakaba nta kibazo kirimo kuba yarakozwe havuguruwe amasezerano bitewe n'uko ariko bigenda mu bwubatsi kuko hagenda haboneka indi mirimo ikenewe bitewe n'aho inyubako igeze.

[140] Mutware Bienvenue yiregura avuga ko igenzura rya NERI, irya ABBA Ltd n'irya RSSK adakwiye kuribazwa kuko yari ataraba umukozi wa COPCOM, ko Ubushinjacyaha butagaragaza bon de commandes z'umwimerere zahawe Mutabazi Allan uretse ko n'izagaragajwe atigeze azisinyaho, ko kuba izo bons de commandes zaratanzwe na COPCOM aho gutangwa na ba rwiyemezamirimo, kuba harishyuwe ibikoresho bitagemuwe atariwe ukwiye kubibazwa kubera ko atari ashinzwe gusinya muri COPCOM cyangwa kuyifatira ibyemezo, atari umuyobozi w'umushinga, atari muri Komite Tekiniki, mu kanama k'amasoko cyangwa muri Komite Ngezuzi, ahubwo ko azira kuba yarareze COPCOM kuba yaramwirukanye mu buryo bunyuranyije n'amategeko akayitsindira indishyi zingana na 6.350.0000 Frw, ariyo mpamvu asaba uru Rukiko kubona ko nta bimenyetso Ubushinjacyaha bwagaragaje, rukemeza ko ari umwere.

[141] Mutabazi Allan yiregura avuga ko ibikoresho yasabwe yabigemuye, ko ba rwiyemezamirim o babimutumye babyemeza kandi ko ibyo bikoresho byakoreshejwe. Avuga ko bons de commandes zakoreshejwe hashingiwe ku biteganywa n'amasezerano y'inyongera yo ku wa 13/08/2013 hagati ya COPCOM na ba rwiyemezamirimo, ko Ubushinjacyaha bwakagombye kugaragaza ahavuye ibikoresho byakoreshejwe niba butemera ko byagemuwe, ko kuba yaravugiye mu Bugenzacyaha ko COPCOM itateguraga za bons de commande ari uko ibikoresho byagemurirwaga ba rwiyemezamirimo, ariyo mpamvu asaba uru Rukiko kwemeza ko nta gikorwa na kimwe giteganywa n'ingingo ya 614 y'Itegeko-Ngenga riteganya ibyaha n'ibihano yishe, rukemeza ko ari umwere.

[142] Uwicyeza Consolée yiregura avuga ko ntaho yari ahuriye n'inyandiko ku buryo yaregwa gukora cyangwa gukoresha inyandiko zitavugisha ukuri bitewe n'uko we ya ri umujyanama n'umunyamigabane. Asobanura ko ibyo gukoresha bons de commandes byasabwe na BRD, mu nama zabaye ku wa 11/10/2013, ku wa 23/04/2013, no ku wa 05/11/2013, COPCOM isanga koko bikwiye kugira ngo byihutishe imirimo. Avuga ko BRD ariyo yasabye COPCOM kujya ihindura bons de commandes zatanzwe na ba rwiyemezamirimo zigashyirwa kuri en-tete ya Koperative, ariko igihe cyo kwishyura hakishyurwa rwiyemezamirimo. Naho ibya reception provisoire atayibazwa kuko yakozwe n'abantu benshi kandi we akaba atari um uhanga mu by'ubwubatsi ku buryo yari kumenya ibyakozwe n'ibitarakozwe; naho inyandiko z'ipinganwa ngo si inyandiko zitavugisha ukuri kuko bakoze corections des hereures kandi bikaba byari biteganyijwe n'amategeko.

[143] Uwitonze Joachim yiregura avuga ko asangiye ubucuruzi n'umugore we ndetse ko yari yaranamuhaye procuration, bityo hakaba nta gitangaza kiri mu kuba yaramusinyiye kuko basezeranye ivangamutungo, bivuze ko ibyo bakora byose babifatanyije. Avuga ko ibikoresho byasabwe umugore we byagemuwe kandi birakoreshwa, akaba asanga kuba yarakoze fagitire yishyuriza umugore we ataribyo byakwitwa ibinyoma. Naho ku bijyanye n'inyandiko za reception provisoire, avuga ko Ubushinjacyaha butagaragaza aho buhera buvuga ko ari inyandiko mpimbano, akaba asaba kurenganurwa akagirwa umwere.

[144] Nubuhoro Janvière yiregura avuga ko bon de commande n° 74/2013-2014 yo ku wa 07/10/2014 iriho umukono wa maganisier, ariko umukozi wa ETECO Ltd wakiriye ibikoresho abara nabi, avuga ko byaguze 3.372.600 Frw nyamara ari 3.308.200 Frw, fagitire yabyo ikorwa n'umugabo we Uwitonze Joachim ku wa l2/05/2014 ashingiye kuri procuration yari yamuhaye. Naho bon de comande yo kuwa 06/05/20l4 yari ifite agaciro ka 3.500.000 Frw, ko yari yakozwe neza, hagemurwa ibikoresho bifite agaciro ka 2.673.500 Frw, nabyo byakirwa na magasinier wa ETECO Ltd. Avuga ko bon de commande n° 07012013-2014 yo ku wa 05/05/2014 yariho amafaranga 1.968.100 Frw, ariko sima yari ifite agaciro ka 1.500.000 Frw ntiyagemurwa, bituma yishyurwa 468.100 Frw, naho 6.295.300 Frw yo ku wa 12/05/2014, ko icyatumye hishyurwa 6.234.700 Frw ari uko bagabanyije ingano ya fil de fer bari basabye kandi ntaho umukono w'umugabo ugaragara kuri iyo nyandiko. Avuga ko bon de commande yo ku wa l0/07/20l4 ifite n° 009/20l3-2014 n'agaciro ka 9.500.000 Frw nta kibazo ifite kuko ibikoresho byagemuwe kandi ko umugabo we yasinye Fagitire n° 1 yo ku wa I2/05/2014 kuko yari yabimuhereye ububasha.

[145] Nyirurugo Aimable yiregura avuga ko atitabiriye inama ya reception provisoire bitewe n'uko uwo munsi atabonetse, bityo akaba adakwiye kubazwa ibyayo, ko Ubushinjacyaha butagaragaza inyandiko yanditse itavugisha ukuri kuko nta naho bugaragaza ko hari ikintu yahinduye cyandikwa uko kitari kiri cyangwa se ngo abe yarakoresheje inyandiko iyo ariyo yose harimo n'iza reception provisoire, ndetse ko atabazwa ibyemezo by'inama rusange kuko bifatwa ku bwiganze bwa 2/3 by'abagize Komite Nyobozi, bityo nubwo atagitorera kikaba cyahita, ariyo mpamvu asaba uru Rukiko kubona ko nta gikorwa na kimwe giteganywa n'ingingo ya 614 y'Itegeko Ngenga no 01/2012/oL ryo kuwa 02/05/2012 rishyiraho igitabo cy'amategeko ahana yakoze, rukamugira umwere.

[146] Mwiza Ernest yiregura avuga ko inyandiko mpimbano bamurega ntayo yakoze kuko ba rwiyemezamirimo basabye isoko, bararisesengura nk'abashinzwe akanama k'amasoko, bakosora amakosa yararimo bashyiraho imikono baza kubishyikiriza nyobozi nayo ibishyira mu nteko rusange, kandi bo uruhari rwabo naho rwagarukiraga. Avuga ko ibikorwa byose bakoze nta buriganya bwari burimo ahubwo kuko biteganywa n'itegeko, kandi inyandiko zose zibiherekeza bazishyikirije ababatumye, nyobozi imaze kubishyikirizwa kuwa 18/07 yicaranye na ngenzuzi bongera kureba ibyo bakoze bashimangira ko byakozwe neza ndetse bemeza ko ba rwiyemezamirimo batsinze aribo bahabwa isoko. Ibyo ubushinjacyaha buvuga ko kuri reception provisoire bafashe abari muri komisiyo ya evaluation babajyana mu kwakira amasoko sibyo kandi n'abataragiyemo ntibabifata nk'inyandiko mpimbano kuko atariyo yari gushingirwaho ngo habeho reception definitif kandi nyobozi na Ngenzuzi barabyemeje.

[147] Habakurama Venuste yireguye avuga ko ubushinjacyaha bumushinja ko nk'uwari ukuriye akanama k'amasoko afatanyije n'a bagenzi be bari bagize akanama k'amasoko mu isesengura bakoze bahinduye inyandiko ku ipiganwa rya ba rwiyemezamirimo sibyo kuko isesengura bakoze barishingiye ku ngingo ya 27 kugeza kuya 30 y'itegeko N0 001/08/10/MIN ryo kuwa 16/01/2008 rishyiraho amabwiriza agenga amasoko ya leta ndetse n'amabwiriza agenga ipiganwa mu ngingo yayo ya 22; kandi ngo hasobanurwamo ko iyo mu nyandiko y'ipiganwa harimo amakosa agomba gukosorwa igiciro cy'amafaranga cyanditse mu nyuguti n'icyanditse mu mibare iyo bidahura hagomba gufatwa icyanditse mu nyuguti kandi ngo niko babigenje kandi ngo sibyo gusa kuko hasuzumwe niba ba rwiyemezamirimo batarakoze ikosa ryo guteranya cyangwa gukuba ibiciro fatizo cyangwa ingano yose kandi ngo byose byaragenzuwe nanone ngo babigejeje mu nteko rusange barabisobanura biremerwa kandi yarifite uburenganzira bwo kubyanga, bityo ko izo nyandiko atari impimbano; ku bijyanye na reception provisoire yazisinyeho ariko nayo si inyandiko mpimbano kuko COPCOM nka koperative yigenga yagiye ishyiraho ama commission atandukanye kuri buri cyiciro, yaba akanama k'amasoko, equipe techinique cyangwa comisiyo y'iyakirwa ry'imirimo y'agateganyo kandi ngo buri rwego rwubaha urundi kandi murizo reception provisoire hatanzwe recomandation bavuga ko ibindi bizarebwa muri decompte finale.

[148] Uwizeyimana Alphonsine yiregura avuga ko ibijyanye na bon de comande ya 58.265.500 Frw atayibazwa kuko atariwe wayikoze atari nawe wayikorewe, ko yakozwe na ETECO ihabwa Bankozemunda Eric, uyu aza gufata ibikoresho iwe aranamwishyura, impamvu amafaranga ya Bankozemunda Eric angana na 58.265.500 Frw yanyuze kuri konti ye ni uko uyu yari yabisabye ko ariho anyuzwa hanyuma akuraho ayo yagombaga kumwishyura andi arayamusubiza; naho ku bijyanye na 6.150.000 Frw ngo nta byinshi ayivugaho kuko atariwe wakoze bons de comande cyangwa bordereau d'expedition kandi ngo sinawe wishyuwe.

[149] Nteziryayo Eric na ETECO Ltd na Me Ndahimana Jean Bosco ubunganira biregura bavuga ko bishuje amafaranga y'ibyo bakoze ndetse basanye, ko hari urujijo kuri za bons de commandes kuko ku zirenga 200 bakoresheje, hajonjowemo nke aba arizo ziregerwa. Avuga ko Ubushinjacyaha buvuga ko bons de commande zateguwe na COPCOM nyamara zarateguwe na ETECO Ltd, bigaragaza ko hari izindi bons de commande Ubuyobozi bwa COPCOM bahishe, ibyo bikaba

bigaragaza ko izo bon de commande atari inyandiko-mpimbano. Bavuga kandi ko kizimyamoto batazishyuwe, naho plafond ikaba yarakozwe igasenywa n'umuyaga. Basoza bavuga ko raporo y'igenzura ryakozwe na ABBA Ltd idakwiye guhabwa agaciro kuko yakozwe n'umukozi ushinzwe ubujyanama muri COPCOM, ko aricyo cyatumye Ubushinjacyaha bwiyambaza ONCG Ltd ariko nayo irabyica kuko abakorewe igenzura batabimenyeshejwe, ko uwitwa Ndikumana Charles ahamya ko abakorewe igenzura batabajijwe ndetse BRD nayo ikemeza ko raporo ya ABBA Ltd atari ukuri, ko bitanashoboka ko umugenzuzi amenya ibiri munsi y'ubutaka inzu yatashywe yubatseho. Bavuga ko kubireba ETECO Ltd, haramutse hari ibitarakozwe cyangwa ibitarakozwe neza byakwishyurwa na garantie de bonne execution, bagasaba uru Rukiko kwemeza ko Nteziryayo Eric na ETECO Ltd ari abere kandi ko ntacyo bakwiye kuryozwa.

[150] Ahinkuye Bertin na TECOM Ltd biregura bavuga ko uburyo bwa bons de commande bwashyizweho mu rwego rwo kwihutisha imirimo kubera ko COPCOM yari itangiye kwishyura banki ndetse inyubako zigomba no kujya mu mihigo y'Akarere, ko ubwo buryo bwemejwe hashingiwe ku nama zitandukanye, hemezwa ko bon de commande zikorwa na Koperative ariko amafaranga akavanwa ku mafaranga rwiyemezamirimo azishyurwa. Avuga ko bons de commandes zakorewe Nubuhoro Janvière zari zakozwe neza, akaba atumva impamvu arizo zaregewe gusa. Avuga ko impamvu hakozwe bons de commandes nyinshi hakaregerwa nke bituruka ku makimbirane Nubuhoro Janvière yagiranye n'abayobozi bashya ba Koperative. Asobanura ko BRD nayo yashimye imikoreshereze ya bons de commande kuko yatumye imirimo yihuta, akaba atumva uburyo umushinga wari kunyerezwamo 700.000.000 Frw ngo urangire, ndetse ko iyo umucuruzi yahawe bon de commande y'ibikoresho by'amashanyarazi, hanyuma umugenzuzi agasanga arimo, biba bivuze ko ibyo bikoresho byagemuwe. Avuga ko nta bon de commande yishyurwaga BRD itabisuzumye, akaba yibaza impamvu Ubushinjacyaha butitwaje inzobere mu bwubatsi ngo zisobanure ibyabaye.

[151] Avuga ko icyumba aregwa kuba atarubatse atakibazwa nyuma ya reception provisoire kuko ubwayo igaragaza ko nta nyereza ryabayeho, naho kizimyamoto ikaba ntazo TECOM Ltd yishyuje nk'uko bigaragazwa n'ibaruwa yandikiwe na COPCOM ku wa 28/07/2014, naho ibya plafond bikaba byaratewe n'umuyaga, hemezwa ko hakoreshwa triplex. Asoza asaba uru Rukiko kudaha agaciro raporo z'igenzura zakozwe na ABBA Ltd na ONCG Ltd kuko zakozwe mu buryo budakurikije amategeko bitewe n'uko nta ruhare yazigizemo, akaba asanga kubwe amasezerano yarubahirijwe ariyo mpamvu asaba kugirwa umwere.

[152] Safari Fidèle na ECOBARUS Ltd biregura bavuga ko raporo ya ABBA Ltd itahabwa agaciro kubera ko itari mu itsinda rishyinzwe ubugenzuzi, ko umushinga ujya gutangira bahawe inyandiko zose harimo iz'ipiganwa, ibishushanyo n'amasezerano kandi ko imirimo yagenzurwaga na BRD, HI-SENSE Ltd, Komite Tekiniki na One Stop Centre, bose bakaba ntacyo banenga ibyakozwe, ahubwo umushyitsi nka ABBA Ltd waje inyubako yaratangiye gukorerwamo akaba ari we ubona ibitarakozwe n'ibitarakozwe neza. Bavuga ko ubundi ibitaragenze neza byagombaga kugaragazwa na décompte final, ariyo mpamvu basaba uru Rukiko kudaha agaciro raporo ya ABBA Ltd. Bavuga ko amafaranga ya kizimyamoto ntayo bishyuje, ko ABBA Ltd yabeshye igamije kuyobya ubutabera kuko iyo baba barazishyuwe, ABBA Ltd yari kugaragaza fagitire bazishyuriweho, naho ibijyanye na plafond akaba nta kibazo kirimo kuko abakoze inyigo aribo birengagije ikirere inzu yubatsemo, bituma umuyaga uhasenya noneho hemezwa ko hubakishwa triplex, naho ibya bons de commande bikaba byarakozwe mu nyungu rusange zo kwihutisha iyubakwa ry'izo nyubako.

[153] Basobanura ko ku bijyanye na ECOBARUS Ltd, décompte final yakozwe ikarangira ndetse iyo sosiyete igasabwa gutanga plan de recouvrement, babonye bazishyura mafaranga arenga miliyoni 229 bahitamo kumurega ibyaha by'ibihimbano. Bavuga ko imirimo y'inyogera yiswe inyerezwa nyamara mu gihe cyo kubaka barahuye n'ikibazo cy'amazi, hemezwa ko hamenwa béton kugira ngo ayo mazi ahagarikwe, ibyo bikaba bigaragarira mu amasezerano y'inyongera ko atari inyandiko mpimbano.

UKO URUKIKO RUBIBONA

[154] Ingingo ya 614 y'Itegeko-Ngenga n° 01/2012/OL ryo ku wa 02/05/2012 rishyiraho Igitabo cy'amategeko ahana iteganya ko «Umuntu wese: 1° wandika abizi inyadiko ivuga ibintu uko bitari; 2° uhindura ku buryo ubwo ari bwo bwose inyandiko yavugaga ukuri; 3° ukoresha abizi, inyandiko itavugisha ukuri cyangwa yahinduwe; ahanishwa igifungo kirenze imyaka it anu (5) kugeza ku myaka irindwi (7) n'ihazabu y'amafaranga y'u Rwanda kuva ku bihumbi magana atanu (500.000) kugeza kuri miliyoni ebyiri (2.000.000).»

[155] Ingingo ya 276 y'itegeko Nº68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange ivuga ko Umuntu wese, ku bw'uburiganya, wandika, wandikisha ibintu bidahuye n'ukuri cyangwa ukora imenyekanisha ritari ryo afatwa nk'uwakoze icyaha cyo gukora ibihimbano. Iyo abihamijwe n'urukiko, ahanishwa igifungo kitari munsi y'imyaka itanu (5) ariko kitarenze imyaka irindwi (7) n'ihazabu y'amafaranga y'u Rwanda atari munsi ya miliyoni eshatu (3.000.000 FRW) ariko atarenga miliyoni eshanu (5.000.000 FRW) cyangwa kimwe gusa muri ibyo bihano.

[156] Urukiko rurasanga Mbagizente Edouard avuga ko hari inama zemeje ko inyubako zakirwa by'agateganyo, ndetse zinemeza ko hakoreshwa za bons de commande, kandi ko hari inzego za Leta zitandukanye zahaye Komite Nyobozi yarimo ishimwe; ibi ariko sibyo byagaragaza ko nta cyaha yakoze, mu gihe nk'uko byagaragajwe haruguru hari inyandiko zitavugisha ukuri yakoze, akazishyiraho umukono abizi kandi agamije gufatanya nabo bari kumwe kunyereza amafaranga ya Koperative. Byongeye kandi, nk'uko byasobanuwe haruguru, ingingo ya 108 y'Itegeko nº 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'im anza z'inshinjabyaha n'ingingo ya 119 y'Itegeko n° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo ziteganya ko mu manza nshinjabyaha ibimenyetso bishobora gushingira ku mpamvu zose z'ibyabaye n'ibyemejwe n'amategeko, ababuranyi bapfa kuba barabigiyeho impaka, bityo mu gihe raporo ya ABBA Ltd n'iya ONCG Ltd zishimangirwa n'ibindi bimenyetso hakaba nta kibuza uru Rukiko gushingira kubizivugwamo.

[157] Urukiko rusanga ibyo yireguza avuga ko icyaha cy'inyandikompimbano yayireganwa n'umugi wa Kigali, inzobere 5 za COPCOM ndetse n'iteko rusange yemeje kwakira inyubako by'agateganyo, ibyo ubwabyo akaba atabyireguza agamije guhanagurwaho icyaha kuko icyaha ari gatozi ku wagikoze kandi ubushinjacyaha bukaba bufite uburenganzira bwo gukurikirana uwo bushatse (oportunite de porsuite); naho ibyo avuga ko adakwiye kubazwa ibijyanye na Kizimyamoto kuko atariwe wasinye kuri sheki zazishyuza, nabyo bikaba bidafite ishingiro kuko yasinye kuri reception provisoire yemeza ko imirimo yarangiye kandi nta kizimyamoto ba rwiyemezamirimo bashyize ku nyubako.

[158] Urukiko rurasanga dosiye y'urubanza igaragaza ko hari imirimo y'inyongera yahimbwe na Mubiru Godfrey, Ndahumba Emile na Mbagizente Edouard, bituma ku wa 01/11/2012 ECOBARUS Ltd ihabwa amasezerano y'inyongera y'agaciro ka 19.342.920 Frw ku kubaka "raft fondation", nyuma yaho ihabwa andi 9.071.000 Frw na none yo kubaka "raft fondation", naho ku wa 10/05/2014, TECOM Ltd ihabwa 11.179.300 Frw yo kubaka "retaining wall", ku wa 30/08/2012, ETECO Ltd ihabwa 41.039.000 Frw yo kubaka "retaining wall", irongera ihabwa andi 24.128.500 Frw nayo yo kubaka "retaining wall", aya nyuma akaba ari 20.040.000 Frw yahawe ku wa 28/05/2014 nayo yo kubaka "additional retaining wall", bikaba bigaragaza ko uburyo bw'amasezerano y'inyongera bwari ubwo guhimba imirimo ya baringa kugira ngo MUBIRU Godfrey, Ndahumba Emile na Mbagizente Edouard, Ahinkuye Bertin na TECOM Ltd, Nteziryayo Eric na ETECO Ltd, Safari Fidèle na ECOBARUS Ltd babone uko banyereza amafaranga ya koperative nk'uko byagaragajwe haruguru.

[159] Urukiko rurasanga kandi byo Mbagizente Edouard aburanisha by'uko amakosa yakozwe muri za bons de commandes akwiye kubazwa abakozi ba BRD babasabye kujya bakora "copy and paste"

nta shingiro bikwiye guhabwa kubera ko nk'abayobozi ba Koperative bari bazi ko nta nshingano bafite yo gusabira ba rwiyemezamirimo ibikoresho no kubishyurira kuko zari inshingano zabo nk'uko zari ziteganyijwe mu masezerano. Byongeye kandi zimwe muri izo bons de commandes zakozwe bizwi neza nk'izakorewe Nubuhoro Janvière, Bankozemunda Eric na Mutabazi Allan byagaragaye ko zakozwe hagamijwe gusa kurigisa amafaranga ya Koperative kuko mu by'ukuri nta bikoresho abazikoze bari bategereje, ari nayo mpamvu zimwe zishyuwe nta bordereaux d'expeditions, cyangwa fagitire zibanje kugaragazwa. Iby'uko hagiye hakorwa inyandiko zitavugisha ukuri hagamijwe kurigisa amafaranga ya Koperative bigaragazwa na none na raporo ya reception provisoire yemeje ko imirimo yose yakozwe neza, hakirengagizwa ko inzira y'ababana n'ubumuga itubatswe, kizimyamoto zishyuwe ariko ba rwiyemezamirimo ntibazishyire mu nyubako cyangwa plafond yagombaga kwishyurwa na garantie de bonne execution kubera ko iyariyubatswe yagurutse nkuko bigaragazwa na raporo yo ku wa 27/11/2013 yatangiwe irindi soko, hasohorwa andi mafaranga yahawe OCB Ltd, byose bigaragaza ko Ndahumba Emile, Mbagizente Edouard, Mubiru Godfrey bafatanyije na Safari Fidèle (ECOBARUS Ltd), Ahinkuye Bertin (TECOM Ltd), Nteziryayo Eric (ETECO Ltd) ndetse na Mutware Bienvenu, Uwitonze Joachim, Uwicyeza Consolée bakoze izo nyandiko bazi ko atari ukuri kandi bagamije kunyereza no gukoresha nabi umutungo wa Koperative.

[160] Urukiko rurasanga Mubiru Godfrey yivugira ko atemera bon de commande yasabaga Mutabazi Allan ibikoresho bya Plomberie bifite agaciro ka 20.826.800 Frw, Mutabazi Allan nawe akaba yarahakanye ko nta bikoresho bya plomebrie by'ako gaciro yagemuriye ETECO Ltd na ECOBARUS Ltd mbere y'ukwezi kwa Mata 2014, ndetse ko n'imikono iri ku nyandiko zishyuza itari iye, ahubwo Mubiru Godfrey avuga ko iyo bon de commande yateguwe na Mutware Bienvenu na Ndahumba Emile, bikaba bigaragara ko iyo nyandiko yahimbwe kugira ngo ayo mafaranga yishyuwe ku wa 21/03/2014 anyerezwe.

[161] Ku bireba Mubiru Godfrey, Urukiko rurasanga ibyo aburanisha ko nta mirimo ya baringa yemejwe muri raporo ya reception provisoire kubera ko batari guhabwa uburenganzira bwo gukorera mu nyubako imirimo itararangira nta shingiro bikwiye guhabwa kuko bivuguruzanya no kuba Mbagizente Edouard, Uwicyeza Consolée, Uwitonze Joachim, Mutware Bienvenu, Safari Fidèle (ECOBARUS Ltd), Ahinkuye Bertin (TECOM Ltd), Nteziryayo Eric (ETECO Ltd) nabo ubwabo bemeza ko ahubwo bari ku gitutu cyo kwirinda igihombo cyaturuka ku nguzanyo yari yarafashwe muri BRD, hanyuma bemeza ko bimukira muri izo nyubako uko zimeze ibitarakorwa bigakorwa nyuma, ariko ibyo byari gukorwa nyuma bikaba bitagaragajwe muri raporo ya reception provisoire kuko muri raporo yakorewe ETECO Ltd, TECOM Ltd ECOBARUS Ltd ndetse n'iyakorewe COTIS Ltd hari imirimo itari yarakozwe itarashyizwe muri iyo raporo ndetse n'iyishyuwe itarakozwe nka za kizimyamoto zari mu masezerano y'aba rwiyemezamirimo, inzira y'ababana n'ubumuga itari yarubatswe n'amafaranga yarengage ku facilitation yahawe ba rwiyemezamirimo ngo bagure sima, bikaba bigaragara ko raporo ya reception provisoire itavugishije ukuri, ahubwo ipfukirana ibitarakozwe n'ibyishuwe ntibikorwe.

[162] Urukiko rurasanga na none ibyo Mubiru Godfrey yitwaza iby'uko adakwiye kubazwa ibyagaragajwe na raporo ya ABBA Ltd cyangwa ibya za bons de commande nta shingiro bikwiye guhabwa kubera ko raporo ya ABBA Ltd ishimangirwa na raporo ya ONCG Ltd ndetse n'iyakozwe na RCA, uretse n'ibyo za fagitire, bordereaux d'expédition, imvugo z'abatangabuhamya n'imvugo ze bishimangira ko we afatanyije na Komite Nyobozi ya COPCOM ndetse na ba rwiyemezamirimo bacuze umugambi wo kurigisa cyangwa gukoresha nabi umutungo wa Koperative, we ubwe akaba yarakoze ndetse yaranasinye kuri za bons de commandes zagiye zishyingirwaho mu gusohora amafaranga ya Koperative nta bikoresho byagemuwe, kandi akaba yari azi ko ikoreshwa rya bons de commandes ryari rinyuranyije n'amasezerano, inyandiko z'ipiganwa yateguye ndetse n'amategeko bagenderagaho. Byongeye kandi ibyo yitwaza ko bons de commandes zitapimwe n'abahanga nta shingiro bifite kuko hari izapimwe n'abahanga kandi

yasinyeho, urugero akaba ari bons de comande abahanga bagaragaraje ko Uwitonze Joachim yagiye yigana imikono ya Nubuhoro Janvière kugira ngo yishyurwe, usibye nibyo inyandiko itavugisha ukuri itagombera kuba yarapimwe n'abahanga mu gihe bigaragaye ko ibiyikubiyemo bihabanye n'ukuri; urugero naho Uwizeyimana Alphonsine yishyuwe amafaranga menshi ugereranyije n'ibikoresho yagemuye, kandi Mubiru Godefrey na HE SENS akuriye akaba ari mu bemeje iyo nyandiko, byose bigaragaza ko icyaha cyo gukora no gukoresha inyandiko zitavugisha ukuri kimuhama.

[163] Urukiko rurasanga ibyo Mutware Bienvenue aburanisha by'uko atabazwa ibyo gukora cyangwa gukoresha inyandiko zitavugisha ukuri kuko atasinyaga kuri bons de commande nta shingiro bikwiye guhabwa kubera ko niwe wari ushinzwe imari n'ubutegetsi bya COPCOM, niwe rero wishyuye fagitire za baringa zatanzwe na Bankozemunda Eric, Mutabazi Allan, Uwitonze Joachim ndetse na Nubuhoro Janvière, yemeza ko amafaranga ya koperative asohoka atabanje kugaragarizwa ko inyandiko zihamya ko ibikoresho byishyuzwa byagemuwe, urugereko akaba ari 20.826.800 Frw na 3.958.800 Frw yishyuwe Mutabazi Allan ku wa 08/01/2014 no ku wa 24/01/2014 kandi ntacyo yagemuye, 3.308.200 Frw, 3.141.600 Frw yishyuwe Uwitonze Joachim ku wa 14/05/2014 no ku wa 12/05/2014 kandi nta bikoresho umugore we Nubuhoro Janvière yagemuye, 468.100 Frw, 6.234.000 Frw na 3.500.000 Frw yishyuwe Nubuhoro Janvière nyamara nta bikoresho yagemuye, bikaba bigaragara ko Mutware Bienvenue afatanyije na Uwitonze Joachim, Nubuhoro Janvière, Ndahumba Emile, Safari Fidèle (ECOBARUS Ltd), Ahinkuye Bertin (TECOM Ltd), Nteziryayo Eric (ETECO Ltd) na Mubiru Godfrey (HE SENSE) bahimbye inyandiko zitavugisha ukuri ndetse baranazikoresha bagamije kunyereza no gukoresha nabi umutungo wa COPCOM.

[164] Urukiko rurasanga kandi raporo ya Forensic Laboratory yo ku wa 02/06/2019 ihamya ko Uwitonze Joachim yiganye umukono w'umugore we Nubuhoro Janvière kuri Facture fagitire n°1 ku wa 12/05/2014 bituma yishyuza 3.308.200 Frw, aya mafaranga COPCOM ikaba yarayishyuye ku wa 14/05/2014. Na none ku wa 12/05/2014 handitswe fagitire n°2 mu izina rya Nubuhoro Janvière yomekwaho bordereau d'expédition n° 2 yo kuwa 09/05/2014 igenewe ETECO Ltd, hishyuzwa 2.673.500 frw, ku wa 12/05/2014, Mutware Bienvenu ushinzwe umutungo muri COPCOM yishyuye Uwitonze Joachim 3.141.600 Frw, avuga ko ari ubwishyu bwa fagitire n° 1 na n° 2 za Nubuhoro Janvière nyamara ntacyo uyu yagemuye ndetse na fagitire n° 1 yari yarishyuwe. Kuri iyo tariki, Uwitonze Joachim yishyuje na none 468.100 Frw y'ibikoresho bivugwa ko byagemuriwe TECOM Ltd, Nubuhoro Janvière ayahabwa mu ntoki, uwo munsi Uwitonze Joachim yishyuje na none 6.295.300 Frw y'ibikoresho bivugwa ko byagemuriwe TECOM Ltd, ku wa 09/06/2014, Nubuhoro Janvière yishyurwa 6.234.000 Frw hakoreshejwe sheki ya COPCOM, ku wa 08/08/2014 COPCOM yongeye kwishyura Nubuhoro Janvière 3.500.000 Frw ku bikoresho bivugwa ko byahawe ETECO Ltd, ariko nabwo yishyurwa ntacyagumuwe, ibi byose bikaba bigaragaza ko Uwitonze Joachim, Nubuhoro Janvière, Mutware Bienvenu, Ndahumba Emile, Safari Fidèle (ECOBARUS Ltd), Ahinkuye Bertin (TECOM Ltd), Nteziryayo Eric (ETECO Ltd) na Mubiru Godfrey bahimbye inyandiko zitavugisha ukuri bagamije kunyereza no gukoresha nabi umutungo wa COPCOM.

[165] Ku bireba Mutabazi Allan, Urukiko rurasanga nk'uko byagaragajwe haruguru, Mubiru Godfrey yarateguriye Mutabazi Allan bon de commande N° 180/2014 ya 3.190.500 Frw, mu izina rya COPCOM yemezwa na Mutware Bienvenu na Ndahumba Emile kuwa 31/3/2014, Mutabazi Allan yishyurwa nta bordereaux d'expédition akoze nta n'ibikoresho yagemuye, amafaranga anyuzwa kuri konti ye muri Bank ya Kigali, ni nako byagenze kuri bon de commande n° 53/2013-2014 yo ku wa 08/01/2014 yasabaga ibikoresho bya 20.826.800 Frw. Hatanzwe fagitire n° 006/ETEC/2014 y'ayo mafaranga, hakorwa virement bancaire ku wa 21/03/2014, na none ashyirwa kuri konti ya Mutabazi Allan nta bordereau d'expédition yatanzwe ku buryo bigaragara ko yishyuwe ibikoresho atagemuye. Naho ku wa 24/01/2014 Mutabazi Allan akora bordereau d'expédition ifite agaciro ka 3.958.800 Frw yemejwe na COPCOM na Mubiru Godfrey na HI-SENSE, iyo bordereau

d'expédition nta bon de commande ifite nta na fagitire yakorewe, bityo bikaba bigaragara ko izo nyandiko zakozwe hagamijwe kunyereza umutungo wa COPCOM.

[166] Urukiko rurasanga kandi bordereau d'expédition yo ku wa 10/03/2014 y'amafaranga angana na 3.190.500frw igaragaza ko yakozwe mbere yuko bon de comande yemezwa kuko iyi bon de comande yakozwe kuwa 22/01/2014 yemezwa kuwa 31/3/2014 nkuko bigaragara kuriyo bon de comande iri muri dosiye, ibi bikaba bigaragarira Urukiko ko iyo bordereaux d'expédition itavugisha ukuri kuko bidashoboka ko yarikugemura ibikoresho atarabisabwa kandi na fagitire nayo ikaba itavugisha ukuri mu gihe yashingiye kuri bordero d'expedition itavugisha ukuri.

[167] Ku bireba Mubiru Godfrey, Urukiko rurasanga ibyo aburanisha ko nta mirimo ya baringa yemejwe muri raporo ya reception provisoire kubera ko batari guhabwa uburenganzira bwo gukorera mu nyubako imirimo itararangira nta shingiro bikwiye guhabwa kuko bivuguruzanya no kuba Mbagizente Edouard, Uwicyeza Consolée, Uwitonze Joachim, Habakurama Venuste, Mutware Bienvenu, Safari Fidèle (ECOBARUS Ltd), Ahinkuye Bertin (TECOM Ltd), Nteziryayo Eric (ETECO Ltd) nabo ubwabo bemeza ko ahubwo bari ku gitutu cyo kwirinda igihombo cyaturuka ku nguzanyo yari yarafashwe muri BRD, hanyuma bemeza ko bimukira muri izo nyubako uko zimeze ibitarakorwa bigakorwa nyuma, ariko ibyo byari gukorwa nyuma bikaba bitagaragajwe muri raporo ya reception provisoire kuko muri raporo yakorewe ETECO Ltd, TECOM Ltd ECOBARUS Ltd ndetse n'iyakorewe COTIS Ltd hari imirimo itari yarakozwe itarashyizwe muri iyo raporo ndetse n'iyishyuwe itarakozwe nka za kizimyamoto zari mu masezerano y'aba rwiyemezamirimo, inzira y'ababana n'ubumuga itari yarubatswe n'amafaranga yarengaga ku facilitation yahawe ba rwiyemezamirimo ngo bagure sima, bikaba bigaragara ko raporo ya reception provisoire itavugishije ukuri, ahubwo ipfukirana ibitarakozwe n'ibyushuwe ntibikorwe.

[168] Ku bireba Uwitonze Joachim, Urukiko rurasanga ari umwe mu bagize itsinda ryakiriye inyubako by'agateganyo ku wa 03/11/2014, abikora abona ko hari imirimo ba rwiyemezamirimo basinyiye mu masezerano itarakozwe nko kubaka inzira y'abanyamaguru, gutanga za kizimyamoto, amafaranga y'ikirenga ba rwiyemezamirimo bari barishyuwe atarashubijwe cyangwa ngo havugwe uburyo azasubizwa, ndetse no muri raporo ya reception provisoire hakaba ntahagaragara ko hemejwe ko iyo mirimo yari kuzakorwa nyuma cyangwa uburyo amafaranga yishyuwe arenze kuyasabwaga yari kuzagaruzwa, bityo kuri iyi ngingo, reception provisoire ikaba itaravugishije ukuri. Byongeye kandi Uwitonze Joachim na Nubuhoro Janvière bafatanyije na Ndahumba Emile, Safari Fidèle (ECOBARUS Ltd) na Mubiru Godfrey (HE SENSE) bakoze bon de commande n° 93/COP/2014 yo ku wa 19/09/2014 inshuro eshatu, bikorwa hagamijwe gutubura ingano y'ibikoresho bisabwa n'amafaranga azishyuzwa, izo bons de commande zishyujwe umunsi umwe wo ku wa 20/09/2014 ndetse n'ibikoresho byose byikorerwa n'imodoka imwe (RAC 214 G) yatwariye icyarimwe imicanga, sima, concassés, utugunguru twa goudrons, amarangi n'ibindi, byishyuzwa na Uwitonze Joachim, wari n'umwanditsi wa COPCOM, bikaba bigaragarira Urukiko ko ahubwo Uwitonze Joachim na Nubuhoro Janvière n'abayobozi ba COPCOM na Mubiru Godfrey (HE SENSE) bakoresheje uburyo bwa bons de commande nk'inyandiko zitavugisha ukuri bagamije kurigisa umutungo wa Koperative cyangwa kuwukoresha nabi.

[169] Urukiko rurasanga kandi raporo ya Forensic Laboratory yo ku wa 02/06/2019 ihamya ko Uwitonze Joachim yiganye umukono w'umugore we Nubuhoro Janvière kuri Facture fagitire n°1 ku wa 12/05/2014 bituma yishyuza 3.308.200 Frw, aya mafaranga COPCOM ikaba yarayishyuye ku wa 14/05/2014. Na none ku wa 12/05/2014 handitswe fagitire n°2 mu izina rya Nubuhoro Janvière yomekwaho bordereau d'expédition n° 2 yo kuwa 09/05/2014 igenewe ETECO Ltd, hishyuzwa 2.673.500 frw, ku wa 12/05/2014, Mutware Bienvenu ushinzwe umutungo muri COPCOM yishyuye Uwitonze Joachim 3.141.600 Frw, avuga ko ari ubwishyu bwa fagitire n° 1 na n° 2 za Nubuhoro Janvière nyamara ntacyo uyu yagemuye ndetse na fagitire n° 1 yari yarishyuwe. Kuri iyo tariki, Uwitonze Joachim yishyuje na none 468.100 Frw y'ibikoresho bivugwa ko byagemuriwe TECOM

Ltd, Nubuhoro Janvière ayahabwa mu nto ki, uwo munsi Uwitonze Joachim yishyuje na none 6.295.300 Frw y'ibikoresho bivugwa ko byagemuriwe TECOM Ltd, ku wa 09/06/2014, Nubuhoro Janvière yishyurwa 6.234.000 Frw hakoreshejwe sheki ya COPCOM, ku wa 08/08/2014 COPCOM yongeye kwishyura Nubuhoro Janvière 3.500.000 Frw ku bikoresho bivugwa ko byahawe ETECO Ltd, ariko nabwo yishyurwa ntacyagemuwe, ibi byose bikaba bigaragaza ko Uwitonze Joachim, Nubuhoro Janvière, Mutware Bienvenu, Ndahumba Emile, Safari Fidèle (ECOBARUS Ltd), Ahinkuye Bertin (TECOM Ltd), Nteziryayo Eric (ETECO Ltd) na Mubiru Godfrey (HE SENSE) bahimbye inyandiko zitavugisha ukuri bagamije kunyereza no gukoresha nabi umutungo wa COPCOM.

[170] Urukiko rurasanga na none Raporo ya Rwanda Forensic Laboratory yo kuwa 02/06/2019 ihamya ko umukono uri kuri bon de commande yo ku wa 10/07/2014 nta sano ufitanye n'imyandikire ya Nubuhoro Janvière igaragara kuri sheki ebyiri zo ku wa 14/05/2014 no ku wa 09/06/2014 ndetse ikaba nta sano ifitanye n'imyandikire ya Uwitonze Joachim igaragara kuri facture yo ku itariki 10/11/2014 bivuze ko nubwo Nubuhoro Janvière atsimbarara ko ari we wateguye izo nyandiko, ariko bigaragara ko atavugisha ukuri, ahubwo izo nyandiko zateguwe ku kagambane k'abakozi ba Koperative mu rwego rwo kunyereza amafaranga, kandi koko nk'uko byagaragajwe haruguru ku wa 10/11/2014, Uwitonze Joachim yishyuwe amafaranga nta bikoresho umugore we yatanze.

[171] Ku bireba Uwicyeza Consolée, Urukiko rurasanga yaritabiriye inama zo ku wa 24/04/2013, ku wa 25/04/2013, ku wa 24/07/2013, ku wa 19/08/2013 zemeje ikoreshwa rya za bons de commandes, icyakora sibyo bigaragaza ko hakozwe cyangwa hakoreshejwe inyandiko mpimbano kuko inyandiko zose ziregerwa kuba zarashingiweho zitavugisha ukuri zitakorewe muri izo nama ahubwo zakozwe nyuma y'izo nama. Imyanzuro y'inama nta na hamwe igaragaza ko izo nyandiko zari kuba zitavugisha ukuri ku buryo abitabiriye izo nama bose baryozwa ubufatanyacyaha mu nyandiko zitavugisha ukuri. Ahubwo abakoze izo nyandiko, bashingiye ku myanzuro y'inama, nibo bakoze izitavugisha ukuri. ariko kuba Uwicyeza Consolée; Habakurama Venust, Mwiza Ernest, Uwitonze Joachim na Mubiru Godfrey bari mu kanama k'amasoko, bakazamura ibiciro byatanzwe na ba rwiyemezamirimo, ari nabyo bise correction des erreurs arthmétiques, nabyo byafatwa nk'ubufatanyacyaha mu gukora cyangwa gukoresha inyandiko itavugisha ukuri.

[172] Urukiko rurasanga na none Uwicyeza Consolée na Habakurama Venuste ari bamwe mu bari mu itsinda ryemeje raporo ya reception provisoire yabaye ku wa 03/11/2014, nyamara nk'uko byagaragajwe haruguru, iyo reception provisoire ikaba yaremeje ko imirimo yarangiye kandi hari inzira y'ababana n'ubumuga itarubatswe, hari za kizimyamoto zari mu masezerano ya ba rwiyemezamirimo zitatanzwe kandi zarishyuwe, ndetse hari n'amafaranga ba rwiyemezamirimo bahawe atarasubijwe COPCOM, bigaragaza ko asinyira ko ibyo byose byakozwe neza, yashyize umukono ku nyandiko itavugisha ukuri.

[173] Urukiko rurasanga Ndahumba Emile, Mbagizente Edouard, Uwitonze Joachim, Mutware Bienvenu, Nteziryayo Eric na Mubiru Godfrey barakiriye by'agateganyo imirimo ya COTIS Ltd nyamara imirimo yayo yari igeze ku kigero cya 47,25% hasigaye ifite agaciro ka 75.522.360 Frw, imirimo ya ETECO Ltd nayo yakiriwe by'agateganyo kandi hari ibitarakozwe, ibyakozwe igice n'ibyakozwe nabi. By'umwihariko Nteziryayo Eric na ETECO Ltd bishyuje 6.887.500 Frw yo kubaka flight ramp yagenewe abamugaye kandi itarigeze ikorwa (Cote 280 bis), maze yemezwa na Mubiru Godefrey wari ushinzwe mission de surveillance na Ndahumba Emile wari perezida wa COPCOM bazi neza ko « ari inyandiko ivuga ibintu uko bitari » irishyurwa. Mu ibazwa rye mu Bushinjacyaha, Mubiru Godfrey akaba yaremeje ko nk'uwari uhagarariye mission de surveillance atigeze akora raporo yemeza ko iyo mirimo yakozwe, bityo ibyo Nteziryayo Eric na ETECO Ltd bavuga ko iyo mirimo yakozwe ahubwo ikaza gusenywa kuko yari ibangamiye izindi nyubako bikaba nta shingiro bifite.

[174] Urukiko rurasanga na none raporo ya reception provisoire yaremeje ko imirimo yagombaga gukorwa na Ahinkuye Bertin na TECOM Ltd yarangiye, ibyo byemezwa na Ndahumba Emile, Mbagizente Edouard, Mutware Bienvenue, Mubiru Godefrey, Ahinkuye Bertin, nyamara raporo y'ubugenzuzi igaragaza ko hari imirimo ifite agaciro ka 218,057,296 frw iyo sosiyete itakoze.

[175] Ku bireba Nyirurugo Aimable, Urukiko rurasanga Ubushinjacyaha butagaragaza uruhare yaba yaragize muri raporo ya reception provisoire yo ku wa 03/11/2014 kuko nta n'imwe iriho umukono we, ndetse na bons de commandes zahawe Bankozemunda Eric, Mutabazi Allan cyangwa Nubuhoro Janvière cyangwa bordereaux d'expéditions, fagitire, virements bancaires ndetse na sheki zishyuwe nta na hamwe bigaragara ko yagizemo uruhare mu gukora izo nyandiko. Kuba yaritabiriye inama zitandukanye zemeje ikoreshwa rya za bons de commandes zagombaga guhabwa ba rwiyemezamirimo (ku wa 24/04/2013, ku wa 25/04/2013, ku wa 24/07/2013, ku wa 19/08/2013) sibyo bigaragaza ko hakozwe cyangwa hakoreshejwe inyandiko mpimbano kuko inyandiko zose ziregerwa kuba zarashingiweho zitavugisha ukuri zitakorewe muri izo nama ahubwo zakozwe nyuma y'izo nama. Imyanzuro y'inama nta na hamwe igaragaza ko izo nyandiko zari kuba zitavugisha ukuri ku buryo abitabiriye izo nama bose baryozwa ubufatanyacyaha mu nyandiko zitavugisha ukuri. Ahubwo abakoze izo nyandiko, bashingiye ku myanzuro y'inama, nibo bakoze izitavugisha ukuri. Ariko kuba Nyirurugo Aimable yari mu kanama k'amasoko, bakazamura ibiciro byatanzwe na ba rwiyemezamirimo, ari nabyo bise correction des erreurs arthmétiques, nabyo byafatwa nk'ubufatanyacyaha mu gukora no gukoresha inyandiko itavugisha ukuri kuko nyuma yo kubona unity price na bill of quantitis byatanzwe na barwiyemezamirimo bidahura, aho gukurikiza ibiteganywa n'ingingo ya 29 ya tender document yavuzwe haruguru, ahubwo bafatanyije na ba rwiyemezamirimo kwemeza inyandiko itaravugaga ukuri.

[176] Ku bireba Uwizeyimana Alphonsine, Urukiko rurasanga bon de commande y'ibikoresho bifite agaciro ka 58.265.500 Frw, yarateguwe na Mubiru Godfrey, Mutware Bienvenu na Ndahumba Emile ku wa 08/01/2014, itegurwa mu mazina ya Bankozemunda Eric, bordereau d'expédition yo ku wa 21/01/2014 yishyuje 27.998.000 Frw yakozwe na Bankozemunda Eric, uyu ni nawe wandikiye COPCOM ku wa 20/03/2014 ayisaba kumwushyura ibinyujije kuri konti ya Uwizeyimana Alphonsiye muri BRD, ku wa 21/03/2014 COPCOM yishyura Uwizeyimana Alphonsine 58.265.500 Frw nyamara atariyo ari kuri Bordereau d'Expédition. Nubwo Uwizeyimana Alphonsine yishyuwe amafaranga y'ikirenga, inyandiko zatumye ayo mafaranga asohorwa nta kigaragaza ko yagize uruhare haba mu kuzikora cyangwa mu kugena ibizandikwaho. Naho ku bijyanye na bon de commande, bordereau d'expédition, facture na virement bancaire bya 6.150.000 Frw, bigaragara ko ibikoresho byasabwe, bitangwa kandi hishyurwa Bankozemunda Eric, bityo Uwizeyimana Alphonsine akaba ari umwere ku cyaha cyo gukora cyangwa gukoresha inyandiko zitavugisha ukuri.

[177] Hashingiwe ku bimaze gusobanurwa haruguru no ku biteganywa n'ingingo ya 614 y'Itegeko-Ngenga n° 01/2012/OL ryo ku wa 02/05/2012 rishyiraho Igitabo cy'amategeko ahana nayo yibukijwe haruguru, Urukiko rurasanga Mubiru Godfrey na HI-SENSE Ltd, Ndahumba Emile, Mbagizente Edouard, Mutware Bienvenu, Uwitonze Joachim, Uwicyeza Consolée, Habakurama Venuste, Mwiza Ernest, Nyirurugo Aimable, Ahinkuye Bertin na TECOM Ltd, Nteziryayo Eric na ETECO Ltd, Safari Fidèle na ECOBARUS Ltd, Mutabazi Allan na Nubuhoro Janvière bahamwa n'icyaha cyo gukora cyangwa gukoresha inyandiko itavugisha ukuri aho kuba icyaha cyo gukora no gukoresha inyandikompimbano ubushinjacyaha bwabareze, naho Uwizeyimana Alphonsine akaba ari umwere kuricyo cyaha.

i. Kumenya ibihano bikwiye guhabwa abaregwa

[178] Ubushinjacyaha bumaze gutanga ibimenyetso, bwasabye uru Rukiko kwemeza ko:

i. Ndahumba Emile, Nteziryayo Eric, Ahinkuye Bertin, Safari Fidèle, Uwitonze Joachim, Nubuhoro Janvière, Mbagizente Edouard, Mubiru Godfrey, Mutware

Bienvenue, Nyirurugo Aimable, Uwicyeza Consolée, Uwizeyimana Alphonsine na Mutabazi Allan; Habakurama Venust; na Mwiza Ernest bahamwa n'ubufatanyacyaha mu kunyereza umutungo wa COPCOM no guhanisha buri wese igifungo cy'imyaka irindwi (7) n'ihazabu y'amafaranga yikubye inshuro ebyiri (2) z'agaciro k'umutungo warigishijwe (ungana na 510.488.219 Frw × 2 ═ 1.020.976.438 Frw);

ii. Ndahumba Emile, Mbagizente Edouard, Nyirurugo Aimable, Mutware Bienvenu, Uwitonze Jaochim, Uwicyeza Consolée, Mubiru Godfrey, Ahinkuye Bertin, Nteziryayo Eric, na Safari Fidèle bahamwa n'icyaha cyo gukoresha nabi umutungo ufitiye rubanda akamaro;

iii. Ndahumba Emile, Nteziryayo Eric, Ahinkuye Bertin, Safari Fidèle, Uwitonze Joachim, Nubuhoro Janvière, Mbagizente Edouard, Mubiru Godfrey, Mutware Bienvenue, Nyirurugo Aimable, Uwicyeza Consolée, Habakurama Venust; Mwiza Ernest, Uwizeyimana Alphonsine na Mutabazi Allan bahamwa n'ubufatanyacyaha mu guhimba, guhindura inyandiko cyangwa gukoresha inyandiko mpimbano; bubasabira gufungwa imyaka 10 kuri buri wese no gutanga ihazabu ya 510.488.219 Frw × 2 = 1.020.976.438 Frw.

iv. HI-SENSE, ETECO Ltd, TECOM Ltd, na ECOBARUS Ltd bahamwa n'ibyaha byo kunyereza, gukoresha nabi umutungo wa koperative no gukora cyangwa gukoresha inyandiko itavugisha ukuri, zigahanishwa ihazabu ingana n'amafaranga y'u Rwanda yikubye inshuro ebyiri z'agaciro k'amafaranga zagizemo uruhare mu kunyereza, HE SENSE Ltd ikazatanga 467.552.829 Frw; ETECO Ltd 576.222.918 Frw; TECOM Ltd igatanga 550.132.818 Frw na ECOBARUS igatanga 445.792.538 Frw;

v. Abaregwa bagafatanya gusubiza umutungo wa COPCOM ugizwe n'amafaranga angana na 510.488.219 Frw banyereje ndetse urukiko rugahera ku mitungo y'abaregwa yatambamiwe n'Ubushinjacyaha kugira ngo hagaruzwe umutungo wa COPCOM wanyerejwe.

[179] Mubiru Godfrey na HI-SENSE Ltd, Mbagizente Edouard, Mutware Bienvenue, Uwicyeza Consolée, Uwitonze Joachim, Nyirurugo Aimable, Nubuhoro Janvière, Uwizeyimana Alphonsine, Mutabazi Allan na Nteziryayo Eric na ETECO Ltd, Ahinkuye Bertin na TECOM Ltd, Safari Fidèle na ECOBARUS Ltd bavuga ko Ubushinjacyaha butabashije kugaragaza ibimenyetso by'ibyaha bubakurikiranyeho, ahubwo ko bakoze inshingano zabo uko bikwiye, bagasaba uru Rukiko kwemeza ko ari abere ndetse ko nta n'icyo bagomba kuryozwa.

UKO URUKIKO RUBIBONA

i. Ibihano ku cyaha cyo kunyereza umutungo

[180] Ingingo ya 325 y'Itegeko-Ngenga n° 01/2012/OL ryo ku wa 02/05/2012 rishyiraho Igitabo cy'amategeko ahana ryakoreshwaga ubwo ibikorwa abaregwa bakurikiranyweho byakorwaga iteganya ko "Umukozi wese: 1° urigisa umutungo, amafaranga, impapuro zivunjwa amafaranga, ibyemezo by'imari n'inyandiko bya Leta cyangwa bitari ibya Leta cyangwa ibintu byimukanwa by'undi yabikijwe ku bw'umurimo ashinzwe; 2° wonona cyangwa urigisa, akoresheje uburiganya, impapuro zifite agaciro k'imari, yabikijwe cyangwa yahawe ku bw'umurimo ashinzwe; ahanishwa igifungo kuva ku myaka irindwi (7) kugeza ku myaka icumi (10) n'ihazabu y'amafaranga yikubye inshuro kuva kuri ebyiri (2) kugeza kuri eshanu (5) z'agaciro k'umutungo warigishijwe cyangwa wononwe."

[181] Ingingo ya 10 y'Itegeko N°54/2018 ryo kuwa 13/08/2018 ryerekeye kurwanya ruswa iteganya ko "Umuntu wese, yaba umukozi wa Leta cyangwa undi ukora umurimo wa Leta cyangwa ukora mu nzego zayo, umuyobozi cyangwa umukozi mu kigo cy'ubucuruzi cyangwa isosiyete y'ubucuruzi cyangwa koperative cyangwa ukorera undi muntu, umuryango ushingiye ku idini cyangwa undi muryango uwo ari wo wose, ukoresha mu nyungu ze cyangwa iz'undi, umutungo, amafaranga cyangwa inyandiko z'agaciro, yahawe cyangwa yashyikirijwe kubera imirimo akora cyangwa ukoresha mu nyungu ze abakozi ashinzwe ku bw'umurimo aba akoze icyaha. Iyo abihamijwe n'urukiko, ahanishwa igifungo kitari munsi y'imyaka irindwi (7) ariko kitarenze imyaka icumi (10) n'ihazabu y'amafaranga y'u Rwanda yikubye inshuro kuva kuri eshatu (3) kugeza ku ri eshanu (5) z'agaciro k'umutungo yanyereje."

[182] Ingingo ya 148 y'itegeko N° 024/2021 ryo ku wa 27/04/2021 rigenga amakoperative mu Rwanda ivuga ko bitabangamiye ibiteganywa n'itegeko riteganya ibyaha n'ibihano muri rusange, umwe mu bagize inama y'ubuyobozi ya koperative cyangwa bose hamwe, umukozi cyangwa umunyamuryango: 1° ukoresha mu buriganya umutungo wa koperative mu nyungu ze bwite cyangwa akawukoresha ku zindi mpamvu zinyuranyije n'izo wari ugenewe; 2° ugurisha cyangwa uwonona mu buryo bw'uburiganya umutungo wa koperative aba akoze icyaha. Iyo abihamijwe n'urukiko, ahanishwa igifungo kitari munsi y'imyaka ibiri (2) ariko kitarenze imyaka (5) n'ihazabu y'amafaranga y'u Rwanda atari munsi y'ibihumbi magana atanu (500.000 FRW) ariko atarenze miliyoni eshanu (5.000.000 FRW).

[183] Urukiko rurasanga ubushinjacyaha bwaragaragaje ko abaregwa bakoze icyaha cyo kunyereza umutungo mu myaka ya 2012 -2014, rugasanga icyo gihe itegeko ryahanaga icyo cyaha ari n'Itegeko-Ngenga n° 01/2012/OL ryo ku wa 02/05/2012 rishyiraho Igitabo cy'amategeko ahana mu ngingo yaryo ya 325, rurasanga kandi ikirego cyarashyikirijwe urukiko hakoreshwa itegeko N°54/2018 ryo kuwa 13/08/2018 ryerekeye kurwanya ruswa mu ngingo yaryo ya 10 ku cyaha cyo kunyereza umutungo, bikagaragara yuko murayo mategeko uko ari abiri, irya 2012 ariryo ritanga ibihano bitoya ugereranyije n'irya 2018, bityo akaba ariryo ababuranyi bagombaga guhanishwa, ariko kandi kuba hari itegeko ryihariye N° 024/2021 ryo ku wa 27/04/2021 rigenga amakoperative mu Rwanda riteganya ibihano ku cyaha cyo kunyereza umutungo abaregwa bakurikiranyweho akaba ariryo bahanishwa kuko ariryo ryihariye (loi speciale), kandi akaba arinaryo riteganya ibihano bito ugereranyije nariya mategeko yombi yavuzwe haruguru.

[184] Rurasanga kandi itegeko N° 024/2021 ryo ku wa 27/04/2021 rigenga amakoperative ryashingirwaho mu guhana abanyamuryango ba COPCOM barezwe ikicyaha ndetse n'ababaye abafatanyacyaha babo mu kunyereza umutungo w'iryo shyirahamwe.

[185] Bityo rero Ndahumba Emile, Nteziryayo Eric, Ahinkuye Bertin, Safari Fidèle Ltd, Uwitonze Joachim, Nubuhoro Janvière, Mbagizente Edouard, Mubiru Godfrey, Mutware Bienvenue, Nyirurugo Aimable, Uwicyeza Consolée, Habakurama Venuste; Mwiza Ernest, Uwizeyimana Alphonsine na Mutabazi Allan bakaba bahamwa n'ubufatanyacyaha mu kunyereza umutungo nkuko byagiye bisobanurwa hejuru, bakaba kandi bahanishwa igihano cy'igifungo cy'imyaka itanu n'ihazabu ya 5.000.000frw kuri buri wese.

ii. Ibihano ku cyaha cyo gukoresha nabi umutungo wa rubanda

[186] Ingingo ya 627 y'Itegeko-Ngenga n° 01/2012/OL ryo ku wa 02/05/2012 rishyiraho Igitabo cy'amategeko ahana iteganya ko "Umuntu wese ufite ububasha ku bw'umurimo akora bwo gucunga umutungo ufitiye rubanda inyungu rusange w'ikigo, amasosiyete, amashyirahamwe cyangwa imiryango byigenga, akawukoresha nabi mu byo utateganyirijwe cyangwa mu buryo bunyuranyije n'inyungu z'ibyo bigo cyangwa iz'abanyamuryango n'ababerewemo umwenda, ahanishwa igifungo kuva ku mezi atandatu (6) kugeza ku myaka ibiri (2) n'ihazabu y'amafaranga y'u Rwanda yikubye

inshuro kuva kuri ebyiri (2) kugeza kuri eshanu (5) z'amafaranga yakoreshejwe nabi cyangwa kimwe gusa muri ibyo bihano."

[187] Naho ingingo ya 12 N°54/2018 ryo kuwa 13/08/2018 ryavuzwe haruguru iteganya ko "Umuntu wese, ufite ububasha bwo gucunga umutungo ufitiye rubanda akamaro, mu rwego rwa Leta cyangwa ikigo cyigenga, sosiyete, koperative, umuryango utari uwa Leta ufite ubuzimagatozi, uwukoresha mu byo utateganyirijwe, uwureka cyangwa utawitaho ukononekara cyangwa uwukoresha mu buryo bunyuranyije n'amategeko, aba akoze icyaha. Iyo abihamijwe n'urukiko, ahanishwa igifungo kirenze imyaka itanu (5) ariko kitarenze imyaka irindwi (7) n'ihazabu y'amafaranga y'u Rwanda atari munsi ya miliyoni eshatu (3 000 000 Frw) ariko atarenze miliyoni eshanu (5 000 000 Frw)."

[188] Urukiko rurasanga ubushinjacyaha bwaragaragaje ko abaregwa bakoze icyaha cyo gukoresha nabi umutungo wa rubanda mu myaka ya 2012 -2014, rugasanga icyo gihe itegeko ryahanaga icyo cyaha ari Itegeko-Ngenga n° 01/2012/OL ryo ku wa 02/05/2012 rishyiraho Igitabo cy'amategeko ahana mu ngingo yaryo ya 627, rurasanga kandi ikirego cyarashyikirijwe urukiko hakoreshwa itegeko N°54/2018 ryo kuwa 13/08/2018 ryerekeye kurwanya ruswa mu ngingo yaryo ya 12 ku cyaha cyo gukoresha nabi umutungo ufitiye rubanda akamaro, bikagaragara yuko murayo mategeko uko ari abiri, irya 2012 ariryo ritanga ibihano bitoya ugereranyije n'irya 2018, bityo akaba ariryo ababuranyi bagombaga guhanishwa.

[189] Bityo rero Ndahumba Emile, Mbagizente Edouard, Nyirurugo Aimable, Mutware Bienvenu, Uwitonze Joachim, Uwicyeza Consolée, Mubiru Godfrey, Ahinkuye Bertin, Nteziryayo Eric, Mwiza Ernest, Habakurama Venuste na Safari Fidèle bakaba bahamwa n'icyaha cyo gukoresha nabi umutungo ufitiye rubanda akamaronkuko byagiye bisobanurwa haruguru; bakaba kandi bahanishijwe igihano cy'igifungo cy'imyaka 2 n'ihazabu ya 1.634.212.048= 3.268.424.096frw.

iii. Gukora no gukoresha inyandiko itavugisha ukuri

[190] Ingingo ya 614 y'Itegeko-Ngenga n° 01/2012/OL ryo ku wa 02/05/2012 rishyiraho Igitabo cy'amategeko ahana iteganya ko «Umuntu wese: 1° wandika abizi inyadiko ivuga ibintu uko bitari; 2° uhindura ku buryo ubwo ari bwo bwose inyandiko yavugaga ukuri; 3° ukoresha abizi, inyandiko itavugisha ukuri cyangwa yahinduwe; ahanishwa igifungo kirenze imyaka itanu (5) kugeza ku myaka irindwi (7) n'ihazabu y'amafaranga y'u Rwanda kuva ku bihumbi magana atanu (500.000) kugeza kuri miliyoni ebyiri (2.000.000).»

[191] Ingingo ya 276 y'itegeko Nº68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange ivuga ko Umuntu wese, ku bw'uburiganya, wandika, wandikisha ibintu bidahuye n'ukuri cyangwa ukora imenyekanisha ritari ryo afatwa nk'uwakoze icyaha cyo gukora ibihimbano. Iyo abihamijwe n'urukiko, ahanishwa igifungo kitari munsi y'imyaka itanu (5) ariko kitarenze imyaka irindwi (7) n'ihazabu y'amafaranga y'u Rwanda atari m unsi ya miliyoni eshatu (3.000.000 FRW) ariko atarenga miliyoni eshanu (5.000.000 FRW) cyangwa kimwe gusa muri ibyo bihano.

[192] rukiko rurasanga nkuko byagiye bigaragazwa haruguru, icyaha cyo gukora no gukoresha inyandiko itavugisha ukuri cyarakozwe hakoreshwa itegeko -Ngenga n° 01/2012/OL ryo ku wa 02/05/2012 rishyiraho Igitabo cy'amategeko ahana mu ngingo yaryo ya 614, rurasanga kandi ikirego cyarashyikirijwe urukiko hakoreshwa itegeko Nº68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange mu ngingo yaryo ya 276 ku cyaha cyo gukora cyangwa gukoresha inyandiko itavugisha ukuri , bikagaragara yuko murayo m ategeko uko ari abiri, irya 2018 ariryo ritanga ibihano bitoya ugereranyije n'irya 2012 kuko irya 2018 ryemera ko uwahamwe n'icyaha ashobora guhanishwa ihazu gusa, bityo akaba ariryo ababuranyi bagombaga guhanishwa.

[193] Bityo rero Ndahumba Emile, Nteziryayo Eric, Ahinkuye Bertin, Safari Fidèle, Uwitonze Joachim, Nubuhoro Janvière, Mbagizente Edouard, Mubiru Godfrey, Mutware Bienvenue, Nyirurugo Aimable, Uwicyeza Consolée, Habakurama Venuste; Mwiza Ernest, na Mutabazi Allan bakaba bahamwa n'icyaha cyo gukora no gukoresha inyandiko itavuga ukuri nkuko byagiye bisobanurwa haruguru; bakaba bahanishijwe gutanga ihazabuya ya 5.000.000 kuri buri wese; naho Uwizeyimana Alphonsine akaba ari umwere kuriki cyaha nkuko byasobanuwe mu gika cya 176 cy'uru rubanza.

[194] Hashingiwe ariko ku ngingo ya 61 y'itegeko Nº68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange ivuga ko: haba impurirane y'ibyaha iyo umuntu umwe (1) yakoze ibyaha byinshi kandi nta na kimwe muri byo cyaciriwe urubanza rwabaye ndakuka. Impurirane y'ibyaha ishobora kuba mbonezamugambi cyangwa mbonezabyaha. Impurirane mbonezamugambi ibaho iyo: 1 º igikorwa kimwe ubwacyo gikubiyemo ibyaha byinshi; 2 º ibikorwa bitandukanye bigize ubwabyo ibyaha bitandukanye, bihujwe n'uko bigamije umugambi w'icyaha kimwe; urukiko rurasanga abaregwa muri uru rubanza usibye Uwizeyimana Alphonsiye wahamwe n'icyaha kimwe cyo kunyereza umutungo, bahamwe n'ibyaha bitandukanye bigamije umugambi umwe wo kunyereza amafaranga ya COPCOM, bityo bakaba bagomba guhanishwa igihano cy'icyaha kirushije ibindi kuremera nkuko biteganya n'ingingo ya 62 y'itegeko ryavuzwe haruguru; bityo rero bakaba bahanwa hashingiwe ku ingingo ya 148 y'itegeko ry'amakoperative kuko ariyo iteganya icyaha kiremeyere ugereranyije n'ibindi byaha bakoze.

[195] Akaba ariyo mpamvu Ndahumba Emile, Nteziryayo Eric, Ahinkuye Bertin Ltd, Safari Fidèle, Uwitonze Joachim, Nubuhoro Janvière, Mbagizente Edouard, Mubiru Godfrey na Mutware Bienvenue, Nyirurugo Aimable, Uwicyeza Consolée, Habakurama Venuste; Mwiza Ernest na Mutabazi Allan bahawe igihano cy'igifungo imyaka 5 n'ihazabu ya 5.000.000frw; naho Uwizeyimana Alphonsine agahabwa igihano cy'igifungo cy'imyaka 3, n'ihazabu ya 1.000.000frw; ETECO Ltd, TECOM Ltd, ECOBARUS Ltd na HI SENSE zikaba zihawe igihano cyo gutanga ihazabu ya 5.000.000frw kuri buri companie.

iv. Ku bijyanye n'ikirego cy'indishyi.

[196] COPCPM iregera indishyi ibifashijwemo n'abayihagarariye isaba ko yasubizwa amafaranga angana na 209.360.309 Frw yongerewe ba rwiyemezamirimo mu masezerano ku buryo bw'uburiganya, ETECO ikaba yarongerewe 82,171,910 Frw, aya mafaranga agatangwa na Habakurama Venuste, Mwiza Ernest, Mubiru Godefrey, Uwitonze Joachim, Uwicyeza Consolee, Ndahumba Emile, ETECO na Nteziryayo Eric; TECOM ikaba yarongerewe 65,185,300 Frw, aya mafaranga ngo yatangwa na Habakurama Venuste, Mwiza Ernest, Mubiru Godefrey, Uwitonze Joachim, Uwicyeza Consolee, Ndahumba Emile, TECOM na Ahinkuye Bertin; naho ECOBARUS yongererwa 62,003,099 Frw akaba yatangwa na Habakurama Venuste, Mwiza Ernest, Mubiru Godefrey, Uwitonze Joachim, Uwicyeza Consolee, Ndahumba Emile, ECOBARUS na Safari Fidele; gusubizwa 28,489,030 Frw yahawe ETECO yiswe ko ari ugukosora ibiciro byatanzwe na rwiyemezamirimo, aya ngo yasubizwa na Habakurama Venuste, Mwiza Ernest, Mubiru Godefrey, Uwitonze Joachim, Uwicyeza Consolee, Ndahumba Emile, ETECO na Nteziryayo Eric. COPCOM isaba kandi ko yasubizwa 706,173,049 Frw yanyerejwe hishyurwa imirimo ya baringa yashyizwe muri DAO no mu masezerano ikaza kwakirwa muri Provisional Handover kuwa 3/11/2014 nk'imirimo yakozwe nyamara ntayakozwe, imirimo ya baringa idafite aho yari kubakwa ihwanye na 309,996,193 Frw yahawe ETEKO, iya ECOBARUS ihwanye na 178,119,560 Frw n'iya TECOM ihwanye na 218,057,296; kuri aya mafaranga yahawe ETECO ngo yasubizwa na Habakurama Venuste, Mubiru Godefrey , Ndahumba Emile, Mbagizente Edouard, Uwitonze Joachim, Uwicyeza Consolee, Mutware Bienvenu, Nteziryayo Eric na ETECO Ltd; ku mafaranga yahawe ECOBARUS agatangwa na Habakurama Venuste, Mubiru Godefrey , Ndahumba Emile, Mbagizente Edouard, Uwitonze Joachim, Uwicyeza Consolee, Mutware Bienvenu, Safari Fidele na

ECOBARUS; amafaranga yahawe TECOM agatangwa na Habakurama Venuste, Mubiru Godefrey , Ndahumba Emile, Mbagizente Edouard, Uwitonze Joachim, Uwicyeza Consolee, Mutware Bienvenu, Ahinkuye Bertin na TECOM Ltd.

[197] COPCOM nanone isaba gusubizwa amafaranga angana na 765,553,260 Frw y'imirimo yagombaga gukorwa ikaba itarakozwe n'indi yakozwe nabi nyamara muri Handover ikemezwa ko yarangiye ndetse ikaba yarishyuwe hakoreshejwe uburyo bwa Bons de commande, kwishyurwa mu ntoki cyangwa kuri Cheques ku mirimo yagombaga gukorwa ikaba itarakozwe n'indi yakozwe nabi nyamara muri Handover hakemezwa ko yarangiye, ngo hari amafaranga angana na 317,069,334 yahawe ETECO kumirimo itakoze no kumirimo itararangiye, ngo ababigizemo uruhari bagomba gusubiza ayo mafaranga ni Habakurama Venuste, Mubiru Godefrey, Ndahumba Emile; Mbagizente Edouard, Uwitonze Joachim, Uwicyeza Consolee, Mutware Bienvenu, Nteziryayo Eric, ETECO Ltd, Uwizeyimana Alphonsine, Nubuhoro Janviere na Mutabazi Allan; hari 255,762,622frw yahawe ECOBARUS ku mirimo itarakozwe n'indi itararangiye, ababigizemo uruhare bagomba no kuyasubiza ngo ni Habakurama Venuste, Mubiru Godefrey, Ndahumba Emile, Mbagizente Edouard, Uwitonze Joachim, Uwicyeza Consolee, Mutware Bienvenu, Safari Fidele, ECOBARUS Ltd, Mutabazi Allan na Nubuhoro Janviere; TECOM ngo yahawe amafaranga angana na 192,721,304frw ku mirimo itakoze no ku mirimo itararangiye neza, ababigizemo uruhare bagomba no kuyasubiza ngo ni Habakurama Venuste, Mubiru Godefrey, Ndahumba Emile, Mbagizente Edouard, Uwitonze Joachim, Uwicyeza Consolee, Mutware Bienvenu, Ahinkuye Bertin, TECOM Ltd na Nubuhoro Janviere. COPCOM yasoje isaba indishyi z'akababaro za 50.000.000frw; guhabwa 30.000.000frw zikubiyemo 3.500.000 Frw y'Audit fiancier, 3.500.000 Frw Audit Technique, 20.000 Frw y'ingwate y'amagarama, 12.980.000 ya transports, diligence, communications na photocopies na 10.000.000 Frw y'igihembo cy'abavoka.

UKO URUKIKO RUBIBONA

[198] Ingingo ya 3 y'itegeko Nº 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha ivuga ko ikirego cy'indishyi gitangwa hagamijwe kwishyuza ibyangijwe n'icyaha. Icyo kirego kiba kigamije gusa gusaba indishyi. Ingingo ya 116 y'itegeko rimaze kuvugwa ikavuga ko Uwangirijwe n'icyaha ashobora kuregera urukiko rubifitiye ububasha kugira ngo arihwe ibye byononekaye, kuva igihe urukiko rushyikirijwe ikirego nshinjabyaha kugeza igihe iburanisha rirangiriye ku rwego rwa mbere.

[199] Urukiko rurasanga, COPCOM isaba ko yasubizwa amafaranga angana na 209.360.309 frw agatangwa na Habakurama Venuste, Mwiza Ernest, Mubiru Godefrey, Uwitonze Joachim , Uwicyeza Consolee , Ndahumba Emile, Ahinkuye Bertin na TECOM Ltd, Nteziryayo Eric na ETECO Ltd na Safari Fidele na ECOBARUS Ltd, aya mafaranga ngo akaba ari ayongerewe mu masezerano mu buryo bw'uburiganya, rurasanga ariko ku bijyanye naya mafaranga nkuko byagiye bigaragazwa mu bika bya 59 kugeza 65 byuru rubanza, Ndahumba Emile ataragize uruhare mu inyerezwa ryayo, bityo mu bayasubiza akaba atarimo ahubwo akaba yatangwa na Habakurama Venuste, Mwiza Ernest, Mubiru Godefrey, Uwitonze Joachim , Uwicyeza Consolee , Ahinkuye Bertin na TECOM Ltd, Nteziryayo Eric na ETECO Ltd na Safari Fidele na ECOBARUS Ltd kuko ari abagize akanama k'amasoko bafatanyije na ba rwiyemezamirimo kongera ibiciro kandi mubyukuri ntaho bagaragaje ko amafaranga yanditswe mu nyuguti yari atandikanye n'amafaranga mu m ibare ku buryo byabaha uburenganzira bwo gukosora, ahubwo icyari gitandukanye ni unit price na bill of quantities kandi ibi bikaba bitakosorwa ahubwo ari impamvu zo gukura rwiyemezamirimo mu bapiganwa nkuko byagiye bisobanurwa muri uru rubanza ku bijyanye naya mafaranga.

[200] Naho ku bijyanye na 28.489.030frw COPCOM isaba gusubizwa na ETECO yiswe ko ari ugukosora ibiciro byatanzwe na rwiyemezamirimo, aya ngo yasubizwa na Habakurama Venuste,

Mwiza Ernest, Mubiru Godefrey, Uwitonze Joachim, Uwicyeza Consolee, Ndahumba Emile, ETECO na Nteziryayo Eric akaba yatangwa n'abari bagize akanama k'amasoko aribo Habakurama Venuste, Mwiza Ernest, Mubiru Godefrey, Uwitonze Joachim, Uwicyeza Consolee ndetse na rwiyemezamirimo Nteziryayo Eric na ETECO kuko uyu yandikiye akanama k'amasoko asaba kuyongera, abagize akanama k'amasoko nabo bakayongera ntacyo bashingiyeho nkuko byagiye bisobanurwa bya 58 kugeza 65 byuru rubanza, bityo akaba aribo bafatanya kuyishyura; Ndahumba Emile we akaba atayatanga kubera impamvu zasobanuwe mu gika kibanziriza iki.

[201] Urukiko rurasanga kandi COPCOM yarasabye gusubizwa amafaranga angana na 706.173.049frw akomoka ku mirimo ya baringa yashyizwe muri DAO kandi ikishyurwa, busaba ko aya mafaranga yatangwa na Ndahumba Emile, Mbagizente Edouard, Mutware Bienvenue, Habakurama Venuste, Mubiru Godefrey, Uwitonze Joachim , Uwicyeza Consolee , Ahinkuye Bertin na TECOM Ltd, Nteziryayo Eric na ETECO Ltd na Safari Fidele na ECOBARUS Ltd; urukiko rurasanga aya mafaranga yatangwa koko kuko audit yemeje ko yanyerejwe biturutse ku mirimo ya baringa yashyizwe muri DAO kandi itariteganyijwe kandi ntiyakorwa ariko aba babirengaho bemeza ko yakozwe muri reception provisoire byanatumye yishyurwa; bityo Ndahumba Emile, Mbagizente Edouard, Mutware Bienvenue, Habakurama Venuste, Mubiru Godefrey, Uwitonze Joachim , Uwicyeza Consolee , Ahinkuye Bertin na TECOM Ltd, Nteziryayo Eric na ETECO Ltd na Safari Fidele na ECOBARUS Ltd babigizemo uruhare mu inyerezwa ryayo bakaba bayasubiza COPCOM.

[202] Urukiko rurasanga nanone, COPCOM yarasabye gusubizwa 765.553.260frw y'imirimo itarakozwe, imirimo yakozwe nabi ndetse n'imirimo itararangiye, isaba ko ayo mafaranga yatangwa na Ndahumba Emile, Mbagizente Edouard, Mutware Bienvenue, Habakurama Venuste, Mubiru Godefrey, Uwitonze Joachim , Uwicyeza Consolee , Ahinkuye Bertin na TECOM Ltd, Nteziryayo Eric na ETECO Ltd na Safari Fidele na ECOBARUS Ltd, Uwizeyimana Alphonsine, Nubuhoro Janviere na Mutabazi Allan; rurasanga aya mafaranga yatangwa na Ndahumba Emile, Mbagizente Edouard, Mutware Bienvenue, Habakurama Venuste, Mubiru Godefrey, Uwitonze Joachim, Uwicyeza Consolee bemeje muri receprion provisoire ko imirimo yose yarangiye nyamara hari imirimo itarakozwe, hari iyakozwe nabi ndetse n'iyakozwe ntirangire, amafaranga yagiye ahabwa ba rwiyem ezamirimo nk'inguzanyo ntagaruzwe, na za bons de comande zagiye zitangwa ndetse hakishyurwa ibikoresho bitagemuwe nkuko byagiye bisobanurwa haruguru, aba bamaze kuvugwa ndetse bagafatanya kwishyura ayo mafaranga na ba rwiyemezamirimo bahawe ayo mafaranga aribo Nteziryayo Eric na ETECO, Ahinkuye Bertin na TECOM na Safari Fidele na ECOBARUS; agatangwa kandi na Uwizeyimana Alphonsine, Nubuhoro Janviere na Mutabazi Allan bagiye bishyurwa amafaranga y'ibikoresho batagemuye.

[203] Urukiko rurasanga ariko aba fournisseur Uwizeyimana Alphonsine, Nubuhoro Janviere na Mutabazi Allan mu gusubiza aya mafaranga, batanga gusa ayo buri wese yahawe atagombaga guhabwa nkuko byasobanuwe mu gika cya 82 kugeza 93 by'uru rubanza kuko nubwo ba rwiyemezamirimo buri wese hari ayo yagiye ahabwa ariko bose barafatanyaga (ba rwiyemezamirimo) ndetse bagahuza umugambi n'ubuyobozi bwa COPCOM ari nayo mpamvu bagomba gufatanya kwishyurira hamwe; naho ba fournisseur nk'uko byari bimaze gusobanurwa, buri wese akaba yakwishyura ayo aregwa, bikaba ari muri urwo rwego Uwizeyimana Alphonsine yakwishyura 58.265.500-27.998.000= 30.267.500frw, Mutabazi Allan akishyura 20.826.800frw+3.958.800frw+3.190.500frw=27.976.100frw; naho Nubuhoro Janviere agatanga amafaranga bigaragara ko yishyuwe kandi nta bikoresho yatanze ahwanye na 3.141.600 Frw + 468.100 Frw + 6.234.000 Frw + 3.308.200frw + 3.500.000frw= 16.651.900frw+ 660.000frw=17.120.000frw. aya mafaranga angana na 468.100frw akaba agarutsemo inshuro ebyiri kuko ahwanye na facture N0 1 yishyuwe kabiri kuko kuwa 15/05/2014 habanje kwishyuzwa facture n0 2 ihwanye na 2.673.500 frw kuriyo tariki hishyurwa 3.141.600 Frw kuko hari hishyuwe facture 2, N0 1 na N0 2 bazishyurira rimwe kandi nanone kuriyo tariki hari hishyuwe 468.100frw yari

yishyuwe mu ntoki ya facture n0 1 ari nabyo byasobanuwe mu gika cya 89 cy'uru rubanza ko facture N0 yishyuwe kabiri, cyane ko niyo ufashe 3.141.600 Frw ugakuramo 2.673.500 frw ya facture N0 2 bihwana na 468.100 Frw ari nayo yishyujwe ateranyijwe na 2.673.500 frw hakishyurwa 3.141.600 Frw kandi 468.100frw yari yishyuwe ukwayo.

[204] Urukiko rurasanga rero Ndahumba Emile, Mbagizente Edouard, Mutware Bienvenue, Habakurama Venuste, Mubiru Godefrey, Uwitonze Joachim, Uwicyeza Consolee , Ahinkuye Bertin na TECOM Ltd, Nteziryayo Eric na ETECO Ltd na Safari Fidele na ECOBARUS Ltd bakwishyura 765.553.260frw hakuwemo igiteranyo cyamafaranga aba fournisseurs bazishyura, bihwanye na 765.553.260frw -30.267.500frw azatangwa na Uwizeyimana Alphonsine - 17.120.000frw azatangwa na Nubuhoro Janviere - 27.976.100frw azatangwa na Mutabazi Allan=690.189.660frw.

[205] Urukiko rurasanga kubijyanye n'indishyi COPCOM isaba ya 50.000.000frw y'indishyi z'akababaro; indishyi za 30.000.000frw zikubiyemo 3.500.000 Frw y'Audit fiancier, 3.500.000 Frw Audit Technique, 20.000 Frw y'ingwate y'amagarama, 12.980.000 ya transports, diligence, communications na photocopies na 10.000.000 Frw y'igihembo cy'abavoka; rurasanga nka 50.000.000frw y'indishyi z'akababaro basabye ari umurengera, bityo bakaba bahabwa agenwe mu bushishozi bw'urukiko ahwanye na 10.000.000frw y'indishyi z'akababaro; bagahabwa 3.500.000frw ya audit zombi bakoresheje nayo akaba atanzwe mu bushishozi bw'urukiko kuko nta kigaragaza amafaranga yatanzwe kuri audit ariko kandi kuba bigaragara ko zakozwe akaba ariyo mpamvu bahawe amaze kuvugwa; 20.000frw y'ingwate y'amagarama bakaba bayasubizwa; amafaranga angana na 12.980.000 ya transports, diligence, communications na photocopies nayo bakaba batayahabwa yose kuko ayo basabye ari umurengera kandi nta kigaragaza ko koko bayakoresheje yose, bityo bakaba basubizwa 5.000.000frw; bagasubizwa kandi na 3.000.000frw y'igihembo cya avoka kuko nta kigaragaza ko avoka yahawe 10.000.000frw ariko kuba bari bamufite akaba ariyo mpamvu basubizwa 3.000.000frw y'igihembo cya avoka kuko nanone batahabwa amake (minimum) itegeko ry'aba avoka riteganya bitewe n'ingano cyangwa uburemere bw'urubanza.

III. ICYEMEZO CY'URUKIKO

[206] Rwemeye kwakira ikirego cyatanzwe n'ubushinjacyaha bugisuzumye busanga gifite ishingiro kuri bimwe;

[207] Rwemeje ko Ndahumba Emile, Nteziryayo Eric na ETECO, Ahinkuye Bertin na TECOM Ltd, Safari Fidèle na ECOBARUS Ltd, Uwitonze Joachim, Nubuhoro Janvière, Mbagizente Edouard, Mubiru Godfrey na HI SENSE, Mutware Bienvenue, Nyirurugo Aimable, Uwicyeza Consolée, Habakurama Venust; Mwiza Ernest, Uwizeyimana Alphonsine na Mutabazi Allan bahamwa n'icyaha cy'ubufatanyacyaha ku cyaha cyo kunyereza umutungo;

[208] Rwemeje ko Ndahumba Emile, Mbagizente Edouard, Nyirurugo Aimable, Mutware Bienvenu, Uwitonze Jaochim, Uwicyeza Consolée, Habakurama Venuste, Mwiza Ernest, Mubiru Godfrey na HI SENS, Ahinkuye Bertin na TECOM, Nteziryayo Eric na ETECO, na Safari Fidèle na ECOBARUS bahamwa n'icyaha cy'ubufatanyacyaha ku cyaha cyo gukoresha nabi umutungo wa rubanda;

[209] Rwemeje ko Ndahumba Emile, Nteziryayo Eric na ETECO, Ahinkuye Bertin na TECOM Ltd, Safari Fidèle na ECOBARUS Ltd, Uwitonze Joachim, Nubuhoro Janvière, Mbagizente Edouard, Mubiru Godfrey na HI SENSE, Mutware Bienvenue, Nyirurugo Aimable, Uwicyeza Consolée, Habakurama Venust; Mwiza Ernest, na Mutabazi Allan bahamwa nicyaha cy'ubufatanyacyaha ku cyaha cyo gukora no gukoresha inyandiko itavugisha ukuri;

[210] Rwemeje ko Uwizeyimana Alphonsine adahamwa n'icyaha cyo gukora no gukoresha inyandiko itavugisha ukuri;

[211] Ruhanishije Ndahumba Emile, Nteziryayo Eric, Ahinkuye Bertin, Safari Fidèle, Uwitonze Joachim, Nubuhoro Janvière, Mbagizente Edouard, Mubiru Godfrey, Mutware Bienvenue, Nyirurugo Aimable, Uwicyeza Consolée, Habakurama Venust; Mwiza Ernest na Mutabazi Allan igihano cy'igifungo cy'imyaka itanu n'ihazabu ya 5.000.000frw kuri buri wese.;

[212] Ruhanishije Uwizeyimana Alphonsine igihano cy'igifungo cy'imyaka 3 n'ihazabu ya 1.000.000frw.

[213] Ruhanishije HI SENSE; ETECO Ltd, TECOM Ltd na ECOBARUS Ltd igihano cy'ihazabu ya 5.000.000frw kuri buri companie.

[214] Rutegetse Habakurama Venuste, Mwiza Ernest, Mubiru Godefrey na HI SENS, Uwitonze Joachim, Uwicyeza Consolee, Ahinkuye Bertin na TECOM Ltd, Nteziryayo Eric na ETECO Ltd na Safari Fidele na ECOBARUS Ltd gufatanya gusubiza COPCOM amafaranga angana na 209.360.309frw;

[215] Rutegetse Habakurama Venuste, Mwiza Ernest, Mubiru Godefrey na HI SENSE, Uwitonze Joachim, Uwicyeza Consolee, na Nteziryayo Eric na ETECO Ltd gufatanya gusubiza COPCOM amafaranga angana na 28.489.030frw;

[216] Rutegetse Ndahumba Emile, Mbagizente Edouard, Mutware Bienvenue, Habakurama Venuste, Mubiru Godfrey na HI SENSE, Uwitonze Joachim, Uwicyeza Consolee, Ahinkuye Bertin na TECOM Ltd, Nteziryayo Eric na ETECO Ltd na Safari Fidele na ECOBARUS Ltd na Habakurama Venuste gufatanya gusubiza COPCOM amafaranga angana na 706.173.049frw;

[217] Rutegetse Ndahumba Emile, Mbagizente Edouard, Mutware Bienvenue, Habakurama Venuste, Mubiru Godefrey na HI SENSE, Uwitonze Joachim , Uwicyeza Consolee , Ahinkuye Bertin na TECOM Ltd, Nteziryayo Eric na ETECO Ltd na Safari Fidele na ECOBARUS Ltd gufatanya gusubiza COPCOM amafaranga angana na 690.189.660frw; Uwizeyimana Alphonsine akazasubiza COPCOM amafaranga angana na 30.267.500frw, Nubuhoro Janviere akazasubiza COPCOM amafaranga angana na 17.120.000frw naho Mutabazi Allan akazasubiza COPCOM amafaranga angana na 27.976.100frw;

[218] Rutegetse abaregwa bose gufatanga kwishyura COPCOM 23.520.000frw, akubiyemo indishyi z'akababaro, igihembo cya avoka, amafaranga y'ikurikiranarubanza n'igarama.