

Re. NZAFASHWANAYO

[Rwanda URUKIKO RW'IKIRENGA – RS/INCONST/SPEC 00004/2019/SC – (Ntezilyayo, P.J., Nyirinkwaya, Cyanzayire, Hitiyaremye na Rukundakuvuga, J.) 24 Nyakanga 2020]

Amategeko agenga umusoro – Umusoro ku nyongeragaciro – Gutandukanya abasoreshwa bagura serivise zivuye mu mahanga zitaboneka mu Rwanda n'abagura serivise zivuye mu mahanga ariko ziboneka mu Rwanda ntibyafatwa nko kubavangura cg kutabarengera kimwe imbere y'amategeko kuko bigamije gufungura isoko rya serivise kandi bikaba byarakozwe hari impamvu zifite ireme zo gushyiraho ingamba zigamije kugabanya icyuho mu bucuruzi n'imyishyuranire n'amahanga.

Amategeko agenga umusoro – Umusoro ku nyongeragaciro – Ihame rishingiye kw'isoreshwa ry'umukiriya (Reverse charge) – Ni ihame rivana inshangano zo gukora ibijyanye n'itangwa ry'umusoro ku nyongeragaciro ku mugurisha zigahabwa umuguzi w'ibicuruzwa cyangwa servise ziturutse hanze y'igihugu.

Amategeko agenga umusoro – Umusoro ku nyongeragaciro – Ihame rishingiye ku hantu ibicuruzwa na serivisi byinjizwa mu mategeko agenga imisoro (Destination Principle in Tax Law) – Ibicuruzwa na serivisi byose byagurishijwe mu gihugu byinjijwemo cg byakoresherejwemo birasoreshwa ariko bigasonerwa umusoro ku nyongeragaciro mu bihugu byakorewemo cyangwa biturukamo.

Incamake y'ikibazo: Nzafashwanayo yatanze ikirego mu Rukiko rw'Ikirenga, avuga ko ingingo ya 12, igika cyayo cya 3 n'icya 4 y'Itegeko N° 37/2012 ryo ku wa 09/11/2012 rishyiraho umusoro ku nyongeragaciro (VAT), inyuranyije n'ingingo ya 15 n'iya 95 z'Itegeko Nshinga rya Repubulika y'u Rwanda ryo ku wa 04/06/2003 ryavugururwe mu mwaka wa 2015. Mu iburanisha hari Leta y'u Rwanda hamwe n'Ishuri ry'Amategeko rya Kaminuza y'u Rwanda (*School of Law*) ryajemo nk'inshuti y'Urukiko.

Mu gusobanura ikirego cye, Nzafashwanayo avuga ko ingingo ya 12 igika cya 3 n'icya 4 y'itegeko ryavuzwe haruguru itubahirije ihame rigaragara mu ngingo ya 15 y'Itegeko Nshinga ryavuzwe haruguru, kubera ko idafata abasora kimwe. Umusororeshwa utumije serivisi mu mahanga yemererwa gukura umusoro ku nyongeragaciro yishyuye (input VAT) kuri izo serivisi mu musoro ku nyongeragaciro yakiriye (output VAT) iyo gusa izo serivisi zitaboneka mu Rwanda, nyamara uguze serivisi imbere mu gihugu akemererwa gukura umusoro ku nyongeragaciro yishyuye kuri izo serivisi mu musoro ku nyongeragaciro yakiriye nta kindi abanje gusabwa.

Ashingiye ku masezerano mpuzamahanga mu by'ubucuruzi u Rwanda rwasinye (GATS, EAC Common Market Protocol na Protocol to the Agreement Establishing the African Continental Free Trade Area on Trade in Services), avuga kandi ko ihame rya National treatment rikoreshwa muri ayo masezerano rivuguruzwa n'ingingo ya 12 igika cya 3 n'icya 4 y'itegeko ryavuzwe haruguru bityo, ikaba inyuranye n'ingingo ya 95 y'Itegeko Nshinga. Ukutareshya n'ukutarengerwa n'itegeko mu buryo bumwe bituma serivisi z'imbere mu gihugu zidashobora guhiganwa ku rwego rumwe na serivisi zo mu mahanga zishobora gukenerwa n'abakorera ibikorwa by'ubucuruzi mu Rwanda kubera ubwo busumbane.

Leta y'u Rwanda ivuga ko kuba umushingamategeko yarashyize abasoreshwa mu byiciro bibiri bitafatwa nko kuvangura cyangwa kutarengerwa kimwe imbere y'amategeko kuko yabikoze ashingiye ku mpamvu nziza kandi zumvikana.

Ibi byashimangiwe n'Inshuti y'Urukiko (Ishuli ry'amategeko rya Kaminiza y'u Rwanda) ivuga ko gufata kimwe mu misoro abantu batameze kimwe ahubwo aribyo byaba kudafata abantu kimwe hakazabamo ubusumbane. Akomeza avuga ko iyo ngingo y'Itegeko rishyiraho umusoro ku nyongeragaciro ntabwo inyuranyije n'ingingo ya 15 y'Itegeko Nshinga, kubera ko abasoreshwa bavugwamo ari abantu (2) batandukanye. Gusoresha uwaguze hanze ibicuruzwa cyangwa serivisi iboneka mu Rwanda ari uburyo bwo kurengera no guteza imbere abacuruzi n'abashoramari bakorerwa mu Rwanda kandi byemewe n'amasezerano.

Ku birebana niba inyuranyije n'ingingo ya 95 y'Itegeko Nshinga, Urega avuga ko ingingo ya 12 y'itegeko ryavuzwe haruguru inyuranyije n'ingingo ya 95 y'itegeko Nshinga kuko ivuguruzwa amasezerano mpuzamahanga yemejwe n'u Rwanda mu gihe ayo masezerano asumba iryo tegeko rishyiraho umusoro ku nyongeragaciro. Ayo masezerano mpuzamahanga ahuriza ku ihame rya *National Treatment* risobanura ko ibintu bitumijwe mu mahanga bifatwa mu buryo bumwe n'iby'imbere mu gihugu igihe byamaze kuva muri gasutamo. Akomeza avuga ko iyo iri hame ritubahirijwe bituma habaho guhinduka kw'ihiganwa mu buryo butonesha serivisi cyangwa abatanga serivisi bo mu Rwanda ugereranyije na serivisi cyangwa abatanga serivisi bo mu bindi bihugu, akaba ari ingaruka ziterwa n'iyi ngingo ya 12.

Leta y'u Rwanda ivuga ko ingingo ya 12 itanyuranyije n'ingingo ya 95 y'itegeko Nshinga ndetse ikaba itavuguruzwa ihame rya *National Treatment* ahubwo ishimangira iryo hame, kubera ko serivisi z'imbere mu gihugu n'izatumijwe mu mahanga zose zifatwa kimwe kuko zisoreshwa umusoro ku nyongeragaciro kuzigomba gusoreshwa n'ubusanzwe cyangwa zigasonerwa kuri serivisi zisanzwe zisonerwa.

Inshuti y'urukiko nayo ivuga ko ingingo ya 12 y'itegeko ryavuzwe haruguru itanyuranyije n'ingingo ya 95 y'itegeko Nshinga kubera ko uretse no kuba igihe cyose ingingo y'itegeko itubahirijwe cyangwa inyuranyije n'ingingo y'itegeko ririsumba bidashobora kwitwa ko habayeho kwica Itegeko Nshinga.

Incamate y'icyemezo: 1. Gutandukanya abasoreshwa bagura serivise zivuye mu mahanga zitaboneka mu Rwanda n'abagura serivise zivuye mu mahanga ariko ziboneka mu Rwanda ntibyafatwa nko kubavangura cg kutabarengerwa kimwe imbere y'amategeko kuko bigamije gufungura isoko rya serivise kandi bikaba byarakozwe hari mpamvu zifite ireme zo gushyiraho ingamba zigamije kugabanya icyuho mu bucuruzi n'imyishyuranire n'amahanga.

2. Ihame rishingiye kw'isoreshwa ry'umukiriya (*Reverse charge*) riha inshingano umuguzi w'ibicuruzwa cyangwa serivise byaturutse hanze y'u Rwanda yo kubitangira umusoro ku nyongeragaciro wagenwe .

3. Ihame rishingiye ku hantu ibicuruzwa na serivisi byinjizwa mu mategeko agenga imisoro (*Destination Principle in Tax Law*) riteganywa ko ibicuruzwa na serivisi bisoreshwa umusoro ku nyongeragaciro mu gihugu byinjijwemo cg byakoresherejwemo bigasonerwa umusoro ku nyongeragaciro mu bihugu byakorewemo cyangwa biturukamo.

4. Igihe hakiri imishyikirano igomba kubanza kuba cyangwa ibigomba kubanza gukorwa kugirango ibihugu byemeze ibigomba gushingirwaho mu gushyira mu bikorwa amasezerano mpuzamahanga biba byasinye, ntibyafatwa nko kutubahiriza ibiyakubiyemo.

Ikirego nta shingiro gifite.

Amategeko yashingiweho:

Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, ingingo ya 15 na 95.

World Trade Organization General Agreement on Trade in services (GATS).

World Trade Organization. Communication from Rwanda, Schedule of Specific Commitments under the General Agreement on Trade in Services, 30 August 1995

Protocol on establishment of East African Community Common Market.

Protocol to the Agreement Establishing the African Continental Free Trade Area on Trade in Services.

Decision on the African Continental Free Trade Area (AfCFTA), 33rd Ordinary Session of the Assembly of the Union, 9-10 February 2020, Addis Abeba, Ethiopia,

Itegeko N° 37/2012 ryo ku wa 09/11/2012 rishyiraho umusoro ku nyongeragaciro, ingingo ya 11 na 12.

Imanza zifashishijwe:

Conseil Constitutionnel, décision no 2009-599 DC du 29 décembre 2009, para 80

Gulf, Colorado & Santa Fe Ry. Co. v. Ellis 165 U.S. 150 (1897)

Vodacom Business Nigeria V. Federal Inland Revenue Service (FIRS), Appeal No. CA/556/2018, p.23

Re AKAGERA BUSINESS GROUP, RS/SPEC/0001/16/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 23/09/2016

Re Murangwa, RS/INCONST/SPEC 00001/2019/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 29/11/2019

Inyandiko z'Abahanga:

MINICOM, Made in Rwanda Policy, 2017, pp. 1-2,

F Paris and N Ghei, "The Role of Reciprocity in International Law" (2003) Cornell International LJ 36 (93), p. 94

Joseph J. Cordes, Robert D. Ebel, and Jane Gravelle, The Encyclopedia of Taxation & Tax Policy (The Urban Insitute, 2005), page 82-83

Hans Gribnau, "Equality, Legal Certainty and Tax Legislation in the Netherlands: Fundamental Legal Principles as Checks on Legislative Power: A Case Study", (2013) Utrecht L. Rev. 52 (9), p.62.

P. Lampreave, 'Fiscal Competitiveness Vesus Harmful Tax Competition in the European Union' (2011) bfit 65 (6), p.4;

P T Scanlam, 'Globalization and Tax-Related Issues: What are the Concerns?' in R Biswas (ed), International Tax Competition: Globalization and Fiscal Sovereignty (commonwealth Secretariat 2002), p.45;

Victor Thuronyi (ed), Tax Law Design and Drafting, Volume 1 (International Monetary Fund, 1996), page 196

William B. Barker, 'The Three Faces of Equality: Constitutional Requirements in Taxation', (2006), Case W.Res.L.Rev. 57(1), p. 5

Italian Discrimination against Imported Agricultural Machinery, Report adopted on 23 October 1958 (L/833 - 7S/60)

Consultants 'Report on the Harmonization of Income Taxes within the East African Community, 1 November 2014; East African Community, Report of the Meeting to validate the studies on development of Policy frameworks for the harmonization of VAT, Excise duties and Income tax in EAC, Mombasa, 23rd – 25th October 2014; PWC, Policy for harmonization of VAT and Excise duties, 28 October 2014.

East African Community, Report of the 38th Meeting of the Council of Ministers, 6th – 10th May 2019, pp. 30-31.

East African Community, Report of the 38th Meeting of the Council of Ministers, 6th – 10th May 2019, Annex IV: EAC Domestic Tax Harmonization Policy, pp. 8-9.

Urubanza

I. IMITERERE Y'IKIBAZO

[1] Me Nzafashwanayo Dieudonné yatanze ikirego mu Rukiko rw'Ikirenga, avuga ko ingingo ya 12, igika cyayo cya 3 n'icya 4 y'Itegeko N° 37/2012 ryo ku wa 09/11/2012 rishyiraho umusoro ku nyongeragaciro (VAT), inyuranyije n'ingingo ya 15 n'ya 95 z'Itegeko Nshinga rya Repubulika y'u Rwanda ryo ku wa 04/06/2003 ryavugururwe mu mwaka wa 2015.

[2] Me Nzafashwanayo Dieudonné akomeza avuga ko ingingo ya 12, igika cya 3 n'icya 4 y'Itegeko n° 37/2012 ryavuzwe haruguru aregera ko inyuranyije n'Itegeko Nshinga, iteganya ko:

- a. Iyo umusoreshwa yakiriye serivisi ahawe n'umuntu uri hanze y'u Rwanda, umusoreshwa afatwa nk'uwatanze serivisi zisoreshwa kandi akaba yarakiriye umusoro wakiriwe ahawe n'uwo muntu mu Rwanda;
- b. Gutanga serivisi bifatwa nk'ibyakoze ku itariki izo serivisi zatangiweho n'umuntu uba hanze y'u Rwanda ku gaciro kagenwa mu ngingo ya 11 y'iri tegeko. Umusoro wakiriwe utangwa ku itariki yo gutanga imenyeshya ry'umusoro ku nyongeragaciro mu gihe cy'isoreshwa izo serivisi zatanzwemo. Umusoro wakiriwe ugomba kugaragara ku mpamyabwishyu yakoreshejwe mu kwishyura uwatanze serivisi zivuye mu mahanga, kandi iyo nyandiko ifatwa nk'inyemezabuguzi y'umusoro ku nyongeragaciro;
- c. Hatitawe ku bivugwa mu gika cya mbere n'icya 2 by'iyi ngingo, abaguzi ba serivisi zivuye mu mahanga zitaboneka mu Rwanda, bemerewe kuvana umwenda w'umusoro ku kiranguzo mu musoro wakiriwe;
- d. Serivisi zifatwa nk'aho zitaboneka mu Rwanda iyo nta muntu n'umwe utanga serivisi nk'izo cyangwa izisa na zo ku masoko yo mu gihugu."

[3] Ingingo ya 15 y'Itegeko Nshinga rya Repubulika y'u Rwanda yo ivuga ko abantu bose bareshya imbere y'amategeko kandi ko itegeko ribarengera ku buryo bumwe; naho ingingo ya 95 yo ikavuga ko amategeko asumbana mu buryo bukurikira:

1° Itegeko Nshinga;

- 2° Itegeko Ngenga;
- 3° amasezerano mpuzamahanga yemejwe n’u Rwanda;
- 4° itegeko risanzwe;
- 5° amateka.

Kandi ko nta tegeko rivuguruza iririsumba.

[4] Urubanza rwaburanishijwe mu ruhame ku wa 23/06/2020, Me Nzafashwanayo Dieudonné yunganiwe na Me Bizimana Emmanuel hari na Leta y’u Rwanda ihagarariwe na Me Kabibi Spéciose. Muri iryo buranisha, Urukiko rwabanje kumva abari mu rubanza ku busabe bw’Ishuri ry’Amategeko rya Kaminuza y’u Rwanda (*School of Law*) rwo kurubamo Inshuti y’Urukiko (*Amicus Curiae*) mu rwego rwo gutanga ibitekerezo, maze rumaze kubona ko bemera ko ryakwemererwa kuko ryujuje ibisabwa, rwemera ko ubusabe bwaryo bwemewe, hanyuma rubona gusuzuma ingingo zigize urubanza mu mizi.

[5] Nk’uko babisobanura mu myanzuro no mu miburanire imbere y’Urukiko, Me Nzafashwanayo Dieudonné na Me Bizimana Emmanuel umwunganira bavuga ko bashingiye ku ihame rigaragara mu ngingo ya 15 y’Itegeko Nshinga yavuzwe haruguru, basanga ingingo ya 12 igika cya 3 n’icya 4 y’Itegeko N° 37/2012 ryavuzwe haruguru idafata abasora kimwe, aho umusoresha utumije serivisi mu mahanga mu rwego rw’ibikorwa bye by’ubucuruzi yemererwa gukura umusoro ku nyongeragaciro yishyuye (*input VAT*) kuri izo serivisi mu musoro ku nyongeragaciro yakiriye (*output VAT*) iyo gusa izo serivisi zitaboneka mu Rwanda, nyamara uguze serivisi imbere mu gihugu akemererwa gukura umusoro ku nyongeragaciro yishyuye kuri izo serivisi mu musoro ku nyongeragaciro yakiriye nta kindi abanje gusabwa.

[6] Bavuga kandi ko ibyo iyo ngingo ya 12 igika cya 3 n’icya 4 iteganya, binyuranyije n’ingingo ya 95 y’Itegeko Nshinga yavuzwe haruguru, kubera ko ivuguruza ihame rya *national treatment* rikoresha cyane mu bucuruzi mpuzamahanga mu bya serivisi riteganywa na *World Trade Organization General Agreement on Trade in services (GATS)*; *Protocol on establishment of East African Community Common Market (EAC Common Market Protocol)*, na *Protocol to the Agreement Establishing the African Continental Free Trade Area on Trade in Services*, kandi ayo masezerano mpuzamahanga yose u Rwanda rukaba rwarayashyizeho umukono rukanayemeza.

[7] Leta y’u Rwanda n’Inshuti y’Urukiko ntibemeranya nabo. Bavuga ko mu mategeko y’imisoro, igihugu gishobora gushyira abantu mu byiciro ku mpamvu zumvikana. Ibyo bikaba bitanyuranyije n’ihame ryo kureshya imbere y’amategeko, ko ahubwo gusoresha abantu kimwe kandi batari mu cyiciro kimwe, aribyo byaba ari ukubasumbanya. Bavuga kandi ko kuba uburenganzira bwo kuvana umwenda w’umusoro ku kiranguzo mu musoro wakiriwe buhabwa uwatumije hanze serivisi zitaboneka mu gihugu ariko ntibuhabwe uwatumije hanze serivisi ziboneka mu gihugu ari uburyo bwo kurengera abashoramari bo mu gihugu, ubwo buryo bukaba bwemewe na WTO/GATS nk’irengayobora ku ihame rya *national treatment*.

[8] Urukiko rusanga ibibazo bigomba gusuzumwa muri uru rubanza ari:

- A. Kumenya niba ingingo ya 12, igika cya 3 n’icya 4 y’Itegeko No. 37/2012 ryo ku wa 09/11/2012 rishyiraho umusoro ku nyongeragaciro inyuranyije n’ingingo ya 15 y’Itegeko Nshinga rya Repubulika y’u Rwanda ryo mu 2003 ryavuguruwe mu 2015.

- B. Kumenya niba ingingo ya 12, igika cya 3 n'icya 4 y'Itegeko No. 37/2012 ryo ku wa 09/11/2012 rishyiraho umusoro ku nyongeragaciro inyuranyije n'ingingo ya 95 y'Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015.

II. IBIBAZO BIGIZE URUBANZA N'ISESENGURWA RYABYO

A. Gusuzuma niba ingingo ya 12 (igika cya 3 n'icya 4) y'Itegeko N° 37/2012 ryo ku wa 09/11/2012 rishyiraho umusoro ku nyongeragaciro inyuranyije n'ingingo ya 15 y'Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015.

[9] Me Nzafashwanayo Dieudonné na Me Bizimana Emmanuel umwunganira bavuga ko ingingo ya 12 igika cya 3 n'icya 4 y'Itegeko N° 37/2012 ryo ku wa 09/11/2012 ryavuzwe haruguru inyuranyije n'ingingo ya 15 y'Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu mwaka wa 2015 ivuga ko abantu bari mu cyiciro kimwe bareshya imbere y'amategeko, kuko idafata kimwe abasora aho umusororeshwa utumije serivisi mu mahanga mu rwego rw'ibikorwa bye by'ubucuruzi yemererwa gukura umusoro ku nyongeragaciro yishyuye (*input VAT*) kuri izo serivisi mu musoro ku nyongeragaciro yakiriye (*output VAT*) iyo gusa izo serivisi zitaboneka mu Rwanda, ariko uguze serivisi imbere mu gihugu akemererwa gukura umusoro ku nyongeragaciro yishyuye kuri serivisi mu musoro ku nyongeragaciro yakiriye nta kindi asabwe. Basobanura ko n'ubwo Leta yemerewe kuba yafata abantu ku buryo butandukanye cyangwa ikabashyira mu byiciro, hari uburyo bigomba gukorwa hashingiwe ku mpamvu yumvikana, kandi bigakorwa hubahirizwa amahame ateganywa n'Itegeko Nshinga nk'uko byemejwe n'Urukiko rurinda iremezo ry'Itegeko Nshinga rwo mu Bufaransa, aho urwo rukiko rwabivuze muri aya magambo y'Igifaransa: *“il appartient au Législateur de déterminer, dans le respect des principes constitutionnels et compte tenu des caractéristiques de chaque impôt, les règles selon lesquelles doivent être assujettis les contribuables...”*¹

[10] Me Bizimana Emmanuel avuga ko n'Urukiko rw'Ikirenga rwo muri Leta Zunze Ubumwe z'Amerika² rwabivuze muri aya magambo y'icyongereza: *“The mere fact of classification is not sufficient to relieve a statute from the reach of the equality clause of the Fourteenth Amendment, and in all cases it must appear not merely that a classification has been made, but also that it is based upon some reasonable ground - something which bears a just and proper relation to the attempted classification, and is not a mere arbitrary selection”*.

[11] Ahereye kuri ibyo byemejwe n'inkiko nkuru (zifite ububasha bwo kureba ko amategeko atanyuranyije n'Itegeko Nshinga—*judicial review*) zo mu bindi bihugu, Me Bizimana Emmanuel asanga nta mpamvu n'imwe yumvikana kandi ifatika yatuma umucuruzi utumije mu mahanga serivisi zikenewe mu bikorwa bye by'ubucuruzi atemererwa gukura umusoro ku nyongeragaciro yishyuye (*input VAT*) kuri izo serivisi mu musoro ku nyongeragaciro yakiriye (*output VAT*) hagendewe ku kuba izo serivisi zitaboneka mu Rwanda, mu gihe uguze serivisi imbere mu gihugu we abyemererwa nta kindi asabwe.

[12] Me Nzafashwanayo Dieudonné na Me Bizimana Emmanuel umwunganira basanga n'iyi Leta y'u Rwanda yavuguruwe ko icyari kigamijwe hashyirwaho ingingo ya 12 (igika cya 3 n'icya 4)

¹ Reba *Conseil Constitutionnel, décision* no 2009-599 DC du 29 décembre 2009, para 80

² Reba *Gulf, Colorado & Santa Fe Ry. Co. v. Ellis* 165 U.S. 150 (1897)

y'Itegeko n° 37/2012 ari ugukangurira abantu kugura serivisi z'imbere mu gihugu kurusha izitumijwe mu mahanga mu rwego rwo kurengera urwego rwa serivisi, Urukiko rutabifata nk'impamvu yemewe kuko binyuranyije n'ihame rya *national treatment* riteganywa mu masezerano mpuzamahanga yerekeye ubucuruzi mpuzamahanga mu bya serivisi u Rwanda rwasinye rukanayemeza. Bakavuga ko muri urwo rwego, ingingo ya 17 ya *East African Community Common Market Protocol*, ingingo ya 17 ya *General Agreement on Trade in Services (GATS)* ndetse n'iya 20 ya *African Continental Free Trade Area Protocol on Trade in Services* zose ziteganywa ko igihugu cyasinye aya masezerano kigomba gufata abatanga serivisi zo mu bindi bihugu mu buryo bumwe (*no less favourable treatment*) na serivisi zo muri icyo gihugu zisa nazo cyangwa abantu bo muri icyo gihugu batanga serivisi zisa nazo.

[13] Bashingiye kuri izo mpamvu zose zavuzwe haruguru, banzura bavuga ko ingingo ya 12 (igika cya 3 n'icya 4) y'Itegeko n° 37/2012 ituma habaho ukutareshya kw'abantu imbere y'amategeko n'ukutarengerwa n'itegeko mu buryo bumwe nk'uko biteganijwe mu ngingo ya 15 y'Itegeko Nshinga kuko binatuma serivisi z'imbere mu gihugu zidashobora guhiganwa ku rwego rumwe na serivisi zo mu mahanga zishobora gukenerwa n'abakorera ibikorwa by'ubucuruzi mu Rwanda kubera ubwo busumbane.

[14] Me Kabibi Spéciose, uhagarariye Leta y'u Rwanda, avuga ko kuba urwego rwashyira abantu mu byiciro bidasobanura ko buri gihe ari ukubavangura, ko uwo murongo ari nawo wemejwe n'Urukiko rw'Ikirenga mu rubanza RS/SPEC/0001/16/CS rwaciwe ku wa 23/09/2016 no mu rubanza RS/INCONST/SPEC 00001/2019/SC rwaciwe ku wa 29/11/2019.

[15] Me Kabibi Spéciose yakomeje avuga ko mu rubanza RS/INCONST/SPEC 00001/2019/SC rwaciwe ku wa 29/11/2019, Urukiko rw'Ikirenga rwemeje kandi ko: mu birebana n'imisoro, umushingamategeko afite ubwisanzure bwo gushyira abasoreshwa mu byiciro cyane cyane ko ari mu mwanya mwiza kurusha inkiko, wo kumenya ibyo abaturage na Leta bakeneye akabiheraho ashiraho ibyiciro n'igipimo cy'isoresha, ibyo akaba abyemerewe, keretse bigaragaye ko byakozwe hashingiwe ku ivangura rigamije gukandamiza bamwe.

[16] Me Kabibi Spéciose asobanura ko kuba Umushingamategeko yarashyize abasoreshwa mu byiciro bibiri aribyo icyiciro cy'abasoreshwa bagura serivisi zivuye mu mahanga zitaboneka mu Rwanda n'icyiciro cy'abasoreshwa bagura serivisi zivuye mu mahanga ariko ziboneka no mu Rwanda, bitafatwa nko kuvangura cyangwa kutarengerwa kimwe imbere y'amategeko kuko yabikoze kubera impamvu nziza, kandi zumvikana. Zimwe muri izo mpamvu akaba ari ukurengera no guteza imbere abacuruzi n'abashoramari bato bakorera mu Rwanda, gukomeza urwego rw'umusoro ku nyongeragaciro kuko iyo uwo muntu arangura iyo serivisi mu Rwanda, abamugurishije iyo serivisi batanga umusoro ku nyongeragaciro mu gihe iyo uranguye serivisi hanze y'u Rwanda abo bagurishije izo serivisi badasorera mu Rwanda, ibyo bikaba byumvikana ko uwiyejeje kurangura izo serivisi hanze akwiye kuba ariwe usora uwo musoro ku nyongera gaciro kuko ataguriye uwari busore mu Rwanda kandi ahari.

[17] Me Kabibi Spéciose avuga ko ku baguze serivisi zitaboneka mu Rwanda hanze y'igihugu, bo ntabwo bishyura uwo musoro (bemerewe kuvana umwenda w'umusoro ku kiranguzo mu musoro wakiriwe), kubera ko nta bundi buryo babonamo izo serivisi uretse kuzikura hanze, hakaba nta n'umucuruzi uri mu Rwanda wari busorere izo serivisi wanze guhabwa ayo mahirwe yuko ariwe baranguraho. Asoza avuga ko ibivugwa na Me Nzafashwanayo Dieudonné na Me Bizimana

Emmanuel umwunganira ko ingingo ya 12 (igika cya 3 n'icya 4) y'Itegeko N° 37/2012 inyuranyije n'ingingo ya 15 y'Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015 nta shingiro bifite.

[18] Mu izina ry'Inshuti y'Urukiko (*amicus curiae*), Me Habimana Pie avuga ko igihugu icyo aricyo cyose gifite ubwigenge busesuye mu gushyiraho amategeko y'imisoro mu miterere yayo yose. Yanavuze ko ubwigenge mu misoro n'imisoreshereze bwemezwa n'abahanga mu mategeko nk'ikintu cya ngombwa kugira ngo igihugu kibeho nk'igihugu kandi ko ari ntayegayezwa.³ Anavuga ko ubwigenge mu misoro kandi buhoraho ku bihugu kabone n'ubwo ibyo bihugu byaba byibumbiye mu miryango mpuzamahanga, atanga ingero ku murango mpuzamahanga mu bukungu n'iterambere (*Organisation for Economic Cooperation and Development – OECD*) ndetse n'Umuryango w'ubumwe bw'Uburayi (*European Union -EU*) aho usanga urwego rw'imisoro ari urwego rukigendera ahanini ku mategeko ya buri gihugu mu bwigenge n'ubwisanzure.⁴

[19] Me Habimana Pie yakomeje avuga ko no mu gihugu kimwe bibaho ko uturere cyangwa uduce tumwe na tumwe tugira amategeko y'imisoro atandukanye, ko no mu Rwanda ariko bimeze ku misoro imwe n'imwe nk'imisoro ku butaka aho usanga ingano y'umusoro wishyurwa (*rate*) atari imwe ndetse n'umusoro w'ipatanti abantu bakaba bawusora ku ngano zitandukanye bitewe n'aho bakorera ibikorwa byabo by'ubucuruzi ndetse na kamere yabyo.

[20] Me Habimana Pie yavuze kandi ko uburinganire cyangwa ugufata kimwe mu mategeko y'imisoro kumvikana nk'ihame ryo gufata kimwe abameze kimwe no kudafata kimwe abatameze kimwe. Ibyo yabihuje n'ibyo umuhanga mu mategeko witwa William B. Barker yanditse ko “*things that are alike should be treated alike and things that are unlike should be treated unlike in proportion of their un-likeness.*”⁵ Muri urwo rwego, Me Habimana Pie yakomeje avuga ko gufata kimwe mu misoro abantu batameze kimwe ahubwo aribyo byaba kudafata abantu kimwe nk'uko umuhanga mu mategeko, William B. Barker yabyanditse avuga ko uwagerageza kureshyeshya abantu mu misoro ahubwo byarangira ashyizemo ubusumbane.⁶

[21] Na none Me Habimana Pie yavuze ko ingingo ya 12, igika cya 3 n'icya 4, y'itegeko rishyiraho umusoro ku nyongeragaciro, itafatwa ukwayo yonyine ahubwo ikwiye gusobanurwa hanarebwe ingingo ya 15 y'iryo tegeko igaragaza igihe umusoreshwa yemererwa umusoro ku kiranguzo (*allowance of input tax*), bityo izi ngingo zombi ziramutse zisomewe hamwe zikaba zagaragaza ko hari ihame n'irengayobora (*principle and exceptions*) mu kwemerera umusoreshwa gukuramo cyangwa kudakuramo umusoro ku kiranguzo (*input VAT*).

³ P. Lampreave, 'Fiscal Competitiveness Versus Harmful Tax Competition in the European Union' (2011) bfit 65 (6), p.4;

P T Scanlam, 'Globalization and Tax-Related Issues: What are the Concerns?' in R Biswas (ed), *International Tax Competition: Globalization and Fiscal Sovereignty* (Commonwealth Secretariat 2002), p.45;

⁴ Hans Gribnau, "Equality, Legal Certainty and Tax Legislation in the Netherlands: Fundamental Legal Principles as Checks on Legislative Power: A Case Study", (2013) *Utrecht L. Rev.* 52 (9), p.62.

⁵ William B. Barker, 'The Three Faces of Equality: Constitutional Requirements in Taxation', (2006), *Case W.Res.L.Rev.* 57(1), p. 5 – Reba igika cya 8 cy'Umwanzuro w'Inshuti y'Urukiko (*Amicus Curiae*)

⁶ *The truth is that a formally equal tax can be in some cases the most unequal of all taxes. [...] In the same token, it has been even argued that adhering to a strict standard of equality would result in disaster.*, - William B. Barker, *op. cit.*, pp. 7,8,16. – Reba igika cya 9 cy'Umwanzuro w'Inshuti y'Urukiko (*Amicus Curiae*).

[22] Asoza avuga ko ingingo ya 12 (igika cya 3 n'icya 4) y'Itegeko N° 37/2012 ryo ku wa 09/11/2012 rishyiraho umusoro ku nyongeragaciro nk'uko ryahinduwe kandi ryujijwe kugeza ubu itanyuranyije n'ingingo ya 15 y'Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, kubera ko umusoresha uvugwa muri iyo ngingo ya 12, waguze hanze serivisi iboneka mu Rwanda n'umusoresha waguze serivisi mu Rwanda, ari abantu 2 batandukanye ku buryo ntaho umuntu yahera avuga ko ingingo ya 15 y'Itegeko Nshinga itubahirijwe kuko abantu batameze kimwe batanafatwa kimwe cyane cyane ko gusoresha uwo waguze hanze ibicuruzwa cyangwa serivisi iboneka mu Rwanda ari uburyo bwo kurengera no guteza imbere abacuruzi n'abashoramari bakorera mu Rwanda kandi bwemewe n'amasezerano mpuzamahanga urega avuga.

UKO URUKIKO RUBIBONA

[23] Mu gusesengura ikibazo cyo kumenya niba ingingo ya 12 (igika cya 3 n'icya 4) y'Itegeko n° 37/2012 ryo ku wa 09/11/2012 rishyiraho umusoro ku nyongeragaciro inyuranyije n'ingingo ya 15 y'Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, Urukiko rurasanga ari ngombwa kubanza gusobanura amahame abiri y'ingenzi arebana n'iby'umusoro ku nyongeragaciro ku bucuruzi bw'ibintu na serivisi byambukiranya umupaka, ariyo *Reverse Charge Principle* na *Destination Principle*, nyuma rukareba n'ihame ryo kureshya imbere y'amategeko (*Equality before the Law*).

[24] Ku birebana n'ihame rishingiye ku isoreshwa ry'umukiliya (*Reverse Charge in Tax*), abahanga mu mategeko basobanura ko iryo hame rishingiye ku isoresha ry'umukiliya rifata umukiliya wahawe serivisi iturutse hanze y'igihugu nk'aho ariwe wayihaye. Uwo mukiliya akaba agomba kwegera inzego zishinzwe isoresha kugira ngo atange umusoro ku nyongeragaciro wagenwe nk'umusoro ushingiyeye kuri serivisi yahawe.⁷

[25] Ibi ni nabyo byasobanuwe n'Urukiko rw'Ubujurire rwa Nigeria muri *Vodacom Business Nigeria V. Federal Inland Revenue Service (FIRS)* aho rwavuze ko ihame rishingiye ku isoreshwa ry'umukiliya rikoreshe mu bihugu bigize Umuryango w'u Burayi aho umuguzi w'ibicuruzwa cyangwa serivisi byaturutse ku mugurisha ukorera mu kindi gihugu cy'Umuryango w'u Burayi ariwe ufite inshingano yo gutanga umusoro ku nyongeragaciro wagenwe aho kuba umugurisha. Hashingiwe kuri iri hame, ni umuguzi w'ibicuruzwa cyangwa serivisi utanga umusoro ku nyongeragaciro, mu yandi magambo umusoro utangwa n'umuntu wahawe ibicuruzwa cyangwa serivisi.⁸

[26] Hashingiwe ku bimaze gusobanurwa haruguru, Urukiko rukaba rusanga ihame rishingiye ku isoreshwa ry'umukiliya ku musoro ku nyongeragaciro mu Muryango w'u Burayi risobanura ko iyo umuntu aguze ibicuruzwa cyangwa serivisi ku bagurisha bakorera mu bindi bihugu

⁷ Victor Thuronyi (ed), *Tax Law Design and Drafting, Volume 1 (International Monetary Fund, 1996), page 196* "A reverse-charging rule treats the customer being supplied with a service originating abroad as making the supply to itself. It must then account to its tax authorities for the VAT due as output tax on that supply

⁸ "The reverse charge applicable to European Union Countries whereby the buyer of goods or services from supplier(s) in other EU countries assumes the responsibility of paying the applicable VAT rates instead of the Supplier. By this principle it is the buyer of goods or services that pays the VAT, put differently the VAT is paid by the person to whom the goods or services are supplied." - *Vodacom Business Nigeria V. Federal Inland Revenue Service (FIRS), Appeal No. CA/556/2018, p.23, <https://lawpavilionplus.com/summary/judgments/?suitno=CA>.*

by'Umuryango w'u Burayi, ihame rishingiye ku isoreshwa ry'umukiliya rivana inshingano zo gukora ibijyanye n'itangwa ry'umusoro ku nyongeragaciro ku mugurisha zigahabwa umuguzi w'ibyo bicuruzwa cyangwa izo serivisi. Iryo hame rikaba rikuraho cyangwa rikagabanya inshingano z'abagurisha zo kwiyandikisha ku musoro ku nyongeragaciro mu gihugu ibicuruzwa cyangwa serivisi byinjijwemo. Iyo abagurisha basabwa gutanga umusoro nyongeragaciro ku kiguzi cy'ibicuruzwa cyangwa serivisi byagemuwe hashingiwe ku ihame rishingiye ku isoreshwa ry'umukiliya, bashobora gusubizwa uwo musoro hashingiwe ku buryo bwo gusaba gusubizwa umusoro ku nyongeragaciro bwashyizweho mu Muryango w'u Burayi.⁹

[27] Urukiko rusanga ihame rya *Reverse Charge* rimaze gusobanurwa hejuru nk'uko rikoresheya mu Muryango w'u Burayi riteganyijwe mu ngingo ya 12, igika cya 1, y'Itegeko N^o. 37 ryo ku wa 09/04/2012 rishyiraho umusoro ku nyongeragaciro aho ivuga ko iyo umusororeshwa yakiriye serivisi ahawe n'umuntu uri hanze y'u Rwanda, umusororeshwa afatwa nk'uwakiriye serivisi zisoreshwa kandi akaba yarakiriye umusoro wakiriwe ahawe n'uwo muntu utaba mu Rwanda.

[28] Ku bijyanye n'ihame rishingiye ku hantu ibicuruzwa na serivisi byinjizwa mu mategeko agenga imisoro (*Destination Principle in Tax Law*), Urukiko rusanga ryarasobanurwe mu rubanza rwavuzwe haruguru rwa *Vodacom Business Nigeria na Federal Inland Revenue Service (FIRS)* aho Urukiko rw'Ubujurire rwemeje ko ihame rishingiye ku hantu ibicuruzwa na serivisi byinjizwa mu mategeko agenga isoreshwa rivuga ko ibicuruzwa byatumijwe mu gihugu bisonerwa umusoro ku nyongeragaciro ahubwo bigasorehwa umusoro ku nyongeragaciro mu gihugu byinjijwemo. Iri hame rishyirwa imbere n'Umuryango w'Ubufatanye mu Bukungu n'Iterambere (OECD).¹⁰

[29] Abahanga mu mategeko nabo bavugaga ko hashingiwe ku ihame ry'isoresha rishingiye ku hantu igicuruzwa cyinjijwe, ibicuruzwa na serivisi bisorehwa aho byagurishirijwe cyangwa byakoresherejwe aho kuba aho byakorewe cyangwa bituruka. Ibicuruzwa na serivisi byose byagurishijwe mu gihugu byinjijwemo birasorehwa, iyo bitasonewe by'umwihariko umusoro.¹¹

[30] Ku bijyanye n'ihame ryo kureshya imbere y'amategeko, ingingo ya 7 y'Itangazo ry'Umuryango w'Abibumbye ku burenganzira bwa muntu, (*Universal Declaration of Human Rights*), ryo mu mwaka wa 1948, ivuga ko abantu bose bareshya imbere y'amategeko kandi

⁹ KPMG International, *VAT/GST Treatment of Cross-Border Services*, 2017 Survey, p.20, <https://assets.kpmg/content/dam/kpmg/xx/pdf/2017/11/ess-survey-13-nov-17.pdf>

¹⁰ *The Destination principle in taxation stipulates that goods imported from a State are exempted from VAT and are instead taxed from VAT in the Destination State in which the goods are imported. It is in principle promoted by Organization for Economic Co-operation and Development (OECD).*” *Vodacom Business Nigeria V. Federal Inland Revenue Service (FIRS)*, Appeal No. CA/556/2018, p. 23, <https://lawpavilionplus.com/summary/judgments/?suitno=CA>.

¹¹ Joseph J. Cordes, Robert D. Ebel, and Jane Gravelle, *The Encyclopedia of Taxation & Tax Policy (The Urban Institute, 2005)*, page 82-83. *Under the destination principle* of taxation, goods and services are taxed where they are purchased or consumed, rather than where they are produced or originate. Destination-basis treatment can be contrasted with the origin principle, under which goods and services are taxed where they are produced. All goods and services sold in the destination jurisdiction are taxed, provided they are not specifically exempted from the tax base;

barengerwa kimwe n'amategeko nta vangura iryo ari ryo ryose.¹² Naho ingingo ya 26 y'Amasezerano Mpuzamahanga ku burenganzira Mbenezamubano n'ubwa Politiki (*International Covenant on Civil and Political Rights, 1966*) igateganya ko abantu bose bareshya imbere y'amategeko kandi barengerwa kimwe n'amategeko nta vangura iryo ari ryo ryose.¹³

[31] Abahanga mu mategeko, nk'uko byanasobanuwe n'Inshuti y'Urukiko (*amicus curiae*),¹⁴ bavuga ko ihame ryo kureshya imbere y'amategeko rivuga ko itegeko rifata nk'abareshya abantu bari mu cyiciro kimwe kandi rigashyirwa mu bikorwa kimwe. Mu yandi magambo, ibisa bifatwa kimwe. Ni ukuvuga ko nta vangura rigomba kubaho ku bantu bari mu bihe bisa no mu buryo busa. Bikumvikana ko abantu batari mu cyiciro kimwe badashobora gufatwa kimwe.

[32] Rushingiye ku bimaze kuvugwa mu bika bibanza, Urukiko rurasanga kuba igihugu cyashyira abasoreshwa mu byiciro bidasobanura ko buri gihe ari ukubavangura dore ko uwo murongo ari nawo wemejwe n'Urukiko rw'Ikirenga mu rubanza RS/SPEC/0001/16/CS rwaciwe ku wa 23/09/2016 no mu rubanza RS/INCONST/SPEC 00001/2019/SC rwaciwe ku wa 29/11/2019, aho rwemeje ko: kureshya imbere y'amategeko no kutavangura bitavuze ko gutandukanya abantu ubwabyo mu bihe byose ari ivangura. Gutandukanya abantu cyangwa gushyiraho ibyiciro by'abantu bishobora kuba ngombwa bitewe n'ikigambiriwe, hari impamvu zumvikana zishingiye ku ntego ifite ireme (legitimate or rational purpose).

[33] Muri uru rubanza, bikaba byumvikanisha ko gutandukanya abasoreshwa bagura serivisi zivuye mu mahanga zitaboneka mu Rwanda n'icyiciro cy'abasoreshwa bagura serivisi zivuye mu mahanga ariko ziboneka no mu Rwanda bitafatwa nko kuvangura cyangwa kutarengerwa kimwe imbere y'amategeko kuko Leta yabikoze hari impamvu zumvikana zifite ireme, nko gushyiraho ingamba zigamije kugabanya icyuho mu bucuruzi n'imyishyuranire n'amahanga igihe u Rwanda rugenda rushyira mu bikorwa ibyo gufungura isoko rya serivisi mu rwego rw'ubucuruzi bwa serivisi bwambukiranya umupaka, nk'uko turi bubisobanure dusuzuma icyo kibazo.¹⁵

[34] Urukiko ruherye ku bisobanuro byatanzwe mu bika bibanziriza iki, rukaba rusanga ingingo ya 12 (igika cya 3 n'icya 4) y'Itegeko n° 37/2012 ryo ku wa 09/11/2012 rishyiraho umusoro ku nyongeragaciro itanyuranyije n'ingingo ya 15 y'Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015.

B. Kumenya niba ingingo ya 12 (igika cya 3 n'icya 4) y'Itegeko N° 37/2012 ryo ku wa 09/11/2012 rishyiraho umusoro ku nyongeragaciro inyuranyije n'ingingo ya 95 y'Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015

¹² *All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against discrimination in violation of this Declaration and against any incitement to such discrimination*''

¹³ *"All persons are equal before the law and are entitled without any discrimination to equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, language, religion, political or other opinion, national or social origin, property, birth or other status"*.

¹⁴ Reba Inyandiko ikubiyemo ibitekerezo by'Ishami ry'Amategeko rya Kaminuza y'u Rwanda (School of Law/University of Rwanda) nka Amicus Curiae mu rubanza RS/INCONST/SPEC/00004/2019/SC, ibika bya 8, 9 na 10.

¹⁵ Ikibazo cyo kumenya niba ingingo ya 12, igika cya 3 n'icya 4 inyuranyije na GATS, AFCTA Protocol on Trade in Services na EAC Common Market Protocol

[35] Me bizimana Emmanuel avuga ko ingingo ya 12 (mu gika cyayo cya 3 n'icya 4) y'Itegeko N° 37/2012 ryo ku wa 09/11/2012 rishyiraho umusoro ku nyongeragaciro inyuranyije n'ingingo ya 95 y'Itegeko Nshinga rya Repubulika y'u Rwanda kuko ivuguruza amasezerano mpuzamahanga yemejwe n'u Rwanda mu gihe ayo masezerano asumba itegeko rishyiraho umusoro ku nyongeragaciro kuko ari itegeko risanzwe kandi ingingo ya 95 y'Itegeko Nshinga iteganyako amategeko asumbana iteganyako nta tegeko rivuguruza iririsumba.

[36] Me Bizimana Emmanuel avuga ko ingingo ya 12 (igika cya 3 n'icya 4) y'Itegeko N° 37/2012 rishyiraho umusoro ku nyongeragaciro inyuranyije n'amasezerano mpuzamahanga yemejwe n'u Rwanda akurikira: *Protocol on the Establishment of the East African Community Common Market (EAC Common Market)* mu ngingo yayo ya 17, *World Trade Organisation (WTO) General Agreement on Trade in Services ("GATS")* mu ngingo yayo ya 17 na *Protocol to the Agreement Establishing the African Continental Free Trade Area on Trade in Services (AfCFTA Protocol on Trade in Services)* mu ngingo yayo ya 20. Avuga ko izo ngingo z'ayo masezerano mpuzamahanga zihuriza ku ihame rya national treatment riba ritubahirijwe iyo ingamba zifashwe zituma habaho guhinduka kw'ihiganwa mu buryo butonesha serivisi cyangwa abatanga serivisi bo mu gihugu runaka ugereranije na serivisi cyangwa abatanga serivisi bo mu bindi bihugu.

[37] Me Bizimana Emmanuel akomeza avuga ko asanga umusoro ku nyongeragaciro umucuruzi yishyuye arangura ibintu cyangwa serivisi bikenewe mu bikorwa by'ubucuruzi (*input VAT*), aba agomba kwemererwa kuwukura mu musoro ku nyongeragaciro yakiriye mu bucuruzi bwe (*output tax*) cyangwa agasubizwa urengaho mu gihe umusoro ku nyongeragaciro ku kiranguzo yishyuye uruta umusoro ku nyongeragaciro yakiriye.

[38] Me Bizimana Emmanuel akomeza avuga ko ariko ingingo ya 12 (mu gika cyayo cya 3 n'icya 4) y'Itegeko n° 37/2012 rishyiraho umusoro ku nyongeragaciro idafata kimwe serivisi zo mu Rwanda ndetse na serivisi zitumizwa mu bindi bihugu, kandi uko kutazifata kimwe bishobora gutuma abacuruzi bo mu Rwanda batagura serivisi zo mu bindi bihugu (ahubwo bagahitamo kugura serivisi zo mu Rwanda) kuko baba bazi ko batazemererwa gukura umusoro ku nyongeragaciro ku kiranguzo bishyuye kuri izo serivisi mu musoro ku nyongeragaciro bakira mu gihe izo serivisi zishobora kuboneka mu Rwanda.

[39] Me Bizimana Emmanuel avuga ko ingaruka zikomoka kuri iyi ngingo ya 12 (igika cya 3 n'icya 4) ari uko bituma habaho guhinduka kw'ihiganwa mu buryo butonesha serivisi cyangwa abatanga serivisi bo mu Rwanda ugereranije na serivisi cyangwa abatanga serivisi bo mu bindi bihugu, bityo bikaba binyuranyije n'ihame rya *national treatment* riteganijwe mu ngingo ya 17 ya *EAC Common Market Protocol*, ingingo ya 17 ya *GATS* ndetse n'ingingo ya 20 y'*AfCFTA Protocol on Trade in Services*.

[40] Me Nzafashwanayo Dieudonné na Me Bizimana Emmanuel umwunganira bavugako ibyo ari nabyo byanagarutsweho na *World Trade Organisation (WTO) Panel* isobanura ihame rya *national treatment* mu bucuruzi bw'ibintu mu rubanza¹⁶ aho yemeje ko iryo hame rya *national treatment* risobanura ko ibintu bitumijwe mu mahanga bifatwa mu buryo bumwe n'iby'imbere mu

¹⁶ Reba *Italian Discrimination against Imported Agricultural Machinery, Report adopted on 23 October 1958 (L/833 - 7S/60)*

gihugu igihe byamaze kuva muri gasutamo, kandi ko kuba itegeko runaka ridadeganyaye ibijyanye n'uburyo ibintu bigurwa cyangwa bicuruzwa ntacyo bivuze kuko bitabaye ibyo ibihugu byashobora gukumira ibiva ku masoko yo hanze mu buryo buziguye.

[41] Bakomeza bavugira kandi ko *WTO Panel* isobanura ko ihame rya *national treatment* ritareba amategeko agena igura n'igurisha gusa ahubwo rireba n'andi mategeko ashobora kugira ingaruka (*adverse effects*) ku ipiganwa ryo ku isoko ryo mu gihugu hagati y'iby'imbere mu gihugu ndetse n'ibyatumijwe mu mahanga, ko ibyo bagaragaje haruguru ari nabyo *WTO Panel* yashingiyeho maze yemeza ko itegeko ryatowe n'Inteko Ishingamategeko y'u Butaliyani ryemerera inyunganizi (*subsidisation*) abahinzi bagura imashini zakorewe mu Butaliyani ariko ntiriyemerere abagura izitumijwe mu mahanga, n'ubwo bitanditse muri iryo tegeko byari bigamije kurengera mu buryo butemewe imashini zikorera mu Butaliyani bityo bikaba binyuranyije n'ihame rya *national treatment*.

[42] Me Kabibi Spéciose avugira ko ibiteganywa n'ingingo ya 12 (igika cya 3 n'icya 4 y'Itegeko rishyiraho umusoro ku nyongeragaciro ntaho binyuranyije n'ingingo ya 95 y'Itegeko Nshinga ndetse bitanavuguruzwa ihame rya *national treatment* riri mu masezerano mpuzamahanga u Rwanda rwemeje, kubera ko kuba uburenganzira buhabwa uwatumije serivisi zitaboneka mu gihugu ariko ntibuhabwe uwatumije hanze serivisi ziboneka mu gihugu ari uburyo bwo kurengera abashoramari bo mu gihugu imbere hatumizwa gusa serivisi zitaboneka mu gihugu, kandi ubwo buryo bukaba bwemewe na WTO/GATS kuko itanga irengayobora ku ihame rya *national treatment*.

[43] Me Kabibi Spéciose akomeza avugira ko ingingo ya 12 (igika cya 3 n'igika cya 4 yavuzwe haruguru ntaho inyuranyije n'ihame rya *national treatment* ahubwo ishimangira iryo hame, kubera ko serivisi z'imbere mu gihugu n'izatumijwe mu mahanga zose zifatwa kimwe kuko zisoreshwa umusoro ku nyongeragaciro kuzigomba gusoreshwa n'ubusanzwe cyangwa zigasonerwa kuri serivisi zisanze zisonerwa. Asobanura kandi ko kuba kuri serivisi zitaboneka mu Rwanda umusoro kunyongeragaciro umusoreshwa yemerewe wakurwamo cyangwa umusoreshwa waranguye izo serivisi zitaboneka mu Rwanda yawusubizwa, bitica ihame rya *national treatment* kuko izo serivisi n'ubusanzwe imbere mu gihugu ntazihari ngo byitwe ko zahawe amahirwe make kuruta izavuye hanze zemererwa gukuramo uwo musoro.

[44] Mu izina ry'Inshuti y'Urukiko (*amicus curiae*), Me Habimana Pie avugira ko kuba uwatanze ikirego avugira ko ingingo ya 12 (mu gika cyayo cya 3 n'icya 4 y'Itegeko n° 37/2012 ryo ku wa 09/11/2012 rishyiraho umusoro ku nyongeragaciro inyuranyije n'ingingo ya 95 y'Itegeko Nshinga rya Repubulika y'u Rwanda kuko ivuguruzwa amasezerano mpuzamahanga yemejwe n'u Rwanda ataribyo kubera ko uretse no kuba igihe cyose ingingo y'itegeko itubahirijwe cyangwa inyuranyije n'ingingo y'itegeko ririsumba bidashobora kwitwa ko habayeho kwica Itegeko Nshinga, nta n'aho iyo ingingo ya 12 inyuranyije n'ingingo ya 95 y'Itegeko Nshinga.

[45] Me Habimana Pie yakomeje avugira ko ashingiyeye ku ihame rya *reciprocity* nka rimwe mu mahame akomeye cyane agenga amasezerano Mpuzamahanga risobanura ko ibihugu bigenzereza ibindi bihugu uko nabyo byabigenzereje kandi bibyitwaraho nk'uko nabyo byabyitwayeho,¹⁷ nta muntu ukwiye gusaba igihugu kimwe ko ingingo iyi n'iyi y'amasezerano mpuzamahanga yubahirizwa ahubwo akwiye kubisaba ibihugu byose birebwa n'ayo masezerano cyangwa se

¹⁷ F Paris and N Ghei, "The Role of Reciprocity in International Law" (2003) *Cornell International LJ* 36 (93), p. 94.

urundi rwego mpuzamahanga rubifitiye ububasha kuruta uko byafatwa nk'ikibazo cyo kunyuranya n'Itegeko Nshinga.

UKO URUKIKO RUBIBONA

[46] Mu gusesengura ikibazo cyo kumenya niba ingingo ya 12 (igika cya 3 n'icya 4 y'Itegeko n° 37/2012 ryo ku wa 09/11/2012 rishyiraho umusoro ku nyongeragaciro inyuranyije n'ingingo ya 95 y'Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, Urukiko rurasanga hagomba kubanza gusuzumwa niba ingingo ya 12, igika cya 3 n'icya 4 y'itegeko ryavuzwe inyuranyije n'amasezerano mpuzamahanga urega yavuze kuko ariho ahera avuga ko ibiteganyijwe muri ibi bika by'iyi ngingo bivuguruza ayo masezerano kandi ayo masezerano ari hejuru y'itegeko rishyiraho umusoro ku nyongeragaciro, ukurikije ibiteganywa n'ingingo ya 95 y'Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015.

a. Kumenya niba ingingo ya 12, igika cya 3 n'icya 4 y'Itegeko No. 37/2012 ryo ku wa 09/11/2012 rishyiraho umusoro ku nyongeragaciro inyuranyije n'Amasezerano rusange ku bucuruzi muri serivisi (GATS), Amasezerano y'Isoko rusange ry'Afurika ku bucuruzi muri serivisi (*African Continental free Trade Area Protocol on Trade in Services*) n'Amasezerano y'Isoko rusange ry'Umuryango w'Afurika y'Iburasirazuba (*EAC Common Market Protocol*).

[47] Amasezerano rusange y'ubucuruzi muri serivisi (*GATS*) agizwe n'Ingingo z'Amasezerano, Imigereka n'Ingengabihe (*Schedule*) igaragaza ubwoko bwa serivisi buri gihugu cyiyemeje gufungurira ibindi bihugu n'ibyo cyiyemeje kutabifungurira mu gihe runaka. Kugira ngo rero umenye uburyo igihugu kiri muri *GATS* cyubahiriza amahame remezo *GATS* yubakiyeho harimo n'ihame ryo gufata ibintu cyangwa serivisi nk'ibindi byo mu gihugu nyiri zina (*national treatment*), ugomba kureba kuri iyo Ngengabihe (*Schedule*) yavuzwe haruguru.

[48] Ku byerekeye ibyo gufata serivisi nk'iz'inyagihugu (*national treatment*) nk'uko biteganyijwe n'ingingo ya XVII¹⁸ ya *GATS*, ibyo bivuga ko buri gihugu kigomba gufata serivisi cyangwa abatanga serivisi bakomoka mu bindi bihugu ku buryo budatandukanye n'uburyo gifata serivisi cyangwa abatanga serivisi bo muri icyo gihugu. Iyo igihugu gishaka kugira ibyo gikumira muri urwo rwego, ni ukuvuga gufata ingamba zimwe zituma serivisi zituruka hanze cyangwa abazitanga zifatwa ku buryo butari bumwe n'uko izo mu gihugu zifashwe, igihugu kigomba kubigaragaza mu nkingi ya gatatu y'Ingengabihe (*Schedule*) yacyo.

[49] Urukiko rusanga ko no mu Ngengabihe (*Schedule*) y'ibyo u Rwanda rwiyejeje mu rwego rw'Amasezerano Rusange yerekeye ubucuruzi muri serivisi (*GATS*), rwagejeje ku Muryango Mpuzamahanga w'Ubucuruzi (*World Trade Organization*) muri 1995, hagaragara ko hari serivisi rutiyemeje gufungura harimo zimwe muri serivisi z'ubucuruzi, zimwe muri serivisi z'uburezi, zimwe muri serivisi z'ubukerarugendo na serivisi zijyanye n'ingendo.¹⁹

¹⁸ *Article XVII: National Treatment*

1. In the sectors inscribed in its Schedule, and subject to any conditions and qualifications set out therein, each Member shall accord to services and service suppliers of any other Member, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and service suppliers.

¹⁹ *World Trade Organization. Communication from Rwanda, Schedule of Specific Commitments under the General Agreement on Trade in Services, 30 August 1995*

[50] Urukiko rusanga kandi ingingo ya XII²⁰ y'ayo Masezerano iteganya ko igihugu gishobora gufata ibyemezo bikumira serivisi z'inyamahanga mu rwego rwa politiki yacyo yo kuziba icyuho mu bucuruzi n'ubwishyuranire bwacyo n'amahanga (*restrictions to safeguard the balance of payments*).

[51] Muri urwo rwego, muri politiki zitandukanye harimo n'iyitwa 'Made in Rwanda Policy',²¹ u Rwanda rwagiye rugaragaza ingamba zo kugabanya icyuho hagati y'ibyo rugura mu mahanga n'ibyo rwohereza mu mahanga ndetse no kugabanya icyuho mu buryo bw'imyishyuranire mpuzamahanga.

[52] Ruhereye ku bimaze kuvugwa mu bika bibanza, Urukiko rusanga ibyo urega avuga ko mu gushyiraho ingingo ya 12, igika cya 3 n'icya 4, y'Itegeko rishyiraho umusoro ku nyongeragaciro u Rwanda rutubahirije inshingano rwiyejeje nk'umunyamuryango wa GATS, akabivuga kuri serivisi zose atitaye ku byo igihugu cyitemeye gufungura, cyangwa ngo yite ku burenganzira gifite bwo kuba cyafata ingamba zigamije kugabanya icyuho mu bucuruzi bwacyo cyangwa mu myishyuranire yacyo n'amahanga, bitafatwa nk'ukuri. Bityo akaba atabihereho avuga ko iyo ngingo inyuranyije n'ayo masezerano.

[53] Ku byerekeye Amasezerano y'isoko rusange ry'Afurika areba ubucuruzi muri serivisi (*African Continental free Trade Area Protocol on Trade in Services*), ingingo ya 18 yayo yerekeye ihame ry'uko ibihugu bigomba kugenda bifungura amasoko yabyo (*progressive liberalization*), ivuga ko ibihugu byiyemeje gufatanya mu gushyiraho amategeko n'amabwiriza ndetse n'imirongo ngenderwaho mu kureba uko buri serivisi yafungurirwa ibindi bihugu hashingiye ku mikorere myiza isanzwe igenderwaho ndetse n'ibyemejwe muri buri muryango w'ubukungu mu karere k'Afurika (*Regional Economic Community*). Ibihugu byemeje ko porogamu y'uburyo ibiganiro bizakomeza izemezwa na Komite y'ubucuruzi kuri serivisi.

[54] Ikindi ni uko iyo ngingo iteganya ko Lisiti ya za serivisi za ngombwa ndetse n'uburyo ubucuruzi bwa serivisi buzakorwamo bizaba bigize umugereka ku Masezerano kandi uwo mugereka ukaba igice cyayo. Ayo Masezerano kandi ateganya ko ibiganiro hagati y'ibihugu bizakomeza ku byo batari bumvikanyeho.

[55] Urukiko rusanga mu nama y'Abakuru b'Ibihugu bigize AfCFTA yabaye muri Gashyantare 2020 yaremeje ibyo Inama y'Abaminisitiri yari yatanzeho ibitekerezo ko hagombaga kuba inama idasanzwe y'Abakuru b'Ibihugu ku wa 30 Gicurasi 2020 kugira ngo yemeze ibintu byose bya

²⁰ Article XII GATS: *Restrictions to Safeguard the Balance of Payments*

1. In the event of serious balance-of-payments and external financial difficulties or threat thereof, a Member may adopt or maintain restrictions on trade in services on which it has undertaken specific commitments, including on payments or transfers for transactions related to such commitments. It is recognized that particular pressures on the balance of payments of a Member in the process of economic development or economic transition may necessitate the use of restrictions to ensure, inter alia, the maintenance of a level of financial reserves adequate for the implementation of its programme of economic development or economic transition.

Part III. Specific Commitment.

²¹ MINICOM, *Made in Rwanda Policy*, 2017, pp. 1-2, http://www.minicom.gov.rw/fileadmin/minicom_publications/documents/SEZ_Policy_-_January_2018_v2.pdf.

ngombwa bikenewe kugira ngo Isoko rusange rya Afurika (*AfCFTA*) ritangire gukora ku itariki ya 1 Nyakanga 2020.²²

[56] Urukiko rusanga kandi iyo nama yarasabye Abaminisitiri b'ubucuruzi gukora inama za ngombwa kugira ngo habe isozwa ry'imishyikirano ku byerekeye aho ibintu bituruka (*Rule of origin*), ingengabihe y'ubwumvikane ku mahoro (*schedules of tariff concessions*) n'ingengabihe y'ibyo ibihugu byiyemeje ku buryo bwihariye ku bireba inzego z'ingenzi eshanu za serivisi, isaba ko ibihugu byaba byerekanye ibyo byiyemeje ku nzego za serivisi zari zisigaye n'uburyo bwo gufatanya mu bucuruzi muri serivisi bitarenze ukwezi kwa Kamena 2020.²³

[57] Uhereye rero ku bimaze kuvugwa mu bika bibanza kuri iki kibazo, Urukiko rusanga imvugo y'urega y'uko u Rwanda rutubahirije ibikubiye mu Masezerano y'Isoko rusange ry'Afurika yerekeye ubucuruzi muri serivisi, nta shingiro ifite, igihe hakiri imishyikirano igomba kuba kugira ngo ibihugu byemeze bimwe mu byangombwa bizashingirwaho mu gushyira mu bikorwa ayo Masezerano. Bityo rero, Urukiko rukaba ntacyo rwashingiraho rwemeza ko ingingo ya 12, igika 3 n'icya 4 y'Itegeko rishyiraho umusoro ku nyongeragaciro inyuranyije n'Amasezerano y'isoko rusange ry'Afurika yerekeye ubucuruzi muri serivisi (*AfCFTA Protocol on Trade in Services*).

[58] Urega kandi avuga ko ingingo ya 12, igika cya 3 n'icya 4 y'Itegeko rishyiraho umusoro ku nyongeragaciro inyuranyije n'Amasezerano y'Umuryango w'Afurika y'Iburasirazuba yerekeye ibyo guhuza amasoko (*East African Community Common Market Protocol*). Ingingo ya 16, igika cya mbere²⁴ cy'ayo Masezerano, ivuga ko ibihugu bigomba gutuma habaho ubwisanzure mu bucuruzi bwa serivisi mu buryo umuturage w'igihugu kimwe ashobora gutanga izo serivisi mu kindi gihugu kigize uwo muryango.

[59] Igika cya gatanu cy'ayo ngingo giteganywa ko kugira ngo ibivugwa mu gika cya mbere bigerweho, ibihugu bizagenda bikuraho imbogamizi zose ziriho kandi ntabwo bizashyiraho izindi mbogamizi nshya ku byerekeranye no gutuma abatwaga b'igihugu kimwe kigize Umuryango bashobora gutanga serivisi mu kindi gihugu, uretse aho aya masezerano abiteganywa ukundi.²⁵

[60] Na none ingingo ya 17 y'ayo Masezerano yerekeye ifatwa nk'iz'inyagihugu (national treatment) iteganywa ko buri gihugu kizafata serivisi cyangwa abatwaga serivisi bo mu bindi bihugu ku buryo budaciye muni y'uburyo icyo gihugu gifata serivisi cyangwa abatwaga serivisi bari muri icyo gihugu.²⁶

²² *Decision on the African Continental Free Trade Area (AfCFTA), 33rd Ordinary Session of the Assembly of the Union, 9-10 February 2020, Addis Abeba, Ethiopia,* <https://www.tralac.org/documents/resources/cfta/3176-au-assembly-decision-on-the-afcfta-february-2020/file.html>

²³ *Ibidem*

²⁴ *The Partner States hereby guarantee the free movement of services supplied by nationals of Partner States and the free movement of service suppliers who are nationals of the Partner State within the Community.*

²⁵ *For the purposes of paragraph 1, the Partner States shall progressively remove existing restrictions and shall not introduce any new restrictions on the provision of services in the Partner States, by nationals of other Partner States except as otherwise provided in this Protocol.*

²⁶ *Each partner State shall accord to services and service suppliers of other partner States treatment no less favorable than that accorded to similar services and services suppliers of the Partner States*

[61] Aya masezerano kandi ateganya mu ngingo yayo ya 20, igika cya mbere ko ibihugu bishobora gushyiraho amategeko areba inzego za serivisi hakurikijwe intego za politiki zabyo ariko ku buryo ingamba zifatwa ziba zihuje n'ibiteganyijwe muri aya masezerano kandi ku buryo butazitira ubucuruzi.²⁷

[62] Ku byerekeye uburyo bwo gushyira mu bikorwa ubwisanzure mu rujya n'uruza rwa serivisi, ingingo ya 23 y'Amasezerano iteganya ko ibyo bizakorwa ku buryo bugenda bwiyongera hakurikijwe gahunda y'uburyo ifungura rya serivisi rigenda riyiyongera iteganyijwe ku Mugereka wa Gatanu w'aya Masezerano.²⁸ Ikindi ni uko ingingo ya 32 y'aya Masezerano yerekeye ihuzwa ry'amategeko na Politiki y'imisoro iteganya ko buri gihugu cyiyemeza kugenda gihuza amategeko na politiki yacyo y'imisoro ku buryo bukuraho itandukanyirizo ry'imisoro hagamijwe koroshya urujya n'uruza rw'ibicuruzwa, serivisi n'imari no guteza imbere ishoramari mu Muryango.²⁹

[63] Byongeye kandi, ingingo ya 47 y'Amasezerano iteganya ko ibihugu bigomba gusuzuma imiterere y'amategeko yabyo ugereranyije n'ay'ibindi bihugu biri mu Muryango no guhuza politiki na sisiteme zabyo mu rwego rwo gushyira mu bikorwa aya masezerano. Ikindi ni uko Inama y'Abamanisitiri y'Umuryango igomba gushyiraho amabwiriza (*Council Directives*) agamije gushyira mu bikorwa aya Masezerano.³⁰

[64] Urukiko rusanga kandi ku Mugereka wa gatanu w'Amasezerano yavuzwe haruguru, werekeye Ingengabihe y'ibyo ibihugu byiyemeje mu kugenda bifungura isoko rya serivisi,³¹ u Rwanda kimwe n'ibindi bihugu bigize Umuryango hari ibyo rwari rwariyemeje kuba rwakoze kugeza mu mwaka wa 2015.

[65] Rusanga kandi ibihugu bigize Umuryango byaragiye bihura bigasuzuma uburyo bwo gufungura amasoko yabyo ku bintu cyangwaserivisi zambukiranya umupaka. Muri urwo rwego, Ubunyamabanga bw'Umuryango, mu kubahiriza icyemezo cy'Inama y'Abaminisitiri, bwakoresheje inyigo³² y'uburyo bwo guhuza politiki y'imisoro mu Muryango. Ibyo byaje kugerwaho ubwo mu nama yayo yo muri Gicurasi 2019, Inama y'Abaminisitiri b'Umuryango w'Afurika y'Iburasirazuba yemeje Politiki yo guhuza imisoro y'imbere mu bihugu bigize uwo Muryango (EAC Domestic Tax Harmonization Policy) inasaba Ubunyamabanga bwa EAC n'ibihugu bigize Umuryango kuyishyira mu bikorwa.³³

²⁷ *The Partner State may regulate their services sectors provided the measures are consistent with the provisions of this Protocol and do not constitute barriers to trade.*

²⁸ *The implementation of Article 16 of this Protocol shall be progressive and in accordance with the Schedule on the progressive liberalization of services specified in Annex V of this Protocol.*

²⁹ *The Partner States undertake to progressively harmonize their tax policies and laws to remove tax distortions in order to facilitate the free movement of goods, services and capital and to promote investment within the Community*

³⁰ *The Partner States undertake to approximate their national laws and to harmonize their policies and systems, for purposes of implementing this Protocol. The Council shall issue directives for purposes of implementing this Article*

³¹ *East African Community Common Market Protocol – Schedule of Commitments on the Progressive Liberalization of Services, November 2009.*

³² *Consultants' Report on the Harmonization of Income Taxes within the East African Community, 1 November 2014; East African Community, Report of the Meeting to validate the studies on development of Policy frameworks for the harmonization of VAT, Excise duties and Income tax in EAC, Mombasa, 23rd – 25th October 2014; PWC, Policy for harmonization of VAT and Excise duties, 28 October 2014.*

³³ *East African Community, Report of the 38th Meeting of the Council of Ministers, 6th – 10th May 2019, pp. 30-31.*

[66] Urukiko kandi rusanga muri Politiki yo guhuza imisoro y'imbere, ibihugu byaremeranyijwe ko uburyo bwo kugenda batera intambwe (progressive approach) aribwo buzakoreshwa mu guhuza imisoro, bahereye ku misoro ku byaguzwe (excise tax), bagakomereza ku musoro ku nyongeragaciro (value added tax), nyuma hakaza umusoro k'umusaruro (income tax). Banemeje ko ibyo bizakorwa hafatwa ibyemezo by'Inama y'Abaminisitiri (Council Directives), ku buryo hazaba icyemezo cyihariye kuri buri rwego rw'umusoro kandi ibyo byemezo bikazanagena igihe buri gihugu kizaba cyarangije guhuza amategeko yacyo na buri cyemezo kireba buri rwego rw'umusoro.³⁴

[67] Ruhereye ku bimaze kuvugwa haruguru rero, Urukiko rurasanga iby'urega avuga ko u Rwanda rwishe amasezerano areba isoko rusange mu Muryango w'Afurika y'Iburasirazuba rushyiraho ingingo ya 12, igika cya 3 n'icya 4 y'Itegeko rishyiraho umusoro ku nyongeragaciro nta shingiro bifite, kuko hari ibigomba kubanza gukorwa mu rwego rwo gushyira mu bikorwa Politiki yo guhuza imisoro y'imbere, harimo no gushyiraho amabwiriza (Council Directives) y'Inama y'Abaminisitiri b'Umuryango ku musoro ku nyongeragaciro.

[68] Rushingiye ku byo rumaze kwemeza ko ingingo ya 12, igika cya 3 n'icya 4 y'Itegeko rishyiraho umusoro ku nyongeragaciro itanyuranyije n'amasezerano mpuzamahanga urega avuga, ariyo *GATS, AfCFTA Protocol on Trade in Services na EAC Common Market Protocol*, kandi rumaze kubona ko aribwo urega yashingiragaho avuga ko ingingo ya 12, igika cya 3 n'icya 4 inyuranyije n'ingingo ya 95 y'Itegeko Nshinga ryo mu 2003 ryavuguruwe mu 2015, Urukiko rurasanga ingingo ya 12, igika cya 3 n'icya 4 y'Itegeko rishyiraho umusoro ku nyongeragaciro itanyuranyije n'ingingo ya 95 y'Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015.

III. ICYEMEZO CY'URUKIKO

[69] Rwemeje ko ikirego cyatanzwe na Me NZAFASHWANAYO Dieudonné nta shingiro gifite.

[70] Rwemeje ko ingingo ya 12 (igika cya 3 n'icya 4) y'Itegeko n° 37/2012 ryo kuwa 09/11/2012 rishyiraho umusoro ku nyongeragaciro itanyuranyije n'ingingo ya 15 y'Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015.

[71] Rwemeje ko ingingo ya 12 (igika cya 3 n'icya 4) y'Itegeko N° 37/2012 ryo kuwa 09/11/2012 rishyiraho umusoro ku nyongeragaciro itanyuranyije n'ingingo ya 95 y'Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015.

³⁴ *East African Community, Report of the 38th Meeting of the Council of Ministers, 6th – 10th May 2019, Annex IV: EAC Domestic Tax Harmonization Policy, pp. 8-9.*