Re EXCEL SECURITY RWANDA LTD

[Rwanda URUKIKO RW'IKIRENGA – RS/INCONST/SPEC 00003/2022/SC– (Ntezilyayo, J. P., Cyanzayire, Mukamulisa, Hitiyaremye na Kazungu, J.) 22 Ukuboza 2023]

Itegeko Nshinga – Ihame ryo kureshya imbere y'amategeko n'iryo kutavangura – Kuba ibisabwa abikorera batanga serivise z'umutekano bitandukanye n'ibisabwa abakora ubundi bucuruzi bishingiye kuri kamere ya buri bucuruzi, ntibyafwa ko ari ivangura bakorerwa kuko abakora ubucuruzi butari mu cyiciro kimwe badashobora gufatwa kimwe, mu gihe n'amategeko abagenga aba atandukanye.

Itegeko Nshinga – Uburenganzira ku ubutabera buboneye – Kuba itakamba ku iyamburwa ry'icyemezo cyo gutanga serivisi z'umutekano zitangwa n'abikorera ritangwa kwa Minisitiri mbere yo kuregera urukiko, ntibyafatwa ko ari ukuvutswa uburenganzira ku butabera buboneye, ahubwo ni mu rwego rwo gukosora icyemezo cyafashwe ku rwego rwa mbere mu gihe cyaba cyarafashwe mu buryo budakurikije amategeko, ariko ntibibuza uwagifatiwe kuba yakwiyambaza inkiko.

Itegeko Nshinga – Umutekano w'Igihugu n'umutekano rusange w'abaturage – Ubucuruzi bwa serivisi zo gucunga umutekano zitangwa n'abikorera ntibwafatwa kimwe nk'ubundi bucuruzi bwose, mu gihe kamere yabwo yihariye n'uburyo bukorwamo cyangwa bugenzurwamo bukaba bugomba kuba uburyo bwihariye kandi bigakorwa n'urwego rubifitiye ubumenyi n'ububasha.

Itegeko Nshinga – Inzego zishinzwe gucunga umutekano – Polisi y'u Rwanda – Inshingano za Polisi y'u Rwanda – Ibigo by'abikorera birinda umutekano w'abantu n'ibintu bisabwa guha Polisi y'u Rwanda raporo y'ibikorwa igaragaza uko umutekano wifashe, kuko biri mu nshingano zayo ndetse ni yo ifite inshingano y'ibanze yo gucunga umutekano w'abantu n'ibintu mu Gihugu hose.

Incamake y'ikibazo: Excel Security Rwanda Ltd, nka kampani itanga serivise y'umutekano, yatanze ikirego mu Rukiko rw'Ikirenga isaba kwemeza ko zimwe mu ngingo z'Itegeko rigenga serivise z'umutekano zitangwa n'abikorera zinyuranyije n'Itegeko Nshinga. Aha agaragaza ko ingingo ya 5, 6 agace ka 6°, 7°, 8° n'aka 9°, 13, 19, 30, 31, n'iya 37 y' Itegeko Nº 016 bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera zinyuranyije n'amahame ateganyijwe mu ngingo ya 15,16, 23, 29, 37, n'iya 159 z'Itegeko Nshinga, kuko imiterere yazo igaragaza ivangura rikomeye, naho izindi zikagaragaza kutubahiriza uburenganzira n'ubwisanzure ku bigo bicuruza serivisi z'umutekano zitangwa n'abikorera muri rusange no kuri yo by'umwihariko.

Uwatanze ikirego avuga ko ingingo ya gatanu (5) y'iryo Tegeko ryavuzwe haruguru inyuranyije n'ibiteganywa mu ngingo y'159 y'Itegeko Nshinga, aho iha Polisi ububasha n'inshingano z'urwego ngenzuramikorere butandukanye n'inshingano ihabwa n'Itegeko Nshinga. Mu ngingo ya 6 agace ka 6°, 7°, 8° n'aka 9° y'iryo Tegeko ryavuzwe haruguru, iteganya ibisabwa uwikorera ujya gutangira gutanga serivise y'umutekano agomba kuba yujuje, birimo inyandiko igaragaza umutungo we ufite agaciro kagenwa n'Iteka rya Minisitiri, mu gihe ibindi bigo by'ubucuruzi bitayisabwa; ibi bikaba bigaragaza ko ari ivangura no gutsikamira ibigo byikorera bitanga serivise y'umutekano.

Akomeza avuga ko ingingo ya 13 na yo igaragaza ivangura rikorerwa abikorera batanga serivise y'umutekano kubera ko basabwa kuba bafite ibikoresho by'ibanze (*cameras, detectors, scaners*) bigenwa mu masezerano hagati y'utanga serivisi n'umukiriya we cyangwa nyir'inyubako icungirwa umutekano, mu gihe nk'abakora serivisi z'isuku bo badasabwa kugaragaza ibikoresho by'ibanze by'isuku.

Asoza avuga ko ingingo ya 37 y'Itegeko ryavuzwe haruguru na yo igaragaramo ivangura, aho uwikorera utanga serivisi z'umutekano ahabwa igihano cy'ihazabu yo mu rwego rw'ubutegetsi, iyo arinda umutekano bitaremejwe na Polisi, bikaba binyuranyije n'ingingo ya 15 y'Itegeko Nshinga.

Leta y'u Rwanda yahamagajwe muri uru rubanza ivuga ko izo ngingo Urega avuga zitagaragaramo ivangura na gato, kuko kuba harabayeho gutandukanya ibisabwa hashingiwe kuri serivisi abantu batanga, bidashobora kwitwa ivangura, cyangwa ngo bibangamire ihame ryo gufatwa kimwe imbere y'amategeko.

Leta y'u Rwanda isobanura ko ingingo ya 159 n'iya 161 z'Itegeko Nshinga zigaragaza ko Polisi y'u Rwanda isanzwe ifite ububasha ngenzuramikorere kuko ariyo ishinzwe muri rusange kurinda umutekano w'abantu n'ibintu mu Gihugu hose nkuko buteganyijwe mu Itegeko rigena amahame ngenderwaho, ububasha, inshingano, imitunganyirize n'imikorere bya Polisi y'u Rwanda. Ni ukuvuga ko Polisi y'u Rwanda ifite ububasha n'inshingano byo gukora nk'urwego ngenzuramikorere ku bikorera batanga serivisi zo kurinda umutekano w'abantu n'ibintu n'ubwo kubagira inama z'uburyo banozamo inshingano zabo. Abikorera bashaka gutanga iyo serivise babihererwa uburenganzira bwihariye na Polisi y'u Rwanda, ikaba ifite n'ububasha bwo kububambura mu gihe cyose batabukoresheje uko bikwiye. Isoza ivuga ko kutagira ubwo bubasha kwa Polisi y'u Rwanda ari byo ahubwo byaba bitubahirije Itegeko Nshinga.

Incamake y'icyemezo: 1. Kuba ibisabwa abikorera batanga serivise z'umutekano bitandukanye n'ibisabwa abakora ubundi bucuruzi bishingiye kuri kamere ya buri bucuruzi, ntibyafwa ko ari ivangura bakorerwa kuko abakora ubucuruzi butari mu cyiciro kimwe badashobora gufatwa kimwe, mu gihe n'amategeko abagenga abatandukanye.

2. Kuba itakamba ku iyamburwa ry'icyemezo cyo gutanga serivisi z'umutekano zitangwa n'abikorera ritangwa kwa Minisitiri mbere yo kuregerwa urukiko ntibyafatwa ko ari ukuvutswa uburenganzira ku butabera buboneye, ahubwo ni mu rwego rwo gukosora icyemezo cyafashwe ku rwego rwa mbere mu gihe cyaba cyarafashwe mu buryo budakurikije amategeko, ariko ntibibuza uwagifatiwe kuba yakwiyambaza inkiko.

3. Ubucuruzi bwa serivisi zo gucunga umutekano zitangwa n'abikorera ntibwafatwa kimwe nk'ubundi bucuruzi bwose, mu gihe kamere yabwo yihariye n'uburyo bukorwamo cyangwa bugenzurwamo bukaba bugomba kuba uburyo bwihariye kandi bigakorwa n'urwego rubifitiye ubumenyi n'ububasha.

4. Ibigo by'abikorera birinda umutekano w'abantu n'ibintu bisabwa guha Polisi y'u Rwanda raporo y'ibikorwa igaragaza uko umutekano wifashe, kuko biri mu nshingano zayo ndetse ni yo ifite inshingano y'ibanze yo gucunga umutekano w'abantu n'ibintu mu Gihugu hose.

Ikirego gisaba kwemeza ko ingingo z'itegeko zinyuranyije n'Itegeko Nshinga rya Repubulika y'u Rwanda, nta shingiro gifite.

Amategeko yashingiweho:

Itegeko Nshinga rya Repubulika y'u Rwanda ryo ku wa 04/08/2023, ingingo ya 29, 159 n'iya 161.

Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu mwaka wa 2003 ryavuguruwe mu wa 2015, mu ngingo zaryo za 15,16, 23, 37, 159.

Amasezerano mpuzamahanga yerekeye uburenganzira mu by'imbonezamubano no mu bya politiki, ingingo ya 14, 17 n'iya 18.

Amasezerano y'Ubumwe bw'Ibihugu by'Uburayi yerekeye Uburenganzira bwa Muntu nk'uko yahinduwe n'amasezerano yunganira N° 11 na 14, ingingo ya 8.

Itegeko N° 026/2023 ryo ku wa 17/05/2023 rigenga Polisi y'u Rwanda, ingingo ya 9, 10 n'iya 34.

Itegeko N° 016 bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera, ingingo ya 5, 6, 13, 19, 30, 31, n'iya 37.

Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 75 n'iya 177.

Itegeko N° 48/2017 ryo ku wa 23/09/2017 rigenga Banki Nkuru y'u Rwanda, ingingo ya 6.

Itegeko N° 09/2017 ryo ku wa 20/03/2017 rihindura kandi ryuzuza Itegeko N° 46/2010 ryo ku wa 14/12/2010 rigena ububasha, inshingano, imitunganyirize n'imikorere bya Polisi y'u Rwanda, ingingo ya 8.

Itegeko N°46/2010 ryo kuwa 14/12/2010 rigena ububasha, inshingano, imitunganyirize n'imikorere bya Polisi y'u Rwanda yerekeye Imikoranire ya Polisi y'u Rwanda n'ibigo by'abikorera birinda umutekano w'abantu n'ibintu, ingingo ya 41.

Imanza zifashishijwe:

RS/INCONST/SPEC 00004/2021/SC, Ngendahayo Kabuye na Leta y'u Rwanda rwaciwe n'Urukiko rw'Ikirenga ku wa 10/02/2023.

RS/INCONST/SPEC 00004/2019/SC, Me Nzafashwanayo Dieudonné na Leta y'u Rwanda rwaciwe ku wa 24/07/2020.

Urubanza

I. IMITERERE Y'URUBANZA

[1] EXCEL SECURITY Rwanda Ltd yatanze ikirego mu Rukiko rw'Ikirenga irusaba kwemeza ko ingingo ya 5, iya 6 (agace ka 6°, aka 7°, aka 8°, aka 9° n'aka 10°), iya 13, 19, 30, 31, igika cya 2, n'iya 37 z'Itegeko Nº 016 Bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera zinyuranyije n'Itegeko Nshinga rya Repubulika y'u Rwanda (Itegeko Nshinga muri uru rubanza), mu ngingo zaryo za 15, 16, 23, 37, 159, maze ikirego gihabwa RS/INCONST/SPEC 00003/2022/SC.

[2] EXCEL SECURITY Rwanda Ltd ivuga ko nyuma y'uko hatangajwe Itegeko Nº 016 Bis/2020 ryo ku wa 07/09/2020 ryavuzwe haruguru, zimwe mu ngingo zaryo yasanze zinyuranyije n'Itegeko Nshinga kuko imiterere yazo igaragaza ivangura rikomeye, naho izindi zikagaragaza kutubahiriza uburenganzira n'ubwisanzure ku bigo bicuruza serivisi z'umutekano zitangwa n'abikorera muri rusange, no kuri EXCEL SECURITY Rwanda Ltd by'umwihariko.

[3] Me Cyubahiro Fiat uhagarariye Leta y'u Rwanda avuga ko ingingo z'amategeko EXCEL SECURITY Rwanda Ltd iregera zitagaragaramo ivangura na gato, kuko kuba harabayeho gutandukanya ibisabwa hashingiwe kuri serivisi abantu batanga, bidashobora kwitwa ivangura, cyangwa ngo bibangamire ihame ryo gufatwa kimwe imbere y'amategeko.

[4] Iburanisha ryabaye ku wa 24/07/2023, Urukiko rumenyesha ababuranyi ko isomwa ry'urubanza rishyizwe ku wa 29/09/2023. Ku itariki ya 14/08/2023, Nshuti Rugerinyange, umuyobozi wa EXCEL SECURITY Rwanda Ltd yashyikirije Urukiko umwanzuro w'inyongera abinyujije muri IECMS, asaba ko wakwakirwa ugasuzumwa kubera ko atabashije kwitaba urukiko bitewe n'uko yagiye kwivuza muri Leta Zunze Ubumwe za Amerika uburwayi bw'umugongo, kandi nk'inzobere (*expert*) muri uyu mwuga hari ibisobanuro by'ingenzi afite ku bisubizo byatanzwe n'uwari ahagarariye iyo sosiyete ku bibazo yabajijwe n'Urukiko mw'iburanisha. Urukiko rurasanga uwo mwanzuro utasuzumwa kuko watanzwe mu buryo bunyuranyije n'ibiteganywa n'ingingo ya 75 y'Itegeko Nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi.[1]

[5] Mu gihe urubanza RS/INCONST/SPEC 00003/2023/SC rwari rutaracibwa, ku itariki ya 04/08/2023, hasohotse Itegeko Nshinga rivugurura Itegeko Nshinga ryo mu mwaka wa 2003

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[1] Ingingo ya 75 y'Itegeko Nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, iteganya ko muri rusange nta nyandiko, imyanzuro y'urubanza cyangwa inyandiko ikubiyemo ingingo ziburanishwa bishobora kohererezwa urukiko nyuma y'inama ntegurarubanza. Icyakora, igihe cyose urubanza rutaracibwa, iyo habonetse inyandiko cyangwa se ikindi kintu gishya cyafasha mu kugaragaza ukuri kivumbuwe n'umwe mu baburanyi, ashobora kugishyikiriza urukiko, rugasuzuma niba cyakwakirwa. Iyo iburanisha ryari ryarapfundikiwe, umuburanyi asaba ko ripfundurwa. Urukiko ubwarwo ni rwo rusuzuma niba ari ngombwa gupfundura iburanisha, iyo rusanze ruzashingira kuri icyo kintu gishya mu guca urwo rubanza. Mbere yo gufata icyemezo kandi rubyibwirije, urukiko rushobora gupfundura iburanisha mu gihe rusanga hari ibyo rukeneye gusobanukirwa kurushaho bitasobanutse mu iburanisha kugira ngo ukuri kugaragare. Iyo ipfundurwa ry'urubanza ritegetswe, urukiko rugena umunsi, ahantu n'isaha ababuranyi bazitabira kugira ngo baburane.

ryavuguruwe mu wa 2015, kandi ariryo uwatanze ikirego yashingiyeho avuga ko ingingo z'amategeko zinyuranye naryo, Urukiko rusanga ari ngombwa kongera gupfundura iburanisha kugira ngo EXCEL SECURITY Rwanda Ltd ihuze ikirego cyayo n'ingingo z'Itegeko Nshinga rishya. Iburanisha ryimuriwe ku wa 28/11/2023.

[6] Uwo munsi ugeze ababuranyi bose bitabye Urukiko, Me Mfashingabo Aimable ahagarariye EXCEL SECURITY Rwanda Ltd naho Leta y'u Rwanda ihagarariwe na Me Kabibi Spéciose.

[7] Mu myanzuro y'inyongera yatanzwe ku kibazo cyo guhuza ingingo z'Itegeko Nshinga rya Repubulika y'u Rwanda ryavuguruwe muri 2015 urega yashingiyeho ikirego cye, n'Itegeko Nshinga rya Repubulika y'u Rwanda ryasohotse ku wa 04/08/2023, Me Mfashingabo Aimable na Me Kabibi Spéciose bemeranya ko ingingo ya 15, 16, 23, 29, 37 n'iya 48 z'Itegeko Nshinga ryavuguruwe muri 2015 zitahindutse mu Itegeko Nshinga ryo muri 2023, ariko ko ingingo ya 158 yahindutse ingingo ya 159, naho ingingo ya 160 ikaba yarahindutse iya 161.

[8] Ibibazo bigomba gusuzumwa muri uru rubanza ni ibi bikurikira:

a. Kumenya niba ingingo ya 5, ingingo ya 6, agace ka 6°, aka 7°, aka 8° n'aka 9°, ingingo ya 13 n'iya 37 z'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera, zinyuranyije n'ingingo ya 15, 16 n'iya 159 z'Itegeko Nshinga;

b. Kumenya niba ingingo ya 19 y'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera inyuranyije n'ingingo ya 29 (3°) y'Itegeko Nshinga;

c. Kumenya niba ingingo ya 6, agace ka 10º y'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera, ibangamiye ihame ry'ubwisanzure mu bitekerezo riteganywa n'ingingo ya 37 y'Itegeko Nshinga;

d. Kumenya niba ingingo ya 30 n'iya 31 y'Itegeko N° 016 Bis/ 2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera, ribangamiye ihame ryo kubaha imibereho bwite y'umuntu n'umuryango riteganywa n'ingingo ya 23 y'Itegeko Nshinga.

I. <u>ISESENGURA RY'IBIBAZO BIGIZE URUBANZA</u>

A. Kumenya niba ingingo ya 5, ingingo ya 6, agace ka 6°, 7°, 8° n'aka 9°, ingingo ya 13, n'iya 37 z'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera, zinyuranyije n'ingingo ya 15, 16 n'iya 159 z'Itegeko Nshinga

[9] Me Mfashingabo Aimable uhagarariye EXCEL SECURITY Rwanda Ltd avuga ko ingingo ya 5 y'Itegeko Nº 016 Bis/2020 ryo ku wa 07/09/2020 ryavuzwe haruguru ibangamiye ibiteganywa n'ingingo ya 159 y'Itegeko Nshinga[2] kuko iha Polisi ububasha n'inshingano z'urwego ngenzuramikorere butandukanye n'inshingano ihabwa n'Itegeko Nshinga.

[10] Me Mfashingabo Aimable avuga kandi ko ingingo ya 6, agace ka 6°, 7°, 8° n'aka 9°, ingingo ya 13, n'iya 37 z'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 ryavuzwe haruguru zinyuranyije n'ingingo ya 15 n'iya 16 z'Itegeko Nshinga,[3] abishingiye ku mpamvu zikurikira:

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[2] Leta ifite inzego zishinzwe kurinda Igihugu n'umutekano zikurikira: 1° Ingabo z'u Rwanda; 2° Polisi y'u Rwanda; 3° Urwego rw'Igihugu rushinzwe Iperereza n'Umutekano. Itegeko rishobora kugena izindi nzego zishinzwe umutekano. Inzego zishinzwe kurinda Igihugu n‟umutekano zirakorana zikanahuza ibikorwa mu kuzuza inshingano zazo. Iteka rya Perezida rigena uburyo izo nzego zikorana zikanahuza ibikorwa.

[3] Iyo ngingo ya 15 y'Itegeko Nshinga iteganya ko abantu bose barareshya imbere y'amategeko. Itegeko ribarengera ku buryo bumwe" Naho ingingo ya 16 y'Itegeko Nshinga igira iti: (1) Abanyarwanda bose bavukana kandi bagakomeza kugira uburenganzira n'ubwisanzure bingana. (2) Ivangura iryo ari ryo ryose cyangwa kurikwirakwiza byaba bishingiye ku bwoko, ku muryango cyangwa ku gisekuru, ku nzu, ku ibara ry'umubiri, ku gitsina, ku karere, ku byiciro by'imibereho, ku idini cyangwa ukwemera, ku bitekerezo, ku mutungo, ku itandukaniro ry'umuco, ku rurimi, ku

a. Ingingo ya 6, agace ka 6 y'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 ryavuzwe haruguru itegeka usaba icyemezo cyo kwiyandikisha mu gutanga serivisi z'umutekano zitangwa n'abikorera, kubanza kwerekana inyandiko igaragaza umutungo ufite agaciro kagenwa n'Iteka rya Minisitiri. Akaba asanga ari ivangura no gutsikamira ibigo by'ubucuruzi bitanga serivisi z'umutekano zitangwa n'abikorera kuko ibindi bigo by'ubucuruzi bitanga izindi serivisi bidasabwa mbere yo gutangira gukora, kugaragaza umutungo utari igishoro.

b. Agace ka 7º k'ingingo ya 6 y'iryo Tegeko gasobanura ko ushaka gukora serivisi z'umutekano zitangwa n'abikorera, agomba kwerekana inyandiko igaragaza ko inyubako ikorerwamo nk'icyicaro gikuru cy'usaba icyemezo cyo gutanga iyo serivisi yujuje ibiteganywa n'amategeko y'imyubakire, binyuranyije n'ingingo ya 15 y'Itegeko Nshinga, kubera ko izo serivisi zikorerwa hirya no hino mu nyubako no mu ngo z'abakiliya bakeneye abazamu babarindira umutekano nk'uko bikorwa n'abatanga serivisi z'isuku mu ngo, muri za biro za leta n'abikorera, mu ma restaurants, no mu bitaro, kandi bo ntibasabwa kugaragaza inyandiko yerekana ko inyubako izakorerwamo nk'icyicaro yujuje ibiteganywa n'amategeko y'imyubakire. Bityo, iryo rikaba ari ivangura rikorerwa abatanga izo serivisi z'umutekano zitangwa n'abikorera.

c. Kuba agace ka 8º n'aka 9º tw'iyo ngingo ya 6 dusaba ushaka gukora iyo serivisi kwerekana inyandiko igaragaza ikigo cy'amahugurwa cyujuje ibisabwa bigenwa na Polisi y'u Rwanda cyangwa amasezerano afitanye n'ikigo cy'amahugurwa cyemewe na Polisi y'u Rwanda, ndetse n'igitabo gikubiyemo inyigisho z'abatozwa n'imyirondoro y'abarimu bazitanga byujuje ibisabwa bigenwa na Polisi y'u Rwanda nabyo bibangamiye ihame riteganywa n'ingingo ya 15 n'iya 16 z'Itegeko Nshinga kuko abatanga izindi serivisi nk'iza Banki, Ubwishingizi cyangwa isuku batabisabwa, akaba ari impamvu izitira abatanga serivisi z'umutekano zitangwa n'abikorera.

d. Ingingo ya 13 y'Itegeko N° 016Bis/2020 ryo ku wa 07/09/2020 ryavuzwe haruguru, isaba ushaka gukora iyo serivisi kwerekana ibikoresho by'ibanze byo kurinda umutekano, nayo igaragaza ivangura no gutsikamira ibigo by'ubucuruzi bitanga serivisi z'umutekano kuko izo serivisi zikorerwa hirya no hino mu nyubako no mu ngo z'abakiliya bakeneye abazamu babarindira umutekano. Gusabwa kubanza kugaragaza ibikoresho by'ibanze nka camera, detectors, scanner bigenwa mu masezerano hagati y'utanga serivisi n'umukiriya we cyangwa nyir'inyubako icungirwa umutekano mu gihe abakora serivisi z'isuku bo badasabwa kugaragaza ibikoresho by'ibanze by'isuku, ni impamvu izitira izo serivisi.

e. Ingingo ya 37 y'Itegeko N° 016Bis/2020 ryo ku wa 07/09/2020 ryavuzwe haruguru igaragaramo ivangura rikorerwa abatanga serivisi z'umutekano, ikaba inyuranyije n'ingingo ya 15 y'Itegeko Nshinga kubera ko iteganyiriza utanga serivisi zo kurinda umutekano utaremejwe na Polisi, igihano cy'ihazabu yo mu rwego rw'ubutegetsi y'amafaranga y'u Rwanda atari munsi ya miliyoni ebyiri (2.000.000 Frw) ariko atarenze miliyoni eshatu (3.000.000 Frw).

[11] Me Cyubahiro Fiat uhagarariye Leta y'u Rwanda avuga ko ibivugwa n'urega nta shingiro bifite kubera impamvu zikurikira:

a. Ingingo ya 159 n'iya 161 z'Itegeko Nshinga zigaragaza ko Polisi y'u Rwanda isanzwe ifite ububasha ngenzuramikorere buvugwa na EXCEL SECURITY Rwanda Ltd, ikaba itabukomora mu ngingo z'itegeko ziburanwa muri uru rubanza kuko ariyo ishinzwe muri rusange kurinda umutekano w'abantu n'ibintu mu Gihugu hose, kandi ko itegeko rigena amahame ngenderwaho, ububasha, inshingano, imitunganyirize n'imikorere bya Polisi y'u Rwanda, bityo ububasha bwa Polisi y'u Rwanda bukaba bukwiye kureberwa muri iri tegeko.

b. Ingingo ya 41 y'Itegeko N° 46/2010 ryo kuwa 14/12/2010 rigena ububasha, inshingano, imitunganyirize n'imikorere bya Polisi y'u Rwanda yerekeye Imikoranire ya Polisi y'u

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bukungu, ku bumuga bw'umubiri cyangwa ubwo mu mutwe no ku rindi vangura iryo ari ryo ryose, birabujijwe kandi bihanwa n'amategeko.

Rwanda n'ibigo by'abikorera birinda umutekano w'abantu n'ibintu iteganya ko Polisi y'u Rwanda igenzura imikorere ya buri munsi y'ibigo by'abikorera birinda umutekano w'abantu n'ibintu ikanabigira inama yo kunoza imikorere yabyo. Polisi y'u Rwanda ikaba ifite ububasha n'inshingano byo gukora nk'urwego ngenzuramikorere ku bikorera batanga serivisi zo kurinda umutekano w'abantu n'ibintu n'ubwo kubagira inama z'uburyo banozamo inshingano zabo.

c. Ingingo ya 5 y'Itegeko Nº 016Bis/2020 ryo ku wa 07/09/2020 ryavuzwe haruguru ntinyuranyije n'ingingo ya 159 y'Itegeko Nshinga, ahubwo ihuza n'ibiteganywa n'ingingo ya 8 n'Itegeko N° 09/2017 ryo ku wa 20/03/2017 rihindura kandi ryuzuza Itegeko N° 46/2010 ryo ku wa 14/12/2010 rigena ububasha, inshingano, imitunganyirize n'imikorere bya Polisi y'u Rwanda iteganya ko mu kurangiza inshingano zayo, Polisi y'u Rwanda yibanda kuri ibi bikorwa bikurikira:… (12) gutanga icyemezo ku muntu wifuza kwandikisha ikigo cy'abikorera gitanga serivisi z'umutekano.

d. Ububasha Polisi y'u Rwanda ifite bwo kugenzura imikorere ya buri munsi y'ibigo by'abikorera birinda umutekano w'abantu n'ibintu no kubitangaho inama yo kunoza imikorere yabyo ibukomora mu ngingo ya 41 y'Itegeko N°46/2010 ryo ku wa 14/12/2010 ryavuzwe haruguru, aho kuba mu ngingo ya 5 y'Itegeko Nº 016 bis/2020 ryo ku wa 07/09/2020 naryo ryavuzwe haruguru. Abandi bose bashobora kubikora ari uko babiherewe ububasha bwihariye na Polisi y'u Rwanda. Bityo, abo Polisi y'u Rwanda yahaye ubwo bubasha ishobora no kubagenzura byaba ngombwa ikanabubambura mu gihe cyose batabukoresheje uko bikwiye. Kutagira ubwo bubasha kwa Polisi y'u Rwanda nibyo ahubwo byaba bitubahirije Itegeko Nshinga.

e. Kuba Urwego rwa Polisi rugenzura serivisi z'umutekano zikorwa n'abigenga si umwihariko w'u Rwanda gusa kuko no mu bindi bihugu ariko bikorwa. Urugero nko mu gihugu cya Uganda, UPS (Uganda Police Service)[4], Tanzania, TPF (Tanzania Police Force)[5], na Ethiopia: FPC (Federal Police Commission)[6], Polisi zigenzura abacuruza serivisi z'umutekano, aribo babaha licence itangwa buri mwaka, ikagenzura, ikanasuzuma intwaro bakoresha n'ububiko bwazo.

[12] Mu gutanga ibisobanuro birambuye kuri uru rubanza, uhagarariye Leta y'u Rwanda yashingiye ku bisobanuro byatanzwe n'abahanga mu mategeko ku mahame ateganywa n'ingingo ya 15 n'iya 16 z'Itegeko Nshinga ariyo kureshya imbere y'amategeko (*equality before law*), kurengerwa n'amategeko mu buryo bungana (*equal protection before law*) no kurindwa ivangura (*protection from discrimination*), ayasobanura mu buryo bukurikira:

a. "Equal treatment in equal circumstances" ni ihame rivuga ko abantu bagomba gufatwa kimwe iyo bari mu bihe bimwe, bikumvikana ko iyo batari mu bihe bimwe batafatwa kimwe. Ku bireba abatanga serivisi z'umutekano n'abatanga serivisi zindi nk'iz'isuku urega avuga, ntibari mu bihe bimwe, ntibakora bimwe, bityo ntibashobora gufatwa kimwe, ibyo bikaba binashingiye ku kuba mu bijyanye n'umutekano, hari byinshi abatanga iyi serivisi bakora bishobora kugira ingaruka ku buzima bw'abantu, ari nayo mpamvu banagengwa n'amategeko atandukanye.

b. "*Differentiation of treatment*" bisobanura ko kuba abantu bangana imbere y'amategeko bitavuga ko byanze bikunze bafatwa kimwe mu bintu byose, ahubwo habaho gufata abantu mu buryo butandukanye bitewe n'icyiciro umuntu arimo. Abatanga serivisi z'umutekano batandukanye n'abatanga izindi serivisi nk'iz'isuku urega agenda agereranya, bityo bakaba bagomba gufatwa bitandukanye. Agaragaza ko icyangombwa ari uko abari mu cyiciro kimwe (abatanga serivisi zimwe kandi zisa nka serivisi z'umutekano) bose bafatwa kimwe

[4] See Statutory Instrument No.11 of 2013, online at https://www.upf.go.ug/police-tightens-control- private-security-companies.
[5] Online at https://observatoire-securite-privee.org/en/content/tanzania.
[6] Online at https://newbusinessethiopia.com/crime/ethiopia-bans-14-private-security-agencies.

kandi no mu buryo bumwe, naho abatari mu cyiciro kimwe bo bakaba atari ngombwa gufatwa kimwe.

c. Iryo tandukanya rishingiye ku byiciro mu gihe rigamije impamvu nziza kandi iteganyijwe n'amategeko ntiryitwa ivangura cyangwa kutareshya imbere y'amategeko nk'uko byemejwe n'Akanama k'Umuryango w'Abibumbye Gashinzwe Uburenganzira bwa Muntu,[7] bikanemezwa n'Urukiko rw'Ikirenga mu rubanza RS/SPEC/0001/16/CS, aho rwemeje ko … kureshya imbere y'amategeko no kutavangura bitavuze ko gutandukanya abantu ubwabyo mu bihe byose ari ivangura. Gutandukanya abantu cyangwa ibyiciro by'abantu bishobora kuba ngombwa bitewe n'ikigambiriwe, hari impamvu zumvikana zishingiye ku ntego ifite ireme (*legitimate or rational purpose*) …

d. "*Specificity and special rules*" ni ihame ryumvikana ko kuba abantu bangana imbere y'amategeko cyangwa barengerwa n'amategeko kimwe bitavuze ko amategeko agenderwaho yose agomba kuba ari rusange cyangwa asa 100%. Ahubwo, mu gihe hari ibyiciro bitandukanye by'abantu, byumvikana ko hagomba no kuba hari amategeko agomba kwita by'umwihariko ku miterere n'imigendekere y'icyo cyiciro cy'abantu, kandi afite n'impamvu zumvikana (*justifiable*) zatumye ajyaho.

[13] Uhagarariye Leta y'u Rwanda kandi avuga ko kuba usaba icyemezo cyo kwiyandikisha mu gutanga serivisi z'umutekano zitangwa n'abikorera, asabwa ibyangombwa byihariye bidasabwa abandi bakora imirimo y'ubucuruzi inyuranye, bidakwiye gufatwa nk'ivangura kubera ko buri bwoko bw'ubucuruzi busabwa ibyangombwa; nk'urugero, ibisabwa abashaka gutanga serivisi z'ubuvuzi n'abazikoramo sibyo bisabwa abatanga serivisi z'amahoteri; ibisabwa abashaka kwinjira mu gisirikare sibyo bisabwa abashaka kwinjira muri Kaminuza; ndetse ibisabwa ibigo by'imari (amabanki n'ibigo by'ubwishingizi) sibyo bisabwa ibigo bikora ubucuruzi bw'ibikomoka ku buhinzi. Bityo rero kuri we, ibivugwa na EXCEL SECURITY Rwanda Ltd ko ingingo ya 6 (agace ka 6°, aka 7°, aka 8°, aka 9°) n'ingingo ya 13 y'Itegeko Nº 016 Bis/2020 ryo ku wa 07/09/2020 ryavuzwe haruguru zinyuranyije n'ingingo ya 15 n'iya 16 z'Itegeko Nshinga nta shingiro bifite.

UKO URUKIKO RUBIBONA

[14] Urukiko rurasanga mu gusesengura iki kibazo, bitewe n'uko EXCEL SECURITY Rwanda Ltd yagiye ihuza ingingo iregera mu myanzuro yayo ndetse no mu iburanisha ry'uru rubanza, ari ngombwa kubanza kukigabanyamo ibibazo bibiri, bikurikira:

A.1. Kumenya niba ingingo ya 5 y'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera inyuranyije n'ingingo ya 159 y'Itegeko Nshinga;

A.2. Kumenya niba ingingo ya 6 agace ka 6 º, aka 7º, aka 8º n'aka 9º, ingingo ya 13, n'iya 37 z'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera zinyuranyije n'ingingo ya 15 n'iya 16 z'Itegeko Nshinga.

A.1. Kumenya niba ingingo ya 5 y'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera inyuranyije n'ingingo ya 159 y'Itegeko Nshinga

[15] Ingingo ya 159 y'Itegeko Nshinga iteganya ibi bikurikira:

(1) Leta ifite inzego zishinzwe kurinda Igihugu n'umutekano zikurikira: (a) Ingabo z'u Rwanda; (b) Polisi y'u Rwanda; (c) Urwego rw'Igihugu rushinzwe Iperereza n'Umutekano.

(2) Itegeko rishobora kugena izindi nzego zishinzwe umutekano.

(3) Inzego zishinzwe kurinda Igihugu n'umutekano zirakorana zikanahuza ibikorwa mu kuzuza inshingano zazo.

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[7] "*…Finally, the Committee observes that not every differentiation of treatment will constitute discrimination, if the criteria for such differentiation are reasonable and objective and if the aim is to achieve a purpose which is legitimate under the Covenant.*"

[16] Ingingo ya 9 y'Itegeko N° 026/2023 ryo ku wa 17/05/2023 rigenga Polisi y'u Rwanda, ivuga ko mu nshingano za Polisi y'u Rwanda harimo kugenzura ko amategeko yubahirizwa; kubungabunga umudendezo rusange imbere mu Gihugu; kurinda umutekano w'abantu n'ibintu; kugira uruhare mu bikorwa by'amahugurwa imbere mu Gihugu mu bijyanye no kurinda umutekano w'abantu n'ibintu; gushyira mu bikorwa amabwiriza yerekeranye no kurinda umutekano no kumenyesha abaturarwanda uko umutekano w'abantu n'ibintu wifashe. Naho ingingo ya 10, agace ka 'f' y'iryo Tegeko yo ivuga ko Polisi y'u Rwanda ikorana bya hafi n'ibigo by'abikorera bitanga serivisi z'umutekano; ndetse ingingo ya 34, agace ka 'b' y'iryo Tegeko, ikavuga ko Polisi y'u Rwanda itanga uruhushya rwo gutanga serivisi z'umutekano zitangwa n'abikorera.

[17] Naho ingingo ya 5 y'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 ryavuzwe haruguru, ikavuga ko Polisi y'u Rwanda ari rwo rwego rufite ububasha bwo gutanga icyemezo cyo gutanga serivisi z'umutekano zitangwa n'abikorera.

[18] Izi ngingo zimaze kuvugwa haruguru, zirebewe hamwe, zigaragaza ko Polisi y'u Rwanda ifite inshingano ihabwa n'Itegeko Nshinga ku bw'ibanze zo kurinda umutekano w'abantu n'ibintu mu Gihugu hose, uburyo izo nshingano zishyirwa mu bikorwa bikagenwa n'amategeko. Ni muri urwo rwego ibiteganyijwe mu Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 no mu Itegeko N° 026/2023 ryo ku wa 17/05/2023 yombi yavuzwe haruguru, byumvikanisha ko ariyo ifite n'inshingano zo guhugura abantu mubyo kurinda umutekano, kumenyesha abaturarwanda uko umutekano w'abantu n'ibintu wifashe, ikanagira ububasha bwo kwemerera abikorera kugira uruhare mu bikorwa byo gutanga serivisi z'umutekano. Kugirango igere kuri izo nshingano, ni ngombwa ko imenya imiterere, intego, imyirondoro, imikorere y'inzego zindi zirimo n'ibigo by'abikorera bitanga serivisi z'umutekano mu gihugu, ndetse ikanabona raporo ku mikorere y'ibyo bigo.

[19] Ibi kandi ni nako bimeze mu bindi bihugu; urugero nko muri Uganda,[8] Polisi y'icyo gihugu igenzura ibijyanye na sosiyete zitanga umutekano zigenga kuri ibi bikukurikira: uko zishaka abakozi, n'uko bacungwa mu kazi, uko bacunga ndetse n'uko bagura intwaro, no kumenya ibijyanye n'ireme ry'imikorere. Izo sosiyete ziha Polisi imyirondoro y'abakozi bazo ndetse n'ibikumwe byabo, konti za banki ndetse n'ingano y'umushahara bahembwa. Abayobozi b'ibyo bigo ntibashobora kujya hanze y'igihugu, hatabaye gusaba uruhushya Umukuru wa Polisi, naho abandi bakozi basanzwe iyo bahawe uruhushya rwo kujya hanze umuyobozi wabo abimenyesha ubuyobozi bwa Polisi; izo sosiyete zimenyesha Polisi buri gikorwa zakoze buri mezi atatu, zikaba zigomba gutoreza abakozi babyo mu bigo byemewe byahawe uruhushya.

[20] Naho muri Kenya,[9] Urwego rw'Igihugu rushinzwe kugenzura imikorere y'abatanga serivisi z'umutekano bigenga, rugenzura abakozi, imyitozo bakoze, imyitwarire yabo, kureba niba

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[8] "*The Police on its part is expected to monitor and maintain the standards of training and recruitment procedures that the PSOs are required to adhere to. *PSOs must pay the wages and allowances to their employees promptly. To this end, they must file their mothly salary accounts with the police to ensure they are complying with this requirement. *No director of a PSO can travel out of country without permission of IGP *Any staff of a PSO traveling outside the country must be authorised by their Managing Director, who in turn must report to IGP staff who have traveled out of the country. *PSO are required to file all particulars of their staff including fingerprints within two weeks of employment to IGP. * PSOs have to ensure that the training their personnel undergo is only conducted by in a certified institution by certified instructors. *Every PSOs must make a report to IGP of its operations every 3 months*. Available at https://www.upf.go.ug/police-tightens-control-private-security- companies/

[9] "*The Private Security Regulation Act, No. 13 of 2016 from Kenya, states that: Article 23: (1) An individual private security services provider shall make an application for registration to the Authority in such form and manner as may be prescribed and the application shall be accompanied by the prescribed application fee. (2) An individual shall be eligible for registration as an individual private security provider if that person— (a) is a citizen of Kenya or a person who is ordinarily resident in Kenya; (b) is over eighteen years of age; (c) holds at least a primary school certificate; (d) has attended training in security matters in an institution accredited by the Authority; (e) submits a certificate of good conduct issued by the Directorate of Criminal Investigation; (f) where he or she previously served in any of the disciplined services, produces a certificate of discharge and a certificate of clearance from such service; (g) has no criminal record; […],Article 37: An application under this Act shall be accompanied by— (a) a clear and complete set of fingerprints taken in the prescribed manner […], Article 59 […] (c) use any computer system or equipment on the*

baratorejwe mu kigo cyemewe, uko bitwaraga aho bakoze mbere, ibikumwe by'intoki zabo, kugenzura system z'ikoranabuhanga bakoresha, n'ibindi bikoresho, kugeza no kuba hagenzurwa uwo ibyo bigo bicungira umutekano.

[21] Mu miburanire ya EXCEL SECURITY Rwanda Ltd, ivuga ko ingingo ya 5 y'Itegeko Nº 016 Bis/2020 ryo ku wa 07/09/2020 ryavuzwe haruguru ibangamiye ibiteganywa n'ingingo ya 159 y'Itegeko Nshinga kuko iha Polisi ububasha n'inshingano z'urwego ngenzuramikorere.

[22] Urukiko rurasanga ingingo ya 5 y'Itegeko Nº 016 Bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera, ntaho inyuranyije n'ibiteganywa n'ingingo ya 159, kuko nk'uko byasobanuwe haruguru, ahubwo ibyo iteganya bishyira mu bikorwa ibiteganywa mu Itegeko Nshinga, by'umwihariko mu ngingo ya 161.[10]

A.2. Kumenya niba ingingo ya 6 agace ka 6º, 7º, 8º n'aka 9º, ingingo ya 13, n'iya 37 z'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera zinyuranyije n'ingingo ya 15 n'iya 16 z'Itegeko Nshinga

[23] Ingingo ya 15 y'Itegeko Nshinga, iteganya ko abantu bose bareshya imbere y'amategeko kandi ko amategeko abarengera ku buryo bumwe. Naho ingingo ya 16 yo igira iti: (1) Abanyarwanda bose bavukana kandi bagakomeza kugira uburenganzira n'ubwisanzure bingana. (2) Ivangura iryo ari ryo ryose cyangwa kurikwirakwiza byaba bishingiye ku bwoko, ku muryango cyangwa ku gisekuru, ku nzu, ku ibara ry'umubiri, ku gitsina, ku karere, ku byiciro by'imibereho, ku idini cyangwa ukwemera, ku bitekerezo, ku mutungo, ku itandukaniro ry'umuco, ku rurimi, ku bukungu, ku bumuga bw'umubiri cyangwa ubwo mu mutwe no ku rindi vangura iryo ari ryo ryose, birabujijwe kandi bihanwa n'amategeko.

[24] Ingingo ya 6 agace ka 6 º, 7º, 8º n'aka 9º y'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 ryavuzwe haruguru iteganya ko usaba icyemezo cyo kwiyandikisha mu gutanga serivisi z'umutekano zitangwa n'abikorera yandikira Umuyobozi Mukuru wa Polisi y'u Rwanda ibaruwa iherekejwe n'ibi bikurikira:

6º inyandiko igaragaza umutungo w'usaba icyemezo ufite agaciro kagenwa n'iteka rya Minisitiri;

7º inyandiko igaragaza ko inyubako ikorerwamo nk'icyicaro gikuru cy'usaba icyemezo cyo gutanga serivisi z'umutekano zitangwa n'abikorera yujuje ibiteganywa;

8º inyandiko igaragaza ikigo cy'amahugurwa cy'usaba icyemezo cyo gutanga serivisi z'umutekano zitangwa n'abikorera cyujuje ibisabwa bigenwa na Polisi y'u Rwanda cyangwa amasezerano afitanye n'ikigo cy'amahugurwa cyemewe na Polisi y'u Rwanda;

9º igitabo gikubiyemo inyigisho z'abatozwa n'imyirondoro y'abarimu bazitanga byujuje ibisabwa bigenwa na Polisi y'u Rwanda.

[25] Ingingo ya 13 y'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 ryavuzwe haruguru igira iti: mbere yo gutangira gutanga serivisi z'umutekano zitangwa n'abikorera, uwahawe icyemezo cyo gutanga serivisi z'umutekano zitangwa n'abikorera yerekana ibikoresho by'ibanze byo kurinda umutekano. Iteka rya Minisitiri rivugwa mu gika cya 2 cy'ingingo ya 3 y'iri tegeko rigena kandi ibikoresho by'ibanze byo kurinda umutekano.

[26] Naho ingingo ya 37 y'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 ryavuzwe haruguru igira iti: utanga serivisi z'umutekano zitangwa n'abikorera ukoresha umukozi ushinzwe kurinda umutekano utaremejwe na Polisi y'u rwanda aba akose ikosa. Ahanishwa ihazabu yo mu rwego

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premises which is or appears to be utilised for the control or administration of the rendering of a private security service, or require reasonable assistance from any person on the premises to use that computer system;[…]

[10] Ingingo ya 161 y'Itegeko Nshinga igira iti: (1) Polisi y'u Rwanda ishinzwe muri rusange kurinda umutekano w'abantu n'ibintu mu Gihugu hose. (2) Itegeko rigena amahame ngenderwaho, ububasha, inshingano, imitunganyirize n'imikorere bya Polisi y'u Rwanda.

rw'ubutegetsi y'amafaranga y'u Rwanda atari munsi ya miliyoni ebyiri (2.000.000 Frw) ariko atarenze miliyoni eshatu (3.000.000 Frw). Umukozi ushinzwe kurinda umutekano utaremejwe ahita ahagarikwa.

[27] Ihame ryo kureshya imbere y'amategeko n'iryo kutavangura ryasesenguwe n'uru Rukiko mu manza zitandukanye zaritanzeho umurongo, uruheruka rukaba ari Urubanza RS/INCONST/SPEC 00004/2021/SC, rwaciwe n'Urukiko rw'Ikirenga ku wa 10/02/2023, haburana Ngendahayo Kabuye na Leta y'u Rwanda, aho rwasobanuye ko iryo hame ryo kureshya imbere y'amategeko rijyana n'iryo kutavangura, kandi ayo mahame yombi afitanye isano, akaba agomba kureberwa hamwe kuko yombi ahuriza ku kintu cy'ingenzi cyo kudasumbanya abantu mu buryo butemewe cyangwa bubujijwe nta mpamvu, ugamije kugira abo uheza ku burenganzira bemererwa n'amategeko. Urukiko rukomeza rusobanura muri urwo rubanza ko kureshya imbere y'amategeko no kutavangura bitavuze ko gutandukanya abantu ubwabyo mu bihe byose ari ivangura. Gutandukanya abantu cyangwa ibyiciro by'abantu bishobora kuba ngombwa bitewe n'ikigambiriwe, hari impamvu zumvikana zishingiye ku ntego ifite ireme (*legitimate or rational purpose*).[11]

[28] Muri urwo rubanza, uru Rukiko rwashimangiye ko abantu bari mu bihe cyangwa mu byiciro bimwe, bafatwa kimwe, ko iyo badafashwe kimwe nta mpamvu ifite ireme kandi yumvikana, byitwa ivangura. Rwashimangiye kandi ko Leta ishobora gutandukanya abantu cyangwa ibyiciro by'abantu ariko ntibyitwe kubangamira ihame ryo kureshya imbere y'amategeko cyangwa iryo kutavangura, ariko ko kugira ngo ibyo bishoboke, Leta igomba kuba ifite impamvu yumvikana, ifite ireme kandi ikurikije amategeko, kandi ikaba igamije inyungu rusange z'abaturage.[12]

[29] Naho mu rubanza RS/INCONST/SPEC 00004/2019/SC, rwaciwe ku wa 24/07/2020, haburana Me Nzafashwanayo Dieudonné na Leta y'u Rwanda, mu gika cya 31, hasobanuwe 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.

[30] Mu miburanire yayo, EXCEL SECURITY Rwanda Ltd ivuga ko ingingo ya 6 agace ka 6 º, 7º, 8º n'aka 9º, ingingo ya 13, n'iya 37 z'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 ryavuzwe haruguru zinyuranyije n'ibiteganywa n'amahame amaze kugaragazwa kubera ko abatanga serivisi z'umutekano zitangwa n'abikorera basabwa kubanza kwerekana inyandiko igaragaza umutungo ufite agaciro kagenwa n'Iteka rya Minisitiri, kugaragaza ko inyubako ikoreramo ikicaro gikuru yujuje ibisabwa, inyandiko igaragaza ikigo cy'amahugurwa cyujuje ibisabwa bigenwa na Polisi, gusaba utanga serivisi z'umutekano kwerekana ibikoresho by'ibanze bigenwa mu masezerano hagati ye n'umukiriya we no kuba utanga izo serivisi z'umutekano ahanwa igihe akoresheje umukozi ushinzwe kurinda umutekano utaremejwe na Polisi y'u Rwanda, mu gihe ibyo bidasabwa abandi bakora ubundi bucuruzi, nk'abatanga serivisi zo gukora isuku, amabanki, ubwishingizi, n'abandi.

[31] Urukiko rurasanga, rugendeye ku mirongo yatanzwe mu manza zitandukanye yasobanuwe haruguru, ibyo EXCEL SECURITY Rwanda Ltd ivuga ko abatanga serivisi z'umutekano bakorerwa ivangura kuko hari ibintu basabwa, nyamara ntibisabwe abandi bakora ubundi bucuruzi, nta shingiro bifite kuko abatanga serivisi z'umutekano batari mu cyiciro kimwe n'abo bakora ubundi bucuruzi. Urukiko rusanga mu gihe ibyo basabwa bitandukanye kandi bigashingira kuri kamere ya buri bucuruzi, ntawavuga ko yavanguwe kuko abakora ubucuruzi butari mu cyiciro kimwe badashobora gufatwa kimwe mu gihe n'amategeko abagenga atandukanye.

[11] Urubanza RS/INCONST/SPEC 00004/2021/SC, rwaciwe n'Urukiko rw'Ikirenga ku wa 10/02/2023, haburana Ngendahayo Kabuye na Leta y'u Rwanda, igika cya 36 na 39.
[12] *Idem*, igika cya 57.

[32] Kubera izo mpamvu zose zavuzwe haruguru, Urukiko rurasanga ingingo ya 6 agace ka 6 º, 7º, 8º n'aka 9º, ingingo ya 13, n'iya 37 z'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 ryavuzwe haruguru zitanyuranyije n'ingingo ya 15 n'iya 16 z'Itegeko Nshinga.

B. Kumenya niba ingingo ya 19 y'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera inyuranyije n'ingingo ya 29, igika cya 1 (3°) y'Itegeko Nshinga

[33] Uhagarariye EXCEL SECURITY Rwanda Ltd avuga ko ibiteganywa n'ingingo ya 19 y'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 ryavuzwe haruguru binyuranyije n'ingingo ya 29, igika cya 1 (c) y'Itegeko Nshinga kubera ko ubujurire ku iyamburwa ry'icyemezo cyo gutanga serivisi z'umutekano zitangwa n'abikorera butangwa kwa Minisitiri, akaba asanga ari ukuvutswa uburenganzira ku butabera buboneye.

[34] Uhagarariye Leta y'u Rwanda avuga ko ibyo urega avuga bidafite ishingiro kubera ko kuba kwamburwa icyemezo cyo gutanga serivisi z'umutekano zitangwa n'abikorera bishobora kujuririrwa kwa Minisitiri, atari ukuvutswa uburenganzira buteganywa n'ingingo ya 29, igika cya 1(c) y'Itegeko Nshinga; ko ahubwo ari ubujurire bwo mu rwego rw'ubutegetsi (*recours administratif*), bugamije kugira ngo Umuyobozi wisumbuye k'uwafashe icyemezo nawe asuzume ishingiro ryacyo, ndetse nasanga bikwiye abe yagikuraho, ariko bidakuraho ko utishimiye ibyo Minisitiri yamusubije, yaregera Urukiko rubifitiye ububasha.

UKO URUKIKO RUBIBONA

[35] Ingingo ya 19 y'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera iteganya ko iyo utanga serivisi z'umutekano zitangwa n'abikorera atishimiye icyemezo cyafashwe na Polisi y'u Rwanda cyo kumwambura icyemezo cyo gutanga serivisi z'umutekano zitangwa n'abikorera, ashobora kujuririra Minisitiri, mu gihe kitarenze iminsi irindwi (7) y'akazi ibarwa uhereye umunsi yabimenyesherejwe mu nyandiko. Minisitiri asubiza mu nyandiko uwatanze ubujurire mu gihe kitarenze iminsi cumi n'itanu (15) y'akazi uhereye umunsi yakiriye ubujurire.

[36] Ingingo ya 29, igika cya 1 (c) y'Itegeko Nshinga, iteganya ko buri muntu wese afite uburenganzira ku butabera buboneye, burimo uburenganzira bwo: kuburanira imbere y'urukiko rubifitiye ububasha.

[37] Uburenganzira ku butabera buboneye bunateganywa mu masezeranompuzamahanga yerekeye uburenganzira mu by'imbonezamubano no mu bya politiki, aho basobanura ko buri wese afite uburenganzira bwo kuburanira, mu buryo no mu gihe gikwiye, mu rukiko rufite ububasha, rwigenga, kandi rutabogama, rwashyizweho n'itegeko mbere, ngo ruburanishe ibirego nshinjabyaha aregwa, cyangwa kwemeza uburenganzira bwe, ndetse n'inshingano mbonezamubano, z'umurimo, imisoro cyangwa zifite indi kamere iyo ariyo yose.[13]

[38] Ku byo EXCEL SECURITY Rwanda Ltd ivuga mu mumiburanire yayo ko kuba ubujurire ku iyamburwa ry'icyemezo cyo gutanga serivisi z'umutekano zitangwa n'abikorera butangwa kwa Minisitiri ari ukuvutswa uburenganzira ku butabera buboneye, Urukiko rurasanga harimo kwitiranya ubujurire bwo mu rwego rw'ubutegetsi (gutakambira urwego rw'ubuyobozi rwisumbuyeho) no kuregera Urukiko, kuko itakamba kwa Minisitiri riteganywa mu ngingo ya 19 y'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 ryavuzwe haruguru, rigamije gukosora icyemezo cyafashwe ku rwego rwa mbere mu gihe cyaba cyarafashwe mu buryo budakurikije amategeko. Ibyo ariko ntibibuza uwagifatiwe kwiyambaza inkiko nk'uko biteganywa mu ngingo ya 177

[13] Article 14, para 1, of International Covenant on Civil: "*Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature*."

y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru, bityo bikaba bitafatwa nko kuvutswa uburenganzira ku butabera buboneye buteganywa mu Itegeko Nshinga.

[39] Kubera impamvu zimaze gusobanurwa, Urukiko rusanga ingingo ya 19 y'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera, itanyuranyije n'ingingo ya 29, igika cya 1 (3°) y'Itegeko Nshinga.

C. Kumenya niba ingingo ya 6, agace ka 10º y'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera, inyuranyije n'ingingo ya 37 y'Itegeko Nshinga

[40] Uhagarariye EXCEL SECURITY Rwanda Ltd avuga ko ingingo ya 6, agace ka 10 y'Itegeko N° 016 Bis/2020 ryavuzwe haruguru inyuranyije n'ingingo ya 37 y'Itegeko Nshinga kubera ko Polisi y'u Rwanda ihabwa ububasha bwo kugena amategeko ngengamikorere y'ibigo bitanga serivisi z'umutekano kandi ari amategeko yihariye ngengamikorere y'ikigo, akaba asanga ari ukuvutswa ubwisanzure mu bitekerezo.

[41] Uhagarariye Leta y'u Rwanda avuga ko ibivugwa n'uhagarariye EXCEL SECURITY Rwanda Ltd nta shingiro bifite kubera ko ibireba ibigo bitanga serivisi z'umutekano zitangwa n'abikorera byihariye, bihereye k'umwihariko umutekano ufite mu buzima bw'abantu muri rusange n'ubw'Igihugu by'umwihariko.

UKO URUKIKO RUBIBONA

[42] Ingingo ya 37, igika cya 1 y'Itegeko Nshinga, igira iti: ubwisanzure mu bitekerezo, mu mutimanama, mu guhitamo idini, mu gusenga no kubigaragaza mu ruhame burengerwa na Leta mu buryo buteganywa n'amategeko.

[43] Ingingo ya 6, agace ka 10 º y'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera iteganya ko usaba icyemezo cyo kwiyandikisha mu gutanga serivisi z'umutekano zitangwa n'abikorera yandikira Umuyobozi Mukuru wa Polisi y'u Rwanda ibaruwa iherekejwe n'ibi bikurikira: (….)10º amategeko ngengamikorere yujuje ibisabwa bigenwa na Polisi y'u Rwanda.

[44] Ibyavuzwe haruguru mu Itegeko Nshinga byerekeye ubwisanzure mu mitekerereze no mu myemerere, bihuye n'ibivugwa mu ngingo ya 18, igika cya 1 y'Amasezerano mpuzamahanga yerekeye uburenganzira mu by'imbonezamubano no mu bya politiki.[14] Aya masezerano, kimwe n'ayandi akubiyemo iyi ngingo,[15] anavuga ibikubiye muri ubwo burenganzira, aho mu kubirondora bashyiramo uburenganzira bukurikira: uburenganzira bwo kugira cyangwa guhitamo idini, cyangwa imyizerere wihitiyemo, ndetse n'ubwisanzure ku giti cy'umuntu cyangwa mu kwihuza n'abandi ku karubanda cyangwa mu ibanga, bwo kwerekana idini cyangwa imyizerere mu kuramya, kubahiriza, imigirire n'inyigisho.

[45] Mu rubanza Lautsi and Others v. Italy rwaciwe n'Urukiko rw'Uburayi rwashyiriweho kuburanisha imanza zijyanye n'uburenganzira bwa muntu (*European Court of Human Rights*), rwasobanuye ko ubwisanzure bwo kugira idini n'ubwisanzure bwo kutagira idini, bigizwe n'uburenganzira bwo kugaragaza mu bwisanzure idini iryo ariryo ryose umuntu yihitiyemo, uburenganzira n'ubwisanzure bwo guhindura idini, uburenganzira bwo kutemera idini iryo ariryo

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[14] Article 18, 1, of International Covenant on Civil and Political Rights, available at https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil- and-political-rights, states that "*Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching*."

[15] Article 9 of European Convention on Human Rights, available at https://www.echr.coe.int/documents/d/echr/convention_ENG.

ryose, ndetse n'uburenganzira bwo kwerekana idini ry'umuntu mu buryo bw'imyizerere, gusenga, kwigisha no kubahiriza imigenzo yaryo.[16]

[46] Hashingiwe kubimaze gusobanurwa haruguru, Urukiko rurasanga ibyo EXCEL SECURITY Rwanda Ltd ivuga ko ingingo ya 6 agace ka 10º y'Itegeko N°016 Bis/2020 ryo ku wa 07/09/2020, ryavuzwe haruguru, ibangamiye ibiteganywa n'ingingo ya 37 y'Itegeko Nshinga, nta shingiro bifite kuko iyo ngingo irebana n'ubwisanzure mu mitekerereze no mu myemerere mu by'idini, ntaho bihuriye no kuba Polisi y'u Rwanda ihabwa ububasha bwo kugena amategeko ngengamikorere y'ibigo bitanga serivisi z'umutekano cyangwa ngo byitwe kuvutswa ubwisanzure mu bitekerezo.

D. Kumenya niba ingingo ya 30 n'iya 31 z'Itegeko N° 016 Bis/ 2020 ryo kuwa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera zibangamiye ihame ryo kubaha imibereho bwite y'umuntu n'umuryango riteganywa n'ingingo ya 23 y'Itegeko Nshinga

[47] Uhagarariye EXCEL SECURITY Rwanda Ltd avuga ko izo ngingo zibangamiye ihame ryo kubaha imibereho bwite y'umuntu n'umuryango kubera impamvu zikurikira:

a. Ingingo ya 30 y'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 ryavuzwe haruguru isaba utanga serivisi z'umutekano zitangwa n'abikorera kuba afite urusobe rwa porogaramu y'ikoranabuhanga rugenzurwa na Polisi y'u Rwanda, rumufasha gucunga abakozi, bityo akaba asanga inyuranye n'ibivugwa mu ngingo ya 23 y'Itegeko Nshinga, mu gika cya nyuma, aho iteganya ko ibanga ry'amabaruwa n'iry'itumanaho ridashobora kuzitirwa keretse mu bihe no mu buryo biteganywa n'amategeko. Asanga kuba Polisi yarahawe ububasha bwo kwinjira mu mibereho bwite y'ibyo bigo bibangamiye ubwisanzure mu mikorere yabyo.

b. Ingingo ya 31, igika cya mbere y'Itegeko N° 016Bis/2020 ryo ku wa 07/09/2020 ryavuzwe haruguru iteganya ko utanga serivisi z'umutekano zitangwa n'abikorera aha Polisi y'u Rwanda mu nyandiko raporo y'ibikorwa bye ya buri cyumweru n'iya buri kwezi, akanayimenyesha uko umutekano w'aho akorera wifashe buri munsi. Agasanga iyo ngingo ibangamiye umudendezo w'ubucuruzi, kandi umucuruzi akwiye gukora mu bwisanzure no mu mudendezo adasabwe raporo na Polisi ya buri munsi, buri cyumweru na buri kwezi.

[48] Uhagarariye Leta avuga ko ibyo EXCEL SECURITY Rwanda Ltd ivuga ko ingingo ya 30 y'Itegeko Nº 016 Bis/2020 ryo ku wa 07/09/2020 ryavuzwe haruguru inyuranyije n'ingingo ya 23 y'Itegeko Nshinga nta shingiro bifite kubera impamvu zikurikira:

a. Urega ahindura nkana ibiteganyijwe n'iyi ngingo y'Itegeko Nshinga aho ivuga ibanga ry'amabaruwa n'iry'itumanaho, naho we akayigereranya n'urusobe rwa porogaramu z'ikoranabuhanga zifashishwa mu micungire y'abakozi.

b. Ikindi, kuba Polisi y'u Rwanda nk'urwego rushinzwe kurinda umutekano w'abantu n'ibintu mu Gihugu hose, ihabwa n'amategeko ububasha bwo kugenzura imikorere ya buri munsi y'ibigo by'abikorera birinda umutekano w'abantu n'ibintu, ikanabigira inama yo kunoza imikorere yabyo, ihabwa uburenganzira n'ububasha bwo kugenzura urusobe rwa porogaramu y'ikoranabuhanga rufasha mu gucunga abakozi b'ibigo bitanga serivisi z'umutekano zitangwa n'abikorera nka kimwe mu bikwiye gukorerwa igenzura. Urusobe rwa porogaramu y'ikoranabuhanga rufasha mu gucunga abakozi rukaba rudakwiye gufatwa nk'amabaruwa. Bityo, ibyo EXCEL SECURITY Ltd ivuga ko ingingo ya 30 y'Itegeko Nº 016 Bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera inyuranyije n'ingingo ya 23 y'Itegeko Nshinga nta shingiro bifite.

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[16] Reba urubanza Lautsi and Others v. Italy, 2011, igika cya 2.6, ku rupapuro rwa 40. It is stated that "*Freedom of religion, and freedom from religion, in substance, consist in the rights to profess freely any religion of the individual's choice, the right to freely change one's religion, the right not to embrace any religion at all, and the right to manifest one's religion by means of belief, worship, teaching and observance. Here the Convention catalogue grinds to a halt, well short of the promotion of any State secularism*." Ruboneka kuri https://adfinternational.org/wp-content/uploads/2021/09/Lautsi-and-Others-v.-Italy_Lautsi-Decision.pdf

c. Kuba ibigo by'abikorera birinda umutekano w'abantu n'ibintu bisabwa guha Polisi y'u Rwanda raporo y'ibikorwa igaragaza uko umutekano wifashe, biri mu nshingano zayo kuko ari yo ifite inshingano y'ibanze yo gucunga umutekano w'abantu n'ibintu mu Gihugu hose nk'uko biri mu ngingo ya 161 y'Itegeko Nshinga. EXCEL SECURITY Rwanda Ltd ikwiye gusobanukirwa neza ko umutekano w'Igihugu ari inkingi ya mwamba mu buzima bwose bw'Igihugu nk'uko bigaragara mu irangashingiro ry'Itegeko Nshinga.

d. EXCEL SECURITY Rwanda Ltd isa nk'aho ishaka kwigereranya n'ibindi bigo by'ubucuruzi nyamara kandi buri bucuruzi bugira umwihariko wabwo, bukaba bugira ibyo busabwa ndetse hakanabaho urwego rushinzwe gusuzuma ko byujuje ibisabwa. Atanga urugero kuri Banki Nkuru y'u Rwanda aho, ishingiye ku ngingo ya 6 bis y'Itegeko N° 48/2017 ryo ku wa 23/09/2017 rigenga Banki Nkuru y'u Rwanda yemeza abakozi bagiye guhabwa imyanya y'ubuyobozi mu mabanki yo mu Rwanda ndetse n'abacuruza ibijyanye n'ubwishingizi.

UKO URUKIKO RUBIBONA

[49] Ingingo ya 23, igika cya 3 y'Itegeko Nshinga, iteganya ko ibanga ry'amabaruwa n'iry'itumanaho ridashobora kuzitirwa keretse mu bihe no mu buryo biteganywa n'amategeko.

[50] Ingingo ya 30 y'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 ryavuzwe haruguru iteganya ko utanga serivisi z'umutekano zitangwa n'abikorera agira urusobe rwa porogaramu y'ikoranabuhanga rumufasha gucunga abakozi. Urwo rusobe rwa progaramu Polisi y'u Rwanda igira uburenganzira bwo kurugenzura.

[51] Ibiteganywa mu ngingo ya 23 y'Itegeko Nshinga yavuzwe haruguru, binateganywa mu ngingo ya 17 y'Amasezerano mpuzamahanga yerekeye uburenganzira mu by'imbonezamubano no mu bya politiki,[17] aho ivuga ko ntawugomba kuvogererwa mu buryo butemewe n'amategeko mu buzima bwe bwite, mu bw'umuryango we, mu nyandiko yandikirana n'abandi, cyangwa se kubangamira icyubahiro akwiye ndetse n'ikuzo rye. Umuntu wese akaba afite uburenganzira bwo kurindwa iryo vogerwa.

[52] Ibyo binateganywa kandi Amasezerano y'Ubumwe bw'Ibihugu by'Uburayi yerekeye Uburenganzira bwa Muntu nk'uko yahinduwe n'amasezerano yunganira N° 11 na 14, mu ngingo yayo ya 8 aho iteganya ko buri muntu ahabwa uburenganzira mu mibereho bwite, iy'umuryango we, urugo rwe cyangwa ubutumwa yohererezanya n'abandi, kandi ko nta rwego rw'ubuyobozi rushobora kuvogera ubwo burenganzira keretse iyo biteganywa n'amategeko kandi ari ngombwa muri sosiyete igendera kuri demokarasi, ku bw'inyungu z'umutekano w'igihugu, ituze rusange, iterambere ry'igihugu, gukumira akavuyo cyangwa icyaha, no mu kurinda uburenganzira n'ubwisanzure by'abandi. Ibi bikaba bishimangirwa n'urubanza Klass and Others v. Germany rwaciwe n'Urukiko rw'Uburayi rwashyiriweho kuburanisha imanza zijyanye n'uburenganzira bwa muntu (*European Court of Human Rights*), rwasobanuye ko kuvogera uburenganzira n'imibereho bwite y'umuntu bishobora gukorwa hagendewe ku irengayobora rivugwa mu ngingo ya 8 y'amasezerano avugwa muri iki gika.[18]

[53] Iyo uhuje ibivugwa mu ngingo zavuzwe haruguru n'imiburanire ya EXCEL SECURITY Rwanda Ltd ivuga ko Polisi yahawe ububasha bwo kwinjira mu mibereho bwite y'ibigo bitanga serivisi z'umutekano by'abikorera, bikaba bibangamiye ubwisanzure n'umudendezo mu mikorere yabyo kuko umucuruzi yakagombye gukora mu bwisanzure no mu mudendezo adasabwe raporo buri munsi, usanga ibyo Polisi ikora biri mu nshingano zayo zigenwa n'Itegeko Nshinga, ndetse

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[17] Article 17 of International Covenant on Civil and Political Rights, states that "*1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. 2. Everyone has the right to the protection of the law against such interference or attacks*."

[18] Reba urubanza Klass and Others v. Germany, 1978, igika cya 60, ku rupapuro rwa 23. Ruboneka kuri https://www.legal-tools.org/doc/f46bdd/pdf/

ziteganijwe mu masezerano mpuzamahanga atandukanye arengera uburenganzira bw'ikiremwamuntu kuko byose bihuriza ku kuba umutekano w'igihugu, umudendezo rusange n'uburenganzira bw'abandi biri mu bituma haba irengayobora ku burenganzira bw'umuntu umwe cyangwa itsinda runaka. Kuri ibyo hiyongeraho inshingano ya Polisi yo gutangariza abaturarwanda uko umutekano uhagaze; bikaba byumvikana ko mu gihe yaba idahabwa raporo, cyangwa igakumirwa mu mikorere y'ibyo bigo, byayitera imbogamizi mu gusohoza inshingano zo kurinda umutekano nk'uko izihabwa n'Itegeko Nshinga.

[54] Urukiko rusanga kandi hadakwiye kwirengagizwa kamere yihariye yagiye ikomozwaho mu mategeko n'amasezerano mpuzamahanga ku mutekano w'igihugu n'umutekano rusange w'abaturage, kugirango ubucuruzi bwa serivisi zo gucunga umutekano zitangwa n'abikorera bufatwe nk'ubundi bucuruzi bwose, mu gihe kamere yabwo yihariye n'uburyo bukorwamo cyangwa bugenzurwamo bukaba bugomba kuba uburyo bwihariye kandi bigakorwa n'urwego rubifitiye ubumenyi n'ububasha bukomoka kw'Itegeko Nshinga n'andi mategeko nk'uko byasobanuwe mu bika bibanziriza iki.

[55] Hashingiwe ku bimaze gusobanurwa haruguru, Urukiko rusanga ibivugwa mu ngingo ya 30, n'iya 31 igika cya mbere y'Itegeko N° 016Bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera, bitabangamiye ibivugwa mu ngingo ya 23, igika cya 3 y'Itegeko Nshinga.

III. ICYEMEZO CY'URUKIKO

[56] Rwemeje ko ikirego cyatanzwe na EXCEL SECURITY Rwanda Ltd gisaba kwemeza ko ingingo ya 5, iya 6 (agace ka 6°, aka 7°, aka 8°, aka 9° n'aka 10°), iya 13, iya 19, iya 30, iya 31, igika cya 2 n'iya 37 z'Itegeko Nº 016 bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera zinyuranyije n'Itegeko Nshinga rya Repubulika y'u Rwanda, mu ngingo zaryo za 15,16, 23, 37, 159, nta shingiro gifite.

[57] Rwemeje ko ingingo ya 5 y'Itegeko Nº 016 Bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera, itanyuranyije n'ingingo ya 159 y'Itegeko Nshinga rya Repubulika y'u Rwanda.

[58] Rwemeje ko ingingo ya 6 agace ka 6 º, 7º, 8º n'aka 9º, ingingo ya 13, n'iya 37 z'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera, zitanyuranyije n'ingingo ya 15 n'iya 16 z'Itegeko Nshinga rya Repubulika y'u Rwanda.

[59] Rwemeje ko ingingo ya 6 agace ka 10º y'Itegeko N°016 Bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera, itanyuranyije n'ingingo ya 37 y'Itegeko Nshinga rya Repubulika y'u Rwanda.

[60] Rwemeje ko ingingo ya 19 y'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera, itanyuranyije n'ingingo ya 29, igika cya 1(c) y'Itegeko Nshinga rya Repubulika y'u Rwanda.

[61] Rwemeje ko ingingo ya 30, n'iya 31 igika cya mbere z'Itegeko N° 016 Bis/2020 ryo ku wa 07/09/2020 rigenga serivisi z'umutekano zitangwa n'abikorera, zitanyuranyije n'ingingo ya 23, igika cya 3 y'Itegeko Nshinga rya Repubulika y'u Rwanda.